



# भारत का राजपत्र

## The Gazette of India

प्राधिकार से प्रकाशित  
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नई दिल्ली, शनिवार, मई 31, 1997/ज्येष्ठ 10, 1919  
NEW DELHI, SATURDAY, MAY 31, 1997/JYAISTHA 10, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह खलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

### भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांख्यिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

राष्ट्रपति सचिवालय

सारणी

नई दिल्ली, 8 मई, 1997

का.आ. 1403.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेवखली) अधिनियम, 1971 तथा तब के भारत के आवास एवं निर्माण मंत्रालय की अधिसूचना सं. का.आ. 720 दिनांक 10 मार्च, 1973 के अधिक्रमण में धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे सारणी के स्तम्भ (1) में उल्लिखित अधिकारी को, जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिये संघदा अधिकारी नियुक्त करती है। यह अधिकारी उक्त सारणी के स्तम्भ (2) में तत्स्थानी प्रबिष्टि में विनिर्दिष्ट सरकारी स्थानों के प्रवर्गों के संबंध में उक्त अधिनियम के द्वारा या उसके अधीन संघदा अधिकारियों को अपने क्षेत्राधिकार की स्थानीय सीमाओं में प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोपित कर्तव्यों का पालन करेगा।

| अधिकारी पदनाम  | सरकारी स्थानों के प्रवर्ग एवं क्षेत्राधिकार की स्थानीय सीमाएँ   |
|--|---|
| (1)  | (2)   |
| श्री देश राज राकेश,<br>अवर सचिव (समन्वय)<br>राष्ट्रपति सचिवालय | स्थानों में नई दिल्ली, शिमला<br>(हि.प्र.), देहरादून (उ.प्र.)<br>एवं बोकाराम सिकंदराबाद<br>(आ.प्र.) समाविष्ट है। |

[फाइल सं. डी 11020/1/90 ई.बी.ए.]

सी.आर. संपथ कुमार, मेजर जनरल,

राष्ट्रपति के सैन्य सचिव

## PRESIDENT'S SECRETARIAT

New Delhi, the 8th May, 1997

S.O. 1403.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of unauthorised Occupants) Act, 1971 and in supersession of the then Government of India in the Ministry of Works and Housing Notification No. S.O. 720 dated the 10th March, 1973, the Central Government hereby appoints the officer mentioned in column 1 of the table below being a gazetted officer of the Government to be Estate Officer for the purpose of the said Act who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act within local limits of his respective jurisdiction in respect of the public premises specified in the corresponding entry in column 2 of the said table.

TABLE

| Designation of the Officer   | Categories of Public Premises & local limits of jurisdiction  |
|--|---|
| 1  | 2   |
| Shri Desh Raj Raksh,<br>Under Secretary (Coord),<br>President's Secretariat. | Premises, comprising the President's Estate in New Delhi, Shimla (Himachal Pradesh), Dehradun (Uttar Pradesh) and Bolarum, Secunderabad (Andhra Pradesh). |

[File No. D-11020/1/90 EBA]  
C.R. SAMPATH KUMAR, MAJOR GENERAL,  
Military Secy. to the President

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

(न्यायिक अनुभाग)

सूचना

नई दिल्ली, 7 अप्रैल, 1997

क्र.आ. 1404.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री के.एल. रत्नाकर, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बारे में दिया है कि उसे बंगलूर सिटी (कर्नाटक) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाये।

[सं० 5(89)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी

एवं अपर विधि सहायक

## MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

(Judicial Section)

## NOTICE

New Delhi, the 7th April, 1997

S.O. 1404.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. K. L. Ratnakar, Advocate for appointment as a Notary to practise in Bangalore City (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(89)/97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

सूचना

नई दिल्ली, 7 अप्रैल, 1997

क्र.आ. 1405.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सईद नूरुल हसन, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे तहमानबी रायचूर जिला (कर्नाटक) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाये।

[सं० 5(90)/97-न्यायिक]

एन० सी० जैन,

सक्षम प्राधिकारी एवं

अपर विधि सहायक

## NOTICE

New Delhi, the 7th April, 1997

S.O. 1405.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Syed Noorul Hassan Adv. for appointment as a Notary to practise in Teh Manvi, Raichur Dist. (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F.5(90)97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

## सूचना

नई दिल्ली, 7 अप्रैल, 1997

का.आ. 1406.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एच० रामाप्पा, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे सिधनूर (कर्नाटक) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं० 5(91)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

## NOTICE

New Delhi, the 7th April, 1997

S.O. 1406.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. H. Ramappa, Advocate for appointment as a Notary to practise in Sindhanoor (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(91)/97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

## सूचना

नई दिल्ली, 7 अप्रैल 1997

का.आ. 1407.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री जगदीश प्रसाद, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे बुलन्दशहर (उत्तर प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं. 5(92)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

## NOTICE

New Delhi, the 7th April, 1997

S.O. 1407.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the

said Authority, under Rule 4 of the said Rules, by Sh. Jagdish Prasad, Advocate for appointment as a Notary to practise in Blundshahar (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(92)/97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

## सूचना

नई दिल्ली, 7 अप्रैल, 1997

का.आ. 1408.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुरेश चन्द्र भारद्वाज, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस के लिये दिया है कि उसे सह. हाथरस, अलीगढ़ (उत्तर प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं. 5(93)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी एवं

अपर विधि सलाहकार

## NOTICE

New Delhi, the 7th April, 1997

S.O. 1408.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Suresh Chandra Bhardwaj, Advocate for appointment as a Notary to practise in Teh. Hathras, Distt. Aligarh (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(93)/97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

## सूचना

नई दिल्ली, 7 अप्रैल, 1997

का.आ. 1409.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री शमशाद हुसैन, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे नगीना तहसील, मुजफ्फरनगर,

उत्तर प्रदेश में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं० 5(94)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी एवं

अपर विधि सलाहकार

#### NOTICE

New Delhi, the 7th April, 1997

S.O. 1409.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Shamshad Hussain, Advocate for appointment as a Notary to practise in Teh. Nagina Distt. Mujaflar Nagar (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(94)/97-Judl.]

N. C. JAIN, Competent Authority & Additional Legal Adviser

#### सूचना

नई दिल्ली, 10 अप्रैल, 1997

का.आ. 1410.—नोटरीय नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुरेश सिंह, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे बाराबंकी (उत्तर प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं० 5(95)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी

एवं अपर विधि सलाहकार

#### NOTICE

New Delhi, the 10th April, 1997

S.O. 1410.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Suresh Singh, Advocate for appointment as a Notary to practise in Baranbanki (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(95)/97-Judl.]

N. C. JAIN, Competent Authority & Additional Legal Adviser

#### सूचना

नई दिल्ली, 10 अप्रैल, 1997

का.आ. 1411.—नोटरीय नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री अतुल कुमार शर्मा, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे गाजियबाद कचहरी (उत्तर प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं० 5(96)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी

एवं अपर विधि सलाहकार

#### NOTICE

New Delhi, the 10th April, 1997

S.O. 1411.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Atulya Kumar Sharma, Advocate for appointment as a Notary to practise in Ghaziabad Collectorate (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(96)/97-Judl.]

N. C. JAIN, Competent Authority & Additional Legal Adviser

#### सूचना

नई दिल्ली, 10 अप्रैल, 1997

का.आ. 1412.—नोटरीय नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री बरविन्दर पाल सिंह, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे मुक्तसर जिला (पंजाब) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं० 5(97)/97-न्यायिक]

एन० सी० जैन, सक्षम प्राधिकारी

एवं अपर विधि सलाहकार

#### NOTICE

New Delhi, the 10th April, 1997

S.O. 1412.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Barvender Pal Singh, Advocate for appointment as a Notary to practise in Muktsar Distt. (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(97)/97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

सूचना

नई दिल्ली, 10 अप्रैल, 1997

का.आ. 1413.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री निर्मल गंधी (सैनी), एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे नई कचहरी, जलंधर (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाये।

[सं. फा. 5(98)/97-न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

NOTICE

New Delhi, the 10th April, 1997

S.O. 1413.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Nirmal Gandhi (Saini), Adv. for appointment as a Notary to practise in New Court, Jalandhar (Pb.)

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(98)/97-Judl.]

N. C. JAIN, Competent Authority &  
Additional Legal Adviser

सूचना

नई दिल्ली, 10 अप्रैल, 1997

का.आ. 1414.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री राजन सचदेवा एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे अमृतसर (पंजाब) में व्यवसाय करने के लिए नोटरीज के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(99)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी  
एवं अपर विधि सलाहकार

NOTICE

New Delhi, the 10th April, 1997

S.O. 1414.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rule, by Sh. Rajan Sachdeva, Advocate for appointment as a Notary to practise in Amritsar (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(99)/97-Judl.]

N. C. JAIN, Competent Authority &  
Addl. Legal Adviser

सूचना

नई दिल्ली, 10 अप्रैल, 1997

का.आ. 1415.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रमेश चन्द कटारिया, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे फाजिल्का तहसील कोर्ट, जिला फिरोजपुर (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(100)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी  
एवं अपर विधि सलाहकार

NOTICE

New Delhi, the 10th April, 1997

S.O. 1415.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Ramesh Chand Kataria for appointment as a Notary to practise in Fazilka Teh. Court Dist. Ferozepur (Pb.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(100)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 29 अप्रैल, 1997

का.आ. 1416.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री यू. एस. नागराजा एडवोकेट ने उक्त प्राधिकारी को उक्त

नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे चिकमगलूर जिला (कर्नाटक) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(87)/97-न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी  
एवं अपर विधि सलाहकार

### NOTICE

New Delhi, the 29th April, 1997

S.O. 1416.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri U. S. Nagaraja Advocate for appointment as a Notary to practise in Chikmagalur, District (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(87)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

### सूचना

नई दिल्ली, 29 अप्रैल, 1997

का.आ. 1417.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री अरविन्दर सिंह उप्पल एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे मुक्तसर जिला (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(101)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी  
एवं अपर विधि सलाहकार

### NOTICE

New Delhi, the 29th April, 1997

S.O. 1417.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Arvinder Singh Uppal, Advocate for appointment as a Notary to practise in Muktsar District (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to

the undersigned within fourteen days of the publication of this notice.

[No. F. 5(101)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

### सूचना

नई दिल्ली, 29 अप्रैल, 1997

का.आ. 1418.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री पविन्दर कुमार, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बुद्धलाडा जिला मानसा (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(102)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी  
एवं अपर विधि सलाहकार

### NOTICE

New Delhi, the 29th April, 1997

S.O. 1418.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Pavinder Kumar, Advocate for appointment as a Notary to practise in Budhlada Distt. Mansa, (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(102)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

### सूचना

नई दिल्ली, 29 अप्रैल, 1997

का.आ. 1419.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री बी.एम. आहूजा, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे दिल्ली (राष्ट्रीय राजधानी) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(107)/97-न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी एवं अपर  
विधि सलाहकार

## NOTICE

New Delhi, the 29th April, 1997.

S.O. 1419.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri B. S. Ahuja, for appointment as a Notary to practise in Delhi (N.C.T. of Delhi).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(107)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 29 अप्रैल, 1997

का.आ. 1420.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री प्रेम पाल, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जिला न्यायालय यमुना नगर, जगधरी (हरियाणा) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(08)/97 न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी एवं अपर  
विवि सलाहकार

## NOTICE

New Delhi, the 29th April 1997.

S.O. 1420.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Prem Pal Advocate for appointment as a Notary to practise in Distt. Courts Yamuna Nagar, Jagadhri (Haryana).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(108)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 1 मई, 1997

का.आ. 1421.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि सुश्री एस.लीलावती एडवोकेट ने उक्त

प्राधिकारी को उक्त नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे भंडूख जिला (कर्नाटक) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5/110/97-न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी एवं अपर विधि सलाहकार

## NOTICE

New Delhi, the 1st May, 1997.

S.O. 1421.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Mrs. S. Leelavathi Advocate for appointment as a Notary to practise in Mysore Distt. (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(110)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 1 मई, 1997

का.आ. 1422.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रमेश लाल कम्बोज, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जलालाबाद (दिल्ली) जिला फीरोजपुर (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का यह आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. फा. 5(111)/97-न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी  
एवं अपर विधि सलाहकार

## NOTICE

New Delhi, the 1st May, 1997.

S.O. 1422.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Ramesh Lal Kamboj Advocate for appointment as a Notary to practise in Jalalabad (W.) Punjab (Distt. Ferozepur).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(111)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 1 मई, 1997

क्रा.सं. 1423.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रमेश कटारिया, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे फिरोजपुर जिला (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आवेदन इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(113)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

## NOTICE

New Delhi, the 1st May, 1997.

S.O. 1423.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Ramesh Kataria, Advocate, for appointment as a Notary to practise in Ferozepur District (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[सं. 5(113)/97-न्यायिक]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 1 मई, 1997

क्रा.सं. 1423.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रमेश कटारिया, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे फिरोजपुर जिला (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आवेदन इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(113)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

## NOTICE

New Delhi, the 1st May, 1997.

S.O. 1424.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules,

by Shri Deen Dayal Garg, Advocate for appointment as a Notary in practise in Nagar Distt. Bharatpur (Rajasthan);

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(115)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 1 मई, 1997

क्रा.सं. 1425.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री देन दयाल गार्ग, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे नगर जिला (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आवेदन इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(115)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

## NOTICE

New Delhi, the 1st May, 1997.

S.O. 1425.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Deen Dayal Garg, Advocate for appointment as a Notary to practise in Nagar Distt. Bharatpur (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(116)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

सूचना

नई दिल्ली, 2 मई, 1997

क्रा.सं. 1426.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विनोद कुमार, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे राष्ट्रीय राजधानी किल्ला में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आवेदन इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(119)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी एवं  
अपर विधि सलाहकार

## NOTICE

New Delhi, the 2nd May, 1997

S.O. 1426.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Vinod Kumar, Advocate for appointment as a Notary to practise in N.C.T. of Delhi.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(119)/97-Judl.]

N. C. JAIN, Competent Authority & Addl.  
Legal Adviser.

कामिन्द, लोक शिकायत तथा पेंशन मंत्रालय

(कामिन्द और प्रशिक्षण विभाग)

अ-प्रादेश

नई दिल्ली, 8 मई, 1997

का.अ. 1427.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम 25) की धारा 5 की उपधारा (1) के साथ पठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, आदेश सं. 141/पी.एस. 12/96-97 दिनांक 16-3-97 द्वारा प्राप्त उत्तर प्रदेश राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार भारतीय दण्ड संहिता की धारा 392/304 के अन्तर्गत पंजीकृत प्राथमिक सूचना सं. 38/97 दिनांक 26-2-97 पुलिस थाना जैतपुर, जिला आगरा, उत्तर प्रदेश तथा संबंधित सर्वश्री राम स्वल्प, अशोक तथा राम-खिलाड़ी के दिनांक 17/18-2-97 को अपहरण एवम् टुक लूटने के अन्वेषण के लिये तथा वर्णित एक या अधिक अपराधों से संबंधित या उनसे संसक्त प्रयत्न, दुरूपेण और दण्ड्यता तथा उन्हीं पक्षों में उत्पन्न होने वाले वैसे ही संबंधित के अनुक्रम से किये गये कोई अन्य अपराध, प्राथमिक अधिनियम के प्रावधानों के अधीन दण्डनीय अपराधों के अन्वेषण के लिए सम्पूर्ण उत्तर प्रदेश राज्य पर करती है।

[संख्या 228/24/97-ए.वी.डी.-11]

हरिसिंह, अवर सचिव

MINISTRY OF PERSONNEL, P. G. AND PENSIONS

(Department of Personnel and Training)

## ORDER

New Delhi, the 8th May, 1997

S.O. 1427.—In exercise of the powers conferred by Sub-Section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act 25 of 1946), the Central Government with the consent of the Government of Uttar Pradesh, Home (Police) Section 12, Notification No. 141 P.S. 12/96-97 dated 16-3-1997 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar

Pradesh for the investigation of the offence punishable under Section 392/304 of the Indian Penal Code, 1860 (Act No. 41 of 1860) of case Crime No. 38/97 dated 26-2-1997 registered at P. S. Jaitpur, Dist. Agra, U.P. relating to the robbery and kidnapping of S Shri Ram Swaroop, Ashok and Ram Khiladi on 17/18-2-1997 and attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/24/97-AVD II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 12 फरवरी, 1997

(आयकर)

का.अ. 1428.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "बर्च ऑफ लार्थ इण्डिया एसोसिएशन नई दिल्ली" को कर निर्धारण वर्ष 1995-96 से 1997-98 तक के लिए निम्नलिखित शर्तों के अधीन रखे हुए, उस उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिता इसकी आय का इस्तेमाल प्रथम इसकी आय का इस्तेमाल करने हेतु इसका संवर्धन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर निर्धारिता ऊपर उल्लिखित कर निर्धारण वर्षों से मगन पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक प्रथम एक से अधिक उंग प्रथम तरीकों से भिन्न तरीकों में इसकी निधि (जबर-जवाहिरान, कर्तबगर आदि के रूप में प्राप्त तथा रख-रखाव में वैयक्तिक प्रयोजन से भिन्न) का निवेश नहीं करेगा प्रथम उंग प्रथम नहीं करेगा संकेत;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाषों के अन्तर्गत अब तक कि ऐसा कारोबार उक्त कार-निर्धारितों के उद्देश्यों की प्राप्ति के लिए आयोजित नहीं हो, तथा ऐसे कारोबार के संबंध में प्रथम न लेखा पुस्तिकाएं नहीं रखी जानगी हों।

[अधिसूचना सं. 10274/फा० सं. 197/3/97-आ क० नि I]

एच. के. चौधरी, अवर सचिव,

New Delhi, the 12th February, 1997  
(INCOME TAX)

S.O. 1428.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Church of North India Trust Association, New Delhi" for the purpose of the said sub-clause for the assessment years 1995-96 to 1997-98 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts and maintained in respect of such business.

[Notification No. 10274/F. No. 197/3/97-ITA-I]  
H. K. CHOUDHARY, Under Secy.

नई दिल्ली, 25 अप्रैल, 1997

(मुख्यालय स्थापना)

का०आ० 1429:—केन्द्रीय सरकार, केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 की संख्या 54) की धारा 3 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय राजस्व सेवा (आयकर) के अधिकारी श्री ए. के. बतान्याल को दिनांक 25 अप्रैल, 1997 (पूर्वाह्न) से आगे आदेशों तक केन्द्रीय प्रत्यक्ष कर बोर्ड, राजस्व विभाग, वित्त मंत्रालय का सदस्य नियुक्त करती है।

[फा० सं० ए-19011/5/96-प्रशा० I]

प्यारे लाल, अवर सचिव

New Delhi, the 25th April, 1997  
(Headquarters Establishment)

S.O. 1429.—In exercise of the powers conferred by sub-section (2) of Section 3 of the Central Board of Revenue Act, 1963 (No. 54 of 1963), the Central Government hereby appoints Shri A. K. Batanyal, an Officer of Indian Revenue Services (Income-tax) as Member, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance with effect from 25th April, 1997 (F.N.) and until further orders.

[F. No. A-19011/7/97-Ad.I]

PYARE LAL, Under Secy.

नई दिल्ली, 29 अप्रैल, 1997

का० आ० 1430:—केन्द्रीय सरकार, केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 की सं० 54) की धारा

4 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय सीमाशुल्क एवं केन्द्रीय उत्पादशुल्क सेवा के अधिकारी श्री ए० एम० प्रसाद को दिनांक 29 अप्रैल, 1997 से आगे आदेशों तक केन्द्रीय उत्पाद शुल्क एवं सीमाशुल्क बोर्ड का सदस्य नियुक्त करती है।

[फा० सं० 19011/8/97-प्रशा०-I]

प्यारे लाल, अवर सचिव

New Delhi, the 29th April, 1997

S.O. 1430.—In exercise of the powers conferred by Sub-section (i) of Section 4 of the Central Board of Revenue Act, 1963 (No. 54 of 1963), the Central Government hereby appoints Shri A. M. Prasad, an officer of Indian Customs and Central Excise Service, as Member of the Central Board of Excise and Customs with effect from 29th April, 1997 and until further orders.

[F. No. 19011/8/97-Ad.I]

PYARE LAL, Under Secy.

आदेश

नई दिल्ली, 14 मई, 1997

का.आ. 1431:—चूंकि उप महानिदेशक (ममत्वय) स्वयं एक नियंत्रण व्यूरो जिनको स्थापक औषधों तथा मनःप्रभावी पदार्थ अधिनियम, 1988 के गैर कानूनी अद्वैत व्यापार की रोकथाम के लिए खंड 3 के उपखंड (i) के अधीन विशेष रूप से शक्ति प्राप्त है, ने उक्त उप खंड के अन्तर्गत दिनांक 24-2-1997 को फा. सं. 801/11/97 पिट एन डी पी एस के अधीन आदेश जारी करके निदेश दिया था कि श्री विमल कुमार बहल जो सामान्य रूप से प्लैट नं. 5, प्रथम तल, श्याम कुंज लिंकिंग रोड, खरे (इदल्य) मुम्बई-5 के निवासी है को स्थापक औषधों के पारगमन, भंडारण तथा भारत में निर्यात में शामिल होने के फलस्वरूप नजरबंद तथा केन्द्रीय कारागार, येरावड़ा पूर्ण-6 में हिरासत में रखा जाए।

(2) चूंकि केन्द्रीय सरकार यह समझती है कि उपर्युक्त व्यक्ति फरार है या अपने आपको छिपा रहा है जिसके कारण आदेश का पालन नहीं हो सका है।

(3) अतः अब उक्त अधिनियम के खंड 8 के उपखंड 1 उपवाक्य (ख) द्वारा निश्चित की गई शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार यह निर्देश देती है कि उक्त व्यक्ति सरकारी राजपत्र में इस आदेश के प्रकाशन के 10 दिनों के भीतर, निदेशक, स्थापक नियंत्रण व्यूरो, तीसरा तल, एकमंचेज भवन, स्प्रीट रोड व्लाड इस्टेट, मुम्बई-1 के समक्ष प्रस्तुत हो।

[फा. सं. 801/11/97-पिट एन डी पी एस]

बी. के. अरोड़ा, अवर सचिव

ORDER

New Delhi, the 14th May, 1997

S.O. 1431.—Whereas the Deputy Director General (Coordination), Narcotics, Control Bureau, specially empowered under sub-section (1) of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 issued order F. No. 801/11/97-PITNDPS dated 24-2-97 under the said sub-section directing that Shri Vimal Kumar Bahl ordinarily resident of Flat No. 5, 1st Floor, Shyam Kunj, Linking Road, Kher (F), Mumbai-5 be detained and kept in custody in the Central Prison, Yerawada, Pune-6 with a view to preventing him from engaging in the procurement, storage and abetting in the export from India of narcotic drugs;

2. Whereas the Central Government has reason to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of powers conferred by clause (b) of sub-section (1) of Section 8 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director, NCB, 3rd Floor, Exchange Building, Sprott Road, Ballard Estate, Mumbai-1 within 10 days of the publication of this order in the official Gazette.

[F. No. 801/11/97-PITNDPS]  
B. K. ARORA, Under Secy.

आदेश

नई दिल्ली, 14 मई, 1997

का.आ. 1432.—चूंकि उप महानिदेशक (समन्वय) स्वापक नियंत्रण ब्यूरो जिनको स्वापक औषधों तथा मनः प्रभावी पदार्थ अधिनियम, 1988 के तहत कानूनी अवरोध व्यापार की रोकथाम के लिये खंड 3 के उपखंड (i) के अधीन विशेष रूप से शक्ति प्राप्त है, ने उक्त उप खंड के अन्तर्गत दिनांक 8-10-96 को फा.सं. 801/23/96 पिटे एन डी पी एस के अधीन आदेश जारी करके निर्देश दिया था कि श्री मोहन लाल पुत्र श्री भूरे लाल ठाकोद जो गवि मनपुरा, पी.एस. रतनगढ़ तह. जावाद जिला, मध्यप्रदेश (म.प्र.) के निवासी हैं को स्वापक औषधों के क्रय, स्वामित्व, विक्रय में शामिल होने के फलस्वरूप नजरबंद तथा केन्द्रीय कारागार, इंदौर, मध्य प्रदेश में हिरासत में रखा जाये।

(2) चूंकि केन्द्रीय सरकार यह समझती है कि उपर्युक्त व्यक्ति फरार है या अपने आपको छिपा रहा है जिसके कारण आदेश का पालन नहीं हो सका है।

(3) अतः, अब, उक्त अधिनियम के खंड 8 के उपखंड 1 उपबन्ध (ख) द्वारा निश्चित की गई शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार यह निर्देश देती है कि उक्त व्यक्ति को सरकारी गजट में इस आदेश के प्रकाशन के 10 दिनों के भीतर श्री आर. के. सिन्हा, अधीक्षक (एक्स) कार्यालय डी. एन. सी., नीमच नारकोटिक्स कांशनी, जिला मंडसौर (म.प्र.) के समक्ष प्रस्तुत हों।

[फा.सं. 801/23/96-पिट एन डी पी एस)]

बी.के. अरोड़ा अध्वर सचिव

ORDER

New Delhi, the 14th May, 1997

S.O. 1432.—Whereas the Deputy Director General (Coordination) Narcotics Control Bureau specially empowered under sub-section (1) of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 issued order F. No. 801/23/96-PITNDPS dated 8-10-96 under the said sub-section directing that Shri Mohan Lal S/o Shri Bhuralal Dhakad resident of village Manpura, P.S. Ratangarh, Teh. Jawad, Distt. Mandasaur (Madhya Pradesh) be detained and kept in custody in the Central Jail, Indore,

Madhya Pradesh with a view to preventing him from engaging in the purchase, possession and sale of narcotic drugs.

2. Whereas the Central Government has reason to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore in exercise of powers conferred by clause (b) of sub-section (1) of Section 8 of the said Act the Central Government hereby directs the aforesaid person to appear before Shri R. K. Sinha, Supdt. (Ex. o/o the DNC Nemach, Narcotics Colony, Distt. Mandasaur (Madhya Pradesh) within 10 days of the publication of this order in the official Gazette.

[F. No. 801/23/96-PITNDPS]

B. K. ARORA, Under Secy.

मुख्य आयकर आयुक्त—III का कार्यालय

अधिसूचना सं. 2/96

कलकत्ता, 1 जनवरी, 1997

का. आ. 1433 :—अधिसूचना सं. 3 दिनांक 26-07-94 को कि आपन सं. स. आ./सूचना/योजना/30/94-95/2494-3293 दिनांक 27-07-94 द्वारा परिचालित किया गया था, तथा बाद की अधिसूचना सं. 1/96 जिसे आर. सं. स. आ.—III/आ./आ.सू.म-2/96-97/93-299 दिनांक 12-04-96 द्वारा जारी किया गया था. का आंशिक मसौदा करने हुए तथा आयकर अधिनियम 1961 (1961 का 43) की धारा 120 की उपधारा (1) तथा (2) द्वारा प्रदत्त शक्तियों का तथा केन्द्रीय प्रत्यक्ष कर बोर्ड नई दिल्ली की अधिसूचना संख्या—9565 एफ. सं. 279/29/93—आ. अ. (खण्ड—III), दिनांक 05-07-94 तथा एस.ओ. संख्या 504 दिनांक 05-07-94 द्वारा प्रदत्त शक्तियों का तथा इस दिशा में मुझे सक्षम बनाये वाली सभी शक्तियों का प्रयोग करते हुए मैं, मुख्य आयकर आयुक्त—III, कलकत्ता निदेश देता हूँ कि मुख्य आयकर आयुक्त कलकत्ता—III के क्षेत्र के आयकर आयुक्त (अंगीत) —III तथा VIII ऐसे व्यक्तियों के संबंध में अपने कृत्यों का पालन करेगे जिनके आयकर अथवा धनकर अथवा दानकर अथवा अतिकर अथवा व्याजकर अथवा व्यय कर अथवा सम्पदा शुल्क के बारे में कोलम 1, 2, 3 में विनिर्दिष्ट आयकर प्राधिकारियों/निर्धारण अधिकारियों के आयकर अधिनियम, 1961 की धारा 246 की उपधारा (2) के खण्ड (ए) में (बी) अथवा धनकर अधिनियम, 1957 (1957 का 27) की धारा 23 की उपधारा (ए) के खण्ड (ए) में (इ), दानकर अधिनियम, 1958 (1958 का 18) की धारा 22 की उपधारा (1ए) के खण्ड

(६) से (३), सम्पत्ती (वाद) अधिकार अधिनियम, 1984 (1984 का 7) की धारा--II की उपधारा (1), व्याज कर अधिनियम, 1974 (1974 का 45) की धारा--15 की उपधारा (1) व्यवहार अधिनियम, 1987 (1987 का 35) की धारा--22 की उपधारा (1) तथा सम्पदा शुल्क अधिनियम, 1953 की धारा 62 में उल्लिखित किसी आदेशों से व्यतिरिक्त हैं।

2 जहाँ एक आयकर सर्वल, वार्ड अथवा विशेष रेंज या उनके अंश इस अधिसूचना के अनुसार एक प्रधार में दूसरे प्रधार में स्थानांतरित हो गए हों, इस अधिसूचना के जारी होने के तुरन्त पक्ष आयकर आयुक्त (अपील) के समीप उन आयकर वार्ड/सर्वल/विशेष रेंज अथवा उनके अंश में हुई निष्पत्ति से उत्पन्न अपील संबंधित होती इस अधिसूचना के लागू होने की तिथि में उन वार्ड/सर्वल/विशेष रेंज अथवा उनके अंश से स्थानांतरित किए गए मामलों का निपटारा उन आयकर आयुक्त (अपील) के द्वारा किए जाएंगे, जिनके अधीन उक्त वार्ड/सर्वल/विशेष रेंज अथवा उनके अंश स्थानांतरित किए गए हैं।

| 1                                 | 2   | 3 |
|-----------------------------------|---|---|
| 01 आयकर आयुक्त (अपील)--3, कलकत्ता | (अ) आयकर उपायुक्त रेंज-9, कलकत्ता के अधीन कार्यरत सभी निष्पत्ति अधिकारी |   |

| 1                                 | 2  | 3   |
|-----------------------------------|--|---|
|                                   |  | (आ) आयकर उपायुक्त, रेंज 18 कलकत्ता के अधीन कार्यरत सभी निष्पत्ति अधिकारी                                      |
|                                   |  | (ए) आयकर उपायुक्त, वि. रेंज-6, कलकत्ता के अधीन कार्यरत सभी निष्पत्ति अधिकारी                                  |
| 02 आयकर आयुक्त (अपील)--8, कलकत्ता | (अ) आयकर उपायुक्त, रेंज 5, कलकत्ता के अधीन कार्यरत सभी निष्पत्ति अधिकारी | (आ) श्रुतिदया, मिशनगुरु तथा हुसदी सहित आयकर उपायुक्त, रेंज--19, कलकत्ता के अधीन कार्यरत सभी निष्पत्ति अधिकारी |

03. यह अधिसूचना 09-01-97 से प्रभावी होगी।

[चापन सं. मु. आ. --III/न्या./1/वाल्सूम--2/96-97/3665--3865]

तेजिन्दर सिंह, मुख्य आयकर आयुक्त--III

## OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX-III

NOTIFICATION No. 2/96

Calcutta, the 1st January, 1997

S.O. 1433.--In partial modification of the Notification No. 3 dated 26-7-94 which was circulated under the Memo No. AC/HQ/Planning/30/94-95/2494-3293 dated 27-7-94 and subsequent Notification No. 1/96 that was issued under the Memo No. CC-III/Juris/Vol. 2/96-97/93-299 dated 12-4-96 and in exercise of the powers conferred under sub-sec. (1) & (2) of Section 120 of the I.T. Act, 1961 (43 of 1961) and in exercise of the powers vested in me by the Central Board of Direct Taxes, New Delhi vide notification No. 9365 F.No. 279/129/93-ITC (Pt. II) dated 5-7-94 and S.O. No. 504 dated 5-7-94 and all other powers enabling me in this behalf, I, the Chief Commissioner of Income Tax-III, Calcutta direct that the Commissioner of Income Tax (Appeals)--III and VIII of the region of the CCIT-III, Calcutta, shall perform their functions in respect of such person assessed to Income Tax or wealth tax or Gift Tax or Sur-tax or Interest Tax or Expenditure Tax or Estate Duty by the Income Tax Authorities/Assessing Officers specified in Col. 1, 2 & 3 thereof as are aggrieved by any orders mentioned in clauses (a) to (b) or sub-sec. (2) of Sec. 246 of the I.T. Act, 1961 clauses (a) to (e) of sub-sec. (1A) of Section 23 of Wealth Tax Act, 1957 (27 of 1957) clauses (a) to (e) of sub-sec. (1A) of Sec. 22 of the Gift Tax Act, 1958 (18 of 1958). Sub-sec. (1) of Sec. 11 of the Companies (Profit) Sur-tax Act, 1984 (7 of 1984). Sub-sec. (1) of Sec. 15 of the Interest Tax Act, 1974 (45 of 1974) and Sub-sec. (1) of Sec. 22 of the Expenditure Tax Act, 1987 (35 of 1987) and Section 62 of the Estate Duty Act, 1953.

2. Where an Income Tax Circle, Ward or Special Range or part thereof stands transferred by this notification from one charge to another, appeals arising out of the assessments made in this Income Tax Ward/Circle/Special Range or part thereof and pending immediately before the date, from which this notification takes effect, before the Commissioner of Income Tax (Appeals) from whose charge that Income Tax Ward/Circle/Special Range or

Part thereof is transferred shall, from the date from which this notification takes effect, be transferred to and dealt with by the Commissioner of Income Tax (Appeals) to whose the said ward/Circle/Special Range or Part thereof is transferred.

| 1   | 2   | 3 |
|---|---|---|
| 1. Commissioner of Income Tax (Appeals)-III, Calcutta | (a) All Assessing Officers functioning under Deputy Commissioner of Income Tax, Range-9, Calcutta.  |   |
|   | (b) All Assessing Officers functioning under Deputy Commissioner of Income Tax, Range-18, Calcutta.   |   |
|   | (c) Deputy Commissioner of Income Tax, Spl. Range-6, Calcutta   |   |
| 2. Commissioner of Income Tax (Appeals)—VIII, Cal.    | (a) All Assessing Officers functioning under Deputy Commissioner of Income Tax, Range-5, Calcutta   |   |
|   | (b) All Assessing Officers functioning under Deputy Commissioner of Income Tax, Range-19, Calcutta including Hooghly, Midnapore and Haldia. |   |
| 3. This notification takes effect from                | 9th Jan., 1997  |   |
|   | [Memo No. CC-III/Juris-I/Vol. 2/96-97/3665-3865]  |   |
|   | TEJINDER SINGH, Chief Commissioner of Income Tax-III  |   |

केन्द्रीय उत्पाद एवं सीमा शुल्क आयुक्त का कार्यालय

तिरुच्चिरापल्लि, 30 अप्रैल, 1997

सं. 1/97 सीमा शुल्क (एन टी)

का.आ. 1434.—सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 8(ख) के तहत मुझमें निहित अधिकारों के आधार पर मैं, जे.एम.के. शेखर, आयुक्त, केन्द्रीय उत्पाद एवं सीमा शुल्क, तिरुच्चि कडलूर पत्तन का जहाँ तक संबंध है, तालिका में उल्लिखित निम्न क्षेत्रों को घाट क्षेत्र (कडलूर पत्तन के विस्तार क्षेत्र भी शामिल) घोषित करता हूँ।

तालिका

| क्षेत्र  | पत्तन | पत्तन सीमा  |
|----------|-------|---|
| तमिलनाडु | कडलूर | उत्तर: फोर्ट सेंट डेविड के उत्तर के समुद्र तट के सीमा स्तम्भ अक्षांश 11° 44' 24" उत्तर और रेखांश 79° 47' 18" पू. से अक्षांश 11° 44' 24" उ और रेखांश 79° 50' 48" पूरव की ओर एक रेखा। |

दक्षिण: अक्षांश 11° 38' 52" उ और 79° 45' 54" पू. से अक्षांश 11° 38' 52" उ और रेखांश 79° 50' 48" पू. तक पूरव की ओर की एक रेखा।

पूरव: ऊपर उल्लिखित उत्तर और दक्षिण सीमाओं के पूरव छोरे से खींचा हुआ रेखा।

पश्चिम: पूरव जल तहर और द्वीप और तट का उस भाग तक जो 50 मी. उच्च जल मार्क (बृहत् उबार) के अन्दर अक्षांश 11° 38' 52" उ और रेखांश 79° 45' 54" पू. के उत्तर सीमा स्तम्भ से दक्षिण पत्तन सीमा तक हो।

[फाइल सं. सं. VIII/43/1/96-सी.शु.नीति]  
जे.एस.के. शेखर, आयुक्त, केन्द्रीय उत्पाद एवं सीमा शुल्क

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL EXCISE

NO. 1/97 CUSTOMS (NT)

Tiruchirapalli, the 30th April, 1997

S.O. 1434.—By virtue of powers vested in me under section 8(b) of the Customs Act, 1962 (52 of 1962) I, J.M.K. Sekhar, Commissioner of Customs & Central Excise, Tiruchirapalli in so far as they relate to the port of

Cuddalore, hereby declare the following areas as mentioned in the table as the Wharfage Area including the Extension Area of Cuddalore Port.

