

# ଶ୍ରମ ଦର୍ପଣ



ତ୍ରିମାସିକ ପତ୍ରିକା

ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର

ତୃତୀୟ ବର୍ଷ : ପ୍ରଥମ, ଦ୍ୱିତୀୟ, ତୃତୀୟ ଓ ଚତୁର୍ଥ ମିଳିତ ସଂଖ୍ୟା

୨୦୧୫-୧୬

## श्रम दर्पण



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୨୦୧୫-୧୬

## ମୁଖ୍ୟ ଉପଦେଷ୍ଟା

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ସଂସ୍କରଣ : ଫେବୃୟାରୀ - ୨୦୧୬

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ଫୋ-୯୪୩୭୩୫୫୬୯୪

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Bhubaneswar - 2015-16

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ମୁଖ୍ୟ ସଂପାଦକଙ୍କ କଲମରୁ...

## ସଂପାଦକୀୟ :-

ଭାରତୀୟ ଶ୍ରମିକ ଆନ୍ଦୋଳନର ଅନ୍ୟତମ ପ୍ରମୁଖ କାଣ୍ଡାରୀ, ପୂର୍ବତନ  
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ନିର୍ଦ୍ଧାରଣ ଉପରେ ଗୁରୁତ୍ୱ ଆରୋପ କରିଥିଲେ । ଶ୍ରମ ସଂପର୍କିତ ନୀତିରେ  
ଶ୍ରମିକମାନଙ୍କର ଚେତୟୁନିୟନ, ନିଯୁକ୍ତି, ଟେକ୍ନୋଲୋଜି, ସାମାଜିକ ସୁରକ୍ଷା ଓ  
ଉତ୍ପାଦନ ଉପରେ ଗୁରୁତ୍ୱ ଦେବା ଥିଲା ତାଙ୍କର ଦୃଢ଼ମତ । ସେଥିପାଇଁ ସେ  
ଭୌଦ୍ୟୋଗିକ ସଂପର୍କ ଉପରେ ଗୁରୁତ୍ୱଆରୋପ କରିଥିଲେ କାରଣ ଏହା  
ପ୍ରତିଷ୍ଠାନରେ ମୁଖ୍ୟଭୂମିକା ଗ୍ରହଣ କରିଥାଏ ଏବଂ ଭୌଦ୍ୟୋଗିକ ସଂପର୍କ  
ଗଣତନ୍ତ୍ର ବିକାଶ କରିଥାଏ । ରାଷ୍ଟ୍ର ବିକାଶ ପାଇଁ ଓ ସମାଜବାଦଭିତ୍ତିକ ସମାଜ  
ପାଇଁ ଏହା ଅପରିହାର୍ଯ୍ୟ । ଭୌଦ୍ୟୋଗିକ ବିକାଶ ପାଇଁ ଶିକ୍ଷା କ୍ଷେତ୍ରରେ ଶାନ୍ତି ଆବଶ୍ୟକ  
ବୋଲି ସେ ବିଚାର କରୁଥିବା ବେଳେ ଉଦ୍ୟୋଗରେ ଯେ ପରି ଅଶାନ୍ତି ନହେବ,  
ତାହାକୁ ମଧ୍ୟ ସେ ଏତାଇ ଦେଇନଥିଲେ । କିନ୍ତୁ ସୁସଂହତ ଭୌଦ୍ୟୋଗିକ ସଂପର୍କ  
ଉଦ୍ୟୋଗର କାର୍ଯ୍ୟରତ ଅଂଶିଦାରମାନଙ୍କ ମଧ୍ୟରେ ଯଦି ରହେ, ତେବେ ପରସ୍ପର  
ମଧ୍ୟରେ ସୌହାର୍ଦ୍ଦ୍ୟ ଓ ଉତ୍ତମ ବୁଝାମଣା ରହିବ । ପରସ୍ପର ମଧ୍ୟରେ ଆପୋଷ  
ବୁଝାମଣା ଓ ସ୍ୱେଚ୍ଛାକୃତ ସମଘୋଡ଼ାକୁ ବିଶ୍ୱାସର ସହିତ ଗ୍ରହଣ କରିବାକୁ ହେବ ।  
ଏହା ଫଳରେ ଉତ୍ତମ ଶ୍ରମିକ ଓ ମାଲିକମାନଙ୍କ ମଧ୍ୟରେ ଉତ୍ତୁକୁଥିବା ପାର୍ଥକ୍ୟକୁ ଦୂର  
କରାଯାଇପାରିବ ।

ଓଡ଼ିଶା ସରକାର ଏହିପରି ଉଦ୍ୟୋଗିକ ବାତାବରଣ ସୃଷ୍ଟିକରିବା ପାଇଁ ସତତ  
ପ୍ରୟତ୍ନଶୀଳ ।

ବିଳମ୍ବସତ୍ତ୍ୱେ ଶ୍ରମ ଦର୍ପଣର ୩ୟ ବର୍ଷ ୧ମ, ୨ମ, ୩ୟ ଓ ୪ର୍ଥ ମିଳିତ  
ସଖ୍ୟା ପ୍ରକାଶ କରାଯାଇଅଛି । ଏହି ପତ୍ରିକାଟିରେ ପ୍ରକାଶିତ ସମସ୍ତ ବିଷୟବସ୍ତୁକୁ  
ତୃପ୍ତିରହିତ କରିବା ନିମନ୍ତେ ଯଥା ସମ୍ଭବ ଚେଷ୍ଟା କରାଯାଇଛି । ଏହା ସତ୍ତ୍ୱେ ଯଦି  
କୌଣସି ତୃପ୍ତି ରହିଥାଏ ତାହା ଅନିଚ୍ଛାକୃତ ।

(ସୁଧାକର ବୁର୍ଗା)

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# ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଓଡ଼ିଶା ଭୁବନେଶ୍ୱର



## ପ୍ରତିଷ୍ଠିତ - ମେ -୧ (ଶ୍ରମିକ ଦିବସ) ୧୯୯୩

- ◆ ମୋଟ ୧୭୦ଟି ଟ୍ରେନିଂ ପ୍ରୋଗ୍ରାମ୍ କରାଯାଇ ଜାତୀୟ ଶିଶୁ ଶ୍ରମିକ ପ୍ରକଳ୍ପର ଶିକ୍ଷା ପ୍ରଶିକ୍ଷକ, ଗ୍ରାମୀଣ ଶ୍ରମ ନିରୀକ୍ଷକ, ସହକାରୀ ଶ୍ରମ ଅଧିକାରୀ, ଜିଲ୍ଲା ଶ୍ରମ ଅଧିକାରୀ, ସହକାରୀ ଶ୍ରମ କମିଶନର, ଉପଶ୍ରମ କମିଶନର, ଶ୍ରମିକ ସଂଗଠନ କାର୍ଯ୍ୟକର୍ତ୍ତା, ଶ୍ରମ ନିର୍ଦ୍ଦେଶାଳୟର ତୃତୀୟ ଓ ଚତୁର୍ଥ ଶ୍ରେଣୀ କର୍ମଚାରୀମାନଙ୍କୁ ବିଭିନ୍ନ ସମୟରେ ଶ୍ରମ ଆଇନ ଭିତ୍ତିକ ଟ୍ରେନିଂ ଦିଆଯାଇଅଛି ।
- ◆ ମୋଟ ଦୁଇଟି ସେମିନାର କରାଯାଇ ପ୍ରଶାସକ, ଶ୍ରମିକ ସଂଗଠନ ନେତା, ସାମାଜିକ ତଥା ସ୍ୱେଚ୍ଛାସେବୀ ଅନୁଷ୍ଠାନମାନଙ୍କୁ ସୁଯୋଗ ପ୍ରଦାନ କରାଯାଇଅଛି ।
- ◆ ମୋଟ ୨୩ଟି କମ୍ପ୍ୟୁଟର ଟ୍ରେନିଂ, ୪୦ଟି କର୍ମଶାଳା ଏବଂ ୧୫ଟି ଜିଲ୍ଲାସ୍ତରୀୟ ଅଭ୍ୟୁଦୟ କାର୍ଯ୍ୟକ୍ରମ/ସଚେତନତା କାର୍ଯ୍ୟକ୍ରମ କରାଯାଇଅଛି ।
- ◆ ସାରାରାଜ୍ୟରେ ମୋଟ ୪୧ଟି ଶିଶୁ ଶ୍ରମିକ ସର୍ଭେ, ୧୨ଟି ଶିଶୁ ଶ୍ରମିକ ନମୁନା ସର୍ଭେ, ୯ଟି ପ୍ରବାସୀ ଶ୍ରମିକ ସର୍ଭେ କରାଯାଇଅଛି ।
- ◆ ରାଜ୍ୟରେ ୧୯୯୯ ମହାବାତ୍ୟା ପରେ ପରେ ବାତ୍ୟା ପ୍ରଭାବିତ ୭ଟି ଜିଲ୍ଲାରେ ୬୦ଟି ଶିଶୁ ଶ୍ରମିକ ନିରୋଧ କେନ୍ଦ୍ର କରାଯାଇଥିଲା ।
- ◆ ଏକ ଶ୍ରମିଭିତ୍ତିକ ପୁସ୍ତକ ପାଠାଗାର ଭାବେ ପରିଚିତ ଲାଭ କରିଛି । ଇତି ମଧ୍ୟରେ ଏହି ସଂସ୍ଥାନ ଦ୍ୱାରା ପ୍ରକାଶିତ ପୁସ୍ତକମାନଙ୍କ ମଧ୍ୟରୁ ୧୦ଟି ନ୍ୟୁଜ୍ ଲେଟର ଏବଂ ଲେବର ରାଉଣ୍ଡ ଅପ୍, ହ୍ୟାଣ୍ଡ ବୁକ୍ ଅନ୍ ଚାଇଲ୍ଡ ଲେବର ଲ, ଶିଶୁ ପୁରାଣ ଓ ଶିଶୁ ଭାଗବତ, ପ୍ରବାସୀ ଶ୍ରମିକଙ୍କୁ ଆଇନଗତ ସୁରକ୍ଷା, ଶିଶୁ ସମ୍ପଦ ୧, ୨, ୩ ଏବଂ ୪, ଶ୍ରମ ଦର୍ପଣ-୧, ୨, ୩ ଇତ୍ୟାଦି ଅନ୍ୟତମ ପ୍ରବାସୀ ଶ୍ରମିକ ୧ ଏବଂ ୨ ।

ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ ସଦାବେଳେ ଶ୍ରମିକ ଓ ସର୍ବସାଧାରଣଙ୍କ ସେବାରେ ।

# ACTIVITIES OF STATE LABOUR INSTITUTE

## TRAINING

Inauguration of Training Programme on Gender Issue by Sri Prafulla Mallick, Hon'ble Minister, L&ESI & Chairman, SLI jointly organised by V.V.Giri National Labour Institute, NOIDA & State Labour Institute, Bhubaneswar



Training Programme on "Combating Child Labour : Role of Social Partners" jointly organised by V.V. Giri National Labour Institute, Noida & State Labour Institute, Bhubaneswar

Training Programme on "Strengthening Awareness on Labour Laws Pertaining to Women Workers" jointly organised by V.V. Giri National Labour Institute, Noida & State Labour Institute, Bhubaneswar



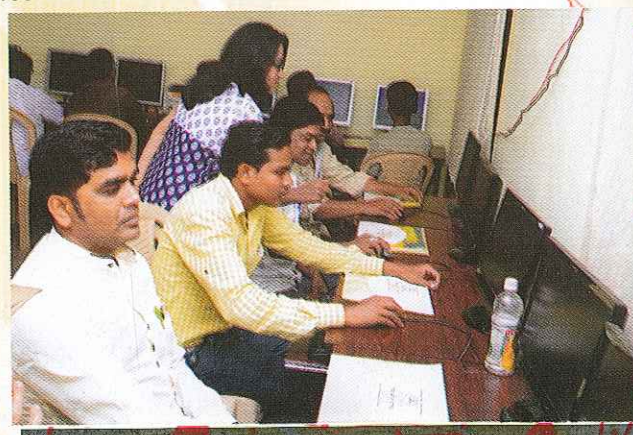
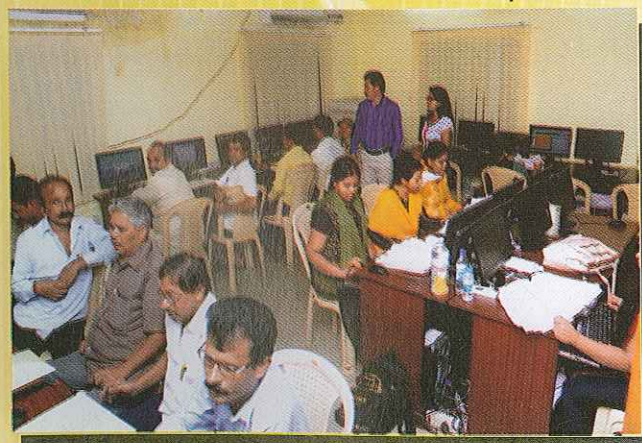
# TRAINING



Training Programme on Women SHGs Group at Berhampur, Bhanjanagar & Chatrapur of Ganjam District



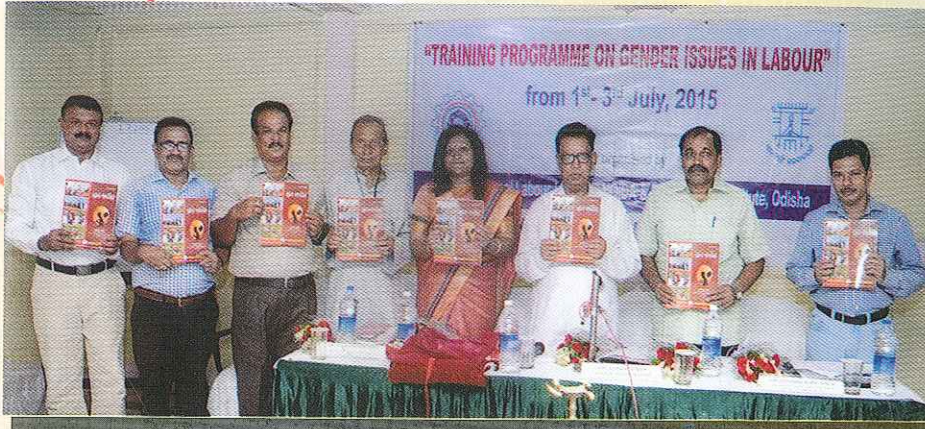
Computer Training for the Trade Union functionaries in the Computer Lab of State Labour Institute.



## PUBLICATION



Inauguration of  
**SISU SAMPAD**  
on 10th June 2015



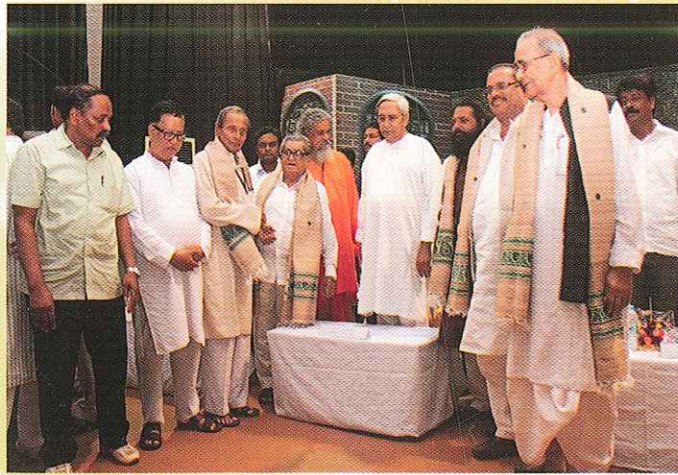
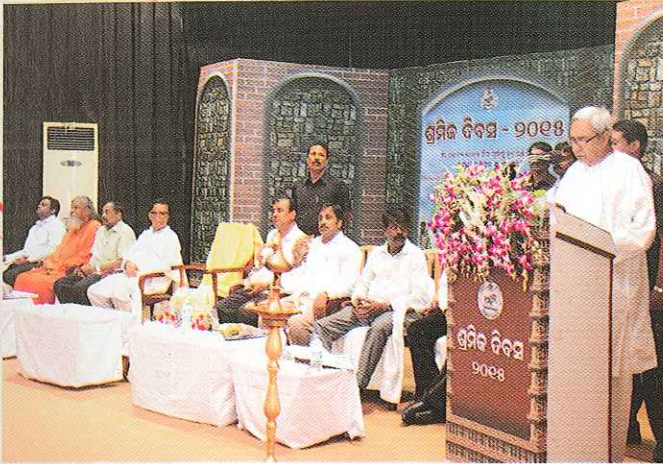
Inauguration of  
**SHRAMA DARPAN**  
1st year combined : 2nd,  
3rd & 4th Issue

Inaugural function of  
**PRABASI SHRAMIKA**  
2nd Issue



Inauguration of  
**SHRAMA DARPAN**  
2nd Year Combined: 1st,2nd,3rd  
& 4th issue 2nd issue

# BIJU SHRAMIKA BANDHU SAMMAN-2015



## GOVERNMENT OF ODISHA LABOUR & ESI DEPARTMENT

### RESOLUTION

Bhubaneswar dated the 30<sup>th</sup> May, 2015

LL-II-FM-15/2015-4870/LESI, After careful consideration, the Government of Odisha is pleased to introduce a "Voluntary Compliance Scheme for Industries & Commercial Establishments" which seeks to simplify the processes involved in implementation of labour laws while ensuring a more effective system for compliance with labour statutes.

This scheme will be implemented through the Labour & ESI Department and will apply to the various labour laws being implemented by the office of the Labour Commissioner, Odisha and its subordinate offices. This scheme aims to facilitate employers to comply with the provisions of the various labour statutes while protecting the interest of workers to create a harmonious relationship between employers, workers and the labour administration.

#### A. DETAILS OF THE SCHEME

1. This scheme will be applicable to all factories, shops, commercial establishments, motor transport establishments and other industrial establishments, except hazardous factories/establishments.
2. Any entrepreneur or employer will be free to join this scheme, on a voluntary basis.
3. This scheme will cover inspections and compliances under the following Acts and their related Rules:
  - (i) The Contract Labour (Regulation and Abolition) Act, 1970 and Rules, 1975.
  - (ii) The Equal Remuneration Act, 1976.
  - (iii) The Industrial Disputes Act, 1947
  - (iv) The Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act 1979 and Rules 1980.



- (v) The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishment) Act, 1988.
  - (vi) The Maternity Benefit Act, 1961 and Rules 1966.
  - (vii) The Minimum Wages Act, 1948 and Rules 1954.
  - (viii) The Motor Transport Workers Act, 1961 and Rules 1966
  - (ix) The Industrial Employment (Standing Order) Act, 1946.
  - (x) The Orissa Shops and Commercial Establishment Act, 1956 and Rules, 1958.
  - (xi) The Payment of Bonus Act, 1965 and Rules 1975.
  - (xii) The Payment of Gratuity Act, 1972 and Rules 1974.
  - (xiii) The Payment of Wages Act, 1936 and Rules 1936.
  - (xiv) The Sales Promotion Employees (Condition of Service) Act and Rules, 1976.
  - (xv) The Orissa Industrial Establishment (National Festival) Holidays Act, 1969.
  - (xvi) The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Central Act) and Rules, 2002.
  - (xvii) The Beedi and Cigar Workers (Condition of Employment) Act, 1966 and Rules, 1969.
  - (xviii) The Working Journalists (condition of Service) and Miscellaneous Provision Act, 1955.
4. The designated authority for this scheme will be the Labour Commissioner, Odisha or any other officer authorized by the Government in Labour & ESI Department for this purpose
5. **Procedure for joining the Scheme:-**
- a) Any employer/entrepreneur desiring to opt for this Scheme should apply to the Labour Commissioner, Odisha/designated authority with a copy to the concerned District Labour Officer of the district in the prescribed **Form-I** along with a declaration in shape of affidavit as prescribed in **Form-II**. Any discrepancies in the application or enclosure shall be communicated to the applicant within 30 days from the receipt of the application in the office of the Labour Commissioner/ designated authority. In case no discrepancy is so communicated, the applicant shall be deemed to have been enrolled under the Scheme.

- b) There is no fixed time limit to join with the Scheme. In other words, any employer can opt to join the Scheme at any time.
- c) The employer/entrepreneur joining the Scheme will have to submit a combined annual return in the prescribed **Form-III** for every calendar year, on or before the 1<sup>st</sup> of February of the succeeding year to the Labour Commissioner, Odisha/designated authority, with a copy to the District Labour Officer of the concerned district. If the return is not filed within the time-limit, a reminder will be sent to employer/entrepreneur through SMS / Email / written information and 15 days extra time will be given for filing the return.
- d) The employers/entrepreneur will have to maintain the registers prescribed under different labour laws and the same should be made available at the time of inspection.

**6. Inspection of the establishments Joining the Scheme:-**

- a) Industries / establishments covered under the Scheme will be inspected once in 3 years after giving them prior information. The selection of 30% of industries/establishments under the scheme for inspection every year would be done on random basis by the Labour Commissioner/ designated authority. The inspection conducted will be a combined inspection covering all applicable labour laws. The industries / establishments where shortcomings are noticed will be given notice to rectify the shortcomings identified within a given time-limit. If after such notice, the employer/entrepreneur fails to rectify the shortcomings, necessary legal action will be taken under the relevant labour laws.
- b) If any complaint is filed or information received about violation of labour laws by an industry/establishment covered under this Scheme, then decision will be taken at the level of the Labour Commissioner/ designated authority for additional inspection. In such cases, it will be decided by the Labour Commissioner/ designated authority as to whether such inspection will be conducted by giving prior information or not, considering the subject matter of complaint.

**7. Benefits for those establishments that prepare option of voluntary compliance scheme:-**

The industries/establishments covered under this Scheme will be inspected once in 3 years and will be exempted from excess inspections under various labour laws. The inspection will be conducted with prior intimation and the purpose of the inspection will be to provide guidance to the industry/establishment to comply with the provisions of the law.



**8. Options of quitting the Scheme :-**

- (i) If any entrepreneur or employer wants to quit the Scheme, he can do so at any time by giving one month's prior notice.
- (ii) If the compliance to a report of inspection process is pending against any industry/ establishment within the time period of the Scheme or if the investigation of a complaint is pending or in process against the said industry/establishment, then the Scheme for that industry/establishment will remain suspended till submission of the compliance report satisfactorily and/or completion of the investigation of the complaint, as the case may be.

**9. Penalty for submitting false information or violating the provision of the scheme:-**

If it is detected that any employer/entrepreneur submitted false information in the Forms>Returns filed by him, or it is found during the course of inspection that false entries have been intentionally made in the prescribed records/registers, then necessary legal action shall be taken against such employers/entrepreneurs under the provisions of law.

**10. Misceilaneous:-**

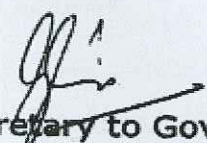
- a) The entrepreneur/employer completing 3 years successfully under the Scheme will have the option to quit the Scheme or renew it for the next 3 years.
- b) The date on which the application form is submitted by the employer, will be considered as the date of commencement of the term of the Scheme. In case there is any discrepancy pointed out by the Labour Commissioner/ designated authority, the Scheme will be applicable from the date on which the approval to the revised application is given by the Labour Commissioner/ designated authority
- c) The application for joining the Scheme along with declaration can be prepared by following officers:-
  - (i) In case of a single employer / proprietorship establishment, the employer / proprietor himself.
  - (ii) Any partner of a partnership firm or the Manager.
  - (iii) Authorized Director or Managing Director of a Company.
  - (iv) Occupier or Manager of a Factory.

This resolution shall come into effect from the date of publication in the Odisha Gazette.

Ordered that the resolution be published in Odisha Gazette and copies thereof be forwarded to all concerned.


**Enclosures: Forms- I,II and III**

By order of the Governor

  
Principal Secretary to Government

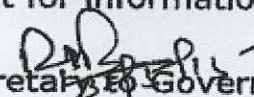
Memo No.4871/LESI, dated the 30<sup>th</sup> May, 2015

Copy forwarded to the Gazette Cell in charge, Odisha gazette Cell, C/o- Commerce Department, Odisha Secretariat, Bhubaneswar with a request to publish the above Resolution in the next issue of the Odisha Gazette and supply 100 printed copies thereof to this Department.

  
Under Secretary to Government

Memo No. 4872/LESI, dated the 30<sup>th</sup> May, 2015

Copy forwarded to all Departments of Government for information and necessary action.

  
Under Secretary to Government

Memo No.4873/LESI, dated the 30<sup>th</sup> May, 2015

Copy forwarded to P.S to Hon'ble Minister, Steel & Mines and Labour & ESI / Pr. P.S to Principal Secretary to Govt., Labour & ESI Department / All Heads of Department under the control of Labour & ESI Department / All Officers / All Sections of Labour & ESI Department for information and necessary action.

  
Under Secretary to Government

Memo No.4874/LESI, dated the 30<sup>th</sup> May, 2015

Copy forwarded to State Head Portal, IT Centre, Secretariat Building, Bhubaneswar for information and necessary action. He is requested to upload the said Resolution in this Department Website.

  
Under Secretary to Government



## Voluntary Compliance Scheme APPLICATION-FORM

To, \_\_\_\_\_  
The Labour Commissioner, District Labour Officer,  
Odisha, Bhubaneswar District: \_\_\_\_\_

**Subject: Application to join Voluntary Compliance Scheme**

The undersigned applies to join the **Voluntary Compliance Scheme** of Labour and E.S.I.Department, Government of Odisha.

**Details of our establishment are as follows:-**

- (i) Name and address of the Establishment:
- (ii) Registration No. the Establishment :
- (iii) Name of the Acts under which the Establishment is registered :
- (iv) Type of ownership : Proprietary/Partnership/Company
- (v) Details of business/work/product Of the Establishment :
- (vi) Maximum no. of workers employed During the year of application (including contract labour) :
- (vii) Name and address of the Employer(s) :
- (viii) E-mail address and Telephone no. of Employees) :
- (ix) Mobile No for sms alert :

I have read and understood all provisions of the scheme. Our/My establishment is not classified as dangerous / hazardous under section 85 of the Factories Act, 1948. I undertake to comply fully with the provisions of the scheme. I declare that the details furnished above are true to the best of my knowledge and belief.

Place: \_\_\_\_\_

Date : \_\_\_\_\_

Signature of Applicant

Name \_\_\_\_\_

Designation in Establishment

**AFFIDAVIT**

(To be filled by the Owner /Occupier/Manager on a Non judicial Stamp Paper of Rs 20/-)

I..... Son/Daughter  
of Shri.....Resident of..... and  
Owner/Occupier/Manager of M/s..... hereby declare under oath  
as follows:-

I have applied for grant of coverage unit by the name of ..... situated at  
(complete address of the unit) ..... under the "Voluntary Compliance  
Scheme for Industries & Commercial Establishments" as notified by the Labour and E.S.I.  
department, Govt. of Odisha.

1. That, after reading and understanding the terms and conditions of the "Voluntary Compliance Scheme for Industries & Commercial Establishments" initiated by Labour Department, Government of Odisha, I have applied to join the Scheme and have submitted my application in the prescribed format.
2. That, I undertake to abide by all provisions of the Scheme. I also undertake to maintain the statutory registers prescribed under different labour laws and submit the annual return prescribed under this Scheme, within the time limit prescribed.
3. That I am complying and will continue to comply with all provisions of labour laws covered under the "Voluntary Compliance Scheme for Industries & Commercial Establishments".
4. That, I promise not to make false entries in the register or returns. All details of the application submitted by me shall be deemed as part of this declaration.

Place:

(Signature)

Date :

Name of Deponent .....  
Designation in the Establishment

**Verification**

I, the above named deponent do solemnly affirm and declare on oath that the statement made above and the information furnished in my application are true to the best of my personal knowledge and belief. Nothing stated is untrue and no information has been concealed.

Place: (Signature) Date :

Name of Deponent .....

Designation in the Establishment.....



## Combined Annual Return

## General Particulars -

1(a) Name and full address of the Factory/Establishment (including Building and Other Construction of Work/Motor Transport undertakings, etc.)

	Factory / Establishment	Regd. / Administrative / Head Office
Name		
Address		
Tel:		
Fax :		
E-Mail:		
Website:		

(b) Name and Residential address of the Proprietor/Partner/ Directors / Employer/ Principal/ Employer / Occupier. (tick which ever is applicable)

Sl. No.	Name Father's Name	Designation	Residential Address	Tel/Mobile/E-mail
1	2	3	4	5

(c) Name and Residential address of the Person responsible for the day to day conduct and control of business.

Name	Residential Address	Tel/Mobile/E-mail

(d) Name and Residential address of occupier and Manager as named under the Factories Act, 1948.

Sl. No.	Name	Designation	Residential Address	Tel/Mobile/E-mail
1	2	3	4	5

2. Date of commencement of Manufacturing/Business/Establishment/ Factories/ Construction of Works.

2(A) Nature/Type of Industries/Establishments.

2(B) Particulars of Products Manufactured/Services Rendered.

Name of the product/ Services	Annual Installed capacity	Quantity Manufactured	Percentage achieved	Value
1	2	3	4	5

3. Registration and License

Registration No.

License No.

(a) Factories Act, 1948

(b) Contract Labour (R&A) Act, 1970

(c) O.S and C.E. Act, 1956

(d) ISMW (RE & CE) Act, 1979

(e) M.T.W. Act, 1961

(f) Building and Other Construction Workers (RECS) Act, 1996.

(g) Beedi and Cigar Workers (C.E) Act, 1966.

4. No. of workmen/employees directly employed

Sl. No.	Category	Male	Female	Adolescent	Child	Total
1	2	3	4	5	6	7
1	Unskilled					
2	Semi-skilled					
3	Skilled					
4	Highly skilled					
5	ITI / Diploma					
6	Degree-Engg.					
7	Executive					
8	Probationer / Trainees					



5. Particulars of employment in Factories / Establishments / Motor Transport Undertakings / Building Construction of Work, etc.

(a)

No. of person or Roll as on 1 <sup>st</sup> January	No. of Person on Roll as on 31 <sup>st</sup> December	No. of days Factory/ Establishment/ Building & Other Construction Works, etc. carried on	No. of days Factory/ Establishment/ closed	No. of mandays worked during the year	No. of man-hours worked including O.T. during the year	Total amount of salary/ wages paid including O.T. wages & allowance
1	2	3	4	5	6	7

(b) Average number of employment during the year :-

Men	Women	Adolescent	Child	Total

(c) No. of employees discharged/dissmised/terminated/retrenched/resigned or retired during the year. /.

	No. of workers				Amount of benefits paid (benefit-wise)
	Retired on superannuation	Retrenched	Discharged/ terminated/ dismissed	Paid terminal benefit	
Men					
Women					
Total					

In respect of Minimum Wages & Payment of Wages etc.

6. Particulars of deduction made from salary / wages.

	No. of Employees involved	Total Amount of deduction made
1. Fines		
2. Damages / Loss		
3. Breach of Contract		
4. Others		
5. Total		

**In respect of the Orissa Shops & Commercial Establishment Act, 1956 / Orissa Industrial Establishment (National & Festival) Holidays Act, 1969.**

**7. Particulars of earned leave with wages / National & Festival holidays with wages.**

Total No. of persons employed	No. of employees eligible for earned leave	No. of employees availed/ granted earned leave	No. of employees paid wages/ salary in lieu of earned leave	No. of person who were paid wages for the National & festival holidays (separate figure for each day may be furnished)
1. Man				(i) 26 <sup>th</sup> January
2. Woman				(ii) 1 <sup>st</sup> May
				(iii) 15 <sup>th</sup> August
				(iv) 2 <sup>nd</sup> October
				(v)
				(vi)
				(vii)
				(viii)
				<b>Total</b>

**8. Bonus paid during the year**

Name of the accounting year	Total No. of employees	No. of employees eligible for bonus	Percentage of bonus/ ex-gratia declared	Total amount of bonus/ ex-gratia paid	Date of payment
1	2	3	4	5	6

**9. Mandays lost during the year on account of:-**

Sl. No.	Reasons	No. of man-days lost	Loss in terms of money
(a)	Strike		
(b)	Lockout		
(c)	Fatal accidents		
(d)	Non-fatal but serious accidents		
(e)	Any other		
	<b>TOTAL</b>		



10. (a) Relating to Maternity benefits under the Maternity Benefit Act :-  
 (i) Total no. of women workers who worked for a period of 160 days in the last 12 months immediately preceding the date of delivery.  
 (ii) No. of women workers discharged / dismissed in the last 12 months.  
 (iii) No. of women worker for whom pre-natal confinement and post-natal confinement.  
 (iv) No. of women workers died.  
 (a) Before delivery-  
 (b) After delivery-

(b) Leave / additional leave details :-

Item	No. of women applied for leave	Leave sanctioned	Leave reject
(i) Mis-carriage			
(ii) Illness (additional leave under Section-10)			

(c) Maternity benefit paid :-

Item	No. of claim received	No. of claim sanctioned	No. of claims rejected	Total benefit paid in rupees
(i) Confinement				
(ii) Mis-carriage				
(iii) Illness				
(iv) Medical Bureaus				

Relating to Contract Labour (R&A) Act.

