

COMMITTEE ON PETITIONS

(FIFTH LOK SABHA)

SEVENTEENTH REPORT



सत्यमेव जयते

[Presented on the 8th May, 1974]

**LOK SABHA SECRETARIAT
NEW DELHI**

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COMPOSITION OF THE COMMITTEE ON PETITIONS
(1973-74)

CHAIRMAN

Shri Anant Prasad Sharma

MEMBERS

2. Shri Nathuram Ahirwar.
3. Shri Chhatrapati Ambesh
4. Shri Raghunandan Lal Bhatia
- *5. Shri Biren Engti
6. Shri Ishwar Chaudhry
7. Shri Khemchandbhai Chavda
8. Shri P. K. Deo
9. Shri Monoranjan Hazra
10. Shri Dattajirao Kadam
11. Shri Muhammed Khuda Buksh
12. Shri Paokai Haokip
13. Shri Anantrao Patil
14. Maulana Ishaque Sambhali
15. Shri Devendra Satpathy

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

* Nominated with effect from the 12th November, 1973 *vice* Shrimati Jyotsna Chanda died.

SEVENTEENTH REPORT OF THE COMMITTEE ON PETITIONS,
(FIFTH LOK SABHA)

INTRODUCTION

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

- (i) Representation, from Shri Chandra Prakash Agrawal, Hony. Secretary, Tobacco Merchants Association, Kaimganj (U.P.) regarding non-application of S.R.P. Scheme to tobacco warehouses not attached to cigarette factories and alleged harassment to tobacco traders by the officials of Kanpur Collectorate etc.
- (ii) Representation from Shri R. L. Khatri, Chairman, Joint Sub-Committee of Widow Homes, Faridabad, regarding allotment of Widow Homes quarters at Faridabad to existing occupants.
- (iii) Representation from Shri N. R. Vekaria, M.P. regarding fixation of seniority of Deputy Engineers in the Public Works Department of Gujarat State.
- (iv) Representation regarding filling up of 25 per cent vacancies of Case Workers/Probation Officers Grade II from amongst Departmental candidates by the Directorate of Social Welfare, Delhi Administration.
- (v) Representation regarding the Guru Gobind Singh Medical College, Faridabad.
- (vi) Representation from the South Eastern Railwaymen's Union, Bondamunda Branch, regarding their grievances and demands.
- (vii) Representation from Shri Samuel Augustine, Secretary, All India Powerloom Weavers Federation, Bombay, regarding non-implementation of Powerloom Enquiry Committee's Report.
- (viii) Representation from M/s Bhojuml Sons, Delhi, regarding claim for compensation on account of loss of consign-

(vi)

ment of groundnut oil booked from Koppal to Delhi Serai Rohilla.

- (ix) Representation from M/s R. M. Kewalramani & Sons, ex. City Booking and Out-agents, ex. N. W. Railway (Karachi), Kanpur regarding payment of certain pre-partition claims.
- (x) Action taken by Government on the recommendation contained in the Thirteenth Report (Fifth Lok Sabha) of the Committee on Petitions on representation regarding proposed closure of Railway track between Jawanwala Shahr and Joginder Nagar, consequent on construction of Pong Dam in Himachal Pradesh.
- (xi) Action taken by Government on the recommendation contained in the Fourteenth Report (Fifth Lok Sabha) of the Committee on Petitions on representation regarding posting of employees of erstwhile Howrah—Amta, Howrah—Sheakhala Light Railways in the Eastern and South Eastern Railway Zones etc.
- (xii) Representations inadmissible as Petitions.

2. The Committee considered the above matters at their sittings held on the 31st August, 13th September, and 19th December, 1973 and 4th January, 1974, and adopted the draft Report at their sitting held on the 7th May, 1974.

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

REPRESENTATION FROM SHRI CHANDRA PRAKASH AGRAWAL, HONY. SECRETARY, TOBACCO MERCHANTS ASSOCIATION, KAIMGANJ (U.P.) RE. NON-APPLICATION OF S.R.P. SCHEME TO TOBACCO WAREHOUSES NOT ATTACHED TO CIGARETTE FACTORIES AND ALLEGED HARASSMENT TO TOBACCO TRADERS BY THE OFFICIALS OF KANPUR COLLECTORATE ETC.

1.1. Shri Chandra Prakash Agrawal, Hony. Secretary, Tobacco Merchants Association, Kaimganj (U.P.) submitted a representation regarding non-application of S.R.P. Scheme to tobacco warehouses not attached to cigarette factories and alleged harassment to tobacco traders by the officials of Kanpur Collectorate etc.

A. Petitioners Grievances and Prayer

1.2. In his representation, the petitioner stated *inter alia* as follows:—

“From time to time it was represented to the Government and its authorities that taking into consideration the relevant fact and circumstances of the present excise working, it is necessary in the public interest that the S.R.P. should also be applied to the remaining tobacco warehouses but no favourable response has been received in the matter.

* * * *

There are several other methods of blackmailing in central excise working under the present procedure of ‘physical control’, some of them are as follows:—

- (a) issuing of subsequent TPIs against exhausted TPIs from the L2 dealers and smuggled tobacco is collected to show the balance of the said TPIs.
- (b) arranging transport of smuggled tobacco on the basis of forged TPIs, or TPIs obtained with the connivance of the staff, which after the completion of transport either cancelled or original TPIs are destroyed and duplicate copy of the said TPIs are subsequently filled and very nominal quantity of tobacco is shown in it.

- (c) regular registration and verification of tobacco crop and bogus destructions regularly from year to year continuing from ever since.
- (d) showing bogus destructions of tobacco of the warehouse tobacco.

Further the M.O.R. Scheme which has been scrapped out in most of the places inside and outside the Collectorate is also troublesome, and this requires due consideration.”

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

1.3. The representation was referred to the Ministry of Finance (Department of Revenue and Insurance) for their comments. The Ministry of Finance (Department of Revenue and Insurance) have furnished their parawise comments (*See* Appendix I) on the points raised in the representation, stating *inter alia* as follows:—

“The question of extending S.R.P. to tobacco was examined in 1968 when all except 14 excisable commodities (including unmanufactured tobacco but excluding tobacco in the warehouses attached to cigarette factories) were covered under the S.R.P. It was, however, decided that S.R.P. could not be feasible in case of tobacco because of the existence of extensive in-bond movement system allowed in this commodity. The Government have, however, since appointed Tobacco Excise Tariff Committee who are looking into the working of Excise Tariff on tobacco in all its aspects. A copy of Notification F. No. A-11013/E/122/72-Ad. IV, dated 9th January, 1973, giving the names of the members of the Committee and the terms of reference etc. is enclosed. The report of this Committee is awaited. The present pattern of control over tobacco will be reviewed, if found necessary, on receipt of the report of this Committee. Adequate steps have been taken in all those cases where permits were found to have been issued on exhausted TPIs, even prosecutions have been launched. Cases have been booked against Kaimganj traders and are pending adjudication. A few years back some of the Kaimganj dealers had been convicted by Special Judge, Lucknow, on this account. Like the above malpractice, attempts at covering smuggled tobacco by bogus TPIs have been detected last year at Kaimganj itself wherein a number of consignments were found to have been issued from Kaimganj

on the basis of fake TPIs. The matter has been reported to the Special Police Establishment for investigation.

Since 1965, in pursuance of vigilance and anti-smuggling programmes check registration and check verification drives are being organised regularly at appropriate times.

To curb malpractices allegedly involved in the process of destruction of tobacco, special instructions have been issued making surprise visits association of the Preventive Staff obligatory. Special Police Establishment is also being kept informed about the intended destruction and their staff also occasionally pay surprise visits."

C. Observations of the Committee

1.4. The Committee note from the factual comments furnished by the Ministry of Finance (Department of Revenue and Insurance) that Government have appointed a Tobacco Excise Tariff Committee to look into the working of excise tariff on tobacco in all its aspects and that the present pattern of control over tobacco would be reviewed by Government, if found necessary, on receipt of that Committee's Report. As decided by the Committee, the petitioner was advised to place his grievances and views on the matter before the Tobacco Excise Tariff Committee also, if he so desired.

The Committee desire the Government to inform the Committee in due course about the findings and recommendations of the Tobacco Excise Tariff Committee and the action taken by Government on those recommendations.

II

REPRESENTATION FROM SHRI R. L. KHATRI, CHAIRMAN, JOINT SUB-COMMITTEE OF WIDOW HOMES, FARIDABAD, REGARDING ALLOTMENT OF WIDOW HOMES QUARTERS AT FARIDABAD TO EXISTING OCCUPANTS

2.1 Shri R. L. Khatri, Chairman, Joint Sub-Committee of Widow Homes, Faridabad, submitted a representation regarding allotment of Widow Homes quarters at Faridabad to existing occupants.

A. Petitioner's Grievances and Prayer

2.2. In his representation, the petitioner stated *inter alia* as follows:—

“In inviting a reference to our representation bearing No. JSC|WH|69-70|1—14 dated the 1st April, 1969 on the above mentioned subject and the Parliament's decision as contained in the Sixth Report of the Committee on Petitions (pages 139—141) presented to the Lok Sabha on the 24th December, 1969, I am constrained to encroach upon your precious time once again to bring to your kind notice and through your goodself to the kind notice of the Hon'ble Members of the Lok Sabha the following facts about the case for your information and further action.

As would be seen from the above Report, Parliament's decision to permanently allot the Widow Homes' tenements to the existing inmates had been taken as far back as 17th August, 1968. But it is regretted that the aforesaid decision of Parliament could not be implemented by the authorities concerned. (The Deptt. of Social Welfare, Government of India and the Deptt. of Social Welfare, Government of Haryana) in about 5 years' time as the quarters in question are yet to be allotted. Thanks to Government's apathy and Red Tape. If the present delay is any indication, we are doubtful if at all Parliament's decision will be implemented and that these quarters will ever be allotted.

It will be seen from our representation dated 1st April, 1969 referred to above that for want of formal allotment of

our quarters civil amenities like water supply, sewerage, street lighting, sanitation, approach roads, children's parks etc. are denied to us. As advised in the said Report we approached the State Government/Municipal Committee/Faridabad Complex Administration for the provision of these amenities but with the exception of extension of water supply to the Home population, all other amenities are yet to be provided.

In our representation it was also pointed out that some of the quarters which were locked up by the authorities on account of the temporary absence of the occupants should be opened and their possession handed over to their rightful occupants forthwith but nothing has happened in this direction so far. What a great example of justice and efficiency?

Having failed to enlist the sympathy of the Government of Haryana to our most genuine cause, I have once again chosen to use your good offices to prevail upon the authorities to implement the decision of Parliament in letter and spirit forthwith to save the Home Population from further sufferings and hardships, otherwise Silver Jubiles Celebrations of our Independence which the country celebrated last year with great pump and show will have no meaning at all so far as the poor widows and their families are concerned."

B. Comments of the Ministry of Education and Social Welfare (Department of Social Welfare)

2.3. The representation was referred to the Ministry of Education and Social Welfare (Department of Social Welfare) for furnishing their factual comments for consideration by the Committee. In their factual comments, the Department of Social Welfare have stated as follows:—

"In July, 1969, Lok Sabha Secretariat was informed that even though a decision to allot and sell the tenements was taken in August, 1968, still sometime would be required for settling the details of procedure for actual allotment and sale of tenements to the eligible persons. Accordingly, by August, 1970, most of the details had been worked out and the Government of Haryana was requested to go ahead with the allotment, after ascertaining the genuine inmates who have been residing in the Home ever since its inception. They were also requested to ensure that persons owning house/land elsewhere were not sold these tenements. The Government of

Haryana was provided a statement showing the price of each quarter and they were requested to allot the Homes against payment.

The Central Government did not want to handle the allotment and sale work through the Union Department of Social Welfare as it would have meant stationing of staff at the Home premises for effecting such sale. Moreover, there would have been other difficulties such as our unfamiliarity with the genuine inmates, eviction of unauthorised occupants and ascertaining of facts as to whether the eligible families owned house or land elsewhere. The State Government was and still is in a better position to undertake this task in view of their long association with the inmates and also the availability of executive facilities they command.

Unfortunately, inspite of their best intentions and the advice and assistance that they have been receiving in solving their difficulties, they have not been able to go ahead with the allotments and sale. The major obstructions that they had to face are as under:—

- (i) Inmates are not firm about acceptance of quarters. Some are still thinking of giving up the accommodation occupied by them and to receive the cash doles after shifting to the main building of Sewa Sadan.
- (ii) Some ineligible persons are demanding allotment of quarters.
- (iii) The State Government have received varied requests from would be allottees of the quarters about recovery of cost of quarters whereas some favour lump sum payment others are adamant about recovery in easy monthly instalments.
- (iv) There are spurious claimants for the quarters who also own land or houses elsewhere. The State Government is faced with the problem of checking up their claims to ensure that they do not get double benefits.

The State Government has been able to resolve most of the problems mentioned above. They had sometime back come up with the request that they may be given the title to these quarters which hitherto was held by the Department of Rehabilitation who had constructed the quarters. This Department has assisted the Government

of Haryana in resolving the problems and possession has been transferred to them with effect from 21st June, 1973. It is expected that the State Government will now go ahead with the sale of the quarters. It may, however, again be reiterated that allotments and sale are to be made by the State Government and this Department does not come into the picture."

C. Observation of the Committee

2.4. The Committee note that the possession of the Widow Homes quarters has been transferred to the Government of Haryana with effect from the 21st June, 1973 and that the allotment and sale of those quarters will be made by the Government of Haryana. The Committee are unhappy that there has already been a delay of about five years in making allotment of those quarters. The Committee hope that the Government of Haryana will now expedite this work.

III

REPRESENTATION FROM SHRI N. R. VEKARIA, M. P. REGARDING FIXATION OF SENIORITY OF DEPUTY ENGINEERS IN THE PUBLIC WORKS DEPARTMENT OF GUJARAT STATE.

3.1. Shri N. R. Vekaria, M.P. submitted a representation regarding fixation of seniority of Deputy Engineers in the Public Works Department of Gujarat State.

A. Petitioner's Grievances and Prayer

3.2. In his representation (See Appendix-II) Shri Vekaria, M.P. stated *inter alia* as follows:—

“On formation of bigger bilingual Bombay State on 1st November, 1956, these Public Works Department Graduate Overseers of the ex-Saurashtra State were allocated & absorbed as such to the new State, under the Provisions of Statute 115 of S.R. Act, 1956. These posts were identical in pay scales and positions to those of Bombay State and as such they were equated to Overseer's posts of Bombay State, *vide* Government of Bombay P. & S. Department G.R.No. SR/INT-1057-VI dated 9th December, 1957. These Overseers were promoted as Deputy Engineers between 1st November, 1956 to 30th April, 1960, by the Bombay State and they are further allocated and absorbed as Deputy Engineers in Gujarat State, on 1st May, 1960. This allocation was finally decided *vide* Government of India, Ministry of Home Affairs orders No. 6|2|67-SR-(5) dated 28th May, 1968. As per Government of Bombay P. & S. Department letter No. RTR|1058|87508-D, dated 29th November, 1958, the recruitment rules of old Bombay State were not applicable to the area other than that of old Bombay State. Accordingly the posts and Services in old Saurashtra area were being regulated in accordance with the Saurashtra Civil Service Classification and Recruitment Rules 1956.

* * * * *

The principles of Seniority of Graduate Overseers with advanced deem date in case of Overseers of Old Bombay area

and the date of appointment in case of Overseers of Ex-Saurashtra and Kutch region has created a serious anomaly amongst Graduate Overseers on amalgamation. The Overseers of old Bombay State are given the deemed date of date back of their school days, and consequently the effect on similarly situated Graduate Overseers of Saurashtra and Kutch area is that they are considered far Junior. On such circumstances, condition has been created that their promotions given by the Bombay State before 30th April, 1960, as Deputy Engineer is now considered as fortuitous by Gujarat State, and the Overseers promoted by the Gujarat State after 1st May, 1960, are considered senior to them considering as if they would have been promoted before 30th April, 1960. These seniority changes are made as per provisions in the rules of preorganised Bombay State, which are not applicable to these Officers. The brief note (See Annexure to Appendix II) of the case is attached herewith.

The aggrieved officers are now stagnating in the post of Deputy Engineers since about 15 years, and their Juniors who joined services after them are already promoted to the post of Executive Engineers superceding their claims. They all have represented to the authorities of Gujarat State, Maharashtra State, and the Ministry of Home Affairs, Government of India. Their representations have remained unsettled for more than 2½ years and they suffer in seniority, confirmations and the promotions to the superior posts.

I am, therefore, to request you to kindly move the Ministry of Home Affairs, Government of India and also the State Government authorities of Maharashtra and Gujarat as the claim for seniority relates to the date back 1st November, 1956. I will be thankful if the Government of India, Ministry of Home Affairs is expedited to settle the representations, and the Government orders in the matter is intimated to me early."

B. Comments of the Department of Personnel and Administrative Reforms

3.3. The representation was referred to the Department of Personnel and Administrative Reforms for furnishing their factual comments on the matter for consideration by the Committee. In their

comments, the Department of Personnel and Administrative Reforms have stated as followed:—

“The information available in the Department on this subject shows that at the time of the reorganisation of States, the Overseers (Graduate) from Saurashtra were allotted to Bombay State. Under the Saurashtra Rules the Graduate Overseers become eligible for promotion to the post of Deputy Engineer after 2 years service, whereas in the Old Bombay Rules the eligibility for promotion was 3 years service. In November 1958, the Bombay Government issued orders to the effect that the recruitment rules of the respective States would be operative till unified rules were framed by them. In 1957, some of the Graduate Overseers from Saurashtra were promoted as Deputy Engineers. At the time of the reorganisation of Bombay in 1960, they were working as Deputy Engineers and were allotted to Gujarat State in that capacity. The provisional common gradation list of Officiating Deputy Engineers as on 30th April, 1960 (i.e. on the eve of the reorganisation of Bombay) was issued in August 1970. In that list the promotions of the Saurashtra Overseers were considered as fortuitous whereas officers of ex-Bombay State promoted after 1st May, 1960 were included in the list as if they were promoted before 30th April, 1960. It appears that this gradation list was prepared reckoning 3 years' service as eligibility requirement for promotion to the post of Deputy Engineer. Representations submitted by the affected officers have not so far been decided by the State Government.

