

8 JAN 1960

The Secretary,  
All India Trade Union Congress,  
Ashok Road, New Delhi.

No. LRI-1(152)/59  
Government of India  
Ministry of Labour & Employment

From Shri A. L. Handa,  
Under Secretary to the Government of India

To All Central Organisations of Employers  
and Workers.

Dated New Delhi, the 4-1-60

Subject:- Indian Labour Conference - 17th Session - Conclusions  
of - Applicability of the provisions of the  
Arbitration Act, 1940, to arbitrations under the  
Industrial Disputes Act, 1947.

Sir,  
The Seventeenth Session of the Indian Labour Conference held at Madras on the 27th July, 1959, recommended that the question how far the provisions of the Arbitration Act, 1940, could be usefully made applicable to the arbitration procedure provided under the Industrial Disputes Act, 1947, should be examined afresh by the Central Government.

2. Under the Arbitration Act, 1940, even when the parties themselves choose the arbitrators without the intervention of the court the courts exercise wide powers over arbitrators and arbitration proceedings. The courts can, in certain circumstances, remove arbitrators and they have also powers to modify an award or remit an award. The intention underlying section 10A is to have voluntary reference of disputes to arbitration and it was felt (at the time the section was inserted) that it would not be desirable to allow courts to interfere in such proceedings.

3. Again, when an arbitration award is given, it is likely that it may not satisfy all the parties to the dispute. Under section 30 of the arbitration Act, 1940, any party may apply to the courts for setting aside the award. If the arbitrations under the Industrial Disputes Act, 1947, were to be subject to the provisions of the Arbitration Act, 1940, there might be no finality about the arbitration awards and further undue delay would be caused in the settlement of industrial disputes. For these reasons, it was considered desirable (at the time section 10A was inserted in the Industrial Dispute Act) that the jurisdiction of courts in relation to arbitration proceedings under the Industrial Disputes Act, 1947, may be specifically excluded.

4. This Ministry is not aware whether any difficulties are being experienced in the conduct of the arbitration proceedings, due to the non-applicability of the provisions of the Arbitration Act, 1940, to such proceedings, I am to request that your organisation may kindly let this Ministry have their views in the matter as early as possible. If your organisation feels that some of the provisions of the Arbitration Act, 1940, could be usefully made applicable, their detailed suggestions in this respect may also kindly be forwarded to this Ministry.

5. An alternative suggestion put forward to this Ministry is that the question whether the provisions of the Arbitration Act, 1940 shall or shall not apply in each case of voluntary arbitration under the Industrial Dispute Act may be left to the agreement of the parties concerned. The views of your

organisation on the desirability of accepting this proposal may kindly be communicated.

6. An early reply is requested.

Yours faithfully,



( A. L. Handa )  
Under Secretary

Copy forwarded for similar action to:-

1. All employing Ministries.

Copy also to the Chief Labour Commissioner, New Delhi and Research Division.



( A. L. Handa )  
Under Secretary

d.a.nil  
N.Ram/1/1/60

21 JAN 1960

No. LRI.1(156)/59.  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT.

From

Shri A. L. Handa,  
Under Secretary to the Government of India.

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

ers

Dated New Delhi, the 20th Jan, 1960

Subject:- Industrial Disputes Act, 1947 - Question of evolving  
a clearer definition of the term 'illegal strike'.

Sir,

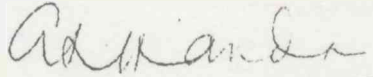
I am directed to refer to this Ministry's circular letter No. LRI-1(86)/57 forwarding a copy of 'Model Principles for reference of disputes to adjudication' approved by the seventeenth session of the Indian Labour Conference held at Madras in July, 1959. The 'Model Principles' contains, inter alia a provision to the effect that disputes may not ordinarily be referred for adjudication if there is a strike or lock-out declared illegal by a Court. In this connection it was suggested at the above-cited Conference that the question of evolving a clearer definition of the term "illegal strike" should be examined further.

2. The matter has since been examined with reference to the Central and State labour relations laws. Under the Central Industrial Disputes Act, as it stands, there is no specific provision for automatically declaring a strike or lockout to be legal or otherwise with the result that only if the matter is taken to a court it may give a decision thereon. The only other alternative is for the appropriate Government to refer the issue specifically to a Labour Court or an Industrial Tribunal under Sec 10(1) of the Industrial Disputes Act. Under the State enactments like the Bombay Industrial Relations Act, 1946 and the C. P. & Berar Industrial Disputes Settlement Act, 1947, the authority for deciding the illegality of a strike vests in the Industrial Court. One of the ways of meeting the situation may be to insert a provision in the Industrial Disputes Act, 1947 on the lines of clause 109 of the Labour Relations Bill, 1950 or clause 75 of the draft Industrial Relations Bill, 1954. (extracts enclosed).

3. I am to request that, if there is no objection, the State Government/your Organisation may kindly let this Ministry have their views on how they would like the definition of the term "illegal strike" to be evolved. Any suggestions in this respect may, if possible, be accompanied by an explanatory note.

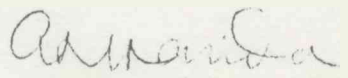
4. An early reply is requested.

Yours faithfully,

  
( A. L. Handa )  
Under Secretary.

Copy forwarded for similar action to:-

1. All employing Ministries.
  2. Chief Labour Commissioner, New Delhi.
  3. LR II, LR IV and E&I Section
- Copy also to Research Division.

  
( A. L. Handa )

*Extracts from*

The Labour Relations Bill, 1950.  
(As amended by the Select Committee):

"109. Decision as to legality of strike to be final.- Where a Tribunal authorised under section 70 decides whether or not a strike or lockout is illegal under this Act, such decision shall, subject to the provision for appeal, be final and shall not be questioned in any other proceeding under any other law for the time being in force."

"70 Presentation of application.- An application to a Tribunal authorised in this behalf may be made in the prescribed manner by - . . . . .  
xx " " xx xx  
(v) any party to the dispute or the appropriate Government for decision whether or not a strike or lock-out is illegal.

*Extracts from*

Draft Industrial Relations Bill, 1954

"75. Decision as to legality of strike or lockout.- A Tribunal designated for the purpose may, on a reference being made to it by the appropriate Government, decide whether or not a strike or lock-out is illegal under this Act and such decision shall be final and shall not be questioned in any other proceeding under this Act or in any proceeding under any other law for the time being in force."

Copy of letter NoLR-1-1(182)/59/II dated 30th December 1959 from the Labour Ministry.

Sub: Industrial Disputes Act, 1947 - Protection against victimisation - Additional Measures for - Action on the decision of the Indian Labour Conference July, 1959.

Dear Sir,

I am directed to invite the attention of your organisation to the following decision of the 17th Session of the Indian Labour Conference, which met at Madras on the 27th-29th July, 1959:-

"Item 2 B II(c) of the conclusions The existing legal provisions on the subject of victimisation contained in the Industrial Disputes Act, the Bombay Industrial Relations Act and the proposed Madhya Pradesh Labour Relations Bill should also be examined with a view to providing further protection against any possible victimisation, if necessary. The organisation against any possible victimisation, if necessary. The organisations would also give further thought to the problem and forward their suggestions to the Government of India for decision by the Standing Labour Committee or the Indian Labour Conference."

2. "As desired by the Conference, the provisions of (i) the Industrial Disputes Act, 1947, (ii) the Bombay Industrial Relations Act, 1946, (iii) the Madhya Pradesh Industrial Relations Bill, 1959 relating to protection against victimisation have been examined. A comparative statement showing the provisions of the aforesaid Acts/Bill in this respect is attached. It would be observed that the protection afforded to the workers under the State enactments referred to above is more liberal than that given under the Central Industrial Disputes Act, 1947. I am to request you kindly to let this Ministry know whether your organisation considers the need for providing further protection against any possible victimisation and if so to forward its suggestions in this regard at an early date."

P.T.O

Cable : "AITUCONG"

Telephones : 48771  
43414

अखिल भारतीय ट्रेड यूनियन काँग्रेस  
ALL-INDIA TRADE UNION CONGRESS

T. U. LAW BUREAU :  
R. L. TRUST BUILDING,  
55, GIRGAON ROAD,  
BOMBAY 4 (INDIA)

4, ASHOK ROAD,  
NEW DELHI.

President : S. S. MIRAJKAR  
General Secretary : S. A. DANGE, M.P.

January 13, 1960

1. V. G. Rao
2. Sanadon / Y. S. Khan
3. Sabil / Lombe
4. Han / Dori
5. G.

Dear Comrade,

We enclose copy of a letter from the Labour Ministry regarding the recommendation of the 17th Indian Labour Conference, to make provision for additional measures for protection against victimisation.

Please let us have your comments on the letter of the Labour Ministry as well as the comparative statement attached.

With greetings,

Yours fraternally,

  
1871.  
(K. C. Prasad)  
Secretary

Encl:

12 JAN 1960

No.LR.I.1(182)/59  
Government of India,  
Ministry of Labour & Employment.

11 JAN 1960

Dated New Delhi, the

From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

The General Secretary,  
All India Trade Union Congress,  
4, Ashoka Road, New Delhi.

Subject:- Industrial Disputes Act 1947 - Protection  
against victimisation - Additional  
Measures for - Action on the decision of  
the Indian Labour Conference July 1959.

Sir,

I am directed to refer to your letter dated  
the 7th January, 1960 on the above subject and to  
forward herewith a copy of the statement attached  
to this Ministry's letter of even number, dated  
the 30th December, 1959, as desired.

Yours faithfully,

*S. Swaminathan*  
(S.Swaminathan)  
for Under Secretary.

*See copy of this to*  
*(i) Shri U.C. Das*  
*(ii) " Jaganmohan Sharma / J.S. Sharma*  
*(iii) " Home Dept*  
*(iv) " Secy (Labour)*  
*Further action to*  
*be taken by*  
*1/11*

Statement indicating the protection against victimisation afforded under various Labour enactments.

Provisions in the Industrial Disputes Act, 1947.	Provisions in the B.I.R. Act, 1946.	Provisions in the M.P. Act, 1947.	Provisions in the M.P. Bill, 1949.	Remarks.
<p>During the pendency of any conciliation or adjudication proceedings in respect of an industrial dispute the employer, in accordance with the award or orders applicable to the workman concerned in such dispute shall not discharge or punish, whether by dismissal or otherwise, that workman for any misconduct not connected with the dispute. If doing so he must pay the workman wages for one month. These provisions simultaneously apply to the authority for approval of such action.</p> <p>[Section 33(2)]</p> <p>For any misconduct connected with the dispute, however, no employer could during the pendency of such proceedings discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute, except with the express permission in writing of the authority before which the proceeding is pending.</p> <p>Similar is the position with regard to the change of service conditions during the pendency of proceedings,</p>	<p>No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee- (a) is an officer or a member of a registered union or a union which has applied for being registered; or</p> <p>(b) is entitled to the benefit of a registered agreement or a settlement, submission or award; or</p> <p>(c) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in a proceeding under this Act or any other law for the time being in force or takes part in any capacity in or in connection with a proceeding under this Act; or</p> <p>(d) is an officer or member of an organisation the object of which is to secure better industrial conditions, or</p> <p>(e) is an officer or member of an organisation the object of which is to secure better industrial conditions; or</p>	<p>No employer shall dismiss, discharge, suspend or reduce any employee or punish him in any other manner solely by reason of the circumstances that the employee-</p> <p>(a) is an officer or member of a recognised union or of a union which has applied to be registered under the I.T.U. Act, 1926 or to be certified as a recognised union under this Act;</p> <p>(b) is entitled to the benefit of a registered agreement, submission or award; or</p> <p>(c) has appeared or intends to appear as a witness or has given any evidence or intends to give evidence in a proceeding under this Act, or</p> <p>(d) is an officer or member of an organisation which is not declared unlawful; or</p>	<p>Same as section 42(1)(a) (b), (c) (d) and (e) of the existing Act plus the following:</p> <p>(f) has taken part in any trade union activity which has not been held to be illegal.</p> <p>(g) has gone on or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provisions of this Act.</p> <p>(2) No employer can prevent from returning to work after a strike arising out of an industrial dispute which has not been held by a Labour Court or the Industrial Court to be illegal unless-</p>	<p>The protection against victimisation afforded under the B.I.R. Act, 1946 and the M.P. Act are much more liberal than those under the Central Industrial Disputes Act, 1947.</p>



Provisions in the Central I.D. Act, 1947.	Provisions in the B.I.R. Act, 1946.	Provisions in the M.P. Act, 1947.	Provisions in the M.P. Bill, 1959.	Remarks.
<p>In respect of protected workmen who, being officers of a registered trade union/registered trade unions connected with the establishment, are recognised as such in accordance with the provisions of the Industrial Disputes (Central) Rules, 57-neither change of service conditions nor punishment by discharge or dismissal is possible in any circumstances during the pendency of proceedings except with the permission of the authority before such proceedings are pending.</p> <p>(Section 33)</p>	<p>(f) is representative of employees; or</p> <p>(g) has gone or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provisions of this Act.</p> <p>[Section 101(1)]</p> <p>(2) No employer can prevent any employee from returning to work after a strike, arising out of an industrial dispute which has not been held by a Labour Court or the Industrial Court to be illegal except in certain specified circumstances.</p> <p>[Section 101]</p>	<p>(e) is an officer or member of an organisation the object of which is to secure better industrial conditions; or</p> <p>(f) is a representative of employees; or</p> <p>(g) has participated in a strike which is not rendered illegal under any provisions of this Act.</p> <p>[section 42(1)]</p>	<p>(i) the employer has offered to refer the issues on which the employee has struck work to arbitration under this Act and the employee has refused arbitration; or</p> <p>(ii) the employee not having refused arbitration has failed to offer to resume work within one month of a declaration by the State Govt. that the strike has ended.</p>	

January 7, 1960

Shri A.L.Handa,  
Under Secretary to the  
Government of India,  
Ministry of Labour & Employment,  
New Delhi.

Sub: Industrial Disputes Act, 1947 -  
Protection against victimisation -  
Additional Measures for - Action  
on the decision of the Indian  
Labour Conference July 1959.

Sir,

Please arrange to send us the enclosure  
stated in Para 2 of your letter No.LE-1-1 (182)/  
59/II dated 30th December, 1959, since this  
statement do not seem to have been received in  
this office.

Thanking you,

Yours faithfully,

  
(K.G.Sriwastava)  
Secretary

31 DEC 1959

No.LR-1-1 (182)/59/II  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT.

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From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

The Secretary,  
All India Trade Union Congress,  
4, Ashoka Road, New Delhi.

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947 - Protection against  
victimisation - Additional Measures for -  
Action on the decision of the Indian Labour Conference  
July, 1959.

Sir,

I am directed to invite the attention of your  
organisation to the following decision of the 17th Session of the  
Indian Labour Conference, which met at Madras on the 27th-29th  
July, 1959:-

"Item 2 B II(e) of the conclusions The existing legal  
provisions on the subject of victimization contained in the  
Industrial Disputes Act, the Bombay Industrial Relations Act and  
the proposed Madhya Pradesh Labour Relations Bill should also be  
examined with a view to providing further protection against any  
possible victimisation, if necessary. The organisations would  
also give further thought to the problem and forward their  
suggestions to the Government of India for decision by the  
Standing Labour Committee or the Indian Labour Conference."

2. As desired by the Conference, the provisions of  
(i) the Industrial Disputes Act, 1947, (ii) the Bombay Industrial  
Relations Act, 1946, (iii) the Madhya Pradesh Industrial Disputes  
Settlement Act, 1947 and (iv) the recent Madhya Pradesh Industrial  
Relations Bill, 1959 relating to protection against victimisation  
have been examined. A comparative statement showing the  
provisions of the aforesaid Acts/Bill in this respect is attached.  
It would be observed that the protection afforded to the workers  
under the State enactments referred to above is more liberal than  
that given under the Central Industrial Disputes Act, 1947. I am  
to request you kindly to let this Ministry know whether your  
organisation considers the need for providing further protection  
against any possible victimisation and if so to forward its  
suggestions in this regard at an early date.

Yours faithfully,

  
(A.L. Handa)  
Under Secretary.

No. Fac. 49(31)/59  
Government of India  
Ministry of Labour & Employment

From

Shri P.D.Gaiha,  
Under Secretary to the Government of India.

To

All State Governments and the Union  
Territories.

Dated New Delhi, the

Subject:- Amendment of Form III appended to the Payment of  
Wages (Mines) Rules, 1956.

Sir,

I am directed to enclose a copy of this Ministry's  
notification of even number dated the 24th December 1959, on the  
above subject, for your information.

Yours faithfully

*L. S. Gaiha*  
1/1/60

for Under Secretary.

d.a.refl.to  
sks.31.12.

.....2.

-: 2 :-

Copy with enclosure also to :-

28. The General Secretary, The All India Trade Union Congress,  
4, Ashok Road, New Delhi.

*Lewan*  
1/1/60  
for Under Secretary.

21 JAN 1960

No. PF. I/3(113)58  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT

(172)

From

Shri P.D. Gaiha,  
Under Secretary to the Government of India.

To

The General Secretary,  
The All-India Trade Union Congress,  
4, Asoka Road,  
New Delhi.

Dated New Delhi, the

Subject:- Question of inclusion of wages portion of "lay-off" compensation and counting of "lay-off" days as attendance for the purpose of payment of bonus under the C.M.B. Scheme -Amendment to paras 2 and 6 of the Bonus Scheme.

Sir,

I am directed to say that under section 25(c) read with section 25E(ii) of the Industrial Disputes Act, 1947, as amended from time to time, if a worker presents himself for duty on each working day during the period of lay-off, he is entitled to receive 50% of the basic wages and dearness allowance for the lay-off period as compensation. The definition of "lay-off" in clause (kkk) of Section 2 of the Industrial Dispute Act, 1947 includes idleness "on account of shortage of coal, power or raw-materials or the accumulation of stocks or the break-down of machinery or for any other reason". The term "break-down of machinery" thus appears both in para 6(1) of the Coal Mines Bonus Scheme, 1948 and in the definition of "lay-off" in Industrial Dispute Act, 1947. A question has arisen whether the amount of lay-off compensation payable under the Industrial Dispute Act is to be taken into account for calculating the "basic earnings" of the workers for the purpose of determining the amount of bonus due to the employees under the C.M. Bonus Scheme, 1948 and whether the period of idleness as a result of "lay-off" is to be treated as period of attendance for the purpose of computing qualifying attendance for payment of bonus under the said bonus Scheme. The concept of "lay-off" having been introduced only in 1953 by the Industrial Dispute (Amendment) Act, 1953, this element of pay does not appear to be covered by the term "basic earnings" as defined in para 2(a) of the Coal Mines Bonus Scheme, 1948. Enquiries made in this connection however reveal that while majority of the private collieries are in the practice of counting the period of "lay-off" as attendance for the purpose of qualifying for bonus a good number of them are also in the practice of counting the "basic wage portion of lay-off compensation" towards "basic earnings" for the purpose of computing bonus. It has therefore been decided to suitably amend paras 2(a) and 6(i) of the C.M.B. Scheme so as to treat (i) the basic wage portion of lay-off compensation as part of "basic-earnings" and (ii) the entire period of lay-off as defined in section 2(kkk) of the Industrial Dispute (Amendment) Act, 1953, as attendance for the purpose of payment of bonus.

2. I am to request that the views of your Association/Federation/Congress/Union on the above proposal may kindly be communicated to the Government of India by the 20th February, 1960..... at the latest.

Yours faithfully,

*P.D. Gaiha*

(P.D. Gaiha)  
Under Secretary.

*has copy to be kept  
has returned to...  
in M.L.F. for information  
concerning in this regard*

21 JAN 1960

I\_M\_M\_E\_D\_I\_A\_T\_E

No.LRI-21(4)/59-II  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR AND EMPLOYMENT

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From

Shri A.L. Handa  
Under Secretary to the Government of India.

To

The Secretary,  
All India Trade Union Congress,  
4 Ashok Road, New Delhi.

Dated New Delhi, the

20 JAN 1958

Subject:- Industrial Employment (Standing Orders)  
Central Rules, 1946-Proposal to amend.

Sir,

I am directed to forward herewith a copy of this Ministry's notification No.S.O.2536, dated the 7th November, 1959 containing a draft amendment proposed to be made in the Industrial Employment (Standing Orders) Central Rules, 1946 and to request that the comments, if any, of your Organisation may kindly be sent to this Ministry before the 15th February, 1960. In case no comments are received by that date, it will be assumed that you have no comments to offer on the proposed amendment.

Yours faithfully,

*S. S. Handa*  
for Under Secretary.

- 3 FEB 1960

No. LRI-1(110)/59  
Government of India  
Ministry of Labour and Employment  
.....

From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

The Secretary,  
All India Manufacturers' Organisation,  
Cooperative Insurance Building,  
Sir Pherozshah Mehta Road, Fort,  
Bombay-1.

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road,  
New Delhi.

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947 - Section 20(2)(b) -  
Proposal to amend.

.....

Sir,

I am directed to invite a reference to this Ministry's letter No. LRI-1(110)/59 dated the 1st October, 1959 and subsequent reminders of the 10th November and 21st December 1959 on the above subject and to request that the information called for therein may kindly be expedited.

Yours faithfully,

*S. S. S. S.*  
28.1.60

for Under Secretary



Government of India  
Ministry of Labour & Employment

No.LR.I-(110)/59

Dated New Delhi the 1st Octo: 1960

To

All Central Organizations of Employers and  
Workers.

Sub: Industrial Disputes Act, 1947-Section 20(2)(b) -  
proposal to amend.

Sir,

I am directed to say that at the meeting of the Committee of the Standing Labour Committee held on the 16th 17th January, 1959, at Bombay, a proposal to amend section 20(2)(b) of the Industrial Disputes Act, 1947, was considered. The proposal was to the effect that the section should be amended in such a way that the protection afforded to workmen under section 33 of the Act would be available to workmen even during the interval between the date of receipt of the conciliation officers failure report by the receipt of the conciliation officers x failure report by the appropriate Government and the date of reference of the dispute under section 10 of the Act of the date of any final order passed by Government refusing adjudication.

To enable this Ministry to examine the question in all its aspects, I am to request you kindly to furnish information as to the number of cases where workmen have been adversely affected during the interval between the receipt by the appropriate Government of the Conciliation Officers failure report and the date of reference of the dispute for adjudication of the dispute. It is possible that such cases may not be numerous. It is possible that such cases may not be numerous. Again, even under the existing provisions, it would be open to trade unions concerned to raise an industrial dispute in respect of any worker so adversely affected.

This Ministry may also kindly be informed of the view of your Organization on the desirability of effecting the amendment in question.

An early reply is requested.

Yours faithfully,

Ad/-  
A.L. Handa.  
Under Secretary

26 FEB 1960

175A

No.1/110/59-LR-I  
Government of India  
Ministry of Labour & Employment

From

Shri A.L. Handa,  
Under Secretary to the Govt. of India.

To

The Secretary,  
The All India Manufacturers' Organisation,  
4th Floor,  
Co-operative Insurance Building,  
Sir P. Mehta Road, Fort,  
Bombay-1.

The General Secretary,  
All India Trade Union Congress,  
4, Ashok Road,  
New Delhi-1.

25 FEB 1960

Dated New Delhi, the

Subject:-Industrial Disputes Act, 1947 - Section 20(2)(b) -  
proposal to amend.

Sir,

I am directed to refer to this Ministry's letter of even number dated the 1st October, 1959 and subsequent reminders on the above subject and to request that the information called for therein may kindly be expedited.

Yours faithfully,

S. S. [Signature]  
for Under Secretary.

Hand signed  
1000  
20

27 FEB 1960

PUNJAB & HIMACHAL COMMITTEE

# All India Trade Union Congress

G. T. ROAD, JULLUNDUR.

Ref. No. PTUC. \_\_\_\_\_

Dated 22nd February 1960

Dear Comrade,

Please refer to your letter dated 4th Feb. 60  
re: suggestion for applicability of Arbitration Act 1940 to  
arbitration under I.D. Act.

I am of the view that no change is called for  
in the present provisions since the idea of arbitration is to  
avoid litigation.

with greetings,

yours fraternally,

*Satish Loomba*

(Satish Loomba)

10 FEB 1960

11 FEB 1960

Bhopal 5/9/21/60

The Secretary  
A. I. T. U. C.  
Delhi.

Dear Comrade,

Recd. yours of 4th instant.

Regarding the suggestion that the Arbitration Act should not apply to voluntary arbitration under the I. S. Act, I feel that generally speaking it should be so. There is no point in burdening voluntary Industrial Arbitration with the provisions of the Arbitration Act. In fact the provision permitting the execution of the Award in a civil Court is highly obnoxious. We had approved of the suggestion at Madras. In our M. P. I. L. Act ~~we~~ <sup>they</sup> have made a specific provision omitting the application of the Act. I think that we should endorse the suggestion. In any case the alternative suggestion that the

31 FEB 1920  
10 FEB 1920

the matter be left to the parties concerned  
is very reasonable and cautious.

