

नियमावली
औद्योगिक सम्बन्ध (श्रम)
Manual on
Industrial Relations - (Labour)

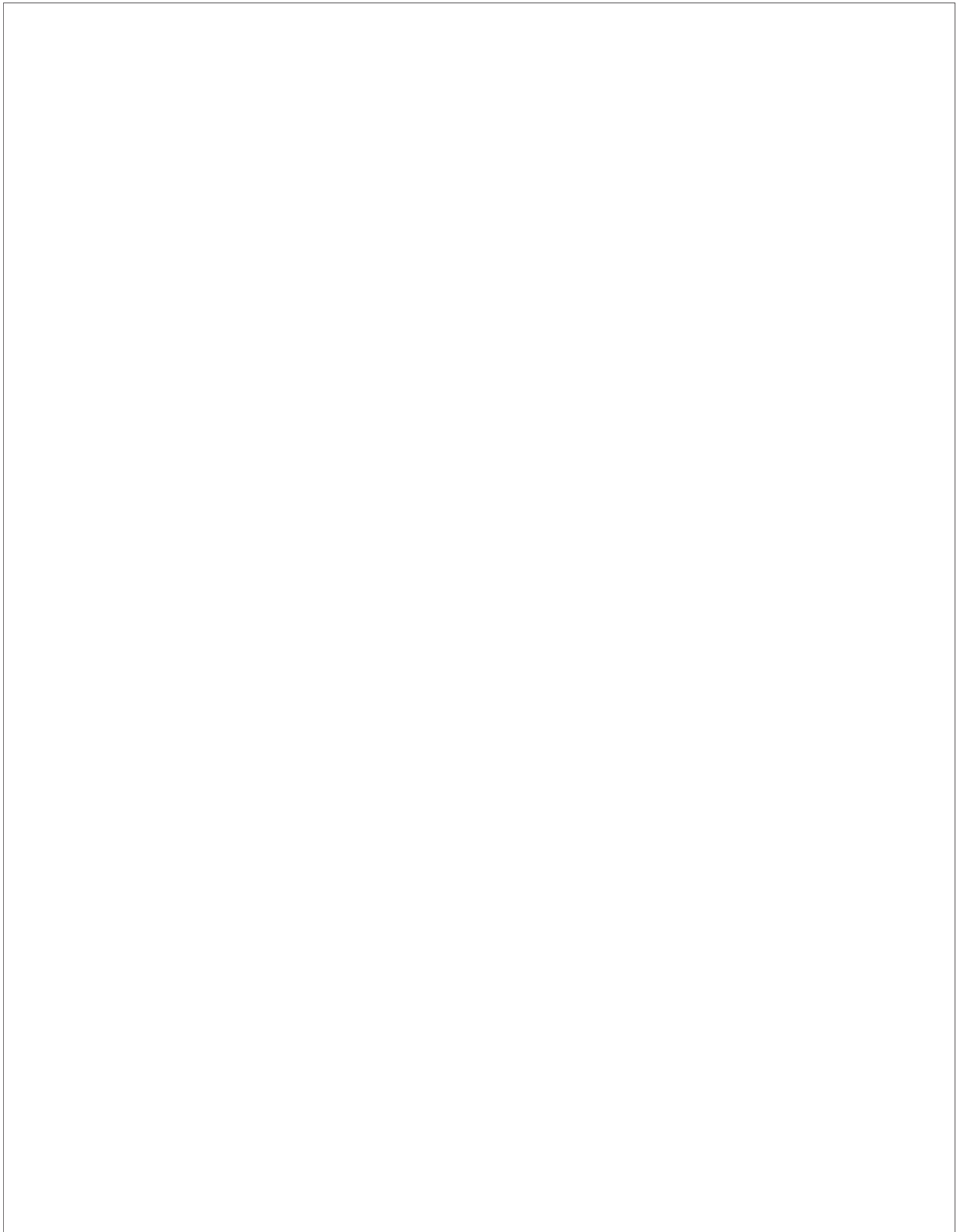
Volume-1



भारतीय
खाद्य
निगम



FOOD
CORPORATION
OF INDIA



FOOD CORPORATION OF INDIA

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भारतीय खाद्य निगम
FOOD CORPORATION OF INDIA

FOREWORD

Operations of the Food Corporation of India have increased manifold since its inception in 1965. The depots of the FCI, are now, situated in the far flung areas across the country. The handling operations of FCI are labour oriented and there are about 42000 labour on its regular roll under various systems. The field functionaries in these areas, sometimes don't have access to the instructions on Labour Management. A need was, therefore, felt since long, to have a Manual on Industrial Relations (Labour) for the field functionaries containing of gist of instructions, rules, regulation, labour laws to facilitate field functionaries for their day to day use in discharging official duties.

