CHAPTER VI

REFERENCE AND ADJUDICATION OF DISPUTES

Procedure for Reporting Failure of Conciliation Proceedings

In the preceding chapter it was explained that in the event of failure of conciliation proceedings, the Conciliation Officer has to submit a report to the appropriate Government under Section 12(6) of the Industrial Disputes Act. In the case of the coal industry, the appropriate Government is the Central Government and the concerned department is the Ministry of Labour. When the Conciliation Officer sends his failure report to the Ministry of Labour, he sends a copy of the report to the Chief Labour Commissioner.

Action to be taken by the Chief Labour Commissioner

According to established practice, the recommendation of the Chief Labour Commissioner on the merits of the dispute is awaited in the Ministry of Labour. The Chief Labour Commissioner has, in
most of the cases, to obtain clarifications or further information from the Conciliation Officer before formulating his own views on the dispute. Therefore, where such additional information is necessary, the Chief Labour Commissioner corresponds with the Conciliation Officer. Sometimes, the Chief Labour Commissioner instructs the Conciliation Officer to further examine some of the points involved in the dispute on the lines indicated by him. In some cases, the Chief Labour Commissioner finds it necessary to call for the comments of the Regional Labour Commissioner concerned so as to help him arrive at a final recommendation on the merits of a case. In a large number of cases involving further examination in the Chief Labour Commissioner Office, it was generally found that the formulation of the Chief Labour Commissioners recommendations was taking time and that they were communicated to the Ministry four to five months after the receipt of the failure of conciliation report. The delay in the organization of the Chief Labour Commissioner lead to a spate of representations from trade unions and workers anxious for a decision on their disputes.
Since March, 1981 with a view to cutting down the delay and expediting decisions of Government on the failure of conciliation reports, it was decided in the Ministry of Labour that the final recommendations of the Chief Labour Commissioner on these reports need not be awaited beyond a maximum period of one month. Where the Chief Labour Commissioner's recommendation is not received within that time, it was presumed that he has none to make and the recommendation of the Conciliation Officer in the Report alone is taken into account. This change in the procedure of dealing with the failure of conciliation reports in the Ministry of Labour has contributed to more expeditious disposal of cases as, is evident from the following Table.

*Table XXIII

No. of failure of conciliation reports from the coal industry, in the Ministry of Labour on which decisions were pending.

<table>
<thead>
<tr>
<th>At the end of</th>
<th>Total number of reports</th>
<th>Pending for want of Chief Labour Commissioner recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>December, 1980</td>
<td>158</td>
<td>96</td>
</tr>
<tr>
<td>December, 1981</td>
<td>89</td>
<td>7</td>
</tr>
</tbody>
</table>

Thus, a drastic reduction has been achieved in the number of reports pending decision for want of the Chief Labour Commissioner's recommendations. The effect of this is also reflected in the position on the total number of failure of conciliation reports. These declined from 158 at the end of December, 1980 to 89 at the end of December, 1981. Inspite of the general relaxation for dispensing with the recommendations of the Chief Labour Commissioner in case of delay, in specific cases where information in the failure of conciliation reports is insufficient or important and complicated issues are involved or a particular need is felt for having the benefit of the Chief Labour Commissioner's views, his recommendations continue to be looked forward to.

**Arrangements in the Ministry of Labour concerning Industrial Relations in the Coal Industry**

In the Ministry of Labour, industrial relations in the coal industry are handled by two Desks. Each Desk is headed by a Desk Officer who is of the rank of Under Secretary. The Desk Officer is assisted by a stenographer. All matters concerning industrial
relations in the coal industry, in the Ministry of Labour, are dealt with by these two desks. Apart from industrial disputes, these include vital matters like the trade union composition in the Joint Bipartite Committee for the coal industry. The work of the Desks is supervised by a Deputy Secretary. Decisions to refer disputes to adjudication or to decline reference are taken by the Joint Secretary. Only in the most exceptional cases are files submitted to the Minister for decision.

