

K-545
8/11

NATIONAL COMMISSION ON LABOUR

Ref. No. MR.VI-26

Replies received from Bharatiya Mazdoor Sangh,
Bombay.

Points for Elucidation

1. P.25 How does your organisation claim to be strictly non-political?
2. P.34 Are your observations based on the volume of work that has been done in India in regard to manpower planning or its quality?
3. P.41 What substitute would you suggest for a better promotion policy? How should it be operated at the plant level?
4. P.42 How do you select "deserving hands"?
5. P.46 What would be the total number of working days in a year on the basis of your suggestion?
6. P.50 The trade unions find even their day to day functioning difficult with their existing finances. How do you expect them to take on responsibilities of organising consumer conferences?
7. P.52 What precise measures would you suggest for bringing about this exclusion of outsiders from trade unions?
8. P.55 If the existing state of affairs is allowed to continue for some more time, will it be possible at all to correct the multiplicity of unions? What specific steps do you have in mind to bring about the unity from below?
9. P.57 What is the basis for selecting industries mentioned in paragraph 88 and 89?
10. P.59 Where will you draw a line for the functions of recognised and unrecognised unions?
11. P.64 Your observation that one should not encourage or oblige weakness is sound, but where does one draw the dividing line?
12. P.65 What should be the nature of the appropriate executive authority referred to (i)(a)?

NATIONAL RESOURCE CENTRE OF LABOUR
INFORMATION & DOCUMENTATION
V.V. GIRI N.L.I.
NOIDA

Contd..2/-

ACC. No
DATE

L-103
25-1-99

Points for Elucidation

13. P.68 Can you give specific instances within your knowledge where management and the recognised union team up against an aggrieved member of un-recognised union?
14. P.71 Will you explain the concept of "acceptance management"?
15. P.73 The dangers you mentioned are real, but do political parties not encourage this tendency?
16. P.76 How do you expect the management to pursue a political line when the union with which it has to deal is able to deliver the goods?
17. P.79 Will you explain how the compilation of manpower inventory helps in improving industrial relations? What is the machinery that you have in mind for this purpose?
18. P.85 Will you explain how the process of collective bargaining will itself give rise to multiplicity of unions?
19. P.90(ii) Do you have the Rajya Sabha experience in view?
P.90(iv) Will your suggestion not require a more detached type of a manager?
20. P.91 Are you confident that if the changes in composition and functions of the Works Committees are brought about as suggested by you, these Committees will work more effectively?
21. P.99 Is the phenomenon you describe very common? Could you cite instances?
22. P.104 Does your suggestion amount to discouraging persons who are 'precedent-conscious' being accepted as arbitrators?
23. P.108-109 Will the introduction of a new category 'non-legal strikes' not create further complications when even the distinction legal and illegal strikes is sought to be challenged?
24. P.113 Could you elaborate your concepts of 'industrial gheraos' and 'political gheraos'? What measure would you suggest to deal with the two types of gheraos?

Contd...3/-

Points for Elucidation

25. P.115 How do political influences come in the way of compilation of a correct cost of living index? Can you cite instances?
26. P.118 How will you apportion the blame for the current situation between different factors mentioned on this page?
27. P.121 The argument against your proposition is that the village or block development staff is itself over-worked. Will it be possible for it to do justice to additional responsibilities which may not help the staff in improving its prospects?
28. P.129 One can enforce attendance but having secured attendance is it possible to enforce cooperation in reaching a successful conclusion of conciliation proceedings?

...

60
BEFORE THE NATIONAL COMMISSION ON LABOUR

Under the Chairmanship of

The Hon'ble Shri P.B. Gajendragadkar

The Memorandum submitted by

The Bharatiya Mazdoor Sangh

Vol - 1.

अभावो वा प्रभावो वा यत्र नास्त्यर्थकामयोः ।

समाजे स्वात्मरूपत्वात् धर्मचक्रप्रवर्तनम् ॥१॥

Where Want and Wealth inflict neither privation nor influence (there) Samaj (people being born of same origin) assumes its' native form and (as such) the Wheel of Law dynamises (the Life).

स्वामित्त्वं न तु दास्यं स्याद् ज्ञानामर्थकामयोः ।

कुतस्य विग्रहाऽऽशंका निग्रहो यत्र वर्तते ॥२॥

Where Desire and Money are not the masters but are mastered (there) how even the suspicion of conflict is possible! (for) lo! self-discipline Here resides.

...

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Vol. 1.

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BEFORE THE NATIONAL COMMISSION ON LABOUR
UNDER THE CHAIRMANSHIP OF THE HON'BLE
SHRI P. B. GAJENDRAGADKAR

THE STATEMENT FILED BY THE BHARATIYA
MAZDOOR SANGH, BOMBAY.

T h e A p p r o a c h

1. The National Commission on Labour hereinafter referred to as the NCL has before it a two fold-task :

- i) To take a comprehensive review of the developments in the field of Labour and
- ii) To make recommendations which may serve as guidelines for the future.

2. In order to understand and appreciate the BMS approach to NCL it is necessary to review, however brief the position of BMS in the country's labour movement. We are submitting herewith the following literature which deals with this subject :

- a) Why BMS ? By D. B. Thengdi,
- b) B.M.S. Souvenior,
- c) General Secretary's Report, and
- d) On Banking - Structural Peculiarities.

It can be seen from the perusal of the above literature that :

- a) The BMS has ideologically a distinctly different approach than the rest of the Trade Union Movement in India.
- b) It has now completed its ground-work by creating a all-India nucleus of trade unions and workers trained on its original lines in all parts of India and in all the principle industries of the country, and

c) It stands poised for a take-off stage.

3. These facts of its history and growth and its present position make it inevitable that it should approach to the questionnaire framed by the NCL in a fashion different from what the normal parts of Labour Movement are expected to adopt. We seek to elaborate on this point at the time of our oral submission.

4. It is against this background that we proceed to submit our views on various matters falling under the terms of reference to the NCL. The presentation of these views is made in the form of a brief thesis. First we propose to take a critical review of the history of labour movement in India. Then we shall make a statement on the Nation's expectation from its labour movement and examine its implications in the context of current economic situation. Thereafter we shall proceed to deal with the impact of labour legislation and Government policy. Then we shall deal in details about the various facets of living and working conditions of Indian labour. It is during the process of this analysis that we shall be covering the whole questionnaire circulated by the NCL and make our detailed suggestions on various issues. At the end we wish to deal with certain fundamental concepts that we wish to propose as governing principles on major aspects of policy and rearrange in its light, our main submissions in a briefly summarised fashion. We hope that the NCL will find this approach helpful and efficient in understanding our contribution to its work.

CRITICAL REVIEW OF HISTORY :

5. Many eminent writers on Labour have written books on the history and growth of the Indian Labour Movement. It is

not necessary here to repeat all that they have said in details. With full respect to the scholarship, sincerity and efforts of these writers it has however to be said that the accounts which they have given on India's Labour Movement are not free from a partisan and political bias and as a result they do not give us a full and practicle perspective of the movement. It is therefore considered necessary to take a brief critical resume of the recent past in a way that is necessary to appreciate the present position and formulate a policy for the future.

6. Before dwelling on this immediate period of the history of India's Labour Movement, it will certainly be not here out of place, to state that India had a very glorious part in the field of human relations in Industry. The enunciation of labour policy that we find notably in Shukra-Niti and in various discourses in Mahabharata and other ancient literature have much which can count even to-day as very advanced and enlightened and bold from modern standards. Moreover the whole thought of India being based on a synthetic view on life, there is much in this thought that is of eternal importance for all those who wish to work for the establishment of sound social foundation or in the old (and more scientific) terms for the 'getting together of people' 'LOKSANGRAHA' and for their 'Common March' 'LOKAYATRA'. However, the modern obsession for secularism and progressivism and its non-scientific slant has to be given its trial and till that time it is perhaps natural that these ancient words of wisdom may not be properly understood and as such may be kept out of context.

7. In the recent past, the closing decades of the last century saw some first individual attempts to organise labour, to formulate common demands and redress their grievancies. In many cases they took the form of ad-hoc committees. In Bombay and Madras quite a few strike committees were also formed as the occasion for the same arose from time to time. But these committees could never get a permanent footing. The Government and Employers both remained hostile to all activities of labour. Yet quite a large amount of pioneering work was done with remarkable perseverance by some eminent individuals notably by Sarvashri Lokhande who can be treated as father of India's modern Trade Union Movement. The first systematic attempt to form a trade union on permanent basis was done in 1906 in the Postal Offices at Bombay and Calcutta. These attempts first took the form of clubs but they were soon turned into a regularly functioning Trade Unions.

8. The first world war caused a general upheaval due to price rise and during the period 1916-17 many unions were formed to protect the interests of workers against this rise in prices. It is significant to note that till this date this single cause of rise in prices has been a major cause to unite the labour for Defence against price-rise. The Indian Trade Union Movement has yet to take the next positive or offensive step to increase in real terms the workers' standard of living. Be that as it may, it is true that during the period of first world war the labour movement gathered some size and the basic issue was protection against rising prices. The Bombay's postmen went on a first big strike lasting for 2 - 3 weeks around this period. Ultimately the Government conceded the demands of postal

workers and granted them war-allowance. This encouraged the consolidation of postal unions all over India. That in turn encouraged the Textile Workers who gathered round the leadership of Dr. Baptista. Solicitor Jinwalla also gave a valuable support to labour movement. The Port Trust Unions were also organised during the same period.

9. The Indian National Congress began to take interest in Trade Union Movement since 1919. Though its main outlook was to use trade unions as a instrument to fight against the British, yet it did also some constructive and good work for labour movement in the beginning. Under the leadership of Mr. Khaparde, the Congress appointed a postal enquiry committee which gathered substantial evidence. This gave a boost to the demand of time-scale instead of grades. Though this demand was then characterised as asking for the moon, yet in support of this demand the All-India Postal Union was formed. It conducted an agitation and got an ultimate success. The Trade Unionism thus took a firm root and the Postal Union became for sometime a model.

10. The other biggest union that was formed at this time was the one on Railways. Before 1919 there was functioning on Indian Railways a Union named as Anglo Indian Railwaymen Federation for India and Burma. It was looking after the interests of only Anglo-Indian Drivers, Guards and 'A' Grade Staff. The Indian Employees had no voice in its affairs. So in 1919 at Igatpuri the first Conference of employees working on the then G. I. P. Railway was held. It made some demands and threatened a strike. Some of these demands were conceded and the G.I.P. Railwaymen's Union made a firm start. Then the movement spread all over the country's rail-lines and many nucleus

were formed. By this time a dispute arose over the implementation of assurances given by authorities. The Government appointed a two-man committee consisting of the then Editor of 'TIMES OF INDIA' and Justice Chandavarkar. The Committee functioned during the period 1921-22 and ultimately up-held the contentions of employees.

11. By this time many active trade union leaders notably Sarvashri Zabwalla, Ginwalla, S. C. Joshi, V. G. Dalvi, Baptista etc., came on the scene and strong unions were organised specially in Port Trust, Dock Staff, Bank Employees (esp. Imperial Bank and Currency Office) Customs, Income-tax, Ministerial Staff, etc.

12. The communists decided to enter into trade union movement of India in 1923. The decision was taken in Russia and the U.S.S.R. extended a big support by way of financial and personnel help. From Great Britain also many communist workers came. By 1925-26 these foreigners became successful in indoctrinating local talent in schools of communism and men like Sarvashri Dange, Mirajkar, Nimkar, Joglekar, etc., began to organise the non-government employees (especially the Textile workers). First they tried to form new Unions. But since they failed in this attempt they tried to enter the existing Unions and on basis of their contacts with the masses and by all sorts of disruptive methods they made propaganda against the existing leadership.

13. The nationalist leadership in the field of Textile workers at Bombay was then composed of Sarvashri N.M. Joshi, R.R. Bakhale and Mahammed Rajjab. They found the first Textile Workers Union in 1922-23. In 1925-26 the communists also entered in these unions and strikes were organised in a big way. The 6 months' old textile strike of 1926-27 is

famous in this respect. Arising out of this and other manifestations of discontent the Fawcett Committee was appointed before the appointment of Royal Commission on Labour and the Government rushed with the 1929 Act on Labour.

14. The history of Labour Legislation in India, however, goes behind the 1929 Act and owes its origin to the developments in Madras. Under the able leadership of Shri B. P. Wadia the Textile Workers in the Buckingham and Carnatak Mills at Madras had declared a strike in 1925. The employers considered this to be a wrongful act and invoking the provisions of the law of Torts, they filed a suit for breach of contractual rights, asked for injunction against strike and demanded damages. The injunction was granted in favour of the plaintiff and therefore, again strike was started. Against this background Shri N. M. Joshi introduced a bill for the rights of a Trade Union. But the then member for Industries, Commerce and Labour himself promised to bring legislation in the matter and the Trade Union Act of 1926 was enacted. Before that the Workmen's Compensation Act was also passed.

15. However, the main body of labour legislation and paradoxically enough even the formation of the All-India Trade Union Congress owes virtually its all to the activities of The International Labour Organisation (I.L.O.). It was considered that the origin of the first World War was in the disparities between the developed and undeveloped countries. As a result the treaty of Versille established two bodies to cure this ill viz., the League of Nations and the I. L. O. India was recognised as a founder member of the latter. This is a tripartite body on which each member-state nominates its representatives. The credentials

committee examines whether the nominations of labour and Employer are done in consultation with the most representative body of workers and employers respectively. For the first conference of I. L. O. held in 1919 the Government of India nominated Shri N.M. Joshi as the labour member in consultation with the Social Service League which was then making the greatest contribution for the cause of workers. The I.L.O. has a very exercising machinery to see that some action is taken by various Governments on its conventions and recommendations. All labour legislation in India owes a debt to these conventions and recommendations of I. L. O. Also the formation of India's first Central Labour Organisation was also wholly with a view to satisfy the credentials Committee of I.L.O. It required that the labour-member nominated by Government was in consultation with the most representative organisation of country's labour. The All India Trade Union Congress came into existence in 1920 with the principal reason to decide the labour representative for I. L. O's first annual Conference. Thus the real fillip to the Trade Union Movement in India both in matters of labour legislation and formation of Central Labour Organisation came from an international body, viz., I. L. O. and the Government's commitment to that body. A slave mentality and dependence on international political institutions has thus been a birth malady of Indian Trade Union Movement and unfortunately it is not yet free from these defects. There is no wonder therefore that on its technical side also the trade unions have never fought and won for the improvement of real wages of Indian labour and right from war allowance of 1916 all its effort has been to minimise the deterioration of the real content of the wages. This is the trend which must be reversed if any real nation building activity is to be achieved through the national movement of labour.

16. We have thus seen that the formation of India's first Central Organisation of labour viz., AITUC took place not because the existing unions wanted such an organisation, but because the international considerations demanded such a formation. We shall see at a later stage that the formation of INTUC - the second centre of labour movement was also conceived by political leaders as an imposition from above and was not a result of any corresponding urge on the part of workers. This is a very peculiar feature of India's labour movement and explains much about the existence of many independent trade unions. It also throws light on the question of inter-union rivalry. Any decision on questions of policy and law relating to labour that may ignore this history of labour movement is therefore bound to be unrealistic. Two significant features may be noted here that attended the formation of AITUC. At that time the only all India body of Workers that was spread over all the parts of country was the All India Railwaymen's Federation. However, this federation took a decision not to affiliate itself to AITUC as a federation, though individual unions constituting the federation were given a choice to affiliate at union level. Another significant feature was the fact that the Government employees were prevented from joining the AITUC as they were not considered to be industrial workers.

17. The attitude of AITUC to international labour movement has always been a major cause of many conflicts within the labour leadership of the country. In the beginning the AITUC was affiliated to the second International. But in 1922-23 the Soviet Russia founded the third International and through its activities sent many emissaries in the trade unions all over the world. They all were

directed and financed and served the cause of Russia's political designs. The communists in India under the leadership of Shri M. N. Roy (who was expelled at a later stage) started militant revolutionary activity that resulted into two famous conspiracy cases of Kanpur and Meerut. In the beginning these communists were helped by all sections of labour leadership. The two conspiracy cases drew even such eminent personalities like Pandit Jawaharlal Nehru and Subhash Chandra Bose into the labour field to help Sarvashri Dange, Mirajkar, Sardesai, etc. There was however a great ambivalence in the AITUC over the issue of joining the 2nd or the 3rd International, Shri N. M. Joshi stoutly supporting the former body and communists the latter. But the communists used this question to disrupt the existing unions and attacked with all sorts of tactics all those who opposed to make AITUC a front of Soviet Russia. In the Nagpur conference of 1929 the communists forced the issue with a tacit backing of Shri Jawaharlal Nehru, the then President of AITUC and joined India's first national labour body to the 3rd International. It is said that this vote of AITUC was obtained not by clear majority but by manipulations.

18. Disgusted with these tactics of the communists Shri N. M. Joshi came out of the AITUC and formed a new Central Organisation viz., National Federation of Labour. The second hitch between the newly formed NFL and AITUC came over the question of co-operation with the Royal Commission on Labour. While Shri N.M.Joshi presented the case of Labour before the Royal Commission the communists did not co-operate. The Indian National Congress supported the communist stand since it coincided with the Congress policy to non-cooperate with the British Government.

19. Thereafter till 1947 the trade union movement was characterised by many ambivalent positions over unity and disunity and a see-saw struggle between various poses. Soon after the communists took control over the AITUC there came a split in the communist camp itself. The extremists in the left camp started a new organisation under the banner of Red Body. However, this disunity was short-lived and within a year's time the Red Body was dissolved and merged in AITUC. Similarly many efforts were made over a long period of time to bring unity between the NFL and AITUC. The changes in political situation helped these efforts. The 1935 Act which brought provincial Autonomy gave to labour voting rights based on a delegates college composed of registered unions to elect their representatives on provincial legislatures. On this background the efforts for unity became quite earnest and a joint committee consisting of Sarvashri Jawaharlal Nehru, Jaiprakash Narayan, N.M. Joshi, Jamnadas Mehta, S.C. Joshi and M.N. Roy (then working in disguise as Dr. Mahmood) was formed and finally in 1938 the NFL was dissolved and all began to work again in AITUC.

20. Here one side effect of 1935 Act on labour movement needs to be mentioned. According to the Government of India Act of 1915 the first legislative bodies were formed in 1921 and labour was given representation both in the Central and Provincial legislature by way of nomination. At the centre this arrangement remained till 1947 and for all these years viz., 1921 to 1947 Shri N. M. Joshi ably represented labour in the Central legislature. With the provincial autonomy of 1935, however, as said earlier, an electoral college of registered trade unions was formed to elect labour representatives on the provincial bodies and the votes were cast on the basis of membership.

This gave rise to bogus membership. Every union tried to show more members to acquire more voting power. In turn this gave rise to bogus accounting. The communists played a havoc in the trade union movement by systematic manipulation of bogus membership and accounts. The politics became rampant in Trade Unions.

21. On the heels of such changes in the trade union movement with simulacrum of unity at the top and intense strife by all sorts of means at the bottom came the Second World War. In the beginning the communists opposed all war efforts, The Congress also favoured this anti-British line. Shri N.M. Joshi took a neutral line. His position was officially accepted by AITUC and independence was given to individual unions so as to avoid a open split in the newly achieved unity. But Shri M.N. Roy took a surprisingly different turn and supported very actively all war efforts. For that purpose he started a separate organisation and the Government gave substantial financial help and support to boost up this Federation. Of course, at a later stage when Russia joined the Allies, the communists also decided to support the war efforts and for this purpose they were released from the Jail while the Nationalists continued to be under detention. During the war the meeting of I. L. O. was not at all held and when in 1945 and 1946 it met under changed conditions the Government nominated labour representatives without any consultation.

22. At this juncture, the Government of India became quite active on the labour front and appointed Shri S.C. Joshi to take action on all the recommendations of the Royal Commission on labour. At his instance a fact-finding committee was appointed to study the then existing situation

and during the period 1945-47 most of the present labour legislation was drafted and the conciliation and other machinery was well-conceived. In 1947 when the National Government was formed Shri S. C. Joshi, the then Chief Labour Commissioner was entrusted with the work of implementing the various provisions of labour law. He used to attend the cabinet meetings for this purpose and the whole of the present set up owes a debt to the work that was done by him and Shri V. V. Giri the present Vice-President of India.

23. With the formation of National Government Shri Vallabhabhai Patel advocated very strongly the cause of forming a new Central Organisation of Labour. It was his view that the National Government must have the support of organised labour and for this purpose, the AITUC cannot be relied upon since it was thriving on foreign support and used to change its colours according to the will of its foreign masters. So in 1947 the Indian National Trade Union Congress was formed. For this purpose Shri Vallabhabhai had to rely largely on workers in the Mazdoor Mahajan at Ahmedabad. They were heavily drafted for this work. The Congress was elated by acquisition of Power. The Government was almost openly partial to INTUC. And thus the INTUC grew in size and eminence.

