



LAW COMMISSION
OF INDIA

ONE HUNDRED THIRTY - SEVENTH

REPORT

ON

**NEED FOR CREATING OFFICE OF OMBUDSMAN
AND FOR EVOLVING LEGISLATIVE – ADMINISTRATIVE
MEASURES *Inter Alia* TO RELIEVE HARDSHIPS CAUSED
BY INORDINATE DELAYS IN SETTLING PROVIDENT FUND
CLAIMS OF BENEFICIARIES**



LAW COMMISSION
GOVERNMENT OF INDIA
SHASTRI BHAVAN
NEW DELHI

M.P. THAKKAR
Chairman

D.O. No. 6(3)/88-LC(LS)

October, 5, 1990.

To

Shri Dinesh Goswami,
Minister of Law and Justice,
Government of India,
Shastri Bhavan,
NEW DELHI.

Dear Minister,

RE : *Presentation of 137th Report.*

The SUO MOTU exercise of a jurisdiction conferred on the Commission—to undertake post-audit of socio-economic legislation—which has not been exercised hitherto has resulted in bringing to surface the existence of a sorry state of affairs in the area of disbursements of provident fund accumulations to the concerned employees on their retirement or to their nominees/dependents in the event of their in-service death. A sample survey has revealed that as many as 8707 cases of payments delayed for a period exceeding 6 months have come to light in 62 public sector undertakings subjected to survey. 481 Complaints of non-payment received in response to a press-release issued to collect material revealed information which cannot but cause distress. And within about 3 months of the Commission taking up the issue as many as 139 complaints arising in the context of delays ranging up to 21 years (it is not a typing error, the figure is in fact TWENTY-ONE) were redressed. While removal of the distress of these 139 families is a matter of satisfaction what is much more important is that it has revealed the urgent need for creating a high powered monitoring agency in the form of an Ombudsman. The sample scrutiny of the records of the defaulting undertakings has on the other hand revealed the equally urgent need for devising other remedial measures to foreclose such an awesome situation in future. Hence the 137th report entitled—

“NEED FOR CREATING OFFICE OF OMBUDSMAN AND FOR EVOLVING LEGISLATIVE—ADMINISTRATIVE MEASURES INTER ALIA TO RELIEVE HARDSHIPS CAUSED BY INORDINATE DELAYS IN SETTLING PROVIDENT FUND CLAIMS OF BENEFICIARIES”

dealing with this vital problem and allied matters is being presented hereby. Having presented the report the rest must rest with the Ministry. A restless conscience however impels me to add that even as the report is being finalised, another instance (*vide* postscript added to the last Chapter, viz., Chapter VI) has come to light showing how besides the earlier mentioned complainants nearly four hundred furthermore employees or their family members are being treated with callousness and the appointment of an Ombudsman as recommended by the accompanying Report is a matter which does not brook any delay.

With regards,

Yours faithfully,

Sd./-

(M.P. THAKKAR)

Encl. : *As above.*

(i)-(ii)

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CHAPTER I

INTRODUCTION

1.1. *Post-audit of socio-economic legislation pertaining to Employees' Provident Funds reveals pitiable plight of beneficiaries and cries for urgent remedial measures—* A jurisdiction being exercised for the first time, 'post-audit' of socio-economic legislation (envisaged by clause 1 of the extant 'Terms of Reference'), has brought to surface the serious problem pertaining to unconscionable delays in disbursement of provident fund accumulations to the rightful claimants.

1.2. *Result of survey of public sector undertakings highlights magnitude of problem—* A survey of arrears in clearance of claims arising in the context of retirement or death of employees of 62 public sector undertakings made by the Commission disclosed that as many as 8,707 families were suffering hardship caused by delays exceeding six months.

1.3. *Startling and saddening picture emerging on survey based on scrutiny of individual complaints—* The complaints received by the Commission pursuant to a press release revealed a sorry state of affairs in the sphere of the administration of the beneficent and benevolent measures pertaining to disbursement of provident fund accumulations and retirement benefits of the concerned employees :—

- (1) As many as 481 employees or their beneficiaries had complained of delays and delays in respect of further 400 employees had come to the notice of the Commission during the course of its investigation. And a much larger number must be on the casualty list for not everyone would have read the press note and even from out of them only some would have responded.
- (2) Delays extended up to 21 years in undisputed cases and up to 35 years plus in disputed cases [See Appendices 'F' and 'G'].
- (3) In as many as 139 cases, the delay extending up to 21 years was apparently and evidently unjustified and most of the claims were settled (wholly or partly) and satisfied within about three months of the Commission taking up the matters with the respective agencies guilty for the delays.

1.4. *Identification of causes for delays—* The Commission deputed a team of its officials to inspect some public sector establishments and to make a sample scrutiny of the relevant records in order to locate the causes of such delays. The survey has revealed a host of causative factors responsible for this state of affairs.

1.5. *The deleterious consequences of delays—* The distress occasioned by delays in disbursements scarcely needs to be stressed. The problem arises mainly in the context of two possible situations. An employee's retirement, or, his death before the date of superannuation. In the event of his retirement at the fag end of his working life he is suddenly faced with a frightening scenario. From the very next month of his retirement his income ceases. On what does he live? He can only clutch at the provident fund benefits which he can utilise (1) in some venture or (2) in some income yielding investment or (3) for acquiring some housing accommodation. Or he may need the funds to complete the education or to perform the marriage of his children. Delay in disbursement would naturally result in an unbearable predicament. In the event of his death, the plight of his widow, children, or, parents, can be readily visualised. A letter of complain quoted in a judgment of the Gujarat High Court [*P.K. Martiyani vs. RPFCL*] arising in the context of a delay of 2-1/2 years in settling the dues of a widow entirely due to the apathy of the department will help in visualising her plight more vividly:—

"It appears to be expedient in the interest of justice that the letter dated September 25, 1979 in the Times of India, Ahmedabad Edition, dated September 29, 1979 written by Mrs. P.K. Kartiyani of Kottayam which reads as under be treated as a petition invoking the jurisdiction

of this Court under Article 226 of the Constitution of India (the clipping of the said letter is annexed hereto and marked Annexure 'A') :

"Sir, —I am unfortunate destitute woman of a backward community. My husband Mr. T. K. Thankappan, died of cancer on April 8, 1977 while he was in the service of Gujarat Refinery, Baroda, as a painter. He left behind me and our three children. Life is a struggle for existence in our case as we have no means of livelihood.

My husband was a member of the provident fund family pension scheme under the jurisdiction of the Regional Provident Fund Commissioner, Ahmedabad. His account No. is GJ 4951/55166. Under the scheme, I am eligible to get from the Regional PF Commissioner more than Rs. 7,000/- towards the Deposit Link Insurance and an amount of Rs. 150 per month towards family pension with effect from April 1977. Ironically, I have not received a single paise so far from the Regional P.F. Commissioner. The case papers relating to my claim are being tossed about like shuttlecock between the PF Commissioner, Ahmedabad and the Gujarat Refinery, Baroda, under one pretext or the other.

I have been eagerly looking forward to receiving the remittance from the PF Commissioner for the last 2-1/2 years but to my utter disappointment it has not yet materialised. Somehow or the other I now fear that I will not get a single paise till I too take my last breath. As I am keeping indifferent health, struggling very hard to make both ends meet, I may have to leave behind my three helpless children sooner or later.

As a last resort, I am writing this letter to you with a request to see whether you can help me to get the dues from the PF Commissioner through your good offices. As you know, I am staying thousands of miles away from Ahmedabad. In spite of that I sent my representative to the PF Commissioner's office twice but his pleadings fell on deaf ears. Please help me : God will help you".

The problem is therefore of profound importance for the employees or their dependents who are suffering presently and are exposed to suffering in future as also for the community which has evolved the benevolent project extending the protective umbrella of provident fund benefits to the employees in order to provide succour to them.

1.6. *Present exercise*—The Commission has in this back-drop *suo motu* undertaken the present exercise aimed at three main objectives, viz. :—

- (1) Bringing to light the magnitude of the hardships suffered by the employees or the beneficiaries in the context of the delays ranging from 6 months plus to 20 years in the settlement of their claims.
- (2) Making recommendations in order to evolve a machinery to expedite settlement of their claims And to suggest measures including amendment of relevant provisions of "Employees' Provident Funds and Miscellaneous Provisions Act, 1952" (Act for short) and the Scheme framed thereunder in order to foreclose such delays or to keep such delays within the narrowest time parameters in future.
- (3) To identify a serious problem pertaining to legal implications of 'nominations' which not only already exists but has also the potential of visiting the beneficiaries of deceased employees with grave consequences, and to make appropriate recommendations for resolving the problem.

And what follows is the result of the said exercise.

CHAPTER II

DELAYS IN SETTLEMENT OF PROVIDENT FUND DUES TO THE CLAIMANTS—CIRCUMSTANCES AND CAUSES IDENTIFIED

2.1. *Gathering of information from public sector undertakings as regards extent of claims remaining unsettled*—With a view to study the problem of delay in the settlement of pensionary benefits and Provident Fund cases, the Law Commission on October 24, 1988, addressed a letter (*Appendix 'A'*) to all the Public Sector Undertakings and to the concerned Trade Unions calling for factual information on the following three points :—

- (a) Number of Provident Fund and retirement dues cases pending finalisation whether after retirement or death of an employee for more than six months;
- (b) Information regarding the number of Provident Fund and retirement dues cases which have been finalised and payment has been made to the concerned employee or his nominee or legal heirs after six months of his retirement or death, as the case may be, during the last two years; and
- (c) Average time taken in finalising the Provident Fund claims and retirement dues of an employee and payment made to him.

A similar letter (*Appendix B*) was addressed to all national level trade unions on November 28, 1988. Information on similar lines was also called for from all the Regional Provident Fund Commissioners vide letter dated November 28, 1988 (*Appendix C*).

2.2. *Less than pretty picture of Public Sector Undertakings*—Some Central Government Public Sector Statutory Corporations were found to be amiss in making disbursements within a reasonable time frame as disclosed by the information furnished in pursuance to the aforesaid inquiry. Statistics gathered by the Commission are revealing :—

Number of Corporations which have not cleared claims for more than 6 months	Total number of claimants whose claims have been outstanding for more than 6 months
I. Involving more than 1000 suffering employees 2	6833 (3689+3144)
II. Involving more than 250 suffering employees 2	757 (497+260)
III. Involving more than 100 suffering employees 2	234 (130+104)
IV. Involving more than 50 suffering employees 4	333 (99+96+79+59)
V. Rest 52	550
Total 62	8707

By no means, a very flattering scenario.

[Full details are incorporated in statement at *Appendices DI and DII*]

Scrutiny of records—On the basis of the information gathered from the Public Sector Undertakings, the Regional Provident Fund Commissioners and the Trade Unions, in order to have a deeper study of the problems and to identify the main causes of delay in the settlement of cases, the records pertaining to cases pending

settlement with the following three undertakings were studied on the spot by deputing a team of researchers :—

- (i) Central Warehousing Corporation, Delhi office;
- (ii) National Project Construction Corporation Ltd., Delhi office; and
- (iii) Steel Authority of India Ltd., Rourkela office.

2.3. *Causes for delays revealed by study*—As a result of the study carried out of the responses received from all sources and the inspection of records carried out as a sample survey, a number of causes responsible for the delay in the settlement of Provident Fund and other retirement dues cases, came to be identified. These causes can be conveniently grouped under three major heads, namely :—

- (i) causes attributable to the employers;
- (ii) causes attributable to the Office of Regional Provident Fund Commissioners; and
- (iii) other causes.

2.4. *Causes attributable to the employers*—The following causes attributable to the employers which result in delay in the finalisation and settlement of cases of Provident Fund and other retirement dues have been identified :—

- (i) Inaction or indifference on the part of the employer;
- (ii) Stalling settlement of the claim for provident fund dues on the mere objection of a third party;
- (iii) Submission/forwarding of incorrect and incomplete papers to the Trust or the Office of the Regional Provident Fund Commissioner;
- (iv) Non-finalisation of proceedings of inquiry into misconduct of the employees;
- (v) Non-deposit by employers of their share and/or employees' contributions of Provident Fund;
- (vi) Deployment of untrained staff;
- (vii) Unwarranted insistence on production of a Succession Certificate;
- (viii) Unwarranted insistence on the production of 'No Demand Certificate'.

2.5.1. *Inaction or indifference on the part of the employer*—It has been noticed that many a time the finalisation of cases of provident fund and other retirement dues is delayed due to inaction on the part of the employer. The retiring employee or his nominee or legal beneficiary submits necessary claim application well in time but not action is taken thereon by the employer. A general lack of prompt action has been noticed. *The case of Shri M.D. Pandar Bole of Central Warehousing Corporation will illustrate the point.* The intimation regarding the death of Shri Pandar Bole was received by the Central Warehousing Corporation Employees Provident Fund Trust on Jan. 1, 1981. *No action was taken in the matter for more than 5 years till August 18, 1986.* The Trust, on August 18, 1986, called for the service particulars of the deceased employee from the Regional Office of the Corporation. The claimants produced a Succession Certificate issued by the Tehsildar some time in March/April, 1987. The Succession Certificate was not accepted by the Trust as not having been issued by the Competent Authority. And on February 10, 1989, the claimants were called upon to produce indemnity bond, affidavit and Succession Certificate. The case was still pending settlement at the time of on-the-spot study of the record by officers of the Commission in March 1989. *Thus, the delay of five years plus during the period January 1, 1981 to August 18, 1986 and again of nearly 2 years during the period May 1987 to February 10, 1989 has been due to the inaction or indifference on the part of the employer.*

2.5.2. *Stalling payment on mere objection by a third party*—The employers often stop the payment of the amount of Provident Fund and other retirement benefits on mere objection of a third party and instead of deciding the issue so raised, they direct the parties to get their dispute settled from a court of law. To illustrate

the point, the case of Shri M. Krishnan of Central Warehousing Corporation can be quoted. The employee died while in service on March 3, 1988. Intimation of death was received by the employer on March 4, 1988. *The nominees, namely the two sons of the deceased, submitted the claim forms. While the case was being processed, the second wife of the deceased on July 23, 1988 raised a dispute regarding the entitlement of the nominees to receive the amount of provident fund. The employers thereupon in October 1988 directed the nominees to produce Succession Certificate instead of leaving the objector to file a suit and obtain a stay order if so desired. The case was found pending at the time of inspection of record in March 1989 by the officers of the Commission.*

2.5.3. *Submission of faulty papers by employers*—The settlement of cases also gets delayed due to submission of incorrect or incomplete papers by the employers either to the Trust in case of exempted organisation, or to the Regional Provident Fund Commissioner. In this regard the case of Smt. Indrabai P. Desai can be cited as an illustration. Smt. Desai submitted her claim papers in respect of her deceased husband on November 15, 1987. According to the RPFC, the papers were forwarded to the Regional Provident Fund Commissioner on 13-9-1988 but were not found to be in order. The same were not even attested by the employer, as a result of which the claim could be settled only in May 1989, i.e., after a lapse of about one and a half years. *Thus for the fault of the employer, the innocent employee had to suffer hardship unnecessarily.*

The employers under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Scheme framed thereunder are required to furnish statutory returns to the Office of the Regional Provident Fund Commissioner. The returns so furnished are sometimes defective, incorrect or incomplete which results in the delay of final settlement of the claims. The case of Mrs. Lily Joseph can be quoted with benefit in this regard. She resigned from the service of Students Academy, Mahindra Educational Society, Bombay, in June 1985. *Her case could be finally settled only after a lapse of 4 years in May 1989 when the amount was paid to her. The Regional Provident Fund Commissioner stated that the delay was due to non-submission of proper returns by the employer. It is understood that a provident fund inspector should have been deputed to the establishment for securing proper returns as per standing instructions which were not adhered to.*

2.5.4. *Withholding payment on the unwarranted ground of pendency of disciplinary proceedings*—An employee during the course of his service is sometimes charge-sheeted for an alleged act of misconduct. The inquiry proceedings initiated are not finalised before the retirement of the employee and are continued even beyond that. Pending such inquiry the claim regarding Provident Fund and other benefits is not settled though it is not permissible to do so under the Act and the Scheme.

2.5.5. *Employers' failure to deposit deductions made from employees' wages and/or their own share*—Under para 29 of the Scheme of 1952 framed under the Employees' Provident and Miscellaneous Provisions Act, 1952, both the employer and the employee are required to contribute equally, subject to a maximum of 8.33% towards the Provident Fund. Para 32 prescribes the mode of recovery of the employees' share or contribution. It provides that the amount of the employee's contribution shall, notwithstanding the provisions of the Scheme of 1952 or any law for the time being in force or any contract to the contrary, be recoverable by means of deduction from the wages of the employee. Under para 38(1) of the Scheme of 1952, each employer is, within fifteen days of the close of every month, required to pay the employees' contribution together with his own contribution as well as administrative charges, if any, to the Fund by separate bank drafts or cheques on account of contributions and administrative charges. Sub-para (2) of para 38 further provides that the employer shall forward to the Commissioner, within twenty five days of the close of the month, a monthly consolidated statement, in such form as the Commissioner may specify, showing recoveries made from the wages of each employee and the amount contributed by the employer in respect of each employee. Though there is a statutory obligation on the employer to deposit, within fifteen days of the close of the month, his and the employee's contribution to the Fund and submit the requisite return to the Commissioner within twenty-five days of the close of the month, in practice it has been noticed that the 'employers' quite often do not deposit their contribution to the fund regularly and sometime continuously for months together. They often fail to deposit the deductions made from

the wages of the employees. The result is that the cases are not finally settled till the outstanding amount is received from the employer. To illustrate the point, the case of Shri R.A. Swami of Narnaul may be mentioned. He retired from the services of Jaora Sugar Mills on June 3, 1987. While his own contribution towards Provident Fund has been refunded, only 65 per cent of the employer's contribution has been paid to him so far. *The balance of 35 per cent of the employer's contribution has not been paid to him on the ground that the employer has not deposited the same so far. The case is still pending final settlement though about two and half years have passed since the retirement of Shri Swami who is helpless in the sense that while he cannot take any legal steps against the employer, the authorities adopt a nonchalant attitude and do not take the steps which only they can take.*

2.5.6. *Development of untrained staff by the employers*—The staff engaged to deal with the cases pertaining to Provident Fund and other retirement dues cases is often incompetent which results in the final settlement of such cases. Being untrained, such officials are not conversant with the relevant rules on the subject, as a result of which mistakes are committed in the preparation of the record, thereby causing delay in the settlement of claims. *The case of Smt. Shanti Ghosh of Calcutta is a glaring example where her claim of gratuity and pension has not been finalised even after more than seven years. Smt. Ghosh retired as a Teacher from S.N.N. Girls High School, Calcutta, on February 28, 1982. The school authorities submitted the relevant papers regarding gratuity and pension to the District Inspector of Schools in 1983. The papers were returned by the District Inspector of Schools to the school authorities in 1986 with the direction that the claim should be prepared in accordance with the revised rules. The papers were resubmitted by the school authorities after preparing them afresh to the District Inspector of Schools. The Director of Pension, Provident Fund and Group Insurance, West Bengal, again in 1988 returned the papers to the school authorities with objections. The objections so raised were removed and papers resubmitted by the school authorities in December 1988. The matter was pending with the Director of Pension, Provident Fund and Group Insurance, West Bengal till June 1989 when it was ultimately settled after a delay of nearly five years. The school authorities have stated that the reason for the delay has been mainly due to the untrained staff employed by them which is not conversant with the relevant rules on the subject. Thus, whereas delays occur either on account of the fault on the part of the employer or the fault of the authorities, only the employees have to suffer for no fault of theirs and they find themselves helpless in the matter.*

2.5.7. *Withholding disbursement by unwarranted insistence on succession certificate*—Para 72(1) of the Scheme of 1952 provides that when the amount standing to the credit of a member, or the balance thereof after deduction under para 69, becomes payable, *it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme.* In case there is no nominee in accordance with this Scheme or there is no person entitled to receive such amount under para 70, the Commissioner may, if the amount to the credit of the Fund does not exceed Rs. 10,000 and if satisfied after inquiry about the title of the claimant, pay such amount to the claimant. *A plain reading of the provisions of para 72(1) shows that the Commissioner is duty bound to—*

- (i) pay the amount to the nominee, if a valid nomination subsists; or
- (ii) to pay the amount to the members of the family in accordance with clause (ii) of para 70, if there is no valid nomination or if the nomination relates only to a part of the amount.

