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No. 7(19)/67-NCL(C)
Government of India
National Commission on Labour
D-27, South Extension Part II

New Delhi-3, dated the 10th May, 1968.

To

The Chairman and Members of the
National Commission on Labour.

P. P. M. M.
27/5

✓ Subject:- Visit of the National Commission on Labour
to Bihar State - Record of discussions.

Sir,

I am directed to forward a copy of the Record of discussions of the Commission at Patna in Bihar State on the 15th, 16th and 17th April 1968, as approved by the Chairman.

Yours faithfully,

(P.D. Gaiha)
Director

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 15.4.1968)

BIHAR STATE

3.00 P.M. to 3.30 P.M.

Record of discussions held with I.N.T.U.C.
(Bihar Branch) represented by:

1. Mr. R.N. Sharma, M.L.A. (Vide NCL Ref.No. BR-VI.151)
2. Mr. Sidheshwar Choudhary, General Secretary.
3. Mr. A.P. Sharma, M.P.
4. Mr. Satyapal Mishra
5. Mr. R.N. Choubey.

1. In Bihar secret ballot was accepted for recognition of trade union under certain circumstances by a tripartite agreement. The I.N.T.U.C. is a party to that agreement.

2. The introduction of 'check-off' system at the request of a worker who is a member of any union for determining the representative character of a union was agreed to. (When the proposal was explained in detail this position was not maintained). The main point in favour of the proposal was that the finances of the union will be strengthened but the system could not be utilised for determining the majority union. If such a 'check-off' system was introduced, union officials may lose contact with the rank and file.

3. The arrangement by which a mutually agreed upon arbitrator could be brought in for discharges and dismissals and his decisions made binding on the parties, was agreed to.

4. The reply to question No. 81 of the Memorandum should be considered final and not the reply to question No. 103.

5. Collective bargaining has succeeded in Bihar because the unions are responsive. There are enlightened employers and State intervention has been minimum. Even so, adjudication cannot be done away with. The fear that availability of adjudication will undermine the efforts at collective bargaining should be discounted. If parties do not really desire to have a third party, they will in any case settle the dispute between themselves. (I.N.T.U.C. will send a list of units where collective bargaining in its strict sense should be introduced.)

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6. Minority unions should not have any right except representing individual grievances of their members. To this extent reply to question No. 62 will stand amended. By and large, the system available under the B.I.R. Act was considered satisfactory.

7. 'Union-shop' was opposed on the ground that a worker once he joins an establishment, has no say in the matter of whether to join a union or not. This is not applicable to 'check-off' where worker has first become a member and then wants his contribution to be deducted from his wages.

8. There is usually tardiness in the Government's dealings with unions. In many cases it is the Minister who decides whether unions' demand should receive consideration or not.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 15.4.1968)

BIHAR STATE

3.30 P.M. to 4.00 P.M.

Record of discussions with H.M.S., Bihar, represented by:

1. Mr. Basawan Singh, (Vide NCL Ref.No. BR-Vice President, H.M.S. VI.155)
2. Mr. B.K. Shastri, Vice President.
3. Mr. M.K. Sinha, General Secretary.
4. Mr. G.V. Raghavan, Member Executive.
5. Mr. Balbhadra N. Singh, Joint Secretary.
6. Mr. Ramdeo Singh, Member Executive.

1. Tripartite arrangement agreed to in Bihar for determining a representative union should continue.

2. The 'check-off' arrangements for all unions in the field and the determination of a majority union on this basis was agreed to. It is essential that 'check-off' should be only for those workers who have become permanent.

3. In many cases departmental inquiry can be a farce. The arrangement by which an arbitrator could be interposed in any disciplinary action resulting in discharges and dismissals was agreed to.

4. Political parties should not be blamed for the existence of rival unions. In Bihar, rival unions has been the experience of the last 20 years. In Dalmianagar, for instance, a unit has 12 unions. Apart from unions affiliated to central Federations, Ministers whether interested in labour matters or not have set up their own unions.

5. Outsiders are necessary for the present because workers feel that employer will not give them a fair response if union affairs are managed entirely by the rank and file. Limit for outsiders among the office bearers should be reduced to 25 percent.

6. Conciliation has had a limited success in Bihar.

7. (The H.M.S. will supply a list of industries where collective bargaining with advance agreement for voluntary arbitration could be tried.)

8. There is a constant complaint about the prevalence of casual labour in Mica industry. (Mr. Basawan Singh will give an industry-wise statement where casual labour is in existence in a large number.)

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 15.4.1968)

BIHAR STATE

4.00 P.M. to 4.30 P.M.

Record of discussions held with U.T.U.C, Bihar,
represented by:

1. Mr: Gurbachan Singh (Vide NCL Ref.No.BR-VI-160)
2. Mr. J. Krishna
3. Mr. K.P. Agarwal.
4. Mr. T.K. Parkash
5. Mr. J. Prasad
6. Mr. B. Prasad.

1. U.T.U.C. has a membership of 80 thousand spread over Local Bodies, the Electricity Board, Engineering and some other industries. (This claim was not established. The statement on membership of federations will be corrected by State Government.)

2. Some appellate authority is essential under the present adjudication system. It could be the Labour Appellate Tribunal or a Labour Bench of the High Court.

3. In the Standing Orders for departmental enquiry, an arrangement by which a departmental inquiry could be conducted by an arbitrator would be preferred.

4. Conciliation has not been effective because the officers doing this work at various levels do not devote themselves exclusively to this job in view of their other preoccupations.

5. No official below the rank of Assistant Commissioner of Labour should be assigned conciliation work.

6. Collective bargaining, in its strict sense, cannot be tried out in this country at this stage. In a way there is an element of collective bargaining even in adjudication. (This statement was modified when the difference was explained).

If collective bargaining has succeeded in some cases in Bihar it is because of the threat of adjudication.

7. There should be a common labour code, a common pattern of labour judiciary and appointment to this judiciary should be made by the High Court. Working judges with a fixed tenure could be a suitable arrangement. There is no difficulty in judges picking up labour law quickly. High Court should recommend the same number of names as there are vacancies.

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8. 'Labour' should continue in the Concurrent List.

