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INDIAN FACTORIES JOURNAL

A FORTNIGHTLY JOURNAL OF THE LAW RELATING TO
FACTORIES, LABOUR, WORKMEN'S COMPENSATION,
INDUSTRIAL DISPUTES, EMPLOYEES' INSURANCE,
PAYMENT OF WAGES, PROVIDENT FUNDS,
LAW REGULATING WORK IN MINES, ETC.,

WITH

The Acts, Ordinances, Rules and Notifications passed by the Central
Government and the State Governments
and Reports of Cases and Awards.

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THE INDIAN FACTORIES JOURNAL

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15TH AUGUST, 1958.

[PART XII

NOTICE TO SUBSCRIBERS

Vol. XIV of the Journal ends with this part. The General Index of the Volume along with the concluding portion of West Bengal Factories Rules, 1958, will be despatched along with the 1st part of Vol. XV.

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Madras Trade Unions Regulations—Amendment.

(G.O.Ms. No. 2640, Industries, Labour and Co-operation, dated 7th July, 1958)*

In exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (Central Act XVI of 1926) and in supersession of the Travancore-Cochin Trade Union Regulations, 1952, the Governor of Madras hereby makes the following amendment to the Madras Trade Unions Regulations, 1927, the same having been previously published as required by section 30 of the said Act.

AMENDMENT.

In the said regulations, regulation 1 shall be renumbered as clause (1) of that regulation and after clause (1) as so renumbered, the following clause shall be inserted, namely :—

“(2) They extend to the whole of the State of Madras including the Kanyakumari district and Shencottah taluk of the Tirunelveli district.”

Madras Plantations Labour Rules—Amendment.

(G.O. Ms. No. 2638, Industries, Labour and Co-operation, dated 7th July, 1958)*

In exercise of the powers conferred by sections 10 and 43 (1) of the Plantations Labour Act, 1951 (Central Act LXIX of 1951), the Governor of Madras hereby makes the following amendment to the Madras Plantations Labour Rules, 1955, published with Industries, Labour and Co-operation Department Notification, dated the 28th December, 1955, at pages 1-30 of the Rules Supplement to Part I of the *Fort St. George Gazette*, dated the 4th January, 1956, as subsequently amended, the same having been previously published as required by the said section 43 (1):—

AMENDMENT

In the said rules, in Form No. 22, after item 7, the following items, shall be added, namely :—

“ 8. The Government Order number and date in which the medical scheme was approved by the Government.

9. The conditions subject to which the medical scheme was approved.

10. Steps taken to comply with the conditions stipulated in the Government Order.”

THE WEST BENGAL FACTORIES RULES, 1958.

Notification No. 1693L. W./LW/IR-37/57, dated 22nd May, 1958.†

In exercise of the powers conferred by section 112 and, in particular, by sections 6(1), 7, 8(1), 9, 10(4), 11(1), 12(2), 15(1), 17(4), 18(4), 19(3), 20(2), 21(2), 22(1), 23(2), 29(2), 31(2), 34(2), 35, 36(6), 37(5), 38(1), 38(7), 42(2), 45(1), 45(4), 46, 47, 48(3), 53(2), 59(4), 59(5), 60, 61(8), 62(2), 72(3), 73(2), 76, 80, 83, 87, 88, 89(1), 107(1), 108(1), 109 and 110 of the Factories Act,

*Fort St. Geo. Gaz., 23-7-58, Rules Sup. to Part. I, p. 280.

†Cal. Gaz. Extry., 18-6-1958, Pt. I, p. 2201.

1948 (LXIII of 1948), and in supersession of all previous rules on the subject, the Governor is pleased to make after previous publication as required by section 115 of the said Act, the following rules, namely :—

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) These rules may be cited as the West Bengal Factories Rules, 1958.

(2) These rules shall extend to the whole of West Bengal.

(3) Save as otherwise expressly provided elsewhere in these rules, these rules shall come into force at once.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context :—

(a) “The Act” means the Factories Act, 1948, and “section” means a section of the Act:

(b) “Artificial Humidification” means the introduction of moisture into the air of a room by any artificial means whatsoever, except the unavoidable escape of steam or water vapour into the atmosphere directly due to a manufacturing process:

Provided that the introduction of air directly from outside through moistened mats or screens placed in openings at times when the temperature of the room is 80 degrees or more, shall not be deemed to be artificial humidification.

(c) “Belt” includes any driving strap or rope.

(d) “Chief Inspector” means an officer appointed under sub-section (2) of section 8 of the Act and includes “Deputy Chief Inspector”

(e) “Degrees” (of temperature) means degrees on the Fahrenheit scale.

(f) “District Magistrate” includes such other official as may be appointed by the State Government in that behalf.

(g) “Form” means a form appended to these rules.

(h) “Fume” includes gas or vapour.

(i) “Hygrometer” means an accurate wet and dry bulb hygrometer conforming to the prescribed conditions as regards constructions and maintenance.

(j) “Inspector” means an officer appointed under sub-section (1) of section 8 of the Act and includes the “Chief Inspector”, “Deputy Chief Inspector” and “Medical Inspector of Factories”.

(k) “Maintained” means maintained in an efficient state in efficient working order and in good repair.

(l) “Septic tank latrine” means a latrine of the Septic tank type, together with its filter beds, and includes activated sludge latrines and aerobic bacterial latrines.

Rules 3 to 12 prescribed under sub-section (1) of section 6.

3. *Approval of site and plan.*—(1) No building shall be constructed, extended or taken into use as a factory or a part of a factory on any site unless previous permission in writing has been obtained from the State

Government or the Chief Inspector for such construction, extension or use of the building on such site.

Application for such permission shall be made as nearly as possible in Form No. 1 which shall be accompanied by the following documents:—

(a) A flow chart of the manufacturing process supplemented by a brief description of the process in its various stages.

(b) Plans in duplicate showing—

(i) the site of the factory and immediate surroundings including adjacent buildings and other structures, roads, drains, etc.; and,

(ii) the plan, elevation and necessary cross-sections of the various buildings drawn to scale indicating all relevant details relating to construction of walls and roofing, natural lighting, ventilation and means of escape in case of fire. The plans shall also clearly indicate the position of the plant and machinery, aisles and passage ways.

(c) Such other particulars as the Chief Inspector may require.

(2) If the Chief Inspector is satisfied that the plans are in consonance with the requirements of the Act he shall, subject to such conditions as he may specify, approve them by signing and returning to the applicant one copy of each plan; or he may call for such other particulars as he may require to enable such approval to be given.

(3) No deviation of any kind from approved plans shall be made without the written permission of the Chief Inspector.

4. *Application for registration and grant of licence.*—(1) The occupier of every factory shall submit to the Chief Inspector an application as early as possible in Form No. 2, in duplicate, for its registration and grant of licence:

Provided that—

(a) in the case of any factory already in existence but in respect of which application for registration and grant of licence has not been submitted, the aforesaid application shall be submitted within fifteen days from the date of enforcement of these rules, or,

(b) in the case of any factory which comes into existence and is in use on the date of coming into force of these rules or on any date thereafter, the aforesaid application shall be submitted at least fifteen days before the occupier begins to occupy or use any premises as a factory.

(2) Notwithstanding anything in sub-rule (1) it shall not be necessary for the occupier of any such factory to submit the application before the expiry of fifteen days from the date of enforcement of these rules.

5. *Grant of licence.*—(1) A licence for a factory shall be granted by the Chief Inspector as nearly as possible in Form No. 3 and on payment of the fees specified in the Schedule A, B and C hereto: Provided that the fee payable by a factory declared under section 85 of the Act for grant of licence shall be ten rupees.

(2) Every licence granted or renewed under this Chapter shall remain in force up to the 31st of December of the year for which the licence is granted or renewed.

(3) The licence or a copy of it shall be framed and displayed in the factory at a conspicuous place near the main entrance.

SCHEDULE A
Scale of fees payable for Licence and Annual Renewal of Licence by factories defined under section 2(m)(i) of the Factories Act, 1948, other than Electricity Generating Stations.

Total amount of Rated H. P. Installed			Maximum number of workers to be employed on any day during the year.													
			1	2	3	4	5	6	7	8	9	10	11	12	13	14
10 or under	Over	Not over	10 to 20	21 to 50	51 to 100	101 to 250	251 to 500	501 to 750	751 to 1,000	1,001 to 1,500	1,501 to 2,000	2,001 to 3,000	3,001 to 5,000	5,001 to 7,500	7,501 to 10,000	10,001 & over
			Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
A.	...	...	25	50	75	150	300	450	600	750	1,000	1,250	1,500	2,000	2,500	3,000
B.	...	10	35	60	85	200	350	500	650	800	1,250	1,500	1,750	2,250	2,750	3,250
C.	...	50	45	70	95	210	360	525	675	825	1,300	1,550	1,800	2,300	2,800	3,300
D.	...	100	55	80	105	220	370	550	700	850	1,350	1,600	1,850	2,400	2,900	3,400
E.	...	250	75	100	125	240	390	570	750	900	1,400	1,650	1,900	2,500	3,000	3,500
F.	...	500	95	120	145	260	410	590	800	950	1,450	1,700	1,950	2,600	3,100	3,600
G.	...	1,000	115	140	165	280	430	610	850	1,000	1,500	1,750	2,000	2,700	3,200	3,700
H.	...	2,000	135	160	185	300	450	630	900	1,100	1,600	1,850	2,200	2,900	3,500	4,000
I.	...	5,000	165	190	215	330	480	660	1,000	1,200	1,800	2,050	2,400	3,100	3,800	4,300
J.	...	10,000 and over	195	220	245	360	510	690	1,100	1,300	2,000	2,250	2,600	3,300	4,100	4,600

SCHEDULE B

Scale of fees payable for Licence and Annual Renewal of Licence by Electricity Generating Stations, generating electric power for sale to the public.

1.	2	3	4
	Total installed capacity of the generating plant (in K.W.).	Number of workers to be employed.	Fee payable.
			Rs.
A.	50 K.W. or less	10 or above	25
B.	Over 50 K.W.—not over 100 K.W.	Ditto	50
C.	Over 100 K.W.—not over 150 K.W.	Ditto	75
D.	Over 150 K.W.—not over 300 K.W.	Ditto	100
E.	Over 300 K.W.—not over 750 K.W.	Ditto	150
F.	Over 750 K.W.—not over 1,000 K.W.	Ditto	225
G.	Over 1,000 K.W.—not over 5,000 K.W.	Ditto	450
H.	Over 5,000 K.W.—not over 10,000 K.W.	Ditto	750
I.	Over 10,000 K.W.—not over 50,000 K.W.	Ditto	1,250
J.	All over 50,000 K.W.—		
	(a) up to 60,000 K.W.	Ditto	1,500
	(b) up to 80,000	Ditto	1,750
	(c) up to 100,000	Ditto	2,000
	(d) up to 150,000	Ditto	2,500
	(e) up to 200,000	Ditto	3,000
	(f) up to 300,000	Ditto	3,500
K.	All over 300,000 K.W. (without limit)	Ditto	4,000

SCHEDULE C

Scale of fees payable for Licence and Annual Renewal of Licence by factories wherein no power is used, i.e., "factories" as defined in section 2(m)(ii) of the Factories Act, 1948.

	Maximum number of workers to be employed on any day during the year.	Fee payable.
		Rs.
A	20 to 30	10
B	31 to 50	25
C	51 to 100	50
D	101 to 200	75
E	201 to 300	100
F	301 to 500	175
G	501 to 750	200
H	751 to 1,000	250
I	All over 1,000, without any upward limit	300

Provided that if the fee for renewal of a licence is not deposited within the time specified in sub-rule (2) of rule 7, then notwithstanding any other action which may be taken, the amount of the fee payable for renewal of the licence shall be 25 per cent. in excess of the amount which would otherwise be payable, so, however, that the Chief Inspector may waive payment of excess fee if he is satisfied that there was sufficient reason for delay in payment :

Provided further that if part of the renewal fee is paid within the time specified then the 25 per cent. excess shall only be payable on the balance due.

6. Amendment of licence.—(1) A licence granted under rule 5 may be amended by the Chief Inspector.

(2) A licensee whose licence requires to be amended by virtue of increase in the number of workers employed or additional power installed shall submit it to the Chief Inspector with an application as nearly as possible in Form No. 2 stating the nature of amendment. Fee for such amendment shall be five rupees plus the amount by which the fee payable for the amended licence exceeds the fee originally paid for the licence.

7. Renewal of licence.—(1) A licence may be renewed by the Chief Inspector.

(2) Every application for renewal shall be submitted as nearly as possible in Form No. 2, in duplicate, on or before the 31st of December, every year.

(3) The fee that shall be charged for the renewal of a licence shall be subject to the scale of fees laid down in the Schedule A, Schedule B, Schedule C, or ten rupees as may then be applicable to the factory in respect of which application for renewal of licence is submitted to the Chief Inspector.

8. Transfer of licence.—(1) The holder of a licence may, at any time before the expiry of the licence, apply for permission to transfer his licence to another person.

(2) Such application shall be made to the Chief Inspector who shall, if he approves of the transfer, enter upon the licence, under his signature, an endorsement to the effect that the licence has been transferred to the person named.

(3) A fee of five rupees shall be charged on each such endorsement. The person to whom the licence is to be transferred shall submit a notice of occupation as nearly as possible in Form No. 2, and shall pay the endorsement fee.

9. An occupier shall not use any premises as a factory unless a licence has been issued in respect of such premises and is in force for the time being:

Provided that if application for grant of licence or renewal of licence has been submitted, and correct fee has been deposited, the premises shall be deemed to be duly licensed until such date as the Chief Inspector grants or renews the licence or refuses in writing to grant or or renew the licence.

10. Procedure on death or disability of licensee.—If a licensee dies or becomes insolvent, or otherwise disabled, the person carrying on the business of such licensee shall not be liable to any penalty under the Act for exercising the powers granted to the licensee by the licence during such time as may reasonably be required to allow him to make an application for the amendment of the licence under rule 6 in his own name for the unexpired portion of the original licence.

11. Loss of licence.—Where a licence granted under these rules is lost or accidentally destroyed, a duplicate may be granted on payment of a fee of rupees five.

12. Payment of fees.—(1) Every application under these rules shall be accompanied by a treasury receipt showing that the appropriate fee has been paid into the local treasury under the head of account XXXVI—Miscellaneous Department (Provincial)—Fees realised under Factories Act, 1948.

(2) If an application for the grant, renewal, amendment or transfer of a licence is rejected, the fee paid shall be refunded to the applicant, on a pay order issued by the Chief Inspector of Factories.

Rule prescribed under section 7.

13. Notice of occupation and particulars of factory.—The notice of occupation and particulars of the factory shall be as nearly as possible in Form No. 2.

CHAPTER II

INSPECTING STAFF

Rule prescribed under section 8 (1).

14. Appointment of Inspectors.—No person shall be appointed as Inspector for the purposes of the Act, unless he possesses the qualifications prescribed for such Inspectors in the Provincial Services Recruitment Rules at the time of his appointment.

Rule prescribed under section 9.

15. Powers of Inspectors.—An Inspector shall, for the purpose of the execution of the Act, have power to do all or any of the following things, that is to say:—

(a) to photograph any worker, to inspect, examine, measure, copy, photograph, sketch or test, as the case may be, any building or room, any plant, machinery, appliance or apparatus, any register or document, or anything provided for the purpose of securing the health, safety or welfare of the workers employed in a factory;

(b) in the case of an Inspector who is a duly qualified medical practitioner, to carry out such medical examinations as may be necessary for the purposes of his duties under the Act:

Provided that the powers of the District Magistrates and such other public officers as are appointed to be additional Inspectors shall be generally limited to the inspection of factories in respect of the following matters, namely:—

Cleanliness (section 11), Over-crowding (section 16), Lighting (section 17), Drinking water (section 18), Latrines and Urinals (section 19), Spittoons (section 20), Precautions in the case of fire (section 38), Welfare (Chapter V), Working hours of adults (Chapter VI except the power of exemption

under the proviso to section 62), Employment of young persons (Chapter VII), Leave with wages (Chapter VIII) and Display of notices (section 108).

Rule prescribed under sub-section (4) of section 10 and section 76.

16. Duties of Certifying Surgeon.—(1) For purposes of the examination and certification of young persons who wish to obtain certificates of fitness, the Certifying Surgeon shall arrange a suitable time and place for the attendance of such persons, and shall give previous notice in writing of such arrangements to the managers of factories situated within the local limits assigned to him.

(2) The Certifying Surgeon shall issue his certificates as nearly as possible in Form No. 4. The foil and counterfoil shall be filled in and the left thumb mark of the person in whose name the certificate is granted shall be taken on them. On being satisfied as to the correctness of the entries made therein and of the fitness of the person examined, he shall sign the foil and initial the counterfoil and shall deliver the foil to the person in whose name the certificate is granted. The foil so delivered shall be the certificate of fitness granted under section 69. All counterfoils shall be kept by the Certifying Surgeon for a period of at least 2 years after the issue of the certificate.

(3) The Certifying Surgeon shall, upon request by the Chief Inspector, carry out such examination and furnish him with such report as he may indicate, for any factory or class or description of factories where—

(a) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing therein, or

(b) by reason of any change in the manufacturing process carried on, or in the substances used therein, or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process, or

(c) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

(4) For the purpose of the examination of persons employed in processes covered by the rules relating to Dangerous Operations, the Certifying Surgeon shall visit the factories within the local limits assigned to him at such intervals as are prescribed by the rules relating to such dangerous operations.

(5) At such visits the Certifying Surgeon shall examine the persons employed in such processes and shall record the results of his examination in a Register known as the Health Register which shall be kept in Form No. 17 by the factory manager and produced to the Certifying Surgeon at each visit.

(6) If the Certifying Surgeon finds as a result of his examination that any person employed in such process is no longer fit for medical reasons to

work in that process, he shall suspend such person from working in that process for such time as he may think fit and no person after suspension shall be employed in that process without the written sanction of the Certifying Surgeon in the Health Register.

(7) The Manager of a factory shall afford to the Certifying Surgeon facilities to inspect any process in which any person is employed or is likely to be employed.

(8) The Manager of a factory shall provide for the purpose of any medical examination which the Certifying Surgeon wishes to conduct at the factory (for his exclusive use on the occasion of an examination) a room which shall be properly cleaned and adequately ventilated and lighted and furnished with a screen, a table (with writing materials) and chairs.

CHAPTER III

HEALTH

Rule prescribed under section 11 (1)(d)(ii)

17. In every factory all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases, if painted, varnished or having a smooth impervious surface, shall be washed with water once in every period of fourteen months, if necessary, by soap and brush.

Register prescribed under sub-section (1) of section 11.

18. *Record of white washing, etc.*—The record of dates on which white-washing, colour-washing, varnishing, etc., are carried out shall be entered in a Register maintained as early as possible in Form No. 6.

Rule prescribed under sub-section (2) of section 12.

19. In the case of a factory situated in a place where no public sewerage system exists, prior approval of the arrangements made for the disposal of trade-wastes and effluents shall be obtained from the Chief Inspector of Factories who shall act in this behalf in consultation with the Directorate of Health Services, West Bengal.

Rules 20 to 30 prescribed under sub-section (1) of section 15.