TABLE

| REGION     | PORT      | PORT LIMITS   |
|------------|-----------|---|
| TAMIL NADU | CUDDALORE | <p><b>NORTH:</b> From the boundary pillar on the sea shore North of Fort St. David, a line running due East From latitude 11°44'24" N and longitude 79°47'18"E to latitude 11°44'24"N and longitude 79°50'48"E.</p> <p><b>SOUTH:</b> From the latitude 11°38'52"N and longitude 79°45'54"E a line running due East to latitude 11°38' "N and longitude 79°50'48"E.</p> <p><b>EAST:</b> A line drawn from the Eastern extremities of North and South limits mentioned above.</p> <p><b>WEST :</b> The back water channels and islands and so much of the shore thereof as are within 50m of high water mark (spring tidal) as contained from the Northern boundary pillar to South Port limit of latitude 11°38'52"N and longitude 79°45'54"E.</p> |

[File C.No. VIII/43/1/96 CUS. POL  
J.M.K. SEKHAR, Commissioner of Customs & Central Excise

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय

सीमा शुल्क

कानपुर, 15 मई, 1997

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER : CENTRAL  
EXCISE

CUSTOMS

Kanpur, the 15th May, 1997

का.आ. 1435.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के खंड (बी) के अन्तर्गत भारत सरकार, वित्त मंत्रालय राजस्व विभाग नई दिल्ली की दिनांक 1-07-1994 की अधिसूचना संख्या 33/94 सी. शु. (एन.टी.) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए मैं, एम.सी. कौल, आयुक्त केन्द्रीय उत्पाद एवं सीमा शुल्क कानपुर एतद्वारा उत्तर प्रदेश के उन्नाव स्थित स्थान-II, इंडस्ट्रियल एरिया, यू.पी.एस. आई.डी.सी. प्लॉट नं. बी 1-4 को सीमा शुल्क अधिनियम, 1962 की धारा 9 के अन्तर्गत भंडारण केन्द्र के रूप में घोषित करता हूँ।

[अधिसूचना सं. 03/97-सी. शु. (एन.टी.)/  
पत्रांक संख्या VIII/(40)/63-सी. शु./  
(ई.ओ.यू.) इण्ड प्रागरो/97/8666]

एम. सी. कौल, आयुक्त

S.O. 1435.—In exercise of the power delegated to the undersigned vide Notification No. 33/94-CUS(NT) dated 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi under clause (b) of Section 152 of the Customs Act, 1962, I, M. C. Kaul, Commissioner of Customs and Central Excise Kanpur hereby declare Plot No. B1-4, UPSIDC, Industrial Area, Site-II, Unnao in the State of Uttar Pradesh to be a warehousing station under Section 9 of the Customs Act, 1962 for the purpose of setting up of 100 per cent E.O.U.

[NOTIFICATION NO. 03/97-CUSTOMS (NT)/  
F. NA. VIII(40)-62-CUS[E.O.U.]INDAGRO/97/  
8666]

M. C. KAUL, Commissioner.

## (आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 14 मई, 1997

का० आ० 1436.—भारतीय स्टेट बैंक (अनुपंगी बैंक) अधिनियम 1959 (1959 का 38) की धारा 25 की उपधारा (1) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा श्री बी. बी. व्यास उप सचिव, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग), नई दिल्ली को श्री के०के० मंगल के स्थान पर स्टेट बैंक आफ बीकानेर एंड जयपुर के निदेशक के रूप में नामित करती है।

[एफ० सं० 9/3/96-बी. ओ. I]

सुधीर श्रीवास्तव, उप सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 14th May, 1997

S.O. 1436.—In pursuance of the powers conferred by clause (e) of sub-section (1) of Section 25 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government, hereby nominates Shri B. B. Vyas, Deputy Secretary, Ministry of Finance, Department of Economic Affairs (Banking Division), New Delhi, as a Director of State Bank of Bikaner and Jaipur vice Shri K. K. Mangal.

[F. No. 9/3/96-BO.I]

SUDHIR SHRIVASTAVA, Dy. Secy.

नई दिल्ली, 15 मई, 1997

का० आ० 1437.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1), खण्ड 5, खण्ड 6, खण्ड 7 और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री टी. एस. राघवन, वर्तमान कार्यपालक निदेशक विजया बैंक को उनके कार्यभार ग्रहण करने की तारीख से 30 अप्रैल, 2000 तक की अवधि के लिए बैंक आफ महाराष्ट्र के अध्यक्ष एवं प्रबन्ध निदेशक के रूप में नियुक्त करती है।

[एफ० सं० 9/8/97-बी. ओ. I]

सुधीर श्रीवास्तव, उप सचिव

New Delhi, the 15th May, 1997

S.O. 1437.—In exercise of the powers conferred by clause (a) of sub-section 3, of Section 9, of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3, clause 5, clause 6, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri T. S. Raghavan, presently Executive Director, Vijaya Bank as Chairman and Managing Director, Bank of Maharashtra for the period from the date of his taking charge and upto 30th April, 2000.

[F. No. 9/8/97-BO.I]

SUDHIR SHRIVASTAVA, Dy. Secy.

## वणिज्य मंत्रालय

(विदेश व्यापार महानिदेशालय)

नई दिल्ली, 8 अप्रैल, 1997

का. आ. 1438.—मैसर्स टाटा आयरन एंड स्टील कम्पनी लिमिटेड को पूंजीगत माल के आयात हेतु 24,95,93,966 रुपये (चौबीस करोड़, पंचानव लाख तिरानवे हजार की सो छियासठ हजार मात्र) का एक आयात लाइसेंस सं. पी/सीजी/2100263, दिनांक 18-8-92 प्रदान किया गया था।

2. फर्म ने इस आधार पर कि आयात लाइसेंस गुम/अस्थानस्थ हो गया है, उपर्युक्त लाइसेंस के डुप्लीकेट आयात लाइसेंस प्रति जारी करने के लिए आवेदन किया है। फर्म ने आगे सूचित किया है कि लाइसेंस कलकत्ता सीमा शुल्क प्राधिकारी से पंजीकृत हो गया था तथा लाइसेंस मूल्य को उपयोग में नहीं लाया गया है।

3. अपने दावे के समर्थन में लाइसेंस धारी ने पब्लिक नोटिरी मुम्बई, महाराष्ट्र में विभिन्न स्टैम्प पेपर पर शपथपत्र प्रस्तुत किया है। तदनुसार मैं संतुष्ट हूँ कि फर्म द्वारा मूल आयात लाइसेंस सं. पी/सीजी/2100263, दिनांक 18-8-92 की विनिमय प्रयोजन प्रति गुम/अस्थानस्थ हो गई है। यथासंशोधित आयात (निर्वन्ध) आदेश, 1955, दिनांक 7-12-1955 के उप-पैरा 9 (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं एतद्वारा मैसर्स टाटा आयरन एंड स्टील कम्पनी लिमिटेड को जारी आयात लाइसेंस की विनिमय प्रयोजन की मूल्य प्रति की रद्द करती हूँ।

4. उपरोक्त आयात लाइसेंस की विनिमय प्रयोजन की डुप्लीकेट प्रति पार्टी को अलग से जारी की जा रही है।

[फा. सं. 18/158/एएम/93/ईपी सी जी-III/68]

के. चन्द्रामणि, उप महानिदेशक विदेश व्यापार

MINISTRY OF COMMERCE

(Directorate General of Foreign Trade)

New Delhi, the 8th April, 1997

S.O. 1438.—M/s. Tata Iron and Steel Co. Ltd. were granted an import licence No. P/CG/2100263 dated 18-8-92, for Rs. 24,95,93,966 (Rupees Twenty Four Crores Ninety Five Lakhs Ninety Three Thousand Nine Hundred and Sixty Six only) for import of capital goods.

2. The firm has applied for issue of duplicate copy of Exchange Control Purposes copy of the above mentioned licence on the ground that the original Exchange Control copy of the licence has been lost or misplaced. It has further been stated that the Exchange Control purpose copy of the licence was registered with the Customs Authority, Calcutta and as such the value of customs purpose copy has been utilised.

3. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Mumbai Maharashtra. I am accordingly satisfied that the original Exchange Control Purpose Copy of import

licence No. P/CG/2100263 dated 18-8-92 has been lost or misplaced by the firm. In exercise of the powers conferred under Sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended the said original Exchange Purpose Copy issued to M/s. Tata Iron and Steel Co. Ltd. is hereby cancelled.

4. A duplicate Exchange Control Purpose Copy of the said licence is being issued to the party separately.

[F. No. 18/158/AM/93/EPCG-III/68]  
K. CHANDRAMATHI, Dy. Director General of  
Foreign Trade

नई दिल्ली, 9 मई, 1997

का. आ. 1439.—मैसर्स पठेजा ब्रादर्स फार्-  
जिंग्स एण्ड स्टैपिंग्स लिमिटेड, पुणे को पंजीगत माल के  
आयात हेतु 51,09,25,018 रुपए (इकालवन करोड़,  
नौ लाख, पच्चीस हजार अठारह रुपए मात्र) का एक  
लार्डसेंस सं. 01500546/1/13/10/1/01 दिनांक  
28-10-96 प्रदान किया गया था।

2. फर्म ने इस आधार पर कि आयात लार्डसेंस  
गुम/आस्थानास्थ हो गया है, उपरोक्त लार्डसेंस की डुप्ली-  
केट आयात लार्डसेंस प्रति जारी करने के लिए आवेदन  
किया है। फर्म ने अग्रे सूचित किया है कि लार्डसेंस  
किसी भी सीमा शुल्क प्राधिकारी से पंजीकृत नहीं हुआ  
है तथा लार्डसेंस मूल्य को उपयोग में नहीं लाया गया  
है।

3. अपने दावे के समर्थन में लार्डसेंसधारक ने पॉलिक  
नोटरी दिल्ली से विधिवत स्टैम्प पेपर पर एक गणय-  
पत्र प्रस्तुत किया है। तदनुसार मैं समुष्ट हूँ कि फर्म  
से मूल आयात लार्डसेंस सं. 01500546/1/13/10/1/01  
दिनांक 28-10-96 की विनियम प्रयोजन प्रति गुम/  
अस्थानास्थ हो गई है। यथा संशोधित आयात (नियंत्रण)  
आदेश, 1956 दिनांक 7-12-1955 के उप-खंड 9 (ग) द्वारा  
प्रदत्त शक्तियों का प्रयोग करते हुए मैं एतद्द्वारा  
मैसर्स पठेजा ब्रादर्स फार्जिंग्स एण्ड स्टैपिंग्स लिमिटेड पुणे  
को जारी आयात लार्डसेंस की विनियम प्रयोजन प्रति  
की मूल प्रति को रद्द करती हूँ।

4. उपरोक्त आयात लार्डसेंस की विनियम प्रयोजन  
की डुप्लीकेट प्रति पार्टी को मलग से जारी की जा  
रही है।

[फा. सं. 01/36/022/40/एम-97/ईपीसीजी-III/76]

के. चन्द्रामति, उप महानिदेशक विदेश व्यापार

New Delhi, the 9th May, 1997

S.O. 1439.—M/s. Patheja Brother Forgings & Stampings  
Ltd., Pune Granted an Import Licence No. 01500546/1/13/10/  
1/01 dated 28-10-1996 for Rs. 51,09,25,018 (Rupees Fifty one  
Crores Nine Lakhs Twenty Five Thousand and Eighteen  
only) for import of capital goods.

2. The firm has applied for issue of duplicate import  
licence of the above mentioned licence on the ground that  
the Import Licence has been lost or misplaced. It has  
further been stated that the licence was not registered with

3 In support of their contention, the licensee has filed an  
Affidavit on Stamped Paper duly sworn in before a Notary  
Public, Delhi. I am accordingly satisfied that the Original  
Import Licence No. 01500546/1/13/10/1/01 dated 28-10-1996  
has been lost or misplaced by the firm. In exercise of the  
powers conferred under Sub-Clause 9(cc) of the Import  
(Control) Order, 1955 dated 7-12-1955, as amended the said  
original import licence issued to M/s. Patheja Brother  
Forging & Stampings Ltd. is hereby cancelled.

4. A duplicate import licence of the said licence is being  
issued to the party separately.

[F. No. 01/36/022/40/AM-97/EPCG-III/78]  
K. CHANDRAMATHI, Dy. Director General  
of Foreign Trade

नई दिल्ली, 13 मई, 1997

का. आ. 1440.—निर्यात (क्वालिटी नियंत्रण  
और निरीक्षण) अधिनियम, 1963 (1963 का 22)  
की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का  
प्रयोग करते हुए, केन्द्रीय सरकार मैगनीज डायक्साइड  
रहित खनिज तथा अवस्क (ग्रुप-1) अर्थात् कच्चे  
लोहे तथा कच्चे मैगनीज का विशाखापत्तनम् में निर्यात में  
पूर्व निरीक्षण करने के लिए मैसर्स एसन एंड कं.,  
25-8-152, मेन रोड (पहली मंजिल), निकट 1—टाउन  
पुलिस स्टेशन, विशाखापत्तनम्-530001 को जिनका  
राजस्वीकृत कार्यालय 106 (पुराना नं. 550), 8 वीं  
मैन रोड, मानेश्वरम्, वेस्ट बंगलोर-560055 में है को  
8 जनवरी, 1997 से तीन वर्ष की अवधि के लिए निम्न  
शर्तों के अधीन एतद्द्वारा अधिकार के तहत में मान्यता  
देती है, अर्थात्:—

(i) मैसर्स एसन एंड कं., निर्यात निरीक्षण परिषद  
द्वारा इस संबंध में नामित अधिकारी को  
अपने द्वारा अयनाई गयी निरीक्षण पड़ति  
की जांच करने के लिए पर्याप्त सुविधाएं  
देगी ताकि खनिज तथा अवस्क (ग्रुप-1)  
के निर्यात (निरीक्षण) नियम, 1965 के  
नियम 4 के अंतर्गत निरीक्षण का प्रयोजन  
दिया जा सके।

(ii) मैसर्स एसन एंड कं. इस अधिभूचना के  
अधीन अपने कृत्यों के पालन में ऐसे निर्देशों द्वारा  
प्राबद्ध होगी जो निदेशक (निरीक्षण एवं  
क्वालिटी नियंत्रण) समय-समय पर लिखित  
रूप में दें।

[फाईल सं. 5/19/96—ईआई एंड ईपी]

कुमारी सुधा मुखर्जी, निदेशक

New Delhi, the 13th May, 1997

S.O. 1440.—In exercise of the powers conferred by sub-  
section (1) of Section 7 of the Export (Quality Control and  
Inspection) Act, 1963 (22 of 1963), the Central Govern-  
ment hereby recognises, for a further period of three years  
from 8th January, 1997, M/s. Essen & Co., located at  
25-8-152, Main Road (1st Floor), Near 1 Town Police  
Station, Visakhapatnam-530001 and having their registered

Office at 106 (Old No. 550), 8th Main Road, Malleswaram West, Bangalore-560055, as an agency for the inspection of Minerals and Ores (Group-I) namely Iron Ore and Manganese Ore excluding Manganese Dioxide, prior to export at Visakhapatnam Subject to the following conditions, namely :—

- (i) that M/s. Essen & Co., shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores Group I (Inspection) Rules, 1965;
- (ii) that M/s. Essen & Co., in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[File No. 5/19/97-BI & EPI]  
KUM. SUMA SUBBANNA, Director

मानव संसाधन मंत्रालय  
(मंस्कृति विभाग)

नई दिल्ली, 14 मई, 1997

का.आ. 1441.—ललित कला अकादेमी (प्रबंधन का अधिनियम) अधिनियम, 1997 (1997 का 17) की धारा 4 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा श्री टी. के. दास, मुख्य लेखा-नियंत्रक, मानव संसाधन विकास मंत्रालय को उक्त अधिनियम के लागू होने के पूर्व ललित कला अकादेमी की वित्त समिति के कृत्यों का, प्रशासक के पर्यवेक्षण, नियंत्रण और निर्देशन के अध्वधीन, प्रयोग करने के लिए नियुक्त करती है।

[सि. सं. 3-9/97-(डेस्क पी. ए.)]

अशोक वाजपेयी, संयुक्त सचिव

#### MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Culture)

New Delhi, the 14th May, 1997

S.O. 1441.—In exercise of the powers conferred by Sub-Section (2) of Section 4 of the Lalit Kala Akademi (Taking Over of Management) Act, 1997 (17 of 1997), the Central Government hereby appoints Shri T. K. Das, Chief Controller of Accounts, Ministry of Human Resource Development for exercising, subject to the supervision, control and directions of the Administrator, the functions of the Finance Committee of the Lalit Kala Akademi before the commencement of the said Act.

[No. F. 3-9/97-Desk (PA)]  
ASHOK VAJEPEYI, Jt. Secy.

परमाणु ऊर्जा विभाग

मुम्बई, 24 अप्रैल, 1997

का.आ. 1442.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग 1228 GI/97—3

करते हुए, भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii) में दिनांक 14 अप्रैल, 1984 के का.आ. सं. 1277 के अन्तर्गत प्रकाशित भारत सरकार, परमाणु ऊर्जा विभाग, की दि. 22 मार्च, 1983 की अधिसूचना सं. 13/2/73-एच का निम्नलिखित पंशोधन करती है, अर्थात् :—

उक्त अधिसूचना की सारणी के स्थान पर निम्नलिखित सारणी रखी जायेगी अर्थात् :—

#### सारणी

| अधिकारी का पदनाम  | सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं   |
|---|--|
| मुख्य प्रशासन अधिकारी,<br>नाभिकीय ईंधन सम्मिश्र,<br>परमाणु ऊर्जा विभाग,<br>मौला अली रोड,<br>हैदराबाद,<br>आंध्र प्रदेश | जिला रंगा रेड्डी, आंध्र प्रदेश में<br>परमाणु ऊर्जा विभाग का या<br>उसके प्रशासनिक नियंत्रणाधीन<br>स्थान |

[सं. 5/7/(12)/96-एसयूएस/275]

पी. वेणुगोपालन, उप सचिव

#### DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 24th April, 1997

S.O. 1442.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) 1971 (40 of 1971), the Central Government hereby makes the following amendments in the Notification No.13/2/73-H, dated the 22nd March, 1983 of the Government of India, Department of Atomic Energy published in the Gazette of India, Part II, Section 3, Sub-Section (ii), dated April 14, 1984 against S.O. No. 1227 namely :—

In the said notification, for the Table, the following Table shall be substituted, namely :—

#### "TABLE"

| Designation of the Officer  | Categories of Public Premises and local limits of Jurisdiction  |
|---|---|
| Chief Administrative Officer<br>Nuclear Fuel Complex,<br>Department of Atomic<br>Energy, Moula Ali Road,<br>Hyderabad,<br>Andhra Pradesh. | Premises belonging to or under the administrative control of the Department of Atomic Energy in Ranga Reddy District, Andhra Pradesh. |

[No. 5/7(12)/96-SUS/275]

P. VENUGOPALAN, Dy. Secy

रसायन एवं उर्वरक मंत्रालय

(उर्वरक विभाग)

नई दिल्ली, 24 अप्रैल, 1997

का. आ. 1443 :—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसर्जन में रसायन

एवं उर्वरक मंत्रालय, विभाग के प्रशासनिक नियंत्रण में आने वाले निम्नलिखित कार्यालयों को, जिनके 80% अधिकारी बृहद् ने हिन्दी का कार्यसाधक ज्ञान प्राप्त किया अधिसूचित करती है:—

राष्ट्रीय केमिकल्स एण्ड फर्टिलाइजर्स लिमिटेड, गोरखपुर कार्यालय

राष्ट्रीय केमिकल्स एण्ड फर्टिलाइजर्स लिमिटेड, वाराणसी कार्यालय

[म. ई.—11011/5/93—हिन्दी]

नरेंद्र कुमार अग्रवाल, अतिरिक्त औद्योगिक सलाहकार

#### MINISTRY OF CHEMICALS & FERTILIZERS

(Department of Fertilizers)

New Delhi, the 24th April, 1997

S.O. 1443.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language 'Use for official purposes of the Union' Rule 1976 the Central Govt. hereby notifies the following offices, under the Administrative Control of Ministry of Chemicals & Fertilizers, Department of Fertilizers, 80 per cent staff whereof have acquired the working knowledge of Hindi:—

Rashtriya Chemicals & Fertilizers Limited, Gorakhpur Office.

Rashtriya Chemicals & Fertilizers Limited, Varanasi Office.

[No. E-11011/5/93-Hindi]

NARENDER KUMAR AGGARWAL, Addl. Industrial Adviser

#### पेट्रोलियम और प्राकृतिक गैस मंत्रालय

संशोधन

नई दिल्ली, 16 मई, 1997

का.प्रा. 1444.—भारत के राजपत्र दिनांक 01-06-96 के भाग II खण्ड-3, उपखंड (ii) में पेट्रोलियम और प्राकृतिक गैस मंत्रालय भारत सरकार के का.प्रा. संख्या 1516, 13-5-96 में पेट्रोलियम और खनिज वाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (i) के अन्तर्गत प्रकाशित अधिसूचना जो कि ग्राम पुनासन तालुका मेहसाणा, जिला मेहसाणा के संबंध में था, को निम्नानुसार पढ़ा जाये—

| राजपत्र के अनुसार |                        | निम्न संशोधन के अनुसार पढ़ा जाये |                        |
|-------------------|------------------------|----------------------------------|------------------------|
| क्र. सर्वे सं.    | क्षेत्रफल हेक्टेयर में | सर्वे सं.                        | क्षेत्रफल हेक्टेयर में |
| 1. 126            | 00-15-25               | 127                              | 00-15-25               |

[सं. एल-14016/2/96 (जी.पी.)]

अर्धेन्दु सेन, निदेशक

#### MINISTRY OF PETROLEUM & NATURAL GAS CORRIGENDUM

New Delhi, the 16th May, 1997

S.O. 1444.—In the Gazette of India Ministry of Petroleum and Natural Gas S.O. No. 1516 published

on 1/6/96 under section (i) sections 3 of the Petroleum and Mineral Pipeline (Acquisition of Right of users in land) Act, 1962 (50 of 1962) in respect of Village Punasan Taluka Distt. Mehsana read as follows:—

| As per Gazette |            | Be read as corrected below |            |                 |
|----------------|------------|----------------------------|------------|-----------------|
| S.No.          | Survey No. | Area in Hectare            | Survey No. | Area in Hectare |
| 1.             | 126        | 00-15-25                   | 127        | 00-15-25        |

[No. L-14016/2/96.GP]

ARDHENDU SEN, Director

वस्त्र मंत्रालय

नई दिल्ली, 14 मई, 1997

का.प्रा. 1445.—केन्द्रीय सरकार एतद्वारा अधिसूचित करती है कि राज्य सभा ने केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उपधारा (3) के खंड (ग) के अनुसरण में राज्य सभा के सदस्य श्री राघव जी को केन्द्रीय रेशम बोर्ड के सदस्य के रूप में अधिनियम के प्रावधानों के अनुसार तीन वर्ष की अवधि के लिए कार्य करने हेतु 9 मई 1997 को विधिवत निर्वाचित किया है।

[का. सं. 25012/4/91-रेशम]

एम. केशव, निदेशक

#### MINISTRY OF TEXTILES

New Delhi, the 14th May, 1997

S.O. 1445.—The Central Government hereby notify that the Rajya Sabha has in pursuance of clause (c) of sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), duly elected Shri Raghavji, Member of Rajya Sabha, on 9th May, 1997 to serve as a Member of the Central Silk Board for a period of three years subject to the provisions of the Act.

[F. No. 25012/4/91-Silk]

S. K. KESHAHA, Director

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 10 अप्रैल, 1997

का. प्रा. 1446 :—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम-7 तथा 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा-5 की उपधारा-1 द्वारा प्रदत्त शक्तियों का उपयोग करने हुए और इस विषय पर सभी पूर्व अधिसूचनाओं के अति-क्रमण में केन्द्रीय सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड के चेयरमैन (मद्रास) सलाहकार पैनल का पुनर्गठन करती है और निम्नलिखित व्यक्तियों को दिनांक 21-4-97 से दो वर्ष की अवधि प्रथम अगले आदेशों जो भी पहले हो सक के लिए उक्त पैनल के सदस्यों

के रूप में नियुक्त करती है:—

1. श्री धरम चन्द लुंगहाट
2. श्री विमल चन्द धारिवाल
3. श्री ए. राजगोपाल
4. श्री एन. एम. सक्किनादिबेल
5. श्री एस. पद्मनाभन
6. श्री ए. पी. ए. दिनकरन
7. श्रीमती भारती
8. श्री पी. चिन्नास्वामी
9. श्री टी. वी. पी. रामनाथन
10. श्री विद्याल शेखर
11. श्री के. लारेन्स
12. श्री आर. एस. मैथ्यू
13. श्री सी. बालमुन्वरम
14. श्री एस. कृष्णामूर्ति
15. श्री ए. हसन
16. डा. राजलक्ष्मी संधनम
17. श्री का. पोटंको
18. डा. टी. ए. ए. लतिफ
19. श्री एस. सी. डेविड
20. श्रीमती टी. के. धनबक्तियाम अम्मल
21. श्री एस. ईय्यादुरई
22. श्री एस. कथिरवेलू
23. श्री एस. कोट्टेस्वर्ण
24. श्री अब्दुल हकीम
25. श्री के. इथिराजन
26. श्रीमती अनबू सेल्वी
27. श्रीमती जया कृष्णामूर्ति
28. श्री जी. ए. एच. के. घोरी
29. श्रीमती रुक्मणी
30. श्री एम. पालनीमैथू
31. श्रीमती जी. भानुमति
32. श्रीमती आर. मीणा
33. श्री कु. का. सेल्वम
34. श्री एस. साजीषा
35. श्रीमती परमेश्वरी
36. श्री पी. वी. रवीन्द्रनाथ
37. श्री ए. एम. इम्तियाज नासेर
38. श्री टी. के. एस. इलंगोवन
39. श्री एन. सुब्रमणियम
40. श्री सी. के. पेरुमल
41. श्रीमती सुमीला पद्मनाभन
42. डा. सैयद रहमथुल्लाह
43. श्री डी. एच. दुरई
44. श्री वी. जगन्नाथन
45. श्री वी. आर. एस. सम्पथ
46. डा. के. गायत्री देवी
47. श्री आर. स्वामीनाथन
48. श्री टी. नल्लामुथू
49. श्री एस. गुनाशेखरन
50. श्रीमती अमृधा ग्रेस
51. श्री ए. एस. अशोकन
52. श्री पुलावर ए. पालनीयप्पन
53. श्री एम. रामनिधम
54. श्रीमती ऊषा मुरलीधरन
55. श्री अतूर टी. ए. पेरियाममी
56. श्री ए. चन्द्रक
57. श्री ई. एस. टी. वन्थावाटचलम
58. श्री एम. आई. हबीबुल्लाह
59. श्री के. जोन मोसेस
60. श्री एम. एस. हर्माद
61. श्री सैयद निसार अहमद
62. श्री करीमुल्लाह
63. श्री ए. डेविड
64. श्री ए. एम. सिराजुद्दीन
65. श्री हाजी शेख हमीद
66. श्री अब्दुल अजीज चौधरी
67. श्री हाजी एस. एम. हिदयाथुल्लाह
68. प्रो. नागनाथन
69. श्रीमती सुमित्रा
70. श्री मुक्ता श्रीनिवासन
71. श्री जफर अमी
72. श्री ई. वी. राजन
73. श्री एस. पी. शिवप्रकाशम
74. श्री सा गणेशन
75. श्री सावी
76. श्रीमती पूनमणि विरामुथू
77. श्रीमती अरसू मणिमैगलई
78. श्रीमती टी. एन. आर. बनजा मुन्नमणियम
79. डा. (श्रीमती) ईस्वर पांडियन
80. श्री तल्ली कुप्पुस्वामी चेट्टी
81. श्री आर. वरदन
82. श्री नेल्सई आजारिया
83. श्री के. श्रीधरन
84. श्रीमती लक्ष्मी राजाराम
85. श्रीमती तुलशी गौतम
86. श्रीमती मल्लिका वेंकटारमन
87. श्रीमती शांताकुमारी
88. श्रीमती स्वर्ण राजा
89. श्रीमती निकिला
90. श्रीमती ज्योती दासबानी
91. श्रीमती रेवती धनमुगम
92. श्रीमती गीता बंकर
93. श्रीमती ऊषा रानी सेकर
94. श्रीमती पेम्मी लालू धामस
95. सुश्री के. भारती

96. सुश्री आर. ब्रिन्दा
97. डा. रेणुका शोनिवासन
98. श्रीमती ललिता श्रीराम
99. श्रीमती जयन्ती
100. डा. सुगिनाथवती
101. श्री आर. हनुमन्त राव
102. डा. अमनल्लाह खान एलियस अमन खान
103. श्री पितृमान रंभराजन

[फाइल संख्या 809/3/96-एक. (सी)]

आई. पी. मिश्रा, डेस्क अधिकारी

# MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 10th April, 1997

S.O. 1446.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in supersession of all earlier notifications on the subject, the Central Government is pleased to reconstitute the Chennai (Madras) advisory panel of the Central Board of Film Certification and to appoint the following persons as members of the said panel with effect from 21-4-97 for a period of two years or until further orders, whichever is earlier :—

1. Shri Dharam Chand Lungbat
2. Shri Vimal Chand Dariwal
3. Shri A. Rajagopal
4. Shri A. S. Sakthivadivel
5. Shri S. Padmanabhan
6. Shri A. P. A. Dinakaran
7. Smt. Bharathi
8. Shri P. Chinnaasamy
9. Shri T. V. J. Ramanathan
10. Shri Vidiyal Sekar
11. Shri K. Lawrence
12. Shri R. S. Muthu
13. Shri C. Balasundaram
14. Shri S. Krishnamurthy
15. Shri A. Haroon
16. Dr. Rajalakshmi Santhanam
17. Shri Ka. Portko
18. Dr. T. A. A. Latif
19. Shri M. C. David
20. Smt. T. K. Dhanabakkiam Ammal
21. Shri S. Iyyadurai
22. Shri S. Kathirvelu
23. Shri S. Kotteeswaran
24. Shri Abdul Haqim
25. Shri K. Ethirajan
26. Smt. Anbu Selvi
27. Smt. Jaya Krishnamurthy
28. Shri G. A. H. K. Ghorl
29. Smt. Rukmani
30. Shri M. Palanimuthu
31. Smt. G. Bhanumathy
32. Smt. R. Meena
33. Shri Ku. Ka. Selvam
34. Shri S. Sajeda
35. Smt. Paramaswari
36. Shri P. V. Ravindranath
37. Shri A. M. Imthiaz Naser
38. Shri T. K. S. Elangovan
39. Shri N. Subramaniam
40. Shri C. K. Perumal
41. Smt. Susheela Padmanabhan
42. Dr. Syed Rahamathullah

43. Shri D. H. Rurai
44. Shri V. Jagannathan
45. Shri V. R. S. Sampath
46. Dr. K. Gayathri Devi
47. Shri R. Swaminathan
48. Shri T. Nallamurthi
49. Shri S. Gunasekaran
50. Smt. Amudha Grace
51. Shri A. S. Asokan
52. Shri Pulavar A. Palaniappan
53. Shri M. Ramalingam
54. Smt. Uma Muralidharan
55. Shri Attur T. A. Periasami
56. Shri A. Chandru
57. Shri E. S. T. Bakthavatchalam
58. Shri M. I. Habibullah
59. Shri K. John Moses
60. Shri M. S. Hameed
61. Shri Syed Nissar Ahamed
62. Shri Kareemulla
63. Shri A. David
64. Shri A. M. Sirajuddin
65. Shri Haji Shaik Hamid
66. Shri Abdul Aziz Chowdry
67. Shri Haji S. M. Hidayathullah
68. Prof. Nuganathan
69. Smt. Sowmitra
70. Shri Muktha Srinivasan
71. Shri Jaffer Ali
72. Shri E. V. Rajan
73. Shri S. P. Sivaprakasam
74. Shri Sa Ganesan
75. Shri Saavi
76. Smt. Ponmaru Vairamuthu
77. Smt. Arasu Manimegalai
78. Smt. T. N. R. Vanaja Subramaniam
79. Dr. (Mrs.) Esther Pandian
80. Shri Nalli Kuppusamy Chetty
81. Shri R. Varadan
82. Shri Nellal Azaria
83. Shri K. Sreedharan
84. Smt. Lakshmi Rajaram
85. Smt. Tulasi Gautam
86. Smt. Mallika Venkataraman
87. Smt. Shanthukumari
88. Smt. Swarna Raja
89. Smt. Nikila
90. Smt. Jyothi Daswani
91. Smt. Revathi Shanmugam
92. Smt. Geetha Banker
93. Smt. Usha Rani Sekar
94. Smt. Peggy Lelu Thomas
95. Ms. K. Bharathy
96. Ms. R. Brinda
97. Dr. Renuka Srinivasan
98. Smt. Lalitha Sriram
99. Smt. Jayanthi
100. Dr. Suganthavathi
101. Shri R. Hanumantha Rao
102. Dr. Amanullah Khan alias Amaan Khan
103. Shri Pitchumani Rangarajan

[File No. 809/3/96-F (C)]

I. P. MISHRA, Desk Officer

37. श्री सुदीप शर्मा

87. श्री हंसमुख पटेल
88. श्रीमती उषा ठक्कर
89. श्री बालचन्द्र त्रिवेदी
90. डा. किशोर बासिचा
91. श्रीमती मोहनी कलन्त्री
92. श्री राजकुमार शर्मा
93. श्री रवि शर्मा
94. श्री सतीश ओहरी।

[फाइल संख्या 809/4/96-एफ (सी)]

आई. पी. मिश्रा, डेस्क अधिकारी

New Delhi, the 10th April, 1997

S.O. 1447.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in supersession of this Ministry's earlier Notification on the subject, the Central Government is pleased to reconstitute the Mumbai advisory panel of the Central Board of Film Certification and to appoint the following persons as members of the said panel with effect from 21-4-97 for a period of two years or until further orders, whichever is earlier :—

1. Shri Rajendra B. Jain
2. Shri J. K. Jagiasi
3. Smt. Mohini Kothari
4. Shri Nisar Ahmed Khan
5. Shri Suresh Chaturvedi
6. Shri Shakeel Chandra
7. Shri Kasambhai R. Sorathia
8. Shri Ramesh Nirmal
9. Shri Chandrakant D. Soni
10. Shri Mahendra O. Rane
11. Shri Nazim H. Kazi
12. Shri M. A. Malik Choudhary
13. Shri John F. Alves
14. Shri Sudarshan Babbar
15. Shri Rajiv B. Chavan
16. Shri Pathan Mohammed Nasir Mohammed Siddique
17. Shri Navneet Dhanraj Kothari
18. Shri Tahir Ashrafi
19. Shri Bhimrao Nanasabeb Kamble
20. Shri Mohammed Ahmed
21. Shri Kilachand Yudav
22. Shri Afroz Alam Beig
23. Dr. Babu Lal Singh
24. Shri Nadeem Nusrath
25. Smt. Devta Mangula Singh
26. Shri Om Prakash Singh
27. Ms. Sneeda Qureshi
28. Shri Laxmikant Sattelkar
29. Shri Ali Khan
30. Shri Yogesh G. Dube
31. Shri Majid Khan Ahmad Ali
32. Shri Gangadhar Patane
33. Shri Arshad Ahmad Siddiqui
34. Smt. Vidya Charan
35. Shri Mohd. Alauddin
36. Smt. Kokila Kartik Bhatt
37. Shri Sunil Tambe
38. Shri Sahadev Shah
39. Shri Khan Gafoor Mohamed
40. Shri Vinodkumar Santoshrav Daware
41. Shri Dattaraj Punjabi Ghuge
42. Shri Abdul Ali Azizi
43. Smt. Saroj Sharma

44. Shri Khan Walid Ali
45. Shri Gautam Kamble
46. Shri Dilawar Khan
47. Shri Vidnyon S. Daware
48. Shri Khan Ahmed Ali
49. Shri Arvind Tibrewala
50. Shri Kailash Murarka
51. Shri Suresh H. Deora
52. Shri S. L. Dalmia
53. Shri Anil Jiyaraj Shah
54. Prof. Amarnath Dube
55. Shri Ketan H. Shah
56. Shri Sameer Kamalakar Desai
57. Ms. Sunita S. Joshi
58. Shri Himmat R. Patel Kethani
59. Shri Haroon Rashid
60. Dr. Narendra Sharma
61. Shri Iftekhar Khan
62. Dr. Mrunalini Patel
63. Shri Manoj Dubey
64. Smt. Rajani Lakhunpal
65. Smt. Meenakshi Waghmare
66. Smt. Rashmi Sharma
67. Smt. Niloufer Ismail Kurwa
68. Smt. Sachi Devi Chatterjee
69. Smt. Pranti Shishir Kamini
70. Smt. Veena V. Prabhu
71. Smt. Uma d'Chunba
72. Smt. Sushila Hirekar
73. Smt. Nita Barua
74. Smt. Anuradha A. Rajadhyaksha
75. Smt. Mamta Kanade
76. Shri Satish Kulkarni
77. Shri Boota Singh Shaad
78. Smt. Leena Sen
79. Shri Virendra Singh Khurana
80. Shri Anand R. P.
81. Shri J. Om Prakash
82. Shri Basu Chatterjee
83. Shri Jyoti Venkatesh
84. Ms. Sushma Shiromani
85. Ms. Bhavana Somaiya
86. Ms. Pamela Chopra
87. Shri Hasmukh Patel
88. Smt. Usha Thakar
89. Shri Balachandra Trivedi
90. Dr. Kishore Valicha
91. Smt. Mohini Kalantri
92. Shri Rajkumar Sharma
93. Shri Ravi Sharma
94. Shri Satish Ohri.

