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NATIONAL COMMISSION ON LABOUR

Record of decisions of the Eighteenth Meeting of the National Commission on Labour held on April 19-21, 1969 at Bombay.

The Eighteenth Meeting of the National Commission on Labour was held in the Syndicate Hall, Bombay University, on April 19-21, 1969.

The following were present:

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|-----|--------------------------|-------------------|
| 1. | Dr. P.B. Gajendragadkar, | Chairman |
| 2. | Dr. Baljit Singh, | Member |
| 3. | Dr. Bharat Ram, | Member |
| 4. | Mr. Ramanand Das, | Member |
| 5. | Mr. Manohar Kotwal, | Member |
| 6. | Mr. R.K. Malviya, | Member |
| 7. | Mr. G. Ramanujam, | Member |
| 8. | Mr. Raja Ram Shastri, | Member |
| 9. | Mr. Naval H. Tata, | Member |
| 10. | Mr. S.R. Vasavada, | Member |
| 11. | Mr. B.N. Datar, | Member-Secretary. |

The following Chapters on Trade Unions and Employers' Organisations and on Industrial Relations were discussed. Also certain items relating to Remuneration for Work, (Chapters 14, 15 & 20) left over in the meetings held at New Delhi on March 27-30, 1968 were taken up for final decision.

A. TRADE UNIONS AND EMPLOYERS' ORGANISATIONS

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|------|--------------------------------------|--------------|
| I. | Trade Unions - A Review | - Chapter 21 |
| II. | Trade Unions - Problems and Policies | - Chapter 22 |
| III. | Employers' Organisations | - Chapter 23 |

B. INDUSTRIAL RELATIONS

- | | | |
|------|----------------------------------------------------|--------------|
| I. | Industrial Relations since Independence - A Review | - Chapter 24 |
| II. | Industrial Relations - Procedures and Machinery | - Chapter 25 |
| III. | State and Industrial Relations | - Chapter 26 |

The following decisions were taken:-

1. Chapters 21 and 22 viz. (i) Trade Unions - A Review, and (ii) Trade Unions - Problems and Policies be amalgamated into one.
2. Chapters 24 and 25 viz. (i) Industrial Relations since Independence - A Review, and (ii) Industrial Relations - Procedures and Machinery be amalgamated into one.

CHAPTER -21.

1. In Section I, the circumstances that led to the establishment of different central organisations and the ideologies and methodology adopted by them in their day-to-day working should be discussed in greater detail. The discussion should be based mainly on their memoranda and the evidence before the Commission. Value judgements in regard to these organisations should be avoided.
2. Page 15 Recommendation in para 7 regarding the restrictions on the registration of new unions where a union is already functioning should be deleted.
3. Page 16 (a) The recommendation on craft/departmental unions should read: "We recommend in this connection two alternatives: (i) craft unions operating in a unit/industry should be encouraged to form into an industrial union; (ii) where an industrial union covering all categories of workers in an enterprise has been recognised as the representative union, it would be desirable for such union to set up sub-committees for important craft/occupation so that problems peculiar to them receive adequate attention."

(b) The sentence "Thus, unions of the future will necessarily consist of many crafts" should read as:
"Thus, unions of the future will largely be on industrial lines."

4. Page 17
Para 7.3

(a) At the end of the second sentence after the words "common programme", add" or better still, if the workers themselves become educated enough to avoid multiplicity of unions and unite into one strong union at the industry/plant level and affiliate themselves to one national centre of their choice."

(b) At the end of the para 7.3, the following should be added: "However, as we will subsequently emphasise, a minimum membership qualification may be prescribed for national centres to be represented at tripartite/consultative bodies set up by the Central/State Governments."

5. Page 25
Para 8.6

(a) The recommendation regarding union subscription should read as: "Considering all these factors and the prevailing level of prices, we recommend that the minimum membership fee of a trade union should be raised from the present level of 25 paise per month to Rupee 1/- per month."

(b) The rest of the para should be deleted.

