

47

COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

FORTY SEVENTH REPORT

MINISTRY OF CIVIL AVIATION
MINISTRY OF RAILWAYS



LOK SABHA SECRETARIAT
NEW DELHI

December, 2008/Pausa, 1930 (Saka)

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MINISTRY OF CIVIL AVIATION
MINISTRY OF RAILWAYS

(Presented to Lok Sabha on 23-12-2008)



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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Syed Shahnawaz Hussain — *Chairman*

MEMBERS

2. Shri Shingada Damodar Barku
3. Shri Nandkumar Singh Chauhan
4. Shri N.S.V. Chitthan
5. Shri Sardinha Francisco
6. Shri Manikrao Hodlya Gavit
7. Shri Anant Gangaram Geete
8. Shri Mohan Jena
9. Shri Wangyuh W. Konyak
10. Shri C. Kuppusami
11. Adv. Suresh Kurup
12. Shri Dharmendra Pradhan
13. Shri Kishan Singh Sangwan
14. Shri Mansukhbhai Dhanjibhai Vasava
15. Shri Paras Nath Yadav

SECRETARIAT

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

**FORTY-SEVENTH REPORT OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)**

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Forty Seventh Report of the Committee to the House on the following Petitions:

- (i) Representation of Shri Sardinha Francisco, MP regarding expansion of Dabolim Airport in Goa.
- (ii) Representation from Shri V. Arumugham, retired Senior Clerk, Southern Railway requesting for protection of his pay.

2. The Committee considered and adopted the draft Forty Seventh Report at their sitting held on 22nd December, 2008.

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

NEW DELHI;
22 December, 2008
1 Pausa, 1930 (Saka)

SYED SHAHNAWAZ HUSSAIN,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION OF SHRI SARDINHA FRANCISCO, MP, LOK SABHA REGARDING EXPANSION OF DABOLIM AIRPORT IN GOA

Shri Sardinha Francisco MP, Lok Sabha through his letter dated 26.05.2008 addressed to the Chairman, Committee on Petitions submitted a representation regarding expansion of Dabolim Airport in Goa. The Hon'ble Member desired to know the status about handing over of land by Indian Navy to Airports Authority of India (AAI) for expansion of Dabolim airport. He desired to know the utilization of Rs. 500 crores sanctioned for renovation of Dabolim airport.

1.2 The Committee on Petitions under Direction 95 of Directions by the Speaker, Lok Sabha took up the representation for examination. Accordingly, the representation was forwarded to the Ministry of Civil Aviation on 05.06.2008 requesting them to furnish their comments.

1.3 The Ministry of Civil Aviation *vide* their O.M. No. AV.20036/004/2002-AAI (Pt.) dated 17.06.2008 furnished their comments as under:—

“The State Government of Goa have handed over 9.877 acres of land to Airports Authority of India (AAI) in two phases *i.e.* 7.221 acres and 2.656 acres on city side for construction of new integrated terminal building complex. Out of this 2.52 acres of land is under title dispute between the State Government and Indian Navy. Further, there is a proposal for expansion of civil apron and construction of link taxi way for which additional land measuring 8.7 acres (approx.) is required from Indian Navy, Ministry of Defence. The approval for the same was conveyed by Ministry of Defence. Indian Navy had handed over 6.25 acres of land only on air side and held the balance 2.52 acres of land which Navy had adjusted against their claim of land equal to 2.52 acres out of land measuring 9.877 acres that was handed over by the State Government of Goa to AAI on city side. DC Goa had constituted a Committee to examine the claim of Navy on 2.52 acres on city side. Decision of the Committee is awaited. However work of expansion of Apron (Tarmac) is under progress at an estimated cost of Rs.14.87 crores and is likely to be completed by September 2008”.

The Ministry further stated—

“It is proposed to spend approx. Rs. 500 crores for upgradation/development of Dabolim airport, which includes:—

- (a) Construction of a new Integrated Terminal Building to cater 3400 passengers (1000 International and 2400 Domestic) at a time which has been approved by the AAI Board for Rs. 397.17 crores. The matter is now being processed for obtaining the necessary administrative approval/financial sanction through PIB route.

- (b) Expansion of existing apron at cost of Rs. 14.87 crores.
- (c) Plans for construction of parallel taxi way to enhance the aircraft operation capacity of Runway are being worked out."

1.4 About the availability of existing infrastructure and steps being taken for expansion of Dabolim Airport in Goa, the Ministry of Civil Aviation in their written reply informed as under:—

- (i) The airport belongs to Indian Navy and AAI maintains a civil enclave on 26 acres of land.
- (ii) The airport was declared international airport by Government of India *vide* notification No. AV.20036/024/98-VB dated 23rd May, 2006.
- (iii) The runway 08/26-3430m x 45m, LCN 80 is suitable for operation of A-310 / A-330 class of aircraft.
- (iv) The civil apron of dimension 141.7m x 90m and 140m x 75m can accommodate six A-320 / B-737-700 class of aircraft at a time.
- (v) The domestic terminal building is of area 5960 sq.mtr. and is capable of handling 150 arriving and 150 departing passengers at a time with annual capacity of 5.50 lakhs passengers. International terminal building is of area 4900 sq.mtr. and is capable of handling 150 arriving and 150 departing passengers at a time. The car park area can accommodate 114 cars and 6 buses at a time.
- (vi) There is a proposal for expansion of civil apron by 176 m x 153 m and construction of link taxi way for which additional land measuring 8.7 acres (approx) is required from Indian Navy, Ministry of Defence. The approval for the same was conveyed by Ministry of Defence *vide* WK/1202/23/WL/NHQ/1669/D (N-III)/2006 dated 01.09.2006. Indian Navy had handed over 6.25 acres of land only on air side on 08.03.2007 and held the balance 2.52 acres of land which Navy have adjusted against their claim of land equal to 2.52 acres on the land measuring 9.877 acres that was handed over by the State Government of Goa to Airports Authority of India on city side.
- (vii) On the instructions of the Chief Secretary, Government of Goa, the Director of Transport, Government of Goa, had conducted a detailed inquiry to examine the claim of Navy on 2.52 acres on city side with the attendance of those concerned from Indian Navy and State Government. The inquiry concluded that "in light of the entries made in the record of rights as per revenue laws, *prima facie* no credence can be given to the claims of the Navy on the land measuring 2.52 acres. The report recommended that the Navy should forthwith transfer 8.77 acres of land to Airports Authority of India as committed earlier.
- (viii) The work for construction of new apron of dimension 176 m x 153 and construction of link taxi way has been awarded for Rs. 9.67 crores on

29.01.2007 and is likely to be completed by September, 2008.

- (ix) The proposal for construction of new Integrated Terminal Building to cater to 3400 passengers, *i.e.* 1000 international and 2400 domestic passengers at a cost of Rs. 397.19 crores was made for Government approval. However, the proposal is being reviewed in view of further developments.
- (x) The scope of work for construction of parallel taxiway to enhance the aircraft operation capacity of runway is under finalization.”

1.5 About the nature of title dispute for 2.52 acres of land between the State Government of Goa and the Indian Navy, the Ministry informed as under:—

“The dispute relates to title dispute about land, which is the subject matter of State Government. Therefore, necessary information has been sought from the Government of Goa, which is awaited. However, on the basis of information available, it is to inform that Indian Navy claims that 2.52 acres of land acquired by the State Government in survey nos. 81 part and 22 part of Chicalim village were acquired by it (Navy) in 1969 and the land of entire survey nos. 81 and 22 belongs to them. Therefore, as per the Indian Navy, an area of 2.52 acres falling on the city side of Dabolim Airport belonging to it was “wrongly” acquired by the State Government and handed over to AAI in August, 2006. As such, Indian Navy has deducted a proportionate area from the 8.77 acres, which was to be handed over by them on the air side. In other words, the land measuring only 6.25 acres was handed over to AAI by Navy in the air side. Balance 2.52 acres was adjusted against their claim on the part of land handed over in city side by State Government.”

