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CENTRE FOR EDUCATION & COMMUNITY DEVELOPMENT

(44)

EVALUATION OF PRESENT LEGISLATION AND NEED FOR A
COMPREHENSIVE LEGISLATION

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The Proposed Bill

1. The Builder's Association of India (BAI) have proposed a draft Labour Code for workers in the building and construction industry. The draft bill is titled the Building and Construction Industry Workers Regulations of Employment, Working and Service Conditions, Health, Safety and Welfare, Social Security and Industrial Relations Act, 1986.

is very Pernicious

2. This is an extremely pernicious bill from the point of view of the working class. Although the provisions appear to be beneficial the proposed bill if passed by legislature would operate sharply to the detriment of labour.

No Definition of Workman

3. The bill does not contain any definition of workman in section 2. Under the circumstances a large section of labour would be excluded from the purview of the bill on the grounds that they are managerial or supervisory staff. I therefore propose that the definition of workmen should be taken from section 2(s) of the I.D.A. 1947:

"Workmen" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute, include any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person -

- (i) Who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
- (ii) who is employed in the police service or as an officer or other employee of a prison, or
- (dii) who, being employed in a supervisory draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

'Retrenchment' a very clever definition
(Industrial Disputes Act)

With the added qualification that contract workers would also be deemed to be workmen vis-a-vis the principal employer.

4. In para 2 (27) retrenchment is defined as: "Termination by the employer of the services of a worker for the reason that he is surplus to requirement of any place of work in the building and construction industry".

5. This is deliberately a more restrictive definition than that contained in section 2(00) of the I.D. Act which reads as under:

"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as punishment inflicted by way of disciplinary action, but does not include -

- (a) Voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

The more restrictive definition in the proposed bill is drafted that way so that the builders can avoid paying retrenchment compensation in many cases. The strategy appears to be that on removal the builders will just have to state that the termination was not on account of surplus and thus avoid paying retrenchment compensation. In the I.D. Act on the other hand, compensation is to be paid when termination is effected for any reason whatsoever other than the stated exceptions.

'Boards' Designed to do nothing

(Contract Labour Act)

6. Section 3 deals with the proposal for the setting up of Central and State Boards similar to those established under the Contract Labour (Regulations and Abolition) Act, 1970. Section 3 of the Contract Labour Act deals with the setting up of a Central Advisory Board and Section 4 deals with the setting up a State Bill Board. Similarly Section 3 & 4 of the proposed Bill envisages the setting

up of Central and State Boards respectively.

7. The Central and State Boards established under the Contract Labour Act have been the most impotent of all the structure set up by the Government in the history of free India and deliberately so. The Government perhaps never expected nor desires these Boards to be anything but defunct. The Board has consistently acted ever since its inception as enemies of contract labour and have ignored the statutory duty imposed on them by the Act.

8. Section 5 of the proposed bill deals with the function of the Central and the State Boards. It is interesting to see that there is no requirement that the principal employer of the contractor must employ only registered workmen. It is quite clear from the proposed bill that the employers are free to employ workmen from the Boards but they are also free to reject workmen from the Boards and absorb them from outside. Therefore, it is necessary that the Central and State Boards have a system of registration for all the workmen who are employed in the construction industry and it should be compulsory for all builders to recruit employees only through the Board and not otherwise.

9. The next interesting feature of the functioning of the Boards according to the proposed bill is that it envisages a system where the courts, and in particular the Labour Court, are totally excluded from the adjudication in respect of labour disputes where adjudication finally takes place, the whole procedure before the case goes to Court is very cumbersome and deliberately so.

Conciliation procedure under the Industrial Dispute Act
basically anti-labour

10. In respect of this I would like to clearly emphasize that it is very important that construction workers have direct access to the Court and that there should be no impediment in this regard. Our experience in respect of the Industrial Disputes Act in particular the procedure Under Section 10 of the said Act in respect of references of disputes to Boards, Courts, or tribunals is that the procedure as laid down under Section 10 of the said Act is as follows:-

11. When a dispute arises between the workman and the management, the workman is required to write a letter to the management, called a demand letter, wherein he explains his demand to the management. In most cases the management refuses to accept the demand. A month passes. Thereafter he is required to write a letter to the Commissioner of Labour wherein he repeats his demand and requests the Commissioner of Labour to admit his dispute into conciliation in

order that an amicable settlement may be arrived at. In the said letter he gives reasons for the said demand and seeks to justify the same. After the said letter is sent to Commissioner's office another month passes. Then a meeting is called by the Deputy Commissioner for preliminary discussions between the parties. Naturally the employer does not attend, since he knows that the Deputy Commissioner has no powers and can pass no orders other than to record consent terms if any. Thus 3 or 4 months pass by without any result. At the end of this period the concerned Dy. Commissioner or Asst. Commissioner may decide to admit the dispute into conciliation. If he does so decide he will send the workmen a letter informing him that the dispute has been admitted into conciliation. He will also send a copy of this letter to the employer and ask to attend discussion once again. The whole tamasha is repeated all over again. Once again the employer will refuse to budge. In most cases he may not even attend. Another 3 or 4 months will pass. Ultimately the Commissioner will merely record that he has failed to bring about an amicable settlement. This is called a failure report. It usually runs into 2 pages. It can be prepared by the Commissioner on the very first day of discussion after the workmen has sent in his justification statement. But the Commissioner's Office will take anything from 6 months to 1 year to arrive at this foregone conclusion. The story does not end here.

12. The Commissioner will then send the Failure Report to the State Government who will sit on it for another 3 months before referring the dispute to an appropriate Court. What this means is that over a year passes after the workmen approaches the Commissioner of Labour and by that time the workmen is already enfeebled and too tired to continue with litigation. All this proceeds on the assumption that ultimately a reference to Court by the Government in respect of the dispute is likely to be made. In many cases where the employers are influential and the officers of the Commissioner of Labour Officer capable of being influenced, then the dispute will never be referred to Court as the appropriate Commissioner may himself decide, although he has no power to do so, that a reference is not justified in the circumstances of the case. In such a situation the workmen is left with no other alternative but to file a Writ Petition in the High Court for the limited purpose of obtaining a direction that the Commissioner or the State Government should refer the dispute for adjudication. Thus thousands of Rupees and one year of running from pillar to post has been wasted merely trying to get the dispute heard by a Court.

13. It must be remembered that Conciliation Officers do not have the powers of a Court and cannot pass interim orders or any orders for that matter, and that therefore in situations requiring immediate judicial action the workmen has no remedy. Truly then the conciliation board set-up under the Industrial Disputes Act serve only as mechanisms to protract the time period of litigation and to frustrate the working class. It is imperative that we do not fall into this trap in respect of construction workers, we must have conciliation or Mediation Boards at all then let us have these already established and functioning under the Industrial Disputes Act and let us not set-up any more monsters.

Inspectors too few and in any case too corrupt

(Factories Act)

14. Section 7 of the proposed Bill suggests the appointment of Inspectors. This is identical to the provision which exists under the Factories Act and we all know what these Inspectors are upto these days. Workmen refer to them as "Biscuits and Tea Inspectors". This is because they come to the Factory, dine with the Management, and never do their duty. The builders seem to like this system.

Builders proposal designed to prevent access to Court

15. Essentially the proposal for setting the up of Board and for the appointments of inspectors flow from a single conception which is to prevent direct access to the Court, to staff immediate intervention by the Court and to clutter the path to redressal of grievances with all kinds of administrative intermediaries and self seeking bureaucrats who will ultimately grow fat at the expense of construction workers. Probably as fat as the builders themselves.

16. CHAPTER III deals with the registration of the employees. It is an impressive chapter running into several pages. It gives the impression that the builders are all in favour of the registration of workers.

