

BJP wing firm on seeking Vajpayee help

TUs differ on strike against strike ban

MONOBINA GUPTA

23/12

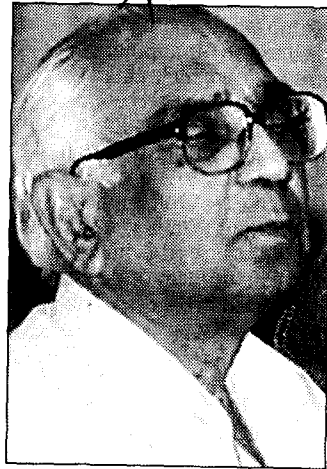
New Delhi, Dec. 28: The Centre of Indian Trade Unions is yet to persuade two trade unions to agree on a date for a country-wide strike against the Supreme Court order disallowing strikes by government employees.

"We are worried because there is a delay in fixing the date," said Citu general secretary M.K. Pandhe. Central and state federations have decided on a February 11 date, but no major trade union other than the Citu, the All India Trade Union Congress and Hind Mazdoor Sabha has agreed to this.

"The Indian National Trade Union Congress and the Bharatiya Mazdoor Sangh are reluctant about the strike even though Intuc now seems to be ready for a meeting to fix a schedule," Pandhe said. He appeared unaware that the BMS made it clear in October that it would not join an all-India strike.

"We have already told Citu we will not be party to the strike," BMS general secretary Han-subhai Dave has said.

The BMS and the Intuc have been reluctant to adopt the Left



Pandhe: Caught in conflict

unions' strident stand on the strike ruling.

Pandhe says Citu is willing to expand the scope of the strike from an action against the Supreme Court's ruling of August 6 alone to a protest against the Centre's policies if this ensures greater co-ordination and cooperation among trade unions.

But the BMS is not budging. It has said it will first seek Atal Bihari Vajpayee's help before joining a general strike. On De-

ember 12, a BMS delegation met the Prime Minister and attempted to persuade him to try and reverse the court ruling. The union members said Vajpayee had expressed reservations about the ruling and said the Centre will consult legal experts to find a way out of the impasse.

But Pandhe denied that the Prime Minister gave such an assurance. "The Prime Minister's Office has already denied that the government is making any move to introduce a legislation that can undo the Supreme Court judgment," he said.

At an Indian Labour Conference meeting last October, all trade unions said the Centre should introduce a legislation that would restore the right of government employees to strike.

Union labour minister Sahib Singh Verma has said there is no need for such a legislation since the ruling does not take away the right to strike of those workers protected under the Industrial Disputes Act.

The ruling is applicable only to government employees who have signed contracts with their respective governments, he said.

29 DEC 2004

THE TELEGRAPH

29 DEC 2004

'Govt staff have right to agitate'

31-12-2011
Joban S. S. S. S.
PRESS TRUST OF INDIA

CHENNAI, Dec. 27. — Though the Supreme Court had said that the government employees, who were governed by the service rules, had no moral right to go on strike, they should not be denied the right to agitate or express their anger, Union labour minister, Mr Sahib Singh Verma said here today.

Mr Verma said that unlike workers, covered under the Industrial Disputes act, who had the right to strike, government employees were governed by service rules.

The employees could get their grievances redressed through the joint consultative committees, he said.

"However, I am of the personal opinion that we cannot deny them the right to agitate or show their anger," he said.

Mr Verma also said that the centre had already notified standing orders, concerning the 'fixed term contract' employees in industrial establishment.

These employees should be provided all the benefits and social security given to regular employees, he added.

While the centre was committed to labour reforms, it also wanted that the reforms should generate more employment. The minister said the centre would come up with some 'definite' proposals to safeguard the interests of workers in the unorganised sector.

Recently, the group of ministers, which went into the issue, had cleared the proposals, which would be put before the cabinet soon.

Out of 400 million workers in the country, only 40 to 50 million workers were in the organised sector.

According to the minister, all EPF subscribers would be given an identity card like the PAN card, issued by the Income Tax department.

This would facilitate easier transfer of funds of the employees who change jobs quite often. Fifty lakh subscribers would be issued the cards by the end of March next year and the rest in one year.

The union labour ministry would construct model hospitals in all state headquarters to help the workers covered under ESI.

THE STATESMAN

28 DEC 2004

Irresponsible Marxists

ST-8 27/12 2004
Playing with lives of garden labour

Have West Bengal's Marxists become totally insensitive to human misery and suffering because of the unbridled power they have enjoyed for the last 27 years? If they had not, Mohammed Amin, the veteran CITU leader who is also its vice-president and currently the state's labour minister, would not have been as irresponsible and uncaring as to say it was not his department's job to know how many labourers of 24 closed tea gardens in the Dooars or their family members had died of starvation and malnutrition in recent times. The minister feels that labour welfare does not fall within the jurisdiction of his department, and hence he chooses to be totally silent about whose responsibility it is. It also transpires that the state's labour department has neither the facts nor the figures on the appalling tragedy that has overtaken thousands of tea garden workers following the closure of the establishments.

Clearly, the minister is making a desperate effort — that is crude and callous — to avoid those who want to know just how many labourers have been affected by the tragedy. Not surprisingly, Amin has the "exact figures" of the amounts spent on providing relief and also the details of the tons of foodgrains that have been distributed by government agencies in the closed gardens. And to buttress the minister's and the party's claim that life is normal in the closed gardens, the state government recently told the Centre that no starvation or malnutrition related deaths have been reported. But surveys conducted by one of the Left Front partners, besides those conducted by several NGOs, have already confirmed that many people have died, and that the toll is at least 300, and it could well be in the region of 600.

This has been dismissed as "rubbish" by Marxists who maintain that such deaths cannot occur under their pro-people and pro-poor government. Clearly someone is lying in this case, and those with the greatest motive to do so are the Marxists. Three cabinet ministers in the state are from the affected areas and they must know the ground realities very well — but why are they quiet? The Marxists had gone into a similar denial when the Rs 22-crore Pranabananda Bank scam surfaced some years ago. Some of them went as far as to say it was no scam, while there were others who maintained it was nothing compared to the involvement of Bank of Karad in the securities scam. Such is the level and nature of Marxist hypocrisy.

There is no doubt that this deliberate cover-up not only betrays Marxist nervousness but is also meant to stonewall the mounting criticism of apathy and neglect shown towards tea garden labourers, the party's natural constituency. This behaviour has shocked all, especially tea garden labourers whose faith and confidence in the "lal" party's record of sacrifice, service and empathy for them have been badly shaken. Alas, legendary comrades like Nani Bhattacharya, known for their rectitude, have been replaced by people like Tarakeshwar Lohar and George Kujur who in the name of "liberating" the proletariat have been exploiting workers. So much for the dictatorship of the proletariat!

Identification of migrant labour a major hurdle

By Our Staff Correspondent

19-12
27
12-11-04

NEW DELHI, DEC. 26. Identification and keeping track of migrant workers is expected to be a major hurdle in the implementation of the Unorganised Sector Workers Bill, 2003, if passed in Parliament.

Scores of existing legislations, aimed at safeguarding the interests of the unorganised labourers, have been unable to achieve the target so far due to various methods adopted by the employers and contractors to circumvent the provisions of these laws, thereby depriving them of the benefits. According to a survey conducted by the National Sample Survey Organisation (NSSO) in 1999-2000, there are about 369 million workers employed in the unorganised sector, constituting about 93 per cent of the total employed workforce in the country. Of this, 237 million workers are in the agriculture sector, 41 million in the manufacturing and 91 million in the service sector, including 37 million in trade, as many in transport and communication services and 17 million in the construction sector.

The first National Commission on Labour (1966-69) had defined unorganised labour as those who have not been able to organise themselves because of the casual nature of their employment, ignorance, illiteracy and the small and scattered size of establishment. Twenty years later, the National Commission on Rural Labour visualised the same scenario and the same contributory factors leading to the present status of unorganised rural labour in India.

Over the years, several stud-

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ies have projected the plight of the unorganised labour in the country and called for substantial measures to improve their protection and the draft Bill offers to bring these workers under an umbrella legislation and give them social security by way of insurance, old age pension and medical insurance. The recommendation for legislation of this nature had been made in the Second National Labour Commission report.

Labour migration is an important factor affecting the course of socio-economic development in India. Accelerated movement of people originating mainly from the rural and backward areas in search of employment has been one of the most important features of the labour market scenario in India during the post-Independence period. According to the 1991 census, 226 million people have changed their places of residence within the country, including for economic reasons.

The Unorganised Sector Workers Bill seeks help from non-governmental organisations for identifying workers in the unorganised sector and using the massive infrastructure of the Employees Provident Fund Organisation (EPFO) and the Employees State Insurance Corporation (ESIC) for registration of these workers. Experts on labour issues point out that apart from estimating the magnitude of migration, the database should also generate information pertaining to vital aspects like causes and emerging forms of migration; process of recruitment; occupational profile of migrant workers, their skill profile, working and living conditions.

Discrimination at work taking subtler forms: ILO report

By Our Staff Correspondent

10/13
18/5
Person & Gender
S. S. S. S.

NEW DELHI, MAY 12. Religious discrimination has increased over the past decade with the current global political climate fuelling sentiments of mutual fear and mistrust among religious groups, in turn, threatening to destabilise societies and generate violence. Discrimination against people having HIV/AIDS, especially among women, is also a growing concern.

The global report on discrimination at work, entitled "Time for Equality at Work" released by the International Labour Office (ILO), the world over today, says that while most blatant forms of discrimination at work may have faded away, many remain a persistent and daily part of the work place or are taking on new, subtler forms that are cause for concern.

"Progress in fighting discrimination at work has been uneven and patchy, even for long recognised forms such as discrimination against women and inequalities within discriminated groups are widening," the report says.

"The present urgency of countering and preventing terrorism has fuelled sentiments of mutual fear and discrimination between Muslims and non-Muslims. It is clear, however, that any strategy aimed at tackling conflicts of interest should respect religious freedom; denying the basic right to follow a religion of one's choice can destabilise societies and generate violence," it says.

Suggesting that failure to eradicate discrimination helps perpetuate poverty, the report says that discrimination often trapped people in low-paid 'informal' economy jobs where they are denied benefits, social protection, training and land or credit.

Drawing attention to the types of discrimination, the report says that women were by far the largest discriminated group with those in the lower-paid and least secure jobs.

Describing racial discrimination as the most common form, the ILO report says it affects migrants, ethnic minorities, indigenous and tribal people and vulnerable groups. Rising levels of global migration have significantly altered patterns of racial discrimination against migrant workers, second and third generation migrants and citizens of foreign origin. It is the perception of these workers as foreigners that may lead to discrimination.

Warning that neglecting to tackle "widening socio-economic inequalities" in the world of work, not only amounts to accepting a "waste of human talent and resources" but could have 'disastrous effects on national social cohesion, political stability and hence growth' in the years to come, the report suggests that removing inequalities could be the most challenging task of contemporary society and that it was essential for social peace and democracy.

The report lays the blame for continuing discrimination on prejudices, stereotypes and biased institutions that have resisted decades of legal efforts and policy measures undertaken by governments, workers and employers against unequal treatment at work.

Putting the number of people with disabilities between 7 and 10 per cent of the world's population, the report says that the most common form of discrimination against them was denial of opportunities both in the labour market and in education and training. "Unemployment rates for people with disabilities reach 80 per cent or more in many developing countries." Concerns over discrimination based on age are also growing with 33 per cent of the people in developed countries and 19 per cent in developing countries will be more than 60 years by 2050.

The report has been prepared as a follow-up to the adoption of the ILO Declaration on Fundamental Principles and Rights at Work by the International Labour Conference in 1998.

BY 2003

labour and social
organisation

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EQUALITY AT WORK

Women & Men

THE GLOBAL REPORT of the International Labour Organisation on equality at work, which draws attention to discrimination at the workplace taking on new, subtler forms, is a timely reminder to Governments and institutions that the battle against inequality needs to be continually fought through a combination of awareness campaigns, policy measures and legal efforts. Progress in tackling even the long-recognised discrimination against women is described in the report as patchy, thus underlining the difficulty involved in removing deeply-ingrained prejudices that show up in the workplace. Whether they have institutional sanction or not, societal biases and stereotypes contribute to the discrimination against vulnerable groups and ethnic and cultural minorities. Added to this, the report notes, there has been an increase in religious discrimination over the past decade with the international political climate of counter-terrorism fuelling sentiments of mutual fear among Muslims and non-Muslims. There has also been a rise in discrimination against people with HIV/AIDS. Obviously, Governments and institutions must show greater concern while looking into complaints of such forms of discrimination. But, women continue to constitute the largest group that faces discrimination at the workplace, and, invariably, the seriousness of a Government in ending all discrimination would be measured first and foremost in this sphere.

In the Indian context, the fight against sexual discrimination made major gains only with the Supreme Court laying down guidelines for dealing with sexual harassment in the workplace. The Union Labour Minister, Sahib Singh Verma, took the opportunity of releasing the ILO report in New Delhi to announce the formation of a committee to ascertain the extent to which the Government had been able to remove discrimination, particularly sexual harassment, at the workplace. Sadly, when the committee sub-

mits its recommendations by the month-end, it would only make abundantly clear that India lags behind other countries in ensuring a safe, non-discriminatory working environment for women. The Infosys case, where the company paid \$3 million to a former employee who filed sexual harassment charges against a Board member, is a pointer to the gap between India and the developed countries in this aspect. It is unthinkable that Indian companies would pay out such huge amounts in cases of sexual harassment before Indian courts. But actually, the Infosys payment, which is part of an out-of-court settlement, is only a fraction of the amount demanded as compensation by the former employee. Not surprisingly, women's groups are of the opinion that the laws in India are weighted in favour of the accused in cases of sexual harassment. Enforcement of existing laws is another area where the Government is found wanting. The Supreme Court guidelines, which put the onus on employers in public and private sectors for setting up mechanisms for dealing with complaints from aggrieved women, are yet to be implemented effectively throughout the country. Anyway, such guidelines are meaningless for the unorganised sectors, where the women, low-skilled and ill-paid, are the most insecure.

In such a situation, stringent laws must be complemented by adequate redress mechanisms beyond the workplace. Governmental policies and support measures must be backed up with initiatives that would involve the larger community in identifying and addressing the problem areas. In the absence of concerted efforts, where the courts succeed, the Governments might fail. And where the Governments succeed, the community might fail. As the ILO report says, any failure to tackle the widening socio-economic inequalities would adversely affect social cohesion and political stability. That, surely, is the huge cost of status quo.

Citu sounds strike war cry

M.R. VENKATESH

Chennai, Dec. 9: After 24 years, the Citu is back in Tamil Nadu with its all-India conference and planning a countrywide general strike to counter the apex court order that followed this state's clampdown on its striking employees.

The overriding sentiment at the 11th conference of the Centre of Indian Trade Unions was the need to "defend the right to strike".

The "entire spectrum of the trade union movement" was entering a decisive action phase, veteran CPM leader N. Sankariah said at the inaugural session today.

Citu general secretary M.K. Pandhe said they were committed to "go ahead" with the one-day strike. "We will soon announce the date after consultations with all trade unions," he added.

Earlier this year, Tamil Nadu had sacked about 170,000 striking employees and teachers. Subsequently, the Supreme Court had ruled such workers had no "legal, fundamental or moral right to go on strike".

Almost every speaker at the venue of P. Ramamurthy Nagar, outside Chennai, spoke about the "very critical juncture" at which the five-day conference was being held.

Soon after hoisting the Citu flag, its president E. Balanandan launched a tirade against chief minister Jayalalithaa's "repression" and her regime's "uncivilised treatment" of employees who were protesting a "unilateral" cut in their pension and other benefits. These benefits, he said, were the only "savings" left to the middle and the working classes.

The working class in no other part of the world has

ever met with such a "penal punishment", Balanandan added.

The implications were more "unprecedented" as the apex court's pronouncement had hit the "main lever of collective bargaining — the right to strike", which amounted to "taking away the right to livelihood", the veteran Citu leader said.

