

ENGLISH TRANSLATION OF THE STATEMENT OF SHRI RIZI THOMAS DATED 23.4.96 BEFORE SHRI J. S. SENGER, MEMBER JUDGE, INDUSTRIAL COURT, BENCH RAIPUR (M. P.)

Reference No. 4/MPIR/95

Second Party Witness No. 1

Name of witness- Shri Rizi Thomas
Father's Name- Late Shri M. Thomas
Age – About 30 years.
Occupation- Service
Address- 1-B, 33, Sector10, Bhilai, Durg (M. P.)

Date: 23.4.96

On Oath:

Examination in chief by Shri H. N. Vyas for the Second Party:

I am working at the post of Junior Executive Personnel in the Bhilai Engineering Corporation, Urla since December 89. Production started in our establishment from 23rd March 1990. Fabrication work is carried out in our establishment. We also keep contractors for the work of fabrication. The fabrication work is carried out according to the orders placed. The contractors are employed according to the quantum of work.

Ever since production has started in our establishment, since then payment of the minimum wage fixed by the government is made to the workmen of the company and of the contractors. The employees are given the benefit of holidays according to government rules. We do not give any other facilities. During the disputed period the provisions of the ESI act were not applicable to us, now these provisions are applicable to us and the employees are getting that benefit.

After production started in March 90, work went on properly until May 91.

(In regard to the asking of questions to the witness in respect of documents, First Party Advocate Shri S. L. Gupta has an objection that the witness can only be asked questions in regard to those documents, which have been written by him or documents which bear his signature. In respect of this objection, Second Party Advocate Shri Vyas expressed that the witness is only being asked questions in respect of such documents whose signatory officials are not in the service of the Second Party establishment and whose signatures he identifies. Reserving the objection, permission is granted to ask the questions.)

Exhibit D-5 onwards to Exhibit D-15, are the letters of complaint sent from time to time to the Police Department in which there is mention of the trouble created by the workmen. Owing to the disorder created by the workmen, the production lessened and these people went on strike. After this, temporary stoppage was declared in the factory. The notice in this regard is Exhibit D-16. The temporary stoppage remained applicable till April 1992. In regard to this the detailed information of Exhibit D-17 was also sent to the Deputy Labour Commissioner. During this period several meetings were arranged with the officials of the district administration. The letter at Exhibit D-18 was given by the Deputy Labour Commissioner. This letter is in regard to ending the temporary stoppage. Upon this, the factory was started on 10th April 1992. The notice of this is Exhibit D-19. In regard to where the workmen of the factory and of the contractor were in the meantime, I do not know.

At that time, there were four contractors with us whose names are Shri Johit Ram, T. Patel, Shri P. T. Wani, Shri Krishna Engineering Works and Y. P. Verma. Exhibit D-20 is the letter given by Shri Johit Ram T. Patel, which is in regard to the fact that Shri Johit Ram T. Patel wants to take back

his contract since his workmen are not letting him do the work. Upon which the comment regarding taking back of contract and between B to B portion of Exhibit D-20 is the signature of Joint Managing Director Shri Veeru Jain. Shri Veeru Jain had directed the Contractors that they should make the final payment to their workmen. Upon this, Contractor Patel had shut down his work on 26.8.91 and had given the workmen, notice of the same. The notice of the same was given to the Assistant Labour Commissioner and Deputy Labour Commissioner vide the letter at Exhibit D-21. Vide Exhibit D-22, S C Construction Company Limited had given a report that we had called them for work. The report at Exhibit D-23 had been given by Krishna Engineering Works that they should not be allowed to work. Similarly contractor Y.P.Verma had submitted the report at Exhibit D-24 that Shri Y.P. Verma used to work by the name of S.C. Construction. Exhibit D-25 is the report of Shri Rajan Sinha who is an Executive with us, in which there is mention that he has been threatened to be killed. Exhibit D-26 is the report of Shri R.C.Singhal regarding the threats being given to him. Similarly Exhibit D-27 is the report given by our Security Officer.

