

# COMMITTEE ON PETITIONS

(Eleventh Lok Sabha)

## FOURTH REPORT



*(Presented to Lok Sabha on 12-8-1997)*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*August, 1997/16 Shravana, 1919 (Saka)*

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COMPOSITION OF THE COMMITTEE ON PETITIONS  
(1996-97)

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Shri G.C. Malhotra	—	<i>Additional Secretary</i>
Shri Ram Autar Ram	—	<i>Director</i>
Smt. Veena Sharma	—	<i>Assistant Director</i>

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\*Nominated w.e.f. 7 November, 1996 *vide* Para No. 555 of Bulletin Part-II dated 7 November, 1996.

\*\*Nominated w.e.f. 7 April, 1997 *vice* Shri B.L. Sharma 'Prem' resigned from Lok Sabha on 6.3.1997.

# FOURTH REPORT OF THE COMMITTEE ON PETITIONS

(ELEVENTH 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 Fourth Report of the Committee to the House on the following matters:—

- (i) Action taken by the Government on the recommendations made by the Committee on Petitions (10th Lok Sabha) in their 20th Report on Petition from Sangli and Kolhapur Zilla Dugdha Vyavasayik Sangathana, Sangli regarding difficulties in implementing rules made under the PFA Act in respect of their Products 'Chakka and Shrikhand'.
- (ii) Action taken by the Government on the recommendations made by the Committee on Petitions (10th Lok Sabha) in their 24th Report on the Petition from Railway Contractors Labour Union, West Bengal and others for special provisions in the legislations to meet the demands of Contract Labour of Railways.
- (iii) Representation regarding reservation in promotions for the physically handicapped.
- (iv) Representation of Shri Krishan Dev Singh, Madhubani, Bihar regarding grant of Swatantrata Sainik Samman Pension.
- (v) Representation requesting for issue of appealable adjudication orders from Assistant Commissioner of Customs, Calcutta.
- (vi) Representation regarding grant of allowance to teachers of A.Y.J. National Institute for hearing handicapped, Bombay.
- (vii) Representation requesting for exempting excise duty levied on roofing tiles.

2. The Committee considered the draft Report at their sitting held on 7 August, 1997 and adopted it.

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

NEW DELHI;  
7 August, 1997  

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16 Shrawana, 1919 (Saka)

DILEEP SANGHANI,  
Chairman,  
Committee on Petitions.

**ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (TENTH LOK SABHA) IN THEIR TWENTIETH REPORT ON PETITION FROM SANGLI AND KOLHAPUR ZILLA DUGDHA VYAVASAYIK SANGATHAN SANGLI (MAHARASHTRA) REGARDING DIFFICULTIES IN IMPLEMENTING RULES MADE UNDER THE PFA ACT IN RESPECT OF THEIR PRODUCTS "CHAKKA AND SHRIKHAND."**

1.1 The Committee on Petitions (Tenth Lok Sabha) in their Twentieth Report presented to Lok Sabha on 31 May, 1995 dealt with the Petition from Sangli and Kolhapur Zilla Dugdha Vyavasayik Sangathanu Sangli (Maharashtra) regarding difficulties in implementing Rules made under Prevention of Food Adulteration Act in respect of their products 'Chakka' and 'Shrikhand'.

1.2 Action taken notes have been received from the Government in respect of the recommendations contained in the Report. The recommendations made by the Committee and the replies furnished by the Government are given in Appendix-I.

1.3 The main recommendation of the Committee was that the recommendation of the Dairy Products Sub-Committee of the Central Committee on Food Standards should be implemented soon and the existing standards of Chakka and Shrikhand under PFA Rules, 1955 would be revised without further loss of time. In reply to the recommendation (Para No. 1.9) Government stated that the final notification amending the existing standards of Chakka and Shrikhand under Prevention of Food Adulteration (PFA) Rules, 1955 has been published *vide* GSR No. 149 (E) dated 14th March, 1997. (Appendix-II)

1.4 The Committee are happy to note that their recommendation for revision of the existing standards of Chakka and Shrikhand, under Prevention of Food Adulteration (PFA) Rules, 1955 has been accepted by the Government and the final notification amending the existing standards of Chakka and Shrikhand under Prevention of Food Adulteration (PFA) Rules, 1955 has been published by them on 14 March, 1997.

## II

### **ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS (TENTH LOK SABHA) CONTAINED IN THEIR TWENTY FOURTH REPORT ON THE PETITION NO. 36 RECEIVED FROM RAILWAY CONTRACTORS LABOUR UNION, WEST BENGAL AND OTHERS FOR SPECIAL PROVISIONS IN THE LEGISLATIONS TO MEET THE DEMANDS OF CONTRACT LABOUR OF RAILWAYS**

The Committee on Petitions (Tenth Lok Sabha) in their Twenty Fourth Report presented to Lok Sabha on 19 December, 1995 dealt with the Petition No. 36 presented to Lok Sabha on 28 April, 1994 by Shri Basudeb Acharia, MP (signed by Shri Tapan Duttg, General Secretary, Railway Contractor's Labour Union, West Bengal, 53, Acharya Jagdish Chandra Basu Road, Calcutta and others) for special provisions in the Legislations to meet the demands of Contract Labour of Railways.

2.2 Action taken notes have been received from the Ministry of Railways and Ministry of Labour in respect of recommendations contained in the Report. The recommendations made by the Committee and the replies thereto furnished by the Ministry of Railways and Ministry of Labour are given in Appendices-I and II.

2.3 The Committee will now deal with the action taken by the Government on their recommendations.

#### **Recommendation (Para Nos. 2.12, 2.13 and 2.14)**

The Committee note from the submissions made during study visit by the representatives of the Contract Labour Union, West Bengal, that the statutory minimum wages are not being paid to contract labour of Railways and the basic amenities like canteen, rest room, latrine/urinals etc. as provided under sections 20 & 21 of the Contract Labour (R&A) Act, 1970 are not being provided to them at the work place. The Committee are unhappy to note that there are instances where the contractors had left the jobs without paying wages due to the Contract Labour. And payment of wages etc. are not made in the presence of the representatives of the Railways Authorities as provided under the Act.