The conference's first resolution, adopted unanimously today, lashed out at the state government's "dictatorial, repressive, anti-people and soft-Hindutva policies".

Equally strident was the theme of the ill effects of "LPG" — liberalisation, privatisation and globalisation of economy. All India Trade Union Congress (Aituc) veteran Gurudas Dasgupta warned against a "facile" reading of the BJP's Assembly poll sweep as people's "support" to such policies.

C. Kuppusamy, the chief of the DMK's labour wing and an MP, urged the 2,200-odd delegates to adopt a resolution on reviving the "Be Indian, buy Indian swadeshi movement".

Balanandan also condemned the state's "misuse" of the anti-terror law and the attack on press freedom, including the Assembly resolution sentencing six senior journalists of *The Hindu* and *Murasoli*, the DMK mouthpiece, to 15 days' imprisonment. "This method of Jayalalithaa needs to be changed," he said.

The conference has drawn 400 women delegates and 40 representatives from "fraternal trade unions" abroad, including China, Bangladesh and Nepal.

Leaders of unions such as the Hind Mazdoor Sabha and the Utuc-Lenin Sarani, too, addressed the gathering.

10 DEC 2003

Labour pangs

51-6 CITU cannot conceal its own despair

Seldom has a CITU conference been held in the background of so many contradictions within the trade union movement itself. CITU in particular has borne the brunt of repeated assaults on its credibility — first, as West Bengal's largest labour front belonging to the ruling party and hence supposedly best placed to protect the interests of the working class. Secondly, there is the more serious problem of adjusting its ideological objectives to the Left Front's desperate effort to project an investor-friendly image that clashed with age-old concepts of imperialist designs from abroad and "truant industrialists" within the country.

Now to add to the confusion, Jyoti Basu shows up at the conference in order to remind workers that to strike is a right they have earned "through long struggle" and that they must protect that right "through struggle". What Buddhadeb Bhattacharjee would have said in similar circumstances is another matter. It may not be a coincidence that a former chief minister who can afford to make irrelevant noises is allowed to address a CITU conference while the real policy makers — and they include Biman Bose and Anil Biswas — choose to stay away.

Thus the government which has been singing a different tune has managed to distance itself from Basu's strident morale-booster to workers in a situation where closures have become the rule, manufacturing units have made way for the service sector and thousands who have lost their jobs are thoroughly disillusioned.

The grim situation on the labour front is made worse by two other factors: one, the extent to which CITU ought to resist the transformation to an open economy to which Alimuddin Street is now more committed than before. And, two, there are CITU leaders who have prospered through wanton acts of corruption often at the cost of workers themselves as in the case of Tarakeshwar Lohar. It does no credit to CITU boss Chittabrata Majumdar to confess that "a few union leaders" were opportunistic and that they were getting involved in immoral acts "in small measure".

The conscious effort to play down the vices within the organisation is pathetic. Nor does he explain how an extortionist like Lohar could function at the Dalgaon tea garden for so long without any action from the party or CITU and only now has been disowned after being exposed to a violent backlash within the union itself. A conference in which a retired soldier performs the ritual of lambasting the opposition and the media and digs up data to reveal that 2,743 lockouts were declared during the past 12 years (conveniently avoiding an answer as to why owners resorted to the extreme measure) is not the best occasion to look for a means of resolving the contradictions. It can only come from an honest confession of where CITU has gone wrong and where the government, party and trade union front who claim to share the same ideology are actually working at cross-purposes. CPI-M and CITU bosses have perfected the art of diverting public attention from their own despair. Now even that is of no avail.

Labour minister at head of Citu

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state comm* *HR-9* *27/11* ✓
Aloke Banerjee
Kolkata, November 21

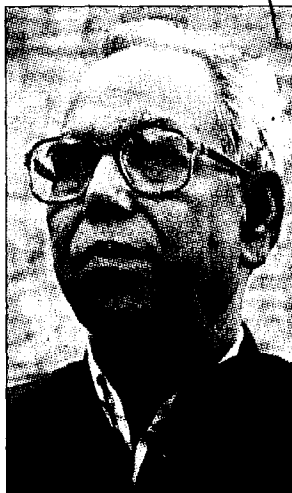
STATE LABOUR minister Md Amin has been selected as the next president of the state unit of Citu.

Senior CPI(M) leaders have, however, decided to retain Chittabrata Majumdar as Citu state general secretary though Majumdar had wanted to give up the post citing health reasons and had expressed his desire to move to Delhi.

Senior party leaders have now convinced Majumdar to put off his plans of moving to Delhi.

With the stiff fight in the Citu between hardliners pursuing an agenda of intense labour movement in the state and softliners, who want workers' movement to be tamed to woo investors, the party leadership thought it best to maintain status quo.

Amin, who is also currently known as a softliner and follower of chief minister Buddhadeb Bhattacharjee and CPI(M) state secretary Anil Biswas, had expressed his reservations in occupying the post of state



Mohd Amin
New job



president as he holds the labour portfolio.

Party sources, however, claimed that Alimuddin Street has been able to convince him that as the senior-most trade union leader in the state, his selection would be undisputed.

The second day of the Citu conference on Saturday passed off without fire-works.

Most of the speakers stressed the need to be defensive during struggles. They, however, highlighted the lack of political knowledge of a large number of members and insisted on political education of the cadres.

The Citu decided to call a nationwide strike of all Central and state government employees on February 11. It also decided to talk to all the Central trade unions so that the strike call could be given unitedly.

Citu secretary M.K. Pandhe said that his organisation would call for indefinite strikes in the core sectors of the economy in future.

Asked why the Citu was taking an aggressive stand against the Central government while insisting on a defensive struggle in West Bengal, Pandhe said this state government was pro-worker and it was the duty of the workers to help the Left Front government and contribute to the fast economic development of the state.

before
of the details

587 Chennai employees dismissed

By Our Special Correspondent

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CHENNAI, NOV. 17. At last, the suspense has ended for dismissed/suspended Tamil Nadu Government employees, who went on strike in July last. The Government has decided to take back 2,350 employees working in the Secretariat and other departments in Chennai city, out of 2,937 against whom disciplinary action was taken. The remaining 587 have been dismissed.

According to an official release, orders have been issued by the Department of Personnel and Administrative Reforms late this evening. As per the order, except 132 persons who are exonerated, all employees have been awarded some punishment. While 2,162 employees will have to lose increments, 56 staff members are to be demoted. It is said that only those who absented themselves for genu-

ine reasons were exonerated.

The three-member panel, consisting of the former Madras High Court judges, Malai Subramanian, K. Sampath and P. Thangavel, which heard representations by the dismissed or suspended employees under the provisions of the Tamil Nadu Essential Services Maintenance Act, issued orders for those working in various departments in the Secretariat and in Chennai district. Top government officials, including the Chief Secretary, Lakshmi Pranesh, and the Finance Secretary, N. Narayanan, who studied the committee orders today, decided to take follow-up action.

Individual orders will be issued through the respective departments, according to official sources.

The committee's order for employees working in various offices in districts will soon be handed over to the Government.

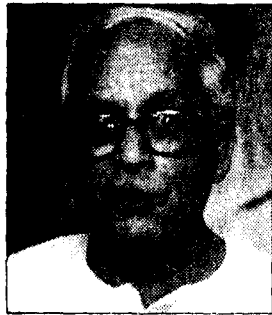
18/11

CM blames Centre for tea estate crisis

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17/11

Statesman News Service

NAXALBARI, Nov. 16. — Chief Minister Mr Buddhadeb Bhattacharjee expressed concern over clashes among labourers in tea gardens of North Bengal while addressing the 4th district conference of the Centre of Indian Trade Union (Citu) here today. He emphasised the need for a cordial relationship between the tea garden workers. Without taking names, the chief minister was perhaps referring to the incident at Dalgaon Tea Estate in which 19 persons were burnt alive by a mob.



Mr Buddhadeb Bhattacharjee

Mr Bhattacharjee said the state government was keen to reopen the locked out tea gardens in North Bengal. The government is in the process of forcing managements of tea gardens to reopen the gardens immediately and stop depriving the labourers, the chief minister said. He cited the instance of the Chandmani garden. He said state labour minister Md Amin and agriculture minister Mr Nirupam Sen was assisting him in trying to solve the crisis in the tea gardens of North Bengal as early as possible.

The chief minister felt the crisis was largely a result of the Central government's liberalisation policy, which is "not friendly to the poor". "By opening the

'Unholy nexus'

JALPAIGURI, Nov. 16. — The Hind Mazdur Sabha has urged the Centre to put an end to the "unholy nexus" between the ruling CPI-M, Citu and criminals.

An HMS delegation recently met Union home minister Mr LK Advani and apprised him of the deteriorating law and order situation in tea gardens in the wake of the Dalgaon massacre. The delegation submitted a memorandum to Mr Advani and urged him to take action against the CPI-M and Citu for maintaining links with criminals. The delegation also met Union labour minister Mr Sahib Singh Verma. — SNS

market here, the Centre has posed a severe threat to the poor labourers in the tea sector as well as other production fields. Tea is coming into the country from Kenya, Bangladesh, Sri Lanka and other countries."

According to the Mr Bhattacharjee, foreign countries have already captured the Indian tea market and soon they would capture the other markets as well. "What do our poor tea growers do? Where would they sell their produce?"

The chief minister was of the opinion that besides tea gardens, a number of fertiliser industries, jute mills and engineering industries had closed down because of the Central policy of liberalisation. "In spite of our production capacity, we do not have a foothold in the domestic market, except in the markets for Basmati rice and jewellery."

Jalpaiguri DM promises talks & jobs for tea workers

Rakeeb Hossain
Kolkata, November 15

THE JALPAIGURI district administration, it seems, has finally woken up to the plight of the workers of the closed tea gardens.

Authorities are taking initiatives to reopen the closed and abandoned tea gardens in the district. They are also charting out moves to ensure that workers of such closed tea gardens manage to survive and earn a decent living till the gardens reopen.

"We are taking initiatives to reopen the 14 closed and abandoned tea gardens in our district. Talks are on with officials of at least four locked-out tea gardens. We will hold a meeting on November

24 with officials of another three tea gardens. We hope things will look up," Jalpaiguri DM A Subbaiah told *Hindustan Times*.

The district has 183 tea gardens employing 1,000 workers each. Of these, 10 gardens closed down over a year back. Lockouts were declared in four gardens in the last four months because of labour trouble and funds crunch. The district administration hopes their initiatives would at least help solve the problems of some of the tea gardens.

The district administration plans to employ workers of closed tea gardens under the 'food for work' Sampurna Gramin Rojgar Yojna programme. This would help them sustain a decent living

till the gardens reopen and the workers start getting their daily wages. "We are employing workers in community based rural development programmes such as construction of roads and drains, soil conservation, land development and pond-digging in their tea gardens. We are paying them Rs 32 a day and five kg of rice. The programme will continue till March 2004. By then we hope to reopen at least some of the tea gardens," Subbaiah said.

The DM claimed the state panchayat and rural development department had appreciated the initiatives taken by his administration and had also written to the Darjeeling district administration of Darjeeling about them.

SFB
16/11

Labourers storm factory over accident

Labour & S. Council

STATESMAN NEWS SERVICE

DURGAPUR, Nov. 15. — An integrated steel factory under construction was ransacked and its managerial staff were assaulted by some agitated labourers at the work site after two of their co-workers fell off a shed this morning. One of the workers died en route to hospital.

The agitators alleged inadequate safety measures in the factory site. Two Citu leaders were also beaten up by labourers when they went to protect the managerial staff in the site office.

The site officials sent an SOS to the corporate office of the Jai Balaji group in Kolkata. A complaint was also lodged with the local police station. A police contingent led by the Circle-Inspector brought the situation under control. No arrest has, however, been made till this evening. The incident also caused some embarrassment to the local Citu leadership.

Police said the labourers working in the site turned violent when the factory authorities failed to arrange

a vehicle for transportation of the injured to the hospital in time. They attacked the site office where Mr Sajal Das, the commercial manager, was supervising the morning work schedule.

Mr Das said: "The labourers went berserk and even attacked our security men and beat up two local Citu leaders." The mob started pelting cast iron pieces and also broke a few window panes, the managers alleged.

The labourers, on the other hand, alleged that the management was indifferent to workers' safety despite a few fatal accidents over the past few months. Today's incident, according to the workers was not a stray case.

Tapan Barua (32) and his nephew Bhola were setting the shed in the rolling mills site when the asbestos pieces crumpled down. Tapan fell from a height of 60 feet. Bhola met a similar fate when he tried to rescue him. Both fell on iron rods and sustained serious injuries. The workers did not have safety belts, boots or helmets. There were no

first aid facilities either.

Mr AR Mitra, GM (Construction), said: "We had to arrange a vehicle from the blast furnace site of the factory which took nearly 15 minutes. The labourers were impatient."

Local Citu leaders Mr Badal Ghosh, Mr Naren Ghosh and Mr Birbol Das were beaten up by the labourers when they went to advocate in favour of the factory management.

Mr Mitra said: "The installation work of the factory was leased out to different labour supplier agencies. The respective agencies are supposed to look after the safety arrangements of the labourers while at work." But the provisions of Contractor Labour Regularisation & Abolition act, 1971 hold the principal employer responsible against such lapses.

Police have registered a case against the factory authorities, alleging inadequate safety measures at the work site.

The foundation stone for the Rs 250-crore integrated steel unit had been laid in January this year.

Look, what's brewing in tea estates

19/11

Statesman News Service

SILIGURI, Nov. 13. — Two of North Bengal's most senior politicians — Communist Organisation of India (Marxist-Leninist) leader Mr Kanu Sanyal and the state agriculture minister and Forward Bloc leader Mr Kamal Guha — are taking on the state government in their own separate ways for the latter's apparent indifference towards the crisis in the tea industry and the plight of tea workers.

While Mr Guha is now almost a regular visitor to the Dooars tea estates, particularly the Ramjhora and Kathalguri tea plantations which are under lockout for over a year, Mr Sanyal, who had been vocal about the conditions at Kathalguri for long, is concentrating in the Terai region and the



Mr Sanyal and Mr Guha, or representatives of the unreconstructed Left and its Parliamentary version respectively, are finding fertile ground for their "ideas" in the tea-growing belt of North Bengal

industry in general. Mr Sanyal, who is also the working president of the COI-ML affiliated All Bengal Tea Garden Labour Union, launched an agitation today against the overall conditions in the tea industry and the government's cold attitude

towards them. Mr Sanyal, who intends to meet Mr Buddhadeb Bhattacharjee during his visit to Naxalbari on 16 November (the symbolism is not lost on anybody), has also timed his agitation accordingly. The ABTGLU staged a demonstration at Bagdogra

today and its leaders said they would hold similar agitations at Naxalbari and Siliguri tomorrow and the day after.

Mr Guha has declared that he is in favour of the state government's initiative to improve the conditions of the workers and reopen the abandoned or locked out tea estates. Mr Guha, who had been visiting some of the affected plantations quite regularly of late, had been to Ramjhora and Kathalguri tea estates yesterday. He promised he would help the suffering workers of the two plantations with agricultural tools so they could eke out a living for themselves by growing vegetables during the coming lean period. Mr Guha too has threatened to launch an agitation if the conditions at the closed tea estates do not improve within the next two months.

Contract killer

Labour ministry tries to change

Sahib Singh Verma's proactive midwifery to achieve some progress on labour reforms, in agonisingly long gestation, have attracted criticism. The labour minister, however, deserves encouragement. True, the labour ministry's draft notification allowing organisations to hire fixed term contract employees is not a legislative measure — the Standing Orders on Industrial Disputes Act will need to be amended and that can be done via executive action — and true, too, the proposal does not align hiring flexibility with greater compensation. In an ideal world, such reformist proposals do indeed fall foul of parliamentary norms and the notion of labour-capital balance. But organised labour in India is anything but ideal. Less than 10 per cent of the workforce in a country with massive unemployment and underemployment has blocked every change while most other sectors have been transformed. The proposal to change the Industrial Disputes Act, mooted in a budget, was watered down by Cabinet — the applicability of retrenchment was changed from organizations employing up to 1,000 workers to those employing 300 or less — and now seems to have gone down the drain. Politicians are scared, trade union leaders, aggressively self-righteous.