20. *When artificial humidification not allowed.*—There shall be no artificial humidification in any room of a cotton spinning or weaving factory:—

(a) by the use of steam during any period when the dry bulb temperature of that room exceeds 85 degrees ;

(b) at any time when the wet bulb reading of the hygrometer is higher than that specified in the following Schedule in relation to the dry bulb reading of the hygrometer at that time ; or as regards a dry bulb reading intermediate between any two dry bulb readings indicated consecutively in the Schedule when the dry bulb reading does not exceed the wet bulb reading to the extent indicated in relation to the lower of these two dry bulb readings :—

SCHEDULE

Dry bulb.	Wet bulb.	Dry bulb.	Wet bulb.	Dry bulb.	Wet bulb.
60°0	58°0	77°0	75°0	94°0	86°0
61°0	59°0	78°0	76°0	95°0	87°0
62°0	60°0	79°0	77°0	96°0	87°5
63°0	61°0	80°0	78°0	97°0	88°0
64°0	62°0	81°0	79°0	98°0	88°5
65°0	63°0	82°0	80°0	99°0	89°0
66°0	64°0	83°0	80°5	100°0	89°5
67°0	65°0	84°0	81°0	101°0	90°0
68°0	66°0	85°0	82°0	102°0	90°0
69°0	67°0	86°0	82°5	103°0	90°5
70°0	68°0	87°0	83°0	104°0	90°5
71°0	69°0	88°0	83°5	105°0	91°0
72°0	70°0	89°0	84°0	106°0	91°0
73°0	71°0	90°0	84°5	107°0	91°5
74°0	72°0	91°0	85°0	108°0	91°5
75°0	73°0	92°0	85°5	109°0	92°0
76°0	74°0	93°0	86°0	110°0	92°0

Provided, however, that clause (b) shall not apply when the difference between the wet bulb temperature as indicated by the hygrometer in the department concerned and the wet bulb temperature taken with a hygrometer outside in the shade is less than 3.5 degrees.

21. Provision of hygrometer.—In all departments of cotton spinning and weaving mills wherein artificial humidification is adopted, hygrometers shall be provided and maintained in such positions as are approved by the Inspector. The number of hygrometers shall be regulated according to the following scale:—

(a) *Weaving department.*—One hygrometer for departments with less than 500 looms, and one additional hygrometer for every 500 or part of 500 looms in excess of 500.

(b) *Other departments.*—One hygrometer for each room of less than 300,000 cubic feet capacity and one extra hygrometer for each 200,000 cubic feet or part thereof, in excess of this.

(c) One additional hygrometer shall be provided and maintained outside each cotton spinning and weaving factory wherein artificial humidification is adopted, and in a position approved by the Inspector, for taking hygrometer shade readings.

22. Exemption from maintenance of hygrometers.—When the Inspector is satisfied that the limits of humidity allowed by the Schedule to rule 20 are never exceeded, he may, for any department other than the weaving department, grant exemption from the maintenance of the hygrometer. The Inspector shall record such exemption in writing.

23. Copy of Schedule to rule 20 to be affixed near every hygrometer.—A legible copy of the Schedule annexed to rule 20 shall be affixed near each hygrometer.

24. Temperature to be recorded at each hygrometer.—At each hygrometer maintained in accordance with rule 21, correct wet and dry bulb temperatures shall be recorded thrice daily during each working day by competent persons nominated by the Manager and approved by the Inspector. The temperature shall be taken between 7 a.m. and 9 a.m., between 11 a.m. and 2 p.m. (but not in the rest interval) and between 4 p.m. and 5-30 p.m. In exceptional circumstances, such additional readings and between such hours, as the Inspector may specify, shall be taken. The temperatures shall be entered in a Humidity Register as nearly as possible in Form No. 5, maintained in the factory. At the end of each month, the persons who have taken the readings shall sign the Register and certify the correctness of the entries. The Register shall always be available for inspection by the Inspector.

25. Specifications of hygrometer.—(1) Each hygrometer shall comprise two mercurial thermometers of wet bulb and dry bulb of similar construction, and equal in dimensions, scale and divisions of scale. They shall be mounted on a frame with a suitable reservoir containing water.

(2) The wet bulb shall be closely covered with a single layer of muslin, kept wet by means of a wick attached to it and dipping into the water in the reservoir. The muslin covering and the wick shall be suitable for the purpose, clean and free from size or grease.

(3) No part of the wet bulb shall be within 3 inches of the dry bulb or less than 1 inch from the surface of the water in the reservoir and the water reservoir shall be below it, on the side of it away from the dry bulb.

(4) The bulb shall be spherical and of suitable dimensions and shall be freely exposed on all sides to the air of the room.

(5) The bores of the stems shall be such that the position of the top of the mercury column shall be readily distinguishable at a distance of 2 feet.

(6) Each thermometer shall be graduated so that accurate readings may be taken between 50 and 120 degrees.

(7) Every degree from 50 degrees up to 120 degrees shall be clearly marked by horizontal lines on the stem, each fifth and tenth degree shall be marked by longer marks than the intermediate degrees and the temperature marked opposite each tenth degree, i.e., 50, 60, 70, 80, 90, 100, 110, and 120.

(8) The markings as above shall be accurate, that is to say, at no temperature between 50 and 120 degrees shall the indicated readings be in error by more than two-tenths of a degree.

(9) A distinctive number shall be indelibly marked upon the thermometer.

(10) The accuracy of each thermometer shall be certified by the National Physical Laboratory, London, or, the National Instruments Factory, Calcutta, or some competent authority appointed by the Chief Inspector and such certificate shall be attached to the Humidity Register.

26. Thermometers to be maintained in efficient order.—Each thermometer shall be maintained at all times during the period of employment in efficient working order, so as to give accurate indications and in particular—

(a) the wick and the muslin covering of the wet bulb shall be renewed once a week ;

(b) the reservoir shall be filled with water which shall be completely renewed once a day. The Chief Inspector may direct the use of distilled water or pure rain water in any particular mill or mills in certain localities ;

(c) no water shall be applied directly to the wick or covering during the period of employment.

27. An inaccurate thermometer not to be used without fresh certificate.—If an Inspector gives notice in writing that a thermometer is not accurate it shall not, after one month from the date of such notice, be deemed to be accurate unless and until it has been re-examined as prescribed and a fresh certificate obtained which certificate shall be kept attached to the Humidity Register.

28. Hygrometer not to be affixed to wall, etc., unless protected by wood.—(1) No hygrometer shall be affixed to a wall, pillar, or other surface unless protected therefrom by wood or other non-conducting material at least half an inch in thickness.

(2) No hygrometer shall be fixed at a height of more than 5 feet 6 inches from the floor to the top of thermometer stem or in the direct draughts from a fan, window or ventilating opening.

29. No reading to be taken within 15 minutes of renewal of water.—No reading shall be taken for record on any hygrometer within 15 minutes of the renewal of water in the reservoir.

30. How to introduce steam for humidification.—In any room in which steam pipes are used for the introduction of steam for the purpose of artificial humidification of the air the following provisions shall apply :—

(a) The diameter of such pipes shall not exceed two inches and in the case of pipes installed after 1st day of January, 1950, the diameter shall not exceed one inch.

(b) Such pipes shall be as short as is reasonably practicable.

(c) All hangers supporting such pipes shall be separated from the bare pipes by an efficient insulator not less than half an inch in thickness.

(d) No uncovered jet from such pipe shall project more than 4½ inches beyond the outer surface of any cover.

(e) The steam pressure shall be as low as practicable and shall not exceed 70 lbs. per square inch.

(f) The pipe employed for the introduction of steam into the air in a department shall be effectively covered with such non-conducting material, as may be approved by the Inspector in order to minimise the amount of heat radiated by them into the department.

Rules 31 to 33 prescribed under sub-section (4) of section 17.

31. Lighting of interior parts.—(1) The general illumination over those interior parts of a factory where persons are regularly employed shall be not less than 3-foot candles measured in the horizontal plane at a level of 3 feet above the floor :

Provided that in any such parts in which the mounting height of the light source for general illumination necessarily exceeds 25 feet measured from the floor or where the structure of the room or the position or construction of the fixed machinery or plant prevents the uniform attainment of this standard, the general illumination at the said level shall be not less than 1 foot candle and where work is actually being done the illumination shall be not less than 3-foot candles.

(2) The illumination over all other interior parts of the factory over which persons employed pass, shall, when and where a person is passing, be not less than 0.5 foot candles at floor level.

(3) The standard specified in this rule shall be without prejudice to the provision of any additional illumination required to render the lighting sufficient and suitable for the nature of the work.

32. Prevention of glare.—(1) Where any source of artificial light in the factory is less than 16 feet above floor level, no part of the light source or of the lighting fitting having a brightness greater than 10 candles per square inch shall be visible to persons whilst normally employed within 100 feet of the source, except where the angle of elevation from the eye to the source or part of the fitting as the case may be exceeds 20 degrees.

(2) Any local light, that is to say, an artificial light designed to illuminate particularly the area or part of the area of work of a single operative or small group of operatives working near each other, shall be provided with a suitable shade of opaque material to prevent glare or with other effective means by which the light source is completely screened from the eyes of every person employed at a normal working place, or shall be so placed that no such person is exposed to glare therefrom.

33. Power of Chief Inspector to exempt.—Where the Chief Inspector is satisfied in respect of any particular factory or part thereof or in respect of any description of workroom or process that any requirement of rules 31 and 32 is inappropriate or is not reasonably practicable, he may by order in writing exempt the factory or part thereof, or description of workroom or process from such requirement to such extent and subject to such conditions as he may specify.

Rules 34 and 35 prescribed under sub-section (4) of section 18.

34. Provision for drinking water.—(1) In every factory there shall be provided and maintained at suitable points conveniently accessible to all workers a supply of water fit for drinking. The quantity supplied daily shall consist of at least as many gallons as there are workers.

(2) The supply of drinking water required under sub-rule (1), if not laid on, shall be contained in suitable vessels and shall be renewed at least daily. All practicable steps shall be taken to preserve the water and vessels from contamination.

(3) Any open well or reservoir from which drinking water is derived shall be so situated and protected as not to be liable to pollution by organic matter or other impurities.

(4) The area around any place where drinking water is supplied to the workers shall be maintained in a clean and drained condition.

(5) The Inspector may, by order in writing, require the manager of a factory to obtain a report from the Directorate of Health Services, West Bengal, as to whether the drinking water supplied to the workers is fit for drinking or otherwise.

35. Cooling of water.—In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) the drinking water supplied to the workers shall, from the 1st of April to the 30th of September in every year, be cooled by ice or other effective method:

Provided that if ice is placed in the drinking water, the ice shall be clean and wholesome;

(b) the cooled drinking water shall be supplied in every canteen, lunch-room and rest-room and also at conveniently accessible points throughout the factory which for the purpose of these Rules shall be called "Water Centres";

(c) the water centres shall be sheltered from the weather and adequately drained;

(d) the number of water centres to be provided shall be one "centre" for every 100 persons employed at any one time in the factory;

Provided that in the case of a factory where the number of persons employed exceeds 500 it shall be sufficient if there is one such "centre" as aforesaid for every 100 persons up to the first 500 and one for every 200 persons above that:

Provided further that in the case of factories where provision for water-coolers has been made the Chief Inspector may by order in writing relax the provisions of this sub-rule.

Rules 36 to 43 prescribed under sub-section (3) of section 19.

36. Latrine accommodation.—(1) Latrine accommodation shall be provided in every factory on the following scale:—

(a) where females are employed, there shall be at least one latrine for every 25 females;

(b) where males are employed, there shall be at least one latrine for every 25 males: provided that, where the number of males employed exceeds 100, it shall be sufficient if there is one latrine for every 25 males up to the first 100, and one for every 50 above that.

In calculating the number of latrines required under this rule, any odd number of workers less than 25 or 50, as the case may be, shall be reckoned as 25 or 50.

(2) The number of workers in a factory for whom septic tank latrine accommodation shall be deemed to be adequate shall be (a) the maximum number of daily users as approved by Directorate of Health Services, West Bengal, under clause (1) of rule 38, or (b) the number of workers provided for on the scale specified in sub-rule (1), whichever is less; and where the number so calculated is less than the total number of workers employed, the accommodation provided by way of septic tank latrines shall not be deemed to be sufficient within the meaning of section 19.

37. Design, situation, etc., of latrines.—The following provisions shall apply to all latrines:—

(1) The design and the site or situation shall be subject to the approval of the Directorate of Health Services, West Bengal, and the construction shall be subject to the approval of the Chief Inspector.

Application for such approval shall be accompanied by plans in duplicate showing—

(a) the site or situation and immediate surroundings including adjacent buildings and drinking water sources, and

(b) the plan, elevation and necessary cross-sections drawn to scale indicating all relevant details.

(2) They shall be situated, unless otherwise approved in writing by the Inspector, within the factory precincts and so located that (a) every worker may have ready access thereto and (b) no effluvia therefrom can arise within a workroom.

(3) They shall not communicate with any workroom except through the open air or through an intervening ventilated space and shall be adequately lighted during working hours.

(4) They shall be under cover and so partitioned off as to secure privacy, and shall have proper hinged doors and fastenings:

Provided that the Chief Inspector may by order in writing exempt factories existing on the date of commencement of these rules from providing hinged doors and fastenings for those latrines which have been constructed before such commencement.

(5) Where workers of both sexes are employed, separate latrines shall be provided for each sex and outside each latrine, at the entrance, there shall be displayed in a conspicuous position, an approved sign or a notice in Hindi in Devnagri script and Bengali clearly indicating the sex for which the latrine is provided. All latrines intended for females shall be so placed

or so screened that the interior shall not be visible even when the door is open, from any place where persons of other sex have to work or pass, and, if the latrines for one sex adjoin those for the other sex the approaches shall be separate and there shall be no common entrance.

(6) Where piped water-supply is available a sufficient number of water taps, conveniently accessible, shall be provided in or near such latrine accommodation.

38. Septic tank latrines.—The following provisions shall apply to septic tank latrines :—

(1) The maximum number of daily users for whom the tank is designed shall be approved by the Directorate of Health Services, West Bengal, and a notice board showing such number shall be fixed in a prominent position on each latrine.

Septic tanks constructed after the commencement of this rule shall be so designed as to allow a space of 2 c. ft. to 3 c. ft. per user. The ordinary filter beds shall have 6 c. ft. of filtering media per every user, and for rotary filters the capacity may be reduced to 3 c. ft. per user.

(2) An efficient automatic recording turnstile or turnstiles shall be provided for recording the total number of users admitted on any day, and a register showing the number of daily users shall be maintained.

(3) The effluent therefrom shall conform to such standards as the State Government may prescribe by notification in the Official Gazette. The septic tanks and filter beds shall be desludged at least once a year.

(4) For the satisfactory disposal of the sludge or other solid matters, a pit of cubical capacity equal to the total flow of not less than an hour shall be provided to receive the solid matter. When the pit becomes full, the valves shall be closed and the solid matter and sludge shall be allowed time to settle. The effluent shall then be drawn off and sterilised, and the solid matter and sludge shall be trenched or burnt :

Provided that where the Inspector is satisfied that in respect of any septic tank, the requirements of clause (2) are not necessary, he may, by order in writing, grant exemption from that clause on such conditions, if any, as he may impose.

39. Reference to municipal and local authorities.—In the case of factories situated in places within the limit of a local authority if it appears to the Inspector that there has been a breach of the provisions of any municipal or local Act relating to sanitary arrangements, removal of objectionable rubbish, the cleaning and fencing of water tanks, or the like matters, the Inspector shall without prejudice to any action which he is empowered to take under the Act or the rules thereunder draw the attention of the local authority to the breach of such provisions.

40. Urinal accommodation.—Urinal accommodation shall be provided for the use of male workers and shall not be less than 2 feet in length for every 50 males, provided that where the number of males employed exceeds 500, it shall be sufficient if there is one urinal for every 50 males up to the first 500 employed, and one for every 100 thereafter.

In calculating the urinal accommodation required under this rule any odd number of workers less than 50 or 100, as the case may be, shall be reckoned as 50 or 100.

41. Urinals to conform to public health requirements.—Urinals other than those connected with an efficient waterborne sewage system and urinals in a factory wherein more than two hundred and fifty workers are ordinarily employed shall comply with the requirements of the Directorate of Health Services.

42. White-washing, colour-washing of latrines and urinals.—The walls, ceilings and partitions of every latrine and urinal shall be white-washed or colour-washed and the white-washing or colour-washing shall be repeated at least once in every period of four months. The dates on which the white-washing or colour-washing is carried out shall be entered in the prescribed Register (Form No. 6):

Provided that parts of latrines and urinals which are laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface shall be washed with suitable detergents and disinfectants at least once in every period of four months.

43. Construction and maintenance of drains.—All drains carrying waste or sullage water shall be constructed in masonry or other impervious material and shall be regularly flushed and the effluent disposed of by connecting such drains with a suitable drainage line :

Provided that where there is no such drainage line, the effluent shall be deodorized and rendered innocuous and then disposed of in a suitable manner to the satisfaction of the Inspector.

Rules 44 to 46 prescribed under sub-section (2) of section 20.

44. Number and location of spittoons.—The number and location of spittoons to be provided shall be to the satisfaction of the Inspector.

45. Type of spittoons.—The spittoons shall be of either of the following types :—

(a) a galvanised iron container with a conical funnel-shaped cover. A layer of suitable disinfectant liquid shall always be maintained in the container ;

(b) a container filled with dry, clean sand, and covered with a layer of bleaching powder ;

(c) any other type approved by the Chief Inspector.

46. Cleaning of spittoons.—The spittoons mentioned in rule 45 shall be emptied, cleaned and disinfected at least once every day ; and the spittoons mentioned in clause (b) of rule 45 shall be cleaned by scraping out the top layer of sand as often as necessary or at least once every day.

CHAPTER IV

SAFETY

Safety precautions prescribed under sub-section (2) of section 21.

47. Safety precautions.—Without prejudice to the provisions of sub-section (1) of section 21 in regard to the fencing of machines, the further

precautions specified in the Schedules annexed hereto shall apply to the machines noted in each Schedule.

SCHEDULE I

(Jute Textiles)

1. *Fencing of machinery.*—Fencings, guards or safety devices in respect of each individual machine as prescribed shall be provided and maintained in good order.

2. *Softening machines.*—(a) A safety stopping device comprising a breast plate in front of the feed table to operate the belt striking gear by releasing an unbalanced weight.

No device departing from the unbalanced weight principle will be deemed to conform to this rule unless it has been approved in writing by the Inspector. In the case of machines provided with an individual electric drive the device shall be arranged to act on a switch inserted in the no-volt release circuit.

(b) The feed table shall not be less than 6' in length, measured from the centre of the first cloth roller to the centre of the first pair of cast iron rollers. The table shall be provided with side guards reaching a height of not less than 4'-6" from the floor, and extending, at that height, not less than 3'-6" from the centre of the first pair of rollers; the height of the rest of the side guards shall not be less than 4' from the floor.

(c) The starting and stopping gear shall be arranged to comply with the following:—

(i) Provision for stopping the machine at both the feed and delivery ends.

(ii) Provision for starting the machine at the feed end only, the design shall be such that an operator at the feed end cannot start the machine without the co-operation of an operator at the delivery end.

(iii) When a machine is stopped for clearing a jam or attention otherwise, the starting gear shall be secured in the "off" position at least by a lock operated by a removable key in possession of the person attending the machine.

(iv) The lever operating the unbalanced weight shall be securely fenced.

(d) Sheet steel casings completely enclosing the side shafts, i.e., the shafts and gears shall not be exposed on the underside. The casings shall be locked or secured by a device which will ensure (i) that they cannot be opened while the machine is in motion and (ii) that it will not be possible to start the machine unless they are closed.

3. *Carding machines.*—(a) The underframe shall be guarded in such a manner that it will not be possible for operatives to obtain access underneath the machine until the cylinder has ceased to revolve. The lowest cross member of the frame shall come down to a point not more than 10" from the floor and all openings above this, large enough to permit of access underneath, shall be filled in with sheet steel or fitted with bars or rods spaced not more than 6" apart. Any part of this protection may be in the

form of a door, but all such doors shall be controlled by a device which will ensure that they cannot be opened until the cylinder has come to rest and that the machine cannot be restarted until the doors are closed;

Provided that in the case of machines installed before 1st January, 1950, rigidly secured panels filling the underframe will be deemed to comply with it.

(b) A guard with panels and sliding doors of sheet steel or closely spaced bars or rods enclosing the side gears; there shall be no opening at the underside of this protection for access to the gears. The sliding doors shall be controlled by a device which will ensure that they cannot be opened until the cylinder has come to rest, and that the machine cannot be started up until the doors are closed.