1.6 On being asked about the efforts made by the concerned authorities to resolve the matter, the Ministry stated as under:—

“On the instructions of the Chief Secretary, Government of Goa, the Director of Transport, Government of Goa, had conducted a detailed inquiry into the matter relating to dispute of 2.52 acres with Indian Navy and State Government. The inquiry concluded that “in light of the entries made in the record of rights as per revenue laws, *prima facie*, no credence can be given to the claims of the Navy on the land measuring 2.52 acres.”

1.7 In reply to a question about expansion of civil apron and construction of link taxiway, the Ministry informed as under:—

“There is a proposal for expansion of civil apron and construction of link taxiway for which additional land measuring 8.7 acres (approx.) is required from Indian Navy, Ministry of Defence. The approval of the same has been conveyed by the Ministry of Defence *vide* letter No. WK/1202/23/WL/NHQ/1669/D (N-III)/2006 dated 01.09.2006. Indian Navy has handed over 6.25 acres of land only on air side on 08.03.2007 and held the balance 2.52 acres of land which Navy have adjusted against their claim of land

equal to 2.52 acres on the land measuring 9.877 acres that was handed over by the State Government of Goa to AAI as indicated above.

On the instructions of the Chief Secretary, Government of Goa, the Director of Transport, Government of Goa, had conducted a detailed inquiry into the matter relating to dispute of 2.52 acres with Indian Navy and State Government. The inquiry concluded that "in light of the entries made in the record of rights as per revenue laws, *prima facie*, no credence can be given to the claims of the Navy on the land measuring 2.52 acres".

1.8 The Committee desired to know the current status of construction of new Integrated Terminal Building and whether the plan for the construction of the Integrated Terminal Building at an estimated cost of Rs. 397.17 crores has been approved by the AAI Board. The Ministry in their written reply stated as under:—

"The proposal for construction of new terminal building at an estimated cost of Rs. 397.17 crores has been approved by AAI Board. However, before the matter could be processed further for the approval of the competent authority, a Committee chaired by Hon'ble Chief Minister, Goa decided that the work on proposed Greenfield Airport at Mopa may be taken up. Further, the issue of construction of parallel taxi track also come up. As such, the AAI is reviewing the proposal. A revised proposal is expected shortly."

1.9 About construction of parallel taxiway to enhance the aircraft operation capacity, the Ministry stated as under:—

"On the request of Indian Navy and to enhance aircraft operation capacity, the scope of work for parallel taxi track is being finalized."

1.10 In reply to a question about the amount allocated and utilized for the purpose, the Ministry replied as under:—

"The estimated cost for the construction of parallel taxi track is Rs. 77 crores and necessary fund allocation will be made as per requirement."

1.11 About the progress of the expansion of Apron (Tarmac) at an estimated cost of Rs. 14.87 crores, the Ministry in their written reply stated as under:—

"The physical progress is 93% and work is likely to be completed by 30.09.2008."

1.12 Thereafter the Committee took oral evidence of the representatives of the Ministry of Civil Aviation on 22.08.2008.

1.13 Explaining about expansion of the Dabolim Airport in Goa, the Additional Secretary, Ministry of Civil Aviation during oral evidence stated as under:—

"The Hon'ble Member has sent a representation regarding expansion of Dabolim Airport in Goa. He has asked about the status of the 9.877 acres of land and the status about expansion of the airport. I want to mention here

that Dabolim Airport is with the Navy. The Airports Authority is maintaining the civil area and Apron, that is, the portion with the Airports Authority. The traffic control etc. are with the Navy. We requested the State Government that one portion on the city side which is required from the State Government should be given to us and the air side we requested the Navy. The State Government gave us the land. Out of that, 2.52 acres, there was some dispute between the State Government and the Navy. Similarly, we got 8.7 acres of land from Navy, but they have held 2.52 acres of land which they had adjusted against their claim of land. Today, the position is that the total land is in possession of Airports Authority. The Defence Secretary has asked us to use land. The issue is between the State Government and the Indian Navy. At the Chief Secretary level, the State Government has taken a meeting and they said that they will sort out the issue, you go ahead. Regarding Goa Airport we have already taken up the work of Apron and the work is in progress. We have made the design of the terminal building. We have prepared an estimate of about 387 crores. In the meantime of getting the approval some developments took place because there is a Greenfield Airport. That issue is going on recently, it was said that MOPA should also come up. We will relook into the whole proposal. Another issue also came up that there is a need for a parallel taxiway. We have been taking it up with the Navy. But the Navy asked us to construct it. Then we requested for cost sharing of it that issue is separate, but regarding the expansion, it is alright, we will take up the taxiway. We are now doing readjustment of the proposal considering the MOPA airport, which is coming up and we are sending it to the Ministry.

We have taken up the Apron work and also to expedite the approval of the Ministry. We have taken up the work of short listing of the agencies so that when the proposal goes into various levels, we complete all the formalities so that we do not waste much of the time. This is the situation of the Dabolim Airport. We are taking up this job and everything goes fine, probably within two or three months, subject to the approval of the competent authorities, we will be furnishing the work."

1.14 About the utilization of the sanctioned amount of Rs. 14.87 crores for the Apron and its subsequent progress, the witness during oral evidence stated as under:—

"As per the latest report about 93% of the work is complete."

1.15 In reply to a question about the co-existence of MOPA and Dabolim and the consequent discontinuation of Dabolim, the witness during evidence stated as under:—

"I would like to inform the Hon'ble Member that there is no such decision to discontinue. The idea was for factoring MOPA. When the plans for Goa were prepared for integrated terminal, normally it is based on peak hour capacity. It is with that view that MOPA is coming. There was no intention

of cutting down in this, but it is in additionality. This issue is with the Navy and the State Government. We are re-looking the entire thing.”

1.16 When queried about completion of the project at the earliest, the witness during oral evidence stated as under:—

“We would request you to help us to get the Navy land faster. It is not put on the back burner at all. It is under our consideration and hopefully by this month or September, we should be able to move it to the competent authority. We are re-looking at the facts.”

Observations/recommendations

1.17 The Committee note that Shri Sardinha Francisco, M.P. in his representation stated that Navy was supposed to hand over 8.77 acres of land to Airports Authority of India for expansion of Dabolim Airport, Goa. The Member desired the expansion of the airport to be expedited. He also raised the issue of utilization of Rs. 500 crore sanctioned for the work.

1.18 In their reply, the Ministry of Civil Aviation informed the Committee that the State Government of Goa had handed over 9.877 acres of land to Airports Authority of India in two phases (7.221 acres on 31 August, 2005 and 2.656 acres on 09 August, 2006 respectively) on city side for construction of new integrated terminal building complex. Out of this, 2.52 acres of land is under title dispute between the State Government and the Navy. The Committee were also informed that for expansion of civil apron (tarmac) and construction of link taxi way, additional land measuring 8.7 acres (approx.) is required from Navy. The approval for the same was conveyed by Ministry of Defence on 01 September, 2006. However, Navy had handed over only 6.25 acres of land on air side on 08 March, 2007 and held the balance of 2.52 acres of land, which Navy adjusted against their claim of land equal to 2.52 acres out of land measuring 9.877 acres that was handed over by the State Government of Goa to Airports Authority of India on the city side.

1.19 The Committee were also been informed that on the instructions of the Chief Secretary, Government of Goa, the Director of Transport, Government of Goa had conducted a detailed inquiry relating to the dispute of 2.52 acres of land with Indian Navy. The inquiry concluded that “in light of the entries made in the record of rights as per revenue laws, *prima facie* no credence can be given to the claims of the Navy on the land measuring 2.52 acres”. The report recommended that Navy should forthwith transfer 8.77 acres of land to Airports Authority of India.

