



ROLE OF REPRESENTATIVES OF THE PEOPLE In Indian democracy

India became a socialistic, secular, democratic republic based on the principles of justice, liberty, equality and fraternity after attaining independence. Parliament being the sanctum sanatorium in a democracy, it is up to the elected representatives of the people to maintain its sanctity and take care of the problems of the people. Advantage of a democratic rule is that it is the government of the people that allows representation and rule for the people. Any citizen can be a representative and serve the nation.

Politics has become a lucrative business. Independent India saw mushrooming of many regional parties with different ideologies. When no single party has got a clear majority in the Parliament, political parties with different ideologies came to power under coalition politics and consequently Indian politics has become a story of alliances, and no constructive debate was possible in the Parliament. Washout of business at the cost of ex-chequer became the order of the day. Instead of a constructive debate public is seeing only walkout from the Parliament. It was observed that the rules on slogan shouting, displaying of poster and obstructing proceedings were blatantly flouted.

Creating ruckus inside the Parliament has become the practice that has surprised many right thinking people in the country, as according to them, Parliament or legislature is functioning at the whims and fancies of few political leaders who issue whips to their members from time to time.

Recently when the Aviation Minister questioned the working of the national carrier Air India on the lack of commitment on their part a retort came from a Senior Air India Pilot that the political class in general have very low credibility. "It hurt many of us, as we just saw the commitment shown by the political class, As a committed employee of Air India, an honest tax payer and a patriotic citizen I am constrained to point out that both the recent Lokha Sabha and Rajya Sabha were a complete washout due to frequent disruption by your colleagues in Parliament" he said. "Ninety two hours of working were lost in Lok Sabha alone and hardly any business was transacted. In fact it was observed that the rules on slogan shouting displaying posters and obstructing proceedings were blatantly flaunted" he added.

The role of an elected representative is to

debate and discuss on any issue concerning the people who elected them. But in view of the Anti-defection law the legislature has to follow the dictum of his political master failing which has could even lose his seat. Democracy suffered its worst days recently in one of the southern state when pandemonium broke out in the assembly after the speaker disallowed secret ballot sensing that the MLA's would vote against the newly elected Chief Minister who was asked to prove his majority in the Assembly. According to report these MLA's were held in hostage by their leader alleged to be against their will.

Representatives of the people forget that they are elected to the Parliament/Assembly to make law and take care of the problems of the people. The judiciary to adjudicate and evaluate the law and the bureaucrats to implement it. Whereas seldom the bureaucrats are allowed to function with dedication and without interferences. Even after seven decades of attaining independence the country is still following many colonial rules, some of which have become infructuous or irrelevant now. The attempt to compile various laws into simple one has also not fructified yet. The administrative practice now prevailing makes the bureaucrats to be the servants of their political masters with whom they are bound to show their allegiance. India with its vibrant economy could not contain corruption due to the political system. Corruption occurs when the political power is used to pursue wealth.

There were many stalwarts who decorated the Indian Parliament in the past with their maturity, constructive debate and eloquence irrespective of party affiliation. The first three Lok Sabhas saw 125 to 140 sittings as against 60 to 70 sittings in the last four Lok Sabhas of which most of the timings were lost due to disruptions. The situation prevailing in the country now looks like that we are slipping back to the medieval age. Every representative of the people should understand that when the literacy rate is improving in the country considerably unlike in the past, people should be aware of their responsibility and what people who elected them expect from them. Whether it is on the question

of employment, development of roads in their village, on agriculture, irrigation, power health education etc and many more, or else their fate will be decided by the voters.

Any failure on the part of the legislature makes the judiciary to step in, in the interest of the common man, and make or amend the law as in the case of laws protecting women from sexual harassment, electoral reforms etc, though it is the function of the legislature instead of allowing judicial over reach. The Supreme Court has already considered it as right of the citizen to recall or refrain from voting to a candidate and accordingly has given the option to the voters through exercising NOTA. As such those non performers in the Parliament should note that they can be thrown out during the next election as the popular frustration can be intense. The divine right theory as being practiced in the past is now become irrelevant as under the Indian constitution any citizen without criminal record can be a representative of the people.

Article 19 of the constitution guarantees freedom of speech and expression which is often misused in the name of democracy. Freedom of expression guaranteed under the constitution cannot be at the cost of shutting down the Parliament. One of the core idea underlying in our constitution is that of the legislature are elected by the people to see the smooth functioning of the government.

