

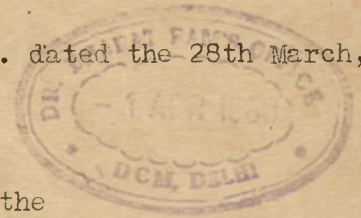
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No. 7(33)/67-NCL(C)
Government of India
National Commission on Labour
D-27, South Extension Part II,

NCL file

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New Delhi-3. dated the 28th March, 1968.



18/1

To

The Chairman and Members of the
National Commission on Labour.

Subject:- Programme of visit of the National Commission on Labour
to Madras State.

Sir,

I am directed to forward a copy of Record of discussions
of the Commission at Madras in Madras State on the 19th and 20th
February, 1968, as approved by the Chairman.

Yours faithfully,

P. D. Gaiha
(P.D. GAIHA)
DIRECTOR

NATIONAL COMMISSION ON LABOUR

CAMP : MADRAS (19-2-1968).

10.00 A.M. to 10.45 A.M.

Record of discussions with the INTUC - Tamil Nad Branch,
represented by:-

- (1) Mr. R. Rangaswamy (vide our Ref. No. NCL-MD-VI.127)
- (2) Mr. K. Ramaswamy Naidu
- (3) Mr. R. Raman Nair
- (4) Mr. M.S. Ramachandren
- (5) Mr. P.L. Subbayan
- (6) Mr. K.C. Ramaswamy
- (7) Mr. S.M. Narayanan
- (8) Mr. M. Balakrishnan
- (9) Mr. D. Bommath
- (10) Mr. I.M. Moinuddin
- (11) Mr. K.R. Bellie
- (12) Mr. R. Venkataraman
- (13) Mr. Rajaraman

NATIONAL COMMISSION ON LABOUR
INFORMATION DOCUMENTATION
V. S. S. N. L. I.
NOIDA

ACC. No. L-187
DATE 2-2-99

1. The INTUC in Madras claims a verified membership of 1,54,000 with more than 200 unions.
2. Regular payment of membership by itself is the test of a worker's vote for a union. This should be taken as his ballot. Secret ballot if held will not be fair because immediate issues are likely to turn the scales in favour of a union which makes tall claims. Secret ballot is opposed by the INTUC on principle and not because of the fear of losing the election. One should be cautious about recommending secret ballot after seeing what has happened in recent months.
3. If however election is decided upon, non-members should not be allowed to vote. This is because unions are already in a weak financial position. The voting right if given to non-members will increase the number of 'free-riders'.
4. The introduction of check-off system will be welcome.
5. If a union is named as the sole bargaining agent, the minority unions may be allowed to take up individual complaints.
6. A common labour code, a common pattern of labour judiciary and the appointment to such judiciary on the recommendations of the High Court would be welcome. If retired judges are appointed to industrial tribunals, there should be a fixity of tenure for them. Under no circumstances should their term be extended.

7. The Labour Appellate Tribunal should not be revived.
8. An arrangement by which collective bargaining is given a free hand and there is an advance agreement for voluntary arbitration in case of failure in collective bargaining, would be the proper mode for settlement of industrial disputes. If either party does not agree on the name of the arbitrator or does not accept the name recommended by Government from a panel maintained by it after tripartite consultations, direct action may be resorted to. There should be no adjudication.
9. There should be a Board of Arbitrators. This is preferable to having only one arbitrator. The Board should be tripartite.
10. There is considerable political influence in the trade union movement in Madras. Parties in political alliance (D.M.K. and Left Communists) have started unions of their own.
11. Even where strong unions have been functioning in certain industries, Ports and Docks is an example on the point, there has been active assistance by the State to rival unions formed by parties in political alliance. Cooperative societies formed by such unions are given financial assistance even where the unions have been only recently set up. This system of assistance is against the spirit of the policy followed by Government that where one Cooperative Society already exists others should not be encouraged. Such unions get advantage from the employers also. (A note on the subject will be supplied by the Organisation).
12. There has been no political influence on the INTUC. When the Congress Government was in power in Madras, the Tamilnad Congress Committee had a separate wing for labour independent of the INTUC. Party politics should not enter trade-unions. In many cases demands are raised merely to keep up some agitation or the other.
13. Works Committees do not function effectively because the managements do not send on the Works Committees responsible representatives. Unanimous conclusions of these Works Committees are also not implemented. (The Union will supply a list of cases where the management have not sent responsible persons as management's representatives and also a list of large establishments where Works Committees have not been set up).
14. The INTUC does not consider the Works Committees as rivals to trade unions.
15. The Advisory Committees on Minimum Wages have fixed different minimum wages for different industries in the same region. Presumably those Committees consider the capacity to pay even in fixing the minimum wage.
16. In granting dearness allowance, the principle of full neutralisation at the minimum level should be respected.
17. The INTUC stands for the public sector. At the same time the present attitudes of public sector management towards workers require to be changed.
18. There are delays in the settlement of disputes in public undertakings because sufficient powers are not given to the man on the spot. There is no tendency on the part of unions to approach higher authorities when disputes can be settled on the spot.

19. It would be preferable if the management of such undertakings is entrusted to persons who have industrial experience.
20. It is also important that the Boards which are formed for running public undertakings should have sufficient powers to decide cases affecting labour without frequent reference to Government. A number of complaints arise in the public sector because in the initial stages State Government or the Central Government procedures are made applicable to industrial establishments, and subsequent changes in these procedures become difficult.
21. Wages in unorganised sector or agriculture should not be allowed to be a drag on wages in organised sectors. It is not possible to fix a ratio between wages prevalent in agriculture and those in organised industries. The approach to wage fixation should be that ultimately it is a return to the community in the sense that if a worker gets better wage and improves his capacity to consume, the industry and also the community will benefit.
22. The prevalence of casual workers in public sector undertakings is not conducive to fair labour practices elsewhere. The casual labour is particularly large in Ports and Docks, Government presses, Municipal Corporation, Electricity Undertakings and in the Railways.
23. The Corporate Sector is exempted in many cases from the operation of labour laws. Industrial relations in the sector are not healthy.
24. The housing programme accepted by the employers as an obligation under the Plantations Labour Act has not yet been completed.