1.20 The Committee are anguished to note that the expansion of Dabolim Airport in Goa was delayed owing to non-transfer of a piece of land measuring 2.52 acres by the Navy since they claimed that 2.52 acres out of 9.877 acres of land handed over earlier by the State Government to Airports Authority of India belonged to them. However, the report of the inquiry conducted by the State Government of Goa revealed that the said claim of the Navy could not be supported

by the available revenue records and therefore, they should immediately transfer the land to AAI. The Committee now expect the Ministry of Civil Aviation to coordinate with the Ministry of Defence/the Navy and other concerned authorities to expedite the land transfer to AAI so that the expansion project of the Dabolim Airport is taken up without any further delay. Needless to say, Goa is one of the most important tourist attractions in the country, not only for national tourists but also tourists from abroad. Keeping this aspect in view, the Committees desire that an action plan should be chalked out in order to complete the project alongwith other connected work like construction of new apron and parallel link taxiway to enhance aircraft operation capacity of the runway, within a fixed time frame. Adequate funds should also be provided to AAI so that the project is not delayed on account of shortage of funds. The Committee would like to be apprised of the action taken by the Ministry in this regard.

CHAPTER II

CHAPTER ON THE REPRESENTATION OF SHRI V. ARUMUGAM FOR PROTECTION OF PAY

2.1 Shri V. Arumugam, a retired Senior Clerk, Southern Railway, Madurai Division and resident of 2 Ram Nagar, opposite Railway Goods shed, Pollachi, submitted a representation dated 11.12.2006 to the Committee on Petitions. The petitioner, in his representation, stated as under:—

- “(i) He was working in the Southern Railway Co-operative Stores, Pollachi at Madurai Division. For the employees working in the above said stores, the pay and allowances were paid on the basis of the third, fourth, and fifth Central Pay Commissions. The Railway administration had appointed him as Senior Clerk with effect from 01.07.1990 on the basis of the verdict of the Hon’ble Supreme Court. His pay was fixed at Rs.1380/- in the time scale of pay of Rs.1350-2000 with effect from 01.07.1990 and at Rs.5125/- in the time scale of pay of Rs.4500-7000 with effect from July 1998 in the above said post. But in the Railway employees Co-operatives Stores at Pollachi, he was getting a basic pay of Rs.2120/- with effect from 01.07.1990 and DA, HRA, IR I and IR II thereon in the time scale of pay of Rs.2000-60-2300-75-3200. Further in the month of July 1998, he was getting the basic pay of Rs.2750/-, DA at 149% HRA 15% in the Railway Co-operative Stores, Pollachi.
- (ii) While he was appointed in the Railway, orders were issued fixing his pay at Rs.1380/- in the time scale of pay of Rs.1350-2200 with effect from 01.07.1990 and pay at Rs.5125/- in the time scale of pay of Rs.4500-7000 with effect from July 1998. The basic pay being less than the pay which he was getting in the Co-operative Stores, he gave a petition to the Chief Personnel Officer, Southern Railway, Chennai on 01.07.1998 challenging the basic pay and requested him to fix pay in the time scale of Rs.2000-60-2300-75-3200 with effect from 01.07.1990 and similarly to fix the pay in the time scale of pay of Rs.6500-10500 with effect from 01.01.1996. The CPO-MAS sent a reply stating therein that he was also getting the emoluments in the time scale of pay of Rs.450-20-590-25-740-30-800 obtaining in other Southern Railway Employees Co-operative Stores, although Pollachi Railway Co-operative Stores alone did implement the pay fixation recommended by III, IV and V Central Pay Commissions. The Divisional Personal Officer, Madurai although taking into account the pay scale in Rs. 2000-60-75-3200 which he was getting in the Railway Employees Co-operative Store, Pollachi but no arrears of pay were paid to him.

- (iii) In tandem with the reply of the Chief Personnel Officer, Southern Railway, Chennai, the employees Trade Union filed a writ petition in the Hon'ble Supreme Court in the year 2001 and the Hon'ble Supreme Court delivered a judgement on 17.09.2003 directing to provide equivalent posts to the aggrieved personnel. So on the basis of this judgement, he again petitioned to the CPO/MAS on 19.10.2003. But the CPO/MAS without going through the order passed by the Hon'ble Supreme Court dated 29.04.1998 and 17.09.03, and without verifying his prior emoluments, which he was getting in the Co-operative Stores, ratified the pay fixed by Railway Department.
- (iv) In the Civil Appeal Nos. 2492/93 dated 29.04.1998, the Hon'ble Supreme Court observed in the judgement as follows:—

“She invited our attention to the list at page 103 and pointed out the entry at Sl.No.30 where one V. Arumugam, is shown to be an Accountant. In the meantime he has been appointed as Secretary drawing higher emoluments and according to her while absorbing him as a railway servant pursuant to the present order, his salary may be protected and the grievance may be looked into while fitting him in the appropriate pay scale. It is obvious that the aforesaid grievances can legitimately be looked into by the Railway authorities. Again the Hon'ble Supreme Court in Civil appeal No. 5274/2001 dated 17.09.2003 passed an order with an observation “However learned counsel for the appellants submitted that there are number of posts vacant which can be equated with the posts on which appellants were working. In this view of the matter, it is hereby directed that the appellants may file appropriate representations before the Chief Personnel Officer, Southern Railway zone”.

- (v) He was given the basic pay in the Railway department with effect from 01.07.1990, less than the pay which he was getting in the Railway Co-operative Stores. As per the orders of the Hon'ble Supreme Court delivered on 29.04.1998, out of 171 personnel attached to the stores, 170 personnel could get higher salary than the stores and thereby they got even the arrears of salary while he alone was left out without any reason.
- (vi) On the basis of the judgement of the Hon'ble Supreme Court and on the specific directions of the Apex Court, except him, all the 171 personnel working in the Railway Co-operative stores were made permanent employees of the Railway Department and they were offered privilege of availing the leave under LAP, LHAP with effect from 01.07.1990. But he was not given the privilege of availing the leave under LAP/LHAP from 01.07.1990. As such, he requested that he may also be permitted to avail the LAP and LHAP from 01.07.1990 as extended to other personnel similarly placed like him.

(vii) The Railway administration after getting his service register maintained in the Railway stores chose to draw pay as he was getting in the Railway Stores. In the service register it has been correctly noted the new pay scale to be implemented in the Railway department but the Railway Administration failed to take note of it and as such he was paid the pay by Railway department which was less than the pay which he was getting in the Railway co-operative stores.

(viii) As such he was getting less pay than the pay of the stores. In accordance with the directions of the Hon'ble Apex Court, 170 personnel similarly placed situated like him could get more emoluments while he alone was isolated and rather left in the lurch despite the specific orders of the Hon'ble Supreme Court. As such he is entitled to the payment which 170 personnel got already. Accordingly his pay may be fixed as follows:—

Date	Scale of pay	Pay to be fixed
01.07.1990	Rs. 2000-60-2300-75-3200	Rs. 2120
01.07.1998	Rs. 6500-10500	Rs. 9300
01.07.2002	Rs. 7450-225-11500	Rs. 10600 (Assured Career Progression)

Therefore, the consequential arrears of pay may be claimed and paid to him. The other 170 personnel could avail LAP & LHAP but he was denied that facility. As such the leave salary as paid to the 170 personnel may kindly be paid to him also. Likewise the balance of the residue of the gratuity up to 31.08.2003 may also kindly be paid to him.”

