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Section V of Cluster Report

Documentation of Specific Case Studies

Summaries of completed case studies have been added here. (This document will be incorporated into the final cluster report).

Pseudonyms have been used for the complainants that have been assigned to reflect their social identities.

Highlighted sections in yellow indicate notes to the reader.

Table 1: Snapshot of Documented Cases

List of Cases	Category
Attack on Unionisation and Unfair Labour Practices	
Case Study 1- Modelama Workers' Union (MWU) registration struggle and subsequent retaliation	Formal and Informal
Case Study 2- Garment and Allied Workers' Union's (GAWU) struggle for registration	Formal
Case Study 3- Richa Garment Workers' Union (RGWU) registration and subsequent retaliation	Formal
Illegal Terminations and Factory Closures	
Case Study 4- Sanjay: Terminated after return from leave	Formal and Informal
Case Study 5- Arjun: Terminated for unionising activities	Formal and Informal
Case Study 6- Riaz: Terminated after return from sick leave	Formal
Case Study 7- Sukhbir: Terminated after refusal to re-join work on a new ID card	Formal and Informal
Case Study 8- Shadab Ahmed: Terminated after return from leave	Formal
Case Study 9- Roopmati: Terminated after raising a complaint of workplace sexual harassment	Formal and Informal
Case Study 10- Sunil: Terminated after refusal to re-join work on a new ID card	Formal and Informal
Case Study 11- Ravi: Terminated without Reason	Formal
Case Study 12- Viva Global Collective Dispute of Lockout	Formal
Case Study 13- Successful collective action taken by workers after shutdown of company unit	Formal
Wage related complaints including non-payment of earned wages, minimum wages, bonus etc.	
Case Study 14- Recovery of Delayed Wages after Termination	Formal
Case Study 15- Malati Devi Minimum Wages Complaint	Formal
Case 16- Collective action by GAWU on minimum	Other

violations	
ESI/PF/Sexual Harassment	
Case Study 17- Maternity Benefits Claim through ESI	Other
Case Study 18- Ongoing case of a worker trying to withdraw his deceased wife's PF money	Other
Case Study 19- Resolution of withheld PF money through legal notice sent by worker's authorised representative	Informal
Case Study 20- Successful negotiation of compensation for the families of two workers by GAWU after their death at their workplace (Maharani of India)	Formal
Lockdown-Pandemic Conflicts	
Case Study 21-Company closure during pandemic	Informal (To be taken up formally as a collective dispute)
Case Study 22- Successful reinstatement of fired workers in Chelsea Mills by GAWU	Formal
Case Study 23- Kamal: Terminated during first lockdown	Informal
Police Complaints	
Case Study 24-Worker's FIR filed against management for physical and verbal abuse	Other
Case Study 25- Richa/Gaurav incarceration of workers after a violent protest	Other

I. Attack on Unionisation and Unfair Labour Practices

Case Study 1- Modelama Workers' Union (MWU) Registration Struggle and Subsequent Retaliation

This case study highlights multiple linked aspects of the unionisation struggle in the Gurgaon RMG sector. The Modelama Workers' Union (MWU) was formed in 2012 by workers from different units of Modelama. The MWU had to fight not only for state recognition but also to be recognised by the management as a rightful association of its workers.

The MWU's fight throws light on the challenges that unions face in the sector at each step from organising to sustaining themselves. The union had filed for registration in December 2012. The Registrar's office rejected their registration application. The union has repeatedly asserted through all written documentation after this, that the grounds for rejection of their registration application based on incorrect assumptions and reflected the prejudices of the state government.

Further within a month of the union filing for registration, the company started firing union members or transferring them to different units. The MWU filed complaints against the company of unfair labour practices to the labour department. The department denied receiving any complaints of unfair labour practices by the MWU.

The case study narrates the struggles of the MWU for registration and state recognition as well as against the company's unfair labour practices.

A.) Basic Information

Company Name and Factory Address: M/s Modelama Exports Plot No.201, Phase I Udyog Vihar, Gurgaon

Dispute/Conflict Type: Denial of union registration and unfair labour practices against union members

Concluded/Ongoing: Concluded

Year: 2012

Individual/Collective: Collective

B.) Timeline of Events:

Date	Incident
19.12.2012	Modelama Workers' Union files for registration
08.01.2013	Transfer of MWU Gen. Sec to a different unit
15.01.2013- 17.02.2013	Modelama management retaliates by illegally firing or transferring to different units. Management uses coercion tactics to forcibly make employees sign on blank sheets of paper later used as resignation letters.
18.02.2013	MWU starts a peaceful protest in front of the factory gates demanding reinstatement of fired workers. Several complaints were filed with the labour department outlining unfair labour practices and illegal terminations.
	Company gets an ex-parte stay order against the union's activities

	MWU continues protests against the company's illegal activities outside the company gate while maintaining a distance of 300m as per the stay order
12.03.2013	Workers and management sign a written agreement for reinstatement of workers. MWU ends protest.
February 2013-August 2014	Union files complaints against illegal firing of employees and unfair labour practices followed by Modelama management.
08.07.2013	Rejection letter from the Registrar's office
19.07.2013	Office-bearers of the union submitted a petition to the Registrar-cum-Labour Commissioner to review the denial of registration claiming that the reasons for refusal were factually wrong.
27.02.2015	MWU files a complaint to the ILO against the Government of India for violation of Freedom of Association and Right to Organise in Modelama Exports, in Udyog Vihar in Gurgaon district of Haryana State in India. (See document 5)
17.06.2015	Collective complaint filed against ULP by the Modelama management in relation to employment of contract workers
Latter half of 2015	Impactt undertakes a study into allegations of labour violations in Modelama factories following a newspaper article by The Sun. Five of the allegations are found true, including harassment of union members by the management, verbal abuse, extremely long working hours exceeding legal limits and restriction on worker's usage of toilets.
8 th December, 2015	Multi-stakeholders meeting to discuss issues of illegal termination and ongoing unfair labour practices. Super group (brand), following previous independent discussions with Modelama management, committed to overseeing mediation processes between the MWU and the management. This would be done through a mediator suggested by ETI and IndustriALL collectively and finalised after consent from MWU and LBL. A mediation meeting at the end of January is decided on.

C.) Case Details (from ILO Committee on FoA reports and available case documents)

1.) Union Registration Struggle

Modelama Workers' Union

The Modelama Workers' Union was a factory level union formed with GAWU's support. The initial push that led to workers organising themselves was due to a successful bonus payment related negotiation by the workers through GAWU's aid. After a few months of deliberation, MWU applied for registration in December 2012.

Rejection of Application

This rejection of registration of Modelama Workers Union, Gurgaon is based on wrong assumptions, wilful ignorance of relevant documentary and other evidences, prejudice, inaction, non-performance of statutory duties and obligations by the state of Haryana. It is blatant case of negligence and denial of fundamental right to form union. It is a deliberate attempt to deny workers of Modelama to their right to organise in the state and it is unlawful and in violation of the Trade Unions Act, 1926. By denying Modelama Workers Union registration, the state is infringing MWU members' right to organise and collectively bargain for better pay and working conditions. -From the Complaint Letter by the MWU to the ILO Committee on Freedom of Association, 08.11.2013

The application for registration filed by the MWU was rejected via a letter from the Registrar's office dated 08.07.2013. GAWU alleged that the Registrar's office had not conducted a proper investigation into the application and had rejected the registration without following due process.

"No one from the department got in touch with the MWU to ask for any clarifications. Between the time that the union had applied for registration and they received the letter of rejection, they had sent us no communication at all."-GAWU Representative

One of the reasons provided for rejection of the registration application was that 50% of the union's members were not part of the union anymore. However, MWU documents highlight that the company had deliberately fired union members and office bearers as retaliation. And this in turn led to lower number of members. The management's actions were documented by the union and they filed letters of complaints to the labour department.

The letter also stated that the union had not furnished several relevant documents and that there were gaps in the information submitted. However, it is important to highlight that the Trade Union Act due to its nature of promoting workers' right to freedom of association has provisions for unions to rectify lapses made in their initial submissions for registration. The Registrar under Section 7(1) of the Act, should ask the union to fill any missing pieces, so that these can then be taken into consideration for the registration. **An outright rejection without providing a chance to the union to furnish the required information is a breach of this clause in the Act.**

Trade Union Act, 1926 Sec 7(1): The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

Further, the Registrar's communication also breached the 2006 Haryana State Labour Policy which stated that the maximum time period for union registration was four months. The Registrar's communication was sent over six months after the application for registration.

The MWU filed for a review of the denial of registration. However, the Registrar's office refused to accept the review petition citing that it was not within their powers to review a decision made by them. The Registrar's office advised them to instead approach the district labour court. In the month of September, 2013, the union had drafted a writ petition with the intent of approaching the Chandigarh High Court. The writ petition highlighted the absence of registered unions in Gurgaon garment factories, linking it with the concerted efforts by company management and the labour department to keep workers from unionising.

It is submitted that the garment export Industry is a powerful lobby which wields considerable influence on the Labour Department and prevents registration of any Union in the Industry. Till date not a single union is registered in Gurgaon for the Garment Export workers and more importantly in any particular factory. This shows the collective might of the employers in the Garment industry, and in particular with regard to the Labour Department. Therefore, it is virtually the policy of the Respondent to reject an application for registration by citing some reason or the other, the motive being not to register the Union somehow or the other. In other words, the policy of the Registrar of Trade union is to not register a trade union for Garment Export Industry Workers to ensure that the said workers are totally at the mercy of the employers. -Civil Writ Petition

2.) Workers' Conflict with Modelama Management

The complainant organization alleges forced transfer of union leaders, illegal termination, intimidation and physical threats against union members in retaliation for union activities. The complainant further alleges unjust denial of registration by the Registrar of trade unions in the Haryana State. -ILO Committee on Freedom of Association Definitive Report - Report No 383

Management Retaliation

Days after the MWU filed for registration, in a series of 'coincidences' union leaders and the more active members were suddenly either transferred to different units or fired. On the 8th of January, 2013 the General Secretary of the union was transferred to a different unit about 20kms away from his previous place of work. In the next two months, 16 office bearers and members were either transferred or fired. MWU called out the Modelama management for their actions, highlighting that the names of the union members were leaked out to the management by the labour department officials.

After a few days of filing for registration of Modelama Workers Union, Gurgaon, the factory management was leaked information by the labour department about formation of union and they started retaliation against office-bearers and members of union. – From the Complaint Letter by the MWU to the ILO Committee on Freedom of Association, 08.11.2013

The union also filed several complaints under Unfair Labour Practices as outlined in Schedule V of the ID Act. They maintained that the timing of the management's actions blatantly reflected their prejudices and were clearly part of their concerted efforts to prevent unionisation within Modelama factories. The labour department did not respond to these complaints.

Protest by the MWU

The MWU also sat in front of the factory gate in protest against the company's backlash against the union members. The management tried to break the protest by making videos of the workers and threatening them with physical harm, they were jeered and made fun of in an attempt to lower their morale. When none of this worked the management started parking trucks in front of the protesting worker in illegal spaces on the road. Since the labour department had been previously unhelpful, the MWU approached the Udyog Vihar Police Station to complain against the management's threats and intimidation tactics. The police acted on the complaint and forced the management to delete the videos they had made of the protest, however their support ended there.

Management Intimidation of Workers

The Modelama management's engagement with the workers and union members throughout the struggle was largely hostile. Management representatives resorted to various methods of intimidation to coerce workers to end the protest and disassociate with the union. They even visited the workers' homes at night with promises of monetary benefits if they sided with the management. The management also entered into negotiations with the workers on reinstatement, however no written agreements were signed. These were done with individual workers as the management continued to deny the existence of the union and negotiate with them.

When all else failed, the Modelama management succeeded in getting an ex-parte stay order against the union. Viewing this only as a minor setback, the union continued its protest 300 metres away from the factory gate in reverence of the stay order.

Success of the Protest: Management Forced to Negotiate with the Union

The sustained efforts of the MWU forced the management to finally acknowledge the union and agree to enter into negotiations. The protest had managed to garner significant support and had in fact created a ripple enough to ruffle the feathers of the management. Workers from inside the factory were at one point not allowed to leave the factory premises at all as the management feared any interaction between the former and the MWU protestors. They were provided with lunch and tea by the management within the factory premises. There was an understanding among the workers that this 'benevolence' of the management was a result of the protest.

Thus, although the management resisted and employed all means to stifle the protest, they did ultimately have to acknowledge the MWU. After several rounds of negotiations, the management signed on a written agreement to reinstate all the workers.

Engaging Global Networks and Brand CSRs

The management's change in heart in negotiating with the MWU after the initial hostility can also be attributed to pressure from buyers and international networks that GAWU had moved during the struggle. When Modelama launched their attacks against union leaders and members, GAWU had engaged with Modelama's buyers such as GAP and NEXT and had also involved the Clean Clothes Campaign (CCC) and the United Workers' Congress (UWC). Representatives from these networks and from the buyers had engaged in multiple rounds of discussion with Modelama after which they were forced to recognise and negotiate with MWU and GAWU.

3.) Continued Harassment and Victimisation of Workers

Although workers were reinstated, the company continued their efforts to prevent unionisation. At least 8 workers who were reinstated as per the written agreement dated 12.03.2013, were fired between November 2013 and May 2014. Over the two years of 2013-2015, Modelama fired innumerable workers in retaliation to their union activities.

In 2015, GAWU brought to light Modelama's alarmingly high share of contract workers over regular workers. The ratio of contract workers employed in Modelama to that of regular workers stood at 4:1. GAWU filed a complaint under unfair labour practices state that the intent with which Modelama had increased the share of contract workers was not only to shirk away responsibilities towards their workers, but also to avoid unionising activities. They highlighted that the wages paid to contract workers were almost double that paid to their regular workers. The management had deliberately created conditions that would lead to workers 'choosing' to be hired as contract workers. And as a result, the unionising efforts would be that much more challenging and daunting.

GAWU's strategic engagement of buyers and agencies like IMPACTT, also created pressure on the company to rectify some situations within its factories. However, many of these measures were only an eyewash to pacify brands and at least comply with their codes of conduct on paper.

"Modelama finally made a Works Committee and they also created a show of electing the committee representatives. But everyone knew that it was just a show. All the members of the committee were management people. What is the point of this?" -GAWU Representative

In early 2015 MWU also filed a complaint outlining their challenges with union registration as well as the multiple counts of retaliation faced by the union members and workers to the ILO Committee on Freedom of Association.

Government's Continued Inaction on the Issue

The labour department remained unresponsive to MWU's complaints even during the mass firing of workers during the years of 2013-2015. The reports of the ILO Committee on FoA highlight the government's refusal to recognise the violations and gross illegal acts committed by the company.

In the interim meeting held by the Committee (Report No. 380, October 2016), they had urged the Government to look into the dismissals of the original MWU members in 2013 and investigate the motives behind it; and in case the dismissals were a consequence of their association with the union and its activities then to ensure their reinstatement or payment of owed dues. The Government's response included the conclusions made by the Labour Commissioner after they conducted their investigation. From the 16 union officials who were dismissed, The Government responded that most of them had "left the service voluntarily" and "did not lodge any complaint afterwards". The labour department also denied having received any formal complaints regarding the dismissals and/or forced resignations.

The Government further emphasizes that none of the workers made any complaints regarding any type of victimization before any authority of the state and the Labour Department did not receive any complaint of dismissal or forced resignation. -ILO Committee on Freedom of Association Definitive Report - Report No 383

On the question of large-scale dismissals of about 200 workers in the years 2013-2015, the government responded that according to an independent by the Labour Commissioner, the trend of dismissals did not show any abnormality during the years 2013-2015. They reasoned that since the application for union registration was submitted in December 2012, any dismissals linked to unionising activities would have been reflected in the numbers for the years 2013-2015. Since this was not the case, hence they concluded that there were no additional dismissals. And workers who had discontinued work in the company were seasonal migrants who voluntarily quit and left for home.

The Committee however noted that the Government's response fell short on many aspects. For example, they pointed out that when investigating the dismissals related to two specific union office bearers, who had alleged that they were physically intimidated into signing resignation letters, an independent investigation involving the direct engagement of the people involved would have allowed a fair investigation into the issue. On the other dismissals of the 200 workers, in absence of GAWU being able to furnish a complete list, the Committee remarked that there was not enough information to comment on the motive behind the dismissals. It did note however that GAWU had provided a list of 60 workers of the 200.

4.) Present Status

The MWU's struggles has not reached a successful end. Many workers left the union during the lengthy processes to secure their labour rights. GAWU continued to engage with international stakeholders including buyers and third-party organisations such as IMPACTT. And while the company made small changes as piecemeal measures, they did not make any attempts to formally recognise the union.

D.) Documents in File

- 1.) Report of United Workers Congress, USA (27.02.2013)
- 2.) Draft complaint letter by the MWU to the ILO Committee on Freedom of Association, dated 08.11.2013
- 3.) Civil writ petition copy
- 4.) ULP complaint to CO Circle 1 (17.06.2015)

5.) GAWU internal document

Case Study 2- Garment and Allied Workers' Union's (GAWU) struggle for registration

(Names have not been anonymised in this case study since the case has been in the news and details of stakeholders involved are already in the public domain.)

GAWU's (continuing) struggle for union registration is an excellent example of the fractured industrial relations system in the Gurugram RMG sector. As an industry-wide union, GAWU was the first in Gurugram to unionise garments workers across factories and units and has led multiple struggles especially during the early 2010's.

The union had applied to be registered in December 2011. It is now almost a decade since the application and GAWU is yet to be a registered trade union. The state labour department that is responsible for the union's registration not only delayed the initial process after the application, it did not follow due process as mandated in the Trade Union Act, 1926. The appeal made by GAWU against the rejection of registration has been pending in the Gurugram labour court for years now. GAWU members suffered loss of work and the entire struggle took a toll on most workers' mental and emotional health and well-being.

Currently the matter related to the rejection of GAWU's registration is ongoing at the Gurugram labour court.

A.) Basic Information

Conflict/Dispute Type: Denial of union registration

Concluded/Ongoing: Ongoing

Year: 2011

Individual/Collective: Collective

B.) Timeline of Events:

Date	Incident
21.12.2011	GAWU application for registration
02.01.2012	Letter from Registrar to DLC, Gurgaon asking for inquiry into the union registration application
09.07.2012	GAWU letter to Additional Chief Secretary, Labour and Employment Department Haryana regarding the pending application
11.10.2012	GAWU files a complaint to the ILO Committee on FoA
21.12.2012	DLC letter on the outcomes of the inquiry into GAWU's registration application
01.01.2013	Rejection letter from Registrar to GAWU
	Complaint letter by GAWU to the ILO Committee on FoA regarding the rejection of application
03.01.2013	Letter from ILO to GAWU stating that they adjourned their investigation of the complaint since they were still waiting for the government's response to their communication.
09.01.2013	Government responds to the ILO Committee on FoA's communication regarding GAWU's complaint
12.02.2013	GAWU files an appeal against the rejection of registration before the labour court
27.05.2013	Written statement of Additional Registrar, TU, Haryana, asking for the appeal to be dismissed along with their reasons
Around mid-	Court proceedings begin on matter

2013	
26.07.2013	Reply filed on behalf of petitioner for GAWU
31.10.2013	Government responds to ILO Committee on FoA's communication
13.03.2015	Evidence of Ashok Kumar and Anannya Bhattacharjee on behalf of petitioner submitted
07.09.2018	Evidence of Labour Inspector through affidavit with arguments maintaining that the appeal should not be allowed.
17.09.20 or 17.01.20?	Court notice asking GAWU to file their statement of claims and their list of witnesses the respondent to file their written statement by the 20.10.20. Additionally, GAWU will also file their rejoinder by 20.10.20.

C.) Case Details (from ILO Committee on FoA reports and available case documents)

The Garment and Allied Workers' Union was formed in the early 2010's. The union originally constituted workers largely from the RMG sector in Gurugram as well as from other linked sectors such as leather industries. Currently, workers in the union are mostly from the apparel manufacturing sector.

The union had formally applied for registration in the state of Haryana in December 2011. At the time of application GAWU was approximately 300 members strong. The application was made by the eight office bearers of the union including six garment workers. The other two applicants including the President of the union and the Treasurer were social activists. The office bearers were elected by the General Body meeting that took place two months before in October, 2011.

1.) Rejection of Application

The Registrar's office took over a year to communicate to GAWU its decision of rejecting their appeal. GAWU made multiple attempts during the year to inquire into the issue and urged the department to hasten the process. They even filed a complaint to the ILO Committee on Freedom of Association in October, 2012.

As per official records¹ the Registrar had forwarded the application to the concerned DLC in Gurugram labour for investigation in January 2012. However, GAWU stated that no such investigation was done, nor did the DLC respond to repeated letters sent by the Registrar's office urging them to conduct the inquiry even as late as June 2012.

Records obtained by GAWU, through the 2005 Right to Information Act (RTI), dated 17 and 29 May 2012, showed that there was no record of the inspection based on which the DLC was required to submit her report. The complainant states that, on 9 July 2012, GAWU sent a representation to the Labour Secretary of Haryana State urging him to inform the union about the status of its registration; but that, so far, it has not heard anything from the Labour Secretary in this regard. – ILO Committee on the Freedom of Association Report No. 368, June 2013

The Registrar's office finally sent a formal communication to GAWU on the registration after a year in January 2013. The letter stated that GAWU's application for registration had been denied and outlined a few reasons for the rejection. The formal communication to the union from the Registrar came after a delay of a year. Not only did this compound the union's struggles and challenges during the period pending communication but the delay also breached the Haryana Labour Policy 2006 mandate that decisions regarding registration of unions are to be finalised within four months of

¹ILO Report #368 (June 2013) by the Committee on Freedom of Association

application. The adverse repercussions of delays on the union's organising efforts and general functioning of industrial relations were also noted by the ILO Committee on FoA in its Report #368 (June, 2013).

The Committee cannot but regret these circumstances and considers that a one-year period for treating a union's application for registration is excessive and not conducive to harmonious industrial relations. It recalls that a long registration procedure constitutes a serious obstacle to the establishment of organizations and amounts to a denial of the right of workers to establish organizations without previous authorization, and that a period of one month envisaged by the legislation to register an organization is reasonable [see Digest of decisions and principles of the Freedom of Association Committee, fifth (revised) edition, 2006, paras 307 and 308]. – ILO Committee on the Freedom of Association Report No. 368, June 2013

Reasons for Rejection

The Registrar's reasons for rejecting the application were mainly based on Sec 4(1) and (2) of the Act that bears implication on the membership composition of the union as well as the status of membership of the applicants. The government argued that the composition of the union (as they had found during their investigation) did not fulfil the 100 members quota as per section 4(1) of the Act. Further they alleged that more than half of the applicants were not part of the union anymore since three were unemployed (one was fired from work while in case of two others the unit had shut down), and that all members had to be workers and therefore a social activist cannot be an office bearer of the union.

Section 4: Mode of registration—(1)Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

(2) Where an application has been made under sub-section (1) for the registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the applications.

However it is important to note that the Act does not specifically mandate that all office bearers must be employed in the industry/establishment. In fact, Sec 22 of the Act has provisions for office bearers to be elected from outside the industry as well. It only states that at least half of the office bearers must be engaged or employed in the industry concerning the union. Sec 22 therefore makes space for others such as a social activist to be an elected representative. Further, even the three applicants who were unemployed (due to unit shutting down and being fired) were in fact 'engaged' with the industry, if not employed, during the entire length of the much-delayed registration process. The company firing them illegally or the unit closing should not be held against them and in both cases the workers were either in the process of negotiating reinstatement or trying to find work elsewhere in the same industry.

Section 22: Proportion of office-bearers to be connected with the industry.—Not less than one-half of the total number of the 1 [office-bearers] of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the 2 [appropriate Government] may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

In an industry such as the RMG sector in Gurgaon, where practice of hiring and firing runs high, it is more than convenient for employers, if this is given due sanction from the government as well by using it against workers when applying for union registration. The practice of frequent illegal terminations is in fact a key reason for the necessity of strong unions². Thus, the closing down of a unit leading to a worker losing their job, or the firing of a worker by the management leading to his unemployment in the industry is due to the systemic inequalities. Using this unemployed status of a worker at a point in time after the application has been made, (even though the worker was employed in the industry during the time of the application), against them to reject the union registration only adds to the exploitative functioning of the system. The reasoning is blind to the plight of workers who are regularly fired on a whim across garment factories and to the specific plight of the two workers who lost their jobs because their company shut down. It places the workers in a catch-22 situation where the very reasons for which they want to unionise are the ones that are holding the union back from achieving a legal recognition.

The ILO Report highlighted this contradiction as well noting the detrimental effect such reasoning may have on the union's ability to enjoy their right to elect their representatives with complete freedom.

In fact, in such cases, the laying off of a worker who is a trade union official can, as well as making him forfeit his position as a trade union official, affect the freedom of action of the organization and its right to elect its representatives in full freedom, and even encourage acts of interference by employers [see Digest, op. cit., paras 408 and 411]...In this context, the Committee observes that section 22 of the Trade Union Act, 1926, as amended in 2001, provides for a certain proportion or number of office bearers to be exempt from the requirement of being actually employed in the industry concerned. The Committee, therefore, cannot ascertain why the changes in the status of the applicants, as invoked by the Government, triggered the loss of their status as union members or officials and gave rise to the denial of the union's registration. - ILO Committee on the Freedom of Association Report No. 368, June 2013

The Committee also highlighted that this situation had much to do with the sheer amount of time that was spent between the application for registration and the final communication of rejection. The delay caused by the department in following the due process upon application for registration can be held responsible for changes that may have occurred within the union membership. In light of the strong push back by the industry against unionisation one can even surmise that this delay is deliberate on part of the government so as to impede GAWU's registration.

2.) Appeal Against Rejection

Subsequently, GAWU following the process outlined in Section 11 of the TU Act, filed an appeal against the Registrar's order of rejection in February 2013. The Registrar had submitted their arguments for dismissal of the appeal that included their reservations on the membership composition of GAWU as well as a few additional reasons.

²In fact, the unit that had shutdown leaving the two said workers unemployed was Viva Global. The company that was also embroiled in its own ongoing dispute with the factory workers over exploitative conditions of work. The shutting down of the unit was an outcome of this dispute and had in fact left its workers in dire consequences. This further highlights the multiple vulnerabilities that workers face and that are often used against them by both the state and the industry. For more information, please refer to the Case Study 12 on the Viva Global dispute.

Reasons for Rejection of Appeal

The first argument raised objections that the appeal was submitted by one person. They argued that it went against the law that requires that in raising appeals against any order, an un-registered union requires all of its members to sign on the appeal. While they argue that by law 'all members' are required to make the appeal, they also state in the same argument that 'at least the seven original applicants' should have made the appeal. This is contradictory to their original argument. The law if it has specified 'all' should anyway not settle even for 'some' members as opposed to one.

Further they go on to interpret Sec 11 of the Act that provides that 'any person' aggrieved with the Registrar's order can in fact submit an appeal, to mean not one person but a 'body of persons'. And goes on to further postulate that this 'body of persons' can only mean 'all the union members'. However, nowhere in the Act or the Regulations is it mentioned that 'any' is defined as a collective entity. And to interpret the Section to mean the whole union would be incorrect.

The second argument again questions the inclusion of social activists in the application and states that all applicants must be employed in the industry.

Additionally, they also raise objections since the other applicants are employed in different establishments and therefore apparently breach the clause that asks for all members to be part of the same establishment/industry. This too is inherently contradictory as it is well known that there are several industry level unions with members across different establishments. Such unions work effectively to influence industry wide practices and protect the common interests of all workers engaged in the industry.

The third argument against the union registration is on an issue that could have been resolved had the union been given a chance to clarify doubts. The union constitution states that membership can be given to workers in the industry from Haryana/all India. The respondent raised objections to this stating that if the union constituency is pan India then the authority for registration lies with the central government and not the state. Additionally, the term industry as defined by GAWU encompassed all sectors dealing with garment manufacturing and allied sectors. It therefore listed out in its constitution garment, leather and leather garment, textile and textile related, home furnishing and other allied industries. The respondent argued that this relates to a range of industries and not one particular industry, implying that members will be drawn across a range of industries and will not have any common grounds of interest.

