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REPORT OF THE TRIPARTITE COMMITTEE CONSTITUTED TO FACILITATE REOPENING OF THE B&C MILLS, MADRAS.

In December, 1990 the management of B&C Mills, Madras made an application to the Commissioner of Labour, Madras under Section 25-D of the Industrial Disputes Act, 1947, seeking permission to close down the Mills with effect from 18.3.91 on the ground of uneconomical working of the Mills and also for the reason that the management could not reach an agreement with the Labour Unions for the shifting of the Processing House from Madras to Bhuvanagiri as required by Industrial Development Bank of India (IDBI). The Commissioner of Labour passed order on 8.2.91 rejecting their application seeking permission to close down the Mills. Despite this order, the management closed the Mills with effect from 1.4.91 and removed all the workmen from the rolls of the company with effect from that date. Subsequently the management also filed Writ Petitions in the High court, Madras, challenging the order of the Commissioner of Labour dated 8.2.91, rejecting their application to close down the Mills and also questioning the validity of Section 25-D of the Industrial Disputes Act. The High Court disposed of the Writ Petitions as well as other petitions filed by the management and remitted the entire matter back to the Commissioner of Labour, Madras for fresh consideration and disposal in accordance with Law taking into consideration the report of the IDBI on the viability of the modernisation-cum-rehabilitation scheme of the Company.

As per this direction of the High Court, Madras, the Commissioner of Labour, reheard the application of the management and passed orders on 22.11.91 rejecting the application of the management seeking permission to close down the Mills. However, the Commissioner of Labour permitted the management to shift the Processing House to Bhuvanagiri subject to certain conditions taking into consideration the views of IDBI and also the assurances given by the management. Against the orders of the Commissioner of Labour, Madras, both the management and the Unions have filed Review Petitions before the Secretary to Government, Labour & Employment Department, Madras and the matter is now pending before the Government.

In the meantime, the Hon'ble Chief Minister of Tamil Nadu, with a view to reopen the Mills had convened a meeting on 4.2.92 with representatives of the management, Trade Unions and political parties. In the meeting it was decided that the B & C Mills should be reopened on 13.4.92 (Tamil New Year's Day) and a Tripartite Committee was constituted to formulate a scheme to run the Mills in a viable and profitable manner.

Accordingly, the Government in G.O.(D) No.144, Labour and Employment Department, Madras, dt.13.2.92 issued orders constituting a Tripartite Committee consisting of Thiru T.K. Venkataraman as representative of the management of B & C Mills, Thiru W.R. Varada Rajan as representative of the Trade Unions and

Thiru N. Athimoolam, I.A.S., Commissioner of Labour as representative of the Government. The terms of reference for the above Tripartite Committee are as follows:-

1. to take steps to ensure reopening of the B&C Mills on 13.4.92 the target date set by the Hon'ble Chief Minister;
2. to keep in view that funds are required for reopening of the Mills and that it is therefore necessary to involve a scheme which is acceptable to Industrial Development Bank of India as viable;
3. to call upon the management to prepare a viable scheme with reference to the views of Industrial Development Bank of India and to its satisfaction;
4. to consider and take a view on scheme which will be prepared by the management on viability and other matters which will be relevant in order to get the acceptance of the Industrial Development Bank of India;
5. to ensure that the scheme does not adversely affect the interests of workmen. If necessary the committee can make suitable modifications in the scheme for the purpose;
6. to facilitate a settlement under section 12(3) of the Industrial Disputes Act, 1947 to secure the acceptance of labour to that scheme;
7. to submit its recommendation before 29.2.92 to enable the management to submit the scheme to Industrial Development Bank of India and get it approved by IDBI in time so that the Mills could be reopened on 13.4.92.

The Tripartite committee commenced its discussion on 5.2.92, held 10 sittings on various dates and concluded on 29.2.92 to finalise its recommendations on the terms of reference. As per the terms of reference, Thiru T.K. Venkataraman, representing the management filed a scheme prepared by the management for the consideration of the committee. The scheme submitted by the management envisages shifting of the Process House from its present location to Bhuvanagiri based on the uncertain availability of required quality/quantity of water and fuel. It also includes shifting of the Process House at Bangalore to Bhuvanagiri, so that the company will have a centralised Process House for both the Units at Bhuvanagiri to achieve optimum utilisation of machinery, men and materials. Provision has also been made in the scheme to carry out repairs/renovation for spinning and weaving activity which will be continued in the present location at Madras. Provision has also been made for overhauling of the Ruti looms apart from co-generation of power at Bhuvanagiri to contain cost. As per the revised scheme, there

will be no significant reduction in spinning and weaving activity in the present location at Madras and the scheme has been prepared on the assumption that the Northrop looms will continue to work in their present location till they are replaced by new looms in a phased manner. A significant change in the present scheme is absence of Vendor Operation. The scheme has been worked-out on the basis of work norms as per Kamalarathnam Award as agreed to under the 12(3) settlement dated 6.6.81.

The management while preparing the revised scheme has assumed that no permanent workmen will be shifted to Bhuvanagiri and all of them will be provided alternative jobs in the current location. Though the management has assumed work norms based on Kamalarathnam Award, it proposes to refer the revision of work norms to a study by SITRA/SIMA after the reopening the mills. The management proposes that the recommendation of SITRA/SIMA with respect to the work norms should be accepted in toto for implementation. Provision has also been made in the revised package to ensure continued training facilities particularly for such of those trainees on rolls who have completed more than 3 years as on 31.3.91. In spite of steep escalation in costs and inspite of the fact that IDBI had indicated that a wage freeze has to be considered, the revised scheme does not contemplate any wage freeze. However, the management has not provided for any wages for the closure period stating that it will adversely affect the viability of the scheme.

Thiru W.R. Varada Rajan wanted certain clarifications and details with regard to the scheme submitted by the management, which were furnished by Thiru T.K. Venkataraman during the course of the sittings.

The highlights of the scheme, and the estimated cost of the project for B & C Mills and Process House at Bhuvanagiri and other details relating to the cost of the scheme are furnished in Annexure-I.

The details of the estimated cost of the project submitted by the management are as follows:-

	<u>COST</u> (Rs.in Lakhs)
I <u>B & C MILLS:</u>	
(A) - New Machines	454.56
(B) - Maintenance of Backlog	681.56
TOTAL (A) + (B)	----- 1136.12
Contingencies @ 10%	113.61
TOTAL - I	----- 1249.73 -----

II PROCESS HOUSE AT BHUVANAGIRI

(A)	3533.41
Contingencies @ 10%	353.35
TOTAL - II	3886.76
TOTAL (I) + (II)	5136.49
III Expenses already incurred	97.37
Margin money for Working capital	474.00
Reopening expenses	1000.00
GRAND TOTAL (I+II+III)	6705.86

The management representative also filed details of charter of demands raised by the management with the Madras Labour Union and the B & C Mills Staf Union to enter into a 12(3) settlement. He also filed the details of concessions sought for from the State Government with regards to the scheme.

VIEWS OF THIRU W.R. VARADA RAJAN, UNIONS' REPRESENTATIVE:

While expressing his views on the terms of reference, Thiru W.R. Varada Rajan said that the Committee can evolve a scheme acceptable to IDBI as viable while there is no viable scheme approved by IDBI as on date. He, therefore, suggested that the management should prepare and submit a scheme to reopen the B & C Mills viably with necessary certificate from IDBI that it is viable and acceptable to them and also that IDBI would abide by any suitable modification that may be made by the Tripartite Committee in the scheme to ensure that the scheme does not adversely affect the interests of workmen. He proposed that the labour unions should also be given an opportunity to express their views to the Tripartite Committee on the interests of the workmen on the scheme submitted by the management. He expressed that it was unfair to insist on the committee to recommend only a particular scheme that may be prepared by the management.

Thiru W.R. Varada Rajan expressed that it was not fair to insist on a settlement only on the demands of the management brushing aside the demands of the Unions which were pending settlement for a long time. He also filed a list of demands of the Unions pending settlement. He said that the management's scheme does not contemplate viable and profitable running of the composite B & C Mills at Madras and it attempts at splitting of the B & C Mills which basically affects the interests of the

- 7) Introduction of Voluntary Separation Scheme on the lines adopted in Bangalore Mills.
- 8) Phased implementation of computerisation.
- 9) Transfer of clerical staff.
- 10) Implementation of Varadan Award Parts I & II.

It was also agreed to by the parties to maintain status quo in respect of certain issues and to drop certain issues.

However, the parties could not reach an agreement on the following major issues.

- 1) Ad hoc payment per mensem from the date of reopening of Mills till the implementation of Varadan Award.
- 2) Provision of employment to all the workmen immediately on reopening of the Mills.
- 3) Payment of lumpsum amount on reopening to be adjusted later.
- 4) Payment of wages for the closure period.

Thiru W.R. Varada Rajan demanded that wages should be paid for the closure period on the ground that the closure of the B & C Mills from 1.4.91 is illegal. He stated that the management's proposal to treat the closure period on the principle of "No work no wages" is also illegal in view of the observations of the High Court that the workmen are entitled to full wages for the closure period. But the management were not for any payment for the closure period on the ground that it will adversely affect the viability projections of the revised scheme and that no provision has been made in the scheme towards wages for the closure period since any such provision will be objected to by IDBI.

Though the Unions demanded full wages for the closure period, they however expressed their willingness for negotiations on this issue. But the management contended that they have already paid 50% of the wages for the months of April/May, 1991 and they are agreeable only to waive the recovery of this amount already paid. Both the parties stuck to their own stands rigidly on this issue and my efforts as a Member of the Committee and conciliation officer to bring about an amicable settlement on this issue could not succeed. Therefore in the absence of reaching an agreement on the issue of payment of wages for the

closure period, all my efforts and the efforts of the Tripartite Committee to facilitate a 12(3) settlement with regard to various issues have not succeeded. Consequently, both the management and

Unions have informed that the issues on which agreement has been reached between them so far will have to be treated as not settled and the offers already made by them on those issues are also to be treated as withdrawn.

RECOMMENDATIONS:

Based on the discussions held by the Committee, the materials made available to the Committee by the management and the unions and the bilateral/conciliation talks held with the parties, I submit my following recommendations on the issue relating to re-opening of B & C Mills for consideration.

- 1) As far as the revised scheme submitted by the management including shifting of the Process House to Bhuvanagiri is concerned, I find that the scheme submitted by the management is prima facie viable on financial, technical and commercial aspects.
- 2) The shifting of the Process House to Bhuvanagiri cannot be avoided in the absence of firm commitments by the State and Central Governments with regard to supply of water and allotment of coal and rail wagons in the present location while the management is assured of required quantity/quality of water and gas at Bhuvanagirhi.
- 3) The management have taken care to ensure that the interests of all the workmen and trainees who have completed 3 years of service are protected and they have assured that there will be no reduction in man-power consequent to shifting. They have assured that all the surplus workmen on rolls will be retained at Madras and that no permanent workman will be compelled to go to Bhuvanagiri. They have also assured that only willing workers will be shifted without any change in their service conditions, the cost of their transportation will be borne by them and that housing and other facilities will be provided to them at Bhuvanagiri.
- 4) In the above circumstances I recommend that the revised scheme submitted by the management may be accepted subject to the following conditions:-
 - a) Consequent on the shifting of the Process House to Bhuvanagiri there should be no retrenchment of permanent workmen/employees of the Process House and the trainees who have completed 3 years of service. They should not be forced to go to Bhuvanagiri and those who are willing only will be shifted to Bhuvanagiri. Those workers who are not willing to go to Bhuvanagiri should be provided employment in Madras itself.

- b) Those who are willing to go to Bhuvanagiri should be provided with housing and other facilities at Bhuvanagiri.
 - c) The cost of shifting their personal belongings to Bhuvanagiri should be borne by the management.
 - d) Their service conditions including their last drawn emoluments should be protected.
 - e) The management should obtain prior permission of the Government of Tamil Nadu before disposing of the immovable properties of the Mills at Madras.
- 5) With regard to the concessions sought by the management from the Government, their requests may be examined and suitable decision taken by the Government.

Sd/-
(N.ATHIMOOLAM)
COMMISSIONER OF LABOUR
dt.29.2.92

REPORT OF W.R.VARADA RAJAN, MEMBER OF TRIPARTITE COMMITTEE ON B&C MILLS, MADRAS REPRESENTING MADRAS LABOUR UNION AND B & C MILLS STAFF UNION.

1.1. The Tripartite Committee was constituted by the Hon'ble Chief Minister of Tamil Nadu as per the decision of the meeting convened on 4.2.92 wherein it was decided that the B&C Mills which has been closed on 1.4.91 should be reopened on 13.4.1992 (Tamil New Years day).

1.2. The tripartite committee had its sittings on 5.2.92 & 11.2.92. The Government of Tamil Nadu, however, issued G.O.(D) No.144, Labour and Employment Department Dt.13.2.92 specifying the terms of reference of the Tripartite Committee.

2. REOPENING OF THE MILLS

2.1. The terms of reference inter-alia include "to take steps to ensure re-opening of the B&C Mills on 13.4.92, the target date set by the Honourable Chief Minister."

2.2. At the first meeting of the tripartite committee held on 5.2.92, it was clarified by the Commissioner of Labour that the period of reopening was announced by the Hon'ble Chief Minister of Tamil Nadu after obtaining the consent of the Management's representative Mr.N.P.V.Ramasamy Udayar and Mr. M.Ethurajan and it has to be strictly adhered to irrespective of finalisation of the report by the committee or clearance of the scheme by IDBI.

2.3. The Tripartite Committee should recommend that the Mills be reopened on 13.4.1992 without fail and all workmen shall be drafted for work/eligible to draw wages from that date.

3. TERMS OF REFERENCE

3.1. The terms of reference as contained in the G.O.(D) No.144 Dt.13.2.92 do not reflect the spirit of the decisions taken at the Meeting convened by the Hon'ble Chief Minister of Tamil Nadu on 4.2.92. The Chief Secretary, Government of Tamil Nadu had been apprised of the views of the Unions in the letter dated 14.2.92 addressed by the President of the Unions.

3.2. In particular, the terms of reference do not provide any opportunity for the consideration of alternative proposals for the viable and profitable running of the B&C Mills, to be putforth by labour.

3.3. Even at the first meeting of the Tripartite Committee held on 5.2.92, the proceedings stated that it was decided that "various proposals including shifting of the process house will be considered by the Committee, to run the unit viably". This decision has been confirmed by Thiru T.K.Venkataraman member of the Tripartite Committee. However, Thiru T.K.Venkataraman, Member representing the management in the Tripartite Committee had since taken a stand that only a proposal can be considered by the Committee as the terms of referene had not provided for any other scheme to be considered by the committee. This has resulted in a total conscription of the jurisdiction of the Tripartite Committee itself. For the sake of expediency and with a view to submit the report/recommendations of the Tripartite Committee within the deadline stipulated in the Government order, this report is submitted without prejudice to the views conveyed earlier by the Unions on the terms of reference of the Tripartite Committee.

4. SCHEME OF THE MANAGEMENT

4.1. The terms of reference comprise inter-alia, that the management should be called upon to prepare a viable scheme with reference to the views of the IDBI and to its satisfaction. Thiru T.K.Venkataraman has submitted, vide his letter dt.18.2.1992 addressed to the Commissioner of Labour, Madras a scheme for Modernisation/rehabilitation of B&C Mills. Subsequently some more detailed information has been furnished by Thiru T.K.Venkataraman on 24.2.92, 25.2.92 and 26.2.92.

4.2. The Tripartite Committee is expected to consider and take a view on the scheme prepared by the management on viability and other matters which will be relevant in order to get the acceptance of IDBI (Item No.4 of terms of reference). It is to be noted that what has been produced before the Tripartite Committee is not a comprehensive scheme on the rehabilitation of the B&C mills, but only the framework of a scheme proposed to be submitted by the management to IDBI. This has handicapped the tripartite committee in its consideration of the scheme on viability and other matters. On the scheme submitted by Thiru T.K.Venkataraman on 18.2.92, the following observations have been made by the member representing the labour in the Tripartite Committee (W.R.Varada Rajan), at its meeting held on 21.2.1992.