2.2 The petitioner submitted another representation dated 12.03.2007 to the Committee on Petitions stating *inter-alia* as under:—

“(i) Before the year 1988, the Southern Railway Employees Co-operatives Stores and the Canteens in the Railways were working under the aegis of the Railway Department. Upon the judgement of the Apex Court in AIR 1990 SC 937 MMR Khan Vs Union of India the statutory and non statutory canteen employees alone were entitled to be absorbed as regular employees of the Railways. Closely following this was the administrative directions of the Railway Board that the absorbed employees of the canteens were entitled to reckon their past service rendered prior to 01.04.1990 for obtaining pensionary benefits.

(ii) Accordingly, the union representing the Southern Railway Employees Co-operative Stores employees in 1988 filed a petition in the Central Administrative Tribunal, Chennai Bench, seeking the same concessions as were extended to the Canteen employees. On 29.06.1990 the Tribunal was pleased to pass an order to absorb the employees of the Co-operative Stores also like the Canteen employees of the Railways with effect from 01.07.1990.

- (iii) Against this order, the Railway Administration filed an appeal in the Hon'ble Court by way of Special Leave Petition. The Court dismissed it on 07.09.1994, thereby curtailing the appeal in favour of the Stores Employees and upheld the order of the Central Administrative Tribunal, Chennai Bench. The review petition filed thereafter met a similar rebuff.
- (iv) Subsequently, our union represented to the Railway Administration to absorb the stores employees as regular Railway employees. But the Railway Administration did not pay heed to the directions of the Tribunal on some pretext or the other.
- (v) In order to get the order implemented in letter and spirit, the Union again approached the Tribunal which directed that the Hon'ble Supreme Court was the appropriate forum for giving the final order.
- (vi) Accordingly, a petition was filed in the Hon'ble Supreme Court where an order was handed down on 29.04.1998 in favour of the Stores Employees. As a result, 171 persons working in the Co-operative Stores were absorbed as regular employees of the Railways without the benefit of reckoning the service rendered prior to 01.07.1990 for getting retirement benefits.
- (vii) As per the orders of the Hon'ble Supreme Court in C.A. Nos.2492-93/0-98 dated 29.04.1998 and as observed by the Apex Court at Page No.6 of the judgement "full continuity of service" was not granted in letter and spirit. So again our Union approached the Supreme Court praying that the service rendered prior to 01.07.1990 by the Stores employees should be reckoned for pensionary benefits, but without effect.
- (viii) In the year 1986, there were 171 members in our Union. In the year 2007, the number dwindled to 42. Out of which 14 members are working in the Railway Department. The remaining 28 members retired on attaining the age of superannuation. Some retired persons remained even without getting minimum pension. For the service rendered prior to 01.07.1990 in the Railway Co-operative Stores, they did not get any gratuity or pension. As such, action may kindly be taken to get the services rendered prior to 01.07.1990 reckoned as regular service with a view to facilitate the absorbed employees to get pensionary and other retirement benefits for the said period.
- (ix) The petitioner, therefore, requested that pensionary and other retirement benefits to the stores employees absorbed in Southern Railway may be given by counting their service rendered prior to 01.07.1990 at par with the canteen employees."

2.3 The Committee under Direction 95 of Directions by the Speaker took up the representation for examination. Accordingly, the above representations were forwarded to the Ministry of Railways (Railway Board) on 29th March, 2007 requesting them to furnish their comments.

2.4 The Ministry of Railway *vide* their O.M No.2007/E (Co-op)/38/2 dated 16th August, 2007 furnished their comments as under:—

“(a) An O.A. No.305/88 was filed in Madras Bench of the CAT by Southern Railway Employees Co-operative Stores Workers’ union wherein 171 (shown as 172 in the O.A but actually only 171 as one name was repeated) employees working in the various stores on Southern Railway had prayed that they be treated as regular Railway servants and given the pay scales that are given to regular Railway servants in corresponding posts w.e.f. 01.07.1987. The Hon’ble CAT *vide* its judgement dated 29.06.1990 directed the Respondent Railways as under:—

“In the result, the Respondents are directed to treat the employees of the Railway Cooperative Stores in the Southern Railway as regular Railway servants and given them the pay scales that are given for regular Railway servants in corresponding posts w.e.f. 01.07.1990.”

(b) The designations of the Applicants in the Cooperative Stores and the corresponding pay scales on the Railways as mentioned in the O.A. were as under:—

Category	Scale of pay requested by the applicants
Accountant/Secretary	Rs.1350-2000
Manager/Cashier/Sr. Clerk	Rs.1200-1800
Salesman	Rs.825-1200
Packer/Peon/Attendant/Watchman	Rs.750-940

(c) SLP filed by the Railway against the above judgement of the CAT was dismissed by a two-Judge Bench of the Hon’ble Supreme Court *vide* judgement dated 07.09.1994 and a Review Petition filed was also dismissed *vide* judgement dated 01.03.1995.

(d) In the meanwhile Original Applications were filed before some other Benches of the CAT and in separate judgements on OAs filed by Railway Employees’ Cooperative Consumer Stores at Rajamundry, Visakhapatnam, Vijianagram and Dharmavaram on South Central Railway, the Hon’ble CAT/Hyderabad Bench had given judgement granting similar benefits as allowed by the CAT/Madras Bench. SLPs were filed by the Railway Administration against the above judgements. On the request of the Railways all the pending SLPs were clubbed together and heard by a three-judge Bench of Hon’ble Supreme Court

and *vide* its judgement dated 15.12.1995 a final ruling was given as under:—

“We, therefore, have no hesitation to hold that the officers, employees and servants appointed by the Railway Cooperative Stores/Societies cannot be treated at par with Railway servants under paragraph 108 of the Indian Railway Establishment Code nor they can be given parity of status, promotion, scales of pay, increments etc. as ordered by the CAT, Hyderabad Bench.”

- (e) However, in regard to the employees covered by the judgement of the Hon'ble CAT, Madras Bench, the Hon'ble Supreme Court had observed as under:—

“The principle of equality enshrined under Article 14 of the Constitution, as contended for the respondents, does not apply since we have already held that the order of the CAT, Madras Bench is clearly unsustainable in law and illegal which can never form basis to hold that the other employees are individually discriminated offending Article 14. The employees covered by the order of the Madras Bench may be dealt with by the Railway Administration appropriately but that could not form foundation to plead discrimination violating Article 14 of the Constitution.”

- (f) Thus, notwithstanding the three Judge Bench of the Hon'ble Supreme Court holding that the employees, officers and servants appointed by the Railway Cooperative Stores/Societies cannot be treated at par with the Railway servants nor they can be given the parity of status, promotion, scales of pay, increments etc., since the judgement of CAT/Madras Bench in respect of the 171 employees of the Southern Railway Employees' Cooperative Stores who were parties in the Judgement of the CAT/Madras Bench as upheld by the Hon'ble Supreme Court had already become final and based on the above observations of the Hon'ble Supreme Court, instructions were issued by Southern Railway absorbing the petitioners covered by the judgement of CAT/Madras Bench as regular Railway employees *w.e.f.* 01.07.1990 granting the pay scales indicated in the Original Application No.305/88 and asking them to continue to work in the Co-operative Stores treating them on deputation to the Cooperative Stores.
- (g) Dissatisfied with the manner in which the directions of the Hon'ble CAT were implemented by Southern Railway, a Contempt Petition was filed before the Hon'ble CAT/Madras Bench by the affected employees. The Tribunal directed the Railway Administration to implement the orders of the Tribunal in O.A. No.305/88 in respect of the 171 employees. An SLP was filed before the Hon'ble Supreme Court against the above orders of the CAT/Madras Bench. In its judgement dated 29.04.1998 the Hon'ble Supreme Court gave the following directions in regard to the implementation of the CAT/Madras Bench

Judgement dated 29.06.1990 in O.A. No.305/88:—

“On principle of *res-judicata* it will be binding between the parties especially when the review proceedings have been dismissed by this Court. Consequently in our view, interest of justice requires that the appellants be directed to absorb the 172 persons for whom the Tribunal’s order operated and as listed at page 103 of the paper book as Annexure-I to the very same Office Order dated 25.07.1996 which was passed on the basis of the purported compliance of the order of the Tribunal and as confirmed by this Court.”

