

FORTY FIRST REPORT
COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

MINISTRY OF HEAVY INDUSTRIES AND
PUBLIC ENTERPRISES
(DEPARTMENT OF HEAVY INDUSTRY)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Prabhunath Singh — *Chairman*

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3. Shri Nandkumar Singh Chauhan
4. Shri N.S.V. Chitthan
5. Shri Anant Gangaram Geete
6. Shri Mohan Jena
7. Shri Wangyuh W. Konyak
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5. Shri U.B.S. Negi — *Deputy Secretary*
6. Shri H.R. Kamboj — *Deputy Secretary-II*

FORTY FIRST REPORT OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

INTRODUCTION

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

- (i) Representation forwarded by Shri Sunil Khan, MP and signed by Shri Narayan Chakraborty on behalf of employees of M/s Bharat Ophthalmic Glass Limited (BOGL), Durgapur for settlement of their claims of unpaid wages and other long pending issues and final opportunity for VSS.
- (ii) Representation from Shri Raj Kumar Singh, President Koyala Mazdoor Congress, Rajmahal Group of Mines, Godda, Jharkhand regarding irregularities in Provident Fund Office, Deoghar.
- (iii) Representation regarding serious revenue loss to Government of India due to mis-declared imports as worn clothing.

2. The Committee considered and adopted the draft Forty First Report at their sitting held on 30th April, 2008.

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

NEW DELHI;
30 April, 2008

10 Vaisakha, 1930 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION FORWARDED BY SHRI SUNIL KHAN, M.P. AND SIGNED BY SHRI NARAYAN CHAKRABORTY ON BEHALF OF EMPLOYEES OF M/S BHARAT OPHTHALMIC GLASS LIMITED (BOGL), DURGAPUR FOR SETTLEMENT OF THEIR CLAIMS OF UNPAID WAGES AND OTHER LONG PENDING ISSUES AND FINAL OPPORTUNITY FOR VSS

Shri Sunil Khan, M.P. Lok Sabha through his letter dated 0.5.12.2007 forwarded the representation signed by Shri Narayan Chakraborty, Secretary, OGP Employees Union (CITU) on behalf of employees of M/s. Bharat Ophthalmic Glass Limited requesting for settlement of their claims of unpaid wages and other long pending issues. The petitioner in his representation *inter-alia* stated as under:—

- (i) 151 number of employees of M/s. Bharat Ophthalmic Glass Limited, Durgapur have not been getting any wages since January 2006. Similarly, 20 number of retired employees have not been paid their dues till date. It has resulted in financial hardships to the serving as well as retired employees along with their family members.
- (ii) The Company has been under reference to BIFR since 1992. The case remained under BIFR and AAIFR ordeal with so many hearings without any tangible result.
- (iii) On 5th April 2000, the Company decided to grant non-recoverable adhoc advance of 13.5% of the wages from 1st April 2000 which was subsequently enhanced to 31.5% from 1st February 2001. As per the directives received from Employees' Provident Fund Organisation dated 25th January, 2001, the deduction towards Provident Fund against this ad-hoc payment was also given effect to by the Company. Though the ad-hoc payment was non-recoverable in nature, surprisingly, the Company communicated that this benefit stands withdrawn *w.e.f.* 1st April, 2005. Subsequently a decision was also communicated that the amount paid on this account *w.e.f.* 1st April 2000 till the date of this withdrawal would be adjusted against the amount receivable by the employees on superannuation or voluntary separation.
- (iv) The Company decided to roll back the retirement age of the employees from 60 to 58 years. However, the decision was not implemented. Subsequently, it was argued that for all cases of superannuation or VSS, the age of retirement would be 58 years.
- (v) The revival package submitted by the Company did not find favour with BIFR as a result thereof, BIFR ordered winding up of the Company on 19th June, 2003.

- (vi) An appeal against closure of Company was preferred on 08th August, 2003 which remained pending for long time and finally admitted by the Appellate Authority on 03.05.2005. The Appeal petition was dismissed.
- (vii) During all through this period the Company failed to disburse salary and wages on regular basis to the employees and it became a practice to disburse salary for a few months. The last time payment was made during June/July 2005.
- (viii) On 19th June 2003, the Company issued a circular on 03.08.2006 communicating the decision of the Government to wind up the Company and take action for closure of BOGL. A voluntary separation scheme to the existing employees was issued. Since the case was pending before the appellate authority, majority of the employees did not opt for VSS.
- (ix) The Company requested the Labour Secretary seeking permission for closure of BOGL which was rejected on technical ground by the Labour Ministry.
- (x) The Calcutta High Court has finally decided to appoint Liquidator for BOGL on 9th July 2007 who are taking further necessary action.

The petitioner, therefore, requested that the Committee on Petition may intervene in the interest of regular employees and ex-employees to get following benefits:—

- (i) Payment of balance wages of 32 months to the employees.
- (ii) Payment of superannuation dues to the superannuated employees.
- (iii) Payment of VSS compensation and other terminal dues to the already released 16 number of VSS optees.
- (iv) Stoppage of any attempt (a) to recover the already consumed non-recoverable ad-hoc payment of 31.5% of the wages; and (b) to roll back the superannuation age from 60 years to 58 years; and
- (v) Offering a last opportunity of voluntary separation to the existing employees numbering 151 which they have been denied.

1.2 The Committee under Direction 95 of the Directions by the Speaker, Lok Sabha took up the above representation for examination. Accordingly, the above representation was forwarded to the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) on 02.01.2008 requesting them to furnish their comments.

1.3 On the directions of the Committee on Petitions, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) *vide* their O.M. dated 10 January, 2008 furnished their comments as under:

“Bharat Ophthalmic Glass Limited (BOGL) was set up at Durgapur in 1972 with paid up capital of Rs. 7.14 crore and authorised capital of Rs. 8 crore. The company manufactured flint button (ophthalmic glass for connection of vision), which account for 81% of the total capacity and special kind of glass used in atomic energy plants and prism glass. No sales are taking place. The Production

operations are suspended for last ten years, Since the Company was unable to market its main product namely ophthalmic glass.

* * * * *

BIFR recommended winding up of the company twice, in February, 1996 and again in June, 2003 and set it to High Court of Kolkata for confirmation and appointment of Official Liquidator. In the meanwhile, OGP Employees Unions filed an appeal No. 317/2003 in AAIFR against BIFR Order dated 19.06.2003 during May 2005. AAIFR passed orders on 29.03.2007 dismissing the Appeal. An affidavit was filed in the High Court of Calcutta on 18.6.2007 by DHI for confirmation of winding up of BOGL. The High Court of Calcutta has passed orders on 9.7.2007 for winding up of BOGL.

* * * * *

Bharat Ophthalmic Glass Ltd. (BOGL) was a sick company incurring losses since its inception from 1972. The production operations in the company were suspended from April, 2004. Board of Industrial and Financial Reconstruction (BIFR) has recommended winding up of the company in the year 2003. The appeal filed by the employees of BOGL against the order of BIFR was dismissed by AAIFR. Subsequently, High Court of Calcutta issued order for winding up of BOGL on 09.07.2007. Appeal filed by the employees of BOGL before the Division Bench of High Court of Calcutta against the winding up order has also been dismissed on 17.09.2007. As BOGL is to be wound up as per orders of the High Court of Calcutta and assets and liabilities of the company are to be taken over by the Official Liquidator, under these circumstances no payment can be made to the employees. The Government has therefore, requested the Official Liquidator to take up the matter for permission of the High Court to allow the Government to give loan to the Official Liquidator for payment of VSS dues and salaries upto 31.03.2007. The Official Liquidator has also submitted a petition on the above before the High Court for their decision.

BOGL is under Liquidation *vide* orders of Calcutta High Court dated 09.07.2007. The Voluntary Separation Scheme (VSS) was opened for the employees of BOGL from 2nd August to 1st November 2006. Only 16 employees opted for the scheme Provision of Rs. 98 lakh for payment of salary/wages including settlement of statutory dues in respect of BOGL employees for the period January 2006 to March 2007 was made in July 2007. But these funds could not be released to BOGL for want of Utilisation Certificates (UCs) in respect of past releases of funds to BOGL, by the Government for payment of salary and wages and settlement of statutory dues. UCs in respect of release of funds amounting to more than Rs. 2.53 crore during the years 2003-04 and 2004-05 by DHI for salary and statutory dues submitted by the company could not be accepted since there was part diversion of funds. The matter has been taken up with the Ministry of Corporate Affairs, Department of Legal Affairs and Ministry of Finance for exemption from the condition of providing of UCs before release of funds.

Further, management of BOGL made *ad hoc* payment as additional DA component @ 13.5% of wages *w.e.f.* 1.04.2000 which was subsequently enhanced to 31.5% *w.e.f.* 01.02.2001 to its employees without the approval of competent authority. Therefore, unauthorised payment of 31.5% as additional D.P. to the BOGL employees paid by the management had invited audit objection from Comptroller and Auditor General (CAG), which was communicated to this Department in 2004-2005. Since the payment on account of Addl. D.A. component of 31.5% was unauthorised, it was liable to be recovered and accordingly steps were initiated.

As regards reduction of retirement age from 60 to 58 years in BOGL, since BOGL was a sick PSE, it was decided to roll back the retirement age raised in 1998 to 60 years back to 58 years. The approval of the competent authority for roll back of retirement age from 60 to 58 years was communicated to the company *vide* letter dated 16.07.2003 with direction to implement the decision immediately. Despite repeated requests and reminders, compliance report was not received from the company. Since there were no standing orders regarding the age of retirement in BOGL, no amendment was required in this regard. But, still the company did not submit any compliance report. Since the BOGL was dependant on the budgetary support from the Government for payment of salary and wages, Government had to stop budgetary support in respect of those employees who had crossed the age of 58 years as on 31.03.2005.

Budgetary support was given as loan to BOGL for payment of salary and wages to its employees and settlement of statutory dues in respect of employees. Salary payment was made to BOGL upto 31.12.2005. BOGL management could not submit Utilisation Certificate in respect of past releases of funds by Government. In the meanwhile, order of winding up of BOGL was issued by High Court of Calcutta on 09.07.2007. Therefore, it has not been possible to release further funds to BOGL in view of initiation of liquidation proceedings.

* * * * *

High Court of Calcutta has passed orders dated 09.07.2007 for winding up of BOGL. The appeal filed by BOGL employees against the winding up order has also since been dismissed. Budgetary support of funds for payment of VSS dues and salary for other employees could not be released in view of winding up order. Official Liquidator has been requested to get the permission of High Court for release of funds by DHI as loan to company and disbursement of dues. Applications filed before Calcutta High Court in this regard is listed for hearing on 28th March 2008."

* * * * *

1.4 The Committee enquired whether the employees of the Company have not been getting wages since January, 2006. In reply thereto, the Ministry of Heavy Industries and Public Enterprises in their written reply stated as under:—

“As per records available, there were 147 employees on the roll of BOGL taking 58 years as the age of retirement. Budgetary support of Rs. 112 lakhs has been

approved by Government of India for payment of salary and wages to BOGL employees, but could not be released for want of utilization certificates in respect of past releases of funds. These utilization certificates could not be issued by the company because there was diversion of funds by the company for purposes other than for which the funds were released. The matter was taken up by the Minister (HI&PE) with the Finance Minister *vide* letter dated 17.09.2007 for consent for release of funds for payment of salary and wages and VSS dues. Ministry of Finance raised certain queries on which Department of Legal Affairs has advised DHI that a view can be taken after High Court passes order for release of funds by the company.”

1.5 On being asked to state the reasons for non-payment of dues of ex-employees of the Company, the Ministry stated as under:—

‘BOGL being a perpetually sick unit since its inception, Government decided to roll back the retirement age to 58 years which was earlier enhanced to 60 years and Presidential Directive dated 16.07.2003 was issued for compliance by the company. Despite repeated reminders, company did not report compliance. Therefore, it was decided to enforce the Presidential Directive of roll back of retirement age from 60 to 58 years by not releasing any budgetary support for payment of salary/wages to employees who have crossed the age of 58 years as on 31.03.2005. There was no decision to withhold retirement benefits to such employees. However, the company did not treat employees attaining the age of 58 years as retired and did not ask for any funds to pay retirement benefits to such employees.’

1.6 In reply to a question about the total financial liability to settle the dues of employees and ex-employees, the Ministry stated as under:—

‘Rs. 98 lakh for salary in respect of employees of BOGL for period from 01.01.2006 to 31.03.2007 who have not crossed the age of 58 years were outstanding after accounting for recoveries as per CAG's observations. No separate liability for retirement dues has been communicated by the company.’

1.7 The Committee desired to know the circumstances under which the management of M/s. Bharat Ophthalmic Glass Limited decided to make payment of additional DA to the employees of the Company without the approval of the competent authority. In reply thereto, the Ministry stated as under:—

‘Through a CAG para received in March 2004, it was pointed out that BOGL had been making unauthorized payment of 31.5% of additional DA compensation component from February 2001. Audit para was referred to BOGL for comments. *Vide* letter dated 23.03.2004, BOGL stated that the payment of additional DA component was made in two parts, 13.5% from April 2001 and from 01.02.2001, additional 18% was paid raising it to 31.5% in anticipation of adjustments against the wage revision on revival. They have also stated that this decision was taken in view of agitation by workers and negotiations held with workers' unions.’

