

NO. E&I-1(2)B/58
Government of India
Ministry of Labour & Employment

From

Shri R.L. Mehta, I.A.S.,
Joint Secretary to the Government of India.

To

Shri B.D. Joshi,
74 Queen Victoria Road,
New Delhi.

Dated New Delhi, the 7th July, 1958.

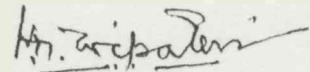
Subject:- First meeting of the Central Implementation
and Evaluation Committee.

Sir,

In continuation of this Ministry's circular letter No. E&I-1(2)A/58 dated the 14th June, 1958 on the above-cited subject, I am directed to enclose a list of items included in the Agenda for the first meeting of the Central Implementation & Evaluation Committee and to request that your views on the Agenda as well as suggestions for the inclusion of any other items along with brief notes thereon may kindly be communicated to this Ministry immediately. If no reply is received by the 21st July, 1958, it will be presumed that you have no comments to offer in the matter.

2. It is proposed to convene the first meeting of the Committee some time in the second half of August, 1958.

Yours faithfully,



(K.M. Tripathi)
for Joint Secretary

Copy forwarded to L.C. Section & Research Division.

(K.M. Tripathi)
for Joint Secretary.

Central Implementation & Evaluation
Committee

Agenda

1. Action taken on the conclusions of the sixteenth session of the Standing Labour Committee held in October, 1957 regarding evaluation and implementation of labour laws, awards, etc.,.
2. Cases of non-implementation or partial, delayed or defective implementation of —
 - (i) Awards, agreements, settlements, and
 - (ii) labour enactmentsreceived from State Governments, employers' and workers' organisations and progress of action taken thereon.
3. Non-implementation of awards, agreements, etc., due to cases being taken to High Courts/Supreme Court.
4. Implementation of the Code of Discipline in Industry.
5. Evaluation of the working of labour enactments, disputes, etc.

NO.E&I-1(2)/B/58
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

From

Shri R.L.Mehta, I.A.S.,
Joint Secretary to the Government of India.

To

Central
All members of the Implementation & Evaluation
Committee.

Dated New Delhi, the 27th August 1958.

Subject: - First Meeting of the Central Implementation and
Evaluation Committee (New Delhi - September, 1958).

Dear Sir,

In partial modification of this Ministry's letter of even number dated the 19th ~~August~~, 1958, on the above subject, I am directed to say that the first meeting of the Central Implementation & Evaluation Committee will be held at New Delhi on the 20th September, 1958 at 11 A.M. instead of 16th September, 1958 as communicated earlier.

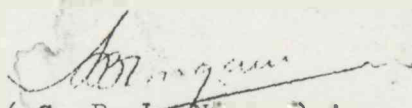
2. Receipt of this letter may kindly be acknowledged.

Yours faithfully,


(S. B. L. NIGAM)
FOR JOINT SECRETARY.

Copy forwarded for information to:-

1. Planning Commission (Shri P.P. Agarwal, I.C.S.).
2. All State Governments and Union Territories.
3. All India Organisations of employers and workers.
4. All Officers of this Ministry including Private Secretary to Labour Minister/Deputy Labour Minister/Parliamentary Secretary/Secretary and Personal Assistant to Joint Secretary (G) and Joint Secretary (R).
5. All Attached and Sub-ordinate offices of this Ministry.
6. All Sections of this Ministry (except C.R., Cash, Adm., Library, O&M and Vigilance).
7. Press Information Officer (Shri Kumar Dev) for favour of usual action.


(S. B. L. Nigam)
for Joint Secretary.

6. Shri B. D. Joshi,
14. Queen Victoria Road, New Delhi.

Imshate
**EXPRESS
DELIVERY**

No. F&I-1(2)/B/58
Government of India
Ministry of Labour & Employment

.....

From

Shri R. L. Mehta, I.A.S.,
Joint Secretary to the Government of India

To

Shri E. D. Joshi,
14, Queen Victoria Road,
New Delhi.

Dated New Delhi, the

Subject:- First Meeting of the Central Implementation and
Evaluation Committee (New Delhi-20th September 1958).

.....

Dear Sir,

I am directed to refer to this Ministry's circular letter of even number dated the 19th August 1958, on the above subject and to request that the receipt of the above letter may kindly be acknowledged. It is presumed that you will be attending the meeting on the 20th September 1958.

Yours faithfully,

K. M. Tripathi
(K. M. Tripathi)
for Joint Secretary

d.a.nil
N.Rm/15/9

NO.E&I-1(2)/B/58
Government of India
Ministry of Labour & Employment

From Shri R.L.Mishra, I.A.S.,
Joint Secretary to the Government of India,

- To
1. Shri Naval H.Tata,
Bombay House,
Bruce Street,
Bombay-1.
 2. Shri G.D.Somani, M.P.,
Shreenivas House,
Waudby Road,
Fort, Bombay-1.
 3. Shri P.Chentsal Rao,
Secretary All India Organisation of Industrial
Employers, Federation House,
New Delhi.
 4. Shri H.P.Merchant,
'Woodlands',
Peddar Road,
Bombay-26.
 5. Shri Somnath P.Dave, M.P.,
C/O. Textile Labour Association,
Gandhi Majoor Sevalaya,
Bhadra, Ahmedabad.
 6. Shri B.D.Joshi,
14, Queen Victoria Road,
New Delhi.
 7. Shri Bagaram Tulpule,
General Secretary,
Hind Mazdoor Sabha,
Servants of India Society's Home,
Sardar Patel Road,
Bombay-2.
 8. Shri Sur Bachan Singh,
United Trades Union Congress,
Bihar State Committee,
Bharati Press Buildings,
Mithapore, Patna-1.

Dated New Delhi, the 22nd August '58.

SUBJECT: First Meeting of the Central Implementation and
Evaluation Committee (New Delhi - 16th September
1958).

Dear Sir,

In continuation of this Ministry's letter of
even number dated the 19th August, 1958, on the
above subject, I am directed to enclose memoranda on
the following items of the agenda:

ITEM NO.1 OF THE AGENDA: Action taken on the conclu-
sions of the sixteenth session
of the Standing Labour Committee
held in October, 1957 regarding

evaluation and implementation of labour laws, awards, etc..

ITEM NO. 2 OF THE AGENDA: Cases of non-implementation or partial, delayed or defective implementation of (i) awards, agreements, settlements, and (ii) Labour enactments received from State Governments, employers' and workers' organisations and action taken thereon.

ITEM NO. 3 OF THE AGENDA: Non-implementation of awards, agreements, etc., due to appeals to High Courts/ Supreme Court.

ITEM NO. 4 OF THE AGENDA: Implementation of the Code of Discipline in Industry.

2. Memoranda on the remaining two items will be sent shortly.

3. Receipt of this letter may kindly be acknowledged.

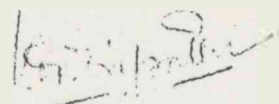
Yours faithfully,


(K. M. Tripathi)
For Joint Secretary.

'd.a.refd.to'
'Sadhu.21.8.'

No.E&I-1(2)/B/58 Dated New Delhi, the August '58.
with enclosures
Copy/forwarded for information to:-

1. All State Governments and Union Territories.
2. All India Organisations of employers and workers.
3. All Officers of this Ministry including Private Secretary to Labour Minister/Deputy Labour Minister/ Parliamentary Secretary/Secretary and Personal Assistants to Joint Secretary(G)/Joint Secretary(E).
4. All attached and sub-ordinate offices of this Ministry.
5. All Sections of this Ministry (except C.R., Cash, Adm., Library, O&M and Vigilance.)
6. Press Information Officer (Shri Kumar Dev) for favour of usual action.


(K. M. Tripathi)
for Joint Secretary.

'd.a.refd.to'
'Sadhu.21.8.'

GOVERNMENT OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT

Central Implementation & Evaluation Committee
(First meeting - New Delhi - September 16, 1958.)

ITEM NO. I ON THE AGENDA: Action taken on the conclusions of the 16th session of the Standing Labour Committee held in October, 1957 regarding evaluation and implementation of labour laws, awards, etc.,.

M E M O R A N D U M

The Standing Labour Committee at its 16th session held in October, 1957 at New Delhi recommended that arrangements should be made for evaluating the implementation of agreements, settlements and awards. It was agreed at the meeting of the Committee that the machinery for this purpose should be at three levels and should be tripartite in character. The composition of the machinery at different levels was laid down as follows:-

(i) At the Centre, there will be one representative each of the employers' and workers' organisations to be nominated by the organisations concerned. The Union Labour Ministry should arrange to convene these meetings and to provide a Secretariat for the purpose.

(ii) At the State Headquarters, a similar organisation will be set up with the State Labour Department in charge of convening the meetings and providing the Secretariat.

(iii) At the local level, there will be similar committees. The representation to these committees will be given to important employers' and workers' organisations in the area. The local offices of the Labour Department of the State should provide the Secretariat and, if possible, co-operation of some prominent person in the region secured as a convener.

2. It was emphasised that the Committee should necessarily be small and businesslike and there should be two-way exchange of experience between the Committees at the lowest levels and the National Committee. All points of importance arising at any level should be given wide circulation. The Committee also recommended that the immediate task of Implementation Committees will be to examine the extent of implementation of agreements, settlements and awards both by employers and workers

and to advise the parties which are anxious to implement the award but are unable to do so because

of certain difficulties. Another recommendation of the Committee was that the Ministry of Labour will appoint a Liaison Officer of sufficient seniority and with fair understanding of labour problems. The responsibility of this officer will be to go around the State Headquarters to ensure how the above arrangements worked. The State Governments would similarly designate one of their officers to go to the regional committees within their jurisdiction for similar purpose.

Has this been done?

3. The Standing Labour Committee also expressed that the tendency to have recourse to courts on substantial grounds should be discouraged and the employers' organisations should devise some machinery to screen cases in which recourse to courts was contemplated by their members. It also recommended that parties to an award, settlement, etc., should report to the Evaluation Machinery within a period of 3 months from the date of enforcement whether in their view the implementation of an award, settlement, agreement, etc., had been proper and effective. The Committee, however, made it clear that before approaching the Evaluation Machinery for redress, the parties concerned should get together and reconcile the points of difference between them about the manner of implementation of awards, etc.

Not much has been done in this direction

4. In pursuance of the recommendations of the Standing Labour Committee, referred to in the preceding paragraphs, Government of India have set up an Evaluation and Implementation Division in the Ministry of Labour & Employment to assess the extent of non-implementation of Labour laws, awards, etc., and to evaluate the results achieved by such measures. A Central Implementation & Evaluation Committee comprising 4 representatives each of the central organisations of employers and workers has already been set up. The

State Governments were requested to set up similar machinery. According to the information available so far, the Governments of Punjab, Uttar Pradesh, West Bengal and Rajasthan have already set up Implementation Committees. They have also set up Implementation Cells in their Labour Departments. The Government of Bihar have accepted the proposal, in principle, and are taking steps to set up a Tripartite Standing Committee of 5 members representing employers and employees with the State Labour Secretary as Chairman. They have, however, already set up an Implementation Cell for looking into the cases of non-implementation of labour laws, etc.,. The Government of Mysore have stated that they do not consider it necessary to set up a separate committee and a sub-committee of the State Labour Advisory Committee will be appointed for the purpose. The Government of Bombay are of the view that as the number of cases of non-implementation in Bombay is not large a separate committee, as recommended by the Standing Labour Committee is not necessary. The question of setting up a Committee considered will be taken up as and when a need arises in future. The State Government have, however, designated one of their officers to look into the cases of non-implementation, etc.,. The Tripura Administration have taken up the matter with their neighbouring States so that the Committee in one of those states might look into the cases in Tripura also. The Government of Kerala have decided to set up a committee while other states are considering the proposal. A statement showing the position of setting up of Evaluation Committees and Cells by State Governments is enclosed (Appendix I).

