

of Shri T. S. Sankaran
Comments/on the Draft Report of the Tripartite
Study Group on Building and Construction Industry

- i) At the top of page 2 of Chapter I, reference is made to snap studies conducted by a few labour departments in the States which showed that the provisions of the Labour Laws were not effectively implemented. I suggest that this may once again be checked up.
- ii) Towards the end of page 2 of Chapter I, the sentence starting with "Thus, a consensus emerged in the working group to set up the sub groups....." is incomplete. Presumably a line or two is missing.
- iii) In para 1.0 of the Chapter II it has been stated that the balance of 67.56 lakhs were casual employees. Would it be desirable to describe them as non-permanent employees.
- iv) The first sentence of Para 3.3 of Chapter II, which had come up for discussion in the earlier meetings of the Drafting Committee would appear to need further re-casting. The entire basis for Tripartite Construction Labour Boards at various levels stems from the fact that the employer-employee relationship is not stable nor is it of sufficiently long duration resulting in total lack of protection to the workers and inherent inability to provide any form of social security to these workers. I think the thrust of the argument gets watered down if, as has been stated in the first sentence, the employment is treated as casual and employment relation contractual. It is also not correct to say that construction work is generally seasonal, thus implying that work is carried on only during a smaller period of the year.
- v) Para 1.1 of Chapter III begins with the words "Employers, represented by the Builders Association of India,.....". As a major portion of the construction work in the country is undertaken by Government, local bodies, public sector undertakings and the like and as Builders Association of India is largely composed of employers in the private sector, this aspect will have to be highlighted in the body of the report, preferably in the initial stages of the Report lest an impression should be conveyed that the Builders Association of India represent the bulk of the employers in the Building and Construction Industry.
- vi) Para 1.3 of Chapter III refers to the views of the Trade Union representatives on proposals of the BAI. As some of the views referred to in the succeeding paragraphs appear mutually contradictory, some reservation to this effect may be added to para 1.3.

In Para 1.3.4 . the second sentence starts with "They contended.....". As worded, this would convey the impression that all the Trade Unions representatives agreed with this contention. This is not so; hence this sentence may be recast to begin with the following word" it was contended".

vii) Para 2.5 of Chapter III contains the views of a Government representative and refers to administrative and legal difficulties involved. In this context, it may be re-called that I had referred to judgements of two High Courts as well as the report of the Study Group on Construction Industry set up by the National Commission on Labour. It is desirable that these are referred to in some detail in the report, so that while examining the report, the bogey of legal and constitutional difficulties does not again raise its head.

viii) I have strong reservations on Chapter IV of the report, as drafted. The report may result in the main thrust, namely, the setting up of Tripartite Construction Labour Boards on which both the Trade Unions and the Builders Association of India are agreed, being side-stepped for the reason that there is not complete unanimity of views. This may also result in the Government taking the easy way out by enacting legislation to provide for a welfare fund and perhaps another legislation for safety in the Construction Industry. In the light of, the strongly felt opinion of the workers in the Construction Industry who have already submitted Petitions to both Houses of Parliament enclosing copies of the draft Bill and scheme, and the introduction by a Member of Parliament of a Private Members Bill in the Lok Sabha on the same lines, any recommendation of the Working Group which may facilitate a decision falling / short of such a comprehensive law will be resented by the workers in the vital industry. It is therefore necessary that the report recommends a comprehensive legislation providing for Tripartite Labour Boards at various levels with plenary powers for registration of employers and workers, regulation of employers, restrictions on employment, etc; differences between what the Trade Unions want and what the Builders Association of India agree to, should of course be mentioned in the report. Some of the reasons mentioned during the discussions in the Working Group against the feasibility and desirability of a self-contained Labour Code for the construction industry as proposed by the Builders Association of India should also be mentioned. This will also enable the main working group to take a total view of the problem.

The proposal for a separate law for a Labour Welfare Fund for the industry or a separate law for safety should be specifically discussed in the report as a poor second best alternative, thus highlighting the need for a law which will deal with the problems of the industry and its workers in an **integrated** fashion.

I have no special comments on Para 5.1, 5.2., and 6.1 of Chapter IV. Likewise, I am in agreement with para 4.1 to 4.3 of the report. Para 4.4 should be recast "Construction Labour Boards, when set up, should take up this responsibility".

ix) General

I expect that other members of the Drafting Committee would also have sent their comments. All the **comments** may be urgently communicated to the members of the Working Group and a very early meeting **called**, so that this matter would be finally discussed and settled and an agreed report submitted to Government.