NATIONAL COMMISSION ON LABOUR

CAMP - MADRAS (19-2-1968).

10.45 A.M. to 11.30 A.M.

Record of discussions with the Tamilnad Trade Union Congress (AITUC Tamilnad Branch), represented by:-

1. Mr. K.M. Sundaram (vide our Ref. No. NCL-MD-VI,119)
 2. Mr. Sachithanandam.
1. In the Tamilnad, the AITUC is stronger than the INTUC. We have been challenging the verification but nothing happened because the verification is done by the Central Government. The AITUC in Madras claims a membership of 1,00,000 workers.
 2. The Code of Discipline is constantly violated by employers. Respect for it cannot be one-sided. The AITUC will, therefore, not continue to follow the Code. (Cases where the employers have violated the Code, will be supplied).
 3. The recourse to the State Implementation Committees where the Code has been violated also becomes ineffective, because these Committees take a long time to settle the complaints.
 4. Secret ballot will be the only way for determining the representative character of a union.
 5. The present arrangement by which the representative/^{character} is determined on the basis of the verified membership is not sound. Many instances could be cited, where a union had been given a representative status on this basis but failed to capture any seat in the elective Committees like the Works Committees. It is possible, however, that workers who are not members of any union, and there may be a large number of them, voted for the minority union, at the time of works committee election. Such workers do not like to join any union formally and would like to stay aloof though they may have sympathy with one union or the other.
 6. 'Gheraos' take place only when legal provisions do not help workers. There are cases where a worker has been dismissed and he has been required to go from court to court for four long years. It is such cases which encourage Gheraos; most of them are a result of the employer not implementing his obligations.
 7. There is no violence involved in Gheraos as a rule. There may be exceptions. Complaints about Gheraos have been on the increase because on such complaints employers want to bring pressure on a Government which normally would not have liked to take a balanced view on the employer's complaints. A way out of Gherao will be improved implementation of his obligations by the employer.
 8. Gherao usually is a result of some immediate demands and also for demands which to a union appear patently just.
 9. New unions are being formed in Madras and they owe political allegiance to the party in power. There is, however, no favouritism shown to such unions. This has been always the case. Madras Government does not give any undue advantage to these unions at the present moment.
 10. Labour should continue to be in the Concurrent List.

11. There should be a common labour code, a common pattern of labour judiciary and a common pattern of appointments to such a judiciary.

12. According to the AITUC, the protection given to the workers is not excessive. (The reference was to a statement made by one of the Members of the Commission about excessive protection to labour).

13. When a worker is discharged or dismissed, the stage when a tribunal is set up to go into the case comes only after a long period has elapsed. In many cases the employers appoint retired officials from the Labour Department and consult lawyers before discharging or dismissing a worker, merely for putting their record straight for the purpose of the Court forgetting the human hardship involved in such cases. It also happens that when a domestic enquiry is conducted by the employer, the affected worker is not allowed the help of a union representative. This puts the worker at a disadvantage. The present system by which the labour tribunals are not the appellate authorities for domestic enquiries puts workers at a further disadvantage.

14. When a domestic enquiry is appealed against, the tribunal should be allowed to go into the case afresh. This is but reasonable since the prosecutor cannot arrogate to himself the responsibility of a judge. Unless a third party is satisfied, a worker should not be dismissed.

15. Employers resort to dismissal quite often. In many cases it is the active office bearers of the union who are dismissed. (A statement on the subject will be supplied by the union. The statement will classify dismissals according to the cases where reinstatement has been ordered by the court and also provide a break-up of persons who are active trade union workers and others).

16. In cases where a genuine hardship is likely to be caused by an order of reinstatement, unions will agree to dismissal with adequate compensation from the employer.

17. Cases have occurred where employer seeks from a worker an undated letter of resignation. There are also cases where short payments are made and receipts are taken for full payment. In all such cases, Government is approached but no action is taken against the employer. Government has shown reluctance to prosecute employers when defaults by the employer for non-payment of the contributions to the E.P.F. after having collected them from the employees are brought to its notice.

18. Public Sector is a better employer (The Surgical Instruments Factory about which a complaint was made by the INTUC has maintained good relations with the union).

19. Madras High Court judgment against strikes has affected the position of the unions adversely. The High Court has decreed that black-legs cannot be prevented from taking up work in the units where workers are on strike. The judgment also prevents peaceful picketing. In many cases it has happened that when workers of a unit are on strike, employers have been allowed to take away the machinery to some other place and subsequently retrenchment is effected on the ground that machinery in position is inadequate to absorb persons employed before the strike took place.

20. The current arrangements for settlement of industrial disputes are such that if workers want to take direct action such action is likely to be illegal on every occasion.

NATIONAL COMMISSION ON LABOUR

CAMP - MADRAS (19-2-1968).

11.30 A.M. to 12.15 P.M.

Record of discussions with the H.M.S. (Tamilnad Branch) represented by:-

1. Mr. S.C.C. Anthoni Pillai (vide our Ref. No. NCL-MD-VI.134)
2. Mr. G. Balaram.

Because of the long period for which adjudication has been operating, both employers and workers have refused to develop attitude within themselves for successful collective bargaining.

2. It may be generally accepted that trade unions should by and large operate on the basis of satisfying the economic needs of their members.
3. Workers can take recourse to political action in their capacity as citizens and not as workers. In any case it is difficult to separate politics out of the demands which can be purely economic.
4. Collective bargaining should be the only method for the settlement of disputes. The present administrative procedures cut at the very root of such collective bargaining. Even where there is a tradition of collective bargaining, the administrative procedures do not encourage such traditions. For the future, it would be proper if the industrial relations machinery does not interfere in cases where by tradition employers and workers take resort to collective bargaining. Voluntary arbitration is in a sense a part of collective bargaining.
5. Over the years, industrial adjudication has established itself as an easy method for settlement of disputes. Workers prefer it even though it undermines the strength of a union. Selective collective bargaining in areas like the ports and docks and textiles in certain centres should be encouraged to restore confidence among unions.
6. There should be no statutory provision for the recognition of unions.
7. When the pattern of behaviour in the society changes and becomes more conducive to a better functioning of democracy, the arrangement of secret ballot may succeed but not in the present environment.
8. The representative character of a union should be decided by a 'Labour Relations Board' which should be tripartite in character. The Board should consist of a High Court Judge and representatives of employers and the unions. In reaching a decision the Board should take into account all factors including the stability of the union, the length of time for which it has been functioning and also whether it has rendered good service to its members.
9. As far as possible in all cases of disputes, it is collective bargaining which should be resorted to. Only in cases where retrenchment is involved the adjudication machinery should separate.
10. The benefits of settlements between the employer and the union should not be permissible to non-members. Even if this results in framing of two sets of conditions of service in the same establishment

it does not matter. It is possible that such a denial of benefit will attract non-members towards the union. This suggestion is made in order to prevent the present opportunistic behaviour of workers.