[File No. 809/4/96-F (C)]  
I. P. MISHRA, Desk Officer

नई दिल्ली, 11 अप्रैल, 1997

का.अ. 1448.—चलचित्र (प्रमाणन) नियमावली 1983 के नियम 7 तथा 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा 1 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस मंत्रालय की दिनांक 19-3-96 की अधिसूचना संख्या 809/11/93-एफ(सी) के अनुक्रम में केन्द्रीय सरकार निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्ष की

अवधि अथवा अगले आदेशों जो भी पहले हों, तक के लिये केन्द्रीय फिल्म प्रमाणन बोर्ड के बंगलौर सलाहकार पैनल के सदस्यों के रूप में नियुक्त करती है:—

1. श्री फजुल्ला मादिवाले
2. श्री हनुमान्थाप्पा अंगदी
3. श्री हाजी एम. मोसा
4. श्री के. नन्दा कुमार
5. श्री पारा श्रीनिवास
6. कु. शारदा नायक
7. श्री बी. हरिकिशन
8. श्री नन्जुन्दे गोवडा
9. श्री अब्दुल सुभान
10. श्रीमती सुजाता परमाशिवैयाह
11. श्री हाजी नजीर अहमद
12. श्री जी. एस. नन्जुन्दा स्वामी
13. डा. एस. शोभा
14. श्री भास्कर एन. हेग्दे
15. श्री टी.एस. लक्ष्मण
16. श्री सयैद असलम
17. श्री एम. अब्दुल जब्बार साहेब
18. श्री सयैद सैफुल्ला
19. श्री एम.एम. अनवर पासा
20. श्री यू. एस. प्रीतम
21. श्री जया राम के.जी.
22. श्री अमरेन्द्र किरती
23. श्री एस.एम. आधा
24. श्री एच.आर. रंगराजन
25. प्रो. के.आर. इकबाल अहमद

[फाइल संख्या 809/7/96-एफ. (सी)]

आई.पी. मिश्रा, ईस्क अधिकारी

New Delhi, the 11th April, 1997

S.O. 1448.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in continuation of this Ministry's Notification No. 809/11/93-F(C) dated 19-3-96, the Central Government is pleased to appoint the following persons as members of the Bangalore Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier:—

1. Shri Fazulla Madiwale
2. Shri Hanumanthappa Angadi
3. Shri Haji M. Moosa
4. Shri K. Nanda Kumar
5. Shri Para Srinivas
6. Ms. Sharada Naik
7. Shri V. Harekishen
8. Shri Nanjunde Gowda
9. Shri Abdul Subhan
10. Smt. Sujatha Paramashivaiah
11. Shri Haji Nazeer Ahmed
12. Shri G. S. Nanjunda Swamy
13. Dr. S. Shobha
14. Shri Bhaskar N. Hegde
15. Shri T. S. Laxman

16. Shri Syed Aslam
17. Shri M. Abdul Jabbar Saheb
18. Shri Syed Saifulla
19. Shri M. S. Anwar Pasha
20. Shri U. S. Pritham
21. Shri Jaya Ram K. G.
22. Shri Amarendra Kirti
23. Shri S. M. Agha
24. Shri H. R. Rangarajan
25. Prof. K. R. Iqbal Ahmed

[File No. 809/7/96-F(C)]

I. P. MISHRA, Desk Officer

नई दिल्ली, 11 अप्रैल, 1997

का.आ. 1449.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 तथा 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस मंत्रालय की दिनांक 14-7-95 तथा 29-8-95 की अधिसूचना संख्या 809/3/93-एफ. (सी) के अनुक्रम में केन्द्रीय सरकार निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्ष की अवधि अथवा अगले आदेशों जो भी पहले हों, तक के लिये केन्द्रीय फिल्म प्रमाणन बोर्ड के बंगलौर सलाहकार पैनल के सदस्यों के रूप में नियुक्त करती है:—

1. श्री मोहम्मद युसुफ शरीफ
2. श्री एच. गुरबचन सिंह
3. श्री शेख कासिम
4. श्रीमती जे. सयैदकान्तम
5. श्री सयैद विकासहिन
6. श्री जाहीर अहमद
7. श्री जफर जावीद
8. श्री बी. श्रीगमुलु
9. श्री एम. गोविन्द राव
10. श्री बी. नारायण राव
11. श्री टी. एन.एस. मुक्ति
12. श्री पी. नारायण स्वामी
13. श्री मोहम्मद साजिद पासा
14. डॉ. जुनेद पासा
15. श्रीमती रुक्मिणी पद्मगति
16. श्रीमती धान्ता सरला कुमारी
17. श्रीमती कोषा रंगनाथकम्मा
18. श्रीमती नफीज कालीमुल्लाह
19. श्री ए.एन. व्यास
20. श्रीमती अट्टुमुरी मनि
21. श्रीमती येदलापति पद्मजा

[फाइल संख्या 809/2/96-एफ. (सी)]

आई.पी. मिश्रा, ईस्क अधिकारी

New Delhi, the 11th April, 1997

S.O. 1449.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952

(37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in continuation of this Ministry's Notifications No. 809/3/93-F(C) dated 14-7-95 and 29-8-95, the Central Government is pleased to appoint the following persons as members of the Hyderabad advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders whichever is earlier :—

1. Shri Mohd. Yousuf Shareef
2. Shri S. Gurbachan Singh
3. Shri Shaik Khasim
4. Smt. J. Suryakantham
5. Shri Syed Vicaruddin
6. Shri Zabeer Ahmed
7. Shri Zafar Javeed
8. Shri V. Sreeramulu
9. Shri M. Govinda Rao
10. Shri V. Narayana Rao
11. Shri T. S. N. Murthy
12. Shri P. Narayana Swamy
13. Shri Mohd. Sajid Pasha
14. Dr. Junaid Pasha
15. Smt. Lalitha Pasupathi
16. Smt. Ghanta Sarala Kumari
17. Smt. Kotha Ranganayakamma
18. Smt. Nafees Kaleemullah
19. Shri A. N. Vyas
20. Smt. Attaluri Mani
21. Smt. Yedlapati Padmaja.

[File No. 809/2/96-F (C)]  
I. P. MISHRA, Desk Officer

खान मंत्रालय

नई दिल्ली, 15 मई, 1997

का.आ. 1450—केन्द्रीय सरकार, सरकारी स्थान  
(अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971

(1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, नीचे दी गई सारणी के स्तंभ (1) में उल्लिखित अधिकारी को, जो सरकार के राजपत्रित अधिकारी की पंक्ति के समतुल्य अधिकारी इसके कारण, उक्त अधिनियम के प्रयोजनों के लिये सम्पदा अधिकारी नियुक्त करती है। उक्त अधिकारी उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट सरकारी स्थानों की बाबत, उसकी अधिकारिता की स्थानीय सीमाओं के भीतर, उक्त अधिनियम द्वारा या उसके अधीन सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

| अधिकारी का पदनाम  | सरकारी स्थानों के प्रवर्ग  |
|---|--|
| (1)   | (2)  |
| ज्येष्ठ सम्पदा अधिकारी,<br>मिनरल एक्सप्लोरेशन<br>कार्पोरेशन लिमिटेड, नागपुर | नागपुर स्थित मिनरल एक्स-<br>प्लोरेशन कार्पोरेशन लिमिटेड<br>के या उसके नियंत्रण के अधीन<br>ऐसे सभी परिसर। |

## MINISTRY OF MINES

New Delhi, the 15th May, 1997

S.O.1450.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Officer mentioned in column (1) of the Table below, being Officer equivalent to the rank of the Gazetted Officer of Government to be Estate Officer for the purposes of the said Act and the said Officer shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

| Designation of the Officer  | Categories of public premises  |
|---|--|
| 1   | 2  |
| Senior Estate Officer, Mineral Exploration Corporation Limited, Nagpur. | All premises belonging to or under the control of the Mineral Exploration Corporation Limited at Nagpur. |

[No. 40(7)/97-MI]  
S.P. RASTOGI, Director (Tech.)

संचार मंत्रालय

(दूर संचार विभाग)

दूर संचार आयोग

नई दिल्ली, 14 मई, 1997

का.जा. 1451.—भरतपुर, महुआ और कुम्हा टेलीफोन एक्सचेंज प्रणालियों के स्थानीय क्षेत्रों का संशोधन करने के लिए, भारतीय तार नियमावली, 1951 के नियम 434 (iii) (2) (ग) की अपेक्षानुसार भरतपुर, महुआ और कुम्हा में परिचालित समाचार-पत्रों में एक सार्वजनिक सूचना प्रकाशित की गई थी, जिसमें हमने संभावित रूप से प्रभावित सभी व्यक्तियों से समाचार-पत्रों में नोटिस के प्रकाशन की तारीख से 30 दिन की अवधि के भीतर आपत्तियां और सुझाव आमंत्रित किए गए थे। उक्त नोटिस, राजस्थान पत्रिका में 18-11-1995 को और श्रद्धापत्र राजस्थान की जनता को सूचना के लिए 18-12-1995 को प्रकाशित कराया गया था।

उक्त नोटिस के संबंध में जनता की ओर से कोई आपत्तियां तथा सुझाव प्राप्त नहीं हुए हैं,

अतः, अब उक्त नियमावली के नियम 434(iii) (2) (ग) में प्रदत्त अधिकार का प्रयोग करने हुए, महानिदेशक, दूरसंचार एडवोकेट द्वारा घोषणा करने हैं कि दिनांक 16-6-1997 से भरतपुर, महुआ और कुम्हा के संशोधित स्थानीय क्षेत्र इस प्रकार होंगे:—

1. भरतपुर टेलीफोन एक्सचेंज प्रणाली :— भरतपुर टेलीफोन एक्सचेंज प्रणाली के स्थानीय क्षेत्र में, राजस्थान राजपत्र में 11-3-1993 को प्रकाशित राजस्थान सरकार की दिनांक 11-1-1993 की अधिसूचना सं. एफ-1/सीमा के जरिए अधिसूचित भरतपुर नगर पालिका के अधिकार क्षेत्र के अन्तर्गत आने वाला क्षेत्र शामिल होगा, बगुन कि भरतपुर नगरपालिका सीमाओं से बाहर स्थित टेलीफोन उपभोक्ता, जो भरतपुर टेलीफोन एक्सचेंज प्रणाली से सेवा प्राप्त कर रहे हैं, तब तक स्थानीय टैरिफ देते रहेंगे, जब तक कि (क) वे इस प्रणाली के किसी एक्सचेंज से 5 कि.मी. तक की अरीय दूरी में हैं और (ख) वे विभागीय कारणों से इस प्रणाली से जुड़े हुए रहते हैं, भले ही वे किसी निकटवर्ती टेलीफोन प्रणाली के स्थानीय क्षेत्र के अन्तर्गत आने हों।

2. महुआ टेलीफोन एक्सचेंज प्रणाली :—महुआ टेलीफोन एक्सचेंज प्रणाली के स्थानीय क्षेत्र में, महुआ टेलीफोन एक्सचेंज की 5 कि.मी. अरीय दूरी के के अन्दर स्थित क्षेत्र शामिल होगा, बगुन कि यह सीमा उत्तर-पूर्व दिशा में भरतपुर नगर पालिका की सीमा तक सीमित रहे।

3. कुम्हा टेलीफोन एक्सचेंज प्रणाली :—कुम्हा टेलीफोन एक्सचेंज प्रणाली में, कुम्हा टेलीफोन एक्सचेंज से 5 कि.मी. तक की अरीय दूरी के भीतर स्थित

क्षेत्र शामिल होगा, बगुन कि यह सीमा उत्तर और पूर्व दिशा में भरतपुर नगरपालिका की सीमा तक सीमित रहे।

[सं. 3-1/94-पीएचबो]

आर. सी. मोहन, निदेशक (पीएचबो)

MINISTRY OF COMMUNICATION

(Department of Telecommunications)

(Telecom Commission)

New Delhi, the 14th May, 1997

S.O. 1451.—Whereas a public notice for revising the local area of Bharatpur, Mahua and Kumha Telephone Exchange Systems was published as required by rule 434(iii) (2)(C) of the Indian Telegraph, Rules, 1951 in the Newspapers in circulation at Bharatpur, Mahua and Kumha, inviting objections and suggestions from all persons likely to be affected thereby, within a period of 30 days from the date of publication of the notice in the Newspapers;

And whereas the said notice was made available to the public on 18-11-1995 in Rajasthan Patrika and corrigendum dt. 18-12-1995 in Rajasthan Patrika;

And whereas no objections and suggestions have been received from the public on the said notice.

Now, therefore, in exercise of the powers conferred by Rule 434(iii) (2)(C) of the said Rules, the Director General Telecommunications hereby declares that with effect from 16-6-1997 the revised local areas of Bharatpur, Mahua and Kumha shall be as under :

1. Bharatpur Telephone Exchange System:—The local area of Bharatpur Telephone Exchange system shall cover the area under the jurisdiction of Bharatpur Municipality notified vide Govt. of Rajasthan Notification No. F-1/Boundary/dated 11-1-1993 published in Rajasthan Gazette on 11-3-1993; provided that telephone subscribers located outside the Bharatpur Municipal limits but who are served from Bharatpur Telephone Exchange System shall continue to pay local tariffs as long as (a) they are within 5 km. radial distance of any exchange of this system and (b) remain connected to it due to departmental reasons notwithstanding the fact that they may fall within the local area of any adjacent telephone system.

2. Mahua Telephone Exchange System:—The local area of Mahua Telephone Exchange System shall cover the area within 5 kms radial distance of Mahua Telephone Exchange; provided that this limit shall be restricted to Bharatpur Municipal boundary in the North East direction.

3. Kumha Telephone Exchange System :—The local area of Kumha Telephone Exchange System shall cover the area within 5 kms radial distance of Kumha Telephone Exchange; provided that this limit shall be restricted to Bharatpur Municipal boundary in the North and East direction.

[No. 3-1/94-PHB]

R. C. MOHAN, Director (PHE)

भ्रम मंत्रालय

नई दिल्ली, 2 मई, 1997

का.आ. 1452—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रायल एण्ड नेचुरल गैस कमिशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-5-97 को प्राप्त हुआ था।

[सं. एल-20040/16/95-आई. आर. सी-1]

ब्रज मोहन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 2nd May, 1997

S.O. 1452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Madras as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Oil and Natural Gas Commission and their workmen, which was received by the Central Government on 1-5-97.

[No. L-20040/16/95-IR(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU  
MADRAS

Friday, the 10th day of January, 1997

PRESENT:

Thiru S. Thangaraj, B.Sc., L.L.B., Industrial Tribunal.  
Industrial Dispute No. 42 of 1996

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Oil and Natural Gas Commission Ltd., Madras-4.)

BETWEEN

The Workmen represented by:  
General Secretary,  
Petroleum Employees' Union,  
18, Rakiappa St., Mylapore,  
Madras-4.

AND

J. M. Sharma & Associates,  
No. 3, Palghat Madhavani Koil,  
Mahalingampuram, Madras-34.  
2. M/s. Rao, Seemic Services (P) Ltd.,  
M6 D/3, Vijayaraghava Road,  
T. Nagar, Madras-17.

REFERENCE:

Order No. L-20040/16/95-IR(C.I), Ministry of Labour,  
dated 14-5-96, Government of India, New Delhi.

This dispute coming on for final hearing on Friday, the 10th day of January, 1997 upon perusing the claim statement and all other material papers on record, and upon hearing of Thiru J. Narayanamurthy, Advocate appearing for the petitioner, and the respondent being absent and set ex parte, this dispute having stood over till this day for consideration, this Tribunal made the following:

AWARD

Government of India, vide Order No. L-20040/16/94-IR (C.I), Ministry of Labour, dated 14-5-96 have referred this dispute for adjudication of the following issue:

"Whether the demand of the Union for payment of wages at the rate of Rs. 70 per day to the field workers employed through contractors of ONGC is justified? If so, to what relief is the concerned workmen are entitled to?"

WW1 examined further. Ex. W-1 and W-2 marked. From the evidence of WW1 and from Ex. W-1 and W-2, the claim of the petitioner is proved. Award passed as prayed for with costs.

Dated, this the 10th day of January, 1997.

S. THANGARAJ, Industrial Tribunal

WITNESSES EXAMINED

For Workman:

W.W. 1: Thiru A. Thangarajan.

For Management: None.

DOCUMENTS MARKED

For Workmen:

Ex. W-1/10-11-94: Xerox copy of Circular issued by the respondent-corporation regarding daily wages.

W-2/1-11-94: Xerox copy of office order issued by respondent corporation regarding enhancement of daily wages.

नई दिल्ली, 6 मई, 1997

का.आ. 1453—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी.सी. एल. की क्षेत्रीय कार्यशाला के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-97 को प्राप्त हुआ था।

[संख्या एल-24012/143/86-डी-IV (बी)/

आई. आर. (सी.-1)

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 6th May, 1997

S.O. 1453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Regional Workshop Bhurkunda of M/s. C.C. Ltd. and their workmen, which was received by the Central Government on 5th May, 1997.

[No. L-24012/143/86-D.IV (B)/IR (C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) (2-A)  
of the Industrial Disputes Act, 1947

Reference No. 5 of 1990

PARTIES:

Employers in relation to the management of Regional  
Workshop, Bhurkunda of M/s. C. C. Ltd.

**AND**  
**Their Workmen.**

**PRESENT :**

Shri Tarkeshwar Prasad, Presiding Officer.

**APPEARANCES :**

For the Employers—Shri R. S. Murthy, Advocate.

For the Workmen—Shri J. P. Singh, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, the 23rd April, 1997

**AWARD**

By Order No. L-24012/143/86-D-IV (B)/IR (Coal-I) dated 'nil' the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Regional Workshop, Bhurkunda of C. C. Ltd., P.O. Bhurkunda, Dist. Hazaribagh in denying promotion to Shri Ramesh Kumar Gupta as Asstt. Store Keeper when he is working in the said capacity since 23-12-82 is justified ? If not, to what relief is the concerned workman entitled to ?"

2. The workman and the sponsoring union appeared and filed written statement stating therein that the workman joined the service of M/s. C. C. Ltd. after death of his father, who was working at Saunda 'D' Colliery as Prop Mistry and as per term and condition in 9.4.2 he was appointed as General Mazdoor Category-I and was allowed to work as Asstt. Storekeeper as he was matriculate. Interview was conducted on 5-7-83 for the said post by Area Personnel Manager (B) Barkakana and he also appeared for the interview but he was not given promotion and other candidates were selected for the post. It is said that the workman was designated as General Mazdoor but work was taken as Asstt. Storekeeper and he not being favourable to the management he was left out whereas two other persons were given promotion as Grade-II. He also approached to the management several time for his regularisation as ASK but of no effect. The sponsoring union also took up his case with the management but without success and then industrial dispute was raised before the Asstt. Labour Commissioner (C), Dhanbad on 30-12-85. But conciliation proceeding failed due to rigid view taken by the management and it was referred to the Ministry and reference has been made. It was contended by the management that there was no post of Asstt. Storekeeper Regional Workshop, Bhurkunda Colliery and he cannot claim promotion to the post which did not exist. However, this contention is said to be incorrect. It is also said that there is three sanctioned post of Asstt Storekeeper at Regional Workshop, Bhurkunda Colliery and one of them was filled up in the year 1982 and two in the year 1983 and after getting the matter verified the reference has been made and it is prayed that the claim of the workman for regularisation in the post of Asstt. Storekeeper since 23-12-82 be justified with full back wages.

3. I find that the management appeared and filed written statement stating, inter-alia, that the reference itself is not maintainable and bad in law and the sponsoring union is not competent to raise the dispute as it has not any existence in the Regional Workshop of M/s. C. C. Ltd. at Bhurkunda having no membership at all and the union is

not competent to raise the dispute on behalf of the workman. It is also said to be illegal on account of delay in raising the dispute and it has become overstate as held by the Hon'ble Supreme Court in several cases. It is also said that the issue relates to promotion of an employee to higher post and it cannot be a matter of industrial dispute as promotion is sole function of the management and that no employee can claim it as way of right and for this authorities given by the Hon'ble Supreme Court in Brooke Bond India Pvt. Ltd. Vs. Their Workmen (SCLJ-5-3499) and Brook Bond India Private Ltd. Vs. Their Workmen (SCLJ-5-3502)) have been referred.

4. It is further said that the workman joined in Regional Workshop, Bhurkunda from 23-12-1982 as Cat-I daily rated and in due course he was promoted to Clerk Grade-III by Office Order dated 20-10-85 and thereafter this purported dispute has been raised which is an after thought and with ulterior motive. It is said that the demand of the union and workman is that he should be promoted as Asstt. Storekeeper with effect from 23-12-82 on the plea that he was working in such a post from that date. It is said that the concerned workman was never called upon to perform duty of ASK nor he discharged such duties and he was not entitled for appointment against such post of promotion with effect from 23-12-82 or any other date. It is finally said that as the workman never worked as ASK the action of the management is fully justified in denying promotion to the concerned workman to such post from the date mentioned or any other date and he is not entitled for any relief as claimed and it is said that the award he passed accordingly justifying the action of the management.

5. I further find that by way of rejoinder the contentions of the workman in his written statement have been denied specifically and parawise and claim of the workman is said to be incorrect and denied. It is also said that the prayer of the sponsoring union and the workman is based on misrepresentation on facts and it is also baseless and without any substance and fit to be rejected.

6. I further find that a rejoinder has been filed on behalf of the workman to the written statement of the management where the contentions of the management have been denied specifically and parawise and the same is said to be incorrect and not tenable at all and it is said that an award be passed in favour of the workman.

7. On the basis of pleadings of the parties I find the point for consideration in this reference is—

(a) Whether the action of the management in denying promotion to the workman, Ramesh Kumar Gupta as Asstt. Storekeeper w.e.f. 23-12-82 is justified or not ?

(b) If not, what relief or reliefs the workman is entitled ?

8. Both the points are inter-linked and as such are taken together for their consideration.

9. I find some documents have been filed by the parties and the management have filed Office Order dated 18/20-4-85 marked Ext. M-1 and extract of daily chart, Ext. M-2.

10. Similarly, some documents have been filed on behalf of the workman and Ext. W-1 series are requisition vouchers of different dates starting from 2-6-83 to 1-1-90 and Ext. W-2 is same voucher dated 5-11-87. Ext. W-3 is physical stock taken on 16-1-85 and Ext. W-4 and W-4/1 requisition issue documents. There is no other exhibits on either side.

11. The management has examined one witness, MW-1—Rajendra Singh who is Project Officer at Regional Workshop, Bhurkunda since 1987 which is under Area General Manager of the area and there was different Collieries under this Workshop which is for maintenance of underground machineries of these Collieries and there was one small store in the Workshop and material was brought from the Regional Store at a distance of 4 K.M. He knew the concerned workman who never worked as Asstt. Storekeeper and two other General Mazdoors, Seshnath and B. N. Pandey were later promoted as Asstt. Storekeeper through Area Selection Committee and Seshnath was I.T.I. passed and they were promoted in December, 1983. The concerned workman also appeared before the Selection Committee but he was not selected. Later he was promoted to Clerk Grade-III in the year 1985 and he has proved the promotion order marked Ext. M-1. He has said that the claim of the workman for regularisation as Asstt. Storekeeper is not justified. He also stated that Indian National Miners Engineering Workers Association was not in existence in that Colliery or Workshop. He has been cross-examined at length and stated that the workman has not worked as Asstt. Storekeeper and duty of Asstt. Storekeeper is to issue materials and receive materials from Area Store, and no such work was being done by the workman. He has proved requisition voucher on which workman has also signed, marked Exts. W-1 to W-1/7 and local purchase demand form bears the signature of the workman, marked Ext. W-2. He could not say as to what capacity Seshnath and B. N. Pandey was working as he was not posted there. He has further proved physical store verification with signature of the workman, marked Ext. W-3 photo copy of store issue bears signature of the workman in col. 2, marked Ext. W-4 and has further clarified this signature of Depot Officer but as he was on leave so he put his signature. Similar document is Ext. W-4/1 and these both documents do not bear signature of any officer whom he knew. He has further stated that only Depot Officer is empowered to supply materials from the store.

12. On the other hand, the workman has examined two witnesses, WW-1 is Ramesh Kumar Gupta, the workman himself who has tried to support his case as given in written statement and has stated that he joined Regional Workshop at Bhurkunda and designated as General Mazdoor and was doing the work of Storekeeper. Later Seshnath Sinha and B. N. Pandey were promoted to the post of Asstt. Storekeeper in 1982 and he himself joined service in December, 1982. He had protested the matter and thereafter the union raised the dispute. In the year 1985 he was promoted to Grade-III and he was doing the work of Asstt. Storekeeper like issuance of articles on requisition issue voucher, maintaining store cards, issuing gate pass etc. In cross-examination he has stated that he had no written order from the management to work as Asstt. Storekeeper and a worker is promoted to the post of Asstt. Storekeeper on the recommendation of the D.P.C. and he and Seshnath and Sri Pandey were interviewed by the D.P.C. and two others were selected but he was not selected and he filed copy of representation to the management. He has denied that neither he worked as Asstt. Storekeeper nor the management asked him to perform the duty as per Ext. M-2 nor he performed any such duty. He has admitted that he was posted in the Workshop in Grade-III but was removed from the store and has denied that he was not removed from the store but he declined because he did not want to go to Grade-III. He has denied that his demand is unjustified.

13. WW-2, Tahir Hussain who was working as Welder in Regional Workshop of Bhurkunda Colliery, knew the workman and Seshnath Sinha and B. N. Pandey and he saw the workman working since 1982. In cross-examination he admitted that both Seshnath and B. N. Pandey were working since their appointment and the store is within the same boundary and is at a distance of 25 to 30 metre from the Workshop and he had no concern with day to day working of the store. He has admitted that Sri Ganguly was working as Store Keeper and also working there as Senior Storekeeper and has denied that he did not get any materials from Sri Gupta, workman and that he was adducing evidence just to oblige the workman. There is no other evidence.

14. While arguing the case it has been submitted on behalf of the management that the sponsoring union is an union of Engineering Workers Association who had raised this dispute whereas the General Mazdoors are not Engineering Workers and accordingly it is submitted that the union was not competent to raise the dispute and the reference is not tenable. There is also delay of about 8 years in raising the dispute and this has become stale claim and it has been held in various rulings of the Hon'ble Supreme Court in the case of *Inder Singh and Sons Ltd. Vs. Their Workmen* [1961 (II) L.J. 89] and *Shalimar Works Ltd. Vs. Their workmen* (AIR 1959 SC-1217). It is also said that the claim of the union relates to promotion of the workman concerned and it cannot be decided by the Industrial Tribunal as giving promotion to the workman is sole prerogative of the management and this fact cannot be interfered by the A.L.C.(C) or Tribunal.

15. It is also said that the concerned workman was appointed on compassionate ground on the death of his father in harness, as General Mazdoor Cat-I and he was not even selected on merit where two others, Seshnath Sinha and B.N. Pandey were selected on merit and the former was III examination pass. It is admitted that he joined in service in December, 1982 and both Seshnath Sinha and B. N. Pandey were appointed in October, 1982 and they were senior to him. It is further submitted that the concerned workman had admitted that in the year 1983 a D.P.C. was held in which he and two other workers appeared for interview and the two others were selected for promotion as ASK whereas he was not selected for the same. It is also said MW-1 specifically stated that the concerned workman never worked as ASK and he was offered the post of Clerk Grade-III in the same store, but he refused to accept the promotion and he has further stated in cross-examination that even now he is not ready to accept Grade-III post and he wants only the post of ASK which is in Grade-II. He has further said that the duty of the Asstt. Storekeeper is laid down as given in Ext. M-2 and this was admitted by the concerned workman himself and there was no evidence that he had discharged duties of ASK to claim promotion as ASK. It is said that some documents have been manipulated by the workman, Ext. W-1 series, Ext. W-3 and Ext. W-4 series. It is also said that MW-2 another workman has come forward to say that the workman had received materials issued from him and there is no specific support in the case of workman is the mazdoor brings the materials from the store and hands over the same to the recipient. It is also submitted that to a question put by the Tribunal WW2 admitted that the store is a part of the Workshop located in the same boundary and he has also stated that he had not concerned with day to day work as he was working and Sri Ganguly was working as Storekeeper and still working there.

16. It is also submitted that the claim of the workman is for promotion from 1983 when two other co-workmen were promoted as ASK whereas as per term of reference the action is to justify in denying promotion to the workman w.e.f. 23-12-82 which is the date of his joining service. It is said in the store S. K. and A. S. Ks are posted there and General Mazdoors are required for movement of materials in store and the concerned workman was working as General Mazdoor and still he was General Mazdoor and he was promotion to a workman is sole function of the management refused and is acting on his own post of General Mazdoor. It is also said that there is no rule to give retrospective promotion from 23-12-82 when the workman has joined service as General Mazdoor. It is said that it has been held by the Honble Supreme Court in a number of cases that giving promotion to a workman is sole function of the management and the workman cannot dictate to the management and that he would insist on doing particular work of higher post and claim promotion in the same. It is also said that the contention of the sponsoring union is baseless and false. MW-1 has nowhere admitted that the concerned workman was working as ASK. It is also said that Ext. W-1 series and Ext. W-2 relates to the period of 1985 when one SK and 2 ASK were posted in the store and to make out a false claim and for the purpose of the case he has put signature on a few documents as above and to make out claim that he was working as ASK and this is simply an after thought and the workman wanted overall the management just to get his promotion as ASK. It is also peculiar that he was not ready to work in higher post Clerk Grade-III but he is agree to work which is in Grade-II and it shows that he is interested for working as ASK and for that his claim for promotion he wanted to dictate to management which cannot be allowed by any management. It is finally said that the claim of the workman has got no legal valid and promotion cannot be claim by way of right by a workman specifically when he was not selected by the D.P.C. held for the purpose in the year 1983 when two other co-workers were selected to join as ASK and he failed through the interview.

17. On the other hand, it has been submitted on behalf of the workman and the sponsoring union that the workman was matriculate at the time of his joining service and as per clause 9.4.2 of NCWA he ought to have been given higher grade his he was appointed as General Mazdoor Category-I and it is said that after failure of the conciliation proceeding when the matter was sent to the Ministry and it was cleared from the management who replied that there was no post of ASK in Bhurkunda, the Ministry of unable to send the dispute for adjudication. But later when the sponsoring union and the workman represented with full facts thereafter the Ministry referred the case for adjudication in the year 1990 and so there was no delay and it cannot be said to a stale claim as alleged by the management. It is also said that two posts of ASK in the Workshop was filled up by co-workers Seshnath Sinha and B. N. Pandey who were yes-men of the management and this workman was left as he belonged to some other union. It is also said that the workman was working as ASK which is clear from Ext. W-1 series and W-2 and MW-1 has admitted that these documents bear signature of the workman. It is further said that as he was doing the job of ASK from the very beginning and as industrial dispute was raised before the A.L.C. (C). Hazaribagh for promotion of the workman as ASK Clerk-II with back wages from 23-12-82 so he did not think it proper to join the post of Clerk Grade-III on promotion in the year 1985 and he is still working as General Mazdoor Grade-I. It is further said that the action of the management in denying promotion to the workman in the light of the reference i.e. from 23-12-82 is totally unjustified and the workman is entitled for relief of such promotion from that very date with full back wages.

18. After going through the case records both oral and also considering the points of argument as advanced on behalf of the parties. I find much force in the plea taken by the management that the workman has claimed promotion from the year 1983 when two other workmen were given the post of ASK after facing the D.P.C. and this workman

was refused such promotion but as per term of reference promotion has been sought from 23-12-82 the date on which the workman joined in service of the management and as such there is contradiction in the case of the workman as adduced before this Tribunal and the reference made by the Ministry. I also find certainly it is stale claim as the reference has been made in the year 1990 and also considering the fact that the matter was raised before the A.L.C. (C) in the later part of 1986 when the claim was made from the year 1982 i.e. after lapse of about four years and this delay in making the claim has not been explained. I further consider the contention of the management that giving promotion to a workman is a sole work of the management and a workman can't dictate the management to give him promotion as per his choice to a higher post as per his selection and not accept the promotion given in higher post by the management. I further find much force in the plea taken by the management that Ext. W-1 series and Ext. W-2 relate to the period of 1985 to show that the workman had received some materials and issued the materials whereas his claim of promotion as Asstt. Storekeeper is from 23-12-82 the date when he joined his service that too simply on compassionate ground due to death of his father in harness and not being selected on merit. It is also true that the two other co-workers who have been given promotion after December, 1983 who were senior to him as admitted by the workman himself and they had joined in October, 1982 and he had joined in December, 1982, so it is not a case that junior co-workers to the workman were given promotion and he was denied such promotion. It is also peculiar that in the year 1985 one Store Keeper and two Asstt. Storekeepers were posted in the store of the Workshop when there was no occasion that the workman was working as Asstt. Storekeeper vide Ext. W-1 series and Ext. W-2 and it is just possible that the workman could manage to sign some documents for the purpose of this case and produced the same in this case to justify his claim. I also find much force in the contention of the management that besides SK and ASK General Mazdoors are required at the store to handle materials and this workman being General Mazdoor working in the store and as such he might be handling materials as per asking of SK and ASK, but it can't be relied that he was working there as ASK. It is also peculiar that when the workman joined his service on compassionate ground w.e.f. 23-12-82 as General Mazdoor Cag-I then how he can claim promotion from that very date. Accordingly, I do not find any merit in the claim of the workman and certainly the action of the management in denying promotion to the workman as ASK from 23-12-82 is justified. The action of the workman is also ridiculous when it is taken into consideration that he refused to join Grade-III Clerk on promotion in the year 1985 offered to him by the management and he specifically stated that still he is not ready to join that post and he wanted only the post of ASK Grade-II which is certainly one grade down to Clerk Gr. III. It is also evident from the statement of WW-2 produced by the workman that he store is within same campus of the Workshop and in same boundary, so there is no question of going the workman somewhere else on promotion as Clerk Grade-III and there is certainly much strength in management's contention that the workman wanted promotion as ASK in Grade-II and he might have got some mala fide intention or vested interest in working in the said post while refusing the higher post offered to him in promotion in the year 1985.

19. In the result, I find nothing irregularities in the action of the management and I further find that the action of the management in denying promotion to the workman as Asstt. Storekeeper with effect from 23-12-82 is quite justified and the workman is not entitled for the relief as claimed.

20. Hence award—

That the action of the management of Regional Workshop, Bhurkunda of CCL in denying promotion to Ramesh Kumar Gupta as Asstt. Storekeeper with effect from 23-12-82 is quite justified and the workman is not entitled for the relief as claimed.

In the circumstances of the case, there will be no order as to cost.

TARKESHWAR PRASAD, Presiding Officer

नई दिल्ली, 6 मई, 1997

का.आ. 1454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एम. पी.डी.आई.एल. (सेन्ट्रल माईन प्लानिंग एंड डिजाइन इंस्टीट्यूट लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिनियम, नं. 1 धनबाद के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 5 मई, 1997 को प्राप्त हुआ था।

[संख्या एल-20012/253/91-आई.]

आर. (सी.-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 6th May, 1997

S.O. 1454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of CMPDIL (Central Mine Planning and Design Instt. Ltd.) and their workmen, which was received by the Central Government on 5th May, 1997.

[No. I-20012/253/91-IR (C-I)]  
BRAJ MOHAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947

Reference No. 14 of 1993

#### PARTIES :

Employers in relation to the management of Central Mine Planning and Design Institute Ltd.

#### AND

Their Workmen.

#### PRESENT :

Shri Tarkeshwar Prasad, Presiding Officer.

#### APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri B. N. Singh, Secretary, National Coal Workers Congress.

STATE : Bihar

INDUSTRY : Mining

Dated, the 24th April, 1997

#### AWARD

By Order No. L-20012/253/91-IR (Coal-I) dated, the 11th December, 1992, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal

"Whether the action of the management of Central Mine Planning and Design Institute Ltd., Regional Institute-II, P.O. Koria Nagar, Dist. Dhanbad is not regularising/absorbing S/Shri P. K. Barat, late

Ram Pandey as Electrician, Shri A. K. Banerjee as Water Carrier and Shri Janardan Prasad Singh as Cat. I Mazdoor is justified and if not to what relief the workmen concerned are entitled and from what date ?"

2. The workmen and the sponsoring union appeared and filed their written statement stating therein that out of four, two of them, namely, P. K. Barat and Hari Ram Pandey have been working as Electrician since 1982 and 1986 respectively and A. K. Banerjee was working as Water Carrier since 1986 and they were performing regular/permanent nature in their respective job from the years 1982 and 1986 onwards and they worked for more than six months and were entitled for regularisation/absorption in permanent service of the management and for that the union had represented the matter before the management by its letter No. NCWC/90 dated 1-2-90.

3. It was also said that the 4th workman Janardan Pd. Singh worked from October 1986 till September, 1989 and performed the job of casual daily rated unskilled/skilled workman and during the period of his employment he was given letter from time to time by the management for being employed and from this it can be said very well that he was not doing casual nature but that of permanent nature on its long duration from October, 1986 to September, 1989. But it seems that for obvious reason to exploit the workman and to harass him he was designated as casual daily rated workman and this is simply a camouflage to deny regularisation of the workman in permanent service. It was also said that all the four workmen worked for a very long period with the management and although the matter was raised by the union in the year 1990 by its letter dated 1-2-90, it was not considered at all. Thereafter industrial dispute was raised before the Asstt. Labour Commissioner (C), Dhanbad in March, 1990 and during the conciliation proceeding it could not be settled due to rigid attitude of the management and on its failure it was sent to the Ministry from where the reference has been made to this Tribunal for its adjudication.

4. It was also said that the management employed electricians on its permanent roll but the two above-named electricians were not made permanent and one of them, P. K. Barat was getting payment received from the management and they got last payment for performing similar nature of work and they were made very less payment as per provision of NCWA and violating Art. 14 and Art. 39 of the Constitution of India by the management. It is also said that similar dispute on behalf of the other workman, Prem Bahadur working as Water Carrier was referred to Central Government Industrial Tribunal No. 2, Dhanbad and it was held by the learned Tribunal that the work done by the same worker was regular/permanent nature and award was made for his regularisation/absorption and the said award was implemented by M/s. BCCL, one of the units of Coal India Ltd. like the present management of CMPDIL and in this view of the matter service of the workman, A. R. Banerjee in this reference ought to have been regularised by the management long back in view of the provision of Certified Standing Orders. It is also said that so far case of the 4th workman is concerned and his not regularisation of service although he worked for such a long period, the action of the management is arbitrary, illegal and unjustified and also discriminatory. It is finally said that award be passed in favour of the workman for their regularisation/absorption in permanent cadre of the management admissible to them.

5. I further find that the management has appeared and filed written statement stating, inter-alia, that the reference is not maintainable and there is no relationship of employer and employee between the management and the concerned workmen and the management was not running a mine and it was simply planning and design of mining establishment and as such it is not industry for winning of coal and manufacture of coke and the reference cannot be adjudicated by the Tribunal.

6. It is further said that the workman, P. K. Barat approached the management for awarding him some contract for repairing and maintenance of electrical lines as and when required and for such maintenance of air-conditioner, refrigerator, fans and he got a shop at Bank More, Dhanbad where he put a Sign Board described the firm "Mahun

Electricals" as specialist on the jobs of wiring of electric line and repairing of machine as noted above. It is said that the management discussed the matter with Sri Barat as representative of M/s. Mahua Electricals for awarding contract and some other parties also approached to the management and thereafter contract was given to Mahua Electricals for doing such repairing job. It is said in this connection that P. K. Barat and Haro Ram Pandey worked as and when required during office hour as representative of Mohua Electricals and their working hour was one hour to five hours a day as per requirement and they were not employees of the management but simply representative of the Mohua Electricals and Mohua Electricals has its own shop at Bank More, Dhanbad.

7. Similarly, A. K. Banerjee never worked as workman of the management and he was supplying drinking water to the people residing in the locality nearby to the new premises of the management and they engaged him for short duration to supply water in the new premises at the rate of Rs. 2 per bucket during the period from May to July which he supplied from 8 AM to 10 AM being engaged for two hours. Thereafter permanent arrangement was made by the management for supplying drinking water through pipe line and there was no requirement of getting water through A. K. Banerjee. It is said that there was no requirement of engaging any regular water carrier for supplying drinking water at the premises of the management and he was not given any other contract for supplying drinking water and he was not a workman of the management and he could not be engaged as full time job on regular basis having no work for him.

