

THE TAMILNADU EXPERIENCE

Tamil Manila Kattida Thozhilalar Sangam (Tamilnadu State Construction Workers Union) is a non-political independent organisation of construction workers, neither affiliated with any Central Trade Union nor connected to any political party. The Union spans the entire State of Tamilnadu, with an active membership drawn from and organisational units functioning at the village, taluk, district and city levels. We have over 10,000 subscription paying members while over 50,000 workers participate in the Union's state-wide activities.

The general approach of the Union has been to create an awareness among the workers about their situation and the laws governing them, to educate them in the democratic decision making process in dealing with their problems and to forge unity among construction workers regardless of their skill, caste or political persuasion.

It is a known fact that the assumption of a regular, stable employer-employee relationship forms the basis of all present-day labour legislation. However, the very nature of construction industry precludes the possibility of such a relationship. This being the case, all present day labour legislation has remained irrelevant as far as construction labour is concerned. Therefore, it is evident that construction workers from all over the country will have to unite in a sustained struggle to ensure that appropriate legislation with the proper orientation is brought into existence whereby their felt needs and aspirations will receive some fruit.

Our Union has already been engaged in such an on-going battle for many years in the State of Tamilnadu in demanding comprehensive legislation for construction workers that includes decent working conditions, safety measures at the work-site, accident relief, social security measures like E.S.I., P.F., etc. creation of a construction workers welfare fund, maternity benefit for women workers and creches for workers' children etc. Our experience in this area, as well as the response or perhaps reaction of the State Government clearly reveal the typical attitude that the government adopts towards the unorganised sector. A little elucidation will perhaps clarify this.

In May'81 we organised a seminar which was presided over by Justice V.R. Krishna Iyer and in which a group of lawyers also participated alongwith construction workers from all over the State. A model bill for construction workers was formulated on the basis of the discussions and findings of this seminar. In August'81, this model bill was presented along with a memorandum to the late Prime Minister, Smt. Indira Gandhi and the then Minister of State for Labour, Smt. Ram Dulari Sinha by a delegation of construction workers.

Copies of the model bill were also given to the opposition parties. It was then introduced as a private member's bill in the Lok Sabha by George Fernandes and in the Rajya Sabha by Shri M. Kalyana Sundaram. Since then there have been periodic announcements, including one such in the recent past, by the Central Government that they will be enacting legislation for construction workers. We are yet to see anything more material than

The Model Bill was also given to the Tamilnadu State Government. Despite this, the State Government introduced a Bill in October 1983 ( Legislative Assembly Bill 44/'83), part of which was seriously framed, and the rest of which contained mere extensions of existing Acts to construction workers. The extensions were meaningless since, as already explained, the present nature of construction industry prohibits the possibility of a regular and stable employer-employee relationship, the corner-stone of all present labour legislation. We then formed a committee headed by Justice V.R. Krishna Iyer to review this bill. Justice Krishna Iyer himself also addressed a letter in this regard to the State Labour Minister. At the membership level several meeting were held and various other organisational programmes were conducted including hunger strikes to provide teeth to these endeavours. The recommendations for amendments made by the Sub-committee were communicated to the State Government by representations and by holding a mammoth conference of Construction Workers in Madurai on 9-2-1984 in which more than 30,000 Construction Workers participated.

Immediately following this, the Tamilnadu Governor in his address to the Join Session of Legislature on 13-2-1984, announced that the Bill would be amended to include compulsory insurance, registration of construction workers and payment of Rs.10,000/- from the Chief Minister's Relief Fund for fatal accidents. The rest of the Committees recommendations were ignored.

At the stage of passing the Bill in October 1984, not only were Justice Krishna Iyer's recommendations not taken into account but even the additions announced by the Governor regarding registration of workers and payment of death relief of Rs.10,000/- were omitted. We took out a procession of over 10,000 workers and held a dharna to press our demands regarding the bill, upon which the Union representatives were arrested and remanded to custody. The union responded to this repressive act of the government by unleashing a spate of co-ordinated demonstrations on 15-10-1984 at the various district and taluk headquarters throughout the State, involving 60,000 workers in all. The workers not only demanded the release of those arrested, but also reiterated the demand to amend the Bill to render it beneficial. Under pressure, the Tamil Nadu Government brought out two GO's for construction workers.