A labour minister has two choices: do nothing or try and tweak current rules to achieve something, if only to add some momentum. Mr Verma has opted for the latter, and he should be commended for it, with the caveat that legislative sanction remains the best route for big-ticket reforms. As for the criticism that fixed term contracts do not bring with them promise of higher compensation, critics would seem to be missing the whole point of labour law reforms, which is to prevent the state playing nanny. If employers find that attracting fixed term contracts will necessitate higher wages, they will have to pay for the flexibility. If sellers cannot command a premium, compensation levels will reflect that too. The ministry sweetens the pill by offering medical cover and full retrenchment benefits for fixed term contract workers, except those employed in special economic zones, where a five-year moratorium on such benefits will apply. It is worth noting also that fixed terms contracts are in effect the employment norm is most of the unorganized sector, including agriculture and in white-collar jobs — also in many media organizations. It comes back to the same question: why should one section of India's working population be shielded from the many changes a reforming economy is undergoing.

Nod to pension bite off PF

OUR LEGAL
CORRESPONDENT

New Delhi, Nov. 11: Employees in both the private and the public sector will be affected by a Supreme Court ruling today that upheld a government scheme diverting a part of the employer's contribution to provident fund as pension.

Under the 1996 scheme, of the employer's total contribution, an amount equivalent to 8.33 per cent of the basic salary and dearness allowance of an employee would be transferred every month to a pension fund set up by the Centre. Out of this, the provident fund department would disburse monthly pension

after retirement.

About 80 petitions were filed against the scheme by various trade and employees' unions across the country, who feared that managements would withhold the money on the pretext of contributing to the pension fund.

The unions also argued that the scheme did not offer any new benefit to employees while creating the impression that it did. Citu general secretary M.K. Pandhe pointed out that the scheme merely juggled with money that was already due to employees and diverted it into a new fund. Employees did not get any more money.

But a division bench of Jus-

tices S. Rajendra Babu and K.G. Balakrishnan upheld the scheme and dismissed all the petitions.

The judges exempted organisations having "better pension schemes" than that offered by the government from its ambit, but said the issue would be examined separately.

Most employees' unions had challenged the government's scheme on the ground that it allowed "arbitrary" withholding of dues by managements. The matter was transferred to the apex court after differing high courts gave conflicting judgments.

The Employees' Provident Fund and Miscellaneous Provisions (Amendment) Act, 1996,

had brought the scheme into operation. The prevailing family pension scheme was merged into it. Under the scheme, the employees' contribution to the provident fund was not touched.

The monthly pension payable to an employee is computed on the basis of pensionable salary multiplied by pensionable service divided by 70. The pensionable salary is calculated by taking the average salary drawn in the last 12 months of service before retirement.

Hence, if an employee puts in 35 years of service before retirement, he would be entitled to a pension equivalent to half of the monthly salary drawn in the last year of service.

Guha avoids blaming CPM for massacre

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Pramod Giri & Amitava Banerjee
Siliguri/Darjeeling, November 11

FORWARD BLOC leader Kamal Guha on Tuesday stopped short of blaming the CPI(M) for the massacre in Dalgoan in which 19 people were killed. At a press conference, Guha admitted that the incident at Dalgoan was a major one but said incidents like these were common in tea gardens.

A major "campaigner" for North Bengal's development, the Forward Bloc leader skirted a question on the CPI(M)'s hand in the Dalgoan incident. There are "Tarakeswar Lohars" in all parties, he said. "The Dalgoan incident was the outcome of social problems. Political parties and the government should take steps to deal with such problems."

Guha accepted the fact that there may be elements like Lohar even in his party. Lohar had enormous power vested in him and he exploited the hapless tea garden workers, he said, adding that even if there were people like Lohar in the Forward Bloc, they could never be as powerful as Lohar was. What action would the party take against such people? The minister could not give a definite answer.

Guha said he was not sure who was responsible for the present crisis in the tea industry. The Forward Bloc does not have trade



SUBHENDU GHOSH/HT

Children back at play in Dalgoan estate on Tuesday as workers slowly returned to work. (Right) Kamal Guha at the press conference in Siliguri.



NEELAM GHIMEERAY/HT

unions in tea gardens. "We want the chief minister to take a decision on the problems of tea garden workers. We will support whatever decision the chief minister takes," he said.

The party has threatened to launch a movement if the chief minister did not take immediate steps to alleviate the sufferings of the tea garden workers. It has sug-

gested that an expert committee be set up to study the crisis in the tea industry and recommend suitable remedial measures.

He said workers of locked out tea gardens and their families were living in abject poverty. The party has filmed the plight of the tea garden workers to be shown at Nalini Bhawan in Kolkata on November 22. Organisations such as

Bharat Sevashram and Ramakrishna Mission have agreed to provide relief materials to the workers of some of the locked out tea gardens. But a concerted effort should be made for the permanent solution of the crisis, he said.

One of the several locked out tea gardens in Kurseong sub-division is Jogmaya Tea Estate. And there is no immediate solution in sight. A

meeting was held at the Darjeeling DM's office on Tuesday. But management officials did not attend the meeting that ended in a deadlock. Meetings with the Kurseong SDO have failed to yield results. Workers had threatened that they would launch an agitation if the problems were not resolved by October 20. The SDO was gheraoed for two hours on October 30.

Dalgaon spectre haunts tea gardens

103 am 3 Robin Das
RT-3

Pramod Giri
Siliguri, November 8

THE CARNAGE at Dalgaon is just waiting to happen in other tea gardens.

If trade union leaders do not mend their ways and stop exploiting hapless labourers, incidents like this may become very common.

The deeds of 45 year old Tarkeswar Lohar, the man allegedly responsible for the carnage, is only the tip of the iceberg of corruption and highhandedness that afflicts all levels of leadership of the Left Front's frontal and trade union wings. Tea garden insiders and leaders of the National Union of Plantation Workers (NUPW) and Hind Mazdoor Sabha have expressed apprehension that unless CITU leaders in tea gardens in the Dooars area stop exploiting workers, another Dalgaon cannot be ruled out.

Tea garden labourers and opposition trade union leaders have blamed Tarkeswar, a staff of Dalgaon Tea Estate, for Thursday's incident. Tarkeswar, in charge of the CITU-affiliated Jalpaiguri Chia Kaman Mazdoor Union for the last 13 years, has held complete sway over the labourers.

He has been able to do so without any problems because he has had the backing of senior CITU leaders such as Mantu Bose and Robin Rai. His directives were the rule of law in the garden and anyone who dared to challenge him was harassed or ousted from the garden.

NUPW officials said Lohar had ousted 18 families from Dalgaon in 1988-1989. All of them were NUPW supporters. Some CITU supporters also incurred his wrath and were ousted. He took decisions on his own but he has always had the

backing of senior leaders such as Jalpaiguri Chia Kaman Mazdoor Morcha secretary Robin Rai and Mantu Bose. Both Rai and Bose are also members of CPI(M) Jalpaiguri district committee. Anger and discontent was brewing in the tea garden. Finally, the educated youths in the gardens dared to voiced their grievances. But Lohar managed to suppress these voices of dissent with the help of senior CITU leaders.

Resentment was growing even among CITU supporters. Lohar's decision to appoint three outsiders as tea garden clerks was reason enough for the labourers to protest. With the backing of senior CITU leaders, Lohar tried to silence those voices. And this is where he made his biggest mistake. He hired goons from outside to silence those who dared to raise his voice against him.

Lohar puts CPM in spot

Rahul Das
Dalgaon, November 8

THE JALPAIGURI CPI(M) is divided over its reaction to the arrest of Tarkeswar Lohar and his involvement in Thursday's incident.

A section of the leaders said Lohar was kicked out from the party two years ago. Others maintain that his name still figures in the party list.

CPI(M) secretariat member Mridul Dey said Lohar was expelled from the party two years back. "He did not have any official designation," Dey said, while visiting the massacre site on Saturday afternoon. But Robin Rai, CPI(M) zonal

secretary of the Birpara Majarinhat committee, said Lohar was still an executive committee member of the Chia Bagan Mazdoor Union.

"We are yet to take any decision that we will throw him out of the party or not," district secretary Manik Sanyal told *Hindustan Times* on Friday.

Dey visited the Dalgaon tea estate and spoke to villagers who had lost their kin in the carnage. He was accompanied by forest minister Jogesh Burman, New Jalpaiguri MP Minati Pal and Jalpaiguri zilla parishad sabbadhipati, Banamali Roy.

Dey did not elaborate on

why the party had failed to notice Lohar's nefarious activities since his "expulsion".

He, however, admitted that all Lohar had done was not right.

"The party had for the last decade built up a movement in the tea estate against all sorts of criminal activities. And Lohar was their part of their movement," he said.

The CPI(M) leader believes this was not a spontaneous uprising against a corrupt politician selling off the labourers' interest.

Residents said Lohar ruled the roost in this belt and proudly proclaimed his party affiliation.



Mass cremation of victims of the Dalgaon tea estate massacre.

SUBHENDU GHOSH/HT

Once more with feeling!

Mayhem and chaos in North Bengal

The horrendous incident in North Bengal in which a mob of exasperated tea garden labourers set fire to a Citu leader's house and roasted nineteen people alive, merely marks a new low in the CPI-M's march towards oblivion. The leader, Tarakeswar Lohar, had been removed from his post for gross corruption over jobs but an irate mob after a meeting in a football field made straight for his house, ransacked it and set it on fire. We can assume that the meeting served to heighten tensions and someone or some people were probably responsible. Lohar had apparently selected the three clerks to be recruited by the tea garden and they were all outsiders. Labourers wanted the jobs to go to insiders. It is no good anyone, including Lohar, protesting that no insider had the necessary qualifications; when it is a question of a little corruption and nepotism, bourgeois concepts like qualifications for the job are routinely given up. We have reported developments by the hour and have also listed at least eight major violent incidents since February in tea gardens in Dooars and Assam.

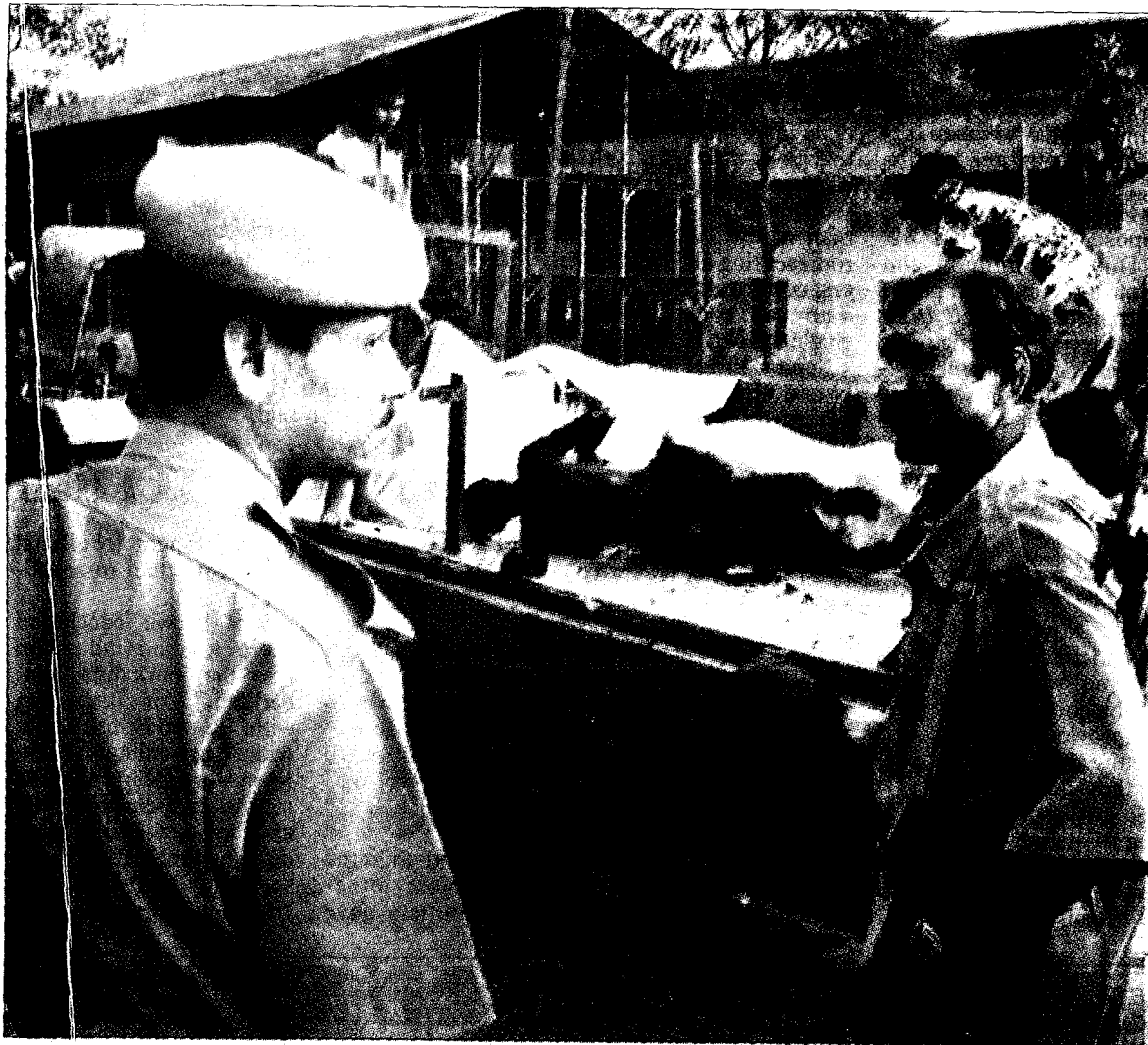
That the chickens are finally coming home to roost is obvious to everyone except the mandarins whose job it is to ensure total subservience on the part of garden managements and voters in general for the greater glory of the party. For the benefit of Anil Biswas and Alimuddin Street, it has been par for the course for Citu unions and unions of other persuasions within the Left Front to allow managements the luxury of interviewing candidates for employment but — and here is the rub — a list must be submitted to the Citu leadership to make the final choice. If no one on the list is acceptable, Citu will impose its choice. If managements resist, the most they can expect is to be allowed to leave the vacancies open for a specified time, until Citu can arrange some gentle persuasion. For Biswas to slur over such established outrage and dismiss it in passing, as *along with resentment over recruitment* is plainly dishonest. Money also changes hands for the privilege of usurping a plainly management prerogative; just one of the many abuses of trade union power, which incidentally keeps the local units in clover. We are unable to say whether a share of the *hafta* is also passed on for the sustenance of Alimuddin Street, or this is an instance of devolution of power to the grassroots, complete and entire.

Burning alive people who disagree with the pioneering good work of the CPI-M has been established practice since 1969. In that year 18 people belonging to the RSP were tied to trees and set on fire; control of the local tea garden union at Jharmas miraculously dropped into Citu's lap! In Sainbari, two brothers of a family of Congress supporters were slaughtered in the heart of Burdwan town and bodies burnt, their blood splattered on their mother; all because they resisted the reasonable demand to switch sides. Is it a surprise that the training imparted in these activities is now employed against the teachers?

Anil Biswas, with exceptional diligence, has already drawn his own conclusions. His man Friday, Mrinul De will write the report for the record. According to Anil, Citu was involved in a *high-minded drive against criminal activities*, gambling and consumption of liquor and it was resistance to the missionary activity of the local unit of the West Bengal temperance society led by Tarakeswar Lohar that caused all the trouble! We are moved to ask whether Anil Potter has been reading the latest fantasies of *Harry Potter*; otherwise how does the State party leader explain his quite extraordinary powers of imagination? The local police have got the message. Tarakeswar can be arrested but the end result should not be in doubt. And thereby hangs a tale!