8. Similarly, it is said that Janardan Prasad Singh was engaged on contract basis during the period from October, 1986 to August, 1987 and some days thereafter and he was engaged as and when required and payment was made as per total number of days he worked which will be found from Annexure-A of the written statement and he never put continuous period of service and his total number of days was less than 240 days in 12 calendar months and he can't claim to be a workman of management and cannot claim for regularisation. It is said that the sponsoring union wrongly raised this dispute on behalf of the management for their regularisation/absorption in view of the above position relating to the concerned workmen.

9. By way of rejoinder to the written statement of the management the same has been denied parawise and specifically and is said to be incorrect and denied. It is finally said that an award be passed accordingly justifying the action of the management in not regularising/absorbing of the workmen as prayed.

10. I further find that a rejoinder has been filed by the management to the written statement of the management denying the contention specifically and parawise and the same is said to be misleading and incorrect. It is said that the workman A. K. Banerjee used to supply water to the office premises and also to the quarters of the staff and bunelows of the officers of Regional Institute II situated at Koyla Bhavan and he also used to supply water during working hours and as such he has rendered full time service during the period from 1986 to 1990 before illegal stoppage of work by the management and he was entitled for his regularisation. Similarly about workman, Janardan Prasad Singh the contention of the management was misleading and denied and similar was the case regarding two electricians, P. K. Barat and H. R. Pandey the contention of the management was misleading and denied.

11. On the basis of pleadings of the parties the points to be considered in this reference are—

- As to whether or not the action of the management in not regularising/absorbing the concerned four workmen as electricians, water carrier and general mazdoor Cat-I was justified?
- If not to what relief the workmen were entitled and from what date?

12. Both the points are inter-linked and as such these are taken together for their consideration.

13. The management has examined two witnesses, namely, MW-1, Parsuram Sharma, Addl. Chief Engineer (E&M) in CMPDIL Regional Institute-II and MW-2, Nirnai Charan Lal Office Superintendent of CMPDIL, Dhanbad. MW-1 is working in the above position since 1976 and he knew none of the workmen and work order was issued to Contractor Mahua Electricals which was one of such contractors which worked for the management and such work orders have been filed on behalf of the management to prove this point and the contractor was paid a fixed amount every month as per contract. He has admitted that Mahua Electricals started working with the establishment within five years of age of the establishment but he could not give exact year and date nor he could remember who represented on behalf of the firm while making contract and whether it was registered firm or not. He could not say as to whether P. K. Barat and Hareram Pandey were electricians or not and any Rajeshwar Singh and Co. was doing such electrical work for the management in their office since 1993 and Mohua Electricals ceased working in the year 1990. He could not say whether officials of the management used to supervise payment of wages to contract labour by their firm and he further denied that Mahua Electricals are still working in his office and workmen, P. K. Barat and Hareram Pandey are electricians of Mahua Electricals. He has also denied that both of them were working there from the very beginning. Similarly MW-2 has stated that earlier their office was working in a rental building in the year 1978 and due to defective tap arrangement there was scarcity of drinking water and A. K. Banerjee was engaged for supplying water at the rate of Rs. 2 per pitcher and he started supplying water from May, 1989 and supplied water for ten to eleven months. Again said, he supplied water from May, 1988 till August, 1989 and this payment register in which entries relating to payments made to Sri A. K. Banerjee was noted at pages 242 and 249 duly signed by him and Dy. Finance Officer, marked Ext. M-5 and M-5/1. He has further said that after water was supplied by M/s. BCCL through the workman was stopped for supplying water and payment was made to A. K. Banerjee through voucher which would be filed in the office. It is also said that A. K. Banerjee had to fill water in 8 pitcher every day, two at each floor and he was not supplying water to the quarters in the colony and has denied that he was supplying water to the employees of the management in their quarters.

14. As many as four witnesses have been examined on behalf of the workmen, WW-1, Banshi Dhar Kumhakar, who superannuated on 23-2-95 as Dy. Chief Engineer (E&M) in CMPDIL management and as the workmen P. K. Barat and Hareram Pandey were working under him under his instruction as electricians and another workman Sri Banerjee whose name he did not remember was working as Water Supplier with the management. He has also said that P. K. Barat and Hariram Pandey were working since 1982 and 1986 respectively and during his tenure no other than these two were working at CMPDIL and the work implements were supplied by the management to them and their attendance was not marked but from complaint register on which work was allotted to them would appear that they were working with the management continuously. In cross-examination he has said that no appointment letter or Identity Card were issued to them. He also said that contractor was charged from time to time but these two workmen continued working under such contractor and the work orders issued to the contractor specify the nature of work and bill was submitted in accordance with work order and the contractor used to make payment to these workmen. He also said that the bill of the contractor would show as to for how many days these workmen were employed. He could not say whether P. K. Barat was Proprietor and Hariram Pandey was an employee of Mahua Electricals. He denied that being superannuated he was depositing money in favour of the workmen in the case filed on their behalf and has also denied that the work implements were not supplied by the management rather they were workmen of the contractor and that they did not work regularly.

15. WW-2, Hariram Pandey, WW-3, Anubhuti Banerjee and WW-4 Janardan Prasad Singh are all the concerned workmen out of four and they have stated supporting their case as given in written statement and rejoinder and WW-2 has further proved photo copy of register marked Ext. W-4 in bunch and 12 gate pass issued in his name, Exts. W-5 to W-11 and that

he was possessing wireman certificate. He has further stated that the firm Mahua Electricals owned by the co-worker P. K. Barat which firm only works for this management and has denied that this firm is also doing the job of other persons also at their electrical works. He has denied that he was an employee of Mahua Electrical and in that capacity he worked with the management with co-worker Sri Barat. He was not issued appointment letter, pay slip or Identity Card and payment was made to co-worker P. K. Barat by the management for electrical work done and Sri Barat used to pay him out of that money. The other two workmen were not issued appointment letters or pay slip and the workman Sri Banerjee was paid by the management on voucher for water supplied by him. The workman Janardan Prasad was appointed temporarily during different period by written order of the management. WW-3, A. Banerjee has proved photo copy of pages of attendance register on which his attendance was proved which has been proved as Ext. W-6 and officers and staff used to sign over that register. The workman P. K. Barat and Hareram Pandey are still working there and the workman Janardan Prasad Singh is not working there. He has said that when he was working no entry pass system was introduced and it has come into force since last two years. He has no pass. He was paid at the rate of per pitcher of water filled by him and he was not paid anything for supplying water to individual employee or for taking paper from one table to another for that he had not protested to the management. He has denied that his job was only to fill the pitchers and no other work was taken from him. He also denied that Ext. W-6 is manufactured document only for the purpose of this case. Similarly WW-4 has stated that the workmen, P. K. Barat and Hareram Pandey are still working as electricians. The workman, A. K. Banerjee was not working for last 3/4 months and he himself worked from October, 1986 to September, 1989 continuously as skilled workman as well as unskilled workman and he was doing field duty at different places. He has further stated that five more workmen like him were working, but they were regularised and he was stopped from work and in his place one Ramanuj Singh was brought from Lalmatia to work. He was paid through voucher. He denied that he never worked to the management without appointment letter and it is also denied that he has stated wrongly that Ramanuj Singh had been called from Lalmatia to work in his place. He has also denied that he was engaged temporarily when work was available and he was not engaged as there was no work for him. He has also denied that P. K. Barat and Hareram Pandey were not still working and that he was adducing wrongly.

16. Some documents have been filed on behalf of the parties and Ext. M-1 and M-2 to Ext. M-2/10 are different letters ranging from May, 1980 to May, 1990 and Ext. M-3 is also such letter dated 1-2-90. All these documents go to show about giving contract to M/s. Mahua Electricals, Bank More, Dhanbad, for doing electrical work with the management and renewal of service contract.

17. Similarly the workmen have filed Ext. W-1 series which are casual engagement letters issued to the 4th workman, Janardan Prasad Singh for doing work for a period of 30 days in each time starting from 6-10-86 upto 21-8-87. Ext. W-2 is also one such letter. Ext. W-3 is Wireman's certificate issued by the Government of Bihar in the name of the workman, Hareram Pandey. Ext. W-4 is detailed work chart in bunch doing electrical work by the workmen No. 1 and No. 2. Ext. W-5 series are gate pass of CMPDIL issued in the name of the workman, Hareram Pandey from April, 1992 onwards till December, 1993 and Ext. W-6 photo copy of attendance of the workman, A. K. Banerjee showing drinking water supplied by him for the period from May, 1988 to December, 1989. No other document has been exhibited on behalf of the parties.

18. While arguing the case it has been submitted on behalf of the management that the workmen P. K. Barat and Hareram Pandey were employees of the contractor, M/s. Mahua Electricals to which work order was issued from time to time for doing electrical work and they worked as representative/employee of the said Electrical Contractor and payment was made to the representative of the contractor and there was no relationship of employer and employee between them. Similarly it is said that for a limited period the workman A. K. Banerjee was engaged for supplying drinking water at the rate of Rs. 2 per pitcher which was a part time work and after making arrangement of drinking water through water pipe there was no

engagement and he was stopped work. Likewise, the 4th workman Janardan Prasad Singh was engaged temporarily on daily rated casual worker for a fixed period as and when there was casual work available for him and as there was no work available after December, 1989 he was stopped work and there is no question of regularisation of their job on permanent basis. It was also submitted that the exhibited documents produced on their behalf viz. Ext. W-4, Ext. W-5 and Ext. W-6 are not genuine documents rather these are manufactured documents for the purpose of this case and this can't be relied upon. Similarly it is also said that oral evidence as given by WWs is motivated on the part of the sponsoring union and the workmen and that also can't be relied upon. It is further said that the management produced exhibits showing contract work order given to Mahua Electricals for doing electrical repairing job for which payment was made to its representative on submission of bills and workman P. K. Barat and Hareram Pandey were working as contractors workers and they were never workmen of the management and they cannot claim their regularisation and this fact has been clearly stated by MW-1 and MW-2 and their evidence is quite genuine and trustworthy. It is submitted that the demand of the workmen for their regularisation/absorption in the service of the management is not at all valid and the action of the management in denying the same is in accordance with law, genuine and justified and award be passed accordingly.

19. On the other hand, it is submitted on behalf of the workmen that as per evidence of WW-1 who is retired Dy. Chief Engineer (E&M) of the management, who superannuated only in February, 1995 has fully supported the case of the workmen, P. K. Barat and Hareram Pandey that they were doing electrical repairing work under his supervision and control and direction from the period 1982 and 1986 respectively till his superannuation and payment was being made on submission of bills by them. In this connection the evidence of MW-1 and MW-2 cannot be relied upon as they have stated clearly that they did not identify the workmen as to who used to take payment as representative of the Mahua Electricals from the management and who used to submit its bills on its behalf. It is also stated by WW-1 that no attendance register was maintained for the workmen, P. K. Barat and Hareram Pandey, electricals but their work order noted on the complaint register in which is to be signed by the officers and staff of the management for repairing work done by them and the workmen have filed Ext. W-4 in bunch of photo copy and the original of the same was called for from the management vide petition dated 31-4-94 to prove its genuineness but the management failed to produce the same and from this Ext. W-4 it would clear that they worked for more than 240 days in 12 calendar months and they were entitled for regularisation in the service. This fact has also been supported by WW-2 to WW-4 the concerned workmen and who have stated that these workmen have still working with the management. However, the management has refuted this claim on the basis of Ext. M-1 series and Ext. M2 that contract was given to Mahua Electricals who was owner of the Mahua Electricals and P. K. Barat and Hareram Pandey were his employees and they were not working under the management. But I find this contention of the management falls on the ground in view of Ext. W-4 series and evidence of WW-1 who is senior officer of the management who has just retired and there is no evidence to show as to why he would be adducing falsely against the management. It is also submitted that from Ext. W-5 series which are gate pass in the name of Hareram Pandey, Electrician running from the period January, 1990 upto December, 1993 go to support the workman's contention that he was still working with the management and for that gate pass was issued to him for performing job and it stands confirmed by WW-2 to WW-4 and that of WW-1 who have stated that both the workmen are working as electrician still with the management.

20. Similarly, it has been submitted on behalf of the workman, A. K. Banerjee that he was working from September, 1986 till September, 1989 continuously as water carrier in the office premises of the management and also in the Guest House and quarters of the officers and employees and also serving water to the staff in the office premises and also getting paper from one table to another for the entire working hour and Ext. W-6 photo copy of register of his attendance marked for supplying water duly signed by the staff of the management has been produced and original of the same was called for from the management. Here also the management failed to produce the same and this exhibit

is for the period of May, 1988 to December, 1988 from January, 1989 to December, 1989 which go to show that he worked for more than 240 days in 12 calendar months of 1989 and more than 190 days attendance in the year 1988 in the period of 7 months and this contention is also corroborated by WW-1, WW-2 and WW-4. It is also said that he was working continuously and he was stopped from working by the management without any notice or notice compensation and photo copy of award passed by the Central Government Industrial Tribunal No. 2, Dhanbad between the workmen, Koyla Bhawan, BCCL and the management of M/s. BCCL has been filed where award was passed in favour of the workman and he was regularised in service by the management of M/s. BCCL. It is further said that witnesses, MW-1 and MW-2 have stated nothing against him.

21. The workman Janardan Prasad Singh is concerned, it is submitted that he has worked with management for the field duty from October, 1986 till September, 1989 and it is submitted by oral evidence of WW-2 to WW-4 and latter is the concerned workman himself and he has performed the field duty during the period and just to deprive him from regularisation of service his engagement letter as casual labour was issued for a period of 30 days vide Ext. W-1 series photo copies of original of the same was called for from the management, but it was not produced with a purpose to conceal that the workman had worked from October, 1986 to the end of December, 1986 and from January, 1987 to the end of 1987 and has worked for more than 240 days in 12 calendar months and was entitled for regularisation as General Mazdoor Cat. I which is continuous and permanent nature of job with retrospective effect and full back wages from the date of their termination.

22. My attention has also been drawn to the various authorities of Hon'ble Supreme Court as reported in Jaswant Sugar Mills Ltd., Meerut Vs. Badri Prasad (SLJ Vol. V 3474) where it has been held by their Lordship that "a permanent workman is one who is engaged on work of permanent nature and which should last throughout the year". It is also held by the Hon'ble Supreme Court that "contractual nature of work is either of intermittent nature of casual nature not extending beyond 120 days or 60 days respectively as per contract Labour (Regulation and Abolition) Act, 1970." It is also submitted that as per Certified Standing Orders of the management of CMPDIL a permanent workman has been defined "a permanent workman is one who works for atleast six months continuously." Reference has also been made to a decision of Hon'ble Supreme Court in Hussaini Bhai Vs. The Alath Factory Tezilali Union and others reported in 1978 Lab. I.C. 1264(SC) where it has been held by their Lordship that "for appreciation of their case for their having been working continuously since 1982 and 1986 for the benefit of the management for all practical purposes and contrary to this they being treated as contract workmen is not a reality and it is a camouflage to conceal their exploitation at since long and unfair labour practices indulged in by the management in respect of them." It is submitted that Exts. M-1 series and M-2 filed on behalf of the management to show that the workmen, P. K. Barat and Hareram Pandey were the employees of Mahua Electricals doing contract job with the management is nothing but camouflage and they do not prove genuine contract for such a long period but have been produced just to exploit the two concerned workmen and being unfair labour practice by the public sector. Another case in Gujarat Electricity Board, Thermal Power Station Vs. Hind Mazdoor Sabha reported in 1995 Lab. I.C. 2207 (SC) it has been held by their Lordship that—"The activities of Public Sector should not be solely for profit earning but endeavour should also be to reduce unemployment." It was further held that if the contract does not appear to be genuine and if it appears to be a sham or camouflage to hide the reality, the industrial adjudicator will have jurisdiction to justify dispute and to grant necessary relief to the workmen.

23. In view of the above facts, it is submitted that the documents exhibited and produced on behalf of the management are not genuine rather only have been prepared to camouflage the real fact and to deprive the workmen from their genuine claim of being regularisation in service when they have worked for more than 240 days in 12 calendar months or more than 190 days for the benefit of the management and as per Standing Orders of the management itself they ought to have been regularised and absorbed in service

as nature of job being performed by them was a continuous and permanent nature of work.

24. After going through the case and considering the documents both oral and documentary and also considering the points of arguments advanced on behalf of the parties, I find much force in the plea taken by the workmen that they have worked continuously for more than 240 days in 12 calendar months for the benefit of the management and under its control for which less payment was made to them compared to regular workmen and papers exhibited produced on their behalf go unchallenged in view of the fact that the original of the same have been called for from the management were not produced to prove that these are manufactured documents. Accordingly, I do not find any merit in the contention of the management that they were contractor workmen and worked for very short period and there was no relationship of employer and employees between the parties and they do not deserve regularisation rather I agree to the contention of the workman that they have worked for such long period and the workman A. K. Banerjee and Janardan Prasad Singh were stopped from work in the year 1986 respectively till atleast 1993 as per exhibits and working for more than 240 days in 12 calendar months and for a period of two and half to three years and workmen P. K. Barat and Hareram Pandey have worked from 1982 and 1986 respectively till atleast 1993 as per exhibits and oral evidence and they were doing permanent and continuous nature of work with the management, they are entitled for their regularisation/absorption in service of the management and their demand is quite justified and genuine.

25. Accordingly, both the points are decided in favour of the workmen.

26. So for the date of regularisation/absorption of the workmen is concerned no specific date has been given in the schedule of reference rather it has been left open to fix the date from which they ought to have been regularised/absorbed in the service of the management. As per contention of the management after their respective stoppage of work they have not worked for the management and on the principle of no work no pay they are not entitled for back wages with retrospective effect as claimed, but I find that the reference made to this Tribunal is dated 11-12-1992 and before that the matter was raised before the A.T.C. (C) so they are contesting the case since long and are liable for their regularisation/absorption atleast from the date when the reference has been made in this Tribunal i.e. from 1-12-92 for their regularisation/absorption as Electricians in electrical grade in the case of the workmen, P. K. Barat and Hareram Pandey and as Water Carrier in case of workman A. K. Banerjee and as General Mazdoor in case of Janardan Prasad Singh atleast with 40 per cent of their full back wages in above categories.

27. Hence, the award.—The action of the management of Central Mine Planning and Design Institute Ltd., Regional Institute-II, Koyla Nagar, District Dhanbad in not regularising/absorbing S/Shri P. K. Barat, Hareram Pandey as Electrician, Shri A. K. Banerjee as Water Carrier and Shri Janardan Prasad Singh as Cat. I Mazdoor is not justified. The management is directed to regularise/absorb the concerned workmen in the service of the management from 1-12-1992 with 40 per cent of full back wages in their respective initial category within two months from the date of publication of the award in the Gazette of India.

However, there will be no order as to cost.

TARKESHWAR PRASAD, Presiding Officer

नई दिल्ली, 7 मई, 1997

का.प्रा. 1455.—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार मैमर्स सी.सी. एल. का एन.के. क्षेत्र के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट प्रौद्योगिक विवाद में, केन्द्रीय सरकार प्रौद्योगिक अधिकरण, नं. 1 धनबाद के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-97 को प्राप्त हुआ था।

[संख्या एल-20012/146/95-आई.आर. (सी.-I)]

अज मोहन, डैस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. I) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N. K. Area of M/s. C.C.L. and their workmen, which was received by the Central Government on 6th May, 1997.

[No. L-20012/146/95-IR (C-I)]  
BRAJ MOHAN, Desk Officer

## ANNEXURE I

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947.

Reference No. 39 of 1996

## PARTIES :

Employers in relation to the management of M/s. C.C. Ltd.

## AND

Their Workmen

## PRESENT :

Shri Tatkeshwar Prasad, Presiding Officer

## APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.

For the Workmen.—None.

STATE : Bihar

INDUSTRY : Coal

Dated, the 1st May, 1997

## AWARD

By Order No. L-20012/146/95-IR. (C-I) dated 25/31-7-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of N. K. Area of M/s. CCL in dismissing the services of Sh. Fotna Ganjhu was justified. If not, to what relief is the concerned workman entitled?"

2. The order of reference was received in this Tribunal on 16-8-1996. Thereafter notices were issued to the parties for filing written statement by the workmen. But inspite of giving some adjournments no written statement has been filed on behalf of the workmen. It, therefore, appears that neither the sponsoring union nor the concerned workman is interested in prosecuting the reference case.

3. Accordingly, I pass a 'no dispute' award in the present reference case.

TARKESHWAR PRASAD, Presiding Officer

नई दिल्ली, 7 मई, 1997

का.मा. 1056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अन्वय में

निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिनियम, नं. 1 मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-97 को प्राप्त हुआ था।

[संख्या एन-30011/3/93-आई आर (मिस)/कोल-I]  
ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corporation Ltd. and their workmen, which was received by the Central Government on 6th May, 1997.

[No. L-30011/3/93-IR (Misc.)/Coal-II]  
BRAJ MOHAN, Desk Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

## PRESENT :

Shri Justice R. S. Verma, Presiding Officer  
Reference No CGIT-32 of 1996

## PARTIES :

Employers in relation to the management of Hindustan Petroleum Corporation Limited.

## AND

Their Workmen

## APPEARANCES :-

For the Management.—No appearance.

For the Workman.—No appearance.

STATE :

Mharashtra

Mumbai, dated the 17th day of April, 1997

## AWARD

None on behalf of the Union. None on behalf of the Management.

The Union or Council for the union did not file its written statement of claim till 2nd of January, 1997. On 2nd of January, 1997, time was sought to file the written statement of claim and the case was adjourned to 27th of February, 1997. No statement of claim was filed on 27-2-97 and time was again sought on behalf of the union to file its written statement of claim. That day, I inter alia observed "Already sufficient opportunity has been granted. However, in larger interests of justice one more and last opportunity is granted. In case, written statement of claim is not filed within one month from today the matter shall be adjudicated without the claim on the material available on record claim has been filed even today. What to say of the claim, nobody appears to prosecute the matter.

In the aforesaid circumstances, it appears that the union is not interested in prosecuting the claim. The claim is, accordingly rejected. Award is made accordingly which may be notified to all concerned.

R. S. VFRMA, Presiding Officer

नई दिल्ली, 7 मई, 1997

का.आ. 1457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल माईन प्लानिंग इंस्टीट्यूट लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, धनबाद के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-97 को प्राप्त हुआ था।

[संख्या एल-20012/360/92-आईआर(सी-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure to the Industrial Dispute between the employers in relation to the management of Central Mine Planning and Design Institute Ltd. and their workmen, which was received by the Central Government on 6-5-97.

[No. L-20012/360/92-IR (C-1)]  
BRAJ MOHAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT :

Shri T. Prasad, Presiding Officer.  
In the matter of an Industrial Disputes under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 51 OF 1993

#### PARTIES :

Employers in relation to the management of C.M.P.D.I.L, Ranchi and their workmen.

#### APPEARANCES :

On behalf of the workmen : Shri Abraham Mathews,  
General Secretary, National Coal Workers Congress.

On behalf of the management : Shri U. Prakash, Dy.  
Personnel Manager.

STATE : Bihar

INDUSTRY : CMPDIL

Dated, Dhanbad, the 1st May, 1997

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(360)/92-IR. (Coal-I), dated, the 18th May, 1993.

#### SCHEDULE

"Whether the action of the management of Central Mine Planning & Design Institute Ltd., Ranchi in terminating the services of Sri Naresh Jha and 27 others (as per annexure) w.e.f. 1-7-1992 is justified? If not, to what relief the workmen are entitled?"

2. The workmen and the sponsoring union have appeared and filed the W.S. stating therein that the concerned workmen as per annexure to the schedule of reference were employed as casual on voucher payment under the C.M.P.D.I.L. management, Ranchi and subsequently they were appointed in Cat. I of NCWA for a period of 180 days on probation to do skilled jobs and they joined services as per the date noted against each there are their names were also called for from

the Employment Exchange and other procedures were followed for appointment. After completion of 180 days, their services were extended from time to time on the assurance for placing them in proper grade category for regularisation. It is said that on 30-6-92 each of the workman completed more than 240 days of continuous service and when reported for duty on 1-7-92 they were not allowed to join duty nor to put their attendance. Thereafter industrial dispute was raised before the management on 22-7-92 and before the RLC (C) Dhanbad on 31-7-92. Due to unreasonable stand taken by the management the conciliation failed in September, 1992 and the matter was sent to the Ministry for reference.

3. It is also said that no notice or notice pay was given to the workmen before stoppage of their work on 1-7-92 as they were claiming for proper categorisation and regularisation in service. It is also said that in the conciliation proceeding a plea was taken by the management that they were appointed for completion of the job of U.N.D.P. project. It is said that on 6-8-92 Shri A. K. Aggarwal, Addl. Chief of Geology and Drilling stated that these workmen were terminated with effect from 30-6-92 and prior to their termination no proper procedure were followed as they were in Cat. I of NCWA-III and were casuals. Names and date of appointment of workmen have been given specifically and it is stated that they rendered continuous satisfactory service as casuals and all these workmen were permanent workmen in regular category-I and their termination without notice or notice pay or compensation was in violation of Section 25F of the I.D. Act and void ab initio. It is said that in another similar matter a Public Interest Petition No. 9677 of 1983 these pleas were taken by the management before the Hon'ble Supreme Court of India in Nani Gopal Mitra-versus-Union of India which are quoted in their W.S. although they were were not party to the said petition. It is said that a committee was set up to examine the case of the casual workers vide office order dt. 29-8-92 and after verification of records, attendance, qualification etc. recommendations were made for proper regularisation and categorisation of the concerned workmen. It is said that Shri A. K. Aggarwal, Addl. Chief of Geology (Hydrogeology) admitted in his report that the concerned workmen were working continuously against sanctioned regular post under the department of Hydrogeology. It is further said that as per direction of superiors from the CIL, Calcutta these concerned workmen were terminated from service illegally and without any justification. It was also said that as per Certified Standing Order of the C.M.P.D.I.L. the workmen would come in Category-I of permanent workmen as each of them have completed more than 240 days of continuous service in regular Cat. I and temporary workmen have been defined as workman who works for temporary nature of work and works for not more than 6 months. But in the present case the concerned workmen have worked for more than 240 days in Category-I. It is said that after termination of services of the concerned workmen some other casuals were engaged and by abolition of work of regular nature and giving the same to the Contractors workers is out and out an unfair labour practice. It is said that it is not correct that the workmen were only appointed for only U.N.D.P. project but the said project was not completed and they have worked in different UNDP camps having headquarters at Ranchi and the management cannot take the plea that the concerned workmen were not employed under CMPDIL governed under NCWA. It is said that till 21-9-87 they were paid on voucher and thereafter they were given appointment orders which is with the stipulation purely/ temporary casual nature of work and after closure of Miranagar camp on 8-9-88 the management decided that as they have completed more than 240 days they would be absorbed in the existing vacancies at Regional Institute and these workers joined at Lalmatia and subsequently they were regularised in Cat. I with effect from the initial engagement of voucher payment but different procedures were adopted in case of the concerned workmen by the management which is whimsical, arbitrary and unfair labour practice.

4. It is also said that after termination of services of the concerned 28 workmen more number of workmen were transferred in their place including 8 Cat. I workers posted there by order dt. 12/14-8-92 and it goes to establish that those workmen were not surplus and the work which they were doing at Lalmatia were not closed. He has given a list of such 15 workers which has been filed to show that after 8-8-91 those 15 workmen were employed. It is also said that as per letter dt. 20-2-93 as many as 60 workers were

regularised in Cat. I General Mazdoor on completion of 240 days of work who were definitely junior to the concerned workmen whose services were terminated arbitrarily. It is further said that the services of casual Cat. I is transferable all over India. It is further said that a number of junior workers compared to the concerned workmen have been given Cat. I and regularised in services after termination of the concerned workmen from services illegally. It is further said that Government of India vide Order dt. 27-9-75 re-constituted Coal Mines Authority with its subsidiaries including CMPDIL, Ranchi, entrusted with the responsibilities of the management for entire coal mining sector owned and controlled by the Govt. of India and CMPDIL received budgetary support from the Govt. of India including various department under CIL. Similarly, C.M.P.D.I.L. with its Regional Institutes, Drilling Camps including Hydrogeological camps is with one budget, one balance sheet, Centralised appointment, Seniority, Promotion etc. and so it cannot be taken as the plea that on closure of one camp the entire CMPDIL was closed.

5. It is finally said that the action of the management of CMPDIL, Ranchi in terminating the services of the concerned workmen with effect from 1-7-92 was arbitrary, unjustified, unfair and mala fide and for the ground taken above the workmen are entitled for regularisation/categorisation of service as per NCWA-IIT with back wages.

6. I further find that the management has appeared and filed W.S. stating inter alia that the reference was not maintainable and the Tribunal has no jurisdiction to adjudicate the present alleged dispute and the management is not a mine or does not run of Coal Mines or produce Coal Coke etc. It is further said that the management is registered under the Bihar Shops and Establishment Act, 1953 and its registration No. is 13798 and that it has applied for the renewal of the said certificate of registration in the year 1993. It is further said that it tenders technical consultancy to the other subsidiaries of CIL and also abroad. Similarly the UNDP Project run under the assistance of United Nations Department of Technical Cooperation is an executive body of the project of such work which is research and development assignment, which were temporary nature and which was run through the aid from the UNDP and all materials belonged to the property of the UNDP. It is also said that for executing the project the concerned workmen were engaged as temporary workers in view of the temporary nature of appointment and the offer letter will prove this fact and the Form B Register of these persons would show the engagement was of temporary nature and after completion of the UNDP Project they were never placed in the permanent establishment of the management as they were not required and at Lalmatia and Chandrapur where they were employed were separate establishment the project being carried out by UNDP assignment and so there were no reason as to why they would be further engaged after closure of the project. It is said that the management is a Central Govt. company and has to abide by the provisions of the Employment Exchange Act and rules which has been ruled by the Hon'ble Supreme Court in various cases. It is also said that the concerned workmen were not the employees of the C.M.P.D.I.L. management rather they were engaged by the officers of the management such as Dy. Project Director under UNDP Project and they were not direct employees of the CMPDIL and they were appointed on ad-hoc basis. So their claim was not justified.

7. The rejoinder has also been given to the W.S. of the workmen denying the contentions of the workmen and the sponsoring union specifically and parawise and the same is said to be incorrect and denied. It is also said that it is incorrect to say that each of the concerned workman has completed more than 240 days work continuously with the management. It is said further that after expiry of UNDP project the workmen were to be discontinued for as there were no work for them and they could not have been allowed work with the management. So there was no violation of any provision of I.D. Act by the management. It is also said that no comparison can be made between the person on UNDP Project and the persons engaged in drilling operation of the company as both are separate cadres. It is finally said that the concerned workmen were discontinued from service on completion of UNDP Project and comparing them with the existing man power roll of the company does not and cannot arise for the fact they were not included in the man power roll of the company. It is finally said that the claim

of the workmen are not justified and an Award be passed accordingly.

8. On the basis of the pleadings of the parties, the points for consideration are :—

(a) As to whether or not the action of the management for terminating the services of the concerned 28 workmen with effect from 1-7-92 is justified or not? and

(b) If not, to what relief or reliefs they are entitled?

9. As both the points are inter linked, they are taken up together for their consideration.

10. In support of its case the management has examined two witnesses. MW-1 Nawal Kishore Prasad, who was in-charge of Chandrapur Camp has stated that 12 workmen were working in the aforesaid camp doing work in the Hydrogeological investigation under UNDP scheme and their bills were sent to the CMPDIL and they worked there till June, 1992 and even thereafter that work is in existence. After stoppage of the work of the workmen their work were discharged by the departmental workers. He could not say that Hydrogeological department were connection with the Geological department of the management and that CMPDIL was the beneficiary of the work of the project but has admitted that Coal Industry enjoy the benefit of the project run under the assistance of the United Nations. He has proved a list of the 12 concerned workmen marked Ext. W-1. He could not say about the camp at Miranagar and he has no personal knowledge about it and regularisation of the workmen there. He has further proved that Mr. R. K. Ghosh sent a report by the order of the Director, R. N. Mishra about the 28 workmen and this list was proved as Ext. W-2 and further proved the letters Exts. W-3, W-4 to Ext. W-8. He has admitted that the workmen of the Chandrapur Camp were given Cat. I wages under NCWA and H.R.A. were also given to them and the work done by them were of permanent nature and before payment as per rules Cat. I payments were made through vouchers. He has further proved Ext. W-9 to W-15 and W-16 and has admitted that some of the workmen used to be deputed on other work than Hydrogeological work. Similarly, MW-2 Shri J. Nelson Arputharaj was in-charge of Hydrogeological Camp at Lalmatia and stated that 16 concerned workmen were working in his camp who were stopped work from 30-6-92 when the Project was not completed at that time. They were working as per Ext. M-9 and at present periodical reports were submitted from time to time but he could not say that he stopped their work and their services were no more needed. He has stated that as per direction given in Ext. M-5 he was compelled to stop work of the concerned workman and no notice or compensation was given to the workmen at the time of termination on 1-7-92. He has admitted that the concerned workmen like other staff of CMPDIL were doing the work in the interest of the CMPDIL. He heard about the camp at Miranagar and Chasnalla but he cannot say about the details but he admitted that 16 workmen in Lalmatia were put in Cat. I and certain procedures were adopted before making certain workers permanent from the casuals. He has further stated that in UNDP projects man-power is to be provided as per terms and conditions of the CMPDIL. He has also further admitted that concerned workmen have worked well in the department till they worked and they were deputed to other work at Rajmahal Camp. The management has no other witness in this case.

11. The workmen have examined only one witness namely WW-1 Shri Manoj Kumar one of the concerned workman. He has stated that out of 28, 12 concerned workmen were working in Chandrapur and another 16 working in Lalmatia and out of them some were posted in the headquarters and were appointed in Cat. I and before that they were made payment on vouchers as casual workers. He has stated about Chasnalla and Miranagar camps where appointments were made in Cat. I after calling for names from the Employment Exchange and the camp at Miranagar was closed in 1986 and the workers paid there through vouchers were regularised subsequently and before their termination no notice or compensation was given to them. It is also not that their services were not required any long as the same was done by some other casual workers. He knew Shri R. K. Ghosh who was the Chairman of the said committee and

also knew the signature of Shri R. B. Mathur and has proved Ext. W-19, 20 and W-38 to W-40 which bears the signature of Mr. B. K. Singh. He was a graduate and appointment was given to them by the Dy. Project Director of CMPDIL and he was doing typing and office work in the camp and was posted at Lalmutia. Payment was made to them from muster roll and 28 workmen were performing different kind of work though their main work was drilling required to judge the existence of water and coal and the nature of the underground.

12. Some documents have been filed on behalf of the parties.

13. The management has filed Ext. M-1 which is a casual engagement letter, Ext. M-2 Form B Register of the workmen and Ext. M-3 enquiry report relating to the engagement of the casual workers of CMPDIL for UNDP Project, Ext. M-4 report of engagement of the concerned workmen and Ext. M-5 notice dated 26-6-92 and Ext. M-6 being a list of casuals terminated on 30-6-92. Ext. M-7 is office order dated 20-6-86/1-7-86. Ext. M-8 is a letter dated 7-4-92 regarding man power of CMPDIL and Ext. M-9 is a confidential letter dated 26-6-92 in respect of the termination of the concerned workmen with effect from 30-6-92 which is under the signature of Mr. A. K. Aggarwal, Additional C.G. & D(H), CMPDIL.

14. Similarly a number of documents have been filed on behalf of the workmen and these are Ext. W-1 attendance statement of the concerned workmen, W-2 Chart of Casual wages, W-3 note sheets dated 26-6-92 which has also been filed by the management and marked Ext. M-5, confidential letter Ext. W-4, dated 27-8-91, Ext. W-5 being guideline for R & D programme, W-6 letter dated 7-4-92 regarding man power of CMPDIL which is Ext. M-8 on behalf of the management. Different letters Ext. W-7 and W-8 instruction for payment to Cat. I and casual workers, Ext. W-9 and W-10 and W-11 are letters, Ext. W-12 is office order dt. 23-9-88, Ext. W-13 notes dt. 11-4-89 Ext. W-14 is man power requirement, Ext. W-15, W-16 are notes of different dates, Ext. W-17 casual engagement, Ext. W-18 is repetition of Ext. W-6, W-19 confidential letters dt. 16-7-92, W-20, 21 are different letters. Similarly Ext. W-22 to 25 are different letters Ext. W-26 is appeal dt. 2-3-88, W-27 is letter dt. for engagement of casual, similarly Ext. W-28 to 35 are different letters and W-36 and W-37 are also letters written for the engagement of casuals in UNDP Project, Ext. W-38 is office officer and W-38/1 is attendance from December, 1987 to 1992, Ext. W-39 and 40 are office orders and minutes of meeting held on 8-8-91. From these documents it has been tried to show by the workmen that all the concerned workmen have completed more than 240 days of their continuous service under the management initially working as casual workmen on voucher payment and subsequently working as Cat. I workers and their names were called for from the Employment Exchange and after holding interviews engagement letters being given to them. Different confidential reports and enquiry reports were submitted by the higher Officers of the management regarding their satisfactory services and recommending for regularisation of their services. It has also been tried to show that UNDP Project were parts and parcel of CMPDIL work and workmen engaged there were workers of the management of the CMPDIL and the plea of the management that on closure of the single UNDP Project at one place it would mean closure of the entire unit of the CMPDIL and their termination cannot be justified on such closure of such single project and in the past also closure of Miranagar UNDP Project workers, completing satisfactory attendance of 240 days of work were transferred to some other project and were regularised but in case of these workmen different policies were taken as even as per evidence of MW-1 and MW-2 these practice are still in existence and works were going on there and some other co-workers engaged subsequently after termination of the workmen were regularised and wages of Cat. I under NCWA were given. So double standard was adopted by the management in case of the concerned workmen was arbitrary and illegal.

15. While arguing the case on behalf of the management it has been submitted that the Central Govt. is not the appropriate Government for making reference nor CMPDIL comes under the definition of controlled industry as given under Section 2(ee) of the I.D. Act and for this details role

and a function of the CMPDIL has been filed to show that it does not do the raising of coal nor does business of coal and is not an industry rather it has been registered under the Bihar Shops and Establishment Act the Govt. of Bihar is the appropriate authority for making such reference and as such the reference is not maintainable.

