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

New Delhi-3, dated the 23rd May, 1968.

To

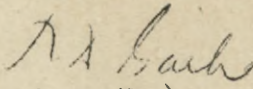
The Chairman and Members of the
National Commission on Labour.

Subject:- Visit of the National Commission on Labour
to Uttar Pradesh.

Sir,

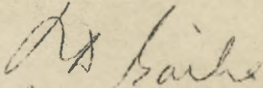
I am directed to forward a copy of the Record of
discussions of the Commission at Lucknow in Uttar Pradesh
State on the 18th April, 1968, as approved by the
Chairman.

Yours faithfully,


(P.D. Gaiha)
Director

Copy with a copy of the Record of discussions
forwarded to:-

1. Special Assistant/PS to Chairman.
2. All Officers/Units.


(P.D. Gaiha)
Director.

SA/-

NATIONAL COMMISSION ON LABOUR

(CAMP : LUCKNOW - 18.4.1968)

8.00 A.M. to 8.30 A.M.

Record of discussions with Dr. Radha Kamal Mukerjee
at Lucknow.

1. Dr. Mukerjee had been in contact with labour in his academic capacity over the last 40 years.
2. In all these years there has been in every group a double attitude about the working class - among employers, among Government and among union leaders. In private, both Government and employers accept the good points of labour but in public their attitude displays only the other side. Among unions there is recognition of the need for improvement in workers involvement in their work. But these private postures change when it comes to discussion with either Government or employers.
3. Part of this double attitude is a legacy of the past. Even our senior leaders in the Independence movement and persons who took power thereafter had to maintain two faces.
4. Of late, there has been a greater consciousness among workers towards their rights. They have to be warned continuously that every right carries with it a responsibility.
5. Union should be given representative status on the basis of secret ballot. There will be some difficulties in adopting this process in the early stages. Casteism communalism etc. will have a play. But these have become so much a part of the Indian life that they have to be faced in the labour world also.
6. Promises are also likely to be made for securing a favourable verdict through secret ballot. But workers will learn the significance to be attached to these promises in due course. The dangers of ultra radical elements thriving in such elections are somewhat far-fetched.
7. Over the last 4 elections, workers have had enough experience of the manner in which promises made by politicians are fulfilled. Their voting in elections has been intelligent. We should expect that they will use this experience well in case secret ballot is accepted as a way out.
8. Labour legislation requires to be rationalised. There is too much of it. Powers of intervention by Government have sapped the strength of unions.
9. Collective bargaining should be given a trial. It will create difficulties in the initial stages. But these have to be faced. Workers will learn through such trials to show their strength more effectively and not more frequently.

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10. Most of the difficulties on the labour front are due to lack of appreciation of the principle that a union has to be recognised if industrial peace is to be achieved.

11. 'Union shop' can help but it has its own draw-backs.

12. 'Check off' should be used with more caution. It should not make the approach of union workers to members redundant. An effective 'check off' system may improve the finances of the union but if these finances are not used to improve contacts between the union and its members, 'check off' would not have served its purpose.

NATIONAL COMMISSION ON LABOUR

(CAMP : LUCKNOW - 18-4-1968)

9.00 A.M. to 11.00 A.M.

Record of discussions of a Round Table
Conference with the following :

1. Mr. A.K. Sharma,
Secretary, Labour, U.P.
2. Mr. S.P. Mishra,
Secretary,
State Electricity Board, U.P.
3. Mr. N.P. Chatterjee,
Secretary to the Govt. of U.P.,
Department of Industries.
4. Mr. J.N. Tewari,
Secretary to the Govt. of U.P.,
Irrigation & Power Department.
5. Mr. R.H. Chishti,
Commissioner & Secretary,
P.W.D. & Transport.
6. Mr. S.K. Jain,
Chairman,
State Electricity Board, U.P.
7. Mr. Dashrath Singh,
Labour Commissioner, U.P.
8. Mr. H.C. Sexena,
Director,
Government Cement Factory,
Churk (Mirzapur).
9. Mr. J.C. Dikshit,
General Secretary,
INTUC, U.P. Branch.
10. Mr. Kashi Nath Pandey,
President,
INTUC, U.P. Branch.
11. Mr. B.D. Shukla,
President,
Hind Mazdoor Sabha, U.P.
12. Mr. Vimal Mehrotra,
Hind Mazdoor Sabha, U.P.
13. Mr. B.K. Mukerjee,
President,
Bhartiya Mazdoor Sangh,
14. Mr. Prabhu Narayan Singh,
President,
Akhil Bhartiya Mazdoor Panchayat,

Contd.....2/-

15. Mr. Sant Singh Yusuf,
President,
U.P.T.U.C.
16. Mr. R.P. Nevatia,
Member,
U.P. Branch of Indian Sugar,
Mills Association.
17. Mr. P.D. Singhania,
Employers' Association of
Northern India, Kanpur.
18. Mr. R.K. Jain,
Secretary,
Western U.P. Chamber of Commerce,
Meerut.
19. Mr. Mitthan Lal,
Chairman,
Industrial Tribunals, U.P.
20. Dr. V.B. Singh,
Department of Economics,
Lucknow University,
Lucknow.

And fifteen others.

A common labour code, a common pattern of labour judiciary and appointment to this judiciary, on the recommendation of the Chief Justice was preferred. Before a Judge is recommended for appointment, the High Court should ascertain the person's experience in the interpretation of industrial law.

2. Mr. Mitthan Lal opposed the idea that assessors should be appointed for helping the industrial tribunal. Employers were also of the same view. But the general feeling was that if high stakes are involved, one person alone should not decide the issue, but a bench, should.

3. Employers wanted simple arrangements for securing awards. At the same time, such simplicity should not create a feeling that justice was denied.

4. Mr. Mukerjee expressed the view that a tribunal should be helped by two experts. Mr. Prabhu Narayan Singh shared this view.

5. Collective bargaining in its strict form was not favoured. In the public sector, particularly, adjudication was necessary according to one view. Workers representatives, however, felt that basic to this question is union recognition. The question of how this recognition should be determined requires to be settled first.

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6. Mr. Mehrotra was of the view that even in the situations obtaining in U.P., it should be possible to draw up a list of units where collective bargaining could be tried out. (He will supply such a list).

