

✓
SB DB

MA 2673/20

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO.

2237/2000

SHRI/SMT.

All India CPWD Karamchari
Sangathan and others

D.C. CPWD

APPLICANT
RESPONDENT

This application has been submitted to the Tribunal by Shri/Smt.
Naresh Kaurlika under Section 12 of the
Administrative Tribunal Act, 1985 and the same has been scrutinised
with reference to the points mentioned in the Administrative Tribunal
Act, 1985 and Procedure Rules, 1988.

The applicant has also filed a Misc. Application(s) regarding
(a) jurisdiction (b) joining (c) condonation of delay and/or (d)
Petition for Transfer. MA U/R 6 of CAT Procedure Rules, 1987.

The application has been found in order and may be listed in
Court for admission/orders.

S.O. (FILING)

JOINT REGISTRAR

COURT NO.

VII

DATE

30.10.2000

25/10
27/10

<FRESH>

22
27/10/2000

12. Has the index of documents been filed and pagination done properly ?

FILED/PAGINATION

13. Has the applicant exhausted all available remedies ? *Yes*

14. Have the declaration as required by item 7 of Form-I been made ? *Yes*

15. Have required number of envelopes (file size) bearing full address of the respondents been filed ? *Yes*

16.(a) Whether the reliefs sought for, arise out of single cause of action ? *Yes*

(b) Whether any interim relief is prayed for ? *Yes*

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant ? *MA*

18. Whether this case can be heard by Single Bench ? *No*

19. Any other point ? *Resolution not filed by Associate*

20. Result of the scrutiny with initial of the Scrutiny Clerk. *in favour of applicant.*

The application is in order and may be registered and listed before the Court for admission/orders on;

- (a) MA for joining - U/R (5) (a) / 4 (5) (b)
- (b) MA U/R 6 of CAI Procedure Rules, 1987
- (c) ~~PT u/s 25 under At Act.~~
- (d) ~~MA for condonation of Delay;~~

OR

The application has not been found in order in respect at Item No(s) mentioned below :

- (a) Item Nos. *19*
- (b) Application is not on prescribed size of paper.
- (c) MA U/R 4(5)(a) / 4(5)(b) has not been filed.
- (d) Application /counsel has not signed each page of the application/documents.
- (e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

D.R. (J)

JOINT REGISTRAR

COURT NO. DATE

objections removed.

25/10

94/10

FORM NO. 2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SB/DB

DBS

REPORT ON THE SCRUTINY OF APPLICATION

Diary No. *2281*

Presented By : *Nanesh Kaurkik* Date of Presentation ... *23.10.2020*

Applicant (s) *All India CPWD* Group :

Respondent (s) *DO CPWD (MFM) Karamdai Sangathan*

Nature of grievance : *Regulation and others*

No. of applicants : *15* No. of Respondents : *4*

CLASSIFICATION

Subject : *Regulation* (No.) Department : *UD* (No. *7*)

* If S.B.

1. Is the application is in the proper form? (PROFORMA / COMPILATION)
(three complete sets in paper book form
in two compilations).
2. Whether name, description and address of
all the parties been furnished in the
cause title? *Yes*
- 3.(a) Had the application been duly signed, and (SIGNED / VERIFIED)
verified ? *Yes*
- (b) Have the copies been duly signed? *Yes*
- (c) Have sufficient number of copies of the
application been filed? *Yes*
4. Whether all the necessary parties are impleaded ? *Yes*
5. Whether English translation of documents in a
language other than English or Hindi been filed ? *Yes*
- 6.(a) Is the application in time ? *Yes*
(See Section 21)
- (b) Is MA for condonation of delay filed ? *Yes*
7. Has the Vakalatnama/Memo of appearance/00
authorisation been filed ? *Yes*
8. Is the application maintainable ? u/s 2, u/s 14, u/s 18
(u/s 2,14,18 or U/R 6 etc). U/R 6, PT u/s, 25 file
9. Is the application accompanied by IPO/DD
for Rs. 50/- ? *Yes*
10. Has the impugned orders original/duly
attested legible copy been filed ? LEGIBLE/ATTESTED
11. Have legible copies of the annexure duly
attested been filed ? LEGIBLE/ATTESTED

Refilled on Date *25/10/20*
By *Regd.*

Kindly liston

31/10

25/10

2

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

PRINCIPAL BENCH: NEW DELHI

O.A. No. 2237 of 2000

MA 2673/2000

IN THE MATTER OF:
All India CPWD (MRM) Karamchhari
Sangathan (Regd.) & Ors.

Applicants

Versus

The Director General,
CPWD & Ors.

.. Respondents

I N D E X

Compilation - I

- | | |
|--|---------|
| 1. Original application | 1 - 124 |
| 2. Annexure-1 Copy of the impugned order dated 13.7.2000. | 13-15 |
| 3. Annexure-2 Copy of the impugned order dated 11.10.2000. | 16 - 17 |

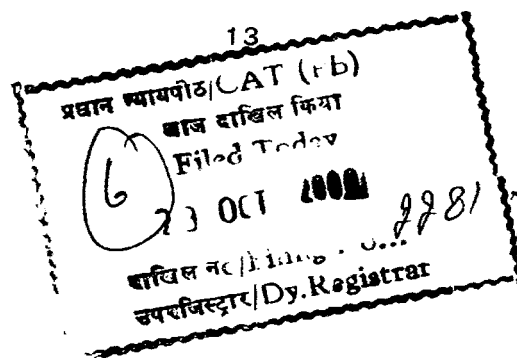
Compilation - II

- | | |
|--|---------|
| 3. Annexure-3(Colly) Copies of the Orders dated 25.2.2000 & 26.2.2000. | 18 - 32 |
| 4. Annexure-4 Copy of the Notification dated 16.12.99. | 33 - 36 |
| 5. An application under section 4(5)(a) and (b) of the C.A.T. Act, 1985. | 37 - 38 |
| 6. Vakalatnama. | |

Filed by

New Delhi
Date: 23.10.2000.

(NARESH KAUSHIK & SHILPA CHAKRAN)
ADVOCATES FOR THE APPLICANT,
25-BAZAR 1ANE, BENGALI MARKET
NEW DELHI-110001



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PRINCIPAL BENCH, NEW DELHI

O.A.NO. OF 2000

IN THE MATTER OF:

1. All India CPWD (MRM) Karamchari Sangathan (Regd),
through its President, Shri Satish Kumar,
34-D, D.I.Z. Area, Sector 4, Raja Bazar,
New Delhi-110001
2. Lakhi Ram
S/o Shri Chater Singh
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
3. Manjit Kumar,
S/o Lalita Prasad,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
4. Kapleshwer Lal Karan
S/o Jai Dev Lal Karan,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
5. Bahadur Singh
S/o Shri Sher Singh,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
6. Ram Khilari,
S/o Shri Chandan Singh,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
7. Hirday Ram
S/o Shri Chamaru,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.

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8. Kunwar Pal
S/o Sohan Lal,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
9. Jagdish Ram
S/o Shri Bhartu Ram,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
10. Chandershekhar
S/o Shri Girdhari Lal
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
11. Naveen Chander
S/o Shri Hera Balab,
Beldar-cum-Enquiry Clerk,
President Estate Division,
CPWD, New Delhi.
12. Uttam Chand
S/o Shankar Das
Beldar-cum-Enquiry Clerk,
E' Division, CPWD, South
Block, Gate No.11,
New Delhi.
13. Om Prakash Pandey
S/o Baijnath Pandey,
Beldar-cum-Enquiry Clerk,
R' Division, CPWD,
Curzon Road Barracks,
New Delhi.
14. Shankar Sharan,
Beldar-cum-Enquiry Clerk,
R' Division, CPWD,
Curzon Road Barracks,
New Delhi.

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15. Prabhu Dutt,
S/o Shri Bholu Dutt,
Beldar-cum-Enquiry Clerk,
R' Division, CPWD,
Curzon Road Barracks,
New Delhi. ... Applicants

Versus

1. The Director General of Works,
CPWD, Nirman Bhawan,
New Delhi.
2. Deputy Secretary,
Government of India,
CPWD, Nirman Bhawan,
New Delhi.
3. The Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.
4. Deputy director (EC.X),
CPWD, Nirman Bhawan,
New Delhi. ... Respondents

**APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.**

DETAILS OF THE APPLICATION:

1. Particulars of the order against which the application is made:

This Original Application is being preferred challenging the validity of the impugned Orders dated the 13th July, 2000 and 11th October, 2000 which have been issued in violation of Arbitration Award dated

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31.1.1988 which has been upheld by the Hon'ble High Court and Hon'ble Supreme Court also. By the impugned orders, the benefits which had finally accrued in favour of the applicants and which have been granted long ago by implementing this award are sought to be withdrawn. The said orders are annexed and the same are marked herewith as Annexure-1 & 2 respectively.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declares that the Applicants being a Government Servants with Govt. of Delhi, this Hon'ble Tribunal has jurisdiction to entertain and decide the present O.A.

3. LIMITATION:

The applicants further declares that the present Original Application is being filed within the period of limitation prescribed under Section 21 of the Central Administrative Tribunal Act, 1985

4. FACTS OF THE CASE:

- i) That there was certain disputes in respect of certain demands of Central Public Works Department Employees. The disputes in question were referred for arbitration and the award was passed on

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31.1.1988. The relevant extract of the award for the purposes of this O.A. is reproduced hereunder;

"This shows that creation of posts of Enquiry Clerk is not agitated but a relief is sought in respect of those workmen who have been called upon to carry out the duties of Enquiry Clerk on all the Enquiries of CPWD and that they are not paid due pay and allowances for the job performed by them. The claim and the pleadings further reveal that muster roll employees like Beldars etc. are deployed or call upon to do the job actually of Enquiry Clerk and such of the workmen are paid wages as admissible to either unskilled/semi skilled category, though they are entitled to the payment of wages (time scale of skilled category which is pre-revised Rs.260-400/-) for the jobs performed. I find from the Notification containing Minimum rates of wages that the workers doing the above mentioned job are classified as "Clerical" within the meaning of the said notification and that the workmen concerned should be paid accordingly depending upon the qualification of martic and

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non-matric as the case may be. The employer is therefore duty bound to pay "Clerical" grades to those worker who are called upon to do the job of Enquiry Clerk. The contention of party no.1 against para 3.7 on page 10 of their statement dated 8th April, 1987 is not correct and I agree with Shri Vats Brother Arbitrator on this point."

- ii) That the award was challenged before the Hon'ble High Court. However, the aforesaid decision of the Arbitrator was affirmed by the High Court while award was modified in respect of some other aspect. The relevant extract of the decision dated 25.9.98 passed by the Hon'ble High Court, confirming the aforesaid mentioned award is reproduced hereunder ;

"(viii) all the workers deputed to perform the duty of Enquiry Clerk and having qualification of matriculation are to be given higher scales"

- iii) That the CPWD approached Hon'ble Supreme Court against the decision of the High Court. Special Leave Petition of CPWD Employees however was dismissed by the Hon'ble Supreme Court.

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- iv) That in the aforesaid circumstances the award as applicable to the applicants, was implemented by the CPWD by fixing pay of the applicants and other similarly situated persons by the orders which were issued on 25.2.2000. True copy of the orders fixing pay/new pay scale in respect of Beldars as Enquiry Clerk, are annexed herewith and the same is marked as Annexure -3 to this O.A.
- v) That on 16.12.1999 the Government of India issued a notification in respect the Beldar/Enquiry Clerk emphasising that the benefits of the award is required to be passed on to the work charged Beldars performing the duty of Enquiry Clerks and who are matriculate. True copy of the said notification dated 16.12.99 is annexed hereto and marked as Annexure-4 to this O.A.
- vi) However, the respondents for the reasons best known, issued a strange Circular/D.O. dated 13.7.2000 wherein it was directed that officers should not assign the job of higher category to a worker in the circumstances whatsoever. True copy of the said circular/order which can not be made to

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apply to the employees were governed by the award including applicants, is already annexed hereto and the same is marked as Annexure-1 to this O.A.

vii) That the despite of the aforementioned circumstances, the impugned order dated 11.10.2000 has been issued which is mere violative of award dated 31.1.1988 as confirmed by the Hon'ble Supreme Court in respect of entitlement of the Beldar for the benefits of the salary and other entitlement of Enquiry Clerk. The said communication apart from being contrary to the award and the decision of the Hon'ble Supreme Court, is arbitrary, illegal and unconstitutional. The Impugned orders seeks to take away the rights of the applicants in violation of the settled principles that the vested rights can not be taken away. It seeks to reduce the applicant in rank which is totally in contravention of Articles 14, 16 and 311(2) of the Constitution of India.

viii) That in the aforementioned facts and circumstances, the applicants are not left with any alternative remedy except to file present O.A. before this Hon'ble Tribunal as there is no legal

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remedy available to the applicant in law against the impugned orders.

5. GROUNDS FOR RELIEF:

- A. BECAUSE the impugned orders dated 13.7.2000 and 11.10.2000 are totally perverse, arbitrary, illegal and unconstitutional being contrary to the decision in respect of the issues involved which have been attained finality. The Impugned orders seeks to take away benefits which has become available to the applicants under the decision of Courts including Apex Court and is thus perverse, illegal and unconstitutional.
- B. BECAUSE the impugned circular seek to take away vested rights of the applicants which have vested in them under the Judgement of the Courts which have attained finality.
- C. BECAUSE the impugned orders are arbitrary as the same does not assign any reason whatsoever for withdrawal of the benefits of the right which have been finally vested in the applicants.

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- D. Because the impugned orders/circulars amounts of reduction of the applicants in rank which cannot be effective as punitive major and as such the impugned orders in question are in violation of Articles 14, 16 & 311(2) of the Constitution.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declares that there is no alternative remedy available to the applicants except to file this O.A.

7. MATTERS NOT PREVIOUSLY FILED:

The applicant further declares that they have not filed any application, writ petition or suit, regarding the matter in respect of which application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT:

On the foregoing submissions, it is therefore most respectfully prayed that this Hon'ble Tribunal may be pleased to ;

- 11
- a) allow this O.A., quashing/set aside the impugned orders dated 13.7.2000 & 11.10.2000 issued by the Respondents;
 - b) direct the Respondents to grant consequential benefits to the applicants arising out of quashing / set aside of impugned orders and ;
 - (c) pass such other or further orders as this Hon'ble Tribunal may deem fit and proper in the facts & circumstances of the case, in the interest of justice.

9. INTERIM RELIEF, IF ANY PRAYED FOR:

That the impugned orders being wholly unsustainable in the eyes of law that the applicant have prima facie good case and most likely to succeed before this Hon'ble Tribunal, if the applicants reduced in rank by reverting them to the post of Beldar from Enquiry Clerk after a long period and after the implementation of the award and grant of all benefits including arrears of salary, it would cause irreparable loss and great hardships to the Applicants, it is, in the interest of justice to stay the operation of the impugned orders dated 13.7.2000 and 11.10.2000 during the pendency and till final decision of this O.A.

10. The application is being presented through counsel.

11. DETAILS OF BANK DRAFT/POSTAL ORDER FILED IN RESPECT
OF THE APPLICATION FEE:

No. of Postal Order: 34-371453

Name of Post Office *Bengali Mkt*

No. *One* dated *23/10/2000* of the value of *Rs 50/-*

12. LIST OF ENCLOSURES:

As per Index.

Satish Kumar
Applicant

through

New Delhi
Dated: *23-10-2000*

NARESH KAUSHIK & SHILPA CHOHAN
ADVOCATES FOR THE APPLICANTS.

VERIFICATION:

I, Satish Kumar S/o Shri Asa Ram Sharma, President
of All India CPWD (MRM) Karamchari Sangathan (Regd),
34-D, D.I.Z. Area, Sector 4, Raja Bazar, New Delhi-1,
do hereby solemnly affirm and verify that the contents
of this application are true to my knowledge and
knowledge based on the legal advice supplied. No part of
it is false and nothing material has been concealed
therefrom.

Verified at New Delhi on this *23rd* day of October,

A

Satish Kumar
Applicant No. 1

127

Verification

I *Laxhi Ram*

s/o *Chatter Singh*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

C2AM
DEPONENT

(*Applicant No. 2*)

Verification

I *Manjeet Kumar*

s/o *Lalita Bhasod*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Manjeet Kumar
DEPONENT

(*Applicant No. 3*)

12B

Verification

I Kapleshwar Lal Karan s/o Jai Dev Lal Karan

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.


DEPONENT

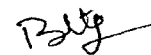
(Applicant No. 4)

Verification

I Bahadur Singh s/o Sher Singh

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.


DEPONENT

(Applicant No. 5)

12C

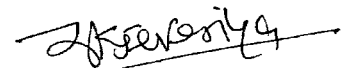
Verification

I *Ram Khilari*

s/o *Chandan Singh*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.



DEPONENT

Applicant No 6

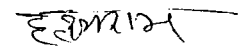
Verification

I *Hirday Ram*

s/o *Chamarn*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.



DEPONENT

Applicant No 7

129

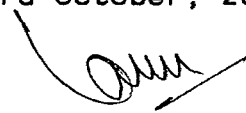
Verification

I *Kunwar Paul*

s/o *Sohan Lal*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.



DEPONENT

(*Applicant M-8*)

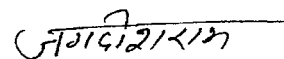
Verification

I *Jagdish Ram*

s/o *Bhartu Ram*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.



DEPONENT

(*Applicant M-9*)

12E

Verification

I *Chander Shekhar* s/o *Girdharilal*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Chander Shekhar
DEPONENT

(*Applicant No-10*)

Verification

I *Abuon Chander* s/o *Hegra Babu*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Abuon Chander
DEPONENT

(*Applicant No-11*)

12F

Verification

I, *Ambarish Pandey* S/o *Sh. Bai Nath Pandey*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Ambarish Pandey
DEPONENT

APPLICANT. No. 13

Verification

I, *Shankar Sharan* S/o

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Shankar Sharan
DEPONENT

APPLICANT. No. 14

129

Verification

I, *Parbhu Dutt* s/o *Sh. Bhole Dutt*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Parbhu Dutt
DEPONENT
(APPLICANT No. 15)

Verification

I, *Uttam Chand* s/o *Sh. Shankar Dutt*

C/o All India C P W D (MRM) Karamchari Sangthan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-1., do hereby solemnly affirm and verify that the contents of this application are true to my knowledge and belief based on the records and legal advice supplied, and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this day of 23rd October, 2000.

Uttam Chand
DEPONENT
APPLICANT No. 12

Annexure - 1Central Public Works Department

F.No.10(14)2000/PED/E-II 627

Dated 13.7.2000

The Superintending Engineer,
President Estate Circle,
C.P.W.D., New Delhi.

Sub : Implementation of the Arbitration award dated 31.1.88 on Recategorisation/Re-classification of the work charged establishment staff of the CPWD as modified by the Delhi High Court Judgement dated 28.1.92, Judgement dt.19.11.96 and judgement dt. 25.9.98 in CCP Nos. 87/97 and 106/97, CMP Nos. 523/ 560/97 in CCP No. 205/93, CMP No. 571/97 in CCP No.1/95 & CMP No. 602/97 in CCP No. 3036/93 in writ petition no. 22792/1988.

Director General of Works vide his Office Memorandum No. 22/9/93-EC-X dated 9.9.99 has conveyed the recategorisation of the Matriculate from Un-skilled to Semi-skilled w.e.f. 1.1.73 and allowed the new scale of pay as per recommendations of the Fourth Pay Commission and Fifth Pay Commission which was received in this office vide your office endorsement no. 58(4)/PEC/Budget /1802-H dated 11.10.99.

In this Division II Junior Engineers are working in 11 Service Centers. Out of the 11 enquiry

True Copy
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officers 3 services centrers are working in two shifts. There are 11 Nos. Beldars who were matriculate and were working in this division under various Service Centers as Enquiry Clerks. Accordingly Pay of these Beldars were fixed as per the instructions contained in the above referred memorandum. Copy of the pay fixation statement of these beladars have already been endorsed to your office. Payment of arrears to this effect have not yet made as the due and drawn statement are to be got preaaudited from the Pay & accounts Office (NDZ).

DGW has again vide his letter no. 22/9/93-EC-X(Pt) dated 16.12.99 has issued some clarifications on the above subject. However copy of the same has not received in this office. A photo copy of the same letter obtained from some other division (photo copy is enclosed for ready reference) Para 2 of the same is reproduced below.

"You are requested to enjoin upon all the officer under your Region not to assign the job of a higher category to a worker in future, in any circumstances whatsoever. Any such instance if comes to the notice of this Directorate in future will be viewed seriously and suitable disciplinary action against all such defaulting Officers will be taken for

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causing financial loss to the Government by wilfull disobedience of Govt. orders."

Accordingly this office has made a reference to the Dy. Director vide this office letter no. 10(14)/2000/E-2/2111 dated 30.6.2000 which was received back in original with the remarks to refer the above captioned para (photocopy is enclosed).

This office may kindly be intimated that whether these Beldars may be continued to work as enquiry clerk or not. If not, necessary alternate arrangement may also be intimated to this office urgently.

Encls As above

Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.

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16

Annexure-2

IMMEDIATE
COURT CASE
BY SPEED POST-MESSENGER

GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

No.22/9/93-EC.X(Vol.VIII)

To, Nirman Bhawan, New Delhi, Dated 11.10.2000

The Superintending Engineer,
Presidents Estate Circle,
CPWD, Rashtrapati Bhawan,
New Delhi.

Sub: Implementation of the Arbitration Award dated 31.1.88 on Recategorisation/reclassification of the work charged establishment staff of CPWD as modified by the Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98 in CCP Nos.87/97 and 106/97, CMP Nos.523, 560/97 in CCP No.205/93 CMP No. 571/97 in CCP NO.1/95 and CMP NO. 602/97 in CCP No. 303/93 in writ petition No. 22792/1988. (For Beldars working as enquiry clerks).

I am directed to refer to your letter no. 10(9)/2K/PEC/EC.II/2632 dated 5.9.2000 on the subject mentioned above and to point out that the orders of even no. dated 9.9.1999 are applicable only to such work-charged Beldars who were on roll of CPWD on 1.4.81 and thereafter and whose services have already been

True Copy
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17

utilized in the higher category, which is irregular. However, they are to be paid the difference of wages as per the Arbitration Award dated 31.1.88 as modified by Delhi High Court, for the period they were engaged in the CPWD Enquiries for nothing down complaints of the allottee etc.

2. In this connection, your attention is also invited to this Directorate's letter of even number dated 16.12.99, wherein it has clearly been stated not to assign the job of higher category to a worker in future in any circumstances whatsoever. It was also indicated that in case any such instance comes to the notice of this Directorate in future, it will be viewed seriously and suitable disciplinary action against all such defaulting officers will be taken for causing financial loss to the Government by willful disobedience of Government orders.

(Meetali Ghosh)

Deputy Director (EC.X)

Copy to :

- (1) Chief Engineer (NDZ)-1, CPWD, New Delhi.
- (2) Executive Engineer, PED, CPWD, New Delhi.

(Meetali Ghosh)

Deputy Director (EC.X)

True Copy
Ship

ANNEX-3 (Coll.)

18

F.No.10(14)/PED/E-2

237

Dated 25-2-2000

OFFICE ORDER

On implementation of the arbitration award dated 31.1.88 on recategorisation/reclassification of the work charged establishment of C.P.W.D. as modified by Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98, D.G.W.'s Office Memorandum No.22/9/93-EC.X dated 9.9.1999 and this Office order No.10/8/99-PED-E-2/6131 dated 31.12.99, pay of Shri Kapileshwar Lal Karan, Beldar working as Enquiry Clerk is hereby fixed as under :-

1. Pay as on 21.4.91 in the old pay scale of 750-12-870-EB-14-940
2. Pay fixed in the new scale of Rs.950-20-1150-25-1500 w.e.f. 21.4.91 Rs.950.00
Pay after increment on 1.4.92 Rs. 970.00
" 1.4.93 Rs. 990.00
" 1.4.94 Rs.1010.00
", 1.4.95 Rs.1030.00

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19

Pay fixed in the revised pay scale of
3050-75-3950-80-1590 w.e.f. 1.1.96

Pay after increment on 1.4.96	Rs.3200.00
" 1.4.97	Rs.3275.00
" 1.4.98	Rs.3350.00
" 1.4.99	Rs.3500.00

Date of next increment shall be 1.4.2000.

(1) The arrears shall be payable with effect from 1.4.81 onwards. The entire amount of arrear of pay up to 30.9.99 will go to the G.P.G. subject to the condition that 5% of the gross amount of arrears up to 28.1.92 will go to the P.M.'s Draught relief fund.

(ii) All the payments to the workers will be subjected to standard deduction on account of Income Tax, Licence Fee etc.

(iii) Fixation of the above official is made subject to pre audit of local audit party. In case of any overpayment is noticed the same shall be deducted from the individual concerned.

Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.

Copy to :

True Copy
Aup

20

1. The Superintending Engineer, PEXC., CPWD, New Delhi.
2. Assistant Engineer, Building I, CPWD, New for necessary action.
3. Asst. Accounts Officer, PED, Due and drawn statement shall be got pre audited from the Pay and Accounts Officer (N).
4. Shri . Kapileshwar Lal Kaan, Beldar Working as Enquiry Clerk.
5. Personal File and Service Book.
6. Pay & Accounts (NDZ) CPWD, TP Bhawan, New Delhi

Executive Engineer

True Copy
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21

CENTRAL PUBLIC WORKS DEPARTMENT

F.No.10(14)/PED/E-2

238

Dated 25-2-2000

OFFICE ORDER

On implementation of the arbitration award dated 31.1.88 on recategorisation/reclassification of the work charged establishment of C.P.W.D. as modified by Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98, D.G.W.'s Office Memorandum No.22/9/93-EC.X dated 9.9.1999 and this Office order No.10/8/99-PED-E-2/6131 dated 31.12.99, pay of Shri Chander Shekhar, Beldar working as Enquiry Clerk is hereby fixed as under :-

1. Pay as on 01.5.82 in the old pay scale of 196-3-220-EB-3-232-00 Rs.196.00
2. Pay fixed in the new scale of Rs.260-400 w.e.f. 1.5.82 Rs.260.00
Pay after in the new scale on 1.5.83 Rs.266.00
" 1.5.84 Rs.272.00
" 1.5.85 Rs.278.00
Pay fixed in the revised pay scale of 950-1500 w.e.f. 1.1.86 Rs.1030.00

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22

Pay after increment on	1.5.86	Rs.1050.00
"	1.5.87	Rs.1070.00
"	1.5.88	Rs.1090.00
"	1.5.89	Rs.1110.00
"	1.5.90	Rs.1130.00
"	1.5.91	Rs.1150.00
"	1.5.92	Rs.1175.00
"	1.5.93	Rs.1200.00
"	1.5.94	Rs.1225.00
"	1.5.95	Rs.1250.00
Pay fixed in the pay scale of	3050-75-3950-80-4590	
with effect from	1.1.96	Rs.3875.00
Pay after increment on	1.5.96	Rs.3950.00
"	1.5.97	Rs.4030.00
"	1.5.98	Rs.4110.00
"	1.5.99	Rs.4190.00

Date of next increment shall be 1.5.2000.

(1) The arrears shall be payable with effect from 1.4.81 onwards. The entire amount of arrear of pay up to 30.9.99 will go to the G.P.G. subject to the condition that 5% of the gross amount of arrears up to 28.1.92 will go to the P.M.'s Draught relief fund.

True Copy
[Signature]

23

(ii) All the payments to the workers will be subjected to standard deduction on account of Income Tax, Licence Fee etc.

(iii) Fixation of the above official is made subject to pre audit of local audit party. In case of any overpayment is noticed the same shall be deducted from the individual concerned.

Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.

Copy to :

1. The Superintending Engineer, PEXC., CPWD, New Delhi.
2. Assistant Engineer, Building III, CPWD, New for necessary action.
3. Pay & Accounts Officer (NDZ), CPWD, New Delhi.
4. Asst. Accounts Officer, PED, Due and drawn statement
5. Shri . Chander Shekhar, Beldar Working as Enquiry Clerk.
6. Personal File and Service Book.

Executive Engineer,

True Copy
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24

CENTRAL PUBLIC WORKS DEPARTMENT

F.No.10(14)/PED/E-2

733

Dated 26-2-2000

OFFICE ORDER

On implementation of the arbitration award dated 31.1.88 on recategorisation/reclassification of the work charged establishment of C.P.W.D. as modified by Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98, D.G.W.'s Office Memorandum No.22/9/93-EC.X dated 9.9.1999 and this Office order No.10/8/99-PED-E-2/6131 dated 31.12.99, pay of Shri Navin Chand Pandey Beldar working as Enquiry Clerk is hereby fixed as under :-

1. Pay as on 20.3.99 in the old pay scale of
2550-55-2660-60-3200 Rs.2960.00
2. Pay fixed in the new scale of
Rs.3050-75-3950-80-4590.
w.e.f. 20.3.99 Rs.3050.00

Date of next increment shall be 1.3.2000.

(1) The arrears shall be payable with effect from 1.4.81 onwards. The entire amount of arrear of pay up to 30.9.99 will go to the G.P.G. subject to the condition

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that 5% of the gross amount of arrears up to 28.1.92 will go to the P.M.'s Draught relief fund.

(ii) All the payments to the workers will be subjected to standard deduction on account of Income Tax, Licence Fee etc.

(iii) Fixation of the above official is made subject to pre audit of local audit party. In case of any overpayment is noticed the same shall be deducted from the individual concerned.

Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.

Copy to :

1. The Superintending Engineer, PEXC., CPWD, New Delhi.
2. Assistant Engineer, Building III, CPWD, New for necessary action.
3. Pay & Accounts Officer (NDZ), CPWD, New Delhi.
4. Asst. Accounts Officer, PED, Due and drawn statement
5. Shri . Navin Chand Pandey, Beldar Working as Enquiry Clerk.
6. Personal File and Service Book.

Executive Engineer,

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CENTRAL PUBLIC WORKS DEPARTMENT

F.No.10(14)/PED/E-2

732

Dated 26-2-2000

OFFICE ORDER

On implementation of the arbitration award dated 31.1.88 on recategorisation/reclassification of the work charged establishment of C.P.W.D. as modified by Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98, D.G.W.'s Office Memorandum No.22/9/93-EC.X dated 9.9.1999 and this Office order No.10/8/99-PED-E-2/6131 dated 31.12.99, pay of Shri Manjeet Kumar, Beldar working as Enquiry Clerk is hereby fixed as under :-

1. Pay as on 13.6.83 in the old pay scale of 196-232.00 Rs.199.00
2. Pay fixed in the new scale of Rs.260-400
w.e.f. 13.6.83 Rs.260.00
Pay after increment on 1.6.84 Rs.266.00
" 1.5.85 Rs.272.00

Pay fixed in the revised pay scale of 950-1500
w.e.f. 1.1.86 Rs.1010.00

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Pay after increment on	1.6.86	Rs.1030.00
"	1.6.87	Rs.1050.00
"	1.6.88	Rs.1070.00
"	1.6.89	Rs.1090.00
"	1.5.90	Rs.1110.00
"	1.6.91	Rs.1130.00
"	1.6.92	Rs.1150.00
"	1.6.93	Rs.1175.00
"	1.6.94	Rs.1200.00
"	1.6.95	Rs.1225.00

Pay fixed in the pay scale of	3050-75-3950-80-4590	
with effect from	1.1.96	Rs.3800.00
Pay after increment on	1.6.96	Rs.3875.00
"	1.6.97	Rs.3950.00
"	1.6.98	Rs.4030.00
"	1.6.99	Rs.4110.00

Date of next increment shall be 1.6.2000.

(1) The arrears shall be payable with effect from 1.4.81 onwards. The entire amount of arrear of pay up to 30.9.99 will go to the G.P.G. subject to the condition that 5% of the gross amount of arrears up to 28.1.92 will go to the P.M.'s Draught relief fund.

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(ii) All the payments to the workers will be subjected to standard deduction on account of Income Tax, Licence Fee etc.

(iii) Fixation of the above official is made subject to pre audit of local audit party. In case of any overpayment is noticed the same shall be deducted from the individual concerned.

Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.

Copy to :

1. The Superintending Engineer, PEXC., CPWD, New Delhi.
2. Assistant Engineer, Building III, CPWD, New for necessary action.
3. Pay & Accounts Officer (NDZ), CPWD, New Delhi.
4. Asst. Accounts Officer, PED, Due and drawn statement
5. Shri . Mahjeet Kumar, Beldar Working as Enquiry Clerk.
6. Personal File and Service Book.

Executive Engineer,

True Copy
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29

CENTRAL PUBLIC WORKS DEPARTMENT

F.No.10(14)/PED/E-2

734

Dated 26-2-2000

OFFICE ORDER

On implementation of the arbitration award dated 31.1.88 on recategorisation/reclassification of the work charged establishment of C.P.W.D. as modified by Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98, D.G.W.'s Office Memorandum No.22/9/93-EC.X dated 9.9.1999 and this Office order No.10/8/99-PED-E-2/6131 dated 31.12.99, pay of Shri Lakhi Ram Beldar working as Enquiry Clerk is hereby fixed as under :-

- | | | |
|---|---------|------------|
| 1. Pay as on 1.1.73 in the old pay scale of | | |
| 70-1-80-EB-1-85 | | Rs. 71.00 |
| 2. Pay fixed in the new scale of | | Rs.260-400 |
| w.e.f. | 1.1.73 | Rs.260.00 |
| Pay after increment on | 8.11.73 | Rs.266.00 |
| " | 8.11.74 | Rs.272.00 |
| " | 8.11.74 | Rs.272.00 |
| " | 8.11.75 | Rs.278.00 |

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"	8.11.76	Rs.284.00
"	8.11.77	Rs.290.00
"	8.11.78	Rs.296.00
"	8.11.79	Rs.302.00
"	8.11.80	Rs.308.00
"	8.11.81	Rs.314.00
"	8.11.82	Rs.320.00
"	8.11.83	Rs.326.00
"	8.11.84	Rs.334.00
"	8.11.85	Rs.342.00

Pay fixed in the revised pay scale of 950-1500

w.e.f. 1.1.86 Rs.1200.00

Pay after increment on 1.11.86 Rs.1225.00

"	1.11.87	Rs.1250.00
"	1.11.88	Rs.1275.00
"	1.11.89	Rs.1300.00
"	1.11.90	Rs.1325.00
"	1.11.91	Rs.1350.00
"	1.11.92	Rs.1375.00
"	1.11.93	Rs.1400.00
"	1.11.94	Rs.1425.00
"	1.11.95	Rs.1450.00

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Pay fixed in the pay scale of	3050-75-3950-80-4590	
with effect from	1.1.96	Rs.4430.00
Pay after increment on	1.11.96	Rs.4510.00
"	1.11.97	Rs.4590.00

Due for 1st stagnation increment which shall be issued separately.

(1) The arrears shall be payable with effect from 1.4.81 onwards. The entire amount of arrear of pay up to 30.9.99 will go to the G.P.G. subject to the condition that 5% of the gross amount of arrears up to 28.1.92 will go to the P.M.'s Draught relief fund.

(ii) All the payments to the workers will be subjected to standard deduction on account of Income Tax, Licence Fee etc.

(iii) Fixation of the above official is made subject to pre audit of local audit party. In case of any overpayment is noticed the same shall be deducted from the individual concerned.

Executive Engineer,
President Estate Division,
C.P.W.D., New Delhi.

Copy to :

1. The Superintending Engineer, PEXC., CPWD, New Delhi.
2. Assistant Engineer, Building III, CPWD, New for necessary action.

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3. Pay & Accounts Officer (NDZ), CPWD, New Delhi.
4. Asst. Accounts Officer, PED, Due and drawn statement
5. Shri . Lakhi Ram, Beldar Working as Enquiry Clerk.
6. Personal File and Service Book.

Executive Engineer,

*True Cpy
Ship*

Annexure-4

33

GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL P.W.D.

No.22/9/93-EC.X(PL)

NeDelhi, dated 16.12.1999

To,

All ADGz (Regions)

Sub :Implementation of the Arbitration award dated 31.1.88 on Recategorisation/Re-classification of the work charged establishment staff of the CPWD as modified by the Delhi High Court Judgement dated 28.1.92, Judgement dt.19.11.98 and 25.9.98 in CCP Nos. 87/97 and 106/97, CMP Nos. 523/ 50/97 in CCP No. 295/93, CMP No. 571/97 in CCP No.1/95 & CMP No. 602/97 in CCP No. 3036/93 in writ petition no. 2792/88-Clarification reg.

Sir,

This Directorate has been receiving various references from the field units of CPWD relating to the orders issued by this Directorate vide O.M. of Even number dated 9.9.99 and 29.9.99 on the above mentioned subject. The clarification sought for by the field units and the reply to their queries are given as under :-

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S.No. Clarification sought

Reply

1. Whether the workers engaged as Chowkidar and performing the duty of Enquiry Clerk in the service centres are required to be given the benefit of Arbitration Award?

✓ No. The benefit of Award is required to be passed on to the work charged Beldars performing the duty of Enquiry Clerks and who are matriculate.

2. Whether the Sweepers who have been performing dry sweeping as well as wet sweeping are entitled to get the benefit of the above quoted Orders?

No. The Sweepers who have been engaged exclusively for the purpose of wet sweeping are entitled to get the benefit of Award as modified by the Hon'ble Delhi High Court.

3. Whether Sweepers Category of regular classified establishment is also covered under the provisions of this Orders?

Sweeper is a category which is borne on the regular classified establishment of CPWD. The workers in this category are never engaged in the work-charged establishment of CPWD as this is not a category borne on the work charged establishment.

4. Whether the office Sweepers are also to be given the benefit of the Arbitration Award?

No. The sweepers who have been recruited for working in the field units of CPWD and who are borne on the Regular Classified Establishment of CPWD and exclusively engaged for the purpose of wet sweeping are to be given the benefit of the Award.

5. Whether recovery in respect of the uniform supplied and overtime

No. These workers will remain as work-charged Beldars and will be entitled to get all the benefits as available to the

*True Copy
Ship*

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wages given under the provisions of Minimum Wages Act is to be made from the work-charged Beldars who have been performing the duties of Enquiry Clerk and have been allowed the higher scale?

comparable Group D categories. Mere revision of their wages do not make them the workers of regular establishment. As regards, payment of Over-time wages to those work-charged Beldars, who were engaged for noting down complaints in the service centres, it may be stated that their duty hours are fixed and they generally remain on general duty. Since the work charged Beldars who were engaged by the Service centres to note down the complaints of the allottees performed duty within their duty period, the question of payment of Overtime wages to such workers does not arise.

You are requested to enjoin upon all the Officers under your Region not to assign the job of a higher category to a worker in future, in any circumstances whatsoever. Any such instance, if comes to the notice of this Directorate in future will be viewed seriously and suitable disciplinary action against all such defaulting Officers will be taken for causing financial loss to the Government by wilful disobedience of Govt. orders.

Sd/- Vijay Kumar

Deputy Secretary to the Govt. of India

Encl: As above.

Copy to:

- 1) All CEs/SEs/EFs/DOH/ADOH/DDOH.
- 2) All recognised Unions.

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True copy
Shree

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Sd/- Vijay Kumar
Deputy Secretary to the Govt. of India

Copy also to :

- 1) PS to ADG(S&P)/ADG(TD)/DDG(W)
- 2) PA to DA/DDA-II/DDA-III/DD(I)
- 3) Hindi Sakha for Hindi version
- 4) Guard file/Stock File.

(MEETALI GHOSH)
DEPUTY DIRECTOR (EC.X)

*True Copy
Recd*

37

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
PRINCIPAL BENCH: NEW DELHI

M.A. NO. 2673 OF 2000

IN

O.A. No. 237 of 2000

IN THE MATTER OF:

All India CPWD (MRM) Karamchari
Sangathan (Regd.) & Ors.

Applicants

Versus

The Director General,
CPWD & Ors.

.. Respondents

An application under section 4(5)(a) and (b) of the
Central Administrative Tribunals Act, 1985.

MOST RESPECTFULLY SHOWETH:

1. That the applicants have filed the accompanying
application against the respondents. The applicants pray
to refer and to rely upon the contents of the same as
part and parcel of this application.

2. That all the applicants are similarly situated.
The cause of action in favour of all of them is also
same and the relief claimed is also the same. Hence the
applicants are approaching this Hon'ble Tribunal by this
common application to avoid the multiplicity of the
proceedings and to save the precious time of this
Hon'ble Tribunal.

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3. That it is necessary in the interest of justice to allow the applicants to file one joint application on behalf of all of them.

PRAYER:

It is therefore most respectfully prayed that your Lordships may graciously be pleased to allow this application and permit the applicants to file the common application and pass such other order or orders as are deemed fit and proper in the interest of justice.

FILED BY

NEW DELHI

NARESH KAUSHIK & *SHILPA CHOHAN*

DATE: 23-10-2000.

ADVOCATES FOR THE APPLICANTS.

A

ऑल इण्डिया सैन्ट्रल पी.डब्ल्यू.डी. (एम.आर.एम.) कर्मचारी संगठन ALL INDIA CENTRAL P.W.D. (M.R.M.) KARAMCHARI SANGATHAN

President :
SATISH KUMAR
Ph. : 3984474 (Res.) 2296723
General Secretary :
M.F. SIDDIQUE
Ph. : (Res.) 6822018

सरकार द्वारा पंजीकृत
पंजीकरण संख्या : 4686



Central Office :
34-D, SECTOR-4, (DIZ) AREA
RAJA BAZAR, NEW DELHI-110001
Ph. : 3344404
Regd. Office :
4823, Balbir Nagar Ext. Gali No. 13
Shahdra, Delhi-110032, Ph. : 2296723

Dated - 25-10-2000.

RESOLUTION

The President, All India CPWD (MRM) Karamchari Sangathan, Mr. Satish Kumar is hereby authorised to act on behalf of all the applicants, herein in the accompanying original application before this Hon'ble Tribunal and pursue the case of the applicants.

Cont. Page 2

आल इण्डिया सैन्ट्रल पी.डब्लू.डी. (एम.आर.एम.) कर्मचारी संगठन ALL INDIA CENTRAL P.W.D. (M.R.M.) KARAMCHARI SANGATHAN

President : SATISH KUMAR

Ph. : 2919930 (Res.) 2296723

General Secretary : M.F. SIDDIQUE

Ph. : (Res.) 6822018

सरकार द्वारा पंजीकृत

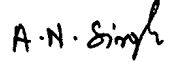
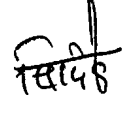
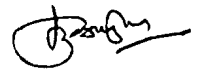
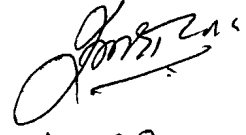
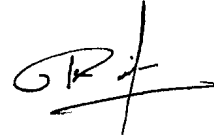
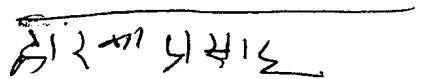
पंजीकरण संख्या : 4686

Central Office :
34-D, SECTOR-4, (DIZ) AREA
RAJA BAZAR, NEW DELHI -110001

Regd. Office:
4823, Balbir Nagar Ext. Gali No. 13
Shahdra, Delhi-32

Ref No. _____

Dated _____

Sr.No.	Name	Designation	Signature
1.	SATISH KUMAR	All India President	
2.	AMBIKA NARYAN SINGH	Vice President	
3.	M.F. SIDDIQUE	General Secretary	
4.	Md. AYUB ALI	Treasurer	
5.	BHUWAN CHANDRA	Executive Member	
6.	D.B. SINGH	Joint Secretary	
7.	SHYAM BAHADUR	Joint Secretary	
8.	ASHOK KUMAR	Joint Secretary	
9.	ROHTAS SINGH	Joint Secretary	
10.	DWARKA PRASAD	Executive Member	

14/12

D

(41)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: New Delhi

MA NO.2673 OF 2000
IN OA NO.2237 OF 2000

IN THE MATTER OF:

1. All India CPWD(MRM)Karmchari Applicant
Sangathan & other.

V/s

2. Union of India and other..... Respondents

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Through:

K C D GANGWANI

Sr. Central Govt. Counsel

13, Qutab View Apartments

Opp. Qutab Hotel

Shaheed Jeet Singh Marg

New Delhi-110016

Telephone:696-3806

Date: 12.12.2000

Place: New Delhi

प्रधान न्यायाधीश/CAT (rb)

काज दाखिल किया

Filed Today

13 DEC 2000

दाखिल नो./Filing No...

उप-नियन्त्रक/Dy.Registrar

E
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan.
New Delhi-4.

(22)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

MA NO.2673 OF 2000
IN OA NO.2237 OF 2000

IN THE MATTER OF:

1. All India CPWD(MRM)Karmchari Applicant
Sangathan & other.

V/s

3. Union of India and other.....Respondents

Reply to the OA on behalf of Respondents.

Most Respectfully showeth:

Preliminary Objections:

1. The application is misconceived and is not maintainable under the law.
2. That the Applicant has not come with clean hands before the Hon'ble Tribunal. The OA is based on mis-representation of facts. All the Applicants have shown their designation as Beldar-Cum-Enquiry Clerk whereas there is no post of Enquiry Clerk against which they can call themselves as Enquiry Clerks. They are beldars. For the period they attended to the duty of noting complaints, they have already


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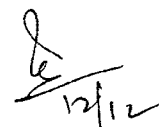
been paid arrears in compliance with the orders of the Hon'ble Court.

3. The averments in Para 2&3 call for no comments.
- 4.1 The arbitration award passed on 31.1.1988 enjoins upon the Respondent to make payment to those workmen who were called upon to attend to the job of noting complaints, the wages in the time scale of the skilled category which was Rs.260-400 in the pre-revised scale. The award did not call upon the Respondent to appoint the beneficiaries of the award in the higher grade allowed to employees appointed as Enquiry Clerks.
- 4.2 The orders of Hon'ble Court dated 25.9.1998 have to be read with judgement dated 28.1.1992. The orders of 1998 purely dwells on payment of arrears of wages to the workmen, who discharged the function of noting complaints, after fixation of their pay on notional basis. It is submitted that the orders dated 25.9.1998 were for the purpose of determining arrears of wages only. The original order of the Hon'ble High Court dated 28.1.1992 and its subsequent orders dated 25.9.1998 do not require the Govt. to create posts of Enquiry Clerks or to appoint such workmen in the higher grade on regular basis.
- 4.3 Hon'ble Supreme Court upheld the orders of the Hon'ble High Court to make the payment of arrears of wages.


12/12

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- 4.4 The action taken by the Dept. was in compliance with the orders of the Hon'ble Court. As has already been submitted pay of the said workmen have been fixed notionally/purely to workout the arrears of wages payable.
- 4.5 During the course of payment of arrears of wages the beneficiaries were workmen scattered in various CPWD Divisions. The DGW issued several clarificatory orders in view of doubts raised by various division. Orders of the DGW produced as Annexure-4 by the Applicant is Clarificatory one not the order of Government.
- 4.6 Averments of this para are totally denied. No such order ever has been issued by the DGW on 13.7.2000.
- 4.7 Orders dated 11.10.2000 issued by the Respondent are not violative of award or any directions of Courts as contended. It is submitted that in terms of award and the judgement, the Respondents are to make payment of arrears of wages in the higher scale for the period during which the workmen performed the duty of noting down complaints. The said order does not amount to reduction in rank of the Applicants as the said applicants were never conferred any higher rank. Instead they were allowed arrears of wages for a specified period in compliance with the above said orders of Courts.


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4.8 The action of the Applicant to approach the CAT, Principal Bench, New Delhi is uncalled for, as no injustice has been done to them.

5. The allegations, contentions and submissions made under Ground are disputed and denied. It is submitted that no orders were issued by DGW on 13.7.2000. Orders dated 11.10.2000 of the Respondents are neither perverse, nor arbitrary, nor illegal nor unconstitutional as alleged. The Respondents had ensured that orders of the Hon'ble Court are implemented in their true spirit and content.

It is further submitted that the orders of the Respondents have not taken away any right vested with the Applicants. On the contrary the Applicants have misconstrued the purport of judgement of the Court.

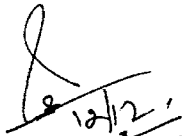
It is submitted that the orders of the Respondents do not seek to reduce the rank of the Applicants as no higher rank was ever conferred on the Applicants. Their wages were merely fixed notionally in the higher scale to workout the arrears of wages in the light of the orders of the Hon'ble Court. Since no injustice has been done to the Applicants, filing of this OA vide No.2237/2000-MA/2673/2000 dated 20.10.2000 by them before the Hon'ble CAT, Principal Bench, New Delhi is unwarranted and uncalled for.


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- 98
6. The OA is premature as no representation was made for redressal of grievance, if any.
 7. No comments.
 8. In view of the facts explained hereinabove, the Applicants are not entitled to any relief prayed for. They are not entitled to any interim relief.

9-12 the averments call for no comments.

It is submitted that the Applicants have failed to make out any case. The OA, it is prayed may be dismissed with costs and the interim orders may be vacated.


Respondents
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan.
New Delhi-4.

VERIFICATION:

Verified this day of 12 of December, 2000 that the above statements are true to my information based on records which I verily believe to be true and prayer is my submission before the Hon'le Tribunal.


DEPONENT

New Delhi

Date: 12.12.2000

Listed on 24/1/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 2237 OF 2000

IN THE MATTER OF:

All India CPWD (MRM) Karamchhari
Sangathan(Regd.) & Ors.

....Applicants

Versus

The Director General, CPWD & Ors

...Respondents

I N D E X

1. Rejoinder Affidavit on behalf of the applicants 1 - 7

Filed by

[Signature]
Naresh Kaushik & Narendra Kr.Roy
Advocates for the applicants
25-Bazar Lane, Bengali Market,
New Delhi-110001.

New Delhi
Dated: 9 / 01 / 2001

Copy to: Mr. KCD Gangwani Advr.
(Proof of Service is enclosed)

8	मास वारिषा दिना
Filed Today 331	
- 9 JAN 2001	
फाइल नं./Filing No...	
न्याय.सूत्र/Dy.Registrar	

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 2237 OF 2000

IN THE MATTER OF:

All India CPWD (MRM) Karamchari
Sangathan(Regd.) & Ors.

....Applicants

Versus

The Director General, CPWD & Ors

...Respondents

REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANTS

I, Satish Kumar, President CPWD Karamchari Sangathan (Regd), 34-D DIZ. Area, Sector-4, Raja Bazar, New Delhi-110001., the deponent do hereby solemnly affirm and declare as under:

PRELIMINARY SUBMISSIONS

1. The contents of the counter affidavit are being denied as wrong and false in toto and in general except those which are subsequently admitted hereinbelow. The respondents have tried to mislead this Hon'ble Tribunal by drawing in misleading picture of the facts and by adopting distorted imputation of the award of the arbitrator and the judgment of the Hon'ble High Court and the Hon'ble Supreme Court. The contentions raised in the counter affidavit are frivolous and misconceived.

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or Signature <u>gita</u> <u>PM</u>					Date <u>11/11</u> Time <u>PM</u>		For DTDC WORLDWIDE EXPRESS LTD.						

- 2
(49)

2. The contents of this para are denied as wrong and false. There is no misrepresentation of facts anywhere in the O.A. It is denied that there is no post of enquiry clerk in the CPWD. As per CPWD Manual (Vol.III), 1970 and actual requirements indicated in Office Memo No.41/P1'89 WI(a), dated 16/23-4-1991, the posts of Enquiry Clerks do exist in CPWD. Moreover, the Department itself has recategorised the posts of beldars performing duty of Enquiry Clerks from unskilled to semi-skilled with a higher scale of pay vide DG(W)'s Office Memorandum No.22/9/93-EC.X, dated 9.9.1999. This position has been reconfirmed vide DG(W)'s letter No.22/2/98-EC.X(Pt.), dated 16.12.99. The arbitration award as also the judgement of the High Court did not give order for payment of only arrears for the period the beldars performed the duties of Enquiry Clerk but as per the award, the factual position is as under:-

5

"3.7 That on each enquiry, the post of Enquiry Clerk by created and earmarked for promotional avenue to the Industrial workers in the work charged regular establishment and presently muster roll employees performing the duties of enquiry Clerks be regularised. The type of work being performed by Enquiry Clerk can be acquired by way of training and actual longer experience.

This shows that creation of posts of Enquiry Clerk....."

The above position has been reconfirmed by the High

2
59

Court Order dated 25.9.98 as under:-

"(viii) all the workers deputed to perform the duty of Enquiry Clerk and having qualification of matriculation are to be given higher scales"

From the above it is amply clear that neither the Arbitration Award, nor the High Court and also the Department in its orders as also Order for fixation of pay spoke only about payment of arrears for the period the Beldars performed the duties of Enquiry Clerk but it meant granting them higher scale according to the duties performed on a regular basis.

