

**HUNDRED AND NINETY-SECOND
REPORT**

**PUBLIC ACCOUNTS COMMITTEE
(1983-84)**

(SEVENTH LOK SABHA)

**WESTERN RAILWAY—IMMOBILISATION OF
RAILWAY COACHES CONSEQUENT ON FIRE
DURING SHOOTING OF 'THE BURNING TRAIN'**

AND

**EASTERN RAILWAY DAMAGES TO AND
DEFICIENCIES IN WAGONS DELIVERED TO A
STEEL PLANT**

(MINISTRY OF RAILWAYS)

[Action Taken on 10th Report (Seventh Lok Sabha)]



Presented to Lok Sabha on

Laid in Rajya Sabha on

**LOK SABHA SECRETARIAT
NEW DELHI**

March, 1984/ Chaitra, 1906 (Saka)

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CORRIGENDA TO 192ND REPORT OF PUBLIC ACCOUNTS
COMMITTEE.

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PAPER

27/4/84

PUBLIC ACCOUNTS COMMITTEE
(1983-84)

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1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri H. S. Kohli—*Chief Financial Committee Officer*
3. Shri K. P. Singh—*Senior Financial Committee Officer*

* Ceared to be member of the committee consequent upon his retirement from Rajya Sabha w.e.f. 2-1-1984.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 192nd Report on action taken by Government on the recommendations of the Committee contained in their 110th Report (7th Lok Sabha) regarding Western Railway—Immobilisation of Railway coaches consequent on fire during shooting of “The Burning Train” and Eastern Railway—Damages to and Deficiencies in wagons delivered to a Steel Plant.

2. In Chapter I of their 110th Report, the Public Accounts Committee had dealt with a case where the Western Railway Administration had allocated 8 coaches running in superfast express trains in connection with the shooting of a film ‘The Burning Train’ without settling all the terms and conditions. Adequate security deposits for shooting/haulage charges and for likely repairs were not obtained from the film company in advance. Nor was the question of loss of earning owing to immobilisation of coaches settled with the company in advance. As a result of all these factors, the Railways were able to realise only Rs. 1.14 lakhs against dues of Rs. 12.08 lakhs. A thorough inquiry into the whole case was recommended by the Committee with a view to fixing responsibility for failures/lapses at various stages. In this action taken Report the Committee have expressed their regret that although period of nearly two years has elapsed since the Committee had made the above recommendation, they are yet to be informed whether the Departmental Inquiry Committee nominated by the Ministry of Railways (Railway Board) in this regard, have finalised their report. While deploring the delay in the matter, the Committee have desired to be apprised of the findings of the Departmental Inquiry Committee together with action taken or proposed to be taken thereon by Government within a period of three months.

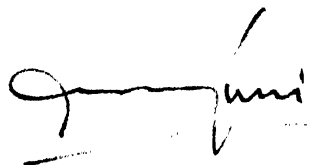

3. In Chapter II of the 110th Report, the Committee had pointed out that the procedure prescribed in January 1964 by Railway Board for detecting damages and deficiencies to wagons while in the custody of steel plant authorities was being followed in all the steel plants except Durgapur Steel Plant. According to a procedure in force in the Durgapur Steel Plant, since February 1962, only 6 of the 22 items of wagons fittings were being subjected to a joint check at random in 3 phases of 5 days each every 6 months. As a result of random check it was observed that during January 1975 to December 1977 there was short recovery to the tune of Rs. 29.66 lakhs per

annum on an average. The Committee had desired that the Ministry of Railways should conduct a check of all the items on a sample basis in Durgapur Steel Plant, as was being done in other steel plants, and bill the Durgapur Steel authorities on the basis of defects and deficiencies noticed as a result of such check. Since railway wagons are inter-changed not only with steel plants but also with other major railway users such as collieries, the Committee had desired that the above courses of action be extended to all major railway users. In this Report, the Committee have regretted to observe that although period of nearly two years has elapsed since the Committee had made the above recommendations, a decision thereon is still to be taken by Government. The Committee have desired that the matter should now be finalised without any further delay.

4. The Committee considered and adopted the Report at their sitting held on 20 March, 1984. Minutes of the sitting form Part II of the Report.

5. For facility of reference and convenience, the recommendations and observations of the Committee have been printed in thick type in the body of the Report, and have also been reproduced in the Appendix to the Report.

6. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Office of the Comptroller and Auditor General of India.

SUNIL MAITRA

*Chairman,
Public Accounts Committee.*

NEW DELHI ;

March 23, 1984

Chaitra 3, 1906 (Saka)

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 110th Report (Seventh Lok Sabha) on Immobilisation of Railway coaches consequent on fire during shooting of "The Burning Train" and Eastern Railway—damages to and deficiencies in wagons delivered to a steel plant.

1.2 Action taken notes on all the recommendations/observations contained in the Report have been received from Government.

1.3 The Action Taken Notes received from Government have been broadly categorised as follows :

- (i) Recommendations/observations which have been accepted by Government :

Sl. Nos. 1—9

- (ii) Recommendations/observations which the Committee do not desire to pursue in view of the replies of Government :

Sl. Nos. NIL

- (iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration :

Sl. Nos. NIL

- (iv) Recommendations/observations in respect of which Government have furnished interim replies :

Sl. Nos. 10, 11—14

1.4 The Committee expect that final replies to the recommendations in respect of which only interim replies have been furnished will be submitted to the Committee expeditiously after getting them vetted by audit.