In the spirit of promoting workers' interest and their right to freedom of association, the office of the Registrar could have asked the union for clarifications and/or given them an opportunity to clarify their position as per Sec 7 of the Act.

The fourth argument referred to the fact that Sec 4(2) was not fulfilled as during the period pending registration, three workers were not employed anymore and one applicant was a social activist and hence not a worker engaged/employed in the relevant establishment/industry

3.) Current Status

According to the last ILO Committee on FoA Report No. 388 (March, 2019) even by November 2017 the appeal was still pending before the labour court. The government had clarified in their communication to the ILO Committee that a date had been fixed for evidence in January 2018 and that the case would then proceed. Even after eight years (since the application for registration) nothing had moved in GAWU's favour. The report also shared that the government in its response had stated that *'the complainant's actions are apparently motivated to create extra-judicial*

pressures to circumvent the law'. Such reasoning stands little ground when the judicial machinery takes years to deliver justice, and instead imposes hardships on those it is meant to protect.

D.) Documents in File

- 1.) GAWU application and union constitution
- 2.) GAWU letter to Additional Chief Secretary dated 09.07.2012
- 3.) Registrar's letter rejecting GAWU's application for registration
- 4.) GAWU's appeal against rejection
- 5.) Written statement of Addtl Registrar at the industrial tribunal
- 6.) GAWU's reply to written statement
- 7.) Evidence submitted on behalf of petitioner
- 8.) Evidence submitted on behalf of respondent
- 9.) Notice to petitioner and respondent to appear for settlement of issues dated 17.09.2020

Case Study 3- Richa Garment Workers' Union (RGWU) registration and subsequent retaliation

The Richa Garment Workers' Union (RGWU) comprised of workers from different units of the factories run by the Richa Group. The factories are run under three companies, Gaurav International, Richa and Company, and Richa Global Exports. The union came into existence in November 2017 and has since then worked for the rights of workers employed in various factories run by the three companies. They applied for their registration on 18.03.2019.

The rejection for registration was based on technical faults that the union could have rectified if given a chance. Similar to the rejection of the Modelama Workers' Union, here too the union was not provided an opportunity to rectify errors made during submission of application.

A.) Basic Information

Company Name and Factory Address: Companies under the Richa Group³ that includes, Gaurav International, Richa and Company, and Richa Global Exports.

Conflict/Dispute Type: Denial of union registration

Year: 2019

Individual/Collective: Collective

B.) Case Details(from case documents)

The RGWU was formed in 2017. GAWU had in the past interacted with workers from various factories under the company and had also represented a few in cases of disputes. Due to their long-standing association with workers from the Richa factories, they were aware of the multiple violations of labour rights that the workers were subjected to. Although the union of workers was finally formed in 2017, however, GAWU had organised workers from different units for different reasons several times prior to that. After raising the issue of minimum wage violations across units, they had successfully organised a protest demo against the company sometime in the mid 2010's.

"Factories under the Richa-Gaurav Company have similar violations across units. And while they maybe complying with some rules such as giving appointment letters and providing ESI/PF facilities to workers, there are many other violations that workers face including non-payment of minimum wages. There is also a practice of firing workers after three years of service. They do this to avoid having to provide certain entitlements and standards to workers once they have provided continuous service for a certain number of years."-GAWU Representative

After about two years, in 2019, the RGWU filed for registration in March. The union was about 140 members strong at this point. The union received no communication within the stipulated four months as mandated by the Haryana Labour Policy, 2006.

The rejection letter was posted six months later without any communication with the union prior to rejecting its resignation on the doubts/errors if any on their application. Like GAWU's and MWU's rejection of registration, here too the Registrar rejected the union's application without clarifying doubts or giving the union a chance to amend errors.

³For the purpose of this report the term Richa Group is used to signify all units under the three companies of Gaurav International, Richa and Company, and Richa Global Exports. In the absence of clarity on the actual ownership of the different companies, splitting of the original parent company etc. it is difficult to delve into the current, exact relationship between the various companies and its units. However, GAWU has clarified that when the RGWU was formed initially, all three companies were under the same ownership.

Reasons cited for rejection:

Bye-laws contradict commonness of interest clause

That the union bye-law (4.1) states that any worker working in any garment manufacturing establishment in Haryana can be a part of the union. Since this implies that the workers of the union will not be under one employer therefore the registration cannot be allowed. Members are required to be employed by the same employer as that creates a common interest for association.

While it is true that the bye-law 4.1 in its last sentence states this. It is also in all probability a mistake made while typing the bye-laws⁴. Since the beginning of the paragraph clearly states that members of the union will be workers who are employed by Richa and Company, Gaurav International and any other company under the umbrella of the Richa Group in Haryana. Other than the bye-law the letter also highlighted that the list of members provided by the union included workers from different employers. **However, none of the 144 members of the union mentioned in the list provided to the Registrar work in any establishments other than that owned by the Richa Group.**

No commonness of interest

The Registrar also states that the companies under the Richa Group are in fact owned by different employers as furnished by the report of the Assistant Labour Commissioner Circle 1 dated 25.06.2019. While the research team did not have access to this report, an online search on the Richa Group indicates that the three companies, Gaurav International, Richa Global Export, and Richa and Company are under different owners who are from the same family. According to a GAWU representative interviewed for the study, the split in ownership is recent and the companies were previously under the same owner. This implies that it is possible that the workers working across units of the three companies will face similar issues and have similar demands. Instead of fragmenting them into smaller numbers, a stronger union can be built by merging workers into one overarching union that cuts across all the units.

Richa Global manufactures high-end fashion garments with units spread across Delhi-NCR and Bangalore. Their leadership team comprises of their Chairman, Mr. Virender Uppal and the two Directors, Mr Gaurav and Saurabh Uppal.

Source: <https://www.richaglobal.com/overview.html>

The Richa Group has two companies listed on their website: Gaurav International (est. 1983) and Richa and Company (est.1977). Both are led by the MD, Vijay Uppal and Jt. MD Vinay Uppal.

Source: <http://www.richagroup.com/bod.aspx>

In fact, in June 2018, in a letter addressed to the Asst.LC, (add letter to this case also) GAWU had outlined in detail the multiple counts of violation of the Minimum Wages Act by Gaurav International. And they had pointed to the fact that workers from other units of the Richa Group were facing similar issues since all these companies were under the ownership of the same family. The data was based on rigorous research undertaken by GAWU into the payment practices of the

⁴ The team tried to contact a union representative for clarifications on this but was unable to speak to anyone

multiple companies under the Richa Group. And as such more than amply answers the basis of organising for common interests.

Registered office not in Haryana

The union in its application submitted a Haryana address as its office location. In its bye-laws on the other hand, two addresses have been shown, along with the first Haryana address, another one for the union head office has been shown in Delhi.

Citing that the Registrar, Haryana has no jurisdiction over unions based in Delhi, the department added this to their list of reasons for rejection. They upheld the Delhi address provided over the Haryana address since they reasoned that nowhere in the general body meeting minutes has the union approved of a new Haryana address, the meetings have been recorded as taking place in Kapashera, Delhi.

This again falls under an inquiry area which the registrar following due process could have asked the union for clarifications. And moved ahead with a decision only after the union had a chance to explain/rectify the issue.

C.) Documents in File

- 1.) RGWU application for registration, dated 18.03.2019
- 2.) Copy of letter of rejection (dated 10.9.2019) received as RTI reply

II. Illegal termination of service (largely of individual workers) and shutting down of units

Case Study 4- Sanjay: Terminated after return from leave

Sanjay had been working in various units of Modelama since 2005 as a casual labourer, every time in stints, after which he would leave for his village. In June 2013 he had finally joined a Modelama unit as a Checker on a regular post. In April of 2014 he had to leave for his village suddenly due to his wife's illness. He left in a hurry and had no time to inform the factory. After he returned, about a month later not only was he not permitted to re-enter the factory but also not given his earned wages for the month of March. The latter, clearly implies employment of harassment tactics by the management.

The case filed by his authorised representative was not settled at conciliation and neither did it get referred for adjudication. A second case was filed by his lawyer, which finally resulted in a settlement of Rs.11,000 paid to the worker without reinstatement.

Key Points in the Case:

- failure of resolution through informal means
- biased and hostile attitude of labour department officials towards the worker
- management use of threats and scare tactics to dissuade worker from fighting the case
- long process of final resolution

A.) Basic Information (Case Related):

Worker: Sanjay

Gender: Male

Age: 46

Caste: SC

Local/Migrant: Migrant

Company Name and Factory Address: M/s Modelama Exports Plot No.201, Phase I Udyog Vihar, Gurgaon

Post: Final Checker

Dispute Type: Illegal Termination (first filed under Section 2(a))

Concluded/Ongoing: Concluded

Year: 2014

Individual/Collective: Individual

B.) Timeline of events:

Date	Incident
19.06.2013	Appointed as Checker
02.04.2014	Left for his village to tend to his wife's illness. Company was not informed
14.06.2014	Termination date (as per Demand Notice filed on 03.09.2014)
03.09.2014	Demand notice filed under 2(a)

18.09.2014 to 09.12.2014	Conciliation sessions resulting in failure of conciliation
	Case settled through second claim. Worker received compensation amount of Rs.11,000

C.) Case Details (case documents and worker’s interview):

“I used to fight a lot with the supervisor about the impossible targets they used to give me and that is why I was fired. Every little detail of the garment has to be checked, the stitches on the collar, the cuffs, even the smallest of detail. How many can one do in one hour? Even if I am asked to check 60 pieces, can I check one piece in one minute if such detailed checking is required?”

1.) Beginning of Conflict

Sanjay had worked in Modelama factories as a Helper from 2005 onwards in short stints. On each occasion he would work for a few months, and go back to his village for work. Before he finally settled into a more long-term arrangement with the RMG Sector, he also worked as a security guard in Mumbai, and as a construction worker.

By 2013, he felt the need for a more secure source of income through a stable job, and thus re-entered the RMG sector as a Checker in a unit of Modelama in Gurgaon.

In March 2014, his wife fell seriously ill in their village. He rushed back home when he received the news and had no time to inform and wait for company approval. He returned to Gurgaon and reported back at work after a month. Due to his uninformed leave, his In-charge refused to take him back at work. Not only was he denied work, his earned wages for the month of March which he had not collected before rushing of home in a hurry was also denied to him.

Realising that pleading to be taken back at work was of no use, Sanjay in order to at least collect his wages decided to then ask the company to accept his resignation letter. However, this too was denied by the In-charge, leading to further harassment of the worker.

“There was no option. I knew I was not going to be given any work. So unless I resigned, I would not get my money. They had my card with them and withholding of card hold implies withholding of payment.”

The company did not make it easy for him to resign. After several back and forth, over 3-4 days between the Personnel Department and the In-charge, and even the Personnel Manager of the company’s main branch (Plot 105), his resignation was finally accepted. However, his dues were still not paid. The company owed him earned wages for 27-28 days of work (@Rs. 5600 per month) and overtime payment.

“They had to pay me for the days I had worked in March and also for over 100 hours of overtime duty that I had done. But they were just not giving me my money.”

2.) Attempts at Resolving through Informal Means

Sanjay was a member of a garment sector union in Gurgaon. In the past while he was working in Modelama, a co-worker had introduced him to the union representatives.

“He (the co-worker) had told me that I should join the union because then I will have some support. And people like my In-charge will not be able to exploit me. So I thought since I am alone here, it will be good to be part of something like this. At that time I joined but I did not

really think much about it, at times I used to attend meetings. But that is all. Then when this happened with me, and my payment was stuck, I decided it was time to approach the union.”

Compounded harassment of worker by management

The union advised him to first exhaust all chances of retrieving his payment through discussions and conversations with the people concerned in the factory. He continued to engage with the Personnel Manager requesting him to release his payment. However, it did not get resolved and he found himself harassed further. At one instance he was called to the company to receive his payment but was refused again after he made the trip.

After a month and a half of the running around, his case was finally registered with the Gurgaon Labour Department.

3.) Conciliation

The lawyer representing the worker filed a Demand Notice under Section 2(a) of the ID Act, stating illegal termination of the worker. A demand for reinstatement of the worker as well as payment of all the dues was submitted.

Biased Labour Department Officials

At the outset of the process, Sanjay felt that the institutional machinery was biased against him.

“The CO refused to take up my case and used to constantly glare at me. He said. ‘this is a fabricated case’. I was not surprised; it is common for department officials to serve the interests of companies.”

The sessions went on for a while with no seeming resolution. After about four sessions over a span of three months, the CO raised a report for failure of conciliation and the file was sent to Chandigarh for referral to the labour courts. Unfortunately, his case was not referred to the labour court. Sanjay had spent close to 8/9 months now trying to claim his dues.

Company Scare Tactics

In order to intimidate the worker, the company had threatened his brother who was also employed in the same unit. A few company representatives interrogated him in a locked room asking for his brother’s whereabouts. They took away his mobile and ID card and threatened him. However, they were not able to achieve much through this route since his brother remained undaunted and even challenged to file a separate complaint against the company if they continued in the same vein.

4.) Final Settlement

“The union supported me that is why I got my money. If there was no GAWU I would not have got my money. What can one worker do on their own?”

After the case did not get referred to the courts, the worker’s lawyer filed a new case with the Labour Department. This process took about five months before final settlement.

After he had filed a second case, the company management had reached out to him, asking for a settlement and withdrawal of the case. Sanjay in response asked for the dues along with the wages for the one and a half months that the company had left him hanging without payment. The company did not agree with this demand.

The entire process of resolution took the worker about a year and a half. He received Rs. 11,000 in total as the final settlement money. This he felt was more than what he had initially calculated

(Rs.9000) based on his wages for the month of March 2014 and overtime money. He was asked to pay 10% of the total to the union.

“My lawyer told me that they’ll get me double of what my salary was as compensation and that I should settle at that. This did not include my overtime money; if it did then it would have been much more. But I thought it was a good deal since anyway only my salary and the OT money was coming to only Rs. 9000.”

It is important to note here that the actual amount of money that was legally owed to the worker would have been much more taking into account the double rate OT payment and the March wage.

D.) Documents in file and their contents in brief:

- 1.) Demand notice filed under 2(a) of ID Act dated 03.09.2014
 - That the worker had gone on leave to attend to his wife in the village, who was very ill
 - That after the worker returned, he was terminated without citing any reason
 - Demanded for reinstatement of and payment of all dues to the worker
- 2.) Conciliation proceedings
- 3.) Letter of authority given by worker to his lawyer for representation

Case Study 5- Arjun: Terminated for unionising activities

Arjun was illegally terminated due to his involvement in union organising activities. The worker along with two other workers were threatened and forcefully made to sign on blank papers and payment receipts. The worker raised a dispute under the ID Act with the help of lawyers from the Garment and Allied Workers Union (GAWU) The case was referred for adjudication after failure of conciliation. However, the worker lost the case at the labour court mainly because the court upheld the resignation letter that the worker had been forced to sign, and accepted the payment slip of full and final dues. The court ruled that if the worker had in fact been abused and threatened, then he would have complained to an authority about the same. Since there was no paper trail of any complaint made, the case of intimidation and forced signing of papers was dismissed.

Similar tactics were used by the company to dismiss all the workers that had in the two years preceding this event started forming a factory level union with GAWU's support.

Key Points in Case:

- victimisation of worker for unionising activities
- illegal tactics used by management- forcing workers to sign on blank papers; threatening and intimidating workers
- worker lost the case at adjudication
- long process of dispute resolution

A.) Basic Information:

Worker: Arjun

Gender: Male

Age: 34

Caste: OBC

Local/Migrant: Migrant

Company Name and Factory Address: M/s Magsons Export Plot No. 41-42, Phase IV, Udyog Vihar Gurgaon

Post: Sticker Man

Dispute Type: Illegal Termination and Unfair Labour Practices

Year: 2014

Individual/Collective: Individual

B.) Timeline of events:

Date	Incident
11.03.2011	Worker appointed as sticker man at Magsons Export, Plot 41-42
05.09.2014	Worker 4C and In-charge AB engage in a fight after which the former is called into the personnel department and fired. He is asked to take only his last month's salary. Worker 4C demands notice payment as well as retrenchment compensation, but is denied. He later speaks to Arjun who is an active union member and who advises him to ask for all his dues. In charge X.Y. hears this conversation and complains about Arjun to the personnel manager C.D.

	<p>C.D. fires Arjun citing his affiliation to the union as a reason and says it will teach him a lesson</p> <p>After their shift was over, at 5:45pm Arjun and a co-worker (Worker 4B) were detained and threatened and forced to sign on blank papers. They were told anything could happen to them if they did not sign on the papers. The workers signed under threat and intimidation.</p> <p><i>"If you don't sign today, anything can happen to you"</i>– Management official</p>
01.10.2014	Demand notice sent-Illegal and unjustified termination and unfair labour practices under schedule V
28.10.2014	Conciliation session 1
05.11.2014	Conciliation session 2
13.11.2014	Conciliation session 3
19.11.2014	Conciliation session 4
21.03.2015	First date of appearance as per referral letter
09.12.2015	Worker evidence by way of affidavit
10.03.2016 (attested)	Evidence of respondent, C.D. Personnel Manager, as affidavit produced in the court of Presiding Officer 2 Labour Court 1 Gurgaon
13.07.2016	Award under Presiding Officer 1, Labour Court 1 Gurgaon

C.) Case Details (Case documents and worker's interview):

1.) Beginning of Conflict and Informal Resolution Efforts

Arjun was terminated illegally on 05.09.2014 as a backlash for his involvement in union activities. He had joined Magsons on 11.03.2011 as per the demand notice filed.

He had advised a co-worker (Worker 4C) who had been terminated on the same day to ask for all his dues including notice payment and retrenchment costs. This triggered backlash from the management who detained him and another co-worker, Worker 4B after their shift had ended that day and forced them to sign on blank papers through threats and intimidation. They were told that they were fired.

He was introduced to GAWU by Worker 4B in 2013 towards the end of the year. Workers in the company had not been paid their due bonus and they had complained to GAWU about this issue. With GAWU's intervention this matter was resolved. However, a few of the workers including he had come under the management's radar after this issue.

"The boys in our union informed the company about our organising activities.")

On the evening of 5th September 2014, he and two other workers were detained by the management after work hours till about 10pm. During this time, they were threatened and intimidated and asked to sign on blank papers and a payment receipt.

(None of the other union members in the factory knew about this when it was happening).

Worker 4C had earlier got into a fight with the in-charge who had asked him to take the fabric for washing. He had refused saying it was not his job. Arjun had intervened and the in-charge had remarked: *"union baazikartahai?"*.

Later that evening, all three workers were called into the personnel room. An atmosphere of intimidation was created by the management.

"We were about to punch our cards and leave when C.D. and Dada stopped us and asked us to go back inside to talk to them. Then they asked us to sign on a paper and that we were fired. I asked them what was the problem? So they said we don't need your services anymore, that's all. I said that I won't leave, so then they said in that case anything can happen. As in they can beat us up also."

"We were made to stand inside the personnel till very late in the night. All the accounts staff was there, the GM of the company. About 20 people from the company and the 3 of us. There were two people at the gate, Dada was there. Even if we were stepping out to go to the bathroom, someone would accompany to check what we were talking about."

They were given permission to step out of the cabin after a couple of hours and make a call, this is when they called Lawyer 1 of GAWU. A few of the management people also went with them.

"I spoke to them (Lawyer 1) at night on the mobile and they asked us to sign on the paper since we were being threatened and said they'll figure everything out later. They said that since it was very late, they wouldn't be able to come to help, so we should sign the papers. So we signed."

They were finally let go at about 9:30pm in the evening. Arjun and the other workers signed on the papers (blank paper and payment receipt). They were also given a month's salary in cash. It was only the three of them at that time.

"We were very scared; the company sends goons after workers. And these are local goons."

The next day Arjun had spoken to Lawyer 1 and narrated the events to them. The lawyer in turn spoke to the owner of the company. This conversation did not happen in front of Arjun. But later he was told by the lawyer that the owner had agreed to take him back in service. Lawyer 1 advised him to go back to the company and start working and also to return the money that was paid to him. (Arjun said he was paid a total of about Rs. 17,000. The other two workers were also paid about the same amount).

About 10-15 days after, Worker 4B and Arjun attended a meeting with the owner along with Lawyer 1 and a GAWU representative. At this meeting the owner refused to take the workers back and instead said he'd pay them some more money. The meeting took place at a mall in Gurgaon.

(Worker 4C left after signing the papers that night as he was scared of further intimidation. He was not part of the union but used to mingle with union members like Arjun and 4B).

"I told him that we should pursue a case against them. But he said they can send goons after us and he did not want to get beaten up by them."

2.) Demand Notice:

A demand notice was sent to the company on 01.10.2014 by Lawyer 1, representing the worker. The notice stated that Arjun was wrongfully terminated and also stated that the management practised unfair labour practices under Schedule V of the ID Act as they had fired three workers on the same day.

The management denied all the claims made in the notice and said that this was a ploy to harass and extract money from them. They used the blank paper signatures made by the workers to create the narrative that the worker had resigned wilfully and had received his full and final dues. Two documents were fabricated, a resignation letter and a receipt for full and final payment of Rs 17,373 bearing the worker's signature.

Once the case was filed, the management had approached him again to offer about Rs.80,000 to take back the case. But Arjun had refused the offer.

The management had also tried further intimidation tactics.

"After we had filed a case against them, they sent goons after us. They used to ambush us on the road and ask us why we had filed a case against the company? These were local goons."

"We used to tell the sangathan about all of this. But they never took any action."

3.) Conciliation:

No settlement was arrived at during conciliation. As per the conciliation report of the ALC Circle 2, four sessions were held between 28.10.2014 to 19.11.2014 that were attended by both the management and the worker but no settlement was reached. The management stuck to their claim that the worker had resigned of his free will and had received his dues, showing the fabricated documents as evidence. The worker denied having resigned wilfully and did not admit to signing the documents wilfully or having received any dues.

A written statement was submitted by the management to the CO denying all the claims of the worker and refusing to provide any relief to him.

4.) Adjudication:

The worker was represented by a different lawyer by the time the adjudication process began, since the previous lawyer had stopped working with GAWU.

The CO raised a failure report which was then taken up by the government and the case was referred for further adjudication. During the trial, the signed documents provided by the management were upheld by the court as proof that Arjun had in fact resigned wilfully and had not been coerced. During cross examination, when asked, he had admitted that the signs on both the resignation and the payment receipt were his. Additionally, the court felt that had there been any coercion or intimidation, he would have complained to relevant authorities regarding the issue. Since no such complaint had been made, therefore the court ruled against Arjun and in favour of the management.

Court Proceedings:

About three months post conciliation, the letter for adjudication arrived from Chandigarh. Arjun appeared on the first date.

"On the first day we were shown a file and asked whose file is this? There was no name on this file, so I said I didn't know. After that they claimed that I was being forced to file the case."

"They also showed us those papers we were made to sign on. But we repeated that we were threatened and intimidated and that is why we signed."

The worker was unaware largely of what happened during the court proceedings.

"The Judge was talking in English with both our's and the management's lawyer. I couldn't understand what they were saying, so I asked my lawyer. But then I was told I didn't need to know, they will figure it out."

He was represented not by Lawyer 1, but by Lawyer 2 during the adjudication. Towards the end of the case the lawyer had again changed, this time he was represented by Lawyer 3.

"I got a call that my lawyer was leaving, to pursue further studies, that is when I knew that I had lost the case."

Lawyer 1 had asked him not to file an FIR. *“I had thought about filing an FIR but Lawyer 1 told me that it was too late. Right after the incident we did not file the FIR because Lawyer 1 had spoken to the owner who had promised to hire us back. That is why at that time we didn’t complain.”*

About a week after they lost the case, Arjun wanted to appeal further. But his lawyer said there was no use in appealing to the high court as the case will not stand. Initially Lawyer 3 had agreed to appeal to the high court, but later Arjun feels that the union representatives possibly dissuaded him from pursuing the case.

Worker’s perspective on the outcome of the dispute:

Arjun feels that the union let him down. He shared that a GAWU representative had gone to meet the management a few days before the final hearing. Workers from the factory had informed him of this meeting. He feels that he should have been given an intimation of any meeting that the union was conducting with the management. He shared that even on repeatedly asking, neither Lawyer 3 nor the union leader told him what transpired in the meeting.

They were the first factory union members who were removed from work. One of the factory union members betrayed them and had become a management informant. This was why the management managed to break the union.

Other members were gradually terminated resulting in the complete elimination of the factory level union that had been formed. One of their co-workers, was intimidated and threatened, but GAWU did not take up the case. Later this worker left. Other members were similarly threatened after which they too left.

After Arjun and Worker 4B lost their cases, most of the other workers did not seek further support from GAWU. A few who did fight cases with them, got about Rs, 40,000 as settlement. Some workers also filed complaints and fought cases with other lawyers, outside the union. They got higher settlements of about Rs. 70,000.

“None of the old workers are there in the company anymore. All the tailors are now on piece rate. When we were working, we were all on the company pay-roll.”

D.) Documents in file and their contents in brief:

1.) Case judgment Industrial-cum-labour court 1

The court considered the following facts from the worker’s AR:

- 05.09.2014-Illegally terminated. Salary on date of termination was Rs. 6250/month.
- The Authorised Representative (AR) for the workman pleaded that the termination was due to his participation in trade union activities.
- No charge-sheet was given to the workman nor any departmental inquiry was conducted before termination (*due process not followed*)
- No notice was given, no pay was given in lieu of notice, nor any retrenchment compensation under Section 25-F of the ID Act
- Asked to forcibly sign on blank papers
- Had worked for more than 240 days before termination
- Was unemployed post his termination
- Claim filed was for reinstatement in service along with full back wages.

Respondent’s claims:

- That worker had not been terminated but had resigned on 05.09.2014 of his own volition
- Had asked for the release of his full final payment of Rs. 17,373
- Had also signed the final settlement receipt
- Had relinquished his rights to reinstatement
- Was gainfully employed during the dispute period and therefore was not entitled to any relief
- The AR for the respondent cited these two rulings:

Judgement against Arjun

The worker himself was a witness in the case and during cross-examination had admitted that the document for full and final payment had his signature on it. The same document also said that he was resigning from the company voluntarily. Based on this, ie., his own admission, the court therefore ruled that Arjun had resigned voluntarily and had received his full and final settlement.