11. Without prejudice to the Labour Relations Board (as in 8 above) verification of membership would be a better method for recognising a union than the secret ballot for giving representative character to a union.

12. The secret ballot is opposed because currently there is no stable loyalty to any union. The result of the ballot is likely to be swayed by temporary discontent prevailing at the time of the ballot.

13. H.M.S. is in favour of 'union shop'.

14. Strike should not be banned. In fact, every union must go through the strike experience.

NATIONAL COMMISSION ON LABOUR

CAMP : MADRAS (19-2-1968)

12.15 P.M. to 1.00 P.M.

Record of discussions with other unions, represented by:-

<u>Organisation</u>	<u>Represented by</u>	<u>(Vide our Ref. No.)</u>
1. Papanasam Labour Union for Textile Workers, Vickrames-ingapuram, Thirunelveli Dt.	Mr. P.A. Kannayha	NCL-MD-VI.124
2. Estates Staffs' Union of South India, Coimbatore.	Dr. P.H. Deniel	NCL-MD-VI.42
3. Estates Staffs' Union of South India, Coimbatore	Mr. K. Rajagopal	
4. The Madras Provincial Motor, Transport and General Workers' Federation, Madras.	Mr. M. Kolandaivelu	NCL-MD-VI.136
5. Madras Sheet Glass Workers' Union, Madras.	Mr. S. Raghavanandam	NCL-MD-VI.137
6. Simpson Group Companies Union, Madras.	Mr. K. Gurumurthy	NCL-MD-X.41

The unions agree to a common labour code, a common pattern of labour judiciary and a common pattern on which the members of such a judiciary should be appointed.

2. It is necessary that there should be a longer tenure for persons in labour judiciary because frequent transfers would mean that their experience is lost to industrial adjudication.

3. There should be a separate Bench in the High Court with time limit for disposal of cases. Separate labour judiciary will be able to specialise in industrial law, which is growing in importance and complexity.

4. Even at the risk of having two sets of conditions of service in a unit, non-members should not be given the advantage of agreements or settlements entered into by a union. The arrangement for check-off should be accepted. This will help unions to get stronger.

5. The Plantations Labour Act is generally implemented in Madras particularly where large employers are concerned; in smaller units, operation of the Act is not what it should be.

6. There should be no Welfare Officers appointed as required by the Plantations Labour Act. The Welfare Officers in such cases are merely tools of the employer and they concentrate more on personnel functions than the welfare functions. It is much better to get the complaints investigated by the labour inspectorate or union officials.

7. The discharges and dismissals in plantations owned by larger companies are few; in smaller units they are more frequent.

8. Collective bargaining plus advance agreement for voluntary arbitration would be the proper method of settling labour disputes.

9. We do not want compulsory adjudication in preference to compulsory arbitration. (Mr. Gurumurthy wanted collective bargaining). For essential services, however, it may be necessary to have adjudication after making provision for what may be called the 'cooling off period'. The list of essential services should not be enlarged.

10. Dismissals are invariably upheld by Government in the sense that complaints about wrongful dismissals are not referred by Government to tribunals. The departmental enquiries in Government are equally a farce. There appears to be a circular to the effect that in such cases it is only compensation which should be paid and no reinstatement should be allowed. This position is not acceptable to the unions.

11. If, as a result of re-instatement, there is some indiscipline it should be tolerated in a democratic set up.

12. By and large, the unions favour the arrangement in the proposed Bill.

13. There should be a separate tribunal to which an appeal should be provided for in Government undertakings.

14. The question of victimisation is difficult to establish. There is a small number of cases where re-instatement is not ordered. The loss of employment cannot be covered by compensation in a country where unemployment is rampant. There should be one union in one industry in a local area.

15. The parties to a dispute should be allowed to go to the court direct without bringing in the Government.

16. On secret ballot the opinion was divided. Verification of registers with safeguards was acceptable to one group; but if the bargaining agent is to be selected by a secret ballot, voting right should be given to all the workers. (Mr. Gurumurthy will send a note on the safeguards which he considers necessary in order to make the verification procedure more effective).

17. Even in established units in Madras State casual labour is quite common. Quite a number of established firms make profits by employing casual labour and by taking work out of apprentices and using apprentices as a cheap labour. (A statement will be supplied by Mr. S. Raghavanandam about the extent of casual labour in larger concerns).

18. Except on the question of law, there should be no appeal to the High Court.

19. Section 34(2) of the Bonus Act which has been struck down by the Supreme Court should be restored.

20. L.A.T. should be revived.

21. The Wage Boards should be abolished. Opinion was divided about the utility of Wage Boards.

NATIONAL COMMISSION ON LABOUR

CAMP: MADRAS (19.2.1968)

3.00 P.M. to 3.45 P.M.

Record of discussions with the following Central Public Sector Undertakings:

<u>Undertaking</u>	<u>represented by</u>	
1. Madras Port Trust.	1. Mr. Karthikeyan, Chairman 2. Mr. T.K. Parmeswaran 'ambiar, Secretary.	{Vide our Ref. } {No. NCL-MD-III. } {14. }
2. Neyveli Lignite Corporation Ltd., Neyveli.	1. Mr. J.G. Kumaramangalam, Managing Director. 2. Mr. P.V. Kalyanaraman, Senior Personnel Officer.	
3. Hindustan Teleprinters Ltd., Madras.	1. Mr. C.A. Cornelias, Managing Director.	
4. Surgical Instruments Plant, Madras. (Constituents of Indian Drugs & Pharmaceuticals Ltd.)	1. Mr. H.G.V. Reddy, Project Administrator. 2. Mr. R.C. Gupta, Deputy Secretary, (IDPI.) 3. Mr. R.V. Ramaswami, Labour Welfare Officer.	{Vide our Ref. } {No. NCL-DL-III. } {15 }

If the lines of communication in an establishment are good, industrial relations can improve. In the undertakings represented in the meeting, no special difficulty in maintaining communications has been experienced. In public undertakings, the alleged bureaucratisation does not exist to the extent it is made out. Casual labour is not excessive in the Surgical Instruments as was alleged. Also, over a major area of service conditions, there is no difference between casual labour and regular employees. The Surgical Instruments had one union for a long time; two unions have since been added.