1.5 The Committee will now deal with the action taken by Government on some of the recommendations.

*Immobilisation of railway coaches consequent on fire during shooting of the
'Burning Train'
(Para 1.53, Sl. No. 10)*

1.6 Commenting on a case where the Railways were able to realise only Rs. 1.14 lakhs against the due of Rs. 12.08 lakhs for making available 8 coaches of a superfast train to a film company for shooting of a film, the Committee in para 1.53 of the Report had observed as under :

“From the preceding paragraphs (1.44 to 1.52) the Committee are led to the conclusion that the entire case is a sad reflection on the style of working of the Western Railway. In the first instance it is not clear why coaches in working condition were given for shooting purposes when it was known that the shooting involved serious fire hazards. At a time when there is a chronic shortage of coaches with the Railways with the result that Railways are unable to meet the demand of the travelling public, the immobilisation of these coaches have not only resulted in loss to the earnings of the Railways, but have also deprived the travelling public of the facility for train journeys for a considerable period. Further these coaches were made available to the film company without settling all the terms and conditions, especially against damage to coaches by fire. After the coaches were damaged at Baroda between 6 and 15 March, 1978, the damage to the coaches was not surveyed nor any assessment of the repairs required made immediately after the fire incident and intimated to the film company. Instead, the coaches were sent (March 1978) to the workshop for repair periodical overhaul and the claim for damage was preferred on the company after a lapse of 2 years in March, 1980. Adequate security deposits for shooting/haulage charges and for likely repairs as the shooting *inter-alia* involved sequences of fire in a train were not obtained from the film company in advance before handing over the coaches to them. The question of loss of earnings owing to immobilisation of the coaches was also not settled in advance with the company. As a result of these factors, the Railways were able to realise only Rs. 1.14 lakhs against Rs. 12.08 comprising of Rs. 2.30 lakhs (revised remaining shooting/haulage charges, Rs. 1.95 lakhs) (repair charges) and Rs. 7.83 lakhs (the loss of earnings due to immobilisation of the three passenger coaches above). The Committee recommend that a thorough enquiry into the whole case may be made with a view to fixing the responsibility for the failures/lapses at various stages. They would also like the Railway Board to issue suitable and comprehensive instructions to all Zonal Railways to obviate recurrence of such lapses in future.”

1.7 In their reply, the Ministry of Railways (Railway Board) have stated as under :

“The recommendations/observations made by the Committee have been noted and corrective action has been taken. A copy of the detailed instructions issued to the Zonal Railways is enclosed.*

The Ministry of Railways have nominated a departmental committee of three senior officers as recommended by the PAC to go into the lapses pointed out by them. A copy of their findings and the action taken thereon will be advised to PAC in due course.”

1.8 In their earlier Report, the Committee had dealt with a case where the Western Railway Administration had allocated 8 coaches running in superfast express trains, after getting them painted to Rajdhani Colour Scheme, in connection with the shooting of a film “The Burning Train”. The coaches were made available to the film company without settling all the terms and conditions; and after the coaches were damaged in 1978, the Railway Administration took two years to prefer the claim for damage. Adequate security deposits for shooting/haulage charges and for likely repairs were also not obtained from the film company in advance. Nor was the question of loss of earning owing to immobilisation of coaches settled with the company in advance. As a result of all these factors, the Railways were able to realise only Rs. 1.14 lakhs against Rs. 12.08 lakhs—comprising Rs. 2.30 lakhs (revised remaining shooting/haulage charges), Rs. 1.95 lakhs (repair charges) and Rs. 7.83 lakhs (the loss of earning due to immobilisation of the passenger coaches). The Committee had *inter alia* recommended a thorough inquiry into the whole case with a view to fixing responsibility for the failures/lapses at various stages. In their action taken note, the Ministry of Railways have stated they have nominated a departmental Committee of three senior officers to go into the lapses pointed out by the Committee. The Committee regret to observe that although a period of nearly two years has elapsed since they had made the above recommendation, they are yet to be informed whether the Departmental Inquiry Committee have finalised their report and if so, what their findings are and what action Government have taken or propose to take thereon. The Committee deplore the inordinate delay in the matter. They have repeatedly pointed out that such delays defeat the very purpose of holding inquiries. They now desire that the whole matter should be finalised without any further delay and the Committee informed of the findings of the Departmental Inquiry Committee together with action taken or proposed to be taken thereon by Government within a period of three months.

*Please see Page 12

*Damages to and deficiencies in wagons delivered to Durgapur Steel Plant
(Paras 2.16—2.18, Sl. Nos. 11—13)*

1.9 Expressing concern over the fact that the prescribed procedure by the Railway Board of January 1964 regarding joint check of all the 22 items of wagon fittings in the exchange yard by the staff of both the railways and the steel plants was not being observed in Durgapur Steel Plant, the Committee had, in paras 2.16—2.18 of the 110th Report (1981-82) observed as under :

“With a view to detecting damages and deficiencies to wagons while in the custody of Steel Plant authorities, the Railway Board had prescribed in January, 1964, a joint check of all wagons in the exchange yard by the staff of both the Railways and the Steel Plant concerned and based on this check the cost of the damages and deficiencies were to be recovered from the Steel Plant authorities. While the procedure is being followed in the case of Steel Plants like Indian Iron & Steel Company Ltd. Burnpur, Mysore Iron & Steel Works, TISCO, Bhilai and Rourkela Steel Plants etc., in the case of Durgapur Steel Plant, according to a procedure in force since February, 1962, only six of the 22 items of wagon fittings are being subjected to a joint check at random in three phases of five day each every six months. The unit cost of damages and deficiencies per wagon so arrived at is applied to all the wagons interchanged during the period of the previous six months in order to work out the amount to be recovered from the Durgapur Steel Plant.

(Para 2.16)

The Committee note that although the Ministry of Railways had informed the Durgapur Steel Plant authorities in July 1968 that the correct method of assessing the damages and deficiencies in wagons was the continuous joint check system prescribed in 1964, the Durgapur Steel Plant authorities have not agreed to the same on the plea of saturation of Steel Plant exchange yard, absence of line capacity and extra expenditure on deployment of additional staff required for such check. The Committee also note that as a result of random check exercised by Railway authorities in respect of all the 22 items during the period from January 1975 to December, 1977, it has been established that there was short recovery from the Steel Plant amounting to Rs. 29.66 lakhs per annum on an average.

