GOVERNMENT OF MADRAS

RECOMMENDATIONS OF INDUSTRIAL TRIBUNALS AND COURTS OF ENQUIRY

IN RESPECT OF LABOUR DISPUTES DURING THE SECOND HALF OF 1948

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LIST OF ORDERS OF GOVERNMENT ON THE RECOMMENDATIONS OF INDUSTRIAL TRIBUNALS OR ADJUDICATORS.

I

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

PRESENT :

SRI T. D. RAMAIYA PANTULU, M.A., B.L.

[Under the Industrial Disputes Act. 1947].

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE ESSOR ENGINEERING WORKS, MADRAS

and

THE WORKERS.

INTERIM AWARD.

Award in terms of the agreement.

G.O. Ms. No. 3628, Development, dated 7th July 1948.

[Labour—Disputes—Dispute between the workers and management of the Essor Engineering Works, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 1115, Development, dated 5th March 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE, GOVERNMENT OF MADRAS.

[In the matter of the dispute between the workers and the management of the Essor Engineering Works, Madras.]

INTERIM AWARD.

The Management and the Workers represented by the Madras Provincial Foundry, Smithy and General Engineering Workers' Union, agree that the period during which the three workers,

blacksmith Mohan, blower boy Annamalai and moulder Natarajan were absent, should be treated as absence from the Factory on leave with the permission of the Management. All privileges that they may be entitled to as such will be preserved. It will be treated as if there is no break of service for these workmen.

2. An interim award is passed in these terms.

Order—No. 3628, *Development, dated 7th July* 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and management of Engineering Firms and Type Foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramaiya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management for the Essor Engineering Works, Madras. The Government make the following order :—

ORDER.

Whereas an interim award of the Industrial Tribunal (Sri T. D. Ramaiya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering Firms and Type Foundries in the Province in respect of the Essor Engineering Works, Madras, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Essor Engineering Works, Madras, and the workers employed therein and directs that the said award shall come into operation on the 7th July 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering Firms and Type Foundries in the Province is accepted by Government, whichever is earlier.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

II

BEFORE THE INDUSTRIAL TRIBUNAL MATHURAI

PRESENT:

SRI C. BHAKTAVATSALU NAYUDU, B.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE DECCAN SUGAR AND ABKARI COMPANY, LIMITED, PUGALUR.

and

THE WORKERS.

Messrs. King & Patridge, Solicitors—For the Company.

Mr. S. Rangarajan, Advocate—For the Workers' Union.

Subject.—Abuse of Hamid—Additional remuneration for Rajagopal—Lay off of 105 seasonal workers—Settled by agreement between the parties.

Reinstatement of Thangavelu and Amavasai.—Held that these two workers were guilty of theft of small quantities of sugar and that unless pilfering was adequately punished, others would be emboldened to commit theft. Reinstatement refused.

Reinstatement of Ramaswami.—Held that Ramaswami was guilty of misbehaviour towards an officer and that he should not be reinstated in service.

Amenities for workers.—Held that the hospital should be improved, canteen fitted with light, a separate latrine provided for women, housing provided for workers when building materials became easily available, uniforms provided to workers who should be compulsorily supplied and free tea given to third-shift workers.

Leave.—Held that the festival holidays should be increased from four to seven days.

Recognition of the Union —Held that the company should recognize the union as soon as the workers agreed to treat, (1) watch and ward, (2) water-pump attenders, (3) scavengers, and (4) electrical wiremen as essential services and not call them out on strike.

Classification of employees.—Held that the company had three grades among skilled workers and no grading for the unskilled workers In view of the fact such of those probationers who were fit for skilled work, would be taken on the regular rolls, radical change in the classification of workers, not recommended.

Whether the workers should be paid by month.—Held that the off seasons in Pugalur Factory were short, and that the workers need not be paid monthly or provided work throughout the year.

Held further that workers in A-1 and A-2 and in the regular rolls should be paid by the month and the distinction between A-1 and A-2 should be done away with.

Compensation to seasonal workers during off season.—Held that great hardship was no doubt caused to seasonal workers when they were thrown out of employment, but that if the seasonal workers were laid off by rotation, much hardship could be avoided. *Held* also that while payment of allowances to off season workers would be embarrassing to the management, it would be inadequate to the workers' needs. *Held* it was not proper to prohibit employment of temporary workers altogether.

Safeguards for security of service.—Held that an enquiry must be held before any punishment was given and the worker should be afforded opportunity to put forward his defence.

Employment of contractors.—Recommended that the work entrusted to contractors should be minimized to the highest possible extent.

Wages and dearness allowance.—Held that the basic wage of nine annas per day was too low and awarded increase of two annas per day to all workers permanent or seasonal and whether they worked by day or by month. *Held* that the dearness allowance should be fixed at two and half annas per point in the cost of living index for every point over 112. *Held* also that the new rates of wages and dearness allowance should come into operation from 1st June 1948.

G.O. Ms No. 3666, Development, dated 9th July 1948.

[Labour—Disputes—Dispute between the workers and management of the Deccan Sugar and Abkari Company, Limited, Pugalur—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 548, Development, dated 5th February 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

SRI C. BHAKTAVATSALU NAYUDU, B.A., B.L.,
Industrial Tribunal, Madura.

INDUSTRIAL DISPUTE No. 3 OF 1948.

Between

The Deccan Sugar and Abkari Company, Limited, Pugalur,

and

The Deccan Sugar and Abkari Workers' Labour Union, Pugalur.

AWARD.

By G.O. Ms. No. 548, Development, dated 5th February 1948, the dispute between the workers and the management of the Deccan Sugar and Abkari Company, Limited, Pugalur, was referred to this Tribunal for adjudication under section 10 (1) (*c*) of the Industrial Disputes Act of 1947.

2. Before setting forth the several points of dispute between the workers and the management, I would like to advert at first to the circumstances that led up to the several points of difference between the management and the workers. The company is a registered one and is managed at present by Messrs Parry & Co., Ltd., who have also three other sugar factories under their management in various parts of South India. Messrs. Parry & Co. bought the factory at Pugalur from South India Sugar Company, Limited, in 1944 and immediately after the transfer of ownership the company appears to have agreed to continue such of the labour and staff previously employed by the South India Sugar Company, Limited. According to the company such of the skilled and unskilled workers that were being employed under the old company who were willing to take up employment under the present management were allowed to serve under the present company and ever since 1944 several changes seem to have been effected from time to time as regards the improvement of the factory, the expansion of the business and the introduction of several categories of workers. In July or August 1945, after the first crushing season was over a grading scheme was introduced with reference to 300 workers who were retained in Parry & Co.'s service. This grading scheme recognized three grades of skilled labourers. These labourers had a permanent footing and have had employment throughout the year. I may state at this stage that as in the case of most of the sugar factories the company is also running a seasonal factory though the company wants to maintain that it is non-seasonal for certain purposes as they work for more than 180 days in the year. The company also maintains that it is not possible to have work provided for all workers throughout the year as work could be found only during the crushing season and except with regard to the engineering staff who are permanent and are retained throughout the year and also those employed for repairs and renewal of machinery the company would be obliged to throw out some at least of the other employees during the season. It is stated on behalf of the workers' Union that in view of the peculiar conditions existing in and around Pugalur, sugarcane could be crushed throughout the year and therefore there would be absolutely no necessity for throwing out any of the seasonal employees during the off-season. I shall refer to this more fully when dealing with the question of dispute between the employers and the Union in regard to this matter. Suffice to say for the present that in this factory the season extends from December to the month of April in the following year and again from July to

October in each year. There is, therefore, one off-season between the month of May and July and another off-season from October to November of each year.

3. Owing to the passing of the Factories' Amendment Act in 1946, certain statutory holidays were directed to be given and the Government issued instructions to the effect that these statutory holidays should be in addition to the privileges enjoyed by custom or usage by the workers. Faced with this situation, the company introduced a discrimination between the workers that were in their employ prior to 1st December 1946 and those who entered employment subsequent to that date. In order to maintain this distinction, the company divided their employees into several rolls. The employees included in the 'A' rolls are on a permanent basis. The workers in 'A-1' rolls are monthly-rated weekly paid labourers while in 'A-2' roll are daily-rated weekly paid labourers, The workers in 'A-3' rolls are daily-rated weekly paid seasonal workers whom the company are obliged to employ only during the crushing season. Originally, there was a 'B' roll which included persons who did not have a permanent basis and this roll was subsequently converted into a class known as 'P' roll, i.e., probationers. These were persons employed subsequent to 1st December 1946 while those on the 'A' rolls are workers employed prior to 1st December 1946. From among the probationers as and when they complete probation after having worked for one year, workers are taken on a permanent basis and as they could not possibly get into the 'A' rolls they are classified under what are known as 'R' roll and 'S' roll. 'R' roll consists of persons whom the company is obliged to employ throughout the year whereas 'S' roll consists of persons who could be employed only during the season. The workers in the 'R' roll and 'S' roll are not entitled to as many privileges as regards leave, etc., as those included in the 'A' roll. The workers in 'A-1', 'A-2' and 'R' rolls are all skilled labourers, whereas there are both skilled and unskilled labourers in 'A-3' and 'S' rolls.

4. On account of these several classifications of the workers and on account of the fact that several of the employees were thrown out of employment during the off-seasons, there seems to have arisen a good deal of discontent among the workers. The present Secretary and President of the Union are of opinion that these rolls should be done away with altogether and every one should be given stabilized employment in the factory. At one time the Labour Union was not registered but even after it was registered there appear to have arisen certain difficulties in the way of recognition of the Union by the company. Even prior to the registration, the Union had addressed a communication, dated 16th June 1946. Then there was a general body meeting of the Union on 6th July 1946 when it was decided to serve a strike notice. Attempts were made to have the Union recognized but all these attempts proved futile. Demands were made from time to time by the Union

in regard to several claims of the workers even while the question of the recognition of the Union was being discussed. The company was trying to meet some of the demands made by the workers but from time to time strike notices were being sent. On 9th December 1947, a determined effort was made to recognize the Union but it was found that the Union representatives would not accept the clause in the terms for recognition to the effect that workers engaged in essential services such as watch and ward, sanitation and supply of water and electricity should not be called out in a strike with the general production workers. Finally the workers sent a demand notice, dated 12th January 1948, and in spite of best efforts to bring about reconciliation between the management and the workers nothing fruitful could be done. On the 1st February 1948, the workers resorted to a general strike and the strike could not be called off even with the intervention of the Labour Officer, Tiruchirappalli. Hence, it became necessary for the Government to refer the matter for adjudication by this Tribunal. The management filed a statement on 28th February 1948 and on the same day the Labour Union filed a statement of demands reiterating with some modifications the demands made by them in their notice to the management, dated 12th January 1948 The management filed an additional statement on 6th March 1948. One of the points in dispute is about the recognition of the Labour Union about which I have already dealt with at some length. The two other important matters about which there is dispute is regarding the wages and dearness allowance. Even as regards the classification of the employees there is dispute. While the workers desire that there should be only three categories of workers, viz., unskilled, semi-skilled and skilled workers, the management maintains that the classification in force as detailed above is the proper one and should be continued. Another matter of dispute is with regard, to provision of employment for all the workers throughout the year. There are also other small matters of difference as regards the rate of wages to be given to night-shift workers, of various kinds of leave, casual leave, sick leave and festival leave and as regards maternity leave for woman labourers. As regards providing employment for all the workers throughout the year, the Union suggests that the company should not entrust to contractors items of work such as cane unloading and feeding of the cane-carrier, fuel supply to boilers, sugar-bagging, molasses-bagging as is being done now and that all these items of work should be entrusted to some member of the Union who could get the work done by the workers themselves There are also minor questions as regards the reinstatement of Thangavelu and Amavasai and one oil-reliever worker bearing ticket No. 189. It is also stated that one worker Rajagopal is entitled to a remuneration of Rs. 120 for having worked as foreman on Rs. 120. The workers also claim that adequate medical relief should be provided, that necessary clothing should be given to the labourers and that facilities such as canteens, tiffin-sheds and sanitary arrangements should be provided for. It is further stated that provision should

be made for house accommodation and supply of free tea to second and third-shift workers. All these matters form the subject-matter of several issues which have been framed by my learned predecessor on 10th March 1948 and they are as follows :—

(1) Has the Labour Union not been recognized by the company?

(2) (*a*) Whether all the workers should be paid by the month.

(*b*) Whether for the purpose of fixing the wages, the workers can be classified into three categories : unskilled, semi-skilled and skilled as stated by the workers, or whether the classification in force as per the company's registers is the proper one.

(*c*) Whether the company is bound to provide employment for all the workers throughout the year, that is to say, even during the off-season and cannot employ temporary workers when there is excessive work

(*d*) What is the proper rate of wages for the monthly workers, daily workers, seasonal workers and probationary workers?

(*e*) What will be the reasonable scale of pay for the various categories of workers?

(*f*) What safeguards should be provided for security of service?

(*g*) What is proper rate for night-shift workers?

(6) (*a*) Can worker Thangavelu be reinstated?

(*b*) Can worker Amavasai be reinstated?

(*c*) Whether the worker ticket No. 189, oil-reliever should be reinstated?

(*d*) Whether the Assistant Engineer Mr. Srinivasa Rao should be asked to apologize to worker Shawal Hameed.

(*e*) Whether the worker Rajagopal is entitled to claim Rs. 120.

(7) Whether any additional provisions in respect of medical aid are necessary.

(8) What will be the proper rate of dearness allowance?

(9) Are any directions necessary with regard to providing clothing for the labourers?

(10) Are any directions necessary with regard to (*a*) canteens and tiffin-sheds, (*b*) sanitary arrangements, (*c*) provision of house accommodation or house-rent?

(11) Whether free tea should be supplied to second and third-shift workers.

5. The enquiry was conducted by my learned predecessor on 30th and 31st March at Bikshandarkoil. Manufacturing

Account and Profit and Loss Accounts for the years 1944-45 and 1946-47 were filed. One witness for the management and witnesses 1 to 5 for the workers were examined. Further enquiry was held by me at Tiruchirappalli on 24th to 26th May 1948 when witnesses 6 to 12 for the workers and witnesses 2 to 6 for the employers were examined. At the enquiry the management was represented by Messrs. King and Partridge while the Union was represented by Mr. S. Rangarajan, Advocate, Tiruchirappalli. Before taking up for consideration the most important items of dispute, viz., those relating to wages, dearness allowance and the classification of employees, I would at first deal with certain matters which have been disposed of by agreement between the parties and then deal with the minor items of dispute. I shall then proceed to consider the question relating to the recognition of the Union. A minor item of dispute about which there has been much insistence on the side of the workers relates to the incident, dated 18th November 1947. Much evidence has been let in on both sides, but it has become unnecessary to refer to the evidence at any length as the matter has ended in a compromise. On 18th November 1947, the workers were lifting a cast iron bend which was connecting two pieces of piping in the vapour pipe for the vacuum plants. The work was started at 10 a.m. and it was expected to be finished by 12-30 p.m when the factory closes for lunch. This work was being supervised by Srinivasa Rao, Engineer-in-charge of the workers and one Periaswami who is a mechanical supervisor in the mills. The complaint of the workers is that on the occasion Engineer Srinivasa Rao uttered the words ' Hamid ! Bloody fool Mohamodens.' These words are said to have been uttered in view of the long delay that was caused in finishing the work. On behalf of the workers the evidence of Hamid, Bheer and Koya, a Mopla, has been adduced. Periaswami and Srinivasa Rao have been examined for the management. Srinivasa Rao denied having uttered these words. It transpires from the evidence, however, that Srinivasa Rao has been in the habit of using the word ' Bloody ' in conversation while supervising in the factory. Though Srinivasa Rao might not have uttered the words as spoken to by the workers I felt there might have been some occasion for Srinivasa Rao to use the word ' Bloody ' as the work which ought to have been finished by 12-30 p.m continued for two hours more In view of the insistence of the workers for an apology from Srinivasa Rao and in view of the denial of Srinivasa Rao that he ever used the words complained of, I asked the Engineer if he had any objection to express regret if he had unconsciously used the words to the effect mentioned by the workers. The Engineer thereupon stated that he had never used the words ' Bloody fool Mohamodens ' on the occasion in question but that if he had unconsciously used any such words he felt sorry for it. In view of this expression of regret the advocate for the workers did not press the issue relating

to this unfortunate incident. This is covered by issue No. 5 (*d*). There is another matter which is covered by issue No. 6 (*e*) relating to the worker Rajagopal who has been examined as eighth witness for the workers. His contention is that in May 1946 he was asked to work as foreman on a promise of being paid Rs. 30 in addition to his salary and that though he worked till November 1946 he was paid the additional salary only for three months. There was some controversy about his being entitled to an additional remuneration of Rs. 30 for the remaining four months but this has been set at rest by the management agreeing to pay the sum of Rs. 120 claimed by Rajagopal. It has, therefore, become unnecessary to deal about this matter any further.

6. I would, at this stage, refer to a few questions which are not subject-matter of the issues, as they arose subsequent to the enquiry in March 1948. One of these questions relates to the alleged discharge of 105 workers and of taking of 110 new workers. A petition was filed in this connexion on behalf of the workers for the reinstatement of at least 40 of them as they had put in more than one year of service and were continuously employed for more than a year and half since 1st December 1946. Another question relates to the incidents which took place on 17th May 1948 when it is alleged the workmen struck work for about an hour. They were subsequently persuaded to return to work and in regard to this matter the management proposed to cut off half-a-day's wages. The President of the Union examined as the tenth witness stated before me that there was no attempt to strike on behalf of the workers, that on the other hand, there was a little confusion caused consequent on the stopping of 105 people from work and that as soon as he was appraised of it, he informed the management that he would persuade the workers to carry on the work and that in fact he did persuade the workers to resume duty. He also assured the management in my presence that he would see that no trouble arises from the labourers in future. On this assurance the management agreed to cancel their order to cut off half-a-day s wages on 17th May 1948 and they agreed to pay the wages proposed to be cut off along with the next week's wages. As regards the stopping away of 105 people from work the contention of the management has been that there has been neither a discharge nor a dismissal of the workers as is contemplated under section 33 of the Trade Disputes Act, but that 105 workers had to be laid off as the off-season had begun and there was not sufficient work to distribute among all the 215 seasonal workers in the probationary cadre. As I felt that there was something to be said in favour of each of the contentions of the managements and of the workers I thought it would be better for maintaining good feeling between the employer and the employees that they should come to some understanding as regards the 40 workers even *without* reference to the correctness or otherwise of the respective contentions put forward I am glad to state that the management accepted my suggestion and agreed to

take back 39 of the workers and give them work from 1st June 1948. A consent memorandum has been filed in the following terms :—

" Without prejudice to Union being at liberty to press issue 2 (*c*) or for the management subject to the award, to formulate roster schemes for allocating available work in future off-seasons to seasonal workers, the management will give work to the 32 of the 40 workers mentioned in the application of the Union from 1st June 1948 for the rest of the off-season now on ' P ' roll on their agreeing to confirmation on ' S ' roll. It is to be noted that several of the workers, viz., those bearing Ticket Nos. 204, 205, 206, 296, 366 and 368 have been agreed to be put on ' R ' roll on their accepting confirmation."

I have no doubt that this liberal gesture made on behalf of the management will bring about a very satisfactory state of affairs in the relationship between the employers and the employees in future in this sugar factory.

7. I shall next deal with the cases of Thangavelu, Amavasai and Ramasami who have been dismissed from service. These questions are covered by issues 6 (*a*), (*b*) and (*c*). Amavasai and Thangavelu have been examined as sixth and seventh witnesses for the workers and Ramasami as the ninth witness. The first two persons were found carrying away small quantities of sugar at the time when they left the factory, and the watchman detected this and after enquiry dismissal orders were passed. Both these persons admitted having had sugar in their possession when they left the factory premises. Amavasai states in his evidence that it is usual to take a small quantity of sugar about three spoons every night for making tea, that as he was supplying oil to the engine and his hands were fully smeared with oil he kept the sugar in his pocket and forgot to use it for his tea Thangavelu stated that at the enquiry sugar was found tied in his dhoti but somebody else might have put sugar in his dhoti. It is clear that Thangavelu has not been speaking the truth. No doubt these are cases of stealing small quantities of sugar but the quantity is not the sole matter for consideration. No worker had the right to take sugar from the factory and if such cases of pilfering are not adequately punished other workers might be emboldened to commit similar cases of theft. I do not, therefore, feel that Thangavelu and Amavasai should be reinstated. Similarly, in the case of oil-reliever Ramaswami, the offence was a trivial one. He stopped away from duty without permission. For this, the punishment was to make an entry in what is called the reprimand book. In this case Ramaswami was asked to sign in the book and refused to do so. Since he refused to sign a ticket was not given to him for entering the factory. There was some discrepancy as regards the dates According to Ramaswami, he absented himself from the 16th to 17th August and when he went to the factory on

18th August 1947 a pass or a ticket was refused to be given to him. But according to the Labour Welfare Officer Ramaswami absented himself on 7th September 1947 and when he went to the factory on 8th September 1947 he was asked to sign the reprimand book and he refused. It was pointed out on behalf of the management that the worker Ramaswami did attend the factory on 1st September 1947, 3rd September 1947, 5th September 1947 and 6th September 1947 and was paid wages for working on those days. Hence the statement of Ramaswami that he did not attend the factory on any day subsequent to 18th August 1947 was proved to be incorrect. It was found that Ramaswami did receive wages for four days in September and in view of this Ramaswami admitted that he made a mistake about the dates. Much importance need not be attached to this discrepancy for the fact remains that he was refused ticket on 8th September 1947 when the presented himself at the factory. As he absented himself from duty on 7th September 1947 without permission he was asked to sign the reprimand book and it is admitted that he refused to affix his signature. It is no doubt true that there is nothing in the rules to compel a worker to sign the reprimand book but the Labour Welfare Officer says that since three reprimands would entail a dismissal from service, it was found necessary to obtain the signature of the worker to the entry and that it was the practice in the factory to obtain the signature. When a superior officer demanded the worker to affix his signature in token of his having been reprimanded it was the duty of the worker to have signed the entry. The Labour Welfare Officer says in his evidence that on 10th September 1947 when he was leaving a hotel nearby worker Ramaswami met him and asked him about his ticket and when he was refused the ticket on the ground that he had not signed the reprimand book the worker took his sandal from behind and threw it at the officer and ran away. I see no reason to disbelieve the evidence of the officer. The worker who behaves in this manner cannot be reinstated as his reinstatement would have a demoralizing effect in the factory I, therefore, find that reliever No 189 should not be reinstated.

8. There are a few other minor matters which might be disposed off at once. One is as ragards the women labourers. There are not many women labourers in the factory There are only a few who are the female relations of the scavengers who are on the regular roll. It is stated on behalf of the management that maternity leave is being granted as required by the statute. If this is done, there can be no reason for complaint by the workers As regards hospital for the workers, my learned predecessor inspected the factory and he has stated that there is only one room which is too near the machinery and hence is noisy and dirty The doctor appears to have another small room for himself There are more than 500 workers during the season and I would recommend that the management do improve the hospital so that the workers might get adequate

relief whenever necessary. The hospital should be not only for the benefit of the well-paid staff of the factory but also for the labourers working therein. So far as canteens and tiffin sheds are concerned, it is stated that there is a newly constructed shed. I would recommend that this shed be improved and light be fixed. My predecessor has also observed that the level of the floor in the carpenter's shed should be raised and the flooring should be improved. As regards sanitary arrangements it is observed that no lights were existing. The management brings it to my notice that a light has been fixed recently. I would recommend that another latrine be constructed for women and a tap be provided near the latrines. One other complaint from the workers is as regards house accommodation. It is pointed out on behalf of the workers that about 50 per cent of the people working in the factory belong to distant places and on account of want of house accommodation, they are obliged to live at a distance of 5 to 10 miles from the factory. The management, however, points out that most of the workers live within 5 miles from the factory. However that may be, the workers seem to be experiencing much difficulty in regard to house accommodation As soon as sufficient materials for house-building are made available the management would do well to construct quarters for such of those workers who are obliged to come from long distances and do not belong to Pugalur and other places in the neighbourhood. As regards clothing the management will provide uniforms for such of those workers for whom clothing is compulsorily to be supplied. As regards the others sufficient protection will be provided as early as possible for one or two pieces of machinery which are at present admittedly unprotected. The management will also supply free tea to the third shift workers. I do not find any need to provide for higher wages for night shift workers. This disposes of issues 4, 7, 9 and 10.

9. *Issue* 3.—This relates to the kind of leave which the workers should be granted. As I stated already, the management have made a distinction between workers who are employed prior to 1st December 1946 and those who came into the probationary roll subsequent to 1st December 1946. There are, at present, 527 workers apart from 14 scavengers. Of these workers there are 57 in A-1 roll, 79 in A-2 roll and 135 in A-3 roll. There are 27 workers in the regular roll and none in the seasonal roll. That is because out of the 215 probationers none complied with the requisition of the management to sign an undertaking that they would abide by the standing orders framed by the Government. The management offered to take about 37 or 38 of the probationers as regular workers and to form the rest of them as seasonal workers and as the probationers did not take the undertaking the workers remained as probationers. Of these 215 probationers, 110 have been given work during the off-season while the remaining 105 were laid off. It is with reference to 39 out of these 105 persons that an agreement has been arrived at as stated above.

Even as regards the remaining workers the management have agreed to take them all either as regulars or as seasonal workers. I hope the workers will take advantage of this opportunity and get confirmation after complying with the requisition of the management. There ought not to be any difficulty as regards this matter because I am told that a new set of standing orders have been sent to Government for approval and as soon as they are approved, it will be to the interests of the workers to abide by the said standing orders and become permanent members of the factory. As and when this is done none out of these 215 probationers will continue to work in that capacity. So far as all the workers who were employed subsequent to 1st December 1946 are concerned, it is stated that they are being granted privilleges as regards leave, etc., as prescribed in the statute. The workers cannot complain. No doubt persons employed prior to 1st December 1946 who are on the A-1, A-2, A-3 rolls and on the regular rolls at present will be entitled to a few more privileges as per the directions of the Government. But I do not think that the persons who are employed subsequent to 1st December 1946 should complain about the same. So far as festival leave is concerned the management is giving at present only four days. As there are a number of festival days on which the workers would like to be free from work, I would recommend that the management should give seven festival holidays with pay, and leave will be granted for the festivals—

(1) Pongal.
(2) Thai Poosam.
(3) Tamil New Year's Day.
(4) Vinayakachathurthi.
(5) Dipavali.
(6) Ayudha Puja.
(7) Ramzan.

10. *Issue* 1.—I shall now proceed to consider the question relating to the recognition of the Labour Union by the Company covered by issue 1. The Labour Union has been registered and ordinarily there ought not to be any objection on the part of the company to recognize the Union. The management and the Union seem to have approached each other in connexion with the question of recognition but they fell out as the Union representatives would not accept the clause to the effect that the workers on essential services as watch and ward, sanitation, supply of water and electricity should not be called out on strike with the general production workers. According to the General Manager, Mr. Aitken, the workers in the watch and ward, water-pump attenders, electrical wiremen, scavengers and transport depot workers and messengers are all essential workers. The Union is willing to consider watch and ward, scavengers and water-pump attenders, electrical wiremen as essential workers. The only difficulty is about transport depot workers and messengers. I do not think that the management ought to insist upon the inclusion of the last two categories of workers. So long as the Union

have agreed to treat the most important class of workers as essentials, there would not be much difficulty in the case of the strike. I would, therefore, recommend that the management do recognize the Union as soon as they express their willingness to agreeing to treat the four classes of workers as essentials, viz., watch and ward, water-pump attenders, scavengers and electrical wiremen. The only other questions that remain to be considered are those covered by issues 2 (*a*) to (*g*), 5 and 8.