11. (a) Details of contractors and contractor labour engaged :-

Name & Address of the contractor / Contractors	Period of contract from / To	Nature of work / operation in which contract labour were employed Department / Section	No. of person employed				Maximum no. of contract labour employed on any day during the year	No. of days worked	No. of man days worked
			Male	Female	Adolescent	Child			

- (b) Whether the Contractors/Principle employer have/has provided ?

(i) Canteen	Yes / No
(ii) Rest Room	Yes / No
(iii) Drinking Water	Yes / No
(iv) Creche	Yes / No
(v) First Aid	Yes / No

**Relating to Building and Other Construction Workers (RE & CS) Act.**

**12. Particulars of accident that took place during the year:-**

(i)	The total No. of accident	
(ii)	The number of accidents resulting in disablement of building workers for less than 48 hours, the number of building workers involved and the number of man-days lost.	
(iii)	The number of accidents resulting in disablement of building worker beyond 48 hours, but not resulting in any permanent partial or permanent total disablement, the number of building workers involved, and the number of man-days lost on account of such accident.	
(iv)	The number of accidents resulting on permanent partial or total disablement, the number of building workers involved and the number of man-days lost on account of such accident.	
(v)	The number of accident resulting in death of building workers and the number of resultant deaths.	

**13. Inter-State Migrant Workmen (RE & CS) Act.**

**In respect of Principal Employer :-**

**(i) Details of contractors engaged in the establishment during the year.**

Sl. No.	Name & address of the Contractor	Period of Contract		Nature of work	Maximum number of workers supplied by each contractor	No. of days worked	No. of man days worked
		From	To				
1	2	3	4	5	6	7	8

**14. Beedi and Cigar Workers (condition of employment) Act:-**

**(i) Average Number of employees employed daily in the Industrial Premises :-**

Adult		Young Person	
Male	Female	Male	Female

(ii) Average monthly number of home workers employed (i.e. who work in their homes)

(iii) Number of days worked in the year in the industrial premises.

(iv) No. of employees who were granted leave during the calendar year.

Adult		Young Person	
Employed in the Industrial premises	Employed in home	Employed in the Industrial premises	Employed in home

(v) Number of female employees who were given maternity benefit during the year.

(a) employed in the Industrial Premises

(b) employed in home.



**15. Details of Gratuity given to workers during the year under the Payment of Gratuity Act.**

Sl. No.	Name of the worker	Employment No.	Superannuation / retrenchment	Period of service (years and days)	Last monthly wages drawn (Rs.)	Gratuity paid. (Rs.)	If not paid, the reasons
1	2	3	4	5	6	7	8

**16. The Sales Promotion Employees (conditions of service) Act.**

Sl. No.	No. of sales promotion employees employed			No. of sales promotion employees furnished with letter of appointment	Details of leave granted to the Sales promotion employees
	Permanent	Temporary	Probationer/Trainee		
1	2	3	4	5	6

**17. The Working Journalists and other News paper Employees (conditions of Service) and Miscellaneous Provisions Act, 1955:**

1. No. of Working Journalists :- Whole time \_\_\_\_\_ Part time \_\_\_\_\_
2. No. of non Journalist News Paper employees :
3. Whether the recommendations of the Wage Boards have been implemented ?:- Yes/No
4. If yes, whether fully or partially implemented ?
5. No. of complaints filed u/s.17 of the Act.

**18. Details of Works Committee and/or Grievance Redressal Committee under the Industrial Dispute, Act, 1947 (wherever applicable)**

1. Whether Works Committee and/or Grievance Redressal Committee has/have been functioning ?  
If yes :-
  - (a) Date of constitution of the committee(s):-
  - (b) No. of representative of the workmen :-
  - (c) No. of representatives of the employer :-
  - (d) Number of meetings held during the year :
2. Name of the Trade Union(s) functioning in the establishment.

19. Details of certification of Standing Orders under the Industrial Employment (Standing Orders) Act, 1946 (wherever applicable):-

1. Whether the Standing Orders adopted in the establishment has been certified ?
2. If not, whether draft Standing Orders has been submitted to the Certifying Officer within prescribed time limit ?

Digital Signature / Signature of the Employer / Manager \_\_\_\_\_

Place:

Date:

Name of the signatory \_\_\_\_\_

Designation in the establishment \_\_\_\_\_

# STOP CHILD LABOUR

## ଶିଶୁ ଶ୍ରମିକ ପ୍ରଥା ଏକ ସାମାଜିକ କଳଙ୍କ

- ୧୪ ବର୍ଷରୁ କମ୍ ବୟସର ଶିଶୁଙ୍କ ବିପଦପୂର୍ଣ୍ଣ କାର୍ଯ୍ୟରେ ନିୟୋଜିତ କରିବା ଏକ ଦଣ୍ଡନୀୟ ଅପରାଧ ।
- ଏଥିପାଇଁ ୨ ବର୍ଷ ଜେଲଦଣ୍ଡ ଏବଂ ୨୦ ହଜାର ଟଙ୍କା ପର୍ଯ୍ୟନ୍ତ ଜୋରିମାନା ହୋଇପାରେ ।
- ଆସନ୍ତୁ ମିଳିମିଶି ଶିଶୁ ଶ୍ରମିକ ପ୍ରଥାକୁ ବନ୍ଦ କରିବା ।



# The Odisha Gazette

EXTRAORDINARY PUBLISHED BY

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No. 1566, CUTTACK, MONDAY, NOVEMBER 16, 2015 KARTIKA 25, 1937

No. 9626-LL-I (III)-57/2015/L&ESI.

LABOUR & EMPLOYEES' STATE INSURANCE DEPARTMENT

RESOLUTION

The 7th November, 2015

**Subject: Guidelines of "Nirman Shramik Pucca Ghar Yojana (NSPGY)" for rural areas.**

**1. Background and Approach:**

Housing is a fundamental human need. It is a basic requirement for human survival as well as for a decent life. To meet the housing needs of building and other construction workers registered under the Odisha Building & Other Construction Workers' Welfare Board, who do not have their own pucca house and who have not availed of housing assistance under any other Government scheme (of the State or Central Governments), this Scheme called "Nirman Shramik Pucca Ghar Yojana (NSPGY)" has been launched.

**2. Components of the Scheme:**

**"Nirman Shramik Pucca Ghar Yojana (NSPGY)" has the following components:—** Construction of new pucca house for registered building workers/ families, who do not have their own pucca house and who have not availed of housing assistance under any other Government schemes (of the State or Central Governments). A new house means a house constructed with a minimum built up area of at least 25 Sq. Mtrs. excluding the toilet. The beneficiary should be encouraged to build toilets in the pucca house. A pucca house means that it should be able to withstand normal wear & tear due to usage and natural forces including climatic conditions. It should have RCC foundation, wall of fly ash bricks/ burnt bricks / stones (Packed with lime or cement)/ cement concrete, etc. and RCC roof. The expected life of the structure must be a minimum of 30 years.

**3. Funding Pattern:**

- 3.1 "Nirman Shramik Pucca Ghar Yojana (NSPGY)" is a scheme purely funded by the Odisha Building & Other Construction Workers' Welfare Board with an annual budgetary outlay to be decided by the Board for each financial year, which is subject to revision from time to time.
- 3.2 For this purpose, the Board shall prepare a budget for each financial year, at its discretion, and release funds to the Panchayati Raj Department up to the financial limit fixed for that year. The Panchayati Raj Department will release the funds to the districts, in the pattern of Biju Pucca Ghar Yojana (BPGY).

4. **Unit Cost:**  
The unit cost under "Nirman Shramik Pucca Ghar Yojana (NSPGY)" for new construction of dwelling house is Rs. 1,00,000/- (Rupees One Lakh) only. This can be revised by the State Government from time to time.
5. **Target Group and Eligibility Criteria:**
- 5.1 A building worker between the age of 18 years and 60 years having existing valid registration with the Odisha Building and Other Construction Workers' Welfare Board under the Building and Other Construction Workers (RE&CS) Act at least for a continuous period of 5 years will be eligible for assistance under the "Nirman Shramik Pucca Ghar Yojana".
- 5.2 This assistance will be available only to the registered beneficiary, who does not have own pucca house and who has not availed of housing assistance under any other Government Scheme (of the State or Central Governments).
- 5.3 A family will be considered as a unit for this assistance. Family means the husband or wife and minor sons and unmarried daughters of the building workers and the parents solely dependent on him/ her. Once this assistance has been availed by a member of a family, no other family member can claim separate assistance under this scheme, even if he/ she is registered as a beneficiary under the Odisha Building and Other Construction Workers' Welfare Board.
- 5.4 The house should be constructed over own land of the beneficiary or his/her family member. Steps shall be taken to provide homestead land to the landless beneficiary or any of his/her family members under the existing schemes of the Govt. to enable them to avail of the assistance. Under no circumstances should the house be built on encroached land.
- 5.5 The beneficiary families those who have already availed, been allotted or been selected as beneficiary for housing assistance under any other Govt. Scheme (of the State or Central Govt.) will be excluded from availing assistance under this scheme.
6. **Setting of Target:**
- 6.1 The Physical Targets for each district will be set by the Board annually in proportion to the number of registered construction workers of a particular district, who have been validly registered with the Board for at least a continuous period of 5 years. This information will be collected from the District Labour Officers.
- 6.2 The Physical Targets for each district will be set by the Board and communicated to the districts, Labour & ESI Department and Panchayati Raj Department at the beginning of each financial year.
- 6.3 The District Level Monitoring Committee on Labour (DLMC) will distribute the physical target among Blocks, as per availability of eligible beneficiary families.
- 6.4 On recommendation by the DLMC, the Board may modify the physical target for the district, during the financial year.
- 6.5 The Financial Allocation will be made district wise as per the Physical Target and Unit Cost.
7. **Selection Procedure:**
- 7.1 The beneficiary family will submit an application with his/her family details in the prescribed



pro forma in Form-A to the concerned District Labour Officer. The District Labour Officer will scrutinise the applications of the beneficiaries between the age of 18 years and 60 years having existing valid registration with the Odisha Building and Other Construction Workers' Welfare Board at least for a continuous period of 5 years and submit it to the DLMC. The DLMC will discuss the same and will cause enquiry into each case through field functionaries of the Panchayati Raj Department to ascertain whether these beneficiary families meet the eligibility criteria spelt out under point 5 of these guidelines. The Collector will also cause verification of the beneficiary data as per SECC 2011 data (as updated from time to time), to verify the eligibility of the beneficiaries.

- 7.2 After field enquiry into eligibility and verification of SECC data, the DLMC will finalise the Block-wise list of eligible construction workers for the district. This list will be prepared in order of priority, keeping the workers who were registered earlier at the top of the list and those registered later, lower down in the list.
- 7.3 In case the number of eligible beneficiaries exceeds the physical target set for the district for that financial year, the DLMC will keep the excess beneficiaries in the "Nirman Shramik Pucca Ghar Yojana (NSPGY)" waiting list and communicate the same to the O. B. & OCWW Board. If sufficient number of eligible beneficiaries is not available in the district as per physical target set, then the DLMC will communicate the same to the Board for diversion of excess target to other districts.
- 7.4 The final list will be communicated to the Board and published by the Collector at the concerned Gram Panchayat, Panchayat Samiti & Website of DRDA and O. B. & OCWW Board for information of the general public.
- 7.5 The BDOs will issue work orders from the approved list.
- 7.6 This exercise of preparing the annual list of beneficiaries under "Nirman Shramik Pucca Ghar Yojana (NSPGY)" will follow the following time schedule.

Sl. No. (1)	Activities (2)	Time Line (3)	Responsibility (4)
1	Receiving applications from beneficiary family.	By 1 <sup>st</sup> December	Beneficiary
2	Submission of list of applicant beneficiaries having existing valid registration of 5 years to the Board, L&ESI Deptt. and P.R. Department.	By 15 <sup>th</sup> December	District Labour Officer
3	Setting of Target for the district.	By 15 <sup>th</sup> January	O.B.&OCWW Board.
4	Completion of Field enquiry on eligibility and verification of SECC data of beneficiaries.	By 5 <sup>th</sup> March	Collector
5	Finalisation of Beneficiary family list by DLMC.	By 20 <sup>m</sup> March	DLMC
6	Publication of final list of beneficiaries in Gram Panchayat, Panchayat Samiti and website.	By 5 <sup>th</sup> April	Collector
7	Issuance of Work Orders	By 15 <sup>th</sup> April	BDO

- 8.2 The Panchayati Raj Department will open a bank account in the name of "Nirman Shramik Pucca Ghar Yojana" in Bhubaneswar and the O.B.& OCWW Board will credit the required amount to that account.
- 8.3 All payment will be made to the beneficiaries through e-transfer using the Direct Account Transfer/ NEFT/RTGS/Electronic Fund Management System (eFMS) platform.
- 8.4 There shall be separate A/c at DRDA/ Block level in a public Sector Bank/Nationalized Bank/ Government Bank allowed to handle Government business for any expenditure incurred at their level.
- 8.5 The interest accrued on deposit of "Nirman Shramik Pucca Ghar Yojana (NSPGY)" fund shall be treated as part of "Nirman Shramik Pucca Ghar Yojana (NSPGY)" fund and will be utilized for the scheme only.
- 8.6 All such Accounts will be audited by AG, Odisha/ GAG/ CA Firm of the Board.
- 8.7 The Block shall be the Implementing Agency.
- 8.8 Over all supervision will be made by Collectors/PD, DRDA.
- 8.9 Government may also make direct credit to the accounts of beneficiaries through centralized account at State/District level using the e-FMS.
9. Strategy for Implementation:
  - 9.1 Houses under "Nirman Shramik Pucca Ghar Yojana (NSPGY)" shall be constructed by the beneficiaries themselves.
  - 9.2 Panchayat Samities will be the Implementing Agencies for "Nirman Shramik Pucca Ghar Yojana (NSPGY)" under the control, direction and supervision of the District Level Monitoring Committee on Labour (DLMC).
  - 9.3 The layout, size and type of design of the "Nirman Shramik Pucca Ghar Yojana (NSPGY)" Dwelling Units shall be as per the preference of the beneficiary.
  - 9.4 The dwelling house under "Nirman Shramik Pucca Ghar Yojana (NSPGY)" shall be on individual plots of the beneficiary or on the plot of any of his/her family members subject to submission of no objection certificate by the land owner.
  - 9.5 ABDO / JE / GPTA / GPEO / PA / PEO in-charge of concerned GP / any such officer in charge of concerned Ward will supervise construction / completion of houses. He / She will also render necessary technical assistance if required by the beneficiary.
  - 9.6 Release of funds to beneficiary will be as per stages of construction. Release of funds will be made to the beneficiary after eye estimation and spot verification of ABDO/ JE/GPTA/ GPEO/ PA/PEO.
  - 9.7 The release of instalments will be linked to the level of construction reached. The number and amounts of instalments may be revised by the Government from time-to-time. At present, the release of instalment will be as follows:



INSTALMENT	LEVEL	AMOUNT (IN RS.)
1st installment	On the date of issuance of work order	20,000
2nd installment	On completion up to the plinth level	30,000
3rd installment	On completion up to roof level	30,000
4th installment	After completion of the house in all respect including the sanitary latrine and beneficiary starts living in the house	20,000
Total		1,00,000

- 9.8 The 2nd and 3rd instalments will be credited to beneficiary account by the BDO within a week of receipt of the report of the eye estimation, spot verification and photographic evidence of stage of construction by the ABDO/ AE/ JE/ GPTA/ GPEO/ PA/ PEO/ other field level functionary.
- 9.9 On completion, the beneficiary will fix a Display Board in the front-wall of the house indicating name of the Scheme, name of the beneficiaries, year of sanction, amount spent and unit cost, after which the 4th instalment will be released.
- 9.10 In addition, the beneficiaries may avail benefits like convergence with IHHL under SBM, potable drinking water supply system, Electrification under DDUGVY / BGJY, Unskilled wages and Land Development under MGNREGS, Social Security under AABY/ RSBY, if they are eligible for assistance as per the respective schemes.
- 9.11 The fund under the Scheme shall be credited to the beneficiary account through Direct Account Transfer/ NEFT/RTGS/ Electronic Fund Management System (e-FMS), No other form of payment to the beneficiaries will be made under the Scheme.

**10. Construction of House:**

The houses under NSPGY will be ordinarily completed within a year from the date of issuance of Work Orders.

**11. Monitoring:**

- 11.1 Chairman, DLMC will ensure proper implementation of the Scheme.
- 11.2 PD, DRDA will be personally responsible at District Level and BDO at Block Level.
- 11.3 BDOs at Block Level will inspect at least 10% of houses under construction.
- 11.4 District Level Officers will inspect at least 1 % of houses.
- 11.5 APD (RH) will inspect 10% of the houses of the District.
- 11.6 Aawaas Soft and Dashboard Monitoring System of Panchayati Raj Department will be used as the key monitoring tool for review of the Nirman Shramik Pucca Ghar Scheme.
- 11.7 BDOs will ensure timely updating of Aawaas Soft.

- 11.8 Standard / Model Work Order issuance form may be used which has been circulated by the Panchayati Raj Department vide letter No. 24031, dated the 25th September, 2013 with due modification and it may spell out all other entitlement of beneficiary in addition to housing assistance.
- 11.9 Each month PD, DRDA will submit Physical and Financial Progress to MIS Section of the Panchayati Raj Department and to the Board.
- 12. Administrative Contingency:**  
Four percent of the allocated funds under the scheme can be utilised for administering the scheme at State, District and Block Level. Eligible items of expenditure under administrative expenses will be as per the Biju Pucca Ghar Yojana (BPGY) Guidelines.
- 13. Convergence & Innovation:**  
Districts can implement innovative methodology/technology and make convergence with other schemes with prior approval of Panchayati Raj Department.
- 14. Miscellaneous:**
- 14.1 Any provision that has not been explicitly spelt out in this Guideline will *mutatis mutandis* be as per the Biju Pucca Ghar Yojana (BPGY) Guidelines.
- 14.2 Any beneficiary allotted with a house under "Nirman Shramik Pucca Ghar Yojana (NSPGY)" whose house was fully collapsed / washed away / fully damaged due to land slide / elephant menace / earthquake / flood or cyclone, will be eligible to get another "Nirman Shramik Pucca Ghar (NSPG)" house.
- 14.3 Labour & ESI Department of Govt. of Odisha shall be the Administrative Department for "Nirman Shramik Pucca Ghar Yojana (NSPGY)" scheme. The funds for this scheme will be released by the O.B. & OCWW Board and the execution/ implementation of the scheme will be carried out by the Panchayati Raj Department.
- 14.4 Labour & ESI Department and Panchayati Raj Department shall be responsible for clarifying doubts, if any, and ensure that bottlenecks in the implementation of the scheme are removed as expeditiously as possible and communicated to all concerned as and when required.
- 14.5 This will be given effect from the date of its issue.

#### ORDER

It is ordered that this Resolution be published in the Extraordinary Gazette of the Government of Odisha for the general information and copy be communicated to all the Departments of Government/ Heads of Departments and other concerned.

By order of the Governor **G. SRINIVAS**  
Principal Secretary to Government



ଂମ ଦର୍ପଣ

Form-A

**APPLICATION FOR GRANT OF HOUSING ASSISTANCE TO THE BENEFICIARY OR HIS/HER FAMILY UNDER THE ODISHA BUILDING & OTHER CONSTRUCTION WORKERS' WELFARE BOARD UNDER NIRMAN SHRAMIK PUCCA GHAR YOJANA**

To

The Member Secretary,  
Odisha Building & Other Construction Workers' Welfare Board,  
Bhubaneswar.

Attach two recent passport size photographs

1.	(a)	Name of the applicant	:			
	(b)	Sex	:			
	(c)	Marital status	:			
	(d)	Date of Birth/ Age (In years, months and days)	:			
	(e)	Name of the father/ husband	:			
	(f)	Permanent address	:			
	(g)	Present address	:			
2.	(a)	Beneficiary Registration No. (Photocopy of the Identity Card to be enclosed)	:			
	(b)	Date of registration	:			
	(c)	Details of remittance of Annual Contribution (Photocopy of the money receipts to be enclosed)	:			
	(d)	Whether the membership has ever been revived. If so details	:			
	(e)	Details of revival	:			
3.	Details of family members:-					
	Sl. No.	Name	Date of Birth / Age	Relation with the applicant	If, registered under O.B.& OCWWB, Beneficiary Regd. No. with date	Period of continuous registration
[Photograph alongwith photocopy of the photo Identity Card / Aadhaar Card/ BPL Card/ Antodaya Card/ NFS Card, beneficiary Identity Card of each family member (whichever is available) to be enclosed]						
4.	Whether the applicant or his/ her family members have any pucca house of his own (If yes, give details)			:		
5.	Whether the applicant or his/ her family members have earlier received housing assistance from this Board (If yes, give details)			:		
6.	Whether the applicant has availed/ allotted/ selected as beneficiary for housing assistance under any Govt. scheme (If yes, give details)			:		

7.	Whether his/ her family member has availed/ allotted/ selected as beneficiary for housing assistance under any Govt. scheme (If yes, give details)	:	
8.	Bank Account details of the applicant ( photo copy of the First page of the Bank Passbook to be enclosed)	:	
	(a) Account No.	:	
	(b) Name of the Bank with Branch	:	
	(c) IFSC Code of the Bank	:	
9.	Details of land property on which the house is proposed to be constructed: ( photo copy of land patta to be enclosed)	:	
	(a) Panchayat / Town	:	
	(b) Village	:	
	(c) Taluk	:	
	(d) District	:	
	(e) Area	:	
	(f) Survey No.	:	
	(g) Valuation of the Land	:	

**DECLARATION**

**I. By the applicant**

1. I certify that-

- i. None of my family member is a beneficiary under the Odisha Building & Other Construction Workers' Welfare Board// my wife/ husband/ son/ daughter/ father / mother, who is a beneficiary under the Odisha Building & Other Construction Workers' Welfare Board, has not applied for and/ or not obtained an assistance under this Scheme.
- ii. Neither I nor any of my family members have applied/ availed/ allotted/ selected as beneficiary for housing assistance under any Govt. Housing Scheme established by any State Govt. or the Central Government.

2. I do hereby solemnly declare that the facts mentioned above are true to the best of my knowledge and belief. In case, any information submitted by me is found wrong, I shall be liable to refund the assistance received, along with interest thereon to the Board immediately.

Place :

Date :

Signature/ Thumb impression of the applicant.

**II. By the family members:**

We, the family members of Sri/ Smt. .... do hereby declare that the facts mentioned above are true to the best of our knowledge and belief. We have no objection, if the assistance is given to Sri/ Smt. .... and we will not claim for this assistance in future. .

Sl. No.	Name	Relationship with the applicant	Signature/ Thumb impression of the family members of the applicant.



**भारत का राजपत्र**  
**The Gazette of India**

असाधारण  
EXTRAORDINARY  
भाग II — खण्ड 1  
PART II — Section 1  
पाधिकार स पकाशित

PUBLISHED BY AUTHORITY

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No. 6] NEW DELHI, FRIDAY, JANUARY 1, 2016/PAUSHA 11, 1937 (SAKA)

इस भाग म भिन्न पष्ठ सख्या दो जाती ह जिसस कि यह अलग सकलन क रूप म रखा जा सक।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

**MINISTRY OF LAW AND JUSTICE**  
(Legislative Department)

New Delhi, the 1st January, 2016/Pausha 11, 1937 (Saka)

The following Act of Parliament received the assent of the President on the 31st December, 2015, and is hereby published for general information:—

**THE PAYMENT OF BONUS (AMENDMENT) ACT, 2015**

No. 6 OF 2016

[31st December, 2015.]

An Act further to amend the Payment of Bonus Act, 1965.

Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Bonus (Amendment) Act, 2015.

(2) It shall be deemed to have come into force on the 1st day of April, 2014.

2. In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words "ten thousand rupees", the words "twenty-one thousand rupees" shall be substituted.

3. In section 12 of the principal Act,—

(i) for the words "three thousand and five hundred rupees" at both the places where they occur, the words "seven thousand rupees or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher" shall respectively be substituted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—For the purposes of this section, the expression "scheduled employment" shall have the same meaning as assigned to it in clause (g) of section 2 of the Minimum Wages Act, 1948.

Amendment of section 38.

4. In section 38 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the provisions of this Act."

Short title and commencement

Amendment of section 2.

Amendment of section 12.

11 of 1948.

DR. G. NARAYANARAJU,  
Secretary to the Govt. of India.

The Odisha



Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

No. 1567, CUTTACK, MONDAY, NOVEMBER 16, 2015/ KARTIKA 25, 1937

**LABOUR & EMPLOYEES' STATE INSURANCE DEPARTMENT**

**NOTIFICATION**

The 9th November, 2015

**S.R.O. No.542/2015**— Whereas certain proposals to revise the minimum price-rate of wages in respect of 15 (fifteen) Scheduled employments specified in Column (2) of Annexure-I and II of that Schedule, payable to the employees employed in the employment specified against each in column (3) thereof, for the whole State of Odisha were published, as required by clause (b) of sub-section (1) of Section 5 of the Minimum Wages Act, 1948 (11 of 1948), in the Extraordinary issue No.1145 of the Odisha Gazette dated the 1st August, 2015 under the notification of the Government of Odisha in the Labour & ESI Department No.6756-LL-I (111)39/15/LESI., dated the 31st July, 2015 for information of all persons likely to be affected thereby within a period of two months from the date of publication of the said notification in the Odisha Gazette'.

And, whereas, no objections or suggestions have received during the period so specified in respect of the said proposal by the State Government;

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) and clause (b) of sub-section (2) of Section 3 read with sub-section (2) of Section 5 of the said Act, the State Government do hereby revise the minimum piece-rate of wages, from the amount specified in column (4) of the Schedule hereto annexed in respect of items specified against each in column (3) of the said Schedule to the amount specified in column (6) thereof, payable to the employees employed in the employment specified in column (2) thereof, for the whole State of Odisha with effect from the date of publication of this notification in the Odisha Gazette.



SCHEDULE

ANNEXURE-I

Revised Minimum rate of wages for price rated employments

Sl. No.	Name of the Scheduled Employment	Name and Quantum of work concerning	Existing rate of wages in Rs. w.e.f. 17.12.2014	Percentage of hike @ 33.3% in Rs. (Col.4x1/3)	Revised rate of wages in Rs. ( Col.4+ Col. 5)	
(1)	(2)	(3)	(4)	(5)	(6)	
1	Saw Mills	<b>1.Truck&gt;Loading</b>				
		(a) Log loading girth (30 cm to 105 cm)	478.25	159.42	637.67 Per truck	
		(b) Log loading girth (117cm to 150 cm)	667.54	222.51	890.05 Per truck	
		(c) Log loading girth (153 cm)	834.32	278.11	1112.43 Per truck	
		(d) Bolly/Fair wood load	384	128.00	512.00 Per truck	
		<b>2.Truck Unloading</b>				
		(a)Round Timber	144.7	48.23	192.93 Per truck	
		(b)Size on Sawn Timber	188.7	62.90	251.60 Per truck	
		<b>3.Stacking</b>				
		(a)Log stacking	4.86	1.62	6.48 per piece	
(b)Bolly stacking	3.9	1.30	5.20 per piece			
2	Timber trading (including falling and swaing)	<b>1.Truck Loading</b>		0.00	0.00	
		(a) Log loading girth (30 cm to 105 cm)	478.25	159.42	637.67 Per truck	
		(b) Log loading girth (117cm to 150 cm)	667.54	222.51	890.05 Per truck	
		(c) Log loading girth (150 cm and above)	832.32	277.44	1109.76 Per truck	
		(d) Bolly/Fair wood load	384	128.00	512.00 Per truck	
		<b>2.Truck Unloading</b>				
		(a)Round Timber	144.7	48.23	192.93 Per truck	
		(b)Size on Sawn Timber	188.52	62.84	251.36 Per truck	
		<b>3.Stacking</b>				
		(a)Log stacking	5.06	1.69	6.75 per piece	
(b)Bolly stacking	3.89	1.30	5.19 per piece			
3	Timber trading (excluding falling and sawing)	<b>1.Truck Loading</b>				
		(a) Log loading girth (30 cm to 105 cm)	478.25	159.42	637.67 Per truck	
		(b) Log loading girth (117cm to 150 cm)	667.54	222.51	890.05 Per truck	
		(c) Log loading girth (150 cm and above)	834.32	278.11	1112.43 Per truck	
		(d) Bolly/Fair wood load	384	128.00	512.00 Per truck	
		<b>2.Truck Unloading</b>				
		(a)Round Timber	144.69	48.23	192.92 Per truck	
		(b)Size on Sawn Timber	188.52	62.84	251.36 Per truck	
		<b>3.Stacking</b>				
		(a)Log stacking	5.06	1.69	6.75 per piece	
(b)Bolly stacking	3.89	1.30	5.19 per piece			

(1)	(2)	(3)	(4)	(5)	(6)
4	Tiles and Brick making	<b>1. Brick making</b>			
		(a) Mixing of clay, moulding and supply of 1000 raw bricks of standard size.	465.47	155.16	620.63
		(b) Loading and firing of 1000 bricks into kin within a distance of 50 metres.	122.57	40.86	163.43
		(c) Unloading of 1000 bricks from the furnace and stacking within a distance of 50 metres.	58.96	19.65	78.61
5	Oil Mills	1. Loading of 100 bags of 75 Kgs each	343.07	114.36	457.43
		2. Unloading of 100 bags of 75 kgs each	343.07	114.36	457.43
		3. Bagging of 100 bags of 75 kgs each	343.07	114.36	457.43
		4. Weighting of 100 bags of 75 kgs each	245.14	81.71	326.85
		5. Stalking of 100 bags of 75 kgs each	245.14	81.71	326.85
		6. Sewing of 100 bags of 75 kgs each	245.14	81.71	326.85
		7. Welding of 100 bags of 75 kgs each	367.74	122.58	490.32
		8. Unloading/Loading of 100 full tins of 16 kgs each	195.9	65.30	261.20
		9. Unloading/Loading of 100 empty tins	24.43	8.14	32.57
		10. Full cake bags loading / unloading	343.07	114.36	457.43
		11. Gunnybag loading/unloading of bundles each containing 50kgs	122.57	40.86	163.43
		12. Husk loading/Unloading per truck	195.9	65.30	261.20
6	Salt Pans	1. Manufacture of Salt	1984.84	661.61	2646.45 per gadisa comprising of 60 bags of 70 kgs. each
		2. Loading and Unloading	343.07	114.36	457.43 per 100 of 75 kgs. each
7	Construction or maintenance of roads or building operations	1.(a) Drilling hole 2.5cm. to 4 cm dia in granite rock	392.17	130.72	522.89 per running metre
		(b) Drilling hole 2.5cm to 4 cm dia in rock other than granite	318.47	106.16	424.63 per running metre
		(c) Cutting in soft disintegrated rock removed by pick axes and crow bars within 50 metres initial lead and 1.5 metre initial lift.	15290.54	5096.85	20387.39 per 100 cum
		(d) Earthwork in ordinary soil within 50m initial lead and 1.5m initial lift including rough dressing and breaking clods to minimum 5 cm to 7 cm and laying in layers not exceeding 0.30 in depth.	4489.3	1496.43	5985.73 per 100 cum
		(e) Earthwork in hard soil or gravelly soils within 50m initial lead and 1.5m initial lift including rough dressing and breaking clods to minimum 5 cm to 7 cm and laying in layers not exceeding 0.30 in depth.	6033.06	2011.02	8044.08 per 100 cum