7. Mr. Tewari considered that a new system was necessary. But it has to be evolved; the change should not be sudden. An atmosphere has to be created in which parties themselves would seek collective bargaining and there will be no need for any outsiders to explain to them the importance of this method in settling disputes. (Mr. Tewari will supply a note on this point).

8. Dr. V.B. Singh felt that a piece-meal approach in the matter may not help. If collective bargaining is the right method, it should be made applicable to all.

9. Mr. Nevatia felt that in view of the current arrangements for settling wage disputes through Wage Boards, the area of collective bargaining has shrunk considerably.

10. For determining a collective bargaining agent, the usually stated positions were re-emphasised. The INTUC was generally opposed to secret ballot whereas all other unions emphasised its merits. Mr. Nevatia referred to Mr. Vithal Choudhry's article in the Economic Times, July 1967, to show that in a number of cases the following of a union depends very much upon its capacity to flourish revolutionary slogans. According to him, since this admission comes from an active AITUC union leader, it seems that they are being paid in their own coin.

11. The use of 'check-off' system for union recognition was favoured by some. Employers felt that a proposal of 'check-off' for recognising union was worth considering. The inadequacies of the system were pointedly mentioned by some others. Mr. Prabhu Narayan Singh opposed the suggestion since for an important function like the recognition of unions it will substitute the employers' office in place of the Labour Commissioner's. Such substitution was not desirable. He would prefer secret ballot. According to Mr. Kashi Nath Pandey, 'check off' system of the type which will help determining a representative union may allow multiplicity of unions to continue. The system may be useful when there is one representative union, but its use in recognising unions may not be desirable. Mr. Yusuf of the AITUC was against this system. Some of the difficulties which the workers' representatives mentioned were on the basis that the employers would play one union against the other. Mr. Tewari while generally opposing the suggestion mentioned that there will be cases where employers may coerce workers into joining unions of the employers' choice. It may also happen that workers may make allegations without actual coercion from the employers. Such difficulties should not be ignored by the Commission.

12. A view was also expressed that in case a recognised union demanded compulsory membership of unions, this will not be unconstitutional. Dr. V.B. Singh cited the instances of compulsory membership of bar association and medical association. The Commission should explore this question further.

13. A proposal about declaration to be made for 'check-off' not to the employer concerned but to an independent authority found favour among certain groups representing workers. Employers however felt that this question was the result of some suspicion in the minds of trade unions and since employers and workers had to work together and they cannot work thus in an atmosphere of suspicion, the proposal for an independent authority for check-off did not find favour with employers.

14. If secret ballot is to be resorted to it should be open only to union members. There was a unanimity about this except that Mr. Yusuf of the AITUC said that all workers should be given the right to vote since the decisions of the representative union will bind all workers. Mr. Kashi Nath Pandey mentioned that if secret ballot has to be ultimately accepted in spite of the INTUC's opposition, the right should be given to only union members.

15. Employers opposed secret ballot.

16. A view was expressed that in view of the weak financial position of unions, it would be worth exploring if certain privileges which a union has secured should be denied to non-members. This will make it possible for unions to extend their membership drive and make them strong.

17. The employers did not want any change in their right to 'hire and fire' when the Bill passed by the Rajya Sabha was mentioned to them and also the proposal made by some employers that arbitrators should be appointed for deciding the extent of misconduct and the punishment therefor, the employers opposed the proposal. There was, however, a general acceptance of the same in the workers' group. Mr. Pandey and Mr. P.N. Singh, both expressed some apprehensions about the proposal. While the former mentioned that enough arbitrators will not be available, the latter wanted a more positive approach to providing compulsory arbitration in such matters. The reaction in the public sector, when the position was explained about the new Bill, was that they would not have objection to the proposal of interposing an arbitrator.

18. It is not true to say that in the public sector, human relations were bad. Mr. Chishti, however, disagreed with this view.

19. The unsuitability of officers drawn from administrative cadre for manning positions in the public sector was generally accepted. It was important that persons with industrial experience should be brought in.

20. Mr. Tewari's view was that in respect of human relations, there was not much difference between public and the private sector. (He would supply a list of undertakings in the private sector where labour relations have been worse than in the public sector.)

21. Mr. Chishti accepted that there is a fair amount of contract labour in the public sector. He had required into the implementation of their obligations by contractors but he will conduct further enquiries and send a note to the Commission. The enquiry was with reference to the present terms of contract. The new agreements will be revising these terms and introducing a 'fair wage clause' in the contract terms.

22. Caste generally does not come into the picture in appointments of workers. It has a place in making senior appointments.

23. A proposal was mentioned about reviving labour constituencies which were there prior to Independence. Mr. P.N. Singh stated that there will be no harm in trying this experiment in Legislative Councils where such Councils existed.

24. Mr. K.N. Pandey felt that the proposal for labour constituencies should not be favoured because the present difficulties in the body politic will also be introduced in elections to labour constituencies.

25. Mr. Nevatia did not favour the proposal. It was accepted, however, that if labour has to be given such representation the employers also should have the same privilege.

26. Mr. Dikshit mentioned that so much has been stated about indiscipline among workers. It is also important to recognise that even among employers, there can be indiscipline, and a part of indiscipline among workers may be due to indiscipline among employers.

27. With regard to Mr. Dikshit's point, it was mentioned that the Industries (Development & Regulation) Act did provide adequate authority to the Government to enforce discipline among employers.

NATIONAL COMMISSION ON LABOUR

(Camp : Lucknow - 8.3.1968)

UTTAR PRADESH



10.30 A.M. to 11.25 A.M.

Record of discussions with the Indian National Trade Union Congress (INTUC) U.P. State Branch and Indian National Sugar Mill Workers' Federation, Lucknow, represented by :

1. Mr. J.C. Dikshit, (Vide NCL Ref. No. UP-VI.130 & UP-VI.146)
General Secretary, INTUC
and Vice-President ISMA.
2. Mr. P.K. Sharma,
Organising Secretary, INTUC
and Secretary, ISMA.
3. Mr. Ramnath Bharti,
Secretary, INTUC & ISMA.
4. Mr. Rameshwar Saran Singh,
Secretary, INTUC.
5. Mr. Prabhakar Tripathy,
Secretary, INTUC.
6. Mr. Shripat Narain,
Asstt. Secretary, INTUC.