Use of Registered Workers Ought to Be Compulsory

17. Immediately behind Chapter III comes Chapter IV. This is a chapter of one paragraph running into less than half a page. It completely negates the earlier chapter and it also reveals the mind of the builders. Chapter IV makes the recruitment of registered workers by the builders voluntary. In respect of Chapter III we have no grievance with the basic proposal that the employees and the employers should be registered but it ought to be compulsory that only registered workers ought to be employed otherwise the builders

could easily by-pass the provisions of the proposed bill and render it nugatory.

MRTU & PULP Act 1971

18. It is also necessary at this stage to digress a bit and deal now with the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971, (MRTU & PULP Act). This Act exists only in Maharashtra. Despite the weaknesses in the Act, it is an improvement on the I.D. Act for the simple reason that it allows direct access to the Court. Under the Act Courts often pass interim orders within 24 hours staying the commission of unfair labour practices by the employers. The unfair labour practices listed in the schedule is as under:-

SCHEDULE II

Unfair Labour Practices on the part of employers

1. To interfere with, restrain or coerce employees in the exercise of their right to organise, form, join or assist a trade union and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say -
 - (a) threatening employees with discharge or dismissal, if they join a union;
 - (b) threatening a lock-out or closure, if a union should be organised;
 - (c) granting wage increase to employees at crucial periods of union organisation, with a view to undermining efforts of the union organisation.
2. To dominate, interfere with, or contribute, support - financial or otherwise - to any union, that is to say
 - (a) an employer taking an active interest in organising a union of his employees; and
 - (b) an employer showing partiality or granting favour to one of several unions attempting to organise his employees or to its members, where such a union is not a recognised union.
3. To establish employer sponsored union.
4. To encourage or discourage membership in any union by discriminating against any employee, that is to say -
 - (a) discharging or punishing an employee because he urged other employees to join or organise a union;
 - (b) discharging or dismissing an employee for taking part in

any strike (not being a strike which is deemed to be an illegal strike under this Act);

- (c) changing seniority rating of employees because of union activities;
- (d) refusing to promote employees to higher posts on account of their union activities;
- (e) giving unmerited promotions to certain employees, with a view to sow discord amongst the other employees, or to undermine the strength of their union;
- (f) discharging office-bearers or active union members, on account of their union activities.

5. To refuse to bargain collectively, in good faith, with the recognised union.

6. Proposing or continuing a lock-out deemed to be illegal under this Act.

SCHEDULE III

Unfair Labour Practices on the part of Trade Unions

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.
2. To coerce employees in the exercise of their right to self-organisation or to join unions or refrain from joining any union, that is to say -
 - (a) for a union of its members to picketing in such a manner that non-striking employees are physically debarred from entering the work-place;
 - (b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking employees or against the managerial staff.
3. For a recognised union to refuse bargain collectively in good faith with the employer.
4. To indulge in coercive activities against certification of a bargaining representative.
5. To stage, encourage or instigate such forms as wilful "go slow" squatting on the work premises after working hours or "gherao" any of the members of the managerial or other staff.
6. To stage demonstrations at the residences of the employers or the managerial staff members.

SCHEDULE IV

General Unfair Labour Practices on the part of the employers.

1. To discharge or dismiss employees
 - (a) by way of victimisation;
 - (b) by falsely implicating an employee in a criminal case on false evidence or on concocted evidence;
 - (c) for patently false reasons;
 - (d) on untrue or trumped up allegations of absence without leave
 - (e) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;
 - (f) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record of service of the employee, so as to amount to a shockingly disproportionate punishment.
2. To establish the work of a regular nature being done by employees, and to give such work to contractors as a measure of breaking a strike.
3. To transfer an employee mala fide from one place to another, under the guise of following management policy.
4. To insist upon individual employees, who were on legal strike, to sign a good conduct-bond, as a pre-condition to allowing them to resume work.
5. To show favouritism or partiality to one set of workers, regardless of merits.
6. To employ employee as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent employees.
7. To discharge or discriminate against any employee for filling charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
8. To recruit employees during a strike which is not an illegal strike.
9. Failure to implement award, settlement or agreement.
10. To indulge in act of force or violence.

19. Thus any aggrieved person may file a complaint in the Labour or Industrial Court and without going through the rigmarole of conciliation and without depending on the whims and fancies of any Board or Inspector. This is not to say that the Courts are ideal for the dispensing of the justice. Far from it. But at least they function in the open, according to well defined rules, and the awards are subject to appeal; whereas Boards and Inspectors being non-judicial bodies are not only statutorily incapable of dispensing justice but also inherently function in a clandestine, subjective and non-accountable fashion.

20. What I therefore propose is that the above schedules to the MRTU & PULP Act be amended to render it an unfair labour practice any contravention of the proposed Act. Thus construction workers and even builders would have direct access to Court and may obtain immediate relief in appropriate cases. I have absolutely no doubt that for obvious reasons this proposal is going to be opposed tooth and nail by the builders lobby.

Clandestine registration and licensing

21. Section 5 of Chapter 3 which deals with registration requires that once proper particulars are submitted to the Board by the builders, then the builder will be given a registration certificate. Likewise Section 7 deals with the cancellation of the certificate of when the place of work is closed. Section 8 deals with the cancellation of the certificate if the employer contravenes the provisions of the proposed act. Section 11 deals with the issuing of licences to the contractors on them submitting to the Board the required particulars. The above provision is identical to the Chapter III & IV of the Contract Labour Act.

22. It is interesting to note that in the stated procedure relating to the registration of the principal employer and the licencing of the Contractor and also to the amendment and cancellation of the registration certificates and the licences there is no requirement that the notice be given to the workers or the union. Under the Contract Labour Act, our experience has been that all matters relating to licences and registration certificates are deliberately done so as to exclude workers from knowing about or participating in the decision making process. Every thing proceeds top secret, with the employers and the contractors sharing their secrets of of course with their counterparts in the Government. Licences and registration certificates are granted, amended and revoked without the workers being informed and often to their detriment.

23. I shall give you one example of how the procedure is used to cause harm to the workers by the authorities under the Contract Labour Act:

How the Contract Labour Act Works in Reality

24. In a typical scenario, an employer may desire to employ persons on permanent jobs but may want to employ them in the guise of contract workers in order to avoid giving them the wages, benefits and privileges of regular and permanent workers and also to prevent from them unionising. To do so he would contact a friend with whom he would enter into a contract whereby the workers would be taken for work in the factory, but now through the contractor and supposedly as employees of the contractor, not the principal employer.

25. This kind of recruitment is contrary to Section 10 of Contract Labour Act which reads as under:

Prohibition of employment of Contract Labour

- 1) Notwithstanding anything contained in this Act, the appropriate Government may after consultation with the Central Board, or, as the case may be, a State Board, prohibit by notification in the official Gazette, employment of contract labour in any process, operation or other work in establishment.
- 2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as -
 - (a) Whether the process, operation or other work is incidental to or, necessary for the industry, trade, business, manufacture, or occupation that is carried on in the establishment;
 - (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
 - (c) Whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;
 - (d) Whether it is sufficient to employ considerable number of whole-time workmen.

Explanation: If a question arises whether any process or processes or operation or other work is ^{of} perennial nature, the decision of the appropriate Government thereon shall be final.

26. Thus, if the work is of a regular and perennial nature, the workers should be employed as direct recruits and not as contract workers. Nevertheless in thousands of factories today in Bombay, tens of thousands of Contract workers are working in permanent positions continuously through the years and for decades. Our experience has been that the bigger and richer the Company, the higher the numbers of the contract workers thus employed. In most cases these workers are paid pitiable wages and they are usually unorganised.