(1)	(2)	(3)	(4)	(5)	(6)
		(f)Earthwork in stony earth and gravels mixed with stone and boulders not exceeding 0.014cum. In volume with 50m. initial lift including rough dressing and breaking clods to minimum 5 cm to 7 cm and laying in layers not exceeding 0.30 in depth.	9489.95	3163.32	12653.27 per 100 cum
		(g)Earthwork in slusy soil in water upto 0.6m depth requiring the aid of pan vessels within 50m initial lead and 1.5m. initial lift.	6175.03	2058.34	8233.37 per 100 cum
		<b>2.Loading and Unloading</b>			
		(a)Loading into and unloading from trucks and stacking as directed within 50m. lead.	4.27	1.42	5.69 per quintal
		(b)Loading in trucks, unloading from trucks except sand, granite, chips, metals and wood as directed within 50m. lead.	34.12	11.37	45.49 per cum
		(c)Loading in trucks, unloading from trucks sand, granite, chips, metals and wood within 50m. lead.	34.12	11.37	45.49 per cum
		(d)Load and unloading from trucks bulk materials such as home pipes etc. as directed within 50 m. Lead.	41.52	13.84	55.36 per cum
		(e)Unloading from wagons 1m clear of rails in platform for cement, coal, AC sheet, Tarphet paints etc. within 15m. lead.	3.48	1.16	4.64 per quintal
		(f)Unloading from Railway wagons, loading in trucks and unloading and stacking at the godown within 15m lead.	9.69	3.23	12.92 per quintal
		<b>3.Conveyance by head loads:</b>			
		(i)Bajri, Gravel, Stone, Sand etc. upto 50m.	11.65	3.88	15.53 per every cum
		(ii)Bajri, Gravel, Stone, Sand etc. upto 100 m.	19.56	6.52	26.08 per every cum
		(iii)Bajri, Gravel, Stone, Sand etc. upto 150 m.	34.91	11.64	46.55 per every cum
		<b>4. Conveyance of heavy materials by sangimullas within 100m.</b>	Add 50% extra over the above rate		
8	<b>Stone Breaking and Stone Crushing.</b>	<b>1.Stone Breaking or Stone Crushing.</b>			
		(a)Granite Stone Broken metal 5cm size crusher.	441.04	147.01	588.05 C.B.
			392.14	130.71	522.85 H.B. per cum
		(b)Granite Stone Broken metal 4cm size crusher.	490.08	163.36	653.44 C.B.
			421.4	140.47	561.87 H.B. per cum
		(c)Granite Stone Broken metal to 2.5cm size.	784.29	261.43	1045.72 C.B..
			710.58	236.86	947.44H.B. per cum
		(d)Granite Stone Broken metal to 2cm size.	906.47	302.16	1208.63 C.B.
			808.72	269.57	1078.29 H.B. per cum
		(e)Granite Stone Broken metal to 12mm size.	980.18	326.73	1306.91 C.B.
			882.04	294.01	1176.05 H.B. per cum
		(f)Granite Stone Broken metal to 6 mm size.	1029.04	343.01	1372.05

(1)	(2)	(3)	(4)	(5)	(6)
		(g)Stone other than Granite Broken to 5cm size.	195.9	65.30	261.20 per cum
		(h)Stone other than Granite Broken to 4cm size.	220.5	73.50	294.00 per cum
		(i)Stone other than Granite Broken to 1.5cm size.	269.57	89.86	359.43 per cum
		(j)Stone other than Granite Broken to 2 cm size.	314.81	104.94	419.75 per cum
		(k)Stone boulder 15cm and above other than Granite.	112.89	37.63	150.52 per cum
		(l)Stone boulder 15cm and above other than Granite.	112.89	37.63	150.52 per cum
		<b>2.Loading and Unloading</b>			
		(a>Loading into and unloading from trucks and stacking as directed within 50m. lead.	4.27	1.42	5.69 per quintal
		(b>Loading in trucks, unloading from trucks except sand, granite, chips, metals and wood as directed within 50m. lead.	34.35	11.45	45.80 per cum
		(c>Loading in trucks, unloading from trucks sand, granite, chips, metals and wood within 50m. lead.	34.35	11.45	45.80 per cum
		(d)Load and unloading from trucks bulk materials such as home pipes etc. as directed within 50. Lead.	41.52	13.84	55.36 per cum
		(e)Unloading from wagons 1m. clear of rails in platform for cement, coal, AC sheet, Tarphet paints etc. within 15m. lead.	3.48	1.16	4.64 per quintal
		(f)Unloading from Railway wagons, loading in trucks and unloading and stacking at the godown within 15m. lead.	9.69	3.23	12.92 per quintal
		<b>3.Conveyance by head loads:</b>			
		(i)Bajri, Gravel, Stone, Sand etc. upto 50m.	11.65	3.88	15.53 per every cum
		(ii) Bajri, Gravel, Stone, Sand etc. upto 100m.	19.61	6.54	26.15 per every cum
		(iii) Bajri, Gravel, Stone, Sand etc. upto 150m.	38.21	12.74	50.95 per every cum
		<b>4. Conveyance of heavy materials by sangimullas within 100m.</b>	Add 50% extra over the above rate		
9	Construction maintenance of dams and embankments irrigation projects and sinking of wells and tanks.	1.(a) Drilling hole 2.5 cm to 4cm dia in granite rock	392.17	130.72	522.89 per running metre
		(b) Drilling hole 2.5 cm to 4 cm dia in rock other than granite	318.47	106.16	424.63 per running metre
		(c) Cutting in soft disintegrated rock removed by pick axes and crow bars within 50 metres initial lead and 1.5 metre initial lift.	15290.54	5096.85	20387.39 per 100 cum
		(d) Earthwork in ordinary soil within 50m. initial lead and 1.5m initial lift including rough dressing and breaking clods to minimum 5cm to 7cm. and laying in layers not exceeding 0.30 in depth.	4489.3	1496.43	5985.73 per 100 cum



(1)	(2)	(3)	(4)	(5)	(6)
		(e) Earthwork in hard soil or gravelly soils within 50m. initial lead and 1.5m. initial lift including rough dressing and breaking clods to minimum 5cm. and laying in layers not exceeding 0.30 in depth.	6033.06	2011.02	8044.08 per 100 cum
		(f) Earthwork in stony earth and gravels mixed with stone and boulders not exceeding 0.014 cum. in volume with 50m. initial lift including rough dressing and breaking colds to minimum 5cm to 7cm and laying in layers not exceeding 0.30 in depth.	9409.55	3136.52	12546.07 per 100 cum
		(g) Earthwork in slushy soil in water upto 0.6m. depth requiring the aid of pan vessels within 50m initial lead and 1.5m. initial lift.	6175.03	2058.34	8233.37 per 100 cum
		<b>2. Loading and Unloading</b>			
		(a) Loading into and unloading from trucks and stacking as directed within 50m. Lead.	4.27	1.42	5.69 per quintal
		(b) Loading in trucks, unloading from trucks except sand, granite, chips, metals and wood as directed within 50m. lead.	34.35	11.45	45.80 per cum
		(c) Loading in trucks, unloading from trucks, sand, granite, chips, metals and wood within 50m. lead.	34.35	11.45	45.80 per cum
		(d) Load and Unloading from trucks bulk materials such as home pipes etc. as directed within 50m. lead.	41.7	13.90	55.60 per every cum
		(e) Unloading from wagons 1m. clear of rails in platform for cement, coal, Ac Sheet, Tarpheet paints etc. within 15m. lead.	3.48	1.16	4.64 per quintal
		(f) Unloading from Railways wagons, loading in trucks and unloading and stacking at the godown within 15m. lead.	9.69	3.23	12.92 per quintal.
		<b>(3) Conveyance by head loads:</b>			
		(i) Bajri, Gravel, Stone, Sand etc upto 50m.	11.65	3.88	15.53 per every cum
		(ii) Bajri, Gravel, Stone, Sand etc. upto 100m.	19.61	6.54	26.15 per every cum
		(iii) Bajri, Gravel, Stone, Sand etc. upto 150m.	38.21	12.74	50.95 per every cum
		<b>4. Conveyance of heavy materials by sangimullas within 100m.</b>			Add 50% extra over the above rate.
10	Rice, Mills, Dal Mills and Floor Mills.	1. Steaming of paddy for 100 bags of 75kgs each.	343.07	114.36	457.43
		2. Boiling of paddy for 100 bags of 75kgs each.	343.07	114.36	457.43
		3. Carrying of paddy for 100 bags of 75kgs each.	245.14	81.71	326.85
		4. Loading of 100 bags of 75kgs each.	343.07	114.36	457.43

(1)	(2)	(3)	(4)	(5)	(6)
		5. Unloading of 100 bags of 75kgs each.	343.07	114.36	457.43
		6. Bagging of 100bags of 75kgs each	294.03	98.01	392.04
		7. Weighing of 100 bags of 75kgs each.	245.14	81.71	326.85
		8. Stacking of 100 bags of 75kgs each	245.14	81.71	326.85
		9. Sewing of 100 bags of 75 kgs each	245.14	81.71	326.85
11	<b>Bamboo Forest Establishment.</b>	1. Bamboo cutting (including piecing bundling and stacking near the place of cutting.	1275.13	425.04	1700.17 per 100 bundles each has 21 pieces 2:3 metres.
		<b>2. Dragging</b>			
		(i) Within a radius of 100 metres	255.82	85.27	341.09 per 100 bundles
		(ii) For every additional 50 metres beyond 100 metres.	144.69	48.23	192.92 per 100 metres
		3. Stacking at depot side and at all other places except near the place of cutting.	39.94	13.31	53.25 per 100 metres
		4. Rebundling	72.36	24.12	96.48 per 100 metres
		5. Loading	66.71	22.24	88.95 per 100 metres
		6. Unloading (including staking near the place of unloading)	47.69	15.90	63.59 per 100 metres
		<b>Explanation:-</b> For the purpose of computation of minimum wages under this notification twenty one small pieces of bambos ranging from 0.5 metres to 1.5 metres in length each constitute half of a bundle.			
12	<b>Printing Press</b>	<b>1.Composing Trade:</b>			For unit of work done
		(a) Distribution and supply of types for ordinary composition of manuscript without correction (Semi-Skilled).	51.58	17.19	68.77
		(b) Display and complicated finished job composition, correction, make up and imposition of composed matter.	52.17	17.39	69.56
		<b>2. Printing trade:</b>			
		(a) Distribution of ordinary jobs in small and simple type of trade platen/small handfed cylinder machine (Semi-Skilled).	39.94	13.31	53.25
		(b) Printing of complicated and coloured jobs in the above type of machine (Skilled).	46.55	15.52	62.07
		(c) Printing of straight forward job like forms and books in large size handfed flat bed machines, printing of above type of work in small size autofed platen and cylinder machine (Skilled).	46.55	15.52	62.07



(1)	(2)	(3)	(4)	(5)	(6)
		<b>3. Book Binding Trade:</b>			
		(a) Manual operations like a folding, gathering, pasting, stitching, numbering and hand sewing etc. (Semi-Skilled).	51.58	17.19	68.77
		(b) Operating common binding machines like small size paper cutting machines, Wire stitching machines etc (Semi-Skilled).	51.58	17.19	68.77
		(c) Complicated and more skilled manual operation like machine sewing case making, gold blocking, gift digging, marbling etc. and operating large size guilothnes, semi automatic like folding machine, book sewing machines, knife, trimmers, gathering stitcher and flow like binding machines(Skilled).	51.58	17.19	68.77
		<i>Explanation:-</i> For the purpose of this notification-(a) Each workers for the semi-skilled work will turnout minimum 3 units of work per day which the employer is obliged to provide him and failing that employer will pay him the minimum wage per day inclusive of weekly off day wages. The employee will not refuse to work more if work is provided to him during normal working hours. in case of overtime work, he will be paid at double the rate. (b) Each workers for the unskilled work will turn out minimum 3.5 units of work per day for composing trade, book binding trade and 4 units of work per day for the printing trade. The employer will be obliged to provide him such quantity of work failing which the employer will pay him minimum wages per day. The worker will accept and execute more work if offered during the normal working hours. If he works over time, he will be paid at double the rate.		0.00	0.00
13	Collection of Sal Seeds	1. Undecoraticated Sal Seeds	8.34	2.78	11.12 per kilogram of dryweight
		2. Decoraticated Sal Seeds	8.51	2.84	11.35 per kilogram of dryweight
		3. Bagging, Weighing, and stitching Debagging and Stacking.	7.46	2.49	9.95 per 1 bag of 85 kilograms
		4. Loading	4.86	1.62	6.48 per 1 bag of 85 kilograms
		5. Unloading	2.93	0.98	3.91 per 1 bag of 85 kilograms
14	Kenduleaf Collection	1. Plucking	0.47	0.16	0.63 per 20 leaves
		2. Binding	32.19	10.73	42.92 per bundle (5kg bundle) per bag of 60 kgs
		3. Bagging	32.19	10.73	42.92 per bag of 60kgs
		4. Mulaya	18.61	6.20	24.81 per bag of 60 kgs

Sl. No.	Name of the Scheduled Employment.	Name and Quantum of work concerning.	Existing Rate of wage w.e.f. 06.01.2009	Proportionate rate of hike * @ 122.22% (Col.4x11/9)	Revised rate of wages in Rs. (Col.4+Col.5)
(1)	(2)	(3)	(4)	(5)	(6)
1.	Tobacco including beedi (making) manufacturing.	1. Rolling of 1000 beedies	63.28	77.34	140.62 per thousand
		2. Packing and Labeling of 1000 beedies.	2.408	2.943	5.35 per thousand

\*Minimum Time Rate of Wage for unskilled category in 2009 = Rs. 90 per day  
Minimum Time Rate of Wage for unskilled category in 2015 = Rs.200 per day

$$\text{Percentage of hike} = \left( \frac{200 - 90}{90} \times 100 \right) = 122.22\%$$

[No. 9655-LL-I (III) 39/2015/LESI.]

By Order of the Governor

G. SRINIVAS

Principal Secretary to Government

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## ଶ୍ରମ ଦର୍ପଣ ପାଇଁ ଲେଖା ଆବଶ୍ୟକ....

ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର ଆନୁକୁଲ୍ୟରେ ପ୍ରକାଶିତ ହେଉଥିବା ତ୍ରିମାସିକ ପତ୍ରିକା ଶ୍ରମ ଦର୍ପଣ ପାଇଁ ଲେଖକ/ଲେଖକାମାନଙ୍କ ଠାରୁ ନିଜସ୍ୱ ଲେଖା ଆବଶ୍ୟକ କରୁଛି । ଶ୍ରମ ଆଇନ ସଂପର୍କିତ ଲେଖା, ଆଇନର ବିଶ୍ଳେଷଣ ସମ୍ପର୍କିତ ଲେଖା ଏଥିରେ ପ୍ରକାଶିତ ହେବ । ଯାହା ପୂର୍ବରୁ ଅପ୍ରକାଶିତ ହୋଇଥିବା ଆବଶ୍ୟକ । ହାତଲେଖା କିମ୍ବା ଡିଟିପି ହୋଇଥିବା ଲେଖା ସହିତ ଲେଖକ / ଲେଖକାଙ୍କର ସଂପୂର୍ଣ୍ଣ ଠିକଣା ଓ ମୋବାଇଲ ନମ୍ବର ଥାଇ ନିମ୍ନ ଠିକଣାରେ ପହଞ୍ଚିବା ଆବଶ୍ୟକ । ଚୟନ ହୋଇଥିବା ଲେଖା ଗୁଡ଼ିକ ପ୍ରକାଶ ପାଇବା ପରେ ଲେଖା ବାବଦକୁ ଲେଖକ/ଲେଖକାଙ୍କୁ ଟ ୩୫୦୦୦ (ତିନିଶହ ପଚାଶ ଟଙ୍କା) ପାରିତୋଷିକ ଦେୟ ଚେକ ଆକାରରେ ପ୍ରଦାନ କରାଯିବ ।

ସର୍ତ୍ତାବଳୀ

୧. ଅମନୋନୀତ ଲେଖା କୌଣସି ପରିସ୍ଥିତିରେ ଫେରସ୍ତ ହେବ ନାହିଁ ।

୨. ଏଥିରେ ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ ଚୟନ କମିଟିର ବିଚାର ଓ ନିଷ୍ପତ୍ତି ହିଁ ତୃତୀୟ ।

**ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର**

ଜନପଥ, ଖାରବେଳ ନଗର, ୟୁନିଟ୍-୩

ଗୁରୁଦ୍ୱାରା ପାର୍ଶ୍ୱ, ଭୁବନେଶ୍ୱର-୭୫୧୦୦୧

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## LABOUR & ESI DEPARTMENT

### NOTIFICATION

The 23rd December, 2015

No.10779-LL-I(III)-8/2015/LESI.—In pursuance of Section 6 of the unorganised workers' Social Security Act, 2008 (33 of 2008), and in supersession of the Notification of the Government of Odisha in the Labour & Employment Department No. SS-II-SC-39/2011-11627/LE., dated the 22nd December, 2011 the State Government do hereby reconstitute the Odisha State Social Security Board, with effect from the date of publication of this Notification in the *Odisha Gazette*, for welfare of the unorganised workers of the State with the following members to exercise the powers conferred on and to perform the functions assigned to it under the provisions of the Act and the term of the said Board shall be of three years, namely:—

- (a) Minister of Labour & ESI,  
Government of Odisha. - Chairperson, *ex officio*
- (b) Principal Secretary / Secretary,  
Labour & ESI Department. - Member Secretary, *ex officio*
- (c) Twenty-eight members nominated by the State Government:—
- (I) Seven representing the unorganized workers.
1. Shri Jogendra Tripathy, General Secretary, HMS, Odisha Branch
  2. Shri Mohan Nayak, Representative of BMS
  3. Shri Kishor Jena, General Secretary, INTUC, Odisha Branch
  4. Shri Souribandhu Kar, General Secretary AITUC, Odisha Branch
  5. Shri Bishnu Mohanty, General Secretary, CITU, Odisha Branch
  6. Shri Mahendra Parida, State Secretary, AICCTU, Odisha Branch
  7. Shri Jaysen Meher, Secretary, AIUTUC, Odisha Branch
- (II) Seven representing employers of unorganized workers
1. M.D., Odisha State Ware Housing Corporation, Bhubaneswar

2. M.D., Odisha Small Scale Industries Corporation, Cuttack
  3. M.D., OMFED, Bhubaneswar
  4. M.D., Odisha Construction Corporation Ltd., Bhubaneswar
  5. M.D., Odisha Cashew Development Corporation, Bhubaneswar
  6. Secretary, Utkal Beedi Merchant Association, Sambalpur
  7. M.D., Odisha Agro Industries Corporation Ltd., Bhubaneswar
- (III) Two representing members of Odisha Legislative Assembly
1. Shri Pravat Ranjan Biswal, MLA, Choudwar, Cuttack
  2. Shri Mahesh Sahoo, MLA, Pallahara
- (IV) Five representing Eminent Persons from Civil Society
1. Anuradha Mohanty, PECUC, Bhubaneswar
  2. Shri Sanjay Kumar Mishra, Chairman, CWC, Bolangir
  3. Shri Pradosh Patnaik, Senior Journalist, Bhubaneswar
  4. Shri Naresh Chandra Sahu, Ex-JLC, Bhubaneswar
  5. Prof. (Retired) Asha Hans, Social Activist
- (v) Seven representing State Government Departments concerned
1. Principal Secretary / Secretary, Commerce & Transport Department
  2. Principal Secretary / Secretary, Handlooms, Textile & Handicrafts Department.
  3. Principal Secretary / Secretary, Women & Child Development Department.
  4. Principal Secretary / Secretary, Housing & Urban Development Department.
  5. Principal Secretary / Secretary, Finance Department
  6. Principal Secretary / Secretary, Forest & Environment Department
  7. Principal Secretary / Secretary, Works Department

By Order of the Governor  
G. SRINIVAS  
Principal Secretary to Government



# Supreme Court of India

Mackinnon Mackenzie Ltd vs Mackinnon Employees Union on 25

February, 2015

Bench: V. Gopala Gowda, C. Nagappan

## J U D G M E N T

V. GOPALA GOWDA, J.

### Section 25G of I.D. Act

“The problem of closure of industrial undertakings resulting of late in loss of production and unemployment of large numbers of workmen has become very serious. Employers have declared sudden closures of industrial establishments without any notice or advance intimation to the Government. Several factors appeared to have led to these closures, amongst which are accumulated losses over a number of years and mismanagement of the affairs of the establishments. The unsatisfactory state of industrial relations (in the sense of labour unrest making it difficult to sustain regular production) has been pleaded as a precipitating factor. Certain other causes like financial difficulties and non-availability of essential raw material had also been mentioned.

2. Since the problem of closure has been acute in the State of West Bengal, a President's Act-The Industrial Disputes (West Bengal Amendment) Act, 1971 was enacted on 28th August, 1971. This provided that an employer who intended to close down an undertaking should serve at least sixty days' notice on the State Government stating clearly the reasons for intended closure of the undertaking. While enacting this legislation for West Bengal Government considered it desirable to promote Central legislation on the subject since the problem of closure was not limited to West Bengal but was found in varying degrees in other States as well.

3. It is however, felt that before Central legislation was enacted, the matter should be considered by the Indian Labour Conference. The Indian Labour Conference which met on the 22nd and 23rd October, 1971 generally endorsed the proposal for Central legislation gives effect to the recommendation of the Indian Labour Conference. It provides for the

service of a notice, at least sixty days before the intended closure of an undertaking is to become effective, so that within this period prompt remedial measures could be taken, where the circumstances permit to prevent such closure. No notice will be required to be served in the case of undertaking set up for construction of buildings, roads, canals, dams and other construction works and projects or in the case of small establishments employing less than fifty persons. The Bill also provides penalty for closing down any undertaking without serving the requisite notice". (Gazette of India, 06.12.1971, Pt. II, Section 2, Ext. page 893) The contention urged by Mr. C. U. Singh, the learned senior counsel for the respondent-Union is that if the interpretation of provision under Section 25FFA of the I.D. Act as contended by the learned counsel on behalf of the appellant-Company is accepted to be directory and not mandatory as it would attract the penal provision against the appellant-Company under Section 30A of the I.D. Act, then the purpose and intentment of the amendment in the year 1972 made to Section 25FFA of the I.D. Act, will be defeated and would nullify the Objects and Reasons for amending the provisions of the I.D. Act and it would be contrary to the legislative wisdom of the Parliament. The statutory protection has been given to the workmen under the provision of Section 25FFA of the I.D. Act, with an avowed object to protect workmen being retrenched due to closing down of a department/unit of the undertaking as the livelihood of such workmen and their family members will be adversely affected on account of their retrenchment from their service. To avert such dastardly situation to be faced by the concerned workmen in the Company/establishment, the statutory obligation is cast upon the employer to serve atleast 60 days notice on the State Government before such intended closure of the department/unit to be served upon the State Government informing the reasons as to why it intends to close down its department/unit.

The learned senior counsel appearing for the respondent-Union has rightly placed reliance upon the judgments of this Court, namely, *The State Of Uttar Pradesh And Others V. Babu Ram Upadhyaya, State of Mysore & Ors. v. V.K. Kangan & Ors* and *Sharif-Ud-Din vs Abdul Gani Lone*, all referred to supra, wherein this Court while referring to certain statutory provisions, consistently held that the statutory provisions of the statutory enactment are mandatory and not directory and that they are required to be rigidly complied with. The relevant paras from the decision of this Court in the case of *Babu Ram Upadhyaya (supra)* are extracted hereunder:

The principle of 'last come first go' should have been strictly adhered to by the appellant-Company at the time of issuing retrenchment notice served upon the concerned workmen as provided under Section 25G of the I.D. Act read with Rule 81 of the Bombay Rules which is



not properly complied with by it for the reason that the custom clearance and dock clearance are totally different departments and it has retained 7 workmen who are undisputedly juniors to the concerned workmen, which action is sought to be justified by the appellant-Company without giving justifiable reasons. Further, no category wise seniority list of the workmen was displayed on notice board of the appellant-Company as required in law. The learned senior counsel on behalf of the appellant-Company placed reliance on the decision of this Court rendered in the case of Workmen of Sudder Workshop of Jorehaut Tea Co. Ltd. v. Management of Jorehut Tea Co. Ltd. (supra), in justification of the action of the appellant-Company retaining certain junior workmen in the department/unit at the time of retrenching concerned workmen. The relevant paragraphs are extracted hereunder: "5. The keynote thought of the provision, even on a bare reading, is evident. The rule is that the employer shall retrench the workman who came last, first, popularly known as "last come, first go". Of course, it is not an inflexible rule and extraordinary situations may justify variations. For instance, a junior recruit who has a special qualification needed by the employer may be retained even though another who is one-up is retrenched. There must be a valid reason for this deviation, and, obviously, the burden is on the Management to substantiate the special ground for departure from the rule.

Further, it is urged by the learned senior counsel on behalf of appellant- Company that there is no question of reinstatement of the concerned workmen and payment of back wages to them since the concerned department/unit of the appellant-Company in which they were employed no longer exists and therefore, requested this Court to mould the relief granted by the courts below. The said contention is rightly rebutted by the learned senior counsel on behalf of the respondent-Union by placing reliance on the case of Workmen of Sudder Workshop (supra), wherein this Court held that the Court cannot sympathise with a party which gambles in litigation to put off the evil day, and when that day comes, prays to be saved from its own gamble. The said contention urged on behalf of the respondent-Union must be accepted by us as the same is well founded. Therefore, we hold that moulding of the relief is not permissible in this case at this stage when the matter has reached this Court keeping in mind the legal principle laid down by this Court on this aspect of the matter in the case referred to supra.

Further, with regard to reinstatement of the concerned workmen and back- wages to be paid to them, the learned senior counsel on behalf of the workmen has rightly placed reliance upon the case of Anoop Sharma v. Executive Engineer[13], wherein it was held that since termination of employment is in breach or violation of the mandatory provisions of Chapter V-

A or V-B of the I.D. Act is void ab initio in law and ineffective and suffers from nullity, in the eyes of law and in the absence of very strong and compelling circumstances in favour of the employer, the Court must grant a declaration that the termination was non est and therefore the employees should continue in service with full back wages and award all the consequential benefits. Further, with respect to payment of back wages and consequential benefits, reliance was rightly placed on the decisions of this Court in the cases of Deepali Gundu Surwase v. Adhyapak Mahavidyala[14] and Bhuvnesh Kumar Dwivedi v. Hindalco[15]. This Court opined thus in the case of Deepali Gundu Surwase (supra): "22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi judicial body or Court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. Denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments."

For the foregoing reasons, the appeal is dismissed. We affirm the impugned judgment and order of the Division Bench of the High Court. The order dated 14.08.2006 extending protection to the appellant-Company shall stand vacated. Since, the concerned workmen have been litigating the matter for the last 23 years, it would be appropriate for us to give direction to the appellant-Company to comply with the terms and conditions of the award



passed by the Industrial Court by computing back-wages on the basis of revision of pay scales of the concerned workmen and other consequential monetary benefits including terminal benefits and pay the same to the workmen within six weeks from the date of receipt of the copy of this Judgment, failing which, the back-wages shall be paid with an interest at the rate of 9% per annum. The appellant-Company shall submit the compliance report for perusal of this Court. There shall be no order as to costs.

Ref : Case Laws

- [1] AIR 1980 SC 1454
- [2] AIR 1960 SC 762
- [3] (2006) 11 SCC 684
- [4] (2006) 8 SCC 508
- [5] (1987) 2 SCC 203
- [6] (2001) 2 SCC 87
- [7] AIR 1969 SC 90
- [8] (2009) 5 SCC 705
- [9] (1986) 2 SCC 624
- [10] AIR 1954 SC 322
- [11] (1999) 3 SCC 422
- [12] (2005) 2 SCC 489
- [13] (2010) 5 SCC 497
- [14] (2013) 10 SCC 324
- [15] (2014) 11 SCC 85

# SUPREME COURT OF INDIA

(G.S. SINGHVI AND V. GOPALA GOWDA, JJ.)

DEEPALI GUNDU SURWASE

Appellant

VERSUS

KRANTI JUNIOR ADHYAPAK MAHAVIDYALAYA (D.ED.) AND OTHERS Respondents

Litigations : [JT 2013 (12) SC 322 = 2013 AIR(SCW) 5330 = 2013(11) SCALE 268 = (2013) 10 SCC 324 = 2013(6) SLR 642]

**Termination** - The management's decision to terminate the appellant's service was preceded by her suspension albeit without any rhyme or reason - Even though the Division Bench of the High Court declared that she will be deemed to have rejoined her duty on 14.3.2007 and entitled to consequential benefits, the management neither allowed her to join the duty nor paid wages - Rather, after making a show of holding inquiry, the management terminated her service vide order dated 15.6.2007 - The Tribunal found that action of the management to be wholly arbitrary and vitiated due to violation of the rules of natural justice - The Tribunal further found that the allegations levelled against the appellant were frivolous - The Tribunal also took cognizance of the statement made on behalf of the appellant that she was not gainfully employed anywhere and the fact that the management had not controverted the same and ordered her with full back wages - Though the learned Single Judge agreed with the Tribunal that the action taken by the management to terminate the appellant's service was per se illegal but set aside the award of back wages by making a cryptic observation that she had not proved the factum of non-employment during the intervening period - Held that the learned Single Judge of the High Court committed grave error by interfering with the order passed by the Tribunal for payment of back wages, ignoring that the charges levelled against the appellant were frivolous and the inquiry was held in gross violation of the rules of natural justice - Impugned order is set aside and the order passed by the Tribunal is restored. (Paras 34 to 37)

**Termination - Wrongful termination** - Back wages - Propositions called out by the Apex Court from various Judgment of the Apex Court are:

- (i) In cases of wrongful termination of service, with continuity of service and back wages is the normal rule.
- (ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.
- (iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the



adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

- (iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and / or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.
- (v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful / illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.
- (vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of . The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of

best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

(vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of an employee/workman.

(Para 33)

**Cases Referred:**

1. Zilla Parishad, Gadchiroli and another v. Prakash s/o Nagorao Thete and another [2009 (4) Mh. L. J. 628] (Para 9.2)
2. The Depot Manager, A.P.S.R.T.C. v. P. Jayaram Reddy [JT 2009(1) SC 427] (Para 11)
3. Novartis India Ltd. v. State of West Bengal and others [JT2009 (13) SC12] (Para 11)
4. Metropolitan Transport Corporation v. V. Venkatesan [JT 2009 (11) SC 96] (Para 11)
5. Jagbir Singh v. Haryana State Agriculture Marketing Board and another [JT 2009 (9) SC 396] (Para 11)
6. J.K. Synthetics Ltd. v. K. P. Agrawal and another [JT 2007 (3) SC 1] (Para 9.2)
7. U.P. State Brassware Corporation Ltd. v. Uday Narain Pandey [JT 2006 (10) SC 344] (Para 11)
8. Kendriya Vidyalaya Sangathan v. S.C. Sharma [JT 2005 (1) SC 336] (Para 11)
9. General Manager, Haryana Roadways v. Rudhan Singh [JT 2005 (6) SC 137] (Para 25)
10. M.P. State Electricity Board v. Jarina Bee [JT 2003 (5) SC 542] (Para 11)
11. Indian Railway Construction Co. Ltd. v. Ajay Kumar [JT 2003 (2) SC 295] (Para 22)
12. Hindustan Motors Ltd. v. Tapan Kumar Bhattacharya [JT 2002 (5) SC 143] (Para 21)
13. P.G.I. of Medical Education & Research, Chandigarh v. Raj Kumar [JT 2001 (1) SC 336] (Para 20)
14. Mohan Lal v. Management of Bharat Electronics Limited [(1981) 3 SCC 225] (Para 10)
15. Surendra Kumar Verma v. Central Government Industrial Tribunal-cum-Labour Court, New Delhi [(1980) 4 SCC 443] (Para 10)
16. Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited [(1979) 2 SCC 80] (Para 10)
17. Workmen of Calcutta Dock Labour Board and another v. Employers in relation to Calcutta Dock Labour Board and others [(1974) 3 SCC 216] (Para 10)

Advocate(s): Mr. Gaurav Ag rawal, Advocate for the Appellant.



# SUPREME COURT OF INDIA

(T.S. THAKUR AND R. BANUMATHI, JJ.)

COLLECTOR SINGH

Appellant

VERSUS

L.M.L. LTD., KANPUR

Respondent

For Detail judgment Refer:- [2014 STPL(Web) 728 SC = JT 2014 (12) SC 485 = 2014  
AIR(SCW) 6466 = 2014(12) SCALE 616]

**(A) Constitution of India, Article 136 - Industrial Disputes Act, 1947, Section 2(oo) and 11A - Dismissal - Quantum of Punishment - Compensation in lieu of reinstatement - From contents of the apology letter written by the appellant it is discerned that the appellant has made admission only with respect to throwing of the jute/cotton waste balls by mistake and further stating that such a mistake would not be repeated in future and that he be pardoned for the same - The letter nowhere states that the appellant was involved in the incident of hurling abuses and using filthy language against his superior officer -Held that mere act of throwing of jute/cotton waste balls weighing 5 to 10 gms may not by itself lead to imposing punishment of dismissal from service -Find it difficult to fathom a reason for placing such excessive reliance on the apology letter by the enquiry officer appointed for the departmental enquiry as well as the courts below for justifying the punishment of dismissal from service - Punishment of dismissal from service held to be harsh and disproportionate - Matter 20 years old - By now the appellant must have attained the age of superannuation his year of birth being 1955 - A lump sum compensation of Rs. 5 lacs allowed.**

**(B) Constitution of India, Article 136 - Special Leave Petition - Concurrent findings of fact - Scope of interference - Jurisdiction under Article 136 of the Constitution is extraordinary - Interference with the concurrent findings of fact recorded by the courts below is permissible only in exceptional cases and not as a matter of course - Where the appreciation of evidence**

is found to be wholly unsatisfactory or the conclusion drawn from the same is perverse in nature, in exercise of the jurisdiction under Article 136 of the Constitution, Apex Court may interfere with the concurrent findings for doing complete justice in the case.