The N.P.I. Relation Act has been  
widely amended. Except for non acceptance  
of Ballot for determining Representatives  
there are one or two other clauses,  
our other main objections have been  
accepted and the act suitably  
amended. When I come to Delhi  
I will bring the amended act and  
also the amended T.U. act.

I reach Delhi on 13th morning.  
with greetings,

yours faithfully,  
Har Dayal

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

- 3 FEB 1960

No. LRI-1(152)/59  
Government of India  
Ministry of Labour & Employment.

From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

All Central Organisations of  
Employers and Workers' (Except H.M.S.)

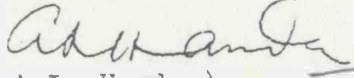
Dated New Delhi, the 28.1.60.

Subject:- Indian Labour Conference - 17th Session - Conclusions  
of - Applicability of the provisions of the Arbitration  
Act, 1940 to arbitrations under the Industrial Disputes,  
Act, 1947.

Sir,


I am directed to refer to this Ministry's letter of even  
number dated the 5th January, 1960, on the above subject and to  
request that a reply thereto may please be expedited.

Yours faithfully,

  
( A.L. Handa )  
Under Secretary

Copy forwarded for similar action to:-

1. All Employing Ministries (except Community Development and Cooperation; Education, Information & Broadcasting, and Steel Mines and Fuel).
2. The Chief Labour Commissioner (Central), New Delhi.

  
( A.L. Handa )  
Under Secretary

(124)

February 4, 1960

Dear Comrade,

Enclosed herewith is a copy of the letter from the Labour Ministry regarding the applicability of the provisions of the Arbitration Act, 1940, to arbitrators under the Industrial Disputes Act, 28 1947.

Will you please send your comments on the same as early as possible so that we can place our viewpoint before the Government?

With greetings,

Yours fraternally,

*ms*  
(K.G.Sriwastava)  
Secretary

Incl:

1. Com.Satish Loomba, Jullunder,
2. Com.Homi Daji, Indore
3. Com.K.T.Sule, Bombay
4. Com.V.G.Row, Madras
5. Com.Ram Sen, Calcutta



22 FEB 1960

No. 1/16/60-LRI.  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT.

From

.....  
Shri A. L. Handa,  
Under Secretary to the Government of India.

To

The General Secretary,  
All-India Trade Union Congress,  
4, Ashok Road, New Delhi.

20 FEB 1960

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947 - section 12(6) -  
submission of reports on conciliation proceedings -  
proposal to extend the time-limit of.

.....  
Sir,

I am directed to enclose a copy of a 'Memorandum of  
Amendment of section 12(6) of the Industrial Disputes Act, 1947'  
received in this Ministry and to request that the views of  
your organisation on the desirability of amending the Act  
as suggested may be forwarded to this Ministry at a very  
early date.

x  
Yours faithfully,

*A. L. Handa*  
( A. L. Handa )  
Under Secretary.

k.s.  
d.a.refd.to

Copy of letter No.1/16/60-LRI dated 20th February 1960  
from the Labour Ministry

Sub: Industrial Disputes Act, 1947 - Section 12(6)  
submission of reports on conciliation  
proceedings - proposal to extend the time-  
limit of.

Sir,

I am directed to enclose a copy of a 'Memorandum of Amendment of section 12(6) of the Industrial Disputes Act, 1947' received in this Ministry and to request that the views of your organisation on the desirability of amending the Act as suggested may be forwarded to this Ministry at a very early date.

Memorandum of Amendment of section 12(6) of the Industrial Disputes Act 1947.

Section 12 (6) of the Industrial Disputes Act 1947 provides that the reports of Conciliation Officer under Section 12(3) or 12(4) shall be submitted to Government within fourteen days of the commencement of the Conciliation proceedings or within such shorter period as may be fixed by the appropriate Government. Proviso to the said section enjoins that the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute. It is found in practice that in majority of cases the time limit for fourteen days could not be adhered to and frequently extension of time to conclude the conciliation proceedings would be necessary and in some cases either the employers or workers were not agreeable to have the time being extended beyond the fourteen days specified.

It often happens that on failure of the efforts of a Conciliation Officer to bring about a settlement, further efforts are made at higher levels to settle ~~the~~ ~~the~~ ~~the~~ the dispute consistent with the objective to promote settlements by conciliation and to minimise adjudication. But the insistence under section 12 (6) to report about the results of the steps taken by the Conciliation Officer does not afford any opportunity for further efforts at conciliation after the first conciliation has proved futile. It is advantageous not to have any inhibition for more conciliation efforts than one so that all avenues of an amicable settlement could be explored. As a matter of practice continuing efforts at various levels are made for settling disputes by conciliation irrespective of the requirement under Section 12(6) and such efforts are more often successful and conducive to the interest of the parties. When this is the position it is reasonable to make section 12(6) less rigid and more flexible.

It is therefore suggested that section 12(6) of the Industrial Disputes Act may be suitably amended investing powers to the Conciliation Officer, to extend the time for the submission of report under Section 12(3) or 12(4) by such further periods not exceeding three months in the aggregate for sufficient reasons to be recorded by him. Provision should also be made that in cases where the period is extended, the Conciliation Officer should submit interim reports on the expiry of fourteen days' time stating the circumstances under which time has been extended.

No.175/A/60  
February 24, 1960

175-A  
Shri A.L.Handa,  
Under Secretary to Government of India,  
Ministry of Labour & Employment,  
New Delhi.

Sub:Industrial Disputes Act, 1947 - section 12(6) -  
Submission of reports on conciliation  
proceedings - proposal to extend the time-limit of

Dear Sir,

Please refer to your letter No.1/16/60-LRI  
dated February 20, 1960 on the above subject.

The fact that due to the insistence under  
section 12(6) of the Industrial Disputes Act, 1947,  
more efforts for conciliation cannot take place may  
be correct in some cases. At the same time, the  
other side of the picture has also to be kept in view.  
It is that already there is great discontent at the  
long and inordinate delay that takes place in  
settling disputes within the existing machinery.  
This has been raised several times in various  
meetings. The extension of time-limit in the first  
conciliation from 14 days to 3 months should not  
add to this already lengthy procedure.

We are not against settlement of issues  
through conciliation where possible and lack of time  
should not be the sole reason for reporting failure  
of conciliation.

It is, therefore, suggested that the  
Conciliation Officer should be invested with the power  
to extend the time of submission of report under  
Section 12(3) or 12(4) by such further period, not  
exceeding three months in aggregate, provided the  
trade union(s) concerned agree to this extension  
in writing. Provision for interim reports after  
14 days and then every fortnight, stating the  
circumstances under which time has been extended  
and giving progress of the conciliation proceedings  
should be made.

This will ensure that workers will not suffer  
and will have no cause to complain about delay as a  
result of this extension of time. Wherever there  
exists possibility of settlement through genuine  
efforts at conciliation, the worker will gladly  
accept the extension of time for the purpose.

Yours faithfully,

*K.G.*  
(K.G.Sriwastava)  
Secretary

Copy to: Mr. J. S. V. C.  
Tambur  
P. Singh  
M. D.

- 6 FEB 1960

No.LR.I.1(182)/59  
Government of India  
Ministry of Labour and Employment

...

From

Shri A.L. Handa,  
Under Secretary to the Government of India

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated, New Delhi, the

SUBJECT:- Industrial Disputes Act, 1947 - Protection  
against victimisation - Additional Measures  
for - Action on the decision of the Indian  
Labour Conference - July, 1959.

...

Sir,

I am directed to refer to this Ministry's  
letter of even number dated the 30th December, 1959,  
on the above subject and to request that a reply thereto  
may kindly be expedited.

Yours faithfully,

*S. Inayatullah*

for Under Secretary

February 24, 1960

Com. <sup>V</sup>B.G. Row,  
Madras.

Dear Comrade,

On January 13, we had forward to you copy of a letter from the Labour Ministry on the question of additional measures for protection against victimisation in the Industrial Disputes Act. We have not received x your comments on this letter as yet.

Will you please do the needful at your earliest?

With greetings,

Yours fraternally,

*K.G.*  
(K.G. Sriwastava)  
Secretary

February 24, 1960

Com. Janardhan Sharma,  
Advocate,  
Dariba Kahan,  
DELHI.

Dear Comrade,


On January 13, we had forwarded to you copy of a letter from the Labour Ministry on the question of additional measures for protection against victimisation in the Industrial Disputes Act. We have not received your comments on this letter as yet.

As you will remember, copy of this letter as well as another letter from the Labour Ministry on the question of evolving a clearer definition of the term "illegal strike" were included in the folder distributed by us at the General Council meeting.

Please let us have your comments on the Labour Ministry's proposals at your earliest.

With greetings,

Yours fraternally,

  
(K.G. Sriwastava)  
Secretary

175-A

February 24, 1960

Com.Indrajit Gupta,  
C/o West Bengal State Committee of  
AITUC,  
249 Bowbazar Street,  
CALCUTTA.

Dear Comrade,

On January 13, we had forwarded to you copy of a letter from the Labour Ministry on the question of additional measures for protection against victimisation in the Industrial Disputes Act. We have not yet received your comments on this letter as yet.

As you will remember, copy of this letter as well as another letter from the Labour Ministry on the question of evolving a clearer definition of the term "illegal strike" were included in the folder distributed by us at the General Council meeting.

Please let us have your comments on the Labour Ministry's proposals at your earliest.

With greetings,

Yours fraternally,

*KGS*

(K.G.Sriwastava)  
Secretary

February 24, 1960

Com. Satish Loomba,  
General Secretary,  
Punjab State Committee of AITUC,  
Dilkusha Building,  
G.T. Road,  
JULLUNDUR.

Dear Comrade,

On January 13, we had forwarded to you copy of a letter from the Labour Ministry on the question of additional measures for protection against victimisation in the Industrial Disputes Act. We have not yet received your comments on this letter as yet.

As you will remember, copy of this letter as well as another letter from the Labour Ministry on the question of evolving a clearer definition of the term "illegal strike" were included in the folder distributed by us at the General Council meeting.

Please let us have your comments on the Labour Ministry's proposals at your earliest.

With greetings,

Yours fraternally,

*K.G.*

(K.G. Sriwastava)  
Secretary



22 FEB 1960

175-A

No.1/182/59-LRI  
Government of India  
Ministry of Labour & Employment

\*\*\*\*

From

Shri A. L. Manda,  
Under Secretary to the Government of India

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated New Delhi, the

20 FEB 1960

Subject:- Industrial Disputes Act, 1947 - Protection against  
victimisation - additional measures for - Action on  
the decision of the Indian Labour Conference (July, 1959)

Sir,

I am directed to refer to this Ministry's letter of  
even number, dated the 30th December 1959, and subsequent reminder  
on the above subject and to request that a reply thereto may  
kindly be expedited.

Yours faithfully,

*S. S. Manda*  
20/2/60

for Under Secretary

d.a.nil  
H.Ram/19/2

reminder  
sent to  
Com. Min. etc.

No.1/155/59-LR-I  
Government of India  
Ministry of Labour & Employment

From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

1. All State Governments,
2. All Central Organisations of Employers (except All India Organisation of Industrial Employer) and workers (except United Trade Union Congress)

Dated New Delhi, the 15-2-60.

Subject:- Industrial Disputes Act, 1947 - Question of evolving a clearer definition of the term 'illegal strike'.

Sir,

I am directed to refer to this Ministry's letter of even number dated the 20th January, 1960, on the above

..... 2/-

subject and to request that your views on the question may please be expedited.

Yours faithfully,

S. Srinivasa

for Under Secretary.

"D.A.Nil"  
\*DAYAL\* 12/2/60

The Secy.  
A. S. T. U. C.  
4 Ashok Rd.  
New Delhi

175-A

No.49(24)/58-Fac  
Government of India  
Ministry of Labour and Employment.  
.....

From

Shri P.D. Gaiha  
Under Secretary to the Government of India

To

The State Govts. and the Centrally  
Administered Areas.

Dated New Delhi, the

Subject:- Amendment of the Payment of Wages  
(Mines) Rules, 1956.

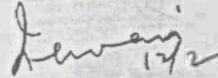
Sir,

I am directed to forward a copy of this  
Ministry's notification of even number dated the 2nd  
February 1960, on the above subject, with the request  
that your comments, if any, may please be forwarded

19 FEB 1960

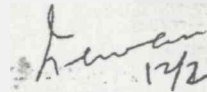
to this Ministry by the due date.

Yours faithfully,



for Under Secretary.

Copy with a copy of the enclosures forwarded to:-



for Under Secretary.

28. The General Secretary, The All India Trade Union Congress,  
4, Ashok Road, New Delhi.

21 MAR 1960

No.1/16/60-LR-I  
Government of India  
Ministry of Labour & Employment

From

Shri A.L.Handa,  
Under Secretary to the Government of India.

To

The General Secretary,  
All-India Trade Union Congress,  
4, Ashok Road, New Delhi.

10 MAR 1960

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947 - section 12(6)-submi-  
ssion of reports on conciliation proceedings - proposal  
to extend the time-limit of.

Sir,

I am directed to refer to this Ministry's letter  
of even number, dated the 20th February, 1960, on the above  
subject and to request that a reply thereto may please be  
expedited.

Yours faithfully,

*S. S. S. S.*

for Under Secretary

10 MAR 1960

PUNJAB & HIMACHAL COMMITTEE

# All India Trade Union Congress

G. T. ROAD, JULLUNDUR.

Ref. No. PTUC. -AITUC/60-7

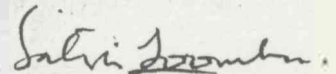
Dated 8th March, 60 19

Dear Comrade K.G.,

I am sending my comments on the proposed changes regarding victimisation in the Industrial Disputes Act.

with greetings,

Yours fraternally,



(Satish Loomba)

The old section 33 and 33(a) of the Industrial Disputes Act as thing stood before the amendment in 1957 were better safeguards against victimisation than either the present section 33 and 33a of that Act, or the BIRA, or the M.P. Bill or Act.

Therefore as a basis the old section 33 and 33(a) should be adopted.

The present I.D.A is defective because :-

a) protection u/s 33 does not apply to any undertaking which has not framed standing orders or where Standing Orders Act is not applicable. Thus a large number of workers are left entirely unprotected.

b) The distinction between matters and workmen connected with the dispute and not so connected is one which is constantly being misused.

c) Since the employer can change condition and punish regarding matters not connected with the dispute, and the workmen can not go on strike on any matter during pendency of conciliation or adjudication the employers in fact are placed at a big advantage.

The BIRA and MP Act provide for protection against victimisation by reason of the workmen being an officer etc of a trade union, but no employer ever victimises by reason of a workman being an officer etc of a trade union. Other reason are found, and it is our experience that it is difficult to establish mala fides in court of law.

Secondly, by providing against dismissal for legal strike, it gives sanction to dismissal for illegal strike. This is even against the Supreme Court decision in the Punjab National Bank case, and will ~~not~~ hit at strikes.

Hence if a bald position is to be taken, and ~~xxx~~ one which is realisable, the best would be to demand restoration of sec.33 of the I.D.A. as it stood prior to the amendment of 1957.

-----  
SL



The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

NO.1/156/59-LR.I  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT

From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

- 1) All State Governments.
- 2) The Employers Federation of India.
- 3) All Central Organisations of workers.  
(except United Trade Union Congress & Hind Mazdoor Sabha).

Dated New Delhi, the 10-3-60

Subject:- Industrial Disputes Act, 1947-Question of evolving a clearer definition of the term 'illegal strike'.

Sir,

I am directed to refer to this Ministry's letter of even number, dated the 20th January, 1960 and subsequent reminder on the above subject and to request that your views on the question may please be expedited.

Yours faithfully,

  
for Under Secretary

..2

QUESTION OF EVOLVING A CLEARER DEFINITION OF THE TERM "ILLEGAL STRIKE".

---

The Ministry's proposals appear confusing. What is being sought - a clearer "definition" of illegal strike, or provision of fresh machinery empowered to decide as to the legality of a strike? There appears to be no proposal for amending the definition of illegal strike as contained in Sections 23 & 24 of the present I.D. Act. We should ~~stick~~ stick ~~to~~ by the earlier INTUC proposal that no strike consequent on an illegal lock-out or other illegal action by the employer shall be deemed illegal.

The Ministry's proposals are really aimed, it would seem at overcoming the present somewhat round-about and dilatory procedure of getting a Labour Court or Tribunal to pronounce a strike as "illegal", by substituting a short-cut procedure.

Both the suggested provisions taken from the Labour Relations Bill, 1950, and the Draft Industrial Relations Bill, 1954, appear to be dangerous from the workers' point of view and cannot be supported by us. In one case, a specially authorised Tribunal may be directly approached by "any party to the dispute" for decision whether a strike or lock-out is illegal. This opens up the possibility of continuous legal action by the employers in ~~an~~ almost every case of strike with a view to getting it declared illegal.

The other provision, while restricting the right of reference to the appropriate Government, rules out any right of appeal against the Tribunal's decision. This is equally dangerous. If the right of appeal is inserted, then the provision would not differ materially from the existing Sec. 10(1) of the I.D. Act.

In our opinion, the Ministry's proposals should not be supported. We are not in favour of any provision which would enable a strike to be automatically declared illegal.

2. Additional Measures for Protection Against Victimization:

We are in favour of additional measures for protection.

The circulated provisions of the I.R. Act and the M.P. Act and Bill do not, however, meet the requirements of the situation. On paper, they may appear quite "progressive" but they have little practical value, because no employer in fact dismisses or punishes a workman specifically or explicitly "by reason of the circumstances" enumerated in these legislations. These may be the real and underlying reasons for victimization, but (a) - usually some other fabricated charge or excuse is put forward as the ostensible ground for action, and (b) - the real reasons can hardly ever be proved in a Court of law.

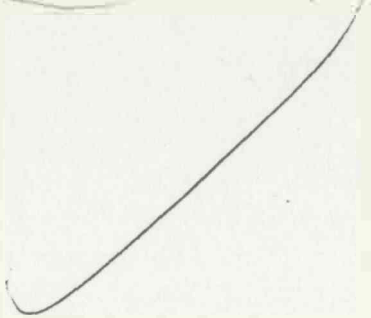
On the other ~~hand~~ hand, the existing "protection" under sec. 33(3) of the I.D. Act is no protection at all. Prior to the amendment of the Act, this right was in fact enjoyed by all workmen and is a fictitious "right".

We would, therefore, suggest that the Act be amended so as to achieve the following:-

- (a) There should be two categories of "protection" - one for all workmen who are officers of a registered union, and another for all other workmen;
- (b) In the case of the former category, the protection should be absolute, i.e. the employer shall not dismiss, discharge, reduce, or punish them in any manner and in any circumstances save with the express permission of a Labour Court or Tribunal to whom an application for such disciplinary action is made. This is irrespective of whether or not there are any proceedings pending by way of conciliation or adjudication;
- (c) In the case of workmen other than officers of a union, protective provisions similar to those contained in the I.R. Act and the M.P. Act & Bill may be suitably incorporated in the I.D. Act;

(d) After a strike, or a lock-cut, no employer should be allowed to prevent a workman from returning to work unless (i) the ~~strike~~ strike has been declared illegal under the ~~provisions~~ provisions of the Act, or (ii) the workman has failed to resume work within one month after the strike has been declared withdrawn by the Union.

-----



WEST BENGAL COMMITTEE  
All India Trade Union Congress

249, BOWBAZAR STREET, CALCUTTA-12

Dated: 4th March, 1960.

nt :

amanta Kumar Bose,  
M. L. A.

To  
Coms K. G. SRIVASTAVA,  
Secretary, A I T U C,  
4, Ashok Road, New Delhi.

Residents :

anen Sen, M. L. A.  
Md. Elias, M. P.  
adhir Mukhoti  
Md. Ismail  
ushil Bose  
nadi Das

Dear Comrade,

(1) Attached herewith our comments on the Labour Ministry's proposals for amendment of the I.D. Act. Sorry for the delay in sending them ↓

(2) Re: the verification complaint at Anglo-India Jute Mills, I am trying to see if anything can be followed up and shall let you know as soon as possible. But further action seems inadvisable as it might jeopardise the security of the workers concerned.

(3) We have some startling evidence re: the verification machinery but I cannot send it through the post for technical reasons. I shall send it otherwise, and then you decide what can be done.

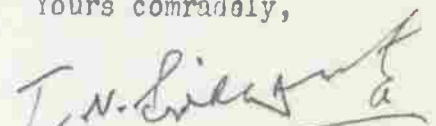
(4) Re: the G. C. decision to observe a week from April 3rd to 10th, we hope the AITUC Sectt. is following this up seriously so as to ensure all-India observance. We here have decided to hold a convention on 19. 3. 60 to plan out details, including local rallies and demonstrations, a central rally in Calcutta, a deputation with Memorandum to the State Labour Minister, a Press Conference, and publication of a brief agitational pamphlet. However, to make the thing effective, there should be proper co-ordinated action by all the major States. So I hope you will take steps to move them.

(5) When is S.A.D. expected back from abroad? We are expecting him to come here this month especially for Iron & Steel, Ports and Docks, etc. Hope you are coming too.

(6) What, if anything, has been decided about the WFTU General Council meeting in May?

Greetings,

Yours comradely,



( INDRAJIT GUPTA )  
General Secretary

P.S. Received your letter of 2/3  
re: Building Fund loans.

nt :

amanta Kumar Bose,  
M. L. A.

Residents :

anen Sen, M. L. A.  
Md. Elias, M. P.  
adhir Mukhoti  
Md. Ismail  
ushil Bose  
nadi Das

Secretary :

Indrajit Gupta

Members :

anoranjan Roy  
rishu Banerji  
N. Siddhanta  
uroj Ghosal  
anindra Bose  
taram Sett

Worker :

Indro Chakravarty

-1 APR 1960

No.1/182/59/LRI  
Government of India  
Ministry of Labour & Employment

....

From

Shri A. L. Handa,  
Under Secretary to the Government of India

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

31 MAR 1960

Dated New Delhi, the

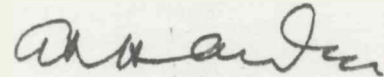
Subject:- Industrial Disputes Act, 1947 - Protection against  
victimisation - additional measures for - Action  
on the decision of the Indian Labour Conference  
(July, 1959).

.....

Sir,

I am directed to refer to this Ministry's letter  
of even number, dated the 30th December, 1959, ~~and above~~  
subsequent reminders on the above subject and to request  
that a reply thereto may kindly be expedited.

Yours faithfully,



( A. L. Handa )  
Under Secretary

d.a.nil  
N.Ram/30/3

Mar. 6, 1960

RETURNED CHINESE URGE INDONESIA TO REPATRIATE THEIR KINSMEN

canton, march fifth (hsinhua) -- returning who arrived here from indonesia on february twentyninth are expressing deep concern about their countrymen who are still in indonesia, homeless and deprived of the means of livelihood.

in the past few days since their return they have expressed deep gratitude that government plans to send more ships to indonesia to bring back their relatives and friends and have voiced the hope that the indonesian authorities will assume its responsibilities and repatriate these chinese nationals so as to end their sufferings as soon as possible and allow them to return and take part in the socialist construction of their motherland.

returnee hsia kuan-chen said, "our group of more than twenty people, now back among the great warmhearted family of our motherland, cannot help thinking of our relatives and friends still suffering at the hands of certain influential groups in indonesia. they have been homeless and deprived of the means of livelihood. on our departure, they asked us to let our fellow countrymen in the motherland know about their hardships and their fervent desire to return home soon.

the more than one hundred people who came from bandung said there were still another more than two hundred of them who had been crowded together with them at lembang. they were leading a very difficult life and were anxious to return to the motherland as early as possible.

wen yao-ching from garut near bandung said, "since those influential indonesian groups began their anti-china activities and discrimination against overseas chinese, all the chinese nationals who were forced to move have been demanding to return to the motherland. many have lost all they possessed as a result of persecution and now have financial difficulties.

20 APR 1960

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

No.1(152)/59-LRI  
Government of India  
Ministry of Labour & Employment  
.....

From

Shri A. L. Handa,  
Under Secretary to the Government of India

To

All Central Organisations of Employers and Workers  
(except H.M.S).

Dated New Delhi, the 18-4-60

Subject:- Indian Labour Conference - 17th Session - Conclusions  
of - Applicability of the Provisions of the Arbitration  
Act, 1940 to arbitrations under the Industrial Disputes  
Act, 1947.

Sir,

I am directed to refer to this Ministry's letter of  
even number, dated the 5th January, 1960 and subsequent reminders  
thereto, on the above subject and to request that a reply thereto  
may please be expedited.