ANGERED OVER RECRUITMENT OF OUTSIDERS, WORKERS SET CITU LEADER'S HOUSE ON FIRE

19 burnt alive in Dooars tea estate



The charred bodies being loaded on to a truck at Dalgaon Tea Estate. — Tubu Basak

Pinak Priya Bhattacharya
in Dalgaon (Jalpaiguri)

Nov. 6. — Nineteen people were burnt to death when the house of a Citu leader, Tarakeswar Lohar, was set on fire following a clash over recruitment at a tea garden in Jalpaiguri district this morning. Those killed were close associates of the Citu leader.

The incident occurred in the factory lines of the Dalgaon Tea Estate in Falakata, 2 km from Birpara and 72 km from Jalpaiguri town. The Citu leader or one of his associates fired at a labourer injuring him. Police have found two pipe-guns among the bodies.

Tarakeswar (40) belonged to the Cha Bagan Mazdur Union, affiliated to Citu. The tea garden management was to take in three "garden babus" (clerks). Tarakeswar recruited three persons from outside the garden after allegedly taking a considerable sum of money from them. This happened before the Kali Puja. There was unrest among the labourers since then. The aggrieved workers reportedly tried several times to talk to Tarakeswar but in vein. After this incident,

Morning mayhem

- 6 a.m. — At least 1,000 labourers call for a meeting at the garden's football ground to discuss recruitment
- 7.50 a.m. — They decide to meet Tarakeswar at his residence in the factory line
- 8 a.m. — Either Tarakeswar or one of his guards fires at the labourers, injuring Sonik Kachchua
- 8.10 a.m. — The mob sets Tarakeswar's house on fire
- 8.30 a.m. — The garden manager informs Falakata police station
- 9 a.m. — Police arrive
- 9.20 a.m. — Two fire engines are sent from Dhupguri. The fire is brought under control after 45 minutes
- 10.30 a.m. — Police raids begin
- 2 p.m. — Bodies recovered

Tarakeswar was removed from his union post and Robin Rai, second in command of the CBMU in Dalgaon, took over.

At around 6 this morning, some 1,000 labourers called a meeting at the football ground in the garden. It was decided that the workers would go to Tarakeswar and seek an explanation about the recruitment.

At around 7 a.m. about 50 labourers went to Tarakeswar's house and asked him to come out. It was then that somebody from inside fired at the workers injuring Sonik Kachchua.

This infuriated the labourers. They surrounded Tarakeswar's house and set fire to three rooms. There were 25 people inside, some belonging to the garden and others brought from outside. Their job was ostensibly to protect the Citu leader who feared an attack on his life. Tarakeswar and five others managed to escape. Later, the Citu leader was arrested. Some of those trapped in the fire tried to get away. They were caught by the labourers and were hacked and thrown into the fire.

When this correspondent reached the spot, smoke was still billowing from the burnt-out house. Most of the bodies were burnt beyond recognition. The air was heavy with the stench of burnt flesh. Senior police officers were camping at the site.

Police have rounded up 105 labourers, 25 of them women, and seized 70 sharp weapons and a firearm.

The district CPI-M has called a 24-hour Jalpaiguri bandh tomorrow.

Another setback for a tottering industry

Sudipta Chanda in Siliguri

Nov. 6. — The Dalgaon killings could not have come at a worse time for an already tottering tea industry in the Dooars and Terai region of north Bengal. For, another tea-growing season was coming to an end with no sign of recovery for the industry.

Tea industry officials are the first to admit that the situation has worsened. Buckling under financial pressure and labour trouble, more and more plantations have either declared lock-out or have been abandoned. Fourteen tea plantations are closed at present in Jalpaiguri district alone. Officials fear more will be in line as the lean period (December to February) approaches. The season begins after mid-February.

The biggest question the tea industry is facing now is how to keep going in the lean period. "The situation was difficult even during the peak season when tea was being produced and sold and cash inflow was assured. With the lean period approaching, the condition can turn from bad to worse," warned Mr NK Basu of West Bengal Branch Consultative Committee of Plantation Associations.

The WBBCCPA convened a meeting at the Terai Branch Indian Tea Association in Bengdubi today in the

To the defence of Citu

KOLKATA, Nov. 6. — Mr Anil Biswas said today the Dalgaon incident was the outcome of the local Citu unit's drive against criminal activities like gambling and consumption of liquor during working hours in the tea garden, along with resentment over recruitment.

A fear psychosis was created in the area this morning and some people had, out of panic, taken shelter in the house of union leader Tarakeswar Lohar, the CPI-M state secretary claimed. The house was set ablaze with the fuel of a motorcycle parked outside at the instigation of anti-social elements, Mr Biswas said and added that the fire spread to a gas cylinder inside the house.

Reacting to the allegation that Lohar was himself involved in criminal activities and a recruitment racket, Mr Biswas said: "The administration is inquiring into who are behind these activities. Party state secretariat member Mr Mridul De is going to the spot. If anyone belonging to our party is involved, he will be punished."

The Congress has demanded a CBI probe into the killings. The party said the CPI-M may try to hush up the facts since a Citu leader was involved. The Trinamul too has called for a probe. — SNS

Worst-ever

KOLKATA, Nov. 6. — "The tea industry has never witnessed violence on this scale. The two factions were fighting over the same turf. But the industry won't be affected," said a member of the association in which Dalgaon tea estate is enlisted.

"We're trying to get the details. The incident has got nothing to do with industrial relations. It's a law and order problem," said Mr AK Motilal, secretary, Tea Board. "How can the tea industry remain unaffected when such a carnage takes place," asked Mr RS Jhavar, director, Williamson Magor.

"Five or six years ago, 13 people were killed in an inter-party clash in Red Bank tea estate, near Dalgaon. In this case, the trade union leader was probably involved in underhand dealings," said a veteran tea planter. — SNS

background of the Dalgaon killings. Senior tea industry officials attended the meeting and as the news of the carnage spread, many said that they had indeed been feeling for some time that something like this was in the offing.

Officials are unanimous that the situation is "extremely serious" and can turn nastier unless there is a complete restructuring of working conditions.

The spiral of violence

THE Dalgaon killings come after a series of violent incidents in the tea estates of the Dooars and Assam this year.

- 20 Feb: Betguri estate manager gheraoed; an executive assaulted
- 15 March: Dim Dima estate manager confined for 10 hours
- 10 April: Chengmari estate factory assistant killed
- 16 April: Jogesh Chandra estate manager confined for 96 hours
- 2 Aug: Chupara estate manager assaulted
- 1 Oct: Mechpara estate manager detained for six hours. The same month, workers of Gayaganga estate in the Terai kept their manager confined for 10 hours.
- In Assam, three managers of Sapoi and Nandanbagan estates were killed by workers in October. The same month, five workers of Khobang estate were killed in police firing. In the 1970s, the proprietor of Socklatinga estate and three members of his family were killed by workers.



Blood stains outside Tarakeswar Lohar's house. — The Statesman

A natural corollary to government servants having the right to strike would be that governments would have the right to declare a lockout

MATTER OF STRIKES

THE Supreme Court has held in its judgment dated 6 August 2003 in TK Rangarajan vs Government of Tamil Nadu and others that government employees do not have a fundamental, statutory or equitable/moral right to strike. Opinions are, however, being expressed against this decision. They usually cite the International Labour Organisation's Convention Nos 87 (freedom of association and the right to organise) and 98 (the right to bargain collectively) for holding the view that strike is a natural right of government employees. It is necessary to clarify this position.

None of these ILO conventions refers to strike. Strikes are usually associated with collective bargaining. Convention No 98/1949 dealing with collective bargaining says that "measures, appropriate to national conditions, shall be taken, where necessary, to encourage and promote the full development and utilisation of the machinery for voluntary negotiation between employers and workers or their organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements". Article 6 of the same convention specifically says that "this convention does not deal with the position of public servants engaged in the administration of the state".

Only such government employees who are engaged in any business, trade, undertaking, manufacture calling or delivery of any service are workmen under the Industrial Disputes Act. Sovereign and administrative functions of government are not "industries" according to the Supreme Court judgment in Bangalore Water Supply and Sewerage Board vs A Rajappa (1978). Secretariat employees of the central or state govern-

The author is member-secretary of the National Commission on Population

ments are mostly engaged in sovereign or administrative functions, except for those working in some departments like the Railways, Posts and Telegraph, Communication and Works.

The judgment of the Supreme Court relates to secretariat employees of the Tamil Nadu government who were mostly engaged in sovereign or administrative functions. The judgment thus does not relate to workers generally but only to government employees.

The judgment does not relate to workers generally but only to government employees

Section 2(e) of the Industrial Disputes Act defines strike as "cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal or a refusal under a common understanding to continue to work or to accept employment". Thus the concept of strike covers only persons employed in any industry and not government employees in general. Charter V of the Act has provisions relating to prohibition of illegal strikes and lockouts and prohibition of financial aid to them in the context of public utility services and industrial establishments. Thus strike, as defined in the Industrial Disputes Act, is not a term applicable to government employees engaged in administrative work.

Government employees have the protection of Article 311 of the Constitution. Their terms

and conditions of service are usually regulated by law or rules, and not left to be settled in collective bargaining by agreements. They have access to statutory dispute resolution mechanism through central/state administrative tribunals. Their pay scales and service conditions are periodically examined by pay commissions after hearing them. Their employers — the state or the central government — are accountable to elected legislatures. They, thus,



enjoy constitutional, statutory, procedural and democratic protection against arbitrary or unfair treatment. Such protection is not available to other workers. Conduct rules of central and state government employees, therefore, do not permit strikes. These conduct rules have undergone repeated judicial scrutiny.

Strikes/lockouts in industrial establishments are prohibited during the pendency of conciliation, adjudication and arbitration proceedings or during the currency of a settlement between workers and employers. In public utility services, a notice is required, in addition. A strike would thus be illegal if it is commenced without a notice in a public utility service or if it is commenced during the pendency of conciliation/ arbitration/ adjudication proceedings. Legality of a strike is only a

matter of procedure. Justification for the strike is a separate issue. If the strike is illegal, the principle of no work no pay applies and those who proceeded on an illegal strike face disciplinary action regardless of justification. However, workers do not become entitled to wages merely because the strike was not illegal. Courts, in such cases, consider the justification for the strike before awarding wages for the period of strike.

In the UK, Section 226 of the Trade Union and Labour Relations (Consolidation) Act 1992 requires a ballot before strike: "226(1) An act done by a trade union to induce a person to take part in industrial action is not protected unless the industrial action has the support of a ballot". There is thus a democratic control on strikes by an internal mechanism within trade unions. In India, trade unions are not required to consult workers before giving a strike call.

Citizens in the UK can, and do, approach the High Court demanding their countervailing right to uninterrupted supply of goods and services through injunction against industrial action/strike. The reasoning is that one's right should not be a harassment for others. It is this very reason which has been reiterated in the Supreme Court judgment of 6 August 2003 which quotes an earlier judgment of the Supreme Court: "There cannot be any doubt that the fundamental rights of the people as a whole cannot be subservient to the claim of fundamental right of an individual or only a section of the people" — Communist Party of India(M) vs Bharat Kumar and Others (1998).

As strikes and lockouts are retaliatory weapons, a natural corollary to government servants having a right to strike would be that governments would have the right to lock out. Can sovereign or administrative functions of government be locked out?

SC RULING AGAINST STRIKES

PM for talks to find a solution

17/10
By Aarti Dhar

ND
NEW DELHI, OCT. 16. The Prime Minister, Atal Bihari Vajpayee, said here today that there was a need to arrive at a consensus to deal with the situation arising out of the recent Supreme Court ruling that government employees had no constitutional, moral or legal right to go on strike.

"The Supreme Court gave a judgment which the trade unions did not like. It is possible that even I did not like it. But we need to sit together to find a way out of this situation," Mr. Vajpayee said at the 39th session of the Indian Labour Conference after trade union leaders, present at the meet, demanded that the Centre clarify its stand on the ruling. He initially chose not to respond, but later said talks could be held only with those interested in "finding ways" but not "with those who shut the door on a solution".

This reaction came after union leaders demanded that the Government introduce legislation to restore the right of the workers.

Earlier, trade unionists had sought his reaction to the court ruling and the fate of 6,000 employees of the Tamil Nadu Government dismissed after they went on strike. Since Mr. Vajpayee's speech made no mention of the two issues, the union leaders were on their feet as soon as he concluded.

The Union Labour Minister, Sahib Singh Verma, said neither the Government nor laws barred workers from going on strike. The court ruling, he said, was applicable only to Government employees. However, the union leaders insisted that the

Labour & Industries
Prime Minister make a statement on the issue.

Earlier in his speech, Mr. Vajpayee said there was a need to take a fresh look at the legislative, administrative and judicial system in the wake of the new realities of the domestic industrial climate and the new aspirations in the labour market. "Your cooperation is vital for evolving a common vision to boost productivity, production, competitiveness and the employment creation potential of the Indian economy which would be in the interest of our working class."

Admitting that the existing labour laws were only for those in the organised sector, he said his Government wished to bring suitable changes in them to facilitate speedy employment generation in all sectors.

"The Government's commitment to the welfare of our workers and farmers was evident in the recent WTO Ministerial Conference at Cancun where we did not compromise on the interest of our farmers and working class. We want a fair deal for them in all international trade and business matters," he said.

Calling upon all the players in the economy to embrace change, Mr. Vajpayee said India had suffered much because of three types of beliefs — that private enterprise was only for maximising wealth for employers, that there was a fundamental contradiction between the class of employers and employees and that the Government controlled jobs. "We have to change this mindset as it is critical for strengthening our national security."

Disturbing verdict: Page 15

'Verdict against strike most disturbing'

By J. Venkatesan
B. J. Venkatesan
10-17-03

NEW DELHI, OCT. 16. The recent Supreme Court ruling holding that Government employees do not have legal, moral or fundamental rights to go on strike even for just causes came in for a sharp attack from speakers at a national conference held here today to discuss the implications of the judgment.

Led by the Editor-in-Chief of *The Hindu*, N. Ram, the speakers expressed concern over the judgment and said that it affected not only the trade union movement in the country but also the whole community. The conference was organised jointly by the Indian Society of Labour Economics and the Institute for Human Development.

Mr. Ram, in his keynote address, quoting the Attorney-General, Soli Sorabjee, said the ruling was uncalled for and the sweeping observations made by the judges were of grave concern. He recalled an earlier Supreme Court judgment in 1989 holding that the right to strike was an important weapon

in the armoury of the worker and said that it had been recognised by almost all democratic countries as a mode of redress for resolving the grievances of workers.

He felt that the apex court no doubt granted relief to a large number of employees (except 6,072) but failed to address the main issue of dealing with a "draconian law" promulgated by the Tamil Nadu Government. Instead, it had adopted a technique of side-stepping the issue and made unnecessary observations. He said that while even chargesheeted Ministers were allowed to continue in office, employees against whom only First Information Reports were registered were asked to face an inquiry against their dismissal from service.

Describing the judgment as the most disturbing and inequitous one, Mr. Ram said that it differed from the earlier pro-labour pronouncements given by eminent judges of the apex court like, V.R. Krishna Iyer, A.H. Ahmadi and Y.V. Chandrachud.

He said that India in 2003 could not claim to be a democratic country if the

rights of the workers to organise a strike were not protected. He urged the Government of India to immediately ratify two International Conventions relating to the rights of labour. The Vice-Chancellor of the Jawaharlal Nehru University, G.K. Chadha, said that if it could happen to the organised sector, one could imagine what would be the situation of the employees in the unorganised sector. Referring to the court's observations that employees must be disciplined, he said that it was wrong to say that only one section of the society should adhere to the code of conduct while others would not follow the same code.

Prof. Jan Breman, University of Amsterdam, Omkar Goswami, Chief Economist, Confederation of Indian Industry, the former Chief Justice of the Supreme Court, J.S. Verma, senior advocate, Rajeev Dhavan, the former MP, Kuldip Nayar, and a host of leaders from various political parties spoke on the legal, economic and political implications of the judgment and called for efforts to arrive at a broadbased opinion.