6. Page 33
Para 11.3

Should be substituted by "Responsive cooperation Clause(ii) in improving levels of production, productivity, discipline and high standards of quality."

Clause (iii) should be deleted.

Add a clause: "To instil a sense of responsibility amongst workers towards industry and community."

7. Para 11.3

Amended (ii) and (iv) should be taken to page 32 Para 11.2.

8. Page 35 Para 12

(a) In the second sentence the words: "Apart from any regulative action that the State will undertake" should be deleted.

(b) The last sentence of the para: "In reaching these benefits to members and the community alike trade unions should not shirk from taking on such political action as will help them" be deleted.

9. Page 38 Para 14

Second and third sentences in ~~recommendation~~ (i) should be deleted.

10. Page 39 Para 14

"Trade union registration should be compulsory also for industrial federations but not for central organisations".

11. Page 42

At the end of para add: "The Registrar should be empowered to condone delay in submission of returns if there are satisfactory reasons to do so".

12. Page 43 Recommendation (v):

The recommendation should read as: "The present provision in the Act should be suitably modified as to allow internal audit in case of those unions which have a membership of 500 and below.

CHAPTER-22

1. Page 1 Para 1

The topics (i) Union Recognition, and (ii) Unfair Labour Practices should be included in the Chapters on Industrial Relations.

2. Section I Outsiders in Unions:

In this Section certain expressions which give an impression that outsiders have been a bad influence on trade unions should be avoided.

3. Page 10 Add a clause "Ex-employees should not be treated as outsiders".
Para 6.

4. Page 10 The recommendation(d) should read as: "the number of
Para 6

Clause(d)(i) outsiders in the executive should be as follows:

Where the membership of a union is:

- | | | | |
|-------|---------------------------------------------------------------|-------------------------------------------|-----|
| i). | Below 1,000 | the number of outsiders should not exceed | 10% |
| ii). | 1,000 - 10,000 | " " " " | 20% |
| iii). | above 10,000 | " " " " | 30% |
| iv). | The permissible limit for industry-wise unions should be 30%. | | |

5. Page 10 It should be deleted.

Para 6
Clause(d)(ii).

6. Page 17 The para should be redrafted and shifted to an appropriate
Para 9.4
place (Chapter 21 Section I) giving the philosophy and methodology adopted by various central organisations.

7. Page 18 This should be redrafted when the draft Fourth Five-Year
Para 9.5
Plan is published.

8. Page 24 The last sentence should read: "Where more unions than one
Para 11(a)
contend for recognition the union having a larger following should be recognised."

9. Page 29 There was a division of opinion in regard to the choice
Para 11.6
of method to be adopted for granting recognition. Seven members were in favour of the recommendation as given at page 29 whereas four were of the view that only verification should be recommended.

10. Page 31. The facilities mentioned should be adjusted taking into consideration the Bombay Industrial Relations Act, 1946.
11. Page 33 (a) The foot-note and the annexure should be deleted.
Para 11.10

(b) Add at the end of the para, a few sentences explaining Mr. Tata's view point regarding industry-wise unions, plant unions and conclude that on the whole the Commission favours recognition of industry-wise unions.
12. Page 33 The recommendations should read: "We recommend that
Para 11.11 the minority unions should be allowed only to represent the cases of dismissal and discharge of their members in the court."
13. Page 34 (a) The first sentence should read as "Provision of legal
Para 12. protection to unions is a corollary to the promotion of healthy industrial relations and recognition of a union as the sole bargaining agent."

(b) The illustrative list of Unfair Labour Practices should be enumerated on the same lines as in the B.I.R. Act.
14. Page 35 (a) Add the words: "which may extend to derecognition
Para 12.1 of a union", after the word "penalties".

(b) Add a sentence giving corresponding penalties for employers.

CHAPTER - 23

1. Para 9.1

The table in this para which shows the membership of these organisations should be replaced by a table giving the number of workers employed in the undertakings affiliated to these organisations. (If the data are not available, the table should be deleted and instead something should be added to show the representative character of these organisations.)