While the Manual has summarised the Functions of the Labours and instructions on various allied functions, however, it cannot replace the standing instructions issued by the Corporation. This Manual is intended to provide broad guidelines to the field functionaries but these will not replace the administrative instructions issued from time to time.

I must place on record my sincere appreciation to all the members of the Committee for their active and meaningful participation in the deliberation and also to the Officers and Officials of Industrial Relations (Labour) Division of FCI, Headquarters for preparing Manual on Industrial Relations (Labour).

I expect that all the field functionaries will use this Manual in day to day labour management and maintaining harmonious industrial relations in FCI.

(Yogendra Tripathi)



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Chapter-I

Introduction

1 FCI OPERATIONS IN BRIEF

(i) Objectives of FCI

The Food Corporation of India was set up in 1965 under an Act of Parliament called the Food Corporations Act, 1964 (Act No.37 of 1964) in order to fulfill following objectives of the National Food Policy of the Government of India:

- a) Effective price support operations for safeguarding the interests of the farmers.
- b) Distribution of foodgrains throughout the country for Public Distribution System NFSA and other welfare schemes of Govt. of India; and
- c) Maintaining satisfactory level of operational/buffer stocks of foodgrains to ensure national food security.
- d) Market intervention for price stabilization

To achieve above objectives of the National Food Policy FCI has to perform 5 fold functions such as procurement, transportation, storage, distribution and Import / Export of foodgrains and its efforts have contributed immensely in bringing the stability on food front and a sense of food security within the country.

The Food Corporation of India operates through depots situated in various parts of the country. These depots serve as storage points for stocks procured from producing States, transit depots for consuming States and for storing stocks required for public distribution in different parts of the country. As on 30.09.2017 FCI had around 1800 depots out of which there are around 1400 depots where handling of foodgrains is carried out through contract labour. In the remaining depots the work is carried out through departmentalized labour i.e Departmental, DPS, NWNP Labour system due to notification issued under section 10 of the contract labour (R&A) Act 1970 by the Ministry of Labour and Employment, Court Order and settlements, where contract labour were inducted as regular worker under any of the aforesaid systems.

(ii) FCI Operations in Depots -Peculiar features

The volume (quantum) of handling operations in FCI depots varies from depot to depot due to various factors viz. (a) capacity of depot (b) type of depot and location of the depot (c) procurement during peak seasons (d) level of buffer stock to be maintained, (e) off-take of foodgrains for various Central and State Govt. Schemes; and also (f) market prices. Therefore, there are large variations with regard to quantum of work of foodgrains being handled in any depot on day to day basis. There may be a bigger depot that might have engaged just few labourers or even just 10 labourers on a particular day and then 250 or 500 labourers on the following day. Therefore, the nature of work performed in the depots of FCI has not been of sufficient and continuous duration but has been of sporadic nature.

(iii) Operations carried on by the labourers

The main operations carried out by the departmentalized (Departmental/DPS/NWNP) labourers in Food Corporation of India depots are as under:-

1. Receipts:

- i) Unloading from wagons at Railheads
- ii) Loading in trucks at Railheads
- iii) Unloading from trucks at Depot
- iv) Unloading from trucks (direct receipt)

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- v) Weighment (10% on Beam scale) or Truck weighment on weighbridge
- vi) Unloading from wagons and stacking inside the godowns
- vii) Fumigation/ spraying etc.
- viii) Gunny Bales Handling

2. Issues

- i) Destacking and loading into trucks /wagons
- ii) Weighment (10% on Beam Scale) or truck weighment on weighbridge
- iii) Unloading from trucks and Loading in wagons at Railheads
- iv) Collection and cleaning of loose grains.
- v) Filling of gunnies with loose grains

For carrying out these peculiar FCI operations, labour are being engaged in the Food Storage Depots under various labour systems.