Procedure for dealing with Failure of Conciliation Reports

In the case of failure of conciliation reports on which the decision of the Government is for declining to make a reference to adjudication, the parties to the dispute are informed of that decision. As required under Section 12(5) of the Industrial Disputes Act, the reasons for declining adjudication are provided in the communication to the parties. In cases where after examination of the failure of conciliation report, it is felt in the Ministry of Labour, that there is a prima facie case for making a reference to adjudication, a proposal is made to
the administrative Department which in this case is the Department of Coal in the Ministry of Energy. In the case of the Singareni Collieries Company, the Government of Andhra Pradesh are administratively concerned. The purpose of making a reference to the administrative Departments is to give them an opportunity to make a further attempt to settle the dispute amicably through negotiations between the management and the workers concerned and, in the alternative, to agree to a reference being made to an Industrial Tribunal for adjudication of the dispute.

Reference to the Employing or Administrative Ministry

In accordance with procedure laid down with the approval of the Cabinet in 1970, a maximum time of 60 days is allowed to the administrative Department concerned for sending its comments in reply to the Ministry of Labour's proposals for adjudication. In case no reply is received within this time, it is assumed that the administrative Department have no comments to offer and the case is decided in the Ministry of Labour on merits. Where the administrative Department furnish their comments, these are taken
into account by the Ministry of Labour before a
decision is taken on referring the dispute for
adjudication. In rare cases, the administrative
Department, while disagreeing with the proposal of the
Ministry of Labour for adjudication, communicates
such disagreement within the specified time limit
specifically with the approval of its Minister. In
such cases, the Ministry of Labour has to decide
whether to refer the proposal to the Cabinet
Committee on Economic Coordination for a final
decision on the question of making a reference to
adjudication. In the alternative the Ministry of
Labour may decide to decline reference without
taking up the matter to the Cabinet Committee.

**Work load with the Coal Desks in the Ministry of Labour**

The Coal Industry accounts for a large number of
failure of conciliation reports every year making
for about 40 per cent of the total number received
in the Ministry of Labour from all the industries
in the Central sphere. Similar is the case with
the number of references made for adjudication. In
absolute numbers, failure of conciliation reports from the coal industry increased from 394 in 1976 to 482 in 1980. The number of references made to adjudication in disputes from the coal industry more than doubled during the same period. The following table speaks for itself.

*Table XIII*

FOC reports and references made to adjudication in coal industry

<table>
<thead>
<tr>
<th>Year</th>
<th>FOC reports received</th>
<th>References made to adjudication</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Coal Industry</td>
<td>Total Coal Industry</td>
</tr>
<tr>
<td>1976</td>
<td>965</td>
<td>303</td>
</tr>
<tr>
<td>1977</td>
<td>1003</td>
<td>306</td>
</tr>
<tr>
<td>1978</td>
<td>1012</td>
<td>452</td>
</tr>
<tr>
<td>1979</td>
<td>1144</td>
<td>374</td>
</tr>
<tr>
<td>1980</td>
<td>1356</td>
<td>571</td>
</tr>
</tbody>
</table>

* Source: Desk-III A, Ministry of Labour.*
Writ Petitions against Declining orders of the Ministry of Labour

As has been mentioned earlier, when on examination of merits of a dispute it is decided by Government that it is not a fit case for making a reference to adjudication, the parties to the dispute are informed of the decision and the reasons. It is not uncommon that workmen aggrieved by such decisions file writ petitions in High Courts seeking revision of the Government decision and praying for reference to adjudication. This is a right available to them through civil writ applications under Article 226 and 227 of the Constitution. However, in so far as the coal industry is concerned, during the past five years, only three such writ petitions were filed against such decisions. The first of these is a dispute raised by the Loyla Ispat Mandoor Union against the management of the North Tiera Colliery under the Bharat Coking Coal Limited over the dismissal of a night guard. On the failure of conciliation report in this dispute, adjudication was declined on 6th July, 1976 on the ground that the action of the management in dismissing the workman...
In September, 1975 on the basis of the findings of a duly constituted and properly conducted departmental enquiry, did not appear mala fide. The union filed a writ petition against the declining letter in the Patna High Court. The Ministry of Labour did not oppose the petition. The High Court delivered judgement in November, 1980 quashing the impugned declining order and directed Government to refer the dispute to adjudication. The orders of the High Court were complied with and the dispute was referred to adjudication in January, 1981. The ground of the petition in the main, was that the accused workman did not receive a copy of the charge sheet or any notice with regard to the enquiry conducted against him and he was thus deprived of his right to defend himself. Before the Industrial Tribunal the parties came to a compromise in November, 1981 by which, the workman would be re-instated with continuity of service and ex-gratia payment of wages for the back period.