The argument that he was forced to sign on blank papers was overruled by the court as the court judged that if he was forcibly made to sign on the papers then he would have immediately registered a complaint with relevant authorities. The judgement specifically states that he had not filed any F.I.R in regard to this matter. *(Arjun in his interview said that Lawyer 1 dissuaded him from filing a police complaint after he was intimated and forced to sign on the blank papers. The lawyer advised him that since the owner had initially agreed to take him back in service, it was best to not lodge any complaint. However later, the owner refused to employ him again. And by then, according to Lawyer 1, it was too late to file an FIR.)*

2.) Evidence Documents submitted in court:

- a) R-1 Demand Notice (01.10.2014)
 - Illegal and unjustified termination and unfair labour practices under schedule V of the ID Act
- b) R-2 Copy of signed resignation presented from respondent's side *(in case file)*
- c) R-3 Copy of signed full and final receipt presented from respondent's side *(in case file)*
- d) R-4 Written comments of management (signed by Personnel Manager C.D.) submitted before Labour Officer Gurgaon during conciliation proceedings
 - States that the demand notice, dated 01.10.2014, does not stand since the worker was not dismissed, terminated or retrenched.
 - He was given his full and final payment as per his demand and had resigned voluntarily.
 - That the demand notice was only to harass and extract more money from the management
 - That as per company records, the date of appointment is 02.04.12 *(the AR for workman had stated that the date of appointment was from 11.03.2011)*
 - That designation and monthly pay are as stated by the workman
 - That a settlement had already been reached between the worker and the company
 - That the workman admitted to his signatures on the resignation letter and the full and final payment receipt during conciliation
 - That the demand notice is 'false, fictitious, and malafide'

- That the demand notice should be rejected or a strong recommendation be made to the government that the demand notice is not fit for reference to the labour court for adjudication

3.) Evidence of respondent, C.D., Personnel Manager as affidavit

- Services of Arjun were never terminated
- He received a total of Rs. 17373 (Rs. 5268 as salary transferred to bank and Rs. 12105 as cash) as full and final payment
- Produced copies of the 'signed' resignation letter and full and final payment receipt
- Confirmed that ARs of both workman and respondent were present at conciliation proceedings and that a written comment was submitted to the LO, Gurgaon (Assistant Labour Commissioner, Circle 2, Gurgaon)

4.) Statement of Claims before the Presiding Officer, Labour Court, Gurgaon

- That Arjun had been terminated without notice
- That he had made no mistake during his work and that the management had called him to forcefully take his full and final payment and then terminated him
- That he was forcefully made to sign on a blank paper
- That he had already completed 240 work days in the company and was guaranteed all labour rights under the ID act and all other labour laws
- Claimed unfair labour practice under Schedule V of ID Act, as two other workers were also terminated with him: Worker 4C and Worker 4B
- That the management had also not paid the worker salary and overtime money in time as prescribed by the law with intent of criminal misappropriation of worker's salary and its interest.
- That the worker was repeatedly called to the factory for payment but not paid the money and harassed him mentally and physically
- That the management harassed and threatened him when he asked for his wages
- That he is unemployed since his termination (as of 09.12.2015 from affidavit submitted)
- Prayer:
 - That the worker be reinstated to original service with full back wages and all other service benefit
 - Direct the management to pay Rs. 10,000 as legal cost and cost for all other sufferings
 - Pass an exemplary order against the management to implement all statutory labour laws and social securities laws in the company premises for the workman

5.) Failure of Conciliation Report Part 1

- Stated that the demand notice said that the date of appointment of the worker as sticker man was on 11.03.2011
- He was not given any appointment letter or proof of employment on joining
- Other details regarding the termination
- Management was called for conciliation sessions on and were present for 28.10.2014, 05.11.2014, 13.11.2014 and 19.11.2014.

- A written comment was submitted by the management to the CO against the demand notice
- 6.) Referral for Adjudication, first date, 23.03.2015
- 7.) Evidence by way of Affidavit-Worker, 09.12.2015
- Describes the events of the evening when the workers were terminated including the intimidation and threats, they faced by the personnel department
 - States that the workers were scared and therefore did not complain to any authority regarding the issue
 - That the worker denied the management's claim that he wilfully resigned and also denied receiving his full and final payment and this can be proven by checking the report of the ALC-2/CO
 - Additionally, stated that the worker was issued a second ID card with the number 099 which was forcefully taken from him the day he was terminated. His earlier ID card had the number 081.
 - That he is unemployed since his termination
- 8.) Copy of ID old ID card
- 9.) Copy of Wage Slip for December 2013 with New Customer Code and Salary Details
- 10.) Copy of Pass Book
- 11.) Written Statement of Management against Demand Notice (submitted in Labour Court 1)
- Denial of almost all claims made in the demand notice and request to dismiss it

Case Study 6- Riaz: Terminated after return from sick leave

Riaz had been working in Modelama for about four years. He was terminated by the management under the pretext of leave of absence after he had taken sick leave for ten days. As the worker was aware of the presence of a union in the area, he approached them for advice. A dispute was raised under illegal termination and the demand notice included non-payment of wages. It was settled through conciliation. However, the implementation of the agreement disadvantaged the worker greatly as it caused a break in seniority for the worker implying that he lost all his accumulated gratuity benefits.

Riaz who had asked his legal representative to pursue another case against this his complaint had been registered and that the case would at some point be taken up by the Labour Department. Since 2015 he had been waiting for his due justice. It was during the course of this interview that it transpired that in fact there is a chance that his LR had not filed a second complaint.

Riaz's LR could not be contacted for further information regarding this case. However, Advocate C who was also present during Riaz's case shared that the second issue could have been fought as an unfair labour practice since it is a case of victimisation of the worker after having filed a dispute against the management. They were unaware of why Riaz's LR did not pursue the case.

Key Points in Case:

- management tactic to break seniority and avoid gratuity payment
- worker fearful of management from past experiences of threats and intimidation tactics used by management
- settled through conciliation
- agreement is faulty as it does not mention reinstatement with no break in seniority
- management uses this to its advantage and while it reinstates the worker, a new ID card is provided to the worker with the new joining date
- worker is left without any recourse to challenge the faulty implementation since his AR did not file a second case (*unlike in case of Sukhbir (Case Study 8), below, who fought through a different lawyer*)

A.) Basic Information (Case Related):

Worker: Riaz

Gender: Male

Age: 40

Caste: OBC

Local/Migrant: Migrant

Company Name and Factory Address: M/s Modelama Exports

Post: Helper

Dispute Type: Illegal termination and non-payment of wages

Concluded/Ongoing: Concluded

Year: 2014

Individual/Collective: Individual

B.) Timeline of events:

Date	Incident
01.09.2010	Worker joined the company as Helper. Monthly salary: Rs.5548
15.07.2014	Worker went on sick leave. Management granted him leave and specifically asked him not to fill the leave application.
04.08.2014	Worker terminated after he returned for work
03.09.2014	Complaint filed to the CO under Non-Payment of Wages and Illegal Termination of Worker
09.12.2014	First conciliation date
18.12.2014	Second conciliation date
30.12.2014	Settlement through conciliation. Worker was reinstated and paid a settlement amount of Rs. 6565 (But this was much less than the total dues that was actually due to the worker from the time he was terminated)
05.01.2015	Date of re-joining as per agreement

C.) Case Details (Case documents and worker's interview):

1.) Beginning of Issue

Riazhad joined company in September 2010, and had been working in the particular unit as a Helper. Around July 2014, he went on leave for 10 days due to an illness. His, In-charge granted him verbal permission for leave. As he was aware of the formalities in applying for sick leave, he had duly filled in his application form. However, his In-charge refused to accept the leave application and instead asked him to go on leave informally, assuring him that it would not affect his employment.

"I first went asked my In-charge for leave because I was not well. He agreed. Then when I went with my leave application to him, he tore it up. Then he said I am not signing on your leave form. You go home and come back to work I'll accept your leave."

Things changed for him however after he came back from his leave. The same In-charge who had earlier verbally granted him the sick leave, refused to keep him back at work and instead sent him to various other departments to seek for work.

"I was sent to the washing department, to the sampling department but everywhere the in-charge said there was no work available for me."

Thus, not only was he removed from his original post without any reason, he was also thrown around various departments without any management official formally intervening to oversee the process of placing assigning an employed worker to a new post.

Management tactic to break seniority

The In-charge's refusal to accept the worker's formal leave application is not an isolated phenomenon. The practice of following informal, verbal agreements on leave provides leverage to the management. Often, it is used as an excuse to fire employees citing leave of absence from work. In this case, since the worker was already applying for a long leave, it was going to be easier for the management to terminate him in the absence of a formal leave application. It is also pertinent to highlight that the reason the company may have wanted to terminate him was because the worker was about to complete five years and enter into his fifth year of employment, at the end of which he would be eligible for gratuity benefits. To avoid paying gratuity, many companies either terminate workers on their 4th/5th year of employment, or re-hire them with a break in their seniority.

2.) Approaching the Union

Riaz was aware of a union that was active in the area. He approached them to fight for his case. A while back, the union had intervened when many workers from the factory had been terminated illegally without any notice. He was therefore confident that the union could also help him fight his battle.

“I knew of the union. When workers had been fired from our company for being involved in unionising activities, they had held protests and intervened. So, I had made up my mind that I will approach them and lodge a complaint against the factory.”

With the aid of union lawyers, a complaint was filed to the CO in Circle 1 of Gurgaon of illegal termination and non-payment of wages. The complaint outlined the unjust manner in which the worker was terminated after he came back from a verbally sanctioned leave, highlighting the refusal of his senior to accept a written leave application. It also mentioned the non-payment of his earned for the days, in which he had worked, in the month of July, 2014.

3.) Conciliation

“It is very common in this company to kill workers and throw their bodies in the gutter at night.”

After the first session of conciliation, the HR manager agreed to hire Riaz back into the factory. However, during the talks, he also asked the worker to meet him separately. The worker however refused to meet him alone, and at the conciliation session shared that he was fearful of a meeting without his lawyer. He was aware of an incident in the past involving the death of a worker and the management’s cover-up of the incident and feared that if he met them alone, he may end up with a similar fate.

“My lawyer said they’ll talk to the HR manager and settle the issue. But later, on the phone apparently, he changed his stance and refused to take me back. We had to again go to for another session.”

During the second conciliation session, a management representative had approached them with what Riaz could guess were agreement papers with terms that he could not decipher as they were written in English. His lawyers checked the documents and according to the worker, agreed to one and dismissed the other claiming that it was not what they can agree on. The representative also spoke to the worker, and assured him of fair treatment.

“At that meeting CR 1 (a company representative) and another tall man had come from Manesar. It was here at this meeting that we all had tea and spoke and then this tall man assured me that I can go back to work at this factory and nothing will happen to me.”

Lost in Translation

There have been instances during interviews with workers where language barriers have been mentioned. In another case, a worker had mentioned that during court proceedings of his case the two lawyers representing him and the management had spoken in English between themselves and he could not therefore understand what was exchanged between them.

While there is no reason to assume malpractice in all such cases where stakeholders converse with each other in a language unknown to the worker, however it is also true that it might lead to perceptions of mistrust and suspicion in the worker about the interests of the people involved. In a reality where workers are structurally pegged to be at the short end of the stick, pro-active measures to avoid further alienation of workers is

necessary. Especially in case of the worker's authorised representative, who is the one thread of support that they are hanging on to.

On the third date for conciliation, an agreement was signed whereby Riaz would be given a compensation cheque of Rs. 6565 and was reinstated with a joining date of 05.01.2015. **The agreement did not include a clause on continuing seniority.** The compensation amount did not include the six months of unemployment post termination.

4.) Post-Settlement

The situation had not completely been resolved even after the conciliation agreement. On the day the worker was asked to re-join the company, instead of going to his workstation, he was taken into a cabin and made to sit there for hours. He was not given a clear answer even after he repeatedly questioned the company staff.

The worker reached out to the union lawyer again who possibly spoke with the company management after which a few officials along with CR 1 came to speak with him. He was told that while he has been hired back, his unit was now being changed to a different one. Riaz was slightly perturbed by this change in units and shared his concerns with the management regarding change in ID card and therefore seniority. CR 1 assured him that he would continue on his old ID card and the unit change would not affect his seniority.

"I asked them why are you shifting me to another unit? And told them that if they changed my ID card then I will see to it that they pay for it. But CR1 told me to trust him and that the ID card will not be changed and then said, first you save your job then you can do whatever you want."

Worker Tricked by Management

Although he was assured that there will be no break in seniority, the worker was issued a new ID card with a new year of joining: 2014. He was also transferred to a new unit.

"CR1 told me this ID card anyway does not mean much. Your seniority remains, this is just a card that gives you entry into the factory, nothing else."

Riaz was clearly tricked and without processes that raise awareness among workers of the implication of different documents, it is difficult for workers themselves to understand the importance and the legal pertinence attached to each of them.

The worker spoke to his lawyer explaining the situation and that he wished to oppose the transfer of unit as well as ask for his seniority since he wanted his gratuity money. However, during the interview for this research, it transpired that the worker may have been in the dark about the steps taken by his lawyer regarding filing of a second case. It may be that a case was never lodged on behalf of the worker since he has not heard from the Labour Department in the last six years. The team was unable to contact the lawyer for this case for more information. But it is clear that the worker has been under the illusion that a case had been filed and that at some point he would be getting the justice he was waiting for.

D.) Documents in file and their contents in brief:

- 1.) Complaint letter for illegal termination and non-payment of wages dated 03.09.2014
 - That the worker had been employed by the company on 01.09.2010
 - That he had gone on sick leave for ten days from 15.07.2014 after being granted verbal permission by his senior

- Upon returning however he was terminated without reason on 04.08.2014
 - That he was not paid his earned wages for July and had in the past not received his wages on time either
 - Demand for reinstatement of worker with continued seniority and payment of all dues
- 2.) Worker authority letter for representation by lawyers
 - 3.) Management authority letter for representation
 - 4.) Conciliation proceedings
 - 5.) Conciliation agreement
 - Payment of Rs. 6565 to worker
 - No clause on retaining seniority

Case Study 7- Sukhbir: Fired after refusal to re-join work on a new ID card

Sukhbir had been terminated unjustly by the management. They had asked him to complete an unrealistic target which when he was unable to finish, was used as an excuse of incompetency to fire him. He approached the union which helped him file the case for conciliation. A settlement was reached at conciliation where he was to be reinstated with no break in seniority. Upon joining he was transferred to a new unit infamous for its abusive and exploitative behaviour towards workers. Refusing to work there, the worker approached the union once again for help, however he was told by them that it was within the company's rights to transfer a worker if required.

He finally approached a private lawyer who filed a case for full and final settlement after which Sukhbir left the company and joined elsewhere.

Key Points in Case:

- Management practice of changing ID cards of workers to break continuity of service
- Conciliation agreement includes a clause of retaining seniority (*unlike in the case of Riaz*)
- Implementation of settlement not to worker's satisfaction
- Victimisation of worker by management post settlement terms in favour of worker
- Inability of workers to take up such issues of victimisation
- Alternative strategy-full and final settlement (*unlike Riaz*)

Sukhbir and Riaz's cases are similar in the respect that in both cases after settlement, the implementation was not to the worker's advantage. In both cases the workers were transferred to a different unit from their previous one and in both cases they had approached the previous ARs to fight new cases. Sukhbir was finally successful through another lawyer, while Riaz was not.

A.) Basic Information:

Worker: Sukhbir

Gender: Male

Age: 42

Caste: General

Local/Migrant: Migrant

Company Name and Factory Address: Gaurav International Plot No. 506, Udyog Vihar Phase III, Gurgaon

Post: Tailor

Dispute Type: Demand Notice under Sec. 2(a) for Illegal Termination of Worker

Concluded/Ongoing: Concluded

Year: 2014

Individual/Collective: Individual

B.) Timeline of events:

Date	Incident
12.03.2012	Appointed as tailor (Production Department)
13.09.2014	Terminated from work

16.09.2014	Demand notice filed under sec 2(a) of ID Act for illegal termination of worker
11.12.2014	Conciliation settlement- Worker to be reinstated on 01.01.2015 and is not eligible for due wages between the period of 13.09.14 to 31.12.2014
01.01.2015	Transferred to a different unit upon joining work. Worker refused and did not go back to work
Post January 2015	Fought a second case for full and final settlement through a different lawyer. Received Rs. 43000 as settlement amount.

C.) Case Details (Case documents and worker's interview):

"Justice is delivered but to people who have time and money or who earn enough to be able to sustain the back and forth that is involved in the process. A labourer does not have the time nor the money to fight for this justice."

1.) Beginning of Conflict

Sukhbir had been working in the company for close to five years now. However, on paper his years of service could only counted as two years. His ID card had been changed twice in the course of the last 4-5 years so as to break the continuity in service.

This practice is common in Gurgaon garment factories mainly to avoid gratuity payment. Workers are laid-off for a day and then re-hired on a new contract and ID card so that they lose their seniority. In case a worker refuses to join on a new card, they are not taken back

"I had been working for around 4-5 years there, but they had already changed my card twice so that it looked like I had only been working for two years. The company will find an excuse, or create a situation to fire workers...to avoid gratuity payment. They will find any excuse to change the worker's card...they jump on opportunities like if the worker is even a minute late, or is not feeling well and has taken an emergency leave, or has asked for leave and instead of approving it formally they will just give them a gate pass and then later blame the worker and change their card as if it's the worker's mistake."

This was the key conflict in this case. After having gone through two cycles of break of service and re-joining, Sukhbir was faced with yet another termination. This time he was asked to complete a target that was unrealistic. When he did not complete the impossible target, he was called in to the office by one of his supervisors and verbally abused, berated and then terminated. He pleaded several times but to no avail.

2.) Attempts at Informal Resolutions and Approaching the Union

After being terminated, the worker had tried on his own to speak to his supervisors and seniors including the Personnel Manager in the factory. This however proved futile and after trying in vain for a few days, he finally approached Mazdoor Ekta Manch (MEM) about whom he had heard about through a co-worker.

He could have avoided the fight and moved on to find employment in another company. He had endured enough injustice in the past and decided that it was time he fought for himself. He wanted to be reinstated without any further break in his 2 years of service.

"I had not thought of fighting any case when my card was changed in the past. But this time when they terminated me and would not take me back at all I decided I had to do something."

3.) Conciliation

Through the authorised representatives a demand notice was filed under sec 2(a) of the ID Act with the demand for reinstating Sukhbir with continued service. On the first two dates for talks, the management representatives did not turn up. On the third date they finally showed up. A settlement was then reached within 4-5 months of filing the demand notice.

The management representatives had initially tried to persuade the worker to join another company. However, he stuck to his resolve of reinstatement.

4.) Post-Settlement

On the day of re-joining his work, the worker was stopped at the gate by a couple of HR staff and asked first to sign on a piece of blank paper. They assured him that he was re-joining on the same ID card as before and that he had to complete a few formalities such as signing on that paper before proceeding to work. Even though they tried to convince him to sign, he did not sign on the blank paper. He was then asked to leave and return the next day for work.

But when he went back to the gate to leave, the guard had a transfer letter ready for him. Sukhbir was transferred to a new unit-208.

The company cited (in a letter addressed to the worker) that the transfer was due to the unavailability of a vacant post of an Operator in his previous unit. However, Sukhbir felt differently.

"Workers have never been transferred from 506 to 208. But they did not want other workers in my unit to know that I had successfully fought the case and won and was coming back to work for them again. Otherwise, other workers will also get the idea that it is possible to get back work if they are fired."

Unhappy with the transfer, Sukhbir consulted MEM again sharing his dissatisfaction. At MEM he was told that it is well within the company's rights to transfer him to a different unit if they so wish. Unconvinced, Sukhbir did not return to work in a unit known for its abusive conditions and instead contacted a different lawyer to fight another case.

5.) Second Dispute

During his time spent at the Mini Secretariat in Gurgaon through the proceedings of his first case, Sukhbir had met a few lawyers. He decided to get a second opinion on his case and approached one of them. He wanted to return to his original unit.

However, his lawyer was of the opinion that filing a case with this demand ran the risk of an arduous process and especially if it went for adjudication, it would imply unnecessary investment of time and money for him. Instead, he was of the opinion that Sukhbir should file a case for full and final settlement from the company.

The second conciliation went on for about 5-6 months at the end of which Sukhbir received a total amount of Rs. 43000 from the company. He paid the lawyer 8% of this amount as fees.

The worker was not aware of the exact terms of settlement except for the numerical value of compensation he was to receive. While he was satisfied with the lumpsum amount that he received at the end of the case, he was not aware of what that amount included or whether the actual payment due to him was of a higher value or not.

This is not an isolated phenomenon where the worker is unaware of the actual dues owed to them. However, like Sukhbir most workers find themselves in a long-drawn struggle to claim what is rightfully theirs. At the end of this process, most are exhausted physically and mentally and therefore prefer to settle for a sum of money that may be far less than what they are owed. The gains for them in this far outweigh the longer and more tiring struggle to claim the rightful amount; a struggle that many times see without an end.

“After running around for so long I was just happy that I got something out of it. I couldn’t afford to go on fighting the case. I also have a family to look after-two kids, a wife and my father. How could I have run my house if I kept at the case.”

D.) Documents in file and their contents in brief:

- 1.) Demand notice under sec 2(a) of ID Act filed on 16.09.2014
- 2.) Conciliation settlement dated 11.12.2014 of first demand notice
 - That the worker will be reinstated in the company on 01.01.2015
 - That the worker will not be eligible for wages during the period of 13.09.2014 to 31.12.2014
- 3.) Copies of ID card and salary slip of worker
- 4.) Copy of letter from company appointing him as permanent worker from 12.09. 2014
- 5.) Copy of letter from company dated 28.01.2015 addressed to worker asking him to join work

Case Study 8- Shadab Ahmed: Terminated after return from leave

This case is ongoing since 2008, although an award in favour of the worker has been passed at the Gurgaon Labour Court way back in 2014.

Shadab was fired after returning from leave. The case went for adjudication where the final award was given in favour of the worker after five long years of battle. However, the Labour Department proved ineffective in implementing the award as the management remained absconding post the judgement. The Department then filed a complaint at the Chief Judicial Magistrate Court for execution of the award against the employer. This case is still ongoing at the court. Shadab has been fighting for justice for about 13 years now.

Key Points in Case

- Worker disillusioned with the systems for access to justice
- Ongoing case from 2008
- Labour Department unable to implement awards
- Multiple changes in worker's AR throughout the case
- Establishing employer-employee relation in court
- Management strategies to keep workers employed as casual workers on jobs of essential nature; this has a significant adverse impact on the weight of any dispute filed by such a worker
- Worker asked to forcefully sign on blank paper

A.) Basic Information (Case Related):

Worker: Shadab Ahmed

Gender: Male

Local/Migrant: Migrant

Age: 40

Caste: Not available

Local/Migrant: Migrant

Company Name and Factory Address:

Post: Folder (Finishing and Packing Department)

Dispute Type: Illegal Termination

Concluded/Ongoing: Ongoing (Award given by labour court but case is in execution)

Year: 2008

Individual/Collective: Individual

B.) Timeline

Date	Incident
28.11.2006	Appointed as Folder in Finishing and Packing Department. He was appointed as a casual worker on a post that was for a permanent worker
19.12.2007- 30.12.2007	Went on leave for medical reasons
03.01.2008	Service terminated upon returning to work

10.01.2008	Was instructed by the company to come to the unit for discussing his payment. However, when he went, he was asked to forcefully submit his resignation papers. He refused to sign these.
30.01.2008	Legal notice sent to company. No response from company
14.07.2008	Statement of claims filed by worker's AR outlining illegal termination as well as multiple counts of violations related to payment of wages during the worker's employment in the company
09.03.2009	Written statement of management in response to the statement of claims denying employer-employee relationship by claiming that the worker did not work in their company.
05.09.2011	Worker's evidence filed
13.12.2011	Workman's evidence where respondent did not appear
15.01.2014	Submission of final arguments by worker
01.08.2014	Award given by labour court in favour of worker

C.) Case Details (Case documents, worker's interview and informal discussion on the case with one of the legal representatives):

"When a poor worker files a case against a big industrialist and the court decides let me keep delaying the case by giving dates after dates, how will this worker who earns maybe five to ten thousand a day, sustain this fight?"

1.) Termination of Service

Shadab Ahmed had been employed in the company for about two years before he was terminated. In December 2007, Shadab needed to go on leave for medical reasons. His Packing In-Charge gave him oral permission to apply for leave. Subsequently Shadab went ahead and booked his tickets and also submitted a leave application. At this point his In-charge went back on his words and refused to accept the leave form. Since he had already made the necessary preparations including booking tickets, and needed to go back to his village for health purposes, Shadab went ahead with his leave any way.

Upon his return in early January, his In-Charge refused to take him back to work and instructed him to return on the 10th of the month to discuss his payment. On the 10th, his In-Charge tried to coerce him into signing his own resignation papers. When Shadab refused they went a step ahead and asked him to sign on a blank paper. Instead, Shadab wrote a letter inquiring into the reasons for his sudden termination and asked him to sign the letter.

Multiple labour law violations

Even while he worked in the company, Shadab faced a number of violations. Throughout his employment he was never given a weekly-off. He had not been paid the revised minimum rates for Haryana for the months of July and August 2007 as well as the legally mandated overtime rates. When he was terminated Shadab still had not received his salary for the month of November and December.

Next steps

Shadab contacted a union working in the Gurgaon garment industry and shared his issue with them. The union's lawyer advised him to file a case of illegal termination of service against the company. Shadab's AR filed a case outlining the details of his unfair termination as well all the other violations

faced by him while working in the company. Due earned wages for the months of November, and December, OT money, arrears related to minimum wages and other compensation amounts were added to the complaint.

The demand notice stated that while he had been paid a total of Rs. 53884 as basic and overtime pay during the full time of his employment; he should have actually been paid a total of Rs. 1,71480 according to the prescribed government rates.

2.) Conciliation

Delaying tactics by management

Shadab shared that the company management was non cooperative from the beginning. On the first day of conciliation, the management representative who appeared denied all knowledge of the matter and claimed he had no idea of the issue at hand; thus, proving his presence futile. On the second date, no one from the management turned up for conciliation even after repeated calls made by the Labour Inspector (LI) to the company office. After spending hours waiting for them, the LI suggested that the best bet for them would be for the case to be taken up for adjudication since conciliation without management's cooperation would not be possible.

"We sat for a long time and the Labour Inspector kept calling the company and every time they would say yes we are on our way but then not turn up. This went on till about 3 or 4 in the evening after which the official told us that we should just take this up in court."

It took four months for the matter to be taken up by the court.

3.) Adjudication

"It is not easy to fight a case in an alien land against a big man. I feel scared that they have a lot of power and money, and I am only a poor labourer. They can kill me or get me beaten up if they want to and no one will know."

The adjudication process took a long time. Shadab remembers that after his case went to the court, the main issue has only been about "dates after dates". According to the lawyer who first filed the case for Shadab, the court took an unnecessarily long time in Shadab's case with the period between dates extending from 6 to 8 months.

The statement of claims put forward on behalf of Shadab outlined multiple violations that Shadab had faced including non-payment of bonus even though the company was known to be making large profit margins. **It also outlined the company's huge buyer base that included many brands of global repute and stated that the company had violated the OECD guidelines in their treatment of the worker.**

The issues framed by the court for adjudication included

- whether the workman had been terminated
- whether he was liable to be defined as 'workman' under ID Act
- whether the reference is not maintainable
- relief to be provided

Establishing employer-employee relationship

During the court process, the management argued that Shadab had not been employed in their company at all and therefore pleaded to dismiss the case. It is important to highlight here that the company had in fact strategically kept a handful of workers as casual workers even upon requests by them to make them permanent.

“When I had joined they had told me that after three months I will be a permanent worker, which also meant that unlike the single rate of OT payment I will be entitled to double rates. After three months, I started receiving the double rate payment like the other permanent workers, but they did not give me any ID Card or joining letter to establish that I was in fact a permanent worker. On asking my In-charge he told me to not worry about becoming permanent. I was anyway getting the double OT rate so I should be happy with that.”

In the absence of any ID card, PF/ESI debits or pay slip Shadab lacked the basic paperwork required to establish an employer-employee relationship. Shadab’s lawyers found a way around this by attaching a copy of an account opening form for Shadab submitted to Deutsche Bank with the company seal on it. The court ruled on this piece of evidence that the worker was in fact employed by the company contrary to the claims made by the latter.

Management absconding during trial

After the first filing of written statement by the management, they disappeared from the scene and remained thus till the court was forced to award the judgement ex-parte. The disappearance of the management added weight to Shadab’s case as the court upheld Shadab’s AR’s argument that it implied that worker’s evidence remained unchallenged and hence the award maybe given in favour of the workman.

Final Award in Favour of Shadab

In the final award the court while upholding that Shadab’s services had been terminated illegally, the court also pointed out that Shadab’s leave had been unsanctioned and therefore the company was liable to take action against this. However, that the action did not warrant firing of the worker. The final compensation amount for the worker was therefore lowered to 50% of back wages on the last drawn salary from the date of termination till his reinstatement with continuity of service.

The court also ruled that since the onus to prove whether Shadab can be defined as a ‘workman’ or not under the ID Act and consequently whether the reference was maintainable was on the company (respondent), in their absence the ruling went in favour of Shadab and against the company.