2. The Madras Port Trust employs casual labour. Of the 12,000 workers, about 1,500 are casual. They are appointed for specific jobs. They are entitled to all the benefits enjoyed by regular workers except the medical benefits. It should be possible to grant them this benefit also if a decision is taken on this point by the Central Government. It is possible to make administrative and financial arrangements covering casual workers but such coverage has to be uniform in all Port Trusts. The Madras Port Trust has to deal with four unions.

3. It is always preferable to have one bargaining agent for an industrial unit. In many cases, the results of verification of membership are not supported by elections later because of the floating population of workers not attached to any union.

4. The procedures of verifications and secret ballot have both advantages and disadvantages. While other units represented preferred verification, the Port Trust saw no objections in a resort to secret ballot the results of which should be respected by workers for two years. Such ballot should be restricted only to union members.

5. The Neyveli Lignite wanted the verification to be made more impartial. But if secret ballot is going to be the final choice, all workers should be eligible to vote.
6. No special facilities were given by the Port Trust authorities to the Cooperatives recently formed by a union owing allegiance to the ruling party. If some facilities have been made available to it by the Madras Government, the Port authorities are not aware of these facilities.
7. Collective bargaining pure and simple, may not be feasible for some time. However, another step in that direction is worth taking. Greater emphasis on collective bargaining and less on adjudication than at present would meet the requirements for some time.
8. There is no complaint about the delegation of powers to persons on the spot in the Public Undertakings. The Managing Directors have sufficient powers in labour matters. In the case of Port Trust however, there are certain statutory obligations which come in the way of settlement of disputes, in some cases.
9. The Code of Discipline was not accepted by Port Trust, (None of the Port Trusts accepted it), because of the difficulties about recognition of the unions and the arrangements of voluntary arbitration mentioned in the Code. Other Units present have accepted the Code of Discipline.
10. It is not correct that workers by-pass the management and approach authorities superior to local management.
11. The Hindustan Teleprinters will supply information about the extent of casual labour. 5% casual labour is absolutely essential in the unit.
12. The Port Trust did not favour craft unions. Hindustan Teleprinters had one union only (INTUC) last year. At present, it has an AITUC union. They would prefer secret ballot.
13. The Neyveli Lignite Corporation would grant the minority unions the right of representing individual cases. All others present felt that the grievance procedure laid down has a procedure for the settlement of individual grievances and this should be adequate. They did not want minority unions to be given any rights.
14. In Neyveli Lignite, difficulties of the same type as experienced elsewhere about the dual control, i.e. Central Government being responsible for certain operations and the State Government for certain others, have been encountered. They should be made responsible only to one authority in labour matters.
15. Common labour code, common pattern of labour judiciary and common arrangement for appointment to the judiciary was accepted.
16. Except the Port Trust all present opposed the revival of L.A.T. The units which were present and which had not sent reply to the Commission's Questionnaire, agreed to send their memorandum shortly.

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NATIONAL COMMISSION ON LABOUR

CAMP:MADRAS (19.2.1963)

3.45 P.M. to 4.15 P.M.

Record of discussions with the following State Public Sector Undertakings:

<u>Undertaking</u>	<u>Represented by</u>	<u>(Vide our Ref.No.)</u>
1. Madras State Electricity Board.	1. Mr. P.A. Raman, Additional Chief Engineer.	(NCL-MD-IV.50)
2. Directorate of Stationery and Printing.	1. Mr. M.K. Gometha Velu, Director.	(NCL-MD-IV.49)
3. Madras State Transport Department.	1. Mr. T.V. Venkataraman, IAS Director. 2. Mr. P.V. Venkatakrishnan, Joint Director. 3. Mr. S. Jeelani, Welfare Officer.	(NCL-MD-IV.46)
4. Madras State Small Industries Corporation Ltd.	1. Mr. V. Raman, Financial Adviser. 2. Mr. T. Ramalingam, Labour & Welfare Officer.	(NCL-MD-IV.48)
5. Corporation of Madras.	1. Mr. J.A. Ambasanker, Commissioner.	(NCL-MD-IX.6)
6. Directorate of Handlooms.	1. Mr. T.S. Ramakrishnama Raja, Managing Director, North Arcot District Cooperative Spg. Mills, Vellore.	(NCL-MD-IV.47)
7. Government Press, Madras.	1. Mr. M.R. Srinivasan, Works Manager.	(NCL-MD-IV.49)

Printing and Stationery and State Transport are departmentally run undertakings; all the others are corporations.

2. Contract labour was engaged in large number in some public sector undertakings. Electricity Board had almost 50 per cent labour as casual. In State Transport about 30 per cent labour was casual. In the latter case, however, there is no difference in service conditions except that casual labour is daily-rated whereas others are monthly-rated. The current distinction of making casual labour put in 240 days of service for getting certain benefits should be done away with. (The State Electricity Board will supply a statement about casual labour on the same lines as was required from the Mysore State Electricity Board.)

3. About the implementation of the fair wage clause by the contractors, the State Electricity Board will undertake a sample survey and intimate the results to the Commission in about two months' time.

4. It is not necessary that certain categories of workers of the Electricity Board such as linemen etc. should be made to retire at the age of 45. In the Madras State Electricity Board, the age of retirement is 58 years for all categories of workers. For the categories mentioned, it may be brought down to 55.

contd.... P/2.

