

COMMITTEE ON PETITIONS

(THIRTEENTH LOK SABHA)

NINETEENTH REPORT



(Presented to Speaker on 26 August, 2002)
(Presented to Lok Sabha on 2002)

**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2002/Sravana, 1924 (Saka)
Price: 17.00

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Basudeb Acharia — *Chairman*

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

*Nominated w.e.f. 27 March, 2002 *vide* para No. 2778 of Bulletin Part-II, dated 27 March, 2000 *vice* Dr. K. Malaisamy, M.P. who resigned.

**NINETEENTH 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 Nineteenth Report of the Committee to the House on the following matters:—

- (i) Petition regarding de-casualisation and extension of employee's status as per tripartite settlement of Cargo Handling Workers of Paradeep Port Trust.
- (ii) Action taken by the Government on the recommendation of the Committee on Petitions (Thirteenth Lok Sabha) in their Fourteenth Report on the 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) in their Tenth Report on the petition regarding construction of a new Railway Station at Nahur between Bhandup and Mulund Stations in Mumbai.
- (iv) Action taken by the Government on the recommendations made by the Committee on Petitions (Thirteenth Lok Sabha) in their Fourteenth Report on the representation regarding denial of option for pension and other benefits under the liberalised pension scheme to Employees of Coal India Limited.

2. The Committee considered and adopted the draft Nineteenth Report at their sitting held on 23 August, 2002.

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

NEW DELHI;
23 August, 2002

BASUDEB ACHARIA
*Chairman,
Committee on Petitions.*

1 Bhadrapada, 1924 (Saka)

CHAPTER I

PETITION REGARDING DE-CASUALISATION OF CARGO HANDLING WORKERS AND EXTENSION OF EMPLOYEES' STATUS AS PER TRIPARTITE SETTLEMENT OF PARADEEP PORT TRUST

1.1 On 21 March, 2001, Shri Prabhat Samantray, M.P. presented to Lok Sabha a petition signed by Sarvashri Adikanda Mohanty, Vice President and Ghanashyam Mohanty, Asstt. General Secretary of Utkal Port and Dock Workers Union, Paradeep Port, Orissa regarding de-casualisation of Cargo handling workers and extension of employees' status as per tripartite settlement (See Appendix).

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

- (i) The workers engaged in different cargo handling operations in the Port of Paradeep had put forth their demand for decasualisation. The Port Trust authorities considered the demand of the workers and in 1979, the Cargo handling workers' regulation of employment scheme was framed. Listing of workers was finalized. A total of 1530 workers were enlisted in different categories, namely, Deck Foreman, Winchman, Signalman, Tally Clerk, Supervisor, Gang Leader and Mazdoor. The scheme was implemented from February, 1980 and they were brought under the Administrative control of Paradeep Port Trust.
- (ii) As per provisions contained in the aforesaid scheme, different benefits including guarantee of wages were given at the initial stage. With the passage of time, other facilities like housing, medical leave, uniform etc. were given. In order to get such additional benefits, they also exhibited their best performance to improve the productivity parameters.
- (iii) In the wage settlement dated 12th June, 1989 and 6th December, 1994, Government of India in the Ministry of Surface Transport had agreed for decasualisation of the workers in different Major Ports. The case of decasualisation was considered by the Ministry of Surface Transport. One man Committee was appointed by the Ministry of Surface Transport which examined the question of decasualisation of Dock workers in major Ports and findings had been recorded in report popularly known as Abraham Committee Report. The said Committee's Report concerning decasualisation had also been referred to by the High Power Committees' Report appointed under orders of the Hon'ble Supreme of India in

C.A. No. 1422 of 1990. The recommendation of the High Power Committee had been discussed in detail by the Management of Paradeep Port Trust. The bilateral discussion between the Management and the Unions representing workers resulted into an amicable settlement through Regional Labour Commissioner (Central) on 30.06.1994.

1.3 The petitioners, therefore, requested to urge upon the Government of India, Ministry of Shipping to extend the status of employees to Cargo Handling Workers as agreed in tripartite settlement.

1.4 The petition was referred to the Ministry of Shipping (Labour Division) on 22 March, 2001 for furnishing their comments on the various points raised in the petition. In response, the Ministry of Shipping (Labour Division) *vide* their U.O. dated 17/18 April, 2001 have furnished their comments.

1.5 Giving a brief background about the issue of de-casualisation of cargo handling workers of Paradeep Port Trust, the Ministry stated that:—

“Since a very long time, Paradeep Port Trust (PPT) has been pursuing a proposal for conferring employees status to the Main Listed Cargo Handling Workers..... Unlike other Port employees, the Main Listed Cargo Handling Workers are governed by a scheme called Paradeep Port Cargo Handling Workers (Regulation of Employment) Scheme, 1979. The problem of cargo handling workers has been looked into by various committees in the past. An official Committee (Abraham Committee) constituted in 1984 considered the question of de-casualisation in various ports and noted that there were 1500 workers in the Main List and 700 workers in the Subsidiary List and also found that the number of workers at PPT were more than required optimum strength. It recommended that before extending de-casualisation benefits, the port should identify surplus workers, retrench or put them in the Subsidiary List.”

1.6 The Ministry further added that:

“The issue of de-casualisation was also looked into by Hon’ble Supreme Court in the form of a Writ Petition and the Hon’ble Supreme Court constituted a High Power Committee (HPC) in 1990 headed by Justice Khanna (Retd.). The HPC found workers surplus and put the optimum requirement of Cargo Handling Workers at 1104 as against 1500. The Committee recommended that retrenchment or adjustment or both may be considered. It did not recommend for de-casualisation of these workers. In accordance with the recommendation of HPC, Paradeep Port prepared a package for increase in productivity. The package provided for upward revision of datum and incentives and conferring of employees status on cargo

handling workers. The upward revision in datum and incentives had been accepted and approved by the Government during January, 1995.”

1.7 Regarding tripartite settlement, the Ministry stated that:

“The Port Management had signed a settlement with the trade unions under Industrial Disputes Act during January, 1994 for treating the Main Listed cargo handling workers as Port employees. The settlement also included consequential benefits arising out of extension of employees status to these workers. With the approval of the Board, the Port Trust had already implemented the provisions of the Settlement. Thus, these workers are already getting monthly wages, leave facilities like EL, CL and Medical leave and pension facilities. The Port did not consult the Government on the issue before signing the settlement and extending the above benefits to the cargo handling workers. Thus, in the PPT’s proposal, they requested for *ex-post facto* approval of the Government to grant employees status to the main listed cargo handling workers.”

1.8 They further added that:

“The proposal of the Port was considered in the Ministry. It has, however, not been found possible to accept the proposal due to various reasons. Some of the reasons are given below:—

- (i) The Abraham Committee as well as HPC did not recommend for de-casualisation of these workers. The Abraham Committee and the Ministry had suggested to PPT to find out the optimum requirement of workers, retrench them before going for de-casualisation. The Port trust has not undertaken any study or reduction of surplus manpower before considering de-casualisation.
- (ii) During 1995, these cargo handling workers were engaged for about 12 days in a month. At present, they are having only 8 days average working in a month. It will be difficult to consider de-casualisation when nearly 70% of these workers are surplus and no attempt has been made by PPT to implement the recommendation of the Abraham Committee regarding retrenchment of surplus staff.
- (iii) Any decision taken with regard to de-casualisation in respect of Paradeep Port is likely to have repercussions in other ports.
- (iv) Once the present proposal is accepted, there will be further demand for de-casualisation from other categories of workers in the PT and in other Ports.
- (v) The PPT signed a settlement and extended certain benefits to these workers without properly examining the proposal and without consulting the Ministry. Giving *ex-post facto* approval to the proposal would amount to blindly endorsing a wrong decision taken by the Port.

1.9 The Ministry have further stated that:—

“The only justification given by the Port has been that in the absence of Dock Labour Board, there is need to have cargo handling workers and hence there should not be any objection to giving employees’ status to these workers. Besides this, workers had been agitating or demanding for de-casualisation.”

1.10 The Ministry have finally stated that;

“It may be seen from above that the workers and staff in various categories in the Port are surplus. The cargo handling workers are getting only 8 days average engagement at present. With modernization and machanisation facilities, the number of surplus workers will become even more. In addition to this, the Ministry of Labour, on the recommendation of this Ministry has set up a National Tribunal to decide, *inter-alia*, the Manning, Scales, etc. The Tribunal is expected to give its report within a period of six months. Any decision before the Award of the Tribunal is not desirable.”

1.11 They further added that:

“It has been mentioned in the petition that in the Wage Settlements dated 12.6.1989 and 6.12.1994, the Ministry of Surface Transport had agreed for de-casualisation of the workers in different Major Ports. However, these agreements have been checked and it is found that no such commitment had been made in the settlement of 1989. In the settlement of 1994, the only reference to decasualisation is for the Tuticorin Port and even there the settlement only states that the demand for decasualisation and absorption will be examined and settled expeditiously.”

1.12 After perusing the comments furnished by the Ministry, the Committee decided to undertake on-the-spot study visit to Paradeep, for having an informal discussion with the petitioners and representatives of Paradeep Port Trust. Accordingly, the Committee visited Paradeep on 5 July, 2002 and held informal discussions on the subject.

1.13 During on-the-spot study visit, the petitioners informed the Committee that on a reference for de-casualisation of workers of Cargo Handling Scheme, Hon’ble Supreme Court had appointed a High Power Committee under the Chairmanship of Justice H.R. Khanna.

