CHAPTER IV

MODUS OPERANDI OF

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Negotiation is a process through which attempts are made to resolve the employee problems and it is a method of settling industrial disputes. Management and the employees' representatives are the two parties which generally take part in negotiations with a view to reaching an amicable agreement on employee issues. This process involves offering proposals from employees side and their consideration from the management side. The negotiation to be effective requires a constant revision and streamlining of the policies of negotiation and methods of implementation.

This chapter deals with genesis of Permanent Negotiating Machinery and its structure in Indian Railways. An attempt is also made to explain the procedure of Permanent Negotiating Machinery meetings at various levels in the railways.


A. GENESIS OF PERMANENT NEGOTIATING MACHINERY IN INDIAN RAILWAYS

Management of most of the organisations in the pre-Independent era was left to private persons who were neither interested in the workers' welfare nor in developing the organisations. The power game played by several managements upto 1924 did not allow the workers to prosper. They also prevented them from forming labour unions. The managers of private organisations offered minimum facilities to the workers and exploited them to a maximum extent.\footnote{Biswanath Gosh, "Personnel Management and Industrial Relations--Its Nature and Practice in India", The World Press Private Limited, Calcutta, 1987, p.248.} Indian Railways are, however, an exception to this situation.

The administration of railways as early as in 1922, itself introduced a 'District Welfare Committee' in the traffic departments to discuss the matters on which disputes generally arise. As a further step, the railway administration instituted in 1924 a scheme of 'Coordinated Local Committees' for settlement of local disputes and if possible, their prevention.\footnote{Report of the Royal Commission on Labour, op. cit., p.164.} Later, these Committees were referred to as 'Staff Committees' or 'Staff Councils'.

\footnote{2. Report of the Royal Commission on Labour, op. cit., p.164.}
Staff Councils

Thus, the earliest system of Joint Consultation in Indian Railways had taken the form of 'Staff Councils' through which negotiations were conducted between the workers and management. Although the Staff Councils were introduced on the Indian rail system as early as 1923,¹ they gained popularity only after 1954.

The Railway Board constituted the Staff Councils with the representatives of both management and employees with a view to achieving harmonious relations between the two parties to negotiations.² The Staff Councils worked at three levels viz., at the important stations where more than 500 employees were working; at divisional level; and at zonal level. In addition to these, there were Staff Councils in Railway Workshops. The number of Councils on railways increased from 135 to 447 during 1955-56 to 1955-66. The number of meetings held increased from 338 to 719 during the same period.³ But it is felt that Staff Councils failed in meeting the long standing aspirations

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¹. Ibid.
³. Calculated from the minutes relating to the Staff Council meetings for the above years.
of employees particularly in respect of working conditions. It was also found that Councils failed to function as a means of negotiations and to improve the relations between employees and management. The main causes for failure of Staff Councils as a means of negotiation were as follows:

(i) Staff Councils were established only at the zonal and grassroot level by completely neglecting the apex level of railways organisation i.e., Railway Board level, where the decisions in respect of policy issues had to be dealt with.

(ii) The administration used to attend the Staff Council meetings with inadequate preparations.

(iii) There was no cooperative attitude among the officers. ¹

(iv) Low educational background of and absence of training facilities to employee representatives.

(v) The representatives of both the employees and the employer were nominated by the railway administration to these committees. But the

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1. It was felt by the trade union leaders that 'Staff Council' was only a technique used by the administration to curb the healthy trade unionism'. (Report of the General Secretary, N.F.I.R., Fourth Annual Convention, 1960, p.62).
employees' representatives were found to be more favourable to the management side than to their own employees side. Hence, these Councils failed to gain the goodwill of employees and trade unions.

In the context of failure of the Staff Councils, the federations started demanding the railway management to abolish the Staff Councils. However, the administration tried to encourage the employees to take better interest in the working of Staff Councils, which did not bear any fruit. Realising the situation, the Railway Board abolished Staff Councils in 1967.