(c) A sheet steel guard extending up to the centre line of the cylinder, enclosing the stripper belts and pulleys shall be provided on all machines installed after 1st January, 1950.

(d) An adequately strong and rigid set of bars or rods over the doffer roller, securely bolted in position. This guard must follow the radius of the roller; the space between the rods not to exceed 2"; the distance from the doffer pin points to the underside of the rods to be 4"; the space between the drawing pressing roller and the first rod not to exceed 2"; and the width of the guard from the first to the last rod to be not less than 12".

(e) A hand or guard rail extending the full width of the drawing pressing roller, fitted in a convenient position in front of and higher than the roller.

(f) Effective side guards to prevent operatives' fingers being caught between the delivery roller and the pressing ball.

(g) When a machine is stopped for clearing a jam or attention otherwise, the starting gear shall be secured in the "off" position at least by a lock operated by a removable key in possession of the person attending the machine.

4. *Drawing machines.*—(a) A sheet steel guard completely closing the space between the bend rail and the bottom of the retaining roller, the opening and closing of which shall be controlled by the starting gear, and the design such that the guard cannot be opened while the machine is running. The guard plate shall swivel more or less about the centre of its height, and the top edge shall swing inwards towards the gill bars as the guard opens, and outwards as the guard closes:

Provided that in the case of machines installed before 1st January, 1950, a fixed guard will be sufficient if the clearance between the top of the guard and the underside of the retaining roller does not exceed 3/8";

Provided, further that in the case of machines with individual electric drive it will be sufficient if the guard is of the swivelling type and inter-linked with the driving mechanism so that sliver cannot be fed into the gills, or the guard opened, before the machine is stopped, and that the machine cannot be started up unless the guard is closed.

(b) Sheet steel or cast iron guards completely enclosing the end gears, the design to be such that access to the gears is possible only by removing the guard in its entirety. If doors or movable panels are provided they shall be controlled by a locking device, operated by the starting gear, which will ensure that the machine cannot be started unless the guard is completely closed and that no moveable part can be opened whilst the machine is in motion:

Provided that in the case of machines installed before 1st January, 1950, a guard securely held in position by automatic catches to prevent opening by vibration but without the interlocking arrangement will be deemed to comply with it.

(c) An efficient guard which will prevent operatives' fingers or hands being caught between the delivery roller and the pressing ball.

(d) Starting and stopping gear so designed that the machine can be stopped by operatives on the feed and delivery sides; can be started only by an operative on the feed side but with the co-operation of the operative on the delivery side and cannot be started by an operative on the delivery side. The device necessitating co-operation shall be engaged before the machine stops.

(e) Shear pins driving the individual carriages shall be fitted to the pinion on the main back shaft and not to the pinion on the carriage back shaft.

5. *Roving machines.*—(a) Starting and stopping gear designed to embody the following:—

(i) Provision for stopping the machine on both the feed and delivery sides.

(ii) Provision for starting the machine on the delivery side only.

(iii) A device on the delivery side which will automatically lock the belt striking gear in the "off" position. This device shall be such that the machine will not stop before the lock is engaged nor start before it is disengaged by a worker on the delivery side.

(b) Sheet steel or cast iron guards completely enclosing the end gears, the design to be such that access to the gears is possible only by removing the guard in its entirety. If doors or movable panels are provided they shall be controlled by a locking device, operated by the starting gear, which will ensure that the machine cannot be started unless the guard is completely closed and that no movable part can be opened whilst the machine is in motion.

Provided that in the case of machines installed before 1st January, 1950, a guard securely held in position by automatic catches to prevent opening by vibration, but without the interlocking arrangement will be deemed to comply with it.

(c) Shear pins driving individual carriages shall be fitted to the pinion on the main back shaft and not to the pinion on the carriage back shaft.

6. *Spinning frames.*—(a) Access between the driving cylinders whilst in motion shall be prevented by providing a door at the pass end, so

inter-connected with the starting gear that neither side of the frame can be set in motion whilst the door is open and conversely, the door cannot be opened whilst either or both sides of the frame is or are running:

Provided that in the case of machines installed before 1st January 1950 hinged and well secured doors will be deemed to comply with it.

(b) Sheet steel or cast iron guards completely enclosing the end gears, the design to be such that access to the gears is possible only by removing the guard in its entirety. If doors or movable panels are provided they shall be controlled by a locking device, operated by the starting gear, which will ensure that the machine cannot be started unless the guard is completely closed and that no movable part can be opened whilst the machine is in motion:

Provided that in the case of machines installed before 1st January, 1950, a guard securely held in position by automatic catches to prevent opening by vibration, but without the interlocking arrangement will be deemed to comply with it.

7. *Cop winding machines.*—(a) Effective guards covering the driving end gears. Hinged doors or panels will not be deemed to comply with this rule unless securely held in the closed position by automatic catches to prevent opening by vibration.

(b) Guards covering the spindle driving gears of such design that it will not be possible to remove them from position whilst the machine is in motion:

Provided that in the case of machines installed before 1st January, 1950, guards rigidly secured by bolts or screws will be deemed to comply with it.

8. *Roll winding machines.*—Effective guards for traverse or other gears and cams. Hinged doors or panels will not be deemed to comply with this rule unless securely held in the closed position by automatic catches to prevent opening by vibration.

9. *Beaming and dressing machines.*—(a) The flywheel shall be of the disc type.

(b) Cross and side shafts driving the starch rollers shall be enclosed in protecting tubes.

(c) A guard securely anchored in position and protecting the nip between the top and bottom starch rollers. It shall have an aperture large enough to pass the yarn through but not the operative's hand. A hinged guard will not be deemed to be compliance with this rule.

(d) A guard protecting the nip between the yarn beam pressing roller and the outer top weight roller, i.e., the top weight roller on the side at which the beam is inserted and removed.

(e) The space between any yarn guide roller and its adjacent steam cylinder must be not less than 3".

10. *Looms.*—(a) Sheet steel or cast iron guards protecting the crank and wiper shaft spur gears shall be provided.

(b) The minimum clearance between the sley and the breast beam shall be not less than 2".

(c) Yarn beams shall be placed on looms by mechanical or other means. Lifting into position by hand alone will not be deemed to comply with this rule.

11. Cropping machines.—Sheet steel guards protecting the spirals shall be provided.

12. Calendering machines.—(a) A strong and rigid guard, securely fixed in position, in front of the nip between the bottom cast iron roller and the paper roller on top of same. This guard shall be constructed in such a manner that it will be impossible for the fingers of an operative to reach the nip through the aperture in the guard.

(b) Safety rollers protecting the nip of the upper rollers. These rollers must be made of steel or wrought iron tube, as light as possible, and not more than 2½" external diameter. The safety roller shall ride on the under roller and be free to lift. It shall be set in such a manner that the peripheral clearance between it and the upper roller, and between it and the under roller when the safety roller is fully raised, will not permit of an operative's fingers reaching the nip.

(c) Sheet steel panels shall be fitted on the machine gable to prevent access through same to the large spur wheel.

(d) Lever weights shall be lowered into strong and rigid guards.

13. Cloth cutting machines.—A guard preventing access to the knife from the front, top or sides shall be provided. On the underside the knife shall be protected up to the maximum limit without interfering with the machine operation.

14. Lapping machines.—(a) Provision for starting the machine at the feed end only; the design shall be such that an operator at the feed end cannot start the machine without the co-operation of an operator at the delivery end and that he cannot interfere with the device necessitating co-operation.

(b) A "sight panel" fitted to the feed table in such position that operators on either side of the machine can see through to the other side.

(c) The hand wheel on the driving shaft shall be of the disc type and it shall be located at sufficient distance from the machine gable to permit of fencing being constructed between it and the lever mechanism operating the folder.

(d) The treadle mechanism shall be such as to allow extraction of the maximum cloth lapped and no worker shall be required to go up on the machine table to force it down.

15. Sewing machines.—An apron plate shall be fitted in front of the feed chain and the plate shall be without holes or openings except for slots for the jockey pulleys.

16. Press pits.—When the press table is level with the floor the clearance between it and the floor shall not be less than 4".

SCHEDULE II (Cotton Textiles)

1. Cotton Openers, Scutchers, Combined Openers and Scutchers, Scutcher and Lap machines, Hard Waste Breakers, etc.—(1) All Cotton Openers, Scutchers, Combined Openers and Scutchers, Scutcher and Lap Machines, Hard Waste Breakers and similar machines, if not driven by separate motors, shall be driven off shaft provided with fast and loose pulleys.

(2) In all Openers, Combined Openers and Scutchers, Scutchers, Scutcher-lap machines, Hard Waste Breakers and similar machines, the beater covers and doors which give access to any dangerous part of the machine shall be fitted with effective interlocking arrangements which shall prevent—

(a) the covers and doors being opened while the machine is in motion; and

(b) the machine being restarted until the covers and doors are closed:

Provided that in respect of doors or openings, other than dirt doors or desk doors such openings shall be so fenced as to prevent access to any dangerous parts of the machine if effective interlocking arrangement is not provided.

(3) In all Openers, Combined Openers and Scutchers, Scutchers, Scutcher-lap machines, Hard Waste Breakers and similar machines, the opening giving access to the dust chamber shall be provided with permanently fixed fencing, which shall, while admitting light, yet prevent contact between any portion of a worker's body and the beater grid bars.

2. Combined Openers and Scutchers, Scutchers, Scutcher-lap, Silver-lap, Lap Machines, Derby Doublers and Ribbon Machines.—(1) The lap forming rollers shall be fitted with a guard or cover which shall prevent access to the intake of the lap roller and fluted roller as long as the weighted rack is down, or

(2) The guard or cover shall be so locked that it cannot be raised until the machine is stopped and the machine cannot be started until the guard or cover is closed.

3. Carding Machines.—All cylinder doors shall be secured by an automatic locking device which shall prevent the door being opened until the cylinder has ceased to revolve and shall render it impossible to restart the machine until the door has been closed.

4. Speed Frames.—Headstocks shall be fitted with automatic locking arrangements which shall prevent the doors giving access to jack box wheels being opened while the machinery is in motion and shall render it impossible to restart the machine until the doors have been closed.

5. Self-acting Mules.—Self acting Mules, if not driven by separate motors, shall be driven off countershafts provided with fast and loose pulleys.

6. Calendering Machines, etc.—Calenders, mangles and similar machines shall be provided with an efficient "nip" guard along the whole length

on the intake side of each pair of bowls and similar parts, which shall be so fitted and maintained, whilst the rollers or bowls are in motion, as to prevent access to the point of contact of the rollers or bowls.

SCHEDULE III

(Wood-working Machinery)

1. *Definition.*—For the purpose of this Schedule :—Wood-working machine means a machine used for sawing, planing, morticing or moulding wood or cork.

2. *Stopping and starting device.*—An efficient stopping and starting device shall be provided on every wood-working machine. The control of this device shall be in such a position as to be readily and conveniently operated by the person in charge of the machine.

3. *Space around machines.*—The space surrounding every wood-working machine in motion shall be kept free from obstruction.

4. *Floors.*—The floor surrounding every wood-working machine shall be maintained in good and level condition, and shall not be allowed to become slippery, and as far as practicable shall be kept free from chips or other loose material.

5. *Circular saws.*—Every circular saw shall be fenced as follows :—

(a) Behind and in direct line with the saw there shall be a riving knife, which shall have a smooth surface, shall be strong, rigid and easily adjustable, and shall also conform to the following conditions :—

(i) The edge of the knife nearer the saw shall form an arc of a circle having a radius of the largest saw used and it shall extend upward from the bench to a height not less than that reached by the largest wood or timber sawn.

(ii) The knife shall be maintained as close as practicable to the saw, having regard to the nature of the work being done at the time, and at the level of the bench the distance between the front edge of the knife and the teeth of the saw shall not exceed half an inch.

(b) The top of the saw shall be covered by a strong and easily adjustable guard, with a flange at the side of the saw farthest from the fence. The guard shall be kept so adjusted that the said flange shall extend below the roots of the teeth of the saw. The guard shall extend from the top of riving knife to a point as low as practicable at the cutting edge of the saw.

(c) The part of the saw below the bench shall be protected by two plates of metal or other suitable material one on each side of the saw; such plates shall not be more than six inches apart, and shall extend from the axis of the saw outwards to a distance of not less than two inches beyond the teeth of the saw. Metal plates, if not beaded, shall be of a thickness of at least 1/10 inch, or if beaded be of a thickness of at least 1/20 inch.

6. *Push sticks.*—A push stick or other suitable appliance shall be provided for use at every circular saw and at every vertical spindle moulding machine to enable the work to be done without unnecessary risk.

7. *Band saws.*—Every band saw shall be guarded as follows :—

(a) Both sides of the bottom pulley shall be completely encased by sheet metal or other suitable material.

(b) The front of the top pulley shall be covered with sheet metal or other suitable material.

(c) All portions of the blade shall be enclosed or otherwise securely guarded except the portion of the blade between the bench and the top guide.

8. *Planing machines.*—(1) A planing machine (other than a planing machine which is mechanically fed) shall not be used for overhand planing unless it is fitted with a cylindrical cutter block.

(2) Every planing machine used for overhand planing shall be provided with a "bridge" guard capable of covering the full length and breadth of the cutting slot in the bench, and so constructed as to be easily adjusted both in a vertical and horizontal direction.

(3) The feed roller of every planing machine used for thicknessing except the combined machine for overhand planing and thicknessing, shall be provided with an efficient guard.

9. *Vertical spindle moulding machines.*—(1) The cutter of every vertical spindle moulding machine shall be guarded by the most efficient guard having regard to the nature of the work being performed.

(2) The wood being moulded at a vertical spindle moulding machine shall, if practicable, be held in a jig or holder of such construction as to reduce as far as possible the risk of accident to the worker.

10. *Chain morticing machines.*—The chain of every chain morticing machine shall be provided with a guard which shall enclose the cutters as far as practicable.

11. *Adjustment and maintenance of guards.*—The guards and other appliances required under this Schedule shall be—

(a) maintained in an efficient state,

(b) constantly kept in position while the machinery is in motion, and

(c) so adjusted as to enable the work to be done without unnecessary risk.

12. *Exemptions.*—Paragraphs 5, 7, 8 and 9 shall not apply to any wood-working machine in respect of which it can be proved that other safeguards are provided, maintained and used which render the machine as safe as it would be if guarded in the manner prescribed in this Schedule.

SCHEDULE IV

(Rubber Mills)

1. *Installation of machines.*—Mills for breaking down, cracking, grating, mixing, refining and warming rubber or rubber compounds shall be so installed that the top of the front roll is not less than forty-six inches above the floor or working level: Provided that in existing installations where the top of the front roll is below this height a strong rigid distance

bar guard shall be fitted across the front of the machine in such position that the operator cannot reach the nip of the rolls.

2. *Safety devices.*—(1) Rubber mills shall be equipped with horizontal safety-trip rods or tight wire cables across both front and rear, which will, when pushed or pulled, operate instantly to disconnect the power and apply the brakes, or to reverse the rolls.

(2) Safety-trip rods or tight wire cables on rubber mills shall extend across the entire length of the face of the rolls and shall be located not more than fifty-nine inches above the floor or working level.

(3) Safety-trip rods and tight wire cables on all rubber mills shall be examined and tested daily in the presence of the Manager or other responsible person and if any defect is disclosed by such examination and test the mill shall not be used until such defect has been remedied.

SCHEDULE V (Power Presses)

1. *Definition.*—For the purposes of this Schedule power press means a machine used in metal or other industries for blanking, raising, drawing and similar processes.

2. *Starting and stopping mechanism.*—The starting and stopping mechanism shall be provided with a safety stop so as to prevent over-running of the press or descent of the ram during tool setting, etc.

3. *Protection of tool and die.*—(a) Each press shall be provided with a fixed guard with a slip plate on the underside enclosing the front and sides of the tool.

(b) Each die shall be provided with a fixed guard surrounding its front and sides, and extending to the back in the form of a tunnel through which the pressed article falls to the rear of the press.

(c) The design, construction and mutual position of the guards referred to in (a) and (b) shall be such as to preclude the possibility of the worker's hand or fingers reaching the danger zone.

(d) The machine shall be fed through a small aperture at the bottom of the die guard, but a wider aperture may be permitted for second or subsequent operations if feeding is done through a chute.

4. *Exemption.*—If in the case of a machine or operation it is not possible to comply with the provisions of paragraph 3 alternative means of protection as approved by the Inspector shall be provided.

Rules 48 to 52 prescribed under section 112.

48. *Buildings and structures.*—No building, wall, chimney, bridge tunnel, road, gallery, stairway, ramp, floor, platform, staging, or other structure, whether of a permanent or temporary character, shall be constructed, situated or maintained in any factory in such a manner as to cause risk of bodily injury.

49. *Railways.*—No railway or other electrical or mechanical means of transport within the precincts of a factory shall be constructed, situated, operated or maintained in such a manner as to cause risk of bodily injury :

Provided that the Inspector shall not accept any such railway or means of transport if it is so designed, maintained or operated as to contravene the provisions of any other Act.

50. *Machinery and plant.*—No machinery, plant or equipment shall be constructed, situated, operated or maintained in any factory in such a manner as to cause risk of bodily injury.

51. *Methods of work.*—No process or work shall be carried on in any factory in such a manner as to cause risk of bodily injury.

52. *Stacking and storing of materials, etc.*—No materials or equipment shall be stacked or stored in such a manner as to cause risk of bodily injury.

Rule prescribed under sub-section (1) of section 22 and section 112.

53. *Work on or near machinery in motion.*—(1) One or more adult male workers shall be appointed for the purposes of sub-section (1) of section 22. A list of such workers shall be maintained in a Register as nearly as possible in Form No. 7.

(2) No worker shall be appointed unless he has been sufficiently trained for such examination or operation and is acquainted with the dangers from moving machinery arising in connection with such work.

(3) A worker required to wear tight fitting clothing under sub-section (1) of section 22 shall be provided by the occupier with such clothing which shall consist of at least a pair of closely fitting shorts and a closely fitting half-sleeve shirt or vest. Such clothing shall be returned to the occupier on termination of service or when new clothing is provided.

Rule prescribed under sub-section (2) of section 23.

54. *Employment of young persons on dangerous machines.*—The following machines shall be deemed to be of such dangerous character that young persons shall not work at them unless the provisions of sub-section (1) of section 23 are complied with :—

Power presses other than hydraulic presses ;

Milling machines used in the metal trades ;

Guillotine machines ;

Circular saws ;

Platen printing machines.

Rule prescribed under sections 29 (2) and 112.

55. *Lifting machines, chains, ropes and lifting tackles.*—(1) No lifting machine and no chain, rope or lifting tackle, except a fibre rope, or fibre rope sling, shall be taken in use in any factory for the first time in that factory unless it has been tested and all parts have been thoroughly examined by a competent person and a certificate of such a test and examination specifying the safe working load or loads and signed by the person making the test and the examination, has been obtained and is kept available for inspection.

(2) (a) Every jib-crane so constructed that the safe working load may be varied by the raising or lowering of the jib, shall have attached thereto

either an automatic indicator of safe working loads or an automatic jib angle indicator and a table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load.

(b) A table showing the safe working loads of every kind and size of chain, rope or lifting tackle in use, and, in the case of a multiple sling, the safe working loads at different angles of the legs, shall be posted in the store room or place where or in which the chains, ropes or lifting tackles are kept, and in prominent positions on the premises and no rope, chain or lifting tackle not shown in the table shall be used, so however, that the foregoing provisions of this paragraph shall not apply in respect of such lifting tackle if the safe working load thereof, or in the case of a multiple sling, the safe working load at different angles of the legs, is plainly marked upon it.

