

PART-III

CONSTRUCTION LABOUR BOARDS

- 3.1 The Tripartite Working Group unanimously recommends that to administer the comprehensive Social Security Benefits Board Scheme, the National Construction Labour Board be constituted with powers to set up the Regional, State, District, City and Project Site Boards according to the requirement to run the Scheme.
- 3.2 The Board can be on the lines of the Employees State Insurance Corporation with representatives Govt., Employers and workers as Directors.
- 3.3. Funds for the Management of the Board and the Scheme under it shall be collected on the pro-rate basis at source from the Principal Employers/Contracting Agencies and the Contract executing agencies.
- 3.4 The Board in order to implement the Comprehensive Legislation effectively, shall exercise the authority to register the Principal employers/owners, contractors and contracting agencies, labour contractors/and workers.

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Sd/  
(R. M. Chokshi)

Sd/-  
(S. L. Sharma)

Sd/-  
(R. G. Gandhi)

Sd/-  
(K. A. Khan)

Sd/-  
(Narendra Patel)

INTERIM ARRANGEMENTS PENDING ENACTMENT OF  
CONSTRUCTION LABOUR & CONSTITUTION OF  
CONSTRUCTION LABOUR BOARD.

- 4.1 It is unanimously recorded that inspite of P.F. Act and the Payment of Gratuity Act having been extended to the industry, neither the workers nor the employers are able to effectively implement the qualifying conditions. Thus, both, the workers and the employers suffer in terms of receiving the benefits and providing the benefits.
- 4.2 The implementation machinery in order to enforce these laws, is naturally required to follow the conditions as laid under the Acts to enforce its implementations in the industry. In the process, lot of litigation and penal proceedings have come into existence causing harrassment in the industry and affecting the employer-employee relations adversely. For illustrations example is as under:-
- 4.2.1 Assuming that a worker has worked at a Construction Site for a period of 8 months. That means 240 days minus weekly off 40 days. Total number of working days thus comes to 200.
- 4.2.2 According to the provisions of P.F. Act, the worker is entitled to avail of the benefit of P.F. after 60 days. That means the total period of deductions is  $200 - 60 = 140$  days. Employer makes the deductions. Supposing worker has also made the contribution. Hypothetical deduction of P.F. contribution by the employer is say Rs.200/-. Worker's contribution is

Rs.200/- and total contribution Rs.400/- work is over. In case of this worker because he was doing specialised job., he cannot continue and his terms of contract was purely contractual. Worker claims for his share of contribution which as a matter of fact is not payable to him under the P.F. Act for the reason of a qualifying clause of 6 months. Unless and until he opts to withdraw from the Scheme in which case the payment can be had. But under no circumstances he is entitled to the full share of the employers contribution as it is restricted to 25% of the Employers Share.

4.2.3 The worker re-enters the industry after a gap of 3/4 months to work but on another site and another employer. The employer being new, there is no continuity for his P.F. to continue. That means the other employer has to open a new account. And this exercise continues in most of the cases, depriving the worker the benefits under the scheme. At periods when his employment is as short as 90 days, 120 days or 160 days, he hardly gets any benefit of the scheme.

4.2.4 This being the case of his getting the benefit under the P.F. Act as to how he can avail of the benefits under the Act such as Family Pension Scheme, Deposit Linked Insurance Scheme.

4.3 From the above, it is by and large established that the extension of the P.F. Act to the industry is hardly sufficient to provide benefits to the workers.

- 4.4 As such in majority of the cases even the employers' contribution is not availed of by the workers but it is a benefit to the P.F. Organisation and in turn this Organisation except collecting the money and retaining the unpaid contribution of the worker and over time, has not taken any positive measure to provide any benefit on continued basis to workers.
- 4.5 It is, therefore, noted that the implementation of the scheme is causing harrasment in the industry vigorously in the industry to both the worker and the employers. Moreover, the funds thus collected for the purpose are not utilised to the intended benefit of the workers. It is, therefore, recommended that the industry should be exempted from the scheme and made part of the proposed comprehensive legislation, in order to provide the benefits on the continued basis.
- 4.6 Pending enactment of new Comprehensive Legislation and Constitution of Construction Labour Board, in view of this, it is recommended that suitable notification may be issued by the Ministry of Labour for the establishment of a Bipartite Board and creation of a Trust to administer the Social Security measures to the workers in the industry and the industry is denotified with regard to the application of P.F. Act and Gratuity Act,

Sd/-  
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Sd/- (Draft)  
(S.L. Sharma)

Sd/-  
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Sd/-  
(Narendra Patel)

BUILDING & CONSTRUCTION INDUSTRY

1.0

MAGNITUDE

Building and Construction Industry is the second largest economic activity in India, next only to agriculture. Capital invested and manpower employed in this industry is much larger than any other industry. The importance of this industry can be judged from the fact that the capital outlay on construction in the successive Five Year Plans ranged from 36 to 50 percents. (1) It is estimated at 50 percent of the total capital outlay in the Seventh Plan. (2) Gross capital formation in construction industry at Rs.15445 crores accounted for 43 percent of the gross domestic capital formation in 1981-82. (3) According to an estimate, the economically active population engaged in construction in 1982-83 was 1.133 crores. Of these, 11.87 lakhs were regularly employed in the corporate sector and big construction contractors, 23.87 lakhs worked for small contractors and other agencies like the Border Road Organisation and the balance of 67.56 were casual employees. This did not include workers engaged in allied industries like brick kiln sand dredging, quarrying, forest, etc. (4) Tamil Nadu State Construction Workers Union estimated the number of workers employed in Construction at over 2 crores.