Further, the Trade Disputes Act 1929 provided scope for establishment of Labour Courts and Boards of Conciliation to investigate into trade disputes and often for their settlement on an ad hoc basis. The Act was, however, subjected to severe criticism for restricting freedom of right to strike by labour unions in the public

2. However, the Staff Councils are continued to function at the Workshop level of the railways.
utility concerns like the railways.\textsuperscript{1} In this connection the Royal Commission on Labour stated that while the Indian provision '..... restricts the powers of workers in public utility services to coerce their employers, it gives in return no assurance that their grievances will receive a hearing'.\textsuperscript{2}

In view of these limitations in the existing machineries A.I.R.F., demanded the Railway Board for the establishment of standing negotiating machinery on a permanent structure.\textsuperscript{3} In this connection, the Royal Commission on Labour suggested that the Railway Ministry and Union Government should think over in setting up a Joint Standing Central Board headed by a Chairman and Vice-Chairman appointed for this purpose by the Railway Board with equal number of elected employees' and employer's representatives.\textsuperscript{4} It was also suggested to start 'Railway Councils' at the zonal railway level to discuss the matters related to labour-

\begin{enumerate}
\item Subramaniam, K.N., "Labour Management Relations in India", Asia Publishing House, Bombay, 1967, p.221.
\item Ibid., p.223.
\end{enumerate}
management relations and further extending these Councils even to the lowest level i.e. Divisional or District Railway level. But the Government rejected the proposals of the Commission and no steps were taken to institute a joint standing negotiating machinery on a permanent basis. Consequent upon this, there was wide-spread labour unrest in Indian Railways.

Trade unions in Indian Railways Criticised that the Trade Union Act, 1926 and Industrial Disputes Act, 1947 failed to fulfil the long standing expectations of the railway employees. The All India Railwaymen Federation, started agitating on the issue of setting up a negotiating machinery on permanent basis. A notice was also served to the Government to the effect that the strike would begin from 6 A.M. on August 27, 1951. At the initiative of the then Railway Minister, federation had negotiations with railway management and the strike was deferred to a period of two months, as the Minister for Railways agreed to set up a Permanent Negotiating Machinery. The Railway

1. Ibid., p.169.
3. Ibid.
Board on 24th December, 1951 announced its decision to set up Permanent Negotiating Machinery in the railways as a three-tier structure, i.e., at the divisional level, the zonal level and the Board level, for maintaining contact with labour and resolving disputes and differences which may arise between the labour and the administration. The machinery, however, came into operation on January 11, 1952, when an agreement was arrived at between the Government and labour interests. Since then the Permanent Negotiating Machinery has been functioning at all the three levels.

B. CONSTITUTION OF PERMANENT NEGOTIATING MACHINERY

(i) At Divisional/District level

At the divisional/district level, the officers meet the branches of the recognised unions at least once in two months, if necessary more than one time, under the Permanent Negotiating Machinery. Each workshop is treated

3. Ibid.
as a district. The particular branches of the unions which should meet the administration should be greed upon between the General Manager and the union.

The detailed procedure of arranging the meetings should be agreed upon between the union and management at divisional level. This should include a provision that the branch union should supply the subjects which it proposes to raise at the meeting with a memorandum, spelling out its viewpoints well in advance, for it enables the officers effectively involve in the discussions that would be held.