1.8 On being asked about the competent authority to approve payment of additional DA to the employees of BOGL the Ministry stated as under:—

‘BOGL management was not authorised to make any wage revision in terms of DPE guidelines issued *vide* OM dated 25.06.1999 without the approval of Board

and Administrative Ministry. Any sanction of implementation of wage revision or grant of additional D.A. component etc. had to be approved by Ministry in consultation with Department of Public Enterprises.'

1.9 When asked to state whether any responsibility has been fixed on the management for taking a decision which was not within their jurisdiction, the Ministry stated as under:—

'Shri C.K. Ganguly, Managing Director, BOGL who was at the verge of retirement, sanctioned the payment of additional DA component to BOGL employees which was unauthorised in character. Since he retired thereafter and this payment came into notice through CAG audit para dated 16.03.2004 was received in DHI, no action could be taken against Shri C.K. Ganguly, who retired earlier.'

1.10 The Committee enquired when the payment of additional DA component was paid on the orders of management of BOGL, then how the same can be termed unauthorised and recoverable from employees. In reply, the Ministry stated as under:

'The payment of additional DA was unauthorised since it was not with the approval of the competent authority. Any irregular payment has to be recovered.'

1.11 On being asked to state whether the High Court of Calcutta has granted permission to the Official Liquidator allowing the Government to give loan for payment of VSS dues and salaries upto 31.03.2007, the Ministry replied as under:

'Official Liquidator has been requested to get the permission of High Court for release of funds by DHI as loan to company and disbursement of dues as stated below:

- (i) Rs. 87.15 lakh for VSS dues of 16 employees and salary upto 31.03.2007 including retirement dues of one employee;
- (ii) Rs. 98.00 lakh for salary in respect of BOGL employees for the period from 01.01.2006 to 31.03.2007 who had not crossed the age of 58 years.
- (iii) Rs. 14.00 lakh for settlement of statutory dues including PF dues payable on salary for the period from 01.01.2006 to 31.03.2007.

Matter has been partly heard in the High Court of Calcutta, but no orders have been passed so far. The case is now listed for hearing on 28.03.2008.'s

1.12 When the Committee desired to know whether the amount of loan, if granted by the Government, would permanently settle the dues of the employees, the Ministry stated as under:

'The outstanding dues of the employees will be settled by the Official Liquidator in accordance with the provision of Companies Act through sale proceeds of the assets of the company.'

1.13 In reply to the question about the manner in which the amount will be distributed to the employees, the Ministry stated as under:

'The budgetary support to be given as loan to the company will be distributed to the workers through Official Liquidator.'

1.14 The decision to roll back the retirement age was taken in 1998 but conveyed to the Company in July, 2003. When the Committee desired to know the reasons for the delay in conveying the decision the Ministry stated as under:

‘Department of Public Enterprises issued guidelines for raising of retirement age from 58 to 60 years in PSEs *vide* circular dated in 1998. Subsequently, DPE issued circular in 9th May, 2000 stating that roll back of retirement age to 58 years may be considered in case of sick/unviable units. Department of Heavy Industry evolved internal guidelines on reduction in the retirement age in different PSUs which was circulated *vide* circular dated 18.06.2002 which provided that in all loss making/sick PSUs which are making losses continuously for three years, the retirement age may be reduced from 60 to 58 years. The decision to roll back the retirement age from 60 to 58 years was taken by the BoD of BOGL on 12th June and was approved by DHI and conveyed to BOGL on 16th July 2003.’

1.15 About the response of the Company to roll back the retirement age of their employees, the Ministry stated as under:

‘There was no written response from the company despite repeated reminders for compliance for the Presidential directive of roll back of retirement age.’

1.16 On the question of accountability of the management of BOGL to the Ministry of Heavy Industries and Public Enterprises, the Ministry stated as under:

‘The attitude of workers union had a crippling effect on the management. There was break-down in the management in the company, so much so, that the accounts of the company for the year 2004-05 were completed only in Oct. 2006, and that too, after persistent follow-up by the Ministry. Audited accounts of the company for the year 2005-06 have not been completed till the date of winding up order of the High Court of Calcutta which was passed on 09.07.2007.’

1.17 On being asked to state the latest position, the Ministry replied as under:

‘Department of Heavy Industry requested the Official Liquidator *vide* letter dated 31.08.2007 to place the matter before the High Court of Calcutta for consideration and appropriate orders on the offer on loan of Rs. 1.98 crore (approx) against the outstanding dues of BOGL employees upto 31.03.2007. The Official Liquidator made the application before the High Court accordingly and the matter has been heard in the High Court of Calcutta, but no orders have been passed so far. The case is now listed for hearing on 28.03.2008.’

1.18 Subsequently, the Committee took oral evidence of the representatives of the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) on 28th March, 2008. Explaining about the functioning of the Company, the witness during evidence stated as under:

‘Sir, the BOGL Company is now under liquidation proceedings. This company was set up in the year 1972. This company was incurring loss from the very beginning. The winding up order of BIFR was issued in 1996. Again final orders of BIFR for winding up were issued on 19th June, 2003. It was sent to

the High Court for confirmation. Thereafter the employees union of BOGL filed a division petition before AIFR and final order of AIFR was passed on 29.03.2007 and that appeal was dismissed. After that, an affidavit was given by the Government on 18.06.2007 in the High Court, Kolkata for confirmation of the order of BIFR. The High Court issued final order for winding of the company on 9th July, 2007 against which employees union appealed in the Divisional Bench of High Court. The final order dismissing the appeal was issued on 17.09.2007. The official liquidator was appointed in the Ministry of Heavy Industries on 31.08.2007 and dues of employees upto 31.12.2005 was paid. We have made provision for the payment of dues from January, 2006 to March, 2007 and wrote a letter to the liquidator to make arrangement for due payment on order from the High Court. That matter is pending before the High Court and no order had been issued in this regard. Hearing in the High Court is continuing till today. Sir, the provisions made for 147 employees were, Rs. 98 lakh for their salary wages, Rs. 87.15 lakh for 16 employees who opted for Voluntary Separation Scheme in 2006, Rs. 14 lakh for statutory, PF dues along with salary. So, a payment of about Rs. 1.98 crore is still pending. We can take decision only after the order of the High Court. There is one more issue in this regard. The utilization certificate of the amount paid to the company against dues in the year 2008, 2004 and 2005 has not yet been received. This amount was about rupees two and half crores. When that utilization certificate was not received, our Minister wrote a letter to the Minister of Finance asking whether we could resort to waiver of utilization certificate. We also consulted the Ministry of Law. As per the opinion of the Ministry of Law, since the matter is pending in the High Court, the decision may only be taken after the orders of the High Court in this regard.'

1.19 About the instructions of the Government to lower the age of retirement of loss making sick units, the witness during evidence stated as under:

'DPE had issued a guideline in 1998 laying down the procedure for raising the retirement age from 58 years to 60 years. But on 09.05.2000 DPE had issued another circular in which it was instructed that in the sick units and loss making units, the retirement age should be rolled back from 60 years to 58 years. As per the circular the Ministry of Heavy Industries has issued an internal procedure guideline that in loss making private sector undertakings it should be decreased. After issuance of the guideline almost 31 undertakings have followed the guideline.'

The witness further stated:

'It was a Government policy at that time that the retirement age of the employees of the loss making public undertakings be decreased.'

1.20 Explaining the rationale for taking a decision to roll back the retirement age in companies incurring losses, the witnesses during evidence stated as under:

'This decision was taken with the approval of the Minister and it was communicated to all Public Sector Undertakings. This is not the only one to implement it 30 other Public Sector Undertakings have also implemented it.'

'The Government have to arrange fund for the salary and wage of the loss making undertakings because these companies themselves have no funds for meeting that expenses. So, it was decided to roll back such companies.'

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'Sir, the reason is that the company is making loss, it has no fund to provide salary to its employees, so it is being rolled backed.'

1.21 On the question of payment of additional dearness allowance to the employees of the Company, the witness during evidence replied as under:

'As far as 31.5% ADA is concerned, it was issued in the company by the MD. The first lot of 13.5% was given in April 2000 and the second lot of 18% was given in February, 2001 making a total of 31.5%. But in March, 2004, the C & AG had said in the audit that it was an irregular payment because it has never been issued by the competent authority. The MD was not competent to give this.'

The witness further stated:

'Such type of payment can be made only after consulting DPE of the Ministry. There should be uniformity in payments in all units. This payment should be made only under the guidelines of DPE.'

1.22 On the decision of the management of the Company to make payment of ADA to the employees and subsequent audit objection by C&AG, the witness during evidence stated as under:

'It has not been examined whether these employees were eligible at that time or not. The payment was not made as per the guidelines of DPE'.

1.23 On being asked to state as to why the Ministry decided to recover the amount of ADA already paid to the employees when the decision was taken by the MD of the Company. The witness during evidence stated:

'If it comes to notice that any payment made to employees is irregular, the Government recovers the amount later on. The same process has been followed in this case.'

1.24 On being asked to state as to why no action was taken against the officer concerned who had taken the decision to pay ADA to the employees, the witness during evidence stated as under:

'The officer retired in the year 2003.'

'By the time the comments of CAG were received at our end, concerned officer had retired from service.'

The witness further submitted:

'There is a procedure involved in this. We have to file a charge sheet against the person.'

1.25 Replying to the questions relating to payment of ADA to the employees and the audit report of C&AG, the witness stated as under:

'He made the payment in the year 2000'.

*** **

'This report was received by us in the year 2004'.

1.26 On being asked to state whether any action was taken against the officer who had retired from service, the witness during evidence replied in negative.

1.27 Explaining the status of the case pending in the Calcutta High Court and efforts made by the Ministry to expedite the matter, the witness during evidence stated as under:

“Sir, the company is in the liquidation phase. The situation is that there is no existence of our any officer, employee or Board there. A liquidator has been appointed there by the Court. Whatever payment is to be made will be made only through it. We have sanctioned amount for it, we want to give it to them but for that the only way is that the liquidator should take loan from us and make the payments. We have requested the liquidator to move an application in the High Court and take permission in this regard.”

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“Sir, the matter is sub-judice in the High Court and we can take some action only after the decision of the court in this regard.”

The witness further stated:

“Sir, liquidators carry out the work of liquidation directly under the High Court.”

Observations/Recommendations

1.28 The Committee note from the submissions made by the petitioner that 151 number of employees of M/s Bharat Ophthalmic Glass Limited (BOGL), Durgapur have not been getting their wages since January 2006. Similarly 20 employees, who retired under voluntary separation scheme, have not been paid their dues. Further M/s BOGL decided to grant additional dearness allowance @ 13.5% to the employees from 1 April 2000 which was subsequently enhanced to 31.5% from 1 February 2001. Subsequently, the Company on 1 April 2005 decided to withdraw the benefit and recover the amount already paid to the employees. According to the petitioner, the company decided to lower the age of retirement of the employees from 60 to 58 years. The petitioner further stated that the company has been under reference to BIFR since 1992. As the revival package submitted by the company failed, BIFR ordered winding up of the company on 19 June 2003. The appeal of the employees against closure of the company was dismissed and the company issued a circular on 8 August 2006 communicating the decision of the Government to wind up the company. Now, the Calcutta High Court has finally decided to appoint Liquidator for BOGL who is taking further necessary action.

1.29 The petitioner, therefore, requested that the Committee on Petitions may intervene in the interest of the employees and ex-employees to get the following benefits:—

- (i) Payment of wages of 32 months to the employees.

- (ii) Payment of superannuation dues to the superannuated employees.
- (iii) Payment of VSS compensation and other terminal dues to the already released 16 number of VSS optees.
- (iv) Stoppage of any attempt (a) to recover the already consumed non-recoverable ad-hoc payment of 31.5% of the wages and (b) to roll back the superannuation age from 60 years to 50 years.

1.30 The Committee note from the reply of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) that Bharat Ophthalmic Glass Limited (BOGL) was set up at Durgapur in 1972. The company manufactured this button (ophthalmic glass for correction of vision) and special kind of glass used in atomic energy plants and prism glass. As the Company was unable to market its main product namely ophthalmic glass, the production was suspended from April 2004. The Board of Industrial and Financial Reconstruction (BIFR) twice recommended for winding up of the company—first in February 1996 and again in June 2003. The appeal filed by the employees of BOGL against the order of BIFR was dismissed by Authority of Industrial and Finance Reconstruction (AAFR). Therefore, the Department of Heavy Industry filed an affidavit in the High Court of Calcutta on 18 June 2007 for confirmation of winding up of Bharat Ophthalmic Glass Limited. The High Court of Calcutta passed orders for winding up of BOGL on 9 July 2007.

1.31 The Committee further note that the management of BOGL made ad-hoc payment of additional dearness allowance in two parts- @ 13.5% of wages *w.e.f.* 1 April 2000 and an additional 18% (raising it to 31.5%) *w.e.f.* 1 February, 2001 in anticipation of adjustment against wage revision on revival. It invited audit objections from the Comptroller and Auditor General (C&AG), on the ground that the proposal did not have the approval of the Administrative Ministry. The audit para was communicated to the Ministry of Heavy Industries and Public Enterprises in the year 2004-05. In view of audit objections, the Ministry decided to recover the amount of additional DA already paid to the employees.