24. The origin of INTUC ideology is said to be in the doctrines of Trusteeship of the capitalists and the co-operative loyalty on the part of workers propounded by Shri Gandhiji at the time of formation of Mazdoor Mahajan at Ahmedabad. This ideology has certainly a tinge of the values of Indian culture though the approach on this subject is half-hearted and lacks that wholesome practice

perfection as we find in our ancient doctrine on works like Bhagwat-Gita and others. Besides this point, it must be said about Mahatma Gandhiji's doctrines on labour that they were conceived as if to meet the needs of a very doubtful situation and lack the sanctions of practical success or **any sound philosophical basis**. The stage of Ahmedabad where this doctrine was spelt out had the background of the six month long strike of textile workers at Bombay in 1926-1927. It is said by many knowledgeable people that the Millowners of Ahmedabad wanted the Bombay strike to happen and continue so that they could establish markets for their newly built mills at Ahmedabad. For this purpose, they are said to have financed the Bombay's strikers on the one hand and pulled Gandhiji on the other hand to experiment his concepts of Truth and Ahimsa in Ahmedabad amongst their own labour force. While the whole process served very well the designs of these capitalists, Gandhiji had little to tell his critics why as a national leader he did not exercise himself to settle Bombay's strike and camped himself only at Ahmedabad. In the whole functioning of INTUC right from its start at Mazdoor Mahajan to its present day working the hand of capitalists and employers like Government cannot be ignored. The workers are indeed being too much cheated by politicians in all sorts of ways and their ignorance is exploited to serve other masters. It should be the duty of any commission on labour to come to grips of this basic fact of Indian labour conditions and strike at its roots if it wants to do any concrete and good task.

25. Coming nearer to the present day we happen to be too close to the events to lay down any assessment. After the Independence INTUC did spread its activities all over the country and claimed to be India's most representative

labour organisation. In its earlier stages of development it drew largely on experiments at Ahmedabad. In the Congress Government at Bombay, Mr. Gulzarilal Nanda as the then Secretary to Labour Minister in 1937 had made some experiments like the enactment of B. I. R. Act of 1938. The experiences gained in this way largely influenced the policies of the Government of India and the way of growth of INTUC.

26. The National Federation of Labour started by Shri M. N. Roy during the war years continued for some time. But then there came a split in the congress camp and the socialists under the leadership of Jayprakash Narayan came out and under the auspices of the Socialist Party which was formed subsequently was found the third labour organisation viz., the Hind Mazdoor Sabha. Sarvashri M. N. Roy and V. B. Karnik joined the H M S and with that the NFC had its natural death. There were also others who were not satisfied with any of these developments and they formed the UTUC in 1948. This was largely the outcome of the apprehensions of splinter groups like the Bolsheviks and the R. S. P. that the Socialists would dominate the H. M. S. as the largest single group. The main idea behind the formation of UTUC appears to be to get representation on various tripartite bodies then formed by Government. Thus we got the four central labour organisations of to-day that have their place in the National Tripartite Bodies.

27. The tripartite bodies had their origin way back in the developments of 1929 and 1943. Due to the pressures of Railway Unions regular meetings were held between the Government and the Railway Unions since 1929. At that time Sarvashri V. V. Giri and S. C. Joshi advocated the

necessity of tripartite bodies for all labour. On that basis Shri Ramaswami Mudaliar, the then Minister for Labour called the first Indian Labour Conference in 1943. There was also at hand, some experience of work done in the Port Trust where the system of Labour Nominee was introduced in the early part of third decade. Pooling the experience of these meetings, Dr. Ambedkar made the Tripartite a permanent body in 1944 on broad pattern of the I. L. O.

28. The more recent introductions to labour are the H.M.P. and the B.M.S. About the former of these two, it is too early to state anything by way of long term importance. The Panchayat has its activity mainly restricted to Bombay and parts of Maharashtra. About the latter we have already referred to various written accounts in the opening paras of our submission. The BMS has introduced altogether a new element in the Indian Labour situation and it cannot be ruled out that the future may lie much in its hand than what the immediate picture may hazard one to believe.

29. Many important conclusions can be drawn from this short critical review of India's Labour History. They may be summed up as under :

- (a) The Indian Trade Union Movement has not yet consciously built up its own centre.
- (b) The birth of many of the India's central labour organizations is in political movements of the time. As a result their philosophies and approach are widely different, often diametrically opposed to each other.

- (c) Of the older two bigger central organisations of labour the AITUC takes its inspiration from foreign countries while the INTUC owes much to the Congress Government and Capitalists.
- (d) Most of the concrete and good work done in the labour field is due to the presence of dynamic individuals who were independent of politics. This fact coupled with the others viz. that there **are** yet many unaffiliated unions and federations of labour and that the unorganised section on labour is quite large - throws a very important consideration while framing any policy on Labour.
- (e) The Labour Legislations in India and the tripartite bodies is fashioned on the model given by the I. L. O.
- (f) The Indian Labour Movement has not yet done anything to improve the real wages of Indian Labour and right from its birth its sole pre-occupation has been to minimise the drift in real wages.

We may almost say that India's Trade Union Movement is still largely a wing of her political apparatus and has not yet taken its proper office as a socio-economic institution of national life. It is, therefore, no wonder that it has developed only its organisational and legal side and suffers with almost a total lack on the technical side. As a result there has been no economic progress of Indian worker and the whole process of industrialisation looks like a super-imposed phenomenon on land-loving people.

C H A P T E R II

THE CURRENT ECONOMIC PERSPECTIVE :

NATION'S EXPECTATIONS FROM
LABOUR :

30. The expectations of Nation from labour appear to be few and simple. They are :

- i) Labour should work hard, work with requisite skill and honesty, shoulder responsibility.
- ii) They should make the Industry and Nation prosperous, and
- iii) They should take their legitimate share in this prosperity and prosper together.

THE IMPLICATIONS OF NATIONAL DEMAND :

31. Those who voice the above demands and ask from labour its compliance assume certain conditions. What are the conditions under which the compliance of the above formula can be naturally obtained from labour ? This examination is seldom done with a seriousness that it deserves. Following are the conditions which must be satisfied to get the desired results.

(A) Man must love his job : This can be done either by Ergonomics (Right Man for Right Job) or by other motivations like career prospects, financial incentives, status-satisfaction or through human relationship. Then he should have good working conditions and a house near the work-place.

(B) He should be able to prosper through honest work.

This includes many subjects such as reasonably good economic and industrial planning (which eliminates sudden retrenchments, job-changes and creates confidence about future), sound promotion policy, legal share in results of one's own contribution and a basic honesty from employer in these regards.

(C) He should be able to develop himself on the job.

This means in service training programme, latitude for making normal experiments, frequent appraisal of individual progress and recognition of all efforts and,

(D) There should be no conflict between the progress of individual worker and progress of all workers. This opens up the whole subject of job evaluation with its scientific wage differentials, trade union rights, demarcation line between workmen and management and their respective prerogatives, concept of Bonus, Profit-sharing, etc.

The validity of labour legislation, government policy and the view taken by labour judiciary can be judged by the extent to which they help to bring about the satisfaction of above conditions. For without any effort at highest level to appreciate and foster these conditions, the national demand loses its sanction and looks like an attempt to exploit labour under pretext of national or public interest.

THE EXPECTATION OF TRADE UNIONS FROM GOVERNMENT AND NATION :

32. The Trade Unions do realise that the above conditions cannot be fulfilled by any one party like Government. But the Trade Unions do expect the Government to be their friend in this respect and this includes creation of appropriate conditions in sectors of administration and Industry where the

Government happens to be the Employer. The Trade Unions also expect that the vested interests like capitalists or professional management or bureaucrats should not be allowed to assume a holier-than-thou attitude in creating these conditions. Especially in questions like verification of accounts, implementation of assurances, prior and open consultation on matters of common interest the managements should leave no ground for complaint from labour. A fair treatment to labour and their unions is all that the Unions demand to take a constructive attitude on their part.

33. Unfortunately none of these conditions are fulfilled to-day and as a result we find a lot of mutual recrimination, fault-finding and passing of blame to one another.

34. If the National Commission on Labour is to play a useful role in our Nation.. building activity it must find solution to this impasse. The context in which the solution to these problems has to be found are : the state of the trade union movement, present state of economy and the present state of machinery to solve industrial disputes. We have already seen the first of these three factors. Now we shall rapidly state our view on the rest of the two factors and then proceed to our observation and solutions in detail.

THE RELEVANT PARTS OF ECONOMIC SITUATION :

35. From the view-point of Labour Economics, the Indian economy is presented with two apparently conflicting demands, viz, (1) Increase in Employment by expansion of industrial activity and (2) Raising the standard of living of those already in employment. It is sometimes said that the latter must wait for the former. At present this is being done by policy-induced price rise which on the one hand gives a

filip to industrial expansion and on the other keeps the real wages of workers constant at their best and in a very large majority of cases diminishing. It also appears to us that this is the reason why no serious attempts are made to quantify in monetary terms the concepts like the subsistence, minimum and the living wage that are discussed ad nauseum in various awards and judgements. That, too, is the reason why the suggestion so repeatedly made by late Shri G. D. Ambekar of INTUC to maintain an Index of Minimum Wages has not yet been accepted by the Government of India and a little exception made in case of Printing Industry in Bombay is not repeated elsewhere. The price mechanism has resulted in the distribution of National Income in such a way as to make the rich richer and the poor poorer, with the middle classes almost being vanished in the process.

36. There are two major shortcomings in the management of present economy which has led us to this state of affairs. Firstly it is presumed that the capital formation that is needed for the growth of Industry shall necessarily come forth at the hands of the upper strata of society. That is the reason why the computation of labour gains into shares for workers has yet remained only a concept to be occasionally discussed in the meetings of National Productivity Councils. The hold of capitalist thinking on the economy is still much in evidence and even the little good which western concepts like Socialism possess are also not brought into practice. The second shortcoming relates to the management of resources. The ways of increasing productivity must be taken as guide-lines, in this respect. In this field again though there is some discussion on the subject in circles of enlightened sectors of professional management yet taking a full view of economic management it has to

be said that all these praise-worthy efforts are yet only a lip-talk that is done to appear respectable. The real leaders of Indian economic scene are not the industrialists or technicians or administrators but the financial lords. And their interest lies not in Industry but in Business; not in commanding wealth but in manipulation of gains. The path they have taken is to produce adulterated goods, capturing of markets through provisions for large wholesale and retail margins, by acquiring monopoly powers through corrupt methods, getting all licences for brands and manufacture through dubious ways and fall in for easy money. Following this logic many top executive and big posts in private sectors are filled by masters of manipulation, men of confidence in black markets, and relations by blood or marriage. They are meeting in common clubs with their political counterparts in the public sector. The state of these cliques has now come to such a serious stage and is reported to be so widespread that even the labour judiciary is not considered to be free from its influence. The quality control is totally absent from all sectors of industrial management and honestly is becoming a taboo in business. There is no wonder if in such a situation the really competent men in management field have to tread a path like those of middle-class employees who can neither influence the important decisions of policy nor resort to street fighting to blow the winds of revolution in a blind fury. The competency is thus being relegated to the position to that of a show-piece in a museum meant for visitors of foreign capital. The solution which the techniques of productivity can give are not made available to the Indian worker.

37. If the above two shortcomings of economic structure and management can be removed then the apparent dilemma of

economic practice will cease to be present. We shall then move to the questions of sharing the gains. The present problems like price-wage-price spiral influencing considerations of Dearness Allowance, the erosion in real content of wage, needs of capital formation by making inroads into individual income of wage-earner will change their whole context. The march of people will sustain the needs of both fuller employment and rising standards of living. A real and good wage and labour policy can be chalked only if these shortcomings arising out of the evil eyes of big/
money can be mercilessly and thoroughly dealt with by a strong legislation and administration at all levels. Otherwise there is no true solution to the Indian labour problems. Then it will have to be repeated as was quite often done by Shri N. M. Joshi that "If the pace of Evolution is slow, then the attractions of Revolution become great". Such are the dictates of current economic situation.

IMPACT OF LABOUR LEGISLATION AND
GOVERNMENT POLICY :

38. What has been the influence of labour legislation and Government Policy on these events and situations ? It may be said to the credit of the Government that it has done some good work in reducing the early fear of employees to form their own unions. It has given them a place in law, helped them to train trade union workers and has made the employers to take the unions somewhat seriously and to a little extent partners in work. But beyond this the Government has been of no assistance to labour and has even been its opponent. Its concern to protect INTUC unions had led us to many absurdities on questions like union recognition and processes of labour conciliation. Its cumbersome legislation has made justice very costly to labour. The implementation of many awards, settlements, wage-board decisions, etc.,

has been very weak. The policy of indifference to trade unions pursued by many public sector undertakings has set a bad example before country. Its concern for Industrial Peace has often been an encouragement to irresponsible work-stoppages as short-cut to get political gains for union-leadership. They have often been a hindrance to robust growth of unions and formation and influence of public opinion on central issues in industrial relations. Quite often these short-term considerations have led to permissions being easily given to effect a price-rise as temporary expedient and has ultimately paved way for chronic diseases that are injurious to both Industry and Labour. Quite often these policies are framed on purely political basis to earn popularity or prosperity to individual ministers or officials and for that purpose a blind eye is given to forces of rank indiscipline both in Capitalists and labour. The Government has not been able to decide about the right occasion and form of its intervention in various stages of industrial conflict and more so in a situation of inter-union rivalry. As a result politics has played a havoc in these matters and there is absence of any purpose in legislation or policy on labour matters. The short term expediencies of the moment overshadow all long-term considerations.

39. This in short is the background and basic defects of Indian Labour situation. The politics has been a major cause of the formation of central labour organisations and determination of Government policy. This has brought in many ruins to labour. Added to this is the stranglehold of capitalist thought over the management of country's economy and their influence in current politics. In this situation

a lip-sympathy is given even to matters of importance like productivity and labour is treated only as a means to achieve the ends of politics. The trade unions have yet to take their office as Socio-Economic Institutions of the Country. The B. M. S. which is strictly a non-political Central Labour Organisation stands to correct this picture and the way in which it considers that these changes can be brought about are given in subsequent chapters following broadly the manner of questionnaire framed by the N. C. L.

C H A P T E R III

RECRUITMENT AND INDUCTION :

Current Policies of Recruitment :

40. The recruitment in Indian Industry is done solely by the Management and the recruits are in the beginning all managements' men. This is in some contrast with the view and perhaps even the practice in some other countries where the recruitment is made in consultation with the union and in any case the new recruit has to be a union member. Whenever the management cannot find its own men, other methods like inviting of applications through advertisements, references to employment exchanges, etc., are usually followed. There has been however some tendency in evidence to accept introductions from Company's own employees. But this practice is largely confined to introductions by officers of comparatively high standing. As to the lower category of workmen, it is only their sons or daughters or such direct relations that are sometimes given a preferential treatment in considering the applicants for ordinary vacancies.

41. A recent study of recruitment policies of many undertakings in both public and private sectors made by Shri Pareshanath Chatterjee shows that apart from the bench-mark jobs in various units, it is the previous experience that is treated as the most important single criterion for selection of candidates at higher levels. An another study made by Dr. H. K. Paranjpe entitled "The Industrial Management Pool : An Administrative Experiment" shows that the salary in the previous post also plays a very important role in the selection of candidates - especially when advertised.

Shortages & Excesses :

42. The studies so far made in respect of the shortage of man-power in some regions reveal that the shortage is chiefly experienced in respect of professional, technical and related workers (to the extent of 45 to 50 per cent) and regarding craftsmen and production process workers (to the extent of 30 - 35 per cent). It seems that the comparative immobility of Indian workers also accounts for shortages in some respects - for in many villages or even in vast tracts of a province like Assam, even the teachers are in short supply. We have not got however enough material to locate exact trends in this respect. Considerable difficulty is experienced in locating useful trends in this field because with vast unemployment in the country and urgent and expedient considerations weighing the many recruitment and selection programmes we find all types of people being taken for different jobs and then complaints being made about them that there is no fit man in the factory and that good or trained craftsmen are not available. In fact, the defect lies with present recruitment arrangements which are far from satisfactory from technical angles.

43. Another way of looking to the question is from the view-point of effects of schooling on job opportunities in the country. In this respect the analysis so far made by the Directorate General of Employment and Training shows that the largest number of vacancies are for engineering graduates, maximum demand being for mechanical engineers and next for civil and electrical engineers. It may be said in passing that with all our concern for food shortage etc., the demand for agricultural scientists and those trained in veterinary science, animal husbandry

and plant physiology is perhaps the least. The lot of science and arts graduates is in the most pitiable condition. Out of this lot the graduates in chemistry and the commerce graduates may have a little edge over others. The total output from these faculties however continues to be about 90 % of the total output of Indian Universities and adds to the frustration of the educated people. A recent seminar of the I.L.O. for Asian Region has revealed that as a result of national drive to root out illiteracy we find to-day that in a large number of manual unskilled jobs which were previously manned entirely by illiterate workers many literates are also working together with the illiterates. But the literates slowly turn sour and feel that beyond a certain point literacy confers on them the right to a white collar job. This meddling of different types creates many a labour-relation problems. On the other hand with the rapid pace of industrialisation and subsequent mechanisation there is a general shortage of craftsmen, technicians and technocrats leading to increased mobility, and calling for a need for periodical review of service conditions. As a result some countries in Asia have enacted legislation compelling industries to train a certain number of craftsmen from among the adolescents in different trades. Some have suggested the setting up of a national man-power programme which will aim at importing some crafts-man training to the new-literates. A shortage of skilled man-power on the one hand and an army of unemployed literates on the other inevitably means that thousands of squares pegs are required to be fitted in round holes.

Selection Programme :

Aptitude Tests :

44. A search for solution in this respect naturally leads one to debate on the role of aptitude tests and induction. Of these two, the psychological tests for recruitment according to aptitudes are open to much controversy, not because there is anything theoretically wrong in their introduction but because their actual practice is attended with many difficulties. The science and practice of Ergonomics is yet ill-developed in this country and a hasty copying of these methods from western schools is almost sure to inflict great injustice on groups of adolescents from Indian villages. The socio-cultural background of Indian Society is altogether different from that of western countries and though a few boys from urban centres may take a fancy for these so-called sophisticated techniques yet quite a fine potential of the majority of Indian population may be blocked career-opportunities if a mad fashion in this regard is allowed to take a hold of half-baked bureaucrats. An early selection of a young man for an appropriate career according to his in-born traits and characteristic features is not a new concept to Indian civilisation. In fact, this was the basic of that ill-understood but worthy old system of Varna Dharma in its origin. The suggestion of a right functional career to a student according to the classification of qualities and works was done by the Teacher in ordinary course and by the Seer or Rishi in doubtful or difficult case. In many branches of Indian Yoga the development of psychological faculties which qualify a man to take judgements regarding suitability of men for various careers at an early age are treated to a point of perfection. But like many other

neglects of our own treasures of wisdom, the so-called elites of the day are still blind to these sources and directions of practice and have made our Society a rootless agglomeration of individuals. It is not difficult to embody once again those sound and perfect practices of our past and put them to a confident use. In the fields of psychological practice (and labour problems are largely a domain of psychology) there is very little for us to learn from children of West - except for a few uniforms appropriate to Industrial discipline. On the contrary there is much more with us to give. It is time that we take up the challenge in this respect and tell our people the potentialities they possess and inherit from their birth, and early training.

Regional Representation :

45. This discussion leads us further to the much debated question of ~~U~~ treatment to be given to the needs of regional population. At present the question is discussed in altogether a different context than what we propose to do here. The current stress is on representation being given to local or language groups in employment in that region. This is a natural demand. It should not be ignored or upheld to the point of generating a vengence and animus against any group. It cannot be elevated to the point where it is likely to become a threat to national ~~integration~~. The demand has some merit when it asks for preference in jobs like Class III or Class IV categories for which there is an abundance of labour supply from people of that region and positive preference should be given to the local population in all these non-technical manual, clerical or administrative jobs. In jobs requiring technical competence however merit should be the primary criteria and all others secondary.