The Committee also note that under provisions of the Contract Labour Act, the Railways as Principal Employer is liable to ensure that the Contractors provide basic facilities to the Contract Labour at the work place. The Principal Employer is to further ensure that timely and correct wages are paid to the contract workers in the presence of their authorised

representatives. Where the contractors fail to provide them, the Principal Employer is to provide the same and expenses incurred is to be recovered from the contractor concerned.

The Committee are constrained to observe that the Railways as a Principal employer has failed to comply with their liability under the Contract Labour Act regarding provision of timely and correct wages and other basic amenities to contract labour. The Committee therefore, recommend that the Railways must exercise effectively the power under the Act to fulfil their liability as principal employer in order to prevent exploitation of Contract Labour.

#### **Reply of the Ministry of Railways**

2.4 All Zonal Railways and Production Units have been instructed to comply strictly with the provisions of Sections 20 and 21 of the Contract Labour (Regulation and Abolition) Act, 1970, to ensure that necessary arrangements are made that the Contractors provide the basic amenities as laid down in Sections 16—19 of the said Act, and also that correct and timely wages are paid to the Contract Labour.

#### **Reply of the Ministry of Labour**

2.5 The Committees observations regarding non-payment of statutory minimum wage to contract labour of Railways and about the non-provision of basic amenities like canteen, rest room/latrines/urinals etc. are being looked into. Necessary instructions have been issued to all R.L.Cs (C) especially R.L.C. (C), Calcutta and RLC (C), Asansol through CLC (C) to enforce compliance with the provisions of CL (R&A) Act, 1970. However, as per provisions of the CL (R&A) Act, 1970 it is the Railway Authorities as principal employer who have to ensure that the wages are paid to the contract labour employed by them at the prescribed minimum rates in their presence and in time and also provide the other statutory amenities like canteen, rest room, latrines/urinals etc.

#### **Recommendation (Para 2.15)**

2.6 While agreeing with the submission of the Ministry of Railways that contract labour are not railway employees and their demand for benefits and facilities at par with regular employees cannot be acceded to, the Committee hope that the Railways as a Principal Employer would consider on humanitarian grounds the demand of the petitioners for extending such medical facilities to contract labour as are being provided to Railway porters at present.

#### **Reply of the Ministry of Railways**

2.7 As per extant instructions/rules, licensed porter and members of his family are entitled to free outdoor medical treatment. Contract Labour (but not their family members) are entitled to free medical treatment



facilities in Railway Hospitals and Health Units in places where no other Hospitals, etc. are available, provided the Contractor pays the cost of diet, medicine and dressings. It is not considered desirable and feasible to further liberalise the medical facilities to Contract Labour whose number is in thousands as it would burden the railway resources to great extent and may also cause deterioration in the medical facilities available to the regular railway employees. It may be mentioned that E.S.I. is meant to help the contract workers. If necessary, they can be covered under E.S.I. Scheme.

As per instructions issued to the Zonal Railways etc. *vide* Ministry of Railways' letter No. E(LL)75/AT/CNR/1—7 dated 6.4.77, the working hours, holidays, wage rates and other conditions of work of contract labour should be the same as are allowed to the casual labour directly employed by the Railway and doing the same/similar work. Contract labour cannot be treated at par with regular employees of Railways who have to fulfil certain specified conditions for their appointment. Thus, on Railways instructions already exist to comply with the provisions of rule 25(2)(v)(a) of Contract Labour (R&A) Rules, 1971. Railway Administrations have been again advised to ensure compliance of these instructions.

#### **Recommendation (Para 2.16)**

2. The Committee note that Rule (v) of the Contract Labour (R&A) Rules, 1971 provides that in case the workmen employed by the contractor performed the same or similar kind of work as the workmen directly employed by the principal employer, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer on the same or similar kind of work. The Committee, therefore, recommend that the Railways should ensure that the provisions of Rule 25 (v) are complied with by the railway contractors and for that purpose suitable directions should be issued to all the Zonal Railways.

#### **Reply of the Ministry of Labour**

2.9 The recommendations of the Committee basically pertains to compliance with Rule 25 (v) of CL(R&A) Rules, 1971 by the Railways. However, proviso to Rule 25 (2) (v) (a) provides for references of disagreement regarding type of work for decision to CLC(C). For this purpose a petition has to be filed by contract workmen that their claim for same wages and same conditions of service for performance of same or similar nature of regular employees, has been disputed by the contractor and principal employer. One petition from Railway Contract Labour Union (WB) demanding same wages for contract workmen employed in Metro Railway, Calcutta as are paid to regular workmen has been received by CLC(C) on 3.9.1996 which is under examination.

### **Recommendations (Paras 2.17 and 2.18)**

2.10 The Committee also note that the provisions of the Workmen's Compensation Act, 1923, Maternity Benefits Act, 1961, Provident Fund and Miscellaneous Provisions Act, 1952 and E.S.I. Act, 1948 are applicable to contractors employees of the Railways. The E.S.I. Act provides for a package of social security benefits including maternity benefits. But the benefits envisaged in these laws are to be claimed by the Contractors employees in due process of procedures.

The Committee feel that since contractors employees are mostly illiterate and also ignorant of the benefits available to them under various laws, it is very difficult for them to claim the same in due process of procedures. The Committee, therefore, recommend that the Railways should ensure that the benefits under these Acts are made available to the contract labour by the railway contractors and any violation of the provisions of these Acts by the contractor should be reported by the Railways to the Chief Labour Commissioner for the strict enforcement of the provisions of the Acts.

### **Reply of the Ministry of Railways**

2.11 Contracts of the Railways are governed by the General Conditions of Contract and Standard Specifications. In the General Conditions of Contract, it is specifically mentioned that Contract Labour Act, Payment of Wages Act, Workmen Compensation Act, Mines Act are to be strictly followed by the Contractors. Any modifications of the General Conditions of Contract will have effect on all the Central Government Agencies and the question of provision of other Acts other than those already provided in General Conditions of Contract would require consideration and decision at the Central Government level covering various departments. Railways have no powers to enforce these Acts. It is the Central Government who monitor implementation of these Acts. Ensuring benefits by Railways under these Acts as recommended by the Committee would invite complications including avoidable litigations between Railways and Contractors. The purpose can be served if the authorities responsible for implementation of various Acts, intensify their checks.