(Para 10)

Cases Referred:

1. Davalsab Husainsab Mulla vs. North West Karnataka Road Transport Corporation, (2013) 10 SCC 185 [Para 6]
2. Dev Singh vs. Punjab Tourism Development Corporation. Ltd. & Anr., (2003) 8 SCC 9 [Para 11]
3. Om Kumar & Ors. vs. Union of India, (2001) 2 SCC 386 [Para 11]
4. Union of India & Anr. vs. G. Ganayutham, (1997) 7 SCC 463 [Para 11]
5. Ex-Naik Sardar Singh vs. Union of India and Ors., (1991) 3 SCC 213 [Para 11]
6. Jai Bhagwan vs. Commissioner of Police & Ors. (2013) 11 SCC 187 [Para 12]
7. Ram Kishan vs. Union of India & Ors., reported in (1995) 6 SCC 157 [Para 13]
8. Rama Kant Misra vs. State of Uttar Pradesh & Ors., (1982) 3 SCC 346 [Para 13]
9. Ved Prakash Gupta vs. Delton Cable India(P) Ltd.; (1984) 2 SCC 569 [Para 13]
10. Mahindra and Mahindra Ltd. vs. N.B.Narawade, (2005) 3 SCC 134 [Para 14]



## Important Supreme Court Labour Judgments of 2015

### **Contractor labour engaged in canteen would be the workman of Air India for limited purposes of Factory Act and not otherwise.**

Whether the appellant-workmen employed by the contractor, to provide canteen facilities in the establishments of the Air India Ltd., can be said to be the workmen/employees of Air India Ltd? In view of various earlier judgments, the Apex Court held that appellant-workmen would be workmen of Air India Ltd. for limited purposes of the Factories Act, 1948 and not for all the purposes, with these conclusions : (i) Solely on the principles of deemed status under 1948 Act, said workers would not be entitled to claim relief of regularisation, because the Factories Act, 1948 does not govern the rights of contractor's employees with reference to appointment, seniority, promotion, dismissal, disciplinary actions, retirement benefits, etc., which are subject matter of various other legislations, policies, etc. (ii) The doctrine of piercing the veil cannot be applied in the given factual scenario. Hotel Corporation of India (HCI in brief), despite being a wholly owned subsidiary of respondent no. 1 Air India Ltd., these two companies are distinct legal entities. (iii) It cannot be concluded that the controller 'Air India' has avoided any obligations, which the appellant-workmen are legally entitled to. (iv) The Articles of Association of HCI, in no way gives control of running said canteens to Air India Ltd. In substance the exercise of control by HCI clearly indicated that the HCI is not a sham or camouflage created by Air India Ltd. to avoid certain statutory liabilities. (v) The mere fact that Air India has a certain degree of control over HCI, does not mean that these canteen employees are the employees of Air India Ltd. (vi) There is no parity in the nature of work, mode of appointment, experience, qualifications, etc. between regular employees of Air India Ltd. and these canteen employees.

1. A judgment has to be considered in the context in which it was rendered and that a decision is an authority for what it decides and it is not everything said therein constitutes a precedent.
2. It be noted that an employee/workman works under the supervision and direction of his employer, whereas an independent contractor is his own master bound by his contract, but not by his employer's orders.
3. Two of the well-recognised tests to find out whether the contract labourers are the direct employees of the principal employer are: (i) whether the principal employer pays the salary instead of the contractor, and (ii) whether the principal employer controls and supervises the work of the employees.

*Balwant Rai Saluja & Anr. vs. AIR India Ltd. & Ors. 2014 III CLR 751 (S.C.); (2014) 2 SCC (L&S) 804*



**The purpose of serving show-cause notice is to make employee available the charges setup against him.**

Requirements of fundamental purpose behind serving of show-cause notice is to make the employee understand the precise case set up against him which he has to meet. The notice should contain imputation detailing out alleged breaches and defaults committed and also action proposed to be taken therefore.

Once show-cause notice is given and opportunity to reply to the show-cause is afforded, it is not necessary to give oral hearing to the employee.

Show-cause notice is given to fulfil requirements of principles of natural justice. Should meet two grounds- one-material grounds to be stated on which department necessitates an action and two-particular penalty/action proposed to be taken.

*Gorkha Security Services vs. Govt. of NCT of Delhi and others. 2014 (143) FLR 591 (S.C.)*

**Burden of proof for proving continuous service of 240 working days during preceding 12 months lies upon the workman.**

Adverse inference cannot be drawn against the Management for non production of some of the documents. Illegality in the order of termination on account of non-payment of retrenchment compensation does not necessarily attract reinstatement. Awarding reinstatement is not feasible or desirable or possible when the employer has wound up its related business activity. Concept of lump-sum compensation in view of short length of service, long litigation and closure of establishment or relevant job is appropriate looking to the totality of the circumstances to meet the ends of justice. While recording proceedings under Industrial Dispute Act, strict rule of Evidence Act are not applicable. Admission of zerox copy of the document by the Management cannot be defaulted at belated stage.

*Bhavnagar Municipal Corporation etc. vs. Jadeja Govubha Chhanubha & Anr. 2015 LLR 160 (S.C.)*

**Unless acquittal of employee by the Criminal Court is honorable, i.e. on merits, departmental proceeding can proceed.**

Writ Court is not entitled to go into the question of the adequacy of evidence as an appellate court. Standard of proof in domestic enquiry is based upon preponderance of probabilities and not beyond all reasonable doubts as in criminal cases. Onus of proof rests upon the party alleging the invalidity of an order. Maxim omnia praesumuntur rite esse acta, 'all things are presumed to be done in due form'. When a party produces a letter/document for the first time before Division Bench of the High Court purportedly written by that party itself to the opposite party demanding certain documents for his defense, alleging non-supply of the documents, whereas the opposite party denies receipt of the same, onus shifts upon the party who has produced the document to establish the fact i.e. to prove the very document.



Interference under writ jurisdiction with finding of fact by the enquiry officer is not permissible unless the finding is perverse or on the basis of no evidence. Interference by the High Court with the order of dismissal only on the ground that it deprived the delinquent of his livelihood is wholly untenable since the transgression of jurisdiction cannot be justified on the ground of consequences.

*G.M. (Operation) S.B.I. & Anr. vs. R. Periyasamy. 2015 LLR 121 (S.C.)*

Regularisation of casual or temporary or daily wager who has a long service to his credit cannot be denied on the ground that his appointment was by not following the due process as per policies of the company of the employer or it would amount to back door entry.

A plea of fact, not taken before the Industrial Tribunal/Labour Court, would not be allowed to be taken before the writ Court.

Long continuous casualization amounts to unfair labour practice in view of item No. 10, part I of Fifth Schedule of Industrial Disputes Act, 1947. It was not open to the Division bench to interfere with the Specific finding or unfair trade practice by the labour Court and confirmed by the learned Single Judge.

Retrenchment without notice or pay and other benefits in terms of Section 25 F of the Industrial Disputes Act, 1947 of any workman who has completed continues services for more than 240 days in a calendar year is illegal being unfair labour practice.

Illegal retrenchment of any workman who has completed continued service for more than 240 days in a calendar year may attract his reinstatement with back-wages.

*Durgapur Casual Workers' Union & Ors. vs. Food corporation of India & Ors. 2015 LLR 219 (S.C.)*

**Cancellation of trade union registration must be preceded by an enquiry forward by show cause notice disclosing grounds for initiating action.**

Registration of a trade union may be withdrawn or cancelled by the Registrar of Trade Unions either on application of the trade union or on suo motu action taken by the Registrar. Registration obtained by fraud or mistake may be cancelled by the Authority. No certificate can be cancelled if granted by mistake due to incorrect assessment or non-application of mind or mechanical act on part of the authority. No provision under section 10 for cancellation of registration of trade union on application by any other party.

The official act of Registrar of certificate issuing either by mistake or due to incorrect assessment or non-application of mind cannot be nullified by him under section 10. It can only be rectified by the appellate authority or the Writ Court.

Word "any" in section 4 and 6 application form and the rules of the Trade Union under section 6 of the Act can be considered as "all". This could mean that object of the Trade Union was to operate in all types of industries in a district.

*R.G. D'Souza vs. Poona Employees Union and another. 2015 (144) FLR 1 (S.C.)*

**Abnormal delay in enquiry would make it ineffective. Submitting enquiry report after 12 years and dismissal on that basis would be gross and manifest failure of justice leading to reinstatement.**

Abnormal delay in submitting the enquiry report after 12 years without plausible explanation to the inordinate delay may make the enquiry ineffective.

If the workman, held guilty of similar misconducts, were imposed lesser punishment of stoppage of few increments, punishment of dismissal upon a single workman would not be justified since it would be violative of principles of natural justice.

Order of dismissal after 14 years of commission of service of charge-sheet is not appropriate.

Labour Court can interfere with the decision of the Management under section 11 of the Industrial Dispute Act, 1947 only when it is satisfied that the punishment imposed is highly disproportionate to the degree of guilt.

High Court can interfere with the order of the Labour Court/Tribunal under Articles 226 and 227 of the Constitution of India only when there has been patent perversity in the order of the Courts subordinate to it or there has been gross and manifest failure of justice or principles of natural justice have been flouted.

*K.V.S. Ram vs. Bangalore Metropolitan Transport Corpn. 2015 LLR 229 (S.C.)*

**Reference can only made when industrial dispute exists or is apprehended.**

Appropriate Government is having powers to make reference under section 10 of the Industrial Dispute Act, 1947, only when an industrial dispute exists or is apprehended between the parties.

While answering the reference, the Industrial Tribunal/Labour Court has to confine its inquiry to the question(s) referred since it does not have jurisdiction to travel beyond the questions(s) or/and the terms of reference.

Since the reference of earlier set of workers was made to decide their absorption when they were in service whereas reference of later set of workers was made when they were not in service, therefore, later set of workers has no right to claim relief of parity with claim of earlier set of workers.

*Oshiar Prasad and Others vs. The Employers in relation to management of Sudamdih Coal Washery of M/s. BCCL, Dhanbad, Jharkhand. 2015 LLR 254 (S.C.)*

Before intended closure, 60 days notice is mandatory to be given to the Government by the employer. Non-compliance would make the closure invalid attracting reinstatement with back-wages.

Non-issue of mandatory notice for effecting retrenchment, in the prescribed form to the specified authorities of the State Government, is violation of section 25F of the Industrial Dispute Act, 1947, attracting reinstatement with back-wages.

Before intending closure under section 25FFA of the Industrial Disputes Act, 1947, the employer is bound to give prior notice of at least 60 days to the State Government.



Non-compliance of section 25FFA of the Industrial Disputes Act, 1947, would attract the closure to be invalid resulting into Award of reinstatement with back-wages in favour of the workman.

**Non-preparation of seniority list OR non-display of seniority list is breach of the provisions of section 25G of the Industrial Dispute Act, 1947 and Rule 81 of the Industrial Disputes (Bombay) Rules, 1957, Justifying the} retrenchment of the workman to be illegal.**

Whenever a statute prescribes that a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to hold that the requirement is not mandatory and specified consequence should not follow. Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.

Non-compliance of statutory provisions is unfair labour practice for which the employer is liable to be practice.

Retrenchment the workmen arbitrarily and unreasonably is an unfair labour practice.

Awarding full back-wages with consequential benefits is justified if the termination of services of the workmen is in violation of mandatory provisions since such a termination would be void ab initio in law and ineffective.

Any sympathy with a party which gambles in litigation to put off the evil day and when that day comes, prays to be saved from its own gamble, is not justified.

**Mackinon Machenzie & Company Ltd. vs. Mackinon Employees' Union. 2015 LLR 337 (S.C.)**

When workman died due to fall of bonnet of the other vehicle of the owner, insurer is liable to pay compensation. No matter if the deceased was not engaged for that particular vehicle.

The Supreme Court of India is empowered to exercise its extraordinary jurisdiction under Article 142 of the Constitution of India to do complete justice irrespective of any hurdle created by the technicalities of law.

While deciding any controversy under the beneficial legislation wherein the sufferer belongs to the lowest strata of society, the use of Article 142 of the Constitution of India for providing benefit to the sufferer is justified.

When two vehicles belonged to the same insure, parked in the same space, it can be safely stated that deceased worker was working on the other vehicle, only on the direction of the employer, irrespective of his engagement not for that vehicle and, thus, the course of employment of the owner of the vehicle(s).

As per section 4A (3) (a) of the Employees' Compensation Act, 1923, the rate of interest is @ 12% per annum or at such higher rate not exceeding maximum of lending rates of any scheduled bank.

The Employees' Compensation Commissioner may direct the employer to pay penalty not exceeding 50% of the amount of compensation in addition to the amount of arrears and interest.

**Praveenbhai S. Khambhayata vs. United India Insurance Company Ltd. & Ors. 2015 LLR 352 (S.C.)**

**Less wages to daily wagers in comparison to permanent employees would be unfair labour practice violating the principle of equal work, equal pay prohibited under the law.**

Paying less wages and other benefits to daily wagers in comparison to permanent employees is practicing unfair labour practice as defined under the Industrial Disputes Act, 1947, prohibited under section 25(T) of the Act, amounting to statutory offence under section 25(U) of the Act since it amounts to violation of principle of "equal work, equal pay" i.e. exploitation of the workmen, not permissible under any law. It is appropriate to treat the services of the daily-wagers as permanent after 5 years of their initial appointment if the work being performed by the daily-wagers was same as that of permanent workmen and working hours were same. Discrepancy in wages of permanent and non-permanent workmen is not permissible in law. There is no restriction in law for recruitment of workmen as daily-wagers.

Regularization of a daily wager after completion of 5 years continuous service is justified. *Umrula Gram Panchayat vs. The Secretary, Municipal Employees' Union & Ors. 2015 LLR 449 (S.C.)*

**Enquiry is liable to be quashed if list of witnesses and documents are not supplied.**

If relevant documents are not supplied either alongwith the charge-sheet or thereafter during enquiry, on the basis of which charges were framed, the disciplinary proceedings are liable to be quashed.

Enquiry proceedings are liable to be vitiated on amount of non-supply of list of documents and witnesses.

Keeping in view the fact that Bank's money is public money, a huge amount of compensation which may work out to be Rs.40-45 lacs cannot be paid to an employee who remained out of job on account of his illegal removal, for doing no work by evolving the principle of 'no work' no pay'.

Relief of awarding only a lump sum compensation of Rs.5.00 lacs to an employee who remained out of job on account of his illegal removal is justified since he did not perform any work for the Bank.

*Bilaspur Raipur Kshetriya Gramin Bank & Anr. vs. Madanlal Tandon. 2015 LLR 673 (S.C.)*

**Dismissal not justified for go-slow and 'willful disobedience' if not fully proved.**

Charges of 'go slow' and 'wilful disobedience' (grave and serious in nature) if partially proved as per finding of the Labour Court and confirmed by the Industrial Court as well as



High Court, would not be taken as grave and serious to justify punishment of dismissal from service being disproportionate and severe to the gravity of the misconduct. Past record of a delinquent employee, if any, when not considered either at the time of issuance of charge sheet or leading evidence in the domestic enquiry, its consideration at a later stage while deciding quantum of punishment by the Disciplinary Authority is not sustainable.

Labour Court/Industrial Tribunal is empowered to grant such a relief, to achieve the ends of justice, the basis of which has neither been pleaded by the workman nor brought on record while recording evidence.

*Nicholas Piramal India Ltd. vs. Harisingh. 2015 LLR 561 (S.C.)*

**Artificial termination of services of the workmen, working on jobs of perennial nature, periodically after 85 days, is unfair labour practice prohibited under section 25T of the Industrial Disputes Act, 1947 attracting penalty under section 25U of the Industrial Disputes Act, 1947.**

Overriding terms of earlier compromise while passing Award by the National Industrial Tribunal is within its jurisdiction. Scheme framed pursuant to order in Special Leave Petition, passed by the High Court, cannot override the Award passed by the Central Government Industrial Tribunal. Passing of Award by the Central Government Industrial Tribunal on the basis of earlier Award passed by the National Industrial Tribunal would not be having any infirmity.

*Tamilnadu Terminated Full-Time Temporary LIC Employees' Association vs. Life Insurance Corporation of India & Ors. 2015 LLR 668 (S.C.)*

**Act prohibits the employer from engaging casual or temporary employees for long period without giving them benefits of permanent employees.**

Industrial Disputes Act is made for settlement of industrial disputes and for certain other purposes as mentioned therein. It prohibits unfair labour practice on the part of the employer in engaging employees as casual or temporary employees for a long period without giving them the status and privileges of permanent employees.

For attracting the provisions of section 25-G of the Industrial Disputes Act, 1947, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason. Section 25-H is couched in wide language and is capable of application to all 'retrenched workmen' and not merely those covered under section 25-F of the Act.

*Ajaypal Singh vs. Haryana Warehousing Corporation. 2015 (145) FLR 425 (S.C.)*

**Whether the V.R.S. is obtained by undue influence, coercion, fraud or not is a matter of adjudication by making a reference.**

Disputed questions of fact pleaded by the parties, as to whether the VRS was obtained by the workmen under undue influence or coercion, warrant the adjudication of the dispute effectively by the Industrial Tribunal/Labour Court.

An order passed by the Deputy Labour Commissioner, having delegated power, not competent either to make the reference or to refuse to make the reference, is bad in law, liable to be quashed.

Pure question of law can be raised at any stage of litigation.

New ground raising pure legal issue for which no enquiry or proof is required, can be raised at any stage of the suit.

When a question of law is raised for the first time in a court of last resort, upon facts either admitted or proved beyond controversy, it is not only competent but expedient, in the interest of justice, to entertain the plea.

*M/s. Ariane Orgachem Pvt. Ltd. vs. Wyeth Employees' Union & Ors. 2015 LLR 783 (S.C.)*

**Condition precedent is either industrial dispute exists or is apprehended. Government must also be satisfied that person whose dispute as being referred is a workman.**

Appropriate Government must also be satisfied that person whose dispute is being referred is a workman. Dispute not between an employer and his workman is not an industrial dispute. Such dispute can justifiably be refused to be referred. Order of reference open to judicial review if it is shown that the appropriate Government had no material before it or had not applied its mind to material before it. Refusal to refer a dispute can be challenged if it is shown that industrial dispute exists or is apprehended. A reference will be subject to judicial review also where no dispute exists or is apprehended.

No period of limitation prescribed under the 1947 Act. Limitation Act not applicable to proceeding under the 1947 Act. Appropriate Government required to keep in mind whether dispute is still existing or claim has become stale. Industrial Disputes cannot be said to exist unless demand is made by the workman and it has been rejected by the employer.

No limitation is fixed to raise an industrial dispute. However, workman is required to show that there is a dispute in presenti. If workman can give satisfactory explanation for laches and delay and demonstrate that circumstances disclosed that issue is still alive, delay would not come in his way. Else presumption would be that he has waived his right or acquiesced to the act of the other and issue has become stale. Appropriate Government may refuse to refer a stale issue or Labour Court may also held that there is no industrial dispute. Very stale claim should not be generally encouraged or allowed.

*Prabhakar vs. Joint Director, Sericulture Department and another. 2015 (147) FLR 341 (S.C.)*



ଶ୍ରୀମଦ୍‌ପ୍ରାକୃତ୍ୟ ଦର୍ପଣ

ନରଦ୍ରବ୍ୟ

ଅଜୟ କୁମାର ପଟ୍ଟନାୟକ

ଆରେ, ଆରେ, ଏ ଲୋକଟାକୁ ଅଟକାଅ । ଏ କ’ଣ ରକ୍ତଭିଜା ଟାଙ୍ଗିଆଟା ଧରି ଥାନାବାବୁଙ୍କ ରୁମକୁ ପଶିଯାଉଛି । ରହ ରହ କହି ବଡ଼ ପାଟିରେ ଚିତ୍କାର କରୁଥିଲେ କନେଷ୍ଟବଲ୍ ଓ ହାବିଲଦାରମାନେ, ମାତ୍ର ଲୋକଟାର କାହା କଥାକୁ ନିଦା ନଥିଲା । ତାର ଉଗ୍ର ରୂପ ଦେଖି କାହାର ବି ସାହସ ହୋଇ ନଥିଲା ତାକୁ ଅଟକାଇବା ପାଇଁ । କଳା କଟକଟ ଚେହେରା, ମୁଣ୍ଡବାଳ ଆଲୁରୁ ବାଲୁରୁ । ଦେହସାରା ରକ୍ତର ଛିଟା, କାନ୍ଧରେ ରକ୍ତଭିଜା ଟାଙ୍ଗିଆ, ବରତାପତ୍ରରେ ଗୁଡ଼ା ହୋଇଥିବା ଗୋଟିଏ ଜିନିଷ ଧରି ଆଗକୁ ମାଡ଼ି ଚାଲିଥିଲା । ତାର ଉଗ୍ର ରୂପ ଦେଖି ଜଣାପଡୁଥିଲା ସତେ ଯେପରି ବାଘ ବା ସିଂହ ସହ ଲଢ଼େଇ କରି ଆସିଛି, ମଝିରେ ମଝିରେ ରତି ପକାଉଥିଲା ଥାନାବାବୁ ମୋତେ ଜେଲରେ ପୁରାଇ ଦେ । କନେଷ୍ଟବଲଟା ଅଟକାଇବାରୁ ତାକୁ ଠେଲିଦେଇ କହିଲା, ମୋତେ ଥାନାବାବୁ ପାଖକୁ ନେଇ ଯା । କେହି ସାହସ ଜୁଟାଇ ପାରି ନଥିଲେ ତାକୁ ଅଟକାଇବାକୁ । କନେଷ୍ଟବଲଟା ତାକୁ ଥାନାବାବୁଙ୍କ ରୁମ୍ ପାଖକୁ ନେଇଗଲା ବେଳେ ବଡ଼ ପାଟିରେ ଚିତ୍କାର କଲା ଏ ବାବୁ ମୋତେ ଜେଲରେ ପୁରାଇ ଦେ । ମୁଁ ଦୋଷୀ । ଥାନାବାବୁଟା ଲୋକଟାର ଚେହେରା ଦେଖି ତଟସ୍ତ ହୋଇଗଲା । ତା ଚେହେରା ଏତେ ଉଗ୍ର ଓ ଭୟଙ୍କର ଥିଲା ଯେ, ଥାନାବାବୁଟି ତାକୁ ସାମ୍ନା ସାମ୍ନି ଅନାଇ ପାରୁନଥିଲା । କିଛି ସମୟ ବ୍ୟବଧାନ ପରେ ଥାନାବାବୁ କହିଲା, “ଏ ଚେୟାରରେ ବସ୍ ତାପରେ ତୋତେ ହାଜତରେ ପୁରାଇଦେବା ।” ଲୋକଟା ଧୁମ୍ କିନା ବସିପଡ଼ି ଗୋଟିଏ ଦୀର୍ଘନିଃଶ୍ୱାସ ପକାଇଲା, ବରତାପତ୍ରରେ ଧରିଥିବା ଜିନିଷଟିକୁ ଥାନାବାବୁଙ୍କ ଟେବୁଲରେ ଦୁମ୍ କିନା ଥୋଇଦେଲା । ଥାନାବାବୁ ପଚାରିଲେ ଆରେ ଏଟା କ’ଣ ? ଏଟା ସେ ରାକ୍ଷସର କଟାମୁଣ୍ଡ, କ’ଣ ପାଇଁ ତାକୁ ମାରିଲି ତୋ ନାଁ କ’ଣ ? ତୋ ବାପା ନାଁ କ’ଣ ? କିଛି ସମୟ ନିରବତା ପରେ ଭୋ କିନା ରତି ପକାଇ କହିଲା, ଏ ମୁଣ୍ଡଟା ହେଉଛି ସେ ରାକ୍ଷାସ ଦେବରାଜ ସିଂର । ଥାନାବାବୁ ମୁଣ୍ଡଟାକୁ ଟ୍ରେ ଉପରେ ରଖିଦେଇ, ଫୋରେନ୍ସି ଲାବ୍ରୋଟୋରୀ ଲୋକଙ୍କୁ ଡକାଇ ପଠାଇଲେ ଏବଂ ତାକୁ ଆସ୍ତେ ଆସ୍ତେ ପଚାରିଲେ, ତୋ ନାଁ କ’ଣ । “ମୋ ନାଁ ସନିଆ ମୁମ୍ମୁ” ତୋ ବାପା ନାଁ ଧୁସା ମୁମ୍ମୁ ମୃତ ନା ଜୀବିତ ? ଆରପାରିକୁ ଗଲାଣି କେବେଠାରୁ । ତୋର ଆଉ କିଏ ଅଛି ? ମୋର ମାଇପ ଆଉ ଏକ ଛୁଆ । କ’ଣ ପାଇଁ ମାରିଲୁ ଏ ସାହୁକାରକୁ ? କ’ଣ କରିଥାନ୍ତି । ଶଳା ରାକ୍ଷାସଟାଏ ଥିଲା । କିଛି ସମୟ ଦୀର୍ଘନିଃଶ୍ୱାସ ପରେ କହିଲା, “ବାବୁ ଆମେ ଆଜ୍ଞା ଗରିବ ଲୋକ, ମୂଲ ଲାଗିଲେ ଖାଉ, ମୂଲ ନଲାଗିଲେ ଘରେ ରୁଲି ଜଳେ ନାହିଁ । ଏବର୍ଷ ମରୁଡ଼ି ହେଲା କେଉଁଠି କାମ ଜଳିଲା ନାହିଁ । ମୋ ଛୁଆଟା ପାହାଡ଼ରୁ ଗତିପଡ଼ି ଗୋଡ଼ହାତ ଭାଙ୍ଗିଗଲା । ତାଙ୍କର କହିଲା, ଦଶ ହଜାରରୁ ପନ୍ଦର ହଜାର ଟଙ୍କା ଖର୍ଚ୍ଚ ହେବ । କେଉଁଠୁ କିଛି ଆଶା ନପାଇ, ସାହୁକାର ଘରକୁ ଗଲି । କାକୁଡ଼ିମାନତି କରି କହିଲି ବାବୁ ମୋତେ ଟଙ୍କା ପନ୍ଦର ହଜାର ଦେ, ମୁଁ ମୂଲ ଲାଗି ଶୁଝିଦେବି । ସାହୁକାରଟା ରୋକଠୋକ୍ ମନା କରିଦେଲା । କହିଲା, କିଛି ବନ୍ଧା ଆଣିଛୁ । ମୁଁ ନାହିଁ କହିଲି, କହିଲା ସବୁଆଡ଼େ



## ଶ୍ରୀମ ଦର୍ପଣ

ତ ମରୁଡ଼ି ପଡ଼ିଛି ତୋତେ ମୂଲ ଲଗାଇବି କିପରି । ତୁ ଦାଦନ ଯିବୁ ? ହଁ ବାବୁ ମୋ ପୁଅଟା ଭଲ ହୋଇଗଲେ ମୁଁ ଯିବି । କହିଲା ତୋ ପାଖରେ ବନ୍ଧା ଦେବାକୁ କ'ଣ କିଛି ନାହିଁ ? ନାହିଁ ବାବୁ କହିଲା ବି.ପି.ଏଲ୍. କାର୍ଡ ଅଛି ହଁ କରିବାରୁ ବି.ପି.ଏ.ଏଲ୍ କାର୍ଡ ବନ୍ଧାରଖୁ ମୋତେ ପନ୍ଦର ହଜାର ଟଙ୍କା ଦେଲା ଏବଂ ଗୋଟେ କାଗଜରେ ମୋ ଚିପ ନେଇଗଲା ରୋକଠୋକ ଶୁଣାଇଦେଲା, ପୁଅ ଭଲହୋଇ ଆସିଲା ପରେ ଆନ୍ତ୍ର ଯିବୁ କାମ କରିବା ପାଇଁ । ପୁଅକୁ ଭଲକରି ଆଣି ସାହୁକାର ଘରକୁ ଗଲି ଦାଦନ ଯିବାପାଇଁ । ସାହୁକାର ତା ଶଳା ସହିତ ମୋତେ ପଠାଇଦେଲା ରଙ୍ଗାରେଡ଼ି ଜିଲ୍ଲାକୁ ଇଟାକାମ କରିବାକୁ । ସାହୁକାରର ଟଙ୍କା ଶୁଝିବା ମୋହ ଓ ଅଧିକ ରୋଜଗାରର ଆଶା ମୋତେ ଦାଦନ ଖଟିବା ପାଇଁ ବାଧ୍ୟ କରିଥିଲା । ଆମେ ଗେରସ୍ତ ମାଇପ ରାତିଦିନ ହାତଭଙ୍ଗା କାମକରି ଆଶା କରିଥିଲୁ ଦୁଇ ତିନି ମାସରେ ଆମର କରଜ ଶୁଝିଯିବ । ମାତ୍ର ମାସ ଶେଷରେ ସାହୁକାରର ଶଳା କହୁଥିଲା ଭାତିଆ ବାବଦ ଖର୍ଚ୍ଚ ହିସାବପରେ ତୁମର ଦଶହଜାର ଟଙ୍କା ବାକି ଅଛି । ପୁଣି ଦୁଇ ତିନି ମାସ ଖଟିବା ପରେ ବି ସେଇ ଅବସ୍ଥା । ଦିନେ ଲୁଚିକରି ପଳାଇ ଆସିଲୁ ଗାଁକୁ । ଦୁଇଦିନ ପରେ ଗଲି ସାହୁକାର ପାଖକୁ ମୋ ବି.ପି.ଏଲ୍. କାର୍ଡ ଆଣିବା ପାଇଁ । ଆନାବାବୁଟା ବକବକ କରି ଅନାଇଥାଏ, ପଚାରିଲା ତାପରେ କ'ଣ ହେଲା । ସାହୁକାର କହିଲା ତୁ ଶଳା ଲୁଚିକରି ଆସିଛୁ, ସୁଧ ମୂଲ ହିସାବ କଲେ ତୋ ଉପରେ ଦଶହଜାର ଟଙ୍କା ରହିଲାଣି । ଯେ ପର୍ଯ୍ୟନ୍ତ ଏ ଟଙ୍କା ନ ଶୁଝିଛି ତୋ ବି.ପି.ଏଲ୍. କାର୍ଡ ଦେବିନି ଓ ଆଜିଠୁଁ ତୋ ମାଇପ ମୋ ଘରେ ରହି ପାଇଟି କରିବ । ଆମେ ଗେରସ୍ତ ମାଇପ ଯେତେ ଗୁହାରି କଲୁ ମୋ ମାଇପକୁ ଛାଡ଼ିଲା ନାହିଁ । ପିଲାଟା ମୋର ଭେଁ ଭେଁ ହୋଇ କାନ୍ଦୁଥିଲା । କ'ଣ କରିବି, ମୁଣ୍ଡକୁ ମୋର ରକ୍ତ ଚଢ଼ିଗଲା, ସେଠୁଁ ପଳାଇ ଆସିଲି । ମହୁଲ ଦୁଇ ବୋତଲ ପିଇ ଟାଙ୍ଗିଆ ଧରି ଗଲି ସାହୁକାର ଘରକୁ । ମୋତେ ଶଳା ବାହାରି ଯାଆ କହି ଠୋ ଠୋ ଶୁଣାଇଲା, ଘରୁ ତଡ଼ିଦେଲା । ମୋ ମାଇପକୁ ଛାଡ଼ିଲା ନାହିଁ । ମୋ ମାଇପ ସାତେ କାକୁଡ଼ି ମିନତି ହୋଇ ରଡ଼ି ପକାଉ ଥିଲା । ଏପଟେ ମୋ ଛୋଟ ପିଲା ତା ମା'କୁ ନପାଇ ଭେଁ ଭେଁ ହୋଇ ରଡ଼ୁଥିଲା, ମୋର ସମସ୍ତ ନେହୁରା, କାକୁଡ଼ି, ମିନତି କିଛି ବି କାମରୁ ନଥିଲା । ଆଉ ସହି ପାରିଲିନି । ସହିବାର ସବୁ ଶକ୍ତି ହରାଇ ବସିଲି । ମୁଣ୍ଡକୁ ମୋର ଚଢ଼ିଗଲା, ଟାଙ୍ଗିଆରେ ଏକାଚୋଟ ମାରିଲି ଯେ, ତା ମୁଣ୍ଡଗଣ୍ଡି ଅଲଗା ହୋଇଗଲା । ସେ ମୁଣ୍ଡଟାକୁ ଧରି ଆସିଛି ବାବୁ । ସେ ପାପିଟାକୁ ମାରି ମୁଁ ଭୁଲ୍ କରିଛି ବାବୁ । ମୋତେ ହାଜତରେ ପୁରାଇ ଦେ । ଆବାକାବା ହୋଇ ସନିଆ ମୁହଁକୁ ଅନାଇ ରହିଥିଲା ଆନାବାବୁ । କିଛି ସମୟ ରୁପ୍ ରହିଲା ପରେ କାନ୍ଦି କାନ୍ଦି କହୁଥିଲା ସନିଆ, “ବାବୁ ମୋର ଗୋଟେ କଥା ରଖୁବୁ, ମାଇପକୁ ମୁକୁଳାଇ, ପୁଅକୁ ତା ପାଖରେ ଛାଡ଼ିଦେବୁ । ମୋର ଆଉ କିଛି କହିବାର ନାହିଁ ।

ଆନାବାବୁଟା ଭାବୁଥିଲା ପ୍ରକୃତରେ ନିରାହର ରକ୍ତ ତାତିଲେ କ'ଣ ହୁଏ !