"The G.O.No.144, Dt.13.2.92 requires the Tripartite Committee to formulate a scheme to run the B&C Mills in a viable and profitable manner. The unions have all along stressed the need to maintain the composite character of the B&C Mills.

"The management's scheme does not contemplate viable and profitable running of the composite B&C Mills at Madras. Instead, the scheme contemplates splitting of the composite B&C Mills. This would basically affect the interest of the workmen adversely. It is, therefore, necessary that the committee should make suitable modifications in the scheme for ensuring that the composite nature of the Mills is preserved and the workmen's interest are not affected.

"The scheme submitted by Thiru T.K.Venkataraman on behalf of the management does not throw any light on how the scheme is considered to be viable and how the present proposals improve the DSCR to the satisfaction of the IDBI in the light of the IDBI'S views made known earlier.

"The earlier schemes considered by the IDBI provided for modernisation of the B&C Mills at Madras to some extent. The present proposal drastically curtails the scope of modernisation at Madras and to a large measure envisages only peripheral renovation/overhaul. This will not ensure long term viability of the mills.

"The management scheme provides for a huge outlay of around Rs.39 crores for the Process House at Bhuvanagiri. The original scheme had a provision for Rs.19.81 crores only. The present proposal envisages installation of Gas turbine, boilers etc., for power generation plant as well. This will not in any way contribute to viable and profitable running of the B&C Mills. If the management intends to utilise the natural gas provided by ONGC for power generation at Bhuvanagiri to be sold to Tamil Nadu Electricity Board, this may not be acceptable to the Petroleum Ministry. The recent reports in the Press speak of the Petroleum Ministry's consideration of slashing of gas supply to Reliance Petrochemicals Limited for captive power generation at Hazira. It is doubtful whether even the agreement between the Binny Limited and ONGC would permit installation of co-power generation plant. Unions have already drawn attention to the ONGC report of April 1991 that there is no gas well at Bhuvanagiri. Notwithstanding this, the availability of gas in Cauvery Basin is estimated to last only for limited number of years. To invest a sum of Rs.40 crores with no long term guarantee of gas supply is likely to prove an unremunerative one ultimately affecting the viability of the B&C Mills. It is, therefore, necessary that this aspect of the scheme viz. Process House at Bhuvanagiri be given a total reconsideration.

"The concessions requested from the Tamil Nadu Government with reference to the supply of Metro water and diversion of coal can be extended for a longer period and need not be confined to one year. This will help viable and profitable running of the composite mills at Madras itself and obviate the need to invest a large sum of Rs.39 crores at Bhuvanagiri."

4.3. The K.B.N. Singh Commission appointed by the Division Bench of the Madras High Court in its report dated 13.7.1991 had categorically stated that "there cannot be any manner of doubt that the shifting of processing house to Bhuvanagiri will cause prejudice to the interests of the workmen". The observations of no less a person than the former Chief Justice of Madras High Court cannot be brushed aside. The Government of Tamil Nadu also affirmed before the Madras High Court through the Advocate General of the State that "the State Government support the findings of the one member commission that shifting of the processing section to Bhuvanagiri will be detrimental to the interest of the workmen" (Labour and Employment Department letter No.A1/26050/91 dated 28.7.91). These facts strengthen the plea that suitable modifications be made in the scheme (as per item 5 of the terms of reference of the tripartite committee) to preserve the composite character of the B & C Mills at Madras.

4.4. The present scheme submitted by the management, however, incorporates the following improvements over the earlier scheme appraised by IDBI in 1990.

i) Vendor operations viz., processing of power loom cloth to offset the loss in production of grey cloth on account of reduction in loomage at B&C Mills is dropped. The proposed centralised process house at Bhuvanagiri will process only grey cloth produced by B&C Mills and BW Mills.

ii) Northrop looms will continue to be operated till they are replaced by modern looms.

iii) The spinning and weaving activities will be maintained at the level at which it was there during 1990-91.

iv) The rationalisation proposals involving a huge reduction of manpower are dropped. All permanent workmen and trainees who have completed three years of service as on 31.3.91 will be offered regular employment. The trainees who have put in less than three years of service will also be considered for provision of employment under the existing scheme.

4.5. In a letter (No.12267/A1/92 Dt.19.2.92) addressed to the Commissioner of Labour, the, Additional, Secretary to Government, Labour & Employment Department, had conveyed the views of the IDBI presented during the hearing by Government on the review petitions filed by the Unions and the Management on the order dated 22.11.91 of the Commissioner of Labour on the closure application submitted by the management. This letter has been taken on record by the Tripartite Committee. The letter, inter-alia, states that IDBI has added that it would come forward to consider financing any project provided it is commercially viable and agreeable to the Management and the Unions. This would imply that the IDBI has an open mind to consider any commercially viable scheme not necessarily-including shifting of the process house to Bhuvanagiri.

4.6. The commercial viability of the scheme submitted by the Management before the Tripartite Committee cannot be assessed in the absence of full information relating to all aspects of the scheme. However, the management representative in the Tripartite Committee (Thiru T.K.Venkataraman) had taken a stand that the management would take the responsibility to convince the IDBI of the viability of the scheme. It is necessary that the viability of the scheme has to be established to the satisfaction of the Tripartite Committee as otherwise the Tripartite Committee will end up in making a recommendation without any proper assessment of the scheme.

4.7. The main assumptions for DSCR calculations furnished to the Tripartite Committee are very much beyond the parameters discussed in the inter-institutions meetings convened by the IDBI during their re-appraisal of the earlier scheme in October 1991. For instance, the Government of Tamil Nadu is expected to take up a liability of Rs.254 lakhs towards further interest subvention on re-opening loan of Rs.800 lakhs. The representative of the Government of Tamil Nadu had expressly stated that the Government would not be able to extend any further concessions to the Binny Ltd, apart from whatever had been agreed to in the past. This may very well apply to the other assumptions also. Thus the assumptions for DSCR calculations are not based on assured commitments. It is, therefore, difficult to conclude that the DSCR worked out by the management is capable of practical achievement.

4.8. The Key component of the scheme presented by the management is establishing a centralised process house for both B&C Mills and RW Mills at Bhuvanagiri. A cogeneration power plant is also proposed to be erected with a capacity of 3 MW per day. This project itself involves an outlay of Rs.38.86 Crores. Earlier scheme presented by the management and appraised by the IDBI in 1990 provided for an outlay of Rs.19.81 crores for the Bhuvanagiri project. The IDBI has gone on record stating that this scheme in March 1990 itself was only marginally viable. Later IDBI under the orders of High Court of Madras reappraised this scheme with a revised outlay of Rs.22.5 crores. This was finally held to be unviable by IDBI itself. It is beyond anybody's comprehension how the IDBI, which held an outlay of Rs.19.81 crores as marginally viable and an outlay of Rs.22.5 crores as unviable would consider a huge outlay of Rs.38.81 crores as viable. Apart from Rs.75 lakhs towards cost of land which is free from depreciation, the investment at Bhuvanagiri would attract a high percentage of depreciation together with interest thereon. The process house at Bhuvanagiri would have to earn a profit of more than Rs.1 crore per month, if the debt is to be serviced. As the scheme does not provide for any tangible modernisation at Madras B&C Mills the process house at Bhuvanagiri has to earn an additional profit to cover the losses, if any, incurred by B&C Mills at Madras, in the ensuing years. This appears to be totally unrealistic. The IDBI will have to take a view on the commercial viability of the scheme taking into account these apprehensions which are really founded.

4.9. The bane of the B&C Mills which has faced four closures since '70s is lack of efforts to modernise the mills. It is unfortunate that the present scheme also deals callously with the aspect of modernising the Mills at Madras. What has been provided for is only continuation of the existing spindles and looms for further periods.

4.10. The Kamalarathnam award in 1981 envisaged a daily production of 1.8 lakh metres of cloth with corresponding activity levels in other areas which was expected to ensure the viability of the Mills. With the passage of time the actual number of spindles and looms operated at B&C Mills, Madras has come down and the present scheme envisages only 1.37 lakh metres of grey cloth per day with corresponding levels of activity in other areas. Unless efforts are made to bring in modern spindles and looms atleast to offset the spindles and looms which are not capable of being operated, the viability of the mills cannot be ensured. It is, therefore, necessary that suitable modification

should be made in the scheme to bring in modern machines like openend spinning, automatic looms and also necessary machineries for preparatory department etc., to gradually replace the existing outdated machinery. Unless this aspect of modernisation of the Mills is strengthened the scheme cannot be viable.

4.11. The scheme envisages an outlay of around Rs.14 crores for co-generation power plant at Bhuvanagiri. It may be noted that there is a captive power generation capacity of 8 MW per day at Madras B&C Mills itself. If the process house at Madras itself is continued with provision for cogeneration of power, it can be a viable alternative scheme. The 1987 scheme prepared by the management contemplated this as well as a centralised process house at Madras.

4.12. The present scheme contemplates feeding the power generated at Bhuvangiri into the TNEB grid at Bhuvanagiri end and utilising the same for B&C Mills at Madras. The Tamil Nadu Government can be requested to meet the water requirements of the Mills on a continuous basis and also make appropriate adjustments from its stock of coal, if the B&C Mills can offer to feed 8 MW of electricity to be generated by reactivating the captive power generation plant at Madras to TNEB. A scheme for recycling the water used in the process house can reduce the dependence of metro water for meeting the requirement of B&C Mills. Presently technology for exploiting of the solar energy has made a big advance. This solar energy can be considered as an alternative source of energy for recycling of water and generating steam.

4.13. The management scheme does not contemplate any effort on the part of the management to reduce the management expenses at the B&C Mills. It is necessary that the following aspects be given consideration for ensuring viable operations of B&C Mills at Madras.

i) The Mills have to be operated and monitored on a profit centre concept for each activity viz., spinning, weaving, processing etc.,.

ii) A suitable internal audit for machinewise monitoring can be implemented.

iii) Introduction of better inventory control to ensure that stores & spares, dyes & chemicals are purchased at the right time and at the right place for immediate consumption.

iv) Elimination of intermediaries/agents for these purchases can result in a lot of savings for the Mills.

v) The administrative and managerial cost can be drastically pruned to ensure that per kg cost of production can be maintained at the industry average level.

vi) A suitable product mix concentrating on the products in which B&C Mills enjoys a competitive price advantage can ensure a long term profitability of the Mills.

vii) Proper reconciliation of process stocks should be made on profit centre basis every month for spinning, weaving and processing activities.

viii) Necessary monitoring for reducing waste, scrap, seconds etc., needs to be done .

4.14. The workmen of B&C Mills have contributed by way of immense sacrifices not only in terms of reduction of manpower, addition of workload, but also sacrifices in monetary terms. If the value of these sacrifices can be quantified it may be comparable to the stake of the earlier promoters. It is, therefore, necessary that a scheme for workers participation in management is to be evolved to ensure that instances of frequent closures are totally obviated and the workmen can really contribute to the profitable running of the B&C Mills.

4.15. As a part of the scheme, development of real estate and realisation of Rs.34 Crores is contemplated. Unfortunately the schedule of recovery is spread over long years till 1998. Suggestions have been made by the unions that immovable assets lying outside the area of the Mills and workmens quarters can be disposed off by public auction with amounts to be realised as per the management scheme as upset price. This suggestion is made to ensure that the sale proceeds do not fall below the amounts envisaged as per the scheme. Immediate realisation of such sale proceeds will help discharging a substantial part of the loan liabilities of the B&C Mills which in its turn would reduce the interest burden and contribute in a big way for viability of the B&C Mills. In the disposal of real estate properties the unions should be involved as part of workers participation in the management.

5. DEMANDS OF UNIONS AND MANAGEMENT

5.1. The management have submitted their charter of demands with a stipulation that a 12(3) settlement be reached before 29.2.92. The terms of reference only stipulate that the Tripartite Committee should facilitate a settlement under section 12(3) of the Industrial Disputes Act 1947, to secure the acceptance of the labour to the scheme. The IDBI even in their appraisal note had only stipulated that the agreement with labour should be entered into before releasing of funds. There is no stipulation from IDBI that an agreement with labour should be produced along with the scheme at the stage of consideration/appraisal itself. A rigid time frame for settlement of all demands made by the management will render the object of reopening of the B&C Mills on 13.4.92 difficult. Hence, the Tripartite Committee should recommend that the demands of the management along with the demands of the Unions be mutually discussed for a settlement after the recommendations of the Tripartite Committee are finalised.

5.2. The Tripartite Committee has rightly remitted the demands of the unions and the management for bilateral discussions. A considerable progress has also been reported in such bilateral talks held between the parties. However, it is learnt that there are few areas on which understanding is yet to be reached. The Tripartite Committee may recommend that an amicable solution be found on the remaining points also with the intervention of the Hon'ble Chief Minister and the Hon'ble Labour Minister.

6. UNIONS' CLAIM FOR WAGES FOR CLOSURE PERIOD

6.1. One important point of dispute between the management and the unions is with regard to wages for the closure period. The management's application for closure under section 25(O) of the Industrial Disputes Act had been rejected by the appropriate authority on 8.2.91. The Management did not take recourse to either a review petition under the Industrial Disputes Act or legal proceedings, before closing the Mills on 1.4.1991. Hence the closure is illegal. The Government of Tamil Nadu during April 1991 had even passed orders for instituting prosecution proceedings against the management for illegal closure. The Division Bench of the Madras High Court has in several orders held that the closure is illegal and upheld the right of the workmen to claim full wages for the period of closure under section 25(O)(6) of the Industrial Disputes Act, 1947. In its

final orders on 27.9.1991 the Division Bench of the Madras High Court has stated that "the order passed today will not prejudice the right of the employees to claim their emoluments". The management's special leave petition to the Supreme Court against the orders of the Division Bench contained a plea that the High Court Orders can place an enormous burden on the management in view of it upholding the right of the workmen for the emoluments for the closure period. The SLP had been rejected at the admission stage itself. On the subsequent hearing of the closure application of the management, the Commissioner of Labour in his order dated 22.11.1991 has held that "the reasons adduced by the management for closure of the Mills are not genuine and adequate" and therefore rejected the application.

6.2. The Management of the Mills had effected the illegal closure on 1.4.1991 without taking into confidence the Board of Directors even. This fact has been confirmed by the nominee Director representing the Government of Tamil Nadu, the Director of Handlooms (then Thiru. M. Raman, I.A.S.) in his communication to the Commissioner of Labour stating that there was no board resolution for closure.

6.3. The IDBI in its re-appraisal reports presented to the Commissioner of Labour during the re-hearing on the Management application for closure, had provided for an allocation of Rs.430 lakhs towards wages during closure for the period from 1.4.1991 to 30.9.1991. This fact has to be taken cognisance of while dealing with the claim of workmen for wages for the closure period.

6.4. A large number of applications under section 33C(1) of the Industrial Disputes Act have been filed before the appropriate authority for payment of wages for the closure period. The management did not respond to the notice served by the appropriate authority calling upon the management to show cause why orders should not be passed on such applications. In this background the insistence on the part of the management that the workmen should surrender their claim for wages for closure period is against all canons of justice and Law.

6.5. The closure has already lasted 11 months and even with the expectation of reopening on 13.4.92 the workers are subjected to untold miseries and sufferings over a year. Even on humanitarian grounds, denial of wages for the closure period will not be proper. In any case, this cannot be a precondition for either finalisation of the recommendations of the Tripartite Committee or for the reopening of the Mills.