PM offers talks with TUs

It's hard to ignore SC ruling on strike: Vajpayee

HT Correspondent
New Delhi, October 16

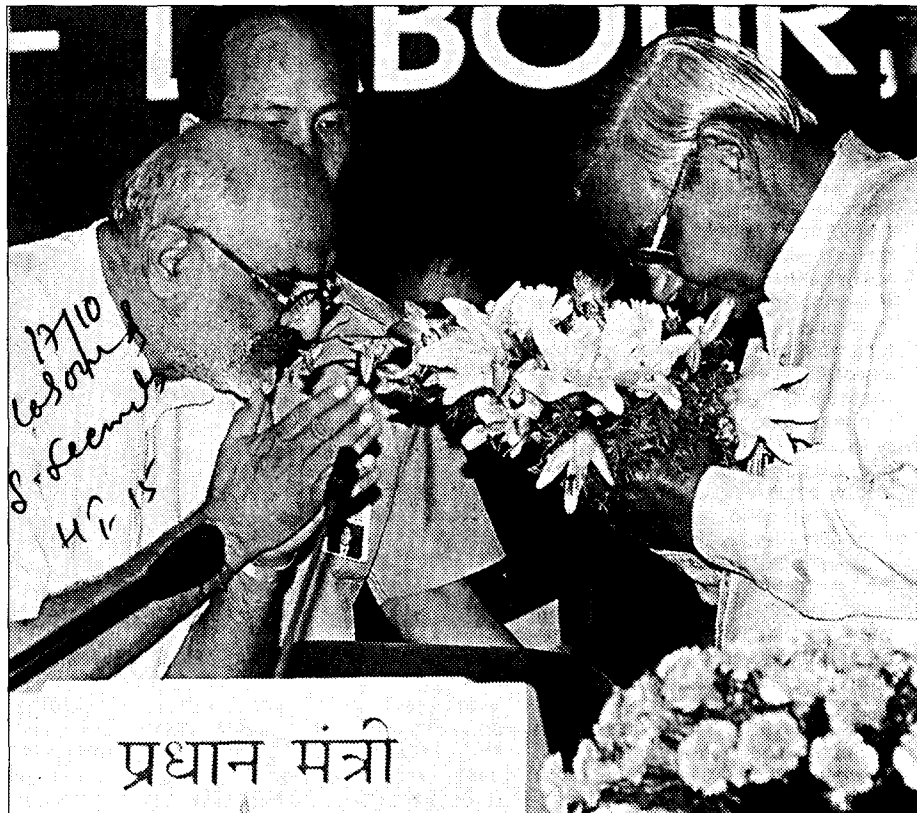
PRIME MINISTER Atal Bihari Vajpayee on Thursday offered to "sit" with the various trade unions of the country to "find a way out" on the Supreme Court judgement against workers' right to strike. But, he said, such an effort would not be fruitful with people "who know how to create hurdles only."

Vajpayee made the remarks when the Left-backed trade unions insisted on his opinion on the judgement after he finished his inaugural speech at the 39th Indian Labour Conference (ILC) at Vigyan Bhavan.

As Citu and Aituc leaders were not satisfied with the Labour Minister's clarifications, the Prime Minister said, "You don't like the judgement. Even I may not like it. But it's hard to ignore it." Bharatiya Mazdoor Sangh (BMS) president Hasubhai Dave and Indian National Trade Union Congress (Intuc) president G. Sanjeeva Reddy, speaking before the Prime Minister, also urged the government to "intervene" and take appropriate steps to nullify the impact of the judgement. They argued that workers resorted to strike only as a last option. But they would not give up this right at any cost, the trade union leaders said.

The Labour Minister said there was no bar on workers covered by the Industrial Disputes Act, going on strike. The government employees were covered by different laws and conduct rules. He said that, if the Tamil Nadu government employees, whose strike had resulted in the court judgement, had contacted the Centre, things could have been sorted out.

Dr Sahib Singh said he could not comment on the judgement but felt that the government employees, too, must have a grievance redressal system as a last resort. He said the trade



Labour Minister Sahib Singh Verma greets Prime Minister Atal Bihari Vajpayee at the Indian Labour Conference in New Delhi on Thursday. PTI

unions were free to meet the Prime Minister "any time."

Centre for Indian Trade Unions (Citu) leader M.K. Pandhe and Aituc leader Gurudas Dasgupta told newsmen after the inaugural programme that the Prime Minister should take the initiative to convene a meeting with the trade unions.

Dave said the workers had not let go of their right to strike even during the Emergency. Reddy said 6,000 Tamil Nadu government employees were still suspended. The government must keep its promises and guarantees to the ILO. Records would show that production was interrupted 90 per cent due to lockouts and only 10 per cent due to strikes, the Intuc leader said.

The forceful manner in which the unions took up the right to strike issue on Thursday morning showed

that the Indian Labour Congress's three-day proceedings would be dominated by it.

PF for contract workers

The government has said employers could soon appoint workers for a fixed term in all sectors and such contractual workers would be eligible for provident fund and other benefits. "We've issued a notification for fixed-

term appointment (contractual appointment) in all sectors," Sahib Singh Verma said on the sidelines of the 39th ILC.

The notification contains draft rules for fixed-term appointment in all sectors under the Industrial Disputes Act. The new labour system was expected to be operational by next month and would also include PSUs, official sources said.

17 OCT 2003

ILO finds faster labour productivity in India

SF 13
1/9
Labour & Employment
Press Trust of India

NEW DELHI, Aug. 31. — India has found a place among the industrialised economies, including the USA and EU nations, for accelerated labour productivity, according to a recent report of the International Labour Office (ILO).

In its Key Indicators of the Labour Market (KILM), ILO, however, said the overall growth in agricultural productivity was not enough, calling for growth in productivity and employment to reduce poverty.

“Growth in productivity per person employed in the world as a whole accelerated from 1.5 per cent during the first half of the 1990s to 1.9 per cent in the second half. Most of this growth was concentrated in industrialised economies (USA and some EU countries), plus some in Asia (China, India, Pakistan and Thailand),” the ILO report said.

The biennial KILM measured productivity as annual output per person employed and average output per hour worked.

It, however, said the estimates of output per hour worked were less than output per person employed when compared across countries because the measure of hours varied “significantly”.

Analysing the 20 key parameters, including employment, unemployment, underemployment, hours worked, types of economic activity and labour productivity, it said people in the Asian continent worked more than their counterparts in the developed world.

“In all the developing Asian economies, where data were available, people worked more than (those) in industrialised economies,” the ILO report said.

HD-1 'STATES CAN JOIN NEW SYSTEM' *labour & security*

24/8 Pension scheme for new Govt. staff okayed

By Our Special Correspondent

NEW DELHI, AUG. 23. All Central Government employees who joined service after October 2002, excluding the defence forces, would now be covered under a contributory pension scheme. Under this scheme, approved by the Union Cabinet today, the employees and the Government make a matching monthly contribution of 10 per cent of the salary and the dearness allowance. The pension contributions and accrued benefits would be accorded tax preferences up to a certain limit.

While the existing bank branches and post offices would be used to collect contributions and interact with participants, the scheme provides for a Central record-keeping and accounting infrastructure and several pension fund managers.

The employees would have three options for investment, the first being where 60 per cent of the investments would be in Government securities, 30 per cent in investment grade corporate bonds and 10 per cent in the equity market. Under the second option, the investments would be around 40 per cent each in Government securities and investment grade corporate bonds and 20 per cent in equity.

The third option provides for 25 per cent each in Government securities and corporate bonds and 50 per cent in equity.

Another significant clause is that the pension fund managers would be free to make investments in international markets, subject to regulatory restrictions and supervisory provisions. For overseeing the pension sector, an independent

Afro-Asian games in Hyderabad; other Cabinet decisions on Page 10

Pension Fund Regulatory and Development Authority (PFRDA) would be set up and till that is done, an interim regulator would be appointed through an executive order.

The interim PFRDA would have as Chairman a person of status not less than that of Secretary to the Government of India and would function under the overall administrative control of the Ministry of Finance.

By utilising the various investment options, the Government estimates that an individual employee would build up a pension wealth providing for 56 per cent of the last emoluments (basic pay and dearness allowance) for group 'A' employees, around 58 per cent for group 'B', around 59 per cent for group 'C' and around 68 per cent for group 'D' employees.

The new scheme provides for an individual to normally exit from it at or after the age of 60 but at the time of exit, it would be mandatory for the

individual to invest 40 per cent of the pension wealth to purchase an annuity from a life insurance company approved by the Insurance Regulatory and Development Authority (IRDA).

The option of joining the new system is available to the State Governments as and when they decide. Explaining the rationale for switching from the current system where the Government provides pension out of its own resources to a contributory system, official sources said that while only about 11 per cent of the working population currently enjoyed retirement benefits, the financial burden of the deferred pension benefit was rising to unsustainable levels.

The total pension liability of the Central Government employees rose to 1.66 per cent of the gross domestic product in 2002-03 and the actual outgo estimated at Rs. 23,158 crores (excluding telecom) for 2003-04.

This expenditure rose from Rs. 15,346 crores in 1998-99 to Rs. 21,172 crores (excluding telecom since the Department of Telecom has been corporatised) in 2002-03.

Tribunal on Krishna water disputes formed

By Our Legal Correspondent

NEW DELHI, AUG. 23. The Union Cabinet today approved the constitution of a Tribunal for resolving disputes regarding the sharing of Krishna waters among the three basin States of Maharashtra, Karnataka and Andhra Pradesh.

The Tribunal will consist of a Chairman and two other members to be nominated by the Chief Justice of India from among the persons who at the time of such nomination are Judges of the Supreme Court or a High Court.

MoU with China

The Cabinet today gave its ex-post-facto approval to the Memorandum of Understanding on cooperation in the field of justice signed between India and China on June 23 in Beijing by the External Affairs Minister during the Prime Minister, Atal Behari Vajpayee's visit.

The MoU provides for exchange of information on legal matters; experience and best practices in the field of justice in the two countries; mutual support for training of Public Prosecutors and auxiliary judicial personnel and exchange of information on drafting of laws and implementation of legal provisions.

The signing of an agreement between India and Kuwait on mutual assistance in criminal matters was also approved by the Cabinet.

THE HINDU

24 AUG 2003

Protest against SC ruling on strikes

By Our Staff Correspondent

NEW DELHI, AUG. 18. Hundreds of employees and workers from different sectors today staged a demonstration in front of the Supreme Court against its recent ruling on right to strike and demanded a Constitutional amendment to negate the judgment.

Addressing the demonstrators, the All-India Central Council of Trade Unions (AICTU) general secretary, Swapan Mukherjee, said that an "undeclared emergency" was knocking at the doors and this had been shown by the Supreme Court's recent ruling on right to strike, coming close on the heels of the Jayalalithaa Government's steps against its striking employees which were later extended to the de-recognition of all unions.

Mr. Mukherjee called upon the working masses to launch a nation-wide movement against this verdict.

Criticising the role of the Congress and other Opposition parties, he said that not only the National Democratic Alliance Government was silent, but the

other parties also had no place for this issue in their move to bring a no-confidence motion against the Centre.

According to the All-India Trade Union Congress general secretary, Gurudas Dasgupta, a

national level convention would be held to chalk out a further course of action. A total ban on strikes was "illogical, undemocratic and unsustainable" that negated the salient conventions of the ILO to which India was a

signatory, he said. The concept of collective bargaining without right to strike was nothing but collective begging, the International Transport Workers Federation president, Umraomal Purohit, said.

AG assails judgment

By J. Venkatesan

NEW DELHI, AUG. 18. The Attorney-General, Soli Sorabjee, today assailed the recent Supreme Court judgment that government employees "have no moral or equitable right" to go on strike and said it could have been appreciated only during the emergency period of 1975-77 and not in this age.

Presiding over a seminar organised by the United Lawyers' Association, Mr. Sorabjee said such a ruling was "uncalled for and the sweeping observations made in the judgment were of grave concern".

It appeared that the judgment reflected the singular mindset of the Judges that all forms of strikes were bad. Also a mindset "which does not regard employees as an important and vital segment in our society but considers their existence to be solely for the benefit of the Government as employers and whose interests are subordinate to the convenience of the public".

Mr. Sorabjee pointed out that the apex court in

a judgment in 1989 had held that "the right to strike is an important weapon in the armoury of the worker and has been recognised by almost all democratic countries as a mode of redress for resolving the grievances of workers."

Senior advocates T.R. Andhyarujina and Rajeev Dhavan endorsed the views of the Attorney-General and said that the apex court had "overstepped" by declaring that government employees had no moral or equitable right to go on strike.

Mr. Dhavan said that it was a matter of great regret that there was no feel of democracy, including industrial democracy, in the judgment.

Senior advocate and president of the Supreme Court Bar Association, M.N. Krishnamani, however found fault with the trade unions for having converted their collective bargaining power into blackmailing power. He said the court had rendered "broad justice" by balancing the rights of the Government and the rights of dismissed employees.

WEDNESDAY, AUGUST 13, 2003

SUPREME COURT AND THE RIGHT TO STRIKE

109-10 1378
A CLOSE READING of the Supreme Court's August 6, 2003 judgment in *T.K. Rangarajan vs Government of Tamil Nadu & Others* shows that the Court has, following in the footsteps of a string of illiberal verdicts on Government servants beginning in 1962, got hold of the wrong end of the stick. The Attorney General for India, Soli Sorabjee, has done a public service by speaking up against the apex court's observation that there was no moral or equitable right to go on strike. Characterising this as "uncalled for" and "beyond comprehension," he has pointed out that the right of collective bargaining, including the right to strike, was an invaluable entitlement of workers and employees won through years of toil and struggle. Further, there could be "horrendous situations in which the employees have no effective mechanism for redressal of their grievances and are left with no option but to resort to strike." Implicit in this opinion is a distinction between the merits of particular strikes and the legal and moral status of the right to strike. Here is the voice not merely of law and order and the tenets of 'strong' governance — but of democratic entitlement and a sense of history. There were two core issues before the two-member bench. The first was the constitutionality, legality and rightness of the summary dismissal of about 170,000 State Government employees in Tamil Nadu under the State's Essential Services Maintenance Act (ESMA), as amended *post facto* by an ordinance conferring on the Government the divine right of dismissal, without any application of mind and without giving the employees an opportunity to be heard. The second issue was the status of the right of workers and employees to freedom of association and collective bargaining, including the right to agitate and strike.

In response, the apex court resorted to the technique of providing practical relief in place of a determination of the issues of justice. The relief came through the Court's success in pressuring and persuading the Tamil Nadu Government "gracefully" to agree to reinstate the overwhelming majority of the dismissed employees — not unconditionally, of course, but on submission of an apology and an undertaking not to strike or indulge in "similar activities" in future. The Court rightly found fault with the Madras High Court for not properly construing its power under Article 226 of the Constitution (the power of High Courts to issue certain writs) to "exercise its extraordinary jurisdiction to meet [an] unprecedented extraordinary situation having no parallel." Referring to the High Court's totally impractical ruling that over 170,000 employees should first exhaust the "alternative remedy" of going to the one-member State Administrative Tribunal for justice, the Supreme Court found "no justifiable reason for the High Court not to entertain the petitions on the ground of alternative remedy provided under the statute." There is no doubt that getting the Tamil Nadu Government to agree to having three retired High Court Judges decide on the fate of 6072 dismissed or suspended employees within approximately a month is a much better way of providing practical relief than what the High Court offered. The fact that the retired Judges would be nominated by the Chief Justice of the Madras High Court and not by the State Government, that they would decide the representations by the employees without taking into consideration the amended Section 7 of the Act, that the retired Judges' decision would be binding on the State Government, and that aggrieved employees would be free to challenge the decisions before "an appropriate forum" must also be welcomed. However, there is a disturbing implication in the double standards that apply to Ministers and ordinary Government employees facing criminal proceedings. It is unfortunate that the Supreme

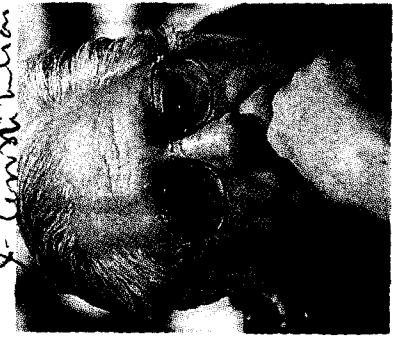
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2
Court has not ruled against the injustice in the Tamil Nadu Government's stand that 6072 employees could not claim "a right to be reinstated" because First Information Reports (FIRs) — which merely set the investigative ball in motion — had purportedly been filed by the State police against them. This contrasts glaringly with a situation where powerful politicians in government, at the Centre and in the States, remain in office unfazed by the fact that charge-sheets have been filed against them in grave criminal cases after the investigations have been completed, and charges have even been framed against them, in some cases, by a court of law.