- (h) Laying down the modalities for absorption of the above employees, the Hon’ble Supreme Court had further observed as under:—

“These benefits will be based on computation of financial benefits by treating them as regular employees to be fitted in appropriate pay scales with effect from 01.07.1990 after excluding whatever payments they might have received from the Stores in the meantime. We make it clear that out of 171 listed employees at Annexure-I the employees who have not retired/superannuated by now will be absorbed as regular employees of the Railways. Cases of those employees out of 171 listed at Annexure-I at page 103, who might have got superannuated in the meantime after the order of the Tribunal or who might have unfortunately died will have to be dealt with separately. So far as the employees who are superannuated out of 171 listed employees are concerned, their monetary benefits till superannuation flowing from the Tribunal’s order in excess of what is actually paid to them by the Stores after the Tribunal’s order will have to be computed and paid to them after requisite verification within twelve weeks from today. So far as the employees out of the listed 171, who have unfortunately expired after the order of the Tribunal are concerned, their legal heirs may be paid over the benefits flowing from the Tribunal’s order in their favour and thus whatever excess is payable to them over and above what was actually received by those employees prior to their demise from the Stores will be made available on due verification of the claims of the concerned claimants. It is also made clear that the surviving employees out of 171 listed at Annexure-I who are to be absorbed as regular Railway employees will be absorbed on the corresponding posts on the pay scales as listed Annexure I and II at pages 103-111, with full continuity of service.”

- (i) In accordance with the directions of the Hon’ble Supreme Court as stated above, the serving petitioners out of the 171 petitioners in the O.A. No.305/88 covered by the judgement of the Hon’ble CAT/Madras Bench as upheld by the Supreme Court were absorbed as regular Railway servants *w.e.f.* 01.07.1990 in posts carrying the equivalent scales of pay as mentioned by the Applicants in their O.A. and were

allowed the continuity of service from 01.07.1990 though they were actually absorbed only much later, those who retired or died between 01.07.1990 the date of actual absorption were paid arrears of pay in compliance of the Hon'ble Supreme Court's directions quoted above.

- (j) The employees in question filed another O.A. No. 516/2000 before the CAT/Madras Bench seeking *inter-alia* the benefit of their service in the Co-operative Stores for the purpose of computing service for pensionary benefits.
- (k) The above O.A. was dismissed by the Hon'ble CAT/Madras Bench at the admission stage itself with a direction to the applicants to approach the Hon'ble Supreme Court directly as the Tribunal could not over reach the decision of the Hon'ble Supreme Court. The applicants then filed a SLP before the Hon'ble Supreme Court seeking the relief as stated above. In regard to the request of the representations' for computing service for pensionary benefits, the Hon'ble Supreme Court gave the following decisions in its judgement dated 16.09.2003.

"The submission that while computing the appellants' service their initial date of appointment in Co-operative Societies should be taken as base is totally baseless as they have been absorbed *w.e.f.* 01.07.1990 and therefore it is rejected."

- (l) The Hon'ble Supreme Court in its judgement dated 16.09.2003 had categorically rejected the prayer of the representationists' for counting their service in the Southern Railways Employees Co-operative Stores for pensionary benefits since they were absorbed on the Railway only *w.e.f.* 01.07.1990 and therefore, it is not possible to agree to the request of the representationists in this regard.
- (m) As regards the comparison between the representationists and the employees of statutory/non-statutory (recognized) canteens who were given the benefits of counting their past service in such canteens for the purpose of pensionary benefits on their absorption as Railways servant, it is stated that the canteen employees were extended the benefits based on the Hon'ble Supreme Court's judgement in the case of Kanpur Suraksha Karamchari Union vs. UOI regarding counting of past service for the purpose of pension in respect of employees of statutory canteens in the three industrial establishments of the Defence Ministry as opined by the Learned Additional Solicitor General of India, while in the case of representationists, the Hon'ble Supreme Court, has categorically rejected the prayer of the representationists' for counting their service in the Co-operative Stores prior to their absorption as regular Railway servants *w.e.f.* 01.07.1990 for pensionary benefits on the Railway as stated in preceding sub-para."

2.5 As regards further grievances highlighted in the representations dated 11.12.2006 and 01.03.2007 of Shri V. Arumugam, Ministry of Railways in their

O.M dated 16th August, 2007 stated below:—

(a) “In his representation dated 11.12.20006, Shri Arumugam has highlighted the following grievances:—

(i) While absorbing him as regular Railway employee and fixing his pay on the Railway *w.e.f.* 01.07.1990 based on the judgement of the Hon’ble CAT/Madras Bench in O.A. No.305/88 as upheld by the Hon’ble Supreme Court, the pay he was drawing in the Co-operative Store was not protected. While he was drawing a pay of Rs. 2120/- on 01.07.1990 and DA, HRA, IR-I and IR-II thereon in the scale of Rs. 2000-3200 and a basic pay of Rs. 2750/- in the month of July 1998 with DA @149% and HRA@ 15% in the Co-operative Store, Pollachi, on his absorption in the Railway as Senior Clerk, it was fixed at Rs.1380/- in the pay scale of Rs.1350-2200 from 01.07.1990 and Rs.5125/- in the scale of Rs.4500-7000 *w.e.f.* July 1998 which was less than the pay he was drawing in the Co-operative Stores. He has, therefore, requested that his pay may be fixed as under in the Railway:—

Date	Scale of Pay	Pay to be fixed
01.07.1990	2000-60-2300-75-3200	Rs. 2120
01.07.1998	6500-10500	Rs. 9300
01.07.2002	7450-225-11500	Rs. 10600 (Assured Career Progression)

(ii) While on the basis of the judgement of Hon’ble Supreme Court, the 171 persons working in the Railway Cooperative Stores and who were made permanent employees of the Railways were allowed the privilege of LAP and LHAP *w.e.f.* 01.07.1990, he was not allowed the same and therefore, he has requested that he may also be extended the same privilege as allowed to the other similarly placed persons.

(iii) He may be paid consequential arrears of pay and leave salary.

(b) As regards the claim of Shri Arumugam regarding protection of pay on his absorption on the Railway it is stated that Hon’ble Supreme Court in its judgement dated 29.04.1998 had directed as under:—

“She (the Counsel for the Respondents) invited our attention to the list at page 103 and pointed out the entry at S.No.30 where one V. Arumugam is shown as Accountant. In the meantime he has been appointed as Secretary drawing higher emoluments and according to her, while absorbing him as Railway servant pursuant to the present order, his salary may be protected and grievance may be looked into while fitting him in the appropriate pay scale. It is

obvious that the aforesaid grievance can legitimately be looked into by the Railway authorities if a representation is made by the concerned employee in that behalf. Such a representation will actually be considered in accordance with the law by the appellant Railway authorities.”