Both the government and opposition must realize that their primary duty is to legislate and provide succor to the common man instead of opposing whatever reform is brought in by the government. Primary onus of running the Parliament vests with the government. But the opposition parties also should have equal responsibility in guiding the government in a constructive way. Parliament is the Supreme legislative body in the country embodying the collective will and wisdom of the people in a democracy and the people also determine and shape the destiny of the nation through their elected representatives. ■

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

INDUSTRY WIDE STRIKE ON 28TH FEBRUARY, 2017 TOTAL A GRAND SHOW OF UNITY AND SOLIDARITY BANKING INDUSTRY COMES TO A STAND STILL

Over one million employees and officers all over the country struck work on 28th February 2017 as a mark of protest against the ill-advised moves of the Government in regard to failure to recover large corporate NPA's, moves to privatize the public sector banks, delay in the commencement of negotiations on salary revision, not resolving the various legitimate demands of the Bank Employees and Officers long pending with the Indian Banks Association. The banks have virtually closed their shutters and no employees and officers turned to the work. The participation in the strike was enmasse. The United Forum of Bank Unions had served the strike notice after having exhausted all the opportunities available to find an amicable solution through the process of negotiation. The Government failed to take cognizance of the frustration of the workforce in the banking industry and have been making all out attempts to privatize the public sector banks and to reduce the existing number of Public Sector Banks by denying the required capital to them. The UFBU wanted that stringent measures should be adopted for recovery of NPA's from the large scale corporate units so that the capital position of the banks can be strengthened. Unfortunately, the Government has not come out with any proposal for stringent recovery procedure.

2. The other issues raised by UFBU included the immediate commencement of the negotiation on salary revision. The IBA is delaying the commencement of talks on the grounds that all the banks have not submitted the mandate to them for the commencement of the negotiations.

There are number of issues pending with them in regard to the last salary revision including the improvement in the superannuation benefits to the

Pensioners and Family Pensioners. The UFBU was, hence, left with no other option than to proceed with the strike action. The last minute efforts on the part of the Central Labor Commissioner to intervene in the matter failed since, they were not in a position to find an amicable solution due to the failure on the part of Government and IBA to come out with any relief on the issues raised by the United Forum of Bank Unions.

3. The reports received from all circles indicates that all over the country massive dharanas, demonstrations, rallies and processions were taken by the members and the leaders of the constituents of the UFBU who addressed mammoth gatherings all over the country. The metro cities, the State Capitals, the District Head Quarters, the Towns and Tahsils saw a huge gathering of the members of during the demonstrations. There was a wide coverage by the media both electronic and print media about the massive success of the strike call.

4. The leaders from the affiliates of the Federation took lead in organizing the strike in a grand manner all over the country. The affiliates have sent reports about the successful conduct of the demonstrations and rallies in front of the Head Offices, Zonal Offices, Branches etc., all over the country. The members were advised to be in readiness for greater struggle in case the Government and IBA fails to take the protest strike action and its message in right spirit.

5. It is just a beginning and the members have to go a long way. They may have to escalate the agitation in order to make the Government and IBA to understand the seriousness of the issues involved and to get solution to all our demands raised in the strike notice. ■

ENHANCEMENT IN GRATUITY CEILING FROM ` 10 LACS TO ` 20 LACS AMENDMENT IN INCOME TAX ACT FOR TAX FREE GRATUITY

Text of AIBOC Circular No.2017/ 12 dated 24th February, 2017.

Our members were advised vide our Circular No.2016/ 70 dated 01.12.2016 about a meeting of delegation of AIBOC with Shri Bandaru

Dattatreya, the Hon'ble Minister of State for Labour & Employment. It was also advised that apart from our other issues, the issue of enhancement in Gratuity ceiling from ` 10 lacs to Rs.20 lacs and also making it Tax-free was one of the agenda, which was discussed during the

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

meeting of more than two hours. It was advised in the Circular that we were assured that a tripartite meeting required to be held between the Central/ State Governments, Employer and Employees' Organisations shall be held at the earliest to resolve the issues. The seriousness with which we had been following up the issue is evident from the fact that our Confederation insisted for inclusion of this issue in strike notice of 28th February, 2017.

We are happy to inform you that the above tripartite meeting of all the stake holders was held on 23.02.2017 and an agreement has emerged to enhance the Gratuity ceiling from ` 10 lacs to ` 20 lacs. It is also reported by the officials that the Hon'ble Minister has also agreed to consider the reduction in present minimum 5 years service criteria for Gratuity payment. The Hon'ble Minister is also known to have informed the members attending the meeting that the Bill to amend the Gratuity level may also have a mechanism to ensure automatic revision of Gratuity ceiling as and when the Pay Commission

suggests the similar revision for Central Government employees.

However, the provision of Tax exemption on Gratuity falls under Section 10 of Income Tax Act, which needs to be amended if the full Gratuity is to be made exempt from Income Tax. For a change in Gratuity provisions i.e. to enhance the Gratuity limit from ` 10 lacs to ` 20 lacs and for increasing the Tax exemption from present level of ` 10 lacs to full Gratuity, both the payment of Gratuity Act and Income Tax Act would have to be amended. Our demand, as discussed with the Hon'ble Minister and the officials of the Department, was to give back-dated effect of the amendments from 1st January, 2016 i.e. from the date of implementation of 7th Central Pay Commission. No assurance to this effect is known to have been made by the Hon'ble Minister. We shall try to meet the Hon'ble Minister/ Ministry officials once again for follow up of our demand of retrospective implementation of the enhancement in Gratuity ceiling as well as Tax-free Gratuity. We shall keep you apprised of the developments. ■