(3) A Register as nearly as possible in Form No. 8 shall be maintained containing the following particulars:—

- (i) Name of occupier of factory.
- (ii) Address of the factory.
- (iii) Distinguishing number or mark and description sufficient to identify the lifting machine, chain, rope or lifting tackle.
- (iv) Date when the lifting machine, chain, rope or lifting tackle was first taken into use in the factory.
- (v) Date and number of the certificate relating to any test and examination made under sub-rule (1) together with the name and address of the person who issued the certificate.
- (vi) Date of each periodical thorough examination made under clause (a) (iii) of sub-section (1) of section 29 of the Act and by whom it was carried out.
- (vii) Date of annealing or other heat treatment of the chain and other lifting tackle and by whom it was carried out.
- (viii) Particulars of any defects affecting the safe working load found at any such thorough examination or after annealing and of the steps taken to remedy such defects.

The Register shall be kept readily available for inspection.

(4) All chains and lifting tackle, except a rope sling, shall, unless they have been subjected to such other heat treatment as may be approved by the Chief Inspector, be effectively annealed under the supervision of a competent person at the following intervals:—

- (i) All chains, slings, rings, hooks, shackles and swivels used in connection with molten metal or molten slag or when they are made of half-inch bar or smaller, once at least in every six months.
- (ii) All other chains, rings, hooks, shackles and swivels in general use once at least in every twelve months:

Provided that chains and lifting tackle not in frequent use shall, subject to the Chief Inspector's approval, be annealed only when necessary. Particulars of such annealing shall be entered in the Register prescribed under sub-rule (3).

(5) Nothing in sub-rule (4) shall apply to the following classes of chains and lifting tackle:—

- (i) Chains made of malleable cast iron.
 - (ii) Plate link chains.
 - (iii) Chains, rings, hooks, shackles and swivels made of steel or of any non-ferrous metal.
 - (iv) Pitched chains, working on sprocket or pocketed wheels.
 - (v) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines.
 - (vi) Hooks and swivels having screw threaded parts or ball bearing or other case hardened parts:
 - (vii) Socket shackles secured to wire ropes by white-metal capping.
 - (viii) Bordeaux connections.
 - (ix) Any chain or lifting tackle which has been subjected to the heat treatment known as "normalising" instead of annealing.
- Such chains and lifting tackle shall be thoroughly examined by a competent person once at least in every twelve months and particulars entered in the register kept in accordance with sub-rule (3).
- (6) All lifting machines, chains, ropes and lifting tackle, except a fibre rope or fibre rope sling, which have been lengthened, altered or repaired by welding or otherwise shall, before being again taken into use, be adequately tested and re-examined by a competent person and a certificate of such test and examination be obtained.
- (7) All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves, shall be of proper size and adequate strength and have an even running surface and every such rail or track shall be properly laid, adequately supported and properly maintained.
- (8) No person under 18 years of age and no person who is not sufficiently trained and reliable shall be employed as driver of a lifting machine whether driven by mechanical power or otherwise, or to give signals to a driver.

Rule prescribed under sub-section (2) of section 31.

56. Pressure plant.—(1) Every part of the plant or machinery used in a manufacturing process, and operated at a pressure greater than atmospheric pressure, shall be—

- (a) of good construction, sound material, adequate strength, and free from any patent defect;
- (b) properly maintained;
- (c) thoroughly examined by a competent person at least once in every period of 12 months, and also after any extensive repairs, before being replaced in service; but if the part is so constructed that the internal surface cannot be thoroughly examined a suitable hydraulic test shall be carried out in lieu of such examination;
- (d) fitted with (i) a suitable safety valve or other effective method of ensuring that the maximum permissible working pressure of the

part shall not be exceeded; (ii) a correct pressure guage easily visible, which shall indicate the pressure in pounds per square inch, and have marked upon it in a distinctive colour the maximum permissible working pressure; (iii) a suitable stop valve or valves by which the part may be isolated from the remainder of the plant or machinery:

Provided that it shall be sufficient for the purposes of clause (d) if the safety valve, pressure guage and stop valve are mounted on a pipe-line immediately adjacent to the part and where there is a range of two or more similar parts in a plant or machine, only one set of such mountings need be fitted.

(2) Every vessel or apparatus other than part of a prime mover operated at a pressure greater than atmospheric pressure, and not so constructed as to withstand with safety the maximum permissible working pressure of the boiler, or the maximum pressure which can be obtained in the pipe connecting the vessel or apparatus with any other source of supply, shall be fitted with a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure being exceeded.

(3) A report of the result of every examination made in accordance with sub-rule (1)(c) shall be completed as nearly as possible in Form No. 9 and signed by the person making the examination, and shall be kept available for perusal by an Inspector at any time while the part is in service.

(4) No such part which has previously been used elsewhere shall be taken into use in any factory for the first time until it has been examined and reported on in accordance with the foregoing sub-rules and no new part shall be taken into use unless there has been obtained from the maker of the part, or from a competent person, a certificate specifying the maximum permissible working pressure thereof, and stating the nature of the tests to which the part and its fittings (if any) have been subjected, and the certificate is kept available for perusal by an Inspector, and the part is so marked as to enable it to be indentified as the part to which the certificate relates.

(5) Where the report of any examination under this rule specifies conditions for securing the safe working of a part, the part shall not be used except in accordance with those conditions.

(6) The competent person making the report of any examination under this rule shall, within seven days of the completion of the examination, send to the Inspector a copy of the report in every case where the maximum permissible working pressure is reduced, or the examination shows that the part cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time.

(7) The requirements of this rule shall be in addition to and not in derogation of the requirements of any other Act, rules or regulations.

(8) Nothing in this rule shall apply to—

(a) any plant which comes within the scope of the Indian Boilers Act, 1923;

(b) metal bottles or cylinders used for the storage or transport of gases under pressure.

Rule prescribed under sub-section (2) of section 34 and section 112.

57. *Excessive weights.*—(1) No woman or young person shall be employed in any factory to lift, carry or move by hand or on head, unaided by another person, any material, article, tool or appliance exceeding the maximum limit in weight set out in the following Schedule:

SCHEDULE				Maximum weight of material, article, tool or appliance.
Persons.				
(a)	Adult female	...	...	65 lbs.
(b)	Adolescent male	...	...	65 ..
(c)	Adolescent female	...	...	45 ..
(d)	Male child	...	...	35 ..
(e)	Female child	...	...	30 ..

(2) No woman or young person shall engage, in conjunction with others, in lifting, carrying or moving by hand or on head, any material, article, tool or appliance, if the weight thereof exceeds the lowest weight fixed by the Schedule to sub-rule (1) for any of the persons engaged, multiplied by the number of the persons engaged.

(3) No woman, whilst she is pregnant, shall be employed in any factory to lift, carry, or move by hand or on head, any material, article, tool or appliance.

Rule prescribed under section 35.

58. *Protection of eyes.*—Effective screens or suitable goggles shall be provided for the protection of persons employed in or in the immediate vicinity of the following processes:—

(a) Dry grinding of metals or metal articles applied by hand to a revolving wheel, or disc driven by mechanical power. Turning (external or internal) of non-ferrous metals or of cast iron, or articles of such metals or such iron, where the work is done dry, other than precision turning where the use of goggles or a screen would seriously interfere with the work, or turning by means of hand tools.

(b) Welding or cutting of metals by means of electric, oxy-acetylene or similar processes.

(c) Fettling, cutting out cold rivets or bolts, chipping or scaling, and breaking or dressing of stone, concrete, slag, etc., by hand tools or other portable tools.

Rule prescribed under sub-section (6) of section 36

59. *Minimum dimensions of manholes.*—Every chamber, tank, vat, pipe, flue or other confined space, which persons may have to enter and which may contain dangerous fumes to such an extent as to involve risk of the persons being overcome thereby, shall, unless there is other effective

means of egress, be provided with a manhole which may be rectangular, oval or circular in shape, and which shall—

(a) in the case of a rectangular or oval shape, be not less than 16 inches long and 12 inches wide;

(b) in the case of a circular shape, be not less than 16 inches in diameter.

Exemptions under sub-section (5) of section 37.

60. *Exemptions.*—The requirements of sub-section (4) of section 37 shall not apply to the following processes carried on in any factory:—

(a) The operation of repairing a water-sealed gas-holder by the electric welding process, subject to the following conditions:—

(i) The gasholder shall contain only the following gases, separately or mixed at a pressure greater than atmospheric pressure, namely, town gas, coke-oven gas, producer gas, blast furnace gas, or gases other than air, used in their manufacture:

Provided that this exemption shall not apply to any gasholder containing acetylene or mixture of gases to which acetylene has been added intentionally.

(ii) Welding shall only be done by the electric welding process and shall be carried out by experienced operatives under the constant supervision of a competent person.

(b) The operations of cutting or welding steel or wrought iron, gas mains and services by the application of heat, subject to the following conditions:—

(i) The main or service shall be situated in the open air, and it shall contain only the following gases, separately or mixed at a pressure greater than atmospheric pressure, namely, town gas, coke-oven gas, producer gas, blast furnace gas, or gases other than air, used in their manufacture;

(ii) The main or service shall not contain acetylene or any gas or mixture of gases to which acetylene has been added intentionally;

(iii) The operation shall be carried out by an experienced person or persons and at least 2 persons (including those carrying out the operations) experienced in work on gas mains and over 18 years of age shall be present during the operation;

(iv) The site of the operation shall be free from any inflammable or explosive gas or vapour;

(v) Where acetylene gas is used as a source of heat in connection with an operation, it shall be compressed and contained in a porous substance in a cylinder; and

(vi) Prior to the application of any flame to the gas main or service, this shall be pierced or drilled and the escaping gas ignited.

(c) The operation of repairing an oil tank on any ship by the electric welding process shall be subject to the following conditions:—

(i) The oil contained in the tank shall have a flash point of not less than 150°F. (close test) and a certificate to this effect shall be obtained from a competent analyst.

(ii) The analyst's certificate shall be kept available for inspection by an Inspector, or by any person employed or working on the ship.

(iii) The welding operation shall be carried out only on the exterior surface of the tank at a place (a) which is free from oil or oil leakage in inflammable quantities and (b) which is not less than one foot below the nearest part of the surface of the oil within the tank; and

(iv) Welding shall be done only by electric welding and shall be carried out by experienced operatives under the constant supervision of a competent person.

Rule prescribed under sub-section (1) of section 38.

61. *Means of escape in case of fire.*—(1) Every factory shall be provided with adequate means of escape in case of fire for the persons employed therein, and without prejudice to the generality of the foregoing provision:—

(a) Each room of a factory building shall in relation to its size and the number of persons employed in it be provided with an adequate number of exits for use in case of fire though not necessarily confined to such use, so positioned that each person will have a reasonably free and un-obstructed passage from his work-place to an exit.

(b) No exit intended for use in case of fire shall be less than 3 feet in width nor less than 6 feet 6 inches in height.

(c) In the case of a factory building or part of a factory building of more than one storey and in which not less than twenty persons work at any one time, there shall be provided at least one substantial stairway permanently constructed either inside or outside the building and which affords direct and unimpeded access to ground level.

(d) In the case of a factory building or part of a factory building in which twenty or more persons work at any one time above the level of the ground floor, or wherein explosive or highly inflammable materials are used or stored, or which is situated below ground level, the means of escape shall include at least two separate and substantial stairways permanently constructed either inside or outside the building and which afford direct and unimpeded access to ground level.

(e) Every stairway in a factory which affords a means of escape in case of fire shall be provided with a substantial handrail which if the stairway has an open side shall be on that side, and if the stairway has two open sides, such handrail shall be provided on both sides.

(2) In the case of a building constructed or converted for use as a factory after 1st January, 1950, the following additional requirements shall apply:—

(a) At least one of the stairways provided shall be of fire-resisting materials.

(b) Every hoist-way or lift-way inside a factory building shall be completely enclosed with fire-resisting materials and all means of access to the hoist or lift shall be fitted with doors of fire resisting materials :

Provided that any such hoist-way or lift-way shall be enclosed only at the top by some material easily broken by fire or be provided with a vent at the top.

(c) No fire escape stair shall be constructed at an angle greater than 45° from the horizontal.

(d) No part of factory building shall be farther (along the line of travel) than 150 feet from any fire escape stair.

(e) No stairway shall be less than 45 inches in width.

Rule prescribed under sub-section (7) of section 38.

62. Fire fighting apparatus.—In every factory where the process of manufacture necessitates the use of inflammable material, efficient means of subduing outbreaks of fire shall be installed, maintained and kept ready for immediate use.

Rule prescribed under section 112.

63. Prohibition of smoking and naked lights.—There shall be exhibited, in English and in the language of the majority of the workers, a notice prohibiting smoking and the use of naked lights, in any place where they would be dangerous, or where the Inspector may require, and all other reasonable precautions against fire shall be taken.

CHAPTER V

WELFARE

Rule prescribed under sub-section (2) of section 42

64. Washing facilities.—(1) There shall be provided and maintained in every factory for the use of employed persons adequate and suitable facilities for washing which shall include soap and nail brushes or other suitable means of cleaning and the facilities shall be conveniently accessible and shall be kept in a clean and orderly condition.

(2) Without prejudice to the generality of the foregoing provisions the washing facilities shall include—

(a) a trough with taps or jets at intervals of not less than two feet, or

(b) wash-basins with taps attached thereto, or

(c) taps on stand-pipes, or

(d) showers controlled by taps, or

(e) circular troughs of the fountain type, provided that the Inspector may, having regard to the needs and habits of the workers, fix the proportion in which the aforementioned types of facilities shall be installed.

(3) (a) Every trough and basin shall have a smooth, impervious surface and shall be fitted with a waste-pipe and plug.

(b) The floor or ground under and in the immediate vicinity of every trough, tap, jet, wash-basin, stand-pipe and shower shall be so laid or

finished as to provide a smooth impervious surface and shall be adequately drained.

(4) For persons whose work involves contact with any injurious or noxious substance there shall be at least one tap for every fifteen persons; and for persons whose work does not involve such contact the number of taps shall be as follows :—

No. of workers.	No. of taps.
Up to 20	1
21 to 35	2
36 to 50	3
51 to 150	4
151 to 200	5
Exceeding 200 but not exceeding 500	5 plus one tap for every 50 or fraction of 50.
Exceeding 500	11 plus one tap for every 100 or fraction of 100.

(5) If female workers are employed, separate washing facilities shall be provided and so enclosed or screened that the interiors are not visible from any place where persons of the other sex work or pass. The entrance to such facilities shall bear conspicuous notice in the language understood by the majority of the workers "For Women Only", and shall also be indicated pictorially.

(6) The water-supply to the washing facilities shall be capable of yielding at least two gallons a day for each person employed in the factory.

Rule prescribed under sub-section (2) of section 45

65. First-aid appliances.—The first-aid boxes or cup-boards shall be distinctively marked with a red cross on a white ground and shall contain the following equipment :—

A. For factories in which the number of persons employed does not exceed ten, or (in the case of factories in which mechanical power is not used) does not exceed fifty persons—Each first-aid box or cupboard shall contain the following equipment :—

(i) 6 small sterilized dressings.

(ii) 3 medium size sterilized dressings.

(iii) 3 large size sterilized dressings.

(iv) 3 large size sterilized burn dressings.

(v) 1 (1 oz.) bottle containing a two per cent. alcoholic solution of iodine.

(vi) 1 (1 oz.) bottle containing sal-volatile having the dose and mode of administration indicated on the label.

(vii) A snake-bite lancet.

(viii) 1 (1 oz.) bottle of potassium permanganate crystals.

(ix) One pair scissors.

(x) 1 copy of the first-aid leaflet issued by the Chief Adviser, Factories, Government of India.

B. For factories in which mechanical power is used and in which the number of persons employed exceeds ten but does not exceed fifty—Each first-aid box or cupboard shall contain the following equipment :—

(i) 12 small sterilized dressings.

(ii) 6 medium size sterilized dressings.

(iii) 6 large size sterilized dressings.

(iv) 6 large size sterilized burn dressings.

(v) 6 ($\frac{1}{2}$ oz.) packets sterilized cotton wool.

(vi) 1 (2 oz.) bottle containing a two per cent. alcoholic solution of iodine.

(vii) 1 (2 oz.) bottle containing sal-volatile having the dose and mode of administration indicated on the label.

(viii) 1 roll of adhesive plaster.

(ix) A snake-bite lancet.

(x) 1 (1 oz.) bottle of potassium permanganate crystals.

(xi) 1 pair scissors.

(xii) 1 copy of first-aid leaflet issued by the Chief Adviser, Factories, Government of India.

C. For factories employing more than fifty persons—Each first-aid box or cupboard shall contain the following equipment :—

(i) 24 small sterilized dressings.

(ii) 12 medium size sterilized dressings.

(iii) 12 large size sterilized dressings.

(iv) 12 large size sterilized burn dressings.

(v) 12 ($\frac{1}{2}$ oz.) packets sterilized cotton wool.

(vi) 1 snake-bite lancet.

(vii) 1 pair scissors.

(viii) 2 (1 oz.) bottles of potassium permanganate crystals.

(ix) 1 (4 oz.) bottle containing a two per cent. alcoholic solution of iodine.

(x) 1 (4 oz.) bottle of sal-volatile having the dose and mode of administration indicated on the label.

(xi) 1 copy of first-aid leaflet issued by the Chief Adviser, Factories, Government of India.

(xii) 12 roller bandages 4 inches wide.

(xiii) 12 roller bandages 2 inches wide.

(xiv) 2 rolls of adhesive plaster.

(xv) 6 triangular bandages.

(xvi) 2 packets of safety pins.

(xvii) A supply of suitable splints.

(xviii) 1 tourniquet :

Provided that items (xii) to (xviii) inclusive need not be included in the standard first-aid box or cupboard (a) where there is a properly equipped ambulance room, or (b) if at least one box containing such items and placed and maintained in accordance with the requirements of section 45 is separately provided.

D. In lieu of the dressings required under items (i) and (ii), there may be substituted adhesive wound dressings approved by the Chief Inspector of Factories.

Rule prescribed under sub-section (4) of section 45 and section 112.

66. *Ambulance room*—(1) The ambulance room or dispensary shall be in charge of a qualified medical practitioner assisted by at least one qualified nurse and such subordinate staff as the Chief Inspector may direct. The medical practitioner shall always be available on call during working hours, or when any work is being carried on in the factory :

Provided that the Chief Inspector may in the case of Ordnance Factories relax the provisions of this sub-rule to such extent and on such conditions as he may deem expedient.

(2) The ambulance room or dispensary shall be separate from the rest of the factory and shall be used only for the purpose of first-aid treatment and rest. It shall have a floor area of at least 250 sq. ft. and smooth, hard, impervious floor and walls impervious up to a height of five feet and shall be adequately ventilated and lighted by both natural and artificial means. An adequate supply of wholesome drinking water shall be laid on and the room shall contain at least :—

(i) A glazed sink with hot and cold water always available.

(ii) A table with a smooth top at least 6' x 3' 6".

(iii) Means for sterilizing instruments.

(iv) A couch.

(v) Two stretchers.

(vi) Two buckets or containers with close fitting lids.

(vii) Two rubber hot water bags.

(viii) A kettle and spirit stove or other suitable means of boiling water.

(ix) Twelve plain wooden splints 36" x 4" x $\frac{1}{4}$ ".

(x) Twelve plain wooden splints 14" x 3" x $\frac{1}{4}$ ".

(xi) Six plain wooden splints 10" x 2" x $\frac{1}{2}$ ".

(xii) Six woollen blankets.

(xiii) One pair artery forceps.

(xiv) One bottle of brandy.

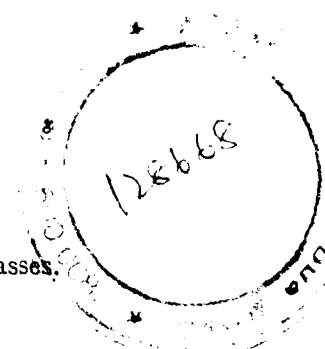
(xv) Two medium size sponges.

(xvi) Six hand towels.