One of these introduced a so-called insurance scheme for construction workers, which broadly speaking stipulated that each worker should contribute a sum of Rs.10/- per month, which, if contributed for 40 years, would be returned to him at the end of that period by way of a lump-sum of Rs.33,000/-.. Of the Rs.120/- that the worker contributed each year in this fashion, Rs.45/- would go towards some insurance premium and Rs.75/- towards the so-called benevolent fund. The insurance cover given for death due to accident, with certain stringent conditions and restrictions was also quite low. On verifying, it was discovered that if an individual worker contributed the same sum in a similar fashion in

any other form of investment or deposit scheme with any nationalised bank, his return would be much higher. Besides this, the GO itself informed that the profit which would accrue from the yearly contribution of Rs.45/- which the worker made to the LIC would be utilised for the maintenance of the infrastructural machinery required by the Government to run this scheme. In all cases of premiums paid to the LIC by the beneficiary, under the existing profit-sharing schemes, the profit accrued from such reduction in premium. The GO's provision was indeed novel in so far as it deprived the workers, who contributed sizeable sums in the collective, of the small benefits that are routinely offered by the LIC to any individual policy holders.

In other words the State Government had perpetrated a gigantic farce on the Construction workers in the name of Welfare Legislation.

This G.O. does nothing but betray the total ignorance of the State Government as far as the nature and structure of the construction industry is concerned. It also betrays its utter callousness in turning a total deaf ear to the serious suggestions made by the sub-committee through the Union.

This G.O. also reveals a marked reluctance on the part of the Government to tax in any fashion the contractors and owners of construction who perpetrate a daily loot on the workers in the form of denial of even elementary benefits like minimum wage and who get away with murder as far as the area of accidents is concerned. Ironically enough the Government appears to have joined these shares in the industry in the further exploitation of construction labour.

The second G.O. provided for payment of Rs.5,000/- from the Chief Minister's Relief Fund for fatal accidents but further stipulated that death relief would be limited to the workers falling from below the height of 12 feet , once the act came into force. A subsequent G.O. in early '85 raised the relief amount to Rs.10,000/-.

State

Further despite the Tamilnadu/Government order that in case of death due to accidents a sum of Rs.10,000/- would be sanctioned, even though 33 such deaths have taken place since then that have been followed by the Union not a rupee of that Relief has been paid out to this date.

While on the one hand the Union has been occupied with the above endeavors to bring about comprehensive beneficial legislation, on the other it has been equally occupied in securing whatever minimum benefits accrue from existing legislation, particularly in the area of accidents and enforcement of payment of minimum wages. Here again our experience highlights not only the callous attitude of the various officials concerned at the different tiers of the hierarchy but also the paramount need for the worker to equip himself not only with the knowledge of the provisions of the relevant sets in force but also the process and methodology provided therein, if he is to secure even any minimum compensation or benefit.

Two examples would suffice to illustrate this.

Ponnammal aged about 45 years was a Construction worker who had been working as a helper for over 20 years. She has employed along with 100 other workers in laying the roof of the second storey in the Madhavaram Telephone Exchange Building at Madras. While carrying a load at 3 in the afternoon, she fell from a height of 80 ft. Srimiasd Reddy the Contractor, who was also a lawyer by profession, and the Assistant Engineer of the Civil Wing of the P & T Department, were present at the time of accident. She was taken to a private doctor who refused to treat her, then died on the way to the Government General Hospital.

But with the conviction of the doctors in the General Hospital the Contractor got her 'admitted' and discharged without a post-mortem. Ponnasal's son, who had also accompanied the mother's injured body to the Hospital, was coerced under threats into signing a declaration that he was getting her discharged against medical advice. This, the Contractor and the Engineer thought, was the end of the matter.

The news of the accident reached the branch of the Union situated near the spot of the accident. On enquiry by the Union Members the Junior Engineer at the work spot glibly lied that the accident victim had recovered and returned home unconvinced, the Union Members, traced down the victim to her residence at Chelpet, where her body lay. This was on the evening of the day of the accident. The same night the workers held a meeting and decided to take appropriate action to get the post-mortem done.

The next-morning hundreds of workers assembled at the General Hospital and after nearly an hour of negotiations, during which the Dean dithered, vacillated and was evasive, he finally agreed to make it into a medico-legal case and conduct the post-mortem at the Kilpauk Medical College Hospital at Madras. A claim petition was filed before the Deputy Commissioner of Madras by the dependents of Ponnasal with the assistance of the Tamil Nadu Legal Aid Board. Though there was sufficient evidence from the post-mortem report and the



co-workers who were witnesses to the accident the DCL did not grant any award. Now the appeal is pending before the High Court.

In this case it should be noted that the CPL provisions are violated. This was also not the only case in which the Union had to intervene to even get the accident recorded.