ସହକାରୀ ଶ୍ରୀମ କମିଶନର, ଜଗତସିଂହପୁର



# ସୁକ୍ତି

ଅଜୟ ମହାନ୍ତି

ବିନୋଦ ବାବୁଙ୍କୁ ନୂଆ ସହରକୁ ବଦଳି ହୋଇ ଆସିବାର ୩ ମାସ ହୋଇଗଲାଣି, ଯା' ଭିତରେ ନୂଆ ସହର, ରାସ୍ତାଘାଟ, ପଡ଼ୋଶୀ ଓ ଦୋକାନ ବଜାର ସବୁ ଚିହ୍ନାହୋଇ ସାରିଲେଣି । ପଡ଼ୋଶୀ ଭାବେ ହେମନ୍ତ ବାବୁ ଓ ତାଙ୍କ ସ୍ତ୍ରୀଙ୍କ ଅତ୍ୟନ୍ତ ଭଦ୍ର ଓ ସୁମଧୁର ବ୍ୟବହାର ପାଇଁ ସର୍ବତ୍ର ପରିଚିତ ଓ ଆଦୃତ । ବିନୋଦ ବାବୁ ନିଜ ବଗିଚାରୁ ପୂଜା ପାଇଁ ଫୁଲ ତୋଳୁ ତୋଳୁ ହଠାତ୍ ଧୂସ୍ ଧାସ୍ ଶବ୍ଦ ତାଙ୍କ କାନରେ ପଡ଼େ ଓ ଏଥି ସହିତ ଗୁମୁରି ଗୁମୁରି ହୋଇ କାନ୍ଦର ଶବ୍ଦ ମଧ୍ୟ । ସେ ସବୁକୁ ତାଙ୍କ ମନ ଭିତରେ ନପୁରାଇ ଫୁଲ ତୋଳିବାରେ ବ୍ୟସ୍ତ ରୁହନ୍ତି ବିନୋଦ ବାବୁ । ଏମିତି ନିୟମିତ ୧୫ ଦିନ ଶୁଣିଲା ପରେ ବିନୋଦ ବାବୁ ତାଙ୍କ ଧର୍ମପତ୍ନୀଙ୍କୁ ଜଣାନ୍ତି । ସେ ମଧ୍ୟ କାହିଁକି ବା ଜାଣିବେ । ଏ କଥା ବାବୁମାନେ ଅଧିକ୍ ଗଲାପରେ, ପିଲାମାନେ ସ୍କୁଲ ଓ କଲେଜ୍ ଗଲାପରେ ଦିନ ତମାମ୍ ସ୍ତ୍ରୀ ଲୋକମାନେ ମଜ୍ଜାମଜ୍ଜିସ୍ କରିଥାନ୍ତି ଓ ମସ୍‌ଗୁଲ୍‌ରେ ବ୍ୟସ୍ତ ରୁହନ୍ତି । ପୁଣି ଅପେକ୍ଷା ସନ୍ଧ୍ୟା ୫ଟା ବେଳକୁ ସମସ୍ତେ ଘରକୁ ଫେରିବା ପର୍ଯ୍ୟନ୍ତ । ହେମନ୍ତ ବାବୁଙ୍କ ପୁଅ ବବୁଲ ମଧ୍ୟ ସ୍କୁଲ ଯାଏ ଓ ଆସେ ଠିକ୍ ସମୟରେ । ଛୋଟ ପିଲାଟି କୋଉ ପାଖ ଓଡ଼ିଆ ସ୍କୁଲରେ ପଢ଼େ ବୋଧହୁଏ । ତାର ପରିଷ୍କାର ପରିଚ୍ଛନ୍ନତା ବେଶ୍ ବାରି ହୋଇଯାଏ ଭଲ ଘରର ପାଠୁଆ ପିଲାଟିଏ ପରି । ଶୀତଦିନ ସକାଳୁ ସକାଳୁ ବଗିଚାରେ ଯେପର ପତ୍ର ପତ୍ର ବବୁଲର କଇଁ କଇଁ କାନ୍ଦ ଅତ୍ୟନ୍ତ କରୁଣ ଭାବରେ ଶୁଣିଲେ ବିନୋଦ ବାବୁ । ଏତେ ଛୋଟ ପିଲାଟିର କାନ୍ଦ ସମ୍ଭାଳି ନପାରି ପତ୍ନୀକୁ ଡାକିଲେ କାରଣ ଜାଣିବା ପାଇଁ । ପତ୍ନୀ ମଧ୍ୟ ଦୌଡ଼ି ଆସିଲେ ଓ କାନ୍ଦ ଶୁଣି ନଶୁଣିଲା ପରି ରୁପ୍ ରହିବା ପାଇଁ ଇସାରା ଦେଲେ । କିଛି ସମୟ ପରେ ବବୁଲ ଆଖିରୁ ଲୁହ ପୋଛି ପୋଛି ସ୍କୁଲ ବାହାରିଗଲା ଯେମିତି କି କିଛି ହୋଇ ନାହିଁ । ବିନୋଦ ବାବୁ ମଧ୍ୟ କିଛି ପଚାରିବା ପାଇଁ ଭାବିଲା ବେଳକୁ ବବୁଲକୁ ଭରସି ପଚାରି ପାରିଲେ ନାହିଁ । କ'ଣ ବା ଦରକାର “କାଦୁଅରେ ପଶିବ କାହିଁକି ନା ଗୋଡ଼ ଧୋଇବ କାହିଁକି”ର ପଦ୍ଧତିରେ । ଏମିତି ଅନେକ କଥା ପଡ଼ୋଶୀ ଭାବରେ ଶୁଣି ଶୁଣି ଦେହସୁହା ହୋଇଯାଇଥାଏ ଯା ଭିତରେ । ଏମିତିବି ହେମନ୍ତ ବାବୁ ଓ ତାଙ୍କ ପତ୍ନୀଙ୍କ ବ୍ୟବହାରରେ କେହିବି ଚିନ୍ତା କରିପାରିବ ନାହିଁ କିଛି ଗୋଟେ ବ୍ୟତିକ୍ରମର ଆଶଙ୍କା ନେଇ । ପଡ଼ୋଶୀ ହିସାବରେ ଅନେକ ସମୟରେ ଆଲୋଚନା ଓ ବିଚାର ବିମର୍ଶ ହୋଇଥାଏ ପରସ୍ପର ଭିତରେ ବିଭିନ୍ନ ବିଷୟ ବସ୍ତୁକୁ ନେଇ । ବିନୋଦ ବାବୁଙ୍କ ପତ୍ନୀ ମଧ୍ୟ ଅନେକ ସମୟରେ ହେମନ୍ତ ବାବୁଙ୍କ ପରିବାର ବିଷୟରେ ପଚାରି ବୁଝିଥାନ୍ତି । ସମୟ ଗତିବା ସାଙ୍ଗରେ ଉଭୟଙ୍କ ସମ୍ପର୍କ ଖୁବ୍ ନିବିଡ଼ ହୋଇ ଚାଲିଥାଏ । ବବୁଲ ମଧ୍ୟ ପିଲାଙ୍କ ସାଙ୍ଗେ ସାଙ୍ଗ ହୋଇ ଖେଳକୁଦ ଆଦି କରୁଥାଏ ଓ ମଝି ମଝିରେ ଭୋଜି ଭାତର ଆୟୋଜନ ମଧ୍ୟ ହୋଇଥାଏ । କେବେ ବି ବବୁଲ ତା ଉପରେ ହେଉଥିବା ଅତ୍ୟାଚାର ବିଷୟରେ ଅନ୍ୟକୁ ଜାଣିବାର ସୁଯୋଗ ବି ଦେଇ ନଥାଏ । ସବୁ ଚାଲେ ଠିକ୍ ଠାକ୍ । ଦିନେ ହେମନ୍ତ ବାବୁଙ୍କ ମାଆ ଗାଆଁରୁ ଆସିଥାନ୍ତି । ପଡ଼ୋଶୀ ହିସାବରେ ବିନୋଦ ବାବୁ ମୁଣ୍ଡିଆଟିଏ ମାରି ମାଉସୀଙ୍କ ସର୍ବ କୁଶଳ ଜିଜ୍ଞାସା କରନ୍ତି । ହଠାତ୍ ଦିନେ ଭୋରରୁ ଫୁଲ ତୋଳୁ ତୋଳୁ ନଜର ପଡ଼ିଗଲା ହେମନ୍ତ ବାବୁଙ୍କ ମାଆ ଉପରେ ।



## ଶ୍ରୀମ ଦର୍ପଣ

ସେ ବବୁଲୁକୁ ଧରି କାନ୍ଦୁଥାନ୍ତି କଇଁ କଇଁ ହୋଇ ଘର ବାହାରେ । ବବୁଲୁ ମଧ୍ୟ ଜାବୋଡ଼ି ଧରି ଥାଏ ବୁଢ଼ୀ ମାଆକୁ । ଏହି ଦୃଶ୍ୟ ଦେଖି ବିନୋଦ ବାବୁ ଆଉ ସହି ନପାରି ଦୋଡ଼ି ଯାଇ ଗେଟ୍ ପାଖରେ ପଚାରିଲେ, “ମାଉସୀ କ’ଣ ହେଲା ?”

ଉତ୍ତରରେ ମାଉସୀ କହିଲେ, “ଦେଖୁନ ପୁଅ, ବୋହୂ ମୋର ଏମିତି ମାରୁ ମାରୁ ଏ ଛୋଟ ପିଲାଟାକୁ ମାରି ଦେଇଥାନ୍ତା । ଏମିତି କ’ଣ ମାତ ମରାଯାଏ ଜୀବନ ଗଲାଯାଏ । କୋଉ ନିଜ ପିଲା ଯେ, ମାଆ ହୋଇଥିଲେ ସିନା ଜାଣିଥାନ୍ତା ମାତୃତ୍ୱ କ’ଣ ? ଦଶ ମାସ ଗର୍ଭରେ ଧରିଥିଲେ ସିନା ଜାଣିଥାନ୍ତା ପିଲା ଜନ୍ମର କଷ୍ଟ ।” ଏମିତି ଏକ ଅସ୍ୱାଭାବିକ କଥା ଶୁଣି ଗୁମ୍ ହୋଇ ବସିପଡ଼ିଲେ ବିନୋଦ ବାବୁ ଓ ପତ୍ନୀକୁ କହିଲେ ଏହାର ସତ୍ୟତା ଜାଣିବା ପାଇଁ । କାରଣ ସେ ତରତର ହେଉଥାନ୍ତି ଅଧିକ ଯିବା ପାଇଁ । ସଙ୍ଗେ ସଙ୍ଗେ ପତ୍ନୀ ଯାଇ ଗେଟ୍ ପାଖରେ ମାଉସୀଙ୍କୁ ପଚାରିଲେ ଓ ଯାହା ଶୁଣିଲେ ସେଥିରେ ତାଙ୍କ ମୁଣ୍ଡ ଘୁରିଗଲା । ମାଉସୀ ଆରମ୍ଭ କଲେ, “ଶୁଣ ! ପୁଅ ବୋହୂ ବିବାହ କରିବାର ୨୦ ବର୍ଷ ପରେ ବି ପିଲାଟି କୋଳକୁ ଆସିଲା ନାହିଁ ଓ ଡାକ୍ତରଙ୍କ ପରାମର୍ଶ କରିବାରୁ ଏମାନେ ସାରା ଜୀବନ ପିଲାଟିଏ ଜନ୍ମ ଦେଇପାରିବେ ନାହିଁ ବୋଲି ରୋକ୍‌ଠୋକ୍ ବାଣୀ ଶୁଣିଲେ । ଅନ୍ୟ ଉପାୟ ନପାଇ ଏମାନେ ଗୋଟିଏ ପିଲା କେଉଁ ସହରରୁ କିଣି ଆଣିଥିଲେ ଏବଂ ଏକଥା କେହି ସୁଦ୍ଧା ଜାଣି ନଥିଲେ ମୋ ଛତା । ମୁଁ ମଧ୍ୟ ବାହାରେ କାହାକୁ କୁହେ ନାହିଁ ଏକଥା । ସେ ତ ମୋର ନିଜର ନାତି ବୋଲି ମୁଁ ଗ୍ରହଣ କରିଛି । ହେଲେ ତା ପ୍ରତି ଏ ଅତ୍ୟାଚାର ! ମୋର ସହିବାର ବାହାରେ (ଏ ଭିତରେ ବିନୋଦ ବାବୁ ଆସି ପତ୍ନୀଙ୍କ ପାଖରେ ଠିଆ ହୋଇଥାନ୍ତି) ।

ମାଉସୀ କଇଁ କଇଁ ହୋଇ ନେହୁରା ହୋଇ କହୁଥାନ୍ତି, “ବିନୋଦ ବାବୁ ମୁଁ କାଲି ଥିବି କି ନଥିବି ହେଲେ ଆଜି ବବୁଲୁକୁ ତମେ ମୁକ୍ତି କରିଦିଅ ! ଛାଡ଼ି ଦିଅ ତା ବାପାମାଆଙ୍କ ପାଖରେ, ସେମାନେ ଯେଉଁଠି ବି ଥାଆନ୍ତୁ । ଆଉ ଆଜି ବବୁଲୁ ଯଦି ଘରକୁ ନ ଫେରେ ତେବେ ଏମାନେ ମିଶି ମାରିଦେବେ ।” ମାଉସୀଙ୍କ ନେହୁରା ଶୁଣି ବିନୋଦ ବାବୁ ପୋଲିସ୍‌କୁ ଖବର ଦେଇ ପିଲାଟିକୁ ଉଦ୍ଧାର କଲେ । ବବୁଲୁ ବିଦାୟ ନେଲା । କାନ୍ଦ କାନ୍ଦ ହୋଇ ବିନୋଦ ବାବୁ ଭଗବାନଙ୍କ ନିକଟରେ ପ୍ରଣତି ଜଣାଇଲେ ତାରି ଭଲ ପାଇଁ । ପୋଲିସ୍ ଗାଡ଼ିର ପଛ ସିଟ୍‌ରେ ବସି ବବୁଲୁ ଯେତେବେଳେ ଲୁଚି ଯାଉଥାଏ ଆଖି ଆଜୁଆଳର ହାତ ହଲାଇ, ତା ଥିଲା ଅତ୍ୟନ୍ତ କରୁଣ ଓ ଅବର୍ଣ୍ଣନୀୟ । ବିନୋଦ ବାବୁ ମାଉସୀଙ୍କ ପାଖକୁ ଯାଇ ଆଖିର ଲୁହ ପୋଛି ଦେଇ, “କହିଲେ ବବୁଲୁ ସିନା ଚାଲିଗଲା ହେଲେ ଆପଣଙ୍କର ଏହି ମହାନତା ତାକୁ ସାହାଯ୍ୟ କଲା ତାର “ମୁକ୍ତି” ପାଇଁ । ଆଗାମୀ ଦିନ ସମାଜ ପାଇଁ ଏହା ଏକ ବାଉଁଶ ଯେକୌଣସି ଲୋକ ଘରେ ଶିଶୁ ଶ୍ରମିକ ରଖିବେ ନାହିଁ । ଯଦି ରଖିବେ ଅନେକ କୋମଳମତି ଶିଶୁ ତାଙ୍କ ଜୀବନରେ ନୂଆ ଆଲୋକ ଦେଖିପାରିବେ ନାହିଁ ।”

ପୂର୍ବ ନଂ. ୭୬୧, ବଡ଼ଗଡ଼

ଭୁବନେଶ୍ୱର - ୧୮

ମୋ. : ୯୪୩୭୨୩୩୫୧୦



## ବୁଝାମଣା

ସଜି ମହାନ୍ତି

ନଶୟ ହୋ, ବୁଝେଇ କହିବ ଭାଇଙ୍କି

ପିଲାଟାକୁ ମୋର ପାଠରୁ ଛଡ଼େଇ

ବିଲକୁ ପଠେଇ ଦେଲେ କାହିଁକି ?

ଖଡ଼ି ଭଲକରି ଧରି ଜାଣିନି ସେ

କେମିତି କରିବ କଠିନ କାମ

ମା' କାନିଛାଡ଼ି ଯାଇନି କେବେ ସେ

କେମିତି ସହିବ ଖରାର ଟାଣ

ବୁଝେଇ କହିବ ବାପ ହୋଇ ତମେ

ଏତେ ଦୁରୁବୁଦ୍ଧି କଲେ କାହିଁକି ?

ଭଲକରି ଯିଏ ଦୁନିଆ ଦେଖୁନି

ଜାଣି ନାହିଁ କିଏ ଭଲ କି ମନ୍ଦ

ବାଲୁତ ପିଲାର ଦେହରେ କି ବଳ

କାମରେ କାହାକୁ କରିବ ବୋଧ

ବୁଝେଇ କହିବ ଭେଣ୍ଡିଆ ବାପକୁ

ଛାର ପଇସାରେ ଲୋଭ କାହିଁକି ?

୨୭/୧୮୫, ଗଡ଼ମହେଶ୍ୱର ବିହାର,  
ରୋଡ୍ ନଂ.-୧, ଭୁବନେଶ୍ୱର - ୭୫୧୦୦୨



ଶ୍ରମ ବିବିଧ ଦର୍ପଣ

ଅନୌପଚାରିକ କ୍ଷେତ୍ର - ଏକ ପର୍ଯ୍ୟାଲୋଚନା

ସୌରାବଂଧୁ କର

ପ୍ରତ୍ୟେକ ଦିନ ଆମେ ବହୁ ଲୋକମାନଙ୍କର ସହଯୋଗ ପାଇଁ ଖବରକାଗଜ ବାଲା ଖବରକାଗଜ ପକାଏ, ଘରଦ୍ୱାର ସଫା କରିବା ଓ ବାସନ ଇତ୍ୟାଦି ପରିଷ୍କାର କରିବାକୁ ସ୍ତ୍ରୀ ଲୋକଟିଏ ଆସେ । ରାସ୍ତା ସଫେଇ ମ୍ୟୁନିସ୍ପାଲଟିର ସଫେଇ ବାଲା ପ୍ରତ୍ୟେକ ଦିନ କରେ, ଅଟୋରେ କାର୍ଯ୍ୟ କ୍ଷେତ୍ରକୁ ଯିବାକୁ ହୁଏ । ବିଭିନ୍ନ ବ୍ୟକ୍ତି ଭିନ୍ନ ଭିନ୍ନ ଭାବରେ କାର୍ଯ୍ୟ କରନ୍ତି, ଯାହା ଫଳରେ ସମାଜ ବ୍ୟବସ୍ଥାର ଘଣ୍ଟା କଣ୍ଟା ଚାଲିବା ପରି ଚାଲେ । ଆମର ସମାଜିକ ଓ ଆର୍ଥିକ ସ୍ଥାନଟି ଅନୌପଚାରିକ ଏବଂ ଯେଉଁ ଲୋକମାନେ ଏଥିରେ କାର୍ଯ୍ୟ କରନ୍ତି ସେମାନେ ହେଉଛନ୍ତି ଅନୌପଚାରିକ ଶ୍ରମିକ ।

ଅନୌପଚାରିକ କ୍ଷେତ୍ର ସମ୍ପର୍କରେ ପ୍ରଥମେ ଯେ ଏହାକୁ ଲୋକ ଲୋଚନକୁ ଆଣିଥିଲେ ସେ ହେଉଛନ୍ତି ବ୍ରିଟିଶ୍ ନୃତ୍ୟବିଦ୍ କେଲଥ୍ରାଟ୍ । ଏହା ତାଙ୍କର ଘାନା ସମ୍ପର୍କିତ ଅଧ୍ୟୟନରୁ ହିଁ ଉତ୍ପନ୍ନ । ଅନୌପଚାରିକ କ୍ଷେତ୍ର କହିଲେ ଆମେ ସାଧାରଣତଃ ବୁଝୁ ଯାହା ଅଶୁକ୍ଷିତ କ୍ଷେତ୍ରଜନିତ କାର୍ଯ୍ୟ, ଆତ୍ମନିଯୁକ୍ତି କ୍ଷେତ୍ର । ଏହି କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ କରୁଥିବା ଲୋକମାନଙ୍କର ଆୟ ନିର୍ଧାରଣ ନୁହେଁ, ସେମାନେ ଶ୍ରମିକମାନଙ୍କର ମୌଳିକ ଅଧିକାରରୁ ବଞ୍ଚିତ । ମୋନଙ୍କ ପାଇଁ ସାମାଜିକ ସୁରକ୍ଷା ଦିବା ସ୍ୱପ୍ନ । ଅନୌପଚାରିକ କ୍ଷେତ୍ର କହିଲେ ଆମେ ବିଚାର କରୁ ଏହା ହେଉଛି ଅଣକୃଷି ବା ନିମ୍ନକୃଷି କାର୍ଯ୍ୟ ।

ଦି ନ୍ୟାସନାଲ କମିଶନ ଅନ୍ ଇଣ୍ଡରପ୍ରାଇଭେସ୍ ଇନ୍ ଦି ଅନଅର୍ଗାନାଇଜଡ୍ (NCEUS)ଙ୍କ ମତରେ ଅନୌପଚାରିକ କ୍ଷେତ୍ରରେ ଥିବା ବହୁ ସଂଖ୍ୟକ ଲୋକ ହେଉଛନ୍ତି ଅଣକୃଷି । ଏହାର କାରଣ ହେଉଛି ସେମାନଙ୍କର ସାଧାରଣ ଶିକ୍ଷାଗତ ଯୋଗ୍ୟତା ଓ ତାଲିମ୍ ସ୍ୱଳ୍ପ, ନିମ୍ନ ମଜୁରି ତଥା ନିମ୍ନତମ ଉତ୍ପାଦନକ୍ଷମତା । ନିମ୍ନ ମଜୁରି ଓ ନିମ୍ନ ଉତ୍ପାଦନର କାରଣ ହେଉଛି ନିମ୍ନତମ କୃଷିକତା । କିନ୍ତୁ ବାସ୍ତବ କ୍ଷେତ୍ରରେ କୃଷିକତା, ଉତ୍ପାଦକତା ଓ ମଜୁରିର ସମ୍ପର୍କ ବିଷୟରେ ବିଚାର କରିବା ଅତ୍ୟନ୍ତ କଷ୍ଟସାଧ୍ୟ । ଭାରତ ପରି ବିକାଶଶୀଳ ଅର୍ଥନୀତିରେ ସବୁଠାରୁ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ଦିଗଟି ହେଉଛି ବଳକା ଶ୍ରମ । ଏହି ବଳକା ଶ୍ରମ ହେତୁ ବହୁ ସମୟରେ ଦେଖା ଯାଇଛି ଯେ, କୃଷିକା ଶ୍ରମିକ ମଧ୍ୟ ଅଳ୍ପ ମଜୁରିର କାର୍ଯ୍ୟ କରେ ।

ଭାରତରେ ଅନୌପଚାରିକ ଅର୍ଥନୀତି ୯୨.୫% ଏବଂ ଜିଡିପିର ଦୁଇ ତୃତୀୟାଂଶ । ଏହି ଅର୍ଥନୀତି ସମୟକ୍ରମେ ଔପଚାରିକ ଅର୍ଥନୀତିରେ ପରିବର୍ତ୍ତିତ ହେବାର ସମ୍ଭାବନା କ୍ରମଶଃ କ୍ଷୀଣ ହୋଇଯାଇଛି । କାରଣ ଔପଚାରିକ କ୍ଷେତ୍ର ଅନୌପଚାରିକ କ୍ଷେତ୍ରକୁ ଠିକାଦାରା ଶସ୍ତା ଉତ୍ପାଦନ ଓ ସେବା ମାଧ୍ୟମରେ ଶୋଷଣ କରୁଛି । ଅନୌପଚାରିକ କ୍ଷେତ୍ର କେବଳ ଦାରିଦ୍ର୍ୟର ରହଣିକ୍ଷେତ୍ର ନୁହେଁ ବରଂ ଆନ୍ତର୍ଜାତିକ ଶ୍ରମ ସଂସ୍ଥା ଅନୁସାରେ ଏହା କାର୍ଯ୍ୟ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ କରିବାର ଅଧିକାରହୀନତା, ସଂଗଠିତ ହେବାର ଅଧିକାର ହୀନତା ଏବଂ ସାମାଜିକ ସୁରକ୍ଷାହୀନତାର ଶିକାର ।

ଅନୌପଚାରିକ କ୍ଷେତ୍ର ଅସଂଗଠିତ କିନ୍ତୁ ଏହା ମଧ୍ୟ କୁହାଯାଇପାରିବ ନାହିଁ ଯେ ଏହା ବିକ୍ଷିପ୍ତ ଭାବରେ ସଂଗଠିତ । ଅନୌପଚାରିକ ବଜାର ସରକାରଙ୍କ ଦ୍ୱାରା ନିୟନ୍ତ୍ରିତ ନୁହେଁ କିନ୍ତୁ ସମାଜ ନିୟନ୍ତ୍ରିତ । ଅନୌପଚାରିକ କ୍ଷେତ୍ର କ୍ଷୁଦ୍ର କ୍ଷୁଦ୍ର ଆର୍ଥିକ ସଂସ୍ଥା ନୁହେଁ, ଯଦିଓ ଏହା



ବହୁ ଭାବରେ ପରିଲକ୍ଷିତ । ଦେଖାଯାଇଛି ଯେ ହାରାହାରି ୯୫% ସଂସ୍ଥା ୫ ଜଣ ଠାରୁ କମ୍ ଲୋକଙ୍କୁ ନିଯୁକ୍ତ କରିଥାଆନ୍ତି; ୧୯୯୦ରେ ଏହା ଥିଲା ୨.୯୦ ଏବଂ ୨୦୦୫ରେ ୨.୪ । ଉଦାରୀକରଣ ଫଳରେ କ୍ଷୁଦ୍ର କ୍ଷୁଦ୍ର ବ୍ୟବସାୟିକ ସଂସ୍ଥା ଗଢ଼ି ଉଠିଛି । ଆକାରରେ କ୍ଷୁଦ୍ର ହେବା ହେତୁ ଶ୍ରମ ଆଇନ ଏହା ଉପରେ ଲାଗୁ କରାଯାଇପାରୁନି ଫଳରେ ଏଥିରେ କାର୍ଯ୍ୟରତ ଲୋକେ ସାମାଜିକ ସୁରକ୍ଷା ପାଇ ନାହାନ୍ତି ଏବଂ ସହଜରେ ଶୋଷଣ ଶିକାର ହେଉଛନ୍ତି । ଏପରି ସଂସ୍ଥାଗୁଡ଼ିକର ମାଲିକମାନେ ମଧ୍ୟ ଶ୍ରମିକ ପର୍ଯ୍ୟାୟଭୁକ୍ତ ହେଉଛନ୍ତି । ଏଥିରୁ ଅଧିକାଂଶ ହେଉଛନ୍ତି ଖୁରୁରା ଓ ପାଇକାରୀ ବ୍ୟବସାୟ, ସ୍ଥିରଯୁକ୍ତି ଉତ୍ପାଦନକାରୀ । ଭାରତର ସମ୍ପୂର୍ଣ୍ଣ ଅର୍ଥନୀତିର ସାଧାରଣ ଜୀବିକା ହେଉଛି ଏହି ପର୍ଯ୍ୟାୟ ଯେଉଁମାନେ ଔପଚାରିକ ଓ ଅନୌପଚାରିକ ।

ଏହି ଅନୌପଚାରିକ କ୍ଷେତ୍ର ମଧ୍ୟ ବୃହତ୍ ଉଦ୍ୟୋଗ ଓ ରାଷ୍ଟ୍ର ନିୟନ୍ତ୍ରିତ ଅର୍ଥନୀତିରେ ମଧ୍ୟ ବ୍ୟାପକ । ୪୦ ରୁ ୮୦ ପ୍ରତିଶତ ଶ୍ରମିକ ଯେଉଁମାନେ କର୍ପୋରେଟ୍ ସେକ୍ଟରରେ କାର୍ଯ୍ୟ କରନ୍ତି ସେମାନେ ପଞ୍ଜିକୃତ ନୁହଁନ୍ତି ଏବଂ ବହୁ କମ୍ ସଂଖ୍ୟକ ଯୁନିୟନର ସଭ୍ୟ ଭୁକ୍ତ । ସେମାନେ କାର୍ଯ୍ୟ କ୍ଷେତ୍ରରେ ସେମାନଙ୍କର ଅଧିକାର ସମ୍ପର୍କରେ ସଚେତନ ନୁହଁନ୍ତି କିମ୍ବା ମାଲିକମାନଙ୍କ ଭୟ ଯୋଗୁଁ କିଛି କହିପାରନ୍ତି ନାହିଁ । ଉଦାହରଣ ସ୍ୱରୂପ ରାଷ୍ଟ୍ରନିୟନ୍ତ୍ରିତ କୋଇଲା କ୍ଷେତ୍ରକୁ ଦେଖାଯାଇପାରେ । ଯେଉଁଠାରେ ଅଣପଞ୍ଜିକୃତ, ସାମାଜିକ ଶ୍ରମ ଶକ୍ତି କାର୍ଯ୍ୟ କରୁଛନ୍ତି ଏବଂ ସେମାନଙ୍କୁ ବେଆଇନ ଭାବରେ ପରିଚାଳନା କରୁଛନ୍ତି ଜଗୁଆଳି, ଦଲାଲ, ଅଣପଞ୍ଜିକୃତ ସହ ଠିକାଦାର ସେମାନଙ୍କର ଘରୋଇ ସୁରକ୍ଷା ବଳ ମାଧ୍ୟମରେ । ଏଥିରୁ ଏହା ସ୍ପଷ୍ଟ ଅନୁମେୟ ଯେ ପୁଞ୍ଜିବାଦୀ ଉତ୍ପାଦନ ବ୍ୟବସ୍ଥା ଅନୌପଚାରିକ କ୍ଷେତ୍ରକୁ ନେଇ ଉତ୍ପାଦନ କରିବାକୁ ଆଗ୍ରହୀ । କାରଣ ଏଠାରେ ମାଲିକ ଓ ଶ୍ରମିକ ସମ୍ପର୍କ ଅନୌପଚାରିକ, ମାନଦଣ୍ଡ ସମ୍ପନ୍ନ କାର୍ଯ୍ୟ ମାନଦଣ୍ଡ ବିହୀନ, ନିଯୁକ୍ତିଦାତା କାର୍ଯ୍ୟ ପାଇଁ ନିମ୍ନ ମଜୁରି ଦିଅନ୍ତି, ଯେଉଁ କାର୍ଯ୍ୟରେ କିଛି ବିପଦ ରହିଛି ସେଠାରେ କିଛି ଅଧିକ ଆର୍ଥିକ ସୁବିଧା ପ୍ରଦାନ କରନ୍ତି, କିନ୍ତୁ ସାମାଜିକ ସୁରକ୍ଷା ଦିଅନ୍ତି ନାହିଁ । ତେଣୁ ଅନୌପଚାରିକ କ୍ଷେତ୍ରରେ ବିଲୋପ ହେବାର ସମ୍ଭାବନା ଆଦୌ ନାହିଁ, ଯେହେତୁ ଏହା ପୁଞ୍ଜିବାଦୀ ଅର୍ଥ ବ୍ୟବସ୍ଥାର ଏକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ବିଶେଷତ୍ୱ ।