### **Reply of the Ministry of Labour**

2.12 None of these enactment's are being enforced by this organisation, except M.B. Act. However, in case of contract workmen of Railways, the Central Government is not appropriate Government under this Act. This Act is, therefore, not enforced by this organisation in respect of these workmen. The maternity Benefits Act 1961 alone is enforced by CLC(C) out of the enactment's referred to by the Committee in para 2.17.

### Recommendation (Para 2.19)

2.13 The Committee further recommend that the Ministry of Labour might consider the feasibility of amending the Contract Labour (Regulation & Abolition) Act, 1970 and rules made thereunder for the purpose of including a condition in the licences granted to contractors making it mandatory for the contractors to comply with the provisions in the aforesaid Acts regarding social security and other benefits to contract labours. Similarly, the Ministry of Labour shall conduct intensive inspection by their enforcement agency of the establishments including the Railways where contract labour are employed, to ensure that the contractors and the Principal Employer comply with all the provisions of the Contract Labour Act. Any violations/deviation detected during such inspection should be dealt with sternly to prevent exploitation of the Contract Labour.

### Reply of the Ministry of Labour

2.14 The Ministry of Labour is actively considering the feasibility of bringing out a comprehensive amendment to the various provisions of the CL (R&A) Act 1970 and rules made thereunder, for this purpose, the views of the State Governments have been called for, which are still awaited from some State Governments. The Committee's recommendation will also be kept in mind while finalising the proposal of amendments to this Act.

### Observations of the Committee

2.15 The Committee note that the Ministry of Railways have instructed all Zonal Railways and production units to comply strictly with the provisions of the Contract Labour (Regulation and Abolition) Act, 1970.

2.16 The Committee also note that in pursuance to their recommendations, the Ministry of Labour have issued necessary instructions to all R.L.Cs(C) especially R.L.C.(C), Calcutta and R.L.C.(C), Asansol through CLC(C) to enforce compliance with the provision of CL(R&A) Act, 1970 for payment of statutory minimum wage and provision of basic amenities like Canteen, rest room/latrines/urinals etc. to Contract Labour of Railways.

2.17 The Committee note with satisfaction the action taken replies furnished by the Ministry of Railways and the Ministry of Labour on their recommendations. The Committee feel convinced with the Government's reply that Ministry of Labour is actively considering the feasibility of bringing out a comprehensive amendment to the various provisions of CL(R&A) Act, 1970 and rules made thereunder and Committee's recommendations will also be kept in mind while finalising the proposal of amendments to this Act.

2.18 The Committee trust that the comprehensive amendment to the various provisions of CL (R&A) Act, 1970 would be brought out soon by the Ministry of Labour keeping in view the Committee's recommendation

**in this regard so that it may be mandatory on the part of the contractors to comply with the provisions of the Contract Labour (Regulation & Abolition) Act, 1970. The Ministry of Labour would also strengthen their enforcement machinery to ensure that the contractors and the Principal Employer comply with all the provisions of the Contract Labour Act.**

### III

## REPRESENTATION REGARDING RESERVATIONS IN PROMOTION FOR THE PHYSICALLY HANDICAPPED EMPLOYEES

3.1 The General Secretary, Thrissur District Viklanga Association, Thrissur in his representation dated 24.5.1995 to the Committee stated that although the Department of Personnel and Training, Government of India *vide* their orders dated 20 November, 1989 had extended the benefit of reservations in promotion for the physically handicapped employees, the same was not being implemented in certain Departments on the grounds of not fixing the roster points etc. for such promotions. He thus requested for expeditious action in the matter to redress their grievance.

3.2 The Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel & Training) with whom the matter was taken up *vide* their O.M. dated 30 November, 1995 furnished their comments intimating *inter-alia* that as regards non-implementation of the orders contained in that Department's O.M. No. 36035/3/89-Estt.(SCT) dated 20.11.1989 in the I.A. and A.D., that matter was being taken up with the office of the Comptroller and Auditor General of India and about fixation of roster points for the physically handicapped in promotion it was clarified that roster points had been fixed only for providing reservation to SC/ST/OBC and not for the physically handicapped persons in respect of appointments made on direct recruitment basis as well as promotion as per O.M. No. 36035/17-85-Estt.(SCT) dated 1.4.1986.

3.3 The Ministry further stated that the National Federation of the Blind in the meeting held with Secretary(P) on 25.10.1995 also raised the question of non-implementation of reservation for physically handicapped Candidates in promotion for want of certain clarification from Government. It was decided therein that the Federation would suggest the points on which clarifications were required.

3.4 The Department of Personnel and Training were requested again on 18.1.1996 to furnish the information regarding non-implementation of the orders of Department on reservation in promotion for the physically handicapped employees in I.A. and A.D.

3.5 In their further reply dated 26.12.1996 the Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel & Training) stated that the office of Comptroller and Auditor General had informed that the order of DOP&T regarding reservation in promotion for physically

handicapped employees had been implemented *vide* circular dated 8.3.1996. A copy of the circular was also sent by the Ministry.

**3.6 The Committee note with satisfaction that through their intervention, the demand of petitioner regarding reservations in promotion for the physically handicapped employees, has been met.**

## IV

### REPRESENTATION FROM SHRI KRISHAN DEV SINGH, MADHUBANI, BIHAR, REGARDING GRANT OF SWATANTRATA SAINIK SAMMAN PENSION

4.1 Shri Krishan Dev Singh of District Madhubani, Bihar submitted a representation on 2.6.96 stating *inter alia* as under:—

- (i) that his application for grant of S.S.S. Pension is still pending with the Ministry of Home Affairs;
- (ii) that the requests of his colleagues were acceded to long ago and they are getting the benefits of pension for the last so many years;
- (iii) on the basis of the certificate to the effect that he had been underground, given by the prominent freedom fighter Shri Bhagirath Jha, his colleagues are getting the pension whereas he has been denied the same;
- (iv) that the Bihar State Freedom Fighters Honour Pension Consultative Committee in its meeting held on 8/9.2.90 had recommended his case for the sanction of Pension;
- (v) that his (General Register) GR No. is 137/42. Several freedom fighters are getting pension under this GR. After verification of GR No. 137/42 from the district authorities, the case of Shri Gokul Ram was cleared for pension on 8/9.2.1990 by the Government of India *vide* their letter No. C.2/114/Madhu/98389/84 dated 23.6.1989;
- (vi) he is badly tired and broken during these years. He is an old and sick man and his financial position is miserable which has made him helpless.