(Para 2.17)

The Committee are not convinced with the stand of the Durgapur Steel Plant authorities that due to limitation of space in Marshalling Yard it is not possible to introduce the system of joint continuous check in respect of all the wagons interchanged at the exchange yard. In view of the fact that it is the responsibility of Steel Plant to provide necessary operational facilities, it is for the Plant authorities to ensure the expansion of Exchange Yard and improve the capacity of Marshalling Yard

and the Committee do not find any reason why the Railways should suffer annual loss of more than Rs. 29 lakhs on this account. Moreover, when the system of checking all the items is already in vogue in other Steel Plant., there is no reason why the same should not be introduced in Durgapur Steel Plant. The Committee are surprised that the Ministry of Railways have, for all these years not billed the Durgapur Steel Plant authorities on the basis of sample check conducted by them of all the 22 items. They feel that as a commercial undertaking, Railways cannot afford to forego recovery of damages to and deficiencies in wagons because of the failure of the user Department Undertakings to provide the requisite facilities. The Committee, therefore, recommend that the Ministry of Railways should conduct a check of all the items on a sample basis in Durgapur Steel Plant as is being done in other Steel Plants and bill the Durgapur Steel authorities on the basis of defects and deficiencies noticed as a result of such a check. Since Railway wagons are inter-changed not only with Steel Plants but also with other major Railway users such as collieries, it is necessary that the above course of action is extended to all major Railway users who inter-change Railway wagons with the Railways, with a view to ensuring observance of uniform procedure in regard to recovery of the cost of damage to and deficiencies in wagons.

(Para 2.18)

1.10 The Ministry of Railways (Railway Board) have stated in their reply dated 27 July, 1983 as under :

“The observations of the Public Accounts Committee are under active consideration at the highest level in this Ministry for taking final decision in the matter and a final reply will follow.”

1.11 With a view to detecting damages and deficiencies to wagons while in the custody of Steel Plant authorities, the Railway Board had prescribed in January 1964, a joint check of all wagons in the exchange yard by the staff of both the Railways and the steel plant concerned and based on this check, the cost of damages and deficiencies were to be recovered from the Steel Plant authorities. While the procedure prescribed in January 1964 is being followed in all the other steel plants, in the case of Durgapur Steel Plant, according to a procedure in force there since February 1962, only 6 of the 22 items of wagon fittings are being subjected to a joint check at random in 3 phases of 5 days each every 6 months. As a result of random check exercised by railway authorities in respect of the 22 items during the period from January 1975 to December 1977, it was found that there was short recovery from the Durgapur Steel Plant to the tune of Rs. 29.66 lakhs per annum on an average. The Committee had, therefore recommended that the Ministry of

Railways should conduct a check of all the items on a sample basis in Durgapur Steel Plant, as was being done in other steel plants, and bill the Durgapur Steel authorities on the basis of defects and deficiencies noticed as a result of such check. Since railway wagons are inter-changed not only with steel plants but also with other major railway users such as collieries, the committee had desired that the above course of action be extended to all major railway users with a view to ensuring observance of uniform procedure in regard to recovery of the cost of damages to and deficiencies in wagons. In their action taken reply, the Ministry of Railways (Railway Board) have stated that observations of the Public Accounts Committee are under active consideration at the highest level in this Ministry for taking a final decision in the matter. The Committee regret to observe that although a period of nearly two years has elapsed since the Committee made above recommendations, a decision thereon is still to be taken by Government. The Committee desire that the matter should now be finalised without any further delay.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

On 22 November, 1977 a film company of Bombay (M/s B.R. Films, Bombay) approached the Ministry of Railways (Railway Board) for facilities to shoot a film 'The Burning Train' involving scenes and sequences of fire on a superfast train. The proposal also envisaged providing the company with 8 coaches from the Rajdhani rake or coaches set aside for condemnation to be painted and refitted to look like the Rajdhani Coaches. On 24 November, 1977, the Ministry of Railways (Railway Board) directed the Northern, Central and Western Railways to extend necessary facilities to the film company for shooting the film on payment of normal charges under the extant policy in force since September 1973. Even though exposing of rolling stock of fire hazard etc. was involved the question of prior settlement of the terms and conditions with the company was not specifically considered in the Ministry of Railways (Railway Board)

(Para 1.44)

In December 1977 the Western Railway Administration allocated 8 coaches running superfast express trains, after getting them painted to Rajdhani colour scheme, and handed them over (January 1978) to the film company for use in connection with the film shooting. According to Railway Board, the proposal of M/s B.R. Films for use of 8 or 9 coaches either from the Express rake or by suitably repainting and modifying the stock set aside for condemnation was considered both by the Railway Board and the Western Railway. Since adequate number of spare coaches of Rajdhani Express were not available and considering that to make the available condemned coaches fit to run on the open main lines safely would have required extensive input in terms of effort, time, workshop capacity and labour, it was decided to earmark two dining cars lying idle at Bombay Central, 4 ICF types coaches with wide windows awaiting periodical overhaul and 2 ICF types power cars due for periodical overhaul.

(Para 1.45)

The Committee regret to point out that detailed terms and conditions for use of the coaches particularly in view of the fire hazard were not settled in advance by the Western Railway Administration. The reply of the Ministry of Railways that an agreement incorporating the terms and conditions for shooting the film was executed on stamped paper of requisite value by the film

company with Western Railway prior to receiving the Railway stock and commencing the shooting of the film and in terms of para 3 of the Agreement the film company was required to indemnify the Railways against and reimburse to, the Railways all claims, demands, suits, losses, damages, costs, charges and expenses whatsoever which the Administration may suffer, consequences of any injury to any person or property whatsoever resulting directly or indirectly from the shooting of the film is not acceptable as is borne out by the fact that ultimately the Railways could not recover these legitimate claims from the film company. The Committee, therefore, recommend that in future while entering into an agreement of this nature, the Railways should settle all terms and conditions in detail so that there may not be any scope for ambiguity subsequently.