3. The contents of this para need no reply.

4.1. The contents of this para are denied as wrong and false. The Award calls upon the Department to grant the beldars who were performing duties of Enquiry Clerk higher scale of pay on regular basis. The Department's own Order recategorising the post of beldars performing duty of Enquiry Clerk from unskilled to semi-skilled with higher scale of pay is in itself acceptance of the fact that the benefits accruing from the award were to be on a regular basis and not merely restricted to payment of arrears. The Department's order implementing the Arbitration Award was issued vide Office Memorandum No.22/9/93-EC.X, dated 9.9.1999. There is no cut out date indicated for payment of higher scale as also withdrawal of duties of Enquiry Clerks being performed by Beldars. The beldars have therefore continued to perform

4/5
duties of Enquiry Clerk with higher scale.

4.2. The contents of this para are denied as wrong and false. The contentions raised are misrepresentation with intention to take away the benefits which have finally accrued in the favour of the workmen under the Award and the judgment of the High Court. The relevant portion of the judgment of the High Court is quoted as under:-

"(viii) all the workers deputed to perform the duty of Enquiry Clerk and having qualification of matriculation are to be given higher scales."

The Arbitration Award has enjoined granting higher scale comparable to the duties being performed which has been modified by the High Court. The Award and High Court Order requires the Department to grant the higher grade on regular basis and not temporary as is being made out by the respondents.

4.3. The contents of this para are mis-representation of the orders of the Supreme court. In fact Supreme Court had ordered implementation of Arbitration Award as modified by High Court.

4.4. The contents of this para are denied as wrong and false. The fixation of pay was to give benefit on regular basis which also included payment of arrears. Keeping this in view the petitioners have been given next increments after implementation of the award vide Office Memorandum No.22/9/93-EC.X, dated 9.9.1999.

ST-18

4.5. The contents of this para are denied as wrong and false. The alleged clarifications issued by the DG(W) are calculated to circumvent the law and curtail the rights of the workmen which have been settled under the Arbitration Award and the judgment of the High Court and the Supreme court which have attended finality. The applicants cannot be deprived of the benefit of working against the post of Enquiry Clerk which in some cases exceed more than 25 years such an action apart from being harsh and illegal would be violative of Articles 14 & 16 of the Constitution and such an action on part of the respondent cannot be sustained.

4.6. The contents of this para are denied as wrong and false. The said order issued by the DG(W) has been annexed as Annexure 1 to the O.A. and hence the denial of the same is therefore malafide.

4.7. The contents of this para are denied as wrong and false. The Arbitration Award as modified by the High Court has enjoined upon the Respondents to grant higher grade to Beldars performing the duties of Enquiry Clerk. The Respondents have already made their submissions in Arbitration and the High Court and after considering all the submissions and arguments of the Respondents the Arbitration Award was granted as modified by the High Court. Now after judgement of the High Court, the Respondents have no authority to say that the services of Beldars "which have already been utilized in the

65-1-1

higher category, which is irregular. However, they are to be paid the difference of wages as per the Arbitration Award dated 31.1.88 as modified by Delhi High Court, for the period they were engaged in the CPWD Enquiries for noting down complaints of the allottee etc."

The impugned order in question amount to reversion of the applicants which is unsustainable on account of violation of Article 311(2) of the Constitution. The impugned order therefore are liable to be quashed.

4.8. The contents of this para are denied as wrong and false. The applicants are justified in approaching the Hon'ble Tribunal against injustice which is sought to be meted out to them.

5. The contents of this para are denied as wrong and false. The contents of the corresponding para under the heading of grounds are reiterated as true and correct. The respondents had ensured the orders of the Court were implemented in their true spirit and content for sometime but later on have chosen to go against the spirit of the Award. The Arbitration Award as modified by the High Court enjoined upon the Respondents to grant higher grade to Beldars performing higher duties on permanent and regular basis and not a temporary measure as is now being made out.

The petitioners have been performing higher duties of Enquiry Clerks for the last 30 or 15 years and have not performed the actual duty of Beldar, which involves hard physical labour, even for a day during this entire period. It

F 51-c

is totally unjustified to expect them now to work as Beldar when they have reached advanced age and are physically weak and incapable of performing hard physical labour.

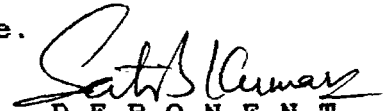
6. The contents of this para are denied as wrong and false. The O.A. is not premature as alleged. The respondents would have implemented the impugned order if the original application had not been filed by the applicants before this Hon'ble Tribunal and representation had been made. In such eventuality the applicants would have faced reversion and the O.A. itself would have been rendered meaningless.

7. The contents of this para need no reply.

8. In view of the submissions made hereinabove the O.A. of the applicants deserves to be allowed with costs.

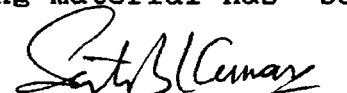
9 to 12. The contents of this paras need no reply.

In view of the aforementioned submissions the O.A. of the applicant deserves to be allowed with costs and stay order granted already deserves to be made absolute.


DEPONENT

VERIFICATION

I, Satish Kumar, President CPWD Karamchari Sangathan (Regd), 34-D D.IZ. Area, Sector-4, Raja Bazar, New Delhi-110001 do hereby solemnly affirm and verify that the contents of this rejoinder are true to our knowledge on the basis of the legal true to our knowledge on the basis of the legal advice supplied. No part of it is false and nothing material has been concealed therefrom.


DEPONENT

Matter listed on 16/2/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PRINCIPAL BENCH, NEW DELHI

O.A.NO. 2237 OF 2000

IN THE MATTER OF:

All India CPWD (MRM) Karamchari

Applicants

VERSUS

The Director General CPWD & Ors.

Respondents

I N D E X

1. Additional documents

- i) Copy of the Office Memorandum dated 9.9.1999 issued by the Govt. of India.

51- 53

- ii) Copy of the Gazette of India dated March 19, 1988.

54 - 100

AT (rb)
भाषा दायित्व किया
Filed Today
14 FEB 2001
दाखिल नं. 1118/2000
उपरिस्थित/ Dy. Registrar

FILED BY

NEW DELHI
DATE 14-12-2000

(NARESH KAUSHIK & N.K.ROY),
ADVOCATE FOR THE APPLICANT
25-Bazar Lane, Bengali Market,
NEW DELHI-110001.

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From :-
All India P.W.D. MRM K. S. Chari Sangathan
34-1, Sector 4, Raja Bazar (DIZ) Area,
New Delhi-110001

GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL P.W.D., NIRMAL BHAWAN

No. 22/93-EG.N. dated 19.11.96 New Delhi, dated :- 9.4.1999.

OFFICE MEMORANDUM

Subject :- Implementation of the Arbitration Award dt. 31.1.88 on Re-categorisation / Re-classification of the Work-charged Establishment staff of CPWD as modified by the Delhi High Court Judgement dt. 28.1.92, Judgement dt. 19.11.96 and Judgement dt. 25.9.98, in CCP Nos. 87/97 and 106/97, CMP Nos. 523, 560/97 in CCP No. 295/93, CMP No. 571/97 in CCP No. 1/95 & CMP No. 602/97 in CCP No. 306/93 in Writ Petition No. 2792/1988.

In continuation of this Directorate O.M. of even number dated 20.12.93 and 7.5.97 and in pursuant to the Judgement delivered by the Hon'ble Delhi High Court on 25.9.98 in the above-mentioned Petitions Contempt Petitions, the categories of the workmen be re-classified as shown against each and be allowed the scale of pay as indicated in the Annexure.

2. The benefit is applicable in respect of the workers, who were on the roll of CPWD on 1.4.81 and is not applicable to any kind of daily-rated workers.
3. The pay of each worker in pre-revised scale will be fixed on 1.1.73 or the date of appointment of the workers covered by these orders whichever is later and on 1.1.86 in the new scale as per recommendations of the Fourth Pay Commission and again on 1.1.96 in the revised scale as per recommendations of the Fifth Central Pay Commission. Arrears will however be payable w.e.f. 1.4.81 onwards.
4. The due drawn statement in respect of each worker will be got pre-audited by the respective Pay & Accounts offices for which detailed instructions will follow from the Pay & Accounts offices, M/o Urban Development.
5. The entire arrears of pay etc. to the beneficiary worker, who are to retire from service up to 30.9.1997, will be made in cash subject to the condition, that the 5% of the gross amount of the arrears up to 28.1.92 will go to the Prime Minister's Drought Relief Fund. All payments to the workers will be subject to standard deductions on Account of Income-tax, Licence fee etc. The amount deducted towards Prime Minister's Drought Relief Fund will be passed on directly to the appropriate authority for credit to the said fund.

.....2/-

DIRECTORATE
OF HORTICULTURE
GOVT. OF INDIA

6. The exact requirement of funds of each Zone should be intimated to the Financial Officer to DG(W) for allocation under the Charged Head and payments should be effected only after receipt of allocation for the same.

7. All Chief Engineers should monitor the work relating to fixation of pay. Preparation of Due & Drawn statement and payment of arrears to the beneficiary workers in each category and send a report to this Directorate by 10th of every month.

8. This issues with the approval of the Finance Division in the Ministry of Urban Development vide their U.O. Dy. No. 600-F, dated 17.2.1999.

M/S

(M.M. SINGH)
DEPUTY DIRECTOR (ADMN.)-II.

To

1. All Chief Engineers Supdg. Engineers/Executive Engineers/Director of Horticulture Additional Director of Horticulture/Dy. Director of Horticulture.
2. F.O. to DG(W).
3. All Sr. Labour Officers Labour Officers.

Copy to :-

1. Ministry of Labour.
2. Ministry of Urban Development (a) JS(WA) JS(F). (b) Works Division.
3. Chief Controller of Accounts, Ministry of Urban Development for issue of detailed instruction regarding pre-audit.
4. All Pay & Accounts Officers concerned with CPWD.
5. All recognised Unions and Associations.
6. All Establishment Sections in DG(W), CPWD.

Meetal Ghosh

(MEETALI GHOSH)

UNDER SECRETARY TO GOVT. OF INDIA

From •

All India C.P.W.D. MRM. Karamchari Sangathan
34-D, Sector-4, Raja Bazar (DIZ Area,
New Delhi-110001

ANNEXURE
(DGW/CPWD O.M.NO. 22/93-ECX, DATED)

No.	Categories	Existing classification	New Classification, as per the Award w.e.f. 1.1.73	Existing pre-revised scale as on 1.1.73.	New pre-revised scales as on 1.1.73 as per the award.	New revised scale w.e.f. 1.1.1986	New revised scale w.e.f. 1.1.96	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.
	Sweepers exclusively engaged in Wet-sweeping	Un-skilled	Semi-skilled	196-3-220-FB-3-202	210-4-226-EB 250-FB-5-270	800-15-1010-FB-20-1150	2650-65-3300-70-4000	
	Work-Charged Beldars performing the duty of Enquiry Clerks and if they are matriculate.	-do-	-do-	-do-	210-4-226-EB 250-EB-5-290	-do-	3050-75-3950-80-4590	C
	Work-charged Beldars performing the duty of Laboratory Assistant and having the requisite qualification.	Skilled	Skilled	-do-	260-6-290-FB 6-326-8-366-FB-8-390-110-430	975-25-1150-30-1540	3200-85-4900	

का. 822:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सहायक अभियन्ता, माइक्रोवेव प्रोजेक्ट, वाराणसी के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1 फरवरी, 1988 को प्राप्त हुआ था।

S.O. 822.—In pursuance of the section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur, as shown in Annexure in the industrial dispute between the employers in relation to the management of Assistant Engineer, Microwave Project, Varanasi and their workmen, which was received by the Central Government on the 1st February, 1988.

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. Case No. 146 of 1987

In the matter of dispute between :

Sri Babban Singh,
C/o N. C. Pandey,
C-323 Gurutej Bahadur Nagar,
Kareli, Allahabad.

AND

The Assistant Engineer,
Microwave Project,
Varanasi.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40012/41/86-D-II(B) dated 21st September, 1987, has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Assistant Engineer Microwave Project, Varanasi in terminating the services of Sri Babban Singh, Ex-Chowkidar w.e.f. 8th November, 1985 is just legal? If not, to what relief the workman concerned is entitled?"

2. In the instant case the first notice was issued on 29th September, 1987 fixing 29th October, 1987 for filing of claim statement. On 29th October, 1987, the workman was found absent but the management put in its appearance. However, 20th November, 1987 was fixed for filing claim statement on behalf of the workman. On 20th November, 1987 again the workman was found absent and the case was ordered to come up on 15th December, 1987. On 15th December, 1987, Sri N. C. Pandey, authorised representative for the workman moved an application seeking time to file claim statement on behalf of the workman. The application was allowed and 6th January, 1988 was fixed in the case to file claim statement. On 6th January, 1988 again workman was found absent. Neither workman himself nor his authorised representative appeared to file claim statement. It seems that the workman is not interested to prosecute his case. Hence, a no claim award is being given in the case.

ARJAN DEV, Presiding Officer

[No. L-40012/41/86-D-II(A)]

का. 823:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सहायक अभियन्ता, माइक्रोवेव प्रोजेक्ट, वाराणसी के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1 फरवरी, 1988 को प्राप्त हुआ था।

S.O. 823.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Assistant Engineer, Microwave Project Varanasi and their workmen, which was received by the Central Government on the 1st February, 1988.

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. Case No. 14 of 1987

In the matter of dispute between :

Sri Surendra Pratap Yadava,
C/o N. C. Pandey,
C-323 Gurutej Bahadur Nagar,
Kareli, Allahabad.

AND

The Assistant Engineer,
Microwave Project,
Varanasi.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40012/40/86-D-II(B) dated 21st September, 1987, has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Assistant Engineer, Microwave Project, Varanasi in terminating the services of Sri Surendra Pratap Yadava, Ex-Chowkidar with effect from 8th November, 1985 is just and legal? If not, to what relief the workman concerned is entitled?"

2. In the instant case the first notice was issued on 29th September, 1987 fixing 29th October, 1987 for filing of claim statement. On 29th October, 1987, the workman was found absent but the management put in its appearance. However, 20th November, 1987 was fixed for filing claim statement on behalf of the workman. On 20th November, 1987 again the workman was found absent and the case was ordered to come up on 15th December, 1987. On 15th December, 1987, Sri N. C. Pandey, authorised representative for the workman moved an application seeking time to file claim statement on behalf of the workman. The application was allowed and 6th January, 1988 was fixed in the case to file claim statement. On 6-1-1988 again workman was found absent. Neither workman himself nor his authorised representative appeared to file claim statement. It seems that the workman is not interested to prosecute his case. Hence, a no claim award is given in the case.

ARJAN DEV, Presiding Officer

[No. L-40012/40/86-D-II(B)]

नई दिल्ली, 15 फरवरी, 1988

का. 824:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, केन्द्रीय लोक निर्माण विभाग के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में श्री जी. के. खेमानी, श्री एच. एस. वत्स और श्री एम. जी. जानरे, मध्यस्त्रों के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31 जनवरी, 1988 को प्राप्त हुआ था।

New Delhi, the 15th February, 1988

S.O. 824.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Arbitrators, as shown in the Annexure in the industrial dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 31st January, 1988.

N. Arbitration/Con-I/86
OFFICE OF THE BOARD OF ARBITRATORS ROOM
NO. 507, SHARAM SHAKTI BHAVAN, NEW DELHI

Dated, New Delhi, the 31st January, 1988

To

The Secretary to the Govt. of India,
Ministry of Labour,
Sharam Shakati Bhavan,
New Delhi.

Subject :—Arbitration under Section 10-A of the I.D. Act
between the CPWD Administration and the work-
men represented by CPWD Mazdoor Union—Sub-
mission of Award.

Dear Sir,

We have pleasure to present the below placed Award of
Arbitrators (6 copies) in Industrial Dispute referred to above
under Ministry of Labour Notification No. L. 42013/1/86-
DIIB dated 31-10-86.

This may be published in official Gazette as per statute.

Yours faithfully,

M. G. WANARE, Umpire

(G. K. KHEMANI)
Arbitrator

D.A.

1. Two copies of Award
2. Original Award of Sri Khemani.
3. Original Award of Shri Vats.
4. Five Spare copies of Award.

(H. S. VATS)
Arbitrator

BEFORE SHRI M. G. WANARE, UMPIRE & SHRI G. K.
KHEMANI AND SHRI H. S. VATS

ARBITRATORS

ARBITRATORS UNDER SECTION 10-A OF INDUSTRIAL
DISPUTES ACT 1947, ROOM NO. 507, 5TH FLOOR,
SHARAM SHAKTI BHAVAN, NEW DELHI

Notification No. L-42013/1/85-D.II(R) dated 31st October,
1986 read with Notification dated 7th November, 1986 issued
by the Government of India in the Ministry of Labour

I.D. No. Arbitration/86/Con. I

In the matter of Industrial Dispute between the Manage-
ment of:

Director General Works,
C.P.W.D. Nirman Bhawan,
New Delhi,
Through
Director of Administration

Management/
Employers

AND

Its Workmen,
Represented by CPWD Mazdoor Union,
E-26 (Old Qtrs), Raja Bazar, Baba Kharak Singh Marg,
New Delhi,
Through
General Secretary

Workmen

APPEARANCES:

1. For the Management:

- (i) Shri S. Ranganathan,
Director of Admn.
- (ii) Sh. T. S. Vardarajan,
SSW-E II.
- (iii) Shri S. M. Das, DD
(Trg.)
- (iv) Shri B. B. Singh,
DDA-II.
- (v) Shri Chander Sain, D.A.

2. For the Workmen:

Shri B. K. Prasad,
General Secretary,
CPWD Mazdoor Union.

AWARD

The management of Director General of Works, CPWD,
Nirman Bhavan, New Delhi representing employers (herein-
after briefly CPWD Admn.) entered into an agreement
under Section 10-A of the Industrial Disputes Act, 1947
(hereinafter briefly the Act) with the General Secretary,
CPWD Mazdoor Union, E-26 (Old Qtrs), Raja Bazar, DIZ
Area, Baba Kharak Singh Marg, New Delhi representing
workmen (hereinafter briefly the Union) for adjudication of
the industrial dispute to the arbitration of Shri M. G. Wanare,
Umpire, Shri G. K. Khemani, Arbitrator and Shri H. S. Vats,
Arbitrator (hereinafter briefly Arbitrators) and the terms of
reference were as follows:
"Specific matters in disputes:

Whether the demand of the CPWD Mazdoor Union
regarding re-categorisation/re-classification of work-
charged staff and regular classified categories with
effect from 1st January, 1973 on the analogy of
classification given in the scheduled employment—
(i) construction or maintenance of roads or in build-
ing operations; and (ii) the maintenance of build-
ings and employment in the construction and main-
tenance of runways as listed in the Annexure is just-
ified? If not, to what relief the workmen concern-
ed are entitled?"

ANNEXURE

Re-categorisation/re-classification of W.C. Staff and regu-
lar classified categories w.e.f. 1st January, 1973 on the ana-
logy of classification of scheduled employment as per sche-
dule fixed under Minimum Wages Act, 1948, as listed below:

Sl. No.	Category of post	Pay scale	Categorisation Classification
1.	Beldar, Bhisties, Chain- man, Khalasi, Mali, Forest Guard, Sweeper, Cleaner, Waterman, Chowkidar, Bearer	Rs. 196—232	Unskilled

All the categories mentioned above, the incumbents of the
posts having served for three years shall automatically be
converted and paid in the pay scale of Rs. 210—290 in the
present case who were in service on 1st January, 1973 be
given this time scale w.e.f. 1st January, 1976.

2.	Sweeper, Jr. Gest. Operator, Head Sweeper, Farash, Bhisti, Lift Khalasi	Rs. 240—320	Semi-skilled
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All the workers after putting three years of service be pro-
vided pay scale of Rs. 260—350 to provide promotions.

3.	Bullockman, Mate, Syce, Packer, Stocker, Bandhani, Gharmi, Serviceman Air-conditioning and Refrigeration, Head Sweeper, Sanitary Jamadar, Building Jamadar, Fireman, Cook, Farash, Jamadar, Lab-Attendant, CookBearer, Challan Guard, Gauge Reader, Meter Reader, Sewerman, Switchboard Attendant, Lift Operator (Light Speed Lifts), Dresser.	Rs. 260—400	Skilled	8.	Supdg. E&M All the incumbents after conversion to highly skilled Grade II having put in 3 years of service be promoted in the next time scale as Highly Skilled Gr. I.	Rs. 550—900	Highly Skilled
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All the workmen after putting three years of service be given selection grade in pay scale of Rs. 260—430.

4.	Sr. Mali, Lineman, Plumbing Asstt. Plumber, Asstt. Armature Winder, Asstt. Lineman, Asstt. Miller, Asstt. Painter, Asstt. Wireman, Asstt. Tinsmith, Asstt. Upholster, Asstt. Turner, Asstt. Blacksmith, Asstt. Boilerman, Asstt. Carpenter, Asstt. Mason, Asstt. Mechanic, Asstt. Welder, Asstt. Operator, (Electrical & Mechanical), Caneman, Operator (Electrical & Mechanical, Mechanic Air-conditioning and Refrigeration, Chowdhury, Armature Winder, Wireman, Lineman, Painter, Tinsmith, Turner, Fitter, Boilerman, Mason, Carpenter, Welder, Upholster, Mechanic, Cable Joiner, Plumber, Tailor, Stone Cutter, M. L. Driver, Road Roller Driver, Moulder, Lab. Asstt. Staff Car Driver, Fireman Jamadar, Lift Operator (High speed lifts).	Rs. 330—560	Highly Skilled
5.	Electrician, Sr. Mechanic Air-conditioning & Refrigeration, Sr. Mechanic, Sr. Operator, Pattern Maker, Boilerman, Work Asstt., Road Inspector, Head Gardner.	Rs. 425—640	Highly skilled Gr. IV.
6.	Foreman Electrical Mechanic Air conditioning and Refrigeration, Radio Mechanic-cum-Operator, Works Asstt. Selection Grade, Sanitary Inspector, Cinema Operator, Surveyor, Asstt. Radio Mechanic-cum-Operator.	Rs. 425—700	Highly skilled Gr. III.
7.	Technical Operator, Sr. Sanitary Inspector, Engineer, Supervisor and all the incumbents of highly skilled-III (converted) after putting three years of service be promoted in the time scale.	Rs. 455—800	Highly Skilled Gr. II

NOTE:

- Promotion posts for Civil/Horticulture be created in skilled Gr. I, II & III.
- Next scale demanded above be given to all workers who have completed three years of service as on 1st January, 1976 or after whichever is later.
- Selection grade be provided in all posts mentioned above.

2.1 The Arbitration Agreement under Section 10-A of the Industrial Disputes Act, containing all annexures viz. agreement in the prescribed manner alongwith consent of all the Arbitrators were sent to the Government of India in the Ministry of Labour by both the parties with a joint request to make a reference for adjudication in the matter and publication in the Official Gazette in accordance with Law. The Government of India in the Ministry of Labour examined the said request and formed the opinion that there exists an industrial dispute between the Management of Director General (Works), CPWD, Nirman Bhavan, New Delhi and their workmen represented by CPWD Mazdoor Union, New Delhi and accordingly it was published in Official Gazette by the Central Government in the Ministry of Labour by way of order No. S.O. No. 3815 dated 8th November, 1986 under File No. L-42013/1/86-D.II(B) dated 31st October, 1986 in Part II, Section 3, Sub-Section (II) of the Gazette of India Under Sub-Section (3) of Section 10-A of the Act for adjudication by the Arbitrators namely Shri M. G. Wana-e, Umpire, Shri G. K. Khemani, Arbitrator and Shri H. S. Vats, Arbitrator forming Board of Arbitrators (all these three Arbitrators are hereinafter referred to as the Board of Arbitrators for sake of brevity).

2.2 The Central Government vide its Notification No. L-42013/1/86-D.II(B) dated 7th November, 1986 published in Part II, Section 3, Sub-Section (ii) of the Gazette of India notified in pursuance of Sub-Section (3A) of Section 10A of the Act, after satisfying itself that the person in the reference represent the majority of each party, for the information of employers and workmen who were not parties to the arbitration agreement but were concerned in the dispute that they shall be given an opportunity of presenting their case before the arbitrators.

3.1 The Board decided that CPWD Administration and the Union who are party to the agreement be given notices to file their sav/claims and notices were also issued to CPWD Workers' Union, though not a party to arbitration agreement, but who has requested telephonically that they were concerned in the dispute and be given an opportunity. The Board of Arbitrators also advised CPWD Administration to give wide publicity to the Government notifications dated 31st October, 1986 and 7th November, 1986 as referred to under Para 2:1 and 2:2 herein above to enable them to file claims/sav in the dispute—employers and the workmen of CPWD—to send their representations in writing to the Board by 15th January, 1987. Wide publicity referred to above included to display notice on the notice boards wherever provided in the units/establishments of the CPWD Administration wherever exist all over the country with the address of the Board of Arbitrators. The date of filing their sav by the parties to the industrial dispute and also parties interested in the said dispute was extended to 19th January, 1987.

After extended time, when the Board of Arbitrators met on 19th January, 1987, comments from unions/sanghs mentioned against each were received on the dates mentioned against each of them.

- Central PWD Workers' Union, Jorbaeh, Lane, All-ganj, New Delhi dated 1st January, 1987.
- Kendriya Lift Karamchhari Sangh (Reed.), P-438, Kasturba Nagar, New Delhi dated 13th January, 1987.

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- (iii) CPWD Mazdoor Union, E-26, Raja Bazar, DIZ Area, Baba Khairak Singh Marg, New Delhi dated 13th January, 1987.
- (iv) CPWD Workers' Union, Shimla-3 dated 13th January, 1987.
- (v) Director of Administration, Office of Director General (Works), CPWD, New Delhi dated 15th January, 1987.
- (vi) CPWD Mazdoor Union dated 19th January, 1987.

3.2 The Board of Arbitrators decided on 19th January, 1987 to hold open hearings on every Tuesday and Friday from 2nd February, 1987 at 4.00 p.m. in E-Wing, Nirman Bhavan, Ground Floor, and advised CPWD Administration to give wide publicity in all the establishments of CPWD throughout the country in addition to unions of the workmen—for the information and knowledge of all employers—workmen not parties to the arbitration agreement but might be concerned in the dispute so as to enable them to give an opportunity to present, file or submit their say before the Board.

3.3 The Board of Arbitrators also decided in their meeting held on 19th January, 1987 that the quorum of the Board shall be two.

3.4 The CPWD Administration prayed for extending the date by two months to enable them to file their claim/views before the Board of Arbitrators was not acceded to, they—employers CPWD Administration, were however given chance and were directed to file their reply by 27th January, 1987. The Prayer of CPWD Workers' Union, New Delhi dated 1st January, 1987 for grant of extension of time for filing their claims/statements upto 19th January, 1987 was considered by the Arbitrators and it was accepted. The Arbitrators further decided that any party to the dispute or any other interested party/person in the dispute which would be submitted by closing hours of the 27th January, 1987 shall be accepted. The parties to the dispute when appeared were directed to cause personal hearing on 28th January, 1987 which was adjourned to 30th January, 1987 on the request of CPWD Administration.

3.5 The parties to the dispute placed before the Arbitrators three copies of the agreement in the prescribed proforma addressed to the Secretary, Ministry of Labour, extending the time limit for submission of arbitration award by six months from 30th April, 1987 which has been considered by the Arbitrators and it was taken on record and placed as Annexure-I.

3.6 The Arbitrators after hearing both the parties decided on 30th January, 1987 to extend the date of submission of claims/counter replies to employers CPWD on the claims (duly received by the CPWD Admin.) made by the CPWD Mazdoor Union upto 30th March, 1987 which should be permitted to be extended to employers-workmen not parties to the agreement but are concerned with the dispute. CPWD Administration confirmed that they had received statement of claim of All India CPWD Workers' Union, Calcutta and also further confirmed that till date they had not received the statement of claim from CPWD Workers' Union, Delhi, both of whom not parties to the arbitration agreement but are concerned in the industrial dispute.

3.7 The Arbitrators took note of the fact that the parties have filed their statements of claims including rejoinder. Hearing, therefore, was fixed on 24th April, 1987 which date was adjourned at the request of management to 30th April, 1987.

3.8 The Arbitrators were urged by the union to visit different stations in the country to study the working of the workmen involved in the dispute to acquire first hand information on the points in question, considered carefully the request of Shri Prasad of the Union and decided to visit stations where fairly larger number of workmen are employed. The Arbitrators decided to visit Bombay sometime in middle of May 1987.

3.9 The Arbitrators held session on 30th April, 1987 and after consultation with both the parties, the following procedure was evolved and adopted:

- (i) The first party in the dispute shall open their case which will be followed by reply.
- (ii) The lists of witnesses to be examined shall be presented by the parties by 5th May, 1987.
- (iii) List of documents to be relied upon by both the parties to be submitted before the Arbitrators by the parties.
- (iv) The following is the list of documents to be produced by the management:
 - (1) CPWD Manual, Volumes I, II & III.
 - (2) Categorisation Committee Reports prepared on the basis of second and Third Pay Commissions.
 - (3) Criteria and the orders for the creation of regular classified establishment.
- (v) List of documents to be immediately produced by Mazdoor Union:
 - (1) Delhi High Court Judgment on which the Union relies.

3.10 These documents shall be produced by the parties at their own cost. Apart from the above, if any document is required to be produced by the parties they will have to submit copies thereof at their own cost.

- (vi) The parties shall produce the witnesses at their own cost.
- (vii) Summation of the arguments will be submitted by both the parties after examination of witnesses and closing of arguments.

3.11 The Arbitrators also decided that they would hold discussions with the officers/workers of the department for studying the job content on 14th, 15th May, 1987 and on 3rd & 4th June, 1987 at Bombay at Calcutta respectively.

3.12 The list of workers i.e. witnesses were filed by both the parties to the Arbitration agreement. This has been listed as under:

Bombay

The Union

CPWD Administration

1. Kalicharan Balmiki, Sewerman

1. Shri A. C. Panchdhari, Chief Engineer (WZ)

2. M. T. Parb, Plumber

2. Sh. N. Krishnamurthy, Chief Engineer (E), South-West Zone.

3. Anny K. Nair, Beldar

3. Sh. J. K. Bhatta, S.E. (Civil)

4. Binai Chand Saligram Pawar, Beldar

4. Sh. V. N. Nikam, Asstt. Wireman

5. Sh. A. Mayel, Wireman

Calcutta

6. Sh. Nazimuddin Jr, Engineer (Electrical)

7. Sh. Narain Laxman Matkar, Plumber

1. Shri Bhagirath Panja, Chowkidar

1. Sh. Chaitanyadhvay, SSW (EZ)

2. Sh. Sri Kant Shikhaath 2. Sh. A. K. Mukherjee,
Bose, Beldar S.E.CCC.II
3. Sh. Mohd. A. unuddin, 3. Sh. T. Krishnamurthy,
Beldar C.E. (Elect.) East.
4. Ranjit Kumar Pal, 4. Sh. S. N. Passar, E.E., Cal.
Asstt. Armature Cent Elect. Divn. II.
Winder
5. Ranjit Kumar Dutta,
JE (Elect.)
6. Sh. Shakti Kantsain
Gupta, Work Mistry.

3.13 The Arbitrators visited actual workspot to study the witnesses in action. The Arbitrators also examined and then cross-examined by the parties. Thereafter the Arbitrators heard submissions of both the parties as recorded in the proceedings dated 30th April, 1987.

The Union's Views :

3.14 Shri Prasad presented his case by making submissions or contentions made out in their statement dated 13th January, 1987 (Annexure-II) read with statement dated 15th April, 1987 (Annexure-B). He reiterated that the submissions dated 13th January, 1987 and 15th April, 1987 were a total case and that he had nothing more to add at the stage in the matter of opening the case. The concise points of workmen to amend/delete/alter posts in their claim dated 13th January, 1987 are as under :

The Union in its statement of claim dated 13th January, 1987 sought leave to amend/alter/delete posts mentioned in the arbitration agreement notified by the Ministry of Labour on 31st October, 1986 which are as follows :

1:(1) To delete Bhishty and Sweeper appeared in Arbitration Agreement in Item 1 because both items already appears at Item No. 2 of the Arbitration Agreement.

1:(2) To delete the post of Head Sweeper appeared in Item No. 2 of the Arbitration agreement as the same post is appeared in Item No. 3 of the agreement.

1:(3) Sr. Mali appearing in Item No. 4 of the Arbitration agreement be deleted from there and added at Sl. No. 3 in the skilled category. Further more floral decorator which is not appearing in item No. 3 and the post do exist in the skilled category in CPWD may be added at the Item No. 3 of the Arbitration Agreement.

2:(4) To include new category of Valveman, Asstt. Cook bearer, Enquiry Clerk in the pay scale of Rs. 260—400 at Item No. 3 of the Arbitration Agreement which do not exist for the present.

2:(5) It is suggested that post of Enquiry Clerk be created in each enquiry and earmarked for promotional avenues to the industrial workers in the WC/Regular classified establishments and presently muster roll employees performing the duties of Enquiry Clerks be regularised.

2:(6) Valveman be created in each sections in the skilled category and be filled in on the basis of 100 per cent seniority in the unskilled, unskilled trained and semi-skilled trained categories.

3:(7) It is suggested that the unskilled and semi-skilled workmen be trained in the training institute if need be and promoted as skilled workmen on the basis of 25 per cent Limited Departmental Competitive Examination and 75 per cent strictly on the basis of seniority.

3:(8) It is requested that Lift Operator be given Rs. 260—400 from 1st January, 1973 and reclassified in the skilled category as they are operating the low speed lifts.

4:(i) Sr. Mali be deleted from Item No. 4 of highly skilled category and added in Item No. 3 of the skilled workmen.

4:(ii) It is requested that post of Asstt. operator AC and Refrigeration and Operators AC & R. Refrigeration be added in Item No. 4 which are not appearing in the Arbitration agreement.

4:(iii) It is requested that Mechanic Lift may also be included which is not appearing in the Arbitration agreement.

4:(iv) It is requested to create a post of Lift Mechanic in every 3 lifts in Section/Sub-division/Division.

4:(v) It is requested that the post of highly skilled workmen in the pay scale of Rs. 330—560 from 1st January, 1973 be appointed on the basis of 25 per cent by way of Limited Departmental Competitive Examination of industrial workers irrespective of WC/Regular Classified Establishments and 75 per cent on the basis of seniority amongst the skilled workmen.

4:(vi) It is requested that the requirement of licence from respective states be dispensed with by seeking exemption as this practice made with a disgusting experience with the result there are serious acute stagnation amongst the employees and such conditions are not prevalent in Civil Aviation Department and D.E.S.U. Intensive training of the employees has been suggested and it is also requested that engineers should be authorised to certify the level of skilled and requirement of the job on electrical appliances as has been the practice in two establishment as referred to herein above.

4:(vii) It is requested that the post of senior machanic be read as Sr. Mechanic (Mechanical/Lifts).

4:(viii) The post as mentioned in para 5 and 5.1 of the statement of claim be created in each section which according to claim of the union shall dissolve acute stagnation in the service, provide promotional avenues to the industrial workers and rebrush the image of the organisation thereby increase in the productivity.

4:(ix) It is requested that Supervisory licence for the post of Electrician be dispensed away with.

4:(x) It is requested that the post be filled in on the basis of 100 per cent strictly on seniority.

4:(xi) It is requested that the maintenance of lifts, refrigeration, electrical wiring, sweeping/sanitation etc. presently being given to contractors may be dispensed away with and posts be created at the higher level so that services can be departmentally catered.

4:(xii) It is requested that all the workmen in highly skilled grade IV be drafted by way of promotion of highly skilled workmen strictly on the basis of 100 per cent by seniority.

4:(xiii) Item No. 6 be read as highly skilled Grade III.

4:(xiv) New posts of Foreman Lifts and Foreman Horticulture be created and re-classified as Highly Skilled Grade III in the pay scale of Rs. 425—700 from 1st January, 1973 in each sub-division.

4:(xv) The posts in the highly skilled Grade III in the pay scale of Rs. 425—700 be filled in by way of 100 per cent seniority amongst highly skilled grade IV.

4:(xvi) It is requested that all the persons in the highly skilled Grade III be completed after 3 years and given the pay scale of Grade II strictly on the basis of seniority.

4:(xvii) All the workmen in the highly skilled Grade II after putting 3 years of service be promoted in the highly skilled Grade I. It is also requested that in Civil/Hort. and AC&R be created in the highly skilled Grade I and given the pay scale of Rs. 550—900 w.e.f. 1st January, 1973.

4:(xviii) It is submitted before the Arbitrators that other unions functioning in the Establishment of CPWD never raised this demand and it is on record that both the All India recognised unions have received commendation and appreciation of re-categorisation Committee Report after 2nd Central Pay Commission.

4. (xxv) It is the request of the workmen that after re-classification and revision of pay scales consequent upon adjudication by this Board of Arbitrators be made applicable subsequently and fitment of 4th Pay Commission be done on same classification w.e.f. 1st January, 1986.

4. (xxvi) CPWD Workers Union, Shimla (recognised) for Shimla area in CPWD has submitted a statement of claim on 13th January, 1987 before the Arbitrators and in para 4 they have submitted that according to decision of their Union and justification of demands, statement of Claim submitted by CPWD Mazdoor Union to this Board of Arbitration be treated that as Union also as CPWD Workers' Union Shimla, is presenting all CPWD workmen at all India Level in Shimla also. [Annex. II(C)].

4. (xxvii) Kendriya Lift Karamchari Sangh registered vide their petition dated 13th January, 1987 have submitted that justification of demands and statement of claims submitted by CPWD Mazdoor Union for Lift Operators to this Board of Arbitration is on behalf of them also. [Annex. II(D)].

4. (xxviii) All India CPWD Workers' Union, Calcutta in their statement of claims dated 15th January, 1987 before the Arbitrators have submitted that justification of demands and statement of claims by CPWD Mazdoor Union before the Arbitration is on behalf of that Union also. [Annex. II(E)].

4. Management's views :

4.0 The management of CPWD in its reply dated 8th April, 1987 (Annexure-III) before the Arbitrators has raised preliminary objections to the effect that the demands of the Union are total unrealistic and un-acceptable as in CPWD categorisation have been done according to job content of each category of workmen as contained in CPWD Manual Vol. III and are reviewed periodically by experts in the concerned discipline from within the Department. Two Categorisation Committees appointed by the Government in 1960 and 1973 reviewed the categories so the allegation that classification/categorisation or different posts, according to job contents has not been done, be not taken cognizance by the Board of Arbitration. Secondly, preliminary objection pertains to that after 3rd Pay Commission report the categorisation committee appointed during 1973 had made detailed examination and consulted individuals/unions and CPWD Mazdoor Union was not recognised at that time, so not consulted and raising the issues after 19 years is not justifiable especially as and when new union accorded recognition such issues need not be re-opened. Third preliminary objection of the CPWD Administration is against drawing parallels of municipal organisation, public sector undertakings and autonomous bodies on all of which even Minimum Wages Act, 1948 may not be applicable. Moreover, the reference is with regard to re-categorisation and reclassification on the basis of Minimum Wages Act. On this count also the unrealistic attempt of the union to draw comparison with these organisations deserves to be ignored by this Hon'ble Board. Other objection of the CPWD Administration is with Minimum Wages Act, 1948 notified minimum rates of daily wages and with comparison does not hold good on the WC/Regular Classified Establishments who are in the regular pay scales and the service conditions of daily rated employees and WC/regular classified employees are different. Even in Ministry of Labour notification, there are semi-skilled and highly skilled and those notifications have already been taken into account by the experts of the Department in two Categorisation Committees. In CPWD, according to CPWD Administration, the supervision of skilled artisan is necessary as per their classification and experience. The CPWD Administration is also at variance to the demand of the workmen for revision of pay scales, re-classification and re-categorisation from 1st January, 1973 and the CPWD Administration does not find any rationale in it alongwith the demand of workmen of higher scales from 1st January, 1976 or the date on which the workman complete 3 years service. The theory of 'National scales of pay' as envisaged by the Union is against discriminatory, unlawful, and violative of labour laws and constitution of India, and is also not within the purview of arbitration reference.

4.1 On merits of demands the CPWD Administration has submitted :-

(1.1) The nature of the duties, it is confirmed unskilled even as per definition in the Ministry of Labour Notification dated 29th October, 1986 under Minimum Wages Act, 1948.

(1.3) The reply of CPWD Administration is, there is no category of trained or untrained unskilled workmen and proper qualification for the unskilled, in the notification under Minimum Wages Act.

(1.5) The CPWD Administration claims that in CPWD unskilled workmen acquired the experience over a period of time and permitted to higher category by passing appropriate trade test and the demand of the Union, simply to give higher scale of pay after 3 years, would only be counter production and kill interest and enthusiasm in the workmen to acquire more knowledge of skill.

(1.6) The CPWD Administration had opposed the comparison between the employees of Central Government and Autonomous Bodies/Public Sector Undertaking and prayed for rejection of the demand.

(2.2) The CPWD Administration opined that the category of Sweeper is a common category and there is unskilled pay scale in all the Departments/Ministries and sweeping is unskilled in the Ministry of Labour Notification also. The comparison with autonomous organisations and public sector undertakings would not be appropriate so, request the arbitration to reject the demand.

(2.3) Just CPWD Administration has opposed the demand for higher pay scales to Bhisty, Lift Khalasi and Farash just because a stray workman has been asked to do job requiring higher skill.

(2.4, 5, 6, 8) The CPWD Administration opined that the demand of the workmen does not fall in the arbitration reference so they are opposed to.

(3.1, 2, 5, 7, 8, 10, 11) CPWD Administration opined not to accept as the same are not in the arbitration reference.

(3.4, 6 & 9) There is proper categorisation and no change is warranted according to job content of the category, the workman belonged to.

(3.10) The automatic promotion shall be counter productive, kill the initiative so may be rejected.

(4.2) The CPWD Administration opposed the demand as such category does not exist.

(4.4, 9, 10) CPWD Administration opposed because it is not in the arbitration agreement.

(4.5) CPWD Administration disputes that Assistant Category and full category are performing same duties, he categorisation, is according to job, requirement as indicated in CPWD Manual Vol. III with qualification, trade test requirements etc.

(4.7 & 8) CPWD Administration opposed comparison of Muster Roli employees and WC/Regular Classified Establishments as they are on different footings with a service conditions and decision of Regional Labour Commissioner (Central), Kanpur and Delhi High Court pertains to daily wages workers which does not have relevance to workers in the WC/Regular Classified Establishments.

(5.1, 2, 3, 4, 5, 6 & 7) CPWD Administration opposed because neither such categories are in highly skilled IV category in Ministry of Labour notification and are also out side the scope of the arbitration reference.

(6.7, 8, 9, 10) Such categories are not available in Ministry of Labour notification and are also outside the ambit of arbitration reference.

10. The CPWD Administration denied this para and submission made that there are two more recognised unions in CPWD on All India basis and CPWD Mazdoor Union got provisional recognition in December, 1983 pending verification of membership.

4.2 CPWD Administration did not give its comments or reply to statement or claim submitted by All India CPWD Workers' Union, Calcutta, CPWD Workers' Union, Shimla, Kendriya Lit Karamchari Sangh registered, though copies of the same were received by the Administration.

4.3 Shri S. Ranganathan submitted that his written statements made on 31st April, 1987 (Annexure-II) be held good and he sought leave to make the following additions to the statement.

- (i) The claim of the opposite party that the re-categorisation should be done w.e.f. 1st January, 1973 is not tenable to re-categorise the categories from 1st January, 1973. We are not in 1987 i.e. more than 14 years during which period there has been advances in the engineering technology and technical skills. It is quite possible that a particular category categorised as a skilled, semi-skilled or highly skilled at that time perhaps might be upgraded now due to this reason. In 1973 an expert body consisting of specialists in their own fields had gone into the nature of work being performed at that time by the workers and their conclusions and recommendations being related to the conditions prevailing at that time will be more valid than re-categorisation that might be attempted now by a body, however, specialist and learned it might be, because it is humanly impossible to relate the nature of work being done now that that such an Expert Body can do now is to be categorise the workers with reference to the nature of work being at present performed by them from a date which is prospective or which is not far distant in the past.

- (ii) One of the demands of opposite party is that an unskilled worker after putting in 3 years' service as such, should automatically be given the pay scale of semi-skilled category. In other words, the demand is that for the same nature of work the person should be paid at a higher rate. According to this what will happen is that whereas an unskilled worker, who has less than 3 years service as such, will be paid at lower rate compared to another worker doing the same job who has put in more than 3 years service. This will go against the principle of equal pay for equal work which has been quoted by the opposite party in support of their case, especially relating the judgment in D. S. Nakara's case, Dhirender Chamoli's case and Suriinder Singh's case etc. In this connection, the management should further submit that even after 3 years the unskilled worker would continue to do the same work and the skill of a job is with reference to the nature of work being performed and not with reference to who is performing it. Even if a workman acquires better skill after putting in a few years of work in a lower scale, he cannot be paid at higher. In other words, the rate of pay of a post has to be with reference to the nature of work of that post and not with reference to the skill of the incumbent of the post.

- (iii) The Minimum Wages Act has nothing to do with the pay scales of the workers in Government employment. The cases which have been quoted in their rejoinder by the opposite party relate to the workmen pertaining to 'B' Division, 'C' Division and Parliament Works Division. All these cases relate to daily rated workers and not to the workers in the Work Charged/Regular Classified Establishment who are paid on a monthly basis and who are entitled to all other benefits like leave, pension, gratuity, provident fund, medical facilities etc. Therefore, any comparison or conclusion that might be sought to be arrived at on the basis of these will not be relevant and will be fallacious. Under the Minimum Wages Act, notification are issued by the Central Government (Ministry of Labour) and various State Governments/Union Territory Administrations, laying down the Minimum rate of daily wages that should be paid to different categories of daily workers employed for performing different kinds of jobs.

In these notifications, it has been observed, for the same kind of job, different skills have been specified, for example, there are masons of different grade, categorised as semi-skilled, skilled, and highly skilled. Similarly, Carpenters, Wireman, Electricians etc. etc. Therefore, just because a person is performing the job of a Mason will not mean that the nature of his job is semi-skilled. In any case, the emoluments paid by the management to the workers in the Workcharged Establishment/Regular Classified Establishment are much more than those notified under the Minimum Wages Act.

- (iv) Central P.W.D. Administration made a submission that Shri Prasad submitted that both the parties have agreed for the adjudication for arbitration jointly w.e.f. 1st January, 1973 and whole issues are pending before the Arbitrators, and the additional points raised by the management are not proper and justified.

5. The Arbitrators in its meeting on 7th May, 1987 examined statements of claims and rejoinders and submissions of both the parties on 30th April, 1987 and after long deliberations decided to frame issues as under :

- (i) Whether there is a need for re-categorisation and re-classification of workcharged staff?
- (ii) Whether there is a need for re-categorisation and re-classification of regular classified establishment?
- (iii) What should be relief and from what date?
- (iv) If not, what relief?
- (v) What are advances in technology and therefore skills required? What was period for a technological improvement?
- (vi) Whether workmen are entitled to higher categories/scales after they put in certain period of service on the job if the job remains the same? What should be the period of service?
- (vii) By dint of putting certain number of service for certain number of periods, does it improve skills and if so, does it benefit the employee?
- (viii) Is reference contained in the Ministry of Labour Notification No. L-42013/1/86-D.II(B) dated 31st October, 1986 maintainable?

Whether there are promotional avenues open to WC/Regular Classified Establishment workers, if there is any need to improve?

5:1 The Arbitrators met as scheduled on 14th May, 1987 in the office of Chief Engineer, Western Zone, Bombay, Committee Room and directed Shri T. S. Vardarajan to lead evidence on behalf of CPWD Administration. The witnesses produced by the CPWD Administration are described for convenience hereinafter in the entire proceedings as "MW-I, II" and so on, while the witnesses produced by the union were described as "UW I, II" and so on.

5:2 Firstly the management produced Shri V. N. Nikam, Asstt. Wireman (MW-I) who deposed that the Asstt. Wireman and both perform the same work. Shri Nikam further deposed that even works like opening of motor starter are being handled by him as Asstt. Wireman so far and on any occasion he had taken the help of wireman or J.E. No wireman in the enquiry supervised the work of Assistant Wireman deposed Shri Nikam. He also produced complaint diary before the management representative which contained work for the replacement of fuses, holders, switches, etc.

5:3 In cross-examination by Shri B. K. Prasad, Shri Nikam confirmed that he had been performing duty of Asstt. Wireman independently without any supervision as far as work of opening plants and execution of tasks were concerned. He further confirmed that the wireman does not supervise the work of Asstt. Wireman. He agreed that Asstt. Wireman performed his duty with intricacies independently. Shri Nikam also confirmed that J.E. does not come in the picture as far as performing duty of wireman are concerned.

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3(ii)

[भाग II—खंड 3(ii)]

भारत का राजपत्र : मार्च 19, 1983/काल्पून 29, 1909

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MW-2

5.4 Secondly Shri Meyal, Wireman was management's MW No. 2. Shri Meyal deposed that after recruitment as khalasi in 1959, he was promoted as Asstt. Wireman in 1961 and was promoted as Wireman about 13 years back. Shri Meyal further deposed that the work of Asstt. Wireman and Wireman is same though the wages between Asstt. Wireman and Wireman are different. The J.E. allots the work to them and also arranges the material. He further deposed that J.E. does not have the knowledge of the work and in fact they teach him. Shri Meyal confirmed that Shri Nikam and he himself do the same work and he did not supervise or checked the work of Shri Nikam.

In cross-examination by Shri B. K. Prasad, Shri Meyal confirmed that the duties of Asstt. Wireman and Wireman were inter-changeable and J.E. does not supervise the work.

MW-3

5.5 Thirdly Shri Naziruddin, J.E. was produced as MW-3. Shri Naziruddin deposed that the work of wireman and Asstt. Wireman was same. Normally the difficult work was given to wireman, in case the wireman was not available, then Asstt. Wireman was given that work. Shri Naziruddin further deposed that in the second shift wireman and Asstt. Wireman wherever is available is given the shift duty. Shri Naziruddin also deposed that he possessed supervisory licence though it was not necessary for J.E. to possess the same. He further deposed that shift duty is normally assigned to Asstt. Wireman and wireman is normally there in general shift. But situation does arise when it is not possible to assign the general shift to Asstt. Wireman. Shri Naziruddin also deposed that Asstt. Wireman and Wireman had the same licence.

In cross examination by Shri Prasad, Shri Naziruddin agreed that the duties of Asstt. Wireman and Wireman are inter-changeable. Shri Naziruddin further agreed that there was same licence for the post of Asstt. Wireman and Wireman. Shri Naziruddin further agreed that Asstt. Wireman also attended the work connected with main-switch etc. Shri Naziruddin also agreed that execution of tasks/complaints marked to Asstt. Wireman are performed independently by them in the same way as Wireman performs his duty for attending to these works and no supervision was required.

MW-3(b)

5.6 Shri Narain Laxman Matkar, Plumber, MW-3(b) deposed on behalf of CPWD Admn. Shri Matkar deposed that he was appointed as Beldar in 1971 and was promoted as Asstt. Plumber in 1973. Shri Matkar was reported to have become plumber in the year 1979. Shri Matkar further deposed that he was doing plumbing work both new as well as maintenance work. Shri Matkar further deposed that when he was Att. Plumber, he was doing the same work as presently, he is doing as plumber. However, according to Shri Matkar, there was difference of pay between Asstt. Plumber and Plumber. It was further deposed by Shri Matkar that J.E. does not give them any instructions and they work independently. Generally nobody checked up their work except check is done once in three or four days. The J.E. or Mate gives them the work and the quality of work is supervised by Shri Matkar. However, the quality of the work done is verified by Mate or the J.E. J.E. also does the same work as Mate. It took Shri Matkar two years to get acquainted with the tools as Plumber. No licence or certificate was required for him to work as Plumber. Only trade test was carried out to determine his proficiency in the trade. He deposed that he was also doing the work if replacement of wash-basins and this can be considered as original work (new work) and that he had worked with contractor for doing the plumbing work.

Shri B. K. Prasad was afforded opportunity to cross examine the management witness he declined to do so.