4.2 The representation was referred to the Ministry of Home Affairs on 19 September, 1996 for furnishing comments on the points raised therein. The Ministry of Home Affairs *vide* their communication dated 15.1.97 stated as under:

“The Government has requested the D.M. Madhubani to verify the authenticity of the Court record submitted by Shri Krishan Dev Singh. The report is awaited. Final decision in the matter will be taken after the receipt of his report.”

4.3 As no further reply was received from the Ministry after 15.1.1997, it was decided to take oral evidence of the representatives of the Ministry of Home Affairs in order to ascertain reasons for delay in furnishing their final comments in the matter.

4.4 The Committee took oral evidence of the representatives of the Ministry of Home Affairs on 26 May, 1997. During evidence, the

Committee asked the representatives of the Ministry of Home Affairs to State in brief as to what were the main demands of the petitioner. The representatives of the Ministry stated as under:

“The main demand is that he should be granted freedom fighters’ pension. He has mentioned that he had made an application in 1981 which was not decided. But that is not exactly correct because his application was rejected in August, 1986. That was the demand made in his application of 1981. He has also mentioned that pension was granted to some other people on the basis of the same case, that is 137/42. He said that he should also be granted pension. Basically that was the demand. He has also mentioned that he was given a co-prisoner’s certificate. He was actually an absconder. So, he said that the personal knowledge certificate of Bhagirath Jha was given. So, his main demand was that he should be given pension.”

4.5 When asked what were the facts which were recommended by the State Government but not agreed to by the Government of India, the representative of the Ministry stated as follows:

“There is a State Committee. The State Committee examines the proposal. They send them to the Government of India. The Government of India scrutinises all the proposals because some evidence is required to be given by way of either a jail certificate saying that he was in jail or as I said, the personal knowledge certificate. If it is a personal knowledge certificate, firstly, he has to give a non-availability certificate saying that the records are not available. So, the documents are to be there to be scrutinised and it is on the basis of that that the applications are decided. There are a number of cases where the States’ recommendations were accepted because generally-not-always-what the State Governments do is, to recommend their cases and then leave it to the Central Government to take a decision.”

4.6 When asked whether the State Government had decided this case and if so, on what basis, the representative of the Ministry stated as under:

“I must give a little background about this case for a better understanding.....What has happened is that this gentleman has applied in 1981. There was no recommendation from the State Government and the application was rejected by the Government of India in 1986. In between what has happened is that the State Government has recommended three other cases arising out of the same court order, that is, 137 / 42. In that particular case, there are a number of people who are named. What the State Government did is that they picked up three people; they recommended the names of only those three and they did not recommend the



case of this gentleman, in the first instance. Later, in the copy of the court record which was made available to us later on, his name is there.

In 1991, he made a second application, relying on the same case, that is, 137/42. This time, the State Government has recommended his case. So, there was a doubt in the minds of the people here that initially they have not recommended; in 1983, they have recommended only three names, but in 1991, they are recommending his case. What is the problem. Meanwhile, I must mention to you that there were allegations that the Bihar Government has been sanctioning a lot of cases in which some fabricated certificates were given. This was an allegation. This was in connection with another case and not in connection with this case. That was, I think, in connection with 761/42."

4.7 When asked whether any enquiry was conducted in the above referred case, he stated:

"A CBI inquiry was conducted. Why it was conducted is that three different copies of the same case were shown to us, in connection with 761/42. So, the CBI has come to the conclusion that two out of the three copies of the GR furnished by the applicants were fabricated. Under the circumstances, one has to be very careful in deciding. So, we had asked for the original copies of the register. By that time, we wrote to the D.M. He said that the original record was not available. Neither the Court Record was available nor the General Register was available in which the data-wise details are entered. So, we had to take our own view."

He further stated:

"There were two things possible. One is to stop the pension given to the first three in 1983 or to grant pension to this gentleman also. If I were there, I would have given pension to this person also, since in any case, we had granted pension to the other three on the basis of the same case. There was some delay in deciding this case. I must concede that. There is no harm in giving pension to this gentleman also and there is no logic in not giving it to this person. So, we are going to give pension to this gentleman also with retrospective effect from the date of application, in 1981. This is what I would like to mention.

We are going to dispose it of today. We are going to pass orders today. I am also going to see as to why my staff has slept over this case for so long."

4.8 The Committee pointed out that so many cases pertaining to the State Government of Maharashtra were still pending and desired that in the Fiftieth year of Independence all these cases should be disposed off.

The representative of the Ministry stated they had received 5,97,000 applications in all out of which in 1,65,000 cases, pension was sanctioned. So, there were not more than 15,000 cases pending which proved that a number of applications were not genuine. He further stated that they have constituted a Committee of some officers and freedom fighters who had rejected 90% of the cases.

Asked to state as to how many persons were given the freedom fighter's pension, the representative of the Ministry stated that 1,63,000 freedom fighters had been granted pension but a number of them had passed away in course of time. At present about 75,000 people were drawing pension and Rs. 132 crore was the amount being paid as pension per year to them. By way of railway passes, Rs. 55 crore was paid to them.

4.9 Asked to state what procedure was followed in case the pension holder died, the representative of the Ministry stated:

"If they die, the family members may be the wife or son, write to us and inform us saying that they get the pension changed in their name even though the rule says that it is not necessary to come to the Government of India or to me for it. They can go to the Treasury Office and give the information. Sometimes, they do not have the knowledge of it and so, they write to us. Even that is counted. Such families are included in that 75,000 cases. Some have died and unfortunately, they have no family members and so, the case does not arise at all."