Para 1.46

The Committee are further informed that a sum of Rs. 50,000/- was collected as lump sum deposit in advance from the film company before coaches were handed over for shooting sequences. Although the shooting charges covering all haulage charges as per tariff rules on Western Railway and Central Railway totalled Rs. 4.12 lakhs, only Rs. 1.82 lakhs were recovered from the film company. The balance amount of Rs. 2.30 lakhs due from the film company was claimed by the Railways but M/s B.R. Films disputed this amount and invoked the arbitration clause. According to Railway Board, the full amount as per directions could not be assessed and recovered in advance as the party was unable to correctly gauge the sequence for shooting in different locations. This plea of the Railway Board does not sound convincing as the film company must have chalked out the detailed programme of shooting before acquiring the coaches. The failure of the Railway Administration to ask for detailed programme in the first instance before handing over the coaches to the film company is regrettable. Moreover, the fact that Railways accepted only Rs. 50,000/- in lump sum initially against the total amount of Rs. 4.12 lakhs billed by them later on clearly indicates a casual attitude and lack of anticipation on the part of Railways while dealing with such cases leading to financial loss to Railways.

(Para 1.47)

During the shooting of various sequences of film between 6 March, 1978 and 15 March 1978, five (3 passenger coaches and 2 dining cars of the eight coaches got damaged. After the shooting was over on 15-3-78, the damage to the coaches was not surveyed immediately thereafter for assessment of the repairs required. Instead, all the eight coaches, including those damaged were sent to the workshop for repairs/periodical overhaul on 20 March, 1978. Three out of the eight coaches, which were not damaged, were overhauled and sent out for passenger service after a period of 18 days to one month (i.e. in April, 1978.)

(Para 1.48)

The Western Railway Headquarter office asked the Baroda Division to conduct an inquiry into the cause of fire and damages to the rolling stock. The enquiry was conducted on 22 May, 1978 (after two months of the incident and it established that the damages to the coaches were caused by fire lit up for shooting some sequences for the film. To assess the extent of damages to the coaches and to work out the costs of repairs a workshop Technical Committee comprising of three senior officers of the Parel Workshop-Senior Electrical Engineer, Works Manager and Senior Accounts Officer was appointed on 3 July, 1978. Though a representative of the Film Company was also associated with the Committee to survey the damages he was not associated with the financial aspects of the case. The Film company was asked on 9-1-79 on suggestion of this technical committee, to deposit a sum of Rs. 2.5 lakhs as an *ad-hoc* deposit pending finalisation of the actual cost of repair work carried out by the workshop. The company deposited Rs. one lakh in cash and furnished a guarantee bond for Rs. 1.50 lakhs on 9 March, 1979, the validity of which was later got extended upto 27-2-81. The repairs were undertaken only after the survey and estimation of the damages had been assessed and a lump sum deposit for repairs made by the film company. Out of the 5 damaged coaches 4 were periodically overhauled on 10-3-79, 28-5-79, 11-5-79 and 30-11-79. It is, however, clear that considerable time taken by Railway Administration to survey and estimate the damages etc. delayed the repairs to the coaches resulting in loss of earnings from these coaches. The Committee deplore this delay on the part of Railway Administration.

(Para 1.49)

While the initial estimate for the rectification work to be done on the coaches was Rs. 4.23 lakhs, this was later re-assessed at Rs. 1.95 lakhs as per the latest estimate of the Railway Administration in March 1980. A claim for Rs. 5.25 lakhs comprising of cost for repair (Rs. 1.95 lakhs, revised additional shooting charges (Rs. 2.30 lakhs and loss of earnings from these coaches (Rs. 1 lakh for the extra time taken for periodically overhauling of the damaged coaches was preferred against the film company on 28-3-1980. The Committee are surprised to find that only Rs. one lakh was claimed for the loss of earning capacity of the three damaged passenger coaches although it worked out to Rs. 7.83 lakhs after making allowance of a month for the periodical overhauling period. Claim for repairs to coaches and additional shooting charges was also delayed and preferred on the company only in March 1980 i.e. two years after the completion of shooting in March 1978. Against this claim of Rs. 5.25 lakhs, the Railway Administration had with them only Rs. 1 lakh deposited by the company and the guarantee bond for Rs. 1.5 lakhs valid upto 27-2-81.

(Para 1.50)

The film company on 31 March, 1980 repudiated the Railway's claim of Rs. 5.25 lakhs and sought arbitration for settlement of this claim. The Railway Administration referred the matter to a sole arbitrator in May 1980. The arbitrator (Chief Workshop Engineer, Western Railway) has since made an award for a total sum of Rs. 1.14 lakhs only against the Railway's claim of Rs. 5.25 lakhs.

(Para 1.51)

The Committee regret to note that although the agreement incorporating the terms and conditions for shooting the film were executed by Western Railway with the film company on a stamped paper and the party undertook to reimburse the Administration of all costs, damages etc. from shooting of the film, the claims of the Railways were not enforced legally against the film company. What has surprised the Committee more is the fact that the Railway Administration, by ignoring the above course of action, readily agreed as an alternative to the firm's proposal for arbitration by an officer of the Western Railway Administration as suggested by the firm. This sole arbitrator made an award of Rs. 1.14 lakhs only against the Railway's claim of Rs. 5.25 lakhs which included Rs. 2.30 lakhs as revised shooting and haulage charges due from the film company which was duly vetted by the traffic accounts office, Ajmer and Rs. 1.95 lakhs as repair charges. The Railway Administration stated that all arbitration awards are treated as quasi judicial and the manner of arriving at the award can not be probed by them. In the absence of any reasons for the disallowance of Railway's claims by arbitrator the Committee are unable to probe further whether the Railway had adequately presented their case before the sole arbitrator and if so, how the award of Rs. 1.14 lakhs fell even short of shooting/haulage and repair charges. The Committee would, therefore, suggest to the Ministry of Railways (Railway Board) to take necessary steps by amending the procedure to make it obligatory for the arbitrator to record in details the specific reasons for admission or non admission of Railways' claims item-wise so that lapses of Railway Officer's at various levels could be pinpointed. This procedure should also be made applicable to all cases where arbitration proceedings have started but the arbitrators have yet to give their verdict.