Yours faithfully,

S. Srinivasan

for Under Secretary

--- 2 ---

d.a.refd.  
N.Ram/12/4

- 2 -

Copy forwarded, for similar action to the Ministries of Commerce, Community Development (Co-operation), Defense, Finance (Economic Affairs Department), Finance (Revenue), Rehabilitation, Steel Mines and Fuel (Iron and Steel) and Transport.

*S. J. —*  
for Under Secretary



25 APR 1960

No.1/156/59-LRI  
Government of India  
Ministry of Labour & Employment

.....

From

Shri A.L. Handa,  
Under Secretary to the Government of India.

To

The General Secretary,  
The All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated New Delhi the, 23 APR 1960

Subject:- Industrial Disputes Act, 1947 - Question for  
evolving a clear definition of the term "illegal  
strike".

.....

Sir,

I am directed to refer to this Ministry's letter of  
even number dated the 20th January 1960, and subsequent reminders  
on the above subject and to request that a reply thereto may  
kindly be expedited.

Yours faithfully,



(A.L. Handa)  
Under Secretary

d.a.nil.  
RNS/21/4/60

26 APR 1960

122

No.PFI-3(99)/58  
Government of India  
Ministry of Labour & Employment

.....

From

Shri T. S. Krishnamurthi,  
Section Officer

To

The General Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated New Delhi, the 25 APR 1960

Subject:- Introduction of a "bonus register" under the Coal Mines  
Bonus Scheme Amendment to para 11 of the Scheme.

.....

Sir,

I am directed to refer to this Ministry's letter of  
even number dated the 7th November 1959 on the subject mentioned  
above and to request that the views of your Association/  
Federation/Congress/Union on the proposed amendment may kindly  
be communicated to this Ministry IMMEDIATELY.

Yours faithfully,

T.S. Krishnamurthi

( T. S. Krishnamurthi )  
Section Officer

d.a.nil

-2 MAY 1950

No.1/110/59-LR-I  
Government of India  
Ministry of Labour & Employment  
\*\*\*\*

From

Shri A.L. Handa,  
Under Secretary to the Govt. of India.

To

The Secretary,  
All India Manufacturers' Organisation, 4th Floor,  
Cooperative Insurance Building, Sir Phirozshah Mehta  
Road, Fort, Bombay.1-

✓ The General Secretary,  
All India Trade Union Congress, 2th Ashok Road,  
New Delhi.

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947-Section 20(2)(b)-  
proposal to amend.

Sir,

I am directed to refer to this Ministry's letter  
of even number, dated the 1st October 1959, and subsequent  
reinders on the above subject and to request that a reply  
thereto may please be expedited.

Yours faithfully,

*S. S. S.*  
27/4

for Under Secretary

h.s.

No.175/A/60  
May 23, 1960

Shri P.R.Nayar, M.A.,  
Under Secretary to the Govt of India,  
Ministry of Labour & Employment,  
New Delhi.

Sub: Industrial Disputes Act, 1947 -  
Section 12(6) - Submission of  
reports on conciliation proceed-  
ings - proposal to extend the  
time limit of.

Dear Sir,

With reference to your letter  
No.1/16/60-LRI dated May 4, 1960, on  
the above subject, we may inform you  
that your letter of 20th February 1960  
was replied by us on February 26, 1960  
(copy enclosed for ready reference).

Yours faithfully,

*W.G.*  
(K.G.Sriwastava)  
Secretary

Encl:

5 MAY 1960

No.1/182/59-ER-I  
Government of India  
Ministry of Labour & Employment  
\*\*\*\*\*

From

Shri A.L. Handa,  
Under Secretary to the Govt. of India

To

The Central Organisations of Workers  
(except I.N.T.U.C.).

A.N.T.U.C.

3-MAY 1960

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947- Protection against  
victimisation additional measures for action on the  
decision of the Indian Labour Conference (July, 1959)

Sir,

I am directed to refer to this Ministry's letter of  
even number, dated the 30th December, 1959, and subsequent  
reminders on the above subject, and to request that a reply  
thereto may kindly be expedited.

Yours faithfully,

*S. S. S. S.*  
2/5

for Under Secretary

d.a.nil  
h.s.

No.1/16/60-LRI  
Government of India  
Ministry of Labour & Employment

....

From

Shri P.R. Nayar, M.A.,  
Under Secretary to the Govt. of India.

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated New Delhi, the

Subject:-Industrial Disputes Act, 1947 - Section 12(6) - Sub-  
mission of reports on conciliation proceedings -  
proposal to extend the time-limit of.

....

Sir,

I am directed to refer to this Ministry's letter of  
even number dated the 20th February 1960 and subsequent  
reminder dated the 19th March 1960 and to request that a  
reply thereto may please be expedited.

Yours faithfully,

*S. Srinivasan*  
for Under Secretary.

*I think we have replied  
to this. 10.1.60. C. Srinivasan.*

*10.1.60  
TYS*

20 JUN 1960

Phone : 34-2044

WEST BENGAL COMMITTEE  
**All India Trade Union Congress**

249, BOWBAZAR STREET, CALCUTTA-12

Ref. ....

Date ..... 195 .

Com. K. G. Sriwastava,  
A.I.T.U.C.

Dear Comrade,

With reference to your letter No. 175/A/SM/60 dated the 10th., containing proposed comments on the Labour Ministry's proposals, I am sending herewith my opinion :-

(1) "ILLEGAL STRIKE":

Please refer to the detailed comments on this subject sent by us to you on March 4th., 1960. As far as I recall, the Ministry's proposal was for a new provision enabling strikes to be automatically declared illegal. Obviously AITUC can't agree to any such thing. But, on the other hand, can we make the unqualified and sweeping statement that "AITUC does not accept that strikes are illegal" ?

I don't think we can (except as a "moral" proposition) unless we specially demand at the same time that whatever existing restrictions on strike are there already in the I. D. Act should be totally scrapped. So I am not in favour of your point No. 2) on the first sheet.

The rest of the comments seem to be O.K., though somewhat brief.

(2) PROTECTION AGAINST VICTIMISATION:

Comments are alright.

GREETINGS,

*Indrajit Gupta*  
GENERAL SECRETARY.

No.175/A/SM/60  
June 28, 1960

Shri A.L.Handa,  
Under Secretary to the Government of India,  
Ministry of Labour & Employment,  
New Delhi.

---

Dear Sir,

Will you be kind enough to send us a copy of your letter No. LRI-1(103)/59 of 12th July, 1959 along with enclosure which contained the summary of the proceedings of the Committee appointed by the Standing Labour Committee that met at Bombay on the 16th-17th January, 1959 ?

This may kindly be treated as urgent.

Yours faithfully,

*K.G.S.*

(K.G.Srivastava.)  
SECRETARY.

*S.L.C.*



No. 175-A/SM/60  
June 7, 1960

Shri A.L.Handa,  
Under Secretary to the Government of India,  
Ministry of Labour & Employment,  
New Delhi.

Dear Sir,

Subj: Indian Labour Conference-17th Session-  
Conclusions of - Applicability of the provi-  
sions of the Arbitration Act, 1940, to the  
arbitrations under the Industrial Disputes  
Act, 1947.

---  
Ref: Your letter No. LRI-1(52)/59  
dated 5th January, 1960.

With reference to your above-quoted letter and the  
subsequent reminders thereon, we have to inform you as  
under:

The AITUC feels that application of various provisions  
of Arbitration Act, 1940 to arbitrations under the Industrial  
Disputes Act, 1947, will give rise to more litigations and  
complications.

The AITUC therefore, feels that the Arbitration Act as  
such should not be, inasmuch as arbitrations are concerned,  
incorporated in the Industrial Disputes Act, but at the same  
time it may be left open to the parties concerned in each  
case of voluntary arbitration under the Industrial Disputes  
Act to take help of the provisions of the Arbitration Act.

Thus the AITUC endorses the alternative suggestion of  
the Ministry contained in paragraph 5 of the above-quoted  
letter.

Yours faithfully,

*K.G.*

(K.G. Sriwastava),  
SECRETARY.

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

No.1(152)/59-LRI.  
Government of India  
Ministry of Labour & Employment  
\*\*\*\*\*

From

Shri G. Jagannathan,  
Under Secretary to the Government of India

To

All Central Organisations of Employers and Workers  
(except the M.M.S.)

Dated New Delhi, the 9 JUN 1960

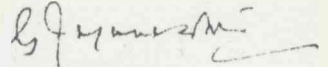
Subject:-

Indian Labour Conference-17th Session - Conclusions  
of - Applicability of the provisions of the Arbitration  
Act, 1940 to arbitrations under the I.D. Act, 1947.

Sir,

I am directed to refer to this Ministry's letter of  
even number dated the 5th January, 1960 and subsequent reminders  
thereto, on the above subject and to request that a reply thereto  
may please be expedited.

Yours faithfully,



(G. Jagannathan)  
Under Secretary.

d.a.nil.  
m.s.1/6

No.175.A/SM/60  
June 28,1960

Shri G.Jagannathan,  
Under Secretary to the Government of India,  
Ministry of Labour & Employment,  
New Delhi.

Dear Sir,

Please refer to the notification dated the 23rd June, 1960 which contained draft of certain amendments to the Industrial Disputes (Central) Rules, 1957, which the Central Government proposes to make in exercise of the powers conferred by Sec.38 of the Industrial Disputes Act, 1947.

We <sup>are</sup> hereby objecting to the said notification and suggesting the following amendments:

Rule 62: Application for recovery of dues.

1. Where any workman is entitled to receive from the employer any money due to him under a settlement or an award or under the provisions of Chapter VA, the workman concerned may apply to the specified Labour Court in the prescribed form for the recovery of the money due to him and the said Labour Court, giving the employer an opportunity to be heard, shall issue necessary orders for recovery of the dues.

2. Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the workman concerned may apply to the specified Labour Court in the form prescribed for the determination of the amount at which such benefit should be computed and for recovery of the same.

contd..... 2

(2)

3. Where the Labour Court has determined the amount of the benefit under sub-rule (2), shall also issue necessary orders for the recovery of the same, after giving the employer an opportunity to be heard.

In the Schedule to the said rules necessary forms can be substituted for Form KK.

Yours faithfully,

*ME*

(K.G.Sriwastava.)  
SECRETARY.

25 JUN 1960

TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF  
THE GAZETTE OF INDIA

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT

Dated, New Delhi, the 23rd June, '60.

NOTIFICATION

No.G.S.R. .... The following draft of certain amendments to the Industrial Disputes (Central) Rules, 1957, which the Central Government proposes to make in exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (14 of 1947), is published as required by sub-section (1) of the said section for the information of persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after 1st August 1960.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft amendments

1. These rules may be called the Industrial Disputes (Central) Amendment Rules, 1960.
2. For rule 62 of the Industrial Disputes (Central) Rules, 1957, hereinafter referred to as the said rules, the following rule shall be substituted, namely:-

"62. Application for recovery of dues.

- (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter. VI, the workman concerned may apply in Form K-1 for the recovery of the money due to him.
- (2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the workman concerned may apply to the specified Labour Court in Form K-2 for the determination of the amount at which such benefit should be computed.
- (3) Where the Labour Court has determined the amount of the benefit under sub-rule (2), the workman concerned may apply in Form K-3 for the recovery of the money due to him."

3. In the Schedule to the said rules -

(i) for Form KK the following Form shall be substituted, namely:-

page ----- 2/-

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

" FORM K-1

[ See rule 62 (1) ]

To

- (1) The Secretary to the Government of India, .  
Ministry of Labour & Employment,  
New Delhi.
- (2) The Regional Labour Commissioner (Central),  
----- (here insert the  
name of the region)

Sir,

I have to state that I am entitled to receive  
 from Messrs. -----  
 a sum of Rs. ----- on account of  
 ----- under the provisions of  
 Chapter VA/ in terms of the award dated the -----  
 ----- given by ----- / in terms of the  
 settlement dated the ----- arrived at  
 between the said Messrs, ----- and  
 their workmen through -----  
 the duly elected representatives/ which the management  
 has neither paid nor offered to pay to me so far. I  
 request that the said sum may kindly be recovered  
 from the management under sub-section (1) of section  
 33C of the Industrial Disputes Act, 1947, and paid to  
 me as early as possible.

Signature of the applicant.

Address -----

----- "

(ii) for Form KKK the following Form shall be substituted, namely :-

" FORM K-2

[See rule 62(2)]

APPLICATION UNDER SUB-SECTION (2) OF SECTION 33C OF THE INDUSTRIAL DISPUTES ACT, 1947.

Before the Central Government

Labour Court at -----

Between

(1) Name of the applicant

(2) Name of the employer

The petitioner, -----

a workman of Messrs. -----

of -----

is entitled to receive from the said Messrs. -----

-----the benefits

mentioned in the statement hereto annexed.

It is prayed that the court be pleased to determine the amount due to the petitioner.

Station dated the

Signature or Thumb impression of the applicant.

Address -----

Annexure

(Herein set out the details of the benefits together with the case for their admissibility)."

(iii) after Form K-2, as so substituted, the following Form shall be inserted, namely :-

"FORM K-3

[See rule 62(3)]

To

- (1) The Secretary to the Government of India, Ministry of Labour & Employment, New Delhi.
- (2) The Regional Labour Commissioner (Central), .....(here insert the name of region)

Sir,

I have to state that I am entitled to receive from Messrs.....P.O..... District.....(with whom I am/was employed) a sum of Rs.....under the Award dated the .....given by ...../ the settlement dated the ...../under chapter VA of the Industrial Disputes Act, 1947, according to the determination of the Labour Court,<sup>x</sup>.....A certified copy of the said Labour Court's finding is enclosed. I request that the said sum of money may kindly be recovered from Messrs .....\*... under sub-section(1) of section 33C of the said Act and paid to me.

Station:

Signature of the applicant.

Date:

Address -----  
-----

- + Insert the name and address of the concerned employer.
- o Insert the name of the Tribunal/Arbitrator.
- x Insert the name of the place where the headquarters of the Labour Court are situated .
- \* Insert the name of the employer concerned."

*G. Jagannathan*

( G. Jagannathan )  
Under Secretary.

[F.No.2/3/60-LR.1]

To

The General Manager,  
Government of India Press,  
New Delhi.

Copy forwarded to:-



The Under Secretary to the Government of India,  
Ministry of Labour and Employment,  
New Delhi.

Dear Sir,

Subject; I.D.Act,1947 - Question of  
evolving a clear definition  
of the term "illegal strike".

....

Ref: Ministry's circular letter  
No. LRI.1(156)/59 of January 20, 1960.

In reply to your above-quoted letter, this is to inform you that the proposal as put forward by the Ministry along with the excerpts from the Labour Relations Bill, 1950 and the draft Industrial Relations Bill, appears to be confusing. It is not clear as to what is being sought by the Ministry - a clearer definition of the term "illegal strike", or provision for a fresh machinery empowered to decide the question of legality or otherwise of a strike.

The proposal does not disclose as to whether the definition of illegal strike as contained in Sections 23 and 24 of the Industrial Disputes Act, 1947 is being sought to be amended. Nevertheless, the AITUC wants to reiterate its former stand in this matter which are enumerated below:

1. The AITUC does not feel the necessity of any "model principles" as such to predetermine the reference of disputes for adjudication. If the adjudication machinery is to exist, it must be available fully and freely to the Trade Unions. The present Veto exercised by the officials of the Government on such reference and their tampering with the issues must be done away with.

2. The AITUC does not accept that strikes are illegal.

3. The AITUC does not therefore consider it necessary to have a fresh definition of illegal strike for the purpose of referring the issues raised by the trade unions to adjudication, nor does it favour setting up of a machinery for automatically declaring a strike illegal, As it stands under the existing law, the present provisions are more than sufficient.

Yours faithfully,



(K.G.Srivastava.)  
SECRETARY.

28 JUN 1960

Telephone : 2025

Punjab & Himachal Committee  
**ALL-INDIA TRADE UNION CONGRESS**

G. T. Road.  
Jullundur City.

Dated 27th June, 19 60

Ref. No. \_\_\_\_\_

Dear Com. K.G.Srivastava,

Please refer to your letter No. 175/A/SM/60  
dated June 10, 1960.

I regret the delay in acknowledging the same  
as I was busy with the Phagwara Textile General Strike  
and also with tripartite meetings on transport and State  
'implementation and Evaluation Committee'

I agree with the draft sent by you and think <sup>that</sup> ~~it~~  
no major change is called for.

Please also refer to your letter dated June 6th  
I shall send you an article before July 15th.

With greetings,

Yours fraternally,

*Satish Loomba*  
( Satish Loomba )

No. 175-A/SM/60  
June, 28, 1960

Dear Comrade Diwakar,

Your letter of June 22.

Regarding your contention apropos our stand in the matter of proposed amendment for clearer interpretation of the terms "illegal strike" and "Victimization", we have to inform you that the question of Sec. 33 operating harshly gainst the workers does not arise inasmuch as we have already noted that matter and demanded the restoration of Sec. 33 as it stood prior the 1956 amendment.

Secondly, we have also demanded for the creation of a procedure by which the changes effected under sec. 9 A as well as cases of individual discharge or dismissal whereby these actions of the employer will be subject to challenge before a Labour Court.

Our draft, in fact, covers all these points and if you go through the same minutely, you would find that it adequately meets the present requirements.

With greetings,

Yours fraternally,

*ms*

(K.G. Sriwastava.)  
SECRETARY.

Com. Diwakar,  
Secretary,  
M.P. Trade Union Congress,  
91, Jail Road,  
Indore.

# मध्यप्रदेश ट्रेड यूनियन कांग्रेस

(अ. म. ट्रे. यु. कांग्रेस की राज्य शाखा)

६१, जेलरीड,  
इंदौर शहर

दिनांक 22nd. June '60.

क्रमांक ४७/१०/६०

Dear Com. K.G.

I was out at Jabulpore when your letter enclosing comments on proposed amendments on "illegal strike" and "victimisation" was received in the office. Hence my reply was delayed.

## ON ILLEGAL STRIKES.

The stand that A.T.T.U.C. does not accept that strikes are illegal is correct. Yet a more possible approach is necessary. In particular the position today is anomalous. While an employer is prohibited from making any change without prior permission, this prohibition is limited to matters under dispute. On the other hand the workers are prohibited from striking on any issue whatsoever. This works very harshly. Once any dispute is referred to a Tribunal the workers are totally fettered and find themselves disarmed even in face of unilateral changes introduced by the employer. For example if the Bonus issue is before the Tribunal the worker can't 'legally' strike even for implementation of wage board or against rationalisation this position requires immediately to be remedied.

What about the Industrial worker's right to take his individual case to a Tribunal? This was agreed to in

# मध्यप्रदेश ट्रेड यूनियन कांग्रेस

(अ. मा. ट्रे. यु. कांग्रेस को राज्य शाखा)

६१, जेलरोड,  
इन्दौर शहर

दिनांक.....

कमांक.....

principle at Madras. The Madras State, I learn, has intro -  
-duced an amendment. The Central Act also should make such  
such a provision. Rest is O.K.

The report of M.P.T.U.C. Conference and a note on  
Textile is being sent in a day or two.

We have not received any remittance for Coal-Mines  
etc. kindly do the needful.

With greetings,

Yours, fraternally,

*Diwakar*

(D i w a k a r .)  
S e c r e t a r y .

Vinai/6/60.

No. 175-A/SM/60  
June 28, 1960

Dear Comrade Indrajit,

Your letter dated nil received in this office on June 20.

Regarding the comment you have made on the question of "illegal strike", I have to inform you that the proposal as put forward by the Ministry did not specifically contain the suggestion of creating any machinery for automatically declaring any strike illegal or otherwise. That is our inference. Nevertheless, we have in our comments sent to the Ministry today incorporated that we do not favour the creation of any machinery which will be empowered to declare a strike automatically illegal or otherwise.

As you would remember that the AITUC in its reply to the questionnaire connected with the 17th Indian Labour Conference, categorically stated that it does not consider any strike to be illegal and we do maintain that stand.

The question that primarily concerned us was whether we accept the proposal put forward by the Ministry or not. Our answer to that is NO. Our point number 2 is therefore, in the form of a restatement of a stand we have already taken *with reference to the Ministry*  
at ( ) *(1)*

With greetings,

Yours fraternally,

*K. U. Sriwastava*  
(K. U. Sriwastava.)  
SECRETARY.

Com. Indrajit Gupta, M. P.,  
General Secretary, BPTUC,  
249, Bowbazar Street,  
Calcutta. 12

17 JUN 1960

DY. 2229/60-LR.I  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT

From

Sri G. Jagannathan,  
Under Secretary to the Government of India.

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated New Delhi, the 16 JUN 1960

Subject:- I.D. Act, 1947-Question for evolving a clear definition of the terms "illegal strike".

Sir,

I am directed to refer to your letter No. 175-A/SM/60 dated the 8th June, 1960 and to enclose a copy of this Ministry's letter No. LRI.1(156)/59 dated the 20th January 1960 on the above subject. The suggestions of your Organisation in the matter may please be furnished at an early date.

Yours faithfully,

*S. Jagannathan*  
15/6

for Under Secretary.

No.175-A/SM/60  
June 8, 1960

The Under Secretary,  
Ministry of Labour & Employment,  
Government of India,  
New Delhi.

Dear Sir,

Sub: Industrial Disputes Act, 1947 - question  
for evolving a clear definition of the  
term "illegal strike".

-----  
Please refer to your to letter No.1/156/59-LRI of  
April 25, 1960.

It appears that the Ministry's original letter of  
even number dated the 20th January, 1960 on the above  
subject has been misplaced in our office.

Will you therefore, be kind enough to send us a copy  
of the same and oblige? This may kindly be treated as  
urgent.

Yours faithfully,

*V.G.*

(K.G.Sriwastava.),  
SECRETARY.



Cable : "AITUCONG"

Telephones : 48771  
43414

अखिल भारतीय ट्रेड यूनियन काँग्रेस  
ALL-INDIA TRADE UNION CONGRESS

T. U. LAW BUREAU :  
R. L. TRUST BUILDING,  
55, GIRGAON ROAD,  
BOMBAY 4 (INDIA)

4, ASHOK ROAD,  
NEW DELHI.

President: S. S. MIRAJKAR  
General Secretary: S. A. DANGE, M.P.

No. 175/A/SW/60  
June 10, 1960

Comrade Indrajit Gupta,  
Comrade Satish Loomba,  
Comrade Homi Daji.

Dear Comrades,

Enclosed please find three sheets  
containing the comments which we propose  
to send to the Union Labour Ministry on  
the questions of 'victimisation' and  
'illegal strike'.

Please let us have your opinion  
about it at the earliest. The matter is  
already late.

With greetings,

Yours fraternally,

(K.C. Sriwastava,).

A.I.T.U.C's. COMMENTS

ON

1. QUESTION OF EVOLVING A CLEARER DEFINITION OF THE TERM  
"ILLEGAL STRIKE":-

The <sup>pp</sup>proposal as put forward by the Ministry along with the excerpts from the Labour Relations Bill, 1950 and the draft Industrial Relations Bill, appears to be confusing. It is not clear as to what is being sought by the Ministry - a clearer definition of the term "illegal strike", or provision for a fresh machinery empowered to decide the question of legality or otherwise of strike. The proposal does not disclose as to whether the definition of illegal strike as contained in Section 23 and 24 of the Industrial Disputes Act, 1947 is being sought to be amended. Nevertheless, the AITUC wants to reiterate its stand in this matter which are enumerated below:-

1) The AITUC does not feel the necessity of any "model principles" as such to predetermine the reference of disputes to adjudication. If the adjudication machinery is to exist, it must be available fully and freely to the Trade Unions. The present Veto exercised by the officials of the Government on such reference and their temporising with the issues must be done away with.

2) The AITUC does not accept that strikes are illegal,

3) The AITUC does not therefore consider it necessary to

have a fresh definition of illegal strike for the purpose of referring the issues raised by the trade unions to adjudication.

ADDITIONAL MEASURES FOR PROTECTION AGAINST VICTIMISATION:

We are in favour of additional measures for protection.

The circulated provisions of the B.I.R. Act and the M.P. Act and Bill do not, however, meet the requirements of the situation and have little practical value, because no employer, in fact, dismisses or punishes a workman specifically or explicitly "by reason of the circumstances" enumerated in these legislations. These may be the real and underlying reasons for victimization, but (a) - usually some other fabricated charge or excuse is put forward as the ostensible ground for action, and (b) - the reason can hardly ever be proved in a Court of Law.

On the other hand, the existing "protection" under Sec. 33(3) of the Industrial Disputes Act, is no protection at all. In fact under this amendment, the protection of the workers has been curtailed.

We would, therefore, suggest that the Act be amended so as to achieve for workers a real protection and not a fictitious protection. In order to achieve that we suggest the following.

1) Provisions of old section 33, as they stood prior to 10th March, 1957 be restored.

2) Additional measures for protection be incorporated in the Industrial Disputes Act, 1947 to protect the workmen who are officers of a registered union and representatives of workmen in works committees. (a) In the case of these workmen, the employer shall not dismiss, discharge, reduce, or punish in any manner and in the circumstances save with the express permission of a Labour Court constituted under section 7 of the Act, to whom an application has been made for such disciplinary action by the employer.