5. With a view to assessing the extent of non-implementation of awards, etc., and to make a full appraisal of the problems, the Evaluation & Implementation Division issued circular letters in January, 1958 to all State Governments and to all-India Organisations of employers and workers requesting them to furnish in questionnaires, information regarding cases of

Why delay in a Province like Bihar?

Ind. But the Relations are much worse in Bombay. Is it really so?

of non-implementation or partial, delayed or defective implementation of labour enactments, awards, etc.,. It is proposed to collect such information periodically, every two months, from the aforesaid agencies, so that any case of non-implementation or partial, delayed or defective implementation of an award or an agreement is immediately brought to the notice of the authority concerned and necessary action taken. Copies of circulars issued in this regard are enclosed (Appendices II and III). Members of Parliament were also requested to offer their suggestions in this connection and to bring to the notice of the Division any case of non-implementation of awards, labour laws, etc. So far about 400 cases of non-implementation of awards, agreements and settlements have been reported to the E&I Division. Of these, 144 or about 36% are pending in Courts. Of the rest, 26 cases were settled either through the intervention of State Governments or the E&I Division. The remaining cases are at different stages of examination and implementation. As regards non-implementation of labour enactments, 312 cases were reported. These have been brought to the notice of the authorities concerned and appropriate action is being taken to investigate them and to secure implementation as far as possible. In addition, about 164 suggestions were received for carrying out improvements in the working of various labour enactments. Details in this regard may be seen in the Memorandum on item 2 of the Agenda.

6. The question of evaluation and implementation of labour enactments, awards, settlements, etc., was discussed at the Labour Ministers' Conference and Indian Labour Conference held in May, 1958 at Nainital. The Conferences emphasised the need for sending replies to questionnaires as early as possible and for making suitable permanent arrangement for furnishing the

This examination & implementation is taking place. An exhibition display should be arranged.

The Conferences approved the suggestion that in certain cases for obtaining further particulars, the Division might write to the party concerned directly with a copy to the Central Organisation concerned. Later on, when the implementation work developed and the State Governments set up their own machinery, the State Governments might be requested to do this in the State sphere.

7. The work entailed in ensuring compliance of labour laws, awards, etc., throughout the country is enormous and success can be achieved only with the help and co-operation of all organisations concerned with labour and their welfare. The Evaluation & Implementation Machinery when set up in all States will be of considerable help as cases of non-implementation in the State sphere can be tackled efficiently only by them. The co-operation of employers and workers, both in bringing to the notice of the Government cases of non-implementation and removing causes of friction, cannot be over-emphasised. It has been pointed out that details of specific cases alone make it possible for Government to take action.

There is a problem in State, the Government should be tackled successfully.

8. Government of India have recently issued a circular to all India Organisations of Employers and Workers drawing their attention to the recommendation of the Standing Labour Committee (October, 1957) which required that parties to an award, agreement, etc. should report to the Evaluation Machinery within 3 months of the date of enforcement whether in their view the implementation of award, settlement, etc., had been proper and effective. It has, however, been pointed out that before reporting to the Machinery, parties concerned should get together and take steps to settle their differences. They have been asked to send such reports to the Central Evaluation Machinery until the setting up of similar machinery in the States. Thereafter, such reports may be sent to State Governments concerned with a copy to the Central Evaluation Machinery. A copy of the circular

How many reports have been received.

9. One of the important functions taken over by the Evaluation & Implementation Division at the Centre, comprises steps for ensuring observance of the Code of Discipline. Infringements of this Code which has been ratified by all central organisations of employers and workers is a case of non-implementation and instances of such infringements have to be brought to the notice of Evaluation & Implementation Division. So far, about 21 cases of infringements of the Code which relate to the period after march 15, 1958 have been taken up with the parties concerned; four of these have already been settled. The Officer-in-Charge of the E&I Division conducted a case study of the strike in TISCO, Jamshedpur. An evaluation of the strike in ports and docks, from the point of Code of Discipline has also been carried out. These reports are at present under Government's consideration. Fifteen cases of assaults on colliery managers and other officials and lawlessness in coal mines during the preceding one year have also been reported. Though all these cases relate to a period prior to the ratification of the Code, they are still being brought to the notice of the parties concerned so that their repetition may be avoided. Details in regard to cases under Code of Discipline are contained in the Memorandum on item 4 of the agenda.

10. The position stated in the preceding paragraphs is for the information of the Committee.

'SADHU' 19.8.58'

GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

Central Implementation & Evaluation Committee
(First Meeting-New Delhi - 16th September 1958)

ITEM NO. 2 ON THE AGENDA: Cases of non-implementation or partial, delayed or defective implementation of -
(i) Awards, agreements, settlements;
(ii) Labour enactments
received from State Governments, employers' and workers' organisations and action taken thereon.

M E M O R A N D U M

(i) Awards, agreements and settlements

The Evaluation & Implementation Division circulated questionnaires to all State Governments and all-India employers' and workers' organisations for collecting instances of non-implementation or partial, delayed or defective implementation of labour enactments, industrial awards, agreements, settlements, etc., so as to assess the extent of the problem and to take remedial measures. Parties to an award, agreement etc., were also asked to report to the Evaluation Machinery, within a period of 3 months from the date of enforcement, whether in their view the implementation had been proper and effective. It was, however, pointed out that before approaching the Evaluation Machinery for redress they should get together and reconcile the points of difference between themselves about the manner of implementation.

2. In response to these circular letters, replies from eight State Governments/Administrations viz., Andhra Pradesh, Bihar, Kerala, Orissa, Punjab, Uttar Pradesh, Delhi and Tripura have so far been received. The Government of Assam have no case of non-implementation to report.

3. All the three central organisations of employers (i.e. All India Organisation of Industrial Employers; Employers' Federation of India and All India Manufacturers' Organisation) and the four Central Organisations of workers (i.e. Indian National Trade Union Congress, All India Trade Union Congress, Hind Mazdoor Sabha and United Trades Union Congress) have furnished instances of non-implementation or partial, delayed or defective implementation of awards, agreements, etc.,. Such

viz., Indian National Mine Workers' Federation, Federation of Martin Burn and Associate Companies' Workers' Union, Petroleum Workers' Union, Standard Vacuum Employees' Union, Atlas Cycle Workers' Union, Bhulanbararee Coal Company Workers' Union, Delhi Press Workers' Union, Talcher, Deulbera, Deura and Villiers Collieries Karamchhari Union, etc., Individual workers have also approached the E&I Division for the redress of their grievances about non-implementation of awards, etc.;. In all these cases, action has been taken in consultation with the authorities concerned.

AWARDS

4. According to the information furnished by State Governments there were 271 cases of non-implementation or partial, delayed or defective implementation of awards. In addition to this, the Mica Mines Welfare Fund Organisation cited 5 cases relating to mica mines. An analysis of these cases is given below:-

- (i) Implementation in respect of 23 cases was started either only after the issue of show cause notices by the State Governments concerned or after negotiation with the managements or after rejection of appeals;
- (ii) There are 40 cases in which either negotiations with the managements for implementation are being continued or they are under Government's consideration;
- (iii) Four complaints were either not substantiated or were not mature for implementation; no action was necessary in these cases;
- (iv) Prosecutions or recovery proceedings have been instituted in 23 cases where negotiations failed to persuade the managements to implement the awards;
- (v) In 18 cases the question of initiating prosecution proceedings against the managements concerned is being considered by State Governments;
- (vi) There are as many as 128 cases of non-implementation (or 47% of the total cases reported by State Governments) which are pending in courts due to stay orders or because of appeals; those pending in High Courts or Supreme Court being 71;
- (vii) Eighteen awards could not be implemented due to closure of mills or non-availability of workers; and
- (viii) Ten awards were declared invalid by the Labour Appellate Tribunal. The State Government concerned are exploring the possibility of referring these cases for adjudication.

one in 1961 has been under stay for the last 2 years. (Hassam)

It would thus be seen that necessary steps are being taken to reduce the number of cases of non-implementation of awards reported by State Governments.

Employers' and workers' organisations have also furnished

which, according to them, have not been implemented is 90; eleven of these are reported to be pending in High Courts or the Supreme Court. Thirty-one awards which fall under State sphere were referred to State Governments concerned for necessary action under intimation to the E & I Division. Two of these cases have since been disposed of. One case related to payment of certain dues under an Adjudicator's Award of 1953 to an employee of a factory in Agra. The matter was taken up with the State Government. Instructions have since been issued by the State Government to the collector concerned for making payment to the complainant. In the other case, the complaint made by an employee of a textile mill in Delhi related to non-payment of retrenchment compensation. An investigation revealed that the claim for compensation under an Award of 1956 was not justified. There are 44 cases of non-implementation of awards which come within the Central sphere. These are being examined in consultation with the authorities concerned.

*Has in man
found out as to
why the State
Govt. did not
act on its own
also for?*

AGREEMENTS AND SETTLEMENTS

6. Thirty-four cases of agreements/settlements having not been implemented have been reported to the E & I Division. Four of these are pending in courts, 11 have been referred to State Governments for necessary action while 8 are under consideration in consultation with the authorities concerned. In 5 cases the question of non-implementation has been taken up with the managements, and in 2 the question of initiating prosecution proceedings is under consideration. There are 3 other agreements which have not been implemented for one reason or the other. In one case there was disagreement about the interpretation of certain provisions of the agreement but it was settled amicably through arbitration.

*Why the State
Govt. failed to
give attention
to case?*

7. Nearly 50 percent of the cases of non-implementation of awards, etc., reported to the E & I Division relate to Assam and U.P. In Assam these cases relate to ~~March, 1958-~~ Award of Supreme Court regarding Rice Cut Compensation, 1956-Settlement regarding wages, 1956-Bonus Agreement, ~~and regarding maternity benefit, etc.,.~~ In

13 (2017)

What is the explanation of the state Govts.?

most of these cases of non-implementation, workers were unable to secure implementation despite repeated representations to the State Government. As these cases fall within the State sphere the matter has been taken up with the Government of Assam and is being actively pursued to get them settled. In U.P., certain employers of Kanpur are reported to have adopted delaying tactics in regard to implementation of awards, agreements, etc.,.

8. It would be seen from the preceding paragraphs that as many as 144 awards, settlements and agreements forming 36% of i.e.o. total of 400 cases reported - are pending in Courts. The Governments of Punjab, Rajasthan, Uttar Pradesh and West Bengal have set up Evaluation Committees to look into the cases of non-implementation, etc., and the Governments of Bihar, Kerala, Mysore and Tripura have decided to do so shortly. With more States constituting these Committees the number of cases of non-implementation is bound to go down.

9. The main difficulty in the implementation of a large number of awards has been the tendency of employers to go to High Courts or Supreme Court. While in some cases there may be genuine difficulties or doubts in implementing awards and a recourse to higher courts inevitable, in many others this procedure is reported to have been adopted only for delaying implementation. Other causes of non-implementation are financial difficulties of employers, closure of mills, non-availability of workers in respect of whom the award is required to be implemented, etc.,.

10. The general tendency of employers to go in appeal, against industrial tribunal awards, to High Courts or the Supreme Court has created a sense of distrust and frustration among workers and is a fruitful source of labour disputes. The delay involved makes workers lose faith in constitutional methods of settlement of disputes as well as in their employers. That is how they start adopting unconstitutional methods for the redress of their grievances. The Standing Labour Committee at its sixteenth session held in October, 1957 recommended that the tendency to have

using Judicial Ribs:

But still they are able to obtain stay orders - what is the remedy for this?

Yes. We entirely agree

discouraged and that the organisations themselves should devise some sort of machinery to screen cases in which recourse to Courts was contemplated by their members. It is not known whether any action has been taken in this direction by the employers' organisations. It is desirable that action be initiated in this regard if it has not already been taken.

we would like to know what has been done by the employees' union in this work and other proceeding by Rajab H.C.

