

COMMITTEE ON PETITIONS

(SEVENTH LOK SABHA)

FOURTH REPORT

[Presented to Lok Sabha on 3-9-1981]



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COMPOSITION OF THE COMMITTEE ON PETITIONS
(1981-82)

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Shri Ram Kishore—*Senior Legislative Committee Officer.*

FOURTH REPORT OF THE COMMITTEE ON PETITIONS (SEVENTH LOK SABHA)

I

INTRODUCTION

1.1. I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Fourth Report of the Committee to the House on the following matters:—

- (i) Petition No. 10 regarding improvement in the navigability to Haldia and Calcutta Ports and settlement of demands of trade unions.
- (ii) Petition No. 12 regarding remunerative prices for agricultural produce, reduction in prices of agricultural inputs, introduction of crop and animal insurance scheme, revision of minimum wages, provision of houses for agricultural workers, supply of essential commodities through public distribution system, implementation of rural employment schemes, replacement of Land Acquisition Act in the light of experience and implementation of land reforms.
- (iii) Petition No. 13 regarding the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980.
- (iv) Representation from M/s. Bombay Potato Traders, Bombay, regarding payments in respect of damage to certain potato consignments.
- (v) Representation from M/s. Sagar Fish Company, Bombay regarding claims for non-delivery of certain consignments.
- (vi) Representation regarding grievances and demands of LIC Agents.
- (vii) Representation regarding transfer of ownership rights to Bombay Municipality of a road adjacent to Central Government Senior Officers' Quarters in the Hyderabad Estate at Neapean Sea Road in Bombay.
- (viii) Representation regarding omission of trailers and agricultural implements from tariff item No. 68 and 34-III.

(ix) Representation from M/s. Ranchhodbhai Nathabhai & Co., Baroda, regarding non-payment of claims by the Western Railway.

1.2. The Committee considered the above matters at their sittings held on the 28th April, 26th May and 6th and 27th July, 1981.

1.3. The Committee considered their draft Report at their sitting held on the 31st August, 1981 and adopted it.

1.4. The observations/recommendations of the Committee on the above matters have been included in this Report.

NEW DELHI;
Dated the 31st August, 1981.

R. L. BHATIA,
Chairman,
Committee on Petitions.

**PETITION NO 10 REGARDING IMPROVEMENT IN THE
NAVIGABILITY TO HALDIA AND CALCUTTA PORTS
AND SETTLEMENT OF DEMANDS OF TRADE
UNIONS**

2.1. Petition No. 10 signed by Shri Sukumar Bose and others regarding improvement in the navigability to Haldia and Calcutta Ports and settlement of demands of trade unions was presented to Lok Sabha on the 18th December, 1980, by Shri Somnath Chatterjee, M.P.

A. Petitioners' Grievances and Demands

2.2. In their petition (See Appendix I), the petitioners made the following demands:—

- “(1) The minimum supply of 40,000 cusecs of Head water from Farakka Barrage to Bhagirathi/Hooghly Channel must be ensured throughout the year in order to improve the navigability of the Channel and to expand inland water transport system for the development of which 34 crores of rupees have recently been sanctioned by the Government of India.
- (2) The Second proviso under sub-clause (II) of Article II of the Agreement between the Governments of India and Bangladesh on sharing of the Ganga Waters at Farakka is detrimental to the interests of Calcutta and Haldia Ports and should, therefore, be scrapped.
- (3) The full utilisation of the capacity of Calcutta-Haldia Ports and their modernisation should be ensured leading to more employment and better service conditions of the workers.
- (4) All legitimate demands of their trade unions should be timely settled and a permanent body should be set up with representatives of different Port and Dock Workers' Unions, Inland Water Transport Workers' Unions, Shipping Offices Workers' Unions, Calcutta Port Trust and Government of West Bengal for speedy solution of problems concerning their industrial relations.”

B. Comments of Ministries of Irrigation and Shipping and Transport (Ports Wing).

2.3. The petition was referred to the Ministries of Irrigation and Shipping and Transport (Ports Wing) for furnishing their factual comments thereon. The demand-wise factual comments received from the Ministries are as follows:—

Ministry of Irrigation note dated the 24th February, 1981

Demand No. (1) The minimum supply of 40,000 cusecs of Head water from Farraka Barrage to Bhagirathi/Hooghly Channel must be ensured throughout the year in order to improve the navigability of the Channel and to expand inland water transport system for the development of which 34 crores of rupees have recently been sanctioned by the Government of India.

Demand No. (2) The Second proviso under Sub-clause (ii) of Article-II of the Agreement between the Governments of India and Bangladesh on sharing of the Ganga waters at Farakka is detrimental to the interests of Calcutta and Haldia ports and should, therefore be scrapped.

Comments:

The Farakka project is intended to increase and regulate the head water supply to the Bhagirathi/Hooghly for improving the navigability to Calcutta Port and comprises the following works:

- (i) A barrage across the Ganga at Farakka.
- (ii) A barrage across the Bhagirathi at Jangipur.
- (iii) A feeder canal of 1133 cumecs (40,000 cusecs) capacity taking off from the Farakka barrage and tailing into the Bhagirathi below Jangipur.

The project was commissioned in April 1975.

(2) The Ganga is an international river and Bangladesh is lower riparian. The dry weather flows reaching Farakka dwindle from about 98,500 cusecs in early January to around 55,000 cusecs in late April. Since the Fifties, Bangladesh (formerly East Pakistan) expressed its concern about the likely consequences of the project, and discussions were held since the Sixties. In the project report furnished to Pakistan feeder canal withdrawals varying from 40,000 cusecs to 20,000 cusecs, subject to confirmation by model experiments, were indicated. The operational programme was to be further examined and modified as may be necessary with the help of more data that will be subsequently collected and the model experiments.

(3) Negotiations between India and Bangladesh on sharing of Ganga waters were held and Ganga Waters Agreement was signed in November, 1977. The Agreement (See Appendix II) provides for interim sharing of waters of Ganga at Farakka for a period of five years (as short-term arrangements), and for the investigation/study and recommendation within three years by the Indo-Bangladesh Joint Rivers Commission of an economical and feasible solution to the problem of augmentation of the dry season flows of the Ganga, as a long term arrangement.

(4) The sharing under the short-term arrangements is with reference to the flows actually reaching Farakka in various 10-day periods from January to May in accordance with the schedule annexed to the Agreement. Under Sub-clause (i) of Article II, if the actual availability is higher or lower than the flows during various 10-day periods, as mentioned in the schedule, the sharing shall be prorata. However if the Ganga flows at Farakka come down to lower than 80 per cent of the figures indicated in the Agreement, the release of waters to Bangladesh during that period shall not fall below 80 per cent of its share during that period.

(5) The average actual flows taken by India in the period January to May since the Agreement came into force are as follows:

Period	Average withdrawal by India at Farakka (C·sec)
January to May of 1978	36.284
January to May of 1979	35.821
January to May of 1980	20.137

(6) 1978 and 1979 had been hydrologically better than average years. But flow in the period January to May 1980 were among the lowest on record. Consequently, the provision in the agreement relating to minimum release to Bangladesh referred to earlier in Para 4 above was attracted.

(7) As regards long-term arrangement, the two countries exchanged their respective proposals for augmentation in March, 1978 but the Joint Rivers Commission could not commence study of the proposals owing to the insistence by Bangladesh that Nepal should be made a member of the Joint Rivers Commission or its Committee to study its proposal.

(8) The Agreement which will be in force for a period of five years provides for the review of the working, impact, implementation and progress of both the short-term and long-term arrangements at

the end of three years, and again after 4½ years, and the Agreement may be extended further for a specified period by mutual agreement in the light of the reviews.

(9) The review exercise was started in an inter-Governmental meeting held at Dacca on 5th November, 1980 and is continuing.

(10) The Government of India appreciate the need for preservation of Calcutta Port and the need for augmentation of the flows of the Ganga to meet the present shortages and growing requirements in the country.

(11) It may kindly be mentioned for the information of the Committee on Petitions that the question of the discharges to be withdrawn from the Farakka barrage to the Feeder canal for Calcutta Port involves the question of sharing the dry season waters of the international river Ganga between India and Bangladesh and is of a sensitive nature involving two sovereign countries."

Ministry of Shipping and Transport (Ports Wing) Note dated the 28th March, 1981

"Demand No. (3) The full utilisation of the capacity of Calcutta-Haldia Ports and their modernisation should be ensured leading to more employment and better service conditions of the workers.

Demand No. (4) All legitimate demands of their trade unions should be timely settled and a permanent body should be set up with representatives of different Port and Dock Workers' Unions, Inland Water Transport Workers' Unions, Shipping Offices Workers' Unions, Calcutta Port Trust and Government of West Bengal for speedy solution of problems concerning their industrial relations.

Comments

Demand No. (3) At Calcutta, 0.5 million tonnes POL, 1.00 M.T. coal and 4.00 M.T. general cargo can be handled. At Haldia 3.5 M.T. POL, 4.00 M.T. iron ore, 2.00 M.T. coal and 0.46 M.T. general cargo can be handled. The actual cargo handled during the last five years was as follows:—

Year	Traffic Handled		
	Calcutta	Haldia	Total
	In lakh tonnes		
1975-76	76.98
1976-77	80.17
1977-78	40.93	34.56	75.49
1978-79	43.91	38.47	82.30
1979-80	38.43	49.52	87.95

It will thus be noticed that there is underutilisation of capacities even though Calcutta Port Trust have on their own taken a number of steps to increase their traffic. Hence the reasons for such under-utilisation of capacity is the inadequate drafts affecting the growth in bulk cargo traffic such as iron ore and coal for which modern sophisticated facilities have been built up at Haldia. The iron ore traffic passing through Haldia during the recent years has been insignificant. Coal traffic has also not been commensurate with the facilities developed at Haldia. Some of these steps taken by Calcutta Port to increase their traffic are detailed below:—

- (i) With a view to improving the productivity, the present incentive scheme for payment by results has been further liberalised in respect of the cargo handling workers at this Port, in consultation with the various labour unions. This has already shown results as the following statement of hook-shift output for the period January to November, 1980 as compared to January to November, 1979 will indicate:—

(In Tonnes)

	Jan— Nov., 1979	Jan— Nov., 1980	Percent- age of increase
General Cargo	40.2	22.7	31.1
Foodgrain	69.6	89.8	29.0
Fertiliser	53.0	62.2	17.4

- (ii) In order to achieve better output, steps have also been taken to replace old and outdated cargo handling equipment in the Port. The following steps have been/are being taken in this regard:—

- (a) Orders have been placed for 7 Nos. 6-tonne and 2 Nos. 10-tonne capacity mobile cranes.
- (b) Orders have also been placed for 8 Nos. 3-tonne capacity wharf cranes.
- (c) 18 new forklifts have been procured. 10 more are going to be ordered soon.
- (d) Pending improvement in the availability of forklift position, shipping companies/importers have been permitted to bring in their own equipment for handling their cargo in the Port in selected places.

- (iii) Incentives have been given/being considered to the trade in selected fields as enumerated below:—
- (a) For handling of selected commodities like coking coal, cement and pig iron at Haldia, concessional rates of charges have been adopted in lieu of the existing composite rate.
 - (b) To encourage handling of edible oil through this Port, this commodity has been re-classified as non-dangerous cargo, which entails substantial reduction in charges.
 - (c) Concessional storage facilities to exporters have been granted for aggregation of rail-borne export cargo at certain selected sheds.
 - (d) To encourage shipowners to take advantage of better draft available at Haldia and to use the facilities at Haldia for the purpose of lightening|topping-up of cargo, it has been decided that ships calling at Haldia and at Calcutta will pay Port dues only once.
 - (e) For encouraging import of Coking Coal through Haldia, a stacking area has been licensed to the Steel Authority of India Ltd. on a monthly rental basis instead of usual per tonne rate.
- (iv) Efforts are being made to provide better infrastructural facilities so as to attract more traffic. Some of these are enumerated below:—
- (a) To take advantage of the deeper draft available at Saugor Anchorage, 16 to 18 nautical miles downstream of Haldia, this Anchorage is being utilised for handling of ships carrying bulk cargoes like fertilizer during fair weather seasons, viz. mid-October to mid-March.
 - (b) The existing tank facilities at Budge Budge which were hitherto utilised for handling P.O.L. traffic are now being made available for handling edible oil. In addition, land has been leased out to a private party at Haldia for setting up of a tank farm for handling edible oil through pipelines. These facilities are in an advanced stage of completion and, once set up, it will be possible for deep-drafted vessels carrying edible oil to lighten the cargo partly at Haldia and then proceed to Budge Budge for final discharge.
 - (c) The Iron Ore berth at Haldia which is at present under-utilised due to lack of iron ore export, is being regularly

used for handling 'B' class petroleum products for which necessary pipelines have been installed.

- (d) With a view to encouraging containerisation of cargo which ultimately reflects in faster turn-round of ships, a fullfledged container terminal has been set up at Haldia. 'D' N.S.D. berth at Calcutta has also been specially earmarked for accommodating smaller sized full container ships. No special gear has, however, been provided by the Calcutta Port Trust themselves at 'D' N.S.D. Ship to shore and shore to ship handling of containers is being done by ship's derrick. Users are being allowed to bring in their own equipment for all other handlings. In addition, it is now proposed to provide a link terminal facility at Calcutta, complete with a container freight station, for feeding Haldia Container Terminal. Movement of fully loaded containers between Calcutta and Haldia will be by barges.
- (e) A pallet station is already operating at this Port under a private operator to encourage movement of cargo in palletised form. Accommodation has been provided by the Port Trust, for which rent is charged.
- (f) In consultation with the various users of the Port, a documentation centre is proposed to be set up in the Port area for processing of all documents so that the trading public need not go from one place to another but get the entire job done under one roof.
- (g) A proposal for providing facilities at Calcutta for dismantling oil ships for the purpose of scraping by the Metal Scraping and Trading Corporation at Calcutta is under consideration.
- (h) The establishment of a 2nd oil jetty in Haldia for unloading P.O.L. tankers is being examined.

Demand No. (4) The Calcutta Port Trust has a machinery for settlement of industrial disputes through discussions at various levels. There is a separate department headed by the Labour Adviser and Industrial Relations Officer, which attends to industrial disputes and labour relations. Disputes which cannot be settled at the level of the labour Adviser and Industrial Relations Officer are discussed at the level of the Deputy Chairman or the Chairman. Full advantage is also taken of the Conciliation machinery under the Regional Labour Commissioner (Central) to settle disputes which remain unresolved even at the level of the Chairman/Deputy Chairman.

With the recent agreement reached on Wage Revision of Class III and Class IV employees of the Major Ports and Dock Labour Boards, there is no major labour dispute at this Port outstanding at present. However, sectional demands are raised from time to time, which are dealt with in the manner indicated above.

It would not serve any useful purpose to set up a body as proposed in the petition to deal with problems of all types of workers which will include workers not employed or directly controlled by the C.P.T. or CDLB. Representatives of labour employed in the Port Trust and registered/listed by D.L.B. are already appointed on the Port Trust Board and the Dock Labour Board where employers are also represented.'''

C. Observation of the Committee

24. The Committee note the factual position stated by the Ministries of Irrigation and Shipping and Transport (Ports Wing) in regard to the demands made in the petition.

The Committee also note that the Agreement signed between the Government of India and the Government of Bangladesh on sharing of the Ganga Waters at Farakka and on augmenting its flows provides for periodic review of working, impact, implementation and progress of both the short-term and long-term arrangements between them. The Committee feel that as there is provision for constant review of position about sharing of the waters of the international river Ganga under the terms of the Agreement between India and Bangladesh and the matter concerns two sovereign countries, no intervention is called for on their part.

III

PETITION NO. 12 REGARDING REMUNERATIVE PRICES FOR AGRICULTURAL PRODUCE, REDUCTION IN PRICES OF AGRICULTURAL INPUTS, INTRODUCTION OF CROP AND ANIMAL INSURANCE SCHEME, REVISION OF MINIMUM WAGES, PROVISION OF HOUSES FOR AGRICULTURAL WORKERS, SUPPLY OF ESSENTIAL COMMODITIES THROUGH PUBLIC DISTRIBUTION SYSTEM, IMPLEMENTATION OF RURAL EMPLOYMENT SCHEMES, REPLACEMENT OF LAND ACQUISITION ACT IN THE LIGHT OF EXPERIENCE AND IMPLEMENTATION OF LAND REFORMS.

3.1. Shri Devi Lal, M.P. presented to Lok Sabha on the 26th March, 1981 a petition (See Appendix III) signed by Shri Ranjit Singh and others regarding remunerative prices for agricultural produce, reduction in prices of agricultural inputs, introduction of crop and animal insurance scheme, revision of minimum wages, provision of houses for agricultural workers, supply of essential commodities through public distribution system, implementation of rural employment schemes, replacement of Land Acquisition Act in the light of experience and implementation of land reforms.