It is important to highlight here that often workers are not completely aware of the rationale provided for the awards given in their cases. For example, here Shadab does not still completely understand the reason for being awarded only 50% of the back wages as opposed to what was demanded. In his understanding he feels that it could have been because he was not a permanent worker.

4.) Implementation of Labour Court Award

“I don’t think anyone should have to go through the harassment I went. I would think that even if a worker file’s a case against their employer, the effort should be for those involved to see that the case is settled quickly...I don’t even want my money anymore if it the case drags on anymore. I cannot fight this battle any longer”

The court took about 5 years to finally provide a judgement, but the battle was far from over for Shadab. The company refused to comply with the judgement and yet again denied him even the court ordered sum of money. The labour department proved ineffective in implementing the order and recovering the money from the employer. Shadab found himself again embroiled in another long-drawn court battle.

The case is now at the stage of execution at the court of the Chief Judicial Magistrate (CJM). The wait has been endless for Shadab. Through several changed judges, new dates, threats of arrest of the employer by officials, Shadab patience has been tested and wrung dry.

"I think my case is probably a joke now. It has been close to 12 years, the judges probably think that it's anyway gone on for so long, what is the point of investing my time in it. I'll also be transferred in a few months. So instead, I'll just delay and give a couple of new dates and wait this one out till the next judge can take over. And when the next judge comes, it's the same cycle."

System Appears Ineffective in Implementing the Award

Shadab's case as one of his earlier legal representatives said is an 'open and shut' one after the award was finally given. Even if there were delays in arguing out the case, the final award was in Shadab's favour and as such it should have been simple from thereon with the Labour Department taking on the responsibility to implement the order. However, the employer managed to yet again get away by being incommunicado with full impunity.

"After the award was given again the employer was absconding. There were non-bailable arrest warrants issued against him, but he remained absconding and it was like he could do anything and there would be no consequences." – One of Shadab's many legal representatives

The employer has finally been traced a couple of years back and has agreed to cooperate. However, due to the pandemic, courts have been functioning erratically and hence the case remains ongoing in a somewhat suspended state.

D.) Documents in file:

- 1.) Statement of claims on behalf of the workmen dated 14.07.2008
- 2.) Written statement by management in response to the statement of claims asking for dismissal of the claims as the worker was never employed by the company
- 3.) Evidence filed by way of Affidavit by the worker before the Presiding Officer, Labour Court II dated 05.09.2011
- 4.) Final submission of arguments on behalf of workman dated 15.01.2014
- 5.) Copy of award in favour of worker given on 01.08.2014 by the Presiding Officer, Labour Court II

Case Study 9- Roopmati: Fired after raising a complaint of workplace sexual harassment

Roopmati was a local worker from Haryana employed for more than a decade in the company. She was victimized and harassed before finally being fired. Her case is still ongoing now for more almost seven years. The case was lost in the labour court, despite her legal representatives assuring her that she had a strong case. It is now ongoing at the Chandigarh High Court. Although she continues to fight the case, the long-drawn battle for justice had left her tired and mistrustful of the system and the union involved in her fight.

Key Points in Case

- Local worker from Haryana
- Worker labelled as trouble-maker and victimised repeatedly (including sexual harassment) for raising her voice against the beating up of a co-worker by the management
- Fabricated evidence produced by management
- Worker feels further harassed after raising the dispute due to the long-drawn process of access to justice. The case was lost in the labour court and is now ongoing at the high court.

A.) Basic Information:

Worker: Roopmati

Gender: Female

Local/Migrant: Local

Age: 47

Caste: Not available

Company Name and Factory Address: Choice Clothing

Post: Tailor (Production Department)

Dispute Type: Illegal Termination

Concluded/Ongoing: Ongoing-High Court

Year: 2013

Individual/Collective: Individual

B.) Timeline of events:

Date	Incident
01.09.2000	Appointed as tailor (production department); later transferred to Part Change Department (alteration)
23.11.2013	Sexually harassed by Master
10.12.2013	Illegally terminated without notice and retrenchment compensation
20.12.2013	Demand notice filed
16.01.2014	

23.01.2014	Conciliation sessions
06.02.2014	
15.02.2014	
25.02.2015	Written statement by management against the demand notice demanding that the case be not recognised as an industrial dispute and hence not be referred for adjudication
11.03.2014	Failure report raised
12.09.17	Court summons to CO, Gurgaon Circle 1 to appear as witness

C.) Case Details (Case documents and worker’s interview):

“The system is biased against workers. It is very difficult for a migrant worker to come from somewhere else and fight a case against a company here. A worker earns about nine to ten thousand a month, how can they sustain a fight for 7-8 years?”

1.) Beginning of Issue

Roopmati had been working in Choice Clothing for more than a decade as a tailor. While she had joined in the production department as a tailor, with the entry of contractors and the break-up of the initial line-set up, workers had been transferred to different departments; Roopmati too was transferred to the part change (alteration) department.

Much of her time at the company had passed without any incident. However, Roopmati came under the management’s radar when she raised her voice against the beating of a worker by management staff in 2013. After this for the next four months, she was victimised by the management and even sexually harassed by a senior.

“I was endlessly harassed for four months. They would move me around between units, sometimes to 322 and sometimes to 376. And the Masters there were abusive. They kept abusing me and screaming at me.”

During this time, Roopmati too did not hesitate to fight back. Not only did she feistily deal with her seniors, she even lodged a formal complaint with the Personnel Department against the Master who abused her. Unsurprisingly, instead of supporting Roopmati, the staff at the Personnel Department threatened to fire her for raising the complaint.

“Why should I have to listen to the constant abuses hurled at me? I don’t deserve it one bit. I work more than I need to. I make 50 pieces when my target is only 30. I give them work worth Rs. 500 and am paid Rs. 250. On top of this I shouldn’t have to endure this abuse. So, I fought back.”

Roopmati had already been identified and targeted by the management. On top of that, she refused to be bogged down by the management’s threats and humiliation techniques. Subsequently Roopmati was finally fired by the company on the 10th of December, 2013.

2.) Informal Resolution

Although she knew that it may be a lost battle, Roopmati still tried to speak to the management and asked answers from them. After serving the company for 13 years, she was fired without any due

process including an inquiry. The company refused to take her back to work and asked her to leave with her full and final settlement of about Rs 72,000.

"I told the owner that this amount is too less. I had worked for 13 years and so my full and final settlement should be much more than that taking into account all my dues like gratuity and retrenchment compensation. But he refused to budge and told me that this was all I was getting. And that he'll get me another good job in another company."

She was not only aware of her rights but also of her own capability. Refusing the final settlement money and help from the owner, she instead decided to go ahead and fight for her rights.

3.) Conciliation

Roopmati had seen the union meetings that happened at the public park. She was partly aware of their support to workers. And approached them with her issue. With the help of legal representatives working with the union, a demand notice was filed with the labour department under Sec 2(a) of the ID act for illegal termination.

Management's effort to discredit worker's case

Four conciliation sessions took place with no final outcome. The management came up with a number of reasons to dismiss the case. In their written statement against the demand notice they argued that Roopmati had not been terminated but instead transferred to the Noida unit of the company. A fabricated transfer letter was produced by them that stated the date of transfer as 10.12.2013, the day she had been terminated.

They also pointed to a technical flaw in the workers' raising of dispute stating that since the worker had directly submitted the demand notice to the conciliation officer before first raising it with the management, therefore it should be dismissed as it was against the outlined due process.

"That the present alleged industrial dispute is not maintainable before this Hon'ble forum and is liable to be dismissed at once because an 'industrial dispute' cannot be said to 'exist' until unless a demand is made by Smt. Pushpa Devi on the management and it has been rejected by the management. In the present case, Smt. Pushpa Devi instead of following the settled procedure of law, mechanically submitted his demand notice before the Ld. Conciliation Officer, without raising any demand notice on the management...(This) is patently illegal based upon the settled law including that of the Hon'ble Supreme Court of India in the case of Sindhu Resettlement." -Clause 2 of Written Statement

The management also tried to deflect the dispute to Noida authorities stating that since they had transferred her with effect from 10.12.2013 to Noida, the issue needed to be taken up with the Noida authorities.

The failure report raised by the Conciliation Officer does not provide much insight into the conciliation proceedings and the CO's analysis of the case. In the confidential report, the CO only states that while the company did produce a transfer letter, the signature on it was not that of the worker. And therefore, recommends the dispute to be taken up for adjudication.

4.) Adjudication

The case once referred to the Gurgaon court went on for four and a half years but Roopmati lost the case in court. The management produced fabricated documents to prove that the worker had resigned.

"I was shown two documents with signatures on it and asked to verify if they were mine. In one document which was written in Hindi I could see that the sign was mine. That was probably my joining letter. The other document was in English so I could not understand what it was and the sign on it was clearly not mine. So told the court that I had not signed it. It could have been a resignation letter. I am not sure."

The case is currently ongoing at the Chandigarh High Court. Roopmati has been unemployed since 2013 and travels between her village in Haryana and Gurgaon. Although she wants to continue fighting till the last authority, her experience has made her bitter about the process of justice and systems that apparently uphold workers' rights.

"I do regret having raised the dispute. What was the point of this fight? It's been more than six years now and I am still fighting for justice. I have not been employed anywhere since 2013. I now feel that I should have taken the money I was offered. I could have kept that in a fixed deposit scheme and by now it would have amounted to something."

Lack of communication between workers and their representatives often leave the former confused and unclear of their case proceedings

During the interview it was apparent that that Roopmati was not always kept in the loop about the proceedings of her case. For example, although she was present for the conciliation sessions, she was not very clear about the proceedings of the same. She was only aware that they were not leading to any favourable end.

Interviewer: At the conciliation sessions did they talk about taking you back to work or about the compensation that you were to receive?

Roopmati: No

Interviewer: So what was the reason for the conciliation talks to fail?

Roopmati: I don't really know

Interviewer: Did your lawyer speak to you about what was going on in the conciliation proceedings?

Roopmati: Not really, they just informed me about the dates for appearing

D.) Documents in file and their contents in brief:

- 1.) Summons to the CO, Gurgaon Circle 1 to appear as witness on 10.10.17
- 2.) Management appeal to allow CO Gurgaon Circle 1 to appear as witness
- 3.) Failure report (including Part 1, Part 2, and Objective Review) dated 11.03.14
- 4.) Demand notice dated 20.12.2013
 - worker was abused by the Master in Part Change Department
 - that as a consequence of raising this with the personnel department the worker was terminated

- demand to be reinstated with back wages and continuity of service
- 5.) Management written statement in response to demand notice dated 25.02.2014
 - that the worker was not terminated but transferred to the Noida unit
 - since the worker was transferred to the Noida unit, this dispute should be raised with the Noida authorities
 - that since the worker had not submitted the demand notice to the management of the company before submitting it to the Conciliation Officer, due process was not followed
 - that the dispute should not be recognised as an industrial dispute and is not fit to be referred to adjudication
- 6.) Fabricated transfer letter produced by management as evidence without workers' signature on it

Case Study 10- Sunil: Terminated after refusal to re-join work on a new ID card
 Sunil was illegally terminated by his company after he refused to agree to the management's unfair clause of issuing him a new joining date to break his seniority. With the support of the union, he filed a case for illegal termination with the hope of being reinstated with no break in seniority and payment of due back wages. However, the matter was not settled in conciliation and dragged on for years in adjudication. The pressures of sustaining a long-drawn battle against a behemoth took a toll on him and he also felt unsupported by his legal representative. Sunil finally settled with the company out-of-court.

Key Points in Case:

- Management pressure to break seniority of worker
- Worker's dissatisfaction with his legal representative: worker felt unsupported and abandoned
- Worker forced to settle out-of-court with company due to delayed adjudication process

A.) Basic Information (Case Related):

*Worker:*Sunil

Gender: Male

*Age:*26

*Caste:*OBC

Local/Migrant: Migrant

*Company Name and Factory Address:*M/s Richa and Co. Plot No. 239 Phase I, Udyog Vihar

*Post:*Tailor

Dispute Type: Illegal termination

Concluded/Ongoing: Concluded

*Year:*2014

Individual/Collective: Individual

B.) Timeline of events:

Date	Incident
08.11.2011	Appointed as Tailor
19.08.2014	Terminated without reason and without a domestic inquiry
16.09.2014	Demand notice raised for illegal termination of individual workman
31.12.2014	Management files the written statement in response to the demand notice stating that the worker had resigned of his own volition and denying all other claims made in the notice.
12.01.2015	Failure report raised by Conciliation Officer
2020	Out of court settlement

C.) Case Details (Case documents and worker's interview):

"When I started the case my first lawyer was very good and I thought that maybe I can win. But then after the other lawyer came then I lost hope. I was not told anything about what was happening...I did not feel supported by the union at all." -Sunil

1.) Beginning of Conflict

Sunil had taken leave and gone back to his village to celebrate a festival. He reported back on duty a few days after his sanctioned leave was over. Upon return, the Master-in-charge refused to let him enter saying that he cannot be taken back to work since he had been absent without leave. Upon insisting that he be allowed to work, he was told that in order to join work he was required to submit his old I-card. The company would issue him a new I-card and only then could he resume work.

"The Master-in-charge was willing to take me back, but the Production Manager refused and said that they'll keep me only if I am issued a new joining date." -Sunil

This is an oft-used tactic by garment factories in Gurgaon to break continuity of service and avoid payment of gratuity and other entitlements. As a worker approaches their fourth year in the company, they are suddenly laid off for a few days (sometimes even for just a day) and re-hired as a 'new' employee. The issuing of a new I-card is a tell-tale sign of this practice and workers are well aware of this. Thus, when Sunil was told that he was going to be issued a new I-card, he resisted and refused to submit his card.

"I only had about one and a half years left to complete five years and receive my gratuity amount of about Rs. 25,000...They do this. Just in case a worker has gone home and gets a little delayed in coming back to work they will immediately use it as an excuse to issue a new joining date." -Sunil

Since he did not comply with the management's wishes, he was called into the Personnel Department and asked to collect his full and final dues and leave the company. Upon refusal, he was finally fired.

After being advised by other workers he knew to seek legal help in the matter, Sunil approached MEM. And with their help filed a demand notice under Section 2(a) of the ID Act.

2.) Conciliation

"The management's lawyer kept telling me to take my dues and leave, but I wanted my work back." -Sunil

In response to the demand notice the management denied all claims made in it and claimed that the worker had resigned of his own volition. However, although they denied all claims (including the claims of denial of wages and harassment in payment of full and final dues), they did not provide any alternate sequence of events that could have transpired.

The worker's representative pointed out other violations against the worker including that Sunil:

- Was not paid his salary and overtime wages on time
- Was repeatedly harassed by the management who called him several times to the factory to collect his full and final dues even though he had refused to do so
- Was also physically intimidated and threatened by the management

The management refused to agree to the demand for reinstatement. They stuck to their claims that he had voluntarily left the company and had himself remained absent from work. Throughout the

conciliation sessions therefore they refused to relent and stuck to their position of full and final settlement.

The matter went on for a while without resolution since the management refused to reinstate Sunil. The CO finally filed a failure report in January 2015.

The management alleged that they were not heard in a proper manner by the CO and that instead of referring the matter for adjudication the CO should have instead directed the worker to report for duty. Thus, denying the failure of conciliation proceedings and claiming that they had not refused reinstatement. However, in the written affidavit submitted by the Asst. Manager, Personnel, there is no mention of the worker's point that he was being asked to re-join with a break in seniority.

3.) Adjudication

"They would never tell us anything. I used to keep calling my lawyer every time and ask about the case but no one gave me information. I used call and ask to at least tell me about which date my case will be heard in the court. But that too no one told me. So, I stopped calling them after sometime." -Sunil

Once the case was referred for adjudication Sunil felt left in the dark. Communication between him and his legal representative became stunted and he received no briefs about the case and its status.

After a significantly long period of communication gap, his lawyer finally called him to tell him that the case was not proceeding in his favour and that the chances of the management winning were high. At this point they advised him to figure out a settlement with the company.

From the case documents, it appears that the management's representative argued out their case on the basis of the claim that the worker had himself stayed absent from his duty. They argued that the dispute needed to be framed differently since their claim was that the worker had abandoned his duties. They felt that since 'termination' did not occur, thus the CO had wrongfully referred to the dispute as:

"Whether the termination of workman from service is legal, if not to what relief the workman is entitled?"

And it should instead read:

"Whether the workman deemed to have left the job by remaining absent from duty?"

Sunil shared that his legal representative was not very optimistic about his case winning in the court. And as such since more than a couple of years had passed from the time he had been terminated, he felt that waiting any longer for a victory would be foolish.

4.) Out-of-court Settlement

"A worker can only win against the company if their lawyer is good. The lawyer should support the worker. They should advise the worker properly, keep updating them about what is happening in the case."-Sunil

The financial pressures were mounting and Sunil found it tough to sustain the case. Sunil was unemployed for several months after he was fired. Financial matters fell on the shoulders of his elder brother while he fought his case. The emotional and mental strain had also exhausted him of his energy.

"I worked small jobs for a bit when the case was ongoing but did not really work anywhere. Then I finally started working as a fruit vendor. That I what I have been doing now."-Sunil

He therefore decided to finally agree to settle with the company and take the lumpsum money he was offered by them.

D.) Documents in File

1. Worker's appointment letter
2. Demand notice dated 16.09.2014
3. Written statement (dated 31.12.2014) by Richa and Co. in reply to demand notice
4. Failure report
5. Statement of claims by worker
6. Management written statement
7. Worker evidence by way of affidavit dated 29.03.2016
8. Evidence by way of affidavit of respondent (Asst. Manager, Personnel) dated 22.03.2018

Case Study 11- Ravi: Terminated without Reason

Worker 19 was terminated, on 09.01.2015, illegally without any notice after about two years of service. He was appointed as a supervisor but did not have any supervisory duties and performed the role of a worker rather than supervisor. A dispute was raised against his illegal termination but the management dismissed the demand notice stating that since he was appointed as supervisor, he did not fall under the category of 'workman' as defined in the ID Act, 1947. The case is currently pending adjudication.

A.) Basic Information:

Worker: Ravi

Gender: Male

Age: Not available

Caste: General

Company Name and Factory Address: M/s Richa and Co. Plot No. 192 Udyog Vihar, Phase I, Gurgaon

Post: Supervisor, Processing Department

Dispute Type: Illegal Termination

Concluded/Ongoing: Ongoing

Year: 2015

Individual/Collective: Individual

B.) Timeline of events (from case documents):

14.03.2013	Joined as Supervisor (however the role assigned to him did not give him any supervisory powers)
09.01.2015	Illegally terminated without any notice
15.01.2015	Demand notice against illegal and unjustified termination (filed by First LR)
29.01.2015	Written statement by company management in response to demand notice-prayer for dismissal of the demand notice (CO Circle 1)
07.05.2015	Referral letter under 10(i) to Gurgaon labour court 2
07.07.2015	First date of appearance before the court
20.10.2016	Worker not present; Opportunity to present affidavit and for worker to be present on next date
02.01.2017	Workers affidavit presented; Cross examination on next date
06.02.2017	Cross examination deferred; Authorised Representative (AR) for management not ready; Talks for settlement
04.05.2017	Cross examination deferred; Talks for settlement
22.08.2017	Cross examination deferred
10.11.2017	Cross examination deferred
21.08.2019	Management cross examination
22.10.2019	Management cross examination

C.) Case Details (Case documents and worker's interview):

1.) Beginning of Conflict and Informal Resolution Efforts

Worker 19 had been appointed as Supervisor on 14.03.2013. On 09.01.2015 he was illegally terminated without any notice and any notice payment. His earned wages were also not paid to him and nor was he given any overtime wages and encashment of leave. The worker claimed that he was not given any reason for his termination even upon asking.

2.) Demand Notice:

The worker was represented by his lawyer who filed the demand notice on 15.01.2015 against illegal termination. Although Worker 19 was hired as a supervisor, he was working without any supervisory powers and therefore was for all practical purposes a worker and hence qualified as a workman under the definition in the ID Act.

The management in response claimed that the worker had wilfully resigned and that the management had accepted the resignation two days later and had sent him a cheque of his full and final dues by post. They also claimed that he was performing duties of a supervisory nature and therefore did not qualify as a workman under the definition in the ID Act.

The management also claimed that the worker's lawyer did not have a locus standi in the matter and therefore the demand notice did not stand.

3.) Adjudication

The matter is ongoing at Gurgaon Labour Court 2.

The worker's affidavit was updated to reflect that the management had specifically targeted and fired the worker because he was raising concerns of other workers with regards to delayed payments of salaries and non-payment of overtime money by the management as a regular practice. The worker was also made to forcefully sign on papers by the management and the worker was unaware of the contents of the papers. He was also asked to sign on a payment receipt for his full and final settlement, but he refused to sign on this.

D.) Documents in file and their contents in brief:

- 1.) Evidence as affidavit of the Manager, HR and Compliance, dated 20.08.2019 (date of hearing: 21.08.2019)
 - Submission of documents as evidence
 - Denial of termination
- 2.) Documents filed as evidence from management:
 - RW 1/1-Signed resignation letter of Worker 19 dated 09.01.2015
 - RW 1/2-Letter from company to Worker 19 accepting his resignation dated 11.01.2015
 - RW 1/3-Cheque for payment of Rs.6007 (full and final payment) sent by registered post along with letter describing the details of the same dated 15.02.2015
- 3.) Additional affidavit submitted by worker on 21.05.2017 (included copies of his ID card and his salary slip for July 2014)
 - That the company practice was to deny regular payments to workers of their salaries and overtime wages and when he raised this issue, they terminated him
 - That the company also made improper deductions from workers' salaries
 - Description of his work: that he was only overseeing the work of others and did not have any other supervisory powers such as sanctioning leaves, making work schedules, and taking disciplinary action against workers. He was also not allowed to give final approval to any pieces of work done by the workers under him and his work could not bind the company in any way

- That he was forced to sign on papers, the contents of which he could not understand. And that they also forced him to sign on his full and final dues receipt but he refused to sign on it.
 - That he is unemployed from the date of his termination and would like to join back if he is paid all his back wages from the date of termination.
- 4.) Documents included in additional affidavit
- Pay slip of Worker 19 for the month of July 2014
 - ID card
- 5.) Request for submission of additional affidavit before the PO, Labour Court 2 by worker 's AR
- That the affidavit submitted on 20.02.2017 did not have sufficient facts and therefore an additional one needs to be submitted
- 6.) Evidence of worker as affidavit on 20.10.2016 through AR
- 7.) Letter of authority dated 20.10.16 before Presiding Officer Labour Court 2
Worker 19's letter of authority for representation (change of lawyer)
- 8.) Written statement by company management (29.09.2015) against statement of claims made by worker, submitted to the PO, Gurgaon Labour Court 2
- Denial of all claims
 - Worker does not qualify as a workman under the ID Act
 - Worker had tendered his own resignation
 - First LR has no locus standi
- 9.) Statement of claims submitted by worker before the PO, Labour Court Gurgaon
- That the worker had joined on 14.03.2100 as a supervisor but was not performing any supervisory duties, and was working as casual worker
 - That his last drawn salary was Rs.11,000
 - That he was called by the personnel department and asked to forcefully sign on a blank paper and then told that he had been terminated
 - He has not been paid his earned wages or his overtime wages
 - He has been unemployed since his termination
 - Demand:
 - For reinstating worker with full back wages and continuity of service
 - Payment of Rs.10,000 as legal costs
- 10.) Referral letter for adjudication dated 07.05.2015
- 11.) Written statement by Richa and Co management in respond to demand notice dated 15.01.2015 submitted to Labour Officer cum Conciliation Officer circle 1
- Refused to acknowledge the worker as a workman as defined by the ID Act and claimed that he was working as a Supervisor from 14.03.2013 performing supervisory duties. Hence the claims made under the ID Act does not apply to him.
 - That the management had not terminated him
 - The worker had submitted his resignation letter on 09.01.2015 and asked for payment of his full and final dues
 - His resignation was accepted by the management through a letter dated 11.01.2015 and he was asked to take his full and final payment on any working day
 - The worker however refused to take the payment
 - That the employer employee relationship between them had cease to exist post acceptance of his resignation letter
 - That lawyer 1 has no authority to file the demand on behalf of the worker

- Prayer for dismissal of demand notice
- 12.) Demand notice submitted on 15.01.2015
 - Joined the company on 14.03.2013 as supervisor.
 - Although he had joined as supervisor, he did not have any supervisory powers and his last drawn salary was Rs.11,000
 - Was employed as a permanent workman
 - Terminated without notice on 09.01.2015
 - That the worker did not want to leave his job and had made no mistake which can cause his termination.
 - He has asked for the reasons for his termination but has not been given any
 - He is the only earning member in a family of five dependents
 - He had completed 240 days of work and should be covered by all the labour laws as he comes under the definition of workman under the ID Act
 - He has not been paid any notice payment, leave encashment or any other benefits
 - He has also not been paid his earned wages and his overtime wages
 - He has been unemployed since his termination
 - Demand for:
 - Reinstating worker with back wages and continuity in service
 - Payment of all due wages immediately

Case Study 12- Viva Global collective dispute of lockout

This case study reveals the blatant support that companies often received from state authorities. 102 workers from Viva Global had been locked out of the company in August 2010 and their struggle from then till 2016 was for the government to recognise the illegal lockout and provide them due relief.

During the course of the struggle, the company management and GAWU as representatives of the workers entered into multiple settlements over the several conciliation sessions. Each time, Viva Global breached the agreements which are binding on all parties as per Sec 18(3) of the ID Act. However, at no point was the company held accountable by the labour department for their actions that went against state labour regulations. GAWU invested in multiple strategies to force the company to meet the workers' demands. Workers along with GAWU sat in protest outside the factory gates for around a month. Twice during the struggle, GAWU had also resorted to filing civil writ petitions at the Chandigarh High Court in order to hasten the process of dispute resolution.

At present, the matter is ongoing at the Gurugram labour court. The referral for adjudication on this matter took about five years.