11. First as regards classification of the employees the contention of the workers that there should be only three categories, viz., unskilled, semi-skilled and skilled appears to be justified. In fact, there are only three such categories among the workmen. The workers of the Union seem to be baffled by the several rolls introduced by the management. But these rolls have absolutely nothing to do with the grading system that was adopted by the management as early as 1945. I have already pointed out the distinction between the A-1, A-2 and A-3 rolls and regular workers on the one hand and probationers on the other. The distinction is only in regard to the privileges that are being enjoyed by one set of workers over the other set of workers who came to be employed subsequent to 1st December 1946. The management has furnished the details of the grading scheme in Schedule 10. There are workers in the Engineering Department and there are workers in the manufacturing department and there are also workers in the miscellaneous roll who are general workers. The management have divided the skilled workers into three grades, viz., grade 1, grade 2 and grade 3. This depends upon the degree of skill. As regards the rest of the workers they are general workers and are unskilled and hence there is no grading scheme for them. There is, therefore, really no distinction between the classification which is being claimed by the workers and the classification which is in vogue at present in the factory. I would, therefore, not recommend any radical change in the classification especially as it is admitted that such of those as are in the probationary list who are fit for skilled labour are being taken into the regular roll as and when they are found fit to handle skilled work. The next question is as to whether all the workers should be paid by the month. As observed in the report on labour conditions in sugar factories by Ahmed Mukthar, most of the sugar factories are seasonal and the common practice in them is to dispense with the services of the majority of unskilled workers at the end of the season, some workers being retained for the cleaning and overhauling of machinery. Unlike many other factories in Northern India, off-seasons are comparatively short in the Pugalur factory and the workers ought not to have as much grievances as the workmen in northern parts have. The off-seasons are necessitated not merely because of the non-availability of sugarcane for crushing during certain seasons of the year but also because some time is required to clean and overhaul the machinery so as to make it fit for crushing optimum quantity of sugar during the crushing season.

Hence, I do not think it should be made obligatory on the management to make all their workers monthly paid labourers or to provide work for all labourers throughout the year. The skilled labourers are generally paid by the month. But there are some workers even in the A-2 rolls who are paid by the day. I do not see why such a distinction should be made. I would, therefore, recommend that all the workers in the A-1 and A-2 and in the regular rolls should be paid by the month and that the distinction between A-1 and A-2 rolls should be done away with. As it is, the A-3 seasonal workers are being found employment throughout the year. A large proportion of the probationers who have now become entitled to be included in the seasonal roll would be employed throughout the year, the rest of them only being thrown out from employment during the off-season. Most of these workmen are unskilled labourers and so they ought to be satisfied with daily-rated wages paid weekly or monthly as the case may be. It is, no doubt, true that great hardship is caused to the seasonal workers when they are thrown out of employment during the off-season It is observed in the report of Ahmed Mukthar that the Bihar Labour Enquiry Committee favoured the idea of paying an off-season allowance to workers at varying rates and that one factory in Durbungha actually pays 10 per cent of wages to unskilled employees and 25 per cent of wages to skilled employees, as off-season allowance but the idea of giving a retention pay to unskilled employees does not seem to find general favour with the employers. It is seen from the consent memo filed by the workers and the management with regard to offering work to 39 workers thrown out of employment, the management propose to formulate roster schemes for allocating available work in future off-seasons to seasonal workers. Accepting this proposal would result in certain portion of seasonal employees thrown out of employment in certain seasons but if proper allocation is made and the minimum number of employees are thrown out periodically by rotation much hardship may not be caused. On the other hand, the management would feel very much embarrassed if they should be compelled to give an allowance to the seasonal workers who are thrown out of employment while at the same time the allowance that is granted may not be sufficient to meet the demands of the workers. I do not also think it proper to prohibit the management from employing temporary workers when there is excessive work. As it obtains at present, temporary workers are being taken only as substitutes or "Badhlis," for absentees. The management should have always the option to engage temporary workers if and when they find that their work is being hampered by reason of some of the employees absenting themselves. I would, however, impress upon the management, the necessity to minimize the duration of the off-seasons and to engage as many seasonal workers as possible during the off-season. As regards safeguards for security of services I would suggest that before a workman is punished a notice should be served upon him to show cause why

action should not be taken and an opportunity should be given to him to put forward his defence at the enquiry which *must* be held before final orders are passed.

12. In order to find enough work for seasonal employees during the off-seasons it is strongly urged on behalf of the workers that the company should not give certain items of work to outside contractors as they are now doing and that they should employ necessary labour directly. The management, however, find it difficult to accede to this request. The work that is now being entrusted to the contractors is of four categories.—

(1) Cane unloading and feeding of the cane-carrier.

(2) Fuel supply to boiler.

(3) Sugar bagging; and

(4) Molasses bagging.

Of these, items (1) to (3) are specifically seasonal jobs while item (4) is an all the year round job. It is admitted by the General Manager that the clearance of bagged sugar is also done during the off-season but it is stated that contractors are not employed for this work. On behalf of the management, it is stated that part of firewood and coal are transported to the factory during the off-season but that this particular job is intermittant and by its very nature fluctuating. Hence, it is stated that it would not be profitable or feasible to entrust this work to the workers directly. The management have furnished a statement showing the amount of work that was entrusted to outside contractors during the year 1947. It is seen from this statement that no amount was paid to the contractors during the months of May and June which is the off-season and the amount paid during October and November is negligible. I am, therefore, not satisfied that by entrusting the works referred to above to the workers directly instead of to the contractor, there will be an appreciable increase of work during the off-season for the seasonal workers. Though, therefore, I would not prohibit the management from entrusting their work to private contractors, I would recommend, that as far as possible the management would see that such work as could be entrusted profitably to the workers might be so entrusted and the work that is now being given to the contractors is minimized to the highest possible extent.

13. I would now proceed to consider the important question as regards wages and dearness allowance. Much evidence has been adduced on behalf of the workers to show what is the minimum amount required for running a labour family in and around Pugalur. I do not think it necessary to enter into details as regards the price as there can be no controversy in regard to the question of the enormous rise in prices of foodstuffs during the recent years. The

cost of living index fixed by the Government for the district of Trichinopoly shows that the number of points over the standard figure of 100 is growing day after day and at present the increase is as much as 255 points. So far as the basic wages are concerned, it is true that the present management have increased the rate after they purchased the concern but even now the minimum wages is only nine annas per day. There can be no doubt that this wage is too low taking into consideration the requirements of a working family. Mr. Venkataramayya in his award on the conditions of Labour on the Textile Industry has considered that the basic wage should not be less than 26 rupees calculating at one rupee per day. Dr. B. V. Narayanaswami Nayudu in his report into labour conditions in beedi, cigar, snuff, tobacco-curing and tanning industries has come to the conclusion that the living wage for a working class family should be above 50 rupees per mensem and that it compares very favourably with the findings of the Central Pay Commission which lays down Rs 55 per mensem as the living wage. No doubt, this sum of Rs. 50 to Rs. 55 ought to include not only the basic wage but also the dearness allowance which is being paid. I, therefore, recommend that the minimum basic wage should be increased by two annas per day throughout so that the minimum basic wage of a labourer who is paid by the month amount to Rupees 17–14–0. This increase of two annas will be given to all kinds of workers whether seasonal or permanent and whether they are paid by the day or by the month. To illustrate this a worker getting a daily wage of nine annas a day will get 11 annas and a worker getting a daily wage of 10½ annas will get 12½ annas per day. The maximum wage fixed by the management for each category will be similarly increased by two annas. In the case of a monthly worker a sum of Rs. 3–4–0 per month being 26 times two annas will be added to the minimum as well as to the maximum pay now fixed for each of the workers by the management. So far as dearness allowance is concerned, taking into consideration the very high prices that are prevailing I would fix at 2½ annas per point over and above 112 points, one rupee being paid for the first 12 points as is being done at present. Taking the basic wage and the dearness allowance together it would be found that no worker would get less than Rs. 50 per month. I think this increase in wages and the dearness allowance will satisfy the workers and will not be felt burdensome by the management. The increased wages and dearness allowance will take effect from 1st June 1948.

14. In conclusion, I have to state that at the close of the enquiry it was found that both the Management and the President of the Workers Union were so reasonable in their attitude that I have absolutely no apprehension of there arising any difficulties in future in implementing the terms of this award.

Order—No. 3666, Development, dated 9th July 1948.

Whereas the award of the Industrial Tribunal, Mathurai, in respect of the industrial dispute between the workers and the management of the Deccan Sugar and Abkari Company, Limited, Pugalur (Tiruchirappalli district), has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Deccan Sugar and Abkari Company, Limited, Pugalur, and the workers employed therein, and directs that the said award shall come into operation on the 9th July 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

III

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

PRESENT :

SRI T. D RAMAIYA PANTULU, M.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

MESSRS. MASSEYS ENGINEERING FIRMS, MADRAS

and

THE WORKERS.

INTERIM AWARD.

Subject.—Bonus—Held that it was not convenient to consider the question of bonus as an interim matter.

Dearness allowance.—Award in terms of the agreement.

G.O. Ms. No. 3708, Development, dated 12th July 1948

[Labour—Disputes—Dispute between the workers and management of Messrs. Masseys Engineering Works, Madras—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

INTERIM AWARD OF THE INDUSTRIAL TRIBUNAL, MADRAS, DATED 8TH JUNE 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE.

[In the matter of the dispute between the workers and management of Messrs. Masseys Engineering Firms, Madras.]

INTERIM AWARD.

It will not be convenient to consider the question of bonus as an interim matter, as a full and complete investigation has to be made of the conditions of the other firms as well. As regards the question of dearness allowance, the management and the workers union, represented by Mr K. Prabhu have agreed to the following terms :

(1) that an addition of 2½ annas per day *pro rata* for the days actually worked should be given to the workers irrespective of the actual wage scale, with effect from 1st June 1948;

(2) that the workers union, on their part, agree that they will endeavour to give the normal production;

(3) that the management reserves to itself the liberty of applying to the Tribunal for abolition of the extra amount of 2½ annas per day when the production in any particular month falls below the average production of the months of January to April 1948 both inclusive;

(4) that the workers union agree to express their apology in writing to the Tribunal for the slogans and scribbling of scurrilous matter and so on found on the premises of the workshop factory; and

(5) that the additional relief is only an interim relief pending the final award of the Tribunal.

I pass an interim award accordingly.

Order—No. 3708, *Development, dated 12th July* 1948.

In G O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering Firms and Type foundries in the Province be referred for adjudication to an Industrial Tribunal

consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has reported that the workers and management of Messrs Masseys Engineering Works, Madras, have agreed to an interim arrangement on the question of dearness allowance pending the final award in respect of the entire province, and therefore it has passed an interim award in terms of the said agreement. The following order will issue :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering Firms and Type Foundries in the Province, in respect of workers and management of Messrs. Masseys Engineering Works, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of Messrs Masseys Engineering Works, Madras, and the workers employed therein and directs that the said award shall come into operation on the 12th July 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of Engineering Firms and Type Foundries in the Province is accepted by Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the management and workers concerned.

(By order of His Excellency the Governor)

C. V NARASIMHAN,
Deputy Secretary to Government.

IV

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

SRI T. D RAMAIYA PANTULU, M.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

MESSRS. BRUNTON AND COMPANY ENGINEERS, LIMITED, FORT, COCHIN.

and

THE WORKERS.

INTERIM AWARD.

Subject—Basic wage.—Held that is was neither desirable nor expedient to grant relief in respect of basic wage as an interim measure. It should be postponed until after full enquiry.

Dearness allowance.—Held that though it was not desirable to go into this question in great detail before the final award was made, the demand of the workers for some little enhancement of the dearness allowance as an interim measure was not unreasonable. Awarded Re. 1 per day by way of interim relief dearness allowance for all workers.

G.O. Ms. No. 3709, Development, dated 12th July 1948.

[Labour—Disputes—Dispute between the workers and management of Messrs. Brunton and Company Engineers, Limited, Fort, Cochin—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 1115, Development, dated 5th March 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE, GOVERNMENT OF MADRAS.

[In the matter of dispute between the workers and the management of Messrs. Brunton and Company Engineers, Limited, British Cochin.]

INTERIM AWARD.

Brunton and Company Workers Union of the British Cochin have asked for interim relief in respect of dearness allowance and basic wage. They have asked for an enhancement of Rs. 20 over the existing rate of dearness allowance and a flat amount of Rs. 10 by way of addition to the existing wage. After sending notice to the firm, an enquiry was held.

2. I am of opinion that it is neither desirable nor expedient to consider now the question of the basic wage or grant relief in respect of it now as an interim measure. It would be more proper and fair to all parties that its decision should be postponed until after a full-dress enquiry is held.

3. Next, as regards dearness allowance, the firm contends that it is impossible for them to pay anything more and that in any event considering the comparatively low cost of living and standard of comfort prevailing in the locality, there is no justification to award any addition to the present dearness allowance. Here again,

it will not be desirable to go into the question in any great detail, since I have to consider every aspect more elaborately before the final award is made.

4. Certain facts were placed before me to which, however, I should refer. Messrs. Brunton and Company are now awarding an allowance of As. 12–6 for workers who get Rs. 1–8–0 and below per day, while they give at As. 13–6 for those who get over that sum. There can be no doubt that the cost of living is very high in Cochin and Ernakulam. The cost of living index for Ernakulam was 353 in April 1948. The Tata Oil Mills Company, Limited, is paying its employees on the basis of the Ernakulam cost of living index figures, i.e., at As. 2–8 per point. When the figures were 335 in January and 362 in February, the allowance was paid at Rs. 37–8–0 and Rs. 42.

5. It was also urged that the Brunton Engineering Works cannot afford to pay at the rates at which the other companies backed by huge capital and monopolistic in character pay. However that may be, the claim of the workers of Brunton and Company Engineering Works, for some little enhancement as an interim measure cannot be said to be unreasonable, especially when we remember that the workers in the Cochin Harbour who do similar work get a dearness allowance of annas 15 a day if basic wage is less than Rs. 2 a day and Re. 1–5–0 a day if basic wage is Rs. 2 and over. I should think it proper in the circumstances to award by way of interim relief dearness allowance for all workers at one rupee a day or Rs. 26 for a month of 26 days with effect from 1st June 1948.

6. I pass an interim award accordingly.

Dated Fort St. George, Madras, this 14th day of June 1948.

Order—No. 3709, *Development, dated* 12*th July* 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering firms and type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of Messrs. Brunton and Company, Engineers, Limited, Fort Cochin. The following order will issue :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramavya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the

workers and managements of Engineering firms and type foundries in the Province in respect of Messrs. Brunton and Company, Engineers, Limited, Fort Cochin, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of Messrs. Brunton and Company, Engineers, Limited, Fort Cochin and the workers employed therein and directs that the said award shall come into operation on the 12th July 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor.)

C. V. NARASIMHAN,
Deputy Secretary to Government.

V

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

(SRI T. D. RAMAYYA PANTULU, M.A., B.L.)

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE COMMONWEALTH ENGINEERING WORKS, MANGALORE, SOUTH KANARA,

and

THE WORKERS.

INTERIM AWARD.

Dearness allowance.—Held that considering the high cost of living in Mangalore there was need for granting some interim relief. Awarded Re 1 per day or Rs 26 per month as dearness allowance.

Held also that any one drawing higher dearness allowance should not be prejudicially affected by the award.

G.O. Ms. No. 3710, Development, dated 12th July 1948.

[Labour—Disputes—Dispute between the workers and management of the Commonwealth Engineering Works, Mangalore, South Kanara—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 1115, Development, dated 5th March 1948.

(2)

INTERIM AWARD OF THE INDUSTRIAL TRIBUNAL, MADRAS.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE.

[In the matter of the dispute between the workers and the management of the Commonwealth Engineering Works, Mangalore, South Kanara.]

INTERIM AWARD.

The workers of the Commonwealth Engineering Works, Mangalore, ask for an enhancement of dearness allowance to three annas a point of cost of living index by way of interim relief.

2. The existing rate is 100 per cent of the wage for workers who get annas twelve and over and for others Rs. 19-8-0 per month of 26 working days. Apprentices get Rs. 14 per month of 26 days The firm contends that no interim relief is called for and that the payment of higher dearness allowance to workers in other firms managed by the same Trust is an irrelevant consideration. I cannot agree that it is altogether irrelevant though other matters such as the nature of the industry and its capacity have also to be borne in mind It must be remembered, however, that the cost of living in Mangalore is very high, the index figure being 392 for Calicut (nearest station) for March 1948. I do not think it expedient or desirable to go into the question in any detail at present as the matter has to be considered at length before the final award is passed Considering the high cost of living in the locality, I am of the view that there is need for granting some interim relief. I do not, however, think any relief is called for those getting a wage of Re. 1 and over. I think it fair and just to direct payment of dearness allowance to workers including apprentices at the rate of one rupee per day or Rs. 26 for a month of 26 working days with effect

from 1st June 1948. This will not affect prejudicially anyone drawing already a higher dearness allowance. I pass an interim award accordingly.

Dated Fort St. George, this 6th day of June 1948.

Order—No. 3710, Development, dated 12th July 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering firms and type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of the Commonwealth Engineering Works, Mangalore, South Kanara. The following order will issue :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge), constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering firms and type foundries in the Province in respect of the Commonwealth Engineering Works, Mangalore, South Kanara, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Commonwealth Engineering Works, Mangalore, South Kanara, and the workers employed therein and directs that the said award shall come into operation on the 12th July 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

C. V. NARASIMHAN,
Deputy Secretary to Government.

VI

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI C. BHAKTHAVATSALU NAYUDU, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

GORDON WOODROFFE LEATHER MANUFACTURING COMPANY, LIMITED, PALLAVARAM,

and

THE WORKERS.

Mr. A. H. Philips, Director of the Company—For the management.

Mr. S. Viswanathan, Advocate—For the workers.

INTERIM AWARD.

Award in terms of the agreement between the parties.

G.O. Ms. No. 3868, Development, dated 22nd July 1948.

[Labour—Disputes—Dispute between the workers and management of Gordon Woodroffe Leather Manufacturing Company, Limited, Pallavaram—Interim Recommendation of the Industrial Tribunal—Orders passed.]

READ—the following paper :—

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI C. BHAKTHAVATSALU NAYUDU, B.A.; B.L.,
Industrial Tribunal, Madura.

INDUSTRIAL DISPUTE NO. 11 OF 1948.

Between

The Gordon Woodroffe Leather Manufacturing Company Workers' Union, Pallavaram,

and

The Management, the Gordon Woodroffe Leather Manufacturing Company, Pallavaram.

INTERIM AWARD.

This dispute which had been originally referred to the Industrial Tribunal of Madras was transferred to this Tribunal as per G.O. Ms. No. 1349, Development, dated 18th March 1948.

2. On 5th January 1948, the Industrial Tribunal of Madras set down the issues which arose for consideration on the memorandum of demands and the counters filed by the parties. After the matter came up before this Tribunal, an additional issue was framed and one of the issues was amended. These issues set forth the contentions between the parties and are as follows :—

(1) Whether the wages should be altered from daily to monthly or in some cases to piece rates.

(2) Whether the existing wages are low and should be increased.

(3) Whether the dearness allowance now paid (two annas per point) is inadequate.

(4) Whether the existing provisions relating to leave require revision. If so, what changes are necessary?

(5) Whether the night shift workers should be paid night allowance, and, if so, at what rate.

(6) Whether the management should pay house-rent allowance to the workers.

(7) Whether the men named in paragraphs G and H of the Union's statement and Devaraj and Nallamuthu were wrongly discharged and are entitled for reinstatement with pay from the dates of the dismissal.

(8) Whether the Gordon Woodroffe Leather Manufacturing Workers' Union should be recognized by the Management.

(a) Whether the Tribunal has got jurisdiction to direct the company to recognize the Gordon Woodroffe Leather Manufacturing Workers' Union.

The matter came up for enquiry before me on 18th May 1948 when the advocate for the Union pressed before me only three questions at issue and stated that the other points need not be considered. They must, therefore, be deemed as not having been pressed before me. After some discussion, the Management and the Union came to an agreement as regards all these three questions, viz.,—

(1) Reinstatement of dismissed workers,

(2) Recognition of the Union, and

(3) Basic wages payable to the workers.

As regards the second question, it was pointed out on behalf of the Management that this Tribunal has no jurisdiction to consider it. Arguments were heard on this point but as the parties were inclined to come to an agreement even as regards this matter, I did not record my finding but adjourned the enquiry to a later date in order that the terms of the agreement might be implemented and also in order that the parties may be enabled to come to a final agreement as regards the recognition of the Union. It was understood that the Union should be recognized by the Management subject to certain conditions which were discussed at that time. The agreement

between the parties as regards the two other questions was reduced to writing by me and Mr. A. H. Philips, the Director of the Management and Mr. S. Viswanathan, Advocate for the Union, both signed the writing in token of their having agreed to the terms thereof.

3. The matter again came on before me on 23rd June 1948 when it was intimated to me that there has been an agreement on all three points and that the agreement has also been implemented in most respects. The Union has been recognized by the Management subject to certain conditions and I have been told that these conditions are also being complied with. It has, therefore, become unnecessary for me to give a decision on the question of jurisdiction that was argued before me. I, therefore, pass the following interim award which is based on the agreement which has been arrived at between the Management on the one hand and the Workers' Union on the other :—

" (1) On the workers Ganapathy, Ekambaram, Mari Naicker, Nallamuthu and Devaraj approaching the Management and expressing regret for what had happened, they should be reinstated.

(2) As regards worker Radha, he should be taken back to service when fresh hands are being recruited. The case of Thangavelu shall be dealt with by the Labour Officer of the Company on representation by the Advocate of the Union.

(3) The workers have given up their claim for wages during the interim period.

(4) In the case of the workers entertained prior to 1st January 1947, their basic wage shall be increased by three annas over and above the wages which they were receiving on 1st January 1947. Even as regards workers entertained subsequent to 1st January 1947, the workers shall draw an increase on the same scale of three annas as noted above. This increase of three annas will include the 12½ per cent increase already granted and enjoyed. For example, a worker who was getting eight annas wages on 1st January 1947 will get from 1st May 1948 11 annas per day and a worker who was entertained subsequent to 1st January 1947 at 12 annas wages will get 15 annas per day and so on. (The increase, however, will include the 12½ per cent increase already given.) The wages shall be paid at the current rates when next disbursing the salary and the Management is given the option to pay the difference along with the next disbursements of pay.

(5) So far as the recognition of the Union is concerned, the Union shall be recognized by the Management and the Union shall also see that the conditions agreed upon for such recognition are strictly complied with. Subsequent to the agreement arrived at, letters, dated 2nd May 1938 and 17th June 1948, have been addressed to the Management and copies of the same have been sent to me. The Management assure me that there is absolutely no reason to complain as the terms agreed upon have been fully implemented. The Management has explained to me how in the

case of workers entertained subsequent to 1st January 1947, three annas increment has been given taking into consideration the 12½ per cent increase which has already been granted. This is as per the agreement arrived at and I do not think the workers should have any reason to further complain."

There is no other point for dispute between the parties and I am, therefore, submitting this interim award for approval by Government.

C. BHAKTHAVATSALU,
Industrial Tribunal of Madura.

Order—No. 3868, *Development, dated* 22*nd July* 1948.

Whereas the interim award of the Industrial Tribunal (Sri C. Bakthavatsalu Nayudu, retired acting District and Sessions Judge), constituted to adjudicate the industrial disputes existing between the workers and managements of Gordon Woodroffe Leather Manufacturing Company, Limited, Pallavaram, and Chrome Leather Company, Limited, Chrompet, Chingleput district, in respect of the Gordon Woodroffe Leather Manufacturing Company, Limited, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of Gordon Woodroffe Leather Manufacturing Company, Limited, Pallavaram, and the workers employed therein, and directs that the said award shall come into operation on the 22nd July 1948 and shall remain in operation for a period of one year or till the final award is enforced, whichever is earlier.

(By order of His Excellency the Governor)

W. R. S. SATTHIANADAN,
Secretary to Government.

VII

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

PRESENT:

SRI T. D. RAMAIYA PANTULU, M.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE STANDARD ENGINEERING WORKS, MADRAS,

and

THE WORKERS.

INTERIM AWARD.

Subject—Wages and dearness allowance of Ramalingam, fitter.
—Award in terms of the agreement.

G.O Ms. No. 3882, Development, dated 22nd July 1948.

[Labour—Disputes—Dispute between the workers and management of the Standard Engineering Works, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :-

(1)

G.O. No. 1115, Development, dated 5th March 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE.

[In the matter of the dispute between the workers and the management of the Standard Engineering Works, Madras. *Reference* : Wages and dearness allowance of fitter Ramalingam of the Standard Engineering Works.]

Out of the total number of 59 working days, I consider that Ramalingam is entitled to wages and dearness allowance for a period of 15½ days. The management and the worker are also agreeable to this figure. The management agree to pay this amount by the end of this week.

I pass an interim award accordingly.

Dated this 12th day of July 1948.

(Signed)————,
Industrial Tribunal.

Order—No. 3882, *Development, dated* 22*nd July* 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering firms and type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of the Standard Engineering Works, Madras. The Government make the following order :—

ORDER.

Whereas an interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering firms and type foundries in the Province in respect of the Standard Engineering Works, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Standard Engineering Works, Madras, and the workers employed therein and directs that the said award shall come into operation on the 22nd July 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering firms and type foundries in the Province is accepted by Government whichever is earlier.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

VIII

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

SRI T. D. RAMAIYA PANTULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE NATARAJA ENGINEERING WORKS, MADRAS

and

THE WORKERS.

INTERIM AWARD.

Subject—Leave facilities.—Held that the question of leave was not a proper subject to be dealt with as an interim matter.

Dearness allowance.—Held that the contention of the management that a large portion of the dearness allowance was merged in the wage paid was untenable.

Held also that the claim of Rs. 18 per month by way of dearness allowance was quite modest and awarded accordingly with retrospective effect from 1st January 1948.

G.O. Ms No. 3970, Development, dated 28th July 1948.

[Labour—Disputes—Dispute between the workers and managements of the Nataraja Engineering Works, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, GOVERNMENT OF MADRAS.

[In the matter of the Industrial Disputes between the workers and the managements of the Nataraja Engineering Works, Madras.]

INTERIM AWARD.

The workers desire me to consider the question of Interim Relief in respect of dearness allowance and leave facilities. I do not, however, think that the question of leave can be conveniently dealt with as an interim matter.

2. Next as regards dearness allowance, the workers contend that the management had agreed before the Labour Officer to give them a dearness allowance of Rs. 18 per month and that the management has gone back upon it. The management concedes that there was some negotiation about the matter, but does not admit that there was any definite agreement arrived at. It is not very material to consider whether there was in fact an understanding as was contended, since normally the workers would be entitled to a reasonable dearness allowance. They have, in fact, been getting dearness allowance at Rs. 6 and Rs. 8½ a month.

3. It is argued for the management that a large portion of the dearness allowance paid by them is merged in the wage and that therefore it is inequitable to make them pay a higher dearness allowance now. This contention is, however, untenable if we scrutinize the figures of the total earnings of the workers. Out of a total strength of 80 workers, 49 men get a total earning of less than Rs. 40 a month. This sum was stated by the management to be a minimum living wage for a worker in the City. The position is further clarified when we find that there are as many as 35 workers getting a sum below Rs. 30 by way of total earning. It is clear, therefore, that the workers in this firm are entitled to an addition to their dearness allowance.

4. It is urged for the workers that the generally prevailing rate in the General Engineering Industry in Madras City is two annas a point linked to the cost of living index. That would roughly

mean now about Rs. 25 a month. The claim of Rs. 18 a month is quite modest and should, I think, be allowed pending the passing of the final award. The amount will be reckoned in accordance with the existing practice, though the rate is as revised. The difference will be paid with effect from the 1st of January 1948.

5. An interim award is passed accordingly.

Dated Fort St. George, this 19th day of July 1948.

Order—No. 3970, *Development, dated 28th July* 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering Firms and Type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of the Nataraja Engineering Works, Madras. The following order will issue :—

ORDER.

Whereas an interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and management of Engineering Firms and Type foundries in the Province in respect of the Nataraja Engineering Works, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Nataraja Engineering Works, Madras, and the workers employed therein and directs that the said award shall come into operation on the 28th July 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering Firms and Type Foundries in the Province is accepted by Government whichever is earlier.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

IX

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

(SRI P. MARKANDEYALU, M.A., B.L.)

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

MESSRS. SPENCER & CO. LTD.,

and

THE WORKERS.

INTERIM AWARD.

Subject—Basic wages for certain categories of low-paid workers.—Held that the ice vendors, soda-water factory workers, hotel and refreshment room waiters should be paid basic minimum wage of Rs. 16 per mensem. The ice vendors should continue to get the allowance of Rs. 10 per mensem.

Held that the workers in carpentry section, bakery and laundry department should be paid a minimum wage of 12 annas per day or monthly wage of Rs. 19-8-0.

Held that chokras or office boys should be paid a minimum salary of Rs. 14 per mensem until they complete their eighteenth year. They should be paid Rs. 16 when they completed eighteen years.

Salaries for clerks.—Held that the salaries paid to the clerks were too low compared with similar employees under the Government.

Held that the minimum salary of the three grades of clerks should be raised by Rs. 5 and those getting salaries above the minimum should be given an increase of Rs. 5 over their existing salaries.