MW-4

5.7 Shri Vardaman on behalf of the CPWD Admn. produced Shri A. C. Panchdhari, Chief Engineer, Western Zone.

CPWD as MW 4, before the Arbitrators. Shri Panchdhari deposed that type of work carried out in CPWD by khalasis. Beldars are of unskilled work as they exist elsewhere, where mazdoors and khalasis are not supposed to work on intricate jobs for which justifications does not obtain in CPWD. Shri Panchdhari referred to Ministry of Labour Notification dated 29-10-86. Shri Panchdhari deposed further that by doing repetitive work/jobs they (workmen) are classified/categorised. The same job content does not warrant change of skill from unskilled to semi-skilled, semi-skilled to skilled and skilled to highly skilled. Shri Panchdhari further deposed that even if requisite qualification exist that the workmen in re-categorisation can be done unless the post is available. Shri Panchdhari deposed that working on the job for a number of years, workmen were compensated by periodical increments annually and jump in the emoluments by giving a higher scale he did not agree. Shri Panchdhari deposed that qualifications, duties and job description in CPWD are more or less commensurate and time required updating when new skills might have to be brought out with the new technology changes. In so far as maintenance in CPWD, no great technology changes/advances have been brought about for the last 35 years. Hence categorisation was more or less correct as it was depicted and there was need for categorisation. Recruitment rules also provide for direct entry at appropriate level in accordance with the qualifications and where the services rendered by a person in the lower category of skill. Shri Panchdhari deposed that labourers with lower grade of skill have not been supposed to do job which required higher grade of skill. However, he agreed to isolate instances of such persons doing job of higher skill being in the lower grade of pay scale. Shri Panchdhari deposed that job description of work carried out by lower category is also included in the job description of higher category and he agreed that this did not preclude the possibility of Asstt. Mason doing the Mason job through person to person basis. Shri Panchdhari deposed that life operators carry out the operations without understanding technique of functioning of lifts and in the event of malfunctioning, the same was being reported to supervisor/J.E. He deposed that there was no different between slow, medium and high speed lifts from operational angle. All these lifts required operations of same mechanical device and controls and there was no skill required for such operations said Shri Panchdhari.

In reply to the clarification by the Arbitrators Shri Panchdhari said that no skill was required for operation of high speed lift.

Shri Panchdhari deposed that the post of Sweeper is rightly categorised as unskilled and it cannot be categorised as semi-skilled unless Sweeper utilises mechanical devices.

On clarification by the Arbitrators, Shri Panchdhari replied that recently for computer installation a large number of vacuum cleaners were purchased. Operation of these vacuum cleaners in computer room would definitely require skill, the responsibility of which could not be given to Sweeper sweeping with broom. Shri Panchdhari replying to clarifications by the Arbitrators further deposed that sweeping with wet cloth require higher degree of skill than the dry sweeping. Shri Panchdhari further deposed that wet and dry sweeping require some amount of skill.

In cross examination by Shri Prasad, Shri Panchdhari replied that CPWD Manual Part. III is promulgated under orders of Director General and question of any other officer not abiding by the said manual did not arise. Shri Panchdhari further agreed that CPWD is part of building and construction industry to the extent notified. Shri Panchdhari agreed that explanation No. 5(b) in the Ministry of Labour notification dated 29th October, 1986 being legal notification, the question of disagreement does not arise. Shri Panchdhari agreed that unless the worker had been given specific responsibility of training the unskilled workers, increased scale cannot be granted and there would be less workers in the category being under Mason, Carpenter, Plumber who are entitled for helper from amongst unskilled workers. Shri Panchdhari did not agree with the suggestion that any person with two years experience in lower post picks up skill of higher post. There might have some example if a person though possessing heavy driving licence

might have joined as cleaner with the hope to appear in the trade test as and when opportunity arises. The Arbitrators disallowed the question to Shri Panchdhari will you please confirm that Department of Personnel and Training have issued orders not to resort to direct recruitment at the level of Class-III and Class IV posts on the recommendations of Third Pay Commission. In reply to the question that work-charged and regular classified categories in each group except Asstt. Category in civil and Foreman (Elect.) there is direct recruitment ranging from 25 per cent to 50 per cent, Shri Panchdhari deposed that the same has been given in the recruitment rules. Shri Panchdhari agreed with the suggestion that there is possibility of reducing clerical nature of job like noting of complaints and making it to different workmen by deputing work order system as also agreed that there are categories in various units of CPWD all over India like Valveman, Enquiry Clerk, Time Keeper, Store Keeper, Building Janitor, Work Asstt., work of which is being done in case of first two by Beldars and others by J.Es. Shri Panchdhari replied that Valveman as per Minimum Wages Act is unskilled category and Enquiry Clerks have been provided wherever workload so demands. Shri Panchdhari did agree with the suggestion that Asstt. and full categories in CPWD do the same work. Shri Panchdhari gave evasive reply to the suggestion that there was need to create higher posts comparable to foreman in the civil side. Shri Panchdhari agreed with the suggestion that there is acute stagnation in the services and for creation of master craftsman, it was necessary that there should be change in the outlook of post management and workmen so that necessary tasks requiring master craftsman are created by management.

Shri Panchdhari agreed with the suggestion that Wireman of respective trades work independently and take decision in the execution of tasks without any advice, supervision in the maintenance side to the extent that workmen of trades which are of skilled category can work on their own, rest required guidance. Shri Panchdhari agreed with the suggestion that in the event of qualifying examination after the training to the workmen and updating their technological skill according to needs, there would be no necessity of trade test.

MW-5

5.8 MW-5. The management introduced Shri N. Krishnamurthy, Chief Engineer (Elect.), SWZ, Bombay, who deposed before the Arbitrators that a person recruited as unskilled during period of three years acquires some skill in the type of job and becomes eligible for semi-skilled pay scale should be included in the scope of work to be done by the person be granted semi-skilled pay scale after a fixed number of three years. Shri N. Krishnamurthy further deposed that advancement from semi-skilled always should be based on higher qualifications/training obtained by the concerned worker in addition to assessment of his skill by way of trade test. Shri Krishnamurthy categorically deposed that automatic giving pay scale of semi-skilled after three years to an unskilled workman shall act as dis-incentive to the worker who obtained higher skills by adding to his qualification.

In reply to Arbitrator's clarification that would it mean that equal pay for equal work would not apply in this case? Shri N. Krishnamurthy deposed that it does not apply in this case also because he had already clarified some semi-skilled nature of work like operation of pumps, lifts etc. should be entrusted to the persons concerned as and when necessary. Shri N. Krishnamurthy felt that the responsibility now being thrown on semi-skilled categories may be not done by unskilled person after three years of experience if automatically given pay scale of semi-skilled after three years of service in the unskilled category. Shri Krishnamurthy further deposed that qualifications in the scale etc. should be in the form of Grade-I, II, Grade II having high skilled scale. Their qualifications would have to be suitably amended for which proposal, if required, can be given separately. In reply to the question that no trade test was called for, for considering the unskilled workers with three years experience to be considered for a semi-skilled work. Shri N. Krishnamurthy replied that no trade test was required.

MW-6

5.9 MW-6. The management introduced Shri J. K. Bhatte, Supdg. Engineer (Civil) for deposition. He deposed that he considered Sewerman as semi-skilled person. In cross examination before Shri B. K. Prasad, Shri J. K. Bhatte deposed that sewerian in the department is told the job to be done and he did not think any supervision is necessary. Shri Bhatte disagreed that duties of Asstt. and full categories were similar and further deposed that duties of Mate categories are more responsible and more arduous in nature.

UW-1

On behalf of the workman of CPWD, Shri B. K. Prasad, General Secretary, CPWD Mazdoor Union produced before the Arbitrators Shri Kalicharan Balnuki, Sewerman as UW-1, who deposed that he had been working as Sewerman for the last 16 years and in Chhatkopar where 462 quarters are situated, he was the only sewerian. Most of the work pertains to chokogas at Chhatkopar some of booths are as deep as six feet. His hands have also got injured due to performance of duties of sewerian. He had been employed in the scale of Rs. 196-232. Shri Kalicharan deposed that work of sewerian exists in the atmosphere where gas is formed and this affected his health. In Cross examination by Shri Vardarajan, Shri Kalicharan deposed that hand gloves had not been issued by the department and his hands were injured and become septic to rodding with bamboo sticks wires etc. into the sewerline and therefore, his hands got injured very frequently.

Replying clarifications by the Arbitrators, Shri Kalicharan deposed that the work of sewerian cannot be done by ordinary mazdoor and it needs special skill and technical knowledge and also sewerian should know different lines system in the area, then only the work can be done. He has acquired this skill and technical knowledge by working in private Navjivan Housing Society and at hostel on master roll in CPWD and good number of years as workchaged in CPWD.

UW-2

5.10 Shri B. K. Prasad produced Mr. M. T. Parabh, Plumber as UW-2. Shri Parabh deposed that he was recruited as Beldar in 1953 and got promoted as Asstt. Plumber in 1980 and further promoted as Plumber in 1985. Shri Parabh further deposed that he had been working both as Asstt. Plumber and Plumber and there is no difference between skill of Asstt. category and the main category though the pay scales are different.

The Arbitrators afforded opportunity to the management of cross examination of witness who opted not to cross examine the witness.

UW-3

5.11 Shri B. K. Prasad then produced Shri Appi K. Nayar, Beldar as UW-3. Shri Nayar deposed that he was 45 years of age and was recruited as Beldar in 1969 and had been working as Valveman from 1971 though getting pay scale of Rs. 196-232. In Koliwara five Beldars were working as Valveman and every person is operating eight valves. Without training it was not possible to open or close the valves because some valves are to be operated clockwise and other to be anti-clockwise for opening. Most of the valves Shri Nayar had to control were of 3 inch and 6 inch. In cross examination by Shri T. S. Vardarajan, Shri Nayar did not agree that ordinary mazdoor could perform the duties of valveman. Shri Nayar further deposed that skill is required alongwith knowledge of different lines then, only due to valveman can be performed.

UW-4

5.12 Shri B. K. Prasad produced Shri Bipinchandra Saligram Pawar, Beldar, as UW-4. Shri Pawar deposed that he was 26 years of age and had been working as Beldar since 1981. And had been doing the work of Valveman. Shri Pawar deposed that Beldar could not do the work of Valveman. The performance of duties of valveman required trained work and manual too. He was controlling 7 valves.

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In cross examination by Shri T. S. Vardarajan, Shri Pawar deposed that he opens valves with the key after knowing the quantity of waterpump by the pump operator. Deposed further that he opens the first valve after the second valve and so on which are to be placed and after an hour or so, closed the valves on after the other. The biggest valve he operated in the sector was 6 inch though there were valves 8 inch and 10 inch also. Shri Pawar deposed that he had to operate the valves by applying force and skill and by the feel he could know if the water is flowing. Earlier, A.E. was writing his designation as Valveman but for the last six months he had been writing as Beldar. There was no overhead tank in the sector that are under his charge and he released water by opening valves.

The Arbitrators visited Calcutta on 2nd and 3rd June, 1987 instead of 3rd and 4th June, 1987 as notified earlier for the sake of convenience expressed informally by the parties to be agreement.

At Calcutta, the CPWD Admn. was represented by Shri B. B. Singh, Dy. Director of Admn. II and workmen by Shri B. K. Prasad.

MW 6(A)

5.13 On behalf of the CPWD Admn., Shri B. B. Singh produced Shri A. Chattopadhyay, SSW, Calcutta as MW-6(A). Shri Chattopadhyay deposed that unskilled workmen by working for a period cannot acquire skill and become entitled for semi-skilled category pay scale automatically. He further deposed that trade test is necessary to determine whether or not unskilled workmen acquired skill for promotion as semi-skilled workman. In cross examination by Shri B. K. Prasad, Shri Chattopadhyay agreed that Minimum Wages Act are applicable on the employees of CPWD. Shri Chattopadhyay further agreed that explanation of 3(b) in the Ministry of Labour Notification dated 25th April, 1973 S.O. 247(E) is a Government Notification and binding on them (CPWD). Shri Chattopadhyay agreed that chowkidars in CPWD are working as night watchman. In reply to clarification by the Arbitrators that there was a difference between the chowkidar and night guard, Shri Chattopadhyay agreed that there was difference and in CPWD there are chowkidars only. Shri Chattopadhyay further agreed with the suggestion that CPWD buildings and Stores during night are guarded by chowkidars.

MW-7

5.14 Shri B. B. Singh on behalf of CPWD Admn. produced Shri A. K. Mukherjee, S.E. CCC No. 2 as MW-7 who deposed before the Arbitrators that the categorisation of Asstt. Categories in CPWD as semi-skilled and full categories as skilled is on the basis of job requirement and the same proper. Shri Mukherjee further deposed that Asstt. Category generally help skilled categories and attend to minor nature of work whereas skilled categories perform complex nature of work and functions independently. Shri Mukherjee deposed before the Arbitrators that promotion to full categories are normally done by 50% by promotion and 50% by direct recruitment and provisions did exist for asstt. category who satisfy promotion criteria and consider for promotion for full categories.

In cross examination by Shri B. K. Prasad, General Secretary, CPWD Mazdoor Union, Shri Mukherjee deposed that in the civil side the scope of shift duty change is very limited. In reply to the suggestion that some duties being performed by Asstt. category and full categories, Shri Mukherjee deposed that although in discharging the duties, the full category also perform the duties of Asstt. Category but definitely their skill is not the same. Moreover, the full category is promotional from asstt. category. Shri Mukherjee did not agree that Asstt. categories are attending complaints and executing the tasks without any supervision. In reply to clarification by the Arbitrators, Shri Mukherjee deposed that the nature of work is different for example in water supply when water connection by long screw etc. are required to be provided. It would be difficult for Asstt. category to undertake such works.

MW-8

5.15 Shri T. Krishnamurthy, Chief Engineer (E), CPWD was produced as MW-8.

In cross examination Shri Krishnamurthy did not agree to the suggestion that Asstt. wireman and wireman have the same licence and practically do the same work. On the suggestion of Shri B. K. Prasad in cross examination Shri Krishnamurthy agreed that assistant category having independent charge in the shift did not get equal pay for equal work by working independently. Shri Krishnamurthy replied in the affirmative that explanation No. 3(b) in the Gazette Notification dated 25th April, 1973 S.O. 247(E) being notification of Ministry of Labour, disagreement does not arise.

MW-9

5.16 Shri B. B. Singh, on behalf of CPWD Admn. produced Shri S. M. Prasad, S.E. CCEC-I, CPWD, Calcutta as MW-9. In cross examination Shri Prasad agreed with the suggestion that Asstt. Wireman, Wireman, Pump Operator and Asstt. Pump Operator are inter-changeable in shift duties. Shri Prasad agreed to a suggestion that three years experience of unskilled workmen under the supervision of skilled/highly skilled workmen develop some kind of skill and is beneficial in the discharge of CPWD work. Shri Prasad disagreed with the suggestion that Minimum Wages Act, 1948 is applicable on the workcharge/regular classified establishments.

After closing the management evidence, Shri B. K. Prasad, introduced union witnesses. Shri Bhagirath Panja Chowkidar as UW-1 deposed that right from the initial appointment since October, 1973, he was performing night duty from 5 p.m. to 10 a.m. in the morning and guarding building of Division No. 1, Shri Panja deposed that in 1986 the duty was change from 6.00 p.m. to 9.30 a.m. During night duty, Shri Panja deposed that has to guard whole building of the establishment for which he remained vigilant throughout the night. There was no promotional avenue for chowkidar, as they are recruited in the same category and retire thereon. Shri Panja further deposed that relatively while working during night there was more fatigue and had also adverse affect on account of his continuous vigilant duty guarding cash chest, establishment and other properties of establishment. In cross examination by Shri B. B. Singh he did not agree with the suggestion that for fear of checking he got alert himself. The facts were otherwise. Shri Panja replied that he knew the duties of night guard assigned to him and on account of duty fullness he remained alert and vigilant and one cannot shirk his duty in the night guarding chest etc.

UW-6

5.17 Shri B. K. Prasad introduced Shri Shinath Bose, Beldar, CCD-IV, Calcutta as UW-6. Shri Bose deposed that he was recruited as Beldar in July, 1971 and working with Plumber and in his absence had discharged his duties too. He further deposed that he has discharged his duties of Valveman also and worked as Beldar with Carpenter and Mason and in their absence discharged their duties also. Shri Bose did not get remuneration whenever he discharged higher responsibilities that of Mason, Plumber or Valveman. In reply to clarification sought by the Arbitrators whether he was called upon to work on the post of Mason, Carpenter and Plumber whole day, Shri Bose stated that he did not get any different of wages. In cross examination by Shri B. B. Singh, representative of CPWD Admn. Shri Bose deposed that he attended the works of plumber by obtaining implements either from another enquiry or from other sources. Similarly, he got equipments for mason job as and when required. Shri Bose in cross examination deposed that he repaired balcony railings in the absence of mason.

UW-7

5.18 Shri B. K. Prasad, produced Mohd. Azimuddin, Beldar, CCD-I as UW-7. Shri Azimuddin deposed that he was recruited as Khalasi in the year 1957 and was posted in the laboratory from January, 1973. He has been testing the cube by operating machines-cube testing, brick testing he operated machines by hand and read the readings and that there has not been existing laboratory assistant operator and he performed the work of laboratory assistant/operator. Shri Azimuddin deposed that there was none in the laboratory excepting him and the J.E. He deposed that he was not getting higher pay but getting only beldar's pay. Shri Azimuddin further deposed that in the National Testing House, the salary of operator at the initial stage is Rs. 260-310 for similar job in the old pay scale. Shri Azimuddin submitted before the Arbitrators that his bosses i.e. SSW/IE and other officials had already approached higher authorities for giving senior scale that of operator. In cross examination by Shri B. B. Singh, Shri Azimuddin deposed that he was

having necessary skill and experience of operator as he has been performing this duty since January, 1973. Shri Azimuddin confirmed that he operate the machine, he lifts the bricks/cube put it on the machine and operate the machine and tell the reading to the J.E. In reply to another question Shri Azimuddin told that he has studied upto 8th class and can read scale in English. Shri Azimuddin further replied that right from the date of the machines were procured, there was no operate and from January, 1973 he was performing the duties attached to the said machines. Though the duties of beldar in the laboratory is lifting the cube and cleaning of machine but he was operating the machine from the date of his appointment in the laboratory from January, 1973 and he was aware who was performing the duty of beldar.

5.19 Shri B. K. Prasad produced Shri Ranjit Kumar Pal, Asstt. Armature Winder as UW-8. Shri Pal deposed that he was appointed as Asstt. Armature Winder in the year 1958 and is in CCED-I since 1969 and he possesses the wireman licence since July, 1971 and the department was also intimated of the same. Shri Pal confirmed that he was possessing C.B. B. licence only for working on bottom and conduit wiring in domestic houses and even after intimation of this licence to the department they had put him on the duty of wireman. He was getting pay scale of Asstt. Armature Winder even when he was performing the duties of wireman whose pay scale is Rs. 260-400 (Old). Shri Pal stated that he was transferred in June, 1976 in place of the post of Wireman.

In cross examination by Shri B. B. Singh, Shri Pal submitted that no written orders were given to him to work as Wireman. Shri Pal further deposed that at Narkal Denga he was transferred in place of wireman and that formerly in the Indian Museum also he was posted against the post of wireman who retired. To another question Shri Pal deposed that he was declared surplus and after a week that order was withdrawn and he was forced to perform the duty of wireman and he was not paid difference of wages. Shri Pal replied that he could not refuse the orders of superiors and carried out the job of wireman and requested for the pay of wireman to the superior authorities but of no avail.

5.20 On behalf of the workmen Shri B. K. Prasad introduced Shri R. K. Dutta, Jr. Engineer (Elect) UW-9 before the Arbitrators.

In deposition Shri Dutta agreed that the duties of assistant and full categories were same but there was discrimination in their pay scale. He submitted that having 23 years of service as J.E. (E), major portion pertaining to maintenance was looked after by him. He had been engaging asstt. categories and full categories the duties of which are interchangeable and the type of work given to them were also same and similar. There has not been any difference on job contents. Shri Dutta produced office Order No. 10(7)/DP/RP/87/CCEC-II/649 dated 20-3-87, 10(7)/DP/RC/86/CCEC-I/1811 dated 19-8-86 and even file No. 1887 dated 26-8-86, 19(7)/DP/RC/86/CCEC-II/657 dated 24-3-86 and No. 10(7)/DP/RC/86/CCEC-II/1621 dated 28-7-86 and Office Order No. 10(9)/86/CCEC-II/1453 dated 4-7-86, 10(7)/DP/RC/84/CCEC-II/2071 dated 18-8-84, 19(9)/86/CCEC-II/1455-1458 dated 4-7-86 and promotion order No. 10(7)/DP/RC/85/CCEC-II/2200 dated 9-9-85 issued by Suptd. Engineer Calcutta Central Electrical Circle-II, CPWD, Calcutta which clearly confirm that asstt. operators and operators, Asstt. Wireman and Wireman have been interchanged in posting. In reply to clarification sought by the Arbitrators Shri Dutta deposed that operation of 30 Horse Power machine motor as well as 1 horse power motor involves same technicality and labour and he categorically submitted that in Eastern region the so called order of deploying asstt. operator on the basis of horse power type of engine does not find scope in implementation and similarly Asstt. Wireman and Wireman are also put on the same job, only difference is that assistant category are not given equal remuneration that of full category. Shri Dutta further agreed with the suggestion that an unskilled labour having experience of 3 years working under supervision of skilled/highly skilled developes some kind of skill which is beneficial to discharge CPWD work efficiently. He further voluntarily stated that unskilled labour after ex-

perience of 3 years is able to look after and manage day-to-day work of higher responsibility. He further deposed that full category as well as semi-skilled categories notes the complaints and take materials from Jr. Engineers and attended the complaints and executed the task allotted to them independently without any supervision. Shri Dutta also deposed that in the event of intensive training imparted to the workman and upto date their technicality, skill according to needs there would not be any necessity of trade test for promotion to higher grade. In cross examination by Shri B. B. Singh, DDA-II, Shri Dutta did not agree with the suggestion that duties and responsibilities of assistants and full categories are different and they are not entitled to same pay scale. Shri Dutta further volunteered that Asstt. Wireman and Wireman have the same licences and similar is the case of APOs, POs, Asstt. Plumbers and Plumbers.

Shri Dutta further replied to the question of Shri B. B. Singh explained that when an unskilled worker developed his knowledge and experience from the work site even though experience accelerated the work and experience of unskilled worker is also used to discharge the duties of semi-skilled some skilled also, thereby department is only benefited but also maintaining its reputation so far services are concerned. In reply to clarification by the Arbitrators, Shri Dutta submitted that workman discharges duties independently only after the work done if necessary sometime to work is being checked by Jr. Engineer and Asstt. Engineer, only for the purpose of verification of material being used for the work.

5.21 Shri B. K. Prasad introduced Shri Kakati Kanta Sen Gupta UW-10. Shri Sen Gupta deposed that he was initially recruited as Store Clerk in the year 1947 and from 1951 he has been working as Work Mistry (Electrical). He further deposed that duties and function of Work Mistry (E) and Work Asstt. in Civil are the same but he was being discriminated in the pay and allowances as Work Asstt. Old pay scale was Rs. 330-480 new pay scale is Rs. 1200-1800 whereas his old pay scale (Shri Sen Gupta) was Rs. 260-430 and new scale is Rs. 1100-1550. On cross examination by Shri B. B. Singh, DDA-II, Shri Sen Gupta deposed that the pay scale of Rs. 260-430 given to him was of skilled category whereas he was entitled to pay scale of highly skilled category as his nature of work and duties are equivalent to Work Asstt. who is getting the pay scale of Rs. 330-480.

The evidence was closed by Shri B. K. Prasad representing the workman.

6. The Arbitrators fixed on 2nd July 87 a date of hearing on which date the Management did not turn up but asked for adjournment. The Arbitrators held subsequent meetings on various dates viz. 7-7-87, 15-7-87, 24-7-87, 14-8-87, 21-8-87, 4-9-87 (declared holiday), 15-9-87, 21-9-87, 7-10-87, 8-10-87, 16-10-87 on all these dates of meetings, CPWD Administration sought adjournments. With a view to dispense natural justice, the adjournment were granted to CPWD Admn. by the Arbitrators despite bitter opposition by the representative of the workmen.

6.1 The Arbitrators met as scheduled on 19-10-87 on which date also oral request/telephonically from Shri B. B. Singh, representative of CPWD Administration, for adjournment was received. Shri B. K. Prasad, General Secretary CPWD Mazdoor Union, representative of workmen bitterly opposed the adjournment and emphatically submitted that the Management of CPWD is indulging in mis-using the process of Law by wilfully delaying the proceeding of the Arbitration and the way about 11 adjournment have been granted, it would not be possible for the arbitrators to submit the award by 30th October, 87. Shri Prasad also submitted that the management of CPWD is taking arbitration on ride and it is the reason that for adjournment even the normal courts of written petition are also not followed which should be seriously taken note of. The adjournment if granted herein after shall go against the interest of workmen.

6.2 Arbitrators considered the oral request of the management for adjournment in the light of submissions of the workmen and decided to reject adjournment. Arbitrators then proceeded further in the matter and Shri Prasad was given opportunity to put forth his case who lead oral arguments on behalf of the workmen which are as under.

[Page 1]

7. Shri Prasad submitted that in addition to the duties of full category as well as semi-skilled categories notes the complaints and take materials from Jr. Engineers and attended the complaints and executed the task allotted to them independently without any supervision. Shri Dutta also deposed that in the event of intensive training imparted to the workman and upto date their technicality, skill according to needs there would not be any necessity of trade test for promotion to higher grade. In cross examination by Shri B. B. Singh, DDA-II, Shri Dutta did not agree with the suggestion that duties and responsibilities of assistants and full categories are different and they are not entitled to same pay scale. Shri Dutta further volunteered that Asstt. Wireman and Wireman have the same licences and similar is the case of APOs, POs, Asstt. Plumbers and Plumbers.

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7. Shri Prasad submitted that all the categories as well as additions pending before this Board of Arbitration which are falling under schedule employment of Minimum Wages Act 1948 and referred the Gazette of India issued on April 11, 1973, December 78, October, 1983 and October 86 issued by the Ministry of Labour under Minimum Wages Act 1948. Shri Prasad emphasised that since all the employments commonly known as "WC Categories" and Regular Classified "Categories", the claim of re-categorisation and revision of pay scales is to be adjudicated upon by the Arbitrators and shall decide "The categorisation", "The Status" in context of definition given as per Minimum Wages Act 1948 and Notification of Ministry of Labour issued under the Act. Shri Prasad's argument is that an employee holding a post can be categorised as unskilled if he performs same job throughout and does not require any skill at all in the performance of his duties so as to say that good physique and mental balance is only required by such an employee incumbent of a post in different wings of CPWD which according to Shri Prasad is not the case of any incumbent of the post in CPWD as efficient discharge of the work even by the employees categorised as unskilled needs some kind of skill, knowledge of tools, sense of understanding needs of the tools required by the skilled/highly skilled workmen with whom employee is attached, type of work being expected to be performed requires some knowledge of the organisation, tools, tasks and kind of skill then only the duties can be accomplished in CPWD. Unlike stone breaking, lifting of bricks, carrying of baggage etc. being usually performed by unskilled labour in building construction industry as well as in other Central/States Establishments. It is in this context that after putting up 3 years' service the workman have demanded a promotion in the next higher grade. Shri Prasad disputed the pleadings of the CPWD Management that an employee remains unskilled even after putting up of 3 years' service in CPWD and performing his duties in CPWD and categorically emphasised that in CPWD duties cannot be performed even under the supervision of skilled or highly skilled employee if the employee has not acquired some skill and knowledge of tools etc. which employee holding the post cannot be categorised as unskilled. In support of this Shri Prasad referred to the deposition of Management Witness No. 1, 5 and 8, Union Witness No. 3 and 4, Cross examination of Management's witness 6(a). Shri Prasad concluded his argument on first point that the employees in different wings of CPWD in the pay scale of Rs. 196-242 on 1-1-73 have acquired knowledge of tools, the work of CPWD and also acquired some knowledge of skill beneficial to the Department and computable to be equivalent to semi-skill and according to definition in point 3(b) of the Ministry of Labour Notification should be given the status of semi-skilled after putting 3 years of service from 1-1-73 onwards.

7.1 Shri Prasad dealt with second point that of categorisation of employees in semi-skilled and skilled categories who have been given the status of highly skilled workmen from 1-1-73. Shri Prasad emphatically submitted that the workman whether categorised as semi skilled or skilled in CPWD are actually asked to work independently and execute the task enjoined to them without any continuous supervision and in performance of duties also they are to take judicious decisions, which inter-alia makes it crystal clear that they fall in the highly skilled category. Shri Prasad further submitted that their shifts in CPWD and the duties of the workmen employed are interchangeable so as to say that in a shift Asstt. category has to work independently and in the second shift full category shall be working independently and in the 3rd shift again Asstt. category shall be discharging/ executing tasks independently along with taking decisions in the execution of task thereon. Even in General shifts the Asstt. category as well as full category are given the work and the execution of the task performed independently along with judicious decisions which are to be taken thereon. According to Prasad the pleadings of the CPWD Admn. that there are different nature of duties and qualifications of Asstt. category and full category does not hold water in the light of Management's witness No. 1, 2, 3 and Union witnesses at Bombay as well as at Calcutta. Shri Prasad further submitted that what the categorisation committees of CPWD on occasions had done was actually creation of two halves between the same entitlement and such ill effort of the CPWD Administration does not stand the test of law in numerous judgments of the Hon'ble Supreme Court of India. On the doctrine of equal pay for equal work in case of draftsman, 465 GI/88-17.

in case of Randhir Singh Vs. Union of India and P. K. Ramachandran Vs. Union of India, Shri Surender Singh and others V/S Engineer-in-Chief CPWD etc. etc. Shri Prasad further submitted that equal pay for equal work doctrine apply on the employees performing same work or work of similar nature as enunciated by Hon'ble Supreme Court reported in 1987 LAB I.C. 961 Shri Prasad submitted that question before Arbitrators is to determine and decide (a) whether or not Asstt. category or full category are performing same and similar duties (b) Whether Asstt. category and full category in CPWD in shift duties or general duties are taking judicial decisions in performing their duties independently and without any continuous supervision executing the task or not. Shri Prasad further submitted that categorisation and status of skilled category as per CPWD Manual III was considered by authorities under Minimum Wages Act in Minimum wages cases of Shri Ravinder Pal Singh, Motor Lorry Driver, of Mechanical Workshop Division, CPWD and Shri Vijay Pal Singh and others of F Division, CPWD in which cases authority under Minimum Wages Act 1948 held that categorisation of Plumber, Carpenter, Mason, MLD as skilled workmen was violation of Minimum Wages Act 1948 and the authority ordered payment of highly skilled rates to all the employees who submitted claim before the authority. Against the decision of both the cases of RLC (Central), Kanpur, the CPWD Administration went for an appeal before the Delhi High Court where the appeal was dismissed because Delhi High Court did not agree with the categorisation of such workmen and treated them as highly skilled. Both the decisions have already been submitted by the workmen with the list of documents. Shri Prasad further submitted that the claim of workmen about possession of same licence by Asstt. Wireman and wireman not only is substantiated by evidence of the workman and the management but evidently clear from the qualification as mentioned in the CPWD Manual II of both the categories. Similarly in numerous Minimum Wages Claims applications the employees filed Minimum Wages Claim applications working as black smith, painter etc. were also granted highly skilled status by the Minimum Wages authority, Kanpur as per Act.

7.2 Shri Prasad concluded argument on this point by referring Management Witnesses No. 1, 2, 3, 5, 6 and all the Union Witnesses of Asstt. Category and full category and that of Union witness No. 9 which evidence record Shri Prasad admittedly prove the claim of the workmen that Asstt. category and full category are performing same and similar duties and all are working independently taking judicious decisions in the execution of task without any supervision at all. Shri Prasad categorically submitted that there is no workmen between Asstt. category/full category Jr. Engineers working independently as the Junior Engineer whose job is that of procurement and issue of stores and discussion with tenant department and residential welfare association is not a workman and so the workmen categorised as semi-skilled in the Asstt. category and skilled in the full category from 1-1-73 are entitled to the pay scale of Rs. 330-560 from the same date that of highly skilled workmen except senior Mali as claimed by the workmen in their statement of claim and is also arbitration reference.

7.3 That the incumbent of the category of the posts of Farash and Bhisty having been granted the status of semi-skilled by Ministry of Labour notification under the Act cannot be denied the time scale of that status of semi-skilled on the regular establishment. Shri Prasad further submitted that the type of work being performed by lift, Khalasi and sweepers warrants some kind of skill in the performance of their duties and such employees are above unskilled and therefore they should be re-classified as semi-skilled employees and given the time scale of semi-skilled category. He referred to para 2.2, 2.3, 2.4, 2.5, 2.9. He also admitted that post of semi-skilled filled in by 100% amongst the unskilled untrained and unskilled trained workmen on the basis of seniority and after 3 years service as semi-skilled as on 1-1-76 or later as the case may be the semi-skilled workmen having the pay scale of Rs. 240-320 from 1-1-73 be promoted in the pay scale of Rs. 260-350 from 1-1-76 or after completion of 3 years service whichever is later and classifying them as semi skilled trained artisan.

7.4 Shri B. K. Prasad submitted that senior Mali which was inadvertently included by the Union in item No. 4 be considered as skilled artisan in the skilled category in the pay

scale of Rs. 260—400 from 1-1-73. He further requested that all the categories mentioned in Item No. 3 of the arbitration agreement are to discharge their duties on the basis of skill acquired through longer experience or training from vocational institutes so should be classified as skilled artisan and given pay scale of Rs. 260—400 from 1-1-73. He also requested that post of Head Sweeper, Head Chowkidar, Valveman, Asstt. Cook Bearer, Enquiry Clerk should also be created in each section/sub-division and given pay scale of Rs. 260—400 from 1-1-73 and all the workmen in this pay scale of the category be promoted from semi-skilled untrained and semi-skilled trained artisan on the basis of 100% seniority. He further submitted that all the workmen who have put 3 years of service as on 1-1-76 whichever is later be given the pay scale of Rs. 260—430. In addition to the justification in statement of claim, Shri Prasad referred to the evidence of the workmen at Bombay in the category of Sewermain and cross examination of Management witness which fully justify that sewermain should be classified skilled workman as per Minimum Wages Act 1948 and given not only the status but time scale also retrospectively.

7.5 Paras. 5, 6, 7, 8.—All the workman in the respective item do possess higher responsibilities and so entitled to higher pay scale as demanded in the arbitration reference excepting Engineer Supervisor in respect of which category the workman withdrew its demand. Shri Prasad also submitted denial of higher posts in Horticulture and Civil above Choudhary and Work Asstt. respectively is discriminatory and arbitrary and thousands of workmen engaged therein have been denied the post of master craftsman and highly skilled which should be created and not filled in as per statement of claim in the respective paragraphs.

7.6 Concludingly Shri Prasad emphasised that the plea in's of the Management about non-comparison with the Public Sector Undertakings and Municipal Bodies etc. has not even been appreciated by 3rd Central Pay Commission and such methodology and orientation only create big wedge of resentment and avoidable labour unrest on account of heart burning between the same employees performing same and similar duties some mostly under the same roof and the example of International Airports Authority of India, National Airports Authority, National Museum, Railway, Delhi, Flood Control etc. cannot be ignored specially because first of these workers have been transferred from CPWD holding all civil posts as the industrial workmen of CPWD.

7.7. Shri B. K. Prasad further submitted that licences presently being insisted upon in CPWD on account of statutory requirement does not hold water because industrial workmen engaged on same and similar works in Haryana State Electricity Board, Delhi Electricity Supply Undertaking, National Airport Authority of India are not subjected to possess licences from State Governments despite the facts that those statutory provisions do exist there also. In the event of up-to-dating technological skill and high degree of safety measures before holding the electrical appliances, the workman of CPWD does not have any objection if the workmen are given intensive training by augmenting training programme in the Departmental Institutes and the Department seek exemption from the Statute because electrical Engineers only shall be certifying the acquirement of technological skill for use of electric appliances and use of safety measures by the workmen of CPWD so as to remove the obstruction presently being faced by the workmen as well as Central P.W.D. Administration in filling the posts of Wiremen and electricians throughout the country.

7.8. Shri Prasad also mentioned that in most of the States licensing authorities are not functioning at all on which account the workmen are suffering and discharging higher responsibilities without remuneration as the essential works like aerodromes, Hospitals and airconditioning plants in 'VVIPs' areas cannot be left unattended by the dutiful workmen for want of statutory provisions which are only in the books of CPWD Administration and not the practical and he emphasised further that the preliminary licence every electrical staff is possessing when he is appointed as Asstt. Wireman. He also brought to the notice of Arbitrators that engineers who are supposed to advise/guide

do not possess any licence. Concludingly Shri Prasad emphatically rejected the pleadings of CPWD Admin. that the claim of the workmen cannot be given from 1-1-73 firstly on the account that the adjudication by this Hon'ble Board of Arbitrators has to be done from 1-1-73 as per arbitration agreement notified on 31-10-86, secondly the claim of the workmen is just genuine and lawful and denial of lawful claim especially on the face of Judgements of Randhir Singh Vs. Union of India given by the Hon'ble Supreme Court of India from 1-1-73 in respect of Supreme Court employees that retrospective date in respect of P. K. Ramachandran Vs. ICAR (Union of India) from retrospective date consequent upon confirmation of retrospectivity in case of Shri D. K. Nakara and others Vs. Union of India and the latest judgement of Shri Surrender Singh Vs. Engineer-in-Chief, CPWD not only unjust but against the natural law of justice and shall be violative of article of 39(d), articles 14 and 16 of the Constitution of India.

7.9. Shri Prasad also submitted that Kendriya Lift Karamchari Sangh, All India CPWD Workers Union Calcutta, the later being recognised for Calcutta Area have in writing through a petition to this Hon'ble Board of Arbitrators have authorised the Statement of claim of CPWD Mazdoor Union to be their claim and the claim being just and genuine. He submitted that CPWD Workers Union Shimla registered and recognised Union for Shimla Area and part and parcel of CPWD Mazdoor Union for all India purposes have also accepted the justness and genuineness of the Statements of claim of CPWD Mazdoor Union by way of submitting a petition before this Hon'ble Court and authorised that a claim submitted by CPWD Mazdoor Union in respect of WCI/Regular classified category is only claim on behalf of that Union also.

7.10. Shri Prasad further submitted that the Board be pleased to give its verdict with regard to treating all the industrial workers engaged on maintenance of Building construction, roads, and runways as industrial Establishments instead of calling them WC or regular classified just to deny the pensionary benefits, retiring age etc. Shri Prasad also further submitted that the Members of CPWD Mazdoor Union its Managing Committee has incurred huge funds in pursuing recategorisation re-classification of WC Staff/Regular classified Estt. from 1-1-73 on all the forums including Board of arbitration and CPWD Mazdoor Union is generally entitled to the cost which this Board be computed and direct the Management to pay to the Union.

7.11. Shri Prasad presented a resolution of the Managing Committee according to which CPWD Mazdoor Union is also helping widows, chronic patients, being on long leave without pay and help in rehabilitation of the dependent of the deceased in addition to the legal and financial help to industrial workmen of CPWD and in this regard requested the Board of Arbitrators to direct the Management for payment of 15 per cent of the amount due in respect of each workman to be deducted from their bills and remit to CPWD Mazdoor Union so that the amount so collected is utilised for welfare measures of all the workmen of CPWD with greater momentum than earlier. Similarly Shri Prasad prayed for award for deduction of 5 per cent of the total arrears dues of each workman from 1-1-73 be remitted to the Prime Minister's Relief Fund for exclusively utilisation to drought and flood relief measures on behalf of the CPWD Workmen.

7.12. Shri Prasad proposed that in the event of arbitrators be pleased to appreciate and award just and genuine claim of the workmen as above w.e.f. 1-1-73 on behalf of the workmen of CPWD Mazdoor Union proposed that 40 per cent of the full gross arrears of each workman be deposited in GPF Account of the respective workman so that CPWD Administration is also not burdened to pay amount in full immediately and to that extent the money can be utilised by the Management for other measures. On clarification by the Arbitrators Shri Prasad submitted that amount of money proposed to Prime Minister's Relief Fund as well as to CPWD Mazdoor Union be remitted through Payee's Account out of the gross arrears due from 1-1-73 to 31st Oct. 1987 and GPF also on same analogy would apply suo-moto.

7.13. Shri Prasad submitted that the workmen claim was supported by following case laws :-

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| 1. FJR-1982 (Vol. 60), | page 201. |
| 2. LIC-1986 (Vol. 19), | Page 230 |
| 3. SCIJ-1950-83, | Page 352. |
| 4. LIC-1985 (Vol. 18), | Page 1221. |
| 5. LIC-1987 (Vol. 20), | Page 234 |
| 6. LLJ (Vol. 1) 1986, | Page 134. |
| 7. LLJ (Vol. 1) 1986, | Page 403. |
| 8. LLC 1983, | Page 242. |
| 9. LLJ-1984 (Vol. 1), | Page 314. |
| 10. IF&LR-1980 (Vol. 41), | Page 195. |
| 11. LLJ-1984 (Vol. 11), | Page 391. |

12. Numerous decisions of Authority under Minimum Wages Act, 1948, Kanpur Area referred to in the list of documents.

13. Decision of Hon'ble High Court of Delhi in Civil Writ Petition No. 399/85 dated 27-5-85 filed by Union of India Vs. Ravinder Pal and Others.

14. Decision of Hon'ble High Court of Delhi in Civil Writ Petition No. 2445 of 1984 dated 16-10-84 in case of Union of India through Executive Engineers, F Division, CPWD, Vs. I. S. Rao and others.

7.14. Lastly Shri Prasad prayed the arbitrators to give its verdict after re-categorisation/re-classification and the revision of pay scales from 1-1-73 (a) for fitment into the pay scales recommended by 4th Central Pay Commission and made applicable to the Industrial Workmen of CPWD from 1-1-86 (b) Award promotion strictly on the basis of seniority from the feeding cadre to higher grades in all categories (c) Permit merits-cum-seniority Promotion of persons in other categories not being the feeding cadre to be promoted to higher posts if they possess the experience of the trade (d) Award re-transfer of staff on transferred categories on regular Estts. of CPWD and all categories called as industrial Estts. of CPWD (e) Apply Suo-moto the award of this Hon'ble Arbitrators to daily rated employees of CPWD who are undertaken activities and employed in regular nature of works of Maintenance of buildings aerodromes, roads etc. and are practically, factually on monthly muster rolls. As all these points are incidental to the adjudication of the Industrial Dispute of re-classification/re-categorisation and revision of pay scales of WC Staff Regular Classified staff of CPWD before this Hon'ble Arbitration as per provisions of Section 10(iv) of the I.D. Act, 1947.

8. The arbitrators closed arguments of the workmen after hearing Shri Prasad at 6.00 P.M. and decided to extend a final last opportunity to the Management of CPWD to enable them to present their case and adjourned the proceedings to 20th Oct., 1987.

9. The Arbitrators met as scheduled on 20th Oct., 1987, wherein the representatives of the Management Shri B. B. Singh submitted that they are very much willing to extend the time limit beyond 30-10-87 and also submitted further that G. K. Khemani who was participant in these proceedings in the past agreed to withdraw his resignation and act as Arbitrator. Shri Prasad submitted that till that moment the management of CPWD not made any request to the Union for extension of time limit. He further submitted that arguments of workmen have already been heard and there might not be any need for extension of time limit. The arbitrators adjourned hearing till 23-10-87.

10. The arbitrators met as scheduled on 23-10-87. Before the Arbitrators Shri B. B. Singh, DDA-II and authorised representative of the CPWD Management and Shri B. K. Prasad General Secretary, CPWD Mazdoor Union presented

a joint agreement duly signed by both the parties and two witnesses addressed to the Secretary, Ministry of Labour, Govt. of India, New Delhi extending the period of submission to Award by 1-1/2 months upto 15th December, 1987 (Annexed as Annexure IV).

11. On the request of the representatives of CPWD Management Arbitrators adjourned the hearing to 9-11-87 on which date they have preferred to submit written argument on behalf of the Management.

12. The Arbitrators met as scheduled on 9th November, 1987 wherein Shri Prasad and others appeared.

13. Shri N. N. Manna reiterated his request for copy of Mazdoor Union claim and management reply so that his Union could also submit his say. Shri B. K. Prasad objected to supply of copies at this late stage as the evidences have been closed, workmen's arguments are over and according to agreement between parties, only Management arguments are to be submitted. Shri N. N. Manna was permitted today to inspect all documents/file of Arbitrators by the Arbitrators on his oral request so as to enable him to file his argument on behalf of his Union. On the request of Shri Manna, time was allowed to file written request on behalf of CPWD Workers Union by 16-11-87 with a simultaneous copy to Management as well as CPWD Mazdoor Union and thereafter the Arbitrators shall decided the matter. CPWD Mazdoor Union/CPWD Management shall file their reply to Workers' Union request on 19-11-87.

14. The Arbitrators granted adjournment to 19-11-87 at 3.00 P.M. on which day the Management of CPWD shall also finally argue their case.

15. The Arbitrators met in its 42nd Meeting on 19-11-87 as scheduled and the petition dated 3-11-87 of Shri N. N. Manna, General Secretary, CPWD Workers Union was taken up for consideration by the Arbitrators.

16. Shri B. K. Prasad party to the arbitration agreement submitted that despite his bitter opposition, the arbitrators on 9th November, 1987 permitted Shri Manna to inspect all the papers pertaining to Board of Arbitrators for more than an hour and Hon'ble Arbitrators also directed Shri Manna to file his say 16th November, 1987 with simultaneous copies each to the Management of CPWD and CPWD Mazdoor Union both parties to the agreement and also directed both the parties to the agreement to file reply to Shri Manna's Petition putting forth his demands and merits thereon before the arbitrators. Shri Prasad further reiterated his point that as per joint agreement by both the parties dated 23-10-87 the arbitrators are only to hear the arguments of the Management of CPWD and evidence and arguments of workmen have already closed on 19-10-87 and any deviation/back gear now would only render wrong and improper precedents ever heard in Industrial jurisprudence and dis-service to the arbitrators as time left with them to submit the award to the Central Govt. is only 24 days which is very short period to accomplish even the left over work what to talk of fresh evidence. More than that Shri Prasad further submitted that Shri Manna and his CPWD workers Union had not responded to the opportunity given to them, they do not have any pleadings so permitting them to even argue their case shall be totally improper uncalled for and unlawful. Shri Prasad lastly emphasised that due notice was received by Shri Manna for filing his claim. He also received Notification dated 31st Oct., 86 direct from Ministry of Labour, due notice was also sent by Hon'ble Arbitrators to him for submission of his claim on behalf of his Union. Notification dated 7th November, 86 under sub-section 3-A Section 10-A of the I.D. Act, 47 published in Gazette of India alongwith Notification dated 31st Oct., 86 was widely publicised in all the Establishments of CPWD by Management of CPWD and was also endorsed in all the Union including Union of Shri Manna. The directions of arbitrators about the meetings was also widely publicised by the Management of CPWD but Shri Manna willfully knowingly opted to keep himself away in addressing Hon'ble Board of Arbitrators and did not submit any claim and through his Union as well as JCM Members representing his Union opposed the arbitration and have been addressing letters in derogatory way to

the arbitrators. It is amusing to note that Shri Manna is demanding statement of claim of CPWD Mazdoor Union and CPWD Management even when he has not filed his own claim which makes it crystal clear that Shri Manna is not interested at all in the arbitration but has appeared at this fag-end only with the ill intention to delay its work.

17. Shri B. B. Singh, DDA-II, submitted that as per directions of the Board of Arbitration, the Arbitration Agreement dated 31-10-86, Notification dated 7th Nov. 86 under Sub-section 3-A of Section 10-A of the I.D. Act, was given wide publicity in all the Establishments of CPWD and copy was also sent to all the recognised Unions. As and when Board of arbitration gave directions for intimation of meetings whether in Delhi or Calcutta or Bombay, the same was given wide publicity and all the recognised Union were invariably endorsed copies. The extension of time upto 30th March, 87 granted by the Board of Arbitrators to file claim of CPWD Management was also given wide publicity throughout the Establishments of CPWD in the country and was also sent to all the recognised Unions. Regarding submission of arguments of the Management Shri Singh reserved his right to speak after the present item is decided by the Arbitrators.

18. Shri N. N. Manna submitted that extension earlier asked by his Union from the Arbitrators was officially received by him only on 25th Jan., 1987 and he got only two days and later on he received a circular from the Management of CPWD extending time to CPWD Management for the submission of their claim upto 30th March, 1987. Shri Manna also stated that even if his Union did not come earlier, now under the Act and Rules he can join and to facilitate him his Union he be given the claim submitted by the Management of CPWD and CPWD Mazdoor Union. Shri Manna said that he was permitted to inspect documents only on 9th November, 1987. Shri Manna further submitted that now he wish to join the arbitration so opportunity be given to him and there will not be much delay after he receives the documents demanded by him which he is entitled to.

19. The Board of Arbitrators deliberated seriously and decided as follows :—

- The request of Shri Manna at this belated stage for supply of copies of claim of CPWD Mazdoor Union and CPWD Management cannot be acceded to because he has failed to submit his claim on the basis of Notification dated 31-10-86 and numerous opportunities were also afforded to him and the parties who appeared before arbitrators were directed to exchange their claims simultaneously at which time Shri Manna did not opt willingly.
- The oral request of Shri Manna to submit his claim at this stage does not merit cogent reasons and sufficient grounds so rejected.

The Arbitrators took up next item of arguments of the Management of CPWD and Shri B. B. Singh was directed to argue his case.

20. Shri B. B. Singh apprised the Arbitrators of the progress made by him in preparing the arguments of the Management of CPWD and asked for very short time so that he is able to submit his arguments and the time was absolutely necessary in the interest of natural justice. Shri B. B. Singh assured that on this count there will not be any request from the Management for further adjournments and on the next date the Management shall argue their case.

21. Shri Prasad vehemently opposed the adjournment and requested the Arbitrators that in Law there is no obligation provision for the Arbitrators to hear the arguments and the number of adjournments sought by the Management merits rejection this time. Shri Prasad further submitted that the Arbitrators have full material and pleadings of the Management in submission of Award of the Industrial Dispute.

22. The Arbitrators deliberated on contentions of Shri Prasad and decided to extend last and final opportunity to the Management of CPWD to argue their case.

23. The matter was adjourned to 1500 hrs. of 27th day of November, 1987.

24. The Board of Arbitration met as scheduled on 27-11-87 Shri B. B. Singh requested orally for an adjournment to enable the CPWD Management for arguments. Shri Prasad objected for grant of adjournment. Shri B. B. Singh appeared on behalf of the Director of Administration, CPWD, New Delhi but he could not produce any authorisation letter on his behalf. The Director of Administration is requested to appear in person or through authorised representative on 30th November, 1987 before the Board at 14.30 hrs. Since large number of adjournments have already been availed by the CPWD Administration no further request for adjournment for any purpose will be entertained. The case is fixed for final arguments of the Management on 30th November, 87 at 14.30 hrs.

25. The Arbitrators met as scheduled on 30-11-87 at 1430 hrs. Shri Chander Sain, Director of Administration, CPWD prayed orally for an adjournment for 3 weeks to enable the CPWD Administration for filing arguments. Shri Prasad objected for grant of adjournment.

26. The Arbitrators heard at length Shri Chander Sain and rejected the prayer for 3 weeks' adjournment. However time for filing arguments of the Management of CPWD was allowed to be submitted on 8th December, 1987 at 1430 hrs.

27. The Arbitrators met as scheduled on 8th December 87 at 1430 hrs. Shri Chander Sain, Director of Administration CPWD prayed orally for a short adjournment which after consideration by the Board was granted. Both the parties signed an agreement for extending the period of time for submission of Award by the Board upto 31st Jan. 1988. The adjournment was granted and the matter was posted for 14th December, 1987 at 1430 hrs. which is exhibited as Annexure V.

28. The Arbitrators held their 46th meeting as scheduled on 14th December, 1987 at 1430 hrs. Shri Chander Sain, Director of Administration, CPWD, submitted his written submissions as follows :—

* 28.1 In the annexure to the Notification referring the Industrial Dispute to Arbitration, the specific matters in dispute is stated to be whether the demands of the CPWD Mazdoor Union regarding re-categorisation/re-classification of workcharged staff and regular classified categories with effect from 1-1-73 on the analogy of classification given in the scheduled employment (i) construction or maintenance of road or in building operations; and (ii) the maintenance of buildings and employment in construction and maintenance of runways, as listed in the Annexure is justified or not, to what relief, the workmen concerned are entitled.