ଅନ୍ୟଏକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ହେଉଛି ଶ୍ରମିକମାନଙ୍କ ମଧ୍ୟରେ ବିଭାଜନ ରେଖା । ଶ୍ରମିକ ସମାଜର ବିଭିନ୍ନ ପ୍ରେକ୍ଷାପକରୁ ଆସୁଛନ୍ତି ଯଥା - ଜାତି, ଗୋଷ୍ଠୀ, ଲିଙ୍ଗ ଓ ଅଞ୍ଚଳଭିତ୍ତିକ । ଅନୌପଚାରିକ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ ପୁରୁଷ ଓ ମହିଳାଙ୍କ ମଧ୍ୟରେ କର୍ମ କ୍ଷେତ୍ରରେ ଓ ଆୟ କ୍ଷେତ୍ରରେ ତାରତମ୍ୟ ସୃଷ୍ଟି କରିଛି । ବହୁ କ୍ଷେତ୍ରରେ ଶ୍ରମିକମାନଙ୍କ ପାଇଁ ସର୍ବନିମ୍ନ ମଜୁରି ଦିବାସ୍ୱପ୍ନ କାରଣ ସର୍ବନିମ୍ନ ମଜୁରି ଆଇନ ଖୁଲାପ କରୁଥିବା ନିଯୁକ୍ତିଦାତାଙ୍କ ଉପରେ ସେପରି କିଛି ଦୃଷ୍ଟାନ୍ତମୂଳକ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ଗ୍ରହଣ କରାଯାଉନି । ମାଲିକମାନେ କୋଣଠେସା ବର୍ଗରୁ ଶ୍ରମିକମାନଙ୍କୁ ନିମ୍ନମାନର କାର୍ଯ୍ୟରେ ନିଯୁକ୍ତି ଦେବା ବେଳେ ପରିଚାଳନାଗତ କାର୍ଯ୍ୟ ଉଚ୍ଚବର୍ଗମାନଙ୍କ ଆଡ଼କୁ ଯାଉଛି । ଶ୍ରମ ବଜାରରେ ମହିଳାମାନଙ୍କ ଅବସ୍ଥା ଶୋଚନୀୟ । ସେମାନଙ୍କୁ ନିମ୍ନମାନର କାର୍ଯ୍ୟ ମିଳୁଛି । ସେମାନେ କମ୍ ମଜୁରି ପାଉଛନ୍ତି ଏବଂ ସେମାନଙ୍କର ସ୍ଥାନାନ୍ତରୀକରଣ ମଧ୍ୟ କମ୍ । ସେମାନଙ୍କ ମଧ୍ୟରୁ ଅଧିକାଂଶ ଘରୋଇ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ କରୁଛନ୍ତି ।

ଅସଂଗଠିତ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟକରୁଥିବା ଶ୍ରମିକମାନଙ୍କର କର୍ମ କ୍ଷେତ୍ରରେ ଅବସ୍ଥାକୁ ନିୟନ୍ତ୍ରଣ କରିବା ପାଇଁ କୌଣସି ଆଇନ ନାହିଁ । କେତେକ କାର୍ଯ୍ୟ ମଧ୍ୟ ଦୃଶ୍ୟମାନ ହେଉ ନାହିଁ । ଯାହା ଫଳରେ ସେମାନେ ଆଇନ ପରିସର ବାହାରେ ରହୁଛନ୍ତି ଏବଂ ଶୋଷଣର ଶିକାର ହେଉଛନ୍ତି । ନ୍ୟାସନାଲ କମିଶନ ଅନ୍ ଇଣ୍ଟରପ୍ରାଇଭେସ୍ ଇନ୍ ଦି ଅନଅର୍ଗାନାଇଜଡ୍ ସେକ୍ଟର (NCEUS) ୮ ଘଣ୍ଟା କାର୍ଯ୍ୟ ମଧ୍ୟରେ ଅଧ ଘଣ୍ଟା ଖାଇବା ଛୁଟି, ଦିନଟିଏ ସବେତନ ଛୁଟି, ଜାତୀୟ ସର୍ବନିମ୍ନ ମଜୁରି, ମହିଳା ଶ୍ରମିକମାନଙ୍କ ପାଇଁ ସମାନ ମଜୁରି, ମଜୁରି ବିଳମ୍ବଜନିତ ଦଣ୍ଡ ସୁଧ, ସଂଗଠିତ ହେବାର ଅଧିକାର, କାର୍ଯ୍ୟ କ୍ଷେତ୍ରର ସୁରକ୍ଷା, ଦୁର୍ଘଟଣାଜନିତ କ୍ଷତିପୂରଣ, ଶିଶୁମାନଙ୍କର ଯତ୍ନ ନେବାର ବ୍ୟବସ୍ଥା, ଯୌନ ଉତ୍ପାତନରୁ ସୁରକ୍ଷା, ଲିଙ୍ଗ ଜାତି ଓ ଧର୍ମ ନେଇ ବାଛବିଚାର ସୁରକ୍ଷା ଇତ୍ୟାଦି ସୁପାରିଶ କରିଛି । କିନ୍ତୁ



ଅନୌପଚାରିକ କ୍ଷେତ୍ରର ବିଭିନ୍ନ ଶ୍ରେଣୀର ଶ୍ରମିକମାନଙ୍କ ପାଇଁ ଏହା ଲାଗୁ କରିବା ଅତ୍ୟନ୍ତ କଷ୍ଟ କରିବା ବ୍ୟାପାର । ଏଥିପାଇଁ ଯେଉଁ ପଦକ୍ଷେପ ଲୋଡ଼ା ଓ ପ୍ରତିବନ୍ଧିତା ଆବଶ୍ୟକ ତାହା ରାଜ୍ୟସରକାରଙ୍କ ନିକଟରେ ବା ଶ୍ରମିକମାନଙ୍କ ନିମିତ୍ତ ଗଠିତ ହୋଇଥିବା କଲ୍ୟାଣ ବୋର୍ଡ଼ ନିକଟରେ ନାହିଁ ।

ଏହା ମଧ୍ୟ ପରିଲକ୍ଷିତ ହେଉଛି ଯେ, ବୃହତ୍ ଶିଳ୍ପ ପ୍ରୋଜେକ୍ଟ ପାଇଁ ଜମି ଅଧିଗ୍ରହଣ କରାଯାଉଛି । ଯଥା ବିଶେଷ ଅର୍ଥନୈତିକ ଅଞ୍ଚଳ, ଜାତୀୟ ରାଜପଥ, ନୂତନ ସହର ପ୍ରତିଷ୍ଠା, ଉଦ୍ୟୋଗ, ଏୟାରପୋର୍ଟ ଇତ୍ୟାଦି, ସେଠାରେ ଯେଉଁମାନେ ବ୍ୟାସ୍ତ୍ରୀତ ହେଉଛନ୍ତି ସେମାନଙ୍କୁ ପର୍ଯ୍ୟାପ୍ତ କ୍ଷତିପୂରଣ ଦିଆଯାଉ ନାହିଁ, ଅଭିଯାନ କରାଯାଉ ନାହିଁ । ଫଳରେ ସାଧାରଣ ଗରିବ ଲୋକମାନଙ୍କର କ୍ରୋଧ ସରକାରଙ୍କ ଉପରେ ପଡ଼ୁଛି । କ୍ଷୁଦ୍ର କ୍ଷୁଦ୍ର ବ୍ୟବସାୟୀ, ରିକ୍ୱାବାଲା, ଷ୍ଟିଲ୍ ଭେଣ୍ଡର ଏବଂ ଅନ୍ୟାନ୍ୟ କ୍ଷୁଦ୍ର ନାମ ହୀନ ଆର୍ଥିକ କାର୍ଯ୍ୟରେ ଲିପ୍ତ ଲୋକମାନଙ୍କୁ ସ୍ୱୀକୃତି ମିଳୁ ନାହିଁ । ସେମାନେ ସେମାନଙ୍କ ବାସ ସ୍ଥାନରୁ ଓ ଜୀବିକାରୁ ବାସରୁପ୍ତ । ସହରାଞ୍ଚଳ ବିକାଶରେ ସେମାନେ ବାଧକ ବୋଲି କୁହାଯାଉଛି ।

ଯେଉଁମାନେ ସହରାଞ୍ଚଳକୁ କାର୍ଯ୍ୟ ପାଇଁ ଚାଲି ଆସୁଛନ୍ତି ସେମାନେ ପ୍ରାୟତଃ ଅନୌପଚାରିକ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ କରୁଛନ୍ତି । ସେମାନେ ଅସ୍ୱାସ୍ଥ୍ୟକର ପରିବେଶରେ ବସିରେ ରହୁଛନ୍ତି ଏବଂ ଛୋଟ ଛୋଟ ଆତ୍ମ ନିଯୁକ୍ତି କାର୍ଯ୍ୟରେ ନିୟୋଯିତ, ରାସ୍ତା କଡ଼ରେ ବସି ବା ଗଳି କନ୍ଦିରେ ବୁଲି ବ୍ୟବସାୟ କରନ୍ତି । ସେମାନେ ପୁଲିସ୍ ଓ ମ୍ୟୁନିସିପାଲିଟିର ଶୋଷଣର ଶିକାର ହୁଅନ୍ତି । ଏହା ହେଉଛି ବାସ୍ତବତା ।

ଏହି ଅନୌପଚାରିକ, ଅସଂଗଠିତ ଶ୍ରମିକମାନଙ୍କୁ ଟ୍ରେଡ୍ ୟୁନିୟନ୍ ମାଧ୍ୟମରେ ସଂଗଠିତ କରିବା କଷ୍ଟସାଧ୍ୟ ବ୍ୟାପାର ହୋଇପଡ଼ିଛି । ଯଦିଓ କେନ୍ଦ୍ରିୟ ଟ୍ରେଡ୍ ୟୁନିୟନ୍ ଗଠିତ ହୋଇଛି । ଯେଉଁମାନେ ସମ୍ପୂର୍ଣ୍ଣ ସ୍ୱାଧୀନ ଏବଂ ଅନ୍ୟ କେତେକ ଟ୍ରେଡ୍ ୟୁନିୟନ୍ ରହିଛନ୍ତି, ଯେଉଁମାନେ ସ୍ୱେଚ୍ଛାସେବୀ ସଂଗଠନ ।

ଭାରତର ଅନ୍ତର୍ଭୁକ୍ତ ଆର୍ଥିକ ବିକାଶର ମାର୍ଗକୁ ସମ୍ପନ୍ନ କରିବା ପାଇଁ ଅନୌପଚାରିକ କ୍ଷେତ୍ର ଉପରେ ପ୍ରାଧାନ୍ୟ ଦେବା ଆବଶ୍ୟକ ।

ଗଜପତିନଗର

ଭୁବନେଶ୍ୱର - ୭୫୧୦୦୫



# ଅନ୍ତଃରାଜ୍ୟ ପ୍ରବାସୀ ଶ୍ରମିକ

ନରହରି ମିଶ୍ର

ଗୋଟିଏ ରାଜ୍ୟର ଶ୍ରମିକ ଅନ୍ୟ ରାଜ୍ୟକୁ ଯାଇ ସେଠାରେ ଶ୍ରମିକ ଭାବରେ କାର୍ଯ୍ୟ କରୁଥିଲେ ସେହି ଶ୍ରମିକକୁ ପ୍ରବାସୀ ଶ୍ରମିକ କୁହାଯାଏ । ଏହି ଶ୍ରେଣୀର ଶ୍ରମିକମାନଙ୍କର ବିଭିନ୍ନ ସମସ୍ୟା ପ୍ରତି ଦୃଷ୍ଟିଦେଇ ସରକାର ଆନ୍ତଃରାଜ୍ୟ ପ୍ରବାସୀ ଶ୍ରମିକ (ନିୟୁକ୍ତି ନିୟନ୍ତ୍ରଣ ଓ ସେବାସର୍ତ୍ତ) ଆଇନ, ୧୯୭୯ ପ୍ରଣୟନ କରିଛନ୍ତି । ଯଦି କୌଣସି ଠିକାଦାର ସଂସ୍ଥା ତାର ଏକେଣ୍ଟ ବା ମଧ୍ୟସ୍ଥିଙ୍କ ଦ୍ଵାରା ବର୍ଷର ଯେକୌଣସି ଦିନରେ ୫ କିମ୍ବା ତାଠାରୁ ଅଧିକ ପ୍ରବାସୀ ଶ୍ରମିକ ନିୟୁକ୍ତି ଦେଇଥାଏ ଏବଂ ବାହାର ରାଜ୍ୟକୁ ଚାଲାଣ କରିଥାଏ, ଏହି ଆଇନ ସେଠାରେ ଲାଗୁ କରାଯାଇଥାଏ ।

ପ୍ରବାସୀ ଶ୍ରମିକଙ୍କୁ ନିୟୁକ୍ତି ଦେଇଥିବା ସଂସ୍ଥା କିମ୍ବା ଠିକାଦାରଙ୍କର ମୁଖ୍ୟ ଦାୟିତ୍ଵ ରହିଛି । ଠିକାଦାର ମାନେ ପ୍ରବାସୀ ଶ୍ରମିକ ସଂଗ୍ରହ ନିମନ୍ତେ ଅନ୍ୟ ରାଜ୍ୟର ମୁଖ୍ୟ ନିୟୁକ୍ତି ଦାତାଙ୍କ ଠାରୁ ଅନୁମତି ପତ୍ର ଆଣିବେ ଏବଂ ଯେଉଁ ଜିଲ୍ଲାରୁ ଶ୍ରମିକ ନେବେ, ସେହି ଜିଲ୍ଲାର ଶ୍ରମ ଅଧିକାରୀଙ୍କ ଠାରୁ ବିଧିବଦ୍ଧ ଭାବେ ଆବେଦନ କ୍ରମେ ଗୋଟିଏ ଲାଇସେନ୍ସ ଆଣିବେ । ଶ୍ରମିକମାନଙ୍କୁ ଅନ୍ତରାଜ୍ୟ ଅର୍ଥାତ ଅନ୍ୟ ରାଜ୍ୟକୁ ନେବା ପୂର୍ବରୁ ପ୍ରତ୍ୟେକ ଶ୍ରମିକଙ୍କ ଗୋଟିଏ ‘ଟେ’ ସହ ପାସବୁକ୍ ଶ୍ରମିକଙ୍କୁ ପ୍ରଦାନ କରାଯିବ । ସେଥିରେ ଶ୍ରମିକଟି କେଉଁଠାରୁ କେଉଁଠିକୁ ଯାଉଛି, କେତେଦିନ ପାଇଁ ଯାଉଛି, କେଉଁ ପ୍ରକାର କାମ କରିବ, କେତେ ମଜୁରୀ ମିଳିବ, ସ୍ଥାନରୁପତି ଭରା ଓ ଯାତାୟତ ଖର୍ଚ୍ଚ ବହନ ଇତ୍ୟାଦି ବିଷୟ ସେଥିରେ ସ୍ପଷ୍ଟଭାବରେ ଲେଖାହେବା ଜରୁରୀ ହୋଇଥାଏ ।

ଯଦି ପ୍ରବାସୀ ଶ୍ରମିକଟି ଲାଇସେନ୍ସ ପ୍ରାପ୍ତ ଠିକାଦାର ମାଧ୍ୟମରେ କାର୍ଯ୍ୟ କରିବା ପାଇଁ ବାହାର ରାଜ୍ୟକୁ ଯାଇ ସେଠାରେ ଆକର୍ଷକ ମୃତ୍ୟୁ ମୁଖରେ ପଡ଼େ, ତେବେ ଏହି ଆଇନରେ ଥିବା ସର୍ତ୍ତ ମୁତାବକ ମୃତ ବ୍ୟକ୍ତିଙ୍କ ପରିବାରକୁ ସାହାଯ୍ୟ ଓ କ୍ଷତିପୂରଣ ମିଳିବ । ଏହା ଛଡ଼ା ଶ୍ରମିକ କ୍ଷତିପୂରଣ ଆଇନ, ୧୯୭୩ ଅନୁଯାୟୀ ମାଲିକଙ୍କ ଠାରୁ କ୍ଷତିପୂରଣ ପାଇବାର ବ୍ୟବସ୍ଥା ଅଛି । ମୃତ ଶ୍ରମିକଙ୍କ ପରିବାର ଏହି ଆଇନ ଅନୁସାରେ ତାଙ୍କ ନିଜ ରାଜ୍ୟରେ କିମ୍ବା କାମ କରୁଥିବା ରାଜ୍ୟରେ ଶ୍ରମିକ କ୍ଷତିପୂରଣ ଆଇନ ଅନୁଯାୟୀ ଆବେଦନ କରିପାରିବେ । ଆମ ରାଜ୍ୟରେ ଯୁଗ୍ମଶ୍ରମ ଆୟୁକ୍ତ, ଉପଶ୍ରମ ଆୟୁକ୍ତ, ସହକାରିଶ୍ରମ ଆୟୁକ୍ତ ଏବଂ ଅତିରିକ୍ତ ଜିଲ୍ଲା ମାଜିଷ୍ଟ୍ରେଟମାନେ ଶ୍ରମିକ କ୍ଷତିପୂରଣ ପ୍ରଦାନ ନିମନ୍ତେ ଆଦେଶ ଦେଇ ପାରିବେ ।

ଆମ ରାଜ୍ୟରେ ଲୋକମାନଙ୍କୁ କାମଧନ୍ଦା ଯୋଗାଇ ଦେବା ପାଇଁ ଶ୍ରମ ବିଭାଗରେ କୌଣସି ଯୋଜନା ନାହିଁ । କେବଳ ଶ୍ରମିକମାନଙ୍କ ଶ୍ରମ କ୍ଷେତ୍ରରେ ଅସୁବିଧା ହେଲେ ଶ୍ରମ ବିଭାଗ ସେଥିରେ ହସ୍ତକ୍ଷେପ କରିବେ ।

ଓଡ଼ିଶାରେ ଏହି ପ୍ରବାସୀ ଶ୍ରମିକମାନଙ୍କର ସମସ୍ୟା ବହୁତ । ଓଡ଼ିଶାରୁ ଅଧିକଂଶ ପ୍ରବାସୀ ଶ୍ରମିକ ଲାଇସେନ୍ସ ପ୍ରାପ୍ତ ଠିକାଦାରମାନଙ୍କ ମାଧ୍ୟମରେ ନିଯୁକ୍ତ ହେବାକୁ ଲାଭିବାକୁ ଅସମର୍ଥ ଅଧିକ ରୋଜଗାର ଆଶାରେ ଅନ୍ୟରାଜ୍ୟକୁ ଯାଇ କାମ କରୁଛନ୍ତି । ଲାଇସେନ୍ସ ନପାଇଥିବା ବ୍ୟକ୍ତିମାନଙ୍କର ଦଲାଲି କାର୍ଯ୍ୟ ଯୋଗୁଁ ଅନେକ ପ୍ରବାସୀ ଶ୍ରମିକ ଅନ୍ୟ ରାଜ୍ୟକୁ ଯାଇ ବିଭିନ୍ନ ଦୁଃଖ, କଷ୍ଟ ଓ ଯତ୍ନଶା ଭୋଗକରୁଛନ୍ତି । ସେମାନେ ସେଠାରେ ଦାଦନ ଶ୍ରମିକ ହିସାବରେ ବହୁ ନିର୍ଯ୍ୟାତନାର ଶିକାର ହେଉଛନ୍ତି । ଦଲାଲମାନେ ଅନ୍ୟ ରାଜ୍ୟର ନିୟୁକ୍ତି ଦାତାଙ୍କ ଠାରୁ ଅଗ୍ରମ ଟଙ୍କା ନେଇଯାଉଛନ୍ତି ଏବଂ ବୋକା, ଅପାଠୁଆ, ଅଳ୍ପ ଶ୍ରମିକମାନଙ୍କୁ ଠକି ଦେଉଛନ୍ତି । ଦଲାଲ ପଲସା ନେଇ ଚାଲି ଯାଉଛନ୍ତି । ବିଚରା ଦାଦନ ଶ୍ରମିକଟି ନିୟୁକ୍ତିଦାତା ହାତରେ ଶୋଷଣର ଶିକାର



ହେଉଛି । ନାନା ଅନ୍ୟାୟ ଅତ୍ୟାଚାର ଭୋଗିବାକୁ ହେଉଛି । ନିଜର ଭିଟାମାଟି ଛାଡ଼ି ଅଧିକ ଅର୍ଥ ରୋଜଗାରର ପ୍ରଲୋଭନରେ ପଡ଼ି ବାହାର ରାଜ୍ୟରେ ଅକଥନୀୟ ଅତ୍ୟାଚାରର ସମ୍ମୁଖୀନ ହେଉଛି ।

ଆମ ରାଜ୍ୟର ବଲାଙ୍ଗିର, କଳାହାଣ୍ଡି, ନୂଆପଡ଼ା, ବରଗଡ଼, ଗଞ୍ଜାମ, ଗଜପତି ଇତ୍ୟାଦି ଜିଲ୍ଲାରୁ ଅଧିକ ସଂଖ୍ୟାରେ ଦାଦନ ଶ୍ରମିକ ବାହାର ରାଜ୍ୟକୁ ଯାଇ ଦଲାଲ ଓ ନିୟୁକ୍ତି ଦାତାଙ୍କ ଦ୍ଵାରା ଶୋଷଣର ଶିକାର ହେଉଛନ୍ତି । ପ୍ରତ୍ୟେକ ଦିନ ଖବର କାଗଜ ଓ ବୈଦ୍ୟୁତିକ ଗଣମଧ୍ୟମ ମାନଙ୍କରେ ଏହିପରି ନିର୍ଯ୍ୟାତନା ପ୍ରବାସୀ ଶ୍ରମିକମାନଙ୍କର କରୁଣ କାହାଣୀ ପଢ଼ିବାକୁ ଓ ଦେଖିବାକୁ ମିଳୁଛି ।

ଅଧିକାଂଶ ସମୟରେ ଦେଖାଯାଉଛି ଯେ ଅପାଠୁଆ ଶ୍ରମିକମାନେ ହିଁ ବେଶି ନିର୍ଯ୍ୟାତନା ଭୋଗ କରୁଛନ୍ତି । କାରଣ, ସେମାନଙ୍କ ଅଜ୍ଞତାରୁ ଦଲାଲମାନେ ଫାଇଦା ଉଠାଉଛନ୍ତି, ମାତ୍ର ଅଭାବୀ, ବେରୋଜଗାରୀ ଶ୍ରମିକଟିଏ ସର୍ବସ୍ଵ ହରାଇ ଦୁଃଖ-ଯନ୍ତ୍ରଣାରେ ସମୟ ଅତିବାହିତ କରୁଛି କିମ୍ବା ମୃତ୍ୟୁ ବରଣ କରୁଛି । ବେଆଇନ ଦଲାଲ ଓ ନିୟୁକ୍ତି ଦାତା ଶ୍ରମିକଙ୍କ ପଇସାରେ ମଧୁଚନ୍ଦ୍ରିକାରେ ବ୍ୟସ୍ତ ରହୁଛନ୍ତି । ଏଣେ ନିଃସହାୟ ଶ୍ରମିକଟିର ଦୁଃଖ-ଯନ୍ତ୍ରଣା ବଢ଼ିବାରେ ଲାଗିଛି ।

ଦାଦନ ଶ୍ରମିକମାନଙ୍କର ଏହି ସବୁ ସମସ୍ୟାକୁ ଉପଲବ୍ଧ କରି ଆମ ରାଜ୍ୟ ସରକାର ସେମାନଙ୍କ ହିତ ପାଇଁ ବହୁବିଧ ପଦକ୍ଷେପମାନ ନେଇଛନ୍ତି, ଯଥା—

- ୧- ଆନ୍ତର୍ଜାତୀୟ ଶ୍ରମିକ ସଂଗଠନ ସହାୟତାରେ ପ୍ରବାସୀ ଶ୍ରମିକଙ୍କ ମଙ୍ଗଳ ନିମନ୍ତେ ୨୦୧୩ ମସିହାରେ ବଲାଙ୍ଗିର ଜିଲ୍ଲାରେ ଏକ ପାଇଲଟ ପ୍ରୋଜେକ୍ଟ କରାଯାଇଥିଲା । ଏହି ଜିଲ୍ଲା ଅର୍ଡ଼ଭୁକ୍ତ ଗ୍ରାମପଞ୍ଚାୟତ ସ୍ତରରେ ସଚେତନା ଶିବିର ଆୟୋଜନ କରାଯାଇଥିଲା । ଜିଲ୍ଲାସ୍ତରୀୟ ଅନ୍ୟ ବିଭାଗ ଗୁଡ଼ିକର ଅଧିକାରୀମାନଙ୍କୁ ନେଇ ଏକ ସମନ୍ୱୟ ବୈଠକ ଅନୁଷ୍ଠିତ ହୋଇଥିଲା । ଗ୍ରାମପଞ୍ଚାୟତ ସ୍ତରରେ କାର୍ଯ୍ୟକରୁଥିବା ପଞ୍ଚାୟତ ଅଧିକାରୀ ମାନଙ୍କର ଏକ ଜିଲ୍ଲାସ୍ତରୀୟ ପ୍ରଶିକ୍ଷଣ ବ୍ୟବସ୍ଥା ବଲାଙ୍ଗିରଠାରେ ଆୟୋଜନ କରାଯାଇଥିଲା । ଏଥି ସହିତ ରାଜ୍ୟସ୍ତରରେ ପ୍ରବର୍ତ୍ତନ ଅଧିକାରିଙ୍କ ନିମନ୍ତେ ଏକ ପ୍ରଶିକ୍ଷଣ ଶିବିର ଓ ଆଲୋଚନା ଚକ୍ର ଅନୁଷ୍ଠିତ ହୋଇଥିଲା ।
- ୨- ପ୍ରବାସୀ ଶ୍ରମିକଙ୍କ ସର୍ତ୍ତକାର୍ଯ୍ୟ ପାଇଁ ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନକୁ ମ୍ଳ୍ୟ ଆର୍ଥିକ ସହାୟତା ଯୋଗାଇ ଦିଆଯାଇଛି । ଏହି ସର୍ତ୍ତକାର୍ଯ୍ୟ ବଲାଙ୍ଗିର, କଳାହାଣ୍ଡି, ନୂଆପଡ଼ା, ବରଗଡ଼, ଗଞ୍ଜାମ, ଗଜପତି, ସୁବର୍ଣ୍ଣପୁର, ରାୟଗଡ଼ା ଏବଂ କୋରାପୁଟ ଜିଲ୍ଲାରେ ଶେଷ ହୋଇଅଛି ।
- ୩- ପ୍ରବାସୀ ଶ୍ରମିକମାନଙ୍କର ସୁରକ୍ଷା ଓ କଲ୍ୟାଣ ପାଇଁ ଓଡ଼ିଶା ସରକାର ଓ ଆନ୍ଧ୍ର ସରକାରଙ୍କ ମ୍ଳରେ ବୁଝାମଣା ପତ୍ର ସ୍ଵାକ୍ଷର ହେଇଛି । ୨୦୧୩ ଏବଂ ୨୦୧୪ ବର୍ଷରେ ଆନ୍ଧ୍ରପ୍ରଦେଶ ଓ ତେଲେଙ୍ଗାନା ଶ୍ରମ ବିଭାଗ ଅଧିକାରି ଓ ଇଟାଭାଟି ମାଲିକଙ୍କ ସହ ଓଡ଼ିଶା ଶ୍ରମ ନିର୍ଦ୍ଦେଶାଳୟର ଅଧିକାରୀ ଏବଂ ବଲାଙ୍ଗିର, ନୂଆପଡ଼ା ଓ କଳାହାଣ୍ଡି ଜିଲ୍ଲା ପ୍ରଶାସନ ଅଧିକାରିଙ୍କୁ ନେଇ ବଲାଙ୍ଗିରଠାରେ ଏକ ବୈଠକ ମ୍ଳ ବସିଥିଲା ।
- ୪- ଜିଲ୍ଲାମାନଙ୍କରେ ବ୍ୟାପକ ସଚେତନତା କାର୍ଯ୍ୟକ୍ରମ ନିମନ୍ତେ ୧୧ଟି ପ୍ରବାସୀ ଶ୍ରମିକ ପ୍ରବଣ ଜିଲ୍ଲାମାନଙ୍କର ଜିଲ୍ଲାପାଳଙ୍କୁ ଆର୍ଥିକ ସହାୟତା ରାଶି ଯୋଗାଇ ଦିଆଯାଇଛି ।
- ୫- ୨୦୧୪-୧୫ ଆର୍ଥିକ ବର୍ଷରେ ପ୍ରବାସୀ ଶ୍ରମିକଙ୍କ ହିତପାଇଁ ଏକ ତିନି ବର୍ଷିଆ ଆକସନ୍ ପ୍ଲାନ ସରକାର ଅନୁମୋଦନ କରିଛନ୍ତି । ଏହି ବର୍ଷ ୫ କୋଟି ଟଙ୍କା ବ୍ୟୟ ଅଟକଳ କରାଯାଇଥିଲା ଏବଂ ଏହି ଟଙ୍କା ପ୍ରବାସୀ ଶ୍ରମିକମାନଙ୍କର ସୁରକ୍ଷା ଓ ନିରାପତ୍ତା ପାଇଁ ଆକସନ୍ ପ୍ଲାନ ମ୍ଳମରେ ଖର୍ଚ୍ଚ କରାଯାଇଛି ।



- ୬- ୨୦୧୩-୧୪ ଆର୍ଥିକ ବର୍ଷରେ ପ୍ରବାସି ଶ୍ରମିକଙ୍କ ପିଲାମାନଙ୍କ ପାଠପଢ଼ା ନିମନ୍ତେ ରାଜ୍ୟ ବିଦ୍ୟାଳୟ ଓ ଗଣଶିକ୍ଷା ବିଭାଗ ତରଫରୁ ୨୧୨ଟି ଋତୁକାଳିନ ଛାତ୍ରାବାସ ଖୋଲାଯାଇଥିଲା । ୨୦୧୪-୧୫ ଆର୍ଥିକ ବର୍ଷରେ ଏଥିପାଇଁ ମୁଁ ଆର୍ଥିକ ସହାୟତା ପ୍ରଦାନ କରାଯାଇଛି ।
  - ୭- ୨୦୧୫-୧୬ ବର୍ଷର ଆକସନ୍ ପ୍ଲାନ ମୁଁ ସରକାର ସ୍ୱୀକୃତି ଦେଇଛନ୍ତି । ଏଥିପାଇଁ ବ୍ୟୟ ଅଟକଳ ହୋଇଛି ୫ କୋଟି ୯୪ ଲକ୍ଷ ଟଙ୍କା ଏବଂ ଏହି ଅର୍ଥ ଶ୍ରମ କମିଶନରଙ୍କୁ ପ୍ରଦାନ କରାଯାଇଛି ।
  - ୮- ପ୍ରବାସୀ ଶ୍ରମିକଙ୍କ ସହାୟତାପାଇଁ ଏକ ନିଶ୍ଚଳ ସହାୟତା ନମ୍ବର ୧୫୫୩୬୮ ପ୍ରତ୍ୟହ ସକାଳ ଛଅ ଘଣ୍ଟାରୁ ରାତ୍ର ଦଶ ଘଣ୍ଟା ପର୍ଯ୍ୟନ୍ତ ଶ୍ରମ ନିର୍ଦ୍ଦେଶାଳୟରେ କାର୍ଯ୍ୟ କରୁଅଛି । ଏହି ହେଲ୍ପଲାଇନର ପ୍ରସାର/ପ୍ରଚାର ପାଇଁ ସମସ୍ତ ଜିଲ୍ଲାପାଳମାନଙ୍କୁ ଆର୍ଥିକ ରାଶି ପ୍ରଦାନ କରାଯାଇଛି ।
  - ୯- ୧୧ଟି ପ୍ରବାସୀ ଶ୍ରମିକ ପ୍ରବଣ ଜିଲ୍ଲାରେ ରାଜ୍ୟସରକାର ମହାତ୍ମା ଗାନ୍ଧୀ ଜାତୀୟ ନିଶ୍ଚିତ ଗ୍ରାମିଣ କର୍ମ ଯୋଗାଣ ଯୋଜନାରେ କାର୍ଯ୍ୟ ଦିବସକୁ ୧୦୦ ଦିନରୁ ୧୫୦ ଦିନକୁ ବୃଦ୍ଧି କରିଛନ୍ତି ।
  - ୧୦- ରାଜ୍ୟ ସରକାରଙ୍କ ନିଷ୍ପତ୍ତି ଅନୁଯାୟୀ ଓଡ଼ିଶା କୋଠାବାଡ଼ି ଓ ଅନ୍ୟାନ୍ୟ ନିର୍ମାଣ ଶ୍ରମିକ କଲ୍ୟାଣ ବୋର୍ଡ଼ ମାଧ୍ୟମରେ ନିର୍ମାଣ କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟରତ ପ୍ରବାସୀ ଶ୍ରମିକ ମାନଙ୍କୁ ହିତାଧିକାରୀ ଭାବେ ପଞ୍ଜିକୃତ କରି ବିଭିନ୍ନ ଯୋଜନା ଅନ୍ତର୍ଗତ ଆର୍ଥିକ ସହାୟତା ପ୍ରଦାନ କରାଯାଉଅଛି ।
  - ୧୧- ବେଆଇନ ପ୍ରବାସୀ ଶ୍ରମିକ ଚାଲାଣ ରୋକିବାକୁ ସମସ୍ତ ଜିଲ୍ଲାପାଳ, ଆରକ୍ଷା ଅଧୀକ୍ଷକ ଓ ଜିଲ୍ଲାଶ୍ରମ ଅଧିକାରୀମାନଙ୍କୁ କଡ଼ା ନିର୍ଦ୍ଦେଶ ପ୍ରଦାନ କରାଯାଇଛି । ବସ୍ ରହଣି ସ୍ଥାନ, ରେଳ ଷ୍ଟେସନ ଓ ଗ୍ରାମ୍ୟ ହାଟ ବା ବଜାରମାନଙ୍କରେ ପୋଲିସ୍ ତରଫରୁ ସତର୍କତା କାର୍ଯ୍ୟ ହାତକୁ ନିଆଯାଇଛି ।
- ଅନ୍ତରାଜ୍ୟ ପ୍ରବାସୀ ଶ୍ରମିକ ଆଇନ ୧୯୭୯ ର ଧାରା ୨୫ ଅନୁଯାୟୀ ଉକ୍ତ ଆଇନଖୁଲାପକାରୀ ଠିକାଦାରମାନଙ୍କ ବିରୁଦ୍ଧରେ ସର୍ବାଧିକ ଏକ ବର୍ଷ ପର୍ଯ୍ୟନ୍ତ ଜେଲଦଣ୍ଡ ଏବଂ ଏକ ହଜାର ଟଙ୍କା ପର୍ଯ୍ୟନ୍ତ ଜୋରିମାନା ଅଥବା ଉଭୟ ଦଣ୍ଡର ବ୍ୟବସ୍ଥା ରହିଛି । ଏଥି ସହିତ ଧାରାବହିକ ଭାବେ ଉକ୍ତ ଆଇନର ଖୁଲାପକାରିଙ୍କ ବିରୁଦ୍ଧରେ ଦୈନିକ ଏକ ଶହ ଟଙ୍କାର ଜୋରିମାନା ବ୍ୟବସ୍ଥା ରହିଛି ।

ଶ୍ରମ ବିଭାଗ, ରାଜ୍ୟସଚିବାଳୟ

# Majithia Wage Board Award and its effect on Newspaper industry

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The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) (in short, the Act) provides for regulation of conditions of service of working journalists and non-journalists newspaper employees. Section 9 and 13 C of the Act, provide for constitution of two Wage Boards for fixing or revising rates of wages in respect of working journalists and non-journalists newspaper employees respectively and the Central government has the power to form wage boards to review and revise salaries of journalists and non-journalists. The Wage Boards for journalists and non-journalists newspaper and news-agency employees, are statutory Wage Board and all other Wage Boards are non-statutory in nature.