11. It has also been reported that very often awards are given in general terms. Difficulties and delays, therefore, occur in computing the money value of benefits to individual workers. In many cases this leads to fresh references to adjudicators.

(ii) Labour Enactments

12. An analysis of the complaints regarding non-implementation of labour enactments made by employers' and workers' organisations, State Governments, etc., shows that they can be broadly divided into two categories:-

- (i) Cases of non-implementation ^{or violation} of certain provisions of the Act on which some administrative action is necessary;
- (ii) Cases where the organisations have pointed out certain inherent defects in the enactments which can be remedied only by undertaking amendment of the law.

The nature and extent of these two types of complaints are discussed in the succeeding paragraphs.

CASES
REQUIRING
ADMINISTRATIVE
ACTION

13. In all, 312 complaints regarding non-implementation of labour enactments have been received. Most of the complaints have been made by workers' organisations though a few are from employers' organisations. Of these complaints, 163 relate to Industrial Disputes Act, 33 to Employees' Provident Funds Act, 22 to Minimum Wages Act, 28 to Plantations Labour Act, 15 to Mines Act and 14 to Factories Act. These six Acts alone account for 88% of the complaints made. After a preliminary examination in the E & I Division they were referred to Administrative Authorities and State Governments concerned for necessary action. As a result of action taken by the Authorities and amicable settlement has been brought about in one case under the Minimum Wages Act and management has agreed to pay a sum of Rs.25,000/- to its workers as difference of wages. In another case where a union complained of non-payment of irregular payment of wages; the payment has since been made. In the third case, as a result of persuasion the management has promised to use its good offices to ensure that dues of workers under supply agents punctually and regularly. The workers concerned

have been asked to watch the position and report, in future, cases of delays, if any. One labour Union complained of violation of the provisions of Mines Act relating to drinking water, sanitary facilities, canteen, etc. In all these cases, the management is taking action to remove the causes of complaint. Other cases are either under investigation or consideration. An analysis of the main complaints enactment-wise is contained in the Appendix to memorandum on item 5 of the agenda.

14. While action is being taken to secure speedy compliance of labour laws with the help of State Governments and other authorities concerned as well as to carry out amendments wherever necessary it may be mentioned that in many cases the main cause of delay in dealing with the cases is that specific cases of violation, etc., and the names of the parties along with their affiliation with the Central Organisation are not furnished. Very often a general complaint is made on which no specific action can be taken and experience has shown that specific instances when called for are either not furnished or they are furnished after considerable delay.

This is a part.

CASES
REQUIRING
AMENDMENTS

15. Apart from the cases of non-implementation of Labour enactments, referred to above, about 164 suggestions for amendments to various labour enactments have been received in the E & I Division. Of these, 46 relate to Industrial Disputes Act, 19 to Payment of Wages Act, 18 to Minimum Wages Act and 11 each to Workmen's Compensation and Employees' State Insurance Acts. These 5 Acts alone account for 61 percent of the total number of suggestions made. An indication regarding the nature of complaints has been given in the Memorandum on item 5 of the agenda dealing with evaluation of labour enactments, disputes etc., etc. Of the total number of suggestions made 64 are under active consideration of Government - in 55 cases, it is either proposed to amend the act or amendment proposals are under consideration, in 4 cases administrative action has been taken or is proposed to be taken to remove the difficulties and in 5 cases the matter has been discussed by some tripartite committees or conferences and action is being taken on their recommendations. In 45 cases, no amendment of enactments is considered necessary. In 7 cases, the parties concerned have been requested either to cite specific instances of non-implementation or furnish other details.

Seven cases were referred to State Governments for necessary action. The

action of the administrative sections

of the Ministry of Labour and Employment.

16. To reduce the number of cases of non-implementation of labour awards, agreements, settlements and enactments the following main suggestions have been made:-

- (i) The Constitution may be amended to take away the right of appeal to higher courts in the cases of industrial tribunals awards;
- (ii) A separate Bench of the High Court be created to expedite cases of appeals against industrial tribunal awards;
- (iii) The process of realisation of dues as arrears of land revenue generally takes a very long time. Departmental kurk-amins should be appointed for the purpose, and, in the meantime instructions be issued to Collectors to accord priority to the realisation of dues arising out of the claims of industrial workers;
- (iv) Magisterial powers to prosecute the management for non-implementation of awards, etc. may be given to officers of the Labour Department;
- (v) Non-implementation of awards/agreements in collieries being confined generally to small units, they may be amalgamated into bigger units;
- (vi) Time limit be fixed for completion of investigation and submission of Inspector's report to the Regional Labour Commissioner and the latter should inform the disputant party within a month as to what step is being taken by Government for getting the dispute settled.

17. It is difficult to get the Constitution amended for depriving the parties concerned to appeal to higher courts against the awards of industrial tribunals as it would be a drastic step and would infringe the fundamental rights. The question of expediting disposal of cases pending before High Courts/Supreme Court was considered some time back. In pursuance of the recommendations of Labour Ministers' Conference (October, 1957), steps have been taken for quick disposal of cases and of late there has been some improvement. The suggestions made in sub-paras (iii) to (v) are being examined in consultation with the appropriate authorities. As regards the last suggestion (sub-para vi) the Central Industrial Relations Machinery has already issued executive instructions in this regard so as to avoid delay in the settlement of disputes. The Labour Inspectors do not, however, handle disputes and it is only the Conciliation Officer who is entrusted with this work. The Industrial Disputes Act already prescribed a time limit of two weeks for the submission of a report to the appropriate Government on the result of conciliation proceedings.

18. The Committee may like to:-

- (i) Offer its view on the suggestions made in paragraphs 16;
- (ii) impress upon the organisations, to which the members belong, the need to evolve a machinery for screening cases wherein a recourse to law courts is contemplated, as recommended by the Standing Labour Committee at its 16th Session (October, 1957);

Text

Then legal aid should be provided by the govt.

Don't discuss

The govt. to

- (iii) request the organisations concerned to advise their constituent units to cite only specific cases of non-implementation, etc., giving full details about parties involved, their affiliation to the Central Organisation and particular provision/s of enactments/awards infringed; and
- (iv) offer any other suggestions regarding implementation of awards, agreements, enactments, etc., particularly in the coal and mica mining industries which alone account for majority of cases of non-implementation or partial implementation, etc.,.

SADHU 20.8.58

5th Session of the 20th Annual
Committee on Coal mines -

6th

Min. Board not set up
D.W. Act. not enforced
in mica mines, particularly
in respect of weekly holiday
wages.

Sub. Committees must meet more
often - the present rate of meeting after
2 years is insufficient.

Small Tripartite Committee in the nature
of Standing Committee (on the model of
W. Bengal) should be formed to guarantee
secure the implementation of the decisions of
the Sub-Committee. This sub. comm. should meet at
least once in 2 months.

Mining Inspector's report should be
displayed in an easy place for the information
of the workers, a copy may also be sent
to the Dept. of the employees.

CENTRAL IMPLEMENTATION & EVALUATION COMMITTEE
(FIRST MEETING - NEW DELHI - 15th SEPTEMBER 1968)

ITEM NO. 3 OF THE AGENDA: Non-implementation of awards, agreements, etc., due to appeals to High Courts/Supreme Court.

(Suggested by United Trades Union Congress)

MEMORANDUM

Complaints have been received from certain organisations that a large number of awards, agreements and settlements remain unimplemented due to a general tendency on the part of employers to go in appeal to High Courts or the Supreme Court. It is contended that these Courts often take a long time in deciding cases with the result that justice is delayed and workmen suffer. It is also said that while in some cases there may be genuine difficulties or doubts in implementing awards and agreements and a recourse to higher courts inevitable, in many cases this procedure is adopted only to delay implementation.

2. Precise information regarding the number of awards as percentage of total awards during a particular period, referred to higher courts in different States and the time taken in their disposal, is not readily available. State Governments have been asked to make an assessment of the problem, but it will ^{be} some time before the information is collected. However, from the information regarding implementation of awards, agreements, etc., furnished to the Evaluation and Implementation Division by certain State Governments, it is revealed that out of about 400 cases of non-implementation, 144 or roughly 36% are pending in different courts, out of which 82 or about 20% are pending in High Courts/Supreme Court. Though, these figures do not give a complete picture as they relate only to a few States, they do reveal the magnitude of

3. It is understandable that recourse to appeals by employers, who are by and large in a better bargaining position, should create a sense of distrust and frustration among the working class and lead to frequent labour trouble. In many cases it tires out the patience of workers and encourages them to resort to threats of strike for the redress of their grievances.

The threat of strike from September 5, 1958 given by the All India Petroleum Workers' Federation is a case in point. The Industrial Tribunals in Delhi, Calcutta, Madras, Punjab, etc., gave awards regarding the payment of bonus to workers of petroleum companies. The managements in each case went up in appeal to the Supreme Court. The workers' unions in retaliation, formed an Action Committee ^{and to} force the issue have given a strike notice. The example is given not to justify the strike notice - in fact all threats of physical duress are against the spirit of the Code of Discipline - but to show how too frequent a resort to appeals to higher courts results in strained labour management relations.

4. One of the suggestions made for avoiding delay in the settlement of industrial disputes is that the Constitution should be amended to take away the right of appeal against industrial awards to High Courts and the Supreme Court. This is not a practical suggestion. The purview of the Supreme Court must

remain Supreme. The 14th Labour Ministers' Conference (October, 1957) considered this question and as recommended by it, steps have been taken to request the High Courts and the Supreme Court to expedite cases of industrial disputes pending with them. It is understood that of late there has been some improvement in the matter. The State Governments have been requested to bring to the notice of Government of India the number and duration of cases pending in their High Courts so

GOVERNMENT OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT

Central Implementation & Evaluation Committee
(First Meeting - New Delhi - 16th Sept. 1958)

ITEM No.4 ON THE AGENDA: Implementation of the code of
Discipline in Industry.

M E M O R A N D U M

The Indian Labour Conference at its 15th Session held in July, 1957 considered the subject of discipline in industry and felt that there was need for both employers and workers to adhere to certain agreed principles in the matter of discipline. The Conference laid down the basic principles in this regard and set up a Sub-Committee on Workers' Participation in Management and Discipline in Industry to suggest measures for improving discipline in industry. The Sub-Committee met in August, 1957 and evolved a Code of Discipline in Industry.

2. The Standing Labour Committee which considered the Code in detail at its 16th session held in October, 1957 adopted it with some modifications. It was agreed at the meeting of the Standing Labour Committee that breaches of the Code would not be ventilated publicly by either party till the agency constituted for the purpose had gone into the matter and given its decision. The following steps were recommended in regard to the action to be taken by organisations against their constituents who committed breaches of the Code:-

- (i) to ask the unit to explain the infringement of the Code;
- (ii) to give notice to the unit to set right the infringement within a specified period;
- (iii) to warn and, in cases of a more serious nature, to censure the unit concerned for its action constituting the infringement;
- (iv) to impose on the unit any other penalties open to the organisation; and
- (v) to dis-affiliate the unit from its membership in the case of persistent violation of the Code.

3. The Committee was also of the view that grave, wilful and persistent breaches of the Code by any party should be widely publicised and that the employers' and workers' organisations should give no countenance to members who did not observe the Code. It was also clarified that the Code was applicable equally to the public sector. One of the recommendations of the Committee was that the Central and State Governments would maintain panels of names of employers' and workers' representatives who would be available for constituting teams to investigate breaches of the Code of Discipline and to evaluate the progress of implementation of awards, etc.

4. The Code of Discipline in Industry adopted by the Standing Labour Committee was further considered by the Sub-Committee on Workers' Participation in Management and Discipline in Industry and was finalised at its meeting held in March, 1958. The Code has since been ratified by the representatives of all central organisations of workers and employers. A copy of the Code of Discipline in Industry, as ratified, is enclosed (Annexure I).