28.2. In the annexure referred to above, the CPWD Mazdoor Union have sought for automatic conversion of the pay scales of certain categories to Rs. 210-290 after rendering 3 years of service in the lower pay scale of Rs. 196-232. Similarly, in regard to some semi-skilled and skilled categories, it has been demanded that they be given higher pay scale/selection Grade after putting 3 years of service. In regard to some other categories of highly skilled, grade I, II, and III and IV; it has been demanded that promotion posts for Civil and Horticulture be created in skilled grades I, II, and III and next scale demanded above be given to all workers who have completed 3 years of service as on 1-1-76 or after whichever is later. It has been further demanded that selection grade may be given in all posts.

28.3. In this connection, it is submitted that there are two issues involved in the Arbitration, i.e., re-categorisation/re-classification of work charged staff and Regular classified categories as well as the date from which the re-categorisation/reclassification should be made operative. Both the

issues i.e., re-categorisation/reclassification of RC staff as per the Union/management.

28.4. As per the Union's demand arising out of the CPWD Management desired the re-categorisation/reclassification of RC staff as per the Union/management.

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(2) Some of the higher.

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(4) Some of the after Grade.

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28.5. The management automatic promotion of experience in Association has is much for award for the following.

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issues i.e., reclassification/reategorisation of the WC and RC staff as well as the date from which such reclassification/reategorisation are arbitrable.

Reclassification/Reclassification of posts

28.4. As reclassification, the demand of the CPWD Mazdoor Union was received for the first time in January, 1987 arising out of the bilateral agreement arrived at between the CPWD Mazdoor Union on the one hand and the Management of the CPWD on the other. The Union have desired the reclassification as brought out in para 2 above. This demand includes —

- (1) Automatic grant of higher pay scale to some of the unskilled categories of Muster Roll workers after putting in 3 years service against a particular post.
- (2) Some of the semi-skilled categories may be provided with avenues of automatic promotion to the higher pay scale.
- (3) Some of the skilled categories may be provided Selection Grade after putting 3 years of service.
- (4) Some of the highly skilled categories may be provided the next time scale as highly skilled Grade I after putting in 3 years service in the highly skilled Grade-II.
- (5) Promotion posts for Civil Horticulture be created in the skilled Grade I, II and III.
- (6) Next skilled higher scale be given to all workers who have completed 3 years of service as on 1-1-76 or after, whichever is later.
- (7) Selection Grade be provided in all posts mentioned above.

28.5. The main current flowing through the demand is automatic promotion to the higher grades after 3 years of experience in the respective post. This is an utopia the Association has imagined as paracea for all their ills. This is much far away from the realities of Government service for the following reasons :—

- (i) The number of posts in each scale of the Government which is equally applicable to the Muster Roll Workers, is fixed with reference to the job requirements, keeping in view the need of supervision, control and discipline through a given hierarchy. Simply because the person has gained some experience in this grade does not allow him to work in places of a superior who has different job requirements. He can get the higher scale only when the vacancies become available in the higher grade against which he can perform higher grade functions. On the basis of equality and justice, not expect higher grade while performing the lower functions. On the basis of equality and justice, this demand is untenable.
- (ii) It is too much to presume that the uniform productivity of 3 years in all types of works—unskilled, semi-skilled, skilled and highly skilled will make the workers expert so as to enable them to hold the higher grade post efficiently.
- (iii) The grades of the WC and RC have been given with reference to the specific work assigned to them. Merely by repetitive working in the same post may not automatically make him fit to hold the senior post requiring different and higher type of duties and responsibilities.
- (iv) The present set-up of the Government in any organised or unorganised service does not and cannot grant automatic promotion to the higher grade after putting in a given number of service. The Union has raised a very major policy issue which cannot be considered in isolation.

(v) The very fact that each pay scale consists 10-15 stages for reaching the maximum signify the intention of the Govt. that a person in a particular scale has to continue working for a number of years in that scale till he merits promotion to the higher scale subject to the availability of vacancies in the higher grade, fulfilment of the minimum conditions in respect of qualification, experience, technical qualification, etc. and in his own turn. As a matter of policy, the promotion after 3 years in the context of pay structure in the Central Government has to be completely ruled out.

(vi) Irrespective of whatever merit the Union may consider their proposal would contain, it is clear that automatic promotion, for all intents and purposes, skills initiative of the workers reduces their efficiency and affects the quality and quantity of the output. Govt. can ill afford this luxury at the stage of providing basic services.

(vii) In some of the categories, a provision has been made for giving extra incentive to the deserving persons for going up to the next higher scale through in service trade test examination. The experience has shown that a really deserving worker does get a chance to show his worth and earn the higher appointment against higher pay scale.

(viii) The observations of the Union that since the incumbents of the Assistant categories and the main categories (e.g. Asstt. Wireman and Wireman, Asstt. Plumber, Asstt. Carpenter, Carpenter etc.) perform almost the same duties, they should be put in the same scale of pay under the skilled categories. This is factually incorrect as independent sets of duties and responsibilities for each individual category have been codified/prescribed in the C.P.W.D. Manual.

Date of effect

28.6 The Union has demanded that the reclassification should be made effective on 1-1-73. It is submitted that as a usual exercise, re-categorisation had been decided upon after the acceptance of the Third Pay Commission Report effective from 1-1-73 by an expert body and this had been duly implemented. There is no other categorisation which has been made available and accepted by the Government which is pending implementation and as such the question of any implementation of reclassification w.e.f. 1-1-73 is prima facie untenable. If the Union feels that re-categorisation, as valid today should be done, its effective date will be only prospective and not retrospective. If the Union feels that somewhat different categorisation was required in the intermediary period of 1973 and 1987 the present time, it is just impracticable not only to comprehend its scope of means of its implementation in the intermediary stage. Again, the engineering technology, technical skills, etc. have made quick advances during the last one decade and it is more or less impossible for the experts today to imagine the reclassification needed for the intermediary period and how to compensate the workers, if at all required on that account. The demand is also untenable on the following grounds :—

- (a) The Union has not given any justification for selecting the date of 1-1-73 in respect of their demand.
- (b) They have not correlated the date of 1-1-73 with any specific categorisation which could be identified with reference to that date and which could be acceptable to the Government. In short, they have not justified their demand at all.
- (c) Any categorisation done today can be implemented only prospectively and no earlier date can be relevant to it.
- (d) All Government decisions especially those having financial implications are given effect to prospectively and not retrospectively. There are no compelling reasons for making departure from the accepted Government policy in this case.
- (e) Any reclassification has to be done by a Group of expert persons drawn from different fields, and Government in principle and which is required to Defence, Labour Electrical and Civil Engineering

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disciplines have to be represented on it. Only after such an expert body gives its report, the question of any arbitration could arise. No such report is available today and which has been accepted by Government in principle and which is required to be arbitrated upon implemented. Any decision taken in this case will also have effect on about 25,000 M.R. Workers creating huge financial demand on the extremely limited funds available with the Government.

(f) Any demand of recategorise the huge number of Work Charged and Regular Classified Staff from a retrospective date is bound to throw huge financial burden on the Public Exchequer which the Government and the country can ill afford.

(g) Implementation of such a decision from 10-15 years back would also create unmanageable and administrative and legal complications.

28.7 In addition to what has been stated above. He would like to submit for consideration that the Work Charged and Regular Classified Staff of the CPWD are getting almost all service benefits admissible to Regular Government servants. For example, they are getting the same pay scale and allowance as are admissible to the incumbents of the comparable posts in the Central Government. Besides, this leave, pensionary benefits, bonus, advance, LTC, CGHS benefits etc. As a matter of fact, in the matter of service benefits, they are better placed than the incumbents of comparable posts in the Central Government Servants of Group C&D while only a limited category of Group C and D staff of the Central Government get the benefits of uniforms nearly cent percent Work Charged Staff excepting a very small number are given uniform on the pattern of Central Government in some cases even better than that admissible to Central Government Servant. Apart from this, while in the case of regular Government servants the age of superannuation for Group 'C' category and above is 58 years, in the case of Work Charged Staff the age of superannuation is 60 years. Similarly while the Central Government servants get the Overtime Allowance at the single rate, the Work Charged Staff and Regular Classified Staff get overtime allowance at double the rates. It would thus be seen that the service benefits at present admissible to the W.C. Staff is much more than that admissible to the other staff of Central Government. There is, therefore, no justification for giving any further relief to Work Charged and Regular Classified Staff. The demand of the Union for higher recategorisation/reclassification of the staff may, therefore, kindly be rejected.

PRAYER

28.8 It is, therefore, hereby prayed that the Board of Arbitration may be pleased to

(a) Consider the Submission made by the Employer/Management and reject the demands of the C.P.W.D. Mazdoor Union; and

(b) Pass such orders as deemed fit.

29. Shri Chander Sain, Director of Administration, CPWD submitted his written arguments on behalf of the CPWD Management on the demands of the CPWD Mazdoor Union before the Board of Arbitrators which are reproduced below :-

29.1 It is a known fact that CPWD is a premier Central Government Organisation, engaged in construction and maintenance activities for many decades. The maintenance activities in civil, electrical and mechanical and horticulture wings require workmen, both unskilled and with varying degrees of skill. The job content of every category of workmen has been clearly laid down in CPWD manual Vol. III. Those were initially framed and periodically reviewed by experts in the concerned discipline from within the department. Further, two Categorisation Committees appointed by the Government in 1950 and 1973 reviewed the categories. The very opening remark of the Union in the statement of the claims that CPWD have not classified/categorised different posts according to job content is, therefore, totally wrong and should not be taken cognisance of the Board of Arbitration.

29.2 After the 2nd Pay Commission's Report was accepted, there were no objection from the workers since the categorisation was judged reasonably by the first categorisation committee. The Categorisation Committee appointed during 1973 consequent to the release of 3rd Pay Commission's Report also made a detailed examination of the classification/categorisation of the various categories in W.C. and R.C.E. After interviewing 48 individuals Union and deliberations in detail for around one year, the committee gave its recommendations. The CPWD Mazdoor Union, which is one of the parties to the Arbitration was not a recognised Union at that time and, therefore, was not consulted by the categorisation committee. The Union which was granted provisional recognition for the first time in 1983 (i.e. after even the appointment of the next i.e., 4th Pay Commission) more than 10 years later, is now proposing to re-open the entire report and the recommendation of the categorisation committee on which decisions had been taken by Government and implemented long back. Even consideration of the demand at this stage will not be correct, in the opinion of the Management as it will set a very bad precedent and decisions taken long back will be sought to be reopened, as and when any new Union is accorded recognition. The basic approach to the classification remained, by and large, the same as of the First Categorisation Committee. This Committee had representatives from the E-in-C Branch, Army Headquarters (Director of Work Study) Labour Officer and experts in Elect. and Civil Engineering disciplines. As such, the allegations of the Union that the committee have not properly classified or categorised the categories and the recommendations are self-contradictory are unfounded. The reference used about the categorisation committee as 'so-called' is derogatory and objectionable. Our objection may be taken note of by this Board of Arbitration.

29.3 The Union had made references to the Pay Scales, in IAAI, DESU, NDMC, Delhi Floor Controls and Institutes under the ICAR, stating that most of these works have been transferred from CPWD itself. In the first instance, it is submitted that CPWD is a Central Government Department and not a public sector undertaking, and Autonomous body or a Municipal Organisation, the service conditions are different from one another. The nature of duties in DESU, NDMC, etc. cannot be compared with that in CPWD. Further, as per Arbitration reference, the dispute is on the re-categorisation or otherwise on the analogy of classification given in the scheduled employment under Minimum Wages Act. Hence reference to pay scales in IAAI, DESU etc. totally extraneous to the Arbitration. As such, any comparison with the position available in these organisation is irrelevant and may be ignored by the Hon'ble Board.

29.4 It is also an incorrect statement from the Union that most of the works have been transferred from the CPWD to these organisations. Even if it is taken to be correct, this does not justify similarity of scales in the two sets of organisation with different status, working conditions etc.

29.5 The Government Notification under the Minimum Wages Act 1948 lays down only the minimum rates of daily wages including wages for the day of weekly rest, various categories of workers grouped as unskilled, semi-skilled supervisory, skilled, highly skilled and clerical. The definition of such group has been indicated therein. The workmen in WCE and RCE in CPWD are not daily wagers, but are engaged under regular scales of pay which have minimum and Maximum length definite rate(s) of increment, EB, etc. with specified allowances. They also enjoy service conditions different from Muster Roll Staff/Casual Labour who get wages on daily basis. It is, therefore, not correct to relate them to the Minimum Wages Act, in this context. Nevertheless, it is submitted that, keeping in view the job requirements and skill required for the various categories in CPWD, these are categorised in the Department and it is confirmed that the total emoluments for these categories in CPWD, are much above those laid down in the said Government notification under Minimum Wages Act. It is, therefore, prayed that the submission of the Union in this regard may not be accepted.

29.6 The contention of the union that the workmen fall under the schedule employment of Minimum Wages Act is not acceptable so far as the W.C. Staff and RCE in CPWD is concerned, nor the analogy of the classifications indicated

in the MOL Notification under Minimum Wages Act is acceptable in application to these workmen. The reason are explained below :—

(i) The MOL Notification indicated the Minimum Wages of daily wagers, whereas W.C. Staff and R.C.E. staff in CPWD are engaged on monthly salaries and have service condition different from daily wagers.

(ii) The MOL Notification indicated number of designation and grades and there is no indication about their duties. Even more than one grade/class is shown bracketed under a particular group of classifications. On the other hand, the job requirements are spelt out against each designation of workmen in CPWD and they are categorised accordingly in scientific manner. With this, the workmen request like skill and having like responsibilities are classified in the same grouping in the Department. It is commonly observed that the same designation in different organisation have different levels of positions. As such, it is fair, only if the job content is considered in the designation, as has been in CPWD.

(iii) The MOL Notification does not indicate any Highly skilled Supervisory category, whereas such categories are essential in the Department's working. A large number of categories being adopted in the Department, are not indicated in the MOL Notification.

(iv) From the MOL Notification, it would appear that :

(a) that the work of a semi-skilled worker is capable of being performed under the supervision of guidance of skilled employees.

(b) a skilled worker's work performance calls for initiative and judgement ; and

(c) a highly skilled worker is to assume full responsibility for the judgement or decisions involved in the education of these tasks. In this connection, the following submissions are made :—

(a) So far as CPWD's W.C/RCE staff are concerned, the duties and the qualifications/experience prescribed for semi-skilled workers are such that supervision/guidance of skilled employee is required.

(b) The need for some amount of initiative and judgement in the performance of work exists in general in department.

(c) Every worker is responsible for the work he does irrespective of the skill.

29.7 It is therefore strongly contended that drawing analogy to the categorisation in M.W. Act in respect of categorisation of W.C/RCE staff in CPWD is wholly unjustified. The comments on the demands concerning various categories are furnished hereunder, under the heading "Demand".

29.8 While, therefore, not conceding any of the demands, it is at the same time pointed out that no justification has been indicated in their submissions as to why 1-1-73 has been mentioned as the base date for their demands and also why higher scales are further demanded from 1-1-76 or from 3 years in the concerned scales in certain categories. It is therefore, prayed that this aspect of the demands be also rejected by the Hon'ble Board of Arbitrators, as no rationale has been indicated for the above dates, which are arbitrary.

29.9 From the submissions of the Union, it is apparent that they would like to have common pay scales for all organisations under Central Government/State Government/Local authorities etc. falling which it is discriminatory, unlawful and violative of labour laws as well as Constitution of India. The job content, working environment, extent of skill required etc. are not practically the same everywhere and it is a well known fact that there is no such system as "National scales of pay" as envisaged by the Union. The contention of the Union, of discrimination is, thus, without any basis. It is also submitted that this is not within the purview of the Arbitration reference.

29.10 It may thus be seen that the "justification of demands" submitted by the Union is absolutely unreasonable.

30. DEMANDS

(1.1) The allegation by the Union of arbitrary, unilateral and unscientific categorisation by the Categorisation Committee is totally baseless. The composition of the Committee the number of interviews held and the analysis made by them will clearly prove this point. It is not expected of a responsible Union to make such an unwarranted observation about an expert committee. The contention of the Union that certain posts indicated by the Union falling under the Schedule Employment of Minimum Wages Act 1948 is not reasonable, as submitted earlier. The nature of their duties it is confirmed, is "unskilled even as per the definition in the Ministry of Labour Notification dated 29-10-85 under M.W. Act, 1948.

(1.2) No comments.

(1.3) The Union has submitted that the categories of Beldar, Bhusties, Chainman, Khalasi, Mali, Forest Guard, Sweeper, Cleaner, Waterman, Chowkidar, Bearer may be re-categorised/reclassified as 'untrained unskilled workman'. Our submission is that there are no categories such as 'trained' or 'untrained unskilled workman' as per Ministry of Labour Notification under the Minimum Wages Act. The proper classification is "unskilled". This demand of the Union is therefore illogical/unjustified and deserves to be ignored by the Arbitrators.

(1.4) No comments.

(1.5) It has been submitted by the Union that incumbents of the posts of unskilled categories equipped themselves with the requisite qualification and become abreast with the knowledge of different instruments, their use, identification of seeds, with different plants and other intermediary knowledge of the work and therefore, they become more helpful to the workmen of other categories. To encourage and further develop and inculcate in them the sense of responsibility, the Union demand that these workmen may be given pay scale of Rs. 210—220 after 3 years of service by categorising them as 'trained unskilled workmen'. The management holds that the unskilled workmen in Central Public Works Department no doubt acquire experience over a period of time but has to establish the acquired skill/experience by passing prescribed trade test before he is considered for promotion to higher category of post through means of seniority-cum-fitness. They are also permitted to compete for a higher category of post under D.R. quota. Many of them who really take interest in acquiring the knowledge of the trade are able to get into higher post in the Direct Recruitment Quota. The existing system is thus helping the really deserving workmen to progress in their career. The demand of the Union for automatic higher revision of scale of pay after three years of service, if accepted will only be counter-productive and kill any incentive to acquire more knowledge of the skill. It is a well known fact that a higher scale of pay in any organisation is given only when the incumbent is required to carry out work involving higher skill and responsibility and not merely because he has acquired a better skill or has a given number of years of service in a lower scale. Further, as submitted earlier there is no classification as trained unskilled name anywhere not even under the Minimum Wages Act. It is, therefore, prayed that the demand of the Union may be ignored and the existing classification of recategorisation of the workmen as well as that of promotion to the higher category which is free from encumbrances and which is based on realistic approach of helping the really deserving/experienced and skilled persons may be allowed to continue.

(1.6) The Union has demanded that on the analogy of pay scale in International Airports Authority of India, the unskilled workmen in CPWD be also recategorised and their pay scales raised from 1-1-76 or on completion of three years of service as the case may be. In this connection, it is submitted that it would not be appropriate to compare the categories and scale of pay of workmen of Central Government with those of autonomous organisation.

and Public Sector Undertakings for obvious reasons of different set ups, working environments, perks, etc. available. It is, therefore, prayed that this demand of the Union be ignored.

(2) Not acceptable.

(2.1) No comments.

(2.2) The category of Sweeper is a common category and is not a category peculiar only to the CPWD. The Ministry of Labour notifications, issued under M.W. Act from which the Union is trying to get support for their various demands for recategorisation, have categorised Sweepers only as Unskilled. Therefore, the Sweepers, wherever they are working in Government Departments are given the same unskilled scale of pay. Comparison with autonomous organisation or public sector undertakings is not appropriate, as already submitted earlier. In view of this the allegation of the Union of violation of any Article of Constitution of India is without any basis. Their demand for recategorisation of Sweepers as Semi-skilled and for giving them higher pay scale is unwarranted and unjustified. Therefore, the demand of the Union be ignored.

(2.3) The arguments advanced do not justify giving of a higher pay scale or a higher categorisation to Farashes, Bhisties and Lift Khalasis. Just because a stray Farash might have been temporarily required to do an odd job needing better skill does not justify higher categorisation of the category of Farashes as such. No justification has been given for recategorisation of Bhisties as semi-skilled. Therefore, the demand of the Union may be treated as unwarranted and be ignored, allowing the existing categories to continue.

(2.4) The function of Lift Khalasi is only to assist the Lift Operator and Lift Mechanic. He is not required either to operate the Lifts himself or to have knowledge of different tools, etc. as stated by the Union. The work of a Lift Khalasi is of completely unskilled nature and, therefore, the demand of the Union to categorise the Lift Khalasi as semi-skilled is unjustified and may be rejected.

For the same reasons as contained in the proceeding such paras the demand of the Union for giving them higher pay scale of Rs. 240 from 1-1-73 meant for semi-skilled workers is unjustified and may be rejected.

(2.5) The demand of the Union for creating more posts of Khalasi is not within the terms of reference to the Arbitration and as such the same may be ignored. Incidentally, there is no proposal for abolishing this category.

(2.6) The demand of the Union for creation of posts of Head Chowkidar in such Division under the semi-skilled category in the pay scale of Rs. 240-320 is not within the terms of reference and the same may be ignored.

(2.7) The demand of the Union for higher categorisation and higher pay scale automatically after completion of three years of service is totally unjustified. Number of posts created in each category depending upon work requirements in each category and is never governed by the length of the service of any workmen in lower category. This principle has not been accepted by Government in any other field of its employment.

(2.8) This demand of the Union for filling of 100% posts of the semi-skilled categories from amongst unskilled, untrained and unskilled trained workmen on the basis of seniority is also not covered by the terms of reference to the Arbitrators and as such the same may be ignored.

(2.9) As already submitted, there can be no comparison between the employees of Government departments and those of public sector undertakings and autonomous organisation. As such, it is reiterated that attempt of the Union to draw the analogy from such undertakings/organisations is not proper and the same may be ignored.

(2.10) The demand of the Union for classifying the workers as semi-skilled, semi-trained Artisans and after 3

years of service as semi-skilled trained Artisans is totally baseless unjustified and may be rejected.

(3) No comments.

(3.1 and 3.2) The demand of the Union for adding new category of Valveman/Asstt. Cook Bearer, Enquiry Cler in the revised pay scale of Rs. 260-400 w.e.f. 1-1-73 with a view to providing promotional avenues to unskilled workmen and semi-skilled Artisans is not covered under the terms of reference and therefore, deserves to be ignored by the Board.

(3.3) The demand of the Union for drawing analogy from the pay scales available in autonomous organisations and public sector undertakings is improper for the reasons already explained above in various paragraphs and may be ignored.

(3.4) The demand of the Union for revision of pay scale of the Lift Operators from 1-1-73 does not merit for consideration by the Board as the question of revision of pay scales of Lift Operators consequent to Fourth Pay Commission's Report is already pending in the Supreme Court of India for which a final hearing was held on 15-11-87. The judgment of the Supreme Court is, however, still awaited. Since the matter is pending before the highest Court of judgment and the judgment is awarded shortly the Hon'ble Arbitrators are requested to ignore this demand of the Union (Decision of the Supreme Court which has since become available is appended as Annexure VI).

(3.5) The submission of the Union for ordering to phase out Slow Speed Lifts is not covered under the terms of reference and the same may be ignored.

(3.6) The submission of the Union that the category of Sewerman is unskilled in the W.C. Estt. in the department is incorrect. The factual position is that sewerman whether in W.C. Estt. or R.C.E. is a semi-skilled person. The demand of the Union to categorise him as skilled on the analogy of definition in M.W. Act is not justified on any ground. The job requirement is only that of semi-skilled as has been categorised in the Regular as well as W.C. Establishment.

(3.7) The demand of the Union for creating posts of the Enquiry Clerks and for laying down Yard-Stick for this category is not within the purview of the arbitrators and the same may be ignored.

(3.8) The demand of the Union for creating posts of the Valveman is not covered under the purview of the arbitrators and the same may be rejected.

(3.9) The other categories referred to in item No. 3 submitted by the Union in the Arbitration do not require any special skill and may, therefore, continue in the unskilled category. The demand of the Union may be rejected.

(3.10) As submitted in earlier paragraphs automatic revision of pay scales of the workers after a certain years of services will kill initiative among the workers and is bad in principle. This may be rejected.

(3.11) The demand of the Union for creation of post of Male Head Sweepers, Sanitary Jamadar, Building Jamadar, Frash Jamadar in each Sub-Division with a view to providing promotional avenues to the feeling cadre in the semi-skilled category is outside the purview of the Arbitration and may be rejected.

(4) No comments.

(4.1) The demand of the Union for deleting the category of Senior Mali is also out of purview of the arbitration and may be rejected.

(4.2) The request of the Union for adding the category of Assistant Operator (AC&R) and Operator (AC&R) may be rejected as there is no category in CPWD called Operator (AC&R) or Assistant Operator (AC&R).

(4.3) The demand of the Union contained in para 4.3 of their submission dated 13-1-87 is not acceptable.

(4.4) The demand of the Union for creation of post of Lift Mechanic with a view to providing promotional avenues to the Lift Operators is not covered under the arbitration reference and may be ignored.

(4.5) The contention of the Union that the Assistant and full categories of workers are performing the same duties is incorrect. The duties are distinct, as laid down in the CPWD Manual Vol. III. There is no violation of Constitution in the matter of categorisation. The demand of the Union for recategorising the skilled categories as highly skilled categories is not justified and is not acceptable. The duties as laid down in the CPWD Manual and the qualifications, trade test requirements for employment in these categories will amply disapprove the contention of the Union for categorising them all as highly-skilled. The demand of the Union may, therefore, be rejected.

(4.6) The qualifications prescribed for the post of Motor Lorry Drivers and Road Roller Drivers are given in CPWD Manual, Vol. III.

(4.7) The judgment of the Regional Labour Commissioner (Central), Kanpur and that of the Delhi High Court referred to are not relevant as these relate to the daily wage muster roll workers of the CPWD and, as already submitted at the beginning in para 7, there can be no comparison between the daily wages workers and the workers in the Work Charged Establishment and Regular Classified Establishment, who are paid pay and allowance with regular pay scales. Workers in W.C.E./R.C.E. mentioned in this paragraph had been correctly stated as skilled from 1-1-73 and given the relevant pay scales.

(4.8) There is no justification for recategorising the workers referred to in para 4 of the Union's submission as highly skilled. The existing categorisation is in order keeping in view the duties prescribed. The judgment of Supreme Court in Shri D. S. Nakara's case and other judgments referred to by the Union relate to payment of wages to daily wages workers and are, therefore, not relevant.

(4.9) The submission of the Union for filling up of the 25% posts of highly-skilled category on the basis of Limited Departmental Competitive Examination from amongst Work Charged and Regular Transferred category and the rest 75% by way of promotion is not covered under the arbitration reference and may be ignored.

(4.10) The demand of the Union for dispensing with the licensing from states for the trades is outside the scope of arbitration reference and may be ignored. Incidentally, licensing is statutory requirement and cannot be dispensed with.

(5) Nil.

(5.1) The submission of the Union for reading the post of Senior Mechanical as Senior Mechanic (Mechanical)/Lifts may not be agreed to as there is no category in CPWD as Senior Mechanic (Mechanical).

(5.2) The demand of the Union for creation of new categories is outside terms of arbitration reference and may be ignored.

(5.3) The demand of the Union for doing away with the requirement of the Supervisory licence for the post of Electrician may be ignored as Supervisory Licence for Electrician is a requirement as per the recruitment rule for this category, commensurate with the job requirements. The question of doing away with requirement is also not covered by the Arbitration reference.

(5.4) As there is no categorisation "Highly Skilled Grade IV" even in the Ministry of Labour notification the demand of the Union for filling up 100% so called newly created posts on the basis of seniority may be rejected.

(5.5) The demand of the Union for upgrading the existing scale of Rs. 330-480 from 1-1-73 on the analogy of the scale in National Museum, Civil Aviation Department, International Airport Authority etc. is not justified for the reason that the duty against each category as laid down in 465 GI/88-18

Manual Vol. III is to suit the respective job requirements in the CPWD and the date of 1-1-73 is irrelevant after implementing the 4th Pay Commission recommendations. The pay scale is appropriate in reference to the duties. There is nothing which can be considered as special type of function expected of this post. Within the Department, there is not disparity and as such, the question of violation of the Constitution or Court judgment does not arise.

(5.6) The demand of the Union for doing away with the present practice of regular works relating to maintenance of Lifts, refrigerations and electrical wiring being given to the contractors is not covered under the terms of reference of the Arbitrators, and may be ignored.

(5.7) The demand of the Union for drafting all the workmen in Highly Skilled Grade IV, 100% on the basis of seniority amongst Highly Skilled men is not covered under the terms of reference and some may be rejected outright.

(6) NIL

(6.1) No comments.

(6.2) The demand of the Union for inclusion of creation of new posts of Foreman (Lifts) on the same pay scale with a view to providing promotional avenues to the Lift Staff is not covered under the Arbitration reference and the same may be ignored.

(6.3) The demand of the Union for creation of post of Foreman of the Horticulture in the Highly Skilled category, Grade III from 1-1-73 in each sub-division may be ignored. Firstly because there is no category called Highly Skilled category Grade III in the Department nor in the Minimum Wages Act and secondly because this is not covered under the arbitration reference.

(6.4) The demand of the Union for creating Selection Grade of Foreman category in each sub-division may be rejected outright as the same is not covered within the terms of reference to the arbitrators. Incidentally, the Fourth Pay Commission whose recommendations have been implemented from 1-1-86, include the Work Charged Staff and Regular Classified Staff, did not recommend Selection Grade for the Central Government Employees in their report. In other words, there is no concept of Selection Grade from 1-1-86 onwards.

(6.5) The terms of reference to the Arbitrators do not include consideration of the mode and method of promotion within the existing categories. As such, the demand of the Union for filling up of all the posts in the so called 'Highly Skilled Grade-III' by 100% strictly on the basis of seniority amongst so called 'Highly Skilled Grade-III' category may be rejected outright.

(6.6) Nil.

(6.7) Nil.

NIL

(7) Nil.

(7.1) Nil.

(8.1) Since there is no category called Highly Skilled Grade-I in the Department nor in the Minimum Wages Act and since the demand of the Union for promotion of Superintendent (E&M) and the incumbence to Highly Skilled Grade-I after 3 years of service be rejected outright.

(9) NIL

(10) The claim of the Union that the C.P.W.D. Mazdoor Union is only majority and representative Union of C.P.W.D. is denied. This Union was granted Provisional recognition in December, 1983 pending verification of membership. There are two recognised Unions in C.P.W.D.

10.1 to 10.4) No comments.

31. Shri Chander Sain, Director of Administration, CPWD, also submitted oral arguments on behalf of the Management of the CPWD which were as follows :—

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ORAL ARGUMENTS OF SHRI CHANDER SAIN DIRECTOR OF ADMINISTRATION, C.P.W.D. ON BEHALF OF THE MANAGEMENT OF CPWD BEFORE THE ARBITRATORS ON 14TH DECEMBER, 1987

31.1 Shri Chander Sain, Director of Administration, CPWD submitted before arbitrators that the Board has to adjudicate upon all the terms of reference and issues which are arbitrable independently like whether or not classification/categorisation done by the Management was proper or not and the date of effect visa 1-1-73 is also arbitrable according to terms of reference made by both the parties is a Director General (W), CPWD and CPWD Mazdoor Union under Section 10(a) of I.D. Act.

31.2 Shri Chander Sain submitted to the Arbitrators that the demand of CPWD Mazdoor Union regarding categorisation is not justifiable in respect categories which are not in existence and the categorisation done by the 3rd Pay Commission have already been implemented from 1-1-73 on the basis of categorisation done by Categorisation Committee Report of the then Ministry of Works and Housing. It was also submitted that when the categorisation on the basis of 3rd Central Pay Commission has already been implemented the question of recategorisation from that date does not arise at all.

31.3 Shri Chander Sain further submitted that the demand of CPWD Mazdoor Union of automatic promotion after three years is not justifiable at all as promotion depends upon skill which each individual acquires and which can be adjudged only after the testing the skill of that individual. Moreover higher pay scale is given on the basis of not only trade test adjudging the higher skill but incumbent of the higher post is assigned duty and responsibility that of higher post and higher pay scale cannot be given without assigning higher duties. He further submitted that on the basis of time period of the employees in the WC and Regular Classified categories have not only been given higher pay scales than fixed under Minimum Wages Act but are also given annual increments at different stages, higher increments after crossing E.B. and the longer experience gets more increments after considering the length of service. Moreover promotion and appointments have got criteria of the technical skill of each post which are enumerated and mentioned in the recruitment rules of different posts and have requisite qualification also. Shri Sain further submitted that there will be no incentive if promotion is assured after a certain period of three years etc. Shri Sain categorically emphasised that no parameter to be applied with regard to automatic or time bound promotion in the interest of productivity which relates to continue interest if the promotions are allowed to take place after adjudging the skill by way of trade test. Shri Sain further submitted that date of effect retrospectively shall not be borne by the Management and question does not arise because no category exist. He submitted that the recommendation/Award of arbitrators will take all shape and whatever come shall take effect prospectively. He requested that as a special case, Board of Arbitrators may give decision prospectively only and the demand of CPWD Mazdoor Union or higher pay scale and automatic promotion from prospectively be rejected. He cited that even pay Commission recommendations are from subsequent dates. He further emphasised that opposite party could not establish the retrospective application of categorisation as back as 15 years. He said that there are changes during this long period in technology as well as technical skill. Shri Sain also submitted that selection grade from 1-1-76 demanded by CPWD Mazdoor Union does not have any relevancy at all as after revision of pay scales selection grade has been abolished and there is specific recommendation of 4th Central Pay Commission to abolish selection grade posts which has made this idea of the Union is relevant. Shri Sain further submitted that Hon'ble Arbitrators may also kindly bear it in mind at the time of Award that whatever decision they may come with regard to upgradation of pay scales or other points or pay scales, re-categorisation shall have direct bearing in the sister organisations like Defence, P&T Railways and other Departments engaged in maintenance, construction of buildings and roads as CPWD manual is by and large is applicable there also and CPWD Mazdoor Union has not made them party so without consulting management of that organisations whole exercise shall not be fruitful at all. Shri Chander Sain also submitted that most of the demands

of CPWD Mazdoor Union like promotion, creation of new posts, new categories abolition of low speed lifts, getting away with contract system in the maintenance of Lifts and Airconditioning etc. and promotion without test are not in the terms of reference of the dispute to the Arbitrators which may be rejected outrightly. Shri Sain said that a detailed list of paragraphs with numbers to the claim of CPWD Mazdoor Union which are not in the terms of reference in the dispute before the Arbitrators shall be submitted by his office for consideration of the Board. Lastly Shri Sain submitted that after country is facing financial crises and at the time of Award in the instance Industrial Dispute before the Arbitrators is unopportune. The Department is already burdened in the payment of higher pay to muster roll on the basis of Supreme Court judgement and in the event of higher pay scale given to regular employees by the Arbitrators it will apply to them also. The Department has also financially burdened with issue of uniform to WC employees.

32. Shri B. K. Prasad begged leave of the Arbitrators to submit a few points which was granted by the Board. Shri Prasad, General Secretary, CPWD Mazdoor Union on behalf of the workmen emphatically submitted that date of effect of 1-1-73 is not arbitrable at all as the Management of CPWD and CPWD Mazdoor Union have already agreed jointly the date of effect as 1-1-73 and referred the dispute before Arbitrator whether or not reclassification and recategorisation on the basis of definition given in the schedule of Minimum Wages Act 48 and the pay scales demanded in the schedule are justified or not. Both the parties also jointly agreed to refer the dispute with regard to get the dispute adjudicated of automatic promotion after 3 years, selection grade in each post and promotion on the basis of seniority and issues like new posts, retiring age, conversion of regular classified Estt, transferred categories to WC, 5 yearly assessment or 3 yearly assessment etc. are incidental matters and the Board of Arbitration has full and total jurisdiction to adjudicate upon matters which are incidental to the adjudication of main industrial dispute. Shri Prasad further submitted before the Arbitrators that industrial dispute Act has provided a machinery to maintain industrial tranquility and specially brought to the notice of Arbitrators that the Arbitration agreement under Section 10(a) was signed in the background of withdrawal of indefinite strike in CPWD on 5th September, 86.

The Board of Arbitrators met on various dates i.e. 29-12-87 and held prolonged discussion on the claims and counter claims made by both the parties. The issues framed in the meeting held on 7-5-87 were also discussed in the light of pleadings. We have also considered carefully the preliminary objections raised by the management. We found the preliminary objections do not sustain on the face of voluntary reference to the Arbitrators.

We have taken up for consideration the issue already framed. The issue being as to whether re-classification of workcharge staff as also regular classified establishments as spelt out against issues No. (i) & (ii) is needed. We find that there has been existing an industrial dispute within the meaning of I.D. Act and that both the parties agreed to a reference for adjudication by the Arbitrators. This itself goes to prove that there is need for re-categorisation/re-classification of workmen engaged under the name and style as workcharge staff and regular classified establishments.

(2) Similarly the issues at Sl. No. viii and ix i.e. whether the reference made by the Min. of Labour is maintainable and whether there is need to improve promotional avenues etc. respectively were considered. An agreement dated 1st October 1986 within the meaning of I.D. Act was signed by the parties and sent to the appropriate Govt. Secretary Ministry of Labour who has published the terms of reference accordingly in their official Gazette. Therefore, the reference is legally maintainable and needs to be considered in accordance with law. Since there is a need on decision of re-categorisation/re-classification of employees, there is also need and requirement of deciding promotional avenues to be examined in the face of express terms of reference before the Arbitrators. Arbitrators are therefore of the opinion that there is a need to decide promotional avenues affecting the workers engaged under the name and style as workcharge and regular classified establishments. Thus, the issues at Sl. No. (i), (ii), (viii) and (ix) stand answered as above. The rest of the issues

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Sl. No. (iii) to (vii) would be dealt with during the course of deciding and examining the merits of the matters placed before Arbitrators for adjudication.

The Arbitrators met on subsequent dates i.e. 30-12-87, 4-1-88, 6-1-88, 23-1-88 and finally on 25-1-1988 and discussed the demands in detail. We have recorded minutes of proceedings held on the various dates. On 25-1-88 Arbitrators Shri G. K. Khemani, H. S. Vats gave their findings/opinions which are reproduced on the coming pages.

Findings of Shri G. K. Khemani, Arbitrator :

Government of India, Ministry of Labour vide their Notification published in the Gazette of India on 31-10-1986 had referred an industrial dispute between the Management of C.P.W.D. and the workmen belonging to C.P.W.D. Mazdoor Union for arbitration by the Board of Arbitrators consisting of Deputy Chief Labour Commissioner, Secretary of the C.P.W.D. Mazdoor Union and the undersigned. The matter of arbitration was about the demands of C.P.W.D. Mazdoor Union regarding re-categorisation/re-classification of work-charged staff and regular classified categories from 1-1-73. The C.P.W.D. Mazdoor Union has put their demand vide their petition dated 13-1-87. The CPWD Management had filed their reply vide their rejoinder dated 8-4-1987. Subsequently, the Board also met some of the officers of the Department, the workmen of the department and based on these discussions my findings on the demand of C.P.W.D. Mazdoor Union are as under:—

The Union has demanded that all Beldars, Bhicties, Khalasies, Malis, Sweepers, Cleaners, Forest Guard, Waterman Chowkidars, Bearers, Chainman who are at present classified as unskilled workman should be automatically converted and paid for in the semi-skilled to Rs. 210 to 290 (Old scale) when they complete 3 years of service. This contention cannot be accepted as the workman even after put in number of years of service continue to do the same type of work which he was doing after appointment. Therefore in accordance with the doctrine of equal pay for equal work, we cannot give him the scale of semi-skilled workman. Even otherwise a large number of above categories of workman are doing the work of only unskilled nature. No evidence was brought out before us that showed that every worker picks up the work of artisan after he/she has put in 3 years of service. It is also not necessary that all categories of unskilled workmen will pick up the work of artisans after they have put in 3 years of service. In any case as per recruitment Rules any workman who has picked up the skilled/semi-skilled work can always appear for trade test and get promoted for the post of semi-skilled/skilled worker after put in 3 to 5 years of service. Therefore, this demand of the Union cannot be accepted.

Similarly, the demand of the Union for Automatic promotion of the left over categories of work-charged and regular establishment cannot be accepted as per the argument given above.

The Union has also included the Sweeper, Gestetner Operator, Head Sweeper, Farash Bhiti and Lift Khalasi also to be included for the benefit of the automatic promotion. On the analogy of other above demands of the Union, this demand of the Union is also, therefore, not accepted as no evidence was made available that these workmen are doing any work of semi-skilled nature.

The Union has demanded creation of post of Head Chowkidar. As this is not covered in the reference made by Ministry of Labour and as no evidence about necessity of work in Department was brought forward, no recommendation in this regard.

3. The Union has demanded that the following categories of workman after they have put in 3 years of service should be given selection grade in the pay scale of Rs. 260 to 430 (old scale).

Bullockman, Mate, Syce, Packer, Stocker, Bandhani, Gharri, Serviceman Air-conditioning and Refrigeration, Head Sweeper, Sanitary Jamadar, Building Jamadar Fireman Cook, Farash Jamadar, Lab. Attendant, Cook Bearer Challan Guard, Gauge Reader, Meter Reader, Sewerman, Switch Board Attendant, Lift Operator (Light Speed Lifts), Dresser.

Some of these categories do not find their mention in the original Notification issued by the Ministry of Labour dated 31-10-1986, as also some of the categories may not be existing in the Department. As it is beyond our terms of reference to create new post no finding is given on this account.

The demand of the Union that all the workmen working for more than 3 years should be given the grade of the skilled category is also not tenable as they continue to do the work of semi-skilled nature. No evidence has been brought out before us to indicate that a high degree of skill is required for these posts to be declared as skilled. Besides, normally selection scale is given only in those posts where there is acute stagnation. No evidence was produced to indicate stagnation in these posts.

The Union has also demanded the old pay scale of Rs. 260-400 for the Lift Operator for low speed lifts. Recently, the Supreme Court has categorised all the Lift Operators irrespective of speed of the lift as skilled workman and therefore has have no other alternative but to fix them in the skilled scale of Rs. 975-1540.

The Union has further demanded that all Sewermen should be classified as skilled workman. It is felt that considering the nature of duties performed by Sewerman, no change in the existing categorisation is called for and he should continue to be put in the semi-skilled grade of Rs. 800-1150. No evidence that work involved is of skilled nature was brought before us.

The Union has further stated that the post of Enquiry Clerk, Valveman should be created. The creation of posts is beyond the scope of Board of Arbitration as also does not form part of reference made by Ministry of Labour. No award need be given on this account.

Similarly, the post of mate, Head Sweeper, etc. which the Union has demanded to be created in the department is beyond the scope of Board of Arbitration.

The Union has demanded that all workman presently designated as semi-skilled should be designated as highly skilled workman. Considering the nature of the duties as well as the nature of the work in the department there is no justification to declare all these workmen as highly skilled. No evidence was brought before us to indicate that these workmen are doing highly skilled category as defined in Minimum Wages Act. Act has one which involves skill or competence acquired through experience on the job or through training as an apprentice or in a technical or vocational institute or the performance of which calls for initiative and judgement. The contention of the Union that Minimum Wages Act provides for these categories to be declared as highly skilled is not borne out by facts and on going through the Act itself.

It was however, brought out in evidence that the work of main and Asstt. category is more or less similar and except that difficult jobs are executed by main category. We therefore, agree that Assistant and the main categories may be merged together and all workmen on promotion from unskilled categories or appointment from the open market should initially be appointed in the semi-skilled category and after working for 5 years under the direct supervision of skilled worker, as provided for in different Recruitment Rules, be promoted to the main category. No other charge in this regard is required. All these workman are also categorised under the Minimum Wages Act both in the semi-skilled and skilled grade and therefore, the present classification as per C.P.W.D. departmental categorisation, is correct.

The Union has demanded that highly skilled workmen be appointed on the basis of 25% by way of Limited Departmental Competitive examinations and 75 per cent on the basis of seniority. This item is not covered under the terms of reference of for Board of Arbitration and should be left to the Department. No evidence also was brought forward to give any finding on this account.

The scraping requirement of licencing for the electrical staff has been demanded by Union. This item is also not covered by the Arbitration and no evidence that this is not required was brought out.

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The Union has demanded creation of certain posts of electricians, Sr. Mechanic Air-conditioning and Refrigeration, Sr. Mechanical, Sr. Operator, Pattern Maker, Boilerman, Work Asstt. Road Inspector, Head gardner etc. As the Arbitration agreement does not provide the matter regarding creation of any additional posts, the question of considering this demand does not arise. Also no evidence about the necessity of these posts was brought out.

The Union has further demanded the supervisory licences required for electricians should be done away. As the possession of licence by electricians is statutory requirement, this cannot be agreed to. Apart from above, this item does not figure in the Arbitration agreement and no evidence that this is not necessary was brought out.

The Union has further demanded that after creation of new posts the criteria for promotion to these posts should be 100% on the basis of seniority. This item is also not covered with the Arbitration agreement.

The Union has further stated that the old scale of Rs. 330-480 for highly skilled workman is unjustified. No justification for their demand has been indicated nor any evidence brought out. The present classification of the workman is based on the study carried out by categorisation committee and considering the nature of the work performed by workers each category have been properly fitted. The requirement of the work in the department has been considered very carefully while fitting the category to which the staff should belong to. This categorisation is also strictly and conformity with the classification given in the Minimum Wages Act.

The Union has further demanded that the maintenance of lifts, refrigeration and electrical wiring sweeping etc. should be got done departmentally. This item is also not covered by the Arbitration Agreement.

The Union has also demanded that all workmen in highly skilled grade IV be drafted by way of 100 per cent on the basis of seniority. This item is also not included in the Arbitration Agreement.

6. The Union has demanded creation of certain posts of Foreman (Electrical Mechanical) Air-conditioning and Refrigeration, Radio Mechanic-cum-Operator, Work Asstt. Selection Grade, Sanitary Inspector, Cinema Operator, Surveyor, Asstt. Radio Mechanic-cum-operator, Foreman (Lifts) Foreman (Hort.), Foreman in all disciplines. As this matter is the creation of new posts, is beyond the scope of Arbitration Agreement. Also no evidence about the necessity of these posts in the Department has been brought out.

The Union has demanded promotion to the highly skilled grade III on the basis of 100 per cent seniority. As this is not covered by Arbitration Agreement, no finding can be given.

Foreman in Railways and Delhi Flood Control getting no relevance as the work to be carried out by the workers in CPWD is completely different from the works being carried out in other departments and comparison can not be made.

The Union has further demanded that technical operator, Senior Sanitary Inspector, Engineer Supervisors should be given highly skilled grade III after put in 3 years of service. As there is no work requiring such scales in the department and these posts do not exist. The question of arbitration for these posts does not arise. No evidence about the requirement of these posts in the department has also been given during the proceedings.

The Union has further demanded that classification of highly skilled grade II. All persons holding highly skilled grade should be automatically promoted from highly skilled grade III. As this item involves creation of new posts this is beyond the scope of Arbitration. Also no evidence was brought forth about the necessity of these posts in the Department.

Union has demanded that Supdg. E&M and other staff of highly skilled grade II should be automatically promoted to highly skilled grade I after they have put in 3 years

of service. As already stated this involves creation of new posts which do not exist in the department and for which there is no work in the department. No evidence was also produced. Therefore, the demand of the Union cannot be accepted.

The Union has also demanded that the above classification of pay scales and creation of new posts should take effect from 1-1-1973. As stated earlier the original re-categorisation of the departmental workers has been carried out by the Categorisation Committee properly and with the help of experts in the field who are well versed in the working of the department. No new techniques or equipments have been added in the department to justify any changes in categorisation. The demand of the Union that the Pay Scales and new posts should be created from 1-1-1973, therefore is not tenable. The departmental offices have also not felt the need for re-categorisation of any category of workers. No evidence was also brought out by Union. Apart from above the demand of the Union also was referred to Arbitration as per agreement reached between the Management and the Union somewhere in 1985. Therefore, the demand for applying the new classification from 1-1-1973 does not arise. The Fourth Pay Commission has given its recommendations with effect from 1-1-1986. It is therefore necessary that our Award should also be applied w.e.f. 1-1-1986.

7. FINDINGS OF SHRI H. S. VATS, ARBITRATORS

According to Notification dated 31-10-86 the Industrial Dispute between the Management of CPWD and workmen represented by CPWD Mazdoor Union publishing Arbitration Agreement between both the parties under Section 10A of the I.D. Act confirm the fact that an industrial dispute exists between the Management of CPWD and their workmen represented by the said Union. In the Arbitration Agreement referred to above both the parties re-categorisation-pre-classification of WC Staff and Regular classified categories w.e.f. 1-1-1973 on the analogy and classification under Minimum Wages Act 1948 and in the Scheduled categories to be re-classified/re-categorised have been placed in a particular pay scale of unskilled to highly skilled Grade I. In the Arbitration Agreement referred to above both the parties have also agreed adjudication of 3 years automatic promotion in all the grades, creation/classification of employments appearing in the Minimum Wages Act but not existing formerly in the Estt. of CPWD and demand of the workmen to create higher posts in Hort. Civil etc.

Consequent upon the opportunity afforded to both the parties, statement of claim on behalf of the workmen was submitted on 13-1-1987 by CPWD Mazdoor Union and the Management of CPWD filed their reply on 8th April, 1987. Both the parties were given full opportunity for examination and re-examination, written and oral evidences, filing of documents etc. call of which have been marked and exhibited, my findings/decisions/opinions on the demands of workmen as well as wherever demands have not been found justified by me other relief the workmen are entitled to are under :-

The demand of the workmen in item No. i & ii of the Schedule i.e. unskilled and semi-skilled is with 6 corner approach.

Firstly the workmen do accept that there is a work in the Estt. of CPWD which can be and should be classified as unskilled. Second demand of the workmen is that the workmen after putting in 3 years of service do acquire upto date themselves with knowledge of tools work of CPWD and equipped themselves with some kind of skill which as above unskilled and such workmen be given automatic promotion after 3 years so as to say that workmen who had completed three years of service and classified as unskilled on 1-1-73 be classified as semi-skilled in the pay scales of Rs. 196-232 and similarly after completion of 3 years in this category of unskilled status be given automatic promotion in the pay scale of Rs. 210-290. Thirdly workmen demand is that there are categories like Bhisti, Frash, Cleaner, Chowkidar (night guard) Bearer etc. etc. who are appearing in the Scheduled of Minimum Wages Act 1948 in the semi skilled category and the Management of

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CPWD have wrongfully classified them as unskilled workmen right from 1-1-73 and this irrational classification denying the time scale of the semi skilled categories of Rs. 240—320. Fourthly the workmen have also claimed semi skilled pay scale of workshop staff to the workmen who are called regular classified Estt. and given time scale of semi skill ment for office staff. Fifthly the demand of the workmen is that there are posts like Sweeper etc. The type of job they performing and some sort of skill and technique require to perform these duties specially when sweeper in CPWD required to do wet work used acids etc. for cleaning floors Varandah and other parts of the building, they be classified as semi skilled in the pay scale of Rs. 240—320. Sixthly the demand of the workmen is that all the unskilled workmen be promoted in 100 percent on the post of semi skilled in the pay scale of Rs. 240—320 and similarly semi-skilled workmen in the pay scale of Rs. 240—320 be given automatic scale of promotion in the grade of Rs. 260—350 after years service.

OPINIONS :

- (a) Regarding third point referred to above in the 52nd meeting of the Arbitrators on 20-1-88, it was decided by both the Arbitrators and Umpire that all those categories which are not appearing in the Schedule of Minimum Wages Act in the 'Unskilled' category and only do appear in the 'semi-skilled' be classified as 'semi-skilled' and the classification by the Department as 'Unskilled' to go. Therefore the following categories are classified as only semi-skilled in Gazette of India Part III, Section 2, S. O. No. 247 (E), dated 25th April, 1973 :

Bhisti (2), Frash (62) Bearer (57).

The decision of the Arbitrators referred to above the irrational classification done earlier as 'Un-skilled' of 'semi-skilled' workmen. The existing classification as 'Un-skilled' does not sustain. In fact these categories should be classified as 'semi-skilled'.

