

NATIONAL COMMISSION ON LABOUR

Procedures for Wage Fixation in India with Special Reference to the System of Wage Boards.

I. Present Position Regarding Wage Fixation Procedures in India.

In the early decade of this century in India the determination and fixation of wage rates was the result of the inter-play of market forces and the influence of traditional and social factors. To the extent that the supply and availability of labour in particular areas and industries presented certain problems during certain periods e.g. in the case of plantations and mines - the system of contract labour and/or hiring of labour through agents came into vogue. There was then no conscious attempt at State regulation of wages. Barring the Trade Disputes Act, 1929, and some provincial legislation, the major entry of the State in settling industrial disputes (and most of the disputes were for wage fixation) was during the Second World War.

2. Under Rule 81-A of the Defence of India Rules Government could refer any industrial dispute for conciliation or adjudication and to enforce awards and decisions of the adjudicators for periods as might be specified in the Government's orders. The Emergency arrangements for the settlement of industrial disputes were subsequently written into the Industrial Disputes Act, 1947. Some industrial centres/units had in the meanwhile evolved their

own mode of settling industrial disputes.

3. The adjudication machinery so set up played a significant role in the field of wage fixation and held the sway until the system of Wage Boards/Wage Committees was added as an additional mode of settling wages. Numerous wage disputes in many industries were referred to Industrial Tribunals, Industrial Courts, etc. The award given by these authorities apart from fixing wages and allowances also introduced schemes of standardisation.

4. With the coming of the Independence the country embarked upon a new phase characterised by the evolution of a conscious wage policy by the Government. The beginning of such a wage policy may be traced to the Government Plan for labour, 1946 and the Industrial Truce Resolution adopted in December 1947. This Resolution, it may be recalled, emphasised among other things the Government's intention as expressed in the Industrial Policy Resolution, 1948 to fix statutory minimum wages in sweated industries and to promote fair wage agreements in the more organised industries. In pursuance of these principles the Government enacted the Minimum Wages Act, 1948 and also appointed a Fair Wages Committee in the same year. The Fair Wages Committee recommended the setting up of wage fixing boards for ensuring adequate wages.

5. It was against this background that the First Five Year Plan envisaged that "the permanent wage boards with a tripartite composition should be set up in each State and at the Centre to deal comprehensively with all aspects of the question of wages, to initiate necessary enquiries, collect data, review the situation from time to time and to take decisions regarding wage adjustments suo motu or on reference from parties or from the Government".* The approach contemplated in the First Plan was developed further in the Second Plan document which went on to stress that "a more acceptable machinery for settling wage disputes will be one which gives the parties themselves a more responsible role in reaching decisions and that an authority like a tripartite Wage Board consisting of equal representatives, of employers and workers and an independent chairman will probably ensure more acceptable decisions". Thus as from the period of the Second Plan Wage Boards were appointed for different industries and in recent years have emerged as a dominant form of wage determining machinery in so far as the organised sectors of the economy are concerned.

6. In brief, the present procedures for the determination and regulation of wages in India consist of the following: (a) Collective Bargaining and Wage Agreements between the Employers and the Employees by the interven-

* First Five Year Plan (Planning Commission) page 585.

tion of 'Conciliators if necessary', (b) Regulation of Minimum Wages in terms of the Minimum Wages Act, 1948, (c) Wage Boards, and (d) Adjudication. Excepting for collective bargaining in effect these different procedures, it could be said, are supplementary to each other rather than clear-cut alternatives. Their respective spheres of operation do not for the most part overlap or merge.* An assessment of the working of each of the arrangements under (b) and (c) is attempted in the succeeding paragraphs since (a) and (d) have been the subject matters of topic notes under "Industrial Relations".

Wage Fixation under the Minimum Wages Act, 1948.

7. The fixation of minimum wages under the Minimum Wages Act, 1948 stands in a category by itself as by definition it is confined to what ^{is} adjudged as 'sweated labour' and is intended to provide a measure of protection to such labour. Nevertheless it has its own importance in so far as unorganised labour is concerned. The Minimum Wages Act, 1948 provides for statutory regulation of wages in agriculture (including horticulture, diary farming, etc.) and other scheduled employments listed as a part of the statute where workers are not sufficiently organised and ^{where} sweated labour conditions usually prevail. The appropriate Governments are empowered to add to the

*The caution implied in the sentence is deliberate since cases of overlap between the wage fixing machineries mentioned have been noticed in recent years.

list of scheduled employment and in exercise of these powers the State Governments have from time to time made additions to this list.