The INTUC in U.P. claimed a membership of 91 to 92 thousand with 261 unions affiliated to it. It was stated to be the largest trade union in the State.

2. The labour legislation has not led to the growth of trade union movement in U.P.; in some ways it has created problems. For example, the registration of trade unions and their office-bearers gets delayed. There are cases where the office-bearers were registered after their tenure was over. Also, there are cases where some unions were granted representation on tripartite conferences, but the registration proceedings could be completed much later.

3. The attitude of the INTUC towards the economic development of the country is cooperative. A few exceptions to this were not denied. They believe in making constructive suggestions.

4. The trade unions can cooperate with the Government in economic development of the country by creating a climate which may be conducive to such development, preventing wastage in production processes and unscientific investment. Cases of Khedda Sugar Mills and Ever-ready Flash Light Company were cited to illustrate how some politically motivated unions disrupted production.

5. It is possible to link union subscription to wages with a fixed minimum subscription. It will be better if such a system

is given statutory effect. Some of the I.N.T.U.C. affiliates have already adopted this method.

6. Works Committees have not been functioning in the State for many years. For the first two or three years, they had worked well, but later the system was abolished by the U.P. Government. Difficulties arose in their working because representatives were nominated rather than elected.

7. Secret ballot for determining the representative character of unions was opposed by the I.N.T.U.C. in principle and not because of fear of losing elections. Elections, if held, would create tensions, and would ascertain the "temporary will". Regular payment of subscription is the test of workers' association with a particular union which could be verified by any impartial body. There can be no analogy between general elections and the representative union election. Once a union is determined to be representative, it should continue to be so for two years. At present, there is no provision in the U.P. Industrial Disputes Act for determining representative character of a union. In this connection, provisions on the lines of those in the Bombay Industrial Relations Act were favoured.

8. A common labour code, a common pattern of labour judiciary and appointment of judges on the recommendations of the High Court and the Supreme Court were favoured. There should be less of Government interference in such matters. Retired judges should not be appointed.

9. If a better coordination between the Centre and the States is possible, the subject 'labour' may continue in the Concurrent List. But, if that was not possible, it should be brought to the Union List.

10. Labour Appellate Tribunal should not be revived.

11. Collective bargaining in its pure and simple form is neither feasible nor desirable. However failing collective bargaining, arbitration is preferable to adjudication. But adjudication at present should not be done away with. There could be a panel of arbitrators, from which the parties can draw a mutually agreed arbitrator. In case no agreed choice is possible, the Government should be empowered to nominate an arbitrator from the panel. There should be no appeal against arbitration award.

12. The outsider is one who does not take continuous and consistent interest in the trade union activities. The leadership may not be necessarily confined to actual employees.

13. In cases of wrongful discharge and dismissal, a worker should be normally reinstated. However, the idea of payment of compensation in certain cases was not opposed but the compensation should be calculated on the basis of wages that the discharged/dismissed worker might have otherwise earned upto his retirement.

14. Better and more effective arrangements should be devised for enforcement of agreements and awards.

15. In U.P., the problem of retrenchment is of a serious dimension. The conditions laid down by the 15th Indian Labour Conference in respect of rationalisation should be given statutory effect.

16. There should be no discrimination in the application of labour laws between private and public sectors. (A note on retrenchment and concrete proposals in the matter of codification of labour laws including envisaged amendments to Workmen Compensation Act will be sent by the U.P. INTUC later.)

17. Penal provisions of the labour laws are never enforced by the implementing authority.

NATIONAL COMMISSION ON LABOUR

(Camp ; Lucknow - 8-3-1968)

11.30A.M. to 12.10 P.M.

Record of discussions with the All India Trade Union Congress (AITUC) U.P. State Branch represented by :

1. Mr. S.S. Yusuf (Vide NCL Ref. No. UP-VI.145)
President.
2. Mr. Ran Asrey,
General Secretary.
3. Mr. Harish Tewari,
Secretary.
4. Mr. Ramesh Shrivastava,
Member Working Committee.

1. AITUC claimed a membership of 40 thousand with 30 unions affiliated to it.

2. There should be a common labour code ensuring simplification of labour legislation and common pattern of labour judiciary. Appointments to labour courts should be by the High Court. They favoured appointment of active judges, but would have no objection to good retired judges holding such positions. It would be better if the judges of labour courts developed a "social out-look".

3. The subject 'labour' should be retained in the Concurrent List.

4. Collective bargaining is the only proper method for settlement of industrial disputes. In case of failure of collective bargaining, they were not sure whether resort should be to arbitration or adjudication if any other form of State intervention be allowed. However, if the Government intervention is indispensable, it should be in favour of the weaker section.

5. Strike is a legitimate part of collective bargaining and in some cases, strikes led to partial fulfilment of demands.

6. The only impartial way of determining the representative character of a union is through ascertaining the opinion of workers by secret ballot. Verification procedure was opposed on the ground that the State Government favoured certain unions to suit their political interests and also because such a procedure was not insulated against inflated and bogus membership claims. The representative union should be the sole bargaining agent. Minority unions should either merge with such a representative union or be allowed to take up individual cases.

7. There is no provision in U.P. for formation of Works Committees. The institution is useful in settling minor grievances, but the representatives of Works Committees should be elected rather than nominated. (A statement giving the membership of different unions and their affiliation in U.P. sugar industry will be supplied.)

8. There is no problem of outsiders in trade unions. Only those who want to weaken the trade union movement advocate their elimination. If the workers want outsiders, they should have them.

9. The conciliation machinery in U.P. has failed. In fact, the conciliation process has stepped up litigation. (A note giving the nature of complaints against the conciliation machinery will be furnished.)

NATIONAL COMMISSION ON LABOUR

(Camp : Lucknow - 8-3-1968)

12.10 P.M. to 12.50 P.M.

Record of discussions with Hind Mazdoor Sabha (HMS)
U.P. State Branch and N.E. Railway Mazdoor Union
Gorakhpur represented by :

1. Mr. B.D. Shukla, (Vide NCL Ref. No. U P-X.40)
President.
2. Mr. Vimal Malhotra,
General Secretary.
3. Mr. G.N. Misra,
Secretary.
N.E. Rly. Mazdoor Union, Gorakhpur.
4. Mr. Priya Gupta, (Vide NCL Ref. No. UP-VI.139)
Vice-President,
5. Mr. Ramkaran Singh, M.L.A.,
Vice-President.
6. Mr. K.L. Gupta,
General Secretary.

