

COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

TWENTY FOURTH REPORT



[Presented to Lok Sabha on 19 December, 1995]

LOK SABHA SECRETARIAT
NEW DELHI

December, 1995/Agrahayana, 1917 (Saka)

Price : Rs. 16.00

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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(1994-95)**

Shri P.G. Narayanan — *Chairman*

- 2. Shri L. Adaikalaraj**
- 3. Shri Naresh Kumar Baliyan**
- 4. Shri Prataprao B. Bhosale**
- 5. Shri Lokanath Choudhury**
- 6. Prof. Sudhir Giri**
- 7. Dr. B. G. Jawali**
- 8. Shri Lalit Oraon**
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- 11. Shri Muhiram Saikia**
- 12. Shri Gabhaji Mangaji Thakore**
- 13. Dr. Ramesh Chand Tomar**
- 14. Shri Arjun Singh Yadav**
- 15. Shri Satyapal Singh Yadav**

SECRETARIAT

Shri S. N. Mishra	— <i>Additional Secretary</i>
Shri G. C. Malhotra	— <i>Joint Secretary</i>
Shri Ram Autar Ram	— <i>Deputy Secretary</i>
Shri J.P. Jain	— <i>Under Secretary</i>

TWENTY-FOURTH REPORT OF THE COMMITTEE ON PETITIONS (TENTH LOK SABHA)

INTRODUCTION

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Twenty-Fourth Report of the Committee to the House on the following matters:

- I. Petition regarding alleged regional imbalances in development of Jammu region and the problems faced by the people of the region.
 - II. Petition from Railway Contractors Labour Union, West Bengal, and others for special provisions in the legislations to meet the demands of contract labour of Railways.
2. The Committee considered the draft Report at their sitting held on 12 December, 1995 and adopted it.
3. The observations/recommendations of the Committee on the above matters have been included in this Report.

NEW DELHI;
12 December, 1995

Agrahayana 21, 1917 (Saka)

P.G. NARAYANAN,
Chairman,
Committee on Petitions.

PETITION REGARDING REGIONAL IMBALANCES IN DEVELOPMENT OF JAMMU REGION AND THE PROBLEMS FACED BY THE PEOPLE OF THE REGION

1.1 Prof. Ram Ganesh Kapse, MP, presented to Lok Sabha a Petition (No. 1) on 13 August, 1991, (see Appendix-I) signed by Shri Chaman Lal Gupta, President, Jammu & Kashmir BJP, Jammu and two others, regarding alleged regional imbalances in development of Jammu Region and the problems faced by the people of the region.

1.2 In the petition, the petitioners *inter alia* stated that the Jammu region, which had played a key-role in the evolution of Jammu & Kashmir as a State, had been badly neglected by the Government both at the Central and State levels since 1947.

1.3 The petitioners prayed that various regional imbalances in case of Jammu region should be removed by taking appropriate legislative, administrative and executive measures.

1.4 The petition was referred to the Ministry of Home Affairs for their factual comments on 16 August, 1991. The Ministry of Home Affairs in their communication dated 5 September, 1991 stated as follows:-

"The matter of economic and political development in a part of the State and the actual implementation of development schemes in various fields are primarily the responsibility of the Government of Jammu & Kashmir. We have already requested the State Government and various concerned Union Ministries for their comments on the petition and a consolidated reply/comments will be furnished to the Lok Sabha Secretariat on receipt of responses from the above agencies. The subject matter of the petition being primarily the concern of the State Government, it is submitted that the petition may not be accepted even if temporarily the State is under President's Rule at present."

1.5 Subsequently, the Ministry of Home Affairs who were requested to furnish their detailed comments as well as the latest position of the case, forwarded to the Committee the comments of the State Government of Jammu & Kashmir *vide* their communications dated 10 March, 1992, 23 May, 1993 and 18 April, 1995.

A statement showing the points raised by the petitioners and the comments thereon furnished by the State Government of Jammu & Kashmir on different dates are given in the *Appendix-II*

1.6 A clarification was also sought from the Ministry of Home Affairs requesting them to furnish a consolidated note giving views of the other Ministries/agencies concerned also. The Ministry of Home Affairs in their communications dated 9 April, 1992 stated as follows:—

“Some of the Central Ministries who have responded had suggested that the position should be ascertained from the State Government being the executing authority. The progress on any issue is generally a combination of action to be executed by the State Government both from the State Budget Allocation and the Central Assistance. The Government of Jammu & Kashmir have furnished the detailed comments after coordinating and getting information from the different State Government Departments, who interact with the concerned Central Ministries in respect of matters concerned with the Union Government, and consequently the overall picture and the current status in respect of such items.”

1.7 The Committee heard the views of Prof. Ram Kapse, MP, and also examined the representatives of the petitioner at their sittings held on 26 May and 7 September, 1993.

1.8 The Committee took oral evidence of the representatives of the Ministry of Home Affairs (Department of J&K Affairs) on 26 July, 1995.

1.9 The views expressed by Prof. Ram Kapse, MP, and the petitioner and the position as explained by the Ministry of Home Affairs on the various points as emerged during oral evidence are summarised below.

1.10 Prof. Ram Kapse while giving his considered views in the matter stated *inter alia* as follows:—

“After the formation of Jammu and Kashmir State, this problem started.....In Jammu a constituency was formed with a population of 85,000 people. As far as Kashmir Valley was concerned, a constituency was formed with a population of 50,000 people. Here the imbalance started with delimitation only. As on today, the problem has become very acute because now the constituencies are based on 1971 census.....Two commissions were appointed by the Jammu and Kashmir Government. One was Gajendragadkar Commission. He was the Chief Justice of the Supreme Court. Another Commission was called Wazir Commission. That was appointed by Jammu State itself, which was headed by the Chief Justice of the Supreme Court. They had suggested that there should be 89 seats.”

Giving his suggestion in this regard, the member stated:—

“.....My suggestion is that it should be formed on the basis of delimitation and the delimitation should be done as early as possible. The Wazir Commission has recommended that the number of seats should be more.”

1.11 In this connection, the representative of the petitioners also stated *inter alia* that census was conducted in the country in 1951 but the

delimitation in Kashmir was done on the basis of 1941 census as a result of which out of 75 Assembly seats, 30 seats were given to Jammu, 2 seats to Ladakh and 43 seats were kept for the Valley. There was one seat for 75 to 80 thousand population in Jammu, whereas the corresponding figure in the valley was only 50 to 55 thousand. Similarly out of six seats in Parliament, three were for the Valley, one for Ladakh and two for Jammu. The one seat in Parliament represents a population of about 8 lakhs in Kashmir whereas in Jammu it is more than 10½ lakhs.

1.12 The petitioner then referred to the question of creation of additional districts. He stated that the area of Jammu Kashmir and Ladakh is 27,000; 15000; and 9700 sq. kms. respectively. On the recommendations of the Gajendragadkar Commission, three new districts were created in Kashmir Valley and the number of districts was increased from three to six. Keeping in view the area of Jammu region, a similar demand for creation of additional districts was raised by the Jammu people. In 1984, the Wazir Commission recommended creation of three new districts i.e. Kishtwar, Riyosi and Sambha in Jammu region also but till date no action has been taken by the Government on the recommendation of the Commission.

The petitioners added that as the plans were formulated and services were provided district-wise, the administrative expenditure was also allocated district-wise. Normally, the provision in Annual Budget was Rs. 30 crores for each district. Due to non-creation of more districts in Jammu region, the petitioner alleged that they were being deprived of its allocation of Rs. 100 crores.

1.13 In this regard, the Committee had asked Prof. Ram Kapse, M.P. during evidence about the legislative, administrative and executive measures that should be taken by Government to remove the regional imbalances. The member stated:—

“The Wazir Commission had given some suggestions about the administrative set-up. Three more new districts need to be formed in the Jammu area. The Commission had suggested this but those suggestions have not yet been implemented.

He further stated:—

“If ten officers are appointed—at any given time—one is generally from outside the J&K area, one is from the Jammu area, none from the Ladakh region, and the remaining eight are from the Kashmir Valley. This is true about the total administrative set-up, right from the peon up to the Secretary. Not that the Jammu region people do not need the services or that they are not educated. They are well educated. They are in search of service. But the injustice is done as far as the Secretarial staff is concerned.”

1.14 During oral evidence before the Committee, the representatives of the Ministry were asked to explain the major recommendations of the

Commissions headed by Justice S.M. Sikri in 1979 and the other headed by Justice J.N. Wazir in 1983. The representative of the Ministry stated as under:—

“The Government constituted a Commission headed by Justice S.M. Sikri, Retired Chief Justice of India to look into the grievances and allegations of regional imbalances. The Commission consisted of very eminent persons like Mr. A.R. Kidwai, who is now the Governor, and they had made certain recommendations. They found that there was absolutely no imbalance in the matter of allocation of development funds as was alleged, but they had made certain recommendations in respect of allocation of development funds. Justice J.N. Wazir Commission was not concerned with the imbalances, but it was concerned with the reorganisation of various administrative units of the State, that is, the districts, tehsils and so on. It did make a number of recommendations to the Government, but it was not concerned with the regional imbalances that were alleged to have been there.”