7. WAGES AND SERVICE CONDITIONS OF WORKMEN

7.1. The workmen of the B&C Mills madras have not had any benefit of wage revision for over a decade. The Industrial wage board (Varadan) award implemented for all the textile mills in Tamil Nadu with effect from 1.5.1986 had not yet been extended for implementation for the B&c Mills workmen. The Management contention that the Supreme Court has held that Varadan Award is not applicable to B & C Mills is a distorted version. The Supreme Court in their orders on the special leave petitions Nos. 837-40, 1814, 1814-A, 2854 of 1988 had observed that "after the expiry of the period of settlement it is open to the parties to resort to appropriate remedies under Law in respect of all matters including the claim for industry-wise wage structure." The settlement referred to here is the one entered into by the Union in 1984 which has expired in November 1988. The Varadan award had expired by 30.4.1991 and the process of ensuring the next wage revision in the Industry had already been set in motion. The next settlement/award can be expected to be implemented with retrospective effect from 1.5.1991. The claim of the workmen of the B&C mills for implementation of the Varadan award as well as the next wage revision is fully justified. Also the unions and workmen have all along been pressing for payment of Bonus as per SIMA formula. These claims are to be settled to the satisfaction of the workmen.

7.2. The workmen on their part have agreed to fall in line with the industrial practice for determination of workload and attendant responsibilities. The management and the unions have agreed for simultaneous implementation of parts one and two of Varadan award. There is still a lingering dispute on the date from which the implementation is to commence. This is one of the issues to be resolved. The management has proposed that

effective from 1.4.1997 the wages and Bonus for the B&C workmen can be brought on par with the industrial wages/bonus. The Unions have urged for advancing the date of implementation from 1.4.1997 to a reasonable near future. This also requires immediate resolution.

8. RECOMMENDATION

8.1. Taking into account the detailed views, comments and alternative proposals made in the foregoing paragraphs, the IDBI may be requested to appraise and clear an appropriate viable scheme for modernisation of the B&C Mills with or without shifting the process house to Bhuvanagiri incorporating the demands of the workmen for improvement in their service conditions which have also been discussed above. The Tripartite Committee may recommend acceptance by the Unions of the scheme that may be approved by IDBI.

8.2. In the event of IDBI clearing a scheme with the process house at Bhuvanagiri, the Tripartite Committee may recommend that the following safeguards are provided:

- a) The conditions stipulated in the order dated 22.11.91 of the Commissioner of Labour shall be fulfilled by the management.
- b) The process house shall be deemed to be part and parcel of the composite B&C Mills. On no account, the industrial wage award/revision benefits, bonus and other conditions of service applicable to workmen of composite textile Mills in Tamil Nadu shall be denied to the workmen of both B&C Mills at Madras and process house at Bhuvanagiri.
- c) Appropriate motivations including enhanced monetary benefits be extended to the workmen of the process related departments to opt for working at the proposed centralised process house.

8.3. The management have furnished to the Tripartite Committee as a part of their scheme, a list of concessions sought from the Government of Tamil Nadu. Though it is doubtful whether this Committee can make recommendations in this regard as per the terms of reference, the Tripartite Committee may forward the list for consideration by Government of Tamil Nadu on merits and with a view to facilitate re-opening and viable running of the Mills.

Madras
29th February 1992.

(W.R. VARADA RAJAN)

Summary of Recommendations

2.3. The Tripartite Committee should recommend that the Mills be reopened on 13.4.1992 without fail and all workmen shall be drafted for work/eligible to draw wages from that date.

4.14. It is, therefore, necessary that a scheme for workers participation in management is to be evolved to ensure that instances of frequent closures are totally obviated and the workmen can really contribute to the profitable running of the B&C Mills.

4.15. In the disposal of real estate properties the unions should be involved as part of workers participation in the management.

5.1. The Tripartite Committee should recommend that the demands of the management along with the demands of the Unions be mutually discussed for a settlement after the recommendations of the Tripartite Committee are finalised.

5.2. The Tripartite Committee has rightly remitted the demands of the unions and the management for bilateral discussions. A considerable progress has also been reported in such bilateral talks held between the parties. However, it is learnt that there are few areas on which understanding is yet to be reached. The Tripartite Committee may recommend that an amicable solution be found on the remaining points also with the intervention of the Hon'ble Chief Minister and the Hon'ble Labour Minister.

6.4. In this background the insistence on the part of the management that the workmen should surrender their claim for wages for closure period is against all canons of justice and Law.

6.5. Even on humanitarian grounds, denial of wages for the closure period will not be proper. In any case, this cannot be a precondition for either finalisation of the recommendations of the Tripartite Committee or for the reopening of the Mills.

7.1. The claim of the workmen of the B&C mills for implementation of the Varadan award as well as the next wage revision is fully justified. Also the unions and workmen have all along been pressing for payment of Bonus as per SIMA formula. These claims are to be settled to the satisfaction of the workmen.

7.2. The management has proposed that effective from 1.4.1997 the wages and Bonus for the B&C workmen can be brought on par with the industrial wages/bonus. The Unions have urged for advancing the date of implementation from 1.4.1997 to a reasonable near future. This also requires immediate resolution.

B.1. Taking into account the detailed views, comments and alternative proposals made in the foregoing paragraphs, the IDBI may be requested to appraise and clear an appropriate viable scheme for modernisation of the B&C Mills with or without shifting the process house to Bhuvanagiri incorporating the demands of the workmen for improvement in their service conditions which have also been discussed above. The Tripartite Committee may recommend acceptance by the Unions of the scheme that may be approved by IDBI.

B.2. In the event of IDBI clearing a scheme with the process house at Bhuvanagiri, the Tripartite Committee may recommend that the following safeguards are provided:

a) The conditions stipulated in the order dated 22.11.91 of the Commissioner of Labour shall be fulfilled by the management.

b) The process house shall be deemed to be part and parcel of the composite B&C Mills. On no account, the industrial wage award/revision benefits, bonus and other conditions of service applicable to workmen of composite textile Mills in Tamil Nadu shall be denied to the workmen of both B&C Mills at Madras and process house at Bhuvanagiri.

c) Appropriate motivations including enhanced monetary benefits be extended to the workmen of the process related departments to opt for working at the proposed centralised process house.

B.3. The management have furnished to the Tripartite Committee as a part of their scheme, a list of concessions sought from the Government of Tamil Nadu. Though it is doubtful whether this Committee can make recommendations in this regard as per the terms of reference, the Tripartite Committee may forward the list for consideration by Government of Tamil Nadu on merits and with a view to facilitate re-opening and viable running of the Mills.

MILLS REPRESENTING MANAGEMENT OF BINNY LIMITED.

1. This has reference to Government Order G.O. (D) No.144 Dt.13.2.92 announcing the constitution of a Tripartite Committee and specifying the terms of reference to Tripartite Committee announced by the Honourable Chief Minister of Tamil Nadu with a view to help reopening of B&C Mills.

2. The Committee meetings were held on the following dates.

05-02-1992	First	Meeting
11-02-1992	Second	Meeting
14-02-1992	Thrid	Meeting
18-02-1992	Fourth	Meeting
21-02-1992	Fifth	Meeting
24-02-1992	Sixth	Meeting
25-02-1992	Seventh	Meeting
26-02-1992	Eighth	Meeting
27-02-1992	Ninth	Meeting
29-02-1992	Tenth	Meeting

3.1. In the First meeting, modalities of the functioning of the Committee were briefly discussed.

3.2. In the Second meeting, recommendations to the Management on guidelines to be adopted while preparing the revised scheme was submitted for the perusal of the committee.

3.3. In the Third meeting, the terms of reference to the Committee as contained in the G.O. under reference was discussed.

The apparent contradiction between the preamble and the specific terms of reference in the Government Order with respect to the choice of the scheme was discussed. It was agreed that the Committee should go by specific terms of reference given in the G.O. as regard the choice of the scheme and arriving at a 12(3) settlement before 29.2.1992.

3.4. In the Fourth meeting, the details of the revised scheme as submitted by the Management was taken up for perusal.

3.5. In the Fifth meeting, discussions wee held on the details of the revised scheme submitted by the Management.

It was agreed that the Management and the Unions should commence bilateral discussions to help facilitate and secure a 12(3) settlement on all issues relating to the scheme by the month end.

3.6. In the Sixth meeting, details relating to projections in connection with financial viability indicating the Debt Service Coverage Ratio (DSCR) was submitted for the perusal of the Committee.

Progress in the bilateral discussions held between the Management and the Unions was also discussed.

3.7. In the Seventh meeting, the projections relating to financial viability of the revised scheme in the format adopted by the IDBI to reappraise its report on the earlier scheme was submitted to the Committee for perusal.

Progress in the bilateral discussions held between the Management and the Unions was also discussed.

3.8. In the Eighth meeting, the note from the management giving clarification on details of DSCR projections asked for by Thiru W.R. Varada Rajan was submitted for the perusal of the Committee.

Progress in the bilateral discussions held between the Management and Unions was also discussed.

3.9. In the Ninth meeting, progress in the bilateral discussions held between the Management and the Unions was also discussed.

4. VIEWS ON THE REVISED SCHEME SUBMITTED BY THE MANAGEMENT

4.1. As per the terms of reference to the Committee, a view has to be taken on the scheme submitted by the Management on the following two important aspects.

- a. Viability of the scheme and
- b. Protection of interests of workmen/staff.

4.2. Views on viability of the scheme:

4.2.1. While studying the viability of the scheme the following factors will have to be taken into account.

- a. Priority attached to Investment planned in different stages of production.
- b. Technical feasibility of Investment planned.
- c. Commercial viability of the scheme planned.

4.2.2. Priority attached to Investment planned in different stages of production.

The revised scheme submitted by the Management gives first priority for modernisation and centralisation of process house of the mills in Madras and Bangalore.

The revised scheme lays emphasis on renovation/catching up with maintenance backlog in Spinning and Weaving areas.

The reasons for allotting top priority for modernisation of process house is due to the fact that the two Mills are mainly dealing with sale of processed cloth. Sale of yarn and sale of grey cloth (without processing) does not form a significant percentage of total sales. The performance figures over the last few years reveal that value loss due to damages caused in the process house is on the increase. It is, therefore, essential that the cloth damages are brought down to contain losses. Since the cost of production of perfect cloth and sub-standard cloth is the same, any reduction in cloth damages due to processing defects will have a direct impact on improved profitability of operations. If, on the other hand, a higher priority is allotted for modernising the spinning and weaving sections over that of process house, efforts taken to produce better quality yarn and better quality of cloth at loom state will not contribute to proportionate improvement in profitability since any defects introduced in processing, which is a last stage of production, cannot be covered up. Any attempts to plan for substantial modernisation in spinning, weaving and process house at the same time will lead to very high project cost and hence will become commercially unviable.

Taking the above factors into account the management has allotted first priority for modernising the process house.

4.2.3. The need for a centralised process house.

4.2.3.1. Having identified the process house as constituting an important and priority area for modernisation, the need to contain cost in heavy capital investment had to be taken into account while attempting the modernisation of the two process houses—One at Madras and the other at Bangalore. Both the Mill units are at present equipped with machinery capable of meeting high volume production requirement of narrow width cotton fabrics. The change in demand pattern noticed in the last decade or so indicates a definite trend in increasing the demand for wide width polyester blends compared to narrow width cotton fabrics. If the two process houses are to be modernised in their respective location, it will become necessary to invest on capital intensive equipments in both the process houses. Since the modern machinery are capable of high volume output, installing such machinery in both the process houses will lead to gross under-utilisation of capacity. This will also lead to under-utilisation of men and materials, which the company can ill-afford. It is therefore essential that the two process houses are centralised at one location to derive the following advantages:

- a. Contain initial capital investment.
- b. Ensure optimum utilisation of machinery, men and material.
- c. Ensure uniform quality for the two Mill products, which are offered to the market under the same company name.
- d. Improve the viability of operations due to reduction in cost.

4.2.4. Choice of location of the Centralised process house

4.2.4.1. The availability of the following utilities are of great importance for successful functioning of a process house.

- a. Availability of desired quantity/quality of water.
- b. Availability of desired quantity/quality of fuel required for generation of steam at desired temperature and pressure.

The importance of effective control on fluctuations in the temperature and pressure of steam is more critical for processing of polyester blends as compared with that of 100% cotton fabrics.

Requirement of water is also higher to meet the processing needs of polyester blends as compared to that of 100% cotton fabrics.

The present location of the two process houses namely Madras and Bangalore suffer from inadequate availability of critical utilities required for the process house even to meet their processing load when working as independent process houses catering to the in-house production of cloth. This rules out the possibility of operating a centralised process house either at Madras or at Bangalore.

The revised scheme submitted by the Management envisages working of a centralised process house at Bhuvanagiri. Choice of this location is based on the following distinct advantages over the existing location of the two process houses.

- a. Availability of adequate quantity/quality of ground water to meet the process house requirements over a long period.
- b. Assurance of 18000 cubic metres of natural gas per day by GAIL agreement dt.1.7.91 which will help reduce significantly the dependence on coal and help contain costs. There is good prospect that additional quantity of natural gas may become available over a period of time, with progress in exploration activity carried on by ONGC. If this materialises it will further contribute to cut down cost in future.
- c. The scheme proposed by the Management, envisages erection of a gas turbine at Bhuvanagiri to generate power for consumption at the process house. Excess power over and above the requirement of the process house is planned to be fed into the grid of TNEB and used to meet part power requirement of spinning and weaving activity in Madras. Such a possibility of captive generation of power as a by-product is non-existent at Bangalore. The turbine in Madras which has not been in operation for a number of years is of old design and will not be cost effective to ensure viable operations.

4.2.5. Technical feasibility of investment planned.

Technical feasibility can be assessed by examining the following factors:

- a. Extent of imported machinery included in the scheme and the capacity available locally to absorb the technology.
- b. Provision for overhauling and maintenance to ensure productivity and quality.

4.2.5.a. The scheme submitted by the Management does not provide for any significant investment on imported technology. This rules out the possibility of inability to absorb the technology planned.

4.2.5.b. Sufficient provision has been made in the spinning and weaving areas of operation to take care of the maintenance and overhauling requirements. The potential of the machines installed in spinning and weaving to significantly give better quality/productivity was evident during the period July 1990 to March 1991. During this period a distinct improvement in performance in spinning and weaving activities were achieved with marginal improvement in attention to details, with respect to maintenance and overhauling. The provision made in the revised scheme for catching up with the maintenance backlog is based on the study results noted during this period.

4.2.6. Commercial viability of the scheme planned.

4.2.6.1. Estimates of commercial viability of the revised scheme are based on the following assumptions.

a. Cost and prices prevailing during early 1992 have been assumed for the projections. This already provides for inflation that has taken place during the second half of 1991.

b. The management has also submitted a list of concessions requested from the State Government of Tamil Nadu. These are based on concessions extended earlier in Tamil Nadu and other states.

c. The concessions expected from Financial Institution and banks as projected in the scheme are based on the formula/guidelines adopted by IDBI while reappraising the earlier scheme in October 1991.

d. The details of the scheme submitted for the perusal of the committee relate to the investment planned for the B&C Mills at Madras and the centralised process house proposed at Bhuvanagiri. The cost of the process house at Bhuvanagiri is allotted totally to the project cost for the modernisation of B&C Mills. This has been done since it is planned to consider the process house at Bhuvanagiri as an extension of B&C Mills at Madras. The operating profit expected from the process house as per this scheme by meeting the processing needs of the cloth woven at Bangalore Mills, is also allocated fully to B&C Mills.

e. Study of the assumptions made while projecting the financial viability indicates that the project is prima facie viable.

f. The report from the Management also indicates that when the details of the project cost are submitted to IDBI for appraisal, the investment planned for the other units in textile division of the company will also be included. As in the past, the Management will be submitting to IDBI, statements justifying the projection of financial viability of the total package, which will include allocation of funds for modernisation for B&C Mills at Madras, Bangalore Woollen Cotton and Silk Mills at Bangalore and the planned centralised process house at Bhuvanagiri.

g. The Management has given an indication that they will be able to convince IDBI and banks about the viability of the total package.