Since 1955, the government has constituted 6 wage boards at regular intervals for the working journalists and non-journalist newspaper employees. The following table gives the details of the constitution of wage boards and other relevant details:

Sl. No.	Name of the Industry	Date of appointment of Wage Boards	Date on which final report was submitted to Govt.	Date of acceptance of recommendation by Govt.	Remarks
1.	2.	3.	4.	5.	6.
(I)	Wage Board for Working Journalists	02-05-1956	NA	11-05-1957	
(II)	(a) Wage Board for Working Journalists	12-11-1963	17-07-1967	27-10-1967	
	(b) Wage Board for Non-Journalists Newspaper Employees	25-02-1964	17-07-1967	18-11-1967	
(III)	(a) Wage Board for Working Journalists	11-06-1975	13-08-1980	26-12-1980 & 20-07-1981	Converted into one man Tribunal on 9 <sup>th</sup> Feb, 1979 (Palekar Wage Boards)
	(b) Wage Board for Non-Journalists Newspaper Employees	06-02-1976			
(IV)	Wage Boards for Working Journalists and Non-Journalists Newspaper Employees	17-07-1985	30-05-1989	31-08-1989	Bachawat Wage Board
(V)	Wage Boards for Working Journalists and Non-Journalists Newspaper Employees	02-09-1994	25-07-2000	05-12-2000 and 15-12-2000	Manisana Wage Board
(VI)	Wage Board for Working Journalists & Non-Journalists Newspaper Employees	24-05-2007	31-12-2010	11-11-2011	Majithia Wage Board

(Source: Ministry of Labour & Employment, Govt. of India)



On January 7, 2014, a Supreme Court bench consisting of Chief Justice P Sathasivam and Justices Ranjan Gogoi and S K Singh rejected various challenges by “management of various newspapers” to the Justice Majithia Wage Board recommendations. In its judgment, the bench ruled “the wages as revised/determined shall be payable from 11.11.2011 when the Government of India notified the recommendations of the Majithia Wage Boards. All the arrears up to March, 2014 shall be paid to all eligible persons in four equal installments within a period of one year from today and continue to pay the revised wages from April, 2014 onwards”.

The Majithia Wage Board based its recommendations submitted an extensive report. It categorized newspapers into eight categories according to their revenues and suggested seven groupings of employees i.e. from **Group-IA to Group-6** according to designation and seniority. Similarly, the board divided news agencies into four sets on the basis of their annual revenues.

The Union of Journalists welcomed the judgment and opined that it is a step in the right direction. It is to be noted that the recommendations impacts a large number of workers and their families as India has more than 70,000 newspapers and over 690 satellite channels (more than 80 are news channels) and is the biggest newspaper market in the world. Like in every sector today the newspaper industry employs a large number of workers on contract basis, making them vulnerable and taking away their right to wage a battle against the management. It is the fear of losing their jobs, which has prevented many to come out in open and challenge the newspaper industry. Majithia Board has made recommendations for the contractual as well as permanent staff too.

But the newspaper agencies wondered as to whether the industries are economically viable to bear the burden as large sections of the print media are struggling with its very existence in question due to ongoing increase in the usage of other media such as online, television, radio? They are of the opinion that newspaper industry is the only industry in the country to have a statutory wage board; even other sectors of the media, like TV, radio, internet don't and the employees working in these fields are not going to be benefited from this wage board recommendations.

## AN ANALYSIS OF PROTECTED WORKMEN UNDER INDUSTRIAL DISPUTES ACT WITH CASE LAWS.

SUSANTA DASH  
ADVOCATE BHUBANESWAR

A protected workman in relation to an establishment means a workman who, being an office bearer or member of the executive committee of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf. The provision and the procedure to deal with the issue of protected workman as has been stated in Industrial Disputes Act, 1947 and Orissa Industrial Disputes Rules is as under;

Section 33 (3) reads as follows:

" Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or
- (b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending. Explanation.—For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office bearer] of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

Rule-68 of Orissa Industrial Disputes Rules 1959 provides that every registered trade union connected with an industrial establishment shall communicate to the employer before the 30th September every year, the names and addresses of the officers of the union who are employed in that establishment who should be recognised as protected workmen. Rule 68(2) makes it obligatory on the part of employer to recognize such number of workers as provided u/s 33 (4) of the Industrial Disputes Act, 1947, as 'protected' for a period of 12 months, within fifteen days of receipt of the proposal from the union.

As per Section 33 (4) of the Industrial Disputes Act, 1947, the number of workmen to be recognised as protected workmen shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum



number of one hundred protected workmen. Where the total number of names received by the employer exceeds the maximum number of protected workmen, admissible for the establishment, u/s 33(4) of the Act, the employer shall recognise only such maximum number of workmen as "protected".

Where there are more than one registered trade unions in the establishment, the maximum number of protected workmen shall be distributed among the unions in such a way that each union shall have representation as protected workmen in proportion to the membership of the unions. If the number of protected workmen allotted to a union is less than that proposed by the union, the union will have to select from the proposed list the names of such persons who should be recognised as protected workmen and intimate the names to the employer within five days.

### **Rights of Protected Workmen**

During the pendency of any Conciliation Proceedings, the Industrial Disputes Act, 1947, grants special privileges and protection to Office bearers of recognized Unions vide Section 33(3) & (4) of the Act. The Explanation to Section 33(3) defines a Protected Workman as a 'workman who is a member of the executive or other office bearer of any registered recognized trade union connected with the establishment'. According to Section 33(3) 'no employer shall take any action against any Protected Workman by altering his service conditions before commencement of conciliation proceedings; or discharge/punish him during pendency of such proceedings', except with 'express permission obtained in writing from the authority before which the proceeding is pending'.

Therefore, once the union makes its choice of protected workmen and communicates it to the employer by the due date, Rule 68(2) casts a mandatory obligation that the employer shall recognise those workmen as protected workmen. In view of the mandatory language of Rule 68(2), the employer can refuse to recognize the nominated protected workmen, only if the nominated number exceeds the permissible limit, provided under Section 33(4) of the ID Act.

- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or
- (b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Section 33 gives a workman in pending dispute a protection against victimization. As observed in *Sharma Vs SBI (AIR 1968 SC 985)*, it ensures a fair and satisfactory enquiry of

an industrial dispute undisturbed by any action on the part of the employer which could create fresh cause for disharmony between him and his employees.

Right to get service conditions to be unchanged during pendency of dispute is available not only to protected workmen but to every workman on whose behalf the dispute has been raised and includes those who would be benefited by the award [New India Motors Vs. Morris (AIR 1960 SC 875)]. Therefore, the matter in respect of which the change in service conditions took place should have been connected with the dispute and that the workman affected by such change in service condition should have been concerned with the dispute pending [Premier Tyres Ltd Vs Bhaskaran Nair (1979 Lab.I.C.549.Ker)J.

In the case of MANAGEMENT OF BATRA HOSPITAL & MEDICAL RESEARCH CENTRE Versus GOVT. OF NCT OF DELHI & ANR(LLR-20i3-378), the Delhi High Court held that "Once, it is found that the communication by union for declaring protected workman stood served on the employer and the employer has maintained a quietus and did not object to the communication of the Union as to 'protected workmen' for the year and / or did not raise, any dispute, the person so named communicated stood accepted as 'protected workman' from the date of receipt of such communication by the management from the union u/s. 61(1) of I.D. Rules and the employer cannot raise other disputes in the proceeding under Rule 61(4) of I.D. Rules.

### **Remedy for employer**

If an employer wants to take action against a protected workman during the pendency of a conciliation proceeding, before the Conciliation Officer, Board, Arbitrators, Labour Court, Tribunal or National Tribunal, he should get express permission from the conciliation Officer, Labour Court or Tribunal, as the case may be, by applying in prescribed form. It may be remembered that application for approval should be made before the action for change in service conditions or discharge or dismissal, as the case may be, becomes effective [McKenzie & Co Vs Workmen(AIR 1959 SC 389)] At the same time, during the pendency of application for dismissal of a worker u/s 33, the employer can place him under suspension.

The management is entitled to decline recognition as protected workman to a person nominated by the union, if any disciplinary proceeding is pending against such workman. Union certainly cannot exercise their power under Rule 68(1) to give immunity to an employee against whom disciplinary proceedings initiated by the management are pending, by nominating his name for recognition as protected workman HLL Lifecare Ltd. v. Hindustan Latex Labour Union (AITUC), W.A 1171 of 2010]. Therefore, according the new interpretation of law, an office bearer of the Union facing disciplinary proceedings is not entitled to be



nominated by the Union for recognition as protected workman and the management is absolutely within their powers to decline recognition to such an office-bearer under sub-rule (2) of Rule 61 of I.D. Rules. It is held that "it is upto the management to consider whether any of the office-bearers nominated by the union is undesirable or ineligible for recognition and if they find so for valid reasons, they are free to reject the nomination of such office-bearer. If the management declines to recognize any office-bearer as protected workman, it is for the Union to either contest the same by raising a dispute before the Conciliation Officer concerned as provided under sub-rule (4) of Rule 61 of the I.D. Rules whose decision shall be final and binding.

### **Conclusion**

Sub-sections(i), (2) & (3) of Section 33 of the Industrial disputes Act impose a prohibition or a condition on the employer to alter/change the service conditions of any workman or to dismiss/discharge him during pendency of conciliation or adjudication proceedings without obtaining approval from the concerned authority. There is no distinction between an ordinary workman and a protected workman so far as Sub-Sec.(i) is concerned. But the distinction is only with regard to sub-section (2) & (3). While Sub-section (2) permits an employer to pass an order of dismiss/discharge against any workman in respect of a misconduct committed by any workman but enforce it after obtaining approval from the concerned authority, subsection (3) says \f such workman is a protected workman, the employer cannot pass an order even in respect of a misconduct not connected with the dispute without first getting approval from the concerned authority. This distinction in the provisions of the Act has been made, because the legislature was anxious for the healthy growth and development of trade union movement, and it desired to ensure that trade union representatives are protected from all sorts of victimisation and unfair labour practices during the pendency of any proceedings. From the provisions of Section 33(3), it is manifest that the section imposes an unqualified ban on the employer with respect protected workmen, from discharging or punishing the workman by dismissal or otherwise, whether it be for some misconduct or for any other reasons. It further enables the workmen to have collective bargaining strength to countenance the unwarranted victimisation and give fillip to collective bargaining power with their employers.

## "STRIKE IS A WEAPON OF COLLECTIVE BARGAINING"

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### Introduction :

The strike has had many meanings at different times and places. It has been seen by Friend and Foe, like as leading to an uprising by the working class against a capitalist society. Carleton Parker saw the strike as the pugnacity to be expected Psychologically from Economic suffering and social humiliation.<sup>1</sup>

The ordinary every day meaning of "STRIKE" seems to be the notion of stoppage of work by employees to enforce a demand on an unwilling employer.<sup>2</sup>

### Statutory Definition of Strike :

It is provided by Section 2(q) of the Industrial Disputes Act, 1947. According to this definition strike means "Cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal of common understanding of any number of persons who are or have been so employed to continue to work (or) to accept employment." It will be seen that according to this definition the essential elements of a strike are,

1. Plurality of workmen.
2. Stoppage of work (or) Refusal to work, and
3. Combination (or) Concerted action.

Oftenly strike was quoted as a weapon in the armoury of workmen (or) strike is a weapon of collective bargaining. But before analysing the concept of strike as a weapon of collective bargaining it is customary to know what is meant by collective bargaining.

### What is collective bargaining :

Collective bargaining is a technique adopted by the organisation of workers and employers collectively to resolve their differences with (or) without assistance of a third party. Its ultimate aim is to reach some settlement acceptable to both the parties involved in labour management relation.<sup>3</sup>

1. Dunlop and Chamber Law, Frontiers of Collective Bargaining, p. 103.
2. Arya, V. P. Strikes and lock-outs law and practice (2nd Ed.), p. 11.
3. Bhatia S. K. : Collective Bargaining Theory and Practice of effective industrial relations, p. 19.

The concept of collective bargaining was coined by Sydney and Beatrix Webb in their famous Book, "INDUSTRIAL DEMOCRACY" first published in the year 1897. Later it was popularised by "Samuel Gompers" in United States of America. The idea of collective bargaining emerged as a result of industrial conflict and the growth of the Trade Union movement.

It is called Collective because the employees as a group select representative to meet and discuss differences with the employer. Collective bargaining is opposite of individual bargaining which takes place between management and a worker as an individual apart from his fellow employees.<sup>4</sup>

The phrase collective bargaining is made up of two words Collective, which implies group action through its representatives and Bargaining, which suggests haggling (or) negotiating. The phrase therefore implies "Collective negotiation of a contract between managements representatives on one side and those of the workers on the other."<sup>5</sup>

In India, the first Collective Bargaining Agreement was concluded in 1920 at the instance of Mahatma Gandhi to regulate labour management relation between a group of employers and their workers in the Textile Industry in Ahmedabad.

### Need of collective bargaining :

Collective bargaining is important for a number of reasons as explained under :

1. It provides a method for the regulation of the conditions of those who are directly concerned about them.
  2. It provides a solution to the problem of sickness in industry and ensures old age pension benefits and other fringe benefits.
  3. It is a system which establishes, revises and administers many of the rules which govern the workers place of work.
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4. Mamoria and Dr. Mamoria Satish : Dynamics of Industrial Relations, p. 523.
  5. Bakke and Kerr : Unions Management and Public, p. 254.



4. A procedure which determines the quantum of compensation which influences the distribution of economic ills, and
5. It is a method of settling disputes.

#### Strike as a weapon of Collective Bargaining :

In the early days of labour jurisprudence strike is a weapon in the armoury of workmen. But now it is not. So strike became a weapon of all to meet his demands as it puts an immediate pressure on the employer (or) management and paves away for negotiation and conciliation which ultimately leads to settlement. Hence in the present days workers, Doctors, Lawyers are using strike as a weapon to settle their disputes (or) matters at an early date. The glaring examples for this are, the 1991 Indian Express workers strike in Andhra Pradesh; The A.P.N.G.O's. strike in the year 1987, the Doctors strike in Bangalore in the year 1992, Lawyers strike in the 1989 in the State of A.P., and Narmada Dam workers strike etc.

We are a developing country where rapid industrialisation is a sine qua non. Industrialisation afforded opportunities to the workers to unite and assert their rights and to protect for better service conditions. Strikes and lock-outs came to be recognised as the legitimate weapons in the armoury of the labour and employer respectively in the process of Collective Bargaining.<sup>6</sup>

Recently the Supreme Court has observed that the necessity to form Union is obviously for voicing demands and grievances of labourers. The strength of a Trade Union depends on its membership and therefore are able to bargain more effectively, with their managements. The bargaining power would be considerably reduced if it were not permitted to demonstrate. There are different modes of demon-

6 Choudhary Prakash: Strikes: Present Relevance-I published in financial express, dated 15-10-1991.

stration and strike is one such mode of demonstration."

Though strike is recognised as a weapon of collective bargaining sometimes strike do harm to labour rather than good. The same was expressed by Mahatma Gandhi in the following words :

"I HAVE STUDIED SO FAR AS I CAN, THE STRIKES IN BOMBAY, A STRIKE AT TATA IRON WORKS, AND THE CELEBRATED STRIKE OF THE RAILWAY LABOURS IN THE PUNJAB, THERE WAS A FAILURE IN ALL THESE STRIKES."

So to make a strike as a successful strike and a weapon of collective bargaining a few suggestions to improve the method are :

1. The effect of the strike mainly depends upon the strength of the Union bargaining power and the leadership. So far more lawful and effective strike an healthy Trade Union and good leadership are sine qua non.

2. There should not be any multiplicity of the Trade Unions. Because it weakens the bargaining as the basic message of a Trade Union is "Unity among the workers."

3. So for better use of the weapon of strike one Union in one industry is suggestable.

4. For further development of the method an enactment in this regard to regulate the process of bargaining is required.

Then only actual aim of the "Strikes" can be achieved and it can be used as an active tool (or) weapon of collective bargaining as said by Prof. Robert E. Mathews.

"The Strike is itself a part of the bargaining process. It tests the economic bargaining power of each side and forces each to face squarely the need it has for others."

7 B. R. Singh v. Union of India, 1990 Lab IC 599 AIR 1990 SC 1.

8. Gandhi M. K. Strikes (1961), p. 13.

## DOES THE INDUSTRIAL RELATIONS MACHINERY NEED OVERHAULING??

Dr. H.K.Swain\*

### Introduction:

Economic progress of a country is vitally wedded with industrial peace and harmony. The National Commission on Labour (1969) observed that the concept of 'industrial peace' is somewhat negative and restrictive. It emphasized absence of strife and struggle. The Commission, therefore, preferred to describe its approach in quest of 'industrial harmony' to 'industrial peace'. It observed in this regard:

"A quest for industrial harmony is indispensable when a country plans to make economic progress. It may sound platitudinous but it nevertheless true that no nation can hope to survive in the modern technology age, unless it is wedded to industrial development and technology advancement. Economic progress bound up with industrial harmony for the simple reason that industrial harmony inevitably leads to more co-operation between employers and employees, which result in better productivity and thereby contributes to all-round prosperity of the country. Healthy industrial relations, on which industrial harmony is found, cannot therefore be regarded as a matter in which only the employers and employees are concerned; it is of vital significance to the community as a whole."

### Industrial disputes: As Conceived

Industrial disputes exist since inception of industrialization as industrial activities are concerned with employers, employees, government and various other bodies working in the economy world. Each and every party in the industry tries to protect its own economy and other interests giving rise to industrial disputes. There was no specific settlement machinery for settlement of industrial disputes during the infancy of industrialization. The first enactment dealing with the settlement of industrial disputes was the Employers' and Workmens' Disputes Act, 1860. This Act weighted much against the workers and was therefore replaced by the Trade Disputes Act, 1929. The Act of 1929 contained special provisions regarding strikes in public utility services and general strikes affecting the community as a whole. The main purpose of the Act, however, was to provide a conciliation machinery to bring about peaceful settlement of industrial disputes. The Whitely Commission (1929) made in this regard the perceptive observation that the attempt to deal with unrest must be rather with the creation of an atmosphere unfavorable to disputes than with machinery to disputes than with machinery for their settlement.



The development of industrial law in this country was taken under the stress of emergency caused by the Second World War. Rule 81-A of the Defense of India Rules was intended to provide speedy remedies for industrial disputes by referring them compulsorily to conciliation or adjudication, by making the awards legally binding on the parties and by prohibiting strikes or lock-outs during the pendency of conciliation or adjudication proceeding and for 2 months thereafter. The rules also put a blanket ban on strikes which did not arise out of genuine trade disputes.

With the termination of the Second World War. Rule 81-A was about to lapse on 1<sup>st</sup> October, 1946, but it was kept alive by issuing an Ordinance in the exercise which gave birth to adjudication machinery (the Industrial Tribunal and Appellate Tribunal).

### **Industrial Dispute(s): As Understood:**

**According to the sec. 2(k) of the Industrial Dispute Act – ‘Industrial dispute’ means any dispute of different between –**

- (i) Employers and workmen, or
- (ii) Workmen and workmen, which is concerned with-
  - (a) the employment or non-employment
  - (b) the terms of employment, or
  - (c) the conditions of labour, or any person
- (iii) Employers and employers and between employers and employers

On real and substantial difference, the term industrial disputes connotes difference having some elements of persistency and continuity till resolved and is likely, if not resolved, to endanger the industrial peace of the undertaking or the community. When parties are at variance and the dispute of difference is connected with employment or non-employment or the terms of employment or with the conditions of labour, there comes into existence an individual disputes [Shambhu Nath Ghoyal v. Bank of Baroda, (1978) 2 S.C.C. 355]. The expression ‘term of employment’ would ordinarily include only the contractual terms and conditions but those terms which are understood and applied by the parties in practice or habitually or by common consent without ever being incorporated in the contract are also included [ Workmen v. Hindustan level ltd., (1984) I.S.C.C. 392].

Dispute of every nature connected with employment or non-employment comes within definition. Under Sec. 2(k), every dispute or difference between an employer and his workmen which is connect with their employment or non-employment, or with the terms and conditions of their employment is an ‘industrial dispute’. The definition covers every dispute between the employer and his workmen, which is connected with the service of workmen or with the benefits and privileges incidental to that service [Western India Automobile Assn. v. Industrial Tribunal, Bombay, A.I.R (1949) F.C. 111.]

According to the decision in Western India Automobile Assn. vs. Industrial Tribunal, Bombay, A.I.R (1949) F.C. 111, any dispute connected with employment or non-employment would ordinarily cover all matters that require settlement between workmen and employers, whether those matters concerned the cause of their being, out of service or any other question. The question whether a

person has been superseded or not., whether he was entitled to promotion or not, whether a person was wrongfully retrenched and whether there was wrongful refusal to reinstate are all questions which would be comprehended within the meaning of the words 'employment or non-employment' appearing in clause (k) [Upper Doab Sugar Mills Ltd. vs. State of U.P., (1962) 1 L.L.J. 1]

Parties to the dispute must have direct interest. The person regarding whom the dispute is raised must be one in whose employment, non-employment, terms of employment, or conditions of labour, as the case may be, the parties to the dispute have a direct or substantial interest. Even when the persons regarding whose employment a dispute is raised are not 'workmen' within the meaning of Sec. 2 (s), the dispute is an industrial dispute within the meaning of Sec. 2(k) if it is raised by the workmen or the employer and they as a class have a direct or substantial interest in the person about whose employment the dispute is raised [Workmen of Dahingepura Tea Estate v. Dahingepura Tea Estate, A.I.R. (1958) S.C. 1026].

Limitations of definition. The definition of 'industrial dispute' contains two limitations:

First, the adjective 'industrial' relates the dispute to an industry as defined in the Act, and

Secondly, the definition expressly states that not disputes and differences of all sorts but only those which bear upon the relationship of employers and workmen and the terms of employment or non-employment and the conditions of labour are contemplated.

Disputes may relate to production and distribution of materials goods and services. Primarily industrial disputes occur when the operation undertaken rests upon co-operation between employers and employees with a view to production and distribution material goods, i.e., wealth, but they may arise also in cases where the co-operation is to produce material service. In Safdarjung Hospital v. Kuldip Singh Sethi, A.I.R. (1970) S.C. 1407, the Supreme Court interpreted the material services as those which involve an activity carried on though co-operation between the employers and employees to provide the community with the use of something such as electric power, water, transportation, mail delivery, telephone and the like. But in Bangalore Water Supply & Sewerage Board vs. A. Rajappa, A.I.R. (1978) S.C. 548, the scope of materials services has been greatly enlarged to include production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss, e.g., making on a large scale, prasad or food).

A dispute is an 'industrial dispute' only when it arises in any activity which is an 'industry' as defined in Sec. 2(j) of the Act [D.N. Banarjee v. P.R. Mukherjee, A.I.R. (1953) S.C. 58].

Dispute arising after closure of an establishment not an industrial dispute. A dispute arises after an establishment has been closed down is not an industrial dispute, and it is not competent to refer it for adjudication. But if the dispute has arisen while the establishment was still running it can be referred for adjudication even though at the date of reference the establishment ceased to exist by reason of its having been closed down [Pipraich Sugar mills Ltd. v. Pipraich Mazdoor Union, A.I.R. (1957) S.C. 95].

#### Individual and Collective Disputes:

The industrial disputes may be (1) individual disputes, or (2) collective disputes.



The disputes about reinstatement, compensation for wrongful dismissal, etc., are individual disputes. Sec. 2-A provides that where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workmen, any disputes or difference between that workmen and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute even if no other workmen nor any union of workmen is party to the dispute. Sec. 2-A contemplates a dispute arising out of discharge, dismissal, retrenchment or termination of an individual workman and not other conditions [B.K Sharma v. State of U.P., (1976) 30 F.L.R. 280].

A dispute may become an industrial dispute if other workmen take it up. A dispute may initially be an individual dispute. The workmen may make that dispute as their own on the ground that they have a community of interest and are directly and substantially interested in the condition of employment. It is immaterial whether the individual workman was a member of the union or not when the cause arose [Western India Match Co. Ltd. v. Western India Match Co. Workers' Union, (1970) 2 L.L.J. 256].

A collective dispute may relate to any of the following matters:

- (a) Wages, bonus, profit-sharing, gratuity, compensatory and other allowances
- (b) Hours of work, leave with wages, holidays
- (c) Rules of discipline, retrenchment of workmen, closure of establishment, rationalization.

All collective disputes are industrial disputes.

**The following have been held to be 'industrial disputes' as per the apex Court's decisions:**

1. Dismissal of workman [Birla Bros. v. Modak, (1948) 1 L.L.J. 481]. The definition of 'workman' in Sec.2 (s) of the Act is wide enough to include a dismissed workman.
2. A dispute as to bonus [F.W. Heiglers & Co. Ltd. v. N.C. Chakravarty, A.I.R. (1949) F.C. 142].
3. A dispute which can validly be referred for adjudication to an Industrial Tribunal as to compensation for wrongful dismissal [Indian Paper Co. Ltd. v. Indian Paper Pulp Workers' Union, A.I.R. (1949) F.C. 148 ]
4. A dispute as to whether a lock-out declared by an employer is justified and whether the workmen are entitled to wages or compensation for the period of the lock-out [Shammuggar Jute Factory v. S.M. Modak, A.I.R. (1949) F.C 150] .
5. A dispute as to reinstatement of a dismissed workman and wages for the period of discharged [Western India Automobile Assn. v. Industrial Tribunal, Bombay, A.I.R. (1949) F.C. 111].
6. A failure of the part of an employer to reply to a letter of demand sent by the workman [Triangular Motors Ltd. v. Their Workman, (1949) L.L.J. 79].
7. Turning down by an employer of a polite request made by the employees [Shree Minakshi Mills v. State of Madras, A.I.R. (1954) Mad. 143].
8. A dispute between an employer and the workman as to the number of persons who could be required to work a particular machine consistently with their safety [Model Mill Nagpur Ltd. v. Dhaarm Dass, A.I R. (1958) S.C. 311].
9. A dispute relating to modification or revision of a production bonus scheme [Titaghur Paper Mills CO. Ltd. v. Its Workmen, A.I.R.(1959) S.C. 1025].



10. A dispute as to modification of revision of a certified standing order [Guest Keen, Williams (Pvt) Ltd. v. P.J. Sterling, A.I.R. (1959) S.C. 1279].
11. Even when a person directly affected by a dispute is not a 'workman' under the employer at the relevant time if the dispute is raised by a body of the workmen or by a union representing them, and it relates to employment or non-employment [Kays Construction Co. (Pvt.) Ltd. v. Its Workmen, A.I.R. (1959) S.C. 208].
12. A disputes on lock-out in disguise of closer [Express Newspapers (Pvt.) Ltd. v. Workmen, A.I.R. (1963) S.C. 569].
13. A dispute regarding contract labour [Standard Vacuum Refining Co. v. Workmen, A.I.R. (1960) S.C. 948].
14. A demand for modification of standing orders [Shahdara Delhi Saharanapur Light Rail. Co. v. S.S. Rail. Workers' Union A.I.R. (1969) S.C. 513].
15. The espousal of an individual dispute by an unregistered union comprising a substantial number of workmen, pertaining to the dismissal of workmen [Pradip lamps Works v. Workmen of Pradip lamps Works, (1970) 1 L.L.J. 507].
16. A dispute pertaining to 2 workmen regarding their destination espoused can be called as an industrial dispute;

To summarise the elements of definition, the National Commission on Labour states:

"Industrial dispute" means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment, non-employment or terms of employment or with conditions of labour, of any person".

The definition has five components:

- (i) The dispute must be between "employer" and "employees".
- (ii) Between workmen and workmen
- (iii) Between employer and employer
- (iv) The dispute must be related to or connected with (a) employment, (b) non-employment, (c) terms of employment (d) conditions of labour of any person.
- (v) The key part of it's the dispute must be in an industry.

Industrial disputes arising out of dismissal and discharge or termination of services of an individual workmen shall be deemed to be an industrial dispute whether it is raised by the union or the workmen. The affected workmen can himself raise the dispute directly. Also a trade union functioning in the establishment can, however, raise such a dispute even if the workmen joined that union after his dismissal.

The industrial disputes can only be raised by the registered trade union. If there is no such trade union it can be raised through five elected representatives of workmen. Besides, the workmen can raise dispute affecting to his employment conditions. The position of law was before insertion of Sec. 2A. But at present an individual workman can raise his dispute.

**Causes of Industrial Disputes:**



The causes of industrial disputes are classified under seven categories according to Labour Bureau, Shimla. Those are related to employment, non-employment conditions of services and other labour matters (1958).

1. **Personnel Matters:** Employment conditions, discharge, dismissal, retrenchment, violation of agreement, methods of job-evaluation, discipline in industry closure, closer compensation, promotion, demotion, job security.
2. **Wages:** dearness allowances, demand for higher wages, methods of deductions few wages, fringe benefits, wage revision.
3. **Bonus:** Profit sharing bonus, productivity linked bonus, legal bonus, attendance bonus.
4. **Working Conditions:** Methods of production, proper conditions of machinery introduction of new technology, work place environment, (light, ventilation, easy access).
5. **Shift Work:** Allotment of shifts, night shift allowances, hazadious aspects with shift work.
6. **Leave and Holidays:** Mode of grant of leave, holidays, wages during leave due, national festival holidays.
7. **Interpretation of standing orders:** Classification of workers, gradation of employees, benefits as per the grades of employment, interpretation of ambiguous clauses in standing orders.