(xvii) Four "Kidney" trays.

(xviii) Four cakes carbolic soap.

(xix) Two glass tumblers and two wine glasses.



- (xx) Two clinical thermometers.
- (xxi) Graduated measuring glass with teaspoon.
- (xxii) One eye bath.
- (xxiii) One bottle (2 lbs.) carbolic lotion, 1 in 20.
- (xxiv) Three chairs.
- (xxv) One screen.
- (xxvi) One electric hand torch.
- (xxvii) Four first-aid boxes or cupboards stocked to the standards prescribed under item C of rule 65.
- (xxviii) An adequate supply of anti-tetanus serum.

(3) The occupier of every factory to which these rules apply shall, for the purpose of removing serious cases of accident or sickness, provide in the premises and maintain in good condition a suitable conveyance unless he has made arrangements for obtaining such a conveyance from a hospital.

(4) A record of all cases of accident and sickness treated at the room shall be kept and produced to the Inspector or Certifying Surgeon when required.

Rules 67 to 72 prescribed under section 16.

67. Canteens.—(1) The occupier of every factory wherein more than two hundred and fifty workers are ordinarily employed shall provide in or near the factory an adequate canteen according to the standards prescribed in these rules.

(2) The occupier of a factory shall submit for the approval of the Chief Inspector plans and site plan, in duplicate, of the building to be constructed or adapted for use as a canteen.

(3) The canteen building shall be situated not less than fifty feet from any latrine, urinal, boiler house, coal stacks, ash dumps and any other source of dust, smoke or obnoxious fumes:

Provided that the Chief Inspector may in any particular factory relax the provisions of this sub-rule to such extent as may be reasonable in the circumstances and may require measures to be adopted to secure the essential purpose of this sub-rule.

(4) The canteen building shall be constructed in accordance with the plans approved by the Chief Inspector and shall accommodate at least a dining-hall, kitchen, store-room, pantry and washing places separately for workers and for utensils:

Provided that the Chief Inspector may, in the case of factories existing on the date of commencement of these rules relax the provisions of this sub-rule to such extent as he considers reasonable.

(5) The height of every room in the building shall be not less than 12 feet from the floor level to the lowest part of the roof. The floor and inside walls up to a height of 4 feet from the floor shall be made of smooth and impervious material.

Provided that in the case of factories existing on the date of commencement of these rules the Chief Inspector may by order in writing relax the provisions of this sub-rule, regarding height.

(6) The doors and windows of a canteen building shall be of fly-proof construction and shall allow adequate ventilation.

(7) The canteen shall be sufficiently lighted at all times when any persons have access to it.

(8) (a) In every canteen—

(i) all inside walls of rooms and all ceilings and passages and stair-cases shall be lime-washed or colour-washed at least once in each year or painted once in three years dating from the period when last lime-washed, or painted, as the case may be;

(ii) all wood work shall be varnished or painted once in three years dating from the period when last varnished or painted;

(iii) all internal structural iron or steel work shall be varnished or painted once in three years dating from the period when last varnished or painted: Provided that inside walls of the kitchen shall be lime-washed once in every four months.

(b) Records of dates on which lime-washing, colour-washing, varnishing or painting is carried out, shall be maintained in the prescribed Register (Form No. 6).

(9) The canteen building shall be maintained in a clean and hygienic condition and its precincts shall be maintained in a clean and sanitary condition. Waste water shall be carried away in suitable covered drains and shall not be allowed to accumulate so as to cause a nuisance. Suitable arrangement shall be made for the collection and disposal of garbage.

68. Dining-hall.—(1) The dining-hall shall accommodate at a time at least 30 per cent. of the workers working at a time:

Provided that, in any particular factory or in any particular class of factories, the Chief Inspector may, by an order in writing in this behalf, alter the percentage of workers to be accommodated.

(2) The floor area of the dining-hall, excluding the area occupied by the service counter and any furniture except tables and chairs, shall be not less than 10 square feet per diner to be accommodated as prescribed in sub-rule (1).

(3) A portion of the dining-hall and service counter shall be partitioned off and reserved for women workers in proportion to their number. Washing places for women shall be separate and screened to secure privacy.

(4) Sufficient tables, with impervious tops, chairs or benches shall be available for the number of diners to be accommodated as prescribed in sub-rule (1).

69. Equipment.—(1) There shall be provided and maintained sufficient utensils, crockery, cutlery, furniture and any other equipment necessary for the efficient running of the canteen. Suitable clean clothes for the employee serving in the canteen shall also be provided and maintained.

(2) The furniture, utensils and other equipment shall be maintained in a clean and hygienic condition. A service counter, if provided, shall have a top of smooth and impervious material. Suitable facilities including an adequate supply of hot water shall be provided for the cleaning of utensils and equipment.

70. *Prices to be charged.*—(1) Food, drink and other items served in the canteen shall be sold on a non-profit basis and the prices charged shall be subject to the approval of the Canteen Managing Committee.

(2) The charges per portion of foodstuff, beverages and any other item served in the canteen shall be conspicuously displayed in the canteen.

71. *Accounts.*—(1) All books of accounts, registers and any other documents used in connection with the running of the canteen shall be produced on demand to an Inspector.

(2) The accounts pertaining to the canteen shall be audited, once in every twelve months, by registered accountants and auditors. The balance-sheet prepared by the said auditors shall be submitted to the Canteen Managing Committee not later than two months after the closing of the audited accounts:

Provided that the accounts pertaining to the canteen in a Government factory having its own Accounts Department, may be audited by such Department.

72. *Managing Committee.*—(1) The Manager shall consult the Canteen Managing Committee from time to time as to—

(a) the quality and quantity of foodstuffs to be served in the canteen;

(b) the arrangement of the menus;

(c) times of meals in the canteen; and

(d) any other matter as may be found necessary for the purpose of efficient administration of the canteen.

(2) The Canteen Managing Committee shall consist of an equal number of persons nominated by the manager and elected by the workers. The number of elected workers shall be on the proportion of 1; for every 1,000 workers employed in the factory, provided that in no case shall there be more than 5 or less than 2 workers on the Committee.

(3) The Manager shall determine and supervise the procedure for elections to the Canteen Managing Committee.

(4) A Canteen Managing Committee shall be dissolved by the Manager two years after the last election, no account being taken of a bye-election.

Rule prescribed under section 47.

73. *Shelters, rest-rooms and lunch-rooms.*—The shelters, or rest-rooms or lunch-rooms shall conform to the following standards and the manager of a factory shall submit for the approval of the Chief Inspector plan and site plan, in duplicate, of the building to be constructed or adapted:—

(a) The building shall be soundly constructed and all the walls and roof shall be of suitable heat resisting materials and shall be water-proof.

The floor and walls to a height of 3 feet shall be so laid or finished as to provide a smooth, hard and impervious surface.

(b) The height of every room in the building shall be not less than 12 feet from floor level to the lowest part of the roof and there shall be at least 12 square feet of floor area for every person employed: Provided that (i) workers who habitually go home for their meals during the rest periods may be excluded in calculating the number of workers to be accommodated, and (ii) in the case of factories in existence at the date of commencement of the Rules, where it is impracticable, owing to lack of space to provide 12 square feet of floor area for each person, such reduced floor area per person shall be provided as may be approved in writing by the Chief Inspector.

(c) Effective and suitable provision shall be made in every room for securing and maintaining adequate ventilation by the circulation of fresh air and there shall also be provided and maintained sufficient and suitable natural or artificial lighting.

(d) Every room shall be adequately furnished with chairs or benches with back-rests.

(e) Sweepers shall be employed whose primary duty it is to keep the rooms, building and precincts thereof in a clean and tidy condition.

Rules 74 to 77 prescribed under sub-section (3) of section 48.

74. *Creches.*—(1) The creche shall be conveniently accessible to the mothers of the children accommodated therein and so far as is reasonably practicable it shall not be situated in close proximity to any part of the factory where obnoxious fumes, dust or odours are given off or in which excessively noisy processes are carried on. Plan and site plan, in duplicate, of the building to be constructed or adapted, shall be submitted for the approval of the Chief Inspector.

(2) The building in which the creche is situated shall be soundly constructed and all the walls and roof shall be of suitable heat resisting materials and shall be water-proof. The floor and internal walls up to a height of 4 feet from the floor of the creche shall be so laid or finished as to provide a smooth impervious surface.

(3) The height of the rooms in the building shall be not less than 12 feet from the floor to the lowest part of the roof and there shall be not less than 20 sq. ft. of floor area for each child to be accommodated.

(4) Effective and suitable provision shall be made in every part of the creche for securing and maintaining adequate ventilation by the circulation of fresh air.

(5) The creche shall be adequately furnished and equipped and in particular there shall be one suitable cot or cradle with the necessary bedding for each child (provided that for children over two years of age it will be sufficient if suitable bedding is made available), at least one chair or equivalent seating accommodation for the use of each mother while she is feeding or attending to her child, and a sufficient supply of suitable toys for the older children.

(6) A suitably fenced and shady open air play-ground shall be provided for the older children: Provided that the Chief Inspector may by order in writing exempt any factory from compliance with this sub-rule if he is satisfied that there is not sufficient space available for the provision of such a play-ground.

75. Wash room.—There shall be in or adjoining the creche a suitable wash room of the washing for the children and their clothing. The wash room shall conform to the following standards:—

(a) The floor and internal walls of the room to a height of 3 feet shall be so laid or finished as to provide a smooth impervious surface. The room shall be adequately lighted and ventilated and the floor shall be effectively drained and maintained in a clean and tidy condition.

(b) There shall be at least one basin or similar vessel for every four children accommodated in the creche at any one time together with a supply of water provided, if practicable, through taps at the rate of at least five gallons per child per day.

(c) An adequate supply of clean clothes, soap and clean towels shall be made available for each child while it is in the creche.

76. Supply of milk and refreshment.—At least one *powa* of clean pure milk shall be available for each child on every day it is accommodated in the creche and the mother of such a child shall be allowed in the course of her daily work 2 intervals of at least 15 minutes each to feed the child. For children above two years of age there shall be provided in addition an adequate supply of wholesome refreshment.

77. Clothes for creche staff.—The creche staff shall be provided with suitable clean clothes for use while on duty in the creche.

CHAPTER VI

WORKING HOURS OF ADULTS

Rule prescribed under sub-section (2) of section 53.

78. Compensatory holidays.—(1) Except in the case of workers engaged in any work which for technical reasons must be carried on continuously throughout the day, the compensatory holidays to be allowed under sub-section (1) of section 53 of the Act shall be so spaced that not more than two holidays are given in one week.

(2) The Manager of the factory shall display, on or before the end of the month in which holidays are lost, a notice in respect of workers allowed compensatory holidays during the month in which they are due or to the two subsequent months and of the dates thereof, at the place at which the notice of periods of work prescribed under section 61 is displayed. Any subsequent change in the notice in respect of any compensatory holiday shall be made not less than three days in advance of the date of that holiday.

(3) No worker shall be discharged or dismissed before he has been given compensatory holiday or holidays to which he may be entitled and no such holiday or holidays shall be reckoned as part of any period of notice required to be given before discharge or dismissal.

(4)(a) The Manager shall maintain a Register as nearly as possible in Form No. 10:

Provided that if the Chief Inspector of Factories is of the opinion that any muster roll or register maintained as part of the routine of the factory or return made by the Manager, gives in respect of any or all of the workers in the factory the particulars required for the enforcement of section 53, he may, by order in writing, direct that such muster roll or register or return shall, to the corresponding extent, be maintained in place of and be treated as the register or return required under this rule for that factory.

(b) The register maintained under clause (a) shall be preserved for a period of three years after the last entry in it and shall be produced before the Inspector on demand.

Rule prescribed under sub-section (4) of section 59.

79. Cash equivalent.—The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed at the end of every wage period fixed under the provisions of the Payment of Wages Act, 1936.

Rules prescribed under sub-section (5) of section 59.

80. Manner of computing cash equivalent and muster roll.—For the purpose of computing cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles, the difference between the value of foodgrains and other articles at which these were purchased by the factory and the value of foodgrains and other articles supplied at concessional rates shall be calculated and allowed for the number of overtime hours worked.

This sub-rule shall not apply to any Railway factory whose alternative method of computation has been approved by the State Government.

(2) The Manager of every factory in which workers are exempted under sections 5, 64, 65 or 86 from the provisions of section 51 or section 54 shall keep a muster-roll as nearly as possible in Form No. 11 showing the normal piece-work rate of pay, or rate of pay per hour of all exempted employees. In this muster-roll shall be correctly entered the overtime hours of work and payments therefor of all exempted workers. The muster-roll (Form No. 11) shall always be available for inspection. All entries shall be made in ink and the muster-roll shall be preserved for three calendar years after the last entry in it.

Rule prescribed under section 60.

81. Employment in two factories on the same day.—An adult worker employed in one factory may work on the same day in one or more other factories, provided that—

(a) he does not thereby change his employer;

(b) unless working under the provisions of the rule providing for the exemption of workers engaged on urgent repairs made under clause (a) of sub-section (2) of section 64, he does not work for longer periods or for more hours than he might legally have worked in the factory in which he is employed;

(c) any time spent in travelling between one factory and another shall be deemed to be time during which he has worked ; and

(d) in computing any pay due to the worker for overtime, the total of all hours worked by him in any factory, including any time necessarily spent in travelling between one factory and another, shall be deemed to be the total hours worked by him on that day.

Notice prescribed under sub-section (8) of section 61.

82. Notice of periods of work for adults.—The notice of periods of work for adult workers shall be as nearly as possible in Form No. 12, Form No. 12A or Form No. 12B as the case may be.

Register prescribed under sub-section (2) of section 62.

83. Register of adult workers.—The Register of adult workers shall be as nearly as possible in Form No. 13 and shall be maintained in accordance with the following provisions :—

(1) For each group of workers classified under section 61, a separate part of the register shall be maintained.

(2) Where a worker is transferred from one group to another or from one relay to another, the following particulars of his transfer shall be entered against his name :—

(a) Under the group from which he has been transferred—

(i) the date and actual time of finishing work in the group or relay, and

(ii) the group or relay to which he has been transferred, and

(b) under the group to which he has been transferred—

(i) the date and actual time of commencing work in the group or relay, and

(ii) the group or relay from which he has been transferred.

(3) Where a worker is discharged from or leaves his employment, the date of his leaving or discharge, as the case may be, shall be entered against his name in the "remarks" column.

(4) All entries in the registers shall be made in ink, shall be legible and shall be maintained up-to-date.

(5) All registers shall be maintained in English and all dates entered in a Register shall be in accordance with the English calendar.

(6) All registers for the preceding three calendar years shall be preserved and be available in the factory for examination by the Inspector.

CHAPTER VII.

EMPLOYMENT OF YOUNG PERSONS AND EXCLUSION OF UNDERAGE CHILDREN.

Notice prescribed under sub-section (3) of section 72.

84. Notice of periods of work for children.—The notice of periods of work for child workers shall be as nearly as possible in Form No. 12, Form No. 12A or Form No. 12B as the case may be.

Register prescribed under sub-section (2) of section 73.

85. Register of child workers.—The Register of child workers shall be as nearly as possible in Form No. 14 and shall be maintained in accordance with the following provisions :—

(1) For each group of children classified under section 61, a separate part of the Register shall be maintained.

(2) Where a child is transferred from one group to another, or from one relay to another the following particulars of his transfer shall be entered against his name :—

(a) Under the group from which he has been transferred—

(i) the date and actual time of finishing work in the group or relay, and

(ii) the group or relay to which he has been transferred, and

(b) under the group to which he has been transferred—

(i) the date and actual time of commencing work in the group or relay, and

(ii) the group or relay from which he has been transferred.

(3) Where a child is discharged from or leaves his employment, the date of his leaving or discharge, as the case may be, shall be entered against his name in the "remarks" column.

(4) All entries in the registers shall be made in ink, shall be legible, and shall be maintained up-to-date.

(5) All registers shall be maintained in English and all dates entered in a Register shall be in accordance with the English calendar.

(6) All registers for the preceding three calendar years shall be preserved and be available in the factory for examination by the Inspector.

Rule prescribed under section 112

86. Exclusion of underage children.—No child under the age of 14 years shall be permitted within the workrooms and godowns of any factory at any time during which work is carried on.

CHAPTER VIII

Rule prescribed under section 80

87. Cash equivalent.—The cash equivalent of the advantage accruing through the concessional sale of food-grains and other articles payable to a worker proceeding on leave shall be the difference between the value of foodgrains and other articles at which these were purchased by the factory and the value at the concessional rates of food-grains and other articles to which he is entitled.

Rules 88 and 93 prescribed under sections 83 and 112

88. Leave with Wages Register.—(1) The Manager shall keep an up-to-date Register as nearly as possible in Form No. 15 hereinafter called the Leave with Wages Register :

Provided that if the Chief Inspector is of the opinion that any muster-roll or register maintained as part of the routine of the factory, or return

made by the Manager, gives, in respect of any or all of the workers in the factory, the particulars required for the enforcement of Chapter VIII of the Act, he may, by order in writing, direct that such muster-roll or register or return shall, to the corresponding extent, be maintained in place of and be treated as the Register or return required under this Rule in respect of that factory.

(2) The Leave with Wages Register shall be preserved for a period of three years after the last entry in it and shall be produced before the Inspector on demand.

89. Leave Book.—(1) The Manager shall provide each worker with a book as nearly as possible in Form No. 16 (hereinafter called the Leave Book). The Leave Book shall be the property of the worker and the Manager or his agent shall not demand it except to make relevant entries therein whenever necessary and shall not keep it for more than a week at a time. All entries in the Leave Book shall be made in ink, shall be legible, and shall be maintained up-to-date.

(2) If a worker loses his Leave Book, the Manager shall provide him with another copy on the payment of anna one, and shall complete it from his record.

90. Medical Certificate.—If any worker is absent from work due to his illness and wants to avail himself of the leave with wages due to him to cover the whole or part of the period of his illness, under the provisions of sub-section (7) of section 79 he shall, if required by the Manager, produce a medical certificate signed by a registered medical practitioner or by a registered or recognised vaid or hakim stating the cause of the absence and the period for which the worker is in the opinion of such medical practitioner, vaid or hakim unable to attend his work.

91. Notice to Inspector of lay-off or closure.—The occupier or manager of every factory shall give to the Inspector a notice of every case of lay-off as soon as possible, and of every intended closure of the factory or any section or department thereof, immediately after the closure is decided upon, stating the reason for the lay-off or closure, the number of workers working in the factory, section or department, as the case may be, on the date of the notice, the number of workers on lay-off or likely to be unemployed on account of the closure and the possible period of the closure. The occupier or Manager shall also send a notice to the Inspector as soon as the factory, section or department starts working again, stating the number of workers employed. Entries to this effect shall be made in the Leave with Wages Register and the Leave Book in respect of each worker concerned.

92. Notice of leave with wages.—(1) In a factory where leave scheme has been drawn up in accordance with sub-sections (8) and (9) of section 79 of the Act the Manager shall, by a notice displayed at the place at which the notice of the periods of work required by section 61 is displayed, fix the dates on which leave with wages shall be allowed to each worker or group of workers including any worker who has accumulated his leave. This date shall not, in an individual case, be earlier than two weeks from the date of notice unless the worker agrees to take the leave earlier. The necessary

entries shall be made in the leave with Wages Register and the Leave Book of the worker concerned.

(2) As far as circumstances permit, members of the same family, comprising husband, wife and children shall be allowed leave on the same date.

(3) The Manager may alter the dates fixed for leave only after giving notice of two weeks to the worker.

(4) A worker may exchange the period of his leave with another worker, subject to the approval of the Manager.

93. Payment of wages if the worker dies.—If a worker dies before availing himself of leave with wages due to him, his leave pay shall be paid to his legal heir within one week of the receipt of intimation of the death of the worker.