8. The Act provides for the fixation of minimum wages by either of the following two methods. (i) by appointment of committees or sub-committees to hold enquiries and make recommendations about the minimum wage rates that should be applicable to particular employments covered by them, and (ii) by notifying the draft proposals in the official gazettes for comments, if any, which the parties concerned may wish to make and finalisation of such proposals in the light of such comments. Most State Governments have adopted the procedure of appointing committees but some have adopted the second method.

9. The provisions of Minimum Wages Act it may be pointed out do not give any indication as to the content of a minimum wage. Nor does it give any definite guidelines for the fixation of minimum wage rates. The Act, however, requires that while fixing minimum wages due account should be taken of such factors as prevailing retail prices, cash value of wages paid in kind and hours of work. In the absence of any concrete guidelines the advisory committees appointed for fixing minimum wages have not adhered to any uniform set of norms and have sought to recommend minimum wages by way of a broad judgement as to a bare minimum. But whatever the mode, the States have been

authorised to fix wages for the State as a whole or a part or parts thereof. While most of the State Governments have generally fixed minimum wages in the case of agriculture for the whole State some States like Gujarat, Madras and Maharashtra have done so only for some parts of the State. The differences as between the minimum wages fixed for men and women also have been anomalous in some cases. In actual practice, the method by which the wages are fixed is not so much a point of criticism as are inadequate implementation of the wages fixed and the manner in which the wages once fixed have shown the way to perpetuate themselves.

Wage Boards.

10. In recent years wage fixation by Commissions/committees or boards comprising independent members and representatives of employers and workers has been increasingly resorted to by Government, both for their own employees and industrial workers. Among former mention may be made of the two Central Pay Commissions of 1947 and 1957 as also the Pay Committees appointed by some of the State Governments. In so far as industrial workers are concerned upto now 22 Wage Boards have been set up for industries listed in Appendix all without legal backing. In the case of three of these industries, namely, cotton, sugar and

cement Wage Boards have been set up more than once. It may also be mentioned here that under the present system besides the Wage Boards appointed by the Central Government a system of statutory Wage Boards has also prevailed in the States of Maharashtra and Gujarat. Under the Bombay Industrial Relations Act, 1946 statutory Wage Boards have been set up for separate industries. The decisions of these Wage Boards are issued as orders which are legally binding. This system is reported to have functioned well.

11. The Wage Boards have been appointed industry-wise. They are non-statutory bodies and as a general rule, have been functioning within an informal and flexible approach. They have been issuing questionnaires, holding sittings for hearings and only after the concerned interests have been heard and their views recorded and taken into consideration that the Boards have submitted their reports to Government. The recommendations of the Wage Boards are first examined by the Ministry of Labour & Employment and thereafter the comments of the Ministries concerned are invited. Final decisions are taken after considering the comments of the concerned Ministries and in some cases after ascertaining the views expressed by the organisations of employers and workers. The general policy of the Government has been to accept such of the recommendations as are unanimous and only in a few cases either the interim or final

recommendations of Wage Boards have been modified.*
The final decisions of Government on the recommendations of a Wage Board are notified in Official Gazettes, but they have no statutory backing. According to the practice adopted, implementation of the final decisions is secured through the process of persuasion and advice using the machinery of State Governments. The wage structure recommended by the Wage Boards remains in operation normally for a period of five years during which time no demands can be made for revision of such matters as have been dealt with by the Board.

12. Broadly speaking, the Wage Boards have been required to work out a wage structure based on the principles of fair wages as laid down in the Report of the Committee on Fair Wages. The terms of reference of the Wage Boards have by and large been similar. Some Wage Boards have been assigned additional tasks such as the consideration of the grant of bonus, or framing of gratuity schemes, etc.

13. In their composition the Wage Boards are tripartite bodies consisting of independent members and an equal numbers of the representatives of employers and workers. The total number of members of a Wage Board including the Chairman has varied from seven to nine.