1.32 As regards reduction of retirement age from 60 years to 58 years in Bharat Ophthalmic Glass Limited, the Committee have been informed that the Department of Public Enterprises issued guidelines in 1998 enhancing the age of retirement of employees working in PSUs from 58 to years to 60 years. Subsequently, the Department issued another Circular on 9 May, 2000 whereby the retirement age was rolled back to 58 years in loss making sick units. Accordingly, the Department of Heavy Industry framed internal guidelines to the effect that in all loss making sick units which were incurring losses continuously for three years, the retirement age of employees may be reduced from 60 to 58 years. The Circular to this effect was issued on 18 June 2002. The decision to lower the age of retirement from 60 years to 58 years was approved by the Department of Heavy Industry and conveyed to BOGL on 16 July 2003 with directions to implement the decision immediately. However, the Company did not send the compliance report. As BOGL was dependent on budgetary support from the Government of India for payment of salary and wages the Government stopped release of funds in respect of employees who had crossed the age of 58 years. A provision of Rs. 98 lakh for payment of salary and wages including settlement of

statutory dues in respect of BOGL employees for the period from January 2006 to March 2007 was made in July 2007. But the Ministry did not release the funds to BOGL for want of utilization certificates in respect of past release of funds. According to the Ministry, utilization certificates for release of funds amounting to Rs. 2.50 crore during the years 2003-04 and 2004-05 for disbursement of salary and other statutory dues submitted by the company could not be accepted as there were diversion of funds. The Ministry took up the matter with the Ministry of Finance and the Ministry of Law seeking their consent for release of funds for payment of wages and salary and VSS dues. However, the Department of Legal Affairs advised the Ministry that since the matter was pending before the Calcutta High Court, the decision can be taken only after appropriate orders for release of funds have been passed by the Court.

1.33 The Committee also note that the High Court of Calcutta has passed orders on 9 July 2007 for winding up of BOGL. The appeal filed by the employees of BOGL against winding up order has been dismissed. As the company has been taken over by the Official Liquidator, any payment can be released only with the approval of the High Court. The Official Liquidator has been appointed who has been advised to seek permission of the Court for release of funds as loan to the company for disbursement of dues.

1.34 On examination of the facts, the Committee find that the Managing Director, BOGL took the decision to pay additional DA to the employees @ 13.5% of wages from 1 April 2000 which was subsequently enhanced to 31.5% from 1 February 2001. C&AG had in their audit para in the year 2004, objected to the payment on the ground that the proposal did not have the approval of the administrative Ministry. Based on the audit para, the Ministry of Heavy Industries decided to recover the amount already paid to the employees of BOGL. From the sequence of events the Committee feel that orders of the Ministry of Heavy Industry (Department of Heavy Industry) for recovery of additional dearness allowance paid to the employees of BOGL was faulty since C&AG objected to the lack of approval of the administrative Ministry and not to the payment as such. The Committee are of the considered view that compliance of prescribed formalities is the responsibility of the management of the Company. The employees are not expected to complete such formalities. Therefore, the management of BOGL should have ensured that the requisite permission was taken before releasing the payment of the employees.

1.35 In the opinion of the Committee, the audit para and subsequent decision of the Ministry to recover the amount already paid to the employee on account of additional dearness allowance could have been avoided had the MD, BOGL acted within the domain of his powers. The compliance of proper formalities would have saved both the employees as well as the Ministry from avoidable sufferings and embarrassment. The payment was made to the employees in April 2000 and subsequently enhanced in February 2001. The audit para of C&AG was reported in the year 2004. Till such time the matter was reported to the Ministry, the MD, BOGL had retired from service. For the act of omission on the part of the officer, the Ministry decided to take two diverse courses of action — first to exonerate the officer since he had retired from

service and secondly to recover the amount already paid to the employees. The Committee do not agree with the decision of the Ministry in regard to taking action against the MD and other officers of BOGL. The officers are expected to be fully conversant with the office formalities especially in regard to financial matters. The cessation from service may not preclude the Ministry from proceeding against such officers, who had failed to discharge their responsibilities in accordance with rules and established norms. The Committee therefore, desire that appropriate departmental action may be initiated against all officers of BOGL who were responsible at that time for exceeding their powers and bypassing the authority of the administrative Ministry.

1.36 The Committee also recommend that a lenient view may be taken with reference to the recovery of payment from the employees on account of ADA. The Ministry of Heavy Industries may, in consultation with Department of Public Enterprises, may regularize the payment by according *ex-post-facto* sanction.

1.37 The Committee find that the Department of Public Enterprises issued guidelines in 1998 enhancing the retirement age from 58 to 60 years. Subsequently the Department issued circular on 9 May 2000 stating that in sick and loss making units, the retirement age may be rolled back to 58 years as these companies were unable to sustain themselves and were dependent for budgetary support from the Government of India for payment of wages, *etc.* to their employees. Accordingly, the Department of Heavy Industry framed internal guidelines on reduction in retirement age in PSUs which were incurring losses continuously for three years. In the case of BOGL the decision to reduce the age of retirement from 60 to 58 years was approved by DHI and conveyed to the Company on 16 July, 2003. However, the company did not send any compliance report. Ultimately the Ministry stopped the budgetary support to BOGL in respect of those employees who had crossed the age of 58 years as on 31 March 2005. The Committee feel that the employees alone cannot be held accountable for continued loss as many factors affect the performance of the company. The age of retirement should not be curtailed only on the plea that the company was incurring losses. In the case of loss making sick units, the revival package should be so formulated that the company becomes financially viable. The Committee therefore, recommend that the age of retirement may be considered for enhancement from 58 years to 60 years in respect of those employees of BOGL who were serving till the High Court of Calcutta issued orders for winding up of the Company.

1.38 The Committee observe that BOGL is in liquidation phase and the High Court of Calcutta has passed orders on 9 July 2007 for winding up of BOGL. As the company has been taken over by the Official Liquidator, any payment can be released only with the approval of the High Court. The Official Liquidator has been appointed. The Ministry has requested the Official Liquidator to seek permission of the Court for taking loan of Rs. 1.98 crore to settle the outstanding dues of BOGL employees upto 31 March 2007. As the High Court of Calcutta is already seized of the matter, the Committee, in the broader interest of serving as well as ex-employees, desire that the Official Liquidator may be requested to seek early approval of the Calcutta High Court to give loan to the Company so that the process of settling the claims of employees could start.

CHAPTER II

REPRESENTATION OF SHRI RAJ KUMAR SINGH, PRESIDENT, KOYALA MAZDOOR CONGRESS, RAJMAHAL GROUP OF MINES, GODDA, JHARKHAND REGARDING IRREGULARITIES IN THE PROVIDENT FUND OFFICE OF DEOGHAR

2.1 The Committee on Petitions received a representation dated 14/01/2006 from Shri Raj Kumar Singh, President, Koyala Mazdoor Congress, Rajmahal Group of Mines, Godda, Jharkhand regarding irregularities on the Provident Fund office of Deoghar. The petitioner in his representation *inter-alia* stated that the cases of Pension or Provident Fund are not disposed of intentionally in the PF office of Deoghar without taking bribe. It was alleged that workers are harassed and their cases are not settled if they refuse to pay money. The petitioner quoted certain cases where the beneficiaries and their nominees had died but even then their pension/PF cases were not settled. Further, it was alleged that as per rules there should be coordinating meeting twice a year but the same had not been held during the last two years. The petitioner, therefore, requested that the matter be enquired into and action taken against the guilty officials.

2.2 The Committee on Petitions under Direction 95 of the Directions by the Speaker, Lok Sabha took up the above representation for examination. Accordingly, the representation was forwarded to the Ministry of Coal on 20/03/2006 requesting them to furnish their comments.

2.3 At the instance of the Committee on Petitions, the Ministry of Coal *vide* their O.M. No. 54012/2/2006-PRIW-II dated 17th April 2006 furnished their comments as under:—

"The matter has been examined. Commissioner CMPFO has intimated that the discrepancies alleged by Shri Raj Kumar Singh has been thoroughly investigated and suitable actions have been taken in this regard. The pension claim of Shri Badan Singh was received by the Regional Office of CMPF on 16.8.1999 while he was alive, but his claim was incomplete as there was difference in the date of his retirement shown in the various documents. Meanwhile after the death of Shri Badan Singh on 7.1.2000 his widow applied for pension on 20.7.2000. The said application was not in the prescribed PS-6 form and the name of the lady Smt. Radhiya Devi was differently spelled in the various documents. The Regional Office corresponded with the Colliery to ascertain the correct facts but in the meantime the widow also died. On 4.10.2002 the son of the deceased Shri Rohin Singh applied for the pension but the Regional Office noticed that the deceased had two more dependent sons. On investigation of the facts it was found that none of the sons was eligible for the pension as all of them were majors. The claimant was unable to produce any documentary evidence in support of his age claim. Due to these facts the Regional Office is

unable to dispose of the pension claim. As regards the allegation that the Coordination Committee Meetings which were supposed to be held twice a year have not been held for the last two years, it is informed that the Coordination Committee Meeting were held on 1.7.2005 at Simlong Colliery, on 9.9.2005 at J.P. Colliery, on 12.9.2005 & 3.3.2006 at Chitra Colliery and on 8.3.2006 at Rajmahal Colliery and Simlong Colliery. As regards the claim of Shri Birbal Harizan, it is to be informed that the Colliery Management had furnished the pension claim to the Regional Office on 27.3.2006 and the same has been disposed of on 28.3.2006."

2.4 The Committee enquired from the Ministry of Coal about the procedure for grant of Provident Fund/Pension and entitlement of the claimant as per the rules of the company. The Ministry of Coal in their written reply dated 03/05/2006 stated as under:—

"As per Coal Mines Provident Fund (CMPF) scheme, an employee working in a coal mine after putting in 30 days of attendance becomes a member of the Coal Mines Provident Fund. The CMPF Member is also entitled for pensionary benefit in accordance with Coal Mines Pension Scheme, 1998. Retirement or exit from service on any ground makes the member entitled for refund of CMPF accumulation. PF accumulation is refunded after receipt of claim petition by the member through the Colliery Management. The claim petition is processed by the CMPF Regional Office and sanctioned. Identical procedure is followed in the matter of pension settlement."

2.5 On being asked to state about the authority competent to grant/sanction provident fund/pension to the workers:—

"Regional Commissioner CMPF of a region or Assistant Commissioner, incharge of the region is the competent authority for grant/sanction of PF and pension to eligible workers."

2.6 The Committee desired to know about the number of cases of pension/provident fund pending for settlement alongwith the present status. In reply, the Ministry of Coal stated:—

"In all 16 cases of PF and no case of pension are pending as on 15th April, 2006. The present status of the cases and reasons therefore are as follows:—

Sl. No.	Description of pending cases	Nature of Claim	Reasons for pendency	Pending Since
1	2	3	4	5
1.	L/Shiv Charan Rewani	PF Refund	Closed for want of Succession Certificate	11.12.2001
2.	L/Tribhuban Tudu	PF Refund	-Do-	27.04.2002
3.	L/Nand Kishore Mahato	PF Refund	-Do-	28.10.2002
4.	L/Kaushalya Dasin	PF Refund	-Do-	18.04.2002
5.	L/Sri Nand Hembram	PF Refund	-Do-	02.04.2003

1	2	3	4	5
6.	L/Bihari Marandi	PF Refund	-Do-	04.01.2000
7.	L/Parmeswar Majhi	PF Refund	-Do-	02.04.2003
8.	L/Chhedi Lohar	PF Refund	Closed as claim is from someone other than nominee	29.01.1999
9.	L/Gulhal Marandi	PF Refund	-Do-	08.08.2000
10.	L/Tala Hembram	PF Refund	-Do-	05.02.1999
11.	L/Sri Ram Bouri	PF Refund	-Do-	01.12.2004
12.	L/Ram Gulam Singh	PF Refund	Wanted Sch. 'C', claim of daughter and clarification etc.	20.03.2002
13.	L/Hriday Routh	PF Refund	Wanted Sch. 'C' death certificate of wife, genuineness	12.11.2002
14.	L/Deb Narayan Kole	PF Refund	Wanted SB A/C in the name of nominee	11.11.2003
15.	L/Chando Marandi	PF Refund	Wanted genuineness certificate, claim of two sons received while only one as per records	12.01.2006
16.	L/M.J. Sharifi	PF Refund	Wanted death certificate of mother, family particulars of deceased son	28.10.2003

Present status of cases quoted by the petitioner:

(a) Late Birbal Harijan, CMPFA/C No. 2/267/B/0736 of—Rajmahal OCP

On his retirement from service, the member's provident fund accumulation was paid on 29th Dec., 2000. However, after his death the pension claim was submitted by his widow, which was forwarded by the colliery management (Rajmahal OCP) on 27th March 2006. The pension claim was processed on priority and widow pension @ Rs. 662/- per month has been sanctioned in favour of Smt. Rajouto Devi, widow of late Birbal Harijan.

(b) Late Badan Singh, CMPFA/C No. C/1/722/411 of Rajmahal Area

The CMPF accumulation of Shri Badan Singh was paid on 30th November, 1994. The Coal Mines Pension Scheme came into force *w.e.f.* 31st March, 1998. Shri Badan Singh was also a member of Coal Mines family Pension Scheme, 1971 and adopted to become member under newly introduced Coal Mines Pension Scheme, 1998. He exercised his option (PS-2) and family details (PS-3) were submitted on 25.05.1998. He submitted his claim petition (PS-6) for pension to Regional Office, Deogarh on 16th August 1999. Some major anomalies including difference in the date of retirement were noticed in the claim petition. While the case was under process, Shri Singh died on 07.01.2000. After death of Shri Badan Singh, his widow, Smt. Radhia Devi applied on plain application paper for pension on 20.07.2000 and not in prescribed statutory form (PS-6) alongwith relevant documents. Later, on receipt of her claim petition, difference in the name of widow was noticed in different records of his office and also in their claim petitions. The colliery was then asked to clarify the correct name of nominee. Unfortunately, Smt. Radhia Devi also died on 25.11.2001.