16. It was also submitted that the concerned workmen were engaged under a Project aided by UNDP vide Ext. M-4 which contains Project report as an annexure and that is an independent unit and the management of CMPDIL has taken project work at part and parcel of their function. This management is a nodal agency for coordinating R&D programmes and the workmen were of the concerned UNDP Project and not direct employees of the management. It is also said that workmen were offered casual engagement letter by Mr. A. K. Aggarwal Dy. Project Director of the said Project as per Ext. M-1 which was offered was temporary in nature, automatically terminated after expiry of 180 days having no right to claim for future appointment and the Project Period which ended on 30-6-92 when work of the workmen was stopped as it was separate establishment/undertaking which is also clear from Ext. M-4 and the workmen were not entitled for their regularisation or absorption in any other department of the management. There were also not shown in the report of the man power to show that it was an independent unit. It is said that as per Ext. M-9/W-4 filed by the workmen it is clear that the said UNDP Project completed on 30-6-92 and automatically after completion of the Project the work of the workmen were stopped, or their work was terminated as there is no reason to continue with this man power. It was also submitted that the management being a Govt. company has to abide with the provisions of Compulsory Notification of the vacancies for giving equal jobs opportunities to all jobs seeking persons and it was not possible for further continue the workmen after completion of the project itself. It is further submitted that it is held by the Hon'ble Supreme Court in Delhi Administration-vers-Delhi Development Horticulture Employees Union in the Writ Petition No. 323-325/1989 dt. 4-2-92 that persons under the scheme cannot claim regularisation because they have completed more than 240 days of service. It is further said that due to globalisation of Indian Economy Coal Industry is facing severe economic crisis and it is unable to take extra load of man power as it has already surplus man power and accordingly the demand of the workmen is unjustified. It is also submitted that it is held by the Hon'ble Supreme Court that when appointment is made any period it comes to an end by efflux of time and the persons holding such post are not entitled for regularisation of their services. As such it is submitted that the action of the management in not regularising the concerned 28 workmen with effect from 1-7-92 is fully and justified and workmen are not entitled to any relief as claimed.

17. On the other hand it has been submitted on behalf of the workmen that originally they were employed as casual on voucher payment but later on they were appointed as Cat. I of NCWA as per usual practice of CMPDIL and their names were called for from the Employment, Interview and medical examinations were held and they were given appointment letters Ext. M-1 series, W-17 and W-27 series for 180 days which were extended from time to time giving continuous service on perennial nature of duties as per provision as contained in S.O. 3.5 of Certified Standing Orders of the CMPDIL and the work was even continuing after 30-6-92 when they were stopped from work. It also said that the services of the concerned workmen being guided and governed by the rules and regulations of the certified standing orders of CNPDIL&NCWA vide Ext. M-5 and as per Ext. W-3/M-5 filed by the management there was stoppage of work of the concerned workmen from 1-7-92 amounting to retrenchment which were arbitrary, mala fide and unjust and the provisions of Section 25F of the I.D. Act were not complied with as no notice or notice pay or compensation was given to them and it has also violated the certified standing orders of the management. It is said that the conditions stipulated in Ext. M-1 series, W-17, W-27 for terminating services of the workmen at whim and will was illegal and invalid under the provisions of Section 24 of Contract Act, 1872. It is said that the management engaged the concerned workmen temporarily for a fixed period of time and their retrenchment on completion of work does not attract the provisions of Section 25F of

the I.D. Act is an erroneous pleading and it is said that Delhi Horticulture Employee Union versus Delhi Administration case as reported in 1992-II Lab. L. J. 452 is not applicable in the present case. It is further submitted that a number of documents were called for by the workmen vide application dt. 6-9-92, filed on 27-11-93 which were very material evidence but such documents were not produced by the management. In this view of the matter adverse inference can be drawn against the management for wilfully suppressing the documents which might have enabled to prove the case of the concerned workmen that they were continuing in permanent and permanent nature of job. It is further submitted that MW-1 has admitted that the workmen were stopped from work on 30-6-92 as per order of the higher authority and the work was not completed on that day and they were required to be continued. It is further admitted that the workmen were employed with permanent nature of the management on regular and permanent job which were continuing when the workmen were stopped and no notice, notice pay or compensation was given, even the wages for June, 1992 were paid to them later on and they were working for the interest of CMPDIL management in Cat. I under NCWA. It is further submitted that MW-2 has admitted that the work was continuing on 30-6-92 and it was still continuing and has further admitted that they were engaged on permanent nature of job which is still continuing and they were placed in Cat. I and before that they were being paid on voucher. It is further said that the management has produced some documents including Ext. M-2, Form B Register required to be maintained under the Mines Act, 1952 and by producing this document the management cannot take this plea that the management is not governed under the Mines Act and is not a part of Coal Industry and if it would have been the case, there would have been no question for maintaining Form B Register which is statutory provision for management under Coal Industry. So this plea of the management fails on the ground that it is not a part of coal industry rather it is a registered company registered under the shops and establishments Act under the State Govt. It is further said that as per Ext. M-4 it is clear that workmen were sponsored from the Employment Exchange and the attendance of the concerned workmen will show that they have completed more than 240 days of work and from this Ext. it is clear also that as per letter dt. 7-4-92, it was stated that it was necessary to regularise the 144 casuals concern (Report page 6, para vii Annexure-VI, page 12. From Ext. M-5 it is shown that as per note of A. K. Aggarwal dt. 26-6-92 a meeting was fixed at Delhi by UNDP on work being implemented by CMPDIL on behalf of department of coal and from Ext. M-8, letter of the CMD dt. 7-4-92, it is clear that casuals are necessary to be regularised as they have completed 240 days much earlier.

18. Similarly it is submitted that examined on behalf of the workmen has supported their case that they were suddenly stopped the attendance at headquarters on 1-7-92 without notice or notice pay or compensation and has further stated in cross-examination that casuals employed at Chasnalla and Nizamnagar project were on identical terms who were regularised later on and the workmen were appointed by the CMPDIL and the appointment was not on contract and the payment was made by CMPDIL. The Exts. have also been discussed by the workmen which were filed on their behalf being Ext. W-1 to W-40 and as per Ext. W-12 which is the decision about the absorption of casuals with 240 days attendance in Cat. I and on closure of the camp on 8-9-88 and after their termination they were absorbed later on. From Ext. W-16 it is clear that the workmen were engaged against permanent nature of job. As per Ext. W-18 it is clear that 144 casuals including these 28 workmen were necessarily to be regularised as they completed more than 240 days earlier. Ext. W-19 is a letter of Director (P & IR), CIL which shows that the workmen were terminated while the work was continuing and were directed to be engaged from other or to engage casuals with automatic termination on every three months. From Ext. W-24 it is clear that as per Government of India dated 27-9-75 CIL was constituted including CMPDIL for management of the entire coal industry owned and controlled by the Central Government. Hence, this plea taken by the management that the reference made by the Central Government is not maintainable, falls on the

ground. Similarly Ext. W-28 is a certified standing order of the CILCIL where workmen have been classed. Under S.O. No. 3, 5 the concerned workmen had acquired the status of confirmed permanent workmen of continuous service beyond 6 months. Ext. W-32 which is a letter of R. K. Grosh calling for details of casuals including workmen for regularisation vide Ext. M-4 of the management. Likewise Ext. W-34 goes to show that 6 casuals were regularised on 27-2-93 just after completion of 240 days who were engaged as casual on voucher payment after termination of the concerned workmen. Similarly Ext. W-34/1 shows posting of Cat. I workers against terminated concerned workmen and Ext. W-40 further shows retention and regularisation of the juniors i.e. the casuals on voucher payment even on 8-8-91.

19. From these document, it is submitted, that it is amply clear that the management has adopted a dual policy in case of highly influential casuals who were junior to the concerned workmen, who were engaged as casuals were regularised just after completion of 240 days of work whereas the concerned workmen working for the years together as casuals in Cat. I of NCWA having permanent status of such job were terminated without following the procedure under Section 25F of the I.D. Act and their termination was void abinitio. It is further said that the CMPDIL is engaged in the business of Coal Industry which was corroborated from the evidence of MW-1 and MW-2 and also from WW-1, witnesses examined on behalf of the management and workmen respectively and also from the Form B registered which is required to be maintained under Section 48 of the Mines Act. It is also said that the concerned workmen were the workmen of the CMPDIL and none else as they were rendering continuous service initially as casuals on voucher payment and later on as Cat. I under NCWA. It was also submitted that from Ext. M-1, W-17 and W-27 it is clear that the appointments were much less exclusively for the UNDP and the nature of duty as given in Ext. M-2 as "Temporary under UNDP", cannot be construed that it was exclusively for the UNDP work. It was also said that the termination of the workmen was never automatic on expiry of 180 days as per conditions given in Ext. M-4 and M-5. It has already been mentioned that the workmen engaged for the work in Cat. I of NCWA was continuing on 30-6-92 and is still continuing when they were stopped from work and the plea of the management that there is no more work for the workmen as the Project was completed on that day is false and frivolous.

20. A number of authorities have been mentioned on behalf of the workmen to show that the termination of the workmen was not automatic on expiry of stipulated period of 180 days, thereafter continued for work and their subsequent termination would not attract the provisions of Section 2100(bb) of the I.D. Act as reported in 1996 1 LLJ 206 Gujarat in Vadodra Municipal Corporation-versus-Gajendra R. Dhumal. Similarly 1987 Lab L.C. Page 1607 Allahabad have also been referred in Shailendra Nath Shukla and Ors-versus-Vice-Chancellor, Allahabad University and Ors. on the similar point. Again 1994 II LJ Kerala-Jayabharat Printers and Publishers Ltd. vers Labour Court, Kozhikode and other was referred on the applicability of Section 2100(bb) of the I.D. Act and 25F of the Act where it has been held by the Hon'ble Justice. The nature of employment must be judged by the nature of duties performed and not on the letter issued by the employer". 1986 1 Lab L.C. 1312 have also been referred-Central Indian Water Transport Corporation Ltd. and another-versus-Brojo Nath Ganguly and another. It was ruled by their Lordships that a rule or clause in service contract which "is both arbitrary and unreasonable and it also wholly ignores and set aside the audi alteram partem rule, it therefore violates Art. 14 of the Constitution" and void under the Contract Act. Therefore, it is submitted that the condition stipulated in Exts. M-1, W-17 and W-27 were itself arbitrary, illegal, and unreasonable and void. Similarly 1991 Lab L.C. Supreme Court Full Bench-Delhi Transport Corporation-versus-D.T.C. Mazdoor Congress have also been referred where the same principles have been explained by Their Lordships as given under Article 14 of the Constitution.

21. Similarly 1985 Lab L.C. 1733 Supreme Court-H. D. Singh-versus-Reserve Bank of India have also been referred where Their Lordships have held that "We have no option but to observe that the Bank, in this case, has indulged in methods amounting to Unfair Labour Practice" Similarly

in the present case it is submitted that the management is guilty of unfair labour practice which is clear from the evidence both oral and documentary on record. 1976—1 L.J. 478 Supreme Court (State Bank of India vs. N. Sundaramony has also been referred where it has been held by Their Lordships that "Where provision of Section 25-F has not been followed, the termination/retranchment is invalid and inoperative and the reinstatement is the relief." 1987 Lab I.C. 913 Union of India & Ors. vs. N. Hargopal and others have also been referred to show that the action of the management was arbitrary, illegal and void, AIR 1979 S.C. page 75 M/s. Hindustan Tin Works Pvt. Ltd. vs. the Employees of Hindustan Tin Works Ltd. and Ors. have also been referred where it has been held by Their Lordships that "Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness." Similarly Hon'ble Patna High Court has held in 1995 Lab I.C. 1668 in State Bank of India vs. Union of India and others where it has been held by Learned Justice that terminating services of the workman was not justified and declaring that the workman concerned should be deemed to be continuing in service with full back wages and other emoluments and that he was entitled to all increments, consequential promotions etc. by virtue of his continuity in service. 1990 Lab I.C. 1918 S.C. in Jacob M. Puthuparambil and Ors. vs. Kerala Water Authority & Ors. has also been referred and it has been held by Their Lordships "Once the appointments continued for long, the services had to be regularised." It was further held that it is unfair and unreasonable to remove people who have been rendering service since sometime and in the instant case the workmen are working for the management since the year 1988 onward till their termination on 01-7-92.

22. Perused the above authorities, arguments as advanced by the parties and both oral and documentary evidence on record and it is clear that there is no merit in the plea of the management that it is not an "Industry" whereas the management of CMPDIL is admittedly a subsidiary of CIL under the Central Govt. and the reference was quite maintainable and the workman worked for the benefit of the management and were appointed under direct control and supervision of the management and UNDP where they were working cannot be said to be an independent unit and it also cannot be said that they were only appointed for the UNDP and that project is still continuing as per evidence on record. So the plea of the management that on closure of the management's said unit on 30-6-92 there was no work for the workmen cannot be relied upon. On the other hand there is evidence that other workmen from other subsidiaries

in Col. I were transferred to the Project for further work and the junior casuals appointed after the termination of the services of the workman were regularised in service. Similarly terminated workmen of Meeranagar Project were also regularised in service but double standard was adopted by the management to terminate the services of the workmen who were doing permanent and perennial nature of job for the management for years together and many more times of 240 days in 12 calendar months, were terminated without rhyme or reason, violating the provision of Section 25F of the I.D. Act which can be simply said to be unreasonable, unfair labour practice adopted by the management but it cannot be justified in any case. In view of the number of authorities as given by the Hon'ble Supreme Court various Hon'ble High Courts it is clear that the termination of the concerned workmen certainly comes under the provision of Section 25F of the I.D. Act, 1947 and without complying of the said provision, that termination becomes void ab initio and cannot be justified and they were entitled for reinstatement and regularisation in their service as claimed with effect from 1-7-92 as noted in this reference. In view of the above discussions both the points are decided in favour of the workmen.

23. So far payment of back wages is concerned principle of no work and no pay can be applied but it is also clear that their termination was illegal and void ab initio and it is also on record that after their termination the concerned workmen were not gainfully engaged anywhere and as such they are entitled for their atleast 40 per cent of their full back wages with all other benefits from the date i.e. 1-7-92. Hence, the following Award is rendered :—

"The action of the management of Central Mine Planning & Design Institute Ltd., Ranchi in terminating the services of Sri Naresh Jha and 27 others (as per annexure) w.e.f. 1-7-92 is not justified. Consequently, the concerned workmen are entitled for their re-instatement and regularisation in job from that very date with 40 per cent of full back wages and other benefits."

24. The management is further directed to reinstate and regularise the concerned workmen in service with payment of 40 per cent back wages and other benefits within two months from the date of publication of the Award in the Gazette of India.

25. However, there will be no order as the costs.

T. PRASAD, Presiding Officer

#### DETAILS OF WORKMEN CONCERNED

#### APPENDIX-I

| Sl. No. | Name of the Employee                       | Local Address   | Date of birth | Date of Joining | Qualification                      | Nature of job/ assisting  |
|---------|--|---|---------------|-----------------|------------------------------------|---|
| 1.      | Mr. Naresh Jha<br>S/o Shri T. P. Jha       | C/o Dinesh Chowdhary<br>Sunker Talkies,<br>Godda, Bihar.          | 26-11-1960    | 10-11-1988      | B. Sc.                             | Field data collection,<br>Monthly water levels.                         |
| 2.      | Mr. Lakhan Lal Pandit<br>S/o B. L. Pandit. | Tethuria,<br>P. O. Barar Simra,<br>Jalmatia, Godda.               | 05-08-1962    | 10-11-1988      | B. Sc.                             | Pump Operation Data<br>entry, Pumping test.                             |
| 3.      | Mr. Shankar Kumar<br>S/o K. Kumar          | C/o Devmuni Singh<br>Hawaldar,<br>Rajmahal Project<br>FCL, Godda. | 11-10-1969    | 25-11-1988      | B. A.                              | Data collection Moni-<br>toring of dewatering,<br>Pump testing.         |
| 4.      | Mr. Ram Kisku<br>S/o C. Kisku              | P. O. Mahadev Bhattan<br>Distt. Godda<br>Bihar.                   | 09-02-1967    | 25-11-1988      | Matric                             | Monitoring of dewater-<br>ing, and drilling.                            |
| 5.      | Mr. Manoj Kumar<br>S/o S. S. Prasad        | Vill. Khairmu,<br>P. O. Jamui,<br>Distt. Jamui.                   | 05-01-1965    | 24-11-1988      | B. A.<br>Diploma in<br>Electronics | Typing, Maintenance<br>of office A/c's, Hydro-<br>geological equipment. |

| Sl. No. | Name of the Employee                               | Local Address  | Date of birth | Date of Joining | Qualification   | Nature of Job/Assisting  |
|---------|--|--|---------------|-----------------|---|--|
| 6.      | Mr. N. N. Tiwari<br>S/o R. B. Tiwari               | P. O. Mirhat<br>Distt. Bhagalpur   | 30-08-1963    | 24-11-1988      | B. A./Diploma in Computer                             | Monitoring of computer-<br>ing/Drilling.                             |
| 7.      | Mr. N. K. Singh<br>S/o J. Singh                    | C/o P. K. Singh,<br>Shivpur Mandir,<br>Distt. Godda<br>(Bihar)             | 04-01-1962    | 24-11-1988      | Intermediate  | Monitoring of Stream<br>gauging/Water levels.                        |
| 8.      | Mr. S. Paitandy<br>S/o B. Paitandy                 | Vidyapati Nagar,<br>Kanke Road,<br>Ranchi-834008                           | 21-09-1964    | 25-11-1988      | M. Com.,<br>L.L.B.<br>Diploma in<br>Computer          | Microfilming, Photo-<br>copying, Typing.                             |
| 9.      | Mr. S. K. Singh,<br>C/o K. N. Singh                | P. K. Singh,<br>Shivpur Mandir,<br>Distt. Godda.                           | 23-07-1963    | 28-11-1988      | Matric  | Data Collection, &<br>Monitoring of drilling.                        |
| 10.     | Mr. Rajendra Singh<br>S/o J. B. Singh              | Qt. No. 1B/245<br>Gandhinagar colony,<br>Kanke Road,<br>Ranchi-8           | 20-02-1960    | 25-11-1988      | B. A. (Hons.)<br>L.L. B.                              | Water levels monitoring<br>& Typing.                                 |
| 11.     | Mr. L. B. Ojha<br>S/o S. N. Ojha                   | C/o S. N. Ghosh,<br>Mistry, PHED,<br>Distt. Godda (Bihar)                  | 18-01-1962    | 10-11-1988      | Matric  | Compressor Operation/<br>Water level Monitoring.                     |
| 12.     | Mr. B. Marandi,<br>S/o S. Marandi,                 | C/o Shiv Marandi<br>Bara Sinra,<br>P. O. Lalmatia,<br>Distt. Godda (Bihar) | 20-04-1965    | 01-09-1989      | B. A.   | Data collection/<br>Monitoring of dewatering,                        |
| 13.     | Mr. J. Ravidas,<br>S/o S. N. Ravidas               | P. O. Mahagama,<br>Distt. Godda<br>(Bihar)                                 | 06-10-1965    | 01-09-1989      | Matric  | Monitoring of dewater-<br>ing and water leve[                        |
| 14.     | Mr. Satyendra Prasad<br>S/o Bholi Ram              | Qt. No. 1A/36<br>Gandhinagar Colony<br>Kanke Road,<br>Ranchi-8             | 17-10-1964    | 01-06-1991      | B. Sc. (Chem.),<br>Diploma in<br>Computer,<br>L.L. B. | Assisting in Chemical<br>Lab. Typing and Word<br>processing          |
| 15.     | Mr. A. K. Bhattechoriya<br>S/o S. N. Bhattechoriya | C/o N. Dutta,<br>Vidyapatinagar,<br>Kanke Road,<br>Ranchi-8.               | 01-06-1963    | 01-06-1991      | Intermediate  | Assisting in Chemical<br>Lab.  |
| 16.     | Mr. C. B. Singh,<br>S/o D. N. Singh                | Qt. No. 1B/245<br>Gandhinagar Colony,<br>Kanke Road,<br>Ranchi-8.          | —             | 01-04-1991      | Intermediate  | Water levels Monitoring<br>& Guard duty.                             |
| 17.     | Mr. Santosh Kumar<br>S/o S. P. Yadav               | Santosh Kumar<br>At. — P. O. Ramankabad<br>Distt. Munger.                  | 08-01-1961    | 01-03-87        | B. A./MBA<br>(Part-I)<br>Sr. Accountancy              | Typing, Maintenance<br>of office A/C. and Store.                     |
| 18.     | Mr. S. K. Sinha<br>S/o Chandrika Singh             | P. O. Chandhos<br>Distt. Patna<br>(Bihar)                                  | 12-12-1962    | 01-03-1987      | B. Sc.<br>Diploma in<br>Mining                        | Data Entry, Hydrographi<br>plotting, Tech. field data<br>collection. |
| 19.     | Mr. Gajendra Kumar<br>S/o Chandrika Singh          | At. Chandhos,<br>P. O. Chiksi<br>Distt. Patna<br>(Bihar)                   | 01-11-1967    | 04-04-1987      | B. A.,<br>Diploma in<br>Electronics                   | —do—   |
| 20.     | Mr. Mukul Verma<br>S/o L. P. Verma                 | Mahadeva Road,<br>Bhagwa gali, Arrah<br>Distt. Bhojpur                     | 05-07-1962    | 01-09-1988      | B. A.   | Field data collection  |
| 21.     | Mr. R. K. Shukla<br>S/o R. S. Shukla               | Vill. Rambag devta,<br>P. O. Salempur<br>Distt. Madhubani                  | 09-03-1970    | 20-12-1988      | I. A.   | Field data collection  |

| Sl. No. | Name of the Employee                       | Local Address   | Date of birth | Date of joining | Qualification                                    | Nat. of ob/Assisting  |
|---------|--|---|---------------|-----------------|--|---|
| 22.     | Mr. Ramesh Kachekar<br>S/o. U. R. Kachekar | Raghuji Nagar<br>Plot No. 253<br>Police Quarters<br>Behind Nagpur<br>P. O. Ayodya Nagar<br>NAGPUR | 25-01-1965    | 01-04-1989      | Class-IX<br>Driving<br>Licence                   | Driving duty/<br>Mechanic duty.   |
| 23.     | Mr. N. K. Chowdhary<br>S/o. P. Chowdhary   | Vidyapati Nagar,<br>Kanke Road,<br>Ranchi.  | 07-07-1964    | 01-04-1989      | B. A.  | Field data collection.  |
| 24.     | Mr. R. K. Jha,<br>S/o Tarni Jha            | Vill. Purani<br>Khrehli,<br>P. O. Shahkund<br>Distt. Bhagalpur<br>(Bihar)                         | 03-06-1959    | 01-04-1989      | B. A. (Hons.)                                    | Field data collection   |
| 25.     | Mr. R. B. Prasad,<br>S/o J. Prasad         | J. P. Marg,<br>Kanke Road,<br>Ranchi-8  | 01-06-1963    | 21-04-1989      | B. Sc.<br>Shorthand &<br>computer<br>Programming | Data entry, Hydrographi<br>plotting, Field data<br>collection & Mine Flow<br>Measurement. |
| 26.     | Mr. B. K. Singh.<br>S/o R. S. Singh        | Vill. Sikarian,<br>P. O. Sikarian<br>Distt. Rohtas<br>(Bihar).                                    | 30-12-1970    | 23-04-1989      | I. A.  | Field data collection.  |
| 27.     | Mr. S. A. Nagre<br>S/o A. Nagre            | S. A. Nagre,<br>Ward No. 4,<br>Shivaji Nagar,<br>Jayhind chowk 'Tukum'<br>Chandrapur (Ms.)        | 03-02-1959    | 01-01-1990      | Ten class  | Field data collection.  |
| 28.     | Mr. Niranjan Prasad<br>S/o B. N. Ray       | Vill. Makhdumpur<br>Sarari,<br>P. O. Khagoul<br>Distt. Patna<br>(Bihar)                           | 17-11-1961    | 01-08-1991      | Matric,<br>I. T. I.<br>(Welder)                  | Field pump operation<br>Data collection Mech.<br>and Welding work.                        |

नई दिल्ली, 6 मई, 1997

का. आ 1458 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार यूनाइटेड बैंक ऑफ इंडिया के प्रबन्ध-तंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अडि-करण गुवाहाटी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 45-05-97 को प्राप्त हुआ था।

[सं. गु-12012/215/92-आई आर (बी-II)]  
सनातन, ईन्क अधिकारी

New Delhi, the 6th May, 1997

S.O. 1458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the manage-

ment of United Bank of India and their workmen, which was received by the Central Government on 5-5-1997.

[No. L-12012/215/92-IR (B-II)]  
SANATAN, Desk Officer

#### ANNEXURE

IN THE INDUSTRIAL TRIBUNAL :  
GUWAHATI, ASSAM

REFERENCE NO. 1(C) OF 1993

Present :

Shri J. C. Kalita, B.A. (Hons.) LL.B.,  
Presiding Officer,  
Industrial Tribunal, Guwahati.

In the matter of an Industrial dispute between :

The Management of  
United Bank of India,

Versus

Their workman Shri Arun Borkotoki,  
Bishnupalli, Hojai.

Appearance :

Shri A. Das Gupta, Advocate : For the Management.

Shri A. Sharma, Advocate : For the Workman

#### AWARD

The Govt. of India, Ministry of Labour, New Delhi by a notification No. L-12012/215/92-IR (B.II) dt. 10-12-92 referred an Industrial Dispute between the Management of United Bank of India, Komorakata Branch, and its Sub-staff Shri Arun Borkotoki for adjudication with copies to the parties. On receipt of the notification case was registered and notices are sent to the parties to appear and to file their written statement. Both the parties appeared and filed their written statement.

The issue reads as follows—

“Whether the action of the management of United Bank of India, in terminating the services of Shri Arun Borkotoki, Sub-staff of United Bank of India, Komorakata Branch w.e.f. 11-6-91 is justified? If not, to what relief is the workman entitled?”

The Management in their written statement contended that the Sub-staff Shri Arun Borkotoki was engaged by the Komorakata Branch out of necessity purely on temporary and day-to-day basis with effect from 6-10-90 at a daily wage rate of Rs. 20.00. When the necessity of such casual hand ceased to exist he was disengaged from service with effect from 11th June, 1991. Shri Borkotoki served the Bank only for 200 days in total as per record, and not 248 days claimed by him. As his appointment was on “no work no wage” basis he was paid wages for the days he actually worked. He is not entitled to the reliefs claimed.

The workman in his written statement contended that he was a Pan-Shop Keeper prior to his engagement as a Sub-staff on 6-10-90 and worked as such upto 10-6-91, thereby completing 248 days inclusive of Sundays and holidays as per Sec. 25(F) and 25(B) of the Industrial Dispute Act; but was paid Rs. 20/- per day for 200 days as daily wages. He has denied of having been engaged on day to day basis. His wages were paid on completion of the month either in cash or by transfer to S.B. A/c No. 397 with Komorakata Branch. He received an assurance from the Branch Manager that he would be regularised in the service of the Bank after completion of 240 days of continuous service. So his removal was arbitrary and illegal.

Management examined its Branch Manager and the workman examined himself. Both sides pressed few documents into service.

It is an admitted fact that the workman was engaged as a casual worker by the Branch Manager himself. Branch Manager deposed that while he had joined at Komorakata Branch in the month of Sept. 1990, only one clerk was there with him which compelled him to engage a casual worker on daily wage basis at Rs. 20/- per day. Regular Sub-staff can be appointed by the higher authority as per the Bank's procedure. His wages were charged from the Head “Freight and Coolie charges”. Ext. 1(1) to 1(9) are the payment vouchers. The manager further stated that he was not paid wages for the Sunday and holidays as the appointment was on “no work-no pay” basis. Ext. 2 are the list of month-wise attendances of the workman. This shows that the workman worked for 21 days in the month of Oct. 1990, 25 days in the month of Nov. 1990, 25 days in the month Dec. 1990, 24 days in the month of Jan. 1991, 22 days in the month of February 1991, 25 days in the month of March 1991, 23 days in the month of April 1991, 26 days in the month of May 1991 and 7 days in the month of June 1991. This tested evidence on oath was neither denied nor challenged by way of cross-examination.

In cross-examination workman admitted that he was engaged on daily basis but was paid monthly. Management also admitted that his payment was made monthly; payment of wages at the end of the month does not mean that he received wages on Sundays and on the days of absence. It clearly proves his engagement on the basis of “no work no pay”. From the evidence on record I am of the opinion that the workman was engaged basically out of necessity as a casual worker on daily wage system, and when the necessity ceases to exist he was removed from the service. As such the removal or disengagement was not arbitrary.

The next question comes, whether he had worked for more than 240 days in a year. Workman deposed that he had worked for more than 240 days during the period from 6-11-90 to 10-6-91 without any break in service. It is a fact that he joined on 6-10-90 and was removed from service on 10-6-91. Does continuity of service prevail during this period? The workman himself admitted in cross-examination that he received no wages on Sundays and on the days of his absence. This is well corroborated by documentary evidence. Ext. 1(1) to 1(9) are the wage payment vouchers and Ext. 2 & 3 are attendance sheets showing his working days in every month from 6-10-90 to 10-6-91. These evidences have totally belied the workman's evidence of continuity of services for a statutory period of 240 days in a year. As such the workman is not entitled to any benefit as provided in Section 25A of the Industrial Dispute Act.

Ext. ‘C’ is a letter written by the Branch Manager of Komorakata Branch to the Zonal Manager of the Bank to appoint the workman temporarily as a sub-staff. Definitely it carries the

honest intention of the Manager to retain him in the service of the Bank, but it does not mean that his recommendation upholds the continuity of service with effect from 6-10-90.

Ext. 'D' is the memorandum of settlement arrived at between the management of United Bank of India, Calcutta and the representatives of the Unions on 3rd and 4th October 1989. Terms of management—

1. Those who have completed 240 days in 12 consecutive calendar months in any of the year from 1-7-81 to 28-2-88 will be absorbed in regular/permanent vacancies arising on the after 16-10-89.
2. Those who have got 180 days continuous service in any of the year as specified above will get the next preference for absorption in regular/permanent vacancies latest by end of the year 1995.
3. Those who have completed 270 days in a period of every three consecutive year/36 continuous months within the period as specified in Clause (I) above, will be given preference for employment as and when regular vacancies arise.

The period specified is from 1-7-81 to 28-2-88, but the period of engagement of this workman was from 6-10-90 to 10-6-91. His case does not come within the said specified period. The workman, whose period of engagement comes within 1-7-81 to 29-2-88 are entitled to regularisation which should be done latest by the end of 1995. Though the regularisation of the workmen for the period from 1-7-81 to 28-2-88 continued to the end of 1995, he is not being engaged during the period from 1-7-81 to 28-2-88, can not seek the benefit of Ext. 'D'. It is being a Bipartite policy agreement this Tribunal should not interfere on it. However, the fate of this workman is left to the management for reconsideration of his retention in the service of the Bank when the regularisation of casual workers continued upto the end of 1995.

When the relationship of master and servant established the question of appointment letter and retrenchment order is not relevant. No notice of retrenchment is required when no appointment letter was issued.

In the light of the above discussion and decision it is held that the management was justified in terminating him from the service of the Bank. As a result he is not entitled to the reliefs claimed.

I given this award on this 21st April 1997 under my hand and seal.

J. C. KALITA, Presiding Officer

नई दिल्ली, 7 मई, 1997

का. अ. 1459 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण

में, केन्द्रीय सरकार संदुल बैंक ऑफ इंडिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निश्चित औद्योगिक विवाद में, औद्योगिक अधिकरण, कोलम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-05-97 को प्राप्त हुआ था।

[संख्या एल-12012/76/95-आई आर (बी-II)]  
सनातन, डेस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 6th May, 1997.

[No. L-12012/76/95-IR(B-II)]  
SANATAN, Desk Officer

#### ANNEXURE

#### IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 7th day of April, 1997)

#### PRESENT :

Sri C. N. Susidharan, Industrial Tribunal.

IN

Industrial Dispute No. 10/95

#### BETWEEN

The Regional Manager, Central Bank of India, Regional Office, Rajadhani Building, Fort, Trivandrum-695 023.  
(By Sri. A. C. Kuruvila, Advocate, Trivandrum)

AND

Sri. K. Prabhakaran Nair, Vilayil Veedu, Kollal, Kanjampuram P.O. Kanyakumari District.  
(By Chirayinkil C. P. Bhadra Kumar, Advocate, Trivandrum).

#### AWARD

The Government of India as per Order No. L. 12012/76/95-IR(B-II) dated 17th July, 1995 has referred this industrial dispute to this Tribunal for adjudicating the following issue :

"Whether the action of the management of Central Bank of India, Trivandrum in terminating the services of Sri K. Prabhakaran Nair, Head Cashier by treating him as having voluntarily retired from service w.e.f. 28th April, 1993. If not, what relief is the said workman entitled to?"

2. The workman in this case Sri Prabhakaran Nar has filed a detailed claim statement and the contentions are briefly as under : The workman joined the service of the management Bank on 23-5-1974. He was allowed to work as head cashier 'E' w.e.f. 2-11-1988. Ever since he joined the service of the Bank he had been taking keen interest in mobilising the deposit for the bank and on several occasions he was appreciated for that work. He has an unblemished service to his credit throughout his service in the bank. He was constrained to proceed on leave w.e.f. 24-11-1991 and the leave applied for was sanctioned upto and including April 1992 only. He was extending his leave from time to time by applying for extension of leave. By a confidential letter to the Regional Manager the workman expressed his desire to resign from the bank subject to certain conditions. The Regional Manager treated it as official letter and replied stating that the bank was declined in toto to act on his request and wanted him to send an unconditional letter of resignation which he did not comply with since by that time he had no intention to leave the job. Due to peculiar circumstances he could not report for duty and continue to submit leave applications. In October 1992 the bank issued a memo to which he had furnished his reply. Again on 29-12-1992 another memo was issued to which also he had replied. The bank never expressed any adverse remarks to the replies furnished by him. He used to submit his leave applications from time to time. While so the bank terminated his services with effect from 28-4-1993 by wrongly interpreting and invoking clause 17(b) of the Vth Bipartite Settlement. While doing so the management conveniently ignored the clarifications issued by management itself and the termination was admitted quite against the clarifications and in violation of the principles of natural justice. Clause 17(b) is not applicable in this case as it is not a desertion of service. The termination constitute retrenchment within the meaning of Section 2(00) of the Industrial Disputes Act, 1947 ('the Act' for short). But the management failed to comply the provisions of Section 25-N and 25-F of the Act. Hence the termination is illegal and void ab initio. The workman is entitled to protection under Article 311(2) of the Constitution of India. Charges were not framed against him and he was not given reasonable opportunity of being heard. There was no enquiry at all. The workman submitted several representations seeking permission to join duty. He is entering his 50th age and he has no shelter of his own. It is also stated that he is not able to find out alternative suitable job at this stage. The prayer is for quashing the termination order and reinstatement in service with backwages and all other benefits including continuity of service.

3. The contentions of management are briefly as under : The workman was allowed to work as

Head Cashier 'E' with effect from 1-11-1983. He proceeded on leave from 25-11-1991 and his available leave was credited till 28-7-1992 and his eligible wages and allowances were also credited in his account as he did not appear in person to receive the same. He had on 10-7-1992 sent a letter to the employer which was clearly official letter tendering his resignation subject to certain conditions. So the management by reply directed to submit an unconditional letter but he kept silent till 21st October, 1992. Then the employer issued memo requesting to join duty to which he replied stating that he was not in a position to join duty. Thereafter 30 days on 29th December, 1992 the bank had issued a second memo directing the employee to join duty immediately failing which it will be deemed that he had voluntarily retired from service. The employee on 20th January, 1993 replied stating that he was in great financial problems and that he will be in a position to join only after improving the said position. The employer had finally on 28th April, 1993 terminated the service vide memo dated 28-4-1993. Accepting that memo the workman requested for his Provident Fund and Gratuity and also stating that he is no longer in the service of the bank. That bank had every reason to believe on making enquiry that the employee had gone to Canada for employment. All letters sent to the employee were acknowledge by one Sri K. D. Nair. The employer has hence duly terminated the service of the employee as per clause 17(b) of the Vth Bipartite Settlement. He is estopped from contending that he had not voluntarily retired from service. He has no protection under Article 311(2) of the Constitution of India. There is no question of framing charges against him as termination was strictly made under clause 17(b) of the Bipartite Settlement. He is not entitled to any notice or retrenchment compensation under Section 25-N and 25-F of the Act. It was only voluntary cessation of service. According to the management the termination made by the bank is legal and valid and the workman is not entitled to any relief.

4. The evidence consists of both oral and documentary. The workman examined himself as WW1 and Exts. W1 to W14 have been marked on his side. The management examined three witnesses as MWs 1 to 3 and Exts. M1 to M11 have also been marked on their side.

5. The point emerging for consideration is whether the action of the management in terminating the service of the workman by treating him as having voluntarily retired from service is legal and justified.

6. The management has terminated the service of the workman as per Ext. W9 memo invoking clause 17(b) of the Vth Bipartite Settlement. Copy of the relevant clause has been marked here as Ext. W10 which reads thus :

"When an employee goes abroad and absents himself for a period of 150 or more consecutive days without submitting any application for leave, or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally-subsequently or when there is a satisfactory evidence that he has taken up employment outside India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at any time thereafter give a notice to the employee at his last known address calling upon him to report for duty within 30 days of the date of the notice stating inter alia the grounds for coming to the conclusion that the employee has no intention of joining duties and furnishing necessary evidence, where available. Unless the employee reports for duty within 30 days of the notice or given an explanation for his absence within the said period of 30 days satisfying the management that he has not taken up another employment or avocation and that he has no intention of not joining duties, the employee will be deemed to have voluntarily retired from the bank's service on the expiry of the said notice. In the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter within 30 days from the date of the expiry of the aforesaid notice without prejudice to the bank's right to take any action under the law or rules of service."

The clarification issued by the management bank to clause 17 is marked here as Ext. W11 and the relevant portion reads thus :

"Clause 17 of the settlement will apply only in cases of desertion i.e. where there is absence from duty without any intimation. If there is an intimation from the employee but the absence is unauthorised otherwise, the bank should take action in terms of disciplinary procedure laid down in previous settlements and not in terms of clause 17 of the fifth Bipartite settlement."