46. In fact, the demand is largely a product of large-scale unemployment and resulting frustration. By the way it also shows that Indian Labour is not immobile and can be migratory in character. In our opinion, the regional or language considerations shall be having some natural way in all considerations about recruitment. Beyond that point there is no merit in making any special emphasis or such or any other considerations. For, it may divide the people into antagonistic camps. The whole country should be treated as one unit. Any attempts of colonisation or monopolies in one industry or region for any segment of population will create endless troubles and must be discouraged. A more prominent feature of regional or linguistic considerations which is forgotten in present discussion is a fact that there are in our country various groups or communities who have developed specialised skill in certain respects, e.g. The Sindhis and Gujaratis have earned a name for business. Punjabis for small-scale Industry and Military Service, Madrasi for hard-work, Udupis for catering etc. This is a specialised trait and acts as a brand name for business advertisement. Different regions or even castes can in fact take pride in developing certain functional perfections and their sense of pride provides guarantee for maintenance of standards of group discipline. These are national assets so long as they do not overstep their limits. They indicate the real office for these considerations, if any, because for man to jump from individual to Nation or World, he requires certain intermediate stations of pride like family, caste or region and to the extent they are harnessed to acquire good qualities by attraction of fair name and maintenance of standards,

they have a utility in the difficult march of totality. Beyond these considerations and their natural impact no consideration should be given to regional or language formula in determination of jobs, i.e., in the field of labour.

The Backward Classes :

47. The position of backward classes or communities, scheduled castes and tribes stands however on a different footing. They are victims of accumulations of history and there is a need to rapidly remove all causes that keep this distinction. The way at present adopted is to reserve for them a certain number or percentage of vacancies in each office or industry. We feel the system has a utility till such period as it becomes no more necessary. But these reservations should be as far as possible for routine jobs or works. All the jobs that are promotionary in character or involve specialised knowledge or skill should be filled on the basis of merit in the larger interests of society. The right view about backward classes in this regard is to afford them more training facilities with better or longer stipends if need be, age concessions, etc., and help them generously to come to the standards of the rest of the community. The whole idea is to abolish the distinction by abolishing the causes that created them and not maintain them either as a privilege or as an obligation as a permanent feature. In this respect the most neglected section is that of nomadic and semi-nomadic ex-criminal tribes and they deserve a priority of attention. It is a sad fact of the day, that they do not get even the concessions and encouragement offered to scheduled castes and tribes.

The Physically Handicapped :

48. The treatment demanded by the physically handicapped sections such as the blind, the lepers etc., has to be viewed from a still different angle. This is in fact, a field of specialised study and advice. In these cases, the distinctions cannot be abolished. It may not be possible to keep reservations on any uniform patterns. Nor is the giving of dolls a solution in this respect. Even considerations by way of charity spell an unkind reaction in the mind of many disabled individuals. On the contrary it is widely noticed that a person having defect in one organ or sense quite often can perform or is found capable of developing a remarkably distinct and higher quality of work through a superior function of some other faculty than a normal individual. A concentrated effort in this direction can produce, out of the physically handicapped, a work-force skilled in specialised functions which can by the quality of its performance establish a trade-name and a position of respect in the Society. A serious attempt should be made to fathom the possibilities of this line of development and till that can be achieved co-operatives of workers who are physically handicapped should be given special protection and encouragement. A reservation for them in Government or other service may be tried, but not much confidence can be placed in this process since we have a large number of able-bodied unemployed.

Man-power Planning :

49. This leads us to a still larger and woefully neglected issue of man-power inventory of the country with

a special reference to traditional classes of artisans. The process of industrialisation as it is being planned in India is based on utilisation of material resources of the country with the help of ready-made technology provided by developments in Western Countries. There is already a great need to develop technology suited to Indian conditions to lessen the social costs inherent in a change-over. In our opinion there is a still greater need to base our planning on the basis of the quality and quantity of man-power available in the country. The plans and evolution of technology should be based rather on the assessments shown by the man-power inventory of our country and suited to its needs. We have a large class of artisans who are highly skilled in their traditional branches of work. Instead of giving to them a technology that can uplift their standards or bring economics in their processes and organisation we have started building up industry on a text-book model and are trying to fit in the human material into our fantastic creation. This is a wrong approach to the labour force of the country and the whole problem of recruitment of right type of personnel has been created due to these wrong priorities and weightages given by our planners. We should develop technique of work and organisation of production process that will not allow the technical skill of our artisans go a waste but should harness the technique of science in such a manner that will put our people to maximum benefit and service.

50. Let the plans be made suitable to the development of existing labour and not the labour cornered and pressurised in the name of a call for adaptation to Modern Conditions. There is nothing sacrosanct in this mad and blind faith in Modernity. True modernity consists in

taking strides on original and sound lines. Let us fit our jobs to our Men so that they become an aid to them to rise with their skills and we shall solve half the problems encountered in recruitment or induction.

Women Employees :

51. This is a question which goes at the root of the traditional pattern of life and is attended with more serious questions of the concept about family life in industrialised society. The place of women in society and home and the distinctive features of woman-hood are distinct from man-hood. On this subject, there should be a common admission in India that women do not look to the job as a career in the sense men do and in many cases the jobs are taken as a inevitable evil. There is no need for labour legislation to disturb these concepts. The man's earnings should be based on consideration that he has to support a wife who is a non-earner. On the other hand women who seek job opportunities should get a proper regard for their distinctive needs and predilections, without sacrificing an equality of treatment in other respect. They should be entitled for equal pay for equal work with men. A reservation of certain occupations like nurses, primary teachers etc., as preponderately for women, their posting on non-transferable works, provisions for up-keep for children near work-place in industries having substantial women staff besides the continuance of present provisions like those of maternity leave, etc., should be a business of the state. The Government should frame and constantly review suitable legislation in this regard and ensure its compliance. Besides these enabling provisions, however, there is no need to have any special provisions regarding

recruitment of women and a special fancy for them being kept as sales-girls, receptionists, private secretaries, etc., should, if anything, be discouraged. The woman should be regarded as a Mother whose place in the home is central to all her thinking. However a list of jobs should be prepared that can be done at home like those of preparing pickles, embodiary articles, bidi-manufacture, cashew-nut work, etc., and its monopoly may be given to service institutions which assemble these articles from woman who perform these works in their spare-time at home. Even the handloom industry can be managed by women in this way. This will certainly give a great filip to many houses where women will be able to earn without disturbing the family life. This is the real place and office of casual labour.

Casual or Seasonal Labour and Badli-Workers :

52. At present there is a large body of workmen who are employed as casual labour. There is no difficulty about their recruitment. But the real difficulty starts afterwards. While the casual nature of the work is an argument in justification of the employment of casual labour, the large recurrence of such works is an argument against their retention as casual. Specially on works like Railway Construction, Government Projects, etc., the labour taken on casual works, of a recurring nature should be taken as permanent unless they refuse to ingrate with the mobile nature of works. In Industries that are seasonal in nature but permanent in location & structure such as Sugar Ginning and Pressing etc., there should be a permanent muster-roll and seniority-list of employees working for a fairly long period in each season, For all practical purposes they should be treated as permanent unless on their own they abandon the work. They should be granted a retaining

allowance during the interval when the industry takes it off.

53. The system of taking Badli workers also requires some regulations. In this system in its present form the same man stands like a permanent recruit and has to go through the hazards of recruitment each day - year after year. It is not clear from present industrial practices, how far the Badli system is a necessity of modern industry. It appears to be more like an exploitation of labour. In any case, the system that never recruits a man whom yet it appoints for work or the existence of works that are done by changing men who are never recruited as such, is an anachronism of the past and should be discouraged in the future. All such industries must be compelled to maintain a list of badli-workers and the period of the badli work done by them should be treated in the same way as a probationary period of fixed duration after which they should necessarily be made permanent. Some sort of unemployment insurance scheme for such workers who are listed on badli operations and a fix payment to be given to them when they are refused jobs during their semi-probationary or badli time of service will also exercise a necessary check in this regard.

Probationers to Apprentices :

54. A consideration of the system of probation and apprentice training can also be considered as a part of recruitment programme. These systems are adopted in the modern industry as a part of pre-recruitment operations. Not much care is however given to this vulnerable part of man's service career. This is a time when the Industry

can build its own image in the mind of the worker and the worker forms his opinion about the industry. This as well as the process of induction appear to-day to be an annexure loosely added to the main theme. Their main position is that of Introduction and preface which can excite one to enter into the contents of main work.

This is not done at present and a recruitment by whatever method - through introduction, interview or a written test is taken as a sufficient attention to put a man on the job. The probationer and the apprentice do not need much of an examiner or a task master as their boss but a teacher and an experienced elderman who can give them a right view about the work situation and work-life. One of the main defects of our recruitment programme is that in spite of its patent defects it is looked upon as all-too-sufficient care to consider the probationer as a regular member of work with the only addition that he can be fired or dismissed at anybody's sweet will. We have said at the beginning of this chapter that every recruit is management's man at the start; we may add here that our system of probation is based on such unscientific lines that at its end it makes the worker permanent only with a will to teach a lesson. While the trade unions know this timing as a (*) the managements have yet to realise the potentialities of this most important part of the service-career of each individual.

(*) sensitive period to enlist its members, the managements
Induction :

55. Induction is defined as a technique by which a new employee is rehabilitated into the changed surroundings and introduced to the purpose, policies, practices and facilities of the organisation. In India with the exception of some progressive employers, induction has

not yet been properly understood or developed in its real sense. The worker gets his knowledge about the factory from the gossips with his co-workers and learns about the rules of service or standing orders only as his boss scolds him for its alleged breach. This is not an efficient way of handling human element in service. The Science of Management feels the need of having induction programmes even for the Superiors to introduce them to the art of supervision and make them belong to the men in administration. At the start of a job-career however, there is a special need to have a well throughout induction programmes so as to avoid waste of time in learning through wasteful years and experiment. Moreover each establishment has its own peculiarity and it is better that a new recruit is made comfortable by acclamatising him through a short-course of induction.

Promotion :

56. This is one area of industrial relationship where the heart-burning is found to be acute and wide-spread with a devastating effect on morale. The nepotism and corruption have coloured the present practices in this regard to such a great extent that no words will be sufficient to condemn their evil effects. When they are tried to be substituted by methods like those of Public Service Commissions they bring in another defects. Being removed away from the field of actual service or having little tangible interest in human placement they often cling unwittingly to a sort of favouritism that suits their fancies. Moreover these commissions too are not free from the system of spoils and appointments on these commissions themselves have become a matter of interest.

57. The more popular system of promotion in our country is what is known as seniority-cum-merit system. This system is open to many abuses since it can disregard seniority at any time and confer merit where it is not easily visible to the common eye. There is little of serious merit-testing in our Industry and the word has come to mean another substitute for favouritism. It seems that instead of having such a mixed system it is better that there exist different lines of promotional channels one by way of seniority and another by way of merit. In merit-testing the golden rule is that it is assessed on independent valuations put by different men in different situations - rather than by solitary individuals or by committees that soon degenerate into cliques.

58. A pre-requisite for a scientific promotion policy is to have well-accepted job-descriptions and job-specifications. They are the pre-requisites for a properly constructed job evaluation programme too. Each important job in each industry should be precisely stated and the qualities required for the job written down in manuals. Then a proper search for these qualities by well-tested methods such as examinations, group-interviews of different varieties ranging from interview of each individual by a selection committee to that of group making its own selection on the basis of marks given through a purposive debate, aptitude tests, problem-setting tests, work-appraisal techniques, etc., can be undertaken in an agreed fashion. There is no dearth of promotion methods that gives objective or near objective results in human selection but the will to avail them must be present. The malady of our economy is that there is no real concern for productivity or merit evaluation in our

management. We are not prospering by earning a name for our product or service. The top bosses of our financial world are content with easy money methods, black-markets and manipulations as narrated in previous chapters. In these circumstances all cry for a sound promotion policy becomes a cry in wilderness. Indeed the stage is so bad that it should be reconsidered whether the promotion should be taken as a management prerogative.

59. Another view of a good promotion policy consists in looking to it not as an exercise in finding right person for a given job, but in using and promoting the existing talent on a developing basis. This is the object of all personnel development programmes and they carry a great merit for all times. Under this system as it is practised in some countries each worker gets a chance to discuss his on-the-job opportunities with the top executive of his concern in every one or two years on the basis of his actual performance during the interval of such two sittings. He is thus offered a suitable change either by way of transfer, in-service training, promotion etc. The whole idea is that the Company is equally interested in its men, that they develop on their job very fast and stands to assist them in their endeavour. It takes each man into confidence in assessing this development and individual progress and opens for him greater avenues to exhibit his skill. This exercise is taken for each individual after every fixed term of comparatively short duration and is invariably limited with granting of an additional increment or two, or substantial promotion to higher post etc. It defines for each individual a plan for his progress on the job and is ready to alter jobs or working factors to suit the necessities or requirements for the development

of each man. This is in fact an ideal policy on promotion and put in deserving hands it can boost up the morale of our workers to unimagined proportion.

60. What is needed in all these spheres of recruitment, induction and promotion is a bold and fresh approach that looks the problems in their face and harbours no fear for experimentation. But instead of this we find to-day a lot of conservatism. We have seen earlier in this Chapter that in advertisements that appear in news-papers, Experience is quoted as the most desirable trait for recruitment and the salary of a recruit is often fixed in relation to his previous earning. This preference for Experience as a criterion in recruitment finds its most vocal expression in recruiting or promoting persons to the heads of personnel departments in Industries. And yet curiously enough it is in personnel department itself that previous experience can become a serious obstacle in developing good personnel practices. Experience has got several faces and factors and in human relationship and industrial setting there are hardly two situations that can be called similar. The likening of the areas of previous experience with the areas confronted in the new situation tends to mould the existing situation into the pattern of older one. This gives rise to different conflicts and predicaments and blocks progress. The practices of one area are blindly infected into other and the much-needed freshness of approach seldom appears on the scene. The fold of experience stagnates the creative urge. Since in our newly developing industries there is much of unbeaten track to be travelled, a wide variety of experimentation and large-scale comparison of notes between different original lines of endeavour appear

to be best suited to us than declaration of any set method of promotion as a guide. Indeed it will be correct to round up the theme of this chapter with the concepts that should govern the recruitment of Man who is supposed to recruit others and methods of promotion to the post that is going to articulate the policy on promotion. A fresh and noble vision must inspire those who are entrusted with the work of recruitment and promotion. They should come from fields of proved social service and should be those who have interest in developing men on their jobs. Given this, there are many forms of promotions policy that can give service to our case. In various facets of a personnel development programme there is in other countries and can be with us a harmonious combination of on-the-job training programme, selection-method and the follow-up technique increasing the utility of method by undertaking various case-studies. This is the best method that a good personnel officer or manager can adopt and then he will never be required to take direct recruits for top posts in his concern. It should be as far as possible, a rule to promote men from an existing family of workers in the industry. Given this background an employer should welcome his employees in equipping themselves with more education in universities or trade-schools while on the job; grant them study-leaves when appropriate to do so in all cases and encourage them by grant of additional increments where they pass outside examination. All ways should be handled that promote knowledge and skill in men and the exercise of these qualities on job should get an appropriate reward. An investment in the development

of Man is a worship of the manifesting god and all resources should go to **seek** His appearance in Man. For besides the financial or economic betterment that such service may bring to industry and its entrepreneurs, the development of man is the aim and crown of all Human Culture and stands above the mere economic considerations that attend the programme of personnel development as a part of a good promotion policy.

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C H A P T E R IV

CONDITIONS OF WORK :

Holidays and Leaves :

61. The provisions for paid holidays, privilege leave, casual leave, sick-leave, hours of work, overtime, etc., have been written into law by virtue of the enactment of Factories Act, the Shops and Establishment Act, and the Employees' State Insurance Act, by decisions given by various Tribunals and even by Supreme Court and are parts of many standing orders and collective bargaining agreements. Thus the workers in India have got some legal and contractual rights in this regard and there is nothing much that requires to be added by way of structural alterations apart from minor or marginal improvements that would be found necessary as and when demands are made by Unions. The main shortcomings in this regard are two, viz (i) The implementations of these provisions of law is very defective specially in industries and areas where labour is still unorganised, and (ii) By and large the factory workers are getting less facilities by way of paid-holidays, leave, etc., than the clerical staff. As a result absenteeism in the factory staff (specially where the work is done round-th-clock and night shifts are a routine) is rampant and even leave without pay is required to be taken by labour. Ours is a very old and living culture and the large majority of people do celebrate many occasions and festivals round the year. This is quite a good part of culture that should be encouraged in all ways. To this is added a recent concern to honour as far as equally, the festivals or important days observed by each religion and

birth or death anniversaries of the more recent of National leaders. The complaint about excess of these holidays and leaves in certain industries has been made by employers and some tribunals have given judgement curtailing the existing number of holidays. In our opinion, the main defect lies in the adoption of calendar for prescription of holidays. A careful look at our calendar will show that many of the religious festivals of both Hindus and Muslims are on Full Moon or No Moon days, and the old Indian practice of giving holidays was based on lunar calendar. If this is done again and to it are added all the important holidays that are observed as days of religious or national importance by our people then we shall find that the weekly off on Sunday gets properly changed into a new cycle of holidays suited to our way of living. Till such time as this natural arrangement is not done a pull is bound to be exercised by demands of social life on provisions made by industries in a westernised fashion with little regard to the needs, evolution and pattern of our socio-religious life. The gulf between the factory workers and clerical staff in matters of holidays needs to be abolished since it has divided our people into antagonistic camps of white collar and blue collar workers, the former being considered as more privileged than the latter. A change-over to cultural considerations for prescription of all holidays and leaves, instead of the westernised style of week-ends (without weekly pay) can provide a right occasion to bring about this change on a national scale. As far as possible the whole nation should rejoice, pray and work on the same day and time - just as the night and day are same for all people, and they should be the days when we collectively remember our own past. At present many of our festival

days are being curtailed from holiday list and this is an unjustified or rather a harmful way of curtailment. The new calendar of holidays that we are suggesting will have a vast sanction of the needs of many unorganised sections of labour also like agricultural labour, gumastas, domestic servants, etc.

62. As regards the provisions of leaves, the same considerations apply as enumerated before. The workers in factories and those in unorganised sections like shops, etc., have got fewer entitlements to leave than the clerical workers or workers in big organised industries. It should not be difficult now to have a common natural consensus on this point. A ten days of casual leave in a year and 10 days of sick-leave (with right to accumulate) should be a matter of right for each worker. The employers are much insistant on the point that leave should not be considered as a matter of right. This is an unnecessary hindrance brought by a false sense of mastery. The casual and sick leaves are per force, required to be granted without previous sanction and the question of employer's right in this regard only serves to irritate the worker. He cannot develop any sense of belonging to his establishment if he cannot absent himself from it even for a casual reason that occurs once in a month or so, or when he is indisposed on health grounds. The annual vacation with pay - the privilege leave can be understandably taken with previous consultation and arrangement as far as its timing is concerned though not in its overall incidence. In this respect there is a suggestion made in some quarters that the total amount of privilege leave should have some relation also with the number of years of service - the workers who have put in longer service should be allowed more privilege leave. This may

serve well to counteract monotony of routine and keep freshness in work. It will also pay a tribute to long and loyal service. For the same reason, the right to accumulate all sorts of leaves (except the casual) should be unrestricted and the casual leaves may also be allowed to be converted into other forms of leaves by mutual agreements between Unions and Managements. Leaves should also be granted for attending trade union conferences, and all the period required to attend various tribunals, negotiations etc., should be treated as on duty. In this respect the present practice and settlement in the Banking Industry can serve as a guide to others.

63. Regarding the rest of the part of questionnaire, relating to provisions of safety and Industrial Health Service, we seek to present our views at a later stage or at the time of oral submission.

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C H A P T E R V

TRADE UNIONS AND EMPLOYERS ORGANISATIONS :

64. An increase in the number of political parties with a desire to operate their wings in the labour field has been the biggest single factor responsible for the recent growth in the number of trade unions in the country. Consequently, in such unions as are being conducted with a political end in view, the emphasis is more on trade union action at a time and in a manner suitable to the designs of the political parties, rather than on genuine, constructive and regular trade union activity. The publicity-craze of political leaders in the trade union field has prompted, during the last decade, more agitations than the interests of workers involved would have otherwise demanded. Agitation-consciousness on the part of the workers and stiff resistance on the part of the employers to even legitimate demands of their workers, both have been increasing progressively during the last decade. There is a growing tendency among the employers and their organisations to treat their workers as their enemies, to exploit every provision of labour legislation to cheat the workers of their dues, to evade implementation of agreements and awards, to follow dilatory tactics by going in appeals, etc., and thus to provoke even innocent workers into some sort of action which can be declared subsequently as 'illegal'. Mutual distrust between trade unions and employers' organisations is on the increase. There is a growing sense of hostility between the Government and its employees. The latter feel that instead of functioning as an ideal or model employer the Government has proved itself less enlightened than even some of the employers in the private sector.