4.3. Protection of interests of workmen.

4.3.1. The earlier scheme that was approved by IDBI was with an assumption that consent of the Unions for the scheme will be obtained subsequently. However, the Unions opposed the scheme due to apprehension that interests of workmen would be adversely affected by shifting of the process house.

4.3.2. The present scheme submitted by the Management is based on the spirit of the discussions held in the presence of the Honourable Chief Minister of Tamil Nadu on 4.2.1992. The Management has prepared a revised scheme taking into account the apprehensions expressed by the Union earlier.

4.3.3. The areas covering the interests of workmen can be broadly classified under the following two groups.

a. Specific areas of interests identified by the Unions in the memorandum dated 4.2.92 submitted to the Honourable Chief Minister of Tamil Nadu.

b. Other areas of interests which were identified in the charter of demands that were taken up for discussions during the bilateral talks held between the Management and the Unions in the last week of February 1992.

4.3.3.1. Specific areas of interests identified by the Unions in the memorandum dated 4.2.92 submitted to the Honourable Chief Minister of Tamil Nadu.

- a. The Unions expressed their apprehension about a steep reduction in the activity in spinning.
- b. The Unions expressed their apprehension about a steep reduction in the activity in weaving.
- c. The Unions expressed their apprehension about a steep reduction in number of men employed at the current location.
- d. The Unions opposed the earlier plan to curtail weaving activity and introduction of vendor operations to meet part of the cloth requirements from the power loom sectors.
- e. The Unions expressed apprehension about adoption of revised work norms.
- f. The Unions expressed apprehension about possibility of wage freeze for a ten year period.
- g. The Unions expressed apprehension that the workmen would be denied any benefits coming from wage board awards.

4.3.3.2. The revised scheme submitted by the Management has taken into account all the above apprehensions. The scheme has been so prepared removing these fears and fully protecting the interests of the workmen as detailed below:

- a. The spinning and weaving activity are planned at the same level as was in operation during the year 1990.
- b. The plan to introduce vendor operation to meet part requirement of grey cloth has been dropped.

While the Management and the Unions were engaged in bilateral discussions during the last quarter of 1990, the Management did not press for inclusion of vendor operations for discussions, even though this formed a part of the scheme which was earlier approved by IDBI.

- c. Care has been taken to ensure that the employment of all permanent workmen will be fully protected. A separate statement indicating planned deployment of labour highlights this. The reduction in man power is planned over a period of time by retirement and separation due to natural causes.

- d. The scheme has been prepared on the basis of continued adoption of Kamalaratnam Award that was accepted by the Management and the Unions by a 12(3) settlement in 1981.

The scheme does not contemplate any wage freeze for workmen/staff.

The Management also agreed, during the bilateral discussions, that revision of work norms piece rates etc., will be referred to an expert body (SITRA). The Management also agreed for implementation of Varadan award (part I & II) on implementation of revised scientific work norms, within one year from the date of reopening of the Mills or earlier if the study report is available for implementation.

The Management also agreed, during the bilateral discussions, that benefits of future Wage Board Awards will be extended to the workmen either after expiry of proposed five years settlement or after wiping off accumulated losses whichever is earlier.

The Management also agreed, that in addition to continue to offer training facilities to those more than three years experience as on 31.3.1991, the training scheme that was in operation prior to April 1991 will be continued to be offered to those trainees with less than 3 years experience as on 31.3.1991. As in the past, these trainees will be given training facilities depending on the needs. The Management agreed to introduce a new apprenticeship scheme at an early date so that it becomes effective for new apprentices to be recruited.

4.3.3.3. Other benefits agreed by the Management during the bilateral talks held with the unions in the last week of February 1992

The Management agreed for the following during the course of bilateral discussion held with the Unions in the last week of February 1992.

a. The period of settlement will be reduced from proposed five years to four year from the date of reopening the Mills.

b. SIMA formula for Bonus will become applicable from fifth year after reopening the Mills or after the accumulated losses are wiped off, whichever is earlier.

c. Management agreed to hold discussions with the Unions, after the reopening of the Mills and arrive at a mutually acceptable formula for extension of Medical benefit to the employees not covered under ESI Act.

d. Management agreed to hold discussion with the Unions, after the re-opening of the Mills to arrive at a mutually acceptable formula for extending night/'C' shift allowance to the new entrants. This agreement will come into effect after one year from the date of reopening of the Mills.

e. The Management agreed to offer a Voluntary Separation Scheme on the lines adopted recently in Bangalore Mills. This offer will be made after the implementation of revised scientific work norms and the shifting of the process house to Bhuvanagiri.

f. The Management agreed for phased implementation of computerisation after the implementation of scientific work norms.

g. The Management agreed not to press the transfer clause for clerical staff likely to be rendered surplus by the introduction of scientific work norms and the shifting of the process house to Bhuvanagiri. The Management offered to redeploy such of these surplus clerical staff by deputation in other units within Madras City.

5. As per the terms of reference, the committee, should help facilitate and secure a 12(3) settlement between the management and the Unions on the issues relating to the scheme.

5.1. Progress made in bilateral/conciliation discussions to arrive at 12(3) settlement

Management held bilateral talks with the Unions and also through the process of conciliation before the Labour Commissioner in the last week of February to sort out the issues relating to the scheme which inter-alia envisages shifting of the process house to Bhuvanagiri.

5.1.1. As mentioned earlier considerable progress was made in meetings.

5.1.2. Specific areas of interests of workmen brought to the attention of the Honourable Chief Minister of Tamil Nadu by the Unions vide their Memorandum Dt.4.2.1992 were taken care of by making suitable revised scheme.

5.1.3. Considerable progress was achieved in the bilateral discussions as also conciliatory talks during the last week of February 1992 in meeting other demands of the Unions.

5.1.4. However, no agreement could be reached on one singly issue viz., demanding wages for the period of closure. The Unions demanded for full wages for the period of closure and have expressed their willingness for negotiations.

5.1.5. The management has already paid 50% of the gross wages for the months April and May 1991 and have agreed to waive their right for recovery of this amount. In view of importance given in the revised scheme to protect the interests of workmen and considerable concessions offered during the bilateral talks, the Management is not in a position to agree for any payment for the period of closure. The decision to continue to maintain the spinning and looms activity levels and not to opt. for vendor operations to meet part requirement of cloth from power loom sector had been taken only on the specific demand of the Unions. These steps run counter to the steps taken by the major Competitors in the field to help contain costs. Under such circumstances any attempt to provide for wages for the closure period will adversely affect the viability projections of the

revised scheme. The company is not in a position to absorb such provisions.

5.1.6. However, during the bilateral talks held between the Management and the Unions during the last week of February 1992, the Management offered to favourably consider paying recoverable advance. The Management suggested that the amount to be paid as advance and the mode of recovery could be mutually discussed and agreed. However, the Unions, did not agree for this formula.

5.2 Effect of failure to reach a 12(3) settlement

It is essential, as per the terms of reference to the Committee, that a 12(3) settlement must be reached between the Management and the Unions on all the issues relating to the scheme.

The management has advised that if a 12(3) settlement on all issues relating to the scheme is not reached by end February 1992, it will not be possible to forward the scheme to IDBI for appraisal and obtain the release of funds. The Management has further advised that in such an eventuality of failure to reach a 12(3) settlement by end February 1992, the entire scheme will have to be reworked. Under those conditions all the concessions extended to the workmen as part of the scheme and accepted during the bilateral discussions held during the last week of Feb. '92 will stand withdrawn and be treated as cancelled. Management has further advised, that under these circumstances it will not be possible for it to adhere to planned schedule for reopening of the Mills on 13th April 1992.

6. RECOMMENDATIONS

Based on the details made available to the committee the following recommendations may be made.

a. The revised scheme prepared by the Management, including the shifting of process house to Bhuvanagiri is found prima facie viable. The details of the scheme which were made available for the perusal of the Committee show that considerable care has been taken to protect the interests of workmen. Hence this scheme must be accepted for implementation by the Unions.

b. The Unions have maintained that they are not willing to give up their claim for wages for the closure period. They have offered to settle this matter either by bilateral discussions or by recourse to judicial process. It must be pointed out that wages for closure period was never paid in the past in any textile mills whenever the closure was not caused by natural calamities. The Unions should take into account the various concessions that have now been offered by the Management and should agree to waive their claim for wages for the closure period.

c. The Unions should not insist on wages for the closure period.

d. The State Government of Tamil Nadu should favourably consider the list of concessions requested by the Management.

e. The State government of Tamil Nadu should also request IDBI, to sympathetically consider the application of the Management and expedite processing the scheme and releasing funds to enable reopening the Mills on 13th April 1992.

f. Management has advised that in such an eventuality of failure to reach a 12(3) settlement by end February 1992, the entire scheme will have to be reworked. Under those conditions all the concessions extended to the workmen as part of the scheme and accepted during the bilateral discussion held during the last week of February 1992 will stand withdrawn and be treated as cancelled. The Management should reconsider this time limit, taking into account considerable progress made during the bilateral discussions held in the last week of February 1992. Based on this, the Management should agree to retain the scheme as at present if the Unions enter into a 12(3) settlement on all issues relating to the scheme by 7th March 1992.

Yours sincerely,

Sd/-

(T.K. VENKATARAMAN)

Dt:29.2.1992

copy to:

1. Thiru N. Athimoolam, I.A.S.,
Commissioner of Labour,
Madras
2. Thiru W.R. Varada Rajan,
Member,
3 Member Committee.

REPORT OF THIRU N.ATHIMOOLAM, I.A.S., COMMISSIONER OF LABOUR AND MEMBER REPRESENTING THE GOVERNMENT IN THE TRIPARTITE COMMITTEE.

Since there was no unanimity in the views of the Members of the Tripartite Committee with regard to the various issues relating to the scheme submitted by the Management, a single agreed report of the Committee could not be submitted and each Member has submitted a separate report. Hence I am submitting my report separately.

As Member of the Tripartite Committee, representing the Government, I convened the first meeting of the Committee on 5.2.92. In the first meeting it was decided that the Committee should finalise the proposals before the end of February, 1992 to enable the management of B & C Mills to get the clearance of Industrial Development Bank of India (IDBI) for the scheme to facilitate reopening of the Mills on 13.4.92 as decided at the meeting convened by the Hon'ble Chief Minister of Tamil Nadu. It was therefore decided that the Committee should have frequent sittings.

In the second meeting of the Committee held on 11.2.92 Thiru W.R.Varada Rajan, representing the Unions insisted that the Committee will be able to proceed further only after receipt of the Government Order indicating the terms of reference of the Committee. Thiru T.K.Venkataraman representing the management said that the management will not be able to consider any proposal other than shifting of the Process house to Bhuvanagiri since such proposals are fraught with risks due to non-availability of water and coal. He assured that the interests of the workmen will be protected in all respects while finalising the scheme. He said that the management has proposed to have a centralised Process House at Bhuvanagiri both for Madras and Bangalore Units.

In the third meeting held on 14.2.92 the G.O.(D)No.144, dated 13.2.92, Labour & Employment Department was placed before the Committee. Thiru W.R. Varada Rajan said that the Committee can evolve a scheme acceptable to IDBI as a viable one as there is no viable scheme approved by IDBI as on date. He also suggested that the management can prepare and submit a scheme to re-open the Mills on a viable basis with necessary certificate from IDBI that it is viable and acceptable to them and also that IDBI would abide by any suitable modifications that may be made by the Tripartite Committee in the scheme to ensure that the scheme does not adversely affect the intertests of workmen.

Thiru T.K. Venkataraman representing the management presented a scheme formulated by the management during the meeting held on 18.2.92 and highlighted the details of the proposals which included

- 1) Centralised Processing House at Bhuvanagiri both for Bangalore and Madras Units.
- 2) A charter of demands from the management for negotiations with the Unions.
- 3) A summary of concessions sought by the management from the Government.

It was also agreed that bilateral/conciliation talks between the management and the Unions on the charter of demands of both the Management and the Unions shall be held to sort out the issues and to facilitate a 12(3) settlement.

In the Committee Meeting held on 21.2.92 Thiru W.R. Varada Rajan expressed his views on the scheme submitted by the management and Thiru T.K. Venkataraman representing the management gave his replies on the views expressed by Thiru W.R. Varadarajan, the details of which have been incorporated in the main report.

During the meeting held on 24.2.92, 25.2.92 and 26.2.92 Thiru T.K. Venkataraman filed certain additional particulars required by Thiru W.R. Varada Rajan in respect of the scheme.

At the meetings held on 27.2.92 and 29.2.92, the representatives of the management and the Unions reported the details of the outcome of the bilateral talks on their respective demands.

As per the terms of reference of the Committee a view has to be taken on the scheme submitted by the management on the following aspects.

- 1) Viability of the scheme as acceptable to IDBI.
- 2) Protection of interests of workmen/staff.
- 3) Facilitating a settlement under Section 12(3) of the Industrial Disputes Act, 1947 to secure the acceptance of labour to the scheme.

The following are some of the significant improvements in the present scheme submitted by the management over the earlier scheme, appraised by IDBI.

- 1) Absence of Vendor Operations.
- 2) Ensuring optimum utilisation of men, material and machinery to achieve better quality/quantity in production.

- 3) Continued operation of Northrop looms till they are replaced by modern looms.
- 4) Maintenance of spinning and weaving activities at 1990 level without reduction in spindleage and loomage.
- 5) No wage freeze for workmen.
- 6) No reduction of man power.

VIABILITY OF THE SCHEME

The scheme submitted by the management envisages not only shifting of the Process House to Bhuvanagiri from its present location at Madras but also establishing a centralised Process House at Bhuvanagiri for both Madras and Bangalore Units. The management has come out with this proposal based on (i) the availability of desired quality/quantity of water to meet the requirements of the Process House over a long period. (ii) Assurance of required quantity of natural gas by Oil and Natural Gas Commission (ONGC) over a period of time. (iii) Erection of a gas turbine at Bhuvanagiri to generate power for the consumption of the Process House.

As regards the technical feasibility of the scheme, necessary provision for overhauling and maintenance of the existing machineries to ensure higher productivity and better quality has also been made.

As far as the commercial viability of the scheme is concerned, the cost and prices prevailing during early 1992 have been assumed for the projections.

The management has also submitted a list of concessions requested by them from the State Government of Tamil Nadu. The list of concessions are given at Page of Annexure (Item 9). The concessions expected from the financial institutions and banks as projected in the scheme are reported to have been based on the formula/guidelines adopted by IDBI while re-appraising the earlier scheme during 1991.

The management is convinced that the project is prima-facie viable and that they will be able to convince IDBI and other financial institutions about the viability of the total package. The scheme which provides for a centralised Process House at Bhuvanagiri envisages that the cost of the Process House at Bhuvanagiri will be allotted totally to the project cost for; modernisation of B & C Mills and considers the Process House at Bhuvanagiri as an extension of B & C Mills at Madras. Therefore, the operating profit expected from the Process House as per the scheme by meeting the Processing needs of the cloth woven at Bangalore Mills has been allocated fully to B & C Mills.

PROTECTION OF INTERESTS OF WORKMEN.

The Unions have expressed their fear and apprehensions with regard to interests of workmen such as reduction in activities and consequent reduction of man-power, introduction of Vendor operations to curtail weaving activity, adoption of revised work norms, wage freeze, etc. The scheme has been prepared in such a manner so as to remove all the fears and apprehensions and protecting the interests of the workmen which can be clearly evidenced by the following features embodied in the scheme.

- 1) There will be no reduction in the spinning and weaving activities and the same will be maintained at the 1990 level of operation.
- 2) The proposal to introduce Vendor Operation has been dropped.
- 3) The scheme does not contemplate any wage freeze for workmen/staff.
- 4) Employment of permanent workmen will be fully protected including trainees who have completed 3 years of service.
- 5) Adoption of Kamalaratnam Award till revised work norms are introduced as per the SITRA recommendations.