Dearness allowance.—Held that clerks should be paid a higher dearness allowance than manual labourers as the standard of life of the former was higher than the latter.

Held that there were certain advantages in giving a fixed dearness allowance rather than linking it to the cost of living index.

Awarded on the analogy of the motor transport workers, a fixed dearness allowance of Rs. 25 for all employees except clerks and that clerks should be paid a dearness allowance of Rs. 30 per mensem.

Held further that the workers already getting higher emoluments should not be prejudicially affected by the award.

Festival holidays.—Held that in lieu of seven full festival holidays and six half-holidays, eleven full holidays with pay and dearness allowance should be declared.

Held further that if a worker did not get his festival holiday owing to exigencies of service, he should be granted compensatory holiday within a fortnight.

Leave facilities.—Held that workers should be eligible for leave after one year service.

Held that 14 days' sick leave on half pay and full dearness allowance should be converted into 14 days sick leave on full pay and dearness allowance.

Held that these leave rules applied only to workers in factory departments of the company.

Held that non-factory workers and the employees governed by the Shop Assistants Act should get the leave facilities provided for them under the Shop Assistants Act.

Date of operation for the wage increases.—Held that the increases recommended under the award should take effect from 1st June 1948.

G.O Ms No 3972, Development, dated 28th July 1948.

[Labour—Disputes—Dispute between the workers and the management of Messrs. Spencer & Co. Ltd., Madras—Interim recommendations of the Industrial Tribunal, Madras—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1086, Development, dated 4th March 1948.

(2)

Letter from the Industrial Tribunal, Madras, to the Secretary to Government, Development, dated Fort St. George, the 12th July 1948, I.D. No. 8/48.

[Labour—Industrial disputes—Dispute between the workers and management of Messrs. Spencer & Co., Ltd., Madras—Interim Award on Issues III, IV and VII. *Reference.*—G. O. Ms. No. 1086, Development, dated 4th Mrach 1948.]

I submit herewith by interim award on issues III, IV and VII in the above dispute. The award on the other issues will be sent later.

ENCLOSURE.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI P. MARKANDEYULU, M.A., B.L.

[In the matter of the industrial dispute between the workers and the management of Messrs. Spencer & Co., Ltd , Madras.]

INTERIM AWARD.

The Industrial Dispute between the workers and the management of Messrs. Spencer & Co., Ltd., has been referred to this Tribunal for adjudication by G.O. Ms. No. 1086, Development, dated 4th March 1948. The Spencer Workers' Union sent a notice, dated 24th February 1948, to the Secretary of the Company making a number of demands and informing the management that in case the grievances were not redressed within fifteen days "the management alone will be responsible for the strike and consequences thereof." No reply appears to have been sent to this notice and about a week later (on 4th March 1948) the dispute was referred to this Tribunal for adjudication.

2. The demands of the wrokers relate to a number of matters the most important of which are the payment of increased wages and increased dearness allowance. The demands will be clear from the following issues settled by my learned predecessor Sri Rao Bahadur M. Venkataramayya :—

I. Whether in the matter of recruitment of new hands preference should be given to those whose services were terminated in July 1946.

(*a*) Whether previous service in the company should be taken into account.

II. Whether employees whose services were dispensed with and whose names are given in the Annexure A to the workers' statement were dismissed on improper and unjustifiable grounds? Are they entitled to be reinstated or compensated?

III. Whether the dearness allowance now being paid is insufficient and if so what should be the dearness allowance to be paid?

IV. Whether wages and salaries now being paid are inadequate and should be revised? If so, how?

V. Whether a continuous service of six months should entitle a worker to be taken into the permanent service or he should be given the privileges of a permanent worker.

VI. Whether the standing orders of the company have been certified as required by law by the Commissioner of Labour. If so, whether the standing orders are being complied with in the matter of enquiry into the cases of misconduct or disciplinary action?

VII. What extent of leave and holidays are reasonable?

VIII. Whether the medical aid accorded is adequate. If not, what further provision should be made for giving medical assistance to the employees?

IX. Whether the system of Provident Fund now in vogue is satisfactory.

(a) Whether the gratutity should be introduced. If so, on what lines?

X. Whether the bonus paid for the year ending June 1947 (four months' wages) is not sufficient.

XI. Whether there should be a rule that employees should be compensated by payment of 75 per cent of the wages on days on which there is no work.

XII. Whether the company should pay house-rent allowance.

XIII. Whether tools should be supplied to the workmen.

XIV. Whether the Union is to be recognized by the company and whether non-recognition is due to the failure on the part of the Union to supply the company with the names of members and the rules.

XV. Whether the demands Nos. 1 to 3 cannot be put forward by virtue of the award passed in the adjudication between the parties in July 1946.

XVI. Whether those employees who are not reinstated are entitled to any compensation.

N.B.—No issue is framed about overtime as it is represented on behalf of the management that overtime is now paid at double the ordinary rate.

3. No witnesses were examined by either side and I have heard arguments on all the issues except the second which relates to the dismissal of a number of workers prior to the date of the reference to adjudication. One of the questions for decision under this issue is whether an Industrial Tribunal has got jurisdiction to order the reinstatement of discharged or dismissed workers and as this question is pending decision in the High Court of Madras in an application filed by the management of an Industrial concern under section 45 of the Specific Relief Act, the enquiry into this issue had to be adjourned to 21st July. But I have been requested by both sides to give an interim award on Issuses III, IV and VII which relate to dearness allowance, wages and salaries, and leave and holidays, respectively, and I proceed to do so.

Issue IV.

4. Though there are hundreds of employees in the different branches of Spencer & Co., yet the case of only a few categories of employees has been placed before me. They are the ice vendors, soda-water factory workers workers in the carpentry section, hotel waiters, refreshment room waiters, workers in the bakery department, workers in the laundry department, peons and chokras.

5. It is not known which of the employees in Spencer & Co. are represented by the Spencer Workers' Union. The salesmen who work behind the counters do not appear to be represented; nor the clerical staff employed by the company. In the notice,

dated 24th February 1948, sent by the Spencer Workers' Union to the Secretary of the company, it is only the cause of the unskilled workmen that appears to have been espoused and not the cause of the clerks. A minimum wage of Rs. 30 per mensem with an annual increment of one rupee up to a maximum of Rs. 45 is claimed for the unskilled worker (vide paragraph 4 of the notice) but in Annexure A to the notice, clerks, peons and chokras also are mentioned. In many industrial concerns the clerks form themselves into a separate union called the staff union and it is not known whether there is a staff union in Spencer & Co. The Spencer Workers' Union has not taken the trouble to prepare different scales of pay for different classes of workmen and no clear-cut scheme has been placed before me. A general argument has been addressed that the pay of the employees as well as the dearness allowance payable to them should be increased. In the circumstances I can only improve the lot of the lowest paid worker in the categories placed before me. It is not possible for me to deal with the cases of all other categories of workers when nothing is known about the present conditions of their service.

6. *Ice-vendors.*—It is not quite clear whether these workers get a daily wage or a monthly salary. It is admitted that their duty consists in travelling in trains and selling ice and aerated waters and it is also conceded that their basic income does not come to more than Rs. 12 or Rs. 13 per mensem. It is said that they are paid a commission on every pound of ice and every bottle of aerated water sold and that the commission comes to about Rs. 10 per mensem. In addition they get a dearness allowance of Rs. 16 per mensem. The commission of Rs. 10 should be ignored altogether in fixing the pay of the ice-vendors because he is not paid any batta and he requires at least this much for his food on tour. The position of an ice-vendor may be compared to that of a peon in Government service who now gets a basic wage of Rs. 16 per mensem and I direct that an ice-vendor should in future get a salary of at least Rs. 16 per mensem. If he is paid on the daily rated system then his daily wage should be fixed as to enable him to get Rs. 16 per mensem. The commission that is being paid to him till now should continue to be paid.

7. The question of dearness allowance will be considered under the next issue.

8. *Soda water factory workers.*—I do not see much difference between an ice-vendor and a worker in a soda water factory. It is said that he gets a monthly wage of about Rs. 15 and a dearness allowance of Rs. 20 per mensem. I direct that he too should get a basic wage of Rs. 16 per mensem on the analogy of a peon in Government service. If he is being paid a daily wage his wage should be so fixed as to get him a monthly income of Rs. 16.

9. *Workers in the carpentry section.*—The Union wants that the workers in this and the other factory departments should be classified into unskilled, semi-skilled, skilled and highly skilled, but it is not possible for me to do so without the help of technical experts. Works committees are now coming into existence in all industrial concerns and one of the first tasks of the works committee in Spencer & Co. should be the classification of the workers on these lines, as they consist of representatives of both the management and labour. I can only deal with the case of the lowest paid unskilled worker. It is said that the lowest paid unskilled worker in the carpentry section of this company gets a daily wage of 10 annas for 26 days in the month (leaving out the four Sundays) and a dearness allowance of Rs. 20 per mensem. I direct that no unskilled worker in the carpentry section should get less than a daily wage of 12 annas for 26 days in a month. This works out at the rate of Rs. 19-8-0 per mensem.

10. *Hotel waiters and refreshment room waiters.*—It is said that at present a waiter in the company's hotels gets a pay of Rs. 15 per mensem and a dearness allowance of Rs. 16 per mensem, and a waiter in the refreshment room gets a monthly pay of Rs. 12 and a dearness allowance of Rs. 16 per mensem The pay that they are receiving is, in my opinion, very low and it has to be approximated to that of a peon in Government service which is Rs. 16 per mensem and a dearness allowance of Rs. 16 per mensem, and these waiters supplement their income by receiving tips from the customers but I do not think this should be taken into account in fixing the basic wage of an employee. After all the management does not pay these tips to the waiters and it is left to the will and pleasure of the customer to pay the tip or not. I direct that every waiter in the company's hotels and refreshment rooms should get a minimum salary of Rs. 16 per mensem.

11. *Workers in the bakery and laundry departments.*—I am told that a worker in the bakery department gets a salary of Rs. 15 per mensem and a dearness allowance of Rs. 16 per mensem, and a worker in the laundry department gets the same pay as a worker in the bakery department but a dearness allowance of Rs. 20 per mensem Here again there may be skilled, semi-skilled and unskilled workers but I direct that no unskilled workers in these departments should get a basic wage of less than Rs. 19-8-0 per mensem. If he is paid a daily wage he should not be paid less than Re. 0-12-0 per day for a month of 26 working days.

12. *Peons.*—I am informed that there are no " peons " employed in Spencer & Co.

13. *Chokras.*—It is said that these chokras (similar to office boys) are appointed between the ages of 15 and 17, that they are paid a salary of Rs. 6 a month and a dearness allowance of Rs. 20 per mensem and that they work only for about 7 hours a day. I am

of opinion that they should be paid a basic salary of at least Rs. 14 per mensem until they complete their 18th year when their salaries should be raised to Rs. 16 per mensem and it is ordered accordingly.

14. *Clerks.*—Exhibit I is the minutes of a meeting of the sub-committee of the managements of certain companies in the City (including Spencer & Co.) held on the 11th September 1946 at which committee the Secretary is Mr. C. W. Stephenson who is also the Secretary of Spencer & Co. From this it is seen that the committee have decided to recommend the following scales of pay exclusive of dearness allowance for their clerical staff :—

Tally clerks, Rs. 20—2½—32½. Ordinary clerks, Grade 'A', S.S.L.C. failed or course not completed, 25—2½—37½. Clerks, Grade 'B'—Passed S.S.L.C, Rs. 35—3—50. Senior clerks, Grade 'C'—Passed S.S.L.C., Rs. 50—4—70. Assistant Head clerks, Rs. 75—7½—112½. Head clerks, Rs. 100—10—150. Typists, Grade 'A', Rs. 25—2½—37½. Typist, Grade 'B', Rs. 45—3½—62½. Stenographers, Grade I, Rs. 50—4—70. Stenographers, Grade II, Rs. 75—7½—112½.

15. I am informed by Mr. Stephenson that the scales of pay governing the clerks employed in Spencer & Co. are similar to those recommended by the sub-committee for the clerical staff as per Exhibit I. I propose to deal only with the first three categories, i.e., tally clerks, ordinary clerks, Grade 'A' and clerks, Grade 'B'. The pay given to these three categories appears to me to be very low and calls for immediate revision. A clerk in Government service in Madras City gets a minimum pay of Rs. 45 per mensem, a dearness allowance of Rs. 22 per mensem and a house-rent allowance of Rs 7 per mensem making a total of Rs. 74 per mensem. In comparison with this, the pay given to the first three categories of clerks in Messrs. Spencer & Co. appears to be very low. I increase the minimum pay of each of the three categories of clerks by Rs. 5 per mensem, so that a tally clerk will hereafter start on Rs 25 per mensem, an ordinary clerk, Grade 'A', on Rs. 30 per mensem and a clerk in Grade 'B' on Rs 40 per mensem. These are, of course, the minimum salaries but the clerks who are getting more than the minimum salaries at present in these three categories will also have an increase of Rs. 5 per mensem in their basic salaries. I also adopt the annual increments recommended in Exhibit I.

16. The scales of pay applicable to these three categories of clerks will hereafter be as follows :—

Tally clerks, Rs. 25—2½—37½. Ordinary clerks, Grade 'A 30—2½—42. Clerks, Grade 'B', 40—3—55.

17. The increase in salaries and wages applicable to all the workers and clerks referred to above *will take effect from* 1*st June* 1948.

Issue III—Dearness allowance.

18. The dearness allowance paid to the employees in Spencer & Co. appears to be very low especially in view of the fact that the basic salaries also are low. Some like the ice-vendors and the hotel-waiters are getting a dearness allowance of Rs. 16 per mensem while the others including the clerks are paid Rs. 20 per mensem. In the first place, I am of opinion that a clerk should get more by way of dearness allowance than a manual labourer as is the case in Government service, for the standard of life of the former is higher than that of the latter. In the second place, the dearness allowance that is paid to the employees of Spencer & Co. is lower than that paid to Government servants. A peon in Government service in the City of Madras gets an allowance of Rs. 23 per mensem made up of Rs. 18 dearness allowance and Rs. 5 house-rent-allowance and the lowest paid clerk in Government service in the City of Madras gets an allowance of Rs. 29 per mensem made up of Rs. 22 as dearness allowance and Rs 7 as house-rent allowance. The sub-committee of the managements of certain companies in the City of Madras have recommended in Exhibit I that the dearness allowance should be paid at the rate of two annas per point on the cost of living index above 100 points and I am of opinion that it is a proper provision. The cost of living index in the City of Madras for May 1948 is 305 and at the rate of two annas per point over 100 it comes to Rs. 25–10–0. I think there are some advantages in fixing a flat rate of dearness allowance rather than linking it to the cost of living index every month. Of course, if, later on, the cost of living goes up very high the rate of dearness allowance can be suitably revised. My learned predecessor, Sri Rao Bahadur M. Venkataramayya, recently has fixed a dearness allowance of Rs. 25 per mensem to the employees in Motor Transport Services and Motor Transport Workshops in the City of Madras, and I too adopt the same figures in this adjudication. I direct that no employee (other than a clerk) in Spencer & Co. should get a dearness allowance of less than Rs 25 per mensem. If any persons are getting more than this by way of dearness allowance, it should not be reduced to Rs. 25 and they should continue to get the higher rate.

19 So far as the clerks are concerned, I have already stated that they should get a higher rate of dearness allowance than the workers, and that in Government service the lowest paid clerk is paid a dearness allowance of Rs 29 per mensem I am of opinion that a dearness allowance of Rs. 30 per mensem would be just and reasonable provision for the clerks in Spencer & Co. No clerk should get less than this and if any is getting more, he should not be adversely affected by this provision. I direct that the enhanced rates of dearness allowances should be given effect to from 1st June 1948.

Issue VII—Holidays and leave.

20. All Sundays are holidays for the employees of the company but the daily-rated employees are not paid for Sundays. The company up till now has been in the habit of granting full holidays for certain festivals and half holidays for certain others. Of course, the employees are paid full wages and dearness allowance for these days. The company has been hitherto giving 7 full festival holidays and 6 half holidays. But both sides agreed before me that the system of half holidays should be abolished and that 11 full festival holidays in a year should be granted in future with full pay and dearness allowance, and it is ordered accordingly. They are also agreed about the holidays which are the following :—

(1) New Year's Day.
(2) Pongal.
(3) Good Friday.
(4) Tamil New Year's Day.
(5) King's Birthday.
(6) Vinayaka Chathurthi.
(7) Mahalaya Amavasya.
(8) Saraswathi Puja or Ayudha Puja.
(9) Deepavali.
(10) Christmas Day.
(11) Boxing Day.

21. So far as the Hotel workers are concerned, it may not be possible, on account of the exigencies of service, to grant them the holiday on the days on which the festivals fall but Mr. Stephenson on behalf of Spencer & Co., has undertaken that if any hotel worker does not get a holiday on the due date he will be given that holiday on some other day soon afterwards. I direct that the compensatory holiday should be given to the worker within a fortnight from the festival holiday of which he has been deprived

22. *Leave facilities.*—It is conceded that all the employees of the company who have put in five years' service are now getting 14 days' leave in a year on full pay and full dearness allowance and 14 days' sick leave on half pay and full dearness allowance. The workers demand that the leave rules should be liberalized. I am of opinion that the restriction of these privileges only to those who have put in five years' service is too hard and that all workers who have put in one year's service should be entitled to these leave facilities. Further the workers on sick leave should, in my opinion, not only get full dearness allowance but also full pay during the leave period of 14 days. It should be remembered that these leave rules are applicable only to the workers in the factory departments of the company, i.e., Furnishing department, Aerated Water department, Laundry department, Bakery department, and

Refrigeration section. The rest of the workers are governed by the newly enacted Madras Shops and Establishments Act, popularly known as the Shop Assistants Act, under which they are entitled to greater leave privileges than those working in the factory departments. I direct that the non-factory workers should get the leave concessions to which they are entitled under the Shop Assistants Act.

23. I shall summarize the directions in my interim award :—

(*a*) Ice-vendors, soda water factory workers, hotel and refreshment room waiters will get a basic salary of Rs. 16 per mensem and a dearness allowance of Rs. 25 per mensem with effect from 1st June 1948. The ice-vendors will continue to get the commission that is being paid to him till now.

(*b*) In the Furniture (carpentry section), bakery and laundry departments the lowest paid unskilled workman should get either a minimum daily wage of 12 annas for 26 days in a month or a monthly wage of Rs. 19–8–0 together with a dearness allowance of Rs. 25 per month from 1st June 1948.

(*c*) Chokras or office boys should be paid a minimum salary of Rs. 14 per mensem and a dearness allowance of Rs. 25 per mensem until they complete their 18th year when their basic salaries should be raised to Rs. 16 per mensem. This too will take effect from 1st June 1948.

(*d*) Every clerk in the first three categories of Exhibit I will get an increase of Rs. 5 in his basic salary and the maximum pay of the three categories is increased to Rs. 37–8–0, Rs. 42–8–0 and Rs 55 respectively. The clerks in all the categories shown in Exhibit I will get a dearness allowance of Rs. 30 per mensem. If any are getting more, this should not adversely affect them. The increase in the basic salaries and dearness allowance will take effect from 1st June 1948.

(*e*) The annual increments to which the clerks will be eligible will be as set out in Exhibit I and under Issue IV.

(*f*) The following will be full holidays for the workers with full pay and dearness allowance :—

(1) New Year's day.
(2) Pongal.
(3) Good Friday.
(4) Tamil New Year's day.
(5) King's Birthday.
(6) Vinayaka Chathurthi.
(7) Mahalaya Amavasya.
(8) Saraswathi Puja or Ayudha Puja.
(9) Deepavali.
(10) Christmas day.
(11) Boxing day.

(*g*) Every worker in the factory departments of Spencer & Co., who has put in a total service of one year, will be eligible for 14 days' leave on full pay and full dearness allowance and another 14 days' sick leave also on full pay and full dearness allowance. Those who are working in the non-factory departments and are governed by the Madras Shops and Establishments Act will be eligible for the higher leave facilities conferred by that Act.

Dated at Madras, this the 8th day of July 1948.

P. MARKANDEYULU,
Industrial Tribunal, Madras.

Order—No. 3972, Development, dated 28th July 1948.

In G.O. No. 1086, Development, dated 4th March 1948, the Government directed that the dispute between the workers and management of Messrs. Spencer & Co., Ltd., Madras be referred for adjudication to the Industrial Tribunal, Madras. Now the Industrial Tribunal has passed an interim award at the request of both the parties in respect of dearness allowance, wages and salaries and leave and holidays. The following order will issue :—

ORDER.

Whereas the interim award of the Industrial Tribunal, Madras, in respect of the dispute between the workers and management of Messrs. Spencer & Co., Ltd., Madras, as regards dearness allowance, wages and salaries and leave and holidays has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of Messrs. Spencer & Co , Ltd., Madras, and workers employed therein and directs that the said award shall come into operation on the 28th July 1948 and shall remain in force for a period of one year.

(By order of His Excellency the Governor)

W R. S. SATTHIANATHAN,
Secretary to Government.

X

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

THALAYUTHU, TIRUNELVELI DISTRICT

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE SANKARA WEAVING MILLS COMPANY, LIMITED, THALAYUTHU, TIRUNELVELLY DISTRICT,

and

THE WORKERS.

Diwan Bahadur Sri P Avudayappa Pillai and Sri A. Chidambaram Pillai—For the management.

Sri N. T. Vanamamalai and Sri T. S. Venkataraman—For the workers.

Subject—Interval between shifts.—Held that half an hour interval could not be held to be too short.

Installation of a siren.—Management directed to install a siren at once.

Wages of maistries and clerks.—Held that there was no dispute on this subject.

Provident Fund.—Held that it was too early to compel the management to start a Provident Fund.

Standing Orders.—Held that it was unnecessary to examine the amendments suggested by the Union as the management agreed to conform to the model Standing Orders framed by the Government

Night-shift allowance.—Held that 25 per cent extra wages should be paid only for work beyond midnight.

Recognition of the Union —Held that the management could not insist that the Union should consist only of workers. *Held* further as soon as the pending legislation [Trade Union (Amendment) Act] was passed and the Union was in a position to be guided by level headed office bearers the management should recognize the Union

Festival holidays.—Held that the festival holidays should be raised from two to five.

Dearness allowance.—Held that no reasons were given by the Government for confirming the existing dearness allowance of Rs. 16 and that though the cost of living was not as high as Mathurai

or Trichinopoly, dearness allowance should be paid in proportion to the rise in the cost of living. *Awarded* dearness allowance at two annas per point in the cost of living index over 100

Bonus.—*Held* that bonus should be granted to the worker in the same relation to the wages paid, as profits bear to the capital invested. E.g. : If profits amount to one-sixth of the capital, bonus should amount to one-sixth of the wages paid to the worker.

Reinstatement of dismissed workers.—*Held* that Shanmugam and Paramasivam were not dismissed for taking part in the formation of the Union and in view of the lapse of two years, these were not fit cases for reinstatement. Awarded payment of three months' wages to these workers.

Held that no case had been made out for reinstatement of Arumugam, Subbiah, Ramiah and Pulu Thevar.

Workload and retrenchment.—*Held* after inspection that the workload prescribed was not heavy and the apprehension of injury to the weavers was imaginery and that no retrenchment was contemplated by the management.

G.O. Ms No. 4015, Development, dated 30th July 1948.

[Labour—Disputes—Dispute between the workers and management of Sankara Weaving Mills Company, Limited, Thalayuthu, Tirunelveli district—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 459, Development, dated 2nd February 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI C. BHAKTHAVATSALU NAYUDU, B.A., B.L.,
Industrial Tribunal of Madura.

INDUSTRIAL DISPUTE No. 2 OF 1948.

Between

The Thalayuthu Mill Labour Union, Thachanallur,

and

The Management of Sankara Weaving Mills Company, Limited, Thalayuthu.

AWARD.

This dispute was referred for adjudication to this Tribunal by G.O. Ms. No. 459, Development, dated 2nd February 1948. The Sankara Mills were started in the year 1939 by Sri S. S. Pillai &

Sons and is now owned by the five sons of Sankara Nainar Pillai. It is stated that the company is not registered under the Indian Companies Act and it is a joint family business. A sum of about 4 lakhs of rupees is said to have been invested in the business which is being managed at present by four out of five brothers and the other brother Sri S. S. Sivan Pillai not taking any part in the management. Till about a year ago one Ramanatha Ayyar who was appointed manager of the mills was looking after the management for about three years. The mills are at present an entirely weaving concern and there are about 102 weaving looms. Most of the looms were purchased second hand in Bombay. One or two weaving looms, the sizing machine and other sundry machinery have been purchased in a new condition. It is admitted that the management have engaged the services of 175 or 180 workers exclusive of the clerical establishment. According to the management there was complete harmony between them and the workers from the commencement of the mills till about the end of 1946, when one Thangayanam, resident of Tuticorin, came over to Tirunelveli and started the Thalayuthu Weaving Mills Labour Union. Differences have arisen between the workers and the management from September 1946, when two workers Shanmugham and Paramasivam were dismissed from service. Subsequently four other workers were also dismissed. Attempts were made to get them reinstated and finally on 12th January 1948 the Secretary of the Thalayuthu Weaving Mills Labour Union sent a strike notice to the proprietor formulating 13 demands and stating that if within 14 days from the receipt of the notice the matter is not amicably settled the workers will resort to a strike. The demands contained in the strike notice were reiterated in the memorandum submitted on behalf of the workers on 27th February 1948. The first of these demands is about the recognition of the Union. The second demand relates to the reinstatement of the dismissed workers. The workers claim that dearness allowance should be paid at 2½ annas per point of raise in the cost of living index instead of flat rate of 16 rupees per month which is allowed by the Adjudicator. Another demand relates to the claim of four annas per day being a quarter of the basic wage of one rupee for all night-shift workers irrespective of the number of hours worked after midnight. Another demand is as regards bonus The workers maintain that the amount of bonus should be linked to the dividend declared in direct proportion. Two other demands relate to the maistry's wages and the pay for the clerical staff Other demands are all minor demands relating to the duration of interval between the shifts, the fixing of a siren, working of the sizing machine in two shifts instead of one, introduction of provident fund, framing of standing orders and granting of festival holidays. The management have filed a reply, dated 19th March 1948. The management contends that they have settled amicably the question of the pay due to the clerical staff and that they propose to settle the matter relating to wages of the

industries. They have no objection to have the standing orders amended so as to bring them in conformity with the model standing orders framed by the Government. They also undertake to make suitable arrangements for sufficient supply of sized beams. They are not willing to grant any more festival holidays than they were already granting and state that they were not in a position to introduce the provident fund scheme. They also expressed their willingness to fix a siren as soon as suitable ones are available in the market. They state that suitable ones are available in the market. They state that the interval of the duration of half an hour is more than sufficient for the workers and expressed their willingness to provide for one hour interval on day shift if the workers agreed to commence work at 7-30 a.m., instead of at 8 a.m. As regards night allowance their contention is that they are bound to give night-shift workers a quarter of the wages only for the work turned out after midnight and they rely upon a memorandum issued by the Government on 20th November 1947. They are not willing to pay any further dearness allowance or bonus. As regards recognition of the Union the management states that they are ready to act according to instructions of the Government in this respect. They contended that the six workers were removed from services for continued absence without leave for a number of days. They deny the allegation of the workers that the dismissed workers are sent away with ulterior motives.

2. On 16th March 1948, the Union filed a supplemental memorandum protesting against the proposed retrenchment of 28 hands. The management have submitted a reply to the supplementary memorandum stating that the workload of a weaver had been fixed by the standardization committee and has been approved by the Government and that the management have been bringing the same into effect. They propose to enforce a workload of three looms per worker. They deny that 28 workers were proposed to be retrenched.

3 The following issues were framed for determination by my learned predecessor on 19th March 1948 :—

(1) Is the management justified in refusing to recognize the Workers' Union on the score that outsiders are members thereof?

(2) Whether the six workers referred to in the Workers' memorandum are entitled to be reinstated.

(3) What will be proper rate of wages for night-shift workers?

(4) Whether, the dearness allowance paid is adequate. If not, what will be the proper rate?

(5) What will be the proper duration of the interval?

(6) Is the siren arrangement adequate?

(7) What amount of bonus can the workers claim?

(8) Whether the mills are not in a proper position to start a Provident fund scheme. If they are in a position what is the contribution they should make?

(9) Whether the provisions in standing orders are proper and adequate?

(10) Whether the workers are entitled to the festival holidays mentioned in the memorandum?

(11) What will be the proper wage rate for maistris?