65. In view of the national objectives of establishing a Socialist Society and achieving planned economic development it is imperative that the trade unions and employers' organisations should be constantly conscious of these objectives and apart from being servicable to their members, they should aspire to develop themselves into effective instruments of National reconstruction. In economic terms this would mean that they should become consumer-conscious. For, consumer-consciousness is the nearest economic equivalent of National consciousness. They should consider themselves responsible not only to their own members but to the entire Nation also. This should inspire them to take the general public into confidence on all industrial matters, to educate the consumers about their respective approaches and attitudes and to enlist their moral support in case of Industrial conflict.

66. Trade Unions, under the changed circumstances, should take lead in organising consumers' conferences and in developing consumers resistance. They can further help in a big way the co-operative movement of the country by participating themselves in it.

67. In co-operation between themselves and jointly with the Government, they can undertake programmes of social welfare for their own members as well as for work rs of other industries residing in their colonies.

68. To-day most of the Trade Unions and Employers' Organisations have been busy only in protecting and promoting sectoral interests of their members. They have not given a serious thought to the problems of evolution of a better society. They are not in the habit of taking a comprehensive view of the national economy. If both

determine to adopt such a view the differences between them will be considerably narrowed down. For example, our national economy demands that no one should be thrown out of employment and that the largest possible number should be given some employment or other. The insistence of the employers including the Government of India on introduction of automation, electrification, dieselisation or mechanisation is thoroughly incompatible with this supreme need of the nation. The Trade Unions are agitating in the right direction against such moves. This would help maintaining a high level of employment. It is unfortunate that the Government of India in its capacity as employer is not adequately helpful in this regard. On the contrary in its own departments and industries it is carrying out mass retrenchments which are being rightly opposed by the Trade Unions. The Government should follow the golden rule of "No Retrenchment without alternate employment".

69. The effectivity of the Central Labour Organisations in ensuring implementation of agreements on national level by their constituent units is adequate by and large, though there are examples of constituent units not implementing such agreements under stress of local pulls and pressures. There have also been cases of ineffectivity of National Federation against the defying constituents. But broadly, such cases are exceptions.

70. Difficulties do arise in reconciling the actions of the employers at the plant level with national policies evolved jointly by unions and employers organisations. The only way to resolve such difficulties is to strengthen trade unions so that they be able to force the employers into right course of action.

TRADE UNION LEADERSHIP AND MULTIPLICITY :

71. The inter-union code of conduct has not been effective in regulating inter-union relations and avoiding inter-union rivalries. The code cannot be made more effective so long as there is no change in the basic attitudes of the trade unions. The impact of political parties on the Trade Union Movement has been considerable and we have dealt with this problem at length elsewhere in this memorandum. Influence of outsiders on trade unions is overwhelming. It is so because the Trade Union Movement is in the initial stage and the workers do not feel confident about their own capacity to lead themselves. They are also nervous about their ability to function properly at the negotiation table. Hence the leadership of outsiders. It is recognised by workers that these outsiders should be dispensed with as early as possible, once the workers become self-reliant. It is also true that political exploitation of workers can be possible through the medium of outsiders. Elimination of outsiders from the Trade Union Movement will considerably liberate it from political domination. In fact, trade union is the organisation of workers, for the workers and by the workers.

72. The definition of the outsiders is not easy. The difficulty arises particularly in placing such of the leaders as were employed formerly in the same concerns and resigned or are victimised subsequently. In fact, they should not be treated as outsiders.

73. Even regarding employees who are trained systematically for leadership, some difficulty is experienced. Once trained, they have a tendency to align psychologically with outside middle-class leaders. They spring from the

proletariate but cease to belong to proletariate psychologically. Special care should be taken to ensure that such a psychological drift does not take place in their case. Training them in the art of leadership is essential. This can be done through the programme of workers' education, special study classes by unions and practical experience of the field under the guidance of matured and experienced trade union leaders.

RECOGNITION OF A TRADE UNION:

74. The talk of Trade Union Unity is very much in the air. The multiplicity of unions in different industries has certainly weakened the position of Labour as a party to collective bargaining and rendered it difficult, if not impossible, to ensure industrial peace therein. Though all unions subscribe, at least apparently, to the motto of 'One industry: One union', there is no serious effort in any quarter to bring about unity on industrial level. This indicates that either there should be launched a more systematic and serious move to achieve trade union unity or all concerned should learn to live with the fact of multiplicity of unions.

75. It is obvious that real and abiding unity cannot be brought about only through the negotiations between leaders of different organisations, since their ultimate objectives and consequent strategies are markedly different. Even if leaders at the top arrive at some sort of agreement through mutual adjustments, the success of such an experiment cannot be guaranteed, unless unity is also built up simultaneously from the bottom. Unity through artificial adjustments of different claims cannot be abiding. The trade union unity, to be lasting and effective, must be the natural outcome of the unity of purpose at the bottom.

76. There can be only two methods of achieving unity. Workers in general should be made unity-conscious through appropriate education and propaganda to that effect, so that they would bring appropriate pressure to bear upon leaders of differing unions and force them to either to unite or quit the field. This is the surest way to overcome the hurdle of differences in objectives and strategies. But this envisages a long-ranged and patient programme and campaign of workers' education. There is no short-cut to success in this respect.

77. The other method has been tried by the Government of India in the P. & T. department. In that case, the Government took initiative in bringing about trade union unity, launched in Realignment Scheme and persuaded different unions to fall in line with it. The experiment has been a success, though some cadres with less numerical strength feel that they are not protected adequately in absence of their separate cadre-wise unions. Clerical Staff in Telegraph Offices and the S.B.C.O. Staff belong to this category. Nevertheless, these lapses are capable of being remedied with suitable adjustments within the framework of the present scheme. The National Federation of P. & T. Employees has nine categorywise associations federated at the national level and co-ordinated at the circle, the divisional and the branch level.

78. This method is less effective as compared to the first one. Its utility is limited. Much would depend upon the inclinations of the leaders of the existing unions who may or may not opt for any such realignment. The limitations of the efficacy of this method would be evident if it is tried on the Indian Railways. Presently, there are three national federations, two of them recognised and one unrecognised, and several general and categorywise

associations functioning on the Railways. The growth of categorywise associations has baffled the leaders of the general federations as well as the administrators. While the principle of 'unity' is sound even as a practical strategy, the categories with less numerical strength could not ignore the fact that their cases were not properly represented by the general federations before the administration or the second Pay Commission, because they had no voice in the general management of these federations. The numerically stronger categories had naturally a greater pull. To coerce employees of weaker categories into compulsory membership of any federation about whose judicious behaviour they are already, and justifiably, apprehensive would amount to an encroachment upon their constitutional and democratic right. And yet co-existence of general federations and categorywise associations would present a very complicated and chaotic picture which is not in the best interest of the employees themselves. Application of the P. & T. formula with appropriate modifications is a method worth trying on the Railways. True, the number of categories on railways is far greater. But they can be grouped into twelve or thirteen trades. Different categorywise associations can be federated tradewise and tradewise federations can, in their turn, be confederated at the national level. Co-ordination between different constituent units of the confederation at the Zonal, the divisional and the branch level can be ensured by following the pattern of the NFPTTE with suitable modifications. This is practicable as well as advisable. For, while it is detrimental to encourage only categorywise associations, it is no less dangerous to impose, in the name of unity, unwanted leaders and organisations upon unwilling employees. Unity should be evolved from below, and not imposed from above.

79. Will the Government take initiative in this respect? And, in case it does, will the leaders of different federations, unions and associations respond favourably? One does not know. Anyway, the game is worth the candle, though the limitations of this method are quite obvious.

80. One fact is quite clear. The success of this method in government departments and public sector undertakings would pave the way for its success in the private sector industries. Even so, even this method is bound to take pretty long time to bring results.

81. The first method envisages education of workers in genuine trade unionism which is distinct from political trade unionism of communists. The Marxists have always held that genuine trade unionism is opposed to the ultimate object of communist revolution, in as much as it seeks to give immediate relief to workers which would minimise their enthusiasm for ultimate revolution. Contented workers can never be the canon fodder for bloody revolution. Communists have, consequently, perfected the technique of capturing unions through all questionable and unscrupulous means and exploiting them for the furtherance of party ends. This ulterior motive of the communist trade unionists is the biggest hurdle in the way of trade union unity on the basis of genuine trade unionism. Unless these elements are eliminated completely from the field real trade union unity is impossible. This can be achieved only through education of workers in trade unionism.

82. Educated workers will force their leaders to keep the trade union movement free from all party politics. Exploitation of Labour for political ends would become impossible if workers are convinced that trade unions can deliver goods only if they are conducted on non-political level.

83. Both the methods envisage a patient approach and immediate cultivation of the art of living with the fact of multiplicity of unions.

84. Unity brought about by legislative measures would be neither real nor enduring. And worse still, it would curtail the fundamental right of workers to form their own unions and choose their own leaders.

85. It would be unhealthy to impose restrictions upon the right of workers to form unions of their choice, by making registration of such unions increasingly difficult. The present provisions for registration are alright and should be allowed to continue even in future.

86. The present procedure for verification of union membership should be improved upon so as to expedite the process.

87. Recognition may be granted to unions on industrial level on national plane, or on industrial level for local areas; and on plant, trade or category level.

88. In industries like textiles, engineering, sugar, cement, etc., recognition for local areas would acquire greater importance, because of the peculiar characteristics of these industries.

89. In Railways, Banking, Insurance, etc., recognition on national plane would be more important, though provision for recognition on local level, or on unit level will also have to be made.

90. The rule under which any union having 15% or more workers as its members is entitled to recognition is obviously unsound. Theoretically, it gives room to

recognition of six unions in an industry, - though on practical plane this ceiling of six may be reached only in exceptional cases.

91. We propose that recognition on industrial level be granted, in the first place, to any union having membership of 55% or more. In absence of any such union, recognition be granted to all the unions with the membership of 30% or more. Unions with a membership of less than 30% should not be recognised.

92. Recognition for local area or for plant - trade - category - level be granted to such union or unions as are not recognised on industrial level for national plane but are having in their respective areas or on their respective levels, membership larger than that of the recognised unions. Recognition of such unions will render them representative character in dealing with problems peculiar to their areas, plants, trades or categories.

93. Eligibility of union/unions for recognition should be determined on the basis of the membership figures of different unions obtained through the process of verification. In case any union challenges the correctness of these verified figures, the device of secret ballot should be resorted to, to determine the representative character. Only those workers who are members of some registered union or other for six continuous months should be entitled to vote. Non-members should not be given the right to vote. The period of recognition at different levels should extend normally to two years. But it should be open to any unrecognised union to challenge the representative character of the recognised union after a period of one year, in which case there should be conducted a fresh

verification of membership figures, and, if the same fails to satisfy the challenging union, a fresh secret ballot in the manner mentioned above.

94. While it should be the prerogative of the recognised union/unions only to enter into agreement with the Management on collective demands and problems, the unrecognised unions should have a right to represent individual cases, interpret the agreement already arrived at, and ensure strict implementation of the various provisions of such agreement. The managements should be placed under an obligation to receive representations or deputations on behalf of the unrecognised unions even regarding collective demands, though agreement on the same may be entered into only with the recognised union. Managements must be under an obligation to reply to all communications from the unrecognised but registered unions. The latter should have a right to approach the courts on any point not covered by the Agreement between the management and the recognised union. The unrecognised unions have an inherent right to educate the workers on the various provisions of the Agreement, to mobilise their opinion against provisions that are detrimental to labour interests, and to bring pressure upon both, - the Management as well as the recognised union, to delete or alter the same.

95. There should be no discrimination between the recognised and the unrecognised unions on the following points:-

- (i) Collection of membership fees/subscriptions payable by members to the union within the premises of the undertaking;
- (ii) Putting up or causing to put up a notice board on the premises of the undertaking,

and affixing or causing to be affixed thereon notices relating to meetings, statement of accounts, and other relevant announcements;

(iii) Inspection, by prior arrangement, of any place in the undertaking; and

(iv) Receipt of any relevant information about the working of the undertaking.

96. In the light of the above views the rules for recognition should be redrafted in the following manner:

(a) Where there is more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there is only one union, this condition should not apply.

(b) i) The membership of the union should cover at least 55% of the workers in the establishment concerned.

ii) Where no one union fulfills this condition, all the unions with membership covering 30% or more of the workers should be recognised.

iii) Membership would be counted only of those who had paid their subscriptions for at least six consecutive months immediately preceding the reckoning.

(c) i) A union may claim to be recognised as a representative union for an industry in a local area if it has in its area a membership larger than that of the union recognised on industrial level.

- ii) A representative union for an industry in any local area should have the right to represent the workers in all the establishments in the industry, but if a union of workers in a particular establishment has, in its establishment, a membership larger than that of the union recognised for an industry in that local area, it should be recognised on establishment level with the right to deal with matters of purely local interest.
- (d) A union may claim to be recognised in the industry for its particular category or trade, if it has in its category or trade a membership larger than that of the union recognised on industrial level. A representative union for a category or a trade should have the right to represent all the workers in its category or trade on matters peculiar to the category or the trade.
- (e) When a union has been recognised, there should be no change in its position for a period of two years, provided that after a period of one year its membership may be re-verified if challenged by any other registered union in the industry.
- (f) In the case of trade union federations which are not affiliated to any of the Central Organisations of Labour, the question of recognition would have to be dealt with separately.

97. The provisions under the code of Discipline in regard to recognition of unions do not provide, in practice, a satisfactory arrangement in this regard. The code is not taken seriously by either of the parties to industrial

relations. The attitude of the employers has been progressively obstructionist in this respect. Workers have come to cultivate a sort of distrust about the soundness of the present system of the verification of membership which, therefore, needs to be supplemented by the process of secret ballot. The issue of recognition is one of the major causes of industrial unrest because under the present system unions favoured by the employers or the Government can be manoeuvred into recognition though their actual membership may be far below the level required by law.

98. It is, therefore, necessary to introduce procedural changes along the lines enunciated above. For proper enforcement of this procedure it is imperative that the entire question of recognition should be brought within the competence of the Labour Courts as envisaged by the Indian Trade Union Amendment Act, 1947.

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C H A P T E R VIINDUSTRIAL RELATIONSINTRODUCTORY :The Government's Labour Policy :

99. The crux of the problems attending industrial relations lies in the attitudes adopted in communication between the employer and the employees. The Government can have little to do in this respect except to set its own example as a model employer. To understand the issues relating to communication we have therefore to examine the behaviour of this line and mode of communication between the employer and the employees. However, it is as well necessary to decide the role of Government in this matter-specially with reference to the point when the mutual negotiations between the two parties cannot yield any definite result. Should the Government intervene in this matter, either on its own or on solicitation by either party to the dispute ? The nature of this question postulates certain ends of public policy. In the first place, it is obviously the duty of the Government to see that in any industrial dispute the people should not be held at ransom by either party to the conflict. Each strike by employees or each lock-out by employer inevitably entails certain inconveniences to the public. It will not be right to make a fetish of this public inconvenience, each time a disruption takes place in a public utility, or any other industry. But at the same time people have a right to expect the Government to intervene on their behalf in any dispute that threatens their collective life or one which involves lot of suffering to common men

or bring indecencies of public life. But beyond this the Government will be entitled to keep away from any direct intervention in an industrial dispute, unless its help is solicited by any party to the industrial dispute. Even on this solicitation it need not run without sufficient cause and should examine the credentials of the party soliciting the intervention and the merit of each case. In this respect it can broadly be said that it should have a kind look to the weaker party in the dispute, though this should not necessarily mean that it should encourage or oblige weakness. On the other hand when a dispute concerns itself with making changes in existing situation it should honour the solicitation from only a recognised union, or unions entitled to do the bargain on behalf of concerned employees and should not entertain a paper union on matters of importance. But in all other matters such as protection of legislative or contractual right of labour, its good officers and sanction should be made available to any common worker against even the biggest of employer.

100- Given the above considerations as a broad term of reference, various forms of Government intervention and various details of policy can be envisaged as an ideal programme. The effectivity or otherwise of the Government's policy on industrial relation can be judged only with reference to such formulations which can be considered as just and proper under the circumstances. Broadly the situations calling for Governmental interference from the side of labour and the appropriate form of intervention may be set forth as under :

i) For complaints of individual nature like

dismissal, discharge, transfer, non-payment of dues etc. (a) When the Government is apparently satisfied that the dismissal, discharge, transfer etc. is illegal or is in contravention of settlement or custom or is injudicious and improper, the appropriate executive authority should have the right to force the employer to reverse or modify his decision, subject to the latter's right to get a final verdict from judiciary. (b) In all other cases, the employee or his union should be able to take his case to the court for proper justice. Thus the form of Government intervention is to act on prima facie findings on a complaint being lodged by labour. The subsequent verdicts or opinions of judiciary on the way in which this power is exercised by the executive organ will provide the necessary correction in this regard.

ii) For grievances arising out of non-implementation of Awards, settlements etc. it should be sufficient if any Union raises a dispute on the same and then the procedure to be followed by Government should be the same as above. Thus a distinction needs to be maintained between a individual grievance and the collective dispute and for the latter the intermediary of a registered Union should be insisted upon before the Government can be expected to intervene and engage itself in the matter. This will help the creation of responsible Unions of labour and disciplining of attitudes.

iii) When demands are made by Unions to alter the existing conditions, the form of Government intervention requires a very close study and balancing of

different factors. This is a field earmarked for the growth of healthy institutions of employees and employers. Here the stress should be on collective bargaining. Both the parties should be required to sit together and sort out their industrial relations problems. In these disputes the Government should not intervene except when specifically called upon to do so by a strong and reliable Union. There should however be no hard and fast rule laying down the criteria for a strong and reliable Union, because quite often the arithmetical criterias based on membership etc., do not serve the purpose. They are open to much accounting manipulation and are not a guarantee against dislocation in key categories or departments. The circumstances in each case are bound to be different and yet they can unmistakably indicate the Union or Unions that are influential and can be trusted to deliver the goods. A reasonably well-trained and well-equipped labour intelligence can be trusted to perform this function. The form of intervention in this case can be to guide the parties to bring about a settlement, or otherwise promote a voluntary arbitration of dispute. The recourse to compulsory adjudication should be taken only as a last resort. The wage-boards and Pay Commissions may be appointed when the issue requires technical study and gathering of evidence from a large body of people or institutions.

101. Any Government that sticks to the above formulations of policy and shows that it is widely informed about its implications can be considered as having done its duty in this regard. The criteria of the effectiveness of Governments' labour policy should

not be judged in terms of man-days lost by strikes, lock-outs etc., but by the promotion of healthy institutional relations which it can patiently nurse and by the giving of protection to individual employee to the security of service and for gains which he has acquired as rights. Its effectivity will be noticed from the respect it can create for its executive authority. In matters that fall in the sphere of collective bargaining, however, the number of settlements which the labour machinery can help to achieve will be its measure of success. Next to it we can count the cases referred to voluntary arbitration. But the number of references to compulsory adjudication should be treated as its failures. In cases of individual grievances or union complaints regarding implementation etc., the strictures of the Court against the executive action will act as guideline to assess the working of policy. Beyond this the sphere of industrial relation is not a function of the Government and it need not be blamed for deterioration or otherwise in industrial relations over any temporary period. In the long term trend of industrial relation it is our view that the example that it sets as a employer will be the most positive factor that will decide the nature of its contribution in this regard.

102. On the basis of the above view, the record of Government's policy on industrial relations can be seen as one of progressive failure, since Independence. Firstly, the Public Sector has not come up to any expectation. The record is so bad that it has rendered incapable of mootng any idea on industrial relation for the acceptance of private sector. In the 23rd session of

the Indian Labour Conference, when the Government spokesman pleaded for a new approach in labour-management relationship, Mr. Naval Tata, speaking on behalf of Employers promptly said, "If it is good, try it yourself. We will learn from you." There is not a single instance in which public sector, inspite of its non-profit character, can be quoted as an example. Secondly, the aim of labour policy, so far, appears to be negative, viz., the maintenance of peace in industry. This has resulted in application of ad-hoc measures suiting to the exigencies of each situation and absence of any long-term direction to labour policy. The more positive aspects of industrial relations such as stability in institutional relationships in each firm or industry, growth of mutual understanding about factors conducive to the increase in the standard of living have suffered in this whole process. Thirdly, the conciliation or implementation machinery has remained weak due to the lack of administrative sanctions. This has shaken the confidence of workers in Government intervention. Fourthly, the individual employee, who is a victim of managerial arrogance, has no remedy at present. Whatever legal way he may undertake is costly and uncertain. This state of affairs has been the cause of large-scale frustration and loss of all confidence. Lastly, the code of discipline resting on arithmetical values ignores the importance of many vulnerable spots and situations in industrial set-up. In effect, the code does not serve any useful purpose. Many a times, sitting tight on the code, the managements and recognised unions refuse the aggrieved member of un-recognised unions even the hearing of their case. This spells an acute atmosphere of bitterness and vengeance even in the most well-intentioned

minds. The actual operation of the code has thus been a cause of suffering and a shelter for many unfair labour practices. The Government's policy on industrial relations has thus been able to serve no useful purpose for it has neither recognised its limits nor it is dedicated to any purpose in an unlimited way. Its stance on peace is largely misplaced since it ignores the utility of conflict on some important issues, in the present context of things. Its effect has been to dampen the enthusiasm for any progress.