The advertisements issued in the daily newspapers for our workmen after the lifting of the temporary stoppage in the year 92 are Exhibits D-1-C, D-2-C, D-3-C, D-4-C. The 18 persons mentioned in Paragraph I, Page 8 of the reply to the statement of claim were never directly or indirectly employed in our institution. Out of the 17 persons mentioned at Page 9 in the statement of claim, after the advertisement in the newspapers, Shri Jalil Khan is working with us even today. And Bhagwan Singh and T.K.Verma have taken their final payments. After this, in the end of April itself, on 26-4-92 we had published advertisements in the newspaper in which it was also mentioned that if he employees do not present themselves for work, it will be presumed that they have left their jobs. But even after this advertisement no one came. On Page 10 of the Reply to the claim 27 persons were the workmen of contractor Shri J.D.Patel who had given payment to all his employees but these 27 persons never came to obtain their final payment. Shri Patel had published a notice for his employees to obtain their final payment in the newspaper, but no one came to take the payment. The 35 persons mentioned in Paragraph M on Page 11 of the Reply to the Claim, were of the contractor Shri P.T.Bani. He had also published a notice for his employees to obtain their final payment. Some of these persons have obtained their final payment, whose names are Shri Ajay Sahu, Shri Ramchandran Pillai, Shri Trinath Mallick. Krishna Works had published notices in the newspapers after the factory had started, to the employees to come back to work, but no employee came to work. The names of the employees of Krishna Works, who are 27 in number, are mentioned in Paragraph M of Page 13 of the Reply to the Claim. The 7 persons mentioned in Paragraph O on Page 13 of the Reply to the Claim were the employees of the contractor Shri Y. P,Verma, who did not come back to work. Notices had been published in the newspaper for them to come to work.

Some persons had been removed from service after conducting domestic inquiry. I do not know where those persons, who were contractors at that time, are today. They are not working with us. I can recognise the signatures of those contractors. Exhibits D-28 onwards to D-60 are the documents sent by those contractors to their workmen from time to time.

It is correct that in regard to the dispute in our establishment a meeting had taken place on 21-1-93 with the Labour Commissioner, whose minutes are Exhibit D-61. BEC Urla is mentioned on Page 4 of Exhibit D-61. According to Exhibit D-61, the next date had been fixed for 5-2-93, but no meeting took place after this.

Cross Examination by Shri S.L. Gupta, Advocate for the First Party

The Standard Standing Orders are applicable to us. In this there is a provision to make rules for employing workmen through the Employment Exchange. It is correct that under these rules, no rules have been formulated regarding the recruitment of employees. Seventeen persons were working in our company in the year 1990. All the rest were workmen of the contractors. Seventeen employees were separate from the rest of the staff. In the remaining staff there were 20-25 persons. It

is correct that at that time 40 persons were employees of the company, the rest of the persons were of the contractors. No rules had been formulated for the appointment of these employees. After they were selected through interview, appointment letters used to be issued. It is correct that the appointment letters of 40 persons are in the office of the company, they have not been submitted in the case. I can not tell any reason why these appointment letters were not submitted in this case. The workmen of the company were given attendance cards according to the provisions of the Standard Standing Orders, in which the required information used to be recorded. These cards are in our office, they have not been submitted in the case. I know the names of some persons from among those 40 persons.