5. The Evaluation & Implementation Division has recently taken over the work connected with the enforcement of the Code of Discipline in Industry by various parties. Whenever a complaint is received about an infringement of the Code, the central organisation to which the establishment or the union, as the case may be, is affiliated is addressed in the matter. In some cases, reports from State Governments are also called for. On receipt of a report from the party, which is alleged to have violated the Code, the whole question is examined with a view to fixing responsibility. By the end of July, 1958, 21 cases of infringements of the Code which threatened industrial peace or seriously jeopardised harmonious labour-management relations were taken up with the parties concerned. Information so far

What has been done in this direction so far?

collected by the Division reveals that the responsibility for infringements of the Code in all these cases is to be shared equally by workers and employers. In general, infringements of the Code by workers are due to agitation and satyagrah at factory gates causing interference of work, rowdyism, provocative speeches, abusive language against management, violence, assault on management officials, strike without notice, etc.,. On the part of employers, the infringements comprise stubborn attitude and non co-operation with workers in settlement of disputes, non-implementation of awards and enactments, lock-out without notice, coercion and unfair labour practices, such as creating split in the union, etc.,. All these cases are, at present, being examined in consultation with the parties concerned. Four of these cases have, however, been settled. Two related to non-implementation of award/agreement by textile mills in Coimbatore. It was possible to secure compliance by the managements concerned in these cases through the good offices of the Southern India Mill Owners' Association. The third case related to satyagrah and agitation by the union in a textile mill in Kerala. This agitation was started over the transfer of certain workers from one section to another. The matter was taken up with the State Government. Subsequently, the dispute was amicably settled at a conference of representatives of the labour union held by the State Labour Minister. The fourth case concerned a mica mine in Andhra Pradesh where the labour union had resorted to strike without notice. This infringement of the Code was brought to the notice of the central labour organisation concerned to which the union was affiliated. The matter ended in a settlement between the management and the union 'to give prior notice hereafter either for lock-out, dismissal or for strike'. In two cases of major strikes in Jamshedpur

whose is the primary responsibility

Rationalize this means

Point what about satyagraha

and Ports and Docks case studies were conducted to investigate if there had been breaches of the Code by any party.

6. Experience has shown that in cases of infringements of the Code there is a general tendency to justify the part played by one party by putting the blame on the other for some remote cause or immediate provocation. While there can be little justification for the policy of meeting one wrong by committing another it is essential for the success of the Code that its provisions should be followed more in spirit than in the letter and the organisations concerned take suitable steps to prevent infringements of the Code, as far as possible.

7. The Code of Discipline is a new venture and has been evolved as a result of mutual agreement between the employers' and workers' organisations. The Code will serve its purpose only if it is faithfully adhered to by all concerned at all levels. While the Central Evaluation and Implementation Division will take steps to bring infringements of the Code of Discipline to the notice of parties responsible for such infringements, it would be more efficacious if organisations evolve their own sanctions against their constituents which do not play the game. It may be mentioned, in this connection, that in Sweden, Federations have powers to impose penalties on dissident members who go against the agreements entered into by the main organisations. Experience in other countries is not different. There is no reason why similar procedure should not work in India.

8. It is proposed to place before the Central Implementation & Evaluation Committee, at its future meetings, major cases of infringement of the Code of Discipline in Industry for their consideration and for suggesting ways to set right the infringements as well as to reduce their future occurrence. In this task, however, the co-operation of organisations of employers and workers is essential without

which it would be difficult to ensure proper and effective observance of the provisions of the Code. A copy of the Code has already been circulated to all organisations of employers and workers requesting them to bring the contents of the Code to the notice of their constituent members and to impress upon them the need for adhering to the provisions of the Code.

Very little has been done to fulfil the obligations laid on the employers by this recommendation.

9. The Committee may like to:-

- (i) request the various Central Organisations of Employers and Workers to persuade their constituent units to honour the Code in letter as well as in spirit rather than justify their infringements by ascribing them to provocation by the other parties;
- (ii) ask the various Central Organisations of Employers and Workers to take steps effectively, mentioned in para 2 above, for setting right any breach of the Code and for taking suitable action against recalcitrant members; and
- (iii) offer its views on the recommendation of the Standing Labour Committee regarding maintenance of panels of names of employers' and workers' representatives for investigating breaches of the Code;

Yes.

B.D. Jeechi

No. E&I-1(2)/B/58
Government of India
Ministry of Labour & Employment

From

✓

Shri R.L. Mehta, I.A.S.,
Joint Secretary to the Government of India.

To

✓

All members of the Central Implementation
and Evaluation Committee.

Dated New Delhi, the 28th August, 1958.

Subject: First Meeting of the Central Implementation
and Evaluation Committee (New Delhi -
20th September 1958).

Dear Sir,

In continuation of this Ministry's letter of
even number dated the 22nd August, 1958, on the above
subject, I am directed to enclose memoranda on the
remaining two items of the agenda:

ITEM NO.5 of the Agenda: Evaluation of Labour enactments,
awards, agreements, disputes,
etc.,.

ITEM NO.6 of the Agenda: A review of some typical cases of
non-implementation.

2. Receipt of this letter may kindly acknowledged.

Yours faithfully,

(K.M. Tripathi)
for Joint Secretary.

Copy forwarded for information to:-

1. Shri P.P. Agarwal, I.C.S., Joint Secretary, Planning Commission.
2. All State Governments and Union Territories.
3. All India Organisations of employers and workers.
4. All Officers of this Ministry including Private Secretary to Labour Minister/Deputy Labour Minister/Parliamentary Secretary/Secretary and Personal Assistant to Joint Secretary (G)/Joint Secretary (E).
5. All attached and sub-ordinate offices of this Ministry.
6. All Sections of this Ministry (except C.R., Cash, Adm., Library, O & M., and Vigilance).
7. Press Information Officer, (Shri Kumar Dev) for favour of usual action.

(K. M. Tripathi)
for Joint Secretary.

GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

CENTRAL IMPLEMENTATION & EVALUATION COMMITTEE
(FIRST MEETING-NEW DELHI 30TH SEPTEMBER, 1958)

ITEM NO. 5 OF THE AGENDA: EVALUATION OF LABOUR ENACTMENTS,
AWARDS, AGREEMENTS, DISPUTES, ETC.

MEMORANDUM

While the work of getting awards, agreements, and enactments implemented by various parties has been undertaken by the E & I Division, an objective evaluation of their present position regarding implementation is essential if we are to make any long term contribution towards their better and more effective implementation. With this object in view the State Governments and Employers' and Workers' Central Organisations were requested to indicate defects in the existing labour enactments, awards, etc., which stood in the way of their implementation and their suggestions for improving them. An analysis of suggestions for amendment and complaints regarding non-implementation of different labour enactments received in the E & I Division is given in Annexure I. Apart from the suggestions for amendments of labour enactments, some complaints and suggestions have also been received in respect of implementation of awards, agreements, etc., the details of which have been given in the memorandum on item 2 of the agenda. In the light of all these suggestions, studies will be undertaken to evaluate the working of specific enactments, awards, agreements, etc., primarily with a view to finding out whether the objectives for which they were enacted or given, are being achieved.

The studies are of two types:-

- (a) Short-^{term} / ad-hoc studies; and
- (b) Relatively long-term planned studies.

(a) AD-HOC STUDIES

2. The ad-hoc studies will include enquiries into the causes of important strikes, lock-outs, disputes, etc., and their evaluation in the light of the Code of Discipline. Two such studies which have recently been made by the E & I

Division cover (i) the Jamshedpur strike, and (ii) the ports and docks strike. The ad-hoc studies may also include the work of 'observers' or 'observation teams' which may be appointed in pursuance of the recommendations of the 16th Session of the Standing Labour Committee, to investigate, among other things, the breaches of the Code of Discipline. This work is to be taken up as and when occasion arises and will basically be in the nature of case studies.

(b) PLANNED STUDIES

3. These studies include evaluation of labour enactments, awards, decisions, etc., with a view to finding out:

- (i) The defects/obstacles in their efficient working;
- (ii) Whether they have achieved the objectives for which they were enacted or given; and
- (iii) The lines on which amendments/improvements are necessary.

4. The planned studies will be in the nature of relatively long-term analytical surveys. One such study which has already been undertaken by the E & I Division is the evaluation of the working of Multi-Purpose Institutes under the Coal Mines Welfare Fund Organisation. The report is under preparation and will be submitted to Government shortly. Some of the other subjects which the Division proposes to take up for evaluation are mentioned below:-

(A) A W A R D S

Evaluation of important awards will be undertaken to find out the extent of non-implementation its causes and the bases adopted by different courts for deciding various issues. This analysis will be useful in evolving 'norms' for various items commonly under dispute.

(B) LABOUR ENACTMENTS

(i) Employees' State Insurance Act:

It has been decided to entrust the evaluation of the Employees' State Insurance Scheme to a team of experts to be obtained from Colombo Plan Countries.

(ii) Employees' Provident Fund Act:

The working of this Act in exempted factories may be evaluated.

(iii) Minimum Wages Act:

The following aspects of this Act may be reviewed:-

- (a) Working of the enforcement machinery under the Act.
- (b) Assessment of the working of the Act in its application to employment in agriculture.
- (c) Assessment of the economic effects of minimum wages on employment, prices, wages, etc.

(iv) Industrial Disputes Act, 1947:

The following aspects of this Act may be examined:-

- (a) Works Committees - assessment of their working; their functions, vis-a-vis, those of joint councils, productivity councils, etc.
- (b) Assessment of industrial relations machinery in public sector undertakings.

(C) DECISIONS, GENERAL QUESTIONS, ETC.

The following problems are proposed to be evaluated:-

- (i) Assessment of the enforcement of labour laws (based on a sample survey), in:
 - (a) Coal mines, and
 - (b) mica mines.
- (ii) An analysis of strikes and lock-outs - organisations, State and industry-wise - reasons for high incidence in certain areas, organisations or industries.
- (iii) Analysis of time taken in the disposal of labour cases by different labour courts, High Courts and the Supreme Court.

5. This programme of work is for the information of the Committee. They may like to suggest any other item which may be taken up for evaluation.

we would like to know what has happened & the findings and recommendations of the committee earlier appointed for the purpose.

Statement of evasion by employers of the responsibilities to invest the P. Fund.

(1) Revision of Schedule of Compensation rates laid down in the W.C. Act.

as to the extent of implementation of the decisions of the Ind. Committee on Coal.

(5) and the benefits the payment of which has been stopped by the Superior Court.

ANNEXURE I

AN ANALYSIS OF SUGGESTIONS FOR AMENDMENT AND COMPLAINTS REGARDING NON-IMPLEMENTATION OF DIFFERENT LABOUR ENACTMENTS RECEIVED IN THE EVALUATION & IMPLEMENTATION DIVISION

As mentioned in Memorandum on item No.2 on the Agenda the complaints regarding non-implementation or partial implementation of labour enactments received in the Evaluation & Implementation Division are broadly of two types - (a) where non-implementation is due to defects in enactments and suggestions have been made for their amendments and (b) where non-implementation is due to violation of certain provisions of the Act and on which administrative action is called for. In this note, a resume of important complaints and suggestions in respect of these two types of cases is given.

4. SUGGESTIONS REGARDING AMENDMENTS

About 170 suggestions for amendments to various labour enactments have been received. On examination, it has been found that amendment is not necessary or possible in 27 per cent. of the cases. In respect of 30%, amendments are under consideration while 25% cases are under examination in consultation with the organisations and the authorities concerned. In the remaining cases, the matter has either been discussed already at some tripartite conference or it has been referred to State Government for necessary action.

Suggestions regarding each enactment are discussed below:-

1. INDUSTRIAL DISPUTES ACT, 1947

The largest number of complaints and suggestions (46 in number) have been received in respect of this Act. The outstanding among them are:-

i) Section 25H

It has been complained that section 25H which requires employers to give notice to all retrenched persons everytime vacancies have to be filled even though the workers do not report for re-employment or intimate the reasons therefor presents a real difficulty to employers.