(12) Whether the demands of the clerical staff have been amicably settled. If not what will be the proper salary?

The following additional issues were framed by me on 4th June 1948 :—

(1) Whether the management can increase the work-load and if so, to what extent?

(2) Whether the management is entitled to retrench 28 workers or any of them?

At the enquiry the workers' Union was represented by Messrs. N T. Vanamamalai and T. S. Venkatraman and the management was represented by Messrs. Dewan Bahadur Sri P. Avadayappa Pillai and A. Chidambaram Pillai.

4. There are certain matters about which there cannot be much dispute and I shall deal with them at once. The management are not averse to have an hour's interval between the shifts in day time provided the workers agree to commence working at 7-30 a.m. But it is represented on behalf of the workers that they have to proceed to the mill from a distance of 4 to 5 miles and they would be put to much hardship if they are compelled to begin work at 7-30 a m If they wish to have this convenience, they cannot complain about the short duration of the interval as half an hour's interval cannot be said to be too short. In view of the fact that the workers have to come from a distance the installation of a siren is a desideratum. The management undertake to have a siren installed as early as possible They are directed to purchase a siren the best available in the market and to instal the same at once.

5. So far as the wages for the maistris and the pay of the clerical establishment are concerned, R.W.I. who is the chief managing partner states that he has amicably settled the matter with the maistris and the clerical staff. None of the maistris' nor any member of the clerical staff has come forward stating that he has had any grievance.

The workers, strictly so-called, need not worry themselves about the wages due to the maistris or the pay of the clerical staff This disposes off issues 5, 6, 11 and 12. Two other matters are with reference to provident fund scheme and the framing of the standing orders. (Issues 8 and 9.) The management state that it is too

early for them to introduce a Provident fund scheme as the business was started only in the year 1939 and has not been stabilized. The business started only in 1939 and though the management has been making some profits they are now faced with the situation brought about by the workers after the labourers' Union was formed. If the management succeed in running the mills with the co-operation of the workers they may be asked to start the scheme some time hence but at the present stage, I do not think that the management can be compelled to start the scheme. As regards the standing orders the Government have framed model standing orders and are said to have issued them. The management is willing to have their standing orders modified in order to bring them into conformity with the model standing orders. The Union has filed a copy of the standing orders proposed to be introduced by the management with the copy of the amendments proposed by the workers. I have gone through the proposed amendments but I do not think it necessary to consider the amendments one by one since the management agrees to have their standing orders amended so as to bring them in conformity with the model standing orders published by the Government. The next question is as regards the proper rate of wages for night-shift workers. (Issue 3.) There can be no doubt that an extra remuneration is recommended to be given to night-shift workers, in view of the great strain that is involved in being asked to forego sleep and work beyond midnight hence the directions made by the Government that the allowance should be restricted only to the period of work beyond midnight appears to be reasonable and I, therefore, hold that the workers cannot insist upon an increase of 25 per cent over the wages with reference to the whole of the work done in the second shift as a major portion of the work is turned out before midnight. I shall deal with the question regarding the recognition of the workers' Union. (Issue 1.) The workers' Union is a registered one and legislation is, I am told, contemplated for enforcing recognition of the Union in all cases where it is registered. The Secretary of the Union has been arrested and is in detention in the Central Jail, Vellore. It is not possible for him to function as Secretary as long as he is under detention. The managements cannot insist that the Union should consist of only workers as members and that no outsiders should have any voice in the Union's affairs provided at least 50 per cent of the number of the members are workers. As soon as the pending legislation is passed and the Union is in a position to be advised and guided by level-headed office-bearers the management shall recognize the Union. The only other points that remain to be considered are as regards, dearness allowance and bonus, festival holidays, and the re-instatement of the dismissed workers. (Issues 2, 4, 7 and 10.)

6. As regards the festival holidays, P.W. 1 states that at present only two festival holidays are given and that the workers want seven holidays on Visagam, Pongal, Deepavali, Car festival, Tamil New

Year's Day, Vijayadasami and May Day. R.W. 1 admits that Visagam festival is an important festival and states that the others are not so important. There can be no doubt that Pongal, Deepavali, Tamil New Year's Day and Vijayadasami are equally important festivals. I would therefore hold that *five festival holidays be granted instead of two* as at present. Turning now to the question of dearness allowance I find that in the case of Sankar Mills which employs 160 workers and maintains 101 looms, Mr. Venkatramayya in his award on textiles states that interim relief must be paid and no further direction is necessary, but the minimum wages of Rs. 26 must be maintained. This matter has been clarified by Memorandum of Government, dated 5th January 1948. It is stated that remarks with reference to Sankar Mills mean that no recommendation need be given concerning the dearness allowance and therefore, they need pay what they were already paying, viz., 16 rupees per month. The only reason which appears to have prevailed upon the adjudicator to pass this order is that the mill is a small one. The reason has not, however, been explicitly mentioned in the award. At page 7 of the award, however, the learned adjudicator has stated this " There is no question of a small mill or big mill. What is necessary for a labour family and what is the reasonable wage if fixed for the worker are first determined and if it is found to be a reasonable amount, even the relatively poor mill-owner must be made to pay it." Having made this observation, I am unable to understand why in the case of Sankar Mills the old rate of Rs. 16 per month was confirmed and why dearness allowance is not allowed in accordance with the cost of living index. The only ground on which the decision of the adjudicator is sought to be supported is that Tinnevelly is not such a costly place as Madura as the workers are in small hamlets and therefore not liable to pay high house rent or lighting charges or water charges. It is also stated that there are no coffee hotels in the area where the mills are situated. It is further stated that there is no rationing except in towns and the workers are agriculturists owning nanja lands I am, however, not convinced that any of these points will make any difference. It may be that the workers in the Sankar Mills do not need as much as three annas per point as in Madura district or 2-2½ annas per point as in Trichinopoly district but I do not see why the workers should be satisfied with a flat rate of Rs. 16 per month I should think that the dearness allowance should be in proportion to the rise in the cost of living and it is fair that the workers should be paid 2 annas per point over and above 100 points in the rise of cost of living index. I, therefore, direct that dearness allowance be paid at the rate to all the workers.

7. So far as bonus is concerned, it is urged on behalf of the management that bonus cannot be claimed as a matter of right and that it should be only in the nature of a voluntary payment at the sweet will and pleasure of the mill-owner. I cannot agree with this contention. Mr. Venkatramayya has observed in his report on

textiles that it is an ancient theory which no longer finds favour with the public or in court. He is of opinion that bonus should not depend upon matters such as good conduct, production, etc., because the bonus is paid not on account of good conduct but on account of the profits of the company. It is argued on behalf of the workers that the bonus payable to worker should bear the same ratio to the wages paid as the profits bear to the capital invested by the employer. It is pointed out on behalf of the management that whereas the capital is retained in the business and profits are added to the capital invested, the wages do not add to the capital but are paid to all the workers as remuneration for the amount of work turned out. But it has to be stated that if the employer can claim a share of the profits for the capital invested apart from the amount got for expenses of management, etc., there is no reason why the worker also should not be paid a share in the profits as an incentive to producing good work. Accepting, therefore the principle that the worker is also entitled to a share in the profits the question to be considered is what proportion of the profit is to be paid to the worker by way of bonus. I cannot agree with the contention advanced on behalf of the workers that the workers should get a portion of the gross profits which include the income-tax payable by the management. From a statement of profit and loss produced by the management and marked as Exhibit D-8, it is seen that the net profit in 1947 was Rs. 53,136. When the expenditure incurred for purchasing yarn and paying wages, etc., is deducted from the cloth sales, it is found that the profits would amount to Rs. 1,84,600. It is ridiculous to suggest that while the management is bound to pay income-tax amounting to Rs. 1,12,000 nearly out of the gross profits, the worker should get a proportion of the gross profit as bonus. The management have paid one month's wages as bonus in 1947 and also wages for 20 days as bonus for the Independence Day. I am of opinion that the workers should get a share of the net profits and that the said bonus should bear the same relation to the wages paid as the profits bear to the capital. In 1947, about Rs. 70,000 was paid as wages and dearness allowance The net profit being Rs. 53,000 and the capital invested being Rs. 3,48,000, it is but reasonable that the worker should get one-sixth of the net profits as bonus. In fact, a sum of Rs. 9,931-8-0 has been paid as bonus and the worker cannot expect to get anything more. I would, therefore, hold that a bonus should be granted to the worker in the same relation to the wages paid as the profits bear to the capital invested, for example, if the profit amounts to one-sixth of the capital invested then the bonus should also be one-sixth of the amount of wages paid to the worker.

8. The next question to be considered is about the reinstatement of workers. Two workers Shanmugam and Paramasivam are said to have been dismissed in 1946. According to the management, the said workers did not attend the mills on 16th September 1946, and 14 succeeding days. Two letters applying for leave were sent.

They were in the handwriting of someone else and were not signed by the worker. Extracts from the muster rolls marked Exhibits D-6 and D-6A have been filed to show that these two workers did not attend the mills from 16th to 27th September 1946. P.W. 1 states that these two workers had applied for leave for a day but that when next day they appeared at the mills the manager told them that the proprietor did not want them and they will not be allowed to work as they would ruin the mills by forming a Union. R.W. 1 who is one of the brothers managing the business states that the two workers did turn up at the office on 17th September 1946 but that they would not give any satisfactory explanation when questioned as to why they sent leave letters written by someone else and not signed by them. It is also stated by R.W. 1 that Shanmugham was asked to bring his father as the latter was the person who recommended him but that Shanmugham failed to turn up later and that Paramasivam stated that he did not depend upon the mill as he could do other work and eke out his livelihood. Besides the evidence of Gomathinayagam who is a worker in the mills, there is evidence of Thirugyanam, who was brought from the Vellore Jail and also of Shanmugham, P.W. 7 and Paramasivam, P.W. 8. P.W. 1 speaks to having overheard the manager telling the workers that their services were not required. Conversation is said to have taken place in the office room and P.W. 1 was working in loom Nos. 96 and 97 that day. It is admitted that there will be much noise in the mills when the looms are working It is impossible to believe that P.W. 1 while attending to his work was in a position to overhear what was passing on in the office room between which and the room where the looms are worked, there is open space. So far as the evidence of Thirugyanam (P.W. 2) is concerned, his information is based upon what the workers told him and hence it cannot carry the matter any further. P.W. 7, Shanmugham speaks to his having sent a telegram to the Labour Commissioner, Labour Officer and Tahsildar. The telegram is dated 16th September 1946 and the names of the workers are not given. Assuming that the telegram refers to the case of Shanmugam and Paramasivam the mere sending of the telegram cannot prove the circumstances under which the services of the workers came to be terminated P.W. 7 stated that he does not know about Paramasivam applying for leave According to him the leave letter was signed by him and sent through one Thirunavukkarasu but he stated before the Tahsildar who examined him that he did not send any application but that he and Paramasivam sent word through one Sundarajan that they were unwell P.W. 8, Paramasivam, states that he sent a letter, dated 16th September 1946, through one Ganapathy. That letter is said to have been written by Ganapathy mentioning Paramasivam's name. P.W. 8 admits that Exhibits D-3 and D-4, the prior leave letters, were written by him. There is no reason why on this particular occasion the leave letter was not written by him or at least signed by him. The evidence

of these witnesses is so very discrepant that I am unable to believe their evidence. These two witnesses have been taking an active part in the processions that are being taken now and then. Whatever part they might have played in the formation of the Union, there can be no doubt that they absented themselves without obtaining leave. One point, however, which is urged is that there was no opportunity given to them to explain and that there was no regular enquiry. No doubt, it would have been better if a formal notice had been given asking them to show why they should not be dismissed and the proceedings of the enquiry were reduced to writing. As I am, however, convinced that they are dismissed not for the reason that they took an active part in the formation of the Union but that they absented themselves without obtaining leave, I do not think that this is a fit case in which a reinstatement should be ordered especially as nearly as two years have elapsed since they were sent away. They stated they would be satisfied by payment of three months' wages and the management are willing to pay wages. They are directed to do so.

9. Apart from these two persons four other workers were dismissed in about October 1946. They are Arumugham, Subbiah, Ramiah and Pulu Thevar; Arumugham, Subbiah and Pulu Thevar have been examined as P.Ws 3 to 5. Ramiah is not available as he was taken up work in Rajapalayam Mills These four persons are said to have gone to witness a cinema show in Royal Talkies and while returning from the cinema they passed through the goods shed of the railway company and they were arrested and detained by the Sub-Inspector of Police They were let on bail only on the 13th day. In the meantime, no applications were made for obtaining leave. No steps were taken to intimate, the management the circumstances under which they came to absent themselves There is no doubt, some evidence to show that word was sent through the father of Arumugham who asked one Kannu to send a leave letter. Kannu Thevar is examined as P.W 6 He states that Arumugham's father told him that four persons were arrested and that he should apply for leave He is said to have given a leave letter to the head joffer who supervises the weaving department, but the head joffer refused to receive the leave letter. The letter is not forthcoming. It is stated that it was left at his house and it is missing If any such letter had been given and was refused, Kannu Thevar would have taken care to preserve the same I am, therefore, unable to believe his evidence. Of the four persons who absented themselves for fourteen days, Ramaiah is employed elsewhere and the other three persons have been taking an active part in the processions that are being taken now and then. I am not, therefore, satisfied that a case has been made out for ordering reinstatement.

10. I next pass on to consider the questions covered by the additional issues which relate to the work-load and retrenchment of workers. The management do not propose to retrench any workers

at present and it is not necessary to consider that matter. So far as work-load is concerned, the contention of the management is that as the standardization committee recommended two or more looms for each worker, they are entitled to ask three or four looms to be worked by a weaver. As it is, the management want to ask one weaver to attend to three looms. The difficulty expressed by the workers is that while attending to two looms, it would be impossible for the weaver to attend to the work in the third loom if anything should go wrong there. At the instance of both the parties I inspected the mills and saw the working of the looms. Except for the looms which are the extremities the other looms are so arranged that four looms are in one square so much so that it would be possible for a weaver to attend to four looms at the same time if only he is vigilant. When the working of the looms was demonstrated before me the workers were unable to prove that there will be any danger to the weaver in the case something goes wrong with one of the looms. The looms have got two contrivances to stop the working and even if one of the contrivances fails the other will operate. Further, the looms stop automatically whenever there is anything wrong. The apprehension that a weaver will be injured if the looms does not stop is more imaginary than real. I do not, therefore, see any objection to the management fixing three looms as the work-load for each weaver It is admitted that for sometime at least some of the weavers were looking after three looms and even four looms and according to the management such an arrangement was prevailing for nearly a year. The workers ought not, therefore, to complain if each weaver is asked to attend to three looms at a time.

11. There is no other matter for consideration and I am submitting this award for approval by Government.

Order—No. 4015, *Development, dated* 30*th July* 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and management of Sankara Weaving Mills Company, Limited, Thalavuthu, Tirunelveli district, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of Sankara Weaving Mills Company, Limited, Thalavuthu, and the workers employed therein and directs that the said award shall come into operation on 30th July 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

XI

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI C. BHAKTHAVATSALU NAYUDU, B.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE RAJAH MILLS, MADURA,

and

THE WORKERS,

Mr. A. Lakshminarayana Ayyar and Mr. P. P. Thanganam—Advocates—For the mills.

Mr. N. R. Subramania Ayyar—Advocate—For the workers' union.

Mr. T. C. Srinivasa Ayyangar and Mr. V. Krishnaswami Ayyangar—Advocates—For the clerical staff.

Subject.—Dispute between the clerical staff and the mills settled by agreement.

Whether the settlement alleged to have been entered into between the mills and the workers, true, valid and binding.

Held that (1) as all the workers had not come to an agreement, and (2) as among those who had signed the agreement many had signed only under pressure, (3) and as some of the workers had stated that they had never agreed to the terms, there was no concluded compromise.

Whether the lockout of the mills was illegal.

Held that the mills were closed not because of losses but because of the unwillingness of the employer to implement the award *Held* further that if there were any material changes in the circumstances, the mills should have moved the Government for reference to a tribunal and should not have themselves decided to close down the mills. *Held* that the lockout was illegal.

Whether Tribunal had jurisdiction to give directions regarding arrears of wages and dearness allowance.

Held that it had. Claims for arrears of dearness allowance, etc., allowed. *Held* that the workers were entitled to wages and dearness allowance as per the award from Sri Venkataramayya from the date of closure till 31st March 1948.

G.O. Ms. No. 4016, Development, dated 30th July 1948.

[Labour—Disputes—Dispute between the workers and management of Rajah Mills, Madura—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 5618, Development, dated 4th December 1947.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA

PRESENT :

SRI C. BHAKTHAVATSALU NAYUDU, B.A., B.L.,
Industrial Tribunal of Madura.

INDUSTRIAL DISPUTE NO. 8 OF 1947.

Between

The workers of the Rajah Mills to which subsequently added the dispute between the clerical staff and management of the Rajah Mills, Madura,

and

The management of Rajah Mills, Madura.

AWARD.

By G O. Ms. No. 5618, Development, dated 4th December 1947, the dispute between the workers and management of the Rajah Mills, Madura, was referred to this Tribunal for adjudication. There was a prior dispute between the workers and the management in 1946 and by G.O. No. 2416, Development, dated 20th June 1946, the same was referred to Mr. P. Ramakrishna Ayyar, I.C.S., District and Sessions Judge, Ramnad, for adjudication on several questions inclusive of wages, dearness allowance, bonus, night shift, etc. The adjudicator passed an award on 5th August 1946 and the same was accepted by Government in G.O. No. 3189, dated 30th August 1946, and it was directed that the decisions specified in the award shall be in force and be binding on the workers and the management from the date of the order and so long as the Defence of India Rules continue to be in force. Subsequently a comprehensive award in regard to the conditions of labour in the textile industry in the Madras Presidency was passed by Mr. M. Venkataramayya on 19th June 1947 and the same was accepted by the Government. The previous award of Mr. Ramakrishna Ayyar having lapsed on 1st April 1947 and there having been a strike in Rajah Mills from 3rd April to 4th May 1947 no pay or wages for the period of the strike was recommended in Mr. Venkataramayya's

award. Mr. M. Venkataramayya in his award stated that as there was a prior adjudication, that should prevail till 1st April 1947 and thereafter his award should take effect from 4th May 1947, the day on which the strike came to an end. The award of Mr. Venkataramayya having been held to be binding for a period of one year it is admitted that it remained in force till the 31st of March 1948. During the pendency of this award the mills were closed on 16th November 1947. The workers contended that the closure of the mills amounted to a lock-out. It was declared illegal and a reference came to be made to this Tribunal. The contention of the management is that the closure of the mills does not amount to a lock-out as the mills were closed on account of heavy loss. On the other hand, it was contended on behalf of the workers that the lock-out was illegal and that the proprietor could not close the mill on the score that he is sustaining loss. It has been urged on behalf of the management that the reference by the Government is *ultra vires* and the Tribunal has no jurisdiction to give directions to the proprietor as regards the arrears of dearness allowance and other claims.

2. On 10th January 1948, my learned predecessor framed the following issues for determination :—

(1) Whether the closure of the mill is not a lock-out as defined in the Act?

(*a*) Whether it is legal?

(*b*) Whether the proprietor is entitled to close the mill on the score that he is sustaining loss?

(2) Whether the award of Mr. Venkataramayya could not relate to or have any bearing on the question of the closure of the mill?

(3) Whether non-implementation of the award is justifiable?

(*a*) Whether the Tribunal is competent to go into the question covered by issue 3?

(4) Whether the reference by the Government in this case is *ultra vires*?

(5) Whether the Tribunal has jurisdiction to give directions to the proprietor as regards arrears of dearness allowance and other claims?

(*a*) If so, what directions should be given?

At the enquiry, the management was represented by Mr. A. Lakshminarayana Ayyar and Mr. P. P. Thangamani, advocates, and the Workers' Union was represented by Mr. N. R. Subramania Ayyar, advocate.

3 The enquiry was begun on 27th January 1948 and went on till 12th March 1948. In the meanwhile, dispute arose between the clerical staff and the management and the former having approached Government Memorandum No. 25284-P/48-1, dated

5th March 1948, was sent to this Tribunal, over-ruling the objections of the management and holding that " workmen " as defined in the Industrial Disputes Act includes clerical staff also. This Tribunal was, therefore, requested to consider the case of the clerical staff also in the adjudication. Hence, though the enquiry relating to the dispute between the workers and the management was almost concluded on 12th March 1948 an award could not be passed as regards the said dispute and the Tribunal was constrained to consider the case of the clerical staff also. The clerical staff was represented by Messrs. T. C. Srinivasa Ayyangar and V. Krishnaswami Ayyangar, advocates. After the management filed a statement of objections the following issues were framed by my learned predecessor on 25th March 1948 with regard to the dispute between the clerical staff and the management :—

(1) Whether the award of Mr. Venkataramayya as Industrial Tribunal has dealt with the questions of gratuity, provident fund and leave allowances and findings have been given or whether only recommendations have been made by him in respect of their salary?

(2) Whether the clerical staff agreed to receive half their salary from 1st May 1947 and have received half rates and is it open to them now to question the cost of 50 per cent of their salary and claim full salary from that day?

(3) Whether the clerical staff signed receipts for nine months and bonus in 1943 and 1944 without actual receipt of the amounts and on the representation by the proprietor that the amounts would be reserved as a provident fund for building houses for accommodating them. If so, whether they could now claim payment?

(4) Whether there was loss for the proprietor in working the mills in the years from 1944–45 as alleged by the proprietor and the clerical staff could not, therefore, claim bonus?

(5) (a) Whether the findings of Mr. Ramakrishna Ayyar in his award in the matter of the disputes between the workers (clerical staff excluded) and the management that there was loss in working and the workers could not be allowed bonus cannot be questioned by this Tribunal enquiring into the disputes between the clerical staff and the proprietors and whether the findings are binding on the clerical staff?

(b) Whether the mills have been working at a loss from the years 1945–46 onwards and the clerical staff cannot, therefore, be given any bonus?

(c) Whether the clerical staff is entitled to any and what amount by way of gratuity, contributions by the proprietor towards the provident fund of the clerical staff and compensation on account of leave with salary being availed of by the staff?

(6) Whether the clerical staff can be given a charge on the assets of the proprietor for the amounts that may be found to be due to the clerical staff.

Subsequently the clerical staff called upon the management to produce several documents and account books, some of which were in the income-tax office. The enquiry was proceeded with on 30th April 1948 and the matter was adjourned to 8th May 1948. By this date, my learned predecessor received an order from the Government that he was appointed Additional Special Officer for Departmental Enquiries and he found that it will not be possible for him to complete the enquiry and pass an award. I had to take up the matter from the stage where he left on 31st May 1948 on which date arguments were heard by me on behalf of the workers, and on an application made on behalf of the management further enquiry was adjourned to 9th June 1948 in order to suit the convenience of the advocate for the management. On 31st May 1948 one Sankarappa Nayudu appeared on behalf of the workers and pressed for the opening of the mills. Mr. P. P. Thangamani, the junior counsel for the management, represented that the proprietor was willing to consider the matter of re-opening the mills, provided the prosecutions pending against him will not be pressed. I could not possibly give any assurance in regard to this matter and the enquiry, as stated above, was adjourned to 9th June 1948. The learned advocate for the clerical staff complained that inspection of accounts had not been given and inspection was ordered. When the mater came on before me on 9th June 1948 arguments were addressed by Mr. A. Lakshminarayana Ayyar appearing for the management. In the meantime, on 4th June 1948 the mill appears to have re-opened and it was represented on behalf of the proprietor that the matter was successfully settled with about 450 workers out of a total of 500 labourers on the muster roll. Several of the workers were present on 9th June 1948 But Mr. N. R. Subrahmanya Ayyar who is appearing for the Labour Union was not present and since there was a talk of compromise as between the management and the clerical staff, the enquiry was adjourned to 10th June 1948. On this date, Mr. N. R. Subrahmanya Ayyar pressed the case of the workers stating that there were a number of workers who did not agree to the settlement as proposed by the proprietor. The management produced an agreement arrived at between them and the majority of the workers and it is said to have been signed by 428 workers. Subsequently, another agreement signed by some more workers was also produced. It is contended, on behalf of the management, that this settlement between them and the workers has put an end to the whole controversy between the management and the workers and, therefore, there was no industrial dispute to be decided especially as they have settled the dispute between them and the clerical staff. It was also stated that in view of the settlement arrived at with the workers Mr N R. Subramanya Ayyar could not possibly represent them. But as the latter had a vakalat from the Secretary of the Union which was still subsisting and as he represented that several of the workers did not agree to the compromise and the settlement,

if any, must have been brought into existence by coercion and undue influence, he was asked to file a memorandum containing signatures of all persons who were not in agreement. The workers were also directed to be produced so that I might be satisfied as to whether the settlement was arrived at with the free will and consent of the workers and whether all the workers signed the compromise knowing full well the implications thereof.

4. The clerical staff having agreed to receive Rs. 9,000 in full settlement of their claims the matter was adjourned to 17th June 1948 for payment of the said amount. On 20th June 1948, to which date the matter as again adjourned, a cheque for Rs. 9,000 was handed over by the management to Mr. T. C. Srinivasa Ayyangar, advocate for the clerical staff, in whose favour the cheque was issued and he accepted it. The dispute between the clerical staff and the management has thus come to an end and hence, there is no longer any necessity to consider the several issues which were framed on 25th March 1948.

5. There remains, therefore, to be considered only the dispute between the workers on the one hand and the management on the other. I shall, at first, consider the position as to whether the settlement stated to have been arrived at between the workers and the management concludes the controversy between them and this will depend upon the answer to the question whether the settlement was arrived at with the free will and consent of the workers or whether it was brought about under circumstances which vitiated it, viz., of coercion and undue influence On 20th June 1948 a number of workers, probably about 300 to 400, were present A batch of 30 persons were called and questioned and after some prevarication, they said that they signed the compromise accepting the terms which were read out to them. Individually three males and two females, viz , Arumugha Nadar, Chinnaswami, Gurusami, Lakshmi and Pitchammal were called and questioned separately and they admitted having signed the compromise consenting to the terms They added that they were obliged to do so as there was no work for them for six or seven months. A number of workers then came up representing that they did not agree to the terms of the compromise but that they affixed their signatures to the same as they were told that the mills would begin working and the question of their wages would abide the decision of the Court. About 35 of the workers boldly came forward and represented this case They said that there were also other persons among the workers who were prepared to state that the compromise was brought into existence in these circumstances but were not bold enough to come forward and speak out the truth for fear of losing their jobs A memorandum signed by six persons was filed on behalf of the Labour Union in which it is stated that the workers were ignorant people, were coerced into signing the so-called settlement and they really did not know or understand the implications

of their affixing their signatures. Of these six persons only three persons Arunachalam, Sudalaimuthu, Abboobucker appeared before me. A written representation has been subsequently sent to me on behalf of the Madura Textile Workers' Union to the effect that this Abboobucker has since been victimized and is not being given work. An examination of the several workers that appeared before me left the general impression in me that the settlement was not a document which was brought into existence with the free will and consent of all the workers but that the workers were obliged to sign the same as they had no work for a period of six or seven months and they thought that they would not get any work unless they subscribed their signatures to such a document. Some of the workers told me that the document was not read over but their signatures were merely taken on the assurance that work will be given. Others told me that they knew that they will have to forego the wages and dearness allowance, during the period of the closure of the mills and also the dearness allowance that was in arrears and yet they signed the document as they will have to starve. As all the workers have not come to an agreement with the management, as even among the workers who have signed the settlement, there are many who signed only under pressure and as there are some workers who have boldly come forward and stated that they never agreed to the terms of the compromise, I do not think I will be justified in holding that there was a concluded compromise between the workers and the management and give effect to the same. I cannot hold that the dispute has come to an end as between the workers and the management, and it is, therefore, necessary for me to consider the several issues that were framed on 10th January 1948.

6. Though there are five issues, the central point for decision is whether the closure of the mill amounts to a lock-out and is illegal. Incidentally, the question arises whether the reference is within the competence of the Government and whether the Tribunal has jurisdiction to go into the question of the loss and said to have been sustained by the management. Though a point is taken that the reference is *ultra vires* of the Government's powers, that question has not been argued before me and I take it that it is not seriously pressed. There can be absolutely no question about the jurisdiction of the Tribunal to give directions to the proprietor as regards arrears of dearness allowance and other claims. Hence, the only point for serious consideration is about the alleged lock-out and the right of the proprietor to close the mills on the ground that he is sustaining loss. If the management has put forward the case that they were justified in closing the mills on the ground that they were incurring loss, there is nothing to prevent the Tribunal from going into that question though I feel that in this case it is really unnecessary to deal with the matter.