The claim of Shri Rohin Singh, son of late Badan Singh for settlement of pension was received on 04.10.2002. During the processing of his claim, it was noticed that late Badan Singh had three sons, namely Shambhu Singh (20), Bartu Singh (16) and Rohin Singh (12). The age of all three sons were recorded as on 07.03.1976. In family details furnished on 25.05.1998, the member had declared Radhia Devi as his wife and Rohin Singh as his only son. Since, Rohin Singh, the claimant had crossed the age limit of 25 years by the time the member died, he is not entitled for any pension. However, he is entitled for one-third of the accumulation of pension of his father and widow pension of his mother and for this payment a legal heir ship certificate was asked from the Colliery.

The Colliery forwarded the legal heir ship certificate alongwith survivor's claim petition in the month of April 2006. Accordingly the total pension accumulating to Rs. 20,779/- is divided among three sons and payment released to them."

2.7 When asked to state about the time taken to settle the Provident Fund/Pension cases of workers and the accountability of the authorities in case of delay, the Ministry stated as under:—

"Cases of PF/Pension of the workers which are complete in all respects are settled within a month of their receipt. The incomplete claims requiring some documents/information are referred to the member/claimant for rectification. In case undue delay occurs on the part of PF Officials action is taken against them and if there is inordinate delay on the part of Management Officials the matter is referred to competent authority for fixing responsibility and for taking necessary action."

2.8 When asked to state whether the Government had received any representation regarding delay or non-settlement of Pension/Provident Fund cases, the Ministry stated as under:—

"The Government forwarded the representations for delay or non-settlement of Pension/PF cases to CMPF Commissioner, Dhanbad for redressal of grievances.

It is informed that Central Grievance Cell works at CMPF Head Quarters, Dhanbad and Regional Grievance Cells are working at all Regional Offices of CMOFO. However, in the instant case the petitioner neither submitted his representation to the Central Government nor to the CMPF Commissioner."

"In the case of Late Birbal Harijan, although Provident Fund accumulation was paid on 29th December, 2000 his pension claim was submitted by his widow through the Colliery Management on 27th March, 2006. The pension claim was settled on 28th March, 2006. *Prime facie* there is no delay on the part CMPF Regional Office, Deogarh.

As regards the case of Late Badan Singh the sequence of action taken are as here-under:

Claim Submitted by Member on	:	16.8.1999
Death of the Member on	:	7.1.2000
Widow claimed on	:	20.7.2000
Widow died on	:	25.11.2001
Son claimed on	:	4.10.2002
Legal Heir ship certificate Submitted by Colliery	:	14.4.2006
Case settled on	:	17.4.2006

Prima facie there appears to be some delay on the part of Colliery Management and CMPF Regional Office, Deogarh as well. The CMPF Commissioner proposes to constitute an Enquiry headed by a Senior Officer of the Organisation."

2.9 On being asked to state whether the Government had conducted any investigation into the allegations of delay in settling the cases of PF, and remedial action taken thereon, the Ministry stated as under:—

"There is provision for holding periodic Coordination Committee Meetings. The purpose of holding such meetings is to deliberate on various issues pertaining to the CMPF Act and various schemes thereunder including settlement of Pension/PF cases."

2.10 In reply to a question about holding of Coordination Committee meetings during the last two years, the Ministry stated as under:—

"The Coordination Committee meetings are held regularly covering all the areas under the Regional Office, Deogarh. For the last two years the following meetings were held:

1. 01.07.2005—Simlong Colliery, Rajmahal Group of Mines
2. 09.09.2005—Jorekuri Palasthali Colliery
3. 12.09.2005—Chitra Colliery

4. 03.03.2006—Chitra Colliery
5. 08.03.2006—Joint Meeting of Rajmahal Area, Rajmahal OCP, Simlong Colliery."

2.11 On being asked to state whether there was any mechanism to settle the Provident Fund/Pension cases of workers in a time bound manner and also to resolve the grievances of the workers, the Ministry of Coal replied:—

"To settle the PF and pension cases in the month of retirement. From January 2006 the CMPF Commissioner has launched a "Mission Vishwas" giving wide publicity through print, audio & visual media for submission of the claims by the retiring members latest by the end of first week of retiring month. The "Mission Vishwas" has evoked positive response from the retiring members in Coal industry and with better coordination and close cooperation between the various Regional Offices of CMPFO and Coal Companies the PF and Pension cases are settled in the same month. The grievance machinery has been geared up; help lines have been established in various offices and facilitation counters are likely to be opened at various places covering the Coal Bearing Areas."

2.12 On the directions of the Committee, the Ministry of Coal *vide* their O.M. No. 54012/1/2006 (iii)—PRIW-II (Vol. II) dated 18/01/2008 forwarded the revised status report of 16 cases of PF office, Deoghar. The details are as under:—

S.No.	Name of deceased member	Status report
1.	L/Chando Marandi	Claim finally settlement by payment of Rs. 2,27,566/- to Shri Robin Marandi, son of the deceased member on 3/5/2006 as his own share and payment of Rs. 2,27,566/- to him as share of deceased mother.
2.	L/Deb Narayan Kole	Claim finally settled by payment of Rs. 20,501/- to Smt. Sohgi Kolin, wife on 30/4/2006 and payment of Rs. 20,500/- to Smt. Upasi Kollin, mother of the deceased member on 12.12.2006.
3.	L/Gulhari Marandi	Claim of nominee finally settled by payment of Rs. 1,97,546/- to Smt. Chhita Baskey wife of deceased member on 11.08.2006.
4.	L/M.J. Sharifi	Claim finally settled by payment of Rs. 7,56,089/- to Smt. Sabina Praveen, wife of deceased member on 31.8.2006 and payment of Rs. 1,89,030/- to his son on 4.01.2008.
5.	L/Tribhuban Tudu	Claim partly settled by payment of Rs. 1,10,293/- to Smt. Talamai Hasda, wife of the deceased member on 7.4.2007. Share of two deceased sons are yet to be settled on

S.No.	Name of deceased member	Status report
		the basis of succession certificates, which are awaited from the claimants.
6.	L/Nand Kishore Mahto	The claim of Shri Sunil Kumar Mahto, son of deceased member has been settled by payment of Rs. 2,74,428/- on 7.4.2007. Claim of daughter of the deceased member is still awaited.
7.	L/Hirday Routh	Claim in favour of Smt. Mukhni Devi (50% share), mother of the deceased member has been settled by payment of Rs. 1,76,292/- on 7/4/2007. Claim from Guria Kumari, daughter of the deceased member, minor on the date of death the member, is still awaited.
8.	L/Shiv Charan Rawani	List of surviving family members has been collected by the colliery. Address of remittance has also been confirmed succession certificate is awaited from the claimants.
9.	L/Koushala Dasin	The succession certificate submitted by the claimant to CMPFO on 20/6/2007 was not found appropriate by CMPFO and so ECL has been asked to submit a detail report in the matter.
10.	L/Shri Nand Hembram	The claim forms of the eligible family members forwarded by the ECL to CMPFO on two occasions were found to be different. Hence fresh claim form has been requested by CMPFO with supporting legal documents.
11.	L/Parmeshwar Manjhi	The claim of son of the deceased member and the death certificate of wife of the deceased member are required.
12.	L/Bihari Marandi	The person concerned is yet to obtain the succession certificate from the court of the District Judge, Deoghar.
13.	L/Chhedi Lohar	Claim finally settled by payment of Rs. 1,45,213/- to Smt. Pemale Devi, wife of deceased member on 26/7/2007.
14.	L/Tala Hembram	Claim finally settled by payment of Rs. 2,65,674/- to Smt. Hopanami, wife of deceased member on 28/5/2007.

S.No.	Name of deceased member	Status report
15.	L/Sri Ram Bouri	The claim of nominee Shri Tarun Bouri, son of deceased member is still awaited.
16.	L/Ram Gulam Singh	Claim finally/settled by payment of Rs. 1,26,583/- and Rs. 1,26,582/- to Anjani Kumar, daughter and Kanhaiya Singh, son of deceased member on 11/7/2007.

2.13 Thereafter the Committee took oral evidence of the representatives of the Ministry of Coal on 31/03/2006 and 21/1/2008.

2.14 Explaining about the current status of pension and provident fund cases in the office of PF, Deoghar, the witness during witness stated as under:—

“Coal Mines Provident Fund Commissioner himself has come. The headquarter is located at Dhanbad. One of the office is located there. The matter has two points—one, the details about sixteen cases had been sent to us in which it had been mentioned that they are pending for a long time. We have given their current status. The status is that the payment in pension cases had already been made, but this provident fund cases were pending.”

2.15 When queried about the cases of Shri Birbal Harijan, Shri Badan Singh and Shri Awdesh Pal, the representatives of the Ministry during evidence stated:—

“Sir, except 16 persons in the regional office, Deoghar, the details of the two persons to be submitted were—Shri Birbal Harijan who retired in the year 2000.”

The witness further stated :

“On his retirement from service, the members' Provident Fund accumulation was paid on 29th December, 2000.”

2.16 On being asked to state whether the applicant has to apply for the pension after retirement, the witness stated as under:—

“Yes Sir, a claim has to be filed and then it is done.”

2.17 When asked to state when was their application submitted, the representatives of the Ministry stated:—

“The application was received on 27th March, 2006. It came from Raj Mahal Open Caste Project Colliery.”

2.18 On being asked to state about the date of death of the applicant, the witness replied:—

“I will be able to tell the date of his death after going through the records.”

2.19 The Committee enquired whether a person who retired in the year 2000 did not apply for his provident fund and pension for six years. Replying to this, the witness during evidence stated:—

“He got the provident fund in 2000 but did not get the pension.”

2.20 The Committee desired to know when the widow of Birbal Harijan applied for pension. Responding to this, the representative of the Ministry stated:—

“The application was received on 27th March, 2006 and Rs. 662/- per month was fixed as his pension.”

2.21 When asked to state whether the applicant retired on 27th March, 2006, the witness, during evidence, stated:—

“No, we received his application on that date.”

2.22 As regards the delay in processing the claims of pension of the applicant, the representative of the Ministry during evidence, stated:—

“I will specifically look into this case. I would request that we have made a lot of endeavours in the last few years to improve the situation, so that there may not be delays. I would like to give details of the steps taken so that there may not be further delays.”

The witness further stated:

“It is true that there has been delay.”

2.23 Taking note of the delay in processing the cases of pension of the workers and informing about the steps to avoid delay in future, the witness during evidence stated:

“I will get the case examined by an officer of the Ministry within a month because we have to see whether delay is at the level of ECL or at their level.”

Observations/Recommendations

2.24 The Committee note that the petitioner, in his representation, has alleged that there was rampant corruption in the Provident Fund Office of Deoghar, Jharkhand. The petitioner has *inter alia* stated that the pension and provident fund cases of the workers are intentionally delayed in the Regional Provident Fund Office, Deoghar. The workers are harassed and their cases are not settled if they refuse to pay bribe. The petitioner quoted cases of Shri Badan Singh and Shri Birbal Harijan where the beneficiaries and their nominees had died but even then their Pension/Provident Fund cases were not settled. Further, it was alleged that as per rules there should be coordinating meeting twice a year but the same had not been held during the last two years. The petitioner, therefore, requested that the matter be enquired into and action taken against the guilty officials.

2.25 The Committee note that as per Coal Mines Provident Fund (CMPF) Scheme, an employee working in a coal mine after putting in 30 days of attendance becomes a member of the Coal Mines Provident Fund. The CMPF Member is also entitled for pensionary benefit in accordance with the Coal Mines Pension Scheme, 1998. Retirement or exit from service on any ground makes the member entitled for refund of CMPF accumulation. PF accumulation is refunded after receipt of claim petition by the member through the Colliery Management. The claim petition is processed by the CMPF Regional Office and sanctioned. An identical procedure is followed in the matter of pension settlement.

2.26 On the allegations of the petitioner that the Provident fund cases of the workers were not settled expeditiously, the Ministry of Coal informed the Committee that 16 cases were pending as on 15 April 2006. The Ministry also furnished a statement indicating the reasons and periods of pendency of provident fund cases of the above 16 claimants. The Committee noted from the reply of the Ministry that these cases were pending since 1999, 2000, 2001, 2002, 2003 and 2004. Some of these cases were even closed by the said office for want of succession certificates.

2.27 The Committee note from the reply of the Ministry of Coal that the allegations were investigated by the Commissioner, Coal Mines Provident Fund Organisation. According to the Ministry the pension claim of Shri Badan Singh was received in the Regional Office, Coal Mines Provident Fund on 16 August 1999 when he was alive. However, certain major anomalies, including discrepancy in the date of retirement, were noticed in the papers submitted by him. While the case was under process Shri Badan Singh died on 7 January 2000. After his death, his widow Smt. Radhiya Devi applied on plain paper for pension on 20 July 2000. As the pension papers were required to be submitted in the prescribed statutory forms, the claim remained under process. Further some discrepancies were also noticed in the pension claim. Unfortunately, Smt. Radhiya Devi also died on 25 November 2001. Shri Robin Singh, son of Late Shri Badan Singh applied for pension on 4 October 2002. While processing the claim it was noticed that Shri Badan Singh had three sons. The age of all the three sons were recorded in the family details. During processing of the claim it was noticed that Shri Robin Singh, the claimant had crossed the age of 25 years. As such he was entitled for one-third of accumulation of pension of his father and widow pension of his mother for which a legal heirship was asked for by the colliery. The certificate was submitted in April 2006 and thereafter total pension accumulating to Rs. 20,779/- has been divided amongst the three sons and released to them.