1.14 In view of the recommendation of High Power Committee, Chairman, Paradeep Port Trust had entered into a Tripartite Settlement on 30.06.1994 with the Union representing the workmen in presence of the Conciliation Officer-cum-Asst. Labour Commissioner (C), Government of India. Apart from enhancement on datum to higher volume, change the Manning Scale, Incentive Revision, Abolition of Idle booking, Introduction of Mechanical Handling system was agreed to by the Unions. The Management in response had agreed to de-casualisation of Cargo

Handling Workers as Port Employees, introduction of Rules and Regulations and benefits as applicable to Port Employees for Cargo Handling Workers with pensionary benefits counted from 1st April, 1983, converting CPF to GPF, Extension of Holidays etc. were also agreed to, which brought a historic change in the work culture of Cargo Handling operation.

1.15 The Committee were also informed that the Port Trust Board which is the apex body under Major Port Trust Act, 1963 and its Board of Trustees had approved the Proposal relating to employees status of Cargo Handling Workers and others extended facility as agreed to in the tripartite settlement dated 30.06.1994 in their Board meeting held on 31.08.1994 *vide* Board Resolution No. 4494-95 and 4594-95 on the Board Memorandum No. 15(5)94-95. In the meantime, the Port Trust Management had extended all the facilities but not the employee status to the Cargo Handling Workers. The Chairman, Paradeep Port Trust *vide* his letter No. ADMR/42/94 dated 29.03.1994 addressed to President, Utkal Port and Dock Workers' Union expressed confidence of early approval of Central Government to the proposal of employee status to Cargo Handling Workers.

1.16 The Chairman, Paradeep Port Trust had also written at different times to the Government of India, Ministry of Shipping to accord necessary approval for extension of employee status to the Cargo Handling Workers with their justification *vide* letter No. TD/DTMLAB/59/96, dated 07.03.1996, No. TD/DTM/LAB/59/95 dated 20.08.1996. No. TD/DTM/LAB-59(III), dated 05-03-1999 and No. TD/DTMLAB/59-98, dated 04.08.1999. The Central Government, Ministry of Shipping is delaying the approval of the proposal.

1.17 The petitioners also stated that the Ministry of Shipping have not only allowed but also persued for early merger of the workers of Dock Labour Board in Mumbai, Murmagao, Chennai and Cochin D.L.B. with the Mumbai Port Trust, Murmagao Port Trust and Chennai Port Trust and Cochin Port Trust respectively. When workers of DLB, which is a separate entity under the Dock Workers (Regulation of Employment) Act could merge with their respective Port Trusts and this is a glaring case where the Port Trust from the introduction of Cargo Handling Scheme is the employer, pay master, controlling and regulating authority of service condition etc. of Cargo Handling Workers of Paradeep Port but the Paradeep Port Trust is not getting the approval of the aforesaid proposal from the Central Government.

1.18 The petitioners also informed the Committee that the Central Government had not interfered at the time of formulation of the Scheme nor during its operation. The payment, regulation and control of service condition, disciplinary action is also not regulated by the Central Government but instead by Paradeep Port Trust from time to time as

approved by its Board of Trustees. Though the Board had approved but Central Government, *i.e.* the Ministry of Shipping has delayed its approval with discriminatory intention.

1.19 The Committee were also informed by the petitioners that because of this settlement not a single day work stoppage took place during all these years. As per the settlement, expenditure on Cargo Handling Workers has also gone down for adjustment and accommodation in manning scale. The volume of Cargo Handled Manually in the year 1993-94 was 5.92 Million Tonnes it has gone up to 10.05 Million Tonnes by 2001-2002. Therefore, the assessment of Khanna Commission no longer remains valid. As a matter of thumb-rule, the requirement should be double and shall need additional recruitment of work force. The engagement of Cargo Handling Workers is being restricted by Port Trust by limiting working of the Ships Crane (*i.e.* cutting down number of hooks) and Port Trust can not claim that the engagement of Cargo Handling Workers is less. During this period, number of casualties and VRS reduced the strength of Cargo Handling Workmen from 1530 in 1980 to 1307 in 2002.

1.20 During the course of informal discussion with the representatives of Paradeep Port Trust, the Committee were informed that in the year 1979-80, a scheme called Paradeep Port Cargo Handling Workers (Regulation of Employment) Scheme, 1979 was introduced. The scheme started with payment of wages directly by the port to the workers which was later extended to guarantee wages for 21 days and some other benefits similar to those available under the Dock Labour Boards of other ports. The unions, however, had always demanded for decasualisation and extension of full benefits as regular employee of the port trust. The Abraham Committee had gone into this issue and had recommended benefits of decasualisation on par with Dock Labour Boards of other ports subject to maintaining optimum number of workers after retrenching or diverting to the subsidiary list workers identified as surplus. The issue was also examined by a High Power Committee known as the Khanna Committee appointed by the Hon'ble Supreme Court of India who had identified the number of workers required before and after introduction of Mechanised Coal Handling Plant as 1104 and 495 respectively.

1.21 The Committee were also informed that the unions, however, did not agree to optimization of the number and persisted with their demand. An attempt to work out a package deal had also failed. Industrial relations were worsened and all the unions had given a strike notice in 1994. After several rounds of discussion, a tripartite settlement was reached with the unions on 30.6.1994. As per clause 8 of the settlement, a copy of the settlement was forwarded to the Ministry for approval by letter dated 4.12.1994. Government's approval is awaited since then.

1.22 The present situation is that cargo handling workers are enjoying almost all the benefits such as wages, pension, leave, LTC etc. on par with

other employees. But since the additional posts have not been created, and as the original Cargo Handling Workers Schemes has not been abolished, it can be said that these benefits are being given to them under the existing Cargo Handling Workers Scheme, 1979. In fact, a voluntary retirement scheme has also been introduced under the said scheme and 58 workers have already availed of the same.

1.23 The Committee were also informed that subsequent to a notice of hunger strike by the petitioner's union issued to the Ministry of Shipping on 1.10.2001, the Chairman of Paradeep Port Trust had invited all the unions for a meeting on the issue. The Chairman had explained to the unions that while they are already enjoying all the benefits at par with other employees, declaration as employee as such would require creation of posts which requires approval of Government of India in the Ministry of Shipping as well as Ministry of Finance. While the port trust has already proposed the same to the Government of India, it will be advisable not to ignore the findings of the High Power Committee who had recommended that only 495 posts of cargo handling workers would be required after commissioning of the Mechanized Coal Handling Plant. It would be, therefore, more appropriate to propose creation of only 495 posts. The unions sought time to give their reaction but did not give any.

1.24 The representatives of Paradeep Port Trust also informed the Committee that in the trust board meeting held on 25.3.2002, the trustees Shri B.R. Panda and Shri P. Kanungo raised the the issue of regularisation of cargo handling workers. The Chairman apprised the board of the development and suggested that even if a lesser number of post is created, the other workers would continue under the scheme and, if seniority is maintained on the basis of date of birth, it would ensure that every cargo handling workers would become a regular employee before he retires. It was decided that a proposal may be sent to Government of India to create at least as many posts as has been recommended by the High Power Committee. A proposal on the above line has been sent to the Government of India on 28.06.2002.

1.25 The Committee, thereafter, took the oral evidence of representatives of Ministry of Shipping in the matter on 23 July, 2002. Shri Prabhat Samantray, M.P. incharge of the petition was also invited as a special invitee.

1.26 During evidence, the Committee pointed out that different cargo handling workers have been demanding de-casualisation. There was an agreement between the Port Trust Management and the union in this regard but the Ministry has not approved this proposal though it was recommended by the Port Trust Management. The Committee then desired to know as to why the Ministry did not approve the regularisation of the casual workers. To this, the Secretary, Ministry of Shipping stated:--

“It is true that sometime in 1994, there was an agreement between the

Paradeep Port Trust on the one hand and the representatives of the casual workers on the other hand. This was under the auspices of the Regional Labour Commissioner. As a result of that, an agreement was reached that they would be treated at par with the port workers. This had never been referred to the Ministry before that for approval. So, when the Ministry examined it, they found that it would involve the creation of a large number of new posts. As you are aware, the Government is now committed to downsizing of administration. So, more and more new posts cannot be created. First, this would require us to go before the Ministry of Finance to create these new posts. Secondly, a question would arise which posts are to be created."

He further stated:—

"As the hon. Committee is aware, there were two committees that went into this. The first was the Abraham Committee and the second was the Justice Khanna Committee (High Power Committee). The Abraham Committee was the first to recommend certain benefits of de-casualisation. The Khanna Committee was set up in pursuance of the Supreme Court's directives. This Committee recommended that something like 495 persons should be cleared from the first list and a reserve list should be kept. This was kept in mind that the port would not hand over the whole question of mechanical handling of coal and other things. It was not done earlier. Earlier, it was estimated by the Khanna Committee that the requirement for labour would come down to 495.

The first question was a policy question. The second question was how many persons would be regularised and under what circumstances. We found that we were to go to the Ministry of Finance to create any post. We found that it would be difficult to do so. In the instant case, it was also our understanding from the Paradeep Port that these workers have been given all the benefits applicable to port employees. Therefore, we felt that there was no loss caused to the workers. You spoke of a very valid point when you talked about de-casualisation. I take the point made by the hon. Chairman. The Government is committed to that and we are taking up the issue of regularisation. We now see that in the instant case we have a situation where the workers are drawing all the benefits of port workers. Therefore, in our view, even though the final act of going to the Ministry of Finance has not taken place yet, there is not any loss suffered by the workers."