5. Temporary workers form about 10% of the labour force in Printing Presses. There is no difference in the terms of employment of the temporary and permanent workers.
6. Printing Presses have one recognised union. There are in addition two registered unions.
7. In the Madras Corporation, there are 15 unions. All of them are craft unions and all are recognised.
8. State Transport again has four unions in Kanyakumari, none of which is recognised; 2 in Madras, one of which is recognised; and one INTUC union headed by a D.M.K. leader at Chromepet.
9. Madras Corporation has a strength of casual labour varying from 1000 to 2000 out of a total employment of 12,000. These persons get absorbed as and when permanent vacancies occur. For the first two years during which they are temporary, they get all privileges except uniform, thereafter no privilege is withheld from them.
10. Electricity Board has 17 unions. There is one mother union comprising 12 unions and in addition there are 5 craft unions. None of these is a representative union.
11. The Handloom Board recognises all unions. There is an award by which the employees can reach the proper wage level over a period of four years.
12. New units are not required to pay the same wage as the established ones. They are expected to reach the established wage rates over a period of four years. The workload also is phased on this basis.
13. A majority of State undertakings wanted membership verification to be the basis for recognising the unions. But if secret ballot is accepted, all workers should be given the right to vote. The representative of printing presses however wanted the right of secret ballot to be restricted to members of the union.
14. Collective bargaining was preferred by the printing press. Everyone else wanted adjudication. The Director of Handlooms said that the steps in the settlement of disputes should be collective bargaining and compulsory arbitration but no adjudication.
15. Reinstatement does not affect discipline in larger units. This is because it is possible to send the reinstated worker to a shop other than the one where he was working before dismissal. The fact that the Transport undertaking is worked as a State Department does not affect labour, except that if the State Transport Undertaking is run as a Corporation, employees can be in a better bargaining position; they can even claim bonus.
16. Essential services should be maintained and no dislocation through strike should be permitted in such services.
17. Delegation of powers to the man on the spot is adequate.

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NATIONAL COMMISSION ON LABOUR

CAMP:MADRAS (19.2.1968)

4.15 P.M. to 5.30 P.M.

Record of discussions with the following Employers' Organisations of Madras and Coimbatore.

<u>Organisation</u>	<u>Represented by</u>	
1. Employers' Federation of Southern India, Madras.	1. Mr. N.S. Bhat. 2. Mr. R. Ramanujam. 3. Mr. V.A. Ramachandran.	(Vide our Ref.No) (NCL-MD-V.60)
2. The Indian Engineering Association (Southern Region), Madras.	1. Mr. R.W. England. 2. Mr. P.S. Sundaram.	
3. Southern India Mill Owners' Association, Coimbatore.	1. Mr. C. Ramanathan. 2. Mr. C.G. Reddi 3. Mr. S.N. Subramanian. 4. Mr. M. Krishnamoorthy. 5. Mr. K. Vinayakarao.	(Vide our Ref.No) (NCL-MD-V.86)

The Madras employers would accept a common labour code, common labour judiciary with High Court to make the appointments. Employers would prefer sitting Judges. But if retired Judges are appointed, there should be a fixity of tenure and no extension.

2. Important labour matters should preferably be decided by a tripartite body with the Chairman preferably a sitting High Court Judge. In case a single man tribunal is decided upon the status of others should be that of assessors. One appeal only should be provided either to a special Bench or to the L.A.T., apart from the right which is there under the Constitution for approaching the Supreme Court.

3. The interim recommendations of the Engineering Wage Board were not implemented for a long time. But in view of certain assurances given by Government, implementation has now started. The allegation that Awards are not implemented is not correct.

4. If the right is granted to workers to approach the court direct, the employers are likely to be harassed. Where the number of cases of non-implementation is large, representation will be made to Government by the trade unions and Government would take necessary action. There was no reason why the Government will not sanction prosecution; in many cases prosecution has been sanctioned.

5. The Labour Commissioner should be given more effective powers. Mr. England said that even unions should be given the right to approach courts.

6. The Court which gives the Award should also hear the cases of non-implementation.

7. In case of frivolous complaints normally the cost should be born by the complainant. In case of workers, recovery of such costs would be difficult. But in due course when unions get sufficiently strong it should be possible to recover the cost from unions.

8. There should be no collective bargaining pure and simple.
9. Strikes in essential services should not be permitted.
10. After failure of collective bargaining, there should be no intervention by the Minister either.
11. We have no objection to collective bargaining; but in case of failure, Government must take care of law and order. In some cases, the Government keeps the police outside and do not maintain law and order.
12. In continuous process industry, there should be total prohibition of strike at least until the work on hand is completed. Otherwise, considerable damage will be caused to the industry which would mean even closing down of the industry.
13. Failing collective bargaining, there should be arbitration in small matters of dismissals and discharges. But in matters involving larger economic and financial stakes they would prefer adjudication to arbitration. If there is a strike and if after a particular period the matter is not settled, either party should be free to go to court without reference to Government.
14. Outsiders should be eliminated by stages. Outsiders are those who are not full-time workers in the cause of trade union and who do not treat trade-union work as a career. It is possible in the years to come that trade union work can be a full time work and persons who are interested in such work can make a career out of it. They should be considered as insiders. Outsiders of the type as are at present in the trade union movement may fade out but in the process of their fading out they will damage the industry.
15. There are not many cases of disciplinary action leading to dismissals. There are also not many cases of employers having had to reinstate a dismissed employee as a result of tribunals' award. Reinstated employee does not create problems of discipline. The right of hire and fire to the employer will have to be circumscribed. The Federation does not subscribe fully to it. Reinstatement should be permissible but at the same time reinstatement should not be awarded in a light-hearted manner.
16. There should be one collective bargaining agent. In determining this agent the Federation would not favour a secret ballot. Recognition as a representative union should be given to a union only on the basis of a sustained and established membership. The representatives of workers on the works committees should be nominated by a recognised union. But in case some representatives of unrecognised union find a place in the works committee they can act as a healthy influence on the representative union. There is also a reason as to why in many cases nominees of a representative union do not get elected on works committees. This is because in certain pockets, the representative union does not have adequate members.
17. Once the procedure for a representative union is agreed to and the representative union is so nominated, it should be given the right to 'check off'.

contd.... P/3.

18. There should be no rights for minority unions.

19. There need not be union-shop or closed shop either.

20. It is not possible in the present context to recommend the need-based minimum based on the 15th Indian Labour Conference formula. National minimum wage also may not be possible. The industry's capacity to pay will have to be taken into account in reaching a need-based minimum of the 15th Indian Labour Conference. Also in fixing industrial wages, wages in agriculture and in unorganised industries should not be considered as irrelevant.