STAFF HOUSING LOAN ELIGIBILITY CRITERIA

Management has acceded to the long pending demand of reducing the eligibility criteria from 5 years to 2 years for availing housing loan by the members, which will benefit many of the young

probationary officers and employees. The Corporate Centre have issued necessary instructions vide e-Circular No. CDO/P&HRD-IR/95/2016-17 dated 17.02.2017 in this regard. ■

ANNUAL GENERAL BODY MEETING OF SBIOA BHUBANESWAR

SBIOA, BHUBANESWAR Celebrated their 39th Annual General Body Meeting on 12th February 2017 (at Convention Centre Auditorium, KIIT Campus – 6, Patia, Bhubaneswar. The Circle CGM, Shri B.V.G. Reddy inaugurated the meeting by lighting lamp and offering flowers to the founder leaders of the Circle Association. In his inaugural speech he acknowledged the contributions of the employees and officers of the circle in bettering the record of the circle in many parameters and opined that the most valuable assets of the Bank is Human Resources which is not on the balance sheet. GM (Network-I) of the Circle expressed his total confidence on the IR mechanism and commitment of the employees to the Bank. Bank and its employees must stand by each other in all challenges for better result to the employee and the organization. There have to be ownership on both the sides.

2. Shri JB. Mohapatra, the General Secretary of the

SBISA, Bhubaneswar congratulated the Association and its members for electing all committees unanimously in a rare show of solidarity.

3. Comrade D.T. Franco Rajendra Dev, General Secretary, SBIOA, Chennai Circle gave the keynote address on the occasion. In his inimitable style linked the contemporary political ambience and the trade union scenario and justified the need to build up a workers' movement to tackle the inequalities and the exploitations of the workplace and the society as they are dependent on each other.

4. The Honourable Minister of State (Independent Charge) (Petroleum and Natural Gas) highlighted the role of SBI in Jan Dhan Yojana and Demonetisation efforts of the Government. Even the retired employees and officers of the Bank worked long hours for its successful implementation. In view of such work it is difficult for any government to think

WORK IS WORSHIP , DO YOUR DUTY

about privatization of the Banks in next fifty years. Banks are economic change agents for the poorer and deprived sections of the society as well as for the economically backward areas. He requested the state bank officers to finance more under the Mudra Scheme to the eligible people for economic prosperity of the state as well as improving employment. As Bankers are professionally equipped in assessing the projects it is expected that finances through Banking channel will bring about better utilization of economic resources. The youth of Odisha has better intellectual ability and it can be honed by providing facility to them for higher

education.

5. Earlier Shri Sambit Misra, General Secretary of SBIOA, Bhubaneswar, introduced the guests. Shri Bibekananda Das presided over the meeting.

The “Officers’ Cause” congratulates:

COM. BIBEKANANDA DAS	PRESIDENT
COM. SAMBIT MISRA	GENERAL SECRETARY
COM. SHRI R.J.S. PRASAD	SECRETARY, FINANCE

and other newly elected office-bearers and wish them all success in carrying out their assignments. ■

Organisational Developments

26TH GENERAL BODY MEETING OF SBIOA (MUMBAI CIRCLE)

Mumbai Circle Association held its 26th General Body Meeting on 25th February, 2017 at the spacious lawns of Golden leaf, Karve Nagar, Pune.

2. The function began with Ganesh Vandana followed by Patriotic songs such as ‘Ye Mere Vatan Ke Logo’ and ‘Ye Desh Hai Veeron Ka’ by LHO group which mesmerised the audience with perfection flow, rhythm, depicting the wealth of talent amongst our staff.

3. The President and General Secretary of SBIOA (Mumbai Circle) Com. Anil Nare and Com. Ramkumar Sabapathy along with other office bearers invited the guests Smt. Anuradha Prabhu Desai, Lakshya Foundation, Pune, Brig. Ghosh, Commandant, Artificial Limb Centre, Pune, Shri. Deep Kumar Kapoor, DGM & CDO, Mumbai Circle, Com. Y. Sudarshan, General Secretary, AISBOF and President AIBOC; and office-bearers of other circle and affiliates. Floral tributes and garland were paid to doyen of Maratha Kingdom Sri. Chatrapathi Shivaji Maharaj and Constitution sculptor Dr. Bhimrao Ramji Ambedkar by the dignitaries. After floral tributes Com. Y. Sudarshan along with other dignitaries lighted the lamp, duly supported by Com. Damayanthi Singh.

4. Com. Waghmare, Chief Regional Secretary, SBIOA (Mumbai Circle), Pune-I Module, welcomed the esteemed guests and the huge gathering of over 2000 members.