7. It is argued by Mr. A Lakshminarayana Ayyar that the closure of the mills does not amount to a lock-out and that even if it does, it is not a matter covered by the award and hence section

23 of the Act can have no application. It is pointed out that the proviso to section 19, sub-section (3) of the Act, cannot also be invoked as lock-out is not a matter covered by the award. Lastly, it is argued that the finding of Mr. Ramakrishna Ayyar that the mills were working at a loss till April 1947 is binding upon the workers and that there are circumstances which point to the conclusion that even subsequent to April 1947 the business was incurring loss as prices of yarn continued to be the same, the price of cotton was going up and overhead charges were also increasing on account of dearness allowance allowed by the award. The balance-sheet prepared up to November 1947 is produced and it is relied upon for showing that the business was not bringing in any profits. It is pointed out by Mr. A. L. Ayyar that the definition of lock-out as found in paragraph 747 at page 464 of Halsbury's Laws of England (Hailsam Edition) shows that closing of a place of employment or suspension of work or a refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute cannot amount to a lock-out unless it is done, with a view to compelling such persons to accept terms or conditions of or affecting employment. In the first place, in view of the definition given in the Act, it is not permissible to import into the definition whatever is contained in Halsbury's Laws of England. Assuming that the definition under the English Law could be invoked to supplement the definition in the Act, I have every reason to conclude that the object of closing the mills was not on account of the loss that is said to have been sustained but because of the unwillingness of the employer to implement the award In the present case it is seen that the mills have not been working from 16th November 1947 and as soon as the controls were removed and the proprietor found that he could make enormous profits he chose to open the mills and succeeded in negotiating with them for a compromise with the help of his maistris. The workers have joined the mills just because they could not remain without work any longer and could not afford to starve any further The promise to open the mills and give work seems to have made the workers forget all other considerations and to accept whatever terms were proposed by the employer. As it is under the compromise the workers have agreed to forego not only the wages and dearness allowance that they would be entitled to during the period of the closure but have also agreed to forego the extra wages and dearness allowance for the months of July and August 1947 which they are entitled to get under the award of Mr. Venkatramayya. There can be no doubt that by adopting the measures of closing the mills the proprietor has succeeded in bringing down the workers to their knees and to agree to the terms proposed by him. The next argument advanced is that the closure cannot amount to a lock-out as section 23 can have application only in regard to matters covered by the settlement or award. It is stated that the question of lock-out or loss was not a matter covered by the award. I may state

that during the enquiry by Mr. Ramakrishna Ayyar the question of loss was raised and he found that the mills were working at a loss. At page 35 of the award Mr. Venkatramayya observes as follows in paragraph 83 :—

" It will be sufficient to say that the award in its entirety when approved by the Government must be given effect to irrespective of other considerations either on complaints of loss or comparison of wages prevailing in one mill or another and so on."

There can, therefore, be no doubt that Mr. Venkatramayya had in view the question of loss which Mr. Ramakrishna Ayyar dealt with in his award and stated that the award could be given effect to irrespective of this consideration. Further an issue bearing number (5) appears to have been framed as could be seen at page 3 of the award. It runs as follows : " Whether the existing statutory provisions relating to strikes and lock-outs are adequate; what provisions should be made for preventing unreasonable strikes and lock-outs for a speedy settlement of disputes between the managements and workers." I am, therefore, unable to agree with the contention of the management that the matter was not covered by the award of Mr. Venkatramayya and therefore, section 23 has no application. The award was in operation till 31st March 1948 and during that period the management had no right to close the mills and bring into existence a lock-out If really there was any material change in the circumstances on which the award was passed and the management thought that they were entitled to redress, they should have moved the Government to refer the award to a Tribunal for decision of the question whether under the special circumstances the proprietor could be allowed to close down the mills. I do not think that the proprietor was entitled to decide for himself whether he could close the mills and then proceed to do so on the ground that he was incurring loss It is vehemently argued on behalf of the management that no person could be compelled to carry on a business which was incurring loss against his own wish. No doubt, after the expiry of the period during which the award is subsisting a proprietor can act according to his own wishes, but during the period in which the award is subsisting and in force, he cannot close the business except under provisions of section 19 of the Act. It is no doubt true that Mr. Ramakrishna Ayyar in his award has found that the business was incurring loss and that finding is binding upon the workers as they were parties to the arbitration. The mere fact that the mills were working at a loss during a certain period will not justify the management to close down the mills. The mills have been working from 1939 and there is every reason to conclude that enormous profits were being derived till about 1945–46. A person who made so much profits for a period of three or four years cannot be heard to say that because he incurred loss in one or two years he would be justified in closing the mills. It is pointed out on behalf of the workers that the business is really not working at a loss and that the proprietor has started another

Mill at Pudukottah to which place he has removed part of his machinery and has been showing in accounts expenditure which was really incurred for the Pudukottah Mills. I do not, however, think it necessary to go into that question as in my opinion the proprietor cannot close the mills during the pendency of the award even though his business is running at a loss. Mr. A. Lakshminarayana Ayyar wants to canvass the observations of the Australian Court at page 7 of Mr. Venkatramayya's award as an authority to support the position that the management is entitled to close the mills if he is incurring loss. That observation runs as follows :—

"If a man cannot maintain his enterprise without cutting down the wages which are proper to be paid to his employees at all events the wages are essential for their living it would be better that he should abandon the enterprise."

What was meant to be conveyed is that every person who wants to carry on an enterprise must pay a living wage to his employers and if he finds it necessary to cut down the wages he might as well give up the enterprise. It does not mean that as soon as an award is made fixing certain wages and dearness allowance he could close the mills and make the award nugatory and then start the mills again as soon as he finds that it is no longer obligatory on him to pay the wages and dearness allowance fixed by the award. I, therefore, find that the award of Mr. Venkatramayya does relate to the question of the closing of the mill, that the non-implementation of the award is not justifiable and that the Tribunal is competent to go into the question. I also find that the proprietor is not entitled to close the mills on the score that he is sustaining loss. Issue No. 4 is not seriously pressed and no finding is necessary. I find under issue No. 5 that the Tribunal has jurisdiction to give directions to the proprietor as regards arrears of dearness allowance and other claims. I find under issue 1 (*a*) and (*b*) that the closure of the mill is a lock-out as defined and that it is illegal. It follows that the workers are entitled to the arrears of dearness allowance and other claims made by them. They are also entitled to wages and dearness allowance as allowed in Mr. Venkatramayya's award from the time the mills were closed till 31st March 1948 during which period the award is subsisting.

I submit my award for kind approval by Government.

Order—No. 4016, *Development, dated* 30*th July* 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and management of the Rajah Mills, Madura, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras

hereby declares that the said award shall be binding on the management of Rajah Mills, Madura, and the workers employed therein and directs that the said award shall come into operation on 30th July 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

XII

BEFORE THE INDUSTRIAL TRIBUNAL FOR PRINTING PRESSES IN THE PROVINCE OF MADRAS.

PRESENT :

SRI P. MARKANDEYULU, M.A., B.L.,

[*Under the Industrial Disputes Act, 1947.*]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE SWARAJYA PRESS, VIJAYAWADA,

and

THE WORKERS.

INTERIM AWARD.

Award in terms of the settlement between the parties.

G.O. Ms. No. 4154 Development, dated 10th August 1948.

[Labour—Disputes—Dispute between the workers and management of the Swaraja Press, Vijayawada—Recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 6035, Development, dated 27th December 1947.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL FOR PRINTING PRESSES FOR THE PROVINCE OF MADRAS.

PRESENT :

SRI P. MARKANDEYULU, M.A., B.L.

[In the matter of the industrial dispute between the workers and the management of the Swarajya Press, Vijayawada.]

INTERIM AWARD.

The proprietor of the Swarajya Press originally closed the press on 13th February 1948, reopened it on 15th February 1948 and again closed it on 23rd March 1948 after giving fifteen days' notice

to the eight workers employed in the press. The Provincial Press Workers' Union has filed an application before the Industrial Tribunal for Printing Presses complaining against the lock-out effected by the proprietor and praying for an order for the reopening of the press as well as for the payment of the wages since the date of the closure.

The proprietor Sri D. Raghava Chandrayya has leased the press to one Sri B. Venkatramayya for one year from 22nd April 1948. The said Venkatramayya is present at the enquiry to-day.

The workers represented by Sri M. Venkateswara Row, the Vice-President of the Provincial Press Workers' Union, and Sri Raghava Chandrayya and Sri Venkatramayya have arrived at a settlement and requested me to pass an award in the following terms which I hereby do :—

(*a*) Everyone of the eight workers employed in the Swarajya Press should be paid a month's wages as a gratuity on or before 16th August 1948.

(*b*) As the workers have taken some advances from out of their pay during the month of March 1948, these advances should be deducted from out of the balance of pay due to them for that month and the balance alone should be paid to them.

(*c*) The workers have no concern with the Swarajya Press hereafter except as provided in clauses (*a*) and (*b*) above and hereby give up all claims against the press including the right of reinstatement.

(*d*) It is open to the proprietor and the lessee of the Swarajya Press to deal with the press in future in any manner they like.

Pronounced in open court, this the 26th day of July 1948.

Vijayawada,
26th July 1948.

P. MARKANDEYULU,
Industrial Tribunal for Printing Presses

Order -No. 4154, *Development, dated* 10*th August* 1948.

In G.O. Ms. No 6035, Development, dated 27th December 1947, the Government directed that the disputes between the workers and managements of printing presses in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri P. Markandeyulu, retired District Judge, City Civil Court, Madras. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of the Swarajya Press, Vijayawada The following order will issue :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri P. Markandeyulu, retired Judge, City Civil Court, Madras) constituted under G.O. Ms. No. 6035, Development, dated 27th

December 1947, to adjudicate in the industrial disputes existing between the workers and managements of printing presses in the Province in respect of the Swarajya Press, Vijayawada, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Swarajya Press, Vijayawada, and the workers employed therein and directs that the said award shall come into operation on the 10th August 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of printing presses in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN.
Secretary to Government.

XIII

BEFORE THE INDUSTRIAL TRIBUNAL AT CALICUT.

PRESENT:

SRI N. D. KRISHNA RAO, ESQ., M.A., BAR.-AT-LAW, I.C.S.

[Under the Defence of India Rule 81-A and Emergency Provisions (Continuance) Ordinance]

IN THE MATTER OF A TRADE DISPUTE.

Between

THE STANDARD FURNITURE COMPANY, LIMITED, KALLAI

and

THE WORKERS.

Sri K. V. Suryanarayana Iyer, Advocate—For management.

Sri K. P. Kuttikrishnan Nair—For the workers.

Subject—Wages.—Though the earnings in 1947 had kept pace with the rise in the cost of living. *Held* that the standard of life of the worker should be bettered.

Held on a comparison with the wages in similar factories in the vicinity the basic minimum wage should be raised to 13 annas and dearness allowance fixed at 100 per cent of the wage. For women

workers basic wage should be fixed at 11 annas with 100 per cent dearness allowance. For every fall in the cost of living Index by 15 points the basic wage should be reduced by six pies and the dearness allowance should remain at 100 per cent of the basic wage. Those getting about the minimum fixed under the award should not be prejudiced by the reduction of their wages.

Discharge of workers.—Held applying the " Rules for discharge of workers in Central Government undertakings " suggested for adoption by the Labour Commissioner that the discharge of one worker from those discharged in 1946 and six workers form those discharged in January 1947, not justified. The said workers were directed to be reinstated.

Whether partial employment should be given in lieu of retrenchment.—Held that partial employment did not conduce to increased efficiency and output and that it was undesirable that more than requisite number of labourers should be attached to the factory.

Leave facilities.—Held that the existing leave facilities were adequate.

Bonus.—Held that the financial results of the working of the factory did not permit the grant of any bonus. *Held* further that the profits of another enterprise with separate capital and treated as separate unit could not taken into account for declaration of bonus.

Whether clerks were entitled to join the trade union of workers.—Held on an examination of the provisions of the Trade Union Act, that the clerks were entitled to become members of the trade union.

Whether the strike by some clerks illegal and whether they should be reinstated.—Held that the strike was not illegal and that the management could not discriminate between clerks and the workers. *Held* that the clerks were entitled to reinstatment.

Whether the workers were entitled to pay for the period of the strike.—Held that rules for retrenchment were complied with by the company and in spite of errors in selection of personnel for discharge, the Union did not propose that other persons should be selected for discharge. *Held* that none of the workers were therefore entitled to wages from the date of strike till 3rd March 1947 when they offered to rejoin duty. *Held* that the refusal of employment to clerks from 3rd March 1947 was unjustified and that they should be paid their wages from the said date.

Held further that as the workers refused to rejoin work even after the dispute relating to clerks was referred to adjudication, the subsequent strike from 3rd March 1947 was not justified and that pay could not be ordered for the subsequent period also.

G.O. Ms. No 4182, Development, dated 11th August 1948.

[Labour—Disputes—Dispute between the workers and management of the Standard Furniture Company, Limited, Kallai, Kozhikode—Recommendations of the Adjudicator—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 660, Development, dated 20th February 1947.

G.O. No. 1317, Development, dated 25th March 1947.

(2)

IN THE COURT OF THE INDUSTRIAL TRIBUNAL AT CALICUT.

Wednesday, the 30th day of June 1948.

PRESENT :

N. D. KRISHNA RAO, ESQ., M.A., BAR.-AT-LAW, I.C.S.

District and Sessions Judge of South Malabar and Industrial Tribunal.

INDUSTRIAL CASE NO. 2 OF 1947.

Between

The Standard Furniture Company, Limited, Kallai,

and

Workers of the Standard Furniture Company, Limited, Kallai.

AWARD.

In G.O. Ms. No. 660, Development, dated 20th February 1947, the trade dispute which had arisen between the workers and the management of the Standard Furniture Company, Limited, Kallai, Calicut, was referred to me for adjudication under clause (c) of sub-rule (1) of rule 81-A of the Defence of India Rules, as continued in force by section 2 of the Emergency Provisions (Continuance) Ordinance, 1946 (Ordinance No. XX of 1946). The matters in dispute comprised four issues, and a fifth issue was added by G.O. Ms. No. 1317, Development, dated 25th March 1947. The issues are—

(1) Whether the existing basic wages are adequate and if not what increase is necessary.

(2) Whether the discharge of certain workers was justifiable.

(3) Whether the existing leave facilities are adequate and if not, what additional leave should be granted to the workers.

(4) Whether any bonus should be granted, and if so, how much.

(5) Whether the refusal of the management to take back the eight clerks who struck work on 10th February 1947 is justifiable; and if not, what relief should be given.

2. Both sides have filed written statements, and marked a number of Exhibits mostly items of correspondence. The workers are represented by their Union and on their behalf, thirteen of them were examined as witnesses with reference to the second issue. The management rely mainly on their registers and books of account, the accuracy of which has not been challenged by the workers. For the purpose of comparing the working conditions and wages, answers to a questionnaire were obtained from certain plywood factories and visit were paid to the five factories including the two belonging to the Standard Furniture Company, Limited.

3. The Standard Furniture Company, Limited (hereafter referred to as " the company ") was established in 1920, and took over two concerns known as the Calicut Furniture Company and the West Coast Saw Mill which previously belonged to Sri V. V. Shanmuga Mudaliar and Sri V. Krishna Menon. Sri V. Krishna Menon remained at the helm of the affairs of the company as the Managing Director, until he retired about the end of 1947. The company has now two factories, one at Kallai in Kozhikode and the other at Chalakudy in the Cochin State. The factory at Kallai has been in existence from the beginning, while the factory at Chalakudy came into existence in 1943. The capital of the company was increased from two lakhs to four lakhs of rupees for the purpose of establishing the factory at Chalakudy, and one lakh of rupees out of the added capital was reserved for subscription by the people of Cochin State. *The dispute referred to me for adjudication concerns the factory at Kallai alone*, and not the factory at Chalakudy which is run as a separate unit by the same management The workers' unions in the two factories are also separate and independent organizations.

4 The factory at Kallai comprises three sections, the saw mill, the furniture section and the plywood section. Until 1936, the first two sections alone were in existence, and only packing cases and furniture were being produced in the factory. The Directors' report for the year ending 31st August 1936 mentions that " permanent reduction in some of the sources of income of the company was anticipated and proposals were in contemplation for introducing new business." In 1937, plywood manufacture was introduced in the factory, with the help of the knowledge acquired by the Managing Director in Japan Spravers also began to be manufactured in 1936–37, and foot-rules and slate-frames in 1937–38. The company was the pioneer in the manufacture of plywood in this country, and the Director' report for the year ending 31st

August 1938 mentions that the expectations from plywood manufacture have been realized. The turnover and the dividend to shareholders increased from about Rs. 3,26,000 and 4 per cent in the year ending 31st August 1936 to about Rs. 6,20,000 and 8 per cent in the year ending 31st August 1939.

5. The war brought a vast increase in the volume of business in the shape of Government orders for military requirements. With the opening of an additional factory at Chalakudy in 1943, the volume of business reached the peak figure of about Rs. 18 lakhs in the year ending 31st August 1944 and 31st August 1945. But there was no proportionate increase in the net profits after the payment of income-tax, because the bulk of the profit was taken away as income-tax and excess profit tax, and also because latterly prices for Government orders were fixed so as to allow only a limited margin of profit. As a result of the difficulties of transport and the increase in the cost of raw materials during the war, there was actually a set back in the normal business of the company. The Directors' report year after year from 1942, record that sales of furniture and slate-frames were adversely affected. *Out of the four branches which sold furniture, those at Bangalore and Coimbatore were closed during* 1943–44. Those at Madras and Tiruchirappalli were maintained during the next year at a monthly loss of about Rs. 1,000 and the branch at Tiruchirappalli was ultimately closed in 1945–46. The plywood section alone appears to have sustained the income and the profit of the company after the flow of orders for military requirements dried up. During the year ending 31st August 1945, there was a loss of about Rs. 8,500 in the working of the factory at Kallai which contained the furniture section, while the factory at Chalakkudy which produced chiefly plywood brought a profit of about Rs. 73,000. In the next year, the factory at Kallai brought a profit of only of Rs. 10,000 while the factory at Chalakudy brought a profit of about Rs 52,000. At the end of 1946, the Managing Director proposed that there should be retrenchment, and a committee of Directors discharged 24 workers in January 1947. This discharge of workers brought the disputes with their union to a head, and was the immediate reason for the strike which was notified by the union on the next day and actually begun on 10th February 1947.

6. The company employs about 430 workers (men and women) besides office establishment. Almost all the employees are paid time wages, and only about 50 are paid piece wages, namely, coolies of the Moopan or lifting and transport contractor in the saw mill section, slate workers and most of the carpenters and some of the polishers and blacksmiths in the furniture section, and workers engaged in bundling plywood and planing chair-seats and tea-chests by hand in the plywood section. All the members of the office establishment and a small proportion of the labourers are paid monthly salaries, and the remaining time workers are paid

daily wages. There is no regular scale of increment, but it appears that some rise is given at the discretion of the Managing Director after every few years' service at a post. Dearness allowance at 12½ per cent of the basic wages was introduced in 1942, and it was increased by stages to 75 per cent in October 1944, and final stage of 100 per cent for workers getting Rs. 50 and below per month being reached in November 1946.

7. The Standard Furniture Company Labour Union (hereafter referred to as " the Union ") was formed on 19th May 1946, and about a week later it formulated eleven " immediate demands " relating to the recognition of the union, reinstatement of dismissed labourers, enhancement of wages and allowances, and some other subjects like the canteen [vide Exhibits P-7 (*a*)]. The Managing Director had conversations with the secretary of the union in the presence of certain public-spirited gentlemen, and sent a reply on 27th June 1946 regarding the demands (vide Exhibit R-2). The management had no objection to recognizing the union, and pointed out that they had already taken back the only dismissed employee. So far as the enhancement of basic wages was concerned, the management proposed to increase the minimum wages of employees by 12½ per cent in the case of those not getting Rs. 1–2–0 per day including dearness allowance, and to wait till the end of the account year (August 1946) for a general increase of wages. As regards the enhancement of dearness allowance, the management explained that the financial position of the company did not permit them to grant an increase. On the question of bonus, the management stated that they could not pay it for 1944–45 during which they sustained a loss, that they would allow in August 1946 one month's wages as bonus out of the profits for the year ending 31st August 1946, and that they would provide for one more month's wages as bonus in the balance-sheet if the financial conditions permitted. On 29th June 1946 the union agreed to the proposal regarding basic wages, with the modification that 12½ per cent increase should also be given for persons getting a monthly pay of Rs. 35 and less. It pressed for the enhancement of dearness allowance by 100 per cent, for the payment of one month's wages as bonus in July 1946 and of a similar amount of bonus after August 1946 (vide Exhibit R-43). Subsequently disputes arose, as the union considered that the proposed increase of basic wages was not properly implemented and that workers were victimized and indiscriminately sent away (vide Exhibits P-48, R-43 and P-11). A threat of strike was averted by the intervention of the Assistant Commissioner of Labour, and an agreement between the management and the union was reached on 11th November 1946 (vide Exhibit P-45). Under the first clause of that agreement the piece-rates were to be increased by 12½ per cent from 1st September 1946; under the second clause, daily-rated workers whose basic wages were 11 annas and below were to be given an increase of

6¼ per cent from 1st September 1946, and under the third clause dearness allowance at 100 per cent of the basic wages for workers getting Rs. 50 and below per month, was to be given with effect from 1st November 1946. The fourth clause provided that eight discharged workers were to be taken back for work on alternate days and that retrenchment in future should be effected in consultation with the Labour Conciliation Officer, Kozhikode. The fifth clause related to the collection and payment of *kandipaisa* to the workers in the saw mill. In their notice of strike, Exhibit P-11, dated 17th January 1947, the union alleged that clauses 1, 2, 4 and 5 of the agreement had not been complied with by the management. But at the hearing before me, Sri K. P. Kuttikrishnan Nair for the union admitted that the true reason for calling the strike was the discharge of 24 workers on the previous day.

8. *Issue* 1.—This issue as it is worded, refers only to basic wages. Both the sides, however, agree that it is the workers total wages whether as basic wages or as dearness allowance, that we are concerned with. It is necessary to set out in the first place that the existing wages are, after they were increased in June 1946 and again in November 1946. Previously, the minimum basic wages of a man and woman in the factory *were 8 annas and 7 annas, respectively, and the dearness allowance was 75 per cent.* As a result of the revision of 29th June 1946, the wages of workers who got less than Rs. 1-2-0 per day, i.e., whose *basic wages were 10 annas and less, were enhanced by 12½ per cent up to the limit of Rs. 1-2-0 per day.* By the agreement of 11th November 1946, the basic wages up to 11 annas a day were further enhanced *by 6¼ cent and the dearness allowance was increased from 75 per cent to 100 per cent.* Thus the daily wages of women workers were raised from Rs. 0-12-3 in May 1946 to Re. 1-1-0 on 9th November 1946; and the wages of men workers ranged upwards from a minimum of Rs. 1-3-2, as shown in the following table :—

Women.

	Rs.	A	P.		Rs.	A.	P.
May 1946	0	7	0	plus 75 per cent dearness allowance.	0	12	3
29th June 1946	0	8	0	plus 75 per cent dearness allowance.	0	14	0
9th November 1946	0	8	6	plus 100 per cent dearness allowance.	1	1	0

Men.

	Rs.	A.	P.		Rs.	A.	P.
May 1946	0	8	0	plus 75 per cent dearness allowance	0	14	0
	0	9	0	plus 75 per cent dearness allowance,	0	15	9
	0	10	0	plus 75 per cent dearness allowance.	1	1	6
	0	11	0	plus 75 per cent dearness allowance.	1	3	3

Men—cont.

	Rs. A. P.		Rs. A. P.
29th June 1946	0 9 0	plus 75 per cent dearness allowance.	0 15 9
	0 10 0	p us 75 per cent dearness allowance	1 1 6
	0 10 6	plus 75 per cent dearness allowance	1 2 5
	0 11 0	plus 75 per cent dearness allowance.	1 3 3
9th November 1946	0 9 7	plus 100 per cent dearness allowance.	1 3 2
	0 10 8	plus 100 per cent dearness allowance.	1 5 4
	0 11 2	plus 100 per cent dearness allowance.	1 6 4
	0 11 8	plus 100 per cent dearness allowance.	1 7 4

Workers getting above 11 annas as basic wages did not get an increase in basic wages, but their dearness allowance was enhanced from 75 per cent to 100 per cent under the agreement of November 1946.

9. The union contends in its statement that the minimum basic wages should be the equivalent of Rs. 45 per month and that the dearness allowance should be 125 per cent. On the other hand, the management urge that the agreement of 11th November 1946 has gone as far as is practicable in favour of the workers and that the finances of the company do not permit any further increase of wages.

10 The daily earnings of the different categories of time workers in the factory in 1947 as compared with their daily earnings in 1936 are summarized in the following table :—

Categories of workers.	*Daily earnings.*		
	1936.		1947.
1 Saw mill operatives ..	Rs. A. P. 0 6 0 to 0 12 6		Rs. A. P. 1 3 2 to 2 9 10
2 Furniture operatives ..	0 6 0 to 0 11 0		1 3 2 to 2 1 2
	1937.		
3 Plywood operatives ..	0 4 0 to 1 10 0		1 3 2 to 3 0 0
4 Workshop operatives ..	0 5 0 to 0 10 0		1 3 2 to 3 0 0
5 Blacksmiths .. .	0 8 0 to 1 0 0		2 0 3 to 4 3 8
6 Carpenters	0 12 0 to 1 0 0		1 8 0 to 3 7 4
7 Polishers	0 6 0 to 0 9 0		1 3 2 to 3 0 0
8 Coolies	0 4 0 to 0 10 6		1 3 2 to 1 14 0

During the same period the cost of living index at Kozhikode rose from 100 to 289 (January 1947) It will be seen that the increase in wages more or less kept pace with the increase in the cost of living. In other words, viewing the wages from the stand-point of the worker's needs, his real wages in January 1947 were more or less at the same level as before the war. Sri K. P. Kuttikrishnan Nair, however, urges that there has been a rise in the general

standard of living, and that a worker employed by the company cannot be asked to be content with the same standard as before the war, when workers in almost all other factories have improved their position. Even otherwise, nobody can quarrel with the proposition that the workers' standard of living should be bettered as far as possible. I have, therefore, to consider whether similar workers elsewhere get better wages.

11. The management contend that their factory at Kallai is considerably overstaffed, and that they are paying the workers to capacity. They point out from the balance-sheets that the working of the factory resulted in a loss of about Rs. 8,500 during the year ending 31st August 1945, and that there was a profit of only Rs. 10,000 during the next year and that there was again a loss of about Rs. 5,200 during the year ending 31st August 1947. They have produced a profit and loss account for the six months ending 29th February 1948 showing a loss of about Rs. 4,500. It also appears from the costing schedules filed by them that the saw mill fetches little or no profit, that in the furniture section, there is actually a loss in respect of several of their products and that only the plywood section is working with a substantial margin of profit (vide index No. 50). As against this, it is urged on behalf of the union that the failure of the company to make profits is not due to loss of business, lack of timber and transport facilities, and other unavoidable causes which the management have alleged. It is contended that nepotism and mismanagement are rampant, that profits have been diverted by exhibiting unnecessary expenditure, and that in order to spite the union, orders were refused and timber was sold away without being used for work in the factory. I have carefully examined these charges with reference to all the materials placed before me, and in particular the union's interrogatory and notice to admit facts and the management's answer. The management's answers are mostly self-explanatory, and I find no substance in any of the charges levelled by the union. Sometimes the charges have been inconsistent, for example paragraph 30 of the statement, dated 19th March 1947, filed by the union before me alleges that timber is being purchased at inflated prices, while a memorandum, Exhibit R-43, dated 24th September 1946, previously submitted by the union to the company's directors alleged that the company is not "having efficient brokers" and "is not willing to give reasonable price for timber." The answers furnished by other factories to the questionnaire do not show that the company has been paying more than the competitive price for its purchases of timber. The broad facts are that as long ago as in 1936, when the shareholders got a dividend of only 4 per cent, the directors' report anticipated a reduction in the company's existing sources of income, namely, sawing timber and manufacturing packing cases and furniture. Therefore, it is only to be expected that with the business becoming normal after the war, the saw mill and the furniture section would not be very profitable The balance-sheet for the year ending 31st

August 1945 even before the union was formed, shows a loss in the working of the factory at Kallai. Therefore it is idle to contend that the loss is fudged in order to spite the workers after they formed the union. Even during the boom years of the war, the dividend to the share-holders averaged only 10 per cent. The share-holders had also presumably to meet the increased cost of living and it cannot be said that the real value of the dividend was an unduly high return on the investments. On the whole, it is clear that the factory is not so prosperous or remunerative as to afford easily to pay for a rise in the standard of living for its workers. The company's income does not permit a higher level of wages, except in so far as they admit that management is uneconomical because the factory is over-staffed.