(b) This protection should be perpetual under all circumstances and irrespective of whether or not there is any proceeding pending by way of conciliation or adjudication.

(c) For any workman except those who are officers of a registered union, provision be made to entitle the workman to apply before a Labour Court or an Industrial Tribunal, either himself or through an officer of a registered trade union, to challenge the propriety and/or correctness of an order passed by the management under section 9A.

7 JUL 1960

No. 1/110/59-LR.I.  
Government of India  
Ministry of Labour & Employment  
.....

From

Sri G. Jagannathan,  
Under Secretary to the Government of India.

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road,  
New Delhi.


Dated New Delhi, the - 6 JUL 1960

Subject:- Industrial Disputes Act, 1947-Section 20(2)(b)-  
Proposal to amend  
.....

Sir,

I am directed to refer to the correspondence resting with your letter No. 175/A/SM/60, dated the 28th June, 1960, on the above subject and to enclose <sup>2/7</sup> this Ministry's letter No. LRI-1(110)/59, dated the 1st October, 1959, as desired.

Yours faithfully,

  
for **Under Secretary**

d.a.refd.to  
"Jarwal" 4.7.

28 JUL 1960

No. 1/110/59-LRI.  
Government of India  
Ministry of Labour & Employment.

Dated New Delhi,

27 JUL 1960  
July, 1960.

From Shri G.Jagannathan,  
Under Secretary to the Government of India.

To The General Secretary,  
All India Trade Union Congress,  
4, Ashok Road,  
NEW DELHI-1.

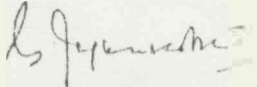
Subject:- Industrial Disputes Act, 1947 - Section 20(2)(b) -  
proposal to amend.

--

Sir,

I am directed to refer to this Ministry's letter of even number dated the 1st October, 1959 and subsequent reminders on the above subject and to request that a reply thereto may please be sent to this Ministry by the 15th August, 1960 at the latest. If no reply is received by that date, it will be presumed that your organisation has no comments to offer.

Yours faithfully,

  
(G.Jagannathan)  
Under Secretary.

175 A

July 29, 1960

Com. V.G. Row,  
Bar-at-Law,  
Madras,

Sub: Industrial Disputes Act, 1947-  
Sec.20(2) (b) - proposal to amend.

Dear Comrade,

Enclosed, please find a copy of a letter which is self-explanatory.

Will you please let us have your comments in this regard by August 10, 1960 and help us to give a suitable reply to the Ministry? This may please be considered as a top priority item!

It may be pointed out that this matter was discussed in the meeting of the Standing Labour Committee at Bombay on the 16th-17th January, 1959 where you and Com. Subrmanian represented the AITUC.

With greetings,

Yours fraternally,

  
(K.G. Sriwastava)  
Secretary

Encl:

337, Thambu Chetty St.,  
Madras-1, 1st August, 1960

Dear Com.Srivatsava,

Sub: I.D.Act, 1947 - Sec.20 (2) (b) -  
proposal to amend.

I have gone through the Ministry's letter on the above subject. I do not remember exactly the trend of the discussion at the Standing Labour Committee Meeting at Bombay early in 1959. All that I insisted at that meeting was that the Government should intimate the parties the actual date of receipt of the Conciliation Officer's report by them. We also brought to the notice of the Standing Labour Committee the decision of the Supreme Court in Workers of Industry Colliery v. Industry Colliery (1953 (1) LLJ.190). I think it was INTUC Representative who wanted that amendment viz. that the protection under Sec.33 should be extended to cases of dismissal, discharge, change in service conditions etc. until final orders on the Conciliation Officer's report are passed by the Government. Our stand was entirely on a different point. If in a public utility service, after the period fixed for the Conciliation Officer to submit his report and the period of seven days following the period (ie. 21 days in all, calculated from the date on which notice of strike is given), if workers go on strike in the absence of a reference, such a strike should not be illegal. Alternatively, the Government should intimate the actual date of receipt of the Conciliation Officer's report by them.

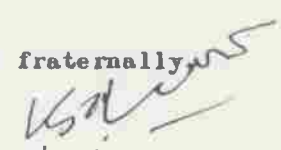
I do not have ready statistics about cases affected, as desired by the Ministry. But I can cite cases where conciliation proceedings are dragged on for indefinite period. One such relate to Electricity workers in this State. I mean the legal fiction referred to in the Supreme Court judgment.

I am asking TNTUC to collect facts about this and forward to you.

Do you expect the amendments to I.D. Act to come up before the Parliament in the current session ?

With greetings,

Yours fraternally

  
(V.G.ROW)



2 DEC 1960

Registered No. 337

# Rungta Colliery Mazdoor Sabha

(Affiliated to AITUC)  
BURHAR (M. P.)

Date 9-12-1960.

Ref. \_\_\_\_\_

जनता संघ AITUC मुख्यालय

प्रिय मित्र

आपके पास मेरे जन्म का पता है कि मैं किस  
 क्षेत्र में आता हूँ। मैं आपकी सेवा में मेरे क्षेत्र में प्रवेश करने  
 आपके पास मेरे जन्म का पता है। जहाँ जनता संघ का मुख्यालय  
 है। मैं इसका पता जानना चाहता हूँ कि क्या आप वहाँ जा सकते हैं  
 और जो काम करते हैं आपके पास मेरे क्षेत्र में काम करने  
 का पता है। मैं भी वहाँ काम करना चाहता हूँ। मैं बहुत  
 जल्दी से पेशाना करना चाहता हूँ। मेरे जन्म का पता है  
 कि मैं किस क्षेत्र में आता हूँ। जहाँ जनता संघ का मुख्यालय  
 है। मैं वहाँ प्रवेश करना चाहता हूँ। मैं बहुत जल्दी से  
 पेशाना करना चाहता हूँ। मुझे पता है कि आप वहाँ

Send this to Gen. Manager  
 a. Jarakatm. & design with  
 me. & before me also  
 1/11/60

भवदीय  
 प्रमुख अध्यक्ष  
 Rungta Colliery Mazdoor Sabha.  
 REGD NO. 337.

12 DEC 1960

F C R M D.

CERTIFICATE OF AUTHORISATION.

I employee person hereby authorise General Secretary of ~~S.C.~~ Rungta Colliery Mazdoor Sabha which is a registered trade union to act on my behalf under section 33 C (2) of the Industrial Disputes Act 1947 in respect of the claim against Manager, S.C. Rungta Colliery P.C. Burhar on account of the delay in payment my wages.

Signature.

Motilal s/o Kanak Ram

(Motilal s/o Kanak Ram)  
S.C. Rungta Colliery,  
Burhar.

Witness:-

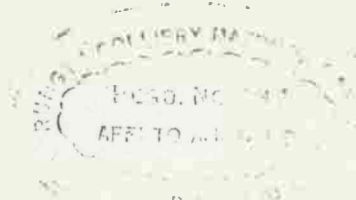
1. *Krishna Lal* Surveyor
2. *Hari Lal*

Dated. -- 8-12-60

I accept the authorisation.

Dated. 8-12-60

*Dindaya Jadhav*  
General Secretary.  
Rungta Colliery Mazdoor Sabha  
(Regd. No. 337)  
P.C. Burhar, M.P.  
(Dist. Shadol)



S.C. RUNGTA COLLIERY BURHAR.

This is to certify that Shri Motilal s/o  
Kanak Ram is working under me as a dresser cum compounder  
for last four years to my satisfaction.

Dated. 7.5.59.

sd/- D.P. Sharma,  
Medical Officer,  
S.C. Rungta Colliery,  
Burhar.

(Form of Industrial application.)  
Under Section 33 c (2) of the Industrial Act, 1947.

Before the Honourable Labour Court, Delhi.



Application No. ----- of 1960.

Between Shri Motilal s/o Kanak Ram.----- Applicant.  
(through an official of the Rungta Colliery Mazdoor  
Sabha which is a Regd. Trade Union.)

and  
The Manager, S.C. Rungta Colliery, P.C. Burhar, M.P.----- Opposite Party.

1. Motilal s/o Kanakram is a person employed in the Industrial Establishment entitled S.C. Rungta Colliery resides at P.C. Burhar Distt. Shadol M.P.

2. Manager S.C. Rungta Colliery, the opposite party is the person responsible for the payment of wages under section 3 of the Act, and his address for the services of all notices and processes is P.C. Burhar District Shadol M.P.

3. A sum of Rs. 1612;50 np. has been unlawfully deducted from his wages of Rs. 4275;00 np. payment for the wages period which ended on 31.12.59.

4. The applicant worked as a compounder cum dresser for the period April 56 to Dec. 56, January 57 to 18.11.57, April 58 to Dec. 58 and April 59 to Dec. 59, which is being supported by a certificate from the colliery Medical Officer (Appended here to as App.1). The applicant has been reverted to an office peon since he is claiming for higher wages and is also entitled to wages of a compounder cum dresser as his ~~reversion~~ reversion was illegal one. The wages is claimed under the Mazumdar Coal Award.

5. The applicant ~~states~~ estimates the value of the relief sought by him at the sum of Rs. 1612;50 np.

6. The applicant prays that a direction may please be issued under section 33 c (2) of the Ind. Act.

(a) Payment of wages as estimated or such greater or lessor amount as the Authority may find to be due.

(b) Compensation ----- as may be deemed fit by the Hon'ble Labour Court. The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

Dated. 8-12-60

*Sudhakar Singh*  
General Secretary  
Rungta Colliery Mazdoor Sabha,  
P.C. Burhar, M.P.  
(Regd. No. 337)



No.175/A/60  
December 15, 1960

Shri R.C.Saksena,  
Under Secretary to the Govt of India,  
Ministry of Labour & Employment,  
New Delhi.


Sub: 19th Session of the Standing  
Labour Committee - Agenda for the

Dear Sir,

Please refer to your letter  
No.LC-9(25)/60 dated 13th December 1960  
on the above subject.

Since we are busy with the  
preparations for our forthcoming 26th  
Session in the first week of January,  
it will be possible for us to send  
proposals for agenda only towards  
the end of January 1961.

Yours faithfully,

  
(K.G.Sriwastava)  
Secretary

4 DEC 1960

Urgent

NO.LC-9(25)/60  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT  
-----

From

Shri R.C. Saksena,  
Under Secretary to the Government of India.

To

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

Dated New Delhi, the 13th Dec.'60.

SUBJECT:- 19th Session of the Standing Labour  
Committee - March 1961 - Agenda for the -  
.....

Sir,


I am directed to say that it is proposed to convene the next session (nineteenth) of the Standing Labour Committee sometime in March 1961 to discuss the following subjects :-

1. Industrial accidents;
  2. Sanctions under the Code of Discipline;
  3. Extension of the Scheme of Joint Management Councils;
  4. The extent to which tripartite decisions would be binding on the parties concerned;
  5. Amendment of sections 79 and 80 of the Factories Act, 1948 to provide for grant of leave according to exigencies of work in the factory and rate of payment for the period of leave;
  6. Functioning of Works Committees;
  7. Additional measures for protection against victimisation; and
  8. Functioning of Welfare Officers in Factories and Mines.
- These subjects were included in the agenda of the Indian Labour Conference held in New Delhi in Sept'60 but were not discussed.

P.T.O.

It is requested that if the State Government/your Organisation have any other urgent and pressing matters for consideration of the Committee, the same may kindly be intimated to this Ministry along with three copies of brief memoranda thereon, by the 10th January, 1961.

Yours faithfully,

  
( R.C. SAKSENA )  
UNDER SECRETARY.

(To be published in Part II, Section 3, Sub-section (i) of the Gazette of India)

Government of India  
Ministry of Labour & Employment

....

Dated New Delhi, the 7/10

NOTIFICATION

No.G.S.R.....In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following further amendments to the Industrial Disputes (Central) Rules, 1957, the same having been previously published as required by sub-section (1) of the said section, namely:-

1. These rules may be called the Industrial Disputes(Central) Amendment Rules, 1960.
2. Rule 9 of the Industrial Disputes (Central) Rules, 1957, herein after referred to as the said rules shall be renumbered as sub-rule (1) thereof, and after sub-rule(1) as so renumbered, the following sub-rule shall be inserted, namely:-

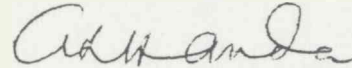
"(2) Where the Conciliation Officer receives no notice of a strike or lockout under rule 71 or rule 72 but he considers it necessary to intervene in the dispute, he may give formal intimation in writing to the parties concerned declaring his intention to commence conciliation proceedings with effect from such date as may be



specified therein."

3. In rule 10A of the said rules, in sub-rule (2), after the words "non-public utility service", the following shall be inserted, namely:-

"or in a dispute in a public utility service where no notice of strike is given under rule 71,".



( A.L. Eanda )  
Under Secretary.

[LRI-1(123)/59-Am.-XIII]

To

The General Manager,  
Government of India Press,  
New Delhi.

Copy forwarded to:-

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

\_\_\_\_\_  
for Under Secretary.

"B.A.Hil"  
\*DAVAL\*4/x/60

To be published in Part II, Section 3, sub-section (ii) of the Gazette of India

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT  
\*\*\*\*\*

Dated New Delhi, the 6.8.1960.


NOTIFICATION

S.O In pursuance of sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), and in supersession of the notification of the Government of India in the Ministry of Labour S.R.O. No.2972, dated the 4th September, 1956, the Central Government hereby specifies each of the officers mentioned in column 2 of the Table hereto annexed in respect of the area mentioned in the corresponding entry in column 3 thereof as the authority to whom intimation by the employer of any lockout or strike referred to in the said sub-section shall be sent.

THE TABLE

S.No	Designation of Officer	Territorial jurisdiction
1.	Conciliation Officer(Central) Kanpur	The State of Uttar Pradesh.
2.	Conciliation Officer(Central) Delhi.	The State of Punjab and the Union territories of Delhi and Himachal Pradesh and the State of Jammu and Kashmir in relation to industrial disputes concerning workmen employed under the Government of India.
3.	Conciliation Officer(Central), Calcutta	The State of West Bengal (excluding coal mines).
4.	Conciliation Officer (Central), Shillong.	The State of Assam and the Union territories of Tripura and Manipur.
5.	Conciliation Officer (Central), Dhanbad.	The State of Bihar; excluding iron ore and manganese mines in the districts of Singhbhum and Ranchi.
6.	Conciliation Officer (Central), Hazaribagh.	
7.	Conciliation Officer (Central), Asansol.	The State of West Bengal (coal mines only).
8.	Conciliation Officer (Central), Jharsuguda.	The State of Orissa and the disputes of Singhbhum and Ranchi in the State of Bihar (iron ore and manganese mines only).
9.	Conciliation Officer (Central), Jabalpur	The State of Madhya Pradesh.
10.	Conciliation Officer (Central), Ajmer	The State of Rajasthan.
11.	Conciliation Officer (Central), Bombay	The States of Maharashtra and Gujarat.

12. Conciliation Officer (Central), Secundrabad The State of Andhra Pradesh.
13. Conciliation Officer (Central), Madras The States of Madras and Mysore.
14. Conciliation Officer (Central), Ernakulam The State of Kerala.

  
(A.L. Handa)  
Under Secretary  
[No.LR I-1/27/60]

To  
The General Manager,  
Government of India Press,  
New Delhi.

Copy forwarded for information to:-

1. The Chief Labour Commissioner (General), New Delhi. (with 80 s/c)
2. Director, Labour Bureau, Simla.
3. Press Information Bureau (Shri S. Kumar Dev), New Delhi.
4. Central Government Industrial Tribunal, City Ice Building, 298, Bazargate Street, Fort, Bombay-1.
5. Central Government Industrial Tribunal, Dhanbad.
6. Central Government Industrial Tribunal. Room No.9, Eastern Wing, New Courts Building, is Hazari, Delhi.

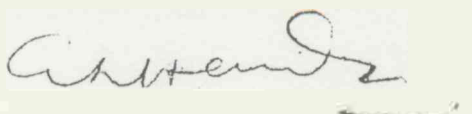
7- 23 The Ministries of -

Commerce & Industry, Community Development & Cooperation, Defence, Finance (Department of Economic Affairs), Finance (Department of Revenue), Food & Agriculture (Deptt. of Agriculture), Health, Information & Broadcasting, Irrigation & Power, Railways, Rehabilitation, Steel, Mines, & Fuel (Department of Iron & Steel), Steel, Mines & Fuel (Department of Mines & Fuel), Scientific Research & Cultural Affairs, ministry of Transport & Communication Deptt. of Transport, Transport & Communication (Department of Communication & Civil Aviation), Works, Housing & Supply.

All State Governments and Union Territories.

All Central Organisations of Employers and Workers.

LR.II, LR.III. LR.IV, Section.

  
(A.L. Handa)  
Under Secretary

The Secretary,  
All India Trade Union Congress,  
Ashok Road, New Delhi.

24 -44

15-51

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h. 5.

Government of India  
Ministry of Labour & Employment

Dated New Delhi, the 4<sup>th</sup> August 1960

NOTIFICATION

No. G.S.R. .... In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following further amendments to the Industrial Disputes (Central) Rules, 1957, the same having been previously published as required by sub-section (1) of the said section, namely:-

A M E N D M E N T S

1. These rules may be called the Industrial Disputes (Central) Amendment Rules, 1960.
2. For rule 62 of the Industrial Disputes (Central) Rules, 1957, hereinafter referred to as the said rules, the following rule shall be substituted, namely:-

"62. Application for recovery of dues.

- (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman concerned may apply in Form K-1 for the recovery of the money due to him.
  - (2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the workman concerned may apply to the specified Labour Court in Form K-2 for the determination of the amount at which such benefit should be computed.
  - (3) Where the Labour Court has determined the amount of the benefit under sub-rule (2), the workman concerned may apply in Form K-3 for the recovery of the money due to him."
3. In the Schedule to the said rules -
    - (i) for Form KK the following Form shall be substituted, namely:-

"FORM K-1

[See rule 62 (1)]

Application under Sub-section (1) of Section 33 C of the Industrial Disputes Act, 1947.

\*\*\*

To

- (1) The Secretary to the Government of India,  
Ministry of Labour & Employment, New Delhi.
- (2) The Regional Labour Commissioner (Central),  
----- (here insert the name of the region)

Sir,

I have to state that I am entitled to receive from  
Messrs. ----- a sum of Rs. -----  
on account of ----- under the provisions of

Chapter VA of the Industrial Disputes Act, 1947/ in terms of the award dated the-----given by-----/in terms of the settlement dated the-----arrived at between the said Messrs.-----and their workmen through-----the duly elected representatives.

I further state that I served the management with a demand notice by registered post on.....for the said amount which the management has neither paid nor offered to pay to me even though a fortnight has since elapsed. The details of the amount have been mentioned in the Statement hereto annexed.

I request that the said sum may kindly be recovered from the management under sub-section (1) of section 33 C of the Industrial Disputes Act, 1947, and paid to me as early as possible.

Station:  
Date:

Signature of the applicant,  
Address-----  
-----

ANNEXURE

( Here indicate the details of the amount claimed )"

(ii) For form KKK the following Form shall be substituted, namely:-

" FORM K-2

[See rule 62(2)]

Application under sub-section (2) of section 33C of the Industrial Disputes Act, 1947.

.....

Before the Central Government  
Labour Court at-----

Between

- (1) Name of the applicant
- (2) Name of the employer

The petitioner-----  
a workman of Messrs.-----  
of-----  
is entitled to receive from the said Messrs.-----  
-----the benefits mentioned  
in the statement hereto annexed.

It is prayed that the court be pleased to determine the amount due to the petitioner.

Station  
dated the

Signature or Thumb  
impression of the  
applicant.

Address-----  
-----

Annexure

(Herein set out the details of the benefits together with the case for their admissibility)."

(iii) After Form K-2, as so substituted, the following Form shall be inserted, namely:-

"FORM K-3

[See rule 62(3)]

Application under sub-section (2) of Section 33C of the Industrial Disputes Act, 1947.

To

- (1) The Secretary to the Government of India, Ministry of Labour & Employment, New Delhi.
- (2) The Regional Labour Commissioner (Central);  
.....(here insert the name of region).

Sir,

I have to state that I am entitled to receive from Messrs.-----P.O.,----- District----- (with whom I am/was employed) a sum of Rs. .... under the Award dated the..... given by<sup>o</sup> -----/the settlement dated the-----/under chapter VA of the Industrial Disputes Act, 1947, according to the determination of the Labour Court, ----- A certified copy of the said Labour Court's finding is enclosed. I request that the said sum of money may kindly be recovered from Messrs\*----- under sub-section(1) of section 33C of the said Act and paid to me.

Station:  
Date:

Signature of the applicant.  
Address:-----  
-----

- + Insert the name and address of the concerned employer.
- o Insert the name of the Tribunal/Arbitrator.
- x Insert the name of the place where the headquarters of the Labour Court are situated.
- \* Insert the name of the employer concerned."

( A. L. Handa )  
Under Secretary  
[F.No.2/3/60-LR. I-Am. XIV]

To

The General Manager,  
Government of India Press,  
New Delhi.

Copy forwarded to:-

( TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i)  
OF THE GAZETTE OF INDIA )  
\*.\*.\*.\*.\*

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR AND EMPLOYMENT  
.....

Dated New Delhi, the 16/XII/60

NOTIFICATION

No. G.S.R. .... The following draft of certain amendments to the Industrial (Disputes (Central) Rules, 1957, which the Central Government proposes to make in exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 ( 14 of 1947 ), is published as required by sub-section (1) of the said section for the information of persons likely to be affected thereby; and notice is hereby given/the said draft will be taken into consideration on or after the 30th January, 1961.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

DRAFT AMENDMENT

In the said Rules, after Rule 24, the following Rule shall be inserted, namely:-

"24A. Principles for determining costs:-

In determining the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal, the Court or Tribunal, as the case may be, shall have regard to -

- (a) the travelling and other expenses incurred by a party, its representatives and witnesses for the purpose of attending the Court or Tribunal;
- (b) the loss of wages suffered by a party, its representatives or witnesses during the period of absence for the purpose of attending the Court or Tribunal."

*A.L. Handa*

( A.L. Handa )

Under Secretary to the Government of India

[No.1/11/60-LRI]

To

The General Manager,  
Government of India Press,  
New Delhi.

Government of India  
Ministry of Labour & Employment

New Delhi the, 7th Nov. 1959

NOTIFICATION

S.O.....The following draft of amendments to the Industrial Employment (Standing Orders) Central Rules, 1946, which the Central Government proposes to make in exercise of the powers conferred by section 15, read with clause (b) of section 2, of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), is hereby published as required by sub-section (1) of that section for the information of persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st January, 1960.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft amendment.

In the said rules, in Schedule I,-

(1) after Standing Order 7 the following shall be inserted, namely:-

"7A Notice of change in shift working-

Any notice of discontinuance or of restarting of a shift working required by Standing Order 7 shall be in the Form appended to these orders and shall be served in the following manner, namely:-

(1) Where the workmen affected are members of any registered trade union or association, the notice may be served by sending it personally or by registered post to the Secretary or the Principal Officer, of the trade union or association, and the service of notice on the Secretary or such Principal Officer shall be deemed to be service on such workmen. In addition to the service in the manner aforesaid, the employer shall, at the same time, arrange to exhibit the notice by affixing it on a notice board in the manner specified in clause (2):

If the Secretary or the Principal Officer of the trade union or association refuses to receive the notice or for any other reason the notice cannot be served in the manner aforesaid, the exhibition of the notice in accordance with clause (2) shall be deemed to be service on all such workmen.

(2) Where the workmen affected by any such notice of shift working are not members of any registered trade union or association, the notice may be affixed on a notice board at or near the entrance or entrances of the establishment concerned and it shall remain so affixed for a period of twenty-one days. The notice shall be in English, the regional language, and the language understood by the majority of the workmen in the establishment concerned. Where the notice is affixed in the



manner aforesaid, it shall be deemed to have been served on all the workmen concerned.

(3) A copy of the notice shall be simultaneously forwarded to the Conciliation Officer (Central) and the Regional Labour Commissioner (Central) concerned.";

(2) after Standing Order 18, the following Form shall be inserted, namely:-

Form (See Standing Order 7k)

Notice of discontinuance/restarting of a shift working to be given by an employer.

Name of employer..... Address.....

Dated the..... day of..... 19

To

The Secretary/Principal Officer of the Union/Association.

The workman/workmen affected.

In accordance with Standing Order No.....of the Standing Orders certified and approved in respect of my/our industrial establishment, I/we beg to inform you that it is my/our intention to discontinue/restart the shift working specified in the annexure to this letter, with effect from.....

Yours faithfully,

Signature-----

Name -----

Designation-----

Annexure

(Here specify particulars of change in the shift working proposed to be effected)"

*A.L. Handa*

(A.L. Handa)  
Under Secretary

[P.No. LRI:21(4)/59]

To

The Manager,  
Government of India Press, New Delhi.