5. The entire audience applauded when General Secretary of the Mumbai Circle Com. Ramkumar Sabapathy rose to give his inaugural address. He welcomed the guests and delegates into the historic

General Council. He also said that as a social service activity, Rs. 10.82 lakhs was collected as donation on 9.11.2016, through a single SMS to the members and the employees of SBI including award staff, who whole heartedly donated to the noble cause and is now being used for donating, electric 8 seater vehicle for passenger and 2 seater electric material carriage, to the Artificial Limb Centre Pune, this day – a Noble gesture. Kudos to all our comrades.

6. He referred to the demonetization which has caused a serious work pressure on the employees and officers working in the Banking Industry. This 26th General Body Meeting was supposed to be held on 11th and 12th November, 2016, but the Hon’ble Prime Minister Sri. Narendra Modi requested to Co-operate and open the Bank branches on 11th and 12th November, 2016 for exchange of Rs. 500/- and Rs. 1000/- SBN. Hence our Mumbai Circle Association postponed the General Body Meeting, and is being held today on 25th February, 2017, he said. The cheque favouring the manufacturer of Electronic cart was handed over to Brig. Ghosh, Commandant, Artificial Limb Centre, Pune which is doing yeomen service to physically challenged people and war victims.

8. Thereafter Smt. Anuradha Prabhu Desai rose to speak amidst thunderous applause:

Kargil - The guns have been quiet for more than a decade now but there is one woman whose voice echoes through the Valley and that is - Anuradha Prabhu Desai.

“Thodi si mein wife hoon, thodi si mein nani hoon, lekin pehle Hindustani hoon,” says 57-year-old

LET CUSTOMER SERVICE BE OUR MOTTO

Anuradha Prabhudesai, an ex-banker, whose story dates back to August 2004 when she was in Ladakh on a holiday, with her husband and friends. Anuradha was ambling along the roads of Drass, with the locals and the soldiers in a war-ravaged town, when she first spotted an army caption that read, 'I only regret that I have but one life to lay down for the country.'

Intrigued, she stopped an army Khansama who, in turn, unassumingly asked her "aapko pata nahi, yahan toh haazerein laashein giri thi." That was Anuradha's moment of introspection. She pondered about her comfortable life back in Mumbai, the brief news about Kargil (in 1999) and the pseudo patriotism she wore in her heart. Moved by what she heard, Anuradha, along with her friend Vikram Joshi, took an oath at Vijay Stambh (War Memorial in Kargil) to bring to light the sacrifices made by the Kargil soldiers and visit Kargil for the next five years. Back from the trip, Anuradha wrote several letters to the army officials seeking permission to visit them during Raksha Bandhan. Thus began her journey from a 'Banker to Bunker'. Driving through rough roads from Manali to Sarchu and finally into Leh, it all seemed worth it when, after tying rakhis and distributing homemade food.

Anuradha has visited Kargil 14 times in the last ten years, and her work has been cherished by the army. "As Indians, we do not know the names of the Paramveer awardees of our country but we know the names of new-born star kids, film award winners etc. Where are we heading as a nation," said Anuradha, recalling the stories of many Padma Awardees and gallant soldiers who laid their lives fighting for the country. She is the only civilian and only woman with access to all the regiments in the Kargil region.

Subsequently, Anuradha formed Lakshya Foundation with an objective to instill a spirit of patriotism among the youth. In her journey so far, she has travelled to Ladakh with 450 civilians giving them first-hand experience of army life, delivered 105 lectures across schools and arranged get-togethers of army wives and war widows.

In her inspiring speech which kept the entire audience spell bound, she spoke about her work for the soldiers through the foundation. Their first activity was Diwali with Soldiers— an initiative to distribute sweets to the families of the soldiers. "Aaj kal insaniyat ki kami hai. It's all about me, my family, my job," she says voicing her pain. Sharing several anecdotes of soldiers' lives who stay put at an altitude of 18,000 ft in bone-

chilling conditions for several weeks, Anuradha urges, "If you find a soldier, give him respect and love. That's all they need."

The 26th July, Army Day, is incomplete without Anuradha and Lakshya Foundation. Leading two lives— one of a middle-class, hard-working wife and another of a woman who is a beacon of hope for our soldiers, "I wanted to work for my country," she says, humbly highlighting.

She believes her mission will be accomplished when every Indian dedicates five years of his life to the country. For Anuradha, it would mean a truly patriotic India.

She is also a versatile actor who has acted in popular T.V Serial Malgudi Days written by Sri.R.K.Narayan. She complimented the Circle Association and said that despite long 3 days Holidays in the Banking Industry, she was amazed to see such a huge gathering of more than 2000 members from the entire circle.

Kudos to Com. Ramkumar Sabapathy and Com.Anil Nare and team Mumbai for introducing to the audience a rare personality who can be a leading light to all our lives.

9. Com.Sudarshan, General Secretary, All India State Bank Officers' Federation, addressing the gathering dealt at length in regard to the various phases of the next bipartite settlement i.e., 11th Bipartite Settlement which is due from 01.11.2017. He also referred to the developments in regard to the superannuation benefits in respect of the pensioners and family pensioners which are under negotiation with the IBA in particular the 100% D.A. neutralization to pre 2002 retirees, improvements in family pension etc. He conveyed to the members the efforts made by the Federation for enhancement of gratuity on par with the Central Government employees, the need to demand the restoration of old pension scheme in view of the disadvantages of the NPS etc.