The second case where writ was sought against an order declining reference to adjudication

Because these have been such rare events in the coal industry, it is proposed to discuss the other
two writ cases also. The second case related to a dispute of alleged illegal termination of services of 14 contractors' workmen in a colliery under the Tata Iron and Steel Company. Adjudication was declined in October, 1977 on the ground that there was no employer-employee relationship between the colliery management and the contractors workmen concerned. The workmen filed a writ petition in the Patna High Court in December, 1979 questioning the propriety of the Government decision declining adjudication. The Union Government in the Ministry of Labour, the Regional Labour Commissioner, the Assistant Labour Commissioner concerned and the management of the colliery were cited as respondents. It was decided in February, 1980 in the Ministry of Labour that the decision previously taken in declining adjudication was in order and that there was no need to contest the petition on behalf of the first three respondents. It was expected that the colliery management who was the fourth respondent, would counter the agreement of the petitioner. The court has not taken any decision in favour of the workmen and no orders have been given for revising the decision taken by Government
to decline adjudication.

The third case where writ was sought against a declining order

The third case is of more recent origin and the decision of the High Court is awaited. The dispute was over the alleged illegal retirement of a workman employed in a public sector coal mine. Reference to adjudication was declined in March, 1980 for the reason that the action of the management in retiring the workman on the basis of entries of date of birth, etc. in the colliery records, was not unjustified. A writ petition was filed in the Patna High Court by the aggrieved workman in November, 1980. His contention was that his retirement was premature and therefore amounted to illegal retrenchment and the Ministry of Labour had not come to the conclusion correctly in declining reference to adjudication. Only two respondents were impleaded; the Ministry of Labour and the Assistant Labour Commissioner concerned. It was decided to contest the case and a counter affidavit on behalf of the respondents was filed by the Regional Labour Commissioner.
Quality of Reference Work in the Ministry of Labour

Table XXIV shows that in a large number of disputes in the Coal Industry references to adjudication are declined every year by the Ministry of Labour on examination of merits of each case. These decisions appear to have stood the test considering the fact that in the last five years, only in three cases have the decision of the Ministry, been challenged in the High Court and Government called upon to revise its decision in only one of these cases so far.

Representations by Trade Unions to re-open old cases

It has been brought forth in the Chapter on trade unions that unions in the Coal Industry apart from being active and competitive are highly politicalised. Even so, they do not seek legal intervention through writs in the High Court where reference to adjudication is declined. Possibly this is because they are aware of the weaknesses of their demands. Yet, on the other hand in most of such cases they come up to the Ministry of Labour with repeated representations either by themselves to various authorities in the Ministry or through
Members of Parliament with the latter's recommendations to the Minister. At least five Members of Parliament are presidents of active unions in the Coal Industry. In quite a few cases they take up the cause of their unions by recommending adjudication, where, in previous reviews references were declined. Records of the Ministry of Labour showed that for the Dhanbad Region alone, the number of cases in which Members of Parliament had recommended reference during 1931 exceeded 40 besides over 120 cases in which unions themselves addressed the Ministry of Labour for reviews. These together work out to over 50 per cent of the cases in which adjudication was rejected during the period. As reference to adjudication is declined after careful examination of the merits of each case, changing these decisions where no new convincing grounds have been adduced to warrant such changes, would have a deleterious effect, as unions would attempt to take up all old and closed cases by citing some new cases of reference to adjudication secured through repeated reviews. This is particularly so, because in the Industrial
Disputes Act, no specific time limit has been laid down for the raising of an industrial dispute over any demand of the workmen and hence belated reference of disputes alone is not a sufficient reason for declining reference to adjudication. This is not to say that decisions for declining adjudication once taken are never changed. Whenever new points not raised or considered earlier, are brought out or circumstances exist allowing scope for revision of a previous decision, the matter is re-examined. If necessary the latest information or clarification is obtained through the Chief Labour Commissioner and his officers. Where adequate grounds are made out, reference to adjudication is made in supersession of previous orders. According to the records of the Ministry, during the year 1981, after re-examination, reference to adjudications were made in 7 cases in modification of previous decisions.