In the year 1990, we had obtained orders from the Durgapur Steel Plant, Bhilai Steel Plant and LNG. Our establishment used to carry out production to fulfil the orders obtained. It is correct that in our establishment, this work was not done by us but by means of the contractors. Contract documents were prepared with the contractors. These contract documents are with us, but they have not been submitted in the case. I know that prior to appointing contractors, the employer has to obtain registration for this purpose. We had got this registration done. The registration certificate is not exhibited in the case. Himself stated that the said certificate has been sent to the Assistant Labour Commissioner for necessary procedures. We have not kept any photocopy of this registration certificate in our office. Himself stated that the photocopy of the covering letter regarding despatch of the certificate is there in the office. The registration had been done in March 90, I do not remember its number. It is correct that prior to beginning their work, the contractors have to present their licenses. The contractors whose names I have mentioned had obtained licenses. These licenses are not exhibited in the case, because they were with the contractors. It is correct that the Contract Labour (Regulation & Abolition) Act, 1970 is applicable to our establishment. According to Rule 74, the employer has to maintain a register, which has been maintained by us. This register has not been exhibited in the case. There is no reason for not exhibiting this. Under Rule 81, information according to Form 6 - B has to be sent to the Labour Commissioner's Office, which has been sent by us. The copy of the same is not exhibited in the case. According to Rule 82, return has to be sent every year before 15th February, whose copy is in our office. It is not exhibited in the case. There is no reason why it has not been exhibited in the case.

According to Rule 75, the contractors had to maintain a register in regard to their workmen, which used to be maintained by the contractors. The contractors had to maintain attendance cards according to Form 14. The contractors used to maintain Muster Rolls according to Form 16. On this, the payment made by the contractors used to be certified by the employers. Such certification was done by me also. None of these documents have been submitted in the Court. These muster rolls or other things are not in our office. The contractors used to work on their own machines, which they brought with them. They did not use any of the machines of the company, and the company only used to supply electricity. The work carried out by these contractors was supervised by the Supervisor and Engineer of the company. The engineer and supervisor of the company used to give directions regarding the quality of production. On the work being defective, the officials of the company used to reject it. The contractors used to carry out only that work for which we would get orders. Payment for the work was made by the company, on the contractors presenting their bills. These bills are in our accounts department. They have not been exhibited in the case. There is no reason why they have not been exhibited. The names of the contractors are Shri Jyoti Ram, T. Patel, Shri P. T. Patel, Shri Y. P. Verma, Krishna Engineering Works. I do not know how many persons were working with the various contractors. I had certified the muster rolls. I do not remember on the basis of this, the definite number of the workmen. Apart from Shri Y. P. Verma, there were about 33-40 workmen with the contractors. There were 10 employees with Shri Y. P. Verma. Among these employees, there were welders, fitters, gas cutters, riggers, helpers etc. Out of the 131 persons mentioned in the list annexed to the statement of claim - Shri Dilip Kumar Verma, Dilip Kumar Sahu, Raj Kumar Verma, Laxmikant Parghania, Kamlesh Sahu, Shri Rama Sahu, Mahesh Kumar Sahu, Netram Sahu, Kamla Bai, Mahipal Anchalwar, Bhagwan Singh, Khilawan Yadav, Parmeshwar Puri, Jaleel Khan and Mohd. Kenal were

the departmental workmen with us. Sharma and N. Shashi mentioned at Sl. No.126 and 131 of the annexure were not employed with us. Shri Uttam Pandey, Shri Amulya Hota, Raghunath Giri, Dharmnath Giri, Muktiyar Alam, Layak Khan, Shamshad Khan, Majid Khan, Parvez Siddiqui, Dhananjay Giri and Ashfaq Khan were employees of Krishna Engineering Works. Shri Ram Swaroop Pal, Birendra Pal, Vijay Shankar, U. Chinna Rao, D. R. Pandit and Sudheesh Kumar were employees of Johit Ram Patel Contractor. Bhrmdev Pandit, Kawaldhari Pandit, T. Govind Rao, Ramchandran Pillai, Madhusudhan Pillai and Ajay Sahu were employees of contractor Shri P. T. Wani. Jitendra Pandit, Radheshyam Azad and Narsingh Verma were all employees of Shri Y. P. Verma. Regarding the remaining persons, I do not remember whose employees they were. I know the employees of the company. I do not know by which contractors, the remaining workmen had been employed.