-Specifics of the Case

- ongoing collective struggle for over a decade
- successful recognition of the dispute as a lockout
- multiple counts of company led physical violence on workers including abduction of a worker
- massive delay in referral (almost five years) of case for adjudication
- multiple strategies employed in order to hold the management accountable and engage different legal systems: sit-in protests, writ petitions to the high court, complaint letters to multiple labour department officials, and filing of FIR to involve the police as well
- repeated breach of binding conciliation agreements by company

A.) Basic Information

Company Name and Factory Address: M/s. Viva Global, Plot No.413, Phase-III, Udyog Vihar, Gurgaon, Haryana

Dispute Type: Lock-out

Year: 2010

Individual/Collective: Collective

B.) Timeline of Events

Date	Incident
14.07.2010	Collective complaint by Viva Global workers to the CO, Gurgaon outlining the gross violations in the factory
	Ongoing conciliation sessions regarding the complaint
21.08.2010	28 contract workers locked out
23.08.2010	Illegal lock out of 102 workers (all contract workers and union representatives)

	<p>who reported for work in the morning. Subsequently a complaint regarding this was filed by a group of workers and their union representatives.</p> <p>Settlement reached during the already ongoing conciliation between Viva Global Management, the labour department and GAWU for workers to resume work on the 25th of August.</p>
25.08.2010	<p>Physical intimidation of workers who had reported for duty in the morning by armed local goons, in breach of the agreement. They were also beaten up by the factory staff and goons and a worker, Anwar was abducted.</p> <p>GAWU President begins hunger strike in protest outside the company gate.</p>
26.08.2010	FIR (No. 157) lodged in Dundahera police station by workers.
September	Workers communicated with DLC, Asst. LC of Gurgaon
14.09.2010	<p>GAWU submits general demand notice against Viva Global (EPOSAL dated 10.09.2010).</p> <p>Previously another representation had been made by the workers on 06.09.2010 to the labour department.</p>
20.09.2010	GAWU files writ petition in Chandigarh High Court (CWP 17722/2010)
07.10.2010	<p>Viva Global submits a complaint letter instead of a written statement to the general demand filed against them (Date on letter: 30.09.2010)</p> <p>They refuse to submit a written statement claiming that the letter submitted by the union needs to be verified for its legitimacy.</p>
15.10.2010	<p>GAWU's reply to Viva Global's complaint letter.</p> <p>They call out the management's refusal to submit a written response as not legally acceptable.</p>
21.10.2010	Written statement by Viva Global
07.03.2011	Order on writ petition asking DLC to resolve the dispute within 3 weeks
11.03.2011-02.05.2011	Conciliation proceedings in front of DLC after the order between the management and workers (7 sessions)
02.05.2011	<p>Agreement to partially lift the lockout for 42 workers</p> <p>From the rest they said that 20 had taken their full and final settlement and they could not provide any explanation for the other 40.</p>
09.05.2011	42 workers resumed work but were not provided proper working conditions
23.05.2011	First worker suspended-Abhay Kumar
25.05.2011	Three more workers suspended
	<p>Marks and Spencers pulls out as buyer. Conciliation sessions are ongoing against the continued violations against the reinstated workers. However, GAWU and Viva Global reach a temporary agreement wherein GAWU would help Viva Global regain their reputation in the market while Viva Global would agree to the workers' demands.</p> <p>GAWU drafts the agreement.</p>
21.06.2011	Rejection of the union's demand letter dated 14.09.2010 by the Haryana Labour Department on the grounds that it did not have signatures of any workmen
28.06.2011	<p>Women guards provided knives and sticks to attack workers on the factory grounds.</p> <p>This was also the date for a conciliation session that the management did not attend.</p>
	Police complaint filed against the physical violence
14.09.2011	GAWU files a general demand notice under Sec2(K) to lift the illegal lockout highlighting that the company had not in practice lifted the original lockout of

	25.08.2010 even partially since the 42 workers who were reinstated on 09.05.2011 were all again fired/suspended.
	Conciliation proceedings resumed against the ongoing suspensions and refusal of work to the 42 workers who were taken back. Management did not attend the sessions.
22.11.2011	Failure report filed by CO (14.09.2011 dispute)
07.08.2012	Workers wrote a letter of complaint to Addtnl. Chief Secretary Labour and Employment, Gov. of Haryana due to the delay in getting the case referred for adjudication after filing of failure report.
2013	GAWU files a civil writ petition (CWP 5493/2013) in the Chandigarh High Court due to the delay in getting the case referred
August 2015	Written statement of Viva Global on writ petition
17.08.2015	Evidence on behalf of company as affidavit
	GAWU's reply to the written statement
29.03.2016	Letter of reference recognising the existence of an industrial dispute (about more than four years post failure of conciliation). The other three demands raised by the union in the demand notice dated 14.09.2011 was not taken into consideration-
13.09.2016	Statement of claim filed

C.) Case Details (from case documents)

1.) Beginning of Conflict

Workers in the Viva Global unit had been facing gross violations of their labour rights on multiple counts. In July 2010, GAWU had filed a collective complaint outlining the several labour rights violations that they were subjected in the factory. The complaint addressed to the Conciliation Officer included Viva Global's practice of not providing its workers appointment letters, payslips reflecting wages paid, ESI and PF services etc. It also specifically mentioned the union breaking tactics applied by the company, labelling them as unfair labour practices. The letter highlighted that the management had tried to repeatedly intimidate union members by hiring goons and use of police force and also threatened to terminate workers involved in union activities.

"...where workers are denied even mandatory basic amenities such as drinking water and sanitation, besides the absolute disregard to basic safety norms; resulting a few days back into a tragic incident when a woman worker had gone to the toilet and used a clear liquid for washing, mistaking it for water. She was hospitalised with severe acid burns.

The management verbally and physically abuse workers who speak against the illegalities in the factory, viz., practice of forced labour, making workers work without drinking water and air coolers, etc." -Press Release by MEM dated 16.08.2010

Conciliation sessions had begun on the complaint raised by GAWU. It was during the ongoing conciliation sessions that the company retaliated by victimising contract workers. On the 21st of August, 2010, they refused entry to 28 contract workers and informed them that they were to be terminated in two days. Permanent workers in the company rose against this injustice and demanded that if they were to be terminated then they should be given their notice pay as well as their PF entitlements. But the company did not pay heed to their demands. Instead, on the 23rd of August, not only did they refuse entry to all contract workers, they also refused entry to the union leaders who had stood in support of the workers. The company had even hired armed local goons to threaten workers with pistols.

"If you value your life, keep quiet. Or else we will shoot all of you. You can go anywhere with the complain, to Labour office, or Police or anywhere; we are not bothered." They were told. When other workers who were inside the factory wanted to come out to express their solidarity, they were stopped and threatened by these thugs. Women workers were threatened " If you dont keep quiet, you will be beaten up badly" – Press Release by MEM dated 23.08.2010

A group of workers with GAWU's support filed a formal complaint regarding the incident with the labour department. Viva Global's actions were in violation of Sec23(a) of the ID Act that prevents employers from a lock-out during pending conciliation proceedings.

As a result of this complaint, a tripartite agreement was signed on the same day between Viva Global management, GAWU (as the representing union) and the labour department wherein the company agreed to not resort to physical violence against workers under any circumstances, including hiring of goons as well as to reinstate all the workers who had been locked out. They were to resume work on the 25th August, 2010.

Non-compliance of Agreement by Viva Global

Section 23. General prohibition of strikes and lock-outs- No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock- out--

[\(a\)](#) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

However, on the morning of 25th August, 2010 in a sudden move, Viva Global refused entry to 102 workers in complete breach of the binding tripartite agreement (as per ID Act, Sec 18(3)). Not only where they locked out, the company management hired goons to physically attack workers and subsequently one worker (and union leader) Anwar Ansari was kidnapped.

The President of GAWU, went on an indefinite hunger strike the same day in front of the company gates to protest against the actions of the company. The labour department was informed of the same along with their demands which were that:

- **the abducted worker be immediately brought back**
- **all workers be reinstated and**
- **the Management of Viva Global apologise to the workers**

Workers also lodged an FIR against the company (FIR No. 157).

Anwar Ansari was finally returned to his home in the early hours of 26th morning after being physically tortured by the goons who had abducted him.

"...Ansari said that he was beaten badly by the hired goons of the Viva Global Factory and its Contract labour supplier, PND Contractors. He was beaten along with other workers yesterday morning when they came to work at the Factory. Their only 'crime' was that they were supporting the cause of the illegally terminated contract workers at the Factory. After being kicked and then brutally beaten with sticks, he was bundled into a vehicle and taken to an unknown destination. He was initially kept in a moving vehicle with eyes blindfolded and later confined to a room in an undisclosed destination. He was ordered to leave for his home state, and repeatedly threatened with dire consequences, in case he dared to return to Gurgaon or Delhi.

He was dumped near his home at night from where he managed to reach home. Ansari came back bruised badly with a black eye and swollen forehead along with multiple blunt object injuries inflicted upon other parts of his body.”-Pres Release by MEM dated 26.08.2010

GAWU ended their hunger strike once Anwar was returned. However, they also issued immediate demands for the perpetrators to be arrested within 24 hours failing which the workers would continue their protest in front of the company gates.

2.) Second Attempt at Conciliation

After the incidents of 25.08.2010 and Viva Global's refusal to cooperate and improve working conditions, workers with GAWU's support filed a collective demand notice addressed to the company against the illegal lock-out held by Viva Global on the 23rd of August 2010. However, the company management remained obstinate and refused cooperation even after the serious incidents and counts of illegal activities lodged against them. They refused to recognise the demand notice sent by GAWU and alleged that they did not have authority to represent the workers. Although the meeting minutes of Viva Global's workers had been submitted along with the demand notice where it was clearly stated that they had given to GAWU the responsibility of filing the demand notice and representing their case. On a conciliation session on the 9th of September, the company sent representatives who had clearly not been given permission for negotiation. It was only a delay tactic employed by the company. Thus, a back and forth ensued that caused significant delays in getting the dispute recognised as an illegal lock-out while workers remained unemployed.

Labour Department Ineffective

The absence of the company's owner, Mr. Vipin Vohra was conspicuous and GAWU focussed on various approaches to bring him to the fore and hold him accountable. Over the next few days GAWU engaged in a number of vigils in front of Mr. Vohra's residence as well as his office. They also continued with a 24-hour sit-in protest in front of the company gates.

Through the struggle the labour department's ineffective systems became glaringly obvious as they remained unable to get Mr. Vohra to the negotiation table, whether purposely or due to a lack of authority.

3.) 2011 Civil Writ Petition

On the 21st of September, 2010 after about a month of the sit-in protest and the multiple vigils held by GAWU and the Viva Global workers, GAWU announced a change in strategy. In order to hold the company accountable to their criminal activities as well as their labour rights exploitations, GAWU would approach the high court to resolve the illegal lockout of the workers.

GAWU thus filed a writ petition at the Chandigarh High Court (CWP 17722/2010) asking for the lockout to be declared as illegal and the workers to be reinstated. Within six months of filing the petition, the court passed an order for the dispute to be looked into by the DLC and resolved within a period of three weeks.

This order resulted in compulsory conciliation sessions between the management and the workers for another two months. In the beginning of May, 2011 both sides reached an agreement where Viva Global agreed to reinstate 42 of the 102 workers. These workers were to resume work on the 9th of May, 2011. As per the Statement of Claims document (dated 13.09.2016), filed on behalf of the workers the company could not provide any explanation as to why they could not reinstate 40 workers, while they maintained that 20 workers had already taken their full and final payment.

The Company agreed to partially lift the lockout with respect to 42 out of 102 Workers to resume duties before the conciliation officer on 02.05.2011. The company alleged that 20 Workers had already taken their full and final settlement and for rest 40 workmen the company refused allow them to resume work without giving any explanation or reason. Clause 13 of the Statement of Claims dated 13.09.2016.

4.) Post-Settlement Agreement

However, this was only an eye-wash. Once the workers returned to work (on 09.05.2011) they were not provided proper working conditions and were subjected to different forms of harassment.

The Management continued their practice of intimidating and harassing these 42 Workers and subjected them to physical violence and abusive languages. They were subjected to constant surveillance on the factory floor, and women workers were often subjected to threats of sexual violence. There was an overall atmosphere of fear prevailing in the factory premises. -Clause 14 of the Statement of Claims dated 13.09.2016.

Within a month of their return, the company began to suspend these workers one by one under false pretexts. They operated in textbook fashion; first agreeing to the workers' demands and then finding ways to falsely accuse workers and suspend them in order to eventually get rid of them.

On dated 21.05.2011 workers X and Y were called by Mohan Dimri in his cabin. He threatened of 'physically harming them.'...On the same date Anwar Ansari was illegally suspended by the management without any notice/charge sheet. No suspension allowance has been paid to any of these suspended workers till date; and no notice regarding domestic inquiry has been sent to the workers. So this suspension was totally illegal and unjustified. – Clause 17 of the General Demand Notice filed under Sec 2(k) of the ID Act, 1948 dated 14.09.2011

Viva Global Continues Harassing and Victimising Workers

It was also during this period that GAWU and the management of Viva Global were still engaged in tripartite discussions with the labour department regarding Viva Global's actions as well as allegations that they had lost their biggest buyer Marks and Spencers over the dispute. The company blamed the union for their loss of reputation in the international market and used this as an excuse to show that they had no work to offer to the reinstated workers. As it was in the interest of the workers for M&S to resume their business with Viva Global, GAWU acted in good faith to draw up an agreement to support Viva Global in regaining their global reputation on the condition that they too would work towards improving conditions of work in their unit and agree to the demands of the workers who had been locked out.

Although the union had extended an olive branch, Viva Global was still on the sly suspending/terminating the workers in question. On the 28th of June, 2011 the management again resorted to large scale violence against the workers, especially women workers. They were beaten with sticks and injured with knives and many had to undergo medical treatment for the injuries they had sustained. Post this incident, any remaining reinstated worker (who had not been fired/suspended) were locked-out and threatened by the management with 'dire consequences' if they returned to the factory.

Post this, the company again locked-out the rest of the reinstated workers and resumed the original lockout, in complete breach of the interim formal agreements.

5.) Continued Lockout: Second Collective Demand Notice

In GAWU's arguments they have reiterated that the illegal lockout imposed by Viva Global on the 102 workers had never actually been lifted, even partially. The 42 workers who had re-joined work were not only purposely provided a poor work environment they were also subsequently all suspended or terminated in a matter of a month. Thus, while the lockout was lifted on paper, in reality since the workers did not finally get their jobs back, all 102 workers were still out of jobs because of Viva Global. Additionally, as GAWU repeatedly notes in their Statement of Claims document, Viva Global acted in breach of the ID Act multiple times by resuming the lockout in various ways during pendency of the conciliation proceedings.

The union then filed a demand notice for collective dispute on 14.09.2011 under Sec 2 (k) of the ID Act. The primary demand raised was for lifting the illegal lockout imposed on 23.08.2010 and reinstatement of all workers with due compensation and back wages. Three other demands were added that included:

- Payment of suspension allowance to all suspended workers as per Sec 10 of the Industrial Employment (Standing Orders) Act, 1946
- Payment of earned wages to workers who had worked for the months of August 2010 and June 2011
- Payment of medical expenses to the women workers who were beaten up by company hired goons

6.) Conciliation Failure

The conciliation however reached an impasse. Viva Global management refused to appear for sessions and remained conspicuous by their obvious apathy to the entire struggle. The CO when writing the failure report, recommended dismissal of three of the demands and only referred the first demand as a dispute.

Delay in Referral

Although the failure report was written and filed in November 2011, even by 2013 the case had not yet been referred for adjudication. GAWU wrote to the Additional Chief Secretary, Labour and Employment, Department of Haryana complaining about the delay in referring the matter to adjudication. However, they received no response to this complaint. Gurugram and Haryana department urging for the matter to be looked into immediately. Finally, they filed yet another civil writ petition (CWP 5493/2013) at the Chandigarh High Court on the delay in referral of the case.

7.) 2013 Civil Writ Petition

Unlike the relatively speedy process on the 2011 writ petition, this time the process was considerably delayed, and the petition was finally dismissed (via order dated 18.01.2017) since during the trial process the case had been finally referred to the labour court for adjudication.

During the entire duration of the writ petition proceedings that lasted for about four years, Viva Global repeatedly employed tactics to delay the process. They often did not appear for court sessions, often filed applications to buy time on various pretexts, and so on.

8.) Adjudication

The letter for referral was issued after about five years of the original demand notice filed by the union. Workers involved in the case had suffered major financial losses in the period as well as suffered deeply adverse impacts on their physical, mental, and emotional health. However, the final

recognition of the dispute and the entertaining of the question on whether the lockout is justified and legal was a victory for the union.

The case is still ongoing and has yet again suffered delays, especially over the past two years due to the pandemic.

D.) Documents in File

1. Collective complaint by Viva Global workers to the CO dated 14.07.2010
2. Copy of settlement arrived on 23.08.2011 during conciliation
3. General demand notice against illegal lockout submitted by GAWU on 14.09.2010
4. Letter of complaint submitted by Viva Global management in response to demand notice
5. GAWU's reply to Viva Global's complaint letter
6. Written statement submitted by Viva Global dated 21.10.2010
7. Order on writ petition asking DLC to resolve the dispute within 3 weeks dated 07.03.2011
8. Rejection letter of the union's demand letter dated 14.09.2010 by the Haryana Labour Department on the grounds that it did not have signatures of any workmen
9. Draft agreement drawn up by GAWU
10. Demand notice submitted by GAWU On 14.09.2011 to lift illegal lockout
11. Failure report filed by CO post conciliation sessions on demand notice dated 14.09.2011
12. Workers' letter of complaint to Addtnl. Chief Secretary Labour and Employment, Gov. of Haryana dated 07.08.2012
13. Written statement of Viva Global on 2013 writ petition by GAWU
14. Evidence on behalf of company as affidavit
15. GAWU's reply to the written statement
16. Letter of reference recognising the existence of an industrial dispute
17. 11 interim orders and final judgement on writ petition filed by GAWU in 2013
18. Statement of claim filed by GAWU on 13.09.2016

Case Study 13 - Successful collective action taken by workers after shutdown of company unit

This is a concluded case where workers struggled collectively to claim their dues from the management of Rang International that was shutting down their Gurgaon unit in stealth without informing workers. The unit was small and had about 40-50 workers, all of whom were permanent. Before actually closing the unit, the company had been delaying payments of many workers as well as giving faulty cheques that bounced when workers tried to encash them. The intent was to escape overnight without having to pay any of the workers their due wages and compensation.

They were supported by an organisation in Gurgaon, known as Saajha Manch, Mobile Vaani (SM). After about 7-8 months of back and forth between workers and the HR staff, including more than 8-10 sessions with the Labour Inspector, all the workers were finally given their due wages and compensation by the company.

Key Points in Case:

- Collective struggle of factory workers for retrenchment compensation
- Strength of collective fight
- Workers were all permanent workers making it easier to fight for their claims
- Interventions and support of civil society organisation, Saajha Manch, Mobile Vaani, based in Gurgaon
- Management strategy to break-up collective struggles
- Constant updating of information on plight of workers in the Gurgaon unit to the workers in the Okhla unit (in Delhi) acted as a pressure tactic on the management to settle the matter
- Their actual dues amounted to a lot more than what was finally settled for, however workers were more inclined to reach a quick settlement to at least get their earned wages and possible retrenchment compensation
- Workers were not willing to join any union and wanted to pursue the struggle independently

A.) Basic Information

Gender: 45 male and female workers (about 10-12 women workers)

Local/Migrant: Migrants

Company Name and Factory Address: Rang International, Udyog Vihar

Dispute Type: Factory Closure

Year: 2018

Individual/Collective: Collective (workers filed the complaint collectively as a group)

B.) Case Details (Reconstructed from interviews with the 2 staff members of Saajha Manch, Mobile Vaani supporting the workers)

In January 2018, the unit of Rangi International in Udyog Vihar shut down almost overnight. Workers in the unit had received no communication from seniors and/or management about this sudden move.

“I generally move around in the field everyday as part of my work. That day when I was at Pir Baba Chowk I noticed a crowd of about 40-45 workers, clearly standing in front of the factory unit talking and discussing in an excited manner.”-Kanhaiya (Staff, SM)

Kanhaiya, a worker from Saajha Manch, Mobile Vaani, noticed a gathering of workers outside the Rangi unit during one of his usual field visits. On speaking to the workers, it transpired that they had got wind of their factory unit shutting down and had gathered in front of the factory gate to demand their rights.

Workers of Rangi had received no communication of this move from the management. Most workers were yet to receive their past wages and on top of that had just realized that they were now possibly without a job. The night before, a few workers had suddenly been informed that suspicious activities were happening at the unit; machines were being loaded onto trucks. On hearing this they had immediately gathered and reached the gates of the factory. They refused to give passage to the trucks until the management answered their questions and gave them their money. When Kanhaiya reached in the morning, workers had still not been able to communicate with the management.

“The night before, workers were informed that the company was loading machines into a truck. This rang alarm bells and many workers started gathering in front of the company gate demanding to know what was happening and also to ask for their dues.” – Ahmed (Staff, SM)

Some workers had even informed the police. But apart from visiting the site and gathering information on the incident, the police did not do anything further.

Delayed Payments

The company had been suffering losses for some time. Workers narrated that there had been several delays in their wages for a few months and quite often the salary cheques of many workers had bounced. “Such was the level of delayed wages that the amount owed to individual workers ranged as high as Rs. 50,000-Rs. 1,00,000”, recounted Kanhaiya.

The company had not been getting orders for a while and the unit in Gurgaon was established in a rented building. In a move to cut their losses and escape paying their workers, the management had decided to shift base stealthily in the middle of the night.

Conflict Resolution Process

After speaking to the workers and hearing their story, the Saajha Manch team brainstormed with them to figure out next steps. It was decided that the next morning all the workers would visit the labour department to put forward their complaint.

“Communication with the labour department officials as well as with the company management was done only by the workers. We did not get involved in this interaction at all. Our role was only to support the workers and provide them with necessary resources if required. Speaking to say the company management could have worked against us because there is always a level of mistrust that a worker feels with anyone they see interacting with the management.”

A complaint letter with the necessary details of delayed payments and faulty cheques was submitted to the Labour Inspector of the relevant Circle in Gurgaon. The letter was signed by all the workers of the closed unit of Rangji.

After the complaint was filed with the department, it took about 5-6 months for all the workers to get their dues. About 8-10 sessions were held at the office of the Labour Inspector attended by all the workers and the company's HR Manager. During these sessions the company tried to plead their case stating their financial situation and the losses they had suffered. There was also an effort by the department in the initial sessions to drag the case in an effort to tire out the workers.

"The dates for the negotiation sessions would be given many days apart. They thought this way the workers would gradually lose steam. But of course, that didn't happen" –Kanhaiya

The company also tried the oldest trick in the book of trying to create a rift between the workers. They tried settling with some of the workers in the hope that they would withdraw from the group and weaken the case. But this too proved futile.

"They tried a divide and rule policy. They were telling workers that we will rehire you soon, or that they will be hired in the Okhla unit. But no such thing ever happened."-Ahmed

Strength in Numbers

Both the labour department and the company management realized after the initial few sessions that it was futile trying to dissuade workers using delaying tactics. Their case was strong, especially since all of them were permanent workers of the company, employed for over five years. Some were even employees for 10-15 years. But their key advantage was their collective strength. "I have seen the way labour officials beat around the bush and delay cases of individual workers, but when 45 workers stood together, their behaviour changed", says Kanhaiya. The company soon figured that it was far more prudent to pay the workers their dues instead of lingering since they were not going to back down.

"The fact that all the workers stood together and did not budge in the initial days made a huge difference to the struggle. The strength in numbers had an impact on both the company management and the labour department officials. They couldn't ignore the case and let it linger."-Ahmed

During the last few sessions, the case had become widely publicized and the Rangji workers had more support from different corners. Several other workers would also go with them to the labour office to support their struggle.

The final compensation received by the workers included, gratuity, compensation and their due wages.

Strategies Employed to Support the Struggle

-Spreading workers' voices

Saajha Manch recorded short audio clips of the workers where they narrated their plight. These were shared far and wide to garner awareness on the issue. The clips were also sent to the company management as well as to officials in the Gurgaon labour department.

“We were always on our toes. Every day we would follow up with the workers on the progress of the case and record their stories and send it out to everyone.” -Ahmed

This constant sharing of news served well inside the labour office during the talks between workers and management.

“Everyone knew that the moment the workers left the Labour Inspector’s room, they would come out and inform us of the proceedings and in case there was anything untoward, we would amplify that news. This worked in the workers’ favour.” - Ahmed

-Building solidarity with company workers from other units

The Saajha Manch team encouraged the workers to speak to company workers in the Okhla (Delhi) unit. This was done to raise awareness among workers in Okhla about the company’s unfair actions in Gurgaon as well as to build solidarity among workers. This also pressurized the company management to resolve the conflict as soon as possible as there was a fear of workers turning against them in their Okhla unit.

Workers’ Refusal to Seek union Support

One of the strategies discussed with the workers by the SM team was to seek support from established unions in Gurgaon. However, workers were unwilling to involve any union in their struggle. The general perception among them was that union involvement would unnecessarily prolong the fight and could end up disadvantaging them.

Workers were also reluctant to take up union membership. Since involving any union could imply becoming their members as a pre-requisite, they preferred to fight on their own.

Hesitation among workers to join unions is not uncommon. The precarious nature of employment coupled with the negative image of unions propagated by the industry ensures that migrant workers who are largely unaware of the purpose of unions are from the initial stage biased towards joining unions.

Struggle Restricted to Immediate Violations

While the workers won the fight, it is relevant to note that as in almost all cases, the compensation amount received fell far below what would be rightfully owed to each worker taking into account all the multiple counts of labour law violations including leaves, overtime payment, minimum wages etc. In this case, Rangi workers were aware of this significant gap between their demands and their actual rights, however weighing the pros and cons of a skewed justice delivery system they chose to negotiate on the lowered demands. Had they asked for all that was well within their rights, the process would have taken longer, dragging on for years possibly at the labour court. In order to avoid such a situation where even their victory was not guaranteed, the Rangi workers went ahead with the lowered demands.

III. Wage related complaints including non-payment of earned wages, minimum wages, bonus etc.

Case Study 14- Recovery of Delayed Wages after Termination

In July 2017, six contract workers were fired from Sherlinks Ltd. for demanding their delayed wages. Four workers filed individual demand notices with the help of a union's legal representative. Their demands included payment of due wages and compensation. In a month of raising the dispute, the case was settled at conciliation and the workers received their payments. The final settlement amount was less than the amount originally demanded, for all four workers.

Settling disputes in favour of contract workers is challenging as shared by most labour lawyers. In this case, the workers LR shared that they tried to exert additional pressure on the company by filing a dispute under illegal termination as well as a claim under the Payment of Wages Act. In order to avoid the long-drawn court process involved in the latter, the company found it to their advantage to instead persuade the contractor to pay the worker the settlement amount and resolve the dispute.

A.) Basic Information:

Worker Name: Vijay, Ravi, Ratan, and Manohar

Gender: All male workers

Local/Migrant: Migrant

Age: Not available

Caste: Not available

Company Name and Factory Address:

*Post:*Tailor

*Dispute Type:*Illegal termination

Concluded/Ongoing: Concluded

*Year:*2017

Individual/Collective: Individual (separate demand notices filed for the four workers)

B.) Timeline of events:

Date	Incident
01.11.15	Vijay, Manohar and Ravi appointed as tailors through contractor
02.04.17	Ratan appointed as tailor through contractor
13.07.2017	Termination of 6 workers including Vijay, Ravi, Ratan and Manohar
20.07.2017	Demand notices filed for 4 workers-Vijay, Ravi, Ratan and Manohar
10.08.2017	Final conciliation settlement for all 4 workers

C.) Case Details (Case documents and legal representative interview):

1.) Beginning of Issue

All the workers in this case were employed as contract workers in Sherlinks Ltd. Their wages were paid by the contractor Om Sai Enterprise. However, there were frequent violations in their wage payments that included illegal deductions and often delayed payment of wages. Workers' PF money was also not deposited while deductions had been made every month. Although workers were aware that this was a violation of their rights, the practice was accepted as workers rarely complained job loss.

In July 2017, after not being paid wages for the two months of May and June, 6 workers (all contract workers) finally raised their grievances with the management of the company and the contractor, but they were immediately fired. No compensation was given to them, no inquiry was held, they were orally fired and asked to leave the factory premises.

2.) Dispute Resolution

Although six workers were fired, not all approached the union for taking the issue up further. Four of the fired workers, Ravi, Ratan, Manohar and Vijay decided to seek help in getting their rightful dues. Lawyers and activists shared in their interviews that representing cases of contract workers is challenging and may take a long time for resolution. Therefore, workers too prefer to seek new employment instead of pursuing a case, unless the amount in question is substantial.

The union in this case, filed separated demand notices for each of the four workers under Sec 2(a) of the ID Act. The demand notices were filed against both the company, Sherlinks Ltd. as well as the contractor Om Sai Enterprise. This is done to hold both parties accountable to the plight of the worker and also to ensure that one does not escape responsibility by placing blame on the other.

Filing multiple complaints to pressurise employers

Another strategy used by the worker's AR was to also file a complaint of Payment of Wages against the employer, Sherlinks Ltd. This was done mainly to pressurise both the employer and the contractor.

In case of contract workers, the liability is ultimately on the principal employer for paying wages. According to the worker's legal representative, filing a payment of wages claim ensured that there was significant pressure on the principal employer. In order to avoid the court process under the complaint, they would in turn pressurise the contractor to settle during conciliation. And therefore, ensure that the workers received their dues.

"We filed payment of wages claims to finally pressurise the company and the contractor. Smaller companies generally don't want to get involved in wage claim cases because one can demand up to 10 times the workers' wages as compensation. So, filing the claim was a way to get them to settle at conciliation."-Workers' legal representative

The settlement money was finally paid by the contractor Om Sai Enterprise to all the four workers. However, the money paid was less than the original amount demanded in the demand notice.