1.27 When asked, if the Ministry of Shipping has recommended or has taken up with the Ministry of Finance for creation of additional posts, the Secretary replied:—

"Sir, at this point of time, no. We have not taken up with the Ministry of Finance because our experience has been that when we take up these matters; the policy of the Government is that they want

to discourage creation of more and more posts. Therefore, since we feel that the workers are not suffering any loss as a result of this, we thought that it is better that we do not take up something where we are likely to face a lot of opposition from the Ministry of Finance in the creation of these new posts."

1.28 When the Committee desired to know the position in other Ports, the Secretary, Ministry of Shipping replied:—

"There is no real comparison on one-to-one basis. There are other ports where they have set up Dock Labour Boards much before Paradeep Port came into existence. Now, in such cases, for instance, I think, *Murma-Gao* is a good example where the Dock Labour Board has been merged with the port. Cochin, I understand, is another Dock Labour Board merged with the port. This was in pursuance to an Act passed by Parliament. So, this was a case, it is not on all ports. Here in this port, there is no Dock Labour Board as such. There was a group of workers who were traditionally employed in the port on these matters. They continue to get all the benefits and all the perquisites that are applicable to port employees. So, strictly speaking, they are under no disadvantage or loss as a result of this."

1.29 When desired to know that, if there is no financial implication and the Port Trust has also recommended to given employees status then what is the difficulty, the witness stated:—

"I think, it is a very valid point. As I was trying to explain earlier, in the case of the Dock Labour Board, an Act of Parliament passed in the year 1997 said that we are entitled to merge this Dock Labour Board. I do not need to go to the Ministry of Finance and ask for anybody's permission. After that it becomes an Act of Parliament and no Ministry can sit in judgment over that. But in the instant case, this will not be pursuant to an Act of Parliament. There was a Committee appointed first under Abraham and then under Justice Khanna. These two Committees have their own findings. First said that there should be a decasualisation. The second created two categories—one of 495 and second of 1104 and odd before mechanisation. But the problem is that subsequent to that, mechanisation has taken place. We have now got the mechanised coal handling plant in Paradeep. Then, the second point takes over, namely, that once we have got the mechanised system in place, the requirement falls further, even to 495. So, it is this group that we are talking about now. That is something that we will have to consider."

1.30 When asked, if all of them, before they retire, will automatically be treated as employees, the Chairman, Paradeep Port Trust replied in affirmative and he added:—

"They are enjoying the benefits at par with the employees, as on today."

1.31 On being pointed out that, if, there is an unfortunate case of death of a worker before he is treated as regular employee, what will happen to his family, the Chairman, Paradeep Port Trust stated that his family will get a family pension at par with the family of a regular employee as per the existing arrangement.

1.32 When asked about the career progression of the employees, the witness replied:

“That is just one of the benefits which has been extended to regular employees, which has not been extended to cargo handling workers. But it is still under consideration. From time to time, different benefits are extended to employees. They have to be separately adopted under the cargo handling scheme so that the same can be extended to cargo handling workers. In the case of career progression scheme, so far it has not been extended. But that is one lone example which we have also stated.”

1.33 When confirmed, if the family of a Cargo Handling Worker would surely be getting all the employee benefits, the Chairman, Paradeep Port Trust replied in affirmative.

1.34 The Committee pointed out that there were number of letters written by the Chairman, Paradeep Port Trust since 1994 and in 1994, when there was a settlement, there was no question of downsizing of any Government department, it was a recent development based on Geeta-krishnan Committee's recommendations and also the Fifth Pay Commission's recommendations. The Committee, thus, desired to know as to why the Ministry has not taken any action since 1994 in spite of the fact that they had partially approved some of the recommendations of the settlement. In response, the Secretary, Ministry of Shipping replied:—

“Sir, I would seek your kind indulgence to check one of the points. I am not sure about that and I do not have the answer for that right now. Maybe, unintentionally I have given an impression that the Government was not kept informed about it. I fully agree with what the hon'ble members have said. After the agreement was signed, the Government was kept informed. But if you examine the agreement, then you would find that the agreement itself envisaged that it would become effective when the Government would approve it. So, such an agreement has to have the approval of the Government before it became effective. That approval of the Government has not been given. It is because in the general consensus it was felt that increasing the number of employees in the Port Trust at one swoop by so many people would have a bad effect. It would have a domino effect on other ports as well. It was for this reason that perhaps at that time a decision was taken that this would not be approved immediately. It was done in this background. As a result of this it was felt that since you already have an agreement with them, all these things cannot be

taken away but making them port employees and getting the posts approved by the Ministry of Finance has not been done.”

He further added:—

“Sir, as I have already explained that if we were to approach the Ministry of Finance today, then the chances are that we would be told by them that ‘look, it is very difficult for us to approve this kind of a thing because there seems to be no justification for you to suddenly go in for 495 additional posts’. In fact, right through we have been telling the Ministry of Finance that we are going in for VRS and all and the total strength of the ports which a few years ago stood at 1,30,000 has now come down to around one lakh. It is because over a period of time there have been VRS proposals and we also have rolled back the age of retirement from 60 years to 58 years. This is mainly because we have realised that there are ports in the country that are very high cost centres.”

1.35 When asked, if the high-cost of ports is related to the work force engaged in the ports or is it the cost involved in building the infrastructure, the Secretary, Ministry of Shipping replied:—

“It is everything. I do not say that there is one reason. It is one important reason why inland water transport is not developing, especially in a port like Kolkata. No inland water transporter can afford to use Kolkata port. It is just too high-cost, it would not work. I do not say that is the only reason why this is not working.”

1.36 When the Committee pointed out that the question of law is that the settlement is total and full and the Government has approved this settlement, the Secretary, Ministry of Shipping stated:—

“That was incidental. We have approved incentive schemes everywhere. The fact of the matter is that we are trying to get incentive schemes in place in different ports so that our efficiency goes up. Today what is happening is that our incentive schemes are out of date completely. When we have brought new machinery we have not updated our scheme. As a result, datum is very low. Now if you want to improve the performance of ports, we have to give new incentive schemes that will more correctly give the worker an incentive to work hard.”

1.37 When the Committee pointed out that the performance of Paradeep Port in between 1994 and 2000 has jumped nine million because of the settlement alone, as after this settlement, not a single minute work loss had been there, the Secretary, Ministry of Shipping fully agreed to this and stated:—

“There is no doubt that their performance has increased tremendously. There is no doubt that this is due to the splendid

cooperation given by the workers to the management, and by the effective steps taken by the management.”

He also stated:—

“But I am not on that point. I am on the point that in fact, today you have a *de facto* situation. Under the *de facto* situation, the workers are getting every benefit that has been envisaged in the scheme. Now, we do not want to take that last step. That will make us cross this bridge where we say that these are the employees. Immediately, from everywhere else, there will be correspondingly a little demand. We would like to avoid that. Now, if we go to the Finance Ministry, we are bound to be asked exactly this question because our plea to the Finance Ministry will never be for increase in wages. The Hon'ble member is aware that recently, we have increased the wages by about 29 percent. We have given an increase which these workers have also got.”

1.38 When the Committee pointed out that they have taken 10 years time to give increase in wages, the witness stated:—

“Sir, we have given this increase. One of the reasons why we would be able to get this through is simply because we said that we are continuing to reduce the manning labour which. I think, anybody will admit in ports.”

1.39 When asked about who appointed the Abraham Committee, the witness replied that it was appointed by the Government of India, the then Ministry of Surface Transport.

1.40 When asked, who went to the Supreme Court, the witness stated:—

“It was the Union that went to the High Court saying that ‘if you are to do this at all, it should not be under the provisions of the Major Ports Trust Act, but it should be under the provisions of the Dock Labour Act.’ Then, we went and appealed in the Supreme Court saying that the Dock Labour Act does not apply here. So, it will have to be under the provisions of the Major Ports Trust Act. The Supreme Court found it in our favour and said, ‘yes, it should be under the provisions of the Major Ports Trust Act.’ That is why the whole negotiations went forward. The scheme was framed by the Paradeep Port Act under the provisions of section 42 of the MPT Act. It is under the scheme that the negotiations were held. So, in answer to your question, it was the Union that went to the High Court. The High Court said that ‘yes, you should not be doing under the MPT Act.’ Then, we went to the Supreme Court saying that the Dock Labour Act does not apply here and, therefore, we should do it under the MPT Act.’ Therefore, it was agreed to by the Supreme Court to do it under the MPT Act.”

1.41. To a query as to whether the recommendations of Abraham Committee have been implemented, the Chairman, Paradeep Port Stated:—

“Sir, Abraham Committee Report can be said not to have been implemented *in toto* in the sense that the Committee did recommend a set of benefits of de-casualisation, and also discussed that these benefits are subject to the Workers Unions accepting the optimum numbers in every areas, and if the Unions did not accept the optimisation of the numbers, then, these benefits need not also be given, and the present situation may continue as it is.”