No charge sheet was issued to the employees of the company in regard to the reduction in work and strike, about which I had stated in my examination in chief. It is correct that doing less work or going on strike comes under the definition of misconduct under the Standard Standing Orders. It is correct that there is the provision in the Standard Standing Orders that when any employee commits misconduct, then before taking any action against him, charge sheet is issued to him. It is correct that we have not given any charge sheet to the employees of the company who have been mentioned above. No departmental inquiry was conducted against the workmen in regard to go-slow or strike. Orders were not passed in respect of separation from service. Himself stated that it was advertised in the newspaper. According to Section 12 (4) (F) of the Standard Standing Orders, there is the provision that a copy of the order of termination of service is given to the employee. At that time, the circumstances were not such that this provision could be complied with. The orders for separation of service were not sent by registered post personally to the employees. There is no document in our office by means of which it can be established that these employees had received the orders for termination of service. If the employees of the company are prepared to come to work today, will they be taken, in this regard the witness stated that we have employed new workmen, hence it is not possible to take them back. It is wrong to say that before closure of work, a month's notice or wages in lieu of notice were not given to the employees. Himself stated that this was given to Shri Bhagwan Singh and Shri T. K. Verma. For the remaining this has been prepared and kept ready. It is correct that seniority list has been prepared according to the category of employees. We did not retrench the workmen, the workmen themselves did not come to work. It is correct that after we had published notices in the newspapers, we had presumed because of the workmen not coming back to work, that they had voluntarily abandoned their work. When the employees did not come back to work even after publication of advertisements, it was assumed that they have left the service. The same situation existed in regard to the employees of the contractors. Employees were not personally sent letters that by not coming to work, we shall presume that you have left your service. Today, if these persons come back to work, it will not be possible to take them back since other persons have been employed. The presumption that not coming to work means abandonment of service was not given in the Standard Standing Orders. The company was kept running for a month, advertisements were issued to keep the company running. This presumption was there because production had to be carried out and goods supplied according to orders obtained. It is wrong to say, that in order to take them back, it was being taken from the employees in writing that they would not repeat such things again. Himself stated that the contractors had left the work and gone. They were taken on the basis of the advertisements in regard to commissioning new contractors. We would get the workers of those contractors employed by the new contractors. It is correct that no case was filed in the Labour Court in respect of the go-slow or strike. Only letters had been sent to the Police department and to the officials of the Labour Department. It is correct that the right to pass an order as to the legality or otherwise of a strike lies only with the Labour Court. The reason for not filing a case in the Labour Court was that those persons who would reach inside the factory, had to stay there itself. This situation persisted from May 1991 to September 1991. It is correct that during this period, or after this, the management did not get the time to file a case in the Labour Court. Temporary Closure was carried out after consultations with the Assistant Labour Commissioner and Deputy Labour Commissioner. This kind of advice was given by them because the circumstances were such. There was an advisory notice in

respect of closure. In this regard there is no record, nor was mention made of this while carrying out the closure. Before effecting the closure, permission of the government was not taken. Himself stated that whatever was advised was carried out. I do not know under what provision of the Standard Standing Orders closure was effected. Himself stated that the closure was temporary. It is wrong to state that the 131 persons mentioned in the annexure were not given charge sheets. Himself stated that some persons were given charge sheets, whose names are Shri M Murthy, Shri Joga Rao, Shri Raghunath Giri and Dharmanath Giri, Departmental inquiry was conducted against them. Before receiving the inquiry report the contractors had withdrawn their contract. I do not know whether regular departmental inquiry was conducted against any employee or not. It is not correct that none of the employees was given the inquiry report. Himself stated that, along with the order for termination of his services, Dharmanath Giri was sent his final payment and a copy of the conclusions of the inquiry etc. The contractor had sent this .The acknowledgement must be with the contractor, it is not produced in the case. Nothing was sent to anyone by us. It is correct that none of the documents from Exhibit D – 5 onwards to D –61 have been prepared by me, neither do they bear my signature. It is wrong to say that the documents were not prepared in my presence. Himself stated that all the documents were prepared in my presence, the contractors did not prepare the documents in front of me.