12. The next question which has to be considered is whether similar workers in other industries get better wages. *The Court of Inquiry (Sri K. A. Mukundan) appointed* to enquire into the conditions of labour in timber and saw mills reported that the pre-war minimum wage rates in Malabar were 6 to 7 annas per day, and that 12 annas a day will be a fair minimum wage for an adult worker in the Malabar mills, the dearness allowance being 100 per cent. For new recruits and for women, it considered that 10 annas a day should be the basic wage. This report which was commended for adoption to the workers and managements concerned by the Government was made in October 1947. The cost of living index for Calicut in October 1947 was 330, while the latest figure published is 388 for April 1948. So if we allow for the subsequent rise in the cost of living the minimum basic wage for an adult male worker should be raised from 12 annas to 14 annas a day. A recent award in May 1948 by the Industrial Tribunal (Sri M. Venkataramayya) for motor transport services and workshops in the Province fixed Rs. 42 as the minimum monthly income for an unskilled worker in the mufassal. Counting 26 working days in a month, this corresponds to Rs. 1-10-0 a day, or 13 annas basic wage together with 100 per cent dearness allowance. The prevailing wages for unskilled free lance labourers at Calicut is now Rs. 2-8-0 to Rs. 3 per day. Thus it appears that unskilled workers in other industries or occupations at Calicut are able to earn more than an average of Rs. 1-10-0 per day or Rs. 42 a month.

13. When we compare the wages paid in other plywood factories in the vicinity, we find that the Malabar Plywood Works at Feroke is paying a minimum wage of Re. 1-6-0 a day. The Kerala Plywood Company at Kallai pay less than the company for a few categories of workers and more than the company for most of the categories of workers. The existing minimum wage of Re. 1-3-0 was agreed to by the company in November 1946, when the cost of living index for Calicut was about 290, and the latest figure 388 justifies an increase of the minimum wage to Rs. 1-10-0. After taking into consideration all the circumstances I have come to the

conclusion that the existing minimum basic wage of Re. 0-9-7 for male workers in the company is inadequate and should be 13 annas a day, the dearness allowance being maintained at 100 per cent. For women workers, the minimum wage paid by the company has been seven-eighth of that for men workers. The minimum basic wage for women workers should accordingly be 11 annas, the dearness allowance in their case also being 100 per cent.

14. It would be wrong to fix the wages for the numerous different categories of semi-skilled and skilled workers employed by the company, without at the same time fixing standards of output and efficiency. Neither side has placed the necessary materials before me, and in fact Sri K. P. Kuttikrishnan Nair on behalf of the union ultimately pressed more for retention of the full strength of workers than for any enhancement of wages. I think that it is sufficient to fix only the minimum wages which ought to be paid in the factory and leave to the good sense of the management any revision of wages of workers now getting above the minimum.

15. The minimum wage proposed has to be tested in the light of whether the company is capable of paying the same I have already shown that the minimum wage is only consistent with what was agreed to be paid by the management in November 1946, if we take into account the subsequent increase in the cost of living. *Moreover, the company will be at liberty to retrench surplus personnel*, provided that they follow the rules of equity (such as are embodied in Exhibit R-79) and any other general instructions that may be issued from time to time by the Government. On a rough calculation, I find that their proposals for retrenchment would result in a monthly saving of about Rs. 4,800 while the increased minimum wage proposed would involve an additional monthly expenditure of about Rs. 2,100. Therefore, it appears that even according to the management, if the factory is run efficiently the minimum daily wage can be raised to Rs. 1-10-0 and Re 1-6-0. It is only necessary to provide that for every fall in the cost of living index by 15 points below 390, the total wages of both men and women workers should be reduced by one anna, and this may be conveniently done by reducing the basic wage by half anna, the dearness allowance being maintained at 100 per cent.

16 My decision on the first issue is that the existing basic wages are inadequate where they are less than 13 annas a day for men and 11 annas a day for women. They should accordingly be increased, so that the minimum basic wages are 13 annas and 11 annas a day respectively for men and women workers, the dearness allowance being 100 per cent. For every fall in the cost of living index for Calicut for a particular month by 15 points below 390 the minimum basic wages in the second succeeding month may be reduced by 6 pies for both men and women workers The award will not operate to reduce the existing wage of any worker getting more than the minimum now fixed and the question of increasing such wages is left to the discretion of the management.

17. *Issue* 2.—As already noticed, the discharge of 24 workers on 16th January 1947 was the immediate reason for the notice of the strike, Exhibit P-11, which was issued by the union on 17th January 1947. The contention of the management is that the issue refers only to these 24 workers, while the contention of the union is that the issue covers also the several workers who were discharged on previous occasions since May 1946. On behalf of the management, it is argued that the question of workers who had been discharged previously was settled by the fourth clause of the agreement of 11th November 1946, which provided that eight discharged workers should be taken back for shift work on alternate days. But on behalf of the union, it is urged that the workers consented to the terms of the agreement of 11th November 1946 only because of their anxiety to avoid a strike, that the terms were not fair or satisfactory to them, and that all the matters in dispute are reopened by the adjudication. Even according to the management they consented to some of the terms, such as clauses 1 to 3 relating to the enhancement of wages, only in order to purchase peace and not because the finances of the company warranted the enhancement. In the circumstances, I think that the agreement of 11th November 1946 *is no bar to the union re-agitating the question of workers who were discharged even previously.*

18. The statement of the union on the subject begins by mentioning that immediately after the union was formed, their treasurer K. Gopala Menon was discharged on 21st May 1946. This fact has been set out only to show that the management were hostile to the union from the outset, because admittedly K. Gopala Menon was reinstated on 31st May 1946 It appears from the Managing Director's letters, Exhibits P-15 and P-16, that the real reason for discharging Sri Gopala Menon was his insolent behaviour and that he was reinstated as soon as he apologised. In the circumstances, I am not prepared to say that the individual was victimized by the management.

19. The statement next refers to five workers who were dismissed in August 1946. The reason for their dismissal is proved to be their irregular attendance, and this is a good ground for dismissal under the company's Standing Orders (vide Exhibit P-10). Moreover, upon the request of the union, *all the five were admittedly reinstated.* One Perumal among them who is alleged to have been subsequently dismissed, in fact left the company's service of his own accord as he was not willing to work on alternate days (vide P.W. 13's evidence). Hence no further action is called for in respect of these five workers.

20. The union pressed the cases of seven workers who were dispensed with in October 1946, three workers who were dispensed with on 1st November 1946 and 24 workers who were discharged on 16th January 1947. It is also alleged in P.W. 13's evidence that about ten workers have been discharged subsequently, that one

of them is employed as a cook in the canteen and the whereabouts of the rest are not known. Regarding the three workers who were discharged on 1st November 1946, the management explain that they were too old to work and that they have no grievance against their superannuation. None of them have gone into the witness-box to refute the explanation and so it is clear that they were rightly dispensed with.

21. As to the workers discharged in October 1946 and January 1947, the case of the management is that they were retrenched because there was not sufficient work in the factory. I have already noticed that the company's sales of furniture have declined, so that three out of four branches had to be closed. It is further proved that they have also lost much of their business in slate-frames, because of competition and difficulties of transport. Thus owing to the contraction in the volume of business in furniture, a reduction in the number of workers was inevitable. In addition, the management complain that they happened to entertain many more labourers than necessary, particularly in their furniture section which is actually running at a loss. Even in the plywood section, they no longer have a monopoly in the manufacture of plywood as before the war; and they have to think of ways and means of effecting economy by dispensing with superfluous labour. It is represented that the company cannot be worked profitably without retrenchment, and more than 100 persons out of the existing establishment are surplus of actual requirements.

22. The position taken by the union is that the factory is not overstaffed at all and that there is no scope whatever for retrenchment. It is urged that if the number of workers is reduced, there will be a corresponding decrease in efficiency and output; and that the real object of the management is to get rid of troublesome workers under the guise of retrenchment. As the decision of the issue depended on determining whether the company's factory at Kallai was in fact overstaffed, questionnaires were issued and visits made to other similar factories. On a careful consideration of the answers to the questionnaire and the working conditions in the factories concerned, I have come to the conclusion that the management's contention is well-founded. To mention one instance, there are three operatives employed for several machines in the furniture section where only two are necessary. Again, while workers in other factories perform jobs different from those for which they were originally engaged whenever they remain idle, workers in the company's factory at Kallai wrongly refuse to do so, thereby lowering their overall productive capacity. Even in December 1946, before selecting the 24 persons for discharge, the Managing Director wrote to other directors and to the Commissioner of Labour that the factory was overstaffed (vide Exhibits R-46 and R-14) The provisions in clause 4 of the agreement of 11th November 1946 to employ the previously discharged workers only on alternate days,

was also evidently due to a realization by both parties that there was not enough work in the factory. It is extremely unlikely that the management will carry retrenchment to the point of setting impossible tasks for their workers, thereby losing their experienced hands and diminishing the company's turnover and profits. For the purpose of the present dispute, it is unnecessary to say anything beyond this regarding the further retrenchment contemplated by the management. It is sufficient to say that there was ample justification for the retrenchment of workers in October 1946 and January 1947.

23. In effecting the retrenchment in January 1947, the management purport to have followed the " Rules for discharge of workers in Central Government undertakings," which were *suggested* for adoption in all factories by the Commissioner of Labour (vide Exhibit R-79) Rule 3 lays down how a Committee should be set up for selecting the personnel for discharge In the present case, a Committee was set up, but it consisted only of four directors of the company, and had no representative from the union. According to the second sentence in clause 4 of the agreement of 11th November 1946, the management had to consult the Labour Conciliation Officer, Calicut, in the matter of effecting retrenchment. We find that the names of all the 24 workers selected for discharge by the Committee of Directors were communicated to the Labour Conciliation Officer, Calicut, on 8th January 1947 (vide Exhibit R 80). On the whole I think that the procedure adopted by the management complied to a reasonable extent the rules in Exhibit R-79 taken in combination with the agreement, Exhibit P-45.

24 I shall next consider how far the guiding principle of short service laid down in the rules mentioned above has been followed, i.e., that the last man engaged should be the first man to be discharged. Out of the 24 workers who were discharged in January 1947, the management state that Nos. 1 to 18 were superannuated employees who were physically unfit to work, Nos. 19 to 21 were polishers who were not required in that department and Nos 22 to 24 were merely apprentices in the blacksmiths department. The union states that some of the men such as Nos 8, 10 and 11 were young men fit for work, that persons with lesser service than Nos. 19 to 21 have been retained, and that Nos 22 and 24 were not apprentices. It is also urged that No. 19 was a member of the working committee and No. 22 was the assistant secretary of the union and hence they were particularly victimized.

25. Out of the group classed by the management as superannuated employees, only Nos. 1, 4, 9, 10, 14 and 18 have come forward as witnesses :

No. 1, *Panhan.*—He is 53 years old but appears emaciated. He says that there are only three or four persons older than himself retained in the saw mill section in which he was formerly employed.

Probably those men have better physique; therefore I do not consider that the management were wrong in considering No. 1 as unfit for work.

No. 4, Chaayichutty.—He gives his age as 55 but does not remember the year of his birth. His job in the company was to carry logs. After being discharged he has taken to the light work of hawking newspapers and oranges, which fetches comparatively less income than heavy manual labour. Evidently he does not like strenuous work. In the circumstances, I think the management were justified in considering him unfit for retention.

No. 9, Sankaran, aged 53, with nine years' service;

No. 10, Chandu, aged 35, with five years' service;

No. 14, Sankunni Menon, aged 61, with three years of service;

No. 18, Appu Menon, aged 53, with five years of service.

In the case of these four workers, the line of cross-examination on behalf of the management was that the management had no grudge in selecting them for discharge But the specific ground taken that they are unfit for work is not proved nor the requirement of the rules that they have the shortest periods of service.

26. Out of the second group comprising of Nos. 19 to 21, No. 19, Narayana Menon, aged 35, with 16 years' service and No. 21, Achuthan Nayar, aged 32, with 12 years' service, have come forward as witnesses. Their evidence is that persons with lesser service have been retained. This is consistent with the statement filed by the union and is not shown to be false.

27. As regards Nos. 22 to 24, Sri K. V. Suryanarayana Ayyar, the learned counsel for the management says that by referring to them as apprentices he meant merely that they were workers on trial or temporary hands No. 23, Damodaran Nayar and No. 24, Gopalan Nayar, have given evidence that they joined the company's service only in January 1943 and May 1944, respectively. It does not appear that there are blacksmiths with lesser service who have been retained by the company. Hence their discharge is not shown to be contrary to principle. No. 22, Krishnan Nayar, is said to have been the assistant secretary of the union. He has not come forward to give evidence, and has written in July 1947 from Bombay for withdrawal of his provident fund amount (vide Exhibit R-82). He does not appear to be interested in being re-employed by the company and there is no proof that his discharge was contrary to the rule of juniority.

28. With regard to the seven workers who were discharged in October 1946, the only reason given by the management is that reduction was found necessary (vide Exhibit P-19). It is not suggested by the management that they followed the rules in Exhibit R-79, as they purported to do subsequently. The managements state that four of these workers left of their own accord and got employment elsewhere presumably because they did not like

to work on alternate days as provided in the agreement of 11th November 1946. But two of them, Krishnan Nayar and Apputty, have come forward as witnesses and complain of their discharge. Krishnan Nayar claims to have put in 6 or 7 years' service; but there is no evidence regarding the period of service of Apputty. Therefore the discharge of Krishnan Nayar alone is shown to be not in accordance with the rules in Exhibit R-79.

29. In the result, I find that though the management were amply justified in effecting retrenchment in the number of workers, their selection of the persons to be discharged was not justified in the case of Krishnan Nayar out of the men discharged in October 1946, and in the case of Sankaran, Chandu, Sankunni Menon, Appu Menon, Narayana Menon, Achuthan Nayar (Nos. 9, 10, 14, 18, 19 and 21) out of the persons discharged in January 1947. The admissions of the witnesses prove that the management had no *mala fide* whatever in selecting the persons for discharge, all except two being ordinary members of the Union like most workers retained in service. I would therefore hold that the discharge of the other wokers was justified. In respect of the seven workers named above, whose discharge was not justified, the management should reinstate them, but this would not bar their discharging them again in accordance with the rules in Exhibit R-79.

30. On behalf of the Union, it is urged that if retrenchment is held to be unavoidably necessary, the workers would prefer partial employment, e.g., work on alternate days, rather than that some of them should be completely thrown out of employment. But the management state that partial employment leads to absenteeism as a particular worker may get more profitable work elsewhere on the day of his turn. They further state that it leads to difficulties in co-ordination and locating responsibility for defects. I think that it is undesirable that more than the requisite number of labourers, mainly of the unskilled category, should be attached to the factory. The need of the day is increased efficiency and output on the part of labour, and partial employment in lieu of retrenchment would not be conducive to such a result.

31. *Issue* 3.—Under section 49-B of the Factories Act, 1934 (as amended in 1945), for every 12 months' continuous service, an adult worker is entitled to ten days' leave with pay, and a child worker is entitled to fourteen days' leave with pay. It appears that in 1946, the company treated the seven Onam holidays and three other festival holidays as equivalent to this leave. But the Chief Inspector of Factories took objection on the ground that the leave under section 49-B should be given in spells chosen by the worker and should not be confined to the holidays on which the factory was closed. The management have accordingly amended their leave rules and satisfied the Government that the benefits complied with the provisions of the Factory Act (vide Exhibit R-72 containing copy of G.O. Ms. No. 927, Development, dated 4th March 1947).

32. The result will be that during the festival holidays when the factory remains closed, the daily-paid workers will not get any wages in future and only the monthly-paid workers will be benefited. Therefore the Union wants that for all the festivals, namely, for Onam, Vishu, Thiruvathira, Navarathri, Christmas and Muharram holidays should be granted with pay to every worker. Sri K. P. Kuttikrishnan Nayar presses for a minimum of two such holidays because the Court of Enquiry (Sri K. A. Mukundan) for Timber and Saw Mills recommended that number. But the management urge that they have fully complied with the statutory requirements relating to leave facilities and that they should not be saddled with further liabilities as the factory is working at a loss. I agree with the contention of the management, and find that the existing leave facilities are adequate and no additional leave should be required to be granted to the workers.

33. Sri K. P. Kuttikrishnan Nayar on behalf of the workers has also raised the question whether the workers are entitled to treat the period of the strike from 10th February to 20th April 1947 as part of the period of continuous service qualifying for the annual leave. He relies on the explanation to section 49-B and urges that the strike is not an illegal strike. But the specific question as to the effect of the strike on the annual leave is not a part of the issue before me and does not therefore arise for any consideration.

34. *Issue* 4.—It appears that in each of the years 1942-43 and 1943-44 two months' wages were paid to the workers as bonus. In 1944-45 no bonus was paid and in 1945-46 the workers got one month's wages as bonus. They now claim six months' wages by way of bonus. They ask for bonus at this rate for every year commencing from 1944-45, because bonus for 1944-45 was one of their " immediate demands " formulated on 27th May 1947 which were in substance reiterated in their strike notice.

35. The management have raised a point that bonus is an *ex gratia* payment which the workers cannot claim as of right. It is not necessary to deal with this legal contention, because in my opinion they are no stronger ground when they urge on merits that the financial results of the working of the factory do not permit the grant of any bonus. In 1944-45, the working of the factory at Kallai resulted in a loss of about Rs 8,500. In 1945-46, the profit before provision for income-tax was only Rs. 10,000 and in 1946-47 there was again a loss of Rs. 5,200. For the six months ending 29th February 1948, it is estimated that there was a loss of Rs. 4,500 and odd. No doubt dividends were declared to the shareholders at 8 per cent, 9 per cent and 6 per cent for the three years from 1944-45 to 1946-47, but they were only out of the profits realized for the working of the factory at Chalakudi.

36. The answer advanced on behalf of the workers is that the profits from Chalakudi should also be taken into account and that they are entitled just like the shareholders to get the benefits of the

profits realized at Chalakudi. I am clearly of opinion that there is no basis for such a claim. It is manifest from the accounts, that the company is running the factory at Chalakudi as a separate enterprise. Capital was separately raised, and ever since the factory at Chalakudi began to function, it was treated, as a separate unit for all the items of receipt and expenditure. The workers' unions in the two factories are distinct and separate. The ordinary justification for claiming bonus is that the workmen's contribution to production which rendered the profits possible, and therefore that the workmen are entitled to a share in these profits. But the workmen of the factory at Kallai had no concern with the production or welfare of the factory at Chalakudi and were not in any way responsible for the profits coming from Chalakudi. So far as the years 1944–45 and 1946–47 are concerned the products of their work brought no profit and the wages they receive were more than their due. So far as the year 1945–46 is concerned, the bonus paid out to the staff at Kallai amounts to Rs. 11,000 and odd while the profit for the year was only about Rs. 10,000. The management explain that the bonus was sanctioned before the accounts for the year were added up. Their contention that the amount of bonus paid for 1945–46 errs in favour of the workers is well-founded. I find that the workers were not entitled to any further bonus for the period up to 31st August 1947.

37. *Issue* 5.—The first part of this issue was taken up for decision before the other issues and the following finding was given on 15th April 1947 :—

"On 19th May 1946, the Standard Furniture Company Labour Union (hereafter referred to as the Union) was formed and on 1st February 1947 it was registered under the Indian Trade Unions Act, 1926. On 17th January 1947, owing to certain disputes with the management of the Standard Furniture Company (hereafter referred to as the company) it gave notice to the Managing Director of the company that the labourers of the company would strike work on 10th February 1947 unless its demands were complied with. The strike commenced on 10th February 1947 as notified, and 8 or 12 clerks of the company who were members of the Union also struck work. The Managing Director of the company issued a notice on 10th February 1947 to seven of the clerks, informing them that as they absented themselves without leave, they would not be allowed to join duty until the question was considered by the Board of Management. On 22nd March 1947, he informed all the clerks that their services were dispensed with in accordance with the resolution, dated 8th March 1947, passed by the Directors, because they had absented themselves without leave and without justification. Meanwhile on 20th February 1947, the dispute between the workers and the management of the company under four issues was referred to me by the Government for adjudication. Consequently on 28th February 1947, the President of the Union wrote to the Managing Director proposing to call off

the strike. But the Managing Director was willing to reinstate only the workmen other than the clerks, and therefore the strike continued. On 18th March 1947, the Commissioner of Labour advised the Managing Director that the dismissal of the clerks also was recommended for adjudication, and that meanwhile he should admit all workmen including clerks. But the management adhered to their contention that the clerks are not entitled to be reinstated, and the Union was unwilling to call off the strike unless the clerks were reinstated.

On the motion of the Union, the following additional issue which was referred by the Government on 25th March 1947 for adjudication, was taken up for decision in the first instance.

Whether the refusal of the management to take back the eight clerks who struck work on 10th February 1947 is justifiable and if not, what relief should be given.

The contentions advanced on behalf of the management are identical with those in their letters, dated 4th and 17th March 1947, to the Commissioner of Labour (Exhibits R-5 and R-7). They are (1) that the clerks are not ' workers ' as defined in section 2 (*h*) of the Factories Act, 1934, and are not entitled to become members of the Union; (2) that the notice of strike (Exhibit P-11, dated 17th January 1947), was only to the effect that ' the labourers ' would strike work, which term did not include clerks and therefore the participation of the clerks in the strike was without justification.

As regards the first contention, no doubt the definition in section 2 (*h*) of the Factories Act, 1934, is to the effect that a ' worker ' means a person employed in work connected with a manufacturing process and does not include a clerk employed in a place where no manufacturing process is carried on. But that definition is totally irrelevant to the matter under consideration. Generally speaking, the purpose of that Act is to regulate the hours of work and the sanitary conditions and to preserve the health and morals of industrial workers, and therefore the definition of worker has been adapted to cover the type of worker sought to be benefited by its provisions. It cannot be construed as statutorily altering for all purposes the natural meaning of the word, i.e , that a worker is a person who works. If such were the case, the preamble in section 2 ' In this Act ' would have no significance, and the definition should have found a place in the General Clauses Act, 1887. Trade Union legislation is intended to affect also workers other than industrial workers and for instance workers in shops and restaurants can also form trade unions. The gravamen of the contention of the management is that the clerks of their company were not entitled to join the Union as members. We have to examine the provisions of the Trade Unions Act, 1926, under which the Union was registered in order to decide whether clerks had the right to become members of the Union.

Under section 2 (*g*) of the Trade Unions Act, 1926, 'workmen means all persons employed in trade or industry ' and under section 2 (*h*) ' A Trade Union means any combination formed ' for certain purposes. Under section 6 (*e*), ordinary members have to be ' persons actually engaged or employed in industry with which the Trade Union is connected.' It is clear from these provisions that all the eight clerks could legitimately become ordinary members of the Union. Under by-law 3 (*a*) of the Union ' Any worker who is employed in the Standard Furniture Company shall be eligible to become an ordinary member of the Union.' The word worker ' has obviously been used in its natural and ordinary sense and not with the special meaning in section 2 (*h*) of the Factories Act, 1934. In fact three of the clerks—K. Govinda Menon, M. Krishnan and V. K. Padmanabha Menon—attended the *ad hoc* meeting on 7th May 1946 when it was decided to form the Union and applied for membership on 14th May 1946, 11th May 1946, and 11th May 1946 respectively. The by-laws subsequently framed could never have intended to exclude them from membership as ' non-workers.' Neither the statute nor the by-law disentitled the clerks to membership, and this contention of the management has to be rejected. Turning to the second contention, no doubt the notice of strike, Exhibit P-1, issued by the Union, mentioned only that ' labourers ' would strike work on 10th February 1947. On behalf of the Union, it is alleged that the word ' labourers ' was used in contra-distinction to ' capitalists, ' and that the notice really meant that all the members of the Union would go on strike. On behalf of the management, it is plausibly urged that they did not know that the eight clerks were members of the Union, and that they were taken by surprise when the clerks did not attend the office. I am inclined to agree with the position taken by the management that Exhibit P-11 did not warn them of a strike by the clerks. But it does not follow that, on this ground, the strike by the clerks was without justification and that the management are entitled to discriminate between the clerks and the other strikers.

In the first place, it has to be noticed that the management were not really aggrieved by the absence of notice of strike on behalf of the clerks. The Managing Director's notice, Exhibit R-3, dated 10th February 1947, to seven of the clerks did not call upon them to join duty forthwith on the ground they had not intimated their intention to strike. On the other hand, it straightaway charged them with absenting themselves without leave and did not allow them to join duty. Under the Company's Standing Order 9 (*b*) issued in accordance with the Industrial Employment (Standing Orders) Central Rules, 1946, the management were entitled to treat a strike without fourteen days' previous notice as misconduct. But apart from the enforcement of this right, the complaint of the management that the clerks' strike took them by surprise is not *bona fide*.

It appears to me that the decision must depend on whether the strike by the eight clerks must be considered illegal or not. If their strike was not illegal, the Union is justified in taking up the position that no distinction should be made between the clerks and the other members of the Union. Sections 17 and 18 of the Trade Unions Act confer on the Union immunity from civil and criminal liability in respect of the strike. It was entitled to call upon all its members to join strike. I have not been referred to any statutory provision under which the strike by the clerks can be held to have been illegal. Sri K. V. Suryanarayana Ayyar for the management relies on clause 7 of the constitution of the Union which reads 'No member is entitled to strike work without the permission of the Union. In any strike matter, two thirds of the members must favour it and two weeks' notice must be given.' In my judgment, this is rather a provision for the internal discipline among the members of the Union, than implied term of any contract between the Union and the company. The fact that the strike was not illegal and that the Union was entitled to call upon all its members to join the strike is a sufficient justification for the eight clerks joining the strike.

To sum up, the management have disentitled themselves by their conduct from complaining about the want of notice of strike by the clerks. As the strike was legal and in furtherance of a trade dispute, the management have no right to discriminate between the clerks and the other strikers and ought to reinstate the clerks in the same way as the other employees who struck work."

After the finding was pronounced, the management agreed to reinstate the clerks, and all the strikers rejoined work in the factory on 21st April 1947.

38. The second part of the issue, namely, " what relief should be given " has now to be decided.

39. Sri K. P. Kuttikrishnan Nayar, on behalf of the Union, urges that the strike was justified from the outset, and that all the strikers including the clerks are entitled to their pay or wages for the whole period of the strike from 10th February to 20th April 1947. The frame of the issue does not lend support to such a contention, because it implies that the question of giving relief arises only if the refusal by the management to take back the clerks (after the Union proposed to call off the strike) is not justifiable. However, as I have found the first part of the issue against the management, it is necessary to determine whether the strike at its inception was justified. For, in that case, not only the clerks but also the other strikers would necessarily be entitled to their pay or wages during the entire period by which the strike was extended:

40. Sri K. P. Kuttikrishnan Nayar states that the real and only reason for the strike was the discharge of 24 workers on 16th January 1947. His first contention is that the discharge was in

breach of the 4th clause of the agreement of 11th November 1946. According to this clause, " while effecting retrenchment of workers in future, the mangement should consult the Labour Conciliation Officer, Calicut." However, the rules in Exhibit R-79, previously recommended by the Commissioner of Labour, required that a committee should be set up to select persons to be discharged on the principle of short service. In the circumstances, I consider that the term in the agreement was sufficiently complied with, when the Committee of Directors selected the persons to be retrenched and communicated their names to the Labour Conciliation Officer, Calicut, in their letter, Exhibit R-80, dated 8th January 1947.