H.M.S. claimed a verified membership of 33,000 persons (excluding about 20,000 railway workers) with 6 to 9 unions affiliated to it. There should be one union for one industry. If this is accepted, there is a possibility of all trade unions in an industry merging into one. H.M.S. in U.P. is an example consisting of political workers of S.S.P. and P.S.P. and also non-political workers.

2. There should be 'closed shop' system. The freedom of association should be suitably qualified, and if necessary, the Constitution may be amended to permit its introduction. Workers instead of Government as at present be given the right to refer disputes for adjudication.

3. Ordinarily bipartite consultation should be encouraged. Bipartite machinery should be set up at three levels - plant, industry and national. It should consist of trained personnel of labour and management. Ordinarily general demands should be dealt with by such a bipartite machinery, failing which adjudication may be resorted to.

4. The Labour Appellate Tribunal should be revived in order to help expediting disposal of appeals which at present gets inordinately delayed in the High Courts/Supreme Court due to their dilatory procedures. The revival of the L.A.T. would also minimise the number of writ petitions and appeals now being filed in the High Courts and the Supreme Court respectively.

5. A common labour judiciary and appointment of High Court judges to man such judiciary was favoured. High Court judges have experience; and they have knowledge of both legal procedures and equitable justice.

6. District judges have not given a good account of themselves. It is immaterial whether the High Court suggests one name or panel of names so long as the Government appoints judges only on the recommendation of the High Court. Normally the judges should be assisted by persons who have sufficient experience and knowledge of industrial matters.

7. Secret ballot as a mode of determining representative character of trade unions was preferred despite the danger of extremists elements gaining the upper hand in the initial few years. It was felt that the workers by and large were likely to reject such elements in the long run. The risk attending the secret ballot is worth taking. In the alternative, verification procedure should be corrected, and strengthened and in case of disputed members an election should be held to ascertain their choice as to which union they belong. (This later part represented the personal view of the representative).

8. There should be no influence of political parties on trade unions though trade unions may have a political philosophy. That there is a possibility of trade union movement developing in this direction is demonstrated by the functioning of the HMS.

9. It is difficult to identify outsiders. There are no outsiders if they latter are elected representatives of workers. Outsiders cannot be eliminated. Political influence is not merely because of the presence of outsiders.

10. Time is overdue for giving effect to the 'need-based minimum wage' as recommended by the 15th Indian Labour Conference and economy has got to support such a wage. It was also observed that whenever higher wages were given to the workers the economy was not disturbed and the industries ultimately adjusted to the additional burden.

11. One of the representatives of the Railway Union affiliated to the H.M.S. observed that the constitutional provision of equal pay for equal work was being violated in case of casual workers in Railway. They are paid much less than regular labourers for the same work. (Shri Priya Gupta representative of the Railway Union, offered to send a note on the problem of casual workers in railways, need-based minimum wage, automation and lacuna in labour legislation).

NATIONAL COMMISSION ON LABOUR

(Camp : Lucknow - 8.3.1968)

12.50 P.M. to 1.05 P.M.

Record of discussions with Bhartiya Mazdoor Sangh
(B.M.S.) U.P. State Branch, represented by :

1. Mr. B.K. Mukherje,
President. (Vide NCL Ref. No.
UP-VI.144)
2. Mr. Suresh Chandra Rastogi,
Secretary.

B.M.S. claimed a verified membership of 57,000 with 167 unions affiliated to it. It is an All India Trade Union Organisation with no affiliation to any political party. The Sangh is particularly active in shops and commercial establishments and among non-teaching staff of universities and schools. The B.M.S. stated that there was no particular problem of shop assistants and non-teaching staff.

2. Collective bargaining should be encouraged.
3. Multiplicity of unions should be avoided. It would be desirable to have one union for one industry.
4. Elimination of outsiders from the trade unions was welcome. However, discharged, dismissed and retired employees and even full time non-employee office-workers of a trade union should not be treated as outsiders. (A note on how outsiders can be eliminated will be supplied)

NATIONAL COMMISSION ON LABOUR

(Case : Lucknow - 8.3.1968)

3.00 P.M. to 3.15 P.M.

Record of discussions with All India Bank Employees' Federation, Central Office, Kanpur, represented by :

1. Mr. M.R. Sood, Organising Secretary. (Vide NCL Ref. No. UP.VI.88)
2. Mr. J.S. Shukla, Office Secretary.
3. Mr. R.B. Prasad, Finance Secretary.
4. Mr. V.K. Shukla, Member of the Executive.

The Federation claimed a membership of 40,000. It is recognised by the Banks since 1958.

2. There is discrimination in the matter of recruitment in certain banks. Caste-based discriminatory practices are followed. Recruitment in Allahabad Bank was cited as a case in point. (Data in respect of such discrimination will be furnished by the Federation.)

3. Linking of union membership subscription to wages is not possible, voluntarily. It should be achieved by making statutory provisions.

4. Attitude of Banks is not helpful to voluntary arbitration. Voluntary arbitration was favoured and to that extent their reply to question No. 113 stood modified. (A detailed note on voluntary arbitration will be supplied).

5. The conciliation proceedings fail because of non-cooperative attitude of banks and inadequate powers vested in the conciliation officers to compel the management to appear before them.

6. There was a complaint about the non-implementation of awards by banks. The Court should take penal action against non-implementation of awards.

7. 'Go slow tactics' and 'pen-down strikes' were not approved by their organisation. 'Pen-down strike' should be included in the definition of a 'strike'.