27. Should the contract workers, out of sheer frustration dare to approach the Contract Labour Board or form a union then one of the two things is likely to happen. Either the Contractor will suddenly decide that he does not want to do business any more and close down his business by "abandoning" his contract or the management for some mysterious reason will terminate the contract. The net result is that the contract between the contractor and the principal employer will supposedly come to an end and the workers are thrown on the streets. Even if the loss of the employment is purely on account of the workers approaching the Contract Labour Board to have them declared as regular permanent employees on the ground that they do work of a permanent nature; even then the Board can do nothing to prevent termination so that ultimately workers are penalised for exercising their legal rights.

28. If the workers file a case in Court and argue that their termination is unlawful since it is by way of victimisation for having exercised a legal option or for having formed a union, the principal employer and the contractor have an answer for this too. They simply argue that since it is a fundamental right to do business as laid down in *Excelware's* case there is also a fundamental right not to do business and therefore no order for reinstatement can be granted by Court. In any case the Principal employer will say that the employees are not his and the contractor will say his business is closed. So the maximum the workers can do is claim their legal dues.

29. Naturally, the very day after the workers are terminated the contractor will enter into a new contract with the principal employer, now in his wife's name, and he will recruit fresh workers and continue with them till the day that they too exercise their legal option and the whole story will once again be repeated.

30. Chapter V of the proposed Bill deals with the Standing Orders, and these provisions are a watered down version of the provisions of the Industrial Employment Standing Orders Act commonly known as the Model Standing Orders. For example Section 13 (2) (i) lays down that the change in the standing order is to be done by an officer of the Board. This is very dangerous. The Model Standing Orders has already established an elaborate procedure

Excluding the workers from the Standing Orders. (Industrial Employment Standing Orders Act) for the variation of the Standing Orders. The proposed Bill seeks to do so, over simplify the procedure as to make it very easy for employers to change standing orders as they wish; of course with "the co-operation of the Officers of the Board. Thus in my opinion, since the construction workers are already covered by the Model Standing Orders they should continue to be so covered and there is absolutely no reason why there should be a special mention in the bill so as to exclude the Model Standing Orders particularly when the provisions in the bill are less beneficial to the workers than existing legislation.

Anti-Union Approach. No Provision for recognition of Unions

31. It is also interesting to note that there is no provision in the proposed bill for unions and for the recognition of Unions. This is not a mere oversight. In the whole scheme of things as envisaged by the proposed bill it is quite clear that Unions have no role to play as far as the builders are concerned. This is clearly an anti-union Bill apart from it also being an anti-worker bill. There must be a right for workers to form Unions of their choice, in every area of establishment as the case may be, the union should be recognised on the basis of a secret ballot that is held every 6 months a year.

32. The procedure as established under the M.R.T.U. and P.U.L.P. Act 1971 in respect of recognition of Unions is basically anti-working class and ought not to be followed for construction workers. In the MRTU and PULP Act the method followed is not determination of membership by secret ballot but by a cumbersome process of verification of Union records. Under the Act, the Union has to file a complaint in the Court and prove from its records that it has majority membership for 6 consecutive months prior to the filing of the complaint in Court. Thereafter the case takes approximately 3 years for a final decision. So, this means that if the Union is granted recognition by Court it is granted recognition because it had majority membership for 6 consecutive months about 3 years ago. In the meanwhile if there is any change in a union membership the Court is not concerned with that and proceeds to grant

recognition. Notwithstanding for this and for many other reasons the process of granting recognition to Unions by Court on the basis of verification of membership is a thoroughly worthless procedure.

Bombay Industrial Relation Act

33. The provisions of the Bombay Industrial Relations Act (BIR) in respect of recognition is even more pernicious. The B.I.R. Act Provisions for recognition were basically drafted in such a manner so as to allow the Government to extend recognition to any chamcha Union and to continue recognition for that union for long periods of time. The effect of this can be seen in the Textile Industry where the pro-congress and anti-worker R.M.M.S. was recognised many decades ago and although it has been operated basically and openly against the working class, it still continues to be recognised and the possibility of having its recognition cancelled in this century is very remote.

Secret Ballot

34. The best way in which Unions can be recognised is by having a provision for the secret ballot. The Government obviously does not like the suggestion because the very idea of workers getting recognition outside the Court purely on the basis of a quick procedure which makes clear the workers affiliation, is anathemic to the Government. Therefore, while drafting provision for the recognition of Unions, Government always ensures that in case a militant union should arrive on the scene and should the workers all join that union, then the provisions for recognition should be so cumbersome and lengthy that it would be possible for the Government to frustrate the union in its attempt to gain recognition. This was the story of Dr. Samant's Union in the Textile Industry. Despite a massive and sustained majority, his claim for recognition was denied purely on technical grounds.

Excluding the Workers from the Minimum Wages Act

(Minimum Wages Act)

35. In chapter 6 of the proposed bill the builders attempt to take the construction industry out of the purview of the Minimum Wages Act by hevin; the board decide the minimum wages. This is again an attempt to take the construction industry away from the beneficial provision of existing legislation. What do the builders offer in the alternative? Nothing but watered down versions of a few provisions of the Minimum Wages Act. So once again I recommend that

since the Minimum Wages Act is already applicable to construction workers, that it should continue to be so applicable.

36. The Provisions of the Minimum Wages Act are applicable to the construction industry are at Annexure A (collectively).

37. There is substantial scope for improvement of the Minimum Wages Act and so it is important that we concentrate on suggesting improvements in the Minimum Wages Act so that it would cover every kind of construction worker.

38. Chapter 6 of the proposed Bill also suggests that the construction workers be taken out of the purview of the Industrial Disputes Act. Under the Industrial Disputes Act, if any dispute arises, then the same may be referred by the State Government or the Central Government for adjudication by the Labour or Industrial Courts. Although we have criticised the provisions of the Industrial Disputes Act it is certainly better than nothing. What the builders propose is to do away even with this provision and to make adjudication almost impossible and to make decisions by the Board all powerful.

39. The provisions are very similar to those contained in the existing Contract Labour Act. I have already pointed out that the law in respect of Contract workers is that they have no access to the courts and they cannot take recourse to the Industrial Disputes Act and they must appeal only to the Contract Labour Board. I have already told to you how pathetic and useless this Contract Labour Board is and how this inability to approach the Courts has basically resulted in much harm to Contract workers. Now the proposed bill intends to do exactly the same thing. The builders wanted to prevent construction workers from raising disputes under the Industrial Disputes Act, MRTU & PULP, 1971 and want to take them out of the purview of the Courts to force them into discussions with the Boards which will function in a manner similar to the Contract Labour Board.

Exclusion from Payment of Bonus Act

(Payment of Bonus Act)

40. Section 17 of Chapter 6 deals with the question of Bonus and fixes bonus at 8.33% of the total annual wage. This is another attempt to take the construction industry out of the beneficial provision of the payment of Bonus Act, in which 8.33% is the bare that is payable. The proposed bill deals with Bonuses in 8 lines whereas the payment of Bonus Act is a special Act for the benefit of workers. Under the special act

- construction workers would get much more than they would get under the proposed bill. As things stand today construction workers are covered by the Payment of Bonus Act and they should continue to be so covered and there is absolutely no reason why the proposals suggested by the builders should be accepted. The only change in the payment of Bonus Act in respect of construction workers that I would suggest relates to Section 16(1) which reads as in Annexure 'A'. Therefore, under the Section Bonus will be payable only after 5 years of starting of construction since profits will only accrue after a structure is over. Now obviously in the case of construction workers such a provision would render the payment of Bonus meaningless since construction work would possibly finish by the 5th year after which the establishment would close down. Therefore in respect of construction workers the payment of Bonus Act should be held applicable, with the change that the bonus should become payable right from the beginning and not only after the 5th year.

Exclusion from the Factory Act

(Factory Act)

41. Chapter 7 of the proposed bill deals with those issues which are covered in the Factory Act. Once again the attempt is made to take the construction industry out of the purview of the Factory Act; The proposed Bill calls for the appointment of Special Inspectors. Now all the provisions of Chapter 7 which deals with hours of work, overtime etc. are already contained in the Factory Act. In fact the Factory Act has many provisions over and above those found in the proposed bill that are very beneficial to the workmen. Therefore I propose that the Factory Act should be applicable to all construction workers as it is to day and no change should be made in this regard.