D.) Documents in file and their contents in brief:

- 1.) Conciliation settlement agreements of all four workers stating
 - That the payment is inclusive of all claims of the worker such as payment, bonus, overtime money etc.
 - Neither respondents are liable to pay the workers any other sum of money
 - The workers have decided to leave the work of their own volition
- 2.) Demand notices
 - Workers had not been paid for the months of May and June 2017 and for 12 days in July
 - They had not been paid for the overtime work in July
 - Other violations including non-payment of minimum wages, not depositing workers' PF money, illegal deductions from wages etc.
 - That although the worker was shown as a contract worker, he was actually employed by the company

- Payment of Rs. 31,385 for Vijay and Manohar; Rs. 28,769 for Ravi and Ratan
- 3.) Complaint against non-payment of wages for all four workers

Case Study 15- Malati Devi Minimum Wages Complaint

Malati Devi's case is unique to the Gurgaon RMG sector since it is a Payment of Minimum Wages claim. Claims under the Payment of Minimum Wages Act are rare. Official records⁵ of the Gurgaon labour department state that between the period 2015-2020 only two claims have been made under the Act. The first one was withdrawn, the second was initially pending through the first year of its application. It was finally allowed in the second year. Malati Devi's claim was this second claim.

The case is important since just the admission of the claim was a tough battle fought by the worker and her legal representatives. Malati Devi's LR shared that much effort was needed to convince the Presiding Officer of the presence of minimum wages violation in the industry. They shared that officials refuse to acknowledge violation of minimum wages in the sector.

The company had over the years suppressed Malati's wages and had not paid her the mandated minimum wage as per the Haryana government's notifications. They had deliberately appointed her at a grade lower than her actual skill grade and this further suppressed her actual wages.

When she first filed her claim under the relevant section of the Minimum Wages act through her authorised representatives, the company tried their best to discredit the claim. Citing several technical reasons and complicating the matter so that it gets tied down in minute details, the company pushed hard to get the claim dismissed. However, Malati's legal representatives persisted, resulting in a final court order allowing the claim. The narrative below outlines this struggle.

This case was first filed under Sec 2 (a) of the ID Act since Malati Devi had been unfairly fired by the company without due process. The termination dispute is still ongoing at the labour court.

A.) Basic Information (Case Related):

Worker: Malati Devi

Gender: Female

Age: Not available

Caste: Not available

Company Name and Factory Address: M/s Modelama Exports Limited, Plot No-105, Phase-01, Udyog Vihar, Gurgaon

Post: Final Checker

Dispute Type: Non-payment of minimum wages

Concluded/Ongoing: Concluded

Year: 2016

Individual/Collective: Individual

B.) Timeline of events:

⁵RTI data

Date	Incident
2012	Appointed as Checker. Appointment letter given to worker.
01.11.2014	Promoted to post of Final Checker
27.04.2016	Terminated from work
10.08.2016	Claim filed under section 20 of the Minimum Wages Act, 1948
07.09.2016	Reply by management to the claim asking for dismissal of the claim on several technical grounds and denial of all the objections raised by the worker. Highlighted the issue in filing the claim after the period to file it had lapsed.
05.10.2016	Replication filed by worker's AR in response to the management's reply pointing out several discrepancies in the management's response
19.10.2016	An application for the condonation of delay was submitted on behalf of the worker
02.11.2016	Written argument was filed on behalf of the worker
30.12.2016	Court orders for claim to be allowed
31.01.2017	Worker's evidence filed through affidavit
20.07.2017	Evidence on behalf of respondent filed via affidavit

C.) Case Details (Case documents and interview with legal representative):

1.) Beginning of Issue

Violation of Workers' Right to Payment of Minimum Wages

Malati Devi was appointed as a 'checker' in 2012 at Modelama's unit 105. Her work involved checking the products for any defects and the post fell under the Category A of Semi-skilled worker as per the relevant Haryana Minimum Wages Notification. From the beginning of her appointment, the company regularly paid her less than the stipulated minimum wages for her post. This was done strategically by listing down her basic wages on paper as the required minimum wage of Rs. 5343, but providing her a much lesser monthly wage of Rs.2291. According to the Minimum Wages Act, 1948, the total salary paid to the worker in-hand post deductions including ESI/PF should equal the notified stipulated minimum wages. Thus, the company had from the start made illegal deductions from her salary and had denied her the rightful wages.

On 01.11.2014, she was given a promotion and appointed as a 'Final Checker'. Her work then involved giving the final signal to finished pieces of garments before they were packed. This promotion also reflected in a higher pay grade according to the notified minimum wages grade. She was now under the category of Semi-skilled B, with a stipulated minimum wage of Rs. 8160 as per the relevant notification. However, the company continued to list her as a worker under the category Semi-skilled A in violation of labour laws and did not increase her salary to reflect the changed grade. As a piecemeal measure, the company increased her basic salary to Rs. 5770 (from the initial Rs. 5343) while paying her an actual, in-hand salary of Rs. 4836 (from the initial Rs. 2291). The wage increase was clearly in complete violation of the law which mandated that Malati Devi now receives an in-hand pay of Rs. 8160 instead of Rs. 4836.

Even, without promoting her to a Semi-skilled B worker, by 2015 Malati Devi should have been receiving Rs. 7770 in-hand. However, as of October 2015, her basic salary was Rs. 6017 while her in-hand salary was Rs. 5383.

2.) Filing of Claim

A claim notice under Sec 20 of the MWA, 1948 was filed on 10.08.2016 demanding payment of the wages due to Malati Devi. The claim notice highlighted the facts written above and included in annexures, the worker's pay slips throughout the years 2013 to 2016, a table indicating the worker's basic and in-hand salary compared to the relevant, mandated minimum wages as evidence of the violations of the worker's right to the provisions under the MWA, 1948.

Non-payment of Minimum Wages Linked with other Multiple Violations

As social security benefits such as ESI as well as PF contributions are calculated based on wages, low wages imply lower contribution. This in turn compounds the violations against the workers' legal rights.

The claim notice filed also highlighted other provisions in the Minimum Wages Act, 1948 that were categorically denied to Malati Devi, including,

- No paid weekly offs in violation of Sec13(1) of the MWA, 1948
- Non -payment of legal over-time rates in violation of Sec 14 of the Act

The claim also highlighted the atmosphere of threat and intimidation that workers are subjected to. Malati Devi had tried raising the issue of non-payment of minimum wages in the company while she was working there, but had not pursued the issue as she feared termination.

Response of the Company Management

The management had appealed for rejection of this claim highlighting technical issues that included,

- An error in the name of the company in the claim (that the company is actually M/s Modelama Exports Ltd. while in the claim it is mentioned as M/s Modelama Exports)
- The claim being filed in a format different from the prescribed format
- The claim being filed after considerable delay, beyond the stipulated period in law (six months) for filing such claims; and that there were also no reasons accompanying the reason for the delay
- Letter authorising representatives by the worker was not filed in the prescribed format

The response also posed problematic arguments that alleged that

- All workers are aware of minimum wage revisions
- That it is on the worker to be aware of their skills and corresponding salary grades and thus it is not the onus of the company to appoint a worker as per the correct skill grade based on experience and skill level. Thus, implying that if a worker is unaware or in the dark about the work they are allotted and the corresponding skill grade, the company will not make any effort to categorise them as per their correct grade
- And that therefore the wages that were being paid to the worker was with her consent

This response from the management reveals their attitude towards workers. It is illegal to pay wages lesser than the notified minimum wages. The consent of the worker here is almost under duress since the alternatives posed to the worker is that of either agreeing to the wages proposed by the company or being without a job. It is well-known that blue-collared workers do not have the freedom to negotiation on wages and service conditions with the management during their hiring. Thus, the management's argument about workers' consent was inaccurate.

Although in this case, the authorised representatives of the worker were lawyers, it is often the case that workers are unable to gather support by professionals. Rarely are workers who generally have received little to no education, aware of labour laws, technicalities of filing claims and disputes in the correct format seem a far-fetched expectation. Raising objections to a worker's claims based on incorrect formats pose unnecessary hurdles to a worker's access to justice.

After the management's response, in the months of October and November 2016, the worker submitted

- A replication statement in response to the management's response-05.10.2016
- An application for condoning the delay highlighting in details the reasons for delay – 19.10.2016
- A written statement of arguments against the management's response – 02.11.2016

Order Allowing the Claim

The order passed (on 30.12.2016) was in favour of the worker upholding the reasons given by the worker for the delay. The order upheld the actual purpose of labour laws that is to resolve grievances of workers by stating that *"...this court is of the view that the labour legislations are enacted in view of resolving the grievances of workers and to get them speedy disposals of their claims without going in legal technicalities of law as most of the workers are not in knowledge of their rights."*

D.) Documents in file

- 1.) Appointment letter of worker
- 2.) Copy of the claim filed under section 20 of the Minimum Wages Act, 1948
- 3.) Copy of the reply filed on behalf of M/s Modelama Exports Ltd. to the claim application
- 4.) Replication filed by the complainant on 05.10.2016
- 5.) Application for condonation of delay in filing the claim beyond the limit-19.10.2016
 - The application outlined the regular practice of the company in suppressing wages below the minimum wages and keeping the workers in the dark about it
 - After release of minimum wages notifications, salaries are increased but not enough to match the legal minimum wages. Thus, workers are kept under an illusion that their salaries match the stipulated minimum.
- 6.) Written argument on behalf of the worker
- 7.) Copy of order dated 30.12.2016 allowing the minimum wage claim
- 8.) Worker's evidence via affidavit
- 9.) Copy of evidence of behalf of the respondent by way of affidavit

Case 16- Collective action by GAWU on minimum wage violations

This case study is a summary of GAWU's campaign against the practice of minimum wage violations in the Gurugram RMG sector.

A. Timeline of Events:

Date	Incident
28.04.2016	Protest against industry wide practice of non-payment of minimum wages and submission of memorandum by GAWU to ALC, Gurgaon
04.09.2017	GAWU organises a rally against the industry-wide practice of non-payment of minimum wages Second memorandum by GAWU
12.10.2017	Request to inspect factories that are in violation of the MW Act, 1948 addressed to the office of ALC
31.10.2017	Orders given by ALC, Gurgaon
11.01.2018	Letter to all Asst.LC for compliance with ALC's orders. Also sent to ALC
22.02.2018	Reminder letter to Asst. LC Circle 1 Also sent to ALC
20.06.2018	Letter to ALC Circle 1 outlining specifically the minimum wages violations by the Richa Group of companies including Gaurav International
16.07.2018	GAWU's reminder letter to Asst.LC Circle 2 about their previous communications to them on the issue of minimum wages

B. Case Details (reconstructed from case documents and interview with GAWU representative)

A key issue that GAWU has repeatedly highlighted and taken action against is the issue of wage theft in the garment sector. They have spoken at length about the normalisation of underpaying workers, unfair deductions from salaries, absence of ESI/PF facilities, non-payment of minimum wages as an industry wide practice. On many of these issues GAWU has undertaken different strategies to change the practice and hold both the industry and state machinery accountable. From protest demos, to involving international networks and raising formal complaints with the labour department (both at the state and the district level), GAWU has taken a multi-pronged approach towards changing the status quo.

Non-payment of minimum wages has been and still is a key contributor to wage theft. Apart from addressing the issue of individual workers on a case basis, GAWU decided to take the issue up in a formal manner in order to address the structural basis of the issue. In April 2016, a large protest was organised by the union in Udyog Vihar to voice their concerns on the practice. The protest was also backed by CITU. The protest ended in a submission of a memorandum to senior officials in the Gurugram labour department. The memorandum highlighted the persistent violations of workers receiving less than the mandated minimum wages across factories in Gurugram, and specifically urged the department to look into the industry practice of hiring workers through contractors. These workers were more liable to violations of minimum wage payment than others.

After the first memorandum was submitted to the department, in September 2017, GAWU organised another protest on the issue of minimum wage violations. In the second memorandum addressed to the ALC, GAWU had listed out the names of some companies with data on specific violations committed by them with respect to minimum wages. This information was requested by

the ALC after the first memorandum was submitted as they felt it would expedite the process of inquiry into the issue.

GAWU's second memorandum expanded on the issue of minimum wage violations. Their analysis of about 400 payslips across different companies highlighted that:

- Companies split the workers' wages into multiple allowance components so that the gross wages are near the mandated minimum wage but the basic wage was much lower. They paid conveyance, HR and food allowances but kept the basic wage low so as to avoid a larger share of employers' contribution to ESI and PF. They pointed out that this was in violation to the November 2015 notification released by the Haryana government.
- That companies were not paying dearness allowances to workers as per 2016 and 2017 notifications

GAWU's calculations of the total amount of money stolen by the industry from only skilled category workers by way of not paying them the mandated minimum wages was between 1680 crores to 1890 crores per year.

"The skilled category workers constitute around 70% of workers of the garment industry and there are around 5 lakh workers working in the industry in Gurgaon and Manesar alone. Orient Craft employs more than 35000 workers in the area, Modelama employs around 10000. So if we consider the above example as average, only the skilled category workers of the garment sector lose close to 1680 crores to 1890 crores per year in wages due to the violations in minimum wages by garment companies only in Gurgaon." – Paragraph 16, GAWU memorandum addressed to the ALC, Gurgaon Labour Department on 04.09.2017

Responding to this memo, the ALC asked GAWU to provide disaggregated data on specific violations within each company mentioned by them as defaulters. On the 13th of October, 2017, GAWU submitted a third memorandum to the ALC. In this they shared data on minimum wage violation practices in the factories of Richa Group of companies (Gaurav International, Richa Global Exports, and Richa and Company), Modelama Exports, Jyoti Apparels, Magsons, Tets N Rai, and Rajat International. In each company they had analysed pay slips of workers across all categories-skilled, semi-skilled and unskilled. Their study found that in all the companies the basic wages paid were far below the stipulated minimum wages for all categories of workers. A list of the 17 factories investigated with address' was affixed with the letter.

Within two weeks of receiving GAWU's findings, the ALC ordered the Asst.LCs of all six circles to investigate the companies under their jurisdiction for defaulters. Specifically, the letter asked for investigation of Modelama, Magsons and the Richa Group of companies.

However, even after the orders by the ALC, no action was taken by the department. And in an odd 'coincidence' the ALC was transferred to a different region within a month of passing the order.

"It was definitely strange that just after the ALC finally passed the orders for an investigation into all the companies we had listed, he was transferred elsewhere. The next ALC who came was not at all proactive and the momentum that had been generated through our efforts dropped." –GAWU Representative

After the process came to a halt, GAWU did not give up their fight. They made repeated attempts to communicate with the individual Asst.LCs of each of the six circles. Reminder letters were issued to them urging them to act on the ALC's orders.

In June 2018 GAWU also wrote a detailed letter to the Asst.LC Circle 1 highlighting the rampant underpayment of its workers by Richa Global Exports as well as the other companies under the Richa Group. GAWU's research into the payment practices in the company revealed that skilled category workers received at least 9% less basic wages than the stipulated minimum wages for the category, while for unskilled workers the percentage was as high as 28.9%. Where the company should be paying skilled workers as pr Category B, they were instead paying them as Category A workers. Workers were also not paid their dearness allowances, and received improper overtime rates, many workers had also worked for 30 days without a single day of rest. This was in addition to GAWU's earlier complaint (Paragraph 4 of memorandum dated 11.01.18 addressed to the Asst.LCs of all six circles) against the same group of companies about their non-disclosure of the joining date of the employee on the appointment letter. This they pointed out is to deliberately create an ambiguity around the worker's seniority in the company and prevents them from calculation their correct pay grade.

Current Status

Almost four years later, investigations into the issue are yet to take place as per the original orders of the ALC dated, 31.10.2017.

C. Documents in File

- 1.) Second memorandum by GAWU dated 04.09.2017
- 2.) Third memorandum by GAWU dated 12.10.2017
- 3.) Orders given by ALC, Gurgaon dated 31.10.2017
- 4.) Three reminder letters to Asst.LCs of all circles to comply with the ALC's orders
- 5.) Letter to Circle 1 Asst.LC outlining wage violations in factories of Richa and Co.

IV.ESI/PF

Case Study 17- Maternity Benefits Claim through ESI

This is an ongoing case of maternity benefit claims. The worker has been fighting to claim her benefits from mid-2020. She was initially asked by her company management to file for ESI claims as they assured her that she was eligible for the claim. However even after completing all the necessary paperwork and submitting the required documents, the ESIC dismissed her claim. The company management changed their stance as well and did not support her claims for maternity benefits rights.

She has been fighting the case now with the help of a legal representative who is associated with a worker's collective in Gurgaon.

A.) Basic Information (Case Related):

Worker ID: Prerna

Gender: Female

Age: 28

Caste: OBC

Local/Migrant Migrant

Company Name and Factory Address:

Post: Tailor

Dispute Type: Maternity Benefits Claim Dispute at ESIC

Concluded/Ongoing: Ongoing

Year: 2020

Individual/Collective: Individual

B.) Timeline of Events (from case documents):

Date	Incident
03.07.2019	Appointed as Tailor
11.01.2019	Worker went on a 42-days sanctioned maternity leave after fulfilling necessary ESIC formalities as well as company formalities
17.02.2020	Worker admitted to the ESIC Hospital for delivery
18.02.2020	Date of delivery
20.02.2020	Worker discharged from the ESIC Hospital after completing formalities and the company was informed of the same.
February 2020	Worker applied for the entire six months maternity leave and submitted all necessary documents both to the company and at the ESIC dispensary
July 2020	Worker re-joined work after completion of her six months leave. During this time she was told that she was not eligible for the maternity benefits claim.
July-September 2020	Several rounds of failed meetings with the ESIC official in-charge of the case
10.11.2020	Legal Notices were sent to the management and to the Sr. Manager ESIC Office, Dundaheera.
29.10.2020	Reply received from the ESIC Office stating the worker had not completed 9 months of service, and therefore was not eligible for maternity benefits claims.
16.11.2020	Response of ESIC Office to the legal notice.

05.12.2020	Worker resigns from the company.
20.01.2021	Meeting of GSK lawyer with the Sr. Manager, ESIC Dundahera where the latter agreed to speak to the Modelama management to resolve the issue

C.) Case Details (Case documents and worker’s interview):

1.) Beginning of Issue

“They made a complete fool of me. From the HR Manager who was the one who had promised me that I will get my money for the 6 months leave, to the ESIC official, I was the one they found to make a fool out of. I ran from pillar to post for days on end with my new-born in my arms asking for my money.”

Prerna had joined the company in July 2019. She had informed the company about her pregnancy and submitted her ESI details at the time of joining.

Prerna had completed all the necessary formalities regarding ESI, but was unaware of her maternity benefits rights under the ESI scheme. It was only while working in the factory that she learnt of this through colleagues. However, she was still unclear about her eligibility for the claim. Her co-workers too could not give her a clear answer. In order to avoid any complications regarding leave etc. she decided it would be easier to resign and resume work after her delivery in another company.

“A few women working there told me that I cannot claim maternity benefits because my duration of work here is very less, others were saying that six months is enough to claim the benefits. But I was confused and not sure. And so, I thought I’ll just resign.”

In January Prerna approached her in-charge to request him to complete the required formalities for her resignation. However, her In-charge explained to her that she was eligible to file for maternity benefits claims under the ESI scheme and so instead of resigning asked her to inquire on the necessary formalities involved with the Personnel Department.

After consulting with and getting the green signal from the Personnel Department, Prerna decided to file for the maternity benefits claim under ESI and subsequently applied for leave. She was asked to visit the nearest ESI Dispensary and fill the required forms. After submitting these to the company and the ESIC local office she was granted a leave of 42 days starting 11.01.2019. During this leave period she delivered her baby on 18.02.2019.

Post her delivery, she was informed by the ESIC staff that the 42 days of leave will be clubbed with the legally granted six months maternity leave. And to claim the wages for the entire six months she had to submit a few more forms and documents. She meticulously gathered all the relevant documents and followed the process.

After completing her 6 months maternity leave, Prerna went back to work in July. While she was working in the company, she received a call from the ESI local office informing her that she will not receive the claim money. Upon inquiring at the ESI office she was told that she had not worked for enough number of days to qualify for the claim, and to continue the conversation further it was best that she first speaks to her supervisors at Modelama and then get back to ESIC.

2.) Attempts at Grievance Redressal in the Company

The primary issue was caused due to the company’s negligence in renewing the worker’s ESI insurance. Instead of carrying over the worker’s existing unique ESIC registration, the company had registered her as a new entry into the ESIC. This meant that her previous record was delinked from

her new one and thus implied a shorter duration of membership with ESIC, laying the grounds for dismissal of her claim.

Worker Misguided by Company Management

The worker sought help from the company's HR Manager who had initially assured her of her eligibility for the claim. However, this time he changed his stand and told her that he agreed with the ESIC officials that she had not worked for enough number of days to be eligible for the claim. He went on to blame her for not providing the previous insurance number to the company, although on her part she had completed all the necessary formalities for transfer of her account.

"I told him that I wasn't even getting the medicines anymore from ESIC. So, he told me it is because my claim benefits were over and since the old account had not been transferred, I was not eligible for any more benefits. This ESIC account of yours is a new account."

3.) Attempts at Grievance Redressal through the ESIC Regional Office

"The ESIC official took him (pointing to her husband) aside and asked him to meet them separately without me. I thought that if they are asking to meet, even if it's without me it is fine as long as the work is done. If I leave the company then I'll be unemployed and the money I am owed will also get stuck, so whatever will work. And then they told my husband that we'll get our money but he will have to give them Rs. 4000 for this. He came back and we somehow managed to collect the money and went back to the office. But there I asked them why they wanted money from us. The moment I said this, they turned and refused to acknowledge that they had asked us for any money. That I when I told them to give me back my documents and that I was going to file a police complaint against them."

Between the ESIC office and the company management the worker has been left confused and harassed in asking for what rightfully should have already been given to her. The ESIC office has kept her case hanging by a thread, assuring her that although she is not legally eligible for the benefits, they are trying their best to find a way out. Neither has the company management acknowledged their negligence that led to this issue nor have they in any way supported their worker in finding a way to her claim.

Attitude of ESIC Staff and Officials

Even while the ESIC officials were assuring the worker that they were trying their best to sort out her claim roadblocks, she was not assured as she felt that their body language and tone was more dismissive than supportive.

"They told me we are trying to get you your money, but who knows how long that will take, it could take six months, a year or even more. You'll just have to wait. And when I said I will fight and take it up to the labour court, they only said go where you want. And the ESIC official was clearly annoyed with me after I lodged the police complaint against her. They said taunting me, sure, now I'll definitely give you your money."

Prerna was also harassed and shouted at by a staff of the ESIC during one of her visits. *"There is a boy who was sitting outside at the door and he shouted at me and insulted me saying, you give a hundred rupees and expect several thousands in return? If you had come to me I would have set you right. The whole staff was watching."*

4.) Engaging a Workers' Collective in Gurugram

She approached her current lawyer after hearing from another worker. She went to meet the lawyer immediately. *"I initially thought that he (the lawyer) worked alone, but then after coming to the*

office I saw that he is part of a collective that works with labourers and workers. This made me happy because at least there is some place where workers can feel supported.”

Changing Stance of ESIC Official

Her lawyer sent legal notices to the company along with copies addressed to the ESIC.

The ESIC official who had previously told her husband that they’ll release her due payment if they paid Rs.4000, also changed her stance by blaming the company’s negligence in the issue.

“I do not have any faith in the company. They will not help me get my money. I am hoping that through this sangathan the fight ahead will be easier and that I’ll be victorious.”

Atmosphere of Mistrust

“If the company knew that I was never going to get my money why did they make me sign on all the documents? Why did they make me run around gathering all the paperwork? I could have just resigned and left like I was planning to. This is why I feel that they were after my money. Otherwise, why was I made to do these unnecessary steps? Even at the ESI office, why are they not giving me back my documents? If they are not going to give my money, why can’t they just give me back my documents?”

5.) Current Status of Case

Prerna’s lawyer has had repeated conversations with the ESIC official in Dundahera. While the company is shifting the onus on ESIC, the latter is in turn putting the onus on the Modelama management to resolve the issue of service days. At the time of field work, Prerna’s LR shared that they were due to meet the company management to discuss the issue.

D.) Documents in file and their contents in brief:

1. Legal Notices sent by the Lawyer dated 10.11.2020 to Manager of Modelama Company and to the Senior Manager, ESIC Dundahera Branch.
2. Reply received dated 29.11.2020 from the Senior Manager, ESIC Dundahera Branch
 - Worker has not completed the required period of service for maternity claims eligibility
3. Official para wise reply to the legal notice sent to ESIC
4. Authorised letter signed by the worker for pursuing the legal cases in future.
5. Offer/Joining letter issued by company to worker dated 03.07.2019
6. ID Card issued by company
7. E-Pehchan Card (ID Card) issued by the Employees State Insurance Corporation.
8. Salary Slips issued by company dated September 2019, November 2019 and August 2020
9. Discharge documents of worker issued by ESIC Hospital Sector 9A, Gurgaon-122001.

Case Study 18- Ongoing case of a worker trying to withdraw his deceased wife's PF money

Alpana passed away in 2018 after a four-year long battle with cancer. Prior to being diagnosed with cancer she had been working as a thread cutter in the now closed unit of Orient Clothing in Udyog Vihar. She was a contract worker and for the three years that she had worked there, each year she was given a new ID card as well as a new PF account. While after the first year, she had withdrawn her PF money after her first account was closed, for the next two years, the money had not been withdrawn. She had quit work and gone back to her village and during the four years of treatment neither she nor her husband had the time or the resources to go back to the company to complete any formalities related to the withdrawal of her PF money.

After her death in 2018, her husband finally came back to Delhi. In 2019 he first attempted to approach the unit in order to ask for his wife's PF money of two years. The unit had shut down and no one from the previous factory remained in the building.

After this he has over the last two years tried several times to approach the PF office for withdrawing the money, but officials have not cooperated and due to his language barrier, he has been largely unable to understand what is the due process, which forms have to be filled etc. With the lockdown in 2020, things became worse for him.

At the time of his interview, he was still trying to gather the required paperwork to withdraw the PF money with the support of GSK. This case study also highlights the compounded vulnerabilities faced by migrants due to language barriers as well as 'othering' by locals in access to entitlements

A.) Basic Information:

Worker: Alpana (deceased); Suman (husband)

Gender: Female

Local/Migrant: Migrant

Age: 47 (deceased-24.03.2018)

Caste: General

Company Name and Factory Address: Orient Clothing, Plot No. 299 Udyog Vihar

Post: Thread Cutter

Dispute Type: Issue in PF withdrawal

Concluded/Ongoing: Ongoing

Year: 2019

Individual/Collective: Individual

B.) Timeline

Date	Incident
2010-2014	Employed in the company as a Thread Cutter
2011	1 st year PF withdrawn
2014	Quit work for medical reasons
24.03.2018	Passed away after battling cancer
2019-Present	Worker's husband struggling to claim her PF money

C.) Case Details (From interview with husband of deceased worker)

In 2010, Alpana joined Orient Clothing as a thread cutter through a contractor. Originally from West Bengal, Alpana and her husband Suman migrated to Gurgaon in early 2010 in the hopes of adding to their meagre farming income. Suman too started working as a Helper in a different garment manufacturing company.

In an alien land with no previous knowledge of working in a factory, both Alpana and Suman were unaware of their rights and what constituted labour violations.

“No, now I know that a lot of things were not correct. At that time whatever the company said we thought that was how it was supposed to be. If they were issuing new cards every one year, we thought this was the norm. And it was not just to one or two people. A lot of workers were asked to do this.”

In the three years that she worked in Orient Clothing, Alpana was issued three new ID cards every year. She was laid off for a day and then provided a new joining letter by the contractor. The contractor had told her that this was the norm that was followed, and neither her nor Suman were aware of any adverse repercussions that this could have on their employment.

“It was not easy to always understand what was happening because then we also could not understand Hindi very well. Now I comprehend it somewhat but not enough. There was not much opportunity to speak to co-workers and find out what is wrong and what is right.”