What is most disturbing about the Supreme Court's judgment in the Tamil Nadu Government employees' case is the a-historical, iniquitous and democratically unsustainable position taken against the right to strike as a part of internationally recognised basic democratic rights. At one level, the judgment seems to revolve round the question whether Government employees have a constitutional or statutory right or moral and equitable justification to go on strike. However, the Court's observations in a case relating exclusively to Government employees go well beyond the immediate issues into *status quoist* absolutism in the social and philosophical domain. Such absolutism flies in the face of modern India's historical experience of worker agitations and strikes, and the assertion of the right to strike — an experience that begins in the late nineteenth century. Not just Communist organisers, but a range of freedom movement leaders supported the right to agitate and strike as an inalienable democratic right of workers and employees. This newspaper, which will soon be celebrating the 125th anniversary of its founding, may be allowed to recall that during the militant 1921 strike by 10,000 workers of the Buckingham & Carnatic Mills in Chennai, its proprietor and Editor, Kasturi Ranga Iyengar, boldly championed their cause — in *The Hindu's* columns and through direct involvement in the relief and solidarity efforts. The Supreme Court's latest stance contrasts sadly with both the substance and spirit of earlier progressive rights-led rulings by the apex court, delivered by outstanding jurists of the stature of V.R. Krishna Iyer, Y.V. Chandrachud, A.C. Gupta, D.A. Desai, Jagannatha Shetty and A.M. Ahmadi. Contrary to the impression given by the two-member bench's citation of judgments relating to Government employees, the Supreme Court from the early 1960s has generally upheld the justifiability of, and the moral reasons behind, strikes as legitimate actions by the working class. It is this stream of juridical pronouncements that Mr. Sorabjee was drawing on in criticising the Court's new-fangled observation that there was "no moral or equitable right to go on strike." In the recent case, the Court has cited, not always in context, various judgments to the effect that "employees have no fundamental right to strike," that there is no constitutionally guaranteed right to "effective collective bargaining," that strikes cannot be justified "in the present-day situation" either for a "just or unjust cause," and that the strike weapon "does more harm than any justice." If these quotations were to match the ground reality, then India in 2003 could not claim to be a democracy with any kind of regard for its working people. It would be an authoritarian state out of step with the International Labour Organisation's Conventions on "Freedom of Association and Protection of the Right to Organise" (No. 87) and "The Application of the Principles of the Right to Organise and to Bargain Collectively" (No. 98), neither of which India has ratified. Undoing the damage done by the Supreme Court's observations in the Tamil Nadu case is the challenge before democratic, political India and it is heartening that the Attorney General has shown the way. /

Strike an invaluable right: Sorabjee

14-1
Sorabjee & S. S. Datta

NEW DELHI, AUG. 10. The Attorney-General, Soli J. Sorabjee, today came out strongly against the Supreme Court's ruling on the right to strike, saying its observations that Government employees have "no moral or equitable right to go on strike" were "un-called for" and "beyond comprehension".



He said the right of collective bargaining and ancillary right to strike was an invaluable right of employees. "It was secured after years of toil and effort."

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the working conditions in India, the Attorney-General PTI when his views on the re-

West Bengal Government employees stage a demonstration at the Secretariat building in Kolkata on Thursday against the Supreme Court ruling that bans Government staff from taking part in strikes. — AFP

Protest rallies in Bengal

Kolkata, Aug. 7. The West Bengal Government employees, cutting across ideological affiliations, and activists of the ruling CPI(M) today marched through the streets across the State to protest against the Supreme Court ruling against strikes by Government employees.

Employees belonging both to the left and right-leaning unions demonstrated at the Writers' Buildings, the high seat of State administration, as hundreds of CPI(M) activists took out processions in Kolkata and elsewhere in the State.

In the metropolis, Marxist supporters took out processions with a central rally where senior party leaders were critical of the apex court ruling. The Labour Minister and senior CPI(M) leader, Md. Amin, told reporters at the Writers' Buildings that the right of employees to strike could not be taken away 'by anyone'.

"The working class has obtained this right through movements and will protect this right in

the same manner," Mr. Amin said.

Protestors held rallies at places to demand protection of 'the right of employees to strike'.

The call for 'protest day' was given by the CPI (M) State secretariat yesterday.

Basu's support

The former West Bengal Chief Minister, Jyoti Basu, today came out in support of the striking employees, saying the "State Government employees have the right to strike".

"The West Bengal Government has already given the Government employees the right to strike by amending the British Act," Mr. Basu said.

"When States like Tamil Nadu are taking away the right to strike from their employees, the West Bengal Government has allowed its employees the right to resort to strike," Mr. Basu said. — PTI, UNI

See also Page 13

ONE HINDI

08 AUG 2003

IT IS NOT A FUNDAMENTAL OR MORAL RIGHT'

Govt. staff cannot go on strike even for a just cause: SC

By J. Venkatesan

NEW DELHI, AUG. 6. Government employees have no "fundamental, legal, moral or equitable right" to go on strike even for a just cause, the Supreme Court ruled today.

Disposing of a batch of six petitions challenging the dismissal from service of 1.7 lakh Tamil Nadu Government employees, a Bench, comprising Justice M.B. Shah and Justice A.R. Lakshmanan, observed that "apart from statutory rights, Government employees cannot claim that they can take society at ransom by going on strike".

The Bench made it clear that even if there was injustice to some extent, in a democratic welfare state, they had to resort to the machinery provided under different statutory provisions for redress of their grievances. "Strike as a weapon is mostly misused which results in chaos and total maladministration. Strike affects society as a whole and particularly when two lakh employees go on strike en masse, the entire adminis-

tration comes to a grinding halt," the Bench noted.

It recalled the Supreme Court's decision in the All-India Bank Employees' Association case in 1962 in which it was held that trade unions had no guaranteed right to an effective collective bargaining or to strike, either as part of collective bargaining or otherwise.

'More harm than justice'

The judges also referred to the lawyers' agitation case, and said that "for just or unjust cause, strike cannot be justified in the present-day situation". "Take strike in any field, it can be easily realised that the weapon does more harm than any justice. Sufferer is the society — public at large."

The Bench also reiterated the court's earlier observation that the fundamental rights of the people as a whole could not be subservient to the claim of the fundamental right of an individual or only a section of the people.

"In the case of strike by a teacher, (the) entire educational system suffers; many students are prevented from appearing

in their examinations which ultimately affect their whole career. In case of strike by doctors, innocent patients suffer, if transport employees go on strike, the entire movement of society comes to a standstill and business is adversely affected".

On occasions, public properties were destroyed or damaged and this created bitterness among the public against those who were on strike, they said.

The Bench agreed with the submission of the senior counsel for Tamil Nadu, K.K. Venugopal, that approximately 90 per cent of the amount collected from direct tax was spent on the salary of about 12 lakh Government employees.

And in a society where there was large-scale unemployment and a number of qualified persons were eagerly waiting for employment in Government departments or in public sector undertakings, strikes could not be justified on any equitable ground.

In the prevailing situation, the judges said apart from being conscious of rights, "we have to be fully aware of our duties, responsibilities and effective methods for discharging the same. For redressing their grievances, instead of going on strike, if employees do some more work honestly, diligently and efficiently, such gesture would not only be appreciated by the authority but also by people at large".

The court agreed that misconduct by the Government employees was required to be dealt with in accordance with the law. However, on occasions, even if the employees were not prepared to agree with what was contended by some leaders who encouraged the strikes, they were forced to go on strikes for reasons beyond their control.

State Govt. lauded

Taking this into consideration, the judges suggested that the dismissed employees be taken back and the State Government had promptly agreed to reinstate all but 6,072 employees of the 1,70,241 who had gone on strike. For this, the Bench lauded the Government.

More reports: Page 11

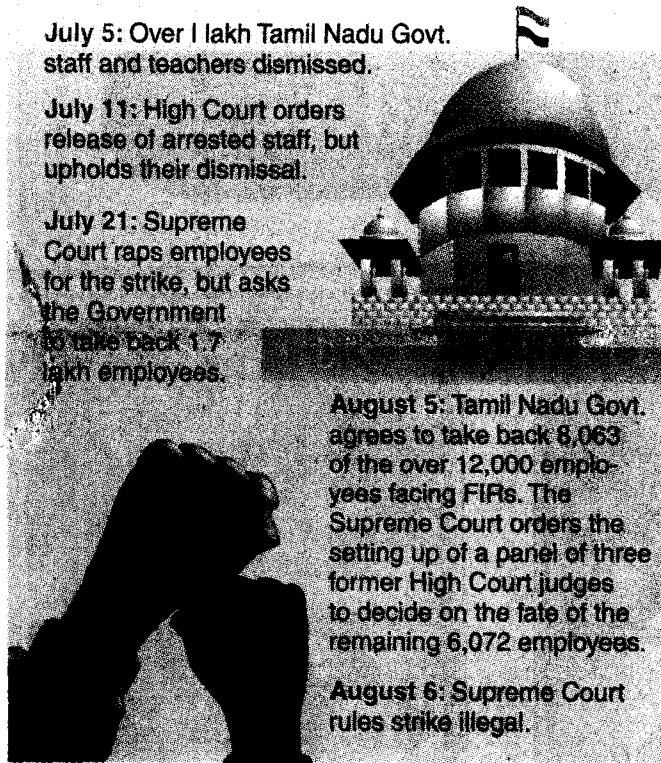
July 5: Over 1 lakh Tamil Nadu Govt. staff and teachers dismissed.

July 11: High Court orders release of arrested staff, but upholds their dismissal.

July 21: Supreme Court raps employees for the strike, but asks the Government to take back 1.7 lakh employees.

August 5: Tamil Nadu Govt. agrees to take back 8,063 of the over 12,000 employees facing FIRs. The Supreme Court orders the setting up of a panel of three former High Court judges to decide on the fate of the remaining 6,072 employees.

August 6: Supreme Court rules strike illegal.



Graphics by Varghese Kallada

7 AUG 2003

A shocking verdict: trade unions

By Our Special Correspondent

CHENNAI, AUG. 6. While major government employees' unions in the State hailed the Supreme Court order paving the way for reinstatement of thousands of sacked staff members, trade unions said it was shocking that the court had held strikes illegal.

After the Supreme Court delivered its much-awaited verdict on the mass dismissal of employees who participated in the recent strike, leaders of the JACTTEO-GEO, which had called the aborted strike, held an emergency meeting and thanked the court and the Chief Minister, Jayalalithaa, for agreeing to take back thousands of employees.

Hailing the "portion" of the court order, which enabled reinstatement of the sacked employees, they, however, said the ruling declaring strikes illegal had to be "studied". They also appealed to the Chief Minister to take steps for dropping cases



Dismissed State Government employees who gathered in groups on the Secretariat campus in Chennai on Wednesday. — Photo: S. R. Raghunathan

against the remaining 6,000 employees, and reinstate them.

The trade unions, however, faulted the order that the employees had no right to strike work. "The verdict, which appears to state that striking work is illegal, is quite shocking. The order asking employees to give

an apology and an undertaking that they will not participate in any strike in future endangers freedom of expression and labour rights established after a long struggle," the AITUC State general secretary, S.S. Thyagarajan, said in a statement here. The CITU State general

secretary, T.K. Rangarjan, told the media at Tirunelveli that the trade union's battle against the ESMA and the recent ordinance amending the Act would continue until the "black laws" were unconditionally withdrawn.

Meanwhile, with the copy of the verdict yet to reach the Chief Secretary, the Government is likely to issue orders either tomorrow or on Friday reinstating over 8,000 employees it had agreed to take back.

Earlier in the day, scores of employees flocked to the Secretariat hoping to rejoin work. However, some broke down when they were told that the Government had only agreed to convert their dismissals into suspensions. Hence, over 2,000 Secretariat employees will have to wait for another month until a panel of retired judges decide on their fate. The only comfort is that the suspended staff members are eligible for half the basic pay and full perks without any provident fund cut.

TN sacks 3,300 govt teachers

Aided colleges crack suspension whip on 5,000 teachers

D SURESH KUMAR
CHENNAI, JULY 18

ACADEMIC activity has been crippled at several government and aided arts and science colleges in Tamil Nadu following largescale dismissal and suspension of professors who participated in the JACTTEO-GEO and COTA-GEO strike. Scores of non-teaching staff too have been displaced.

As per the available statistics, over 3,300 teachers of constituent colleges (erstwhile government colleges) have been sacked under the newly promulgated ordinance amending the Tamil Nadu Essential Services Maintenance Act.

In the government-aided private colleges, at least 5,000 lecturers and professors have been served suspension orders invoking the provisions of the Tamil Nadu Private Colleges Regulation Act in the

Some dismissed teachers back to work

MADURAI: Some dismissed teachers of corporation schools have resumed duty even though their dismissal orders are yet to be revoked, sources said on Friday. About 300 teachers of corporation schools, who were terminated for joining the indefinite government employees strike, had returned to work "without our asking. We are not allowing them to sign the attendance register," officials said. However, some teachers said they were signing in a new attendance register opened by them. The Madurai Corporation has 71 schools with more than 900 teachers. More than 300 teachers belonging to high schools and higher secondary schools had been dismissed. "Most of them come to school and do their work. Employment and not this month's pay is their priority," said an official. —PTI



last couple of days.

Director of Collegiate Education Muthuveeraganapthy says: "Teachers should have realised their responsibilities. We have sought written explanations from them, as to why they absented themselves from duty. The decision will be based on their replies."

While the dismissal of government college teachers causes no surprise considering that they were part of a wave that swept over two lakh counterparts in various departments, eyebrows have been raised over the suspension of aided college professors.

For, the aided college lecturers

are appointed by the secretary of respective colleges and are not governed by the same rules that are applicable for government teachers.

Teachers claim that suspension orders were issued by the private college managements under the "oral instructions" of officials of the Directorate of Collegiate Education. "The Secretaries were even told about the format of the suspension letters," a professor claims.

Apparently most aided colleges had initially decided not to initiate action against any of their faculty. However, by Wednesday, the managements had started serving chargesheets to the lecturers, read-

ers and professors.

In Chennai, for instance, about 140 faculty members of the Pachaiyappa's College, have been suspended. The other aided colleges that have been affected in the capital are Guru Nanak College (about 55 staffers), Theagaraya College (50), R.K.M. Vivekananda College (50), A.M. Jain College (48), Hindu College (45), SIVET (38), Kandasamy Naidu College (35) and Chellammal Women's College.

In some institutions, the suspended teachers have been categorically told not to give classes. Interestingly, it is learnt that the colleges were asked to send their attendance registers to the Directorate of Collegiate Education and also cite witnesses who would speak out about the violation in code of conduct by the suspended teachers.

In the meantime, the affected teachers are wondering as to who would pay them half a month's salary plus dearness allowance during the suspension period as per rules. "It is not clear whether this should be footed by the managements or the government under whose instruction the actions were initiated," they ask.