2 Labour Systems in FCI

Food Corporation of India is a Labour intensive organization for carrying out the peculiar operations of loading/unloading of Railway wagons/Trucks, Stacking in godowns, fumigation, spraying, destacking of stocks in godowns and filling of gunnies with loose grains after collecting, sweeping and cleaning spread grains various type of labour systems prevalent in FCI are as follows:-

i. Departmentalized labour system

- a) Departmental with regular pay scale
- b) Direct Payment System (DPS)
- c) 'No Work No Pay' (NWNP)

ii. Contract Labour System

- a) Contract System
- b) Labour Cooperative Societies System
- c) Contract Workers Committee

Departmentalized Labour system

a) Departmental Labour

In some depots where contract labour is prohibited due to notification/settlement, FCI has engaged Departmental labour. The workmen under this System are regular labourers of FCI and are eligible for the wages on the basis of their pay scale including time-scales of pay and allowances. Presently, all the Departmental labourers working in the FCI are being paid wages as per the pay scales applicable to the Port and Dock workers in terms of the judgment dated 20.07.1990 of Hon'ble Supreme Court of India in the writ petition filed by FCI Workers Union. The last wage revision for Port workers was done for 5 years w.e.f. 1.1.2012 on the basis of settlement signed between the representatives of Major Port Trusts and Federation of Port & Dock Workers.

The departmental labourers are also eligible for the statutory benefits of Contributory Provident Fund (CPF) under FCI CPF Scheme, Gratuity under Payment of Gratuity Act, compensation under Workmen's Compensation Act, Ex-gratia in lieu of bonus, OTA and other benefits like Productivity Linked Incentive (PLI), various kinds of leave, Leave

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Travel Concession, Children Education Allowance, Hostel Subsidy, Uniform, Medical treatment facility (indoor & outdoor treatment) for self and family subsidy, Lunch, Transport reimbursement, Festival /Flood/Drought Advance and Benevolent Fund etc.

b) Direct Payment System (DPS)

The Direct Payment System (DPS) came into existence initially in 1973. The handling operations were being carried out at the piece rates based on 'Above Schedule of Rates' (ASOR%) at which the erstwhile contractor was working. However, this is subject to periodical revisions.

DPS labours are entitled to benefits such as OTA, Provident Fund, gratuity under Payment of Gratuity Act, Ex-gratia, in lieu of bonus, PLI, 10 days sick leave in a year, 6 paid Holidays including 3 National Holidays in a year, paid weekly off, PLI, Benevolent Fund, indoor treatment from the FCI empanelled Hospitals in case of injury sustained in the course of employment where ever ESI Act is not applicable, festival / flood / drought advance. Uniform and indoor & outdoor medical treatment from ESIC Hospitals wherever ESI Act is applicable.

Ministry of Labour and Employment (GOI) vide notification No S01284 (E) dated 20.5.2009 issued under Minimum Wages Act had fixed basic wages in respect of unskilled employees covered under the schedule of employment of "Loading and Unloading" in the warehouses and godown "Area wise". Variable dearness allowances is revised by the CLC (C) at an interval of six months on 1st October and 1st April on the basis of average price index number for industrial workers. In view of above, wage structure of the DPS Labour was revised vide settlement dated 3.8.3012 signed with Labour Union and it was decided that "the existing procedure for revision of Minimum Guaranteed Wages would be based on fixation/Revision of minimum daily wages by the Ministry of Labour Govt. of India for "A"/area and minimum daily wages shall be revised every six months on 1st Oct and 1st April of every year after issue of order of revision of VDA by the Chief Labour Commissioner. Periodicity of revision of ASOR %/Piece rate shall be every six months i.e 1st Oct and 1st April of every year and the old practices of revising piece rate after every 2 yrs has been done away, and subsequently it was decided in a meeting held on 2nd and 3rd December 2013 with Labour Union that ASOR %/Piece rate shall be revised equivalent to increase in minimum daily wages on 1st October and 1st April of every year to maintain parity in enhancement of minimum wages and piece rate wages.

The Labour Unions have raised an industrial dispute before the National Industrial Tribunal (NIT), Mumbai for grant of status, wages and benefits to all the DPS and NWNP system labourers at par with departmental labourers on the principle of 'Equal Pay for Equal Work'. The National Industrial Tribunal Mumbai passed an interim order on 27.05.04 granting an interim relief of Rs.50/- per day per labourer with effect from 1.12.2003 in respect of these NWNP and DPS workers. This award as modified by High Court of Bombay has been implemented. The main industrial dispute is still pending with said National Industrial Tribunal, Mumbai for its final award.

c) No Work No Pay System

As per Memorandum of Understanding dated 12.7.1993 between the Corporation and the FCI Workers' Union it was agreed to resort to payment through a Three Member Committee (TMC) of Workers nominated by the Workers' Union from among the labourers in 73 depots of Punjab to receive payments against the bills to be submitted by the respective TMC for the work carried out by the labourers in such depots. The piece rates for payment to the labourers were agreed at the then contract rates. The payment was agreed in accordance with the 'no work no pay' basis i.e. there would be no minimum guarantee wages. This system was popularly known as TMC or 'No Work No Pay' (NWNP) system.