(Para 1.52)

[Sl. Nos. 1—9 (Para 1.44 to 1.52) of 110th Report of PAC(1981-82)
Seventh Lok Sabha.]

Action taken

The recommendations/observations made by the Committee have been noted and corrective action has been taken. A copy of the detailed instructions issued to the Zonal Railways is enclosed. (Annexure)

The Ministry of Railways have nominated a departmental committee of three senior officers as recommended by the PAC to go into the lapses

pointed out by them. A copy of their findings and the action taken thereon will be advised to PAC in due course.

Audit Observations :

“Seen thanks. We have no comments on the detailed instructions proposed to be issued in regard to the terms and conditions to be followed by the Railways for granting permission to film companies for shooting films in Railway coaches/premises. However, kind attention is invited to para 4 (d) (iv) and (e) of the instructions proposed to be issued to the Zonal Railways making it mandatory for the arbitrators to give speaking awards. This is with reference to the PAC recommendations, *vide* para 1.52 of their 110th report. This recommendation is not only intended to cover the short comings similar to those cited in this para but also to remedy the long felt need specially in case of Civil Engineering contracts. This matter was examined by the legal adviser who gave opinion that upto a certain monetary limit, say Rs. 1 lakh, arbitrator may give only non-speaking award to avoid multiplication of court cases. This aspect does not seem to have been examined.

It is desirable that the Railway Board's instructions in this regard are issued separately to Zonal Railways preferably by the Civil Engineering Directorate who had dealt with this subject matter hitherto duly taking into account the opinion of the legal adviser.

Copies of the instructions issued may please be supplied to us as usual.

Findings of the departmental committee appointed by the Railway Board are awaited and may please be expedited.”

Railway Board's further comments

The Audit observations are noted. The question of issue of instructions is separately under consideration.

[Ministry of Railways (Railway Boards)' O.M. No. 82-BC-PAC/VII/110(1-10)
dated 20-2-1983].

ANNEXURE

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No. 82/PR/13/6

New Delhi, dated 26.2.1983

To

The General Managers (PR),
All Zonal Railways,
CLW, DLW, ICF,
MTP (Railways), Calcutta.

The Director General,
RDSO, Lucknow.

SUBJECT : *Guidelines for granting permission to film companies for shooting in Railway premises and on moving trains.*

Instructions and broad guidelines regarding grant of permission to Film and Television Companies, both Indian and Foreign, to shoot films sequences in railway premises and on moving trains are contained in this Ministry's letter No. 66/PR/4/LF dated 21.11.68, 1.8.72, 13.5.75 and 18.9.1979.

2. In a particular case, which has been commented upon in para 6 of C & AG's Report on Railways (1979-80), the producer of a commercial feature film had requested the railways for loan of eight passenger coaches for shooting sequences showing fire on a running train. Instead of allotting condemned coaches after making them fit to run safely on the main lines at restricted speeds and painting them to the Rajdhani colour scheme as desired by the firm, the Railway had decided to allot coaches awaiting workshop repairs. Though the normal indemnity bond indemnifying the Railways against any loss or damage to railway property was executed by the Railway with the Producer of the film, detailed terms and conditions for use of the coaches, particularly in view of the fire-hazard which was known from the very beginning, were not settled in advance by the Administration.

3. During the shooting of various fire sequences for the film, five of the eight coaches got badly damaged or burnt. Unfortunately, the assessment of costs was not undertaken immediately. Instead all the coaches were sent to the

workshops for repairs. Thereafter, when about two years had elapsed, the Railway Administration preferred a bill to the Producer of the film for recovery of the cost of repairs to the coaches, as also for the loss of revenue arising from the immobilisation of these coaches for a considerably long period. The Producer challenged this claim and sought Arbitration. In the proceedings before the Arbitrator, the Railway Administration could not get its claim accepted.

4. The public Accounts Committee, which took up this particular case and went into all its details, has commented adversely on the procedural lapses that occurred in this case, particularly the non-settlement of detailed terms and conditions prior to commencement of the shooting, although it was known that shooting of fire sequences was involved. The excessive delay in determining the extent of damage and preferring the claim, has also been commented upon adversely.

5. With a view to obviating recurrence of such lapses, the Ministry of Railways desire that :—

- (a) The detailed script pertaining to the sequences involving Railway premises and property and the detailed programme of shooting should be obtained from the producers of the films prior to granting permission for actual shooting. The script should be examined and checked from the point of view of safe and normal working and safety of railway property. A responsible commercial officer as well as a publicity officer should be nominated for ensuring proper liaison during the course of film shooting. The Liaison Officers should ensure that no large-scale departure is made from the original and accepted script in respect of the railway scenes which utilise railway properties and personnel be these consisting of railway buildings, staff or rolling stock or track and signals etc.
- (b) If, on the basis of the detailed script made available by the Producer, it is seen that there are sequences wherein the rolling stock, irrespective of whether it be locomotives, coaches, wagons or crane etc., made available is/are likely to get damaged, permission for shooting such sequences should be with-held and not sanctioned or permitted.
- (c) An indemnity bond must be executed and submitted by the producers of the films in favour of the Railway to indemnify the Railways completely against any loss or injury that might occur

during the course of shooting of the film to any part of the Railway property and personnel. This Bond should also make it obligatory for the film company to reimburse all claims, demands, suits, losses, damages, costs, etc., to the Railway, in case any loss or damage is caused to Railway property and death or injury caused to all or any people thereon including staff on duty during the course of shooting of the films.