Role of the Administrative Departments

In practically all disputes in the coal industry, the administrative Department which is the Department
of Coal have disagreed with the proposal of the Ministry of Labour for reference to adjudication. However, all these cases but one were decided at levels below that of the Minister. In only one solitary case of 1975, the Department of Coal opposed the proposal of the Ministry of Labour with the approval of the Minister for Energy. This case related to demands for absorption of some workers who were found to be imposters, wrongly claiming to have been employed prior to nationalisation of coalmines. After protracted correspondence, the Ministry of Labour agreed to decline reference to adjudication. Thus there has been no case where proposal for adjudication had to be taken up by the Ministry of Labour at the Cabinet's level over disagreement with the Minister in charge of the Department of Coal.

Two cases where the Department of Coal agreed, most basic, to refer

Contrary to general pattern, there have been two cases where the Department of Coal agreed straight away to the proposal of the Ministry of Labour for referring disputes to adjudication. The first of these was in 1977 when there was a continuing strike. The
Department of Coal consented to reference to adjudication. As a result the order referring the dispute to adjudication could be issued within five days of the receipt of the failure of conciliation report and the continuance of the strike was prohibited under Section 10(3) of the Industrial Disputes Act. The circumstances in the second case which occurred in 1980 were similar. Because of extreme urgency to refer an important demand to adjudication, the Department of Coal agreed to the proposal of the Ministry of Labour. The order referring the dispute to adjudication was issued within a day of receipt of the failure of conciliation report. As a result, the union was able to persuade the workers to call off the strike at once.

Case analysis to Determine factors Responsible for Delay

It goes without saying that industrial disputes should be handled most expeditiously at every stage. It is, therefore, important to make an analysis of the time taken in the Ministry of Labour in disposing of failure of conciliation reports received from the coal industry. For the purpose of this study two cases
have been taken from each year from 1976 to 1980. Each case is at one extreme. The first has the maximum delay and the second the least. The purpose is to understand the reasons for delay as well as the reasons for quick disposal. The maximum time taken in disposing of a case in 1976 was a year and one month. The failure of conciliation report was received in April, 1975 and the Chief Labour Commissioner's recommendation in August of that year. Reference to the administrative Ministry was made towards the end of July, 1975 even before the Chief Labour Commissioner's recommendation was received. The Department of Coal sent a final reply only in April 1976 and reference to adjudication could be made only in May 1976. The delay in this case was due to the belated reply from the administrative Ministry.

Minimum time taken in 1976

The minimum time taken for a case during 1976 was one and a half months. In this case failure of conciliation report was received in May, 1976. The Chief Labour Commissioner's recommendation was
received in June, 1976. As the dispute was in a private sector mine of the Tata Iron and Steel Company, there was no need for consultation with the administrative Department. This resulted in finalisation of the decision as early as in June 1976, when the adjudication order was issued.

**Maximum time taken in 1977**

In 1977 the maximum time taken in deciding on a failure of conciliation report was one year and nine months. In this case, the report was received in December, 1975 and the Chief Labour Commissioner's recommendation in June, 1976. The Chief Labour Commissioner did not favour reference to adjudication. The Department of Coal who were addressed in June 1977, opposed adjudication. After examining the case on merits, it was decided to make a reference to adjudication and the order was issued by the end of August, 1977. The delay in this case was due to the fact that the reference to the administrative Department could have gone earlier and also because of the
delay in the receipt of the report from the Chief Labour Commissioner. Nevertheless this case deserves mention as one where the Ministry of Labour decided to refer the dispute to adjudication despite views to the contrary of the Department of Coal and the Chief Labour Commissioner.

**Minimum time taken during 1977**
The minimum time taken in a case during 1977 was five days. The strike notice came on the 14th of October, 1977 and the failure of consiliation report was received ten days later on the 24th October. On the basis of the strike notice and in view of the extreme urgency, in consultation with all interests concerned, adjudication order was issued on the 19th October, 1977. An order prohibiting continuance of the strike was issued immediately thereafter.