Meanwhile, pursuant to a settlement on 4.7.1995, ex-contractors' labourers in 14 depots (10 depots in UP, 3 depots in Rajasthan & 1 depot in Bihar) were also brought under 'No work No pay' system. These labourers were getting their wages through a Three Member Committee (TMC) of labourers, who prefers bills for the work done to get the payment from FCI and distribute the same to the labourers concerned. The Piece Rates of ex-contractors were allowed to these labourers subject to revision proportionate to the percentage increase in the Consumer Price Index after expiry of Contract period. The labourers working under said 'No Work No Pay' System in 14 depots are getting the benefits of Provident Fund under EPF Scheme of Employees Provident Fund Organisation, Ex-gratia in lieu of bonus, Workmen's Compensation as per their service conditions agreed and settled in the said bipartite Settlement

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dated 4.7.1995. No Work No Pay System was also introduced in 4 depots of Bihar and one depot of Jharkhand in the year 2004 on the above terms and conditions.

The labourers working under TMC / NWNP system in 73 depots of Punjab were upgraded as 'Direct Payment System' (DPS) labourers w.e.f. 1.1.1999, as per Bipartite Settlement signed on 13.3.1999 between the Corporation and the FCI Workers' Union. As such, none of the said 73 depots of Punjab remains under said TMC / NWNP system.

During the period from 2001-2011 No Work No Pay system was introduced in 76 owned depots where the contract labour system was abolished as per the provisions of Contract Labour (Regulation & Abolition) Act 1970. NWNP labour were extended benefits of National Holidays, Festival Advance etc. vide agreement dated 11.05.2011. All the workers working under "No Work No Pay" System at present are getting following benefits :

- I. Minimum daily wages as fixed by the Ministry of Labour for the 'A' 'B' 'C' Areas under Minimum wages Act on the day of or Piece rate earning, whichever is higher their engagement
- II. OTA as per the provision of Minimum Wages Act 1948
- III. Paid National holidays.
- IV. Payments including wages by FCI directly to Labour
- V. One set of summer uniform every year
- VI. Revision of piece rate wages proportion to the percentage increase in consumer price index in two years
- VII. Medical facilities under ESI scheme
- VIII. Compensation as per Employees compensation Act where ESI Act 1948 is not applicable.
- IX. Festival / Drought Advance
- X. Weekly off as per the provisions of Minimum Wage Act 1948.

Contract Labour System

(a) Contract System:

Private Handling & Transport contractors are awarded the contracts (normally for two years) through open tender (E-tender) for handling of foodgrains in a particular depot. The contractors bring labourers from open market and engage them in FCI depots. FCI pays the remunerations to the contractor for the actual volume of work done in bags etc. and on the basis of piece rates in the shape of 'Above Schedule of Rates' (ASOR) percentage as per contract. There exists no direct employer-employee relationship between FCI and the contract labourers and therefore, FCI does not have any administrative and disciplinary control over them. However, contractor has to ensure minimum wage to the Labour engaged and FCI ensures it being principal employer. The contractor has to bear the losses, if any, on account of demurrage and wharfage due to non-completion of work of handling and transportation of food grains in prescribed time. At present maximum number of depots in FCI operate under this system.

This system is governed by the Contract Labour (Regulation & Abolition) Act, 1970. The contractors so appointed are required to fulfill all the statutory obligations under the Contract Labour (R&A) Act, 1970 and other Labour laws. As per the Contract Labour (Regulation & Abolition) Act, 1970, the contractor is not bound to engage same labourers on all the working days and is free to bring any Labour from open market according to his choice and suitability for the workers available on day today basis FCI is considered as principle employer as defined under the said Act.

b) Labour Cooperative Societies Systems

In order to eliminate the middleman like contractor and ensure that all the earnings of the labourers go directly into their pockets, the contractors' labourers working in the depots formed their own Co-operative Societies and took work from the FCI in place of contractor for handling of foodgrains. The Labour Cooperative Societies are also required to fulfill all the statutory obligations under the Contract Labour (Regulation & Abolition) Act, 1970 and other

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labour laws. The Corporation also extended certain concessions to the genuine Labour Co-operative Societies.