3.2. The Committee considered the petition at their sitting held on the 26th May, 1981 and directed that the petition be circulated in extenso to the members of Lok Sabha under rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3.3. The petition has since been circulated *in extenso* to all members of Lok Sabha on the 11th August 1981.

IV

PETITION NO. 13 REGARDING THE SALES PROMOTION EMPLOYEES (CONDITIONS OF SERVICE) AMENDMENT BILL, 1980.

4.1. Shri Ajit Kumar Saha, M.P. presented to Lok Sabha on the 3rd April, 1981, a petition signed by Sarvashri Jnan Sankar Majumdar and R. Handa, General Secretary and Zonal Secretary respectively of the Federation of Medical Representatives' Associations of India, New Delhi regarding the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980.

A. Petitioners' Grievances and Prayer

4.2 In their petition (See Appendix IV) the petitioners stated as follows:—

- “(1) That the Sales Promotion Employees (Conditions of Service) Act, 1976 and the Rules made thereunder could not give the desired relief to the Medical and Sales Representatives employed in pharmaceutical industry and or any other industry and/or establishment.
- (2) The employers have taken advantage of the absence of proper definition of ‘wage’ and ‘commission’ in the Act and did not implement the provisions of law though wages was less than Rs. 750|- per month of the sales promotion employees.
- (3) Further, more than 70 per cent of the medical and sales representatives, for whom the aforesaid Act was envisaged, remained outside the purview of the Act due to the wage-ceiling in the Act.

The Hon'ble Minister for Petroleum, Chemicals and Fertilizers stated on the floor of the Parliament that 80 per cent of the drug formulation market is controlled by multinational drugs firms. All these multinational drug firms are the members of the organisation of the Pharmaceutical Producers of India (OPPI), Bombay. It is stated by the Ministry for Labour, Government of India, in a meeting with our Federation on 30th December, 1980 that the OPPI member companies have only 5 per cent Sales

Promotion Employees who are covered by the Act. This means that the Pharmaceutical companies who control 80 per cent of formulation market and promote their sales through Sales Promotion Employees in most of the cases need not follow the provisions of this law. Thereby, a large number of sales promotion employees are not protected against victimisations by the multinational drug companies.

- (4) Therefore, the absence of definition of 'wage' and the 'wage-ceiling' in the Act deprived almost all of 20,000 Medical and Sales Representatives from getting relief under the provisions of Sales Promotion Employees (Conditions of Service) Act and the rules made thereunder."

4.3. The petitioners prayed that special provision be made in the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980, a Bill to amend the Sales Promotion Employees (Conditions of Service) Act, 1976, for removal of wage-ceiling completely from the Act.

B. Comments of the Ministry of Labour

4.4. The petition was referred to the Ministry of Labour for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 25th April, 1981, Ministry of Labour stated as follows:—

"Petition No. 13 signed by Sarvashri Jnan Sankar Mujumdar and R. Handa, General Secretary and Zonal Secretary, respectively of the Federation of Medical Representatives Association of India and presented to Lok Sabha on the 3rd April, 1981 contains a suggestion for the removal of the wage ceiling provided in the definition of the term 'sales promotion employees' in the Sales Promotion Employees (Conditions of Service) Act, 1976. The petitioners have suggested that a provision to this effect may be made in the amending Bill pending before the Lok Sabha.

- (2) The Bill which is, at present, pending is intended only to give statutory support to the existing Rule 3 of the Sales Promotion Employees (Conditions of Service) Act, 1976, on the basis of a recommendation made by the Committee on Subordinate Legislation of the Rajya Sabha. This Bill has already been passed by the Rajya Sabha and is now awaiting clearance by the Lok Sabha.

- (3) There are a number of issues relating to the Sales Promotion Employees (Conditions of Service) Act, 1976 which need detailed consideration. One such issue relates to the removal of the wage ceiling provided in the definition of the term 'sales promotion employees' in section 2(d) of that Act. The Federation of Medical Representatives Association of India have also separately brought this aspect to the notice of the Government and they have included this in their charter of demands. The demands are being considered and it is proposed to hold a tripartite meeting with the representatives of employers, employees and Government in the second week of May, 1981, to discuss the same. The representatives of the State Governments would also be participating in the discussions.
- (4) Government is also separately considering an amendment of the definition of the term 'workman' in the Industrial Disputes Act, 1947, so that persons engaged in sales promotion, irrespective of the wages or commission drawn by them, may be treated as "workman" under that Act. It is proposed to introduce a Bill in this regard as soon as a final decision is taken on this and other amendments of the Industrial Disputes Act being considered by Government. Once this amendment is made, all sales promotion employees would have the benefit of the provisions of the Industrial Disputes Act, irrespective of their wages or commission.
- (5) In view of the above, Government is of the view that there is no need to include in the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980, any provision regarding the removal of wage ceiling, as this matter is being processed separately."

4.5. The Committee considered the petition along with the factual comments furnished by the Ministry of Labour thereon at their sitting held on the 28th April, 1981. The Committee directed that the petition along with the factual note received from the Ministry of labour be circulated in extenso to the members of Lok Sabha under rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.

4.6. The petition along with factual note of the Ministry has since been circulated *in extenso* to all members of Lok Sabha on the 29th April, 1981.

V

REPRESENTATION FROM M/S BOMBAY POTATO TRADERS, BOMBAY, REGARDING PAYMENTS IN RESPECT OF DAMAGE TO CERTAIN POTATO CONSIGNMENTS

5.1 M/s. Bombay Potato Traders, Bombay, addressed a representation dated the 1st April, 1980, regarding payments in respect of damage to certain potato consignments.

A—Petitioners' Grievances

5.2. In their representation, the petitioners stated as follows:—

“...the following claims though due on merits, have not been paid by the Southern Railway:—

- (1) New Delhi to Salt Cotaurs, Inv: Q. 1341 RR 529948 dt. 24-12-1977. 204 Bags potatoes. Claim Rs. 1300/- for damages due to delay in transit, S. Rly. file No. C. 123/12/M/1673-B/77-78.
- (2) New Delhi to Salt Cotaurs, Inv: Q-1374 RR 529975 dt. 26-12-1977. 208 bags potatoes. Claim Rs. 1050/- for damages due to delay in transit. S. Rly. file No. C. 123/12/M/1674|B|77-78.
- (3) New Delhi to Salt Cotaurs. Inv: Q. 244 RR 354417 dt. 6-12-1972. 201 Bags potatoes not-delivered. Claim Rs. 9970/06. S. Rly. file No. C. 125/42|6284|B|72-73.
- (4) New Delhi to Salt Cotaurs, Inv: Q. 1340 RR 529947 dt. 24-12-1977. 260 Bags potatoes. Claim Rs. 2500/- for damages due to delay in transit. S. Rly. file No. C. 123/12/M|1675|B|77-78.
- (5) New Delhi to Salt Cotaurs, Inv: Q. 1293 RR 154280 dated 22-12-1977. 253 bags potatoes. Claim Rs. 3050/- for damages due to delay in transit. S. Rly. file No. C. 125/45/M/1676/B/77-78.

Two more petitions have been submitted on 10-4-79 by our known parties:

- (6) Jullundur city to Salt Cotaurs, Inv: 30 RR 253805 dt. 18-2-1975. 350 bags potatoes. Claim Rs. 1200/- for

damages due to delay in transit. S. Rly. file No. C. 125/24/M/6892/75-76. (Haji Abdul Sattar Dawood).

- (7) Jullundur City to Mettupalayam, Inv: 8 RR 252901 dt. 21-1-1975. 200 bags potatoes. Claim Rs. 3580/- for damages due to delay in transit. S. Rly. file No. C. 125/38/J|6846|75-76.

Of course, the Chief Commercial Supdt., Southern Railway, Madras-3, by his letter No. C. 125|38|J|6846|75-76 & others dated 23-6-79, advised the petitioners that the cases have been carefully reviewed in the light of our appeal and it is regretted that the claims cannot be admitted for payment for the reasons mentioned in the annexure (to his letter). This has been replied by the letter dated 4-1-1980 and the Railway is silent in the matter. A copy of the said reply to Railway is enclosed for ready reference.

We reiterate that the point for consideration is delay in transit and damages caused thereby. In support of our arguments, the petitioners have quoted various authorities—cases decided by LAW COURTS and it is strange that the Railways owned by Union of India should show utter disregard to such important decisions—an act beyond their moral. And if the Committee of legislature were to neglect this, there will be no end to GROSS INJUSTICE at the hands of Custodian of Railways and the users of Railways shall always have to run to COURTS for their just and fair dues to beg for amount of compensation.

These claims for compensation are mainly for abnormal delay in transit and date of actual delivery has been shown in each case. The petitioners have also discussed at length the merits of the cases and have relied upon the following judgements awarded by various High Courts, in similar nature cases *viz.*:—

AIR 1972—Allahabad—330 M/s. Gohalchand Srichand Vs. Union of India;

AIR 1967—Gujarat—130 Tulsidas Vs. Union of India;

AIR 1976—Delhi—236 Union of India Vs. Prahlad & Co.;

AIR 1961—Orissa—113 Rasbati Bewa Vs. Union of India;

U. C. R. (Bom)—1977—628 Union of India Vs. Jayantilal Mangaldas & Co.

AIR 1963—Allahabad—137 Nathulal Vs. Union of India.

The decisions of learned Judges Courts are very very clear on the subject and the petitioners see no reasons why the Railway Administration should not follow the same, atleast in deserving cases of exactly

similar nature. And if the claims cases referred to in the petitions are quite different from the nature of cases covered by the said decisions of the Courts, Railways should come forward with specific reasons and defend the statements made in the respective petitions. But let us say that Southern Railway Claims Officers are like Dictators and not the Democrats. Their pair of scales are different for each bargain and this is quite contrary to principles of Democracy and Justice.

And why go far. There has been an important decision at Madras itself—a local place of Southern Railway Headquarters and that in a potato consignment case. The Madras High Court allowed an appeal suit preferred by the claimants and decreed it for recovery of a sum Rs. 14,500/- from the Railway authorities in a case of 322 bags potatoes booked from Mettupalayam to Cuttack on 23-6-67. And this item has been reported in daily newspaper "THE HINDU" published at Madaras on Saturday, 11th August 1979.

Can the Southern Railway authorities deny this fact. Have they not paid the amount of compensation to the claimants as ordered by the High Court, Madras. The point is who shall ask them—question them? The members of the Public may be debarred from questioning them but surely the Elected Members of Lok Sabha and particularly the Members of Legislature, Petition Committee, Lok Sabha, enjoy that privilege and it is within their competence to seek explanations of Southern Railway Authorities and this need be done in the interest of 'equity and Justice'—and 'Fundamental Rights' as provided in the Constitution.

Ours is a Democratic Country. If the rulings have been given by various Courts in India on the grounds of uniformity—the same stands applied to one and all. Why should Government owned Railways, compel the claimants to resort to litigations. Perhaps the Railways authorities try to shirk their bonafide responsibility and admit the claim of the claimants and only pay the same, when ordered by the Court—An Act FULLY IMMORAL. Moral liability has to be honoured.

The petitioners, therefore, once again request that each petition may kindly be examined and verbatim remarks be called from Southern Railway para-wise (all 19) with reference to context of all the seven judgements referred to here in above. And each case be examined and payment of compensation awarded to petitioners."

B—Comments of the Ministry of Railways (Railway Board).

5.3. The representation was referred to the Ministry of Railways (Railway Board) for furnishing their factual comments thereon for

consideration of the Committee. In their factual note dated the 4th October, 1980, the Ministry of Railways (Railway Board) have stated as follows:—

- (1) Inv. No. Q. 1341 RR No. 529948 of 24-12-77, 1 wagon No. CRC—56345 S/C, 204 bags potatoes—claim for Rs. 1300/-.

A consignment of 204 bags of potatoes was booked by M/s. Madhusudhan Dayal & Co., Delhi under the above noted booking particulars to self. Accordingly to the remarks on the original Railway receipt, the consignment in question was loaded from truck to wagon direct by the owner and the condition of the same was not checked by the Railway Staff at the time of loading. At destination, 40 bags of potatoes were found decayed—water oozing out. The consignment took 12 days to reach destination considering the distance from New Delhi to Salt Cotaurs there was no abnormal delay in transit and apparently the damage was due to inherent vice of the commodity. The consignment was booked at owners' risk rate. No negligence or misconduct on the part of railway servant has been established. In the circumstances the repudiation of the claim for compensation by the Railway Administration is in order.

- (2) Inv. No. Q--1374 RR No. 529975 of 26-12-77, 1 wagon No. CRC—18750 S/C, 205 bags potatoes—claim for Rs. 1050/-.

A consignment of 205 bags of potatoes was booked by M/s. Zimidar Commission Shop, Jullundur City under the above noted booking particulars to self. The consignment in question was loaded from truck to wagon direct and the condition of the same was not checked by the Railway Staff at the time of loading. At destination, 30 bags of potatoes were found wet and damaged. There was no abnormal delay as the wagon took 12 days in transit and apparently the damage was due to inherent vice of the commodity. The consignment was booked at owner's risk rate. No negligence or misconduct on the part of the Railway servant has been established. In the circumstances the repudiation of the claim for compensation by the Railway Administration is in order.

- (3) Inv. No. Q-244 RR No. 354417 of 6-12-72, 201 bags potatoes—claim for Rs. 9970.60.

The file of papers has been destroyed after the stipulated period of preservation. Hence, no action be taken at this distant date.

- (4) Inv. No. Q—1340 RR No. 529947 of 24-12-77, 1 wagon No. CRCRT—69091 S/C, 260 bags potatoes—claim for Rs. 2500/-.

A consignment of 260 bags of potatoes was booked by M/s Mudhusudhan Dayal & Co., Delhi under the above-mentioned particulars to self. According to the remarks on the original Railway Receipt, the consignment in question was loaded from truck to wagon direct by the owner and the condition of the contents was not checked by the Railway Staff at the time of loading. At destination, 100 bags of potatoes were found wet and damaged. There was no abnormal delay as the wagon took 12 days in transit and apparently the damage was caused due to inherent vice of the commodity. The consignment was booked at owner's risk rate. No negligence or misconduct on the part of any railway servant has been established. In the circumstances, the repudiation of the claim for compensation by the Railway Administration is in order.

- (5) Inv. No. Q—1293 RR No. 154280 of 22-12-77, 2 wagon No. CRCRT 71245 S/C, 253 bags potatoes—claim for Rs. 3050/-.

A consignment of 253 bags of potatoes was booked by M/s. Madhusudan Dayal & Co., Delhi under above noted particulars to self. According to the remarks on the original Railway Receipt, the consignment in question was loaded by sender himself from truck to wagon direct and the condition of the contents was not checked by the Railway Staff at the time of loading. At destination, 125 bags of potatoes were found wet and damaged. There was no abnormal delay as the wagon took 14 days in transit and apparently the damage was caused due to inherent vice of the commodity. The consignment was booked at owner's risk rate. No negligence or misconduct on the part of the railway staff has been established. In the circumstances the repudiation of the claim for compensation by the Railway Administration is in order.

- (6) Inv. No. 30 (QTS) RR No. 252805 of 18-1-75, 1 wagon No. SEC 46709 S/C, 350 bags potatoes—claim for Rs. 1200/-

A consignment of 350 bags of potatoes was booked by M/s. Zimindars Commission Shop, Jullundur City under the above noted particulars to self. The consignment in question was loaded from truck to wagon direct and the condition of the same was not checked by the Railway staff at the time of loading. At destination, 50 bags of potatoes were found wet and damaged. There was no abnormal delay as the wagon took 26 days in transit. The consignment was booked at owner's risk rate. No negligence or misconduct of the railway servant has been established. In the circumstances, the repudiation of the claim for compensation by the Railway Administration is in order.

(7) Inv. No. 8 RR No. 252901 of 21-1-75, 1 wagon No. NRC 32031 S/C, 200 bags Potatoes—claim for Rs. 3520/-.

A consignment of 200 bags of potatoes was booked by M/s. Zimindars Commission Shop, Jullundur City under the above booking particulars to self. The consignment in question was loaded from truck to wagon direct and the condition of the same was not checked by the Railway Staff at the time of loading. At destination, 59 bags were found wet and soaked with potatoes juice coming. There was no abnormal delay as the wagon took 30 days in transit and apparently the damage was caused due to inherent vice of the commodity. The consignment was booked at owner's risk rate. No negligence or misconduct on the part of the railway servant has been established. In the circumstances, the repudiation of the claim for compensation by the Railway Administration is in order.

