

Construction workers left high and dry

Tilak Raj

Former Vice-President, BAI

The construction industry, is faced with many legal and practical problems. The legal provisions (26 Acts) are enforceable for giving social security benefits to the construction labour cannot be satisfactorily enforced primarily because of the nature of the industry. The construction activity is "seasonal, mobile, casual and intermittent in nature". The industry has spared no efforts to make itself more acceptable to its own workers. As such, it has evinced a keen interest in finding "a practical solution" to the vexed problem of ensuring maximum social security benefits to its workers.

A Tripartite Committee on which industry was well represented by B.A.I., M.E.S.B.A. Public Sector undertaking, I.N.T.U.C., C.I.T.U. and other trade organisations, has unanimously said "there is case for a comprehensive legislation for the provision of social security measures". This new legislation seeks to replace many of the 26 Acts, which are beyond the capacity of the industry to implement in letter and spirit.

Unfortunately, the "Tripartite working group" set up by labour ministry to deal with social security measures was unable to vigorously pursue the matter further.

In 1988, a "Construction Workers (Regulation of Employment and Condition of Service)" Bill was introduced in Rajya Sabha but was later withdrawn.

In February 1990, at a seminar organised by Ministry of Labour, another Draft Bill named "Construction Workers (Regulation and Employment Condition of Service) Bill 1986 was circulated. This bill was drafted by "N.C.I. committee for central legislation on construction workers" headed by Mr. Justice V. R. Krishna Iyer (Retd).

This Bill, among other measures aims at setting up Dist. Level Construction Labour Boards to supply workers to contractors. The bill lapsed due to change in the Government, although introduction of draft bill

by N.C.I. Committee for Central Legislation on Construction Workers was politically motivated, and the employers were never consulted, leave aside report of the "Tripartite Committee".

All the provisions of proposed N.C.C. Act are based on Dock Workers (Regulation of Employment) Act 1948 and many of its provisions have been lifted verbatim and inserted in the proposed Act on Construction Workers without taking into account the peculiar conditions obtainable in the construction activity.

Periodically, the BAI has brought to the notice of the Government of India that the nature of work and employment in construction sector cannot be compared with that in the Dock and Ports or like the Mathadies governed by the Maharashtra Mathadies Workers Act. The Tripartite Working Group appointed by the Central Government in 1985, has already submitted its report to Government and the latter has examined it. The Group agreed that the provisions of the Dock Workers Act or the Maharashtra Mathadies Workers Act cannot be extended to construction workers. The proposal to bring brick kiln, quarrying and stone crushing within the purview of the proposed Bill is also ill-conceived as the nature of work differs.

The BAI has always demanded that for the smooth functioning of this vital sector, multiplicity of statutes should be replaced by a unified labour code. Yet the draft bill is totally silent on this vital aspect though the theme paper highlights it. The makers of the draft bill have, for reasons best known to them, ignored the existence of the *Owner* for whose benefit construction activities are undertaken. The exclusive activity does not match the project authorities cost and time planning leading to serious repercussions on the plan Projects.

In the Construction Sector, work is essentially of a seasonal nature and the employment is mostly casual. Besides, unskilled work, the construction activity also requires highly skilled workers. Because of the emergence of large development projects for which World Bank's monetary assistance is also granted, many of the construction projects involve very complicated technical activities. Despite this, the employment in this Sector is still short-lived and limited to the duration of the project itself. Because of these peculiarities, the concept of regulation of employment through decasualisation is quite impracticable and as such the BAI strongly opposes this concept. The draft Bill and the Scheme framed thereunder, which is stated to have been sponsored by the National Campaign Committee of various

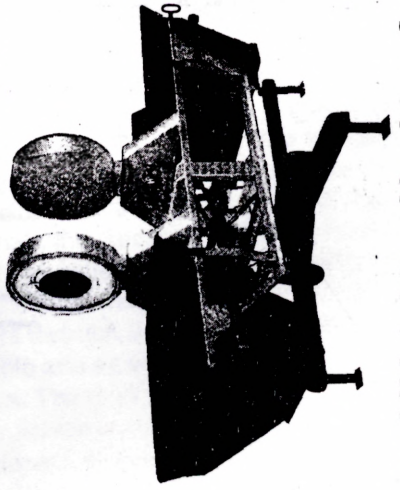
Trade Unions, has totally ignored the above peculiar characteristics of the construction activity.

The Regulation of Employment will have very serious and adverse effect on the executive of any project, building or a major thermal plant, dam and such like activity as the guarantee for timely completion and cost control can no longer be assured by the Contractor. The idle labour cost will be a constant source of friction between the Contractor, Construction Labour Board and the Owner of the Project culminating in claims and counter claims and disputes. Perhaps, this one single aspect of time and cost over-run should deter the Government from framing such a legislation. The existing industrial laws in the country are considered comprehensive and in keeping with the social aspirations of the citizens. That these laws have not been implemented by the government machinery due to inefficiency does not guarantee that the Construction Labour Board, as now conceived, will be free of similar inefficiency. The preponderance of the workers' representatives will result in dilatory tactics being adopted whereby the Contractor and the Project Owner will be at the mercy of the Construction Labour Board. Many private organisations may eventually fold up. Such a situation cannot be contemplated in the changing socio-economic environment of the country.

The BAI, in the course of Tripartite Working Group, had indicated that a Construction Labour Board could be formed to deliver the welfare and social security benefits. It may be reiterated that such a Construction Labour Board should be a Government machinery rather than a conglomerate which will hinder the nation building activity.

The vital matter of social security to workers in the building and construction activity has not yet been resolved. The Employees' Provident Funds & Miscellaneous Provisions Act, 1952 designed originally for the organised sector has been thrust upon the unorganised sector without taking into account the peculiarities of the activity. BAI takes this opportunity of submitting herewith an alternative P.F. Scheme for consideration by the Trustees of the P.F.

The BAI is, therefore, totally against the introduction of the proposed Act and the Scheme and request the Central Government not to go ahead with the proposal, which is harmful and impracticable.



**SPRINGLESS
HOPPER SWING WEIGHBATCHER**

Universal Weighing Machine Services
105/111 Dr. E. Moses Road, Worli, Bombay 400 018 • Phone 4927072

Universal
WIDEPART Divisions at 4mm distance on the Dial-Chart helps reading the weight registered by the Indicator INSTANTLY

Universal
Ingeniously designed Lever Mechanism fitted with hardened Knifedges and Bearings, transmits the load without much SENSITIVITY

Universal
SPECIALLY devised intermediate mechanism with built-in Oil Dashpot besides offering stability to Weighing Mechanism also REGULATES THE OSCILLATION of Indicator

Universal
SPRINGLESS Dial-Guage based on Cam and Lever Mechanism, ensures REPEATED ACCURACY — Unlike SPRING Mechanism

We also design and manufacture Non-Swing type HIGHER/LOWER capacity Weighbatcher to suit the requirements of Prestressed Concrete Pipe Plants, Railway Sleeper Manufacturing Plants and other Processing Industries

SNMANS