CHAPTER IX

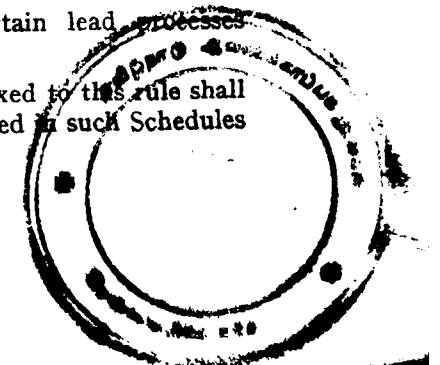
SPECIAL PROVISIONS.

Rule prescribed under section 87.

94. Dangerous operations.—(1) The following operations when carried on in any factory are declared to be dangerous operations under section 87:—

- (a) Manufacture of aerated water and processes incidental thereto.
- (b) Electrolytic plating or oxidation of metal articles by use of an electrolyte containing chromic acid or other chromium compounds.
- (c) Manufacture or repair of electric accumulators.
- (d) Glass manufacture.
- (e) Grinding or glazing of metals.
- (f) Manufacture, treatment or handling of lead, lead alloys or certain compounds of lead.
- (g) Generating petrol gas from petrol.
- (h) Cleaning or smoothing of articles by a jet of sand, metal shot or grit or other abrasive propelled by a blast of compressed air or steam.
- (i) Liming and tanning of raw hides and skins and processes incidental thereto.
- (j) Feeding of jute, hemp or other fibres into softening machines.
- (k) Lifting, stacking, storing and shipping of bales in and from finished goods godowns of Jute Mills.
- (l) Manufacture, use or storage of cellulose solutions.
- (m) Manufacture of chromic acid or manufacture or recovery of the bichromate of sodium, potassium or ammonium.
- (n) Printing presses and Type Foundries certain lead processes carried on therein.

(2) The provisions specified in the Schedules annexed to this rule shall apply to factories wherein dangerous operations specified in such Schedules are carried out.



SCHEDULE I

(*Manufacture of Aerated Waters and processes incidental thereto.*)

1. *Fencing of machines.*—All machines for filling bottles or syphons shall be so constructed, placed or fenced, as to prevent, as far as may be practicable, a fragment of a bursting bottle or syphon from striking any person employed in the factory.

2. *Face-guards and gauntlets.*—(1) The occupier shall provide and maintain in good condition for the use of all persons engaged in filling bottles or syphons:—

(a) suitable face-guards to protect the face, neck and throat, and

(b) suitable gauntlets for both arms to protect the whole hand and arms: Provided that—

(i) paragraph 2(1) shall not apply where bottles are filled by means of an automatic machine so constructed that no fragment of a bursting bottle can escape, and

(ii) where a machine is so constructed that only one arm of the bottler at work upon it is exposed to danger, a gauntlet need not be provided for the arm which is not exposed to danger.

(2) The occupier shall provide and maintain in good condition for the use of all persons engaged in corking, crowning, screwing, wiring, foiling, capsuling, sighting or labelling bottles or syphons—

(a) suitable face-guard to protect the face, neck and throat, and

(b) suitable gauntlets for both arms to protect the arm and at least half of the palm and the space between the thumb and fore-finger.

3. *Wearing of face-guards and gauntlets.*—All persons engaged in any of the processes specified in paragraph 2 shall, while at work in such processes, wear the face-guards and gauntlets provided under the provisions of the said paragraph.

SCHEDULE II

(*Electrolytic plating or oxidation of metal articles by use of an electrolyte containing chromic acid or other chromium compounds.*)

1. *Definitions.*—For the purposes of this Schedule:—

(a) "Electrolytic chromium process" means the electrolytic plating or oxidation of metal articles by the use of an electrolyte containing chromic acid or other chromium compounds.

(b) "Bath" means any vessel used for an electrolytic chromium process or for any subsequent process.

(c) "Employed" means in paragraphs 5, 7, 8 and 9 of this Schedule, employed in any process involving contact with liquid from a bath.

(d) "Suspension" means suspension from employment in any process involving contact with liquid from any bath by written certificate in the Health Register, signed by the Certifying Surgeon, who shall have power of suspension as regards all persons employed in any such process.

2. *Exhaust draught.*—An efficient exhaust draught shall be applied to every vessel in which an electrolytic chromium process is carried on. Such draught shall be provided by mechanical means and shall operate on the vapour or spray given off in the process as near as may be at the point of origin. The exhaust draught appliance shall be so constructed, arranged and maintained as to prevent the vapour or spray entering into any room or place in which work is carried on.

3. *Prohibition relating to women and young persons.*—No woman, adolescent or child shall be employed or permitted to work at a bath.

4. *Floor of work-rooms.*—The floor of every room containing a bath shall be impervious to water. The floor shall be maintained in good and level condition and shall be washed down at least once a day.

5. *Protective clothing.*—(1) The occupier of the factory shall provide and maintain in good and clean condition the following articles of protective clothing for the use of all persons employed on any process at which they are liable to come in contact with liquid from a bath and such clothing shall be worn by the persons concerned:—

(a) Water-proof aprons and bibs, and

(b) for persons actually working at a bath, loose-fitting rubber gloves and rubber boots or other water-proof foot-wear.

(2) The occupier shall provide and maintain for the use of all persons employed suitable accommodation for the storage and adequate arrangements for the drying of the protective clothing.

6. *Medical requisites.*—The occupier shall provide and maintain a sufficient supply of suitable ointment and impermeable water-proof plaster in a separate box readily accessible to the workers and used solely for the purpose of keeping the ointment and plaster.

7. *Medical examination.*—(a) Every person employed shall be examined by the Certifying Surgeon once in every 14 days and such examination shall taken place at the factory.

(b) A Health Register as nearly as possible in Form No. 17 shall be kept by the occupier of the factory and in it shall be entered the names of all persons employed together with such entries as the Certifying Surgeon may make from time to time.

(c) No person after suspension shall be employed without written sanction from the Certifying Surgeon entered in or attached to the Health Register.

8. *Cautionary placard.*—A Cautionary placard in the form specified by the Chief Inspector and printed in the language of the majority of the workers employed shall be affixed in a prominent place in the factory where it can be easily and conveniently read by the workers.

9. *Weekly examination.*—A responsible person appointed in writing by occupier of the factory shall twice in every week inspect the hands and forearms of all persons employed and shall keep a record of such inspections in the Health Register.

SCHEDULE III

(Manufacture or repair of electric accumulators.)

1. *Savings.*—This Schedule shall not apply to the manufacture or repair of electric accumulators or parts thereof not containing lead or any compound of lead ; or to repair on the premises, of any accumulator forming part of a stationary battery.

2. *Definitions.*—For the purposes of this Schedule :—

(a) "Lead process" means the melting of lead or any material containing lead, casting, pasting, lead burning, or any other work, including trimming, or any other abrading or cutting of pasted plates, involving the use, movement or manipulation of, or contact with, any oxide of lead.

(b) "Manipulation of raw oxide of lead" means any lead process involving, any manipulation or movement of raw oxides of lead other than its conveyance in a receptacle or by means of an implement from one operation to another.

(c) "Suspension" means suspension from employment in any lead process by written certificates in the Health Register (Form No. 17) signed by the Certifying Surgeon, who shall have power of suspension as regards all persons employed in any such process.

3. *Prohibition relating to women and young persons.*—No woman or young person shall be employed or permitted to work in any lead process or in any room in which the manipulation of raw oxide of lead or pasting is carried on.

4. *Separation of certain processes.*—Each of the following processes shall be carried on in such a manner and under such conditions as to secure effectual separation from one another, and from any other process :—

(a) Manipulation of raw oxide of lead ;

(b) Pasting ;

(c) Drying of pasted plates ;

(d) Formation with lead burning ("tacking") necessarily carried on in connection therewith ;

(e) Melting down of pasted plates.

5. *Air space.*—In every room in which a lead process is carried on, there shall be at least 500 cubic feet of air space for each person employed therein, and in computing this air space no height over 14 feet shall be taken into account.

6. *Ventilation.*—Every work-room shall be provided with inlets and outlets of adequate size as to secure and maintain efficient ventilation in all parts of the room.

7. *Distance between workers in pasting room.*—In every pasting room the distance between the centre of the working position of any paster and that of the paster working nearest to him shall not be less than five feet.

8. *Floor of work-rooms.*—(1) The floor of every room in which a lead process is carried on shall be—

(a) of cement or similar material so as to be smooth and impervious to water ;

(b) maintained in sound condition ;

(c) kept free from materials, plant, or other obstruction not required for, or produced in, the process carried on in the room.

(2) In all such rooms other than grid casting shops the floor shall be—cleansed daily after being thoroughly sprayed with water at a time when no other work is being carried on in the room.

(3) In grid casting shops the floor shall be cleansed daily.

(4) Without prejudice to the requirements of sub-paragraphs (1), (2) and (3), where manipulation of raw oxide of lead or pasting is carried on, the floor shall also be—

(a) kept constantly moist while work is being done ;

(b) provided with suitable and adequate arrangements for drainage ;

(c) thoroughly washed daily by means of a hose pipe.

9. *Work-benches.*—The work-benches at which any lead process is carried on shall—

(a) have a smooth surface and be maintained in sound condition ;

(b) be kept free from all materials or plant not required for, or produced in, the process carried on thereat ; and all such work-benches other than those in grid casting shops shall—

(c) be cleansed daily either after being thoroughly damped or by means of a suction cleaning apparatus at a time when no other work is being carried on thereat ;

and, all such work-benches in grid casting shops, shall—

(d) be cleansed daily ;

and every work-bench used for pasting shall—

(e) be covered throughout with sheet lead or other impervious material ;

(f) be provided with raised edges ;

(g) be kept constantly moist while pasting is being carried on.

10. *Exhaust draught.*—The following processes shall not be carried on without the use of an efficient exhaust draught :—

(a) Melting of lead or materials containing lead ;

(b) Manipulation of raw oxide of lead, unless done in an enclosed apparatus so as to prevent the escape of dust into the workroom ;

(c) Pasting ;

(d) Trimming, brushing, filing or any other abrading or cutting of pasted plates giving rise to dust ;

(e) Lead burning, other than—

(i) "tacking" in the formation room ;

(ii) chemical burning for the making of lead lining for cell cases necessarily carried on in such a manner that the application of efficient exhaust is impracticable.

Such exhaust draught shall be effected by mechanical means and shall operate on the dust or fume given off as nearly as may be at its point of

origin, so as to prevent it entering the air of any room in which persons work.

11. Fumes and gases from melting pots.—The products of combustion produced in the heating of any melting pot shall not be allowed to escape into a room in which persons work.

12. Container for dross.—A suitable receptacle with tightly fitting cover shall be provided and used for dross as it is removed from every melting pot. Such receptacle shall be kept covered while in the workroom, except when dross is being deposited therein.

13. Container for lead waste.—A suitable receptacle shall be provided in every workroom in which old plates and waste material which may give rise to dust shall be deposited.

14. Racks and shelves in drying room.—The racks or shelves provided in any drying room shall not be more than 8 feet from the floor nor more than 2 feet in width: Provided that as regards racks or shelves set or drawn from both sides the total width shall not exceed 4 feet.

Such racks or shelves shall be cleaned only after being thoroughly damped unless an efficient suction cleaning apparatus is used for this purpose.

15. Medical examination.—(a) Every person employed in a lead process shall be examined by the Certifying Surgeons within the seven days preceding or following the date of his first employment in such process and thereafter shall be examined by the Certifying Surgeon once in every calendar month, or at such other intervals as may be specified in writing by the Chief Inspector, on a day of which due notice shall be given to all concerned.

“First employment” means first employment in a lead process in the factory or workshop and also re-employment therein in a lead process following any cessation of employment in such process for a period exceeding three calendar months.

(b) A Health Register as nearly as possible in Form No. 17 containing the names of all persons employed in a lead process shall be kept.

(c) No person after suspension shall be employed in a lead process without written sanction from the Certifying Surgeon entered in or attached to the Health Register.

16. Protective clothing.—Protective clothing shall be provided and maintained in good repair for all persons employed in—

- (a) manipulation of raw oxide of lead;
- (b) pasting;
- (c) the formation room;

and such clothing shall be worn by the persons concerned. The protective clothing shall consist of a waterproof apron and waterproof footwear; and, also, as regards persons employed in the manipulation of raw oxide of lead or in pasting, head coverings. The head coverings shall be washed daily.

17. Mess room.—There shall be provided and maintained for the use of all persons employed in a lead process and remaining on the premises

during the meal intervals, a suitable mess-room, which shall be furnished with (a) sufficient tables and benches, and (b) adequate means for warming food: Provided that this paragraph shall not apply where a canteen has been provided under the provision of rules 67 to 73.

The mess-room shall be placed under the charge of a responsible person, and shall be kept clean.

18. Cloak-room.—There shall be provided and maintained for the use of all persons employed in a lead process—

(a) a cloak-room for clothing put off during working hours with adequate arrangements for drying the clothing if wet. Such accommodation shall be separate from any mess-room;

(b) separate and suitable arrangements for the storage of protective clothing provided under paragraph 16.

19. Washing facilities.—There shall be provided and maintained in a cleanly state and in good repair for the use of all persons employed in a lead process—

(a) A wash place under cover, with either—

(i) a trough with a smooth impervious surface fitted with a waste pipe, without plug, and of sufficient length to allow of at least two feet for every five such persons employed at any one time and having a constant supply of water from taps or jets above the trough at intervals of not more than two feet; or at least one wash basin for every five such persons employed at any one time, fitted with a waste pipe and plug and having a constant supply of water laid on;

(ii) a sufficient supply of clean towels made of suitable materials renewed daily, which supply, in the case of pasters and persons employed in the manipulation of raw oxide of lead, shall include a separate marked towel for each such worker; and

(iii) a sufficient supply of soap or other suitable cleansing material and of nail brushes.

(b) There shall in addition be provided means of washing in close proximity to the rooms in which manipulation of raw oxide of lead or pasting is carried on if required by notice in writing from the Chief Inspector.

20. Time to be allowed for washing.—Before each meal and before the end of the day's work, at least ten minutes, in addition to the regular meal times, shall be allowed for washing to each person who has been employed in the manipulation of raw oxide of lead or in pasting:

Provided that if there be one basin or two feet of trough for each such person this paragraph shall not apply.

21. Facilities for bathing.—Sufficient bath accommodation to the satisfaction of the Chief Inspector shall be provided for all persons engaged in the manipulation of raw oxide of lead or in pasting, and a sufficient supply of soap and clean towels.

22. Food, drink, etc., prohibited in work-rooms.—No food, drink, *pan* and *supari* or tobacco shall be consumed or brought by any worker into any work-room in which any lead process is carried on.

SCHEDULE IV
(Glass Manufacture)

1. *Exemption.*—If the Chief Inspector is satisfied in respect of any factory or any class or process that, owing to the special methods of work or the special conditions in a factory or otherwise, any of the requirements of this Schedule can be suspended or relaxed without danger to the persons employed therein, or that the application of this Schedule or any part thereof is for any reason impracticable, he may by certificate in writing authorise such suspension or relaxation as may be indicated in the certificate for such period and on such conditions as he may think fit.

2. *Definitions.*—For the purposes of this Schedule—

(a) "Efficient exhaust draught" means localised ventilation effected by mechanical means for the removal of gas, vapour, dust or fumes so as to prevent them (as far as practicable under the atmospheric conditions usually prevailing) from escaping into the air of any place in which work is carried on. No draught shall be deemed efficient which fails to remove smoke generated at the point where such gas, vapour, fume, or dust originates.

(b) "Lead compound" means any compound of lead other than galena which, when treated in the manner described below, yields to an aqueous solution of hydrochloric acid a quantity of soluble lead compound exceeding, when calculated as lead monoxide, five per cent. of the dry weight of the portion taken for analysis.

The method of treatment shall be as follows :—

A weighed quantity of the material which has been dried at 100° C. and thoroughly mixed shall be continuously shaken for one hour, at the common temperature with 1,000 times its weight of an aqueous solution of hydrochloric acid containing 0.25 per cent. by weight of hydrogen chloride. This solution shall thereafter be allowed to stand for one hour and then filtered. The lead salt contained in the clear filtrate shall then be precipitated as lead sulphide and weighed as lead sulphate.

(c) "Suspension" means suspension from employment in any process specified in paragraph 3 by written certificate in the Health Register (Form No. 17), signed by the Certifying Surgeon, who shall have power of suspension as regards all persons employed in any such process.

3. *Exhaust draught.*—The following processes shall not be carried on except under an efficient exhaust draught or under such other conditions as may be approved by the Chief Inspector :—

- (a) The mixing of raw materials to form a "batch".
- (b) The dry grinding, glazing and polishing of glass or any article of glass.
- (c) All processes in which hydrofluoric acid is used or hydrofluoric fumes or ammoniacal vapours are given off.
- (d) All processes in the making of furnace moulds or "pots" including the grinding or crushing of used "pots".
- (e) All processes involving the use of a dry lead compound.

4. *Prohibition relating to women and young persons.*—No woman or young person shall be employed or permitted to work in any of the operations specified in paragraph 3 or at any place where such operations are carried on.

5. *Floors and work-benches.*—The floor and work-benches of every room in which a dry compound of lead is manipulated or in which any process is carried on giving off silica dust shall be kept moist and shall comply with the following requirements :—

The floors shall be—

- (a) of cement or similar material so as to be smooth and impervious to water;
- (b) maintained in sound condition; and
- (c) cleansed daily after being thoroughly spread with water at a time when no other work is being carried on in the room.

The work-benches shall—

- (a) have a smooth surface and be maintained in sound condition, and
- (b) be cleansed daily either after being thoroughly damped or by means of a suction cleaning apparatus at a time when no other work is being carried on thereat.

6. *Storage and transport of Hydrofluoric Acid.*—Hydrofluoric acid shall not be stored or transported except in cylinders or receptacles made of lead or rubber.

7. *Food, drinks, etc., prohibited in work-rooms.*—No food, drink, *pan* and *supari* or tobacco shall be brought into or consumed by any worker in any room or workplace wherein in any process specified in paragraph 3 is carried on.

8. *Protective clothing.*—The occupier shall provide, maintain in good repair and keep in a clean condition for the use of all persons employed in the processes specified in paragraph 3 suitable protective clothing, foot-wear and goggles according to the nature of the work and such clothing, foot-wear, etc., shall be worn by the persons concerned.

9. *Washing facilities.*—There shall be provided and maintained in a cleanly state and in good repair for the use of all persons employed in the processes specified in paragraph 3—

(a) a wash place with either—

(i) a trough with a smooth impervious surface fitted with a waste pipe, without plug, and of sufficient length to allow of at least two feet for every five such persons employed at any one time, and having a constant supply of water from taps or jets above the trough at intervals of not more than 2 feet; or

(ii) at least one wash basin every five such persons employed at any one time, fitted with a waste pipe and plug and having an adequate supply of water laid on or always readily available;

and

(b) a sufficient supply of clean towels made of suitable material renewed daily with a sufficient supply of soap or other suitable cleansing material and of nail brushes;

and

(c) a sufficient number of stand pipes with taps the number and location of such stand pipes shall be to the satisfaction of the Chief Inspector.

10. *Medical Examination.*—(a) Every person employed in any process specified in paragraph 3 shall be examined by the Certifying Surgeon within seven days preceding or following the date of his first employment in such process and thereafter shall be examined by the Certifying Surgeon once in every calendar month or at such other intervals as may be specified in writing by the Chief Inspector on a day of which due notice shall be given to all concerned.

(b) A Health Register as nearly as possible in Form No. 17 containing the names of all persons employed in any process specified in paragraph 3 shall be kept.

(c) No person after suspension shall be employed in any process specified in paragraph 3 without written sanction from the Certifying Surgeon entered in or attached to the Health Register.

SCHEDULE V

(Grinding or glazing of metals and processes incidental thereto)

1. *Definitions.*—For the purposes of this Schedule—

(a) "Grindstone" means a grindstone composed of natural or manufactured sandstone but does not include a metal wheel or cylinder into which blocks of natural or manufactured sandstone are fitted.

