

Officers' Cause, June - 2019



Editorial

CONSUMER PRICE INDEX (CPI) SERIES 2020

The Government is contemplating to shift base year of Consumer Price Index popularly known as CPI as well as Index of Industrial Production to 2019 and 2017 respectively. The schedule of revised base, though kept as 2020, the NDA Government is in a hurry to make it effective even before. These indexes are the two basic ingredients for the purpose of assessing the macro economic development of the country. As far as the workers are concerned the Consumer Price Index is an indicator of the inflation in the market and is accepted as yardstick for the purpose of arriving at compensation system for the working class in particular the payment of Dearness Allowance for the workers.

The base year of CPI is revised at periodical intervals. The first base year was 1937. This was successfully updated and revised at periodical intervals. The base year so far adopted were 1946, 1951, 1956, 1960, 1970, 1980, 1993-94, 2004-2005 and 2011-2012. The latest change was made effective from 2017.

The CPI is an useful tool in the hands of the Government in designing the Monetay Policy and also an indication about the standard of life of a common man. The work of preparing the broad frame work for arriving at these index figures are based on the price of various commodities which runs into few hundreds after

a careful study of the economic impact of the prices of these products in the market.

The responsibility of collating these figures and releasing the index is entrusted to the Central Statistics Office, which operates under the Ministry of Statistics and Programme Implementation. The figures are released every month to enable the various departments in the ministry to understand the impact of the economy in the country.

The CPI assessment is an important issue as far as the Trade Unions in the country are concerned. The CPI is based on the prices collected from 1,114 markets in 310 towns and 1181 villages which will be averaged at the end of the total figures released to the public. The Government has indicated that the data from the new Consumption Expenditure Survey will be released at the end of this month so that the Unions will have an opportunity to study the item basket and weighing diagram for the CPI and raise issues if any. The new survey has data till March 2019. Thus the Price Reference Year and the weight Reference is nearer and the same for the year 2019, thus, giving a realistic approach of the price situation. However, it all depends upon the basket of the items included and excluded and the Unions will have to make their own assessment and take up the issue with the Government to protect the

NATION FIRST, ORGANISATION NEXT, INDIVIDUAL LAST

interest of the workers and protect the compensation against the inflationary trend in the market.

With the fast changing economic policy of the Government with an objective of moving towards market economy and globalization, the sanctity which was attached earlier days towards the involvement in the preparations of the policies in regard to the analysis of the Consumer Price Index of the unions is getting eroded due to the anti-labor approach of the Government. The Corporates play a major role in influencing the Government in formation of basket for the purpose of preparing the index number and also the weight given to each item in the basket. The Government is expected to make a public

announcement of its desire to change over to the new base and invite the suggestions of all the stake holders. Unfortunately, the Government ignores the right of participation of the workers in arriving at a common basket and weight for the purpose of arriving at the index figures.

The Central Trade Unions as well as the Associations and Federations of various unions including the Banking Industry should raise the issue and demand an audience with the Labor Ministry before the Government takes a decision to proceed with its plan to revise the base year and the basket for the purpose of IIP and CPI. ■

PROBATIONARY OFFICERS -2017 BATCH – RECRUITED VIDE ADVERTISEMENT NO.CRPD/PO/2017-18/19 COURT CASE: LPA 10/2018, BEFORE HON'BLE HIGH COURT OF DELHI

As you are aware, a writ petition has been filed before Hon'ble High Court of Delhi in connection with their non-selection as Probationary Officers in the Bank. Consequent upon this, Hon'ble High Court of Delhi passed an interim order that the result/selection of POs is subject to the outcome of the pending writ petition. The Division Bench of Hon'ble High Court of Delhi has directed the Appellant/Petitioner to implead the Probationary Officers of the batch as Party Respondents in the Appeal as their selection has been challenged in the Writ/Appeal to meet the ends of Natural Justice.