The other witness added:—

“Justice Wazir Commission recommended that three more districts should be created in the Jammu region. Now, the thinking of the state Government is that let the popular Government come and then decide which districts should be created as a sequel of recommendation made by Justice Wazir.”

About another Commission headed by Justice J.N. Wazir, the witness stated:—

“The Delimitation Commission is constituted after the completion of each census. Therefore, after the completion of 1981 Census, the Delimitation Commission, under the Chairmanship of Justice J.N. Wazir, was constituted. Of course, it was reconstituted from time to time and ultimately, Justice K.K. Gupta of the State High Court was appointed as its Chairman... The Commission made its order in 1992 delimiting the total number of constituencies to 87, that is, an addition of 11 seats which was made by Constitution amendment in 1989; out of these 11 seats, five seats were allotted to Jammu Division, four seats were allotted to Kashmir Division and two seats were allotted to Ladakh. Thus under the existing delimitation order Jammu has 37 constituencies, Kashmir has 46 constituencies and Ladakh 4 constituencies.

The Delimitation Commission invited suggestions and recommendations from various quarters and then it finalised its order which was published in 1992.”

1.15 Asked to state whether the number of seats was going to be increased, the witness stated that unless the Constitution of Jammu and

Kashmir was amended, it could not be done. There was no State Legislature and the Constitution could not be amended by any other authority.

1.16 When asked what was the percentage of population in the three divisions of Kashmir, Jammu and Ladakh, the witness stated that according to 1981 census, total population of Jammu and Kashmir was 59.87 lakhs. In 1991, census could not be held but according to approximate figures, there was population of 77 lakhs in 1991. In Kashmir division there are 6 Districts having 40 lakh population. In Ladakh the population was 1 lakh 70 thousand and in Jammu it was 35 lakhs. Regarding the number of seats in States Legislature, she stated that it was 46 in Kashmir, 37 in Jammu and 4 in Ladakh.

1.17 Regarding the Education system in Jammu, Prof. Ram Kapse, M.P. stated during evidence before the Committee that:—

“There are two medical colleges, one in Jammu and the other in the Kashmir Valley. As you know, for the last so many years the Medical College in Jammu has not been functioning due to the disturbed conditions and the insurgency. Even the colleges which were originally in Jammu area were closed; they are now re-started in Kashmir area. So, there is a demand for equal facilities education-wise also.

.....All the educational institutions, whether it is the Engineering College or the Artificial Limb Centre are set-up in the Kashmir Valley only. All the facilities are taken away by the Kashmir region and this injustice is being done to the Jammu region”.

1.18 While examining the representatives of the Ministry of Home Affairs in this regard, the Committee desired to know how many degree Colleges were there in the three regions. The witness stated that in Jammu there were 13, in Kashmir 19 and in Ladakh 2. In Jammu, there were 18 ITIs and in Kashmir there were 17. There was one Medical and one Engineering College and two polytechnics in each of the Jammu and Kashmir regions.

1.19 The Committee wanted to know the reasons as to why there was not even a single B.Ed. College in Ladakh. The witness stated that there was population of only 1 lakh 70 thousand and their pass percentage was very less. If it was increased, then a B.Ed. College would also be established there.

1.20 When asked whether there was any women's College or polytechnic, the witness stated that “The Government is very keen that there should be such a polytechnic. We have a proposal for this and its financial and physical aspects are being considered.”

1.21 While giving his views before the Committee, Prof. Ram Kapse gave his suggestions for promoting tourism in the Jammu region. He stated:—

“There is some difference between the Kashmir tourists and the Jammu tourists. Three hundred per cent more tourists come to the Jammu area. But the expenditure on tourism in Jammu area is only 10 per cent of the total. I visited Bhadrawan which is called Chhota Srinagar. Its scenic beauty is well known but there is no tourist centre there. Roads are not properly maintained. So, whether it is the foreigner or the Indian, nobody will go there. Thus, the development of tourism is a problem...

In Jammu, there are no hotels or even motels there. There are no roads, no facilities for the tourists. So, in the given circumstances poverty in the Jammu region is on the increase.”

The member suggested that some statutory development board, a constitutional body, could be set up to protect the interests of the Jammu region.

1.22 During evidence before the Committee, the representative of the Ministry of Home Affairs explained the position in this regard as follows:—

“Tourism development is potential-linked. That must be established..... So far as the Jammu region is concerned, tourism should be oriented towards pilgrimages because every year lakhs of devotees visit this region when they go to the temple of Mata Vaishno Devi. Towards this end, we have taken lot of steps to improve the facilities available at Pathni Top and Sanasar areas. We have started operating buses for carrying and ferrying tourists from Katra. We have already given a report on how much investment is to be made by the Private sector. We are also focussing on development of infrastructure.

Jammu tourism is receiving the highest priority. We are now thinking of encouraging winter tourism and adventure tourism in Jammu division because Pathni Top gets a lot of attention and we are developing it.”

1.23 Referring to the above statement of the witnesses, the Committee pointed out that very little facilities were provided to the tourists visiting the Shrine from the country as well as abroad and asked whether adequate facilities were provided to the tourists in proportion to their number. To this, the witness stated:—

“There is a Shrine Board and its Chairman is Hon'ble Governor. This Board was constituted in 1986 and it consists of 60 persons. Since then all the arrangements are looked after by this Board. It has provided facilities to the pilgrims to a great extent, particularly to those poor people who are unable to afford these facilities. As far as the bed capacity is concerned, most of the people begin their

‘Yatra’ at night and come back by the morning. Few people stay there at night.”

The witness further stated that the Tourism Development Corporation had constructed a hotel there, the work of which had been completed 2-3-years back. Apart from that a guest house was also maintained there. The Committee, however, pointed out that the hotel and guest house had nothing to do with the common people and asked what had been done by the Government for the common pilgrims.

In two subsequent notes dated 11 August, 1995 and 4 October, 1995, the Ministry of Home Affairs explained the position further.

1.24 Regarding facilities available for low income pilgrims of Vaishno Devi, they forwarded the communication received from the Tourism Deptt. of the State Government of Jammu & Kashmir which reads as under:—

“Most of the accommodation available at present for pilgrims visiting Holy Shrine of Vaishno Devi Ji is provided free of cost. Only 40 odd rooms are provided on payment of prescribed rental. At present Vaishno Devi area can accommodate roughly 3000-4000 pilgrims.

A very large building known as Mano-Kamna Bhavan is under construction at Vaishno Devi for the convenience of the pilgrims. When completed, this building is expected to accommodate 1500-2000 people. The accommodation in Mano-Kamna Bhavan is proposed to be let out to pilgrims at a nominal rent of Rs. 5/- —Rs. 10/- perhead.

A large number of huts, guest house and dharamshalas have come up in the Town of Katra in the last 7-8 years. These provide accommodation to all categories of pilgrims. In addition, the Shrine Board has created quite a large number of waiting sheds for the convenience of the pilgrims. Accommodation in these waiting sheds is available free of cost to the pilgrims.

It is not possible to introduce a bus service between Katra and the Holy Shrine of Vaishno Devi Ji because no motorable road exists between Katra and Vaishno Devi. The Shrine Board has mooted a proposal to construct a motorable road between Katra and Vaishno Devi Ji. The execution of the work had however, to be stopped on the orders of Hon'ble High Court. The matter is still subjudice.

Shri Mata Vaishno Devi Shrine Board has been working very assiduously since its inception for creation more and more infrastructure for the convenience of the pilgrims. Almost Rs. 60.00 crores have been spent by the Board since its creation in August-September, 1986, for this purpose.”

1.25 With regard to safety system at Mata Vaishno Devi the Ministry informed that Government of Jammu & Kashmir has stated that discreet inquiries conducted in the matter have revealed that no yatri has died at Mata Vaishno Devi Shrine due to lack of security arrangements. Sufficient number of CRPF, J&K police and guardsmen of the Shrine Board stands deployed there to keep an eye on the bad elements. Frisking is being conducted en-route and at Bhawan to thwart any attempt by the militants to cause harm to the yattris.

1.26 Prof. Ram Kapse also referred to the alleged unsatisfactory position in regard to some other points placed before the Committee like road, transport, unemployment, power etc. in the two regions. He stated that:—

“The same position is there with respect to power projects. The situation is bad as far as electricity is concerned. In Jammu, it is worse still. In Ladakh it is also bad.”

The member further stated that the Central projects were all in Kashmir only. He cited such examples of HMT, Telephone Factory, Cement Factory etc. He stated that the area was neglected in that respect also.

1.27 As regards the Transport facility in the region, Prof. Ram Kapse stated that the Akhlur bridge had been washed away in floods. There was one small bridge which was erected by the British. During the rainy season, in the whole of the area, there was no transport available. The people travelled through water ultimately. Army bridge was a fair weather bridge and was not used elsewhere. He further stated that there was a plan that upto Udhampur, there should be a railway. It was now behind schedule for the last five or six years. So, every project which had to do something with the development of Jammu, it was either not started or was withdrawn or was never given or it remained behind the schedule and that ultimately created problems.