4.10 When asked whether there was any cut off date, the representative of the Ministry stated:

"There cannot be any. I would make an application saying that my date of birth given is not correct and it should be changed. But the Government of India rejects it. Now, I cannot stop him from applying again and for that matter, nobody can stop him from doing so. So, there cannot be any cut off date."

4.11 Subsequently, pursuant to assurance given to the Committee, the Ministry of Home Affairs in their communication dated 24 July, 1977 intimated as follows:—

"The sanction of pension in this case was approved on 23.5.97 and the latter for seeking the identification document was sent to Shri Krishan Dev Singh on 28.5.97 and reminded telegraphically on 2.6.97. His identification documents were received in the office on 14.7.97 and the sanction order in favour of Shri Krishan Dev Singh issued on 24.7.97."

#### **Observations of the Committee**

4.12 The Committee note with satisfaction that with their intervention, the long delayed case of Shri Krishan Dev Singh for grant of Swatantrata

Sainik Samman Pension, has been finalised by the Ministry of Home Affairs. Since the petitioner is stated to be an old and sick man with miserable financial position, the settlement of his case would relieve him of the mental and financial agony which he has been suffering through all these years.

4.13 The Committee has earlier emphasised in other such cases which have been brought to its notice that the concerned Department in the Ministry should try to mitigate the hardships of the genuine freedom fighters sympathetically and within a reasonable span of time.

4.14 The Committee would like to reiterate that all such cases pending with the Ministry should be dealt with expeditiously and finalised without further loss of time.

**REPRESENTATION REQUESTING FOR ISSUE OF APPEALABLE  
ADJUDICATION ORDERS FROM ASSISTANT COMMISSIONER  
OF CUSTOMS, CALCUTTA**

Shri G. Mohan, Proprietor, Mohan Sales (India) from New Delhi in his representation to the Committee had stated that the Assistant Commissioner of Customs, Import Air Cargo at Calcutta under his orders recorded on his file No. S. 60(Misc.)575/94 on 15.11.94 rejected the invoice price contract price without telling any reasons for doing so and also enhanced valuation of the goods from Rs. 64,138/- to 91,392/-. He had thus requested to issue Appealable adjudication orders in original by the Additional Commissioner of Customs, Calcutta, for the purpose of filing appeal.

5.2 The Ministry of Finance (Deptt. of Revenue) with whom the matter was taken up have *vide* their O.M. dated 9 May, 1997 furnished their comments intimating *inter-alia* that the matter was examined in consultation with C.C. Calcutta. M/s Mohan Sales, New Delhi imported six consignments of cordless phones through Air Cargo Complex, Calcutta. On the basis of investigations carried out by Directorate of Revenue Intelligence the value was ordered to be refixed and Penalties also imposed. Addl. Commissioner of Customs, Calcutta passed orders dated 4.4.95, which were brought to the notice of party. The goods were reassessed by the Deptt. in terms of orders and the party cleared the goods.

5.3 Regarding issue of Appealable adjudication orders to the petitioner for the purpose of filing appeal against the order, the Ministry have stated that the Addl. Commissioner of customs, Calcutta issued order No. 34/95, dated 14.5.95 for the purpose of filing appeal against the order. However, inadvertently the order contained particulars of 3 consignments only. In the meantime Addl. Commissioner of Customs, Calcutta was transferred to Bangalore. Now the orders passed earlier have been communicated by new Addl. Commissioner of Customs under order in original No. 34/96 dated 1.11.96 for the purpose of filing appeal.

5.4 The Committee note with satisfaction that through their intervention, the main demand of the petitioner regarding issue of appealable adjudication order for the purpose of filing appeal against the orders, have been met.

## VI

### REPRESENTATION REGARDING GRANT OF ALLOWANCE OF RS. 100 PER MONTH TO TEACHERS OF ALI YAVAR JUNG NATIONAL INSTITUTE FOR THE HEARING HANDICAPPED, MUMBAI

Shri Inderjeet Singh, Teacher in the Northern Regional Centre of Ali Yavar Jung National Institute for the Hearing Handicapped, Uttaranchal Kendra, Kasturba Niketan, Lajpat Nagar-II, New Delhi submitted a representation dated 30 August, 1996 regarding grant of allowance of Rs. 100 per month to teachers of Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai.

6.2 The main points putforth in the representation are as under:-

- (i) That according to the Ministry of Human Resource Development (Deptt. of Education) letter No. 5.180/96-UTI, dated 12 August, 1987 all teachers including Drawing teacher, Art and Craft teachers, S.U.P.W. teachers, Physical Education teachers and Librarians etc. are entitled to an allowance of Rs. 100 per month;
- (ii) That according to the Ministry of Welfare letter No. 5-3/88 NI-2 dated 16 March, 1996 this allowance is admissible to teachers of other Institutes for handicapped under the Government of India;
- (iii) According to the Kendriya Vidyalaya Sangathan letter No. 12-37/87 KVS (Admin.I) dated 24 April, 1988 all the teachers are getting an allowance of Rs. 100 per month;
- (iv) The Director, Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai, *vide* their Memorandum No. GAD/JAO/15-2/Min.91/3950 dated 5 August, 1991 have informed that the Teaching Allowance is admissible only to the teachers of Schools in Union Territories/Delhi Administration and is not admissible to the teachers of this Institute;
- (v) That his appointment was made on the post of a Teacher in this Institute. He imparts training to the teachers holding Diploma Education for the Deaf (D.Ed. Deaf) in the schools in Language and other subjects and also demonstrates and examines their teaching performance. His main duty is to teach deaf Children and also to provide guidance to the parents of the deaf children who visit the Centre.

6.3 The petitioner has therefore requested for grant of Teaching Allowance of Rs. 100 p.m. to him since February, 1987 when he joined the Institute.

6.4 The representation was referred to the Ministry of Welfare for furnishing their Comments. The Ministry of Welfare have furnished their Comments *vide* their communication No. 4-15/96 NI-II dated 11 November, 1996.