We have taken up the issue with the Bank as well as our own legal counsels to secure the interest of the

officers of the batch. As there are large number of officers, our legal counsel has suggested that such officers, instead of representing individually, may be represented by AISBOF. Towards this, a Power of Attorney has to be executed by the Probationary Officers of 2017 batch in favour of Federation. We enclose a copy of the Power of Attorney. Please contact concerned officers and seek execution of Power of Attorney and forward them to us, so that, we can file a counter affidavit and represent them. Also, please assure the concerned officers that we will be engaging an advocate of repute to represent the case before Hon'ble Delhi High court and every possible step would be pursued to the protect their interest. ■

REBUILD ODISHA - FEDERATION CONTRIBUTES

In the aftermath of Odisha facing fury of cyclone "Fani", wrecking many parts of the State, we had called upon the Bank as well as our comrades to contribute to the relief measures initiated by Odisha and in its efforts to mitigate the hardship faced by the citizenry there. We are thankful to our comrades who have shown compassion through their contribution. Bank had also appealed to officers and staff to contribute for the cause.

In line with the tradition to rise to the such occasions, Federation has also contributed Rs.10 lakh to Chief Minister's Relief Fund to "Rebuild Odisha". A cheque was handed over to Shri Naveen Patnaik, Hon'ble Chief Minister, Odisha today by the Federation leadership, which comprised of Com Sambit Misra, President, AISBOF, Com Arun Bishoyi, DGS, AISBOF, Com Sabyasachi Swain, EC Member, AISBOF and the undersigned. The Hon'ble Chief Minister Shri

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

Patnaik acknowledged the contribution and expressed his satisfaction and gratitude.

3. While bank officers and in particular our comrades in Odisha led by SBIOA Bhubaneswar Circle have been making every effort to help the citizenry in all possible ways, it is necessary that each one of us extend our

hands to put Odisha back on its track. We again appeal to all our affiliates to join their hands in this pious activity. Contributions may please be remitted to:

Account No. 1110 9326 101 - SBIOA, Bhubaneswar - IFSC: SBIN0009025.■

AIBOC HOLDS A MEETING WITH MAJOR PENSIONERS' AND RETIREES' ORGANISATIONS OF BANKING SECTOR ON 20TH MAY, 2019 AT NEW DELHI

Text of AIBOC Circular No 2019/31 dated 21-05-2019.

Quote:

We have the pleasure to inform you that as decided in the last GS Meet of all affiliates of AIBOC held in New Delhi on 12th March 2019 to hold a broad-based consultation with the major Pensioners' and Retirees' organisations of the banking sector on different issues affecting the interest of retirees, we had approached the leaders of such organisations and invited them to a meeting in New Delhi organised by the Confederation for this purpose. Although it was contemplated to be an unofficial one, the presence of very senior leaders of the pensioners and retirees movement and the gravity of deliberations made by them virtually made the meeting held in New Delhi on 20th May, 2019 a very meaningful one. We are very happy to share that the leaders of SBIPA, AIBPARC, all the affiliates of CBPRO and AIBRF remained present in the meeting at the invitation of AIBOC.

2. The undersigned, in his initial address, briefed the house about the present stalemate persisting in the industrial relations scenario of the banking industry arising out of the issue of fractured mandate. He expected that IBA would resume talks after formation of popular government. This is high time, he felt, that the fight of retirees and the serving people should be synchronised and the sentiment of retirees should be addressed with all earnestness and sensitivity. It is matter of hope that each and every constituent of UFBU has already started showing interest in resolving the issues of retirees and pensioners but the degree of intensity is probably not the same. He once again reiterated that AIBOC is committed to resolve the issues of retirees before any agreement is formalised.

3. Very senior leaders viz. Com. S.C. Jain (AIBRF), Com. Gandhi and Com. Ramesh Babu (SBIPA), Com. K.V. Acharya and Com. S. Sarkar (AIBPARC), Com. Ahuja (RNBOC), Com. A.K. Goel (FORBE) of the pensioners and retirees movement took part in deliberations. The following points were discussed and stressed upon:

- a) Although this has been an informal meeting, the leadership of AIBOC should take initiative to carry forward all the demands of retirees and pensioners to a logical conclusion.
- b) The notification of GOI in the matter of updation of RBI pension has created a new hope in the minds of retirees and there is a need to study the financial and legal implication of RBI updation; utmost importance should be given on improvement of family pension; the hiking of medical insurance premium, which is virtually unaffordable and IBA/GOI should be urged upon to issue necessary directions to banks to bear the premium. IBA/GOI will have to think about the pathetic plight of super senior citizens who have crossed 80 years of age and been drawing a pittance in the name of pension / family pension.
- c) In Pension Regulation 35(1), the modalities of updation of pension have already been spelt out and in subsequent govt notification, this provision has been made all comprehensive. It is unfortunate that Govt/IBA has denied to understand and implement this provision in letter and spirit. Officials of Govt of India have already executed an affidavit that they are not in a position to allow updation of pension in RBI

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

because it has a larger ramification. Now when pension in RBI has been updated, it cannot be denied in banking industry. The unresolved issues of special allowance and stagnation increment should also be looked into.