[The difficulty being genuine, action has been taken to amend the relevant Central Rule to provide that if the retrenched workman does not offer himself for re-employment in spite of having

without any
reason to be
in writing
received intimation from the employer, he need not intimate to him
the vacancies that may occur subsequently. ✓

ii) Section 33C

Complaints have been received regarding delay in the realisation of dues from employers under section 33C. It is true that the procedure for realisation of dues under this section is elaborate and time consuming. One of the reasons for delay may be the provision of section 33C(1) which requires the Labour Court to compute the money value of the benefit. It has been suggested in this connection that the appropriate Government should be empowered to compute the value of benefit up to Rs. 5,000 and cases involving higher amount should go to the Labour Court.

✓ It is proposed to place the matter before the forthcoming session of the Standing Labour Committee with a view to curtailing the delay in the settlement of disputes. ✓

iii) It has been pointed out that conciliation officers cannot enforce production of documents and attendance of parties which causes delay in the settlement of cases. It has, therefore, been suggested that conciliation officers should be vested with necessary powers for this purpose.

✓ The Conciliation Officer can launch criminal prosecution against the party who intentionally refuses to produce a document required by him; but enforcement of attendance of parties presents a real difficulty and the matter has been brought to the notice of the Administrative Section for being placed before the next meeting of the Standing Labour Committee. ✓

iv) Some of the other suggestions received are:-

- a) Retrenchment compensation should be paid to an employee discharged for continued ill health;
- b) Appointment of judges to tribunals should be confined to men in service;
- c) Teachers should be regarded as workmen under the Act;
- d) Reference of disputes to tribunals should not be left to the discretion of Government - it should be available on asking; and
- e) The conciliation proceedings should be completed within 14 days and a provision made in the Act for punishing conciliation officers for delay.

✓ It is not possible to accept these suggestions for various reasons. A person who is not retrenched cannot obviously claim retrenchment benefit; there is little reason why retired men should not be appointed as judges of tribunals particularly when there is scarcity of judges to man labour tribunals. This question was discussed at the last Labour Ministers' Conference which approved the appointment of retired District Judges. Teachers' occupation is not

an industry within the meaning of the Industrial Disputes Act and teachers cannot, therefore, be considered as 'workmen'. As regards reference of disputes to tribunals on asking it will be appreciated that the appropriate government is required to undertake some preliminary examination to decide whether a case is fit for adjudication and some sort of screening is obviously necessary. Very often, conciliation proceedings are adjourned on the request of the parties concerned and it would not be proper to make any general provision for punishing conciliation officers for the delay.

II. INDIAN TRADE UNIONS ACT, 1926

The important suggestions received are:-

i) As in the absence of any penal provision, no action can be taken against a union for non-observance of rules framed by it, it has been suggested that the registration of the union should be cancelled for such an offence.

On a reference being made to the Ministry of Law, it has been confirmed that the registration of a union cannot be cancelled for such an offence under the existing law. The Administrative Section was, therefore, approached to consider an amendment of the Act and they are considering the matter.

ii) Provisions should be made for recognition of trade unions ^{and} for empowering the Registrar of Trade Unions to inspect the books of the unions.

Both these suggestions were placed before the last session of the Indian Labour Conference and necessary action is being taken to implement the conclusions reached there.

III. PAYMENT OF WAGES ACT, 1936

The main suggestions received under this Act are:-

- i) Delay in the disposal of claim applications;
- ii) Inability of inspectors to prosecute employers for delay or non-payment of wages when payment, though delayed, has been made.
- iii) Absence of clear directions under the Act regarding jurisdiction of the Payment of Wages Authority.
- iv) Inadequacy of the compensation of Rs.10/- provided under section 15(3).

All the above difficulties are proposed to be removed by amending the Act. In order to remove the difficulty mentioned at (i),

We do not consider cancellation as the proper remedy. The officials responsible may be proceeded against suitably.

'authority' to hear and decide claims under section 15. State Governments were recently asked to consider the desirability of appointing authorities in each Tehsil or Sub-division and most of them have complied with the request.

IV. MINIMUM WAGES ACT, 1948

Some of the important suggestions under this Act are:-

- i) Administrative difficulties are being experienced in enforcing provision for payment of wages for weekly-off days.
- ii) There are difficulties in computing the average wage for the purpose of weekly-off for piece-rated workers.
- iii) Provisions of section 20(d) authorising the Authority to impose penalty on persons filing malicious or vexatious claim applications acts as deterrent to an inspector taking up the case.

[It is proposed to amend the Act/Central Rules to remove the defects mentioned above.]

- iv) Government's power under section 26 to exempt a class or classes of employees should be withdrawn.

[The retention of provision under section 26 is necessary for administrative reasons as sometimes a class of workers may have to be exempted on the ground that it is otherwise getting equally satisfactory benefits.]

- v) Occupational nomenclature should be standardised as employers sometimes try to evade payment of minimum wages by preferring wrong designation to occupations.

[It is not possible to standardise all occupations coming under the purview of the Minimum Wages Act. The party concerned has, however, been requested to cite specific cases of violation so that the matter may be examined further.]

V. EMPLOYEES' PROVIDENT FUNDS ACT, 1952

The main complaints and suggestions in respect of this Act are:-

- i) Provident fund contribution should be given first preference over all other creditors of employer.

[It is proposed to amend the Act suitably for the above purpose.]

- ii) There should be provision for compulsory imprisonment when the accused is a previous convict.

[Penal provision already exists in the Employees Provident

This is very common in the small scale manufacturing concerns in Delhi.

imprisonment for persons who have defaulted under the Act only once and it is not considered desirable to make any such provision in the Employees Provident Funds Act.]

VI. MINES ACT, 1952

Some of the important suggestions in respect of this Act are:-

- i) Provision should be made for enhanced rate of payment for overtime work.
- ii) Better leave facilities for mine workers should be provided.

[It is proposed to amend the Act suitably to meet the above points.]

- iii) Workers should not be deprived of leave privilege for participation in an illegal strike.]

[It is obviously not possible to accept this suggestion as under the law, interruption of service brought about by an illegal strike constitutes a break in continuity of service. This is as it should be.]

VII. MINES MATERNITY BENEFIT ACT

The important suggestions in respect of this Act are:-

- i) Sections 2(b) and 2(c) need an amendment so as to bring relevant definitions upto date with reference to the Mines Act, 1952.

[The amendment suggested has been agreed to by the Administrative Section and necessary changes will be made in the Act in due course.]

- ii) It should be provided that not only the owner or the manager could be prosecuted under the Act but the agent of the mine could also be prosecuted in line with the similar provision of the Mines Act, 1952.

[The suggestion has been agreed to and the Act will be amended suitably in due course.]

- iii) Some of the minor suggestions are in respect of enhancement of maternity benefit, bonus payable under section 6 of the Act for the services of a qualified mid-wife and raising the maternity benefit period from four weeks to six weeks.

[These suggestions are already covered by the proposed amendments to the Act.]

VIII. WORKMEN'S COMPENSATION ACT, 1923

Some of the important suggestions received in respect of this Act are:-

- i) Schedule IV of the Act which lays down the rate of compensation payable in case of death and disablement should be revised.

- ii) A reasonable time limit not exceeding 3 months should be prescribed within which period the employers must deposit the amount of compensation with the Commissioner for Workmen's compensation.
- iii) The time limit for making a claim for compensation should be raised from 1 to 3 years.

[All the above suggestions are covered partly or fully by the amendment proposals that are already under Government's consideration. Thus, it is proposed to

- i) revise Schedule IV;
- ii) to make the employer liable to pay (a) interest on compensation at 6% per annum if it is delayed for more than 3 months and (b) a further compensation not exceeding 50% of the amount due if the delay is wilful;
- iii) to raise the time limit of one year for preferring claims to two years.]
- iv) The Act should be made applicable to clerical staff.

[It does not appear necessary to include clerical staff as they are not generally engaged in occupations which are exposed to employment injury.]

IX. EMPLOYEES STATE INSURANCE ACT, 1948

Some of the important suggestions in respect of this Act are:-

- i) The waiting period of two days in the case of a sickness benefit should be abolished.

[The provision of waiting period is almost universal in all social insurance schemes. However, the suggestion is being examined by the Employees State Insurance Corporation.]

- ii) Medical benefits should be extended to the family of the insured employee.

[The Corporation has already decided to extend medical benefit to families. Action is being taken to provide medical benefit to families as early as possible.]

- iii) Provision should be made for old age pension.

[This is being considered by the Group appointed by Government for evolving an integrated scheme of social security.]

- iv) Employers should be made responsible for paying compensation for employment injuries with an assurance by the Corporation that such payments would be re-imbursed to them.

[As this suggestion involves legal as well as administrative complications, it is not possible to accept it. The Corporation has already set up a number of local offices in the areas where the scheme is in operation and payments for employment injury etc., are made

Point what is the provision under the Shops & Commercial Establishments Act under which clerical staff is covered?

P.W. Act. The law placed by the Govt. on the approved act. It is in force.

through these local offices.

B. CASES REGARDING NON-IMPLEMENTATION OF ENACTMENTS

About 320 cases of non-implementation of various labour enactments were reported to the E & I Division. In 61% of the cases, the matter has already been settled or the parties concerned have been asked to cite specific instances with full details so that necessary remedial action might be taken. In respect of 25%, State Governments have been approached for taking necessary action as the cases fall within the State sphere and can appropriately be looked after by the State Evaluation & Implementation Cells/Committees. The remaining cases are some of the important being investigated by this Ministry. Complaints regarding enactments are discussed below:-

I. MINIMUM WAGES ACT, 1948

There are 22 complaints relating to non-payment of minimum wages, leave wages, non-payment for the weekly off day, non-display of notices or maintenance of registers, etc., etc. Of these, 13 have been referred to State Governments, amicable settlement has been arrived at in one case and the management has agreed to pay a sum of Rs.25,000/- as difference of wages to workers. Three cases relate to non-payment of wages for the weekly-off day under Rule 23 of the Minimum Wages (Central) Rules. There are certain difficulties in the implementation of this Rule. The matter will be placed before the Central Advisory Board. The remaining 5 cases are under investigation.

II. PAYMENT OF WAGES ACT, 1936

Only 9 complaints relating to non-payment or irregular payment of wages have been received under this Act. Of these, two relate to State Government and the rest to the Central Government. Of the 7 cases relating to Central Government, settlement has been brought about in two cases. In one case the management has paid the wages due. In another case as a result of persuasion the management has promised to use its good offices to ensure that the dues of workers under supply-agents are paid correctly, punctually and regularly. In one case of non-payment of wages, it is proposed to file a claim under Section 15 of the Act. In another case the organisation concerned has been

*was remained to be taken by Central Government,

- 7 - Reimburse
Payment of out-of-pocket expenses to
State - consequence change at.

details of which were not furnished by the organisation. About 30% of these cases have been investigated and the result of the investigation communicated to the organisation concerned; in other cases, details have been asked for. Of the remaining 23 complaints which relate to non-payment of retrenchment and lay-off compensation and non-formation of works committees, 14 were referred to State Governments for necessary action. Of the 9 cases in which the Central Government is required to take action, one has already been disposed of; in five cases, the complaints were general and parties have been asked to furnish specific instances of non-implementation. The remaining three are under investigation.

!Sadhu 26.8.!

Central Implementation & Evaluation Committee
(First Meeting - New Delhi, 20th September, 1958)

ITEM NO. 6 OF THE AGENDA: A review of some typical cases of non-implementation.

Of the various cases of non-implementation reported to the Evaluation and Implementation Division, a large number - about 50% - relate to mines - coal, mica and others. A broad outline of the nature of these cases has been given in Memoranda on Item Nos. 2 and 5. In this note, typical cases of non-implementation of enactments, awards, etc., in mines are discussed more with a view to bringing out the difficulties experienced by the Division in getting remedial action taken by the parties/authorities concerned.

