

APPENDIX- IV
TRIPARTITE

DRAFT RECOMMENDATIONS OF THE TRIPARTITE MEETING HELD
AT BOMBAY FROM 27TH TO 29TH MAY, 1987

PART-I

- 1.0. The Tripartite Working Group for Building and Construction Industry was constituted by the Govt. of India -vide Ministry of Labour's Resolution No.R.43011/2/82-LW, dated February 7, 1985. The terms of Reference of the Tripartite Working Group are as under:-
- (a) To identify the specific difficulties being faced by the Building and Construction Industry in complying with the Social Security Legislation Viz. Employees' Provident Fund and Misc. Provisions Act and the Scheme framed thereunder, the Employees' State Insurance Act, the Payment of Gratuity Act, and
- (b) To work out what type of Social Security measures should be formulated for the workers in the industry, keeping in view the difficulties under (A) above.
- 1.1 A copy of the Government Resolution is given at Appendix.I.
- 1.2 The Working Group had a number of Meetings and has taken into consideration the various Memoranda submitted by the various Employers', Trade Unions, Govt. Authorities and Social Action Groups.
- 1.2.1 On going through the documents and submissions, the Working Group decided to establish 3(three) sub-groups for indepth study of the issues involved which are
7 as under:-

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Sub-Group.I : What is the alternative to existing Social Security Laws and what should be the form of the alternative Social Security Schemes? The Group may also consider the establishment of a Welfare Fund for Building and Construction Workers.

Sub-Group II : How the existing Social Security Laws can be improved upon for higher effectiveness?

Sub-Group.III: Boards for Building & Construction Workers. What are the strong points and the weak points, why the Mathadi Labour Act was not extended to Building and Construction Industry in Maharashtra, and what are the reasons for the failure of the similar Act in Gujarat?

1.3 Each Sub-Group has deliberated upon the subjects given to them and they have since submitted their Reports identifying the peculiar nature of the industry. All the Report of the Sub-Groups are attached as Appendix-II(A), (B) and (C).

1.4 On going through the above Reports, the Working Group has unanimously felt that there is case to have a comprehensive legislation for the implementation of the various Social Security Schemes, as laid down at 1.0(a) and (b) above.

1.4.1 In order to administer the present Social Security Schemes satisfactorily, it is necessary that the

comprehensive Legislation provide for the establishment of Tripartite/Bipartite Construction Labour Boards, at the following levels:-

- (a) National Level
- (b) State "
- (c) City/Distt."
- (d) Project/Sites level.

1.5 This unanimous recommendation is made by the Tripartite Working Group, after taking into consideration the peculiar nature and problems of the industry (A note of the peculiar nature and problems of the industry is at Appendix-III^{*}), which is causing hinderances in making the present Social Security Laws workable in the industry and their implementation difficult. The tripartite Working Group has taken into consideration all the difficulties being experienced by the Employers and the implementation Machinery. The Group is satisfied to note that the employers are willing to give the benefits as stipulated under the present Social Security Laws to the workers. It is further recorded that inspite of the keen desire of the employers and the Govt. to implement the existing Social Security Laws, the workers are still not able to receive the benefits in the manner conceived in the present laws.

1.5.1 In view of the above, the Tripartite Working Group further unanimously resolves and recommends that the following remedial measures should be taken immediately to make the present Social Security Schemes effective by providing a comprehensive ^{legislation} for Social Security and welfare of the workers.

*Annexure

1.5.2 The Group has noted that the position of employment of labour in the industry is such that it does not conceive of continued employer-employee relationship. It, is, therefore, considered essential that the relationship is brought about by registering the employers and the non-permanent workers in the industry. It is also for this purpose that the Group recommends that the construction labour boards should be established, where it will be ensured that the employers shall pay the dues and the employees shall receive the same through new comprehensive law.

1.5.3 The working group also unanimously recommends the constitution of the Construction Labour Boards, as envisaged above, in the following operational areas, in order to implement the Social Security Schemes:-

- (i) Under the present Social Security Schemes applicable to the industries, the workers are entitled to the P.F. benefit in the range of 6.25% to 10% (Statutory minimum in the construction industry is 6.25%).
- (ii) As regards the E. S. I. C. Scheme, about which a reference has been made to the working group, it is placed on record that this piece of legislation has not been extended to the Construction Industry as yet, and as such the workers are not entitled for any benefit thereunder, which gives coverage to various benefits to the workers, such as Maternity, Sickness, Accident etc. etc.

(iii) The Gratuity Act though applicable to the Construction Industry, its implementation in the industry is difficult, since most of the workers in the industry are unable to fulfil the qualifying conditions of eligibility. Hence, the situation needs to be remedied.

1.6 In view of the above, the Group has noted that the peculiar and special problems of the Building and Construction Industry and the Labour employed therein, it is possible to apply and administer the present Social Security Schemes, as applicable to most of the other industries at par in this industry. However, to start with the minimum benefits under the Social Security Schemes should be ensured to the workers, at the earliest.

1.6.1 In order to achieve the above objective, the Working Group strongly recommends setting up Construction Labour Boards to administer the various provisions of the Social Security Schemes and such other beneficial measures for the workers of the industry.

Sd/-
(R. M. Chokshi)

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

Sd/-
(R. G. Gandhi)

Sd/-
(K. A. Khan)

Sd/-
(Narendra Patel)