The employees of the company were given House Rent Allowance. The workmen of the contractors did not get this. This was a minimum of 150 up to a maximum of 250. Night shift allowance was not given, because in those days there was no work done in the night shift. The departmental employees were given cycle allowance, the workmen of the contractors did not get this. It is correct that the departmental workers and the workers of contractors worked in the same place and in the same Shop. It is wrong to say that they performed the same work. The work of the company fitter was the maintenance of machines and tools, whereas the workmen of the contractors used to carry out fabrication work.

It is correct that from the year 91 to 93, discussions have been taking place with various officials. But no meaningful outcome has been reached. Final payment was made by our department to two workmen, whose names are Shri Bhagwan Das and Shri T.K.Verma.

The workmen of the contractors were not issued any passes to enter the factory premises. The contractor used to intimate the number and names of the workmen to the employer, and used to distribute cards to the workmen. On the basis of the card they were granted permission to enter the factory premises. The record of the information given by the contractors in respect of the workmen is not here. It might be in the record room. This record has not been produced in the case. There is no reason for this.

Re-examination none.

Typed on my dictation. Read over and accepted as correct by the witness.

Signed
(J. R. Senger)
Member
Industrial Court M.P.
Bench Raipur

**ENGLISH TRANSLATION OF THE STATEMENT OF SHRI DILIP KUMAR VERMA BEFORE
SHRI J. S. SENGER, MEMBER JUDGE, INDUSTRIAL COURT, BENCH RAIPUR (M. P.)**

Reference No. 4/MPIR /95

Name of witness- Shri Dilip Kumar Verma
Father's Name- Shri Kartik Ram Verma
Age - 29 years.
Occupation- Unemployed
Address- Birgaon, District. Raipur (M. P.)

Date: 7.3.96

On Oath:

Examination in chief by Shri S. L. Gupta for the First Party:

I used to work in Bhilai Engineering Corporation Urla. In 1990 I used to do the job of Storekeeper Helper and Peon in the Personnel Office of the said establishment. I used to be paid daily wage of Rs. 24/- per day. My attendance used to be marked on the attendance register and payment was recorded in the payment register. I was removed from work from September 1991. When in September 1991, I reached my workplace, Personnel Officer Shri Rajendra Sinha, Personnel Officer Rizi Thomas, Accounts Manager R.G.Singhal and Timekeeper Shri Vashisht were present at the main gate of the factory. I was told by them to sign on blank paper. On my refusing to do so, I was not allowed to go inside to work. Before removing me from service I was not given any charge sheet, No inquiry was conducted. No termination order was given in writing. While appointing me, appointment letter had also not been given. Retrenchment compensation was also (sic) paid. I know the 131 persons mentioned in the Annexure attached to the statement of claim. They also worked in BEC, they were employees of the company, not of any contractor. All these persons had been working in the company since the year 1990. Out of them some of them were working since March, some since April and some since June. Like me they were also told to sign on blank paper, because of not signing they were removed from service in August, September, 91. All of us were ready to go to work even then and are ready to go now. Before removing them from service, no charge sheet was issued to the persons mentioned in the Annexure, neither was any inquiry conducted. No written order was issued either. Neither was any retrenchment compensation paid. All the persons were paid a daily wage of about Rs. 24/- every day. No allowance of any kind was paid, we were also not given any holidays. We used to get a weekly holiday but we were not paid for it. Urla is 7 kilometres to the North of Raipur.

After being removed from service, I am unemployed. All the persons mentioned in the Annexure are unemployed. Exhibit P-1 onwards to P-27 are cards, whose photocopies are Exhibit P-1-C onwards to P-27-C. The name of the owner of the company is Shri Beenu Jain.