The Commissioner cannot ask either the nominee or the members of the family, enumerated in clause (ii) of para 70, to produce Succession Certificate. A Succession Certificate may be called for only when there is no nominee and no person entitled to receive the amount under clause (ii) of para 70. In other words the Commissioner may call for Succession Certificate only in cases falling under clause (iii) of Para 70 and that too when there is a doubt about the title of the claimant or where rival claimants come forward. Paras 115, 116 and 117 of Chapter III of Manual of Accounting Procedure (Volume 1) (Part II), Employees Provident Fund Organisation, read as under :—

“115. If there is no nominee in accordance with the Employees' Provident Funds Scheme, 1952, or there is no person entitled to receive such amount under sub-para (ii) of para 70 of the Scheme, the claim is required to be

settled under para 70 (iii) of the Scheme. In such cases the Regional Commissioner, if the amount to the credit of the Fund does not exceed Rs. 10,000 and if he is satisfied after enquiry about the title of the claimant, may pay such amount to the claimant under para 70(iii) of the Scheme. For this purpose the Regional Commissioner may make reference to the appropriate state (normally revenue) authorities.

116. Where even after reference to the civil authorities as indicated in the above paras, there is a doubt about the title of the claimant or where rival claimants come forward, it would be necessary to call for a Succession Certificate.
117. Again, in cases where there is no nominee or there is no person entitled to receive the Employees' Provident Fund dues under sub-para (ii) of para 70 of the Scheme and the amount of the claim exceeds Rs. 10,000, proof of heirship has to be called for. The claimant in such cases may be advised to produce a Succession Certificate from an appropriate Court of Law. Payment in accordance with para 70 (iii) of the Scheme, to the persons in whose favour Succession Certificate has been granted would be valid discharge. In cases where the claimants find it difficult to produce Succession Certificate and where the Regional Commissioner is satisfied that the difficulty is genuine, he may refer the matter with complete details to the Central office. In deserving cases of genuine distress, the Central office, in consultation with the Central Government, where necessary, may authorise the Regional Commissioner to make payments to the claimants on execution of an indemnity bond with adequate number of solvent sureties."

Notwithstanding the aforesaid clear provisions on the subject, *it has been observed that the authorities call for Succession Certificate on the slightest pretext even when the case falls under clause (i) or clause (ii) of para 70 of the Scheme.* The case of Shri K. Gandhi of National Project Construction Corporation may be mentioned by way of illustration. Shri Gandhi who dies on October 17, 1986, had made the nomination in favour of his two sisters and one brother. The two sisters were to get, in equal shares, 50 per cent of the amount, while the remaining 50 per cent was to go to his brother. One of the nominees, the brother, had predeceased the employee. On the claim papers having been submitted by the two sisters, the authorities in July 1988 decided to call upon the claimants to produce the Succession Certificate in respect of the whole of the amount. *In this case 50 per cent of the amount could have been paid to the two sisters under clause (i) of para 70. The remaining 50 per cent was to be disbursed in accordance with clause (ii) of para 70. However, instead of taking such a course, the authorities called upon the claimants to produce Succession Certificate in respect of whole of the amount. The case is still pending.*

At the cost of repetition, it may be stated that the Office of the Regional Provident Fund Commissioner is insisting on the production of Succession Certificate on the slightest pretext even in cases falling under clauses (i) and (ii) of para 70 of the Scheme. To reinforce the point, it is apposite to advert to *Imambhai Vs. RPF*, wherein the claim of the nominee was repelled by a one word order "rejected" even though no succession certificate could have been insisted upon. Says the High Court :—

- "4. An examination of the record also reveals that the applicant as required to obtain a succession certificate in support of his claim though ultimately his claim was rejected. The document placed on record goes to show that the applicant had to incur an expenditure of more than a thousand rupees. Court fee stamp of Rs. 900 had to be procured for obtaining the succession certificate. Some amount must have been expended in payment of legal fees for obtaining the succession certificate. Not less than a thousand rupees must have been spent in this connection. It was not realized that having regard to the fact that the deceased workman had made a nomination under Paragraph 23(1) of the Employees Deposit-Linked Insurance Scheme, 1976 (quoted hereinbelow) which categorically

provides certificate for payment of the amount due to the nominee, succession certificate was not necessary. Paragraph 23(1) reads as under :

“The nominations made by an employee under the Employees Provident Funds Scheme, 1952 shall be treated as nominations under this Scheme and the assurance amount shall become payable to such nominee or nominees.”

It is hoped that the office of the Regional Provident Fund Commissioner will guide the applicants in such matters so that they are saved from incurring unnecessary expenditure. It is also hoped that the Regional Provident Fund Commissioner will make an appropriate inquiry, obtain legal opinion, if necessary, and pass an appropriate order so that a rightful claimant is not driven to a Court of law in order to obtain his dues under the relevant provision of the benevolent Act and the Scheme which have been specially designed with an eye on amelioration of the workers.

It should therefore be provided in the Scheme itself that succession certificate should not be insisted upon in cases covered by para 70(i) and 70 (ii). Only in cases covered by para 70(iii) and that too only provided there is a bona fide doubt about the title of the claimant or there is a rival claimant it may be demanded.

2.5.8. Unwarranted insistence on production of No Demand Certificate—Another cause which occasions delay in the finalisation and settlement of cases is the requirement as to production of ‘No Demand Certificate’. This certificate is given by the employer certifying that there are no dues recoverable from the employee. Even though there is no provision in the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and the Scheme framed thereunder authorising the withholding of the provident fund dues for want of such a certificate, the dues are often withheld by proffering this excuse. *Again, while the employee is generally called upon to produce such a certificate after obtaining it from the concerned department/official of the employer, the employee is totally helpless if his request is not attended to for very many months or years.* To illustrate the point, it may be mentioned that even though an employee (Shri Lalan Kuki) submitted his claim papers after retirement in April 1988, *his case has not been finalised for more than 18 months or want of ‘No Demand Certificate’ by his employer [National Project Construction Corporation].*

2.6. Causes attributable to the Office of Regional Provident Fund Commissioner—The causes which can be attributed to the office of the Regional Provident Fund Commissioner for delay in the final settlement of cases, *inter alia*, are :

- (a) inaction, indifference or fault on the part of the office/officials;
- (b) shortage of staff;
- (c) failure to perform statutory duties;
- (d) unwarranted insistence on production of documents such as Succession Certificate or ‘No Objection Certificate’.

2.6.1. Indifference, inaction or fault of officials—One of the major causes for delay in the settlement of Provident Fund and other retirement dues cases is inaction or fault on the part of the office of the Regional Provident Fund Commissioner. The matters ordinarily are not given prompt attention. *Paragraph 91 of Chapter III, Manual of Accounting Procedure (Volume I Part II) of the Employees’ Provident Fund Organisation requires that every effort should be made to ensure that the claims for final refund of Employees’ Provident Fund dues and other benefits under Employees’ Family Pension/Employees’ Deposit-Linked Insurance Schemes are settled within 20 days of their receipt.* Various measures have been laid down in order to ensure speedy settlement of accounts. Such measures are contained in para 92 Chapter III of the Manual. *However, in practice the settlement of cases is generally delayed. Some cases are settled after several years.* The case of one Shri Iqbal Ahmed of Bangalore can be cited as an illustration. Shri Ahmed served M/s Road Bird (P) Ltd., Calcutta, during 1972 to October 1981. His case regarding the Provident Fund and Family Pension was settled in March 1983. The amounts were sent by the Office of the Regional Provident Fund Commissioner vide cheque dated March 21, 1983 and March 30, 1983. *The cheque in respect of the amount of the*

Provident Fund was returned to the Office of Regional Provident Fund Commissioner as there was some clerical mistake therein. Instead of correcting the error and re-despatching it back to the employee, the Office of the Regional Provident Fund Commissioner cancelled the cheque in October 1983 and there after no action was taken by them to pay the amount to the employee.

2.6.2. *Paucity of staff*—On a reference being made by the Commission to the Regional Provident Fund Commissioner, Calcutta, for ascertaining reasons for the delay in the settlement of cases of ex-employees of M/s Guest Keen and William, which had declared a lock out in October 1987, it was reported by the Regional Provident Fund Commissioner that only two officials were available in his office to deal with the cases of the ex-employees of the Company resulting in the delay in settlement of cases.

2.6.3. *Indifference or failure of officials to take appropriate steps*—Another major cause for the delay in the settlement of provident fund and other retirement dues cases is failure on the part of the office of the Regional Provident Fund Commissioner to perform the statutory duties imposed upon it under the Act and the Scheme framed thereunder. The employees under the provisions of the Act and the Scheme are required to furnish a number of statutory returns to the Office of the Regional Provident Fund Commissioner. *The returns so submitted are sometimes incomplete or incorrect. Due to lack of proper scrutiny, the omissions, etc., in the returns are not detected. These come to notice only when a claim is being processed.* The result is that the settlement of the claim gets delayed pending the removal or correction of the omissions/discrepancy in the statutory returns. The most glaring example of such failure to scrutinise the return is the case where the employer fails to deposit his share of the contribution towards provident fund. Under para 38(1) of the Scheme of 1952, *each employer is, within fifteen days of the close of every month, required to pay the employees' contribution together with his own contribution as well as administrative charges, if any, to the Fund by separate bank drafts or cheques on account of contribution and administrative charges. Para 38(2) further requires that the employer shall forward to the Commissioner, within twenty-five days of the close of the month, a consolidated statement, in such form as the Commissioner may specify, showing recoveries made from the wages of each employee and the amount contributed by the employer in respect of each employee. If such returns are properly scrutinised, the Office of the Regional Provident Fund Commissioner would immediately detect that a particular employer has not deposited his share of the contribution in respect of a particular employee or employees. This will facilitate the initiation of steps for immediate recovery of employers' share of contribution. Even if the omission on the part of the employer to deposit his share of contribution is detected, the Office of the Regional Provident Fund Commissioner quite often does not initiate any action against the employer. The Regional Provident Fund Commissioner in the event of default of an employer in making the deposits to the fund has (i) the power to recover the same as provided under Section 8 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, (ii) power to recover damages under Section 14-B of the Act of 1952, and (iii) power to initiate criminal proceedings for prosecution of the defaulting employer under section 14 read with section 14AC of the Act. These powers are seldom exercised with expedition as a result of which the employees are made to suffer for no fault of theirs and are deprived of the benefits of the provident fund merely on the ground that the employers have not deposited their share of the contribution. The Supreme Court in *ORGANO CHEMICAL INDUSTRIES V. UNION OF INDIA* [AIR 1979 SC 1803] had the occasion to consider the provisions of the Act and the Scheme framed thereunder. The Supreme Court, after setting out the scheme of the Act in brief, which is principally and mainly further welfare of the workers who are employed in factories and other establishments and under which a heavy responsibility is cast on the Regional Provident Fund Commissioners to see that the provisions of the Act and the Scheme are properly followed and complied with, observed :*

".....This social security measure is a human homage the State pays to Arts. 39 and 41 of the Constitution. The viability of the project depends on the employer duly deducting the workers' contribution from their wages, adding his own little and promptly depositing the nikle into the chest constituted by the Act. The mechanics of the system will suffer paralysis if the employer fails to perform his function. The dynamics of this beneficial statute drives its locomotive power from the funds regularly flowing into the statutory till.

3. The pragmatics of the situation is that if the stream of contributions were frozen by employers' defaults after due deduction from the wages and diversion for their own purposes, the Scheme would be damaged by traumatic starvation of the fund, public frustration from the failure of the project and psychic demoralisation of the miserable beneficiaries when they find their wages deducted and the employer get away with it even after default in his own contribution and malversation of the workers' share. 'Damages' have a wider socially semantic connotation than pecuniary loss of interest on non-payment when a social welfare scheme suffers mayhem on account of injury. Law expands concepts to embrace social needs so as to become functionally effectual".

The Madhya Pradesh High Court in *NATHULAL V. REGIONAL PROVIDENT FUNDS COMMISSIONER, Indore*, [1984 Lab. I.C. 1438] had the occasion to consider the question of entitlement of the employee to payment of the entire amount for the relevant period, that is, his contribution as well as the employer's contribution on the failure of the employer to credit the same to the fund. The High Court, after considering the relevant provisions of the Act and the Scheme framed thereunder relying on the judgement of the Supreme Court (quoted above), held as under :—

“.....We are of the opinion that the stand taken by the respondents is devoid of any substance because *the employee, for no fault of his, cannot be allowed to suffer in this manner* as he is entitled to the payment of the entire amount for the period for which he has put up his claim in this petition. Obviously, the petitioner had become a member of the Scheme in the hope that on retirement he would get all his dues as amount from his wages was regularly deducted by the employer and he could have no reason to imagine that the employer might not have remitted his contribution so deducted as also the share of the employer to the said fund because that is one of the allurements to the employee that on retirement in addition to his own contribution he will get much more by way of contribution of the share of his employer also because in such a case he would not get any pension from the employer but has to depend solely on his provident fund on which his livelihood in future would depend”.

The Regional Provident Fund Commissioner has appealed to the Supreme Court against the judgment of the Madhya Pradesh High Court. The Supreme Court in Special Leave Petition No. 6909/84 on July 3, 1984 has stayed the operation of the High Court order pending disposal of the appeal. The result is that the employees continue to suffer and are being deprived of their legitimate right for the failure of the Office of the Regional Provident Fund Commissioners to perform the statutory duties imposed upon them under the Act and the Scheme framed thereunder. The case of Shri R.A. Swami, mentioned earlier in para 2.5.5 above can be cited to illustrate the problem. Shri Swami has been denied the 35 per cent. of the employer's share since June 1987 on the ground that the employer has not deposited the same.

2.7. *Other Causes*—In addition to the causes detailed above, there are some other causes which result in the delay in the settlement of cases of provident fund and other retirement dues. These causes, *inter alia*, are :

- (i) Lack of co-ordination and prompt action on the part of various departments of an organisation or on the part of two offices;
- (ii) Non-verification of fixation of pay consequent to revision of pay scales;
- (iii) Dispute regarding correctness of the amount of provident fund; and
- (iv) Identification of nominee or legal heirs.

2.7.1. *Lack of Co-ordination*—The settlement of claims of provident fund and other retirement dues gets delayed due to lack of co-ordination and prompt action on the part of various departments of an organisation or on the part of two or more offices. The information called for by one department/office is not supplied in time by the other department/office, as a result of which there is avoidable delay and the employee, his nominee or legal beneficiary has to suffer due to non-settlement or late settlement of the claim. Few instances may be quoted in this regard. Shri K.

Naguri of Guntur retired from the services of A.P. State Road Transport Corporation on July 31, 1987. His claim for provident fund could be finally settled only in January 1989 for want of record and relevant information. Shri J.R. Gupta of Durg had resigned from the services of M/s. Advani-Oerlikon Ltd. Raipur on Dec. 28, 1987. His case for provident fund could be finally settled only during June 1989 by the Regional Provident Fund Commissioner, Indore, for want of information from the employer as well as Office of the Regional Provident Fund Commissioner, Bombay. One Shri S.S. Sisal retired from the services of M/S. Central Warehousing Corporation on Jan. 29, 1988. The intimation of retirement was given to the Trust on May 31, 1988 after a lapse of about four months. The Trust took action on June 24 1988 calling for information from the Unit where the employee was working. The Unit sent information in three instalments on July 11, 1988; July 26, 1988 and December 3, 1988 respectively. Since the information received by the Trust did not appear to be complete, a Telex message was sent on February 17, 1989 seeking information in respect of contributions for a certain period and festival advance etc. advance etc. The lack of co-ordination and prompt action on the part of various offices, thus resulted in the delay in settlement of the claims. Such a delay could have been avoided and the employees, their nominees or legal heirs could have been saved from the sufferings.

2.7.2. *Delay in verifying pay fixation on pay revision*—Due to pay revisions, the pay of the employees is required to be refixed. In some organisations such pay fixations are required to be verified by the auditing authorities or some other authorities. Consequent to the non-verification of the pay fixation, the claims for provident fund and other pensionary dues get delayed. In this regard, the case of Shri A.N. Godbole of Vadodara can be quoted as an illustration. Shri Godbole retired from services of Faculty of Science M.S. University, Baroda, on September 30 1987. His pension has not been fixed though the papers were forwarded to Director of Higher Education on June 28, 1988 on the ground that the fixation of pay in accordance with revised pay scales with effect from January 1, 1986, which is required to be verified by the office of the Director of Higher Education, has not been so verified so far. The work of verification of pay fixation is reported to have been started in May 1989. The claim is still pending.

2.7.3. *Dispute regarding size of accumulated amount*—Sometimes there is a dispute between the Trust/Office of the Regional Provident Fund Commissioner on the one hand and the claimant on the other hand regarding the correctness of the provident fund accumulations. Such a dispute also adds to the delay in the finalisation of the claims.

To illustrate, Shri S.Z. Rehman retired from the services of M/S. National Project Construction Corporation on February 1, 1988. The Trust called upon the employee to send a stamped receipt of Rs. 11,532.50 p. The employee disputed the correctness of the amount calculated by the Trust and claimed that the accumulated amount was to the tune of Rs. 13,080.-. A break-up of the amount due was sent by the employee to the Trust on August 23, 1988. The dispute has not been resolved and the case is still awaiting settlement.

2.7.4. *Identification of beneficiary*—Another cause for the delay in the settlement of the claims is the identification of the nominee or the legal beneficiaries. Where the employee himself is the claimant, such problem does not arise since the employer always identifies the claimant. The difficulty arises where the claimant is either the nominee or the legal beneficiary of the employee. There is nothing either in the Act or in the Scheme framed thereunder for tackling such a situation. As a result, different procedures are being adopted in this regard by the concerned authorities, namely, employer, the Trust or the Office of the Regional Provident Fund Commissioner, thereby causing delay in the settlement of cases and hardship to the claimants.

2.8. Having identified the various causes coming to the notice of the Commission and made appropriate suggestion, the matter regarding other measures required to be adopted in this regard is being addressed hereafter in due course.

CHAPTER III

MAGNITUDE OF THE PROBLEM—NEED FOR CREATION OF A STATUTORY OMBUDSMAN

3.1. *Material regarding plight of suffering employees gathered*—In order to carry-out post-audit of this Act and the Scheme framed thereunder, the same being a benevolent socio-economic legislation, the Commission issued a press release on Dec. 20, 1988 [Appendix 'E'] inviting all concerned who had not received the provident fund and retirement dues for more than one year to furnish relevant particulars in order to apprise the Commission of their plight. The material gathered by the Commission on the basis of complaints received in response to the press note issued by it reveals that a lamentable state of affairs prevails in the sphere of disbursement of provident fund accumulations, etc. Out of a total of 481 complaints received by the Commission, 139 cases were resolved within approximately three months of the matter being taken up by the Commission with the concerned authorities. On an analysis of the data relating to these cases where delay was apparently unjustified, an extremely unaesthetic picture emerges :—

Extent of delay involved	Number of cases
Maximum 21 years, Minimum 10 years	7
Maximum 10 years, Minimum 6 years	25
Maximum 6 years, Minimum 4 years	15
Maximum 4 years, Minimum 2 years	32
Less than 2 years	60
Total	139

(Full details pertaining to these 139 cases are embodied in Appendix 'F').

3.2. *Categories of employers*—These cases of delay relate to employers and establishments (1) covered by the Act and the Scheme (Unexempted as also Exempted) as also (2) not covered by the Act and the Scheme. The break up is as under :—

Covered	Not covered	Total
96	43	139
Exempted	Unexempted	
25	71	

[Reference may be made to Appendix 'F' for details]

3.3. *Questions which arise*—In the background traced hereinabove, the following questions raise their heads :—

- (1) *Is it just or fair to make a retired employee or the beneficiaries claiming under a dead employee to wait for many many years (at times more than 10 years even up to 21 years) ?*
- (2) *Is the extant machinery adequate to resolve the problem ?*

The answers to questions No. 1 and 2 are implicit therein. *The present situation is intolerable and the present machinery is wholly inadequate.* What then should be done ?