**Maximum time taken in 1978**
The maximum time taken in a case during 1978 was 2 years and 5 months. The failure of consiliation report was received in April, 1976. The Chief Labour Commissioner's recommendation was received in May of the same year. After obtaining the views of
the Department of Coal, adjudication was declined in
July, 1976. One year and 3 months thereafter, in
October, 1977, the union represented against the
decision. The Assistant Labour Commissioner was
consulted. A reference was made to the Department
of Coal in January, 1978. Their comments were
received in July, 1978. After examining the case
all over again, reference to adjudication was made
in September, 1978. The main contribution to the
delay in this case was from the union which took
15 months to represent and the Department of Coal
which took 7 months to comment on the second
occasion.

Minimum Time taken in 1978

The minimum time taken in making a reference in 1978
was only one month. The failure of conciliation report
was received in January, 1978 regarding a dispute
in a private sector colliery of the Tata Iron and
Steel Company. The Chief Labour Commissioner's
comments were received in about three weeks time.
The order referring the dispute to adjudication was
issued in February, 1978. The fact that the
management in this case was in the private sector,
made it unnecessary to consult the Department of Coal. The timely recommendation made by the Chief Labour Commissioner within three weeks, helped early disposal of the case.

Maximum Time Taken in 1979

The maximum time taken in referring a case in 1979 was a record 3 years and 10 months. In this case, the failure of conciliation report was received in November, 1976. The Chief Labour Commissioner's recommendation not favouring adjudication, came in March 1976. Adjudication was declined in April, 1976. The union represented against this order in April, 1978. The General Secretary of the union met the officials of the Ministry while handling over his representation and explained the case in person. The Ministry took up the matter with the Chief Labour Commissioner who in turn consulted his field officers. In October, 1978, the Chief Labour Commissioner recommended reference and immediately the Ministry of Labour made a reference to the Department of Coal. The Department replied in December, 1978 opposing the proposal. Decision was taken in September, 1979 to make a reference
to adjudication and the order was issued accordingly
during that month. The main reason for delay in the
case was the time taken by the union in taking up its
representation with the Ministry. It had taken two
years for this.

Minimum Time Taken in 1979

The minimum time taken in the disposal of a case in
1979 was 35 days. The failure of conciliation report
was received towards the end of August, 1979 and the
Chief Labour Commissioner's recommendation in September
1979 against reference to adjudication. On merits,
however, the Ministry of Labour found the dispute to be
fit for adjudication. As the establishment was a mine
under the Tata Iron and Steel Company, there was no need
to consult the Department of Coal. The order referring
the dispute to adjudication was made in early October,
1979. The speedy issue of order for reference to
adjudication was possible in this case because the
establishment was in the private sector.

Maximum Time Taken in 1980

In 1980 the maximum time taken in referring a case
to adjudication was a year and 10 months. The
failure of conciliation report was received towards the end of May, 1978 and the Chief Labour Commissioner's recommendation in June, 1978. Reference to the employing Department was made in the same month. Their comments were received in September, 1978. On these comments of the Department of Coal, further clarifications had to be called from the Chief Labour Commissioner. Ultimately, adjudication was declined in July, 1979. The union represented for reconsideration in December, 1979. A further reference was made to the employing Department on 1st January, 1980. As their comments were not received, the matter was examined on merits and order referring the dispute to adjudication was issued on April, 1980. The main reason for delay in this case was that the matter remained under correspondence between the Chief Labour Commissioner and his field officers from September 1978 to July, 1979 and ultimately a decision had to be taken by the Ministry of Labour without waiting for their comments any longer.

Minimum time taken in 1980

The minimum time taken in referring a case in 1980 was just one day and therefore, a record. The
failure of conciliation report was received on 27th December, 1980. The Chief Labour Commissioner's recommendation was also received on the same day. The matter was immediately referred to the Department of Coal who gave their concurrence to the referring of the dispute to adjudication on 28th December, 1980. The order sending the dispute to adjudication was issued on the same day. In this case, prompt action was taken at all levels because of a strike on a charter of demands and the one demand referred to adjudication was the crucial issue.