It is the responsibility of the local branch union to present the grievance to the Divisional/District Officers when a problem is presented to it by an individual employee. The individual issues can be taken up for representation only by the branches initially. The Divisional office-bearers or the Central office-bearers can only pursue them further.¹ The branch Secretary, immediately

after receiving a written representation of the grievance from an employee, forwards the same to the Divisional Railway Manager. If the secretary of the branch union receives a negative reply within the stipulated period of 35 days or if the reply given by the divisional railway administration is not found satisfactory, the secretary treating the item as a dispute qualified to be include it as a subject for P.N.M. meetings at his discretion. The Secretary, before listing the item on the agenda should bear in mind the instruction issued by the Railway Board which reads as follows:

"that the meetings are held to discuss points about which there is dispute or disagreement, would arise only after the informal meetings or correspondence have already taken place".¹

(ii) **At the South Central Railway Headquarters Level**

At the zonal railway headquarters level of South Central Railway, the General Manager or the Assistant Deputy General Manager-in-charge of staff will meet the

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¹. Railway Board's Circular to General Managers, No. E(L) 56 NM 1-6, 21 July 1953, p.4.
union at least once in a quarter. At this level, subjects for discussion in the P.N.M. meetings will comprise those which are within the powers of the zonal officers concerned. In addition, unsettled issues at the divisional/district level may also be raised at this level for further negotiation. However, the Railway Board laid that "all disciplinary matters and subjects like promotions, transfers etc., of individual members of the staff, which do not involve any general principle, will be excluded from the scope of the discussion except at the discretion of the officer concerned."  

An agenda of P.N.M. meetings held at the zonal headquarters level generally constitute the issues referred to by the divisional/district branches (which were unsettled at their level) of the recognised unions and the issues represented by the individual employees which have to be settled at zonal level.

The Central Office of unions, immediately after receiving the representations from the lower levels and

1. Mahesh Kumar Mast, op. cit., p.106.

from individual employees, refer them to the zonal railway administration. If the reply received by the zonal union is found inappropriate or undue delay is caused in getting the reply in respect of any issue, that issue becomes a 'dispute' and can be listed in the P.N.M. agenda of headquarters' level.

(iii) **At the Railway Board Level**

At this level, Railway Board meets the two federations separately under the P.N.M. meetings once in every three months. Questions concerning pay, allowances and policy matters, in addition to unsettled issues at the zonal level are discussed at this level.

If the agreement is not reached between the two parties on any matter of importance even at this level, such matter may be referred to an ad hoc railway Tribunal which will be set up for dealing with them at the Centre. This Tribunal will consist of an equal number of representatives of railway labour and the railway administration with neutral Chairman. The Tribunal will be enabled to

1. Mahesh Kumar Mast, op. cit., p.107
make such investigations as they deem necessary before it gives its award.

It would be open to the Government to accept, reject or modify the decision of the Tribunal and where the matters in dispute affect the worker under Ministries other than the Railway Ministry, these Ministries will be consulted as to:

(i) Whether they have any objections to the disputes being referred to the railway Tribunal,\(^1\)

(ii) Whether they would like the dispute to be referred to an ad\textit{hoc} Commission on which they will also be represented\(^2\).

On matters which have been settled by an agreement or in which the Government ultimately accepts the decision of the Tribunal, it will not be open to the federations to raise the same issues again for a period of two years. In such of those cases in which the Government have rejected or modified the decision of the Tribunal, the issue may be raised at the end of one year.\(^3\)

\(^1\) Mahesh Kumar Mast, \textit{op. cit.}, p.107.

\(^2\) Ibid.

C. NEGOTIATING PROCEDURE

The negotiating procedure generally followed in Indian Railways can be classified into five phases viz., pre-negotiation phase, selection of negotiators phase, developing the tactics of negotiating phase, and implementation phase.

(1) Pre-negotiation stage

The significance of pre-negotiation phase lies in bringing both the parties of negotiations for a mutual understanding of the issues to be discussed at a particular meeting either through informal meetings or through correspondence. The process ensures both the parties to discuss only those items which have been communicated between them and enables the management to estimate the economic impact of issues. The employees of the organisation will be benefited as most of the issues may be settled without causing undue delay as the administration attends the P.N.M. meeting with complete knowledge and pre-occupied minds about the decisions to be taken at the meeting.