9. Electricity Board and engineering industries have a large contingent of casual labour. In the case of engineering, contract labour is widely prevalent. In some local bodies scavengers have been engaged on contract basis. (A note on the extent of casual/contract labour will be sent by the U.T.U.C.)

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 15.4.1968)

BIHAR STATE

4.30 P.M. to 5.00 P.M.

Record of discussions held with A.I.T.U.C.
(Bihar State Committee) represented by:

Mr. Ratan Roy, (Vide NCL Ref.No.BR-VI.150)
General Secretary.

1. The recent decision of the State Government about the procedure to be followed for recognition of a union should continue. The A.I.T.U.C. (Bihar) has agreed to the procedure conditionally; its differences were on matters of principle.
2. The system of 'check-off' for determining a sole bargaining agent was not agreed to because the employer will coerce workers into joining a union of his choice. The coercion of the employer on many occasions can be very effective.
3. Arbitration arrangements for disciplinary action were agreed to. The bill passed by the Rajya Sabha should be amended on this basis.
4. 'Check-off' can operate only when a representative union is determined on the basis of secret ballot. If 'check-off' is introduced in any other circumstances, it will be like the collection of a tax from a worker. He will have no feeling of belonging to a union.
5. Independent members have a use in the Wage Board. (A note will be sent on the question whether the Wage Board Chairman should be an arbitrator in case of disagreement.)
6. Automation is opposed not so much because of the lack of desire to change but because it deprives workers of the satisfaction of contributing towards production and thus eliminates the desirable human factor.
7. Minimum Wages Act has not been implemented in rural areas; nor is its implementation in other industries satisfactory. (A written statement about the flouting of Minimum Wages Act in non-agricultural occupations will be supplied.) There should be a tripartite supervision on the implementation of Minimum Wages Act.
8. The A.I.T.U.C. accepts the findings of the reports prepared by a sub-committee appointed by the Bihar Government on the extent of casual/contract labour in different industries.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 15.4.1968)

BIHAR STATE

5.00 P.M. to 5.15 P.M.

Record of discussions held with B.M.S., Bihar, represented by:

1. Mr. Rama Shankar Sinha, (Vide N.C.L. Ref. President. No.VI.154)
2. Mr. Ramdeo Prasad, General Secretary.
3. Mr. Anirudha Mishra, Joint Secretary.
4. Mr. Krishna Thakur, Joint Secretary.

1. B.M.S. was established in Bihar in 1955. It has a membership of 40 thousand and has acquired a representative status in the Bihar State Superphosphate Factory. Recognition has been given on the basis of verification of membership under the Code of Discipline. However, in 2 units in spite of adequate membership the management have not given recognition.

2. There are several cases of non-implementation of awards. Labour Department is helpless in the matter. (A statement of such instances will be supplied).

3. In giving representative status to a union it is important to consider whether the union is working in the national interest. There can, however, be no special definition of national interest. It is a fact that certain communist trade unions exploit labour for their political ends.

4. Verification is not a satisfactory method for determining the representative character of a union. There should be elections by secret ballot under the supervision of the Registrar of Trade Unions. It is recognised that elections will create passions but even otherwise in the present situation, passions cannot be done away with.

5. In the Bihar State Superphosphate Factory, a company union has been set up by appealing to caste/community feelings. This union is operating in the same name as the recognised union but with a separate set of office bearers. Such interference by the management in union affairs should be discouraged. (The Labour Commissioner will supply details on this point).

6. Introduction of an arbitrator in domestic inquiries will give greater satisfaction to workers.

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NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

8.45 A.M. to 9.15 A.M.

Record of discussions with the Indian Sugar Mills Association (Bihar Branch) and Bharat Sugar Mills, Sidhwalia, represented by:-

1. Mr. S.S. Kanodia, M.L.C. (Vide NCL Ref. No. W.R.V.70)
(Reply from the parent body adopted by Bihar Branch.)
2. Mr. G.C. Goel, Secretary, I.S.M.A.
3. Mr. S.C. Chaudhuri, I.S.M.A.
4. Mr. G.P. Dhurka. Bharat Sugar Mills
5. Mr. B.M. Keura. (Vide NCL Ref. No. BR-VII.6)

1. The I.N.T.U.C. affiliated unions have been recognised, in about 70 percent of the affiliates of the Association. Their policies are generally influenced by local considerations; these might not be at one with those of the Central I.N.T.U.C.
2. Secret ballot for recognition of unions was not favoured. It is necessary to ascertain the loyalty of a worker to a particular union over a period of time.
3. 'Check-off' system for determining the sole bargaining agent will not work.
4. The extension of 'Check-off' facility to all unions for collection of dues was not acceptable as the system presupposes that all unions working in a particular unit behave in a responsible manner.
5. The suggestion of appointing a mutually agreed board of arbitrators under the provision of the Standing Orders Act for deciding disciplinary cases involving discharge or dismissal was accepted. A single arbitrator was not preferred as he would be prone to outside influence. The Indian Sugar Mills Association, Calcutta would give a reply as to whether the jurisdiction of the panel should extend to all disciplinary matters.
6. In Bihar collective bargaining can be introduced in certain areas/industries. A tripartite arrangement

particularly the system of wage boards for determination of wages etc. was however preferred because such arrangements have already proved to be useful.

7. Minority union should not be given any right; grievances of individual workers who are not members of the recognised union should be represented by workers themselves.

8. The 'union shop' or 'closed shop' was not favoured because it implied compulsion on a worker to join a union.

9. Some kind of parity between the wages of workers employed in sugar industry and those of agricultural workers should be established because sugar industry has always a rural setting. One way of removing the disparity was to increase the wages of agricultural workers; the other was to adjust downwards the wages in sugar industry. Wages paid to agricultural labour should be allowed to go up to secure the desired parity.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna -16.4.1968)

BIHAR STATE

9.15 A.M. to 9.35 A.M.

Record of discussions with the Bihar Chamber of
Commerce, represented by:-

1. Mr. Tara Kishore Prasad, (Vide NCL Ref. No.BR.V-31)
Hony. Legal Advisor.
2. Mr. G.M. Sahai,
Chairman, Labour
Sub-Committee.
3. Mr. C.M. Saxena,
Hony. Secretary.
4. Mr. S.N. Prasad
Under Secretary.