Analysis of causes for delay

The foregoing analysis of cases shows that there are three reasons which contribute to delay in referring disputes to adjudication. The first of these is the time taken by the Chief Labour Commissioner in furnishing the details and clarifications sought by the Ministry of Labour. The procedure adopted since 1981 giving the Chief Labour Commissioner a limit of one month time for his comments on the failure of conciliation report, has brought about considerable improvement in the
speed of disposals. However, where the failure of conciliation report is curious and does not take into account all the relevant facts and circumstances of the case, it becomes necessary for the Ministry to get clarifications from the Chief Labour Commissioner. He in turn has to get these from the Regional Labour Commissioner and the conciliation officer. This requires time and therefore causes delay. We have seen how in a case of 1960, the Ministry waited for the Chief Labour Commissioner's report for nearly a year and ultimately unable to wait longer, had to refer the dispute to adjudication without the benefit of his advice. One way to cut down delay on this account is to improve the quality of conciliation work and the failure of conciliation report and this has been discussed in the chapter on conciliation of disputes. The other reason for delay is the time taken by the Department of Coal which in the case of the mines under the Coal India Limited is the employing Department. Here again, the Ministry of Labour in recent times is adhering to the two months limit and as a result the delay
on this account has been cut down. As has been
seen in the analysis of causes, where the coal mine
was under the Tata Iron and Steel Company, reference
could be made in record time. In fact three of the
five cases studied under the minimum time taken
category are of this type. The two other cases were
those, where unions had gone on strike. The
Department of Coal which normally does not send its
comments even after two months, gave their
concurrency to reference immediately in these two
cases. The third reason for delay is the time
taken by the unions in representing against an order
declining reference. We have seen cases where
unions took as long as two years to do this. It is
in the interests of the unions and the workers to
cut down this delay.

The Organisation of Industrial Tribunals

According to section 7A of the Industrial Disputes
Act, Government can set up Industrial Tribunals for
the adjudication of industrial disputes relating to
all matters specified in the second and third
schedules to the Act. The presiding officer of the
Tribunal has to be a person who is or has been a judge of a High Court or a person who has been a District Judge on an Additional District Judge for not less than three years. There are eight Tribunals under the Central Government. For a study of adjudication of industrial disputes in the coal industry it was necessary to select Tribunals which mainly deal with disputes in that industry. These had to be the three Tribunals which the Central Government has located at Dhanbad. Although they deal with a few cases from the banking, insurance and other mining industry, the bulk of the references received by them pertain to disputes from the coal industry. The first Tribunal known as Tribunal No.1 has been traditionally presided over by a retired Judge of a High Court. Justice B.K. Bay a former Judge of the Orissa High Court was holding this office at the time of this study. The two other Tribunals known as Tribunals II and III were presided over by retired officers of the Bihar Judicial Service.

Recent trends in work load on Reference of Disputes in the Coal Industry

In the Chapter on conciliation, it was seen how the number of disputes in the coal industry has grown in
recent years. This has reflected as additional work for the two Desks which handle industrial disputes in coal in the Ministry of Labour and correspondingly, in the number of references made to the Tribunals as may be seen in the following Table.

**Table XIV**

**Industrial Disputes in Coal mines**

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of P.O.Cs received</th>
<th>No. of industrial disputes in which References made to adjudication</th>
<th>References to adjudication declined</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>1977</td>
<td>440</td>
<td>103</td>
<td>219</td>
</tr>
<tr>
<td>1978</td>
<td>419</td>
<td>170</td>
<td>320</td>
</tr>
<tr>
<td>1979</td>
<td>455</td>
<td>171</td>
<td>248</td>
</tr>
<tr>
<td>1980</td>
<td>482</td>
<td>244</td>
<td>277</td>
</tr>
<tr>
<td>1981</td>
<td>693</td>
<td>253</td>
<td>389</td>
</tr>
</tbody>
</table>

**Note:** Disposals shown in columns (3) & (4) do not necessarily relate to the same P.O.Cs received during the year (Column(2)).
Work Load of Tribunals and Disposal of Cases

There has been a marked increase in the number of references. There is also high accumulation of arrears of cases. The disposal rate by the three Tribunals during 1981 is shown in the following table.