(b) "Abrasive wheel" means a wheel manufactured of bonded emery or other abrasive.

(c) "Grinding" means the abrasion, by aid of mechanical power, of metal, by means of a grindstone or abrasive wheel.

(d) "Glazing" means the abrading, polishing or finishing, by aid of mechanical power, of metal, by means of any wheel, buff, mop or similar appliance to which any abrading or polishing substance is attached or applied.

(e) "Racing" means the turning up, cutting or dressing of a revolving grindstone before it is brought into use for the first time.

(f) "Hacking" means the chipping of the surface of a grindstone by a hack or similar tool.

(g) "Rodding" means the dressing of the surface of a revolving grindstone by the application of a rod, bar or strip of metal to such surface.

2. *Exceptions.*—(1) Nothing in this Schedule shall apply to any factory in which only repairs are carried on except any part thereof in which one or more persons are wholly or mainly employed in the grinding or glazing of metals.

laboratory, that would certainly be an industry, but, in so far as he carries on his profession in the ordinary sense, namely, an avocation which is entirely dependent upon his own intellectual attainments and the skill of his hands, it has never been construed to be an industry, and, as such, it would not be governed by the provisions of the Industrial Disputes Act. Similarly, the profession of a lawyer, in so far as the normal avocations of lawyers are concerned, which is dependent upon his own intellectual attainment and the skill with which he conducts the cases entrusted to him by his clients; that has never been construed as an industry in the sense in which it is used in the Act. But a lawyer under certain circumstances may be carrying on an industry. For example, if a lawyer carries on a business of publication of legal literature, that would be a different matter altogether. Similarly, in the case of an attorney the normal avocations of an attorney are entirely dependent upon his own intellectual attainments and individual skill with which he acts for his clients. In doing so, he may employ many assistants and a large number of staff, but, that, to my mind, makes no difference, because it is not the largeness or smallness of the staff that is decisive of the question. But an attorney's profession can be turned into an industry under certain circumstances. For example, if he carries on an investment business. In the present case, however, it has nowhere been mentioned, and it is not the case of the respondents that the petitioner carries on anything more than his normal avocation as an attorney. The issue was expressly raised before the Industrial Court and statements were filed, but nothing has been stated to suggest that the petitioner carries on his professional calling in any way excepting in the normal manner in which an attorney carries on his profession or calling. The only reason which is being suggested to describe his professional calling as an 'industry' is that it is a 'calling' and all callings have been included in the definition of the word 'industry' in the Act. It has further been stated that the petitioner employs a large number of persons. It is further stated that the staff put in clerical and/or manual work and are, therefore, workmen within the meaning of the Act. It is lastly stated that the petitioner earns his fees with the help of the labour and skill of his employees combined with his own skill, labour and capital. In my opinion, these grounds are not sufficient to hold that the calling of the petitioner constitutes an industry within the meaning of the Act. As I have stated above, it is open to the Legislature to include such callings within the scope of the Act. But, until that is done, the calling of a solicitor carrying on his normal avocation cannot be called an industry within the meaning of the word as used in the Act.

That being so, there was neither an industry in the present case, nor an industrial dispute, nor can the employees of the petitioner be described as workmen as defined under the Act. The reference of a dispute between the petitioner and his employees never constituted an industrial dispute and, as such, could not be referred for adjudication under the Act in exercise of powers given under section 10 of the Act.

The rule must, therefore, be made absolute and the order of reference, dated July 10, 1957, a copy of which is Exhibit B to the petition, must be set aside and quashed and a writ of *certiorari* issued therefor quashing the said order and all proceedings had thereunder. There will be a writ of prohibition directing the respondents not to proceed with the adjudication.

There will be no order as to costs.

[IN THE CALCUTTA HIGH COURT.]
D. P. DUNDERDALE AND OTHERS

v.

G. P. MUKHERJEE AND OTHERS.

P. B. Mukharji, J.

April 3, 1958.

CONSTITUTION OF INDIA, ARTICLE 226—PETITION FOR WRIT—
DECISION OF INDUSTRIAL TRIBUNAL ON JURISDICTION—RIGHT OF HIGH
COURT TO INTERFERE WITH DECISION ON QUESTION OF LAW—PREVIOUS
DECISION BY TRIBUNAL—WHETHER ACTS AS RES JUDICATA.

INDUSTRIAL DISPUTES ACT, 1947, SECTION 2(j)—'INDUSTRY'—
DEFINITION OF—WHETHER INCLUDES FIRM OF SOLICITORS.

AWARD—AWARD OF INDUSTRIAL TRIBUNAL—DURATION OF—
APPLICABILITY OF RES JUDICATA—WHETHER CAN HAVE EFFECT OF
EXTENDING PERIOD OF AWARD—INDUSTRIAL DISPUTES ACT, 1947,
SECTION 19.

The High Court has jurisdiction under article 226 of the Constitution to determine whether an Industrial Tribunal has correctly decided the question of its jurisdiction, whether by the legal process of construction of statute or by the determination of what is known as "jurisdictional fact".

The profession of lawyers or solicitors does not fall within the definition of 'industry' in section 2(j) of the Industrial Disputes Act, 1947. Therefore, there cannot be an industrial dispute between a firm of solicitors and their staff which can be adjudicated under the provisions of the Act by an Industrial Tribunal.

The principle of res judicata is governed by the doctrine of the competence of the Court whose decision is put forward as a bar. Therefore, the fact that there was an adjudication of a dispute between a firm of solicitors and their staff by an Industrial Tribunal, where the Tribunal had held that it had jurisdiction to adjudicate the dispute, is not a bar to the constitutional remedy under article 226, if the High Court comes to the conclusion that the Tribunal has, in fact, no jurisdiction to decide the dispute.

The award of an Industrial Tribunal is, under section 19 of the Industrial Disputes Act, not perpetual and conclusive like the Civil Court's decree or order. It is expressly said to be of a limited duration for which it remains effective and in force and the scope of the principle of res judicata in such cases is confined to the period of currency of the award and cannot have the effect of extending the award beyond the time prescribed by the section.

Matter No. 185 of 1957 under article 226 of the Constitution of India.

S. Chaudhuri for the petitioners.

S. K. Acharyya for the respondents.

JUDGMENT.

P. B. MUKHARJI, J.—The point for determination on this application is whether the firm of Calcutta solicitors called "Sandersons & Morgans" can be said to be an industry so as to be liable to have their disputes with their employees determined by the principles and procedure laid down by the Industrial Disputes Act.

The application is made by the partners of the registered firm of solicitors Messrs. Sandersons & Morgans. They all practise in this High Court as solicitors and attorneys. The application is made under article 226 of the Constitution of India. It asks for a writ of *certiorari* and prohibition to quash the order of reference to the Industrial Tribunal, dated the 5th September, 1956, and the interim award made by the Industrial Tribunal on the 6th May, 1957, and to restrain the respondents from giving effect to that award. The Tribunal, by its interim award, held that the firm of solicitors, Messrs. Sandersons & Morgans, carry on a work which is 'industry' within the meaning of section 2(j) of the Industrial Disputes Act. The respondents include the Industrial Tribunal as well as the Sandersons & Morgans Employees' Union.

A preliminary point on jurisdiction under article 226 may be disposed of at the outset. The Employees' Union contends that the decision of the Tribunal cannot be corrected by *certiorari* or prohibition under article 226 of the Constitution on the ground that it is at best an erroneous decision in law on the question of the construction of the

different statutory provisions of the Industrial Disputes Act and, therefore, there is no question of jurisdiction.

I am unable to accept that contention. If the firm of solicitors cannot be said to carry on an industry, then the Industrial Tribunal has no jurisdiction over them to determine a dispute between them and their employees. If the Tribunal has claimed jurisdiction, be it by way of construction of statute or otherwise, then this assumption of jurisdiction, whether by the legal process of construction of statute or by the determination of what is known as "jurisdictional fact" can be supervised under *certiorari* jurisdiction of this High Court under article 226 of the Constitution of India. For instance, I should be much surprised if I am told that if the Government wrongly make an order of reference to an Industrial Tribunal, of a domestic dispute between husband and wife as an industrial dispute and the Tribunal proceeds to hold that the home is an industry, and, therefore, it has jurisdiction to decide such disputes under the Industrial Disputes Act, then in that event this Court has no jurisdiction to set aside such a reference and such an application of the Industrial Disputes Act, to a subject which does not come within its purview at all, on the plea that the Tribunal decides "home" to be industry by a mere erroneous decision in law through a process of construction of the different sections of the Industrial Disputes Act. It is quite true, and I have said so often, that every question of construction of statutes does not always involve a problem of jurisdiction. But this one in the instant case does. I, therefore, overrule this point of preliminary objection.

By an order of reference, dated the 5th September, 1956, the Government referred the dispute between "Messrs. Sandersons & Morgans, Solicitors, Royal Insurance Building, 5 & 7, Netaji Subhas Road, Calcutta, and their employees represented by Sandersons & Morgans Employees' Union" to the Second Industrial Tribunal on (1) pay and scales of pay, (2) adjustment and fitting in the new scale of pay, if any, (3) dearness allowance, (4) leave, (5) annual bonus, (6) retiral benefit (Provident Fund and Gratuity,) and (7) medical aid.

The applicants filed their statements before the Tribunal saying :

"The firm states that its partners carry on the profession of lawyers and or attorneys and that such profession is not an industry within the meaning of the Industrial Disputes Act, 1947. Consequently the Industrial Disputes Act, 1947, has no application to any alleged dispute between the firm and its employees."

The applicants in their reply stated that the Tribunal had no jurisdiction to entertain the reference and that they took part in the proceedings under protest.

By an interim award the Tribunal decided that 'industry' as defined in section 2(j) of the Industrial Disputes Act is in the widest possible terms and relied on the observations of the Supreme Court of India in *D. N. Banerji v. P. R. Mukherji and Budge Budge Municipality*, [1953] 4 F.J.R. 443, and specially on the pronouncement of Chandrasekhara Aiyar, J., at page 448, namely, "conflicts between capital and labour have now to be determined more from the stand-point of status than of contract." The observations of the Supreme Court of India in that case related to the interpretation of the word "undertaking" in the definition of "industry" in the statute. It was not a case of legal profession at all. It was concerned with the question whether a Municipal Corporation could be said to carry on an industry in respect of certain spheres of its statutory functions.

The relevant observations of the Tribunal to which exception has been taken in this application are quoted below :

"A lawyer carrying on his profession and earning money by his skill where no capital is employed, cannot be said to be an industry. But such cannot be the case in respect of a firm of solicitors like the present one. In this firm, each partner does not get the remuneration of professional services rendered by him, but he takes a share of the joint income of all the partners. His income need not be proportionate to the services rendered by him. Not only this, they appoint assistants on salary and the firms trades on the services which it obtains from the assistants, who are not professional men. This complex set up becomes an industry, though an individual practising will not be an industry. When assistants and other helpers are engaged, the question of capital comes in, in whatever name it may be designated."

The Industrial Tribunal thereafter applied the case of *Shri Vishud-danandh Saraswati Marwari Hospital v. Its Workmen*, decided by the Labour Appellate Tribunal of India and reported in [1952] 4 F.J.R. 295. That, again, was not a case of legal profession, but the case of a charitable hospital being included as an 'industry' on the strength of the interpretation of the word "undertaking" in the statute. It is difficult to appreciate how the Tribunal draws a comparison between charitable institutions and hospitals on the one hand and a firm of solicitors on the other. To my mind it is a wholly untenable and misleading comparison.

The Industrial Tribunal thereupon proceeds to state its reasons in the following terms :

"When a charitable institution like a hospital comes within the purview of 'industry' there cannot be any room for doubt that a profitable profession carried on by a firm of attorneys also falls within

its fold. Such attorneys can be said to be engaged in a 'business' and are rendering services to clients. I am fully alive to the fact that the income of this firm is the direct result of the efforts of the partners of this firm, who are also solicitors. No doubt, the brain work of this firm falls upon the partners. But at the same time, the staff employed by them do make some contribution. They do get help from the assistants employed by them on salary. The working staff have also to make contributions of labour to the operation of this firm by way of maintaining accounts, carrying on correspondence, typing the same and so forth. So there is relationship of employer and employees between the firm and its assistants and staff. In the result I come to the conclusion that there is no merit or force in the preliminary objection, which is accordingly overruled."

Finally, the Tribunal supplements this reason by stating that previously there was an industrial dispute between this firm of solicitors and its employees as early as the 17th January, 1948, and there was a decision by the Tribunal which also had held that it had jurisdiction over the firm of solicitors. Mr. S. K. Acharyya, appearing for the Union, on the strength of this particular fact of a previous award has tried to argue that the point is *res judicata* according to the observations of Venkatarama Ayyar, J., in *Burn & Co. v. Their Employees* reported in [1957] 11 F.J.R. at page 217. The firm of solicitors at that time was associated with Bengal Chamber of Commerce not as a commercial institution but in its attempt to help the employees to get the benefits of cheap ration, which the Bengal Chamber of Commerce had been procuring for the employees of its members, a fact found by the Tribunal itself. The previous award of the Tribunal was published in the Calcutta Gazette of the 9th June, 1949. One of the issues before the Industrial Tribunal there was whether the Tribunal had jurisdiction to adjudicate against this firm, and the Tribunal came to a finding on that issue that it had jurisdiction.

These are the reasons put forward by the Industrial Tribunal in claiming jurisdiction over the firm of solicitors. The interim award is certainly a speaking order, and the reasons are those which I have stated above.

I shall first attempt to analyse the reasons given by the Tribunal itself to see if they provide a good cause for bringing the profession of a firm of solicitors within the meaning of "industry" as defined by the Industrial Disputes Act. The Tribunal concedes that money earned by professional skill is not 'industry' when there is no capital employed. But it wants to make a distinction in respect of the firm of solicitors in the instant case. The first distinction that it puts forward is that the

partners do not get the remuneration of professional services but take a share of the joint income of all the partners and that a partner's income need not be proportionate to the services rendered by him. I see no reason why this should make a principle of difference at all. The total income of the firm of solicitors is the result of their professional skill and professional services rendered by them. How does it matter in what proportions the total income is divided into shares as a private arrangement between the different partners who are normally governed by the terms and contract of partnership? Income earned by professional skill and professional services can naturally be divided into shares which justifiably and properly vary according to the ability, seniority and speciality of each partner. The quality and cause of such income are not changed by the manner of its distribution as between the partners *inter se*. The second reason given by the Tribunal is that the firm appoints assistants on salary and "trades on their services", although it concedes that an individual solicitor practising will not be an industry even if he employs assistants. Again, I fail to see the logic of this principle. An individual solicitor can certainly employ a typist and book-keeping accountant, but the money that he earns is not by the book-keeping accountant nor by the typist but by reason of the professional skill which he employs himself and which is personal and individual to him. The same reason applies to a firm of solicitors who employ paid assistants. This is not "trading" on the assistants' services. The main reason which the Tribunal provides in the interim award appears where it says that although "the brain work of the firm falls upon the partners" yet "the staff employed by them also do make some contribution such as maintaining accounts, carrying on correspondence, typing the same and so forth". Here, again, I think there is a very great confusion and there is a fallacy in the basic reason. The distinctive work of a solicitor is not the work of book-keeping and of actual typing. His skill is the skill of law. It is true that in communications and in keeping of books of account help is needed and for that purpose a staff is employed. But I cannot see how employment of typists and correspondence clerks of accountants can convert a profession which remains by its nature the personal work depending on the individual corporate and professional skill of the solicitor or solicitors concerned, into an industry so long, of course, as the solicitors and their firm carry on the work of solicitors.

The characteristic test of an industry is expounded in the Australian decision of the *Federated Municipal and Shire Council Employees' Union of Australia v. The Lord Mayor, Aldermen, Councillors and Citizens of the City of Melbourne & Others.*, reported as 26 Commonwealth

Law Reports 508. There is a critical discussion of the meaning of the expression "industrial dispute" in the Australian context and under the Australian Constitution. The judgment of Isaacs and Rich, JJ., at page 554 of that report is relevant on this application because the learned Judges there emphasise the co-operation between labour and capital as the significant and distinctive test of "industry." On the basis of that test of co-operation the Australian decision draws the following conclusion at pages 554-555 of that report:

"It excludes, for instance, the legal and the medical professions, because they are not carried on in any intelligible sense by the co-operation of capital and labour and do not come within the sphere of industrialism. It includes, where the necessary co-operation exists, disputes between employers and employees, employees and employees and employers and employers. It implies that 'industry,' to lead to an industrial dispute, is not, as the claimant contends, merely industry in the abstract sense, as if it alone affected the result, but it must be acting and be considered in association with its co-operator 'capital' in some form so that the result is, in a sense, the outcome of their combined efforts."

I understand that D. N. Sinha, J. in the case of *Brij Mohan Bagaria v. N. C. Chatterjee & Others*, by a judgment delivered on the 27th February, 1958 (reported supra at p. 475.) comes to the conclusion that an individual solicitor who carries on his profession depending upon his own intellectual skill is not brought within the word "industry" as defined by the Industrial Disputes Act.

No doubt, industry, as defined in section 2(j) of the Industrial Disputes Act not only includes business, trade and manufacture, but also includes an undertaking or a calling. Nevertheless, however wide that definition is, all human endeavour has not thereby become "industry" within the meaning of the Industrial Disputes Act. All human endeavour is industry in the literary sense but is not industry in the industrial sense. The word "undertaking" or "calling" in the context of this statutory definition bears an industrial connotation, for, words, like men, speak the language of the place where they are born and brought up. In an expanding society with broadening concept of business and industry the word "industry" is also enlarging its ambit, scope and aspiration. Even then outside the expanding horizon of industry in an industrial democracy there still remains a vast world of individual work and individual endeavour depending on individual skill, excellence and peculiarity, personal to the individual or individuals concerned. That vast world does not come within the increasing glitter and glamour of industry. That still remains outside the omnivorous touch of industry. One such world is the world of private endeavour and private excellence

personal to the individual concerned. Learned professions, understood in their professional sense, such as the professions of medicine and of law are not normally industries unless some outstanding feature of industry is added to them. For instance, it has been said in the reported decisions that a medical man, by running a hospital and a druggist shop (where permitted) can become an industry and that a lawyer by running a business of legal publications can similarly be an industry. But it must be emphasised that in doing so they are no longer following their professional career but doing something which is mainly business.

The Indian Supreme Court in *D. N. Banerji's case*, [1952] 4 F.J.R. 443 at page 448, very clearly expressed this vital aspect of the problem of industry where it said:

"It is also clear that every aspect of activity in which the relationship of employer and employee exists or arises does not thereby become an industry as commonly understood. We hardly think in terms of an industry, when we have regard, for instance, to the rights and duties of master and servant, or of a Government and its secretariat or the members of a medical profession working in a hospital. It would be regarded as absurd to think so."

The Tribunal in this case misread this Supreme Court decision and failed to apply the true principle laid down by that decision.

The central question therefore is, what is the outstanding or unfailing and distinctive test of 'industry' in the industrial sense. As Chief Justice Marshall in the leading American decision says in *McCulloch v. Maryland*, [1819] 4 L. Ed. 579, that words are always mitigated by the context. So does the Supreme Court of India in that very same case of *D. N. Banerji v. P. R. Mukherji*, [1952] 4 F.J.R. 443 at p. 449 say "the set up and context are also relevant for ascertaining what exactly was meant by the terminology employed." Neither etymology nor dictionary is a self-sufficient guide for a true interpretation and construction of statutes. The context of industry in the Industrial Disputes Act must be understood within the frame of reference of the Industrial Disputes Act. Fundamental to the action of industrial dispute is the notion of an industry where conflict between labour and capital has to be avoided. Industrial Disputes Act has for its aim in the preamble "settlement of industrial disputes." The purpose of the Act is to bring in harmony between the relationship of labour and capital. The normal inequality of bargaining power between labour and capital is one of the reasons why the statute in a welfare democracy to-day intervenes to help and safeguard labour to solve the disputes. The principle on which this intervention is based is not far to seek. It is that the product of industry

is regarded as a joint venture of labour and capital. The shareholders and directors of a company arrange the capital, raise the share-money and provide the management. The workers provide the labour and thus join in manufacturing and producing the product. The capital of the employer is wedded to the labour of the employees. The final product, therefore, is the result of the co-operation between labour and capital. Industry is a partnership between labour and capital and the industrial product is the result of that co-operation and partnership. They each have a share in building the product of industry. Both capital and labour are impressed on the product of industry. That is the basic and distinctive test of industry for the settlement of whose industrial disputes the Constitution of India as well as special statutes like the Industrial Disputes Act and many other statutes have made zealous provisions for the industrial welfare of the country.