Observations/Recommendations of the Committee

1.28 The Committee have perused the submissions made by the petitioners as also the views expressed by the representatives of the Ministry of Home Affairs who, in the absence of the elected State Legislature, are looking after the Jammu & Kashmir affairs and also the representatives of the Government of Jammu and Kashmir who appeared before the Committee.

1.29 One of the issues highlighted before the Committee relates to the delimitation of Constituencies for the State Legislature for the three regions namely, Jammu, the valley of Kashmir and Ladakh. The latest Delimitation Commission under the Chairmanship of Justice K.K. Gupta of the State High Court made its Order in 1992 delimiting the total number of constituencies to 87, that is, an addition of 11 seats which was made by the Constitution amendment in 1989. Out of these 11 seats, five seats were allotted to Jammu Division, four seats were allotted to Kashmir Division

and two seats were allotted to Ladakh. Thus, under the existing Delimitation Order, Jammu has 37 constituencies, Kashmir has 46 constituencies and Ladakh has 4 constituencies. In this connection when the Committee enquired whether the number of seats was going to be increased, the representatives of the Ministry of Home Affairs replied that "unless the Constitution of Jammu & Kashmir was amended it could not be done. There was no State Legislature and the Constitution would not be amended by any other authority."

1.30 While the Committee note the latest position on the delimitation of constituencies in the State, they desire that when the popular Government is restored in the State for which efforts appear to be under way, a conscious view may be taken to review this demand of the people of the Jammu region so as to satisfy their aspirations for adequate and effective representation in the State Legislature.

1.31 In regard to another major demand agitated by the petitioners for creation of some more administrative districts in the Jammu Region the Committee find from the submissions made by the representatives of the Ministry of Home Affairs that Justice Wazir Commission had recommended that three more districts should be created in the Jammu region. "Now the thinking of the State Government is that let the popular Government come and decide which districts should be created as a sequel of recommendations made by Justice Wazir." From these statements, the Committee has come to the conclusion that the State Government seem convinced of the need for creation of three more districts in Jammu region as recommended by the Justice Wazir Commission, but are awaiting installation of the popular Government in the State who might be in a better position to give guidelines for carving out the areas of the new districts. The Committee hope that when the elected Government is formed they would be able to give due priority to this regional demand in their agenda for the proper and harmonious development of the State.

1.32 In regard to development of tourism in the Jammu region, the Committee need to emphasise the potential for its development in the area. According to the Ministry of Home Affairs "Jammu tourism is receiving highest priority, we are now thinking of encouraging winter tourism and adventure tourism in Jammu Division because Pathni Top gets a lot of attention and we are developing it..... we have already given a report on how much investment is to be made by the private sector. We are also focussing on development of infrastructure". The Committee hope that the tempo of development of the infrastructural facilities would be speeded up to encourage more and more tourism which may in times to come also become an important lever for the general economic development of the region.

1.33 Some of the contentious issues of alleged imbalances or disparities placed before the Committee relate to the existing facilities and oppor-

tunities in the fields of education, health, employment, etc. in the different regions of the State. While the Committee need not over emphasise the need for making available reasonable and adequate facilities and opportunities in these fields for all the people, irrespective of the region or area, they appreciate the position explained by the Ministry of Home Affairs that "the matter of economic and political development in a part of the State and the actual implementation of development schemes in various fields are primarily the responsibility of the Government of Jammu & Kashmir."

1.34 However, since the State is presently being directly administered by the Central Government under the provisions of the President's Rule and keeping in view the plea of the Ministry of Home Affairs that "progress on any issue is generally a combination of action to be executed by the State Government both from the State Budget Allocation and the Central Assistance" the Committee would be glad if the Central Government can look into the various problems faced by the people of the Jammu region at this juncture itself and take suitable corrective steps so that the alleged existing anomalies and disparities can be reduced or removed by the Central Government itself and there is no feeling among the people of one region that they are neglected *vis a vis* the people of other Regions in the same State.

II

PETITION FROM RAILWAY CONTRACTOR'S LABOUR UNION, WEST BENGAL AND OTHERS FOR SPECIAL PROVISIONS IN THE LEGISLATIONS TO MEET THE DEMANDS OF CONTRACT LABOUR OF RAILWAYS

Shri Basudeb Acharia, MP, presented to the Lok Sabha on 28 April, 1994 Petition No. 36 (*See* Appendix III) signed by Shri Tapan Dutta, General Secretary. Railway Contractor's Labour Union, West Bengal, 53, Acharya Jagdish Chandra Basu Road, Calcutta, and others requesting for special provisions in the legislations to meet certain demands of contract labour engaged in Railways.

2.2 In the petition, it has been stated that workers engaged on a permanent basis are assured of fair wages, perks and social security benefits etc. While contract labour engaged on a casual basis or through a contractor are paid insignificant wages and no other perks, benefits like social security are paid to them.

2.3 The petitioners have, therefore prayed that in principle, the Railways should accept the moral and legal responsibilities of all workmen/labour engaged through contractors and other agencies in relation to jobs connected with or incidental to Railway operations such as maintenance of rail lines, laying of rail lines and labour engaged in connection with supply of wooden/concrete/steel sleepers etc. and therefore, the Railways as principal employer should strictly enforce the Contract Labour (R&A) Act in connection with all Railway contractors. Railway should ensure to the contract labour minimum wages, jobs for all working days bonus, provident fund, gratuity and ESI benefits, maternity benefits, compensation in case of death in the course of employment, free medical treatment facility, identity cards, holidays as applicable to Government employees, supply of uniform and other facilities and perks on par with directly employed Railway workers of the similar category.

2.4 The petitioners have further prayed that provisions be made in various legislations to meet the demands of Railway contractors labour.

2.5 The petition was referred to the Ministry of Railways (Railway Board) and Ministry of Labour on 3 May, 1994 and 23 June, 1994 respectively for furnishing their respective comments on various points raised therein. The Ministries of Railways (Railway Board) and Labour in their replies dated 15.6.94 and 26.5.95 have furnished their respective comments on the points raised in the petition (*See* Appendix-IV).

2.6 From the comments of the Ministry of Railways and the Ministry of Labour on the points raised in the petition, the position regarding wages and various benefits available to contract labour under various legislations transpires as under:—

1. Every effort is made by the Railways as the principal employer to ensure that there is no exploitation of the workers by the contractors. For this purpose in the terms of contract it has been laid down *inter alia* that the contractor shall be responsible to ensure compliance with the provisions of the Minimum Wages Act, Payment of Wages Act and Contract Labour (R&A) Act.
2. Under the provisions of the Contract Labour (R&A) Act, the principal employer is liable to ensure that a contractor provides basic amenities/facilities to the contract workers. The principal employer is to further ensure that the payment of wages due to the contract workers is made within the prescribed period. In case of the failure of the contractor to provide the facilities, the principal employer is to provide the same and the expenses/cost incurred is to be recovered from the concerned contractor.
3. Under the same Act, in cases where the nature of work done by the workmen engaged by the contractors are similar to the work done by the workmen directly employed by the principal employer, the workmen employed by the contractor would be entitled to the same benefits.
4. In other cases the wage rates, holidays, hours of work and conditions of service of the workmen of the contractor shall be such as may be specified in this behalf by the Chief Labour Commissioner.
5. The provisions of the Workmen's Compensation Act, 1923 and Maternity Benefits Act, 1961 are applicable to the contractor's employees of the Railways. The Provident Fund and Miscellaneous Provisions Act, 1952 and the ESI Act, 1948 are also applicable. The ESI Act provides for a package of social security benefits. Benefits envisaged in these laws are, however, to be claimed by the contract employees in due process of procedures.
6. There is no provision for leave facilities in Contract Labour (R&A) Act to contract workers.
7. As regards the demands for benefits and facilities to contractor's labour at par with those available to Railway servants it has been stated that contractor labour are not Railway servants and, therefore, it would not be correct to equate them to Railway employees in regard to various benefits/facilities which are admissible even to regular employees only after fulfilment of certain prescribed conditions. Railways are, therefore, not liable to provide the facilities asked for at par with regular employees nor it is feasible to

consider such a demand. Railways also do not have the authority to ensure that contractors provide all the facilities asked for by the workers. The principal employer, the Railways, has only limited liability and accordingly limited power under the Contract Labour (R&A) Act to compel the contractors to enforce the provisions of various labour legislations.

8. As stated by the Ministry of Labour, the provisions of Contract Labour (R&A) Act and rules made thereunder are applicable to contract labour employed by different establishments all over the country where the Central Government is the appropriate Government it may not be possible to undertake special legislations relating to the contract labour engaged by contractors for undertaking the work of Railways. If the contract labour are not performing similar type of job as that of workers directly employed by the principal employer, then certain demands of the contract workers union for having complete parity with the regular employees may not be acceptable to and feasible for the Railways.