1. Tondon, B.K., op. cit., p.45.
The first task in this stage is preparing the advance time-table for conducting P.N.M. meetings. The officials at different levels fix up the time-table either at the beginning of the year or before holding the first meeting in the year with each recognised union. The time-table is served to the respective unions in advance, so that the recognised unions may chalk out a programme for meetings. The time-table indicates clearly the total number of meetings that are proposed to be conducted in that year with each union, the number of issues specified to each meeting, the time allowed for the union for preparing the agenda, the date on which the meeting will be held and other relevant information.

The second activity of this phase includes investigation and listing of issues to be discussed at the P.N.M. meeting. The unions working in the organisation are allowed to present a complete list of demands to the management well in advance of the actual negotiations and to discuss them in informal meetings before they are included in the agenda.
Informal Discussion

The union representatives are provided with an opportunity for informal discussion with the administrative negotiators concerned before actual meeting takes place. Both the administration and the employee representatives may be able to know the preliminary details about the items that are proposed to be discussed in P.N.M. meeting. This informal discussion enables both the parties to find out the causes for grievances much before the schedule date. Such informal discussions also help to segregate the minor and major issues for discussion and enable the management to concentrate on important issues. Further, the difference of opinion between the parties regarding the issues can also be narrowed down. Some of the minor issues may be settled in these discussions. Owing to this, there may be every possibility either to eliminate or to reduce the number of issues in these meetings. Even if the grievances are not resolved, the parties will be benefited in the form of knowing the other party's mind. Though the informal discussions increase the burden on the administrative officials, it will go a long way in reducing the paper work and pressure on the administration in P.N.M. meetings. At the same time it also reduces the number of subjects left over for review.
Preparation of Agenda

The next activity of this phase is preparation of an agenda for discussion. An agenda includes the list of disputes on which the discussions will be held at the proposed meeting. The management and the unions should agree regarding the items for inclusion on the agenda before they are put for discussion. Unions, federations try to include those items which they are confident of successful settlement at an early date.

Careful and advance preparation of the issue is a must for successful negotiations. The economic situation of the country in general and the organisation in particular should be looked upon as an essential prerequisite in preparing the agenda. The unions include in the agenda the unresolved grievances through the informal meetings held before. The items relating to individual employees should not be included on agendas unless they are appropriate for discussions at particular levels where the meetings are proposed to be held. The number of items should be within the number prescribed by the management.

1. Ibid., p.43.
2. Ibid., p.45.
It should not include those irrelevant items which fall under the scope of specific Acts like Employees State Insurance Act, Payment of Minimum Wages Act\(^1\) and the like. The agenda should also state the names of the representatives of both administration and union officials who will participate in the meeting. The unions have to prepare the agenda based on the guidelines issued by the Railway Board regarding the size of the agenda, supporting information, etc.

(a) **Size of the Agenda**

The length of the agenda of P.N.M. meetings should not be too long as it affects effectiveness of the bargaining. In this connection the Railway Board observed as:

"to make the working of the negotiating machinery useful and successful, the tendency to enlarge the agenda should be made to continue discussions on important points instead of taking up minor issues at higher levels.\(^2\)

Therefore, the maximum number of items on agenda for each P.N.M. meeting at the divisional level or zonal

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2. Railway Board's Circular to General Managers, No.E(L) 56, NM 1-6, 21 July 1958.
level is fixed at 30 excluding those on which decisions were not taken in the preceding meeting or meetings.\(^1\)

For major workshops, however, the limit should not exceed 15 items and for minor units the limit is fixed as 20 subjects.\(^2\)

(b) **Supportive Data**

Generally, the items of agenda are drawn in a precise manner and this precise information may not be sufficient to understand the magnitude of the issues at the time of actual discussion. Hence, two parties supply supportive data and information on each item in order to exchange the same in the meeting.\(^3\) This needs both the parties to attend the meeting with adequate preparation along with data for supporting their statements over the items at the time of negotiations. The management should thoroughly go through the entire records related to the issues listed on the agenda for this purpose. Similarly, the unions should collect the necessary data about the issues prior to holding the meeting. Otherwise the discussions may be postponed by making out remarks such as

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1. Ibid.
2. Ibid.
'administration required further information' or 'union required clarifications'. This practice must be very rare, seeing that it results in loss of time, effort and workers' confidence in the functioning of collective bargaining.