BILATERAL/CONCILIATION TALKS TO FACILITATE A 12(3) SETTLEMENT:

It was agreed by the Committee that the demands of the management and the Unions will be discussed bilaterally between the parties to sort out the problems since it would be impossible for the Committee itself to sort out all the issues within the short span of time. Therefore several rounds of bilateral talks were held by the parties with regard to the charter of demands of both the parties. Similarly conciliation talks were also held before the Joint Commissioner of Labour (Conciliation), Madras and the Commissioner of Labour. The demands of the Unions and the management on which agreement was reached on broad lines are listed below:-

- 1) Shifting of the Process House from Madras to Bhuvanagiri.
- 2) Study to be undertaken by SITRA regarding revision of work norms.
- 3) Period of settlement to be reduced to 4 years.
- 4) Payment of bonus for 1990-91.
- 5) Extension of medical benefits for employees not covered under E.S.I. Act to be mutually discussed.
- 6) Payment of Night Shift/'C' Shift allowance.

workmen adversely. He, therefore, suggested that the Committee should make suitable recommendations for ensuring that the composite nature of the Mills is preserved and the workmen's interests are not affected. The scheme does not indicate as to how it will improve the DSCR to the satisfaction of IDBI. The present proposal drastically curtails the scope for modernisation at Madras and to a large measure envisages only peripheral renovation/over hauling. The schemes provides for an outlay of around Rs.39 crores for the Process House at Bhuvanagiri alone though the original provision for Bhuvanagiri was only Rs.19.81 crores. The present proposal envisages installation of Gas turbine, boilers, etc. for power generation plant which will not in any way contribute to the viable and profitable running of the Mills. Considering the non-availability of gas at Cauvery Basin, the investment of about Rs.40 crores at Bhuvanagiri will be an unremunerative one.

Further, the reduction in the number of spindles and looms would adversely affect the interests of the workmen. He suggested that the 800 trainees with less than 3 yers of experience as on 31.3.91 should also be provided employment. The cases of workmen including office bearers of Madras Labour Union whose names were arbitrarily removed from the rolls during 1990-91 should be considered and they should also be provided employment. The work norms which were in vogue as on 31.3.91 should only be adopted on reopening of the Mills. He demanded that if work norms are as per SIMA practice, then bonus, sharing of gains and other conditions of service should also be adopted as per SIMA practice. He suggested that the proposal of the management for dealing with absenteeism is punitive in nature and opposed to principles of natural justice as well as statutory provisions and therefore it should be dropped. He strongly opposed to the proposal of the management to merge 60% of Dearness Allowance with basic wage since it will deprive them of a major portion of their earnings. He said that the management's proposal to curtail the rights of the workmen/unions to have recourse to legal remedies is unwarranted and it should be dropped.

He contended that the closure of the B & C Mills from 1.4.91 is clearly illegal and the management's proposal to treat the closure period on the principle of "No work no wage" is also illegal in view of the observations of the High Court that the workmen are entitled to full wages for the closure period. He observed that the workmen of the B & C Mills did not enjoy any wage revision for the past 10 years and they have made innumerable sacrifices every time when the mills were closed in the past. He, therefore, contended that the management's stipulation that no demand involving financial commitment should be raised in the next 5 years will grossly affect the interests of the workmen.

Thiru T.K. Venkataraman, representative of the management

presented his views on the scheme submitted by the management as follows:-

The management has prepared a scheme which it has considered prima facie viable by its own assessment and also acceptable to IDBI. Though the management has already indicated that the interests of the workmen will be protected, the Committee can also give its views to see that the workmen's interests are protected. The present scheme submitted by the management is based on the terms of reference given to the Committee and the management assures its responsibility to take up the scheme to IDBI and convince IDBI about the viability of the scheme when the same is cleared by the Committee. With regard to the contention of Thiru W.R. Varada Rajan that the management's scheme attempts to break the composite character of the Mills, Thiru T.K. Venkataraman said that the management has come up with the package which it found prima facie viable and it has been prepared after taking into account the views expressed by IDBI and also the need to avoid high investment in areas fraught with risk. The scheme also protects the interests of the workmen by assuring them jobs in the current location. He was of the view that it is not uncommon in textile mills to work with centralised process house and it has also been accepted that high value investment in Process House should be followed by assured optimum utilisation of machinery, men and materials.

As regards the quantum of modernisation that is planned within the Mills in the revised scheme as compared to the earlier scheme, he pointed out that while working out the scheme care has been taken to improve the performance of the present machinery without going in for new machinery in place of them. In view of the steep escalation of costs and to ensure viability without causing any additional sacrifice to workmen, management has come out with the new proposal and has also indicated that Northrop looms will be retained till they are replaced by latest looms in a phased manner.

With regard to the point raised by Thiru W.R. Varada Rajan regarding co-generation of power at Bhuvanagiri, he pointed out that power generation was only a by-product and not a main product. Further Oil and Natural Gas Commission (ONGC) had already clarified in categorical terms during November '91 on the availability of gas at Bhuvanagiri.

As regards the activity level of spinning and weaving, he confirmed that no reduction is envisaged compared to the looms and spindles that have been working during the year 1990 barring 24 numbers of Northrop looms which were found to be non-profitable during the last quarter of 1990 and also assured that there is no other reduction in the functioning capacity. He also assured that the training facilities will continue to be extended to such of those trainees with minimum of 3 years training. As regards other trainees management will give preference to them, in case of shortage due to very high absenteeism, etc.

He suggested that the matter relating to office bearers can be mutually discussed during the bilateral talks between the management and the Unions representatives. He clarified that the Kamalarathnam Award will be in force till revision of work norms as per SITRA/SIMA recommendations.

In respect of absenteeism, the management is now offering to reintroduce the incentive scheme by making suitable modifications, if any, and it cannot be considered as punitive in nature and against the principles of natural justice if the management offered a scheme with built in disincentive for absenteeism. He expressed in no uncertain terms that the closure period will be considered as "No work no wages" only though the management will not be averse to waive recovery of adhoc amount paid to the workmen during May/June, 1991.

It was agreed by the Committee that the demands of both the management and the Unions will be discussed bilaterally between the parties to sort out the problems and the outcome of the bilateral discussions will be reported to the Committee in view of the fact that it will not be possible for the Committee to sort out all the issues within the short time available. Accordingly several rounds of bilateral talks were held by the parties and agreement was reached between them on the various issues. Simultaneously conciliation talks were also held at the request of the parties before the Joint commissioner of Labour (Conciliation) and the commissioner of Labour to sort out the issues and to facilitate a final settlement under Section 12(3) of the Industrial Disputes Act, 1947.

The Committee could not succeed in its attempt to bring about a settlement under Section 12(3) of the Industrial Disputes Act, 1947 with regard to the various issues as no consensus was reached on all issues, though considerable progress was attained during the course of bilateral/conciliation proceedings on certain issues.

Thiru W.R. Varada Rajan representing workmen gave a separate report as a Member of the Tripartite Committee and requested that the recommendations contained in his report for consideration of the committee be deemed to be his recommendations to the Government on the terms of reference. A copy of his report is enclosed.

The reports of Thiru T.K. Venkataraman, representing management and the report of Thiru N. Athmoqlam, I.A.S., representing Government are also enclosed.

DATED AT MADRAS THIS THE TWENTY NINETH DAY OF FEBRUARY NINETEEN NINETY TWO.

Sd/-
N. ATHMOQLAM

Sd/-
T.K. VENKATARAMAN

Sd/-
W.R. VARADA RAJAN

Copy of:

LABOUR DEPARTMENT

From:
Thiru N.Athimoolam, I.A.S.,
Commissioner of Labour,
Madras-6.

To
The Secretary to Govt.,
Labour & Employment Dept.,
Madras-9.

Lr.No.A3/B697/92, dt.4.3.92

Sir,

Sub: Labour Dispute - B & C Mills, Madras - Closure
from 1.4.91 - Reopening on 13.4.92 - Tripartite
Committee constituted - Report submitted.

Ref: G.O. (D)No.144, Labour & Employment Department,
dated 13.2.92.

In the Government Order cited, the Government constituted a Tripartite Committee consisting of Thiru T.K.Venkataraman as representative of Management of B & C Mills, Thiru W.R.Varada Rajan as representative of the Trade Unions and Thiru N.Athimoolam, I.A.S., Commissioner of Labour as representative of Government to formulate a scheme to run the B & C Mills, Madras in a viable and profitable manner.

2) Accordingly, the Tripartite Committee held 10 sittings on various dates commencing from 5.2.92 to 29.2.92 to consider the scheme submitted by the Management and which would be viable and acceptable to IDBI. But inspite of earnest efforts the Committee could not reach a consensus in projecting a viable and agreed scheme. Hence all the three Members have furnished independent reports containing their views on the scheme.

3) I send herewith the report of the Committee along with the recommendations of the Members.

4) My recommendation as a Member of the Committee are furnished at Pages 25 to 47 of the report. I am of the view that the scheme submitted by the Management to the Committee providing for shifting of process House to Bhuvanagiri is viable and may be acceptable to IDBI also. The efforts taken by me as a Member of the Committee as well as Conciliation Officer to bring about a consensus on the scheme have not succeeded.

5) In these circumstances I request that the Government may take appropriate decision on the reports.

Sd/-

Commissioner of Labour
Madras-6.

/true copy/

No. PERS of 6th March 1992.

The Secretary to Government,
Labour & Employment Department,
Government of Tamil Nadu,
Fort St. George, Madras-600009.

Dear Sir,

SUB: BINNY LIMITED (B & C MILLS) - REVIEW PETITION ORDER ON
CLOSURE APPLICATION - REGARDING

You are aware that the Hon'ble Chief Minister of Tamil Nadu, pending the order on the review petition, convened a meeting on 4th February 1992 and constituted a Tripartite Committee with a view to help reopening the Mills. The Management as per the terms of reference dated 13-2-1992 of the Tripartite Committee has evolved a revised viable modernisation-cum-rehabilitation scheme for B & C Mills with shifting of the process house from Madras to Bhuvanagiri and submitted the same to the Committee.

It may be relevant to mention here that the Unions have submitted a memorandum on 4th February 1992 to the Hon'ble Chief Minister of Tamil Nadu alleging that the shifting of the process house from Madras to Bhuvanagiri will affect the interest of the workmen in the following ways.

- 1) Result in large scale retrenchment
- 2) Reduction of activity in Spinning
- 3) Reduction of activity in Weaving including scrapping of Northrop looms and by Vendor operations
- 4) Freezing of wages for 10 years as suggested by IDBI

The Management has fully protected the interest of the workmen by incorporating appropriate changes in the revised scheme viz., dropping of the proposed reduction of Spinning and Weaving activity including scrapping of Northrop looms and Vendor operations and wage freeze for 10 years. The Management also reiterated their earlier assurance of guaranteeing the employment to all the permanent workmen as also continuance in training for the trainees who have completed 3 years as on 31-3-1991 and incorporated the same as a part of the revised scheme. The Management's representative in the Tripartite Committee has submitted a detailed report covering each aspect of the scheme as

also protecting the interest of the workmen, a copy of which is enclosed for your ready reference.

In addition to the above, with a view to arrive at an amicable 12(3) settlement with the Unions, the Management has also offered the following during the bilateral discussions/conciliation talks.

- a) To extend the benefit of Varadan Award Part I and II (The Management incurs over Rs.220 per month per worker).
- b) To extend future Wage Award and to adopt SIMA formula for bonus after expiry of the proposed settlement or after wiping off the accumulated losses of the Mills whichever is earlier.
- c) The Management has also acceded, in deference to the request of the Unions to continue to engage even the remaining about 720 trainees on 'as is where is condition'.
- d) The Management has also consented to mutually discuss and decide the other demands of the Unions after reopening the Mills.

Despite the Management providing total safeguards to the interest of the workmen and acceding to the major demands of the Unions, the Unions did not agree to sign a 12(3) settlement purely because they linked their acceptance of the shifting the process house to the wages for the closure period. The wages for the period of closure from 1-4-1991 to 13-4-1992 works out to Rs.15 crores and if the liability of Rs.15 crores as wages for the closure period is provided in the revised scheme prepared by the Management, the scheme will become unviable.

The proposal of the Management to shift the process house from Madras to Bhuvanagiri is in consonance with the Industrial policy of Tamil Nadu recently announced by the Hon'ble Chief Minister of Tamil Nadu. However, the Management has ensured that the employment of all the permanent workmen and the trainees who have completed 3 years as on 31-3-1991 is also protected.

The representatives of the Unions in the Tripartite Committee has mentioned at page 12 of his report dated 29-2-92 that "the Tripartite Committee may recommend acceptance by the Unions of the Scheme that may be approved by IDBI". The Unions have agreed before the Commissioner of Labour, during the conciliation held on 29th February 1992 that they are accepting the shifting of the process house from Madras to Bhuvanagiri. Had the Unions accepted the scheme approved by IDBI in June 1990 itself, the cessation of operations of B & C Mills would not have taken place at all. Even during the hearings before the Division Bench of the Madras High Court, the Unions declined to give their unconditional acceptance of the re-assessment report to be made

by IDBI. Even now the recalcitrant attitude of the Unions in linking the acceptance of shifting to the wages for the period of closure, has totally stalled the 12(3) settlement from being concluded.

Further the Industrial Development Bank of India needs at least a minimum period of 4 weeks for processing and releasing funds for re-opening and therefore we request you, in the circumstances explained above, to pass orders on the review petition on or before 12-3-1992 to enable the Management to get the required funds from IDBI and to re-open the Mills on 13-4-1992, the date already announced by the Hon'ble Chief Minister of Tamil Nadu.

Yours faithfully,

BINNY LIMITED.

Sd/-

General Manager - Pers & HRD

ABSTRACT

Labour Disputes - B & C Mills, Madras - Permission to close the Mills - Order of the Commissioner of Labour - Review Petitions - Orders - Passed.

LABOUR & EMPLOYMENT DEPARTMENT

G.O.(2D) No. 27

Dt. 12.3.1992

Read:-

1. Order of the Commissioner of Labour, Closure application No.4/91, dt. 22.11.91.
 2. From the President, Madras Labour Union, and B & C Mills Staff Union review.
 3. From the Management of B & C Mills, Madras review application dt. 28.11.91.
 4. From the Commissioner of Labour, Lr.No.b4/73517/91, dt.2.12.91.
 5. G.O.(D) No. 144, Labour & Employment Department, dt. 13.2.92.
 6. From the Commissioner of Labour, Lr.No.A3/8697/92, dt.4.3.92.
-

ORDER

As per the directions of the High Court, Madras in W.P.No.5102/91, dated 27.9.91, the commissioner of Labour has passed orders, on 22.11.91 on the application of the Management under Section 25-D of the Industrial Disputes Act, 1947 for permission to close the Mills, rejecting the application of the management, but at the same time permitting the management to shift the process house to Bhuvanagiri subject to certain conditions. Against the above orders of the Commissioner of Labour, both the workers and the management have filed separately review petitions before the Government. So, a common order is passed on both these petitions.

2. The gist of the contentions of the unions are:-

1) After having rightly held that the reasons given by the management for closure are not genuine and adequate, the Commissioner of Labour had no jurisdiction to proceed further to grant approval to the management to shift the process house to Bhuvanagiri. Even the management has not sought for Commissioner's permission to shift. It is a matter falling within the exclusive area of negotiations between the parties.