2.7 At their sitting held on 20 June, 1995, the Committee perused the comments furnished by the Ministries of Railways (Railway Board) and Labour on the points raised in the petition and felt that the comments of the Ministries were satisfactory. As per decision of the Committee, extracts of the comments of the Ministries were sent to Shri Basudeb Acharia, MP, for his information and comments, if any. The member has furnished his comments *vide* letter dated 25 July, 1995 (Appendix V). Briefly, the main points raised by the member are as follows:

- (a) The Committee on Petitions may conduct a study visit to certain spots in Zonal Railways to see the absence of statutory benefits to contract labour as provided under Contract Labour (R&A) Act. The Committee may recommend to the authorities for compliance with the provision of the Act.
- (b) As principal employer, the Railways is liable to ensure that the contractor provide basic amenities/facilities and correct and timely wages to contract workers. In case the contractors fail to provide them, the principal employer shall provide them to contract workers and recover expenses/costs incurred thereon from the concerned contractor as provided under sections 20 and 21 of the Contract Labour Act.
- (c) It shall be ensured that if the nature of work done by the contract workers is same or similar to that of the men directly employed by the employer, the contract workers shall be entitled to the same benefits as provided under rule 25 of the Contract Labour (R&A) Rules, 1971.
- (d) Any violation of the provisions of the Act by the contractor or failure on the part of the employer to rectify the same shall be reported to the Chief Labour Commissioner for strict enforcement of the provisions of the Act.

- (e) Other benefits as provided under the Workmen's Compensation Act, 1923, Maternity Benefits Act, 1961, the Provident Fund and Miscellaneous Provisions Act, 1952, the ESI Act, 1948, shall be ensured to contract labour by the Railways as principal employer.
- (f) **The Railways as a model employer shall ensure to contract labour** the other non-statutory benefits like supply of soap, dusters, soda, provisions of overtime allowance, holidays, and tools etc., as demanded by the petitioners, on health and sympathetic grounds.
- (g) New provisions may be incorporated in the Contract Labour Act to ensure strict compliance with provision thereof both by the contractor and the principal employer.

2.8 At their subsequent sitting held on 12 September, 1995, the Committee pursued the further comments/suggestions given by Shri Basudeb Acharia, M.P. and decided to have an on the spot study visit to Calcutta to look into the grievances of the petitioners.

2.9 The Committee thereafter conducted a study visit to Calcutta and held informal discussions on the subject on 12 and 14 October, 1995 with the representatives of the Railway Contractors Labour Union and the representatives of Eastern, South Eastern and Metro Railway at Calcutta. During the discussion with the Railway Contractors Labour Union, the committee were informed that there are approximately one million contract labour in the country out of which about 50 to 60 thousand contract workers are engaged in West Bengal. They have stated that the skilled contract labour is being paid Rs. 13/- to Rs. 15/- while Rs. 43/- are paid to the labour engaged by the Government. They have complained that statutory minimum wages are not being paid to Railway Contract Labour. Further, the basic facilities such as canteen, restrooms, supply of wholesome drinking water, latrines/urinals and first aid etc. as provided under Sections 20 and 21 of the Contract Labour (Regulation and Abolition) Act, 1970 are not being provided by contractors to the Contract Labour at the work place. As a result, contract labour particularly the women workers are suffering the worst. It was also stated that there were instances when the contractors had left the jobs without paying wages due to the Contract Labour. They further informed the Committee that porters who are not the regular employees of the Railways, are getting outdoor medical facilities in the Railways and requested that similar facilities be made available to them also. The Committee were also informed that there are Contract Labour like Safaiwalas who are doing similar jobs but they are being paid less in violation of the Rule 25(v) of the Contract Labour Rules, 1971. They have suggested that wages should be paid in the presence of the railway authorities to ensure full payment of statutory wages to contract workers and also provision of some sort of passes to these workers so that while working on the rail tracks they may travel free of charges.

2.10 The Committee, in their discussions with the representatives of the Railways at Calcutta, were informed that under Sections 20 and 21 of the

Contract Labour (R&A) Act, 1970, they have limited liability and accordingly limited power to ensure payment of statutory minimum wages and basic facilities to contract workers. However, to prevent exploitation of contract workers by the contractors, they lay down in their contract *inter-alia* that the contractor shall be responsible to ensure compliance with provisions of the Minimum Wages Act, Payment of Wages Act and Contract Labour Act. And Contractors with a valid licence are only engaged in the Railways. They have further informed the Committee that the Contract Labour are paid their due wages and it is normally witnessed by the site representative of the Principal Employer. They have not come across instances where the contractors fail to make payment of wages to contract labour. However, delays etc. if any are sorted out at the level of Principal Employer concerned in the field. The representatives of the Railways promised to bring to the notice of the Railway Board the proposal regarding extending such medical facilities to contract labour as are available to the Railway Porters. The Committee were also informed that the basic amenities at work places where contract labour are employed, are being periodically inspected by the enforcement agency and any deficiency in these locations are being attended to promptly.

Observations and recommendations of the Committee

2.11 The Committee have perused all the material placed before them regarding the demands raised in the petition by the petitioners, the comments furnished by the Ministry of Railways (Railway Board) and Ministry of Labour thereon and the submissions made by the representatives of the Contract Labour Union, West Bengal and those of the Eastern, South Eastern and Metro Railway on the subject during their study visit to Calcutta.

2.12 The Committee note from the submissions made during study visit by the representatives of the Contract Labour Union, West Bengal, that the statutory minimum wages are not being paid to contract labour of Railways and the basic amenities like canteen, rest room, latrine/urinals etc. as provided under sections 20 & 21 of the Contract Labour (R&A) Act, 1970 are not being provided to them at the work place. The Committee are unhappy to note that there are instances where the contractors had left the jobs without paying wages due to the Contract Labour. And payment of wages etc. are not made in the presence of the representatives of the Railway Authorities as provided under the Act.

2.13 The Committee also note that under provisions of the Contract Labour Act, the Railways as Principal Employer is liable to ensure that the Contractors provide basic facilities to the Contract Labour at the work place. The Principal Employer is to further ensure that timely and correct wages are paid to the contract workers in the presence of their authorised representative. Where the contractors fail to provide them, the

Principal Employer is to provide the same and expenses incurred is to be recovered from the contractor concerned.

2.14 The Committee are constrained to observe that the Railway as a Principal Employer has failed to comply with their liability under the Contract Labour Act regarding provision of timely and correct wages and other basic amenities to contract labour. The Committee, therefore, recommend that the Railways must exercise effectively the power under the Act to fulfil their liability as principal employer in order to prevent exploitation of Contract Labour.

2.15 While agreeing with the submission of the Ministry of Railways that contract labour are not railway employees and their demand for benefits and facilities at par with regular employees cannot be acceded to, the Committee hope that the Railways as a Principal Employer would consider on humanitarian grounds the demand of the petitioners for extending such medical facilities to contract labour as are being provided to Railway porters at present.

2.16 The Committee note that Rule 25(v) of the Contract Labour (R&A) Rules, 1971 provides that in case the workmen employed by the contractor performed the same or similar kind of work as the workmen directly employed by the principal employer, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer on the same or similar kind of work. The Committee, therefore, recommend that the Railways should ensure that the provisions of Rule 25(v) are complied with by the railway contractors and for that purpose suitable directions should be issued to all the Zonal Railways.

2.17 The Committee also note that the provisions of the Workmen's Compensation Act, 1923, Maternity Benefits Act, 1961, Provident Fund and Miscellaneous Provisions Act, 1952 and E.S.I. Act, 1948 are applicable to contractors' employees of the Railways. The ESI Act provides for a package of social security benefits including maternity benefits. But the benefits envisaged in these laws are to be claimed by the Contractors' employees in due process of procedures.

2.18. The Committee feel that since contractors' employees are mostly illiterate and also ignorant of the benefits available to them under various laws, it is very difficult for them to claim the same in due process of procedures. The Committee, therefore, recommend that the Railways should ensure that the benefits under these Acts are made available to the contract labour by the railway contractors and any violation of the provisions of these Acts by the contractor should be reported by the Railways to the Chief Labour Commissioner for strict enforcement of the provisions of the Acts.

2.19 The Committee further recommend that the Ministry of Labour might consider the feasibility of amending the Contract Labour (R&A) Act,

1970 and rules made thereunder for the purpose of including a condition in the licences granted to contractors making it mandatory for the contractors to comply with the provisions in the aforesaid Acts regarding social security and other benefits to contract labours. Similarly, the Ministry of Labour shall conduct intensive inspection by their enforcement agency of the establishments including the Railways where contract labour are employed, to ensure that the contractors and the Principal Employer comply with all the provisions of the Contract Labour Act. Any violations/deviation detected during such inspection should be dealt with sternly to prevent exploitation of the Contract Labour.

NEW DELHI;

12 December, 1995

21 Agrahayana, 1917 (Saka)

P.G. NARAYANAN,
Chairman,
Committee on Petitions.

APPENDIX I

(See para 1.1 of the Report)

LOK SABHA

PETITION NO. 1

[Presented to Lok Sabha on 13.8.1991]

To

LOK SABHA
NEW DELHI

The humble petition of Shri Chaman Lal Gupta, President, Jammu & Kashmir BJP, Jammu and two others of Jammu region.

SHEWETH

Jammu region which had played a key-role in the evolution of Jammu and Kashmir as a State, has been badly neglected by the Government both at the Central and State levels since 1947. The feeling of neglect as also discrimination has produced an acute mass discontent throughout the region. the people feel that they are given a step-motherly treatment by the Government in all matters big or small. The development process has been highly discriminatory. Vast mineral resources remain unexploited and economic growth of the region deliberately kept in low gear. Politically the people do not have a sense of participation in the affairs of the State.