| Table XIV |
| Disposal and pendency at the Tribunals in Thimpu in 1981 |

<table>
<thead>
<tr>
<th>Month</th>
<th>Tribunal No. 1</th>
<th>Tribunal No. 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Disposal</td>
<td>Pending</td>
</tr>
<tr>
<td>January</td>
<td>4</td>
<td>57</td>
</tr>
<tr>
<td>February</td>
<td>3</td>
<td>60</td>
</tr>
<tr>
<td>March</td>
<td>5</td>
<td>57</td>
</tr>
<tr>
<td>April</td>
<td>3</td>
<td>61</td>
</tr>
<tr>
<td>May</td>
<td>5</td>
<td>66</td>
</tr>
<tr>
<td>June</td>
<td>5</td>
<td>69</td>
</tr>
<tr>
<td>July</td>
<td>6</td>
<td>68</td>
</tr>
<tr>
<td>August</td>
<td>4</td>
<td>72</td>
</tr>
<tr>
<td>September</td>
<td>1</td>
<td>75</td>
</tr>
<tr>
<td>October</td>
<td>3</td>
<td>81</td>
</tr>
<tr>
<td>November</td>
<td>5</td>
<td>80</td>
</tr>
<tr>
<td>December</td>
<td>3</td>
<td>83</td>
</tr>
</tbody>
</table>

Contd...
The disposal rate averages to about 5 cases a month.
In a year each Tribunal can dispose of about sixty cases. At the end of the year, the number of pending cases with Tribunal No.1 was 83 as against 57 at the beginning of the year. The pending cases with
Tribunal No. I increased from 72 to 96 during the same period. The pendencies with the third Tribunal rose from 142 to 150. The total number of cases pending at the end of December, with the three Tribunals together, was 329. At the rate of 60 disposals a year, this is a year's workload for five Tribunals. Delay in the disposal of cases frustrates workers. It is therefore necessary to increase the number of Tribunals.

Causes for Delay in Disposal of References

In the course of this study it was necessary to examine to what extent procedural difficulties contribute to delay. For this purpose it was essential to look into the various stages through which a reference to the Tribunal has to pass before it culminates into an award. This task was made considerably easy when Justice B.I. Ray agreed to explain the various steps involved and factors contributing to delay at each step. Industrial Tribunals are required to follow the Code of Civil Procedure as in the case of original suits. The moment a reference is received in the tribunal's office notice is sent to the parties to file their
written statements by a certain time. Invariably, written statements are not filed on the fixed date and instead, applications for time to file written statements are made by the parties. Experience shows that very often a party applies for time more than three or four times. On each such occasion petition for time is filed mentioning some unsurmountable difficulty. At that stage the Tribunal has no material to disbelieve the existence of the difficulty presented by the party in its application for time, there being no challenge by the adverse party to the genuineness of the cause shown for time. Necessarily, the Tribunal, however reluctant it may be, has to grant time for filing written statement to the party applying for time. In this way by the time written statements are filed by both parties a long time elapses. Therefore, the case does not become ready for hearing. After filing of written statements, the rules provide for filing rejoinders to the written statements, for filing documents by parties on which they rely, for calling for documents by a party from its adversary, for calling for documents from offices, and for summoning witnesses.
Each party has a right to avail of the opportunity provided in the rules. If the Tribunal denies any such opportunity to a party, there arises a case of denial of justice and the Tribunal can be held responsible for adopting an irregular procedure. This may result in quashing of the entire proceedings. For following the entire procedure, time is required. If a party avails of the first opportunity given to it to take steps provided in the rules, much time may be saved. But here also parties come forward with applications for time on some ground or other and the Tribunal having no material before it to disbelieve the grounds for adjournments has to oblige the parties by allowing their petitions for time. At each stage of the procedure the Tribunal has to pass a judicial order. After the entire procedure is covered in this way, in some cases parties come forward with applications with prayers to hear and dispose of some preliminary points raised in the pleadings before hearing the case on merit because the preliminary points go to the root of the matter. On most of the occasions, the petitions are allowed and preliminary points raised are heard
and disposed of after recording evidence if led by the parties. This also takes time. It is only then that a case becomes ready for hearing. If in a month only five cases are ready for hearing and all those cases are heard and disposed of by the Tribunal in that month it would not be proper to say that the disposal in that month is low. It is only when there is no dearth of cases ready for hearing and out of them a very small number is disposed of, can it be said that the disposal is low. Even in ready cases fixed for hearing, parties apply for time on some ground or other. There will be no material before the Tribunal then to disbelieve the grounds specially when the other side does not challenge them. In that event, cases have to be adjourned to another date for hearing which again results in delay. If on the other hand the petitions for time are rejected by the Tribunal, the only alternative left for the Tribunal is to hear the case ex-parte and pass an ex-parte judgement. Thereafter it is open to the defaulting party to apply to set aside the ex-parte order on the plea that for
reasons beyond its control it could not be present when the case was heard. Disposal of such application would require some time because, after notice, the other side is to be heard. If the application is ultimately allowed, the whole case has to be re-opened which would cause fresh harassment to the parties. To avoid this, very often petitions for time on the dates of hearing of cases are allowed subject to payment of cost to the other side and granting time on the dates of hearing is bound to cause delay in disposal.