2. Para 16.

In this para it should be clearly brought out that AIFO is an omnibus and multi-purpose body claiming to champion the cause of small/industries.

Changes suggested in Mr. Tata's written comments should be taken into account.

CHAPTER - 24

1. Page 12
Para 6

Last sentence should read as: "Since difficulty has been met by making it as a settlement under the I.D. Act, there have been several agreements/settlements.

2. Page 13
Para 6.1

The last sentence should read as: "For instance the decision to appoint Wage Boards for determining an industry-wise wage structure has given new shape and new dimension to collective bargaining."

3. Page 15
Para 6.2

(a) There should be a mention of the collective agreements in plantations in South India and in Assam and in the coal industry.

(b) There should be a summing up of the para by saying: "Thus, on the whole, the record of the collective agreements has not been unsatisfactory though its extension to other units, industries and areas has not made rapid progress."

4. Page 20
Para 7.3

(a) As far as possible the assessment of the working of conciliation machinery should be based on the number of cases settled at the conciliation stage and not by the number of failure reports submitted.

(b) It should be mentioned that to some extent the failure of the conciliation is due to the fact that the employers do not send top men before conciliators.

5. Page 22
Para 8.2

It should also be brought out that the reluctance on the part of employers to accept voluntary arbitration was due to the fear they entertain that demand for arbitration was likely to be converted into a compulsory arbitration and that the employees were not prepared to concede the employers' requirements that the relevant provisions of the Indian Arbitration Act should be made applicable to the Awards passed by such arbitrators.

6. Page 23-24 The relevant clauses from the Industrial
 Para 8.3 Truce Resolution should be quoted.

7. Page 32 First sentence should read as "The new
 Para 11.2 Government which was formed in 1957 gave a shift
 in emphasis from legislation to voluntary
 arrangements."

8. Page 46 The specific judgment of the Supreme Court
 Para 14.5 that "the Tribunal does not have the jurisdiction
 to substitute its own judgment for that of
 management" be quoted.

9. Page 48. It should be made clear in the table that
 the figures do not include political strikes,
 go-slow, bandhs, etc.

10. Page 54 "Gheraos" should be dealt in detail and
 Para 15.10 condemned.

CHAPTER - 25

1. Page 3 Heading should read: "Adjudication and
 Collective Bargaining."

2. Page 9 (a) The sentence "During this period there was
 Para 2.7 a drop in real wage (1939=100) this drop
 to be steeper" should read as: "Though during
 this period industries were prosperous there was
 a drop in real wage (1939 =100) and the working
 class appeared to be satisfied with the Tribunals
 as they did not allow this drop to be steeper".
 (b) 1958 decision of the I.L.C. regarding
 adjudication should be reproduced.

3. Page 10 The last sentence should read as: "All along,
 Para 2.7 therefore, collective bargaining has not been able
 to show what it could because alternative of
 adjudication was available."
4. Page 12 The first sentence should read as: "The point
 Para 2.8(iii) in the criticism may have some substance in some
 cases."
5. Page 13 The first sentence of this para and the
 Para 2.9 third sentence in para 2.14 on page 17 should
 be reconciled.
6. Page 14 The first sentence should read as: "There
 Para 2.11 are equally strong arguments which have been urged
 in favour of continuing adjudication."
7. Page 15 The first sentence should read as: "We are
 Para 2.11(i) convinced that the dependence of adjudication has
 ceased to be of that importance now."
8. Page 16 The sentence should read as: "There is
 Para 2.11(iii) common ground that adjudication has its own
 utility but collective bargaining has to be encour-
 aged."
9. Page 19 The recommendation: "Adjudication should
 Para 3.1 be available in certain essential areas of industry/
 services, in the event of the failure of collective
 bargaining" should be taken only as a majority view.
10. Page 20 The sentence "Simultaneously, the functioning
 Para 3.2 of the adjudication system ... in collective

"bargaining" should read as: "Simultaneously, the adjudication system should be available where stoppage of work will have serious repercussions on the national economy or security of the country."