- d) The fight launched by different sections of RBI employees and officers in favour of retirees is noted with satisfaction and same kind of involvement of UFBU in regard to demands of retirees / pensioners is also hoped.

4. Com Sanjay Manjrekar, Senior Vice President, AIBOC also addressed the house. He assured the leaders present that Confederation has always been sympathetic and sensitive to the issues of Retirees. He also expects that other constituents of UFBU will also be coming forward with the same degree of intensity. Com Harvinder Singh, former General Secretary of AIBOC also addressed the house. He mentioned that the promises made by IBA in the Record Note should be carried forward to a logical conclusion.

5. The undersigned in his concluding remark, opined that this meeting was the beginning of a consolidated movement. In future, when the negotiations will resume in full swing, the consultative process will continue and he wanted that a small committee should be formed in this regard. Booklets prepared by AIBPARC and AIBRF on legal and financial implications of pension updation and improvement of family pension were also handed over to the undersigned for information. Com Dipak Basu (SBIPA) proposed the vote of thanks on behalf of Pensioners' and Retirees' organisations and pledged that all the organisations would extend all possible support to AIBOC in the days to come.

6. We note with satisfaction that this meeting has been an enlightening one for each one of us. The sharing of information and thought was appreciated by all present in the meeting. The undersigned also acknowledges the support received from SBI Officers' Association (Delhi Circle) for shouldering the responsibility of hosting the meeting at a very short notice. ■

RTGS PAYMENT SYSTEM - EXTENSION OF TRANSACTION TIME

Text of AIBOC Circular No 2019/53 Dated 06-06-2019.

The Governor

Reserve Bank of India,
Central Office Building
18th Floor, Shahid Bhagat Singh Marg
Mumbai-400 001.

Respected Sir,

Real Time Gross Settlement (RTGS) Payment System – Extension of Timings for Customer Transactions

We refer to letter No.RBI/2018-19/189 -DPSS (CO) RTGS No. 2488/04.04.16/2018-19 dated 28.05.19 revising (extending) the RTGS timings for customer transactions.

2. The revised instruction presumably is to facilitate the corporate customers to transfer funds cater to their business needs. However, we wish to point some pertinent issues for your consideration, which are appended.

- a. Bank branches in the country are generally open for duration of 8 hours. Extending customer transactions beyond 6 pm necessarily demands the personnel within the bank to work beyond stipulated working hours, which violates the law of the land and would be tantamount to breach of service rules.
- b. Transactions in banks are invariably put through maker-checker mechanism. Making/Initiating a transaction is the basic and fundamental duty of clerical cadre whereas checker/authoriser may be a clerical staff or an officer, depending upon the passing powers assigned as per the policy of individual banks. The revised instruction calls for working beyond office hours, in which case, clerical staff will not be available. Under these circumstances, either the transactions cannot be put through after office hours, or need to be conducted without maker – checker concept, which exposes banks to grave systemic and operational risk. Further, officers will be

WORK IS WORSHIP , DO YOUR DUTY

constrained to perform original work, which is not expected of the cadre. The present day Core Banking Software implemented at the branches are already officer-centric and any further extension of time for RTGS transactions, would invariably fall upon the officers disrupting the supervisory functions and affecting work-life balance.

- c. As regulator, we are sure that Reserve Bank of India is well aware of the fact that the officers in banks are already over-burdened due to acute staff shortage and other constraints having to address multifarious tasks viz. garner remunerative business, do schematic lending, recover monies, sell third party products, render excellent customer service and sundry other work as is assigned upon them thus shrinking the time available for officers. Further the clerical to officers' ratio has been declining and is abysmally low, indicating very clearly the inadequate clerical cadre and that consequential shift of such work to officer cadre. Meaningful, adequate augmentation has not taken place in the industry for the last three decades. Further, PSBs are restricted by the apex regulator to go for adequate recruitment, which is the need of the hour. Under the stated circumstances, this decision will definitely compel the officers at branches to work for extended hours. We have been given to understand that some banks have already issued instructions to all the branches to work for extended hours to facilitate RTGS transactions as per the revised schedule.
- d. There are thousands of branches which have only one officer, with skeleton staff. Presently, they are unable to cope up with

the prevailing situation. Revision of timings, engaging the personnel for routine transactions, beyond office hours will further deteriorate working environment.