7. The management as per Ext. W-9 memo has terminated the service of the workman stating that he had failed to report for duty after receipt of several notices and it was deemed that he has no intention to join duty and that he has voluntarily retired from bank service as per clause 17(b) of the Bipartite settlement. The workman as PW-1 has deposed here that he has absented from bank due to his bad mental condition and other circumstances. But his absence was supported by leave applications from

time to time which is not disputed by the bank. No doubt there was no leave to his credit after 28-7-1992 and his leave applications were not sanctioned. But the workman admittedly requested for leave on loss of pay as per Ext. W-8 representation which was not considered by the management. The management invoked clause 17(b) of the Bipartite settlement on the ground that the workman voluntarily retired from service. But his leave applications from time to time show that he had not voluntarily retired from service. In answer to Exts. M-3 and M-6 memos informing the workman to join duty within 30 days, the workman submitted Exts. M-4 and M-7 letters intimating his inability to join duty due to his mental condition and assuring that he shall join duty soon. Even after Ext. W-9 memo the workman has submitted W-12 to W-14 representations explaining all the circumstances which led to his absence from the bank and also requesting permission to join duty. But the management did not respond Exts. W-12 to W-14 representations. It is true that the workman submitted Ext. W-3 confidential letter expressing his desire to resign from the bank. But the management as per Ext. W-4 informed him to submit unconditional resignation letter which was never submitted. He has explained that his intention was to get his benefit on resignation so that he can pay off his debts. But subsequently he had changed his mind. So Ext. W-3 cannot be considered as a supporting document to the case of management. No Doubt after getting Ext. W-9 memo also the workman submitted Ext. W-5 representation accepting his termination and requesting to release his terminal benefit. But thereafter he had submitted W-12 to W-14 representations. The reason for submitting Ext. M-5 representation was explained here by the workman that he had claimed terminal benefit to clear his debts as he was no longer in the service of management as per Ext. W-9 memo. That was one of the reasons for absence from duty. But the management ignored his representations and proceeded with the termination. Since he has submitted leave applications, explanations to Exts. M-4 and M-6 memos and expressed his willingness to join duty after improving his mental condition, it cannot be held that he had voluntarily retired from service. Therefore the action of management in terminating the service of the workman invoking clause 17(b) of the Bipartite settlement is illegal and unsustainable.

8. As stated earlier the management has issued clarification on the provisions of Vth Bipartite settlement a copy of which has been marked here as Ext. W-11. In the clarification with regard to voluntarily cessation of service under clause 17 it is stated that clause 17 will apply only where there is absence from duty without intimation. It is further stated that if there is an intimation from the employee but the absence is unauthorised otherwise the bank should take action in terms of disciplinary procedure laid down in previous settlement and not in terms of clause 17 of the Vth Bipartite settlement. In the present case the applicant had submitted leave applications and explanations to the memos calling upon him to join duty within 30 days. No doubt there was no leave to his but he has requested leave on loss of pay

There was timely intimation from the workman regarding his absence. He has replied all the memos issued to him prior to his termination order. It is thus clear that it is a case of unauthorised absence for which the remedy open to the management is disciplinary action as stated in the clarification mentioned above. But the management has not framed any charge against him and he was not afforded any opportunity to explain such charges. It is therefore evident that the management has violated the clarifications issued by the management is self and resorted to the illegal action of terminating the service of the workman. It is a clear case of violation of the principles of natural justice as well and the action of management is liable to be set aside on that ground also.

9. The management tried to establish that the workman voluntarily left the service of the bank and got employment in Canada. The management has examined 3 witnesses to prove this aspect. MW-1 has deposed that he has made enquiries in the place of residence of the workman and got information that the workman got employment in Canada. But there is no concrete evidence to show that the workman was employed in Canada. MW-1 has submitted Ext. M-8 enquiry report about the workman on the basis of hearsay evidence only. According to MW-1 he was told by the Father-in-law of the workman that the workman is away in Canada. But MW-1 has not made any attempt to collect the address of workman in Canada from the wife of the workman who was staying in another locality from the residence of her father. Further MW-1 has not made any enquiries at the Indian Embassy from where the accurate and correct information about a person who is away in Canada could have obtained. MW-2 is a driver who had accompanied MW-1 for the enquiry according to MW-2. His evidence is also on the basis of hearsay information and hence it cannot be relied upon. MW-3 is the manager in the personnel department in the Regional office of the management bank. He has deposed in support of the case of management. But in the light of my clear finding on the basis of concrete evidence that there was no cessation of work by the workman the interested testimony of MW-3 on the contrary is of no importance and hence not acceptable. The workman replied all the memos issued from the bank stating that he is not in a position to join duty due to the circumstances beyond his control. There was thus timely intimation and he has never expressed that he will not join duty. Therefore the evidence of MWs-1 to 3 will not come to the said of the management.

10. As per Ext. W-9 memo the management has terminated the service of the workman considering it as voluntary retirement from service. The termination of service for any reason what so ever constitute retrenchment within the meaning of Section 2(00) of the Act. In such cases the management is bound to comply the provisions under Section 25-N and 25-F of the Act as there is no evidence of voluntary cessation of service. The management has admittedly not complied the provisions under Sections 25-N and 25-F of the Act. Thus the termination order issued by the management bank is illegal and void ab initio particularly on the ground that it was

issued ignoring the provisions and administrative directions contained in Ext. W-11 clarifications of the Vth Bipartite Settlement. The termination order is liable to be quashed on this ground also.

11. Admittedly the workman was not chargesheeted and no enquiry has been conducted after affording opportunity to the workman to defend his case. As per Ext. W-11 clarifications the management ought have initiated disciplinary action against the workman for unauthorised absence. But that was not done by issuing charge memo and conducting enquiry. There is thus clear violation of the constitutional protection under Section 311(2) of the Constitution of India on this ground also the action of management is unsustainable.

12. In the result, an award is passed holding that the action of the Central Bank of India, Trivandrum in terminating the service of the workman Sri K. Prabhakaran Nair, Head Cashier, is illegal and unjustified and he is accordingly entitled to be reinstated in service with all benefits including back wages and continuity of service.

C. N. SASIDHARAN, Industrial Tribunal

#### APPENDIX

Witness examined on the side of the Workman :

WW-1—Sri K. Prabhakaran Nair.

Witnesses examined on the side of the Management :

MW-1—Sri K. Sankara Iyer.

MW-2—Sri S. Ramadasan Nair.

MW-3—Sri A. T. Anthappan.

Documents marked on the side of the Workman

Ext. W-1—Letter of appreciation issued to the workman from the Asstt. General Manager of the management bank on 1-12-1978.

Ext. W-2—Letter of appreciation issued to the workman from the Regional Director of the management bank on 13-8-1991.

Ext. W-3—Photostat copy of letter addressed to the Regional Manager of the management bank from the workman dated 10-7-1992.

Ext. W-4—Photostat copy of letter issued to the workman from the Regional Manager on 30-7-1992.

Ext. W-5—Photostat copy of memo issued to the workman from the Trivandrum branch manager of the management bank dated 22-10-1992.

Ext. W-6—Letter issued to the Trivandrum branch manager of the management bank from the workman dated 23-11-1992.

Ext. W-7—Letter issued to the Trivandrum branch manager of the management bank from the workman dated 29-12-1992.

- Ext. W-8—Letter issued to the Trivandrum branch manager of the management bank from the workman dated 20-1-1993.
- Ext. W-9—Office memo issued to the workman from the Regional Manager of the bank terminating his service.
- Ext. W-10—Photostat copy of Chapter 15 of Government letter including clause 17(b).
- Ext. W-11—Photostat copy of clarifications issued by the General Manager of the bank dated 20-12-1989.
- Ext. W-12—Photostat copy of representation addressed to the Regional Manager of the bank on Trivandrum from the workman dated 19-10-1993.
- Ext. W-13—Photostat copy of representation addressed to the Regional Manager of the bank on Trivandrum from the workman dated 30-11-1993.
- Ext. W-14—Photostat copy of representation addressed to the Chairman and Managing Director of the management bank from the workman dated 19-11-1994.
- Ext. M-1—Copy of Ext. W-3.
- Ext. M-2—Copy of Ext. W-4.
- Ext. M-3—Copy of Ext. W-5.
- Ext. M-4—Copy of Ext. W-6.
- Ext. W-5—Letter issued to the Regional Manager of the management bank Trivandrum from the workman dated 25-5-1993.
- Ext. M-6—Copy of Ext. W-7.
- Ext. M-7—Copy of Ext. W-8.
- Ext. M-8—Report submitted to the Regional Manager of the bank Trivandrum from K. Sankara Iyer.
- Ext. M-9—Log Book of Vehicle No. KET 1649 for the period from June 1992 to October 1993.
- Ext. M-10—Letter submitted to the branch manager Trivandrum from the workman.
- Ext. M-11—Letter issued to the Trivandrum manager of the bank from the workman dated 23-11-1992.

नई दिल्ली, 7 मई, 1997

का. आ. 1460 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार यूको बैंक के प्रबन्धन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, I धनवाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-05-97 को प्राप्त हुआ था।

[संख्या एन-12012/158/93-आई आर (बी-II)]  
सनान, डेस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1460—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, I Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workmen, which was received by the Central Government on 6-5-1997.

[No. L-12012/159/93-IR (B-II)]

SANATAN, Desk Officer.

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947.

Reference No. 30 of 1994

#### Parties :

Employers in relation to the management of UCO Bank.

AND

Their Workmen

#### Present :

Shri Tarkeshwar Prasad,  
Presiding Officer.

#### Appearances :

For the Employers : Shri B. C. Sarkar, Dy. Chief Officer.

For the Workmen : Sri B. Prasad, State Secretary, UCO Bank Employees Association, Patna.

State : Bihar.

Industry : Banking.

Dated, the 1st May, 1997

### AWARD

By Order No. L-12012/158/93-IR (B-II) dated 22-2-1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of UCO Bank, Chapra in terminating the services of Shri Yallu Ram, Sweeper-cum-Messenger with effect from 13-8-1992 is justified? If not, what relief is the workman entitled to?”

2. After notice the parties filed their respective written statements, rejoinders and documents. Thereafter case was fixed for hearing. But on

22-4-1997 Shri B. Prasad appearing on behalf of the workman submitted that neither the concerned workman nor the sponsoring union was interested in prosecuting the reference case and he prayed to pass 'no dispute' award in the case.

3. Accordingly, I pass a 'no dispute' award in the present reference case.

TARAKESHWAR PRASAD, Presiding Officer

नई दिल्ली, 30 अप्रैल, 1997,

का. ग्रा. 1461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण, नई दिल्ली के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-97 को प्राप्त हुआ था।

[संख्या एन-12012/152/95-आई. आर. (बी. I.)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 30th April, 1997

S.O. 1461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.B.I. and their workman, which was received by the Central Government on the 28-4-1997.

[No. L-12012/152/95-IR(B-I)]

K. V. B. UNNI, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL : New Delhi  
I.D. No. 93/96

In the matter of dispute between :

Shri Rajender Kumar S/o Shri Kalu Ram  
r/o Puri Gwari Mohalla, Daruhara Chowk ke Pas,  
Rewari.

Versus

Up Maha Prabaodhak  
State Bank of India,  
Zonal Office, Haryana,  
Sector 8-C,  
Chandigarh.

APPEARANCES :

None for the workman.

Shri R. K. Chopra for the Management.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/152/95-I.R. (B-I) dated 4-10-96 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management in terminating the services of Sh. Rajender Kumar s/o Shri Kalu Ram and not re-employing him is just, fair and legal? If not, what relief the workman concerned is entitled and from what date?"

2. The workman in this case was served thrice by registered A.D. notice and had put in appearance on 25-2-97 but did not file any claim. He was directed to appear for filing of claim on 31-3-97 when he again did not appear, either in person or through any authorised representative. It appears that he was not interested in pursuing with this dispute. No dispute award is given in this case leaving the parties to bear their own costs.

GANPATI SHARMA, Presiding Officer.  
1st April, 1997.

नई दिल्ली, 5 मई, 1997

का. ग्रा. 1462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे कर्मचारी परिषद कोटा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधीकरण, कोटा के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-5-97 को प्राप्त हुआ था।

के. वी. बी. उन्नी डेस्क अधिकारी

[सं. एन-41011/20/90-आई. आर. (डी. यू.)]

New Delhi, the 5th May, 1997

S.O. 1462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kota as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway Kota and their workman, which was received by the Central Government on the 2-5-1997.

[No. L-41011/20/90-IR(DU)]

K. V. B. UNNI, Desk Officer.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण, कोटा/राज/केन्द्रीय  
निर्देश प्रकरण क्रमांक : औ.न्या.-18/90

दिनांक स्थापित : 26.10.90

प्रयोग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश  
संख्या एन. 41011/20/90 आई. आर. (डी. यू.) दि.  
19-10-90

## मध्य

डिविजनल मैकेट्री, पश्चिम रेलवे कर्मचारी परिषद, भीमगंज कोटा।

—प्रार्थी युनियन

## एवं

नीप वर्कशाप मैनेजर, पश्चिम रेलवे, कोटा।

—प्रतिपक्षी नियोजक

## उपस्थित

श्री आर.के. जाचान,

आर.एच.जे.एस.

प्रार्थी युनियन की ओर से प्रतिनिधि—श्री ए.डी. ओवर  
प्रतिपक्षी नियोजक की ओर से प्रतिनिधि—श्री गोकुल प्रसाद

सदवाल, सहा. कामिक अधिकारी

अधिनियम दिनांक : 27.3.97

## अधिनियम

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न निर्देश औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से संबोधित किया जायेगा) की धारा 10(1) (घ) के अंतर्गत इस न्यायाधिकरण को अधिनियमार्थ सम्प्रेषित किया गया है :

"Whether the action of Chief Works Manager Wagon repair workshop, Western Railway Kota in not giving proforma promotion to the 11 workmen (as per annexure) with effect from 5-12-78 and not fixing their pay at par with Shri Gheesalal as on 5-12-78 is justified? If not, to what relief the workmen are entitled?"

## (ANNEXURE)

List of 11 workmen involved in the dispute:

1. Shri Krishna Prakash.
2. Shri Kalish Chand.
3. Shri Tej Singh.
4. Shri Rameshwar Lal.
5. Shri Gynandra Prashad.
6. Shri Satish Chandra Gupta.
7. Shri Ganga Ram.
8. Sri Tapan Kumar
9. Sri Veer Chand.
10. Shri Ram Dev. B.
11. Shri Jagannath. .

2. निर्देश न्यायाधिकरण में प्राप्त होने पर दर्ज रजिस्टर किया गया व पक्षकारों को सूचना जारी की गयी। प्रार्थी युनियन की ओर से क्लेम स्टेटमेंट प्रस्तुत कर संक्षेप में लक्ष्य इस प्रकार अंकित किये गये हैं कि यह निर्देश विवाद कृष्णप्रकाश वर्गैरह कल 11 श्रमिक के संबंध में प्राप्त हुआ है। प्रतिपक्षी द्वारा एक कनिष्ठ कर्मचारी धीसालाल जोकि चार्जमैन ग्रेड की वेतनमान रुपये 425--700 (आर.) में कार्यरत था और उक्त संबंधित 11 कर्मकारों से कनिष्ठ था, को दि. 5-12-78 से वरिष्ठ कर्मकारों की अनदेखी करके चार्जमैन ग्रेड-ए वेतनमान 550-750 (आर.) में पदोन्नत कर दिया गया। प्रार्थीगण द्वारा प्रतिपक्षी को कनिष्ठ कर्मचारी के समान पदोन्नत दिये जाने के संबंध में कई बार पत्र लिखे एवं वार्ताएं की परन्तु कोई नतीजा नहीं निकला। अतः प्रार्थीगण को उनसे कनिष्ठ धीसालाल के समान चार्जमैन ग्रेड-ए में पदोन्नत कर वेतन निर्धारण व बकाया दिलाया जावे।

3. प्रतिपक्षी नियोजन की ओर से जवाब प्रस्तुत हुआ है कि माह अगस्त, 76 में चार्जमैन-ए डब्ल्यू आर. फिटर की एक रिक्ती हुई थी। रोस्टर के अनुसार पोईन्ट नं. 26 जो सामान्य कर्मचारी के लिए अपरेंट होना था, परन्तु रोस्टर का पोईन्ट नं. 22 को अनुसूचित जाति के लिए आरक्षित था, की कमी चली आ रही थी, जिसको भरने के लिए धीसालाल को छः माह के लिए ट्रायल आधार पर तदर्थ रूप में 5-12-78 से पदोन्नत किया गया। उस समय अनुसूचित जाति के अन्य वरिष्ठ कर्मचारी दुर्गाप्रसाद व रामपाल मल्ला किसी प्रकार छूट गये। धीसालाल जोकि डबल्यू. आर. ट्रेड का कर्मचारी था एवं इसे डब्ल्यू. आर. ग्रुप के ट्रेड बार्डफरेशन में बेल्टिंग ट्रेड अवैटिड की गयी बाद में बेल्टिंग ट्रेड के कर्मचारी रामलाल मल्ला व दुर्गाप्रसाद इत्यादि ने प्रतिवाद किया कि उन्हें धीसालाल से वरिष्ठ होते हुए चार्जमैन-ए में पदोन्नति उसके बाद दी गयी। प्रधान कार्यालय के पत्र सं. ईपी/839/14 दि. 1-8-81 के निर्देशों को ध्यान में रखते हुए हरिसिंह रामलाल मल्ला व दुर्गाप्रसाद को लेखा विभाग की सहमति के आधार पर 5-12-78 से प्रफोर्मा फिक्सेशन का लाभ दिया गया एवं प्रधान कार्यालय को पूर्ण स्थिति से अवगत कराया गया। प्रधान कार्यालय ने अपने पत्र दि. 19-7-84 द्वारा बताया कि यह प्रफोर्मा फिक्सेशन उचित नहीं है तदनुसार इस कार्यालय के आदेश दि. 3-10-84 द्वारा उपरोक्त प्रफोर्मा फिक्सेशन रद्द कर दिया गया और कर्मचारियों ने न्यायालय से स्थगन प्राप्त किया। लेखा विभाग को विभिन्न ट्रेडों के कर्मचारियों ने प्रफोर्मा फिक्सेशन के लिए प्रतिवेदन भेजे परन्तु मन्जूरी नहीं दी। प्रधान कार्यालय, बंबई ने अपने अट्रेंशंसकीय पत्र दि. 5/7/86 द्वारा सभी वरिष्ठ कर्मचारी अनुसूचित जाति सहित को प्रफोर्मा फिक्सेशन देना यह लिखते हुए उचित नहीं माना कि गलती से धीसालाल को 5-12-78 से पदोन्नत करने से सभी कर्मचारियों को प्रोफोर्मा फिक्सेशन का लाभ नहीं दिया जा सकता। अतः प्रार्थीगण का क्लेम खारिज किया जावे।

4. प्रार्थीगण की ओर से प्रार्थी कैलाशचन्द्र अग्रवाल का शपथ-पत्र प्रस्तुत हुआ। प्रतिपक्षी नियोजन की ओर से हुब्बलाल व गोकुल प्रसाद सदवाल के शपथ-पत्र प्रस्तुत किये गये हैं परन्तु इनमें से हुब्बलाल जिरह देरु उपस्थित नहीं हुआ इसलिए उसका शपथ-पत्र साक्ष्य में नहीं पढ़ा जायेगा। दूसरे गवाह गोकुल प्रसाद सदवाल ने श्रमिक प्रतिनिधि द्वारा जिरह की गयी। दोनों पक्षों की बहस सुनी गई दोनों पक्षकारों की ओर से लिखित बहस भी प्रस्तुत की गयी जिसका तथा पत्रावली का ध्यानपूर्वक अवलोकन किया गया।

5. प्रार्थीगण की ओर से विद्वान प्रतिनिधि ने बहस की है कि प्रार्थीगण में कनिष्ठ कर्मकार धीमालाल को दि. 5-12-78 में चार्जमेन ग्रेड-ए में पदोन्नत किया गया जो गजब था अतः प्रार्थीगण को भी 5-12-78 में धीमालाल को जो लाभ दिया गया वो दिलाया जावे।

6. प्रतिपक्षी की ओर से उक्त नक्स का जराब देी हुए तथा कहा गया है कि धीमालाल की पदोन्नति के समय अनुसूचित जाति के लिए आरक्षित रोस्टर पॉइंट नं. 22 रिक्त चला था रहा था। धीमालाल की पदोन्नति गरीब रोस्टर पॉइंट नं. 26 के तहत की गयी थी परन्तु अनुसूचित जाति के लिए आरक्षित पॉइंट नं. 22 की रिक्ति के एवज में इसे समायोजित किया गया था। कार्यालय की भूल से हरिमह, रामपाल मजूका एवं दुर्गाप्रसाद जो तीनों भी आरक्षित जाति के थे और जोकि धीमालाल से वरिष्ठ थे धीमालाल की पदोन्नति के समय छूट गये जिनके आवेदन पर उन्हें भी धीमालाल की तरह 5-12-78 से पदोन्नत कर प्रोफार्मा फिक्सेशन कर दिया गया था। परन्तु बाद में प्रधान कार्यालय द्वारा आदेश प्रस्तुत होने पर इनको वी.पी. प्रोफार्मा पदोन्नति रद्द कर दी गयी। इस आदेश को मातनीय प्रशासनित व्याधधिरण जयपुर में भी चहल रहा है। अतः ऐसी दूरत में प्रधान कार्यालय के आदेश दि. 5-7-88 के तहत धीमालाल से वरिष्ठ सभी 17 कर्मचारियों को जिनमें प्रार्थी कैलाशचन्द्र सहित अन्य प्रार्थीगण भी शामिल हैं को पदोन्नति का लाभ देय नहीं माना गया। चूंकि धीमालाल की पदोन्नति अनुसूचित जाति के लिए आरक्षित बिन्दु के एवज में की गयी थी इसलिए सभी प्रार्थीगण जोकि सामान्य जाति के हैं की अनुसूचित जाति के आरक्षित पद के एवज में प्रोफार्मा पदोन्नति का लाभ देय नहीं है और प्रार्थीगण का क्लेम खारिज किया जावे।

7. प्रार्थीगण की ओर से प्रार्थी कैलाश चन्द्र अग्रवाल का शपथ-पत्र प्रस्तुत हुआ है जिनने अपने शपथ पत्र में यह कहा है कि धीमालाल कनिष्ठ कर्मकार को दि. 5-12-78 से चार्जमेन ग्रेड-ए के पद पर पदोन्नत किया गया है जबकि प्रार्थी व उसके अन्य 10 साथी धीमालाल से वरिष्ठ थे को पदोन्नत नहीं किया गया। अतः धीमालाल को 5-12-78 से जो पदोन्नति लाभ दिया गया है, उसके समकक्ष वेतन निर्धारण कर लाभ दिलाया जावे।

8. प्रतिपक्षी नियोजन की ओर से उसके गवाह गोकुल प्रसाद सदवाल ने शपथ-पत्र की जिरह में कहा है कि धीमालाल को सन् 78 से चार्जमेन ग्रेड-ए में पदोन्नति दी गयी थी और यह पदोन्नति ट्रायल आधार पर दी गयी थी।

9. उक्त साक्ष्य के विम्लेपण से यह स्पष्ट है कि जहां तक आरक्षित रोस्टर के पॉइंट नं. 22 के रिक्त होने का प्रश्न है, रोस्टर के पॉइंट नं. 22 पर स्वीकृत रूप से दीपसिंह को जोकि अनुसूचित जाति का था, चार्जमेन ग्रेड-ए वेतनमान 550-750 (आर) में 6 माह के ट्रायल बेसिस पर पदोन्नति दी गयी थी, परन्तु इसका कार्य संतोषजनक नहीं पाये जाने पर उसकी पदोन्नति निरस्त कर दी गयी। इसके पश्चात् रोस्टर के पॉइंट नं. 22 पर ही कृष्णा एन. को चार्जमेन ग्रेड-ए वेतनमान 550-750 (आर) में पदोन्नत किया गया था परन्तु कृष्णा एन. ने इस पद पर कार्य करने की रुचि नहीं दिखायी एवं उसको पदावनत कर दिया गया। इस संबंध में प्रतिपक्षी के गवाह गोकुल प्रसाद ने जिरह में यह स्वीकार किया है कि अनुसूचित जाति एवं अनुसूचित जनजाति के कर्मचारी अयोग्य पाये जाते हैं तो उस पॉइंट को "डी" रिजर्व कर दिया जाना चाहिए या यह पॉइंट (कन्ज्यूम्ड) भरा हुआ माना जायेगा। धीमालाल की पदोन्नति भी प्रधान कार्यालय ने सही नहीं मानी। धीमालाल की पदोन्नति के पश्चात् एस. के. निगम (सामान्य संवर्ग) ने भी जोकि धीमालाल से वरिष्ठ था, एक प्रतिवेदन दिया। धीमालाल से वरिष्ठ होने के कारण उसे 5-12-78 से चार्जमेन ग्रेड-ए का वेतनमान दिया गया। एस. के. निगम को पूर्व से दिया गया वेतनमान आज तक प्राप्त कर रहा है। प्रतिपक्षी के विद्वान प्रतिनिधि ने यह बताया कि एस. के. निगम का स्पष्टीकरण मांगा गया है परन्तु अभी तक कोई कार्यवाही नहीं की गयी। प्रार्थी कैलाश चन्द्र अग्रवाल जिसने कि साक्ष्य से अपना शपथ-पत्र प्रस्तुत किया है एवं धीमालाल से स्वयं एवं अन्य 10 साथियों को वरिष्ठ माना है, से प्रतिपक्षी की ओर से कोई जिरह नहीं की गयी। प्रधान कार्यालय ने भी यह निर्देशित किया है कि धीमालाल को पदोन्नति चार्जमेन ग्रेड-ए के पद पर 5-12-78 से की गयी इसलिए धीमालाल से वरिष्ठ अन्य कर्मचारियों को भी यह लाभ दिया जाना चाहिए।

10. इस प्रकार उक्त विम्लेपण से मेरी विम्वर राय में यह साबित है कि धीमालाल स्वीकृत रूप से प्रार्थीगण में कनिष्ठ है, जो वास्तव में पॉइंट नं. 22 को एवज में पदोन्नति नहीं दी गई। स्वीकृत रूप से रोस्टर का पॉइंट नं. 22 सामान्य श्रेणी के कर्मचारी के लिए था। इसलिए एस. के. निगम को पदोन्नति दी गयी। अतः ऐसी दूरत में प्रार्थीगण कैलाश चन्द्र वगैरह भी धीमालाल के समकक्ष 5-12-78 से प्रोफार्मा पदोन्नति चार्जमेन ग्रेड-ए के वेतनमान में प्राप्त करने के अधिकारी हैं और फलस्वरूप सभी वेतन लाभ एरियर सहित प्राप्त करने के भी अधिकारी हैं।

11. अतः उक्त सम्पूर्ण विवेचन के आधार पर भारत सरकार द्वारा मंत्रालय, नई दिल्ली द्वारा सम्प्रेषित निर्देश को इस प्रकार उतरित किया जाता है कि प्रतिपक्षी नियोजित चीफ वरक्स मैनेजर, वेगन रिपेयर वर्कशॉप, वेस्टर्न रेलवे, कोटा द्वारा प्रार्थीयण कोलाण चन्द्र योगेश कुल 11 अग्रिक जोकि निर्देश के साथ संलग्न सूची में प्रकित हैं, को बोसालाल के समकक्ष 5-12-78 से प्रोफार्मा पदोन्नति चार्जमेन्ट ग्रेड-ए के वेतनाभार में न देना अनुचित एवं अर्थव्यय है, फलस्वरूप ये सभी प्रार्थीयण कोलाण के समकक्ष 5-12-78 से ही प्रोफार्मा पदोन्नति चार्जमेन्ट ग्रेड-ए के वेतनाभार में प्राप्त करने के अधिकारी हैं और फलस्वरूप सभी वेतन लाभ एरियर सहित प्राप्त करने के भी अधिकारी हैं।

इस अधिनियम को समुचित सरकार को विद्यमानुसार प्रकाशनार्थ भिजवाया जाये।

प्रार. के. चांदन, न्यायाधीश

नई दिल्ली, 6 मई, 1997

कां.आ. 1463—आध्यात्मिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रिय सरकार सी.जी.एम. टेल्कोम प्रोजेक्ट, मुम्बई के प्रबंधन के संवद्ध नियाजकों और उनके कर्मचारियों के बीच, अनुबद्ध में विद्विष्ट आध्यात्मिक विवाद में केन्द्रिय सरकार आध्यात्मिक अधिकरण, न 1 मुम्बई के पंचाट को प्रकाशित करती है जो केन्द्रिय सरकार का 6-5-97 का प्राप्त हुआ था।

[स. एल-40012/15/93-आई आर (डॉयू)]  
के. वा. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 6th May, 1997

S.O. 1463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1 Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.G.M. Telecom Project, Mumbai and their workman, which was received by the Central Government on the 6th May, 1997.

[No. L-40012/15/93-IR(DU)]  
K.V.B. UNNY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S Verma, Presiding Officer.  
REFERENCE NO. CGIT-40 OF 1994

#### PARTIES :

Employers in relation to the management of  
Chief General Manager, Telecom Pro-  
ject, Bombay.

And

Their Workmen.

#### APPEARANCES :

For the Management.—Shri Chandan Shive.

For the Workman.—No appearance.

STATE : Maharashtra.

Mumbai, dated the 25th April, 1997

#### AWARD

1. The appropriate Government has referred the following dispute for adjudication by this tribunal.

"Whether action of the Management of C.G.M. Telecom Project, Bombay in terminating the services of Shri. Nazimullah Khan, workman is legal and justified? If not, what relief the workman concerned is entitled to?"

2. The workman filed his written statement of claim on 27-9-1994. The Management filed its reply to the written statement of claim 5-12-1994. The rejoinder was filed by the workman on 25-8-1995 styled as "Reply to the written statement". The workman filed his affidavit in support of his case besides producing some documentary evidence. The workman was eventually cross examined on 14-8-1996 and management was directed to file their affidavits in rebuttal.

3. The workman did not put an appearance on 4-10-1996, the date fixed for cross examination of Management's witness. The case was adjourned to 6-12-1996 and on that date also the workman was not present and the matter was directed to proceed ex-parte against the workman. Mr. V. S. Bhathe filed his affidavit in rebuttal and the case was adjourned to 4th February, 1997. The Presiding Officer was on leave on 4th February, 1997 and the case was adjourned to 7th March 1997. The workman was again absent and the case was adjourned for hearing to 25th April, 1997.

4. Today Shri B. P. Chandershiv is present on behalf of the management and has filed his authority. The workman is not present. I have heard the Management and perused the record. The salient facts of this case are not in dispute. Casual labour was engaged at Bhuesawal in Jalgaon District in Maharashtra State. During 1st October,

1985 to 30th November, 1987 to work on a particular project. Nazimullah Khan was also engaged as a casual labour with effect from 1st October, 1985, at the said project at Bhusawal in Jalgaon District of Maharashtra State. The said project at Bhusawal came to an end on 30th November, 1987 and the Junior Telecom Officer shifted his camp from Bhusawal to Bhopal with effect from 1st December, 1987 on a new project.

5. The case of the workman is that he was transferred orally to Bhopal w.e.f. 1st December, 1987 but was not paid any Travelling allowance or Dearness allowance but was directed to work at Bhopal. The case of the workman is that he joined his duties at Bhopal in December, 1987 and was insisting on payment for TA/DA whereupon his services were retrenched orally w.e.f. 1st January, 1988. It was also pleaded that the workman was not issued a wage slip for the month of December, 1987 and hence was unable to say for how many days did he worked in the month of December, 1987 at Bhopal.

6. The case of the workman is that he was in continuous service for not less than one year, his services could not be retrenched without complying with section 25-F of I.D. Act, 1947. It was submitted that the workman was retrenched w.e.f. 1st January, 1988 without giving any notice and retrenchment compensation and this provisions of section 25-F of I.D. Act, 1947 were violated.

7. The workman's plea is that he was entitled to be absorbed in the department on the basis of order passed by Honourable Supreme Court in C.W.P. No. 302 of 1987. Upon such pleadings, it was prayed that the workman be reinstated in services w.e.f. 1st January, 1988. He may be paid back wages w.e.f. 1st January, 1988. The workman also prayed for costs of proceedings.

8. The Management by filing its reply to the written statement of claim pleaded that on completion of the work at Bhusawal, entire force of labour was asked to join work at Bhopal at a new site camp for carrying out trenching work. The workmen was not entitled to any TA/DA but were offered free transport to the new site at Bhopal. However, workman Nazim Ullah Khan did not accept the offer and did not report for work at new site at Bhopal. It was denied that workman had worked at the new site of Bhopal in employer's establishment in December, 1987 or his services had been terminated with effect from 1st January, 1988. It was specifically pleaded that the workman had not reported for work at all at the new site after 31st November, 1987. It was denied that the workman was entitled to any relief.

9. Now, the above recital of the case goes to show that the workman was engaged as a casual labour at a temporary project and his services

were liable to come to an end as soon as the project was over. However, the management offered alternative job to the entire work force at a new camp site on a new project in Bhopal. It has not been shown as to how and why the workman was entitled to any travelling allowance or daily allowance, he merely being a casual workman. In cross examination the workman admitted "I am not aware of any rules under which casual workman could claim TA/DA". He further admitted "This is correct that the work on which I was employed has been finished and this is why I was asked to go to Bhopal". Thus, there was a closure of the establishment of the department at the particular project and though his services were liable to be determined due to such closure, he was offered alternative job at a new project.

10. The workman claims to have worked at Bhopal for 10 days but this fact is controverted on oath by Mr. Bhathe under whom the workman was supposed to work at Bhopal.

The workman has admitted in the cross-examination that on shifting from Bhusawal to Bhopal the department had provided departmental transport to him but he had declined to travel by department vehicle. The workman claims to have gone back on 12th November, 1987 to report for duty but as stated already this fact has been refuted by Mr. Bhathe who was the Engineer-in-charge at the site. The workman in his cross examination admitted that he did not write to the Assistant Engineer concerned that he was staying at Bhopal but was not being taken on duty. From a perusal of the record I find that the workman had been provided with an attendance card known as Identity card. This card shows the attendance of the workman from 1st October, 1985 to 30th November, 1987. Had the workman reported at Bhopal on 12th December, 1987 there is no reason why his attendance would not have been recorded by the J.T.O. in the card. The original card was with the workman and if he had really worked in Bhopal he could have insisted that the particulars of his attendance be entered in the card and on a refusal of J.T.O. to do so, he could have moved the higher authorities but it appears that nothing of this sort was done, which goes to show that the story of the workman that he joined at the new project on 12th December, 1987 is false and untrue.

11. In my opinion when service of casual workman come to an end because of completion of a project at which he was engaged, he cannot complain that he ought to have been granted T.A. or D.A. for being employed at another project particularly when he was offered free transport to Bhopal but had declined to do so. There is nothing wrong in terminating services of the workman serving as casual labour on completion of a project, resulting in closure of the particular

establishment. There is neither plea nor proof that the said closure was mala fide, illegal, unjust or improper.

12. The services of the workman are claimed to have been terminated with effect from 1st January, 1988 as per para 6 of the written statement of claim of the workman. However, the dispute was raised very late and the written statement of claim was filed as late as 27th September, 1994. This is true that law of limitation is not applicable in such cases, however, unexplained delay and laches dis-entitle a workman from claiming any relief of re-employment. I have gone through the written statement of claim of the workman carefully and do not find even a whisper to explain this inordinate delay in raising the dispute. The workman is thus, not entitled to re-instatement or re-employment as held by the Supreme Court in 1993 Lab. I.C. 1672 Ratan Chande Sammante & Others. In the aforesaid circumstances of the case I do not find any merit in the claim of the workman and reject the same. However, he shall be entitled to get retrenchment compensation etc. as per provisions of Sec. 25 F.F.F. of the I.D. Act. The Award is made accordingly.

All concerned may be informed.

R. S. VERMA, Presiding Officer

नई दिल्ली, 1 मई, 1997

का.आ. 1464—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्जन में, केन्द्रीय सरकार करूर विस्या बैंक लि. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-4-97 को प्राप्त हुआ था।

[सं. एन-12012/67/84-डी-IV(ए)/आई.आर.बी.-III]  
बी.एम. डेविड, ईन्क अधिकारी

New Delhi, the 1st May, 1997

S.O. 1464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Karur Vysya Bank Ltd. and their workman, which was received by the Central Government on the 29-4-1997.

[No. L-12012/67/84-D. IV(A)/IR B. III]  
B. M. DAVID, Desk Officer.

#### ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,  
TAMIL NADU, MADRAS

Friday, the 6th day of December, 1996

#### PRESENT :

THIRU S. THANGARAJ, B.Sc., LLB.,  
INDUSTRIAL TRIBUNAL.

INDUSTRIAL DISPUTE NO. 464 OF 1990

In the matter of the dispute for adjudication under Section 10(1)(d) of the I. D. Act 1947 between the Workman and the Management of Karur Vysya Bank Ltd., (Karur).

#### BETWEEN :

The workman represented by The President,  
Karur Vysya Bank Employees' Union,  
Avenue Road, Bangalore—560 002.

#### AND

The Chairman, Karur Vysya Bank Ltd.,  
Erode Road, Karur—639 002.

#### REFERENCE :

Order No. L-12012/67/84-D. IV(A)/IR. B. III, Ministry of Labour, dated 5-6-1990, Government of India, New Delhi.

This dispute coming on for final hearing on Wednesday, the 27th day of November, 1996, upon perusing the claim, counter and all other material papers on record and upon hearing the arguments of Tvl. K. Chandru and D. Bharathy, Advocates appearing for the petitioner and of Tvl. T. S. Gopalan, P. Ibrahim Kalifulla, S. Ravindran and N. C. Srinivasavaradhan, Advocates appearing for the respondent-management, and this dispute having stood over till this day for consideration, this Tribunal made the following :—

#### AWARD

The Government of India in Order No. L-12012/67/84-D. IV(A)/IR B. III, Ministry of Labour, dated 5-6-1990 referred this dispute to this Tribunal u/s. 10(1)(d) of the Industrial Disputes Act, 1947 to adjudicate the following issue :

1. "Whether the action of the management of Karur Vysya Bank Ltd., Karur in imposing penalty of stoppage of two increments with cumulative effect of late Shri T. Ganesan was justified. If not, to what relief the workman is entitled to?"
2. "Whether the action of the Management of Karur Vysya Bank Ltd., Karur in imposing punishment of stoppage of next four increments with cumulative effect to Shri C. R. Munuswamy and Shri K. Sunder was justified. If so, to what relief the workman are entitled to?"

2. On service of notice the petitioner and the respondent appeared before this Tribunal and filed their claim statement and counter respectively.