It would be seen that the consignments as mentioned above were booked at owner's risk rate. "Said to contain" Railway Receipts were issued without the loading, contents and condition of the consignment having been checked by the Railway Staff at the time of booking. The remarks on the Railway Receipts were protective.

The storage life of freshly harvested and properly cured potatoes during transit by railway in covered and ventilated wagon will be about 1½ months in winter as per expert opinion. The transit time in none of those cases exceeded 30 days. The damages noticed at destination can reasonably be attributed to the inherent vice of the commodity booked."

C. Observation of the Committee

5.4. The Committee note the factual position stated by the Ministry of Railways (Railway Board) on the claims for payment of compensation for damages to potato consignments due to delay in transit, and feel that no further action in the matter is called for. However, the Committee are of the opinion that extra care needs to be taken by the Railway authorities for expeditious transportation and delivery of consignments containing perishable goods.

VI

REPRESENTATION FROM M/S. SAGAR FISH COMPANY, BOMBAY REGARDING CLAIMS FOR NON-DELIVERY OF CERTAIN CONSIGNMENTS

6.1. M/s. Sagar Fish Company, Bombay, addressed a representation dated the 24th May, 1980 regarding claims for non-delivery of certain consignments.

A. Petitioners' Grievances

6.2. In their representation, the petitioners stated as follows:—

“The petitioners lodged three claims for non-delivery of the consignments as per descriptions as under:—

- (1) Bombay PDGR to Delhi, PWB: 763673 dated 14-3-76
2 boxes iced fish. Not received. Claim Rs. 1050/-;
- (2) Bombay PDGR to Delhi, PWB: 763284 dated 9-3-76; 3
boxes iced fish. Not received. Claim Rs. 1576/-;
- (3) Bombay PDGR to Delhi, PWB: 763317 dated 10-3-76; 2
boxes iced fish. Not received. Claim Rs. 1170/-.

The petitioners lodged claims on both Western Railway and Northern Railway through Advocate by letters dated 5-4-1976. Western Railway vide letters No. CC|85|76|BCT dated 13-4-1976. (2) CC|87|76|BCT dated 13-4-1976 and CC|86|76|BCT dated 13-4-1976 advised us that Northern Railway shall settle the claim. We, therefore, submitted photo-copies of all the three railway receipts to Northern Railway by letter dated 18-9-78 and ever since then have been waiting for payment of these three claims but the payment is not forthcoming. The petitioners till date are awaiting payment from Northern Railway.

All the three consignments have not been delivered by Railway and there has been breach of contract of carriage on the part of the Railways and Railways are morally as well as contractually liable to pay compensation. The petitioners are owners of the goods and have railway receipts in possession. It is not worthy of Government Railways to accept goods for carriage, issue railway receipts wherein

freight has been collected (being pre-paid) and then deprive the claimants of their legal claims. This amounts to systematic fraud committed on users of Railways and there should be end to this.

And because the Northern Railway Administration showed utter disregard, utter inaction, utter inattention to these claims, the petitioners looked to the Petition Committee in the matter for award in these just cases. To the bad luck of the petitioners, NO LOK SABHA existed for some time and therefore the Petitioner's submission may have remained unattended.

Now that the Petition Committee has been formed, the petitioners look to the Members of the Committee to consider our petition and award amount of compensation viz. Rs. 1050/-, 1576/- and Rs. 1170/- being the amount of claims on account of non-delivery of all the three consignments."

B. Comments of the Ministry of Railways (Railway Board)

6.3. The representation was referred to the Ministry of Railways (Railway Board) for furnishing their factual comments thereon for consideration of the Committee. In their factual note dated the 30th September, 1980, the Ministry of Railways (Railway Board) have stated as follows:—

"(1) Ex. PDGR to Delhi
PWB No. 763673 dated 14-3-1976
2 cases load fish Wt. 219 Kgs.
Claim for Rs. 1050 due to non-receipt"

In this case the consignment was booked on 14-3-1976 and was received at destination on 18-3-1976 in rotten condition. Delivery was refused by the consignee. The consignment was examined by the Assistant Medical Officer/Delhi and declared as unfit for human consumption and hence destroyed. Whereas this consignment reached destination in 4 days, there has been cases of consignment from PDGR.

to Delhi reaching in 3 days time and delivered under clear receipt *vide* details at Appendix V. The claimants have taken delivery of 17 consignments on Memo. for which *Railway Receipts have not been surrendered vide* details enclosed at Appendix VI.

The claimants were therefore advised to clear the outstanding memo deliveries by surrendering pending Railway Receipts but they have not done as yet. Unless the memo. deliveries are cleared, the claim cannot be finalised.

(2) Ex. PDGR to Delhi—

PWB No. 763284 dated 9-3-1976
3 boxes iced fish Wt. 320 Kgs.
Claim for Rs. 1576/- due to non-receipt.

The consignment was booked on 9-3-1976 and was received at destination station on 13-3-1976 in rotten condition. Delivery was refused by the consignee. The consignment was examined by the Railway Doctor who declared it unfit for human consumption and hence destroyed. Whereas this consignment reached destination in 4 days, there have been cases of fish consignment from PDGR to Delhi reaching in 3 days time and delivered under clear receipt *vide* details at Appendix V.

Since the claim was not preferred within 6 months from the date of booking of the consignment, the claim was repudiated under Section 78-B of Indian Railways Act. However, from the photostat copy of the letter received now, it is seen that the claim was initially preferred within time over the Western Railway instead of Northern Railway, but there is no reference from the latter.

However, the claimants have not yet cleared the memo. deliveries, the claim cannot be finalised.

(3) Ex. PDGR to Delhi

PWB No. 763317 dated 10-3-1976
2 cases iced fish Wt. 224 Kgs.
Claim for Rs. 1170/- due to non-receipt.

The consignment was booked on 10-3-1976 and was received at destination on 13-3-1976 within the normal transit period and there have been other cases of fish consignments having

been delivered under clear receipt when they had taken similar period of time in transit *vide* Appendix VI. The consignees appeared for delivery on 14-3-1976 but refused to take delivery being in rotten condition. It was examined by Railway Doctor who declared it as unfit for human consumption and hence destroyed.

The claimants have taken memo. deliveries of several consignments for which the *Railway Receipts have not yet* been surrendered. The claimants were therefore asked to clear the memo. deliveries but to no response. Even on merits there is no liability of the Railway Administration for damages in this case as consignments arrived destination station within the normal transit period.

It will thus be appreciated that the claims of the party could not be finalised due to the lapses on the part of the party in not surrendering the Railway Receipts for the consignments already taken delivery on Memo."

C. Observation of the Committee

6.4. The Committee note the factual position stated by the Ministry of Railways (Railway Board) on the three claims filed by the petitioners for non-delivery of the consignments. The Committee feel that in view of the position stated by the Railways, no action is called for on their part.

VII

REPRESENTATION REGARDING GRIEVANCES AND DEMANDS OF LIC AGENTS

7.1. Shri R. K. Mhalgi, M.P., forwarded a representation dated the 10th December, 1980 (See Appendix VII) signed by Shri N. C. Chandak, President, Life Insurance Agents' Association, Nagpur Division, Nagpur and others regarding grievances and demands of L.I.C. agents.

A. Petitioners' demands and Comments of the Ministry of Finance (Department of Economic Affairs) (Insurance Division)

7.2. The representation was referred to the Ministry of Finance (Department of Economic Affairs) (Insurance Division) for furnishing their factual comments thereon. The Ministry have furnished their para-wise factual comments *vide* their note dated the 23rd March, 1981 as follows:—

Points

Comments

(1) The first and foremost is regarding the professionalisation of insurance agents. The LIC Management, time and again emphasising on this aspect and stresses the need to recruit the agents who are seriously interested in pursuing L.I. Agency as a whole time career and depending mainly upon the agency commission for the up keep of their families. In practice, however, recruitment of agents is being done in a way so as to appoint such persons who through their own or through their relatives' influence can bring in sufficient business on some assured basis which, mainly being an obligatory business does not conform to the needs of the policyholders and goes out of the books of the Corporation on acquiring paid up value or even before that. We can term such agencies as "Benami". There is another category of Benami agents who, having amassed black wealth, find in insurance agency a convenient way to convert into white money. Such agents do not feel the pinch of giving rebate because it is not a means of livelihood for them, but just a source of conversion of black money into white. It is impossible for honest professional agents to co-exist and procure life insurance business in competition with benami tax evader agents. A system of recruitment of agents has to be created in which benami agencies cannot be set up and thrive.

(2) The agents are not 'employed' by LIC. They are only "appointed" and because the agents are not paid any salary or wage, they do not come under purview of any social security law of our country, such as : payment of wages act which stipulates a maximum period in which the wages of the employees have to be paid by the employers. Thus there being no such legal protection being available to the agents, it is found that in various divisions of LIC the agency Commission is paid in different periods with considerable delays and without a look of semblance or similarity on an all India pattern. It is evident that commission settlement does not receive the priority from LIC Management which it deserve in the larger interest of full-time professional agents who are solely or mostly dependent upon this for maintaining their family.

The Primary objective of the LIC is spread of the message of insurance to the largest number of people. While the LIC encourages appointment of whole-time agents, as for instance through the "Career Agents Scheme", it has also to depend for achieving its objective on a large number of agents who are part-timer.

It is not correct to say that the policies secured by part-timers go out of the books of the Corporation on acquiring surrender value of before acquiring surrender value since, as stated earlier, the bulk of the business is from part-timers and the major portion of the business secured by them is retained in the books of LIC.

The system of recruitment and training of agents and the terms and conditions of service of agents laid down in the Agents' Regulations is designed to ensure that only active agents are kept on the rolls. This system is being reviewed with a view to preventing and eliminating benami agencies.

Agents are remunerated by way of commission on the premium income received in respect of the policies secured through their agencies. They are not employees of the Corporation.

Commission payments is made on receipt of the premia and the payment depends on the processing of the data in the LIC's Machine Department. Payment of commission in respect of the first premium is settled once in a fortnight and often more frequently and it is given high priority by the LIC. Renewal commission payments are made once in a month; generally payments in respect of collections and adjustments of a particular month are made before the end of the next month. Certain Divisions are in a position to pay by the 20th of the month while some other Divisions, because of certain difficulties, make the payment in the first week of third month. The delay is mainly due to powercuts, breakdown of machines or other administrative difficulties. To ensure that

agents who do sizable business and who have a decent renewal commission are not put to any hardship a system of monthly level advance to agents is available. These agents can draw monthly level advance irrespective of the date of preparation of commission bills and once in a quarter the necessary debits and credits are adjusted. Thus the agents who are solely dependent on commission are fully taken care of by this system of monthly level advance.

According to the marketing organisation of the LIC the bulk of the agents appointed by the LIC are introduced by Development Officers who are supervisory officers in respect of their agents. As per terms and conditions of service of the Development Officers they are responsible for the motivation and production of the agents appointed in the organisation. The Development Officer is therefore, given credit for the business secured by the agents in this organisation. The cases of hardship referred to by the petitioner can be looked into if details are furnished.

Agents are not employees and their case stands on a different footing. The agent can take out a policy under his own agency and get commission for that policy. An LIC employee, on the other hand cannot act an agent.

This is a comment on the incentive system for Dev. Officers. The LIC has devised the marketing organisation with Dev. Officers playing a vital role in the appointment of agents. If there is any bad business procured, the failure is that of individuals and not of the system.

(3) In some ways the LIC agents are being treated like 'BONDED LABOURERS' as per existing rules, once an agent is attached to a Development Officer, it becomes a whole life affairs. There are various examples where under extreme circumstances the agents have not been delinked with their Dev. Officers inspite of their legitimate grievances and even where the consent of Dev. Officer concerned was also on record. It is an irony that Dev. Officer—agent pair is treated more seriously than a 'Husband and wife' where a provision for divorce is available.

(4) Any factory which produces goods and markets them, sell them to their own employees and salesman on certain concessional rates. The LIC Managements is doing so in the case of its employees only (premium rate reduced by 10%). But is not allowing the same facility on its salesman namely the agents. Similarly the employees of the LIC are getting the benefit of salary saving scheme, i.e. their policy premiums are deducted from their salaries. This facility has been denied to the agents. To begin with the LIC can introduce the Scheme on voluntary basis for club members and good producers of business who get substantial commission bill.

(5) Before nationalisation only the agents were given commission and bonus as per their business. The LIC has introduced incentive bonus system for Dev. Officers over and above a certain limit. To get this benefit it is general practice of Dev. Officers to introduce their agents by various ways to bring the more business by any means without looking to the capacity or needs of the clients. This system, to a great extent is responsible for 'booking bad business which goes out of Corporation's boots at the earliest resulting in substantial loss to the Corporation and agents in the Long run.

Comments

Agents are not employees and benefits given to employees cannot, in the normal course, be extended to agents.

The petitioner has prayed for appointment of a National Committee to be appointed by the Ministry to go into the grievances of the agents on an All India basis. It may be mentioned in this connection that Government had constituted a Committee in May, 1979, under the Chairmanship of Shri Era Serhiyan, MP, to review the Working of the Life Insurance Corporation of India. One of the terms of reference of the Committee was "to examine the organisation of the Corporation at different levels including the set up of the field force and to suggest such changes as may lead to greater efficiency and economy in operations". The Agents' Federation (LIAFI) submitted a memorandum to the Committee and the representatives of the Federation gave oral evidence also. The Committee has dealt with the case of agency force at length. Copies of the summary of the Conclusions and Recommendations of the Committee were laid before Parliament in December, 1980. As the matter has been reviewed by a high-level Committee and the recommendations have been taken up for implementation, the suggestion for a further review is not acceptable.

Points

(6) Though the agents have raised their voice time and again, the facility of giving loans to agents for construction of houses in rural areas is not available to them. This facility is available to the employees. This is a very distressing disparity and should be brought to an end at the earliest.

We therefore demand, that a National Committee be appointed by the Ministry concerned to go into the above grievances of the LIC agents in general on an All India pattern.

C. Observation of the Committee

7.3. The Committee note from the factual comments furnished by the Ministry of Finance (Department of Economic Affairs) (Insurance Division) on the demands made in the representation stating inter alia that the Government had constituted a Committee in May, 1979 under the Chairmanship of Shri Era Sezhiyan, M.P. to review the working of LIC. One of the terms of reference of the Committee was "to examine the organisation of the Corporation at different levels including the set up of the field force and to suggest such changes as may lead to greater efficiency and economy in the operation". That Committee have dealt with the case of agency system at length. A Summary of Conclusions and Recommendations of that Committee have been laid before Parliament in December, 1980. The Committee feel that as the matter has been examined by a high level Committee recently and the recommendations have been taken up for implementation, no further intervention is called for in the matter on their part.

VIII

REPRESENTATION REGARDING TRANSFER OF OWNERSHIP RIGHTS TO BOMBAY MUNICIPALITY OF A ROAD ADJACENT TO CENTRAL GOVERNMENT SENIOR OFFICERS' QUARTERS IN THE HYDERABAD ESTATE AT NEAPEAN SEA ROAD IN BOMBAY

8.1. The Hony. Secretary, Meherina, Malabar and Simla Co-operative Housing Societies, Bombay submitted a representation dated nil regarding transfer of ownership rights to Bombay Municipality of a road adjacent to Central Government Senior Officers' Quarters in the Hyderabad Estate at Neapean Sea Road in Bombay.

A. Petitioners Grievances and Prayer

8.2. In his representation, the petitioner stated as follows:—

“Adjacent to a large complex of buildings for the Central Government Senior Officers' quarters in the Hyderabad Estate in Bombay at Neapean Sea Road is a narrow, unkempt strip of road leading upto a site on which once stood the Baroda Palace.

The Baroda Palace has now been torn down and on its site there high rise buildings; Meherian, Simla House and Malabar Apartments having very large number of flats have been erected which accommodate over 500 families.

Moreover, four more buildings with forty flats are under construction in the vicinity which would house over 200 peoples.

That apart, beyond these premises on a site over a hill owned by Sita Devi, the Ex-Mehrarani of Baroda over 2,000 hutments have been built which are occupied, by nearly 10,000 people.

The solitary excess to all these occupants to the main road i.e. the Neapean Sea Road is, through this narrow, unkempt road which was originally a thorough-fare solely used by the Nizam and Baroda Palaces for the traffic of a small number of motor cars.

With the increase in the number of residents on this hill, the vehicular traffic on this hill has also been overwhelmingly increased and several hundred cars as also over

a dozen school buses commute daily on this strip of road to reach the main road.