Cross Examination on behalf of Shri H. N. Vyas, Counsel for the Second Party:-

Question: - Do you have the receipt of membership fee of the Union?

(In asking this question Advocate Shri S. L. Gupta has the objection of it not being in the pleadings. While reserving the objection, permission is granted to ask the question.

Reply:- I have the receipt but I have not brought it with me today. I have got the receipts of the membership fees of all the 131 persons mentioned in the Annexure which I have not brought today. I am not an office bearer of the

Pragatisheel Engineering Shramik Sangh. Himself stated that I am a member. It is wrong to say that I have not read the bye laws of the Union.

Question:- In the bye laws of the Union, the jurisdiction of the union is only Durg District

(Shri Gupta has an objection to this question and those raised above in that, these are not in the pleadings. While reserving the objection, permission was granted to ask the question.)

Reply:- The office bearers of our Union call tell about that. I and my other colleagues who are mentioned in the Annexure became members of the Union in 1990. My colleagues are 131 in number. When all these people became members of the union, that I don't remember. The register of union membership is in the union. For membership of the union, there is no need to fill a form. The contribution for the union was taken from me and my colleagues by the office bearer of the union Shri Sheikh Ansar. Sheikh Ansar had come to the union office in Village Sarora and Village Birgaon and taken the contribution.

(In regard to all the above questions, Shri Gupta has the objection of these not being in the pleadings. Decision on this objection remains reserved).

It is correct that I and my colleagues who are mentioned in the Annexure were removed from work in a wrong manner by BEC, Urla. I have come to record my statement in this very regard.

I do not know what was the Minimum wage scale approved by the government in the year 89-90, 90-91. I do not also know what are the facilities, which should be provided by the government to workers. It is correct that fabrication work is carried out in the Second Party establishment. It is also correct that there are several other industries in Urla, which do this kind of work. I do not know what wages and facilities the employees of these industries used to get in the year 89-90, 90-91. I am the resident of Village Taralim, Tehsil Berla, District: Durg. It is wrong to say that my 131 colleagues are also residents of the same village. Himself stated that they are residents of nearby villages. I have passed Higher Secondary. "Niyokta" means "Employer". I know a little bit of English. In Exhibit P-1 onwards to P-27, the name of the employer is written as BEC. Himself stated that I have taken "Niyokta" to mean Owner. It is correct that in the attendance cards of P-1 onwards to P-27, in front of the name of Employer KEW or something else is written and in front of the name of institution BEC is written. Himself stated that it is written wrongly. It is correct that Exhibit P-3 is a blank card of October 91, which is mine. Himself stated that this is issued in September itself. It is correct that I or my Union had not given a written complaint regarding the employers name being written wrongly. Himself stated that we have said so orally. We did not get a wage slip. I did not get any document regarding getting a daily wage of Rs. 24/-. I have not got any document from BEC from which it can be gathered that I am an employee of BEC. None of the employees mentioned in the Annexure got any other document other than the attendance card by which it can be understood that these employees are of BEC. I do not meet the 131 persons everyday but we keep meeting. As many persons as I have met, I have told them that I am going to give a statement on behalf of all of us.

Question:- Have you told all 131 workmen that I am going to give a statement in the Court on behalf of all of you. If you have any other documents of BEC with you, give it to me so that I can produce it before the Court through the Union.

Reply:- I have not met all. All those whom I have met, their record has been submitted before the Court.