Defective Communication :

The Basic cause of Industrial Conflict :

103. The main item of concentration in promoting better industrial relations is the behaviour of the communication line between the management and labour. The most important effect of modern industrialization is that it has depersonalised the workers in an industrial organisation. In such a situation the normal and natural feeling of any worker is that the high-ups are always cooking up something against him and present things as a fait accompli. He is treated as a soul-less machine and there is none to listen him in the company. Then the grapevine gets its day and major barriers are erected and attacking each other becomes the normal mode of communication. The way out is to build up an indefatigable and optimistic line of communication in each firm that operates freely from top to bottom and quite more important than that from bottom to the top. The authority should then go hand in hand with persuasion and the tenor of communication be considered as the pivot around which should revolve the whole gamut of industrial relation. In this process not only the leaders of labour be heard with

great respect but even the undertones of feelings of a distantly placed employee be noted with ostensible care.

104. The manner of this communication and mode of response in communication should necessarily depend upon the level of persons who are confiding with each other and between whom a sustained collaborative effort is to be maintained and fostered. The corresponding concept in scientific management takes an employee as not something to be managed by a general set of managerial principles but as one who suggests the principles of collaborative effort suited to his level of feeling. A good communication system admits the necessity of finding between the psychological level of the employees and the managerial style of the manager. Recently in an article captioned "NEW APPROACH" in the Management" in the Economic Times Shri S..M. Patil, Managing Director, Hindustan Machine Tools gave following five stages of employee growth requiring five successive approaches of management so as to maintain standards of productivity, work and relationship :

i) The Man is aware of little more than the problems of subsistence. The only kind of Management he can respond to is that which cares for him as one cares for an infant.

ii) The Second level is of awakening. A flood of stimulations pour into his awakened brain. The appropriate management style is of rigidly prescribed and rigidly enforced rules.

iii) Employee believes in the power of 'self'. He believes he can alter the established order through

exercise of his own will. At this stage a long continuing war of organisational power begins. Production can be maintained only by 'giving to get' provided satisfactory devices such as, -an individual incentive system can be contrived.

iv) Fourth level is the socio-centric attitude. The employee becomes concerned with the social rather than the basic personal or material matters. Management at this level must be substitutive as well as participative. Perhaps at this level the oft-advocated technique of 'labour participation in management' may succeed.

v) At the highest level employee is quite confident of his capacity to survive, come what may. He is end-oriented and not means-oriented. At this level employee needs to be trusted and respected. An 'acceptance management' which takes him as he is and accepts the fact that in his area of work he is competent and responsible and supports him in doing that which he wants to do is necessary. Management must fit the organisation to him, not him to the organisation. In the opinion of the author of this article many of the Indian industries are at the third level in above classification although in some instances like advanced technology industries even the third level might have been surpassed. The author also mentions possibilities of enigmatic situation when a labour leader who is on the third level may have followers of the second level. To this we may add that we have in many cases leaders of the fourth level having followers of the second with a vital link of the third level missing in the picture. Whatever that may be the author has drawn quite an important and correct conclusion viz., 'productivity

is a function of the psychology of both the controller and the controlled and depending upon levels within levels of employees, management philosophy has to vary but should remain appropriate to the particular level.' It is such an approach to the quality and mode of the communication system between management and labour that is quite often forgotten in the stresses and strains of daily routine and politics of the factory and hence we get an all-round deterioration in the Industrial Relation. The relationship is therefore bereft of any productive value.

105. The record of the Government in this respect is very detrimental to the economy. The Government has got a large industrial empire where they can do many good things. After the 1960 strike of Central Government Employees, assurances were given both in Parliament as well as outside that Whitley Councils would soon be set up. And then a series of objections were raised by Government itself before putting the promise into practice. First the Government employees were asked to voluntarily abrogate their right to strike. Then it was said that the character of the present staff Association was not desirable. Thirdly the question came of distinction being made between the ministerial employees in secretariate etc. and the industrial employees in Post & Telegraph, Railways, etc., who are yet governed by common and outmoded service conduct rules. Finally when J. C. M. came the authorities refused to keep or part with the minutes and records of the meeting. Such a pre-rogative-obsessed attitude that wants 'to keep the people at their proper place' inevitably brings in its trail large-scale frustrations and a weight of accumulated grievances. If their frustrations are denied any overt outlet then they find out covert ones

and manifest in the nature of poor-quality work, arrogance to citizen, corruption, lack of interest, 'passing the buck' type of mentality and irresponsibility and shifting of blame etc. If at occasions they have manifested in other ways like political recording of protests at the time of general elections, leakage of embarrassing information or even of official secrets then the Government shall have to blame itself for driving its employees to such a stage. The deterioration of industrial relations is due to these lacunae in industrial communication and steady deterioration of all public services. This has made the situation highly inflammable so much that in some cases it can convert any instance into a wild-cat strike. The statistical record of the pattern of industrial conflict may show any results; it is the factor of bad communication which is always at the root of the intensity of industrial conflict. After the Independence, workers had a vague expectation that they will be taken into confidence in governing their day-to-day life but this has not at all happened in any sensible way. The social, economic or political considerations have got a strength from this basic failure in communication and its present mode, manner and coverage. That is why the labour unrest in India has no tendency for a volcanic eruption that struggles to spot-light or push any major tendency or issue. It is a picture of large-scale frustration of a helpless people who cannot pitch their hope on any particular line of action. Those who attribute this unrest or rather restiveness to any urge for 'ism' of one type or other are theorising after their own wishes and hide the above simple truth. A group of people in whose lap the power fell after independence

either in political, economic, social or administrative spheres have not yet learnt the wisdom of sharing it with the others or rather with the workers and hence the conflict.

Role of the Unions :

106. The part played by the trade unions in influencing the pattern of industrial relations has necessarily followed the philosophy and practice of the Central Labour Organisations to which they belong. It is the declared policy of communists to intensify the class war and the class conflict. For AITUC and the other communist unions, the Industrial Truce Resolution does not exist and they do utilise all the opportunities to deteriorate the relationship between management and labour. For this purpose they use all types of deceptive methods and carry malicious propaganda against those who attempt to build any constructive or fairly good and honourable relationship. The latter are described by them as management's men and enemies of labour-meaning thereby that one can never be a friend of both. The communists have obtained a large success in establishing this atmosphere of class-war. The INTUC which is opposed to class-war and stands for class-collaboration has been discredited on this score from the mind of labour. Along with its other defects mentioned earlier the INTUC has not been able to wipe out the influence of AITUC from the mind of common workers. The HMS or the HMP are themselves influenced by these elements of communist thought and practice, though they have at times made quite a sincere effort in building or maintaining good industrial relations. But

having accepted the theory of class antagonism they have not been able to resist the built-in pressures within the Organisation to adopt the stance of militancy. As a result the grass-root tendencies and pressures have never worked with a will to co-operate with the management. The BMS has adopted a different strategy to combat the communist influence and bring improvement in the industrial relations. It has embodied a pragmatic and experimenting attitude for true solution of all problems and has kept itself informed of the truths revealed by Indian philosophy and culture as well as the practices and results of both the western viz., the communists and the free world. Unlike the HMS it has not concentrated its work-force in selected industries but has erected militant platforms on a wide coverage and basis. With a all-India base of operation it has now started generating the climate it thinks to be congenial for the evolution of ideal industrial relations. Its contribution at the moment is to present a different view-point on questions pertaining the life of worker and that view has begun to act as a catalytic agent.

107. This march of the trade union movement obviously creates questions of Union rivalry. It is often said that more than half the questions of industrial relation are created as a result of inter-union rivalry. This may be true in a narrow sense of this rivalry becoming the immediate or efficient cause of problems facing the personnel Department of Industry. But in a wider and long-term context it can be seen that the root cause lies in the entry got to the poisonous elements of communist thoughts in this country. The workers alone

are fighting these anti-national elements and in this effort they have not yet received the support of management or Government. The Management has often seen its own immediate gains in each situation and is misled by communist strategy. Not being informed by any idealism, it has tended to read only selfish motives in communist ideological leadership and in the process it is itself being tricked by the long-term policies of the communists. When the non-communist or nationalist unions have come in conflict with major unions of communists, the managements have hardly pursued any serious anti-communist line. They have preferred to strike compromises with the communists - either in the guise of the latter claiming as majority unions or because they are trouble-mongers. The communists have celebrated this as a victory and harnessed the same to harden the worker's belief in intensification of class conflict. The result has been the further and further deterioration in industrial relations. The Government also committed the same mistake till the Chinese Agression of 1962 and thereafter though a slight change was noticed in emphasis of Government attitudes yet the recurrence of old inclinations becomes evident on quite a large number of occasions. Thus both the Government and the Management are giving a premium, albeit unwittingly, to the Unions who are bent upon deteriorating the industrial relations and the result is that almost none is left in the field who has made it his business to improve the relationship. So complete and vast a problem as building up of a harmonious and helpful relationship between management and labour is thus left for second-grade treatment and entrusted on administrative side to authorities who have no mandate to formulate

policy or take important decisions.

108. Of course, in the above situation there is very little that the Government and Employers can do directly to improve the present state of affairs. The field has to be left perforce to labour unions. Directly, it is sufficient if the managements perfectise their techniques of communication and the Government keep its wise proportion in action. The key work in this sphere is patience and perservance. In a patient manner, with a indefatigable composition the long way of building and maintaining better relationship has to be persued by all people of good-will. In one manner, however, which is little indirect, all can do a common effort. That is the field of Education-more directly of public education - through newspapers and other medias of mass communication and particularly of workers education. But on this topic we shall dwell at its proper place in this submission. Presently, it is sufficient to state that if a general discrimination between the communist and nationalist way of running the trade unions is widely understood and the questions arising out of union rivalry are appreciated in its light, the ball will be set rolling in the right direction.

109. Looked at from the above angles the role of different factors in the industrial relations take a definite line. The most important factors in maintenance of industrial relation are the Employer and the Employees. The former should devise an effective line of communication guided by a frame of reference that recognises the need of different type of management approach to different level of employees. It should likewise be able to

understand the strategy of the communists and the effort of Nationalist Unions. The role of the Government should normally start when the labour seeks for it. Here also the Government should devise different forms of intervention for different nature of disputes such as individual complaints, union representation for non-implementation, etc., and disputes raised to change or alter the existing position. Beyond the adoption of a wise and deliberate policy to promote the play of goodwill and mutual comprehension, the Government need not be unduly disturbed over questions of industrial peace. A certain amount of conflict and wastage is inevitable in the democratic set-up and it can have a tonic effect in relaxing the nerves and creation of better atmosphere for understanding of each other. On the question of workers education, however, there is much scope for Government and Central Labour Organisations to contribute and in matters of public Education, employers can also join the effort in a big way. In the ultimate analysis such an education of public opinion and workers' attitude and equipment will be the factors that will create a proper industrial climate. The Government can likewise collaborate with employers for training in aspects of personnel administration and scientific management and link the two wings of education to a broad purposive policy.

Rather this should be a Tripartite effort. All other lines of endeavour to improve the climate of industrial relation have a secondary and temporary effect. Attempts to prevent industrial disputes by making working arrangements and all types of compromises with easily corruptible leaders of labour, availing of mediation service in a light-hearted manner etc., are often an

eye-wash and give no real or permanent solution of key issues. The fact-finding enquiries go a long way in pinning down the mischievous element. The complaint about them is that they are not being put into service or honoured and when formed they often exclude the examination of the role of elements in administration that are responsible for a particular situation. The fact-finding enquiries are a must to carry the industrial relation programme to its grips without being baffled by confusion created by varying versions in a complex situation. This is when they are appointed to investigate after the incidence of trouble or when one is apprehended in immediate future. There is also another area for a fact-finding enquiry in a positive way. It is to learn about the men in the factory, their grievances, aspirations and suggestions in a positive way. This enquiry can go as far as the preparation and constant compilation of man-power inventory of the factory on the basis of which a well-informed organisation of policy can be chalked out with a great degree of confidence. Both are necessary for an ideal industrial relation programme.

111. The strength and weakness of trade unions is also an important factor in maintenance of good relations. The existence of a strong trade union is a must to shape in a meaningful way the direction of industrial relation in the firm. Even where the unit of industry is small as in the case of shops and small establishments or factories the union must be strong and large so as to cover the whole industry. Then only questions like wages and service conditions will not agitate and frustrate the minds of individual employees. In such sections the need for

uniformity of wages and service conditions in all similar shops, establishments or factories becomes necessary even for employers to avoid unfair competition and this cannot be done without the existence of strong and big unions. In big undertakings, the existence of a strong union becomes necessary even to sort out problems of administrative nature like fixation of seniority, amalgamation of units or departments, introduction of new techniques involving changes in job content etc.

112. The role of labour/personnel/welfare officer also assumes an importance. It is necessary for maintenance of good industrial relations that these personnel officers are well trained and well-equipped in personnel matters, enjoy the confidence of top executive and move with a broad freedom in developing industrial relations. Their relationship with departmental heads or line management should be made clear to the Unions and their role in this respect be fixed and known. Quite often one or the other factors of these requirements of personnel officer is found missing and then the unions begin to prefer to talk over their head to top-executives. This reduces their respect and efficiency as personnel officers. In fact, what is necessary is to build-up a well-demarcated line of communication from plant level upwards, reaching to the top executives' level and top-policy level of the board of directors and establish a correspondence of subjects with corresponding levels in union hierarchy. Both the sides must delegate their powers to suit the needs of such a communication line and provide rules for overlapping of issues and appeals. On specific matters such as job evaluation, promotion

policy or a scheme on retirement benefits, a joint technical body of Union and Management can be entrusted with the job.

113. At present, such well-defined and well-understood communication lines do not exist except in a few enlightened firms or undertakings and even in the latter cases they have not yet been crystallised into an established tradition. The Model Grievance Procedure tries to bring in something of this order but it is not yet followed in a very large majority of establishments. Moreover the unrecognised union is often given no place in processing of grievances. It is our view that in matters of handling or representing individual and group grievances (as apart from fresh demands) and the interpretation of existing rules, standing orders or provisions of awards, settlements, etc., the employee must be able to utilise or employ as agency, the Union of his choice and the question of recognition should have no locus standi in this respect. The existence and enforcement of standing orders can play a vital role in this respect by way of disciplining of attitude on both sides. But at present most of these standing orders are drafted by management. Unions have no hand in their framing except by way of occasional consultation on some procedures. In some cases Industrial Awards have encroached upon the grounds earmarked for standing order. We have nothing to say about this latter encroachment. The formulation of standing orders should be treated on the same footing as those of other demands and they should form a basic term of contract. In these orders there should be a provision of dealing with officers who do not follow the procedures for taking of disciplinary action or any other action on the basis of

standing order. At present the behaviour of officialdom has little respect for statutory enactments or contractual obligations. The rules of the game must be honoured by both the sides equally. Whenever such contractual regulations are formed, a reference for third party judgement may be provided in the same manner as the processing of other claims and demands. The Government and adjudication machinery or standing grievance arbitration should be open for any union while fundamental or structural changes and alterations can be initiated and settled only by bargaining authorities like recognised union or unions etc. A periodical evaluation of the working of all these systems is quite necessary and encouragement should be given to publish such follow-up or case-studies. The real training of personnel in management and in trade unions can take shape through seminars held to discuss such periodic appraisals done by competent bodies either inside or outside the arena of industrial relations. Here the study groups sponsored by Government can find a most effective office.

114. Such in broad terms are the basic issues and their solutions of the most thorny and most difficult and complicated field of Industrial Relation. The proper and full appreciation of this basic routine and foundation of human relationship in industry will give us the key to the building up of a high national morale. On the background of a well-knit industrial relation programme the rest of the labour problems will take their proper dimension and mould their specific purpose. In its absence the whole ship of Industrial Progress has become rudderless and is taking a way-ward direction.

COLLECTIVE BARGAINING :

115. In the sphere of Industrial Relations there is indeed no substitute for Collective Bargaining. No third-party settlement can be expected to take the place of a bi-partite agreement but it has to be admitted that the progress of collective bargaining is slow in our Country. On a national level the recent bi-partite settlement in leading Commercial Banks and the L.I.C. is perhaps the first large-scale victory in Collective Bargaining. The field is too much occupied with awards and reports of Pay Commissions and Wage Boards. The main reason for this absence of Collective Bargaining agreements appear to be three:-

- (a) In the Public Sector there is a tendency not to give mandate at any level to negotiate with requisite freedom.
- (b) In the private sector the federations of employers are formed to represent their common interests to the Government. They do not want to undertake the responsibility to commit their members on questions of wages or service conditions of employees and
- (c) The Trade Union Movement has not yet assumed a size sufficient to undertake national negotiations. On the level of region and individual firm, however, we have plenty of collective bargaining agreements. It cannot be denied that the presence of more than one Union and the legal rights given to each Union not to be bound by what is done by the other have to some extent prevented the growth of collective bargaining in India. But the root-cause of it is

not law or multiplicity of Unions. Even in national bargains cited above these defects were present and they were overcome largely due to the pressure from the workers in those industries with the growth of trade-union consciousness collective bargaining will take an effective shape even on the national level as it has already done on the unit level. There is no necessity to accelerate its pace by legislation. For quite often, law will not serve any purpose.

116. It is not always easy for a big union to reconcile the claims of different categories or regions or firms in a given industry and front the management with a unified approach. Even if it does achieve this miracle - which is initially done often by inflating the claims of all - it becomes difficult to negotiate the adjustments that are inevitable in any meaningful negotiation. While it is comparatively easy for the employer to negotiate in a big way since he has to care only for his pocket, the Union leader has to take into account the varied temper of union-members to whom he will have to justify his action. Even if the Union leader is well apprised of all the niceties of the economic situation, his members cannot be expected to have attained an equal degree of sophistication. Moreover there are very few industries and few Unions whose membership is so completely homogeneous as to avoid the possibility of a conflict of interest between different grades or areas. The modern union leader has to shape his wage policy with due regard to the balance of interests within his own organisation. The shifts in this policy that he has to make at the negotiating table present a formidable difficulty. Most negotiations take place behind

closed doors. The managements often insist on a package-deal programme. This makes all their offers in negotiation tentative. In such a case the demand of workers to get progress reports of talks cannot be easily met. The Union team mostly consists of different persons - sometimes having different attitudes. If a clash of incompatible personalities takes place in the progress of such negotiations the resulting picture becomes quite complex. An aristocratic attitude of one, political colour of another, a general intransigence of the third and so on, go on leaving their marks at the conference table where collective bargaining agreements are supposed to be concluded. If in such a situation the inter-union rivalry is formidable, then a union that might have gained recognition by accidents of labour history will not be able to hold its ground for a long time and deliver the goods. If this miracle has happened in India at some places, the role of ignorance and apathy of common members have not played a small part in this victory. But this is hardly a factor on which calculations of the future be based for a reliable policy. With the growth of this consciousness and general awakening of which we are witnessing many promising signs, it is quite likely that processes of collective bargaining may itself give rise to multiplicity of unions - specially the break-away unions on categoriwise lines and before long we shall understand the folly of failure in adopting job evaluation at an early stage to rationalise wage-differentials. An acceptance of an internal wage structure is quite an important prerequisite to facilitate the growth of collective bargaining and specially with the type of time-scales and over-lapping grades and semi-uniform D.A. that we have got its need is all the more great to give a technical foundation to industrywise collective bargaining of the future. A

recent rise in trade unionism of non-workmen categories and the strain of limitations imposed by definition of workmen in Industrial legislation as felt by the trade union movement are the signs of a future growth in this respect and its weight on collective bargaining process can be neglected only with great peril.