As this has been causing great congestion especially during the peak hours in the mornings and evenings which greatly inconvenience the residents of aforesaid buildings they pointed out to the Bombay Municipality that though they are paying nearly Rupees 10 lakh by way of Municipal taxes, the amenities provided by way of proper road facilities are not commensurate with the amount collected from them and the Municipality should, therefore, promptly look into this complaints and arrange for a better and proper road.

The Municipality explained that as this narrow road in question belongs to the C.P.W.D. they are unable to act in the matter unless this road is handed over to them.

Thereupon, the residents approached the C.P.W.D. and after a number of representations the C.P.W.D. agreed to hand over this road to the Bombay Municipality and this transfer was effected in February, 1980.

However, the C.P.W.D. whilst transferring this road added a clause that the Municipality may expand, improve upon and maintain this road but the ownership of the land, would vest in the C.P.W.D.

This has created a snag. As under their rules the Municipality cannot expend on any property or structure unless it is vested in them, whereas the Central Government contends that unless the value of a property is received or an equivalent area is given to them in exchange no property could be transferred to another party.

Because of this impasse created by the rigidity of rules on either side, this narrow, unkempt road has not been improved upon to the great disadvantage of the public at large.

With a view to resolving this difficulty the residents of the aforesaid buildings called on the Municipal Commissioner who in appreciation of the inconvenience caused to the public finally agreed that whilst transferring this road even if the Central Government would impose conditions such as that this road should be used solely for traffic purposes and no part of it could either be sold or transferred by the B.M.C. for any other purpose nor any

commercial use would be made of this road, in the interest of the public at large he would be agreeable to accept these terms.

As this road and the elongated narrow piece of waste land adjoined to it is unsuitable for any structural purpose but could be gainfully employed in the expansion of this road, the Central Government is urged to relax this rule in the public interest, especially when transfer is from one Government body to another quasi-Government body and not to a private person or party.

The physical inspection of the site would be convincing about the utility of this road and what is at present being defiled by the stray pedestrains could be suitably converted in improving the amenities for the public which also would benefit the residents of the Hyderabad Estate.

Not improving this road to meet the current requirements and at the same time not permitting the Municipality to do so tantamounts to a dog in the manger policy which neither benefits the C.P.W.D. nor the public at large.

The sort of enachronistic rule should, therefore, be relaxed or amended to meet the present requirements.

As a matter of fact when the Hon. Minister Shri P. C. Sethi was last in Bombay, the residents of the aforesaid buildings had called on him. The Officers of the C.P.W.D. were also present. The Hon. Minister had then asked the Officers of the C.P.W.D. to send him the relevant papers for his finding a solution to the problem.

Since then considerable time has elapsed and it is the fervent request of the residents of this area that the Hon'ble Minister should take a favourable decision early on this issue which would greatly benefit the public at large."

B. Comments of the Ministry of Works and Housing

8.3. The representation was referred to the Ministry of Works and Housing for furnishing their factual comments thereon for consideration by the Committee on Petitions. In their factual note dated the 5th May, 1981, the Ministry of Works and Housing have stated as follows:—

"The Baroda Palace Road, Bombay is an internal road within the Hyderabad Estate Property and provides access to Government apartments. The three private cooperative housing societies viz. (i) Meherina Cooperative Housing

Society; (ii) Malawar Cooperative Housing Society; and (iii) Simla Cooperative Housing Society, have come into existence and developed some area to the north of the Government property but these societies have no approach road of their own and they have been using this road as approached road. In fact Bombay Municipal Corporation should not have allowed development of land by these societies without providing approach road and they should not have taken it for granted that the Central Government road would be handed over to BMC for their use. However, keeping in view the difficulties of these societies and after protracted correspondence this Ministry agreed to transfer this road initially at the market rate Rs. 500/- per sq. yd. in January, 1979. Since the B.M. Corporation was reluctant to take it on payment, the Ministry of Works and Housing issued a revised sanction *vide* our letter No. J-11012/3/78-L.II, dated the 7th April, 1979 (See Appendix VIII). According to this sanction the President has placed existing 20' wide road including the land for its widening to 30' measuring in all 4000 sq. yds. with the Bombay Municipal Corporation free of all charges for its maintenance and improvement at the cost of the Corporation subject to the condition that the FSI available to CPWD is not reduced below 1.33. The Corporation could utilise the land only for this specified purpose and would not commercially exploit the land. The ownership of the land/road will continue to vest with the Central Government. Normally this should have served the purpose of the residents as well as the Bombay Municipal Corporation. We are issuing similar sanctions while transferring roads for maintenance etc. to NDMC, MCD and DDA. This is as per normal policy in vogue and no necessity is felt for departing from this established practice. The position was, therefore, explained to the Municipal Commissioner at the level of Joint Secretary in February, 1980 that the sanction already issued has achieved the desired purpose by hand over the road to the Municipal Corporation of Bombay. In case the Corporation feel that title of the road in question should also be transferred to them, they will have to pay the market price for the land in accordance with the Government orders on the subject. This Ministry, thereafter treated the matter as closed and have received no further representation from the Bombay Municipal Corporation in

this regard. We are not aware whether the present representation was submitted by the Cooperative Societies prior to February, 1980 when we explained the position to the Municipal Corporation or thereafter."

C. Observation of the Committee

8.4. From the factual comments furnished by the Ministry of Works and Housing on the points raised in the representation, the Committee find that the Ministry of Works and Housing have already in their letter No. J-11012/3/78-LII dated the 7th April, 1979 sanctioned the placement of the existing 20' wide road including land for its widening to 30' measuring in all about 4000 sq. yds. with the Bombay Municipal Corporation free of any charges for its maintenance and improvement at the cost of the Corporation subject to the condition that the FSI available to CPWD was not reduced below 1.33 and subject also to the condition that the land would be utilised only for this specific purpose and would not be commercially exploited. Regarding the transfer of ownership of the land to the Bombay Municipal Corporation, the Committee note that the Central Government have not agreed to transfer the ownership of the land but have indicated that although they feel that the purpose of the Corporation would be served by the placement of the road at its disposal in the manner already sanctioned yet if the Municipal Corporation of Bombay still feel that the title of the land should be transferred to them, they would have to pay the market price for the land in accordance with the Government orders on the subject. In view of this position, the Committee feel that in case the Bombay Municipal Corporation desire the title of the land in question to be transferred to them they should be prepared to pay the market price for the land as have been already conveyed to the Municipal Corporation authorities by the Government of India.

IX

REPRESENTATION REGARDING OMISSION OF TRAILERS AND AGRICULTURAL IMPLEMENTS FROM TARIFF ITEM NO. 68 AND 34-III.

9.1. Shri K. V. Chalapathy Rao, President, Andhra Pradesh Tractor Trailers and Agricultural Implements Manufacturers Association, Vijayawada, submitted a representation dated the 22nd December, 1980 regarding omission of trailers and agricultural implements from tariff item No. 68 and 34-III.

A. Petitioner's Grievances and Demands

9.2. In his representation (See Appendix IX) the petitioner made *inter alia* the following demands:—

“The amended section 4 of the Act has brought enormous difficulties both to the Department and to the Tax-Payer. A plea is made to have a specific rate of duty on each item instead of *ad valorem*.

* * * * *

Owing to the peculiar nature of price structure and its frequent fluctuations in regard to the raw-materials like iron-channels, angulars etc., for manufacture of trailers, the trailer industry is not able to give a cost analysis along with the price list furnished to the Department for approval of the prices of trailers. Since the new section 4 insists upon the price which the goods are sold or capable of being sold, the requirement of furnishing cost analysis may be dispensed with in the cases of all sales, and the work sheet/cost analysis is demanded in respect of goods consumed internally within the factory.

* * * * *

Tractors used in agriculture are distinguished and excluded from Central Excise duty and also road tax on the strength of Tahsildar's Certificate. But the implements and trailers, which are in essential part of agricultural operations without which, the tractor is idle are burdened with Central Excise and Sales-tax repeatedly. Consequently they are beyond the reach of agriculturists and

are becoming an unbearable burden to the lively Small Scale Industry in the Circars. Hence, to relieve the Small Scale Industry and the agriculturists from this cruel burden, these implements and trailers are to be treated as a national priority and given exemption on a priority basis from Central Excise Notification No. 71/78-III and 68 respectively on the strength of Agricultural Certificate.

* * * * *

The exemption granted under Notification No. 71/78 Central Excise is being reached within first 5 months as the cost of trailer is steadily increasing. Further, the value of agricultural implements is also being taken for determining the eligibility for the exemption of Rs. 5 lakhs trailers. Therefore, the industry wants that either the Trailers and Agricultural Implements may be completely omitted from Tariff Item No. 34—III and 68 respectively as both the products are used for agricultural purposes only. Or complete exemption from duty under Notification No. 71/78 may be given based on the numbers/pieces cleared within certain basis fixed on the past performance. Or in the alternative the Notification No. 71:78 Central Excise may be modified so as to exclude the value of agricultural implements of T.I. 68 for computation of Rs. 20 lakhs value (aggregate) of all excisable goods of the preceding financial year and to restrict the Rs. 30 lakhs value criterion to trailers of T.I. No. 34—III alone, of the preceding financial year."

B. Comments of the Ministry of Finance (Department of Revenue)

9.3. The representation was referred to the Ministry of Finance (Department of Revenue) for furnishing their factual comments thereon for consideration by the Committee. The Ministry of Finance (Department of Revenue) have furnished their comments *vide* their note dated the 7th April, 1981 stating as follows:—

- "(i) The suggestion for changing the nature of duty in respect of trailers and agricultural implements from *ad valorem* to specific has been made on the ground that it would obviate litigation arising out of valuation problems. It may be stated in this connection that specific duty rates suffer from a basic disadvantage in that they do not lend buoyancy to the tax system as the revenue from a given item does not increase with in the prices of the goods. Another disadvantage of specific duty rates is that they are

often regressive in nature inasmuch as same duty is charged irrespective of the value of the particular item. In view of this, the suggestion of the Association is not acceptable.

- (ii) While determining the assessable value of an excisable item, the Assessing Officer may have to look into the details of the cost build-up. It is perhaps with this view that the field officers would have called for details of cost data. As price lists are not required to be furnished frequently, supplying the details of cost build-up should not pose any serious problem to the manufacturers.
- (iii) While it is true that small agricultural tractors of Draw Bar Horse Power upto 12 have been fully exempted from duty, it is also a fact that trailers produced in the small scale sector are fully exempt from duty upto Rs. 7.5 lakhs clearances in a financial year provided the value of clearance in the preceding financial year did not exceed Rs. 15 lakhs (in the 1981 Budget the ceiling of duty-free clearance has been increased from Rs. 5 lakhs to Rs. 7.5 lakhs). A duty reduction of 25 per cent of the applicable duty rate is also available for clearances between Rs. 7.5 lakhs and Rs. 15 lakhs. Thus the extent of exemption in respect of trailers is substantial. Unlike agricultural tractors which are used for agricultural purposes only, trailers can be used for other purposes also. Therefore, there is not enough justification for grant of blanket exemption from-duty for this item.
- (iv) Whether the value of old tyres instead of new tyres should be included in the assessable value of trailers would depend on the facts of each case. As far as the question of set-off of duty paid on tyres used in trailers is concerned, it may be stated that trailers produced by small scale manufacturers are exempt from duty and hence it would not be possible to avail of any set-off of the duty paid on tyres. Exemption from duty on tyres meant for trailers (by following Chapter X procedure as in the case of tractor tyres) may not be justified as trailers produced in the small scale sector are themselves exempt from duty upto certain limits.
- (v) Exemption from duty on trailers produced in the small scale sector is given under notification 80/80 dated 19th June, 1980. Under this notification, at present, full exemption of duty upto Rs. 7.5 lakhs is allowed in a financial

year subject to the conditions that the value of clearances in the preceding financial year did not exceed Rs. 15 lakhs (this scheme of exemption applies to 72 different excisable commodities). It may be stated that the duty-free ceiling was enhanced in the 1981 Budget from Rs. 5 lakhs to Rs. 7.5 lakhs. Apart from this, 25 per cent duty reduction for clearances between Rs. 7.5 lakhs to Rs. 15 lakhs is available for trailers under this notification. As the intention of the Government is to have a uniform basis of exemption for these 72 excisable items based on the value of clearances, it may not be feasible to take out trailers from the scope of this scheme and introduce a separate scheme of exemption based on the number of units cleared. This may also lead to a spate of representations from manufacturers of other excisable items covered by the scheme.

The exemption notification 80/80 provides that where the total value of clearance of all excisable goods of a manufacturer exceeds Rs. 20 lakhs in the preceding financial year, the exemption will not be available. This is with a view to ensuring that the exemption is not available to big manufacturers who may be producing a comparatively small quantity of a product covered under the said exemption scheme but a large quantity of other goods. In view of this there may not be any justification for excluding the value of agricultural implements falling under Tariff Item 68 (which is not one of the 72 specified items) from the limit of Rs. 20 lakhs. It may be further added that certain types of agricultural implements and parts falling under Tariff Item 68 are already completely exempt from Central Excise duty under Notification No. 55/75 dated 1st March, 1975. The goods so exempted are—

“Agricultural implements and parts thereof but excluding (i) power operated agricultural implements and parts thereof, and (ii) implements designed for use as attachments with tractors or power tillers and parts thereof”.

It would thus be seen that non-power operated agricultural implements, which are used by small and marginal farmers, are already exempted from duty. Most of the other types of agricultural implements falling under T.I. 68 are eligible to the benefit of the exemption scheme

for item 68 goods produced in the small scale sector. Under this scheme full exemption from duty is allowed to clearances upto a value of Rs. 30 lakhs in a financial year (notification No. 105/80 dated 19th June, 1980). Likewise, tractor trailers produced in the small scale sector are also entitled to exemption based on value of clearances as mentioned earlier. From the penultimate paragraph of the representation, it would appear that only a few trailer units are in the duty paying sector. Most of the other units manufacturing these items are thus in the exempted sector. Grant of complete exemption to those items as suggested by the Association, would mean denying the present advantage of excise relief which the small scale sector enjoys over the comparatively larger units. This would not be in the interest of the small scale industry."

C. Observation of the Committee

9.4. The Committee note from the factual comments furnished by the Ministry of Finance (Department of Revenue) that non-power operated agricultural implements which are used by small and marginal farmers, are already exempted from duty. Most of the other types of agricultural implements falling under T.I. 68 are eligible to the benefit of the exemption scheme for item 68 goods produced in the small scale sector. Under this scheme, full exemption from duty is allowed to clearances upto a value of Rs. 30 lakhs in a financial year. The Ministry have further stated that grant of complete exemption to these items as suggested by the petitioners' Association would mean denying the present advantage of excise relief which the small scale sector enjoys over the comparatively larger units. Therefore, it is not in the interest of small scale industries. The Committee are of the opinion that in view of the position stated by the Ministry, no intervention in the matter is called for on their part.

REPRESENTATION FROM M/S RANCHHODBHAI NATHABHAI
AND CO., BARODA, RE. NON-PAYMENT OF CLAIMS BY THE
WESTERN RAILWAY

10.1. M/s Ranchhodbhai Nathabhai and Co., Baroda, addressed a representation dated the 6th September, 1980, regarding non-payment of claims by the Western Railway.

A. *Petitioners' Grievances*

10.2. In their representation (*See Appendix X*), the petitioners stated *inter alia* as follows:—

“Enclosed please find herewith a list of our claims cases (*See enclosure to Appendix X*) wherein claims have been repudiated on unjust/wrongful grounds and these pleas adopted by Western Railway are not tenable under law. The loss has been caused due to damage by rain water and a Common Carrier is liable to pay compensation in all such cases. Despite this fact, the claims have been rejected and not reviewed even after many protests. It has, therefore, become necessary for us the claimants to report facts to your goodselves for such action as may be necessary to restore compensation towards loss caused.

The common arguments of Western Railway while rejecting claims liability are—Loaded by senders I & U by owners—received in direct wagon—P/C not complied with—bagging single etc. One most important argument that has come up within recent years is—‘Unsuitable/broken selected by sender’ and yet another being ‘non-standard dunnage found at destination’. These terms are being used lavishly like sharp weapons and this is what pinching most to users of Railways.

* * * * *

The duties of Common Carriers have been defined in relevant Acts, Rules, Tariffs of Railways so also Railway Manuals. The important among many are—Sec. 151 of the Indian Contract Act, which state—‘In all cases of bailment the bailee is bound to take as much care of goods bailed to

him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and the value of goods bailed.'

* * * * *

We, therefore look to your goodselves to order thorough examination of all the cases as per list herewith attached and ensure payment of compensation amount due to us at the earliest. Notices of suits have been issued and if the payment is not received, we shall have no alternative but to file suits in these cases and in future cases, serve joint notice of claim and suit and run to Court of Law for justice."