The Chairman, Paradeep Port Trust added:—

“Sir, I am not very sure about who went to the Supreme Court. But when the matter was before the Supreme Court, the Supreme Court did take the Abraham Committee as a base and said that Abraham Committee has indeed made a very scientific approach to the whole issue of decasualisation. However, the Committee has not fixed what is the optimum number and, therefore, the Supreme Court appointed a Commission in the form of the Justice Khanna Committee. It is to work out what is that optimum number and how many people should be in the main list and how many in the subsidiary list etc. It is this Committee which actually fixed the norm. So, it has been a historical process; the logical next step should have been that people accept that optimum norm, and we implement the decasualisation benefit. But what has actually happened can also be said to be more in favour of the workers that envisaged by the Abraham Committee, in the sense that the benefits of decasualisation have ultimately gone to the workers without there being a corresponding reduction in their number to meet the optimum strength recommended by the Khanna Committee.”

1.42. When asked if the high-powered Committee or the Khanna Committee made any recommendation as to the reduction of manpower in the main list the Chairman, Paradeep Port Trust stated:—

“Knanna Committee had varied set of terms of reference; and in fact, they went beyond the terms of reference to go into that. While determining what the main list number as on that day was—because there were some disputes in that also—there was a dividing line between the main and the subsidiary lists, on the basis of length of working while they reserved it at 1500, they also went into the issue of what should be the optimum number at present and what should be the optimum number after mechanisation. Having worked out that, they again did say that you must retrench to reach the optimum level. They kept the issue open by saying that we did not recommend you to retrench this number; at the same time, they said that we also do not prevent the management from taking action to retrench or whatever they may want to do to achieve the optimum level. What

they have perhaps intended is that their report should be more of a point of reference than a mandatory report, to be acted upon.”

1.43. The Secretary, Ministry of Shipping further added:—

“I just make two points in relation to Khanna Committee. The first is, I would read out from the relevant portion which says that the Committee feels that there is no question of extending any further decasualisation benefits to workers in the main list and the subsidiary list and that no addition could be made to the existing workers in the main list and the subsidiary list. That is a very clear finding of the Committee.

In respect of the second finding, that is given at page 114, I would say this, we have, therefore, abstained from giving a direction for retrenchment, removal or adjustment of those already in the main list. The reasons for that, Sir, were that the question arose about the main list and the subsidiary list when the matter came before the Supreme Court. As long as it was in the High Court, the unions concerned were not made parties to the case. The Paradeep Port went to in appeal. The appeal was filed by the Paradeep Port Trust against the judgement of the High Court and in that writ petition apart from the Paradeep Workers Union. Uttkal Port and Dock Workers Union was a party for the appeal. Prayer made on behalf of that union was mainly on two grounds. namely, that the workers in the standby list a number of other workers not so far enlisted should also be listed in the stand-by list. This was the demand of the Union at that time.”

1.44 When asked, if this was the dispute which led to the settlement, the witness replied:—

“I am just trying to clarify my position. Those already listed in the main list did not have much interest in these demands. They wanted some perquisites to be given. Therefore, the Khanna Committee said that in view of fact that the people in the main list do not have much interest, we are refraining from passing any direction for retrenchment, removal or adjustment of those already in the main list. That is the background.”

1.45 In response, the Special Invitee (Shri Prabhat Samantaray, M.P.) made a point that, when Khanna Committee's recommendation was to be implemented by the Paradeep Port Trust the workers resorted to strike. In fact they gave strike notice based on which all this discussion started. Paradeep Port Trust wanted to say that the Khanna Committee recommended that no more benefit would be given. We said that if you want to take these incentives, we would resort to strike. In the process five meetings were held and the fifth meeting clinched the issue. Technically, you have to give the stamp saying that we are the Port employees and we will retire as the port employees. Other than this you are not giving us a

single pie more. You are getting rid of everything. Our apprehension is that you may take it away tomorrow. To this, the Secretary, Ministry of Shipping assured that it cannot be taken away. For that, there is no doubt at all. When asked where is the guarantee, the Secretary replied that it is an agreement entered into by the Port.

1.46 When pointed out that the way things are proceeding it will be taken away soon, the Chairman, Paradeep Port Trust stated that:

“It is beyond doubt that the actual number of birds as on today and the actual volume of cargo as on today is much more than what was envisaged by the Khanna Committee. But the fact remains that the average employment of cargo handling workers continues to be 12 days a month which might have increased only by two days the reasons of which are — I must give the credit to where it is due — the increased efficiency. May be, two people are doing what three people were doing earlier. Also because of increased datum and incentive scheme which has been introduced. Second is the nature of cargo. At earlier times there was a lot of bulk cargo like fertiliser and food items where a single seat had to wait for 16 days to be loaded or unloaded. Today, no seat works for more than three to four days because that kind of bulk cargo has stopped coming and even when it comes it is coming in container or some other kind of package that does not need that kind of handling. Third, of course, is the increased level of mechanisation. Even what we sometimes consider as manual has become semi-manual in the sense that there are people working and there are a couple of loaders helping those people. So, the ultimate result is that the average employment has not gone beyond 12 days a month. While, I must again give credit where it is due, namely, the workers, that they have agreed of late to be re-deployed in other areas. For example, in the new coal handling plant, we are also putting gangs from the same Port and trying to increase their employment. Some of them have opted to be re-deployed in other Departments and we have done that.”

1.47 The Committee pointed out to the witnesses that as the optimum number of workers was determined on the basis of cargo handled in 1991 or in 1994 and at that time the number was 495. The Committee then desired to know that as there has been a substantial increase in cargo handling, whether the manpower requirement should also increase substantially. In response, the witness stated:—

“Sir, we did make an assessment. It increased to about 612 but not exactly to 1100 or 1300.”

1.48 The Committee desired to know as the creation of additional posts would not entail any financial implication and the Cargo Handling Workers are already provided the financial benefits accruable to the regular employees then why the Ministry can not take up the issue with the

Ministry of Finance justifying the same. In response, the Secretary, Ministry of Shipping, stated:

“Sir, as I explained earlier, there are two problems. First is the determination of the Government to down size the employment. We have been going in for VRS. We are reducing the strength of the Port employees. We have reduced the retirement age from 60 years to 58 years. The only problem is that if we go now and ask for an increase in the number of posts here, it may have a repel affect outside.”

1.49 When asked why it was not done in 1994, the Secretary stated that the dialogue went on between the Government and the Port asking for various clarifications as to why this agreement has been signed and so on and so forth.

1.50 The Committee pointed out that the Ministry in its communications to the Chairman, Port Trust had stated that this cannot be done and desired to know the reasons given for rejection, the witness replied:—

“We have written on several occasions. To begin with, at that time the number of workers recommended for de-casualisation and for creating posts was 1425 which was far more than what even agreed by the Khanna Committee. The Committees distinctly suggested that it should be the lowest. The Khanna Committee had suggested it to be brought down to 495 from 1100 and here the number is 1425.”

He further stated:

“Sir, the correspondence between Port and the Ministry did go on for a considerable length of time. I can get you the details of the correspondence. The proposal of the Port was considered at length in the Ministry on a number of occasions. One of the reasons why it was difficult to agree was as follows. The Abraham Committee and the Ministry had suggested to the Port Trust to find out the optimum requirement of workers; retrench first those who are in excess of the requirement before going in for de-casualisation. This was based on a study for the rejection of the surplus manpower.”

1.51 When asked if the Ministry agreed in principle to the proposal for de-casualisation, the Secretary, Ministry of Shipping stated:—

“The Abraham Committee and the Ministry had suggested that before we could consider the de-casualisation, we need to know what was the number of surplus workers and what steps had been taken to retrench them. Once that is done, then we can consider the question of de-casualisation. That was the stand taken by the Ministry.”

1.52 When asked, if the Paradeep Port Trust was told about it, the witness replied in affirmative.

1.53 At this point, special Invitee (Shri Prabhat Samantaray, M.P.) made a submission before the Committee that on 31st August, 1994, this tripartite settlement had been brought to the Board for its approval under section 28 of the Major Port Trusts Act. The Ministry was incidentally represented in that Board where a resolution was adopted to this effect. In the next meeting held sometime in September, this tripartite settlement got confirmed. In that meeting also the Ministry's representative was present, but he did not raise any objection. The Ministry's representative was free to give his views and observations in the Board meeting. It is an after thought of the Ministry of Shipping. In response, the Secretary, Ministry of Shipping stated:—

“I would like to state that the presence of the Ministry's representative in any meeting cannot be construed as the approval of the Ministry to a decision taken in that meeting: whether or not the representative objects to that decision. This is, I think fairly well laid down. Otherwise, we would not need to approve it. In every Board of every Port Trust one of my Ministry's colleagues sits as a representative. In that case, we need not approve anything afterwards.”

1.54 When asked, if the representative had dissented or disagreed the Boards' decision, the Secretary, Ministry of Shipping replied:—

“I do not know who was present at that time. I will check it up. The point made is well taken.”

1.55 When pointed out that in Paradeep Port Trust everything is there, like salaries, master-servant relationship etc. also the de-casualisation scheme is pending with the Ministry of Shipping for approval, however, it is not at par with other ports like Mangalore, or New Mangalore or Tuticorin, the witness stated:—

“I agree with that. What I am saying is that the work and the circumstances are exactly the same. But I agree with the hon'ble member that the scheme is certainly unique to Paradeep Port. There is no doubt about that.”

Observations/Recommendations

1.56 The Committee note that the Paradeep Port was declared a major Port in April, 1966 and in the year 1979-80, a scheme called Paradeep Port Cargo Handling Workers (Regulation of Employment) Scheme, 1979 was introduced. Under this scheme, payment of wages was started directly by the Port to the workers which was later extended to guarantee wages for 21 days and some other benefits similar to those were made available under the Dock Labour Boards of other ports. However, the unions had

always demanded for de-casualisation and extension of full benefits as regular employee of the Port Trust.