1. Casual labour should be allowed to work even on regular jobs; otherwise the cost of production may go up.

2. The practice of using dummies and getting work done through them on contract should not be permitted. To safeguard workers' interest, the minimum wages should be prescribed and there should be an effective supervision over the implementation of the same.

3. Mass casual leave, 'go-slow' should be included in the term 'strikes', while 'gheraos' should not be treated as strike. It is wrongful confinement.

4. Reinstatement of a worker should not be allowed. Even in cases where dismissal is due to perversity on the part of management or victimization compensation will be the correct remedy.

5. Strikes and lock-outs must be banned by law in public utility services.

6. Strike notice should be prescribed not only for public utility services, but for all industries.

7. Collective bargaining was favoured only up to a certain stage, thereafter the existing procedure of conciliation and adjudication should be allowed to continue.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

9.35 A.M. to 10.00 A.M.

Record of discussions with Bihar Industries Association, represented by:-

1. Mr. U.P. Agarwal, (Vide NCL Ref. No. BR-V.96)
Deputy Chairman.
2. Mr. M.K. Varma,
Advocate & Labour Advisor,

The Association represents interests of industries such as Coal Mines, Sugar etc.

2. It is not possible to do away with casual and contract labour in smaller units which cannot afford to maintain surplus staff on their roll.

3. The system of verification of membership for the purpose of granting recognition as provided under the code of discipline has proved to be a deceptive method; election by secret ballot for determining representative union was favoured.

4. The system of 'check-off' for all unions was supported in preference to secret ballot for recognition of a majority union.

5. Constitution of a mutually agreed panel of arbitrators for dealing with cases of disciplinary action will be a good method to overcome existing difficulties.

6. A common labour code was preferred.

7. 'Labour' should continue to be in the Concurrent List.

8. The control of the State Government in appointing judges to the industrial tribunals should be reduced to the minimum. The High Court should recommend only as many names as there are vacancies. (The Association will send a detailed note on points raised by the Chairman which could not be discussed at the meeting).

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

10.00 A.M. to 10.20 A.M.

Record of discussions with Mr. Ranen Roy, Advocate.

(Vide NCL Ref. No. BR-X.48)

The scope of the Industrial Disputes Act should be widened so as to empower industrial tribunals to go into the merit of domestic enquiries.

2. The proposal of having a mutually agreed panel of arbitrators for deciding matters relating to disciplinary action is worth considering.

3. Adjudication has stifled the development of trade unions; at the same time it will not be possible to do away with adjudication till such time as unions are strong.

4. Since there is no strong union in any industry in Bihar, it is not possible to earmark an industry where collective bargaining with its full implications can be introduced.

5. For determining the representative character of the sole bargaining agent, it is better to have secret ballot. The fear of caste loyalties in such elections should not act as a deterrent since caste unions are already in existence in many units.

6. Trade union movement in Bihar is still in its infancy. Growth of leadership will be hampered if a system of 'check-off' for all unions is introduced at this stage. Financial difficulties do not come in the way of running a union if the leadership is good.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

10.20 A.M. to 10.40 A.M.

Record of discussions with Dr. Ganesh Prasad Sinha,
Department of Labour and Social Welfare, Patna.

(Vide NCL Ref. No. BR-VIII.12)

The Department of Labour and Social Welfare turns out about 40 students each year. So far about 600 students have passed out of the Department during the last 20 years. 50 percent of the graduates are employed as Labour or Welfare Officers; none of them occupies a position in the labour judiciary.

2. Collective bargaining with advance agreement for arbitration in case of failure of collective bargaining will be the best arrangement for settlement of disputes; recourse to adjudication should be done away with.

3. Industrial relations laws as they exist today leave considerable scope for political influence. The laws should be amended with a view to placing the responsibility for implementation on an autonomous board. Appointments to the Board will be made by Government but thereafter Government's responsibility should cease.

4. There should be a sole bargaining agent for each unit. The representative character of such agent should be determined by secret ballot. The fear of the caste feelings or tall assurances swaying the secret ballot is not well-founded.

5. The 'check-off' system to determine the sole bargaining agent will not work in India.

6. 'Check-off' facilities should be extended only to the representative union because if such facilities are extended to all, it will encourage multiplicity of unions by assuring them a regular income.

7. 'Closed-shop' or 'union-shop' was not favoured.

8. Minority unions should have the right to represent individual grievances of their members.

9. The idea of mutually agreed panel of arbitrators for dealing with disciplinary cases was supported. Trade unions should be given the right to represent their members in disciplinary proceedings.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

10.40 A.M. to 11.00 A.M.

Record of discussions with Mr. R.S. Pande, Resident Director, The Tata Iron & Steel Co. Ltd., Jamshedpur.

Tata Workers Union affiliated to INTUC has been recognised in the TISCO. In 1958, AITUC tried to create some trouble. At present both the President and General Secretary of the recognised union are the ex-employees of the TISCO.

2. Mr. Pande sent a written record of discussions with the Commission. This record is appended.

RECORD OF EVIDENCE GIVEN BY SHRI R.S.PANDE TO THE
NATIONAL COMMISSION ON LABOUR AT PATNA ON THE
16TH APRIL, 1968.

I was invited by the National Commission on Labour to give evidence today the 16th April, 1968 at Patna. Mr. Gajendragadkar asked for my views on the following specific issues:-

- (1) Principles for determining disputes regarding recognition of unions.
- (2) Lack of confidence amongst the workers in domestic enquiries giving rise to numerous disputes on this account-the best way to deal with the situation that would be satisfactory to both employees and employers.

RECOGNITION OF UNIONS:-

I commended the recent resolution of the Bihar Central Labour Advisory Board on this subject and explained it in detail. In short the principles laid down in the said resolution are the following:-

- (i) Where there is a single registered trade union in an establishment, that union must be recognised by the employer provided it has had some standing, say of a year's work, irrespective of the strength of its membership.
- (ii) In the case of intra-union disputes relating to the office bearers, they should be referred to the State Branch of the All India Organisation to which the union claims affiliation and the decision of the said body should be accepted. If, however, such a decision is not available within a specified time or where the union is not affiliated to an All India Organisation, the dispute should be determined either by verification or by secret ballot.
- (iii) All cases of inter-union rivalry should also be determined by verification or by secret ballot.
- (iv) The decision whether the dispute will be decided by verification or by secret ballot will be taken in each case by an independent tripartite body. Such a body has been set up in Bihar consisting of four representatives of All India Employees Organisation, three representatives of employers from public and private sector and with the Labour Secretary as President and Labour Commissioner as Member-Secretary.