7. A common labour code, a common pattern of labour judiciary and appointment of sitting high court judges were favoured. Retired judges and district judges should not be made labour judges. The judges should be selected on the recommendations of the High Court or the Chief Justice of the Supreme Court.
8. 'Labour' should be in the Union List. In industries like sugar where the prices are being controlled by the Centre, such an arrangement would lead to stability.
9. A case of wrongful discharge or dismissal has to be judged on its merits. In case of certain types of workers such as a confidential secretary, reinstatement led to adverse results. On the other hand in many cases, reinstatement has not created problems of indiscipline for the management. (A note giving some cases where instead of reinstatement, compensation was awarded by the Court will be sent by the Association.)
10. Owing to the complex nature of industrial relations and the paramount need of maintaining discipline in industry, an employer should be given full right to hold domestic enquiries in cases of serious breach of discipline.
11. 'Pen-down strike', 'go-slow tactics' and 'gheraos' should not be treated as cases of strike. These should be taken as cases of major mis-conduct.
12. There are technical difficulties in measuring labour productivity, it is particularly difficult to measure the labour productivity in a continuous process industry. The association has not undertaken any studies relating to productivity measurement.
13. The concept of minimum wages sounds different to different people. The need-based minimum wage should be based on the paying capacity of the industry. In 1958, it was estimated that if all the workers were to be given a need-based wage, the production will have to be stepped up by 60 percent; now if the same is to be achieved, production has to be increased by 100 per cent.
14. Agricultural wages are fixed under the Minimum Wages Act. At present, minimum wages have been fixed at Rs.1.50 or thereabout. Wages in organised sector are bound to be higher, but they should not be completely divorced from those of unorganised sector.
15. It was admitted that the provision for housing was inadequate in sugar industry. Only 25 per cent of workers have been provided with houses. The management was aware of the inadequate arrangements and was trying to make up the deficiency.
16. Sugar mills in U.P. have set up dispensaries to provide medical facilities to workers.
17. The sugar industry in U.P. was facing difficulties. The foremost of them was that cane growing was no longer as remunerative as sowing of high yielding maize and wheat. The cane-growers in U.P. have been consistently demanding higher prices. There is competition from Maharashtra and South India. In Maharashtra, the cane prices are much lower than in U.P. Naturally in an industry where cane prices constitute about

60 per cent of the cost of production, high prices of cane affect the production cost in the industry. Because of the high cost of product of sugar in U.P., it becomes difficult for the U.P. sugar mills to market their products in other States.

18. Productivity of workers is very low in Kanpur. Regional variations in productivity should be taken into consideration in fixing the wages and granting other amenities.

19. The first Wage Board for sugar industry did a good job and evolved new concepts and definitions. The second sugar Wage Board, however, was a political expedient. There should be a single pay-scale for one occupation and sub-classifications should be avoided as they create difficulties in fixing the same category of workers in the different grades.

20. Multiplicity of unions has to be avoided. There should be one sole bargaining agent.

21. Irresponsible persons should not be allowed to be office-bearers of any trade union in the country. Some safeguards in the Trade Union Act should be introduced to debar them.

22. One representative pointed out that in view of the political instability in the State, it was difficult for management to deal with the trade unions. For instance, under the previous Government, a particular trade union was being favoured. But with the change in the Government, a rival trade union received some backing. This creates difficulties for the management. There should be one union for U.P. Sugar industry.

NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 8-3-1968)

UTTAR PRADESH

4.30 P.M. to 5.30 P.M.

Record of discussions with Employers' Association of Northern India, Kanpur, represented by:

1. Mr. Govind Hari Singhania (Vide NCL Ref.No.
2. Mr. P.D. Singhania UP-V.18)
3. Mr. Kishan Narain
4. Mr. Vinod Kumar Kapoor
5. Mr. W.P. Aggarwal
6. Mr. M.L. Khullar
7. Mr. B.S. Aggarwal

1. Promotion should be on the basis of merit-cum-seniority.
2. There should be 310 working days in a year. The Kanpur mills were giving more festival holidays. The total number of festival holidays is 15, out of which five should be paid festival holidays and remaining ten festival holidays may be substituted by working on the weekly offs.
3. Trade union movement has gone into wrong hands and it has become an "occupation" with some persons.
4. It is desirable to eliminate political influence on trade unions by legislation. One way of reducing the political influence is to reduce the percentage of outsiders to 10 per cent. This should be inclusive of the existing outside leadership. Those who are not actually employed, should be treated as outsiders, along with the retired and discharged workers.
5. Certain allegations were made regarding favouritism shown by the Labour Department. (A note on the point illustrating the nature of favouritism shown by the Labour Department will be supplied.)
6. The grievance procedure as evolved under the Code of Discipline could not work well as both the parties had shown indifference to its working. Multiplicity of unions was also responsible for its ineffective functioning.
7. Conciliation machinery should be impartial.
8. There were complaints against the Certifying Officers. Invariably the Certifying Officers pressed the managements to adopt Model Standing Orders without allowing any changes in them. Since the Model Standing Orders do not suit each and every unit, this attitude of Certifying Officers amounts to pressurising the employers.
9. In regard to adjudication, the views held by the

Council of Employers were endorsed. The present procedure of reference of cases to adjudication was explained. Once the failure report is submitted by a Conciliation Officer, it is examined by the Labour Department. In fact, two kinds of reports are submitted by the Conciliation machinery, one which is public - known both to employers and employees; the other is confidential which is sent to the Labour Department only. After scrutiny by the Labour Department, the cases are referred to adjudication. This procedure is cumbersome and dilatory and requires simplification. One way out was that each major industry should have a high level tripartite committee which should deal with major issues and in case such a committee failed to give satisfaction, the parties be allowed to refer the cases directly to adjudication.

10. Wages should not be subject to very frequent changes. These should be fixed for a specified period. Also in regard to dearness allowance, they were not in favour of frequent changes. Dearness allowance should be fixed for one year and the revision should be allowed only after a year has passed. Month to month adjustment in dearness allowance was not considered to be desirable.

11. The question of capacity to pay should not arise in fixing dearness allowance for those getting wages at the statutory minimum level. They were not opposed to the idea of safeguarding the statutory minimum against the cost of living. In regard to dear food allowance (DFA), they did not favour the suggestion made by the Council of Employers.

12. Fixation of a national minimum wage was opposed on the ground that disparities existed in the different regions and also the capacity of industries to pay differed from one to another.

13. Principle of equal pay for equal work should be on industry-cum-region-wise basis.

14. In U.P., re-instatement of dismissed workers was ordered in very few cases. However, the Association was of the view that compensation instead of re-instatement should be granted to a dismissed worker. (A detailed note on the procedure that should be followed in case of dismissals, extent of neutralisation of rise in cost of living will be supplied.)