But where the product is not the joint result of labour and capital, then the very basic test of industry is absent. A thinker or a statesman or a philosopher who produces a work which embodies the result of his research, study and ideas does not carry on an industry. The fact that the result of such thought can be produced in print and paper if printers, publishers and other persons help in producing the work does not mean that the work is joint. The work remains the individual effort. The publication of the work is not the work itself. Similarly a professional man like a lawyer or a solicitor who renders his professional services to his clients and provides them with his professional skill and experience does an individual work. The fact that communications have to be carried on and correspondence has to be typed by a typist, the fact that accounts have to be kept which usually have to be done by accountants and the fact that assistants are employed to assist, do not make the result or the product joint as in an industry. The product remains the individual product. A solicitor who gives legal advice to his client may give it orally, or may write it in his own hand. The fact that instead of writing his legal advice in his own hand he employs a typist does not make it an industry, nor does it make the legal advice the joint product between him and the typist. The fact that solicitors often have to act as directors of companies for whom they act or administer estates for their clients by reason of the fact that they are solicitors do not mean their work is any the less of a solicitor.

I, therefore, hold that the applicant firm of solicitors carry on the profession of lawyers and solicitors which is not an industry within the meaning of the Industrial Disputes Act and that the Industrial Disputes Act has no application to any dispute between such firm and its employees.

It remains now to determine the question raised about the effect of a previous award of the Tribunal between the firm and its employees. That award was published on the 9th June, 1949. It decided that the previous Tribunal had jurisdiction to decide a dispute between a firm of solicitors and their employees. It must be noted here that this award of the 9th June, 1949, was before the Constitution came into force. The constitutional remedies under article 226 of the Constitution therefore were not available then. That award spent its force within a year thereafter in 1950 because the Government did not extend the period of that award under the law then in force. At that time the amendment to section 19 of the Industrial Disputes Act had not come in.

The doctrine of *res judicata* as expounded by the Supreme Court in *Burn and Co.'s Case*, [1957] 11 F.J.R. 217, arose in connection with the interpretation of section 19 of the Industrial Disputes Act during the currency of an award already made and as understood under section 19 of the Act. The Supreme Court held that an award given on a matter in controversy between parties after full hearing concluded the matter for the purposes of that section and for the currency of the award. The question there related to the fact of basic wages. Here the question is more fundamental and I do not think the principle of *res judicata* can be invoked here. The principle of *res judicata* is governed by the doctrine of the competence of the Court whose decision is put forward as a bar. It requires that the decision must be given by a competent Court having jurisdiction to decide the point. An Industrial Tribunal is not such a Court when it assumes jurisdiction outside the Act under which it acts. It is not a Court of general jurisdiction to finally decide its own jurisdiction. The Industrial Tribunal is not a Court of general jurisdiction competent to decide this question in a manner so as exclude the powers of this High Court today under article 226 of the Constitution to examine its assumption of jurisdiction. If, therefore, in the exercise of its powers the High Court comes to the conclusion under article 226 of the Constitution that the Tribunal has no jurisdiction to decide a dispute between the applicant and its employees on the ground that the applicant does not carry on any industry at all within the meaning of the Industrial Disputes Act, then the High Court can set aside such assumption of jurisdiction. A previous award of the Tribunal deciding that issue could not be held in that event to be *res judicata* barring the Constitutional remedy by the High Court. Finally, on this point of *res judicata* it is always necessary to remember the fundamental difference between the award of a Tribunal and a decree or order of a Civil Court. The award of the Industrial Tribunal, under section 19 of the Industrial Disputes Act, is

not perpetual and conclusive like the Civil Court's decree or order. It is expressly said to be of limited duration, for which it remains effective and in force under section 19 of the Act, unlike the decree or order of a Civil Court. The reason behind the principle of *res judicata* is to give finality to a decision but its application is considerably modified when the statute itself says as in section 19 of the Industrial Disputes Act that the award is not final for all times but operative only for the time specified in the section, so that the scope of *res judicata* is confined to the period of currency of the award under that section and not beyond that time or else the award will be extended by the application of *res judicata* to a period longer than the statute permits. For instance, an award deciding a question of scales of pay after it has spent its force on the expiry on the time stated in section 19 of the Industrial Disputes Act is not a bar to a subsequent reference on the same point of scales of pay on which a fresh award can be given. But where the decree or order of a Civil Court has become final no further litigation is permissible to re-agitate the point decided by the previous decree or order. The reason for this difference lies in the changing nature of industrial problems.

For these reasons, I hold that there is no industry and no industrial dispute within the meaning of the Industrial Disputes Act in the present case. I hold further that the employees of the petitioner cannot be described as 'workmen' within the meaning of that word in the Industrial Disputes Act. I make the rule absolute and set aside the order of reference, dated the 5th September, 1956, and set aside and quash the interim award, dated the 6th May, 1957, of the Second Industrial Tribunal. I also direct and order a writ of *certiorari* quashing the said interim award and all proceedings thereunder, and a writ of prohibition prohibiting the respondents from proceeding with the adjudication. There will be no order as to costs.

[IN THE MADRAS HIGH COURT.]

MADURA MILLS WORKERS' CO-OPERATIVE STORES LTD.

v.

STATE OF MADRAS AND OTHERS.

Balakrishna Ayyar, J.

April 17, 1958.

CLOSURE—MEANING OF—RETRENCHMENT FOLLOWED BY LOCK-OUT AND CLOSURE—WHETHER CLOSURE—RIGHTS OF WORKMEN ON CLOSURE—CLOSURE BEFORE INTRODUCTION OF SECTION 25FFF IN INDUSTRIAL DISPUTES ACT, 1947—WORKMEN, WHETHER ENTITLED TO COMPENSATION—DISPUTE ARISING OUT OF CLOSURE—REFERENCE TO INDUSTRIAL TRIBUNAL—VALIDITY—INDUSTRIAL DISPUTES ACT, 1947, SECTIONS 10(i)(c) AND 25FFF.

The management of an establishment sought to retrench some workers as it was running at a loss. On protest by the workmen a lock-out was effected and, finally, the management decided to close down the establishment completely. The closure was effected in 1955 before section 25FFF was introduced in the Industrial Disputes Act, 1947. The workmen, claimed that there was in fact no closure and that they were entitled to retrenchment relief or compensation: Held,

(i) *that there was in fact a closure and that it could not be held to be a retrenchment or lock-out by ignoring the subsequent event of closure;*

(ii) *that as the law stood before the introduction of section 25FFF in the Act, no compensation was payable on the closure of an establishment; and*

(iii) *that as the law stood at the time, a dispute arising out of a closure of an establishment fell outside the scope of the Industrial Disputes Act, 1947, and could not be made the subject of adjudication by an Industrial Tribunal.*

PIPRAICH SUGAR MILLS v. PIPRAICH SUGAR MILLS MAZDOOR UNION [1957] 11 F.J.R. 262 and INDIAN METAL & METALLURGICAL CORPORATION v. INDUSTRIAL TRIBUNAL, MADRAS [1951] 3 F.J.R. 420 followed.

Writ Petition No. 1144 of 1956.

M. K. Nambiar for the petitioner.

G. Ramanujam for Addl. Government Pleader, Ramachandran and Lakshminarayana Reddi for the respondents.

JUDGMENT.

The Madura Mills Workers' Co-operative Stores Ltd. was registered under the Madras Co-operative Societies Act on 23rd December, 1939. With a view to supply rice to its members at as favourable rates as possible, the stores obtained a lease of a rice mill located in Sellur on 1st July, 1942. The lease was for a term of eight years. The stores was employing 30 men and 42 women workers in the mill. So long as

rationing was in force the mill was apparently working at a profit. But, after rationing was abolished, the stores found that there was not sufficient work for all these 72 persons in the mill. The Audit Reports showed that in 1953 the rice mill sustained a loss of Rs. 29,614. In 1954 there was again a loss of about Rs. 17,500. In 1956 the loss amounted to about Rs. 21,000. The stores thought that the mill was working at a loss, because, there were too many employees in it. On 16th September, 1955, the stores put up a notice stating that as there was no stock of paddy it could not give work to all the 72 persons and that with effect from 19th September, 1955, employment could be found only for the male workers and that too only for 15 persons at a time. The intention of the stores was to distribute the available work among the male employees by taking fifteen persons in rotation per week. On 19th September, 1955, the workers went on a stay-in-strike. The stores had to obtain police assistance to clear the premises of the mills of the workers. The manager then put up a notice to the following effect :

" As all the workers forcibly entered into the premises by pushing the watchman and the staff and staged an illegal stay-in-strike in the premises in contravention of our notice dated 16-9-1955, it is impossible to work the rice mill. In these circumstances, the rice mill remains closed."

Subsequently, the employees of the stores approached the Labour Officer who entered on conciliation proceedings. The Stores took up the position that the matter was covered by section 51 of the Madras Co-operative Societies Act and that, therefore, it was outside the jurisdiction of the Labour Officer. It also contended that there was a *bona fide* closure of the mill because of the consistent losses that the stores had been incurring in the past. On the report received from the Labour Officer the Government passed an order on 3rd August, 1956, referring the following questions to the Industrial Tribunal, Madras, for adjudication :

" Whether the closure of the Madura Mills Workers' Co-operative Stores Ltd., Rice Mill Branch, Sellur, was justified " and " to what relief the workers affected by the closure are entitled ?"

In the meantime, on 7th November, 1955, the board of directors of the stores passed a resolution in the following terms :

" The board of directors after careful consideration of the working of the Sellur rice mill for the past three years and having examined the remarks of the auditors for the years 1953 and 1954 and the observations of the Deputy Registrar's inspection notes dated 25th April, 1954, and also having given due weight to the remarks of the Registrar of Co-operative Societies in his letter No. Rc. 98929/53 S. I. dated 10-9-1953, on the recommendation of the Special Officer,

Sri S. Agniswaran Pillai's letter dated 18-8-1953, is of the opinion that it is uneconomical to continue to run the rice mill and that the present draining way of the finances of the stores by the above rice mill to the tune of over Rs. 18,000 per annum should be put a stop to immediately in the best interests of the stores. The Board, therefore, resolves to terminate the lease of the said rice mill and hand over the building to the owner."

In pursuance of the order of the Government the Industrial Tribunal, Madras, registered the case as I. D. No. 71 of 1956 and issued notice to the Stores to submit its statement of the case. The Stores has taken out the present petition for the issue of an appropriate writ to quash the order of the Government referring the matter to the Industrial Tribunal.

The Secretary of the Madura General Workers' Union filed a counter in which he stated that the mill was in a position to give full work to all the workers employed in the mill including the 72 whom it sought to retrench. In the affidavit it is further stated that the contention of the stores that the State of Madras has no jurisdiction to refer the dispute for adjudication to the Industrial Tribunal and that the Industrial Tribunal has no jurisdiction to adjudicate in the matter, are untenable. The contention of the stores that the matter was governed by section 51 of the Madras Co-operative Societies Act is unsound. The matter falls only under the Industrial Disputes Act and is, therefore, subject to the jurisdiction of the authorities set up under that Act.

On behalf of Government a counter was filed in which it is stated that Government consulted the Commissioner of Labour who considered that the Union might be advised to approach the Registrar of Co-operative Societies for a settlement of the dispute. Concurring in the view Government asked the Registrar of Co-operative Societies to use his good offices to bring about an amicable settlement between the parties. The Union was willing to receive compensation in accordance with the provisions of the Industrial Disputes Act and drop the issue. The stores, however, though willing to make some *ex gratia* payment, would not agree to pay compensation in accordance with the Act. The stores also declined to give any assurance about the re-employment of the workers when the mill was reopened. The Union rejected the offer of the stores and insisted that the issue should be referred to adjudication. The Registrar of Co-operative Societies reported that he had been unable to bring about an amicable settlement. The Government directed the Labour Officer to try conciliation in the matter, but his efforts also failed. After examining the reports of the Labour Officer and the remarks of the Commissioner of Labour, the Government referred the dispute for adjudication on 3rd August, 1956.

The Secretary of the stores filed a reply affidavit, paragraph 7 of which runs as follows:

"Finally it should be stated with reference to para. 2 of the Government's counter that there was never any idea of reopening the mill. The closure was final and the lease had been terminated as per the resolution of the Board of directors."

In 1957 the Industrial Disputes Act was amended by the insertion of section 25-FFF. That section confers certain benefits on workmen who have been in continuous service for a year and more even in cases where an undertaking is closed down, whatever the reason for the closure. In the present case, the board of directors of the stores resolved on 7th November, 1955, to shut down the mill and hand over the premises to the owner. That decision was taken before section 25-FFF was placed on the statute book. At that time an employer who closed down his undertaking was under no liability to pay compensation to his employees. Compensation was payable only where there had been retrenchment or an improper lock-out. Where an employer closed down an undertaking the dispute arising out of such closure was held to be outside the scope of the Industrial Disputes Act as it then stood. The matter has been clearly explained by a Bench of this Court in *Indian Metal and Metallurgical Corporation v. Industrial Tribunal, Madras and another*, [1951] 3 F.J.R. 420. In para. 11 (p. 428) it is observed:

"In this case, however, we are concerned with a much narrower question, namely, whether an award made by the Industrial Tribunal appointed under the Industrial Disputes Act and published by the Government in accordance with the provisions of the Act can direct the management of an industry to continue to carry on any business against their will. If a citizen has got a right to carry on business, we think it follows that, he must be at liberty not to carry it on if he so chooses. A person can no more be compelled to carry on a business than a person can be compelled to acquire or hold property."

Then in para. 13 (p. 430) it is observed:

"We hold therefore that the award in so far as it directs the petitioner to continue to carry on the business is void as it is inconsistent with the Constitution.".....

"Apart from this constitutional aspect, we are also inclined to hold that the question whether an employer could or could not close down a business permanently or temporarily falls outside the purview of the Industrial Disputes Act. No doubt, the term 'Industrial Dispute' has been very widely defined in section 2(k) of the Act; but it appears to be clear to us that the definition of an "industrial dispute" and the Act taken as a whole assume the continued existence of an industry.

[To be reprinted]

F.J.R.] MADURA MILLS CO-OP. STORES LTD. v. STATE OF MADRAS 501

The Act does deal with lock-outs, but Mr. Bashyam conceded that there has been no lock-out in this case, and he made the concession rightly. In the case of a lock-out, the industry as such is not closed down even temporarily; only particular workers are refused work. Closing down a business even temporarily is distinct and different from a lock-out, just as the discontinuance from service of an employee is not the same thing as a strike. While, therefore, the Industrial Tribunal has got the jurisdiction to adjudicate on the question whether a particular lock-out was justified or not, it cannot decide the question whether an employer can close down his business temporarily for an indefinite period or permanently. There cannot be dispute strictly so called between an employer and an employee as regards the continuance of the business itself. This question was completely outside the Industrial Disputes Act and we hold that the reference by the Government was without jurisdiction and consequently the award was bad."

This statement of the law was approved by the Supreme Court in *Messrs. Pipraich Sugar Mills Ltd v. The Pipraich Sugar Mills Mazdoor Union*, [1957] 11 F.J.R. 262. At page 268 it is stated. "The view, therefore, expressed in *Indian Metal and Metallurgical Corporation v. Industrial Tribunal, Madras*, [1951] 3 F.J.R. 420, and *K. N. Padmanabha Iyer v. State of Madras*, [1953] 11 F.J.R. 257 that the industrial dispute to which the provisions of the Act apply is only one which arises out of an existing industry is clearly correct. Therefore, where the business has been closed and it is either admitted or found that the closure is real and ~~bona fide~~, any dispute arising with reference thereto would, as held in *K. N. Padmanabha Iyer v. State of Madras*, [1953] 11 F.J.R. 257, fall outside the purview of the Industrial Disputes Act. And that will a fortiori be so, if a dispute arises—if one such can be conceived—after closure of the business between the quondam employer and employees."

Mr. Ramachandran who appeared for the workers contended that in the present case what happened was not a closure at all; it was a case of retrenchment in the initial stage and a lock-out at a later stage. He pointed out that on 16th September, 1955, a notice had been put up by stating that the stores could continue to employ only male workers and that even out of them only 15 could be employed in rotation. At that stage what had really happened was that the stores retrenched the other persons. Subsequently a notice was put up on 19th September, 1955, and that amounted to a declaration of a lock-out. Continuing his arguments he said that even as the Industrial Disputes Act stood in 1955, the workmen who had been retrenched were entitled to compensation. Questions relating to all such matters are properly within the jurisdiction of the Industrial Tribunal and Government was, therefore, competent to make the reference it did to that authority.

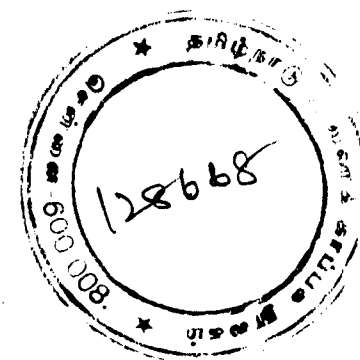
To this argument of Mr. Ramachandran there are various answers. The first is that it completely ignores what happened subsequent to September, 1955. On 7th November, 1955, the board of directors of the stores placed on record their view that it was uneconomical to continue the rice mill and that it was absolutely necessary to stop the drain on the resources of the Stores and decided to close down the mill. It would not be right to ignore the subsequent development in the matter. What began as retrenchment and developed into what may be called a lock-out and finally terminated in a complete closure. An argument that refuses to take note of the events which have happened can hardly be accepted—and the most important event at that—the next remark to make is that in the counter filed on behalf of the Union the point has not been taken that there had been no closure and that there had been only an attempt to retrench and subsequently a lock-out. The allegation in para. 2 of the counter only amounts to saying that the mill was in a position to give full work to all the persons employed and that there was no justification for any retrenchment. This is entirely different from saying that there had been no closure of the mill.

Mr. Ramachandran next referred to the decision in *Jaya Bharat Tiles Works, Samalkot v. State of Madras and three others*, [1953] 4 F.J.R. 352. I find it difficult to say how the observations in that case really help him since the dispute there arose out of what was definitely a case of a lock-out. The management closed on 24th August, 1950, and reopened on 13th December, 1950. What the Court decided was:

"If, however, the employer does not want to discontinue the business but only to close down the business temporarily then the Industrial Tribunal could go into the question whether such closure was *bona fide* and for proper reasons or whether it was with the object of victimising the workmen and coercing them to accept his own terms."

The present case stands on an entirely different footing. The board of directors formally resolved to shut down and hand over the premises to the lessor and in the counter filed it has not been alleged that there was no genuine intention to give effect to that resolution. There is no allegation that it was a mere ruse to avoid payment of compensation. The affidavit filed on behalf of the petitioner had made it that it was a case of genuine closure and that has not been controverted.

The matter is really covered by the Bench decision of this Court and by the decision of the Supreme Court to which I have referred already. It follows that the matter was outside the scope of the Industrial Disputes Act as it stood at the relevant time. The Government had, therefore, no jurisdiction to refer to the Industrial Tribunal the question they did. Rule nisi made absolute. No costs.



JL
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