41. The next contention is that, as the discharge of some of the workers was not justified (which is my finding on issue 2), the strike with the object of reinstating them was justified. But the defect that the principle of short service was not followed in regard to these workers was elucidated only during the present enquiry. It was not a specific ground taken in the notice of strike or even in the statements filed by the Union. The position taken by the Union was that there was no need for retrenchment or discharge of workers at all, and that the true object of the management was to break the Union under the guise of retrenchment. It has, however, been proved that the factory is really over-staffed, making it difficult to be profitably worked. All the discharged workers except two were ordinary members of the Union, and such of them as were put in the witness-box admitted that there was no special motive behind selecting them for discharge. The Union was evidently wrong in alleging, as it has done in the notice of strike, that the management were dismissing labourers " to frighten and bring to submission all the employees." Even now, the position taken by the Union is that no worker should be thrown out and that if the factory is over-staffed, the work should be equitably distributed between all the existing labourers. Therefore, it is abundantly clear that the reason for the strike was not at all the fact that some of the men were wrongly discharged on the principal of short service. The reason was the erroneous view that no worker should be discharged and that the retrenchment was aimed at breaking the Union. It has to be mentioned that the notice of strike also refers to non-compliance of clauses 1, 2 and 5 of the agreement But all these clauses were really complied with as explained by the management in their letter, Exhibit P-30, dated 24th January 1947, at any rate after the increase of 12½ per cent in piece rates was also agreed to by the management (vide Exhibit R-45, dated 4th February 1947). Thus, while it is true that the management committed errors in the selection of the personnel for discharge, the Union never proposed that other persons had to be discharged on the principle of short service. The strike was aimed against discharging any worker whatever and was, therefore, not justifiable. It follows that none of the workers would be entitled to their pay or

wages from 10th February 1947, the date when they commenced the strike, until 3rd March 1947, the earliest date when they offered to rejoin work.

42 After 3rd March 1947, the strike was continued on account of the refusal of the management to take back the clerks. As I have found that the conduct of the management was wrong, the clerks must be put in the same position as if they had been admitted to work and would be entitled to their pay from 3rd March 1947. But the other workers were wrong in orginally going on strike and their position did not change after 3rd March 1947. It is contended that they had no other method of bringing the fifth issue for adjudication, except by continuing to strike No doubt, if this contention were well-founded, I should have considered the question of allowing their pay or wages from 3rd March 1947 until 25th March 1947, the date when the fifth issue was added. But even after 25th March 1947, the Union did not call off the strike. It was only after the management agreed to take back the clerks in consequence of the finding pronounced on 15th April 1947, that the Union called off the strike and the workers rejoined on 21st April 1947. Therefore, the object in continuing the strike was not merely to see that the fifth issue was added for adjudication, but to see that the clerks were actually taken back. In the circumstances, I am unable to accept the contention that the strike, at least for the period from 3rd to 25th March 1947, was justified.

43. In the result, I find that the only relief to be given is that the management will have to give the pay of the eight clerks for the entire period from 3rd March 1947 onwards during which they were kept out.

44. It is to be regretted that, in spite of Sri K. P. Kuttikrishnan Nair's able leadership of the Union, the parties could not settle their differences without the workers resorting to a strike. The sufferings of the workers on account of the strike call for every sympathy, but it is impossible to overlook the fact that the management themselves have to face a depression after the prosperity during the war years. By diminishing production, strikes only render it even more difficult to improve the condition of workers and it is to be hoped that they will adopt a less costly remedy for a solution of their grievance.

N. D. KRISHNA RAO,
District and Sessions Judge and Industrial Tribunal.

Order—No. 4182, *Development, dated* 11*th August* 1948.

Whereas, in the opinion of His Excellency the Governor of Madras, it is necessary, for maintaining supplies and services essential to the life of the community, to enforce the award of the Adjudicator, viz., N. D. Krishna Rao, Esq., I.C.S., District and

Sessions Judge, South Malabar, appointed under G.O. Ms. No. 660, Development, dated the 20th February 1947, to adjudicate in the trade dispute then existing between the workers and management of the Standard Furniture Company, Limited, Kallai, Calicut;

Now, therefore, in exercise of the powers conferred by rule 81-A (1) (*d*) and (*e*) of the Defence of India Rules, as continued in force by section 2 of the Emergency Provisions (Continuance) Ordinance, 1946 (Central Ordinance No. XX of 1946), read with section 6 of the General Clauses Act, 1897 (Central Act X 1879), His Excellency the Governor of Madras hereby makes the following order and directs, with reference to rule 119 (i) of the said rules, that notice of this order shall be given by communication of copies of the order to the management and the Workers' Union of the said Company and by exhibition on the notice board of the said Company of at least one copy of the order.

ORDER.

The said award shall remain in force and shall, in respect of the matters covered by the award, bind the management and the workers of the Standard Furniture Company, Limited, Kallai, Calicut, for a period of one year in the first instance and shall thereafter remain in force subject to such conditions as may be imposed, for such period as the Provincial Government may specify.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

XIV

BEFORE THE INDUSTRIAL TRIBUNAL OF COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO

[Under the Industrial Disputes Act, 1947]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE BROOKE BOND TEA COMPANY, LIMITED, COIMBATORE.

and

THE WORKERS.

Sri G. V. Ramachandra Aiyah, Pleader—For the company.

Sri C. P. Kandaswami, Advocate—For the workers.

Subject.—Wages.—Demand for a monthly wage of Rs. 60 not pressed.

Increment.—Held that the existing rate of one-anna increment per annum in the daily wages was adequate.

Dearness allowance.—Though the total earnings of the worker in Brooke Bond compared favourably with the worker in Textile Mills. *Held* that there was a case for granting higher dearness allowance for workers with longer service. Awarded existing rate of dearness allowance of Rs. 27-8-0 for workers with less than five years' service, Rs. 30 for workers with five years' service but less than ten years' service and Rs. 35 for workers with more than ten years' service with effect from 1st July 1948.

Bonus.—Held that the profits earned should be shared in some form not only by the selling organization but by the workers in Coimbatore and elsewhere. Awarded half-yearly bonus of 1/6th of the total basic wage earned by the worker.

Leave facilities.—Held that the existing leave facilities of 14 days casual leave and 14 days sick leave together with the public holidays were adequate.

Canteen and co-operative stores.—No recommendations made.

Should Provident Fund be managed by joint committee — Issue not pressed.

Housing and house rent allowance.—Claims for house rent allowance negatived in view of the enhanced dearness allowance awarded supra.

Extension of medical aid to workers and their families.— Claims disallowed.

Recognition of the union.—Held that the management would be well advised not to consider the political leanings of the union leaders, if otherwise they conducted themselves properly. *Held* however that the Tribunal could not compel the management to recognize the union.

Reinstatement of discharged workers.—Held on the facts of each group of cases that there was no case for reinstatement.

Held that the discharge of four workers for their refusal to sign the warning book was unjustified and that these workers should be reinstated.

Whether reference of the dispute to the Tribunal by the Government invalid in law.—Held that under section 10 of the Industrial Disputes Act, it was not necessary to specify the points in dispute and that rule 22 of the Industrial Disputes Rules provided for preliminary enquiry and settlement of issues.

Held further that the Government was not in the position of a complainant or a party to the dispute and that the reference by the Government should be regarded as a permit for the parties to go before the Tribunal.

Held that there was no substance in the legal objections taken to the competency of the Tribunal.

G.O. Ms. No. 4204, Development, dated 13 h August 1948.

[Labour—Disputes—Dispute between the workers and the management of the Brooke Bond Tea Company, Limited, Coimbatore —Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1018, Development, dated 1st March 1948.

From the Industrial Tribunal, Coimbatore, dated 22nd July 1948, No. I.D. 9/48

(2)

BEFORE THE INDUSTRIAL TRIBUNAL OF COIMBATORE.

PRESENT :
SRI C. R. KRISHNA RAO

INDUSTRIAL DISPUTE No. 9 OF 1948.

[In the matter of the industrial dispute between the workers and the management of the Brooke Bond Tea Company, Limited, Coimbatore.]

This dispute having come up for final enquiry from 10th to 16th July 1948 at Coimbatore in the presence of Sri C. P. Kandaswami, B.A., B.L., Advocate for the workers, and Sri G. V. Ramachandra Aiyah, B.A., B.L., Pleader for the management, and having stood over for consideration till this day, the 20th day of July 1948, the Tribunal made the following

AWARD.

The tea and coffee factory of Brooke Bond (India), Limited, at Coimbatore has about 500 workers. There are two Unions—the Tea and Coffee Workers Union and the Tea and Coffee Employees Congress—and both claim to have a majority of the workers on their roll Some workers have not joined either Union. I gave notices to the management and to the Union and to the Congress. The Workers' Union filed two statements containing practically the same demands. The Employees Congress stated that they had no demands to submit to the Tribunal. In a later communication, dated 22nd April 1948, they stated that there is " good harmony between the workers and the management and the Industrial Tribunal need not function at all and if the Tribunal gives any finding they will not be binding upon them." The management filed a very long statement rejecting all the demands made by the Workers' Union. I framed the following issues :—

Issue No. 1.—Should the workers of Brooke Bond Company, Coimbatore, be paid monthly salary or should they continue on daily wages as at present? Are they entitled to a minimum wage of Rs 60 per mensem?

Issue No. 2.—What increment, if any, should be given to the workers?

Issue No. 3.—Is the dearness allowance now paid insufficient and should it be related to the cost of living and if so how much should be paid per point?

Issue No. 4.—Are the workers entitled to bonus equivalent to three months' total earnings and should all the workers be paid bonus?

Issue No. 5.—What leave facilities should be granted to the workers?

Issue No. 6.—Should the canteen and co-operative stores be run under the joint management of workers and management?

Issue No. 7.—Similarly, should the provident fund also be managed by a joint committee?

Issue No. 8.—Should the management provide houses to all the workers or grant them a house allowance?

Issue No. 9.—What medical facilities should be allowed to the workers and their families?

Issue No. 10.—Is the management bound to recognize the Coimbatore Tea and Coffee Workers' Union?

Issue No. 11.—Are any of the dismissed or discharged workers to be reinstated and if so on what conditions?

Issue No. 12.—Has this Tribunal no jurisdiction to decide this dispute?

2. *First issue.*—No worker in the Brooke Bond Company is paid piece rate. A considerable number are paid monthly salaries and the majority of the workers are paid daily wages varying from Rs. 1-12-0 to about Rs. 3. For all the 26 working days in the month, the lowest paid worker will get Rs. 45-8-0 per mensem. The only drawback between the monthly salary and the daily wage is that the worker is not paid for the Sundays on which the factory remains closed. But if Rs. 60 is to be the minimum monthly salary the most unskilled worker of the company would be better off than a graduate entering Government service who does not get now a basic wage of more than Rs. 51 per mensem. When I pointed out this fact to the learned counsel for the workers he said he would not press this issue. I, therefore, record no finding upon this issue.

3. *Second issue.*—The company gives an increment on the daily wage of one anna per year which works out to Rs. 1-10-0 per mensem. The claim of the Workers' Union is that they should be given an increment of Rs. 2. I think that the increment now being given by the company is adequate.

4 *Third issue.*—The Workers' Union demands that dearness allowance should be paid at the rate of four annas per point of the cost of living index. A flat rate of Rs. 27-8-0 is now paid as dearness allowance and it is pointed out on behalf of the management

that the workers get higher basic wages than workers in other factories though the dearness allowance given is not so high as for instance that paid in textile mills. But the total earnings of the workers in Brooke Bond compare very favourably with those in textile mills. The worker in Brooke Bond gets free coffee in the morning and free tea in the afternoon. He gets also two sets of clothing which, of course, he can wear only while at work in the factory and the clothes are washed at the expense of the company. There is a subsidized canteen and a provident fund to which the company contributes ten per cent of workers' wages. I think, in spite of this, that a slight change might be made in the scales of dearness allowance paid according to the length of service of the workers. A new recruit is not likely to have any family, whereas a worker with some years service is likely to have a wife and some children In his case some more dearness allowance may be given than in the case of a new recruit. I decide that the workers with a service of less than five years shall receive the present rate of dearness allowance, i.e., Rs. 27-8-0 per mensem, the workers who have completed five years continuous service but have not completed ten years service will receive Rs. 30 per mensem as dearness allowance; and the workers who have completed ten years of service will receive Rs. 35 per mensem as dearness allowance. These rates will come into effect from 1st July 1948.

5. *Fourth issue.*—The Company pays half-yearly bonus to its workers. They get in all Rs. 50 a year. The Workers Union wants that bonus should be paid equivalent to three months total earnings. It is not denied that the Company is making profit but what exactly is the amount of profit it is not possible to ascertain because the Company has not chosen to place their balance sheets before the Tribunal. They say that they have a vast selling organization and the profits are earned more by their energy and experience than by the work done in the factory at Coimbatore. Even then the profit earned should be shared in some form not only by the selling organization but also by the workers in Coimbatore and the workers elsewhere. In the absence of data I cannot say that the bonus now given is the utmost that the Company can afford. I find that the Company should give to its workers every half-year one-sixth of their total basic wage earned in that half-year, that is to say that the dearness allowance should not be taken into account for the purpose of calculating the bonus but only the monthly salary or the daily wage actually earned in the course of those six months

6. *Fifth issue.*—The Company gives fourteen days casual leave with pay to its workers and fourteen days sick leave half of which is on three-fourth salary and the other half on half salary. Besides these there are three public holidays. The Workers Union demands thirty days casual leave and thirty days sick leave on full wages. I think this is a very extravagant claim and the leave facilities now granted are ample.

7. *Sixth issue.*—There is a Canteen now working and nothing has been adduced to show that it is not working satisfactorily. A Works Committee will be set up soon and they will be in a position to suggest improvements in the working of the Canteen. The management is not averse to the opening of a Co-operative Store but there is no place in the factory building where the store could be located. It was suggested during the course of the trial that a building could be rented outside the factory premises. This is a matter too, which the Works Committee can usefully investigate I make no recommendation on this matter.

8 *Seventh issue.*—There are rules regarding the working of the Provident Fund. The learned advocate for the workers does not press this issue. I record no finding upon it.

9. *Eighth issue.*—It is practically impossible in the present conditions for the management to build houses for all the 500 workers and as their scale of wages are higher than those obtaining in other similar factories, I do not think that the workers are entitled to claim an additional house allowance. I have also raised the dearness allowance in the case of those workers who have put in five years of service and more. Therefore no house allowance need be given.

10. *Ninth issue.*—There is a full-time doctor employed by the company and his services are available to all the sick workers. The Union wants that their families also should have the same medical facilities as the workers and that there should be an in-patient ward. In other words, they want that the dispensary now run by the Company should be converted into a small hospital. There are practical difficulties in making available the medical facilities to the families of workers also. I disallow this claim of the workers.

11. *Tenth issue.*—The management has recognized the Employees Congress and not the Workers' Union. The Workers' Union is said to be of Communist complexion while the Employees Congress of Congress complexion. The management will be well advised not to consider the political leanings of Union leaders, if otherwise the conduct themselves properly. I cannot, of course, compel the management to recognize the Workers' Union. That will have to be done by another Tribunal when it is set up under the Trade Unions Amendment Act.

12. *Eleventh issue.*—On 11th November 1942 there was a disturbance near the Stanes Mill which is about four furlongs from the Brooke Bond factory. At 9 a.m., according to one of the workers, there was a noise of shooting and all the workers in the factory rushed out in a body without obtaining anybody's permission. The present President and his predecessor both say that they went out of sympathy with the workers in the Stanes Mill who were having trouble. One of the Brooke Bond workers was shot dead and another received a gunshot wound and was in the hospital.

At 11 a.m., the witnesses say that they returned to the factory but they found the gates closed and a notice put up that when the factory reopens it will be intimated to the workers. Fourteen workers were taken into custody by the Police on different dates and were detained for about a month or two. After they were released they sought reinstatement because meanwhile the company had discharged them.

13. It is contended on behalf of the workers that these fourteen people who were in custody were absent form work, because they could not hold it and that their detention should not be a ground for discharge. It was argued on the other side that if a worker is charged with theft or murder and is detained by the Police, he cannot complain if he is discharged on the ground that his absence from the factory was involuntary. In this case the workers courted trouble for themselves. They were quietly working in the factory when trouble started in Stanes Mill and without obtaining anybody's permission they discarded their uniforms provided by the company, put on their own clothes, and rushed out in a body to get mixed up in the strife and one actually lost his life. This conduct is quite reprehensible even though no criminal charge could be brought home to them. Their detention cannot be said to be involuntary in any sense, and therefore the company was justified in discharging them when they absented themselves for such a long period. I see no reason to order the reinstatement of these fourteen persons.

Then there is a group of workers who say they were afraid of the Police and absented themselves from the factory and now want to be reinstated. In their case also I find there is no good reason for reinstatement.

There is third group of workers who after a strike did not rejoin duty within the period allowed by the management and they were discharged. In this case also, unless the Union is able to make out that the strike was a legal strike, which it has not done, the Tribunal cannot order their reinstatment.

Then there is the case of Chinnaswami who was dismissed for slackness after several warnings. I have looked into the record and he has been warned more than once and I find that I should not interfere in his case.

14. Then there remain the cases of four workers, viz., No. 342, Ramaswamy, No 361, Alexander, No. 43, Pichai Muthu and Natarajan. The principal ground on which their services were dispensed with is that they refused to sign the warning register. The factory Manager maintains warning book in which he notes down the faults alleged to have been committed by the worker and take his explanation and then makes his own note and finally the worker is asked to sign it. These four workers refused to sign. I do not think that this is a satisfactory ground for dismissal. Signing the warning book can at best only afford evidence against the worker that the warning has been given,

and if the matter should ever be disputed in a Court of law the worker is prevented from saying that warning had not been given. Even then he may have other defences. He may say that he did not know what he had to sign. But apart from that no great value is added to the warning by the fact that the worker signs it. The Manager chose to consider the refusal to sign as an act of insubordination. I cannot agree with him in this. The Manager might have noted in the warning book that the worker refused to sign and that would have been quite sufficient for all purposes. If further evidence to show that the warning had been communicated to the worker was necessary, a registered letter might have been sent to him at his expense and the company could have secured the equivalent of his signature in the warning book. There is no justification for the dismissal of these four workers. I find that these workers should be reinstated.

15. *Twelfth issue.*—The learned vakil for the management contended that as the Government order referring the dispute for adjudication did not specify particularly the points which were to be decided by the Tribunal the reference itself is invalid in law and the Tribunal has no jurisdiction to decide any question. This point has not been specifically taken in the written statement but it was urged both at the preliminary enquiry and also at the time of the argument after the evidence was concluded. To put forward such a plea is to betray ignorance of the scheme of the Industrial Disputes Act and the functions of the Tribunal. The Government are appraised by proper officers, in this case by the Commissioner of Labour, that a dispute has arisen or is apprehended in an industrial establishment. What is referred to the tribunal is the totality of the points of difference between the workers and the management and that is called the dispute. It is nowhere stated in section 10 of the Act that Government themselves must define the points of difference which constitute the dispute Rule 22 provides for the holding of a preliminary enquiry and the settlement of issues. This would be superfluous if Government had to settle the issues themselves.

16. The learned vakil for the management aruged that the complainant is the Government and the order of reference which is the complaint, should set out the case that had to be investigated. The initial error lies in regarding Government as the complainant. They are not. The parties to the litigation, so to speak, are the workers and the management. It is their interest that are in dispute and have to be adjudicated upon. But neither of them can approach the Tribunal direct, as a civil litigant approaches a Civil Court. They can be brought before the Tribunal only by an order of Government, after they are satisfied that there is an industrial dispute requiring adjudication. The reference may be regarded as a permit. It enables the parties to the dispute to state their case before the Tribunal, while at the same time enabling the Tribunal to hear them. Thus viewed there is no substance in the legal plea.

17. The management stated in their written statement that the demand for reinstatement of workers which was dealt with under issue 11 is *ab initio* illegal and invalid and the reasons for this is given as follows :—

" The said running away on 11th November 1946, desertion of workers and voluntary abandonment was not due to any industrial dispute nor was the subsequent absence of the workers due to any industrial matter. Therefore this Court has no jurisdiction to enquire into the matter of the discharge or dismissal of the persons named and the question of their reinstatement does not arise. "

It is true that the absence and the running away was not due to any industrial dispute but when the workers come back after a month's absence and want to be reinstated and the management refuses, then an industrial dispute arises. I do not think that I should take up more time in pointing out that the legal objections taken up to the competency of this Tribunal to decide the dispute as a whole or any part of it, have no validity.

18. The result is

(1) that the dearness allowance shall be paid

(*a*) as at present to all workers who have put in less than five years of service,

(*b*) at the rate of Rs. 30 per mensem to all those who have completed five years of continuous service and less than ten years of continuous service, and

(*c*) at the rate of Rs. 35 per mensem to all those who have complete ten years of continuous service;

these rates will come into egect from 1st July 1948;

(2) that three half-yearly bonuses, that is, two for the year 1947 and one for the first half of the year 1948 be paid at the rate of one-sixth of the total half-yearly basic wage earned by each worker in that half year;

(3) that the four workers, viz., No. 342; Ramaswamy No. 361, Alexander, No (43) Pitchai Muthu and Natarajan shall be reinstatement in their respective departments if they report themselves to duty within ten days after the publication of the Award, and

(4) that all the other demands of the workers are disallowed.

Order—No 4204, *Development*, *dated* 13*th August* 1948.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the industrial dispute between the workers and the management of the Brooke Bond Tea Company, Limited, Coimbatore, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Brooke Bond Tea Company, Limited, Coimbatore, and the workers employed therein and directs that the said award shall come into operation on the 13th August 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

XV

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI P. MARKANDEYALU, M.A., B.L.,
Industrial Tribunal.

[Under the Industrial Disputes Act, 1947]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE EAST INDIA DISTILLERIES AND SUGAR FACTORIES, LIMITED, NELLIKKUPPAM

and

THE WORKERS.

Subject—Whether in the facts of the case, there was a material change in the circumstances on which the previous award was passed.—Held that the fact that a subsequent agreement had been concluded between the parties which was more advantageous to them than the award, constituted a material change in the circumstances and there was therefore no necessity for the continuance of the award any longer.

Held that the prior award should cease to be in operation from 1st September 1948.

G.O. Ms. No. 4434, Development, dated 30th August 1948.

[Labour—Disputes—Award of the Industrial Tribunal in the dispute between the workers and management of the East India Distilleries and Sugar Factories, Limited, Nellikuppam—Report of the Industrial Tribunal under the proviso to section 19 (3) of the Industrial Disputes Act determining the period of operation of the award—Communicated.]

READ—the following papers :—

(1)

G.O. No. 3184, Development, dated 15th June 1948.

G.O. No. 4053, Development, dated 2nd August 1948.

(2)

From the Industrial Tribunal, Madras, No. I.D. 12 of 1948, dated 20th August 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.
SRI P. MARKANDEYULU, M A., B.L.

[In the matter of the Industrial Disputes Act of 1947 and in the matter of the industrial dispute between the workers and the management of the East India Distilleries and Sugar Factories, Limited, Nellikuppam.]

DECISION UNDER THE PROVISO TO CLAUSE (3) OF SECTION 19 OF THE INDUSTRIAL DISPUTES ACT, 1947.

This is a reference by the Government to the Industrial Tribunal, Madras, under the proviso to section 19 (3) of the Industrial Disputes Act, 1947, and the reference was made by G.O. Ms. No. 4053, Development, dated 2nd August 1948.

2. The facts that have led up to this reference are briefly these.

3. There was an industrial dispute between the Labour Union in the Nellikuppam Factory and the management regarding wages, dearness allowance, leave, gratuity, provident fund and other matters and the same was referred by the Government to my learned predecessor Sri Rao Bahadur M. Venkataramayya for adjudication in G.O. No. 560, Development, dated 5th February 1948. My learned predecessor passed an award after hearing both sides on 31st May 1948 and he recommended therein that the award might be enforced by the Government only for a period of six months. The Government accepted the recommendation and issued G.O. Ms. No. 3184, Development, dated 15th June 1948, with a direction that it should come into force on 15th June 1948 and should remain in force till 31st December 1948. Subsequently, there

was an agreement between the management of the Nellikuppam Factory and the Labour Union of the Factory, by which the management agreed to pay the higher wages awarded by my learned predecessor from 1st January 1948 till the 30th June 1949, though the direction of the Government is only to the effect that the increased wages should be paid only from 15th June 1948 to 31st December 1948. This agreement is obviously of greater advantage to the labour union than the award of my learned predecessor, who recommended the payment of increased wages only for a period of six months. The agreement is more advantageous to the management, also, because, as Mr. Davis pointed out, the award of Mr. Venkataramayya expires on 1st January 1949, just when the crushing season begins in the factory and, according to the award as enforced by the Government, there is no guarantee that the workers will get the increased wages from 1st January 1949. But, according to the subsequent agreement between the parties, the workers are assured of the higher wage for a period of six months more from 1st January 1949, which means that the management also is assured of the requisite number and the willing co-operation of workers during the crushing season. Thus, the new agreement is more advantageous to both the management and the labour union alike.

4. Both the parties were of the view that the award of my learned predecessor is unnecessary, in view of the subsequent agreement and, therefore, requested the Government to constitute another Tribunal under the proviso to section 19 (3) of the Industrial Disputes Act, 1947, to decide the question whether, by reason of the new agreement, the award of my learned predecessor should cease to be in operation before the expiry of the period fixed by the Government. The Government acceded to the request and issued the Government Order, dated 2nd August 1948, referring the question to me under the proviso to section 19 (3) of the Act. In the said Government Order it is stated that, by reason of the measure of accord that now exists between both the parties, the Government is satisfied that there has been a material change in the circumstances on which the original award of my learned predecessor was based.

5 Both Mr. Guruswamy, the President of the E.I D. & S F., Ltd., Labour Union, Nellikuppam, and Mr. Davis, on behalf of the management of the company, appeared before me and stated that the new agreement by which the management has agreed to pay the increased wages from 1st January 1948 to 30th June 1949 is more advantageous to them than the award of my learned predecessor and that, therefore, there is no need for the award to be in force any longer They told me that, soon after it is declared that the award has ceased to exist, they will execute the new agreement before a Conciliation Officer, so that it may be binding on both the parties under section 19, clauses (1) and (2) of the Industrial Disputes Act, 1947.

6. Everything seems to me to be above board and there is no reason to doubt the correctness or the veracity of the statements made before me by both sides. The fact that a subsequent agreement has been concluded between both the parties which is more advantageous to them than the award of my learned predecessor, constitutes, in my opinion, a material change in the circumstances on which the award was based, and there is, therefore, no necessity for the continuance of the award any longer.

7. I, therefore, decide that the award of the Industrial Tribunal, Madras, dated 31st May 1948, and enforced by the Government in G.O. Ms. No. 3184, Development, dated 15th June 1948, should cease to be in operation from 1st September 1948.

Dated at Fort St. George, Madras, this the 20th day of August 1948.

Order—Ms. No. 4434, *Development, dated* 30*th August* 1948.

The award of the Industrial Tribunal, Madras, in the dispute between the workers and management of the East India Distilleries and Sugar Factories, Limited, Nallikuppam, was referred to the Industrial Tribunal, Madras, for a decision whether or not the said award should cease to be in operation before 31st December 1948. The decision of the Tribunal has been received and is communicated to the parties for information and necessary action.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

XVI

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT:

RAO BAHADUR M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE CALTEX (INDIA), LIMITED, MADRAS

and

THE WORKERS.

Subject—Scale of increments.—Award in terms of the memorandum of agreement.

G.O. Ms. No. 4502, Development, dated 2nd September 1948.

[Labour—Disputes—Dispute between the workers and management of the Caltex (India) Limited, Madras—Recommendations of the Industrial Tribunal on the agreement of the parties regarding the time-scale of increment subsequent to the original award—Made part of the original award.]

READ—the following papers :—

(1)

G.O. Ms. No. 5875, Development, dated 19th December 1947.

(2)

Letter from the Industrial Tribunal, Madras, to the Secretary to Government, Development Department, Madras, dated 23rd August 1948.

[Industrial dispute between the workers and management of Caltex (India), Limited, Madras—Recommendations of the Industrial Tribunal, Madras—G.O. Ms. No. 5875, Development, dated 19th December 1947.]

I have the honour to state that in the Government Order cited above, the Government of Madras have been pleased to enforce the award of the Industrial Tribunal, Madras, in the above industrial dispute for a period of one year from 19th December 1947. Paragraph 10 of the award says that there is a lacuna in the schedule of wages filed by the management in that it does not show in how many years or by what increments the workers reach the maximum scales of pay mentioned in the schedule and adds that the parties have agreed to reach a settlement on this point and to file a consent memorandum.

2. The parties have now filed a memorandum of settlement and request that it may be incorporated in the award. The memorandum is herewith submitted.

3. The schedule annexed to the award contains only the minimum scales of pay but not the maximum scales. I am herewith submitting a statement giving the maximum and minimum rates of wages which is found in the records and which in my opinion should have been annexed to the award in the first instance. The omission may be supplied now.

AWARD.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

RAO BAHADUR M. VENKATARAMAYYA, B.A., B.L.

[In the matter of the Industrial Disputes Act, 1947, and in the matter of an Industrial Dispute between Caltex (India), Limited, Madras, and certain of its workers.]