Builders want to use Child Labour

(Factory Act)

42. Section 27 of Chapter 7 deals with the work of children and adolescent. Obviously the builders wanted to employ children and adolescent on the work site. This must be opposed totally.

43. The law in respect of the employment of children and adolescent as contained in the Factories Act are at Annexure 'C'. It is interesting to note that the proposed bill has no provision similar to section 17 of the Factories Act.

Workmen's Compensation Act

44. Section 56 of Chapter 9 is drafted to exclude construction workers from the purview of the Workmen's Compensation Act. Since the Workmen's Compensation Act to-day covers construction workers there is absolutely no need why special provisions are required in any proposed bill particularly when the new proposed provisions are less beneficial to the working class than those contained in the Workmen's Compensation Act.

45. Chapter 10 deals with the settlement of labour disputes and lays down certain order of preference by which disputes are to be resolved. First of all the workers are bound to negotiate with the employer. When that fails a Special Mediator is supposed to intervene to bring about a settlement. When that fails then a reference of the dispute is to be made to a Special Board of Adjudicators.

46. Thus it can be seen that the proposed bill does not envisage construction workers ever going to Court. By the time they reach the third stage, i.e. reference to the Special Board of Adjudicator, obviously many years will pass. Moreover, there is no basis for the setting up of a separate Board of Adjudicator when detailed and similar provisions exist under the Industrial Disputes Act.

47. Section 72, 73 and 74 of the proposed bill give details of how collective bargaining, mediation proceedings and adjudication proceedings are to be done. It is quite clear from the above that the basic tendency is to prevent the workers from going to Court and to protract the resolution of disputes.

48. Section 75 deals with notice of change to be given by the employer when he proposes to effect any change in the conditions of service of the employees. Once again there is no basis for this Section because Section 9(a) of the Industrial Disputes Act has already covered this aspect comprehensively. The remaining sections deal in the more comprehensive manner with the resolution of dispute and, as before, the entire provisions are anti-labour, vague and less beneficial than existing provisions.

49. Sections 84 to 87 deals with strikes and lock-outs. There is no basis for the inclusion of this provision since they already exist in the MRTU & PULP Act.

Gratuity Act - Provident Fund Act

50. Chapter 11 deals with Gratuity and Provident Fund. Once again the existing Gratuity Act and the Provident Fund Act is applicable for construction workers and should continue to be so applicable.

51. The only problem in respect of the Employees' State Insurance Corporation Act (ESIC) and the Gratuity Act is that, in the case of construction workers, since the work is of a shifting nature the ESIC Act and the Gratuity Act should be suitably modified so as to make it incumbent on the Board to handle Gratuity and Insurance instead of the employer being responsible for the same. This would ensure that in cases where the construction workers move from site to site, the Gratuity, Insurance and Provident Fund and the other similar benefits are not compromised or lost.

52. Section 92 of the same Chapter deals with conditions precedent to retrenchment of employees. Once again there are detailed provisions in the Industrial Disputes Act with details with retrenchment and there is no reason why the same should also not be applicable for construction workers. Similarly the remaining sections which deal with lay off compensation etc. should also be according to the Industrial Disputes Act.

Maternity Benefits Act

53. The provision for maternity benefits should likewise be according to the Maternity Benefits Act and the provisions for accident, compensation etc. should be according to the Workmen's Compensation Act.

Conclusion

In conclusion, whereas Boards and other administrative non-judicial bodies can play an important and beneficial role in registering construction workers and looking after their benefits such as gratuity, Provident Fund etc. they are not suited to attempt to play a judicial role. Thus while Boards must be brought into existence, access to the Labour and Industrial Courts must not be prevented; on the contrary it must be facilitated. Secondly, existing legislation must be suitably modified by considering the unique situation in respect of the construction industry particularly in respect of the shifting nature of work. Thirdly the benefits available under existing legislation ought at least to be continued if not improved and no attempt to take away these benefits should be tolerated.

ANNEXURE A 1

STONE CRUSING, MAINTNANCE OF BUILDING AND CONSTRUCTION AND MAIN -
TENANCE OF RUNWAYS.

5.0 Whereas certain proposals to revise the mainimum rates of wages, payable to the categories of employees employed in the employments i) in the construction or maintenance of roads or in building operations, ii) in stone breaking or stone crushing, iii) in the maintenance of buildings and iv) in the construction and maintenance of runways were published as required by clause b) of sub-section i) of section 5 of the Minimum Wages Act, 1948 (11 of 1948) in the Gazette of India, Part II, section 3, sub-section ii) dated the 18th March 1982 under the notification of the Government of India in the Ministry of Labour No: S.O. 142(E), dated the 18th March 1982, for the information and inviting objections and suggestions from the persons likely to be affected thereby till the expiry of the period of two months from the date of publication;

And whereas, the said Gazette was made available to the public on the 18th March 1982;

And whereas, the objections and suggestions received on the said proposals have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by clause b) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 and sub-section (2) of section 5 of the Minimum Wages Act, 1948 (11 of 1948), and in supersession of notification of the Government of India in the Ministry of Labour No.S.O. 3 (E), dated the 1st January 1981, the Central Government after consulting the Advisory Board revises the minimum rates of wages as specified in columns (2) to (6) of the Schedule annexed hereto, payable to the categories of employees employed in employments in construction or maintenance of roads or in building operations, in stone breaking or stone crushing, in the maintenance of buildings; and in the construction and maintenance of runways as specified in the corresponding entries in column (1) of the said Schedule and directs that this notification shall come into force on the date of its publication in the Official Gazette.

SCHEDULE - Category of Work

Unskilled: (1) Bajri Spreader, (2) Beldar (Adult Male/Female, Adolescent/boys above 12 years, Girls; Child), (3) Beater, Women, (4) Ballowman, (5) Chain Man (6) Boat Man (7) Bucketman (8) carrier (stone) (9) Carrier (water) (10) Cart Man (11) Caretaker (Bridge)

(12) Cleaner (crane Track; Cinder for Ash Pit) (13) Chowkidar
(14) Concrete (Hand Mixer) (15) Daffadar (16) Driver (Bullock, Camel,
Donkey, Mule) (17) Flag Man (18) Flag Man (Blast Train) (19) Gate Man
(20) Gangman (21) Gang Man (Permanent way) (22) Handic Man (23) Jumper
Man (24) Kamin (Female work) (25) Khalasi (26) Khalasi (Man/Male;
Woman/Female; Boys/Girls; 1/11 Bridge; Electrical Marine; Moplah;
Shor; Store; Steam Road, Roller; survey) (27) Labourer (garden)
(28) Lamp Man (29) Mali (30) Mazdoor (31) Mazdoor (Adult Male/Man,
Adult Female /Woman) (32) Mazdoor (Adolescent/Boys above 12 years age
Girls; Child; Lorry; Trained) (33) Patrolman, (34) Peon, (35) Searcher
(36) Signal Man (37) Strikers (38) Striker (Moplah Gang) (39) Sweeper
(40) Tatti Boy (41) Tile Turner, (42) Trolly Man (43) Valve Controller
(44) Valve Man (45) Watchman (46) Waterman (47) White Washer
(48) Wooderman (49) Wooder Woman (50) Lorryman (51) Coalman (52) Condenser
Attendant (53) Grass Cutter (54) Muchhars Jamadars (55) Slingers
(56) Shunters (57) Any other categories by whatever name called which
are of any unskilled nature.

Area A (Rs. 10.00) Area B 1 (Rs. 9.00) Area B-2 (Rs.8.25) Area C
(Rs. 7.50) Area D (Rs. 6.75) All inclusive minimum rates of wages
per day.