Copy forwarded to:-

- (i) All State Governments and Union Territories.
- (ii) All-India Organisations of Employers and Workers.
- (iii) The Chief Labour Commissioner (Central), New Delhi.

*A.L. Handa*  
(A.L. Handa)  
Under Secretary

(To be published in Part II, Section 3 Sub-section (i) of the  
Gazette of India )

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT

Dated New Delhi, the

NOTIFICATION

No. G. S. R..... The following draft of certain further amendments to the Industrial Disputes (Central) Rules, 1957, which the Central Government proposes to make in exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 ( 14 of 1947 ), is published as required by sub-section (1) of the said section for the information of persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on, or after the 15th April 1960.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Amendments.

In the said Rules, -

- (1) rule 9 shall be renumbered as sub-rule (1) thereof, and after sub-rule (1) as so renumbered

P.T.O.

the following sub-rule shall be inserted, namely:-

"(2) Where the Conciliation Officer receives no notice of a strike or lockout under rule 71 or rule 72 but he considers it necessary to intervene in the dispute, he may give formal intimation in writing to the parties concerned declaring his intention to commence conciliation proceedings with effect from such date as may be specified therein." ;

(2) in sub-rule (2) of rule 10A after the words "non-public utility service", the following shall be inserted, namely:-

"or in a dispute in a public utility service where no notice of strike is given under rule 71".




( A. L. Handa )  
Under Secretary  
/IR-I-1(123)/597

To  
The General Manager,  
Govt. of India Press, New Delhi.

Copy forwarded to:-

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

  
for Under Secretary.

"d.a.nil  
SSB/ .

(TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (1)  
OF THE GAZETTE OF INDIA)

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT

Dated New Delhi, the 22-2-60.

NOTIFICATION.

G.S.R. .... In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following further amendments to the Industrial Disputes (Central) Rules, 1957, the same having been previously published as required by sub-section (1) of the said section, namely :-

AMENDMENTS

In the said rules-

(a) after rule 75, the following rule shall be inserted, namely:-

"75A. Notice of lay off - (1) If any workman employed in an industrial establishment as defined in the Explanation below section 25 A (not being an industrial establishment referred to in sub-section (1) of that section) is laid off, then, the employer concerned shall give notices of commencement and termination of such lay off in Forms O-1 and O-2 respectively within seven days of such commencement or termination, as the case may be.

(2) Such notices shall be given by an employer in every case irrespective of whether, in his opinion, the workman laid off is or is not entitled to compensation under section 25C";

(b) after Form 'O', the following Forms shall be inserted, namely:-

"Form O-1  
(See rule 75A)

To

The Regional Labour Commissioner (Central),  
.... (here specify the region concerned)

Sir,

Under rule 75A of the Industrial Disputes (Central) Rules, 1957 I/We hereby inform you that I/We have laid-off.....  
.....out of a total of \*workmen employed in the establishment with effect from@..... for the reasons explained in the Annexure.

2. Such of the workmen concerned as are entitled to compensation under section 25C of the Industrial Disputes Act, 1947 will be paid compensation due to them.

Yours faithfully,

Copy forwarded to Conciliation Officer (Central)  
(here specify the address of the Conciliation Officer (Central)  
of the local area concerned).

\*Here insert the number of workmen.

@ Here insert the date.

@@ Here insert the position which the person who signs the letter holds with the employer issuing the letter.

ANNEXURE

Statement of reasons."

"FORM O-2  
(See Rule 75 A)

To  
The Regional Labour Commissioner (Central),  
.....(here specify the region concerned)

Sir,  
As required by rule 75A of the Industrial Disputes (Central) Rules, 1957 and in continuation of my/our notice dated\* .....in Form O-1, I/We hereby inform you that the lay-off in my/our establishment has ended on\*.....

Yours faithfully,

\*\*

Copy to the Conciliation Officer (Central) .....  
(here specify the address of the Conciliation Officer (Central), of the local area concerned).

\*Here insert the date.

\*\* Here insert the position which the person who signs the letter holds with the employer issuing the letter."

( A. L. Handa )  
Under Secretary.  
(LRI-1(64)/59-Am.XI)

To  
The General Manager,  
Government of India Press New Delhi.

Copy forwarded for information to:-

- 1. **All State Governments.**

S. S. ...  
for Under Secretary.

k.s.  
d.a.nil.  
19.2.60.

The Secretary,  
All India Trade Union Congress,  
4, Ashok Road, New Delhi.

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT.

.....

Dated New Delhi, the 2.2.1960.

NOTIFICATION.

S.O.....PWA/Mines/Rules/Am. The following draft of further amendments to the Payment of Wages (Mines) Rules, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24 of the Payment of Wages Act, 1936 (4 of 1936) and in supersession of the draft amendments published with the notification of the Government of India in the Ministry of Labour & Employment No. S.O. 2535 dated the 27th November 1958, published in the Gazette of India Part II Section 3(ii) dated the 6th December 1958 is hereby published as required by sub-section (5) of section 26 of the said Act for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 10th May 1960.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government. Such objection or suggestion should be addressed to the Secretary to the Government of India, Ministry of Labour & Employment, New Delhi.

Draft amendments.

In the said rules,

- (i) in rule 2, after clause (k), the following clause shall be inserted, namely:-

"(kk) "Regional Labour Commissioner"  
means an officer appointed as such  
by the Central Government;"

- (ii) in rules 9, 10, 11, 13 and 19, for the word "Inspector", wherever it occurs, the words "Regional Labour Commissioner" shall be substituted;

- (iii) for rule 18, the following rule shall be substituted, namely:-

"18. Annual Return.- Every employer shall send a return in Form V so as to reach the Regional Labour Commissioner not later than the first of February following the end of the year to which it relates endorsing simultaneously a copy thereof to the Inspector having jurisdiction under the Act over the mine."

[Fac.49(24)/587

*P. D. Gaiha*

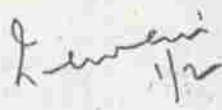
( P. D. Gaiha )  
Under Secretary.

To

The Manager,

Copy forwarded to the:-

- (i) Chief Labour Commissioner (C) New Delhi, with 10 spare copies, with reference to his letter No. L.S.2(5)/58 dated the 20th August 1959.
- (ii) Ministry of Steel, Mines & Fuel (Department of Mines & Fuel) with 5 spare copies.
- (iii) Chief Inspector of Mines, Dhanbad.
- (iv) Director Labour Bureau Simla.
- (v) Coal Mines Welfare Commissioner, Dhanbad.

  
( J. D. Tewari )  
Section Officer.

k.s.  
d.a.nil.

- 6 JAN 1966

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART II SUB-SECTION (ii)  
OF SECTION 3.)

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT  
\*\*\*\*\*

DATED NEW DELHI, THE

24-12-59

NOTIFICATION

S.O.....PWA/Mines/Rules/Am.5. In exercise of the powers conferred by sub-sections(2), (3) and (4) of section 26, read with section 24 of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following amendments to the Payment of Wages (Mines) Rules, 1956, the same having been previously published as required by sub-section (5) of the said section 26, namely:-

In Form III appended to the said Rules -

- (i) columns 2 and 4 shall be omitted; and
- (ii) columns 3 and 5 to 17 shall be re-numbered as columns. 2 to 15 respectively.

[Fac.49(31)/58]

*P. D. Gaiha*

( P. D. Gaiha )  
Under Secretary

To

The Managar,  
Government of India Press,  
New Delhi.



Copy forwarded to :-

- (i) The Chief Labour Commissioner (with 10 spare copies)
- (ii) The Ministry of Steel Mines & Fuel (Department of Mines and Fuel) with 5 spare copies.
- (iii) Lok Sabha Secretariat, New Delhi.

  
( P. D. Gaiha )  
Under Secretary

d.a.nil

N.Ram/19/12

LABOUR MINISTERS' CONFERENCE  
15TH SESSION  
MAY 1958

ITEM NO. 4 ON THE AGENDA

INDIAN LABOUR CONFERENCE  
16TH SESSION  
MAY 1958

ITEM NO. 4 ON THE AGENDA

Subject:- Amendments to the Industrial  
Disputes Act, 1947.

M E M O R A N D U M

(c) Note from the Indian National  
Mine workers Federation.

Amendment of sub-clause 3 of Section 24  
of the Industrial Disputes Act, 1947.

Substitute the Section by the following:

" A lock-out declared in consequence of an  
illegal strike or a strike declared in consequence  
of an illegal action of the employer shall not be  
deemed to be illegal".

This amendment is necessary because the question of a  
strike in consequence of a lock-out does not arise. The workers  
often have no constitutional remedy left but that of resorting to  
a strike when an employer resorts to illegal action. The strike  
itself is a kind of punishment to the workers. Very often the  
strikes are justified but for technical reasons are declared  
illegal and in consequence the workers are deprived of a number of  
privileges like privilege leave with pay etc. and in the case of  
coal-mining industry railway fares and bonus. Instances can be  
given when strikes have been declared illegal for no fault of the  
workmen and thus depriving them of privileges and exposing them  
to victimisation, one such case is reported in 1953I-LLJ-190.

The question has become all the more important as the  
workers have no other remedy in case of non-implementation of

awards. In the Coal Industry, for instance, many employers have not implemented the Award of the All India Industrial Tribunal (Colliery Disputes) as modified by the Labour Appellate Tribunal of India dated 29th January, 1957. The Industrial Relations machinery has pleaded helplessness in getting these awards implemented as the appeals against the Award in the Supreme Court have not been withdrawn and so technically the Award is not binding on the Employers. Thus the employers who have been given an increase in the price of coal for implementation of this decision are allowed to flout it with impunity and there is no legal remedy left. Even normally the Industrial Relations Machinery is not in a position to force the Employers to implement decisions of Tribunals. Punishment for non-implementation is not sufficient to act as a deterrent; rather it works as an incentive sometimes.

Often during pendency of proceedings before the Tribunal, employers have discharged workmen or retrenched them without taking the permission of the Tribunal as provided in the Act. A strike in consequence of such an illegal action of the employer under the present provisions in the Act is deemed illegal.

A number of instances can be given where strikes though justified and resorted to after exploring all constitutional remedies have been declared illegal and the workers have had to suffer additional loss of privileges and sometimes continuity of service. We, therefore, feel that the above amendment is very necessary in the interest of good industrial relations.

-----

## LABOUR AND SOCIAL WELFARE DEPARTMENT.

Old Secretariat Building, Bombay-1, 16th December 1959,  
Agrahayana 25, 1881.

No. AJR. 2258-H.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Government of Bombay is pleased to publish the following award of the Tribunal in the Industrial dispute between Messrs. Ruston and Hornsby (India) Private Limited (including clerical staff) employed under them in their factory at Chinchwad, District Poona, referred for adjudication under Government Orders, Labour and Social Welfare Department, No. AJR. 2258, dated the 10th April 1958, 31st October 1958 and 13th May 1959 :—

BEFORE SHRI SYED TAKI BILGRAMI, INDUSTRIAL TRIBUNAL, BOMBAY.

Reference (I.T.) No. 155 of 1958.

## ADJUDICATION

BETWEEN

Messrs. Ruston and Hornsby (India) Private Ltd.,

AND

The workmen (including clerical staff) employed under them

in their Factory at Chinchwad, Poona;

and

Reference (I.T.) No. 406 of 1958.

## - ADJUDICATION

BETWEEN

Messrs. Ruston and Hornsby (India) Private Ltd.,

AND

The workmen (including clerical staff) employed under them

in their Factory at Chinchwad, Poona.

and

Reference (I.T.) No. 95 of 1959.

## ADJUDICATION

BETWEEN

Messrs. Ruston and Hornsby (India) Private Ltd.,

AND

The workmen (including clerical staff) employed under them

in their Factory at Chinchwad, Poona;

In the matter of industrial disputes regarding Wage Scales, Dearness Allowance, Sick Leave, Leave Without Pay, Holiday Work Allowance, Gratuity, etc. etc.,

Shri R. Setlur, Solicitor of Messrs. Crawford Bayley & Co., Solicitors, for the company.

Shri K. T. Sule, Advocate, for the workmen.

175-A To AITUC  
With Greetings from

Crawford Bayley & Co. Employees' Union, BOMBAY

George  
Full

## AWARD.

These are three references, Nos. 155 of 1958, 406 of 1958 and 95 of 1959, under section 10(1) (d) of the Industrial Disputes Act, 1947, between Messrs. Ruston and Hornsby (India) Private Ltd., and the workmen (including clerical staff) employed under them in their factory at Chinchwad, District Poona, for adjudication of the following demands by the latter in Reference (I.T.) No. 155 of 1958 :—

*Demand No. 1—Wage Scales—*

- |                                     |  |
|-------------------------------------|--|
| 1. Clerk .. .. .                    | Rs. 100—10—150—12½—212½—15—302½—20 every year thereafter.  |
|                                     | Graduates to be given a start of Rs. 120 in the above grade. Non-matriculantes to be given a start of Rs. 90 and to be placed in the above grade in the second year. |
| 2. Senior Clerk .. .. .             | Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter.  |
| 3. Typist .. .. .                   | Rs. 100—10—150—12½—212½—15—302½—20 every year thereafter.  |
| 4. Stenographer .. .. .             | Rs. 130—10—180—12½—242½—15—332½—20 every year thereafter.  |
| 5. Time Keeper .. .. .              | Rs. 120—10—170—12½—232½—15—322½—20 every year thereafter.  |
| 6. Draftsman .. .. .                | Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter.  |
| 7. Tracer .. .. .                   | Rs. 100—10—150—12½—212½—15—302½—20 every year thereafter.  |
| 8. Peon (Office Sepoy) .. .. .      | Rs. 45—4—65—5—90—6—126—8 every year thereafter.  |
| 9. Store Keeper .. .. .             | Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter.  |
| 10. Store Supervisor .. .. .        | Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter.  |
| 11. Assistant Store Keeper. .. .. . | Rs. 110—10—160—12½—222½—15—312½—20 every year thereafter.  |
| 12. Inspector .. .. .               | Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter.  |
| 13. Watchman .. .. .                | Rs. 50—5—75—6—105—7—147—9 every year thereafter.   |
| 14. Assistant Jamadar .. .. .       | Rs. 60—6—90—7½—127½—9—181½—12 every year thereafter.   |
| 15. Jamadar .. .. .                 | Rs. 80—8—120—9—165—10—225—15 every year thereafter.  |
| 16. Malee .. .. .                   | Rs. 45—4—65—5—90—6—126—8 every year thereafter.  |
| 17. Sweeper .. .. .                 | Rs. 50—4—70—5—95—6—131—8 every year thereafter.  |
| 18. Compounder .. .. .              | Rs. 120—10—170—12½—232½—15—322½—20 every year thereafter.  |
| 19. Dresser .. .. .                 | Rs. 50—5—75—7—110—8—164—11 every year thereafter.  |

20. Mazdoor	..	Rs. 1-12-0—0-1-6—2-3-6—0-2-0—2-12-0—0-2-6—3-12-0— 0-3-0 every year thereafter.
21. Power House Driver	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
22. Electrician	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
23. Electrician Helper	..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-6— 0-4-0 every year thereafter.
24. Truck Driver	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
25. Mechanic Driver	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
26. Electric Truck Driver.	..	Rs. 3-0-0—0-2-0—3-15-0—0-3-6—5-0-6—0-4-0—6-8-6— 0-5-0 every year thereafter.
27. Pattern Maker	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
28. Cupoleman	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
29. Moulder	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
30. Moulder Mate	..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-6— 0-4-0 every year thereafter.
31. Core Maker	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
32. Tinmith fitter	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
33. Cupoleman's mate	..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-6— 0-4-0 every year thereafter.
34. Grinder	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
35. Fitter	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
36. Crane Driver	..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-6— 0-4-0 every year thereafter.
37. Shaper and Slotter	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
38. Turner	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
39. Driller	..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—9-0-6— 0-6-0 every year thereafter.
40. Miller	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
41. Borer	..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.
42. Miller Slotter Keysetter.	..	Rs. 5-8-0—0-4-6—6-14-0—0-5-6—8-10-0—0-6-6—11-1-0— 0-8-0 every year thereafter.

43. Tester .. ..	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-0-0-8-0 every year thereafter.
44. Carpenter .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—2-0-6-0 every year thereafter.
	Rs. 5-8-0—0-4-6—6-14-6—0-5-6—8-10-0—0-6-6—11-0-0-8-0 every year thereafter.
45. Carpenter Helper .. ..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-4-0 every year thereafter.
46. Painter .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—5-0-6-0 every year thereafter.
47. Plumber .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—5-0-6-0 every year thereafter.
48. Mason .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—5-0-6-0 every year thereafter.
49. Mason Mate .. ..	Rs. 1-12-0—0-1-6—2-3-6—0-2-0—2-13-6—0-2-6—0-3-0 every year thereafter.
50. Welder .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—5-0-6-0 every year thereafter.
51. Felter .. ..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-4-0 every year thereafter.
52. Sand Miller .. ..	Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-4-0 every year thereafter.
53. Core Oven Attendant .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—5-0-6-0 every year thereafter.
54. Chipper .. ..	Rs. 4-8-0—0-4-0—5-12-0—0-4-6—7-2-6—0-5-0—5-0-6-0 every year thereafter.
55. Chergeman .. ..	Rs. 250—20—350—25—475—30—655—40 thereafter.
56. Apprentice .. ..	1st year—Rs. 2-0-0. 2nd Year—Rs. 2-8-0. 3rd Year—Rs. 3-0-0.
57. Mukadam .. ..	Rs. 3-0-0—0-3-0—3-15-0—0-3-6—5-0-6—0-4-0—0-5-0 every year thereafter.

*Trainee Clerk, Apprentice Clerk.*—These categories should be abolished and the present incumbents in these categories should be placed in clerk's grade.

*Mazdoors.*—Mazdoors who are required to help any operator in the operation of the machine and other processes such as riveting, fitting, etc., should be placed in the grade if Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-4-0 every year thereafter.

*Adjustment.*—Point to point adjustment should be given to all the workers in the new scales, taking into consideration the entire service of the workers with the company.

*Demand No. 2—Dearness Allowance.*—Dearness Allowance should be paid as follows :—

## Basic Wage.

## Dearness Allowance.

Rs. 1 to Rs. 50 (monthly rated).  
Rs. 1 to Rs. 1-12-0 (daily rated).

Full Bombay Textile scale payable as per the decision of the Labour Appellate Tribunal dated 17th January 1955, the dearness allowance payable to the monthly rated being calculated for all the days in the month:—

Rate of dearness allowance on the balance of wage above Rs. 50 or Rs. 1-12-0

	When the Bombay Working class cost of living index is in the 301—310 group.	Variation in the percentage in the previous column to be allowed per 10 point movement in the index.
Rs. 51 to Rs. 100 (monthly rated) Above Rs. 1-12-0 and upto Rs. 3-12-0 (daily rated).	30 per cent of the basic wage.	2½ per cent.
Rs. 101 to Rs. 150 (monthly rated) Above Rs. 3-12-0 and upto Rs. 5-12-0 (daily rated).	25 per cent of the basic wage.	2 per cent.
Rs. 151 to Rs. 200 (monthly rated) Above Rs. 5-12-0 and up to Rs. 7-12-0 (daily rated)	20 per cent of the basic wage.	1½ per cent.
Rs. 201 to Rs. 300 (monthly rated). Above Rs. 7-12-0 and up to Rs. 11-8-0 (daily rated).	15 per cent of the basic wage.	1 per cent.
Rs. 301 and above (monthly rated). Above Rs. 11-8-0 (daily rated).	10 per cent of the basic wage.	½ per cent.

*Demand No. 3—Sick Leave.*—Every workman should be entitled to one month's sick leave with full wages and allowances for every eleven months of service; the sick leave should be allowed to be accumulated for whole period of service of a workman.

*Note.*—Workman should have the option of taking privilege leave for sickness if he so desires and also of taking one leave in continuation of the other.

*Demand No. 4—Leave without pay.*—Every workman should be entitled to one month's leave without wages per year of service, the accumulation of such leave being allowed for the whole period of service.

*Demand No. 5—Holiday Work Allowance.*—Whenever a workman is made to work on a holiday he should be given a compensatory off day (which may be allowed to be attached to any leave at the option of the workman) plus one and a half day's wages in addition to this normal wages for the day in the case of paid holidays and in the case of unpaid holidays 2½ times wages.

*Demand No. 6—Working in 2nd and 3rd Shifts.*—The hours of 2nd and 3rd shifts should be six hours without reduction in wages of the workmen.  
L-389a (Lino)



*Demand No. 7—Paid Holidays.*—(a) The following paid holidays are to be given in each year :—

- |                         |                           |
|-------------------------|---------------------------|
| (1) Indian Republic Day | (11) Independence Day.    |
| (2) Maha Shivaratri.    | (12) Ganesh Chaturthi.    |
| (3) Holi (2nd Day).     | (13) Mahatma Gandhi Birth |
| (4) Good Friday.        | (14) Anant Chaturdashi.   |
| (5) Ramnavami.          | (15) Dasara.              |
| (6) Ramzan Id.          | (16) Diwali (2 days).     |
| (7) Bakri Id.           | (17) Christmas Day.       |
| (8) May Day.            | (18) Boxing Day.          |
| (9) Mohoram.            | (19) Gokul Ashtami.       |
| (10) Nareli Purnima.    |                           |

*Demand No. 8—Apprenticeship.*—The maximum period for apprenticeship for any trade should be 3 years.

*Demand No. 9—Gratuity.*—One month's wages with dearness should be paid as gratuity to all workmen for each year of service of a workman ceasing to be an employee for whatever reason. The date for the purpose of calculation of gratuity should be the one on which the employee ceases to be in the employment of the company.

*Demand No. 10—Retrospective effect.*—The demands about dearness and dearness allowance and gratuity should be given retrospectively from 1st February 1957.

2. In connection with Reference (I.T.) No. 155 of 1958 that the company was formerly situated at Sayani Road, Dahanu when its complement was about 140. As the demand for products steadily increased after the war it began to expand its establishment at Sayani Road at that time was found not sufficient. It therefore acquired land at Poisar in Greater Bombay near Borivli Station. The Government of Bombay, however, asked the company to shift its factory to the area near Poona set aside for industrial development and gave the company land at Chinchwad near Poona. The company not only installed its machinery brought from Bombay but also built a new plant. At the time of shifting the company retrenched all the workmen who were employed under it at that time. A large number of workmen accepted employment at Chinchwad on reduced wages. The wage structure will soon be revised. The company, in response to the demands made by the union and its rapid increase in production, did not increase workers' wages and dearness allowance and other benefits which are generally given to the units of this size and capacity in the industry.

3. In regard to the demand No. 1, wage scales, the wages paid to the workmen do not conform to the minimum rates. The company has five grades for daily rated workmen and five for monthly rated workmen. Operatives in these occupations are considered according to their skill. A number of occupations which are fitted in the lowest grade. The company, it is further stated, has reduced the pay of workmen but changed the order of classification. The company has shifted over to Chinchwad. The Union further submits that the Central Pay Commission's Report, and objectives of the Second Five Year Plan for raising the standard of living and to some Articles in the Indian Finance, that in

the workmen is an absolute necessity. The Union further points out that there is no system of working out the working class cost of living in the locality. One thing is certain that the prices of the necessary commodities in Chinchwad are no less than in Bombay. It is a common experience, it says, that generally the cost of living in newly industrial area is higher than in big cities like Bombay, Calcutta and Madras. The Union then gives an extract of the opinion of Sir Samuel Griffith, the Chief Justice of the High Court of Australia and Mr. Justice Higgins, and says that an employer is bound to pay a proper basic pay, irrespective of its financial condition. It then proceeds to give details of the minimum requirements of workers, and says that in the 15th Labour Conference it was agreed that in addition to the food and clothing requirements, rent corresponding to the minimum area provided for under the Government Industrial Housing Scheme should be taken into consideration in fixing the minimum wage. It points out that housing in Chinchwad is a very acute problem. Statistics taken by the Union it says reveal that a small tenement of even 10' x 10' cannot be obtained for under Rs. 10 and sometimes Rs. 15 and Rs. 20 per month. It then refers to the need of medical treatment and other amenities and says that for bare necessities alone at least Rs. 230 per mensem is required for each worker. The Union's demand is below this. It further says that the wage structure at present existing in the factory if examined in this light of minimum requirements is obviously inadequate. Though there are five grades for the daily rated workmen, there is no standardization of wages for each occupation. Highly skilled workers like turners, borers, moulders, etc., are placed in all these grades quite arbitrarily by the company. The minimum wage paid for a clerk is Rs. 46 plus Rs. 35 dearness allowance and to the lowest monthly rated staff Rs. 26 plus Rs. 35 dearness allowance. It is said that the Railway Workshop at Poona, Ammunition Factories at Kirkee and Dehu Road Vehicle Depot and Penicillin Factory at Pimpri, all pay higher wages than this company. The Union then gives a comparative figure of the Penicillin Factory at Pimpri and Mahendra and Mahendra and other neighbouring concerns. The Union further says that the engineering industry in this country is a most prosperous industry, and it has got a very bright future. The company even now has got good financial capacity and can certainly meet the modest demand made by the Union. It states that this factor should be taken particular note of while deciding the wage demands of the Union. It further states that the wages of the workers were reduced to the extent of 35 to 65 per cent. when the factory was shifted to Chinchwad, in spite of the fact that the cost of living at Chinchwad is not lower than Bombay. This Company, it is further submitted, cannot stand comparison with the other similar units in the industry as it has practically a monopoly of a certain kind of pumps it is producing, and it is better in all respects like capital, plant machinery, production turnover, etc., than them. The Union has based its demand for various workmen on the skill and the nature of work and the responsibility they have to shoulder and the capacity and knowledge which is required for their performance of duties.

