

COMMITTEE ON PETITIONS

(THIRTEENTH LOK SABHA)

FOURTEENTH REPORT



(Presented to Lok Sabha on 16.03.2002)

**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2002/Phalguna, 1924 (Saka)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

1. Shri Basudeb Acharia—*Chairman*

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3. Shri S. Bangarappa
4. Shri Ambati Brahmaniah
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SECRETARIAT

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2. Shri S. C. Joon — *Deputy Secretary*
3. Shri J. S. Chauhan — *Under Secretary*
4. Smt. Nccera Singh — *Assistant Director*

**FOURTEENTH REPORT OF THE COMMITTEE ON PETITIONS
(THIRTEENTH LOK SABHA)**

INTRODUCTION

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

- (i) Representation regarding denial of option for pension and other benefits under the Liberalised Pension Scheme to an employee of Coal India Ltd.
- (ii) Petition regarding the illegal lock-out of the Company—Maruti Udyog Ltd. and harassment of workers.
- (iii) Action taken by the Government on the recommendations of the Committee on Petitions (Thirteenth Lok Sabha) contained in their Ninth Report on the Petition requesting to allow passenger traffic on existing railway line between Kurla and Mahul in Eastern Mumbai (Maharashtra).

2. The Committee considered and adopted Chapter-I with slight modifications at their sitting held on 31st January, 2002 and after carrying out the modifications, adopted the draft Fourteenth Report at their sitting held on 15th March, 2002.

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

NEW DELHI;
7 March, 2002

16 Phalguna, 1923 (Saka)

BASUDEB ACHARIA,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION REGARDING DENIAL OF OPTION FOR PENSION AND OTHER RETIREMENT BENEFITS UNDER THE LIBERALISED PENSION SCHEME TO AN EMPLOYEE OF COAL INDIA LTD.

1.1 On 16 March, 2000 Shri Sunil Khan, M.P. forwarded a representation signed by Shri R.K. Gupta, resident of 598/Sector 15, Faridabad regarding denial of option for pension and other retirement benefits under the liberalised pension scheme to an employee of Coal India Ltd.

1.2 In the representation, the petitioner *inter-alia* put forth the following points:—

- (i) He had joined service in May, 1955 as Asstt. Coal Supdt./Asstt. Colliery Manager in the Coal Department under the then Ministry of Production, after being selected by Union Public Service Commission. He then retired as a Director of Coal India Ltd. (CIL) on 31st March, 1986;
- (ii) All eleven Central Government Coal Mines were under the Coal Production & Development Commissioner (CPDC), under the Ministry of Production. On 1st October, 1956 the Government of India floated a Public Sector Undertaking namely National Coal Development Corporation Ltd. (NCDC) and transferred the ownership of all the State mines to the said corporation. Simultaneously, all the employees on the rolls of the CPDC as on 1st October, 1956, including him, were also transferred to NCDC;
- (iii) After nationalisation of Coal Mines in 1970s, all the taken over mines as well as NCDC were reorganised with Coal India Ltd. (CIL) as the Holding Company which became the successor of NCDC;
- (iv) The terms & conditions of service of the transferees from CPDC to NCDC were settled in 1965, after a prolonged dispute between the employees, Government of India & NCDC and the same were incorporated in a Presidential Order No. C6-14(43)/63 dated 16-8-65, which was duly endorsed and further clarified by NCDC. The Presidential Order stipulated that the transferees will cease to be Government Servants after transfer of their services to NCDC but they will be entitled to the same rights and privileges as to pension, leave, gratuity and provident fund etc. as would have been admissible to them if they had continued in Government Service;

- (v) After the formation of NCDC, Government of India offered more than a dozen opportunities to its employees covered by Contributory Provident Fund Schemes (CPF) to change over to Liberalised Pension Scheme. The last such opportunity was offered under Government of India OM No. 4/1/87-PIC(1) dated 1.5.87. The said OM stipulated that all employees who were members of C.P.F. and were in service as on 1.5.87, will be deemed to have come over to the Liberalised Pension Scheme and those who were in service as on 1.1.86 and had since retired and whose C.P.F payment had also been made, will have an option to have their retirement benefits calculated under the Liberalised Pension Scheme provided they refunded to the Government the Government's contribution to their Provident Fund with interest;
- (vi) As he was in service of Coal India Ltd. (CIL) as on 1.1.86 and had retired on 31.3.86, he was entitled to exercise the option for Liberalised Pension Scheme but NCDC/CIL did not circulated the Government orders, including the Government of India order dated 1.5.87. In 1991, he learnt about the Government Order dated 1.5.87. Since then he has been representing to Chairman, CIL as well as Board of Directors of CIL to give him the option for Liberalised Pension Scheme. However, his claim has been rejected by CIL on the ground that the Government Order dated 1.5.87 was not applicable to him as he had ceased to be a Government employee after transfer of his services to NCDC. NCDC/CIL was responsible for his delay in filing the claim for Liberalised Pension;
- (vii) NCDC/CIL extended the benefit of option for Liberalised Pension Scheme to one group of transferees while denied the same to others, including him. There were around 25-30 cases of such illegal and discriminatory denial of option for pension by CIL. This action amounted to discrimination and was thus violative of Article 14 of the Constitution.

1.3 The petitioner, therefore, prayed that the Public Sector Undertaking—CIL may kindly be directed to give him the option for the Liberalised Pension Scheme and thereby implement the terms and conditions of service of the transferees from CPDC to NCDC *vide* Presidential Order dated 16.8.1965 (*See Appendix-I*) as he would refund the Employer's contribution to his Provident Fund with interest as per rules.

1.4 The representation was forwarded to Ministry of Mines and Minerals (Department of Coal) on 28 March, 2000 for furnishing their factual comments on the representation.

In response, the Ministry of Mines & Minerals (Department of Coal) *vide* their O.M. dated 16 June, 2000 submitted their comments as follows:—

“The case of Shri R.K. Gupta was taken up with CIL, who have reported that Shri R.K. Gupta was recruited by the Government of India through Union Public Service Commission and subsequently posted under Coal Production and Development Commissioner. Shri R.K. Gupta was appointed by the Ministry of Production in February, 1955 in the scale of Rs. 350-850/- to the post of Assistant Coal Supdt. Grade 2/Asstt. Colliery Manager in Class-I Establishment of Central Service, in the Government Coal Department. The appointment amongst other things was on a temporary basis. His services were not pensionable and he was required to subscribe to Contributory Provident Fund (India) and his service were to be governed by the rules applicable to Civil Officers. On formation of the NCDC, his services were transferred to the NCDC. Shri R.K. Gupta was the member of C.P.F. and he also opted for the membership of the NCDC P.F. scheme during the year 1973. The Government of India Ministry of Finance *vide* their O.M. No. F/2-14/E V(B)-63 dated 14.1.1964 allowed opportunity to the officers to opt for the liberalised pension rules within a period of 6 months from the date of issue of the aforesaid orders. This opportunity was once again extended by the Government *vide* their O.M. No. 16/1/EV/68 dated 31.8.68, stating that all the persons who retained Contributory Provident Fund benefits under Rule 38(1)(a) of the Contributory Provident Fund (India), 1962 may be allowed another chance to opt for the Liberalised pension rules. The said option was required to be exercised by 31.12.1968. The benefit was open to the persons who were in service and also to the persons who retired on or after 1st May 1968. Shri R.K. Gupta could not exercise the option for Pension scheme within the stipulated period, because, the aforesaid order containing the instructions of the Government were received very late by the NCDC. Besides Shri R.K. Gupta other officers, those who were earlier born on CPF of India and subsequently opted out for NCDC PF and those who retained CPF(I) even beyond 1973 had filed representations for extension of pensions to them in terms of GoI O.M. dated 14.1.64. The request of Shri R.K. Gupta alongwith other executives for extension of the benefits of liberalised pension scheme in terms of O.M. dated 14.1.64, 31.8.68 and dated 1.5.1987 were examined by the Department of Pension and Pensionary Welfare, but could not be agreed to.”

1.5 After perusal of the factual comments of the Ministry of Minerals and Mines (Department of Coal) on the case, the Ministry was again requested on 24 July, 2000 to furnish further information in the case of Shri R. K. Gupta.