MEMORANDUM OF AGREEMENT.

In compliance with section 10 of the award of the Industrial Tribunal, Madras, made binding on the Management of Caltex (India), Limited, Madras, and the workers employed therein, by G.O. Ms. No. 5875, Development, dated 19th December 1947, both parties to the dispute have discussed the question of an increment scale and have reached the following agreement :—

1. That increments shall be conditional upon satisfactory service and conduct.

2. That the normal spread between the minimum and maximum wage rates already agreed between management and union and embodied in the above award, should be 10 years; in other words a workman whose work and conduct are satisfactory should proceed in the normal course of events from the minimum laid down for his grade to the maximum, in a period of 10 years.

3. Increments due to 1948 will be paid out on the basis of the above principles. The management agree to the union's request that individual cases of hardship should be sympathetically considered.

4. This agreement will bind both parties as part of the award and shall be coterminous with the award.

Dated the 5th day of August 1948.

MAXIMUM AND MINIMUM RATES OF WAGES TO EMPLOYEES BY CALTEX (INDIA), LIMITED, MADRAS, EFFECTIVE 1ST JANUARY 1949.

	Minimum.	*Maximum.*
	RS. A. P.	RS. A. P.
Skilled, Special Grade	2 11 0	3 11 0
„ Grade I	1 15 0	2 11 0
„ Grade II	1 9 0	2 1 0
„ Grade III	1 3 0	1 11 0
Semi-skilled Grade IV	1 1 0	1 7 0
Piece workers, i.e., Sidesteam, Handle and Cap Soldermen.	0 15 0	1 5 0
The Factory Process Machinemen and Filing Machine Operators.		
General workman	0 14 0	1 2 0

Order—Ms. No. 4502, Development, dated 2nd September 1948

The dispute between the workers and the management of the Caltex (India), Limited, Madras, was referred to the Industrial Tribunal, Madras, in G.O. Ms. No 4910, Development, dated 16th October 1947. The Industrail Tribunal passed an award which was made binding on the parties in G.O. Ms. No. 5875, Development, dated 19th December 1947, for a period of one year from 19th December 1947. In paragraph 10 of the said award the Tribunal has stated that both sides represented to the Tribunal that the time-scale of increment would be clarified and a memorandum filed after

the parties discussed the matter and arrived at a settlement. Now the Tribunal has forwarded the agreement arrived at by the parties as aforesaid with a request that it may be made part of the original award.

ORDER.

Whereas the award of the Industrial Tribunal, Madras, in respect of the dispute between the workers and the management of the Caltex (India), Limited, Madras, was declared binding on the parties in G O. Ms. No. 5875, Development, dated the 19th December 1947, for a period of one year from the 19th December 1947:

And whereas paragraph 10 of the said award provided for the filing of a memorandum in respect of increments after the parties should have discussed the matter and arrived at a settlement;

And whereas in pursuance of the said paragraph 10, the parties have arrived at an agreement, which has been forwarded by the Industrial Tribunal;

Now, therefore, His Excellency the Governor of Madras, hereby directs that the said agreement shall form part of and shall always be deemed to have formed part of the said award.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

XVII.

BEFORE THE INDUSTRIAL TRIBUNAL AT CALICUT.

PRESENT :

SRI N. D. KRISHNA RAO, M.A., BAR.-AT-LAW., I.C S.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE SAINT VINCENT'S INDUSTRIALS, CALICUT

and

THE WORKERS.

Award in terms of the memorandum of compromise.

G.O. Ms. No. 4641, Development, dated 11th September 1948.

[Labour—Disputes—Dispute between the workers and the managements of the St. Vincent's Industrials, Calicut—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 2658, Development, dated 18th June 1947.

From the Industrial Tribunal (District and Sessions Judge, South Malabar), dated 25th August 1948, No. 1901 J/48.

(2)

IN THE COURT OF THE INDUSTRIAL TRIBUNAL AT CALICUT.

Wednesday, the 25th day of August 1948.

PRESENT :

N. D. KRISHNA RAO, ESQ., M.A., BAR.-AT-LAW, I.C.S.,

District and Sessions Judge of South Malabar and Industrial Tribunal.

INDUSTRIAL CASE NO. 6 *of* 1947.

Between

The management of St. Vincent's Industrials, Calicut,

and

Workers of the St. Vincent's Industrials, Calicut.

[*Reference.*—G.O. Ms. No. 2658, Development, dated 18th June 1947, and Government Memorandum No. 61760-P.I./47-1, dated 4th July 1947.]

AWARD.

The parties to the above dispute have reached an agreement and filed a memorandum of compromise. The award is accordingly passed in terms of the memorandum of compromise, copy of which is attached hereto.

Copy of the Memorandum of Compromise.

BEFORE :

SRI N. D. KRISHNA RAO, M.A., BAR.-AT-LAW, I.C.S.,

Adjudicator.

In the matter of the trade dispute between the workers and management of the St. Vincent's Industrials, Calicut.

Compromise petition filed by Rev. Fr. J. M. Vergotini, S.J., Manager, St. Vincent's Industrials, Calicut, on behalf of the management on the one side and by Sri K. P. Kuttikrishnan Nayar, President, Workers' Union, authorized as per resolution passed at a General Body Meeting of the Workers' Union, held at the Town Hall on 23rd August 1948.

The parties to the above dispute have agreed to compromise as follows :—

I. Basic wage—(*A*) *Saw-mill section.*—The following portion of paragraph 2 of G.O. Ms. No. 5334, Development, dated 18th November 1947, in respect of the award given by Sri K. A. Mukundan, Court of Enquiry, is adopted as the minimum basic wages of the workers in the saw-mill section :—

" The minimum basic wage to the workers in the mills in Malabar district should be twelve annas for adult experienced workers, ten annas to new recruits for the first six months and to women . . . "

(*B*) *Furniture (Cabinet section).*—The relevant section of the award relating to basic wages as recommended by Sri N. D. Krishna Rao and to be accepted by the Government in respect of the trade dispute between the workers and the management of the Standard Furniture Co., Ltd., Kallai, to be adopted as the minimum basic wages of the workers in this section.

(*C*) *Engineering and Foundry section.*—The relevant portions of the award to be recommended by the Tribunal for Engineering firms and Type foundries by Sri T. D. Ramayya Pantulu. M.A., B.L , and to be approved by the Government to be applied as the minimum basic wages of the workers in this section.

Nothing in this agreement shall be understood as operating to reduce the existing wages of any worker.

The revision of wages shall take effect from—

In the case of saw-mill section from 1st September 1948 and in the case of the other two sections shall be implemented within one month from the date of the publication of the Government orders. The management, however, agreeing to give retrospective effect from 1st September 1948.

The revision of wages in all the three sections specified above shall be in force for one year from 1st September 1948.

II. Bonus.—The workers in the various branches shall be paid three months' basic wages as bonus for the year ending 31st August 1946 after deducting the bonus already paid to them.

The bonus payable for the year will be subject to the following conditions :—

(1) Workers who have been employed for less than 75 working days and more than 32 working days shall be granted a bonus to the extent of 50 per cent, and workers who have been employed for 32 working days or less shall not be paid any bonus.

(2) Any worker who has been dismissed for misconduct in the year shall not be entitled to any bonus even if he has worked for more than 32 days.

(3) Bonus shall be calculated on the basic wages for the year in question.

(4) In the case of women who have been on maternity leave during the period referred to, the actual maternity allowance drawn by them shall be included in their earnings for the purpose of calculating the bonus payable.

(5) Bonus due as stated above shall be paid to the workers on or before 30th September 1948.

(6) Persons who are eligible for bonus but who are not in service shall be paid the same, provided, claims in writing are submitted to the management within one month after the Government accepts this compromise as an award.

(7) Persons who have already received the bonus due to them for the year in question shall be paid only the balance if any due to them, under this agreement.

III. Retrenchment in the saw-mill section —The management agrees to retain the workers existing to-day on the rolls of the industrials in the saw-mill section. It is, however, expressly understood that in the event of lack of work in the above section, workers will be required to work by strict rotation in convenient batches

IV. Holidays with wages —For purposes of section 49 (*b*) of the Factories Act, Act XXV of 1934, it is agreed that the strike days shall not be computed as period of absence for calculating the holidays with wages.

V. Leave facilities and medical aid.—The management agrees to conform to the orders, directions or enactments by the Government.

The other issues are not pressed.

It is, therefore, requested that the Tribunal be pleased to pass an award and recommend to the Government.

Order—No. 4641, *Development, dated* 11*th September* 1948

Whereas the award of the Industrial Tribunal (Mr. N. D. Krishna Rao), constituted under G O Ms. No. 2658, Development, dated 18th June 1947, to adjudicate in the industrial dispute then existing between the workers and the management of the St. Vincent's Industrial, Calicut, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the St Vincent's Industrials, Calicut, and the workers employed therein and directs that the said award shall come into operation on the 11th September 1948, and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

XVIII.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

C. BHAKTAVATSALU NAYUDU, B.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

CIGAR FACTORIES AT TIRUCHIRAPPALLI

and

THE WORKERS.

INTERIM AWARD.

Subject—Wage increase.—Awarded wage increase of 25 per cent in wages and dearness allowance, during the pendency of the proceedings until the final award is passed.

G.O. Ms. No. 4649, Development, dated 13th September 1948.

[Labour—Disputes—Dispute between the Workers and managements of Cigar Factories at Tiruchirappalli—Interim recommendations of the Industrial Tribunal, Madura—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 2493, Development, dated 14th May 1948.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

C. BHAKTAVATSALU NAYUDU, B.A., B.L.,

Industrial Tribunal, Madura.

INDUSTRIAL DISPUTE NO. 7 OF 1948.

Between

The Cigar Workers' Union, Woraiur, Tiruchirappalli

and

The Cigar Manufacturers' Association, Woraiyur, Tiruchirappalli.

The Madras Provincial Tobacco Merchants' Association, Tiruchirappalli.

INTERIM AWARD.

By G.O. Ms. No. 2493, Development, dated 14th May 1948, the disputes between the workers and managements of Cigar Factories in Mathurai, Ramnad, Tiruchirappalli and Tanjore districts have been referred to this Tribunal for adjudication.

2. At Tiruchirappalli, there are several factories which are manufacturing *cigar which are made with double wrappers and cherroots which are made with single wrappers.* The single wrapper cherroot manufacturers have combined themselves into an association known as the Madras Provincial Tobacco Merchants' Association while the double-wrapper cigar manufacturers have combined themselves into an association known as Cigar Manufacturers' Association, Woraiyur, and it is said to be affiliated with the Southern India Chamber of Commerce, Madras. The latter association addressed two communications to the Tribunal, dated 31st May 1948 and 3rd June 1948. In response to notices served on the workers' Union and the manufacturers' Associations the workers' Union filed a statement of demands, dated 19th June 1948. The Madras Provincial Tobacco Merchants' Association filed a counter, dated 12th July 1948, refuting the liability in regard to the several demands. The workers' Union has filed a reply statement, dated 28th July 1948, reiterating their demands and denying several allegations in the counter. The Cigar Manufacturers' Association filed some statements without specifically referring to the demands of the workers but stating generally that the wages now given include dearness allowance and that any further increase in the wages would only result in the extinction of the industry. They have also submitted their views in respect of the Court of Enquiry's recommendations regarding hours of work, employment of children below 14 years, Factory Act, advances to workmen, wages to workmen and general amenities.

The Provincial Tobacco Merchants' Association is represented by Messrs. R. S. Rajagopalan and K. V. Siva Subrahmania Ayyar and the Cigar Workers' Union is represented by Mr. M. Jamal Mohideen.

3. In view of the fact that some of the demands of the workers relate to bonus, provident fund, pay for non-working days and other amenities in regard to which the jurisdiction of the Tribunal has been questioned and a decision has been given by the High Court, Madras, I have deferred the framing of the issues in this dispute, till I receive a copy of the order of the High Court. In the mean time, however, the workers' Union and the Provincial Tobacco Merchants' Association have arrived at an interim arrangement as regards wages. *This arrangement relates to the manufacture of single-wrapper cherroots.* So far as the Cigar Manufacturers' Association is concerned, it is stated by their President that no arrangement could be arrived at with the Workers' Union as such, but that the workers having come back to work the Association has

given an increase of 25 per cent in the wages and dearness allowance so much so the wages now given have been increased to 150 per cent. The Association by its President has expressed its willingness to have an interim award passed fixing the wages at this increased rate. The Advocate for the Workers' Union has no objection to such an interim award being passed.

3. During the pendency of the proceedings before me and until the final award is passed the following increased wages will be given to the workers of single-wrapper cherroots :—

Kind of cherroots.	*Rate per thousand.*
	Rs. A. P.
2 pies cherroots	1 14 0
3 do.	2 2 0
4 do.	2 6 0
6 do.	2 12 0

The workers of double-wrapper cherroots will be paid according to the following rates :—

Kind of cigars.	*Rate per thousand.*
	Rs. A. P.
Thavulkuchi	17 8 0
Mould—Hand-rol'ed	12 8 0
Mould—Rolled with Kattai	15 0 0
Corona—Indian binder	10 0 0
Corona—Java binder	12 8 0
Light kulavi	15 0 0
Havana 5" and 6", No. 1	12 8 0
Kana peepa (Kulavi) 3½", 4" and 5"	8 12 0
Havana 3½", 3¾", 4" and 4½"	6 4 0 7 8 0
Kana Langa—Watta Planters	6 4 0
Lady Love	6 4 0
Mullumeil—4, 5", Satha, Planters, Dawsons, Burma and Pencil large.	5 0 0
Cortado Di e. ioses-Dumpi—5"	12 8 0
English Manila	6 4 0
Manila	4 4 0
Five Minutes, Cigarettes, Whiffs	3 2 0
Kattai Kana	12 8 0
Sadai Havana (Twist)	37 8 0
Sadai Lanka („)	32 13 0

4. These wages will take effect from 1st June 1948. I pass an interim award accordingly.

Order—No. 4649, *Development, dated* 13*th September* 1948

In G.O. Ms. No. 2493, Development, dated 14th May 1948, the Government directed that the dispute between the workers and managements of Cigar Factories in Mathurai, Ramnad, Tiruchi-

rappalli and Tanjore districts be referred to the Industrial Tribunal, Mathurai, for adjudication. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and the managements of the Cigar Factories at Tiruchirappalli (Tiruchirappalli district). The following order will issue :—

ORDER.

Whereas the interim award of the Industrial Tribunal, Mathurai, in respect of the industrial dispute between the workers and managements of cigar factories at Tiruchirappalli (Tiruchirappalli district) has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the managements of the cigar factories at Tiruchirappalli and the workers employed therein and directs that the said award shall come into operation on 13th September 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of cigar factories in Mathurai, Ramnad, Tiruchirappalli and Tanjore districts is accepted by the Government whichever is earlier.

2. Commissioner of Labour is requested to send copies of this order to the managements and workers concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government

XIX.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

RAO BAHADUR M. VENKATARAMAYYA, B.A., B.L.,

[Under the Industrial Disputes Act 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE STANDARD VACUUM OIL COMPANY LIMITED, MADRAS

and

THE WORKERS.

Subject—Scale of increments.—Award in terms of the agreement.

G.O. Ms. No. 5830, Development, dated 25th November 1948.

[Labour—Disputes—Dispute between the workers and management of the Standard Vacuum Oil Company, Limited, Madras —Recommendations of the Indusrtial Tribunal on the agreement of the parties regarding the time scale of increment subsequent to the original award—Made part of the original award.]

READ—the following papers :—

(1)

G.O. Ms. No. 5874, Development, dated 19th December 1947.

(2)

Letter from the Industrial Tribunal, Madras, holding full additional charge of the office of the Industrial Tribunal, Vijayawada, to the Secretary to Government, Development, Department, dated 12th November 1948.

I have the honour to invite your attention to G.O. Ms. No. 5874, Development, dated 19th December 1947, by which the Government have enforced for a period of one year the award of Sri Rao Bahadur M. Venkataramayya in the matter of the Industrial dispute between the management and the workers of the Standard Vacuum Oil Company, Limited, Madras. On the question of wages the parties came to a settlement and it is appended as a schedule to the award. With regard to this schedule the Industrial Tribunal observes in the last paragraph of the award as follows :—

" While going through the schedule it will be found that there is a lacuna. It is not stated in what time or by what stages and increments a worker will reach the maximum that is mentioned in the schedule. Both sides have represented that this small point will be clarified and a memorandum filed after the parties have discussed the matter and arrived at a settlement. "

Subsequently, the workers and the management appear to have settled this point also and they filed a memorandum of agreement, dated 5th November 1948, before the Secretary to Government in the Development Department and the memorandum (enclosed herewith) has been forwarded to me by the Government for necessary action with the endorsement, dated 9th November 1948. Under this memorandum, the lacuna in the original schedule of wages pointed out by the learned adjudicator has been remedied and I am forwarding the same herewith with a request that the said memorandum of agreement may be annexed to the award as part and parcel thereof.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.
SRI M. VENKATARAMAYYA, B.A., B.L.,

[In the matter of the Industrial Disputes Act, 1947, and in the matter of the Industrial dispute between the workers and management of the Standard Vacuum Oil Company, Madras.]

MEMORANDUM OF AGREEMENT.

In compliance with the Award of the Industrial Tribunal, Madras, made binding on the management of the Standard Vaccum Oil Company, Madras, and the workers employed therein, by G.O. Ms. No. 5874, dated 19th December 1947, both parties to the dispute have discussed the question of an increment scale and have reached the following agreement :—

1. That increments shall be conditional upon satisfactory service and conduct.

2. That the normal spread between the minimum and maximum wage rates already agreed between management and union and embodied in the above award, should be 10 years; in other words a workman whose work and conduct are satisfactory should proceed in the normal course of events from the minimum laid down for his grade to the maximum, in a period of ten years.

3. Increments due in 1948 will be paid out on the basis of the above principles. The management agree to the union's request that individual cases of hardship should be sympathetically considered.

4. This agreement will bind both parties as part of the award and shall be co-terminous with the award.

Dated the 5th day of November 1948.

Order.—No. 5830, *Development, dated* 25*th November* 1948.

The dispute between the workers and the management of the Standard Vacuum Oil Company, Limited, Madras, was referred to the Industrial Tribunal, Madras, in G.O. Ms. No. 4910, Development, dated 16th October 1947 The Industrial Tribunal passed an award, which was made binding on the parties in G.O. Ms. No. 5374, Development, dated 19th December 1947, for a period of one year from 19th December 1947. In paragraph 13 of the said award the Tribunal has stated that both sides represented to the Tribunal that the time scale of increment would be clarified and a memorandum filed after the parties discussed the matter and arrived at a settlement. Now the Tribunal has forwarded the agreement arrived at by the parties as aforesaid with a request that it may be made part of the original award.

ORDER.

Whereas the award of the Industrial Tribunal, Madras, in respect of the dispute between the workers and the management of the Standard Vacuum Oil Company, Limited, Madras, was

declared binding on the parties in G.O. Ms. No. 5874, Development, dated the 19th December 1947, for a period of one year from the 19th December 1947;

And whereas paragraph 13 of the said award provided for the filing of a memorandum in respect of increments after the parties should have discussed the matter and arrived at a settlement;

And whereas in pursuance of the said paragraph 13, the parties have arrived at an agreement, which has been forwarded by the Industrial Tribunal;

Now, therefore, His Excellency the Governor of Madras hereby directs that the said agreement shall form part of and shall always be deemed to have formed part of the said award.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

XX

BEFORE THE INDUSTRIAL TRIBUNAL OF COIMBATORE.

PRESENT:

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

SRI PALAMALAI RANGANATHAR MILLS, COIMBATORE

and

THE WORKERS.

Sri T. V. Rajagopal, Advocate—For management.

The workers remained ex parte.

Subject—Reinstatement of some workers.—Held that there was no agreement to reinstate the workers under dispute—Claim negatived.

Rex *v.* The National Arbitration Tribunal (1948) I.K.B., 424 considered.

G.O. Ms. No 6259, Development, dated 20th December 1948.

[Labour—Disputes—Dispute between the workers and the management of Sri Palamalai Ranganathar Mills, Coimbatore—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 6034, Development, dated 27th December 1947.

(2)

Letter from the Industrial Tribunal, Coimbatore, dated 6th December 1948, No. I.D. 1/48.

BEFORE THE INDUSTRIAL TRIBUNAL OF COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE NO. 1 OF 1948.

[In the matter of the industrial dispute between the workers and management of the Sri Palamalai Ranganathar Mills, Coimbatore.]

This dispute having come up for final enquiry on the 7th October 1948 at Coimbatore in the presence of Sri T. V. Rajagopal, M.A., B.L., Advocate for the management and the workers being unrepresented and having stood over for consideration till this day, the 8th day of October 1948, the Tribunal made the following

AWARD.

The points for determination in this case are very simple and they have become simpler still because the workers concerned chose to allow the enquiry to proceed ex parte. In spite of a notice and a reminder sent to the Union intimating the date and the place of enquiry, neither the workers nor any of their representatives were present at the enquiry.

2. The learned advocate for the management Mr. T. V. Rajagopal contended that the burden was on the workers and as they produced no evidence the issues should be decided against them. Although the burden is on the workers, I examined the manager of the Mill to elicit the relevant facts which will be briefly stated The workers in the mill had formed themselves into two groups and there were clashes between the two groups both inside and outside the mill premises. During the clash inside the mill some workers broke windows and damaged the machinery. The Manager held an enquiry and dismissed fifteen workers. A few out of these fifteen workers and some other workers were prosecuted by the

Police in connexion with the clash which took place outside the mill. Three of these latter, viz., Kannuswamy, Savandappan and Sankaran were jailed. As a result of these disturbances there was a strike and a lock-out.

3 Sri V. Subbarayan who was then District Superintendent of Police and Sri C. Subrahmanyam, advocate, interceded and the strike was called off. The mill was opened. The management undertook to take back the fifteen dismissed workers and a reference made to this Tribunal about this matter, was compromised. According to the workers, the management agreed to reinstate not only the fifteen dismissed workers, the window breakers, but also four others, viz , the three mentioned already and another Chinnaswamy. According to the management there was no talk to reinstate these, much less an agreement. These four workers were marked " left " after three days absence without leave, which means that they abandoned their jobs.

4 I framed the following issues :—

(1) Did Chinnaswamy apply for sick leave through the Union, and therefore, or otherwise also is he entitled to be reinstated in spite of his absence?

(2) Was there an agreement to reinstate Kannuswamy, Sankaran and Savandappan as stated by the workers and did the management fail to implement this?

(3) What compensation, if any, are the workers entitled to?

Sri V. Subbarayan, now Deputy Inspector-General of Police, Northern Range, was examined on commission. He speaks to the management agreeing to take back fifteen workers. He says it was a gentlemen's agreement. No undertaking was given. It does not appear from his evidence that the management agreed to take back the three workers Kannuswamy, Savandappan, and Sankaran who were then in jail They appear to have been released in August and the mill reopened in the third week of June. The manager denies that there was any agreement to take them back. There is no evidence that any application was made on behalf of Chinnappan for leave.

I find issues (1) and (2) against the workers. The third does not arise.

5. Mr. Rajagopal further contended that even if there was an agreement to reinstate the workers, this Tribunal has no jurisdiction to order specific performance, that is, to order the management to employ them. Although this point is only of academic interest, in view of my finding on the facts, I shall discuss it at some length as it raises a question of much importance. Mr. Rajagopal's contention is that the English case Rex *v.* The National Arbitration Tribunal (1948 I K.B. 424) is an authority not only for the proposition that the Tribunal has no jurisdiction to reinstate a dismissed worker, but also for the other proposition that a Tribunal has no

jurisdiction to order an employer to employ a worker when there is a breach of an agreement to employ. It must be admitted that if Rex *v.* The National Arbitration Tribunal applies to the Industrial Disputes Act, the Industrial Tribunals appointed under it have no jurisdiction to reinstate a dismissed worker in any case, as his remedy is always only for damages. Nor can the Tribunal order an employer to employ a worker on the ground that he had broken an agreement to employ him. In neither case can a civil court grant specific relief. The worker's only relief is in damages.

6. In one case indeed, Lord Goddard C.J., states that "the Tribunal could make an award which would have the effect of continuing the men in the service of the employer from which they have never been dismissed, upon such terms and conditions as the tribunal may award and which they have power to make terms of the employment," page 433. But, this is a case where the contract of service has not been terminated by a dismissal, legal or otherwise, but where there is only a breach of contract which has not been accepted by the opposite side, which alone could put an end to the contract. Where there is only a cause, or an excuse for ending the contract which the opposite party has not yet availed of, there is no termination of the contract. But a dismissal is a termination of the contract and so Lord Goddard observes "If an employer breaks his contract of service with his employees, either by not giving notice to which the latter is entitled, or by discharging them summarily for a reason which cannot be justified, the workmen's remedy is for damages only," page 431.

7. If then, according to Lord Goddard, in no case of dismissal, can there be any order of reinstatement, because no court of law or equity has ever granted such a relief, it follows that on the same principle there is no power to order specific performance on a breach of contract to employ. But Lord Goddard's judgment was rendered with reference to the powers which were conferred on the National Arbitration Tribunal by the Defence Regulations. If the Industrial Disputes Act differs from these regulations in material respects, powers of the Tribunal under the Indian Act have to be ascertained independently. Lord Goddard's judgment was based on the following considerations :—

(1) The power to reinstate a dismissed worker was never exercised by any court of law or equity. Such an extraordinary power can be exercised by a Tribunal only if it is expressly conferred on it. The regulations do not confer this power expressly.

(2) The Tribunal has express power given to it to add to or alter the terms or conditions of the contract or service, which no court has, but no such express power is given to reinstate.

(3) There is provision in the regulations to enforce orders made under the extraordinary power expressly given but none to enforce an order to reinstate.

(4) In the case of essential undertakings a power is vested in an officer to reinstate a dismissed worker and heavy penalties may be imposed for non-compliance.

8. Now in the Industrial Disputes Act, no distinction is made between essential and non-essential undertakings in so far as the jurisdiction of the Tribunal is concerned. Nor are any extraordinary powers conferred on the Tribunal by express words. If they cannot reinstate a dismissed worker they cannot add to or alter the conditions or terms of the contract of service For neither is expressly provided for. Are the Tribunals then no more than replicas of the civil courts, and can they only decide whether a contract between an employer and his employees has been broken, and give such consequential relief as civil courts are empowered to give? The whole scheme of the Act seems to show that such is not the case.

9. The provisions contained in section 11 (5), sections 17, 18, 19, 23, 26, 29 and 33, to mention only the more important are all extraordinary if the jurisdiction of the Tribunal is no wider than that of a civil court. Moreover while section 2 (*k*) defines the categories of the subject-matter of industrial disputes, it makes no mention of the nature or basis of those disputes because it is so various. It is well known that the bulk of industrial disputes are what are called collective disputes on interests as distinguished from disputes on rights. Disputes on interest are outside contract. The very general definition given of industrial disputes coupled with the extraordinary provisions in the sections referred to above would indicate if I may say so, that the jurisdiction of Industrial Tribunals is very wide and that they can order among other things specific performance in suitable cases where there has been a breach of a contract of employment. Otherwise the extraordinary provisions in the Act referred to above would be entirely purposeless. And it can be shown that every one of these provisions has a specific purpose behind it. It is unnecessary to pursue the matter further.

10. But as I have found the fact against the workers, my award is that they are not entitled to any of the reliefs claimed by them.

Coimbatore,
8th October 1948.

C. R. KRISHNA RAO,
Industrial Tribunal.

NOTE.—After this award was prepared, the High Court of Madras has decided in Original Side Appeal No. 45 of 1948 that arbitration tribunals in India can order the reinstatement of a dismissed workman. It follows from this, that these tribunals have jurisdiction to order an employer to employ a person whom he has agreed to, but failed to employ, if it can be proved that it is an industrial dispute within the meaning of the Act, but not otherwise. The argument in the award proceeds on the assumption that there was a valid industrial dispute.

Coimbatore,
6th December 1948.

C. R. KRISHNA RAO,
Industrial Tribunal.

Order—No. 6259, Development, dated 20th December 1948.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the Industrial dispute between the workers and the management of the Sri Palamalai Ranganathar Mills, Coimbatore, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Sri Palamalai Ranganathar Mills, Coimbatore, and the workers employed therein and directs that the said award shall come into operation on the 20th December 1948 and shall remain in operation for a period of one year. His Excellency the Governor further directs that with reference to section 17 of the said Act the award be published in the *Fort St. George Gazette.*

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government

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