B. Comments of the Ministry of Railways (Railway Board)

10.3. The representation was referred to the Ministry of Railways (Railway Board) for furnishing their factual comments thereon for consideration by the Committee. In their factual note dated the 7th March, 1981, the Ministry of Railways (Railway Board) have stated that the matter has been examined in consultation with the concerned Railway and factual position of each of the cases (46 cases) mentioned in the representation is as follows:—

"(1) Inv. No. 7 RR No. 287344 dated 5-6-1979 Ex. Kashipur to BRCY-220 bags of Rice—Rs. 520/- for damage by wet to 33 bags.

A consignment of 220 bags of rice was booked under the above booking particulars to self. According to the Original Railway Receipts, the sender had accepted broken wagon. The contents of the original wagon were transhipped into another wagon at Moradabad and 6 bags were noticed damaged by wet for which Railway is not responsible as unsuitable wagon was accepted by the sender. For the bags damaged by wet after Moradabad, the claim was accepted and payment of Rs. 159/- has been arranged.

(2) Inv. No. 9 RR No. 659215 dated 13-10-1979 Ex. Vijayawada to BRCY—243 bags of Rice—Rs. 375/- for damage by wet to 9 bags.

A consignment of 243 bags of rice was booked under the above booking particulars to self. According to the Original Railway Receipts, unsuitable wagon was selected by sender at his own risk. The consignment was received at destination without interference enroute. In the circumstances, the claim was correctly repudiated.

- (3) Inv. No. 57 RR No. 658867 dated 18-9-79 Ex. Vijayawada to BRCY—120 bags of Rice—Rs. 350/- for damage by wet to 11 bags.

In this case spot payment of Rs. 180/- was arranged by Station Supdt./BRC.

- (4) Inv. No. 12 RR No. 968187 dated 8-6-79—245 bags of Rice—Ex. Kurukshetra to BRCY Rs. 900/- for shortage of 3 bags and damaged by wet to 13 bags.

In this case, loading was not supervised by the railway staff and the bags were not counted. The consignment reached destination without interference enroute with seals intact. At booking station the wagon was jointly examined with sender and found water-tight. At destination it was found that dunnage was not properly placed by the sender near the doors and 13 bags damaged by wet were found near the doors. In the circumstances, the claim was not considered payable either for shortage or for damage by wet.

- (5) Inv. No. 63 RR No. 658931 dt. 22-9-79—160 bags raw rice—ex. Vijayawada to BRCY—Rs. 562/- for damage by wet to 25 bags.

A consignment of 160 bags of raw-rice was booked under the above booking particulars to self. According to the remarks on the original RR, unsuitable wagon was selected by sender. The consignment was received at booking station seals intact and therefore, the claim was not considered payable.

- (6) Inv. No. 8 RR No. 966721 of 3-11-79 Ex. Gollaprolu to BRCY—98 bags of rice—Rs. 1012.50 for damage by wet to 20 bags.

The wagon was selected by sender and the consignment reached destination with seals intact without interference enroute. The wagon was found water tight at the destination.. The loading was not supervised by Railway Staff and therefore said to contain RR was issued. Hence the claim is not considered payable.

- (7) Inv. No. 25 RR No. 659499 dt. 27-10-79 Ex. Vijayawada to BRCY—239 bags of rice—Rs. 1518 for 310 kgs short and damage by wet to 30 bags.

In this case, unsuitable wagon having panels cut was selected by the sender at his own risk and loading was done by

them. The consignment was received at the destination station without interference enroute. Hence the claim was correctly repudiated.

- (8) Inv. No. 7 RR No. 654895 dt. 10-4-79 Claim for Rs. 4625/-.

Wrong particulars given by the party. The Railway is not in a position to connect papers.

- (9) Inv. No. 3 RR No. 766324 dt. 19-6-79 Claim for Rs. 360/-.

Wrong particulars given by the party. The Railway is not in a position to connect papers.

- (10) Inv. No. 26 RR No. 112051 dt. 30-3-79 Ex. Kashipur to Baroda. Rs. 980/- for damage by wet to 55 bags and shortage from 3 bags.

A consignment of 304 bags of rice was booked under the above booking particulars to "self". In this case, an open wagon was selected by the sender and the loading was not supervised by the railway staff. Hence the claim was correctly repudiated.

- (11) Inv. No. 7 RR No. 966720 of 3-11-79 Ex. Gallaprolu to BRCY- 120 bags rice-Rs. 1020/-for damage by wet to 20 bags.

The consignment was received at destination in the original wagon with booking station seals and rivets intact. As per remarks on the RR the wagon was jointly examined by railway staff and sender at the booking station and found water-tight. Loading and unloading was done by the sender. It is relevant to mention here that RR was "said to contain" indicating that neither the number of bags were counted nor loading was supervised by the railway. The claim was correctly repudiated.

- (12) Inv. No. 62 RR No. 658930 of 22-9-79 Ex. Vijayawada to Baroda, 168 bags rice of Rs. 580/- damage by wet to 25 bags rice.

In this case, unsuitable wagon was selected by the sender at his risk and responsibility. The damaged bags were in the corner and sides of the wagon. No water was found in the wagon. The consignment was received at destination with seals and rivets intact. In view of this the claim was not found payable.

- (13) Inv. No. 6 RR No. 243330 dated 22-9-79 claim for Rs. 20/-.

The file No. quoted by the petitioners pertains to booking under Inv. No. 6 RR No. 513655 dated 10-11-79, in which a claim was preferred for shortage of one basket betel leaves. The claim was settled by payment of Rs. 12/-. It is not possible to connect papers in the absence of correct booking particulars.

- (14) Inv. No. 9 RR No. 766481 dated 30-10-79, 297 bags rice—Rs. 2272/- damage by wet to 100 bags rice-ex. Machilipattam to BRCY.

Claim was repudiated in view of the remarks on the RR "P-7/P-8 not complied with, open wagon selected by sender and loaded at owner's risk." In view of this, there is no fault of the railways and the claim was correctly repudiated.

- (15) Inv. 10 RR No. 766488 dt. 30-10-79 ex. Machilipattam to BRCY 250 bags rice—Rs. 2610/- damage by wet to 100 bags rice.

Claim was repudiated in view of the remarks on the RR "P-7/P-8 not complied with, open wagon selected by sender and loaded at owner's risk." In view of this, there is no fault of the railways and the claim was correctly repudiated.

- (16) Inv. No. 8 RR No. 766486 dated 30-10-79 ex. Machilipattam to BRCY—320 bags rice—Rs. 1170/- of damage by wet to 50 bags rice.

In this case, sender had selected open wagon at his own risk and the consignment was received at destination in booked open wagon. In view of this the claim was not found payable.

- (17) Inv. No. 3 RR No. 967550 dated 17-11-79 ex. Chaki Bank to BRCY—240 bags rice—Rs. 92/- damage by wet to 15 bags rice.

The wagon was certified water-tight at the loading station. At the time of unloading the damage was found in the corners of the wagon and no water was found in the wagon. Since loading was not supervised, contents were not checked and the wagon supplied was water-tight, the claim was correctly repudiated.

- (18) Inv. No. 30 RR No. 659813 dated 22-11-79 ex. Vijayawara to BRCY—282 bags rice—Rs. 450/- damage by wet to 20 bags rice and shortage of 1 bag.

In view of the fact that the sender was fully aware of the consequences of selecting an unsuitable wagon at his risk and absolved the railway of all liabilities for claim, the claim for damage was not considered payable.

- (19) Inv. No. 38 RR No. 659975 dated 5-12-79 ex. Vijayawara to BRCY 328 bags of rice—Rs. 999/- damage by wet to 40 bags rice.

In this case, an unsuitable wagon was selected by sender at his own risk and responsibility. Loading and unloading was done by them. The consignment was received at destination in the original wagon with seal intact, Railway is not liable to compensate for the loss arising out of the act of the sender in selecting an unsuitable wagon.

- (20) Inv. No. 1 RR No. 932628 dated 7-7-78 ex. Majohola Pakriya to BRCY 160 bags rice—Rs. 950/- damage by wet to 35 bags rice. Claim has since been settled for Rs. 535/-.

- (21) Inv. No. 10 RR No. 287493 dt. 24-6-79 ex. Kashipur to BRCY—Rs. 6671/- damage by wet to 64 Katlas and 8 bags rice.

Payment of Rs. 564/- has been arranged.

- (22) Inv. No. 3 RR No. 997201 dated 5-12-79 ex. Kadiyam to BRCY-316 bags of Rice Rs. 735/60 P. damage by wet to 50 bags.

In this case the claim has been repudiated on the ground that the consignment was received in the original wagon, loading was done by the party and the wagon in which goods were loaded was found water tight at destination. Damaged bags were found in the corners of the wagons.

- (23) Inv. No. 36 RR No. 656572 dated 10-6-79 ex. Tarapur Goods-shed to BRCY 327 bags raw-rice Rs. 1282.50 P. damage by wet 35 bags and shortage of 3 bags.

Payment of Rs. 594/- has been arranged.

- (24) Inv. No. 27 RR No. 656938 dated 23-5-79 ex. Vijayawada to BRCY 242 bags rice Rs. 17701/- for damaged by wet to 35 bags shortage of 260 kgs.

Unsuitable wagon selected by the sender at his own risk and responsibility. Packing condition of P7 and P8 were not

complied with. In view of the above, claim has been correctly repudiated. The Railway is not liable to compensate for loss and damage caused to goods as a result of his selecting an "unsuitable wagon".

- (25) Inv. No. 62 RR No. 287531 dated 14-7-79 ex. Kashipur to BRCY 152 bags of rice—Rs. 268/- damaged by wet to 16 bags.

Payment of Rs. 115/- has been arranged.

- (26) Inv. No. 62 RR No. 653930 dated 22-9-79. This is a duplicate item. Please see item No. 12. ..

- (27) Inv. No. 32 RR No. 968347 dated 4-7-79 ex. Kurukshetra to BRCY—Rs. 376/- damaged by wet to 20 bags.

The correct name of the booking station is Kurukshetra and not Kashipur. Payment of Rs. 226/- has been arranged.

- (28) Inv. No. 11 RR No. 287550 dated 6-7-79 ex. Kashipur to BRCY 152 bags rice—Rs. 980/- damaged by wet to 60 bags.

Payment of Rs. 588/- has been arranged.

- (29) Inv. No. 4 RR No. 003863 dated 5-3-79.

The file No. quoted by the party related to a claim preferred by Municipal Corporation, Baroda for the shortage of 9 bags cement, which was settled by payment of Rs. 224/-.

- (30) Inv. No. 43 RR No. 656738 dated 25-6-79 ex. Vijayawada to BRCY—Rs. 699/- damage by wet to 22 bags.

The consignment was loaded by the sender and was received at destination in the same wagon with rivets and seals of booking station intact. At destination 27 bags placed in the middle heaps were found damaged by wet. The wagon was examined at destination and certified water tight. Neither any water was found in the wagon nor there was anything to indicate that water entered into the wagon through door crevices as the bags near doors were not affected. The damage was, therefore, attributable to loading or damaged bags or damaged in the process of loading by the sender for which the Railway Administration is not responsible. The claim was, therefore, correctly repudiated.

- (31) Inv. No. 46 RR No. 657175 dated 12-7-79 ex. Vijayawada to BRCY 171 bags raw-rice—Rs. 8890—damaged by wet to 41 bags.

In this case, an unsuitable wagon was selected by the sender at his own risk and responsibility. Loading and unloading was done by them. Railway is not responsible for any damage. In view of the circumstances mentioned above the claim was not payable.

- (32) Inv. No. 47 RR No. 657174 dated 12-7-79 ex. Vijayawada to BRCY—70 bags rice—Rs. 765/- damaged by wet to 22 bags.

In this case, an unsuitable wagon was selected by the sender at his own risk and responsibility. Loading and unloading was done by them. Railway is not responsible for any damage. In view of the circumstances mentioned above the claim was not payable.

- (33) Inv. No. 1 RR No. 008572 dated 26-4-79 ex. Narwana to BRCY—245 bags of Bajra. Claim for Rs. 392/-.

At the time of loading contents were dropping from hook holes, as the bags were having weak sewing. Wagon was sealed in the presence of senders. Hence the claim was not found payable.

- (34) Inv. No. 3 RR No. 998181 dated 14-10-79 ex. Dwarapudi to BRCY—144 bags of rice Claim for Rs. 200/-.

Payment of Rs. 190/- has been arranged.

- (35) Inv. No. 1 RR No. 006324 dated 6-5-79 ex. Dhariwal to BRCY—465 bags of rice claim for Rs. 440/-.

The claim was settled by payment of Rs. 270/-.

- (36) Inv. No. 31 RR No. 656125 dated 26-5-79 ex. Tarapet Goods shed to Vijayawada—243 bags of rice—Claim for Rs. 415/-.

In this case an unsuitable wagon was selected by the sender which reached destination without interference enroute. The loading was done by the sender. Hence the claim was not found payable.

- (37) Inv. No. 48 RR No. 179858 dated 24-9-79 ex. Kurukshetra to BRCY—253 bags of rice claims for Rs. 1000/-.

In this case "Said to contain" RR was issued. Loading was not supervised by Railway staff, bags were not counted and condition not checked. Loading and unloading was done by sender. Consignments reached the destination station with booking station seals intact without interference enroute. The claim was not found payable.

- (38) Inv. No. 15 RR No. 113928 dated 30-5-79 ex. Kondapalli to BRCY—245 bags of rice claims for shortage of 9 bags.

The open wagon was selected by the sender at his risk, loading was done by the sender and his agent escorted the consignment. Hence the claim was not found payable.

- (39) Inv. No. 10 RR No. 655123 dated 13-4-79 Ex. Vijayawada to BRCY—160 bags rice—Claim for Rs. 446/- for shortage of 123 kgs rice from 3 bags.

Unsuitable wagon selected by the sender was found to have holes. The consignment reached destination in seals intact wagon without interference enroute. The claim was not found payable.

- (40) Inv. No. 25 RR No. 430267 dated 29-3-79 Ex. Kurukshetra to BRCY—255 bags rice. Claim for Rs. 286/- for shortage of 73 kgs. Rice from 2 bags.

Payment of Rs. 103/- has been arranged.

- (41) Inv. No. 4 RR No. 118522 dated 10-11-78 ex. Kondapalli to BRCY—242 bags rice—claims for Rs. 320/- for shortage of 2 bags rice.

Payment of Rs. 240/- has been arranged.

- (42) Inv. No. 11 RR No. 655124 dated 13-4-79 Ex. Vijayawada to BRCY—160 bags raw rice—Claim for Rs. 463/- for shortage.

In this case the sender had passed the following remarks on the forwarding note:

“I am willing to load in unsuitable wagon at my own risk and responsibility. I will not prefer any claim”. The consignment reached destination with booking station seal intact. The Railway Administration is not responsible for any loss. In the circumstances, the claim was not found payable.

- (43) Inv. No. 10 RR No. 053822 dated 19-5-79.

The file No. given by the party is not correct. Hence the papers could not be connected.

- (44) Inv. No. 3 RR No. 255461 dated 23-4-1979 ex. Jakhal to BRCY—243 bags Bajra—claim for Rs. 366/-.

Claim has been repudiated in view of the remarks on the RR “Packing Condition P7 and P8 not complied with”. Loading & unloading was done by owner. The wagon was

jointly examined with sender and found water-tight by visual test. Total number of bags were found correct but 12 bags in the bottom were found slack torn and loose.

- (45) Inv. No. 7 RR No. 247008 dated 3-12-79 ex. Kichha to BRCY—160 bags rice. Claim for Rs. 2000/-.

Payment of Rs. 1500/- has been arranged in full and final settlement of the claim.

- (46) Inv. No. 8 RR No. 288422 dated 7-12-1979 ex. Kashipur to BRCY—52 bags wheat claim for Rs. 200/-.

Payment of Rs. 150/- has been arranged in full and final settlement of the claim.”

C. Observation of the Committee

10.4. The Committee note the factual position stated by the Ministry of Railways (Railway Board) on the various claims mentioned in the representation. The Committee further note that the petitioners have issued notices to the Railway Administration for filing suits in these claims cases in court of law. The Committee feel that in view of the above position, the matter does not require the intervention of the Committee.

R. L. BHATIA

Chairman

Committee on Petitions.

NEW DELHI;

Dated the 31st August, 1981.

APPENDIX I

(See para 2.2 of the Report)

[Petition No. 10 regarding improvement in the navigability to Haldia and Calcutta Ports and settlement of demands of trade unions]

LOK SABHA

PETITION NO. 10

[Presented to Lok Sabha on 18-12-1980]

LOK SABHA
NEW DELHI.