10. He referred to the present challenges before the bank, in particular the issue of merger of Associate Banks and the efforts of the Federation to ensure a fair treatment to the workforce in the bank.

11. Sri. Deep Kumar Kapoor, Dy.General Manager and Circle Development Officer of Mumbai Circle expressed his happiness over the large gathering.

BE TRUTHFUL, BE FEARLESS

He gave full details of the efforts of the Bank on all areas of concern, be it deposits and advances as well as reducing NPAs etc. He wished the conference all the best.

12.Com.Anil Gamre, General Secretary, SEWA expressed that Pune city has contributed a lot in nation building. He also said that, stalwarts in Indian Independence Movement and social reformer Mahatma Phule hails from this place.

13.Com.Jayaprakash Khatri, General Secretary, SBSU, Mumbai Circle wished the 26th General Body

Meeting and its business session all success.

14.Com.Anil Nare in his presidential address expressed happiness at the assembly of large number of members from all over Maharashtra and Goa. He proposed vote of thanks to all the dignitaries on the dais and guests. The programme was beautifully compered by Com.Asha Medsikar & Com.Sandra Pore.

"Officers' Cause" Congratulates to Com.Anil Nare, Com.Ramkumar Sabhpathy and their entire team Mumbai – 'Amchi Mumbai'. ■

SBIOA(K) TUMKUR ZONAL CONFERENCE

The Zonal Conference of SBIOA(K) was held on 19th Feb,2017 at Sri Shivakumara Swamiji Sabhangana at Tumkur. Com.Rajender Kittur extended a warm welcome to all dignitaries. The dignitaries who occupied the dais included Sri. Sripathi, representating DGM of Bangalore Zone-2, Sri.S.Dinesh, Regional Manager, Com.Y.Sudarshan General Secretary, AISBOF, President AIBOC,Com.S.K.Srinivas, President SBIOA(K) Com.Nandakishore M.Malkhedkar, General Secretary SBIOA(K) and other office-bearers.

The dignitaries lighted the lamp to signify the commencement of the programme.

Shri.K.N.N.Prasad, the General Secretary of the SBSU(K) speaking on the occasion referred to the challenges that are ahead of the organization.

Shri.Sripathi, the representative of the Management wished the conference all success and conveyed the greetings from DGM of the Zone. He complimented the activities of the Association and Federation and wished the conference a grand success. He also assured the participation of the senior members in the strike.

Sri.Dinesh.S, Regional Manager was happy about the concern of the Association in the banks business and expressed that he is feeling that he is taking

part in the Preview meetings of the region. He stated that the officers spent more than 80% of their time in the bank and the bank should ensure that they should spend happily their time in the bank. He was happy that targets are achieved and desired that the officers should keep themselves fit. He wished the conference all success.

Com.Y.Sudarshan, General Secretary, AISBOF and President AIBOC was happy to note the camaraderie prevailing in the conference where the representatives of the management, staff union, sewa, and the large number of ladies participation is a happy situation. The officer's movement is bound to reach greater heights and glory in the days to come.

Com.NandaKishore, General Secretary of the Circle Association in his keynote address elaborated the present position in the circle and also the great contribution made by the Association in ensuring success of the action programme initiated by the Federation. Thereafter, Com.Sathyanarayana, Regional Secretary of Bangalore Zone-1, Com.Rammohan, Regional Secretary of Hubali Zone, extended their greetings to the conference.

10. The following dignitaries were felicitated on this occasion, Com.D.B.Sawant, Former Regional Secretary, SBIOA(K), Prof. K.Siddappa and Com.S.L.Kulkarni, Treasurer, AISBOF.■

Banking

A CENTER OF EXCELLANCE FOR EMPLOYEES

State Bank of India, has taken the lead to set up a Centre of Excellence (CoE) for training employees. The bank has set up the CoE keeping in mind of its employees and also to be of service to

other public sector enterprises and banks. The COE has been set up by the SBI Foundation. Explaining the rationale for setting up the CoE in Bengaluru, SBI Chairman Smt. Arundhati Bhattacharya said: "At

OUR LIFE IS WHAT OUR THOUGHTS MAKE IT

this point, this will be the only centre –Bengaluru has a lot of experts who can give us the right kind of inputs to get this centre moving in the right way and, thereafter, we will see how it goes.” The centre initially will be ‘training the trainer’ and it is expected to create the training modules or programmes. “Similarly, with other banks or public sector enterprises we will train their trainers and they in turn will train their staff at their banks; so they will not have to be brought here.” Said the Chairman. CoE has not set any target for itself. “We are not taking a number as target. The target is basically to try and do things better ourselves. Ensure that every one of our employees is fully trained and therefore fully integrated,” SBI is planning to help Canara Bank and Central Bank of India train their staff. “We are

trying to work with various other banks. We are talking to them on how to train their staff,” said the Chairman.