- e. Despite our persisting demands, neither the Indian Banks' Association, being an Association of Banks nor the Government has initiated necessary steps to recruit the staff and officers commensurating with the ground-level requirement. This has caused the officers to work beyond office hours, on week-ends and holidays. The morale of the officers of the Bank perhaps is at the nadir. This has been affecting the social fabric within the families of the Bank Officers in addition to increasing life-style diseases.

3. Sir, you are well aware that most of the transactions like RTGS/NEFT, beyond reasonable office hours emanate from corporate and institutional customers. Keeping in view the pace of present day multi-mode techno-banking, availability of robust and wide-spread internet banking facility, revised timings may please be extended **ONLY TO ONLINE TRASACTIONS** through Internet Banking facilities, where customer initiate the transactions via Straight Through Process (STP), without involving personnel/counter work at the Branches. For the same reason, we also request you to revise the instructions that NEFT transactions beyond office hours shall be only through Internet/Online Banking mode and not across the counter. This will not only meet the intention of revised instructions, but will also popularize usage of alternate channels.

4. We urge upon your good office to revise instructions restricting extension of time only to transactions conducted through on-line/internet banking mode.■

UNANSWERED QUESTIONS ABOUT GLOBAL FINANCE

With the 14th G20 Summit scheduled in Osaka later this month; it is time to stock of what the G20 itself saw as one of the ultimate causes of the 2008 Global Financial Crisis(GFC), namely the failure of financial regulation.

Financial regulatory reform, like most G20 initiatives, was attempted through advisories to multilateral institutions, such as the Basel Committee on Bank

Supervision(BCBS) for commercial banks, and the International Organisation of Securities Commissions (IOSCO) for non-banks and shadow banking. Monitoring of these reforms is being done by the G20 through the restructured Financial Stability Board (FSB). These reforms were supplemented by national initiatives, such as the Dodd Frank Act in the US, the Vickers Commission in die UK, and the Liikanen Report of the European Union.

LET CUSTOMER SERVICE BE OUR MOTTO

The reforms for commercial banking to make the regulatory structure less pro-cyclical, known as Basel-III, have been completed and their phase-in is in progress. The source of the last crisis, however, lay not in commercial banking but shadow banking. While the FSB appears sanguine that the exposure of commercial banks to shadow banking has been contained, and the latter is now being monitored, it remains outside the regulatory umbrella.

With commercial banking reined in through Basel-III, shadow banks have seized this regulatory arbitrage to grow faster. They no doubt have an inclusive aspect, penetrating markets that commercial banks cannot reach, shadow banking nevertheless remains the most innovative and riskiest component of the financial system. New financial technologies only magnify complexity and risk.

While shadow banking is still a small segment of financial systems in EMDEs, its fastest growth since the crisis is not in advanced economies but in China. It is only a matter of time that its role in EMDEs grows. Can shadow banking be regulated? Are regulators taking adequate steps to educate and protect consumers of complex opaque products emanating in shadow banking?

At the outset of the crisis, the Alan Greenspan view that central banks cannot, and should, not call asset bubbles was challenged. There was a sense that central banks would wipe the dust off their original *raison d'être*, namely financial stability. This challenge appears to have petered out, with monetary policy instruments considered too blunt, the mantle falling instead on macroprudential policies. Are these reining in asset bubbles? And is it still the view that asset bubbles are too difficult to call?

It is now recognized that the financial sector is a public utility. Some financial institutions are too big to be allowed to fail and bring down the financial system. But in the reconstruction that followed, big banks have become bigger. Systemically important financial institutions (SIFIs) are now better monitored by regulators, are required to hold more capital and draft "living wills" with a resolution framework in the event of their demise. Have these measures abated the threat of major tax-funded bailouts?