21. Labour Commissioner in many cases is not a free agent because there is ministerial interference. On occasions the Labour Minister is not guided by overall considerations of the economy. It would be better if the labour and the industries portfolio is held by the same person.

22. Many establishments have closed in the Southern Region. This is because of consumer resistance in a period of rising prices. Part of the price-rise is due to wage rise.

23. There should be common standing orders and these should contain procedure for departmental enquiries. The procedure, however, cannot be exhaustive. While the standing orders should contain the procedure for departmental enquiry, promotion principles and procedures may have to be excluded. Promotion has to be strictly on merit.

24. Wage above the minimum level should be linked with productivity. It is useful to introduce incentive schemes in order to improve productivity. Before the introduction of incentive scheme it is important that a substantial portion of dearness allowance should be included in the basic pay. On occasions there is a conflict between standing orders and tribunal awards. The Supreme Court has held that Tribunals have powers to amend the Standing Orders. This has created difficulties. Industrial law should be so amended/framed that such conflicts are avoided.

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NATIONAL COMMISSION ON LABOUR

CAMP - MADRAS

20th February, 1968.

9.30 A.M. to 10.15 A.M.

Record of discussions with the United Planters Association of South India, Coonoor, represented by :-

1. Mr. C.H.S. London. (Vide our Ref.No. NCL. MD-V.71)
2. Mr. M.R.H. Punja.
3. Mr. M.M. Muthiah.
4. Mr. V.I. Chacko.

At the outset the Chairman explained the corrections needed in the observations made by the planters in their memorandum about living wage and the directive principles of the Constitution. Thereafter the representatives of planters made the following observations:-

(i). The Wage Boards should approach the problem in a scientific spirit or they should work as a negotiating machinery. In case there is a difference of opinion on certain matters, the Chairman of the Wage Board should not be required to arbitrate. Such points of disagreement should go for adjudication.

(ii). There should be no independents on Wage Boards except the Chairman. These observations are made because of the experience of four Wage Boards on which the representatives of the Association had served.

(iii). The employers' Organisations are a political. The same obligation should be imposed on unions. It is true that some members of Employers' Organisations have political leanings but this linkage with politics does not affect work of the Employers' Organisations particularly in industrial relations, to the same extent as the link between politics and trade unions. The links of unions with political parties very often obtrude on industrial relations. It is accepted that political influence either in the Employers' Organisations or Workers' Organisations is equally bad. The Associations are not in favour of Employers' Organisation making contributions to political parties.

2. The planters in Kerala may have suggested certain amendments to the Plantation Labour Act. But these suggestions have a purely local colour.

3. It is not necessary to introduce the institution of Welfare Officers in the Plantation Act. This is because a good manager in plantations has to keep in touch with his labour. He is himself a Welfare Officer. If the manager does not have frequent contacts with his workers, it is not possible for him to get adequate work. The introduction of Welfare Officers in the Plantation Act on the same analogy as that in the Factories Act is, therefore, unwarranted. The Plantation Act already contains detailed provisions consisting of several aspects of the workers' welfare, and the Act also provides for Inspectors to enforce the provisions of the Act.

4. As regards housing of plantation workers, the planters in South India have more than fulfilled their obligations under the Act. It is possible that there may be individual estates particularly very small ones which may have fallen behind. By and large the position is quite satisfactory. Even in Kerala the larger estates have made adequate housing arrangements.

That the position is satisfactory has been accepted even by the Government officers who have inspected housing.

The Chairman stated that before making any observations on the subject of implementation of the provisions of the Plantation Labour Act, the Commission would make a sample survey after giving due intimation to the Association. If the Commission feels that it is necessary to enquire into the position, it expected that the Association would be prepared to give all assistance in the conduct of such an enquiry, on a scientific basis.

5. The Association favours the enactment of a uniform labour code. It also favours a common labour judiciary with the judges being appointed by the High Court.

6. Labour Appellate Tribunal should be revived. Even though it is likely that Labour Appellate Tribunal might result in some delay in working out decisions on disputes, in the Association's view such delays are preferable to going to arbitration and get awards which are not appealable. In cases where large stakes, financial or otherwise, are involved an employer would be unwilling to entrust the decision to arbitration. He would naturally prefer adjudication. While the employer has the right to go in for an appeal against an award, the Association would not support him except where serious issues are involved. They would prefer L.A.T. to a Court consisting of a judge assisted by representatives of employers and employees.

7. The Association favours the adoption of a system of collective bargaining provided the State keeps law and order.

8. The Association favours recognition of unions as the sole bargaining agent on the basis of secret ballot. All the workers should have the right to vote. Such recognition should normally be for a period of three to five years. Minority unions should not get any rights even in individual cases.

9. There have not been many dismissals in the plantations, nor many cases of reinstatement. No general statement can be made whether the reinstatement of dismissed worker undermines discipline. By and large reinstatement will not be good for discipline in the industry. It would be better if the court itself directs the employer to pay a certain compensation or to reinstate the employee. There are cases where dismissal would be too harsh and reinstatement would be necessary. But the Association feels that in matters like this the employers should not be equated with the employee. The interests of the undertaking itself as distinct from those of the employer or the employee have to be protected.

10. Plantation industry could be considered as unique in providing adequate lines of communication between the management and the workers. The manager of the estate is in daily contact with all the workers on the estate. There are works committees on several estates but these have been doing no work. The manager himself is the Chairman of the Works Committees and he takes personal interest in its working. Where Works Committees have failed it is often due to the unhelpful and uncooperative attitude taken by the trade unions who could not get elected to these Committees.

NATIONAL COMMISSION ON LABOUR

CAMP : MADRAS

20th February, 1968.