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 8.3. 1968)

UTTAR PRADESH

5.30 P.M. to 6.00 P.M.

Record of discussions with Western U.P. Chamber of Commerce, Meerut, represented by:

Mr. R.K. Jain (Vide NCL Ref.No.UP-V.87)

1. There should be one union in one industry. Inter-union rivalry creates problems.
2. 'Closed shop' should be promoted and, if need be, the Constitution may be suitably amended.
3. Once a representative union comes into existence, there should be no further registration of any new union.
4. Multiplicity of unions and political influence on unions lead to bad industrial relations, both in private and public sector undertakings. Trade unions should not have any affiliation to political parties.
5. The views of Indian Council of Employers on the method to be adopted for recognition of unions were acceptable.
6. Dismissed employees and those who are not on the muster rolls should be considered as outsiders. A ban should be imposed on the entry of outsiders in trade unions. In no case, outsiders be allowed to function as office-bearers. Outsiders can give guidance to trade unions even without joining the unions.
7. Go-slow, gheraos, pen-down strikes should be considered to be coercive tactics and should not be treated merely as cases of strike. Such activities should be banned.
8. Employees' State Insurance has increased the rate of absenteeism. It is particularly true of Western U.P. (A note on this will be supplied.)

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 9.3.1968)

UTTAR PRADESH

10.00 A.M. to 10.30 A.M.

Record of discussions with Forest Research Institute and College, Dehradun (Central Public Sector Undertaking), represented by:

Mr. R.C. Kaushik, (Vide NCL Ref.No.UP-III.59)
Director, Forest Education,
Forest Research Institute,
Dehradun.

1. In this Institute, 158 workers are covered under the Industrial Disputes Act while the rest are not. No contract labour is employed.

2. The definition of industrial workers under the Industrial Disputes Act should be such as to exclude the workers engaged in research and employed in such institutes. The Act should be applicable only to workers engaged in commercial production activities.

3. Two sets of rules are applicable in the Institute, viz., (i) Public Servants' Conduct Rules, and (ii) The Industrial Disputes Act. The workers covered under the Industrial Disputes Act take advantage of both the Act as well as the Public Servants' Conduct Rules.

4. Since some workers are covered by the Industrial Disputes Act, those who are not also clamour to form unions and urge to be covered under the Industrial Disputes Act. This creates problems for the Institute.

5. Under the present system of fixing daily wages, the employer has to move the District Collector for revision of wages. An employer does not have a free hand to determine the daily wages of a casual labourer. Such a procedure involves avoidable delays and accounts for the difference in wages of a casual labour employed by the Institute and his counterpart in the town. Employers should be given powers under the Minimum Wages Act to revise the wages of casual labourers in order to establish parity with market rates without reference to the Collector.

6. Another limitation of the Minimum Wages Act was that the wages at present are fixed for a period of five years with no provision for annual revision of rates. The procedure for revision of minimum wages is cumbersome and it takes six months to a year.

7. The channels of communication between the management and the worker are satisfactory.

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 9.3.1968)

UTTAR PRADESH

10.30 A.M. to 11.30 A.M.

Record of discussions with the following Secretaries of State Government Departments and Heads of Public Sector Undertakings represented by:-

(1) Department of Industries.

- (i) Mr. N.P. Chatterjee, IAS,
Secretary (also represented the interests
of Churk Cement Fy.)
- (ii) Mr. A.K. Sharma, IAS,
Special Secretary.
- (iii) Mr. Ashok Chandra, IAS,
Addl. Director.

(2) Govt. Precision Instruments Fy. (Vide NCL Ref No.UP-IV.53)

Mr. K.K. Rohatgi,
Engineer Manager.

(3) U.P. State Electricity Board.

Mr. Bharat Narain, IAS,
Member-Secretary.

(4) Govt. Churk Cement Fy. (Vide NCL Ref. No.UP-IV.52)

Mr. I.D. Singh,
Personnel Officer.

(5) Public Motor Transport U.P. (Vide NCL Ref No.UP-IV.51)
(U.P. Roadways)

- (i) Mr. R. Bhardwaj, IAS,
Transport Commissioner.
- (ii) Mr. V.P. Puri,
Deputy Transport Commissioner.

(6) Public Works Department.

Mr. R.H. Chishti, IAS,
Secretary.

1. The wage structure must be closely linked with productivity and in evolving such a structure, the capacity

of the industry should be taken into consideration. It was explained that such a system was prevalent in Sweden. A Tripartite Conference is held there once in three years to determine wage structure. Such a system ensures industrial peace for three years.

2. They were not aware if any productivity index for industries in India has been prepared.
3. Overtime should be strictly regulated and there should be a watch on full utilisation of the regular working hours.
4. The minimum wages should not be related to industry's capacity to pay. If possible, the clerical workers including technical workers should be paid on piece-rates.
5. The concept of a national minimum wage was opposed as it was not feasible.
6. Multiplicity of unions has to be avoided. There should be one sole bargaining agent. The difficulties experienced in the Cotton Textile Industry were explained. In Kanpur there are 34 registered unions; actually there are as many as 52 unions. It becomes difficult for the management to deal with a number of unions.
7. Secret ballot method was preferred for determining the representative character of a trade union. All workers should have right to vote. It was apprehended that this method might induce the unions to secure votes by bribing the workers. Eventually, it may lead to financial liquidation of some trade unions, but this danger according to him has to be faced. (Personal views of the Secretary, Department of Industries.)
8. There are some cases where employers had all the resources to introduce modernisation, but the step was resisted by the workers. (A note on such cases will be supplied by the Secretary, Department of Industries.)
9. Recognition of unions on the basis of secret ballot should hold good for two to three years. The minority unions should be allowed to deal with individual grievances.
10. The Electricity Board has appointed a Committee to go into all aspects of labour management relations including the question of secret ballot for determining the representative character of a union. The report is likely to be submitted shortly. (A copy of the report will be sent to the Commission.)
11. The percentage of outsiders should be reduced. The representative of the P.W.D., however, was in favour of their elimination. The outsiders can be employed for whole time office work of a union, but should not be its members.
12. Out of 1,500 workers in the Central Workshop, 200 are permanent, 40 to 50 percent casual, and the rest are temporary. In the Regional Workshops, 20 per cent of the workers are casual, 50 per cent permanent, and the rest are temporary. A Committee has been set up to go into the question of converting casual labourers to regular cadre. These casual labourers are doing regular jobs in workshops. It is also a fact that wages of some categories of casual labourers, such as carpenters and black-smiths, are higher than those of permanent workers.