3.4.1. *Need for creating a monitoring agency : An Ombudsman*—The Commission is firmly of the opinion that *the problem has arisen essentially because of the absence of a monitoring agency to oversee the working of the existing disbursement machinery.*

3.4.2. It needs to be emphasised that as many as 139 cases were resolved within approximately 3 months of the taking up of the matter by the Commission. Two conclusions follow :—

- (1) *There was culpable apathy to do the needful on the part of the disbursing authority. Else how were cases pending for 5, 10, 15 or 20 years resolved within nearly 3 months ?*
- (2) *Such a situation would not have arisen if there had existed a monitoring agency to oversee, goad, if necessary guide, and to issue appropriate directions whenever called for.*

3.4.3. *The urgent need for creating such an agency, Ombudsman, is therefore real, and self-evident.*

3.4.4. *Profile of the proposed office of Provident Fund Ombudsman.*

CONSTITUTION AND SET UP

I

In order to invest the office with appropriate stature, authority and dignity, *the office shall be created by a Parliamentary statute and be manned preferably by a retired Chief Justice of a High Court or in any event at least by a retired High Court Judge who shall hold office for 3 years from the date of taking charge. He shall be entitled to the remuneration and privileges enjoyed by him immediately before his retirement.*

II

He shall be *assisted* by a deputy Ombudsman of the rank of a retired district and sessions judge and by the requisite staff.

III

He shall be *provided with a computer to enable him to analyse the data furnished in the returns and to make his monitoring effective.*

POWERS

The Ombudsman in order to be effective should have powers :—

I

to monitor cases of delays in disbursements throughout the territories of India.

II

to monitor cases of all employers and establishments, viz.,—

- (i) establishments covered by the Act and the Schemes;
- (ii) covered establishments *to which exemptions have been granted* under the relevant provisions of the Act and the Schemes;
- (iii) employers and establishments *not covered by the Act or the Schemes* such as Public Sector undertakings having their own scheme and other statutory corporations of like nature.

III

to act suo motu as also the power to act on the basis of complaints received from employees or their nominees or the beneficiaries under the Act and the Schemes.

IV

He shall have power to *call for information concerning matters where disbursement have not been made or delayed and to insist on the timely submission of prescribed returns.*

V

He shall have the power to *issue appropriate directions to secure compliance* by the concerned authorities to enable him to discharge the duty to ensure prompt disbursement of dues.

DUTIES

I

It shall be the duty of the Ombudsman *to ensure that the disbursements* of the claims to retired employees or their nominees or beneficiaries (as the case may be) and others entitled to claim payment *are made promptly and in any case within the time bracket of six months* regardless of whether or not specific complaint has been made to him by the concerned employee.

II

It shall be his duty *to invite complaints* regarding non-payment of provident fund accumulation in order to apprise himself of such instances by way of—

- (a) *advertisements* in appropriate regional daily newspapers in English and in regional languages in all States *every six months*;
- (b) *announcements over Radio and T.V.* in all states in English and regional languages *every six months*.

III

To take cognizance suo motu as also on the basis of complaints received in response to such invitations or otherwise *and to take appropriate steps to secure disbursements* in such cases with promptitude by getting in touch with the appropriate authority. *And seek information as regards the cause for the delay and to issue appropriate directions to remove the bottleneck and to ensure compliance.*

IV

It shall be his duty *to call for returns and information regarding claims pending with the concerned establishments*, scrutinize the returns submitted to him, and to *take appropriate suo motu action and to issue appropriate directions to the concerned authorities to ensure prompt payment* to the claimants with the end in view to ensure that *no claim remains outstanding for more than 3 months*.

3.4.5. *Provisions required to be made in order to enable the Ombudsman to exercise the powers and to discharge the duties*—As the Ombudsman will be responsible for ensuring that Provident Fund and other retirement/death benefits are paid to the beneficiary as far as possible within three months from the date the same become payable, provisions to the following effect are required to be made—

- (i) Every employer having a provident fund scheme shall furnish a return [Appendices HI and HII] on a prescribed proforma, to the Ombudsman every month by the 15th of each month detailing therein the cases of delay beyond three months, setting out the necessary particulars of each case, and explaining the causes of delay.
- (ii) The Regional Provident Fund Commissioners and the Trustees of Provident Fund trusts in the case of exempted organisations, shall furnish a return, on a prescribed proforma [Appendices HI and HIII], to the Ombudsman on the 15th of January, 15th of April, 15th of July and 15th of October every year detailing therein the cases which could not be disposed of and settled within three months from the date the amount became payable setting out and explaining the causes of delay. The Ombudsman will have the authority to issue appropriate directions to ensure urgent settlement of the claims.
- (iii) The Ombudsman shall monitor the cases of delay beyond three months, the cases of default in depositing the amount by the employers either in respect of their own contribution or in respect of employees' contribution or both and shall issue appropriate directions in this regard to the concerned officer, authority or the employer. The Ombudsman will have the authority to call for any further

information from the concerned officer, authority or employer as he may deem fit and proper.

- (iv) The wilful default or failure on the part of the concerned officer or authority or the employer to furnish requisite return and/or information which may be sought by the Ombudsman or the failure on the part of the concerned officer, authority or the employer to carry out the directions issued by the Ombudsman within the stipulated time without sufficient cause shall be an offence punishable with imprisonment of either description which may extend to six months or with fine which may extend to Rs. 5,000/- or both. Such an offence should be bailable, cognizable and triable by any Magistrate having the jurisdiction.

3.4.6. *Suitable legislation*—For creating the office of Ombudsman, it is recommended that *suitable legislation may be enacted to ensure that the office enjoys statutory authority and powers to monitor and to issue appropriate enforceable directions* for settling claims relating to payment of provident fund dues expeditiously.

We recommend accordingly.

CHAPTER IV

OTHER MEASURES COMMENDED OR EXPEDITING PAYMENTS OF PROVIDENT FUND ACCUMULATIONS TO THE BENEFICIARIES

4.1.1. Besides the creation of the institution of an ombudsman as recommended in Chapter III, certain other measures are also required to be undertaken in order to cut short, if not totally wipe out, the delays in the settlement of cases of provident fund and other pensionary benefits and to ameliorate the hardship being faced by the employees, their nominees or legal beneficiaries due to such delays.

4.1.1A. *Employees should be made aware*—The delay being caused due to non-submission, late submission or defective or incomplete submission of the claim applications is mainly due to the ignorance of the employees, their nominees or legal heirs. It is also necessary to minimise the number of cases in which either no nomination is made or the nomination made is not reviewed with the change in the circumstances. The employees generally do not know the necessity of making or reviewing the nomination. With a view to make the working of the scheme effective it requires to be provided that all employees on becoming members of the fund shall be issued pass books in respect of the monthly contributions made by the employer and the employee. The pass book should apprise the employees as regards (1) the power to revoke or alter nominations, (2) conditions for taking loans, (3) essential particulars required to be furnished for making claims so that applications are free from defects. This course will to a great extent reduce and minimise the delays caused due to non-nomination or non-availability of the nominees.

4.1.2. *Withholding payments for reasons not warranted by law and in violation of spirit of Section 10—need for remedial amendment*—The Legislature has extended unqualified immunity to the provident fund accumulations from being attached in respect of any debt incurred by an employee and has gone to the length of providing that the said amount shall not be capable of being assigned or charged. The Legislature has also provided that on the death of an employee, in case there is a nominee, the amount will vest unto the nominee free from any debt or liability incurred by the employee before his death, subject only to deductions authorised by the Scheme or the rules of the concerned provident fund. Notwithstanding this immunity embodied in section 10 of the Act, it has been noticed that the amount of provident fund is often being withheld by the employers pending vacation of residential accommodation allotted to the employee by the employer. This course is not authorised by law and is against the very spirit of the Act and the Scheme framed thereunder. For, withholding on such a ground virtually amounts to attachment of the amount in question or bringing illegal pressure.

4.1.3. Even though there is no provision in the Act or the Scheme framed thereunder for withholding provident fund claims on such a ground, the Bombay High Court in *Kareparambil v. Air India*^{4A} refused to grant relief in its writ jurisdiction to the petitioners, whose amount of provident fund was withheld by the employer (Air India Corporation) on the ground that they had not vacated the residential accommodation allotted to them. The High Court held that in case the Court permits such employees to seek relief under article 226 of the Constitution, then it would merely promote dishonestly. It is perhaps not realised that more often than nought it is not a case of dishonest conduct but a case of helplessness to secure accommodation in these times of acute housing shortage and steep rise in prices of properties and in rents. Taking shelter under the judgment of the Bombay High Court, the employers withhold the payment of the amount of provident fund till the official residential accommodation is vacated by the employees. To quote)by way of an illustration, the Maharashtra State Road Transport Corporation, relying on the judgement of the Bombay High Court, has taken a policy decision not to release the retirement dues to its employees till the complete charge of all belongings of the Corporation is handed over by the employees. While the conduct of the employees in refusing or failing to vacate the official residential accommodation or to hand over the charge of the other belongings of the employer when called upon to do so, cannot be approved

it cannot be gainsaid that the release and payment of the amount of provident fund cannot be allowed to be withheld on this ground. Apart from the fact that there is no authority in law for doing so, it would be violative of the spirit of section 10 of the Act and in negation of the legislative intent manifest in the provision. Besides, in a sense it would be counter-productive in as much as it would operate as a hurdle in the way of the concerned employee acquiring an alternative accommodation with the aid of the said resources. So also the insistence on 'No Demand Certificate' has no justification since no deduction can be made from the P.F. accumulations unless provided by the Scheme or the rules of the Fund. Moreover, the official authorised to grant such a certificate is under no obligation or compulsion to issue it urgently or even within a reasonable time frame. *The Commission, is therefore, of the view that it needs to be provided by way of an Explanation to Section 10 that no part of the provident fund shall be withheld by the employers pending vacation of the official residential accommodation by the employee or pending the production of "No Demand Certificate."*

4.1.4. *Enabling the employee to apply directly to the Commissioner and incorporating a time limit for transmitting the claims to the Commissioner.*—Under the Act and the Scheme framed thereunder the claim for final payment of the amount of the provident fund is required to be made by the employee, his nominee or the legal heirs, as the case may be, to the employer for onward transmission to the Regional Provident Fund Commissioner or the Trust after verification and attestation. It has been noticed during the course of on-the-spot study of the records of some organisations that a number of cases get delayed only due to inaction on the part of the employers. A reference in this regard be made sub-paragraph (5) of Paragraph 72 of the Employees Provident Fund Scheme, 1952. Clauses (a), (c) and (d) of sub-paragraph (5) paragraph 72, read as under :—

- “(a) Every employer shall, at the time when a member of the Fund leaves the service, be required to get the claim application, for payment of provident fund in cases specified in clauses (a) to (dd) of sub-paragraph (1) of paragraph 69, duly filled in and attested, and to forward the said application to the Commissioner or any other officer authorised by him in this behalf.
- (b) x x x x
- (c) Every employer shall, on the death of the member and on receipt of an application for receiving the amount standing to the credit of such member, forward forthwith the said application to the Commissioner or any other officer authorised by him in this behalf.
- (d) *If the applicant is unable to send the claim application through the employer or duly attested by him., for any reason whatsoever, he may forward it to the Commissioner or any other officer authorised by him in this behalf, and wherever necessary, the Commissioner, or any other officer authorised by him in this behalf, may forward such application to the employer and the employer shall be required to return it within five days of its receipt.”*

[Emphasis supplied]

4.1.5. Under clause (d) of sub-para 5 of Para 72, a claimant is required to submit his claim to the employer and it is only when he is unable to do so that an application can be made directly to the Commissioner or the Trust. It has been noticed that almost invariably when an application is directly made to the Commissioner, the same is returned to the claimant with the observation that the same should be submitted through the employer. This leads to unnecessary and avoidable delay. The Commission feels that the provisions contained in *clause (d) of sub-paragraph (5) of paragraph 72 should be amended and it needs to be provided that the applicant may send the application directly to the Commissioner or the Trust, as the case may be.* The amended provisions may read as under :—

“An applicant may submit his application to the Commissioner or any other officer authorised by him in this behalf, and wherever necessary, the Commissioner or any other officer authorised by him in this behalf, may forward such application to the employer and the employer shall be required to return it within five days of its receipt.”

4.1.6. The amendments as proposed hereinabove when introduced will not only minimise the delay in the settlement of cases due to inaction on the part of the employers but will also to a great extent remove the blockade in the settlement of claims caused due to non-vacation of residential accommodation and non-production of 'No Demand Certificate' by the employees since they will have the right to approach the Commissioner or the Trust directly.

4.2. *Except when prohibited by a court, payment should not be withheld merely because someone else objects*—Paragraphs 69 of the Scheme of 1952 provides for the disbursement of the provident fund amount to the employee while Paragraph 70 provides for payment of the provident fund accumulations in the case of a deceased employee either to the nominee or legal beneficiaries of the deceased as the case may be. The employer has to process the case in terms of either Paragraph 69 Paragraph 70. Similarly, the Trust of the Regional Provident Fund Commissioner has to settle the claim and pay the amount in accordance with the provisions of Paragraph 69 or Paragraph 70, as the case may be. Neither the employer nor the Trust nor the Regional Provident Fund Commissioner can stop the settlement of the claim and payment to the claimant entitled under the Scheme to receive such amount on an objection raised by a third party. As pointed out earlier, instances of settlement of the claims being kept in abeyance on mere objection of a third party are not lacking. There is no provision either in the Act or in the Scheme framed therein authorising such a course. The Commission feels that though the provisions are quite clear, out of abundant caution an *Explanation needs be added under Paragraphs 69 and 70 to the effect that save and except under the orders of a Court, the payment of the Provident Fund accumulations shall not be withheld on an objection being raised by a third party and the amount should be paid to the claimant in terms of Paragraph 69 and Paragraph 70, as the case may be.*

4.3. *Payment not to be withheld on the ground of pendency of disciplinary proceedings*—Pendency of disciplinary proceedings is one of the causes for the delay in the settlement of provident fund claims. The employers normally stop processing the claims till the disciplinary proceedings are concluded. This course is inconsistent with the provisions of the Act and the Scheme framed thereunder. Even if, as a result of the enquiry, the employee is found guilty of misconduct and some amount is found recoverable from him, such amount cannot be deducted from his provident fund accumulations in view of the specific provisions contained in section 10 of the Act. Though the recommendation made by the Commission in para 4.1.5 above for the amendment of clause (d) of sub-paragraph (5) of Paragraph 72 providing for direct submission of the claim application by the claimant to the Trust or the Regional Provident Commissioner will to a great extent minimise the delay caused on such a the Commission feels that it *needs to be clarified by way of an Explanation under section 10 that the amount of provident fund accumulations shall not be withheld on the ground of pendency of disciplinary proceedings.*

4.4. *Withholding of P.F. dues on account of employer's failure to deposit his own or the employee's share already deducted from their salary : Punishing the employees for the crime of the employer and for the gross negligence of the department*—The object of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, is to make some provisions for the future of the worker after he retires or for his dependents in the case of his early and untimely death. The Act and the Scheme framed thereunder have made adequate provisions and the Provident Fund Commissioners have been given adequate powers to see that the provisions thereof are properly complied with and that the share of the employee deducted from his salary/wages as also the share contributed by the employer is credited to the Fund account so that on retirement of the employee or in the case of his untimely death while in service, his dependants, are immediately benefited. It has been noticed that in a number of cases the settlement of the claims is delayed on the ground that the employer has failed to deposit his contribution or the employee's share in the fund account. In this regard the office of the Regional Provident Fund Commissioner cannot escape blame. There is inaction and failure to perform statutory duties on the part of the office of the Regional Provident Fund Commissioner. As pointed out earlier, under paragraph 38(1) of the Scheme of 1952, each employer is under a legal obligation to pay the employees' contribution together with his own contribution, to the fund by separate bank drafts or cheques on account of contributions. Paragraph 38(2) further provides that the employer shall forward to the Commissioner, within twenty-five days of the close of the month, a monthly consolidated statement, in such form as the Commissioner may specify, showing recoveries made from the wages of each employee and the

amount contributed by the employer in respect of each employee. The returns so submitted are sometimes incomplete or incorrect. Due to lack of proper scrutiny in the Office of the Regional Provident Fund Commissioner, the mistakes or omissions are not noticed. These omissions, etc., are detected only when a claim is processed. If there is a proper and regular scrutiny of the return submitted by the employers then the cases where the employers have not deposited their share of the contributions can be easily detected and action can be taken by the Regional Provident Fund Commissioner for the recovery of such amount well in time.

4.5.1. The Regional Provident Fund Commissioner in the event of the default of an employer in making the deposits in the fund, has the following powers under the Act of 1952 as amended by Act No. 33 of 1988 :—

- (i) Power to recover the amount under section 8;
- (ii) Power to recover damages under section 14-B, not exceeding the amount found in arrears ;
- (iii) Power to initiate criminal proceedings for the prosecution of the defaulting employer under section 14 read with section 14AC of the Act.
- (iv) *Power to recover from the employer of establishment inter alia by seizure and sale of his properties under recently added sections 8A to 8G of the Act.*

In spite of the specific powers so conferred upon the Regional Provident Fund Commissioner, such powers are rarely exercised promptly and timely as a result of which the employees suffer due to no fault of theirs. It is pertinent to note that every employee employed in or in connection with the work of a factory of other establishment to which the Scheme 1952 applies is required to become a member of the Fund. The requirement of being a member is mandatory. No employee can refuse to become a member of the fund and to contribute a part of his wages, minimum compulsory contribution being 8.33 per cent. of the wages, to the fund. Therefore, it is all the more essential that his rights and interests should be protected and he should not be made to suffer for the fault of others. It was mainly for these reasons that the Madhya Pradesh High Court in Nathu Lal's case held that whole of the amount becoming due to an employee in his provident fund must be paid to him irrespective of the fact whether the employer has deposited his share or not. However as pointed out earlier, the operation of the judgment of Madhya Pradesh High Court has been stayed in appeal on July 3 1984. Whether or not the High Court decision is ultimately upheld by the Supreme Court, it appears to be unjust and unfair to make the innocent and helpless employees suffer for the fault of the employers to make the deposit and for the fault of the Regional Provident Fund Commissioner in failing to take immediate and prompt action against the defaulters in accordance with law.

4.5.2. *The Commission is of the opinion that the Act and the Scheme requires to be amended by incorporating a provision to the effect that the P.F. dues of an employee payable to him on his retirement or on his becoming eligible to recover the dues otherwise or to his nominee or beneficiaries under the Scheme on his death shall not be withheld on the ground of failure of the employer to deposit his own share or the employee's share deducted from his wages or both—There is more than ample Justification for doing so, viz.,—*

- (1) *Under the Act and the Scheme an obligation has been imposed and the power and legal authority to ensure (and enforce) compliance has been vested exclusively unto the P.F. authorities.*
- (2) *The employees have not been invested with any power or authority to secure compliance. They have no weapon, machinery or means to do so under-law and the totally helpless even when the authorities on whom the powers are conferred are guilty of wilful failure or culpable negligence to discharge their duties and to take appropriate steps under the law promptly and effectively. There is therefore no rational or moral justification to make them suffer.*
- (3) *The Act and the Scheme has been enacted as a social security measure for the welfare of the workers and cannot authorise deprivation of the fruits of the beneficial legislation for no fault on their part.*

- (4) The law authorises deduction from the wages of employees (which represent the hard earned earning by the sweat of their brow) on the representation and assurance implicit in the Act and the Scheme that their future will be taken care of. *Instead of paying more wages to enable the employees to make savings on their own, the law authorises deduction from their wages and imposes a corresponding obligation on the employers to make their contribution as provided by the law.* And the P.F. organisation is statutorily enjoined to effectuate the intentment and purpose of the law as an administering agency. *For the failure of this agency, the employees cannot be penalised.*

There is also another significant aspect which deserves to be stressed in this context. A Special Reserve Fund was created on September 15, 1960 out of the Reserve and Forfeiture Account of the fund to help outgoing members or their nominees/heirs, where an employer of unexempted establishment has failed to pay the whole or part of the provident fund contribution due to the fund. The terms of assistance from this fund have changed from time to time. *As per the decision of the Central Government dated March 10, 1965, the assistance is available to the extent only of employees' share of contribution recovered from his wages by the employer but not paid to the fund plus interest thereon.* No part of the employers' contribution, not received in the fund, is to be paid out of this fund.