- (v) The procedure of verification and secret ballot would be laid down by this independent body.
- (vi) Only the members of the registered Unions who are parties to the dispute and who have paid union subscription for at least a year before the dispute arose would be entitled to cast their votes in the secret ballot.
- (vii) Where there is already a recognised union the rival union claiming recognition should get 75% of the votes cast before it can be allowed to unseat a recognised union.
- (viii) In case of a secret ballot concerning intra-union disputes or in cases of union rivalry where no union is recognised, recognition should be given to the union or the persons by simple majority.

After hearing me Mr. Gajendragadkar mentioned that some of the unions were opposed to verification and some to holding of secret ballot. A compromise solution had, therefore, been suggested to him by some which was to the following effect:-

All the existing permanent employees in an existing unit and all the new entrants at the time of being made permanent should be asked to indicate to the employer the union to which they owe allegiance. The employer will maintain this record on the basis of which the representative character of the union and therefore the disputes regarding recognition and intra-union rivalry could be decided.

I was asked to give my comments on this proposal. I informed the Chairman that in one of Tata Steel's agreement with Tata Workers' Union in the year 1956 it was laid down that the system of check-off should be introduced which, in effect, meant that the management would get from the union the list of its members and would deduct the union subscription from their pay-packet and remit it to the union. As this required the approval of the Government under the Payment of Wages Act, the matter was referred to the State Labour Department who turned down the proposals. The question was agitated in the Bihar Labour Advisory Board and a Committee was set up to examine the issue. The Committee recommended the check-off on certain conditions, but the State Government has still not been able to take a decision. I would comment on the acceptance of these recommendations.

But in so far as the proposals made to the Chairman were concerned, I found myself unable to agree for the principal reason that I would not like an employer to be involved in ascertaining the wishes of an employee regarding his preference for one or another union. In my view such a step would not be in the interest of the workers or the unions concerned because they would be more or less at the mercy of the employer and if the employer was unscrupulous

the result could be imagined. The Chairman asked whether in my opinion there were large number of unscrupulous employers who would like to have pocket unions. My answer was that any law has to take care of the unscrupulous segment in any society and there are such varieties in every sphere of our national life. The Chairman asked whether I also feared the State influencing the employer in recording the workers' choice of a union. My reply was that on principle I did not like the employer to be entrusted with this responsibility which was an internal affair of the union; the employer may have the temptation to misuse the authority given to him in this matter and there may be a case when both the State and the Employer may have a common interest in boosting up a particular union. Therefore, from whatever angle we look at the proposal, it is likely to create more problems.

DOMESTIC ENQUIRIES-DISCIPLINARY ACTION

The Chairman stated that there was a general view that domestic enquiries were not properly conducted and more often than not they were biased against the workers. He had come across hundreds of cases of disputes arising out of disciplinary action as a result of domestic enquiries and the present law is so involved that a worker is not able to get redress without protracted litigation. In many cases the courts do not interfere unless the domestic enquiry is vitiated by lack of observance of accepted procedure or by failure to observe principles of natural justice, while in others reinstatement comes after 4-5 years of dismissal. He was, therefore, considering a proposal that all domestic enquiries should be conducted by an outside person not belonging to the organisation and acceptable to both parties and his finding should be final and binding without any recourse to appeal. Mr. Gajendragadkar thought that this simple procedure would ensure confidence in the enquiry, would uphold the right of employer to take disciplinary action after enquiry, and obviate delay in disciplinary cases. I was asked to comment on this proposal. I stated that the proposal was wholly unacceptable to me. It was the right of the employer to take disciplinary action and I would not agree to surrendering this right to someone not belonging to the employer's organisation. Induction of a third party in any dispute between the employer and the employee only tends to create a gulf between the two and erodes mutual respect and confidence which is so vitally necessary for sound industrial relations. For that reason I stated I did not like the amendment to the Industrial Disputes Act by which an individual dispute can now be taken to the labour court ignoring the recognised union. In fact I was surprised how my esteemed friend Mr. Ramanujam and his colleagues on the Labour side agreed to this amendment which is bound to weaken the development of a healthy trade Union movement. The Chairman intervened to say that this decision was irreversible though I continued to plead that the law should be amended and the above provision should be deleted. Coming to the specific issue I advocated that after disciplinary action is taken by the

management, the worker should have a right to appeal to the Works Committee whose function should be to examine such cases with a view to promoting amity and good will amongst the parties. The Chairman remarked that he had not come across a single case where disciplinary cases are discussed by Works Committee adding that Tata Steel was an exception and this was one organisation from which he never had a dispute before him. I mentioned that the Chairman should not, for that reason, be under the impression that Tata Steel does not take any disciplinary action or there were no disputes. The fact was that we take disciplinary action in a number of cases, but all such cases are appealable before the Joint Works Committee, whose decision is accepted. The Chairman stated that such a situation did not prevail in any other industry and therefore he was anxious to evolve a procedure which could be applicable to those industries. My suggestion was that the grievance procedure which forms an integral part of the code of discipline for industry evolved by the All India Tripartite Body should be written into law and enforced. The Standing Orders could be amended to provide for this, but the main point was that the employer should be permitted to conclude the enquiry and take the action without interference from any person or party and there should be a provision for review by a joint body, preferably a Works Committee, and it is only when the recognised union is not satisfied by the majority decision of the Committee or of the top management that the union may take the matter to court. The Chairman asked me if I would at least agree to grievance arbitration to which I replied that I would have no objection to the matter being referred to arbitration by the parties if the union was dissatisfied with the decision of the Joint Committee, but there should be no arbitration before the disciplinary action had been taken and the matter had been reviewed by the Joint Committee. I submitted that it was my view that for promoting healthy industrial relations it was most essential to create conditions statutory or otherwise, for the management and union to meet together and discuss their problems and come to an understanding. If the intervention by the State or an outside party can not be eliminated it should be reduced to the minimum. Arbitration should also not be a common feature because the injection of an arbitrator between the two parties would itself have an adverse effect on the mutual trust and confidence between the parties and therefore on functioning of proper collective bargaining.