After working for about three years in Gurgaon, Suman and Alpana had left for their village in 2014 for a longish stint. Here, while in the village, Alpana became severely ill and was finally diagnosed with cancer. After a four-year long battle, Alpana finally succumbed to the disease in 2018. In the four years of her illness, the couple spent all their time focussing on Alpana’s health. Both had quit their work and remained in the village for the most part, except for the last one year when they returned to Delhi for her treatment.

PF Issues

After her first year at Orient Clothing, Alpana had withdrawn the PF amount from her account. The contractor she was working with was an established company in Gurgaon and as such complied with the basic minimum rights of workers such as timely payment of wages and depositing workers’ PF money. Each time she was re-hired, Alpana was provided a new PF account. While she had withdrawn the PF money after the first year, the money was not withdrawn for the next two years.

After her death in 2018, Suman was broken, emotionally, physically and also drained of financial resources. At this time an acquaintance suggested claiming Alpana’s PF that was lying in the bank unused. Unaware of how to proceed with claiming the PF money, Suman decided to approach Alpana’s employers for help. However, when he reached the factory, he was told by a shopkeeper in the area that the factory had shut down three years ago. Confused about the next steps, Suman was advised by the same shopkeeper to inquire at the PF office instead.

Running from Pillar to Post

Suman approached the PF office multiple times in in the last two years, however did not manage to reach a successful resolution to a seemingly simple issue.

"I went several times to the PF office, till even the lockdown. Every time they gave me some form and told me fill this form and bring it. But at no point was I told that ok now you will get the money."

As a migrant worker, unaware of systems and processes as well as the local language of the destination area, Suman has faced multiple challenges especially in communicating with the PF officials. He feels that the staff there is purposely dismissive of him as they are prejudiced against him due to the fact that he is an outsider. He shared that they do not care to speak in a manner that will aid him in comprehending the instructions and are mostly brash and rude.

"I do get confused and take some time in understanding what the officials are trying to tell me. But I am also scared to ask questions because they get very aggressive."

Once the pandemic began, he was not allowed to go inside and interact with the officials. This caused a new boundary in the existing communication. Finally, he was asked to fill yet another form and get it signed by a gazetted officer. This too was communicated to him by the office boy who took his papers inside and came out with these instructions.

"Now the last time they told me that I need to fill this death form and I have to get a signed by a gazetted officer. Like a government school headmaster or a government hospital doctor."

Suman is now engaged in this search for a gazetted officer willing to sign in his papers for the release of his deceased wife's PF money. He has visited several places in search of one signature including the government school located in Khandsa, the government hospital located in Sector 10, to the SBI branch where he has an account and several other places, but no staff has been willing to sign on his papers. The lawyer who made the affidavit for him stating his wife's death too refused to help him in his search.

"I have been to the PF office at least 8-10 times now. Every time I go they ask me to return with some new thing, I have complied with everything they have asked me to do. And every trip has cost me my wages as well as money to travel to the office itself. I am at my wit's end now. How do I find a gazetted officer to sign something for a stranger?"

Current Status

Suman who had been struggling in his own initially is now supported by GSK, who has visited the PF office with him a couple of times to gain more clarity on the issue. Their legal representative is at present working out their next steps which includes speaking to the PF official posted there directly.

Case Study 19 - Resolution of withheld PF money through legal notice sent by worker's authorised representative

Vinay had been working at the company for 12 years during which he had graduated from the post of a helper to checker. He quit before the company just before the lockdown after having endured more than a decade of several labour law violations, amounting to bonded labour, including low wages, abusive environment and long working hours often without pay. After the lockdown, he joined work in another company. When he asked his previous company to fulfil the formalities involved in transfer of his PF money to reflect his new employment, the company refused to comply.

The case was finally resolved through negotiations with the company management that was done by the lawyer representing the worker. According to Vinay's lawyer, the company had a history of violating several labour laws. In such cases, generally the company is more likely to settle informally with the worker and avoid any formal labour department process. However, it is important to note that the success of this was also due to Vinay's access to legal support. In the absence of legal support, it is rare for workers themselves to negotiate informal settlements to their advantage.

This case highlights an incident of debt-trap. The company owner loaned workers large sums of money and used this to keep them employed in the factory under harsh conditions of work and several counts of labour rights violations.

It also points to an incident where the company withholding the workers' PF's money as a way to harass and victimise the worker.

A.) Basic Information (Case Related):

Worker: Vinay

Gender: Male

Local/Migrant: Migrant

Company Name and Factory Address: Turquoise Fashions Private Ltd. Plot No-449, Udyog Vihar, Phase-III, Gurgaon

Post: Final Checker

Conflict/Issue: Withholding of worker's PF money

Concluded/Ongoing: Concluded

Year: 2020

Individual/Collective: Individual

B.) Timeline of events (from case documents):

Date	Incident
2008	Appointed as a multi-tasking worker (worked first as a helper then as checker)
March 22 nd , 2020	Resigned from work but his resignation was not processed by the company
June 2020	Asked Turquoise Fashions for an acceptance letter in response to his resignation so that his PF could be transferred to Modelama
22.09.2020	Legal notice sent to company
October 2020	Settled with company

C.) Case Details (Case documents and worker's interview):

1.) Beginning of Conflict

Vinay joined the company in 2008 as a helper and then went on to become a checker after three years. He worked on the same ID card for 12 years in the company.

He left his work finally in March 2020. He felt that the behaviour of seniors towards the workers was unfair and workers were often 'tortured' and harassed not just by their direct supervisors/seniors but by supervisors of other departments who may have no relation with the said worker. He was also not paid his wages for the 22 days of work in March 2020 before lockdown.

"In this company, anyone can exert their power over others. Not just the owner, the guard, the store-in-charge, all can show off their powers; the master of one floor can go to another floor and exert his power over a worker there."

"I had suffered a lot for 12 years in this company. After the lockdown when they refused to give me my money, that is when I finally left."

He quit work on 22.03.2020, but the company refused to acknowledge his resignation. His supervisor called him twice asking him to return, but he refused. He was then sent Rs. 7000 as his final dues, but no letter was sent as acceptance of his resignation.

In mid-May 2020 he joined Modelama and in June beginning he contacted Turquoise Fashions to ask for an acceptance letter in response to his resignation so that the details of his PF account and the money could be transferred to his present workplace.

The company did not send him the letter. In mid-July he was told that he owed the company Rs.35,000 due to the loans he had taken from the company. He was told that the company will send finalise the resignation formalities only when he returns the money owed to them.

Vinay had taken multiple loans from the company as and when required to the amount of Rs.4000- Rs.5000 per loan. The total amount as per Vinay would have been about Rs.65000. The company used to deduct about Rs. 2000 from his salary for re-payment.

According to the worker, this is also a strategy to keep workers in the company on low wages. Almost all workers take loans and the company uses this as a means to keep them employed under exploitative conditions of work.

2.) Informal Resolution

A legal notice was sent to Turquoise Fashions stating the multiple violations of the worker's labour rights including forced overtime, non-payment of legal overtime wages, forced long hours of work and so on.

Vinay received a call from the owner the day the legal notice was sent but could not answer the call since he was at work. Later, that evening the store-in-charge, called him and asked to meet him. Next day after his shift ended Vinay met the in-charge outside the factory gates, where the latter threatened and intimidated him.

"They told me that you won't get anything out of sending a notice to the company. What damage can you cause us? We'll make sure you lose the work you have now. Sir will complain to Modelama about you and tell them that you have sent us a notice. And that that they should not keep you because you will go and complain against them also in the future."

Vinay had recorded this conversation and shared it with his lawyer. The latter advised him to speak directly with the owner and not to any other person from the company. After this incident it was the owner who started communicating with him through Whatsapp calls. They tried to dissuade the

worker from pursuing the issue but finally agreed and asked him to come prepared with his calculation of his dues.

3.) Final Outcome

Although according to his lawyer's calculations Vinay's gratuity should be calculated on the basis of Rs13,500 salary, the company calculated it on the basis of Rs. 9000 per month. They claimed that his basic salary was Rs. 9000 and any extra amount was given as perks/additional allowances. According to the company calculation the total gratuity amount was Rs. 50000. Of this they were willing to pay him Rs. 15,000 after deducting the loan money of Rs. 35000. The company did not provide Vinay with any salary slips during his 12 years of work hence it was difficult to dispute this claim.

After a few rounds of negotiations with the company that involved the worker and his lawyer, the company finally agreed to clear his dues which included the transfer of his entire PF money, payment of leave encashment and his gratuity amount. The loan amount was deducted from this total.

D.) Documents in file and their contents in brief:

- 1.) Legal notice sent to company by worker representative dated 22.09.2020
 - That the worker was employed as a multi-tasking worker from 2008 in the company
 - Last payment was Rs. 14000, including overtime
 - He had not received any PF card, ESIC card, salary slip and ID card
 - He had not received any social security benefits
 - Had not been provided any documents related to employment
 - Had not been given any dearness allowance or any other allowances
 - Was forced to work for long hours, and overtime was paid at single rate
 - Faced harassment while working in the company, and was made to work without wages
 - Had completed 12 years in the company and had not received the gratuity payment. He has asked for the same many times but still had not received the amount.
 - Has not been given leaves and has been made to work for over a week against labour rights
 - That the client has been forced to resign because of the unjust practices of the company towards him and has therefore suffered financially
 - Demand for a pay of legally entitled amount along with 8% interest p.a. from date of notice till actual realisation of amount along with notice fee of Rs. 11,000
- 2.) Vinay's resignation letter to the company
 - That he had left the company on 22.03.2020 after facing several labour rights violations and harassment
 - He was working as final checker when he had left the company and his wages at that time were not as per the wages specified by the state minimum wages for his post
 - That he hasn't received any PF, ESI and gratuity benefits as well as any other due benefits
- 3.) Copy of Pan card, and Modelama ID card (joining date 15.05.2020)

Case Study 20- Successful negotiation of compensation for the families of two workers by GAWU after their death at their workplace (Maharani of India)

In 2013, in the late hours of the night a boiler burst in the factory caused fatal injuries to two workers who had been engaged on night duty. One worker passed away in the hospital on the fourth day post the accident. Subsequently, the company tried its best to hush the whole incident and not raise attention towards itself. From trying to convince the family to settle for a token amount of money as compensation to refusing to engage with angry protestors that had gathered outside the company gate demanding for justice, the employer tried their best to evade their responsibility towards the deceased worker and his family.

GAWU had been involved in supporting the workers' families in the struggle. Both families were finally given their due compensation from the company along with settling their accrued dues through other benefits and entitlements. The struggle that led to the final settlement agreement for the first worker who had passed away paved way for an easier process for the family of the second worker who also passed away a couple of days later.

A.) Basic Information (Case Related):

Gender: Male

Age: Not Available

Local/Migrant: Migrant

Caste: General

Company Name and Factory Address: Maharani of India

Post: Boiler Operator and Electrician

Dispute Type: Compensation for families of workers who had died of workplace injury

Concluded/Ongoing: Concluded

Year: 2013

Individual/Collective: Collectively led struggle by GAWU members

B.) Timeline of Events

Date	Incident
31.08.2013	Boiler burst in the washing department of the unit, leading to two workers (Devendra and Sushant Kumar) suffering serious injuries; workers hospitalised
01.09.2013	FIR registered against company owner and manager by a relative of one of the workers
02.09.2013	GAWU notifies Factory Wing of Gurgaon Labour Department
04.09.2013	Devendra succumbs to his injuries in the early hours of the morning GAWU camps outside factory gate, along with Devendra's body and members of his family, demanding for rightful compensation
05.09.2013	Negotiation and final settlement (under ID act Sec 12(3) around midnight after DLC visits the site Compensation cheque in the name of Kamala Devi (wife of deceased worker Devendra)
	Family of second worker given full compensation after his death as well

C.) Case Details (reconstructed from case documents and interview with a GAWU representative who was part of the struggle in 2013)

Sushant Kumar had been appointed as an electrician in the factory on 27.04.2013, and Devendra had been working as a boiler operator in the same unit.

On the night of 30th August 2013 both were asked to stay overnight for some work. There were no other workers in the factory that night apart from Devendra and Sushant. Around midnight, the boiler that they had both been operating burst causing severe burns to both. The workers were immediately rushed to a hospital in Gurgaon by company staff. Later they were transferred to Safdarjung Hospital in New Delhi after the medical staff in the former referred both workers due to the severity of the burns.

GAWU was informed early morning about the accident and union leaders along with a few members contacted the families of the injured workers and reached Safdarjung Hospital. At the hospital, company staff had already taken care of various formalities related to release of money etc. required for treatment.

“The company management was present during the time of hospitalisation. They will be there at that time to ensure that other workers/unions area round to support the family, because then they will be in trouble.”-GAWU representative

Workplace Negligence of OSH Norms

As a first step towards ensuring access to justice, GAWU urged the family members to file an FIR to enter the accident into official records. The FIR (No. 248/2013) lodged by Sushant’s brother specifically records that the boiler had been operated that night without following the required safety considerations. It further states that the company owner knew about this as did the manager under whose instructions the two workers were asked to operate the boiler. Since the entire range of safety protocols was not followed, the accident occurred. He thus accused the company owner and the management of wilful negligence leading to serious injury of the two workers.

Instead of coming clean and informing all the workers about the unfortunate accident, the company shut down the operations of the washing department from the next day. They informed workers that they would be told when to return to work. Anticipating that the company was trying to cover their steps and therefore could also create issues in compensating the families of the workers, GAWU had also informed the Factory Wing of the Gurgaon Labour Department of the accident in a letter two days after the blast. In the letter they urged the Director, Health and Safety (Gurgaon, Circle I) to ensure that the families received the due compensation from the company as well as to take appropriate actions against the company for trying to hide the incident.

Devendra’s Death and the Ensuing Struggle

On the 4th of September 2013 (fourth day post-accident) Devendra succumbed to his injuries. As was anticipated by GAWU, the company refused to wait for the post mortem of the workers’ body and pressurised the family to immediately perform the last rites in order to avoid a formal record of the accident. With GAWU’s intervention, the company management had to finally cave in and the due process was followed including post mortem before releasing the body of the worker.

The company had already told the family that they would release all the due entitlements of the deceased worker such as the accumulated PF and accumulated leave money. However, they made no mention of any monetary compensation for their own negligence that cost the worker his life and left the family bereft of not only their loved one but also the only earning member.

In order to force the company to fulfil their obligations towards the worker and his family, GAWU along with the latter decided to protest in front of the factory till their demand was met. As soon as the Devendra's body was released, they camped outside the company gate along with the body of the deceased worker. As the factory had shut down, there were no workers at the site at that time. Apart from GAWU members and the family there was hardly any other support.

They camped outside the gate from morning till evening waiting for the senior management of the company to at least acknowledge their presence and come out for negotiations. But they showed no signs of interaction. Relentless they continued their protest all day.

"No one came to talk to us. It was summer and temperatures were really high. We sat outside all day but only small-time lower management people came outside and tried to convince family members to let go off the demand for compensation. They tried to offer measly amounts and dissuade the members from sticking to their demands for rightful compensation."-GAWU representative

At some point during the day, the HR manager suggested that they could pay Rs.10,000 for completion of the final rites and the family can then come back later to discuss compensation. But the protestors were well aware that this was a false assurance and the and if leave without their demands being met, they were giving up any chance of negotiations. Thus even though company representatives tried hard to convince them to let go off their demands, family members remained unconvinced and stuck to their original demands. They had lost the earning member of their family and while the loss of a life cannot be measured in money, however for the rest of the living members of the family, financial requirements was a crucial necessity

Final Settlement

By evening news of the incident started spreading around and media houses were sending their reporters to the factory gate to cover the happenings. In order to prevent other workers and people in the surrounding area from joining the protest, the police had cordoned off the entire area and blocked entry from all roads to the area.

"The company had possibly called the police long back when they realised, we were not going to move anywhere. So a lot of police personnel had come and were preventing people from entering the area. They didn't speak to any of us, but kept trying to persuade the family members to go away." -GAWU representative

Around midnight, the DLC, Anuradha Lamba, finally reached the scene and the senior management, including the owner, was forced to come out and settle under the Industrial Dispute Act Sec 12(3). Even then, the owner of the company tried hard to absolve themselves of any monetary responsibility. However, GAWU members who were representing the family harped on the point that the since the accident was due to company negligence, they owed money to the family.

After several back and forth between the persons involved, a final settlement was reached on the spot. The negotiation took place in front of GAWU members (all committee members and the leadership), the family members, Anuradha Lamba and the company owner, Mrs. Kapoor. The company agreed to pay the family the due compensation they were owed. And as part of the settlement terms, they were to withdraw the FIR that was filed by Sushant's brother. A cheque for Rs. 7,00,000 was written out on the spot in the worker's wife's name: Kamala Devi.

"We did not have to do much when the second worker passed away. Since in the first case we had worked hard enough for the settlement, with the second worker things moved slowly. We had also pre-empted an issue and the day after the first worker died, we immediately submitted a letter to the Labour Department regarding settlement in case of death of the second worker. So the day the second worker passed away, the labour department swiftly worked towards getting the company to release the full compensation cheque for the second worker."

GAWU's Subsequent Engagement with Maharani of India

After this incident, since GAWU had already met a few other workers from Maharani of India they tried to unionise workers in the factory. But they were unable to sustain the efforts. Most of the workers, especially in the Production Department, were hired as piece-rated workers and there was a high mobility among workers between different companies. This meant that it was entirely possible that efforts into bringing workers into the Maharani of India union fold may go waste as in a few days those workers would move to a new company.

However during this time they uncovered multiple violations in the factory and also intervened to address some of them. For example, there was no functional Works Committee in the company although they had shown its existence on paper. No worker that GAWU had asked had any knowledge of the committee or its functions. GAWU intervened and after rounds of talks, finally prompted the company to display the names and contact numbers of members of Works Committees in the factory as a first step towards its actual functioning.

D.) Documents in File

- 1.) Copy of FIR (248/2013) dated 01.09.2013 lodged against company owner and manager by Sushant Kumar's brother
- 2.) Letter to the Assistant Director, IS&H Gurgaon I outlining the details of the boiler burst, urging the authority to take cognizance of the accident and ensure compensation for the workers' families
- 3.) Copy of final settlement between company and Devendra's family

V.Lockdown-Pandemic Conflicts

Case Study 21-Company closure during pandemic

The second unit of Knit Craft operating in Udyog Vihar, shut down in the middle of the pandemic last year without informing its workers. The shut-down affected roughly 400 workers. Some had already left for their villages and lost out on the opportunity to receive at least some of their due wages, others ran from pillar to post trying to retrieve their rightful earned wages. While some were possibly successful in retrieving their wages partially, others were not as lucky. Many workers were left unemployed for close to a year and misguided by company staff about their payment and their employment in the company.

At present, a few workers have approached GSK and with their support pursuing a collective case against the company to retrieve their due compensation and wages.

A.) Basic Information

Company Name and Factory Address: Knit Craft Apparels

Dispute Type: Factory Closure during 2020 Pandemic

Year: 2020

Individual/Collective: Collective

B.) Case Details

Raj, Hemant and Rajesh were all employed in Knit Craft in various posts such as Recorder, Tailor and Final Checker respectively. While Raj had been employed in the said unit for the longest (about 7 years), the other two had been around for lesser time.

In March 2020 when the nation was grappling with the sudden attack of the pandemic and ensuing lockdown, Knit Craft, like all the other factories, closed their operations. The shutting of operations followed the government protocols of a lockdown; however, the company showed a complete lack of responsibility towards the hundreds of workers whose livelihoods depended on them.

“We worked at the company one day, and the next day when we went in the morning we were not allowed inside. They told us at the gate that there is a lockdown so the company will be closed till further notice.”

The Knit Craft management had made no efforts to formally communicate to its workers either about their employment status/job security or about the pandemic and the precautions that were to be taken. Without any information on the lockdown and its implications (in general, on their work, on the company’s possible future), or about the temporary shutting down of operations, workers were left confused and anxious. This abdication of responsibility to its workers at the beginning of the lockdown marks Knit Craft’s dealing with them through the entire lockdown and later as well when they finally shut down one of their units in Udyog Vihar.

Withholding of OT Payment

Workers’ frustrations were furthered when the company paid them the wages for the month of March but not the overtime payment that was due. It is a common practice in the Gurgaon garment sector for workers to rely more on their overtime wages than actual salaries as the former tends to

be higher. Thus, they look forward to receiving their overtime payment to meet their financial needs.

“We were really desperate for our money. We had stopped working since April and there was no source of income. Some of us wanted to go home to meet our families once the trains had started, but without money we could not even buy tickets.”

Once the company administrative branch had started work, the workers made several attempts to meet their seniors and ask for their due OT payments. But they were mostly met with vague assurances and asked to wait for “a few days”. They even went to the main branch of the company (the second unit operational in Udyog Vihar of Knit Craft Apparels). It took about 2-2.5 months of repeated visits to the company braving the border security (at place at that time due to the lockdown restrictions) after which the company had finally started to release their payments. Even then not all workers received their money.

“We got some payment finally in July. But not the full amount due to us. I had to get Rs. 12,000 for the months of February and March. But I was given only Rs. 8000. They kept calling us after every few days but when we went, they would say not today, come some other day. Then one day we went and they were giving out the money but it was a long line of workers. By the time our turn came, they said the money is over, come tomorrow. But the next day again when we went, they didn’t pay.”

Unit Closure

During one of these trips to their factory to plead for their due payment, workers realised that something was amiss. Machines from the company were being loaded onto a truck, seemingly being transported elsewhere. Surprised and shocked, on asking the guards they were told that the machines were being shifted to another location in Behrampur (about 15-20kms away). The lease agreement on the current building had ended and the company was shutting down their operations here and packing up to set shop elsewhere.

Continued lack of accountability towards workers

The workers had not been given any notification about this shift in operations, nor were they given intimation about their employment status vis-à-vis this move. **In a situation of high vulnerability brought by the pandemic and the ensuing lockdown, these workers were pushed deeper into an abyss of insecurity regarding their future as well as their need for securing their immediate basic needs.**

Exhausted, confused, stretched above and beyond one’s physical and mental abilities, the workers of Knit Craft’s second unit were at sea. On asking an HR official in the main branch about the apparent shifting of operations, they were told that their best bet would be to resign and claim all due compensation.

Workers like the ones the team spoke to along with a handful of other workers submitted their resignation letters in the hope of securing their rightful full and final dues. However, here too they were misled. They were promised payment after Diwali, but when the time came the company yet again postponed payment.

Workers made to run around in circles

Desperate, they decided to travel to Behrampur in the hope of locating the new unit of their company and meeting their old supervisors. While they did not meet their previous supervisors, they chanced upon the HR official from the main branch on whose advice they had submitted their papers.

By now he had changed his stance and refused them any help. He asked them to instead continue pursuing the matter at the main branch. On returning to the main branch however they were stopped at the gate and told by the guards that workers from the old unit were barred from entering the office.

Current Status

This was in December 2020. As of March, 2021 workers like Raj and Hemant were still waiting to receive their full and final payments. Especially Raj who has worked for over five years, the amount including gratuity would be a significant sum and a necessity at this time after being unemployed for close to a year.

“I have worked here for 6 years. My full and final amount would be about Rs. 70-80000 because of gratuity and bonus money.”

For casual workers, the situation was worse since there was no written evidence to prove employment. Workers like Rajesh, who were not given any ID cards when they joined work did not even have the option of resigning and asking for their dues.

“My total OT payment was about Rs. 14,800. I don’t even have any paperwork to show and ask for my money. I only keep going from one place to another, first 414, then 490, then to Behrampur, then back to 490, to plead for my money. But no one listens to me.” -Rajesh

Next Steps

All the workers spoken to found employment finally in March 2021 in other garment factories. They approached GSK after hearing about them from a neighbour. They felt that it would be more prudent to speak to someone who may have more knowledge on legal issues to help them with their fight.

We don’t want anything from the company. Just what we are owed, that is all I want.– Raj

It’s been a year that we have been running around. I am exhausted. I think we also deserve some compensation for this unnecessary labour we put in for what was originally ours. Everyone should get at least 10% interest on the amount they are owed. -Rajesh

GSK is at present in touch with 4-5 workers from Knit Craft and are trying to reach out to other workers. They are in the process of drafting a collective complaint on the matter to be filed with the labour department.

Case Study 22- Successful reinstatement of fired workers in Chelsea Mills by GAWU

In this case, women workers were fired from the factory using the pandemic and absence of work as an excuse. However, they were actually fired as a retaliation against them due to their earlier act of filing a complaint with the Haryana Labour Department against the company's exploitative practices working conditions. It is an example of the industry practice of 'getting rid' of workers who raise their voices.

The union representing the workers filed individual demand notices against illegal termination and subsequently the case was settled at conciliation. The workers were reinstated along with their due back wages that had not been paid to them all through the lockdown.

Key Points in Case:

- collective struggle by women workers
- harassment of women workers
- management retaliation against workers even after verbal agreement of ensuring workers' rights in front of labour officer
- involvement of brand by the union as an additional pressure tactic

A.) Basic Information

Gender: Women workers

Local/Migrant: Migrant workers

Caste: Not available

Age: Between 25-40

Company Name and Factory Address: Chelsea Mills

Post: Helper and Tailor

Employment Type: Directly hired by company

Dispute Type: Illegal termination (harassment and subsequent termination)

Year: 2020

Individual/Collective: Collective (workers filed the complaint collectively as a group)

B.) Timeline of Events

Date	Incident
26.09.2019	Letter to LC Haryana from GAWU, outlining the abuse and violation faced by women workers in the company. The company management, Gurgaon labour department DLC, workers (6 women workers) and GAWU were subsequently involved in discussions after which the company introduced measures to alleviate some of the abuse.
June 2020	Once lockdown was lifted, the factory operations began but 5 out of the 6 workers who were involved in the original complaint were not called back to work. (GAWU was not aware of the sixth worker and her whereabouts). 3 other women workers who were not involved directly in the 2019

	complaint but had vocally supported the complaint were also not called back for work. None of the workers had received their wages for the months during lockdown either
July 2020	Complaint letter sent to DLC outlining this unfair practice. But no action was taken against this complaint.
September 2020	Payment of Wages complaint filed before Asst. LC, Gurgaon
October 2020	Demand notices filed for 6 workers to the Asst. LC, Gurgaon
16.10.2020	Letter outlining all the events sent to GAP as a strategy to pressurise buyers to take cognizance and intervene
04.12.2020	Final settlement with ALC cum CO as authority (For 5 out of 6 workers. The sixth worker had been made to forcefully resign by the management)

C.) Case Details (reconstructed from case documents and interview with workers and their legal representatives)

1.) Beginning of Conflict

“I’ll be honest, we were very sure that nothing will come out of this complaint. We thought, what can a handful of women workers do? But we were proved wrong and we are very happy that they managed to stick to their stand and finally the company had to take them back to work.”-Male co-worker

Women workers in the factory had been long struggling with the exploitative environment at their workplace. They were regularly targeted and harassed by one of their supervisors. One of the more problematic practices was that they were purposely made to begin their shift an hour after the others had started. This meant that they already began with an hour’s worth of backlog to finish in order to meet their targets. They would almost always end up falling short of the required pieces. This also meant that they stayed beyond an hour beyond the work hours of the other workers.

“There were about 15-20 of women workers who were targeted. We were asked to come at 10 instead of 9 in the morning and we could leave work only at 7 in the evening after the rest had long left the factory. None of the other women workers were harassed this way because they would always listen to whatever they were asked to do. We were harassed because we were not subservient and would always say no to something if we felt it was not right.” -Sharmila, Complainant

Around the latter half of 2019 some of these workers approached GAWU seeking advice on how to deal with the situation.

“Things reached a peak when I was told one day that I cannot enter and work because I had reached a few minutes late. That day a few of the other workers also left with me and we spent the day trying to figure out how to address the targeted harassment. Then we met someone who gave us GAWU’s address and that is how we reached the union.” – Renuka, Complainant

2.) Formal Grievance Resolution

GAWU with the consent of the workers, drafted a complaint outlining the multiple violations faced by them in the factory and sent it to the Labour Commissioner, Haryana. The complaint was filed in the name of GAWU and they specifically avoided mentioning names of the workers involved in the case. Often worker names are leaked out to companies and this in turn can lead to retaliation on the workers.