However, as per the judgment of Hon'ble Karnataka High Court, the Labour Co-operative Societies had to be treated at par with private contractors, therefore instant labour system could not sustain in the case of prohibition of contract labour through a notification. Therefore, the concessions already granted to the Labour Co-operative Societies by the FCI to promote labour cooperative became redundant and were withdrawn.

c) Contract Workers Committee

Labour Union's were demanding upgradation of labour system of FCI depots in Punjab and Haryana to Direct Payment System (DPS) and absorption of left over ex-contractor workers of 14 depots brought under Direct Payment System in Punjab in 1997. In a meeting held on 20.07.2005 the Hon'ble Minister of CAF&PD, after hearing the views of the parties, desired that pending the outcome of the findings of the committee appointed by the Central Advisory Contract Labour Board (CACLB) of Ministry of Labour GOI which is likely to take some more time, an interim arrangement may be worked out in which the existing contractor in FCI depots of Punjab and Haryana may be replaced and handling work in the said depots be awarded to workers committee on the same rates, terms and conditions, as of the existing contractors. Later on with the approval of Ministry of CAF&PD a memorandum of settlement was arrived at on 23.08.2005 with Labour Unions namely FCI Workers Palledar Union (Haryana), FCI Palledar Union (Punjab) and All India Trade Union Congress for the introduction of Contract Workers Committee on following terms and conditions.

1) An arrangement will be worked out for substitution of the existing contractor in each of the depots in Punjab and Haryana with committee of not less than three workers (comprising of workers of said depots), who will undertake the handling operation on the same rates and mutually agreed terms and conditions as were applicable in case of the existing contractor. The Workers Committee will be nominated by the Unions party to the MOU.

2) The worker committee shall sign a fresh Contract in the same form (MTF) with the authorised representatives of FCI to carry out handling operations in the depots on the same rates and mutually agreed terms and conditions as in the case of existing contractor.

3) The workers committee shall comply with all legal and statutory requirements of the contractor particularly in respect of obtaining a licence from the competent licensing Authority in terms of Contract Labour (R&A) Act 1970 and Rules framed there under before commencement of work under the contract, besides responsibility to implement the statutory provisions of Employees provident fund and Misc Provision Act will vest upon Contract workers Committee.

4) The above arrangement was introduced purely as an interim measure. It was agreed that decision of Govt. of India on the recommendation of the committee appointed by the CACLB for Punjab and Haryana depots will be implemented.

- This system was introduced in eight more depots through a MOU signed with FCIWU on 1st June 2007.
- Ministry of Labour and Employment (GOI) issued notifications under section 10 of the Contract Labour (R&A) Act 1970 on 24.04.2010 and 7/2/2011 in respect of owned and hired depots of Punjab, Haryana, HP, Rajasthan, UP, Tamil Nadu, Karnataka and AP Regions. The NWNP system was introduced in owned notified depots with the approval of Ministry of CAF&PD, Erstwhile workers of Contract workers committee working in notified depots inducted under NWNP on need basis.
- In furtherance to decision taken in meeting held in FCI Hqrs. with Labour Union on 2nd and 3rd December 2013 two depots of contract workers committee in Punjab were also brought under No Work No Pay system.

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Chapter-II

Evolution of different labour systems in FCI

1. Transfer of Port Labour from Regional Director (Food) to FCI

Initially the food handling operations were carried out through Handling & Transport Contractors. However, the food grain handling labour at Bombay, Kandla, Madras and Vizag Ports were departmentalized as a result of various Memoranda of Settlements arrived at with the concerned labour Unions by the then Regional Director (Food), Government of India between 1964 and 1967. Similarly, the food grain handling labour at Bombay godowns, Vizag godowns and Madras godowns were also departmentalized by the Regional Director (Food), Government of India in 1964-65. The work of handling food grains at above ports and godowns was subsequently transferred to FCI by the Regional Director (Food), Govt. of India along with the labour force departmentalized by the Govt. of India in 1969. The work at Storage Depots at Calcutta Port was transferred by the Department of Food to the Food Corporation of India w.e.f. 16th December 1968. At that time, the work at this Port was managed through the contract labour. The handling work at silos in Calcutta Port and the depots in and around Calcutta, called the 'Calcutta Complex', was also being managed through the contract labours.

2. Evolution of Departmental Labour & Direct Payment System (DPS)

Since FCI was already operating with Departmental labour in godowns transferred from Regional Director (Food) at Bombay, Vizag, and Egmore besides the ports, the labour union raised an Industrial Dispute in 1968 for departmentalization of all the contract labourers in the above mentioned 'Calcutta Complex'.

1970 - FCI departmentalized the contract labour in Calcutta Complex in the year 1970. As a result, around 10-12 depots were brought under departmentalization.

Thereafter, the Union demanded for further departmentalization of depots in the remaining regions of the then East Zone, viz. Bihar, Orissa, Assam and NEF. As a result 3 more depots in Bihar were departmentalized.