Sd/-
(R.S.Pande)

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

11.00 A.M. to 12.00 Noon.

Record of discussions with the State Government
Undertakings and employing State Departments represented by:

1. Mr. S.S.P. Sinha, (Vide N.C.L. Ref.No. BR-IX-7).
Administrator,
Patna Municipal Corporation.
2. Mr. S.K. Sinha, (Vide NCL No. BR-IV-54).
Secretary,
Transport Department.
3. Mr. C.S. Kumar,
General Manager,
Bihar State Road Transport
Corporation, Patna.
4. Mr. R.N. Sinha,
Chief of Administration,
Bihar State Road Transport
Corporation, Patna.
5. Mr. Ram Janma Ojha,
B.S.S. I. Corporation.
6. Mr. V. Balasubrahmanyam,
Secretary,
Industries Department.
7. Mr. K.L. Swani,
Managing Director,
B.S.I.D.C.
8. Mr. B.N. Sinha, (Vide NCL No. BR-IV-55)
Chairman,
Bihar State Electricity Board,
9. Mr. R.T. Sinha,
Secretary,
P.W.D. & P.H.E.D.
10. Mr. U.N. Rai,
Secretary to Government,
Irrigation & Electricity Board.
11. Mr. S.A.F. Abbas,
Chief Administrator & Secretary
to Government, River Valley Projects
Department.
12. Mr. H. Prasad,
Secretary, L.S.G. Department.

13. Mr. P.S. Appu,
Finance Secretary, Bihar.
14. Mr. R.N. Sharma,
Director of Personnel,
Bihar State Electricity Board.
15. Mr. B. Kumar,
Deputy Director of Personnel,
Bihar State Electricity Board,
16. Mr. N.B. Ghosal,
Personnel Officer,
Bihar State Electricity Board.

1. In the State Electricity Board there was a large element of casual labour. At one time the extent of casual labour was 20,000 out of 40,000 employees. Since July, 1967, a three-pronged programme has been launched to reduce the strength of casuals and at present the number of casuals stands at 10,000. Efforts are being made to reduce the number of casuals further. (The State Electricity Board will send a note on their programme for reducing the size of casual labour).

2. Bringing down the age of retirement to 45 years for workmen employed on some technical jobs at power stations and elsewhere will not by itself bring down the rate of accidents.

3. A number of unions are functioning in the State Electricity undertaking. The two main unions are (i) the one affiliated to INTUC and (ii) Bihar Electricity Supply Union. In the power stations INTUC is the recognised union. This union was recognised on the verification of register by the State Government, but the rival union got an injunction from the Court and the matter is subjudice. The other union - dominated by the Right Communist Wing but including elements of HMS & RSP in different areas - has also been recognised for units other than power stations.

4. All except the Finance Secretary and the P.W. Department preferred verification procedure for determining the sole bargaining agent. They were of the view that the powers of verification should not vest with State Government. It should belong to some autonomous body which should have the freedom to advise its own procedure of verification. (P.W.D. and Finance Secretary did not have any objection to the election by secret ballot if the unions so wanted).

5. The Secretary, Local Self Government mentioned that it would be desirable for all labour unions to form a labour council. The candidates for the council may be nominated by the unions. All employees should have the right of voting. Such labour council should be the only agency for the settlement of all disputes.

6. Collective bargaining was not favoured. The Chairman, Electricity Board, wanted the system of adjudication to

continue along with collective bargaining. The reason for this preference as mentioned by the representative of the local Self Government Department was that in collective bargaining, the consumers' interests are ignored.

7. In the State Electricity undertaking, dearness allowance is linked to all India Consumer Price Index number and this has resulted in peaceful relations.

8. The Chairman, Electricity Board, deplored the attitude of the union in not extending cooperation for getting eight hours work from the workers, even though all major demands of the union have been met. He desired that ways should be found to make the worker duty-oriented.

9. It is not entirely correct to say that unions/workers do not respond to the call for duty entirely because of the bureaucratic approach in the State Electricity Department, though one can accept that it takes time to shed the bureaucratic approach.

10. The lines of communication between workers and the management are being strengthened through frequent meetings.

11. Secretary, Irrigation Department said that labour laws were designed to cater to the needs of private sector. With the emergence of public sector as one of the major employers in the country, labour laws should be reconsidered and modified. (The Secretary, Irrigation Department will send a note regarding the special provisions needed and changes required in the labour laws to suit the public sector).

12. Some of the ills of the public sector emanated from the fact that persons selected to run the public sector units at times do not have any faith in the existence or usefulness of the public sector. (Chairman, Bihar State Small Industries Corporation will send a brief note on this point).

SA/-

NATIONAL COMMISSION ON LABOUR

(Camp: Patna-16.4.1968)

3.00 P.M. to 3.25 P.M.

Record of discussions with Rohtas Industries Ltd.,
represented by:-

(Vide NCL Ref. No. BR-VIII.36)

Dr. Ram Tarneja,
The Director of Personnel,
Sahu Jain Services Ltd.

1. There should be a bipartite arrangement at the unit level for the settlement of disputes. For an area with localised industry such arrangement should be for the entire industry in the local area. The workers' side for such a bipartite forum should be named through a secret ballot or opinion poll.
2. Elections could be at a fixed interval of two to three years but they could be oftener if the situation so requires.
3. Membership verification which is currently the method by which representative character is determined is vitiated because of duplicate membership and in many cases concealment of membership for different reasons.
4. Minority unions should have the right of discussing individual complaints of their members.
5. The "check off" system with the right for every union to have the benefit of "check off" for determining the sole bargaining agent can be a better arrangement than the ballot.
6. By and large, unions should be unit-wise and not industry-wise.
7. Collective bargaining should be the method for settlement of disputes in organised sectors. Voluntary arbitration, if the arbitrator is a single person cannot be accepted; there should be an arrangement for appeals in such cases. The present adjudication arrangements can work better if time limits are fixed for each stage by some administrative instructions. Conciliation and mediation arrangements should also be there if collective bargaining fails.
8. In disciplinary matters, where dismissal has been awarded, re-instatement should not be permitted. Continuance

in employment of a person very much depends on the confidence or loss of confidence by management in the person who is affected by dismissal. If this principle of the loss of confidence can apply to senior officers, there is no reason why it should not run throughout the establishment.