The Ministry of Coal *vide* their O.M. dated 3 August, 2000 submitted their comments as follows:—

“Shri R. K. Gupta was recruited specifically for the office of Coal Production and Development Commissioner in 1956. There was no Pension Scheme at that time for him and he was required to subscribe to Contributory Provident Fund Scheme (CPF Scheme). On the other hand there were Central Government employees (Ministerial staff and officers) working in the State Collieries under the Ministry of Steel having pensionable facilities. Government of India floated National Coal Development Corporation (NCDC—a PSU) in 1956. Consequent upon the transfer and ownership and the management of the State Collieries and CPDC, the services of employees of CPDC and State collieries were made available to the NCDC *w.e.f.* 1.10.56. Accordingly, the services of Shri R.K. Gupta was also made available to NCDC and he became employee of a PSU *w.e.f.* 1.10.56. The employees of the State Collieries were the beneficiaries of the Pension Scheme, therefore, options were invited from them as to whether they want to opt Industrial scale of pay or would like to continue in Central Government scale of pay. Most of such transferred employees opted for Industrial scale, but a few employees opted otherwise.

Shri Gupta was not the member of the Pension Scheme since his date of appointment in CPDC, therefore he was not asked to opt for pension etc. on his transfer to NCDC. This is a fact that the liberalised pension scheme was implemented during 1964 *vide* Government of India O.M. dated 14.1.64 and subsequent O.M. dated 31.8.68 and 1.5.87 and allowed opportunity to the employees who were born on the CPF Scheme to opt for liberalised pension'scheme. But the provisions of the above stated OMs. were not applicable to Shri R.K. Gupta, as he became the employee of NCDC *w.e.f.* 1.10.56. The request of Shri R.K. Gupta and other executives of CIL for extension of the benefits of liberalised pension scheme in terms of O.M. dated 14.1.64, 31.8.68 and 1.5.87 were examined by this Department in consultation with the Department of Pension and Pensioner's Welfare, but could not be agreed to. On the other hand CIL has obtained the opinion of Additional Solicitor General of India in the matter, who has also opined that the claim made after a long interval of time is barred by time and need not be entertained.”

1.6 Subsequently, the Ministry of Coal *vide* their O.M. dated 25.9.2000 clarified as follows:—

“The case of option of pensionary benefits by Shri R.K. Gupta was examined by this Ministry earlier in consultation with Department of Pension and Pensioner's Welfare, who had clarified that the Executives of CPDC on their absorption in NCDC ceased to be the Central Government employees and they were not entitled to any option in terms of Department of Pension and Pensioner's Welfare

O.M. No. 4/1/87-PIC(I) dated 1.5.87. In view of the above facts, his request was not agreed to *vide* this Ministry's letter No. 49028/7/90-PRT dated 27.11.90 CIL has also sent a copy of a letter No. CCL/PD.Rly/Pension/75-65 dated 29.6.81 issued by the Chief Personnel Manager, CCL, Ranchi, circulating various letters inviting option to come over to pensionable service and to the Family Pension Scheme 1964.

The OMs dated 14.1.1964 and 31.8.1968 of Department of Pension and PW were not readily traceable in our record. These were traced out in Department of Pension and Pensioner's Welfare personally, but we could not get these orders."

1.7 The Committee undertook the oral evidence of the petitioner, Shri R. K. Gupta, on 4 October, 2001.

1.8 During oral evidence, petitioners apprised the facts of his case to the Committee as follows:—

"I joined service in 1955. Soon after I joined the service, Government of India decided to form a public sector company to take charge of all coal production activities under the Government of India. In terms of this decision, the National Coal Development Corporation or NCDC was incorporated on 1st October, 1956. At the time of formation of NCDC, all the 11 State collieries were under a Coal Production and Development Commissioner, which, I shall be referring to as the CPDC. With the formation of the NCDC, the ownership of all the Government coal mines was transferred to the NCDC. So, were the services of all the employees working in the organisation of CPDC. The terms and conditions of service of these transferees were settled sometime in 1965 and they were incorporated in a Presidential Order. I would like to draw your kind attention to two provisions of this Presidential order. One is that it states that the transferees, after transfer of their service to NCDC, will cease to be the Central Government employees. The second provision is about the protection of service conditions. It protected not only the service conditions which were enjoyed by the transferees at the time of their transfer but also protected all the benefits that the Government of India might extend to its employees in future in the same manner as would have been admissible to them if their services had not been transferred and they had continued in Government service."

He added:—

"I would now like to draw your kind attention to two important developments which took place after the formation of the NCDC. One development was the nationalisation of all private coal mines, coking coal mines in the year 1970 and the non-coking coal mines in the year 1973. After the nationalisation of the private coking coal mines, all the NCDC mines were also merged with the taken-over

mines and the entire coal industry under the Government was placed under a holding company, a new company floated by the Government called the Coal India Ltd. I shall be referring to it as the CIL. Thus, the Coal India became the successor of NCDC. With this arrangement, Coal India had hundreds of coal mines under its charge spread over six to seven States in the country. For the convenience of administration and the operations of the mines, they were divided into several subsidiaries like the Eastern Coal Fields Ltd., Bharat Coking Coal, Central Coal Fields Ltd., Western Coal Fields Ltd., etc. One of these companies, the Central Coal Fields Ltd., was headquartered at Ranchi the same place where the old NCDC had its headquarters at Ranchi. A majority of the NCDC mines were also transferred to the Central Coal Fields Ltd., and as the NCDC had the record of all the old employees of NCDC, the responsibility for running the establishment of the transferees to Coal India or Central Coal Fields was also transferred to the Central Coal Fields Ltd.,

The second important development which took place was that based on the recommendations of the successive Pay Commissions, the Government of India adopted the policy of bringing all the employees governed by the Contributory Provident Fund Scheme to the Pension Scheme. In pursuance of this policy, the Government of India offered options repeatedly to the employees covered by the CPF Scheme to change over to the Pension Scheme. This option was given to all the Central Government employees irrespective of the fact whether they were governed by the Civil Service Rules or the Railway Service Rules.

The last option by the Government to change over to the pension scheme was given by an order dated 1.5.87, issued by the Department of Pension, Government of India. The main provisions of this order are that all employees, who were in the service of the Government on 1.1.86 and who were still in the service at the time of issue of this order, that is, 1st May, 1987, they were compulsorily brought under the Pension Scheme unless they specifically opted to continue to be in the CPF scheme. In respect of employees who were in service on 1.1.1986 and had retired prior to the issue of this order on 1.5.1987, there was also a provision that even if their provident fund accounts had been settled, they would be allowed to opt. for the pension scheme subject to refund of the Government contribution to their Provident Fund, with interest, as drawn by them at the time of settlement of their PF Account. The third provision of that order was that it was directed that the contents of this order should be brought to the notice of all the people concerned including the retired employees.

As I was there in service on 1.1.1986 and retired on 3.3.1986, prior to the issue of this order on 1st May, 1987, if I had continued in

Government service, I would have been entitled to exercise the option for pension in terms of Clause 3.3. Since the Presidential Order guarantees me the same benefits as would have been admissible to me if I had continued in Government service, it is quite clear that in terms of this order of 1.5.1987 and the Presidential Order I am entitled to get the benefit of exercising this option in spite of ceasing to be a Government servant after transfer of my services to NCDC.”

1.9 When the Committee desired to know as to why the petitioner placed his option for liberalised pension scheme only in 1991, the petitioner stated as follows:—

“The order, dated 1.5.1987, was issued after my retirement. A copy of this order was not sent to me. I came to know about this order later. As soon as I came to know of it, I represented to Coal India. It was rejected. Then, I have been following up this case with them and lately through an appeal to the Board of Directors of Coal India.”

1.10 When the Committee asked about the applicability of the Presidential Order to the employees of CIL and the Railway employees, the petitioner stated as follows:—

“The presidential Order is applicable to both the groups. The Government gave the option to both the groups. But NCDC implemented it in respect of employees governed by the Railway Service Rules and Contributory Provident Fund of the Railways.”

1.11 The Committee pointed out that the notification was issued in 1987 and the Chief General manager of Coal India, has stated that this case is a belated one, and it could not be considered at this stage. The Committee desired to know the reasons behind the delay in option of switching over to the Liberalised Pension Scheme in this case. To this, the petitioner stated as follows:—

“As regards the reasons for belatedness of the claim, I have mentioned that this Order dated 1.5.1987 was issued after my retirement, and after I settled down in Faridabad. A copy of this Order was never sent to me. When I came to know of it, I made a representation to the Coal India immediately which was rejected out of hand, and without examining even the contents of the Presidential Order. The grounds on which it was rejected were clear violation of the Presidential Order.”