11. The portions relating to topic "Industrial Relations Commission" on pages 20-23; on "Strikes and Lock-outs" pages 24-31 and on proposed Industrial Relations Machinery pages 55-59 should be redrafted taking into account the following consensus arrived at:

Page 56(A)(iii): It should read as: "The strength of the Central/State Commission should be decided taking into account the possible load on it and need for expeditious disposal of cases."

12. Page 56(A)(v) The President of the National Industrial Relations Commission will be appointed by the Union Government in consultation with a committee consisting of the Chief Justice of India, the Chairman of the U.P.S.C. and the senior-most Chief Justice in the High Courts.

- (ii) The other members of the National Industrial Commission will be appointed by the Union Government in consultation with the Chief Justice of India, the Chairman of the U.P.S.C. and the President of the National Industrial Relations Commission.

(iii) In regard to the State Industrial Relations Commission the President will be appointed by the State Government in consultation with the Chief Justice of India, the Chief Justice of the State and the Chairman of the State P.S.C.

(iv) The other members of the State Industrial Relations Commission will be appointed by the State Government in consultation with the Chief Justice of the State High Court, the Chairman of the State P.S.C. and the President of the State Industrial Relations Commission.

(v) The appropriate age of superannuation for the President and Members of the Central and the State Industrial Relations Commissions should be prescribed.

(vi) Judicial Members of the National Industrial Relations Commission should be appointed from persons who are eligible for appointment as Judges of a High Court.

13. Page 56 (A)
(vi)

It should be replaced by providing a definite age of superannuation for President and Members of the Commission. Qualifications for the appointment of President and Members of the Industrial Relations Commission for the Central and State Commissions should be prescribed.

14.

Under the topic: "Strikes and Lock-outs" it should be clearly brought out that the industries/services shall be classified into two groups: (a) essential, and (b) others. No list of essential and other services be attempted. It should be left to the Parliament to decide.

15. It should be brought out that in regard to essential industries, there will be no strikes, but a self-contained procedure will be provided whereby on failure of the parties to come to a settlement and on their failure to agree upon voluntary arbitration, compulsory adjudication will automatically follow.

In regard to other industries/services, the majority view (8 : 3) was that the following procedure should be adopted:

- (i) After negotiations have failed and before notice of strike/lock-out is served, the parties may agree to voluntary arbitration and the Commission will help in choosing an arbitrator mutually acceptable to them.
- (ii) After negotiations have failed and notice of strike/lock-out has been served, parties may invite the concilator of the Commission to help them in arriving at a settlement during the period covered by the said notice.
- (iii) If the strike or lock-out commences, the appropriate Government may move the Commission to call for the termination of the strike/lock-out on the ground that its continuance may effect the security of the State, national economy or public order, and if after hearing the parties concerned the Commission is so satisfied, it may call on the parties to terminate the strike/lock-out and file their statements before it. Thereupon the Commission will adjudicate on the dispute.
- (iv) If the Commission substantially grants the demands in support of which the strike was called and it comes to the conclusion that the said strike was justified because of the refusal of the employer to grant the/-

said demands, the Commission while making its award may direct the employer to pay the employees their wages during the strike period.

- (v) In case a strike becomes necessary as a result of the changes sought to be introduced by the employer in the terms and conditions of employment of his employees and the Commission comes to the conclusion that the change(s) was/were not justified and the strike was justified, the employees will be entitled to wages for the period of strike.
- (vi) If the demands in support of which the strike was called for are not granted by the Commission and it holds that the strike was unjustified, wages for the period of the strike will not be granted.
- (vii) If the Commission holds that demands which led to lock-out were not justified, the Commission in granting the demands may order that the employees should be paid their wages during the period of the lock-out.
- (viii) If the Commission holds that the demands were not justified and the lock-out was justified, the employees will not be entitled to claim wages for the period of the lock-out.
- (ix) If during the pendency of the strike or thereafter, the employer dismisses or discharges an employee because he has taken part in such strike, it would amount to unfair labour practice and on proof of such practice, the employee will be entitled to reinstatement with back wages.