13. The workers in the Transport Department work 48 hours a week.
14. In the P.W.D. amongst the operating and running staff, 50 per cent are permanent and the rest temporary. The question of absorbing temporary workers into permanent cadre is under consideration.
15. There is no contract labour employed in the P.W.D.
16. It is not known if there is any Fair Wages Clause in the P.W.D. contracts. (This will be verified and a note will be sent by the representative of the P.W.D. They will also supply to the Commission, the data regarding actual wages paid by contractors to workers after holding a sample enquiry.)
17. The P.W.D. employs about 20,000 workers on construction jobs. These include gangmen, etc. They are paid on monthly basis. A decision has been taken to absorb the maintenance department workers of three years service into the permanent cadre. They also employ seasonal workers who are paid on daily wages. In peak period, their number may run into a lakh.

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow. - 9.3.1968)

UTTAR PRADESH.

11.30 A.M. to 12.00 P.M..

Record of discussions with Shri Prabhu Narain Singh, President, Hind Mazdoor Panchayat and Ex-Labour Minister, U.P.

1. The process of collective bargaining should be strengthened by bipartite arrangements.
2. As long as the question of recognition of unions and mode of determining such a union is not settled, the trade union movement will not be strong. The verification procedure under the Code of Discipline is not at all satisfactory. There is no alternative to secret ballot. The danger of irrational demands being raised and played up at the time of election may be there. But this cannot be an argument against secret ballot. Even a section in the INTUC (U.P.) is in favour of secret ballot.
3. Elections should be held after every two or three years.
4. There should be a common labour code and a common pattern of labour judiciary. The cadre of labour judiciary should consist of persons conversant with the concept of social justice. It should include renowned but retired trade union leaders, good and efficient officers of labour department, High Court and Supreme Court judges and industrialists having progressive outlook.
5. Labour Appellate Tribunal should be revived.
6. The Bonus Act has many lacunae. The recent Supreme Court decision has led to the denial of the fruits of hard collective bargaining. Moreover, departmentally-run undertakings have been excluded from the purview of the Act.
7. It is feasible and desirable to fix 'need-based minimum wage' at industry-level. Industries will automatically adjust to such wages.
8. Collective bargaining was opposed. He felt that at some stage, the Government will have to intervene.
9. All political parties should come together to form one united labour front.
10. Outsiders cannot be eliminated. However, their number may be reduced, but only by creating suitable climate.
11. The national minimum wage should be closer to the 'need-based minimum wage'.
12. Arbitration should be encouraged. Adjudication need not be abolished at present.

13. 'Gheraos' are not strikes. They, however, should be discouraged at all costs though workers should not be penalised for participating in peaceful gheraos. 'Go-slow' should also be discouraged.

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 9.3.1968)

UTTAR PRADESH

12.00 Noon to 12.15 P.M.

Record of discussions with Chief Medical Officer,
Eye Hospital, Sitapur, represented by:

1. Mr. H.L. Patney (Vide NCL Ref No.UP-VII.30)
2. Mr. D.P. Nath
3. Mr. N.P. Sinha

1. The hospital workers should be taken out of the
purview of the Industrial Disputes Act.

2. Unions should not be recognised because they are
influenced and led by outsiders.

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 9.3.1968)

UTTAR PRADESH

12.30 P.M. to 1.00 P.M.

Record of discussions with Dr. V.B. Singh, Lucknow University (Vide NCL Ref. No. UP-X-20) and Dr. Asha Ram, Allahabad University.

1. There should be compulsory unionism in view of the trend towards falling trade union membership in other countries.
2. The collective bargaining agent should be elected by secret ballot. Minority unions may function as "constructive opposition".
3. The procedure of determining representative union in the Bombay Industrial Relations Act (BIR Act) needs modification before being adopted in other States. (A note on the functioning and rights of minority unions and envisaged modifications in the BIR Act will be supplied.)
4. Representative unions should be subsidised on the lines of subsidy paid by the Government to cooperative societies. Such grant can be utilised for running union office.
5. (Dr. Singh will send a note on his concept of rational wage policy.)
6. The Wage Boards have useful functions to perform but have been run in a most perfunctory way. Their working should be regulated and made more effective.
7. He offered to send a note on "How to measure labour productivity" and another note on his statement at page 16, para 4 that "When wages increase, experienced workers are dismissed on one pretext or another."
8. Dr. Asha Ram was of the view that the workers should be so educated that they build up their own class leadership. At present, the working class leadership is in the hands of persons from the middle class who get on well with the employers socially but who have neither the time nor the aptitude to devote themselves fully to their tasks.

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 9.3.1968)

UTTAR PRADESH

3.00 P.M. to 3.30 P.M.

Record of discussions with Shri Mitthan Lal (Retired High Court Judge), Chairman, State Industrial Tribunal, Allahabad: (Vide NCL Ref No. UP-X.43)

1. A common labour code and a common pattern of labour judiciary were favoured. There should be an All-India Labour Judicial Service for next 20 years or so. Once collective bargaining has struck roots and sufficiently developed, such a service will not be necessary.
2. Selection of personnel should be made in consultation with the U.P.S.C.; even at present U.P.S.C. has a voice in selection of Labour Judges. Owing to inadequate strength of High Court Judges, it may not be feasible to appoint only sitting High Court Judges for Industrial Tribunals. If retired Judges are to be appointed, it should be a term appointment or the age of retirement be fixed at 65 years. It is not necessary to lay down qualifications including acquaintance with labour laws for Labour Judges because they acquire knowledge and experience in course of work.
3. In the State, money payable under awards is realised as arrears of land revenue and the present practice is better. Employers delay the implementation of awards in various ways. It would not be possible to implement awards automatically. If awards are to be implemented by Courts by giving them powers of execution, it will mean more delays.
4. Labour Appellate Tribunal should not be revived; it will mean prologing litigation.
5. Wages should be linked to production and be fixed on piece-rates rather than on time rates.
6. Dear Food Allowance should bear some relationship to productivity. Basic wages should be freezed or should be fixed taking a particular year, say 1963-64, as the base year, and thereafter percentage of neutralisation should vary with productivity. Norms of work should be fixed. Those who put in work according to the norms should be paid the highest fixed percentage of neutralisation and others should be given lesser percentage according to their performance.
7. There are difficulties in adopting a progressive wage policy. The minimum wage policy should be decided by the Centre and not by the States in the interest of uniformity.
8. The subject 'labour' should continue in the Concurrent List.
9. Only one trade union (as far as possible) and not

more than two unions should be registered. For registration, a certain percentage of membership should be prescribed.