As for Central Bank of India, the training is for pan – India operations, “Yes. We will share our knowledge with them, see how it goes and then they see how it goes and then take it further because this is the first time we are starting all of this. Obviously, it will take a little time for us to really get it going,” she added. With regard to funds, Chairman said: “SBI is required to use or spend 1 percent of its profits for CSR activities. So, whatever the net profit of the bank, 1 percent of that gets used the next year. Usually it exceeds, you see the past trends, it has exceeded 1 percent. ■

Source: Business Line, Dt-1.3.17

Article

POWER OF LABOUR COURT/INDUSTRIAL TRIBUNAL UNDER INDUSTRIAL DISPUTES ACT, 1947

A Bus Conductor had allowed 25 passengers to travel in the bus without ticket. A disciplinary proceeding was initiated against the Conductor on the basis of report of Assistant Traffic Inspector. Workman was held guilty of the charges. He was dismissed from services. He raised an industrial dispute. Labour Court held the enquiry to be fair and proper, After so holding, the Labour Court observed that it would be appropriate to give a chance to the workman for improvement in future. Labour Court recorded the conclusion that workman committed illegality but fact of corruption is not proved. Labour Court awarded reinstatement with 50% back wages by stopping two annual increments without any cumulative effect. The Corporation assailed the Award in writ petition. The High Court concurred with the Award relating to reinstatement but as far as the grant of back wages, it reduced the same to 25%. Management challenged the orders of the High Court and that of the Labour Court before the Supreme Court of India by filing appeal. The Supreme Court observed that the primary and core duty of a conductor is to collect fare and render true and correct account which is the mainstay and centerpiece of his work and faith reposed on him by the employer. The Lower Courts have been guided by the perception that there was no recovery of money and, therefore, there was no corruption or embezzlement but it fails to notice the nature of duty and obligation of a conductor. While exercising its power under the Industrial Disputes Act, 1947, it is obligatory on to record satisfaction that the order of dismissal was not justified and

thereafter to proceed to award a lesser punishment in lieu of dismissal or discharge. The Conductor holds the post of trust under the Corporation. An employee holding the post that requires trust and confidence is expected to behave with discipline, loyalty and also maintain the fiscal sanctity. He should not allow anything to creep in which he would make him a person of questionable integrity. When the Charges were treated to be established, neither the Labour Court nor the High Court should have been guided by the sense of mercy and direct reinstatement. The conduct of the conductor would clearly show that the factum of personal gain was established. The non-recovery of the amount does not mean that there was no personal gain to the conductor or concealing of corruption for personal gains by lodging a report with the police regarding misplacing of waybill by the employee. Charges have been proved in the enquiry. Labour Court has not really dislodged that finding. Lodging of an FIR at the police station regarding misplacing of way bill by him manifestly shows his conduct of involvement for personal gain and that the eventual act was to conceal the corruption which was rooted in the personal gain. It is not the quantum *per se* but the breach of trust with reference to duty and obligation of the employee that must be the edifice of consideration for imposition of punishment. The reasoning of the Labour Court as well as the High Court, if allowed, would raise a logic as to whether the Labour Court has been swayed away by the concept “forgiveness is the economy of the heart” and dominantly affected by the conception “mercy among the virtues is like the moon among the stars” totally remaining oblivious to the basic principle that

LET US BUILD A STRONG AND SELF RELIANT INDIA

when a workman shatters the "institutional trust" and his act has the potentiality to corrode the faith and belief of the employer, does he deserve any leniency. The delinquent employee has harboured the notion that when the cancerous growth has affected the system, he can further allow it to grow by covering it like an octopus, with its tentacles disallowing any kind of surgical operation or

treatment so that the lesion continues. Such a situation does not even remotely commend tiny leniency. Consequently, appeal is allowed. Impugned award passed by the Labour Court and order of the High Court is set aside and order of dismissal imposed by the corporation is restored.

By...H.L. Kumar, Advocate
Source: FLR 2017 (152)

Judicial Verdict

2016-IV-LLJ-566 (HP)
LNIND 2016 HP 1144
IN THE HIGH COURT OF HIMACHAL PRADESH
Present:

Hon' ble Mr. Justice Ajay Mohan Goel
C.W.P. No. 973 of 2009
Himachal Pradesh State Electricity Board
and Another
Versus
Mohan Singh and Another

1st July, 2016
..... Petitioners
... Respondents

Termination — Illegal Termination — Re-instatement - Industrial Disputes Act, 1947 (Act 1947), Sections 25G and 25H- Labour Court held that termination of services of claimant/workman by State Electricity Board violative of provisions of Act 1947 and certified Standing Orders framed by Board and thus, claimant entitled to be reinstated in same capacity, but without continuity of service and back wages - Petition by Board - Whether award passed by Labour Court for reinstatement of workman justified - Held, persons engaged by Board after engagement of claimant continued after disengagement of claimant, same would show that Board did not follow principle of 'first come last go' - Board was not able to place material on record to substantiate its case that claimant abandoned job on his own - No infirmity with bindings returned by Labour Court regarding violation of provisions of Section 25H of Act 1947 by Board- Records would prove that claimant disengaged/terminated without complying with provisions of Section 25G of Act 1947 and Board engaged fresh hand without first giving opportunity to claimant to be re-engaged — Relief granted by Labour Court reasonable, as workman was only held to be reinstated and no relief of continuity of service or back wages given by Labour Court - Petition dismissed.