- (x) (a) If a State Industrial Relations Commission is seized of any dispute and it appears to Central Government that the decision of the said dispute is likely to have an impact on similar industrial undertakings in other States, it will be open to the Central Government to move the National Industrial Relations Commission to take the said dispute on its file for decision. When such an application is made, the National Industrial Relations Commission shall hear the parties concerned and if it comes to the conclusion that it is necessary to take the case on its file, it shall call for the papers in relation to the said dispute from the State Industrial Relations Commission and shall proceed to deal with ~~and~~ decide the dispute on merits.
- (b) Similarly, if a State Industrial Relations Commission is seized of any dispute and it appears to the National Industrial Relations Commission that the decision of the dispute is likely to have an impact on similar industrial undertakings in other States, and it after hearing the parties the National Industrial Relations Commission comes to the conclusion that it is necessary to take the case on its file, it will be open the National Industrial Relations Commission, suo motu, to call for the papers in relation to the said dispute from the State Industrial Relations Commission and decide the dispute on merits.

(xi)

When a State Industrial Relations Commission is possessed of any dispute, and during its hearing it comes to the conclusion that the decision of the said dispute will have inevitable impact on similar industrial undertakings in other State and that it is desirable that the dispute should be tried by the National Industrial Relations Commission, it may, after hearing the parties concerned, transmit the case ^{to} the National Industrial Relations Commission and the National Industrial Relations Commission will there upon try the said dispute.

(xii)

Where a dispute is brought before the National Industrial Relations Commission, and the Commission after hearing the parties comes to the conclusion that it may be desirable or expedient that the said dispute should be dealt with by the appropriate State Industrial Relations Commission, it may remit the case to the said State Industrial Relations Commission for disposal on the merits, and on receiving the record of the said dispute, the State Industrial Relations Commission shall proceed to deal with it.

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22. Page 26-28
Para 6

(a) The Paragraph should be redrafted.

(b) Portion relating to certain acts which the unions should avoid particularly in connection with the strikes should be taken to unfair labour practices.

23. Page 26-27
Para 6

It should also be stated in this paragraph that legal provisions alone are not of any great help in reducing the strikes.

24. Page 28
Para 6.2

The portion "While we are not notice of strikes/lock-outs" should read as: "While we are not in favour of a total ban on the right to strike/lock-out, we are also not in favour of an unrestricted right to direct action. In our view, taking away the right of the workers to strike, without providing adequate machinery for redress of grievances, may only force the discontent underground and lead to other forms of expressing it, which may be equally, if not more, injurious to good labour management relations and production. In this connection we will attach importance to the issue of a prior notice of strike/lock-out in all industries/services."

25. Page 30-31
Para 6.5

To be deleted.

26. Page 36 (a) In line 3, the words "where collective
Para 10. bargaining has had little application" should be
deleted;
- (b) In line 5, after the words "of representative
unions" add "and improved management attitudes".
27. Page 37 In the first line replace the word "is true"
Para 10.3 by "may happen".
28. Page 37 Delete the portion "the present attitude
Para 10.3 among employers requires to be remedied."
29. Page 38 In the fourth line from the bottom after
Para 11. the words "a strong union" add the words "believing
in mutual cooperation."
(M/s Vasavada and Ramanujam will give a note on
ideological approach to the problem of Joint
Management Councils to the Chairman for inclusion
in his Chapter).
30. Page 47 In the fourth line delete the words "office-
Para 16.3 bearer of the union of which he is a member."
A similar correction should be carried out
in the last sentence of the Para 16.3 on page 47.
31. Page 47 In the 11th line from the top replace the
Para 16.3 words "the decision by majority" by "the unanimous
decision."
32. Page 49 Amongst the factors responsible for the
Para 17.1 limited success, the conflict between law and the
code should also be mentioned.
33. Page 50. Add: "Provision for voluntary arbitration"
as clause (v). The last sentence on Page 50
should be reworded.