1.57 The Committee have been informed that an official Committee (Abraham Committee) constituted in 1984 considered the question of de-casualisation in various ports and noted that there were 1500 workers in the main list and 700 workers in the subsidiary list and also found that the number of workers at Paradeep Port Trust were more than the required optimum strength of Cargo Handling Workers. It recommended that before extending de-casualisation benefits, the port should identify surplus workers, retrench them or put them in a subsidiary list. However, the Abraham Committee had not fixed the optimum number of workers. Thereafter, the Supreme Court appointed a High Power Committee in 1990 headed by Justice Khanna (Retd.). This High Power Committee, also, known as Khanna Committee identified the number of workers required before and after introduction of Mechanised Coal Handling Plant as 1104 and 495, respectively.

1.58 The Committee have also been informed by the representatives of Paradeep Port Trust that the unions however, did not agree to optimization of the number and insisted on their demand and gave a strike notice in 1994. After several rounds of discussion the Management of Paradeep Port Trust signed a tripartite settlement on 30.6.1994 with the trade unions under Industrial Disputes Act in presence of the conciliation officer cum Asstt. Labour Commissioner(C), Government of India for treating the main listed cargo handling workers as port employees. The settlement also included consequential benefits arising out of extension of employees status to these workers.

1.59 The Committee note that consequent upon tripartite settlement the cargo handling workers are enjoying almost all the benefits such as wages, pension, leave, LTC etc. at par with the regular employees and because of this settlement not a single day work stoppage took place. The Committee note with satisfaction that the volume of cargo handled manually in the year 1993-1994 was 5.92 million tonnes and it has gone up to 10.05 million tonnes by 2001-2002.

1.60 The Committee also note that as per Clause 8 of the settlement, a copy of the settlement was forwarded to the Ministry of Shipping for approval *vide* letter dated 4.12.1994. The Chairman, Paradeep Port Trust has also written to Ministry of Shipping several times to accord necessary approval for extension of employee status to the Cargo Handling Workers with their justification.

1.61 In this respect, the Ministry of Shipping have informed the Committee that for regularisation of workers, large number of posts were to be created for which Ministry of Finance's approval was required. The Committee are surprised to note that keeping in view that the port employees have been given all the benefits applicable to port employees and

that, there is no loss being caused to the workers by not according approval for regularisation of workers, the Ministry did not approach Ministry of Finance for creation of posts.

1.62 During oral evidence, the Ministry have given a plea that keeping in view the Government's decision of downsizing Government departments, and, that the Ministry of Finance would discourage for creation of new posts, the Ministry did not approach Ministry of Finance with a proposal for creation of new posts for regularisation of workers.

1.63 The Committee are not inclined to accept the plea given by the Ministry and take a serious view of the lackadaisical approach made by the Ministry based on mere presumption that because of Government's present policy of downsizing Government Department, they did not take up the matter with Ministry of Finance. The Committee are deeply perturbed to note that the Ministry of Shipping have not impressed upon the Ministry of Finance the need for creation of additional posts while representing the case of workers before the Ministry of Finance to accord approval for the decasualisation. The Committee feel that had the Ministry initiated action in 1994, when the copy of tripartite settlement was forwarded to them for their approval, the Ministry could have avoided the hypothetical situation that is being created by the Ministry now by quoting government's present policy decision of downsizing government departments which was not applicable in 1994 when the settlement took place.

1.64 The Committee have been informed by the representatives of Paradeep Port Trust that in the trust board meeting held on 25.3.2002, the trustees Shri B.R. Panda and Shri P. Kanungo raised the issue of regularisation of cargo handling workers. The Chairman suggested the board that even if lesser number of post is created the other workers would continue under the scheme and if seniority is maintained on the basis of date of birth, it would ensure that every cargo handling worker would become a regular employee before he retires. It was decided to send a proposal to the Government to create as many posts as has been recommended by the High Power Committee (HPC). The Committee note that the proposal on the above line has been sent to the Government of India on 28.6.2002.

1.65 Although the Committee do not doubt the credibility of the findings of High Power Committee (HPC) that only 495 posts of cargo handling workers would be required after commissioning of Mechanized Coal Handling Plant, the Committee firmly believes that decasualisation of these workers is essential so as to provide physical and moral security to the cargo handling workers. Moreover, the regularisation of such workers should provide a very positive incentive of career progression.

1.66 The Committee recommend that the Ministry may examine the feasibility of the proposal as submitted by Chairman, Paradeep Port Trust, expeditiously, so that while keeping the spirit of HPC's recommendations

alive and without retrenching the workers, the workers are given the benefit of de-casualisation in a phased manner. The Committee desire that the proposal to this effect as submitted by the port to the Government of India on 28.6.2002 may be examined without any further loss of time and the Committee may be apprised of the outcome within two months of the presentation of this report.

1.67 The Committee place on record the repeated assurance given by the representatives during oral evidence before the Committee that the workers will continue getting all benefits, perks, and even family pension in case of unfortunate death at par with regular employees. However, the Committee are of the opinion that till these workers are not regularised they will keep on living in a fear of uncertainty due to the frequent change in Government's decisions. The Committee also feel that under this situation the workers are being deprived of their legitimate career progression despite the fact that, after the settlement, their hard work has resulted increase in performance of the port manifold.

1.68 The Committee note that the Government have taken a step by rolling back retirement age from 60 years to 58 years and also some of the workers have been re-deployed in other areas/departments in order to reduce manning labour as the Government is committed to downsizing of staff keeping in view the mechanised system taking place and the recommendations of HPC to retrench workers before regularisation.

1.69 The Committee, however, feel that with substantial increase in Cargo Handling, the number of manpower required has also doubled in these intervening years. Therefore, there is a case for an upward review of number of these employees to be regularised. Also, nine years have passed since HPC had submitted its report and gave 495 out of 1100 as the optimum number of workers to be kept in the main list for regularisation in service of Paradeep Port Trust.

1.70 The Committee are, therefore, of the opinion that as the workers are getting all the benefits/perks at par with regular employees, there is no extra financial burden on the exchequer in regularising the workers. The Committee are also of the opinion that with the passage of time and increase in workload on the Paradeep Port Trust, the optimum strength of 495 as recommended by HPC *i.e.* Khanna Committee should be reviewed. The Committee, therefore, recommend that the Ministry of Shipping should submit their proposal on the above lines to the Ministry of Finance expeditiously so that the workers of Paradeep Port Trust who have been from time to time being assured of getting employees' status by their authorities and who in return have not let single day work loss, should not be denied of justice. The Committee would like to be apprised of the action taken in the matter within two months of presentation of this report to the Parliament.

CHAPTER II

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS (THIRTEENTH LOK SABHA) IN THEIR FOURTEENTH REPORT ON THE PETITION REGARDING THE ILLEGAL LOCK-OUT OF THE COMPANY—MARUTI UDYOG LTD. AND HARASSMENT OF WORKERS

2.1 The Committee on Petitions (Thirteenth Lok Sabha) in their Fourteenth Report presented to Lok Sabha on 16th March, 2002 had dealt with a petition presented by Shri K. P. Singh Deo, MP and signed by SShri 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.

2.2 The Committee had made certain observations/recommendations in the Report and the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) were requested to implement those recommendations and furnish their action taken notes for the consideration of the Committee.

2.3 Action taken notes have been received from the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) in respect of all the recommendations/observations contained in the Report.

2.4 The Committee will now deal with the action taken by Government on their recommendations/observations.

2.5 In paragraph No. 2.23 of the Report, the Committee on Petitions observed as follows:—

“The Committee note that the workmen of the factory of Maruti Udyog Ltd. had resorted to an agitation *w.e.f.* 9.9.2002 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 week, 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."

2.6 In their action taken reply, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) have stated that Maruti Udyog Ltd. has informed that the company have sincerely noted the observations of the Committee on the issue of 'Good Undertaking' and clarified that the Company had to adopt to this recourse much against its desire for protecting the larger interest of the employees and the company as well.

2.7 In paragraph No 2.24 of the Report, the Committee on Petitions observed as follows:—

"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."

2.8 In their action taken reply, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) have stated that the Maruti Udyog Ltd. have noted the kind appreciation of the Committee for arriving at negotiated settlement to end the crisis.

2.9 In paragraph No. 2.25 of the Report, the Committee on Petitions observed as follows:—

"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 victimization should be removed.”

2.10 In their action taken reply, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) have stated as follows:—

“According to Maruti Udyog Ltd., as per the settlement dated 8.1.2001 services of 20 workmen belonging to Essential services and 21 Trainees were reinstated as per terms stipulated in the settlement. Out of 20 Essential service workmen reinstated, 16 had taken voluntary Retirement.

As regards 5 terminated employees belonging to essential services, they were taken back and suspended on account of certain charges of grave misconduct against them. However, 4 out of these 5 employees opted for Voluntary Retirement Scheme introduced by the Company. As stipulated in the settlement, disciplinary proceedings in accordance with the certified standing orders were initiated against the fifth employee.

The cases of 24 dismissed employees have been referred to the Labour Court by the State Government of Haryana for the purpose of adjudication. The adjudication process has already started.

As regards 10 suspended workmen, disciplinary action in accordance with certified orders has been taken against 4 employees and 6 employees had opted for voluntary retirement implemented by the company during the period 24th September to 23rd October, 2001.