Imbalance in Legislative Sphere—Delimitation of Constituencies

2. In the past, two Commissions both headed by the late Chief Justice Wazir Janki Nath had been appointed. One of the Commissions was for the reorganisation of Administrative units of the State and the other for the Delimitation of Assembly Constituencies.

The former Commissioner submitted its report in 1983 and proposed *inter alia* creation of three more districts in Jammu region. This recommendation has not been implemented so far.

The Commission for the Delimitation of Assembly seats has yet to conclude its work. In the meantime, the operative strength of the Jammu and Kashmir Assembly has been increased from 76 to 87 seats.

3. In the sphere of Assembly seats, Jammu has been badly *neglected* and denied its due share from the very beginning. (Jammu region constituencies were then carved out on an average population of 85,000 and in Kashmir on the basis of about 50,000 population).

4. The Representation of the Peoples Act provides three criteria for the delimitation of the Constituencies — (a) Population, (b) Area, (c) Nature of terrain, accessibility and geographical conditions.

5. Total population of the State is 59,87,389 on the basis of 1981 Census. Total number of seats to be carved out is 87. After giving 4 seats to Ladakh on account of difficult terrain and geographical conditions, there remains a balance of 83 seats. After taking out the population of Ladakh (i.e. 134372) from the total population of the State, there is the balance population of 58,53,017. This population figure divided by 83 seats roughly works out to 70,519 which should be the population basis for each constituency. on population basis alone, therefore, Jammu should get 39 seats and Kashmir 44.

6. The area-wise position of the three region is as under:

Kashmir region	—15948 Sq.Km.
Jammu region	—26293 Sq.Km.
Ladakh region	—96701 Sq.Km.

(Statistical Digest of 1985-86)

7. The above figures show that the area of Jammu region is more than that of Kashmir. Further, the terrain of Jammu region is far more inaccessible and difficult as compared to Kashmir's. On the basis of these two statutory criteria, Jammu is entitled to at least two more seats. Thus, Jammu deserves 41 seats, Ladakh 4 seats and Kashmir 42.

Creation of Districts

8. Whereas Government created three new districts of Badgam, Pulwama and Kupwara in Kashmir in the year 1979 without any public demand and without going through the procedures of appointing any commission for the purpose, in the case of Jammu, it delayed action on a powerful public demand for more districts. Later in 1981 Government appointed a commission (Wazir commission) which in its report submitted in 1983 recommended three more districts for Jammu at Reasri, Kishtwar and Bahu (Samba). But by a series of dilatory tactics, the Government has so far evaded the implementation of the Commission's recommendations and avoided the creation of the districts in Jammu.

Imbalances in Administrative set up

9. Since the policy of discrimination acts as a compulsion for the survival of the State Government, it becomes imperative for the Government to tailor the executive machinery of the State to have an appropriate tool for the execution of its discriminatory policies. This, in turn, produces imbalances in the state service in matters of recruitment, promotions and postings. This will be evident from the officially admitted figures that out of 30 Secretaries-cum-Commissioners 5 belong to Jammu and 15 to Kashmir (the remaining 10 are non-State subjects officers). In the case of lower staff, 13 per cent belong to Jammu and 70 per cent to Kashmir (17 per cent others). Such a biased and committed apparatus in the hands of an anti-Jammu Government plays havoc against Jammu & Ladakh regions.

Education

10. A Medical College Shere-i-Kashmir Institute of Medical Sciences was established at Srinagar a decade ago at a cost of Rs. 50 crores whereas a sum of Rs. 10 crores only has been provided for Jammu Medical College which is still incomplete.

Dental College sanctioned for Jammu was actually set up at Srinagar.

The Agricultural College functioning at R.S. Pura in Jammu was closed down; instead an Agricultural University was opened at Sopore in Kashmir, ignoring the unsuitable climatic conditions for agricultural production over there in the sense that Kashmir is a single-crop region whereas Jammu is a multicrop area.

A Veterinary College proposed by a team of ICAR experts to be set up at Jammu was established in Kashmir.

Engineering College in Jammu has not been opened so far despite the recommendations of the Gajendragadkar Commission made over twenty years ago. Central Government had agreed to provide necessary finances for this project provided the State Government made land available for the purpose which the State Government declined to give.

Artificial limbs has been opened in Kashmir although the Central health Ministry had proposed it to be set up at Jammu.

Power Projects

11. Power projects in the State sector produce 350 megawatts of power out of which one project in Chenani with a production of 22 megawatts has been installed in Jammu. The rest of 328 megawatts electricity is produced by major hydel projects namely, Upper Jhelum, Lower Jhelum, Upper Sindh, Mohra and Ganderbal etc. All of them are in the Valley.

In terms of expenditure incurred on these projects, it may be stated that Rs. 10 crores have been spent on the Chenani project and about Rs. 500 crores on the Kashmir Valley projects. This is in sharp contrast

to the revenue earnings of the two regions—with Jammu's contribution at Rs. 11.5 crores and Kashmir's at Rs. 13 crores against 26 lakh units of electricity supplied to Jammu and 72 lakh units to Kashmir daily.

Roads

12. In the matter of construction of roads, the imbalances are notably sharp as per table below:

Region	Road length in 1947	Road length in 1987
Jammu	1538 Km.	3500 Km.
Kashmir	748 Km.	4900 Km.

The 1987 position shows that the percentage of roads covered on the basis of total area is 18% in the case of Jammu (road area 2639 sq. km.) and 40% in the case of Kashmir (having 15,853 sq. km. area).

Tourism

13. About 90% of tourism budget of the State is being spent on tourism development in Kashmir and a meagre 10% on Jammu although the tourists coming to Jammu are 300% more than the Kashmir tourist (18 lakh tourists visited Jammu and 6 lakh visited Kashmir during last year). Jammu region has been badly ignored in the sphere of tourism development although a great potential exists in this region

Employment

14. The youth of Jammu virtually find no employment in the 12 public sector corporations whose headquarters are in Srinagar with almost 100 per cent of their employees from the Valley.

And accordingly your petitioners pray that:—

- (i) Statutory Regional Development Boards should be set up for Jammu, Ladakh and Kashmir regions.
- (ii) Jammu region should be given its due share of 41 seats out of the enhanced strength of 87 seats of the State Assembly the delimitation of which is in hand.
- (iii) Three more districts at Reasi, Kishtwar and Bahu (Samba) as recommended by the Wazir Commission should be created for Jammu region.
- (iv) Engineering, Dental, Pharmacy, Agriculture, Veterinary, Forestry and Ayurvedic Colleges should be set up in Jammu region.
- (v) Headquarters of State Corporations should be shifted from the valley and located in Jammu region on an equitable basis.
- (vi) Senior posts of officers in the Secretariat/Departments/State

Corporations should be manned by officers from each Division according to population ratio.

- (vii) Secretariat and administrative Departments should be bifurcated on regional basis and officers with decision taking authority should be posted at Jammu.**
- (viii) Various regional imbalances referred to above should be removed by taking appropriate legislative, administrative and executive measures.**
- (ix) In any discussions affecting the people of Jammu region, participation of the representatives of the people of Jammu region should be ensured.**

And your petitioners as in duty bound shall ever pray.

Name of the petitioner	Address	Signature or Thumb impression
Shri Chamanlal Gupta and others	President, J&K BJP, Jammu	sd/-

**Countersigned by Shri Ram Ganesh Kapse, M.P.
Division No. 474**

APPENDIX II

(See Para 1.5 of the Report)

<i>Point raised by the petitioners</i>	<i>Comments of the State Govt. of Jammu and Kashmir etc.</i>												
1. Statutory Regional Development Boards should be set up for Jammu, Ladakh and Kashmir regions.	<p>The basic criterion in regard to allocation of funds are the considerations of equity, greater focus on those areas which are neglected, upliftment of the socially and educationally backward and neglected sections of society. The other determinant criterion is the potentiality of an area in terms of resource endowments, the need structure and the agro-climatic conditions to form the basis for allocation of funds. However, the plan activity can be viewed from the following perspective:</p> <p>30% of the total plan outlay is earmarked for the power sector which has been reckoned as a core and critical component for the developmental strategy. There are number of projects which are under execution in Jammu Division in the State sector. These are—</p> <table><tr><th>Project</th><th>Cost (in crores)</th><th>Capacity (MW)</th></tr><tr><td>1. Sewa</td><td>Rs. 339.00</td><td>129</td></tr><tr><td>2. Parnai</td><td>Rs. 146.00</td><td>37.6</td></tr><tr><td>3. Chenani (II & III)</td><td>Rs. 38.00</td><td>11</td></tr></table> <p>In addition the State Government has recently pleaded with the Government of India for return of Baghliar project. During the current year pre-construction work</p>	Project	Cost (in crores)	Capacity (MW)	1. Sewa	Rs. 339.00	129	2. Parnai	Rs. 146.00	37.6	3. Chenani (II & III)	Rs. 38.00	11
Project	Cost (in crores)	Capacity (MW)											
1. Sewa	Rs. 339.00	129											
2. Parnai	Rs. 146.00	37.6											
3. Chenani (II & III)	Rs. 38.00	11											

*Point raised by the
petitioners*

*Comments of the State Govt. of
Jammu and Kashmir etc.*

would be taken for this project.