1973 - Keeping in view the experience from departmentalised labour, then FCI Management refused to go for further departmentalisation of Contract Labour in further depots. Consequently upon further agreement with the unions in 1973, 18 depots in Delhi, Bihar, Orissa, & Assam and 4 depots in U.P were also departmentalized & some other depots were brought under the 'Direct Payment System' (DPS). Thus by 1973, 39 depots with 9950 labours were regularized as departmental labour and about 56 depots were brought under Direct Payment System (DPS).

1983 - The labour unions filed writ petition in the Supreme Court of India in 1983 for direction to the 'appropriate government' under the Contract Labour (Regulation & Abolition) Act, 1970 to consider abolition of contract labour system in the Corporation.

3. Evolution of "Three Members Committee" of Workers on Productivity Linked Piece Rates on 'NO Work No Pay' Basis

In 1993, on the advice of Ministry, an MOU was signed with FCI Workers Union for replacing the contract labour system prevailing in 73 depots of Punjab by introducing Three Members Committee (TMC) System. Subsequently, the labourers working under the said TMC system in 73 depots were given the status, wages & benefits as that of DPS w.e.f. 1.1.1999 in terms of a settlement signed in March 1999 between FCI and FCI Workers Union. Meanwhile, the unions filed petition before Hon'ble Supreme Court highlighting discrimination in not introducing TMC in Dhuri depot of Punjab. The Hon'ble Supreme court issued directions to the Govt. of India (Ministry of Labour and Ministry of Food) to examine all the depots of Punjab, including those already brought under TMC system, to arrive at a uniform policy decision with regard to the introduction of said system in all the depots of Punjab.

The Ministry of Food & Public Distribution appointed a Committee under the Chairmanship of retired Secretary (Labour) Shri Ishwari Prasad. The Committee submitted its report to the Ministry of Food & Public

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Distribution who in consultation with the Ministry of Labour issued directions to FCI that Direct Payment System may be introduced in the 45 Centre's out of total 140 centers of Punjab Region. However, 73 centers which were functioning under NWNP through TMC were upgraded as DPS as per MOS signed on 13.03.1999 in addition to 13 centers brought under DPS as per recommendation of the said committee. In total 86 centers in Punjab were brought under Direct Payment System. Departmental Labour system was existing in 8 Centers. Thus in remaining 46 centres of Punjab region contract labour system was continued.

As per settlement dated 5th July 1995 between the FCI Management and the labour union in respect of 13 depots in UP, Uttaranchal, Rajasthan & Bihar were brought under 'No Work No Pay' system. During the period 2001-2011, Ministry of Labour and Employment prohibited employment of Contract Labour in 93 owned and hired depots under section 10 of the C.L (R & A) Act 1970. It was decided to introduce No Work No Pay system in 76 owned depot and, hired depots were de-hired.

4. Details of Agreements / instructions on regularization of workers are summarized as under

(i) Employment of dependent of worker who retired on medical ground-

Instructions were issued vide Circular No. 24(8)/75-IR(P) dated 2.2.1977 that the dependent of a deceased worker or a worker who is retired on medical grounds may be employed directly without going through the Employment Exchange.

(ii) Compassionate ground appointment (MOU dated 3/11/1989)

In the MOU signed on 3.11.1989 between FCI Management and the representatives of FCI Workers' Union, it was mentioned in clause 12 therein that instructions already stood issued for employment of dependents in case of the deceased DPS/ Ancillary labour. It was reiterated to the Union that such employment shall, however, be subject to availability of the vacancy and other usual conditions of the Corporation.

(iii) Induction of Labour after notifications issued between 1985-1991 under Contract Labour (R&A) Act 1970:

In order to implement the notifications issued by the Ministry of Labour, Govt. of India prohibiting employment of contract labour in certain depots. FCI Management decided to introduce departmentalization of labour in such owned depots, vide D.O. No. IR(L)/8(1)/91 dated 13.05.1991. It was stipulated therein that after the number of required workers is assessed, the workers may be inducted out of the workers of ex-contractor on the basis of seniority i.e. length of service with the contractors at the same depot. No reserve list of the remaining contractor's workers, if any would be maintained/kept. A fitness test was also to be carried out with the Local Medical Officer of the FCI or any Govt./Municipal Hospital. If documentary proof of the age of a worker was not available, a medical check up to determine his age was also to be carried out by this officer and his findings were to be recorded along with the bio-data sheet of the worker concerned. Alternatively, the worker was to be referred to the local Govt. or Municipal Hospital for determination of age, if documentary proof of the age was not available. Expenditure in this regard was borne by FCI

A 'declaration form' was to be obtained from each selected worker to the effect that the worker shall abide by all the disciplinary and service rules that FCI will decide to apply to him.