3. The main averments found in the claim statement by the petitioner are as follows :

Late Thiru T. Ganesan was a member of the petitioner-union. Shri C. R. Munuswamy and K. Sundar were also members of the petitioner-union. T. Ganesan was working as a sub-staff in Thanjavur branch of the respondent Karur Vysya Bank Ltd. Ganesan applied for a loan for the purchase of a house and the respondent bank sanctioned the said loan on 20-4-1979 and the workman availed the loan on 26-4-1979. He also entered into an agreement with the bank for not creating any charge over the said property. Ganesan borrowed a sum of Rs. 3000 for the purchase of the house from one Rahamathullah who compelled Ganesan to create an usufructuary mortgage and Ganesan executed a mortgage on 14-8-1979 in favour of Rahamathulla. As per the condition Ganesan executed an equitable mortgage by deposit of title deeds of the property on 14-9-1979 in favour of the respondent bank. When the respondent bank came to know about the usufructuary mortgage executed in favour of Rahamathulla they charge sheeted the workman for creating a mortgage in derogation of the agreement and for the contravention of provisions of the Bipartite Settlement. The bank conducted an enquiry and imposed punishment on the workman. The said punishment was totally illegal as the charge levelled against the said Ganesan cannot attract any penalty much more a major penalty. If there was any breach in the terms and conditions of the agreement entered into between the workman and the bank, action can be taken against him for breach of condition only before imposing the punishment. The bank failed to take into account the circumstances under which the workman was forced to create the mortgage. Ganesan died after the punishment imposed on him and his legal heirs are entitled to get the benefits of the award.

Shri K. Sundar and Shri C. R. Munuswamy were working as sub-staff in Arni branch of the respondent bank. On 22-10-1980 Shri Munuswamy brought an insured parcel from the post office and claimed Rs. 2 as the conveyance allowance. The Manager denied the conveyance allowance. However, Munuswamy persisted in claiming the amount and the Manager thought fit to victimise him at an appropriate time. On 23-10-80 when the Manager asked Sundar to go to State Bank of India, he could not go as the office cycle was under repair. The Manager asked him to hire a cycle, but the workman Sundar refused to carry out the orders. On 27-10-80 when the Manager called Munuswamy and Sundar and asked one of them to go to the Post office and bring a parcel measuring 1'x1'x4" weighing nearly 1 kilo, both of them refused to carry out the instructions given by the Manager. The workmen were proceeded with, without framing any charges against them and the same was in violation of the provisions of the bipartite settlement. In the enquiry the respondent used fabricated documents. The enquiry conducted against the workman was opposed to the principles of natural justice. Payment of conveyance allowance was a customary practice and the refusal to pay the amount was contrary to the said practice. There was no evidence on record to prove the charges against the workmen. The findings of the Enquiry Officer are not proper. The respondent without applying its mind accepted the findings and imposed harsh punishment of stoppage of four incre-

ments with cumulative effect against each one of the two workmen. Sastri Award never contemplated imposition of increment cut for 4 years. Award may be passed holding that the stoppage of increment of late Ganesan is unjustified and direct the respondent to pay arrears of pay to his legal heirs, and holding the stoppage of four increment to Shri C. R. Munuswamy and K. Sundar as unjustified and consequently direct the respondent bank to release all the incremental arrears with interest at 18% pa.

The main averments found in the counter filed by the respondent are as follows :

The cause of the three workmen has not been espoused by a substantial section of the workmen of the respondent-establishment. The petitioner-union is not authorised to raise an industrial dispute in respect of the sub-staff. The dispute referred for adjudication is not a valid industrial dispute. On 20-4-1979 Ganesan was sanctioned a loan of Rs. 17000/- for the purchase of a house and by availing the loan he purchased the property on 26-4-1979. At the time of availing the loan he executed an agreement in favour of the bank agreeing to mortgage the property by deposit of title deed in favour of the bank. Accordingly, he created an equitable mortgage on 14-9-79 by deposit of title deed in favour of the bank. In the meantime on 14-8-1979 he had mortgage the same property in favour of one Rahamathulla for Rs. 3,500. Having secured the loan by agreeing to mortgage the property by deposit of title deed he had impaired the security offered by creating a mortgage in favour of Rahamathulla for Rs. 3,500. A charge sheet was issued against the workman Ganesan and he appeared in the enquiry. He did not dispute the fact of having created an agreement in favour of Rahamathulla after availing the loan from the bank. The enquiry officer considered the plea raised by the workman and submitted his findings holding that the charge was proved against him. The enquiry officer finally awarded punishment of stoppage of two increments. The appeal filed by the workman was also dismissed. The workman Ganesan died on 20-5-1986.

On 22-10-80 Shri Munuswamy brought an insured parcel from the nearby post office and claimed Rs. 2 as conveyance allowance. When the manager disallowed the same at 2.00 p.m. on that day Munuswamy and Sundar went to the Manager's seat and shouted at him at the top of their voice. On 23-10-1980 when the Manager asked Sundar to State Bank of India to hand over the cash challan to the office clerk who had gone there to remit cash, manager saying that the TAO TA TAO TA OTAH he bluntly refused to carry out the orders of the manager saying that the office cycle was not available. When the manager asked him to hire cycle he persistently refused to obey the orders of the manager. When the manager asked Munuswamy to go to State Bank of India he also refused. On 27-10-1980 when the manager asked both of them to go to post office and bring parcel measuring 1'x1'x4" weighing about one kilo both of them refused to carry out the orders of the manager. For the said misconduct of the workmen charges were framed and domestic enquiry was held against them. The enquiry officer gave his finding that the charges have been proved. They were also given personal

hearings. Taking into consideration of the evidence and their representation the management ordered stoppage of four increments with cumulative effect to each one of them. They preferred appeals and they were also dismissed.

Shri Ganesan has clearly violated the housing loan agreement. He has to keep the property free from all encumbrances and by creating mortgage in favour of Shri Rahamathulla he has violated the conditions. It cannot be considered as a private transaction between him and Rahamathulla. On 22-10-1980 Shri Munusami had taken the bank cycle and brought the insured parcel from post office. As he had used the bank cycle he was not entitled for conveyance allowance. Therefore, his claim was negatived. Thereafter he had chosen to disobey and flout the orders of the Manager. The misconduct committed by Munuswamy and Sundar have been clearly established in the enquiry. The punishment awarded to them is just and proper. Hence award may be passed rejecting the claim of the workmen.

One witness was examined on the side of the petitioner union and Ex. W-1 to W-7 have been marked. No witness was examined on the side of the management. Exs. M.1 to M.27 have been marked on the side of the management.

The point for our consideration are:

1. Whether the action of the management of Karur Vysya Bank Ltd., Karur in imposing penalty of stoppage of the increments with cumulative effect of later Shri T. Ganesan was justified? If so to what relief the workman is entitled to?
2. Whether the action of the management of Karur Vysya Bank Ltd., Karur in imposing punishment of stoppage of next four increments with cumulative effect of Shri C. R. Munuswamy and Shri K. Sundar was justified? If not, to what relief the workman are entitled to?

Points : Shri T. Ganesan (197) was a peon the Thanjavur branch of Karur Vysya Bank Ltd., He has applied for a loan of Rs. 17,000 under the scheme of housing loan to the employees of the Bank and the same was sanctioned to him on 20-4-1979. By availing the loan he had purchased the house property in Karunthattankudi on 26-4-1979. Earlier he had executed an agreement Ex. M.1 in favour of the bank and condition No. (d) and (e) read as follows :—

- (d) The employee shall mortgage in favour of the bank either by deposit of documents of title or otherwise as may be stipulated by the bank the house purchased by him; the land purchased by him and the house to be constructed thereon.
- (e) The employee shall from the date of purchase of the house completion of the construction of the house and so long as any part of the loan or interest thereof remains unpaid, insure and keep insured at his cost the house against fire and full

value of the house and make the benefit of the policy available to the bank either by assignment or otherwise.

He shall at all time during the continuance of the loan keep the house in good and substantial repair and shall pay all taxes, rents charges and other outgoings whatsoever and produce all receipts for inspection by the bank and keep the property free from all charges and encumbrances."

He has also created an equitable mortgage by deposit of title deeds and the property purchased by him in favour of the bank on 14-9-1979. Earlier that on 14-8-1979 he had mortgaged the property in favour of one Rahamathulla for a sum of Rs. 3,500. This is clear from Ex. M.2 encumbrance certificate produced by him to the bank. He has also admitted the said mortgage in favour of Shri Rahamathulla on 14-8-1979. He had redeemed the mortgage on 19-6-1980. This is also clear from Ex. M.2. The bank, when came to know about the mortgage created in favour of Rahamathulla issued Ex. M.3 wherein the gross misconduct in terms of the provisions of the bipartite settlement dated 19-10-1966 committed by him are as follows :

1. Doing any act prejudicial to the interests of the bank.
2. Committing an offence of fraud and cheating thereby lost the confidence reposed on him by the management."

The workman had given a reply Ex. M.4, wherein he has stated that there was no cause of action for the bank to take any disciplinary action as he had already discharged the mortgage in favour of Rahamathulla. Not satisfying with the reply given by the workmen the management ordered domestic enquiry against him under Ex. M.6. The enquiry proceedings are marked as Ex. M.7 and he had participated in the enquiry.

In Ex. M.1 he had clearly admitted that he would keep the property free from all charges and encumbrances. He had also created an equitable mortgage by deposit of title deeds in favour of the bank. On 14-9-1979 he had received the loan amount of Rs. 17,000/- subject to the condition stated in Ex. M-1. One of the main conditions in Ex. M-1 is not to create any charge or encumbrance on the said property. By executing Ex. M-1 he availed the loan and purchased the property. He had failed to follow the terms and conditions stated in Ex. M.1. Even before creating the equitable mortgage on 14-9-1979, he had created a mortgage in favour of one Rahamathulla for Rs. 3,500/- on 14-8-1979. The execution of such mortgage in favour of Rahamathulla was much against the terms and conditions stated in Ex. M.1. He has explained it by saying that due to the pressure given by Shri Rahamathulla he had to execute the mortgage in his favour. Whatever may be the reason he ought not have executed the other mortgage during the subsistence

of Ex. M.1 Apart from that he had executed an equitable mortgage in favour of the bank by deposit of the deeds for the said property on 14-9-1979. At that time he had not revealed those facts to the bank. His conduct cannot be supported at all. In his explanation Ex. M.4, he had stated that as he had already discharged the mortgage in favour of Rahamathulla, there was no cause of action for the bank to issue the explanation in charge Ex. M.3. However, the cause of action for the bank arose even on 14-8-1979 when he executed a mortgage in favour of Rahamathulla. The discharge of the said mortgage in favour of Rahamathulla will not prevent the respondent bank from taking disciplinary action against him. In Ex. M.3 the bank has clearly stated that he has done an act prejudicial to the interest of the bank. He has executed Ex. M.1 in favour of the bank and mortgaged the same property to the third party during the subsistence of the agreement without revealing the real name of the mortgagee. He had also created an equitable mortgage by deposit of title deeds in favour of the bank on 14-9-1979. Such an act is definitely prejudicial to the interest of the bank. Another misconduct stated by the bank was that he had committed offence of fraud and cheating and thereby lost the confidence reposed on him by the management. It was argued on the side of the petitioner that no proper charge has been framed against him by the respondent bank. Ex. M.3 should be taken as a notice as well as charge. The misconduct committed by the workmen under the provisions of the bipartite settlement have been clearly stated and the workmen without explaining his stand in respect of the charge had taken a technical plea as there was no cause of action for the bank to proceed against him. The action as well as the explanation given by the workmen cannot be supported at all and the bank is justified in proceeding against him.

Ex. M-7 is the proceedings of the domestic enquiry. He had participated in the enquiry and when the enquiry officer explained him the charge he had answered that he had understood the charge and admitted the same. His admission cannot be treated lightly that he had not understood the charge and admitted the same. His admission cannot be treated lightly that he had not understood the charge. The further explanation by the workman that since Rahamathulla threatened him to execute the mortgage in his favour, cannot be taken as reasonable explanation to the charges framed against the workman. If it was so he could have very well told the bank or he could have arranged money through some other source by not creating the mortgage in favour of Rahamathulla.

It was argued on the side of the petitioner that he had to execute the document that since Rahamathulla threatened him, cannot be taken as a proper explanation to the charge framed against the workman. The evidence available on record would go to show that the workman had executed the mortgage in favour of Rahamathulla much against the terms and conditions of Ex. M.1. The enquiry officer has considered all these aspects in proper perspective and had come to

the just and reasonable conclusion by finding the workmen guilty of the charges framed against him. There is no valid ground to interfere with the findings of the enquiry officer. The appellate authority has also well considered and passed the appellate order.

The workmen Shri C. R. Munuswamy (No. 1027) and Shri K. Sundar (No. 1039) were charged for:

1. Wilful insubordination or lawful and reasonable orders of superior; and
2. Disorderly or indecent behaviour in the premises of the bank.

On 22-10-1980 when Shri C. R. Munuswamy brought an insured parcel from the nearby post office he demanded Rs. 2 towards conveyance allowance and the manager declined his request. He and the other workman Shri Sundar threatened and shouted at the manager at about 2 p.m. on that day. On 23-10-1980 the Manager asked Sundar to go to State Bank of India and hand over a cash challan to the office clerk who had gone there to remit cash and Sundar refused. When the Manager asked Munuswamy he also refused on 27-10-1980 when the Manager asked Munuswamy to bring parcel measuring 1'x1'x4' weighing nearly one kilo from the post office Munuswamy refused to bring the parcel. When the manager asked Sundar he also refused. For all these allegations the respondent framed Ex. M.16 charges against the workmen. Shri Munuswamy and Shri Sundar gave their explanation, Exs. M-17 and 18 respectively, denying the charges. An enquiry was held and the enquiry proceedings are marked as Ex. M.20. The workmen had sufficient opportunity and they had elaborately cross-examined MW1, Selvanambi, the manager. Apart from that Shri Munuswamy gave evidence and he was also cross-examined by the management. A perusal of the enquiry proceedings would go to show that the principles of natural justice have been followed in the enquiry. The enquiry officer in his findings Ex. M.21 elaborately discussed each and every aspect of the case and came to the conclusion holding that the charges have been proved against both the workmen. The final order Ex. M. 23 was passed imposing stoppage of 4 increments which would have the effect of postponing their future increments. The workmen separately preferred two appeals marked as Exs. M. 24 and M.25. The appellate authority after considering the various reasons had agreed with the final orders passed by the enquiry officer and confirmed the same. The order of the appellate authority is marked as Ex. M. 26. Though the workmen had assigned various reasons the enquiry officer as well as the appellate authority have considered those reasons and came to a reasonable conclusion. There is no valid ground to interfere with the orders passed by the enquiry officer as well as the appellate authority. When the workman Munuswamy was examined as a witness in the enquiry, he had admitted that there was no enmity between him and the manager (MW1) who gave three complaints against him. Shri Sundar did not allege any enmity with the manager. The nature of allegations would go to show that it was not woven to victimise the workmen concerned. The various reasons assigned by the workmen for their inability

to carry out the orders of the manager have no merit in the circumstances of the case as it would clearly establish that they had shown wilful subordination to the lawful and reasonable order of superior officer. Further the incident which had taken place on 22-10-1980 shows that they behaved in a disorderly and indecent manner in the premises of the bank. So, there is no valid reason to interfere with the orders passed by the management.

The main contention on the side of the management was that the petitioner union is not having substantial section of the workmen employed in the respondent establishment to espouse the cause of these three workmen. WW-1 the President of the petitioner-union has clearly stated that among the 1700 workmen employed in the respondent bank except five all others are members in the petitioner-union. Further he has also alleged that it is one of the recognised union by the management and the said union had entered into many settlements in the past with the management. Ex. W-1 is the copy of the by-law of the petitioner-union. Ex. W-2 is the minutes regarding industrial dispute. Ex. W-5 is the proceedings of the executive committee meeting wherein they wanted to raise an industrial dispute regarding these workmen. Accordingly the President of the petitioner-union has raised the dispute under Ex. W-3 before the Regional Labour Commissioner Central Madras. The minutes of the conciliation is marked as Ex. W-6 and the failure report sent by the conciliation officer is Ex. W-7. On the basis of these documents this reference has been made by the Government of India. Therefore the contention of the respondent that this dispute has not been raised validly by the petitioner union and that the petitioner-union does not have the support of the substantial members of workmen to espouse the cause of these three workmen, cannot be accepted.

The workman Shri T. Ganesan was imposed the punishment of stoppage of two increments which would have the effect of postponing the future increments. The mitigating circumstances which would make punishment are :

- (1) that the workman had discharged the mortgage and
- (2) that the workman had died and the effect of the punishment will reflect on his dependants. The stoppage of four increments which would have the effect of postponing the future increments was the punishment imposed on Shri C. R. Munuswamy and K. Sundar. Considering the above reasons the punishment imposed on these three workmen cannot be said to be excessive and the same have to be accepted.

In the result, award passed dismissing the I. D. No costs.

Dated, on this the 6th day of December, 1996.  
S. THANGARAJ, Industrial Tribunal

#### WITNESSES EXAMINED

For Workman/Union :

WW-1—Thiru Rajendran S.

1228 GI/97--8

For Management :

None.

#### DOCUMENTS MARKED

For Workman/Union :

Ex. W-1/—Copy of the By-law of the petitioner-union.

Ex. W-2/13-3-83—Minutes of the Executive Committee Meeting of the union (Xerox copy).

Ex. W-3/10-10-83—Letter from petitioner-union to conciliation officer (copy).

Ex. W-4/1-2-84—Rejoinder filed by the Management.

Ex. W-5/5-2-84—Minutes of the Executive Committee Meeting.

Ex. W-6/6-4-84—Minutes of the Conciliation Proceedings.

Ex. W-7/5-10-84—Conciliation failure report.

For Management :

Ex. M-1/27-4-79—Agreement executed by T. Ganesan in favour of the management bank (Xerox copy).

Ex. M-2/13-4-82—Encumbrance certificate (Xerox copy).

Ex. M-3/13-5-82—Charge sheet to T. Ganesan (Xerox copy).

Ex. M-4/16-6-82—Reply by T. Ganesan to the charge sheet (Xerox copy).

Ex. M-5/17-1-79—Letter from Th. T. Ganesan addressed to the Chairman (Xerox copy).

Ex. M-6/22-6-82—Enquiry notice (Xerox copy).

Ex. M-7/19-7-82—Enquiry Proceedings (Xerox copy).

Ex. M-8/4-10-82—Findings of the Enquiry Officer (copy).

Ex. M-9/16-10-82—Proceedings of the proposed punishment hearing (copy).

Ex. M-10/12-2-83—Proceedings of the proposed punishment hearing (copy).

Ex. M-11/16-5-82—Final order (copy).

Ex. M-12/30-7-82—Order of Appellate Authority (copy).

Ex. M-13/28-10-80—Letter from the Branch Manager to the Asst. General Manager complaining about Tvl. C. R. Munuswamy and K. Sundar (Xerox copy).

Ex. M-14/5-11-80—Letter from Sri T. Ramakrishnan to the Branch Manager, Arni Branch (Xerox copy).

Ex. M-15/7-11-80—Letter from Sri Koteeswaran to the Manager, Arni Branch (Xerox copy).

- Ex. M-16/7-11-80—Charge sheet issued to Sri C. R. Munuswamy and K. Sundar (Xerox copy).
- Ex. M-17/8-12-80—Reply to the charge sheet by C. R. Munuswamy (Xerox copy).
- Ex. M-18/8-12-80—Reply to the charge sheet by K. Sundar (Xerox copy).
- Ex. M-19/5-1-81—Enquiry Notice (Xerox copy).
- Ex. M-20/27-2-81—Enquiry proceeding (Xerox copy).
- Ex. M-21/1-6-81—Findings of the Enquiry Officer (Xerox copy).
- Ex. M-22/25-6-81—Proceedings of the proposed punishment hearing (Xerox copy).
- Ex. M-23/7-8-81—Final Orders (Xerox copy).
- Ex. M-24/19-9-81—Appeal preferred by Sri C. R. Munuswamy (Xerox copy).
- Ex. M-25/22-9-81—Appeal preferred by Sri K. Sundar (Xerox copy).
- Ex. M-26/7-11-81—Orders of the Appellate authority (Xerox copy).
- Ex. M-27/20-4-79—Housing loan sanction communication to Sri Ganesan (Xerox copy).
- Ex. M-28/13-4-82—E. C. for the property covered under the Housing loan (Xerox copy).
- Ex. M-29/10-10-83—Petition filed by the petitioner-union to the Regional Labour Commissioner (Central) requesting conciliation (Xerox copy).
- Ex. M-30/13-9-85—Communication from the Government of India, Ministry of Labour, declining to refer the issue for adjudication (Xerox copy).
- Ex. M-31/29-3-90—Order in W.P. No. 1272/87 High Court Madras directing the Government to refer the dispute for adjudication.

नई दिल्ली, 7 मई, 1997

का. आ 1465—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार इण्डियन रेयर अर्थ्स लि. के प्रबन्धकों के संबंध नियोक्तों और उनके कर्मचारों के बीच, अन्वय में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-97 को प्राप्त हुआ था।

(नं. एन-29012/47/95-आई आर (विवाद))

डी. एम. डैविड, डेप्ट अधिकारी

New Delhi, the 7th May, 1997

S.O. 1465.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal,

Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Rare Earths Ltd. and their workman, which was received by the Central Government on 6-5-97.

[No. L-29012/47/95-IR (Misc.)]

B. M. DAVID, Desk Officer

# ANNEXURE

## IN THE COURT OF THE INDUSTRIAL TRIBUNAL,

### KOLLAM

(Dated, this the 4th day of April, 1997)

#### PRESENT :

Sri C. N. Sasidharan, Industrial Tribunal

#### IN

Industrial Dispute No. 12/95

#### BETWEEN :

The Chief General Manager, Indian Rare Earths Ltd., Minerals Division, Chavara P.O., Dist. Kollam-691 008.

By S/Sri. Menon & Pai, Advocates, Ernakulam, Kochi.

#### AND

Sri. K. Dharmarajan, Secretary, Indian Rare Earths Employees Congress, Chavara P.O., Kollam-691 014.

By Sri. C. N. Prasannan, Advocate, Kollam.

#### AWARD

This industrial dispute has been referred for adjudication to this Tribunal by the Government of the India as per Order No. L-29012/47/95-IR(Misc.) dated 25-8-1995.

The issue for adjudication is the following :—

"Whether the action of the management of Indian Rare Earths Ltd., Chavara in imposing the Punishment of suspension with attendant loss of wages on S/Sri. K. G. Thampi and Leon and in not granting promotion to them on par with 13 other workmen w.e.f. 1-1-1992 instead of 4/5-1-1993 from operator VIII category to Sr. Operator IX category is legal and justified? If not, to what relief the workmen are entitled?"

2. The union espousing the cause of the workmen S/Sri. K. G. Thampi and T. Leon has filed a detailed claim statement and the contention are briefly as under :—

Sri. K. G. Thampi is the General Secretary and Sri. T. Leon is the treasurer of the union. The case of the union is that this union used to complain the higher authorities about the unfair Labour practice adopted by the chief officials of management company that the union applied for modification of company's standing orders resulting modification and that on the representation submitted by the union the officials of Mines Department inspected the company and detected violations of several safety provisions. As a result of the above the chief officer of the company as a vengeance issued charge memos to the General Secretary and treasurer of the union with ulterior motive of harassing the trade union activities. Thus show cause was issued to Sri K. G. Thampi on 4-7-1991 and to Sri. T. Leon on 25-5-1991 alleging false allegation. Though both of them submitted explanation denying the charges, the management issued charge sheet to them and ordered domestic enquiry. The General Manager of the company was the enquiry officer. The enquiries conducted were not impartial and the reports were against evidence. The charges were vague and ambiguous. All the proceedings were initiated in order to victimise these workers for their trade union activities. The findings of the enquiry officer were erroneous

and unsustainable. The workers were not given sufficient opportunity of being heard. On the basis of the enquiries Sri. Thampi was suspended for 3 days and Sri. Leon was suspended for 4 days. That is illegal and unsustainable.

3. The case of the union with regard to the 2nd part of the issue under reference is that these two workers were recruited in the company along with 15 others. All of them were promoted to 1st category with effect from 1-1-1988 and after 4 years service in that category all of them except the workers involved in this reference were promoted to 2nd category with effect from 1-1-1992. Sri. Thampi was promoted on 4-1-1993 and Sri. Leon was promoted on 5-1-1993 only. The pay scale and other consequential increments and other monetary benefits were denied to them when it became actually due. Their promotion to 2nd category was illegally postponed to 5-1-1993 and also denied the benefits. This is nothing but unfair Labour practice. This kind of double punishment is not permissible and it is illegal. The prayer is for quashing the suspension and restoration of promotion with effect from 1-1-1992 with all consequential benefits.

4. The management contests the matter. The contentions of management in the written statement are briefly as under :—

The workman Sri. K. G. Thampi was employed as Trades man (D) operator Mechanical. The security and fire officer on 1-7-1991 has reported that Sri. Thampi after punching 'IN' for the first shift duty has unauthorisedly distributed among the employees within the company premises during working hours, printed notices containing false allegations against his superior officers and spreading false information. On the basis of this report the workman was issued a show cause notice dated 4-7-1991 directing him to submit explanation within 3 days. He has submitted explanation denying the charges which was not found satisfactory to the management. Accordingly a charge sheet dated 17-8-1991 was issued to him for the misconducts covered by clauses 41(7), 41(39) and 41(40) of the company's standing orders. On the basis of the charge sheet a domestic enquiry was conducted. Sri. Thampi was given all the opportunities to defend the charges and to adduce evidence. He was allowed to be represented by a co-worker. The enquiry has been conducted strictly in compliance with the principles of natural justice. During the enquiry he did not raise any objection regarding validity and propriety of the enquiry. The enquiry officer on the evidence in the enquiry found the charges against the workman proved. After accepting the findings of enquiry officer the management imposed the punishment of suspension without wages for 3 days though the misconducts committed by the workman were grave and serious warranting punishment of dismissal. The previous record of him was not unblemished. He was warned earlier vide memos dated 31-5-1988 and 27-1-1990 for committing misconducts. The punishment imposed as per order dated 14-1-1992 is perfectly legal and is not liable to be set aside.

5. The management further states that Sri. Leon was employed as a Trades man (E) operator Mechanical. On the basis of the report of Deputy Security Officer Sri. C. R. Somanpillai, it was alleged that the workman was found sleeping lying on a bench at 3.32 A.M. on 11-5-1991 near the northern entrance to the Main Plant. He could wake up only when the Deputy Security Officer shook his shoulder and asked him to get up. On the basis of the report a show cause notice dated 25-5-1991 was issued to him. The workman submitted explanation denying the allegations. The explanation was not satisfactory to the management and hence charge sheet dated 24-6-1991 was issued for the misconduct covered by clauses 41(11) and 41(13) of the standing orders of the company. An enquiry was also conducted by the enquiry officer Sri K. Rajendranathan Nair, the then Deputy General Manager (Project). In the enquiry the workman was given all opportunities to defend

the charges and to prove his case. He was allowed to be represented by a co-worker and he has signed all the pages of the enquiry proceedings. There was no complaint from the worker or his representative during the course of the enquiry or thereafter that principles of natural justice had not been observed. On the basis of evidence the enquiry officer found the workman guilty of the charges. The management accepted the findings of enquiry officer and after careful consideration of the past record also of the workman, imposed the punishment of 4 days suspension without wages. He was imposed a punishment of warning earlier by memo dated 27-1-1990 for committing misconduct. Sleeping while on duty is absolutely an irresponsible behaviour which is unpardonable. The punishment imposed is fully justified. Though the misconduct is serious warranting punishment of dismissal the management took a lenient view and imposed lesser punishment. The management denies all other allegations of management regarding vengeance for trade union activities, unfair labour practice, victimisation etc. made by the union. According to the management the charges are not vague as alleged. The workman has not raised any such objection in the enquiry and he has participated in the enquiry through out. He has also not sought any clarification regarding the charges. This allegation of union is without bonafides.

6. The contention of management with regard to the postponement of promotion is that there is a standing precedent and practice followed regarding the postponement of promotion due, if the concerned workman is imposed with a punishment in the year of promotion. The promotion of both these workers was postponed by one year as they were imposed with the punishment during the year of promotion. Any attempt to make a deviation from the precedent and practice followed from the very beginning of the company will open to flood gate of issues of similar nature which were settled. Postponement of promotion is not a punishment and is only a consequence of the punishment imposed. There is no double punishment as alleged. They were given their due promotion with effect from 5-1-1993. According to the management the union is not entitled to any relief in this reference.

7. Disciplinary proceedings were initiated against the workmen by the management after issuing show cause notices and charge sheets and also conducting separate domestic enquiries. The validity of the domestic enquiries was seriously challenged by the union. Hence that point was considered separately. The two enquiry officers have been examined as MWs 1 and 2 and the enquiry files have been marked as Exts. M1 and M2. On the side of the management Ext. M3 to M13 have also been marked. The two workmen gave evidence as WW1 and WW2 and Exts. W1 to W14 have also been marked on the side of the union.

8. The enquiry officers were examined here separately. In the enquiry against Sri. Thampi the workman Sri. Leon was allowed to represent Sri. Thampi as per the request of Sri. Thampi. In the enquiry against Sri. Leon Sri. Thampi was allowed to represent Sri. Leon as requested by Sri. Leon. Both of them cross examined the management witnesses elaborately and effectively. In both the enquiries list of witnesses were given in advance and the documents on the side of the management were marked in the presence of the workmen. Both these workmen were given sufficient and necessary opportunities to defend their case. They were allowed to examine witnesses on their side. At no point of time in the course of the enquiries the workman raised any objection regarding the persons who conducted the enquiries and the procedure followed in the enquiry. These circumstances make it clear that the enquiries were conducted fully compliance with principles of natural justice.

9. I shall first consider the enquiry regarding Sri Thampi. The first point of attack against the enquiry is that the charge-sheet issued to Sri. Thampi is vague. Ext. M1 is the enquiry file regarding the charges. Sri. Thampi was admittedly given a show cause notice dated 4-7-1991 wherein the charge against him is specifically stated. The allegation against him as per the show cause notice is that on 1-7-1991 after punching 'IN' his attendance for the first shift duty Sri. Thampi have unauthorisedly distributed among the employees of the company within the company premises during working hours printed notices containing false allegations against

his superior officers and spread false information. The relevant clauses in the standing orders under which the above misconduct constitute are also stated separately. In answer to this Sri. Thampi submitted explanation denying the allegations. The explanation was not found satisfactory to the management and hence the chargesheet on 17-8-1991 was issued to him. In the chargesheet also the charges were clearly and specifically stated. It is specific to note that the workman Sri. Thampi never asked for any further clarification from the authorities. That itself shows that there was no vagueness in the chargesheet. Further he has participated in the enquiry throughout without any protest. That also makes it clear that Sri. Thampi was fully aware of the nature of allegation for which the enquiry was conducted. The denial of allegations in his explanation further established that he fully understood the charges and he has not made any complaint either in the explanation to the show cause notice or during the course of the enquiry that he did not understand the charges. It is also noteworthy that the cross-examination of the management witnesses fully in the enquiry shows that the workman participated in the enquiry after fully understanding the charges levelled against him. The above circumstances fully establish that the workman fully understood the charge and participated in the enquiry and no prejudice has been caused to him. There is no vagueness in the chargesheet as alleged.

10. As pointed out by the High Court of Kerala in State of Kerala V. Sukumaran Nair (1966 2 LLJ a person who denies the allegations with which he was charged cannot make a grievance that the charges are vague. The observations made by the court is worth quoting as below :—

"The contention that the charges are vague need not detain this court, because if the charges were really vague and if the plaintiff did not understand them, he could have certainly asked for further clarification at the hands of the authorities. There is nothing to show that the plaintiff made any such attempt and his participation in the enquiry without any protest clearly shows that he was fully aware of the nature of the allegations for which enquiry was being conducted. Therefore, I am not inclined to accept the contention of the learned counsel for the plaintiff-respondent, that the proceedings are vitiated on the ground that the charges are vague."

The Delhi High Court also had occasion to consider a similar point and made the following observations in the case between Reghbir Singh V. Union of India (1981 LJC 1121).

"I do not find any substance in the allegation that show cause notice was vague. He has not made any grievance of it in his reply to the show cause notice. A copy of the reply is produced along with the writ petition. A perusal of it would show that the petitioner had correctly understood the charge against him."

The above observations fully support the view which I have taken above.

11. The second ground urged by the union for invalidating the domestic enquiry is that there is no sufficient evidence to prove the misconduct of the workman. It is also pointed out that the evidence of the witnesses examined on the side of the workman was not considered by the enquiry officer while arriving at the conclusion. At the outset I may state the well settled position of law that the standard of proof required in domestic enquiry is preponderance of probabilities and not proof beyond reasonable doubt. On the side of the management three witnesses were examined in support of the charge against Sri. Thampi. MW1 in the enquiry Sri. R. Sivankutty is the Security and Fire Officer who gave Ext. M3 report to the General Manager regarding the guilt of the workman. MW1 gave his report on the basis of Ext. M1 report of the security guards S/s. K. Appukkuttan & Vijayan who were examined in the enquiry as MWs 2 and 3. Altogether six documents were marked on the side of the management as Exts. M1 to M6. Three witnesses including the workman were examined on the side of the workman as WWs 1 to 3. The enquiry officer considered the evidence of all the witnesses and discussed it under issue No. 1 in Ext. M1 enquiry file.

12. The question is whether the finding of the enquiry officer is supported by evidence or whether it is perverse. The charge against Sri. Thampi is that he had unauthorisedly distributed the printed notice among the employees of the company within the company's premises during working hours on 1-7-1991 after punching 'IN' his attendance for the first shift duty. MW1 in the enquiry deposed that the security guards MWs 2 and 3 who were on duty reported to MW1 that on 1-7-1991 at about 7.45 AM Sri. Thampi had distributed notices inside the company. The report of the security guards was marked in the enquiry through this witness. MW1 further deposed that he obtained a copy of the notice reported to have been distributed to Sri. Thampi. MW2, the security guard deposed that on 1-7-1991 while he was on duty at the main gate of the company between 7.45 AM and 8 AM he saw Sri. Thampi distributing notices inside the company. According to this witness he reported the matter to the Security and Fire Officer. He has also identified his report Exts. M1 and M2 as the notice distributed by Sri. Thampi. During cross examination also this witness has re-iterated that he has submitted as stated above. This witness has further affirmed that he reported the matter not because of anybody's compulsion but because he has seen the instance. MW3 in the enquiry is another security guard who as MW3 has deposed that on 1-7-1991 he was on duty before the old time office between 7.45 AM and 8 AM and that he saw Sri. Thampi distributing some papers by standing on the western side of the Bank. He had obtained a copy of the notice which was given to the Security and Fire Officer and the matter was reported to him. During the cross examination also this witness has clearly and specifically stated that Sri. Thampi was found carrying a hand bag and it was not examined by him. This witness has clarified that Ext. M1 was written by MW2 and MW3 has also signed the report. This witness has re-iterated in cross examination that he had seen Sri. Thampi distributing the notice. This witness has explained the reasons for not searching the bag which Sri. Thampi was carrying while entering the factory for work.

13. As stated earlier WW1 and WW2 were examined on the side of the workman Sri. Thampi. WW1 has stated that he did not know whether Sri. Thampi had distributed notices before he saw him at 8 A.M. It is not disputed that Sri. Thampi had punched his card at 7.35 AM while his shift time start at 8 AM. WW2 is the vice president of the union of which Sri. Thampi is the general secretary. In that way he is an interested witness. WW2 has deposed that on 1-7-1991 morning he had distributed the notices in question outside the company gate. But here the charge is that notices were distributed inside the company and the security guards saw Sri. Thampi distributing the same. Further WW2 during his cross examination has not specifically denied the suggestion of the management representative to the effect that Sri. Thampi had distributed notices inside the plant and workshop, but only said that it is not possible. The enquiry officer has considered the evidence of these witnesses. The enquiry officer has mainly relied on the evidence of MW2 and MW3 who have seen distribution of notices by Sri. Thampi inside the company premises. There are no reasons to disbelieve the security guards who had long years of service in the company and having membership in trade unions. It is quite unbelievable that in a public sector company where large number of employees employed and majority of them are members of one union or other some employees will support framing a false case against office bearers of unions because of trade union activities as contended by the union. It is also pertinent to note that there is no allegation of any kind of enmity towards Sri. Thampi by MWs 1 to 3. In these circumstances it cannot be held that the findings of the enquiry officer is perverse. On the other hand he has fully considered the evidence of all the witness and came to the conclusion that Sri. Thampi is guilty of the charge levelled against him. The findings of the enquiry officer is fully supported by legal evidence.

14. The learned counsel for the union would contend that Ext. M1 report is stated to be as of two guards and at the very same time in Ext. M3 report which is based on Ext. M1 it is stated as guard only. The argument is that Ext. M3 was issued without Ext. M1 report and it was subsequently fabricated for harrasing the workman Sri. Thampi. It is also contended that statements in Exts. M1 and M3 are different as the place of distribution of the notices are different. MW1

in the enquiry has deposed that Ext. M3 is based on Ext. M1 submitted by MW2. MW3 has deposed that Ext. M1 was prepared by MW2 and MW3 has also put his signature. That means Ext. M1 was prepared by one 'guard' and it was signed by two guards. So the mere statement as 'two guards' in M1 and 'guardonly' in M3 does not make any difference or it will not lead to the conclusion that Ext. M1 was subsequently fabricated. Now with regard to the difference in the place of distribution the security guards have deposed that it was inside the gate and they saw Sri Thampi distributing notices. It is true that there is a difference as inside the plant and at the workshop. But both the places are inside the company gate and the evidence on record in the enquiry clearly established distribution of notices inside the plant and workshop inside the company premises. So the discrepancy in the place of distribution of notice as alleged is also immaterial. Now there is another argument that it is difficult to bring notice inside the company as the security guard at the gate will not permit after checking the employees to bring such bundle inside the company. But the concerned security guard as MW3 in the enquiry has explained that Sri Thampi brought a hand bag and it was not checked on that day by him. Hence this contention is also devoid of merit.

15. Now there is yet another argument that distribution of notices is not an act of misconduct under standing order clauses 41(7), 41(39) and 41(40). The learned counsel for the union would submit that distribution of any newspaper, hand bill, palmlets or poster without previous sanction of the management alone will constitute a misconduct and distribution of notices is not enumerated as a misconduct and the management cannot take any action for that. The word "hand bill" is stated at page 598 in the Chambers Dictionary and at page 133 of the same Book the meaning of the word "Bill" is described. As per the description 'Bill' includes printed notices also. Therefore distribution of handbill clearly means distribution of printed notice. Therefore distribution of printed notices is also a misconduct under the relevant clause of standing orders stated above. Further this contention was not raised in the enquiry and on that ground also it is unsustainable.