Excessive leverage underlies all financial crises, and the GFC was no exception. While financial sector debt has shrunk, the reforms have been unable to rein in the pre-crisis growth in leverage because most of the growth since has been in the public sector. Non-financial corporate in both advanced economies and EMDEs also took advantage of low rates to lever up. The overall debt/GDP ratio remains virtually the same. The underlying liquidity driving this leverage prior to the crisis was global imbalances. After the crisis, it is central banks. What does this mean for financial stability and monetary policy, going forward. Especially when rates rise?

There is apprehension that as memory of the crisis recedes, and animal spirits return, regulatory reforms are being gradually rolled back, as in the post Great Depression era. No matter how comprehensive the reforms, nobody is making the case that there will be no more financial crises. In a globalised world, domestic and regional crises can be triggered simply by policy spillover, anti despite good macroeconomic management.

Purely domestic financial crises can be handled through fiscal and monetary policies. But when crises spill over regionally or globally, where a country cannot fund its external liabilities, either as a result of a sudden shock, or unsustainable external debt, the robustness of the safety nets of the International Financial Architecture (IFA) will be tested.

These safety nets have expanded dramatically in the post-crisis period. But is the extant three-layered architecture, comprising a global safety net (IMF), regional arrangements such as the plurilateral Chiang Mai multilateralisation and the BRICS. Contingency Reserve Arrangement, and national "self-insurance" mechanisms comprising foreign currency reserves and bilateral swaps, robust enough to handle future crises?

The adequacy of IMF's resources, the nimbleness of its lending and surveillance instruments to respond timely, the "stigma" attached by markets to countries that access its preventive instruments, remain debatable. The absence of effective surveillance continues to constrain the deployment of regional arrangements. Consensus on the levels and desirability of reserve accumulation by developing countries as self-insurance against policy spillovers, BOP crises and the monetary policy trilemma remains

BE TRUTHFUL, BE FEARLESS

a work in progress. Has the recent decline in capital flows made EMDEs more vulnerable to a rate rise?

The GFC raises two new interesting issues relating to the extant IFA. First the major international liquidity provider during crisis was not the IMF, but the US Federal Reserve through market confidence boosting bilateral swap arrangements. What is the role of the issuer of the de facto global reserve currency in the IFA? Has the Federal Reserve effectively replaced the IMF as the global lender of last resort especially in a major global financial crisis? This adds a new dimension to what is termed the "triffin dilemma". - The second new issue is IMF lending to issuers of fully convertible currencies in the IMF reserve basket. Was its lending to countries within the eurozone justified by its Articles of Agreement? Was it necessary since the countries in crises could be bailed out by euro funding? It was the commitment of the ECB to

provide unlimited liquidity, and not IMF intervention, that stanching the market revolt in the EU periphery. Although the crisis in the eurozone has subsided, the underlying fault lines remain. Who should be its lender of last resort, the IMF or the ECB?

Apart from real time coordinated management of the 2008 GFC financial regulatory reform and strengthening the safety nets that can respond to crises are amongst G20's signal achievements so far. With the current chair still suffering from the aftershocks of a financial crisis that occurred over two decades ago the Osaka Summit could perhaps provide answers to some of these outstanding questions. ■

The writer is RBIC Chair Professor, ICRIEF
Source: Business Standard, Dt.4/06/2019

REBUILDING THE REFORM CONSENSUS

India is among the world's fastest growing economies. Yet, many economic challenges remain. Corporate investment and exports-twin engines that typically propel growth in most economies are sputtering. The labour market is tepid. Jobs are scarce. Tax buoyancy has failed to materialise. Banks are undercapitalised. Increasingly. Non Banking Finance Companies (NBFCs) have started showing signs of stress. And the debt-fuelled consumption binge has come to an end.

How did we reach this growth without story? The question is both important and urgent. To paraphrase Nobel Laureate Paul Romer, once one starts thinking about these questions, it is difficult to think about anything else. Puja Mehra's *The Lost Decade* chronicles the policy choices that provide a coherent explanation of some of these puzzles.

The first interesting thing about the book is its periodisation. There is a strong temptation to see economic outcomes solely through the lens of electoral politics. The author admits that she was asked initially to write a book on the economic performance of the National Democratic Alliance (NDA) government, starting from the swearing-in of Narendra Modi in 2014. This temptation should be resisted. Given the institutional continuity in key

ministries, economic cycle rarely coincides so neatly with the electoral cycle.