4. For trainee clerks, it is said the demand is made because all of them are actually carrying out duties of clerks. This work does not require any special training or apprenticeship. The company by creating the designation are making apprentices work as clerks, but is paying them the salary of apprentices. In regard to mazdoors, the demand is made because they are required to help operators on machine and other processes, and asked to do semi-skilled jobs. Sometimes these workers are involved in work connected with the operation of the machines, but they are still designated as mazdoors and paid as such.

5. In regard to adjustment, the Union demands that point to point adjustment should be given, which means that wage scale demanded should be

considered as if it was in existence on the date an employee joined the service of the company, and he should get his increments accordingly. If the existing wage is higher, then the wage of the workman should not be reduced.

6. *Demand No. 2—Dearness Allowance.*—With regard to this demand, the Union says that the present scale of dearness allowance comes up to Rs. 1-6-0 per day to the daily rated workman, and Rs. 35 to the monthly rated which is the minimum that is given to such workers. It has therefore demanded dearness allowance on the slab system linked up with the cost of living. It wants full neutralization of the rise in the cost of living for basic salary up to Rs. 50, and partial neutralisation, at a progressively reduced rate for the balance of a workman's basic wages. It further demands that the neutralisation should be on the Bombay cost of living, because the cost of living at Chinchwad is the same. The Union again refers in this connection to the difficulties of obtaining living accommodation, and the high rent prevailing in the locality. It further points out that the present dearness allowance does not neutralise even 50 per cent. of the rise in the cost of living.

7. In regard to the demand No. 3, sick leave, the Union demands one month's sick leave with full wages and allowances for every 11 months service. At present, it says, that the company is giving 12 days sick leave a year with half pay and half dearness allowance which can be computed to 6 days with full pay and allowances. This it says is inadequate. The work in the engineering department is tiring and the workers are liable to fall sick frequently. It therefore states that one month's sick leave per year without restriction on its accumulation is absolutely necessary.

8. In regard to demand No. 4, leave without pay, the Union says that at present day only privilege leave as per the Factories Act, is given which is inadequate. The Union demands one month's leave with wages for every year of service. Reference is here made to Dr. R. Mukherjee's "Indian Working Class" in which he says that in no other industry the need for relaxation and recouperment is so great as in iron and steel plants.

9. In regard to demand No. 5 for holiday work allowance, the Union says that when a worker is called upon to work on a holiday when others are enjoying that holiday, he is deprived of the benefits of that holiday. On festival holidays he is prevented from participating in the festival. He must therefore be compensated by payment of extra wages. A mere compensatory off is not sufficient.

10. In regard to demand No. 6 for working in 2nd and 3rd shifts, the Union says that the factory of the company is working in three shifts, and the working hours are 8 per day. The work in the night shift is more strenuous and exhausting. It is therefore essential that night shift hours should be reduced. It is common in the industry to have fewer hours for second and third shifts. In many concerns, workers not only work for less hours but get shift allowance, when they are put on the second and third shift.

11. In regard to the demand No. 7 for paid holidays, the Union says that at present the company is granting only two paid holidays, although it is kept closed on a number of other holidays. The workmen, it says, should not lose their normal wages during the festival holidays, as on these occasions they incur extra expenditure.

12. In regard to demand No. 8 for apprenticeship, the Union says that from the day of employment the apprentice is asked to work under a tradesman without acquiring any knowledge. It is the experience of the Union that all these apprentices start giving production at the end of the second year. The company makes them work as regular workers but calls them apprentices, and pays them the meagre pay of an apprentice. The Union therefore submits that the period of apprenticeship should not exceed 3 years.

13. In regard to demand No. 9 for gratuity, the Union says that the present rate of half month's basic pay for each completed year of service, payable after 15 years' of service is inadequate. In the case of termination of the service of an employee by the company, gratuity at the rate of 3/8ths of one month per year of service is payable after 10 years if continuous service. The rate of gratuity at the rate of one month's wages per year of service the Union says has become a common rate in almost all the establishments. The Union further submits, that for the purposes of gratuity not only basic wage but dearness allowance on the total earnings of the month should be made the basis, as is done under the Working Journalists Act. This is absolutely essential it says in view of the high cost of living at the present day. The Union also wants that gratuity should be payable on cessation of service for any reason whatsoever, and there should be no minimum qualifying period.

14. In regard to the last demand (retrospective effect) the Union says that the demand was made on 24th January 1957. Therefore retrospective effect from 1st February 1957, should be given.

15. In its written statement the company denies that it is holding a monopoly for the manufacture of pumps, and says that there are many other companies who are competing with it in the market. It submits that the union is wrong in emphasising the fact that the company after shifting to Chinchwad reduced the wages of its workmen, and in putting forth this, one of the basis of the demand because when the new factory started at Chinchwad the workers were retrenched and when the company was asked they offered themselves for employment and they were given preference over new workers. In the course of proceedings under section 22 of the Industrial Disputes (Appellate Tribunal) Act, 1950, before the Appellate Tribunal, the Tribunal ordered that the workmen who presented themselves within 15 days and unconditionally accepted employment should be re-employed, and they should pay back the retrenchment compensation to them. The Tribunal remarked that the workmen's demand, that the shifting over to Chinchwad they should be free to agitate for the terms as in Bombay, was not proper. It further says that the wages at Chinchwad were fixed on industry-cum-region basis. There was no reduction of employment and it is wrong to say that any reduction was made, or benefits were taken away from the workers. The workers with their consent accepted the conditions, and cannot now complain about it.

In regard to demand No. 1, the company denies that the workmen were employed in different grades without considering their skill. It also denies that there is any occupation in the factory which could be termed highly skilled. The various categories and grades, it says, were introduced bearing in mind the type and nature of work in the factory, and the wage structure prevailing. In regard to the company's financial position, it says that there is an available surplus for bonus for the years 1954, 1955 and 1956. The company's no doubt is growing, but its growth should not be unnecessarily

hampered by placing heavy burdens on it. The company then refers to some awards made by the Industrial Tribunal in connection with the units in the same region, and says that it is paying the same wage as awarded in these cases, and that it is wrong to state that it is paying a wage which is below the minimum wage. It then denies the Union's statement that there is scarcity of living accommodation, and that rents in the locality are very high. It says further that Rs. 230 per mensem, which the Union has said is the least which a workman should be paid, is ridiculous, because if any employer pays this he will be unable to stand competition in the market with other units. The company is in fact paying a fair wage to the workers and no increase is necessary. Workmen in Government institutions, it says cannot be compared with commercial concerns like this. The Union has confused between time keepers and time clerks while comparing their earnings. The pay of the time clerks in Mahendra and Mahendra at Pimpri is the same as paid by this company at Chinchwad. The company also emphatically denies that there can be any comparison between the wages in Bombay and a small place like Chinchwad. The Union's demand it says is based on grounds which are contrary to the cardinal principles of fixation of wages and should be rejected.

17. In regard to trainee clerks, the Company says that it is in the interest of the industry that these categories should exist so that a proper class of factory clerks may emerge therefrom. In regard to mazdoors, it says, that they are required to do unskilled jobs and mere proximity to the machine and the operator cannot change the nature of their work.

18. In regard to adjustment, the company says, that it had regular wage scales which provided for increments, and therefore no question arises of adjustment, leave alone point to point adjustment. Such adjustment in the present circumstances is out of question.

19. In regard to the demand No. 2 for dearness allowance, the company says that it denies that the cost of living at Chinchwad is not lower than Bombay, or that the lot of workmen in Chinchwad is miserable, and their total emoluments inadequate.

20. In regard to demand No. 3, the company says that the sick leave it grants compares favourably with the other concerns. It denies the correctness of the Union's allegation that the work in the engineering concern saps the health of the workers and leads to frequent sickness. Very soon, it further states, the provisions of the Employees' State Insurance Act will be extended to Chinchwad and the workmen will have all the benefits of that scheme. The demand should be therefore rejected.

21. In regard to demand No. 4, leave without pay, the company says that the existing privilege leave is adequate and that the demand for the right of accumulation is absurd and unreasonable.

22. In regard to demand No. 5, it is said that the Factories Act provides for a compulsory weekly off, and for payment of overtime in excess of the limit of hours prescribed therein. It is, therefore, submitted that the present practice should not be disturbed.

23. In regard to demand No. 6 the company says that the night shift works 7½ hours only. No workman is asked to do a particular shift for a very long time. They are rotated so that every one gets an equal chance of working in the first shift. The fact that it is the usual practice in industries to have shorter hours in the second and third shifts is also denied.

24. In regard to demand No. 7 for paid holidays, the company says that it grants two holidays on 26th January and 15th August which is consistent with the practice of the factories.

25. In regard to demand No. 8, the company says that the period of apprenticeship of five years is normal in the industry. It also denies that the apprentices are made to work as regular workers and are exploited in this manner. It may be that they assist the worker during the course of their training, but this does not mean that they are doing the work of a regular workman. An apprentice who joins is under no obligation to serve the company after his training period is over. He is at liberty to join any other concern. It will therefore be not fair to reduce the period of apprenticeship as desired by the Union.

26. In regard to the demand No. 9 for gratuity, the company says that the number of workmen have increased and profits position of the company is none too bright. It makes it impossible for this factory to meet the every increasing burden that will result by granting gratuity as demanded by the workers in this case. It also opposes the demand of the inclusion of dearness allowance in the wages for calculating gratuity. It points out that an exemption can be claimed by the employer from the Employees' Provident Fund scheme if the gratuity and provident fund scheme already in force are no less favourable than the contribution under the scheme, and says that this is a clear indication of the intention of the legislature that the worker should not be allowed to enjoy both the benefits, at the same time. The Company also says that the gratuity scheme demanded by the Union is unreasonable. As an example of this unreasonableness it points out that under the scheme demanded gratuity has to be paid even to workman when he is dismissed or discharged from the company. It therefore prays that the demand should be rejected.

27. In regard to the demand for retrospective effect, the Company submits that no case has been made out for it. The Company's financial position is bad owing to the growing shortage of raw material, and it will not be able to bear the heavy burden that will be placed on it by giving retrospective effect over the long period as demanded. It is said that it is only granted when a Tribunal finds that the workmen had not had a fair deal, which cannot be said about the workers in the present company.

#### *Demand No. 1—Wage Scales.*

28. So far as demand No. 1 in Reference (IT) No. 155 of 1958 is concerned Shri Sule says that it has now been recognised by the Tribunals and by the Government itself as the trend of labour legislation shows, that with the increasing prosperity of the country consequent upon its industrialisation and economic expansion the wages of the workers in all industries should be gradually increased. The final objective should aim at providing workers with a living wage. But in any case the conception of what was considered a fair wage has considerably altered and the necessity for giving more wages to the workers and providing them with ordinary comforts of life has been recognised. He referred to the objective of the State Policy under the Second Five-Year Plan which has been summed up as follows:—

“A wage policy which aims at a structure with rise in the level of wages required to be evolved. Worker's right to a fair wage has been recognised but in practice it has been found difficult to give that. In spite of our best efforts Industrial Tribunals are unable to evolve a consistent Policy.”

He referred also to an article in 'Indian Finance' of 11th May 1957 under the heading "wage increase in an expanding economy" in which it was said that wage increase was not an impediment to economy but in fact it was accentuating and accelerating the economy. And that the attitude of the employer to the demand for increase in emoluments must be one of readiness to meet the demand more than fair way. He points out that when the Banks Award was made there was a great clamour and it was expected that some of the banks will be unable to bear the burden, and will close down. These fears were belied and the banks after increase of wages are flourishing more than ever. Shri Sule further says that the Fair Wages Committee also had realised that increase of wages from time to time is necessary and says in the second chapter an attempt to evolve principles for governing fixation of wages has been made against the background of general economic conditions and the level of national income. While the lower limit of the wages is the minimum wage, the upper limit is to be determined only by the capacity of the industry to pay. By this capacity is meant not only the present capacity but its future capacity. Shri Sule then says that in the Fair Wages Conference representatives of the employers were also present and were a party to the resolution passed and decisions taken. With regard to the wage policy this conference also has recognised that a minimum wage should be "need-based" which means that it should be such as to ensure to the worker his supplies of minimum needs. It suggested the following norms for the guidance of all wage fixing authorities:—

(1) In calculating the minimum wage the standard working class family should be taken to comprise three consumption units, the earnings of women, children and adolescents being disregarded;

(2) Minimum food requirements should be calculated on the basis of Akroyd's recommendations for an average Indian adult of moderate activity;

(3) Clothing requirement should be estimated at 72 yards per annum for a workers' family of four persons;

(4) In estimating house rent for purposes of fixing the minimum wage, the rent for the corresponding minimum area provided under the Government's Industrial Housing Scheme should be taken into consideration; and

(5) Fuel, lighting and other miscellaneous items should constitute 20 per cent of the total minimum wage.

The Conference further said that whenever the minimum wage fixed was below the 'need-based' wage as above calculated, the authorities must justify the circumstances which prevented them from giving effect to the above norms. Shri Sule says that if this is taken as the basis on which the wages are to be determined the barest minimum wage for a family of four consumption units at 350 cost of living would be Rs. 230. Cost of food alone if 3,600 calories according to Dr. Akroyd's estimation are consumed comes to Rs. 119, Clothing Rs. 20 at 190 yards at an average rate of Rs. 1-4-0 per yard, Rs. 25 housing, Rs. 20 other amenities and Rs. 46 calculated at the rate of 20 per cent for fuel and lighting. This figure, he says appears to be high but it will help to show how meagre the wages of the workers in the industry are, and that what they are getting at present are starvation wages. He then proceeds to say that an industry which cannot afford to pay the minimum wage has no right to exist. In spite of this Shri Sule says that he is not demanding the "need-based" wage but something less. Taking into consideration all relevant considerations the demand that he is making is modest and fair. The cost of clothing and food is taken from the Government publications and not at the price prevailing at the centre. He further says that

principle which should guide the wage fixing authority is what has been accepted by employers and employees and Government at the tripartite conference. These principles were considered by the National Tribunal in the Brooke Bond (India) Private Ltd., (Gazette of India, dated 23rd June 1959, page 1483). It is pointed out that in this case it was contended on behalf of the employers that the Supreme Court in the Journalists' wages case has laid down certain principles regarding wage fixation which are not altogether consistent with the resolution of the tripartite conference. The learned Judge Sri Jeejeebroy expressed the opinion that in the industrial matter agreements are of prime validity for they represent the result of negotiations and adjustment. The resolution of the tripartite conference so long as it stands has more than moral force that no wage fixing authority can ignore.

29. Shri Sule then gives instances of other concerns in Bombay where far higher wages than that which prevail in this company are paid to the workers. The comparative figures are at Exhibit U-17 (collectively). It is shown here that the mazdoors in Voltas Ltd., are paid Rs. 39 basic wage plus Rs. 79 dearness allowance when the cost of living stood at 391 while in this concern they are paid Rs. 26 basic wage and Rs. 35-12-0 dearness allowance. The structural Engineering Works, it is pointed out, pays Rs. 32-8-0 basic wage and Rs. 82-5-6 dearness allowance. In a number of other concerns like Premier Automobiles Ltd., Indian Cable Co. Ltd., Alcock Ashdown & Co. Ltd., Marshall Sons & Co. more or less like wages are given and that in all of them the wages paid are over Rs. 32 and dearness allowance over Rs. 82. Wages of the peons in this concern it is said are Rs. 30 and Rs. 35 dearness allowance whereas in Voltas, Parry & Co. Ltd., Mackinnon Mackenzie & Co. Ltd., General Electric Co. of India Ltd., it is Rs. 35 and Rs. 82 dearness allowance. Shri Sule says that for the purpose of the fixation of wages and dearness allowance, at Poona and places near that town a comparison should be made with like concerns in Bombay, and not at Sholapur. Poona it is said is a growing town very near Bombay, where the cost of living and other conditions are more akin to Bombay than to centres like Sholapur. He says further, that while fixing wages and dearness allowance it must be borne in mind, that the workers had suffered a very heavy loss in accepting service after the company shifted from Bombay to Chinchwad. They did so in the hope that if in the future the company's finances improved, they will receive the wages and dearness allowance which they used to get, at Bombay. He also says that the recent awards in Mahindra & Mahindra and Kirloskar Oil Engines Ltd., at Kirkee by Shri P. D. Sawarkar have fixed wages and dearness allowance at a very low level causing great discontent among the workers, and therefore these awards should not be taken as a guide for fixing wages of this concern. He contends that this Tribunal is not bound to fix the same wages but is completely free to form its own opinion and fix wages and dearness allowance and according to what it considers just and fair. Shri Setlur on the other hand contends on behalf of the company that the picture which the Union has drawn of its financial position and of its prospects is wrong, and completely misleading. This company has not paid dividends because it was forced to put forth more capital in order to face the competition. He says that the union's statement that this company has a monopoly of pumps in India is completely wrong. There are 7 or 8 other competing companies. Production figure of diesel engines of 1957 given in Exhibit C-22(coll.) he says will show that this company produced 1259 engines whereas the Kirloskar Oil Engines at Kirkee produced 5,015 engines in one year. So far as production of power driven pumps for 1957 is concerned, Shri Setlur says that this company produced 1,181 whereas Kirloskar Oil Engines produced 12,914 and even a small concern like Jyoti Ltd., Baroda, produced, 1803. So far as turbine pumps



are concerned this company had not started production in 1957 and the production of compressors and blowers had also not been started in this company yet. The balance sheets of the last two years he says show that the financial position of the company is not very good. Under these circumstances placing any heavy burden such as would be imposed by granting the highly exaggerated and extravagant demands of the union would hamper the progress, and cripple the finances of this company.

30. So far as the resolution of the *Tripartite* conference is concerned Shri Setlur says that it will be absurd to say that all the employers have accepted the 'need-based' wage as calculated by Shri Sule to be the minimum wage, which every employer had undertaken to pay, and which if he is unable to pay he is prepared to close down. In so other industry, however far more prosperous, the wage of Rs. 230 per month as minimum has been accepted, or awarded. He says that the Supreme Court in *Express Newspapers Ltd.—1958-59 XIV F.J.R., 211 at 247* has said that the capacity of the industry to pay is an essential circumstance to be taken into account. This capacity is to be considered on an industry-cum-region basis taking a fair cross-section of the industry, and that the proper measure for judging the capacity is the demand for the product, the possibility of tightening up the organization so that the industry could pay higher wages without difficulty, and the possibility of increasing the efficiency of the lowest paid workers, resulting in increased production. Although it is true that this should be considered in conjunction with the elasticity of the demand for the product, the ultimate burden should not be such as to drive the employer out of business. The principles so well fixed having received the approval of the highest Tribunal in the land cannot be thrown overboard on account of any resolution of the conference of employers and employees. Apart from this he says that the conference never intended that immediately all the employers should start paying the "need-based" wage. All that they said is that giving at least the need based wage is an aim, which they agree, one should try ultimately to attain. Shri Setlur further says that the Union in demanding less than the "need based" wage, has itself conceded, that it is not possible for the industry to pay that much. Shri Setlur also lays great emphasis on the fact that after considering similar arguments and similar evidence Shri P. D. Sawarkar in Mahindra and Mahindra and Kirloskar Oil Engines Ltd., has fixed wages which are much lower than the wages demanded by the union in this case, though the capacity of these two units and their prospects are better than this concern. First of all he says the financial position of this concern does not permit any increase in the wages at all, its present wages are adequate, but in case any increase is given it should not be more than what has been given in the above cases. Both these concerns he says are in the neighbourhood, and the cost of living and all other conditions are the same. So far as the Brooke Bond Company's case relied upon by the union is concerned Shri Setlur says that there can be no comparison between this company and the Brooke Bond Ltd. That company is a world wide organisation. Moreover Shri Jeejeebhoy never meant that the capacity of the unit and the industry to pay and other considerations which govern wage fixation should be ignored. This has been made clear by Shri Jeejeebhoy later in that award itself. In regard to the statutory minimum wage Shri Setlur admits that it has been laid down in many cases that if an employer concern is unable to pay should close up, but this cannot apply he says to a minimum need-based wage. So far as the comparison of this company with other concerns in Bombay a list of which is given in Exhibit U-17, Shri Setlur says, that in no concern in any industry has any Tribunal fixed wages in Poona on the basis of a comparison with units in the same or any industry in Bombay. In fact, nowhere in India have workers in a small town more than 100 miles away from big cities like Calcutta, Delhi or Madras received the same wages

as the workers in these big cities. In size, the financial resources and in the volume of production these concerns mentioned in Exhibit U-17 in Bombay are far greater and can bear no comparison in any material respect with Ruston & Hornsby at Chinchwad. Shri Justice Rajadhyaksha in his report at paragraph 102 had put Sholapur in the 'C' area in which the percentage rise between 1939 and 1945 was 172 and in paragraph 103 and 104 he has shown the reasons why they were put in 'C' Class. He says that though that report was based on figures upto 1945 i.e. at the end of the war but the difference ever since has been maintained. In recent awards Shri Sawarkar has also refused to consider Poona comparable to Bombay. Shri Setlur relies on his observations in Kirloskar Oil Engines Ltd., *Bombay Government Gazette*, Part I-L, dated 15th January 1959, 205 at p. 207. The fact that this factory was removed from Bombay to Chinchwad and the workmen who were willing had to accept service under the employer on a small wage can be no reason according to Shri Setlur for giving any rise now or putting the workmen on the same level as the Bombay workmen. The Labour Appellate Tribunal in its decision dated 15th July 1955, has considered this matter. It said that the workers transferred to Poona cannot demand the same conditions as in Bombay for they themselves have unconditionally accepted employment in the company without break in the continuity of service, by a settlement under which it was agreed between the workers and the employers that they will give up the right to claim special treatment by reason of the fact, that they had been employed previously in Bombay.

31. I have given above various contentions advanced by the parties. So far as the financial condition of the company is concerned there is no doubt in the years 1954, 1955 and 1956 this company made some profits but has paid no dividends since 1955. Its subscribed capital has been increased from Rs. 2,50,000 in 1950 to Rs. 50,00,000 in 1957. This shows that the company has expanded a good deal and is likely to make profits in future. Actually the gross profit in 1957, was Rs. 8,22,505 as compared with Rs. 2,55,754 in 1950, but owing to greater statutory depreciation. In 1955 as shown in Exhibit C-1 (it was Rs. 33,000 in 1950 whereas in 1957 it is Rs. 4,86,722. Book depreciation in 1950 was Rs. 48,460 as compared with Rs. 2,63,622 in 1957). The production figures are given in Exhibit C-22 (Collectively). At p. 1 it is shown the production figures of 1957, which is 1,849 pumps. In 1957, the number goes up to 1,905, in 1958, it goes up further to 2,293 and from January till June of 1959, the half year's production is 1,338 pumps. This shows that the production is going up and the company's prospects are sound. Merely on account of not paying dividends or not showing profits it cannot be said that the financial position is unsatisfactory and it will not be able to bear some additional financial burden that may be imposed on it by granting the labour's demands in this reference to some reasonable extent.