2.28 Regarding the case of Shri Birbal Harijan, the Committee note from the reply of the Ministry that on his retirement the provident fund was paid on 29 December 2000. After his death the pension claim was submitted by his widow on 27 March 2006 and pension @ Rs. 662/- per month has been sanctioned.

2.29 On examination of the facts, the Committee observe that the allegations levelled by the petitioner about the malfunctioning of Regional Provident Fund Office, Deoghar were true to a large extent. The provident fund cases of the claimants were unduly delayed by the officials working in the said office. From the reply furnished by the Ministry of Coal, the Committee find that 16 cases were reported to be pending. Some of these cases have been pending for the last nine years. Initially the Ministry of Coal reported that some of these cases were even closed for want of succession certificate. When the Committee took up the matter and desired that appropriate action should be taken, the Ministry decided to conduct an inquiry. On the directions of the Committee, the revised status of all the above 16 cases was reported to the Committee. The Committee find that out of the 16 cases, eight were finally settled while two were partly settled and the remaining six cases were still pending. These six cases were pending due to non-compliance of certain formalities by the family members of the claimants.

2.30 The Committee regret to note that provident fund cases of the claimants have been kept pending on flimsy grounds by the officials working in the Regional Provident Fund Office, Deoghar. The Committee are shocked to find that the cases of PF which were initially closed for want of succession certificates, were later on settled only when the Committee intervened. Such type of incidents amply depict the pathetic working culture adopted by the authorities in the said office. The Committee feel that these cases have been unduly delayed on unjustifiable grounds responsibility for which lies on apathetic and callous officials who failed to render the desired assistance to the retired people. The Committee recommend that responsibility against erring officials who had delayed the settlement of provident fund cases may be fixed. The Committee may be apprised of the action taken within three months of the presentation of this report.

2.31 About the delay in processing the pension case of late Shri Badan Singh, the Committee find that the claim was submitted on 16 August 1999. Shri Badan Singh died on 7 January 2000 and the widow submitted the claim on 20 July 2000. The claim remained pending and in the meantime the widow died on 25 November 2001. His son submitted the claim on 04 October 2002. The legal heirship certificate was submitted to the colliery on 14 April 2006 and the case was settled on 17 April 2006. The Ministry in its reply has admitted that *prima facie* there was delay on the part of colliery management and CMPF Regional Office, Deoghar as well. According to the Ministry the CMPF Commissioner proposes to constitute an inquiry headed by a senior officer of the organization. While endorsing the course of action proposed to be taken in the matter, the Committee desire that the inquiry should include all cases of delays and may be completed in a time bound manner and the report along with action proposed to be taken, may be submitted to the Committee. The report may also include the remedial measures taken to streamline the system in order to avoid such delays in future.

2.32 Thereafter, to obviate recurrence of such instances the Committee also recommend that the Ministry of Coal may issue suitable instructions to the management of all collieries to settle all the dues of the workers on the date of retirement so that the cheques relating to payment of dues could be handed over to the employee on the date of his retirement itself. All the required formalities for expeditious settlement of such claims should be completed well ahead of retirement of the employee so that he could draw pension the month following his retirement.

CHAPTER III

REPRESENTATION REGARDING REVENUE LOSS DUE TO MIS-DECLARED IMPORTS AS 'WORN CLOTHING'

In his representation, the petitioner Shri S.L. Shah, Chairman, Trade Redressal Sub-Committee, the Clothing Manufacturers Association of India (CMAI), Mumbai has stated that fresh garments are actually being imported under the garb of 'Worn Clothing'. Although imports of worn clothing has been placed on the restricted list, valuation of such imports are being carried on 'weight basis' instead of on 'per piece basis' which is a global practice. This has caused a huge revenue loss to the Government. The petitioner has also stated that fresh garments are imported in Kandla SEZ (KASEZ) by being mis-declared as worn clothing and that such fresh garments are being sold in DTA and as a consequence, the domestic garment industry including the entire textile chain from spinning to garment manufacture is being hurt seriously. The petitioner has, therefore, requested that either imports of worn clothing be banned or if at all Government wishes to continue worn clothing in the restricted list, such garments may be valued on 'piece basis' instead of 'on weight basis' alongwith appropriate rate of import duty thereon.

3.2 Meanwhile, the Committee also received representations from Shri Prakash Jain and others on behalf of the Textile Re-Cycling Association (TCA) (KASEZ) and forwarded by Shri P.S. Gadhavi, M.P. wherein it has been stated that the textile re-cycling industry at Kandla SEZ is very labour intensive and employs over 5000 workers of which a large percentage are uneducated and unskilled women from rural areas where employment is available on an average of 3-4 months a year. The focus of this industry is export oriented and it is Net Foreign Exchange earner. This industry provides clean and hygienic working environment. All the used clothing imported in KASEZ is fully fumigated, free of germs and certified by international fumigation agencies. Besides, the industry provides industrial raw material for blanket weaving industry located in Panipat which is equally labour intensive and employs over 50,000 people, predominantly women. The used clothing sold by units in Kandla has very high demand in Africa. These units sell only "C" Grade (inferior clothing) in DTA (India) that is meant for very poor people. It does not compete with new clothing. Therefore, used clothing sold by the units in Kandla will not adversely affect new clothing manufacturers in India. According to TCA, major impact to new clothing industry is from large amount of old clothing brought into India through the process of adjudication, fine and penalty. In 2004, after the Government put used clothing in restricted list and stopped issuing new licenses, this industry has mushroomed in UAE, Bangladesh and Pakistan. As a result thereof, India is losing opportunities to neighbouring countries. Most of these units opened overseas are by people of India origin. According to the TCA, used clothing is a restricted item and it is sold legally only by old and used clothing units in Kandla, that too with some restricted quota. The majority of used clothing sold in India is illegally imported directly by the process of

adjudication, fine and penalty. The illegal importers have made it a regular practice to import these containers directly into India and add cost of adjudication, fine and penalty in their final import price. Since the illegal imports bear more cost, these importers try to get good/fresh clothing that can be sold at higher price and bear the added cost of fine and penalty. According to the TCA, this kind of illegal imports has a negative impact on the new clothing manufacturers in India. The TCA has, therefore, suggested that in order to protect the interest of new clothing manufacturers in India, the process of illegal imports of used clothing directly into DTA should be stopped by disallowing illegal imports and such illegal imports should not be custom cleared under regular process of adjudication, fine and penalty but should be sent back to origin port of mutilated before the custom clearance is allowed. As per the Industry Report (October, 2007) of TCA (KASEZ) Panipat houses the world's largest sweater (and shoddy) re-cycling industry in the world. The used clothing imported by units in KASEZ often have large ratio of sweaters. These sweaters are industrial raw material for re-cycling industry in Panipat. The raw material directly imported by the units in Panipat has to be "pre-mutilated." This means when Panipat industry has to import raw material directly, they have to pay very high cost of mutilation to their overseas suppliers, whereas used clothing units in Kandla can import raw material without mutilation and use cheaper Indian labour to mutilate this material before selling it to Panipat. On an average cost of mutilation overseas is around 10 cents (USD) a kilo and in India it costs around 2 cents (USD) a kilo, there is a direct saving of 8 cents (USD) if the used clothing units in KASEZ import the raw material for Panipat without mutilation and mutilate it in their units using cheaper Indian labour. Panipat imports around 3,500 containers (around 8,750 MT) a month of industrial pre-mutilated raw material. At present, the units in KASEZ provide around 3,000 MT of industrial material to Panipat. If the used clothing units in KASEZ were given reasonable support, they can save India a million dollar a month in mutilation cost, this foreign exchange saving otherwise will be drained to pay for labour overseas.

3.3 The Committee took up the matter for examination in accordance with Director 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the aforesaid representation were forwarded to the Ministry of Textiles (MoT) and Ministry of Commerce and Industry (MoCI) for their comments on the points/issues raised therein by the petitioners. The representation received from CMAI was also taken up for discussion with the representatives of the MoT and MoCI during the study visit of the Committee on Petitions at Mumbai on 27.12.2006. In their background note for the Committee, the MoT stated has under:—

"Import of Used/Worn clothing has been a debate going on since last 30 years. The entire shoddy industry which makes yarn for the blanket and the carpet industry is based on the worn clothing or rags. Therefore, import of worn clothing has always been going on. The entire supply of the worn clothing can be divided into two categories:

- (i) Rags which are fully worn out clothing and is primarily used for recovery of yarn.

- (ii) Used clothing/store-season surplus which is wearable but is sold to charities or in mass stock sales in some of the developed countries.

In most of the supplies both kinds are mixed though the quantum of rags and clothing vary depending on the source.

2. The issue of used/new clothing in the guise of rags has been an allegation attached with this industry since very beginning. Since the distinction in the rags and the clothing is borderline, it is alleged that wearable or even new clothing comes declared as rags/used. In its endeavour to minimize these allegations, the Government has been changing practice in the last 35 years. Earlier rags were allowed to be cleared into domestic area subject to cutting of the garment. Then cutting/mutilation in the port area was introduced. Subsequently the Policy placed these goods in the restricted list and imports of only pre-mutilated rags was allowed. However, all along at the ports the Customs authorities kept on allowing clearness of the clothing on adjudication bases where these restricted goods imported without licence from Director General Foreign Trade were confiscated and released after imposing redemption fine and penalties in terms of the provisions of the Customs Act, 1962.

3. In the meantime in 1998-2000 era certain Letters of Permission were issued for EOUs and EPZ Units based on rags/used clothing for recovery of yarn, mfg. of blankets and exports. As the EPZ/EOUs were allowed import of restricted items freely, they started importing full clothing *i.e.* without mutilation. Once the goods came to factory, they would be segregated yarn wise, colour wise and quality wise and then torn for recovery of yarn. It was advantageous compared to pre-mutilated imports allowed in DTA in following ways:

- (i) Since segregation of clothing/rags was taking place prior to mutilation, the yarn produced was of superior quality and fetched better order and prices in the international market.
- (ii) Since the mutilation process is labour intensive and the costs are higher in supplier countries, mainly European, the final product price became cheaper for these EOU/EPZ units.

But these units were not allowed to sell the used clothing in DTA as the imports of clothing were restricted. This used clothing however, had markets in Africa primarily where such exports were allowed in some cases from EPZ (now SEZ).

4. However, in 2001 the import policy placed the used clothing (HSN Code 6309) as an OGL item. Number of requests were received for used clothing segregation units (segregation/sorting was manufacturing process as per the Policy at that time) in Faita, SEEPZ and Kandla SEZ. Most of these units came for segregation of clothing and exports while some came for manufacturing wipers, mutilated rags, blanket yarn *etc.* 11 permissions were given in Kandla SEZ in 2001-02. The total import of used clothing by these units in any year was about 12-15% of the total imports of used clothing in the country. While the SEZ units were segregating making some value added product in some cases and then exporting about 40 to 50% of the import, the DTA imports were only meant for domestic sales. As the examination of imports at ports is on random

selection basis, it was at times alleged that new clothing comes in the guise of worn clothing. In SEZ, since the containers were de-stuffed in the presence of the Customs officials, such possibilities are much lesser compared to such possibilities in DTA imports.

5. However, the items was again brought to restricted category on 27th October 2004 and while the domestic clearances continued to get cleared under transition provisions of FTP and then under the adjudication route, the SEZ units lost it from the same day. Based on their representations the DGFT issued amendments on 30th March, 2006 allowing DTA sale upto 15% of CIF value of imports made in the previous year. The domestic clearances are still being made even through the item is restricted.

6. For better appreciation of the facts it is importance that:

- (i) the Committee visits Kandla SEZ and examines the activity of these untis and the employment generated by them.
- (ii) Data regarding quantity and value of used clothing cleared on payment of fine and penalty at all port in India specially at Kolkata, Tughlakabad ICD and Mumbai is collected.

7. A suggestion has been made regarding piece based valuation. However it may not be administratively feasible since the goods are not uniform and come in bales. The goods vary in quality, size, degree of wear & tear etc. and is in large numbers. World over the practice is to charge duty on weight basis only."

3.4 In their comments, the MoCI *vide* their communication dated 05.12.2007 stated as under:—

"The matter has since been examined. It is observed that the petitioner in his petitioner has mentioned about illegal import of worn clothing directly and getting them cleared through the process of adjudication, fine and penalty. As far as SEZ Rules are concerned, as per existing SEZ Rules 2006, proposal for setting up of unit in the SEZ for representing of garments or used clothing or secondary textiles materials and other recyclable textile materials in to clothing or rags for industrial wipers or shoddy wood or yarn or blankets or shawls, are not be allowed. Further, extension of Letter of Approval of existing units is to be allowed to by the Board of Approvals only. The LOP of existing units in SEZ Kandla stand extended till December, 2007 and case of further extension will be placed before the BOA at its next meeting.

In addition to above, sale in Domestic Tariff Area by an existing unit in SEZ, is on payment of applicable customs duty and import policy in force. The DTA sale of used clothing is restricted to 15% of the CIF value of imports in the previous year. Since the worn clothing and other worn articles are on restricted list, their domestic access is also restricted."