Semi-Skilled / Unskilled Supervisory : (1) Belchawala (2) Bhisti
(3) Bhisti (with Mushk) (4) Boatman (Head) (5) Breaker (6) Breaker
(Rock) Rock Stone, Stone Metal; Stone; (7) Cane Weaver (8) Chain Man
(Head) (9) Charpoy Stringer (10) Checker (11) Chowkidar (Head)
(12) Cracker (13) Daftri, (14) Dollyman, (15) Driller (16) Driller
(Hole; Rock) (17) Driver (skin) (18) Excavator (19) Ferroman, (20) Fire-
man (21) Fireman (Brick Kiln; Steam Road Roller) (22) Gate Keeper;
(23) Gharami (Thatcher) (24) Glass Man (25) Greaser (26) Greaser-
cum-fireman, (27) Grinder (28) Hammer-man (29) Helper, (Artisan)
(30) Helper (Sawyer) (31) Jamadar, (32) Keyman (33) Khalasi (Head Survey
Revetter-Moplah Gang, Supervisor) (34) Labourer (Rock-cutting)
(35) Lascar (36) Mali (Head) (37) Mate, (38) Mate (Blacksmith) Road;
Carpenter; Engin Driver and or fe der; Fitter; Gang; Khalasi, Mazdoor;
Mason, Permanent way; Pump-Driver; Turner, (39) Mazdoor (Heavy Weight;
Charge-Man) Mistri (Head) (40) Mucedam; Night Guard (41) Runner
(Post dak) (42) Oil Man (43) Quarry Man, (44) Quarry Operator
(45) Store Man (46) Stocker; (47) Stocker & Boilerman (48) Thatcher
(49) Thoomberman (Spade Worker) (50) Windals (51) Trollyman (Head
Motor) (52) Fitter (Asstt- Semi-skilled) (53) Jamadar (Semi-skilled)
(54) Mate (Store) (55) Pump Attendant (56) Bearer (57) Breaksman
(58) Crowbar Man (59) Cook (60) Dandee (61) Farash (62) Hacksaw Man
(63) Helper (Locco Crane/Truck) (64) Kasat (65) Khalasi (structural)
(66) Laboratory Boy, (67) Manje (Boatman) (68) Masalchi (69) P.M.
mates (70) Pointsman (71) Seacummy (72) Topaz (73) Topkar (Big Stone
Breaker) (74) Trolly Jamadar (75) Winchman (76) Asst. Wireman
(77) Any other categories by whatever name called which are of a

semi-skilled nature.

Area A (Rs. 12.50) Area B-1 (Rs. 11.50) Area B-2 (Rs. 10.25)
Area C (Rs. 9.50) Area D (Rs. 8.50) All inclusive minimum rates of
wages per day.

Skilled: 1) Asstt. Mistry, (2) Armature Winder Grade II & III (3) Bhandari
(4) Blacksmith (5) Blacksmith (Selection Grade) Grade II & III Class
II & III (Head) (6) Boilerman (7) Boilerman Grade II & III (8) Boiler
Foreman Grade II, (9) Work(Asstt) (10) Brick Layer (11) Brick layer
(Selection Grade; Class II) (12) Blasterer (13) Carpenter (14) Carpenter
(Selection Grade; Grade II & III) Class I & III Assistant B.I.M. Road)
(15) Cabinet Maker (16) Car-men (17) Colotax Cutter Maker (18) Chargoeman
Class I¹ & Class III (19) Carpenter (ordinary) (20) Checker (Junior)
(21) Chief Maker (22) Chick Man, (23) Concrete Mixture Mixer
(24) Concrete Mixer Operator (25) Cobler (26) Con-maker; (27) Driver
(28) Driver (Motor, Vehicle; Motor Vehicle Selection Grade; Motor
Lorry; Motor Lorry Grade II; Lorry; Lorry Grade II Diesel Engine;
Diesel Engine Grade II; Mixer Mechanical; Road Roller L.C. and Cement
Mixer etc. Road Roller) (29) Road Roller Driver Grade II (30) Driver
(Engine Static; Stone Crusher; Tractor/Bull Dozer; Steam Road, Roller
Water Pump Mechanical; Assistant Road Roller; Mechanical; Steam Crane;
Tactor with Bull Dozer Mechanical Transport; Engine; Static and Road
Roller; Boiler Attendant; Engine) (31) Operator (Stone Crusher Mech-
anical) (32) Distemperer (33) Electrician (34) Electrician (Grade II
Class II; Class III) (35) Fitter (36) Fitter (Selection Grade; Grade
II, III; Class II; III Assistant; Pipe; Pipe Class II; Pipe Line;
Bending bars for reinforcement-cum-Mechanic, Mechanic and Plumber)
(37) Gharami (Head) (38) Glazier (39) Hole Driller for Blasting
(40) Joiner (41) Joiner (Cable; Grade II) (42) Line Man (Grade II, III,
HT/LT) (43) Mason (44) Mason (Selection Grade; Grade II & III, class
II & II, Class B Mistry, stone class II; Brick work; Stone Work; Brick-
layer; Tile Flooring B.I.M.; Muccadam; Head; Stone Cutting; Ordinar
(45) Machinist (46) Mechanic (47) Mechanic (Class II; Air C nditioning;
Air Conditioning Grade II; Diesel Grade II; Road Roller Grade II;
Asstt. Radio) (48) Manson (Gharami) (49) Mistry; (50) Mistry (Grade II;
Airconditioning Grade IIP, Way, Survey, Santras, Works) (51) Mason
Class A (52) Moulder (53) Moulder (Brick; Tile) (54) Painter (55) Painter
(Selection Grade; Grade II & III; Class II; Asst. Lotter; & Polisher
Rough) (56) Plasterer (57) Plasterer (Mason Grade II) (58) Plumber
(59) Plumber (Selection Grade; Class II Asstt. Senior; Junior, Mistry
Grade II) (60) Plumbing Mistry (61) Plumber - cum-Fitter, (62) Polisher
(63) Polisher (Floor) (64) Pump Driver, (65) Pump Driver (Selection
Grade), Grade II & III (Class II) (66) Pump Driver (Selection Grade)
(67) P.E. Driver (68) Pump Man, (69) Pump Man (Asstt.) (70) Pumper,
(71) Polisher (with spray) Grade II, (72) Ratan Man, (73) Rivet cutter
(Asstt.) (74) Rivetter, (75) Rivett r (Cutter) (76) Road Inspector
Grade II, (77) Railway Plate Layer (78) Road Binder (79) Sawyer,