By taking a longer horizon like a decade as the unit of study, and by subdividing this decade into four sub-periods—which roughly coincide with the change of guard at the finance ministry—this book has captured the policy regime switches more cogently.

The periodisation pays off not only in explaining the growth dynamics, but also in the discussion of the policy-making process. A discussion of nearly every major policy decision in the last decade follows. Without being exhaustive, the list of topics discussed includes management of the global financial crisis and the taper tantrum, fiscal stimulus, food inflation, policy paralysis during United Progressive Alliance (UPA) regime, Goods and Services Tax (GST) and the inflation targeting monetary homework, twin balance sheet crisis and last but not the least, demonetisation.

In each case, the discussion is at once panoramic and detailed. Complex issues are elucidated. For example, the way issues surrounding GST are summarized is a treat to read. In any case, the book is a ready reckoned of sorts for students of contemporary economic history.

OUR LIFE IS WHAT OUR THOUGHTS MAKE IT

Development economists have an idea called path dependence. It explains how minor chance events end up having a disproportionately large impact on macro outcomes. For want of a nail, the kingdom is lost. Ms Mehra argues, convincingly in my view, that similar chance events- such as the bypass surgery of the then Prime Minister Manmohan Singh—had a large impact on the policy choices during the second UPA government. It affected the ongoing V-shaped economic recovery and ultimately proved to be the undoing of the UPA regime. This is a provocative and sharp hypothesis which future historians would like to revisit and debate.

Some observations go beyond the cut and dried world of economics textbooks. My favourite anecdote is about the erstwhile Planning Commission. When Minister Narendra Modi decided to dismantle this relic of the planning era, he held a meeting with the chief ministers to discuss the role of the institution and the possible alternatives.

One would have assumed that much of the discussion would revolve around the relevance of planning in a liberalised economy Chief ministers would discuss pros and cons of the institutions such as the Planning Commission and finance

Commission for distributing resources in a federal polity. No such luck. In reality, the most pressing complaint chief ministers made to the prime minister concerned the seating arrangement in Planning Commission meetings. Apparently, the seating arrangement had placed non-elected officials at centre stage, which chief ministers, being elected representatives, thoroughly resented.

Ms Mehra notes: "When a big institution cracks, it doesn't crack on its big failures. It cracks on bruised egos and status symbols." An interesting, yet understudied insight. Perhaps the time is ripe for some behavioural economist to write a treatise on the role of such ego management devices in institution-building. The last decade tells a story that is riveting and worrisome in equal measures. It is well documented, analytical and interspersed with delightful nuggets. At the same time, the thrust of the book is that the economic reforms that steered the Indian economy towards the growth turnpike have run their course. As the author notes, "We need to rebuild the consensus for a steady stream of reforms." Incrementalism is not sufficient and there is no time to lose.

The reviewer is associate research fellow (economics) at Takshashila Institution. Views are personal. ■

Source: Business Standard, Dt.4/06/2019

Judicial Verdict

2019-I-LLJ-408 (Cal)
LNIND 2018 CAL 10134
IN THE HIGH COURT OF CALCUTTA
Present:
Hon' ble Mr. Justice Arijit Banerjee

W.P. No. 22394 (W) of 2018	6th December, 2018
M.E.S Civilian Employees' Union Petitioner
Versus	
Union of India and Others	... Respondents

Trade Union Election — Division of constituency - Industrial Dispute (Central) Rules, 1957, Rule 42 — Petition filed by registered trade union challenging notice issued by Respondent authority wherein constituency was sub-divided into seven constituencies for purpose of holding election - Whether, constituency could not be sub-divided into seven constituencies for election as sought to be done by impugned notice - Held, where in any industry or establishment, majority of workers were in one union or other, distribution as provided under Rule 42 would not be necessary and it would only be one constituency – All civilian workmen were members of registered trade unions, no question of distribution/division of constituencies arose - Impugned notice being contrary to Rule 42, set aside - Fresh notice directed to be issued - Petition disposed of.