3.5 In their comments *vide* their communication dated 25.02.2008, the MoT stated as under:—

"Based on the recommendation of Ministry of Textiles, Directorate General of Foreign Trade (DGFT) *vide* their Notification No. 7 dated 27th October 2004 placed

the import of worn/used clothing in the restricted list of imports. The above recommendation of the Ministry of Textiles was based upon the decision to discourage import of second hand clothing in respect of trading activities on phyto-sanitary ground as well as its adverse impact for the domestic textile industry.

2. However, in relaxation of the above policy, the import was allowed by the charitable organizations with certain conditions during the month of May 2005.

3. Kandla Used Clothing Association had represented to us for relaxation for Kandla Special Economic Zone (SEZ) units by allowing 20% Domestic Tariff Area sales (DTA) of imported worn used clothing. In view of potential of this industry and contribution in foreign exchange and employment, the matter had been examined in the Ministry in light of the field inspection report and all other related factors. After careful consideration, in the Ministry of Textiles and a Notification was issued on 30th March 2006 by DGFT permitting sales of worn clothing in the DTA by the SEZ units engaged in import and processing of worn/used clothing restricted to 15% of the imports made by them.

4. The Kandla Used Clothing Association, functioning in the SEZ area of Kandla port had been raising demands for allowing DTA sales of upto 20% of imported worn clothing by units in SEZ. According to the association, the worn/used clothing industry imports mixed worn/used clothing as basic industry raw material (mixed rags) and this article is sorted, segregated in a zone into (a) several grades of clothing for re-export to under developed countries; (b) raw material for the shoddy industry, reclaiming fibres to produce cheap clothing; and (c) industrial wipers for exports. These are subsequently processed in SEZ and are source of foreign exchange earnings with value addition of 10% to 15%. This is a labour intensive industry employing approx. 5000 workers. The sale in DTA service special economic cause of producing clothing for poor and under privilege. The import of worn/used clothing by units of SEZ, Kandla was approximately 11% of the total imports of such item in the country (1560 MT against 14000 MT).

5. The Clothing Manufacturers Association of India (CMAI) holds the view that the import of worn clothing should completely be banned. This clothing poses health hazards as cloths are neither fumigated nor washed prior to release in the domestic market. Every single piece of worn clothing imported into the country creates a loss of employment to the extent of three man-days. It adversely affects the working of the entire textile chain and ancillary industries. The blanket restriction according to Confederation of Indian Textile Industry (CITI) could be relaxed for the specific purpose of retrieving and regenerating fibres.

6. Ministry of Textiles considered the request of the units in the SEZ Kandla and, after having examining the subject in detail. It was assumed that 20% DTA sales of import value, if allowed would have been equivalent to 0.01% of the market size of the Indian garment industry in 2005. Thus MOT recommended the relaxation in the Foreign Trade Policy (FTP), permitting 15% DTA sales by SEZ units engaged in import and processing of worn/used clothing on case to case basis. DGFT Notification No. 56/2004-09 dated 30th March 2006 was finally put in the place allowing the units in SEZ to

sell worn clothing in the DTA to the extent of 15% of the Cost Insurance Freight (CIF) value of imports made in the previous year. The domestic textile industry has been demanding the withdrawal of above notification.

7. A VIP reference was received from Shri Anant Kumar Hedge, MP (LS) regarding the malpractices by customs officials. The import of the worn clothing had not been banned, and the custom authorities are allowing this sale by charging nominal fine/penalty. The matter was taken up with the Department of Revenue, and they had issued "appropriate instructions to field formations to ensure that in case of import of such good, the consignments are allowed clearance only after fixing maximum fines and personal penalties as deterrent to unscrupulous importer and also to ensure that the margin of profit is wiped out to discourage such imports."

8. Ministry of Finance, Department of Economic Affairs had opposed the relaxation at the time of the reformulation of the policy for relaxation on imports of worn clothing.

9. CMAI had further informed that the spurt in the import of second hand garments started in late 2000 and not less than 2 million used garments per month find their way into India adversely affecting the domestic manufacturers. The main suggestions of CMAI are as under:

- (a) second hand clothing be levied a specific duty of Rs. 75/- per piece.
- (b) garments imported as rags in SEZ units should go in the market for further processing in totally mutilated condition.
- (c) tally of figures of import and export of worn clothing.

10. Worn clothing carry a basic customs duty of 10% *ad-valorem*, whereas new garments have a mixed duty structure *i.e. ad-valorem* or specific duty on 'which ever is higher' basis. Sometimes specific duty may go upto Rs. 1100/- per piece (HS Code 62031100). Hence, the lower incidence of duty on worn clothing still remains an incentive to bring in new garments under the guise of second hand by mis-declaration.

11. Phyto-sanitary grounds still remain one of the most important considerations to deny permission to sell worn clothing in DTA. It is emply clear that import of worn clothing for job work cannot be treated to be falling within the ambit of import and processing. Only unskilled female workers are employed to sort out garments such as shirts, pants, sweaters *etc.* and make assortments. There is absolutely no hygiene control nor are the garments fumigated or washed before these are disposed of in the domestic tariff area, thus creating considerable health hazards. In view of the foregoing, the representation of Textile Recycling Association (KASEZ) does not deserve any consideration."

3.6 The MoT also stated as under:—

"The industry had reported that there was an alarming increase in the imports of clothing under the guise of second had clothing especially by the units located at Kandla and other SEZs. The industry also pointed out that the imports of second hand clothing started in late 2000 and at least not less than 2 million garments per month were finding their way into India, which was affecting

adversely the domestic manufacturers. Further, rags used to extract yarn or shoddy wool were being imported which were also marketed as garments. Keeping in view the increasing trend in import and its adverse impact on domestic textile industry and on phyto-sanitary grounds, it was considered not desirable to continue to allow the import of worn clothing under OGL. It was with this background that the import of worn clothing was placed in Restricted list of imports *vide* Notification No. 7 dated 27.10.2004.”

3.7 In response to a question as to whether the Government has conducted any investigation into the matter, the MoT in their written comments stated as follows:

“Government has not conducted any investigation in the matter.”

3.8 On being asked about the reasons for placing imports of worn/used clothing in restricted list, the MoT stated in their written submission as under:—

“The increasing trend in import and its adverse impact on domestic textile industry and on phyto-sanitary grounds, it was considered not desirable to continue to allow the import of worn clothing under OGL. It was with this background that the import of worn clothing was placed in Restricted List of imports *vide* Notification No. 7 dated 27.10.2004.”

3.9 In their written reply to a question as to whether the policy of the Government to restrict the import of 'worn clothes' has not affected the Indian Governments manufacturer, the MoT submitted as follows:—

“In view of a large number of representations from indigenous garment manufacturers showing their concerns to the adverse impact on domestic textile industry and also on health safety standards/phyto-sanitary grounds due to imports of worn clothing, the Government has decided to restrict the import of worn clothing into the country by placing it on the Restricted List of imports.”

3.10 Regarding the efforts made by the Government to save the domestic garment industry from such imports, the MoT in their written reply stated as under:—

“The Development Commissioner of the SEZ has been assigned the responsibility of giving clearance on case-to-case basis. He also has complete monitoring/details of such imports and exports.”

3.11 In response to a question as to whether the placement of import of worn clothing in the restricted list has helped in control of the import of fresh clothing, the MoT in their written reply stated as under:—

“Placing the import of worn clothing in the restricted list with effect from 27.10.2004 has effectively checked the rising trend in import of worn clothing. The import of worn clothing has declined sharply from Rs. 278.62 crore in s2003-04 to Rs. 46.98 crore in 2006-07.”

3.12 When the Committee asked as to why no investigations were conducted by the Government against the officials/units allowing fresh clothing, the MoT stated as under:—

“The fresh clothing is in free list and any one in the country can import fresh clothing after following the prescribed procedure. Hence, no investigation is warranted against the import of fresh clothing.”

3.13 On being enquired as to whether fresh clothes were imported under the guise of worn clothing, the MoT commented as under:—

“As per information gathered from the Department of Commerce, no case of imports of fresh clothing under the guise of worn clothing has been reported/ came to notice in KASEZ so far.”

3.14 Explaining the procedure for getting licence for import of worn clothing, that MoT commented as under:—

“Prior to 27.10.2004, import of used clothing under OGL was allowed freely without any restriction *i.e.* no licence was required for import of worn clothing. As per the existing Policy provision, where worn clothing is in the restricted list, an importer is required to make a request for import of worn clothing to the Office of Director General of Foreign Trade (DGFT), Department of Commerce as per prescribed procedure. Office of the DGFT forwards a copy of the application to the administrative Ministry (Ministry of Textiles) for recommendations. Such applications are considered by the Exim Facilitation Commerce (EFC) of DGFT and based on the recommendations of the administrative Ministry, the EFC takes a decision on the application received for import of worn clothing.”

3.15 About the implementation of the recommendation of the Ministry, allowing sale of worn clothing in DTA, the Committee were informed as under:—

“The recommendations of the Ministry of Textiles allowing sale of worn clothing in Domestic Tariff Area to the extent of 15% of CIF value of imports of previous year were implemented *vide* DGFT's Notification No. 56(RE-2005)/2004-09 dated 31st March, 2006.”

3.16 Responding to a question as to whether it was not desirable to continue to allow the import of worn clothing under OGL based on phyto-sanitary grounds, the MoT stated as under:—

“The worn clothing poses health hazards as they are generally not fumigated or washed prior to release in domestic market.”

3.17 When the Committee asked as to whether garments are fumigated or washed before these are disposed of in the DTA, the MoT in their written comments stated as under:—

“As per information gathered from Department of Commerce, the used clothing is always imported in fumigated containers and only such fumigated clothing is sold in DTA. A certificate from the exporter regarding dis-infection and fumigation from an agency licensed in the state of origin of worn clothing is always submitted alongwith import documents.”

3.18 About the precautionary measures undertaken by the Government to check health hazards to workers working in the units sorting out the garments, the MoT in their written reply stated as under:—

“Since the clothing is fumigated, chances of perceptible health hazards to workers are eliminated.”

3.19 Commenting on the merits and demerits of the worn clothing industry, the MoT stated as follows:—

“Merits: Handling of worn clothing comprises its sorting, grading, cleaning, washing, drying, stitching, repairing and related activities to make it use-worthy. This is a labour intensive industry providing employment and means of living for unskilled labour, mostly women.

Demerits: The imports affect adversely all segments of textiles industry, including employment opportunities in this sector. Availability of worn, clothing at low prices makes the domestic industry uncompetitive. Even the ancillary industries like dyes and chemicals swing threads, button, zippers *etc.* suffer badly.”

3.20 About the criteria being followed by the Development Commissioner to grant permission for 15% DTA, the MoCI in their written reply stated as under:—

“The Committee was also informed that every consignment of worn clothing imported into the SEZ is checked and examined at the import stage by the Zone Customs and it has always been ensured that no fresh garments are imported or are sold in the local market.

In terms of Notification No. 56(RE-2005) 2004-09 dated 30.03.2006, 15% of CIF value of imports of previous year is the criteria for granting entitlement of sale in DTA. Import consignments into the SEZ are subject to examination/checks as required under Rules 28 & 29 of SEZ Rules, 2006. In the case of sale in DTA, every consignment is examined in order to ensure that only worn clothing imported into the SEZ is removed into DTA.

The SEZ import Rules quoted above do not require consignment-wise checks except on specific cases of adverse reported intelligence. Unlike in the rest of country, goods, imported into the Zone are warehoused for authorized use in the SEZ area, which is a notified area with peripheral control or the Zone security and Customs and the entry-exit are controlled through a single entry-exit point. In other words, the goods imported and warehoused in the Zone are under physical control of the Customs Authorities available for verification at any point of time and the goods can be used only for purposes authorized under the LOA/licences issued from time to time. Removals from the SEZ are also under direct control of Customs.”

3.21 Explaining the methodology applied to check imported consignment by the Zone Customs, the MoCI stated as under:—

“In import, only the seals on the container or trucks are verified and in case they do not tally or are found tampered with 100% examination is done. Though,

100% examination is time consuming, it is done in deserving cases. In DTA removals, every consignment is subjected to detailed examination before allowing clearance.”

3.22 The Committee were also informed in writing by the MoCI that the system of examination/clearance of goods is in accordance with the SEZ Act and Rules and hence, satisfactory. So far, no case of imports of fresh clothing under the guise of worn clothing has been reported/come to notice in KASEZ. It was also informed that the used clothing is always imported in fumigated containers and such only fumigated clothing is sold in DTA. A certificate of fumigation is always submitted alongwith import documents. Since the clothing is fumigated, there is no health hazards to workers.

3.23 According to the MoCI, the merits of the industry based on imports of used clothing are that the same generated considerable employment and earn foreign exchange.

3.24 In response to a question as to whether the new clothing manufacturers in India are suffering because of illegal import of clothes by the process of adjudication, fine and penalty to DTA and not by genuine imports of used clothing by SEZ the MoCI in their written comments stated as under:—

“As per Rule 18(4) (c) of SEZ Rules, 2006, no proposal shall be considered for reprocessing of garments or used clothing or secondary textile materials and other recyclable textile material into clippings or rags or industrial wipers or shoddy wool or yarn or blankets or shawls.

However, in terms of the proviso to Rule 18(4), extension of Letter of Approval for an existing unit is decided by the Board of Approval. Accordingly, the Board of Approval has extended the validity of LOAS by 5 years in the meeting of the Board of Approval held on 2nd January, 2008.”