The humble petition of the employees of Calcutta and Haldia Ports & Docks, Water Transport Offices, Shipping Offices and other organisations connected with the development of Calcutta and Haldia Ports and other citizens of this region.

SHEWETH

Whereas there exists a great concern in their minds and in those of the citizens of the entire Eastern and North Eastern Region of India at the deterioration of the navigability of the Ports of Haldia and Calcutta; and

Whereas the very existence of the Port of Calcutta is gravely threatened due to non-availability of the required draft for the ships.

Your petitioners along with the citizens of this region pray that the following steps suggested unanimously by the "Save Calcutta and Haldia Ports Convention" held on 12th July, 1980 at Calcutta be taken to save these important ports very closely connected with the economy of this region with a population of over 200 million:—

- (1) The minimum supply of 40,000 cusecs of Head water from Farraka Barrage to Bhagirathi-Hooghly Channel must be ensured throughout the year in order to improve the navigability of the Channel and to expand inland water transport system for the development of which 34 crores of rupees have recently been sanctioned by the Government of India.
- (2) The Second proviso under sub-clause (II) of Article II of the Agreement between the Governments of India and

Bangladesh on sharing of the Ganga Waters at Farakka is detrimental to the interests of Calcutta and Haldia Ports and should, therefore, be scrapped.

- (3) The full utilisation of the capacity of Calcutta Haldia Ports and their modernisation should be ensured leading to more employment and better service conditions of the workers.
- (4) All legitimate demands of their trade unions should be timely settled and a permanent body should be set up with representatives of different Port and Dock Workers' Unions Inland Water Transport Workers' Unions, Shipping Offices Workers' Unions, Calcutta Port Trust and Government of West Bengal for speedy solution of problems concerning their industrial relations.

And your petitioners as in duty bound will ever pray.

Name of petitioners	Address	Signature or thumb impression
1. Shri Sukumar Bose	General Secretary, Shipping Corporation Employees' Union, 13, Strand Road, Calcutta-1.	Sd/
2. Shri Sujay Kr. Bhattacharjee	Shipping Corporation Employees' Union, 13, Strand Road, Calcutta-1.	Sd/-
and others		

Countersigned by: Somnath Chatterjee, M.P.

Appendix II

[See para 2.3 of the Report]

[Agreement between the Government of the Republic of India and the Government of the Peoples Republic of Bangladesh on sharing of the Ganga waters at Farakka and on augmenting its flows]

The Government of the Republic of India and the Government of the People's Republic of Bangladesh,

Determined to promote and strengthen their relations of friendship and good neighbourliness,

Inspired by the common desire of promoting the well-being of their peoples,

Being desirous of sharing by mutual agreement the waters of the international rivers flowing through the territories of the two countries and of making the optimum utilisation of the water resources of their region by joint efforts,

Recognising that the need of making an interim arrangement for sharing of the Ganga waters at Farakka in a spirit of mutual accomodation and the need for a solution of the long-term problem of augmenting the flows of the Ganga are in the mutual interests of the peoples of the two countries,

Being desirous of finding a fair solution of the question before them, without affecting the rights and entitlements of either country other than those covered by this Agreement or establishing any general principles of law or precedent.

HAVE AGREED AS FOLLOWS:

A. Arrangements for sharing of the waters of the Ganga at Farakka.

ARTICLE-I

The quantum of waters agreed to be released by India to Bangladesh will be at Farakka.

ARTICLE-II

(i) The sharing between India and Bangladesh of the Ganga waters at Farakka from the 1st January to the 31st May every year

will be with reference to the quantum shown in column 2 of the Schedule annexed hereto which is based on 75 per cent availability calculated from the recorded flows of the Ganga at Farakka from 1948 to 1973.

(ii) India shall release to Bangladesh waters by 10-day periods in quantum shown in column 4 of the Schedule:

Provided that if the actual availability at Farakka of the Ganga waters during a 10-day period is higher or lower than the quantum shown in column 2 of the Schedule it shall be shared in the proportion applicable to that period:

Provided further that if during a particular 10-day period, the Ganga flows at Farakka come down to such a level that the share of Bangladesh is lower than 80 per cent of the value shown in column 4, the release of waters to Bangladesh during that 10-day period shall not fall below 80 per cent of the value shown in column 4.

ARTICLE-III

The waters released to Bangladesh at Farakka under Article 1 shall not be reduced below Farakka except for reasonable uses of waters, not exceeding 200 cusecs, by India between Farakka and the point on the Ganga where both its banks are in Bangladesh.

ARTICLE-IV

A Committee consisting of the representatives nominated by the two Governments (hereinafter called the Joint Committee) shall be constituted. The Joint Committee shall set up suitable teams at Farakka and Hardinge Bridge to observe and record at Farakka the daily flows below Farakka Barrage and in the Feeder Canal, as well as at Hardinge Bridge.

ARTICLE-V

The Joint Committee shall decide its own procedure and method of functioning.

ARTICLE-VI

The Joint Committee shall submit to the two Governments all data collected by it and shall also submit a yearly report to both the Governments.

ARTICLE-VII

The Joint Committee shall be responsible for implementing the arrangements contained in this part of the Agreement and examining any difficulty arising out of the implementation of the above

arrangements and of the operation of Farakka Barrage. Any difference or dispute arising in this regard, if not resolved by the Joint Committee, shall be referred to a panel of an equal number of Indian and Bangladeshi experts nominated by the two Governments. If the difference or dispute still remains unresolved, it shall be referred to the two Governments which shall meet urgently at the appropriate level to resolve it by mutual discussion and failing that by such other arrangements as they may mutually agree upon.

B. Long-Term Arrangements

ARTICLE-VIII

The two Governments recognise the need to cooperate with each other in finding a solution to the long-term problem of augmenting the flows of the Ganga during the dry season.

ARTICLE-IX

The Indo-Bangladesh Joint Rivers Commission established by the two Governments in 1972 shall carry out investigation and study of schemes relating to the augmentation of the dry season flows of the Ganga, proposed or to be proposed by either Government with a view to finding a solution which is economical and feasible. It shall submit its recommendations to the two Governments within a period of three years.

ARTICLE-X

The two Governments shall consider and agree upon a scheme or schemes, taking into account the recommendations of the Joint Rivers Commission, and take necessary measures to implement it or them as speedily as possible.

ARTICLE-XI

Any difficulty, difference or dispute arising from or with regard to this part of the Agreement, if not resolved by the Joint Rivers Commission, shall be referred to the two Governments which shall meet urgently at the appropriate level to resolve it by mutual discussion.

C. Review and Duration

ARTICLE-XII

The provisions of this Agreement will be implemented by both parties in good faith. During the period for which the Agreement

continues to be in force in accordance with Article XV of the Agreement, the quantum of waters agreed to be released to Bangladesh at Farakka in accordance with this Agreement shall not be reduced.

ARTICLE-XIII

The Agreement will be reviewed by the two Governments at the expiry of three years from the date of coming into force of this Agreement. Further reviews shall take place six months before the expiry of this Agreement or as may be agreed upon between the two Governments.

ARTICLE-XIV

The review or reviews referred to in Article XIII shall entail consideration of the working, impact, implementation and progress of the arrangements contained in parts A and B of this Agreement.

ARTICLE-XV

This Agreement shall enter into force upon signature and shall remain in force for a period of five years from the date of its coming into force. It may be extended further for a specified period by mutual agreement in the light of the review or reviews referred to in Article XIII.

In witness thereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in duplicate at Dacca on 5th November, 1977 in Hindi, Bengali and English languages. In the event of any conflict between the texts, the English text shall prevail.

(SURJIT SINGH BARNALA)
Minister for Agriculture
and Irrigation, Government
of the Republic of India.
For the Government of the
Republic of India.

(REAR ADMIRAL
MUSHARRAF HUSSAIN KHAN)

Chief of Naval Staff, and Member,
President's Council of Advisers,
Incharge of the Ministry of Com-
munications, Flood Control, Water
Resources and Power, Government
of the People's Republic of
Bangladesh. For the Government
of the People's Republic of
Bangladesh.

Dacca, November 5, 1977.

SCHEDULE

[Vide Article II (i)]

Sharing of waters at Farakka between the 1st January and the 31st May every year.

Period		Flows reaching Farakka (based on 75% availability) from observed data (1948-73)	Withdrawal by India at Farakka	Release to Bangladesh
		Cusecs	Cusecs	Cusecs
January	1—10	98,500	40,000	58,500
	11—20	89,750	38,500	51,250
	21—31	82,500	35,000	47,500
February	1—10	79,250	33,000	46,250
	11—20	74,000	31,500	42,500
	21—28/29	70,000	30,750	39,250
March	1—10	65,250	26,750	38,500
	11—20	63,500	25,500	38,000
	21—31	61,000	25,000	36,000
April	1—10	59,000	24,000	35,000
	11—20	55,500	20,750	34,750
	21—30	55,000	20,500	34,500
May	1—10	56,500	21,500	35,000
	11—20	59,250	24,000	35,250
	21—31	65,500	26,750	38,750

APPENDIX III

(See para 3.1 of the Report)

[Petition No. 12 regarding remunerative prices for agricultural produce, reduction in prices of agricultural inputs, introduction of crop and animal insurance scheme, revision of minimum wages, provision of houses for agricultural workers, supply of essential commodities through public distribution system, implementation of rural employment schemes, replacement of land Acquisition Act in the light of experience and implementation of land reforms.]

LOK SABHA

PETITION No. 12

(Presented to Lok Sabha on 26-3-1981)

[Considered by the Committee on Petitions, Lok Sabha at their sitting held on the 26th May, 1981 and circulated in pursuance of the Committee's direction under rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha]

To

LOK SABHA,
NEW DELHI.

The humble petition of Shri Harbansh Singh and others
SHEWETH

Last eight months have witnessed unprecedented upsurge among the peasantry leading to united action of the peasantry throughout the country on their common demands, most important being the demand for remunerative price for their produce, followed by other demands for reduced prices of agricultural inputs, an end to the exorbitant increase in taxes and levies and relief from indebtedness heavily weighing on them. These movements have been joined by agricultural workers who are struggling for higher wages, indebtedness relief and for employment opportunities. They have also demanded the supply of essential commodities at reasonable prices through a network of distribution system.

In these movements, peasants in hundreds and thousands came into action organising marches, courting mass arrests in defending their interests. These movements acquired a country-wide character, forcing various Governments to give concessions.

This goes to show that only a united movement of the peasants embracing all sections including the agricultural workers can fight anti-peasant policies of the Governments. There will be constant effort on the part of the Government to throw the burden of the crises on to the shoulders of the peasants, and therefore urge for the sympathetic consideration of the following demands namely:—

1. *Remunerative Prices:* That the peasants be ensured remunerative prices for their produce which fully covers the cost of production including the cost of own or hired labour, and which balance the prices received by them for their produce, with the prices which they have to pay for their necessities, including inputs. The Government must ensure the purchase of agricultural produce at those prices and protect the peasants from distress sales.

To keep the prices of foodgrains low, the prices of inputs such as fertilizers, pesticides etc., should be substantially reduced. As a first step, all taxes on inputs—Central and State—be abolished.

Export of surplus farm products be so organised, that the benefit of higher prices in the international markets accrues to producers. Further, infrastructural facilities in the form of grading, processing, cold storage, refrigerated transport etc., be created to promote the production and export of horticulture crops. Also chain of rural godowns with warehousing facilities be established within walking distance of villages.

No import of agricultural products such as cotton, jute, rubber, etc. and their substitutes be allowed whose production in the country is sufficient for domestic requirements.

F.C.I., A.P.C. and other institutions connected with agricultural sector be remodelled so as to subserve the interest of the peasantry.

That taking into consideration the importance of the agricultural sector, demand for power and diesel of this sector be fully met.

Crop and Animal Insurance Scheme should be introduced.

2. *Sixth Plan:* Allocation for agricultural and rural development in the Sixth Five Year Plan should be substantially increased and not reduced as has been proposed.

3. *Taxes:* Betterment levies be abolished. The small peasants be given full tax relief, enhanced electricity charges

should be withdrawn and option be given for payment of electricity dues either at flat rate or on the basis of meter reading. The power connections of these peasants be not cut, and the payment of arrears be collected through instalments.

4. *Indebtedness*: Immediate debt relief be given to the peasants and agricultural workers on the model of Maharashtra, Tamil Nadu and Karnataka. That the loaning institutions be barred from realising from defaulters sums of money which exceed the principal amount, irrespective of the number of years for which the dues remained unpaid. A scheme should be worked out for providing relief to small farmers, who have defaulted on account of failures of crops. The agricultural workers, peasants and rural artisans be ensured credit at low rates of interest.
5. *Minimum Wages*: The agricultural workers are forced to live a miserable life due to galloping inflation and unemployment. There should be immediate revision in their wages even to help them in meeting the bare necessities of life. There should also be built-in mechanism for the revision of their minimum wages in the light of any change in the cost of living index for agricultural labourers. There must be effective machinery for the implementation of minimum wages in each State. Old-age pension be provided to agricultural workers and landless peasants.
6. *House Sites and Houses*: Government must provide house sites at suitable places to all agricultural labourers' families who do not have shelters within one year and loan and subsidy be provided for the construction of houses.
7. *Food for Work Programme*: To alleviate the sufferings of unemployment in the villages the food for work programme (now called the National Rural Employment Scheme) be organised extensively with a budgetary support of no less than Rs. 300 crores per annum. Employment guarantee schemes be introduced in all States. Adequate training facilities be provided to rural artisans for self-employment at block level.
8. *Land Acquisition*: The Land Acquisition Act of 1894 works against the interest of the peasants, and has also become out-dated. Therefore, it be replaced with a new act in the light of recent experience and the recommendations of Anand Mullah Committee.

9. *Land Reforms*: Immediate campaign be launched to prepare correct and upto-date land records within a year. Proprietary rights be conferred on cultivating tenants except in cases of widows, invalids, minors, soldiers and those who are owning tiny plots. That existing land ceiling laws be expeditiously implemented and loopholes removed and surplus land be distributed.
10. *Supply of Essential Commodities*: The supply of essential commodities be ensured through a network of Fair Price Shops supervised by people's committees. The Government should guarantee regular supply of foodgrains and other essential commodities throughout the country including villages at reasonable prices.
11. *There must be decentralisation of power*: Village Panchayats and cooperatives be democratised and revitalised in order to ensure maximum participation of the people. They should be given adequate powers to manage their affairs.
12. *National Security Act should be withdrawn*: Laws should not be used to suppress the democratic rights and movements of the people. All arrested during the peasant agitations be released and cases withdrawn.

Accordingly your petitioners pray that immediate action be taken by the appropriate authorities to give relief to the peasants and agricultural labourers.

And your petitioners as in duty bound will ever pray.

Name of petitioners	Address	Signature or Thumb impression
1. Shri Harbansh Singh	Village—Dhumera, P.O.—B.B. Nagar, Distt. Bulandshahr U.P.	Sd/-
2. Shri Doongar Mal.	Village & P. O. Sanwloela, Purohitan, Distt. Sikar Rajasthan.	Sd/-
3. Shri Ranjit Singh	Village & P.O. Chautala, Distt. Sirsa, Haryana.	Sd/-

Counter Signature of
Member presenting :

Devi Lal, M.P.
D. No. 472.

APPENDIX IV

(See para 4.2 of the Report)

[Petition No. 13 regarding the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980]

LOK SABHA

PETITION NO. 13

(Presented to Lok Sabha on 3-4-1981)

[Considered by the Committee on Petitions, Lok Sabha at their sitting held on the 28th April, 1981 and circulated in pursuance of the Committee's direction under rule 307(1) of the Rules of Procedure and Conduct of Business in Lok Sabha.]

To

LOK SABHA,
NEW DELHI.

The humble petition of Sarvashri Jnan Sankar Majumdar and R. Handa, the General Secretary and the Zonal Secretary respectively of the Federation of Medical Representatives' Associations of India.

SHEWETH

1. That the Sales Promotion Employees (Conditions of Service) Act, 1976 and the Rules made thereunder could not give the desired relief to the Medical and Sales Representatives employed in pharmaceutical industry and/or any other industry and/or establishment.

2. The employers have taken advantage of the absence of proper definition of 'wage' and 'commission' in the Act and did not implement the provisions of law though wage was less than Rs. 750/- per month of the sales promotion employee.

3. Further, more than 70 per cent of the medical and sales representatives, for whom the aforesaid Act was envisaged, remained outside the purview of the Act due to the wage-ceiling in the Act.