CHAPTER-26

1. Page 27 First Line

After the word "conditions" add: "As a first step, we suggest that representation at the tripartite should be restricted to those central organisations only which have a membership of at least 10 per cent of the unionised labour in the country".

2. Page 37 Para 13

The last sentence should read as: "Having accepted the position that 'labour' should continue in the Concurrent List, adjustments to suit local conditions in different States will have to be allowed which in some cases may not necessarily conform to the letter of a common code."

CHAPTERS - 14, 15 and 20

At the meeting of the Commission held in New Delhi from March 27 to 30, 1969, it was decided that some of the points in the various chapters under the heading 'Remuneration for Work' should be carried over for further discussion in the next meeting to be held at Bombay. These were circulated along with Commission's letter No. 1(51)/69-NCL(C) dated April 10, 1969. The following decisions were taken on these points:-

1. The dearness allowance at 1968-69 price level should be merged with the basic wage and the piece-rates should be suitably revised. Provided that it would not mean that the existing percentage differentials in basic or incentive wage between different occupations will be reflected in the percentage differentials in basic wages arrived at after such merger or give rise to any claim of that type. It was not the intention that merger should be used to raise claims for improving differentials for higher skills over the present levels.

2. On principle, those employees who get a bare minimum or subsistence wage as defined by us will be entitled to have full neutralization against the rise in cost of living. There are, however, certain imponderable factors which have to be taken into account in deciding what allowance should be made for them in working out full neutralisation. Having taken into account all those factors 95 per cent neutralisation should be granted against the rise in cost of living of those drawing a bare minimum wage in the non-scheduled employments. In this case the employers capacity to pay will not be relevant. Employees in non-scheduled employments who are already getting neutralisation at the rate higher than 95 per cent shall not be affected by this recommendation.

3. There were certain industries/units where the existing minimum wage could work out to substantially higher than the basic minimum wage envisaged by the Commission for non-scheduled employments. The present practice in some areas was to grant neutralisation at 95 per cent or even at a higher level in such industries also where existing minimum was substantially higher than the basic minimum wage envisaged by the Commission it would not be in keeping with the spirit of the Commission's recommendation to give d.a. at 95 per cent neutralisation. Unless the capacity to pay existed. It was suggested that Shri Ramanujam should indicate a figure upto which 95 per cent neutralisation would be permissible, for consideration of the Commission.

4. The amount of dearness allowance admissible to employees drawing a minimum wage will be paid to all such employees to whom dearness allowance is admissible at present. Other employees who are getting dearness allowance at present will not be deprived of that right. For the additional increases in the cost of living, they will be entitled

to anything higher than what they get. (Mr. Tata and Mr. Bharat Ram will give their opinion later. Mr. Kotwal also reserved his opinion in this regard).

5. An agreed panel of names should be maintained by the proposed Industrial Relations Commission/Government for appointment as Wage Boards Chairman.

6. The Chairman of a Wage Board who is appointed by mutual consent of the parties could arbitrate in the event of no agreement being reached within the Wage Board.

7. The members of the proposed Industrial Relations Commission (Central or State) could also be considered for appointment as Chairman of Wage Boards.

8. Recommendations of the Wage Board should be made statutorily binding if they are unanimous or should be treated as an award of the arbitrator in respect of an issue arbitrated upon by the mutually accepted Chairman.

9. Mr. Tata observed that the Wage Board method of standardisation of wages was not suited to an industry with heterogenous units, and, therefore, there should be in such cases a different method of arriving at standardisation of wages on region-cum-capacity in a tripartite.

10. Mr. Ramanujam observed that in some industries it may not be possible to fix wages through wage boards. A tripartite body should consider and select the industries that would be suitable for appointment of wage boards.