117. It is not our purpose in narrating the above considerations to throw a cold water on process of collective bargaining as a dependable means for the future. Rather we are convinced that the collective bargaining will alone give the true solution of industrial disputes. We stand for its success. But for that very reason we are cautious to add that any haste in legislating provisions for easy recognition of unions and then depending on that legislation for growth of collective bargain is likely to discredit the system of collective bargaining itself and ruin the foundations of that only means which has the capacity to bring lasting benefits to Indian labour. As regards the considerations of conditions imposed by planned development in the process of collective bargaining we shall speak about it while discussing the concept of National Wage Policy. For apart from considerations of finance and pricing and destination of economic gains of industry, we do not feel there can be any circumscribing limitations which should encircle the mutual agreement between parties in an industrial dispute. Looking to all these conditions we conclude that it will be safer and wiser to trust the evolution of trade union consciousness to achieve its prized stage of successful collective bargaining and any attempt of law either on recognition of union or bargaining agent or on prohibition on arbitration or adjudication machinery is likely to give very abortive results and make

the ultimate success of collective bargaining more difficult and delayed.

JOINT CONSULTATION:

118. A review of this subject has been recently taken by Shri V.G.Mhetras of the Bombay Labour Institute in his work, 'Labour Participation in Management - an experiment in Industrial Democracy in India'. The learned author of this book has defined the concept of participation as a process wherein the decision-making power of the administration is shared 'by the ranks of an industrial organisation, through their proper representatives, at all appropriate levels of management, in the entire range of managerial action'. This scheme as it is working through Joint Management Councils represents India's approach to Industrial Democracy. At present more than hundred undertakings from both private and public sector have participated in the venture. A recent report in Economic Times (dated 21.4.1967) puts this figure as 41 in public sector and 81 in the private sector. In the private sector the councils are generally set under an agreement with the recognised Union or Unions. 'One Plant, One Council' is the common practice. The size varies between six to twelve and both the sides enjoy parity. The labour representatives are either elected directly or are nominated by the recognised Union. There is no strict adherence to the system of rotation of the Chairman and Vice-Chairman between the management and labour. The selection of Joint Secretaries is done by way of nomination by labour and management of their respective representatives. The average number of meetings comes to about once in two months and the average attendance is 84 per cent. The resolutions and decisions of the council are largely unanimous, since simple majority decisions are not in the

spirit of J.M.C. It cannot be said, however, that the discussion is always free and frank, since the fear of victimisation looms large in the minds of labour representatives. The author has classified this participation in five ways as: informative, consultative, associative, administrative and decisive. He observes that the management does not show a live interest in disseminating all necessary information to the councillors. Consultative participation is mostly done in matters relating to production and personnel while associative participation is evident in areas of welfare and amenities. Administrative and decisive participation is almost absent and this gives the impression that the councils receive a casual or a light-hearted treatment. The author states that the arrangement of this council is normally patterned after the Draft Model Agreement and yet he feels that caution is necessary to demarcate clearly the councils field of operation. Specially it is necessary to demarcate the areas of negotiation from those of co-operation. Also the normal functions of the works committee should be separated from those of the J.M.C. A proper device can be sought in establishing a single J.M.C. co-ordinated by its appropriate sub-committees with suitably merged functions of the works committee. We agree generally with these observations of the learned author. We may, however, add that there is no necessity of a parallel existence of a Joint Management Council and the Works Committee. The author also admits that there is a certain amount of confusion among the management as well as workers representatives about the functions of joint councils vis-a-vis the works committee. He however, feels that there should be no difficulty in apprehension of their roles since joint councils deal with policy matters while the works committees are burdened with subjects arising out of day-to-day working.

He has still observed that 'almost nowhere in India does the J.M.C. and the Works Committee function successfully side by side, in one enterprise. Generally, works committees have ceased to function where joint management councils have been established'. We may add that this is what it should be.

119. The experience of Works Committee has undoubtedly served as a background to the establishment of J.M.C.s. The legislative requirements regarding their formation should continue and be applied to all establishments employing twenty or more employees instead of its present limitation to industrial establishments employing a hundred or more workmen. It has however to be remembered that the present statutory compulsion has not been effective since their consultative character has enthused neither the employer nor the employees. Even the unanimous decisions of present works committees are treated by management as purely recommendatory and they have got no real powers in influencing the decisions. Thus they exist mostly on paper and carry no living impact. They should, in fact, run as predecessors to the establishment of J.M.C. and be made more effective by making additions suggested in the next para. The difference in the Works Committee and J.M.C. should be in their respective legal and contractual status. The J.M.C. should invariably come into existence as a result of agreement that springs as an improvement upon the statutory minimums of Works Committee.

120. It is a well recognised fact that the success of any programme of joint consultation depends upon the attitude and outlook that the parties bring to the forum either of the committee or the council. However, in order that proper environment be provided to the evolution of

proper attitude and in order to make the functioning of this machinery effective in bringing industrial democracy, we consider that in the present situation following provisions should be incorporated in the constitution of Works Committee itself:-

- (i) The appointment of labour representatives on the Works Committee should invariably be by secret ballot. This is necessary in the context of trade union rivalry and should present no difficulty to any recognised and well-trenched Union. It will offer a locus standi to non-representative union as well and minimise its otherwise inevitable tendency to acquire only nuisance value.
- (ii) The term of elected members should be of three years and one-third of the total members should retire each year and the posts filled by annual election. This will give stability to the Committee and at the same time reflect the winds of change in a graduated manner.
- (iii) Both the sides, viz., management and labour should be required to nominate one additional member each who can be an outsider. This will be helpful in bringing a specialised and independent advise to the deliberations of the committee.
- (iv) There should be only two office-bearers for a committee, viz., the Chairman and a General Secretary. These posts should be alternately occupied by management and labour nominee. This is necessary to bring a sense of respectability and responsibility in mutual dealings.

(v) Any disciplinary action on the employee of the Undertaking in the form of dismissal, discharge, suspension, transfer, stoppage of increment, fine, etc., should necessarily be subject to the prior approval of the committee or in large undertakings of the appropriate sub-committee. Such a provision will go a long way in wiping out the fear from employees' mind and promote self-discipline and democracy in industrial establishment. In the case of a works committee member even the issue of charge-sheet and the enquiry proceedings should be done in the manner prescribed by the committee. Such a sanction being given to the Works Committee, it will elevate its status and even a warning issued by the committee will act as a great deterrent to forces of indiscipline. It will make participation a meaningful process and debate on industrial discipline and production a serious and purposive affair. Without such a provision the responsibility entrusted on the Works Committee will lack adequate support and the election to these posts will not entail a serious commitment from both sides.

121. It is presumed that the above provisions will be carried forward to the J.M.C. as and when they are formed to replace the works committee. It is also necessary to enlarge the jurisdiction of works committee so as to include the subject of productivity and work load and review of the results and gains achieved by current and changing methods of productions. That will give the workers a clean picture of the achievements of their enterprise and

inform them of what they can reasonably expect from this result. There should also be an administrative decision of some common subjects between the area of collective bargaining and the consultative machinery. This will be necessary on issues such as promotion, transfers, retrenchment, lay-off, period of continuous service, confirmation of workmen, fixation of seniority, etc.,. On these subjects the policy should be decided by the process of collective bargaining with the recognised union or unions, while its implementation should be entrusted to works committees. The decisions on this subject cannot be taken without the prior approval of the works committee except that in case of promotion the works committee should have only supervisory powers. The consultation machinery will then become an annexe province of collective bargaining which is the right of recognised union or unions. Thus alone they will provide an effective form of industrial democracy.

TOWARDS LABOURISATION:

122. The question of profit-sharing, allotment of shares to workers, putting the workers' representatives on Board of Directors, etc., are schemes that had caught the enthusiasm in many western countries. The extreme pattern is that of Yugoslavia where we get a full-scale auto-management. The law proclaims that the factories, mines, communications, transport, trade, agriculture, forestry, municipal and other state economic enterprises, as national property, are to be managed by the workers collectives in the name of the community within the scope of the state economic plan. In India, there is a great attraction for the Yugoslav experiment. The B.M.S. in its constitution has laid down 'Labourisation of Industry' as an ultimate to be achieved. But a revolutionary switch-over to the

Yugoslav pattern does not appear to be either possible or desirable. There are also other experiences such as the recent one of France where the French Government under Gen. De Gaulle has issued an official decree making profit-sharing compulsory in all private firms with over 100 employees. Then there is the West Germany experience of co-management where the top bodies, viz., the Managing Board that runs the enterprise and the Supervisory Board that deals with long-term policy issues, is manned by equal number of representatives of labour and management with the 'eleventh man' being appointed by agreement. Both these experiments are going under heavy weather. In our own country, the National Productivity Council has recently evolved a formula to allocate the gains of productivity between the shareholders, workers, consumers and for plough-back effect. To this N.P.C. formula Shri V.M.Dandekar, Director, Gokhale School of Economics & Politics, Poona, has added a good correction to the effect that the plough-back of 30% should be given to workers in the shape of shares and make them co-owners. The two formulae stand as under :-

Head of allocation of Productivity gains.	NPC Formula	Mr.Dandekar's Formula
Reduction in price	20%	20%
Share to Labour	30%	30%
Plough-back	30%	-
" (Shares to workers)	-	30%
To Shareholders.	20%	20%

Both the formulae require further technical working such as mode of determining the gains of productivity and basis of allocation of shares to different categories. One of the common objection against these schemes from the

management side is that so long as the managements are held responsible for the success of the enterprise they cannot share the responsibility of taking decisions. On the Labour side the objection is that such schemes only provide some cushy jobs for trade union leaders who change to the other side in the process. Probably for this reason the Yugoslav pattern provides for a maximum term of two years for any employee to remain a board member and even during this period they remain at their regular jobs except for the period they are engaged in board meetings. In any case, hesitations to go forward with such schemes can be understood since the special skills required to decide long-term policy and management of affairs cannot be easily trusted to the process of elections by common workman. It must be noted in this connection that in Yugoslavia the elected body nominates the lower, i.e., the management body while in the Federal German Republic, the functions relating to personnel and social co-determination are in the executive jurisdiction of the works council, while regarding the functions relating to economic matters the works council have the right only of co-decision. In England and America the Employer still rules the field. However, the British Trade Union Congress stands with the view that the trade unionists should have a larger and larger share in determining the policy and day-to-day practice of an industrial enterprise at all the levels of management. In the United States, however, the view is largely against the sharing of management responsibility. They say, it is the duty of the management to manage and it is the duty of the trade unionists to protect and advance the interests of their members, not to participate in management. They say that a line must be drawn somewhere. It is held by some authorities on the basis of this experience that a belief

in workers' participation in management is in conflict with India's avowed goal of independent trade unionism and free collective bargaining.

123. We shall have to draw very careful conclusions from the above experiments and suggestions and on a sound basis of the study of human nature and requirements of an ideal socio-economic structure prescribe for our country a line of action suitable to our culture. The main line of Indian Thought suggests two factors on the basis of which we can approach the subject with confidence. It has been held in India that the Property does not belong to any Individual but it is the trust of God given to the whole of creation. Practically speaking this amounts to an absolute right of Nation to all the property and assets in the National bound and it is not the responsibility of only capitalists or management to decide its rightful employment. Secondly it is held by Indian Practice that the form for any working should follow the spirit that moves the People and there is nothing sacrosanct or compulsive in any particular structure. Indeed, the India's vision has gone to such a length as seeing that given a right spirit any form of working can be put to a good use, for the form matters not before the spirit. The spirit can use anything, while in its absence nothing good is possible.

124. The above considerations lead us to two important conclusions. They can be stated as below :-

- i) The groups of people should be left to decide their own form of collective working according to their collective wisdom and no one dogma need be imposed on all people.

ii) The drift policy should be to move towards the peoples or the labour sector. The only limiting consideration can be the optimum utilisation of national resources following the needs of national economy. But besides these considerations of changing and evolving needs of community, the demand of capital to insist on more than moderate gains for investment of capital and the claims of all-time superiority of management need not be taken as respectable views.

On the above basis we conclude that the Nation and the Government should stand to promote the progressive Labourisation of Industry through all means such as profit-sharing, allocation of shares, co-determination, joint councils, workers co-operatives, etc. There should be no legislation in this respect except that demands in this respect should be covered in the schedules of Industrial law and processed like other industrial demands. There should be no flat rule, but a demand in this respect should be treated as raising upon industrial dispute and in deciding the subject the Judicial Bodies should be informed by the principles enunciated above as guide-lines. It may be expected that such a provision shall give us a slowly evolving pattern throughout the length and breadth of the country's workers and the goodwill or resistance shown by the employers. Out of this struggle varying schemes will come into operation. The genius of the people may be trusted to develop this line of progress under the general rule laid down by the basic principles of thought and practice.

CONCILIATION :

125. The Labour Conciliation Machinery, in its present form,

had a great utility in the early days of its career and even today, it serves a useful purpose in new establishments or for new unions till they are accustomed to the processes and limits of collective bargaining and forms of industrial action. It is mainly an educative office where the conciliation officer brings to bear his vast knowledge and expertise in handling industrial disputes to give a right perspective to issues brought before him. This method has certain advantages when the stage of industrial relationship is raw and crude. In effect, the forum of conciliation does become an occasion to make the parties alter their stand and arrive at an agreement. However, once the parties learn all that the conciliation officer has to tell them, then the utility of conciliation ceases and it becomes a useless obstacle that brings delays when arguments are repeated ad naseum. If on the top of it the time limits that are prescribed for various proceedings are not followed, as is the present case, either due to pressure of work at conciliation table or because of non-attendance of parties specially the employers or other reasons, then the whole effort to conciliate becomes a way to fan the agitational approach. This is so at present. In effect the conciliation officer is fastly presenting an image of a stale, outmoded and ineffective form of Government intervention and a strong case is made out for its abolition.

126. We are, however, convinced that the conciliation officer has its use at the early level of a trade union or management career and even when the relationship of parties is well informed it does often provide a place where second thoughts can take place in an honourable way. It should therefore, continue with suitable modifications in its power and method of work. In the first place it must strictly

adhere to the time limits prescribed by present statute. Specially in cases where its processes are of a formal nature, since the parties have nothing to learn at the conciliation conference and wish to avoid it, the conciliation machinery should not stand in their way. Secondly, the conciliation officers should be armed with administrative powers like police officers or other enforcement authorities to enforce their verdict on certain matters which should be made their charge. For this purpose, they should have the assistance of Labour Prosecutors about whose rule we have dealt with at other place.

127. It may be noted in this connection, that throughout our submission we are envisaging an additional and vital role for conciliation officers. This role may be summarised as under :-

- i) In matters of disciplinary action like dismissal, discharge, transfer, etc., affecting the social and economic life of individual employee, the conciliation officer can be approached by any such aggrieved employee, either by himself or through his representative or through any registered union. On being approached in this manner, the conciliation officer is competent to decide the case on merit and enforce a decree on employer for compliance of his orders. His decision will, however, be subject to an appeal made by either side within a specified period but will be effective during the pendency of such appeal and its final determination by appellate court. The various judgements that may be delivered on such cases will act as guide-lines for his conduct in this regard.

ii) In matters of interpretation of awards, settlement, etc., or in enforcement of their provisions, the conciliation officer in his capacity as an implementation officer can be approached by any registered union of employees concerned in the case. He shall be vested with similar powers to make a determination in the case and enforce his decision in this regard.

128. We consider that the above powers should be vested in the conciliation officer and they should be required to take speedy decision on the same. This is necessary to check the vast amount of injustice that is being done on labour who are subjected to much harassment and are uprooted from life in a light-hearted manner by making transfer or being dismissed under one pretext or another. On this score we do witness today a mass of hunger strikes and other protests which become of no avail and only spread disastrous frustration in the mind of workers. We consider this power to be necessary even after laying down that such an action should not be taken by the management without the prior approval of the works committee. Because the obsessions brought in the works committee through inter-union rivalry or as after-effects of election cannot be ruled out. The law must provide here, as elsewhere, that not a single innocent person should be treated as guilty even though in the process ten guilty persons may get the chance to misuse the machinery set out for such protection. Similarly the rights acquired by awards, settlements, etc., should not be open to further litigation on questions of implementation. An administrative authority must be able to enforce the same except in cases where it feels that a construction is required to be obtained from judiciary upon any particular interpretation of the settlement, award, etc. The granting of these powers will make the role of conciliation office quite important and effective and will go a long way in filling a

great lacuna in present practice which has been a cause of serious industrial disturbances at times and quite often a large-scale suffering of individual workers scattered over a wide field. We may also mention here in passing that the present conciliation machinery need to be suitably strengthened by addition of more hands and the remuneration of conciliation officer and other staff in the labour offices suitably enhanced. The former is necessary for bringing speed to the discharge of work and the latter to ensure that the tendency to fall a victim to employer's purse may not come in the way of taking a bold and independent stand on vital matter concerning even the poorest of worker.

ADJUDICATION :

129. The necessity of adjudication in the present context of industrial relation is obvious. After completing the process of conciliation, if any, it should be open for any party to the dispute to refer the case to adjudication. The present discretion given to the appropriate Government in matter of reference to adjudication should no more exist, instead it may be open to the adjudicating authority itself to admit or refuse any dispute by making a prima facie examination of its validity or otherwise in the preliminary hearing of the case. The appointment of industrial tribunals should not be vested in the Labour Department, but should be done by the Chief Justice of the Supreme Court or by any authority to whom he delegates this power. In cases such as those relating to discharge or dismissal, etc., the powers of the adjudication machinery should be enlarged and the adjudicator should be required to examine the case on its merit de novo and not restrict the examination to ensure adherence to procedural rules. Similarly when a dispute is pending before the Court, the employer should be prohibited from terminating the service

of the employee on the same ground which is the subject matter of dispute and if he intends to do so on any other ground he should be required to obtain the prior approval of the Court. The present diversification of judicial machinery under various acts such as for payment of wages, workmen's compensation, etc., needs to be integrated into an integrated whole structure of judicial system for labour and this system should not be subject to the executive organs in any case such as its appointment, etc. Even the Supreme Court and High Court should have a separate bench for labour and then there should be no necessity for a separate Labour Appellate Tribunal. The cost of justice to labour should be minimised and only a nominal stamp fee should be charged for application on behalf of labour. The Awards of the adjudicator and the settlements registered before them should get the status of a statute so as to ensure their full and proper implementation.

CODE OF DISCIPLINE :

130. The code of discipline has been an attempt of parties to Industrial relation to regulate the causes of industrial conflict on rational lines. This code looks quite good on the paper. But as one descends to practical problems of industrial relation, one begins to see that its application often brings in more misery than what it seeks to remove. On the one hand it encourages the tyranny of recognised union over some of its own members as well as the members of unrecognised union. On the other hand it does sometime create impossible situations for the management when for example, a strike is launched by an unrecognised union in a key department or category of the undertaking or in a particular region. The inter-relationship in Industrial set-up is too complex to be governed by any one logical rule and rational scheme of things, for the situations that these

inter-relations throw-up are often baffling and paradoxical. The code has often been interpreted to mean that there should be no exchange of word or letter between the management and the un-recognised union. This has either resulted into endless litigation or a sporadic warfare. The recognised union also finds it difficult to honour the code in all its parts. Various clarifications of this code have been tried in different establishments and the public sector has tried to enforce it quite rigidly in some cases. Its apparent success at times has been due to the stronger position of the undertaking and not due to any natural factors. This has resulted in suffering and frustration of employees who have turned apathetic to the trade union movement itself. Having lost their hope to improve through any means their own lot, such employees have often turned into a sort of dead wood and are seen indulging in way-ward behaviour and inefficient or irresponsible and cynical approach to all questions. The code of discipline has yet to serve any useful purpose in industrial relations and no haste be shown to translate any of its provisions into law.