A. Coal Mines.

(i) Coal Award: One of the workers' organisations informed the Division on May 10, 1958 that small collieries in Bagmara, Chandore, Magma, Nirsa, Patherdih and Tisra areas of Jharia coal fields had not fully implemented the Coal Award. Names of 10 collieries were cited in this regard. An investigation of these cases revealed that three mines had already implemented the Award fully, while in other cases legal action by way of proceedings under the Industrial Disputes Act could not be initiated as employers had filed an appeal in the Supreme Court against the Labour Appellate Tribunal's decision and its implementation was stayed by the Court. The appeals pending before the Court were withdrawn by the employers only in May, 1958 and since then the question of taking legal action for non-implementation of the Award in appropriate cases has been taken up.

Some other complaints against the colliery owners related to evasion of legal provisions by getting the work done through contractors, non-payment of minimum guaranteed wages to piece-rate workers, non-implementation of the provisions of the Coal Award as modified by the Labour Appellate Tribunal's decision, payment of dearness allowance at enhanced rates, etc. All

these complaints were of a general nature and no specific instance was cited. According to investigations made by Chief Labour Commissioner, about 90% of the working collieries in Dhanbad region have already started paying enhanced rates of dearness allowance from May, 1958 onwards and the question of ensuring payments by remaining collieries has already been taken up by the Regional Labour Commissioner with the managements concerned. The union was accordingly advised to furnish specific instances of non-implementation so that the matter could be taken up with the managements concerned, but no reply has so far been received.

(ii) Employees' Provident Funds Scheme: One of the workers' organisations reported non-implementation of the Employees' Provident Funds Scheme in 31 mines and quarries in Keonjhar (Orissa) and Singhbhum (Bihar) areas. An investigation of the complaint revealed that of the eleven mines in Bihar reported to have not implemented the Scheme, three had already complied with the provisions of the Scheme, two are closed and six are not located in Bihar - two of these are actually in Orissa and are reported to have implemented the Scheme. In the absence of information about the exact location of the remaining four mines, the complaint could not be substantiated. Of the twenty mines in Orissa, reported to have not implemented the Scheme, eight have already provided Provident Fund benefits to their workers, another eight are not covered by the Act as their employment strength is below 50 while in respect of the remaining four, notices have been served on the managements to explain why the Scheme has not been implemented by them.

B. Mines in Barbil area

A complaint regarding non-settlement of 140 cases of individual disputes relating to mines in Barbil mining area was received. These cases were reported to be pending with the Conciliation Officer and the Chief Labour Commissioner. The disputes generally covered claims for gratuity, wages, bonus, leave, revision of rates, dismissal, retrenchment, etc.,. An investigation of fifty-six cases revealed that fourteen of them had already been closed by the Conciliation Officer after giving final replies to
of these cases. the claim for

gratuity, leave, wages, etc., was not considered justified. In certain others, repeated reminders to the unions failed to secure information sought by the Conciliation Officer for settling the matter. In five cases, there was no justification for any grievances as they were closed after arriving at a settlement and the union was apprised of the position by the Conciliation Officer. One of these cases was settled as early as November, 1957 while another case of dispute which related to Charter of Demands was closed at the instance of the union. Seven cases referred by the Union to the Conciliation Officer should have been appropriately referred to the Chief Inspector of Mines as they related to Mines Maternity Benefit Act. The Union was advised to take up these cases with the Authority concerned. It, however, intimated ^{to} the Conciliation Officer that the Chief Inspector of Mines had asked it to take up these cases with him (Conciliation Officer). When the Union was asked to furnish a copy of the letter from the Chief Inspector of Mines, making this suggestion no reply was sent. The Union did not press this demand thereafter. In another four cases, the union had already been informed of the Government decision that these were not fit for adjudication and there was nothing that could be done further in the matter. In four cases, the union did not approach the Conciliation Officer for the settlement of the disputes but addressed the managements. As the officers of the Central Industrial Relations Machinery were not asked by the union to intervene in the matter, no action was taken by them.

In respect of the remaining 84 cases, difficulty was experienced in investigation as details regarding letter number, date of reference made by the union to the Conciliation Officer, exact nature of infringement, etc., were not available. The union has, therefore, been asked to furnish these details so that the matter could be investigated.

G. Mica Mines.

Complaints were received that Shri Jeebhoy's Award (July, 1948) which is still in operation in all mica mines in Bihar, is not fully implemented by mica mine owners in respect of supply of

cited in this regard) - payment of retrenchment relief and of attendance bonus. An investigation of these cases revealed that provision regarding supply of drinking water is being implemented by majority of mines. As regards payment of retrenchment relief no specific instance of violation was cited. An enquiry into the matter, however, disclosed that retrenchment relief had been paid in every case and so far no suit had been filed for the recovery of amounts under section 33 C of the Industrial Disputes Act. Again, majority of mica mine owners are paying attendance bonus and only a few employers are irregular in making such payments. As regards house-rent allowance, it may be mentioned that it is payable only when quarters provided to workers residing in mines are not upto the standard. This allowance is also being paid by a majority of mica mine owners and no case of dispute has been received in this connection. The union did not cite any specific instance of non-implementation in this regard.

D. Other Awards/Agreements:

Five cases of non-implementation of other awards/agreements by colliery owners were cited, but details of the nature of non-implementation, etc., were not furnished. An enquiry, however, revealed that in one case, the management and the workers had themselves asked for more time to settle their differences by mutual agreement; in two cases, the matter could not be examined for want of particulars; in one case the question of recovery of the amount due to the worker concerned is being considered while in the remaining one case no action is possible as the dispute is pending in the High Court.

It will be seen from the above that not all the complaints were justified. Many of them were either incorrectly mentioned or were incomplete in particulars. In several cases, complaints had already been settled and replies had been sent to the unions concerned. Investigation of the complaints meant looking into old records, reference to different field authorities, etc.,. Much time and labour could have been saved if the accuracy of the complaint had been verified and complete details furnished to the Division. Thus the point sought to be made out in this Memorandum

Appendix 11

No. E&I-1(1)/58
Government of India
Ministry of Labour & Employment

From Shri R.L. Mehta, I.A.S.,
Joint Secretary to the Government of India.

To: All State Governments &
Union Territories.

Subject: Evaluation and implementation of
Labour enactments, agreements,
settlements, awards, etc.,

Dated New Delhi, the 13th January,
1958.

Sir,

I am directed to say that one of the recommendations made by the Standing Labour Committee at its 16th session held in New Delhi in October, 1957 was that a suitable arrangement should be made for evaluating the implementation of agreements, settlements and awards. Among the measures suggested for this purpose was the setting up of small unit under the Central Ministry of Labour & Employment. An Evaluation and Implementation cell has accordingly been set up in this Ministry.

2. For a full appraisal of the problem it is necessary to collect detailed particulars of cases of non-implementation or partial, defective or delayed implementation of awards, enactments and other measures taken by Government of India from time to time to improve labour conditions and promote better relations between labour and management. With a view to pursuing each such case, it is also necessary to have a brief history giving the reasons for partial implementation and its repercussions on labour-management relations. I am to request, therefore, that the organisations of employers and employees in your state may be consulted for collecting the aforesaid particulars. Two questionnaires are enclosed (Annexure I & II). It will be appreciated if information, as asked for in them under the following heads is furnished so as to reach this Ministry by the 20th February, 1958:-

- (a) Labour enactments.
- (b) awards.
- (c) agreements/settlements at tripartite labour conferences and industrial committees.

3. The State Government/Union Territories may bring to the notice of this Ministry any other problems connected with non-implementation of labour enactments etc., which in their opinion, it is necessary for this Ministry to consider.

4. I am directed to say further that it is essential to collect such information regularly so that the matter could be reviewed constantly. It is, therefore, requested that a suitable arrangement may kindly be evolved at the State level so that information on the lines indicated in second para may be supplied

P.T.O.

are that:-

- 1) in some complaints the facts are not correct or are unduly exaggerated;
- 2) in the other complaints the allegations are not supported by details or specific instances;
- 3) some complain's have been considered and disposed of by competent authority.

The suggestion for the consideration of the Committee is that the Central Organisations of Workers and Employers may set up small bodies to scrutinise major complaints before passing them on to the E & I Division. This would not only facilitate the task of the Division but enable it to look into and resolve genuine grievances more speedily.

A P P E N D I X I.

Statement showing the position regarding setting up of
Evaluation Committees and Cells by State Governments

<u>State</u>	<u>Position</u>
1. Assam	Proposal under consideration.
2. Andhra Pradesh	Proposal under consideration.
3. Bihar	A tripartite Standing Committee of five members representing employers and workers is being set up. A Cell has already been set up.
4. Bombay	Does not consider it necessary to set up a Committee at present as there is no general complaint about non-implementation. May be set up later if need arises. For the present one of the State Government Officers has been appointed to look after the cases of non-implementation.
5. Delhi	Proposal under consideration. <i>Why?</i>
6. Himachal Pradesh	Proposal under consideration.
7. Jammu & Kashmir	Proposal under consideration.
8. Kerala	Action being taken to set up evaluation machinery.
9. Madras.	Proposal under consideration.
10. Mysore	No separate Committee is considered necessary. A sub-committee of State Labour Advisory Committee is to function as Implementation Committee.
11. Madhya Pradesh	Proposal under consideration.
12. Manipur	Proposal under consideration.
13. Orissa	Proposal under consideration.
14. Punjab	An Implementation Committee and a Cell have been set up.
15. Rajasthan	An evaluation Committee with six divisional committees and a Cell have been set up.
16. Trioura	Matter has been taken up with Assam/West Bengal for a joint implementation committee with one of these States.
17. Uttar Pradesh	An Implementation Committee and a Cell have been set up.
18. West Bengal	An Evaluation Committee and a Cell have been set up.

to this Ministry regularly by the 10th of every alternate month.

Yours faithfully,

R.L. Mehta
Joint Secretary to the Government of
India.

No. E&L-1(1)/53

Dated the 13th January, 1953

Copy forwarded for information to:

- (1) Chief Labour Commissioner.
- (2) Employment & Planning Section
- (3) LR-I Section

K.M. Tripathi
for Joint Secretary

Annexure I

Questionnaire regarding non-implementation
or partial, delayed or defective implementation
of labour enactments.

- (i) Have you experienced any administrative difficulty in the implementation of any of the labour enactments?
- (ii) If so, please furnish a brief account of the relevant section of the Act or the Scheme, as the case may be, and the difficulty experienced.
- (iii) What are the repercussions of such non-implementation etc., on labour-management relations?
- (iv) What are your suggestions for remedying the situation? Do you consider it necessary to carry out any amendment to the Act/Scheme? If so, please furnish your proposals in that regard.
- (v) Have you received any complaint from employers' or workers' organisations also in regard to the non-implementation, partial, delayed or defective implementations of labour enactments? If so, please furnish a brief account of each such case giving comments thereon.
- (vi) Have you any other observations to make in this regard?

Annexure II

Questionnaire regarding non-implementation or partial, delayed or defective implementation of awards, agreements, settlements, etc.

(i) Please furnish the following information regarding the industrial awards commencing from the year 1945:-

<u>Name of Industry</u>	<u>No. of awards during</u>				
	1953	1954	1955	1956	1957

.....
.....
.....

(ii) Have you come across any cases of non-implementation, partial or delayed implementation of awards? If so, please furnish details of each case giving an account of the date of enforcement, items which could not be implemented, reasons for such non-implementation or partial implementation-comparising technical defect in the award, matter being under appeal, etc., .

(iii) What are the likely repercussions of such non-implementation etc., on labour-management relations?

(iv) What are your suggestions for remedying the situation?

(v) Has any case of non-implementation, partial, delayed or defective implementation of agreements, settlements made at tripartite labour conferences/ industrial committees come to your notice?

If so, please furnish detailed particulars in each case covering at least the following aspects:

- (a) Nature of agreement/settlement, its scope and date of enforcement.
- (b) Nature of non-implementation, etc.,

(c) Reasons for such non-implementation, etc.,

(d) Suggestion for remedying the situation.