(iv) Induction as per MOU dt: 12.7.1993:

A MOU was arrived at between FCI Management and the representatives of FCI Workers on 12.07.1993 agreeing therein to bring the ex-contractors' workers of 73 depots of Punjab under "direct payment system through a Three Member Committee nominated by the Workers' Union from among the workers who would receive the payment. The list of 73 depots furnished by the Unions & annexed with the said MOU, was in turn, to be scrutinized by the SRM Punjab as to whether contract system labour was being employed by FCI and after satisfaction of this fact, the SRM, Punjab, was to implement the agreed payment procedure outlined in the said MOU.

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(v) Induction as per Bipartite Settlement dt: 5.4.1995:

Subsequently a bipartite settlement was signed on 5.4.1995 in respect of said workers employed through Three Member Committee (TMC) of the workers of 73 depots in Punjab. While extending the benefit of minimum guaranteed wage to the said workers, it was stipulated that only those workers who had been paid wage for 9 months during the last 12 months before April, 1995 would be allowed to continue under the prevalent 'Direct Payment System on Productivity Linked Piece Rate basis on 'No Work No Pay' through 3- Member Committee.

(vi) Induction as per Bipartite Settlement dated 4.7.1995:

Another bipartite settlement was signed on 4.7.1995 between FCI Management and the representatives of FCI Workers Union agreeing therein to bring the ex-contractors' workers of 14 depots (10 depots in the UP Region, 3 depots in Rajasthan and 1 depot in Bihar) under "Productivity Linked Piece Rate System on 'No Work No Pay' basis through a committee consisting of three labour representative by the FCI Workers Union from among the workers of the concerned depot. It was agreed in the settlement that only those workers who had been paid wages for at least 9 months during the last 12 months or the 12 months preceding cessation of operations in the concerned depot would be considered for employment in the same depot under said 'No Work No Pay' System.

(vii) Induction during 1996 consequent upon notifications issued between 1989-1991 under Contract Labour (R&A) Act 1970

Hqrs. Instructions were issued from file No. IR(L)/8(22)/94 for introduction of 'Direct Payment System' in FCI depots which were notified by the Ministry of Labour, Govt. of India for prohibition of employment of contract labour under CL (R & A) Act, 1970. Accordingly, those workers of contractors/Labour Cooperative Societies who had worked for at least 9 out of 12 months in the last year preceding April, 1996 and whose EPF deductions were being made, were considered for absorption under said DPS category.

(viii) Induction as per the agreement reached between Labour Union and FCI Management on 29/9/1997.

FCI Workers Union resorted to direct action for abolition of contract system in the depots of FCI. The demand of union was discussed in a meeting held on 29th September 1997 at Hqrs. presided over by the then Chairman wherein it was decided to introduce Direct Payment System in 18 depots and NWNP in 7 depots. NWNP system depots were subsequently upgraded as DPS.

(ix) Induction as per Bipartite Settlement dt:13.3.1999:

In the bipartite settlement signed on 13.3.1999 between FCI Management and the FCI Workers Union, it was agreed vide clause 2(ii) That the workers working under the TMC system in Punjab Region would be brought under the 'Direct Payment System (DPS)' w.e.f. 1.1.1999 and consequently they would be allowed the wages, schedule of rates and fringe benefits as applicable to the DPS workers from time to time w.e.f. 1.1.1999.

(x) Induction of NWNP system workers in 76 depots consequent upon notification under CL(R&A) Act 1970

Ministry of Labour & Employment under Section 10 of the Contract Labour (R&A) Act abolished contract labour system in 95 owned and hired depots during the period 2001-2011 as detailed below:

S.NO	No. of notification	Date of notification	Number of depots notified
a)	SO-1121(E)	12.11.2001	03 (Owned)
b)	U/23013/16/01/LW	15.07.2004	01 (Owned)
c)	SO-1085 (E)	03.07.2007	02 (Owned)
d)	SO-947 (E)	23.04.2010	60 (47 owned & 13 hired)
e)	SO-278 (E)	07.02.2011	29 (24 owned & 5 hired)

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NWNP system was introduced in the owned depots covered in above notification with the approval of Ministry of CA,F&PD as detailed below:-

(a) Notification dated 12.11.2001

Ministry of Labour & Employment vide letter No. 19011/(23)/2009-FC-3 dated 05.07.2011 conveyed approval for introduction of No Work No Pay System at Mavellikara, Calicut (West Hills), Chelakudy depots in Kerala covered in the instant notification dated 12.11.2001 as well as in respect of Ratnagiri Depot (covered in notification No. SO 1085 (E) dated 03.07.2007) which in turn was circulated to the respective ZO/RO vide Hqrs. Letter No. IR(L)/3(7)/99/Vol.I dated 04.08.2011 for taking necessary action.