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TRADE UNIONISM-II

Need To Look Beyond Narrow Interests

By JAYANTA BHATTACHARYA

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labour & social issues

A labour movement that embraced this vision taking its own historical lessons with diversified membership seriously and relying more heavily on the internet in membership communication and servicing would be practicing is called "Open-Source Unionism" propounded by Professor Richard B Freeman and Professor Joel Rogers in "A Proposal to American Labour". Let's contrast the proposed open-source union model more explicitly with the existing one. Under the current model, workers typically become union members only when unions gain majority support at a particular workplace.

This makes the union the exclusive representative of those workers for purposes of collective bargaining. Unions usually abandon workers who are unsuccessful in their fight to achieve majority status, and they are uninterested in workers who have no plausible chance of such success.

Some benefits

Under the open-source unionism, unions would welcome members even before they achieved majority status, and stick with them as they fought for it — maybe for a very long time. These "pre-majority" workers would presumably pay reduced dues in the absence of the benefits of collective bargaining, but would otherwise be normal union members. They would gain some of the bread-and-butter benefits of traditional unionism — advice and support on their legal rights, bargaining over wages and working conditions if feasible, protection of pension holdings, political representation, career guidance, access to training and so on. And even in minority positions, they might gain a collective contract for union members, or grow to the point of being able to force a wall-to-wall agreement for all workers in the unit.

But under OSU, such an agreement, which is traditionally the singular goal of organising, would not be the defining criterion for achieving or losing membership. Joining the labour movement would be something one did for a long time, not just an organisational relationship one entered into with a third party upon taking some particular job, to expire when that job expired or changed.

OSU would engage a range of workers in different states of organisation rather than majorities of workers in collective-bargaining agreements. There would be traditional employer-specific unions, but there would likely be more cross-employer

professional sorts of union formations and more geographically defined ones. Within any of these boundaries, the goal of OSU would not be collective bargaining per se but broader worker influence. They would probably be more concerned than traditional unionism with the political and policy environment surrounding their employers and employment settings.



They would be more open to alliance with non-labour forces — community forces of various kinds, constituencies organised around interests not best expressed through work or even class that might support them in this work. As a result, labour as a whole would likely to have a more pronounced "social" face with OSU than it has today.

How realistic is this vision? Nobody knows for sure. But there is evidence to suggest that it is feasible — evidence of unfulfilled demand for unionism among workers, evidence of legal support for minority unionism and evidence that the Internet can be a vehicle for low-cost provision of information, communication and work-related services. Many union and business leaders believe that pro-union workers without a workplace majority have no collective rights — that they exist in a sort of legal black hole devoid of the protections our national labour laws afford concerted activity.

Basic rights

That is not the case. In fact, all the basic rights and protections of that law apply to workers acting together in non-majority situations: protection from discrimination against union activity, the right to strike without being discharged, the right to

present demands and request negotiations with management, the right to designate union stewards and the right to bargain and make a collective agreement for members, among others.

Not only does minority unionism have historical antecedents in the private sector, but also it has strong roots in the public sector, which accounts for an ever-larger share of the union

bing the status quo. But labour, like other progressive organisations, sometimes acts as if it cannot coordinate on anything until it agrees on everything. That is not necessary here. A single state federation, or central labour council, or international could initiate it.

Stronger alliance

Some traditionalists in labour may argue that the new workers brought in through OSU will not look like or have the same concerns or organise themselves the same way as "traditional" union members. And they would be right. How could new members from throughout the American economy and society, drawn together largely by different means, be replicas of current members? All great surges in organising have been preceded by fears that the new members will be different from the old. What we know from this history is that forms must adjust to workers and the broader economy, and nobody knows in advance which new forms will turn out to be enduring. Labour still has more support for its values in society than it is harnessing and mobilising, either through its political programme or organising. Workers want a connection to unions far greater than they have now.

Turning labour around will require more than simply doing more of what unions have been doing over the past decade. It will require a broader — if also, at least in part, shallower — membership base and stronger alliance between labour and those outside itself. That will not be achieved through rhetoric. It necessitates changes in membership, and the routines for servicing and mobilising those members. Today the requirement is a labour movement that workers can join easily, without going to war with their employers; a labour movement that welcomes support anywhere it finds it, and is able to crystallise what is now diffuse support into real membership and shared action; and a movement that will offer support wherever workers are struggling to build power.

Trade unions in the country must come to accept that internal constituency of its members is less important than the outer constituency of a larger society and community and this change is for the good. Tomorrow's ethical unions must look beyond workers and only their interests. As long as they remain members, they must embrace the perspective of social continuity to spearhead their unionism.

(Concluded)

SC moved against dismissal of T.N. Govt. employees

By J. Venkatesan

NEW DELHI, JULY 15. The Tamil Nadu State Transport Employees Federation today moved the Supreme Court challenging a judgment of the Madras High Court refusing to entertain petitions against the mass dismissal of Government employees.

The special leave petition (SLP) seeking to set aside the July 11 judgment, filed through advocate, S.R. Setia is to be "mentioned" before the Chief Justice tomorrow for immediate hearing.

The Federation by its vice-president, T.K. Rangarajan, in its SLP said the case arose out of an extraordinary situation of dismissal of Government servants in lakhs by invoking an ordinance passed with retrospective effect.

By virtue of the ordinance, a new section was introduced in the Tamil Nadu Essential Services Maintenance Act (TNESMA), 2002, according to which those who absented from duty were deemed to have participated in the strike and admitted his/her "misconduct" knowingly warranting the punishment of dismissal from service without conducting any enquiry.

Invoking this ordinance about 1.70 lakh employees were dismissed from service after preventing them from joining duty. The

Government has resorted to fresh recruitment in their place.

The High Court which went into the issue rejected the petitions and directed the employees to approach the State Administrative Tribunal. Hence the SLP.

The petitioner said the SLP raised important questions of law, viz. can the State Government promulgate ordinance No. 3 of 2003 on July 7 with retrospective effect from April 23, a day when the State Assembly was in session.

Whether the State was competent to issue the ordinance without obtaining "prior instructions" from the President under Article 213 (1) of the Constitution.

When the State Government had unleashed terror on its employees by effecting mass arrests and dismissals by throwing to the winds the Constitutional mandates of democracy, fair play and justice, was the High Court right in not answering the Constitutional issues, he asked.

The petitioner sought a direction to quash the impugned judgment; an interim stay of further operation of the TNESMA and the ordinance; to restrain the Government from preventing the employees from reporting back to duty; restrain the Government from filling the posts of dismissed employees and to restrain the Government

from evicting employees from their quarters. Another writ petition by a Chennai lawyer, L.S.M. Hasan Fikal, assailed the ordinance on the ground that it was violative of the fundamental rights of Government servants.

It described the ordinance as a "classic case of legislative despotism".

Explaining his locus standi to file a public interest petition, the petitioner cited the apex court judgment in the S.P. Gupta case, wherein it had been stated that when a legal wrong or injury was caused to a class of persons, who were unable to approach the court for relief, any member of the public could do so.

In this case, the lawyer said the dismissed Government servants, feared that they would be victimised if they approached the Supreme Court and hence he was filing the petition. He said because of the ordinance, facilitating mass dismissals the administration had been paralysed and there was utter chaos.

He prayed for a declaration that the TNESMA amendment ordinance and all other consequential orders of dismissal were arbitrary, illegal and violative of Articles 14, 16 and 311 of the Constitution and consequently to direct the Government to reinstate all the dismissed employees.

TRADE UNIONISM-I

Challenges In The Face Of Globalisation

By JAYANTA BHATTACHARYA

Over the past 40 years Bengal has been known more for the wrong reasons in large parts of the world — its militant trade unionism. If the blame is to be put for Bengal's sickness it must be shared by both the unions and unscrupulous employers who used the restlessness as a cover for their wrongdoing. As in most parts of the world, the militant trade unionism is on the wane in Bengal. But the issues of wrongdoing by the employers like cheating the employees of their dues, blocking compensation for accidents, heavy-handedness, harassment and discrimination at the workplace are as common as it used to be in the past. And thus, a large society of workers still need unions for support and rehabilitation.

It was Margaret Thatcher who said in the 80's "there is no such thing as society". The Tories had removed trade union representation on training boards and other areas where unions played an important role in the community. Nevertheless, many trade union reforms had been a result of Tory government attacks. In Sweden, trade unions often provide occupational training for the unemployed, with an 80 per cent success rate in getting people back into the workforce.

New consensus

Due to rising unemployment and the view that this is linked to the crisis of the welfare state, tripartite cooperation arose among the government, unions and employer associations. Promotion of international competitiveness, consolidation of public finances and reduction of unemployment are the three main political goals, which are considered to be the new consensus between the players. This consensus arose because of the unions' adaptation to key positions of the other players' analysis and it is widely held to be an expression for the overcoming of unions' heavily discussed crisis.

With the Dutch polder model, which is celebrated as a successful prototype of a consensus model, one can illustrate that the assumed consensus is much more ambivalent and fragile than the current debate suggests. Unionism is not unique but has obeyed the general law of psychological development. It is possible to demonstrate on the basis of Foucault's studies that the creation of the supply side consensus is not an expression of reason and responsibility. Instead, due to the unequal distribution

of power and rule some actors manage to implement their interpretations of the world as being "true".

In parts of the world, the growth of the service industry, at the expense of manufacturing has affected union membership and how they operate. At the top end of the service industry people say they don't need a union, whereas those at the bottom end do need a union but recruitment is poor. This is because of privatisation and contract labour, where employees can be scattered and often meet with

international in content. Unless strong trade unions and united struggles of the working class are developed in nation states, it will be difficult for them to defeat the offensives of the capitalist globalisation. To build strong unions and united struggles in nation states the conference adopted an action plan on "globalisation" and its changed role vis-a-vis globalisation: to move from servicing to organising, to address previous weaknesses and educate workers on globalisation and its impact, strengthening the capacity of union



employer resistance. When people are poorly paid they have to work 70 hours per week and don't have time to get involved. Often it takes a crisis to bring people together, where trades councils can bridge the gap between the community and the unions. Unfortunately most trade councils are ineffective or non-existent. Other factors were that unions had failed to recruit members at new establishments together with high employer resistance.

The unions are not unanimous about the fact that globalisation in opening up trade and thereby generating economic growth has, on balance, benefited the working men and women, strengthening their material position and securing their future. Almost all unions believe that globalisation is a Thatcherite, liberal economic ideology that has undermined workers' conditions, security and the future of their collective organisations.

Action plan

The Southern Initiative on Globalisation and Trade Union Rights at Johannesburg in October 1999 acknowledged that the struggles of the working class should be national in form and

leadership to respond to threats from globalisation, to develop from union membership to union activism, to organise casual/contract/unorganised workers in the unions and to take up the issues of unemployed in the charter of the unions, etc.

The reaction of the Left wing of trade unions on the challenges of globalisation is rather different in Germany and France. An industry-wide collective agreement is one of the important basic institutions of German welfare state. It was argued that the problem is not the business environment but the failure to adjust to it on the part of trade unions. While in Germany the traditional structures of organisation are not questioned, only the thinking of the trade union members shall be changed, in France problems are discussed on a more fundamental level, leading to new forms of organisation and trade union policy.

The first constitution of the American Federation of Labour, adopted at its founding in 1886, declared the new organisation open to the membership of any "seven wage workers of good character, and favourable to trade unions, and not members of any body affiliated with this

Federation". Tens of thousands of such groups applied for and received direct affiliation with the national federation afterward, though sometimes long afterward migrating to one or another international union. Unions look healthier in the public sector, but public sector unionisation has natural boundaries on its importance.

Public employment is only 15 per cent of total employment, and public sector wage and work norms cannot be maintained indefinitely at sharp odds with the private economy. To give workers greater say in the American economy, unions needed to increase their power vis-a-vis private employers. This they have failed to do. The failure is by no means because workers reject unionism. American unions operate under a labour law that is the least favourable to collective worker action in the developed world.

Industrial ties

In Colombia, South America, the persecution of labour unionists by para-military groups, the policy of deregulation of the labour market, and the criminalisation of labour unions in the public sector seem to pursue the same strategy. Its aim is the weakening or disappearance of organisations that resist a policy that is friendly to (transnational) capital. The 200 murders that are committed every year against Colombian unionists, in that sense, are not only a result of civil war. The violence in Colombia is a result of globalisation process.

However, in a different part of South America, 20 years after the rise of Brazilian "new unionism", the union movement today successfully leaves behind state corporatism both in its structure and practice. There is possibly a reform of industrial relations, one of the central tasks of the new government of President Lula.

With this global backdrop the situation of union and employer antagonism in Bengal is the result of the reactions of misunderstood Leftist idealism and opportunism by the working class, given to understand so by the political unions and the feudal mindset coupled with swindlers disguised as employers. Also, the unions and their constituencies largely remained separate from the greater society. So when the concerns are separated from the society in general, the outer constituency is bound to slip. With the onslaught of globalisation the roles have to undergo a change.

(To be concluded)

The author is on the faculty at IIT, Kharagpur.

Dismissal of T.N. Govt. staff not infraction: High Court

By A. Subramani

CHENNAI, JULY 11. Declining to come to the rescue of about 1.7 lakh Government employees summarily dismissed from service *en masse* for striking work on July 1 and 2, the Madras High Court today ruled that the dismissals did not amount to "infraction of any fundamental right".

Declaring as not maintainable a batch of 11 petitions from various staff unions challenging the validity of the Tamil Nadu Essential Services Maintenance Act and a subsequent ordinance dispensing with pre-decisional hearing to strikers, the First Bench asked the aggrieved employees to approach either the State Administrative Tribunal or use an appeal provision found in the ordinance.

"It is open to the aggrieved parties to file application before the appropriate authority indicated under the impugned ordinance for revocation of the punishments inflicted on them. If any such applications are filed, they shall be disposed of by the State authorities not later than one month, after affording reasonable opportunity," the Bench, comprising the Chief Justice, B. Subhashan Reddy and Justice K. Govindarajan, stated.

'Release arrested staff'

The Bench, however, directed the Gov-

ernment to release all the 2,000 or so arrested persons without insisting on their moving a bail plea before the competent courts.

"Doubtless, bail petitions have to be filed as the offences are cognisable and non-bailable. But that is necessary in ordinary cases. In a matter like this, where more than 2,000 persons have been arrested, and the offences being quite different than usual offences, it cannot be viewed with such severity, at least in the context of enlarging the arrested personnel on bail.

"This court is not only a court of law but the court of justice too, and court of justice does not mean anything if it is not tempered with mercy. For that reason, we dispense with the formalities of filing bail petitions and direct the respective jail authorities to forthwith release all the arrested persons who are in judicial custody, in connection with the offences under Sections 4, 5 and 6 of the T.N. ESMA, on taking personal bonds for Rs. 1,000 each," the Judges ordered.

Declaring all the writ petitions as "not maintainable", the Bench said: "We hold that these writ petitions are not maintainable without exhaustion of the remedy before the State Administrative Tribunal." The Judges cited the Supreme Court ruling in the L. Chandrakumar's case and said, "...the High Court shall not entertain any

matter relating to service disputes unless the remedy is first exhausted before the administrative tribunals".

Rejecting the argument of the petitioners' counsel that the Tribunal, which had only one member (Vice-Chairman, I. David Christian) as on date, could not hear matters relating to the constitutionality of a statute or ordinance or rule, the Bench said that merely because there was only one member manning the forum its "very existence could not be ignored".

"We hold that the present Vice-Chairman of the Tribunal is entitled to adjudicate the disputes relating to service matters of the State, including that of the Constitutionality of Statute, Ordinance or Rules, as the case may be." The Judges, however, said, "having regard to the magnitude of the problem and the urgency involved, the Tribunal shall adjudicate the dispute as early as possible". As for the arguments touching upon Article 20 of the Constitution, the Bench said, "we do not see any infraction of the fundamental right guaranteed in Clause(1) thereof, as no new offence has been created under the ordinance.

The Act, which came into effect on October 1, 2002, in its Sections 4, 5 and 6 already described the conviction and punishment for the striker, instigator and the financier respectively".