As traditionally classified by Prof. G.P. Sinha and Dr. P.R.N. (P.236), the causes are as follows:

**I. Economic:**

- (1) Division of fruits of the industry.
  - a) Wage structure and demand of higher wages,
  - b) Methods of job evaluation,
  - c) Deductions from wages,
  - d) Incentives,
  - e) Fringe benefits.
- (2) Methods of production and physical working conditions
  - a) Working conditions,
  - b) Machinery
  - c) Lay outs of the machinery
  - d) Changes in products
- (3) Terms of employment

Hours of work, shift working, promotion, demotions, lay off, retrenchment, discharge, dismissal, job security.

**II. Institutional:**

- a) Recognition of union,
- b) Membership of union,
- c) Subjects of collective bargaining,
- d) Union security,
- e) Subjects to collective bargaining,
- f) Unfair practice (both by union and management).

**III. Psychological:**

- a) Class of personalities
- b) Behavioral maladjustments,
- c) Demands of recognition of worker's rights
- d) Authoritarian administration,
- e) Lack of scope for self-expression and participation
- f) Undue emphasis on discipline

**IV. Denial of legal contractual rights:**

- a) Non-implementation of labour laws and regulations, standing orders, adjudication of awards.
- b) Violation of collective agreements, wage boards, recommendations, customary rights etc.

**Works Committee – What does it do? : Does it need to continue!!**

In any industrial establishment in which one hundred or more workmen are employed on any day of the preceding 12 months, the appropriate government may direct to constitute a 'works committee'. Such committee shall consist of equal number representatives of workmen and management employed in the establishment. The workmen's representatives are to be chosen in the prescribed manner from among the workmen of the establishment in consultation with the registered trade union, if any. The representative of workmen, under any circumstances, be less than the number of representative of employer. The role of the committee is "to promote measures, good will and amity" between the parties. It is a preventive body to industrial dispute and tries to smoothen the relationship during friction between parties in order to bring industrial harmony. The committee cannot interfere on the issues related to terms of employment, recognition, wages, bonus and on any financial matter. This is an advisory body and can act as a channel for joint consultation. The Indian Labour Conference in 1957 drew up an illustrative list of terms which are dealt with by the works committee. Those are: (i) conditions of work such as ventilation, lighting, temperature and sanitation including latrines and urinals, (ii) amenities such as drinking water, canteens, dining rooms, medical and health services; (iii) safety and accident prevention, occupational diseases and protective equipment; (iv) adjustment of festival and national holidays, (v) administration of welfare and funds, (vi) educational and recreational activities; (vii) promotion of thrift and savings, and (viii) implementation and review of decisions arrived at meeting of works committee.

The following matters can not be brought within the purview of activities of works committee. (i) Wages and allowances. (ii) Bonus and profit sharing bonus, (iii) rationalization and matters connected with workload; (iv) matters connected with fixation of standard labour force, (v) programmes of planning and developments, (vi) matters connected with recruitments and lay off; (vii) victimization of trade union activities (viii) Provident funds gratuity leave and national festival holidays, (ix) Incentive schemes, and (xi) housing and transport services.

**Conciliation Officer: Does it need replacement??**



The purpose of conciliation under ID Act, 1947 and under similar state Acts is to bring about a settlement of disputes through third party intervention. The conciliation machinery can take a note of a dispute or apprehended either in its own or when approached by either of parties. Under ID Act, conciliation is compulsory in public utility services and in case of non-public utility services those are secondary. With a view to have expeditious conciliation proceedings, fourteen days time limit has been prescribed for conciliation officer and two months in case of Board of Conciliation. A settlement arrived at in course of conciliation is binding in both parties and such period as may be agreed upon by the parties. If any period is not agreed upon, minimum six months for operation of settlement or till the period is terminated by either of the parties in writing. The conciliation is the best sort of institution for settlement of industrial disputes. It's a persuasive body and its needs to exist in the present context.

The appropriate Government may appoint conciliation officers for any specified industries or in a specified area or for individual establishment either permanently or temporarily.

The duties of the conciliation officers are to investigate and negotiate the disputes for the purpose of bringing out a settlement or otherwise. He can also mediate to bring the parties to a amicable settlement in an industry. His main functions are:

- (i) To pursue the parties and suggest the parties as a conciliator, mediator, negotiator, adviser, counselor, like a friend, philosopher well wisher and a guide.
- (ii) To collect information from parties and through other sources to well acquaint with the situation and the problem/ issues with proper understanding of different position of the parties.
- (iii) He should not be governed by any personal bias on either of the parties.
- (iv) His duties to promote peace and harmony to prevent industrial unrest.
- (v) He admits the dispute into conciliation and intimates the parties in writing and can specify the date of commencement of the proceeding. In case of public utility services (PUS), he is bound to admit the dispute and initiate the conciliation proceeding soon after he receives it officially and can intimate the parties.
- (vi) He is to conduct conciliation in free, fair and cordial atmosphere.
- (vii) He must have been satisfied that the industrial dispute exists between the parties or there is an apprehension of dispute.
- (viii) He cannot compel the parties to agree upon any decision and settlement through coercive method.

If the settlement is not arrived at, he will prepare a failure report and will submit to the appropriate Government for adjudication with suggestions along with reasons of failure of the conciliation machinery. Although conciliation proceedings are undertaken as per the legal provisions under ID Act 1947, the conciliation officer adopts some of the convenient persuasive methods reading the minds and attitude of the parties. He at this stage acts more as analytical economists, psychologist and social scientist than interpreting the law as an advocate of the government. He has to be positive with thought, action and creating a climate of understanding between both the

parties. Undoubtedly conciliation machinery loads much both at central and state level in bringing industrial peace and harmony in industries. The data reveal during 2013-14 total 4177 disputes have been disposed of which is 36.3% out of which 1945 (16.92%) arrived at settlement and 2232 (19.42%) failed at this level as against 4382 (38.13%) pending with CIRM. The year 2014-15 represents the same picture. Thus the conciliation machinery, in an average, bring settlement of one- third of the disputes raised in different spears.

#### **Board of Conciliation: Should it be abolished?**

The appropriate Government may Constitute a Board of Conciliation for promoting settlement of an industrial dispute amicably.

The Board shall consist of two or four members and one Chairman appointed by the appropriate Government who should be an independent person. The other members representing the parties should be of equal number. The appropriate Government can empower the Chairman through notification and can appoint any person as the Chairman if available quorum is there in absence of the Chairman. This body is not functional in the entire country and the provision is for class room discussions. Virtually the board of conciliation has not been constituted in the country during last twenty years and is felt redundant.

**Court of Inquiry:** If the occasion arises, the appropriate Government may by notification in official Gazette, constitute a court of Inquiry for inquiring into any matter connected with or relevant to an industrial dispute.

- (i) The constitution of the Court of Inquiry will be with one independent person or of such number of independent persons as the appropriate Government thinks fit for enquiring into the matter. (ii) Where the court consists of two or more members, one of them shall be appointed as the Chairman. (iii) A court having prescribed quorum, may act with one of the members as Chairman in absence of the Chairman or during any vacancy of its member. As has been observed in the field of implementation of Labour Laws, this body has not been felt as important and effective like conciliation.

#### **Labour Courts:**

The appropriate Government may constitute one or more Labour Courts for adjudication of industrial disputes relating to any matter specified in second Schedule of the Act. The Labour court can deal with the following :

- (i) The propriety and legality of an order passed by the employer under the standing orders.
- (ii) Application and interpretation of standing orders.
- (iii) Individual industrial disputes.
- (iv) Withdrawal of any customary concession or privilege.
- (v) Illegality or otherwise of a strike or lock-out.
- (vi) All matters other than those specified in the Third schedule (The IDs can be referred under Third schedule if it affects less than 100 people).
- (vii) There can be a voluntary reference of an industrial dispute to the Labour Court for Arbitration.



Legal practioners are permitted to appear before the labour courts or tribunals with the consent of the other party and with the permission of the labour court or tribunal. It is observed that it is merely a formality. Unlike BIR (Bombay Industrial Relations Act), the I.D. Act does not provide for appeal against an order of labour court but can go with writ. In certain respects, a labour court/industrial tribunal has the power of civil court under code of Civil Procedure, 1908 to exercise those for passing awards.

#### **Industrial Tribunals:**

The appropriate Government may constitute one or more Industrial Tribunals for adjudication of industrial disputes relating to any matter whether specified in the Second Schedule or the Third Schedule of the Act.

- (1) The Tribunal shall consist of one person only to be appointed by the appropriate Government.
- (2) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless.
  - (a) He is, or has been, a judge of a High Court.
  - (b) He must have worked as District Judge or an Additional District Judge at least three years.
  - (c) The appropriate Government may appoint one or two persons to advise the Tribunal. It is no doubt a quasi-judicial body leaning towards judicial activities during proceedings.

The Industrial Tribunal deals with the matters prescribed under Third Schedule of the I.D. Act 1947. Those are to be dealt with where the disputes are in relation to 100 or more workmen.

- (i) Wages including the period and mode of payment;
- (ii) Compensatory and other allowances;
- (iii) Leave with wages and holidays;
- (iv) Hours of work and rest intervals;
- (v) Bonus, profit sharing, provident fund, gratuity;
- (vi) Shift working other than provided in the standing orders;
- (vii) Classification of grades.
- (viii) Rules of discipline
- (ix) Rationalization
- (x) Retrenchment of workmen and closure of an establishment;
- (xi) Any other prescribed matter.

#### **National Tribunal:**

The Central Government is empowered to constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in its opinion, involve questions of national importance or are of such a nature that industrial establishments situated in more than one state or likely to be interested in or affected by such disputes. The National Tribunal shall consist of one person only to be appointed by the Central Government. A person is qualified for appointment as the presiding officer of a National Tribunal if he is or has been a judge of a High Court. The Central Government may also appoint two assessors to advise the National Tribunal in the proceeding before it.

### **Powers and Jurisdiction of National Tribunal:**

The National Tribunal is not a pure Court but acts as a court excepting with the power of examining and recording the evidence from the parties and witnesses. They follow the entire procedure as the general courts follow.

The National Tribunal deals with the matters prescribed under the Third Schedule of the I.D. Act 1947.

- (i) Wages, including the period and mode of payment;
- (ii) Compensatory and other allowances;
- (iii) Hours of work and rest intervals,
- (iv) Leave with wages and holidays
- (v) Bonus, profit sharing, provident fund and gratuity
- (vi) Shift working otherwise than in accordance with standing orders,
- (vii) Classification by grades
- (viii) Rules of discipline
- (ix) Rationalization,
- (x) Retrenchment of workmen and closure of establishment; and
- (xi) Any other matter that may be prescribed.

### **Voluntary Arbitration:**

Voluntary arbitration as a method for resolving industrial disputes came into prominence with advocacy of Mahatma Gandhi for settlement of industrial disputes in textile industries of Ahmedabad. ID Act provided provisions of joint reference of industrial disputes to Voluntary Arbitration.

In an industry where any industrial dispute exists or is apprehended, if the employer and the workmen entered into agreement to refer the dispute for settlement by the Arbitration, the appropriate Government is to refer such dispute to Arbitration.

The Arbitrator may be any person, agreed upon by the parties, and may include the presiding officer of a Labour Court or Tribunal or National Tribunal who are to be appointed by the Appropriate Government through gazettee notification. The Arbitrator is appointed only for that dispute till settlement of the dispute.

In case of strike in existence, that can be prohibited when the dispute is referred to the Arbitration through notification.

The powers and functions of the Arbitrator can be same as the Labour Court and Tribunal. Voluntary arbitration, as an institution, was inserted to the original I.D. Act 1947 in 1956 (w.e.f. 10.03.1957) for speedy disposed of the industrial disputes, as the parties, agree to it. It was inserted with the impression of resolving the disputes, as were disposed of by Mahatma Gandhi during pre-independence era in Maharashtra & Gujarat. But it did not yield tangible results during later period.

It is accepted that during last sixty years of working of adjudication machinery, it has exercised considerable influence on several aspects of conditions of work and labour management



relations. It has helped in averting frequent work stoppages by providing an acceptable alternative to direct action (strikes and lockouts) to protect and promote the interests of weaker sections of the working class. In the entire country since 1947 till date, the industrial disputes are solved through conciliation, to the tune of 29% to 31%. Thus majority of the cases are, either solved by adjudication, or through bi-partite negotiation which indicate very little contribution to collective bargaining process.

### **Consequences of Industrial Disputes:**

As the causes of industrial disputes are due to difference and discontent between the parties on different issues affecting the benefits and the interest of parties, if those are handled properly on time to nip at the bud, it results into industrial harmony and peace contributing betterment to economic, social and psychological aspects of the parties. It enhances productivity of the workers and overall production of the organization to have more profit and getting better share of a common cake. Thus, the consequences have both positive and negative impact on the organization and the society.

Negative consequences of industrial disputes, when not attended and settled at a particular time, may cause colossal loss to the nation and economy. It is having adverse effects on industrial production, efficiency, enhances cost of production, reduces quality, affects human satisfaction, discipline, technological and economy per capita income and contributing negatively on growth of national economy in terms of per capita income and Gross National Product (GNP). It contributes to strikes, lockouts, gherao, man days loss, reducing the profit, volume of production, creating chaos in the society, hurting the sentiments and trust of the consumers. It leads to absenteeism, labour turnover, discontentment of workers, giving rise to more fields for grievances and resentment. It affects the morale of the employees and trust on each other with the feeling of animosity.

It affects the normal discipline of the organization. Strikes lead to damage of goods and services and creating law and order situation inviting insecurity of life in the organization and community. Loss of production creates artificial scarcity, aggravating market situation, creativity; distrust and discontentment among the consumers. It affects employees, workmen, society, consumers, economy, and the general way of life of common human being.

The positive aspects of industrial disputes to understand each other and to contribute for growth of production. It enhances co-operation between the parties and respecting each other too.

### **Strikes and Lockouts:**

Conceptually the right to strike and lockout is recognized in all democratic societies. But reasonable restraint on the use of this right is also recognized. According to the social, political and economic variants in the system, this power is used in different degrees. For safeguarding public interest, the duration of strike/lockout is regulated by legislation.

According to the ID Act, 1947, the strike "means cessation of work by a body of persons employed in an industry acting in combination, or a concerted refusal under common

understanding, of any number of persons who are or have been so employed to continue to work or to accept employment”:

The definition has three essential elements:

- (i) Plurality of workmen, (ii) Stoppage of work or refusal to work, and (iii) Combination or concerted action.

Plurality of workmen constitute a strike, quitting of work by a group of workmen. Only one employee engaged in a work stoppage will not constitute a strike.

The stoppage of work or refusal to work by a body of persons irrespective for duration of time amount to strike.

The third essential characteristic, as held by the Supreme Court, is the concerted action by the employees which accord togetherness of workmen and not a formal meeting. Even concerted action internationally taking leave on ‘sick’ is a strike. There should be evidence to show there was a common understanding between the absenting employees and other employees as to refusal to work.

### Forms of Strikes:

There are several types and forms of strikes. Apart from the normal strikes related directly to the strikers working conditions, there are “sympathetic strikes”, “political strikes”, “hartals” and “bandhas” which objectives are not expressive and generally not so related. Other types of strikes are “Stay in strike”, “hunger strike”, “token strike”, “lightning strikes”, “work-to-rule or regulation strikes”, besides “go slow”, “picketing”, and “boy cott”.

1. **Sympathetic Strike** : Under this type of strikes, the workers go on strike out of “sympathy”, with other workers on strike some where else and for no other specific reason of their concern. Sympathetic strikes are normally held unjustifiable under the ID Act.
2. **Political Strike** : The normal strike related directly to working conditions or economic demands of workmen is said to be economic or “industrial” in object. The phrase “political” strike is employed in relation to strikes whose object is not industrial but political. The purpose of the strike is to bring pressure on the government or a public authority to enforce a political demand. This is to draw attention of the government on existence.
3. **General Strike** : A strike is a general strike when it is undertaken not by a particular body of workmen against a particular master but by workmen generally, irrespective of the master, against all masters. In many cases, strikes even in public services in the states are of such type.
4. **Hunger Strike** : Normally this takes the form of fasting by a group of workmen after having posted themselves near the place of work or the residence of the employer, the object being to coerce the employer to accept the workers’ demands.
5. **Token Strike**: These strikes take place for few hours or for shorter duration, may be undertaken by the workers to stage a token protest. This may serve as a preliminary to strike action.
6. **Lightning Strike**: These strikes are staged suddenly without any prior notice. This is an appearance just like lightening in the cloudy sky.



7. **“Work-to-Rue”**: Strikes which are after staged in public utility services consist of a “meticulous adherence to regulation not normally observed”.
8. **Stay-in-Strike**: In such a strike, the employees remain at their place of work but refuse to work. “Sit-down strike”, “pen-down” strike and “tool down strike” are other names for this variety of strikes.

Strikes are the great weapons in the hands of the working class people to draw attention of many stake holders of the community such as: employers, government, consumers, the economic planners and the society at large.

#### **Lock-Out:**

There are possible courses of action open to an employer when confronted with strike action and thinks a great threat to his normal life. It is the last weapon in the hands of the employer to use against the strikes. In the struggle between capital and, labour, the weapon of strike is available to the labour and is used by them similarly the weapon of lockout is available to the employer and can be used by him.

As per the I.D. Act, 1947, “Lockout” is closing the place of employment, or suspension of work, or refusal by an employer to continue to employ any number of persons employed by him. As Labour Appellate Tribunal has observed : “Lockout is the counterpart of strike, the corresponding weapon in the hands of the employer to resist the collective demands of the workmen or to enforce his terms”.

It is sometimes used as security measure by the employees but even then, it has connection with the disputes of the labour force or with a body of workmen.

Lockout is different from “closure”. Occasionally some confusion is caused by the use of the word closing. Lockout does not mean closing down of a business. It only means closing down the place of business temporarily and suspension of work for a specific period.

#### **Procedure of declaration of Strike and Lockout:**

Before going on strikes or lock-outs, the parties have to serve the requisite notice with intimation to the government in a prescribed form under the I.D Act. This is essential for the parties in public utility services. In non-public utility services, this may be adopted with option.

- (i) ‘Six-week notice’ has to be served in case of going on strike in public utility services.
- (ii) Fourteen days clear period to be given to the employer to consider the notice of strike. During first fourteen days, no worker/ union can go on strike.
- (iii) If conciliation is pending before conciliation officer of the issue or issues and seven days notice after conclusion of such proceedings the parties cannot go on strike / lock out.
- (iv) The parties cannot go on strikes/lockout after expiry of the notice period.

#### **Legal and Illegal Strike/Lockout:**

Violation of Sec-22 of I.D. Act makes the strike illegal. If strike takes place without notice, during pendency of conciliation proceedings and seven days after the conclusion of the proceedings.

#### **Consequences of illegal Strike and Lock-Out:**

Three important issues arise in the aftermath of strikes and lock-outs:

- (1) The right of the employer to dismiss or discharge the worker who went on strike;
- (2) The workers claim for wages for a period of strike and lockout and consequences on continuance of employment.
- (3) Re-instatement of strikes whose places have been filled by the employer.

#### **Lay off:**

According to the Industrial Disputes Act, lay off means “the failure, refusal or inability of an employer on account of shortage of coal, power or raw material or the accumulation of stocks or the breakdown of machinery, natural calamity or for any other connected reasons to provide employment to the workmen whose names have been borne on the muster rolls of the industrial establishment and who has not been retrenched”.

Every workmen whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid off within the meaning of the clause. But where a workman after giving attendance at the commencement of any shift for day, is asked to present himself for the purpose of second half of that shift, and is given employment, the workmen shall be deemed to have been laid off only for one half of that day. When after presenting himself for the second half of the shift the employee is not given employment he shall be deemed to have been laid for the day and not for the second half of the shift of that day. In such circumstances, the laid off workman shall be entitled to full basic wages and dearness allowance for the part of the day.

Lay off is not a right conferred but an obligation imposed on the employer for the benefit of workmen. The very genesis of the layoff is that it is break in the service of the employee and within a reasonable time, the employer expects that, the business or industry would restore its normal situation and the laid off persons would be given employment. A leading case in this context is of Nutan Mills Ltd., V.S.I.C. the question came for the consideration was in case of laid off employee whether relation of master and servant continues. It was held by the Bombay High Court that during period of lay off the relationship between master and servant is suspended and the employee is entitled for wages. Ordinarily the layoff can continue up to forty five days and the employer derives the right under the Industrial Disputes Act, 1947 to retrench the workmen as per the 50% of the compensation for every working day, excluding the Sundays and holidays. It can be followed by retrenchment.

#### **Retrenchment:**

As the Industrial Disputes Act, 1947 defines “the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action.”

It means removal of surplus labour by the employer for any reason whatsoever. But it does not include:



- (a) voluntary retirement of a workman;
- (b) retirement of a workman on reaching the age of superannuation as specified in the contract;
- (c) termination of the service of a workman on the termination of the contract or non renewal of the contract;
- (d) termination of service of a workman on the ground of continued ill health.

**For any other reasons whatsoever:**

In case of retrenchment the interpretation of the term “for any reason whatsoever”, is of paramount importance. When some classes of workmen are declared retrenched in a business it can be due to reasons like rationalization in industry, influence of changing economy, scenario installation of a new machinery & technology etc. Every termination leads to retrenchment. A termination takes place where term expires either by the active step of the master or running out of stipulated conditions.

In fact retrenchment means removal of surplus labour by the employer for any reason whatsoever other than as punishment inflicted by way of disciplinary action.

The termination of service on account of super-annuation at a particular age, which is prescribed by the rules or service contract, does not constitute retrenchment. For what reasons and at what time the employer would remove the surplus labour depends entirely at this discretion. In case where reorganization schemes have been adopted by the company, for adopting greater economy or convenience, the removal or retrenchment of some of the workmen would have considered as inevitable, though very unfortunate consequence of the reorganization schemes, which the employer acting bona fide was entitled to adopt.

The retrenchment includes termination of services of a temporary employee after giving due notice.

In case of Santosh Gupta V.S.B.I., an employee was discharged on the ground that he failed to pass the prescribed test required for the confirmation of service. She had put in more than 240 days of service in a year. The tribunal held that the termination did not amount to retrenchment.

In case of Gammon India V. Sri Niranjan Das, the services of senior clerk was terminated due to reduction in volume of business of the company. It was held to be a case of retrenchment.

The termination of service of an employee either during initial period of probation or during the extended period of probation, on the pretext that they are suitable for the job amounts to retrenchment.

On the ground of continued ill health the services of a person can be retrenched. By the word continued ill health means any disease, infirmity or unsoundness of a person which makes it literally impossible for him to carry out his deities.

**Conclusion:**

In the foregoing discussions, the article has dealt with analysis of different functions, jurisdictions and the limitations of different authorities under State Industrial Relations Machinery (SIRM) and Central Industrial Relations Machinery (CIRM) for preserving and maintaining industrial peace and harmony. Under analysis, authorities like “works committee”, ‘Board of Conciliation’,

Court of Enquiry have little contribution or no contribution to the field of industrial relations. The Second National Commission (2002) has emphasized on changes in Laws as has been recommended by NCL-I (1969). But a step further they have gone with additional items like (i) setting up of autonomous industrial relations commissions; (ii) retrenchment compensation extending 45 days wages for every completed year of services in respect of sick industries and 60 days wages in normal cases; (iii) insisting on strike ballot which should be supported by at least 51% vote; (iv) grievance redressal committee to deal with individual disputes etc. considering the statutory positions in India, we are neither follower of Japanese IR where life long employment still continues nor USA industrial relations practices where no job protection is available but only grant of unemployment insurance which law takes care of unfair labour practices. Our conciliation machinery has been playing a positive role, but often not free from political interference, not making it as effective as it should be. Easy availability of adjudication machinery has been left as alternative to collective bargaining. But long statutory procedure and time limit prescribed by law is cumbersome and dilatory. Though the awards given by labour courts or tribunals shall be regarded as 'final', and shall not be questioned by any court in any manner whatsoever (sec- 17(2)), the aggrieved parties usually invoke the extra ordinary jurisdiction of High Court (Art. 226) or Supreme Court (Art. 32) and challenge the award on one or the other ground as lack of jurisdiction, error of law, violation of principles of natural justice etc. The law should always be interpreted with 'intent' than of the 'content', with cognitive aspects not with wholesome affair.

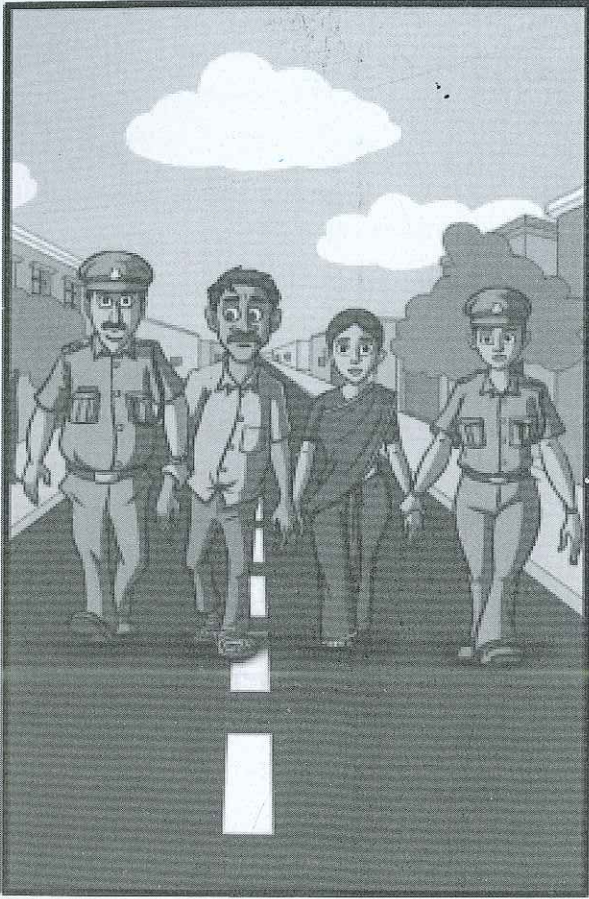
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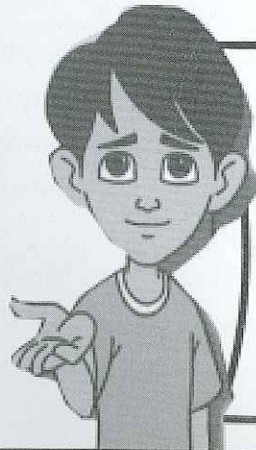
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# ଶ୍ରମ ଓ କର୍ମଚାରୀ ରାଜ୍ୟ ବୀମା ବିଭାଗ ଓଡ଼ିଶା ସରକାର

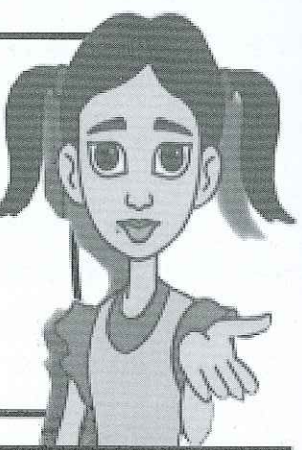


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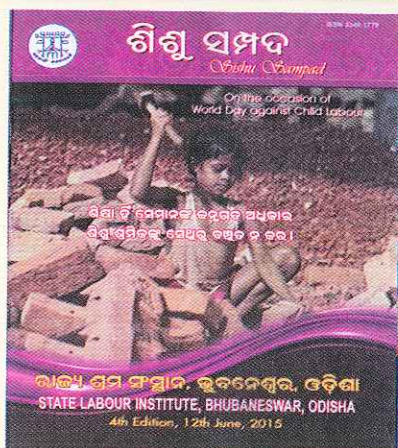
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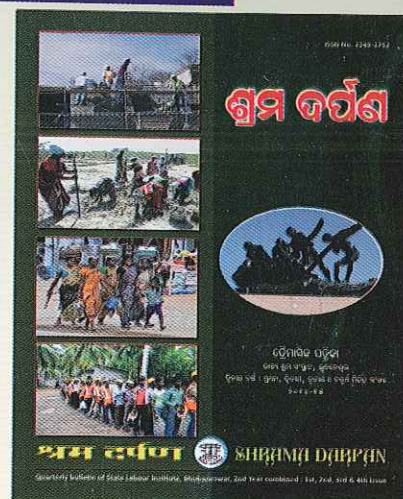
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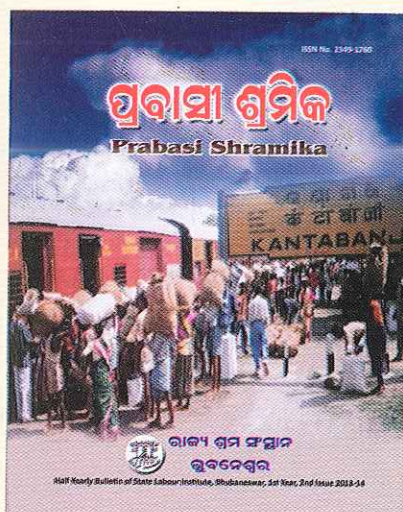
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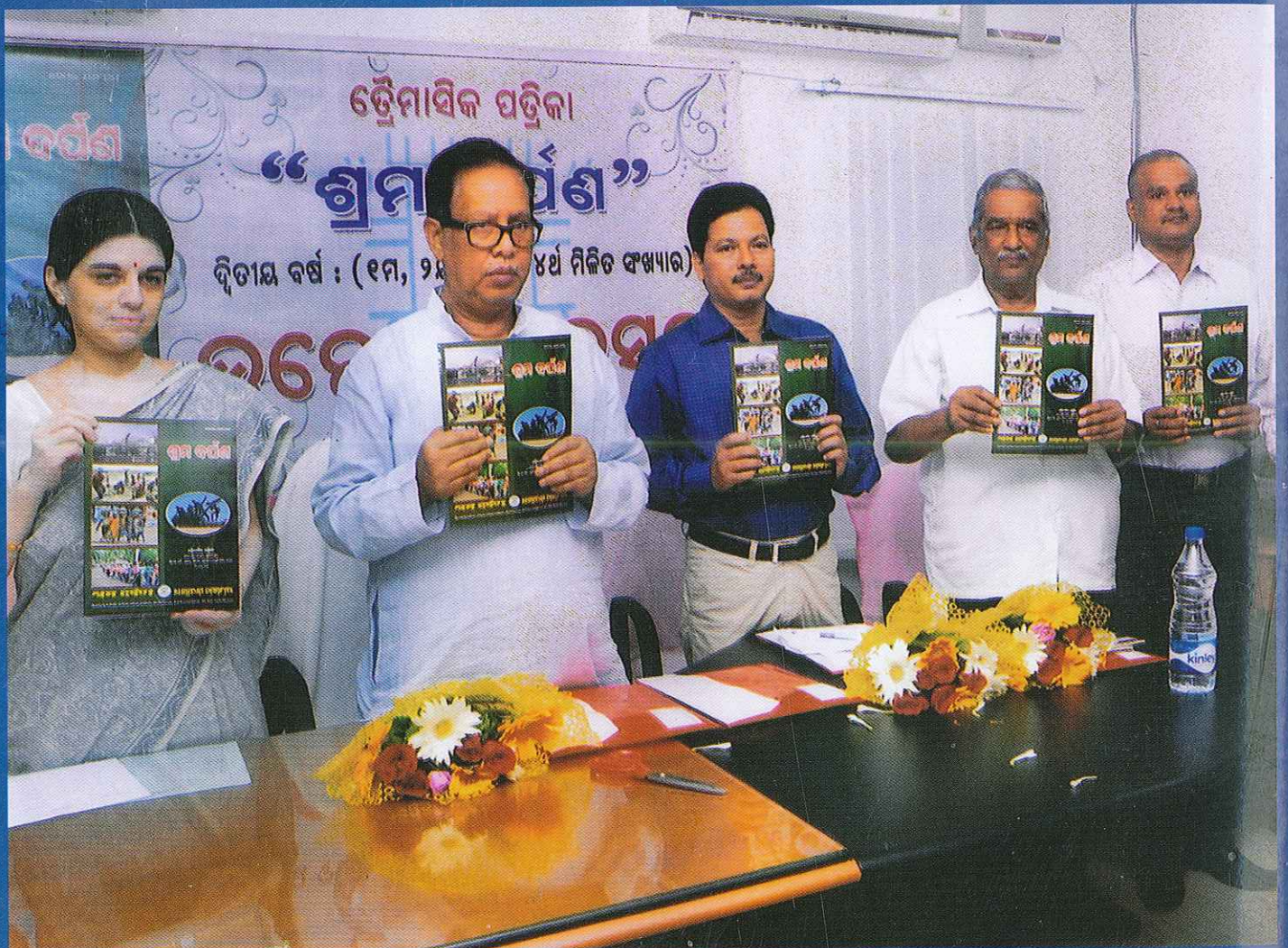
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