* While this may be the position with regard to the Central Government, in the course of evidence, it was pointed out that State Governments have allowed modified versions of the award to be implemented, such modifications being in favour of employer.

The representatives of employers and workers on the Board are usually appointed by the Government after consulting the concerned organisations in the industry.

The Chairman and the independent members are nominated by the Government. The Chairmen of the Wage Boards have generally been judges who had either served on Labour Tribunals or otherwise belong to the regular judicial service. Of the independent members on the Board one member has generally been a Member of Parliament or an eminent public figure and the other an economist.

There have been cases where the same individual has been appointed to more than one Wage Board and at times even concurrently.

14. The distinctive features of the system of Central Wage Boards have been that these Boards have dealt with the entire wage structure of an industry and have attempted to fix fair wages keeping in view the relationship as between wages and the broader economic and social policies in the context of developmental planning. The broad principles which the Wage Boards have kept in view in determining the wage structure have been the concepts of fair wage and minimum wage as defined by the Fair Wages Committee. By and large the approach of the different Wage Boards has been to first determine the minimum wages for the unskilled worker and then to build up the structure of differentials over it. In principle nearly all the Wage

Boards accepted the floor to be the minimum wage. All Wage Boards found it difficult to give effect to the formula for need-based minimum wage for the least skilled worker in the existing conditions of the industry. The Wage Boards have also been devoting a good deal of attention to the problem of the capacity of the industry to pay by analysing the profitability of the industry and its future prospects. They have in general tried to ensure that the industry as a whole had the capacity to pay the level of wages recommended by them. For some of the industries having a regulated cost structure the Wage Boards left it to the Government to consider whether price increases should be granted to the producers to meet the incidence of increase in wages recommended by them. Further all the Wage Boards have stated that in arriving at their recommendations they have taken into account other pertinent considerations such as the prevailing rates of wages, the place of industry in the general economy, the general economic situation in the country, the needs of the industry in a developing economy, growth of national income, level of productivity, etc. However, it appears that for the most part these considerations have been applied by them in a general way.

15. If an assessment was to be attempted as to the working of the system of the Wage Boards it would appear

that by and large the Wage Boards have served a useful purpose. To begin with at least recommendations of the Wage Boards were unanimous but subsequent Boards have tended to become non-unanimous and controversial with the result that difficulties have been experienced in implementing their recommendations satisfactorily. Some of the main criticisms of the functioning of the Wage Boards are that they have taken unduly long time to give their recommendations and have not made serious efforts to promote the system of payments by results or to adopt other productivity criteria.

16. An incidental effect of the time factor and the anxiety on the part of Government not to set up another Board within five years of the start of implementation of the previous one's award has been that unions take these facts as their desiderata. They try to see how the industry will behave about five to seven years hence and the needs which the workers will have by then and on this basis the negotiations start with the employers on the Wage Board. Employers consider such long term projection of wages unrealistic and issues get joined on every assumption that either side makes about the future. The debate prolongs and so does the relief to workers. Some have suggested that the award should be made retrospective as from the appointment of the Wage Board but this has its own difficulties from the employers' side.

II. Evidence Before the Commission.

17. In the evidence which has come before the Commission the State Governments have expressed a preference for statutory wage fixation in the unorganised sector and for collective bargaining in the organised sectors of the economy. Adjudication, they consider, should be resorted to when collective bargaining fails. For purposes of industrywise wage fixation the system of Wage Boards is favoured. The State Governments recognise that in so far as the working of the Wage Board is concerned the earlier Wage Boards were a success not only because they were a novel form of wage fixing authority but also gave their findings expeditiously. The Wage Boards appointed subsequently have had to deal with structurally more complex industries like engineering, plantations etc. embracing a wide variety of lines of activity or with service industries like electric supply and transmission or motor transport. These Wage Boards have not been able to conclude their deliberations and give their findings quickly. This has given room for dissatisfaction. Some of the State Governments have, therefore, suggested that it may be desirable to restrict the constitution of Wage Boards to such industries as have more or less uniform conditions throughout the country and that it should be provided

that the Wage Board give their final recommendations within a period of 12 months of their constitution. In regard to adjudication most State Governments have expressed the view that the time taken at different stages of adjudication should be reduced and where necessary more courts/tribunals should be set up so that the number of disputes pending is at any time not large.