It appears that *till the issuance of the orders of the Central Government on March 10, 1965, even the employers' share, which was not received in the provident fund account, was also being paid out of the reserve fund to the employees.* The reason why such employers' share has been excluded from the assistance to be rendered out of the Reserve Fund *vide orders dated March 10, 1965 is not known.* The Madhya Pradesh High Court in Nathu Lal's case has specifically held that the RPFC is bound to pay the whole of the amount of the fund to the employees irrespective of the fact whether the employer has failed to deposit his or employees' or both the shares of the contribution.

The 36th Annual Report of the C.P.F.C. for 1988-89 (see page 44-45) shows that *a very large sum of Rs. 159.02 crores was lying at the credit of Forfeiture Account out of which only a sum of Rs. 2.50 crores was transferred to Special Reserve Fund. Only Rs. 23.79 lakhs were paid to employees from this Account. The huge amount of Rs. 159 crores plus can be utilized for this purpose.* So also the surplus administrative charges, inspection charges and penal charges of Rs. 11.69 crores under EPF and FPF Schemes and Rs. 14.99 crores under the Insurance Scheme as per the aforesaid 36th Report can be utilised for the purpose of satisfying claims arising in the context of past defaults. *And for future defaults, there can be no excuse since now, by the newly added provisions of sections 8A to 8G inter alia empowering the officers of the organisation itself to recover the arrears by seizure and sale of the properties of the defaulter if there are arrears remaining unrecovered, the department alone is to blame. IT WOULD BE EXTREMELY UNFAIR FOR A WELFARE STATE TO MAKE THE EMPLOYEES SUFFER FOR THE FAULT OR FAILURE OF THE P.F. ORGANISATION:*

A provision in this behalf is required therefore to be specifically made in sub-para (1) of paragraph 72 of the Scheme of 1952. The words "irrespective of the fact whether any part of the employees' or the employers' or both the contributions have not been paid into the Fund by the employer" are required to be added in sub-para (1) of paragraph 72 after the words "it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme" and before the sign and words "(.) In case there is no nominee." and to make it retrospective.

In case it entails some financial burden on the organisation, it may be possible to neutralise this burden by making a slight increase in the tiny administrative charges which are presently fixed at 0.37% of the wages under the EPF Scheme and 0.01% for the insurance Scheme or by imposing a very small charge generally on all the establishments covered by the Act which may be recovered along with every instalment of the employer's contribution in order to constitute a sort of an insurance pool so as to provide the financial resources to meet this obligation. *A provision may also be made making negligence on the part of the concerned officers to take urgent steps under the Act and the Scheme to recover arrears from the employer "serious misconduct" entailing dismissal or removal from service so that the concerned officers discharge their duties honestly and diligently.*

4.6.1 *Delay occasioned by non-warranted insistence on Succession Certificate*—One of the major and frequent cause for the delay in the settlement of provident fund claims is the demand as to production of a Succession Certificate even though the same is not required under the law to be produced (see para 2.5.7). The employers as a matter of course call for the production of a Succession Certificate whenever a claim is preferred by the legal beneficiaries of an employee. The Regional Provident Fund Commissioner or the Trust is bound to pay the provident fund accumulations in respect of a deceased employee in terms of Paragraph 70 of the Scheme of 1952, that is, to the nominee in case there is a valid nomination or in the absence of a valid nomination to the family members of the deceased as defined in clause (g) of Paragraph 2 of the Scheme, read with the provision to clause (ii) of Paragraph 70, in equal shares. In case there is not valid nomination and no family member of the deceased employee, the amount of provident fund is then payable to the person legally entitled to it. As observed earlier (para 2.5.7), the Succession Certificate can be called for only in cases of genuine difficulty falling under clause (iii) of Paragraph 70 of the Scheme. Besides, it is only the deciding authority, namely, the Regional Provident Fund Commissioner or the Trust, who can call for the production of Succession Certificate. The employers cannot stop processing the cases and call for production of a Succession Certificate.

4.6.2. In so far as the calling for a Succession Certificate by the Trust or the Regional Provident Fund Commissioner is concerned, though specific instructions are contained in Paragraphs 115, 116 and 117 of Chapter III, Part II of Manual of Accounting Procedure (Vol. I), Employees' Provident Fund Organisation, such instructions are not being strictly complied with and it appears that a Succession Certificate is being called for in a routine manner even in respect of the cases falling under clause (iii) of Paragraph 72 of the Scheme of 1952. *The Commission recommends that the instructions contained in Paragraphs 115, 116 and 117 of Chapter 3 of Manual of Accounting Procedure (Vol. I) should be incorporated in the Scheme of 1952 itself so as to give it statutory shape, and specifically provide that save and except in the cases falling under clause (iii) of Paragraph 72 of the Scheme of 1952, a Succession Certificate shall not be called for.*

4.7. *Shortage of Staff*.—One of the Regional Provident Fund Commissioners, namely, the Regional Provident Fund Commissioner of Calcutta, has mentioned shortage of staff to be one of the reasons for the delay in the settlement of provident fund claims. No further information was supplied as to whether at any time a demand was made by him to the Central Office for the augmentation of the staff strength, and, if so, the result thereof. The necessary staff strength of all the officers of the Regional Provident Fund Commissioners is required to be reviewed and augmented, wherever necessary, keeping in view the ever-increasing workload in such offices.

4.8. *Lack of co-ordination and prompt action* on the part of various Departments of an organisation or on the part of two offices also causes delay in the settlement of provident fund claims. It has been observed that the correspondence calling for additional information, etc., by one office from another office is not being attended to with due dispatch (see letter quoted in para 1.5). The Commission feels that with the setting up of the institution of Ombudsman, the problem being caused due to lack of co-ordination and prompt action on the part of various authorities will be minimised to a great extent.

4.9. *Non-verification of pay fixation*.—The settlement of the provident fund claims and other retirement dues also gets delayed due to the non-verification of the pay fixation. The case of Shri Godbole (para 2.7.2) is a glaring example of such a case. The Commission feels that some time limit should be fixed within which the pay fixation consequent upon the revision of the scales or any other eventuality which necessitates the re-fixation of pay and wherever such fixations or re-fixation are required to be verified by the Auditing or other authorities, should be so verified. No employee can be made to suffer for the failure of the concerned authorities in carrying out the necessary verification. In this regard, *it is felt that time-limit of 3 months would be quite reasonable for carrying out the necessary verifications and in case for any reason the necessary verification cannot be completed within the stipulated period of 3 months, the employee must be granted interim relief by settling his claims regarding provident fund or other retirement dues on interim basis within 15 days from the expiry of the period of 3 months.*

4.10 *Payment of undisputed portion of claims*—Sub-paragraph (2) of paragraph 72 of the Scheme of 1952 specifically provides that if any portion of the amount which has become payable is in dispute or doubt, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon as possible. A similar duty is cast upon the Trust in the case of exempted organisations. *In spite of the specific provision in this regard, instances are not lacking where in the case of a dispute regarding the correctness of the amount due, the authorities have failed to pay even the amount in respect of which there is no dispute. the provision as contained in sub-paragraph (2) of Paragraph 72 should be strictly complied with and the failure to do so should be treated as "major misconduct" entailing punishment including dismissal from service or reduction to lower rank.*

4.11. *Identification of beneficiary*—Another general problem with which the claimants are faced and which also adds to the delay in the settlement of provident fund claims is the difficulty of *identification of the nominee or legal beneficiaries of a deceased employee*. Paragraph 82 of Chapter III, Part II of Manual of Accounting Procedure (Vol. I) of 'the Employees' Provident Fund Organisation provides that the claim application should be attested and forwarded by the employer under whom the member was last employed and if a member is unable to send the application either through the employer or duly attested by him for any reason whatsoever, he may forward the claim duly signed in the presence of any one of the authorised officers detailed therein and attested by him. This provision does not solve the problem. Since the claim applications are to be forwarded and attested by the employer, and they insist upon specific identification of the claimant. It may therefore be provided in the Scheme itself that a photograph of the claimant attested by any one of the persons specified in para 82 of Chapter II of the Manual of Accounting Procedure of Employees Provident Fund Organisation will suffice. In so far as the identification of the legal heirs is concerned, it needs to be provided that any one of the persons detailed in paragraph 82 of Chapter III of Manual of Accounting of the Employees Provident Fund Organisation enclosed along with the claim application should suffice and no other or further identification of the claimant would be necessary or insisted upon.

4.12. *Need for cultivating sympathetic attitude with desire to assist the claimant.*—So often claims preferred by the claimants are rejected in an arbitrary fashion exhibiting total lack of sympathy for the claimant in distress and sensitivity for his or her suffering. These remarks are more than warranted in the light of the observations of the Gujarat High Court in *Imambhai v. Regional Provident Fund Commissioner*:—

"3. A few observations regarding the working in the office of the Regional Provident Fund Commissioner are called for having regard to the facts revealed by the present petition. *The Regional Provident Fund Commissioner has passed a one line order rejecting the application of the petitioner without examining the matter in depth, without holding any inquiry and without considering the question with the seriousness that it deserves.* It ought to have been realised that the claim was being made by a nominee of a deceased workman and by the very nature of things, he could not be expected to incur legal expenditure in order to secure his claim. *Such matters are required to be dealt with sympathetically and in the right spirit, that is to say, informed with a desire to be helpful. There should not be an anxiety to reject without a close scrutiny and drive the applicant to seek relief in a Court of law.* If the Department were to function in this manner the whole object of the benevolent legislation would be defeated. *Rejecting the application is the last thing that the competent authority would be expected to do and not the first thing on the slightest pretext.* Before rejecting the claim the competent authority would be required to afford an opportunity to the applicant in regard to any aspect which, in the opinion of the competent authority, creates a hurdle in the way of the applicant who is entitled to the amount standing at the applicant who is entitled to the amount standing at the credit of the deceased workman. *If necessary, the competent authority could also seek legal advice in order to re-assure himself. But, in any case, he must not be in a haste to reject the application as has been done in the present case without holding any inquiry and without examining the matter closely and carefully.*"

We accordingly recommend that a provision should be made obliging the competent authority—

- (1) *to examine the claim of a claimant carefully and sympathetically in depth with the anxiety to afford relief, if possible, instead of evincing hurry to dispose of claim by rejecting it.*

and providing that

- (2) *no claim shall be rejected without hearing a claimant and passing a reasoned order, a copy of which shall be served on the claimant free of cost.*
- (3) *gross negligence or callous indifference shown by any officer resulting in unwarranted delay in making payment to a claimant should be treated as serious misconduct liable to entail dismissal or removal of the concerned official from service.*

4.13. *Exempted organisations*—There are two types of exempted organisations. One class of exempted organisation is the organisation to which though provisions of Act of 1952 are applicable, the Scheme framed thereunder is not applicable. Such organisations are permitted to frame their own Schemes. Such types of organisations are exempted under section 17 of the Act of 1952. Though such exempted organisations are free to frame their own schemes and such schemes are normally framed on the lines of the scheme of 1952 framed under the Act, there is no specific provision in the Act requiring such exempted organisations to get the scheme framed by them approved by the Central Provident Fund Commissioner with an eye on incorporating the safeguards provided by the Act and the Scheme therein. The only requirement under clause (b) of sub-section (1) of section 17 of the Act of 1952 is that the benefits allowed to the employees of the exempted organisations should not be less favourable than the benefits being allowed to the employees to whom the Scheme of 1952 is applicable. The Law Commission feels that a specific provision should be incorporated in the Act of 1952 making it obligatory for the organisations exempted from the operation of the Scheme of 1952 under section 17 of the Act to obtain specific approval of their schemes from the Regional Provident Fund Commissioner concerned from the aforesaid stand point.

Another category of exempted organisations are those to whom the provisions of the Act of 1952 are not applicable either by virtue of section 1(3) or section 16 of the Act. To quote as an illustration, Entry No. 12 of Appendix 1 to the Act of 1952 provides that the provisions of the Act shall be applicable to all trading and commercial establishments engaged in purchase, sale or storage of any goods including establishments of exporters, importers, advertisers, commission agents and brokers and commodity and stock exchanges but not including bank or Warehouses established under any Central or State Act. One of such organisations is the Central Warehousing Corporation. Since this Corporation is not governed by the Act of 1952 and the Scheme framed thereunder, it has framed its own regulations shown as "The Central Warehousing Corporation Employees Provident Fund Regulations 1962". Though primarily the provisions contained in these Regulations are similar to the provisions contained in the Scheme of 1952, there is a major departure in so far as the question of payment of interest on Provident Fund accumulations is concerned. Under paragraph 60 of the Scheme of 1952, the interest on provident fund accumulation is payable up to the end of the month preceding the date on which the final payment is authorised irrespective of the date of the receipt of the claim from the claimant concerned. In other words, even if it has taken 10 year in the settlement of the claim, the claimant is entitled to and is paid, the interest for the period for which the case has remained unsettled. On the other hand, Regulation No. 14 of the Central Warehousing Regulations, 1962 provides that interest on all sums standing in the books of the Fund to the credit of a subscriber shall cease on the day on which he leaves the service of the Corporation or on the date of his death, whichever is earlier. Under the Regulations governing the employees of the Central Warehousing Corporation, if the amount of the provident fund accumulation has remained unpaid pending the final settlement of the claim, the employer or the Trust will not be liable to pay any interest. The interest which the employer may earn on the amount belonging to the subscriber will go to the employer himself which will result in unjust enrichment of the employer. If such a provision is allowed to remain, the possibility of employer intentionally delaying the payment to the claimant and thereby earning interest over the money which does not belong to him cannot be ruled out. The Commission is of the firm

opinion that the provisions similar to the one contained in Regulation 14 of the Central Warehousing Corporation Employees' Provident Fund Regulation 1962 virtually authorising denial of interest from the date of leaving the service of Corporation or death, whichever is earlier, till the end of the month preceding date of final payment should be deleted forthwith and substituted by a provision similar to the one contained in paragraph 60(2)(b) of the Scheme of 1952. Further, Regulation No. 15(2) of the Central Warehousing Corporation Employees' Provident Fund Regulation 1962 provides that subject to the directions of Executive Committee, the whole or any part of the employers' contribution together with interest credited in respect thereof may be deducted from the total amount standing to the credit of a subscriber. Such deduction can be made if the employee has been dismissed or removed from employment in pursuance of disciplinary proceedings taken against him or if the employee has voluntarily left his employment within 5 years of his entry into service otherwise than on account of ill-health or other unavoidable causes. The corresponding provision contained in the Act and the Scheme has already been deleted recently. Regulation 15(2) must also accordingly be repealed or deleted. Regulation 15(3) further provides that the employees' share together with interest shall not be payable except with the approval of the Managing Director. Both these provisions are, on the face of it, opposed to the policy under which the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and the Scheme framed under it came to be enacted. Section 10 of the Act clearly provides that the Provident Fund accumulations shall not be subject to any deductions or attachment, etc. Moreover, neither any guidelines nor any limit has been prescribed for the deduction of the Employees' share by the Executive Committee. The matter rests entirely in the discretion of the Executive Committee. Such unlimited and unguided discretion cannot be said to be proper and legal. The provisions contained in Regulation 15(2) and 15(3) of the Central Warehousing Corporation Employees' Provident Fund Regulations, 1962 and such similar provisions contained in the Regulations, pertaining to other organisations to which the provisions of the Act of 1952 are not applicable are required to be deleted so as to bring the employees of such organisations at par with the employees of other organisations.

4.14. *Holding of Lok Adalats.*—When a sizeable number of claims have remained unsettled, it may be desirable to hold a 'Lok-Adalat' for setting the claims on the spot at the site of the establishment in order to relieve the distress of the claimants. Such a 'Lok-Adalat' should be properly publicised in advance so as to make the claimants aware of the programme. Individual notices may also be served on the claimants by the employer and/or the provident fund organisation. Matters would in such an event come to a head and all concerned would be seized of the problem and placed under spotlight. And there would be concentration on the solution of the problem. *The Ombudsman shall have the power to direct the holding of such a 'Lok-Adalat' Whenever considered necessary, desirable or expedient to do so. Failure to comply with his directions should entail penal consequences.* The solution of the problem will become easier and quick redressal of grievances of the suffering claimants may become possible if such a course is adopted. *The Ombudsman or his deputy may remain present personally at the sitting of the said Lok Adalat.*

We recommend accordingly.

CHAPTER V

PROBLEM REGARDING LEGAL IMPLICATION OF 'NOMINATIONS' UNDER THE EMPLOYEES, PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT- 1952—SUGGESTED SOLUTION

5.1. *In respect of nominations made under the life insurance policies*—there was a difference of opinion between different High Courts as to whether the nominee was entitled to the amount payable under the policy as a beneficiary in his own right to the exclusion of the heirs of the deceased assured or whether the nominee was merely a person authorised to make collection on behalf of the legal heirs of the deceased assured. The issue has been settled by the decision of the Supreme Court in *Sarbati Devi's case* [AIR 1984 SC 346], which upholds the latter view, namely, that the nominee is merely empowered to collect the amount for the benefit of the legal heirs. Before the Supreme Court rendered its decision and settled the legal position in the context of the interpretation of the relevant provisions of the Life Insurance law should be clarified by virtue of an amendment so that a nominee became entitled to the amount payable under the life insurance policy on the death of the assured as a beneficiary in his or her own right. The Government has neither accepted the recommendation nor rejected the recommendation. Thus, the law, as at present is as per the delacration made by the Supreme Court is *Sarbati Devi's case*.

5.2. *A similar question has arisen in the context of the Employees, Provident Funds and Miscellaneous Provsions Act* [Act for short]. The Scheme of the said Act is altogether different. A crucial provision in the said Scheme is contained in section 10(2), which in terms provides that the amount payable under the Act and the Scheme would vest upto the nominee. The question that has arisen is this :—

When a nomination is made by a member under the Employees' Provident Funds Act and the Scheme in respect of the amount standing to his credit in the Fund (which nomination is intended to be effective on the death of the member before receiving that amount), does the nomination—

- (i) merely confer on the nominee the right to collect the amount, or
- (ii) does its effect go beyond that, and the nominee can claim that he is the beneficial owner of the amount received by him ?

In the former case, the nomination has the effect merely of discharging the Employees Provident Fund authorities, etc., but it does not confer a beneficial title on the nominee so as to exclude the beneficiaries as specified in the Scheme. In the latter case, the nomination has a more positive effect and makes the nominee the absolute owner of the amount paid to him or her in his or her own right.

5.3. *Conflicting views of High Courts*—The Calcutta High Court has held that the amount exclusively vests in the nominee and the legal heirs have no right therein. Distinguishing the provisions contained in section 39, Insurance Act, the High Court held :—

"13.....the status of a nominee under the Provident Fund Act is completely different from his counterpart under the Insurance Act. The most striking difference about the status of the nominee under the two Acts is clearly discernible from S. 10(2) of the Provident Fund Act quoted earlier which expressly provides that the amount standing to the credit of a member of the Fund at the time of his death shall vest in the nominee and it shall be free from any debt or liability incurred by the deceased or the nominee before the death of the member. From S. 10(2) it is abundantly clear that immediately upon the death of member the provident fund money becomes part of the asset of the nominee whereas under the Insurance Act after the death of the assured the money continues to be his asset; and the money which was standing to the credit of the member becomes free even from the debt or liability incurred by the nominee before the death of the member. Only because the money vested in, and thereby became the property of the nominee after the death of the member

such a provision was required to be incorporated as, otherwise, being estate of the nominee, it was liable to be attached for debts or liabilities incurred by him prior to the death of the member. That the nominee under the Provident Fund Act, unlike the nominee under the Insurance Act, gets a right to the money also has been made clear by the provisions of paras 61 and 70 of the Scheme quoted earlier."