He Added:—

“When I made representation for the first time, it was not such a belated case. It has become belated case because it was not handled properly. the provisions of the Presidential Order were

not examined, mind was not applied to the case, and it was rejected out of hand.

If I tell you, even this application, the appeal which I sent to the Coal India, has also been rejected without being placed before the Board of Directors. I made a reference to them whether they conveyed the decision of the Board of Directors, I got the reply that it was not placed before the Board of Directors. Every appeal to the Board of Directors is placed before the Chairman and if that is rejected by the Chairman or if in his judgement the case has no merit then it is adequate ground not to put it to the Board of Directors. Then the whole purpose of this provision of appeal is defeated. So, the disposal of my appeal to the Coal India without being placed before the Board of Directors is not fair. The case should have been put up to the appellate authority. The whole purpose of appeal is that there is an independent and fresh review of the case. If the same authority again rejects it then the purpose of the appeal is not served."

1.12 The Committee, thereafter, took the oral evidence of the representatives of the Ministry of Coal and the Ministry of Personnel, Public Grievances and Pensions on 1 November, 2001.

1.13 During the course of the oral evidence of representatives of the Ministry of Coal the Committee desired to know whether after transfer of Shri R.K. Gupta from Coal Production Development Commissioner to NCDC, was there any change in the service condition and the conduct Rules, the Joint Secretary, Ministry of Coal, stated as follows:—

"There was no change in the service conditions when he was absorbed in NCDC. The stipulation was that he would be offered the same terms and conditions as were offered to him in CPDC. That means, before he came to NCDC whatever facilities or terms and conditions were available to him in CPDC, the same were offered to him here. As per his appointment letter in CPDC, his job was non-pensionable and he was to subscribe to the Contributory Provident Fund, which is normally given in lieu of pension."

1.14 The Committee asked as to when Shri Gupta was absorbed was it an absorption in which the entire workforce of the organisation was absorbed and the whole Department was converted into NCDC, or were the officials asked to give option. To this, the witness stated as follows:—

"When NCDC was formed, there were three sets of employees having three different types of service conditions who were working in the earlier CPDC. One was the persons who were working in the State collieries and they were Central Government employees. Then there were also persons who were actually in railway Collieries and they were governed by the railway rules,

State Railway Provident Fund Rules. The third sets of persons were like Mr. Gupta. There were 14 executives who were appointed from UPSC and these 14 persons were having separate service conditions. Although they were Government employees, one of the conditions which mentioned in their appointment letter was that their services will be non-pensionable. When all these three persons came, they came along with their own service conditions. And Mr. Gupta also came along with his own service conditions and they became a part of NCDC. Then the Government of India issued one OM in 1958, that is after 1956, where the Government made it clear that whatever terms and conditions he was having prior to coming to NCDC, those conditions shall be protected. The exact wording of Para 3 of the OM says the National Coal Development Corporation Ltd. Will offer these officers the same terms and conditions of service as they enjoyed as Government servants immediately prior to their transfer to the Corporation. In respect of officers who are already permanent, an equal number of permanent posts will be created by the National Coal Development Corporation Ltd. to provide lien for them in these grades.”

The witness further added:—

“Sir, this was one of the Service Conditions. We protected the Service Conditions and said that he is not entitled to the pension. Subsequently, on 1.4.1973 Shri R.K. Gupta along with eight others became members of the CCL Provident Fund which was earlier NCDC Provident Fund. It was a Trust.”

1.15 When the Committee desired to know whether Central Coalfield Ltd. differ from other subsidiaries, the witness stated as follows:—

“Sir, there was no other subsidiaries at that time. This was a part of the CMAL. All these persons in NCDC came and joined there. Shri R.K. Gupta became the Member of the Central Coalfield Provident Fund Ltd. He was the first person to become its member. Then, in 1986 Shri Gupta retired from the Coal India Ltd. He retired in 1986 as the Director, Personnel Industrial Relations of Coal India. He retired from the Coal India and he took all the benefits that were there in the PF etc. Then after five years of his retirement, he made a claim that, “well, these benefits and other things should be given to me. We examined the matter. We must submit that not even one of the 14 persons who were having similar service conditions have been given the pensionary benefits. All the 14 persons were treated separate because whatever service conditions they brought, that was protected. These are the facts of the case.”

1.16 The Committee desired to know the difference between the set of employees who belonged to erstwhile CPDC and that of Railways. To this, the representative of the Ministry of Coal stated as follows:—

“The Railways introduced the pension scheme in 1964 for all ex-railway employees and those who are working with the Railways. That was known as the State Welfare Fund—SRPF. Then, through the Presidential directive, the Railways gave the instruction that all those persons who were on the rolls of Railways as on 1.4.1973 and those persons who have left the Railways after that date, are all entitled to opt for pension. Then, the Railways issued as many as 10 circulars and many employees who were working with us opted for the pension scheme of the Railways. Many employees actually joined the CCLPF. So, those employees who opted for pension scheme, they were given the pension of the Railways. So, they were entitled to the Railway pension.”

1.17 When the Committee desired to know the date of announcement of Central Government Liberalised Pension Scheme and as to whether this scheme was not extended to the employees of NCDC, the witness stated as follows:—

“Those persons who were having the Government Service Conditions and those who were eligible to opt for the pension scheme, as per the Government notification, opted for this pension scheme. Here those 14 employees were not eligible to opt for it because in their case, it was specifically mentioned that it was non-pensionable. So, those persons who were employed were given the option. Many of them opted for the pension scheme and many of them opted for CCLPF scheme.”

1.18 In a subsequent written note dated 28.12.2001, the Ministry of Coal and Mines (Department of Coal) clarified as follows:—

“The case of the petitioner is not similar to that of the other transferees from CPDC to NCDC who were governed under State Railway Provident Fund and Civil Services Rules since as per terms of appointment, the petitioner’s service was non-pensionable.

The Ministry further furnished the list of 14 persons of Coal India Limited who were not eligible to get pension.” (See Appendix-II).”

1.19 When the Committee desired to know as to whether CPDC was discharging similar functions prior to formation of NCDC, the representative of Ministry of Coal stated as follows:—

“It was performing the two functions. CPDC was in existence since 1944. It was having the coal production. It was also having the coal inspection. Two divisions were there. Specifically, the inspection division became the main division and then the production division got merged.

They were also having coal production. They were catering to the requirements of the Railways and others. That was the main function of the CPDC.”

1.20 The Committee further pointed out that you have mentioned in your petition that after the formation of NCDC, the Government of India offered more than dozen opportunities to its employees covered by Contributory Provident Fund Scheme to change over to Liberalised Pension Scheme. Last time it was done on 1.5.1987. The concerned OM stipulated that all employees who are members of CPF and were in service on 1.5.1987 will be deemed to switch over to liberalised pension scheme. It also gave an opportunity to retirement benefits calculated under liberalised pension scheme to those who were in service till 1.1.1986 and had retired under GPF scheme provided they refunded the Government contribution to their provident fund with interest. To this, the witness explained as follows:—

“We have mentioned all these points when we had referred this case to the Department of Personnel and the views that was Shri Gupta Came along with his service conditions as per the Government office memorandum and that he was not eligible to opt for any pension scheme. This is what DOPT communicated to us. They examined the entire case and told us that he is not eligible. The options which were given, as I told you earlier, were for the railways employees. State railway employees had their own pension scheme. Railways wanted to extend this pension scheme to their own employees and ex-employees and they gave this option. Since they were working with us and members of SRPF, we gave them the option and they enjoyed the benefits of the pension which was extended by the Railways.”

1.21 When the Committee asked that after the formation of NCDC when they were absorbed in NCDC did they continue to enjoy separate service conditions or similar conditions, the representative of the Ministry of Coal stated as follows:—

“They had separate service conditions. The only common point was, whether they were fulfilling the requirement laid down by the railways for entitlement to pension. These employees had retained their membership of State Railway Pension Fund. So, they extended these benefits only to those persons who were members of SRPF. That is how these employees got the benefit.”