10.15 A.M. to 11.00 A.M.

Record of discussions with Chambers of Commerce represented by :

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| 1. Mr. C.R. Rao, Hindustan Chamber of Commerce. | (Vide our Ref. No | |
| |) | NCL.MD-V.84) |
| 2. Mr. Balwant Rai, -do- |) | |
| 3. Mr. J.R. Mullick, -do- |) | |
| 4. Mr. R. Narayanan, The South India Film
Chamber of Commerce. | | NCL. No. MD.V.85 |
| 5. Mr. V.G.S.V. Prasad, Andhra Chamber of
Commerce, Madrss. |) | NCL.No.MD-V.77. |
| 6. Mr. J.P. Sanghrajka, -do- |) | |
| 7. Mr. M.S. Sambasivam, -do- |) | |

The representatives of all the Associations agree that there should be a common labour code. Labour should continue to remain in the concurrent list. The representatives of the Hindustan Chamber of Commerce, however, felt that it should be on the Central list. None of these present was in favour of its being transferred to the state list.

2. A common labour code, a common pattern of labour judiciary and a common pattern for appointments to it being made by the High Court were approved. Revival of the L.A.T. was favoured as it will bring about uniformity in decisions.

3. The representative of the Film Chamber of Commerce was in favour of collective bargaining with provision for voluntary arbitration. Others wanted collective bargaining followed by adjudication.

4. There was a feeling that reinstatement has a demoralising effect on the management and should not be ordered. Only compensation should be payable.

5. The representative of the Film Chamber of commerce favoured reinstatement in appropriate cases.

6. The representative of the Andhra Chamber of Commerce made a suggestion that after the domestic enquiry the employer should refer the case to an arbitrator selected from a panel of arbitrators. The arbitrator would go into the whole case again and give his decision as to whether the misconduct is proved or not and the management would accept the arbitrators' decision. But the question of punishment will be decided by the employer. Other representatives felt that it was a suggestion worth pursuing.

NATIONAL COMMISSION ON LABOUR

CAMP : MADRAS

20th February, 1968.

11.30 A.M. to 12.00 P.M.

Record of discussions with Mr. K.V. Srinivasan, All India Manufacturers' Association, State Board, Madras.

The annual increments now allowed to industrial workers should be abolished. It would be better if there is fixed wage plus an incentive wage linked to production. Engineering industry is affected by these annual increments. For the same job, workers get different rates according to their seniority in service.

2. A major portion of dearness allowance should be absorbed in the basic wage. Regional minimum wage for all organised and unorganised industries should be fixed. It should not be far out of step with wages in agriculture.

3. The agriculture workers' wages should be related to the industrial wages. The capacity of a unit should be taken into account. Promotions should be only on merit. In the rule of seniority-cum-merit, it is merit which should prevail.

4. Collective bargaining should be preferred. If it fails, disputes should go to adjudication.

5. In a recent Strike in his unit, three hundred workers in three units were affected. The strike was organised by a leftist union. The strike followed the closure in one of the three establishments which employed in all three hundred workers. None of these unions had any trouble in the 10 years preceding, the strike, The I.N.T.U.C. was the recognised union during that period and it made way to a leftist union last year after the new Government was formed. As a result of unsuccessful strike workers are now going back to the I.N.T.U.C. The cases of dismissal in the 10 years preceding the strike were not many. As a result of strike there may be some dismissals. No cases went to court. Relations were good and cordial.

6. There have been no cases of workers being reinstated on the orders of a tribunal.

7. Outsiders should go. (in units where there are insiders to manage the union serving a periodic industrial peace). Unions consisting entirely of inside leadership have succeeded in improving the condition of workers.

8. The present arrangement should continue in regard to the choice of a recognised union.

NATIONAL COMMISSION ON LABOUR

(CAMP : MADRAS - 20-2-1968)

12.00 P.M. to 12.45 P.M.

Record of discussions with Mr. S. Narayanaswami, Sheriff of Madras.

1. There should be a common labour code. Labour should be in the concurrent list. There should be a common pattern of judiciary. If too much of uniformity is attempted, there is likely to be a break down. The appointment of judiciary should be made by the Chief Justice.
2. The persons to be appointed to the Labour Tribunals need not be purely officials with judicial experience, persons with knowledge of industrial matters should also be considered eligible for appointments. Conciliation Officers also may be eligible. Labour Appellate Tribunal need not be revived.
3. Collective bargaining would be preferable, though in doing so adjudication should be permissible. It is recognised that the adjudication machinery as at present operated leaves little scope for collective bargaining.
4. There should be one union in a plant. Normally so far as management is concerned, if there are more unions these can be played one against the other.
5. In the choice of union, secret ballot should be preferred. There will be considerations for caste, community, etc. but in spite of this secret ballot would be preferrable to the current arrangements.
6. Dismissals are few and even where a dismissal is unjustified there should be no reinstatement. It should be possible to give justice to the dismissed worker in these cases by allowing compensation.
7. Any procedure which will help in bringing quick redress to both the parties should be preferred.
8. Under grave provocation if a person is dismissed he should not be brought back to work. The arrangements suggested by the Andhra Chamber of Commerce about interposing an arbitrator before the punishment is awarded should be considered.
9. Mr. Narayanaswami then referred to certain general points about the current recession and the problem of unemployment created thereby. According to him the economy should realise the objectives of adequate employment. In considering demands of labour one should always keep in mind that the employer should have a chance of establishing more and more industrial units and mere giving a better deal only to those employed may be avoided.
10. For the last 40 years, unions have acquired a degree of sophistication in their approach to management. The employers on the other hand have by and large remained static.
11. Because of rising prices the prospectus which the Companies issue gets completely upset. By the time the unit gets into production calculations made in the prospectus on the basis of the price levels then prevailing become out of date. This leads to the investors getting scared. The assurance of profit held out earlier in the prospectus again are not fulfilled mainly because of the upset in prices. The name of even good entrepreneur becomes suspect in the investing community.

12. There have been changes in the habits of saving as a result of inflation. The savings now are in the form of precious metals, land and fixed deposits rather than investment in shares of new units. All this has resulted in many cases in not honouring Wage Board recommendations.

13. Rise of wages has contributed to the present inflation. Labour unions should help in avoiding inflation.

14. Gulf between agriculture wage and industrial wage should be rationalised. This can be done by taking industry to rural areas and making in such industries relatable to agriculture wage.