(d) Detailed terms and conditions for use of coaches and railway premises and staff and other people must be settled in all cases in advance by the Railways in consultation with FA&CAO. There should be no scope for ambiguity left while drafting such terms and conditions. If necessary, the advice of the legal cell should be sought so that, from the legal angle, the interests of the Railways are fully protected. The detailed agreements should invariably provide for :

(i) A cash security/Bank Guarantee for Rs. 5 lakhs to be taken in advance from the firms/companies desirous of shooting films with refund to be made only on completion of the shooting and after ensuring that the assets and rolling stock have been received in tact without any damage and no other damage has occurred to any other Railway property. It would be the responsibility of the Liaison Officer to report immediately to the authorities details of any damages caused to Railway property. (It is clarified that this amount would be in addition to any security deposited by the firm as per rules laid down in the Coaching Tariff).

(ii) Comprehensive insurance against all possible risks/damages of all the Railway assets movable and immovable including rolling stock proposed to be used by the firm or company for the shooting must be taken by the film company, and as also comprehensive insurance for death or injury to any person/persons on the Railway property including Railway staff at the time of the shooting of the film with provision for full compensation as decided. The insurance amount should be calculated on the basis of current Replacement value of assets/rolling stock involved in the shooting. The premium of insurance should be deposited by the firm/company to the Railway Administration who will get the assets/rolling stock insured in its name. The risk covered should provide for the Insurance Company to pay the insured sums without demur. In the context of insurance taken out to cover all people on Railway

property during the shooting of the film which may result in death or injury to any of them including Railway staff, the compensation amounts/insured amounts must be arranged to be paid to the concerned persons or their legal heirs without demur.

- (iii) A representative of the Film Company to be associated in case damages caused are required to be assessed. (Such assessment should be completed in the shortest possible time).
- (iv) There should be an arbitration clause in the agreement providing for appointment of an arbitrator only from among serving Railway Officers. It should also be provided that when cases are referred to an arbitrator it must be obligatory for the arbitrator to make a speaking award. He should record in detail the specific reasons for admission or non-admission of the Railways' claim item-wise so that the Railway could examine the reasons and if the grounds set forth by the arbitrator are untenable, the award could be challenged in a court of law. The arbitrator should list out item by item involved in any damage or need rectification and assess the charges arrived at as well as reasons for the quantum or amount fixed. Such settlement would naturally cover complete haulage and other commercial charges which need to be debited for the use of the Railway property/rolling stock at the location.
- (e) The Zonal Railway Administrations should also request arbitrators in all the pending arbitration cases (where the arbitration proceedings have started but the arbitrators are yet to announce the award) to give a speaking award giving the detailed reasons.

7. The aforesaid guidelines should be strictly followed and in the entire exercise the prime aim should be to fully safeguard the interests of the Railways.

- 8. Kindly acknowledge receipt of this letter.

Sd/—
(M.G. ARORA)
*Joint Director Public Relations,
Railway Board.*

CHAPTER III

**RECOMMENDATIONS/OBSERVATIONS WHICH THE
COMMITTEE DO NOT DESIRE TO PURSUE IN
VIEW OF THE REPLIES OF GOVERNMENT**

—NIL—

CHAPTER IV

**RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH
HAVE NOT BEEN ACCEPTED BY THE COMMITTEE
AND WHICH REQUIRE REITERATION**

—NIL—

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

From the preceding paragraphs the Committee are led to the conclusion that the entire cases is a sad reflection on the style of working of the Western Railway. In the first instance it is not clear why coaches in working condition were given for shooting purposes when it was known that the shooting involved serious fire hazards. At a time when there is a chronic shortage of coaches with the Railways with the result that Railways are unable to meet the demand of the travelling public, the immobilisation of these coaches have not only resulted in loss to the earnings of the Railways, but have also deprived the travelling public of the facility for train journeys for a considerable period. Further these coaches were made available to the film company without settling all the terms and conditions, especially against damage to coaches by fire. After the coaches were damaged at Baroda between 6 and 15 March, 1978, the damage to the coaches was not surveyed nor any assessment of the repairs required made immediately after the fire incident and intimated to the film company. Instead, the coaches were sent (March 1978) to the workshop for repair, periodical overhaul and the claim for damage was preferred on the company after a lapse of 2 years in March, 1980. Adequate security deposit for shooting/haulage charges and for likely repairs as the shooting *inter alia* involved sequences of fire in a train were not obtained from the film company in advance before handing over the coaches to them. The question of loss of earnings owing to immobilisation of the coaches was also not settled in advance with the company. As a result of these factors, the Railways were able to realise only Rs. 1.14 lakhs against Rs. 12.08 lakhs comprising of 2.30 lakhs (revised remaining shooting/haulage charges), Rs. 1.95 lakhs (repair charges) and Rs. 7.83 lakhs (the loss of earnings due to immobilisation of the three passenger coaches above). The Committee recommend that a thorough enquiry into the whole case may be made with a view to fixing the responsibility for the failures lapses at various stages. They would also like the Railway Board to issue suitable and comprehensive instructions to all Zonal Railways to obviate recurrence of such lapses in future.

[Sl. No. 10 (Para 1.53) of 110th Report of PAC (1981-82)—7th Lok Sabha]

Action taken

The Ministry of Railways have nominated a departmental committee of three senior officers as recommended by the PAC to go into the lapses pointed out by them. A copy of their findings and the action taken thereon will be advised to PAC in due course.