Held: where in an industry or an establishment the majority of the workers are in one union or the other, the distribution as provided in Rule 42 will not be necessary and it will only be one constituency. All the civilian workmen are members of registered trade unions, no question of distribution/division of constituentcies arise. The impugned notice is contrary to Rule 42 of the Rules, 1957. The notice is set aside. A fresh notice shall be issued by the authorities strictly adhering to Rule 42 of the Rules, 1957 treating it as one constituency. The Works Committee has an important role to play in preserving amicable relationship between the employer and the workmen and in promoting industrial peace.
[Paras 8 and 9]

CASE CITED/REFERRED TO: Union of India v. M.T.S.S.D Workers' Union LNIND 1988 SC 58 (Followed) (Paras 6,9)

ADVOCATES APPEARED:

S.K. Sikdar, B. Lahiri, for Petitioner Rajkumar Gaurisaria, Ram Chandra Agarwal, Subhankar Chakraborty, Saptarshi Bhattacharjee, for Respondents.

JUDGMENT

Mr. ARIJIT BANERJEE, J

The petitioner is a registered trade union of which the members are civilian workmen at the Kalaikunda Air Force Base under the Military Engineering Service Department. The petitioner challenges a notice dated 5th November, 2018 issued by Shri R Durga Shyam, EE, Garrison Engineer (AF) Kalaikunda for election of members of the Works Committee. Although, the said notice notified 24th November, 2018 as the date of election, I am told that the election has been re-scheduled for 11th December, 2018 and has not yet been held.

2. Section 3 of the Industrial Disputes Act, 1947 mandates constitution of Works Committee in

case of any industrial establishment in which hundred or more workmen are employed or have been employed on any day in the preceding twelve months. Section 3 of the said Act reads as follows:-

“(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (16 of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.”

3. The short grievance of the petitioner is that the Kalaikunda constituency could not be sub-divided into seven constituencies for the purpose of holding election as has been sought to be done by the impugned notice. Learned counsel for the petitioner relies on Rule 42 of the Industrial Dispute (Central) Rules, 1957. Rule 42 reads as follows:-

Group of workmen's representatives – On receipt of the information called for under rule 41, the employer shall provide for the election of workmen's representative on the

committee in two groups-

- (1) Those to be elected by the workmen of the establishment who are members of the registered trade union or unions, and
- (2) Those to be elected by the workmen of the establishment who are not members of the registered trade union or unions, bearing the same proportion to each other as the union members in the establishment bear to the non-members:

Provided that where more than half the workmen are members of the union or any one of the unions, no such division shall be made:

Provided further that where a registered trade union neglects or fails to furnish the information called for under sub-rule (1) of rule 41 within one month of the date of the notice requiring it to furnish such information such union shall for the propose of this rule be treated as if it did not exist:

Provided also that where any reference has been made by the employer under sub-rule (2) of rule 41, the election shall be held on receipt of the decision of Assistant Labour Commissioner (Central)."

4. Learned counsel for the petitioner submitted that in the past when election of the Works Committee for Kalaikunda Air Force Base was conducted, it was done by taking Kalaikunda to be a single constituency. Even for this year, a prior notice of election dated 30th July, 2018 was issued wherein Kalaikunda was taken to be one constituency. However, by subsequent order dated 9th August, 2018, the notice/Part - I Order dated 30th July, 2018 was cancelled. By a Memo dated 9th August, 2018, the process of election was kept in abeyance. Subsequently, the impugned notice/Part - I Order dated 5th November, 2018 was issued

wherein Kalaikunda has been sought to be sub-divided into seven constituencies. This, according to the learned counsel, is contrary to Rule 42 of the 1957 Rules. He also drew my attention to the notice of election of Works Committee for the Chandipur Station where the notice of election dated 14th July, 2018 notified the date of election to be 6th August, 2018 and Chandipur was taken to be one constituency. He submitted that all the civilian workmen at Kalaikunda Base are members of registered trade unions and, hence, as per the first proviso to Rule 42 of the 1957 Rules no sub-division could be made.

5. Learned counsel for the respondents obtained instructions and submitted that it is correct that all the civilian workmen at the Kalaikunda Base who are 296 in number, are members of registered trade unions being the petitioner and the respondent Nos. 5 and 6. Although, he submitted that the first proviso to the 1957 Rules shall not apply to the facts of this case, he could not advance any cogent reason in support of such submission. However, to be fair to him, he left it to the Court to pass an appropriate order.