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THE HINDU

12 JUL 2003

State labour policy criticised

KOLKATA, July. 8. — The Left Front government's labour policy came under attack in the state Assembly today from unexpected quarters — the RSP.

Mr Nirmal Das, RSP MLA, said the chief minister was opposed to labour unrest, but what are the labourers supposed to do when they get retrenched. In the tea gardens alone 400 labourers died during the past few years after the gardens were closed. The state government's record in enforcing laws against child labour is not encouraging, Mr Das added.

The labour minister, Mr Mohammad Amin, however, said out of the 21 tea gardens closed a few years ago, 14 have reopened.

The minister claimed industrial relations in the state were "by and large peaceful". Strikes in industrial units during the past one year were far fewer than the number of lock-outs, he said "which show the management was attacking the labour and not the other way round."

Mr Amin said it was wrong to blame the state government for the huge unemployment, as the Centre's economic policies and its open invitation to the "imperialist" powers have ruined the country's economy. "Even then the situation in the state is improving and the Left Front government's industrial policy is helping the turn-around," the minister added.

— SNS

DOUBLE STANDARDS ON LABOUR

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THE DETENTION OF scores of trade union leaders in Tamil Nadu under the State's own Essential Services Maintenance Act (ESMA) and subsequent assumption of summary powers to dismiss employees through an ordinance raise issues far beyond the merits or otherwise of the demands of Government employees and the question whether such strong-arm methods are conducive to resolution of employer-employee disputes. The strike of the Government staff in fact started a day ahead of schedule, sparked by widespread arrests of union activists.

At the bottom of the issue is the failure of India to ratify two of the eight "core" conventions of the International Labour Organisation (ILO). India, a founder-member of the ILO and ostensibly an adherent to the organisation's basic concepts and values, has consistently abstained from ratifying the Convention (No. 87) on Freedom of Association and Protection of Right to Organise and the Convention (No. 98) on Right to Organise and Collective Bargaining. The reason trotted out by India all these years is that these apply to all employees without any discrimination whatsoever, with the sole exception of the armed forces and the police, and thus confer the core rights on civilian government employees too. India has contended that in practice workers in the country enjoy "constitutional guarantees" on democratic and labour rights, social security and job security, while there are "grievance redressal mechanisms" such as the Joint Consultative Machinery in the case of Central staff. The "main reason" that the Centre has cited for not ratifying the two core ILO conventions is "the inability of the government to promote unionisation of government servants in the highly politicised trade union system of the country." This stance amounts to a defiance of common sense. If the right to

Labour & S. Seemils
strike — the single biggest weapon of the working class in the exercise of its right to organise and to collective bargaining — can be snatched away by legislative processes such as ESMA. This in effect means denial of the core rights, despite the "constitutional guarantees" the workers are supposed to enjoy. India's failure to come to terms with this reality has led to avoidable tensions created in the past by the Centre's own ESMA. Now State Governments may be emboldened to follow the Centre's past record.

Clearly, labour rights and standards do not, and ought not to, depend on "political" or any other bias in trade union organisational structures. In fact, the "highly politicised" nature of the trade union movement in India (where "politicised" means organising along party lines and not political consciousness of workers) has only favoured employers, including governments, inasmuch as it has encouraged divisions within the trade union movement. The problem of the impact of strikes on the public and consumers has been compounded by State-owned operation and ownership of essential utilities such as in the power sector, whereby a strike in an undertaking paralyses all production in that sector. This is a result of economic structures chosen by public policy and should in no way be used to deny workers their democratic rights. In the West, workers have been organising industry-wide direct action covering private enterprises. That is the trade union movement's own strategy and its basic rights cannot be compromised in the name of maintaining "essential services". It hardly behoves the world's largest democracy on the one hand to proclaim that labour standards should not be linked to trade issues since they belong in the realm of the ILO and on the other not to honour core standards evolved by the same ILO.

Discrimination at work taking subtler forms: ILO report

By Our Staff Correspondent

10-13 18/5
12/05/08 S. Senthil

NEW DELHI, MAY 12. Religious discrimination has increased over the past decade with the current global political climate fuelling sentiments of mutual fear and mistrust among religious groups, in turn, threatening to destabilise societies and generate violence. Discrimination against people having HIV/AIDS, especially among women, is also a growing concern.

The global report on discrimination at work, entitled "Time for Equality at Work" released by the International Labour Office (ILO), the world over today, says that while most blatant forms of discrimination at work may have faded away, many remain a persistent and daily part of the work place or are taking on new, subtler forms that are cause for concern.

"Progress in fighting discrimination at work has been uneven and patchy, even for long recognised forms such as discrimination against women and inequalities within discriminated groups are widening," the report says.

"The present urgency of countering and preventing terrorism has fuelled sentiments of mutual fear and discrimination between Muslims and non-Muslims. It is clear, however, that any strategy aimed at tackling conflicts of interest should respect religious freedom; denying the basic right to follow a religion of one's choice can destabilise societies and generate violence," it says.

Suggesting that failure to eradicate discrimination helps perpetuate poverty, the report says that discrimination often trapped people in low-paid 'informal' economy jobs where they are denied benefits, social protection, training and land or credit.

Drawing attention to the types of discrimination, the report says that women were by far the largest discriminated group with those in the lower-paid and least secure jobs.

Describing racial discrimination as the most common form, the ILO report says it affects migrants, ethnic minorities, indigenous and tribal people and vulnerable groups. Rising levels of global migration have significantly altered patterns of racial discrimination against migrant workers, second and third generation migrants and citizens of foreign origin. It is the perception of these workers as foreigners that may lead to discrimination.

Warning that neglecting to tackle "widening socio-economic inequalities" in the world of work, not only amounts to accepting a "waste of human talent and resources" but could have 'disastrous effects on national social cohesion, political stability and hence growth' in the years to come, the report suggests that removing inequalities could be the most challenging task of contemporary society and that it was essential for social peace and democracy.

The report lays the blame for continuing discrimination on prejudices, stereotypes and biased institutions that have resisted decades of legal efforts and policy measures undertaken by governments, workers and employers against unequal treatment at work.

Putting the number of people with disabilities between 7 and 10 per cent of the world's population, the report says that the most common form of discrimination against them was denial of opportunities both in the labour market and in education and training. "Unemployment rates for people with disabilities reach 80 per cent or more in many developing countries." Concerns over discrimination based on age are also growing with 33 per cent of the people in developed countries and 19 per cent in developing countries will be more than 60 years by 2050.

13 MAY 2003

THE HINDU

Jaitley seeks consensus on labour reforms

By Our Special Correspondent

NEW DELHI, APRIL 1. Seeking a political consensus on labour reforms, the Commerce and Industry Minister, Arun Jaitley, today urged the Opposition parties, especially the Congress, to allow these to go ahead if they were seriously concerned about making the country's exports globally competitive.

Referring to a comment made recently by the Leader of the Opposition in the Lok Sabha, Sonia Gandhi, Mr. Jaitley said that talk about Chinese goods flooding the Indian market must be tempered with the realism about the differences in labour laws. "If you want our goods to flood their markets, then let the exporters have same labour laws as China. Don't obstruct labour reforms," he added. He underscored the critical need for flexible labour laws which would enable the Indian exporters to have a level-playing field vis-a-vis other countries in terms on international trade. He stressed there is need to

make products more competitive by giving the exporters an enabling regime. He said some State Governments had shown openness towards adopting a flexible approach on labour reforms for export-oriented units. "This is a subject where the States must be a participant, cutting across political parties." Serious thinking was needed on part of the political parties to evolve a national consensus.

Addressing a FICCI seminar on the Exim Policy 2003-04 here, M. Jaitley said the flooding of goods by the "Chinese dragon" was a myth since the trade gap between the two countries was narrowing.

Later, speaking at a seminar organised by the Confederation of Indian Industry (CII), he said the 16.76 per cent export growth during April-February 2002-03 was somewhat significant and he expected the final figures for the year to be slightly higher. This was commendable performance by exporters, especially since the rupee had appreciated

during the period while war clouds had cast their shadow. Industry had taken numerous initiatives such as cutting costs, improving efficiencies, targeting the right markets and improving product competitiveness. However, the Iraq war would have its own consequences, and could bring down trading sentiments and raise oil prices.

He said the possibility of developing a scheme with features similar to the Special Economic Zones for export-oriented units in select sectors with capital investment in plant and machinery over Rs.25 crores would be explored. He commended the growth of industrial clusters as centres for exports and said these were living examples of the country's enterprise. There were as many as 37 clusters such as Tirupur and Panipat which had come up as a result of individual enterprise and were exporting about Rs. 1,000 crores worth of products each. Measures would be taken to strengthen them.

THE HINDU

2 APR 2003

Cabinet moves to make legal provision

Night-shift nod for women

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**OUR SPECIAL
CORRESPONDENT**

New Delhi, March 4: In deference to the demand of certain industries, the government today set in motion the process that will allow women to work on night shifts in factories or business establishments.

The Union Cabinet approved a proposal to ratify Protocol 1990 of the International Labour Organisation and amend the Factories Act, a formality that is expected to be completed within 18 months.

An official spokesman said the government would ratify the ILO night-work (women) convention to provide flexibility in the employment of women during night shifts. Section 66 of the Factories Act, 1948, will be amended after the ratification.

"The general conference of the ILO had in June 1990 adopted

a protocol authorising the competent authority to modify the duration of night shift or to introduce exemptions from the prohibitions within certain limits," the spokesman said.

The protocol requires that national laws and regulations that have to be modified to allow this are amended after consulting organisations of employers and workers.

Several such organisations had demanded that night work be permitted, influencing the government's decision to ratify the protocol.

The software industry, for instance, has to provide services seven days a week, 24 hours a day, and need employees to work round the clock. Call centres, too, have a similar routine.

Some states, like Maharashtra, have already enacted laws to remove restrictions on women working night shifts — between 7 pm and 6 am. Today's move

by the Cabinet will eventually put in place a uniform nationwide system.

The spokesman said the amendment to the Factories Act will make it mandatory for employers to have adequate safeguards for the occupational safety and health of women workers, protection for their dignity and honour and facilities for their transportation from the factory premises to the nearest point of their residence.

Several women's organisations have gone to court, seeking amendment to the Act because the existing provisions are discriminatory.

Bombay High Court has already passed an interim order allowing women to work night shifts at the Santacruz electronic export processing zone.

The Tamil Nadu and Andhra High Courts have also struck down some clauses of Section 66 of the Act as unconstitutional.

5 MAR 2003

THE TELEGRAPH

CM expresses reservations on labour reforms

HT Correspondent
Kolkata, February 24

THE LEFT parties in the state led by chief minister Buddhadeb Bhattacharjee took the opportunity to make their reservation on the Second National Labour Commission report at the opening day of the two-day convention of the International Labour Organisation.

In his address at the opening session of the conference on Globalisation, Decent Work and the ILO Declaration on Fundamental Principles and Rights at Work, Bhattacharjee expressed concern over the recommendation in the report. In fact, his party had earlier gone on record saying that the report was not "on labour" but "against labour". According to him, the report has suggested drastic curtailment in trade union rights on one hand, while on other it has proposed "absolute rights to employers to change the service conditions of workers."

At the ILO conference that is being organised jointly with the Council of Indian Employers, Bhattacharjee said: "The anti-labour thrust is quite evident in such recommendations as imposition of severals restrictions on strikes, freedom to the management to hire and fire and to contract out non-core jobs completely and core jobs in special cases."

He pointed out that overall annual growth rate in employment is down to 1.01 per cent in 1990 from 1.55 per cent in the eighties. He said that while the proportion of salaried employees have remained constant the ratio of self-employed has gone down to 52.90 per cent in 1999-2000 from 58.90 per cent in two decades earlier. However, there has been a significant increase in casual workers to 33.20 per cent from 27.20 per cent in the same period.

Bhattacharjee took this opportunity to underline once again his government's seriousness on re-

sponsible trade unionism. He said: "The State Government strongly believes that the basic rights of the work force have to be guaranteed and trade unions should behave in a responsible manner." General secretary Chittabrata Majumdar of the Centre for Indian Trade Unions, an arm of the ruling CPM, questioned the definition of "Decent Work" at the conference. He also expressed doubts over ILO's role in a regime where the proposed legislations and the latest report of the Second National Labour Commission has denied the right to bargain collectively under the pretext of arbitration and adjudication.

In fact, Union labour minister of state, Vijay Goel admitted that the provisions relating to Freedom of Association (ILO Convention No. 87) and Right to Organise & Collective Bargaining (ILO Convention No. 98) has not been ratified "due to certain technical problems in so far as they relate to the government servants."



LABOUR UNION: Chief Minister Buddhadeb Bhattacharjee has a chat with Union Minister of State for Labour Vijay Goel at the opening day of the two-day convention of the International Labour Organisation in Kolkata on Monday.

Social security a fundamental right?

Statesman News Service

NEW DELHI, Feb. 20. — Suggestions have come from social partners to amend the Constitution to make social security a fundamental right. At least three per cent of the gross domestic product (GDP) should be earmarked for this purpose.

The suggestion came at a seminar on the report of the Second National Commission on Labour.

There was also a call for an integrated social security scheme with a single window service so that a beneficiary could benefit from a single source.

The labour minister, Mr Sahib Singh Verma, said today that though the social partners were of unanimous view on social se-

curity for workers in the unorganised sector, differences persisted on the contentious issue of industrial relations.

The trade unions stressed that unfettered right for retrenchment and closure in the name of flexibility is contrary to employment generation. No flexibility is required in the matter relating to strikes, lockouts, closure, lay-offs and retrenchment.

The social partners, while unanimously supporting the proposal of the Unorganised Sector Workers Bill, 2003, however, suggested that the government should meet the cost of welfare schemes for the vulnerable sections of society.

The minister reiterated that this Bill and the Bill on workers' participation in management will be introduced in the current session of Parliament.

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THE STATESMAN

Opp fumes as Centre clears oil PSU selloff

HT Correspondent
New Delhi, January 27

THE GOVERNMENT on Monday came in for sharp attack from the Congress and the Left parties over the Cabinet decision to clear the sale of two oil majors — HPCL and BPCL — but the Sangh, which had earlier made angry noises over divestment, chose to remain silent.

At a meeting on Sunday, the Cabinet Committee on Divestment, working on the Attorney General's opinion, cleared a public issue of 35.2 per cent

Government equity in BPCL in domestic and overseas markets, and a strategic offload of 34.02 per cent in HPCL. In both cases, 5 per cent equity will be offered to employees. Once these decisions are implemented, Government equity in BPCL will be 26 per cent; in HPCL, it will be 12 per cent.

Oil sector trade unions threatened to go on an indefinite strike from the day the Government notifies the schedule for privatising the oil PSUs. Ashok Singh, the president of the Oil Sector Officers Association,

said employees would halt activities in the oil sector, right from oil exploration and production to refining and marketing.

Even within the BJP, not everyone was in favour of divestment. But sources in the party said no leader was willing to stick his neck out by opposing the move when the Prime Minister and his deputy were keen on going ahead with the selloff.

The Cabinet Committee has made it clear that other PSUs will not be allowed to bid for HPCL. Also, the CCD is said to have decided to waive the minimum in-

vestment of Rs 2,000 crore needed for entry into petro product marketing for bidders for HPCL.

Allaying fears about the Bina and Bhatinda refineries, Divestment Minister Arun Shourie said: "If the strategic partners are not interested, then the Government will find other means of completing these projects." Those means could include ONGC or IOC taking over the refineries.

The end of the stalemate on the sale of the oil marketing companies can be seen as a clear victory for the pro-divest-

ment lobby led by Shourie and backed by Prime Minister Atal Bihari Vajpayee.

Finance Minister Jaswant Singh was the only absentee from the meeting. However, his ministry had provided its opinion in writing, and it was incorporated in the Cabinet note.

The issue has caused much discord since the sale was first proposed last February. It was not just the Petroleum Ministry versus the Disinvestment Ministry — political heavyweights and business interests too had taken sides in the battle.