The company has informed that they have not retrenched the service of any workmen after the settlement and also like to submit to the Committee that there has not been any case of victimization by the company. The company has been trying its best and has been successful in bringing back the positive work culture and familial association, which has been a hallmark of Maruti Udyog Ltd. Management.”

2.11 The paragraph No. 2.26 of the Report, the Committee on Petitions observed as follows:—

“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 obviate 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."

2.12 In their action taken reply, the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry) have stated as follows:—

"Maruti has informed that Demands of the workmen of Maruti Udyog Ltd. are settled through the process of collective bargaining, as per the provisions of Industrial Disputes Act. All issues concerning the workmen are negotiated with the Union and wherever required long term settlement including settlement on wages are signed. So far, three settlements on wages had been negotiated and signed with the Union. To further buttress the collective bargaining process and to promote the philosophy of mutual trust, good faith and an easy accessible machinery for swift settlement of grievances, Maruti has also introduced a Grievance Redressal System. Under the Grievance Redressal System, the workmen can even approach the Managing Director of the company and get redressal for his/her grievance. Maruti has also formed a Committee namely Employee Relations Development Committee. This committee also holds meeting with Union once every month to discuss and resolve the demands/grievances of the workmen of collective nature.

Maruti has always believed that its human resources are the key components in driving business excellence. Right from its inception Maruti Udyog Ltd's progressive and employee friendly policies geared towards development, growth, prosperity and improving the quality of life of the employees. The commitment of Maruti towards its employees is unmatched in the industry as well as in the Indian corporate sector and Maruti Udyog Ltd. is committed to continue to do so. Maruti Udyog Ltd. holds communication cum Open House Sessions once in a month wherein the information relating to Company's business is shared and suggestion of all employees including the workmen are sought. Managing Director also holds communication meetings with different cross sections of employees from time to time wherein views are exchanged freely.

Daily morning meetings between the Supervisor and Workmen are also held to consider the various issues concerning their work areas. Suggestions are solicited from all employees regarding the changes and improvement that they would like to bring about in their work area. Kaizen and Sahyog Samiti are some other participating forums wherein there is representation from both the technician cadre and the management cadre employees.

Maruti management has also taken more initiatives to restore better industrial relation and employees involvement after the strike was over. Maruti has a very well established performance appraisal system for all its employees. Each workmen is being measured in the areas of Knowledge, Skills and Attitude at the end of the financial year. The training and development needs of the workmen are also collected through the appraisal. The workmen are promoted based on their appraisal ratings. A workmen performing well consistently can get promoted in 3 years only.

Maruti is still the market leader in the Indian Automobile Sector after effectively meeting the challenges of the competition with the fullest co-operation of its employees.”

Observations/Recommendations

2.13 The Committee note with satisfaction that the management of Maruti Udyog Ltd. has adopted progressive and employee friendly policies which are geared towards development, growth, prosperity and improving the quality of life of the employees. Also, the Company believes in ‘Open House Sessions’ where suggestions of all employees including the workmen are sought relating to the Company’s business.

2.14 While the Committee note the fact that the workmen of the factory of Maruti Udyog Ltd. had resorted to a go-slow/tool-down strike in September, 2000, they are satisfied that the company’s management has taken proper initiative so as to restore better industrial relations/employees involvement in the day-to-day affairs of the Company, especially after the agitation of the workmen.

2.15 The Committee express their hope that with the application of new and latest managerial techniques the Company management should be able to settle the issues raised by the workmen amicably for ensuring a positive work culture in the Maruti Udyog Ltd. The Committee also expect that timely and suitable benefits are given to the workmen/employees by the management of the Company by following a judicious approach and adhering to the legal provisions laid down in the Industrial Disputes Act, 1947.

CHAPTER III

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS (THIRTEENTH LOK SABHA) IN THEIR TENTH REPORT ON THE PETITION REGARDING CONSTRUCTION OF A NEW RAILWAY STATION AT NAHUR BETWEEN BHANDUP AND MULUND STATIONS IN MUMBAI

3.1 The Committee on Petitions in their Tenth Report (Thirteenth Lok Sabha) presented to Lok Sabha on 30th August, 2001 had dealt with a petition regarding construction of a New Railway Station at Nahur between Bhandup and Mulund Stations in Mumbai.

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 some of their recommendations.

3.5 In paragraph 2.14 of the Report, the Committee on Petitions observed as follows:—

“One of the main contentions of the petitioners is that the residents of Nahur area in Mumbai (Maharashtra) including Goregaon-Mulund Link Road, Sarvodaya Nagar, Bhandup Village, Amar Nagar, Ashok Nagar and Khindipada are facing inconvenience in catching the local suburban trains as the commuters from all these areas have to use Mulund or Bhandup railway stations for travelling between Chhatrapati Shivaji Terminus Mumbai (CSTM) and Kalyan. The distance between Mulund and Bhandup railway station is around 4 kms. and the commuters find it difficult to walk up and down so as to catch a local suburban train. By the construction of a new railway station at Nahur which is between Mulund and Bhandup, the commuters from these areas would be relieved of their hardships. Moreover, the construction of Mulund-Airoli Bridge has brought the entire area of Airoli very near to Nahur (East) on the Central Railway line. Therefore, the passenger traffic pressure at Mulund Railway

Station could be reduced upon the construction of Nahur Railway Halt Station."

3.6 In paragraph 2.15 of the Report, the Committee on Petitions observed as follows:—

"According to the Ministry of Railways (Railway Board) a halt station at Nahur if constructed, would be situated at a distance of 2.24 kms. and 1.76 kms. from the adjacent Bhandup and Mulund Stations respectively. The opening of a new station in Nahur at such close proximity with its adjacent Stations would result in reduction in speeds of suburban trains on account of deceleration, acceleration and halting time. The consequent impact on sectional capacity would militate against the scope of additional suburban services which will be against the interests of the commuters of Nahur and adjacent areas in Mumbai. However, the Committee do not agree with the contention of the Ministry. They would like to point out that the inter-distance between all stations from Chhatrapati Shivaji Terminus to Thane is less than 4 kms. except between Bhandup and Mulund which is 4 km. In fact the average distance between two local stations between CSTM and Mulund is 1.83 km. At a couple of places the distance between two stations is less than even one kilometers. Moreover, 14 new stations have been constructed during the last 10 years without any survey being carried out."

3.7 In paragraph 2.16 of the Report, the Committee on Petitions observed as follows:—

"The Committee are, therefore, of the firm view that there is a need for construction of a new station at Nahur between Bhandup and Mulund stations. This would not only benefit the commuters from Nahur, Bhandup, Mulund and adjacent areas but would also benefit the entire area of Airoli with the construction of Mulund-Airoli Bridge. Besides, it would also ease pressure on Bhandup and Mulund railway stations. The Committee, therefore, recommend that the provision of a halt station at Nahur between Bhandup and Mulund stations may be examined afresh and a new railway station constructed at Nahur for the convenience of people residing in this area of Mumbai."

3.8 In their action taken note, the Ministry of Railways (Railway Board) had opined that the proposal for opening of a halt station at Nahur between Bhandup and Mulund stations has been re-examined. The proposal is not technically feasible as for construction of platform, tracks

will have to be slewed, for which adequate railway land is not available. It will also require re-spacing of signals. Besides, the proposal is also not feasible from operating point of view as it would have adverse effect on the already saturated line capacity and speeding up of suburban services. The proposal has also not been found financially justifiable due to involvement of substantial capital cost and heavy recurring loss.

3.9 Subsequently, in reply to Unstarred Question No. 625 dated 18.7.2002 regarding the need for setting up new railway station in Mumbai, the Minister of State in the Ministry of Railways replied that during the visit of the Minister of Railways to Mumbai on 16.04.2002, he had discussed the need for two new Railway Stations with the Central Railways. The locations discussed were near Mental Hospital at Thane and at Nahur between Mulund and Bhandup. Studies had been conducted by the Railways for setting up the stations at the aforesaid locations. It was not feasible to locate a station/suburban terminal near Mental Hospital at Thane. It had been decided to set up a halt station at Nahur. The time of commissioning of the station will depend upon the availability of funds.

Observations/Recommendations

3.10 The Committee regret to note that in spite of their recommendation for construction of new railway station at Nahur, which is between Mulund and Bhandup conclusive steps have not been taken by the Government for construction of a new station at Nahur in Mumbai. The Committee observe that in reply to an Unstarred Question No. 625 dated 18.07.2002, the Minister of State in the Ministry of Railways have informed that it has been decided to set up a halt station at Nahur. However, the time of commissioning of the station will depend upon the availability of funds. In this regard, the Committee are of the firm view that this new station at Nahur would not only benefit the commuters from Nahur, Bhandup, Mulund and its adjacent areas, but would also benefit the entire area of Airoli with the construction of Mulund-Airoli Bridge. Besides, it would also ease the pressure on Bhandup and Mulund railway stations. The Committee, therefore, recommend that as assured by the Minister of State in the Ministry of Railways in response to the Unstarred Question No. 625, the new halt station at Nahur in Mumbai should be set up, expeditiously. The Committee desire that appropriate budgetary allocations may be made for the funding and commissioning of Nahur station.