1.22 The Committee pointed out that Additional Solicitor General of India had opined that all claims made after a long interval of time are time barred. The Additional Solicitor General of India had stated that because being time barred these employees may not be entitled. To this, the witness explained as follows:—

“When the case was referred to the Additional Solicitor General; Primarily the case of Shri K.R. Achari, the ex-Secretary Coal also demanded for pension. He was governed by the State Railway pension but he had opted for the CCLPF. Much after his retirement he had also made a claim. When all these claims started coming, we clubbed them together and referred to the Additional Solicitor General. Actually, all these papers had to be traced back from CCLPF. We were not aware of all the files in CIL. When we went through the files we found that this correspondence was there in the files. In our reply also we had mentioned to Shri Gupta that he is not eligible. Besides that we have also mentioned that this is time-barred. All those papers which subsequently we could trace from the files were not available with us. We found all these correspondences with the Government of India, Department of Personnel. We could have easily shown those papers. In fact when Shri Gupta came we asked him that he was the Director of Personnel Industrial relations of Coal India and everything was available with him how could he not pursue this matter. Everything was known. This matter had already been settled and decided even then the representation went. It was an omission on our part. He had mentioned this fact also that this has already been decided.”

1.23 The Committee desired to know when did the Department of Personnel receive the representation of Shri Gupta and how much time did the Coal India Ltd. take to examine the matter. To this, the representative of the Ministry of Coal stated as follows:—

“We received it in 1991, five years after his retirement. For sometime nothing happened. In 1996 after I took over, Shri Gupta came two three times and made an application. We then replied to him. That did not take much time, I think it was in 1997 or 1998. that reply is on record. Immediately he was replied and we said that we are sorry as we could not consider his case. In fact just to know more about the case we had referred it to the Additional Solicitor General also.”

1.24 The Committee pointed out that as regards time-barred matter, there was Supreme Court judgement. The Supreme Court said that there is no time limit for cases of pension and that no legitimate claim for pension can be denied on the ground that it is a delayed case. To this, the witness stated as follows:—

“The legal opinion of the Solicitor General, it says that it is significant to note that Shri R.K. Gupta was not working with the Government but was the Chairman-cum-Managing Director of one of the subsidiaries of the quarries and his claim of ignorance about availability of the option appears to be dismissed. In the meantime, we had got the reply from the Department of

Personnel. Unfortunately, many of the papers were not available hence they could not be placed. But the fact is that this could be confirmed from the Department of Personnel. They have examined this case threadbare and they have told us that he is not entitled.”

1.25 The Committee pointed out that the Presidential Order clearly and unambiguously protects not only the service conditions enjoyed by the transferees but also all the liberalisation of service conditions and additional benefits that would have been admissible to them from time to time if they had continued in Government service. To this, the representative of the Ministry of Coal stated as follows:—

“He was not appointed by the Coal India. He was appointed by the Government. We referred this point to Department of Personnel. We said that these are the points and requested them to advise us regarding the treatment that has to be given and how were they treating employees in other places. They replied to us, ‘No’, since he was non-pensioner he ceased to be the Government servant on and from the date of absorption. This is what the Department of Personnel advised us and we went by that.”

1.26 When the Committee desired to know that if Shri Gupta had applied in time whether his case had been considered, the witness told even then he would not have been eligible.

1.27 the Committee then heard oral evidence of the representatives of the Ministry of Personnel, Public Grievances and Pensions. During the course of evidence the Committee asked the views of the Ministry of Personnel, Public Grievances and Pensions in case of Shri R.K. Gupta who retired as Director, Personnel in Coal India. To this, the Additional Secretary in the Ministry of Personnel, Public Grievances and Pension explained as follows:—

“Sir, as you have rightly pointed out, earlier, Government employees also had the Contributory Provident Fund Scheme. It was around 1964 that the Liberalised Pension Scheme was introduced under which an option was given to Government employees to switch over from the Contributory Provident Fund Scheme to the Pension Scheme. This was an optional agreement and employees were free either to continue with the Contributory Provident Fund Scheme or to switch over to the Pension Scheme. It so happened that, perhaps, for various reasons, some employees did not choose to join the Pension Scheme before the prescribed last date.

On the basis of specific recommendations from time to time, Government of India gave fresh options to the Government employees to switch over from Contributory Provident Fund Scheme to the Pension Scheme. The petitioner has made a reference to three of these options offered in 1964, 1968 and 1987.

But in effect, there were several options given in between to the employees to come over to the Pension Scheme. The only thing different in the option of 1987 perhaps was that on the basis of the recommendations of the Fourth Pay Commission, it was felt that instead of giving the option to them to join, they could be assumed to have joined and they could take the option of not joining if they so desired so that this whole thing could be covered for all unless they were not willing.

Against this background, the facts of the case are that as on 1st October, 1956, Shri Gupta joined the Corporation in the sense that his Commissionerate was converted into the Corporation. So, from that date, he ceased to be a Government employee. In any case, the conversion to Pension Scheme was not available at that time to Government employees who were there. So, our Department's views in this context would be that from the date Shri Gupta chose the Corporation, he ceased to be a Government employee. Therefore, the subsequent decisions taken by the Government about the conversion from Contributory Provident Fund Scheme to Pension Scheme are not strictly applicable in the case of Shri Gupta and others."

1.28 When the Committee asked if Shri Gupta had applied for this benefit within the targeted date that had been originally laid down, would he had been eligible at that time, the witness stated as follows:—

"This whole system was started after he had switched over from the Government to the Corporation. So he had no *locus standi* as far as we are concerned."

1.29 When the Committee asked the representatives of Ministry of Personnel, Public Grievances and Pensions to give the opinion of their Department in this regard, the witness assured as follows:—

"As directed by you, we will submit our opinion regarding the case of the railway employees, Additional Solicitor-General's opinion and on this specific issue that had he applied within time whether he would have been considered eligible or not. We will look into that aspect."

Observations/Recommendations

1.30 The Committee note that eleven Central Government Coal Mines which were under the Control of Coal Production & Development Commissioner (CPDC) were transferred to National Coal Development Corporation Ltd. (NCDC) a PSU when the Government floated this PSU on 1st October, 1956. Simultaneously, all the employees on the rolls of the CPDC including the petitioner (Shri R.K. Gupta) had been transferred to NCDC. Upon the nationalisation of Coal Mines in 1970s,

the NCDC and other Coal Mines were reorganised with Coal India Ltd., as the holding company.

1.31 The main contention of the petitioner is that after the formation of NCDC, the Government had offered more than a dozen opportunities to its employees covered by Contributory Provident Fund Scheme (CPFS) to change over to the Liberalised Pension Scheme. The last such opportunity had been offered by Government on 1.5.1987, however, the NCDC or Coal India Ltd., did not circulate these Government Orders including the order dated 1.5.1987. In 1991, the petitioner learnt about the Government Order dated 1.5.1987 and he had represented his case before the Board of Directors of CIL to give him the option for Liberalised Pension Scheme. However, his claim had been rejected by CIL on the ground that the Government Order dated 1.5.1987 was not applicable to him as he had ceased to be a Government employee after the transfer of his services to NCDC in 1956.

1.32 According to the petitioner, the terms and conditions of service of the transferees from CPDC to NCDC were settled in 1965 *vide* the Presidential Order No. C.6-14(43)/63 dated 16.8.1965. The Presidential Order had stipulated that the transferees will ceased to be Government servants after the transfer of their services to NCDC but they will be entitled to the same rights and privileges as to pension, leave, gratuity and provident fund as would have been admissible had the employees continued to be in Government service. The CIL had extended the benefit of option for Liberalised Pension Scheme to some of the transferees but denied the same to the petitioner. The petitioner has, therefore, requested that he may be given the option for the Liberalised Pension Service under the term and conditions of the said Providential Order dated 16.8.1965.

1.33 The Committee are informed by the Ministry of Coal and Mines, Department of Coal that the Ministry of Finance *vide* O.M. No. F/2-14/EV(B)/63 dated 14.1.1964 had allowed opportunity to the officers to opt for the liberalised pension rules within a period of 6 months from the date of issue of the order. This opportunity was once again extended by Government *vide* O.M. No. 16/L/EV/68 dated 31.8.1968 stating that all the persons who retained CPF benefits under Rule 38(1)(a) of the Contributory Provident Fund (India), 1962 may be allowed another chance to opt for the Liberalised Pension Rules. The said option was required to be exercised by 31.12.1968. The petitioner (Shri R.K. Gupta) could not exercise the option for pension scheme within the stipulated period, because, the aforesaid order containing the instruction of the Government were received late by the NCDC. The request of Shri R.K. Gupta alongwith other executives for the extension of the benefits of Liberalised Pension Scheme in term of the OMs dated 14.1.1964, 31.8.1968 and 1.5.1987 had been examined by the Departments of Coal and Pension and Pensionary Welfare but could not be agreed to.