ORAL

Mr. AJAY MOHAN GOEL, J

By way of the present writ petition, the petitioners have prayed for quashing of award dated 26.11.2008 passed by the Presiding Judge, Labour Court-cum-Industrial Tribunal, Dharamshala, H.P. in Reference No. 385/2002.

2. Brief facts of the case necessary for adjudication of the present case are that a Reference was received by the Labour Court- cum-Industrial Tribunal, Dharamshala, from the appropriate Government, as to whether the claimant had been illegally terminated w.e.f. 21.10.1999 as a Beldar by the

Executive Engineer, HPSEB, Jogidner Nagar Division in violation of the provisions of Section 25-G and Section 25-H of the Industrial Disputes Act and whether the claimant was entitled for any relief and compensation?

3. On notice, the claimant filed his statement of claim, in which it was stated that he was engaged as a daily waged Beldar by the Board on muster rolls basis on 25.02. 1999. He served as such till 20.10.1999. His services were terminated on 21. 10. 1999. According to the claimant, during the period of his employment, he was given artificial breaks of 305 days by the Board from 25.02.1999 to 20. 10. 1999. These artificial breaks were given to him without any reason and according to the workman, he was entitled to the

DUTY FIRST, RIGHT NEXT

benefit of continuity of service as per the provisions of Section 25-B of the Industrial Disputes Act. According to him, the respondent/Board had violated the provisions of Clause 14(2) of the HPSEB Establishment Standing Orders while dispensing with the services of the workman, which Standing Orders were framed under the Industrial Employment (Standing Orders) Act, 1946. No inquiry was conducted before retrenching him and the Board had also not followed the principle of 'last come first go' as envisaged under Section 25-G of the Industrial Disputes Act. As per the claimant, other workers, namely, Man Singh son of Kalyan Singh, Prithi Chand son of Bhoop Singh, Safi Mohammad son of Hamid Ahmed, Durga Dash son of Kalu Ram etc. who were junior to him and were retained in service at the time of his retrenchment. He also alleged violation of the provisions of Section 25-H and Section 25-N of the Industrial Disputes Act.

4. In reply filed to the statement of claim, the Board admitted that the claimant was engaged as daily wage Beldar on 25.02.1999 but vehemently refuted the allegation of workman that he was given factional breaks as alleged. According to the Board, the claimant worked only for a period of 60 days from 25.02.1999 to 20.10.1999 and used to remain absent from duty and ultimately he abandoned the job after 20.10.1999. As per the Board, in this view of the matter, the workman was neither charge-sheeted nor he was paid any compensation. It was further stated that in view of the willful absence of claimant from the work from time to time, his case was not covered by the provisions of Section 25-B of the Industrial Disputes Act and keeping in view the fact that the claimant had not worked for 90 days during the period he remained in the employment of the Board, his name was not included in the list of temporary workmen. It was further the case of the Board that as the claimant had abandoned the job on his own, there was no question of complying with the principle of 'last come first go' nor it could be said that the Board had breached the provisions of Clause 14(2) of the Standing Orders.

5. On the basis of the pleadings of the parties, learned Labour Court framed the following issues:-

1. Whether the termination of services of the petitioner by the respondent w.e.f. 21.10.1999 is violative of the provisions of the I.D. Act, 1947 and certified Standing Orders framed by State Electricity Board? . . . OPP

2. Whether the petition is not maintainable? ... OPR

3. Whether the petition is barred by time? ... OPR

4. Whether the petitioner is estopped from filing the petition due to his act and conduct? ... OPR

5. Relief.

6. On the basis of material placed on record by the parties, the issues so framed by the learned Labour Court were answered as under:-

Issue No. 1 : Yes

Issue No. 2 : No

Issue No. 3 : No

Issue No. 4 : No

Relief : As per operative part of the Award, the petition is partly allowed.

7. Learned Labour Court held that in his statement as PW-1 the claimant maintained that he was engaged as Beldar and he worked as such from 25.02.1999 to 20.10.1999. His services were dispensed with on 21.10.1999 without any notice or chargesheet, whereas persons junior to him were retained. Learned Labour Court held that seniority issued by the Additional Superintending Engineer, Electrical Division HPSEB, Jogindner Nagar, vide letter dated 05.09.2002 Ext. PA demonstrated that Man Singh, Prithi Chand, Safi Mohammad, Durga Dass and Gian Chand, whose names figure at serial numbers 112B, 113, 114, 115 and 116 had been engaged between 01.05.1999 to 11.10.1999 i.e. after the date of engagement of the claimant. On the said basis, learned Labour Court held that the stand taken by the Board witness Mr. V.S. Thakur to the effect that the said persons were senior to the claimant was incorrect and false. On these basis, learned Labour Court held that the Board had in fact violated the provisions of Section 25-G of the Industrial Disputes Act. It further held that the Board had also violated the provisions of Section 25-H of the Industrial Disputes Act because no material had been produced on record by the Board to substantiate its contention that tile claimant had abandoned the job on his own.