(80) Sawyer (Selection Grade Class II) (81) Serang, (82) Serang-pile Driving Pantooms with Boiler (83) Shapsman (84) Shift-in-charge; (85) Sprayman (86) Sprayman (Roads) (87) Stone Cutter (88) Stone Cutter (Selection Grade; Grade II; Class II) (89) Stone Chisler (90) Stone Chisler (Class II) (91) Stone Blasterer (92) Sub-Overseer (unqualified) (93) Surveyors (94) Surveyors (Asstt.) (95) Tailor (96) Tailor (upholstry) (97) Tar Sprayer (98) Tarman (99) Line Man (100) Tiler (Class II; Wall Floor; Roof) (101) Tile (Selection Grade) (102) Tin Smith (103) Tin Smith (Selection Grade; Grade II; and III; Class II) (104) Tinker (105) Trailers (106) Turner (107) Upholsterer, (108) Upholsterer (Grade II & III) (109) Painter Spray Class II (110) Wood Cutter, (111) Wood Cutter Selection Grade; (112) Wood Cutter Class II (113) Work Sircar (114) Welder; (115) Welder Gas (116) Welder (Class II Bridge Works) (117) Well Sinker (118) White Washer, (119) White Washer, (Selection Grade; Class II) (120) Wireman, (121) Wiremen (Grade II & III Class I) Mechanic (Electrical) (122) White Washing and Colour Washing Man (123) Operator Pneumatic Tools, (124) Operator (Fitter) (125) Boreman (126) Borer; (127) Whipper (128) Chipper-cum-Grinder (129) Cook (Head) (130) Driller (Well-Boring) (131) Driver (Loco/Truck) (132) Electrician (Asstt) (133) Mechanic (Tube-Well) (134) Mistry (Steel; Tube well Telephone) (135) Meter Reader, (136) Metrological Observer (137) Navghani (138) Operator (Batching Plant; Cinema Project; Clamp Shelf; Compressor; Crane Dorrick; Diesel Engine; Doser; Dragline; Drill; Dumper, Exceavator, Fork Lift; Generator; Grader Jack Hammer and pavement breaker Loader; Pump; Pile Driving; Scrapper; Screening Plant Shovel; Tractor; Vibrator; Weight Batcher) (139) Railway Guard (140) Repairer (Battery) (141) Sharper/slotter (142) Sprayer (Asphalt) (143) Station Mast.r (144) Surveyer (Silt) (145) Trades Men (146) Train Examiner; (147) Turner/miller (148) Tyre Vulcaniser (149) Any other categories by whatever name called which are of a skilled nature.

Area A (Rs. 16.00) Area B-1 (Rs. 14.50) Area B-2 (Rs. 13.00)
Area C (Rs. 12.00) Area D (Rs. 10.75). All inclusive minimum rates of wages per day.

Highly Skilled: (1) Armature Winder Grade I, (2) Blacksmith Grade I and Class I (3) Boilerman Grade i, (4) Boilerman Foreman Grade I (5) Brick Layer Class I, (6) Cable Joiner Grade i, (7) Carpenter Grade i and Class I, (8) Calotex Cutter and Decorator (9) Chergeman class I, (10) Checker (Senior) (11) Driver Lorry Grade I, (Motor Lorry Grade I, Motor Vehicle Class I and Diesel Engine Grade I, Road Roller Grade I, Pump Grade I, Pump Class I. (12) Electrician Grade I and Class I, (13) Fitter (Grade I, Class I, pipe Class I (Head) (14) Foreman (Asstt.) (15) Line Man Grade I (16) Mason (skilled Grade I, Class I), (17) Mast Rigger Mechanic Class I and Class II (18) Mechanic Class I and Class II, (19) Mechanic (Diesel Grade I, Road Roller Grade I, Airconditioning Grade I, Class I, Airconditioning)

(20) Mistry Grade, I (21) Mistry (Airconditioning Grade I) (22) Overseer
(23) Overseer (Senior and Junior) (24) Painter (Grade I; Class I Spray)
25) Plasterer (Mason) Class I (26) Plumber (Head) Class I; Mistry Grade
I (27) Polisher (with spray) Grade I, (28) Road Inspector Grade I,
(29) Sawyer Class I, (30) Stone Cutter Class I, (31) Stone Cutter
Grade I, (32) Stone Chisler Class I, (33) Stone Mason Class I, (34)
Sub Overseer (qualified) (35) Tiler Class I, (36) Tinsmith Grade I
and Class I, (37) Upholsterer Grade I, (38) Vernisher Class I, (39)
Welder-cum-Fitter and Air Conditioning Mechanic (40) Welder (Gas)
Class I, (41) White Washer Class I, (42) Wireman Grade I; Class I,
(43) Wood Cutter Class I, (44) Grinder (Tool) Grade I, (45) Operator
(Batching Plant Grade I; Clamp Shell Grade I, Compressor Grade I,
Crane Grade I, Diesel Engine Grade I, Dozer Grade I, Dragline Grade I,
Drill Grade I, Dumper Grade I, Excavator Grade I, Fork Lift Grade I,
Generator Grade I, Grader Grade I, Loader Grade I, Pile Driving Grade
I, Pump Grade I, Scraper Grade I, Screening Plant Grade I, Shovel
Grade I, Shovel and Dragline; Tractor Grade I, Vibrator Grade I,
Rigger Grade I, Rigger Grade II), (46) Sharpener/Slitter Grade I,
(47) Tradesman Class I (48) Turner / Miller Grade I (49) Type Vulcaniser
Grade I, (50) Work (Asstt.) Grade I, (51) Any other categories by
whatever name called which are of a highly skilled nature.

Area A (Rs. 20.00) Area B-1 (Rs. 18.25) Area B-2 (Rs. 16.50)
Area C (Rs. 14.75) Area D (Rs. 13.75). All inclusive minimum rates
of wages per day.

Clerical: (1) M.C. Clerk (Munshi) (Matriculate) Non-Matriculate)
3) Store Clerks, (4) Store Issuer (5) Store Keeper. (6) Store Keeper
(Grade I; II; (Matriculate II; Non-Matriculate) (7) Tally Clerk,
(8) Time Keeper (9) Time-Keeper (Matriculate; Non-Matriculate)
(10) Tool Keeper, (11) Work Munshi, (12) Work Munshi (Subordinate)
(13) Accounts Clerk (14) Clerks, (15) Computer (16) Telephone Operator
(17) Typist, (18) Any other categories by whatever name called which
are of a clerical nature.

Area A (Rs. 16.00) Area B-1 (Rs. 14.50) Area B-2 (Rs. 13.00)
Area C (Rs. 12.00) Area D (Rs. 10.75)

Explanation - For the purpose of this notification:

i) A) Areas A, B-1, B 2, and C shall comprise all places as specified
in the Annexure 1 to this notification including all places within
a distance of eight Kilometers from the periphery of the Municipal
Corporation or Municipality or Cantonment Board, Notified Area
Committee of particular place; and Area 'D' shall comprise all the
places not included in Areas as A, B-1, B-2 and C;.

b) The places added or upgraded from time to time by the Ministry of Finance for the purpose of payment of city compensation allowance to Central Government employees shall also be taken to be added from such dates for the purpose of classification specified in the Annexure.

2) Employees employed in the employments in the construction or maintenance of roads or in building operations, in stone breaking and stone crushing, in the maintenance of buildings and in the construction and maintenance of runways, in D class areas, where the minimum rates of wages have been fixed on area-wise basis and where the Central Government has sanctioned payment of winter allowance or hill allowance or any other special allowance, shall be paid, in addition to the minimum rates of wages fixed by this notification, an amount equal to 10 percent of the minimum rates of wages so fixed.

3) Where in any area the minimum rates of wages fixed by this notification are lower than the minimum rates of wages fixed by the State Government for employees in employment in the construction or maintenance of roads or in building operations, in stone breaking or stone brushing in the maintenance of buildings, and in the construction and maintenance of runways, in relation to which the State Government is the appropriate Government, the rates of wages fixed by the State Government shall, in respect of those areas, be deemed to be the minimum rates of wages, payable under this notification.

4) Worker employed on tunnel working shall be paid 20 per cent extra of the minimum wages fixed under this notification for the appropriate category.

5) a) "Unskilled Work" means work which involves simple operations requiring little or no skill or experience on the job.

b) "Semi-skilled work" means work which involves some degree of skill or competence acquired through experience in the job and which is capable of being performed under the supervision or guidance of a skilled employee, and includes unskilled supervisory work.

c) "Skilled Work" means work which involves skill or competence acquired through experience on the job or through training as an apprentice in a technical or vocational institute and the performance of which calls for initiative and judgment.

d) "Highly skilled work" means work which calls for a high degree of perfection and full competence in the performance of certain tasks acquired through intensive technical or professional training, or practical work-experience for long years and also requires of a worker to assume full responsibility for the judgment or decisions involved in the execution of these tasks.