1.34 The Committee note with dismay that the opportunity of switching over to the Liberalised Pension Scheme to the employees of CIL had been given by the Government on many instances but the employees of the NCDC including the petitioner had not been informed in regard to any of the Government Orders' stipulating this option for Liberalised Pension Scheme. The Committee are informed by the Ministry of Coal & Mines (Department of Coal) that the Government OMs dated 14.1.1964, 31.8.1968 and 1.5.1987 were not applicable to Shri R.K. Gupta, as he became the employee of NCDC w.e.f. 1.10.1956. The Committee are of the firm view that the benefits of the option to switch over to the Liberalised Pension Scheme was actually open to the persons who were in service and also to the persons who retired on or after 1.5.1968. Hence, the claim of Shri R.K. Gupta (the petitioner) would be justifiable in this regard.

1.35 The Committee are informed that the CIL had obtained the opinion of Additional Solicitor General of India in the matter, who had also opined that the claim made after a long interval of time is barred by time and need not be entertained. In this context, the representatives of the Ministry of Personnel, Public Grievances and Pension have assured the Committee at the time of oral evidence that the case of the Shri R.K. Gupta would be reviewed on the specific issue that had he applied within time whether he would have been considered eligible or not for the option for Liberalised Pension Scheme. The Committee, therefore, recommend that the claim of the petitioner may be examined afresh and the option for Liberalised Pension Scheme may be given to him based on the Presidential Order No. C 6-14(43)/63 dated 16.8.1965. This matter may be re-examined in 3 months from the date of the presentation of this Report to the House.

CHAPTER II

PETITION REGARDING THE ILLEGAL LOCK-OUT OF THE COMPANY MARUTI UDYOG LTD. AND HARASSMENT OF WORKERS

2.1 On 13th December, 2000 Shri K.P. Singh Deo, MP presented to Lok Sabha a petition signed by S/Shri Mathew Abraham, G.K. Walia and others who were the office bearers of Maruti Udyog Employees Union, Gurgaon (Haryana) regarding the illegal lock-out of the company and harassment of workers. (see Appendix-III)

2.2 In the petition, the petitioners submitted the following points:—

- (i) Maruti Udyog Employees Union was a registered Union under the Union Act representing all the employees of Maruti Udyog Ltd. The management of Maruti Udyog Ltd. had also recognised the Union.
- (ii) The management had illegally locked-out the company from 12.10.2000 and put a notice on the main gate of the company for the signing of an unnecessary and unwarranted 'Undertaking'. Such act of the management was an unfair labour practice under the Industrial Disputes Act, 1947. This act of management of Maruti Udyog Ltd. had prevented the entry of the workmen at their work place.
- (iii) The management dismissed more than 75 workers and suspended 12 workers without complying with the statutory rules and in violation of the certified standing orders of Maruti Udyog Ltd. The act of the management was illegal, malafide and against the principles of natural justice.

2.3 The petitioners, therefore, requested to inquire into the matter and protect the rights of the workmen and give directions to the management to lift the illegal lock-out, reinstate the dismissed/suspended workers and withdraw the charge sheets issued to the innocent workers.

2.4 The petition was referred to the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) on 14.12.2000 for furnishing their comments on the various points raised in the petition. In response, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) *vide* their communication dated 29 December, 2000 forwarded the comments of the Maruti Udyog Ltd. wherein the company *inter-alia* stated that there was absolutely no truth in the allegations made in the petition given by Maruti Udyog Employees Union to the Committee. In order to coerce and pressurise the company to

accede to certain financial demands raised by the Union *vide* letters dated 23.3.2000 and 8.7.2000, the workmen of the factory resorted to an agitation at the behest of the union w.e.f. 9.9.2000. On the instigation of the Union, the workmen resorted to deliberate and willful go-slow resulting in huge production losses.

In terms of the Certified Standing Orders, resorting to deliberate and willful go-slow and striking work, without giving 14 days notice, constituted misconduct. The workmen, therefore, did not have the legitimate right to indulge in go-slow and resort to tool down strike, which was illegal under the provisions of Industrial Disputes Act. Since the workmen, at the behest of the Union, had been indulging in nefarious illegal activities, the management had introduced the "Good conduct Undertaking" only to ensure that upon joining duties, the work was not abandoned and normalcy was restored. A mere reading of the "Good Conduct Undertaking" would show that it was nothing but re-affirmation of the provisions of the Certified Standing Orders and the same does not lay down any pre-condition requiring the workmen to accept Management's point of view in respect of any matter.

While about 1270 workmen has signed the "Good Conduct Undertaking" and had joined their duties, a large number of workmen, on the instigation of the Union, had not joined duties were on illegal, unlawful and unjustified strike.

2.5 It had been further submitted by the Company—Maruti Udyog Ltd. that the matter had already been decided by the Hon'ble High Court. Under these circumstances, the Management could not be accused of declaring any lock-out. The action of the Management in demanding the "Good Conduct Undertaking", had already been accepted and upheld not only by the Civil Court, Gurgaon, but also by the Hon'ble High Court of Punjab and Haryana *vide* Order & Judgement dated 15.12.2000. There was, therefore, no substance, merit or truth in the allegations that the Management had declared any lock-out. The Management could not be accused of committing any unfair labour practice. In terms of term 8 of the Vth Schedule appended to the Industrial Disputes Act, the following act constitutes an unfair labour practice.

"To insist upon individual workmen who are on legal strike to sign a Good Conduct Undertaking, as pre-condition to allowing them to resume work."

2.6 It had been clarified by the company that in the present case, the Civil Court had held that, *prima facie*, the strike was illegal. It had also held that the company had not attached any pre-condition to allowing the workmen to resume work. Pre-condition had always been interpreted to mean where the employer wanted the workmen to accept his point of view before allowing the workmen to join their duties which meant the employer wanted the workmen to accept a particular demand or an issue

before they were allowed to resume duties. The Company, therefore, had not committed any unfair labour practice as was sought to be alleged. Moreover, even if, in the opinion of the union, the company had committed unfair labour practice, the forum for redressal of such a complaint was provided under the Industrial Disputes Act, 1947 and as such the Union was at liberty to invoke the same.

2.7 It had been finally submitted by the Company that 24 workmen had been dismissed for organising and indulging in deliberate and willful go slow and for indulging in acts of violence, holding demonstrations, etc. within the factory premises. Besides service of 25 workmen belonging to essential service, services had been terminated for absenting from duty in a concerted manner, exposing the plant and machinery to irreparable loss and damages and 10 workmen were suspended for reported gross misconduct. In addition, training of 21 trainees had also been discontinued.

2.8 The Committee, thereafter, took oral evidence of the representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) on 13th August, 2001. During the course of evidence the Committee pointed out that the petitioners had contended that the Maruti Udyog Ltd. had been illegally locked-out the company from 12.10.2000 and had put the notice on the main gate of the company for signing of an 'Undertaking'. To this, the Secretary, Ministry of Heavy Industries & Public Enterprises stated as follows:—

“Firstly, there was no lock-out in the company. There was no strike also. This matter was also looked at by the hon'ble Civil Court that heard the petition by the union and also by the Hon'ble High Court. They found that there was neither a lock-out nor a legal strike. There was no notice. Especially, there was no strike. There were a number of issues which the union had raised. Incentive scheme was one of those issues. The incentive scheme was started in 1988. It was not discontinued in 1995. There was some modification. The scheme itself envisaged that every four year, there would be a fresh look at the scheme and the modified scheme was offered only last year.”

2.9 Subsequently, in a written note, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industries) submitted as follows:—

“The workmen were asked to enter the factory after signing an undertaking assuring good conduct. The workmen were carrying out various activities violating the provisions of certified Standing Orders within the company premises like slogan shouting, physical assault, blocking the ingress and egress of the employees into the factory, willful go slow, etc. As a result of go-slow and tool down strike the Company suffered a loss of Rs. 6.7 crores. Despite many requests and notices put by the management there was no improvement in the situation and hence to restore discipline the company was forced to ask

the workmen w.e.f. 12.10.2000 to sign the undertaking before entering the factory assuring of their adherence to the Certified Standing Orders of the Company. More than 1300 workmen signed the undertaking and joined their duties. After disruption in normal production for about a week, normal production and dispatch level was restored.”