While it is not uncommon to have similar deaths and accidents in both private and government buildings and works, the above is typically illustrative of the collusion and tander in which various officials and contractors work in order to deprive the construction worker of the meager compensation that comes to him or his family.

In the second illustration, on 29.7.1983, when the construction of the factory 'Enfield India' was going on at Ranipet, N. Arcel District Tamilnada a wall 200 feet long and 30 feet high collapsed, killing 3 women helpers/male helpers and 2 masons. The Union Members on reading this report in the newspaper, decided to undertake a spot shedy.

The study revealed that the contractor employed by Enfield India Ltd., which was constructing a factory for the manufacture of motor cycle, was Armachalam & co. The Shedy also revealed that though there were engineers from both the Principal Employer and the Contractor responsible for the site the collapse was due to faulty design. The workers were drawn from various

villages in a 10 mile radius from Rampet. The women workers and male helpers were paid Rs. 6/- and Rs. 8/- respectively much lower than the minimum wages. After the accident, the workers had fled the scene and the RBC conducted an enquiry. The contractor had given Rs. 500/- to the family of the deceased.

The Union Members traced the families of the deceased to their respective villages, got the workers who were witnesses to the accident together, collected the necessary documents and records and informed them of the various provisions and their rights under the workmen's Compensation Act. The contractor meanwhile gave another Rs. 1000/- to each family of the fatally wounded victims. Claim petitions were filed through the Rampet-Legal Aid Committee and Tamilnadu State Legal Aid Board. As a result compensation of Rs. 10,800/- was paid to each of the families of the deceased women workers and Rs. 18,000/- to the family of the male helper while Rs. 23,100/- was paid to each of the families of the deceased masons. A petition to revise the award on the basis of minimum wages has been filed with the DLC.

This again is only one of the many many instances where records might be available but the workers and their families are in danger of losing their entitled compensation because of their ignorance as to their rights under the provisions of the Workman's Compensation Act.

Therefore, our Tamilnadu experience has been an enriching saga of relentless struggles and sustained campaigns in the cause of Construction Workers. We have encountered many obstacles and overcome a few of these.

Our experience has also taught us that perhaps the governments are not only ignorant about the structure of the construction industry but also indifferent to the plight of construction labour. They have also remained unresponsive to the various suggestions made by the union particularly on the legislative front.

Our experience has also not only provided us a deep insight into the industry but also the capacity to cogently articulate on the needs and aspirations of construction workers.

Our experience has also taught us that, more often than not, individuals occupying lofty, powerful and respectable positions in society often combine in an unholy alliance of connivances, collusions and underhand dealings to deprive construction workers of the few and meagre rights they enjoy.

As an immediate focus arising out of this experience, our organisation has come to firmly believe that the relentless battle for a proper comprehensive legislation beneficial to construction labour specifically and the unorganised generally must continue unabated.

It is this firm conviction that has led us to organising this Seminar. We are sure this is a shared conviction today and we hope that this seminar, by pooling together the resources of our respective experiences, will help to evolve a model bill for such legislation.

Our experience has also made us acutely aware of the imminent need to equip the workers with atleast the basic knowledge of the provisions of the relevant Acts so that at least minimum relief could be secured at minimum effort. In the light of this we are proposing to conduct Legal literacy camps for our members in the near future.

We are also certain that our Tamilnadu experience may be imagine in certain details but in its fundamentals it is similar to the expressions of construction workers all over the Country. Payment of wages lower than the prescribed minimum wages, rampant accidents due to lack of adequate safety measures, denial of due compensation on death or injury harassment at the hands of powers that be and subjection to long and attentions legal proceedings, lack of provision of basic amenities Welfare measures, continuous and on-going exploitation on a day-to-day basis - these is the daily gruntedthe construction worker sums, till he or she cannot carry on any longer. This is the common plight of all construction workers in India today and we from Tamilnadu share the same fate.

These only emphasize the need for greater unity and co-ordination on a national scale. We hope that this seminar will also result in a positive step in this direction of growing co-ordination on a national scale and evolution of common programmes of action in the case of construction labour.

We would wish to conclude on the proud but justified note that our work and experience has also shown a growing organisational awareness and articulation burgeoning amongst construction workers in Tamilnadu. We are sure it is the same elsewhere too.

-o-o-o-o-o-o-o-o-o-

(PAPER PRESENTED AT THE NATIONAL SEMINAR ON  
CONSTRUCTION LA BOUR KELD AT SAHINI PEACE  
FOUNDATION, NEW DELHI ON 1, 2 & 3 NOVEMBER,  
1985)

-o-o-o-o-o-o-o-o-o-