The contention of the Saurashtra officers is that their conditions of service are protected under the provisions of the State Reorganisation Act and the Bombay Reorganisation Act. According to them the list of Deputy Engineers should be finalised on the basis of the rules that were applicable to them at the time of their promotion i.e. the Saurashtra Rules and not the Bombay Rules. The delay in the finalisation of the gradation list of Deputy Engineers has also affected their further promotion to the post of Executive Engineers. They have requested that their seniority should be decided as per the correct Rules and that the gradation list of Deputy Engineers should be finalised early. In his representation addressed to the Petitions Committee of Lok Sabha, Shri Vekaria has requested

that the matter should be decided by the Central Government without any further delay.

The Government of Maharashtra and Gujarat were requested to furnish the factual comments on the various points contained in the representation. The Government of Gujarat has stated that the Saurashtra and Kutch Deputy Engineers have filed writ petitions in the Gujarat High Court agitating the various points raised in the representations of Shri Vekaria. The details of the two writ petitions are—

- (i) Special Civil Application No. 1644/71 filed by D. H. Pandya and others.
- (ii) Special Civil Application No. 493/73 filed by P. L. Avasthi.

The Government of Maharashtra have also been made a party in the writ petitions. About the writ petition mentioned at (ii) above, the Central Government has recently received notice from the High Court.

The Government of Gujarat is of the view that when the matter is thus *sub judice* and when two State Governments are involved in deciding and adopting the major policy decisions already taken, it would be advisable to await the decision of the Gujarat High Court on the above two writ petitions.”

3.4. A copy of the parawise comments furnished by the Government of Maharashtra, received through the Department of Personnel and Administrative Reforms on the representation is at Appendix-III.

C. Observation of the Committee

3.5. The Committee note from the factual comments furnished by the Department of Personnel and Administrative Reforms that writ petitions on the matter are pending in the Gujarat High Court. The Committee, therefore, feel that no further action is called for on their part as further action in the matter will have to be taken by Government in the light of the judgement of the High Court on these writ petitions.

IV

REPRESENTATION REGARDING FILLING UP OF 25% VACANCIES OF CASE WORKERS|PROBATION OFFICERS GRADE II FROM AMONGST DEPARTMENTAL CANDIDATES BY THE DIRECTORATE OF SOCIAL WELFARE, DELHI ADMINISTRATION

4.1. Dr. Sankata Prasad, M.P. forwarded a representation signed by Shri Jai Prakash Sharma, General Secretary, Delhi Teachers Association, Ghaziabad, regarding filling up 25% vacancies of Case Worker|Probation Officer Grade II from amongst Departmental candidates by the Directorate of Social Welfare, Delhi Administration for consideration by the Committee.

A. Petitioner's grievances and Prayer

4.2. In his representation, the petitioner submitted *inter alia* as follows:—

“According to the recruitment rules of the Delhi Administration, Department of Social Welfare the quota for promotion|Direction Recruitment is fixed as under:—

- (i) 75% by Direct Recruitment.
- (ii) 25% by promotion.

These recruitment rules are binding on the department. 25% Promotion quota for departmental candidates is ignored by the department arbitrarily causing injustice to four persons.

Interviews for the posts of Case Worker|Probation Officer Grade II were held on 27th December, 1971 by the Directorate of Social Welfare. On the basis of this interview eleven persons were appointed either as Case Worker or Probation Officer Grade II by Direct Recruitment Quota in April|May, 1972. According to the Recruitment rules of the department 25% promotion quota is reserved for departmental candidates, on the basis of this promotion quota reserved for departmental candidates four persons all of them departmental candidates were entitled and

eligible for promotion along with those eleven who were appointed by direct recruitment.

That the officers of the department are violating the recruitment rules of their department and acting arbitrarily is further proved on the ground that on 16th November, 1972, interviews have again been held to have more candidates by direct recruitment without caring to give the legitimate claim for promotion of the departmental candidates—adding insult to injury to those four persons whose legitimate claim for promotion is being ignored from April/May, 1972 upto this date.

It is also requested that this representation may please be submitted to the Committee on Petitions so that justice is done in the cases."

B. Comments of the Ministry of Education and Social Welfare (Deptt. of Social Welfare)

4.3. The representation was referred to the Ministry of Education and Social Welfare (Department of Social Welfare) who have forwarded a copy of the letter received by them from the Delhi Administration. In the said letter, it has been stated *inter alia* as follows:—

"Prior to 2nd March, 1970, the Recruitment Rules provided for cent per cent vacancies in the posts of Case Works/ Probation Officers Grade II to be filled by direct recruitment. According to the Recruitment Rules, total number of 12 vacancies have fallen under promotion quota of 25% from the recruitment year 1971 to date and out of these vacancies, 5 vacancies have already been filled by promotion of departmental candidates as per D.P.C.'s recommendations dated the 19th March, 1971. As per the present vacancy position, 7 vacant posts have again fallen under the promotion quota.

It is admitted that the Staff Selection Board have met twice—once on 27th December, 1971 and again on 16th November, 1972 as has been alleged in the representation of the General Secretary of the Delhi Shikshak Sangh, in order to make direct selection for vacancies falling under the direct recruitment quota. The meeting of the Promotion Committee in respect of selection of departmental candidates against 7 vacancies has however got some what delayed for want of the latest Character Rolls of the eligible departmental candidates and pre-occupation and or non-availability of the members of the Committee.

It may also be added here that four departmental candidates have now been selected for promotion to the said posts by the D.P.C. in its meeting held on 29th June, 1973 amongst the only 5 candidates available for 7 posts reserved for them. It is regretted that the information asked for could not be sent earlier."

C. Observation of the Committee

4.4. The Committee note from the factual comments furnished by the Ministry of Education and Social Welfare (Department of Social Welfare) that the Delhi Administration has since promoted the departmental candidates in the quota reserved for such candidates. The Committee, therefore, feel that no further action is needed on their part.

REPRESENTATION REGARDING THE GURU GOBIND SINGH MEDICAL COLLEGE, FARIDABAD.

5.1. Shri Raghunandan Lal Bhatia, M.P., forwarded a representation signed by Shri R. D. Tiwari, Chairman, Parents & Guardians Association of Guru Gobind Singh Medical College, Faridabad, regarding alleged malpractices in Guru Gobind Singh Medical College, Faridabad.

A. Petitioner's Grievances and Prayer

5.2. In the representation, the petitioners had *inter alia* stated that a privately managed body named Guru Gobind Singh Vidya Sewik Society started on the 15th December, 1971, the Guru Gobind Singh Medical College at Faridabad. The college admitted 221 students for the M.B.B.S. Course and charged a capitation fee of Rs. 20,000/- from each candidate.

5.3. It had been stated that the Government of Haryana issued a notification on the 19th April, 1972, giving their approval to the starting of the said college. They were also stated to have agreed to extend the Hospital facilities at the Badshah Khan Hospital, Faridabad to the College, and allotted some land in Faridabad for construction of the College Building.

5.4. The petitioners had complained that subsequently it had come to light that the whole affair of the College was a fraud, and that the College did not have any regular building, and laboratory or hospital facilities, the State Government had also withdrawn the permission, it was not affiliated to a University and the capitation fee of Rs. 20,000/- charged from each candidate was unauthorised. Thus it had been concluded that the career of 221 students had been jeopardised.

5.5. The petitioners had prayed that (i) the Central Government might take over the College; (ii) the College might be affiliated to a University; and (iii) action might be taken against the promoters of the College and the funds recovered after a thorough probe into the whole matter.

B. Comments of the Ministry of Health and Family Planning (Department of Health)

5.6. The Ministry of Health and Family Planning (Department of Health) to whom the representation was referred for furnishing factual comments, have stated as follows:—

“According to the present information a new Trust called the ‘Guru Gobind Singh Educational Trust’ has since been registered in Punjab to undertake the work of shifting the college from Faridabad to some place in Punjab and running it on appropriate lines. The new Trust, which is headed by Giani Zail Singh, Chief Minister of Punjab, as its Chairman and Shri Sat Pal Kapur, M.P., as its Secretary, has decided to shift the college to Faridkot in Punjab. The college is expected to start functioning from 1st November, 1973. In this connection, a copy of the statement (See Appendix-IV) made by the Minister of Health and Family Planning in Lok Sabha on the 29th August, 1973, regarding the said college is sent herewith for information.”

C. Observation of the Committee

5.7. The Committee observe that a new Trust called the ‘Guru Gobind Singh Educational Trust’ has since been registered in Punjab and the Medical College has started functioning at Faridkot with effect from the 1st November, 1973, thus meeting the main demand of the petitioners. No further intervention of the Committee is, therefore, called for in this matter.

VI

REPRESENTATION FROM THE SOUTH EASTERN RAILWAY- MEN'S UNION, BONDAMUNDA BRANCH, RE. THEIR GRIEVANCES AND DEMANDS

6.1. The South Eastern Railwaymen's Union, Bondamunda Branch had submitted a representation regarding their grievances and demands.

A. Petitioners' Grievances and demands

6.2. In their representation (See Appendix V), the petitioners started *inter alia* as follows:—

"The outrageous decision of the Government of India to exclude the Railwaymen and other industrial workers in the Central Government Sector from payment of bonus, was noted by the Railwaymen with indignation. The classification of the Railwaymen as 'Departmental Employees' is designed to outcast the workers of this biggest organised industry from the mainstream of the working class of the country.

So, we demand immediate grant of 8.33% bonus to the Railwaymen to avoid future struggle by them.

Being the biggest Public Sector Organisation, the Railwaymen strongly demand for a separate wage board as demanded by the M.Ps. of Lok Sabha, as the Railwaymen are getting lowest pay in comprison to other Central Government employees.

* * * * *

The organised labour strongly feels against the feudal policy of dividing the labour as Casual and the regular.

So, we demand that the present casual labour system must be abolished by absorbing all the casual labour on regular jobs."

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

6.3. The Ministry of Railways (Railway Board), to whom the representation was referred for furnishing their factual comments

for consideration by the Committee, have furnished their parawise comments (see Appendix VI) on the various demands contained in the representation. In their comments, the Ministry of Railways (Railway Board) have stated *inter alia* as follows:—

“The payment of bonus to industrial workers is regulated by the Payment of Bonus Act, 1965. The Act does not apply to Government Departmental Undertakings (including the Railways).

The Railways discharge a public function and their expenditure is met from the Consolidated Fund of India. Their financial resources for development are also borne by Government alone. Further, pay scales of Railway staff have been decided for over decades with reference to the recommendations of Pay Commission. Because of these considerations, departmentally run undertakings of Government including the Railways have been kept outside the scope of the Bonus Scheme. In any case, the matter is not one to be considered independently by the Ministry of Railways.

The question of desirability or otherwise of setting up of a separate Wage Board or a Panel within the Third Pay Commission for Railway employees was considered by the Government and it was held that it would not be advisable to make a sectoral approach. The National Commission on Labour had also not been in favour of such an approach.

There have been two earlier occasions for appointment of Pay Commissions to inquire into the emoluments and conditions of service of Central Government employees. On both the occasions the emoluments and conditions of service of Railway servants were considered by the same Pay Commission which was appointed to inquire into these matters concerning Central Government servants.

The Second Pay Commission, after taking all relevant factors into consideration, had examined, in detail, and recommended pay scales for major categories of staff on Indian Railways. The Commission expected that with their specific recommendations about the important categories, the allocation of the remaining categories to the new pay scales would not present any serious difficulty. Accordingly, the then existing prescribed scales of pay applicable to various categories of staff were equated to the corresponding authorised scales of pay recommended by the Second Pay Com-

mission for important categories. In the circumstances, it is not correct to say that the Railwaymen are getting the lowest pay in comparison to other Central Government employees.

The report of the Third Pay Commission is at present under Government's consideration.

* * * * *

About 3.5 lakhs of casual labourers are working on Railways. Of these, about one lakh are employed on projects and the rest (about 2.5 lakhs) on works other than projects.

Casual Labourers are engaged in a large number on construction projects as also in connection with works which are seasonal, intermittent or sporadic or extend over short periods. They are recruited locally in the area where the work has to be undertaken. The very nature of employment of casual labourers is such that they have to be remunerated on daily wages. Regular railway employees cannot be employed for undertakings such works, keeping in view the varied location of the works and the ultimate requirement of only a fraction of staff for maintenance of the assets created by such works. Such staff are, therefore, recruited on casual terms and are not treated as regular railway servants. Consequently, the conditions applicable to permanent and temporary railway servants do not apply to such labourers. They are engaged with the specific understanding that they would be liable to be discharged on completion of the works for which they had been engaged.

Casual labourers who are governed by the Minimum Wages Act are remunerated in accordance with the provisions of that Act and those who are not governed by the aforesaid Act are remunerated on the basis of daily rates ascertained from the local authorities or the State Governments concerned.

* * * * *

Although there is no obligation to offer employment to Casual Labourers on completion of works, all possible efforts are made to provide them with alternative employment to the maximum extent possible. They are considered not only against requirements of labour for new works but also for employment against regular Class IV posts. However, their absorption against regular posts is not automatic. They have to apply in response to Employment Notices and their suitability for such absorption is adjudged through a process of screening.

* * * * *

Hitherto casual labourers were considered alongwith outsiders for recruitment to regular Class IV posts. They were, however, given certain concessions like relaxation in age limit, prior claim vis-a-vis outsiders etc. It has now been decided that entry to regular Class IV posts from outside should be temporarily banned and only casual labourers and substitutes should be considered for these posts, existing as well as those becoming available upto 31-12-1973.

At present, the above decision is in the process of implementation. When fully implemented, the decision will go a long way to absorb large numbers of casual labourers against regular posts."

* * * * *

C. Observation of the Committee

6.4. The Committee have noted the factual comments furnished by the Ministry of Railways (Railway Board). The Committee particularly note that all the vacancies in Class IV posts have been filled from amongst the casual labourers upto the 31st December, 1973. While the Committee agree that it is not possible for the Railways to abolish the casual labour system altogether, efforts should continuously be made so that as many of the casual labourers as possible may be absorbed in regular vacancies. The Committee also desire the Ministry of Railways to consider the feasibility of continuing the ban on entry to regular Class IV posts from outside and consider the casual labourers and substitutes for these posts.

VII

REPRESENTATION FROM SHRI SAMUEL AUGUSTINE, SECRETARY, ALL INDIA POWERLOOM WEAVERS FEDERATION, BOMBAY, RE. NON-IMPLEMENTATION OF POWERLOOM ENQUIRY COMMITTEE'S REPORT

7.1. Shri Samuel Augustine, Secretary, All India Powerloom Weavers Federation, Bombay, submitted a representation regarding non-implementation of Powerloom Enquiry Committee's Report.

A. Petitioner's Grievance and Pryer

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

“We have been compelled to approach your honour, because all our efforts for implementation of the Powerloom Committee Report headed by Shri Ashok Mehta which was submitted to the Government of India in the year 1964 has failed. Though the Government of India have accepted the recommendations made by the said Committee. We regret to state that till this date the same has not been implemented.

The Handloom and Powerloom Industry provides employment to more than one crore of people all over India and the total dependents of the Industry is more than four crore persons.

This decentralised Industry has been facing unprecedented crisis for the past ten years, on account of exorbitant increase in prices of cotton yarn and there are no facilities available to the Weavers for Processing and Marketing the goods. Since the vested interests namely middleman (brokers) who control the entire market are exploiting the Handloom and Powerloom Industries.

The Government of India in the past attempted to help the Handloom|Powerloom Weavers by introducing some *ad hoc* arrangements but the arrangements did not work satisfactorily|effectively due to the non-cooperation from the Composite Textile Mills.

The Government of India, therefore, had to issue Yarn Control Order on 13th March, 1973. This order has been challenged by the Composite Textile Mills and Yarn Traders in the various High Courts including the Supreme Court. This has resulted in non-availability of yarn on control rate and the Yarn Control Order remains on papers.

We are of the opinion that unless the Powerloom Enquiry Committee's Report is implemented by the Government of India, the decentralised Industry will not have any prospect.

We therefore request your honour to forward this petition to the Implementation Committee of the Lok Sabha, so that the Committee may impress upon the Government for the implementation of the Enquiry Committee's Report."

B. Comments of the Ministry of Commerce

7.3. The representation was referred to the Ministry of Commerce for furnishing their factual comments for consideration by the Committee. In their comments, the Ministry of Commerce have stated as follows:—

"A Copy of the Powerloom Enquiry Committee's Report is enclosed. The recommendations and conclusions of the Committee are at pages 155-172.

The statement made by the Federation about the non-implementation of the report is very general in nature. The Federation has not referred to any specific recommendation and it is therefore difficult to offer any comments. It may be stated, however, that almost all the important recommendations made by the Committee and accepted by the Government have already been implemented or are being implemented from time to time. One important recommendation, however, remains still to be implemented. This relates to the setting of a Statutory All India Handloom Board by converting the existing All India Handloom Board, which is only an advisory body. This recommendation, though accepted in principle is still under consideration. It has not been possible to implement the same during the Fourth Plan Period because of the various constraints of economy and the change in the pattern of Central assistance to states for Plan schemes of handloom and Powerloom industries during

the Fourth Plan Period. The recommendation is being considered *de novo* in the context of the reports of the Task Forces of Handlooms and Powerlooms in connection with the drawing up of the development schemes for handlooms and powerlooms to be included in the Fifth Five Year Plan. It is expected that a final decision on the implementation or otherwise of this recommendation will be arrived at once the Fifth Plan document is finalised.