2.10 As regards the exact nature of the workers’ demand that prompted the agitation from the workers of the Company in Maruti Udyog Ltd., the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) in the note stated as follows:—

“The workers raised a number of demands such as revision of incentive scheme, revision of conveyance allowance, promotion of non-production workmen to the supervisory cadre, formulation of company based pension scheme, and setting a grievance redressal mechanism, Recruitment of employees’ wards & dependent of the deceased, finalisation of annual production target, absorption of Contract & Casual Workers, Gift on the occasion of 25 lakhs milestone etc.”

2.11 As regards, the performance of Company, the Ministry of Heavy Industry & Public Enterprises (Deptt. of Heavy Industry) stated in the note as follows:—

“In 1991, the process of liberalisation in auto industry was initiated and in 1993 passenger car segment was delicensed. A number of global auto majors entered the Indian market. At present there are 12 players. The capacity created is far in excess of demand. The market is witnessing intense competition. New players are pricing their products very aggressively to gain entry and increase their share of the market. As a result sustaining increasing the market share of Maruti has become extremely difficult and the profitability is under severe pressure. For the first time Maruti has incurred a loss of about Rs. 250 crore in the year 2000-01. Maruti has sought to meet the challenge of competition by introducing five new models (Baleno, Alto LX, Alto VX, Wagon R, Baleno Altura) in the last two years, pursuing aggressive marketing policies and vigorous cost cutting. Maruti Udyog Ltd. has been able to recover its market share to over 60% in the last 13 months from the level of 40.8% in June 2000. However, the option to continue with cost plus model of pricing is no longer available to Maruti. The selling price of the vehicle is now largely determined by the market. Hence for the very purpose of survival, it has become imperative for Maruti Udyog Ltd. to continuously strive for the effectiveness and improvement in productivity.

The contribution of Maruti Udyog Ltd. in adopting Japanese manufacturing practices to modernize the Indian automobile industry including auto components has been immense. The company is determined to continue to play its major role in providing

technologically efficient cars at affordable prices for the Indian market, giving good value for money, in a highly competitive environment. Maruti Udyog Ltd. is actively responding to the challenges of the market place, building on the strength and co-operation from its managers, workers, vendors, dealers and customers and is confident of maintaining its dominant place in the Indian automotive sector."

2.12 On the query regarding the percentage of different costs of the company on its total turnover, the Managing Director of Maruti Udyog Ltd. stated as follows:—

"Our turnover is Rs. 9,000 crore, out of which Rs. 3,000 crore are taxes. That leaves Rs. 6,000 crores, out of which about Rs. 4,800 crore goes towards bought out items. We do not produce them. We have got vendors. We have got 370 suppliers. They are the component suppliers. So, after purchase of these items we have to see what is the value addition made within the company. When we look at the value addition and then look at our employee cost, in 1995-96 it was 7 per cent. In 1996-97 it was 7.4 per cent, in 1997-98 it was 8 per cent, in 1998-99 it was 11 per cent, in 1999-2000 it was 12 per cent, in 2000-2001 it was 21 per cent. This jump has taken place because the market went down and for the first time in the history of Maruti, we made a loss of Rs. 254 crore last year. This is the background. So, our employee cost and the percentage of value addition within the company last year was 21 per cent last year. Before that it was 12 per cent. So, somewhere in between one can take it cost-wise. The cost of the company is very high, our wages have gone very high and our selling prices have gone down."

2.13 Subsequently, in written note the Ministry of Heavy Industry & Public Enterprises (Deptt. of Heavy Industry) stated as follows:—

"Maruti Udyog Ltd. has always been fully committed to workers' welfare. The average cost to company of a workman in Maruti is about Rs. 23,000 p.m. which is not only highest in the industry but also amongst the highest in the country. Employee remuneration as percentage of 'Value Addition' (Turnover minus the material cost and excise) has gone up from 7.3% in 1995-96 to 11.5% in 1998-99 to 21.2% in 2000-01."

2.14 On the question of the acceptance of the demand raised by the workers by the management of Maruti Udyog Ltd., the Ministry of Heavy Industry and Public Enterprises (Deptt. of Heavy Industry) stated in the note as follows:—

"Management considered most of the demands favourably despite severe pressure on profitability of the company. This has been done in spite of the fact that the average cost to the company of a Maruti workman is about Rs. 23,000 per month, which is not only highest in the Industry but also amongst the highest in the country. The

conveyance allowance has been revised in consultation with the union. Promotion policy for workmen to supervisory cadre in non-production areas has been formulated and implemented. A Grievance Redressal System has been launched. A company based pension scheme has been formulated and communicated to the Union and the same is under implementation, Company gave a gift of Rs. 2999 to each employee. The management has notified a new incentive scheme on 11.10.2000, which the Union has accepted vide settlement dated 08.01.2001. The Govt. facilitated the dialogue between the Management and Union. Sequel to which, settlement was arrived at between the union and management on 08.01.2001, and it ended the crises."

2.15 The Committee desired to know as to how many dismissed or suspended workers during the agitation from 9.9.2000 onwards had been reinstated into the service of Maruti Udyog Ltd. by the management. To this, the Ministry of Heavy Industry & Public Enterprises (Deptt. of Heavy Industry) informed in the note as follows:—

"Services of 20 terminated employees, and 21 trainees were reinstated into the services as per clause 5(b) of the settlement dated 8.1.2001. 5 terminated employees were taken back and suspended on account of certain charges of grave misconduct against them as per clause 5(c) of the settlement.

The settlement dated 8.1.2001 also provides that for the 24 dismissed employees and 10 suspended employees, law will take its own course and the cases are being followed accordingly."

2.16 When the Committee desired to know the steps taken to ensure that such disputes in the company do not recur, the Ministry of Heavy Industry & Public Enterprises (Deptt. of Heavy Industry) stated in the note as follows:—

"Management has initiated a number of interventions such as regular communication meetings with the employees, daily morning meetings, launch of a grievance redressal system, morning exercise and other measures to ensure a positive work culture"

2.17 The Committee desired to know as to whether the process of collective bargaining had been restored to negotiate issues like wages, incentives etc. between the Union and the management. To this, the Ministry of Heavy Industry & Public Enterprises (Deptt. of Heavy Industry) stated in the note as follows:—

"On restoring normalcy after the strike, several meetings were held between the Union and the management on various issues, As far as the wage negotiation is considered, the Union has raised an Industrial Dispute with the Labour Department. The matter is presently under conciliation. The incentive scheme which was notified by the company

vide notice dated 11.10.2000 has been accepted by the union *vide* settlement dated 08.01.2001. This scheme shall remain operational till 31st March, 2003.”

2.18 The Committee, thereafter, took the oral evidence of the petitioners 28th August, 2001. The Committee pointed out to the petitioners that the management of Maruti Udyog Ltd. had contended that the employees cost as percentage of value addition in the Company was increasing. To this, the petitioners stated as follows:—

“From the year 1997 onwards, the Government and the Suzuki Motor Company were at loggerheads. Due to that no investment could be made during the last three years. The Company needed new models, new investments and new technology. But none of these decisions could be taken between 1997 and 2000. After the Government and the Suzuki Motor Company patched up, they suddenly invested approximately Rs. 2,300 crore over five or six models. Five or six models were introduced. With the introduction of new models, the Company invested Rs. 1,000 crore. Most of the investments started in the year 2000-2001. Because of these investments, provisions for depreciation had to be made because of that the Company showed losses in the balance sheet. But it was not a cash loss. As I understand, the employees’ cost would be only two percent of the total turn over the Company. At certain point of time, it was even 1.7 percent or 1.87 percent. May be for a very brief period, it would have been 2.10 percent. It was 2 percent. Even if we save something from that 2 percent it will not be a huge amount which can save the company from the loss of Rs. 250 crore. The turnover of the company was approximately Rs. 8000 or Rs. 9000 crore.”