- (c) As may be pursued from the above directions of the Hon'ble Supreme Court, the Railway authorities were to look into the claim of Shri Arumugam for protection of the pay he was drawing in the Cooperative Stores Pollachi while absorbing him on the Railway on the ground that he was in the meantime appointed as Secretary and that the Cooperative Stores Pollachi was the only Store which had adopted the III, IV and V Pay Commission scales of pay. The scale of pay mentioned by the petitioners in the O.A. No.305/88 filed before the CAT/Madras Bench for the post of Secretary was Rs.1350-2000. This was also, the highest scale of pay shown for any category of staff in the Cooperative Stores as mentioned in the above O.A. Shri V. Arumugam, therefore, was absorbed in the scale of Rs.1350-2200 *i.e.* the scale of pay which was asked for the post of Secretary and incidentally it is also in the Co-operative Store as shown in the Original Application No.305/88. The direction of the Hon'ble Supreme Court in its judgement dated 29.04.1998 also was for absorption of the petitioners in equivalent posts in the pay scales as mentioned in the Original Application No.3055/88. Since different pay scales were in vogue in different Co-operative Stores even for the same category of staff, the Railway had to follow a uniform policy in absorbing the employees of the Co-operative Stores as Railway employees based on the posts held by each of them in the Co-operative Stores and the pay scales mentioned in the O.A. their absorption on the Railway. Therefore, even if Shri Arumugam was Secretary in the Co-operative Stores on the date of his absorption on the Railway *i.e.* 01.07.1990 as claimed by him, he was absorbed on the Railway in the scale of pay mentioned in the O.A. No.305/88 for Secretary in the Co-operative Stores *viz.* scale of Rs.1350-2200. Therefore, the directions of the CAT/Madras Bench as upheld by the Hon'ble Supreme Court were fully implemented while absorbing Shri Arumugam as a regular Railway employee. The pay of Shri Arumugam was fixed as under on his absorption in the Railway *w.e.f.* 01.07.1990:—

01.07.1990 – at Rs.1350/- in scale Rs.1350-2200.

01.07.1996 – at Rs.4750/- in the scale Rs.4500-7000 (on implementation of the V Central Pay Commission Scale).

01.07.1998 – at Rs.5125 in scale Rs.4500-7000.

01.07.2002 – at Rs.5900 in scale Rs.5000-8000 (on his financial upgradation under ACP).

- (d) As regards payment of arrears, since Shri Arumugam was already working in higher grade in the Co-operative Stores. He was not eligible for any arrears *vis-à-vis* other employees who were working in the lower grade in the Co-operative Stores and were absorbed in the Railways in the higher grade and were paid the difference of emoluments in the Railway to which they were due in the Railway and over what they were getting in Co-operative Stores, as arrears. It may be stated that the Hon'ble Supreme Court in its judgement dated 29.04.1998 laying down the modalities for absorbing the petitioners in the OA No.305/88 as regular Railway servants had directed that the petitioners on their absorption on the Railway should be paid pay and allowances due to them minus the pay and allowances drawn by them in the Co-operative Stores. Since Shri Arumugam was already drawing higher pay in the Co-operative Stores at the time of his absorption on the Railway, he was not eligible for any arrears.
- (e) As regards his grievance that while others were granted the privilege of LAP and LHAP *w.e.f.* their absorption on the Railway from 01.07.1990 while he was not allowed such privilege, it may be stated that since different stores were following different procedures in respect of eligibility of leave, encashment of leave etc. to their employees, it was decided by the Railway Administration that leave account of the employees of the Cooperative Stores absorbed on the Railway on the directions of the CAT/Madras Bench as upheld by the Hon'ble Supreme Court *w.e.f.* 01.07.1990 will be opened afresh on their actual joining the Railway. The above policy was uniformly followed in respect of the persons so absorbed. However, Southern Railway Administration called for a report from the respective divisions and also reiterated their instructions for uniform application of the decision taken in respect of the admissibility of leave to all the persons absorbed on the Railway on the basis of the Court's directions and if it is found that the policy was not followed in any individual case, the same will be rectified. Since it was a policy decision taken by the Railway for uniform application in respect of all the concerned employees in regard to admissibility of LAP and LHAP on their absorption on the Railway, the statement of Shri Arumugam that on his absorption on the Railway he was denied the privilege of LAP and LHAP while all the other persons so absorbed and were similarly placed were allowed such privilege, is not borne by facts.
- (f) In his representation dated 12.03.2007 Shri Arumugam, while reiterating his request for counting of the service rendered in the Co-operative Stores for pensionary benefits, has quoted certain judgements of Hon'ble Supreme Court in support of his claim. As has already been stated the matter regarding counting of service in the Co-operative Stores for pensionary purposes on the Railway was agitated before the Hon'ble Supreme Court by the representationists and the

Hon'ble Supreme Court in its judgement dated 16.09.2003 had categorically rejected the claim. When there is a specific decision of the Hon'ble Supreme Court to the contrary, the decision of the Hon'ble Supreme Court in other cases will have no relevance to this case.

2.6 The Committee desired to know the reasons for denial of benefits to the petitioner, for fixation of pay as well as LAP/LHAP as allowed to other similarly placed persons. The Ministry of Railways in their written reply dated 25.06.2008 informed as under:—

“It is respectfully stated that Shri V. Arumugam was absorbed on the Railways as Senior Clerk with effect from 01.07.1990 in the scale of 1350-2000 on the basis of the judgement of the Hon'ble Central Administrative Tribunal/ Madras Bench and upheld by the Hon'ble Supreme Court *vide* its judgement dated 29.04.1998 in CA No:2492-2493/1998.

As per Annexure-I to O.A No:305/1988, the following scales were sought by the Applicants/Employees of the Co-operative Stores, including Shri V. Arumugam.

Category	Scale of pay requested by the applicants
Accountant/Secretary	Rs. 1350-2000
Manager/Cashier/Sr. Clerk	Rs. 1200-2040
Clerk/Typist/Storekeeper	Rs. 825-1200
Salesman	Rs. 825-1200
Packer/Peon/Attendant/Watchman.	Rs. 750-940

Shri V. Arumugam was an Accountant as on 01.07.1990 and given the scale of Rs.1350-2000 as was sought by him in his Original Application. This was not denied by Shri V. Arumugam when the contempt Application No:8/1996 in MAs No:91 and 92/1996 in O.A No:305/1988 was adjudicated by the Hon'ble Tribunal/Madras Bench and passed the following order on 10.05.1996.

“In order to avoid possible disputes regarding the person in respect of whom the respondents have to implement the order, we annexes to this order, the names, designation and place of work of those 172 persons shown as members of the Association at the time of filing the OA.”

In the Annexure to the Order dated 10.05.1996 the Hon'ble Tribunal/ Madras Bench has mentioned in Sl.No:30 the name of the Shri V. Arumugam working as Accountant in Pollachi Stores.

The Hon'ble Supreme Court *vide* its judgement of 29.04.1998 directed the Railway authorities to look into the claim of Shri V. Arumugam for protection of his pay he was drawing in the Co-operative Stores/Pollachi on the ground that he was in the meantime appointed as Secretary, Co-operative Stores/Pollachi. It needs to be emphasized that the Hon'ble Supreme Court in this judgement had also stated for absorption of petitioners in equivalent posts in the pay scales as mentioned in the O.A.No.305/1988.

Regarding his grievances of not having being allowed the privilege of LAP/LHAP with effect from 01.07.1990 it is stated that the matter has been reviewed and dues admissible to him has been paid to him *vide* Cheque No:0590245 dated:20.06.2008 for an amount of Rs. 42,648.”

2.7 On being asked to state the total number of employees who were working in the Railway Cooperative Stores and were permanently absorbed in the Railway, the Ministry of Railways stated as under:—

“During 1988 there were approximately 30 Co-operative Consumer Stores with approximately 300 employees on Southern Railway. Out of 171 employees prayed for absorption in Railways before the Hon’ble Tribunal/Madras Bench, 119 employees were benefited by this judgement (86 employees absorbed during 1998 and 33 were given settlement benefits since they left/died between 1990 and 1998).”