- (b) Regarding point 5th I am strongly of the opinion that all the 'Unskilled' workmen cannot do sweeping including wet sweeping with acids etc. and it needs on the one hand technique/some skill on the work and is possible only by way of long experience. Having taken note of the evidences on this point I find that the work of sweeper in CPWD is more onerous than ordinary sweeping and since technique/skill is required for the performance of this duty the pleadings of the Management fails and I firmly hold that Sweeper of CPWD is 'semi-skilled' workmen.
- (c) Regarding Mali and Bulkman it is seen that the workman is demanding Malies to be classified as 'Unskilled' workmen and Bulkman as 'skilled'. I have gone through the Recruitment Rules of the post of Mali and Bulkman, their nature of duties allocated to them and the observation of Categorisation Committee of CPWD (1973) regarding categorisation of Mali. The duties being performed by Malies as well as Bulkman as above unskilled and existing categorisation is irrational which in my opinion be set aside. I do not agree at all with the workmen claim that Mali be classified as 'Unskilled' and Bulkman as 'skilled' both the contentions of workmen are liable to be dismissed. I recommend classification of Mali as well as Bulkman as 'semi-skilled' workmen.
- (d) Regarding promotion of unskilled after three years and 'semi-skilled' to three years and giving pay scale as indicated by the workmen have been analysed in the light of proceedings of both the parties and the evidence adduced thereon and it is held that raw hand 'unskilled' workmen after coming to the Deptt. and serving in CPWD not only acquires knowledge of tools their use, machinery etc. but also equipped himself with the experience of work, of artisan and in turn assist the

artisan in their work thereby deemed to have attained the status of 'semi-skilled'. Further more Beldar, Khalasi are attached with artisan as per yard stick in the CPWD Manual. Accordingly they are helper to the artisan and in Minimum Wages Act their status is that of 'semi-skilled'. Even expert of the Management of CPWD in his deposition, Shri N. Krishana Murthy have confirmed that during a period of 3 years 'Unskilled' workman acquires some skill which can be computed to that of 'semi-skilled' and be given automatically pay scale of 'semi-skilled'. Waterman and Cleaner in the electrical be merged with Khalasi and waterman and Chairman in the Civil be merged with Beldar. It is also held that all the unskilled artisan referred to above be given promotion automatically after three years in pay scale of Rs. 210—290 from 1-1-1976 or onwards whichever is later and they may be designated as Beldar Gr. I, Khalasi Grade I and Chowkidar Grade I etc. etc. I do not agree any merit in the demand of the workmen for giving pay scale of Rs. 240—320 to 'semi-skilled' artisan as demanded by them. So it is held that time scale of 'semi-skilled' artisan referred to above should be Rs. 210—290. The demand of the Workmen to get automatic promotion from the grade of 'semi-skilled' does not match any merit and same is dismissed.

- (e) The demand of the workmen for classification of Junior Gesteiner Operator as 'semi-skilled' does not match merit in view of the exigence of the appropriate Govt. dated 21st Oct. 86 as this category being a common category having no special peculiarity in CPWD be continued to be commonly categorised and I do not see any merit in making any recommendation in improvement of this post than the existing.
- (f) Regarding Lift Khalasi I do not see any merit of placing this post direct in the 'semi-skilled'. They may be placed in the 'Unskilled' and after 5 years given 'semi-skilled' pay scale being helper to the artisan.
- (g) Regarding categorisation of Packer, Stecker, Svec, Bhandari, Gharmi, Head Sweeper, Sanitary Jamaradar, Building Jamaradar, Fireman, Frash Jamaradar, Lab. Attendant, Challander, Switch Board Attendant, Dresser, my opinion is that these categories are classified 'semi-skilled' and be placed in the pay scale of Rs. 210—290. All the workmen in the 'semi-skilled' category after putting 8 years of service be given Selection Grade in the pay scale of Rs. 225—308. I further recommend that most of the categories are dying categories and their duties be merged with 'semi-skilled' workmen.
- (h) Regarding demand of workmen to categories Laboratory Assistant, Fire Jamaradar (Leading fireman) is being agitated to be classified as 'highly skill' which demand of the Party No. 2 does not merit in the light of their qualification, method of recruitment and duties.
- (i) Regarding re-classification of Lift Operator (High and Low Speed) in the 'highly skilled' I do not see any merit of the Party No. 2.
- (j) Therefore I feel that all other categories be categorised as skilled artisan.
- (k) Regarding Sr. Mali I appreciate the reasonability of the Party No. 2 to appreciate facts and on the basis of which they themselves have prayed in the statement of claim at Item No. 3:1 that Sr. Mali be categorised as 'Skilled' and be deleted from Item No. 4 is based on reasoning so I am inclined to concede.
- (l) Regarding Mate, Guage Reader, Meter Reader, Sewerman, Cook, Lift Operator (Light and High Speed) I am of the opinion that all these categories be classified as 'skilled'. All the 'Unskilled' 'semi-skilled' workmen engaged in Laboratory of

concrete brick cube testing and in the pants (Hot-
dry asphalt) Plan and elsewhere be categories as
"skilled" workmen and wherever such employment
has taken place the benefit of Grade pay concern-
ed workman is entitled.

(m) Regarding work of Enquiry Clerk, it is opined
that Beldar Khalasi semi-skilled workmen are
discharging the duties but they are not paid grade
pay of "skilled" workmen which he and as per
their entitlement.

Regarding demand of Party No. 2 to give Selection
Grade after 3 years of service strictly on the
basis of seniority. I feel end of justice shall meet
it after service of 8 years all the "Skilled" artisan
are given Selection Grade in the pay scale of
Rs. 330—480.

(n) Assistant Radio Mechanic-cum-Operator, caneman,
stonecutter, Tailor, Upholster, Cable Joiner, Painter,
Fitter, Carpenter, Wireman, Plumber, Boiler-
man, Mechanic, Operator, Armature Winder, Black-
smith, Lineman, Welder, Tin Smith, Turner, Lift
Mechanic, and with their Assistant Categories,
Moulder, Choudhary, Floral Decorator, Serviceman
AC&R, Mechanic AC&R, Sanitary Inspector, Cinema
Operator, Motor Lorry Driver, Road Roller
Driver.

All the categories referred to above which had earlier
assistant categories under them including serviceman
AC&R have been merged in the full categories and up grad-
ed to that of "highly skilled". I also hold that Road Roller
Drivers be merged with the category of Motor Lorry Driver
and lineman with Wireman. I also hold that the demand of
the workmen for classification of Lift Operator (High
speed Lift) in the "highly skilled" category breeds arbitrary
classification in the same class of Lift Operator so in the
light of it, this demand is dismissed. I also hold opinion
that categories mentioned above though may be figuring in
other industries under the Industries run by Central Govern-
ment but the nature of duties and conditions of employment
do differ as elsewhere possession of licences were not neces-
sary, pre-requisite of employment and in the discharge of
duties supervisor do guide them in the execution of work but
in the CPWD all the workmen referred to above are reclassi-
fied as "highly skilled" workmen and to discharge their duties
and execute task independently without supervision as per
evidences adduced by both the parties before the Arbitrators.
I also hold that all the workmen in the "highly skilled" cate-
gories be promoted 75 per cent on the basis of qualifying
trade test subject to seniority amongst "semi-skilled" and
"skilled" artisan. 25 per cent posts in these categories be
filled up through limited competitive departmental test amongst
the industrial workmen of CPWD subject to the provision
that it was not in any way effect the regularisation of muster
roll employees who are to be classified as permanent work-
men in the light of Hon'ble Supreme Court of India decision
and provision of permanent/Temporary workmen in the
I. D. Act 1947. I hold that the "highly skilled" workmen re-
classified above may be given the pay scale of Rs. 330—560
from 1-1-73.

(p) Regarding Staff Car Driver I hold the opinion that
it is a common category of Ministries and Departments and
this Arbitration is not made for such type of posts which
are being managed at the Government level so I opined that
categorisation of such posts will not be necessary for us.

(q) Radio Mechanic-cum-operator, Electrician, Pattern
Maker, Sr. Sanitary Inspector, Work Assistant, Road Inspector,
Head Gardner, Sr. Mechanic AC&R, Sr. Mechanic Lift, Sr.
Mechanic and Sr. Operator.

All the above categories are promotion posts from feeding
cadre of workmen already recommended for categorisation
as "highly skilled". These posts are of master craftsman level
so I recommend them in the pay scale of Rs. 425—750 to be
classified as highly skilled Grade III.

(r) Foreman Electrical, Foreman Mechanical, Foreman Lift,
Foreman AC&R, Technical Operator, Supdt. E&M,

All these posts are of highly skilled Supervisory and are
promotion posts amongst highly skilled grade III and so be
given the pay scale of Rs. 550—800. All the workmen in the
highly skilled grade II be promoted and given Selection Grade
after 8 years of service and be placed in the pay scale of
Rs. 550—900.

(s) I hold that demand of categorisation of different class
of highly skill grade IV, III, II and I as per reference has
been reduced to 3 grades two being functional grades and
last being Selection Grade. The post of Surveyor, Work
Assistant Selection Grade appearing at Item No. 6, Sr. Super-
visor at Item No. 7 are not cadre posts of industrial workmen
the industrial dispute of whom this arbitration are adjudicat-
ing so the same have been left out to be decided by Party
No. 1.

(t) Regarding promotion avenues to the workmen I have
the following opinion:—

At the lowest level that is "unskilled" to "semi-skilled"
"semi-skilled" to Selection Grade and semi-skilled/
Selection Grade to skill, there should not be any
trade test. There is also no necessity of trade test
from Mate to Road Inspector and Sr. Mali to
Choudhary.

(u) Regarding Ratio to be followed in Hott. Wing from
Head Gardner to Mali should be 5 per cent, highly skilled
(Choudhary, Floral Decorator (10+5 per cent), Sr. Mali
25 per cent and Mali 55 per cent. In Electrical Ratio should
be from Foreman to Wireman 1 : 3-4-15 and between Sr.
Mechanic and Foreman 1 : 3. Electrician posts should be
created wherever sub-station of 250 KVA and above exists
in addition to other installations like pump lifts, fire fighting
etc. and have sub station of 750 KVA and higher foreman
posts as above may be created for extending promotion op-
portunities to the lower formations. There need not be any
trade test from highly skilled to Master craftsman i.e. Wire-
man to Electrician and Foreman Mechanic to Sr. Mechanic
and Sr. Mechanic to Foreman. The supervisory licence of
competency is not required under law to be possessed by
Electrician as being the workmen is only required to possess
Grade II licence. In all the posts workers of 5 years of
service shall be permitted in higher grade on the basis of
seniority excepting "highly skilled". The Competitive Depart-
mental test be conducted by training Institute. The test
should be linked with intensive training. 75 per cent posts
to highly skilled grade shall be filled in on the basis of
seniority subject to qualifying trade test and 25 per cent
amongst all categories of staff of CPWD possessing requisite
qualification by way of limited Departmental Competitive
Examination. There will be trade test only at the level of
highly skilled and a person of the line having minimum
8 years experience shall be promoted on the basis of seniority
subject to trade test to the extent of 75 per cent and 25 per
cent posts at his level be filled in amongst serving depart-
mental employees of all the categories possessing requisite
qualification by way of limited departmental competitive
examination. In all other functional posts persons from the
feeding cadre shall be eligible for promotion after 5 years
service on the basis of seniority. For the post of Mali there
will be trade test amongst serving unskilled workmen having
two years of regular service and experience in the line by
way of qualifying Trade Test. All the posts of Selection Grade
shall be given wherever provided after 8 years of service on
the basis of seniority. All the opinion with regard to WC
Estt. and Regular Classified Estt. above shall be if so facto
applicable on their counter part in the muster roll estt. on
the philosophy of equal pay for equal work. NTS in Labo-
ratories shall get pay scale of Laboratory Assistant, NTS
on Road work shall get pay scale of Road Inspector, Beldar/
Khalasi performing the duties of Enquiry Clerk, Store Clerk
shall get skill pay scale so on and so fore.

(v) The Arbitrators were also explained in oral Arguments
by Party No. 2 that there is discrimination in issue of
Uniform and age of superannuation, leave etc. in the name
of Muster Roll Estt. WC Estt. and Regular Classified Estt.
in which correction I will only observe that in labour
laws there are permanent and temporary workmen within the
industrial workmen there cannot be discrimination in the age
of retirement issue of uniform benefits and facilities which
Party No. 1 may take note of it in the light of Supreme

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Court of India decision dated 21-8-87 allowing the application of Party No. 2 in the review petition No. 480/86 in case of Sh. Surinder Singh and other V/s. Engineer-in-Chief, CPWD and muster roll workmen as per I. D. Act 47, are already acting in the grade I therefore observe that regulation is only classification and classification by grades on which there cannot be any discrimination. In the light of numerous judgments of industrial adjudicator as well as other judicial authorities.

(w) The Party No. 2 also requested to wage fitment of new pay scale from 1-1-86 after reclassification/re-categorisation which I feel is a point to be settled incidental to the main dispute permissible under law.

(x) I recommend that the re-classified and re-categorised posts be fitted in new pay scales from 1-1-86 in the following manner:—

Category	Adjudicate pay scale 1-1-73	fitment in revised pay scale: 1-1-86
Unskilled	196-3-220-EB-3-232	750-12-870-EB-14-940
Semi-skilled	210-4-226-EB-4-250-EB-290	800-15-1010-EB-20-1150
Selection Grade	225-5-260-6-290-EB-6-308	825-15-900-EB-20-1200
Skilled	260-6-290-EB-6-326-8-366-EB-8-390-400	950-20-1150-EB-25-1500
Selection Grade	330-8-370-10-400-EB-10-480	1200-30-1440-EB-30-1800
Highly skilled	330-10-380-EB-12-500-EB-15-560	1200-30-1560-EB-40-2040
Highly skilled Gr. III	425-15-500-EB-15-560-20-640-EB-20-700-25-750	1400-40-1600-50-2300-EB-60-2600
Highly skilled Gr. II	550-20-650-25-800	1600-50-2300-EB-60-2660
Highly skilled Gr. I (S.G.)	550-25-750-EB-30-900	1640-60-2600-EB-75-2900

Date of Effect -

Re-categorisation and reclassification and fitment of pay scales shall be applicable from 1-1-1973 and full back arrears the workmen are entitled to till date and onwards. In holding so I have pursued ration of law in the matter of classification in similar cases by Supreme Court in numerous cases wherein higher pay scales/arbitrary classification has been set aside and relief granted from 1-1-73 the date of classification which was in dispute.

I am very much appreciative of the realisation amongst the workmen to the natural calamity and their urge to standby National cause and desire of the workmen to contribute in Prime Minister's Relief Fund to deposit bulk of the amount in the GPF Account etc. etc. I hold that the demand of the workmen as contained in the resolution dated 13-9-87 is justified lawful and the same is conceded. It is my opinion that the Management of CPWD shall compute amount of the workmen as consequent of this Award from 1-1-73 to 31-1-88 and amount deducted as per percentage indicated in the resolution of the workmen and same be remitted accordingly by cross cheque. (which deduction is held legal by Hon'ble Supreme Court 1985-Lab-IC-242 Balmer Lawrie Workers Union Bombay and another V/s. Balmer Lawrie and Co. Ltd. and Others).

Award of Shri M. G. Wanare, Umpire.

I find that on majority of issue, both the Arbitrators S/Shri G. K. Khemani and H. S. Vats held different views/opinion. However, I find that there is unanimity amongst them on placing all lift operators in the classification as "skilled" workmen in the pre-revised scale of Rs. 260-400 irrespective of operation of high or low speed lift. Thus all the lift operators stand categorised as "skilled" workmen in the pre-revised scale of Rs. 260-400.

I agree with the opinion of the brother arbitrators S/Shri G. K. Khemani and H. S. Vats.

There is also unanimity among both the brother Arbitrators S/Shri G. K. Khemani and H. S. Vats on merging of Assistant categories with full categories. The Assistant categories and full categories were earlier classified as "semi-skilled" workmen in pay scale of Rs. 210-290 for Assistant Category and "skilled" classification for full category in the pay scale of Rs. 260-400. As per majority opinion both the categories of workmen stand merged in the result the Assistant categories presently semi-skilled have been placed against classification as "skilled" category workmen.

Thus once all the Assistant categories are merged with full categories, I take up issue whether these merged categories should be classified as highly skilled or not as there is difference of opinion amongst brother arbitrators S/Shri G. K. Khemani and H. S. Vats on this point. I find that presently workmen against full categories are treated as "skilled" artisan as per CPWD Manual Volume-III. The issue before Arbitrators has been that whether merged categories (Assistant and Full categories) should be placed against highly skilled category or not. Shri Khemani Brother Arbitrator though agreed merging of Assistant categories with full categories, did not agree or recommend placing the merged category against highly skilled category.

I find from the pleadings of the parties that in the past it was agitated for placing workmen classified as "skilled" artisan as "highly skilled" artisan workmen. In the light of the fact that similar artisan workmen were placed and so treated as "highly skilled" category when they were engaged under the name and style as muster roll against workcharged establishment, for example a Carpenter engaged on muster roll was treated as "highly skilled" artisan, whereas a Carpenter engaged on W. C. Estt was categorised as skilled. Similar has been the case of Mason, Plumber, Fitter etc. The pleadings of Party 2 show that relief sought before the Judicial authorities was granted by classifying the concerned artisans as "highly skilled" and thus grant of relief to the workmen concerned accordingly was secured by litigation. The pleadings of the parties further disclosed that the High Court of Delhi examined these very issues. The High Court did not agree with the workmen being treated as skilled by Part No. 1 but Delhi High Court confirmed categorisation as "highly skilled" done by the Judicial Authority i.e. Authority under M. W. Act. In effect the contention of classifying artisan as skilled as per CPWD Manual Vol. III, did not stand. In this connection I rely on the judgement of the High Court of Delhi dated 16th October, 1984 given in CW Petition No. 2445 of 1984 between the Union of India through Executive Engineer 'E' Division (CPWD), 11 Bhawan V/s. Authority under Minimum Wages Act and Others and judgement dated 27th May, 1985 of High Court of Delhi in CW No. 299 of 85 between Union of India V/s. Ravinder Pal and Others.

Apart from the above position the evidence adduced before the Arbitrators (vide evidence of MW-1, MW-2, MW-3 and UW-9) reveal that the workmen working in Assistant categories (semi-skilled) are performing same and similar type of job as is done or performed by the full category which is classified as "skilled" category i.e. full category. The definition of Highly skilled workman given in the notification issued by the Government of India S.O. No. 749(E) dated 19-10-1983 vide Gazette of India dated 19th October, 1983 reads as "means work which calls for a high degree of perfection and full competence in the performance of certain task acquired through intensive technical or professional training or practical work experience for long years and also requires of a worker to assume full responsibility for the judgment or decisions involved in the execution of these tasks". The evidence laid before the Arbitrators by both the parties undoubtedly show that the artisans are performing work with full competence on given tasks obviously as they have acquired high degree of skilled through intensive practical work experience for long years. It has also been placed before the Arbitrators by witnesses presented by both the parties that the workers when given task assumed full responsibility for the judgment involving in the executive of the task given to him from time to time. MW-3 agreed that the execution of task given to them is performed independently without any

supervision. This being the case, I find that description given under the notification attached to the Minimum Wages Act under the Head "Highly skill" answers fully and aptly. I therefore recommend that all the workmen artisan of the merged categories including other full categories may be treated and placed against classification of "highly skilled". I am unable to subscribe the views of brother arbitrator Shri G. K. Khemani. I am in agreement with the opinion of brother arbitrator Shri Vats. I award accordingly.

The workmen described as Bhistry, Frash and Bearer are presently classified as "unskilled" workmen though under the statutory Notification issued under the Minimum Wages Act, the said workmen are classified as "semi-skilled". I cannot disagree with the opinion expressed by Shri H. S. Vats brother Arbitrator. I hold the view that this category should be classified as "semi-skilled". This is my Award on this count.

The question for opinion is whether the "unskilled" category (Rs. 196—232) namely Beldar, Chainman, Khalasi including Lifts, Forest Guard, Watchman Chowkidar and Cleaner should be categorised/re-classified as "semi-skilled" in the grade of that category existing in CPWD i.e. Rs. 210—290. I am of the opinion that the above categories are classified as "unskilled" and it does not warrant any change. This is my Award.

The next question is that Sweeper has been classified as "unskilled" workman. The claim of party No. II has been that all the Sweepers should be recategorised as "semi-skilled" workmen. The pleadings/arguments shows that the Sweepers are predominantly engaged on doing the wet sweeping job. The witness (MW-4) deposed that sweeping with set cloth requires higher degree of skill. This job is different from commonly understood job of sweeper who does sweeping on the roads, lanes etc. This is not done by the Sweepers engaged by Party No. I. It was brought out in the oral argument by Party No. II that Sweepers are mainly engaged in areas where VIPs are residing/using the premises like Vithal Bhai Patel Bhavan, North Block South Block etc. This type of wet sweeping can be done only by those persons who have some knowledge and technique of using wet-broom/dust/ acids etc. for cleaning washing places like Urinals, Latrines, Floors etc. I am of the opinion that such a person needs certain degree of skill which is not possessed by a common workman (here a sweeper) who unless has performed and acquired some experience. I therefore hold the views that the sweeper doing the above job be classified as "semi-skilled" workmen. I am in agreement with Shri Vats Brother arbitrator. I recommend accordingly. This is my Award on this point.

I find that Mali and Bullockman are presently categorised as "unskilled" workmen. The work of this category can be performed only when the workman concerned acquires certain degree of skill and experience. I find that categorisation Committee (1973) had examined the work of Mali. They expressed that work of Mali can be done only when certain degree of skill is acquired by the workmen concerned before he is called upon to do the job of Mali. The duties prescribed for (p-107 CPWD Manual Vol. II, 1972) are "to maintain and to drive the bullocks in the bullock movers and drive bullock carts etc. and who should work as Mali". This shows that the work performed either by Mali or Bullockmen involve certain degree of skill and also experience. I am thereof the opinion that Mali and Bullock man should be classified as semi-skilled workman. I reject the claim of the party No. II that Bullockman should be classified as "skilled" and Mali as "unskilled". I also do not accept the claim of party No. I that Mali should be classified as "unskilled" workman. I am in agreement with Shri H. S. Vats brother arbitrator. In the result our recommendation is that Mali and Bullockman should be classified as "semi-skilled" workman and we award accordingly.

On categorisation of the workmen namely Packer, Bhandani, Gharami, Fireman, Syce Stocker, Lab, Attendant, Challandar, Switchboard attendant, Dresser.

I have to record that they are presently classified as "semi-skilled" workman. I agree with Shri Vats brother arbitrator to the extent that their existing category as semi-skilled should continue to be as semi-skilled. During the course of argument it is brought to our notice that there are different type of scales of pay given to them though they fall in one category of "semi-skilled" with a view to have uniformity

I recommend one scale of pay for them i.e. Rs. 210—290 pre-revised. I concur with views of Shri Vats on this aspect. We recommend accordingly.

It was vehemently argued that these category of workman in fact are dead end post and dying categories. To obviate frustration and preserve efficiency I recommend Selection Grade of Rs. 225—308 (pre-revised) to them after completion of eight (8) years service. I agree with Shri Vats on this score. This is award for these category of workmen.

The claim of Party No. II in respect of servicemen—AC&R to categorise him as "skilled" workman does not need consideration because this workman is Assistant category of Mechanic AC&R which have been decided herein above.

The category of workmen who are working as Jamadar in different employment/disciplines like Sanitation, Sweeping, Building, Frash work needs to be examined. I have already given my opinion hereinabove that Sweeper including Head sweeper Frash should be classified as "semi-skilled" workman. The jamadars are supposed to supervise the work of the above categories. I therefore feel that all Jamadars referred to above should be placed against next above scale and this will be in the interest of the Administration to secure proper and effective supervision of the persons concerned. I recommend these scale of pay Rs. 225—308 (pre-revised) of Semi-skilled selection grade. This is my award.

The mate does the job of supervisor. It will therefore be proper to place him in the category of "skilled" workman. I agree with Shri Vats. This is our recommendation to award "skilled" category. Meter Readers and Gauge Readers do the job of reading the meters which job certainly needs to be categorised as "skilled". The persons who have to do the job of meter reader and Gauge reader are not merely literate but they have to acquire certain knowledge experience in addition to their own literacy. These persons are never recruited if they are illiterate. I therefore, hold the opinion that Meter Reader and Gauge Reader should be classified as "skilled" workmen. Cook need certainly a good degree of skill for doing his job. This is Promotion Post in the line of bearer who is semi-skilled. Therefore I am of the opinion that this workmen should be classified as "skilled" workman. My opinion classifying of Readers (meter Gauge) Cook should be classified as "skilled" workman. This is in agreement with recommendation of Shri Vats arbitrator. This is our award for these categories.

Sewerman is presently classified as semi-skilled workman. This is a promotion post made available to the workmen who worked as Sweeper and acquire experience of skill. I have already held in foregoing para that Sweeper should be placed in the "semi-skilled" category. There is no difference of opinion that the ordinary workman of sweeper can work as seweraman unless or until he acquires special skill perhaps the special technique too, to do the special job of a seweraman. The evidence adduced before us (refer statement of witness UW-1) shows that workman can do the job of seweraman only when he acquires special skill. Ordinary Beldar, Khalasi or any other workman cannot do the job seweraman in absence of skill and technical knowledge about the drainage etc. This being the position on the face of evidence, it does not seem to be justified to place Sewerman against the category as "semi-skilled". I am unable to subscribe the views of brother Arbitrator Shri G. K. Khemani in this regard. I agree with the views of Shri Vats. I recommend that Sewerman should be placed against the category of "skilled" workman. This is my Award in respect of Sewerman category.

The point relating to proper scale of pay to such of the workers who are deployed for doing the duties of enquiry clerk is before me for decision Shri G. K. Khemani, Brother Arbitrator opined that this issue is within the compass of creation of posts of Enquiry Clerk and the creation of posts is beyond the purview of reference of the Arbitration. I do not subscribe to this view. The claim of the party No. II reveals from the pleadings as —

"3.7 That on each enquiry, the post of Enquiry Clerk be created and earmarked for promotional avenue to the Industrial workers in the work charged/regular classified establishment and presently mus-

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ter roll employees performing the duties of Enquiry Clerks be regularised. The type of work being performed by Enquiry Clerk can be acquired by way of training and actual longer experience.

(Statement dated 13-1-87)

"3.7. The contention of the Management is denied. The submissions of the Union in the respective para in the initial petition are reiterated. It is emphatically denied that the demand pertains to creation of post of Enquiry Clerk is a right of the employees of CPWD who are functioning as Enquiry Clerks on all the enquiries of CPWD but they are not given the pay and allowances of Enquiry Clerk. Moreover the demand of the Union is to make it a promotional post for WC/Regular Classified categories in the lower pay scales."

(Statement dated 13-1-87) ((Rejoinder dated 15-1-87))

This shows that creation of posts of Enquiry Clerk is not agitated but a relief is sought in respect of those workmen who have been called upon to carry out the duties of Enquiry Clerk on all the Enquiries of CPWD and that they are not paid due pay and allowances for the job performed by them. The claim and the pleadings further reveal that muster roll employees like Beldars etc. are deployed or called upon to do the job actually of Enquiry Clerk and such of the workmen are paid wages as admissible to either unskilled/semi-skilled category, though they are entitled to the payment of wages (time scale of skilled category which is pre-revised Rs. 260-400) for the jobs performed. I find from the Notification containing Minimum rates of wages that the workers doing the above mentioned job are classified as 'clerical' grade. This work is treated as against category of 'clerical' within the meaning of the said notification and that the workmen concerned should be paid accordingly depending upon the qualification of matric and non-matric as the case may be. The employer is therefore duty bound to pay 'clerical' grades to those workmen who are called upon to do the job of enquiry clerk. The contention of Party No. 1 against para 3.7 on page 10 of their statement dated 8th April, 1987 is not correct and I agree with Shri Vats, Brother Arbitrator on this point.

The post of Boilerman has already been decided at Item No. 4 and its classification in Highly skilled - Grade IV is also not maintainable. So the demand of the workmen for this post at Item No. 5 stand dismissed. I agree with Shri H. S. Vats, Brother Arbitrator.

I am in agreement with classification of different categories of staff with the opinion of Shri H. S. Vats, Brothers Arbitrator at item (e), (f) (g), (h), (i), (j) (k) (l) (m) (n) (o) (p) (q) (r) (s), (t), to the extent of ratio fixed and in that respect award accordingly.

The work of all other posts appearing as classification at item No. 5 do exist against the classification claimed by Party No. 1 and these posts have been categorised as highly skilled/skilled supervisory as the case may be. The point for consideration in case of Electrician is that whether or not the condition of possessing supervisory licence as is required under electricity rules is necessary or not and in all other posts including that of electrician. I have gone through the recruitment rules and duties prescribed for the post of Electrician. It is clear that the work of Electrician is not of supervisory nature and generally the duties performed by them are that of a workman. Therefore a condition to prescribe persons to possess Electrical Supervisory Certificate of Competence (commonly known as licence) is not a statutory requirement. The pleadings of Party No. 2 has a force and it therefore sustains.

So far categorisation of foreman is concerned I observe that recruitment rules framed for foreman (Electrical) (p-94 of CPWD, Manual Vol. III-1984) shows that there is no trade test prescribed for the purpose of promotion to the post of Foreman-Electrical whereas there has been a provision for trade test as a pre-condition for the promotion to the pay of Foreman Boiler, Foreman Mechanic Fore

man-AC&R. The posts of Sr. Mechanic/Sr. Operator, Boilerman, Sr. Mechanic AC&R are entitled to promotion post. For this purpose a Trade test has been as already stated above, is prescribed in the Manual. But a trade test for the promotion to the post of Foreman-Electrical has been done away with. Since the workmen to the post of Foreman come with sufficient experience and with statutory requirement wherever required, it is not understood why there should be a trade test prescribed for them for promotion. Since Foreman Electrical is standing on the same footing of foreman in other disciplines like Mechanical, AC&R, Boiler, Prescription of trade test in other disciplines does not seem to be justified. I recommend that trade test for the purpose of promotion should be done away keeping in view to bring the other posts at par with the post of Foreman-Electrical.

My recommendation coincides with the recommendation of Shri H. S. Vats, Brother Arbitrator. I agree with his views. My Award is given accordingly.

I find from the evidence (UW-7) that a worker, Beldar has been deployed almost over a decade in Laboratory at Calcutta. It was further observed that he was doing the duties of Machine Operator operating independently cube-testing machine in the Laboratory. The Party Number 1 is not justified in extracting above mentioned work from a workman who has been classified as 'Unskilled'. In case they do so it is not known why he is not paid accordingly. I award that such of the workman should be classified/categorised as Laboratory Assistant and should be placed on the category of skilled workman in the pre-revised scale of Rs. 260-430. I agree with Brother Arbitrator Shri H. S. Vats in this regard. This is my Award.

Promotional Avenues :

It will be essential to consider the matter relating to promotions from one category to another category to avoid frustration and preserve and maintain efficiency amongst the workmen against different categories. It pains me to record that despite repeated requests there is an absence of proper statistical data from the parties. It would be difficult to forecast accurately or scientifically the ratio of promotion which has been claimed and agitated vehemently by the Party No. 2. This situation needs remedial measures. I am of the opinion that there should be some mechanism introduced in this Award to meet the claim of the Party No. 2 and also to preserve the interest of Party No. 1, particularly keeping in view all the thrust on maintenance or productivity and efficiency. The Party No. 2 has been agitating their claim for a long time. The claim of Party No. 2 before Arbitrators is that whether workmen should be given promotion to the next category after completion of '3 years' of service and whether there should be a trade test for this purpose.

The evidence (MW-5) suggests that an unskilled workman acquires some skill after 3 years work. There is a force in the workers claim. Evidence cannot be brushed aside. I am, therefore of the opinion that unskilled workman need certainly some time to acquire experience or certain degree of skill which otherwise an ordinary person may not possess. Experience of 5 years would give edge over new recruits who can be classified as "Unskilled". The evidence (of UW-6) shows that unskilled workman render assistance/help to artisans who perform duties of semi-skilled. Arguments/pleadings by Party No. 2 shows that unskilled workman are generally deployed as helper or assistant to the artisans. Helpers to artisans are classified under Minimum Wages Act as 'semi-skilled'. Any reasonable person cannot hold helper to artisans as 'unskilled'. The present classification as 'unskilled' to me is not justified. I therefore feel that after putting 5 years of continuous service unskilled workmen like Beldar, Khalasi, Helper, cleaner etc. should be placed under 'semi-skilled' category if the unskilled workman has been deployed generally to help artisans. In view of this, the doctrine of equal pay does not come into play as claimed by Party No. 1. I award accordingly.

It has been agreed that Chowkidar performing night duty are presently categorised as 'unskilled' under Minimum Wages Act Notification. Night Guards are classified as 'unskilled'. It is, therefore, justified to categorise them as

② 'semi-skilled' as they perform arduous and onerous duties while doing Night Guarding jobs. Therefore, doctrine of equal pay is not attracted. I Award accordingly.

My recommendations are in effect that the workman who classified as 'unskilled' category should be placed under 'semi-skilled' category in the light of the above observation when the workman complete the 5 years regular/continuous service.

While allowing this arrangement of upgradation/classification from 'unskilled' to 'semi-skilled', there need not be created additional vacancies against 'unskilled' categories. In case the upgraded workman vacates his post to join any other category by any method or otherwise, he will be vacating 'unskilled' category which has held before.

Under CPWD Manual specific ratio has been provided for helper to artisan e.g. one person against two with wireman. It is Party No. 1 who has to maintain this ratio which is existing in the Manual against relevant category. This would remove fear of Party No. 1 as has been expressed in their pleadings that a time will come when there will be all semi-skilled persons and none will be available as unskilled. This is hypothetical situation. The above observations has been made to remove the apprehensions.

The Party No. 2 claimed that Sr. Mali should be placed under 'highly skilled' category as per reference. Subsequently the Party No. 2 prayed in their pleadings that they would like to place the Sr. Mali against the category as 'skilled' and also to include flora decorator therein. The Party No. 1 rejected the contention of Party No. 2. I find in the result that the status of senior Mali should be adjudicated as per reference. In this connection I refer to the opinion at (K) of Shri H. S. Vats Brother Arbitrator in this regard. I agree with him that Sr. Mali should be placed against the category of 'skilled' workman. I find this is promotion post for Mali who fall in 'semi-skilled' category. I Award that Sr. Mali be placed in category of skilled workman.

Different cadre promotions

The claim of party No. 2 has been that all the promotional posts should be made available to departmental existing workmen on the basis of seniority and there should not be any direct recruitment. The Party No. 1 contended that this claim is beyond competence of Arbitrators. I do not agree with views of Shri G. K. Khemani Brother Arbitrator. The claim of party No. 2 is nothing but only an incidental matter directly connected with the condition of service of the workmen. I feel the Arbitrators are competent to adjudicate upon this claim.

The Party No. 2 relied upon the quota system for direct recruitment as laid down in the CPWD Manual Vol. III (1984). I cannot accept the claim of Party No. 2 for a total prohibition on direct recruitment, which is essential for any administration to function efficiently. At the same, the Party No. 1 is under obligation to provide reasonably satisfactory avenues for progress of their own existing workmen. I find the quota for direct recruitment against various categories varies from 100 per cent to 25 per cent.

I am unable to persuade myself to accept the views/opinion of Brother Arbitrator Shri H. S. Vats. I feel that a general rule to lay down a quota direct recruitment would satisfy the ends of justice. I have gone through each of category of workman and examined quota system. I recommend that not more than 25 per cent with exception for cable jointer and boilerman direct recruitment should be allowed to preserve the interest of present set of workmen and also to meet the need of the Party No. 1. The following categories should not have more than 25 per cent direct recruitment :—

Mason, Carpenter, Plumber, Lift Operator, Fireman Driver, Motor Lorry and Road Roller, Sr. Mechanic AC&R, Sr. Operator.

I recommend 50 per cent direct recruitment for cable jointer and Boilerman.

This is my award.

Regarding classification and gradation of Surveyor is concerned neither Party No. 1 nor Party No. II have given

any material facts or pleadings. I agree with Shri H. S. Vats, Brother Arbitrator in showing inability to give our award in this regard.

I agree with Shri H. S. Vats, Brother Arbitrator that the post of Super. (E&M) is a highly skilled supervisory post of Selection posts for lower cadre. I also agree with Shri H. S. Vats, Brother Arbitrator for amalgamation of posts for the purpose of classification and grade pay of the above posts.

Works Mistry Electrical, Civil presently placed in skilled category of Rs. 260-430 pre-revised. The workmen of this category are comparable with work-assistant who have been placed by me against Highly skilled Grade III Rs. 425-750. I find from evidence (UW-10) that there is justification of change of the grade of Work Mistry. I recommend to place them in highly skilled Grade III of Rs. 425-750 pre-revised. This is my award.

This award will apply to all the workmen irrespective of the fact whether they are employed and described under the name and style of Workcharged, Regular Classified Estt. and Muster roll employees as the CPWD workmen before us are Industrial workmen.

During the course of oral argument the Party No. 2, draw our attention that Party No. 1 is superannuating the workmen at the age of 58 years. They are entitled to be superannuated at the age of 60 years being the industrial workmen and that some categories of workman are issued uniform and some are not on the plea of nomenclature like Work Charged, Regular Classified and Muster roll and contended that it is discriminatory treatment and in support of their contention our attention was also invited to the Government letter No. 66/339/57/WAC dated 26th March, 1958 alongwith the note for consideration placed therewith (document filed by Party No. 1)

I share anxiety expressed by Party No. II. I wish the Party No. I would not allow any discrimination which will affect adversely the interest of CPWD workers before us who are industrial workers so as to give rise to the grievances on this count as mentioned by Party No. II.

Effect of the Award

The Party No. 2 advanced the claim on grant of relief from 1-1-73 from which date 3rd Pay Commission's recommendation were made effective. During the course of pleadings/arguments the Party No. II vehemently asked for benefits, w.e.f. the 1st January, 1973 which in fact was said to have been discussed before signing/arriving at Arbitration Agreement during the course of various meetings held with them and before the conciliation officer. My learned Brother Arbitrator Mr. G. K. Khemani recommended effect of Award to take place from 1-1-86 from which date recommendations of 4th Pay Commission have been made effective. I find that this date has no relevance. Therefore I am unable to agree with the views of making the Award effective from 1-1-86. The Arguments of the Party No. I that the effective date in this regard may not be 1-1-73 because it will up-set the settled position. This aspect of argument of Party No. I however need thorough examination. The opinion of Shri Vats brother Arbitrator has some rational and force.

I have also examined opinion of brother Arbitrator Shri H. S. Vats making Award effective from 1-1-73.

The very fact that the workmen were entitled to reclassification and recategorisation shows that there have been a justified case in favour of the workmen for getting them reclassified from retrospective effect which position cannot be ignored. I have applied my mind to the pleadings and the arguments of both the parties and also views of both the brother Arbitrators on this point. I am of the opinion that this Award should be made effective from 1st April, 1981 for the purpose of payment of arrears that may arise as a result of change in category of the workmen. I feel this is fair and justified date of effect of award for paying arrears only.

Shri H. S. Vats, Arbitrator, has given out the following order:

that the salary of the above workers should be fixed at Rs. 425-750/- per month.

In skilled workmen of this category, the salary should be fixed at Rs. 425-750/- per month.

Effective of the above order, the salary of the above workers should be fixed at Rs. 425-750/- per month.

No. 2. The salary of the above workers should be fixed at Rs. 425-750/- per month.

which will be the subject of the next order.

of relief, the salary of the above workers should be fixed at Rs. 425-750/- per month.

Shri M. G. Wanare, Deputy Chief Labour Commissioner, Ministry of Labour, Sharam Shakti Bhawan, New Delhi.

reclassification of the above workers should be fixed at Rs. 425-750/- per month.

This award however shall be effective from 1-1-73 for all purposes other than paying of arrears. The workers will not get any arrears of wages from 1-1-73 to 31-3-81. They would however get pay protection in accordance with the notional fixation of their pay against their relevant changed categories as recommended by Shri H. S. Vats, Brother, Arbitrator. 1 award accordingly.

After having allowed benefit of pay etc. from 1-4-81 the subsequent benefit would also be flown from 1-1-86 on the revised pay scales allowed by 4th Pay Commission.

During the course of pleadings the Party No. 2 pleaded that the workers would offer 50 per cent of arrears of wages to be deposited against their respective GPF accounts/National Saving Certificates etc. I wish this should be accepted unhesitatingly by Party No. 1 as this is in the interest of National economy.

It is laudable proposal on the party of the Party No. 2 that 5 per cent of the arrears payable to the workers should be deposited in the Prime Minister's Relief Fund for the purpose of using it for drought relief purpose. I wish the Party No. 1 should not have any difficulty to accept the same.

The Party No. 2 has pressed their claim for compensation cost equivalent to 15 per cent of arrears of wages payable to workmen. The Party No. 1 has not rejected nor objected this prayer. During the course of arguments our attention was invited to the case law laid down by Hon'ble Supreme Court in the case of Balmer Lawrie Workmen Bombay and another V/s. Balmer Lowrie and Co. Ltd. and others (1985-Lab. I.C. 242 SC) according to which it was held that deduction of 15 per cent of amount of arrears payable to workmen towards Union Fund was legal. The Supreme Court observed that there is nothing objectionable to effect deduction from arrears of wages flowing from settlement etc. In the light of case law referred to hereinabove, the claim of the Party No. 2 does not seem to be illegal. I feel a token of 5 per cent of arrears may be allowed.

Party No. 1 is directed to intimate each workman of the actual amount deducted and remitted to Provident Fund and drought relief fund etc. to the each of the workmen and the Party No. II.

I wish to place on record our appreciation for the co-operation received from the CPWD Administration and the Union for doing this job. We have been helped by the clerical assistance through Shri Ram Kumar who caused smooth day to day proceedings.

M. G. WANARE, Arbitrator/Umpire

G. K. Khemani, Arbitrator

H. S. Vats, Arbitrator

Dated New Delhi, the 31st January, 1988.

Dear Shri Wanare,

As requested in the meeting held on 25-1-1988, my findings about the demands of the CPWD Mazdoor Union which have been referred for Arbitration are given in the enclosed seats. This may please be considered before giving your final award as required under the Arbitration Agreement.

Yours sincerely,
G. K. Khemani

Shri M. G. Wanare,
Deputy Chief Labour Commissioner,
Ministry of Labour,
Sharam Shakti Bhawan, New Delhi.

Government of India, Ministry of Labour, vide their Notification published in the Gazette of India on 31st October, 1986 had referred an industrial dispute between the management of C.P.W.D. and the workmen belonging to C.P.W.D. Mazdoor Union for arbitration by the Board of Arbitrators consisting of Deputy Chief Labour Commissioner, Secretary of the C.P.W.D. Mazdoor Union and the undersigned. The matter of arbitration was about the demands of C.P.W.D. Mazdoor Union regarding re-categorisation/re-classification of work-charged staff and regular classified categories w.e.f. 1st January, 1973. The C.P.W.D. Mazdoor Union has put their

demand vide their petition dated 13th January, 1987. The C.P.W.D. Management had filed their reply vide their rejoinder dated 8th April, 1987. Subsequently, the Board also met some of the officers of the Department, the workmen of the department and based on these discussions my findings on the demand of C.P.W.D. Mazdoor Union are as under:—

1. The Union has demanded that all Beldars, Bhisties, Khathies, Males, Sweepers, Cleaners, Forest Guard, Waterman, Chowkidars, Bearers, Chainman, who are at present classified as unskilled workman should be automatically converted and paid for in the scale of semi-skilled to Rs. 210-290 (old scale) when they complete 3 years of service. This contention cannot be accepted as the workman even after put in number of years of service continue to do the same type of work which he was doing after appointment. Therefore, in accordance with the doctrine of equal pay for equal work we cannot give him the scale of semi-skilled workman. Even otherwise a large number of above categories of workmen are doing the work of only unskilled nature. No evidence was brought out before us that showed that every worker picks up the work of artisan after he/she has put in 3 years of service. It is also not necessary that all categories of unskilled workmen will pick up the work of artisans after they have put in 3 years of service. In any case as per recruitment Rules any workman who has picked up the skilled/semi-skilled work can always appear for trade test and get promoted for the vacant post of semi-skilled/skilled worker after putting in 3 to 5 years of service. Therefore, this demand of the Union cannot be accepted.

2. Similarly, the demand of the Union for Automatic promotion of the left over categories of work-charged and regular establishment cannot be accepted as per the argument given above.

The Union has also included the Sweeper, Gesttner Operator, Head Sweeper, Farash Bhisti and Lift Khalasi also to be included for the benefit of the automatic promotion. On the analogy of other above demands of the Union, this demand of the Union is also, therefore, not accepted as no evidence was made available that these workmen are doing any work of semi-skilled nature.

The Union has demanded creation of post of Head Chowkidar. As this is not covered in the reference made by Ministry of Labour and as no evidence about necessity of work in Department was brought forward, no recommendation in this regard.

3. The Union has demanded that the following categories of workman after they have put in 3 years of service should be given selection grade in the pay scale of Rs. 260-430 (old scale).

Bullockman, Mate, Syce, Packer, Stocker, Bandhani, Gharmi, Serviceman, Air-conditioning and Refrigeration, Head Sweeper, Sanitary Jamadar, Building Jamadar, Fireman, Cook, Farash Jamadar, Lab. Attendant, Cook Bearer, Chellan Gurad, Reader, Meter Reader, Sewerman, Switch Board Attendant, Lift Operator (Light Speed Lifts), Dresser.

Some of these categories do not find their mention in the original Notification issued by the Ministry of Labour dated 31st October, 1986, as also some of the categories may not be existing in the Department. As it is beyond our terms of reference to create new posts, no finding is given on this account.

The demand of the Union that all the workmen working for more than 3 years should be given the grade of the skilled category is also not tenable as they continue to do the work of semi-skilled nature. No evidence has been brought out before us to indicate that a high degree of skill is required for these posts to be declared as skilled. Besides normally selection scale is given only in those posts where there is an acute stagnation. No evidence was produced to indicate stagnation in these posts.

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The Union has also demanded the old scale of Rs. 260—400 for the Lift Operator for low speed Lifts. Recently, the Supreme Court has categorised all the Lift Operators irrespective of speed of the Lifts as skilled workman and therefore we have no other alternative but to fix them in the skilled scale of Rs. 975—1540.

The Union has further demanded that all Sewer-man should be classified as skilled workman. It is felt that considering the nature of duties performed by Sewer-man, no change in the existing categorisation is called for and he should continue to be put in the semi-skilled grade of Rs. 800—1150. No evidence that work involved is of skilled nature was brought before us.

The Union has further stated that the post of Enquiry Clerk, Valveman should be created. The creation of posts is beyond the scope of Board of Arbitration as also does not form part of a licence made by Ministry or Labour. No award need be given on this account.

Similarly, the post of Male Head Sweeper, etc. which the Union has demanded to be created in the department, is beyond the scope of Board of Arbitration.

4. The Union has demanded that all workman presently designated as semi-skilled should be designated as highly skilled workman. Considering the nature of the duties as well as the nature of the work in the department there is no justification to declare all these workmen as highly skilled. No evidence was brought before us to indicate that these workmen are doing highly skilled work. In fact they are only doing the work of skilled category as defined in Minimum Wages Act "as one which involves skill or competence acquired through experience on the job or thorough training as an apprentice or in a technical or vocational institute or the performance of which calls for initiative and judgement". The contention of the Union that Minimum Wages Act provides for these categories to be declared as highly skilled is not borne out by facts and on going through the Act itself.

It was however, brought out in evidence that the work of main and Asst. category is more or less similar and except that difficult jobs are executed by main category. We therefore, agree that Assistant and the main categories may be merged together and all workmen on promotion from unskilled categories or appointment from the open market should initially be appointed in the semi-skilled category and after working for 5 years under the direct supervision of skilled worker, as provided for in different Recruitment Rules, be promoted to the main category. No other change in this regard is required. All these workmen are also categorised under the Minimum Wages Act both in the semi-skilled and skilled grade and therefore, the present classification as per C.P.W.D. departmental categorisation, is correct.

The Union has demanded that highly skilled workmen be appointed on the basis of 25 per cent by way of Limited Departmental Competitive examinations and 75 per cent on the basis of seniority. This item is not covered under the terms of reference of the Board of Arbitration and should be left to the Department. No evidence also was brought forward to give any finding on this account.

The scrapping of requirement of licensing for the electrical staff has been demanded by Union. This item is also not covered by the Arbitration and no evidence that this is not required was brought out.

5. The Union has demanded creation of certain posts of electricians, Sr. Mechanic Air-conditioning and Refrigeration, Sr. Mechanical, Sr. Operator, Pattern Maker, Boilerman, Work Asstt., Road Inspector, Head Gardner etc. As the Arbitration agreement does

not provide the matter regarding creation of any additional posts, the question of considering the demand does not arise. Also no evidence about the necessity of these posts was brought out.

The Union has further demanded the supervisory licence required for electricians should be done away. As the possession of licence is electricians is statutory requirement, this cannot be agreed to. Apart from above, this item does not figure in the Arbitration agreement and no evidence that this is not necessary was brought out.

The Union has further demanded that after creation of new posts the criteria for promotion to these posts should be 100 per cent on the basis of seniority. This item is also not covered with in the Arbitration agreement.

The Union has further stated that the old scale of Rs. 350—480 for highly skilled workman is unjustified. No justification for their demand has been indicated nor any evidence brought out. The present classification of the workman is based on the study carried out by categorisation committee and considering the nature of the work performed by workers each category have been properly fitted. The requirement of the work in the department has been considered very carefully while fitting the category to which the staff should belong to. This categorisation is also strictly and conformity with the classification given in the Minimum Wages Act.

The Union has further demanded that the maintenance of Lifts, refrigeration and electrical wiring, sweeping etc. should be got done departmentally. This item is also not covered by the Arbitration Agreement.

The Union has also demanded that all workmen in highly skilled grade IV be drafted by way of 100 per cent on the basis of seniority. This item is also not included in the Arbitration Agreement.

6. The Union has demanded creation of certain posts of Foreman (Electrical Mechanical) Air-conditioning and Refrigeration, Radio Mechanic-cum-Operator, Work Asstt., Selection Grade, Sanitary Inspector, Cinema Operator, Surveyor, Asstt. Radio Mechanic-cum-operator, Foreman (Lifts), Foreman (Hort.), Foreman in all disciplines. As this matter is the creation of new posts, is beyond the scope of Arbitration Agreement. Also no evidence about the necessity of these posts in the Department has been brought out.

The Union has demanded promotion to the highly skilled grade III on the basis of 100 per cent seniority. As this is not covered by Arbitration Agreement, no finding can be offered.

Foreman in Railways and Delhi Flood Control getting higher grade has no relevance as the work to be carried out by the workers in C.P.W.D. is completely different from the works being carried out in other departments and comparison can not be made.

7. The Union has further demanded that technical operator, Senior Sanitary Inspector, Engineer Supervisor should be given highly skilled grade III after they put in 3 years of service. As there is no work requiring such scales in the department and these posts do not exist. The question of arbitration for these posts does not arise. No evidence about the requirement of these posts in the department has been given during the proceedings.

The Union has further demanded that classification of highly skilled grade II. All persons holding highly skilled grade II should be automatically promoted from highly skilled grade II. As this involves creation of new posts, this is beyond the scope of Arbitration. Also no evidence about the necessity of these posts in the Department was brought out.

8. Union has demanded that Superintendent E&M and other staff of highly skilled grade II should be automatically promoted as highly skilled grade I after they have put in 3 years of service. As already stated this involves creation of new posts which do not exist in the department and for which there is no work in the department. No evidence was also produced. Therefore, the demand of the Union cannot be accepted.

9. The Union has also demanded that the above classification of pay scales and creation of new posts should take effect from 1st January, 1973. As stated earlier the original re-categorisation of the departmental workers has been carried out by the Categorisation Committees properly and with the help of experts in the field who are well versed in the working of the department. No new techniques or equipments have been added in the department to justify any changes in categorisation. The demand of the Union that the pay scales and new posts should be created from 1st January, 1973, therefore is not tenable. The departmental officers have also not felt the need for re-categorisation of any category of workers. No evidence was also brought out by Union. Apart from above the demand of the Union also was referred to Arbitration as per agreement reached between the Management and the Union somewhere in 1985. Therefore, the demand for applying the new classification from 1st January, 1973 does not arise. The Fourth Pay Commissioner has given its recommendation w.e.f. 1st January, 1986. It is therefore necessary that our award should also be applied w.e.f. 1st January, 1986.

Dated : 27th January, 1988.