8. The learned Labour Court thus held that in the present case the Board has violated the provisions

of Section 25-G and Section 25-H of the Industrial Disputes Act and it partially allowed the claim petition by holding the claimant to be entitled to be reinstated in the same capacity as in which he was working at the time of retrenchment. The learned Labour Court further held that the claimant was not entitled to continuity of service nor he was held entitled to back wages.

9. Feeling aggrieved by the judgment passed by the learned Labour Court, the petitioner/Board has filed the present writ petition.

10. I have heard learned counsel for the parties and have also gone through the record of the case.

11. The case of the claimant to the effect that the Board had violated the provisions of Section 25-G of the Industrial Disputes Act is based on Ext. PA, which is the seniority list issued by the Additional Superintending Engineer, Electrical Division HPSEB Joginder Nagar vide letter dated 05.09.2002. As per the said seniority list, as is evident from the award passed by the learned Labour Court, Man Singh, Prithi Chand, Safi Mohammad, Durga Dass and Gian Chand, figure at serial numbers 112B, 113, 114, 115 and 116. The respective dates of their engagements are 01.05.1999, 21.06.1999, 21.07.1999, 21.09.1999 and 11.10.1999. On the other hand, the date of engagement of the claimant is 25.02.1999. Ext. PA thus categorically demonstrates that the persons who were engaged by the Board after the engagement of the claimant were continued after the disengagement of the claimant, meaning thereby that the Board has not followed the principle of 'first come last go'. The Board has not been able to place on record any material to substantiate its case that the claimant has abandoned the job on his own.

12. Keeping this fact in view that on one hand the Board has not been able to substantiate that the claimant has abandoned the job and on other hand it stands proved on record that persons engaged by the Board after the claimant have been retained, though the services of the claimant have been terminated, in my considered view, the findings returned by the learned Labour Court to the effect that the termination of the services of the claimant was in violation of the provisions of Section 25-G of the Industrial Disputes Act, are correct. Leaned

counsel for the petitioner could not point out as to how the said findings returned by the learned Labour Court were either perverse or were not borne out from the material produced on record.

13. Similarly, in my considered view there is no infirmity with the findings which have been returned by the learned Labour Court with regard to the violation of the provisions of Section 25-H by the Board in the present case. It stands proved on record that whereas on one hand the claim was disengaged/ terminated without complying with the provisions of Section 25-G. On the other hand the Board engaged fresh hand without first giving an opportunity to the claimant to be re-engaged.

14. Now coming to the relief which has been granted by the learned Labour Court to the claimant, it has only directed the Board to re-engage the claimant and no other relief has been granted in favour of the claimant. Keeping in view this aspect of the matter that it stands proved on record that the Board had terminated the services of the claimant while retaining the services of the persons engaged after him, clearly the provisions of Section 25-G of the Industrial Disputes were violated. Accordingly, in my considered view, there is neither any infirmity nor any infirmity with the findings resumed in this regard by the learned Labour Court. The conclusions arrived at by the learned Labour Court are on the basis of material which was placed before it by both the parties. The findings returned by the learned Labour Court to the effect that services of the claimant were terminated without complying with the provisions of Sections 25-H of the Industrial Disputes Act cannot be said to be not borne out from the material on record by the parties. Further, in my considered view, the relief which has been granted in favour of the claimant by the learned Labour Court is also a very reasonable relief as he has only been held entitled to be reinstated and no relief of continuity of service or back wages has been given to the claimant by the learned Labour Court.

15. It has been held by this Court in LPA No. 4 of 2016 titled **State of H.P. and Another v. Shankar Lal and Others** connected matters. decided on 02.01.2016, as under:-

“The awards passed by the Labour Court are based on the facts and the evidence led by

the parties. It is well settled principle of law that the Writ Court cannot sit as an Appellate Court and set aside the award made by the Labour Court, which is based on evidence and facts."

16. Thus, it is evident that as far as the awards passed by the learned Labour Courts are concerned, the finding of fact so recorded by the learned Labour Court should not be interfered until and unless the findings so returned by the learned Labour Court are perverse or not borne out from the material on record.

17. In the present case, it cannot be said that the findings returned by the learned Labour Court are either perverse or not borne out from the material on record, therefore, the same do not warrant any interference.

18. Accordingly, I concur with the award passed by the learned Labour Court and hold that there is no merit in the present writ petition and the same is accordingly dismissed, so also the pending miscellaneous application(s), if any.

Petition dismissed.

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