6. The minimum rates of wages fixed by this notification are applicable to employees engaged by contracts also.

7. The minimum rates of wages shall consist of all inclusive rates, and include also the wages for weekly day of rest.

8. The minimum rates of wages payable to young persons below 18 years of age and for disabled persons shall be 80 per cent and 100 per cent respectively of the rates fixed by this notification for adult workers of the appropriate category.

ANNEXURE I

Name of the State/ Union Territory	Class of Cities/Towns			
	A	B-1	B-2	C
Andhra Pradesh				
Assam				
Bihar				
Chandigarh				
Delhi				
Gujarat				
Haryana				
Jammu & Kashmir				
Karnataka				
Kerala				
Madhya Pradesh				
Mahrashtra	Bombay	Nagpur, Pune, Pimpri Chhindwada	Solapur Nasik	Achalpur town group, Ahmednagar, Akola, Amalner, Amarnath, Aneravati, Aurangabad, Barsi, Bhiwandi, Bhusawal, Chanda, Chandrapur, Dhule, Dombivli, Gondia, Ichalkaranji, Jalgaon, Jalna, Kalyan, Kasarjee, Khamgaon, Kolhapur, Latur, Malegaon, Nanded, Nandurbar, Nasik Road, Deolali, Pandharpur, Parbhani, Sangli-Miraj, Satara, Ulhasnagar, Yavatmal, Wardha.
Orissa				
Pondicherry				
Punjab				
Rajasthan				
Tamil Nadu				
Uttar Pradesh				
West Bengal				
Goa, Daman & Diu				

ANNEXURE - A-2

CONSTRUCTION OR MAINTENANCE OF ROADS OR IN BUILDING.

Minimum Wages Act, 1948.

No. MWA 1884/5845/Lab-7- Whereas, In pursuance of the provision of clause (a) of sub-section (1) of section 5 of the Minimum Wages Act, 1948 (XI of 1948), in its application to the State of Maharashtra (hereinafter referred to as "the said Act") the Government of Maharashtra by Government Resolution, Industries, Energy and Labour Department, No. MWA - 1881/4464/Lab-7, dated the 5th March, 1982; appointed a committee to hold enquiries into the conditions prevailing in the employment on construction or maintenance of roads or in building operations, in the State of Maharashtra (hereinafter referred to as "the said Scheduled employment) and to advise Government in the matter of revision of the minimum rates of wages revised under Government Notification, Industries, Energy and Labour Department No. MWA-1875/506/Lab-7, dated the 12th September, 1977 (hereinafter referred to as "the said Notification");

And whereas, the said committee has submitted its report to the Government of Maharashtra:

Now, therefore, in exercise of the powers conferred by clause b) of sub-section (1) of section 3 read with sub-section (2) of section 5 of the said Act, the Government of Maharashtra, after considering the advice of the said Committee, hereby with effect from the 5th October 1984, fixes or revises, as the case may be, the minimum rates of wages fixed by the said Notification in respect of the employees employed in the said scheduled Employment consisting of:

i) the basic rate of wages as set out in columns 3 and 4 of the Schedule first hereto in respect of each Zone Specified in Columns 3 and 4 and 5 are the basic rates payable per day in such zone to the classes of employees mentioned against them in column 2 thereof,

ii) a special allowance at the rate to be adjusted as provided in clause 2.

2. The Competent Authority shall, on declaring the Consumer Price Index Number for working class (New Series) specified in column 3 of Second Schedule hereto to be the cost of living index number applicable to the employees employed in the said Scheduled Employment in pursuance of clause (d) of section 2 of the said Act, calculate the average of the cost of living index applicable to the employees in the areas specified in column 2 of the said Schedule for every six months commencing on the 1st day of January and

1st day of July and ascertain the rise of such average in terms of points over the Index Number mentioned against them in column 4 of the Second Schedule. For every such rise in the number of points specified in column 5 of the said Second Schedule, the Special Allowance (hereinafter referred to as "the Cost of Living Allowance") payable to the employees for each of the six months immediately following the period in respect of which such average has been calculated as aforesaid shall be at the rate shown against them in column 6 of the said Second Schedule.

3. The Competent Authority shall, compute the cost of living allowance in accordance with the directions made in clause 2.

4. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority by Notification in the Official Gazette in the month of January, when such allowance is payable for each of the months of January to June and in the month of July, when such allowance is payable for each of the months of July to December:

Provided that the Competent Authority shall declare the cost of living allowance payable in respect of the period from the date of revision of the minimum rates of wages upto the end of June 1984, immediately after the said date with effect from which the minimum rates of wages are revised.

FIRST SCHEDULE - CLASS OF EMPLOYEES

1. Highly Skilled:

1. Farch Moving Machinery Operators and Crane Operators,
2. Batching Plant Operators.
3. Under ground tunnelling work blasters, operators
4. Under water works Drivers, Chissiors etc.
5. Marble Setters and Carvers.
6. Employees by whatever name called doing highly skilled work of the nature done by persons falling under the above entries.

Zone I - 25

Zone II - 23

Zone III - 21

II Skilled:

1. Road Roller Driver.
2. Blacksmith with his tools.
3. Stone Cutter with his tools.
4. Maccn with his tools.
5. Erick layer with his tools.
6. Carpenter.

7. Plumber with his tools.
8. Glezier with his tools.
9. Tinsmith with his tools.
10. Sarang or Tindal
11. Painter (Decorator)
12. Fitter (not being structural or pipe fitter or fitter apprentices)
13. Caneman
14. Mukadam supervising 21 or more Mazdoors.
15. Mechanic
16. Boiler Attendant.
17. Plasterer.
18. Floor or wall tiller
19. Driver (heavy mechanical equipment)
20. Lineman or Wiremen.
21. Sign writer.
22. Welder,
23. Metal Turner.
24. Electrician
25. Fitter (Structural or Pipe)
26. Employees by whatever name called doing skilled works of the nature done by persons falling under the above entries.

Zone I - 19

Zone II - 17

Zone III - 15

3. Semi-skilled:
 1. Foreman
 2. Cleaner and Oilman for mechanical plant, stationary and Mechanical transport.
 3. Mail
 4. Asphalt Sprayer.
 5. Mukadam supervising between 10 and 20 Mazdoors.
 6. Miner or Blaster.
 7. Navaghani
 8. Painter
 9. White Washer
 10. Roof tiler, thatcher or tile turner.
 11. Bar-bender.
 12. Pump Driver/Pump Attendant
 13. Mixer Driver.
 14. Sawyer
 15. Mukadam for Asphalt Road Work.
 16. Fitter Apprentice.
 17. Hammerman
 18. Brick or Tile Moulder.
 19. Well Sinker
 20. Engine Attendant.

21. Firemen for Statistic or Mobile Machinery
22. Pneumatic tools operator
23. Vibrator Operator
24. Compressor Attendant
25. Crusher Attendant
26. Carpenter Assistant/Attendant
27. Floor polisher (floor or terrace)
28. Watchmen
29. Bhisty with Mushak
30. Wood Polisher
31. Employees by whatever name called doing semi-skilled works of the nature done by persons falling under the above entries.

Zone I - 17 Zone II - 15 Zone III - 13

4. Unskilled - Zone I - 14 Zone II - 12 Zone III - 10

SECOND SCHEDULE

No:	Area	Bombay City Index Index No. for working class (New Series)	No.	Points	Rupees
1.	Areas falling in Zone I	Bombay City index Number	518	1	0.05 p.day
2.	Area falling in Zone II	Do	518	1	0.05 p.day
3.	Area falling in Zone III	Do	518	1	0.05 p.day

Explanation:

Zone: 1 (a) Area within the limits of all Municipal Corporation Corporation Committees, New Bombay Metropolitan cities and areas with 10 Km from the boundaries of the places mentioned above.

Zone II - (b) Areas within the limits of 'A' class Municipal Councils and District Head Quarters.