The Federation has also raised a point about the exorbitant increase in prices of cotton yarn and scheme of statutory control on pattern of production, pricing and distribution of cotton yarn introduced from March, 1973. This scheme, which was introduced from March, 1973, is still continuing. Under the scheme yarn is being made available to the handloom and powerloom weavers at controlled prices. Implementation of the scheme has, however, been affected by the stay orders granted by the Supreme Court and various High Courts in the country on writ petitions challenging control scheme. All these writs are being contested but no decision on any substantive question raised in the various writs has yet been pronounced by any court so far. It is expected that the judgment of the Supreme Court on two writ petitions covering all the vital points raised in these writs will be pronounced very shortly. It is proposed to review the scheme and take further suitable action immediately after the pronouncement of the judgment of the Supreme Court in the above two cases. In the meantime, due to the improvement in the production of cotton yarn with the restoration of power-cuts, control on distribution of cotton yarn has been relaxed in stages—upto counts 17s on the 21st June; upto counts 35s on the 18th July; upto counts 40s on the 4th August and upto counts 80s on the 21st October, 1973.”

C. Observation of the Committee

7.4. The Committee have noted the factual comments furnished by the Ministry of Commerce. The Committee desire that the Ministry of Commerce should expedite their decisions regarding the implementation of the remaining recommendations contained in the Report of the Powerloom Enquiry Committee (1964) and intimate the same to the Committee in due course.

VIII

REPRESENTATION FROM M/S. BHOJUMAL SONS, DELHI, REGARDING CLAIM FOR COMPENSATION ON ACCOUNT OF LOSS OF CONSIGNMENT OF GROUNDNUT OIL BOOKED FROM KOPPAL TO DELHI SERAI ROHILLA.

8.1. M/s. Bhojmal Sons, Delhi, submitted a representation regarding claim for compensation on account of loss of consignment of groundnut oil booked from Koppal to Delhi Serai Rohilla.

A. Petitioners Grievances

8.2. In the representation, the petitioners stated *inter alia* as follows:—

“A consignment of 7197 Kgs. of G.N. Oil was despatched by M/s. Surajmal Sajjanraj Mehta Oil Mills of Koppal, District Raichur in Mysore State vide Invoice No. 2, Railway Receipt No. 855098 in metre gauge tank wagon No. SR.TK.28657 for Delhi Serai Rohilla Station pursuant to our order. The Railway Receipt along with the documents of Bill & Hundi were sent by them to the petitioners through the Syndicate Bank for delivering the same against a cash of Rs. 24900/-. The value of the entire consignment was Rs. 28000/- but as the senders owed a sum of Rs. 3100/- to the petitioners against some previous transactions, they deducted the sum of Rs. 3100/- from the bill amount of Rs. 28000/- and sent to the petitioner a Hundi for the remaining amount of Rs. 24900/- only. Since original Bill and Hundi have been collected by the Inspector from the Office of the Chief Commercial Superintendent, Northern Railway. The consignment which ought to have reached destination by the end of November 1968 did not reach for the reasons best known to the Railways and the Ministry of Railways who have installed a Computer for keeping an eye over the movement of wagons with a view to expedite quicker service. Enquiries with the destination station did not yield any result till 1968 was over. On 9th January, 1969 the petitioners were informed by the Station Master, Delhi Serai Rohilla that the consignment

in question has been received at Delhi Kishanganj Station in Broad Gauge Tank wagon No. 42340 and could be delivered only after railway dues were paid at the destination. Accordingly, the petitioners paid a sum of Rs. 1065/- including Rs. 57/- as undercharges *vide* Money Receipt, No. 895992 of 9th January, 1969. A memo hearing No. GM.86/68 of 31st December, 1968 said to have been written by Delhi Serai Rohilla Station to S.M. Delhi Kishanganj was shown to your petitioner's representative in support of the statement that the consignment has reached Delhi Kishanganj in a Broad Gauge Tank Wagon by the transshipment staff. The petitioners in view of the abnormal delay made by the Railways in transit with a view to avoid further loss of time agreed to effect the delivery at Kishanganj though the Railway Administration was bound to offer the consignment at the booked destination as per contract. Persistent approaches of the petitioner's representative at Delhi Kishanganj station for effecting physical delivery did not yield results since the Railway staff at that station stated that the tank was not placed. The petitioners thereafter preferred to claim for Rs. 29065/- (i.e. Rs. 28000/- cost of the consignment as per bill of the senders and Rs. 1065/- being the freight paid by the petitioner to the Northern Railway) with the Chief Commercial Superintendent, Northern Railway.

* * * * *

The Chief Commercial Superintendent, Northern Railway by his letter dated 4th January, 1972 accepted the liability for the loss out of the said consignment and assured payment subject to verification by the Accounts. The petitioners got a letter No. CD/DEE-1352-2-69 of 25th April, 1972 from the Chief Commercial Superintendent Northern Railway passing the petitioner's claim for Rs. 19609/- as against Rs. 29065/- without assigning any reasons for deducting the claim by Rs. 9456/-. The petitioners protested against this whimsical order and asked for reasons or arrange payment at the balance of Rs. 9456/- and intimated by telegram dated 5th May, 1972 that the petitioners are accepting the payment under protest as a part payment. The date of booking of the consignment was 7th November, 1968 and the liability was accepted by the Northern Railway Administration only on 4th January, 1972 and payment was ordered on 25th April, 1972 and made on 5th May, 1972 viz. after the expiry of

three years and five months and eighteen days (limitation of three years is provided by the law for instituting legal proceedings for recovery of claim amount) snatching away the right of the petitioners to challenge the decision in a Court of Law. It is, therefore, evident from the facts of the case that the administration which is right under the nose of the Railway Ministry deliberately delayed the settlement of the claim with the obvious intention to debar the petitioners from taking legal recourse.

* * * * *

The Railway Administration's gross negligence is evident in handling the consignment from the fact that the same though loaded in a Metre Gauge wagon No. 28657 from a Metre Gauge Station for a Metre Gauge Station was transhipped in a Broad Gauge Tank No. 42340 and was wrongly despatched to Delhi Kishanganj. The Station Master, Delhi Serai Rohilla, vide his Memo No. GM.86/68 of 31-12-1968 addressed to S.M. Delhi Kishanganj stated "that Tank wagons SR.28657 and 28658 booked under Invoices 2 & 3, Railway Receipts Nos 855098 & 855108 of 7-11-1968 transhipped into Broad Gauge Tank Wagons Nos. 42340 and 42740 ex. Koppal to DEE delivery effected have under Invoice No. 296 & 297 of 31-12-1968 ex-1008 and Rs. 57/- as undercharged on each consignment recovered here, please allow discounting at yours".

* * * * *

Your petitioner further beg to submit that the criteria for commuting a claim for compensation as adopted by the Indian Railways and envisaged by various High Courts as well as the Supreme Court is that it would be settled either on the basis of sender's beejuck or at the prevailing market rate but surprisingly the Northern Railway Administration despite obtaining the sender's beejuck and verifying the prevalent market rates through the books of accounts from the records of the brokers arranged the payment in the instant case which has neither any bearing or basis of the market rate of the commodity or the beejuck rate and have also avoided to assign any reasons explaining how they have arrived at the amount of compensation paid. Thus the Railway Administration has obviously violated the adopted policy as laid down by the Judiciary in various judgements dealing with compensation of claims by the Railways especially when the State is dealing with its citizens. The petitioners, therefore, pray your Honour and Members of the Committee to kindly call for the record from the Railways and direct them to arrange the payment

of the balance amount of Rs. 9456.00 together with such other reliefs as your Honour deem fit and for this act of kindness the petitioners shall ever pray."

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

8.3. The Ministry of Railways (Railway Board) to whom the representation was referred for factual comments, have stated as follows:—

"M/s. Bhojmal Sons had preferred a claim in this case for Rs. 29065|- on 22/27-2-1969 for non-delivery of the entire consignment of 72 quintals of groundnut oil booked from Koppal to Delhi Serai Rohilla loaded in Metre Gauge Tank Wagon No. SR 28757.

Enquiries revealed that the Metre Gauge Tank Wagon holding the consignment was damaged en-route and the contents were transhipped into Broad Gauge Tank Wagon No. CR.42340. This tank wagon arrived at Delhi Kishanganj on 25-12-1968. The consignee was asked to take delivery of the consignment at Delhi Kishanganj as the Broad Gauge Tank Wagons could not be dealt with at Delhi Serai Rohilla. Unfortunately the tank wagon was not placed in position for unloading but was despatched on 31-12-1968 as an empty wagon to its base station Nagpur. At Nagpur, the tank wagon was supplied for loading and was despatched as a fresh load. The contents of the tank wagon were, evidently, surreptitiously decanted and although investigations were made by the Claims Prevention and R.P.F. Staff, yet the place where the tank was unloaded could not be localised.

Since even after detailed investigations, the consignment could not be delivered to the party, the claim of the party was settled for Rs. 19609|- after due verification.

The party's main complaint is that against a claimed amount of Rs. 29065|-, the claim was admitted for Rs. 19609|- only.

Claims preferred by the consignee are generally settled at the Beejuck value or the destination selling rate. It is also customary for the Railways to check the genuineness of the Beejuck rate before payment is arranged.

An Inspector was deputed by the Railway to verify the claim. He visited the Claimants' Office on several occasions and inspected accountal of the said deal in party's records. It was observed by him that the Claimants' 'Nakal Bahi Record' relating to the subject deal had some doubtful entries having been made on 12-12-1968.

Further, the date of entries were found to have been altered. Different ink was used to complete the entry, throwing doubt on the genuineness of the recorded transaction. The claim was, therefore, verified on the basis of the market rate then prevailing in Delhi (i.e. Rs. 3125/- per metric tonne) and the payable amount was calculated to be for Rs. 19609/- and payment thereof was arranged on 18-3-1972.

Incidentally, it is mentioned that the market rate of Rs. 3125/- per metric tonne of groundnut oil was verified from the market as well as from the published booklet of Delhi Vegetable Oil Traders Association. According to the procedure followed in dealing with the claims for compensation, a deduction of 10 per cent towards element of marginal profit was made from the value of goods. Since the goods were meant for sale on commission basis, a further deduction of 3.18 per cent was made from the amount payable. The amount for which the claim was thus settled, put the claimant to no loss.

From what has been stated above, it may be seen that the Railway Administration made efforts to trace out the consignment booked and finally paid justified compensation to the party and there had been no avoidable delay in settling the claim.

The Party's allegation that the settlement of the claim was deliberately delayed is incorrect, as much of the time was consumed in tracing out the movement of the tank wagon. Besides, results of the enquiries made by the R.P.F. both at Delhi Kishanganj and Nagpur had to be awaited before a decision to verify the claim could be taken.

The party's contention that the settlement of the claim is to be done either on the basis of the sender's beejuck or at the prevailing market rate at destination, has not been deviated, as the claim in this case had been settled on the basis of market rate then prevailing in Delhi (Viz. Rs. 3125/- per metric tonne).

In view of the foregoing facts, Ministry of Railways (Railway Board) do not find sufficient justification to intervene in the decision already taken by the Railway Administration."

C. Observation of the Committee

8.4. The Committee note from the factual comments furnished by the Ministry of Railways (Railway Board) that payment of claim to the petitioners has been made on the basis of market rate then prevailing in Delhi. The Committee are of the view that no further action is called for in the matter on their part.

IX

REPRESENTATION FROM M|S R. M. KEWALRAMANI & SONS, EX. CITY BOOKING AND OUT-AGENTS, EX. N.W. RAILWAY (KARACHI), KANPUR, REGARDING PAYMENT OF PRE- PARTITION CLAIMS.

9.1. Shri Chandrika Prasad, M.P. forwarded a representation signed by M.s. R. M. Kewalramani & Sons, ex. City Booking and Out-agents, ex. N.W. Railway (Karachi), Kanpur, regarding payment of prepartition claims for services rendered to undivided Indian Dominions before the 15th August, 1947. The representation was duly countersigned by Shri Chandrika Prasad, M.P.

A. Petitioner's Grievances and Prayer

9.2. In the representation, the petitioner stated inter alia as follows:—

“That the petitioner, as an out-agent and City Booking agent at Karachi as from 1939 to the 6th November, 1948, and in this capacity as a city booking agent looked to the Coaching and Goods traffic, in the matter of booking of passengers parcels, goods, to and from, the City Booking Agencies at Karachi, to the rail head at Karachi City station and at Karachi Bunder respectively. Similarly, this petitioner worked as an Out-Agent at Thatta for transporting passengers, parcels, and goods to and from Thatta Out-Agency to Rail Head at Junghashi Railway Station. The Agreements pertaining to the City Booking Agency at Karachi and the Out-Agency at Thatta were made as between the Petitioner and the then Governor General in Council, through their Representative, the then General Manager N.W. Railway at Lahore.

* * * * *

On our migrating to India, we preferred a claim of our Pre-partition bills with the Indian Government, as the payments of the prepartition claims was and is the responsibility of the Government of India, (they then working through the “Administrative Officer of Accounts prepartition section E.P. Railway, New Delhi”).

By his letter No. C. 1 to 6T dated 17-1-1951 received from the Administrative Officer, E.P. Railway, New Delhi, we were informed that a claim of Rs. 74,146-15-3 pies had been verified for payment as against the original claim of Rs. 1011654-7-0. While arranging payment in regard to the verified claim, this being a sum of Rs. 74,146-15-3 ps. as mentioned above, a right and just deduction of Rs. 21070/- was made for advance payment made by the E.P. Railway, but a further unwarranted and illegal deduction in the sum of:—

- (a) Rs. 14-7-0
- (b) Rs. 308-0-0
- (c) Rs. 20533-9-6

was wrongly made on account of

- (i) Alleged debit in connection with unadjusted errors.
- (ii) Amount on account of short delivery of consignments.
- (iii) Debit on account of compensation claims.

Thus a total aggregate sum of Rs. 20840-9-6 (not recoverable and wrongly recovered) from the petitioner was made by the said officer, and to this uncalled for and illegal unwarranted deduction, this humble petitioner vehemently protested, and its protest was made in black and white.

* * * * *

Subsequently we were informed that though our claim for the wrong deduction of Rs. 20840-9-6 was preferred through the Board, and also through the Central Claims Organisation of India, who sent the same to the Pakistan Railway through their counter-part in Pakistan, the said claim had been rejected by the Railway Pakistan due to the "non-availability of the relevant record."

The petitioner being aggrieved and dissatisfied with erroneous stand as taken by the Railway Board, New Delhi and its subordinate officers in regard to the non-payment of his genuine and honest claim for the services render to the undivided Indian Dominions before 15th August, 1947, most respectfully and humbly begs that in the circumstances explained, you Sir, shall very kindly treat this as a complaint of an Indian Citizen for the wrong done to him all these 25 years, call for all the records as with the Railway Board and its subordinate officers so that the orders already passed are set aside by the agency looking into the

grievances of the injured and order that the sums of Rs. 20840-9-6 deducted on the alleged losses caused in not delivering consignments at the destination (when this was not the job as assigned to the petitioner, he being an out-agent to make over and take over goods at the rail head) and nothing beyond be paid in full with interest as from 1951 (b) payment of Rs. 13680.36 claim originally rejected by the Western Railway Pak, but could not substantiate with interest from 1951, 82½ per cent of the claim of Rs. 19707-15-9 preferred by the petitioner but not verified by the Western Pakistan Railway in 25 years reasons best known to them. The demand at the rate of 82½ per cent is being made as per agreement made as between the two dominions in regard to the payments for prepartition bills, even if it be held that liability was that of Pakistan.

- (d) Accede to arbitration, and a reference to the General Manager Northern Railway New Delhi for adjudicating in the reference as made to him either by himself or his Nominee whoever he may, and the award of the sole arbitrator shall be binding on either parties to the reference made."

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

9.3. The representation was referred to the Ministry of Railways (Railways Board) for furnishing their factual comments. In their note (See Appendix-VII), the Ministry of Railways (Railway Board) have stated *inter alia* as follows:—

"The contention of the contractor was examined by the Indian Railway concerned who stated that in view of the relevant records not being now available with the Pakistan Western Railway it would not be possible to furnish the particulars to the contractor. In regard to the contractor's point that the Out-Agent was not responsible for such losses arising out of delivery, the agreement between the ex. N.W. Railway and the contractor provided that such losses were to be borne by the Out-Agent and the Railway in the proportion of the freight earned by each from the goods and parcels in respect of which such loss or damage had been caused.

In the circumstances, the recoveries having already been advised and effected, and no records being available now either with the P.W. Railway or with the claimant to prove that the recoveries were incorrectly made, the

question of any refund to the contractor does not seem to arise.

The services rendered by the contractor under the contract in respect of City Booking and Out Agency at Karachi, were exclusively for the purposes of the Dominion of Pakistan. Therefore, under Clause 8 of the Indian Independence (Rights, property and Liabilities) Order, 1947, the responsibility for the settlement of the Contractor's claim will be that of the Dominion of Pakistan. The Government of India, however, undertook the initial liability to pay the claims but only after due verification by the appropriate authorities in Pakistan *vide* Government of India Press Communique dated 23rd May, 1948 and Press Note dated 15th May, 1955. (See Annexures I & II to Appendix-VII) The payment of the Contractor's dues will be arranged on receipt of the verification report from the Pakistan authorities.