3.25 When the Committee inquired if as per SEZ Rules, 2006, units representing used clothing or secondary textile materials and other recyclable textile materials into clothing or rags *etc.* are not to be allowed in SEZ, than how these units are operative from different SEZ, the MoCI submitted as under:—

“Only the units approved prior to the enactment of SEZ Act and Rules have been operating in KASEZ. No new proposals are being considered for this industry after the SEZ Act and rules came into force from 10.02.2006.”

3.26 The Committee took oral evidence of the representatives of the MoT and MoCI on 15.04.2008.

3.27 At the outset, the Committee asked about the adverse impact of imported clothes on domestic textile industries. Responding to this, the witness, the Secretary, MoT stated as under:—

“The point you have raised is a valid one. There are two aspects of this case, there are advantages as well as disadvantages. So far as the domestic industry is concerned whenever any article is imported it effects our domestic industry to some extent if not our exports. The Clothing Manufacturing Association has stated that it causes the loss of three working days. So far as India is concerned

regarding textiles we have a entire value chain of all things from fibre to apparel and clothes. The whole chain is there. There is value addition and employment is being provided at every stage. They say that it causes job loss of three working days. It is also a fact that these are phyto-geritary aspects, but it is also a fact that employment is being generated like provided sewing, mending cleansing in processing of worn clothings. Secretary, Commerce is here, he will give you the exact figures that about five thousand people are being provided employment in Kandla. Thus both the aspects are there in this trade. So far as industry is concerned, I am not talking about the entire textile industry. If we look only at the garmenting section which falls under Ministry of Textiles—the total trade and the apparel, being produced in the country is about to the tune of rupees 90 thousand to one lakh crore and both are included in it. If goods to the tune of one hundred or two hundred crore rupees comes alongwith the article manufactured for domestic consumption and export, it is a miniscule. It should not affect the Ministry and incentive employment is also being provided in a limited area. Phyto geritory aspects are required to be taken care of by us. I think if you permit. Secretary Commerce will provide detailed information to you in this regard.”

The witness, the Secretary, MoCI added as under:—

“Sir, the units of used clothing which have been set up at Kandla, represent an innovative skill of our Gujrati businessmen entrepreneurs which provide employment to 4929 persons in India through a business of used clothing from developed countries. Besides, a lot of people in direct employment are also benefited through this. There is too much consumption in developed nations and people throw away the clothes after using them for two years or after a season. These used clothes are then collected by the charitable organizations for business purposes and they sell the clothes at per pound weight and our entrepreneurs from Gujrat buy them and send them to Kandla through containers and thus, the sorting of the clothes is done after segregating them. 85 percent is then sent to Africa and there is 105 percent value addition. The ladies in the villages get a lion's share in the employment being generated there. I have visited these units and when I had gone for a visit there, the Sarpanch of the villages was also there to see the whereabouts and work done by the girls because these people collect the girls from villages in a bus in the morning and drop them to their homes in the evening. Besides segregation, these entrepreneurs buy the heritage clothes which are from the elderly people and some. T-shirts, which have maps of California or map of 1895 or of 1860. These heritage clothes are identified, separated and dry-cleaned and then exported to United States at the rate of 40 or 80 dollars and the used clothes are also exported. Some clothes have no market in Africa. These clothes are needed to be sent in domestic area. So, they send 15 percent of the clothes to domestic area after getting sanction from the Ministry of Textiles. The value of the total imports in the year 2006-07 amounts to Rs. 111 crores and 15 percent of it is sent to the domestic area.

There is no problem at the time of arrival of goods in SEZ. It is bounded area. But when the goods arrive in the domestic area of SEZ, the customs examine it

thoroughly. The commodity which reaches SEZ has to pay the customs duty. There has been no such case in Kandla where used clothing was termed as new clothing. My suggestion is that in case, the case is related to employment or trade, there is no loss to domestic industry as the turnover of the total domestic production is more than rupees one lakh crore. If the rate is of Rs. 15 crores, the business comes to Rs. 50 crores and where the turnover is of one lakh crore, rupees 50 lakh goes to domestic area. There is no loss in it. If the business of the used clothes is to be allowed, the standard is to be maintained. Which is 100 percent fumigation of clothing. It is not allowed in the SEZ in the absence of this certificate but I have seen three to four units *e.g.* Kandla SEZ, where conditions are hygienic and working environment is good and girls earn two to four thousand of rupees.”

3.28 Responding to a query about the possibility of any kind of infection that these clothes might spread to workers engaged in such industries, the witness from MoCI stated as under:—

“No such survey has been conducted but the Development Commissioner of Kandla SEZ area has stated that there is no information of skin disease spreading to the girls working there. There is no infection of any kind in the clothes. The clothes, which are handled there, are fumigated in advance, and so they become pest free.”

3.29 About the illegal imports of used clothes, the witness from MoCI responded as under:—

“This may not be the case with SEZ since when the whole of the area in bonded, the goods imported there is thoroughly checked by the customs. I have got an information that certain people living outside the SEZ of Port, imports used clothes in the guise of new clothes when these are checked in the customs came out as a ragged mutilated and used clothes. In that case custom checking is conducted and if such incidents are there, impose a fine, penalty. We have observed that during the last year *i.e.* in 2007-08 the arrival of used clothing in domestic area was 76.78 percent.”

3.30 On being enquired about the revenue loss as a result of illegal imports of clothes, the witness from MoCI responded as under:—

“There is no question of loss of revenue because no other man can bring ragged clothes to the SEZ except those have been permitted for this. What they are doing is that they are bringing the old clothes. On the pretext of the new one and after paying the fine they sale it in the market. From this point of view the Government is earning extra revenue but it is not in the interest of the country because that is in the restricted list. So long as it is in the restricted list it should be treated under that list only. In my opinion if you recommend that it should not be left by imposing penalty only but it should be destroyed, only then this practice will stop.”

Observations/Recommendations

3.31 The Committee received representations from Clothing Manufacturers Association of India (CMAI) and Textile Re-Cycling Association (TCA) with divergent views on various aspects of imports of worn/used clothing. The Committee note from the submissions of the CMAI that fresh garments are actually being imported under the garb of 'worn clothing'. Import of worn clothing has been placed on the restricted list, but according to the petitioner, valuation of import of worn clothing is carried out on 'weight basis' instead of 'per piece basis' which is the global practice and this has caused a huge revenue loss to the Government. The petitioner has, therefore, urged that either the import of worn clothing may be banned or if at all worn clothing continues to be in the restricted list then such garments should be valued on 'per piece basis' instead of 'weight basis' and also appropriate rate of import duty be made applicable on such garments.

3.32 In another representation which was received by the Committee from the TCA, it was brought to the notice of the Committee that the textile recycling industry at Kandla SEZ is quite labour intensive and employs over 5000 workers, which comprises a large percentage of uneducated and unskilled women from rural areas. The focus of this industry is to earn foreign exchange through exports. According to the TCA, this industry provides clean and hygienic working environment. All the used clothing imported in Kandla SEZ (KASEZ) is fully fumigated and certified by international fumigation agencies. Besides, the industry provides industrial raw materials for blanket weaving industry in Panipat employing over 50,000 people. The used clothing sold by the units in Kandla has a great demand in Africa. These units sell only "C" Grade (inferior clothing) in Domestic Tariff Area (DTA) (India) that is meant for very poor people. The TCA has contended that used clothing sold by the units in Kandla is not adversely affecting the new clothing manufacturers in India. But, major impact to new clothing industry is from large quantity of old clothing brought into India through the process of adjudication, fine and penalty, which should not be given custom clearance but is either sent back to port of origin or mutilated before granting the custom clearance.

3.33 The Committee were informed that the entire supply of the worn clothing can be divided into two categories: (i) rags which are fully worn out clothing and is primarily used for recovery of yarn; and (ii) used clothing/store-season surplus which is wearable but is sold to charities or in mass stock sales in some of the developed countries. In most of the supplies both kinds are mixed though the quantum of rags and clothing vary depending on the source. According to the Ministry, the distinction in the rags and the clothing is borderline and therefore, it is being alleged that wearable or even new clothing comes with a declaration as rags or the used ones. In its endeavour to minimize these allegations, the Government has been changing its practice in the last 35 years. Earlier rags were allowed to be cleared into domestic area subject to cutting of the garment. Then cutting/mutilation in the port area was introduced. Subsequently, the policy placed these goods in the restricted list and imports of only pre-mutilated rags were allowed. However, all along at the ports, the Customs authorities kept on allowing clearances of the clothing on adjudication basis where these restricted goods imported without licence from the Directorate

General of Foreign Trade (DGFT) were confiscated and released after imposing redemption fine and penalties in terms of the provisions of the Customs Act, 1962. In the meantime during 1998-2000, certain Letters of Permission were issued for EOUs and EPZ Units based on rags/used clothing for recovery of yarn, manufacturing of blankets and exports. As the EPZ/EOUs were allowed import of restricted items freely, they started importing full clothing, *i.e.* without mutilation. But these units were not allowed to sell the used clothing in DTA but permitted to export the same to Africa. In 2001, the import policy placed the used clothing (HSN Code 6309) as an OGL item. While the SEZ units were segregating, making some value added product in some cases and then exporting about 40% to 50% of the import, the DTA imports were only meant for domestic sales. As the examination of imports at ports is on random selection basis, it was, at times, alleged that new clothing comes in the guise of worn clothing. In SEZ, since the containers were de-stuffed in the presence of the Customs officials, such possibilities are much lesser compared to such possibilities in DTA imports.

3.34 Keeping in view the increasing trend in import and its adverse impact on domestic textile industry and on phyto-sanitary grounds, it was considered not desirable to continue to allow the import of worn clothing under OGL. The import of worn clothing was thus again placed in Restricted list of imports, *vide* Notification No. 7 dated 27.10.2004. On 30 March 2006, the DGFT allowed the units in SEZ to sell worn clothing in the DTA to the extent of 15% of Cost Insurance Freight (CIF) value of imports made in the previous year. The domestic clearances are still being made even though the item is restricted.

3.35 The Committee were informed that placing the import of worn clothing in the restricted list with effect from 27 October, 2004 has effectively checked the rising trend in import of worn clothing. The import of worn clothing has declined sharply from Rs. 278.62 crore in 2003-04 to Rs. 46.98 crore in 2006-07. The fresh clothing is in the free list and any one in the country can import fresh clothing after following the prescribed procedure. As per information gathered from the Department of Commerce, no case of imports of fresh clothing under the guise of worn clothing has been reported noticed in KASEZ so far.

3.36 As regards the piece based valuation, the Committee were informed that the valuation on piece basis is not administratively feasible since the goods are not uniform but come in bales and the goods vary in quality, size, degree of wear and tear, *etc.* and are in large numbers. The practice all over the world is to charge duty on weight basis only.

3.37 According to the Ministry of Textiles, the Clothing Manufacturers Association of India (CMAI) holds the view that the import of worn clothing should be completely banned. This clothing poses health hazards as cloths are neither fumigated nor washed prior to release in the domestic market. Every single piece of worn clothing imported into the country creates a loss of employment to the extent of three mandays. It adversely affects the domestic manufacturers and the working of the entire textile chain and ancillary industries. However, the import of the worn clothing has not been banned and the custom authorities are allowing this sale by charging nominal fine/penalty. The matter was also taken up by them with the Department of Revenue and

they had issued appropriate instructions to field formations to ensure that in case of import of such goods, the consignments are allowed clearance only after fixing maximum fines and personal penalties as deterrent to unscrupulous importer and also to ensure that the marging of profit is wiped out to discourage such imports.

3.38 The Committee note from the reply of the Ministry of Textiles that the lower incidence of duty on worn clothing still remains an incentive to bring in new garments under the guise of second hand by misdeclaration. Further, there is absolutely no hygiene control nor are the garments fumigated or washed before these are disposed of in the domestic tariff area, thus creating considerable health hazards.

3.39 On the other hand, the Committee note from the reply of the MoCI that every consignment of worn clothing imported into the SEZ is checked and examined at the import stage by the Zone Customs and it has always been ensured that no fresh garments are imported or are sold in the local market and in the case of sale of DTA, every consignment is examined in order to ensure that only worn clothing imported into the SEZ is moved into DTA. The SEZ import Rules do not require consignment-wise checks except on specific cases of adverse intelligence reports. Unlike in the rest of the country, goods imported into the Zone are warehoused for authorized use in the SEZ area, which is a notified area with peripheral control of the Zone security and Customs and the entry-exit are controlled through a single entry exit-point. In other words, the goods imported and warehoused in the Zone are under physical control of the Customs Authorities available for verification at any point of time and the goods can be used only for purposes authorized under the LOA/licences issued from time to time. Removals from the SEZ are also under direct control of the Customs.

3.40 On consideration of the issues raised by the CMAI and TCA and the comments received thereon for the Ministry of Textiles and Ministry of Commerce and Industry, the Committee are of the view that barring the aberration, the import of used/worn out clothing is serving the intended purposes. It is serving as a cheap source of raw material for the blanket industry apart from recovery of yarn and uses in wiper making. These imports have also resulted in precious foreign exchange earning due to re-export to other developing countries after value addition, etc. at SEZs. In addition, the used/worn out clothing industry has generated significant employment particularly for women and provided cheap clothing for the people in lowest strata of the society.