2.19 When the Committee pointed out to the petitioners that the charter of demand submitted by the Maruti Udyog Ltd. Employees Union envisaged almost a 250 percent increase in salaries of the employees; the petitioners clarified as follows:—

“We never wanted to extract money from the company. We also wanted the company to survive. We understand that the employees alone cannot progress.”

2.20 On a query regarding the workers suspended or dismissed before 10 October, 2000, the petitioners informed that ten workers were suspended before 10 October and six workers were dismissed. The alleged charges against them were that they did not allow other employees to go inside the canteen, they abuse the supervisors and they shouted slogans.

2.21 When the Committee desired to know the role of the Labour Court in the dismissal/suspension of the Company Workers; the petitioners informed as follows:—

“Sir, as per the Industrial Dispute Act, as applicable in case of Haryana, the workers cannot directly approach the Labour Courts. In

Rajasthan the workers can go to the Labour Court directly. We have to go through the conciliation machinery. We have approached them many times. The Conciliation machinery has refused to refer the demands to the Labour Court. Even after the settlement, the problem was that the Joint Secretary (Heavy Industry) had written to the management of the Union. They were requested to take a sympathetic view but the management is violating the spirit of the agreement by taking further disciplinary action. In six cases enquiries were completed and in some cases extreme punishment of dismissal was awarded. The management, through its officers, is spreading the message that the services of all employees who have been chargesheeted would be terminated."

2.22 On a query regarding the number of employees reinstated; the petitioner stated as follows:—

"None of them (dismissed persons) have been reinstated. Three employees, against whom enquiries have been completed, have been terminated, Out of 92, 41 were reinstated. As were told to us the employees of essential services who were dismissed for not joining of duties would be taken back Employees in essential services, along with trainees were taken back. Some 21 trainees who were dismissed were also taken back. None of the employees who belonged to other departments were considered. All the employees who were in maintenance, and other units were taken back. Those 21 trainees who were taken back were further dismissed after three four months. Practically, the management violated that agreement also. But we had no remedy. There is no way in which we could prevent them from doing this. We represented to the management but they have not heeded to us."

Observations/recommendations

2.23 The Committee note that the workmen of the factory of Maruti Udyog Ltd. had resorted to an agitation w.e.f. 9.9.2000 involving go-slow and tool down strike. As a result of the go-slow and tool down strike, the Company suffered a loss of Rs. 6.7. crores. After disruption in normal production for about a work, normal production and dispatch level of the Company had been restored. However, the management of the Company had introduced a 'Good Conduct Undertaking' w.e.f. 12.10.2000 for the signing of the workers before entering the factory premises which was a kind of re-affirmation of the provisions of the Certified Standing Orders of the company. While the Committee would not like to intervene into the legality of the management of Maruti Udyog Ltd. direction regarding the "Good

Conduct Undertaking” to be signed by the workers, the Committee express their displeasure over the fact that the Company had to resort to this measure for restoration of work.

2.24 The Committee are informed that prior to September, 2000 agitation by the workers, the Maruti Udyog Employees Union had raised a number of demands *viz* revision of incentive scheme; revision of conveyance allowance, promotion of non-production workmen to the supervisory cadre; formulation of company based pension scheme; setting a grievance redressal mechanism; recruitment of employees’ wards & dependent of the deceased; finalisation of annual production target; and absorption of Contract and Casual Workers. In this context, the Committee are satisfied to note that the management of the company had considered most of the demands favourably despite severe pressure on profitability of the Company. The management had notified a new incentive scheme on 11.10.2000, which the Union had accepted *vide* settlement dated 8.1.2001. The Government facilitated the dialogue between the management and the union and a settlement was arrived, which ended the crisis.

2.25 The main demand of the petitioners in their petition relate to the protection of the rights of the workmen and that the dismissed/suspended workers may be reinstated into service. In this context, the Committee note that the settlement dated 8.1.2001 envisaged that the services of 20 terminated employees and 21 trainees be reinstated; 5 terminated employees be taken back/suspended on account of charges of misconduct; and for 24 dismissed employees and 10 suspended employees, law will take its own course. The Committee would like to be apprised about the position in the matter. At the same time, the Committee would like to point out that retrenchment of the workers, if carried out, may be made keeping in view the need for protection of the rights/claims/benefits of the workmen of the Company in order to bring the normalcy in the situation. All the victimisation should be removed.

2.26 The Committee recommend that demands and grievances of the workmen of the company may be settled through the process of collective bargaining as per the provisions of Industrial Disputes Act so as to abviate such instances of agitation or strike of the workmen of the company. The Committee are of the firm view that a positive work culture within the company including the office and factory premises should be maintained. The Committee desire that the performance appraisal of the workers of the Company may be carried out in a scientific manner and the workers must be motivated to perform their duties efficiently and effectively. The Committee hope that Maruti Udyog Ltd. would effectively meet the challenges of the Competitive Automobile Market fulfilling the demands of the Indian Automotive Sector. Management should also take positive attitude to restore better industrial relation within the company under the Industrial Disputes Act of 1947.

CHAPTER III

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS CONTAINED IN THEIR NINTH REPORT (THIRTEENTH LOK SABHA) ON THE PETITION REQUESTING TO ALLOW PASSENGER TRAFFIC ON EXISTING RAILWAY LINE BETWEEN KURLA AND MAHUL IN EASTERN MUMBAI (MAHARASHTRA).

3.1 The Committee on Petitions in their Ninth Report (Thirteenth Lok Sabha) presented to Lok Sabha on 24 July, 2001 had dealt with a petition requesting to allow passenger traffic on existing railway line between Kurla and Mahul in Eastern Mumbai (Maharashtra).

3.2 The Committee had made certain observations/recommendations in the matter and the Ministry of Railways (Railway Board) were requested to implement those recommendations and furnish their action taken notes for the consideration of the Committee.

3.3 Action taken notes have been received from the Ministry of Railways (Railway Board) in respect of the recommendations contained in the Report.

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

3.5 In paragraph 2.12 of the Report, the Committee recommended as follows:—

“The petitioners have requested that the goods rail line between Kurla to Mahul in eastern Mumbai should be converted into goods-Cum-passenger traffic line for the convenience of the residents of Vasinaka, Mahul, Anik and Bandra in Mumbai, Maharashtra. The petitioners have contended that in the last 20 years the population of the adjoining areas of the Kurla-Mahul rail line had increased to seven lakhs (approximately). Therefore, opening up of this rail line for passenger train would be helpful to the poor people in the area.”

3.6 In their action taken note, the Ministry of Railways (Railway Board) have stated that the Kurla-Trombay 4 kms single line was constructed only for carrying freight traffic originating from the Refinery sidings and RCF Complex at Trombay and is not open for passenger traffic. At the Trombay end, the line ends in a goods yard and at Kurla end the line cuts across the Up and Dn. Harbour branch suburban lines and accesses at the Kurla Yard Up and Dn, through lines of the Mumbai-Kalyan Quadruple lines.

The Ministry have further stated that a study to examine the feasibility of introduction of suburban services on the Kurla-Trombay line was conducted by the Suburban Infrastructure Cell of Mumbai in 1996, as desired by the Railway Convention Committee meeting held on Central Railway on 19.2.1996. The study brought out that an investment of Rs. 28 crores is required at 1996 prices to run suburban services on the Kurla-Trombay lines. A fresh survey for assessing the traffic requirements of the area is being processed.

Observations/ Recommendations

3.7 The Committee note with satisfaction that the Government have agreed to process a fresh survey for assessing the traffic requirements on Kurla- Trombay line. The Committee desire that the survey may be stated soon and be completed within a specific time frame and the work based on the survey may be taken up urgently and completed within six months.

3.8 In paragraph 2.13 of their Ninth Report, the Committee observed as follows:—

“The Committee have been informed by the Ministry of Railways (Railway Board) that Mahul is a station near Trombay where there are refineries and fertilizer plants. The Kurla-Mahul rail line was constructed only for carrying freight to the fertilizer factory and the refineries. The Kurla-Mahul rail line cuts across up and down the lines of the harbour branch and the Mumbai-Kalyan quadruple line section. After a preliminary survey of this rail line, it was ascertained that the cost of upgrading 4 kilometre stretch of Kurla-Mahu! rail line would be about Rs. 28 Crore at 1996-97 prices. A consultant firm M/s Atkins was appointed for the purpose of study on ‘Suburban Transport System’ in Mumbai. M/s Atkins carried out a study in 1992 for almost three and half years and gave its report in 1996-97 which did not recommend running of passenger services on Kurla-Mahul route. Based on the recommendation made by this firm, the Railways have not considered to introduce passenger services on the Kurla-Mahul goods rail line.”