It is wrong to say that the documents, which have been submitted in the Court are of the workmen of those contractors whose names have been written in front of "Employer". Himself stated that there is no contractor in the company. I had joined in March 1990 when the factory had started. It is wrong to say that the factory closed down in September 91. In September 91, the workmen had been removed from service. After that, the owner shut down the company. How long the company remained closed, that I do not know. When the company started again, I cannot tell. Himself stated that at present the factory is running. It is wrong to say that from May 1991 onwards strikes took place several times in the company. It is wrong to say that some persons assaulted the officials and employees of the company. It is correct to say that some people had been arrested by the police because they had gone to ask for work. I do not know that the police had arrested some employees from May 91 to October 91. I do not know that the company started again in April 92. I know Jaleel Khan, His name is among the 131 persons mentioned in the Annexure. Where he is nowadays, I do not know, since I had not met him for many days. I do not know that this person is working even today in BEC, Urla. It is wrong to say that Shri Mahipal Yechriwal is working in BEC, Urla. Himself stated that I had met him a few days ago. He is doing some business near Durg. It is wrong to say that Kamlesh Sahu, Rama Sahu, Netram Sahu are also working in BEC, Urla. These people are in the villages. Mahesh Sahu and Rama Sahu are in Village Sarora, Kamlesh Sahu is in Birgaon. Where Bhagwan Singh lives I do not know. A few days ago I had met him I do not know what work he is doing. Bhagwan Singh did not tell me that after BEC started, he took his final payment and went away. I read newspapers, I did not read in the newspaper that the owner had published the news of calling the employees back to work. Himself stated that BEC is not any contractor, thus there is no question of such a news being published by a contractor. The notice published in the newspapers Exhibit D-1 onwards to D-5, whose photocopy is Exhibit D-1-C onwards to Exhibit D-4-C might have been published by the owner, but this didn't come to my notice. I do not know whether my colleagues read these notices or not. I do not know whether the office bearers of the union read these or not. These people did not say that such notices had been published. It is correct that in the year 91, 92 and 93, the District Administration of Raipur and Officials of the Labour Department had arranged meetings in which I was not present. Whether my colleagues went to those meetings or not, I do not know. It is wrong to say that the office bearers of the union did not go to these meetings. I can not tell that on which date, which office bearer of the union had been present in the meeting. It is wrong to say that inquiry had been conducted against some employees after issuing charge sheet. It is wrong to say that 40 employees have taken their final payment from the company and left.

It is correct that after being discharged from BEC, I did not register my name in the employment exchange. I do not know whether the employees mentioned in the Annexure had also not registered their names in the employment exchange. I do not have the copies of all the applications, which I gave in various companies for employment. In which companies my colleagues had given applications for jobs, I do not know.

Shri J. T. Patel, P. T. Bani do not work in BEC. Trinath Mallick, Ramchandra Pillai, Ajay Sahu, Uttam Pandey, P. N. Potta, Amulya Hota, Jitendra Prasad used to work in BEC. It is wrong to say that these people gave their resignation and have collected their dues and left. Jitendra Prasad is in Gudhiyari and where the remaining persons are, I do not know. I do not know where all these people are working. It is wrong to say that these persons have taken their money and left.

The office bearers of the union can tell about the fact that cases were not filed in the Labour Court in respect of myself and my 131 colleagues being illegally separated from service. I never attended the Labour Court, Raipur. It is correct that the 131 persons also never attended the Labour Court. It is correct that we did not carry out conciliation procedure in respect of separation from

service. Himself stated that these proceedings had been done through the union. It is wrong to say that we never appeared before the Assistant Labour Commissioner in conciliation proceedings. When I appeared I do not remember. I do not remember which of my colleagues were present in the proceedings on what occasions. Among our colleagues those persons who have agricultural land, Shri Mahesh Sahu's father has two acres. Similarly, Laxmikant Parghania's father has three acres, Kamlesh Sahu's father has two acres. Rama Sahu's father has about four acres. Similarly, the parents of many persons have some agricultural land. It is wrong to say that all these persons live off working on the fields with their parents. These persons stay separate from their parents. The union helps these persons. The union does not give us money, It gives us rice to eat, medicines for treatment and notebooks and books for the studies of our children. I have two children, The union helps all the 131 persons in this manner. Regarding whether the accounts of the union are audited or not, the office bearers of the union can tell. Even today, I am a member of the union and every year I pay the contribution. All my colleagues also pay the dues of the union.