As regards the Contractor's demand for arbitration, it may be stated that under Clause 8(1)(a) of the Indian Independence (Rights Property and Liabilities) Order, 1947 any contract made on behalf of the Governor General in Council before the 15th August, 1947 for exclusive purposes of the Dominion of Pakistan shall from that day be deemed to have been made on behalf of the Dominion of Pakistan, instead of the Governor General in Council. As stated earlier, the services rendered by the Contractor were for the exclusive purposes of the Dominion of Pakistan and therefore under Clause 8(1)(a) of the said Order the Contract between the then Governor General in Council and the Contractor shall be deemed to have been made on behalf of the Dominion of Pakistan. Since the present disputes and the right to demand arbitration arise under the contract with the Dominion of Pakistan, the question of the dispute being submitted for arbitration by the General Manager, Northern Railway or his nominee does not arise."

C. Observation of the Committee

9.4. The Committee have perused the factual position stated by the Ministry of Railways (Railway Board) on the various points raised in the representation. The Committee hope that the questions of verification of the petitioner's claims and of the refund of his security deposit of Rs. 5000/- will be vigorously pursued by the Government of India with the Government of Pakistan as soon as circumstances permit.

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATION CONTAINED IN THIRTEENTH REPORT (FIFTH LOK SABHA) OF THE COMMITTEE ON PETITIONS ON REPRESENTATION REGARDING PROPOSED CLOSURE OF RAILWAY TRACK BETWEEN JAWANWALA SHAHR AND JOGINDER NAGAR CONSEQUENT ON CONSTRUCTION OF PONG DAM IN HIMACHAL PRADESH.

10.1. In their Thirteenth Report (Fifth Lok Sabha), the Committee had made the following recommendation:—

“The Committee have noted the facts furnished by the Ministries of Irrigation and Power and Railways. The Committee recommend that the Ministry of Railways should take necessary steps for the construction of the new rail alignment even before the target date of December, 1974, so that inconvenience caused to the commuters is minimised and in the meantime, steps should be taken by the Government of Himachal Pradesh to provide adequate road transport in the area.”

[Para 3.3, Page 7, Thirteenth Report (Fifth Lok Sabha)].

10.2. The Ministry of Railways (Railway Board), who were requested to implement the above recommendation, have stated as follows —

“On receipt of the recommendations, the Northern Railway Administration were instructed that they should plan to complete the work on the re-alignment of Jawanwala Shahr—Guler section of the Kangra Valley Railway line, earlier than the target date of December, 1974, so that inconvenience caused to the commuters is minimised. It has now been reported by the Northern Railway Administration that it would be extremely difficult to complete the project even by March, 1975. This is due to the fact that the tenders for works which were due originally in 1969 had to be cancelled as the Himachal Pradesh Government could not acquire the land for the project. Subsequently, they promised to acquire and hand over the land in 1971. Anticipating this, contracts were

awarded in the middle of 1971. However, there was considerable delay by the Beas Dam authorities in acquiring the land through the Himachal Pradesh Government and handing it over to the Railways which was completed only in January, 1973. In the meantime, there was increase in cost of materials and wages and this has resulted in a number of failures of contractors. It has now become necessary to award fresh contracts. In addition, there is shortage of cement and other building materials. The project is now expected to be completed by 30th June, 1975. However, efforts are being made to complete the project as quickly as possible."

10.3. The Committee have noted the position stated by the Ministry of Railways (Railway Board). The Committee regret that due to avoidable delay in the acquisition of the land, the project will not be completed even by the scheduled date of March, 1975, in addition to causing financial loss to the Government on account of increased costs of the materials. The Committee urge that the project should now be completed expeditiously well before the new target date of 30th June, 1975.

XI

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATION CONTAINED IN FOURTEENTH REPORT (FIFTH LOK SABHA), OF THE COMMITTEE ON PETITIONS ON REPRESENTATION RE. POSTING OF EMPLOYEES OF ERSTWHILE HOWRAH-AMTA, HOWRAH-SHEAKHALA LIGHT RAILWAYS IN EASTERN AND SOUTH EASTERN RAILWAY ZONES ETC.

11.1. In their Fourteenth Report (Fifth Lok Sabha), the Committee had made the following recommendation:—

“The Committee note the facts furnished by the Ministry of Railways (Railway Board) and the reply to Unstarred Question No. 6745 given in Lok Sabha on the 10th April, 1973, by the Deputy Minister in the Ministry of Railways (Shri Mohd. Shafi Qureshi) that ‘instructions exist that individual requests from such staff may be considered favourably in the Metropolitan Transport Project, Calcutta.’

The Committee hope that such of the Light Railways Staff, as is not absorbed in other Railways, will be offered appointment in the Metropolitan Transport Project, Calcutta.”

[Para 2.5, page 5—Fourteenth Report (Fifth Lok Sabha)].

11.2. The Ministry of Railways (Railway Board), who were requested to implement the above recommendation, have stated as follows:—

“As already indicated earlier, there were difficulties in the appointment of the staff of the Light Railways on the Eastern and South Eastern Railways in view of the opposition of the recognised unions and those casual labour awaiting appointment to regular posts. In addition the staff of erstwhile Railway Electrifications and Farakka Marine Service had to be absorbed. The matter was, therefore, reconsidered and it was decided that the staff concerned should be screened by Eastern Railway and those found fit sent to other Railways for appointment.

Accordingly, out of 1576 ex. Martin Light Railway staff called for interview, 1467 were interviewed and about 1400 were allocated for appointment on different Railways other than Eastern, South Eastern and Northeast Frontier Railways, out of them about 1100 have been so appointed.

Some of the employees of the ex. Martin Light Railway absorbed on other Railways represented that they may be absorbed in Calcutta area as a special case. The matter was examined and instructions were issued to the Metropolitan Transport Project, Calcutta that the individual requests of Light Railway staff absorbed on other Railways for appointment in that Project be considered along with the erstwhile staff of Railway Electrifications. The Railway Administrations were also advised to keep the lien of such staff in the event of their transfer to Metropolitan Transport Project, Calcutta.

In the circumstances the staff who are being considered for transfer to the Metropolitan Transport Project are those who have already joined the other Railways. The staff of the Light Railways who did not turn up for being screened for absorption or those who after screening did not join the other Railways cannot now be considered for absorption in the Calcutta Area or Metropolitan Transport Project. The Metropolitan Transport Project being a technically oriented organisation is not in a position to consider even the requests for transfer of those absorbed in the other Railways."

Observation of the Committee

11.3. The Committee observe that out of 1576 ex. Martin Light Railway Staff called for interview, 1467 had been interviewed and about 1400 of them had been allocated for appointment on different Railways, but only about 1100 of them had so far been appointed. The Committee also note that the Metropolitan Transport Project, Calcutta, being a technically oriented organisation, is not in a position to consider even the requests for transfer of those absorbed in other Railways.

The Committee desire that all the remaining ex Martin Light Railway Staff, who have not so far been re-employed, may also be expeditiously absorbed in the Indian Railways/Metropolitan Transport Project to mitigate their hardships.

REPRESENTATIONS INADMISSIBLE AS PETITIONS

12.1. During the period under report, the Committee have considered seven other representations and letters addressed to the House, the Speaker or the Committee, by various individuals, which were inadmissible as petitions.

12.2. The Committee observe that through their intervention, the petitioners have been provided expeditious, partial or complete relief or due redressal of their grievances or that the Ministries/ Departments concerned have explained satisfactorily the grounds for not being able to remove the petitioners' grievances. (See Appendix-VIII).

ANAND PRASAD SHARMA,

Chairman,

Committee on Petitions.

NEW DELHI;

The 7th May, 1974.

APPENDIX I

(See para 1.3 of the Report)

[Parawise factual comments of the Ministry of Finance (Department of Revenue and Insurance) on the representation re. application of S.R.P. Scheme to tobacco warehouses not attached to cigarette factories and alleged harassment to tobacco traders by the officials of the Kanpur Collectorate etc.]

Points raised

Reply of Ministry of Finance
(Deptt. of Revenue and
Insurance).

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(i) Taking into consideration the abuse associated with the system of 'physical control' under the Central Excise and Salt Act, 1944, the Government introduced 'self removal procedure' scheme commonly known as S.R.P. in 1968 and now it applies to all excise commodities except tobacco warehouses not attached to cigarette factories.

No comments.

(ii) From time to time it was represented to the Government and its authorities that taking into consideration the relevant fact and circumstances of the present excise working, it is necessary in the public interest that the S.R.P. should also be applied to the remaining tobacco warehouses but no favourable response has been received in the matter.

The question of extending S.R.P. to tobacco was examined in 1968 when all except 14 excisable commodities (including unmanufactured tobacco but excluding tobacco in the warehouses attached to cigarette factories) were covered under the S.R.P. It was, however, decided that S.R.P. could not be feasible in case of tobacco because of the existence of extensive in-bond movement system allowed in this commodity. The Government have, however, since appointed Tobacco Excise

Tariff Committee who are looking into the working of Excise Tariff on tobacco in all its aspects. A copy of Notification F. No. A-11013|E|122|72-Ad.IV, dated 9th January, 1973, giving the names of the members of the Committee and the terms of reference etc. is enclosed. The report of this Committee is awaited. The present pattern of control over tobacco will be reviewed; is found necessary, on receipt of the report of this Committee.

(iii) In case of the aforesaid remaining tobacco warehouses, the rigged and cumbersome excise control and checks even continue after payment of excise duty on tobacco, but they continue till the tobacco goes into consumption. Under this procedure there is every day checking by some one or the other as most of the idle staff, which was previously posted in factories is now diverted in tobacco excise. One can surprise to see that despite several dozen officers of the locality and more than that of the Division, the Central Preventive Officers of Kanpur Collectorate now and then so often check tobacco godowns of Kaimganj as if they have no work at Kanpur, and in fact this true as they have no business to check factories under the S.R.P.

(iv) This is not the end of harassment. Scrupulous persons of staff and public so often send anonymous complaints against bonafide dealers to enable checking. Despite the fact that the goods are found in order, but so often some consignments are seized or de-

It is a fact that the Preventive Officers from the Collectorate headquarters have been visiting the warehouses at Kainganj. Such visits have been paid either in consequence of complaints or information received or with a view to conducting surprise checks. It has been checked up from the field formations concerned that large quantities of tobacco valued at thousands of rupees were seized during the course of such visits. Shri Agarwal's allegations that the Preventive Staff has been visiting the warehouses at Kaimganj at the cost of visits to S.R.P. units at Kanpur are baseless. It has also been checked up that the visits of Preventive Staff to the S.R.P. units and the results thereof have been quite satisfactory.

It is a fact that four consignments of 'Kandi Butts' were detained at Kanpur—two each at the premises of M|s. Ashwani Kumar Ramesh Chandra and M|s. Gauri Shanker Mishri Lal. In all; 24 bags of such tobacco were detained at the first named premises

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tained on the basis of the so called 'trade opinion' which is conveniently obtained on dictation from the touts. These touts always give best service to the staff and they have no hesitation in revising their opinion to serve the purpose of the staff. In this way under official pressure and threatening that the goods will spoil, business and money will remain blocked, as the goods will remain detained for year together, the staff extract heavy amounts from the dealers concerned. This is freely going on even at the Kanpur Collectorate headquarter. In this connection the following two cases may kindly be looked into and the applicant be given an opportunity by the enquiring authority of these cases.

- (a) the Inspectors of Central Preventive of Kanpur Collectorate: while checking tobacco godowns of Ramganj; Kanpur in January 1973, detained about a dozen stalk butts crushed tobacco consignments but subsequently released all except the following two, which were detained on 17-1-1973:—

24 bags from the custody of M/s. Gaurishanker Mishrilal, Ramganj, Kanpur;

24 bags from the custody of M/s. Ashwanikumar Rameshchandra, Ramganj, Kanpur.

- (b) two consignments of about two truck load of leaf crushed dana was detained in Feb. 1973, but they were released and subsequent permits for the same were issued on 16-3-73 and 17-3-73 from the godown of M/s. Ashwanikumar Rameshchandra, Ramganj, Kanpur. This was done by the Range Staff.

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and another 57 bags at the second premises. These visits were paid in consequence of the complaints that stems etc. of tobacco were being cleared under the garb of Gujrat 'Kandi' assessable at the lowest rate. The samples of the detained tobacco have been sent to the Chemical Examiner for test and the results thereof are awaited. Three out of the above four consignments detained had been received from M/s. Commercial Traders in which Shri C. P. Agarwal, the petitioner, is reported to have interest.

Note—all this black-mailing was done at both stages on the basis of 'trade opinion'.

(v) There are several other methods of black mailing in central excise working under the present procedure of 'physical control'. some of them are as follows:—

(a) issuing of subsequent TPIs against exhausted TPIs from the L. 2 dealers and smuggled tobacco is collected to show the balance of the said TPIs.

(b) arranging transport of smuggled tobacco on the basis of forged TPIs, or TPIs obtained with the connivance of the staff, which after the completion of transport either cancelled or original TPIs are destroyed and duplicate copy of the said TPIs are subsequently filled and very nominal quantity of tobacco is shown in it.

(c) regular registration and verification of tobacco crop and bogus destructions regularly from year to year continuing from ever since.

(d) showing bogus destructions of tobacco of the warehouse tobacco.

Comments on the points raised in this para are as under:—

(a) Adequate steps have been taken in all those cases where permits were found to have been issued on exhausted TPIs; even prosecutions have been launched. Cases have been booked against Kaimganj traders and are pending adjudication. A few years back some of the Kaimganj dealers had been convicted by Special Judge, Lucknow, on this account.

(b) Like the above malpractice, attempts at covering smuggled tobacco by bogus TPIs have been detected last year at Kaimganj itself wherein a number of consignments were found to have been issued from Kaimganj on the basis of fake TPIs. The matter has been reported to the Special Police Establishment for investigation.

Since 1965, in pursuance of vigilance and anti-smuggling programmes, check registration and check verification drives are being organised regularly at appropriate times.

To curb malpractices allegedly involved in the process of destruction of tobacco, special instructions have been issued making surprise visits association of the Preventive Staff obligatory. Special Police Establishment is also being kept informed about the intended destruction and their staff also occasionally pay surprise visits.

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(vi) Further the M.O.R. Scheme which has been scraped out in most of the places inside and outside the Collectorate is also troublesome, and this requires due consideration.

(vii) It is further necessary in the public interest that the Central Excise Law and Procedure should be made uniform and there should be no discrimination.

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Staffing position is being reviewed from time to time and necessary changes are effected as and when considered necessary.

No comments. If the complainant is referring to the non-extension of Self Removal Procedure to un-manufactured tobacco as discriminatory, comments against Para 2 above may be referred to.

APPENDIX II

(See para 3.2 of the Report)

[Representation re. fixation of seniority of Deputy Engineers in the Public Works Department of Gujarat State]

N. R. Vekaria
Member of Parliament
(Lok Sabha)

169, South Avenue,
NEW DELHI—110011
Junagadh, Date: 26.3.1973

Dear Shri Sharmaji,

SUB:—*Zonal seniority list of Overseers of Gujarat (including Saurashtra & Kutch) region as on 1-11-56.*

Ref:—Government of Maharashtra, Irrigation & Power Department Circular No. STY—1162/70184—E, (Cell)—(i) dated 10.6.64.

1. I have come to know that some grievances regarding seniority prevail amongst the Deputy Engineers of Public Works Department of Gujarat State, who were recruited as Overseers (Graduate) in Ex-Saurashtra State, Kutch State & the Amreli Area of Ex-Bombay State. They were under Saurashtra Zone in bigger Bombay State. On formation of bigger bilingual Bombay State on 1.11.56, these Public Works Department Graduate Overseers of the Ex-Saurashtra State were allocated & absorbed as such to the new State, under the Provisions of Statute 115 of S.R. Act, 1956. These posts were identical in pay scales and positions to those of Bombay State and as such they were equated to Overseer's posts of Bombay State, *Vide* Government of Bombay P & S Department G.R. No. SR/INT—1057—VI dated 9.12.57. These Overseers were promoted as Deputy Engineers between 1.11.56 to 30.4.60, by the Bombay State and they are further allocated and absorbed as Deputy Engineers in Gujarat State, on 1.5.60. This allocation was finally decided *vide* Government of India, Ministry of Home Affairs orders No. 6/2/67—SR—(5) dated 28.5.68. As per Government of Bombay P & S Department letter No. RTR/1058/87508—D dated 29.11.58, the recruitment rules of old Bombay State were not applicable to the area other than that of old Bombay State. Accordingly the posts

654 LS—4.

and services in old Saurashtra area were being regulated in accordance with the Saurashtra Civil Service Classification and Recruitment Rules 1956. These statutory rules were issued under Art. 309 by the Rajpramukh of Saurashtra State. As the statutory unified recruitment rules are not yet framed either by Bombay State and the services of the Gujarat State, Offices are still Governed by Saurashtra rules 1956. Or even if the unified statutory rules be framed, the services conditions of these allocated servants cannot be varied to their disadvantage by any provisions in new rules, because their Services are protected under Art. 115 of S.R. Act, 1956 and Art. 81 of B.R. Act, 1960.

2. These Officers have submitted representations against the impugned graduation lists to the authorities of Gujarat State. As the matter pertains to the reorganisation of States on 1.11.56 they have also sent their appeal to the Central Advisory Committee, Ministry of Home Affairs, some time in September, 1972. The principles for amalgamation of seniority of various zones in Gujarat are to be decided by the Central Government, as per provisions in S.R. Act, 1956. The principles of Seniority of Graduate Overseers with advanced deem date in case of Overseers of Old Bombay area and the date of appointment in case of Overseers of Ex-Saurashtra & Kutch region has created a serious anomaly amongst Graduate Overseers on amalgamation. The Overseers of Old Bombay State are given the deemed date of back of their school days, and consequently, the effect on similarly situated graduate Overseers of Saurashtra and Kutch area is that they are considered far Junior. On such circumstances, condition has been created that their promotions given by the Bombay State before 30-4-60, as Deputy Engineer is now considered as fortuitous by Gujarat State, and the Overseers promoted by the Gujarat State after 1-5-60, are considered senior to them considering as if they would have been promoted before 30-4-60. These seniority changes are made as per provisions in the rules of prereorganised Bombay State, which are not applicable to these Officers. The brief note (See Annexure to Appendix II) of the case is attached herewith.