3.9 In their action taken note the Ministry of Railways (Railway Board) have stated that a study to examine the feasibility of introduction of suburban services on the Kurla-Trombay line was conducted by the Suburban Infrastructure cell of Mumbai in 1996, as desired by the Railway Convention Committee meeting held on Central Railway on 19.2.1996. The study brought out that an investment of Rs. 28 crores is required at 1996 prices to run suburban services on the Kurla-Trombay lines.

The Ministry have further stated that the area served by Kurla-Trombay single line is well catered to by the BEST services with a frequency of less than 7 minutes. Also, buses in the area provide connectivity not only to Kurla but also to places like Ghatkopar. However, a fresh survey for assessing the traffic requirements of the area is being processed.

3.10 In paragraph 2.14 of the Report, the Committee recommended as follows:—

“The Committee would like to point out that more than 8 years have elapsed since the survey of the “Suburban Railway Transport” was made by M/s Atkins in 1992 and with the increase in population, the position must have changed considerably. The fact that the average number of passengers who traveled daily during the last 3 years by BEST bus services between Kurla-Mahul was 33,218, shows that the passenger traffic potential between Kurla and Mahul is substantially high. Besides, the city of Mumbai is extending towards the southern side. Therefore, the Committee are of the firm opinion that a passenger train on Kurla-Mahul line would be of immense utility for the people, since the rail fare is considerably cheaper than the fare charged by the city buses. The Committee, therefore, recommend that, as assured to them a fresh survey should be conducted without delay to ascertain the actual volume of anticipated passenger traffic on suburban trains in the Kurla-Mahul area and passenger rail service on this route should be started soon for the benefit of the daily commuters from the areas.”

3.11 In their action taken note the Ministry of Railways (Railway Board) have stated that as desired by the Committee, a fresh survey to ascertain the actual volume of anticipated passenger traffic on suburban trains in the Kurla-Mahul area is being processed.

Observations/Recommendations

3.12 The Committee observe that with the intervention of the Committee a fresh survey to ascertain the actual volume of anticipated passenger traffic on suburban trains in Kurla-Mahul area is being processed. The Committee desire that the survey work may be completed expeditiously and based on the survey passenger rail service on Kurla-Mahul route should be started for the benefit of the daily commuters from the area.

NEW DELHI;
15 March, 2002

24 Phalguna, 1923, (Saka)

BASUDEB ACHARIA,
Chairman,
Committee on Petitions.

APPENDIX-I

(See para 1.3 of the Report)

COPY OF THE PRESIDENTIAL ORDER

Dated 16-8-1965

No.C6-14(43)/63 dated 16.8.65
GOVERNMENT OF INDIA
MINISTRY OF STEEL AND MINES
(DEPTT. OF MINES & METALS)
UDYOG BHAVAN
NEW DELHI

To

Shri-----

Sir,

1. As you are aware, it was decided by the President of India (hereinafter referred to as the "Government") to transfer the ownership and the management of the State Collieries (hereinafter referred to as the "said Collieries"), including the one in which you are employed, to the National Coal Development Corporation Limited (hereinafter referred to as the "Corporation") with effect from 1st day of October, 1956 and in pursuance of the said decision, possession of the said Collieries was delivered and services of all the Government employees serving in the said Collieries and in the Headquarters of the Organisation known as the Coal Production and Development Commissioner were made available to the Corporation from the 1st day of October, 1956.
2. The Corporation has agreed that if you are agreeable, the Corporation will take you in their employment with effect from the 1st day of October, 1956, on the same tenure, the same remuneration, the same seniority, the same terms and conditions and the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as would have been admissible to you had you

continued to be in Government service. If you are agreeable to this arrangement, you may signify your assent in the enclosed Form I or before.....day of.....1965.

3. If you agree to this arrangement the period of your service under the Government upto 30th September, 1956 will be given credit to and treated as continuous with service under the Corporation (including for the purpose of pension where applicable) and your provident fund amount lying with the Government will be transferred to the parallel provident fund that has been established by the Corporation in respect of the Government employees so employed by the Corporation and you leave account under the Government will be transferred to the Corporation and you will be treated as having ceased to be in Central Government service with effect from the 1st October, 1956.
4. If, however, you are not agreeable to this arrangement you are requested to signify your unwillingness in the enclosed Form II. If you do not send any reply on or before theday of.....1965, it will be assumed that you are not agreeable to the arrangement.
5. If you are not agreeable to the arrangement or if you do not send any reply within the specified time the Government will be constrained to adopt the procedure, prescribed for Government servants on abolition of the posts held by them; that is, your services under Government will be dispensed with after giving three months' notice and you will be allowed such terminal leave, pension, gratuity and other benefits as may be admissible under the rules.
6. You are, accordingly, requested to hand over, your reply in one of the two enclosed forms in duplicate to.....on or before the.....day of1965, and obtain a receipt from him of having done so.
7. The N.C.D.C. has, by an endorsement below this letter, expressed its agreement to the arrangement in paragraphs 2 & 3 above.
8. Please acknowledge receipt of this letter.

Yours faithfully,

Sd/-

Deputy Secretary to the Government of India
By order and in the name of the President.

Endorsement No. 224/NCDC/58-Pt.III Date 16.8.65

National Coal Development Corporation Ltd., Ranchi.

The National Coal Development Corporation Ltd. hereby agree to your employment under the Corporation on the terms and conditions

mentioned in paragraphs 2 and 3 of the above letter of the Government of India, Ministry of Steel and Mines (Department of Mines and Metals) if you are agreeable thereto and send a reply to the said letter as prescribed therein within the specified time.

Sd/-

Date : 16.8.65

CHIEF OF ADMINISTRATION
For and on behalf of National Coal Development
Corporation Ltd.

APPENDIX-II

(See para 1.18 of the Report)

LIST OF 14 PERSONS OF CIL WHO ARE NOT ELIGIBLE TO GET PENSION

1. Shri A.N. Banerjee
2. Shri S. Yegneshwaran
3. Shri R.G. Mahendru
4. Shri P.C. Aluwalia Paul
5. Shri T.V. Lakshmanan
6. Shri C.R. Bhattacharjee
7. Shri R.S. Mathur
8. Shri J.M. Dhawan
9. Shri I.N. Sarkar
10. Shri B.P. Modwel
11. Shri N. Chandra
12. Shri R.K. Gupta
13. Shri J.B. Kapur
14. Shri S.K. Bose

LOK SABHA

PETITION NO. 12

(Presented to Lok Sabha on 13.12.2000)

To

Lok Sabha,
New Delhi.

The humble petition of S/Shri Mathew Abraham and others of Maruti Udyog Employees Union, Palam Gurgaon Road, Gurgaon (Haryana).

SHEWETH

We the undersigned petitioners are the members of Maruti Udyog Employees Union which is a registered Union under the Trade Union Act bearing the Regd. No. 978. The said union represents all the employees of Maruti Udyog Ltd. The management of Maruti Udyog Ltd. have also recognised this union.

We beg to state that the management illegally locked out the company from 12.10.2000 and put the notice on the main gate of the company for the signing of an 'undertaking'. The said undertaking is unnecessary and unwarranted. The act of the management is an unfair labour practice under section 25(T) read with schedule-5 of the Industrial Disputes Act, 1947. This action of the management of Maruti Udyog Ltd. has prevented the entry of the workmen at work place by putting the condition of signing an 'undertaking'.

That management dismissed more than 75 workers and suspended 12 workers without complying with the statutory rules and in violation of the Certified Standing Orders of Maruti Udyog Limited. The act of the management is illegal, malafide and against the principles of natural justice.

We, therefore, submit this petition before you with an earnest request to inquire this matter and protect the rights of the workmen under article 21 of the Constitution of India and give the direction to the management to lift the illegal lock out, reinstate the dismissed/suspended workers and withdraw the chargesheets issued to innocent workers.

and your petitioners as in duty bound will ever pray.

Name	Address	Signature
Shri Mathew Abraham	MUEU Office Palam Gurgaon Road, Gurgaon (Haryana).	Sd/-
Shri G.K. Walia	-do-	Sd/-

Countersigned by Shri K.P. Singh Deo. M.P.