CHAPTER IV

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (THIRTEENTH LOK SABHA) IN THEIR FOURTEENTH REPORT ON THE REPRESENTATION REGARDING DENIAL OF OPTION FOR PENSION AND OTHER BENEFITS UNDER THE LIBERALISED PENSION SCHEME TO AN EMPLOYEE OF COAL INDIA LIMITED

4.1 The Committee on Petitions in their Fourteenth Report (Thirteenth Lok Sabha) presented to Lok Sabha on 16 March, 2002 had dealt with a representation regarding denial of option for pension and other benefits under the Liberalised Pension Scheme to an employee of Coal India Ltd.

4.2 The Committee had made certain observations/recommendations in the matter and the Ministry of Coal and Mines were requested to implement those recommendations and furnish their action taken notes for the consideration of the Committee.

4.3 Action taken notes have been received from the Ministry of Coal and Mines and the Ministry of Personnel, Public Grievances and Pensions (Department of Pension and Pensioners Welfare) in respect of the recommendations contained in the report.

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

4.5 In paragraph 1.30 of the Report, the Committee observed as follows:—

“The Committee note that eleven Central Government Coal Mines that 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 1.10.1956. 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.”

4.6 In their action taken note, the Ministry of Coal and Mines have stated that Government of India vide its notification dated 16.8.1955 conveyed the decision of President of India to transfer the ownership and the management of the State Collieries to NCDC w.e.f. 1.10.1956. In pursuance of the said decision possession of the said collieries were

delivered and services of all the Government employees serving in the said collieries and Headquarters of the Organisation known as Coal Production and Development Commissioner were made available to the Corporation from 1.10.1956. National Coal Development Corporation Ltd. was formed on 1.10.1956 and was a Corporation by status and not a Public Sector Undertaking. Shri R.K. Gupta was appointed on 19.5.1955 by CPDC and was transferred from CPDC to NCDC along with others. Subsequently after nationalisation of cooking and non-cooking coal, NCDC together with Nationalised collieries was reorganised and renamed as Coal Mines Authorities Ltd. (CMAL) with effect from 1973 and subsequently a holding company named Coal India Ltd. CIL was formed on 1.11.1975, as a Public Sector Undertaking.

4.7 In paragraph 1.31 of the Report, the Committee observed as follows:

“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 liberalized 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 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 then 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 service to NCDC in 1956.”

4.8 In their action taken notes, the Ministry of Coal and Mines, Ministry of Public Grievances & Pensions, Department of Pension and Pensions Welfare stated that as per appointment letter dated 23.2.1955 issued to Shri R.K. Gupta, it was specifically, mentioned that his services would be non-pensionable and that he would be required to subscribe to CPF. Shri Gupta had also opted for CCLPF, in 1973. It was mentioned in Presidential order dated 16.8.1965 that employees governed by Civil Service Rules will continue to enjoy same rights as leave, PF and pension as would have been admissible to them had they continued in government service. The employees of CPDC were taken over by NCDC on the same terms and conditions. Shri Gupta was not member of the pension scheme since his date of appointment in CPDC. The only retirement benefits available to CPDC employees was CPF which was protected in NCDC as per Presidential order regarding protection of pay, service conditions etc. of the transferees of the NCDC. The employees governed by Civil Service Rules were granted protection of their pensionary right, which they inherited as a part of their retirement benefit before being taken over by NCDC. The service condition of those employees who were taken over by

NCDC with only CPF as their retirement benefits was also protected as per the Presidential directives. The Liberalised pension scheme was implemented by Government of India *vide* O.M. dated 14.1.1964, 31.8.1968 and 1.5.1987 which allowed opportunity to the Central Government employees who were borne on the CPF Scheme to opt for extension of pensionary benefits under the above O.Ms. Shri Gupta did not avail himself of this opportunity. The opportunity of exercising option for pension was extended only to those Government staff who could be paid pension as per the terms and conditions of their services. Some such staff had retained the benefits of CPF and did not opt for pension earlier. The benefits of above stated OMs were not applicable to the case of Shri R.K. Gupta and other similarly placed persons because they ceased to be Government servant from the date of their absorption in NCDC.

4.9 In paragraph 1.32 of the Report, the Committee observed as follows:—

“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. 614(43)63 dated 16.8.1965. The Presidential order had stipulated that the transferees will cease 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 Scheme under the terms and conditions of the said Presidential order dated 16.8.1965.”

4.10 In their action taken note, the Ministry of Coal and Mines have stated that as per the terms and conditions of transfer of service of employees of CPDC to NCDC which were finalised almost 9 years after formation of NCDC *vide* order dated 16.8.1965, it was stipulated that employees governed by Civil Service Rules will continue to enjoy the same rights such as Leave, Gratuity, Provident Fund and pension as would have been admissible to them had they continue in Government Service. There was no pension scheme available to employees of CPDC *per se*. However, by virtue of the Presidential Order, such employees of CPDC as were already covered under a pension scheme, such as ex-employees of Railways/State collieries continued to be covered under their respective pension scheme. Direct recruits of CPDC had no such benefits.

4.11 In their action taken note, the Ministry of Personnel, Public Grievances and Pensions have stated that the Presidential Order dated 16.8.1965 was issued by the then Ministry of Steel & Mines. As the nodal

authority for matters relating to pension, this Department is, however, of the view that on absorption in the PSU w.e.f. 1.10.1956, the absorbed employees ceased to be Government employees and Rules/Orders of the Government relating to pension, gratuity etc. notified/issued subsequent to 1.10.1956, would not be applicable to them.

The Government orders regarding exercise of option for switch-over from CPF to Pension Scheme were applicable to Central Government employees only. On absorption in the PSU w.e.f. 1.10.1956, Shri R.K. Gupta ceased to be a Central Government employee. Hence, none of the orders in this regard including order dated 1.5.1987, issued by the Government of India for its employees subsequent to 1.10.1956, i.e. the date on which Shri Gupta ceased to be a Government employee, was applicable to him. This position has already been clarified to Department of Coal by the Department of Pension and Pensioners' Welfare.

However, this Department is aware that Shri Gupta had been making repeated references to some erstwhile Railway Colliery employees, working under SRPF before absorption, being granted the benefit of option. Facts in this regard are not known to this Department. However, the matter has been considered by this Department in consultation with the Ministry of Railways. It is reiterated that the erstwhile Railway Colliery employees, too, had ceased to be Railway employees on absorption and none of the orders issued by the Ministry of Railways regarding change over from CPF to Pension, were applicable to such absorbed employees. The Ministry of Railways had also concurred in this view.

4.12 In paragraph 1.33 of the Report, the Committee observed as follows:—

“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/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 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 Gupta along with other executives for the extension of the benefits of liberalised pension scheme in terms of the O.M. dated 14.1.1964, 31.8.68 and 1.5.87 had been examined by Department of Coal in consultation with

Department of Pension and Pensioners Welfare, but could not be agree to.”

4.13 In their action taken note the Ministry of Coal and Mines have stated that as per appointment order dated 23.2.1955, the services of Shri R.K. Gupta was non pensionable. Moreover, he had opted for CCLPF w.e.f. 1.4.73 and as such the right to exercise the option was no longer available to Shri Gupta and similar other officers taken over by CPDC. The orders of Ministry of Finance regarding option of CPF employees to change over to pension scheme was not applicable to PSU employees.

4.14 The Ministry of Personnel, Public Grievances and Pensions (Department of Pension & Pensioners' Welfare) in their action taken note have stated that the orders of Ministry of Finance regarding option to CPF employees to change over to pension scheme was not applicable to PSU employees.

4.15 In paragraph 1.34 of the Report, the Committee recommended as follows:—

“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 Ministry of Coal and Mines, Department of Coal that the Government O.M. 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 11.5.1968. Hence, the claim of Shri R.K. Gupta (the petitioner) would be justifiable in this regard.”

4.16 In their action taken note, the Ministry of Coal and Mines have stated that the Department of Pension and Pensioners Welfare have strongly reiterated that the benefit of option to switch over to pension scheme from CPF was available to those employees who were in service of the government on the relevant date. Shri Gupta had been absorbed in a PSU w.e.f. 1.10.1956 and had ceased to be in service of the Government from that date. Hence, the Government orders regarding option issued subsequent to 1.10.56 were not applicable to him. Moreover, in the meantime, Shri Gupta had opted for CCL PF scheme and Liberalised Pension Scheme was not open to employees who had opted for CCL PF. It was restricted to employees who were members of CPF. Mr. Gupta retired from Coal India Ltd. as CMD on 31.3.86 and withdrew his Provident Fund contribution including the Employees

Contribution. Thus, on all counts, Shri Gupta had forfeited the claim for the option.

4.17 In their action taken note, the Ministry of Personnel, Public Grievances and Pensions (Department of Pension & Pensioners' Welfare) have stated that the benefit of option to switch over to pension scheme from CPF was available to those employees who were in service of the Government on the relevant date. Shri Gupta, having been absorbed in PSU w.e.f. 1.10.1956, ceased to be in service of the Government from that date. Hence, the Government orders regarding option issued subsequent to 1.10.1956 were not applicable to him.

4.18 In paragraph 1.35 of the Report, the Committee recommended as follows:—

“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 the time of oral evidence that the case of 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.”

4.19 In their action taken note the Ministry of Coal and Mines have stated that the case of Shri R.K. Gupta was referred to the Additional Solicitor General of India by the CIL. The specific issue for reference was whether the retired employees of the NCDC (governed by Railway Rules and governed by Civil Rules) could claim any right to exercise the option on the plea that the circulars relating to option were not brought to their notice individually and if so, whether NCDC were obliged to extend the benefit of exercising the option at the belated stage.