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NATIONAL COMMISSION ON LABOUR

(CAMP : MAIRAS - 20.2.1968)

2.00 P.M. to 4.00 P.M.

Record of discussions with Mr. S. Madhavan, Madras State Labour Minister and with State Government Labour Department, represented by :

1. Mr. M.G. Balasubramaniam, (Vide our Ref.No. Secretary. NCL. MD-I. 16)
2. Mr. V.S. Subbiah, Additional Secretary,
3. Mr. T.S. Sankaran, Labour Commissioner,
4. Mr. G. Kamalaratnam, Special Deputy Commissioner of Labour
5. Mr. K.V. Parthasarathy, Deputy Commissioner of Labour.
6. Mr. C.T. Srinivasan, Deputy Chief Inspector of Factories.
7. Mr. Rangaswamy, Director of Employment.
8. Mr. G.D. Nandagopal, Director of Statistics.

1. The Commission should attempt to draw up a model labour code but State Government should have the exclusive right to legislate about labour. Labour should be transferred from the Concurrent List to the State List. This is because in the past when a State Government wanted some legislation and there was already one undertaken by the Centre the State Government necessarily had to go to the Centre for seeking President's permission and this created some difficulty.

2. While there should be a model, the States should be given a right to depart from the model to the extent it is necessary taking into account local conditions.

3. The demand that labour should be a State subject is because the political philosophy of the party in power is that Centre's powers should be curtailed and also because of the practical difficulties experienced.

4. About the common labour code itself the Government sees the utility of the code. There should be common definitions but even here the State should have right to make departures taking into account local considerations. The State wants a model but not a law which is binding. It will follow the model to the extent it is possible. At the same time it does not want to be bound by the Centre in labour matters.

5. The Commission should indicate the pattern of labour judiciary. While agreeing that there should be some principles for setting up a common judiciary the State would prefer not to have any official consultations with the High Court. The practice at present is to consult the High Court informally. A formal consultation should not be necessary. There have been cases in Madras where both sides wanted a particular judge but his services were not made available to the parties by the High Court even when a request was made by Government.
6. Conciliations should be eligible to be selected as labour judges if they have the requisite legal qualifications. In case of others in addition to legal qualifications persons who have diploma in industrial law should be given a preference.
7. Tripartite courts may be set up. Employer's and Workers' representatives should act as assessors. Over such decisions there should be no appeal.
8. Labour Appellate Tribunal should not be revived. Even if the present arrangements are to stay, the Government sees no point in reviewing the L.A.T.
9. Collective bargaining should be given adequate scope but it has to work within the present arrangements of disputes being sent for adjudication where collective bargaining does not succeed. The arbitrator's award should be final. In case of voluntary arbitration if parties do not agree on a name, the State should name the arbitrator. The award of the arbitrator in such cases should be final. Parties should not have direct access to the tribunal. This will result in more and more courts being set up. In Madras conciliation machinery has been able to settle a large number of cases.
10. There are no political considerations in sending disputes to industrial tribunals. If parties agree on arbitration, State should not come in but if they do not, Government should have powers to name an arbitrator or send the dispute to adjudication. In serious cases of non-implementation a worker should be allowed to get his dues recovered from the employer in the same manner as Government collects provident fund and E.S.I. dues or for that matter makes revenue recoveries.
11. Prosecuting the employer will not necessarily provide the redress the worker wants.
12. One union should be recognised. Recognition should be by secret ballot. Unions should avoid political affiliations. In order to consider all such matters Madras Government has recently set up an Advisory Body considering of all trade union groups. This is to avoid the criticism of favouritism to the members of the party in power.
13. Regarding conciliation, the practice in Madras has been that in addition to the report sent to the Labour Commissioner, the Conciliation Officer can send a copy of it direct to the State Government. The Labour Commissioner must receive the report because in the absence of a recommendation from him on the basis of over all considerations, the State Government will find it difficult to make up its mind about future action. In all cases where Government is doubtful about making a reference the benefit of doubt will go to workers.

14. Generally in recent months the recommendations of the Labour Commissioner in the matters of reference to adjudication have found acceptance with Government. There was an allegation against Government that cases which had once been refused for being sent to adjudication by the previous Government have been re-opened. There have not been many cases of this kind. But in one case where Government's decision was challenged Government's right to re-open cases was upheld by the High Court.

15. The implementation of Wage Boards' awards has been difficult because the awards are made on certain all-India considerations which may not apply to a local area. If the Wage Boards have to be continued then the present arrangements about the composition of Wage Boards should be adequate. Wage Boards can be more effective if their awards are expedited. In case where a Wage Board does not reach unanimous conclusion the Chairman should be allowed to arbitrate.

16. By and large, serving Judges should be eligible for appointment to labour tribunal. Even advocates of some standing should be eligible for such appointments. However, in some cases complaints have come to the Government's notice that rejects from the judiciary come to the labour court. Government has also received complaints that the labour courts where the members of judiciary preside find it difficult to conciliate. They stick to the letter of the law and make conciliation difficult. There are also judges appointed to labour court whose knowledge of social justice is inadequate. they do not have any social sympathies and oppose the principle of social justice itself.

17. Retired judges are in demand by both sides. They should not be debarred from appointment merely because they have completed their term of service.

18. Outsiders who are not politicians and who have served labour well should not be considered as foreign to the trade union movement.

19. There should be no politics in the trade union movement. D.M.K. does not want to enter labour field. However, when it comes to Government's notice that some of the existing federations of labour act against the D.M.K. Government, it will have to take notice. Some D.M.K. workers who are at present doing trade union work in different federations will or may find it necessary to form a separate group. So far D.M.K. has not recognised any trade union federation as its own.

20. If there is compulsory adjudication it should follow that no strike should be permitted.

21. Reinstatement should not be substituted by penal compensation. Right of employment should not be abridged in this manner.

22. In one unit in Madras the employer wanted the

resignation of some workers because they were involved in certain cases. Some instances were quoted where the employers were trying to hood wink the Government in order to get rid of unwanted workers or unwanted union within thdr establishment

23. There have also been cases of the employer wanting to take his factories outside the State if Government did not accept certain propositions about labour. Such tendencies even in stray cases, should be discouraged.

24. With several new enactments additional duties are passed on to the Inspectorate. No new staff is appointed because this is not considered as development scheme and the expenditure on it is not treated as a development expenditure. This makes the task of implementation of labour laws very difficult. In considering different aspects of labour administration, this point should be kept in view.