5.4. On the other hand the Andhra Pradesh and Delhi⁸ High Courts relying upon the ratio laid down by the Supreme Court in *Sarbati Devi's case*⁹ have held that the nominee of a provident fund has only the right to collect the amount and that such a right does not confer an absolute right on him to receive the amount to the exclusion of the statutory beneficiaries.

5.5. The Andhra Pradesh High Court has largely adopted the approach that the position under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is the same as that in respect of a nomination under section 39, Insurance Act. For the purpose of the Insurance Act, the Supreme Court in *Sarbati Devi v. Usha Devi*⁹, has held that the nominee does not become beneficial owner. Correspondingly, (according to the Andhra Pradesh High Court) the nominee under the Employees' Provident Funds Act, also does not become a beneficial owner. In contrast, the Calcutta High Court has pointed out that the statutory language in the case of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 is different from that employed in section 39 of the Insurance Act. *In particular, because of the words "vest in the nominee" used in section 10(2) of the Employees' Provident Funds Act of 1952, it must be held that immediately upon the death of the member, the provident fund money becomes part of the assets of the nominee* whereas, under the Insurance Act, after the death of the assured, the money continues to be his asset. This is also made clear (according to the Calcutta High Court) by the provision of paras 61 and 70 of the Scheme. It may be mentioned that the Andhra Pradesh High Court does not seem to have noticed section 10(2) of the main Act and as regards paras 61 and 70 of the Scheme, that High Court does not construe the words "right to receive" and "become payable" (used in the Scheme) as indicating an intention to confer beneficial ownership. There are a few other provisions of the Act and the Scheme, discussed in the two judgements. But for the present purpose, it is not necessary to enter into their details.

5.6. *The preferable view*—Thus, by reason of the conflicting decisions regarding the rights of a nominee under the Act of 1952 and the Scheme framed thereunder, the question arises as to which of the two views needs to be accepted. The view taken by Calcutta High Court appears to be correct on an overall interpretation of the relevant provisions contained in section 10(2) of the Act of 1952 and paras 61 and 70 of the Scheme framed thereunder for the following reasons :—

- (i) Section 10(2) of the Act of 1952 specifically provides that any amount *standing to the credit of a member in the fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee* under the Scheme or the rules of the provident fund shall, subject to any deduction authorised by the said scheme or rules, *vest in the nominee*. (Emphasis supplied). There is no such or similar provision in the Insurance Act, 1938.
- (ii) Para 61(3) of the Scheme of 1952 places a restriction on the right of a subscriber in making a nomination. It provides that *if a subscriber has a family at the time of making the nomination, the nomination shall be in favour of one or more persons belonging to his family and that any nomination made by such member in favour of a person not belonging to the family shall be invalid*. Moreover, para 61(4) of the Scheme of 1952 further provides that if at the time of making the nomination, the subscriber has no family, the nomination may be made in favour of any person(s) but *such nomination shall forthwith be deemed to be invalid if subsequently the subscriber acquires a family*. There is no such restriction in the Insurance Act, 1938. Under the said Act, a nomination can be made in favour of any person. In other words, under the Insurance Act, an assured person, whether or not he has a family at the time of making the nomination, can nominate any person to receive the amount of the Insurance Policy and such nomination remains valid till the same is specifically cancelled or revoked by the assured or on the nominee predeceasing the assured. The difference between the two provisions is not unintentional. The

Legislature appears to have enacted the two provisions differently with a specific object. The object is that under the Act of 1952 since the nomination is restricted to a member of the family, such a nominee should be entitled to the amount of the Fund absolutely and to the exclusion of others; whereas under the Insurance Act, a nomination can be made in favour of any person, such nominee should receive the amount for the benefit of all the legal heirs.

- (iii) The proposition that a nominee under the Act of 1952 and the Scheme framed thereunder gets an absolute interest in the amount of the Fund to the exclusion of others, is also supported by the provisions of para 61(2) of the Scheme which says that *a subscriber may in his nomination distribute to amount that may stand to his credit in the Fund at his own discretion*. The concept envisaged by this provision establishes beyond doubt that the nominee(s) would get the amount absolutely. This provision cannot be interpreted to mean that the subscriber is to distribute the money between the nominee for further distribution among the legal heirs. As an illustration in a given case a subscriber nominates his two sons and further provides that both such nominees shall get half share in the amount of the Fund. One of the nominees predeceases the subscriber. A question would arise as to what would be the effect of one nominee pre-deceasing the subscriber. Whether the surviving nominee will get the whole amount or whether the nomination as a whole would become ineffective? The answer to this situation is found in para 61(5) of the Scheme, which provides that *if the nominee predeceases the subscriber, the interest of the nominee shall revert to the subscriber who may make a fresh nomination in respect of such interest*. Therefore, in the case taken as an illustration, in the event of one nominee predeceasing the subscriber, only half share of the deceased nominee will revert to the subscriber. Undoubtedly, a subscriber is at liberty to cancel, revoke or modify but then the nominee, whoever he may be, ultimately acquires an absolute interest in the amount of the Fund.
- (iv) The proposition that a nominee will take the amount of the fund absolutely to the exclusion of other heirs also finds support from the provision of para 70(i) of the Scheme, which permits nomination in respect of a part of the amount of the Fund. If a nominee was not to get any absolute beneficial interest, the Legislature would not have provided for a nomination in respect of a part of the amount. There is no such corresponding provision in the Insurance Act, 1938.
- (v) The provisions contained in paras 61 and 70 of the Scheme read with section 10(2) of the Act of 1952 are to be read as an exception to the personal law regarding succession governing the subscriber. This is evident from the bare provision of para 70. Under these provisions the amount is required to be paid to the nominee(s) if there be a nomination. In the cases where there is no nomination the amount is to be paid to the member of the family of the subscriber in equal shares. Through the children—sons or daughters—majors or minors—married or unmarried—are included within the definition of the word “family” in Cl. (g) of para 2 of the Scheme, under the proviso to para 70 (ii) of the Scheme, major sons, major sons of a deceased son, married daughters whose husbands are alive and married daughters of a deceased son whose husbands are alive, have been specifically excluded and they are not entitled to any share in the amount of provident fund in spite of the fact that they are members of the family of the subscriber and the legal heir under the personal law of succession. Further clause (iii) of para 70 of the Scheme provides that in case there is not person entitled to receive the amount under clause (i) or clause (ii), then the amount is to be paid to the persons legally entitled to it, i.e., legal heirs according to the personal law of succession. The provision of clause (iii) also supports the view that para 70 of the scheme is to be read as an exception to the provisions of personal law regarding succession. In other words, the provisions contained in paras 61 and 70 of the Scheme read with Section 10(2) of the Act, prescribe a mode of succession altogether different from the mode provided under the personal law of succession governing the subscriber.

5.7. The Calcutta view would appear to be correct in view of the language, content and intendment of section 10(2). And para 61(3) of the Scheme of 1952

provides a clue to this object by providing that if the member has a family, then the nomination should be in favour of a person belonging to the family, as defined in para 2(g) of the Scheme. Moreover, the common man or woman would perhaps justifiably assume that the nominee would be beneficially entitled to the said amount. Understandably so because the desire of the person covered by the Act in making nomination might well be to extend a protective umbrella to the person in whose welfare he is most concerned in the unfortunate event of his or her demise resulting in rendering destitute such a person who was economically dependent on the employee covered by the Act. From all points of view, therefore, the Calcutta view would appear to be more persuasive.

5.8. *Need to end the uncertainty and settle the law urgently*—The resultant position as it obtains today is that whereas one High Court proclaims that the *provident fund amount* 'vests' absolutely upto the 'nominee' as a beneficiary in his or her right another High Court holds to the contrary to the effect that the nominee is a mere collecting agent on behalf of the ultimate beneficiaries under the law. Till the Supreme Court resolves the controversy in case there is an appeal and it is not withdrawn as settled, the uncertainty will continue to persist. As the matters stand today even if an appeal reaches the Supreme Court and is disposed of on merits it may take more than a decade. The consequence would be :—

- (1) In some States the nominee will get the provident fund amount as an absolute beneficiary. In other States the nominee will have only obligation to act as a collecting agent. The same law will thus operate differently in different parts of India and benefit different persons.
- (2) The employee making the nomination himself will not know what he is doing and who will benefit by making the nomination and his purpose in making nomination is likely to be defeated depending on the uncertainty as to how the court will construe the legal consequences of nomination.
- (3) Neither the nominee nor the other members of his family will know who is the rightful claimant for years together and will not be able to utilise or employ the funds.
- (4) Nominee and other family members of the deceased are likely to be locked in a decades-drawn litigation.
- (5) Instead of the funds providing succour to the family it will perhaps make it incur huge litigation costs.

5.9. It would be counter-productive and result in defeating the benign goal of the benevolent legislation to countenance such a situation. How can a situation be tolerated where there is uncertainty as to who will benefit by 'nomination' on the part of the maker of the nomination, the members of the family in distress as also the interpreter and administrator of law? A satisfactory solution has therefore to be found and found with a sense of urgency.

5.10. *Suggested solution*—On an anxious consideration of the issue, it appears that there are three options :—

I

First option seems to be to take a statutory provision in the Act and the Scheme to the effect that the 'nominee' would become an absolute beneficiary in his or her own right.

II

Second option that suggests itself is to make a statutory provision to the effect that the nominee will be entitled to collect the amount in question for and on behalf of such members of the family [as defined by Para 2(g) of the Scheme] for the purpose of being disbursed amongst such family members as are specified or dealt with in para 70 (ii) of the Scheme. In other words, payment will be made to the 'nominee' for the benefit of the very persons who would have been even otherwise entitled to be paid under the aforesaid provisions of the Scheme in case there was no nomination. An without the necessity to produce a succession certificate.

III

Third course which commands itself is to make a statutory provision enabling an employee to clearly state in writing in the very application making nomination either that he wants that "the nominee shall take the amount absolutely in his or her own right" or that the "nominee shall collect it and pay to my family members entitled thereto under para 70 (ii) read with para 2(g) of the Scheme".

The Commission is of the opinion that the third option would appear to be just and fair and would be preferable in as much as the employee would be fully aware and conscious of what he is doing by making the 'nomination' and the consequences thereof.

5.11. On giving anxious consideration to all the relevant aspects, *it appears possible to evolve a formula which would satisfy the demands of social justice and fairness besides according due weightage to the desire of the employee concerned.* The solution which strikes as eminently satisfactory is this. *A statutory provision may be made to the effect that the amount payable under the Act and the Scheme will vest in the nominee who will be called the "beneficiary-nominee" unless the concerned employee has named some person as a "collector-nominee" for the specific purpose of collecting the amount on behalf of the members of the family as defined in Para 2(g) for disbursement as per para 70(ii) of the Scheme.* In other words, it would tantamount to giving an option to the workmen concerned who can name either a beneficiary-nominee or a collector-nominee upon the significance of such nomination being explained to him. *He may be required to express his option in clear terms stating that the nominee will be a beneficiary-nominee and not a collector-nominee or vice versa. The same formula can also be evolved in respect of life insurance policies and the recommendation by the Law Commission in its 82nd Report may be reiterated with this modification.*

5.12. *Nomination under life insurance policies*—While it is outside the scope of the subject matter of this report it may not be in appropriate to suggest that *a similar formula can be adopted in respect of nominations under life insurance policies in the context of the recommendation made by the Commission in its 82nd report presented more than a decade ago on 2nd February, 1980.*

5.13. For, even in respect of life insurance policies, the public at large is perhaps unaware of the true legal position. *Many of the persons seeking the protection of insurance policies may well be labouring under the misconception that the nominee would become an absolute beneficiary in his or her own right. The same would be the case with regard to those who are covered by the Act and the Scheme.* It is, therefore, essential in the interest of all concerned that the position of law is settled. As has been recounted earlier, the Commission has already recommended amendment of the Life Insurance Act with a view to making a nominee a person in whom the beneficial interest would vest to the exclusion of other heirs. *Since, however, no decision has been taken on the recommendation of the Law Commission, the matter is still not free from vagueness in the sense that the members of the public may not be fully aware of the implications of nominations and the import of the decision of the Supreme Court in Sarbati Devi's case.* That is why the course suggested in para 5.12 read with para 5.11 hereinabove deserves to be adopted.

We recommend accordingly.

CHAPTER VI

CONCLUSIONS AND SUMMARY OF RECOMMENDATIONS

6.1. Conclusions

Provident Fund and similar benefits flowing from the Act¹¹ and the Scheme and Schemes framed by the exempted establishments and Public sector undertakings have been designed to extend a protective umbrella to the concerned employees so that on retirement they themselves or in the event of their in-service demise their dependants do not find themselves in a situation of helplessness similar to the one faced by passengers of a boat thrown overboard on a stormy sea without a life boat. The very life-purpose of these provisions would be practically defeated if the disbursements due on retirement or death of the concerned employees are unduly delayed. In this perspective the Commission undertook a survey of the delays in disbursements of these benefits. And delays, unconscionable, have been uncovered in a very large number of cases in the course of the said survey.

The plight of the retired employees whose main source of income has totally dried up on retirement and the distress of the dependants of the deceased employees (the bread-winner of the family) who are suddenly faced with starvation particularly when the protective umbrella of provident fund and other benefits is kept back for a long time (sometimes decades) is of such magnitude that it calls for urgent remedial action.

II

The urgency for such measures is writ large on the face of the problem since the limited sample survey made by the Commission restricted to 62 public sector undertaking has revealed that as many as 8707 families are suffering on account of delays in this area alone. (See para 2.2. and Appendices DI and DII). And thousands of other families may be suffering likewise.

And that

whereas unwarranted delays ranging upto 21 years have come to light in the course of scrutiny of 481 complaints received by the Commission from out of which 139 complaints have been redressed within about 3 months of the Commission taking up the issue with the concerned authorities, the Commission is firmly convinced that it is imperative to adopt remedial measures without any loss of time.

6.2. The Commission hereby recommends—

I

CREATION OF OMBUDSMAN AS OUTLINED IN CHAPTER III

By enacting a statute, a high powered office of Provident Fund Ombudsman invested with powers—

- (a) *inter alia* to seek information from all employers/establishments having Provident Fund Schemes regarding claims for payment of provident fund accumulations etc. pending with them for more than three months and to issue appropriate directions for settlement of the pending claims and to enforce compliance therewith should be created.
- (b) Such employers/establishments shall be under a statutory duty to submit returns regarding pending claims within the prescribed time.
- (c) He should be armed with jurisdiction to monitor delays in disbursements of provident funds dues etc. in establishments (exempted as well as unexempted) covered by the Act and the Schemes as well as public sector undertakings and other establishments having Provident Fund Schemes not covered by the Act.

- (d) The essential obligation of the Ombudsman will be to identify cases of delay in all aforesaid areas and spheres on the basis of the scrutiny of returns or otherwise and to ensure prompt disbursements by suo motu issuing appropriate directions and taking follow up action to secure compliance.

Coupled with

the obligation to invite complaints regarding delay in disbursements to the rightful claimants by recourse to public media and to redress their grievances by issuing appropriate directions and taking follow-up action to secure compliance with his directions.

And also with

the obligation to issue appropriate directions to obviate delays in regard to all other cases in general based on his experience or otherwise considered expedient by him.

II

The Ombudsman may be required to submit an annual report of the working of his office, indicating problems faced by him and making such recommendations as may be deemed necessary by him for streamlining the administration. His report may be placed before the Parliament within six months.

III

The Ombudsman may direct the holding of a Provident Fund 'Lok Adalat' for settlement of the pending cases periodically or as and when considered appropriate, necessary or expedient by him in respect of any particular establishment or class of establishments and the concerned officers shall be obliged to comply with his directions at the peril of penal consequences. The Ombudsman himself or his delegate may remain present for the purpose of supervision at such 'Lok Adalat.' (SEE ELABORATE RECOMMENDATIONS AS MENTIONED IN CHAPTER IV)

IV

The relevant provisions of the Act and the E.P.F. Scheme should be amended as set out in Chapter IV by inter alia providing in substance to the following effect :—

- (1) Disbursement of provident fund and similar benefits *should not be withheld* on the ground that—
 - (a) the concerned employee *has not vacated quarters* allotted to him (see 4.1.3);
 - (b) the concerned employee *has not produced no demand certificates* (see 2.5.8 and 4.1.3);
 - (c) the concerned employee *has not produced succession certificate* except in the cases covered by clause (iii) of paragraph 70 (see 4.6.2.);
 - (d) *someone has objected to the payment to the nominee or the beneficiaries as defined* by the Schemes to whom the authorities are bound to make payment unless prohibited by a court of law from doing so (see 4.2.);
 - (e) *a disciplinary proceeding is pending* (see 4.3);
 - (f) *employer has failed to deposit the deductions made from the employee's wages and or his own contribution* (see 4.5.2).
- (2) The Department *shall not reject any claim* without close scrutiny informed with sympathy and *without passing a reasoned order* after hearing the claimant (see 4.12).
- (3) *Gross negligence or callous indifference shown by any officer resulting in unwarranted delay in making payment to a claimant should be treated as serious misconduct liable to entail dismissal or removal of the concerned official from service.*

- (4) *THE DEPARTMENT SHALL PAY ALL OUTSTANDING PAST CLAIMS WITHHELD ON THE GROUND OF DEFAULT OF EMPLOYER TO DEPOSIT HIS OWN OR EMPLOYEES CONTRIBUTIONS FROM ITS SPECIAL RESERVE FUND AS INDICATED IN PARA 4.5.2 OF CHAPTER IV.*

And also adopt other measures indicated in Chapter IV.

V

To make a statutory provision enabling an employee to clearly state in writing in the very application making nomination EITHER that he wants that "the nominee shall take the amount absolutely in his or her own right" OR that the "nominee shall collect it and pay to my family members entitled thereto under para 70 (ii) read with para 2(g) of the E.P.F. Scheme."¹² And to amend the relevant provisions as suggested in para 5.11 so as to make the nominee an absolute owner or a collecting agent as per the desire of the nominator.

VI

Regulation 14 of Central Warehousing Corporation Employees Provident Fund Regulation, 1962 regarding denial of interest from due date till actual payment should be 'deleted' WHEREAS provision requiring payment of interest till the end of the month preceding the date on which the final payment is authorised should be 'inserted.' So also Regulations 15(2) and (3) regarding 'forfeiture' should be 'deleted' and all similar Schemes that may be existing in statutory corporations and other exempted or uncovered establishments should be similarly modified. (see 4.13).

THE COMMISSION RECOMMENDS ACCORDINGLY

POSTSCRIPT

Even as this Report is being finalized, the Commission has been apprised of the appalling fact that about 400 employees of West Bengal are being subjected to unwarranted delay on account of the apparently callous indifference of the office of RPFC. This has come to light in the context of the complaint of gross delay of as many as 4 years (nearly) which has caused considerable distress and anguish to one Parsuram Singh, a retired employee of National Iron & Steel Co. (1984) Ltd. He has been made to suffer for nearly four years without any justification. When information regarding his complaint was sought from the Company, it was brought to the notice of the Commission that there were nearly 500 similar employees who were similarly suffering on account of the apathy of the RPFC and that the Company on its part had even written a letter on 18th Jan., 1989 to the RPFC inter alia stating that the employees were being subjected to misery and some of them had even died. To quote the relevant extracts :-

- (i) about 500 provident fund final claims are lying pending in your accounts group Howrah, since long;
- (ii) the concerned members are reported to the under-going tremendous financial hardship and are often agitating before us;
- (iii) some of them already been EXPIRED WITHOUT ANY TREATMENT and proper diet;
- (iv) indignation of the Provident Fund beneficiaries seemed to be such as it appears that outgoing members/their nominees may at any time resort to the unrestful atmosphere;
- (v) We have ALREADY SPECIFICALLY DEPOSITED their provident fund dues to your office for necessary settlement;
- (vi) I feel and fervently pray to your goodself to look into the matter of early disposal of the stated claims to mitigate their untold misery and to avoid further I.R. problem in our organisation. (Emphasis added).