(vi) Have you any other observations to make in this regard?

11/1/58

No. E&I-1(1)/58.
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

From

Shri R.L. Mehta, I.A.S.,
Joint Secretary to the Government of India.

To

1. The Secretary,
Employers' Federation of India,
Bombay House, Dr. Ambedkar Street,
East, Bombay.
2. The Secretary,
All India Organisation of Industrial
Employers,
28, Ferozeshah Road,
New Delhi.
3. The Secretary,
All India Manufacturers' Organisation,
4th Floor, Co-operative Insurance Building,
Sir P.M. Road, Bombay-1.
4. The Secretary,
Indian National Trade Union Congress,
17, Queensway, New Delhi.
5. The General Secretary,
All India Trade Union Congress,
4, Asoka Road, New Delhi.
6. The Secretary,
Hind Mazdoor Sabha,
Servants of India Society's Home,
Sandhurst Road,
Bombay 4.
7. The Secretary,
United Trade Union Congress,
240, Bow Bazar Street (1st floor)
Calcutta - 12.

Subject:- Evaluation and implementation of labour
enactments, agreements, settlements,
awards, etc.,.

Dated New Delhi, the 14th January 1958.

.....

Sir,

I am directed to say that one of the recommendations made by the Standing Labour Committee at its 16th session held in New Delhi in October, 1954 was that a suitable machinery should be created for evaluating the implementation of agreements, settlements and awards. Among the measures suggested in this direction was the setting up of a small unit at the Centre. An Evaluation and Implementation Cell has accordingly been set up in this Ministry. This Cell will undertake an objective evaluation of the results achieved by various labour enactments, awards, agreements, etc.,.

2. In order that this Ministry may assess the

extent of the problem, it is necessary to collect detailed particulars of cases of non-implementation or partial, defective or delayed implementation of awards, enactments and other measures taken by Government of India from time to time to improve labour conditions and promote better relations between labour and management. In this connection, it is essential to have a brief history of each such case giving the reasons, which in the opinion of the Organisation, have led to partial implementation or non-implementation and its repercussions on labour-management relations. Two questionnaires are enclosed (Annexure I & II). It will be appreciated if information, as asked for in them under the following heads is furnished so as to reach this Ministry by the 20th February, 1958:-

- (a) labour enactments
- (b) awards
- (c) agreements/settlements at tripartite labour conferences and industrial committees.

3. The Organisations may bring to the notice of this Ministry any other problems connected with non-implementation of labour enactments etc., which, in their opinion, it is necessary for this Ministry to consider.

4. With a view to keeping this matter under constant review it is necessary to collect information on this subject regularly. It is, therefore, requested that the Organisations may kindly evolve a suitable procedure to collect all relevant information from their affiliated units and pass it on to this Ministry by the 10th of every alternate month.

Yours faithfully,


(R.L. Mehta)

Joint Secretary to the Government of India.

No. E-1-1(1)/58

Dated, the 11th January, 1958.

Copy forwarded for information to:-

- (1) Chief Labour Commissioner.
- (2) Employment & Planning Section.
- (3) Labour Relations Section.


(K.M. Tripathi)
for Joint Secretary.

ANNEXURE-I

Questionnaire regarding non-implementation or partial, delayed or defective implementation of labour enactments.

- (i) Has any instance of non-implementation or partial, delayed or defective implementation of labour enactments come to your notice?
- (ii) If so, please furnish details of the sections of the Act/Scheme concerned.
- (iii) How long has this case of non-implementation etc., been continuing?
- (iv) What are the reasons, in your opinion, responsible for such non-implementation, etc.,?
- (v) Are you aware of any steps taken so far to remedy the situation? If so, give a brief account.
- (vi) What are the repercussions of such non-implementation, etc., on labour-management relations?
- (vii) What amendments do you suggest to the Act or the Scheme concerned for remedying the situation?
- (viii) Have you any other remarks to make in this regard?

Annexure II

Questionnaire regarding non-implementation or partial, delayed or defective implementation of awards, settlements, agreements, etc.,.

- (i) Has any case of non-implementation of an award, settlement or agreement come to your notice?
- (ii) If so, please furnish details of such cases covering particularly the following aspects:-
 - a. Name of the establishment, -ment.
 - b. Nature of award, settlement or agreement and date of enforcement.
 - c. Issues covered, such as wages, allowance, bonus, provident fund, gratuity, conditions of service, etc.,
- (iii) Are you aware of the reasons which are responsible for non-implementation, etc.? If so, please furnish a brief account. In particular, state whether such a contingency is due to
 - a. a technical defect in the award,
 - b. the matter being under appeal,
 - c. any other difficulty in its implementation.
- (iv) What are the likely repercussions of such non-implementation, etc., on labour-management relations?
- (v) What are your suggestions for remedying the situation?
- (vi) Have you any other remarks to make in this regard?

N.B. Please furnish information for each award, settlement, agreement, etc., separately.

No. E & 1-5(16)/58
Government of India
Ministry of Labour & Employment.

From

Shri R.L. Mehta, I.A.S.,
Joint Secretary to the Government of India.

To

All Central Organisations of Employers and Workers.

Dated New Delhi, the 4th June, 1958

Subject:- Non-implementation or partial, defective
or delayed implementation of awards,
agreements, settlements, etc.

Sir,

In continuation of this Ministry's circular letter No. E & 1-2(1)/58, dated the 13th January 1958, I am directed to say that the Standing Labour Committee at its 16th session held at New Delhi in October, 1957 had recommended that parties to an award, agreement, settlement, etc., should report to the Evaluation Machinery, within three months from the date of enforcement, whether in their view the implementation of the award, agreement, settlement, etc., has been proper and effective. It was, however, stressed that before approaching the Evaluation Machinery for redress they should get together and reconcile the points of difference between them about the manner of implementation of awards, etc. I am to request, therefore, that attention of all your affiliated organisations may kindly be drawn to the aforesaid recommendations and they be advised to act upon them.

2. I am also to request that Reports on compliance or otherwise of awards, etc., be forwarded to the Evaluation and Implementation Division of this Ministry whether they relate to central or State sphere. The State Governments are considering the setting up of Evaluation Machinery in the States and as soon as such machinery comes into being, complaints regarding awards, etc., falling within the State sphere may be forwarded to the State Evaluation Machinery, with a copy to this Ministry.

3. An acknowledgement is requested.

Yours faithfully,

Sd/-R.L. Mehta
Joint Secretary to the Government of India.

Copy with a copy of letter referred to above is forwarded to all State Governments and Union Territories for information.

Sd/- K.M. Tripathi
for Joint Secretary to the Government of India.

CODE FOR DISCIPLINE IN
INDUSTRY

I. TO MAINTAIN
DISCIPLINE
IN INDUSTRY

there has to be (i) a just recognition by employers and workers of the rights and responsibilities of either party, as defined by the laws and agreements (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) a proper and willing discharge by either party of its obligations consequent on such recognition.

The Central and State Governments, on their part, will arrange to examine and set right any shortcomings in the machinery they constitute for the administration of labour laws.

To ensure
better
Discipline
in Industry.

II. MANAGEMENT
& UNION(S)
AGREE

(i) that no unilateral action should be taken in connection with any industrial matter and that disputes should be settled at appropriate level;

(ii) that the existing machinery for settlement of disputes should be utilised with the utmost expediency;

(iii) that there should be no strike or lockout without notice;

(iv) that affirming their faith in democratic principles, they bind themselves to settle all future differences, disputes and grievances by mutual negotiation, conciliation and voluntary arbitration;

(v) that neither party will have recourse to (a) coercion, (b) intimidation, (c) victimisation or (d) go-slow;

(vi) that they will avoid (a) litigation, (b) sit-down and stay-in strikes and (c) lock-outs;

(vii) that they will promote constructive cooperation between their representatives at all levels and as between workers themselves and abide by the spirit of agreements mutually entered into;

(viii) that they will establish, upon a mutually agreed basis, a grievance procedure which will ensure a speedy and full investigation leading to settlement;

(ix) that they will abide by various stages in the grievance procedure and take no arbitrary action which would by-pass this procedure and

(x) that they will educate the management personnel and workers regarding their obligations to each other.

III. MANAGE-
MENT
AGREE

- (i) not to increase work-loads unless agreed upon or settled otherwise;
- (ii) not to support or encourage any unfair labour practice such as (a) interference with the right of employees to enroll or continue as union members, (b) discrimination, restraint or coercion against any employee because of recognised activity of trade unions and (c) victimisation of any employee and abuse of authority in any form;
- (iii) to take prompt action for (a) settlement of grievances and (b) implementation of settlements, awards, decisions and orders;
- (iv) to display in conspicuous places in the undertaking the provisions of this Code in the local language (s);
- (v) to distinguish between actions justifying immediate discharge and those where discharge must be preceded by a warning, reprimand, suspension or some other form of disciplinary action and to arrange that all such disciplinary action should be subject to an appeal through normal grievance procedure and
- (vi) to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitate action by workers leading to indiscipline.

IV. UNION(S)
AGREE

- (i) not to engage in any form of physical duress;
- (ii) not to permit demonstrations which are not peaceful and not to permit rowdyism in demonstration;
- (iii) that their members will not engage or cause other employees to engage in any union activity during working hours, unless as provided for by law, agreement or practice;
- (iv) to discourage unfair labour practices such as (a) negligence of duty, (b) careless operation, (c) damage to property, (d) interference with or disturbance to normal work and (e) insubordination;
- (v) to take prompt action to implement awards, agreements, settlements and decisions;
- (vi) to display in conspicuous places in the union offices, the provisions of this Code in the local language(s) and
- (vii) to express disapproval and to take appropriate action against office-bearers and members for indulging in action against the spirit of this Code.

सरमायदारों और एकता के गठजोड़ को तोड़ दो

साथियो !

दिल्ली के कपड़ा मजदूर एक लम्बे अरसे से मिल मालिकों के जुल्मों का शिकार हो रहे हैं। हिन्दुस्तान के सभी बड़े केन्द्रों में जहाँ हमारी मजदूर यूनियनों मजबूत हैं वहाँ २ मजदूर काफी आगे बढ़े हैं। और मालिकों के जुल्मों का डटकर मुकाबला कर रहे हैं। परन्तु दिल्ली का मजदूर अभी तक बम्बई के बराबर तन्ख्वाह पाने के लिये ही अपनी लड़ाई लड़ रहा है। जबकि बम्बई के मजदूरों ने १० साल पहिले ही ये तन्ख्वाहें हासिल कर ली हैं।

दिल्ली का लड़ाकू मजदूर जो सरमायदार से लड़ाई लड़ने में सदा सदा सब से आगे रहा है, उसे हमेशा बहकाया गया गेट के ऊपर भडकीले नारे और गालियां सुना कर।

जिस एकता यूनियन को मजदूरों ने दूध पिलाकर पाला वह आस्तीन का सांप बन गई। कम्पनी से पैसा खाने वाले लोगों को जन्म दिया। मालिकों की गोद में बैठकर गलत फसले किये। हजारों माफी नामें मजदूरों के नाम से लिखे गये। सैंकड़ों मजदूर काम से हटा दिये गये। छटनी से हजारों मजदूर बेकार हो गये। काम बाढ़ से मजदूरों की कमर तोड़ दी गई। और यह सब नाटक रचा गया एकता के नाम पर।

इस एकता की मजदूर भक्ति का भांडा फूट गया जब सविस की मांग मालिकों से मिल कर चुपके २ कोर्ट को भेज दी गई कि ५ साल तक काम करने पर मजदूरों को सविस का एक पैसा भी न दिया जाय। आजाद पुर मिल पर फसला किया कि कोई बोनस का पैसा मजदूर को न दिया जाय। ३० ६० की जगह २८ ६० तन्ख्वाह हो। ११ ६० कम महंगाई मिले चोकड़ी जोड़ी चले। बिरला मिल पर केवल ५७ ६० ही कैंटीन के मजदूरों को मिले। तथा उन्हें मिल के अन्य मजदूरों जैसी सुविधाये दी जावे।