Other important projects in Jammu region are the Barsar Project which is under investigation, the Salal Project, (the Central Sector Project) having 690 MWS which has already been commissioned. Another project under execution is Dul Hasti (390 MWS) where the work is likely to be resumed shortly. On the contrary in respect of Kashmir Division the only project under execution is the Upper Sind Hydel (II) and Krishan Ganga (830 MWS) Project is under investigation. Regarding Central sector projects Uri Project (480 MWS) is under execution in Kashmir Division.

The other important component of the State plan is the District sector where the allocations are made at the District level and the execution is entrusted to the District Boards constituted under the Chairmanship of Dy. Commissioners. About 30% of the plan outlay is earmarked for the District sector. This is also an index of equitable distribution of funds in respect of such schemes which have local importance and which the public generally perceive to have a direct bearing on their quality of life. The total allocations for the Districts in Jammu and Kashmir for the last four years is given as under:

Unit Rs. in crores

Year	Jammu	Kashmir
1991-92	98.87	99.85
1992-93	106.70	107.77
1993-94	116.05	117.62
1994-95	117.85	118.77

*Point raised by the
petitioners*

*Comments of the State Govt. of
Jammu and Kashmir etc.*

These figures are exclusive of Ladakh Region where the allocation of funds has been as under:

Year	Leh	Kargil
1991-92	15.00	15.00
1992-93	16.00	16.00
1993-94	16.30	16.30
1994-95	18.00	18.00

In the last few years because of non-plan deficit, greater priority has been given to the completion of ongoing projects. While determining the allocation of funds the need of the projects is also kept in view.

[Ministry of Home Affairs O.M. No. 15014/5/K-USK/Vol. III/469 dated 18 April, 1995]

2. Jammu region should be given its due share of 41 seats out of the enhanced strength of 87 seats of the State Assembly the delimitation of which is in hand.

After 1981 census, the Government of Jammu & Kashmir constituted the State Delimitation Commission. The Commission has since completed the process of delimiting 87 seats of the Legislative Assembly as per the procedure laid down and its final orders, have been published in the Jammu & Kashmir Government Gazette on 28.9.92. The order was laid on the Table of the House on 16.12.92.

2. Under the provisions of J&K representation of People Act, the Delimitation Commission is required to take into account the area, the population, the terrain and other similar factors into account before Delimiting the Assembly Constituencies. Taking all these aspects into account, the

<i>Point raised by the petitioners</i>	<i>Comments of the State Govt. of Jammu and Kashmir etc.</i>						
3. Three more districts at Reasi, Kishtwar and Bahu (Samba) as recommended by the Wazir Commission should be created for Jammu region.	<p>Commission invited objections from the public, considered them and also held public hearings and published its draft proposals in April 1989. The Commission finally decided the matter in September 1992 and issued its final orders. Under the provisions of the Jammu & Kashmir Representation of People Act, 1957, the final orders of the State Delimitation Commission once published in the Government Gazette, will have the force of law and cannot be challenged in any court.</p> <p>3. According to the ordres issued by the Commission the revised allocation of Assembly Seats in the three regions of the State are indicated below (the existing allocation is given in bracket against each):</p> <table border="1" data-bbox="550 951 971 1059"> <tr> <td>1. Kashmir region</td> <td>— 46 (42)</td> </tr> <tr> <td>2. Jammu region</td> <td>— 37 (32)</td> </tr> <tr> <td>3. Ladakh region</td> <td>— 4 (2)</td> </tr> </table> <p>[Ministry of Home Affairs O.M. No. 15014/5/91-K-(USK) dated 23.5.93]</p> <p>This has been an emotive issue around which there had been public agitations in the past in various parts of Jammu Division. The State administration under the Governor's and the President's rule has desisted from taking decisions on the recommendations of the Wazir Commission because it has held the view that such decisions should be taken when a representative Government is restored in the State.</p> <p>[Ministry of Home Affairs U.O. No. 15014/5/K dated 10 March, 1992]</p>	1. Kashmir region	— 46 (42)	2. Jammu region	— 37 (32)	3. Ladakh region	— 4 (2)
1. Kashmir region	— 46 (42)						
2. Jammu region	— 37 (32)						
3. Ladakh region	— 4 (2)						

<i>Point raised by the petitioners</i>	<i>Comments of the State Govt. of Jammu and Kashmir etc.</i>
4. Engineering, Dental, Pharmacy, Agriculture, Veterinary, Forestry and Ayurvedic Colleges should be set up in Jammu region.	<p>1. Medical College in Jammu has been completed in 1994. The total investment is of the order of Rs 27.25 crores.</p> <p>2. Engineering College with an intake capacity of 160 students has already become functional in Jammu. It is presently functioning from the old University Campus which has been purchased by the State Government. The site is being located for the construction of Engineering College.</p> <p>3. The State Government has agreed for starting BVSC Courses in Jammu Division in addition to the regular classes being run in Kashmir under the aegis of Sher-i-Kashmir Agriculture University with effect from 1995-96.</p> <p>[Ministry of Home Affairs O.M. No. 15014/5/K/USK/Vol. III/469 dated 18 April, 1995]</p>
5. Headquarters of State Corporations should be shifted from the Valley and located in Jammu region on an equitable basis.	<p>The State Corporations like other offices mostly move from one division to the other. The headquarters of SICOP, Handloom Development Corporation and Himalyan Wool Combers are at Jammu and it is not correct that there are no corporations based in this division.</p>
6. Senior posts of officers in the Secretariat/Departments/State Corporations should be manned by officers from each Division according to population ratio.	<p>It is alleged that the majority of the officers among Secretaries and Commissioners in the State are from Kashmir and only a few are from Jammu. The numbers given in the paragraph are not correct. However, irrespective of the numbers, it has to be observed that Secretaries and Commissioners belong to the IAS cadre of the State, recruitment and promotions to which are made strictly in accordance with the regulations in force. Those regulations are absolutely neutral to regional affiliations of the officers concerned.</p>

<i>Point raised by the petitioners</i>	<i>Comments of the State Govt. of Jammu and Kashmir etc.</i>
7. Secretariat and administrative Departments should be bifurcated on regional basis and officers with decision taking authority should be posted at Jammu.	No comments.
8. Various regional imbalances referred to above should be removed by taking appropriate legislative, administrative and executive measures.	<p>It should be observed at the outset that the issue of regional imbalances within a State cannot be settled by a bland comparison of randomly selected statistics. Regional variations in development, employment, income and location of facilities are the cumulative result of resource endowment, geographical and historical factors and a wide range of matters having a bearing on mobilisation and involvement of the people. Arithmetically exact interregional equality is hardly achievable in the real situation; nor can that be a worthwhile objective to be pursued by a mechanical approach. What is important is that it should be ensured that no regions or sections of the people are subjected to any manner of discrimination and that on the other hand, the lagging regions or sections of the people receive a preferential attention of the Government.</p> <p>In the State of Jammu & Kashmir the issues of regional inequality have often been the subject of public debate and from time to time Committees and Commissions have been appointed to inquire into those issues and to make recommendations which</p>

<i>Point raised by the petitioners</i>	<i>Comments of the State Govt. of Jammu and Kashmir etc.</i>
9. In any discussions affecting the people of Jammu region, participation of the representatives of the people of Jammu region should be ensured.	<p>would contribute to greater regional equity. The last such Commission was appointed in June 1979 under the Chairmanship of Shri Justice S.M. Sikri, retired Chief Justice of India.</p> <p>In 1983 a Commission headed by Justice J.N. Wazir, retired Chief Justice of the High Court of Jammu & Kashmir reported on rationalization of administrative units.</p> <p>In the current phase of the President's rule association of representative of the people in development and governance is secured through (i) Advisory Committees at the District level (which have already been established for the six districts of Jammu division and are proposed to be established for the districts of Kashmir and Ladakh) and (ii) An Advisory Council recently established by the Governor including representatives of all regions and sections of opinion.</p> <p>[Ministry of Home Affairs U.O. No. 15014/5/91-K dated 10 March, 1992]</p>

APPENDIX III

(See para 2.1 of the Report)

LOK SABHA

PETITION NO. 36

(Presented to Lok Sabha on 28.4.1994)

To

LOK SABHA

The humble petition of Shri Tapan Dutta, General Secretary, Railway Contractors Labour Union (West Bengal), 53, Acharya Jagdish Chandra Basu Road, Calcutta-700 016 and others.

SHEWETH

That their demand to forbid discrimination in the matter of wages between different workmen doing same or same nature of jobs in the same employment/establishment in the country and similar other demands, as listed hereunder:—

Within the next 10/15 years the Indian Railway will celebrate its 150 years of existence. Not the quick development of this country but the necessity of quick movement of military forces for protection of empire was the prime motivating force behind quick expansion of railways in this country. But whatever be the objective, the fact is that the railway is the largest single contributor towards integration, modernisation and industrialisation of this country. At present, railway is not only the largest industry of India but also the first precondition of industrialisation and development.