6. It is not in dispute that all the civilian workmen at the Kalaikunda Base are members of registered trade unions. In the case of Union of India and Another v. M.T.S.S.D Workers Union and Others AIR 1988 SC 633: (1988) 1 SCC 640 : LNIND 1988 SC 58. Rules 39, 41 and 42 of the 1957 Rules came up for follows:-

"39. Number of members. - The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and classes of workmen engaged in, and to the section, shops or departments of the establishment:

Provided that the total number of members shall not exceed twenty:

Provided further that the number of

representatives of the workmen shall not be less than the number of representatives of the employer.

41. Consultation with trade unions.(1) Where any workmen of an establishment are members of a registered trade union the employer shall ask the union to inform him in writing-

- (a) How many of the workmen are members of the union;

and

 - (b) How their membership is distributed among the sections, shops or departments of the establishment.
- (2) Where an employer has reason to believe that the information furnished to him under sub-rule (1) by any trade union is false, he may, after informing the union, refer the matter to the Assistant Labour Commissioner (Central) concerned for his decision: and the Assistant Labour Commissioner (Central), after hearing the parties, shall decide the matter and his decision shall be final.”

7. It was argued on behalf of the Union of India that Rule 39 talks of the number of members to constitute a Works Committee and it has been provided that the number should be fixed so as to ensure that representation could be made in the Committee of workers engaged in that it was because of this that the management chose to distribute the constituencies in such a manner that there may be representatives in the Works Committee of different sections and departments of the establishment. However, this argument was negated by the Hon'ble Supreme Court of India observing that it is clear that Rule 39 does not talk of distribution of constituencies.

8. As regards Rule 42, the Hon'ble Supreme Court observed that because of the first ,proviso to the

said Rule, where more than half of the workmen are members of a Trade Union or any one of the Unions, no division of constituency will be made. Where in an industry or an establishment the majority of the workers are in one union or the other, the distribution as provided in Rule 42 will not be necessary and it will only be one constituency.

The Hon'ble Court observed that the scheme of Rule 42 clearly goes to show where there is any registered trade union(s) representing majority of workers, the question of distribution of constituency does not arise. The Hon'ble Court finally observed in Paragraph 12 of the judgment as follows:-

“It is therefore clear that the scheme of these Rules for constitution of Works Committees clearly provide: (a) where there is a registered trade union having more than 50 per cent membership of the workers in that establishment the total number of members of the Works Committee will be elected without distribution of any constituencies:

- (b) If in an industry no trade union registered under the Trade Unions Act represents more than 50 per cent of the members then only the election will be held in two constituencies, one from the members of the registered trade union or unions and the other from non-members of the trade unions and it is only in constituency into department, section or shed (sic shop). This clearly indicates that there may be a situation in an particular establishment where some section may have no membership of any trade union at all whereas in other sections there may be membership of trade unions then if under Rule 42 it has to divide in two constituencies that is members of the registered trade union and non-members. It may further sub-divide in order to

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provide for representation to any section of workmen who have no representation in any trade union at all. It is therefore clear that when there is a registered trade union in an establishment having more than 50 per cent membership this exercise under Rule 43 is futile and is not called for as in this case as admittedly the respondent union's membership is more than 50 per cent. The distribution of constituencies under Rule 42 is not contemplated and therefore there is no occasion for Rule 43 or proviso therein to come into operation. In this view of the matter, in our opinion, the judgment of the High Court is correct and we see no reason to interfere with it. The appeal is therefore dismissed. In the Circumstances of the case, parties are directed to bear their own costs."

9. The law has, thus, been clearly laid down by the Hon'ble Supreme Court. As in the present case, all the civilian workmen at the Kalaikunda are members of registered trade unions, no question

of distribution/division of constituencies arise. The impugned notice is contrary to Rule 42 of the 1957, Rules and also violative of the law laid down by the Hon'ble Supreme Court in the case of Union of India and Another v. M.T.S.S.D Workers' Union and Others (supra). The notice is set aside. A fresh notice shall be issued by the authorities strictly adhering to Rule 42 of the 1957 Rules treating Kalaikunda as one constituency. It is desirable that the process of election of the Works Committee be completed at an early date and preferably by the middle of January, 2019. The Works Committee has an important role to play in preserving amicable relation-ship between the employer and the workmen and in promoting industrial peace. -'

10. Since I have not called for affidavits the allegations contained in the writ petition are deemed not to be admitted by the respondents.

11. W.P. No. 22394 (W) of 2018 is accordingly disposed of.■

Petition disposed of.

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