9. There should be a common labour code and uniform arrangements

for the administration of the Code including appointment of judicial/ personnel.

10. Adjudication in disputes should be avoided. In any case, even if adjudication is ultimately decided upon, the right to approach the industrial tribunal direct should not be given to the parties.

11. There has been a lot of abuse in case of both contract labour and casual labour. They have, however, a place in the industry. Labour, should not be recruited through contractors. Portions of work can be parcelled out for being given to contractors if necessary.

12. Wage Boards have done little justice to the linking of wages to productivity. There has to be a basic reform if the Wage Board system is to continue. In fixing minimum wage, many arrangements are possible but for rural areas, adjacent States should have the same rates. This means that in fixing minimum rates for an area, the adjoining States should be consulted if the area for which rates are fixed are contiguous.

13. In organising Research in labour matters, emphasis should be on applied research. (Dr. Tarneja will send a note on his concept of applied research.)

14. There should be a moratorium on strikes and lock-outs on the same basis as in times of emergency. It could be for a limited period, say 2 years.

15. The Labour Bureau series of consumer price index numbers are required to be maintained for many more industrial centres. The current arrangements of linking different towns to one index of a centre near about is not satisfactory.

16. The total wage should consist of three components: (1) the basic wage (2) a component depending on prices and (3) a component depending on productivity.

RC/

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

3.25 P.M. to 3.50 P.M.

Record of discussions with Tata Iron & Steel Co.Ltd., Jamshedpur, represented by:-

Prof A.D. Singh, (Vide NCL Ref.No.BR-VII,37)
Chief Personnel Manager,
T.I.S.CO, Jamshedpur.

1. The bipartite arrangements obtaining in the Tata Iron & Steel Co., like Central Works Committees, Joint Councils, Zonal Works Committees and Work Committees for non-factory employees, have been functioning satisfactorily in the establishment. There are in all 33 Joint Councils and 5 Zonal Works Committees. All of them are bipartite in character.
2. The arrangement in Jamshedpur can be adapted to smaller units.
3. While Committees deal with grievances the Councils take up mostly problems of common interest. By and large, the Councils are not encouraged to deal with grievances.
4. In every case the representative union has the right to nominate representatives of workers on Works Committees and Joint Councils. In case grievances or other industrial matters remain unsettled, either party can approach the court. There is no arrangement for arbitration. In matters where workers are not satisfied by decisions at lower levels, there is appeal permissible up to the management direct. If, however, the grievance still persists, a special appeal to Chairman is permissible. (Dr. Singh will supply a statement of cases settled at different level of the grievance procedure during the last 2 years.)
5. Cases where the complaints from workers who do not belong to a representative union are not satisfactorily settled are not many. There is in every case the arrangement for appeal up to the level of the Chairman.
6. In all matters involving labour-management relations, the approach is important. The question can be settled at the appropriate level if there is a desire to settle and if both parties approach the question with an open mind.

/reference
to

7. By and large, adjudication should be avoided. Except in case of public utilities and units of national importance, employers and workers should jointly build up an effective mediation service.

8. The manning of the services will be by persons in whom there is confidence on both sides. The Ministers/government officials can be brought in. A Minister need not be disqualified because he is a Minister nor should he be considered as having special qualifications again because he is a Minister. In the Tata Iron & Steel Works, there have been complaints from rival unions about the membership of the representative union. On every occasion these complaints have been gone into and have been found to be without basis.

9. Minority unions should not have any right; even the right for representing the grievances of individual members.

10. Recognition should not be disturbed for five years. This will permit building up of long-term agreements and will also help to understand the working of such agreements. Also the representative union will have adequate time to justify its existence. However, the five-year period mentioned should not be considered sacrosanct.

11. In case secret ballot is decided upon, the right to vote should be confined to union members.

12. The arrangement by which representative character should be determined by "check off" is not advisable. There is no point in taxing the employer to take the trouble of collecting dues in case of every union, as under the present arrangements, a small group of workers can register themselves into a union. Also in "check off" arrangements there is a danger that as a result of guarantee of regular collection of dues through the employer, there will be a perpetuation of multiplicity of trade unions.

13. Casual labour should not be abolished. It is, however, important that adequate safeguards should be given to it. There is, however, a case for abolishing contract labour. The casual labour should have the same conditions of service except that certain benefits which accrue to workers only after putting in a longer period of service, may not be admissible.

14. The arrangement of arbitration for departmental enquiries is not desirable as the authority charged with the responsibility of maintaining discipline should have the right of enquiry. It is accepted, however, that enquiries should be at a sufficiently senior level, that is, by persons who have both the right to award punishments as well as to reward good work.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 16.4.1968)

BIHAR STATE

3.50 P.M. to 4.10 P.M.

Record of discussions with the Bokaro Steel Ltd. represented by:

1. Shri S.N.Chakravarty, (Vide NCL Ref.No.BR. III-55)
Personnel Manager,
Bokaro Steel Ltd.
2. Shri R.N.P.Sinha,
Personnel Officer,
Bokaro Steel Ltd.
3. Shri M.P. Singh,
Assistant Personnel Officer,
Bokaro Steel Ltd.

The replies to questions 57, 61 and 86 appear to be somewhat inconsistent. (The management will examine these replies and send a note on them to the Commission).

2. The tentative view was that representation should be by a secret ballot with voting rights to all workers. If there are any complaints about the results of the ballot, these should be examined by a tripartite body.

3. The adjudication machinery should be done away with. There should be collective bargaining, pure and simple. If there is no settlement, the parties could go to arbitration voluntarily.