(c) Administrative Remarks about the Issues on Agenda

As soon as the draft agenda is prepared, the union representative present the same to the management for scrutiny and finalisation. The management representatives may suggest changes in the form of 'administrative remarks' over the draft agenda submitted. For instance, administration may write as 'the item is not a proper subject to be dealt under permanent Negotiating Machinery meetings.' The administration also asks for any clarification or supportive data for the items on the agenda. The agenda is finalised by the administration after carrying out the suggested modifications by the unions. The administration also fixes the duration of time for discussion for each of the issue.

1. Administrative Remarks on the agenda submitted by S.C.R.M.U. for XXIX P.N.M. meeting with South Central Railway Administration.
(d) **Duration of Negotiations**

The time allowed for each subject to discuss completely and to arrive at a conclusion must be adequately sufficient. Too many items may not be fruitfully discussed in a short span of time. The management should, therefore, allot the duration for each subject in advance depending upon its nature and importance. The Railway Board initially fixed up only one day to complete all items on the agenda, including pending items in each meeting. Later on, the duration was extended to two days in view of the inadequacy of time to complete the discussion of all items in a day. However, it was realised that the time allocated was insufficient for each subject on uniform basis without considering the nature and gravity of the issues. Hence, it is suggested that discriminative policy should be followed in allotting the time to each issue. Further, it is observed that the parties resort to an unending arguments which result in wastage of time in P.N.M. meetings. Hence, it is suggested that the management, instead of indulging---

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1. Minutes of P.N.M. meetings held between the employee federations and the Railway Board, 1959.
2. Observed from the minutes of P.N.M. meetings held between federations and the Railway Board.
3. Observed from the minutes of P.N.M. meetings held between federations and the Railway Board.
in endless arguments across the negotiating table, may take such issues for discussion in meetings to be held in future.

(e) **Communication about venue, date and time of P.N.M. meeting**

Immediately after accepting the agenda, the administration tries to chalk out a programme for conducting the P.N.M. meeting. The programme must clearly state the name of the union with which the meeting is to be held, the P.N.M. number, the venue, date and time of the meeting. A circular indicating the programme may be sent to sections concerned from which the grievances have been listed. Copies of the circular along with the agenda should be circulated among the union officials. Further, it should be also be displayed on the notice board.

(ii) **Selection of Negotiators**

Negotiators are expert individuals representing trade union and management, separately to put forth proposals and their discussion. They must bargain, convince and bring

a mutually amicable agreement. Negotiators representing workers' side ventilate the employees' version about the issues whereas negotiators representing the management put forth management's version about the same issues. As discussed earlier, the negotiators' selection from the union side is made by conducting general elections. The members of the unions may be provided with right to vote to elect their leaders who in turn act as the negotiators of employees. At the Board level, the presidents and General Secretaries of two recognised federations along with the other office-bearers negotiate with Railway Board administration. At the zonal headquarters level, the elected Presidents and General Secretaries along with other office-bearers, act as negotiators and conduct the negotiations with the zonal railway administration. Similarly, at the divisional/district level, the General Secretaries and Presidents of branch unions along with their team act as negotiators for conducting the negotiations with respective divisional railway administration.

As mentioned earlier, the negotiations on behalf of management are usually conducted by a small group of
top management officials. At the Railway Board level, the Chairman of the Railway Board select the negotiators to conduct the P.N.M. and J.C.M. meetings with two federations. At the zonal level, the General Managers of the respective railway zones with the assistance of Chief Personnel Officer select the negotiators to conduct the P.N.M. meetings. At the divisional/district level, the Divisional Railway Managers, with the help of the Divisional Personnel Officers, select the negotiators for representing the divisional railway administration for P.N.M. meetings. The Personnel Officers concerned at different levels are involved in the team of negotiators because they may be in a better strategic position to deal with the problem than other members of the negotiating team.