The matter has been again discussed with Department of Pension and Pensioners Welfare, and they are of the view that the absorbed employees of the NCDC were not governed by either the Railway Rules or the Civil Rules having ceased to be Government employees on absorption in PSU. The offers of option made to Government employees subsequent to absorption of these erstwhile Government employees in the PSU, were not applicable to the NCDC employees. A reference to the Additional Solicitor General was, therefore not called for in the opinion of Department of P&PW. Many cases the ASG had merely opined that the

claims of the employees were time barred but if the availability of option was not made known to the employees it would be considered a denial of right. The fact however, was that the employees, not being covered by Railway Rules or Civil Rules, were not entitled to option under these rules and therefore, the question of either denial of right or the claim being time barred would not arise. It is immaterial whether he applied within time or not.

4.20 In their action taken note, the Ministry of Personnel, Public Grievances and Pensions (Department of Pension & Pensioners' Welfare) have stated that the Department of Pension & Pensioners' Welfare has considered the facts of the case afresh and is of the view that the absorbed employees of the NCDC were not governed by either the Railway Rules or the Civil Rules, having ceased to be Government employees on absorption in PSU. The offers of option made to Government employees subsequent to absorption of these erstwhile Government employees in the PSU, were not applicable to the NCDC employees. A reference to the Additional Solicitor General was, therefore, not called for.

The ASG had opined that the claims of the employees were time barred but if the availability of option was not made known to the employees it would be considered a denial of right. The fact, however, was that the employees, who were employed in PSU and were not in service of the Government, and, therefore, not covered by Railway Rules or Civil Rules, were not entitled to exercise option under these rules, and, therefore, the question of either denial of right or the claim being time-barred would not arise. It is immaterial whether Shri Gupta applied within time or not.

4.21 Meanwhile, the petitioner (Shri R.K. Gupta) send further representation forwarded by the Centre of Indian Trade Unions, Rouse Avenue, New Delhi wherein he stated that the Department of Coal/Coal India Ltd. are trying to evade their responsibility to fulfil their commitment towards the Presidential Order dated 16.8.1965 in regard to CPDC employees. On the other hand, the Ministry of Personnel, Public Grievances and Pensioner's are refusing to take any cognizance of the said Presidential Order on the ground that the Order had been issued without prior consultation with their Department and in their opinion the issue of this order is a mistake.

Recommendations/Observations

4.22 The Committee note from the reply of the Ministry of Personnel, Public Grievances and Pensions that the Government orders regarding exercise of option for switch-over from Contributory Provident Fund (CPF) to Pension Scheme had been applicable to Central Government employees only. On absorption in the PSU w.e.f. 1.10.1956, Shri R.K. Gupta ceased to be a Central Government employee. Hence, none of the

order in this regard including order dated 1.5.1957, issued by the Government of India for its employees subsequent to 1.10.1956, i.e. the date on which Shri Gupta ceased to be a Government employee, are applicable to him.

4.23 The Committee note from the reply of the Ministry of Personnel, Public Grievances and Pensions (Department of Pension and Pensioners' Welfare) that the Department is aware that Shri Gupta had been making repeated references to some erstwhile Railway Colliery employees, working under SRPF before absorption, being granted the benefit of option. Facts in this regard are not known to this Department. However, the matter has been considered by that Department in consultation with the Ministry of Railways. The Department of Pension and Pensioners' Welfare are informed that the erstwhile Railway Colliery employees, too, had ceased to be Railway employees on absorption and none of the orders issued by the Ministry of Railways regarding change over from CPF to Pension, had been applicable to such absorbed employees.

4.24 The Committee also note that the Department of Pension & Pensioners' Welfare has considered the facts of the case afresh and it is of the view that the absorbed employees of the NCDC are not governed by either the Railway Rules or the Civil Rules, as they have ceased to be Government employees on absorption in PSU. The offers of option to shift to the liberalised pension scheme had been made to Government employees. Due to absorption of the employees of Coal Production & Development Commissioner in the NCDC a PSU, such offers had been not applicable to the NCDC employees. A reference to the Additional Solicitor General had been, therefore, not called for. In many cases, the Additional Solicitor General had opined that the claims of the employees are time barred but if the availability of option is not made known to the employees it would be considered a denial of right. Also, it is immaterial whether Shri Gupta (the petitioner) had applied within time or not requesting for option to switch over from CPF Scheme to the liberalised pension scheme. In this regard, the Committee cannot but conclude that the erstwhile employees of Coal Production & Development Commissioner (CPDC) have been unduly deprived of the benefits of the liberalised pension scheme due to the changeability of the conditions of service of these employees.

4.25 The Committee are not convinced by the reply of the Government that employees under control of CPDC would not be entitled to the benefit of option for pension as they would cease to be Government servants on being transferred to a PSU. The Committee are of the firm view that the employees of CPDC were in Government service and in terms of the Presidential Order they are entitled to the benefit of Government order to exercise option for pension as they would have been entitled to it if they had continued in Government service. The Committee, therefore, desire that the erstwhile employees of CPDC should not be deprived to the facility of liberalised pension scheme and other benefits accruable to a Government servant following a judicious approach.

NEW DELHI;
8 August 2002

17 Sravana, 1924 (Saka)

BASUDEB ACHARIA,
Chairman,
Committee on Petitions.

LOK SABHA

PETITION No. 15

(Presented to Lok Sabha on 21.3.2001)

To

Lok Sabha,
New Delhi.

The humble petition of Shri Adikanda Mohanty, Vice-President, Shri Ghanashyam Mohanty, Asstt. General Secretary & others on behalf of Cargo Handling Workers of Paradeep Port Trust.

SHEWETH

We are the workers engaged in different cargo handling operations in the Port of Paradeep and had put forth our demand for decasualisation. The Port Trust authorities considered the demand of the workers and in 1979 the Cargo handling workers regulation of employment scheme was framed. Listing of workers was finalized. A total of 1530 workers were enlisted in different categories namely Deck Foreman, Winchman, Signalman, Tally Clerk, Supervisor, Gang Leader and Mazdoor. The scheme was implemented from February, 1980 and we were brought under the Administrative control of Paradeep Port Trust.

As per provisions contained in the aforesaid scheme, different benefits including guarantee of wages were given at the initial stage. With the passage of time other facilities like housing, medical leave, uniform etc. were given. In order to get such additional benefits, we also exhibited our best performance to improve the productivity parameters. Because of our outstanding performance the annual through put of the Port has now crossed 13 million tons which was hardly six million tons during 1984-85. We have rendered our might for the improvement of this Port for the last 20 years and brought laurels and good name by increasing the annual through put over the years.

In the wage settlement dated 12th June 1989 and 6th December 1994. Government of India in the Ministry of Surface Transport had agreed for decasualisation of the workers in different Major Ports. The case of decasualisation was considered by the Ministry of Surface Transport. One man Committee was appointed by the Ministry of Surface Transport which examined the question of decasualisation of Dock workers in major Ports and findings have been recorded in a report popularly known as Abraham

Committee Report. The said Committee's Report concerning decasualisation has also been referred to by the High Power Committee appointed under orders of the Hon'ble Supreme Court of India in C.A. No. 1422 of 1990. The recommendation of the High Power Committee has been discussed in detail by the Management of Paradeep Port Trust. The bilateral discussion between the Management and the Unions representing workers resulted into an amicable settlement through Regional Labour Commissioner (Central) on 30.6.1994.

The Paradeep Port Trust authorities have conceded to our persistent demand for decasualisation and ultimately settled the matter before the Regional Labour Commission, Central, Bhubaneswar. A tripartite settlement was signed in course of conciliation of proceedings before the Regional Labour Commissioner, Central, Bhubaneswar in which we were extended the status of employee for all purposes. In compliance to the said settlement, the Port Trust authorities agreed for providing all benefits as applicable to the regular employees. Port Trust authorities have also requested the Government of India in the Ministry of Shipping to accord necessary approval as stipulated in the said settlement. This tripartite agreement has been duly approved by the Board of Trustees of Paradeep Port Trust. Following approval of Board of Trustees, the Traffic Manager, Paradeep Port Trust issued a circular regarding pensionary benefit to the Dock Worker as agreed in tripartite settlement.

In the process of decasualisation in the Port sector, as per direction of the Government of India in the Ministry of Surface Transport, now Ministry of Shipping, several Dock Labour Boards have been taken into the fold of Port Trust and given all statutory benefits and status. However, in our case the officials in the Ministry of Shipping have not accorded necessary approval inspite of repeated recommendations from the Port Trust and persuasion by the Trade Unions espousing the cause of Cargo Handling Workers in Paradeep Port.

We, therefore, on behalf of the Cargo Handling Workers of Paradeep Port Trust, submit this petition before you and request you to urge upon the Government of India, Ministry of Shipping to extend the status of employees to Cargo Handling Workers as agreed in tripartite settlement.

And your petitioners as in duty bound shall ever pray.

Name	Address	Signatures
Shri Adikanda Mohanty Vice-President, Utkal Port & Dock Workers Union.	Qr. No. GJAI-204 Madhuban Paradeep Port, Orissa	Sd/-
Shri Ghanashyam Mohanty Asstt. General Secretary, Utkal Port & Dock Workers Union.	Qr. No. GJAI-202 Madhuban Paradeep Port, Orissa	Sd/-

Countersigned by Shri Prabhat Samantaray, M.P.