4. The statutory minimum wages should not be linked with productivity. If, however, a need-based minimum is to be fixed, it must have a relation to certain norms of work. It is difficult to define a national minimum wage in money terms because of the price differences in different regions and at different times. Regional minimum could be fixed in terms of certain norms of workers' requirements regarding nutrition, clothing, housing, etc.

5. Personnel department should have adequate powers to deal with problems. The head of the personnel department should have a voice in the Board of Directors.

NATIONAL COMMISSION ON LABOUR

(CAMP: PATNA - 16.4.1968)

BIHAR STATE

4.10 P.M. to 4.35 P.M.

Record of discussions with the Bihar Roller Flour Millers' Association, Patna, represented by:

1. Shri N. Kabra, (Vide: NCL Ref. No.BR-V.94)
Hon. Secretary.
2. Shri K.N. Khanna,
Executive Secretary.

Casual labour is necessary in flour mills. This is because the arrivals of wheat consignments are irregular, and once trucks bring in wheat loads, they have to be cleared within a specified time. The same is the case when flour bags are to be loaded for despatch. Such work cannot be anticipated in advance and can best be handled by casual labour. For the normal working of flour mills, casual labour is not necessary nor is it employed.

2. The work of loading and unloading in flour mills is usually done on a contract basis. Wages given by a contractor and those fixed by the mills are the same. Some operations are preferred for contract work because a contractor is in a better position to supervise work.

3. The experience in roller flour mills shows that there are no inter-union rivalries. There have been many intra-union disputes. The flour mills have only one union and this union has been recognised.

4. Flour mills do not now employ women workers because the statutory provisions make their employment uneconomic. In many operations where women were formerly employed arrangements have been made to make such workers redundant.

5. There should be a uniform labour code with uniform arrangements for manning labour judiciary through High Court.

6. In disciplinary cases, re-instatement should not be permissible. Only compensation should be allowed (A short note on cases where reinstated workers have been responsible for causing indiscipline will be sent).

7. There should be no outsider in a union.

8. Officials should not look upon all non-officials with an air of distrust nor should the public consider that all officials are corrupt.

9. Conciliation should be handled by persons with appropriate experience.

NATIONAL COMMISSION ON LABOUR

(CAMP: PATNA - 16.4.1968)

BIHAR STATE

4.35 P.M. to 4.55 P.M.

Record of discussions with Xavier Institute of Social Service, Ranchi, represented by:

1. Shri Aroon Bose (Vide NCL Ref.No.BR.VIII.11)
2. Shri T.S. Rao

1. 5 per cent membership should be adequate for getting a union registered if registration is unit-wise. In case of an industry-wise union, the percentage should be somewhat higher.

2. Unregistered unions should not have a right to raise disputes.

3. The number of unions in which a person is permitted to hold office should be restricted on the analogy of restrictions on directorship: under the Companies Act.

4. The "Check off" arrangements for determining the representative character of a union will not work. "Check off" can work only under the "closed shop" or "union shop" arrangement.

5. Union representation should be valid for two to five years.

6. Labour disputes should be settled by collective bargaining and in case of unsettled disputes, cooling off period should be provided. There should be no adjudication. There was a difference of opinion among the representatives on the question of collective bargaining.

7. Research to be useful has to be objective. There have been cases where the past students of the Institute who have been working with some managements are asked to bring out conclusions which support the management's viewpoint. Such research should be discouraged.

(A note elaborating their views on questions on Labour Research will be sent).

NATIONAL COMMISSION ON LABOUR

(CAMP: PATNA - 16.4.1968)

BIHAR STATE

4.55 P.M. to 5.10 P.M.

Record of discussions with BP-PWD Workers Union and BS-Independent TU's Patna represented by:-

Shri T. Parmanand,
President.

(Vide NCL Ref.No.BR-VI.159)

The National Federation of Independent Unions has 21 unions affiliated to it with a membership of 50,000 in Bihar. It has no ties with the International Christian Trade Union Federation.

2. The independent unions do not have any political label. This is the only feature of independent unions which is different from other unions which are affiliated to political parties. The unions are working in Transport, PWD, Irrigation, Electricity, Cold Storage, etc.
3. The work-charged staff under Government has the same difficulties as those experienced by a casual labour or contract labour. In many cases the work-charged staff has even worse working conditions. Contract labour is paid much below the sanctioned wage allowed by the PWD. The contractors do not follow the instructions of the Labour Department or the PWD regarding service conditions. Complaints made to labour Department are not attended to. In some cases the unions had to approach the High Court with a writ petition.
4. "Check off" and "Union shop" will be advisable. Recognition on the basis of "check off" and giving this right to every union is not advisable. The independent unions have been recognised in many cases.
5. The representative character of a union should be determined by secret ballot, restricted only to union members.
6. Collective bargaining should be preferred. There should be arbitration or adjudication in essential service. The parties should be given the right to approach the tribunal direct.
7. Outsiders do not necessarily introduce politics into a union. In many cases a union gets split up because of insiders who have strong political affinities. Outsiders are still necessary. In case outsiders are eliminated, a fair number of unions will become inactive.

NATIONAL COMMISSION ON LABOUR

(CAMP: PATNA - 16.4.1968)

BIHAR STATE

5.10 P.M. to 5.20 P.M.

Record of discussions with North Eastern Railway
Licensed Vendors, Union, represented by:

Shri Yogindra Prasad Gupta, (Vide NCL. Ref.Np.BR-VI.152)
General Secretary.

The licensed vendors who appeared before the Commission have been given a copy of the Commission's questionnaire. They have promised that a reply will be sent. In their case it was explained that because of the nature of their work, their terms of employment do not come within the purview of the Commission.

NATIONAL COMMISSION ON LABOUR

(Camp: Patna - 17.4.1968)

BIHAR STATE

8.15 A.M. to 9.15 A.M.

Record of discussions with the State Government. of
Bihar represented by:-

1. Mr. Ram Chandra Sinha, (Vide NCL.Ref.No.BR-1.17
Labour Secretary. and Memorandum).
2. Mr. Ishwari Prasad,
Labour Commissioner.
3. Mr. S.N. Saigal,
Director, Employment & Training.
4. Mr. B.P. Verma,
Joint Labour Commissioner.
5. Mr. A.N. Singh,
Chief Inspector of Factories.
6. Mr. Rash Bihari Lal,
Director, Statistics & Evaluation.
7. **Dr.** L.K. Thakur,
Administrative Medical Officer.
8. Mr. S.K. Dutta,
Deputy Commissioner of Labour.
9. Mr. L.D. Sinha,
Deputy Commissioner of Labour.
10. Mr. B. Singh,
Deputy Commissioner of Labour.
11. Mr. G. Prasad,
Chief Inspecting Officer.
12. Mr. D.C. De,
Statistics Authority.