(iii) Negotiating Strategy

Strategy refers to the over all plan of how to proceed at the bargaining table to achieve objectives.

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The branch union at the divisional/district level, while negotiating, has to bear in mind the zonal headquarter's view on the particular issue though it is primarily representing the views of the people concerned in the division. On the other hand, the zonal railway administration, while negotiating they should give due weightage to the policies and objectives of Railway Board.

The two tactics, generally, followed by the unions and management are either persuasion or coercion.¹ The former tactics will have a positive impact over the labour productivity and industrial relations. The trade unions may try to persuade that a certain raise in wages, amenities, welfare facilities, increase in provision of quarters, sanitation facilities etc., will motivate the staff for increased human resource contribution to the organisational goals. The other tactics followed by unions are coercive tactics, by which they may resort to direct action which affects the industrial relations.

The two recognised federations in Indian Railways, although followed persuading tactics in negotiations with

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1. Reynold, op. cit., p.444
the Railway Board, had also resorted to coercive tactics which was probably due to the rigid and bureaucratic attitude of the railway management towards the railway employee problems. Another reason might be indifferent attitude of the management towards significant issues in spite of repeated reminders by the employee unions. Undernourishment, deplorable working conditions and shutting off the doors of all possible means through which employee problems could get solutions, culminating in the conclusion that it would not be possible to arrive at the solutions to the employee problems unless a recourse is made to coercive methods. These took the form of organising strikes, gheraos, dharnas etc.

(iv) Negotiating Process

Two parties to the collective bargaining, generally, view that the issue has strength and hence should be settled in their own favour; but it is practically difficult. However,

1. Opinion was expressed by the trade union leaders at the time of interview during October 1986 and March 1987.
2. Opinion was expressed by the trade union leaders at the time of interview during October 1986 and March 1987.
3. Opinion was expressed by the trade union leaders at the time of interview during October and March 1987.
there is some scope for agreement if the two parties discuss and negotiate the pros and cons of the issue across the table in right spirit with seriousness and in a friendly manner. This requires thinking the problem from others' perspective and understanding the divergent viewpoints with a view to reaching an amicable solution. Hence, both the parties should strive to resolve the issues to the possible extent in the meeting itself. Negotiations continue until differences are resolved or until the parties find that they cannot arrive at a satisfactory agreement. If it is not possible to settle the issue, for various reasons, the management may keep the items pending for further consideration. The management representatives, in fact, prepossess the minutes of each item that has been discussed, to ensure that the result of the discussion are recorded correctly and in the phraseology acceptable to both the parties. The draft copy of the minutes will be signed in the presence of both the parties, immediately after the closure of the meeting and the copies so signed are supplied to the Union.

(v) Implementation of Decisions

Generally, the decisions taken at the meeting are implemented forthwith and that any further examination or any consideration of a subject (if required), is undertaken with the least possible delay, before the next meeting held. Decisions which will have impact on the entire organisation are implemented on the basis of guidelines received from higher level. It is necessary, therefore, that the decisions related to issues taken at the division/district level, before implementation, should be communicated to the zonal headquarters. The General Managers, after examining the decision, may issue suitable instructions to the Divisional Managers for implementation of issues resolved. This procedure is also applied to zonal headquarters. At the headquarters level P.N.M. meetings, the General Managers should implement the decisions taken at the P.N.M. meetings held at their level, after receiving the instructions from the Railway Board.

Discrepancy should not be found in the implementation of decision. If the union observes any discrepancies in implementing the decisions, the same can be brought to the notice of officials concerned. The railway administration may take steps to avoid such discrepancies, if they are found genuine.