2) The order permitting the shifting to Bhuvanagiri is also

- 2) The order permitting the shifting to Bhuvanagiri is also erroneous because Industrial Development Bank of India has held none of the projects including Bhuvanagiri project is viable. The assurance of the management not to retrench workers would erode into the viability of the scheme as commented by the IDBI.
- 3) The moment permission for closure is refused, the closure becomes illegal and so the Commissioner of Labour has no jurisdiction to order reopening of the mills within 30 days and to provide employment to workers in a phased manner.
- 4) The Industrial Development Bank of India's re-appraisal report nowhere states that the process house at Perambur is unviable.
- 5) The proposal to shift to Bhuvanagiri is malafide and motivated.
- 6) The availability of adequate gas at Bhuvanagiri is doubtful.
- 7) The intention of the management is to have real estate deals in the name of modernising B & C Mills without any real intention to strengthen or to rehabilitate the mills.
- 8) The process house at Bhuvanagiri was devised only to be a service centre for powerloom operations after scrapping its own looms which means displacement of its direct labour to engage indirect labour.
- 9) The Industrial Development Bank of India did not examine the suggestion made by the union for re-cycling of water at Madras as was done by another industry at Madras.
- 10) On coal, the same situation is obtaining at Bangalore where the process house is continued. Alternative fuel i.e. furnace oil and lignite which the management proposes to use at Bhuvanagiri could be used at Madras also.
- 11) The One Member Commission also found that water problem is in Bhuvanagiri also.

The Unions have therefore prayed to delete the last 5 paragraphs of the orders of the Commissioner of Labour.

3. The gist of the contentions of the management are given below:-

- 1) The main reason given by the management for closure is that the present working conditions at Madras is totally unviable due to -
 - a) lack of adequate quantity of water;
 - b) lack of supply of coal;
 - c) lack of wagons for transporting even the little coal that is available; and
 - d) that the working could be made viable only by shifting the process house to Bhuvanagiri.

2) When once it is held that the shifting of the process house to Bhuvanagiri is essential in order to make the unit viable, the mills cannot work as a viable unit at Madras; the only other alternative is to close the mills particularly when the unions are opposing the shifting of the process house to Bhuvanagiri.

3) The conclusion of the Commissioner of Labour that the reasons given by the management for closure are not genuine and adequate is inconsistent with his own reasoning that the mills cannot be made viable at Madras in the present state of affairs.

4) The unions are insisting upon the Mills to be reopened at Madras unconditionally which is well nigh impossible.

5) There are only two alternative i.e either to shift the process house to Bhuvanagiri and run the mills Or close it once for all.

6) There will be an annual saving of Rs. 6.98 crores with the process house shifted to Bhuvanagiri due to cost of reduction in steam generation and also the amount the process house would fetch by processing powerloom cloth.

7) The Labour Commissioner has not appreciated the case of the Management regarding low labour productivity, excess manpower etc.

8) The management came out with the proposal to shift the process house to Bhuvanagiri as one of the measures to improve the economic viability of the mills and this economic viability of the mills and this proposal has found acceptance of the Labour Commissioner. It is therefore not correct to say that the petitioner has not fulfilled the social and moral responsibilities before resorting to closure.

9) The Commissioner of Labour failed to note that if the mills is allowed to run at Madras it would result in continuing losses which in turn would make it difficult for the petitioner to repay the loan and interest thereon due to the financial institutions.

The management has therefore prayed that the reasons adduced by it for closure may be upheld as genuine and adequate and in public interest and permission granted to close down the mills.

4. The petitions were heard by the Secretary, Labour and Employment Department on 10th, 13th and 14th December, 1991. In addition, the representative of the Industrial Development Bank of India (IDBI) Bombay was also heard on 13.12.91. The Management and Unions got an opportunity to seek clarifications from the representative of the Industrial Development Bank of India.

5. The unions raised a preliminary objection on the maintainability of the review petition filed by the management on the ground that the management proceeded to reopen the mills by writing to the unions on 24.12.91 asking them to send 130 workers to work and so having accepted and acted on the orders of the Labour Commissioner, they are estopped from seeking any review of these orders. The management argued that their acceptance was only conditional. After hearing the arguments, of both the sides, the preliminary objection of the union was rejected.

6. When the matter was under consideration of the Government, at the instance of some political parties, the Hon'ble Chief Minister convened a meeting on 4.2.92 to explore the possibilities of reopening the mills. This meeting was attended by leaders of political parties, representatives of Central Trade Unions, representatives of the Madras Labour Union and B & C Mills Staff Union and the representative of the management of B & C Mills. At this meeting, the suggestion of the Hon'ble Chief Minister that the B & C Mills should be reopened on the Tamil New Year's Day (13.4.92) was accepted by the Management. It was also decided that a Tripartite Committee be constituted to formulate a scheme to run the Mill in a viable and profitable manner and that the Tripartite Committee shall consist of Thiru T.K. Venkataraman as representative of the management, Thiru W.R. Varada Rajan as the representative of the trade unions and Thiru N. Athimoolam, I.A.S., Commissioner of Labour as representative of the Government.

7) The terms of reference to the above Tripartite Committee were issued in the G.O 5th read above.

8) The Commissioner of Labour in his letter 6th read above has now reported that the Committee held 10 sittings between 5.2.92 and 29.2.92 to consider the scheme submitted by the management with reference to its viability and acceptability to the Industrial Development Bank of India. However, despite its earnest efforts, the Committee could not reach a consensus in projecting a viable and agreed scheme.

9) It is seen that the scheme suggested by the management envisages shifting of both the Process Houses at Madras and at Bangalore to Bhuvanagiri, to achieve optimum utilisation of machinery, men and materials. There will be no significant reduction in spinning and weaving activity at Madras. The original plan to introduce "Vendor Operation" at Bhuvanagiri has also been dropped. The scheme has been worked out on the basis of work norms as per Kamalaratnam Award. No permanent workmen will be shifted to Bhuvanagiri and all of them would be provided alternative job in the current location. Continued training facilities will be ensured particularly to those trainees who have completed more than 3 years training as on 31.3.91. The revised scheme does not contemplate any wage freeze. The management are confident that they will be able to convince the Industrial Development Bank of India and other financial institutions about the viability of the total package.

10. It is also reported that during the discussions, agreement was reached on broad lines on the following issues:

- 1) Shifting of the Process House from Madras to Bhuvanagiri
- 2) Study to be undertaken by SITRA regarding revision of work norms.
- 3) Period of settlement to be reduced to 4 years.
- 4) Payment of Bonus for 1990-91.
- 5) Extension of Medical benefits for employees not covered under ESI Act to be mutually discussed.
- 6) Payment of Night Shift/'C' Shift allowance.
- 7) Introduction of Voluntary Separation Scheme on the lines adopted in Bangalore Mills.
- 8) Phased implementation of computerisation.
- 9) Transfer of clerical staff.
- 10) Implementation of Varadan Award Parts I and II.

It was also agreed to by the parties to maintain status quo in respect of certain issues and to drop certain issues.

However, the parties could not reach an agreement on the following issues:-

- 1) Ad hoc payment of per mensem from the date of re-opening of Mills till the implementation of Varadan Award.
- 2) Provision of employment to all the workmen immediately on re-opening of the mills.
- 3) Payment of lumpsum amount on reopening to be adjusted later.
- 4) Payment of wages for the closure period.

11. The Government have carefully examined the various issues taking into consideration these subsequent developments.

12. In his order, on the closure application 4/91 dated 22.11.91 the Commissioner of Labour has referred to the guidelines indicated by the High Court, Madras for considering applications for closure. The High Court has indicated that the points to be considered are:-

- 1) Genuineness and adequacy of the reasons given by the management for closure particularly with reference to the objections raised by the Unions;

2) Interest of the general public;

3) Other relevant factors.

The Commissioner stated that the main reasons adduced by the Management as the ground for closure are:-

- i) low labour productivity;
- ii) excess man-power;
- iii) lack of modernisation; and
- iv) uncompetitive market.

13. As regards the first two items, the Commissioner of Labour has observed that the work norms and manpower requirements in this mill were fixed by a settlement reached in 1981, whereby the manpower had been reduced from 15000 to 8000. The settlement entered into between the parties in 1984 also provided that the work norms and manpower as envisaged in 1981 settlement would continue to be in force. The Commissioner of Labour has concluded that from this, it is clear that the contention of the management that the mills have excess manpower and that there is low productivity falls to the ground. Had there been any excess manpower as contended by the management, there would have been reduction in work force when the 1984 settlement was reached.

14. As regards the contention of the management that the productivity was very low according to SITRA survey, the Commissioner has stated that there is no reason to brush aside the averments of the unions that the above survey cannot be accepted since the workers were not involved therein.

15. As regards item 3 above, the Commissioner of Labour has, however accepted the contention of the management that modernisation is a must as far as this mills is concerned.,

16. As regards item 4, the Commissioner observed that the complaints arising on account of the poor quality of cloth relates to only one type of cloth, namely 'Marathon' which is the cheapest of the varieties and a blend of waste cotton. The Commissioner of Labour has therefore concluded that the argument of the management that the end products have become uncompetitive due to poor quality, fails.

17. As regards the interest of general public, the Commissioner has stated that as observed by the Madras High Court, the public interest will have to be judged from various factors like raw materials used, the goods produced, the usage of finished goods by common men, the potential employment offered and social and moral responsibility of the employer to exhaust all other avenues of improving the economic viability before resorting to closure. The Commissioner has stated that the applicant management is a cotton textile industry manufacturing

cloth which is an essential commodity for the community at large. The mill employs more than 6,000 workmen and if closure is permitted not only the entire work force but also their families would be in jeopardy. Besides it will add further burden to the State and to the society at large. Any closure of the mill will not only affect the workmen but also will have an impact on the general public particularly those who depend upon the products of the mill for the livelihood such as traders and businessmen, transport contractors etc. The Commissioner has also observed that the management except furnishing details about their approach to the Industrial Development Bank of India have not substantiated before him how they exhausted all other avenues to fulfil social and moral responsibility before resorting to closure. The Commissioner of Labour has added that many public financial institutions particularly Industrial Development Bank of India and State Bank of India have invested public funds running to several crores of rupees with the mills and the public money should not be allowed to go down the drain as it will have impact on the national economy also. Thus, the Commissioner of Labour concluded that the reasons adduced by the Management for the closure of the mill are not genuine and adequate and also not in public interest. He has accordingly rejected the application of the management.

18. The orders passed by the Commissioner of Labour in closure application 4/91 dt.22.11.91 are examined below:-

At the outset, it may be stated that as contended by the unions, the Commissioner of Labour has no powers under section 25-0 to give permission to shift the Process House to Bhuvanagiri. It is beyond the scope of Section 25-0 under which only permission to close could be given. The solution regarding shifting will have to be worked out by direct negotiation between the parties, if necessary, with the assistance of Labour Department. Hence, this part of the Commissioner's order is held not valid.

19. It is true that there was reduction in the manpower in this mill consequent on the settlement entered in 1981. At the end of 1989, the Management and union were negotiating before the Special Deputy Commissioner of Labour regarding fixation of work norms, rationalisation etc. and the unions tentatively agreed to reduce manpower by about 750 workers whereas the management was insisting to bring down the work force by 1500. This negotiation abruptly came to an end when Management gave the proposal to shift the Process House to Bhuvanagiri. Evidently, the unions themselves have admitted that there is excess manpower in the mills at present and agreed for rationalisation of work load.

20. The Survey report prepared by SITRA has also identified excess manpower in this mill as one of the reasons for low productivity and unviability. The Survey report also assessed that the labour productivity in this Mill is very low. The B & C mills has been ranked as 267th in labour productivity and as 265th regarding deployment of labour among the 285 mills surveyed

by it. The report observes that not even a single Department of the mill has been able to attain the standard level of productivity that the average short fall ranges from 8% in mixing and blow room to 60% in fly frames. It may be mentioned here that SITRA is an independent and reputed organisation involved in textile research and therefore its findings carry due weight in textile industry in Southern India. The Survey is not confined to B & C Mills alone but it covers 285 mills engaged in spinning in Tamil Nadu. ~~As the aim of the survey is to assess the performance, productivity etc. labour has not been involved in this work in any of the mills.~~ Therefore the findings of the research institute SITRA that there is excess manpower and low labour productivity in B & C Mills are conclusive.

21) As regards lack of modernisation, the Commissioner of Labour himself has admitted that modernisation is a must for this Mill. As regards uncompetitive market, the finding of the Commissioner of Labour that the complaints relate only to one type of cloth i.e. 'Marathon' is not correct; though the complaints mostly relate to 'Marathon' complaints had been received in respect of other types of cloths also like denver, Gold liner etc. Obviously, the defect was due to old machinery and defective quality of processing, affecting the quality of fabrics. The low quality of fabrics is one of the factors for uncompetitiveness.

22. It may be mentioned that the contention of the management is that adequate and timely supply of quality coal and uninterrupted supply of pure water are not available; purchase of water and transport of coal by road and rail pushed up the cost, making the finished product uncompetitive in the market. These two serious questions were not discussed by the Commissioner of Labour for assessing the adequacy of genuineness of reasons for closure. He also has not discussed the claims and counter claims made by the parties about the availability of gas at Bhuvanagiri. The Commissioner of Labour has not also discussed the observation made by the Industrial Development Bank of India about the erosion of net worth of this mill.

23. As regards water, the State Government have indicated that the commitment of Metro for uninterrupted supply of 4000 kilo litres per day to the mills could be assured only up to November 1991 and thereafter it would depend entirely upon the favourable North West Monsoon. Though the unions mentioned about availability of enough water after completion of Telugu Ganga Project, Public Works Department has clarified that as per the agreement between the Tamil Nadu and Andhra Pradesh State Governments, the water could be utilised only for drinking purpose and not for any other purposes. However, assurance of Metro water regarding water supply subject to the vagaries of monsoon is not a guarantee for uninterrupted supply of water.

24. Unions have suggested that Nulla Water may be treated and used by recycling for processing as Madras Refineries Limited, Madras Fertilizers Limited companies are doing. The process of treatment of this water for industrial use is however highly costly with additional investment. The estimated expenditure on water at the rate of Rs.8.40/K.L. if the Process House is retained at Madras will be Rs.143.10 lakhs per annum whereas it will be Rs.109.78 lakhs per annum if it is located at Bhuvanagiri.

25. As regards coal, and allotment of railway wagons, the Central Government has indicated to the High Court, Madras that the requirements of the priority sectors will have to be met first. Thus, there was no firm commitment or guarantee on the part of the Central Government to ensure uninterrupted and adequate supply of coal. It is estimated that if the Process House is retained at Madras the fuel cost goes up by Re.1 lakh per day; cost of power goes up by Rs.22,000/- per day.

26. As regards supply of gas at Bhuvanagiri unions expressed some doubts about the availability of adequate gas. When a reference made by the Commissioner of Labour, the Oil and Natural Gas Commission has given an undertaking in writing that based on the gas production potential at Bhuvanagiri II well, a commitment to supply 18,000 Cubic metres per day has been made. The Oil and Natural Gas Commission has also stated that as there was delay in Messrs. Binny Limited setting up a plant near Bhuvanagiri, in order to avoid Gas flaring, the well has been temporarily subdued and closed and that the well will be re-activated to supply gas as and when Messrs. Binny Limited sets up and commission the plant near Bhuvanagiri.

27. As regards the unions' contention based on press report about decrease in gas production rates and consequent deployment of work over rig in Bhuvanagiri II for improving the same, Oil and Natural Gas Commission has clarified that the same is a routine operation which is done on oil/gas wells depending upon the specific needs of the well and is not abnormal. The Oil and Natural Gas Commission has categorically stated that the unions' contention that Oil and Natural Gas Commission does not carry on any operation at Bhuvanagiri and that its personnel employed have been transferred elsewhere is not correct. Thiru Palrecha, Industrial Development Bank of India representative during the hearing, clarified that they have examined all the available data furnished by the Oil and Natural Gas Commission and was convinced of the availability of gas at Bhuvanagiri. Unions stated when management has proposed to use furnace oil and lignite at Bhuvanagiri why should not they make use of the same at Madras. But it was clarified by the management that Oil and Natural Gas Commission will take up maintenance work every year for about 15 days and they have to use lignite and furnace oil during that 15 days in a year.