3. As stated in the note the seniority of Graduate Overseers of Saurashtra Kutch area is adversely affected by Maharashtra Government Circular dated 10-6-64, which requires to be rectified by general or special orders, to settle their claim in fair and equitable conditions as provided in S.R. Act, 1956.

4. The seniority in the post of Deputy Engineer, on basis of the eligibility and qualifications for promotion need also consideration as there is no rules to operate seniority in post of Deputy Engineer, when the Overseers allocated from various States are promoted to

the post of 'Deputy Engineer as per rules or respective States. As laid down in Gujarat Government GAD—Circular No. GA4/1170|K, dated 20-3-70, the eligibility and qualifications for promotions are conditions of service, which cannot be varied to the disadvantage of allocated servants. The statutory Rules of Saurashtra provides 2 years service for Graduate Overseers for promotion to the post of Deputy Engineer, where as the administrative Rules of Old Bombay State provides 3 years service for Graduate Overseers for the promotion to the same post. Though the claims of the Saurashtra Officers for proper seniority rank is based on the valid Rules, their claim is not considered fairly, but contrarily they are placed to a Junior rank, as per provisions in preorganised Bombay Rules which are not applicable to them.

5. The aggrieved Officers are now stagnating in the post of Deputy Engineers since about 15 years, and their juniors who joined services after them are already promoted to the post of Executive Engineer superceding their claims. They all have represented to the authorities of Gujarat State, Maharashtra State and the Ministry of Home Affairs, Government of India. Their representations have remained unsettled for more than 2.1|2 years and they suffer in seniority, confirmations and the promotions to the superior posts.

6. I am, therefore, to request you to kindly move the Ministry of Home Affairs, Government of India and also the State Government authorities of Maharashtra and Gajarat as the claim for seniority relates to the date back 1.11.56, I will be thankful if the Government of India, Ministry of Home Affairs is expedited to settle the representations, and the Government orders in the matter is intimated to me early.

Thanking you,

Yours sincerely,

Sd/-

(N. R. VEKARIA)

To
Shri A. P. Sharma,
Chairman,
Petition Commitee of Lok Sabha,
Parliament House,
NEW DELHI.

ANNEXURE TO APPENDIX II

(Vide para 2 of the Appendix II)

Points regarding the Seniority of the Officiating Deputy Engineers of the Saurashtra Zone promoted before 30-4-60.

1.0. On formation of the bigger bilingual Bombay State on 1-11-56, the P.W.D. Overseers (Graduate) of the Saurashtra State were allocated to the new State of Bombay.

2.0. The transfer of these Overseers to the new State was under Statute of Sec. 115-(7) of the S. R. Act, 1956 and as per provisions in this Act their service conditions is to be regulated not at disadvantage to the provisions in the Saurashtra Civil Service Classification and Recruitment Rules, 1956. These rules are statutory rules.

3.0. The Saurashtra Rules, 1956, provides that the Graduate Overseers become eligible for promotion to the post of Deputy Engineer after experience of 2 years, whereas in the old Bombay State the eligibility for promotion was 3 years.

4.0. The Government of Bilingual Bombay vide their No. RTR|1058|875|8-D, dated 29-11-58, issued orders to operate the recruitment rules of the respective States to be operative till the unified rules were framed by the Bilingual Bombay State. Till the promotions of the aggrieved officers, no unified rules were framed.

5.0. The allocated Graduate Overseers of the Ex-Saurashtra State were promoted to the post of Deputy Engineers in times of Bigger Bombay State. Their promotion was given by the orders of the Superintending Engineer, Rajkot (R. & B.) Circle as per his authority delegated vide Government in P.W.D.G.R. No. STY|1057|E, dated 23.4.57. These promotions are subsequently regularised under the appropriate Government orders, and the officers are continued in the Post of Deputy Engineer till today. They are allocated as Deputy Engineer to the new State of Gujarat on 1.5.60. The final allocation orders are issued by the Government of India, Ministry of Home Affairs No. 02|67-SR-(S) dated 28.5.68 Looking to these provisions, it seems improper to consider promotions fortuitous.

6.0. The Government vide G.R. No. SPC|9870E, dated 11-8-70 has issued the provisional Gradation List of the Officiating Deputy Engineers on 30-4-60. This list shows the positions of these aggrieved Deputy Engineers vide Appendix 'C'. Even though aggrieved officers

are allocated as Deputy Engineer from the Bombay State their promotion to the post of Deputy Engineer has been considered as fortuitous, whereas the officers of the Ex-Bombay State promoted as Deputy Engineer after 1-5-60 are included in Appendix 'A' of the said G.R. dated 11-8-70 considering as if they are promoted before 30-4-60. This gradation list is prepared considering 3 years' service as eligibility for promotion to the post of Deputy Engineer.

7.0. The Officers in appendix 'C' of G.R. dated 11-8-70 have submitted their representations individually and jointly for fixing their seniority at right place. They have also represented in person. It is said that their representation are not settled so far.

8.0. The Government of Gujarat *vide* G.A.D. Circular No. GA4|1170|K dated 20-3-70, has issued orders that the eligibility and the qualification for the promotion is the condition of service. As per directives in this G.R., the seniority of the Officers allocated from Ex-Saurashtra State have claimed Seniority in the post of Deputy Engineer considering their eligibility after 2 years service as Graduate Overseer's service as eligibility is as per the provisions in former Bombay State Rules before 31-10-56.

9.0. The Seniority of these Deputy Engineers is not yet decided and as such their claim for the promotion to the post of Executive Engineer is likely to be affected.

10.0. The services of the allocated servants of the Ex-Saurashtra State is protected *vide* the provisions in S.R. Act, 1956 and the B.R. Act, 1960. The claims of the Deputy Engineer of the Saurashtra region is as per the provisions in the rules of the day and has force of Statutory Acts.

11.0. The gradation list of the officiating Deputy Engineers published *vide* dated 11-8-70 is provisional and so the same is yet to be settled finally considering the claims of the aggrieved Officers. The gradation list is now to be finalised on the basis of positions as per respective eligibility.

12.0. Considering the above facts, the aggrieved Officers may be considered for seniority at right place and their claims for the promotion in the posts of Executive Engineer may be entertained.

13.0. Thus, a discrimination is created in deciding interseniority of officiating Deputy Engineers promoted from the lists of allocated Overseers of Ex-Bombay State, Saurashtra State and Kutch State as per the provisions in the Recruitment Rules of the respective State.

14.0. The Secretary, P.W.D. after hearing the case in person on 3-10-72, has been convinced about the illegality of these rules to operate the *inter-se* seniority and after examining the provisions in the rules and the statutes for the allocated servants, has recommended G.A.D. for issue of orders to decide the *inter-se* seniority as per dates of respective eligibility.

15.0. If the issue be not decided as per the proposals made by the Secretary, P.W.D., it would affect the aggrieved Officers of ~~Ex-Saurashtra~~ and Kutch State harshly, and the actions of the Government not to decide the issue may prove to be illegal and against the provisions in Statutory Rules and the Statutory Acts, and against the Constitution of India.

APPENDIX III

(See para 3.4 of the Report)

[Parawise comments of Government of Maharashtra on points raised in representation re. fixation of seniority of Deputy Engineers in P.W.D. of Gujarat State.]

Para-1

On formation of the bigger bilingual Bombay State on 1-11-1956, the P.W.D. Overseers (Graduates) of the Saurashtra State were allocated to the new State of Bombay.

No remarks.

Para-2

The transfer of these Overseers to the new State was under statute of Sec. 115-(7) of the S.R. Act 1956 and as per provisions in this Act their service conditions to be regulated not at disadvantage to the provisions in the Saurashtra Civil Service classification and recruitment Rules 1956. These rules are statutory rules.

No remarks.

Para-3

The Saurashtra Rules 1956, provides that the graduates Overseers become eligible for promotion to the post of Deputy Engineers after experience of 2 years, whereas in the old Bombay State the eligibility for promotion was 3 years.

Please see remarks against para-4.

Para-4

The Government of Bilingual Bombay vide their No. RTR 1958/37518-D dt. 29-11-58 issued orders to operate the recruitment rules of the respective States to be operative till the unified rules were framed by the Bilingual Bombay State till the promotions of the aggrieved officers, no unified rules were framed.

The Circular letter dated 29-11-58 lays down that pending unification of Recruitment Rules in the force in former M.P. and other States, recruitment to the posts and services in the various component parts of the State should be regulated according to the rules framed by the former Governments concerned.

Para-3 of Circular letter dated 20-11-58 would apply only to the

recruitment to those posts which was till then being made at the Zonal level. In the case of the post of Deputy Engineer, recruitment (i.e., by promotion in the present case) was to be done at the State level Hence the orders contained in Government letter dated 29-11-58 are not applicable to the promotion to the posts of Deputy Engineers, as this post belong to Statewise cadre and recruitment either by nomination or promotion of personnel belonging to Class-III is to be done at Government level only. Hence the question applying the Saurashtra Rules does not arise.

Para-5.

The allocated graduate Overseers of the ex-Saurashtra State were promoted to the post of Deputy Engineers in times of Bigger Bombay State. Their promotion was given by the orders of the Superintending Engineer, Rajkot (R. & B.) Circle as per his authority delegated *vide* Department Government in P.W.D. Government Resolution No. STY1057|E dated 23-4-57. These promotions were subsequently regularised under the appropriate Government orders, and the officers are continued in the post of Deputy Engineer till today. They are allocated as Deputy Engineer to the new State of Gujarat on 1-5-60. The final allocation orders are issued by the Government of India, Ministry of Home Affairs No. 6|2|67-SR(S) dated 28-5-68. Looking to their promotions, it seems improper to consider promotions fortuitous.

Replying on the orders contained in Government Resolution No. PWD No. STY-1056-E91) dated 23-4-57 regarding appointment of coordinating authorities in the merged areas, it is sought to make out that the promotions of Overseers to the post of Deputy Engineers who were declared as Co-ordinating authorities were regular and would not be fortuitous. The position in this respect is as follows:

With a view to equalising the chances of confirmation and promotions to Overseers belonging to the former P.W.D.. but working in different wings and different Circles, orders were issued for maintaining two Zonal lists, one for Maharashtra and other for Gujarat (including Saurashtra and Kutch) region. The two zonal were comprising of the same areas as were to form Gujarat and Maharashtra as a result of bifurcation of ex-State of Bombay which was then imminent. For promotion to the post of Deputy Engineer which was a State-wise cadre, it was necessary to prepare Select List of Overseers

fit to be promoted in consultation with the State Public Service Commission.

For the purpose of drawing up combined Select List of Overseers as aforesaid it was necessary to draw up a combined Seniority List. Orders to that effect were issued in Government Resolution dated 26-4-60. The basis of drawing up a combined seniority list for each group of region viz. Maharashtra and Gujarat separately and preparing a Statewise Select list separately therefrom was a colossal task and a complicated one. Before re-organisation of the State of Bombay on 1-5-60, a Statewise Select List of Overseers who were fit to be Deputy Engineer could not be prepared. The Government of Gujarat was, therefore, requested to finalise the seniority list in respect of Deputy Engineers allocated to new Gujarat State who were promoted between 1-11-56 to 30-4-60. It was upto the Government of Gujarat to finalise the seniority list on the basis of the provisional seniority list which was issued under the Circular Memo, Irrigation and Power Department, dated 10-5-1964 and thereafter to prepare a Statewide Select List. The cadre of Deputy Engineers being a Statewide cadre, promotion to the post from Cl. III personnel had necessarily to be ordered by the State Government in consultation with the Public Service Commission. The delegation to Superintending Engineers who were appointed as coordinating officer under the Government Resolution dated 23-4-57, could not have been, in any case, an absolute delegation. Such promotions ordered by Superintending Engineers must necessarily be subject to the eventual drawing up of Select List and ordering promotions with the concurrence of the Pub-

lic Service Commission. The contention that the promotions of Deputy Engineers were regular and were not fortuitous is therefore not accepted.

Para-6

The Government *vide* Govt. Resolution No. SPC/70-E. dated 11-8-70 has issued the provisional Gujarat list of the officiating Deputy Engineer as on 30-4-1960. This list shows the positions of these aggrieved Deputy Engineers *vide* Appendix 'C'. Even though aggrieved officers are allocated as Deputy Engineer from the Bombay State their promotion to the post of Deputy Engineer has been considered as fortuitous, whereas the officers of the Ex-Bombay State promoted as Deputy Engineer after 1-5-1960 are included in Appendix 'A' of the said Government Resolution dated 11-8-1970 considering as if they are promoted before 30-4-1960. This gradation list is prepared considering 3 years' service as eligibility for promotion to the post of Deputy Engineers.

Para-7

The Officers in appendix-'C' of Government Resolution dated 11-8-1970 have submitted their representations individually and jointly for fixing their and seniority at right place. They have also represented in person. It is said that their representation are not settled so far.

Pertains to Government of Gujarat.

Para-8

The Government of Gujarat *vide* General Administration Department Circular N. JTP/1170/K. dated 20-3-1970, has issued orders that the eligibility and the qualifications for the promotion is the condition of service. As per directives in this L.R., the Seny. of officers allocated from ex-Saurashtra State have claimed seniority in the post of Deputy Engineer considering their eligibility after 2 years service as Graduate Overseer's service as eli-

Pertains to Government of Gujarat.

gibility is as per the provisions in former Bombay State Rules before 31-10-1950.

Para-9

The Seniority of these Deputy Engineers is not yet decided and as such their claim for the promotion to the post of Ex-Engineer is likely to be affected.

Pertains to Government of Gujarat.

Para-10

The services of the allocated servants of the Ex-Saurashtra State is protected *vide* the provisions in S.R. Act 1956 and the B.R. Act 1960. The claims of the Deputy Engineer of the Saurashtra region is as per the provisions in the rules of the day and has force of statutory Act.

The S.R. Act and B.R. Act have not put any restriction on the successor State Government to frame rules, in relation to its servants, regulating their appointment, seniority, confirmation and promotion. The service conditions relating to pay, seniority etc., on 1-11-56 were protected.

Para-11

The gradatio list of the Officiating Deputy Engineer published *vide* dated 11-8-1970 is provisional and so the same is yet to be settled finally considering the claims of the aggrieved Officers. The gradation list is now to be finalised on the basis of positions as per respective eligibility.

No remarks, since this pertains to Government of Gujarat.

Para-12

Considering the above facts, the aggrieved Officers may be considered for seniority at right place and their claims for the promotion in the posts of Executive Engineer may be entertained.

No remarks, since this pertains to Government of Gujarat.

Para-13

Thus, a discrimination is created in deciding inter seniority of officiating Deputy Engineers promoted from the lists of allocated overseers of Ex-Bombay State, Saurashtra State and Kutch State as per the provisions in the recruitment rules of the respective State.

No remarks. —do—

Para-14

The Secretary, P.W.D. after hearing the case in persons on 3-10-1972, has been convinced about the illegality of this rule to operate *inter-se* seniority and after examining

No remarks, —do—

the provisions in the rules and the statutes for the allocated servants, has recommended G.A.D. for issue of orders to decide the *inter-se* seniority as per dates of respective eligibility.

Para-14

If the issue be not decided as per the proposals made by the Secretary, P.W.D., it would effect the aggrieved Officers of Ex-Saurashtra and Kutch State harshly, and the actions of the Government **no to** decide the issue may prove to be illegal and against the provisions in statutory Rules and the Statutory Acts, and against the Constitution of India.

have come to know that some grievances regarding seniority prevail amongst the Deputy Engineers of Public Works Department of Gujarat State, who were recruited as Overseers (Graduate) in Ex-Saurashtra State, Kutch State, and the Amereli Area of Ex-Bombay State. They were under Saurashtra Zone in bigger Bombay State. On formation of bigger bilingual Bombay State on 1-11-56, these Public Works Department Graduate Overseers of the Saurashtra State were allocated and absorbed as such to the new State, under the Provisions of Statute 115 of S.R. Act, 1956. These posts were identical in pay scales and positions to those of Bombay State and as such they were equated to Overseer's posts of Bombay State, *vide* Government of Bombay P. & S., Department G.R. No. SR|INT-1057-V, dated 9th December, 1957.

These overseers were promoted as Deputy Engineers between 1-11-56 to 30-4-60, by the Bombay State and they are further allocated and absorbed as Deputy Engineers in Gujarat State, on 1st May, 1960. This allocation was finally decided *vide* Government of India Ministry of Home Affairs Orders No. 6|2|67-SR (S) dated the 28th May, 1968.

No remarks, since this pertains to Government of Gujarat.

No remarks, since this pertains to Government of Gujarat.

No remarks.

As per Government of Bombay P. & S. Department letter number RTR/058/87508-D. dated the 29th November, 1958, the recruitment rules of old Bombay State were not applicable to the area other than that of old Bombay State. Accordingly the posts and Services in old Saurashtra area were being regulated in accordance with the Saurashtra Civil Service Classification and Recruitment Rules 1956. These statutory rules were issued under Art. 309 by the Rajpramukh of Saurashtra State. As the statutory unified recruitment rules are not yet framed either by Bombay State and the Services of these Gujarat State, Officers are still governed by Saurashtra rules 1956, or even if the unified statutory rules be framed, the services conditions of these allocated servants cannot be varied to their disadvantage by any provisions in new rules, because their services are protected under Art. 115 of S.R. Act, 1956 and Article 81 of B.R. Act, 1960.