Yet the RPFC appears to have done nothing for nearly 1-1/2 years till now. When the Commission addressed the RPFC on 21-12-89, payment of Rs. 37,500 due to Parsuram Singh was made by a cheque dated 1-1-90. This payment was made by a cheque dated 1-1-90. This payment was made within 11 days of the Commission's

letter but nearly 4 years too late. And when the Commission pursued the matter with the RPFC, he confessed that 400 *such cases were pending and were being processed. Evidently the RPFC has sat tight on the funds belonging to the employees without qualms for nearly 1-1/2 years even after the Company called the attention of the RPFC to the helpless employees plight. And even now the matter is merely being 'processed'. For THIS UNPARADONABLE CALLOUSNESS, THE RPFC'S OFFICE ALONE APPEARS TO BE RESPONSIBLE. [The entire correspondence is appended to this report and marked Appendices I(I) to I(VI)]. THIS PATHETIC STATE OF AFFAIRS EMPHATICALLY UNDERLINES THE URGENT NEED FOR IMPLEMENTING THE RECOMMENDATION REGARDING CREATION OF A STATUTORY OFFICE OF OMBUDSMAN WITHOUT ANY LOSS OF TIME:*

We close this report on a note of anguish being struck in the context of the awareness sparked by the realisation that thousands of similarly situated helpless employees or their dependents must be suffering in silence for very many years. Needless to stress with all the emphasis at our command that the matter brooks no delay.

Sd/-

(M.P. THAKKAR)

Chairman

(Y.V. ANJANEYOLU)

Member

(P.M. BAKSHI)

Member

Sd/-

(G.V.G. KRISHNAMURTY)

Member Secretary

NEW DELHI, DATED THE 20TH SEPTEMBER, 1990.

NOTES AND REFERENCES

1. *Hrs. P.K. Martiyani v. Regional Provident Fund Commissioner, Ahmedabad & Anr.*, 1983(2) GLR 927.
2. *Inambhai v. Regional Provident Fund Commissioner*, 1982(1) GLR 581.
3. *Organo Chemical Industries v. Union of India*, AIR 1977 SC 1803.
4. *Nathulal v. Regional Provident Funds Commissioner, Indore*, 1984 Lab. I.C. 1438.
- 4A. *Kareparambil Theyyan Lakshmanan v. Air India*, 1986 (1) CLR 138.
5. *Imamohai Gulamhusein Shaikh v. Regional Provident Fund Commissioner*, 1982(1) GLR 581 at p. 583-584, para 3.
6. *Smt. Usha Majumdar v. Smt. Smriti Basu*, AIR 1988 Cal. 115.
7. *Shaik Dawood v. Mahmooda Begum*, AIR 1985 AP 321.
8. *Smt. Om Wati v. Delhi Transport Corpn., New Delhi*, 1988 Lab. I.C. 500 (Delhi).
9. *Smt. Sarbati Devi v. Smt. Usha Devi*, AIR 1984 SC 346.
10. *Shaik Dawood v. Mahmooda Begum*, AIR 1988 Cal. 115.
11. *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952.*
12. Para 70(ii) and 2(g) of the Employees Provident Funds Scheme.

APPENDIX-A

No. 6(3)/88-LC (LS)
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Law Commission

Shastri Bhavan, 7th floor,
New Delhi-110 001.

Dated 24th October, 1988.

To

All Public Sector Undertakings
and their Unions.

SUBJECT : *Judicial Reforms*

Sir,

The Law Commission of India has been assigned the task of revising the system of Judicial Administration in the country with the end in view to streamlining the system and eliminating the delays. It is in this context that this letter is being sent.

The Law Commission would, therefore, like to undertake a detailed study of the cases of Provident Fund and retirement dues which are pending finalisation, whether after retirement or death, for more than 6 months and the Provident Fund cases which have been finalised and payment has been made to the concerned person after 6 months during the last 2 years, with a view to evolving an efficacious and speedy system. It is therefore, essential for the Commission to get the detailed information on the under mentioned points with a view to equipping the Law Commission with the relevant material. The information sought for is of a basic nature which can be supplied by you and you alone as it is available in your records.

The Law Commission has a time-bound programme. You are, therefore, requested to please give priority to this letter and send concrete factual information indicated on the following points within fifteen days from the date of receipt of this letter:—

- (a) Number of Provident Fund and retirement dues cases pending finalisation whether after retirement or death of an employee for more than 6 months.
- (b) If possible, please give information regarding number of provident fund and retirement dues cases which have been finalised and payment has been made to the concerned employee or his successor after 6 months of his retirement or death as the case may be, during the last 2 years.
- (c) Average time taken in finalising the Provident Fund claim and retirement dues of an employee and payment made to him.

Your Co-operation and urgent response will be highly appreciated.

Yours faithfully,

Sd/-

R.L. KHURANA)

Joint Secretary and Law Officer.

APPENDIX-B

No. 6 (3)/88-LC(LS) Part III
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Law Commission

Shastri Bhavan,
New Delhi, the 28th Nov. 1988.

To
All Trade Unions.

Subject : Judicial Reforms

Sir,

The Law Commission of India has been assigned the task of judicial reforms in the country with the end in view to streamlining the system and eliminating the delays. It is, in this context that this letter is being addressed.

2. The Law Commission would, therefore, like to undertake a detailed study of the cases of provident fund and retirement dues which are pending finalisation, whether after retirement or death, for more than six months and instances of cases where there has been inordinate delay in such cases, in the past two years with a view to evolving an efficacious and speedy system. The Commission would appreciate very much, if you will be good enough to extend your cooperation by furnishing the necessary information and giving appropriate feedback to enable the Commission to undertake this assignment. The Commission accordingly requests you to furnish the detailed information on the under-mentioned points with a view to equipping the Law Commission with the relevant material

3. The Law Commission has a time-bound programme. You are, therefore, requested to please give priority to this letter and send complete factual information indicated on the following points within 15 days from the receipt of this letter :—

- (a) Number of Provident Fund and retirement dues cases pending finalisation whether after retirement for death of an employee for more than six months.
- (b) If possible, please give information regarding number of Provident Fund and retirement number of Provident Fund and retirement dues cases in which there has been inordinate delay which have come to light during the last two years.
- (c) Average time taken in finalising the Provident Fund Claim and retirement dues of an employee and payment made to him.

Yours faithfully,

Sd/-

(R.L. KHURANA)

Joint Secretary and Law Officer.

APPENDIX-C

No. 6 (3) 88-ILC(LS) Part II
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Law Commission

Shastri Bhavan,
New Delhi, the 28th Nov. 1988.

To

All Provident Fund Commissioners.

SUBJECT : *Judicial Reforms.*

Sir,

The Law Commission of India has been assigned the tasks of judicial reforms in the country with the end in view to streamlining the system and eliminating the delays. It is, in this context that this letter is being addressed.

2. The Law Commission would, therefore, like to undertake a detailed study of the cases of provident fund which are pending finalisation, whether after retirement or death, for more than six months and the provident fund cases which have been finalised and payment has been made to the concerned person after six months during the last two years, with a view to involving an efficacious and speedy system. The Commission would appreciate very much if you will be good enough to extend your cooperation by furnishing the necessary information and giving appropriate feedback to enable the Commission to undertake this assignment. The Commission accordingly requests you to furnish the detailed information on the under mentioned points with a view to equipping the Law Commission with the relevant material.

3. The Law Commission has a time-bound programme. You are, therefore, requested to please give priority to this letter and send complete factual information indicated on the following points within 15 days from the receipt of this letter :—

- (a) Number of Provident Fund cases pending finalisation whether after retirement or death of an employee for more than six months.
- (b) If possible, please give information regarding number of Provident Fund cases which have been finalised and payment has been made to the concerned employee or his successor after six months of his retirement or death as the case may be, during the last 2 years.
- (c) Average time taken in finalising the Provident Fund Claim of an employee and payment made to him.

Yours faithfully,

Sd/-

(R.L. KHURANA)

Joint Secretary & Law Officer.

APPENDIX-DI

Information supplied by Public Sector Undertakings regarding pending Provident Fund/Retirement dues cases in response to request dated 24-10-88.

S. No.	File serial No.	Name of the organisation	Nos. of pending PF/ Retirement cases from 100 and above
1	2	3	4
1	56	Steel Authority of India Ltd., New Delhi	3689
2	75	Bharat Cooking Coal Ltd., Dhanbad	3144
3	50	National Textile Corporation (Guj.) Limited, Ahmedabad	497
4	13	Heavy Engineering Corporation Limited, Ranchi	260
5	44B	Hoogly Dock and Port Engineers Limited, Calcutta	130
6	78	Indian Oil Corporation, New Delhi	104
7	72	Burn Standard Co. Ltd., 10C Hinduford Street, Calcutta	99
8	54	Oil and Natural Gas Commission CPF Section, Dehradun	96
9	63	Hindustan Newsprint Ltd. Newsprint Nagar P.O. Kottayam Distt., Kerala	79
10	9	Central Warehousing Corporation, New Delhi	59
11	64	National Jute Manufacturers Corporation Ltd., 4, Netaji Subhash Marg, Calcutta	47
12	69	Neyveli Lignite Corporation Limited, P.O. Neyveli-607801, South Arcot Distt., Tamilnadu	44
13	70	Triveni Structurals Ltd., Naini, Allahabad	41
14	48	Indian Drugs & Pharmaceuticals Limited, New Delhi	39
15	28	Jessop & Co. Ltd., Calcutta	30
16	62	Mineral Exploration Corporation Limited, Nagour	27
17	14	Pyrites, Phosphotes & Chemicals Ltd.	25
18	73	The Fertilizer Corporation of India, Nehru Place, New Delhi	24
19	36	Rashtriya Chemicals & Fertilizers Ltd., Bombay	21
20	19	Andaman & Nicobar Islands, Forest & Plantation Development Corpn. Ltd., Port Blair	20
21	29	Tyre Corporation of India Limited, Calcutta	16
22	30	Projects & Development India Limited, New Delhi	15
23	35	Hindustan Copper Limited, Calcutta	11
24	38	The Shipping Corpn. of India Ltd., Bombay	11
25	42	Air-India Employees Provident Fund, Bombay	11
26	46	The Fertilizers and Chemicals Travancore Limited, Cochin	11
27	53	Hindustan Photo Films Manufacturing Co. Limited, Ootacamund	11
28	4	National Projects Construction Corpn. Ltd., N. Delhi	11
29	20	Hindustan Shipyard Ltd., Vishakhapatnam	10
30	21	Uranium Corporation of India Ltd., Singhbhum, Bihar	9
31	39	Hindustan Aeronautics Ltd., Koraput Division	9
32	40	Hindustan Aeronautics Ltd., Lucknow Division	8

APPENDIX-DP—*contd.*

1	2	3	4
33	57	Garden Reach Ship builders and Engineers Ltd., Calcutta	8
34	59	Hindustan Petroleum Corpn. Ltd., Bombay	7
35	60	Hindustan Aeronautics Ltd., Bangalore	7
36	61	The Minerals and Metals Trading Corpn. of India Limited, N. Delhi	6
37	41	National Thermal Power Corporation Ltd., New Delhi	6
38	18	Bharat Petroleum Corporation Limited, Bombay	6
39	2	Metallurgical & Engineering Consultants (India Ltd., Ranchi)	6
40	76	Visakhapatnam Steel Project, Vishakapathnam	5
41	52	The State Trading Corporation of India Limited, New Delhi	5
42	3	Praga Tools Limited, Secunderabad	4
43	1	Electronics Corporation of India Limited, Hyderabad	4
44	7	Balmer Lawrie & Co. Ltd., Calcutta	4
45	58	National Seeds Corporation Ltd., New Delhi	3
46	34	HMT Limited Eraakulam	3
47	10	Madras Fertilizers Limited, Madras	2
48	15	Hindustan Aeronautics Limited, Barrackpore (W.B.)	2
49	16	Hindustan Aeronautics Ltd., Kanpur	2
50	32	Bengal Immunity Ltd., Calcutta	2
51	45	Mazagon Dock Limited, Bombay	2
52	55	Hotel Aurangabad Ashok Aurangabad	2
53	65	Hotel Varanasi Ashok The Mall, Varanasi	2
54	71	Ashok Hotel, 50-B Chankayapuri, New Delhi	2
55	43	National Instruments Limited Calcutta	2
56	4	Export Credit Guarantee Corporation of India Ltd., Bombay	1
57	8	The Mica Trading Corporation of India Ltd., Patna	1
58	11	National Film Development Corporation Ltd., Bombay	1
59	12	Indian Medicines Pharmaceutical Corporation Ltd., Almora	1
60	17	Hindustan Cables Ltd., Calcutta	1
61	22	Cochin Shipyard Limited, Cochin	1
62	33	Central Cotta-e Industries Corpn. of India Ltd., New Delhi	1

APPENDIX DI

Information supplied by various Public Sector Undertakings regarding Provident Fund/Retirement Dues cases in response to request dated 24-10-88

Sl. No.	Name of the Enterprise	No. of cases pending finalisation for more than six	No. of cases finalised after six months of retirement/death	Remarks
1	2	3	4	5
1	Bharat Cooking Coal Ltd., Dhanbad	3,144	4,111	Non-submission/late submission of claims, disputed claims, etc.
2	Steel Authority of India Limited, New Delhi	3,689	2,187	Non vacation of company's quarter, absence of nominee and non-submission of succession certificate.
3	Heavy Engineering Corporation (Gujrat) Limited, Ranchi	260	361	—
4	National Textile Corpn. (Gujrat) Limited, Ahmedabad	497	—	Gratuity cases for the period prior to nationalisation. Writ Petition pending injunction granted by High Court.
5	Burn Standard Co. Limited, 10-C, Hunderford Street, Calcutta.	99	297	Most of the cases which are pending are so pending due to non-receipt of claims of settlement.
6	Oil & Natural Gas Commission, CPF Section, Dehradun.	96	70	—
7	Indian Oil Corporation Limited, New Delhi	104	59	Reasons for pendency : <i>Re. Item No. 3 :</i> (a) Retirement : —Cases filed by the employees in Court of Law challenging their date of birth/retirement. —Employee's request for retaining PF amount with PF trust. (b) Death : —Delay in receipt of post-mortem report. — Non-receipt of Guardianship certificate. — Non receipt of succession certificate. — Non receipt of correct address. — Non receipt of affidavits/forms. — Non receipt of death certificate. — Continued occupation of Company's quarters. — Related issues being sub-judice. <i>Re. Item No. 4 :</i> (a) Retirement : Non-receipt of advanced stamped receipt. (b) Death : — Non receipt of required documents from the legal nominee.

APPENDIX-DII--contd.

1	2	3	4	5
				— Occupying company's quarter by the nominee of the deceased. — Non - receipt of succession certificate/affidavits.
8	Mineral Exploration Corpn. Limited, Nagpur.	27	129	Non-submission of relevant documents such as death/succession certificates.
9	Central Warehousing Corporation, New Delhi	59	96	—
10	Hindustan Newsprint Limited, Newsprint Magar P.O. Kottayam Distt., Kerala.	79	72	Delay due to defective nomination/non-submission of form No. 13-Non-submission of non-employment certificate.
11	Hooghly Dock & Port Engineers Limited, Calcutta.	130	—	Delay due to P.F. authorities.
12	National Jute Manufacturers Corporation Limited, 4, Netaji Subhash Marg, Calcutta.	47	69	Non-submission/late submission of claims by concerned employee/legal heirs/nominee.
13	Salkia and Port Engineering Works, Calcutta.	—	82	—
14	Triveni Structural Limited, Naini, Allahabad.	41	29	—
15	Jessop & Co. Ltd., Calcutta.	30	40	—
16	The Fertilizer Corporation of India, Nehru Place, New Delhi.	24	37	One case pending in the Court. In other cases the non-settlement/delayed settlement is due to delayed submission of the Succession Certificates in cases where there is non-nomination. In some cases the delay is due to non-vacation of the official quarters.
17	Bharat Petroleum Corporation Limited, Bombay.	6	54	Delay is mainly for lack of information from employees who have resigned and in case of death, the non-availability of the nominees at the given address.
18	Tea Trading Corporation of India Limited, Calcutta.	—	49	Delay in receipt of claims.
19	Tyre Corporation of India Limited, Calcutta.	16	31	Non-availability of claim/succession certificate, dispute over nomination or dispute over minor legal heirs.
20	Pyrites, Phosphates & Chemicals Limited, New Delhi.	25	19	—
21	Neyveli Lignite Corporation Limited, P.O. Neyveli-607 801, South Arcot Distt., Tamil Nadu.	44	Nil	Non-receipt of clearance certificate in respect of the official accommodation provided to the employees.
22	Andaman & Nicobar Islands Forest and Plantation Development Corporation Limited, Port Blair.	20	23	—
23	Hindustan Aeronautics Limited, Bangalore.f	7	35	Disputed cases and documents awaited from nominees.
24	Indian Drugs & Pharmaceuticals Limited, New Delhi.	39	—	—
25	National Projects & Construction Corporation Limited, New Delhi.	11	23	Non-receipt of Succession Certificate/non-receipt of complete information from Units located in the interior areas.

APPENDIX-DII—contd.

1	2	3	4	5
26	Rashtriya Chemicals & Fertilizers Limited, Bombay.	21	8	—
27	Mazagon Dock Limited, Bombay	2	26	Non-availability of Estate Duty Certificate and Indemnity Bond.
28	Projects & Development India Limited, New Delhi.	15	11	Non-vacation of company's residential quarters.
29	National Thermal Power Corpn. Limited, New Delhi.	6	19	—
30	State Farms Corporation of India Limited, New Delhi.	—	49	Late submission of claim papers.
31	The Minerals and Metals Trading Corpn. of India Limited, New Delhi.	6	17	Non-submission of relevant claim papers inspite of reminders by registered post.
32	The Shipping Corporation of India Limited, Bombay.	11	11	Non-compliance of legal formalities by legal heirs in the absence of nominations.
33	Hindustan Photo Films Manufacturing Company Limited, Ootacamund.	11	8	—
34	The State Trading Corporation of India Limited, New Delhi.	5	13	—
35	The Fertilizers & Chemicals Travancore Limited, Cochin.	11	7	For want of nomination, succession certificate and dispute between heirs.
36	Cochin Refineries Limited, Ambalamugal, Kerala.	—	18	—
37	Balmer Lawrie & Company Ltd., Calcutta.	4	12	For want of Succession Certificate, Nomination in favour a minor. Pendency of industrial dispute.
38	Hindustan Shipyard Limited, Visakhapatnam.	10	6	Late receipt of claim papers/pendency of court proceedings or disciplinary proceedings.
39	Garden Reach Ship Builders & Engineers Ltd., Calcutta.	8	7	Non-submission of Succession Certificate.
40	Rehabilitation Industries Corporation Limited, Calcutta.	—	13	—
41	Hindustan Copper Limited, Calcutta.	11	1	—
42	Hindustan Aeronautics Limited, Koraput Division.	9	3	Non-availability of nominations and non-compliance of legal formalities.
43	Electronics Corporation of India Limited, Hyderabad.	4	8	For want of legal heir of valid nomination or pendency of the matter in court.
44	Metallurgical & Engineering Consultants (India) Limited, Ranchi.	6	5	Delay is generally in cases of death while in service due to succession certificate where proper nominations are not available.
45	Hindustan Aeronautics Limited, Lucknow, Division.	8	3	Non-clearance of company's dues non-vacation of Company's quarter, non-submission of claim papers.
46	Air India Employees Provident Fund, Bombay.	11	—	Non-vacation of residential quarters.
47	National Council of Education Research & Training, New Delhi.	—	9	—
48	Uranium Corporation of India Limited, Singhbhum, Bihar.	9	—	—
49	Hotel Aurangabad Ashok, Aurangabad.	2	6	Late submission of claim forms.