G. K. KHEMANI, Arbitrator

OFFICE OF BOARD OF ARBITRATORS SHRAM
SHAKTI BHAVAN, NEW DELHI-110001

List of document filed by C.P.W.D. Administration

1. CENTRAL P.W.D. MANUAL
(WITH APPENDICES)
VOLUME I
(Chapters 1, 2, 3 and 4)
1956
2. C.P.W.D.
Manual
VOL. III
WORK CHARGED ESTABLISHMENT
1984 Edition
Published under the Authority of the Director General of Works, C.P.W.D., New Delhi.
3. Report
Of the
Committee for Categorization
Of the
Workcharged Staff
Of the
Central Public Works Department
1973
Ministry of Works & Housing
New Delhi.
4. NS II Section
Recruitment Rules for the posts upto Sectional Officer (Hort) in the Directorate of Horticulture Isolated posts & posts transferred from W.C. Estt. to the regular Estt.
5. Ministry of Works, Housing and Supply letter No. 66/339/57/WSE. dated 26/3/1958 regarding WC Estt.—Transfer of certain categories of post to the Regular Establishment—with Notes for consideration dated 29-12-1970.

BEFORE BOARD OF ARBITRATORS C/O CHIEF ENGINEER (ELECTRICAL), C.P.W.D., VIDYUT BHAVAN,
SHANKAR MARKET, NEW DELHI

In the matter of Arbitration Agreement under Section 10(A)
of the Industrial Disputes Act, 1947

(Vide Ministry of Labour Notification No. L-42013/1/86-D
11(B) dated 31st October, 1986 & L-42013/1/86-D.11(B)
dated, 7th November, 1986)

In the matter of Industrial Disputes
No. Arbitration/86/CON. I

BETWEEN

Director General (Works),
C.P.W.D. Nirman Bhavan,
New Delhi.

(Through its Director of Admin

Employers/
Management

AND

C.P.W.D. Mazdoor Union,
E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg,
New Delhi

Through its General Secretary

Workmen/
Applicant

List of Documents :

1. Decision of Authority under Minimum Wages Act, Kanpur dated 10th October, 1985 in the claim application No. MWA 11/83 between Shri Ravinder Pal, MLD and Shri Rajpal Khalasi, CPWD, New Delhi Vs. DGW, CPWD, Nirman Bhavan, New Delhi.
2. Affidavit in C.W. No. 299 of 1985 on behalf of Union of India and others Vs. Ravinder Pal and others in Delhi High Court.
3. Decision of Delhi High Court in CW 299 of 1985 dated 27th May, 1985.
4. Reply of Shri Ravinder Pal and others in CW No. 299/85 dated 9th April, 1985 in Delhi High Court.
5. Decision dated 15th April, 1986 of Authority under M.W. Act, 1948, Kanpur in Claim Application No. MWA 28/85 between Khairati Lal and others Vs. Executive Engineer, Dr. R. M. L. Division, CPWD, New Delhi.
6. Decision dated 29th August, 1984 of Authority under M.W. Act, 1948, Kanpur in Claim Case No. MWA 2/84 between Vijay Pal, Carpenter, and others Vs. Executive Engineer, 'F' Division, CPWD, I.P. Bhawan, New Delhi.
7. Decision dated 16th October, 1984 of High Court, Delhi in C.W. No. 2445 of 1984 between Union of India through Executive Engineer, 'F' Division, CPWD, I.P. Bhawan, New Delhi Vs. Shri L. S. Rao and others.
8. Circular No. 17(2)/80-A&C (DGW) dated 27th December, 1982 from the office of DGW, CPWD on the subject of minimum rates of wages.
9. DGW, CPWD, O.M. No. 23/12/83-EC.X dated 5th July, 1985.
10. DGW, CPWD O.M. No. 23/12/83-EC.X dated 23rd April, 1984 regarding payment of wages to different categories.
11. DGW, CPWD O.M. No. 23/12/83-EC.X dated 5th January, 1985 regarding payment of wages to different categories of labour employed on muster roll in CPWD.
12. CPWD Mazdoor Union letter No. CPWDMU/MWA/48/82 dated 9th March, 1982 to DGW, CPWD regarding employment in construction or maintenance of roads in building operation—payment of wages.
13. DGW, CPWD, O.M. No. 23/12/83-EC.X dated 10th July, 1985 regarding payment of wages to different categories of labour employed on muster roll in CPWD.

14. Gazette Notification of Government of India in the late Ministry of Labour and Rehabilitation, Department of Labour and Employment No. S.O. 247(E) dated 25th April, 1973.

15. Gazette Notification of Government of India, Ministry of Labour No. S.O. 3613 dated 16th December, 1978.

for and on behalf of workmen

Sd/-

(B. K. Prasad)

General Secretary,

C.P.W.D. Mazdoor Union.

Dated the 5th May, 1987.

ANNEXURE --I

The Secretary,
Ministry of Labour,
Government of India,
NEW DELHI.

In the matter of Arbitration Agreement under Section 10(A) of the Industrial Dispute Act, 1947.

(Vide Ministry of Labour Notification No. L-42013/1/86-D-II(B) dated 31st October, 1986 & L-12013/1/86-D-II(B) dated 7th November, 1986).

In the Matter of Industrial Dispute

BETWEEN

Director General of Works,
CPWD, Nirman Bhawan, New Delhi.
Through its Director of Administration....Employers/
Management

AND

CPWD Mazdoor Union,
E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg, New Delhi
through its General Secretary.—Workmen/Applicant

The dispute is already before the Board of Arbitration consisting of :

1. Shri M. G. Manare,
Dy. Chief Labour Commissioner (Central),
Sharm Shakti Bhawan, Rafi Marg,
New Delhi.

—Umpire

2. Shri G. K. Khemani,
Chief Engineer (TRC),
C.P.W.D., Training Institute,
'E' Wing, Nirman Bhawan,
NEW DELHI.

3. Shri H. S. Vats,
Secretary, C.P.W.D. Mazdoor Union,
E-26, Raja Bazar, Kharak Singh Marg,
NEW DELHI.

Whereas the Board of Arbitration is required to submit their Award by 30-4-87, as per the Ministry of Labour Notification above referred to unless the time limit is extended by mutual agreement between the two parties.

And whereas due to administrative and other delays it may not be possible for the party of the first part to submit their claims and objections so as to enable the Board to submit the Award by that date. Now therefore the two parties hereby agree to the extension of the period for submission of the Award by the Board by a period of 6 months from 30-4-87. 30-1-87.

Sd/-

S. RANGNATHAN, Director of Admn. C.P.W.D.
New Delhi.

Sd/-

(B. K. PRASAD)
General Secretary CPWD Mazdoor Union
New Delhi.

BEFORE BOARD OF ARBITRATION

E-Wing, CP.W.D., Training Institute, Nirman Bhawan
New Delhi

In the matter of Arbitration Agreement under Section 10(A) of the Industrial Disputes Act, 1987

(Vide Ministry of Labour Notification No. L-42013/1/86-DII(B) dated 31st October, 1986 & L-42013/1/86-DII(B) dated 7th November, 1986).

In the matter of Industrial Disputes

No. Arbitration/86/CON. I

BETWEEN

Director General (Works),
C.P.W.D., Nirman Bhawan,
New Delhi.

Through its Director of Admn.—Employers/Management
AND

C.P.W.D. Mazdoor Union,
E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg,
New Delhi.

Through its General Secretary—Workmen/Applicant
Statement of claim of C.P.W.D. Mazdoor Union on
behalf of workmen of C.P.W.D

To

The Hon'ble Arbitrator (Umpire) and

His companion Arbitrators of the Board of Arbitration
The humble petition of workmen herein most
respectfully

SHOWETH :

JUSTIFICATION OF DEMANDS

The management of C.P.W.D. have not classified/categorised different post according to job content with the result on the one hand there have been depletion in the efficient discharge of work and on the other hand due to acute stagnation in services and to lack of proper cadre management, rampant discontentment amongst workmen of CPWD have arisen. Even the Categorisation Committee appointed after the 2nd Pay Commission as well as Categorisation Committee appointed after Third Pay Commission reports, both the committees have failed to properly classify/categories the different posts and their recommendations have also been self-contradictory. The recommendation of both the so called Categorisation Committee have themselves mentioned such contradictions and misuse with a view to exploit the work-force which will clearly indicate that the nature of duties and type of activities undertaken by different workmen have not been properly analysed to involve the workmen of CPWD firstly in the task of health of the organisation and secondly to rebrush image of the Department which is the main reason that different works are going out of hand of the organisation. Similarly adverse comments have also been given at different forums including Parliamentary Committee. — the reasons being that in other organisations doing similar type of works like International Airport Authority, N.D.M.C., D.E.S.U., Delhi Flood Control & Institutes under I.C.A.R are having better pay scales and most of these works has been transferred from CPWD itself. Though the workmen of CPWD do fall under schedule employment of the Minimum Wages Act, 1948, in the classification/categorisation the basic division of different status have not been taken into account while classifying/categorising different posts/work. The management of CPWD and Categorisation Committees appointed by them have always categorised one type of employees doing the same work in two parts viz. Semi-skilled category and skilled where as according to definition given under Minimum Wages Act, 1948, they fall in the highly skilled category. Similarly, though workers in the civil and horticulture do perform higher responsibilities and discharge duties comparable to particular level in the electrical, air-conditioning etc. but are not given pay scales and promotional posts thereby discriminating in the same industry under the same management. The employees of CPWD are workmen as defined in Industrial Disputes Act, 1947 and CPWD is any industry controlled by Central Government is the appropriate Government as per Industrial Disputes Act, 1947 and

employee performing similar duties, functions and jobs under the Central Government/State Government/local authorities getting more pay scales than the workmen of CPWD is discriminatory, unlawful and violative of labour laws as well as Constitution of India (Article 39(d) & 16 of the Constitution of India). As at International Airports, ICAR, there are two types of employees viz of International Airport Authority and of C.P.W.D. performing similar and same type of job whereas there is difference in pay scales and benefits. In International Airport Authority persons performing similar duties get higher pay scale and in the institutes under ICAR there is five yearly assessment and guaranteed promotion and higher scale without reference to posts. It will, thus, be amply clear that the disputes of CPWD workmen for re-categorisation/re-classification from 1-1-1973 is just, genuine and justified under labour laws.

DEMANDS

1. Presently the following posts/employments falling under Schedule Employment of Minimum Wages Act, 1948 have been categorised as unskilled in the pay scale of Rs. 196-232 w.e.f. 1-1-1973 after the recommendations of 3rd Central Pay Commission arbitrarily, unilaterally and unscientifically by the so-called Categorisation Committee appointed by the then Ministry of Works & Housing.

Workcharged Establishment:

1. Beldar
2. Bhishty
3. Bullockman
4. Chainman
5. Khallasi
6. Mali
7. Sewerman.

Regular Classified Establishment :

1. Khallasi.
2. Forest Guard
3. Sweeper
4. Head Sweeper
5. Farash
6. Bhishty.
7. Lift Khallasi
8. Cleaner
9. Bearer
10. Assistant Cook Bearer
11. Waterman
12. Chowkidar.

1.2 That in the Arbitration Agreement referred to above following was jointly agreed upon for adjudication: Beldar, Bhishties, Chainman, Khallasi, Mali, Forest Guard, Sweeper, Cleaner, Waterman, Chowkidar, Bearer.

All the categories mentioned above, the incumbents of the posts having served for three years shall automatically be converted and paid in the scale of Rs. 210-290 in the present case who were in service on 1-1-1973 be given this time scale w.e.f. 1-1-1976.

1.3 That the category of Bhishties, Sweeper have since been mentioned in Item No. 2 of the Arbitration Agreement referred to above and here mentioned erroneously by the union; it is, therefore, humbly prayed that the Board of Arbitrators be kindly pleased to treat it as withdrawn from Item No. 1, reproduced above. The left over categories mentioned above be only considered for categorisation/classification as Untrained Unskilled workmen.

1.4 Other employment and their incumbents in the left over existing categorisation of the management of CPWD have been subsequently mentioned in the semi-skilled, skilled and highly skilled categories in the Arbitration Agreement referred to above, justification in that regard would be submitted in the respective Paragraphs.

1.5 That the incumbents of the above posts of unskilled category equip themselves with the requisite experience, and have become abrupt with the knowledge of different instruments, their use, seeds, names of different plants and other intermediary knowledge of the work on which they are employed and so become more helpful to the skilled, highly skilled and other categories of staff with whom they are assistant or more helpful on the works in the efficient discharge of their duties on which they are employed and to encourage and further develop and inculcate in them the sense of responsibility, it would be, absolutely necessary to

encourage them with a view to involve them in the efficient execution of the tasks by way of giving them pay scale of Rs. 210-290 after putting in three years of service or 1-1-1976 as the case may be and classify/categorise them as 'trained unskilled workmen'.

1.6 That in the International Airport Authority of India employees though unskilled and even performing same and similar duties under the same roof have been getting pay scale of Rs. 240-330 which was subsequently revised to Rs. 280-407 from 1-9-1981.

It is, therefore, humbly prayed that the Hon'ble Board of Arbitrators be pleased to accept the categorisation/classification, pay scale and also to upgrade the incumbents in the higher scale from 1-1-1976 or on completion of three years of service as the case may be in view of just, and genuineness of the claim.

2. That in the Arbitration Agreement referred to above following was jointly agreed upon for adjudication :

Sweeper, Jr. Gest. Optrs., Head Sweeper, Farash Bhisht, Lift Khallasi.

All the workers after putting in three years of service be provided pay scale of Rs. 260-350 to provide promotion.

2.1 That the post of Head Sweeper and its categorisation and pay scale have already been mentioned in the Arbitration Agreement at Item No. 3 of the Arbitration Agreement for adjudication and was erroneously mentioned by the union in Item No. 2, it is, therefore, requested that the Hon'ble Board of Arbitrators be pleased to treat it as withdrawn from Item No. 2.

2.2 That unlike Sweepers of all other offices/departments, the employees in the category of Sweeper are to perform wet work also and the type of work being undertaken by them warrants some degree of skill and classifying/categorising them as unskilled by the so-called Categorisation Committee of the management of CPWD was totally unjustified. Moreover, such employees have been given higher pay scale in Railways as well as in Civil Aviation Department, International Airport Authority and continuing this post in the pay scale of Rs. 196-232 from 1-1-73 in the establishment of CPWD was violative of Article 39(d), 16 of the Constitution of India. It is also humbly submitted that a particular strata of the society which is caste ridden and the type of work is also hierarchical should not be left at the whims and fancies of the exploiting class by classifying them in the unskilled category and also not to give them at least financial benefit by way of higher pay scale. In this context the demand of CPWD Mazdoor union for classifying/categorising the post of Sweeper as semi-skilled and the pay scale of Rs. 240-320 is just, genuine and fully justified.

2.3 That the employments of Farash, Bhisht and Lift Khallasi warrants some degree of skill in the performance of their duties/jobs. Farash is utilised in the exigency after close of office by the later staff/officers sometime for stitching work and for other work which is comparable to semi-skilled (Daftry). Moreover, he is required to come twice in the office for closing and opening office which burdens the employee financially and also is arduous task as it involves more degree of fatigue, his earning capacity is more exploited and treating this employee as unskilled from 1-1-73 is totally unjustified and needs to be set-aside by grading the scale of Rs. 240-320 and categorising the employees, in the semi-skilled category. The same holds good for Bhishtie employees also.

2.4 The employment of Life Khallasi warrants some degree of skill as in assisting the lift mechanic and he is not only to be abrupt and have the knowledge of different tool but should also know to drive the lift in emergency sometime to relieve the Lift Operator for lunch etc. and the work on which lift khalasi is employed warrants degree of skill was categorising lift khalasi as semi-skilled and giving the incumbent the pay scale of Rs. 240-320 from 1-1-1973 is just, genuine and fully justified.

2.5 That the post of Lift Khallasi should not be abolished in a systematic way as is the existing practice and more posts should be created in this category especially because the

emerging rush of work and task ahead in the scientific advanced society which our country is developing there will be more use of lifts etc. in different buildings which would be undertaken later on and this category is the feeding cadre for lift operator so building of cadre and a policy of built in cadre in an expanding organisation like ours, there is full justification of creation of more posts of lift khallasi, especially two lift operators/one lift mechanic should be provided a lift khallasi.

2.6 That the Hon'ble Board of Arbitrators be pleased to permit and adjudicate on the request of union for creation of a post of Head Chowkidar in each division and classify them in the semi-skilled category and be given pay scale of Rs. 240-320 to give promotional avenues to the feeding cadre of Chowkidar.

2.7 That all the incumbents of the above employments/posts be given the pay scale of Rs. 260-350 from 1-1-76 or after completion of three years of service whichever is later to inculcate amongst the employees the sense of responsibility and involve them in the efficient execution of different tasks so that the industrial workers also feel the responsibility in the well being of the organisation and such dedication and responsibility should not be left over to the management of CPWD only.

2.8 That the post of semi-skilled should be filled 100% amongst unskilled, untrained and unskilled trained workmen on the basis of seniority-cum-fitness.

2.9 That in the International Airport Authority, the pay scale of the semi-skilled category was Rs. 250-360 as on 1-1-1973 and was revised to Rs. 290-442 from 1-9-1981, the employees of which category perform the same and similar type as are engaged on different works of this category in the CPWD, though in CPWD the existing pay scale of above employment from 1-1-1973 is Rs. 196-232 and Rs. 200-242.

2.10 That the demand of CPWD Mazdoor Union to classify the above employments as semi-skilled, semi-trained artisans and giving them pay scale of Rs. 240-320 from 1-1-73 and subsequently upgrade the pay scale of the incumbents from 1-1-1976 or after completion of three years of service whichever is later in the pay scale of Rs. 260-350 and categories/classify them as semi-skilled trained artisans is just, genuine and fully justified under the industrial adjudication.

3. That in the Arbitration Agreement referred to above following was jointly agreed upon for adjudication.

Bullockmen, Mate, Syce, Packer, Stocker, Bandhani, Gharmi, Serviceman, Airconditioning and Refrigeration, Head Sweeper, Sanitary Jamadar, Building Jamadar, Fireman, Cook, Farash Jamadar, Lab. Attendant, Cook Bearer, Challan Guard, Gauge Reader, Meter Reader, Sewerman, Switchboard Attendant, Lift Operator (Light Speed Lifts), Dresser.

All the workmen after putting three years of service be given selection grade in the pay scale of Rs. 260-430.

3.1 That the Hon'ble Board of Arbitrator be pleased to include the category of Senior Mali which is appearing in Item No. 4 of the Arbitration Agreement for adjudication and Floral Decorator which is not mentioned in the Arbitration Agreement for adjudicating the dispute classification in the skilled category and give them pay scale of Rs. 260-400 from 1-1-1973, by including both categories/employments in Item No. 3.

3.2 That the Hon'ble Board of Arbitrators may also be pleased to include a new category of Valveman/Asstt. Cook Bearer, Enquiry Clerk in the pay scale of Rs. 260-400 w.e.f. 1-1-1973 which posts should be created to provide promotional avenues to the unskilled workmen and semi-skilled artisans.

3.3 That presently, the above employments/categories have been mostly categorised as semi-skilled in the workcharged/regular classified establishments in the pay scale of Rs. 210-290/200-240/210-270 whereas their counterparts in International Airports Authority of India and NDMC and elsewhere are getting much higher pay scales.

3.4 That lift operators are trained artisans and they are equipped with the training of operating lifts in the Training

Centre, Nirman Bhavan, New Delhi, and the level of skill required to operate low speed lifts is much more than unskilled and the pay scale given by the management through so-called Categorisation Committees in the pay scale of Rs. 210-270 from 1-1-73 was totally unjustified and was also exploitive exercise in the name of regular classified establishment. According to definition given in the Minimum Wages Act, 1948, lift operator is a skilled workman as in the operation of the low speed lifts he has to drive the lift on the basis of training/technical knowledge acquired by him and so entitled to the pay scale of Rs. 260-400 from 1-1-1974.

3.5 That in view of the fact that in the present situation there is great scientific advancement and to conserve time, low speed lifts are redundant to the present needs which should be phased out in two-three years excepting exigencies which are confined to some lifts in the hospitals.

It is, humbly submitted that orders for phasing out of low speed lifts be passed especially in Government Offices and elsewhere to conserve time and in the interest of industrial tranquility including re-brushing the image of the organisation as such lifts are the main cause of criticism of CPWD workers for no fault of theirs.

3.6 That the employment of Sewerman presently in CPWD is in workcharged establishment/regular classified establishment having pay scale of Rs. 196-232 and Rs. 200-250 and they are classified as unskilled in the workcharged category, semi-skilled in the regular classified establishment which is contravention of the definition given in the Minimum Wages Act, 1948 as the work to be accomplished by a Sewerman is of a technical nature and it can only be accomplished by way of continuous experience either on account of ancestral knowledge or working for a long time. The employments in this category was not classified at all on the basis of the work and in tune with Minimum Wages Act, 1948 and only the background of giving them low pay scale comparable to semi-skilled/unskilled only breeds caste Hindu approach of the management. A sewerman is also required to enter into the manhole and they are the employees performing duties which are most risky and work of very serious health hazard unleashes skin trouble to the incumbent of the post by way of pungent and poisonous gases in the manhole etc.

In view of these facts, workcharged sewer men as well as regular classified sewer men be classified as skilled workmen and be given pay scale of Rs. 260 400 w.e.f. 1-1-73.

3.7 That on each enquiry the post of Enquiry Clerk be created and earmarked for promotional avenue to the industrial workers in the workcharged/regular classified establishment and presently muster roll employees performing the duties of Enquiry Clerks be regularised. The type of work being performed by Enquiry Clerk can be acquired by way of training and actual longer experience.

3.8 That presently in CPWD especially in residential colonies/government offices, government buildings, beldars are forced to perform the duties of valvemen as the management of CPWD have abolished this post and the work of Valvemen according to definition under Minimum Wages Act, 1948 is of skilled nature and the post be created in each section and be earmarked 100 per cent on the basis of seniority in the unskilled, unskilled trained, and semi-skilled trained categories.

3.9 That all other categories referred to above at Item No. 3 have been submitted to the Hon'ble Board of Arbitrators for inclusion in this item are of discharging their functions in the execution of tasks which require experience by way of training or longer experience and may be classified as skilled workmen in the pay scale of Rs. 260-400 w.e.f. 1-1-1973 as per definition under M.W. Act, 1948.

3.10 That all the incumbents of the posts referred to above including that have been submitted for inclusion in above item be given pay scale of Rs. 260-430 from 1-1-1975 or after completion of three years of service whichever is later with a view to inculcate the sense of responsibility and involvement in re-brushing the image of the organisation and encourage the workers to multiply their efficiency for present execution of different tasks in the establishments of CPWD though being covered in this

category of skilled workmen especially semi-skilled workmen and if need be equipped with intensive training in the training centre of CPWD and promoting then 25 per cent on the basis of limited departmental competitive examination and 75 per cent strictly on the basis of seniority.

3.11 That posts of Mate, head Sweeper, Sanitary Jamadar, Building Jamadar, Farash Jamadar be created in each sub-division so as it provide promotion avenues to the feeding cadre in the semiskilled category.

4. That in the Arbitration Agreement referred to above, following was jointly agreed upon for adjudication :

Sr. Mali, Lineman, Plumbing, Asstt. Plumber, Asstt. Armature Winder, Asstt. Dieneman, Asstt. Filler, Asstt. Painter, Asstt. Wireman, Asstt. Tinsmith, Asstt. Turner, Asstt. Upholster, Asstt. Blacksmith, Asstt. Boilerman, Asstt. Carpenter, Asstt. Mason, Asstt. Mechanic, Asstt. Welder, Asstt. Operator (Electrical Mechanical), Caneman, Operator Electrical and Mechanical Mechanic Airconditioning and Refrigeration, Chowdhury, Armature Winder, Wireman, Lineman, Painter, Tinsmith, Turner, Fitter, Boilerman, Mason, Carpenter, Welder, Upholster, Mechanic, Cable Joiner, Plumber, Tailor, Stone Cutter, M. L. Driver, Road Roller Driver, Moulder, Lab. Asstt. Staff Car Driver, Fireman, Jamadar Lift Operator (High Speed Lifts).

4.1 That the category of Sr. Mali may be deleted in view of the submission to the Hon'ble Board of Arbitrators in Item No. 3.

4.2 That the post of Asstt. Operator (AC&R) and Operator (AC&R) be added in Item No. 4 which are not appearing in the Arbitration Agreement referred to the Hon'ble Board of Arbitrators for adjudication.

4.3 That the Hon'ble Board of Arbitrators be pleased to include the category of Mechanic which is mentioned in the Arbitration Agreement for adjudication in this item be read as Mechanic (Lifts) and other posts of Mechanics also.

4.4 That on each eight lifts in a section/sub-division/division, a post of lift mechanic be created to provide promotional avenues to the lift operators.

4.5 That Assistant category and full categories in the CPWD though have been given the pay scale of Rs. 210-290 and 260-400 respectively by the so-called Categorisation Committees and have been categorised as semi-skilled/skilled respectively but are performing same and similar duties right from 1-1-1973 to date which categorisation is contrary to Article 39(d) and Article 16 of the Constitution of India and there are numerous judicial pronouncements of the judicial authorities including Hon'ble Supreme Court of India. Moreover, type of activity being undertaken by all the employees referred to above and submitted to be included in this item are performing their duties independently and in the execution of tasks neither continuous supervision is required by them and they are to take decisions independently without any supervision in the performance of the tasks expected to be performed by them. According to definition of highly skilled workmen under Minimum Wages Act, 1948, all such employments are covered under that definition.

4.6 That for Motor Lorry Driver and Road Roller Driver, the requisite qualification has been prescribed as possession of heavy vehicle licence/Grade-I licence and pay scale is given that of skilled workmen.

4.7 That the question of treating plumbing artisan, machinery artisan, Motor Lorry Driver, Carpenter, artisan were taken up with Authority Appointed Under Minimum Wages Act, 1948 and the Hon'ble Authority for Kanpur Area (Regional Labour Commissioner (Central)) gave directions to treat all such workmen in CPWD as highly skilled workmen according to definition given under M.W. Act, 1948 which decisions of the Authority were pursued in appeal by the management of CPWD in case of Mason, Carpenter, Plumber of 'F' Division, MLD of Mechanical Workshop Division in Delhi High Court where Hon'ble Delhi High Court rejected the appeal of the management of CPWD inter-alia treating all such workmen as highly skilled workmen consequent upon which all the master roll employees

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in these categories continued to maintain status of highly skilled workmen and their counterparts in the workcharged/regular classified establishment have been categorised as skilled workmen from 1-1-73 and given pay scale of Rs. 260-400 which is totally unjustified and contrary to law.

4.8 That all the incumbents of above employments be treated as highly skilled and given pay scale of Rs. 330-560 irrespective of whether in the Assistant category or full category of CPWD or lift operator of high speed lifts w.e.f. 1-1-1973 in the light of the judgements of the Authority appointed under Minimum Wages Act, 1948 further confirmed by Delhi High Court read with Article 39(d) and Article 14 of the Constitution of India in support of which also pronouncements of Hon'ble Supreme Court of India in the case of Shri D. S. Mankara Vs. Union of India (Constitution Bench) and other judgements are referred to which are law of the land as per Article 14 of the Constitution of India. The same are applicable in support of claim of CPWD workmen in Item No. 4.

4.9 That all the posts of highly skilled workmen in the pay scale of Rs. 330-560 from 1-1-1973 be appointed on the basis of 25 per cent by way of limited departmental competitive examination of industrial workers irrespective of workcharged or regular classified establishment and 75 per cent strictly on the basis of seniority amongst the skilled workmen.

4.10 That the requirement of licensing from respective States be dispensed with by way of seeking exemption as this practice has met with a disgusting experience with the result there are serious acute stagnation amongst employees and such conditions are not prevalent in Civil Aviation Deptt. and DESU. The knowledge and requisite experience can be acquired by the employees by way of intensive training in the Training Centre of the CPWD and our engineers could be authorised to certify the level of skill and requirement of the job on the electrical appliances as has been the practice in two establishments referred to above, a rule which is redundant and impracticable and is serious cause for industrial tranquility in a public utility service needs to be get away with in the interest of industrial peace and harmony and for betterment of the industrial workers undertake different activities in the discharge of efficient execution of the task in the different establishments of CPWD.

5. That in the Arbitration Agreement referred to above, following was jointly agreed upon for adjudication :

Electrician, Sr. Mechanic, Air-Conditioning & Refrigeration, Sr. Mechanical, Sr. Operator, Pattern Maker, Boilerman, Work Asstt. Road Inspector, Head Gardener.

5.1 That the post of Sr. Mechanical submitted to the Hon'ble Board of Arbitrators for adjudication in this item be read as Sr. Mechanic (Mechanical) (Lifts).

5.2 That all the posts referred to above be created in each section which shall on the one hand dissolve acute stagnation in the services and on the other hand the discontentment which shall be unleashed by banning promotional avenues of the industrial workers in CPWD be avoided which in turn shall rebrush the image of the organisation in the public and Govt. departments which is the real cause that meet of the works are going out of hand of CPWD.

5.3 That supervisory licence required for the post of Electrician be get away with which is redundant and an incumbent of the post who is aspiring to be electrician has worked in an organisation for longer years of service and has acquired the requisite experience and skill to perform the functions of electrician.

5.4 That all the posts in the highly skilled Grade-IV after new creation of posts submitted above be filled in 100 per cent strictly on the basis of seniority so that the industrial workers in the different establishments of CPWD contribute their lot and are charged to perform themselves with the responsibility of efficient execution of the tasks of different works and also to shoulder the responsibility of diminishing image of the organisation on account of total lack of cadre management.

5.5 That the existing scale of Rs. 330-480 from 1-1-73 is unjustified and redundant in the light of special type of functions expected from these posts. Moreover, in National Museum, Civil Aviation Deptt. International Airport Authority, IARI, the pay scales of all these posts are much higher thereby attracting violation of Article 39(d) and Article 16 of the Constitution of India on which there are numerous judgements of the superior judicial authorities including that of Hon'ble Supreme Court of India which are referred to.

6.5 That the present practice of regular works that on maintenance of lifts, refrigeration and electrical wiring, sweeping/sanitation etc. are given to contractors which on the one hand is violation of Contract Labour (Regulation, Abolition) Act and also it depletes the promotional avenues of the staff causing discontentment in services which is reflected in the inefficiency etc. which practice be dispensed away with and all regular works including maintenance of lifts, air conditioning and wiring etc. be done departmentally and infrastructure including that of creation of new posts be created.

5.7 That all the workmen in highly skilled Grade-IV be drafted by way of 100 per cent strictly on the basis of seniority amongst highly skilled workmen in the pay scale Rs. 330-560.

6. That in the Arbitration Agreement referred to above, following was jointly agreed upon for adjudication :

Foreman, Electrical, Mechanical, Air-conditioning and Refrigeration, Radio Mechanic-cum-Operator, Works Asstt. Selection Grade, Sanitary Inspector, Cinema Operator, Surveyor, Asstt. Radio Mechanic-cum-Operator.

6.1 That there is typing/printing mistake which should be read as Highly Skilled Grade-III.

6.2 That the Hon'ble Board of Arbitrators be pleased to include creation of new posts of Foreman (Lifts) in this category and on the same pay scale with a view to provide promotional avenues to the lift staff.

6.3 That a post of Foreman (Horticulture) and classified as Highly Skilled Grade-III be created in the pay scale of Rs. 425-700 from 1-1-1973, in each sub-division in view of increasing horticultural operations/activities and with a view to provide promotional avenues which in turn shall add to efficiency and remove discontentment in the services.

6.4 That all the posts in the Foreman category of all disciplines of work, Assistant Selection Grade be created in each sub-division.

6.5 That all the posts in the highly skilled Grade-III in the pay scale of Rs. 425-700 be filled in by way of 100 percent strictly on the basis of seniority amongst highly skilled Grade-IV submitted above.

6.6 That Foreman in Railways and Delhi Flood Control are getting much higher pay scales than Foreman in CPWD which is serious contravention of Article 39(d) and Article 14 of the Constitution of India on which there are numerous pronouncements of the superior judicial authorities including Hon'ble Supreme Court of India.

7. That in the Arbitration Agreement referred to above, following was jointly agreed upon for adjudication :

Technical Operator, Sr. Sanitary Inspector Engineer, Supervisor and all the incumbents of highly skilled-III (converted) after putting three years of service be promoted in the time scale.

7.1. That the classification of highly skilled Grade-II and pay scale of Rs. 455-800 from 1-1-1973, all the workers at this level are genuinely entitled to the above categorisation and pay scale and same may be awarded with conversion of above posts after three years of service of highly skilled Grade-III be promoted in the same time scale strictly on the basis of seniority.

8. That in the Arbitration Agreement referred to above, following was jointly agreed upon for adjudication :

Supdr. E&M, & all the incumbents after conversion to highly skilled grade II having put in 3 years of service be promoted in the next time scale as Highly Skilled Gr. I.

8.1 Classification of the incumbents after suitable creation of posts in the Civil/Horticultural, AC&R, by classifying

them as Highly Skilled Gr. I and giving them pay scale of Rs. 550-900 w.e.f. 1-1-1973 is fully just, genuine and justified to Supdr. (E&M) and all the incumbents who have put in three years of service as Highly Skilled Gr. II irrespective of disciplines they belong to in this pay scale.

9. That the above classification pay scales and creation of new posts presented by representative union for favour of adjudication by the Hon'ble Board of Arbitrators be considered with effect from 1-1-1973 and subsequent pay scales be given from 1-1-1976 or after completion of three years of service whichever is later which are just, genuine and the workmen are entitled to and shall go a long way in maintaining industrial tranquility which in turn shall be reflected in increasing productivity efficiency and re-bushening the image of the organisation and shall make the workmen of CPWD more responsible to shoulder the increasing functions and responsibilities of theirs in the emerging situation.

10. That C.P.W.D./Mazdoor Union only majority and representative union of CPWD workmen and is maiden union who has given demand notice for re-classification re-categorisation of different employments in the CPWD from 1-1-1973 by way of demand notice/numerous letters and subsequently the matter was ceased in conciliation on the First Indefinite strike notice given by this union vide its reference No. CPWDMU/Strike Notice/85 dated 28th June, 1985.

10.1 That during the course of conciliation before Shri D. P. Srivastava, Regional Labour Commissioner (Central) Headquarters, following agreement was arrived at on 13th Sept., 1985 on Item No. 15, reproduced below :

"15. Re-categorisation/classification of W. C. Staff and regular classified categories w.e.f. 1-1-1973 on the analogy of classification of Scheduled Employments as per schedule fixed under M. W. Act., 1948 as listed below.

This demand shall be taken up for discussion on the next date. As the CPWD Management and the CPWD Mazdoor Union during the course of bilateral discussion on 12-9-1985 have developed there an understanding to resort the matter through Vol. arbitration under Section 10(2) of Industrial Disputes Act, 1947 in case the same remains un-resolved mutual or through conciliation.

10.2 That when the Arbitration Agreement was not signed as per written settlements during the course of conciliation before Regional Labour Commissioner (Central) Headquarters, the dispute was again raised by way of second indefinite strike notice vide CPWD Mazdoor union Reference No. CPWDMU/Strike Notice/86 dated 15th July, 1986 and the matter was ceased in conciliation, the workmen of CPWD all over India went on strike from 3rd Sept., 1986 and an agreement was arrived at during conciliation pending strike and finally the strike was settled in the mid-night of 5th Sept., 1986 before Shri P. D. Sheno, Chief Labour Commissioner (Central)-Item No. 4 of the Memorandum of Settlement under Section 12(3) of the Industrial Disputes Act, 1947 is reproduced below :

"Regarding Union's demand for recategorisation/classification of Workcharged staff and regular classified categories with effect from 1-1-1973 it shall be resolved by voluntary arbitration under Section 10-A of the Industrial Disputes Act, 1947. There will be two arbitrators representing one to be nominated by the Union and other by the CPWD Management and the C.L.C.(C) shall nominate his representative as an Umpire for the purpose. The parties shall complete the other formalities of the arbitration agreement at an early date."

10.3 That Arbitration Agreement in Form-C under Section 10-A of the Industrial Disputes Act, 1947 was signed by the management of CPWD and CPWD Mazdoor Union on 18th October, 1986.

10.4 That the Arbitration Agreement was published in Gazette of India vide Notification No. Ministry of Labour I-42013/1186 D. II(B) dated 31st October, 1986 and I-42013/1186 D. II(B) dated 7th November, 1986.

10.5 That no other minority union functioning in some of the establishments of CPWD have ever raised this demand and it is on record that to minority unions for

present recognised on all India level have received commendations and appreciation of the Categorisation Committee in which respect the appreciation given by the Categorisation Committee put in the Categorisation Committee Report after 3rd Central Pay Commission is referred to which inter-alia confirms the fact that re-classification/re-categorisation of the posts and pay scales and fitment of pay scale from 1-1-73 have not been raised by any of the minority union in some of the establishments of CPWD.

11. That classification and the pay scales submitted above after adjudication by the Hon'ble Board of Arbitrators be made applicable subsequently and fitment of pay scale of 4th C.P.C. be done on the same classification with effect from 1-1-1986 the crucial date from which the Govt. have made applicable the recommendations of 4th Central Pay Commission.

PRAYER :

It is, therefore, humbly prayed that the Hon'ble Board of Arbitrators be placed to :

- (a) Pass orders accepting the above claim/statements/demands of C.P.W.D. Mazdoor Union on behalf of CPWD workmen.
- (b) Pass such orders as deem fit and proper to give relief to the workmen of CPWD.

B. K. PRASAD, General Secy.
C.P.W.D. Mazdoor Union

VERIFICATION

I, B. K. Prasad, General Secretary of CPWD Mazdoor Union the representative Union of CPWD workmen do hereby verify that above claims/statements/demands of workmen of CPWD are just, genuine and proper.

Verified this 13th day of January, 1987.

B. K. PRASAD, Deponent

ANNEXURE B

BEFORE BOARD OF ARBITRATORS C/O CHIEF ENGINEER ELECTRICAL, C.P.W.D. VIDYUT BHAVAN, NEW DELHI

In the matter of Arbitration Agreement under Section 10(A) of the Industrial Disputes Act, 1947

(Vide Ministry of Labour Notification No. L-42013/1/86-D.II (B) dated 31st October, 1986 and L-42013/1/86-D.II (B) dated 7th November, 1986)

In the matter of Industrial Dispute :

BETWEEN

Director General (Works), C.P.W.D. Nirman Bhavan, New Delhi.

Through its Director of Administration —Employers/Management

AND

C.P.W.D. Mazdoor Union, E-26, Raja Bazar, DIZ Area, Baba Khark Singh Marg, New Delhi.

Through its General Secretary —Workmen/Applicant

Rejoinder of C.P.W.D. Mazdoor Union on behalf of workmen of C.P.W.D

To

The Hon'ble Arbitrator (Umpire) and

His companion Arbitrators of the Board of Arbitration.

The humble petition of workmen herein most respectfully sheweth :

PARAWISE REPLY TO MANAGEMENT'S OBJECTIONS

1. The reply of the management is very vague statement and does not need to be considered as it lacks reasoning, proper justification, so refuted and it is requested that the same may be rejected.

2. The contention of the management is far from truth, is not tenable and legally maintainable in view of following facts :

- (a) The classification in the schedule employments are defined under Minimum Wages Act, 1948 and job content has been given due weightage.
- (b) The so-called Categorisation Committees appointed by Government in 1960 and 1973 is not mandatory and have only status of Works Committee and do not substitute or supplant bargaining of the trade union of the workmen. In view of above, this union rejects the contention of the management/employers of CPWD and request the Hon'ble Board of Arbitrators to reject the contention of the management.

3. The contention of the management is hollow rhetoric and reckless sweeping certificate and self-contradictory and not legally maintainable so refuted and Hon'ble Board of Arbitrators be pleased to reject the same on the following grounds :

- (a) As submitted in para 2 above.
- (b) The inclusion of experts, engineers etc. in the so-called Categorisation Committee and pro-management support of the 'so-called' recognised unions referred to by the employers of CPWD cannot take away the lawful, just and genuine rights of the workmen.
- (c) That the industrial dispute lawfully raised, there is no limitation and in the instant case the date from 1-1-73 has been jointly agreed upon by the employers of CPWD on behalf of the Union of India and the CPWD Mazdoor Union on behalf of the workmen of CPWD and the dispute before the Board of Arbitrators is with regard to re-categorisation/re-classification and revision of pay scales.
- (d) That the social scientific and technical development of the country including the organisation of CPWD have not been taken into account which is very much crystal clear from the reply of the employers of the CPWD "the basic approach to the classification demand by and large the same as the first Categorisation Committee". It also confirms that the increased quantum of workload, the same redundant yardstick and lack of proper cadre management in the workcharged/regular classified categories and composition of industrial workmen in CPWD have not been taken into account (totally illiterate persons have been replaced largely by ITI trained and partial/educated workmen). The reference to the Categorisation Committee as 'so-called' is with reference to facts already explained in para 2 above and in this para and have not been reproduced for the sake of brevity and due to arbitrary, unilateral decision of the management which has created discrimination between the same employments doing the same and similar nature of work which have been considered and outright rejected by the Hon'ble Supreme Court of India in its pronouncements.

In view of this, the contention of the management employers of CPWD are emphatically refuted and the Hon'ble Board of Arbitrators be pleased to outrightly reject the same.

4 and 5 The contention of the management that comparison with other organisations deserves to be ignored is not legally maintainable, so refuted. The contention of the employers of CPWD that arbitration reference is limited to categorisation or otherwise is also factually incorrect as the Hon'ble Board of Arbitrators has also to investigate and give its award on the pay scale as mentioned in the arbitration agreement notified in the Gazette of India dated 31st October, 1986. Since the nature of duties and responsibilities and functions of the industrial workmen in IAAI, DESU, NDMC, Delhi Flood Control, Institutes of ICAR, National Museum, Railways, P&T, AIR etc. are under schedule employment of the Minimum Wages Act, 1948 and the works of CPWD by and large have been transferred to these orga-

isations. Moreover under the same roof, in the same premises, industrial workmen performing the same and similar duties irrespective of their drawing and disbursing officers/Head of the Departments/Employers, cannot be discriminated in the grant of pay scales, pay and allowances and other benefits which is guaranteed by Article 39(D) and Article 16 of the Constitution of India. It may also be submitted that CPWD as well as Departments/Organisations/Industrial establishments mentioned above are all falling under definition of "the state" under Article 12 of the Constitution of India which is reproduced below :

Article 12. Definition

"In this part, unless the context otherwise requires, 'the State' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

In view of this, it is emphatically refuted that reference of pay scales in those organisations are extraneous what to talk of "totally extraneous" to the arbitration and comparison is also not unreasonable, so all the contentions thereof of the management in their reply are emphatically refuted and the Hon'ble Board of Arbitrators be pleased to reject the same.

6. The contention of the management is bad in law, not legally maintainable, so refuted. It is most respectfully submitted to the Hon'ble Board of Arbitrators that the employers of CPWD vide their submissions in this para are wilfully distorting the provisions of the Minimum Wages Act, 1948 and other labour laws. The definition of unskilled, semi-skilled, skilled and highly skilled as contained in Minimum Wages Act, 1948 are mandatory provisions and enforceable, punishable under the Act by the authority appointed under Minimum Wages Act, 1948. The employers of CPWD are having wrong notions with regard to status of the workmen viz. unskilled, semi-skilled, skilled and highly skilled and the time scale manning the persons in the respective Central/States granted by the authority under the Act in the light of definition of the Minimum Wages Act, 1948. All these arguments of the employers of CPWD were considered by the authority under Minimum Wages Act in quite good number of cases more than 100 employees in the schedule employment of CPWD comprising of 'F' division, 'B' division, Parliamentary Works-I and Parliamentary Works-II, divisions, Mechanical Workshop Division etc. and rejected outrightly by the appropriate authority under the act granted that status/classification with compensation and all that. Having not satisfied with the decision of the authority appointed under the Minimum Wages Act of Kanpur, the employers of CPWD went in appeal in Delhi High Court in respect of plumber, mason, carpenter of 'F' division and MLD of Mechanical Workshop division and the Hon'ble High Court rejected both the appeals at the admission stage itself and, thereafter, the management implemented all the decisions. In view of this, it is requested that the Hon'ble Board of Arbitrators be pleased to reject the contention of the employers of CPWD.

7. The contention of the management are factually incorrect, legally not maintainable, so refuted. The submissions of CPWD Mazdoor Union in paras 4, 5 and 6 above may be read here as the same have not been reproduced for the sake of brevity. Other arguments in the reply of management have been considered by the Hon'ble Supreme Court of India in cases of *Randhir Singh Vs. Union of India*, *P. K. Ramachara Iyer Vs. Union of India*, *D.S. Nakara Vs. Union of India*, *Dhirendra Chameli Vs. State of U.P.* and *Surinder Singh and others Vs. Engineer-in-Chief, CPWD* and have been outrightly rejected being violative of Article 39(D) and Article 16 of the Constitution of India.

In the light of judicial pronouncements and law made by the Supreme Court of India in the above cases all submissions of the management in their reply in para 7 are rejected by the Hon'ble Board of Arbitrators.

8. The contentions of the management in this para are factually incorrect and wrong and so refuted. It is emphatically denied that CPWD Mazdoor Union has not given justification and reasons for affecting re-categorisation/reclassification from 1-1-73 and demanding higher pay scales from

1-1-76 or from three years in the concerned scale in certain categories and lack of rationale are refuted. The union are demanding revision of pay scales, reclassification/re-categorisation from 1-1-73 because from that date recommendation of 3rd CPC have been implemented by the employers of CPWD and unlawful categorisation/classification of the "so-called" categorisation committee in the CPWD and we have given the rationale behind giving higher scales after putting in three years of service from 1-1-76 which is later in respect of some categories.

In the light of above, it is requested that the Hon'ble Board of Arbitrators be pleased to reject all the objections of the employers of CPWD in the respective para.

9. The contention of the employers of CPWD are bad in law not legally maintainable, so refuted in the light of pronouncements of the Hon'ble Supreme Court of India in a number of decisions referred to above. Secondly the points not covered therein and in the event of employers of CPWD having strong points to make to the Hon'ble Board of Arbitrators, they made do so by inducing evidence thereon.

10. The contention of the management is factually incorrect and bad in law so refuted in the light of above submission and the same may be rejected by the Hon'ble Board of Arbitrators.

DEMANDS—PARAWISE REPLY

1.1 The contention of the management are baseless, not legally maintainable, so refuted. The submissions made by CPWD Mazdoor Union on 13th January, 1987 to the Hon'ble Board of Arbitrators are reiterated.

1.2 The contention of the management is refuted as the demand and justification in the preamble of the statement of claim are to be read together and the statement of claim is to be gone through into totality that already have proper justification.

1.3 The contention of the management are denied and submission before the Hon'ble Board of Arbitrators in the initial petition are reiterated.

1.4 Needs no reply.

1.5 The contention of the management is refuted and submissions made in the initial petition to the Hon'ble Board of Arbitrators are reiterated. The definition of different scales and categories under the M.W. Act are for the purpose of basic and initial appointment and to inculcate the sense of responsibility and develop and exploit the experience gained by the employees in the schedule employments are to be properly scales which is permissible under the Industrial Disputes Act, 1947. Submissions in the respective paragraph in the initial petition are reiterated.

1.6 The contention of the management is denied and submissions made on behalf of workmen in the initial petition to this Hon'ble Board of Arbitrators on 13th January, 1987 are reiterated.

1.7 The contention of the management is denied and submissions made on behalf of workmen in the initial petition to this Hon'ble Board of Arbitrators are reiterated.

2.1 Needs no reply.

2.1 The contention of the management is denied and submissions in the initial petition dated 13-1-87 of the union to this Board of Arbitrators are reiterated.

2.2 The contention of the management is denied and submissions in the initial petition dated 13-1-87 of the union to this Board of Arbitrators are reiterated.

2.3 The contention of the management is denied and submissions in the initial petition dated 13-1-1987 of the union to this Board of Arbitrators are reiterated.

2.4 The contention of the management is denied and the submissions in the initial petition dated 13-1-87 to this Board of Arbitrators made by the union are reiterated.

2.5 The contention of the management is denied and submissions in the initial petition dated 13-1-87 of the union to this Hon'ble Board of Arbitrators are reiterated.

2.6 The contention of the management is denied and the submissions of the union in the initial statement of claim are reiterated.

2.7 The contention of the management is denied and the submissions of the union in the initial statement of claim are reiterated.

2.8 The contention of the management is wrong so refuted because in the re-categorisation/re-classification the demand of promotion of suitable employees to higher pay scales and percentage on the basis of seniority-cum-fitness is related and included in implicitly.

2.9 The contention of the management is denied and the submissions of the union in the initial statement of claim are reiterated.

2.10 The contention of the management is denied and the submission of the union in the initial statement of claim are reiterated.

3. Needs no reply.

3.1 The contention of the management is denied. It is earnestly submitted to the Hon'ble Board of Arbitrators that to meet the end of justice, the submissions in the initial petition are reiterated.

3.2 The contention of the management is denied. The submissions in the respective paragraph in the initial petition are reiterated as creation of new posts as well as giving promotional avenues to the existing posts/incumbents is implied in the arbitration agreement. The Hon'ble Board of Arbitrators are fully competent to give its award over the submissions.

3.3 The contention of the management is denied. The submission in the respective paragraph in the initial petition are reiterated.

3.4 The contention of the management is denied. The submission in the respective paragraph in the initial petition are reiterated.

3.5 The contention of the management is denied. The submissions in the respective paragraph in the initial petition are reiterated.

3.6 The contention of the management is denied. The submissions of the union in the respective paragraph in the initial petition are reiterated.

3.7 The contention of the management is denied. The submissions of the union in the respective para in the initial petition are reiterated. It is emphatically denied that the demand pertains to creation of post of Enquiry Clerk is a right of the employees of CPWD who are functioning as Enquiry Clerk on all the enquiries of CPWD but they are not given the pay and allowances of enquiry clerk. Moreover the demand of the Union is to make it a promotional post for WC/Regular classified categories in the lower pay scales.

3.8 The contention of the management is denied. The submissions of the union in the respective para in the initial petition are reiterated.

3.9 The contention of the management is denied. The submissions of the union in the respective para in the initial petition are reiterated.

3.10 The contention of the management is denied. The submissions of the union in the respective para in the initial petition are reiterated.

3.11 The contention of the management is denied. The submissions of the union in the respective para in the initial petition are reiterated.

4. Needs no reply.

4.1 The contention of the management is denied. The submissions of the union in the respective para in the initial petition are reiterated.

4.2 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.3 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.4 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.5 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.6 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.7 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.8 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

4.9 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated. It is further submitted that in the arbitration agreement it is implied that the Hon'ble Board of Arbitrators is to not only investigate but in the interest of industrial peace and to induce total settlement, method of recruitment, promotional avenues and creation of new posts are the implied by-products of the arbitration and the Board shall also be passing its award in the interest of natural justice, fair play.

4.10 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

5. Needs no reply.

5.1 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

5.2 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated. In the interest of industrial peace and to induce settlement between the employer of CPWD and CPWD workmen represented by CPWD Mazdoor Union it is implied that all these points are to be decided upon by the Board of Arbitrators.

5.3 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

5.4 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

5.5 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

5.6 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

5.7 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

6. Needs no reply.

6.1 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

6.2 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

6.3 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

6.4 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

6.5 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

6.6 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

7. Needs no reply.

7.1 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

8. Needs no reply.

8.1 The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

9. The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated.

10. The contention of the management is denied. The submissions in the initial petition in the respective para are reiterated. The contention of the management is refuted being unlawful. The Central Government in the Ministry of Labour vide notification dated 7th November, 1986 declaring CPWD Mazdoor Union as majority union on behalf of CPWD workmen and it is immaterial that there are other two recognised unions existing in CPWD. The verification and membership of CPWD Mazdoor Union have already been verified by Ministry of Labour and as a consequence of that only this union was granted recognition whereas the other so-called two unions have failed to submit their records of membership or other documents to Ministry of Labour which material and substantial factor have not been divulged by the employers of CPWD before This Board of Arbitration.

10.1 Needs no reply.

10.2 Needs no reply.

10.3 Needs no reply.

10.4 Needs no reply.

10.5 Since the management have opted not to reply, it is implied that submissions of CPWD Mazdoor Union on behalf of the workmen have been accepted by the employers of CPWD.

11. Since the management have opted not to reply, it is implied that submissions of CPWD Mazdoor Union on behalf of the workmen have been accepted by the employers of CPWD.