18. The trend of opinion among the employers is that a standard machinery for wage fixation in all types of industrial undertakings will not be suitable and that depending on the nature of an industry, wage boards, collective bargaining or adjudication could be prescribed as appropriate procedures for wage determination.

19. The views of the employees organisations are briefly these that in case of all sweated industries minimum wage fixation by statute should continue. For the organised sector they suggest that encouragement should be given for wage fixation through collective bargaining wherever unions are well established and enjoy recognition of the managements. Several of the trade union organisations have pointed out that the main advantages of collective bargaining as a method of wage fixation are that it takes into account the capacity of the industry to pay, local requirements, the

special features and needs of particular industries and provides scope for the proper development of trade unions. Further since it gives the workers opportunities to use their own initiative and thus helps in building up better employer-employee relationships. The working of the Boards has not been satisfactory as it takes a long time and gives only ad hoc increases in emoluments which are generally on the lower side. Further the awards of the Wage Boards not being binding on the parties have led to further adjudication. If the Wage Boards could be made statutory and are required to give their reports within 6 months their continuation could be considered.

20. The Committee on the Functioning of the System of Wage Boards set up by the Commission has concluded: "The system of Central Wage Boards has been functioning for over a decade now and it is the opinion of the members of the Committee that on the whole it has served a useful purpose. As bi-partite collective bargaining on wages and allied issues on an industrywise basis at the national level has not been found to be practicable at present for various reasons, this system has provided a machinery for the same. It is true that the system has not fully met all the expectations.....and particularly in recent years there has been an erosion of faith in this system on the part of both employers and employees.

.....The Committee is, however, convinced that these defects are not such as cannot be remedied."

21. As regards the impact of the recommendations of the Wage Boards the Committee has concluded that while the system of Central Wage Boards has led to higher money wages for workers this has to be seen against the background of the steeply rising price level during the last five years. Further the wages of the least skilled workers in the industries covered by the Wage Boards are in almost all cases still below the need-based minimum according to the norms adopted at the 15th Indian Labour Conference. Some of the other conclusions of this Committee are as follows:-

(i) "The system of Central Wage Boards has led to some progress in the standardisation of wages in the industries though, generally speaking, much more remains to be done in this direction."

(ii) "The Wage Boards have not so far found it possible to extend the system of payment by results and consequently it has not resulted in wages being linked to productivity."

(iii) "On the whole, the system of Central Wage Boards has provided a useful forum for collective bargaining on industry-wise basis and it is necessary to continue this system with modifications necessary to remove the defects noticed of late."

22. The Committee has recommended that in future Wage Boards should function essentially as a machinery for collective bargaining and the Boards should strive for unanimity. This, it has been pointed out, will

necessitate some changes in the composition and functioning of the Wage Boards as discussed below:-

- (a) "Opinion is equally divided among members of the Committee regarding the role to be played by Independent Members. One view is that Independent Members can play a very useful role as mediators in case of disagreement between the representatives of employers and workers. The other view is that Independent Members should not at all be represented in future Wage Boards as they have no place in collective bargaining."
- (b) "Opinion is also divided among members of the Committee regarding the role to be played by the Chairman of a Wage Board. One view is that in case of disagreement between the two sides, the Chairman should act as an arbitrator and his decision will be binding on both sides, thus, making the recommendations of the Wage Boards unanimous. The second view accepts the role of Chairman as arbitrator, provided there are no Independent Members on the Board. The third view accepts the role of Chairman as arbitrator only in cases where he is chosen by the common consent of both the sides."

23. The other recommendations of the Committee are as follows:-

- (i) "The Chairmen of a Wage Board should preferably be selected by common consent of organisations of employers and employees in the industry concerned. If, however, agreement on the Chairman between the two sides is not possible, Government will nominate the Chairman. In nominating the Chairman, the Government should give preference to persons having experience of Industrial Tribunals. If a retired judge is selected, he should not have an extension of service for more than two years. It is not necessary to select Chairmen from the judiciary only. Persons enjoying confidence of both employers and employees and/or having knowledge and experience of industry and labour may also be considered for Chairmanship. No person should be appointed as Chairman of more than two Wage Boards at the same time."