28. Thiru W.R. Varada Rajan, Member of the Tripartite Committee in his recommendation has stated as follows:-

"In the event of Industrial Development Bank of India clearing a scheme with the Process House at Bhuvanagiri, the Tripartite Committee may recommend the following safeguards are provided..."

Thus, during the deliberations of the Tripartite Committee the Unions seem to have now reconciled to the proposal of the management to shift the Process House to Bhuvanagiri. It is also reported that the Executive Committee of the Trade Unions at its meeting held on 29.2.92 decided to accept the management's proposal for shifting the Process House at Bhuvanagiri, though subject to certain conditions.

29. The unions have expressed an apprehension on the motive of the management in the disposal of immovable properties. Prima facie, there is no basis for the suspicion. The modernisation project earlier approved by the Industrial Development Bank of India provides for realisation of Rs.6416 lakhs which would otherwise be an idle capital to be utilised for reducing the management's term loan. Though the unions agreed for reduction of debt liabilities of the management by disposing some of the immovable properties, provided the unit continues in Madras, they expressed apprehension that it is really a real estate business rather than for modernisation of B & C Mills. It may be mentioned here that the disposal of immovable properties will be done by the Asset Disposal Committee nominated by the Board of Directors which could be expected to ensure fair dealings. It is to be taken note that out of 14 directors in the Board, except 5, all other directors are representatives of Government of India, Government of Tamil Nadu, Industrial Development Bank of India, Industrial Credit and Investment Corporation of India and State Bank of India. The immovable properties have already been encumbered and realisation of money by sale will go to discharge the liabilities of the financial institutions on priority basis.

30. The unions have also expressed grave misgivings about the vendor operations at Bhuvanagiri. In the revised scheme proposed by the management, this proposal for vendor operations has been dropped.

31. The Commissioner has observed that the management has not exhausted all other avenues to fulfil the social and moral responsibilities before resorting to closure. This is not correct. The options were limited and within that the management has actually submitted 3 proposals, out of which the Industrial Development Bank of India found that only the proposal involving shifting of the Process House to Bhuvanagiri was marginally viable. Management has rightly taken decision to exploit natural resources like water and natural gas at Bhuvanagiri to save cost and steps for modernisation of the unit at Madras and reduce liability by disposal of surplus land. During the meeting held before the Adviser (R) on 20.4.91, the Industrial Development

bank of India clarified that technical experts have gone into it and considered various alternatives and in the circumstances, this is the only possible solution. Unions also could not suggest an alternatively acceptable viable scheme.

32. The management and the unions could not agree on the figures of assets and liabilities etc. The Government has to depend upon the Industrial Development Bank of India which is a professional body with expertise in financial matters. Therefore, the views of the Industrial Development Bank of India that of the various proposals given by the Management, the one involving shifting of Process House to Bhuvanagiri was preferable has to be accepted. In a joint meeting held on October 14, 1991 at Bombay in which participants from Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India, Reserve Bank of India, State Bank of India, Life Insurance Corporation, General Insurance Corporation, Government of India, and Government of Tamil Nadu attended the general consensus of the participants arrived at is as follows:-

"The three options considered to revive the company have turned out to be unviable. However, the first option appeared somewhat better, particularly taking into account the various constraints/uncertainties faced by the Company in the past at Madras".

Unions contended that instead of spending wasteful expenditure on Bhuvanagiri Project, this could be profitably utilised for modernising spinning and weaving of B & C Mills at Madras and it would be more productive. But unions did not prove it with facts and figures. On the other hand the Industrial Development Bank of India thoroughly examined the proposal and have come to the conclusion, taking into consideration all the available factors, that of all the alternative, shifting to Bhuvanagiri is preferable. The trade unions too have since agreed to this proposal. Therefore, the management has a strong case for transfer.

33. The expert opinion by the Chief Engineer (Ground Water), an authority on the subject, is that adequate ground water is available at Bhuvanagiri. Therefore, with a view to taking advantage of the natural resources available at Bhuvanagiri, the management has proposed to shift the Process House to Bhuvanagiri. It may also be noted here that there would be a saving of Rs.6.98 crores if the unit is shifted to Bhuvanagiri which is certainly a substantial amount in the present context of the financial state of affairs of the company.

34. As regards the problem of workers, who would be affected by the transfer, the management have already given assurance that the shifting would not affect the existing permanent workers and the apprentices who have put in more than 3 years service. This undertaking has been given by the management before various authorities, Unions expressed doubt that this promise will run

counter to the viability of the scheme and it is not possible to implement. In fact, the Commissioner of Labour has permitted shifting subject certain conditions incorporating the above assurance of the management.

35. In any case the revised scheme now proposed by the management, the management have ensured protection of interests of workers including trainees and that there will be no reduction in manpower consequent on shifting of the Process House to Bhuvanagiri.

36. During the hearing by Government, the representatives of Industrial Development Bank of India orally informed that though the 1989 scheme of management involving shifting of Process House to Bhuvanagiri was found marginally viable in 1990, it had also become unviable now due to overrun of costs. He added that the unit at Madras is also definitely not viable and so the Industrial Development Bank of India will not come forward to finance the modernisation scheme. For a clarification sought by the counsel for the union, the Industrial Development Bank of India representative made it clear, during the hearing, that even if the management and the union agree to have the unit at Madras, Industrial Development Bank of India would not finance for modernisation as it is an unviable project.

37. Unions contended that no sincere efforts were made to negotiate with the unions on the proposal of shifting the Process House to Bhuvanagiri. There was conciliation before the Special Deputy Commissioner of Labour in September and October, '90. Then there were negotiations before the Adviser (R) to settle the issue even during the hearings at High Court, their Lordships spared no efforts to bring about an amicable solution to the problem. But all these attempts proved futile. Subsequently during the hearings before the Commissioner of Labour and the Government also and again in the deliberations by the Tripartite Committee, the efforts made to amicably resolve the issues could not succeed, for the past one year.

38. Unless a viable scheme is presented to and approved by the Industrial Development Bank of India, no funds would be forthcoming to enable the management to reopen and run the mills viable. The present revised scheme is considered prima facie viable on financial technical and commercial aspects and protects the interests of workers also. The Government agree that the shifting of the Process House to Bhuvanagiri cannot be avoided because of the difficulties in getting adequate water, coal and rail wagons at Madras and also because of the assured supply of required quantity of water and gas at Bhuvanagiri.

39. After a careful consideration of all the issues and in the light of the above, the Government hold that the closure in this case is fully justified and the reasons given by the management are genuine, adequate and are in the public interest. Hence, the orders of the Commissioner of Labour are set aside. In view of this finding, the request to stay that portion of the orders of the Commissioner of Labour directing the management to reopen the mills within 30 days from the date of the Commissioner Labour's order is not considered necessary and so it is not granted. The review petitions are disposed off accordingly.

(BY ORDER OF THE GOVERNOR)

Sd/-

(R.VARADHARAJULU)
SECRETARY TO GOVERNMENT.

- To
1. The Management,
B & C Mills.
 2. The President,
Madras Labour Union.
 3. The President,
B & C Mills Staff Union, Madras.

Copy to: The Commissioner of Labour, Madras-6
Handlooms, Handicrafts, Textile & Khadi Department,
Madras-9.

Abstract

Labour Disputes - B & C. Mills, Madras - Reopening of the Mills -
Revised scheme proposed by the Management - Orders - Passed

LABOUR AND EMPLOYMENT DEPARTMENT

G.O. (2D) No. 28

Dated: 12.3.1992.

Read Again:

1. From the Commissioner of Labour, Madras
Letter No. A3/B697/92, dated 4.3.92.
2. From the Management, Letter No. FERS/ dated
6.3.92.

Read also:

1. G.O. (2D) No. 27, Labour and Employment,
dated 12.3.1992.

ORDER

In the Government Order read above, the Government have issued orders on the review petitions filed by the Management of B & C. Mills and the trade unions against the orders of the Commissioner of Labour in closure Application No. 4/91 dated 22.11.91. The Government have held that the reasons adduced by the management for closure of the mills are genuine, adequate and in public interest. However, the Government's main objective is to ensure that the mill is reopen and the interest of the workers protected, mainly by guaranteeing regular employment.

2. Despite several rounds of discussions, deliberations and efforts in various forums during the past one year including at the Tripartite Committee lastly, no tangible solution could be arrived at for reopening the mills. Since the stalemate has been continuing for more than a year, in the interest of the workers, it is vital that a viable scheme is presented to IDBI and approved by it so that the necessary financial assistants would be forthcoming to enable the management to reopen the mills.

3. The Tripartite Committee could not arrive at an amicable settlement mainly on the issue of wages for the period of closure. The contention of the management that if the wages for the closure period amounting to Rs.15 crores are paid, the

viability of the scheme would be eroded, is correct. Any additional financial burden added to it would make the scheme unviable and unacceptable to IDBI. Further, any further delay will only result in rendering the scheme unviable.

4. Keeping in view the above, The Government have carefully examined the revised scheme formulated by the management and consider that the scheme is prima facie viable on financial, technical and commercial aspects and has a fair chance of approval by the IDBI. It also protects the interest of workmen. The Management has in its letter 2nd read above has reiterated their earlier assurances to protect the interest of workers and requested the Government to pass early orders on the review petitions, to enable it to get the required funds from IDBI and to reopen the mills on 13.4.92 the date announced by the Hon'ble Chief Minister.

5. In the circumstances, the Government accept the revised scheme now formulated by the management subject to the conditions specified in the Annexure to this order to ensure protection of interests of workers, so that the management can approach the IDBI for release of funds for reopening the Mills by 13.4.1992. The Government advise the management to approach the IDBI for approval of the revised scheme incorporating the above conditions for release of funds, so that the Mills can be reopened on 13.4.92.

6. The Government also advise the trade unions to co-operate with the Management in its efforts to reopen the Mills on 13.4.92.

7. In view of the orders issued by the Government in the Government Order read above, the workers will not be entitled for any wages for the period of closure. However, the Government advise the management to pay one month's salary as ex-gratia to all the workers, as a gesture of goodwill, on the date of reopening of the Mills.

8. As regards the other major issues on which no agreement could be reached, the Government have decided to refer them to the Industrial Tribunal, Madras for adjudication. A separate order for this will be issued, after the Mills are reopened.

9. The Government hope that both the management and the Labour would co-operate with the Government in their efforts to reopen the Mills on 13.4.92, as already announced by Hon'ble Chief Minister.

(BY ORDER OF THE GOVERNOR)

(Sd.)
(R. VARADARAJULU)
SECRETARY TO GOVERNMENT.

To

The Management, B & C Mills.
The President, Madras Labour Union, Madras.
The President, B & C Mills Staff Union, Madras
Copy to:

The Commissioner of Labour, Madras.6.
The Handicrafts, Handloom & Textiles and Khadi Department.

Stock file /Spare copy.

ANNEXURE

(Vide para 5 of the Government Order)

a) Consequent on the shifting of the Process House to Bhuvanagiri there should be no retrenchment of permanent workmen/employees of the Process House and the trainees who have completed 3 years of service. They should not be forced to go to Bhuvanagiri and those who are willing only will be shifted to Bhuvanagiri. Those workers who are not willing to go to Bhuvanagiri should be provided employment in Madras itself.

b) Those who are willing to go to Bhuvanagiri should be provided with housing and other facilities at Bhuvanagiri.

c) The cost of shifting their personnel belongings to Bhuvanagiri should be borne by the Management.

d) Their service conditions including their last drawn emoluments should be protected.

e) The Management should obtain prior permission of the Government of Tamilnadu before disposing of the immovable properties of the Mills at Madras.

(Sd.)
(R. VARADARAJULU)
SECRETARY TO GOVERNMENT.

MEMORANDUM OF SETTLEMENT UNDER SECTION 12(3) OF THE INDUSTRIAL DISPUTES ACT, 1947 AND RULE 25(1) OF THE TAMIL NADU INDUSTRIAL DISPUTES RULES, 1958 REACHED BEFORE THE COMMISSIONER OF LABOUR, MADRAS.

PRESENT: THIRU N. ATHIMOOLAM, I.A.S.,
COMMISSIONER OF LABOUR
MADRAS

A3/B697/92

Dated 26-3-1992

Name of the parties

BINNY LIMITED
(Buckingham & Carnatic Mills)
65 Armenian Street
Madras 600 001

&

The Workmen of the
Buckingham & Carnatic Mills
represented by the
Madras Labour Union,
176, Strahans Road,
Madras 600 012

AND

B & C Mills Staff Union
60, Krishnadoss Road,
Madras 600 012

Representing the
Management

1. Mr. T.K Venkataraman,
Vice-President, B & C Mills,
Madras - 12
2. Mr. V.R. Natarajan,
General Manager - Personnel & HRD,
Binny Limited,
Madras - 1
3. Mr. G. Nadaradjane,
Mill Manager, B & C Mills,
Madras - 12
4. Mr. N. Ekambaram,
Industrial Relations Manager,
B & C Mills,
Madras - 12

Representing the
workmen

Mr. W.R. Varada Rajan
President,
Madras Labour Union
&
B & C Mills Staff Union,
Madras - 12

Mr. C. Madhava Rao,
General Secretary, M.L.U.

Mr. N.B.R. Prasad,
Vice-President,
B&C Mills Staff Union

Mr. V. Murugaiyan,
Treasurer, M.L.U.

Mr. M. Kuppaswamy,
Vice-President,
B&C Mills Staff Union

Mr. R. Viswambaram,
B.M. Vice-President, M.L.U.

Mr. N. Sriramulu,
General Secretary,
B&C Mills Staff Union

Mr. G. Arul Xavier,
C.M. Vice-President, M.L.U.

Mr. V.K. Vijayakumar,
Treasurer,
B&C Mills Staff Union

Mr. Chinda Sahul Hameed,
N.M. Vice-President, M.L.U.

Mr. K. Rajendran,
B.M. Joint Secretary, M.L.U.

Mr. V. Babu,
M.O. Joint Secretary,
B&C Mills Staff Union

Mr. S. Gopal,
C.M. Joint Secretary, M.L.U.

Mr. R. Narayanaswamy,
C.M. Joint Secretary,
B&C Mills Staff Union

Mr. A. Francis,
N.M. Joint Secretary, M.L.U.

Mr. V. Harikrishnan,
B.M. Joint Secretary,
B&C Mills Staff Union

No. and broad description
of the categories of the
workmen covered by the
Settlement

About 6,000 operatives and
485 clerical and other
staff categories.

SHORT RECITAL

The Madras Labour Union and the B&C Mills Staff Union (hereinafter referred to as "the Unions") have been demanding implementation of wage benefits under Varadan Award.

The Management of Binny Limited (hereinafter referred to as "the Management") placed their proposals for viable running of the B&C Mills under cover of their letters dated 23-6-90 and 26-11-90 addressed to the Unions.

Though bilateral negotiations were held between the Unions and the Management on several occasions, there was a stalemate in December 1990.

The Management applied, before appropriate authorities, permission for closing the B & C Mills, in December 1990.

The Management discontinued operations of the Mills with effect from 1-4-1991 and notified that the workmen will cease to be in the service of the mills as from 1-4-1991.

After prolonged efforts, at different levels, for re-opening of the Mills, the Government of Tamil Nadu, ultimately, passed Government Orders (2D) No.27 and 28, Labour and Employment Department dated 12th March 1992.