2.8 On being asked to state as to why the petitioner was not given the status of permanent employees of Railways, the Ministry stated as under:—

“The name of Shri V. Arumugam has been in the list at Sl.No:30. Shri V. Arumugam has been given the status of permanent Railway employee. It is also stated that the petitioner has been absorbed as permanent employee by the Railways. In fact as a retired Railway employee and as a railway pensioner he is in receipt of pension with effect from 01.09.2003. Following are the details of the pension he is in receipt of:

PPO No. 06082119978/0192003

Pension : Rs.1275+Relief from 01.09.2003

Less Commutation : Rs.510

R. Pension : Rs.765+Relief’

2.9 About the highlights of the Hon’ble Supreme Court judgement dated 29.04.1998, the Ministry of Railways stated as under:—

- i. 171 employees listed in O.ANo:305/1988 were to be absorbed as railway employees from 01.07.1990;
- ii. all monetary benefits available to them flowing from the said order will have to be paid if not paid earlier;
- iii. the applicants listed in the Original OA were to be absorbed on the corresponding posts on the pay scales as listed at Annexure-I of the OA with full continuity of service; and
- iv. salary of Shri V. Arumugam may be protected and his grievance may be looked in to while fitting him in the appropriate pay scale. The Hon’ble Supreme Court had also stated that his grievance can be legitimately looked in to by the Railway authorities, if a representation is made by the concerned employee.”

2.10 In reply to a question about the action taken by the Ministry on the request of the petitioner for protection of pay, the Ministry informed as under:—

“In accordance with the verdict of the Hon’ble Supreme Court, Shri V. Arumugam has been appropriately given the pay scale that has been furnished by the applicants themselves in the Annexure filed to the O.A.No.305/1988. According to the pay scale furnished in the Annexure Shri V. Arumugam, Accountant of the Co-operative Stores (Pay Scales in Stores-450-20-390-25-740-30-800) is entitled to be absorbed in the Railway in the scale of Rs.1350-30-1440-40-1800-50-2000). As prayed by the applicant and upheld by the Hon’ble Courts, the pay of Shri V. Arumugam has been fixed in the scale of Rs.1350-2200 with effect from 01.07.1990 and increments thereon has been granted to him. It is also pertinent to mention here that the Hon’ble Tribunal *vide* their order dated 10.05.1996 had categorically stated that Shri V. Arumugam was an accountant in the Co-operative Stores/Pollachi and he had never raised any grievance against this order during 1996.”

2.11 Subsequently, in their O.M No.2007/E(coop)/38/2 dated 10th June, 2008, the Ministry of Railways informed as under:—

“Southern Railway have reviewed at length, the issue, and have advised that the leave account of serving employees of the Co-operative Stores should have been opened afresh on joining the Railways. Except for Madurai Division the other Divisions/Unit in the zones had not categorically followed the instructions issued on 24.06.1998. Therefore in order to maintain parity it has been decided that such employees who were absorbed in the Madurai Division should be brought at par with similarly placed employees in other Divisions. In pursuance of this, Southern Railway have now issued instructions to the Madurai Division to open the leave account with retrospective effect from 01.07.1990 in respect of the Cooperative Stores employees who were benefited out of the order of the Hon’ble Supreme Court in C.As No.2492-2493/1998. Thus, the grievance of Shri Arumugam that, he was not treated at par with other employees in the matter of leave, now stands redressed.”

2.12 Thereafter, the Committee took oral evidence of the representatives of the Ministry of Railways on 26.06.2008. During the course of oral evidence, the Member Staff, Railway Board, stated as under:—

“Sir, we have implemented the decision of CAT in this regard. Supreme Court have also uphold the Judgement of CAT. There was an annexure in the Judgement wherein there was a mention of the posts in Cooperative Stores Department and equivalent posts in Railways, which were to be given to them. The order given by the Court was that all those people must be reinstated on the same posts and that too since 01.07.1990. This process has been completed for all those people.”

Observations/recommendations

2.13 The Committee note that the petitioner Shri V. Arumugam, a retired Senior Clerk, Southern Railway, Madurai Division, in his representation dated 11 December 2006 submitted that he was working in the Southern Railway Co-operative Stores, Pollachi at Madurai Division. On the basis of the verdict of Hon'ble Supreme Court, he was appointed as Senior Clerk in the Railways from 01 July, 1990. In his representation, the petitioner made the following request:—

- (i) The service rendered by him in the Southern Railway Employees Co-operative Stores prior to his absorption as regular Railway employee, may be counted for pensionary benefits.
- (ii) While absorbing him as Railway employee based on the directions of the Supreme Court, the pay which he was drawing in the Co-operative Store was not protected despite directions from the Supreme Court and no arrears of pay were paid to him while all other employees absorbed on the Railways were paid arrears. As such, his pay may be re-fixed on the basis of pay drawn by him in the Co-operative Stores.
- (iii) On the basis of the judgement of Hon'ble Supreme Court, the 171 persons, who were employees of the Southern Railway Employees Co-operative Stores and were appointed on regular basis, were allowed the privilege of LAP and LHAP *w.e.f.* 01 July, 1990. However, he was not allowed this privilege. He requested that the benefit of LAP/LHAP may be allowed to him as extended to other similarly placed persons.
- (iv) The arrears of pay and leave salary may be paid to him.

2.14 The Committee note from the reply of the Ministry of Railways that Southern Railway Employees Co-operative Stores Workers Union filed an original application O.A No.305/88 in Madras Bench of CAT wherein 171 employees (shown as 172 in the O.A but actually only 171 as one name was repeated) working in various stores on Southern Railway requested that they may be permanently absorbed as regular Railway servants *w.e.f.* 01 July, 1987 in the pay scales as given to regular employees of the Railway in corresponding posts. The Hon'ble CAT, Madras Bench *vide* its judgement dated 29 June, 1990 directed the respondent Railways "to treat the employees of Railway Co-operative Stores in the Southern Railway as regular Railway servants and give them the pay scales as given to regular Railway servants in corresponding posts *w.e.f.* 1 July, 1990."

2.15 The Committee also note that Special Leave Petition (SLP) filed by the Railway against the above judgement of the CAT was dismissed by a two-Judge Bench of the Hon'ble Supreme Court *vide* judgement dated 07 September, 1994 and a Review Petition filed was also dismissed *vide* judgement dated 01 March, 1995.

2.16 The Committee further note that on the basis of the judgement of CAT, Madras, Railway Employees Co-operative Consumer Stores at Rajamundry, Visakhapatnam, Vijianagram and Dharmavaram on South Central Railway also filed OA before some other benches of CAT praying for similar benefits. In a separate judgement the CAT, Hyderabad bench granted similar benefits as allowed by CAT, Madras Bench. The Railway administration filed SLPs against the above judgements. At the request of the Railways, all the pending SLPs were clubbed together and heard by a three-judge Bench of Hon'ble Supreme Court, which delivered its judgement on 15 December, 1995 ruling that employees of the Railway Co-operative Stores cannot be treated as regular railway servants and held that Hyderabad Bench had not laid down any law, except approving the reasons and conclusions of Madras bench of the CAT. However, the orders of the Madras Bench are clearly unsustainable in law and illegal. According to the Ministry, since the SLP and Review Petition against judgement of the CAT, Madras dated 29 June, 1990 were dismissed, the same had to be implemented by the authorities on the basis of *resjudicata*. Therefore, as directed by CAT and upheld by the Hon'ble Supreme Court the petitioners were absorbed as regular Railway employees *w.e.f.* 01 July, 1990 granting the pay scale as indicated in the original OA No. 305/88.

2.17 The Committee also note that these employees filed another SLP before the Hon'ble Supreme Court praying for counting of service in the Co-operative Stores for pensionary benefits. Hon'ble Supreme Court *vide* its judgement dated 16 September, 2003 rejected their prayer on the ground that they were absorbed in the Railways from 01 July, 1990.