6.5 The point-wise comments as furnished by the Ministry are as under:

“That Shri Inderjeet Singh is working in the Northern Regional Centre of the Ali Yavar Jung National Institute for the Hearing handicapped (AYJNIHH) located at Kasturba Niketan Complex, Lajpat Nagar w.e.f. 1.2.1987 with the designation of a Teacher.”

As regards grant of Teaching Allowance, the Ministry have stated:

The letter No. 5-180/86-U.T.I., dated 12.8.1987 from the Department of Education (Ministry of Human Resource Development) clearly stipulates that grant of ‘Teaching Allowance’ etc. will be as under:

- (a) Teaching allowance @ Rs 100 P.M. to Primary School Teachers, Headmasters of Middle Schools and Post Graduate teachers;
- (b) Special Allowance @ Rs. 150 P.M. will be payable to Vice-Principals and Principals of Senior Secondary Schools and Headmasters of Secondary Schools;
- (c) Letter No. 12-23/87-KVS (Admn.-I), dated 29.4.1998 which was issued by Kendriya Vidyalaya Sangathan is only a direction to the Principals of all Kendriya Vidyalayas and other Associations (of Kendriya Vidyalaya Sangathan) for extending the facility of teaching allowance of Rs. 100 per month to Music Teachers, Drawing teachers, S.U.P.W. teachers, Physical Education, Yoga teachers and Librarians. This Order is obviously not applicable in the case of the NIHH, as the Institute does not have any schools setup of its own.

6.6 The Ministry have stated that specific functions and duties of the Teachers of NIHH, including Shri Inderjeet Singh, working as teacher in the Northern Regional Centre of the AYJNIHH who claimed ‘Teaching Allowance’ are:

- (a) to supervise the practice Teaching done by the Bachelor of Education/Diploma in Education students;
- (b) to help and check lesson plans of the Diploma in Education students;
- (c) to accompany lecturer for educational tours of Diploma in Education/Bachelor in Education.

6.7 The Ministry have further stated as under:

“The NIHH does not have schools of its own wherein hearing handicapped children are taught. The Teachers of the Institute

only supervise the practice teaching sessions of students of B.Ed. (Deaf) and D.Ed. (Deaf) courses.

The nature of work of teachers in Ali Yavar Jung National Institute for the Hearing Handicapped also does not involve teaching children in a school setup. The teachers of the Institute (NIHH) are required to supervise the practice teaching done by the students of Diploma of Education of the NIHH. The directives for payment of allowance to the Model School for the Mentally Deficient Children (MSMDC) and the special School of the Institute for the Physically handicapped under the administrative control of the Ministry of Welfare (*vide* letter No. 5-3/88-NI-II dated 16.8.1988) are not applicable to the teachers of the NIHH as the said Institute is not a Schools whereas the NS MDC (under the National Institute for the Mentally Handicapped) and the special School (under the Institute for the Physically Handicapped) are schools where students are taught in classroom situation.

The Ministry is of the view that no injustice has been done to Shri Inderjeet Singh and also to Shri Pathan Umer Khan and Ajay Kumar Mahapatra by not agreeing to their demands for the sanction of Teaching Allowance @ Rs. 100 P.M. by the Director of NIHH.”

#### **Observations/Recommendations of the Committee**

**6.8** The Committee note from the reply furnished by the Ministry of Welfare that the contents of letter dated 12.8.87 of the Department of Education (Ministry of Human Resources Development) were applicable only to Primary School Teachers, Headmasters of Middle Schools, Post Graduate Teachers, Vice-Principals and Principals of Senior Secondary Schools and Headmasters of Secondary Schools. This order was not applicable to the teachers of Ali Yavar Jung National Institute for the Hearing Handicapped as the nature of work of this Institute did not involve teaching children in a school setup. The teachers of the National Institute of Hearing Handicapped were required to supervise the practice teaching done by the students of Diploma of Education of the NIHH.

The Committee are convinced with the reply furnished by the Ministry and do not desire to further pursue the matter.

## VII

### REPRESENTATION REQUESTING FOR EXEMPTING EXCISE DUTY LEVIED ON ROOFING TILES

7.1 Shri R.S. Bhagwat, President, Canara Tile Manufacturers Apex Association, in his representation dated 20.3.1997 had requested for exemption of excise duty on roofing tiles, made out of clay, as it is mainly used by the poor people, being the cheapest mode of roofing for the common people. The matter was taken up with the Ministry of Finance (Department of Revenue) for their comments. The Ministry in their reply dated 8th May, 1997 stated that the roofing tiles were fully exempted from excise duty *vide* notification No. 25/97-Central Excise, dated 7th May, 1997.

7.2 The Committee note with satisfaction that through their intervention the grievance of the petitioner has been redressed and the roofing tiles have been exempted from the excise duty.

NEW DELHI;  
7 August, 1997

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16 Shravana, 1919 (Saka)

DILEEP SANGHANI,  
Chairman,  
Committee on Petitions.



## APPENDIX I

### ACTION TAKEN REPLIES FURNISHED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR TWENTIETH REPORT (TENTH LOK SABHA)

(See Para 1.2 of the Report)

Replies furnished by the Government on the recommendations made by the Committee on Petitions in their Twentieth Report (Tenth Lok Sabha) on Petition from Sangli and Kolhapur Zilla Dugdha Vyavasayik Sangathans, Sangli (Maharashtra) regarding difficulties in implementing rules, made under the PFA Act in respect of their products 'Chakka' and 'Shrikhand'.

#### Observations/Recommendations (Paras 1.7 to 1.9)

The Committee note from the comments furnished by the Ministry of Health & Family Welfare on the points raised in the petition that the standard of "Chakka" and "Shrikhand" was laid down under the Prevention of Food & Adulteration Rules, 1955 in the year 1991. On receiving a number of representation from Chakka and Shrikhand Manufacturers Association, they requested the State Governments of Maharashtra and Gujarat to conduct detailed surveys in this regard.