Further to the above Government Orders, conciliation proceedings were held and the parties have arrived at a Memorandum of Understanding on 18-3-1992 before Thiru S.Ramachandran, Special Deputy Commissioner of Labour. Further conciliation proceedings were held before Thiru N. Athimoolam, I.A.S., Commissioner of Labour and the parties have reached an agreement on the following terms and conditions:-

TERMS OF SETTLEMENT

1. MODERNISATION SCHEME

The Government of Tamil Nadu have in their G.O. (2D) No.28 of Labour & Employment Department, dated 12-3-1992, accepted, subject to certain conditions, the revised scheme dated 18-2-1992 formulated by the Management, which includes, inter-alia, shifting of the process house to Bhuvanagiri and have advised the Unions to co-operate with the Management in this regard. The Unions and the workmen agree to co-operate with the Management in implementation of the revised scheme now accepted by the Government.

2. ~~REVISION OF WAGE~~

The revised modernisation scheme envisages setting up of a centralised process house catering to B & C Mills, Madras and B.W.M., Bangalore to be established at Bhuvanagiri.

It is expressly agreed to by the parties as under:

a) As and when the Process house is set up in Bhuvanagiri, the work

relating to Dyehouse, Finished Warehouse and related Engineering services and Sales & Invoice Section will be transferred to Bhuvanagiri.

- b) Process House at Bhuvanagiri shall be deemed to be part and parcel of B & C Mills.
- c) The Industrial Wage Award/Revision Benefits, Bonus and other service conditions applicable to workmen of composite textile mills in Tamil Nadu shall be applicable to the Process House at Bhuvanagiri.
- d) There shall be no retrenchment consequent on the shifting of process house to Bhuvanagiri. The workmen not willing to go to Bhuvanagiri shall be provided with alternative employment in Madras Mills itself.
- e) Workmen willing to go to Bhuvanagiri shall be provided housing and other facilities at Bhuvanagiri and the cost of shifting their personal belongings to Bhuvanagiri shall be borne by the Management. Service conditions including last drawn emoluments of workmen transferred to Bhuvanagiri shall be protected.
- f) The employment of permanent workmen and trainees who have completed three years of training as on 31-3-1991 will be protected.
- g) The training scheme that was in operation till 31-3-1991 will be continued to other trainees with less than three years of training as on 31-3-1991. As in the past, these trainees will be given training facilities depending on the requirements.
- h) Introduction of new apprentice scheme for the new apprentices to be recruited in the future will be mutually discussed and finalised.

3. COMPUTERISATION

It is agreed between the parties that the Management will introduce computerisation wherever considered necessary for updating and improving Information System from 1-4-1993 in a phased manner and the workmen staff shall extend their full co-operation.

On introduction of Computerisation, existing staff will be retrained and re-deployed to man them. Benefits, if any, extended to Staff attending to Computer work, prevalent in the industry will be mutually discussed and made applicable in B & C Mills.

4. RE-OPENING OF THE MILLS

The Management will re-open the Mills on 13-4-1992 in terms of the G.O. (2D) No.28 dated 12-3-1992. The workmen will co-operate with the Management in its efforts to re-open the Mills on 13-4-1992 and report for work on re-opening. The Notice of Management dated 1-4-1991 removing all the workmen from the rolls of the Company is rescinded. The Management will put up notices calling upon the required number of workmen to report for work depending upon the operational requirements. However the Management will provide employment to all the workmen within a period not exceeding

five weeks from 13-4-1992. The workmen will have continuity of service from 1-4-1991 but the period of closure will be treated as DIES-NON.

5. EX-GRATIA PAYMENT

The Management, accepting the advice of the Government of Tamil Nadu in para 7 of G.O. (2D) No.28, Labour and Employment, dated 12-3-1992 will disburse one month's salary as ex-gratia to all the workers, as a gesture of goodwill, on 13-4-1992. The Management maintain that 50% of the gross emoluments paid pursuant to the orders of the High Court in W.P. No.5102/91 for April and May 1991 is recoverable and proposed that the recovery be effected in easy instalments. The Unions contended that the aforesaid payment is not recoverable. This issue will be mutually discussed and amicably settled between the parties. However, the Management agree not to initiate any unilateral action for recovery till this issue is resolved between the parties. However, without prejudice, the Management is agreeable not to recover this amount from the workmen retired/retiring from service or otherwise severing their service till the issue is resolved between the parties.

6. PAYMENT OF BONUS FOR 1990-91 AND SICK LEAVE ALLOWANCE

The bonus for the year 1990-91 and the sick leave allowance for the year 1991 payable to the workmen will be disbursed on or before 13-4-1992.

7. IMPLEMENTATION OF VARADAN AWARD

Both the Unions and the Management agree to implement the provisions of Varadan Award in I.D.1 and I.D.2 of 1985, as applicable to other textile mills in Tamil Nadu.

A. DETERMINATION OF SCIENTIFIC WORK NORMS

Scientific work norms will be determined and implemented as per Varadan Award in I.D.2 of 1985 (Annexure I to this Settlement). However, with a view to expedite implementation, by 1-10-92 and in any case not later than 1-4-93, of revised work norms, work assignment and piece rates, the study will be conducted by a three member expert team comprising one representative from SITRA, one nominated by management and one nominated by the Unions. The unanimous recommendation of the Three Member Expert Study Team will be implemented. Difficulties, if any arising, will be jointly referred by the management and the Unions to ~~SITRA~~ whose decision shall be final and binding on the parties.

B. THE WAGE AND OTHER BENEFITS

~~The wage and other benefits will be implemented as per Varadan Award in I.D.1 of 1985 (Annexure II to this Settlement) from the date of implementation of I.D.2 as at (A) above or 1.4.93 whichever is earlier.~~
The increment benefits granted in the Award shall be incorporated in the time scales of pay keeping in view the practice in the industry.

C. LINE OF PROMOTION

Line of Promotion applicable to workmen will be as per Varadan Award. (Annexure III to this Settlement).

B. WORK NORMS ON RE-OPENING OF THE MILLS

a) It is agreed that pending receipt and implementation of the expert study report, the work norms, work load and piece rates covered by Kamalaratnam Award by the settlement dated 6-6-1981 will be strictly adhered to and enforced immediately after re-opening of the Mills except the following areas :

i) Change in work norms in Engineering Service, Preparation and Weaving as agreed on 07-11-1984.

ii) Change in work norms in Preparation as agreed on 28-03-1988.

b) As and when new machines are installed, the work norms, efficiency and manning as obtaining in the industry will be adopted in consultation with the Unions. In case of any dispute, the opinion of SITRA shall be final and binding on the parties.

c) Till the implementation of the revised work norms as envisaged above, no vacancies shall be filled up and any additional man power required shall be met by deployment of trainees/apprentices. As regards vacancies in Staff category, the practice obtaining in the Mills before 31-3-1991 will be continued till implementation of the Varadan Award in I.D.2 of 1985 as there is no system of trainee/apprentice in Staff category.

d) It is also agreed that for sustained viability of the mills' operations, the complement of permanent workmen shall be fixed based on the actual daily requirements for 7 day week working without any special provision for leave reserve. Leave and absenteeism will be met by deployment of trainees/apprentices.

9. MODE OF RE-DEPLOYMENT OF SURPLUS STAFF

The mode of re-deployment of surplus clerical and other categories of staff, if any, consequent on the implementation of Varadan Award in I.D.2 of 1985, computerisation and shifting of process house, will be dealt with as agreed to by the parties in the letter of date, exchanged between the parties. (Annexure IV)

10. PAYMENT OF BONUS FOR FUTURE YEARS

It is agreed between the parties that SIMA Formula for bonus will be adopted in the B & C Mills either after the expiry of the settlement i.e., 31-3-1996 or after the accumulated losses are wiped off, whichever is earlier. Till then payment of bonus for workmen of B & C Mills will be mutually discussed and decided between the parties.

11. FUTURE WAGE AWARD/SETTLEMENT BENEFITS

It is agreed between the parties that benefits of any future Wage Board Award/Settlement applicable to textile industry in Tamil Nadu will be effected to the workmen of B & C Mills, Madras from 1-4-1996.

12. DURATION OF SETTLEMENT

The ~~Settlement shall be in operation and binding the parties from the date of signing of this Settlement to 31-3-1994~~ and even thereafter until the agreement is terminated by either party under section 19(2) of the I.D. Act, 1947.

13. MISCELLANEOUS

All other demands/proposals, not specifically covered by this settlement, shall be deemed to have been dropped by both the parties. The workmen/Unions shall not raise any demand involving financial implications during the period of operation of this settlement. All the existing practices not specifically altered by this Settlement shall be continued.

Dated at Madras this 26th day of March 1992.

Representing Management:

Sd/-	Sd/-	Sd/-	Sd/-
(T.K.VENKATARAMAN)	(V.R.NATARAJAN)	(G.NADARADJANE)	(N.EKAMBARAM)

Representing workmen:

Sd/-	Sd/-	Sd/-
(W.R.VARADA RAJAN)	(N.G.R.PRASAD)	(C.MADHAVA RAO)
Sd/-	Sd/-	Sd/-
(V.MURUGAIYAN)	(G.ARUL XAVIER)	(CHINDA SAHUL HAMEED)
Sd/-	Sd/-	Sd/-
(K.RAJENDRAN)	(S.GOPAL)	(A.FRANCIS)
Sd/-	Sd/-	Sd/-
(M.KUPPUSWAMY)	(N.SRIRAMULU)	(V.K.VIJAYAKUMAR)
Sd/-	Sd/-	Sd/-
(V.BABU)	(R.NARAYANASWAMY)	(V.HARIKRISHNAN)

BEFORE ME

Sd/-
Commissioner of Labour,
Madras

No. of 26th March 1992

Pers. & H.R.D.Dept.

General secretary
B & C Mills Staff Union
MADRAS 600 012.

Dear Sir,

Sub: B & C Mills - Deployment of surplus clerical
and other categories of Staff - Regarding

The demand of the Management for transfer of likely surplus of clerical/other category of staff consequent on revision of work norm/manning strength, computerisation and shifting of Process House to Bhuvanagiri was discussed in detail and the parties agreed to deal with the surplus clerical/other staff category of employees as per the Understanding reached between the parties as given below:

The Union and the Management will explore all avenues of absorbing within the Mills itself the surplus staff, if any, on account of implementation of Varadan Award in ID 2 of 1985, computerisation and shifting of Process House, besides following the existing practice of absorbing the promotee-operatives as operatives in the Mills and promoting as Management Staff subject to suitability.

Any member of staff still remaining surplus in the Mills may be deputed on specific assignment to any of the establishments of Binny Limited within Madras City limits.

Any member of the staff so deputed shall continue to be borne on the rolls of B & C Mills and while on deputation, his emoluments and other service conditions will continue to be protected. In other words, though on deputation, he shall be deemed to be a workman of the B & C Mills and continue to enjoy all privileges and benefits in such capacity.

Any employee deputed on the above basis will continue his lien with the B & C Mills and in the event of any vacancy arising, he shall be reverted back to the Mills.

The Management will strictly follow the line of seniority while resorting to such deputation i.e., only the juniormost will be considered for deputation on 'last in - first out' basis in the category in which surplus occurs.

Yours faithfully,

Sd/-

GENERAL MANAGER

(Pers. & HRO.)

Acknowledged and agreed to adopt the above Understanding to deal with the surplus clerical/ other categories of staff, if any.

Sd/-

General Secretary,
E & C Mills Staff Union,
Madras 600 912.

BINNY LIMITED
MADRAS

No. of 26th March 1992

PERSONEL & HRD DEPT.

Dear Sir,

B & C MILLS - CASH LOADING AND CASH DISBURSEMENT
BY CLERICAL STAFF.

We refer to our prolonged discussions on the issue of cash loading and cash disbursement by clerical staff during bilateral and Tripartite discussions

Both the Management and the Union agreed that the clerical employees shall attend to cash loading as was done prior to 1981 and cash disbursement work for the purpose of disbursement of payments to workmen/staff on re-opening of the Mills. The Management agreed to extend the benefits that may be extended to the employees attending to cash loading/cash disbursement following the practices adopted in the Textile industry elsewhere in the State. For this purpose both the Management and the Union agreed to seek the relevant information from SIMA, Coimbatore and settle the issue of extending the benefits with effect from 13.4.1992 based on the information received and by mutual discussions on or before 30.6.1992.

Yours faithfully,

sd/-
GENERAL MANAGER
(Pers. & HRD.)

No. of 26th March 1992

The General Secretary
Madras Labour Union
MADRAS 600 012.

The General Secretary
B & C Mills Staff Union
MADRAS 600 012.

Dear Sir.

B & C Mills - 12(3) Settlement dated 26-3-92 - Further issues to be decided between the parties after re-opening of the Mills - Regarding

Both the Management and the Unions have discussed the various demands during the bilateral and tripartite discussions. These discussions have led to a Settlement dated 26-3-92 under Section 12(3) of the Industrial Disputes Act, 1947. However, both the parties have agreed that the following issues will be discussed mutually between them after the re-opening of the Mills and settled amicably:

1) Night Shift\ 'C' shift allowance for the workman who are presently not getting the same shall also be discussed and decided and implemented along with the implementation of Varadan Award Part I.

2) Medical benefits granted to employees not covered by E.S.I. shall mutually discussed and decided in case the coverage is not enlarged by 1/4/1992.

3) Canteen improvements.

4) Motivation\monetary benefits to be extended to the workmen willing to go on transfer to Bhuvanagiri to be discussed and decided before actual shifting of the Process House.

5) Incentives to Piece-rated workers.

Yours faithfully,

(Sd.)

GENERAL MANAGER
Pers.& HRD.

(Sd.) C.Madhava Rao
(Sd.) N.Sriramulu

Abstract

Labour Disputes - B & C Mills, Madras - Re-opening of the Mills - Benefits for the closure period - Conciliation talks held - Agreed advice - Issued.

A3\8697\92

Dt: 26.3.92

Read: Letter dated 25.3.92 of the General Manager, B & C Mills, Madras.

ORDER:

The Management of B & C Mills, Madras has discontinued its operation with effect from 1.4.1991. On the review petition filed by the management on the orders dated 22.11.91 of the Commissioner of Labour, Madras, the Government have passed orders in G.O.No.27, Labour & Employment, dated 12.3.92 stating that the reasons adduced by the management for the closure are genuine, adequate and in public interest.

The Government have in G.O.No.28, Labour & Employment, dated 12.3.92 advised the management to approach the Industrial Development Bank of India for approval of the revised scheme and take steps to re-open the Mills on 13.4.92 as announced by the Hon'ble Chief Minister of Tamil Nadu.

In the above G.O., the Government have also advised the Trade Unions to co-operate with the Management in its efforts to reopen the Mills.

Following this, conciliation talks were held before the Special Deputy Commissioner of Labour, Madras on various dates with an effort to bring out an amicable settlement on the pending issues and the parties have also reached a Memorandum of Understanding before him on 18.3.92.

In the subsequent conciliation talks held before the Commissioner of Labour, both the parties have agreed to settle all the issues. Finally a settlement under Section 12(3) of the Industrial Disputes Act, 1947 has been reached before the Commissioner of Labour on 26.3.92.

In the course of the above conciliation talks the issues relating to the benefits to workmen for the period of closure was discussed. The management has agreed to extend the benefits i.e. Gratuity, Increment, H.P. and leave to the workmen for the closure period. The Management in its letter dated 25.3.92, copy of which was marked to the Special Deputy Commissioner of Labour has confirmed the same.

Based on the above, the following advice is issued to both the parties.

The period of closure shall count for

- a) Continuity of service
- b) Computation of Gratuity
- c) Sanction of service percentage annual increments.
- d) H.P./D.L./B.C.L. - However, the H.P. will be spread over two leave years viz. 1992-93 and 1993-94.

Both the parties are advised to abide the above advice.

(Sd.)
COMMISSIONER OF LABOUR.

To
The Management, B & C Mills, Madras.
The President, Madras Labour Union an B & C Mills Staff Union
Madras-12.

Copy to: The Joint Commissioner of Labour, Madras.
Deputy Commissioner of Labour-1, Madras.
Labour Officer-1, Madras.