It is, therefore, requested that the contention of the management in their reply may be rejected by the Hon'ble Board of Arbitrators and they may be pleased to pass orders as prayed in para (a) and (b) of the claim application dated 13-1-1987.

for and on behalf of workmen of CPWD
(B. K. PRASAD)
General Secretary
CPWD Mazdoor Union

Dated the 15th April, 1987.

ANNEXURE-II (C)

BEFORE BOARD OF ARBITRATORS E-WING, C.P.W.D. TRAINING INSTITUTE NIRMAL BHAVAN, NEW DELHI

In the matter of Arbitration Agreement under Section 10(A) of the Industrial Disputes Act, 1947

(Vide Ministry of Labour Notification No. L-42013/1/86-D. II (B) dated 31st October, 1986 and L-42013/1/86-D. II (B) dated 7th November, 1986.)

No. Arbitration/86/CON. I

In the matter of Industrial Dispute :

BETWEEN

Director General of Works, CPWD, Nirman Bhavan,
New Delhi Through its Director of Administration,
—Employers/Management

AND

C.P.W.D. Mazdoor Union, E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg, New Delhi through its
General Secretary
—Workmen/Applicant

Statement of claim of CPWD Workers' Union Shimla on behalf of workmen of CPWD at Shimla

To

The Hon'ble Arbitrator (Umpire) and

His companion Arbitrators of the Board of Arbitration.
The humble petition of workmen herein post respectfully.
Sheweth :

- (1) That CPWD Workers' Union Shimla is independently registered union under Indian Trade Union Act and recognised by the Government of India for the purpose of Shimla Area of the CPWD workmen.
- (2) That CPWD Workers' Union Shimla in its Annual General Body Meeting and subsequently in its Execution Committee Meeting have decided to be part and parcel of CPWD Mazdoor Union for All India purposes.
- (3) That the CPWD Mazdoor Union is representative body of CPWD Workers on all India level and it represents CPWD workers at Shimla also who are members of this Union in that respect.
- (4) That the Annual General Body Meeting of CPWD Workers' Union Shimla and its Executive Committee resolved to decide that the justification of demands and statement of claim submitted by the CPWD Mazdoor Union to this Hon'ble Board of Arbitrators is on behalf of CPWD workmen of Shimla and the claim put forth in this respect is just, genuine and Hon'ble Board of Arbitrators be pleased to accept this.

(T. TEK RAM)

Jt. Secretary

(RAGHUBIR SINGH RANAUT)

General Secretary

CPWD Workers' Union

SHIMLA

Rly. Board Bldg.

SHIMLA-3

Dated the 13th January, 1987.

ANNEXURE-II (d)

BEFORE BOARD OF ARBITRATORS
E-WING, C.P.W.D. TRAINING INSTITUTE,
NIRMAL BHAVAN, NEW DELHI

In the matter of Arbitration Agreement under Section 10(A) of the Industrial Disputes Act, 1947.

(Vide Ministry of Labour Notification No. L-42013/1/86-D. II (B) dated 31st October, 1986 & L-42013/1/86-D. II (B) dated 7th November, 1986.)

In the matter of Industrial Disputes

No. Arbitration/86/CON. I

BETWEEN

Director General (Works),

C.P.W.D. Nirman Bhawan,

New Delhi.

..Employees/Management.

AND

C.P.W.D. Mazdoor Union,

E-26, Raja Bazar, DIZ area,

Baba Kharak Singh Marg.

New Delhi.

..Workmen.

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c. 3(ii)]

Statement of claim submitted by Kendriya Lift Karamchhari Sangh (Regd.).

To.

The Hon'ble Arbitrator (Umpire),
and his companion Arbitrators of the,
Board of Arbitrators,

The humble petition of petitioner herein most respectfully :—

SHOWETH :

1. That the Kendriya Lift Karamchhari Sangh is a Registered Union under Indian Trades Union Act for Lift Operators.

2. That the justification of demands and statement of claims are submitted by the CPWD Mazdoor Union for the Lift Operators (light speed Lifts) in the Pay scale of Rs. 260-400 (skilled) and after putting three years of service be given selection grades in the Pay Scale of Rs. 260-430 and another pay scale of Lifts Operation (High Speed Lifts) in the pay scale of Rs. 330-560 (highly skilled) instead of Rs. 210-270 w.e.f. 1-1-1973 to this Hon'ble Board of Arbitrators is on behalf of this Union also and the claims put forth in this respect is just, genuine and Hon'ble Board of Arbitrators be pleased to accept.
Dated.—13-1-1987.

J. S. RAWAT, General Secy.
Kendriya Lift Karamchhari Sangh (Regd.),
F-438, Kasturba Nagar, New Delhi.

ANNEXURE-III(E)

BEFORE BOARD OF ARBITRATORS E-WING, C.P.W.D.
TRAINING INSTITUTE, NIRMAN BHAWAN, NEW
DELHI

In the matter of Arbitration Agreement under Section
10(A) of the Industrial Dispute Act, 1947.

(Vide Ministry of Labour Notification No. L-42013/1/86-D-II(B) dated 31st October, 1986 and L-42013/1/86-D-II(B) dated 7th November, 1986.)

No. Arbitration/86/CON. I.

BETWEEN

Director General of Works,
C.P.W.D., Nirman Bhawan, New Delhi. Employers/
Management.

AND

C.P.W.D. Mazdoor Union,
E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg, New Delhi. Workmen/
Applicant.

Statement of claim of All India C.P.W.D. Workers
Union, Calcutta on behalf of Workmen of C.P.W.D.
Calcutta.

To,

The Hon'ble Arbitrator (Umpire) and,
His Companion Arbitrators of the,
Board of Arbitration.

The humble petition of Workmen herein most respectfully:

SHOWETH :

1. That All India P.W.D. Workers' Union, Calcutta is independent registered union under Indian Trade Union Act and recognised Government of India for the purpose of Calcutta Area of the C.P.W.D. Workmen.

2. That the justification of demands and statements of claim are submitted by C.P.W.D. Mazdoor Union to all the C.P.W.D. Workers the Hon'ble Board of Arbitrators, is on behalf of this Union also and the claims put forth in this respect is just fully and Hon'ble Board of Arbitrators be pleased to accept.

Dated : The 15th January, 1987.

SUKUMAR ROY, General Secy.
All India C.P.W.D. Workers Union, Calcutta

ANNEXURE III

BEFORE BOARD OF ARBITRATORS E-WING,
C.P.W.D., TRAINING INSTITUTE, NIRMAN
BHAWAN, NEW DELHI

In the matter of Arbitration Agreement under Section
10(A) of the Industrial Disputes Act, 1947.

(Vide Ministry of Labour Notification No. L-42013/1/86-D-II(B) dated 31st October, 1986 and L-42013/1/86-D-II(B) dated 7th November, 1986.

In the matter of Industrial Disputes

BETWEEN

Director General (Works), C.P.W.D., Nirman Bhawan,
New Delhi.—Through its Director of Administration—Employers/Management

AND

C.P.W.D. Mazdoor Union, E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg, New Delhi—Through its
General Secretary—Workmen/Applicant.

Statement of Claim on behalf of the management of C.P.W.D.

To,

The Hon'ble Arbitrator (Umpire) and His Companion
Arbitrators of the Board of Arbitration.

The humble petition of management herein most respectfully Showeth:

The contentions of the Union to justify their demands are totally unrealistic and are unacceptable to the management of CPWD for reasons explained hereunder.

2. It is a known fact that CPWD is a premier Central Government organisation, engaged in construction and maintenance activities for many decades. The maintenance activities in civil, electrical and mechanical and horticulture wings require workmen, both unskilled and with varying degrees of skill. The job content of every category of workmen has been clearly laid down in CPWD Manual Vol. III. These were initially framed and periodically revised by experts in the concerned disciplines from within the department. Further, two categorisation committees appointed by the Government, in 1960 and 1973 reviewed the categories. The very opening remark of the Union in the statement of claims that CPWD have not classified/categorised different posts according to job content is therefore totally wrong and should not be taken cognizance of by the Board of Arbitration.

3. After the 2nd Pay Commission's Report was accepted, there were no objections from the workers since the categorisation was judged reasonably by the first Categorisation Committee. The Categorisation Committee appointed during 1973 consequent to the release of 5rd Pay Commission's report also made a detailed examination of the classification/categorisation of the various categories in W.C.E. and R.C.E. After interviewing 48 individuals/Unions and deliberations in detail for around one year, the committee gave its recommendations. The CPWD Mazdoor Union

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which is one of the parties to the Arbitration was not a recognised Union at that time and, therefore, was not consulted by the Categorisation Committee. The Union, which was granted provisional recognition for the first time in 1983 (i.e. after even the appointment of the next i.e., 4th Pay Commission), more than 10 years later, is now proposing to re-open the entire report and the recommendation of the Categorisation Committee on which decisions had been taken by Government and implemented long back. Even consideration of the demand at this stage will not be correct, in the opinion of the Management as it will set a very bad precedent and decisions taken long back will be sought to be re-opened, as and when any new Union is accorded recognition. The basic approach to the classification remained, by and large, the same as of the First Categorisation Committee. This Committee had representatives from the E-in-C Branch, Army Headquarters, (Director of Work Study) Labour Officer and experts in Electrical and Civil engineering disciplines. As such the allegations of the Union that the Committee have not properly classified or categorised the categories and the recommendations are self-contradictory are unfounded. The reference used about the Categorisation Committee as 'So-called' is derogatory and objectionable. Our objection may be taken note of by this Board of Arbitration.

4. The Union has made reference to the pay scales, in IAAI, DESU, NDMC, Delhi Flood Controls and institutes under the ICAR, stating that most of these works have been transferred from CPWD itself. In the first instance, it is submitted that CPWD is a Central Government Department and not a public sector undertaking, an Autonomous Body or a Municipal organisation. The service conditions are different from one another. The nature of duties in DESU, NDMC, etc. cannot be compared with that of CPWD. Further, as per Arbitration reference, the dispute is one of recategorisation or otherwise on the analogy of classification given in the scheduled employment under Minimum Wages Act. Hence reference to pay scales in IAAI, DESU etc. is totally extraneous to the Arbitration. As such, the unreasonable attempt of the Union to draw a comparison with these organisations deserves only to be ignored by the Hon'ble Board.

5. It is also an incorrect statement from the Union that most of the works have been transferred from the CPWD to these organisations.

6. The Government notification under the Minimum Wages Act, 1948 lays down only the minimum rates of daily wages including wages for the day of weekly rest, various categories of workers grouped as unskilled, semi-skilled supervisory, skilled, highly skilled and clerical. The definition of such group has been indicated therein. So far as the workmen in WCE and RCE in CPWD are concerned, they are not daily wagers, but are governed by regular scales of pay which have a minimum increment, EB, maximum with a number of stages and allowances. They also enjoy service conditions different from Muster Roll Staff/Casual Labour who gets wages on daily basis. It is, therefore, not correct to draw attention to the Minimum Wages Act, in this context. Nevertheless it is submitted that, keeping in view the job requirements and skill required for the various categories in CPWD, these are categorised in the Deptt. and it is confirmed that the total emoluments for these categories in CPWD, are much above those laid down in the said Government notification under Minimum Wages Act. It is, therefore, prayed that the submission of the Union in this regard may not be accepted.

7. The contention of the Union that the Workman fall under the Schedule Employment of Minimum Wages Act, is not acceptable so far as the W.C. Staff and RCE in CPWD are concerned; nor the analogy to the classification indicated in the MOL Notification under Minimum Wages Act is acceptable in application to these workmen. The reasons are explained below :—

(i) The MOL Notification indicates the minimum wages of daily wagers, whereas W.C. Staff and RCE Staff in CPWD are monthly salary earners, and have service conditions different from daily wagers.

(ii) The MOL Notification indicates a number of designation and grades and there is no indication about their duties. Even more than one grade/class is shown bracketed under a particular group of classification. On the other hand, the job requirements are spelt out against each designation of workmen in CPWD and they are categorised accordingly in a scientific manner. With this, the workmen requesting like skills and having like responsibilities are classified in the same grouping in the Department. It is commonly observed that the same designation in different organisations have different levels of positions. As much it is fair, only if the job content is considered in the designation, as has been in CPWD.

(iii) The MOL Notification does not indicate any Highly Skilled Supervisory category, whereas such categories are essential in the Deptt's working. A large number of categories being adopted in the Department, are not indicated in the MOL Notification.

(iv) From the MOL Notification it would appear that :

- (a) that the work of a semi-skilled worker is capable of being performed under the supervision of guidance of a skilled employee.
- (b) a skilled worker's work performance calls for initiative and judgement; and
- (c) a highly skilled worker is to assume full responsibility for the judgement or decisions involved in the execution of these tasks.

In this connection, the following submissions are made :—

(a) So far as CPWD's WC/RCE staff are concerned, the duties and the qualifications/experience prescribed for semi-skilled workers are such that supervision/guidance of a skilled employee is required.

(b) The need for some amount of initiative and judgement in the performance of work exists in general in any category, whether in the CPWD or in any other department.

(c) Every worker is responsible for the work he does, irrespective of the skill.

It is, therefore, strongly contended that drawing analogy to the categorisation in M.W. Act in respect of categorisation of WC/RCE staff in CPWD is not justified. The comments on the demands concerning various categories are furnished hereunder, under the heading "Demands".

8. While, therefore, not conceding any of the demands, it is at the same time pointed out that no justification has been indicated in their submissions as to why 1-1-73 has been mentioned as the base date for their demands and also why higher scales are further demanded from 1-1-76 or from 3 years in the concerned scales in certain categories. It is, therefore, prayed that this aspect of the demands be also rejected by the Hon'ble Board of Arbitrators, as no rationale has been indicated for the above dates, which have been chosen arbitrarily.

9. From the submissions of the Union, it is apparent that they would like to have common pay scales for all organisations under Central Govt./State Govt./local authorities etc. failing which it is discriminatory, unlawful and violative of labour laws as well as Constitution of India. The job content, working environment, extent of skill required etc. are not practically the same every where and it is a well known fact that there is no such system as "National scales of pay" as envisaged by the Union. The contention of the Union, of discrimination is thus without any basis. It is also submitted that this is not within the purview of the Arbitration reference.

10. It may thus be seen that the "justification of demands" submitted by the Union is absolutely unreasonable.

DEMANDS

1.1 The allegation by the Union, of arbitrary, unilateral and unscientific categorisation by the Categorisation Committee is totally baseless. The composition of the Committee; the number of interviews held and the analysis made

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by them will clearly prove this point. It is not expected of a responsible union to make such an unwarranted observation about an expert committee. The contention of the Union that certain posts indicated by the fall under the Schedule Employment of Minimum Wages Act, 1948 is not reasonable, as submitted earlier in para. The nature of their duties, it is confirmed, is "unskilled" even as per the definition in the Ministry of Labour Notification No. dated 29-10-86 under Minimum Wages Act, 1948.

1.2 This only indicates the demand without giving any justification.

1.3 According to the Ministry of Labour Notification under the Minimum Wages Act, there is no category such as trained or untrained workman. The proper classification is "unskilled".

1.4 No comments.

1.5 As per the existing system in the CPWD, the unskilled workman no doubt acquires experience over a period of time and is promoted to a higher category post by seniority-cum-fitness also subject to passing appropriate trade test. He is also permitted to compete for a higher category post under D.R. quota. Many a worker who is competent and takes interest in acquiring the knowledge of the trade by his involvement in the work, is able to get into a higher post in the D.R. quota. The existing system is thus conducive for the really deserving workman to progress in his career. The demand of the Union to simply give the unskilled workman a higher scale of pay after 3 years of service if accepted will only be counter productive and skill any interest and enthusiasm in him to acquire more knowledge and skill. It is a universal fact that a higher scale of pay to anyone in any organisation is given only when he is required to carry out works involving higher skill and/or responsibility and not merely by the number of years of service in lower skill.

There is no classification as "Trained unskilled workman" anywhere, not even under the Minimum Wages Act which the union has quoted profusely in their submissions. Such new additional classification will only confuse the very concept of scientific categorisation of workmen.

1.6 As already submitted, no comparison can be made between employees of Central Government, and autonomous organisation/public sector undertakings.

It is reiterated that the demand is completely unjustified and is not in the overall interest of the workers in general and the Department and it is prayed that it is rejected outright.

2. This only indicates the demand of the Union without giving any justification. This is not acceptable.

2.1 No comments.

2.2 The category of Sweepers in a common category and is not a category peculiar only to the CPWD. The Ministry of Labour notifications, issued under the Minimum Wages Act from which the Union is trying to get support for their various demand for recategorisation. They have categorised Sweepers only as unskilled. Therefore, the Sweepers, wherever they are working in Government Departments, are given the same unskilled scale of pay. Comparison with autonomous organisations or public sector undertakings is not appropriate, as already submitted earlier. In view of this, the allegation of the Union of violation of any Article of Constitution of India is without any basis. The demand for recategorisation of Sweepers as semi-skilled and for giving them higher pay scale is unjustified.

2.3 The arguments advanced do not justify giving of a higher pay scale or a higher categorisation to Farashes, Bhistics and Lift Khallasis. Just because a stray Farash might have been asked to do an odd job requiring higher skill, which is totally denied, does not justify the higher categorisation of the category of Farashes as semi-skilled. No justification has been given for recategorisation of Bhistic as Semi-skilled.
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2.4 The function of Lift Khallasi is only to assist the Lift Operator and Lift Mechanic. He is not required either to operate the Lifts himself or to have knowledge of different tools etc., as stated by the Union. The work of a Lift Khallasi is of completely unskilled nature and, therefore, the demand of the Union to categorise the Lift Khallasi as semi-skilled is not justified.

2.5 The total strength or, the abolition of the category of Lift Khallasis, it is submitted, is not within the terms of reference of this Honourable Board of Arbitration. It is, however, added that there is no proposal, as of now, to abolish the category of Lift Khallasi.

2.6 The demand of the Union for creation of a new category of Head Chowkidar is not within the terms of reference of the Board of Arbitration.

2.7 As submitted in reply to 1.5, the demand for a higher categorisation and higher pay scale automatically after completion of 3 years of service is totally unjustified.

2.8 This demand of the Union also, it is submitted, is not within the terms of reference of this Honourable Board of Arbitration.

2.9 As already submitted in earlier paragraphs, there can be no comparison between the employees in Government Departments and those in public sector undertakings/autonomous organisations.

2.10 In this paragraph, the Union is only repeating the demands made in earlier paragraphs, which have been adequately replied to. It is also submitted that in the Ministry of Labour notification under M. W. Act there is no category called semi-trained Artisans or semi-skilled trained Artisans. The demand is totally unjustified and it is prayed that it may be neglected.

3. No comments.

3.1 The management does not agree for adding any new category other than those already referred for Arbitration before the Hon'ble Board.

3.2 The Union has demand creation of new categories of certain posts. This outside the purview of this arbitration.

3.3 As already submitted in earlier paragraphs there can be no comparison between the employees in the Central Government and those in Public Sector undertakings/autonomous organisations.

3.4 The training of Lift Operators in C.P.W.D. is purely a Refresher Course on operation of Lifts. It is agreed that the skill required to operate low Speed Lifts is much more, and it is for this reason they are Semi Skilled category in the department. The contention of the Union that Lift operator is skilled workman in the operation of Low Speed Lift is not acceptable. As their is not special skill required in operation of Slow Speed Lifts, and it is at best only comparable with categories listed down under Semi-skilled in the M.O.L. notification. It is a known fact that there is nothing in 'Driving a Lift' as even a common man can operate Lift in public buildings. The contention that the Lift Operator functions on the basis of training is not correct since the training is an in service one only a Refresher Course.

3.5 The submission of the Union for ordering to phase out Slow Speed Lift is extraneous to the arbitration reference. It is also for the kind information of the Board of Arbitrators that the speed of Lifts is determined on functional/technical requirements.

3.6 The submission of the Union that the category of Sewerman is unskilled in the W. C. Establishment in the department is incorrect. The factual position is that Sewerman whether in W. C. Establishment or R.C.E. is a Semi-Skilled person. The demand of the Union to categorise as skilled on the analogy of definition in M.W. Act is not reasonable. The job requirement is only that of Semi-Skill, as has been categorised in the Regular as well as W. C. Establishment.

3.7 This demand pertains to creation of posts of Enquiry Clerks in each Enquiry. Laying down yardstick for category is not within the purview of this arbitration.

3.8 This demand is also for creation of new category, which is not within the purview of arbitration.

3.9 It is only agreed that the categories indicated in this demand require some skill, more than an unskilled work, but do not require any special skill as needed for skilled work. It is, therefore, only appropriate that the existing categorisation as unskilled should continue. It is, therefore, prayed that the demand be rejected.

3.10 The union has only repeated the demand in this para. Further there is contention of giving higher scale of pay with a view to inculcate the sense of responsibility will be any counter productive killing of initiative as explained in para 2.7. The submission of the Union of the method of recruitment of these posts is not within the ambit of this Arbitration reference.

3.11 The demand is outside the purview of arbitration

4. No comments.

4.1 Not acceptable.

4.2 There is no category in CPWD called "Operator (AE&C) or Assistant Operator (AC&E)". The request of the Union may not be agreed to.

4.3 Not acceptable.

4.4 Creation of new posts is beyond the scope of the Arbitration reference.

4.5 The contention of the Union that the Assistant and full categories of workers are performing the same duties is incorrect. The duties are distinct, as laid down in the CPWD Manual Vol. III. As such, there is no violation of Constitution in the matter of Categorisation.

The demand of the Union to categorise (skilled) as Highly skilled is not acceptable, nor is it justified. The duties as laid down in Manual Vol. II and the qualification/ trade test requirements for employment in these categories, will amply disprove the contention of the Union to categorise them all as Highly Skilled. In this connection, submissions made in para 7 are also reiterated.

4.6 The qualifications indicated in Manual Vol. III for Motor Lorry Driver and Road Roller driver are as under :—

Motor Lorry Driver.—Ability to read and write. He must possess a driving licence for heavy motor vehicles and driving experience for a period of at least 5 years of which at least 3 years should be of driving heavy motor vehicles.

Road Roller Driver.—Ability to read and write in order to maintain log books. Must possess driving licence for Road Rollers, steam or diesel. Must have minimum experience of 5 years in the operation.

4.7 The judgements of the Regional Labour Commissioner (Central), Kanpur and that of the Delhi High Court referred to are not relevant as these relate to the daily wages muster Roll workers of the CPWD and, as already submitted at the beginning in para 7, there can be no comparison between the daily wage workers and the workers in the Workcharged Establishment and Regular Classified Establishment, who are paid pay and allowance with regular pay scales. Workers in W.C.E./R.C.E. mentioned in this paragraph have been correctly stated as skilled from 1-1-73 and given the relevant pay scales.

4.8 As submitted in para 4.5 above, there is no justification to categorise the employees referred to in para 4 of the Unions submission, as Highly Skilled. The existing categorisation is in order, considering the duties prescribed against each. The judgement of the Supreme Court in D. S. Nakara's case and other judgements referred to herein relate to the payment of wages to daily wage workers and, therefore, not relevant.

4.9 The method of recruitment is outside the scope of arbitration reference.

4.10 The method of dispensing with the licencing from states for the trades is outside the scope of arbitration reference.

reference. Licencing is a statutory requirement and cannot be dispensed with.

5. No comments.

5.1 There is no category in CPWD as Sr. Mechanic (Mechanical). The existing category is "Senior Mechanic". The request may not be agreed to.

5.2 Creation of new posts is extraneous to the Arbitration reference.

5.3 Supervisory licence for electrician is a requirement as per recruitment rule for this category, commensurate with the job requirement. the question of getting away with this requirement is outside the scope of arbitration reference.

5.4 There is no categorisation a "Highly Skilled Grade IV" even in the MOL Notification.

Further, the questions of creation of new posts and the method of filling the same are beyond the scope of arbitration reference.

5.5 The duty against each category as laid down in Manual Vol. III is to suit the respective job requirements in the CPWD. The pay scale is appropriate in reference to these duties. There is nothing which can be considered as "Special type of functions expected from these posts" as mentioned by the Union. Within the Deptt. there is no disparity among workmen of the same category in WCE/RCE and as such there is no question of violation of the Constitution or court judgements. As stated earlier, comparison with other Deptts., autonomous bodies etc. cannot be taken cognizance of, being extraneous to the terms of reference for arbitration.

5.6 The submission regarding departmental maintenance as opposed to maintenance by contract, and creation of new posts, requiring no comments, as they are outside the scope of arbitration reference.

5.7 There is no category called Highly Skilled Grade IV in the Department or even in Minimum Wages Act, Creation of new category and its method of filling are not within the purview of reference. As such, it is prayed that in accordance with the terms of reference to Arbitration, this demand from the Union be rejected outright.

6. No comments.

6.1 There is no category called Highly Skilled Grade III in the Department nor even under the Minimum Wages Act. Therefore, it is prayed that in accordance with the terms of reference to Arbitration, this may be rejected outright.

6.2 Creation of a new category is not within the terms of Arbitration reference.

6.3 There is no category called Highly Skilled Grade III in the Department nor even under the Minimum Wages Act. Therefore it is prayed that in accordance with the terms of reference to Arbitration, this may be rejected outright. Creation of a new category is not within the terms of Arbitration reference.

6.4 Creation of a new Category is not within the terms of Arbitration reference.

6.5 There is no category called Highly Skilled Grade III in the Department nor even under the Minimum Wages Act. Therefore, it is prayed that in accordance with the terms of reference to Arbitration, this may be rejected outright. Further, the method of filling the posts is also not within the purview of Arbitration reference.

6.6 Within the Department there is no disparity among workmen of the same category in WCE/RCE and as such there is no question of violation of the constitution or court judgements. As stated earlier, comparison with other Department, autonomous bodies etc. cannot be taken cognizance of, being extraneous to the terms of reference for arbitration.

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7. No comments.

7.1 There is no category called Highly Skilled Grade II in the Department nor even under the M.W. Act. Therefore it is prayed that in accordance with the terms of reference to Arbitration, this may be rejected outright.

8. No comments.

8.1 There is no category called Highly Skilled Grade I in the Department, nor even under the Minimum Wages Act. Therefore, it is prayed that in accordance with the terms of reference to Arbitration, this may be rejected outright.

9. The union has only repeated what they have submitted in the earlier paragraphs. There is no justification given as to why they have chosen 1-1-73 as the base date for their demands and also the 3 years of service. This aspect of the demands are also, therefore, not justified and it is prayed that those be rejected.

As may be seen from the above submissions, the Union has brought out a number of aspects which were not referred in the Government of India order No. dated 31-10-86, in its para (i) with the heading "specific matters in dispute". They have also not given any reasonable justification in respect of any of their demands. It is therefore prayed that all the demands be rejected.

10. Denied. As submitted earlier, this Union was granted provisional recognition in December, 1983 pending verification of membership. The verification is yet to be completed. There are two more recognised Unions in the C.P.W.D. on All India basis.

- 10.1 No comments.
- 10.2 No comments.
- 10.3 No comments.
- 10.4 No comments.

PRAYER

It is, therefore, humbly prayed that the Board of Arbitration may be pleased to:-

- (a) Consider the submission made by the Employer/Management and reject the demands of the CPWD Mazdoor Union, and
- (b) Pass such orders as deemed fit.

Sd/-

(S. Ranganathan),
Director of Administration

VERIFICATION :

I, S. Ranganathan, Director of Administration, representative (Employer), do hereby verify that the above claims/statements are true to my knowledge and based on official records.

Verified this 8th date April, 1987.

Sd/-

(S. Ranganathan).
8-4-1987

ANNEXURE IV

**BEFORE BOARD OF ARBITRATION,
VIDYUT BHAWAN, NEW DELHI**

To

The Secretary,
Ministry of Labour,
Government of India,
New Delhi.

In the matter of Arbitration agreement under Section 10(a) of the Industrial Disputes Act, 1947.

(Vide Ministry of Labour Notification No.L-4803/1/86-DII(B) dated 31st October, 1986 and L-42113/1/86-D(II) B) dated 7th November, 1986.

In the matter of Industrial Disputes.

No. Arbitration/86 Con. I

BETWEEN

Director General (Works) C.P.W.D. Nirman Bhavan,
New Delhi—Through the Director of Admn.—
Employers/Management.

AND

CPWD Mazdoor Union, E-26, Raja Bazar, DIZ Area,
New Delhi.—Through the Director of Admn.—
Employers/Management.

The dispute is already before the Board of Arbitration:-

- 1. Shri M. G. Wanare.—Umpire.
- 2. Shri H. S. Vats.—Member.
- 3. Shri G. K. Khemani.—Member.

Whereas the Board of Arbitration is required to submit their Award by 30-10-1987 as per the Ministry of Labour Notification above and the mutual agreement entered into between the two parties in April, 1987.

And whereas due to Administrative and other reasons, the first parties could not prepare this case for the purpose of arguments and final hearing. Party one and Party two agree to the extension of period of submission of the Award by the Board of Arbitration by the period of 1-1/2 month i.e. from 30-10-87 to 15-12-1987.

(B. K. Prasad),
General Secretary,
CPWD Mazdoor Union,
New Delhi.

(Chandar Sain),
Director of Administration,
CPWD, New Delhi.

Witnesses :

- (1) (Laxmi Narain),
Asstt., CPWD.
- (2) (Kul Bhushan),
AIC (C)

ANNEXURE-V

The Secretary,
Ministry of Labour,
Government of India,
New Delhi.

In the matter of Arbitration agreement under Section 10-A of the Industrial Disputes Act, 1947.

(Vide Ministry of Labour Notification No. L-42013/1/86-D II(B) dated 31st October, 1986 and L-42013/1/86-D. II(B) dated 7th November, 1986).

In the matter of Industrial Dispute No. Arbitration/
86/CON. I

BETWEEN

Director General (Works), CPWD, Nirman Bhavan,
New Delhi. Through Director of Admn.—Employ-
ers/Management.

AND

CPWD Mazdoor Union, E-26, Raja Bazar, DIZ Area,
Baba Kharak Singh Marg, New Delhi Through its
General Secretary/workmen/applicant.

The dispute is already before the Board of Arbitrators of :-

- 1. Shri M. G. Wanare, Umpire.
- 2. Shri H. S. Vats, Member.
- 3. Shri G. K. Khemani, Member.

Whereas the Board of Arbitration was required to submit their award by 30th April, 1987 as per Ministry of Labour Notification dated 31st October, 1986 and by mutual agreement both the parties extended the tenure of Board of Arbitration firstly upto 30th October, 1987 and subsequently extended the period of submission of award upto 15th December, 1987.

And whereas due to the fact that first party could not prepare their arguments and submit their final say before Board of Arbitration. Party No. 1 and Party No. 2 agree to the extension of period of submission of the award by the Board of Arbitration upto 31st January, 1988.

Signed at New Delhi on this day of 8th December, 1987,
Sd/-

(B. K. Prasad),

General Secretary,

CPWD Mazdoor Union, New Delhi.

Sd/-

(Chander Sain),

Director of Administration,

CPWD, New Delhi.

WITNESSES :

Sd/-

8-12-87.

ANNEXURE-VI

IN THE SUPREME COURT OF INDIA.

ORIGINAL JURISDICTION

Writ Petition No. 634 of 1987

Devi Prasad & Anr.—Petitioners.

Versus

Union of India & Ors.—Respondents.

ORDER

Learned Additional Solicitor General State that he has taken instructions after the matter was last adjourned and produced a document showing that the claims submitted by the Kendriya Lift Karamchhari Sangh to the Arbitrator (Umpire) is pending finalisation.

On 28-10-87, this Court had directed that Counter-affidavit should be filed within a week, otherwise no further return would be accepted and the matter had been adjourned to 9th of November, 1987. A further adjournment was taken for making of the return to the Rule; no return has, however, been filed but the above submission has been made by the learned Additional Solicitor General.

We have considered the claim of the petitioners in the light of the submissions made by Counsel for both sides. There is no justification for the classification of lift operators into two categories based upon employment in operating High Speed Lifts and Light Speed Lifts. Taking note of the fact that lifts have to be mechanically operated and involve the same skill, whether it be High Speed or Light Speed Lift and keeping the historical background in relation to this service in view, we direct the lift operators serving under the Central Public Works Department to be given the same pay-scale as admissible to Lift Operators operative High Speed Lifts. This direction shall be effective from December 1, 1987. Writ Petition is disposed of without any order for costs.

New Delhi,

November 23, 1987.

Sd/- Ranganath Misra.

Sd/- S. Ranganathan

[No. L-42013/1/86-D.II(B)]

नई दिल्ली, 19 फरवरी, 1988

का.आ 825:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिल्क बोर्ड के प्रवर्धन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुवर्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12 फरवरी, 1988 को प्राप्त हुआ था।

New Delhi, the 19th February, 1988

S.O. 825.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bangalore, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Silk Board and their workmen, which was received by the Central Government on 12th February, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

PRESENT :

Sri B. N. Lalge, B.A. (Hons) LL.B., Presiding Officer.

Central Reference No. 151/87

FIRST PARTY :

The President,
Central Silk Board Employees' Union,
No. 17/1, 13th Cross Road,
Mahalakshimpuram,
Bangalore-560086.

SECOND PARTY :

Member-Secretary,
Central Silk Board,
United Mansions,
Mahatma Gandhi Road,
Bangalore-560001.

APPEARANCES :

For the first party—Sri B. N. Vijaykumar, President.

For the second party—Sri Shivaraj Patil, Advocate.

AWARD

Dated 8th day of February, 1988

The Government of India Ministry of Labour, by its order No. L-42012/163/86-D. II(B) dated 7th September, 1987 has made the present reference on the following point of dispute.

2. "Whether the management of Central Silk Board is justified in terminating the services of Shri S. Govindamurthy, from National Silkworm Seed Project, Chickaballapur with effect from 13th June, 1986? If not to what relief the workman is entitled?"

3. Notices were duly served on the parties.

4. Shri B. N. Vijaykumar has filed his authorisation for the first party. Sri Mari Gowda has filed a vakalat for the second party.

5. When the matter was called for hearing on 8th January, 1988, the representative for the first party filed a memo stating that the workman has been reinstated and that the first party has agreed to forego the back wages and that the case may be closed.

6. The Memo has been recorded and so also the submissions of the parties.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :

PRINCIPAL BENCH : NEW DELHI

O.A. NO. 2237 OF 2000

IN THE MATTER OF :

ALL India C.P.W.D. (MRM) Karamchhari

Sangathan (Regd.) & Ors.

Applicants

Versus

Union of India & Ors.

.. Respondents

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Filed By :

(K.C.D. Gangwani)
Sr. Central Govt. Counsel
13, Qutab View Apartments
Opposite Qutab Hotel
Shaheed Jee Singh Marg,
New Delhi - 110060.

Date : 5.7.2001

Place : New Delhi.

Shri Naresh Kaushik Advocate for the applicant
25, Bazar Lane, Bengali Market, New Delhi - 110001.

4/7/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan,
New Delhi-4.

Recd.
for
Naresh Kaushik
5/7/2001

प्रधान न्यायाधीश (C.A.)
आवेदन संख्या
Filed Today
05 JUL 2001
दफ्तर नं०/Filing No.....
उप-निर्देशक/Dy. Registrar

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL
BENCH, NEW DELHI.

MA NO. 2673 OF 2000

IN OA NO. 2237 OF 2000

IN THE MATTER OF

1. ALL INDIA CPWD (MRM) KARMCHARI Applicant
Sangathan & others

V/s

2. UNION OF INDIA & OTHERS Respondents

Affidavit as directed by the Hon'ble Tribunal, on behalf
of the Respondents:

I , Rajesh Kumar S/O Late Shri. Anand Swaroop aged 44
years working as Executive Engineer, President Estate
Division, C.P.W.D., New Delhi on behalf of DG(W) do hereby
solemnly affirm as under:

1. I am Executive Engineer and as such I am conversant with
the facts of the case . I am making this affidavit on
behalf of the Respondents and I am authorised to do so.

2. I am enclosing list of Beldars who received complaints
at service centres giving dates since which they were
noting down complaints.

3. I crave leave to refer to the award, extracts reproduced
below:

"creation of post of Enquiry Clerk is not agitated but a
relief is sought in respect of those workmen who have been
called upon to carry out the duties of Enquiry Clerk on
all the Enquiries of CPWD and that they are not paid due
pay and allowances for the job performed by them". The
employer is therefore duty bound to pay clerical grades
to those workers who are called upon to do the job enquiry
Clerk."


4/7/2001

कार्यालयक इंजीनियर
राष्ट्रपति सम्पदा मण्डल
के०लो०पि० वि०, राष्ट्रपति भवन,
नई दिल्ली-110004.

4. I submit that this award was primarily in respect of Mustor Roll Beldars engaged by the field units in various Enquiry Offices and the award was not applicable to Muster Roll workers and therefore the same was not implemented so far as Mustor Roll workers were concerned. 103

5. I submit that the award was challenged thrice in the Delhi High Court vide writ petition No. 2792/88, CP No 295/93.& Revival of CP 1997 was again made vide High Court Judgement dated 25.9.98. As per the affidavit filed by the applicants, out of 9 demands raised, 6 demands were rejected by the High Court. The High Court directed the department as under:

"We direct that all other points raised in the affidavit of the employees union dated 2.9.97 shall be resolved by the CPWD in terms of the award, which has to be accepted and implemented by the CPWD in letter and spirit. We do not consider it necessary to further explain the

recommendations made in the award".

The department agreed to implement the award to those non Mustor Roll Beldars who were attending to note down complaints over a long period of time, and if they are matriculate.

6. Accordingly orders were issued. Pay fixation was also made on notional basis for the purpose of determining the arrears of wages. The DGW in its Office Memorandum No. 22/9/93-EC-X dated 11.5.2001 has again confirmed that the order dated 9.9.99 was issued with the sole intention of arrear payment to be made to those Beldars in accordance with direction in the award. A copy of the letter is annexured RI

7. The claim of the applicant in Para 4(ii) of its OA dated 30.10.2000 that the Hon'ble High Court affirmed the award that:

"all the workers deputed to perform the duty of Enquiry Clerk and having qualification of matriculation are to be given higher scale"

is not true but is mis leading. It is disputed and denied. On the contrary it was merely a point raised by the employees union in the affidavit filed in the High Court which was reproduced in the High Court judgement.


 4/7/2001
 कार्यपालक इंजीनियर
 राष्ट्रीय सम्पदा मण्डल
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 नई दिल्ली-110004

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The applicants have been appointed as Beldars. The post of Clerk is governed by the Central Sectt. Clerical Services Rules and the selection to the post in this services are made as per the said rules through a ; competetive examination held by the Staff Selection Commission . At present no post of Enquiry Clerk exist in the Department. Table showing the approved categories in the Work Charged Establishment of Manual Vol.III Appendix-I is enclosed and marked as annexture . R2.

8. I further submit that in this case the Beldars were not formally appointed as Enquiry Clerk. Rather they were picked up at random by the field Officers in charge of the enquiries without following any selection procedures.
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9. I submit that the applicants have received the arrears of wages for the period for which they attended to the complaints. The details are given in the enclosed Annexture. R3.

There may be other Beldars in the Department who are also matriculate but have not got the opportunity to discharge similar duties . If demands of the applicants are accepted, it would cause injustice to other equally qualified Beldars.

10. I further submit that the letter produced by the applicant on the last date of hearing was issued unauthorisedly and the same has been cancelled. A copy of the letter cancelling the same is Annextured . R4.

DEPONENT

4/7/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan,
New Delhi-4.

Verified by Rajesh Kumar on 4.7.2001 that the averments in para 1 are true to my knowledge and belief those in paras 2,3,4,5,6,7,8,9,& 10 are true to my information derived from official records which I verily believe to be true. Nothing has been suppressed.

New Delhi

DATED 4.7.2001

DEPONENT

4/7/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan,
New Delhi-4.

[illegible]

Nirman Bhawan, New Delhi, dated 11-5-2001

Sub: Implementation of the Arbitration Award dated 31.1.88 on Recategorisation/Reclassification of the work-charged establishment staff of CPWD as modified by the Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98 in CCr Nos. 87/97 and 106/97, CMP Nos. 523, 560/97 in CCP No. 295/93 CMP No. 571/97 in CCP No. 1/95 and CMP No. 602/97 in CCP No. 306/93 in Writ Petition No. 2792/1988.

2. In this connection, it is clarified that as per the Arbitration Award dated 31.1.88, as modified by the Delhi High Court Judgements dated 28.1.92 and 25.9.98, such work-charged Beldars who were on roll of CPWD on 1.4.81 and thereafter and whose services were utilized for noting down complaints etc. in the CPWD Enquiry Offices are to be paid the difference of wages as per the modified Award for the period they noted down the complaints etc. of the allottees. It is further stated that as per the Award dated 31.1.88 (page 911 of the Gazette Notification dated 19th March, 1988), "..... creation of post of Enquiry Clerk is not agitated but a relief is sought in respect of those workmen who have been called upon to carry out the duties of Enquiry Clerk on all the Enquiries of CPWD and that they are not paid due pay and allowances for the job performed by them." The employer is therefore duty bound to pay 'clerical' grades to those workmen who are called upon to do the job of noting down complaints for the period they discharged those duties. Thus, in implementation of the modified Arbitration Award, the work-charged Beldars who were called upon to note down complaints etc. of the allottees are entitled to get only the difference of wages for the period they performed the above duty.

3. As the Government was bound to implement the award, decision was taken to the above effect and letter of even number dated 9.9.99 was issued with the sole intention of payment being made in accordance with direction in the award as modified by High Court, and nothing beyond that.

4. In this connection, your attention is further invited to this Directorate's letter of even number dated 16.12.99 wherein it has clearly been stated not to assign the job of higher category to a worker in future under any circumstances whatsoever. It was also indicated therein that in case any such instance comes to the notice of this Directorate in future, it will be viewed seriously and suitable disciplinary action against all such defaulting officers will be taken.

B.P. Agrawal
(B.P. Agrawal)
Director Works (PMD)

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कार्यालयक इंजीनियर
राष्ट्रपति सम्पदा मण्डल
के०लो०१० वि०, राष्ट्रपति भवन,
नई दिल्ली-110004.

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1. All ADGs(Regions)/ CES/ SE(Coord.)/ SES/ EES/ Director of Horticulture/ Addl. Director of Horticulture/Dy. Director of Horticulture.
2. All Sr. Labour Welfare Commissioners/Asstt. Labour Welfare Commissioners/ Labour Commissioners.

Copy to:

1. All Recognised Unions of Work-charged Staff of CPWD.
2. Ministry of UD&PA (EW-2 Section).
3. PPS to DG(W)/ADG(S&P), PS to ADG(TD), PA to DA.
4. All Estt. Sections in Central Office of CPWD.
5. Hindi Section, for Hindi Translation.
6. Guard File/ Stock File/Circular File.

Mecjal C. 2002
(Meetali Ghosh)
Deputy Director(ECX)

⑧ Executive Engineer,
President's Estate Division,
ND.

कार्यपालक इंजीनियर
राष्ट्रपति सम्पदा मण्डल
कै०लो० वि०, राष्ट्रपति भवन,
नई दिल्ली-110004.

APPENDIX I
(Para. 1.02)

Table showing the Approved Categories in the Work-charged Establishment of C. P. W. D., their scales of pay, nature of skill and the Wing of the C. P. W. D. in which they are generally employed :-

Sl. No.	Category	Scales of pay with effect from 1-1-73.	Nature of skill	Strength as on 1-1-1983.
1	2	3	4	5
A. CIVIL CATEGORIES				
1.	Asstt. Carpenter	210-4-226-EB-4-250-EB-5-290	Semi skilled	173
2.	Asstt. Mason	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
3.	Asstt. Plumber	Do.	Do.	
4.	Handhand	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
5.	Holder	196-3-220-EB-3-232	Unskilled	
6.	Cinemian	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
7.	Carpenter	Do.	Do.	
8.	Chadman	196-3-220-EB-3-232	Unskilled	
9.	Charaph	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
10.	Mate	210-4-226-EB-4-250-EB-5-290	Unskilled Supervisory	
11.	Mason	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
12.	Packer	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
13.	Plumber	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
14.	Stone Cutter	Do.	Do.	
15.	Syen	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
16.	Tailor	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
17.	Upholsteier	Do.	Do.	
B. ELECTRICAL CATEGORIES				
18.	Armature Winder	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
19.	Asstt. Armature Winder	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
20.	Asstt. Black Smith	Do.	Do.	
21.	Asstt. Boilerman	Do.	Do.	
22.	Asstt. Fitter	Do.	Do.	
23.	Asstt. Lineman	Do.	Do.	
24.	Asstt. Mechanic	Do.	Do.	
25.	Asstt. Operator (E & M)	Do.	Do.	
26.	Asstt. T. Smith	Do.	Do.	
27.	Asstt. Turner	210-4-226-EB-4-250-EB-5-290	Do.	
28.	Asstt. Welder	Do.	Do.	
29.	Asstt. Wireman	Do.	Do.	
30.	Blacksmith	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
31.	Boilerman	Do.	Do.	

* To be worked out along with Asstt. Fitter (Ref. O.M. No. 29/1/73-WCS/1/1-C.A. dt. 9-3-79)

कार्यालय इंजीनियर

राष्ट्रीय सम्पदा मण्डल

कै. नो. १०० वि. रा. राष्ट्रपति भवन,

नं. १११-११०००४

APPENDIX I—Contd.

1	2	3	4
32.	Holler Foreman	330—8—370—10—400—EB—10—480	Skilled-Supervisory
33.	Cable Joiner	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Skilled
34.	Blot (Jen)	330—8—370—10—400—EB—10—480	Highly-Skilled
35.	Foreman (AC&R)	380—12—500—EB—15—560	Highly-Skilled/ Skilled-Supervisory
36.	Foreman (Elect)	380—12—500—EB—15—560	Skilled-Supervisory
37.	Foreman (Mech)	Do.	Do.
38.	Khullasi (Elect)	196—3—220—EB—3—232	Unskilled
39.	Lift Mechanic	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Skilled
40.	Lineman	Do.	Do.
41.	Mechanic	Do.	Do.
42.	Mechanic (AC&R)	Do.	Do.
43.	Moulder	Do.	Do.
44.	Operator (E&M)	Do.	Do.
45.	Pattern Maker	330—8—370—10—400—EB—10—480	Highly-Skilled
46.	Road Roller Driver	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Skilled
47.	Senior Mech (AC&R)	330—8—370—10—400—EB—10—480	Highly-Skilled
48.	Senior Mech	Do.	Do.
49.	Senior Operator	330—8—370—10—400—EB—10—480	Highly-Skilled
50.	Serviceman (AC&R)	210—4—226—EB—4—250—EB—5—290	Semi-Skilled
51.	*Stoker	210—4—226—EB—4—250—EB—5—290	Do.
52.	Tinsmith	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Skilled
53.	Turner	Do.	Do.
54.	Welder	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Do.
55.	Wireman	Do.	Do.
C. HORTICULTURAL CATEGORIES			
56.	Bhisty	196—3—220—EB—3—232	Unskilled
57.	Bullockman	Do.	Do.
58.	Chowdhury	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Skilled
59.	Floral Decorator	260—6—326—EB—8—350	Do.
60.	Head Gardener	330—8—370—10—400—EB—10—480	Do.
61.	Mali	196—3—220—EB—3—232	Unskilled
62.	Senior Mali	210—4—226—EB—4—250—EB—5—290	Semi-Skilled
D. COMMON CATEGORIES			
63.	Asstt. Painter	210—4—226—EB—4—250—EB—5—290	Semi-Skilled
64.	Motor Lorry Driver	260—6—290—EB—6—326—8—366—EB—8—390—10—400	Skilled
65.	Painter	Do.	Do.

*1 To be wasted out alongwith Asstt. Fitter (Ref. O.M. No. 29/1/73-WCSI/EC. X dt. 9-3-79.)

N.B.—

1. The erstwhile posts of Asstt. upholsterer and Assistant Lift Mechanic have been abolished vide O.M. No. 1.
2. The post of Line man (Plumbing) has been merged with the post of Assistant plumber, vide O.M. No. 29/1/73.

कार्यपालक इंजीनियर

राष्ट्रपति सम्पदा मंत्रालय

केंद्राधिकारि त्रि० राष्ट्रपति भवन

नं० त्रि० 110004

4/7/2001

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Sl No.	Name	Date of Birth	Date of appt. As Beldar	Date from which attending the complaints	Arrears of wages paid in implementation of the Order dt. 9-9-99 & Corrigendum dt. 29-9-99 In implementation of Modified award dt. 31-1-98
1.	Shri Lekhi Ram	31-10-47	19.10.71	1-1-73	1,49,966 .00
2.	" Chander Shekhar	05-09-55	01-05-82	01-05-82	1,21,529 .00
3.	" Manjeet Kumar	22-09-57	14-06-82	13-06-83	1,11,793 .00
4.	" Kapilawar Lal	23-01-56	21-04-91	21-04-91	63,298 .00
5.	" Kunwar Pal	04-06-60	01-01-93	01-01-93	54,779 .00
6.	" Jagdish Ram	11-07-58	05-01-93	01-01-98	13,246 .00
7.	" Naveen Chadra pandey	02-01-59	12-09-86	20-03-99	2,209 .00
8.	" Bhadur Singh	10-02-63	24-04-93	01-06-99	4,861 .00
9.	" Ram Khilari	30-06-65	13-10-93	01-06-99	5,702 .00
10.	" Hridey Ram	02-01-63	22-02-93	30-06-99	4,075 .00

4/7/2001
 Executive Engineer
 President's Estate Division
 CPWD. Rashtrapati Bhawan.
 New Delhi-4.

कन्द्रीय लोक निर्माण विभाग

संख्या ५१२०/समन्वय(सि०), ई-६, २००१/१५४

दिनांक १५-६-२००१

प्रति,

कार्यपालक इंजीनियर,
यु-मंडल,
कलानाव, सार्जाओ कॉम्प्लेक्स,
लाधा गड, नई दिल्ली।

विषय:- OA No. 2747 99 in respect of Smt. Sheela Rani Vs. UOI & others.

वृत्त्या इस कार्यालय क पत्र समसंख्या ६७९ दिनांक १८-०४-२००१ के संदर्भ में सूचित किया गया था कि "पूछताछ लिपिक" पद को "पूछताछ लिपिक बेलदार" के पद में परिवर्तित कर दिया गया है यह गलती से सूचित कर दिया गया था। अतः उपरोक्त सूचना को रद्द समझा जाये।

उपरोक्त विषय में वांछित सूचना एवं स्पष्टीकरण संबंधित कार्यालय से प्राप्त करें।

अधिक्षण इंजीनियर के इंजी०सहा०
समन्वय परिमंडल(सिविल)
कलानाव, नई दिल्ली।

प्रतिनिधित्व:-

- मुख्य इंजी०(नाद०)-३, कलानाव, नई दिल्ली को सूचनार्थ।
 - अधी० इंजी०(व०), कलानाव का सूचनार्थ एवं आवश्यक कार्यवाही हेतु।
 - अधी० इंजी०, दिल्ली के०पार०-३, कलानाव, नई दिल्ली को सूचनार्थ एवं आवश्यक कार्यवाही हेतु।
- उप-निदेशक, निर्माण महाविद्यालय, इसा-१० अनुभाग, निर्माण भवन, नई दिल्ली को उनके पत्र संख्या १५१२२२०००-इमा १०(पाटा०) दिनांक १८-०४-२००१ के संदर्भ में।

अधिक्षण इंजीनियर के इंजी०सहा०

कार्यपालक इंजीनियर
राष्ट्रीय मण्डल
के०लो० वि०, राष्ट्रपति भवन,
नई दिल्ली-110004.

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24/7/01

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2237 OF 2000

IN THE MATTER OF:-

All India CPWD (MRM) Karamchari
Sangathan & Ors.

....Applicants

Versus

The Director General CPWD & Ors

..Respondents

N.D.O.H. 24-7-2001.

I N D E X

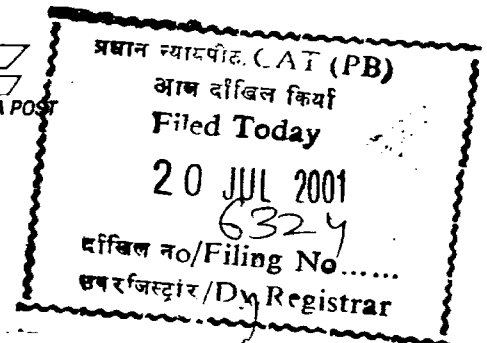
1. Reply to the Affidavit dated 4-7-2001
filed by Sh.Rajesh Kumar-Respondent No.3 1 - 4
2. Annexure RA/1(Colly)
Copies of the relevant documents which
shows existence of Enquiry Clerk
as of today 5 - 12
3. Annexure RA/2
Relevant Extract of the CPWD Manual
which shows existence of Enquiry Clerk 13 - 14
4. Annexure RA/3
Copy of the tender 15 - 19

Filed by

(NARESH KAUSHIK & SHILPA CHOHAN)
ADVOCATES FOR THE APPLICANTS
703, NILGIRI APARTMENTS,
9, BARAKHABA ROAD,
NEW DELHI-1.