32. I shall now consider how far the claim of the union for a need-based wage is justified on the ground that employers have accepted the principle at the 15th Tripartite Conference. The resolution of the 15th Tripartite Conference in my opinion does not say that it is obligatory on the employer immediately to give the need-based wage and if it is unable to give it owing to its financial incapacity, it has no right to exist. What the Conference intended was that this should be the ultimate aim which should be gradually attained, as the prosperity of the industries increase and as soon as its capacity permits. The need-based wage as calculated on the lines shown in the resolution of the conference is such that very few units in any industry could be able to pay it. In the instance of the present employer-company, for example the wage calculated on these lines by Shri Sule comes to Rs. 230. Shri Sule says this is the barest minimum wage that is required for a family of four consumption units at the cost of living index of 350, which means

that even the lowest category of workers should get this wage. If this is paid to the lowest category then the difference between the wages of this category and other higher categories should be maintained, and they should get much more than this. I do not think that this was intended by any of the parties to the resolution of the 15th Tripartite Conference. Shri Jeejeebhoy in Brooke Bond (*Gazette of India*, dated 23rd June 1958, p. 1483, no doubt has remarked that in industrial matter agreements are of prime validity for they represent the result of negotiations, and adjustments and notwithstanding all the principles enunciated by Tribunals for determining wages, the resolution of the 15th Tripartite Conference cannot be ignored; and it is incumbent on every wage fixing authority to give practical shape to that resolution. I think all that Shri Jeejeebhoy meant by these remarks was that the aim of every Tribunal should be to give effect to the resolution and try to raise the wages to that level as far as other conditions permit. It was never intended by him that immediately regardless of the financial position of the employer, wages calculated on the lines given in the resolution should be awarded. In paragraph 38 he himself makes it clear that he does not mean by the above remarks that the need-based wage should be confused with the statutory minimum wage, or that the principles for fixation of wages enunciated in the report of the Fair Wages Committee should be ignored. In paragraph 30 of his Award he observed :—

“Much has been said on the connotation of the term ‘Minimum wage’ in the Resolution, but here again it is clear that the ‘minimum wage’ referred to in the Tripartite Resolution is the lower limit of a fair wage, and has no reference to the statutory minimum wage or to a minimum wage based on the bare subsistence. As the Fair Wages Committee’s Report has clearly indicated, the minimum fair wage is the floor of that spread fair wage of which the ceiling is the living wage. In a concern like this, in a concern before this Tribunal, with its undoubted prosperity and sound expectations of the future, a fair wage cannot be refused.”

It is quite clear therefore that the need-based wage fixed in accordance with the principles approved by the 15th Tripartite Conference cannot be the minimum wage fixed under the statute. It cannot be said therefore that an industry or a unit which cannot pay that wage had no right to exist. The principles enunciated by the Conference should be borne in mind by the tribunals while fixing wages along with other conditions like the financial position of the industry etc. A very important consideration while fixing the wage is the capacity of the industry to pay. The question as to whether this capacity should be the capacity of the unit concerned or of the whole industry has been carefully considered both by the Fair Wages Committee and by the Supreme Court in the *Express Newspapers Private Ltd., v. Union of India*, 1958-59 XIV F.J.R. 211 (246). The Supreme Court has cited with approval the Fair Wages Committee’s opinion that the capacity should be measured in terms of the individual establishment, and the main criterion should be the profit making capacity of the industry as a whole. By the capacity of the industry it is explained is not meant that the capacity of each unit of the industry, but a fair cross-section of the industry. The Supreme Court after citing at length the opinion of the Fair Wages Committee report has stated its own conclusion as follows :—

“The principles which emerge from the above discussion are :—

- (1) that in the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage which the employer is bound to pay the same irrespective of such capacity.

(2) that the capacity of the industry to pay is to be considered on an industry-cum-region basis after taking a fair cross-section of the industry; and

(3) that the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organisation so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production is considered in conjunction with the elasticity of demand for the product no doubt against the ultimate background that the burden of the increased rate should not be such as to drive the employer out of business."

The reasons for not confining oneself to the unit concerned in any particular dispute is obvious. In any industry there are several units, some of them so highly prosperous that they can afford to pay the living wage and the others are in such a bad financial position that they can barely pay the minimum wage. Wages fixed after taking into consideration the unit only will in such a case be highly divergent. This will lead to industrial unrest and discontent which is the object of the industrial law to avoid. It will also lead to disparity in the cost of production and unfair competition in the market. That is why as early as 1951, the Full Bench of the Labour Appellate Tribunal in Buckingham & Carnatic Mill and their workmen 1951, II, L.L.J., 314, held that among other considerations while fixing the wage the prevailing rate of wages in the same, or similar occupations in the same or neighbouring localities, should be taken into consideration. The prevailing rate of wages in the same or similar occupations in the same locality is an important factor, for unless the same wage level of workers employed in similar occupations in the same locality or in the neighbourhood be maintained, there would be flow of labour from one industry to another in the same locality, or neighbourhood, or from one unit of the same industry to another unit of the same, resulting in unfair competition, with all its undesirable consequences. This is why industry-cum-region basis is adopted for wage fixation. Shri Sule's objection to this is that if the tribunals refuse to award higher wages than in the neighbouring units in the industry it will be impossible to obtain an increase of wages for any unit. This objection has no force. If the industry or a fair section thereof is in a position to grant increase in wages or dearness allowance this can be given notwithstanding the fact that other units in the industry and region do not pay higher wages than the unit concerned. In this industry after consideration of all relevant factors an increase has been recently, given in two neighbouring units. I shall therefore be justified in being guided to some extent by the prevalent wages in other units in the industry and region like those in Mahindra & Mahindra and Kirloskar Oil Engines Ltd., fixed recently by award of the tribunal. Before Shri Sawarkar also

similar reasons and arguments as are urged on behalf of the Union in this case were advanced in support of their claim. The wage scales he has awarded for the various categories, and the classification which he has made is as follows : —

*Exhibit C-6.**Monthly Rated Staff.*

	Mahindra and Mahindra.		Kriloskar.	
	Rs.		Rs.	
Clerks .. ..	(1)	85—5—140—E.B.—7/8—200.	85—100—10—200.	
	(2)	55—3—85—E.B.—4—125 ..	85—5—140—E.B.—7/8—200.	
	(3)	46—3—85—E.B.—4—125 ..	64—70—85—5—140—7/8—200.	
	(4)	.....	55—3—85—E.B.—4—125—E.B.—5—130.	
	(5)	.....	46—3—85—E.B.—4—125—5—130.	
Typists ..	55—3—85—E.B.—4—125	55—3—85—E.B.—4—125—E.B.—5—130.		
Stenographers ..	85—5—140—E.B.—7/8—200	85—5—140—E.B.—7/8—200—E.B.—10—250.		
Time-keepers ..	No grade	95—5—150—E.B.—10—250.		
Draughtsmen ..	85—5—140—E.B.—7/8—200 (No award).	85—5—100—7/8—160—E.B.—10—220 (Both for Junior and Senior).		
Assistant Draughtsmen	55—3—85—E.B.—4—125 (No Award).	.....		
Tracers ..	55—3—85—E.B.—4—125 (No Award).	2—4—0—3 as. —3—12—0 per day.		
Store-keepers ..	85—5—140—E.B.—7/8—200 (No award.)	95—5—150—E.B.—10—250.		
Store supervisors ..	No grade	No grade.		
Assistant storekeepers.	55—3—85—E.B.—4—125	85—5—140—E.B.—7/8—200.		
Inspectors ..	No grade.	No grade.		
Compounders ..	No grade.	No grade.		
Chargemen ..	100—5—140—E.B.—7/8—200	No grade but supervisors grade is 85—5—100—7/8—160—E.B.—10—220.		
Peons ..	No grade	No grade.		
Watchmen ..	30—1—34—2—40	35—12—0—1—10—0—45—8—0.		
Assistant Jamadars ..	No grade.	No grade.		
Jamdars ..	No grade	40—3—61		
Malis ..	No grade	35—12—0—1—10—0—45—8—0.		
Sweepers ..	26—1—30	35—12—0—1—10—0—45—8—0. (Wet sweepers).		
Dressers ..	No grade.	No grade.		

## Daily Rated Staff.

Exhibit C-7.

	Mahindra and Mahindra (Award).	Kirloskar. (Award).
	Rs.	Rs.
Grade I	3-0-0—3 as.—4-5-0	3-8-0—4 as.—5-0-0.
Grade II	2-8-0—2 as.—3-6-0.	2-8-0—3½ as.—3-13-0.
Grade III	2-2-0—2 as.—3-0-0	2-0-0—3 as.—3-2-0.
Grade IV	(a) 1-12-0—2 as.—2-10-0. (b) 1-6-0—2 as.—2-4-0	1-10-0—2 as.—2-6-0. 1-6-0—1½ as.—1-15-0.
Grade V	1-0-0—1 anna—1-7-0	1-2-0—1 anna—1-10-0 (L'olpers). 1-0-0—1 anna—1-8-0

The difficulty however in applying the Kirloskar award will be that there is no demand for classification in the present case. The nature of work of the various categories in the two companies in some instances differ. Apart from this, grades are fixed according to the requirements of the work, in that company. It would therefore be highly inappropriate to follow the Kirloskar award blindly I do not wish to grant the same wage to every category in this company as given in Kirloskar or in Mahindra and Mahindra. All that I wish to do is to take the wages awarded recently to these units into consideration among other factors bearing in mind the essential differences like the capacity of the employer, nature of work and skill and responsibilities involved in it. I am not called upon by the terms of reference to classify the workers in different occupations. The daily rated workers of the factory are divided into five grades at present. I shall not disturb the present classification. I shall first consider the demand regarding the clerks and monthly rated workers.

33. So far as clerks are concerned the nature of duties in Kirloskar Oil Engines Ltd. or Mahindra and Mahindra cannot be very much different. In Kirloskar Oil Engines Ltd. under Shri Sawarkar's award five grades have been awarded. The scale for Grade I is Rs. 85—100—10—200. The maximum and the minimum is the same as is paid by Ruston & Hornsby Ltd. For Grade II clerks Shri Sawarkar awarded Rs. 85—5—140—EB—7/8—200 which is more than what II clerks are paid in this company. The third grade of clerks under the award of Shri Sawarkar are paid Rs. 64—70—85—5—140—7/8—200 which is more than what third grade clerks in this company are drawing. The fourth and fifth grade of clerks do not exist in the present company. In Mahindra and Mahindra the clerks are getting the same as the clerks are getting in this company. There has been no award in regard to them. As there are only three grades of clerks in this company I shall raise the maximum of the first grade higher than the first grade in Kirloskar and award them the following grade :—

Rs. 95—5—145—7½—190—10—230.

To the second grade I award the same as the Kirloskar, i.e. :—

Rs. 85—5—140—EB—7½—200.

To the third grade I award :—

Rs. 65—3—95—5—120—7½—150—10—200.

The demand for a higher starting salary for graduates I cannot allow. While recruiting, the company takes care I am sure that only persons with certain minimum qualifications are taken. Merely because a person has some qualifications higher than the minimum required he is not entitled to get any

special pay or start. On the same ground I am not going to give any lesser start to non-matriculates. So far as the demand for the senior clerks is concerned the statement filed by the company Exhibit C-6, the correctness of which is not denied by the Union does not contain any category of senior clerks. I do not think I am competent under the terms of reference to create any new category.

34. So far as typists are concerned in Kirloskar Oil Engines Ltd. under the award they are getting the same as the typists at present in this concern. I think this pay is low. I award :—

Rs. 60—4—100—5—150.

I have removed the efficiency bar in the case of typists which is unnecessary. In Kirloskar Oil Engines Ltd. the typists pay is Rs. 55—3—85—EB—4—125—EB—5—130.

35. *Stenographers.*—The Union demands the scale of Rs. 130—10—120—12½—242½—15—332½—20 every year thereafter without ceiling. This demand is extravagant. Shri Sawarkar has awarded in Kirloskar Oil Engines Ltd. the grade of Rs. 85—5—140—EB—7½—200—EB—10—250. This scale is quite reasonable and I award the same. Instead of having two efficiency bars I will have only one efficiency bar at the stage when he reaches the grade of Rs. 200. He will earn increments thereafter only on crossing the efficiency bar. Shri Sawarkar on account of there being two grades in Kirloskar has given two efficiency bars which do not exist in the present case.

36. *Time-keeper.*—The company says that there is no such post as that of a time keeper but there is one of time clerk whose wages are Rs. 46—3—85—4—125, which is the same as that of clerks. I award for time clerk the same scale which I have awarded for clerks.

37. *Draftsmen.*—For draftsmen the union wants Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter without a ceiling. The workers in this category are getting at present Rs. 85—5—140—EB—7½—200. Shri Sawarkar in Kirloskar Oil Engines Ltd. has awarded both for junior and senior draftsmen Rs. 85—5—100—7½—160—EB—10—200. I award them a slightly higher scale. In Kirloskar Oil Engines Ltd. there were two grades of draftsmen and Shri Sawarkar awarded one continuous scale with an efficiency bar thus merging the lower grade into the higher. It was for this reason that he had put the minimum rather low. In this company there are no two grades but there are assistant draftsmen. I do not propose to unite the two categories. I therefore award the draftsmen Rs. 90—5—140—7½—200—10—240.

38. *Tracer.*—The next category is that of the tracers who are at present getting Rs. 55—3—85—EB—4—125. In Kirloskar Oil Engines Ltd. a daily rate of Rs. 2-4-0—0-3-0—Rs. 3-12-0 has been fixed under the award. The tracers in this company are at present getting more on the whole than who has been awarded by Shri Sawarkar although the minimum he has awarded is slightly higher. I award for this category Rs. 60—3—90—EB—4—110—5—130.

39. *Chargemen.*—At present the chargemen get Rs. 100—5—140—EB—7½—200. The demand of the union is that they should get Rs. 250—20—350—25—475—30—655—40 (no maximum). In Kirloskar Oil Engines a foreman gets Rs. 275—25—400 under the Award. In Mahindra & Mahindra a foreman gets Rs. 200—15—275—20—375, and a chargehand gets Rs. 105—10—155—12½—200. The nature of the work done by chargemen is supervisory in nature as appears from company's Exhibit C-28 collectively and also from the Union's

Exhibit U-15 collectively. The company says that this category cannot be compared with foremen but with supervisors in Kirloskar Oil Engines Ltd. The wages of supervisors in that company are given at paragraph 85 page 241. Considering the duties and responsibilities of the workers in this category in this company I think the proper wage scale will be Rs. 110—5—135—7½—180—10—220. This category cannot be compared with foremen in Kirloskar or in Mahindra and Mahindra, and cannot claim the same wages. As a matter of fact their duties are more akin to those of supervisors but considering the greater responsibilities I have fixed a scale higher than for supervisors in Kirloskar.

40. *Peons and Watchmen.*—The next category in the reference is that of peons. From them union demands Rs. 45—4—65—5—90—6—125—8 every year thereafter without ceiling. There is no grade fixed in the Kirloskar award for this category. I award for this category Rs. 35—2—55—2½—60. I award the watchmen the same scale as that for peons.

41. *Store Keeper.*—He is at present getting the scale of Rs. 85—5—140—½—200. The Union demands Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter. Shri Sawarkar has awarded in Kirloskar Oil Engines Ltd. for this category the grade of Rs. 95—5—150—EB—10—250. The nature of the work cannot be different. I award them the same.

2. *Stores Supervisors.*—He is at present getting the same wages as store keepers. I fix for him the same wage scale as I have fixed for store keepers.

3. *Assistant Store Keeper.*—The Assistant Store keeper in the company is getting Rs. 55—3—85—EB—4—125. In Mahindra and Mahindra workers of this category are getting the same. Shri Sawarkar in the Kirloskar Oil Engines has awarded Rs. 85—5—140—EB—7½—200. I award the same. The nature of duties should be practically the same.

*Inspector.*—The demand is of Rs. 150—15—225—17½—312½—20—432½—25 every year thereafter for this category of workers. They are at present getting the same scale as clerks and I will give them the same increase without any bar. They are at present getting Rs. 85—5—140—7½—200. I award Rs. 90—5—150—EB—7½—180—10—220.

*Jamadar.*—For Jamadar the Union demands Rs. 80—8—120—9—165—15 every year thereafter. At present the Jamadars in this company are getting Rs. 74—4—94. In Kirloskar Oil Engines they are getting under award only Rs. 40—3—61. The Jamadar in this company is getting more wages than that of a peon, at present. He appears to be some kind of a small officer in charge of the Watch and Ward Department. In Kirloskar award he is getting much lower wages. There is no comparison of duties of the two. I cannot therefore be guided by Shri Sawarkar's award for Jamadars the scale of Rs. 80—5—125.

*Malee.*—Malees are at present getting Rs. 30—1—34—2—40. The Union demands Rs. 45—4—65—5—90—6—126—8 every year thereafter. In Kirloskar Oil Engines they were awarded Rs. 35—0—0—1—10—0—Rs. 48—8—0. I award Rs. 35—1—45—2—55.

*Peon.*—I award the same scale as for the Malee.

*Peon.*—The union's demand for this category is Rs. 120—10—232½—15—322½—20 every year thereafter. They are getting at present Rs. 85—5—140—7½—200. I award Rs. 95—5—120—7½—195—10—225.

(Lino)



49. Dresser.—The company has shown in its Exhibit C-6 that such category does not exist. The union has not shown that it does exist. As already stated, in this reference I am not competent to create new categories. Therefore the demand for this category is rejected.

50. In the present case the daily rated manual workers were divided into five classes and wages fixed classwise. The demand of the union to fix the wages for each category is not correct. The union wanted that judgment should be given according to the skill involved in the performance of the work. The company pointed out that in all other workers were divided into five classes; and then various categories were fixed in each class. This is the only true basis on which they can be fixed, viz. according to skill and responsibility involved in the work. To fix the wages for each category separately would mean determining the skill of each worker and also fixing each category in its proper class, for example if the wages of power house driver were to be fixed, it would mean that we will have to determine first in what class, i.e. skilled, semi-skilled, unskilled etc. would this category fall, and then determine his wages. This he contends is beyond the scope of the reference and will amount to making indirectly a classification which is not demanded. If this was to be done, he contends, the assessors will have to be appointed to determine the skill of each workman. In the present case however as the workers are already divided into various classes and these classes are fixed on the basis of skill, it is not necessary to undertake a re-classification. I find that the assessors at Kirloskar have also more or less fitted the workers in various classes on the same lines as in this concern. I think it will meet the ends of justice if I increase the wages in the various grades on the same lines as in Mahindra or Kirloskar sometimes a little more or less to suit the difference in the nature of classification without disturbing the present classification. Only in regard to the workers in the 5th Grade I feel that different scales for different kinds of workers are necessary.

51. The workers in Select Grade I in this company are at present getting Rs. 3-0-0—As. 3—Rs. 3-12-0 per day. The demand is for Rs. 5-8-0—As. 4—Rs. 6-14-6—As. 5½—Rs. 8-10—As. 6½—11-1—As. 8 with no maximum. The demand is rather high. The highly skilled workers in Mahindra or Kirloskar are getting under the award Rs. 3-0-0—As. 3—Rs. 4-5-0. In this company the workers who have to make parts of the machine, in character inspectors etc. Some of the workers in Select Grade I in this company are getting Rs. 3-0-0—As. 4—Rs. 5-0-0. The demand for this category of workers who are at present in this class will continue to be Rs. 3-50—25 nP.—Rs. 5-00 i.e. the same as awarded in Select Grade, there.

52. The workers in Grade II are getting Rs. 2-0-0—As. 2—Rs. 2-13-0 per day. The demand is for Rs. 2-0-0—As. 3½—Rs. 3-13-0 was awarded. For skilled workers in Mahindra & Kirloskar the award is Rs. 2-0-0—As. 3½—Rs. 3-13-0. The category of workers in Skilled A in Mahindra are carpenters, motor drivers as in this concern. In Kirloskar millers, boilers, electricians, pattern makers, engine fitters, etc. have been included in this category. Some of the categories like blacksmith, carpenters who are placed in Grade II in this company are getting Rs. 2-0-0—As. 3½—Rs. 3-13-0. I shall therefore award some think less than Rs. 2-0-0—As. 3½—Rs. 3-13-0. I think the proper scales for the category of workers in the present company would be Rs. 2-50—20 nP.—3-50—25 nP. I award.

53. For Grade III the wage at present in this company is Rs. 2-2-0—As. 2—s. 2-8-0. For Skilled B in Mahindra & Mahindra Shri Sawarkar has prescribed Rs. 2-2-0—As. 2—Rs. 3-0-0, for Sk. B in Kirloskar he prescribed 2-0-0—As. 3—Rs. 3-2-0. In Mahindra, machine operators, gas plumbers, shear operators, etc., have been placed in this category. In Kirloskar even turners, fitters and grinders for whose work less skill is required than others in higher class are placed in this class. In Mahindra and Mahindra some of the categories put in this class are the same as in this company. The starting wage in this class is higher in this company than in Kirloskar for the award for Sk. B. I prescribe for this grade of workers the following scale Rs. 2—20—15 nP.—Rs. 3'10.

4. For workers in Grade IV the wages at present in this company are Rs. 1-6-0—As. 2—Rs. 2-0-0 per day. For semi-skilled A in Mahindra and Mahindra Shri Sawarkar has awarded Rs. 1-12-0—As. 2—Rs. 2-10-0 per day. Millers, painters, fitters and some such categories are common to semi-skilled A in Mahindra and Grade IV of this company. Shri Sawarkar has awarded semi-skilled A in Kirloskar Rs. 1-10-0—As. 2—Rs. 2-6-0. Millers and drillers in lower categories of fitters are put in this class in Kirloskar. I award for this category Rs. 1'75—15 nP. Rs. 2'65 as the classification in this company is more like Mahindra and Mahindra than Kirloskar.

In Grade V in the present company are drillers, hacksaw machinemen, painters, store mukadams, millers etc. In this grade there are some unskilled workers, and some semi-skilled. For these workers there is not any grade either in Mahindra or Kirloskar. In Semi-skilled B class in Mahindra in which are grinders and workers who come in contact with machines get Rs. 1-6-0—As. 2—Rs. 2-4-0. For mazdoors and unskilled workers who have a grade of unskilled, the wages of which are Re. 1—Anna 1 to Rs. 1-7-0 per day. In Kirloskar there are two grades for these workmen who are put in the 5th Grade in this company; semi-skilled B and unskilled. In semi-skilled B are put painters who are here in Gr. 5 Hacksaw machinemen and their helpers. mukadam etc. are also in this grade whereas mazdoors, canteen and office boys are in unskilled grade. All helpers to unskilled in higher grade are put in semi-skilled B grade. I shall also therefore place these workers into two sub-grades. V-A and V-B. In Grade V-A will be placed workers who come in contact with machines in the course of their duties, and in Grade V-B will be placed workers whose duties are manual, requiring no skill whatever, and who do not come in contact with machines, e.g. workers like mazdoors, malis, office and canteen boys etc. The management in consultation with the union may put the workers who are at present in Grade V into these grades. I am merely prescribing different wages for workers doing different kind of work in the same grade and this cannot be objected to on the ground that I am making classification and thus travelling beyond the terms of reference. In Kirloskar the lowest paid worker gets Re. 1—Anna—1—Rs. 1-8-0 and in Mahindra Anna 1 Rs. 1-10-0 respectively and semi-skilled B Rs. 1-6-0 Annas 1-15-0. I direct the following grades V-A and V-B in place of the Grade V:—

Grade V-A ... Rs. 1'40—12 nP.—Rs. 2'24.  
Grade V-B ... Rs. 1'12—6 nP.—1'60.

The wages fixed for the various Grades mentioned above are shown in the attached statement as under:—

I (Select)	...	Rs. 3'50—25 nP.—5'00.
II	...	Rs. 2'50—20 nP.—3'50.
III	...	Rs. 2'20—15 nP.—3'10.
IV	...	Rs. 1'75—15 nP.—2'65.
V-A	...	Rs. 1'40—12 nP.—2'24.
V-B	...	Rs. 1'12—6 nP.—1'60.

57. About the apprentices I shall consider the question of the increase of their wages with Demand No. 8 which is for curtailment of the period of apprenticeship, because increment will depend on the period of their service as apprentice.

58. *Trainee-clerks—Apprentice Clerks.*—The union wants these categories to be abolished and the present incumbents placed in clerical grade. I do not see any necessity for abolishing these categories. It will not be proper to direct that they should be absorbed in clerical grade. The reason given by the union is that the clerks's job requires no special training and the company has got these categories in order to employ persons to work as trainee clerks and make them work as full fledged clerks while paying them less wages. I think the trainee clerks should be paid as Rs. 45-2-55. There is no demand for fixation of the period of training. In regard to the contention that the company exploits workers I think that a worker who considers these terms unsatisfactory would not accept to work as trainee clerk and the question of exploitation does not arise. I am unable to agree with the view that absolutely no training is required for clerk's job.

59. *Mazdoors.*—In regard to mazdoors who are required to help an operator in the operation of the machine and other processes such as riveting, fitting, etc., the demand is that they should be placed in the grade Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-6—0-4-0 every year thereafter. I have directed above that those workers who come in contact with the machines should be placed in Grade V-A and if these mazdoors come in contact with the machines they should be placed in that Grade.

60. *Adjustments.*—So far as adjustment is concerned the demand is point to point adjustment, this cannot be awarded as scales already exist. I direct that the workers should be adjusted in the new wage-scale or grade according to their present salary, or wages, and if this does not conform with any stage in the new grade they should be stepped up to the higher stage in the grade, and then given one increment for every completed service of two years and thereafter they should be given an increment every three years of completed service subject to a maximum of three increments.