10. Membership of a particular union can be determined by the Labour Department by verification. For recognition, both verification and secret ballot are good, but secret ballot would be preferable.

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NATIONAL COMMISSION ON LABOUR

(Camp: Lucknow - 9.3.1968)

UTTAR PRADESH

3.30 P.M. to 5.00 P.M.

Record of discussions with Labour Secretary,
Labour Commissioner and other Officers of State Labour Department represented by:-

1. Mr. A.K. Sharma, (Vide NCL Ref No. UP-I.12)
Secretary, Labour.
2. Mr. R.K. Gupta,
Deputy Secy., Labour.
3. Mr. J.N. Tiwari,
Labour Commissioner.
4. Mr. J. Prasad,
Joint Labour Commissioner.
5. Mr. H.M. Misra,
Deputy Labour Commissioner.
6. Mr. S.P. Singh,
Deputy Labour Commissioner.

1. There should not be any limit to the number of festival holidays because of regional variations in the observance of festivals. Any prescription of minimum or maximum number of festival holidays will create unnecessary problems. The matter should be left to mutual discussions, bipartite negotiations or conventions. However, it is possible to substitute festival holiday by working on weekly off days. There are some factories, including textile mills, which work uninterruptedly throughout the week except on festival holidays; maintenance of machinery in such units/ industries has not caused any problem. (A note giving number of factories which have a common number of holidays and a note on machine-maintenance in factories where work is carried on throughout the week will be supplied.)

2. The influence of political parties on trade unions is not the only cause for the multiplicity of unions. Labour legislation also, to some extent contributed to the multiplicity of unions. Labour legislation has also led to litigation.

3. The Indian Trade Union Act was passed when the trade union movement in India was in its infancy and needed protection; now some modifications are required to facilitate the smooth functioning of trade unions.

4. Internal leadership has developed to some extent. There have been a considerable amount of negotiations, bargaining and proceedings before courts conducted by workers themselves. In Kanpur and in other areas as well there are signs of growing internal leadership but at the present moment we cannot do away with outsiders.
5. Multiplicity of unions should be avoided. It would not be possible for the Registrar to refuse registration of a union when the requisite conditions are fulfilled. The law should be suitably amended to restrict the formation of unions. In U.P. a Bill in this regard is on the anvil. One of its provisions is to lay down a minimum percentage of membership for registration.
6. There should be a sole bargaining agent at plant level and industry level duly elected by secret ballot. Already a bill has been introduced in U.P. which, inter-alia provides for registration of only those unions in a unit which have a minimum membership of 5 per cent of the workers in that unit. The representative agreed to consider fixation of this percentage, subject to a minimum number of worker members.
7. The sole bargaining agent should be determined by secret ballot. The voting right be restricted to members only to promote unionism.
8. Unions having 10 per cent membership at the industry level and 15 per cent at the plant level should be allowed to contest elections of a sole bargaining agent for an industry or plant respectively.
9. 'Union shop' and 'closed shop' is one of the methods of producing multiplicity of unions but such a system is neither possible nor desirable in the present situation.
10. Revival of labour Appellate Tribunal was not favoured as it would cause delays in the settlement of disputes.
11. Collective bargaining was not favoured in absolute terms. It was felt that adjudication system had impeded the growth of collective bargaining but in the present circumstances, it cannot be easily done away with. Some principle may be evolved to enable the Government to minimise resort to adjudication. One way is to refer only important cases to adjudication. This might be a drastic step but the risk is worth taking. (Personal view of the Labour Commissioner.)
12. The subject 'labour' may continue in the Concurrent List. State Legislation should provide for local variations.
13. In addition to adjudication, multiplicity of unions and the absence of any provision in the Act for determining the sole bargaining agent have retarded the development of collective bargaining. These basic issues must be tackled first.
14. In regard to domestic inquiries, the accuser was also the judge. Third party intervention through an arbitrator was not favoured. It would create complications. They preferred the present Bill before the Lok Sabha.

15. If parties are given the powers to refer the cases directly for adjudication, the existing machinery will be overburdened. The present experience with conciliation proceedings bears out the point. Even important cases would be delayed. It is also not possible to increase the number of tribunals indefinitely. The Labour Commissioner explained the present procedure of reference of cases to adjudication. The principles governing the present practice and nature of cases referred to are decided at a tripartite conference. (A copy of the note setting out these principles will be supplied.)
16. Voluntary arbitration was preferable. They have no objection to collective bargaining agreement containing a clause for reference of disputes to arbitration in case of failure of collective bargaining.
17. The present restrictions on the strikes in public utility services are adequate.
18. The capacity of industry to pay should not be taken into consideration in fixing subsistence wages.
19. The Labour Department is currently responsible for implementation of the Minimum Wages Act. Fair Wages Clause is not included in the PWD contracts and the minimum wages fixed for scheduled employments are not higher than the market rates.
20. No difference should be made in the application of labour laws in respect of private, public and cooperative sectors. In U.P., all labour laws excepting the Bonus Act and the machinery constituted under the U.P. Industrial Disputes Act are applicable to departmentally-run undertakings. The Labour Commissioner explained the features of a specially constituted machinery for the settlement of disputes in the public sector undertakings under the U.P. Industrial Disputes Act. At times, the departmentally-run undertakings make ex-gratia payment.
21. Bipartite consultations are useful in matters of minor significance. In major issues, the presence of labour departmental representative becomes necessary as a coordinating agent. However, in U.P. sugar industry, bipartite negotiations have worked well in settling major issues as well.
22. The model grievance procedure has not been popular with either the trade unions or with employers. In all factories where minor questions of misconduct are involved, there is already some sort of procedure by which the workers can approach the management and seek redress. In cases of victimisation when workers feel that the management has already made up its mind, they consider it futile to resort to the Model Grievance Procedure which cannot protect them against malafide action of the employer. The utility of this procedure is, therefore, very slight.