From the very inception, some important jobs of this prime industry like laying of new lines, maintenance of old lines, maintenance of railway properties, quarters, platforms, bridges etc. are being done by contractors' labours. As a result of long and continuous struggles, now-a-days a permanent railway worker gets Minimum Wages compared to the standard of our country. There are also for them some other benefits and provisions of social securities to some extent. But the extent of distress deprivation and exploitation of the lakhs of contractors' labours engaged in connection with the aforementioned important jobs of the railway beggar description. The normal market rule is that when one purchases in bulk, the price is less while purchasing a small quantity, the price is higher. In the sphere of labour the reverse is the system in this country. When the labour of a worker is purchase for the entire service period i.e. a worker is engaged permanently he is assured a fair wage structure some perks

and social securities. But when the labour is purchase for a brief period *i.e.* a worker is engaged on casual basis or through a contractor, his pay is totally insignificant and there exists no other benefits or social security worth the name. Since these workers are denied security of service, other benefits and social securities they should get much higher wages than that of the regular employees. Such is the system in advanced countries. No doubt, the rule of demands and supply reigns supreme, the ILO convention notwithstanding.

In this connection references may be made to provisions of Rule 25 of the Contract Labour (Regulation and Abolition) Rules (Central) and the equal Remuneration Act, which forbid discrimination in the matter of wages between different workmen doing same or same nature of jobs in the same employment/establishment.

In the backdrop of the foregoing we place below the demands of contractors' workers engaged in different railways. We sincerely hope that the modern and humanitarian outlook as you possess, you will consider sympathetically the just demands of the petitioners and by removing their long pending grievances, you will play your historic role:—

1. In principle, Railways should accept the moral and legal responsibilities of all workmen/labour engaged through contractors and other agencies in relation to jobs connected with or incidental to Railway Operations, such as maintenance of rail lines, laying of rail lines, labour engaged in connection with supply of wooden/concrete/steel sleepers, etc.
2. Contract labour (R & A) Act should be made applicable and strictly enforced in connection with all Railway Contractors and, as the principal Employer, Railway should be held responsible for its proper implementation.

No Contractor having a valid licence from the appropriate authority should be allowed to work by the Railway Authorities.

3. All Workers engaged through agencies in relation to jobs connected with or incidental to Railway Operation should be paid the minimum rates of wages available for a directly employed Railway Workers of the Similar Category.
4. Assurance of jobs for all working days of the year.
5. Bonus at the rate equivalent to that of the directly employed Railway employees.
6. Provident Fund, Gratuity and E.S.I. laws should be extended to

all workmen employed through agencies in relation to jobs connected with or incidental to Railway Operation.

7. Female worker should be allowed maternity benefit at par with Central Government Employees.
8. In case of death or permanent total disablement of a worker caused by an accident arising out of and in the course of employment Rs. 1,00,000/- (Rupees one lac only) should be paid to the dependants of the deceased workman or to himself, as the case may be.
9. In case of death of a workman while in service Rs. 5,000/- (Rupees five thousand only) should be paid to his dependants.
10. In case of employment injuries free treatment in Railway Hospital or re-imbursement of medical cost together with full wages for the period of sickness.
11. Free Medical Treatment facility of self and family members in Railway Hospitals.
12. Identity Cards for all.
13. Housing accommodation or House Rent Allowance @ 5% of wages.
14. Duty Hours:—
 - 8 Hours a day
 - 48 Hours a week.
15. Overtime wages at double the normal rate for working beyond scheduled duty hours.
16. All workers should be allowed one paid holiday in a week.
17. Each worker should be granted National and Festival Holidays as allowed to Central Government Employees.
18. All workers should be allowed leave facilities in accordance with the provisions of the Contract Labour (R&A) Act.
19. Necessary tools/equipments should be supplied to the workmen or they should be paid cost of tools/equipments.
20. Each worker should be supplied two sets of uniform annually. Paint Mistries should be supplied four sets of uniforms annually.-
21. Each worker should be granted 500 (five hundred) Grams of Soap in a month.
22. Railway pass and travelling facilities at par with Railway Staff.
23. In connection with jobs pertaining to TRR and maintenance of Railways the following norms should be followed:—
 - (a) TRR—50 Labours will lay 7 (Seven) panels in a day i.e. 3×7 or 21 Rails.

(b) Sleeper Replacement Rate:

(i) Concrete	Rs. 39.00 per p.c.
(ii) Pot	Rs. 26.00 per p.c.
(iii) Steel	Rs. 29.00 per p.c.
(iv) Wooden	Rs. 29.00 per p.c.

Sleeper should be made available at the place of work:

- | | |
|---|--------------------------|
| (c) Deep cleaning | Rs. 35.00 per sq. meter. |
| (d) Stone breaking | Rs. 44.00 per sq. meter. |
| (e) Basalt loading
(within 50 mtrs.) | Rs. 23.00 per sq. meter. |
- (f) Paking should be done by daily rated workers.

24. Workmen employed in printing presses, run through agencies should be paid wages and others benefits at par with directly employed employees of similar category.

25. Workers engaged in connection with Zonal Repairing and Maintenance work (Capital Work) such as Mason, Carpenter, Paint Mistries, General Labour, Gharami etc. should be paid wages at par with those directly employed on permanent basis by the Railways for similar jobs.

And accordingly your petitioners pray that:

Special provisions be made in the legislations relating to the Railways to meet the case of your petitioners, and your petitioners as in duty bound will ever pray.

Name of the petitioner	Address	Signature or Thumb impression
Shri Tapan Dutta, General Secretary, Railway Contractors Labour Union, West Bengal and others.	53, Acharya Jagdish Chandra Basu Road, Calcutta, 700016.	Sd/-

Countersigned by **Shri Basudeb Acharia,**
M.P.
Division No. 353

APPENDIX IV

(See Para 2.5 of the Report)

Comments furnished by the Ministries of Railways (Railway Board) and Labour on the points raised in the petition

The Ministry of Railways in their reply dated 15.6.94 have furnished their comments as under:

"As per the provision in Sections 20 & 21 of the Contract Labour (Regulation & Abolition) Act, 1970 the principal employer is liable to ensure that the contractor provides the facilities of canteen, rest rooms, sufficient supply of wholesome drinking water, latrines and urinals and first aid etc. The principal employer is to further ensure that payment of wages is made within the prescribed period and no short payment is made. Provisions in Section 20 & 21 also empower the principal employer that in case the contractor fails to provide the above facilities, the principal employer can provide these facilities and recover the cost from the contractor. The principal employer has thus only limited liability and accordingly the limited power to comply with the liability.

As regards the demand for benefits and facilities to contractor, labour at par with those available to Railway servants, it is submitted that contractor labour are not Railway servants and, therefore, it would not be correct to equate them to Railway employees in regard to these benefits / facilities which is admissible even to regular employees only after fulfilment of certain prescribed conditions. Railways are, therefore, not liable to provide the facilities asked for nor is it feasible to concede such a demand. Railways also do not have the authority to ensure that contractors provide all the facilities asked for by the workers.

Notwithstanding the limited liability of Railways as principal employer and the limited power vested by virtue of provisions of Sections 20 & 21 of the contract Labour (R&A) Act, 1970, every effort is made to ensure that there is no exploitation of the workers by the contractor. For this purpose in the terms of contract it has been laid down *inter alia* that the contractor shall be responsible to ensure compliance with the provisions of the Minimum Wages Act. Payment of Wages Act and Contract Labour (R&A) Act.

It is also ensured by the Railways that the contractor has a valid licence granted by the competent authority under the Contract Labour (R&A) Act during the period of contract with the Railways. The licence is granted by the competent authority subject to the terms and conditions as laid down in Rule 25 of the Contract Labour (R&A) Rules, 1971.

Rule 25 (v) reads as under:—

- (a) In cases where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work;
- (b) Provided that in the case of any disagreement with regard to the type of work the same shall be decided by the Chief Labour Commissioner (Central);
- (c) In other cases the wage rates, holidays, hours of work and conditions of service of the workmen of the contractor shall be such as may be specified in this behalf by the Chief Labour Commissioner (Central);

The Ministry of Labour who are the competent authority to grant the licence have powers to ensure that the terms and conditions of the licence are not violated by the contractor. Moreover, the amendments to the various labour laws are in the jurisdiction of the Ministry of Labour. Since in the petition it has been prayed that the demands of the petitioner may be implemented through provisions in various legislations, it is suggested that a reference in this regard may be made to the Ministry of Labour."