Suggestions for Reducing Delays

The foregoing analysis shows that the leisurely manner in which the parties move, is more than anything else responsible for the delay in disposal of cases. All the three Presiding Officers were unanimous in their view that the rules followed by Industrial Tribunals need not be the same as in the Code of Civil Procedure. It was necessary to have a procedure which is more stringent and has some sort of a limit on parties applying for time. The rules should be tightened so that there is no chance of parties moving in a leisurely way during
pendency of cases.

**Implementation of awards**

The final stage in the whole process of reaching requisite relief to a legitimately aggrieved workman lies in the actual implementation by the employers of an award available in his favour. The following Table shows the position regarding implementation of awards in the coal industry.

*Table XXVII*

**Implementation of awards in the coal industry**

<table>
<thead>
<tr>
<th>Year</th>
<th>Tribunal Awards Received</th>
<th>Implemented</th>
<th>Implemented in progress</th>
<th>Not implemented due to stay</th>
<th>Not implemented due to neglect</th>
<th>Orders of Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>122</td>
<td>43</td>
<td>13</td>
<td>28</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td>139</td>
<td>50</td>
<td>30</td>
<td>27</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td>122</td>
<td>59</td>
<td>18</td>
<td>28</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td>114</td>
<td>70</td>
<td>16</td>
<td>18</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>1979</td>
<td>163</td>
<td>65</td>
<td>64</td>
<td>21</td>
<td>13</td>
<td></td>
</tr>
</tbody>
</table>

*Source: Ministry of Labour, Desk III-A.*
Figures in the Table show that in a fairly large number of cases, managements do not implement the award. Awards which are not implemented fall in two categories. The first is where the managements have sought to revise the decision of the Tribunal in the High Courts. The second is where the managements have just neglected to implement the awards. The aggrieved worker has to wait a long time to get the award. If there is delay in its implementation even thereafter, his frustration can be imagined. While appeals to High Courts cannot be ruled out totally, it should be possible, as a measure of policy, to limit them to awards where substantial points of law are involved. As almost the entire industry is in the Public Sector such a decision can be implemented through Government instructions. This is a matter which the trade unions in the coal industry can take up with Government seriously. Between 1975 and 1979, one hundred and ten awards were not implemented by the management out of sheer neglect. Under Section 29 of the Industrial Disputes Act breach of an award is an offence for which the person responsible can be prosecuted. In the case of the coal industry, the
Chief Labour Commissioner is the authority for launching such prosecutions. According to the Chief Labour Commissioner only in one case, prosecution had been launched between 1975 and 1979. The case was pending in the court and might end up with only a fine.

Suggestions for Improvement in Implementation of Awards

It is clear that prosecution does not bring any substantial remedy to the worker affected by non-implementation of the award. This, therefore, is another matter to which the Joint Bipartite Committee on coal industry should devote itself. It should be possible for the Committee to monitor the implementation of awards by the managements. In the process, not only those awards which have been neglected by the managements, but also those on which the managements are going slow can be attended to. Thus the trade union representatives on the Committee can play a very useful role in ensuring implementation of awards.