2.18 The Committee observe that as regards the request of the petitioner for counting of previous service rendered in the Co-operative Stores for pensionary benefits, the Hon'ble Supreme Court in its judgement dated 16 September, 2003 had categorically rejected the prayer of the petitioners as they were absorbed in the Railways only from 01 July, 1990. Therefore, it was not possible to agree to the request of the petitioner.

2.19 Regarding protection of pay, the Ministry informed that the petitioner was working as Secretary in the Co-operative Stores in the pay scale of Rs.1350-2000 and was absorbed in the Railways on 01 July, 1990 in the scale of pay of Rs.1350-2200. Therefore, the directions of CAT, Madras Bench as upheld by the Supreme Court, were fully implemented while absorbing the petitioner in the Railways. The Committee found that the request of the petitioner for counting of past service and protection of pay are not justifiable more so when the Hon'ble Supreme Court had disposed off the matter.

2.20 As regards payment of arrears, the Committee agree with the views of the Ministry that since the petitioner was already drawing higher pay in the Co-operative Stores at the time of his absorption in the Railways, he was not eligible for any arrear. About availing the benefit of LAP and LHAP, the Ministry informed *vide* letter dated 10.06.2008 that instructions have been issued to Madurai Division to open the leave account with retrospective effect from

01 July, 1990 in respect of Co-Operative Stores employees who had benefited from the Hon'ble Supreme Court judgement. The Committee regret that the Ministry did not take any action on this particular demand of the petitioner and issued instructions only after their intervention.

2.21 The Committee also expressed their satisfaction that the Ministry had earlier resolved other grievances of the petitioner to the extent feasible in pursuance of the judgement of Hon'ble Supreme Court. The Committee, therefore, do not wish to pursue the matter further.

NEW DELHI;
22 December, 2008
1 Pausa, 1930 (Saka)

SYED SHAHNAWAZ HUSSAIN,
Chairman,
Committee on Petitions.

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

The Committee on Petitions sat on Thursday, 26th June, 2008 from 1400 hrs. to 1615 hrs. in Committee Room No. 53, First Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Sardinha Francisco
3. Shri Manikrao Hodlya Gavit
4. Shri Anant Gangaram Geete
5. Shri Mohan Jena
6. Adv. Suresh Kurup
7. Shri Kishan Singh Sangwan
8. Shri Mansukhbai Dhanjibhai Vasava
9. Shri Paras Nath Yadav

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri A.K. Singh — *Director*
3. Shri H.R. Kamboj — *Deputy Secretary-II*
4. Shri V.P. Gupta — *Under Secretary*

Ministry of Railways (Railway Board)

1. Shri S.S. Khurana — *Member Staff, Rly. Board*
2. Shri S.K. Malik — *Adviser (Works), Rly. Board*
3. Shri A.K. Nigam — *Adviser/IR, Rly. Board*
4. Shri P.K. Sanghi — *Executive Director Works, Rly. Board*

2. At the outset, Chairman welcomed the representatives of the Ministry of Railways and drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings. The Chairman also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letters, telegrams

from various individuals, associations etc. which are not covered by the rules relating to petitions and give directions for their disposal.

** ** * * * * *

3. The Committee took oral evidence of the representatives of the Ministry of Railways (Railway Board) on the following representations:—

** ** * * * * *

(III) Representation of Shri V. Arumugam and others requesting for fixation of pay on the equivalent grade/emoluments and other pensionary benefits.

The Committee were informed by the Ministry of Railways that they have implemented the decision of CAT and all the employees who were working in Co-operative Stores have been given the posts equivalent to the other railway employees w.e.f. 1-7-1990. Hence, the grievance of the petitioners have been meted out.

(The representatives of the Ministry of Railways (Railway Board) then withdrew and representatives of the Ministry of Power were called in.)

The witnesses then withdrew.

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

The Committee then adjourned.

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

The Committee on Petitions sat on Friday, the 22nd August, 2008 from 1400 hours to 1500 hours in Committee Room No. 53, Parliament House, New Delhi. In the absence of Chairman, the Committee chose Shri Anant Gangaram Geete to act as Chairman for the sitting under Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

PRESENT

Shri Anant Gangaram Geete — In the Chair

MEMBERS

2. Shri Manikrao Hodlya Gavit
3. Shri Mohan Jena
4. Adv. Suresh Kurup
5. Shri Dharmendra Pradhan
6. Shri Kishan Singh Sangwan
7. Shri Sardinha Francisco
8. Shri Mansukhbai Dhanjibhai Vasava
9. Shri Paras Nath Yadav

SECRETARIAT

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

Ministry of Civil Aviation

- 1 Smt. Vilasini Ramachandran — Additional Secretary &
Financial Adviser
2. Shri Arun Mishra — Joint Secretary
- 3 Shri K. Ramalingam — Chairman, AAI
4. Shri Anup Srivastava — Director (Pers.) NACIL
5. Shri Sunil Khan — Co- (AASL) NACIL
6. Shri V.P. Agrawal — Member, AAI

7. Shri M.C. Kishore — ED (CA & Secy.) AAI
 8. Shri Sandeep Prakash — Director
 9. Ms. Abha Shukla — Director
 10. Shri D.S. Gakhar — ED (Fin. & Pers.), Alliance Air

2. The discussion commenced with the Chairman welcoming the Members and Officials of the Ministry of Civil Aviation to the sitting of the Committee. Thereafter, the Committee took oral evidence of the representatives of the Ministry of Civil Aviation on the representations under examination of the Committee. The officials then briefed the Committee about the background and other relevant facts relating to the subject matter. The important points, which emerged from the discussion, are summarized as under:—

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III. Representation of Shri Sardinha Francisco, MP, Lok Sabha regarding expansion of Dabolim Airport in Goa.

- (i) Status of 9.877 acres of land and expansion of the airport.
- (ii) Dispute between the State Government and the Navy over 2.52 acres of land.
- (iii) Work already started on MOPA. Preliminary estimate of Rs. 387 crore for the design of the terminal building prepared.
- (iv) Work on expansion of Dabolim Airport in full swing. Plans being worked out for construction of parallel taxiway.

The Committee then adjourned.

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

The Committee on Petitions sat on Monday, the 22nd December, 2008 from 1500 hours to 1515 hours in Chairman's Room No. 45(II) Ground Floor, Parliament House, New Delhi and from 1630 hours to 1830 hours in Room No.139, Parliament House Annexe, New Delhi.

PRESENT

Shri Syed Shahnawaz Hussain — *Chairman*

MEMBERS

2. Shri N.S.V. Chitthan
3. Shri Sardinha Francisco
4. Shri Manikrao Hodlya Gavit
5. Shri Anant Gangaram Geete
6. Shri C. Kuppusami
7. Shri Kishan Singh Sangwan

SECRETARIAT

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

2. The Committee considered and adopted the following draft reports of the Committee without any modifications:—

(i) Forty-sixth Report on the following subjects:—

- (a) Petition concerning the Ministry of Environment and Forests presented to Lok Sabha on 22 February, 2006 by Shri Basudeb Acharia, MP regarding pollution caused by the Hindalco Factory situated near Muri, district Ranchi (Jharkhand).
- (b) Petition concerning the Ministry of Defence presented to Lok Sabha on 16 March, 2007 by Shri Basudeb Acharia, MP requesting to give benefits to casual workmen employed by

Hindustan Aeronautics Ltd., Nasik Division, Ozar, Nasik at par with workmen employed in Hyderabad Division.

(ii) Forty--seventh Report on the representations concerning the Ministries of Civil Aviation and Railways.

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

4. ** ** ** ** ** ** ** ** ** ** **

The Committee then adjourned.