[Ministry of Railways (Railway Board)'s O.M. No. 82-DC-PAC/VII/110
(1-10) dated 28.2.1983.]

Recommendations

With a view to detecting damages and deficiencies to wagons while in the custody of Steel Plant authorities, the Railway Board had prescribed in January, 1964, a point check of all wagons in the exchange yard by the staff of both the Railways and the Steel Plant concerned and based on this check the cost of the damages and deficiencies were to be recovered from the Steel Plant authorities. While the procedure is being followed in the case of Steel Plants like Indian Iron & Steel Company Ltd. Burnpur, Mysore Iron & Steel Works TISCO, Bhilai and Rourkela Steel Plants etc., in the case of Durgapur Steel Plant, according to a procedure in force since February, 1962, only six of the 22 items of wagon fittings are being subjected to a joint check at random in three phases of five days each every six months. The unit cost of damages and deficiencies per wagon so arrived at is applied to all the wagons interchanged during the period of the previous six months in order to work out the amount to be recovered from the Durgapur Steel Plant.

(Para 2.16)

The Committee note that although the Ministry of Railways had informed the Durgapur Steel Plant authorities in July 1968 that the correct method of assessing the damages and deficiencies in wagons was the continuous joint check system prescribed in 1964, the Durgapur Steel Plant authorities have not agreed to the same on the plea of saturation of Steel Plant exchange yard, absence of line capacity and extra expenditure on deployment of additional staff required for such check. The Committee also note that as a result of random check exercised by Railway authorities in respect of all the 22 items during the period from January, 1975 to December, 1977, it has been established that there was short recovery from the Steel Plant amounting to Rs. 29.66 lakhs per annum on an average.

(Para 2.17)

The Committee are not convinced with the stand of the Durgapur Steel Plant authorities that due to limitation of space in Marshalling Yard it is not possible to introduce the system of joint continuous check in respect of all the wagons interchanged at the exchange yard. In view of the fact that it is

the responsibility of Steel Plant to provide necessary operational facilities, it is for the Plant authorities to ensure the expansion of Exchange Yard and improve the capacity of Marshalling Yard and the Committee do not find any reason why the Railways should suffer annual loss of more than Rs. 29 lakhs on this account. Moreover, when the system of checking all the items is already in vogue in other Steel Plants, there is no reason why the same should not be introduced in Durgapur Steel Plant. The Committee are surprised that the Ministry of Railways have, for all these years not billed the Durgapur Steel Plant authorities on the basis of sample check conducted by them of all the 22 items. They feel that as a commercial undertaking, Railways cannot afford to forego recovery of damages to and deficiencies in wagons because of the failure of the user Department Undertakings to provide the requisite facilities. The Committee, therefore, recommend that the Ministry of Railways should conduct a check of all the items on a sample basis in Durgapur Steel Plant as is being done in other Steel Plants and bill the Durgapur Steel authorities on the basis of defects and deficiencies noticed as a result of such a check. Since Railway wagons are interchanged not only with Steel Plants but also with other major Railway user such as collieries, it is necessary that the above course of action is extended to all major Railway users who interchange Railway wagons with the Railways, with a view to ensuring observance of uniform procedure in regard to recovery of the cost of damages to and deficiencies in wagons.

(Para 2.18)

This case is illustrative of typical bureaucrat approach in dealing with matters which affect both the Railways and Steel Plant. As many as eleven reminders are stated to have been sent by the Ministry of Railways to the Ministry of Steel and Mines, without eliciting any reply from the latter. The Committee feel that a machinery should be evolved to resolve such disputes amicably and expeditiously. The Committee recommend that the Cabinet Secretariat should look into the matter and determine what such machinery should be.

(Para 2.19)

[S. Nos. 11-14. (Paras 1.16-2.19) of PAC's 110th Report—1981-82.]

Action taken

The observations of the Public Accounts Committee are under active consideration at the highest level in this Ministry for taking a final decision in the matter and a final reply will follow.

(Para 2.16-2.18)

In pursuance of an earlier recommendation made by the Public Accounts Committee in their 154th Report 1974-75, the Cabinet Secretariat have already laid-down guidelines for settlement of inter Governmental disputes.

The present case is being processed in accordance with these guidelines and the Cabinet Secretariat is being kept informed of the developments. The final reply in this regard will be sent to the Committee in due course.

This has been seen by Audit who have made the following observations which have been noted :—

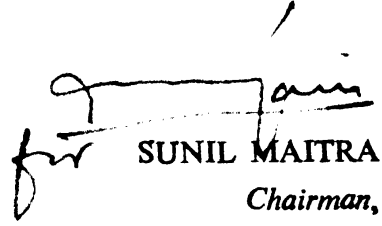
“Seen. As it is more than 8 months since the PAC recommended adoption of the system of joint check not only at Durgapur Steel Plant, but also for all major Railway users who inter-change Railway wagons with the Railways, the decision taken by the Railway Board on the recommendations of the PAC may please be communicated early”.

(Para 2.19)

[Ministry of Railways (Rly. Board)'s O.M. No. 82-BC-PAC/VII/110(11-14)
Dated 27-7-1983]

NEW DELHI;

March 23, 1984
Chaitra 3, 1906(S)


for SUNIL MAITRA
Chairman,
Public Accounts Committee.

PART II

MINUTES OF THE SIXTY-SIXTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 20 MARCH, 1984 (AN)

The Committee sat from 1500 hrs. to 1720 hrs.