दिल्ली क्लोथ मिल और स्वतन्त्र भारत मिल में सब सालों से अधिक मुनाफा होने पर भी बोनस सब सालों से कम मिले।

हैरानगी की बात यह है कि बड़ी २ क्रांतियों और कानूनदाओं का दम भरने वाले मजदूर सैंकड़ों केस अदालत में हार गये और आज तक लड़कर एक पैसा भी मजदूर को न दिला सके। अथवा एक भी मजदूर को काम पर न रखवा सके।

परन्तु मिसाल के तोर पर हमारी यूनियन ने भी जिसे ये लोग कोसते नहीं थकते कुछ थोड़े से काम किये जिससे बिरलामिल के अन्दर ही कोयला तोड़ने वालों तसख्वाह ४५) ६० से बढ़कर ६०) हो गई। उन्हेंजातू कारीगरों की सब सहूलियतें मिलने लगीं। इन्जन खाते में ३० प्रतिशत तक तनख्वाहें बढ़ गईं।

हरिजनों का शानदार फसला हुआ ढलाईघर की ठेकेदारी प्रथा में नई रोशनी आई।

सलंग ड्यूटि और बोनस की लड़ाई लड़ी, बहुत सारे मजदूरों को काम पर रखवाया, श्री ई० कृष्णा मूर्ति की अदालत से वह एतिहासिक फसला लिया जिसमें आजादपुर मिल में मालिकों और एकता के गठजोड़ की पूरी कलाई खुल गई।

यह सब कुछ तो समुद्र में बूंद के बराबर ही हुआ आज भी हमारी महंगाई की मांग अदालत के अन्दर है ग्रेच्यूटी की मांग को हमें ठीक रूप में हासिल करना है टेम्प्रेरी तथा बदली की समस्या हल कराना है। ठेकेदारी प्रथा के विरुद्ध लड़ना है। तनख्वाहों को २५ प्रतिशत बढ़वाना है। वेतन कटौती को पूरा करना है। काम वा. को रोकना है इसी लिये आज टैक्स टाइल मजदूर संघ बिरला मिल के मजदूर साथियों से अपील करता है कि अपनी मांगों को हासिल करने के लिये होने वाले बर्क्स कमेटी के चुनाव में टैक्स टाइल मजदूर संघ के नीचे लिखे उम्मीदवारों को वोट देकर सफल बनायें।

	खाता	नाम	निशान
१.	इन्जन	श्री राधेलाल जी	पेड़
२.	फोल्डिंग	श्री रामेन्द्रकुमार जी	मोटर
३.	रंग खाता	श्री अमरसिंह जी	मोटर
४.	बुनता	श्री शिशुपाल सिंह जी	मोटर
५.	वार्डिंग वारपिंग	श्री रघुवीर जी	मोटर
६.	रिंग फ्रेम	श्री होराम जी	गुलाब का फूल
७.	" "	श्री चेत राम जी	टेलीफोन

श्री द्वारिका प्रसाद जो इस चुनाव में कल्कस मिस्त्री फिटर सी सीट चुनाव लड़ रहे हैं उन का चुनाव निशान साईकल है।

ऊपर लिखे डिब्बों के निशान में ही अपने कीमती वोट को डालिये। सरमायादार और उसके दासालों को करारी चोट दीजिए मजदूर संघ की जीत मजदूरों की जीत है।

मजदूर संगठन जिन्दाबाद ! , सरमायादारी का नाश हो !

प्रधान
गिरवर सिंह

जनरल सँक्रेटी
राधे लाल

टैक्स टाइल मजदूर संघ

Notes on the various items of Agenda for the
E.&I. Committee—New Delhi.

ITEM I.

ACTION TAKEN ON THE CONCLUSIONS OF THE 16th SESSION
OF THE STANDING LABOUR COMMITTEE.

A.

Setting up of E.I. Divn. to be welcomed; but progress achieved in the States rather unsatisfactory.

Bombay Govts' reasons against setting up E.&I. machinery rather unconvincing, since industrial relations in Bombay are much too strained to be ignored -- strike in Premier Automobiles, General strike of 25th July, and impending general strike of Textile workers against the Mill owners' move to effect D.A. cut, etc.

*Bill in the Council
of States. Dec 15 1950
Action Mill with
any Govt. from the
friction of all labour
institutions*

Narrow view of the functions and scope of activities of the E.I. machinery will not help since the intention is to not only carry out post-mortem examination of industrial conflicts, but also to "keep an eye on danger spots in order to take remedial measures to eliminate causes of friction before it is too late".

Delhi to be cited as an example for its tardy implementation--in fact we seem to be requiring an implementation Committee for implementing the decisions of the E.I. Divn.!

B.

Factors detracting from the usefulness of the Central machinery:

(i) Tendency to take things mechanically--to act as a mere post office for conveying versions of parties to each other--e.g.: case of K.G. Hospital of Vishakhapatnam

(ii) Lack of an investigating machinery inspiring confidence of parties, etc.

(iii) Subjective factor: Strike-consciousness without corresponding concern against Lockouts :

TYPICAL INSTANCES:--

(i) Lockout in Tata Foundry, Jamshedpur, rendering 3000 men idle for over a year;

(ii) Lay-off in Atherton West and Kanpur Cotton Mills for over a year;

(iii) Closure of certain mills in ~~xxxxxxx~~ Coimbatore;

C.

Action taken on the decision of the Standing Committee to curb the tendency to have recourse to courts on unsubstantial grounds:

Failure to bring into being the voluntary screening machinery in different states and territories;

Tendency to have recourse to High and Supreme Court on the increase among the employers--E.G.
Cases of ;

- (i) DCM. Chemical Works
- (ii) S.B. Mills individual case;

(iii) Textile Mills Gratuity Case;

----- Arrangements whereby parties should report to Evaluation machinery within 3 months regarding proper and effective implementation of awards, settlements, etc., not put into effect;

D. Steps taken to implement Code of Discipline and Conduct:

----- Employers have so far been found reluctant to grasp the spirit underlying the 'Code';

- E.G. (i) Little done so far to recognise Unions;
- (ii) Absence of a grievance procedure continues;
- (iii) Steps not taken even to popularise the letter of the Code, not to mention the spirit underlying it;

----- Contradiction between professions and declarations, at Conferences Tripartite bodies, etc. and the practice at the level of the factory-----Mr Tata discusses and agrees with Mr. Dange in evolving the 'Code', but refuses to discuss with him the concrete problems of workers of Jamshedpur; This is typical of the attitude of the employers in relation the implementation of the 'Code'.

and also the concrete working of the 'Code' at that level.

----- The Central Govt's failure to implement the decision of the 15th Indian Labour Conference regarding setting up Wage Boards in different industries;

ITEM II

A. Steps taken to reduce the no. of cases of non-implementation of awards by employers.

----- No. of cases cited is quite large, but still only a fraction of actual ones involving non-implementation;

----- ~~Position~~ Position rather unsatisfactory;

----- Unless there is improvement, some more effective remedy will have to be employed;

----- No reason why cases of non-implementation on the part of employers should not be treated in the same manner as those on the part of employees;

----- An enquiry should be instituted into non-implementation of awards in a few typical cases;

----- It should be found out why State Govts. were waiting till the Central machinery intervened to secure implementation;

----- More initiative on the part of State Govts. to investigate and and secure implementation of awards etc. is urgently needed;

----- Example of Assam where Shree Tripathi is the Lab. Minister, (A large no of awards remain un-implemented there despite repeated representations from workers).

B. Tendency among the employers to go to Courts to delay implementation of awards, etc.

----- We agree with the observations that employers have recourse to courts to delay implementation in most of the cases;

-----Other motives are to harass the workers or to induce loss of faith in their collective strength;

-----It is also correct that such tactics of the employers are resulting in loss of faith on the part of the workers in the constitutional machinery and breeding industrial unrest;

-----Reluctance to evolve a Screening machinery on the part of of the employers ; Cases in Delhi; How ~~xxxxxx~~ even proceedings have been stayed;
(Recent judgment of the Allahabad H.C. in/ an individual case)
Shanki Sugar Mills.

C. SUGGESTIONS (Para.16).

-----Immediate steps should be taken to put a restraint on the tendency to run to Higher Courts even on the most flimsy grounds:

-----We do not see how statutory checks would violate any of the fundamental rights;

----- In any event appeals on questions of fact should be barred, leaving aside substantial questions of law;

----- At least orders of ~~Sixty~~ Stay, with regards to operation of an award or continuance of proceedings before a Tribunal should be rendered difficult to obtain;

----- In all cases of appeal by the employers the Govt. concerned should assist the workers through legal aid etc.

-----State Govts. should be asked to secure the setting up of voluntary screening machinery within a specified period. ~~xxxxxx~~

D. Other suggestions regarding implementation of awards, enactments etc. in coal and mica mines;

-----Recommendations of the 5th Session of the Industrial Committee on Coal Mines re. setting up Mine Boards, M.W. Act, Weekly Holidays, etc. not implemented yet;

SUGGESTIONS:

- (i) Ind. Committee must meet more often--every ~~xxxxxx~~ 6 months instead of 2 years;
- (ii) Small Tri. Committee in the nature of Standing Committee (model of W. Bengal) should be set up to secure implementation---to meet every 2 months;
- (iii) Mining Inspr's report to be displayed at appropriate places in every pit, with a copy to every Regd. Union;

ITEM NO. 4

-----Progress in popularising the 'Code' unsatisfactory;

----- This is so even in case of public undertakings and Hospitals and dispensaries;

-----Scant regard is shown to the spirit of the Code, Case of Danbar Cotton Mills, involving closure of a shift against the decisions of the ILC.--- insistence of legal rights

-----Even the Govt. has lacked sense of urgency--why no steps have been taken to amend the S.O. Act.



SUGGESTIONS:

1. Govt. should get the 'Code' printed in coloured wall posters and distribute to all factories and Unions;
2. Thorough explanation of the Code and all that it stands for, to all officers in factories and undertakings should be undertaken as it is they who have to implement it in the course of actual day to day work;

3. Conciliation machinery should be strengthened. Case of Babulgarh.

MAINTENANCE of panels of names for investigating teams

-----This should be done at all levels;

-----To begin with the Central Impl. Committee ---one member from each side should form the central team;

ITEM NO. 5.

Add. "and of the extent of implementation of the decisions of the Industrial Committee on Coal Mines" after "Assessment of the enforcement of Lab. Laws in Coal mines, etc.-----"

PROVIDENT FUNDS ACT.

Assesment of enforcement in non-exempted factories (in view of evasion by a large no. of employers)

*Factories Act
Extent of evasion
Sample studies*

E.S.I. Scheme :

What has happened to the Report & recommendations of the sub-committee on E.S.I. Scheme appointed in 1955?

ITEM NO. 6

Non-implementation of enactments etc.

-----Failure of State Govts. to shoulder responsibility properly---
Case of Kaleswara Mills, Coimbatore --- *Trusts & agitation not taking place;*

-----Deplorable state of affairs in U.P. Disbandment of Works Committees in 1950, etc.

----- Virtually hundreds of factories in Allah are evading registration under the Indian Factories Act.

GENERAL.

The question whether it is possible at a certain point to reconcile the requirements of law and order with the need to maintain and preserve industrial peace.

-----Fivolous prosecutions of T.U, workers should be avoided; misuse of Sec.107 Cr.P.Code;

-----withdrawal of minor cases of breach of law---not involving violence---should be ordered whenever there is a compromise or settlement of a labour dispute;

-----Unde restrictions on t.u. activity by Govt. or employers continue---e.g. activities in workers' colonies, refusal of permission to hold meetings, or use of loud speakers, etc.