The Hon'ble Minister for Petroleum, Chemicals and Fertilizers stated on the Floor of the Parliament that 80 per cent of the drug

formulations market is controlled by the multinational drug firms. All these multinational drug firms are the members of the Organisation of the Pharmaceutical Producers of India (OPPI), Bombay. It is stated by the Ministry for Labour, Government of India, in a meeting with our Federation on 30th December, 1980 that the OPPI member companies have only 5 per cent Sales Promotion Employees who are covered by the Act. This means that the pharmaceutical companies who control 80 per cent of formulation market and promote their sales through Sales Promotion Employees in most of the cases need not follow the provisions of this law. Thereby, a large number of sales promotion employees are not protected against victimisations by the multinational drug companies.

4. Therefore, the absence of definition of 'wage' and the 'wage-ceiling' in the Act deprived almost all of 20,000 Medical and Sales Representatives from getting relief under the provisions of Sales Promotion Employees (Conditions of Service) Act and the rules made thereunder.

Accordingly your petitioners pray that special provision be made in the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980, a Bill to amend the Sales Promotion Employees (Conditions of Service) Act, 1976, for removal of wage-ceiling completely from the Act.

And your petitioners as in duty bound will ever pray.

Name of petitioners	Address	Signature or Thumb impression
1. Shri Jnan Sankar Majumdar	1-E. Rajendra Nagar, Patna-800016.	Sd/-
2. Shri R. Handa	C-176, Greater Kailash-I, New Delhi-110048.	Sd/-

Counter Signature of
Member presenting: AJIT KUMAR SAHA, M.P.,
D.No. 480

Factual note dated the 25th April, 1981 of the Ministry of Labour on Petition No. 13 regarding the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980

Petition No. 13 signed by Sarvashri Jnan Sankar Majumdar and R. Handa, General Secretary and Zonal Secretary, respectively of the Federation of Medical Representatives Association of India and

presented to Lok Sabha on the 3rd April, 1981 contains a suggestion for the removal of the wage ceiling provided in the definition of the term 'sales promotion employees' in the Sales Promotion Employees (Conditions of Service) Act, 1976. The petitioners have suggested that a provision to this effect may be made in the amending Bill pending before the Lok Sabha.

2. The Bill which is, at present, pending is intended only to give statutory support to the existing Rule 3 of the Sales Promotion Employees (Conditions of Service) Act, 1976, on the basis of a recommendation made by the Committee on Subordinate Legislation of the Rajya Sabha. This Bill has already been passed by the Rajya Sabha and is now awaiting clearance by the Lok Sabha.

3. There are a number of issues relating to the Sales Promotion Employees (Conditions of Service) Act, 1976 which need detailed consideration. One such issue relates to the removal of the wage ceiling provided in the definition of the term 'sales promotion employees', in section 2(d) of that Act. The Federation of Medical Representatives Association of India have also separately brought this aspect to the notice of the Government and they have included this in their charter of demands. The demands are being considered and it is proposed to hold a tripartite meeting with the representatives of employers, employees and Government in the second week of May, 1981, to discuss the same. The representatives of the State Governments would also be participating in the discussions.

4. Government is also separately considering an amendment of the definition of the term 'workman' in the Industrial Disputes Act, 1947, so that persons engaged in sales promotion, irrespective of the wages or commission drawn by them, may be treated as "workman" under that Act. It is proposed to introduce a Bill in this regard as soon as a final decision is taken on this and other amendments of the Industrial Disputes Act being considered by Government. Once this amendment is made, all sales promotion employees would have the benefit of the provisions of the Industrial Disputes Act, irrespective of their wages or commission.

5. In view of the above, Government is of the view that there is no need to include in the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980, any provision regarding the removal of wage ceiling, as this matter is being processed separately.

APPENDIX V

(See para 6.3 of the Report)

[Details of cases of fish consignments from PDGR to Delhi reaching
in 3 days time]

<i>PWB No. & date</i>	<i>Commodity</i>	<i>Delivered on</i>
763412 dt. 11-3-76	1 case fish	14-3-76
763550 dt. 13-3-76	3 cases fish	16-3-76
763688 dt. 15-3-76	4 cases fish	18-3-76
763715 dt. 16-3-76	3 cases fish	19-3-76

APPENDIX VI

(See para 6.3 of the Report)

[Memo. deliveries pending against M/s. SA (M/s. Siraj Ahmed)]

7662-1 fish	JHS	RZ-SA	CR 482		1-10-74
Nil 1 "	ADI	DFC-SA	MGFish	191	18-10-74
Nil 1 "	Do	PSF-SA		191	18-10-74
Nil 1 "	WDZ	Sadiq-SA	..	199	19-10-74
Nil 2 "	Do	KDC-SA	M	36	14-1-75
8746-1 "	HWH	GB-SA	MDF	19	26-3-75
257 3 "	UDZ	RA-SA	Do	39	7-7-75
S12 1 "	"	SM-SA		70	6-6-75
532 2 "	"	SM-SA	..	75	8-6-75
089 1 "	RPZ	PS-SA	..	174	8-5-75
— 1 "	"	PS-SA	M	9-73	28-12-75
— 2 "	ADI	FFC-SA	M	3-36	26-2-76
Nil 1 "	"	BCO-SA	M	916-89	21-12-76
Nil 1 "	"	Star-SA	M	1-890	4-2-77
Nil 1 "	"	AK-SA	M	3-20	4-3-77
Nil 9 "	KTT	MSS-SA	M	11-79	8-10-77
Nil 1 "	SGZ	MSS-SA	M	11-82	12-10-77

APPENDIX VII

(See para 7.1 of the Report)

[Representation regarding grievances and demands of LIC Agents]

LIFE INSURANCE AGENTS' ASSOCIATION NAGPUR DIVISION

Regd. No. NGP-270

INDIAN MUTUAL BUILDING, 2nd FLOOR, MOUNT ROAD
EXTENSION, NAGPUR

NAGPUR

Dated 10th Dec. '80.

To

Lok Sabha
New Delhi

The humble petition of Life Insurance Agents' Association, Nagpur Division, Indian Mutual Bldg., 2nd Floor, Mount Road Extn., Nagpur, 440001, regarding some serious issues concerning the LIC agents in general.

- (1) The FIRST & FOREMOST is regarding the professionalisation of insurance agents. The LIC Management, time and again emphasising on this aspect and stresses the need to recruit the agents who are seriously interested in perusing L.I. Agency as a whole time career and depending mainly upon the agency commission for the upkeep of their families. In practice, however, recruitment of agents is being done in a way so as to appoint such persons who through their own or through their relatives' influence can bring in sufficient business on sum assured basis which, mainly being an obligatory business does not conform to the needs of the policy holders and goes out of the books of the Corporation on acquiring paid up value or even before that. We can term such agencies as "Benami". There is another category of Benami agents who, having a amassed black wealth, find in insurance agency a convenient way to convert into

white money. Such agents do not feel the pinch of giving rebate because it is not a means of livelihood for them, but just a source of conversion of black money into white. It is impossible for honest professional agents to co-exist and procure life insurance business in competition with benami tax evader agents. A system of recruitment of agents has to be created in which benami agencies cannot be set up and thrive.

- (2) The agents are not 'employed' by LIC. They are only 'appointed' and because the agents are not paid any salary or wage, they do not come under purview of any social security law of our country, such as: payment of wages act which stipulates a maximum period in which the wages of the employees have to be paid by the employers. Thus there being no such legal protection being available to the agents, it is found that in various divisions of LIC the agency commission is paid in different periods with considerable delays and without a look of semblance or similarity on an all India pattern. It is evident that commission settlement does not receive the priority from the LIC Management which it deserves in the larger interest of full time professional agents who are solely or mostly dependent upon this for maintaining their family.
- (3) In some ways the LIC agents are being treated like 'BONDED LABOURERS' as per existing rules, once an agent is attached to a development officer, it becomes a whole life affair. There are various examples where under extreme circumstances the agents have not been delinked with their dev. officers inspite of their legitimate grievances and even where the consent of dev. officer concerned was also on record. It is an irony that 'Dev. Officer—Agent' pair is treated more seriously than a 'Husband and wife' where a provision for divorce is available.
- (4) Any factory which produces goods and markets them, sell them to their own employees and salesmen on certain concessional rates. The LIC Management is doing so in the case of its employees only (premium rate reduced by 10 per cent). But is not allowing the same facility on its salesmen namely the agents. Similarly the employees of LIC are getting the benefit of salary saving scheme, i.e., their policy premiums are deducted from their salaries.

This facility has been denied to the agents. To begin with the LIC can introduce the scheme on voluntary basis for club members and good producers of business who get substantial commission bill.

- (5) Before nationalisation only the agents were given commission and bonus as per their business. The LIC has introduced incentive bonus system for Dev. Officers over and above a certain limit. To get this benefit it is general practice of Dev. Officers to induce their agents by various ways to bring in more business by any means without looking to the capacity or needs of the clients. This system, to a great extent, is responsible for booking bad business which goes out of Corporation's books at the earliest resulting in substantial loss to the Corporation and agents in the long run.
- (6) Though the agents have raised their voice time and again, the facility of giving loans to agents for construction of houses in rural areas is not available to them. This facility is available to the employees. This is a very distressing disparity and should be brought to an end at the earliest.

We therefore demand, that a NATIONAL COMMITTEE be appointed by the Ministry concerned to go into the above grievances of the LIC agents in general on an all India pattern.

Accordingly, your petitioners pray that the LOK SABHA may consider the following demands of the LIC agents:—

- (1) The system of recruitment should be reorganised in a way so as to solve the unemployment problem of the country, by bringing in only whole time professional agents.
- (2) The Commission settlement should be completed at the most within a month's time from the last date of the preceding month.
- (3) The treatment of agents like a bonded labour with Dev. Officers should be stopped forthwith.
- (4) The facility of concessional premium rate of policies and SSS (Salary Saving Scheme) should be introduced at par with the employees for desiring agents at the earliest.

- (5) The incentive bonus scheme to the Dev. Officers should be stopped forthwith in the larger interest of the Corporation.
- (6) The rural house construction scheme should be introduced for agents of rural areas.

Your petitioners pray that the LOK SABHA may recommend to the Government of India to take necessary steps and action for the benefits of LIC agents in general.

And your petitioners as in duty bound will ever pray.

Name of petitioner	Address	Signature or Thumb Impression
1. Shri N.C. Chandak President, L.I.A., Nagpur Division.	Chandak Insurance Service, Mahajan Market, Sitabuldi, Nagpur-12.	Sd/-
2. Shri B.A., Joshi, Vice President, L.I.A., Nagpur Division.	Nagzibhai Town, Sitabuldi, Nagpur-12.	Sd/-
3. Shri B.S. Bakshi, Gen. Secy, L.I.S.A. Nagpur Division.	Tulsi Bhavan, Nagpur-17.	Sd/-
4. Shri Y.H. Ghate, Treasurer, L.I.A., Nagpur Division.	Ram Niwas, Gokulpeth, Nawab Well Road, Nagpur.	Sd/-
and Others.		

Countersigned by : R. K. MHALGI, M.P.
15-12-1980.

APPENDIX VIII

(See para 8.3 of the Report)

[Ministry of Works and Housing letter dated 7-4-1979 re-transfer of Baroda Palace Road in Hyderabad Estate, Neapean Sea Road, Bombay]

No. J-11012/3/78-LII

GOVERNMENT OF INDIA

MINISTRY OF WORKS AND HOUSING

(Nirman aur Awaz Mantralaya)

New Delhi, the 7th April, 1979.

To

The Chief Engineer (SWZ),
Central Public Works Department,
14th Floor, Old C.G.O. Building,
101, M. K. Road, Bombay-40020.

SUBJECTS—*Transfer of Baroda Palace Road in Hyderabad Estate, Neapean Sea Road, Bombay.*

Sir,

I am directed to convey the sanction of the President to the placement of existing 20 ft. wide road including land for its widening to 30 ft., measuring in all about 4000 sq. yds. (as shown marked in pink in enclosed copy of layout plan No. SA/SWZ/1/BOM/5764/2 of Hyderabad House Estate) with the Bombay Municipal Corporation free of any charges for its maintenance and improvement at the cost of the Corporation subject to the condition that the F.S.I. available to C.P.W.D. is not reduced below 1.33. The Corporation would utilise the land only for this specified purpose and would not commercially exploit the land. The ownership of the said land/road will continue to vest in the Central Government.

2. This issues with the concurrence of Finance Division *vide* their U.O. No. 1036-W&E/DI/79, dated the 31st March, 1979.

3. This supersedes this Ministry's sanction letter No. J-11012/3/78-LII dated the 12th January, 1979.

Yours faithfully,

Sd/-

(B. R. DHIMAN)
Desk Officer.

Copy forwarded to:—

1. Accountant General, Maharashtra, Bombay.
2. Finance Division, W&E Unit, New Delhi.
3. Works Division of the Ministry of Works and Housing, New Delhi.
4. Budget Section of the Ministry of Works and Housing, New Delhi.
5. Director General (Works), Central Public Works Department, New Delhi.
6. Sanction file.
7. Spare copies—10.
8. SA to H.M.
9. P.S. to Secretary.

Sd/-

(B. R. DHIMAN)
Desk Officer.

APPENDIX IX

(See para 9.2 of the Report)

[Representation re. omission of trailers and agricultural implements from tariff item No. 68 and 34-III)

ANDHRA PRADESH

TRACTOR TRAILERS AND AGRICULTURAL IMPLEMENTS
MANUFACTURERS ASSOCIATION, VIJAYAWADA

STATION: *Gudivada*,
Date: 22-12-1980.

To

The Chairman,
Petitions Committee,
Parliament House,
New Delhi.

Sir,

SUBJECT:—Agricultural Implements and Trailers—Omission of Central Excise Tariff 71/78-III and 68 respectively requested.

Special problems confronting the Small Scale Industry of Agricultural (Tractor hauled) Trailers and Agricultural Implements Manufacture.

1. *Price List Approval*:—

The amended section 4 of the Act has brought enormous difficulties both to the Department and to the Tax-Payers. A plea is made to have a specific rate of duty on each item instead of *ad valorem*. This will remove once for all litigation regarding price approval.

Or if this is not possible, the Invoice or Contract should be accepted as the sole criteria for excise duty.

It is better to have a specific rate of duty, Government can, have and exercise, the right to change the duty rates from time to time and can increase the duty whenever the prices go up.

Owing to the peculiar nature of price structure and its frequent fluctuations, in regard to the raw-materials like iron-channels, angulars etc., for manufacture of trailers, the trailer industry is not able to give a cost analysis along with the price list furnished to the Department for approval of the prices of trailers. Since the new section 4 insists upon the price at which the goods are sold or capable of being sold, the requirement of furnishing cost analysis may be dispensed with in the cases of all sales, and the work sheet/cost analysis demanded in respect of goods consumed internally within the factory.

The intensification of agriculture and adoption of 2 or 3 crops in a year has necessarily brought in the mechanisation of Agriculture, and the means of mechanised agriculture such as Tractor and agricultural implements have been a national asset, whether possessed by big or small ryots. Only when the available means of production are put into operation, appropriate seasonal operations of transplantation and harvesting can be carried on successfully especially in the fast changing seasons. Tractors used in agriculture are distinguished and excluded from Central Excise duty and also road tax on the strength of Tahsildar's Certificate. But the implements and trailers, which are an essential part of agricultural operations without which, the tractor is idle are burdened with Central Excise and Sales-Tax repeatedly. Consequently they are beyond the reach of agriculturists and are becoming an unbearable burden to the lively small scale industry in the Circars. Hence, to relieve the Small Scale industry and the agriculturist from this cruel burden, these implements and trailers are to be treated as a national priority and given exemption on a priority basis from Central Excise Notification No. 71/78-III and 68—respectively on the strength of Agricultural Certificate.

The trailers manufactured by the industry are purchased by Agriculturists for being hauled by tractors from farming operations. The ryots being generally poor are not in a position to afford new tyres fitted to trailers. Instead of new tyres, they themselves get old and rebuttoned tyres and are getting them fitted to the trailers which they purchase. So the industry wants that the cost of the

old retreaded tyres may be taken for purpose of determining the price of trailer for Excise duty in case old tyres are fitted to Trailers.

Even in cases where new tyres are fitted, the industry must be allowed to avail of Proforma—credit under Chapter X procedure as the Excise duty is already once paid by the tyres-manufacturers. At present, the industry is paying duty for second time also at 10 per cent ADV on tyres as the cost of tyres is included in the prices of trailers approved by the Department. Or, the tyres if used for manufacture of agricultural trailers, may be completely exempted from Central Excise duty as in the case of tyres used for agricultural Tractors *vide* Notification No. 161/76 Central Excise.