3.41 The Committee are, however, concerned at the continued import of new/fresh clothing in the guise of used/worn out clothing and the direct DTA imports by unscrupulous persons by paying fine and penalties. The Committee are in agreement with the Ministry of Textiles that such illegal/unregulated Imports are adversely affecting the domestic textile industry apart from creating health hazards. The Committee, however, note with satisfaction that these concerns have been adequately addressed in the imports routed through SEZs as submitted by the Ministry of Commerce and Industry and the decision taken by the Government to place the imports of used/worn out clothings in Restricted List with effect from 27 October 2004. Consequently, the Import of worn clothing has declined from Rs. 278.62 crore in 2003-04 to Rs. 46.98 crore in 2006-07.

3.42 The Committee are deeply concerned at the potential health hazards of the industry and feel that the worn/used clothing should be permitted to be imported with sufficient safeguards to protect the health of the workers engaged in the industry. The Committee desire that it should be made mandatory that all used/worn clothing containers are thoroughly fumigated to make the clothing free of any germs and bacteria. The Committee also desire that all workers engaged in such industry are provided with clean, healthy and hygienic environment to protect them from any health hazards due to imported worn/used clothing.

3.43 As per the existing policy, the used clothing units are allowed to sell only 15% of their import into DTA but as contended by the petitioners from the TCA, a large quantity of old clothing is brought into the country through the process of adjudication, fine and penalty. Over the years, the Government has been changing the policy/practice on the issue of import of used/worn clothing and presently the import of used/worn clothing is on restricted list. However, it has been brought to the notice of the Committee that all along the custom authorities at the ports, keep on allowing clearance of such import on adjudication basis and by charging fine/penalty, where restricted goods are imported without licence from DGFT. The very fact that the MoT had to take up the issue with the Department of Revenue to issue appropriate instructions to discourage such imports by imposing heavy penalty as a deterrent to unscrupulous importer and also to ensure that the margin of profit is wiped out, amply proves the point that despite being in the restricted list, the import of used/worn clothing has become a normal practice affecting adversely the domestic garment industry. The Committee, therefore, strongly recommend that an effective mechanism may be formulated in coordination with all the concerned agencies to curb the increasing tendency or activities of the unscrupulous importer who are *hitherto* being let out just by paying nominal fine and penalties. The Committee desire that such clothing should either be re-exported to the country of origin or allowed to enter only in mutilated form with 5-6 times of usual fines and penalties and that too after proper fumigation, etc. The customs authorities at the ports should be sensitized and made vigilant in order to check unauthorized import of used/worn clothing from overseas and appropriate action should be taken against the officials who fail to check such illegal imports.

3.44 On the issue of valuation of imports of worn clothing, the Committee observe that valuation of such imports is not feasible as such goods are not uniform and come in bales. These goods also vary in quality, size and degree of wear and tear, *etc.* all over the world the unit of assessment is 'weight basis' and not on 'per piece basis' as contended by the petitioner from the CMAI. In view of this, the Committee are of the opinion that there is no merit in the contention of the CMAI on the issue and the same does not deserve any consideration.

3.45 The Committee note that the used/worn out clothing imported by units in KASEZ is an important source of raw material for recycling/Blanket Industry at Panipat and that TCA has been requesting from treating their sales to Panipat as export earnings. Whereas the used clothing units in KASEZ can import raw material without mutilation or use cheap Indian labour to mutilate this material before selling

it to Panipat, the raw material directly imported by the units in Panipat has to be pre-mutilated involving high cost of mutilation to be paid to their overseas suppliers. The Committee, therefore, feel that in case the used clothing units in KASEZ were given reasonable incentives, the country can make substantial foreign exchange savings in mutilation cost being paid to overseas labour. Against this background, the Committee would like to recommend that the units in KASEZ should be given adequate support to enable them to supply the requisite quantity of raw material to recycling/blanket industry in Panipat.

NEW DELHI;
30th April, 2008

10 Vaisakha, 1930 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

MINUTES OF THE THIRTY-FOURTH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Friday, 31st March, 2006 from 1200 hrs. to 1440 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri N.S.V. Chitthan
3. Dr. M. Jagannath
4. Adv. Suresh Kurup
5. Shri Dharmendra Pradhan
6. Shri Jyotiraditya Madhavrao Scindia
7. Shri Vijoy Krishna

SECRETARIAT

1. Shri P. Sreedharan — *Joint Secretary*
2. Shri A.K. Singh — *Director*
3. Shri U.B.S. Negi — *Under Secretary*
4. Shri M.S. Jaspal — *Assistant Director*

WITNESSES

Ministry of Coal

1. Shri H.C. Gupta — Secretary
2. Shri Abhiram Sharma — CMD, MCL
3. Shri Pradeep Kumar — Addl. Secretary
4. Shri Rajiv Sharma — Joint Secretary
5. Shri B.K. Panda — Director & Commissioner, CMPFO
6. Shri H.C. Agarwal — Director
7. Shri Shashi Kumar — CMD (CIL)
8. Md. Salimuddin — Director (P), CIL

MINUTES OF THE SEVENTY FIFTH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Monday, 21st January, 2008 from 1500 hours to 1600 hours in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

1. Shri Nandkumar Singh Chauhan
2. Adv. Suresh Kurup
3. Shri Kishan Singh Sangwan
4. Shri Paras Nath Yadav

SECRETARIAT

1. Shri A.K. Singh — *Director*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Shri H.R. Kamboj — *Deputy Secretary-II*
4. Shri V.P. Gupta — *Under Secretary*

MINISTRY OF COAL

1. Shri H.C. Gupta — *Secretary*
2. Shri S.P. Seth — *Additional Secretary (C)*
3. Shri Rajiv Sharma — *Additional Secretary (LA)*
4. Shri H.C. Agrawal — *Director*
5. Shri P. Bhattacharya — *Chairman, Coal India Limited*
6. Shri D. Chakravarti — *CMD, Eastern Coalfields Limited*
7. Shri A.K. Paul — *CMD, Bharat Coking Coal Limited*
8. Shri R.P. Ritolia — *CMD, Central Coalfields Limited*
9. Shri R. Mohandas — *Director (P&IR), CIL*
10. Shri A. Chattopadhyaya — *Director (P), ECL*
11. Shri P.E. Kachhap — *Director (P), BCCL*

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| 12. Shri K.S. Kropha | — | Joint Secretary, Ministry of Coal |
| 13. Shri P.S.S. Reddy | — | Director, Ministry of Coal |
| 14. Shri Sharad Kumar Ghodke | — | Director, Ministry of Coal |
| 15. Shri B.K. Sinha | — | CMD, SECL |
| 16. Shri R.S. Pandey | — | Director (P), SECL |
| 17. Shri A.N. Bhattacharjee | — | Commissioner, CMPFO, Dhanbad |

At the outset, the Chairman welcomed the Members and the representatives of the Ministry of Coal to the sitting of the Committee. Thereafter, the Committee took oral evidence of the Ministry of Coal on the following representations:—

- (3) Representation from Shri Raj Kumar Singh, President, Koyala Mazdoor Congress, Rajmahal Group of Mines, Godda, Jharkhand regarding irregularities in the PF Office of Devghar.

The important points that emerged from the discussion with the Ministry of Coal are briefly as under:—

- (3) Representation from Shri Raj Kumar Singh, President, Koyala Mazdoor Congress, Rajmahal Group of Mines, Godda, Jharkhand regarding irregularities in the PF Office of Devghar:

- (a) Settlement and payment of pension in respect of all the 16 cases. However, their provident fund accounts are pending for settlement.
- (b) Undue delay in processing the pension case of Shri Birbal Harijan who retired in the year 2000 and need to inquire into the delay in processing the case and submission of report to the Committee within one month.

The Committee then adjourned.

MINUTES OF THE EIGHTIETH SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Friday, the 28th March, 2008 from 1230 hours to 1430 hours in Committee Room 53, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

1. Adv. Suresh Kurup
2. Shri Kishan Singh Sangwan
3. Shri Paras Nath Yadav

SECRETARIAT

1. Shri A.K. Singh — *Director*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Shri H.R. Kamboj — *Deputy Secretary-II*

WITNESSES

Ministry of Heavy Industries and Public Enterprises

1. Dr. Satyanarayana Dash — *Secretary*
2. Shri Arun Singhal — *Joint Secretary*
3. Shri Ved Prakash — *Director*
4. Shri K.S. Lather — *Under Secretary*

2. At the outset, the Chairman welcomed the Members and the representatives of the Ministry of Heavy Industries and Public Enterprises to the sitting of the Committee. Thereafter the Committee took oral evidence of the Ministry on the representation forwarded by Shri Sunil Khan, M.P., Lok Sabha and signed by Shri Narayan Chakraborty on behalf of ex-employees of M/s. Bharat Ophthalmic Glass Limited, Durgapur for settlement of their wages and other long pending issues.

3. The important points, which emerged out of the discussions with the Ministry, are briefly as under:—

- (i) Functioning of M/s. Bharat Ophthalmic Glass Limited (BOGL) and sequence of events leading to liquidation of the Company, directions issued by the Calcutta High Court for winding up the Company, appointment of official liquidator, matters connected with settlement of wages and provisions of

funds for payment of dues to the employees.

- (ii) Delay in release of funds to the Company for payment of dues of the employees due to non-submission of utilization certificates in respect of past release of funds by the Government.
- (iii) Issuance of instructions by DPE to lower the age of retirement of employees in respect of loss making sick units. As BOGL was a loss making sick unit, it was decided to roll back the age of retirement of employees from 60 years to 58 years.
- (iv) Payment of ADA instalments by the management of BOGL to the employees of the Company @ 13.5% in April, 2000 which was subsequently enhanced by 18% (total of 31.5%) in February, 2001.
- (v) Audit objections by C&AG on payment of ADA instalments to the employees of the Company. In the opinion of C&AG payment of ADA was made without the approval of the competent authority.
- (vi) The Committee was of the view that C&AG did not raise objection about the manner of payment of ADA to the employees but the objection relates to making payment without the approval of the Ministry. Therefore, the responsibility lies with the management and the employees were not at fault. Hence, no recovery of payment may be made from the employees.
- (vii) To re-consider the decision to roll back the retirement age of employees, which may be enhanced from 58 years to 60 years in respect of employees of M/s. BOGL.
- (viii) To make a request to the High Court of Calcutta through lawyer for early hearing of the case.
- (ix) To make a request to the Official Liquidator to seek early approval of the Calcutta High Court to give loan to the Company so that the process of setting the claims of employees could start.

The Committee then adjourned.

MINUTES OF THE EIGHTY FIRST SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, 15 April, 2008 from 1500 hrs. to 1700 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Mohan Jena
3. Shri Wangyuh W. Konyak
4. Shri C. Kuppusami

SECRETARIAT

1. Shri A.K. Singh — *Director*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Shri Jagriti Tewatia — *Committee Officer*

WITNESSES

Ministry of Textiles

1. Shri A.K. Singh — *Secretary*
2. Shri J.N. Singh — *Joint Secretary*
3. Shri A.N. Sharan — *Director*

Ministry of Commerce and Industry (Department of Commerce)

1. Shri G.K. Pillai — *Secretary*
2. Shri R. Gopalan — *Addl. Secy.*
3. Shri R.S. Gujral — *DG, DGFT*
4. Shri R.S. Saxena — *Dev. Commissioner*
5. Shri O.P. Hisaria — *Joint DGFT*
6. Shri R.K. Mitra — *Director*

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2. At the outset, the Chairman welcomed the representatives of the Ministries of Textiles and Commerce & Industry and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings. The Chairman

also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letter, telegrams from various individuals, associations *etc.* which are not covered by the rules relating to petitions and give directions for their disposal.

3. Thereafter, the Committee took oral evidence of the representatives of Ministries of Textiles and Commerce & Industry on the Representation regarding revenue loss to the Government due to mis-declared imports as 'Worn Clothing'.

The following issues/points were discussed by the Committee:—

- (i) Impact on domestic Textile Industry because of import of fresh clothing under the guise of worn clothing.
- (ii) Valuation of import duty of garments on 'per piece basis' *vis-a-vis* 'weight basis'.
- (iii) Revenue loss caused to the Government due to illegal imports of fresh clothing and steps taken to control the same.
- (iv) Health hazards caused to the workers due to import of unfumigated clothing by the units in Kandla SEZ.

4. The representatives of the Ministries of Textiles and Commerce & Industry then withdrew and representatives of the Ministry of Defence appeared before the Committee.

5. ** ** **

6. The Committee asked the witness to send the replies on points which were not supplied or readily available with them during the evidence, within, the stipulated period.

7. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE EIGHTY THIRD SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Wednesday, the 30th April, 2008 from 1500 hours to 1530 hours in Chairman's Room No. 45(II), Ground Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri N.S.V. Chitthan
3. Shri Wangyuh W. Konyak
4. Adv. Suresh Kurup
5. Shri C. Kuppusami
6. Shri Dharmendra Pradhan
7. Shri Paras Nath Yadav

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shri A.K. Singh — *Director*
3. Shri U.B.S. Negi — *Deputy Secretary*
4. Shri H.R. Kamboj — *Deputy Secretary-II*
5. Shri V.P. Gupta — *Under Secretary*

2. The Committee considered and adopted the following draft reports of the Committee with slight modifications:—

- (i) Forty First Report on the representations concerning the Ministries of Heavy Industries and Public Enterprises (Department of Heavy Industry), Coal and Textiles.
- (ii) Forty Second Report on the representations concerning the Ministry of Petroleum and Natural Gas.

3. The Committee also authorised the Chairman to finalise and present the Reports to the House.

The Committee then adjourned.