The Ministry of Labour in their reply dated 26 May, 1995 have furnished their comments on the points raised in the petition as follows:

S. No.	Demand raised	Comments
1.	In principle, the Railways should accept the moral and legal responsibilities of all workmen/labour engaged through contractors and other agencies in relation to jobs connected with or incidental to Railway Operations, such as maintenance of rail lines, laying of rail lines, labour engaged in connection with supply of wooden/concrete/steel sleepers etc.	According to the provisions of Section 20 & 21 of the CL(R&A) Act, 1970, the principal employer is liable to ensure that a contractor provides basic amenities/facilities to the contract workers. The principal employer is to further ensure that the correct amount of wages due to the contract workers are paid within the prescribed period. In case of failure of contractor to provide the above mentioned

S. No.	Demand raised	Comments
		facilities, the principal employer is to provide the same and the expenses/cost incurred is to be recovered from the concerned contractor.
2. Contract Labour (R&A) Act should be made applicable and strictly enforced in connection with all Railway Contractors and as the principal employer Railway should be held responsible for its proper implementation.	No contractor having a valid licence from the appropriate authority should be allowed to work by the Railway authorities.	The organisation of the Chief Labour Commissioner (C) enforces the Contract Labour (R&A) Act, 1970/Rules 1971 and if any violations/irregularities come to their notice, necessary action is taken by them in accordance with the provisions of law.
3. All workers engaged through agencies in relation to jobs connected with or incidental to Railway operation should be paid the minimum rates of wages available for a directly employed Railway workers of the similar category.		As per the provision of Rule '25 (2) (v) (a) of the CL (R&A) Rules, 1971, in cases where the nature of work done by the workmen engaged by the contractor is same or similar to the work done by the workmen directly employed by the principal employer, the workmen employed by the contractor would be entitled to the same benefits. In case of any disagreement with regard to the type of work, the same has to be sorted out with the contract employers, if need be with the help of the conciliation authorities.
4. Assurance of jobs for all working days of the year.		The Ministry of Railways have already furnished the information in their reply sent to the Lok Sabha Secretariat <i>vide</i> their U.O. No. E(LL)/94 AP/CNR/22 dated 15.6.94. The Ministry of Labour has no comments to offer since it is an administrative matter under the jurisdiction of the Ministry of Railways.

S. No.	Demand raised	Comments
5. Bonus at the rate equivalent to that of the directly employed Railway employees.	<p>The provisions of the Workmen's Compensation Act, 1923 and Maternity Benefits Act, 1961, are applicable to the contractor's employees of the Railways. The Provident Fund & Miscellaneous Provisions Act, 1952 and the ESI Act, 1948 are also applicable. The ESI Act provides for a package of social security benefits including maternity benefits. Benefits envisaged in these laws are to be claimed by the contract employees in due process of procedures.</p> <p>The Ministry of Railways have already furnished their comments to the Lok Sabha Sectt. <i>vide</i> their U.O. dated 15.6.94. Since these are not covered under the CL (R&A) Act, 1970 and the Central Rules, 1971 the Ministry of Labour have no comments to offer.</p>	
6. Provident Fund, Gratuity & ESI Laws should be extended to all workmen employed through agencies in relation to jobs connected with or incidental to Railway Operation.		
7. Female workers should be allowed maternity benefits at par with Central Government employees.		
8. In case of death or permanent total disablement of a worker caused by an accident arising out of and in the course of employment, Rs. 1,00,000/- (Rs. one lac only) should be paid to the dependants of the deceased workman or to himself, as the case may be.	<p>The Ministry of Railways have already furnished their comments to the Lok Sabha Sectt. <i>vide</i> their U.O. dated 15.6.94. Since these are not covered under the CL (R&A) Act, 1970 and the Central Rules, 1971 the Ministry of Labour have no comments to offer.</p>	
9. In case of death of a workman while in service, Rs. 5,000/- (Rs. five thousand only) should be paid to his dependants.		
10. In case of employment injuries, free treatment in Railway Hospitals or re-imbursement of medical cost together with full wages for the period of sickness.		
11. Free Medical Treatment Facility of self and family members in Railway Hospitals.		
12. Identity Cards for all.		
14. Duty Hours: 8 hours a day 48 hours a week.	<p>} The Ministry of Railways have already furnished their comments <i>vide</i> their U.O. dated 15.6.94.</p>	

S. No.	Demand raised	Comments
15.	Overtime wages at double the normal rate for working beyond scheduled duty hours.	
16.	All workers should be allowed one paid holiday in a week.	
17.	Each worker should be granted National & Festival Holidays as allowed to Central Government employees.	
19.	Necessary tools equipments should be supplied to the workmen or they should be paid cost of tools/equipments.	
20.	Each worker should be supplied two sets of uniforms annually. Paint Mistries should be supplied four sets of uniforms annually.	These are matters to be settled by the workers with the contract employer if need be availing of the help of the conciliation machinery.
21.	Each worker should be granted 500 grams of soap in a month.	
22.	Railway pass and travelling facilities at par with Railway staff.	Since they are not Railway employees, such facilities cannot be extended to them.
23.	In connection with jobs pertaining to TRR and maintenance of Railways the following norms should be followed:	
	(a) TRR-50; Labour will lay 7 panels in a day, i.e. 3×7 or 21 rails.	As in items 10 and 11.
	(b) Sleeper replacement rate:	
	(i) Concrete Rs. 39.00 per p.c.	
	(ii) Pot Rs. 26.00 per p.c.	
	(iii) Steel Rs. 29.00 per p.c.	
	(iv) Wooden Rs. 29.00 per p.c.	
	Sleepers should be made available at the place of work:	
	(c) Deep cleaning Rs. 35.00	} per square metre
	(d) Stone breaking Rs. 44.00	
	(e) Basalt loading Rs. 23.00 (within 50 mts.)	
	(f) Packing should be done by daily rated workers.	

per square metre

Per Square metre

S. No.	Demand raised	Comments
13.	Housing accommodation or House Rent Allowance @ 5% of wages.	Same comments as under items 19, 20 and 21.
18.	All workers should be allowed leave facilities in accordance with the provisions of the CL (R&A) Act.	There is no provision for leave facilities in the CL (R&A) Act to the Contract workers.
24.	Workmen employed in printing presses run through agencies should be paid wages and other benefits at par with directly employed employees of similar category.	The points raised by the Union have already been replied in para 3 above.
25.	Workers engaged in connection with Zonal Repairing and Maintenance work (Capital work) such as Mason, Carpenter, Paint Mistries, General Labour, Gharami etc. should be paid wages at par with those directly employed on permanent basis by the Railways for similar jobs.	

Special provisions be made in the Legislation relating to the Railways to meet the case of your petitioners and your petitioners as in duty bound will ever pray.

The provisions of CL (R&A) Act, 1970 and Rules made thereunder are applicable to contract labour employed by different establishments all over the country where the Central Government is the appropriate Government. It may not be possible to undertake special legislations relating to the contract labour engaged by contractors for undertaking the work of Railways. It may be added that if the contract labourers are not performing similar type of jobs as that of the workers directly employed by the principal employers then certain demands of the contract workers union for having complete parity with the regular Central Government employees may not be acceptable to the Ministry of Railways.

APPENDIX V

(See para 2.7 of the Report)

Comments of Shri Basudeb Acharia, M.P. Vide his letter dated 25 July, 1995 on the information furnished by the Ministries of Railways and Labour.

A-1. The relief, benefits and facilities circumscribed in both the Ministries notes, however meagre, those are not yet extended to the Railway contraction labour and hence, Shri Tapan Dutta, General Secretary, Railway Contractors Labour Union have had to place the demands through their aforesaid Petition. I suggest that those facilities admitted legal and lawful may kindly be extended to them. If the Railway authorities of Divisional and Zonal headquarters express inability for authenticity, I suggest that the Petitions Committee, Lok Sabha, should undertake study tour to certain spots in Zonal Railways to confirm the absence of those admitted and lawful facilities the commission will recommend the local Railway authorities for prompt compliance. The principal employer i.e., the Railway Administration has admitted the liability to extend the facilities of (a) Canteen, Rest Room, sufficient supply of drinking water, latrines, urinal, first aid etc. (b) ensure compliance with the provision of Minimum Wage Act under Section 20 & 21 of Contractor Labour (R&A) Act 1970, specifically applicable in the respective areas and will take action for the failure on the part of the Contractor under Rule 25 of the C.L. (R&A) Rules of 1971 (c) where workmen employed by the Contractor perform the same and similar type of work like those of directly employed persons by the principle employer of the main establishment the wage rate, hours of work, holidays etc. will be same and identical.

(d) Failure on the part of the Contractor in regard to the extention of Wage, Rate or Salary as specified, amenities and all facilities admitted, the principal employer is liable to pay and provide the aforesaid accepted facilities, expenses and costs which may be recovered from the contractor by the principal and main employer i.e., the Railways under provision of Section 20 and 21 of the C.L. (R&A) Act, 1970.

(e) Any violation or irregularity made by the Contractor and the failure on the part of the main employer to rise to the occasion that needs to be taken should be intimated to the Chief Labour Commissioner who has power and authority to cancel the licence of the concerned Contractor and or will enforce strict compliance of lawful obligation by the principal employee.

(f) In regard to the specific demands raised by the Contractor Labour Union West Bengal viz. Bonus, Provident Fund, Gratuity, ESI, Maternity benefit, Compensation for permanent disability, Uniform, Washing allowance or supply of Soap, Duster, Soda, Medical Aid, Duty hours, Rate of Overtime paid and unpaid holidays etc. and death and major injury compensation etc. the principal employer has got the liability to incur for health and hygiene reasons and for compassionate reasons. The other points of welfare requirements be viewed with sympathy as required to be for a model employer which is not only ethical but obligatory to our sacred Constitution of Socialistic pattern of Society.

2. (B) For strict compliance of the various provisions of Contract Labour (Regulation and Abolition) Act, there is a need for incorporation of certain new provisions in the Act.