Only when during the discussions the management asked for the worker names to be revealed did GAWU, under the assurance of their safety, bring the workers to the fore. Six workers agreed to represent as complainants, while three more were in the background supporting them. After the discussions that took place at the Gurgaon Labour Department, the management was asked to take steps towards improving the general working conditions as well as specifically addressing the concerns of the workers in question. No written agreement was signed at this stage. It was a verbal agreement between that took place between the workers (represented by GAWU), and the management in the presence of the labour department official.

“Things did change in the company. They did improve the work timings which was one of the main concerns of the women. They also possibly transferred the one supervisor that the women had complained about to another department. So, the management did temporarily pay heed to these workers.” -GAWU Lawyer

Motivations for Complaining

As is the practice in Gurgaon, workers rarely complain against their workplace unless they are terminated. This cannot ring truer for women workers who almost always, as shared by several interview respondents, prefer to either change their place of employment or leave paid work entirely. Thus, what motivated the Chelsea workers to file a complaint while they were still employed is important to explore.

“They had been at the receiving end of the supervisor’s constant harassment. And it was also done very blatantly. Plus, they were really finding it hard to keep up with their targets after the supervisor began to stop them from working for the first hour of their shift.” -GAWU Lawyer

One of the most obvious pressing factors is the sheer desperation that the workers finally felt that pushed them to approach GAWU. It is apparent that they had been facing issues for a while, and it was only when they could not deal with it anymore that they decided to seek support in a more formal manner.

GAWU’s support both legally as well as emotionally in a more non-tangible fashion was also key to the push factor. As one of the worker’s shared, they were in fact unaware of how to respond to the company’s unfair treatment and it was after they approached GAWU that they found resources and also the support to follow through.

“We were together throughout the whole struggle” – Renuka, Complainant

Another important motivating factor was the collective experience of the struggle. The violation and exploitation that the workers experienced was collective, unlike other instances where individual workers have been isolated and targeted. This meant that the workers did not feel alone at any point in time either during the experience of the harassment or in the decision-making process of seeking external support. They also faced the management collectively as a unit, instead of an individual worker. This too would have contributed to a greater sense of strength in them.

3.) Second Conflict: Company Retaliation

Although after the agreement in front of the labour department official the company had mended their ways partially, it was only temporary. Immediately after the first lockdown was lifted and factories were allowed to operate, the company found their chance to retaliate against the workers. Five out of the six workers who had complained and one from the three who stood in support were not called back for work, although most other workers were called back and they even hired a few new workers. However, with the women workers who had filed the complaint, the company used

the excuse of the pandemic to say that there was no work available and hence they were not taking the workers back. The company gave a false assurance that they would be absorbed once the orders would come in. Not only had the management essentially fired these workers, they had also not been paid their wages from the beginning of the lockdown.

The workers tried to plead with the management to take them back in but their pleas fell on deaf ears.

“We had already suffered without any income for four months since the lockdown had started and we realised that the company was lying to us about not having any work. They had told other workers to not tell us that they had been taken back and had also been given some money.” – Sharmila, Complainant

4.) Conciliation

The workers went back to GAWU and sought their advice on the way forward.

Since the company had not formally laid them off, GAWU filed a complaint under the Payment of Wages Act demanding the wages of each of the five workers who had not been called back for work. However, gradually as it became clear that the company was not going to call the women back for work and had in fact fired them, GAWU took the decision of filing cases of illegal termination.

The company management in the first couple of conciliation sessions appeared biased and were not willing to cooperate. However, in this particular case as there was already a well-documented history of past violations, this gave the workers leverage over the company. The DLC who was the conciliation officer for this case in the absence of the relevant Asst. Labour Commissioner pushed the management to settle in favour of the workers reminding them of the written evidence of illegalities that weighed against them.

In November 2020, an agreement was reached wherein all five workers were reinstated with full back wages along with the wages due to them during the period of lockdown.

The complaints on Payment of Wages, were withdrawn by GAWU after a settlement was reached during conciliation.

Management Intimidation

During the conciliation process, the factory management tried its best to intimidate workers into settling for unfair terms outside the formal process. They even sent goons to threaten workers as well as to threaten GAWU representatives who were supporting the workers.

They were successful in tricking one of the workers into signing on a resignation letter. The worker, Abhilasha Devi (name changed) was made to forcefully sign on a paper that stated that she was resigning of her own volition and had also taken her full and final payment. However, the worker herself was unaware that she was signing on her own resignation letter and was under the impression that she was signing on an agreement only for payment of the unpaid wages.

Brand Pressure as a Strategy

Raising brand consciousness against violation of labour rights down their supply chain and encouraging them to take action against the specific factories has been an often-used strategy by GAWU. In this case too, GAWU had approached GAP to intervene as a buyer and pressurise the factory to meet the workers' demands. Although brand intervention as a strategy is used specifically after exhausting the existing grievance redressal systems both formal and informal.

5.) Post-Reinstatement

Many workers have shared experiences of victimisation and harassment after their reinstatement. These incidents are especially heightened if the worker has links to a union or a worker's collective. In order to be extra cautious that such incidents do not occur, GAWU has been monitoring the reinstated workers in Chelsea Mills.

D.) Documents in File

1. Complaint letter to the Labour Commissioner, Haryana by workers dated 26.09.2019
2. 2019 complaint letter to Chelsea Mills
3. Copy of illegal termination complaint filed to the DLC office on 09.06.2020
4. Chelsea Mills' response to complaint dated 09.06.2020
5. Letter addressed to GAP outlining company violations, dated 16.10.2020
6. Settlement agreements of the 5 workers
7. Copy of payment of wages claim filed

Case Study 23- Kamal: Terminated during first lockdown

Kamal was a Senior Supervisor in the company. He had faced several counts of violation while working in the company for the past 16 years, especially related to caste-based discrimination. He had been both verbally and physically abused. The company terminated his services without reason after the first lockdown was lifted. With help from his legal representative Kamlesh had submitted a legal notice to the company outlining past violations as well as his illegal termination demanding his due compensation. However, the company remained unresponsive. After approaching several other authorities such as the police, and the NHRC, when things still had not moved in favour of Kamal, his lawyer decided to file a demand notice for illegal termination. However, before this could be filed, Kamal settled with the company on his own.

The process was taking too long and Kamal felt that he could not really see a very favourable end to it. Weighing his pros and cons, he decided it would be better for him to settle informally with the company and take whatever was offered to him as his dues.

A. Basic Information

Worker: Kamal

Gender: Male

Age:

Caste:

Local/Migrant: Migrant

Company Name and Factory Address: 449 Turquoise Fashions Pvt. Ltd, Phase III, Udyog Vihar

Post: Senior Supervisor

Conflict/Dispute Type: Illegal Termination and Caste Discrimination

Concluded/Ongoing: Concluded

Year: 2020

Individual/Collective: Individual

B. Timeline of Events:

Date	Incident
November 2005	Appointed as Helper in the company
20.03.2020	Last day of work before lockdown
July 2020	Worker not called back for work post lifting of lockdown
27.01.2021	Legal notice sent to company
17.04.2021	Complaint filed with the police regarding physical abuse of the worker as stemming from caste-based discrimination
15.07.2021	Complaint sent to National Human Rights Commission (NHRC)
09.08.2021	Worker settled informally with company management

C. Case Details (from case documents and worker interview)

Kamal had joined Turquoise Fashions as a Helper way back in 2005. During his 16 years in the company, he had slowly worked his way up to a supervisory post. While working in the company Kamal had been subjected to several labour rights violations including verbal and physical harassment. Although he had joined in 2005, it was only in 2010 that he was provided ESI and PF facilities. At present, the company employs around 70-75 workers and only 15 workers are provided ESI/PF facilities, shared Kamal. During the entire duration of his employment, he had not been given a copy of an appointment letter either. Kamal had also faced caste-based discrimination during his

employment from the company owner. He was beaten up and caste-based abuses were hurled at him by the owner.

The company did not provide him with his due wages during the period of lockdown and only paid him for the 21 days of work he had completed in the month of March 2020. When the lockdown finally lifted and workers were called back to work, the company did not inform him, despite their initial assurances of his job security during the pandemic. He tried several times to reason with the owner of the company, but they refused to take him back to work. No reasons were given to him for the termination. He was only told that they did not want him around anymore.

Kamal approached Gurgaon Shramik Kendra (GSK) around early 2021 to help him with getting his due wages and compensation amount. With Kamal's consent a legal notice was drafted by his representative and sent to the Managing Director and owner of Turquoise Fashions in January 2021. The notice not only highlighted his illegal termination post lifting of the lockdown but also the other counts of violations against Kamal such as non-payment of due overtime wages, lack of paid leaves and breaks, caste-based discrimination etc.

However, even after the legal notice was sent, the company management remained unresponsive and unwilling to settle the issue. After waiting for three months for the company to respond, Kamal's LR decided to file a complaint with the police regarding the caste-based abuse Kamal faced in the company. In April, complaints were filed the Deputy Commissioner of Police Gurugram and the SHO, Udyog Vihar. The DC of Police, Gurugram transferred the matter to the concerned Asst.LC in the labour department. Processes remained slow and the second wave of the pandemic added to the existing lethargy of the system. After a few months of inactivity, this time also by the police, another complaint was drafted and sent to the NHRC as well as the LC, Haryana

Things had not moved forward for Kamal through any of the authorities that had been approached. The informal resolution method and the alternate conflict resolution approaches were taking a long time to show results. In June once the second wave of the pandemic had begun to gradually dip, Kamlesh's legal representative decided to finally raise a dispute and file a demand notice for illegal termination under Sec 2(a) of the ID Act. However, Kamal decided to settle the matter on his own with the company management. After a couple of conversations with the company, Kamal settled for an amount of Rs1,50,000 in August. This was far less than the amount calculated by his legal representative, which was a figure between eight to ten lakhs. But Kamal felt that like in case of most disputes, even with the intervention of the labour department, systems would in all likelihood not work in his favour. Anticipating years of waiting and strenuous processes, Kamal thought it wiser to settle and take whatever was offered albeit the amount fell far short of his dues.

D. Documents in File

- 1.) Legal notice sent to company
- 2.) Complaint letter sent to various authorities (NHRC, LC Haryana, DC Gurugram)

VI. Police Complaints

Case Study 24-Worker's FIR filed against management for physical and verbal abuse

Manoj was subjected to caste discrimination within the workplace including caste-based verbal abuses by factory management. He was beaten up by four men resulting in severe injuries, including a broken jaw after which he was terminated. The worker resorted to filing a criminal complaint against the four perpetrators as he felt that this was the only justified recourse to the violence he had experienced. An FIR was registered against the four perpetrators in November, 2020, but no action had been taken against them at the time of the interview.

Key Points in Case:

- caste-based discrimination against worker by senior management
- physical and verbal abuse
- police inactivity in responding to worker's complaint
- continued threats to worker by management

A.) Basic Information:

*Worker Name:*Manoj

Gender: Male

Age: 33

Caste: SC

Local/Migrant: Migrant

Company Name and Factory Address: Pearl Global, BegumpurKhatola, Sector 35

Post: Operator in R&D Department; Contract Worker

Conflict/Issue: Police Case (FIR (421/2020) registered under section 323, 506 of IPC and Section 3(1) (S) of SC/ST Act)

Concluded/Ongoing: Ongoing

Year: 2020

Individual/Collective: Individual

B.) Timeline of events (from case documents):

Date	Incident
19.07.2020	Manoj verbally abused by master-in-charge for making a mask for himself
29.08.2020	Was abused by the accused persons and physically beaten up. He was then terminated from his services
28.09.2020	Letter of authority by Manoj assigning Lawyer 1 and Lawyer 2 as representatives
01.10.2020	Complaint to police commissioner accusing the Pearl Global Manager A.B., Master C.D., Line-in-Charge L.K. and the contractor from RS International Manager of physical harassment, caste-based slurs and abuse, and death threats. Badshahpur Police Station refuses to lodge FIR stating that since the caste of one of the accused is the same as that of the worker, an FIR based on caste atrocity cannot be registered.
30.10.2020	Letter sent to NHRC by email stating the facts of the incident and the non-cooperation of the police

04.11.2020	NHRC responds by forwarding the letter to the Commissioner of Police, Gurgaon directing them to take appropriate action
06.11.2020	FIR registered
16.12.2020	Application submitted (District and Sessions Court) asking for status report of the FIR filed on behalf of Manoj

C.) Case Details (Case documents and worker’s interview):

1.) Beginning of Issue

Manoj had sewn a mask for himself at work since he had forgotten his own mask. His master-in-charge verbally abused him for this and destroyed the mask by cutting it. The manager who witnessed the event joined in and also abused Manoj.

Later the master called the worker and asked him to state his caste. After that day, he repeatedly abused the worker using caste-based slurs.

On the 29th of August, he was physically beaten up by four men from the company. He suffered serious injuries including a broken jaw. On reporting to the contractor who had hired him into the company, he was further abused by the latter and finally fired.

Manoj was been unable to work for several months after that because of the pain from his injuries.

“I have not been able to work after the assault. I keep suffering from pain allnight long. So I hardly manage to work for a few days in the month. I am the sole bread earner, it has become very difficult.”

2.) Registration of FIR

He approached Gurgaon ShramikKendra (GSK) and upon advice from Lawyer 1 filed a complaint against the four main perpetrators at the Badshahpur Police Station. All four accused were called twice to the police station for enquiries but no FIR was registered.

Instead of looking into the matter, the Investigating Officer (IO) assigned to the case was clearly in cahoots with the management as he threatened the worker to take back the complaint he had filed.

“The IO had taken Manoj in his car to investigate the area where the incident had occurred. On the way back, he intimidated the worker by showing him violent videos of men beating up a single person and threatened him to withdraw the complaint unless he wished for a similar fate”.

-Lawyer 1 representing accused

The worker along with his lawyer then met the ACP at Sohna Road P.S. The accused were also present at this meeting. Here too the officials were reluctant to lodge an FIR and only took down Manoj’s statement. The police primarily focussed on trying to mediate a deal between the worker and the management. An offer for two months’ salary and re-instatement into service was made, but the worker refused to accept it and instead pressed on to pursue the legal recourse.

The officials refused to lodge an FIR stating that since one of the accused also belonged to the SC category, an FIR cannot be registered against him in the case. However, Manoj’s LR shared that this was only an excuse to prevent them from pursuing the case. He sent a letter of complaint to the National Human Rights Commission (NHRC) outlining the case details. The letter complained of the police’s non-cooperation on the issue and urged the NHRC to look into it immediately.

This strategy worked. The NHRC in response directed the Commissioner of Police, Gurugram to take immediate action. The FIR was finally registered on the 6th of November.

"If it was only me then the FIR would not have been registered. I know how the police and government officials behave with us. The FIR was lodged only because Lawyer 1 was there...The police threatened me and told me to settle and end the case."

The company approached Manoj several times after the FIR was lodged and tried to offer him money. They also tried to intimidate him by sending local bouncers to his home

"None of the workers support me, everyone is with the company."

3.) Current Status

"I will not be satisfied till I get a proper settlement for my case."

The case is ongoing and the response to the status report filed in court is awaited.

D.) Documents in file and their contents in brief:

- 1.) Application submitted (District and Sessions Court) asking for status report of the FIR filed on behalf of Manoj dated 16.12.2020
 - That the IO has not been following up on the case after the FIR was filed
 - No action has been taken against the accused persons
 - The accused have been threatening Manoj and have made the owner fire him from his job
 - Accused have also threatened to file false cases against him
 - Local goons have reached his house to pressurise him to withdraw the case
 - He has also received threatening calls to withdraw the case; one such call has been recorded by him
- 2.) Copy of FIR dated 06.11.2020
- 3.) NHRC letter to Commissioner of Police, Gurgaon dated 04.11.2020 directing the authority to take appropriate action within 8 weeks
- 4.) Complaint to police commissioner accusing four perpetrators of physical harassment, caste-based slurs and abuse, and death threats-01.01.2020
- 5.) Letter of authority by Manoj for representation dated 28.09.2020

Case Study 25- Richa/Gaurav incarceration of workers after a violent protest

(All names have been anonymised except for Sammi Chand's.)

In February 2015, after the rumoured death of a co-worker due to brutal beating by the management staff and guards, workers from different units of Gaurav International and Richa and Co. rose in protest against this injustice. The protest took a sudden violent turn when people threw stones at the factories and set fire to vehicles parked inside the units.

Subsequently the company accused fourteen workers as the perpetrators of the violence. Five workers were arrested of which some were granted bail while others were denied bail. Of the rest, some were granted anticipatory bail and the rest were finally not charged with any sections under the IPC. The case has since 2015 been on trial at the Additional District and Sessions Court, Gurgaon Haryana.

While the police were prompt to act on the FIR lodged by the management, they did not act on the FIR lodged by Sammi Chand's brother. This was against the physical abuse inflicted by the company guards and management staff on Sammi Chand.

A. Basic Information:

Workers: Accused workers (including Mahesh and Jaideep). They were employed across different units of the same company

Gender: Male

Company Name and Factory Address: M/s Gaurav International, Plot No.236, Udyog Vihar, Gurgaon

Conflict/Dispute Type: Criminal Charges against Workers

Concluded/Ongoing: Ongoing

Year: 2015

Individual/Collective: Collective

B. Timeline of Events:

Date	Incident
10.02.2015	Sammi Chand, a worker in plot 236 of Richa and Co. is beaten up by guards and a management staff. He sustains serious injuries and is transferred to the hospital
11.02.2015	Sammi Chand's brother lodged an FIR against the guards and the management staff who had beaten him up. He was however not given a copy of the FIR
12.02.2015	A protest takes place outside units of Richa and Co. and Gaurav International over the rumoured death of Sammi Chand. The protest quickly turns violent and unknown persons attack the factory units and set vehicles parked inside the units on fire. The management lodges an FIR accusing 14 workers who are apparently caught on CCTV footage initiating the violence.

18.02.2015	First three accused workers are arrested. Subsequently two more workers are arrested
July 2015	Matter goes to trial at the Additional District and Sessions Court, Gurgaon Haryana
2016-present	Case at the stage of prosecution evidence

C. Case Details (reconstructed from case documents and interviews with two accused workers and a GAWU representative who has been supporting the workers through the trial)

1.) Events that Led to the Outburst

The violence that resulted in the arrest of workers from the factory was over the rumoured death of a co-worker, Sammi Chand. On the morning of 10th February, 2015, his wife (who worked in the same factory) had reached before him and had begun work inside the factory premises. Sammi Chand reached late because he was unwell. The previous night he was made to work overtime and this took a toll on his health. He had stopped to purchase medicines on the way to work and therefore reported for duty a few minutes late. He was penalised for this ten-minute delay in reporting for work. In the scuffle that followed with a management staff and the guards, Sammi Chand was beaten till he was unconscious. At this point his wife was called from inside the factory and told that someone had come to meet her at the gate. When she reached the gate, she along with an unconscious Sammi Chand was put inside a car and dropped home. Thereafter his brother took him first to Safdarjung and then to the ESI Hospital. He had suffered severe injuries including a broken left rib cage. On 11th, Sammi Chand’s brother lodged an FIR but was not given a copy of it.

2.) The Protest

Till the morning of 12th February GAWU had neither heard of Sammi Chand’s death nor of the ongoing protest outside the factory. On 12th morning a GAWU office bearer received a call at 1:00p.m. informing him of Sammi Chand’s death and of a violent protest outside plot 236 of the company (this was the factory where Sammi Chand was employed). What seemed like an initial outrage over the rumoured death of Sammi Chand, quickly turned violent when people threw stones at the factory units and destroyed property.

The union members tried to reach the factory but could not as the roads were blocked because of the protest. The company had by then shut down the factory and asked the workers to vacate the premises. Workers inside the factory were unaware of the violence that was taking place outside and neither did they know therefore who had started it.

“I don’t know how it started. We were told that there is some chaos happening outside and to close for the day and leave. So, I went out and was standing, waiting for my brother who also worked in the same company. Also, there were a few other colleagues who were yet to come so I thought once they came, we could leave together. While I was waiting, I saw that there were people I didn’t know creating a lot of chaos.” -Mahesh

Throughout this incident, workers and GAWU were still unaware of Sammi Chand’s actual whereabouts. At around 4:00p.m. GAWU held a meeting with around 200 workers from Richa International. None of them knew who had started the violence or if Sammi Chand was infact dead. They decided to form teams and launch a search for the family. It was during this search that news reached them that Sammi Chand was alive and under treatment. In fact, while the protest was taking place, all three, Sammi Chand, his wife and his brother were in the hospital.

A couple of days post the protest, a GAWU office bearer along with Sammi Chand's brother went to the police station to ask for a copy of the FIR lodged by the latter. GAWU shared that the FIR was not filed properly. Certain details were missing and they felt that it clearly reflected the bias of the authorities towards management. GAWU insisted on filing a charge of attempt to murder but police officials did not agree. They tried to assure GAWU that Sammi Chand's case was being looked into. That they sympathised with him because he was a poor worker and that arrests had been made based on camera footage of the incident. They assured them that first Sammi Chand would get justice and then they'd look into the protest.

3.) Management FIR

The management's version of the entire incident was based on half-truths that demonised workers as violent miscreants. In the FIR lodged by them they stated that Sammi Chand and his wife reported for duty 10 minutes late after the former already being absent for the previous two days. Due to the fact that he had reported late after remaining absent from work, the guards stopped him at the gate. A scuffle ensued after which Sammi Chand went back home with his wife. They went on to state that on the same day at 1:45 p.m. around 150-200 workers broke open the company gates, entered the premises, beat up security guards and other officials, vandalised the company buildings as well as cars parked inside the company premises. They also physically beat up female officials, misbehaved with them and intimidated them. The statement accuses Sammi Chand, his wife and his brother Shekhar for having incited this attack by spreading rumours of Sammi Chand's death. It also accuses fourteen workers for being involved in causing the violence and destruction of property, based on the CCTV footage that the company recovered.

Multiple arrests were made by the police at the protest site that included management staff. However later the arrested management staff were released. The perpetrator who had physically abused Sammi Chand was never arrested as he was granted anticipatory bail.

4.) Incarceration of Accused Workers

Based on the FIR lodged by the company management, the police arrested three workers from the factory premises on the 18th of March, 2015. Of these three, one worker was a prominent leader in Richa who was trying to organise workers with GAWU's support.

"They definitely targeted him because of his unionising activities. He was one of our main leaders trying to establish the union in Richa." -GAWU Representative

Another two workers, including Jaideep, were arrested from a different unit of the company. The remaining nine workers, including Mahesh, were also to be arrested based on the company CCTV footage. Jaideep shared that although he was among the first few to get arrested, ironically during the protest, he was one of those who were trying to stop others from throwing stones.

"I had just finished lunch and had gone out for a stroll with a co-worker. We were eating papaya from a fruit seller outside when we suddenly heard a commotion. And that's when we saw that suddenly a huge mob had gathered outside plot 236 and some people had started pelting stones. We went ahead to see what the matter was and I kept asking people to stop throwing stones since it could hurt others. I think that is when my face also got captured in the video. When I was trying to stop people." -Jaideep

The arrests were made while the workers were working in the company. They were called outside to the gate on the pretext that they had a visitor. When they reached the gate, the police arrested them. Jaideep shares, "I was in the village when I heard about my co-worker being arrested in this case. My family told me to not go back to Delhi because they might frame me also. But I was

confident that no one could do anything because I had not done anything at all. I was innocent. And then the day I went back to the company and started working I could feel that everyone's eyes were on me, but I couldn't understand why. Then suddenly, the guards called me and said that someone had come to meet me and so I should go up to the gate. I went out and saw that there were some cars parked in front and there was a Bolero also, but no visitor. The guard told me to go out a little and that the person was standing a little away. So, I did that, and I started looking around. Right at that time, the police who were hiding behind the Bolero came out and caught me."

5.) Workers' Plight

Once the arrests started happening, the management used it to their advantage to further intimidate workers into extreme working conditions. The workers would be pressured into doing overtime or their production targets would be increased. If someone did not comply, they would be threatened. The management used threats like *"As you can see workers are being arrested left, right, and centre. If you don't work properly, you'll also get arrested."*

The workers who were accused had no idea that they were on the police's radar. The management had not bothered to inform them of their possible arrests and had asked them to resume work as if all was fine.

"I had no idea. After the protest we got off from work for one day and the next day we were called back to work. I didn't know that the police were looking for me also. The police never approached me. And then suddenly after a few days, my master-in-charge told me that I should not go to work from the next day because my face has come up in the camera footage and if I go to work I will be arrested. They must have come to the gate and asked the guards about me and that's how my in-charge came to know."-Mahesh

Mahesh left for his village after being informed of his imminent arrest. While he was in the village, he received his arrest warrant. Four workers from his plot, 225, had been accused in the FIR. He subsequently approached GAWU and sought their help. GAWU's legal team managed to file an anticipatory bail plea for him that was granted in February 2016. Previously another accused worker had also been granted anticipatory bail.

Since the incident Mahesh as well as the other workers involved have paid dearly. While some workers were incarcerated, others who had not been arrested still bear the mental, emotional, physical and financial scars of the case. Jaideep spent 3-4 months in jail before GAWU finally managed to get him out on bail.

"I had to take loans from people for my bail. I am still paying off those loans."-Jaideep

Most accused are not even aware of the charges that they have been falsely implicated in.

I couldn't work properly for the first year and a half. I was under a lot of emotional stress. I even had to furnish Rs.50,000 for my bail. They charged me with twelve different sections under the IPC, but I am not sure what each of the charge are. -Mahesh

6.) Trial and Current Status

The case went to trial in July, 2015 at the Additional District and Sessions Court, Gurgaon Haryana and since then has been in trial with over 60 odd hearings. Since 2016, the case has been at the stage of prosecution evidence. The multiple dates for hearing and the delay seem to be due to the prosecution witnesses who did not appear for many sessions. Even police officials delayed court proceedings by not appearing when summoned. Summons as well as bailable warrants were issued

for the witnesses but to no avail. Throughout the two years of 2018 and 2019 only a few witnesses finally appeared for examination while most remained absent.

The case is now delayed further after March 2020 due to the pandemic. The last order date was on 23.05.21 which set the next date of hearing for 03.08.21.

"I am stuck with this case and the different hearing dates for which I have to keep appearing. It also means I can't ever leave Gurgaon till this is over. It just goes on and on."-Jaideep

D. Documents in File:

- 1.) 36 interim orders of the Additional District and Sessions Court, Gurgaon from 2018 to 2021

(The orders were downloaded from the website of the Additional District and Sessions Court, Gurgaon. The online digital resource portal of the website was accessed to search for and download the orders by case number (SC-241-2015). Link:

https://services.ecourts.gov.in/ecourtindia_v4_bilingual/cases/s_kiosk_order.php?state=D&state_cd=14&dist_cd=6)

- 2.) Charge Sheet from Gaurav International to Mukul Kumar dated 28.05.2015
- 3.) Arrest warrant for Mukul Kumar (FIR No. 37/15) to be presented on 21.11.2015 in front of Judicial Magistrate 1st Class
- 4.) Letter from Gaurav International to Mukul Kumar dated 18.12.2015 informing him of a domestic inquiry to be held
-Name of Officer in charge of inquiry
- 5.) Bail order for Mukul Kumar dated 08.02.2016
-Bail application on 12.01.2016
- 6.) Details of Domestic Inquiry held on 09.01.2016
- 7.) Letter from Gaurav International to Mukul Kumar dated 11.01.2016
- 8.) Letter from Gaurav International to Mukul Kumar dated 18.01.2016
- 9.) Letter from Gaurav International to Mukul Kumar dated 03.02.2016 to inform that the domestic inquiry was declared as one-sided on 30.01.2016
- 10.) Letter of Dismissal from work from Gaurav International to Mukul Kumar dated 28.03.2016