VOLUNTARY ARBITRATION :

131. The system of voluntary arbitration under a joint reference made by the parties is indeed an ideal way to find the solutions to many throny problems of industrial relation. In other forms of industrial adjudication the tribunal is required to consider national and general circumstances besides the issues directly involved in the dispute. The voluntary arbitration does not work under such compulsion. It is an extension of collective bargaining. The job of the arbitrator is to search for some solution which it would be to the advantage of both sides to accept. As one writer puts it, (a solution) 'which in fact they might have found for

themselves, if they had kept their tempers and remained as sweetly reasonable as their models in the economic text books'. In our own country the progress of voluntary arbitration has been quite promising though lately there has developed some mistrust about it in a few quarters. But this has been due to the lack of training and guidance in the field of Labour Arbitration. Recently an Institute for the promotion of voluntary arbitration has been formed and it is seized with the necessity of developing the role of a private arbitrator as of one who can be acceptable to both the parties. We have got now many speaking awards of private arbitrators and instances are on record where they have preferred to take the assistance of technical assessors before arriving a considered decision on the subject matter of arbitration. Many of our arbitrators, however, have not been able to get out of their mind the notion that their function is in some way judicial. Legalism in theory is considered to be a bias in the mind of an arbitrator, for a legalistic approach is not conducive to a settlement. The job of the arbitrator is not to impose a solution but find out a settlement that can be acceptable to both the parties. In order that this approach to voluntary arbitration may be realised in practice it is necessary to promote on a nation-wide basis certain broad concepts about voluntary arbitration. Since this can be best done by persons who have developed special skills for this type of national service, the proper way to promote the idea is to declare a panel of names of arbitrators acceptable to the Central Organisation of workers and employers. Then it will be easy to the parties in an industrial dispute to solicit the assistance of a member on this panel. The presence of these panel members will also be welcome in many seminars on industrial relation where basic or particular problems are discussed in a freer atmosphere. The various research

organisations and councils will also like to work in the light of suggestions made by worthy arbitrators of long standing and repute to make detailed investigations on particular aspects of industrial relation and take projects that can give basis for the deliberations in an industrial dispute. A body of systematised knowledge and practical experience will be collected round the thinking made or expressed by these arbitrators and a general scheme of reference will be built up to decide many difficult questions like wage-fixation, wage-differentials, social costs and economic progress, role of fringe benefits, etc. Almost all the important matters that form the Union's Charter of demand are such that no law or no fix principles can be propounded on the subject. The settlements arrived at in collective bargaining do not give any idea of what was transpiring in the minds of parties that arrived at a given settlement. It is the function of the courts of law to establish case law. But arbitrators are under no compulsion to make any serious attempt to establish case law. In their awards, references to earlier decision may be frequent but precedent in a formally binding sense has no place in disputes such as those on wages. In a way the speaking awards given by arbitrators in important disputes can give us a body of a sort of organic common law that develops according to custom and usage and current opinion in each period. It can embody a good sense of the mankind as rules found to be conclusive to a proper adjustment of men's relations in various settings given by the modern complex of industrial and economic life.

132. In order that the arbitrators can do their job well it is necessary that they are well versed in the technical matters that often weigh the consideration of the dispute. There is no one profession such as of civil servants, or

lawyers or academicians or businessmen or technicians that can give us a ready-made Arbitrator. The voluntary Arbitration is a highly sophisticated profession that must develop on its own, though personnel managers and senior trade unionists may be able to switch on to this profession with a comparative ease. The reputation as an Arbitrator is the greatest asset that a Society can look for as its riches in men of high comprehension, balance and wit. More such men can afford to give a patient listening to the warring parties in a dispute and put the respective positions in a proper perspective from which an answer can flow just like a fruit from its seed, the more able will become that Society in solving the industrial disputes by light rather than heat. It is proper that we pay them well and the unions and management contribute equal share while availing their service. In their solicitation both parties should put equal stake so that they will get a balanced foundation and their profession will get a high acceptance and honour without which it will not be worthy to take that office.

STRIKES :

133. The strike is a legitimate weapon of the worker. The term should be taken to include stay-in strike, pen-down strike, sympathetic strike, token strike and even hunger strike. The mass casual leave can also be considered as a form of strike. The term should not however include go-slow and sabotage and illegal confinement. These latter categories are a timid and anti-social tactics and must be discouraged. The work-to-rule form of protest, however, stands on a different footing and should be considered as a legitimate form of protest. The running-sore strikes such as refusal to work over-time, or refusal to run the last bus on schedule, etc., will have to be examined on its merit according to the nature of industry and timing of the action as to whether it falls in the category of

strike or a mere protest. The bumper strikes (done factory by factory) or revolutionary general strikes are quite often political in nature. However, they need to be distinguished from big-scale sympathetic general strike or bundh done for a trade-union cause. The frequency and duration of the latter are relevant considerations to decide how far they can be treated as a prelude or preparation for a revolutionary upsurge. Likewise the frequency of token strike in a particular establishment may convert its nature from a legitimate form of protest to mischief.

134. According to the present definition of the Act, the strikes are either legal or illegal. They are treated as illegal when they are commenced in contravention of the Act (Section 22 or 23 of I.D.Act) or continued in contravention of an order made under Section 10(3). The effect of these provisions is to render all strikes in public utility as illegal, for on the one hand they require at least 14 days notice and on the other hand they cease to be legal if and when the conciliation officers mediates in the dispute which he is under an obligation to do within these 14 days notice period. The legal prohibition of strikes is proving to be a notorious failure since it ignores the practical realities of striking situation and do not appear to have been based on the close study of the psychology of the striker.

135. The strike is more often than not a demonstration of force. The fight-to-a-finish form of struggle is hardly feasible in the context of Indian situation. The strikes in their current form are meant to compel the attention of the employer, Government and public to what the workers consider an injustice and oppression. Therefore, so long as there is an incompatibility between the views of the legislature of the workers about what is justice and what is injustice, the

'illegal' strikes will continue to occur. For the same reason they need to be handled with a view not to suppress them but to spot-light the more fundamental maladjustments, injustices and economic disturbances that lie at their root and finding out of ways to remove them by remedial action or education or both, wherever it is due. The overt cause of strike is hardly its real cause, it may at the most be a frontier-incident. One who has seen or employed various types of appeal to mobilise the workers for a common strike, knows very well how the accumulated grievances and a history of many unconnected incidents are roused to generate the strike-atmosphere in a plant or undertaking. Once this atmosphere becomes ready then the actual strike can take place even on the most flimsy excuse. Then if it is withdrawn because of the removal of the immediate or declared cause or because the strikers have exhausted themselves in the struggle, still its recurrence always remains possible so long as the basic underlying causes that prompted the actual strike remain unattended. When such strikes take place at periodic levels of, say, a year or two, then they may even be treated as safety valves to let out the steam lest it may take more dangerous forms. In factories where labour is putting up a hard full-day's work such strikes often have tonic effect in so far as they give way to the accumulated tensions of the period and also offer an occasion to make otherwise difficult changes in set up or working of the factory or review its payment scheme. Quite often such strikes on the factory level develop in a spontaneous manner. Usually the leader knows that the situation is explosive and may turn into strike at any moment, but the actual incidence and timing of strike may without his explicit permission. On the other hand, there are instances on record when out of a number of factors for which a strike-action is planned out and well controlled, if a

single factor changes, the union leaders have shown readiness to reverse all their earlier decisions even at the zero hour before the scheduled commencement of strike. There are many types of reasons that prompt the actual strike. Out of these bad social condition, fatigue and frustration in industrial work and inferiority of position given to workers may be termed as a sort of permanent underlying causes in the present context of Indian sense. Strikes for increase in wages, D.A., Bonus or such other financial demands can, in certain cases, be interpreted as a category apart. Victimization of active trade union worker or situations developing out of inter-union rivalry have also caused quite a good number of strikes in India. There are still many employers in the country who have not reconciled themselves with the existence of trade unionism and in these cases the unions quite often start along with the strike. Faulty or imbalanced wage bargains that may have done comparative injustice on some categories or regions are also increasingly becoming a cause of strike. Such resentments are very natural and they are likely to remain a cause for the formation of break-away unions. There have also been occasions for general strikes in an establishment for non-implementation of the award or faulty interpretation of the provisions of any settlement, etc. Strikes against a particular promotion or on policy of promotion are also becoming a new feature. Specially in white-collar workers where the sensitivity on this issue is most acute.

136. The analysis of the cause and modus-operandi of the strike suggests us the ways of handling a strike situation. In this connection we want to emphasise that the present distinction between legal and illegal strike should be replaced by a new categorisation of strikes as legal, non-legal and illegal. The legislature in its wisdom may lay down any

provisions that can classify the strike as legal and entitle the workers to receive the salary and wages during the period of strike. It may also likewise prescribe certain other strikes as illegal. These latter should be as few as possible. They may, however, include strikes attended by acts of sabotage, or strikes carried by method of intimidation and assault or all types of violence. In public utility service only these two distinctions legal and illegal may continue and so also in case of lock-out the same may be considered either as legal or illegal as defined by the statute book. In all other cases, there is a need for a third type of classification of strike that is neither legal nor expressly illegal. It may be termed as a non-legal strike and should not attract penalties that are imposed in case of a illegal strike. This will make it possible for legislature to provide a minimum of conditions to declare a strike as legal or illegal and leave a vast body of strike situation to be initially described as non-legal. It may, however, be kept open to the employer or any trade union other than the striking union working in the same establishment to apply to industrial adjudication to attract provision or provisions of illegal strike such as its penalty clauses for a non-legal strike on the merit of each case. In deciding these cases the adjudication machinery may be guided by certain broad considerations in refusing to term a non-legal strike as illegal. These considerations may be as under :-

- i) a sufficient intimation was given to the employer before declaration of a strike,
- ii) the abstainance from work is peaceful,
- iii) the strike is done with the sole object of bringing the employer to the negotiation table.
- iv) strike is of a purely token character.

- v) it is done to enforce provisions of law or award,
- vi) a sufficient provocation exists to cause severe discontent or
- vii) any other cause that may amount to the continuance of normal work a shameful or undignified submission.

The presence or absence of the above considerations should weigh in a general manner to guide the industrial tribunal to decide whether any penalty clauses provided for illegal strikes should be attracted in a particular case for which application is made by a competent party involved or affected in the strike. Similarly it should be open to the striking union to get the strike declared as illegal to be non-legal or a non-legal one to be legal, etc., and acquire benefits of relevant provisions.

137. The classification suggested by us is a very necessary classification and in fact, may enlightened employers prefer to abide by some such classification in tackling different kinds of strike situations. They have achieved remarkable success in stabilising industrial relations after a strike. The number of such employers is, however, very small and a lack of uniformity in this regard keep the unions guessing and affect industrial morale. It is estimated by many competent observers that the fall in production due to strikes is much less than that due to other causes emanating from bad industrial relations. If the strikes can, therefore, be made an honourable and well-understood form of protest, the processing of industrial strife will make a living sense and will be of great practical help to maintain a morale of work force. It will certainly be conclusive to create situation to work hard with an honour and dignity in work, for the other course to abstain from work and strike is open

when it is felt that the conditions of work have no more remained honourable. It is a sort of interim resignation which on being received from a competent hand creates a healthy stir and a serious debate on an important issue. The provision of debating the social foundation or philosophy behind such strikes in industrial adjudication and getting their verdict when so required will provide a very wholesome restraint on all concerned to think in terms of justifications of their action before a third party. In fact they are likely to bring the consumers' or common man's approach to problems of strike - a much neglected but a very useful approach. It may also make it unnecessary for unions to declare strikes under the banner of action committee so as to keep the official record of union clear for purposes such as recognition. It is better that unions should be able to own the strikes which they feel confident of being justified before a competent tribunal. For an institutionalised processing of strikes and a guiding and evolving philosophy for social discrimination is a necessary addition to improve the present position in this regard.

LOCK-OUT :

138. Theoretically the position of lock-out is possible of being argued on the same basis as strike. For the right to strike arises from a conception of equality between employer and the workmen as parties to a civil contract. But this is never so in fact. The relation under the present circumstances is entirely unequal. The workman can do nothing to change the terms of employment without the employer's consent. The employer is, however, much free to make many changes and order a lot of things. He, therefore, never needs to break his contract by locking out his workmen without notice. It is easy for employers to talk about the sanctity of contract but

the workmen have many times to choose between breaking their contracts and breaking faith with their fellow-workers in such a way as to allow the employer to worsen the conditions of employment. The strike has been far more necessary for the worker than the lock-out for the employer. Employers are usually in a strong enough position not to need to resort to a lock-out. Therefore, any restriction applying indifferently to strikes and lockouts will, in effect, discriminate against the worker. As such, we suggest a parity of considerations between lock-out in any industry and strike in a public utility concern and rule out any non-legal strike in the case of the latter. In both these cases the strike and the lock-out can either be legal or illegal depending upon the exhaustion of all ways to avoid their incidence and giving of a lawful notice and readiness to submit for a third-party verdict. We want to add, however, that for this purpose the public utilities should be declared by statute and not left to the discretion of the executive.

GHERAO :

139. One other question that has recently received a wide public attention is Gherao and it will be proper to deal on this subject separately. 'Gherao' is not a legitimate weapon in the armoury of workers for conducting industrial warfare. The term 'gherao' is recently coined; but the phenomena as such is not of recent origin. Gherao as an instinctive reaction of workers to the lacuna in legislation and inadequacies of various machineries under it is natural and there can be no question of either welcoming or condemning it. Mere condemnation would be of no avail, so long as there is no serious effort to remove the causes responsible for it. We have made appropriate suggestions elsewhere in this memorandum for making labour law more perfect and machinery

under it more efficient. If these suggestions are followed, instinctive gheraos will become superfluous. But it should be noted that gherao, when instinctive, is neither pre-planned nor organised. It is purely industrial in character, though not legitimate. Political gheraos are, on the contrary, pre-planned and deliberately organised. They are intended to serve as a link in the chain of a sustained effort to bring about chaos which would pave the way for ultimate revolution. In such cases, workers are treated as mere instruments of a political game, and their discontent is exploited for the furtherance of political ends. Such gheraos deserve severe condemnation. They are not only anti-national but also anti-labour. They are bound to result, in the long run, in hostile attitude of the entire population to even the just and fair demands of the workers. The real way to combat this menace is to implement the suggestions made by us in this memorandum. If workers are convinced that justice would be cheap and expeditious they will never allow themselves to be exploited by extraneous political interests.

TRIPARTITE BODIES :

140. The present tripartite bodies in India have provided a very useful forum for airing of views for Government spokesmen, and leaders of Industry and Labour. But beyond that august function they have not carried any living impact on the life of workers. The 15th tripartite is many times considered to be landmark in industrial relation since it defined concepts of a living wage, a fair wage and a minimum wage and the 20th tripartite gave a definition of rights of recognised union under the code of discipline. But the Government of India came out with a statement before the second Pay Commission saying that even though the Government was a party in passing the resolution of the Indian Labour

Conference yet these resolutions cannot be treated as binding upon the Government and they are not committed to take any executive action to enforce these recommendations. If the Government does not thus consider it necessary to honour these resolutions there is no reason why the other parties should. In effect the forum of the Indian Labour Conference has become completely ineffective. In this respect it is worthy to note that the forum of International Labour Organisation which is a tripartite body involving many Governments and Industries and labour leaders of many nations has been much more effective than our National Tripartite body. The I.L.O. has also sponsored many specialised and competent services in work-study and other techniques of productivity and labour welfare and they are shaping the work life to quite a considerable extent. We have already stated that most of our legislation has followed the lines set out by the I.L.O. Even its publications are treated as standard works and do leave their mark in many key disputes coming before the Arbitration. It should not be unrealistic to expect that the Indian Labour Conference and the Standing Labour Committee contribute much more to raise the standard of living of Indian labourer, wipe out unemployment and create better industrial climate.

141. The main defect of our Tripartite bodies is that they do not perform any standing function for labour. In effect, they have become only ceremonial bodies taking few periodic pledges that can be conveniently forgotten as soon as you step out of the Conference. They need an effective secretariate entrusted to carry out their decision and should be burdened with specific functions appropriate to their status and importance. Three such functions stand out in clear need of being put under the control of national tripartite machinery. One is collection and publication of data on the living and

working conditions of Indian labour. At present this function is variably done by labour departments of various State and Central Governments, Indian Statistical Institute, National Sample Survey, the Central Statistical Organisation in the Cabinet Secretariate, and the Labour Bureau at Simla. But the work is quite scanty and un-coordinated and cannot be put to a practical use. Even the construction and maintenance of cost of living indices on which so important a factor as workers' Dearness Allowance is always based, suffers from many faults and is openly subject to political influences. The compilation of this important data and its publication should be the charge of the Tripartite Body. The work of compilation of all such relevant material will give a very valuable base to chalk out a practical programme for labour uplift. The field is open to much original and important research and the involvement of tripartite in such a function will go a long way in improving the conditions of Indian labour and give a definite direction to labour policy. It will equip the Trade Union Movement to take its rightful share in shaping national plans and policy.

142. The second charge of the Tripartite should be the programme of worker and supervisory training including the workers education for trade union work. At present, the Government is conducting some courses in this regard while the others are done by National Productivity Council. The I.L.O. has taken productivity as one of its very important plank of providing International Service. This creation of productivity consciousness can also form an important function of the tripartite body and can be embodied in its function with the growth of experience in due course. An immediate programme of practical training of trade union workers, making workers conscious in matters such as safety, discipline, job opportunities, welfare programmes, etc., and training of

supervisors in industrial relations can be best introduced under the guidance of a tripartite body than leaving it to one body, viz., the Government.

143. The third is an integrated social security scheme. At present some schemes such as Employees Provident Fund, and Employees' State Insurance, are being run by separate institutions of a tripartite character. There is also a move to have a scheme for unemployment insurance. We shall speak about their integration while dealing with the subject of social security. At present, it is sufficient to state that the whole scheme should be integrated and put into operation under the general supervision of the National Tripartite.

144. For the above purpose a standing board of the tripartite will have to be constituted under the Chairmanship of the Central Minister for Labour. The chief executive officer for the works should however, be appointed by the Tripartite board after obtaining the concurrence of the Government.

GENERAL :

145. Such in broad canvass is the line on which human relationship in Industry can proceed most fruitfully on its vast lingering march. Any attempt to rationalise it on clear-cut patterns of thought is the surest way to invite repeated failures and large-scale disaster. Statutory enactments should have a minimum place in the whole scheme of things. Permanent acting machinery of skilled negotiators on both sides who can create sound customs and standards of behaviour and institutionalise the same by a willing acceptance will be the makers of a new industrial society. Whatever demonstrativeness may be attributed to trade unions by the common man and new shapers, the trade unions are in fact a serious day-to-day business. It is necessary that

industry should make their work easy by offering proper facilities within the office or factory premises and honour their existence as a part of industry and not a mere out of office activity. A steady and healthy communication is the essential prerequisite to build up lasting goodwill between employer and the employee and union - recognised or unrecognised - is an important, though not the sole, means of this communication. A works committee of workers formed through election culminating in Joint Management Council having sufficient power in industrial relation such as control over disciplinary action, productivity, welfare, etc., is one of the main channels of this communication. It should keep the two-way flow of information with live interest. On its basis the collective bargaining with representative union or unions can build a climax. There is nothing better than this collective bargain till a situation comes when nobody is an employer and none an employee since all as members of one Industrial family collectively decide each issue. For reasons mentioned by us earlier, however, the collective bargaining may not always become possible. In that case voluntary arbitration is the next best course. The independent nature of voluntary arbitration is its greatest asset and the speaking awards of learned arbitrators that may on occasions be based on technical consultations can constitute a great guiding factor in promoting healthy relationship on sound lines. The development of a profession in voluntary arbitration can provide a great inspiration even to research workers on problems of labour. The tripartite bodies taking a responsibility to collect all relevant data, co-ordinate research, and run schemes of workers and supervisory education will then be able to give a broad push to many important lines of experimentation. The minimum of statutory law with a maximum of freedom for the weight of current opinion to assert in each

situation will then put the country's spirit at work in many bold and original lines of activity. The scope left for non-legal strike and a debate on the same in courts of adjudication will reveal areas of social injustice and show the shortcomings of statute and man. The evolving pattern of Joint Management Councils can give us another varied pattern of constructive activity. A progressive march in schemes of profit sharing and elevation of workers representatives to board of directors will open for country's labour a prospectus to participate in nation building activity. A labour thus protected from victimisation by grant of powers to his works committee and having reliable awards and settlements since the Labour Commissioner's machinery can enforce its administrative decisions for him, and having required to justify his strike action only to the common man and consumer to whom he is answerable and of whom he is a limb and part and further having a right to raise dispute for acquiring rights to share the authority in policy-making will present a picture of people who are on road to acquire an economic freedom. If then, such an invitation will not still inspire the people, then the remedy will have to be found out in fields other than those of industrial relation. But before blaming something else let us put our own house of industrial relationship in the proper order - for who knows, we may solve all our problems on this field itself. The industrial family should as one big joint family and then it will get a well-rooted harmonious hue and colour. Its growth will then be on the basis of organic law.

C H A P T E R VII

RURAL AND UNORGANISED LABOUR :

146. The problem of rural unemployment and underemployment has defied satisfactory solution so far. Unavailability of reliable statistics in this regard poses a great difficulty in assessing the magnitude of the problem. Correct assessment of the extent of rural underemployment is still more difficult. Nevertheless, all these statistics will have to be collected before we draft any plan or plans for providing appropriate protection and relief to rural workers.

147. Before more than a couple of years the Government of India had assured the Republican Party that all surplus lands will be expeditiously distributed among the landless labourers - particularly among those belonging to the scheduled castes and the scheduled Tribes. This has, however, not yet been accomplished. Lack of earnestness on the part of the Government in this regard is the factor mainly responsible for this non-fulfilment of assurance. In many states, the provisions pertaining to the land ceilings in the State Land Reforms Acts have not been strictly implemented. In some cases the ceilings prescribed are unrealistic, ie. too high. Nevertheless, distribution of all cultivable waste land and of land rendered surplus on account of the implementation of the land Reforms Acts is a must and deserves to be undertaken immediately.