APPENDIX-DII—*contd.*

1	2	3	4	5
50	Visakhapatnam Steel Project, Visakhapatnam.	5	3	Non-receipt of claim forms/doubtful nomination and non-clearance of dues payable to the company.
51	Hindustan Petroleum Corporation Limited, Bombay.	7	—	(a) In three cases outstanding housing loan not cleared. (b) In one case corporation's quarter not vacated. (c) In one case nomination/succession certificate not available. (d) In two cases Estate Duty clearance is awaited.
52	Bharat Dynamics Limited, Hyderabad.	—	7	—
53	Hindustan Aeronautics Limited, Kanpur.	2	4	For want of Succession Certificate/nomination in favour of minor. Discrepancy in the date of birth. Non-return of Government party.
54	Hindustan Paper Corporation Limited 75-C, Park Street, Calcutta.	3	3	No reasons given for pendency.
55	Bengal Chemicals and Pharmaceuticals Limited, 6, Ganesh Chander Avenue, Calcutta-700013.	Nil	6	Delay due to shortcomings on the part of the employees.
56	Praga Tools Limited, Secundra- bad.	4	1	Late submission of legal heir certificate/dispute pending in court. Non-receipt of the account from the previous office.
57	The Mica Trading Corporation of India Limited, Patna.	1	4	Non-receipt of claim papers.
58	Hindustan Prefab Limited, New Delhi.	—	5	—
59	Bengal Immunity Limited, Calcutta.	2	3	Late submission of claim papers.
60	HMT Limited, Ernakulam.	3	2	Claim papers not received.
61	Madras Fertilizers Limited, Madras.	2	2	For want of Succession Certificate and dispute between the successors.
62	National Film Development Corpn. Limited, Bombay.	1	2	Nomination in favour of minor and pendency of disciplinary proceedings.
63	National Seeds Corporation Limited, New Delhi.	3	—	(a) In two cases succession certificate called for. (b) In one case whereabouts of nominee are not known.
64	The Elgin Mills Company Limited, 11/6, Smt. Parbati Bagla Road, Post Box No. 11, Kanpur	Nil	3	(i) In one case the employee retired on 11-6-87. He was intimated vide letter dated 11-7-87 to collect his gratuity. The employee turned up for payment only on 1-6-1988. (ii) In the second case employee died on 1n-3-87. Nominee applied for payment of retirement dues with different names and the payment was made only 20-3-1988 on submission of the affidavit by her.

APPENDIX-DII -contd.

1	2	3	4	5
				(iii) In the third case employee died on 11-4-87 without any nominee. The legal heir applied for succession certificate and on receipt of the succession certificate the payment was made on 27-1-88.
65	Hindustan Aeronautics Limited, Barrackpore (W.B.)	2	1	For want of Succession Certificate and delay in compliance of legal formalities.
66	Bongaigaon Refinery & Petrochemicals Limited, Assam.	—	2	Non-receipt of succession Certificates.
67	Hindustan Cables Limited, Calcutta.	1	1	Late receipt of claim from the nominee.
68	Cochin Shipyard Limited, Cochin	1	1	Delay for want of claim from the nominee and for want of Succession Certificate.
69	Central Cottage Industries Corpn. of India Limited, New Delhi.	1	1	—
70	Hindustan Aeronautics Limited, Bangalore.	—	2	—
71	National Instruments Limited, Calcutta.	2	—	Non-submission of succession certificate.
72	Hotel Varanasi Ashok, The Mall, Varansi.	2	Nil	In one case the amount of EPF has already been paid. The dispute is regarding grant of family pension. It is stated that the family pension scheme has not so far been introduced in the organisation. The other case is pending settlement since March, 1986. No reasons have been assigned for the delay.
73	Ashok Hotel, 50-B, Chanakya-puri, New Delhi.	2	Nil	—
74	Export Credit Guarantee Corpn. of India Limited, Bombay.	1	—	For want of Succession Certificate.
75	Indian Medicines Pharmaceutical Corporation Limited, Almora.	1	—	—
76	Kuremukh Iron Ore Company Limited, Bangalore.	—	1	Pendency of a civil case in which injunction was issued.
77	Scooters India Limited, Lucknow.	—	1	—
78	Indian Oil Blending Limited, Bombay.	—	—	No case pending, however, the Undertaking has quoted three cases of delay in transfer of P.F. accounts by the P.F. authorities.
79	Central Coal Limited, Ranchi.	Not given	Not given	If any of the cases is affected by the conditions mentioned below then the payment is not done till the legal requirement has been finally compiled with :- (a) Cases where claims have not been submitted by the persons concerned in time. (b) Cases where there are disputes over the claims and the money is claimed by more than one claimant. (c) Cases where there is no nomination by the deceased employee and there is delay in obtaining succession certificate by the legal heir (d) Cases where the employee concerned has not paid the dues of the company, if any.

PRESS RELEASE

The Law Commission is examining the delay in payment of Provident Fund and retirement dues by private enterprises, public undertakings, Trusts operating the Provident Fund etc. and the Provident Fund Commissioners to evolve an efficacious and speedy system. All persons or their legal representatives or their nominees who have not received their Provident Fund and retirement dues etc. for more than one year may kindly furnish full particulars of their cases to Member-Secretary, Law Commission, Department of Legal Affairs, 7th floor, 'A' Wing, Shastri Bhavan, New Delhi-110 001 as early as possible, so as to enable the Commission to formulate its views in the matter.

Tabular statement of pending Provident Fund cases with concerned authorities which have been settled

Sl. No.	Name of the complainant	Date or specific reference made by Law Commission to the concerned authorities (General reference was made to the RPFCS on 28-11-88)	Date on which compliance reported	Period (approx.) for which the matter remained pending with the concerned authorities	Response to complaint	Whether exempted or unexempted
1	2	3	4	5	6	7
<i>Delay involved in settling the PF case above 10 years</i>						
1	Sh. Lal Singh	12-7-89	20-7-89 & 29-8-89	29-8-89—1968=21 yrs	317	unexempted
2	Sh. S.B. Joshi	19-6-89; 16-2-90	13-7-89	5-7-89 —1-7-73=16 yrs	251	Govt. employee covered by GPF
3	Sh. R.K. Kolhatkar	3-7-89	12-7-89	12-7-89—19-3-75=14 yrs 4 months	274	unexempted
4	Sh. A.B. Putandi	16-2-90; 26-6-89	26-3-90	29-3-89—1-11-75=13 yrs 4 months	214	unexempted/covered under Coal Mines PF Act.
5	Sh. S.N. Mathur	14-6-89	29-9-89	10-9-89—Apr. 1977=12 yrs 5 months (Partly settled)	173	exempted
6	Sh. A.S. Pathak	8-6-89; 9-2-90	1-7-89	1-7-89—30-6-78=11 yrs (partly settled)	151	Municipal Corporation
7	Sh. J.K. Kapila	8-6-89, 25-1-90	7-7-89	7-7-89—23-9-78=10 yrs 10 months	106	exempted
<i>Delay involved in settling the PF case between 6 to 10 years</i>						
8	Sh. K. Ramamurthy	10-7-89	19-7-89	10 years	361	exempted
9	Smt. Bullara, W/o Sh. B. Chandraiah	19-6-89; 16-2-90	30-3-90	9 yrs 11 months	245	unexempted
10	Sh. J.P. Patnaik	19-6-89	30-8-89	30-8-89—1980=9 yrs 8 months	230	unexempted
11	Sh. J.G. Kamat	July 1989	25-7-89	257--89—Nov. 79=9 yrs 8 months (partly settled)	328	unexempted
12	Sh. P.G. Achari	16-2-90; 19-6-89	22-2-90	5-4-89—5-2-1980=9 yrs 2 months	197	exempted

APPENDIX 'F'—Contd.

1	2	3	4	5	6	7
13	Sh. M. Subba Rao	12-6-89; 25-1-80	23-6-89	23-6-89—April 81=8 yrs 2months (balance settled)	161	unexempted
14	Sh. G.C. Patnaik	16-2-90; 19-6-89	1-3-90	1-3-90—1982=7 yrs 9 months	226	govt. service
15	Sh. Perugulu Taipulu	12-6-89; 25-1-90	23-6-89	12-8-88—22-5-81=7 yrs 2 months (balance settled)	162	unexempted
16	Sh. M.K. Acharya	8-6-89; 25-1-90	20-12-89	20-12-89—1-10-82=7 yrs 2 months (partly settled)		unexem pt
17	Sh. Kundan Lal	12-7-89	30-8-89	1-5-89—31-3-82=7 yrs 2 months (reg gratuity dues)	338	gratuity case (govt. employee)
18	Sh. A.V. Joshi	26-5-89	22-6-89	7 yrs delay in issuing PF statements, accounts from 1983-84 onward under process.	77	unexempted
19	Sh. A.K. Ghosh	4-7-89	26-7-89	11-4-89—30-6-82=6 yrs 10 months	78	govt. service
20	Sh. P.K. Bal	12-6-89	27-6-89	5-2-89—25-5-82=6 yrs 9 months	76	exempted
21	Smt. S. Bhattacharya	26-2-89	30-3-90	20-3-90—15-6-83=6 yrs 9 months	341	unexempted
22	Sh. H.K. Pareek	19-6-89; 16-2-97	7-7-89	(partly settled) Feb. 1989—July 1982=6 years 6 months	241	unexempted
23	Sh. Francis	26-2-90; 12-7-89	16-3-90	15-11-89—1983=6 yrs 6 months	313	unexempted
24	Sh. V. Skaria	16-2-90; 19-6-89	27-2-90	26-7-89—Jan. 83=6 yrs 6 months	218	exempted
25	Sh. P.V. Narayanan	20-2-90; 3-7-89	8-3-90	22-1-90—10-8-83=6 yrs 4 months	282	unexempted
26	Sh. K.D. Zade	20-12-89; 12-7-89	9-2-90	2-2-90—30-11-83=6 yrs 2 months	387	govt. service
27	Sh. I'D. Aggarwal	19-6-89	21-8-89	21-8-89—July 83=6 yrs	223	govt. service
28	Sh. S. Pasayat	28-12-89	22-1-90	21-9-89—1-9-83=6 yrs	430	govt. service
29	Sh. V. Shanmukha Rao	10-1-90; 29-5-89	16-1-90	16-1-90—1984=6 yrs (balance settled)	6A	govt. service
30	Smt. Shanti Ghosh	26-5-89; 12-1-90	16-6-89 & 5-7-89	5-7-89—1983=6 yrs	68	govt. aided
31	Sh. B.N. Sengupta	3-7-89	21-8-89	6 yrs.	275	govt. service
32	Sh. V.D. Sharma	3-7-89; 9-2-90	21-7-89	21-7-89—17-8-83=6 yrs (partly settled)	267	exempted/uncovered

<i>Delay involved between 4 to 6 years</i>						
33	Mrs. K.V. Kumari	26-2-80; 12-7-89	16-3-90	8-8-89—22-11-83=5 yrs 9 months	314	unexempted
34	Sh. P.J. Thomas	16-2-90; 19-6-89	13-3-90 & 27-2-90	26-7-89—19-1-83=5 yrs 6 months	207(1)	exempted
35	Sh. S.G. Pagare	14-6-89	25-7-89	13-4-89—Dec. 1984=5 yrs 4 months	180	unexempted
36	Smt. Sayana Balanna	9-6-89	22-2-89 & 23-8-89	23-8-89—Dec. 1984=5 yrs 4 months	148	unexempted
37	Sh. A.M. Bhattacharya	13-3-89	28-8-89	3-3-89—17-1-84=5 yrs. 2 months (pension/gratuity case)	375	govt. employee
38	Sh. Jimmi P. Ward Angami	19-6-89	11-7-89	1-4-89—1984=5 yrs	240	unexempted
39	Sh. H.M. Girnare	8-6-89; 19-1-90	27-6-90; 26-4-90 1-2-90 (complainants it.)	1-2-90—28-2-85=5 yrs	109	govt. service
40	Sh. S.C. Sarkar	19-6-89; 16-2-90	10-2-90	20-12-89—4-12-84=5 yrs	191	unexempted
41	Smt. Muchal	20-2-90; 3-7-89	27-3-90	1-8-89—17-9-84=4 yrs 11 months	259	unexempted
42	Smt. Valu	12-1-90; 8-2-89	12-3-90	12-3-90—10-5-85=4 yrs 10 months	59	unexempted
43	Sh. Alokesh Bose	10-7-89	1-7-89	26-10-88—31-1-84=4 yrs 9 months	330	exempted
44	Sh. P.K.D. Nair	16-2-90; 19-6-89	27-2-90	10-9-87—Jan. 83=4 yrs 8 months	207(2)	exempted
45	Sh. S. Appa Rao	19-6-89	12-9-89; 23-8-89	1-8-89—March 85=4 yrs 5 months	232	exempted/uncovered
46	Sh. Girish Kumar Luxman Jadav	3-7-89	3-11-89	3-11-89—Aug. 985=4 yrs 3 months	260	unexempted
47	Sh. B. Chakraborty	12-6-89 & 12-1-90	24-1-90	24-1-90—8-10-85=4 yrs 3 months	93	unexempted
<i>Delay involved in settling the PF case between 3 to 4 years</i>						
48	Sh. S.D. Kole	8-6-89 & 19-6-89	21-8-89	1-8-89—10-10-85=3 yrs 10 months	128	exempted
49	Mrs. Lily Joseph	12-6-89; 25-1-90	26-6-89	8-5-89—June, 85=3 yrs 10 months	159	unexempted
50	Sh. R.B. Sharma	12-1-90; 29-5-89	12-2-90	2-11-89—15-2-86=3 yrs 8 months	64	exempted
51	Smt. Saraswati Devi	16-2-90; 19-6-89	28-2-90	28-2-90—30-6-86=3 yrs 8 months (partly settled)	229	govt. service
52	Sh. R.P. Karak	19-6-89; 16-2-90	27-7-89	31-1-89—1-7-85=3 yrs 6 months	249	exempted
53	Sh. R.P. Satpute	8-6-89; 19-6-89	21-8-89	24-7-89—30-4-86=3 yrs 3 months	128	exempted

APPENDIX 'F'—Contd.

1	2	3	4	5	6	7
54	Sh. Mukul Jain	26-5-89	5-6-89	5-6-89—13-2-86=3 yrs 3 months	14	Unexempted
55	Smt. K.B. Joshi	17-1-90; 19-5-89	11-2-90	3 yrs 3 months (reg. payment of gratuity, partly settled)	73	Board's employee (gratuity case)
56	Sh. S.L. Sharma	20-2-90; 13-7-89	14-3-90	Jan. 90—30-11-86=3 yrs 2 months	269	Dues from govt.
57	Sh. M.C. Bhurat	3-7-89	26-7-89; 17-7-89	28-8-89—18-6-86=3 yrs 2 months	297	unexempted
58	Case of 8 members pursued by M/s. Pioneer Ltd.	23-2-90; 12-7-89	7-8-89; 15-5-90	15-5-90—26-3-87=3 yrs 2 month—maximum delay	307	Do.
59	Smt. S.B. Tagwzle	16-2-90; 19-6-89	29-2-90	14-2-90—1-2-86=3 yrs	204	municipality/uncovered
60	Sh. Parasuram Singh	21-12-89; 12-7-89	13-2-89	1-1-90—29-12-86=3 yrs	392	unexempted
61	Sh. Jagan Nath Kapoor	19-6-89; 9-2-90 16-2-90	1-8-89	28-2-89—31-1-86=3 yrs (partly settled)	213	exempted
<i>Delay involved in settling the PF case between 2 to 3 years</i>						
62	Sh. R.C. Rout	28-12-89	16-1-90	10-7-89—1-9-86=2 yrs 10 months	417	unexempted
63	Sh. A. Das	28-12-89	16-1-90	13-7-89—1-9-86=2 yrs 10 months	417	unexempted
64	Sh. Mahodi	8-6-89; 19-6-89	21-8-89	2 yrs. 9 months	128	exempted
65	Sh. P.K. Gupta	16-2-90; 19-6-89	2-4-90	31-8-89—23-12-86=2 yrs 8 months	198	unexempted
66	Sh. M.K. Kar	12-1-90; 29-5-89	19-2-90	10-5-89—Lct. '86=2 yrs 7 months (partly settled)	62	exempted
67	Sh. Nand Lal Daga	26-5-89; 12-1-90	29-6-89	15-3-89—Aug. 1986=2 yrs 7 months	91	exempted but went into liquidation
68	Smt. Kusum Kumari Devi	12-1-90; 8-2-89	4-6-90	3-5-90—27-9-86=2 yrs 6 months gratuity only settled PF partly settled.	48	uncovered
69	Sh. P.C. Saha	14-6-89; 25-1-90	17-2-90	29-8-89—1-2-87=2 yrs 6 months	183	govt. service
70	Mrs. B. Sanyal	8-6-89	12-7-89	2-6-89—28-12-86=2 yrs 5 months	102	unexempted (default concerns employer as wrong number was given)

71	Dr. V.B. Khanolkar . . .	28-12-89; 19-6-89	12-2-90	Nov. 89—5-6-87=2 yrs 5 months	242	unexempted
72	Sh. A.R. Patel . . .	17-1-89; 9-3-89	17-2-89; 4-4-89	2 yrs 4 months	32	unexempted
73	Sh. J.J. Nimawat . . .	20-2-90; 3-7-89	23-4-90	16-1-90—1-11-87=2 yrs 2 months	285	govt. service
74	Sh. Devdas Rao . . .	12-7-89; 14-6-89	20-7-89	22-4-89—6-3-87=2 yrs 1 month	337	uncovered establishment
75	Sh. Ram Das . . .	25-1-90; 14-6-89	8-2-90 (lt. of complainant)	20-4-89—31-3-87=2 yrs 1 month	176	govt. service
76	Sh. Anil Kanti Chakraborty . . .	12-7-89	payment made on 22-9-89	20-9-89—16-8-87=2 yrs 1 month	370	exempted
77	Sh. B.K. Bhattacharya . . .	7-2-90; 19-6-89	7-3-90 (complainant's lt.) 6-7-89	13-1-90—11-1-88=2 yrs	235	unexempted
78	Sh. Abas Mian . . .	10-7-89; 28-2-90	1-8-89; 15-8-89	2 yrs (partly settled)	352	Municipality employee not covered by the Act
79	Sh. Anil Aggarwal . . .	16-1-89; 9-3-89; 11-1-90	8-2-89; 2-5-89; 3-2-89	2 yrs	44	unexempted
<i>Delay involved in settling the PF cases in less than 2 years</i>						
80	Smt. Uma Ajit Sawant . . .	14-6-89	1-7-89	1-7-89—31-7-87=1 yr 11 months	167	unexempted
81	Smt. Kiran Srivastava . . .	10-7-89; 28-2-89 28-2-89	27-7-89	17-9-87—2-12-85=1 yr. 10 months reg. PF dues	303	unexempted
82	Sh. Ramana Gopalan, K.N. . .	19-6-89	14-8-89	1 yr 10 months	252	govt. service
83	Sh. A.M. Betar . . .	3-7-89	27-7-89	1 yr 9 months	261	govt. service
84	Smt. Sarojini Aggarwal . . .	26-5-89	9-8-89; 24-7-89	1 yr. 9 months	45	govt. service
85	Sh. K. Sarabhachari . . .	8-6-89; 25-1-90	22-6-89	24-5-89—31-8-87=1 yr. 9 months	110	unexempted
86	Sh. K.N. Dupare . . .	8-6-89	31-8-89; 11-9-89	11-9-89—7-12-87=1 yr. 9 months	150	bank employee—uncovered
87	Sh. Suraj Kumar . . .	3-7-89	21-7-89	21-7-89—11-11-87=1 yr 8 months	268	exempted/uncovered
88	Sh. T.S. Natarajan . . .	12-6-89; 25-1-90	12-2-90	29-7-89—11-12-87=1 yr 8 months (partly settled)	164	Board's employee/exempted
89	Sh. Dwarka Singh . . .	7-2-90; 3-7-89	lt. dt. 22-2-90 of complainant	28-11-89—8-4-88=1 yr. 8 months (partly settled)	299	unexempted

APPENDIX 'F'—Contd.