16. Now I shall examine the validity of the domestic enquiry into the charge levelled against the other workman Sri Leon. The charge against Sri Leon is that while he was on duty in the third shift on 10-5-1991 neglecting his work he was found sleeping laying on a bench at about 3.32 AM on 11-5-1991 near the northern entrance of the main gate which is seen by the Manager (Production), Manager (P & A) and the Deputy Security Officer. Sri Leon was accordingly issued show cause notice and by explanation dated 13-5-91 he denied the charge. During the course of the enquiry there was no dispute regarding the surprise inspection conducted by two Managers and the Deputy Security Officer mentioned above. The defence of Sri Leon is that the management has framed false case against him because of his trade union activities. The enquiry file has been marked here as Ext. M2 and the enquiry officer was also examined as MW2. The two Managers and the Deputy Security Officer who inspected the company on the crucial date were examined in the enquiry. They are admittedly senior officers in the company and there is no allegation of any kind of enmity between the workman and these 3 officers. There are no circumstances also to infer least possibility of enmity. These three officers categorically deposed in the enquiry that they found the workman sleeping as alleged. On that day three other workmen were also found sleeping during the surprise inspection and all the three employees unconditionally admitted their guilt. The management accepted their apology and disciplinary proceedings were dropped. As stated above the only defence is that a false case was fabricated against Sri Leon. The evidence of three senior officers of the company clearly establish the misconduct alleged against the workman. As held by the Supreme Court in *J. D. Jain V. The management of State Bank of India* and another, in departmental proceedings the guilt need not establish beyond reasonable doubt and heresay evidence was clearly admissible in domestic enquiries. The Supreme Court followed this proposition of law in the case of *State of Haryana V. Raghansingh* (1982 1 L.J. 46).

17. The learned counsel for the union would vehemently contend that a false case has been chargesheeted against the workman Sri Leon for his trade union activities. According

to the learned counsel only one point will establish the falsity of the case. It is pointed out that Sri Leon was allegedly found sleeping in a bench which is having only 2'11" length and 8" width and Sri Leon is of 5'11" height. The argument is that it is quite impossible for a man of such height to sleep in a bench having 2'11" length. Three senior officers of the company viz. Manager (P&A) Manager (Production) and Deputy Security Officer categorically and repeatedly deposed in the enquiry that they saw Sri Leon sleeping laying in the bench. There are no reasons to disbelieve the statement of these officers. It is also difficult to believe that such senior officers have connived with the management of a public sector undertaking in manipulating false case against these two workmen and that too for trade union activities. Further there is no evidence regarding the accurate length of the bench and the height of Sri Leon. It is also pertinent to note that the workman along with the representative participated in the enquiry throughout without any objection with regard to this aspect and without getting the length of the bench and height of Sri Leon recorded in the enquiry. Now sleeping lying in a bench of 2'11" in length and 8" width by a man of 5'11" in the odd hours in night is quite unbelievable also. In these circumstances the above contention also fails.

18. The learned counsel for the union has pointed out that in both the enquiries the management has not examined the shift Engineers or any other workmen in the company to prove the charges levelled against these two workmen. The further argument is that there is no basis for the finding of the enquiry officers. It is now well settled that standard of proof required to be applied in domestic enquiries is preponderance probabilities and not proof beyond reasonable doubt. The High Court of Bombay in *S. K. Aswathy V. M. R. Bhope Presiding Officer and others* (1994 1 CLR 254) held that standard of proof required to be applied in departmental enquiry is of preponderance of probabilities. The proceedings in domestic enquiry and proceedings in a trial in criminal court are entirely different. Both the enquiries were conducted fully in compliance with principles of natural justice and their findings are based on legal evidence. There are no grounds to hold that the findings of the enquiry officers are perverse calling for interference from this Tribunal.

19. On behalf of the union it was contended that the disciplinary action initiated against both these workmen is by way of retaliation for their trade union activities and the whole procedure is a clear instance of victimisation and unfair labour practice. According to the learned counsel these workmen are office bearers of a trade union which was not recognised by the management. Further at the presence of this union there was inspection in the company from the Mines Department for some violations of the provisions under the Mines Act by the management. That is one of the reasons for fabricating false case according to the learned counsel. Further this union applied for amending standing order and clause 42(5) was accordingly modified and that is another reason for enmity. It is also contended that this union filed case for changing the shift time and for over-time wages. These reasons even if accepted cannot be considered as reasons for enmity because the management is a public sector undertaking owned by the Government of India and there is no allegation of enmity between these workmen and any of the management officers. Inspection of the mines from the Mines Department is being done in such companies and amendment of standing order is also usual procedure. That also cannot be considered as a reason for victimisation or unfair labour practice. Further merely because a worker is a trade union officer does not make him any less a worker and he cannot escape from punishment for misconduct. Further it is quite unbelievable that in a public sector undertaking where large number of employees are employed and most of them are members of one union or other about framing false cases against office bearers of one union because of trade union activities. It is also not established beyond doubt the allegation of victimisation and unfair labour practice. It is now well settled position of law that a proved misconduct is antithesis of victimisation as held by the Supreme Court in *M/s. Bharat Iron Works V. Bhagubai* (1976 LIC 4). Therefore this allegation is devoid of merit.

20. I shall now examine the question of punishment. The punishment imposed on Sri. K. G. Thampi was suspension for 3 days without wages and the punishment im-

posed on Sri. Leon was suspension for four days without wages. Considering the misconducts proved against these workmen it cannot be stated for a moment that the punishment is excessive or not commensurate with the gravity of the misconduct. On the other hand it is evident that the management has imposed the punishment on the most concessional side and the management has shown leniency towards both these workmen. Under Section 11-A of the Act the case of discharge and dismissal alone calls for interference by this Tribunal. The punishment imposed on both these workmen is suspension of three days and four days only and as such Section 11-A of the Act is not applicable and to interference is called for from this Tribunal. The decisions reported in 1978 KLT short note No. 124 and in 1993(2) KLT 681 relied on by the learned counsel for the union have no application here according to me.

21. There is further argument on behalf of Sri. Leon that the management has shown discrimination in the matter of punishment in his case. As stated earlier on 11-5-1993 the three officers of the company during surprise inspection three other employees viz. S/S. G. Narayana Pillai, Chandramohan Pillai and Shaji Kumar were also found sleeping during duty hours along with Sri. Leon. Admittedly disciplinary action has been initiated against them also and except Sri. Leon all other employees admitted their guilt and submitted apology. Accordingly the management dropped further proceedings in their cases. Sri. Leon has not admitted the guilt and his case is not similarly placed with the other three employees. Since the charge against Sri. Leon was properly established in the enquiry the management has imposed the punishment. In this state of affairs the argument that there has been discrimination in the matter of punishment in the case of Sri. Leon is without force and is only to be rejected.

22. I shall now pass on to the second part of the issue. That is regarding the postponement of promotion to these workmen by one year. According to the union both these workmen were eligible to be promoted to the IXth category with effect from 1-1-1992. Sri. Thampi was given promotion only on 4-1-1993 and Sri. Leon was promoted on 5-1-1993. Further the pay scale and other consequential increment and other monetary benefits were also denied to them. According to the union 13 other workers who were recruited along with these workmen were promoted to IXth category with effect from 1-1-1992. The same benefit was denied to these workmen. According to the union this is double punishment and the action of the management is illegal and unjustified. The postponement of promotion is not in dispute. The management justifies their action by pointing out the convention and precedent followed in the company in the matter of promotion to the employees who are punished for misconducts during the year of promotion. Reference was made to Ext. M4 order M6 and M8 orders of the management promoting S/s. K. C. Ayyappan Pillai, K. Parathasarathy and C. T. Kunjaraman. Exts. M3, M5 and M7 are office orders of the management by which the aforementioned three persons were inflicted punishment. As per Exts. M4, M6 and M8 orders their promotions were given only in the next year and not in the year during which they were punished though they were eligible for promotion during the year of punishment. The union has no dispute regarding the postponement of promotion of these three workmen covered by Exts. M4, M6 and M8 orders. These orders clearly establish the precedent followed in the company with regard to the promotion given to employees who were punished for misconduct. Therefore the argument that the two workmen involved in this dispute were discriminated and by postponing their promotion they were given double punishment cannot stand.

23. It is now settled position of law that an employee has no right to promotion but has only a right to be considered for promotion. The promotion to a post depends upon several circumstances. An employee found guilty of misconduct cannot be placed on par with other employees and his case has to be considered differently. The denial of promotion in such circumstances cannot be said as a penalty. While considering an employee for promotion his past conduct is necessarily to be considered. In the present case the management has considered the conduct of the

workmen and the punishment imposed on them and the postponement of their promotion was as per the precedent followed in the company.

24. In support of their action the learned counsel for the management brought to the notice of this Tribunal the following decisions. The first authority cited is of the Supreme Court in *Union of India and others v. K. Krishnan* (1992 1 LC 1953). The apex court in that case considered the question of postponing of promotion during the currency of penalty against an employee and held thus in paragraph 4 of the judgement :

"We have considered the matter closely and in our opinion the view taken by the Tribunal in the impugned judgement and in the earlier decisions holding that as a result of the provisions of Rule 157 forbidding the promotion of a state employee during the currency of the penalty results in a second punishment is not correct. There is only one punishment visiting the respondent as a result of the conclusion reached in the disciplinary proceeding leading to the withholding of increment, and the denial of promotion during the currency of penalty is merely a consequential result thereof. The view that a Government servant for the reason that he is suffering a penalty or a disciplinary proceeding cannot at the same time be promoted to a higher cadre is a logical one and no exception can be taken to Rule 157. It is not correct to assume that Rule 157 by including the aforementioned provision is subjecting the Government servant concerned to double jeopardy, we do not find any merit in the argument that there is no justification or rational behind this policy; nor do we see any reason to condemn it as unjustified, arbitrary and violative of Articles 14 and 16 of the Constitution of India. On the other hand to punish a servant and at the same time to promote him during the currency of the punishment may justifiably be termed as self contradictory. The impugned judgement is, therefore, set aside."

A similar question was considered by the apex court in *State of Karnataka v. Thiru. K. S. Murugesan and Others* (1995 1 CLR 964). In that case an Asst. Statistical Officer claimed promotion to the post of Deputy Director of Statistics and while working as Asst. Statistical Officer the punishment of stoppage of three increments without cumulative effect was imposed on him by way of disciplinary action. His name was therefore not included in the approved list for that year for consideration of promotion. Considering that question the Supreme Court held thus in paragraph 7 :

"It would thus be clear that when promotion is under consideration, the previous record forms basis and when the promotion is on merit and ability, the currency of punishment based on previous record stands an impediment. Unless the period of punishment gets expired by efflux of time, the claim for consideration during the said period cannot be taken up otherwise it would amount to retrospective promotion which is impermissible under the Rules and it would be a premium on misconduct. Under these circumstances, we are of the opinion that the doctrine of double jeopardy has no application and non-consideration is neither violative of Article 21 nor Article 14 read with 16 of the Constitution."

The apex court considered a similar question in *L. Rajaiah v. Inspector General of Registration and Stamps, Hyderabad and others* (1996 1 CLR 793) and held that since appellant was undergoing punishment during the relevant period he was not eligible for consideration for promotion and he cannot thereby have any grievance because his juniors were promoted. The above observations fully support the view which I have taken above. In the instant case during the year 1992 S/s. Thampi and Leon were undergoing punishment and they were not eligible for consideration for promotion. Therefore the management did not consider their names and promoted others in the VIIIth category to the IXth category. These two workmen were entitled to get promotion in the year 1993 which was promptly granted to them by the management. The action of management is therefore just, legal and valid.

25. In the result, an award is passed holding that the action of the management of Indian Rare Earths Ltd. Chavara in imposing the punishment of suspension with attendant loss of wages on S/s. K. G. Thampi and Leon and in not granting promotion to them on par with 13 other workmen with effect from 1-1-1992 instead of 4/5-1-1993 from Operator VIIIth category to senior operator IXth category is legal and justified. The workmen are therefore not entitled to any relief.

C. N. SASIDHARAN, Industrial Tribunal  
APPENDIX

Witnesses examined on the side of the Management  
MW-1—Sri. P. M. Prasanth Kumar.

MW-2—Sri Rajendranathan Nair.

Witnesses examined on the side of the Workmen :

WW-1—Sri. T. Leon.

WW-2—Sri K. G. Thampi.

Documents marked on the side of the Management :

Ext. M-1—Enquiry file in respect of the enquiry conducted regarding the charges against Sri. K. G. Thampi.

Ext. M-2—Enquiry file in respect of the enquiry conducted regarding the charges against Sri. T. Leon.

Ext. M-3—Photostat copy of office order of the General Manager of the management dated 7-7-1990.

Ext. M-4—Photostat copy of office order of the General Manager of the management dated 6-2-1992.

Ext. M-5—Photostat copy of office order of the General Manager of the management dated 28-11-1991.

Ext. M-6—Photostat copy of office order of the General Manager of the management dated 6-9-1993.

Ext. M-7—Photostat copy of office order of the General Manager of the management dated 2-7-1993.

Ext. M-8—Photostat copy of office order of the General Manager of the management dated 25-7-1994.

Ext. M-9—Photostat copy of show cause notice issued to Sri. G. Narayana Pillai Security Guard from the General Manager of the management dated 25-5-1991.

Ext. M-10—Photostat copy of show cause notice issued to Sri. C. Chandramohan Pillai Tradesman (B) fitter dated 25-5-1991.

Ext. M-11—Photostat copy of show cause notice issued to Sri. K. Shaji Kumar tradesman (B) Electrical dated 13-6-1991.

Ext. M-12—Photostat copy of representation submitted by Sri. G. Narayana Pillai to the General Manager of the management dated 31-5-1991.

Ext. M-13—Photostat copy of representation submitted by Sri. Chandramohan Pillai to the General Manager of the management dated 30-5-1991.

Documents marked on the side of the Workman

Ext. W-1—Punching card of Sri K. G. Thampi during the month of August 1990.

Ext. W-2—Punching card of Sri. Leon during the month of August 1990.

Ext. W-3—Photostat copy of the order of Labour Commissioner dated 27-12-1990.

Ext. W-4—Letter issued to Sri. K. G. Thampi from Deputy Director of Mine safety dated 12-4-1991.

Ext. W-5—Copy of petition addressed to the Director of Mine safety, Karnataka from India Rare Earths Employees Congress dated 12-4-1991.

Ext. W-5-A—Postal acknowledgement.

Ext. W-6—Copy of representation submitted to the Chairman and Managing Director of the management from the secretary of the union dated 9-3-1991.

Ext. W-7—Petition addressed to the Director of Mine Safety from the union dated 6-3-1991.

Ext. W-7A—Postal acknowledgement.

Ext. W-7-B—Postal receipt.

Ext. W-8—Photostat copy of office order of the General Manager of management company dated 2-6-1992 in respect of Sri. G. Surendran Pillai.

Ext. W-9—Photostat copy of office order of the General Manager of management company dated 2-6-1992 in respect of Sri. B. Unnikrishna Pillai.

Ext. W-10—Photostat copy of the office order of Chief General Manager of the management company dated 28-8-1995 in respect of Sri G. Surendran Pillai.

Ext. W-11—Photostat copy of the office order of Chief General Manager of the management company dated 28-8-1995 in respect of Sri Unnikrishna Pillai.

Ext. W-12—Report submitted by three officers to the management dated 12-5-1991.

Ext. W-13—Copy of appeal memorandum submitted before the Chairman and Managing Director of the management Sri K. G. Thampi dated 11-3-1992.

Ext. 13A—Postal acknowledgement.

Ext. W-14—Photostat copy of office order of the Chief General Manager of the management dated 5-8-1995 in respect of Sri D. Unnikrishna Pillai.

नई दिल्ली, 7 मई, 1997

का. आ. 1466 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बम्बई पोर्ट ट्रस्ट के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनबन्ध में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, बम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-97 को प्राप्त हुआ था।

म एन 31012/11/90-आईआर(विवाद)

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1466.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workman, which was received by the Central Government on the 6-5-97.

[No. L-31012/11/90-IR (Misc.)]

B. M. DAVID, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

**Present :**

Shri Justice R. S. Verma, Presiding Officer.  
REFERENCE NO. CGIT-88 OF 1990

**Parties :**

Employers in relation to the management  
Bombay Port Trust.  
AND  
Their Workmen

**Appearances :**

For the Management : Shri Umesh Nabar,  
Advocate.

For the Workman : Shri J. P. Sawant, Ad-  
vocate.

**STATE :** Maharashtra

Mumbai, dated the 22nd day of April, 1997

**AWARD**

1. The appropriate Government has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Management of Bombay Port Trust, Bombay in dismissing Shri Suryabhan Popat Londhe, Scavenger, Docks department, from service w.e.f. 23-04-88 is justified. If not, to what relief is the workman entitled?"

2. The workman filed his statement of claim on 18-3-91. The Employer filed its reply to the written statement of claim of the workman on 25-6-91. No rejoinder was filed by the workman to the reply filed by the management.

3. Briefly stated the facts giving rise to this dispute are as follows :

The workman Shri S. P. Londhe joined the services of employer Bombay Port Trust on 30-7-77. At the relevant time i.e. on 8-7-1985, the workman was employed as Scavenger and his duty was to clean the assigned area within the Docks. The case of the employer is that on the said date the workman reported for duty at 6.30 A.M. and started doing the cleansing work alongwith other workmen. At about 9.00 a.m. one clerk Mr. Shivaji Warule noticed that the workmen while doing the cleansing job, suddenly sat down. This aroused suspicion of Mr. Warule and he rushed towards the workman, Mr. Warule found the workman taking out small ball bearings boxes out of certain bigger boxes. Mr. Warule rushed to the spot and apprehended the workman and took him to the Asstt. Shed Superintendent's Office. At that office, officials of police from Yellow gate police station were called who seized two boxes of ball bearings from the workman. The police prepared panch-

nama and duly arrested the workman and registered criminal case against him and the other co-workmen. The workman was detained in police custody for a period of more than 48 hours and a formal letter of suspension was issued to the workman on 29-7-85. The Chief Vigilance Officer conducted investigation into the allegations against the workman and other three co-employees and charge sheet dt. 5-7-86 was issued to the workman as also to the co-employees.

4. The workman and his co-employees denied the charges and hence a common departmental enquiry was held by Smt. N. P. Rane who was appointed as the Enquiry Officer. The departmental enquiry commenced on 22-10-86 and was concluded on 24-6-87. The workman did not participate in the enquiry to defend his case and he did not avail the opportunity offered to him for his defence except on 20th October, 1986 and 17th November, 1986 at which dates the workman attended the enquiry. As a consequence, an ex-parte domestic enquiry was held against the workman at which oral and documentary evidence was adduced by the department. In the oral evidence witnesses Shri S. K. Warule, Shri P. L. Pradhan, Shri R. A. Parab and Shri V. D. Deshpande were examined. The Enquiry Officer eventually found the workman guilty and submitted his report and findings of the employer on 10-12-87.

5. The disciplinary authority namely, the Docks Manager agreed with the findings of the Enquiry Officer and issued a show cause notice to the workman vide memo dated 19th Feb'88. The workman submitted a reply to the said show cause notice vide his letter dated 10-3-88. The disciplinary authority, after consideration of the reply of the workman, did not find the reply satisfactory and imposed punishment of removal upon the workman vide order dated 25-4-88.

6. Aggrieved from the order of punishment, the workman preferred an appeal to the Chairman, Bombay Port Trust. The appellate authority afforded personal hearing to the workman and his representative on 21-10-88. However, the chairman agreed with the findings of the disciplinary authority and dismissed the appeal of the workman vide order dt. 7-11-88.

7. It may here be stated that a criminal case also proceeded against the workman and his co-employees on the basis of the report made to the Yellow gate Police station. It may also be stated that vide letter dt. 15-11-86, the General Secretary of the B.P.T. Employees' Union made a request to the Enquiry Officer to stay the proceedings of domestic enquiry on the ground that in respect of alleged charges, a criminal case was already pending before the Metropolitan Magistrate, Ballard Estate. It appears that this request was not acceded to.



was no justification for interfering with the punishment, as the punishment was neither based on, nor influenced by, the conviction. Hence, the enquiry officer or the domestic enquiry cannot be faulted on the mere ground that a criminal trial was pending against the workman in respect of this same charge.

17. The next contention of Shri J. P. Sawant is that the workman had through the Union requested the Management to stay the domestic proceedings during the pendency of the criminal trial by moving a written application in this behalf. This application was not replied to and hence the workman remained away from the disciplinary proceedings in good faith. Copy of letter dt. 15-11-1986 addressed by BPT employees Union has been filed in this behalf. In my opinion merely moving an application like this, without obtaining a proper stay order from competent authority with regard to the proceeding of the domestic enquiry, is neither here nor there. The workman ought to have attended the enquiry when the enquiry officer did not choose to stay the same on the basis of an application submitted by the Union in this behalf. Alternatively, the workman should have moved a competent civil court to stay the proceedings of the domestic enquiry on the ground that criminal case with regard to the same charge was pending. It does not appear that this was done by the workman. Hence, the enquiry officer was justified in proceeding ex-parte with the domestic enquiry.

18. One contention of Shri J. P. Sawant is that the Enquiry Officer in its report did not consider the fact of the acquittal by the Metropolitan Magistrate rendered on 29th of July, 1987. It may be stated that the enquiry officer had submitted its report on 10-12-1987. It does not appear from the record that the workman at any stage informed the enquiry officer of the fact of his acquittal by the trial court. Hence, the enquiry officer could have no occasion to consider the question of acquittal of the workman on merits by the learned magistrate. Hence this contention is of no avail.

19. Elaborating upon the said contention Mr. J.P. Sawant submitted that the workman had filed an appeal before the competent appellate authority and the judgment of the learned trial court had been brought to the notice of the appellate authority. But the appellate authority brushed aside the factum of acquittal on the specious ground that the criminal case and the departmental enquiry were two independent proceedings. It is submitted that the appeal is continuation of the original proceedings and the appellate authority ought to have considered the fact that the evidence of the principal prosecution witness Shri Warule was held as unreliable by the learned Metropolitan Magistrate, who passed the order of acquittal with regard to the workman. The acquittal

was not on any technical reasons nor on ground of benefit of doubt. Shri Nabar has supported the action of the appellate authority in ignoring the judgment of the criminal court.

20. I have carefully gone through appellate order rendered by the Chairman of the B.P.T. He has of course discussed the judgment of the criminal trial court but I find that he failed to appreciate the fact with the principal prosecution witness at the domestic enquiry. Mr. Warule had also appeared before the criminal court as a witness and the evidence of Mr. Warule was held as unreliable by the criminal court and it was on this basis that the workman was acquitted of the charge of theft of the ball bearings for which the workman was charged. It was not an acquittal on any technical grounds. It was not an acquittal by extending benefit of doubt.

21. Normally judgment of a criminal court is not binding in domestic enquiry but if a workman is found guilty at the domestic enquiry by relying upon the testimony of certain witnesses and that very witness is examined in the criminal case and is found to be unreliable by the criminal court, then it would be difficult to uphold the finding of guilt recorded at the domestic enquiry.

22. In the present case, I find that the learned trial court while dealing with evidence of the prosecution observed as follows.

"To book the accused in the commission of this offence the prosecution has examined in all 14 witnesses. P.W. No. 1 is Gajendra Mulshankar Pathak, Shed Supdt. having his duties at Bended Ware House, Indira Dock, P.W. No. 2 is Shivaji Sukhdeo Warule, Clerk working in B.P.T. P.W. No. 3 is Ramchandra Arjun Parab who is also working in B.P.T. and was attached to B. Bended Ware House and the last witness is S. I. Nikaliker. According to P.W. No. 1 Pathak and P.W. No. 2 Shivaji Warule, the prosecution case may be stated as follows :

That these two witnesses alongwith P.W. No. 3 Parab resumed their duties on 8-7-1985 at B. Bended Ware House, 1st floor, Indira Dock. P. W. No. opened the first floor at about 8.00 a.m. The scavenger as usual came to sweep the floor and according to him on that day also 4 scavengers came their for sweeping the floor and hence P.W. No. 1

and his staff got scattered as scavengers were sweeping the floor. At that time this Shivaji Warule noticed this accused sitting on the ground. There were some wooden boxes kept there. His suspicion arose and hence this Warule went near the accused. He wanted to see what the accused was doing and he noticed the accused removing ball bearings from the wooden cases. The accused removed 2 ball bearings from the wooden case and immediately Warule caught him and took him to P.W. No. 1 Shri Pathak. Shri Pathak immediately rang up to the Police Station and the police officer arrived at the spot. Police officer recorded the statement of Shivaji Warule, which was treated as F.I.R. The panchanama was also drawn at the spot. P.W. No. 3 Ramchandra Parab has signed as panch to the said panchanama. Now, according to the three witnesses P.W. No. 1 Pathak, P.W. No. 2 Shivaji Warule and P.W. No. 3 Ramchandra Parab all these persons are the eye witnesses and still out of them P.W. No. 2 Ramchandra Parab is taken as panch by the investigating officer. The investigating Officer has admitted in his cross examination that while he was on the way to the B. Bended Ware House, he came across number of persons but none of them were taken up as Panchas. But, according to the Officer these persons refused to come as panchas. The Officer has not taken any action against them nor he has taken down their names and therefore it was rightly suggested to the officer that he never tried to secure the presence of any independent panchas, but he has purposely taken the persons who are working in the shed itself as panchas. Now, according to P.W. No. 2 his complaint was reduced to writing at about 1.00 on the same day whereas Panchanama started at about 10 a.m. and according to him the muddemal which is before the Court was in the hands of the accused and these were seized under the panchanama. But P.W. No. 1 has clearly admitted that when Warule P.W. No. 2 brought the accused to him alongwith the ball bearings he took charge of the ball bearings before the police arrived at the spot and the ball bearings were lying on the table. When the police arrived therein the shed. This evidence of the witness falsifies the case put forth by P.W. No. 2 Warule that the property was in the hands of the accused at the time of panchanama. Admittedly the panchanama was drawn on arrival of the police and the panchanama discloses that the property was in the hands of the accused whereas P.W. No. 1 Pathak deposed that he has already taken charge of the property before the police arrived in the shed and it seems because of this situation the investigating officer has not taken any independent person as the panch, but he has taken tally clerk working under the Shed Supdt. of the said shed to be as the panch. Now, it was also rightly suggested by the defence that the property which is before the Court is not the property which was seized by the police under panchanama. There is no signature or any separate label was affixed to

the property. The P.W. No. 1, Shed Supdt. has deposed in his evidence that after the panchanama was over the police have affixed the seals of the signature of the panchas to the muddemal. But these seals or the signature of the panchas do not appear on the muddemal nor on the box or on the ball bearing itself and therefore, it was rightly suggested by the advocate appearing for the accused that the property before the court is not the property which was handed over to the Shed Supdt. Pathak P.W. No. 3 who acted as a panch has also stated that the property was lying on the table when the police arrived at the spot. All these things go to show that this property was not in the hands of the accused and the investigating Officer has never tried to take any independent panch but he has taken B.P.T. employee for acting as a panch and therefore, they cannot be called as independent panchas and it was the defence of the accused that he is, falsely involved in the case and no property was found with him. I fully agree with the defence taken by the accused and hold that the prosecution has not proved its case beyond reasonable doubt against the accused and he deserves to be acquitted".

23. The aforesaid discussion by the learned Magistrate goes to show that the testimony of Mr. Warule was not found to be reliable. The appellate authority in the domestic enquiry ignored this salient features of the case and to my mind, this has vitiated the finding of guilt confirmed by the appellate authority in the domestic enquiry. I am supported in my view by a judgment of the Madras High Court rendered in 1960 (U)LLJ 678 R. K. Mills Ltd.

24. Hence in the aforesaid circumstances, no useful purpose would be served by asking the Management to prove the charge before this tribunal over and again looking to the fact that the alleged offence/misconduct was committed on 8-7-85 and almost 12 years have elapsed. In my opinion the order of dismissal of the workman 8-7-1985 and almost 12 years have elapsed. In my opinion the order of dismissal of the workman deserves to be set aside. In my opinion this is a fit case where the workman should be taken back in service with continuity of past services. Further, as far as the question of back wages is concerned, I am of the opinion that the workman should get his back wages also. There is no averment that the workman had been gainfully employed during the period, he was out of job. Hence, there is no reason to withhold back wages. The workman, therefore, should be reinstated with continuity of service and back wages. Award is made accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 7 मई, 1997

## AWARD PART-I

का. अ. 1467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रिय सरकार मामागावा पोर्ट ट्रस्ट के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में कन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट को प्रकाशित करता है, जो कन्द्रीय सरकार का 6-5-97 का प्राप्त हुआ था।

[सं. एल-36012/4/95-आई आर (विविध)]

बा. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th May, 1997

S.O. 1467.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mormugao Port Trust and their workman, which was received by the Central Government on 6-5-1997.

[No. L-36012/4/95-IR (Misc.)]

B. M. DAVID, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2  
MUMBAI

PRESENT

SHRI S. B. PANSE

Presiding Officer

REFERENCE NO. CGIT-2/21 OF 1996

Employers in relation to the management of  
Mormugao Port Trust

AND

Their Workmen

## APPEARANCE :

For the Employer : Mr. L. V. Talaulikar  
Advocate.

For the Workmen : Mr. Jaiprakash  
Sawant Advocate.

MUMBAI, dated 9th April, 1997.

The Government of India, Ministry of Labour by its order No. L-36012/4/95-IR (Misc.) dated 27-5-96, had referred to the following Industrial Dispute for adjudication.

"Whether the action of the management of the Chairman, and the Dy. Conservator of Marine Department, Mormugao Port Trust Vasco-dagama in removing from services of Shri Shiva D. Goancar, Ex-seaman, Marine Department, MPT Goa w.e.f. 23rd July, 1992 is justified and proper? If not, to what benefit the workman is entitled to?"

2. Shiva Gaoncar the workman filed a statement of claim at Exhibit-3. He contended that he was employed with the Mormugao Port Trust as a seaman and was attached to Pilot room of the Marine Department. He is a resident of Paroda in Quepem and was commuting daily to the M.P.T. for his duty. The workman pleaded that he was charge-sheeted for unauthorised absence from work on 13-7-1991. He submitted this explanation to the said Memorandum and explained that due to his sickness and sickness of his family members he was not able to attend the duty and in view of the remote location of his house it was difficult to communicate the same to the authorities. Thereafter the Deputy Conservator without conducting an inquiry in the matter passed an order of removal on 5-1-1991. He referred an appeal before the Chairman who was enough to allow the same. He directed for reinstatement of the workman.

3. The workman averred that after joining the duties again he was again given a Memorandum stating that the inquiry had now to be conducted in respect of the charge-sheet dated 13-7-91. It is submitted that no inquiry was held against him nor he was supplied with the report of the inquiry officer, who found him guilty. It is averred that the Deputy conservator of MPT informed him that he was found guilty of the charges which were levelled against him and awarded the punishment of removal w.e.f. 23-7-1992. He again preferred an appeal before the Deputy Chairman but which came to be dismissed. The workman averred that there was no departmental inquiry against him and the inquiry which was held was against the Principles of Natural

Justice. He therefore prayed that he may be reinstated in service with continuity and back wages.

4. The management in fact filed his claim which is normally called as a written statement or claim by the workman. The management pleaded that in a domestic inquiry which was held against the workman the workman pleaded guilty. It is therefore the inquiry officer thought it fit not to proceed further in the matter reported the same to the disciplinary authority. The disciplinary authority after going through the proceedings and other documents pertaining to it came to the conclusion that the charges which were levelled against the workman are properly proved and ordered removal of the worker. The appeal which was filed against the said order was also dismissed. It is submitted that the inquiry which was conducted against the worker was as per the rules and as per the Principles of Natural Justice and no prejudice is caused to the workman. It is submitted that under such circumstances the worker is not entitled to any reliefs as claimed.

5. The management filed a rejoinder at Exhibit-10. He reiterated its contention taken in the written statement Exhibit-2. It denied that the copy of the report was not supplied to the workman.

6. The issues are framed at Exhibit-9. First three issues are treated as preliminary issues. The issues and my findings thereon are as follows :—

| Issues  | Findings  |
|---|---|
| 1. Whether there was a domestic inquiry against the workman?                  | No.   |
| 2. If yes, whether the inquiry was against the Principles of Natural Justice? | Does not survive. If survives, against the principles of Natural Justice. |
| 3. Whether the findings of the inquiry officer are perverse?                  | Does not survive.   |

## REASONS

7. The workman by pursuis Exhibit-7 and management by pursuis Exhibit-12 informed the Tribunal that they do not want to lead oral evidence. They relied upon the documents which are on the record. The documents are at Exhibit-13 to 46. They relate to different memos, charge-sheet, representation by workman to the management, orders of the disciplinary authority, appellate authority.

8. It is not in dispute that the management issued a memorandum dated 24-4-91 (Exhibit-13) to the workman which he received on 27-5-91. In the said memorandum he was informed regarding his absenteeism and if he did not give his explanation the domestic inquiry will be commenced against him. As the workman did not give any explanation, a charge-sheet (Exhibit-14) dated 8-13-7-91 was issued to him. The workman gave explanation (Exhibit-15) to the charge-sheet. After reading the explanation the disciplinary authority found the workman guilty and given a show cause notice (Exhibit-16) dated 20-8-91 proposing the punishment of removal which shall not be disqualification for a future service. The workman made a representation (Exhibit-17) on 2-9-91. The authority rejected the explanation by its order dated 5-9-91 (Exhibit-18) and imposed a penalty of removal from service. The worker preferred an appeal, on 14-11-91 (Exhibit-19). The appeal was allowed on 6-2-1991 (Exhibit-20) and he was directed to be reinstated. This is one phase of the charge-sheet dated 14-7-1991.

9. In the second phase the management again gave a memorandum dated 14-2-92 (Exhibit-22) and called upon the worker to give his say in respect of the charge-sheet dated 13-7-91. The worker received the same on 17-2-92. The inquiry officer was appointed to hold the inquiry. He issued notices to the workman. The presenting officer was appointed. On the first date of the hearing he remained absent. Then the inquiry was adjourned to 4-6-1992.

10. On 4-6-92 the worker was present for the domestic inquiry. The inquiry officer asked him whether he followed the charge-sheet and pleads guilty to the same. He accepted the guilt. He gave the explanation regarding the same. The inquiry proceedings are at Exhibit-33. After perusal of the documents on the re-

record I could not trace out the report of the inquiry officer. In memo dated 15-6-92 (Exhibit-37) there is a mention of enclosing a copy of the inquiry report submitted by the inquiry officer and the workman had signed it. Mr. Sawant the Learned representative for the workman submitted that in that letter there is no mention regarding the enclosures namely the inquiry report. In fact from Exhibit-33 which is the inquiry proceeding there appears to be no report. The last paragraph states that since Shiva D. Gaonkar has accepted the charge framed against him I consider that it is not necessary to proceed with the inquiry and hence the inquiry stands cancelled. It means he dropped the inquiry. This is something unusual. After accepting the guilt the inquiry officer should have sent his report to that extent. But it appears that he had not done so and had sent the inquiry proceedings to the disciplinary authority. That cannot be treated as an inquiry report. It is tried to argue on behalf of the management that on the basis of the inquiry proceedings, the chargesheet and the enclosures alongwith charge-sheet should be taken into consideration for holding that the charge is proved against the workman. That cannot be done. From the proceeding itself it appears that the inquiry was dropped. In other words there is no inquiry.

11. Even for the sake of arguments if it is said that the inquiry proceeding is the inquiry report then the disciplinary authority should treat that proceedings as the inquiry report and should have sent the same alongwith a show cause notice and proposed punishment to the worker. That has not been done in the matter. This is against the Principles of Natural Justice. It can be further seen that when the plea of the workman was recorded by the inquiry officer. He had given reasons for his absentism. That should have been reflected in the report of the inquiry officer. As there is no report at all there is no reflections of the submissions made by the workman. The result is that nothing could be traced out from the order of the disciplinary authority (Exhibit-37) that he considered the explanation given by the workman for coming to a particular conclusion. There was no opportunity for worker to give his explanation regarding the report of the inquiry officer. As that is so it has to be said that the inquiry which is tried held is against the Principles of Natural Justice.

12. The Learned Representative for the management placed reliance on Instrumentation Ltd. and Presiding Officer 1988(2) LLJ 222 contending that when the workman accepts the guilt there is no need to hold a departmental inquiry. The ratio in that authority has no application to the present set of facts because it relates to acceptance of the guilt when a show cause notice was given to the worker. Here that is not the case. The management also placed reliance on Meghraj and Ors. Vs. State of Rajasthan AIR 1956 Rajasthan 23 wherein it is observed by Their Lordships that when a servant in a departmental inquiry tenders an unqualified apology there is no necessity of holding an oral inquiry provided in Rule 16 as such no additional apology superseeds any denials by the government servant in his earlier statement and in demand for an inquiry. Again the ratio given in that authority has no application. Here in this case the inquiry officer was appointed, departmental inquiry was started but it was not conducted at all. There was need to send the report by the inquiry officer which he did not, I therefore find that it is against the Principles of Natural Justice.

13. So far as this issue is concerned I have come to the conclusion that there was no inquiry at all because it was done in a haphazard way. Therefore it cannot be said to be an inquiry. If it is said that it is an inquiry I find that for non-compliance of the necessary requirement of the domestic inquiry it is against the Principles of Natural Justice. As there is no report there is no question of findings of the inquiry officer to be perverse. In the result I record my findings on the issues accordingly and pass the following order :—

### ORDER

There was no domestic inquiry against the workman. If it is said that there was a domestic inquiry then it is against the Principles of Natural Justice.

The management is allowed to lead evidence to substantiate its action.

S. B. PANSE, Presiding Officer

नई दिल्ली, 16 मई, 1997

New Delhi, the 16th May, 1997

का. प्रा. 1468—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि प्रतिभूति मुद्रणालय, हैदराबाद जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची में प्रविष्टि 12 पर निविष्ट किया गया है उक्त अधिनियम के प्रयोजनों के लिये लोक उपयोगी सेवा घोषित किया जाना चाहिये।

अब अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार प्रतिभूति मुद्रणालय, हैदराबाद को उक्त अधिनियम के प्रयोजनों के लिये तत्काल प्रभाव से छ माह की अवधि के लिये लोक उपयोगी सेवा घोषित करता है।

[संख्या ए.ए. 11017/8/97-आई.आर. (नी विधि)]

एच. सी. गुप्ता, अवर सचिव

S.O. 1468.—Whereas the Central Government is satisfied that the public interest requires that the services in the Security Printing Press, Hyderabad which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/8/97-IR(PL)]

H. C. GUPTA, Under Secy.