The Committee further note from the reply of the Ministry that after examining the date submitted by the Government of Maharashtra and Gujarat and National Dairy Research Institute, Karnal and Bangalore, the Dairy Products Sub-Committee of the Central Committee on Food Standards, a statutory body under the Prevention of Food Adulteration Act, has recommended revision of the existing standards of Chakka and Shrikhand under PFA Rules, 1955.

The Committee hope that the recommendations of the Dairy products Sub-Committee of the Central Committee on Food Standards would be implemented soon and the existing standards of 'Chakka' and 'Shrikhand' under PFA Rules, 1955 would be revised without further loss of time to alleviate the plight of the manufacturers of these two products, the common man's sweets.

#### Reply of the Government

The final notification amending the existing standards of Chakka and Shrikhand under Prevention of Food Adulteration (PFA) Rules, 1955 has been published *vide* GSR No. 149(E) dated 14th March, 1997 (Appendix-II).

## APPENDIX II

[Reference Para 1.3 of the Report]

(PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY,  
PART II, SECTION 3, SUB-SECTION (I)  
DATED 14TH MARCH, 1997)

**MINISTRY OF HEALTH AND FAMILY WELFARE  
(DEPARTMENT OF HEALTH)**

### NOTIFICATION

New Delhi, the 14th March, 1997

G.S.R. 149(E)—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955 were published as required by sub-section (1) of section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) number G.S.R. 280(E), dated the 16th July, 1996 in the Gazette of India Extraordinary, Part-II, Section 3, sub-section (i), dated the 16th July, 1996 at pages 1 to 7 inviting objections and suggestions from the persons likely to be affected thereby before the expiry of a period of sixty days from the date on which copies of the Gazette of India in which the said notification was published, were made available to the public;

And whereas the copies of the said Gazette of India were made available to the public on the 30th July, 1996;

And whereas the objections and suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore in exercise of the powers conferred by sub-section (I) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely:—

1. (1) These rules may be called the Prevention of Food Adulteration (IIIrd Amendment) Rules, 1997.

(2) They shall come into force on the date of their publication in the Office Gazette.

2. They shall come into force on the date of their publication in the Office Gazette.

2. In appendix 'B' to the Prevention of Food Adulteration Rules, 1955—

(a) in item A.11.02.22, against clause (iii) relating to Milk Protein (on dry basis) percent by weight, for the word and figure, "Min. 37" the words and figures, "Min. 30" shall be substituted.

(b) in item A.11.02.22.01, against clause (iii) relating to Milk Protein (on dry basis) percent by weight, for the words and figures, "not less than 10.5", the words and figure "not less than 9" shall be substituted.

[F. No. P-15014/8/94-PH(F)]

RENU SAHNIDHAR, JT. SECY.

### APPENDIX III

## ACTION TAKEN REPLIES FURNISHED BY THE MINISTRY OF RAILWAYS ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR TWENTY-FOURTH REPORT

(See para 2.2 of the Report)

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Para No. of the Committee's Report	Comments/Action taken by the Govt.
2.12 to 2.14	All. Zonal Railways and Production Units have been instructed to comply strictly with the provisions of Sections 20 and 21 of the Contract Labour (Regulation and Abolition) Act, 1970, to ensure that necessary arrangements are made that the Contractors provide the basic amenities as laid down in Sections 16—19 of the said act, and also that correct and timely wages are paid to the Contract Labour.
2.15	<p>As per extant instructions/rules, licensed Porter and members of his family are entitled to free outdoor medical treatment. Contract Labour (but not their family members) are entitled to free medical treatment facilities in Railway Hospitals and Health Units in places where no other Hospitals, etc. are available, provided the Contractor pays the cost of diet, medicine and dressings. It is not considered desirable and feasible to further liberalise the medical facilities to Contract Labour whose number is in thousands as it would burden the railway resources to great extent and may also cause deterioration in the medical facilities available to the regular railway employees. It may be mentioned that E.S.I. is meant to help the contract workers. If necessary, they can be covered under E.S.I. Scheme.</p> <p>As per instructions issued to the Zonal Railways, etc. <i>vide</i> Ministry of Railways' letter No. E(LL)75/AT/CNR/1-7 dated 6.4.77, the working hours, holidays, wage rates and other conditions of work of contract labour should be the same as are allowed to the casual labour directly employed by the Railway and doing the same/similar</p>

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Para No. of the  
Committee's  
Report

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Comments/Action taken by the Govt.

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work. Contract labour cannot be treated at par with regular employees of Railways who have to fulfil certain specified conditions for their appointment. Thus, on Railways instructions already exist to comply with the provisions of rule 25(2)(v)(a) of Contract Labour (R&A) Rules, 1971. Railway Administration have been again advised to ensure compliance of these instructions.

- 2.17 Observations and hence no comments. Contracts of the Railways are governed by the General Conditions of Contract and Standard Specifications. In the General Conditions of Contract, it is specifically mentioned that Contract Labour Act, Payment of Wages Act, Workmen Compensation Act, Mines Act are to be strictly followed by the contractors. Any modifications of the General Conditions of Contract will have effect on all the Central Government Agencies and the question of provision of other Acts other than those already provided in General Conditions of Contract would require consideration and decision at the Central Government level covering various departments. Railways have no powers to enforce these Acts. It is the Central Government who monitor implementation of these Acts. Ensuring benefits by Railways under these Acts as recommended by the Committee would invite complications including avoidable litigations between Railways and Contractors. The purpose can be served if the authorities responsible for implementation of various acts, intensify their checks.
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## APPENDIX IV

### ACTION TAKEN REPLIES FURNISHED BY THE MINISTRY OF LABOUR ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR TWENTY-FOURTH REPORT

(See para 2.2 of the Report)

Action Taken Report of the Ministry of Labour in respect of the observations and recommendations of the Committee are as under:—

2.11 the Committee have perused all the material placed before them regarding the demands raised in the petition by the petitioners, the comments furnished by the Ministry of Railways (Railway Board) and Ministry of Labour thereon and the submissions made by the representatives of the contract labour union, West Bengal and those of the Eastern, South Eastern and Metro Railway on the subject during their study visit to Calcutta.

—No action is called for.