148. There prevails a view that such distribution of land, even if undertaken and accomplished, may not

prove a suitable economic measure. But if priority is given to agriculture in our next plan it should not be difficult to provide adequate finance to assist these new landholders in cultivating and managing their lands. Organisation of service co-operatives will go a long way in minimising the evil consequences of fragmentation. The sense of proprietorship will enthuse these labourers to greater and more sustained effort which cannot but result in greater production. Exemption of uneconomic holdings from land revenue or agricultural income tax will also assist them in achieving self-reliance within a comparatively shorter period.

149. For combating underemployment it is necessary to bring mechanised industry to rural areas. But the pattern of such industries must be different from that of those in the urban areas. Large-scale industry necessitating concentration of labour and of the various processes of production is a distinguishing feature of the urban industrialisation. In rural areas stress should be laid on the decentralisation of the processes of production. If power is carried to every village and every hut and hamlet it would be possible to run such decentralised industries with the help of machines to be devised specially for this purpose. In that case, home, and not a factory, would become the centre of industrial production. This is indeed an ideal condition for our rural areas. But this also envisages a fresh industrial survey of rural areas from this point of view, and development of new technology to suit this pattern. In the first place this experiment may be conducted in a few selected areas.

150. Launching of labour-intensive developmental projects capable of yielding results in the near future is another measure that is worth trying on a wide scale. Construction of feeder roads, small and medium irrigation and drainage works, etc., can be undertaken with the help of the unemployed and the underemployed ones. The action programmes suggested by the International Labour Organisation with a view to creating incentives and social conditions favourable to fuller and fruitful utilisation of local manpower in rural areas are mostly suitable to Indian conditions and requirements. Of course, the ways and means of adapting these programmes to our conditions will have to be thought out. But this is practicable.

151. The Republican Party had demanded that all agricultural workers in the country should be given the protection and the benefits of the Minimum Wages Act, 1948. This should be done without delay. It is extremely difficult to ensure the implementation of the provisions of this Act. The inspectorate would have to be too large; the cost of maintaining it exorbitant. Obviously, the agriculture industry is not capable of bearing this burden. To meet these expenses from other sources would not be so easy. To entrust this work to village or block development staff is possible. This should be tried, though one cannot be certain about the efficacy of this arrangement since this staff can be more rapidly susceptible to the corrupting influence of those who are out to defy the provisions of the Minimum Wages Act. We have no hesitation in admitting that we have not been able to conceive any effective method for implementation

of the Minimum Wages Act in the rural areas, though we are convinced that it is absolutely essential to implement it throughout the country.

152. As a matter of fact, the only guarantee of social justice to agricultural workers lies in the revival of the spirit of village commonwealth, comprising of peasants, artisans and land workers. Every party of this commonwealth is convinced that its prosperity is linked inevitably with that of the other two partners. This realisation generates an atmosphere and attitude of co-operation and mutual trust. Unless the inevitability or advisability of willing interdependence is brought home to every mind in the rural area, it is impossible to ensure justice and equitability, merely on the strength of legislation. But this is admittedly a broader subject, not within the competence of trade union organisations. Since we seem to be far away from such an ideal condition, we cannot but rely upon the enactment of suitable legislation and its strict enforcement.

153. Central Labour Organisations have not succeeded so far in organising agricultural workers. It is difficult to say whether this was an account of their unwillingness or their inability in this direction. Certainly, it is many times more difficult to organise agricultural workers. Their work places are scattered; hence the difficulty in rousing trade union consciousness among them. Secondly, everyone of them is in direct contact with the employer - which is rarely the case in factories. Thirdly, they are not yet confident that, in the context of the peculiar circumstances prevailing in the rural areas, trade union can ever become an

effective instrument of their service. It must be admitted that in case of agricultural workers, the labour co-operatives are at least as useful as the trade union. Greater stress should be laid on organising them into labour co-operatives. Labour Co-operatives are still more useful in case of forest labour. These uneducated, illiterate forest workers need appropriate protection from the exploitation and onslaughts of forest contractors. Suitable amendment in the law, making principal employer responsible for all payments and working conditions of the contract labour, seems to deserve priority. This should be noted, and they should be organised into labour co-operatives.

154. Village Artisans are outside the orbit of Labour Legislation. They are not 'workmen' in as much as they are not 'wage-earners'. But upon their welfare depends the welfare of peasants and workers, even as welfare of the latter is a precondition for that of the former. In their interest it is necessary to improve the methods of their work; to introduce a small degree of mechanisation in their crafts which should be compatible with their erstwhile modes of production; to encourage the spirit of 'swadeshi'; and to organise them into 'Market Co-operatives.' Market Co-operatives are to village artisans what trade unions are to industrial workers.

155. Workers employed in unorganised and small industries in rural/urban areas deserve greater protection. Provisions of the Minimum Wages Act and other legislation should be extended to this sector. Adequate number of

labour inspectors should be appointed to ensure or supervise the enforcement of such legislation. A concern which cannot pay its employees even the minimum wage has no right to exist. This principle should be strictly followed. The rate of subscription to trade unions should be reduced in their case. This may help the growth of trade unionism in this sector.

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C H A P T E R VIII

LABOUR LEGISLATION : (Part - I)

156. The labour-management relations should be improved and mainly governed by collective bargaining and negotiations, rather than by legislation and imposition. In other words, the relationship should not be merely legalistic and static, but evolving and dynamic. To ensure good industrial relations the main role should be played by the parties themselves - labour and management - and only when the bipartite approach fails, the legislation should step in to maintain industrial peace. Attempts to resolve labour problems by straight-jacket legislation should stand in the way of collective bargaining and building up the strong and healthy trade union movement.

STATE INTERFERENCE :

157. However, the powers of the state should be invoked and state interference is essential to protect and promote the health, morals and welfare of the employees, suffering from unequal bargaining power and exploitation by unscrupulous and avaricious employers. The oppression in itself, like fraud, is immoral and wrong either against the individual affected thereby or against the public at large and the excessive dependence of whole class of community threatens the social fabric with grave disturbance or ultimate subversion and ruin. Shri M.C.Chagla, the then Chief Justice of Bombay High Court, has made a significant observation in this respect in the case of Prakash Cotton Mills Ltd.

"....It is truism to say that the present tendency of our labour and industrial legislation is to impose more

and more burdens upon the employers. These burdens are imposed in the interest of the employees, because they have been underdogs for decades and centuries and the legislature wants to raise their status and therefore, employer cannot be heard to say: "There is an unreasonable restriction upon my right to carry on business or hold or own or possess property because the burden inflicted upon me by the law is such as in my opinion is intolerable.""

LIMITATION OF LAWS :

158. With a view to protect and promote the welfare of the working and toiling masses, the Government has rightly enacted various labour laws such as Factory Act, Industrial Disputes Act, Minimum Wages Act, Workmen's Compensation Act, etc. But it is painfully noticed that the purpose or objective of these enactments have not been achieved, to the extent it ought to have been. The following factors, amongst others, have mainly hindered the achievement of these objectives:

(a) The machinery of the Government for implementation of these labour laws is inefficient and inadequate. Looking to the vast number of the workers and the unscrupulous and dishonest employers, the quantity, quality and the powers of the executive staff has proved to be ineffective.

(b) Various lacunae in the labour laws; e.g.

(i) discretionary powers of the Government to refer disputes to the Tribunals,

(ii) the absence of provision for giving retrospective effect to the award from date of demand, result- in inordinate delay on the one hand and adoption of dilatory tactics by the employers on the other,

(iii) the provision of discharge simplicitor in Model Standing orders,

(iv) the failure of the Government to frame the labour procedure code, having one integrated machinery to enforce the law.

(c) The tendency of the employer to prefer the appeals on minor grounds and bringing Stay Orders against the recovery of legal dues, arising out of orders and awards, resulting in frustration and disappointment amongst the workers.

(d) The absence of healthy and strong organisation of trade unions, ever ready and vigilant to protect and ensure the implementation of the rights, conferred by law.

(e) Vast illiteracy prevalent amongst the workers.

159. Almost entire labour legislation of India is not only influenced but based on international labour conventions. Indian constitution has not hindered the progress of labour legislation on those lines; but on the contrary directs the Government to provide for full employment and decent standard of life and go ahead of such conventions. It is our considered opinion that instead of merely following the conventions, the Government should initiate legislation based on the conditions of the Indian labour, the stage of industrial development and existing position of trade union movement.

DIRECTIVE PRINCIPLES :

160. The existing laws have proved to be quite inadequate in implementing the directive principles of state policy on labour matters as embodied in the Constitution. Worker's

right to work, right to living wage and right to education has been totally ignored and the decent standard of living remains a distant dream. On the contrary, the Government has gone back on its commitment even to ensure the payment of need-based minimum wages, as per the recommendations of the 15th Session of Indian Labour Conference.

161. The following changes and further improvements in the existing arrangement are urgent and essential for making the progress towards implementation of directive principles:-

- (A) The inclusion of "Right to work" in the fundamental rights, guaranteed by the Constitution. It should be obligatory on the part of the Government to provide and ensure the employment to all citizens and make them free from hunger, poverty and disease.
- (B) The payment of guaranteed minimum wage, based on family budget inquiries, irrespective of the capacity to pay of the employer.
- (C) The protection of the above minimum wage in real sense the entire pay packet should be linked with the Consumers' Price Index number, computed in the right manner.
- (D) The formation of integrated social security scheme, including unemployment insurance and the benefit of the gratuity at the rate of one month's total wages for every completed year of service.
- (E) Codification of all the labour laws, with one executive machinery for its administration and one judicial machinery for adjudication.
- (F) Constitution of a special bench for labour in the

High Court and Supreme Court to avoid any delay and for the speedy disposal of the case.

- (G) The 'Bonus' should be regarded as "Deferred Wage", till there is a gap between the 'actual wage' and 'living wage' and the Payment of Bonus Act should be suitably amended on the said basis.
- (H) For the purpose of proper and scientific determination of the disputes in respect of classification, special Tribunal, having the necessary experience and technical qualifications should be appointed.
- (I) INDUSTRIAL DISPUTES ACT :
- (i) By virtue of Section 10(1) of the Act, the Government has discretionary powers to refer disputes to the Tribunal except under certain cases. These discretionary powers should be done away with and the parties should be free to refer the disputes directly to the Tribunal for adjudication, in case of failure to arrive at direct settlement.
- (ii) The powers of the conciliation officers should be enlarged in such a manner that while investigating the dispute, he should be able to enforce the attendance of any person and examine orally any person supposed to be acquainted with the facts and circumstances of the case. The present tendency of the employers to ignore and disrespect the officers shall be substantially curbed and the officer shall be able to play an effective role in bringing about the settlement.
- (iii) Private settlement between the workmen and the

Company has led to many bitter industrial struggles and disputes. Section 2(p) of the Act shall be so amended as to exclude such settlements arrived at directly with the workers, having no assistance or authority of a registered trade union (otherwise than in the course of conciliation proceedings). This will have the salutary effect of checking the unscrupulous employers from misusing the present provision of private settlement.

- (iv) Any strike during the pendency of any adjudication proceedings before a labour Court or industrial Tribunal and two months after the conclusion of such proceedings is very unreasonable and harsh. Even if an individual case of reinstatement or bonus for a particular year is pending, the workers are deprived of their valuable right of strike in respect of any industrial matter. Section 23(b) should be so amended as to make only those strikes illegal which are in connection with any of the matters covered by the reference for adjudication.
- (v) The present provisions regarding lay off is not applicable to Sections 25C to 25E by virtue of Section 25A to industrial establishments in which less than 50 workmen on an average are employed. There is no reason to differentiate between the establishments and just as retrenchment compensation is payable by every industrial establishment, irrespective of the number of employees, the lay off compensation must be paid by every employer irrespective of the number of employees he employs.
- (vi) Section 25H provides for re-employment of retrenched

workmen, but it is silent on the terms and conditions on which they shall be re-employed. Taking advantage of this silence, certain employers have started offering the re-employment at the reduced wages or at the rock-bottom stage of a wage-scale. For the removal of any doubt and prevent such unfair labour practice, the specific provision of re-employment in original post on original wages with same service conditions, should be made in a suitable manner in the Act.

- (vii) When a list of protected workmen is sent to the employer and he fails to recognise those workmen, the workmen should be presumed to have been recognised. Such specific provision is necessary in order to avoid any controversy over the question of recognition of a particular workman.
- (viii) Section 34(1) provides that no court shall take cognisance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government. However, it has been noticed that the Government hardly prosecutes any person for such offences and this has led the mischievous employer to commit breach of award, settlement and other provisions of the Act, without any fear and indiscriminately. To make effective the implementation of the said provision, it is necessary that special Labour Prosecutors should be appointed by the Government to appear and plead on behalf of the Government, in cases of prosecution of offenders within the meaning of various Labour Acts including Industrial Disputes

Act. These Labour Prosecutors must appear and plead on behalf of the individual workman for enforcement of any right under any labour law, on the recommendations of the Conciliation Officers.

(J) EMPLOYEES STATE INSURANCE ACT :

I. Additional benefits of (a) widowhood allowance and (b) funeral allowance to the insured persons should be granted.

(a) In the typical Indian family, it is the male member who earns the livelyhood for the whole family and when unfortunately the earning member expires, the whole family is left at the mercy of the fate. The plight of the family needs no description. The widowhood allowance, at least for a year, will enable the aggrieved family to overcome the immediate financial difficulty. Such allowance is being already paid in England and this example is worth emulating.

(b) Real Social Security Scheme should bring certainty, security and stability in various stages of life of the workers. The workers should be assured of the proper funeral and proper performance of necessary religious ceremony after the death, the last stage of the life. The sense of humanity demands that the workers should have certainty that their family members should not have to borrow money for fulfilling the religious duties. Japan has already taken lead in this direction and we submit the reasonable funeral allowance should be paid to the family of the deceased.

II. Enhancement of benefits:

(a) Sickness Benefit

(i) Abolition of waiting days: At present the first two days of sickness are counted as waiting days and are not paid for. It is not understood why this deduction is made when the total number of days to be paid for in a year are fixed. Sickness benefit should have relevancy with sickness and the 'period of sickness' is irrelevant. Suitable change should be made in this direction.

(b) Condition regarding eligibility.

At present, the condition is that he should have paid contributions for the period of not less than $\frac{2}{3}$ of the number of weeks in the corresponding contribution period in which he is deemed to be available for employment, subject to a maximum of 12 contributions. It means workers are paid in proportion to their contributions. This is based on general principle that the worker who contributes less should be paid less. To protect the workers from total loss and mitigate such severity the same principle should be extended to those who contribute for not less than $\frac{1}{3}$ of the number of weeks in the corresponding contribution period, subject to a minimum of 6 contributions.

(c) Temporary and Permanent disablement Benefit and Dependent Benefit.

At present the temporary disablement benefit is

paid due to the employment injury at the rate of half of the assumed average wages. Employment injury means a personal injury to an employee caused by accident or occupational diseases arising out of and in the course of his employment in a factory or establishment. Thus unlike sickness employment injury is directly linked up with nature and place of employment. Such injury is caused because the workman who depends on his employment for the bread of himself and his family has to incur risks. As such calamity is incidental to the employment, we submit that full assumed average wage should be paid to the insured person. On the same principles Permanent Disablement Benefit and Dependent Benefit should be enhanced to full assumed average wages of the insured person.

III. Contribution by the Government.

At present only workmen employed are contributing towards the scheme. In fact, the social security scheme presupposes the recognition of the doctrine of community responsibility for the welfare of the workers, apart from the employers liability for the same. As a recognition of this principle, we are of the firm opinion that the State must contribute towards the welfare of the workers. It is really painful that our Governments are not contributing a single paisa to this scheme, unlike England, where the State contributes towards the health scheme.

IV. Investment of Funds.

Rule 27 of the Central Rules lays down that money belonging to the Fund, which is not

immediately required to for expenses be invested in Government securities or as fixed deposit in Reserve Bank, etc. The fund cannot be invested in other manner except with the prior approval of the Central Government. It must be noted that the Corporation has built up the large reserves amounting to crores of rupees, we submit that the said funds must be invested in the housing schemes for solving the acute housing problems. General survey of the living conditions of the industrial workers in Bombay reveals that one of the major causes of poor health of the workers is the most unsatisfactory housing conditions. It is one of the duties of the Corporation to protect the workers from such unhygenic atmosphere and prevent the incidence of diseases and sickness. At present the Corporation restricts itself to the provision of curative medical care. According to the principle of "Prevention is better than cure", Corporation must endeavour for decent and hygenic houses. Better houses means better health, resulting in reduction in payment of sickness benefit. Hence, the suitable amendment should be made so as to impose a duty on the Corporation to invest reasonable percentage of its reserve fund in housing schemes.

(K) STANDING ORDERS :

- (i) Various State Governments and Corporations have enlarged the list of misconduct, specified in the Model Stay Orders framed under the Industrial Employment (Standing Orders) Central Rules 1946. We submit that the list of acts and omissions amounting to misconduct should be uniform

throughout India and therefore, suitable changes in the Model Standing Orders of various States and Corporations should be made to bring it in line with the Central Model Standing Orders.

(ii) The provision for discharge simplicitor should be omitted from the Model Standing Order. We see no reason for its existence. The services of the permanent employee should never be terminated by the employer except by way of punishment for misconduct. This meaningless provision merely provides a tool in the hands of the employer to chuck off unwanted employees without going through the process of enquiry, etc., and without paying retrenchment compensation.

(iii) Termination by way of punishment.

No order of dismissal or discharge shall be made unless the permission of the Works Committee or the Joint Management Council is obtained by the employer. Such provision should be inserted in the Model Standing Orders in order to ensure the security of service of the workmen and the propriety of such order.

(L) FACTORY ACT :

(i) Under Section 49(i) of the Act, the employer, having 500 or more workers ordinarily employed in his factory is bound to employ the welfare officers. The duty of the welfare officers is to look after the welfare of the workers, but it is seen in practice, they have to act against their conscience to please the employer who pays him.

We submit that such welfare officers should be paid directly by the Government which should recover the said payment from the concerned employer. This will enable the welfare officer to act independently according to his own judgement and effectively play true role of looking after the welfare of the workers, without any fear.

(ii) Annual Leave :

At present, the annual leave is granted at the rate of one day for every twenty days of work performed by him during the previous calendar year. The time has now come when the said rate should be modified as it is too low. The Shop and Establishment Act of various States provides for 21 days of annual leave. There is no reason to discriminate between the employees covered by the Factory Act and Shop Act. The Factory Act should be suitably amended by substituting the phrase of "for every 15 days" in place of "for every 20 days". Maximum accumulation should be allowed after 60 days.

(iii) Uptil now, no statutory provision has been made for sick leave, casual leave and paid holidays. Due to such absence, workers are exploited and they are not granted such leave unless a union is formed, demand is made and either settlement or award provides for the same. Such leave has become the normal feature of industrial law and they should be recognised by statutory provision. Provision for 7 days sick leave with full pay if the factory is not covered by Insurance Scheme and with half pay, if covered by E.S.I. Scheme, 7 days casual leave with full pay and 5 paid

holidays with full pay should be made by suitably amending the Act. There should be no ceiling in the accumulation.

(M) MINIMUM WAGES ACT:

The provision under Section 4(1) (i) provides for fixing the minimum wage at a basic rate of wages and a special allowance at a rate to be adjusted to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (referred to as the cost of living allowance). In spite of this, normal trend in fixing the minimum wage has been to fix the all inclusive rate. However, the Maharashtra Government has made a notable departure from this normal practice in the case of press industry and fixed the minimum wages at the C.L.I. No.500 prevailing in Bombay for working class. For every rise of 10 points, the cost of living allowance at the rate of Rs.2/- per month in Bombay, Rs.1.50 per month in Poona and Nagpur, Rs.1.25 in Sangli, Miraj, Sholapur, etc., and Re.1/- in other areas has been provided. We submit that this automatic rise in the Statutory Minimum wages when the C.L.I. goes up, is the correct approach to protect the real wages. We submit that the statutory provision should be made in the Act, directing the Government to fix the minimum wage at the appropriate C.L.I. number and provide for the variation of the entire pay-packet of all the workmen, including skilled workmen in such a manner as to provide cent percent neutralisation.

(1) Dattopant B. Thengdi
M.P.
(General Secretary)

(2) Gajanan S.Gokhale.
(Vice-President).

(3) Manharlal P.Mehta.
(Treasurer).

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G. S. Gokhale

mpmehta