*Demand No. 2—Dearness Allowance.*

61. In regard to this demand Shri Sule on behalf of the union says the cost of living at Chinchwad in regard to some articles of food is more than that of Poona, and in regard to many necessary articles the same as in Bombay. That the housing situation in that locality is very bad, and in small rooms the workers have to pay Rs. 10 per month. At the time of my inspection I was taken by Shri Sule to some quarters where the workers were living opposite the factory. The rent of a room 8 or 10 feet by 10 feet I learnt on inquiry was Rs. 10 per month. One of the grocers Datt Ganpat, who was examined says, that a number of persons come from Talegaon for work in Ruston & Hornsby, and that the average rent is Rs. 20 for two-room old tenement, single room tenements are available at Rs. 10 or Rs. 12. One of the workers Shri M. D. Thakur says that he pays Rs. 12 for two rooms at Nigdi, about a mile from the factory. In regard to the cost of living at Chinchwad some evidence was produced by Shri Sule at the time of my inspection. The grocer Dattatraya, about whom I have made a mention above, stated that he maintains a Canteen in Ruston & Hornsby premises for 2½ years. He says that he used to purchase stocks from Bombay, and that now he is purchasing the same from Poona. According to him if the price of rice is 13 As. per seer, in Poona it would be 14 As. in Chinchwad. The rate of tur dal he says is the

both places. Sugar retail price is Re. 1 for medium and Rs. 1-1-0 for thick sugar at Poona while at Chinchwad it is Rs. 1-1-0 and Rs. 1-2-0 for medium and thick sugar respectively. The price of kerosene and jaggery he says is the same at both the places, but the price of rice at Chinchwad during the season is lower than at Poona. Milk according to this witness is cheaper by 3 As. at Chinchwad than at Poona. While he was maintaining the canteen he says the cost of food was five annas for a thali consisting of 2 balls rice, 2 chapatis, 2 vati dal, butter milk, 1 vegetable and chutney. He says in his cross examination that jowar is sold at Rs. 16 per maund in Chinchwad and that its purchase price is Rs. 14-8-0. The next witness Honarao who is a cloth merchant says that he has been running a shop at Chinchwad for 5-6 years and the retail prices in Poona and Chinchwad are roughly as follows :—

	Poona.	Chinchwad.
Shirting	Rs. 1-4-0	Rs. 1-6-0
Dhotis	Rs. 8-0-0	Rs. 8-4-0
Khans	Rs. 1-4-0	Rs. 1-6-0

He says further that 200-250 workers from Ruston & Hornsby buy cloth from him. On an average they purchase cloth worth Rs. 200 to Rs. 250 per year. One of the workers D. R. Mali buys cloth from him and in the last six months he had purchased cloth worth Rs. 100. Another grocer Ananda Dangat says that he sells grain, oil soap etc. to workers in Ruston & Hornsby. He has given comparative prices of various articles at Chinchwad, Dehu Road and Poona as follows :—

	Chinchwad.	Dehu Road.	Poona.
Sugar (thick)	Rs. 1-2-0	Rs. 1-2-0	Rs. 1-1-0 per seer.
Rice	12 As. to 15 As.	12 As. to 15 As.	11 As. to 15 As.
Kerosene	Rs. 1-8-0	Rs. 1-8-0	Rs. 1-8-0 per galn.

The price of kopra he says is Rs. 2-8-0 per seer. One of the workers G. L. More, he says has purchased goods worth Rs. 45-14-0 from him during the last month. On 12th of that month he purchased 8 seers of rice for Rs. 4-14-0,  $\frac{1}{2}$  maund jowar for Rs. 7-12-0, sweet oil 2 seers for Rs. 3-12-0, Rawa  $1\frac{1}{2}$  seers for Rs. 1-5-0. Another worker Kate he says purchased food grains worth Rs. 39-4-3 in January 1958 and in January 1958 he purchased articles as follows :—

Kerosene tin	Rs. 5-10-0
Coconut	Re. 0-4-6
Rice 20 seers	Rs. 15-10-0

Shri Sule says that Poona and localities in proximity of that city where industries are springing up have been linked to Sholapur, but in fact the cost of living in Poona and these places is much higher. It is not obligatory on the tribunals to follow those previous awards in which this has been done when a comparison of the prices will make it quite clear that the prices at Chinchwad and Poona of practically every article item of necessity are higher than Sholapur. Poona he says has rapidly developed and has now become an important city in the State whereas Sholapur is losing its importance owing to closing down of certain cotton mills and various causes. As there is no hard and fast rule that Sholapur cost of living should be taken as a guide, the tribunal is free to ascertain the prices and decide what earnings allowance would be proper for workers in the locality. He filed a statement marked Exhibit U-12 collectively showing the prices of various articles of food and cloth from September 1955 to December 1958 for

Sholapur, Chinchwad etc. The figures for Sholapur and Bombay in this exhibit were checked and found correct. Regarding Chinchwad figures Shri Sule says that the figures were taken from local shops and markets. The company does not admit the correctness of these. Shri Sule also points out that the distance between Bombay and Poona is much less than between Poona and Sholapur, and in every respect Poona is more comparable to Bombay than Sholapur. Shri Setlur on behalf of the company on the other hand contends that it is highly unsafe for the tribunal to form any opinion about the cost of living of any locality by merely taking statement of one or two grocers regarding articles of necessity. He says that Shri Sawarkar in Kirloskar Oil Engines Ltd. and in Mahindra & Mahindra has fully considered this question, and expressed an opinion that it will be unsafe to rely on data collected by a private agency as opposed to the actual figures. Reliance is placed on the following observations of Shri Sawarkar in Mahindra & Mahindra, *Bombay Government Gazette*, Part I-L, dated 6th February 1958, paragraph 11, page 761, quoted in the award in Kirloskar Oil Engines Ltd., *Bombay Government Gazette*, Part I-L, dated 15th January 1959, p. 205, at pp. 244-245 :—

“But the data collected by the Sabha are collected by a private agency and have to be accepted with caution. Secondly, no witnesses on behalf of the Sabha have come forward to depose to the method of collecting the data. Thirdly, unless a general survey as regards the cost of living in Poona is undertaken, one would not get a comparatively correct picture of the position. Fourthly recently there has been a re-survey of Poona by the Gokhale Institute of Politics and Economics. Even in that re-survey the Institute has made no attempt at finding the cost of living at Poona. That would show that it is not safe to take the data collected by the Sabha as sufficient.”

These observations, he says, were made in answer to the contention advanced by the union which was exactly similar to that advanced by Shri Sule in the present case. Apart from this, he says that the dearness allowance which is paid at Bombay has never in any single instance, been given to workers in any unit in any industry whatever in Poona. The cost of living in big and important cities like Bombay, Calcutta, Delhi is bound to be much higher on the whole, than small towns like Poona or Sholapur. The fact that Poona is a few miles nearer to Bombay than Sholapur cannot be a reason for considering it more comparable to Bombay. He also says that it is not enough to find out merely the prices of certain articles of food, but it has to be investigated as to what is the usual food taken by the workers in the locality. If this is not done the estimate of the cost of living is likely to be completely misleading. The living habits of the workers, facilities for transport, and other considerations have to be taken into account. It is precisely for these reasons that the tribunals have refused to depart from the cost of living index numbers published by Government. Even in cotton textile industry at Poona, Shri Setlur points out, dearness allowance is linked to Sholapur and not to Bombay. In spite of the fact that the cotton textile industry is the oldest and best established industry in India, and pays higher dearness allowance than any other except in the Petroleum industry, it was not under the award made to pay more than mills at Sholapur.

62. I entirely agree with the view expressed by Shri Sawarkar in Mahindra & Mahindra towards which my attention was invited by Shri Setlur, that it is unsafe to judge the cost of living of an area on the strength of the statement of one or two witnesses, when this is opposed to a general survey of the cost of living undertaken by Government. Shri Sawarkar has pointed out in re-survey of Poona by the Gokhale Institute of Politics & Economics it was found that in the cost of living at Poona and Sholapur there was not

much difference, and that Poona should therefore be linked up with that at Sholapur. Though I agree that against the cost of living index published by the Government reliance cannot be placed on statements of a few witnesses of the locality, but where there is no Government index published as in Poona, some idea of the cost of living can be formed by the statement of witnesses who have actually been supplying articles of food and cloth and other necessities to the workers. I do not say that I propose to depart from the practice of linking up Poona or area near about that city to Sholapur, but if by taking the figures collected from the market, and other evidence it appears that the cost of living in Chinchwad is much higher than in Sholapur, then there is no reason why a higher rate of neutralisation of the cost of living of Sholapur should not be given at Chinchwad than at Sholapur. In the present instance I have found that the prices given in the Labour Gazette of 1958 of various articles of food etc. at Sholapur are much lower than the prices given by the grocers who have actually sold these articles to the workers at Chinchwad as will appear from the following table :—

December 1958 (Labour Gazette January 1959)—

	Sholapur.	Chinchwad.
Rice per seer	0.64	0.75 to 0.87
Sugar per seer	1.06 to 1.09	1.08 to 1.12
Dhoti pair	8.55	8.25
Jowar per seer	.37	.40

63. We find that even in 1952-53 according to the Labour Gazette of March 1954, the prices of all the articles of food which are usually consumed in Poona were much higher in Poona than Sholapur as will be evident from the following table :—

	Poona.	Sholapur.
	Rs. a. p.	Rs. a. p.
Rice per maund.	29 11 4	23 1 6
Wheat Do.	20 12 9	13 5 5
Jowar Do.	12 7 0	10 1 4
Tur Dal Do.	24 4 11	23 7 5
Sugar Do.	35 6 1	35 5 4
Milk Do.	34 1 7	30 7 1

I have already referred to the evidence of the witnesses Dattatraya Ganpat and Shri Thakur that the housing situation in Chinchwad is bad and rents are high. This was confirmed by my inquiries made at the time I inspected the tenements in which some workers lived in the neighbourhood of the factory. Taking this into consideration, as I have stated above, I think I shall be justified in giving a higher neutralisation to workers in Chinchwad than that given at Sholapur. This neutralisation of course will be on the Sholapur cost of living index. Shri Setlur also contends that it will be improper to give higher dearness allowance to workers in this concern than workers in units like Kirloskar Oil Engines Ltd. and Mahindra and Mahindra under recent awards in the same industry and region doing practically the same work. This he says will lead to industrial unrest and unfair competition. Though I agree that there should not be any great difference between the total emoluments of workers of different units of the same industry in the same region yet I feel I am not absolutely bound to award exactly the same rate of dearness allowance as in other concerns if strong reasons exist for giving a higher rate. I think considering the cost of living at Poona and in the neighbourhood, 75 per cent. neutralisation on the cost of living at Sholapur on the basic wage of Rs. 26 will be proper for

this concern. I therefore award 75 per cent. neutralisation on the Sholapur cost of living index on the minimum wage of Rs. 26 for a month of 26 working days for the workers of this company.

64. For the monthly rated staff according to Exhibit U-8 dearness allowance is paid as follows :—

Basic pay.			Dearness Allowance per month.
Rs. 1 to 50	...	...	Rs. 35
Rs. 51 to 100	...	...	Rs. 45
Rs. 101 to 150	...	...	Rs. 50
Rs. 151 to 200	...	...	Rs. 55
Rs. 201 to 300	...	...	Rs. 60
Rs. 301 to 500	...	...	Rs. 70
Rs. 501 to 750	...	...	Rs. 85
Rs. 751 to 1000	...	...	Rs. 100

In Kirloskar Oil Engines Ltd. in which the dearness allowance for the monthly rated staff is on the same lines as above Shri Sawarkar refused to give any increase. Since I have given higher dearness allowance to the daily rated workmen than fixed in Kirloskar award I think the monthly rated workmen should on the same grounds be given more dearness allowance. I therefore award dearness allowance to the monthly rated workmen on the following basis :—

Basic pay.			Dearness Allowance per month.
Rs. 1 to 50	...	...	Rs. 45
Rs. 51 to 100	...	...	Rs. 55
Rs. 101 to 150	...	...	Rs. 60
Rs. 151 to 200	...	...	Rs. 65
Rs. 201 to 300	...	...	Rs. 70
Rs. 301 to 500	...	...	Rs. 80
Rs. 501 to 750	...	...	Rs. 100
Rs. 751 to 1000	...	...	Rs. 125

Demand No. 3—Sick Leave.

65. So far as sick leave is concerned, the company has filed Exhibit C-13 showing the contribution made by it under the Employees State Insurance scheme. The scheme is likely to be applied to this region at an early date. At present the company gives 12 days sick leave in a year on half pay and half dearness allowance or six days on full pay and full dearness allowance. I direct that till the employees' State Insurance Scheme is made applicable, the workers should be entitled to 20 days sick leave on half pay and half dearness allowance per year, or 10 days on full pay and full dearness allowance, with a right to accumulate it as for three years.

67. In the schedule of demands the union has added a note to this demand in which it wants that the workmen should have an option of taking privilege leave for sickness if he so desires and also of taking one leave in continuation of the other. No arguments have been addressed by either party on this. I do not see what possible objection there can be to the workmen taking privilege leave for sickness if he falls ill, and also if he is entitled to

privilege leave in addition to sick leave, why the two kinds of leave he should not be allowed to take in continuation of the other. The demand made in this note is therefore granted.

*Demand No. 4—Leave without Pay.*

68. According to Exhibit C-25 submitted by the company the correctness of which is not denied by the union, no leave without pay is being either given in Mahindra and Mahindra or in Kirloskar. It was observed in Standard Vaccum Oil Co.—1948 I.C.R. 414 that to provide for such leave as a matter of right would be evidently unreasonable. I do not see any reason why leave without pay should be granted in this company. This demand is therefore rejected.

*Demand No. 5—Holiday Work Allowance.*

69. The union demands that whenever a workman is made to work on a holiday he should be given a compensatory off day plus one and half day's wages in addition to his normal wages for the day in the case of paid holidays and in the case of unpaid holidays  $2\frac{1}{2}$  times wages. In Mahindra and Mahindra if holidays are substituted by Sundays, no extra remuneration for Sunday is paid. In Kirloskar Oil Engines, if holidays are substituted for Sundays  $1\frac{1}{2}$  times the basic wages, and dearness for working on a holiday in addition to a substituted holiday is given. I think that if a worker is made to work on a holiday he is not sufficiently compensated by giving a compensatory day off, as he has to work on a day when others enjoy their holiday, and generally these holidays are given on some festival days, and he is prevented from joining others in celebrating the festival. I therefore direct the company to give him  $1\frac{1}{2}$  times his basic wages and dearness allowance in addition to a substituted holiday whenever he is made to work on a paid or unpaid holiday. By  $1\frac{1}{2}$  times I mean that he will get 50 per cent. in addition to his usual basic wage and dearness allowance.

*Demand No. 6—Working in 2nd and 3rd shifts.*

69. The union demands reduction in hours of work for 2nd and 3rd shift without reduction in wages. The company says that the union's statement that in other Engineering units the 2nd and 3rd shift is of shorter duration is not correct, and also says that the night shift in this company is only of  $7\frac{1}{2}$  hours. In the statement Exhibit C-25, contrary to the written statement, paragraph 43, in column 3 it is stated that the third shift is a partial shift of  $6\frac{1}{2}$  hours. I think the proper duration for the second shift is  $7\frac{1}{2}$  hours. I therefore direct that the duration of the 2nd shift be  $7\frac{1}{2}$  hours without reduction in wages. In Kirloskar the duration is 7 hours, 50 minutes and in Mahindra and Mahindra where only two shifts are worked it is  $7\frac{1}{2}$  hours.

*Demand No. 7—Paid Holidays.*

70. Shri Sawarkar has observed in the case of Kirloskar Oil Engines in connection with this demand that four paid holidays should be the maximum in Engineering concerns. I agree with this opinion. I therefore grant four paid holidays which means that in addition to the two paid holidays at present given, the company should grant two more paid holidays. The company is directed to fix these holidays in consultation with the union.



*Demand No. 8—Apprenticeship.*

71. In regard to this demand, Shri Sule says that the period of five years for apprenticeship is long. There is no work done in this factory to learn which such a long time is required. The result of this is that many workers who after two or three years have become proficient in their jobs, are made to work like any other full-fledged workmen, though they are paid the scanty wages of an apprentice. The company in this way exploits these apprentices. During my inspection I made inquiries from persons who were working as apprentices. Among these U. V. Raut said that he was working for two years as an apprentice and was given only Rs. 1-1-0 per day. He is a qualified person having passed his S.S.C. Similarly one N. Janardhan who has passed his S.S.C. and has completed 1½ years apprenticeship is getting Rs. 1-1-0 basic. He says that he has also completed the Diploma course of Civil Engineering. Shri Narayan Sakharam Gore is another apprentice in Engine Fitting who is getting Rs. 1-2-0 basic and has completed three years apprenticeship. I think the period of apprenticeship should be curtailed to three years, and after the expiry of this period the apprentice should be tested, and if he passes the test, and the company wants to absorb him as a regular worker, it may do so. This absorption should be left to the discretion of the management. If he fails the test he may be given an option to continue for another two years as apprentice or his apprenticeship may be terminated.

72. In so far as the wages of apprentices are concerned I think that the wages which he gets viz. Rs. 1 — 1 anna— Rs. 1-6-0 are rather low. An apprentice should receive the same wages as a worker in Grade V-A, viz. Rs. 1-40 — 12nP. — 1-76 (the period of apprenticeship being limited to 3 years).

*Demand No. 9—Gratuity.*

73. At present the company has a provident fund scheme under the Provident Funds Act with a contribution by the company equal to 6½ per cent. of the total wages. In addition to that it has also a gratuity scheme as follows :—

“You will be paid gratuity as follows :—

(a) In the event of permanent disability or death while in the service of the Company—half a month's salary for each year of service subject to a maximum of 15 months' salary to be paid to you or your heirs or executors or nominees as the case may be.

(b) On voluntary retirement or resignation, after 15 years' continuous service in the Company—one half of a month's salary for each year of service subject to a maximum of 15 months' salary.

(c) On termination of service by the Company—

(i) After 10 years' continuous service but less than 15 years' service in the Company—3/8th of one month's salary for each year of service.

(ii) After 15 years' service in the company — half a month's salary for each year of service subject to a maximum of 15 months' salary.

In the event of dismissal for dishonesty or misconduct, no gratuity shall be paid.

Salary for the purpose of calculating gratuity shall mean the substantive salary, exclusive of all Allowances.

74. I think the Gratuity scheme awarded by Shri Sawarkar in Kirloskar Oil Engines Ltd. (Bombay Government Gazette—Part I-L, dated 17th July 1959, p. 3596 at p. 3603) is adequate and will be proper for this company also. I therefore prescribe the following scheme of gratuity for the workmen before me :—

(1) On the death of a workman while in the company or on his becoming physically or mentally incapable to continue further in service—one month's salary or wages for each year of service subject to a maximum of 15 months' salary or wages, to be paid to the disabled workman, or, if he has died, to his heirs or legal representatives or assigns.

(2) On voluntary retirement or resignation of a workman after 15 years of service in the company—one month's salary or wages for each year of service subject to the maximum of 15 months' salary or wages.

(3) On termination of service by the company—

(a) After 10 years of service but less than 15 years of service—Half month's salary or wages for each year of service.

(b) After 15 years of service—one month's salary or wages for each year of continuous service subject to a maximum of 15 months' salary or wages.

(4) Gratuity shall not be paid to a workman who is dismissed for misconduct.

(5) Salary for the purposes of gratuity shall be basic salary exclusive of all allowances due to the workmen for the month preceding the occurrence of the event entitling them to gratuity.

(6) Service for the purpose of gratuity shall be computed from the date the workmen joined the service of the company.

The burden of gratuity is not immediate and whatever the company's present financial position may be, it is certain that it will improve in future considering that it is expanding rapidly and the demand for its products is likely to increase. Apart from that this company has started in Chinchwad only — recently and it will be some time before the gratuity becomes due to any worker. Shri Sat'ur laid a good deal of stress on the fact that this company is only in its infancy and generally at this stage a scheme of gratuity is not awarded. This depends on circumstances of each case. Besides I am not introducing any new scheme of gratuity but only increasing the benefit which this company already gives.

#### *Demand No. 10—Retrospective Effect.*

75. This is a demand for retrospective effect to be given to the demands about wage-scales, dearness allowance and gratuity from 1st February 1957. Shri Sule says that in Mahindra and Mahindra retrospective effect has been given from 1st June 1957. If the union's demand for retrospective effect from 1st February 1957 is not granted at least it should be given from 1st June 1957. He says that in this case there is no reason why the workers of this concern should suffer because Government delayed making the reference. They had raised the demands earlier than the workers in Mahindra and Mahindra; that from 4th March 1957 till 18th April 1958 the matter was pending before the Conciliator. I think that giving retrospective effect from the time the union demands or even from the date of reference so far as dearness allowance is concerned will place a very heavy burden on the

finances of the company. The number of workers is quite large, i.e. 545. I have already shown that though the company made profits till the year 1954, it made a loss in 1955, and thereafter has been making very little profits compared to the capital invested. It is still in its infancy and has not built up any reserves. Its capital has increased but the profits have not increased in proportion. It is an expanding concern on which I do not want to place any burden which may seriously impede its progress at this stage. The increase which I have given in dearness allowance is considerable. Merely because in Mahindra and Mahindra retrospective effect has been given from a certain date, the workers in this company cannot claim to have the same, regardless of the financial position of the company. The burden of retrospective effect of dearness allowance, if given from the date of reference would be far heavier than the wage-scales. The reference in this case was made on 10th April 1958. I therefore give retrospective effect to the wage-scales from 1st May 1958. The wages as on that date will be adjusted in the manner stated above, in connection with the demand for adjustments. As regards the dearness allowance I give retrospective effect from 1st April, 1959. Arrears falling due under this award shall be paid within two months of the date this award becomes enforceable. No person shall be adversely affected in his pay or wages, and if any one is getting higher wage and pay than awarded above he shall continue to get the same as his personal pay or wage.

76. As regards gratuity, the scheme as directed above shall come in force from 1st May 1958. Any employee who is eligible to receive gratuity from that date shall be paid the same at the rates as directed.

Reference (IT) No. 406 of 1958.

77. The only demand in this reference is for wage-scale for Truck cleaners which is as under --

Rs. 2-8-0—0-2-0—3-2-0—0-2-6—3-14-6—0-3-0—5-0-6—0-4-0 every year thereafter.

It is also demanded that point to point adjustment should be made and that retrospective effect should be given from 1st February 1957. The union says that the trucks of the company are constantly running between Bombay and Chinchwad with heavy load, and the truck cleaners are required to attend to repair work apart from cleaning, loading and unloading the trucks. The present wage of Rs. 1-0-0—1 anna Rs. 1-6-0 per day is inadequate. The company has not filed any written statement. Truck cleaners in this company are put in Grade V at present. He should be given the same grade as workers in Grade V-A, viz. Rs. 1-40—0-12 nP.—2-24. I direct that the same adjustments and retrospective effect as given in Reference (IT) No. 155 of 1958 be given in this reference and arrears paid within two months of the date this award becomes enforceable. If any truck cleaner is getting higher wage than directed above he shall continue to get the same as his personal wage.

Reference (IT) No. 95 of 1959.

78. In this reference the following demands are made :--

"1. Whenever a workman is made to work on his weekly off, he should be given one day's extra wages including dearness allowance plus a day off in compensation.

Extra wage means the wage over and above wage that a workman earns for working on the day.

2. The company should arrange for the washing of the uniforms at its own cost or alternatively should give a washing allowance. Lockers should be provided for keeping the uniforms."

80. In regard to the Demand No. 1 the Union submits that when the company calls any workman to work on weekly off at present he is given only the normal wages plus a substituted day off. This is not a sufficient compensation because he is made to work on a day on which the other workers are enjoying a holiday. As I have stated above in regard to demand No. 4 in Reference IT No. 155 of 1958 it is not fair that a worker should be denied extra wage if he is made to work on a day when others are having a holiday. I therefore direct the company to pay such workmen, who are called for work on weekly off days,  $1\frac{1}{2}$  times his basic wage and dearness allowance, in addition to a substituted day off, i.e. the same as I have awarded for the workers who are called for work on paid or unpaid holidays under demand No. 4 in Reference No. 155 of 1958.

81. In regard to the Demand No. 2—In regard to this demand there is no material before me to show how much it will cost to get the overalls and uniforms washed. It appears to me that it will be unfair if a workman is put to the expense of getting the uniforms and overalls washed, and thus incurring an expense of at least Re. 1 or Rs. 2 per month which they can ill afford, considering their meagre salaries. I therefore direct the company to make arrangements to get the uniforms and overalls washed. The company has in its written statement stated that it has provided lockers for keeping the uniforms. This is not denied by the union. No direction is therefore required on this part of the demand.

(Signed) K. R. WAZKAR,  
Secretary.

(Signed) S. TAKI BILGRAMI,  
Industrial Tribunal.

Bombay, 18th November 1959.

By order and in the name of the Governor of Bombay,

M. D. SHANBHAG,  
Under Secretary to Government.