The orders contained in P. & S.D. letter No. RTR1058/81518-D dated 29-11-58 which have been quoted in support of the contention that the rules of the old Bombay State were not applicable to the Overseers of the Old Saurashtra State and that they were governed by the Saurashtra Civil Services qualification and Recruitment rules 1956, do not support such a plea, when correctly interpreted. This letter lays down that pending unification of recruitment rules in force informed M.P. and other States recruitment to the posts and services in the various component parts of the State should be regulated according to the rules framed by the former Governments concerned; that the B.C.S. qualification and Recruitment rules are not therefore applicable to the post and services in areas other than those of the old Bombay State. Thus these orders apply to posts and services recruitment to which was expected to be ordered within the component parts of the State that into say by the regional authority or the officers in the respective component parts of the State.

These orders can not be construed as being applicable to the posts and services, recruitment to which is the normal functions of the State Government and is to be done at the Government level only. The post of Deputy Engineers belong to the State-wise cadre and recruitment either by nomination or by promotion of personnel belonging to Class III is to be done at the Government level only. These orders therefore do not support the plea that the Overseers in the ex-Saurashtra were governed by the Sau-

cruitment rules 1956 only and not by the rules of ex-Bombay is so far as promotion to the cadre of Deputy Engineers is concerned. The contention that whereas the Saurashtra Rules of 1956 were issued in exercise of the powers conferred under Article 309 of the constitution and subsequent administrative rules framed by the Bigger Bilingual Bombay State or Maharashtra State or the Gujarat State can not be made applicable, to the allocated Government servant from the Saurashtra State, has no legal basis. The S. R. Act and the B.R. Act have not put any restriction on the successor State Government to frame rules, in relation to its servants regulating their appointment, seniority, confirmation, promotion. The service conditions relating to pay, seniority etc., as on 1-11-56 were protected.

These Officers have submitted representations against the impugned gradation lists, to the authorities of Gujarat State. As the matter pertains to the re-organisation of States on 1-11-1956 they have also sent the appeal to the Central Advisory Committee, Ministry of Home Affairs, some time in September, 1972. The principles for amalgamation of Seniority of various Zones in Gujarat are to be decided by the Central Government as per provisions in S.R. Act, 1956.

Pertains to Government of Gujarat.

The principles of Seniority of Graduate Overseers with advanced deemed date in case of Overseers of Old Bombay area and the date of appointment in case of Overseers of Ex-Saurashtra and Kutch regions has created a serious anomaly amongst Graduate Oversees on amalgamation. The Overseers of Old Bombay State are given the deemed date of date back of their school days, and consequently the Saurashtra Civil qualification and re-

The rules framed by the State Government for drawing up a combined seniority list of Overseers in which the equitable principles of assigning deemed dates as laid down in the Government Resolution dated 3-2-1960 was adopted were applicable uniformly to all Government servants. The method of assigning deemed date is equitable and judicious. Under this rule while the inter-se seniority of the former state

effect on similarly situated graduate Overseers of Saurashtra and Kutch area is that they are considered for Junior.

As stated in the note the seniority of Graduate Overseers of Saurashtra Kutch area is adversely effected by Maharashtra Government Circular dated 10th June, 1964, which requires to be rectified by general or special orders, to settle their claim in fair and equitable conditions as provided in S.R. Act, 1956.

was protected, the benefit of earlier date of appointment could be availed of by only one senior most person from the particular State. No fictitious dates were introduced and the deemed dates were an equitable contrivance to ensure that the *inter-se* seniority in the former States were protected and that the seniority was fixed as far as practicable according to the length of service, had the appointments in the former States been in order of the seniorities in those States. The deemed dates are the actual dates of appointments of officers from the States and arranged according to the seniority of the officers from each former State taken separately i.e., the earlier date of appointment being assigned as "deemed date" to senior most overseer, the second earliest date going to the next Overseer in seniority and so on. After this was done, for each former State group of Overseers separately, the various groups could be integrated in a running list and the officers took place in that list on the basis of their deemed date. Under this Rule a Junior Overseer exchanged his date of appointment with that of one of his seniors. Thus while one Overseer from a State benefited from the earlier date of his junior, the junior had to take the liability of the subsequent date of his senior from that State. All this was done within each former State group and as such the question of one State group benefiting or suffering at the hands of another group does not arise. The allegation of discrimination caused by the method of deemed dates has no justifiable basis. Although the method of deemed dates adopted has generally resulted in earlier deemed dates to graduates of

Bombay State, it has also generally resulted in assignment of deemed dates about 5 years later than the date of appointment to non-graduates of Bombay State; as against this, diploma holders of Saurashtra State have at a time got more than 7 to 8 years credit by assigning of deemed dates. The allegation that the method of deemed dates operated against ex-Saurashtra and Kutch Overseers as a class, is therefore not borne out from the facts. There were divergent methods of fixing seniority of graduate Overseers in Saurashtra and Bombay State. The A.G.S. Rules which were applicable to all the services did not provide for fixing of seniority with reference to educational qualification; not such a provision could be made in the rules evolved by the State Government for fixation of seniority of Overseers, since the same would have been inconsistent with the general decision taken by the State Government in fixing the seniority of allocated Government servants on the basis of length of service put in the post of absorption as on 31-10-56.

On such circumstances, condition has been created that their promotions given by the Bombay State before 30th April, 1960; as Deputy Engineer is now considered as forfeituous by Gujarat State, and the Overseers promoted by the Gujarat State after 1st May, 1960, are considered senior to them considering as if they would have been promoted before 30-4-1960. These seniority changes are made as per provisions in the rules of pre-organised Bombay State, which are not applicable to these Officers. The brief note of the case is attached herewith.

The seniority in the post of the Deputy Engineer, on basis of the eligibility and qualifications for promotion need also consideration as

The promotions made during 1-11-56 to 30-4-60 by the Coordinating Superintending Engineers could only be subject to the preparation of the combined Select list for the entire region of Gujarat or Maharashtra, as the case may be, and subject to the concurrence of the respective P.S.C.

Pertains to Government of Gujarat.

to the same post. Though the claims there is no rules to operate seniority in post of Deputy Engineer, when the Overseers allocated from various States are promoted to the post of Deputy Director as per rules of respective State. As laid down in Gujarat Government G.A.D. Circular No. JTP|1170|K. dated the 20th March, 1970, the eligibility and qualifications for promotions are conditions of service, which cannot be varied to the disadvantage of allocated servants. The statutory Rules of Saurashtra provides 2 years service for Graduate Overseers for promotion to the post of Deputy Engineer, whereas the administrative rules of Old Bombay State provides 3 years service for Graduate Overseers for the promotion to the same post. Though the claims of the Saurashtra Officers for proper seniority rank is based on the valied Rules, their claims is not considered fairly, but contrarily they are placed to a Junior rank, as per provisions in preorganised Bombay Rules which are not applicable to them.

The aggrieved officers are now stagnating in the post of Deputy Engineers since about 15 years, and their Juniors who joined services after them are already promoted to the post of Executive Engineer superceeding their claims. They all have represented to the authorities of Gujarat State, Maharashtra State; and the Ministry of Home Affairs, Government of India. Their representations have remained unsettled for more than 2-1/2 years and they suffer in seniority, confirmations to the superior posts.

I am therefore to request you to kindly move the Ministry of Home Affairs, Government of India and also the State Government authorities of Maharashtra and Gujarat as

the claim for seniority relates to the date back 1-11-1956. will be thankful if the Government of India, Ministry of Home Affairs is expedited to settle the representations and the Government orders in the matter is intimated to me early.

APPENDIX IV

(See para 5.6 of the Report)

Statement made by Shri R. K. Khadilkar, Minister of Health and Family Planning in the Lok Sabha on 29th August, 1973 regarding the Guru Gobind Singh Medical College, Faridabad.

Sir,

In the statement I made in this House on 27th April, 1973, I informed the Hon'ble Members that the Chief Minister of Punjab was considering the constitution of a new Trust which could undertake the work of shifting the college from Faridabad to some place in Punjab and running it on appropriate lines.

2. I am happy to inform the House that a new Trust called the "Guru Gobind Singh Educational Trust" has since been registered in Punjab for this purpose with Giani Zail Singh, Chief Minister, Punjab as Chairman and Shri Sat Pal Kapur, M.P. as Secretary.

3. In a communication dated August 27, 1973 received from the Secretary of the Trust it has stated that the new Trust has decided to shift this college to Faridkot and that the college would start functioning on 1st November, 1973.

APPENDIX V

(See para 6.2 of the Report)

[Representation re. grievances and demands of Railwaymen]

SOUTH EASTERN RAILWAYS UNION

Regd. No. 3580

Affiliated to All India Railwaymen's
Federation

BONDAMUNDA BRANCH

Union Buildings

P. O. Bondamunda

Dist. Sundargarh (Orissa)

No. MU|BNDM|R-ORG|72|90

Central Office:

UNION BUILDINGS

Kharida, Kharagpur (W.B.)

Dated 9th October, 1972.

Memorandum submitted by the South Eastern Railwaymen's Union/Bondamunda addressed to the honourable Members of Parliament visiting Bondamunda Yard on 9th October, 1972.

Dear Sirs,

We, the Railwaymen of Bondamunda welcome your visit here and take this opportunity to apprise you the miserable plight of the Railwaymen caused by the apathetic policy of the Central Government as well as the Railway Administration.

We urge upon you to use your good offices to ameliorate the most severe causes of our sufferings which are narrated below:—

(1) BONUS TO THE RAILWAYMEN:

The outrageous decision of the Govt. of India to exclude the Railwaymen and other industrial workers in the Central Government Sector from payment of bonus, has noted by the Railwaymen with indignation. The classification of the Railwaymen as Departmental Employees is designed to outcast the workers of this biggest organised industry from the mainstream of the working class of the country.

So, we demand immediate grant of 8.33 per cent Bonus to the Railwaymen to avoid future struggle of them.

(2) CREATION OF SEPARATE WAGE-BOARD FOR RAILWAYMEN:

Being the biggest Public Sector Organisation the Railwaymen strongly demand for a separate wage board as demanded by the M.P.s of Lok Sabha, as the Railwaymen are getting lowest pay in comparison to other Central Govt. employees.

(3) CHECK THE PRICE-RISE:

The Railwaymen are economically so poor that at present the soaring price-rise has completely eaten up their purchasing power.

The majority of the Railwaymen are being in half-starvation as they cannot afford to buy the essential commodities required for them.

The Union fears that the Railwaymen will surely die if the present spate of price rise is not checked by the Govt. of India.

So, we demand that immediate steps should be taken so that the Railwaymen may be saved.

(4) SECURITY OF JOBS OF RAILWAYMEN:

The Railwaymen are so insecured that their services depend upon the whims of the Railway-Officials who used to give threat of discharge to Railwaymen.

The Union feels that the Railwaymen's services should be protected against the Railway-Officials' whims by passing proper legislation.

(5) SCRAPPING OF ESSENTIAL SERVICES MAINTENANCE LAWS:

The Union strongly resents against the anti-labour policy of the Government which has taken away the fundamental "Right to Strike" of the workers.

So, we urge upon you to impress upon the Govt. to scrap the Black Laws.

(6) ANTI-LABOUR POLICY OF THE RAILWAY ADMINISTRATION:

Railway Staff are mostly tortured by the Railway Bureaucrats as there are lots of discrepancies in respect of their Seniorities, promotions, confirmations, increments and what-nots.

Also the Union Officials of organised labour are harassed frequently by threats of victimisation issued through Major Penalty Charge-sheets.

So, the Union strongly resent against the anti-labour attitude of the Railway Bureaucrats and wish to be free from the unnecessary harassments meted out to the Railwaymen and Trade Union activities as per instance, 12 Union Office-Bearers of Khurda Road and 1 Office-Bearer of Bondamunda (D.C. Chakraborty) are being subjected to Police Warrants and Major Penalty Charge-sheets respectively by tyrant Railway Officers.

(7) ABOLITION OF CASUAL LABOUR SYSTEM:

The Organised labour strongly feels against the feudal policy of dividing the labour as Casual and the Regular.

So, we demand that the present casual labour system must be abolished by absorbing all the casual labour on regular jobs.

(8) ACUTE SHORTAGE OF ACCOMMODATION OF RAILWAYMEN AT BONDAMUNDA:

It is a pity that out of 7,000 Railway employees, the Railway Administration has provided only 2,400 Quarters at Bondamunda leaving the majority Railwaymen un-housed.

The problem is insoluble for the employees themselves since no rented private accommodation is available here.

Therefore, we demand that everybody should be housed which is professed by socialistic States as ours.

(9) INADEQUATE HOSPITAL FACILITIES:

When the Hospital facility was first provided here, it was a "Health Unit" and the Building was constructed for "Health Unit" only and later on it was made a "Hospital" without providing any extra facilities than what was provided earlier.

Thus being an ill-equipped and substandard Hospital, it is unable to cater the 40,000 Railwaymen and their relatives. Although the attention of the G.M./SER/GRC, DS/SER/CKP and also CMO/SER/GRC at BNDM were drawn to this subject *vide* this Union's Memorandum Nos. R/MU/ORG/71 Dt. 6-10-71, MU/BNDM/R-ORG/72/79 dt. 25-7-72 and MU/BNDM/R-ORG/72/88 Dt. 24-9-72 respectively, no action has yet been taken.

As such Union's demands the Hospital facilities should be adequately enhanced in respect of Beds, Doctors and Staff with sufficient standard medicines and modern surgical facilities along-with conveyance for carrying patients.

(10) EDUCATIONAL FACILITIES:

The administration should immediately arrange to the extension and re-modification of the present Higher Secondary School Building with adequate teaching staff, furniture and scientific equipments as the existing facilities are quite insufficient for about 1800 students studying in two shifts.

The Mixed Primary School having a strength of 1200 students has no school building of its own but is housed in a desolate market building which requires sufficient extension for ever-increasing students.

Similarly, TTP School in Loco Colony which is having a strength of 700 to 800 students is in such a dirty condition even the goats and dogs hesitate to enter in that.

Therefore, we demand proper educational facilities for sons/relatives of the Railwaymen by providing adequate number of teachers alongwith accommodation, Library, Laboratory and Games and Sports facilities.

(11) PROVISION OF STATION BUILDINGS AND PUBLIC BOOKING FACILITIES:

The 7,000 Railwaymen and their relatives are upto now denied of getting the facilities of travelling by trains to and from Bondamunda which should be given to us as citizens of India by constructing a Central Station Buildings both the settlement with adequate passenger amenities, Booking Office and proper approach to the Station Buildings.

(12) PROVISION OF COMMUNITY TAPS:

A large number of Railwaymen are residing in their self-made huts having no water facilities;

The Union demands that they should be supplied with sufficient drinking water by the Administration.

(13) CLEANLINESS OF THE COLONIES:

Railwaymen suffer from ill-health due to un-hygienic atmosphere of the Railway colonies.

Immediate steps should be taken by the Administration for maintaining the cleanliness of the colonies.

(14) TARRING OF ROADS IN THE RAILWAY COLONIES AT BONDAMUNDA:

Every year though thousands of rupees are spent for maintaining the Roads of the Colonies but yet the Roads become muddy in Rainy Seasons which causes hardships.

Railwaymen and money would be saved in the long if the Roads to the Yards and Colonies are tarred.

(15) REMOVAL OF POLICE OUT-POST FROM THE RAILWAY COLONY:

Railwaymen and even women are often harassed, assaulted and disturbed by Police. Recently a woman was seriously beaten by Police and hospitalised.

Moreover, the Policemen are occupying about 10 Railway Quarters, which should be vacated for the Railwaymen as there is acute shortage of accommodation.

So, the Union strongly demands that the Police Out-Post be shifted from Railway Colony to the site kept vacant by the Railway Administration (nearby High School) so that the Police excesses and atrocities would not be there on the innocent Railwaymen.

An early favourable action on the above subjects will be highly appreciable.

Thanking you,

Yours faithfully,

Sd/-

Branch Secretary,

S.E. Rly. Men's Union, Bondamunda.

APPENDIX VI

(See para 6.3 of the Report)

[Factual note of the Ministry of Railways (Railway Board) on the representation regarding grievances and demands of Railwaymen.]

1. Payment of Bonus to Railwaymen:

The payment of bonus to industrial workers is regulated by the Payment of Bonus Act, 1965. The Act does not apply to Government Departmental Undertakings (including the Railways).

The Railways discharge a public function and their expenditure is met from the Consolidated Fund of India. Their financial resources for development are also borne by Government alone. Further, pay scales of Railway staff have been decided for over 2 decades with reference to the recommendations of Pay Commission. Because of these considerations, departmentally run undertakings of Government including the Railways have been kept outside the scope of the Bonus Scheme. In any case, the matter is not one to be considered independently by the Ministry of Railways.

2. Creation of separate Wage Board for Railwaymen:

The question of desirability or otherwise of setting up of a separate Wage Board or a Panel within the Third Pay Commission for Railway employees was considered by the Government and it was held that it would not be advisable to make a sectoral approach. The National Commission on Labour had also not been in favour of such an approach.

There have been two earlier occasions for appointment of Pay Commissions to inquire into the emoluments and condition of service of Central Government employees. On both the occasions the emoluments and conditions of service of Railway servants were considered by the same Pay Commission which was appointed to inquire into these matters concerning Central Government servants.

The Second Pay Commission, after taking all relevant factors into consideration, had examined, in detail, and recommended pay scales for major categories of staff on Indian Railways. The

Commission expected that with their specific recommendations about the important categories, the allocation of the remaining categories to the new pay scales would not present any serious difficulty. Accordingly, the then existing prescribed scales of pay applicable to various categories of staff were equated to the corresponding authorised scales of pay recommended by the Second Pay Commission for important categories. In the circumstances, it is not correct to say that the Railwaymen are getting the lowest pay in comparison to other Central Government Employees.

The Report of the Third Pay Commission is at present under Government's consideration.

3. *Check in Price Rise:*

The rise in Prices of commodities is a national phenomenon and the Ministry of Railways have no control over it.