1	2	3	4	5	6	7
90	Sh. J.R. Gupta	26-5-89	9-6-89	9-6-89—19-11-87=1 yr. 8 months	52	unexempted
91	Sh. Surindera Arora	19-6-89	14-8-89	1 yr 6 months	228	unexempted
92	Smt. I.P. Desai	26-5-89	16-6-89	17-5-89—15-11-87=1 yr 6 months	56	unexempted
93	Sh. K. Naguri	10-5-89	12-6-89	4-1-89—Aug. 1987=1 yr 6 months	27	exempted/uncovered
94	Smt. T. Rukmani Devi	28-12-89	12-2-89	22-12-89—15-6-88=1 yr 6 months	416	govt. service
95	Sh. Rameshwar Deb	22-12-89	10-2-90	7-3-89—27-7-87=1 yr 6 months	399	govt. service
96	Sh. Deviah	26-2-90; 12-7-89	2-4-90; 17-3-90	22-12-89—July '88=1 yr 5 months (partly settled)	302	unexempted
97	Sh. T.M. Pawar	8-6-89	30-6-89	31-1-89—1-8-87=1 yr 5 months	120	unexempted
98	Case of 11 members pursued by Union	1-2-90, 14-6-89	7-3-90	Maximum delay =1 yr 5 months	165	unexempted
99	Sh. V.J.F. Noronha	9-6-89	23-2-89	16-2-89—5-10-87=1 yr 4 months	134	exempted
100	Sh. Y.H. Parekh	2-4-90	10-4-90	13-1-90—20-7-88=1 yr 4 months	443	exempted
101	Sh. R. Bahara	19-6-89	29-7-89	29-6-89—31-3-88=1 yr 4 months	203	unexempted
102	Sh. B. Padhi	12-6-89	4-7-89	18-2-89—Oct. 87=1 yr 4 months	154	govt. service
103	Sh. Subir Ganguly	19-6-89	30-6-89	1-5-89—Dec. 87=1 yr 4 months	205	unexempted
104	Sh. Pandit Patra	3-7-89	8-8-89	8-8-89—30-5-88=1 yr 3 months (partly settled)	295	unexempted
105	Sh. N.B. De	17-1-89 & 20-2-89	8-3-89	7-2-89—30-11-87=1 yr 3 months (partly granted)	79	govt. service
106	Sh. M.K. Jain	29-5-89; 12-1-90	lt. dt. 20-1-90 of complainant	20-1-90—8/88=1 yr 3 months	49	unexempted
107	Sh. B.K. Aggarwal	8-6-89	30-6-89	27-4-89—31-1-88=1 yr 3 months	105	unexempted
108	Mrs. Bhabani Roy wife of late Sh. G.D. Roy	8-6-89; 25-1-90	14-8-89; 3-8-89	16-12-88—12-9-87=1 yr 3 months	126	govt. service
109	Mrs. Asha Dinesh Bhandare	19-6-89	28-7-89	21-7-89—March 88=1 yr 3 months	254	unexempted
110	Sh. Sumit Aggarwal	10-7-89	14-8-89	26-7-89—April 88=1 yr 3 months	332	unexempted
111	Sh. Anantha Krishnan D.	3-7-89	20-7-89	20-7-89—9-4-88=1 yr 3 months (partly settled)	287	unexempted
112	Sh. Shyam Lal	29-5-89; 11-1-90	letter received on 16-2-90 of complainant)	25-1-89—30-11-87=1 yr 2 months	35	govt. service
113	Sh. D.D. Cruz	21-1-89	15-1-90	25-9-89—6-7-88=1 yr. 2 months	396	unexempted
114	Sh. B.D. Goyal	10-7-89	21-7-89	25-5-89—12-4-88=1 yr 1 month	312	unexempted

115	Sh. Nachentu Ram	8-6-89	22-6-89	one year (partly settled)	118	unexempted
116	Sh. J. Nayak	12-1-90; 24-5-89	24-1-90	23-2-89—29-2-88=1 yr	74	govt. service
117	Sh. Gajanan	12-1-90; 29-5-89	19-1-90	2-3-89—31-3-88=1 yr	54 & 70	govt. service
118	Sh. S.S. Pillai	20-12-89	2-1-90	2-1-90—20-12-88=1 yr	386	exempted/pension case
119	Sh. M.P. Ramachandran	22-12-89	23-1-90; 8-1-90	18-9-89—25-8-88=1 yr	400	govt. service
120	Sh. R.N. Tondon	26-5-89	20-6-89; 25-8-89	2-8-89—5-9-88=1 months	65	unexempted
121	Smt. S. Rauji Desai	10-1-90	20-7-90	20-4-89—2-5-88=11 months	43	unexempted
122	Sh. A.H.I. Shaikh	14-6-89	20-7-89	11-4-89—1-5-88=11 months	190	govt. service
123	Sh. P.K. Mukherjee	10-7-89	11-8-89	3-5-89—15-7-88=9 months	333	unexempted
124	Mrs. Chandra Mukherjee	9-6-89; 25-1-90	20-6-89	PF 21-12-88—13-7-88=5 months EDIL & LAB 13-2-89—13-7-88=7 months 18-4-89—13-7-89=9 months; FPF—May 1989— 15-7-88—10 months	146	unexempted
125	Sh. P.K. Jain	26-5-89	30-6-89	29-11-88—1-3-88=9 months	21	unexempted
126	Sh. B.C. Bhattacharya	26-5-89; 11-1-90	22-6-89	20-3-89—1-6-88=9 months	10	unexempted
127	Sh. P.P. Narayanan	10-7-89	17-7-89	28-2-89—24-4-88=9 months	308	exempted
128	Sh. Sumil B. Vyas	14-6-89	31-8-89	18-7-89—2-11-88=8 months	186	unexempted
129	Smt. P. Kishan Kakade	26-2-90; 12-7-89	25-1-90 & 20-4-90	Nov. 1989—20-3-89=8 months	323	unexempted
130	Sh. Kishan F. Pawar	17-7-89	3-10-89	26-7-89—26-12-88=7 months	372	unexempted
131	Sh. Arun B. Chajed	3-7-89	3-8-89	6-9-88—24-3-88=6 months	281	unexempted
132	Sh. Bhawani	9-6-89	21-6-89	4-4-89—19-9-88=6 months	153	unexempted
133	Sh. Barendra Kumar Nyogi	12-6-89	19-6-89	4-5-89—30-12-88=5 months	92	exempted
134	Sh. V.V. Ramana	3-7-89	30-8-89	6-7-89—14-2-89=5 months	277	govt. service
135	Sh. R. Sivaraman	19-6-89	23-6-89	23-6-89—23-2-89=4 months	255	unexempted
136	Sh. Kiran Das Gupta	26-5-89	12-6-89	17-1-89—21-10-88=3 months	26	unexempted
137	Sh. S.D. Donde	20-2-89	26-5-89	15-10-88—30-6-88=3 months (partly granted)	88	govt. service
138	Sh. Babu Lal Gupta	17-7-89	28-9-89	8-9-89—3-8-89=1 months	366	unexempted
139	Sh. P.K. Guha	3-7-89	23-10-89	17-10-89—8-9-89=1 month	272	unexempted

STATEMENT OF DELAY INVOLVED IN DISPUTED CASES

Sl. No.	Delay	No. of complaints
1	35 to 40 Years	1
2	30 to 35 Years	1
3	25 to 30 Years	3
4	20 to 25 Years	2
5	15 to 20 Years	8
6	10 to 15 Years	19
7	5 to 10 Years	95
8	2 to 5 Years	142
9	0 to 2 Years	43

APPENDIX 'H-1'

Form required to be filled up by the Employer/Trustees of [Exempted/Uncovered establishment specifying the details of Provident Fund cases involving delay in settlement beyond three months and to be submitted to the ombudsman

Return submitted by the aforesaid category of employer/trustees for the month of

Name and Address of the Factory/Establishment.....

Code No.....

Sl. No.	Account No.	Name of the employee in block letters	Father's name (or husband's name in case of married women)	Date of leaving service	Reasons for leaving service e.g. retirement, resignation, death etc.	Specify the category of claimant whether employee/nominee/beneficiary	Whether payment of dues was made on the date of the leaving service where it was so required to be made	If there is default in making payment on the very day of leaving service, state extent of delay from the date of leaving service	Date of receipt of application for withdrawal of provident fund	Period for which the case has been pending commencing from the date mentioned in column. 10	Reasons in details for delay in settlement
1	2	3	4	5	6	7	8	9	10	11	12

Date.....

Signature of the employer

Stamp of the factory/establishment

APPENDIX 'H-II'

Form required to be filled up by the employer of Unexempted establishments specifying the details of Employees Provident Fund and other Miscellaneous provisions case pending with the employer establishment for compliance with the Schemes involving delay beyond three months and to be submitted to the Ombudsman

Return submitted by the aforesaid category of employer for the month of _____

Name and address of the factory/establishment _____

Code No. _____

Sl. No.	A/c No.	Name of the member (in block letters)	Father's name (or husband's name in case of married women)	Date of leaving service	Reasons for leaving service e.g. retirement, resignation, termination, death, etc.	Specify the category of claimant—whether member/employee/nominee/beneficiary	Extent of delay in forwarding application of claimant under the schemes (pending on the date of return of the date of leaving service, where it was so required to be forwarded at that time	Commencing from the date of leaving service, extent of delay in giving the duly attested application (pending delivery on the date of return) for withdrawal to the member, for submission to Commissioner where it was so required to be given to member	Date of receipt of application for withdrawal of provident fund and other miscellaneous provisions benefits	Extent of delay in forwarding application of member/nominee/beneficiary (pending on the date of return) to Commissioner commencing from the date mentioned in column 10	Detailed reasons for delay in respect of steps in cols. 8, 9, 11 whichever is applicable	Particulars of the concerned Commissioner
1	2	3	4	5	6	7	8	9	10	11	12	13

Date :

Signature of the Employer

Name and address of the Factory/Establishment

Stamp of the Factory/Establishment

APPENDIX 'H-III'

Form required to be filled up by the RPFC specifying the details of Employee's Provident Fund and other miscellaneous provisions cases involving delay in settlement beyond three months and to be submitted to the Ombudsman

Return submitted by RPFC for the month of

Particulars of the Office of the RPFC.....

Sl. No.	Name & address of the factory/ establishment to which case belongs	Name of the employee/member (in block letters)	Father's name or husbands name in case of married women	Account No. of the member	Date of leaving service	Specify the category of claimant—whether employee/member, nominee or beneficiary	Date of receipt of application for withdrawal of provident fund and for other Miscl. provisions benefits	Period for which the case has been pending/commencing from the date on which the application was received	Reasons in detail for delay in settlement
1	2	3	4	5	6	7	8	9	10

Date :

Signature of the Commissioner
Stamp of the Commissioner.

55

APPENDIX—I(I)

To

The Secretary,
P.F. Law Commissioner,
Sastri Bhavan,
New Delhi—110 001.

SUB:—*Refund of P.F. accumulation of Prsuram Singh, P.F. No. WB/63/471.*

Dear Sir,

With reference to the subject cited above it is brought to your kind notice that I was an employee of National Iron Steel Co. (NISCO) Belur (Howrah) and I have been retired from service three years back. I submitted my refund application through F/19 dated 29-12-86 and also submitted reminders time to time.

It is indeed trouble some for me and I have been suffering financially for non-payment of my aforesaid dues.

But with great sorrow it is expressed that no action has yet been taken from your end.

So, I shall be highly obliged if you kindly look into the matter personally.

Thanking you,

Yours faithfully,

Sd/-

(PRASURAM SINGH)

C/o. Baliram Singh,

Rd. No. 8-E-7/5, New Town,

Burnpur, Dist. Burdwan (W.B.)

Dated :

APPENDIX I-(II)

No. 6(3)/88-LC(LS) Part IV-392
Government of India
Ministry of Law and Justice
Department of Legal Affairs
(LAW COMMISSION)

7th Floor, 'A' Wing,
Shastri Bhavan, New Delhi-1.
Dated : 21-12-89.

SUBJECT : *Non-payment of Provident Fund/GPF/retirement dues in respect of Shri Prasuram Singh.*

Sir,

The Commission has invited through media and newspapers all persons or their legal representatives/nominees, who have not received their provident fund and retirement/death benefit, etc. for more than one year, to furnish full particulars of their case to the Commission so as to enable the Commission to make an indepth study of the problem and to formulate its views in the matter.

In pursuance of this advertisement, one Sh. Prasuram Singh, C/o. Baliram Singh, Rd. No. 8-E-7/5 New Town, Burnpur, Dist. Burdwan (W.B.) has addressed to the Commission his application dated nil in this regard. We enclose herewith a photocopy of the aforesaid application dated nil of the said employee for your reference which is self-explanatory.

Since the Law Commission is required to carry out the Post-audit of socio-economic laws and to take all such measures as may be necessary to harness law and the legal process in the service of the poor, you are requested to give priority to this letter and—

- (i) Send concrete factual information pertaining to the complaint of the said person;
- (ii) Your views regarding the said complaint; and
- (iii) the cause of the delay;

within 15 days from the date of receipt of this letter.

Your cooperation and urgent response will be highly appreciated.

Yours faithfully,
Sd/-
(R. L. KHURANA)

APPENDIX I (III)

OFFICE OF THE REGIONAL PROVIDENT FUND COMMISSIONER
WEST BENGAL, THE ANDAMAN & NICOBAR ISLANDS
44 PARK STREET
13, LINDSAY STREET
CALCUTTA—700 016

Ref No. A/S&C/Misc/Compt/HLO/II

Date 13-2-90

To
Shri R. L. Khuramna
Jt. Secretary & Law Officer
Govt of India
Ministry of Law & Justice
Deptt of Legal Affairs (Law Com.)
7th Floor 'A' Wing
Shastri Bhavan
New Delhi-110 001

*SUB : Final settlement of P.F. dues in respect of Shri Parasuram Singh, WB/
163/471.*

Sir,

Kindly refer to your letter No. 6(3)/88-LC-Part IV-39 2A dated 20-12-89 for non-payment of P.F. dues of the above individual.

This is to inform you that a sum of Rs. 37,500 has since been passed for payment and the same has been remitted to the member by cheque under No. 615996 dated 1-1-90.

Your faithfully,

Sd/-

(A. K. SEN)

*Regional Provident Fund Commissioner
West Bengal*

APPENDIX I (IV)

NATIONAL IRON AND STEEL COMPANY (1984) LIMITED
(A GOVT OF WEST BENGAL ENTERPRISE)

PF/PM/215

Dated 20-5-90

To

The Jt. Secretary & Law Officer,
7th Floor "A",
Shastri Bhavan, New Delhi-110 001

SUB : *Non-payment of Provident Fund/G.P.U.F./Retirement dues in respect of
Shri Parsuram Singh.*

Dear Sir,

Please refer to your Memo No. 6(3)/88-LC-Part-IV-392 dated 21-12-89.

In this connection we are to inform you that Shri Parsuram Singh an employee of our Company has retired from his service on 20-10-86 and Management has forwarded his claim Form No. 19 for his Provident Fund dues to the Office of the Regional Provident Fund Commissioner, West Bengal, Howrah Local Office 24, Belilias Road, Howrah on 29-12-1986 and we have also made a specific deposit vide challan dated 21-08-1986 for the purpose. We have drawn your attention in the above cases vide our letter on previous occasion, the photo copy of which is enclosed herewith for ready reference.

In this context we are to affirm that about 400 cases like the one as mentioned are pending before the office of Regional Provident Fund Commissioner, West Bengal for disposal.

We would request you to kindly pursue the said Office for the release of payment of the above said cases along with Sri Parsuram Singh.

Your prompt action is highly solicited.

Thanking you,

Yours faithfully,

for National Iron & Steel Co. (1984) Ltd.

Sd-/

(P.K. BAKSHI)

Personnel Manager

PM/PF/310

18th Jany, 90

To

Mr. A. K. Mukherjee, I.A.S.,
Regional Provident Fund Commissioner,
West Bengal, 44, Park Street,
CALCUTTA-16

Respected Sir,

*SUB : Non-payment of Provident Fund Dues to out-going employees in respect of
M/s. National Iron & Steel Co. (1984) Ltd. under Code No. WB/163.*

I would like to draw your kind attention into the subject that about 500 P.F. Final Claims are lying pending in your Accounts Group, Howrah since long. The concerned members are reported to be under-going tremendous Financial Hardship and are often agitating before us. Some of them already been expired without any treatment and proper diet and this indignation of the Provident Fund beneficiaries seemed to be such as it appears that out going members/their nominees may at any time resort to the unrestful atmosphere, though we have already specifically deposited their Provident Fund Dues to your Office for necessary settlement.

In the context above, I feel and fervently pray to your goodself to look into matter of early disposal of the stated claims to mitigate their untold misery and to avoid further I.R. Problem in our organisation.

Your handful co-operation into the matter is solicited.

Thanking you,

Yours faithfully,

for National Iron & Steel Co. (1984) Ltd.

Sd/-

(T. S. DAS)

Personnel Manager

c.c.

The Regional P.F. Commissioner,
West Bengal,
Howrah Local Office, (6th floor)
24, Bellilies Road,
Howrah.

The Secretary.

OFFICE OF THE REGIONAL PROVIDENT FUND COMMISSIONER
WEST BENGAL

44, Part Street/13, Lindsay Street,
CALCUTTA-16

No. A/Spl/Misc/Compt./H.L.O./1072

Dated the 14-2-89

SUBJECT : *Non Payment of P.F. Dues,*

To

Shri T.S. Das
Personnel Manager
National Iron & Steel, Co.
(1984) Ltd. P.O. Belurmath,
Dist. Howrah, Pin-711202 (E. RW)

Sir,

I am to acknowledge receipt of your letter No. PM/PF/310 dated 19-1-89 on the above subject which is receiving attention.

Yours faithfully,
Sd/-
DDO

APPENDIX I (V)

No. 6(3)/88-LC(LS) Part-IV. 392
Government of India
Ministry of Law and Justice
Department of Legal Affairs
(LAW COMMISSION)

7th Floor, 'A' Wing
Shastri Bhavan, New Delhi-1
Dated : 9-8-90

SUBJECT : *Non-payment of Provident Fund/GPF/retirement dues in respect of Shri Parsuram and 400 other cases.*

Sir,

The Commission has invited through medias and newspapers all persons of their legal representatives/nominees, who have not received their provident fund and retirement/death benefit etc, for more than one year, to furnish full particulars of their case to the Commission so as to enable the Commission to make an indepth study of the problem and to formulate its views in the matter.

In pursuance of this advertisement, one Sh. P. K. Bakshi, Personnel Manager, National Iron & Steel Co), P. O. Belurmath, Distt. Howrah, W.B. has addressed to Commission his application dated 20/24-5-90 in this regard. We enclose herewith a photo-copy of the aforesaid application dated 20/24-5-90 of the said employee/his legal representatives/nominees for your reference which is self-explanatory.

Since the Law Commission is required to carry out the Post-audit of socio-economic Laws and to take all such measure as may be necessary to harness Law and the legal process in the service of the poor, you are requested to give priority to this letter and—

- (i) Send concrete factual information pertaining to the complaint of the said person;
- (ii) Your views regarding the said complaint; and
- (iii) The cause of the delay;

Within 15 days from the date of receipt of this letter.

Your cooperation and urgent response will be highly appreciated.

Yours faithfully,

Sd/-

(Additional Law Officer)

Encl : as above

APPENDIX I(VI)

OFFICE OF THE REGIONAL PROVIDENT FUND COMMISSIONER
WEST BENGAL THE ANDAMAN & NICOBAR ISLANDS
HOWRAH LOCAL OFFICE
24 BELLILIOUS ROAD

Ref No. A/015/163/A. Cell/HLO/127

31-8-90

To

The Additional Law Officer,
Govt. of India
Ministry of Law and Justice,
Department of Legal Affairs,
7th Floor, 'A' wing,
Shastri Bhawan, New Delhi

SUBJECT : *Non payment of P.F. dues in respect of Parsuram Singh & others*

Sir,

Kindly refer to your letter No. 6(3) 88-LC (LS) Part IV-392 dt. 9-8-90 on the subject cited above.

In this connection it is to state that the claim case of Sri Parsuram Singh, has already been authorised & cheque issued for Rs. 37,500. Regarding the complaint lodged by the Personnel Manager, Mr. P.K. Bakshi of M/s. National Iron & Steel Co. (1984) Ltd, it is stated that 400 cases were accumulated in this Office mainly due to non-deposit of P.F. contributions timely by the management. However, most of the cases are being disposed off after making specific deposit by the Company. Out of these a lot of cases have already been processed and the amounts authorised.

A detailed report may be sent to your if the A/c Nos. in respect of the involve persons are made available in this office from your end.

Yours faithfully,

Sd/-

(N.R. RAUT)

for Regional P.F. Commissioner, W.B. Howrah Local
Office