2.12 The Committee note from the submissions made during study visit by the representatives of the Contract Labour Union, West Bengal, that the statutory minimum wages are not being paid to contract labour of Railways and the basic amenities like canteen, rest room, latrine/urinals etc. as provided under sections 20 & 21 of the Contract Labour (R & A) Act, 1970 are not being provided to them at the work place. The Committee are unhappy to note that there are instances where the contractors had left the jobs without paying wages due to the Contract Labour. And payment of wages etc. are not made in the presence of the representatives of the Railway Authorities as provided under the Act.

2.13 The Committee also note that under provisions of the Contract Labour Act, the Railways as Principal Employer is liable to ensure that the contractors provide basic facilities to the Contract Labour at the work place. The Principal employer is to further ensure that timely and correct wages are paid to the contract workers in the presence of their authorised representatives. Where the contractors fail to provide them, the Principal Employer is to provide the same and expenses incurred is to be recovered from the contractor concerned.

2.14 The Committee are constrained to observe that the Railway as a Principal Employer has failed to comply with their liability under the Contract Labour Act regarding provision of timely and correct wages and

other basic amenities to contract labour. The Committee, therefore, recommend that the Railways must exercise effectively the power under the Act to fulfil their liability as principal employer in order to prevent exploitation of Contract Labour.

Action Taken Report of 2.12, 2.13 and 2.14.

The Committees observations regarding non-payment of statutory minimum wage to contract labour of Railways and about the non-provision of basic amenities like canteen, rest room/latrines/urinals etc. are being looked into. Necessary instructions have been issued all R.L. Cs(C) especially R.L.C(C), Calcutta and RLC(C), Asansol through CLC(C) to enforce compliance with the provisions of CL(R&A) Act, 1970. However, as per provisions of the CL(R&A) Act, 1970 it is the Railway Authorities as principal employer who have to ensure that the wages are paid to the contract labour employed by them at the prescribed minimum rates in their presence and in time and also provide the other statutory amenities like canteen, rest room, latrines/urinals etc.

2.15 While agreeing with the submissions of the Ministry of Railways that contract labour are not railway employees and their demand for benefits and facilities at par with regular employees cannot be acceded to, the Committee hope that the Railways as a Principal Employer would consider on humanitarian grounds the demand of the petitioners for extending such medical facilities to contract labour as are being provided to Railway porters at present.

—The observations mainly pertains to Railway Administration, no action is called for.

2.16 The Committee note that Rule (v) of the Contract Labour (R&A) Rules, 1971 provides that in case the workmen employed by the contractor performed the same or similar kind of work as the workmen directly employed by the principal employer, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer on the same or similar kind of work. The Committee, therefore, recommend that the Railways should ensure that the provisions of Rule 25 (v) are complied with by the railway contractors and for that purpose suitably directions should be issued to all the Zonal Railways.

—The recommendations of the Committee basically pertains to compliance with Rule 25 (v) of CL(R&A) Rules, 1971 by the Railways. However, proviso to Rule 25 (2) (v) (a) provides for references of disagreement regarding type of work for decision to CLC(C). For this purpose a petition has to be filed by contract workmen that their claim for same wages and same conditions of service for performance of same or similar nature of regular employees, has been disputed by the contractor and principal employer. One petition from Railway Contract Labour

Union (WB) demanding same wages for contract workmen employed in Metro Railway, Calcutta as are paid to regular workmen has been received by CLC(C) on 3.9.1996 which is under examination.

2.17 The Committee also note that the provisions of the Workmen' Compensation Act, 1923, Maternity Benefits Act, 1961, Provident Fund and Miscellaneous Provisions Act, 1952 and E.S.I. Act 1948 are applicable to contractors employees of the Railways. The E.S.I. Act provides for a package of social security benefits including maternity benefits. But the benefits envisaged in these laws are to be claimed by the Contractors' employees in due process of procedures.

2.18 The Committee feel that since contractors' employees are mostly illiterate, and also ignorant of the benefits available to them under various laws, it is very difficult for them to claim the same in due process of procedures. The Committee, therefore, recommend that the Railways should ensure that the benefits under these Acts are made available to the contract labour by the railway contractors and any violation of the provisions of these Acts by the contractor should be reported by the Railways to the Chief Labour Commissioner for the strict enforcement of the provisions of the Acts.

#### Action Taken of 2.17 & 2.18

None of these enactment's are being enforced by this organisation W.B. Act. However, (in case of contract workmen of Railways, the Central Government is not appropriate Government under this Act. This Act is, therefore, not enforced by this organisation in respect of these workmen). The maternity Benefits Act 1961 alone is enforced by CLC(C) out of the enactment's referred to by the Committee in para 2.17.

2.19 The Committee further recommend that the Ministry of Labour might consider the feasibility of amending the Contract Labour (Regulation & Abolition) Act, 1970 and rules made thereunder for the purpose of including a condition in the licences granted to contractors making it mandatory for the contractors to comply with the provisions in the aforesaid Acts regarding social security and other benefits to contract labours. Similarly, the Ministry of Labour shall conduct intensive inspection by their enforcement agency of the establishments including the Railways where contract labour are employed, to ensure that the contractors and the Principal Employer comply with all the provisions of the Contract Labour Act. Any violations/deviation detected during such inspection should be dealt with sternly to prevent exploitation of the Contract Labour.

#### Action Taken on 2.19

—The Ministry of Labour is actively considering the feasibility of bringing out a comprehensive amendment to the various provisions of the



CL (R&A) Act 1970 and rules made thereunder, for this purpose, the views of the State Governments have been called for, which are still awaited from some State Governments. The Committees recommendation will also be kept in mind while finalising the proposal of amendments to this Act.

In Calcutta region inspections of Railways establishments by enforcement officers of the Ministry of Labour are being carried out regularly and have resulted in a number of prosecutions as detailed below:—

Year	No. of Rly. estt. inspected	No. of cases payment detected	Amount of less payment	No. of worker involved	Claim application filed	Prosecution complaints filed
1993	63	11	Rs. 25,128,47	805	5	51
1994	138	40	Rs. 1,00,487,49	1480	27	85
1995	141	38	Rs. 4,41,496,86	1567	22	68