4 and 6. *Security of jobs of Railwaymen:*

Anti-labour Policy of the Railway Administration:

The S.E. Railwaymen's grievances is that the services of railwaymen are insecure and depend upon the whims of Railway officials. The Union have also complained of the anti-labour policy of the Railway Administration. These complaints are vague and of general nature.

The grievances of staff coming from any source, including individual representations or forwarded by unrecognised Unions, receive proper attention. Besides, the problems of staff are also represented by the recognised Unions and Federations at various levels and receive due consideration. The Railway Administration will no doubt take necessary action if specific cases are brought to the notice of appropriate authorities by the Railwaymen's Union.

5. *Scrapping of Essential Service Maintenance Laws:*

The Essential Service Maintenance Act, 1968 which had a life of 3 years, expired on 28th December, 1971.

7. *Abolition of Casual Labour System:*

About 3.5 lakhs of casual labourers are working on Railways. Of these, about 1 lakh are employed on projects and the rest (about 2.5 lakhs) on works other than projects.

Casual Labourers are engaged in a large number of construction/projects as also in connection with works which are seasonal, intermittent or sporadic or extend over short periods. They are recruited locally in the area where the work has to be undertaken. The very nature of employment of casual labourers is such that they have to be remunerated on daily wages. Regular railway employees cannot be employed for undertaking such works, keeping in view the varied location of the works and the ultimate requirement of only a fraction of staff for maintenance of the assets created by such works. Such staff are, therefore, recruited on casual terms and are not treated as regular railway servants. Consequently, the conditions applicable to permanent and temporary railway servants do not apply to such labourers. They are engaged with the specific understanding that they would be liable to be discharged on completion of the works for which they had been engaged.

Casual labourers who are governed by the Minimum Wages Act are remunerated in accordance with the provisions of that Act and those who are not governed by the aforesaid Act are remunerated on the basis of daily rates ascertained from the local authorities or the State Governments concerned. At the instance of the National Federation of Indian Railwaymen, one of their demands that Casual Labourers should be paid wages at the rate of 1/30th of the minimum of the time scale for the corresponding category of staff in regular employment in the Railways plus appropriate Dearness Allowance has been referred to the Railway Labour Tribunal, 1969. The report of the Tribunal has since been received and is under examination.

Casual labourers who put in four months continuous service on works other than Projects are afforded temporary status whereby they become entitled to all the rights and privileges admissible to temporary railway servants including payment of wages in regular time scales. Casual labourers employed on Construction/Projects, however, are not entitled to temporary status after six months service. It has to be emphasised that Project work is not connected with day-to-day maintenance work on Railways but is intended to provide large scale additional facilities to improve the carrying capacity of the Railways like construction of new lines and bridges, restoration of dismantled lines etc. For maintenance of the assets created by such works only a fraction of staff compared to construction stage is needed. As it is known that bulk of such labourers

will not be required for maintenance works after completion of the Project, they are specifically engaged and continued on casual terms for the entire duration of the Project.

Although there is no obligation to offer employment to Casual Labourers on completion of works, all possible efforts are made to provide them with alternative employment to the maximum extent possible. They are considered not only against requirements of labour for new works but also for employment against regular Class IV posts. However, their absorption against regular posts is not automatic. They have to apply in response to Employment Notices and their suitability for such absorption is adjudged through a process of screening.

While utmost consideration is given to casual labourers, the Railways are handicapped by limited potentials for absorption in regular cadres in relation to the large force of casual labourers—those currently on the rolls as well as those already discharged on completion of works—constantly asking for permanent absorption. Even against requirements of casual labourers in alternative works in progress elsewhere, it is not possible to ensure that all surplus casual labourers are absorbed no sooner they are rendered surplus as the absorbing potentials vary with the quantum of work fluctuating from time to time. Therefore, such of them as cannot be absorbed in regular railway service or in alternative works have to be discharged from service. The law provides for payment of compensation in certain conditions and this provision is being complied with in all cases.

Hitherto casual labourers were considered alongwith outsiders, for recruitment to regular class IV posts. They were, however, given certain concessions like relaxation in age limit, prior claim *vis-a-vis* outsiders etc. It has now been decided that entry to regular Class IV posts from outside should be temporarily banned and only casual labourers and substitutes should be considered for these posts, existing as well as those becoming available upto 31st December, 1972.

At present, the above decision is in the process of implementation. When fully implemented, the decision will go a long way to absorb large numbers of casual labourers against regular posts.

8. *Acute shortage of accommodation of railwaymen at Bondamunda:*

The policy of the Railways has all along been to provide quarters on a programmed basis to such of the essential staff who are

likely to be called on duty at any time during day or night and also for non-essential staff at way-side stations and other places where housing presents difficulty on account of absence of private enterprise. Within this policy, quarters are constructed every year to the extent of availability of funds. Out of a total of 13.78 lakhs employees on Indian Railways, the percentage housed is about 38. While all possible efforts are continuing and allocation for construction of additional staff quarters being made every year to the maximum extent possible, the provision of quarters to all the staff will necessarily take many years, especially in view of the difficult ways and means position.

9. *Inadequate Hospital facilities:*

There is a sub-divisional hospital at Bondamunda with 2 doctors and 25 beds. The hospital serves 7383 employees. The occupancy ratio of the indoor beds is 115.2 per cent. To relieve the pressure on beds a proposal is being processed for the provision of 10 additional beds in the hospital. With the commissioning of these beds, it is considered that the hospital facilities at the Bondamunda will be adequate.

10. *Provision of School facilities:*

Accommodation

Railway High School:—There are 921 pupils on the rolls of this school—690 in Hindi section and 231 in Oriya section. At present Hindi classes are held in the Morning shift and Oriya classes in Day shift. The school building is having 24 rooms which is considered adequate provided some readjustment is made in holding of classes for both Hindi and Oriya in Morning shift and the High School classes (both Hindi and Oriya) in Day Shift.

Mixed Primary School:—This school is housed in two separate buildings about 500 metres apart. One building comprises of 5 rooms and the other a surplus Market building converted into school, consists of 8 rooms. In the first building only Telugu medium classes I to V (6 sections) are held in the Day shift. No classes are held in the morning shift. In the second building, Hindi, Oriya and Bengali medium classes I to V (23 sections) are held in both shifts. This building is, therefore, quite congested. The difficulty can be overcome by shifting either Bengali medium (6 sections) or Oriya (5 sections) classes to the first building and holding the classes in Morning shift.

The above alternative arrangements for holding classes can be made provided the students and teachers of Hindi, Oriya and Bengali groups bear a good relation with one another. This, unfortunately, is not the case at Bondamunda and for fear of breach of peace, the local authorities might not allow the above arrangement. The provision of an additional building to enable the existing arrangement being continued, will involve incurrence of substantial non-recurring expenditure which the Railways are not in a position to bear in view of its present difficult financial position. The Railway has, therefore, been asked to prevail upon the local authorities in consultation with the Advisory Committee represented by the Guardians and Union Officials to accept the alternative arrangement which is in the best interests of the students themselves.

Additional teachers:—Two posts of teachers Gr. II (Rs. 220—320) in the High School and three posts of teachers Gr. IV (Rs. 125—320) in Mixed Primary School have been created with effect from 14th September, 1972 and 12th October, 1972 respectively.

Library, Science and Sports equipment.—There is no dearth of Science, Sports equipment and Library facilities in the school.

TTP Schools in Loco Colony:

There are four Austerity type Primary Schools in the Loco Colony, Bondamunda. The Hindi medium and Telugu medium schools (Classes I to V) are being run in an Austerity type building consisting of 4 rooms and conducted in 2 shifts. Adequate arrangements exist in these schools.

The Bengali medium and Oriya medium schools are run in two Units of Type II Quarters in 2 shifts, and where adequate accommodation is not available. Sufficient accommodation can, however, be found if all the 28 sets of Desks and Benches are removed and sufficient ground sheets provided. This will be done by the Railways.

11. Provision of Station building and Public booking facilities at Bondamunda:

From the commercial point of view, provision of station building and Public booking facilities etc. is not justified. Only about 3,000 general public per year or only about 8 per day are likely to patronise the new station in addition to the Railway employees and their families who will mostly travel by PTO|CTO's etc. Opening of this station would result in a recurring financial loss of Rs. 46,133.00 p.a. to the Railways.

12. *Provision of community taps:*

The 'self-made' huts mentioned in the memorandum are actually unauthorised encroachments on railway land. However, since the supply of water to the Railway Colony itself is now regulated to 3 times a day totalling 2½ hours only, it will not be possible to supply water to these unauthorised hutments. Further, any provision of such facilities will only encourage increased encroachments.

13. *Cleanliness of the colony:*

Cleanliness of the colony is reasonably good.

14. *Tarring of roads in the Railway colonies at Bondamunda:*

The roads are being maintained in fairly good condition. Coal tarring of the roads can be taken up only when the funds position improves.

15. *Removal of Police Out-post from Railway colony:*

There was no instance of harassment or assault to Railwaymen or women by the police of Bondamunda Out-post as alleged. There is also no unauthorised occupation of Railway quarters by the police personnel at Bondamunda. This matter was discussed in the P. N. M. meeting on 8th December, 1972 and the case was dropped.

APPENDIX VII

(See para 9.3 of the Report)

Note of the Ministry of Railways (Railway Board) on the repartition claim of M/s. R. M. Kewalramani and Sons, ex-City Booking and Out Agents, ex-N. W. Railway.

In their representation dated 25th June, 1973, M/s. R. M. Kewalramani and Sons have stated that they had, after partition, preferred to the Northern Railway the following preparation claims against the Ex. N.W. Railway:—

(a) For services rendered	Rs. 96,854-7-0
(b) For refund of security despoit	Rs. 5,000-0-0
TOTAL	Rs. 1,01,854-7-0

Claims to the value of Rs. 74,146|15|3 were verified by the Pakistan Western Railway and the latest position according to the claimant was as under:—

(1) Amount verified	Rs. 74,146-15-3
(2) Recoveries effected on the advice of ex. N.W. Railway on account of	
(i) Unadjusted error sheets :	Rs. 14-7-0
(ii) Short delivery of consignment :	Rs. 308-0
(iii) Consignment lost by the contractor :	Rs. 20533-9-6
Rs. 20856-0-6	
(3) Deduction made on account of advance payment made by the Eastern Punjab (now Northern) Railway:	Rs. 21070-0-0
(4) Net amount received by the contractor :	Rs. 32220-14-9
TOTAL	Rs. 74146-15-3

The claimant disputes the recoveries of Rs. 20,856-0-6, referred to at item (2) above, and states that these deductions are arbitrary. According to the claimant the following claims are still outstanding and may be paid by the Indian Railway or else the disputes be referred to arbitration:—

(a) Claim not yet verified:	Rs. 22,707-7-9
(b) Recoveries referred to at (2) above being not acceptable:	Rs. 20,856-0-6
(c) Refund of Security Deposit :	Rs. 5 000-0-0
TOTAL	Rs. 48,563-8-3

2. The matter was previously examined in consultation with the Indian Railway concerned and the position was under:

I. (i) Claim for services rendered	Rs. 93,854-7-0
(ii) Payments made to the contractor	Rs. 53631-14-0
(iii) Claim rejected for want of details or bills which have been accepted by the contractor	Rs. 6,000-11-0
(iv) Deductions made on the advice of ex.-N.W. Railway	Rs. 59,632-9-0
(v) Amount passed by the ex. NW. Railway as per payment register	Rs. 20,855-0-6
(vi) Errors and omissions etc.	Rs. 12,565-0-0
	Rs. 801-12-9
	<u>Rs. 34,221-13-3</u>
	<u>Rs. 93,854-6-3</u>

II. *Claim for refund of Security Deposit of Rs. 5000:*

The claimant had originally stated that he had deposited Rs. 8000/- as security with the ex. N.W. Railway. Subsequently it was advised by the claimant that the correct amount of security was Rs. 5000. However, the position of this amount is that the claimant has not been able to furnish the particulars of deposit as called for by the Pakistan Western Railway. He had originally stated that the deposits were made in the form of War Bonds and Defence Saving Certificates, but he later stated that the deposit was made in cash, but has not been able to quote the number and date of the cash receipt. In view of this, unless the claim is verified by the Pakistan Railway authorities, it is not possible to do anything in the matter. The matter was being pursued with the Pakistan Railway authorities through the Central Claims Organisation (India) and the same will be taken up again when the postal communications with that country are restored.

3. Thus, while according to the Railway the entire claim of the contractor for services rendered by him on the ex. N.W. Railway, viz., Rs. 93,854|7|-, stands disposed of and the claim for refund of security deposit of Rs. 5000 is still to be verified by the Pakistan Railway authorities, the contractor, however, contends that Rs. 48,563-8-3 is due to him.

4. The claim of the contractor for Rs. 48,563-8-3 has, therefore, been looked into and the position is as under:—

(a) *Claim not yet verified*—Rs. 22,707|7|9.

The claimant had originally advised that his claim for services

rendered was for Rs. 93,854|7|- whereas the amount now mentioned by him in the representation is Rs. 96,854|7|-. The particulars for the excess amount of Rs. 3000 have not been furnished by the claimant. However, the detailed position of the claim of Rs. 93,854|7|- has been explained in para 2 above. Accordingly, no amount is pending verification with the ex. North Western Railway against this claim.

(b) *Recoveries advised by the Pakistan Western Railway on account of (a) consignment lost by the contractor Rs. 20,532|9|6, (b) Short delivery of consignment Rs. 308 and (c) Unadjusted error sheets Rs. 14|7|—(Total Rs. 20855|0|6).*

The aforesaid recoveries were advised by the P.W. Railway to the ex. E.P. Railway in 1951 while returning the claim of the contractor duly verified for Rs. 74,486|15|-, and accordingly the Northern Railway effected these recoveries while arranging the payment to the contractor. The contractor did not accept the recoveries amounting to Rs. 20,840|9|6 [item (t) and (b) above] out of the total of Rs. 20,855|0|6 for want of full particulars.

The matter regarding the withdrawal of recoveries was, therefore, pursued by the Northern Railway with the P.W. Railway. The latter Railway, however, indicated their inability to consider the question of the withdrawal of the recovery of Rs. 20,532|9|6 [item (a) above] due to non-availability of relevant records as advised by that Railway in their letter dated 27th July, 1964. With a view to examine the case on its merits, the claimant was asked by the northern Railway to produce documentary proof in support of the withdrawal of the recovery. The contractor did not furnish any proof to support his claim for withdrawal of recoveries, but only made a general statement that he has correctly handed over all the packages to the Railway staff at Karachi City station and had not received any complaint from the Railway authorities in regard to the non-delivery of the packages, and that in the absence of detailed particulars of invoice Nos., specific packages lost, and the particulars of cheque No. etc., he could not be held responsible for non-delivery, particularly as the Out-Agent was not responsible for such losses, and that such a debit, duly substantiated by relevant particulars, was required to be raised within a period of 6 months from the date of booking.

The contention of the contractor was examined by the Indian Railway concerned who stated that in view of the relevant records

not being now available with the Pakistan Western Railway it would not be possible to furnish the particulars to the contractor. In regard to the contractor's point that the Out-Agent was not responsible for such losses arising out of delivery, the agreement between the ex. N.W. Railway and the contractor provided that such losses were to be borne by the Out Agent and the Railway in the proportion of the freight earned by each from the goods and parcels in respect of which such loss or damage had been caused.

In the circumstances, the recoveries having already been advised and effected, and no records being available now either with the F.W. Railway or with the claimant to prove that the recoveries were incorrectly made, the question of any refund to the contractor does not seem to arise.

The matter regarding the other two minor amounts of Rs. 308 and Rs. 14|7|- will be further pursued with the Pakistan authorities through the Central Claims Organisation (India) when postal communications with that country are restored.

5. Regarding the claim for refund of security deposit of Rs. 5000|-, the matter is to be pursued with the Pakistan authorities through the Central Claims Organisation in India on restoration of postal communications with that country.

The services rendered by the contractor under the contract in respect of City Booking and Out Agency at Karachi were exclusively for the purposes of the Dominion of Pakistan. Therefore, under Clause 8 of the Indian Independence (Rights, Property and Liabilities) Order, 1947, the responsibility for the settlement of the contractor's claim will be that of the Dominion of Pakistan. The Government of India, however, undertook the initial liability to pay the claims but only after due verification by the appropriate authorities in Pakistan *vide* Government of India Press Communique dated 23rd May, 1948 and Press Note dated 15th May, 1955. (see Annexures I and II to Appendix VII). The payment of the contractor's dues will be arranged on receipt of the verification report from the Pakistan authorities.

As regards the Contractor's demand for arbitration, it may be stated that under Clause 8(1) (a) of the Indian Independence (Rights, Property and Liabilities) Order, 1947, any contract made on behalf of the Governor General in Council before the 15th August, 1947 for exclusive purposes of the Dominion of Pakistan shall from that day be deemed to have been made on behalf of the Dominion

of Pakistan, instead of the Governor General in Council. As stated earlier, the services rendered by the Contractor were for the exclusive purposes of the Dominion of Pakistan and therefore under Clause 8(1) (a) of the said Order the contract between the then Governor General in Council and the contractor shall be deemed to have been made on behalf of the Dominion of Pakistan. Since the present disputes and the right to demand arbitration arise under the contract with the Dominion of Pakistan, the question of the dispute being submitted for arbitration by the General Manager, Northern Railway or his nominee does not arise.

ANNEXURE—I TO APPENDIX VII

See para 5 of Appendix VII

Press Information Bureau

Government of India

PRESS COMMUNIQUE DT. 23-5-1948

CLAIMS OF UNDIVIDED GOVERNMENT OF INDIA

PROCEDURE PRESCRIBED

The Government of India have been considering for some time the question of arranging for the speedy payment of the outstanding claims in respect of supplies and services rendered to the undivided Government of India up to and before the date of partition.