New Delhi
Dated: 20-7-2001

SUPREME COURT PO (1100 भारतीय डाक
Inl-SP EE240781645TN
PA : EKKA
To: MR U K GANGWANT ADV, S J S MARG
DELHI, PIN: 60
From: N KAUSHIK ADV, ND 1
Wt: 140grams Pre: 0.00
Amt: 15.00, 20/07/2001, 15:38:22
HAVE A GOOD DAY



112

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

O.A.NO.2237 OF 2000

In the matter of:

All India CPWD (MRM) Karamchari
Sangathan (Regd.) & Ors.

Applicants

Versus

The Director General
CPWD & Ors.

Respondents

REPLY TO THE AFFIDAVIT DATED 4.7.2001 FILED BY SH.RAJESH
KUMAR-RESPONDENT NO.3

The applicants above named Most Respectfully

Showeth as under:

PARAWISE REPLY

1. That the contents of para 1 of the affidavit, need no reply.
2. That the contents of para 2 of the affidavit, are matter of and need no reply.
3. It is submitted in reply to para 3 that the respondents have deliberately avoided to extract the complete portion of the award. The complete relevant portion of the Award is as follows:-

"This shows that creation of posts of Enquiry Clerk is not agitated but a relief is sought in respect of the workmen who have been called upon to carry out the duties of Enquiry Clerk on all the Enquiries of CPWD and that they are not paid due pay and allowances for the job performed by them. The claim and the pleadings further reveal that muster roll employees like Beldars etc. are deployed or called upon to do the job actually of Enquiry Clerk and such

of the workmen are paid wages as admissible to either unskilled/semiskilled category, though they are entitled to the payment of wages (time scale of skilled category which is pre revised Rs.260-400) for the jobs performed. I find from the Notification containing Minimum rates of wages that the workers doing the above mentioned job are classified as "clerical" grade, this work is treated as against the category of clerical within the meaning of the said notification and that the workmen concerned should be paid accordingly depending upon the qualification of metric and non-metric as the case may be. The employer is therefore duty bound to pay "clerical" grades to those workmen who are called upon to do the job of enquiry clerk. The contention of Party No.1 against para 3.7 on page 10 of their statement dated 8th April, 1987 is not correct and I agree with Shri Vats, Brother Arbitrator on this point".

The Umpire agreed with Shri Vats, Brother Arbitrator who has stated as under;-

"Regarding work of enquiry clerk, it is opined that Beldar Khalasi semi skilled workmen are discharging the duties but they are not paid grade pay of "skilled" workmen which be paid as per their entitlement."

In view of the above, the contention of the Management is denied. In fact the award covers Beldars and Khalasis who perform the duties of Enquiry Clerks and not merely the Mustor Roll Beldars."

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5. That the contents of this para are matter of record. It is however, submitted that the Award did not make any discrimination with regard to the workmen who are working as Enquiry Clerk as stated above that the award pertained to all workmen including Beldar Enquiry Clerk and Khalasi Enquiry Clerk.

6. That contents of this para are matter of record and need no reply. However, the Department subsequently tried to mis-interpret the order dated 9.9.1999 which clearly meant that the work of Enquiry Clerk would not be assigned to any Beldar in future in either words. It did not provide for discontinuation of work by those Beldars who had already been working as Enquiry Clerk on the date of the said order i.e. 9.9.1999.

7. That the contents of para 7 are denied as false and wrong. A large number of documents which shows existence of Enquiry Clerk as of today and the same are filed herewith as Annexure-AA/1 (Colly.) to this affidavit. The extract of the manual filed by the Respondents is irrelevant and the relevant extract of the manual which shows existence of the Enquiry Clerk is filed herewith as Annexure AA/2 to this affidavit.

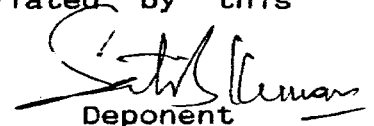
8. Moreover, if the posts of the Enquiry Clerk does not exist than how the work of the Enquiry Clerk is being continued to be taken under one nomenclature or the other and this is neither understandable. The tender of the respondents issued recently would show that the department is appointing Enquiry Clerk on contract basis even today. The copy of the said tender is filed herewith as Annexure AA/3 to this affidavit. The

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aforesaid documents clearly falsify the contentions raised in the affidavit and expose the arbitrary conduct of the respondents in dealing with the services condition of poor workmen.

9. That the contents of this para are matter of record and need no reply. However, it is submitted that the judgement of the High Court, the circulars of the Government and principle of equality conferred the right on those workmen only who are doing the work of Enquiry Clerk. Any workman who is not doing such work has no claim for continuation as Enquiry Clerk or assessment as of Enquiry Clerk. The reference to the other beldars therefore is totally misplaced.

10. That the contents of this para are denied as false and wrong. The cancellation is a device invented by the respondents to hinder the eligible claim of the applicants and it deserves to be obviated by this Hon'ble Tribunal.


Deponent

VERIFICATION:

I, Satish Kumar, S/o Shri Asa Ram Sharma, President, All India CPWD (MRM) Karamchari Sangathan (Retd.), 34-D, D.I.Z. Area, Sector 4, Raja Bazar, New Delhi, the above deponent do hereby verify that the contents of the above affidavit are true and correct to my knowledge, nothing material has been concealed therefrom and not part of it is false.

Verified at New Delhi on this 10th day of July, 2001.


Deponent

A'

सं०. 10868/डब्ल्यू.सी./आर.मं./ई-3/10

दिनांक 03-01-2001 (Cally)

कार्यालय आदेश

अधीक्षक इंजीनियर, दिल्ली केन्द्रीय परिमण्डल, के.लो.नि.वि., नई दिल्ली के कार्यालय आदेश सं०. 108518/दि.के.परि.-एक/ई-3/3127, दिनांक 13.10.2000 के आदेशानुसार श्री प्रमोदस्त, बेलदार अथवा पुष्पाछ लिपिक और श्री हिम्मतसिंह, बेलदार का स्थानान्तरण कार्यपालक इंजीनियर, "एन" मण्डल, के.लो.नि.वि., नई दिल्ली के कार्यालय में हुआ था जिसके फलस्वरूप दोनों कर्मचारियों को इस कार्यालय के कार्यालय आदेश सं०. 10868/डब्ल्यू.सी./आर.मं./ई-4/3503, दिनांक 16.12.2000 और सम संख्या: 3502, दि० 16.12.2000 के द्वारा इस कार्यालय से कार्यभार मुक्त कर दिया गया था। चूंकि इन दोनों कर्मचारियों को कार्यपालक इंजीनियर, "एन" मण्डल, के.लो.नि.वि., नई दिल्ली ने अपने कार्यालय में कार्यभार ग्रहण नहीं कराकर इस कार्यालय में वापिस भेज दिया

अतः उक्त दोनों कर्मचारियों को इस कार्यालय की कार्यभार मुक्ति आदेश निरस्त कर उन्हें उनके सम्बन्धित 2/आर उपमण्डल कार्यालय में वापिस भेजा जाता है।

कार्यपालक इंजीनियर
"आर" मण्डल, के.लो.नि.वि.,
बी-1/डब्ल्यू-6, कर्जन रोड़ बिरसा,
नई दिल्ली - 110 001.

प्रतिलिपि प्रेषित:-

1. अधीक्षक इंजीनियर, दि.के.परि.-एक, के.लो.नि.वि., नई दिल्ली को सूचनार्थ हेतु।
2. अधीक्षक इंजीनियर, वैपुत, समन्वय परिमण्डल वैपुत, के.लो.नि.वि.भाग, नई दिल्ली।
3. कार्यपालक इंजीनियर, "एन" मण्डल, के.लो.नि.वि., नई दिल्ली को दूरभाष पर बात चीत के अनुसार सूचनार्थ हेतु।
4. सहायक इंजीनियर-2/आर उपमण्डल, के.लो.नि.वि., नई दिल्ली। आप श्री प्रमोदस्त, बेलदार अथवा पुष्पाछ लिपिक और श्री हिम्मतसिंह, बेलदार को पुनः प्रोत्ते की तारीख से तैनात कर लें।
5. वरिष्ठ लिपिक "आर" मण्डल।
6. मंडल लेखापाल, "आर" मण्डल, के.लो.नि.वि., नई दिल्ली।
7. सम्बन्धित कर्मचारियों की निधि भिजित।
8. श्री प्रमोदस्त, बेलदार अथवा पुष्पाछ लिपिक
9. श्री हिम्मतसिंह, बेलदार।

SDE
3/1

कार्यपालक इंजीनियर
3/1/2001

New Copy Sent

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6

Central Public Works Department

No.10/6/WC/R Dn/E-3/10

Dated, the 3.01.2001

Office Order

In accordance with office order No.10/5//DCC-1/E-3/3127 dated 13.10.2000 issued by the Superintending Engineer, Delhi Central Circle-I, CPWD, New Delhi, Shri Prabhu Datt, Beldar (Now Enquiry Clerk) and Shri Himmat Singh, Beldar were transferred to the office of Executive Engineer, N Division, CPWD, New Delhi and the workmen were relieved from their duties vide this office letter No.10/6/WC/R Divn./E-4/3503 dated 16.2.2000. But the Executive Engineer, N. Division, CPWD did not allow the workmen to resume their duties and sent them back to this office.

Therefore, the relieving orders in respect of above two workmen are hereby cancelled and they are posted in the concerned 2/R sub-division.

Sd/(Executive Engineer)
R Division, CPWD
B-1/W-6, Curzon Road Barracks,
New Delhi-110 001.

Copy to

1. The Superintending Engineer, Delhi Central Circle-I, CPWD, New Delhi for information.
2. The Superintending Engineer (Elect), Coord. Circle (E), CPWD, New Delhi.
3. The Executive Engineer, N, Division, CPWD, New Delhi for information as per our telephonic conversation.
4. Asst. Engineer 2/R Sub Division, CPWD, New Delhi with the direction to post Shri Prabhu Datt, Beldar (Enquiry Clerk) and Shri Himmat Singh, Beldar with retrospective date.
5. Uniform clerk, R division
6. Divisional Accountant, R division, CPWD, New Delhi.
7. Personal files of the workmen.
8. Shri Prabhu Datt, Beldar (Now Enquiry Clerk)
9. Shri Himmat Singh, Beldar.

Sd/- Executive Engineer
3.1.2001

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Shaf

पत्र सं. ए-१/सं. ६-१/लो. नि. वि. मं-१५/३७/६

१५/५/६३
२५/५/६३

कार्यालय आदेश

कार्यपालक इंजीनियर लो. नि. वि. मं-१५ (१५०४०) के कार्यालय आदेश सं. १०(३)/लो. नि. वि. मं-१५/३-२/११३३ दि. २५.५.२० के अनुपालन में श्री जवाहर लाल पूछताछ लिपिक को आज दिनांक २५.५.२००० (अप्रैल) से कार्यालय मुक्त किया जाता है। तथा उन्हें लिखा गया है कि वह अपनी आगामी सूचना लो. नि. वि. मं-१५, सहायक अभियन्ता-II, उप-प्रकाश-II को दे।

सहायक अभियन्ता-I
लो. नि. वि. मं-१५, अशोक विहार
(रा. रा. रोड) दिल्ली

प्रतिनिधि:- ① कार्यपालक इंजीनियर लो. नि. वि. मं-१५ (१६-६) को उनके उपरोक्त पत्र के संदर्भ में सूचना दी है।

२. सहायक अभियन्ता उप-प्रकाश-II, लो. नि. वि. मं-१५ (१६-६) दिल्ली को सूचना दी है।

✓ ३. श्री जवाहर लाल के पूछताछ लिपिक को निदेशा दिया गया है कि वह अपनी आगामी सूचना उप-प्रकाश-II को लो. नि. वि. मं-१५, मं-६ दे।

सुरेश चंद
सहायक अभियन्ता-I
लो. नि. वि. मं-१५, अशोक विहार
(रा. रा. रोड) दिल्ली

Handwritten signature

119
8

Letter No.A-2/A.E.I/PWD Division-15/57 dated 25.5.2000

Office Order

In accordance with office order of Executive Engineer, PWD Division-15(DA) No. 10(3)/PWD Division-15/E-2/1133 dated 24.5.2000, Shri Jawahar Lal, Enquiry Clerk is relieved from duties w.e.f. 25.5.2000 (A/N) from this office. He is directed to report for duty to the Asstt. Engineer.II, Sub-Division-II, PWD DA-15.

Sd/-

Asstt. Engineer-I
PWD Division-15, Ashok Vihar
Govt. of NCT of Delhi.

Copy to:

1. The Executive Engineer, PWD Division-15(Delhi Government) w.r.t. to his above quoted letter for information.
2. The Asstt. Engineer-II, Pwd Division-15(Delhi Govt), Delhi for information.
3. Shri Jawahar Lal, Enquiry Clerk. He is directed to report for duty to Sub-Division II of PWD Division-15.

Sd/-

Asstt. Engineer-I
PWD Division-15, Ashok Vihar
Govt. of NCT of Delhi.

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Amey

$$\frac{1}{1912} \quad |2|2|200|$$

ख.नि. प्रप 24/जी.ए.आर. - 21

From T.R.24/G A.R. = 21

(निगम 272 देखिए) (See Rule 272)

कालिक वेतन वृद्धि / PERIODICAL INCREMENT

पद धारी के नाम Name of Incumbent	अधिकारी या स्थानापन्न Whether substantive or officiating	पर का वेतन Scale pay of posts	वर्तमान वेतन Present pay	तारीख जिससे वर्तमान वेतन लिया जा रहा है Date from which present pay is drawn	वेतन वृद्धि की तारीख Date of present increment	भविष्य में वेतन Future pay	कार्य से अनुपस्थिति, जो वेतन वृद्धि के लिए गणना में नहीं ली जाती Absence from duty not counting for increment		वेतन बिना छुट्टी और अन्य व्यक्तियों को रज्जा में जो न्यायालय पर ने पर धारण किए हुए थे, अन्य सभी प्रकार की छुट्टी जिनके दौरान वे उनका पदों पर स्थानापन्न रूप में कार्य नहीं करने रहते Leave without pay and in the cases of those holding the posts in officiating capacity all other kinds of leave during which they would not have continued to officiate in the posts.	
							आरम्भ From	अन्त To	प्रारंभ / From	अंत / To
							8	9	10	11
(उत्तर प्रशासन विभाग) बलदेव सिंह 01-12-99	हार्ड	Rs 3650/- 800 - 4540	✓ Rs 3125/-	01-12-99 (F.N.)	01-12-2000 (P.N.)	Rs 3500/-	1-2	1/5/2001	5/7/2001	5/7/2001
							3-	1/5/2001	5/7/2001	5/7/2001

विष्णुगुप्तः

1. जब वह बेतन वृद्धि जिलका दावा किया गया है सरकारी सेवक द्वारा दक्षता रोध या र काने के परचात की प्रथम वृद्धि हो तब स्लम्ब 5.6 और 7 ताल स्याही से भरे जाए।

When the increment clause is the first to carry a Government Servant over an efficiency bar column 5,6 and 7 should be filled up in red ink.

2. प्रमाण - पत्र (1) या (2) में से जो भी लागू हो उसी के अनुसार प्रत्येक नाम के सामने अंक (1) या (2) लिखे जाएं व्याख्यात्मक जापन ऐसे नाम में प्रस्तुत किया जाना चाहिए जिसमें पत्र (2) लागू होता है :

The figure (1) or (2) shall be Placed against each name accordingly as the certificate (1) or (2) applies. The explanatory memorandum should be submitted in any which certificate (2) applies:

Available from **M.K. ENTERPRISES**, 21 L.T.O. Lane, Opp. Main Gate.

'Y' Shape Bldg., LT.O., New Delhi-110002 Ph. 3322410, 2439786

कार्यपालक इञ्जीनियर

आदान-प्रदान के विवरण के विवरण और पद-विधान

Signature and Designation of Drawing Office:

ना. दि. 11/11/2001

True Copy Sent

(नियम 272 देखिए) / (See Rule 272)

कालिक वेतन वृद्धि / PERIODICAL INCREMENT

पदधारी का नाम Name of Incumbent	अधिष्ठायी या स्थानापन्न Whether substantive or officiating	पर का वेतन Scale pay of posts	वर्तमान वेतन Present pay	तारीख जिससे वर्तमान वेतन लिया जा रहा है Date from which present pay is drawn	वेतन वृद्धि की तारीख Date of present increment	भविष्य में वेतन Future pay	कार्य से अनुपस्थिति, जो वेतन वृद्धि के लिए गणना में नहीं ली जाती Absence from duty not counting for increment		वेतन बिना छुट्टी और उन व्यक्तियों की दशा में जो स्थानापन्न रूप से पद धारण किए हुए हों, अन्य सभी प्रकार की छुट्टी जिसके दौरान वे उन्हीं पदों पर स्थानापन्न रूप में कार्य नहीं करते रहते Leave without pay and in the cases of those holding the posts in officiating capacity at other kinds of leave during which he/they would not have continued to officiate in the posts	
							आरम्भ From	अन्त To	आरम्भ / From	अन्त / To
1	2	3	4	5	6	7	8	9	10	11
Shri Om Prakash Pande Beldar (now Enquiry Clerk)	Permanent	Rs. 3050-75-3950-80- 4590	Rs. 3425/-	01-12-99 (F.N.)	01-12-2000 (F.N.)	Rs. 3500/-	Copy forwarded to:- 1-2 Assistant Engineer, 5/R Division, C.P.W.D., New Delhi. 3. The Divisional Accountant, R Division			

टिप्पणियाँ :

1. जब वह वेतन वृद्धि जिसका दावा किया गया है सरकारी सेवक द्वारा दक्षता रोध पार करने के पश्चात् की प्रथम वृद्धि हो तब स्तम्भ 5,6 और 7 लाल स्याही से भरे जाए।

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2. प्रमाण - पत्र (1) या (2) में से जो भी लागू हो उसी के अनुसार प्रत्येक नाम के सामने अंक (1) या (2) लिखे जाए व्याख्यात्मक प्रमाण ऐसे नाम में प्रस्तुत किया जाना चाहिए जिसमें प्रमाण - पत्र (2) लागू होता है ;

The figure (1) or (2) shall be Placed against each name accordingly as the certificate (1) or (2) applies. The explanatory memorandum should be submitted in any which certificate (2) applies :

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Ph. Off. : 3326144. Resl. : 2149892.

Branch : 31, More Sarai Road, Old Lajpat Rai Mkt., Delhi-6. Ph. : 2961554

Executive Engineer

R Division, C.P.W.D., Signature and Designation of Drawing Officer
B-5/W-6,

Curzon Road Barrackes, New Delhi-110001

121A

सं. नि. प्र. 24/जी.ए.आर. - 21

From T.R. 24/G.A.R. - 21

(नियम 272 देखिए)

(See Rule 272)

10A

कालिक वेतन वृद्धि प्रमाण - पत्र

Periodical Increment Certificate

(1) प्रमाणित किया जाता है कि विपरीत पृष्ठ पर दिये गये सरकारी सेवकों ने, इस आधार पर कि वे विनिर्दिष्ट पदों का स्तम्भ 5 में दर्शित तारीख से कम से कम वर्ष तक धारण कर चुके हैं, स्तम्भ 6 में दी गई तारीख से थिहा कालिक वेतन वृद्धियां उपार्जित कर ली हैं। वेतन वृद्धि के लिए संगणना में न ली जाने वाली कार्य से अनुपस्थित, वेतन बिना छुट्टी पर अनुपस्थिति, आदि की अवधियां इसमें काट ली गई हैं। यह भी प्रमाणित किया जाता है कि से तक और से तक ली गई छुट्टी की अवधि या जिन अवधियों की विपरीत पृष्ठ पर दिये गये स्थापन सरकारी सेवक/सेवकों की दशा में वेतन वृद्धि के लिए गणना की गई है, उसके/उनके दौरान वह, ये सरकारी सेवक उसी/उन्हीं पद/पदों पर स्थापन रूप से कार्य करता रहता/करते रहते यदि वह, ये छुट्टी पर नहीं जाता/जाते ।

Certified that the Government servants named on the reverse have earned the prescribed periodical increments from the date cited in column 6 having been the incumbents of the posts specified for not less than year(s) from the date shown in column 5 after deducting periods of absence from duty not counting for increment, absence on leave without pay etc. Further certified that during the period or periods of leave taken from to and from to which have counted for increments there of officiating Government servant/servants named on the reverse held they will have officiated in the prescribed posts but for his/their proceeding on leave.

(2) प्रमाणित किया जाता है कि विपरीत पृष्ठ पर दिये गये सरकारी सेवक इससे संलग्न व्याख्यात्मक आपन से दिये कारण से उल्लिखित तारीख से कालिक वेतन वृद्धि उपार्जित कर चुका है/कर चुके हैं/करेगा/करेंगे ।

Certified that the Government servant/servants named on the reverse has/have earned, will earn periodical increments from the date cited for reason stated in the explanatory memo attached hereto.

(क.प्र.उ. / P.T.O.)

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GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT

No.5/5/97-W-II(DG(W))

Date : 27.9.2000

MINUTES OF THE MEETING

Sub : Better maintenance of Government buildings.

Ref : 5/5/97-W-II(DG(W)) dated 13th September, 2000.

A meeting was taken by DG(W) on 20.9.2000 at 4.00 pm to discuss issues relating better maintenance of Government of India buildings. The following were present :-

S/Shri

1.	T. Ravindraanaathan	ADG(TD)
2.	Krishan Kumar	DG(S&P)
3.	Krishan Kant	CE(NDZ)I
4.	H.S Dogra	CE(NDZ)II
5.	D.P. Goyal	CE(NDZ)III
6.	Jagmohan Lal	CE(NDZ)IV
7.	A.K. Shroff	CE(E-I)
8.	J.M. Raj	DDG(W)

The following points were discussed and decided.

1. Enquiry attendants : After prolonged discussions, it was felt that the Enquiry Attendants are absolutely necessary for proper recording of complaints and for interaction with the tenants. The proposal for creation of posts of Enquiry Attendants should, therefore, be again taken up with the Ministry for obtaining the sanction of the competent authority.

(Action : DA)

2. I.V.R.S. The Chief Engineer (NDZ)III and CE(E) mentioned about the initiatives taken by them to get the Interactive Voice Recording System (IVRS) installed as a pilot project in the service centers in Chankya Puri and Vidyut Bhavan respectively. The former is for recording of all types of complaints :- civil, electrical and horticultural for the higher types of quarters in Chanakya Puri, whereas the latter is for complaints from MPs regarding airconditioning services in their residences. The advantages of this scheme area that it would be available all the 24 hours in a day and the complaints would be automatically recorded. Even with the IVRS in position, it was felt that the need for Enquiry Attendants cannot be totally dispensed with during working hours/office days.

(Action : CE(E)I & CE (NDZ) III)

The DG(W) requested both the CE(NDZ)II and CE(E)I to expedite these two pilot schemes so that they can be evaluated and it found effective can ultimately be adopted in all the service centers in CPWD.

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3. Emergency Services. DG(W) emphasized the need for having emergency services centre with skeleton staff for attending to emergency complaints outside normal working hours. He made it clear that these skeleton staff would have to be managed within the existing staff strength. To begin with, he desired that one emergency centre should be set up in each Zone.

(Action : CEs)

4. GENERAL

- i) Complaint boxes. The complaint boxes provided in the various service centers are rarely used. One of the reasons could possibly be the fact that the tenants may be considering this as a box for giving complaints against individual staff members. It was therefore decided that these complaint boxes should be re-naamed suitable such as "Repairs Requests" etc.
- ii) Complaint Registers/forms. CE(NDZ)II suggested that forms can be printed with all possible types of all general complaints and it would be necessary for the tenant to only tick the complaints which are needed to be attended to, while putting these forms in the complaint boxes.
- iii) Single Window Scheme. There should be a single window for recording complaints of all the 3 disciplines, and for this purpose, necessary structural changes in the service centers may have to be made. The Enquiry Attendant when posted, would be common for all the 3 disciplines in any service centre.
- iv) Multidisciplinary skills. It was felt that the earlier proposal to introduce workers with multi-disciplinary skills should be revived. While doing so, it should be made clear to the Ministry that we are not asking for additional posts on this account. These multi-disciplinary skill posts would be filled in either by new recruitment or by giving special pay to the existing workers who fulfill the required conditions and within the existing overall sanctioned strength of posts.

The remaining issues in the background note sent vide the above reference shall be discussed in another meeting.

DG(W) requested CE(E)I and CE(NDZ)II to initiate within a week, the target dates by which S.No.(2) will become operational and all CEs regarding S.No.(3).

Sd/-
(S.R. Pande)
DIRECTOR OF WORKS (PWA)

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VOLUME III

(Work Charged Establishment)

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1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
68. Blacksmith		6	4	2	..	1	..	..	..	..	..	13	21	12 46
69. Asstt Blacksmith		3	2	2	1	..	..	1	1	..	..	10	20	2 59

Categories Transferred to Regular Establishment

1. Lift Attendant	..	3	74	3	2	1	..	..	..	..	..	126	Completed
Lefman	29	14	..	..	..	..	..	..	..	..	..	..	
2. Asst Cook Bearer	..	2	..	..	..	..	..	..	..	..	..	2	..
3. Bearer	..	1	1	..	..	..	..	..	..	..	..	2	..
4. Cook Bearer	..	1	..	..	..	..	..	..	..	..	..	1	..
5. Road Inspector	..	6	12	1	1	..	..	..	..	..	..	20	..
6. Work Assistant	..	30	53	11	36	..	..	..	..	..	..	180	..
7. Surveyor	..	..	2	..	..	..	..	..	..	..	..	2	..
8. Chowkidar	..	..	..	87	44	12	..	..	..	..	..	143	..
9. Enquiry Clerk	..	..	..	6	4	..	..	..	..	..	..	10	..
Telephone Clerk	..	..	..	..	..	..	..	..	..	..	..	..	..
10. Farashes	..	..	..	2	1	..	..	..	..	..	..	3	..
11. Meter Reader	..	..	..	1	..	..	..	..	..	..	..	1	..
12. Receptionist	..	..	..	2	1	1	..	..	..	..	..	4	..
13. Sewerman	..	..	..	17	8	..	..	..	..	..	..	25	..

14. Station Supervisor	..	..	1	1	..	..	..	..	..	..	..	2	Completed.
15. Store Clerk	..	..	3	1	..	..	..	..	..	..	..	4	..
16. Store Keeper Gd. I	..	..	1	..	..	..	..	..	..	..	..	1	..
17. Store Keeper Gd. II	..	..	1	..	..	..	..	..	..	..	..	1	..
18. Supdt E&M	..	..	1	..	..	..	..	..	..	..	..	1	..
19. Sweeper	..	..	26	16	3	..	..	..	..	..	..	45	..
20. Telephone Operator	..	..	1	..	..	..	..	..	..	..	..	1	..
21. Time Keeper	..	..	5	3	1	..	..	..	..	..	..	9	..
22. Lift Khallasi	..	..	..	4	2	1	1	..	..	..	..	8	..

Categories Abolished

1. Head Electrician	7	3	..	..	..	..	..	..	..	..	..	10	..
2. Work Mistry (Elect)	7	4	..	..	..	..	..	..	..	..	..	11	..
3. Asstt Electrician	..	..	1	..	..	..	..	..	..	..	..	1	..
4. Asstt. Caneman	2	..	..	..	..	..	..	..	..	..	..	2	..
5. Glassman	1	..	..	..	..	..	..	..	..	..	..	1	..
6. Tindal	1	..	..	..	..	..	..	..	..	..	..	1	..
7. Work Subordinate	1	..	..	..	..	..	..	..	..	..	..	1	..

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Tender Sale date 15.6.2001
 Opening Date 19.6.2001
 Tender Amount Rs.50182/-
 Earnest Money Rs.1255/-

SCHEDULE OF QUANTITY

Name of Work : A/R&M/oto2115 Type C Qrs at Lodhi Road Complex N.Delhi/01-02

CSH : Providing services of sewerman and enquiry clerk in various service centre under 3/T Sub Division)

S.No.	Discription of item	Qty	Unit	Rate	Amount
1.	Providing services of Sewerman at Lodhi Road Complex New Delhi for attending the complaints such as Chowkage/blockage of Haus trps/gully traps and connected pipe line and allied work daily of eights (9 am to 5 pm) as per direction of Engineer Incharge	140 days	days		
2.	Providing services of enquiry clerks for writing complaint receiving from allottees in complaint register and work dairy in proper way and also making complaints abstract daily in various service centre Lodhi Road Complex, New Delhi as per direction of Engineer Incharge.	312 days	per day		

Condition :-

1. The work shall be carried out in various service centre under 3/T Sub CPWD,N Delhi.
2. Contractor shall be paid minimum wages to S/man & Enquiry Clerks as per govt order.
3. Contractor shall be recovered in double rate for non-engaging sewerman & Enquiry Clerks from quoted rates by agency.
4. Duty timing is 9 am to 5 pm & lunch time 1 pm to 1.30pm during working days.
5. Time is allowed 4 months only. MIT No.23/2001-02/T-Div/Delhi.

Sd/-
 Asstt Engineer
 3/T Division CPWD
 1749, Lodhi Road Complex
 New Delhi.

True Copy

127
16

CONDITION REGARDING MALBA/BUILDING RUBBISH

The malba/building rubbish received from dismantling and the wastages after execution of works shall be disposed off every day by the contractor at the designated dumping point decided by the Engineer-in-charge and the cost so incurred on the disposal of the same shall be recovered from the payments due to the contractor.

CONDITION REGARDING LABOUR CAMP

No labour hut/camp/store is to be constructed by the contractor at the site of work which he was supposed to construct as per Clause 18-H of the agreement. The said clause therefore stands deleted. The contractor is to make his own arrangement for housing labour under the contract labour (R&A) Act-1970 and contract labour (R&A) Central rules 1971. Nothing extra shall be payable on this account.

The contractors will be permitted to set up temporary stores to keep T&P articles and other materials required for bonafide use on the work being executed by them. These, however, will be of purely temporary nature and shall be located at a place to be approved by the engineer-in-charge which will be least obstrusive and cause least public inconvenience. These shall be recorded as soon as the work is completed and no completion certificate shall be recorded till the site where those were set up has been vacated by the contractor.

True copy

सं. : का. ई. / सी. नं. / डी. नं. / ति. / १९९१

दिनांक २१/५ १२८

सर्वो,

सहायक इंजीनियर,
२^{री} उपखंड, कै. लो. वि.
बरेilly

17

विषय: लाघवी कोटेशन में पुष्टतापूर्वक कोटेशन में
पुष्टतापूर्वक जलिक के work order के संबंध में।

उपरोक्त विषय का work order आप को १९९०
दि. १३/९/९० को दिया गया था लेकिन आपने कोर
अधिकृतकारी को स्वीकृति के work order में
विचलन (Deviation) को है। आप को निर्देश दिया
जाता है की कोटेशन इस तरह की पुष्टतापूर्वक न
है तथा इस वर्ष के लिए इस कोटेशन को
आंगनित्तु लि जाये। ~~संशोधन के लिए कोर कोर~~
~~के से पहले अधिकृतकारी से स्वीकृति लेनी~~
~~चाहिए।~~

३०

सहायक इंजीनियर,
२^{री} उपखंड, कै. लो. वि.,
बरेilly

प्रतिक्रिया पत्रित: सहायक इंजीनियर १ एवं ३ की
उपस्थिति का (हस्ताक्षर एवं डाक) कोटेशन
प्रोत्साहित करने हेतु!

२१/५

२१/५/९१

True Copy

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Central Public Works Department

No.1E.E./T Dn./DB/Elect/1291

Dated,. the 21.5

To

The Asstt. Engineer,
2 T Sub-Division, CPWD,
New Delhi.

Sub: Regarding work order of Enquiry Clerk at Lodhi Colony Enquiry Office.

The work order on the above subject was sanctioned for Rs. 13,900/- but you have made deviation in the said work order without the permission of the undersigned. You are, therefore, directed that in future there should be not recurrence of such type and are also directed to call for tenders for this work for this year.

Sd/-
Executive Engineer,
T Division, CPWD, Sarojini Nagar,
New Delhi.

Copy to:

Asstt. Engineer-1 and 3 T Sub Division for information and further necessary action as above.

Sd/-
Executive Engineer,
T Division, CPWD, Sarojini Nagar,
New Delhi.

True Regulated Copy
Secy

Date of opening of tender 9-1-2001¹³⁰

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SCHEDULE OF QUANTITIES

Name of work: A/R & M/O to 220 D I and 148 D II flats at Chanakyapuri, New Delhi, during 2000-2001
SH ; Providing services for maintaining of Emergency Enquiry Counter at Chanakyapuri
Service Centre.

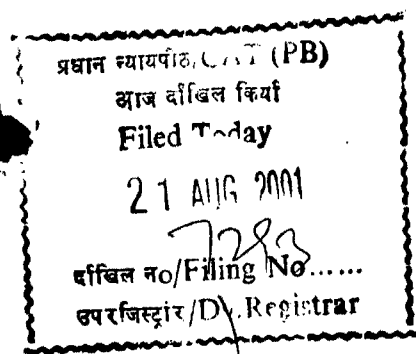
Sl.No.	Description of item	Quantity	Unit	Rate	Amount
1.	Providing services for maintaining the Emergency Enquiry Counter at Chanakyapuri CPWD Service Centre, including attending phones registering day to day complaints, posting complaints in DS Emergency Complaints Register and other necessary works as assigned/directed by the Engineer- in-Charge (Emergency Enquiry Counter will function from 5.00 p.m. to 9.00 p.m. on all working days from Monday to Saturday and from 9.00 a.m. to 9.00 p.m. on all Sundays and other public holidays.	960 hours			

Assistant Engineer
I/G Sub-Division, CPWD
Chanakyapuri, New Delhi.

[Handwritten Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL**PRINCIPAL BENCH: NEW DELHI****O.A.NO. 2237 OF 2000****IN THE MATTER OF :****ALL INDIA C.P.W.D. (MRM) Karamchhari
Sangath. (Regd.) & Others.****Applicants****Versus****Union of India & others****Respondants****INDEX**

1. Affidavit	1 - 3
2. Annexure R 1	1 - 2
3. Annexure R 2	1 - 2
4. Annexure R 3	1

**Filed By :**

(Signature)
 (K.C.D. Gangwani)
 Sr. Central Govt. Counsel
 13, Qutab View Appartments
 Opposite Qutab Hotel
 Shaheed Jee Singh Marg,
 New Delhi - 110060.

Date : 20/8/2001**Place : New Delhi****Shri Narain Kaushik Advocate for the applicant
703, Nilgiri Apartments, New Delhi - 110001.****R.P.BHAWAN P.O. (110004)****Int-SP EE206350858IN****PA : SIMA****To: SH. N KAUSHIK, BARAKHAMBA ROAD
DELHI, PIN: 110001****From: EX. ER. PED RSP BHAWAN NO-04****Wt: 50grams Pre: 15.00****Amt: 0.00, 20/08/2001, 16:08:36****HAVE A GOOD DAY****भारतीय डाक**

(Signature)
 20/8/2001
 20/8/2001
 20/8/2001

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

MA NO. 2673 OF 2000
IN OA NO. 2237 OF 2000

IN THE MATTER OF

1. ALL INDIA CPWD (MRM) KARMACHARI APPLICANT

V/S

2. UNION OF INDIA & OTHERS RESPONDENTS

Affidavit in reply to the counter reply filed by the applicants on 24.7.2001 on behalf of the Respondents.

I, Rajesh Kumar S/O late Shri. Anand Swaroop aged 44 years working as Executive Engineer, President Estate Division, C.P.W.D., New Delhi on behalf of the DG (W) do hereby solemnly affirm as under:

1. I am Executive Engineer and as such I am conversant with the facts of the case. I am making this affidavit on behalf of the Respondents and I am authorised to do so.
2. The contents of para 1 & para 2 of the affidavit need no reply.
3. The averment in para 3 is matter of record. I submit that the Department has already complied with the orders of the Arbitration Award and made the payment of arrears of wages for the period for which the applicants were called upon to do the Job of noting down the complaints etc.
4. In reply to para 5 of the affidavit filed by the applicant, I submit that the Department did neither have any sanctioned post of Enquiry Clerk when the arbitration award was issued nor does any post exists as on date.
5. In reply to para 6 of the affidavit filed by the applicant I submit that the issue of order dated 9.9.99, without any indication of cut off date upto which pay in the higher scale was to be allowed was due to inadvertence. This has been clarified by the Department vide Office Memorandum No. 22/9/93-EC-X dated 11.5.2001, copy enclosed as annexure -1


7/8/2001
Executive Engineer
President's Estate
CPWD, Rashtrapati Bhawan
New Delhi-4.

6. In reply to para 7 of the affidavit filed by the applicants I submit that the annexured document as RA/1 (Colly)(page 5-6 & 7-8) are the cancellation of the relieving of two workmen which was issued on 3.1.2001 and 2.5.2000 respectively. The Department has already issued necessary clarifications in this regard on 11.5.2001 vide letter enclosed as Annexure R1. The document RA/1 (colly) page 9-10 is the periodical increment to one such Beldar which appears to have been given inadvertently and it is against the instructions given in the DGW's O.M. No.22/9/93-EC-X dated 11.5.2001. The document RA/1 (Colly) pages 11-12 are the copy of DG (W)'s Minutes of the Meeting held on 20.9.2000. In this connection, I submit that as already mentioned in the Arbitration award, the creation of posts does not come under the purview of Arbitration. However it is to mention here that there are surplus Clerks recruited through Staff Selection Commission available in the Department and their services can also be utilized in the Enquiry Offices for discharging the said duties and that too for better manning.

The annexured document as RA/2 by the applicant is the photocopy of the 1972 edition of the CPWD MANUAL VOLUME 111. The Second revised publication has been issued during 1973 and the Third and the prevalent publication has been issued during 1984 with uptodate compilation of the orders in force up to Dec'1983.

As already submitted by the affidavit filed by the respondents on 5.7.2001, the revised edition of Man. Vol.III Appendix Tables showing the approved categories in the Work Charged Establishment of C.P.W.D., the post of Enquiry Clerk does not exist. Appendix-I is annexured as R.II. The contents of para.7 are hence denied.

7. I submit that the documents submitted by the applicants as Annexure RA/3 in para.8.of the affidavit is the schedule of quantity for issuing a work order by one of the field units of CPWD, which has no link with this case. The DGW has issued necessary Office Order not to engage contract workers for noting down complaints etc. of the Enquiry Offices of C.P.W.D. A copy of O.M. No. 19/57/2001-Ec-X dated 6.6.2001 is annexured R.III.

8. In reply to para 9 of the affidavit filed by the applicant I submit that the contention of the applicants are denied. It was purely an ad-hoc arrangement to call upon some Beldars at some Enquiry Offices by their immediate superiors to noting down the

12/8/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan,
New Delhi-4.

Complaints etc. This adhoc arrangement does not confer any right on them to the post of Enquiry Clerk, which even does not exist today. The applicants have already been compensated for the period for which they have performed the duties by giving them the arrears of wages. Since the Beldars were picked up at random by the field Officers Incharge of the enquiries without following any selection Procedures and issuing any formal or informal written orders, consideration for any permanent benefit to them would certainly mean denying of principle of equality to the other equally qualified Beldars. Besides it will amount to violation of Rules, Regulation and Instructions relating to Recruitment.

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9. I submit that the contents of para 10 are denied.

DEPONENT

Executive Engineer

President's Estate Division

CPWD, Rashtrapati Bhawan

New Delhi-4.

Verified by Rajesh Kumar on 20/8/2001 that the Statement in para 1 is true to my knowledge and belief and averments in para 2,3,4,5,6,7,8 & 9 are true to my information derived from official records, which I verily believe to be true. Nothing has been suppressed.

New Delhi

Dated. - 20/8/2001

DEPONENT

Executive Engineer

President's Estate Division

CPWD, Rashtrapati Bhawan

New Delhi-4.

Annexure I
IMMEDIATEGOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

135

No. 22/993-ECN

Nirman Bhawan, New Delhi, dated 11.5.2001

OFFICE MEMORANDUM

Sub: Implementation of the Arbitration Award dated 31.1.88 on Recategorisation/Reclassification of the work-charged establishment staff of CPWD as modified by the Delhi High Court Judgement dated 28.1.92, Judgement dated 19.11.96 and Judgement dated 25.9.98 in CCP Nos. 87/97 and 106/97, CMP Nos. 523, 560/97 in CCP No. 295/93 CMP No. 571/97 in CCP No. 1/95 and CMP No. 602/97 in CCP No. 306/93 in Writ Petition No. 2792/1988.

The undersigned is directed to say that a numerous communications are being received in this Directorate from various field units seeking clarification whether the work-charged Beldars who have been called upon to carry out the duties of Enquiry Clerk on the CPWD Enquiries and have also been paid difference of wages in implementation of the modified Arbitration Award are to be continued to carry out the duties of Enquiry Clerk for noting down complaints etc.

1. In this connection, it is clarified that as per the Arbitration Award dated 31.1.88, as modified by the Delhi High Court Judgements dated 28.1.92 and 25.9.98, such work-charged Beldars who were on roll of CPWD on 1.4.81 and thereafter and whose services were utilized for noting down complaints etc. in the CPWD Enquiry Offices are to be paid the difference of wages as per the modified Award for the period they noted down the complaints etc. of the allottees. It is further stated that as per the Award dated 31.1.88 (page 911 of the Gazette Notification dated 19th March, 1988), "..... creation of post of Enquiry Clerk is not granted but a relief is sought in respect of those workmen who have been called upon to carry out the duties of Enquiry Clerk on all the Enquiries of CPWD and that they are not paid due pay and allowances for the job performed by them." The employer is therefore duty bound to pay 'clerical' grades to those workmen who are called upon to do the job of noting down complaints for the period they discharged those duties. Thus, in implementation of the modified Arbitration Award, the work-charged Beldars who were called upon to note down complaints etc. of the allottees are entitled to get only the difference of wages for the period they performed the above duty.

2. As the Government was bound to implement the award, decision was taken to the above effect and letter of even number dated 9.9.99 was issued with the sole intention of payment being made in accordance with direction in the award as modified by High Court, and nothing beyond that.

3. In this connection, your attention is further invited to this Directorate's letter of even number dated 16.12.99 wherein it has clearly been stated not to assign the job of higher category to a worker in future under any circumstances whatsoever. It was also intimated therein that in case any such instance comes to the notice of this Directorate in future, it will be viewed seriously and suitable disciplinary action against all such defaulting officers will be taken.

(B.P. Approval)
Director Works (PM)

.....27-

28/8/2001
Brooming Engineer
President's Estate Division
CPWD, 11, Lajpata Bldg. d.
New Delhi.

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All ADGs(Regions)/ CEM/ SE(Coord.)/ SES/ EES/ Director of Horticulture, Addl. Director of Horticulture/Dy. Director of Horticulture.

2. All Sr. Labour Welfare Commissioners/Asstt. Labour Welfare Commissioners/ Labour Commissioners.

Copy to:

1. All Recognized Union of Work-charged Staff of CPWD.
2. Ministry of UD&PA (EW-2 Section).
3. PPS to DG(W)/ADG(S&P), PS to ADG(TD), PA to DA.
4. All Estt. Sections in Central Office of CPWD.
5. Hindi Section, for Hindi Translation.
6. Guard File/ Stock File/Circular File.

M. L. G. S. S.
(M. L. G. S. S.)
Deputy Director (E. C. S.)

(X) Executive Engineer,
President's Estate Division,
ND.

28/8/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan,
New Delhi-4.

Annexure-II

APPENDIX I (Para. 1.02)

Table showing the Approved Categories in the Work-charged Establishment of C. P. W. D. their scales of pay, nature of skill and the Wing of the C. P. W. D. in which they are generally employed :

Sl. No.	Category	Scales of pay with effect from 1-1-73.	Nature of skill	Strength as on 1-1-1983.
1	2	3	4	5
A. CIVIL CATEGORIES				
1. Asstt. Carpenter	.	210-4-226-EB-4-250-EB-5-290	Semi skilled	17
2. Asstt. Mason	.	210-4-226-EB-4-250-EB-5-290	Semi-skilled	
3. Asstt. Plumber	.	Do.	Do.	
4. Bandhani	.	210-4-226-EB-4-250-EB-5-290	Semi skilled	
5. Beldar	.	196-3-220-EB-3-232	Un-skilled	
6. Caneman	.	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
7. Carpenter	.	Do.	Do.	
8. Chainman	.	196-3-220-EB-3-232	Unskilled	
9. Gharani	.	210-4-226-EB-4-250-EB-5-290	Semi-Skilled	
10. Mate	.	210-4-226-EB-4-250-EB-5-290	Unskilled Supervisory	
11. Mason	.	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
12. Packer	.	210-4-226-EB-4-250-EB-5-290	Semi-Skilled	
13. Plumber	.	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
14. Stone Cutter	.	Do.	Do.	
15. Syce	.	210-4-226-EB-4-250-EB-5-290	Semi-Skilled	
16. Tailor	.	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
17. Upholsterer	.	Do.	Do.	
B. ELECTRICAL CATEGORIES				
18. Armature Winder	.	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
19. Asstt. Armature Winder	.	210-4-226-EB-4-250-EB-5-290	Semi-Skilled	
20. Asstt. Black Smith	.	Do.	Do.	
21. Asstt. Boilerman	.	Do.	Do.	
22. *Asstt. Fitter	.	Do.	Do.	
23. Asstt. Lineman	.	Do.	Do.	
24. Asstt. Mechanic	.	Do.	Do.	
25. Asstt. Operator (E & M)	.	Do.	Do.	
26. Asstt. Tinsmith	.	Do.	Do.	
27. Asstt. Turner	.	210-4-226-EB-4-250-EB-5-290	Do.	
28. Asstt. Welder	.	Do.	Do.	
29. Asstt. Wireman	.	Do.	Do.	
30. Blacksmith	.	260-6-290-EB-6-326-8-366-EB-8-390-10-400	Skilled	
31. Boilerman	.	Do.	Do.	

* To be worked out along with Asstt. Fitter (Ref. O.M. No. 29/1/73-WCS/1/C.N. dt. 9.3.79)

20/4/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan
New Delhi-4.

APPENDIX I - Contd.

39.	Boiler Fitterman	330	8	370	10	400	EB	10	480			Skilled Supervisory
40.	Cable Joiner	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Skilled
41.	Electrician	330	8	370	10	400	EB	10	480			Highly Skilled
42.	Fitterman (AC&R)	390	12	500	EB	12	560					Highly Skilled/
												Skilled Supervisory
43.	Fitterman (Electric)	390	12	500	EB	12	560					Skilled Supervisory
44.	Fitterman (Mech)											Do.
45.	Electrician (Electric)	196	3	220	EB	3	232					Unskilled
46.	Lift Mechanic	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Skilled
47.	Lineman											Do.
48.	Mechanic											Do.
49.	Mechanic (AC&R)											Do.
50.	Moulder											Do.
51.	Operator (E&M)											Do.
52.	Pattern Maker	330	8	370	10	400	EB	10	480			Highly Skilled
53.	Road Roller Driver	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Skilled
54.	Senior Mech (AC&R)	330	8	370	10	400	EB	10	480			Highly Skilled
55.	Senior Mech											Do.
56.	Senior Operator	330	8	370	10	400	EB	10	480			Highly Skilled
57.	Serviceman (AC&R)	210	4	226	EB	4	250	EB	5	290		Semi-Skilled
58.	*Stoker	210	4	226	EB	4	250	EB	5	290		Do.
59.	Tinsmith	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Skilled
60.	Turner											Do.
61.	Welder	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Do.
62.	Wireman											Do.

C. HORTICULTURAL CATEGORIES

56.	Blaisy	196	3	220	EB	3	232					Unskilled
57.	Bullockman											Do.
58.	Chowdhary	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Skilled
59.	Floral Decorator	260	6	326	EB	8	350					Do.
60.	Head Gardener	330	8	370	10	400	EB	10	480			Do.
61.	Mali	196	3	220	EB	3	232					Unskilled
62.	Senior Mali	210	4	226	EB	4	250	EB	5	290		Semi-Skilled

D. COMMON CATEGORIES

63.	Asstt. Painter	210	4	226	EB	4	250	EB	5	290		Semi-Skilled
64.	Motor Lorry Driver	260	6	290	EB	6	326	8	366	EB	8	390
		10	400									Skilled
65.	Painter											Do.

*I To be wasted out alongwith Asstt. Fitter (Ref. O.M. No. 29/1/73-WCS) & X dt. 9-3-79.)

N.B.:-

1. The erstwhile posts of Asstt. upholsterer and Assistant Lift Mechanic have been abolished vide O.M. No. dt. 9-3-79.
2. The post of Line man (Plumbing) has been merged with the post of Assistant plumber, vide O.M. No. dt. 9-3-79.

20/8/2001
Executive Engineer
President's Estate Division
CPWD, Rashtrapati Bhawan,
New Delhi-4.

GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

No.19/57/2001-EC.X

Nirman Bhawan, New Delhi, dated : 6-6-2001

OFFICE MEMORANDUM

Sub: Engagement of workers on contract for performing the work of noting down complaints of allottees at various Enquiry Offices of CPWD.

It has come to the notice of this Directorate through the various applications/Petitions filed in CAT/Court that Executive Engineers of the various field units of CPWD have started awarding the work of noting down complaints of the allottees on contract. In one of such cases Ministry of Urban Development and Poverty Alleviation has taken very serious note of such action and has instructed this Directorate to issue strict instructions to all the Executive Engineers not to engage contract workers and that too for a long period for noting down the complaints etc., i.e. for performing the duties of L.D.C. posted at Enquiry Office of CPWD. It is, therefore once again impressed upon all concerned not to engage workers either on contract basis or award this work on contract for performing duties as mentioned above.

A. Madhukumar Reddy
(A. Madhukumar Reddy)
Director of Administration

To

All ADGs(Regions)/CEs/SEs/SEs(Coord.)/EEs/DOH/ADOH/DDOH

Copy to:

- (1) All Recognised Unions of Work-charged Staff in CPWD.
- (2) Ministry of UD & PA (EW-2 Section).
- (3) PPS to DG(W)/ADG(S&P), PS to ADG(TD), PA to DA.
- (4) All Estt. Section in Central Office of CPWD.
- (5) Hindi Section for Hindi Translation.
- (6) Guard File/Stock File/Circular file.

Mectall Ghosh
(Mectall Ghosh)
Deputy Director (EC.X)

6/6/2001
Executive Engineer
President's Office, Ministry
CPWD, Rashtrapati Bhawan,
New Delhi-4.

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GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

No.19/57/2001-EC.X

Nirman Bhawan, New Delhi, dated . . .

OFFICE MEMORANDUM

Sub.: Engagement of workers on contract for performing the work of notting of complaints of allottees at various Enquiry Offices of CPWD.

It has come to the notice of this Directorate through the applications/Petitions filed in C.A.T./Court that Executive Engineers of various field units of CPWD have started awarding the work of notting of complaints of the allottees on contract. In one of such cases Ministry of Urban Development and Poverty Alleviation has taken very serious note of such action and has directed this Directorate to issue strict instructions to all the Executive Engineers to engage contract workers and that too for a long period for notting of complaints etc., i.e. for performing the duties of L.D.C. posted at Enquiry Office of CPWD. It is, therefore once again impressed upon all concerned not to employ workers either on contract basis or award this work on contract for performing duties as mentioned above.

5/24/01 A.H. B. 62
1/16/02

(A. Mohan) (Sd/-)
Director of CPWD

To

All ADGs(Regions)/CEs/SEs/DEs(Coord.)/DEs(DOH)/ADGs(Enquiry)

Copy to:

- (1) All Recognised Unions of Work-charged Staff in CPWD.
- (2) Ministry of UD & PA (B&V-2 Section).
- (3) PPS to DG(W)/ADG(S&P), PS to ADG(ED), PS to DA
- (4) All Estt. Section in Central Office of CPWD.
- (5) Hindi Section for Hindi Translation.
- (6) Guard File/Stock File/Circular File.

(Sd/-) (Sd/-)
(B. S. Chatterjee)
Deputy Director CPWD