Zone III (c) All other areas in the State not included in Zones I & II.

d) The minimum rates of wages shall consist of an all inclusive rate allowing for the basic rates, the cost of living allowance and the cash value of concessions, if any.

e) The minimum rate of wages shall include the payment for the weekly day of rest.

f) The minimum rate of wages in respect of an employee below the age of 18 years shall be paid at the rate of 80 per cent of the wages prescribed for the category in which he is employed.

g) In case of employees employed on monthly wages, the rate of monthly wages shall be computed by multiplying the minimum rate of daily wages by 26.

Special Allowance for Greater Bombay.

Period	Special Allowance per day.
1-10-85 to 30-06-85	04.70
1.07-85 to 31-12-85	05.60
1-06-86 to 30-06-86	-
1-07-86 to 31-12-86	-

STONE BREAKING AND STONE CRUSHING

No. MWA, 1983/5583/Lab-7. - whereas the Government of Maharashtra having revised the minimum rates of wages as refixed by Government Notification, 'Industries', Energy and Labour Department, No. MWA-1981/4223/Lab-7, dated the 29th August 1981 in respect of the employees employed in the employment in stone breaking and stone crushing (hereinafter referred to as "the said scheduled employment") in the State of Maharashtra, considers it necessary to revise the minimum rates of wages payable to the employees employed in the said scheduled employment;

And whereas, the proposals for such revision have been published in Government Notification, Industries, Energy and Labour Department, No. MWA-1983/5583/Lab-7, dated the 30th July 1983 as required by clause (b) of sub-section (1) of section 5 of the Minimum Wages Act, 1948 (XI of 1948) (hereinafter referred to as "the said Act");

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 of the said Act, the Government of Maharashtra, after considering all the representations received in respect of the aforesaid proposals and after consulting the Advisory Board as required by the provision to the sub-section (2) of section 5 of the said Act, hereby revises with effect from the 16th March 1984, the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them as set out in column 3 of the schedule hereto as the minimum rates of wages payable to the classes of employees mentioned against them in column 2 of that Schedule.

Stone Breaking and Stone Crushing (143)

For the purpose of this notification-

- (a) Zone I shall comprise, the areas classified as Greater Bombay, Thane, Standard Urban Area for the purpose of the Census of India, 1971;
- (b) Zone II shall comprise -
- (i) the areas classified as the Standard Urban Areas of Pune, Nagpur, Kolhapur, Solapur, Bidwandi, Kalyan, Ulhasnagar, Nasik, Malegaon, Dhule, Jalgaon, Bhusawal, Ahmadnagar, Satara, Sangli, Miraj, Ichalkaranji, Aurangabad, Jalna, Nanded, Rahangon, Akola, Yavatmal, Kamptee and Chandrapur for the purpose of the Census of India, 1971;
 - (ii) the areas classified as 'A' Class Municipal areas and 'B' Class Municipal areas under the Maharashtra Act, 1965 (Mah.XL of 1965), excluding the areas specified in clause (a);
- (c) Zone III shall comprise of the remaining areas of the State of Maharashtra.
- (d) The minimum rate of wages shall consist of an all inclusive rate allowing for the basic rate, the cost of living allowance and the casu value of concessions, if any;
- (e) the minimum rate of wages shall be inclusive of payment of remuneration in respect of the weekly day of rest.

SCHEDULE

Sr. No.	Class of employees	Rates		
		Zone I	Zone II	Zone III
1	2		3	
I.	Adults -			
	(A) Skilled- blasters, Drillers, drillers-cum-blasters tappers, Fitters, engine/machine Drivers, blacksmiths, welders, Lobri-walls, tractor Drivers, Carpenters, Electrician, Dressers (Phadiwalla/Ghaddiwallas of various sizes of stones).	Rs.444.00 per month in the case of those employed on monthly wages of Rs.17.76 per day in the case of those employed on daily wages.	Rs.372.00 per month in the case of those employed on monthly wages or Rs.14.88 per day in the case of those employed on daily wages.	Rs.348.00 per month in the case of those employed on monthly wages or Rs.13.92 per day in the case of those employed on daily wages.
	Compressor Operators, All other employees by whatever names called, doing the work of the nature done by employees falling under the fore- going categories of employees.			
	(B) Semi-Skilled. Stone Breakers (Khadi Breakers/ Kawalis) Oilmen, Mukadams. All other employees by whatever names called, doing the work of the nature done by employees falling under the foregoing categories of employees.	Rs.324.00 per month in the case of those employed on monthly wages of Rs.12.96 per day in the case of those employed on daily wages.	Rs.294.00 per month in the case of those employed on monthly wages of Rs.11.76 per day in the case of those employed on daily wages.	Rs.276.00 per month in the case of those employed on monthly wages or Rs.11.04 per day in the case of those employed on daily wages.

30

1

2

3

(C) Un-skilled

Rs.258.00 per month in the case of those employed on monthly wages or Rs.10.32 per day in the case of those employed on daily wages.

Rs.234.00 per month in the case of those employed on monthly wages or Rs.09.36 per day in the case of those employed on daily wages.

Rs.222.00 per month in the case of those employed on monthly wages of Rs.08.88 per day in the case of those employed on daily wages.

(D) All other employees employed in occupations not specified in any of the above mentioned categories in this column.

Rs.258.00 per month in the case of those employed on monthly wages or Rs.10.32 per day in the case of those employed on daily wages.

Rs.234.00 per month in the case of those employed on monthly wages or Rs.09.36 per day in the case of those employed on daily wages.

Rs.222.00 per month in the case of those employed on monthly wages or Rs.08.88 per day in the case of those employed on daily wages.

II. Employees below the age of 18 years employed in any of the above mentioned categories of employment in this column.

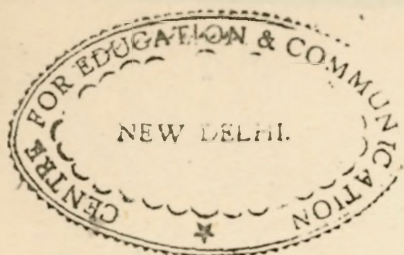
80 per cent of the rate fixed for adults in respect of the same category of employees.

80 per cent of the rate fixed for adults in respect of the same category of employees.

80 per cent of the rate fixed for adults in respect of the same category of employees.

ANNEXURE 'B'

- SFC 16 (1) WHERE AN ESTABLISHMENT IS NEWLY SET UP, WHETHER BEFORE OR AFTER THE COMMENCEMENT OF THIS ACT, THE EMPLOYEES OF SUCH ESTABLISHMENT SHALL BE ENTITLED TO BE PAID BONUS UNDER THIS ACT ONLY-
- (a) FROM THE ACCOUNTING YEAR IN WHICH THE EMPLOYER DERIVES PROFIT FROM SUCH ESTABLISHMENT: OR
 - (b) FROM THE SIXTH ACCOUNTING YEAR FOLLOWING THE ACCOUNTING YEAR IN WHICH THE EMPLOYER SELLS THE GOODS PRODUCED OR MANUFACTURED BY HIM OR RENDERS SERVICES. AS THE CASE MAY BE, FROM SUCH ESTABLISHMENT? WHICHEVER IS EARLIER:



Employment of Young Persons

67. Prohibition of employment of young children - No child who has not completed his fourteenth year shall be required or allowed to work in a factory.

68. Non-adult workers to carry tokens - A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless -

- (a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and
- (b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

69. Working hours for children: (1) No child shall be employed or permitted to work, in any factory -

- (a) for more than four and a half hours in any day;
- ¹(b) during the night

Explanation - For the purpose of this sub-section "night" shall mean a period of at least twelve consecutive hours which shall include the interval between 10 p.m. and 6 a.m.

2. The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

3. The provisions of section 52 shall apply also to child workers, and no exemption from the provisions of that section may be granted in respect of any child.

4. No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

70. Notice of period of work for children: (1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.