2. At the time of the partition there was an arrangement between the two Dominions that each Dominion will pay the claims arising in its area subject to subsequent adjustment but a large number of claims, particularly those relating to the areas now included in Pakistan, are still outstanding due partly to disturbances in the Punjab and the large scale movement of populations and partly to the discontinuance of payments by the Pakistan Government from about the middle of last December owing to a difference of opinion between the two Governments about the liability for these payments. In order to avoid hardships to the suppliers and contractors, the Government of India, after careful consideration, have decided that they should undertake the initial liability for these payments, and recover Pakistan's share through the debt settlement. They have accordingly decided to prescribe the following procedure for the collection, check and payments of these claims:—

(a) All bills and claims in respect of supplies and services rendered to the late Government of India up to and inclusive of the 14th August, 1947 whether in the areas now in India or in Pakistan, should be submitted to the Government of India by the 1st of July, 1948 at the latest.

(b) The claims should be sent to the Officers mentioned below:—

<i>Claims relating to</i>	<i>Officer</i>
1	2
Civil Departments	Accountant General, Food Relief and Supply, Akbar Road, New Delhi.
Defence Services	Military Accountant General, Hutments Block 'F', New Delhi.

1	2
<i>Railways</i>	
N.W. Railway	. Administrative Officer, Accounts, B.P. Railway, Khyber Pass, Delhi.
B. & A. Railway	. Chief Accounts Officer E.I.R. Fairlie Place, Calcutta.
Posts & Telegraphs	. Deputy Accountant General, Posts & Telegraphs, Old Secretariat, Delhi.

These officers will tabulate the claims and arrange, where necessary, to have them checked before payment by the appropriate authorities in Pakistan.

(c) All uncashed cheques issued by the authorities mentioned in para (b) above should also be sent to the same officer as other claims.

(d) If any Bills or claims have already been submitted to the Pakistan Government or the authorities in Pakistan, a duplicate copy should be sent with particulars of the authority to whom the bill or claim was preferred and the date on which it was sent.

(e) After the bills have been duly checked, the Government of India will arrange to make payment direct to claimants residing in India. For claimants residing in Pakistan, payment will be made either by demand draft or through the Pakistan Government.

3. The Government of India have no doubt that the public will realise that the checking and payment of the outstanding claims is bound to take some time. They propose to expedite the settlement of those claims as much as possible and the public can co-operate in achieving this by sending in their bills and claims as quickly and completely as possible.

Partition Secretariat.

New Delhi, May 22/23, 1948.

ANNEXURE II TO APPENDIX VII

See para 5 of Appendix VII

PRESS NOTE DT. 15-5-1955

Claims of Evacuee contractors etc. against Government and Quasi-Government Bodies etc.

1. In order to expedite verification and payment of claims of contractors and other dues from Government departments, semi-Government and other Local Bodies in the two countries, it has (in pursuance of the decisions of Indo-Pakistan Conference held on 18-20 December, 1950) been decided that the amounts due from Government and quasi-Government bodies should not be deposited with the Custodians of Evacuee Property but such payment should be made to the evacuees after verification of the claims through the Central Claims Organisation of either country and on issue of payment authorities by it. Evacuee's dues already deposited with the Custodians will also be payable against authorisation issued by the Central Claims Organisation.

2. The two Governments have decided that besides claims in respect of salary pension, provident fund, security deposits etc. of Government servants and servants of States and Local Bodies now being processed by the Central Claims Organisation. The Organisation will hereafter process the following claims also outstanding against Government and quasi-Government bodies in the other country:—

- (i) Claims of contractors of all types (including claims against States and Local bodies) for supplies and services rendered for refund of earnest money, securities etc., and refund of deposits on account of sale of surplus stores.
- (ii) Securities deposited by claimants on account of Ration shops, Food Grain Syndicates, Liquor shops, etc.
- (iii) Securities deposited by treasury contractors.
- (iv) Claims of evacuees in respect of court deposits, deposits of minors and others under the guardianship of courts and deposits lying with the Courts of Wards and the Manager, Encumbered Estates, in 'non-mass migration' areas and also in 'mass migration' areas where one or more parties interested in such deposits is/are non-evacuee/s.

- (v) Determined deposits of claimants in Courts and decree claims in favour of claimants where the money is payable by or lying with Govt. or quasi-Govt. bodies.
- (vi) Dues of claimants payable by Co-operative institutions including Railway Co-operative Societies and also societies in undivided Bengal and Assam, if they were catering for Central Government employees only. Claims against Co-operative Societies in undivided Bengal and Assam and in areas covered by the Banking Agreement of April, 1949 (except those mentioned above) will be settled separately under existing arrangements between the divided Provinces of Bengal and Punjab.
- (vii) Dues (including pay, leave salary and Provident Fund etc.) of University employees and dues of examiners payable by Universities including the Punjab University, Lahore and Jamia Millia, Delhi.
- (viii) Refund of examination fees due to claimants from Universities.
- (ix) Revenue deposits payable to claimants.
- (x) Scholarships due to students.
- (xi) Provident Fund dues and pension claims of ex-employees of the Reserve Bank of India.
- (xii) Claims for compensation to shareholders of the Reserve Bank of India.
- (xiii) Compensation for Joint Stock Company property acquired by Government and quasi-Government bodies in Pakistan.
- (xiv) Claims for refund of the value of defective and damaged India Notes.

3. In regard to claims of contractors of all types (against the undivided Government of India for supplies and services rendered, for refund of earnest money, securities etc., and refund of deposits on account of sale of surplus stores) it is not necessary to file fresh claims where such claims have already been submitted by the contractors to the authorities concerned in India in accordance with the Government of India Press Communique of May 22/23, 1948. In cases where verification has already been completed, payment authorities will be issued forthwith through the Central Claims Organisation. In cases where information is lacking further enquiries will be made by the Central Claims Organisation from individual applicants.

4. As regards security deposits, whether made in the form of cash, Government securities, insurance policies, postal saving certificates, savings Bank accounts, deposit and receipts of books etc., the Government of India and Pakistan have decided that the depositors should not be penalised for non-fulfilment of conditions of the contract due to migration.

5. Claims against Assam and the divided provinces of Punjab and Bengal, falling within the categories (i), (ii) and (iii) in para 2 above, will not be processed through the Central Claims Organisation. There are separate arrangements for the settlement of such claims. Payments in such cases will be made against the payment orders issued by authority appointed by the Government concerned in this behalf without the interference of the Custodians of Evacuee Property.

6. All concerned are requested to forward their claims in duplicate to the Officer-in-charge (Claims) Central Claims Organisation P Block, New Delhi by 30th September, 1955. Application form prescribed for the purpose can be obtained from the Central Claims Organisation. As there is a separate form for each item, applications for forms should clearly state the item or items in respect of which a claim or claims have to be filed. A separate application should be submitted for each individual claims.

Ministry of Rehabilitation.

New Delhi, dated the 15th May, 1955.

APPENDIX VIII

(See para 12·2 of the Report)

Representations inadmissible as petitions/representations on which the committee's intervention has procured speedy reply from the Ministries/Departments concerned meeting adequately the petitioners' points.

Sl. No.	Name and Address of the petitioner	Points raised by the petitioner	Facts perused by the Committee
1	2	3	4

*Ministry of Supply and Rehabilitation
(Department of Rehabilitation)*

1	Shri R.K. Bhatt, 25, Lawyers' Chambers, Supreme Court, New Delhi-110001.	Non-payment of arrears of pay and Allowances	Shri R. K. Bhatt has requested that he may be paid arrears of pay and allowances right from 1-1-59 to 5-5-71 and not for 36 months as decided by this Department. He has further alleged that there has been delay in the payment of arrears of pay and allowances to him. He has also requested that he may be paid interest for the period for which the payment has been delayed.
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The case of the applicant was considered in consultation with the Ministry of Law who has advised that (i) Shri Bhatt should be allowed to join duty immediately and (ii) that the period intervening between the date of termination of service and the date of re-joining duty is to be treated as duty for the reason that the order of termination of service having been declared illegal and quashed, Shri Bhatt will be deemed to be in service as if the said order was not made. The Ministry of Law had also advised that Shri Bhatt is to be paid pay and allowances for the period intervening between the date of termination of service and the date of rejoining duty having been treated as duty, subject to the law of limitation only. By virtue of the provision of Section 7 of the Limitation Act, 1963, arrears of salary can be claimed only for a period of three years before the date of the suit.

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The Government is, therefore not bound to pay arrear for any period exceeding three years preceding the date of the suit. However, as it would not be advisable for the Government to drive the employee again to a Court of Law, it would be in order to pay arrears of salary for a period of three years prior to the date of his rejoining duty after deducting the earnings by the individual during that period.

Payment of arrears of his pay and allowances on this account amounting to Rs. 12,761.30 P. was made to him on 30-3-73. As regards the applicant's allegation that there has been delay in the payment of arrears of pay and allowances it may be stated that he was required to furnish the details of his earnings during the period for which he was allowed arrears of pay etc. but he himself delayed furnishing the same in the proper form and as soon as he furnished the requisite details, necessary action was taken in the matter and payments was made to him. This being the position, his demand for payment of interest is untenable.

Parawise comments on the applicant's petition seriatim are as under :—

Para 1 : Shri R.K. Bhatt was appointed as a temporary Upper Division Clerk in the Central Claims Organisation of the Department of Rehabilitation w.e.f. 24-12-56. His services were terminated under Rule 5 of the Central Civil Services ((Temporary Services) Rules, 1949 with effect from 31-12-1958 (AN).

Paras 2,3, 4, & 5 : Shri Bhatt filed a writ petition in the High Court of Punjab and his case was ultimately decided in his favour by Division Bench of the Delhi High Court on 16-12-70. The Ministry of Law advised that Shri Bhatt may be allowed to join duty immediately and the entire intervening period may be treated as on

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duty and that he should be paid pay and allowances for the period from 15-11-58 to 31-12-58 (the period of suspension) after deduction of subsistence allowance already paid to him and that he should also be paid arrears of pay and allowances for 36 months prior to the date of his rejoining duty, to which he is legally entitled minus his earnings during the period.

Para 6 : He has accordingly been paid his dues amounting to Rs. 12,761·30 paise for the period from 6-5-68 to 5-5-71 on 30-3-73 as per details given below :—

	Rs.
Pay	7594·31
D.A.	4755·36
C.C.A.	843·75
H.R.A.	1582·04
I/R	424·84
	<hr/>
Total	15200·30
Less earnings	
(6-5-68 to 5-5-71)	1000·00
Income Tax	1439·00
	<hr/>
	12761·30
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Besides, he has been paid Rs. 120·60 for the period from 15-11-58 to 31-12-58 (the period of suspension) after deducting subsistence allowance already paid to him.

Para 7.—Regarding the petitioner's allegation that there has been delay in the payment of arrears of pay etc. to him the factual position is that he (as per letter dated 4-5-71) was required to furnish authenticated details of his earnings for the period for which he was being allowed arrears of pay etc. but he himself delayed in furnishing the same. After he submitted the necessary particulars on 7-6-72, the case was processed and sanction for payment of dues was issued on 6-3-73 and actual payment amounting to Rs. 12,761·30 was made to him on

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30-3-73. This being the position the petitioner's claim for interest is untenable.

Para 8.—The case has been further examined in consultation with the Ministry on Law who have opined that as a matter of right Shri Bhatt could claim the pay for that period for which he could enforce his claim against the Government in a Court of Law. If he was to bring an action for recovery of pay for the entire period, then except for a period of 36 months preceding the date of filing a suit, the claim for the balance would be barred by the law of limitation. However, on reconsideration, this has since been decided that his claim should not be denied only on the ground of limitation and in consultation with the ministry of Finance, necessary sanction has been issued for payment of pay and allowances for the remaining period, *viz.*, 1-1-59 to 5-5-68 also to Shri Bhatt less the amounts earned by him through employment during the relevant period and also subject to the recovery of Income Tax leviable under the Rules. Necessary action for arranging payment of these dues early is being taken and after this payment of his dues is made, no further dues would be left due to him. His full claim has, therefore been met.

Ministry of Finance (Department of Expenditure)

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| 2 | Shri Satish Kumar,
4 2, Nanakpura,
New Delhi-110021. | Extension of family pension benefit to the mentally retarded children of deceased Government servants, for life, after the death of the widow/widower of the deceased Government servants under the Civil Services (Pension) Rules, 1972. | The idea of providing family pension for life to the crippled/disabled child of a Government servant is acceptable to this Ministry in principle and action is being taken to suitably amend the Central Civil Services (Pension) Rules, 1972 in this regard. A copy of the amendment when issued will be forwarded to the Lok Sabha Secretariat for information. |
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Indian Posts and Telegraphs Department.

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|---|---|---|--|
| 3 | M/s Sri Ram Press
Pariksha Sadan, Post
Box No. 1, P.O.
Sri Ram Press, Via-
Begusarai, N. L.
Railway. | Non-Payment of value of certain V.P. articles booked at Begusarai Head Post Office and Sri Ram Press. | Uptil 2nd November, 1973, value of 201 V.P. articles out of 238 has been paid and action is being taken to settle the remaining cases. (Petitioner has been informed accordingly). |
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Ministry of Finance (Deptt. of Revenue and Insurance).

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| 4 | Smt. Maha Vidya, 8, Bank Avas, Opp. Subhash Park, Agra. | Payment of claim under LIC Policy No. 26577108 on the life of Shri Gobind Ram Nagar (deceased). | The assured Shri Gobind Ram Nagar was an employee of the State Bank of India, when he took out the policy in question for sum assured of Rs. 5,000 early in 1970. He died in June, 1971. As this was an early claim, the LIC specially investigated into the matter. The evidence gathered by the LIC shows that the assured had, shortly before taking out the policy, suffered from certain serious ailments, which necessitated his taking leave on medical grounds during the years 1968 and 1969. These facts were, however not disclosed by him in the proposal form. |
|---|---|---|---|

As the assured had suppressed facts which were material to the assumption of risk, the LIC held the policy contract to be void *ab initio* and therefore rejected the claim.

On the facts of the case, the LIC's action appears to be in order. It is, however, open to the claimant to seek redress in court.

Ministry of Works and Housing.

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| 5 | Shri K. L. Khara and other allottees of D.D.A. flats on Lawrence Road, Delhi. | Provision of certain amenities in D.D.A. flats, Lawrence Road, Delhi. | <p>Note explaining the position of the various prints raised by Shri K.L. Khara and other allottees of D.D.A. flats, Lawrence Road.</p> <ol style="list-style-type: none"> <li data-bbox="595 1146 994 1352">1. <i>Provision of ward-robos</i> :—These were not provided originally only to keep the cost of the flats low. In case the allottees desire to have ward-robos, they can provide the same at their own cost, since the cost of the flats earlier charged from them is on the basis of the actual expenditure incurred by the D.D.A. <li data-bbox="595 1361 994 1523">2. <i>Provision of doors</i> :—The D.D.A. have agreed to provide the door to the multi-purpose room and the work will be taken in hand shortly. Any other door required by the allottees can be provided by them at their own cost. <li data-bbox="595 1532 994 1605">3. <i>Construction of boundary walls for the compounds of ground floor flats</i> :—It has since been agreed |
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that the allottees of ground floor flats can enclose small portions to serve as compounds. The allottees can construct at their own cost any wall required for the purpose.

4. *Provision of iron grills to windows :-* The grills have been agreed to be provided to the windows and work on it is in progress.

5. *Removal of Malba and improvement of environment :-* The matter is being taken up with the Soaps factory for stopping the dumping of malba in the area. As the adjoining area is very low, the malba already dumped will be used for filling the depression which will be levelled and grassed.

6. *Provision of sunshades to the windows and doors :-* The sunshades were not provided to the windows as per the architectural design of the flats. It will not be possible to provide these now, at D.D.A.'s cost.

7. *Street lights along flats No. 2-8; 82-88, 90-96 :-* The work is already in progress and is expected to be completed shortly.

The flats have been sold on 'no profit-no-loss' basis. Any extra amenity which the allottees desire to have, it would be appreciated, is to be provided at the allottees, own cost after getting necessary approval from the D.D.A.

*Ministry of Works and Housing
(Directorate of Estates)*

6	Shri Sunder Lal, Retd. Naib Nazir, 96-z, Timarpur, Delhi.	Regularisation of Qr. No. 96-z Timarpur, Delhi, in the name of his son, Shri Yijay Kumar Aggarwal.	Qr. No. 96-z, Timarpur, Delhi has been regularised in the name of Shri Yijay Kumar Aggarwal son of Shri Sunder Lal, w.e.f. the 30th September, 1972.
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*Ministry of Railways (Railway Board)
"M/s. Indian Gum Industries Ltd.)*

7	M/s. Indian Gum Industries Ltd., Shroff Bhuvan, 157, P.D.' Mello Road (Frero Rd.) Bombay-1.	Settlement of claims on account of damages by wet and shortages in Gowar bags.	Bombay in their representations, dated the 18th December, 1972 and 20th March, 1973, have raised the following issues :-
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(i) That their claims on account of damages by wet to Gowar Seeds

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are settled by Western Railway after making deduction on account of salvage value.

- (ii) That proportionate refund of freight is not allowed while settling claims for damaged goods even though the claims are payable on the basis of the market value.

The following comments are offered on these points *seriatim* :—

- (i) An assessment of damages made at the time of delivery is approximate and it normally does not represent the loss suffered by the party. The damaged portion may not be useful for a specific purpose but can be made use for other purposes and the loss suffered by the Trader is reduced to that extent. It is in consideration of this fact that the Railway deducts a certain amount from the value of damaged goods while granting compensation. The procedure is correct. The salvage value may be determined at different percentage in individual cases according to the extent and nature of damage.
- (ii) Since compensation for damage is paid at the market price prevailing at the destination and the market price includes elements such as the cost of transport, the question of separately paying the proportionate freight charges in addition to the value of damaged goods does not arise.”