(ii) "Government should examine in consultation with central trade union organisations the present procedure for giving representation to central organisations/federations of workers and make such modifications as may be necessary in order not to leave large sections of workers unrepresented."

(iii) "In order that the Wage Boards are able to complete their work expeditiously, the Committee recommends as follows:-

(a) A Central Wage Boards Division should be set up in the Union Ministry of Labour on a permanent basis to service all Wage Boards.

(b) This Division should have a special unit for processing and supplying statistical and other information needed by the Wage Boards and it should maintain close liaison with Labour Bureau, Simla.

(c) The Central Wage Board Division suggested above will lend the necessary staff to the Wage Boards.

(d) A standard questionnaire should be prepared, kept ready and issued as soon as a Wage Board is set up and this may be followed up by a short supplementary questionnaire to collect information peculiar to the industry concerned.

(e) On-the-spot inspections by Wage Boards should be reduced to the minimum and confined only to what is considered relevant and necessary.

(f) A manual of procedure for Wage Boards should be prepared.

(iv) The Committee recommends that Government should normally accept all unanimous recommendations, the Government should hold consultations with the organisations of employers and employees which were represented in the Wage Board before arriving at a final decision."

/of Wage Boards.
In case of non-unanimous recommendation

- (v) In regard to more effective and speedy implementation of the recommendations of the Wage Boards, the Committee recommends as follows:

"Though the Wage Boards should not be set up under any statute, their recommendations, as finally accepted by Government, should be made statutorily binding on the parties. Suitable provision should be made in the relevant Central and State laws for this purpose."

III. Foreign Practices

24. The foreign practices in regard to the procedures for wage determination and regulation show considerable variations. However, in case of a few selected countries the position is briefly reviewed in this section. In the United Kingdom for instance, minimum wages are determined by tripartite wage councils set up under the Wage Councils Act of 1958. In their actual working the emphasis of the Wage Councils is on bringing about an agreed settlement with the independent members playing the role of conciliators. First of all, the leaders of the employers' and workers' representatives hold discussions to see whether they themselves can come to a settlement. If no agreement is reached the independent members confer with both the parties separately to see whether through their good offices they could resolve the differences between the two sides. If they are unable to do so the independent members support the motion sponsored by either the employers or the workers, which then becomes the decision

of the Council by a majority vote. Though the votes of the independent members can be the deciding factor they cannot be considered as arbitrators imposing their will on the Council in the sense that they can neither sponsor a motion of their own in the Council nor can they over-rule any agreed settlement between the parties. Once a final decision is taken by the Council, it is sent to the Minister for issuing a Wage Regulation Order. However, the Minister can refuse to sign the Order if he feels that there are valid grounds for not accepting the recommendations and can refer the case back to the Council for re-consideration. Some of the principal grounds on which he can refer the case back for re-consideration are: (i) that the proposals are contrary to public interest, (ii) that some portions of the proposals are likely to be ultra vires of the Constitution and (iii) that the procedure adopted by the Council for arriving at their decisions was improper and unconstitutional. It may be noted in this context that since the inception of an incomes policy the U.K. Government have super-imposed on the Wage Council procedures as also the collective bargaining procedures the decisions taken in pursuance of the incomes policy.

25. As part of the apparatus evolved for implementing the incomes policy a National Prices and Incomes Board has been established. All claims for wage increases as well as price increases are referred to this Board and in case the Board does not support the claim the Government is empowered to defer the increase for a specified period.

26. In Australia, wage disputes can be brought before the Commonwealth Conciliation and Arbitration Commission either by the employers or the trade unions. After a dispute is brought before the C.C.A.C. conciliation proceedings are started under the guidance of a Commissioner. Arbitration is resorted to only on the failure of conciliation efforts. The C.C.A.C. also periodically reviews and fixes the national minimum wage. For this purpose, the representatives of employers and workers are heard by a bench of at least three members. At the State level also a similar machinery exists although there are many differences in the constitution, powers and functions of these bodies. Generally, the States set up Conciliation Committees, Wage Boards/Industrial Boards on an industry-wise basis. These consist of representatives of employers and unions in the industry. They are Standing Boards and take cognisance of disputes as and when they come. Chairman of the

Board is common to many of them. This helps him to settle the matter on the basis of his vast experience of current wage decisions. Where the Wage Board gives a unanimous award there is no problem but if the award is not unanimous a party can appeal against the decisions of the Board to a court consisting of one or more judges who in some cases are assisted by representatives from both sides of the industry.