The Chairman congratulated the officers of the Labour Department on the good memorandum they presented to the Commission.

When demands are to be sent to adjudication, the practice in Bihar has been to scrutinise them at the Government level. Such demands on which there has been already a tribunal award or demands which, on the face of it, appear

to be frivolous and general demands made by minority unions do not referred to tribunals. This does introduce an element of discretion at the official level and is also open to a charge from dissatisfied unions that political influences have played a part in making references to tribunals. Even so, this practice has been followed because in its absence, there is a danger that tribunals will be flooded with cases. In the process, there will be delays which again will give cause for complaints.

2. There have been many occasions in Bihar where the recommendations of officers have been overruled by the Minister, not so much on the merits of the case but because of political considerations. (This point was mentioned by the Labour Commissioner but Labour Secretary mentioned that in the last eight months the Commissioner's recommendations have not been disregarded.)

3. The Supreme Court's decision regarding housing not being the exclusive responsibility of employer in some cases, has been taken note of but there have been cases where a demand made by the union about housing has been referred to adjudication.

4. The parties may be permitted to approach industrial tribunals direct.

5. A Committee was constituted last year on which the major trade union federations were represented. The question of secret ballot was discussed. The Committee gave its report. It says:

"Where voting through secret ballot has to be done, it should be done by an independent vote. All workers should participate in this voting. The INTUC and the HMS, however, felt that the representative character should be determined by membership verification".

6. The procedure of verification broadly is that contending units send their membership registers and counter-foils for scrutiny to the Labour Commissioner. This verification of register with counterfoils is 100 percent. When objections are raised to certain entries, personal interviews are arranged on a sample basis. The results of these interviews are taken into account in adjusting membership. The verification of membership is in presence of contending unions but interrogation of individual members does not have to be in their presence. There have been allegations of favouritism but these have not stood scrutiny. (The list of cases where complaints have been made against such verifications will be supplied).

5. A meeting of the State Labour Advisory Board was held in January 1968 and it has taken a decision that cases of verification as well as plebiscite i.e. of cases of inter-union rivalry will be settled by a Board of Representatives of Employers, Employees, the Labour Secretary and the Labour Commissioner. This Board has been made independent and the Labour Secretary and Labour Commissioner will be on the Board in their personal capacity. A question was raised on the side of workers about the inclusion of employers but the Committee felt that in order to secure wider acceptance of the decisions of the Committee, the employers' nominee should also be on the Committee. At the time of interrogation

however, the employers are not expected to be present. As to who should be in charge of the ballot or of verification will be decided by the Board. Instructions have been issued on this basis.

6. The procedure for unseating a representative union is to ascertain the membership by a secret ballot. If the union which challenges, secures 75 per cent votes, it will unseat the recognised union. This strict test has been laid down in order to avoid frequent references by a rival union. There have been cases where even on this strict test unseating of representative unions has been possible. (The list of cases where one union has ousted the other, together with the affiliations of such unions to the Central Federations in the last three years will be supplied. Such complaints as have been received against these federations will also be brought to the notice of the Commission).

8. A reduction in this percentage to 66 is a matter which will be discussed in the forthcoming meeting of the Committee. (The decisions of the Committee will be communicated).

9. References to industrial tribunals in cases of Central Public Sector Undertakings have to be made after consultation with the Government of India. Usually, this consultation takes a long time and causes considerable inconvenience to unions as much as to the State Government. Some modification in this procedure required to be made.

10. There have been cases of intra-union rivalry where caste has played an important part in Bihar. Caste has not made such inroad in the trade union field. It has played a very minor role in the emergence of rival groups in the same unions. There are no unions on caste basis.

11. The suggestion that there should be a membership "check off" for all unions and on that basis the representative character of the unions should be determined did not appeal to the Bihar representative. This will increase union rivalries. It will give a greater play to the employer to keep unwanted unions out because in this process the employer knows the names of persons who are members of different unions and there is a danger that he will be able to manipulate in such a way that a union of his choice could be made representative through this process. Also, there is a possibility of the union dues not being sent by the employer to the concerned unions in time.

12. The time is not yet ripe for collective bargaining. (This point will be re-examined. The officers will see if they could suggest some units in Bihar where collective bargaining could be given a free hand).

Kashi Nath Pandey,
Member of Parliament
(LOK SABHA)

16 Dr. Rajendra Prasad Road,
New Delhi 1.

January 9, 1969.

My dear Gajendragadkarji,

During my evidence before the Commission, I was asked to tell if the Gorakhpuri workers have ever took part in any strike or agitation. Although my answer was in the affirmative, I could not name the collieries involved. Therefore, I had promised to supply the needed information later. On return to my residence I went through my papers and found that recently the Gorakhpuri workers had taken leading part in the strikes of collieries of North and South Jhagrakhand (Madhya Pradesh). This fact, if challenged, could be verified by any agency deputed by you. I am grateful to you for having given me a patient hearing. While expressing my gratitude I would like to add that the demand for abolition of the Gorakhpur system might have been justifiable in the days when things were not so well as they obtain today. But after a lot of improvements having been brought about on the suggestion of different committees, harping on the older demand of abolishing the Gorakhpur Labour Depot and C.R.O. can hardly stand to reason. That does not mean that it is either a faultless or perfect system as nothing on the earth is. Let us therefore effect reform to the extent there is scope for it. I plead for the retention because its greatest merit lies in providing employment to the men of Gorakhpur region which is one of the poorest in the country and is bedevilled with the problem of mass unemployment. I hope you will kindly think over this aspect.

With high regards,

Yours sincerely,

Sd/-

(Kashi Nath Pandey)

To

Shri P.B.Gajendragadkar,
Chairman,
National Commission on Labour,
New Delhi.