2.0

SCOPE

The field of activities in the Building and Construction Industry is not confined only to the construction of roads, bridges or buildings as is commonly understood. These activities include works

undertaken above and underground as also hill tops and covers, housing, construction of dams, bridges, tunnels, canals, power plants, industrial structures, pipe lines, cables and ropeways and erection of towers, chimneys, cables, etc. It also includes demolition of structures and maintenance services.

3.0 FEATURES

3.1 The industry has got its own peculiar characteristics. It is distinctly different from other conventionally established industries. There are no fixed promises and the work is carried on at construction sites, wherever the project is situated. Invariably for almost all works, first the tenders are floated prescribing specifications, cost and time schedule, and form commitments sought from the bidders. The lowest tender is accepted. The work is started on receipt of the work order. Thus the final product is sold before it is actually produced/constructed and the rates are fixed before the job is undertaken. This also makes the industry highly competitive. Geographically Building Construction jobs may be located either nearer inhabited areas or in jungles, mountains, rivers, or oceans. The working environment of this industry is, thus, subjected to the vagaries of nature and climatic conditions such as rains, floods, earthquakes, high elevations, low depressions and also to the uncertainties of geological conditions as soil, sands, rocks, unstable rocks in underground works, spring water percolations and exposed to extreme hot and cold temperatures and inclement weather.

The nature of work in the industry ranges from highly labour intensive to capital intensive jobs. The activity in the industry is generally mobile and each construction job is unique. The duration of different activities in the industry is also uncertain, ranging from very short to very long periods, depending upon the nature and time frame for the completion of the project. The pattern and duration of the employment in the industry also varies according to the quantum and type of work involved in different categories, such as earth work in excavation and embankment, rock excavation, quarrying and mining erection of frame work and scaffolding, fabrication and placement of reinforcement of steel, brick work and masonry and so on. The construction technology adopted and equipments used also keep varying from time to time and from job to job depending upon nature and size of the project.

3.3 As the construction work is generally seasonal, the employment is treated as casual and hence employment relations are contractual. However, many large corporations do retain a complement of permanent employees. Also critical skill holding workers do get employed perennially. Often, labour is migratory and they move from one site to another. Gang labour is common and "Sardar" functions like now defunct "Jobber" in factories. The subcontracting and piece workers system gives rise to layers of employment, with the apex level owner seldom knowing, who and how many and where the labour is working for him. The availability of unskilled labour is not a problem to any

contractor. However, semi-skilled, skilled and highly skilled manpower are in short supply and not available in most project locations and in the country. They are able to dictate terms to contractors. Such of the skilled workers who are in short supply have to be paid at a much high rate than statutory wages.

3.4 As the construction work is generally of pre-determined duration, the nature of employment of workers employed on sites is also dependent on the duration of the work and hence the contractors engage contract labour through sub-contractors or labour contractors. Generally, there is no direct employer-employee relationship vis-a-vis the owner or the main contractor except for a small percentage of workers.

3.5 Sociologically, construction activity constitutes a mid-way stage on the agriculture-industry continuum of workers' adjustment to industrialism. Agricultural labour pick up jobs on construction sites, return to land during harvesting and cropping seasons and the same people may or may not come back again to construction work. The migratory pattern of construction workers, the economic and social consequences of working at construction sites and a host of other factors create peculiar civic socio-economic, managerial and administrative problems that are rather unique to this industry.

3.6 This industry also constitutes the informal sector of economic activity. In view of the absence of any satisfactory regulatory/licensing requirements, entry into Building

and Construction Industry is very easy. Capital required for entry into construction markets is not of the magnitude which would be required for other industries. Consequently, contractors come, pick up work and keep moving. There are a very large number of small and big contractors engaged in building and construction activity ranging from one man team to a multi-crore company employing many hundred persons. As would be expected, the birth and mortality rates of contracting firms are high.

3.7 Construction Industry is characterised by a general lack of training facilities to improve the situation. Workers acquire skills as "understudy" of other skilled workers. However, only a few have been able to do this and such workers enjoy good bargaining power. A vast majority of workers are unskilled. Migration of workers to other industries in large number is also significant. A large number of small contractors and sub-contractors are perhaps in no better position than workers.

Industrial and "Technical training institute have not given adequate attention to the industry-perhaps due to its unorganised nature and construction specific technical training or contractor training programmes do not exist as yet. An inventory of skills required in discharge of construction jobs is yet to be made.

3.8 It may be noted that though construction is treated as an "Industry" under labour laws, it is not treated as such for financial, fiscal and taxation purposes.

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