PRESENT

Lok Sabha

Shri Bhiku Ram Jain—*In the Chair*

2. Shri Chitta Basu
3. Smt. Vidyavati Chaturvedi
4. Shri G.L. Dogra
5. Shri Jamilur Rahman

Rajya Sabha

6. Shri Syed Rahmat Ali
7. Smt. Pratibha Singh

REPRESENTATIVES OF THE OFFICE OF THE C&AG

1. Shri R.K. Chandrasekharan—*Addl. Dy. C&AG of India (Reports)*
2. Shri S.R. Mukerjee—*Addl. Dy. C&AG of India (Railways)*
3. Shri K.N. Row—*Director of Audit, Defence Services*
4. Shri A.N. Biswas—*Director of Audit, P&T.*
5. Shri V. Sundaresan—*Director of Receipt Audit-I.*
6. Shri N. Shivasubramanian—*Director of Receipt. Audit-II.*
7. Shri A.N. Mukhopadhyay—*Jt. Director (Report-Central)*
8. Shri K.H. Chhaya—*Jt. Director (Railways)*
9. Shri S.K. Gupta—*Jt. Director (Receipt Audit)*
10. Shri N.R. Rayalu—*Jt. Director (Defence)*
11. Shri T.G. Srinivasan—*Jt. Director, Audit, P&T*
12. Shri R. Balasubramaniam—*Jt. Director (Receipt Audit)*
13. Shri R.S. Gupta—*Jt. Director of Audit, Defence Services*

SECRETARIAT

1. Shri H.S. Kohli—*Chief Financial Committee Officer*
2. Shri K.K. Sharma—*Senior Financial Committee Officer*
3. Shri K.P. Singh—*Senior Financial Committee Officer*
4. Shri R.C. Anand—*Senior Financial Committee Officer*
5. Shri K. Sahai—*Senior Financial Committee Officer*

2. In the absence of the Chairman, PAC, Shri Bhiku Ram Jain, was chosen to act as Chairman for the sitting.

xx xx xx xx xx

3. The Committee also considered and adopted the following draft Reports without any amendments/modifications :

xx xx xx xx xx

Action Taken on 110th Report of PAC (7th Lok Sabha) on Western Railway—Immobilisation of Railway coaches consequent on fire during shooting of “The burning train” and Eastern Railway—Damages to and deficiencies in wagons delivered to a steel plant.

xx xx xx xx xx

4. The Committee also authorised the Chairman to finalise the Reports in the light of modifications/amendments suggested by Audit as a result of factual verification and present the same to the House.

The Committee then adjourned.

APPENDIX

Statement of Recommendations/Observations

Sl. No.	Para No. of Report	Ministry/Deptt. concerned	Recommendation/Observation
1	2.	3	4
1	1.4	Railways	The Committee expect that final replies to the recommendations in respect of which only interim replies have been furnished will be submitted to the Committee expeditiously after getting them vetted by Audit.
2	1.8	-do-	In their earlier Report, the Committee had dealt with a case where the Western Railway Administration had allocated 8 coaches running in superfast express trains, after getting them painted to Rajdhani Colour Scheme, in connection with the shooting of a film 'The Burning Train'. The coaches were made available to the film company without settling all the terms and conditions; and after the coaches were damaged in 1978, the Railway Administration took two years to prefer the claim for damage. Adequate security deposits for shooting/haulage charges and for likely repairs were also not obtained from the film company in advance. Nor was the question of loss of earning owing to immobilisation of coaches settled with the company in advance. As a result of all these factors, the Railways were able to realise only Rs. 1.14 lakhs against Rs. 12.08 lakhs—comprising Rs. 2.30 lakhs (revised remaining shooting/haulage charges), Rs. 1.95 lakhs (repair charges) and Rs. 7.83 lakhs (the loss of earnings due to immobilisation of

the passenger coaches). The Committee had *inter alia* recommended a thorough inquiry into the whole case with a view to fixing responsibility for the failures/lapses at various stages. In their action taken note, the Ministry of Railways have stated they have nominated a departmental Committee of three senior officers to go into the lapses pointed out by the Committee. The Committee regret to observe that although a period of nearly two years has elapsed since they had made the above recommendation, they are yet to be informed whether the Departmental Inquiry Committee have finalised their report and if so, what their findings are and what action Government have taken or proposed to take thereon. The Committee deplore the inordinate delay in the matter. They have repeatedly pointed out that such delays defeat the very purpose of holding inquiries. They now desire that the whole matter should be finalised without any further delay and the Committee informed of findings of the Departmental Inquiry Committee together with action taken or proposed to be taken thereon by Government within a period of three months.

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3

1.11

Railways
Steel

With a view to detecting damages and deficiencies to wagons while in the custody of Steel Plant authorities, the Railway Board had prescribed in January 1964, a joint check of all wagons in the exchange yard by the staff of both the Railways and the steel plant concerned and based on this check, the cost of damages and deficiencies were to be recovered from the Steel Plant authorities. While the procedure prescribed in January 1964 is being followed in all the other steel plants, in the case of Durgapur Steel Plant, according to a procedure in force there since February 1962, only 6 of the 22 items of wagon fittings are being subjected to a joint check at random in 3 phases of 5 days each every 6 months. As a result of random check

exercised by railway authorities in respect of the 22 items during the period from January 1975 to December 1977, it was found that there was short recovery from the Durgapur Steel Plant to the tune of Rs. 29.66 lakhs per annum on an average. The Committee had, therefore, recommended that the Ministry of Railways should conduct a check of all the items on a sample basis in Durgapur Steel plant, as was being done in other steel plants, and bill the Durgapur Steel authorities on the basis of defects and deficiencies noticed as a result of such check. Since railway wagons are inter-changed not only with steel plants but also with other major railway users such as collieries, the Committee had desired that the above course of action be extended to all major railway users with a view to ensuring observance of uniform procedure in regard to recovery of the cost of damages to and deficiencies in wagons. In their action taken reply, the Ministry of Railways (Railway Board) have stated that observations of the Public Accounts Committee are under active consideration at the highest level in this Ministry for taking a final decision in the matter. The Committee regret to observe that although a period of nearly two years has elapsed since the Committee made above recommendations, a decision thereon is still to be taken by Government. The Committee desire that the matter should now be finalised without any further delay.