Re examination Nill.

Typed on my dictation. Read over and accepted to be correct by the witness.

Signed
(J. S. Senger)
Member
Industrial Court, M.P.
Bench Raipur

Date: 3.7.99
PW-1, First Party
Aged- 28 years approximately
Name- Keshav Ram Sahu
Father's Name- Shri Chinta Ram Sahu
Occupation- Unemployment
Address- Fauji Nagar, Jamul, District Durg

On Oath:

Examination in chief by Advocate Shri S. L. Gupta:

I used to work in Simplex Engineering & Foundry Works (Unit 1). From December 1989 I was working as Cook Helper in the canteen. While joining the company had not given me any appointment order. I know Aseem Das, Nasiruddin, Ramnath, Bhikham Lal, Radheshyam, Bhuvan Lal and Vikram Lal. All of them used to work with me in the company. Our attendance used to be taken in the time office. My payment as well as that of the other workers used to be done at the Time Office. I used to be assigned work by the Personnel Manager of the Company Shri Dave. I used to get wages of Rs. 500/- per month. The other workers used to get Rs. 500-700 per month.

I was separated from work since September 1991. Others were separated from work within one or two years period of me. We were removed from work by Dave Sahab. He said that there is no need for our work.

On this reply, Shri Khanuja Advocate raised the objection that this fact not being in the pleadings is not admissible, hence it should not be considered. This objection will be decided at the time of final arguments.

No Charge sheet was issued to me or my fellow workers at the time of dismissing us. There was no inquiry either. No order was issued for termination of service. No retrenchment compensation also was paid. I work on my farm in the village, I do not do any job. What the other workers do I don't know. Worker Aseem Das had died on 1.7.92 in the Bhilai Police Firing. At that time 250-300 workers were working in the company.

Cross Examination on behalf of the Second Party by Shri K. S. Khanuja Advocate: -

I have no certificate to show that the company or Dave Sahab took me on work. I have no certificate to show that the other workers were employed by the company. The workers whose names I have stated above, they do not have any certificate of being employed by the company. Where the remaining above mentioned workers belonged to, I do not know. I do not know where those workers stay now. What those workers do nowadays this information also I do not know. I meet those persons occasionally. Recently on 1.7.99 I had met them. I do not have any documentary evidence to show that my wages and that of the workers was paid at the time office. I do not have any documentary evidence to show that Shri Dave, Personnel Manager had dismissed me from work. I cannot tell as to which date and month the various workers were dismissed. In 1991 five workers were dismissed whose names I cannot tell. What was the reason for their dismissal, that also I cannot say.

It is wrong to state that out of us only Aseem Das and Ramnath Deshmukh had been employed by the company. It is also wrong to say that it is because we were not employed by the company that we do not have any documentary evidence of such employment. I cannot tell as to apart from myself where the other workers used to work in the company and what work they used to perform. Stated himself that we all used to work in the company, I do not have the information that Aseem Das had been chargesheeted, inquiry had been conducted and he had been punished. When I had met Aseem Das, he was working in the company. I do not know when he was removed from employment. The other two persons were dismissed in 92 or 90, I do not remember the month and date. I cannot tell the names of those two persons. I was removed from service on 20 September 1991.

I stay in Seergidi Village which is in Mahasamund Tehsil. My family has agricultural land, which is 12 acres. I and my two brothers cultivate that land only. Apart from cultivation we do not have to do labour. We manage to survive on our agricultural income.

I have not registered my name in the Employment Office that I want to do a job.

Re-examination none.

Typed as per the statement of the witness on my dictation. Read over and accepted to be correct by the witness.

Signed
(P.R. PENDSE)
Member Judge
Industrial Court
Bench Raipur (M. P.)