2. Exemptions:—

Since raw materials like iron channels, angulars, hubs, discs and tyres are too costly, the price of the trailers has reached about Rs. 13,000/- in respect of Two Wheelers and Rs. 19,000/- in regard to 4 Wheeler leaving very little margin of profit. This trailer manufacturing industry is almost a cottage industry in Circar districts of Andhra Pradesh, as a unit requires a capital investment of Rs. 20,000/- on Plant and Machinery and employs 5 to 8 workers like a Blacksmith, a Carpenter and a Welder. It does not require sophisticated equipment. It only assembles iron, wood and tyres.

The exemption granted under Notification No. 71/78 Central Excise is being reached within first 5 months as the cost of trailer is steadily increasing. Further, the value of agricultural implements is also being taken for determining the eligibility for the exemption of Rs. 5 lakhs trailers. Therefore, the industry wants that either the Trailers and Agricultural Implements may be completely omitted from Tariff item No. 34-III and 68 respectively as both the products are used for agricultural purposes only. Or, complete exemption from duty under Notification No. 71/78 may be given based on the numbers/pieces cleared within certain basis fixed on the past performance. In the alternative the Notification No. 71/78 Central Excise may be modified so as to exclude the value of agricultural implements of T.I. 68 for computation of Rs. 20 lakhs value (aggregate) of all excisable goods of the preceding financial year and to restrict the Rs. 30 lakhs value criterion to trailers of T.I. No. 34-III alone, of the preceding financial year.

The duty paying units are very rare in this industry. The duty paid is very negligible and hence the Government will not suffer even the minimum loss of revenue at lakhs.

The subject in the Memorandum has been approved by the Small Scale Industry Conference in Vijayawada and also in the Seminar of Central Excise at Hyderabad on 16th April, 1980.

for ANDHRA PRADESH TRAILERS AND
AGRICULTURAL IMPLEMENTS
MANUFACTURERS' ASSOCIATION,
VIJAYAWADA.

Sd/-

22-12-1980.

(K. V. CHALAPATHY RAO)
President.

Copies to:—

- 1 and 2: Members of Parliament,
Gudivada and Vajayawada.

[C O P Y]

IMPORTANT POINTS

71/78 Notification-Duty Exemption for first 65 lakhs goods—
Applicable

- (a) If the turnover of Trailers does not exceed 15 lakhs turnover;
(b) If the turnover of Trailers (Specified goods)—Tarif 68 goods
i.e.,

Agricultural Implements does not exceed 20 lakhs of turnover.

Price Level	2 wheeler each	4 Wheeler each	Average	Less than	Duty exemption for First five Lakhs.
Year 1978	Rs. 9,000/-	15,000/-	50 Units	15 Lakhs	
Year 1980	Rs. 13,000/-	19,000/-	50 Units	25%	Price rise.

Our Request : So the turnover and exemption level to be raised Proportionately.
for (Specified goods) Trailers, only, upto 20 lakhs

Exemption
of duty on
first 10 lakhs.

II. *No Loss to Government* :

- a. Excise duty on commercial trailers includes
Omni Buses-Truck Trailers Super im-
posed Lorry Trailers etc.
- b. Trailers used by Agriculturists by
distinguishing by *Agriculture certificate*
by Tahsildar/any other certificate of the
same character.

Excise revenue
many crores.

Revenue
negligible

Hence request elimination of excise duty on agricul-
tural trailers drawn by Agricultural Tractors.

III. Agricultural priority and small scale Industries limits 20 lakhs capital value is not at all considered, the incentive to small scale industry is overlooked.

Manufacturing 100 units as per present notification 71/78 per year—each month 8 units getting only Rs. 2400-00 per month is not a big industry at all.

Hence request to adopt general excise limits Tariff 68—Rs. 30 lakhs for 20 lakhs trailers—10 lakhs agricultural implements Excess of turnover, Central Excise can be levied. (Notification No. 105/80 dated 19-6-1980).

Thanking you,

Yours obediently,

Sd/-

(K. V. CHALAPATHY RAO) 22-12-80

President,

Andhra Pradesh
Tractor Trailers & Agricultural
Implements Manufacturers'
Association, Vijayawada.

APPENDIX X

(See para 10.2 of the Report)

[Representation from M/s. Ranchhodbhai Nathabhai & Co.,
Baroda regarding payment of claims by the Western
Railway]

M/s. Ranchhodbhai Nathabhai & Co.,
Fatehpura—Baroda-390006

Dated 6th September, 1980.

The Chairman,
Petitions Committee,
Lok Sabha,
New Delhi.

The Chairman,
Estimates Committee,
Lok Sabha,
New Delhi.

Respected Sirs,

SUBJECT.—*Claims Compensation—Deliberate rejections—Wrongful rejections of Railway Claims by Western Railway.*

It is a known fact that there have been too many repudiations of Railway Claims compared to performance of last six/seven years and year by year the percentage of repudiated claims is going up and higher up and is the highest during the years 1979-80 and during the current financial year. Even claims which were being admitted and paid during the period relating to 1961 and earlier i.e. before assuming the common carrier liability are now being mercilessly rejected. Thus there has been no difference due to adoption of present Railway Act (Amendment)—the amendment in Railway has been brought to facilitate easier working giving benefits to users of Railways—but ALAS—it has suicidal use and results—and users of Railways stand to more losses than its advantages—even at payment of more price—value in freight.

On and from 1-1-1962 the Indian Railways have assumed liability as a 'Common Carrier' and the duties and obligations of a Common Carrier are governed by the English Common Law as modified by

the provisions of the Indian Contract Act. By the common law, a common carrier is bound to deliver the goods within a reasonable time and to ensure their safety during the carriage and until delivery. The liability of the Railway Administration has been described *vide* section 73 of IRA and is further supported by Section 151, 152 and 161 of the Indian Contract Act so also the Carrier Act Rules. These rules, however, are not being followed strictly and claims are being rejected at random mercilessly and more and more claimants had to file suit to recover amount of compensation. Suits filed against Western Railway should speak about wrongful decision by Claims Officers.

The Officer Incharge who has to decide claims is like a Judicial Authority and his decision is supposed to be impartial/non-prejudicial and a decision supported by Law of the Land—and an act by an Officer in high esteem. We do not plead that each and every claim should be paid by the Officer Incharge but you will appreciate that higher percentage of claims are one for payment and Claims Officers who are Commercial Officers have to take matters in business like manner. Railways self 'Transport' and rail-transport business is a monopoly of the Government Railways—a commercial organisation with moral duty—in a Democratic country.

Enclosed please find herewith a list of our claims cases (See Annexures to Appendix) wherein claims have been repudiated on unjust/wrongful grounds and these pleas adopted by Western Railway are not tenable under law. The loss has been caused due to damage by rain water and a Common Carrier is liable to pay compensation in all such cases. Despite this fact, the claims have been rejected and not reviewed even after many protests. It has, therefore, become necessary for us—the claimants to report facts to your goodselves for such action as may be necessary to restore compensation towards loss caused.

The common arguments of Western Railway while rejecting claims liability are—Loaded by senders L & U by owners—received in direct wagon—P/C not complied with—bagging single etc. One most important argument that has come up within recent years is—'unsuitable/broken selected by sender' and yet another being 'non-standard dunnage found at destination'. These terms are being used lavishly like sharp weapons and this is what pinching most to users of Railways.

A trader who is entrusting the consignment for carriage is more interested in his goods to be received soon and in good condition

to clear the same on arrival and put in the market for better turnover of his capital which brings him his livelihood and keeps business running. He is not interested in disputes with Railways and/or carriers. And because alternative transporters provided more and more such facilities, they prospered in volumes/number. At one stage Railways realised this aspect and had had competition in past with Road Transporters. But as the time lapsed, it has been forgotten and now neglected completely.

The duties of Common Carriers have been defined in relevant Acts, Rules, Tariffs of Railways so also Railway Manuals. The important among many are—Section 151 of the Indian Contract Act, which state—“In all cases of bailment the bailee is bound to take as much care of goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and the value of goods bailed”.

And Section 162 of Indian Contract Act, state—“If, by the default of the bailee, the goods are not returned, delivered or tendered at the proper time, he is responsible to the bailor for any loss, destruction or deterioration of the goods from time to time”.

The duty of the carriers starts as soon as the consignment is offered for carriage and these duties are—to check the consignment, examine the consignment, count the number of bags, supervise loading etc. as enumerated in Commercial Manual. This is further followed by supply of good wagon fit to carry goods in good and intact condition—comply monsoon precautions or otherwise such steps as are considered necessary—ensure damage free transport ensure speedy transport—ensure no undue detention—and if wagon sick ensure its immediate fitness etc.—so also such duties at destination station as are necessary. And if the Railway staff has failed in any such duty, it amounts to waiver of rights of their own and/or in other words, it is established act of gross negligence and/or misconduct on their part and provide no protection for liability of a claim for compensation. The staff cannot just sit tight in Goods Office and prepare railway receipts. Once RR is issued, it is assumed that the staff has performed duty as a Common Carrier and is guilty of having not cared for his duty. The remarks on RR such as ‘L & U by owners—P/C not complied with wagon selected by Sender’ etc. therefore does not protect Railways. When damages are noticed at destination station, it proves default of contractual liability—a breach of contract on the part of Railways—making Railways liable to pay compensation for loss.

The wagons belong to Railways and proper maintenance of all wagons in use is the liability of the Railways. Sections 151 and 152

of The Indian Contract Act, do not permit the Railways to put in use unsuitable/broken/leaky wagons nor a man of ordinary prudence shall allot such a wagon for loading such goods that may be damaged by rain water in monsoon season. Even use of such wagons has to be done upon following certain special acts—such use of tarpaulins in wagon—over bags in wagons—a complete package—use of strips in door crevices/leaks—plug all leaks etc. and because this is not being done and goods merely loaded in such wagons, causes damages to goods for which Railway is liable; kindly refer various judgements—Union of India Vs. Brijlal A.I.R. 1963 All. 1, Dominion of India Vs. Rupchand A.I.R. 1953 Nagpur 160; Union of India Vs. Kothari Trading Co. A.I.R. 1969 Assam Nagaland 84 at P. 88 P/C not complied with. These remarks on RR are merely by force of habit of Railway staff. Also these remarks are vague and have no sanctity in law. Food grains are always booked in bags and yet Railway staff pass remarks in RR 'P/C not complied'. You will kindly agree that these remarks have no value—more particularly in cases where damage is by rain water.

S/C Railway receipt. This type of railway receipt itself is against law of common carrier. If the grains are booked loose and not in bags the commodity will be in bulk and S/C RR may serve the purpose but no officer has acted to stop this wrong procedure which is only issued to damage the interest of the users of Railways. Who prevented railway staff from counting, checking and examining the bags and supervise loading. It is their own omission of duty and hence liable for loss.

Non-standard dunnage found at destination. This too has no bearing in law. The RR states that '6 bags dunnage or dunnage provided' and what has been recorded by Railway staff at destination is an after thought for which the staff at booking end are responsible rather than blaming the party. Had the booking staff used reasonable foresight and care, as is required by a common carrier, it would have been avoided. But in commercial dealings, the sellers, always play such tricks to give rise to disputes—as many as possible—though unlawful—and why staff at destination play such tricks is a matter of probe.

The Ministry of Railways have had issued various directives on these subjects to Indian Railways. The Commercial Committee of Indian Railways too have decided very many such subjects and their decisions conveyed to Railways. Claims aspects have also been discussed on the floor of Lok Sabha.

We, therefore, look to your goodselves to order thorough examination of all the cases as per list herewith attached and ensure payment of compensation amount due to us at the earliest. Notices of suits have been issued and if the payment is not received, we shall have no alternative but to file suits in these cases and in future cases, serve joint notice of claim and suit and run to Court of Law for justice.

Thanking you, we remain:

Yours faithfully,

Sd/-

For M/s. Ranchhodbhai Nathabhai & Co.
Kirit Kumar Jayantilal Shah
Partner.

DA: List of claims cases on
Western Railway.

ANNEXURE I TO APPENDIX

List of pending claims with Western Railway

Rly. Ref. No.	Inv	RRNo.	Dated	Amount	Our Ref ;
1. CL/BRC/F/79/13713/C	7	287344	5-6-79	520/-	18/133
2. 79/15258/C	9	659215	13-10-79	375/-	40/135
3. 79/15733/C	57	658867	18-9-79	350/-	51/135
4. 79/13714/C	12	968187	8-6-79	900/-	57/135
5. 79/15250/C	63	658981	22-9-79	562/-	53/135
6. 79/15037/C	8	966721	3-11-79	1012/50	94/135
7. 79/15260/C	25	659499	27-10-79	1580/-	55/136
8. 79/13980/C	7	654994	10-4-79	4625/-	55/136
9. 79/14081/C	3	766324	19-6-79	360/-	24/134
10. 79/13326/C	26	112051	30-3-79	980/-	34/134
11. 79/15038/C	7	966720	3-11-79	1012/-	36/134
12. 79/15251/C	62	658930	22-9-79	1580/-	37/135
13. 79/15375/C	6	243330	30-10-79	200/-	57/136
14. 79/15824/C	9	766487	30-10-79	2272/ 50	58/136
15. 79/15825/C	10	766488	30-10-79	2610/-	59/136
16. 79/15823/C	8	766486	30-10-79	1170/-	60/136
17. 79/15637/C	3	967550	17-11-79	98/-	61/136
18. 79/15520/C	33	659813	22-11-79	450/-	63/136
19. 79/15520/C	38	659975	5-12-79	999/-	67/135
20. 79/14625/C	1	932628	7-7-78	950/-	64/113
21. 79/13883/C	10	287493	24-6-79	667/-	65/136
22. 79/15557/C	3	997201	5-12-79	735/60	68/136
23. 79/13964/C	36	656512	10-6-79	1282/50	71/136
24. 79/13899/C	27	656038	23-5-79	1770/-	71/16
25. 79/15251/C	62	658930	22-9-79	580/-	73/137
26. 79/14105/C	12	287581	14-7-79	268/-	74/137
27. 79/13886/C	32	968347	4-7-79	376/-	77/137
28. 79/14104/C	11	287550	6-7-79	980/-	78/137
29. 79/14763/C	4	003863	5-8-79	999/-	82/114
30. 79/13966/C	43	656338	25-6-79	699/-	84/137
31. 79/14209/C	46	657175	12-7-79	889/-	87/137
32. 79/14208/C	47	657174	12-7-79	765/-	88/137

M/s. Ranchhodhbhai Nathabhai & Co. Fatehpura-Baroda-390006 (Gujarat State).

ANNEXURE II to APPENDIX X

List of pending claims with Western Railway List (2) Shortage case s

<i>Rly. file No.</i>	<i>Inv.</i>	<i>RR No.</i>	<i>Dated</i>	<i>Amount</i>	<i>Our Ref.</i>
1. GL/BRC/F/79/13410/C	1	008572	26-4-79	392/-	41/135
2. 79/15644/C	3	998181	14-10-79	200/-	42/135
3. 79/13576/C	1	006324	6-5-79	410/-	45/135
4. 79/13570/C	31	656125	26-5-79	415/-	47/135
5. 79/15737/C	48	179858	24-9-79	1000/-	47/135
6. 79/13710/C	15	113928	30-5-79	2250/-	53/135
7. 79/13415/C	10	655123	13-4-79	446/-	4/133
8. 79/13405/C	25	480267	29-3-79	268/-	8/138
9. 79/15945/C	4	118522	10-11-78	320/-	24/134
10. 79/13416/C	11	655124	13-4-79	463/-	37/135
11. 78/13482/C	10	058822	19-5-78	646/-	37/112
12. 79/13400/C	3	189339	23-4-79	366/-	38/135
13. 79/15822/C	7	247009	3-12-79	2000/-	69/136
14. 79/15887/C	8	288422	7-12-79	200/-	71/136

Details of loss of above cases

1. 8 bags torn and slack RF 208 kgs. or 392 kgs. short
2. 2 bags torn and slack RF 73 kgs. or 127 kgs. short
3. 3 bags torn and slack RF 120 kgs. or 183 kgs. short
4. 2 bags torn and slack RF 32 kgs. or 168 kgs. short
5. 4 bags entire short
6. 9 bags entire short
7. 3 bags torn and slack RF 77 kgs. or 123 kgs. short
8. 2 bags torn and slack RF 123 kgs. or 73 kgs. short
9. 2 bags entire short
10. 3 bags torn and slack RF 79 kgs. or 221 kgs. short
11. 6 bags torn and slack RF 277 kgs. or 323 kgs. short
12. 12 bags torn and slack RF 967 kgs. or 233 kgs. short
13. 10 bags entire short
14. 1 bag entire short.

M/s. Ranchhodbahi Mathabhai & Co.,
Fatehpura-Baroda-390006
(Gujarat State)