27. In Japan minimum wages are regulated by the Central Wage Council and the Local Wage Councils whose respective jurisdictions have been defined by the Wage Council Order. The decisions of the Council are taken by majority of votes and in case of a tie the Chairman decides. Whether minimum wages for the workers employed in certain enterprises or in certain occupations should be fixed is decided by a competent authority which must first hold public hearings on the recommendations of the Wage Council and then fix minimum wages. For settlement of important wage disputes Japan has standing agencies like the Central Labour Relations Commission, Local Labour Relations Commissions, the Central and local Seamen's Labour Relations Commission, etc. The Central Labour Relations Commission has twentyone members representing workers, employers and the public in equal numbers. In the adjustment of disputes, the C.L.R.C. utilises one of three methods, viz., conciliation,

mediation or arbitration, the chosen method being agreed upon a voluntary basis. Conciliators are appointed by the Chairman and they are usually public members of the Central or Local Labour Relations Commissions and private persons with knowledge and experience. Mediation is carried on by a tripartite committee of mediators appointed from among the workers, employers and public members of the Labour Relations Commission. The public members summon the parties to state their case, draw up the terms of settlement and submit them to the parties for acceptance. The mediators' proposals are not binding and the parties are free either to accept or reject them. The award of arbitration is binding on both the parties and hence the Labour Relations Adjustment Law provides for voluntary application for arbitration based on the agreement of the concerned parties.

28. In Yugoslavia wage fixation and regulation takes place under the system of workers' management which has been developed throughout the economy. In each undertaking a wage schedule, typically for a year, is first proposed by the managing board which distributes a draft for comments to all workers 15 days prior to submission to workers' council, the people's committee of the local commune and the trade union. A Joint Committee of these three organisations discusses the proposal and, if

agreement is reached in the committee, the wage schedule is submitted to the three bodies for approval. If no agreement is reached, the dispute is referred to arbitration by two representatives of the trade union, two representatives of the chamber of trade and an umpire appointed by the Government of the Republic from lists prepared by the Secretary for the Affairs of National Economy. Their decisions are final and binding. If the undertakings do not realise sufficient receipts to cover all costs, including the prescribed wage scales, then wage payments may be reduced, though wages to individual workers are not reduced below 75 per cent of the prescribed scale.

IV. Conclusions and Suggestions.

29. In the light of the above it may be concluded that there is in effect little or no scope for making any radical departures from existing procedures and practices in the matter of wage fixation and regulation and that on the contrary there is a case for further developing the procedures evolved so far. However, to the extent certain marked deficiencies and defects have been noticed in the working of the procedures in force there is a strong justification for modifying the existing procedures and practices so as to make them more effective and streamlined. On this logic the following suggestions are

put forward for the consideration of the Commission.

(i) Ways and means should be devised for securing a more appropriate coverage of the Minimum Wages Act as also its more effective implementation. With this purpose in view the list of scheduled employments as per the Act should be periodically reviewed by the concerned Governments and they may also make appropriate arrangements for consultation with the concerned interests so that some broad conventions and norms for the fixation of minimum wages in the scheduled employments could be evolved and improvements made.

(ii) The adjudication system, in so far as it applies to wage fixation procedures, should continue subject to definite steps for the more efficient and speedier functioning of the system. The question of prescribing definite time periods within which adjudication proceedings may be required to be completed as also the strengthening of the adjudication machinery may be considered.

(iii) The system of Wage Boards should continue with the improvements and modifications decided upon by the Commission in the light of the recommendations and findings of the Committee on the Functioning of the System of Wage Boards. Simultaneously steps should be devised for giving more active encouragement to collective bargaining for settling wage disputes and evolving a more

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acceptable wage structure in organised industry. Indeed it has to be recognised in this context that the securing of desired results in this field rests in the ultimate analysis on the development of a healthy and broad-based trade union movement which aspect would come up for the Commission's consideration in the context of the subject of trade unions and industrial relations in general.

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