(b) Notification dated 15.07.2004

The Ministry of CAF & PD conveyed approval for introduction of "NWNP" System in Adra depot West Bengal vide letter 19011/(26)/2009-FC-3 dated 11.03.2011 which was circulated vide Hqrs. Letter No. IR-L/3(7)/99/Vol V/PF dated 14.03.2011 for its implementation.

(c) Notification dated 03.07.2007

The Ministry of CAF&PD conveyed approval for introduction of "NWNP" System in respect of Kakatur depot (A.P) vide letter no 19011/(26)/2009-FC-3 dated 15.04.2011. FCI Hqrs in turn issued instructions to respective Zonal Office and Regional office vide letter No. IR(L)/3(7)/99/Vol.VI/436 dated 31.05.2011 for its implementation.

In case of Ratnagiri depot approval from the Ministry of CAF & PD was received vide letter No 19011/(23)/2009 - FC-3 dated 05.07.2011 along with other notified depots of Kerala Region as mentioned against notification dated 12.11.2001.

(d) Notification dated 23.04.2010

Ministry of CAF&PD vide letter No. D.O No. 19013/7/2010/FC-3 dated 18.10.2010 conveyed approval for the introduction of NWNP system in 47 owned depots against the instant notification which in turn circulated to respective Zonal Office.

(e) Notification dated 07.02.2011

Ministry of labour and Employment (GOI) vide this notification prohibited Employment of Contract Labour in 29 owned and hired depots and 1 railhead at Adampur of Rajasthan and Haryana Regions. Ministry of CAF and PD on the recommendation of FCI conveyed approval for introduction of 'NWNP' Labour System in 24 owned depots (15 Rajasthan + 8 Haryana) vide letter No. 19011/(26)/2009-FC-3 dated 03.01.12 which in turn was circulated to the respective Zone / Region vide Hqr letter No.No.IR(L)/31(5)2011/Vol II dated 19.01.2012

5. Reason for having a Single/same Labour System in a depot-

In FCI we are having different types of Labour and their wages differs from each other. Departmental Labour happens to be the costlier worker whereas NWNP and contract labour are the lowest paid workers. As per the provision contain in Rule 25 (2)(v)(a) of Contract Labour (R&A) Central Rule 1971 which reads as under :

"In case where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work.

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Provided that in case of any disagreement with regard to the type of work the same shall be decided by the Dy. Chief Labour Commissioner (Central)."

Therefore a conscious decision was taken to have a single labour system in a depot so that no one can claim parity with the wages/other attendance benefits.

6. Labour strength and Assessment Norms

(i) Labour strength in various depots

Details of depots and labourers under various Labour Systems as on 30.09.2017 are indicated in the following table:-

Table 1

	Labour System	No. of depots	No. of workers
a)	Departmental labour	57	12886
b)	Direct Payment System	158	22663
c)	NWNP	81	6473
	Total	296	42022

(ii) Norms for assessment of labour strength

That consequent upon adoption of 50 kg packing of foodgrain in FCI, the assessment of requirement of labour in FCI depots under DPS, NWNP and Departmental labour system has been done on the norms as under:-

Avg annual turnover of preceding 3 years in bags

For Handling Labour =

240 days X 135 bags

For Ancillary Labour = 4 Persons per 5000 MT covered capacity of godown / depot

(iii) Ministry of Labour and Employment vide notification dated 06.07.2016 granted conditional exemption under Section-31 of the Contract Labour (R & A) Act from the provisions of the said Act in respect of 226 depots, subject to compliance of rule 25 (V) (2)(V)(a) of the Contract Labour(R & A) Rules. FCI Hqrs vide letter No. IR(L)/31(10)/2004/Vol.X dated 12.07.2016 has issued guidelines for implementation of said exemption notification. As per the above instructions following guidelines / formula has to be applied for the optimum utilization of Labour.

The objective of rationalization of Labour strength is to curtail the costs of incentive therefore the pooling should be done in such a manner that output per day of handling labour will remain ordinarily between 135-150 bags on peak day of loading / unloading of rakes.

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8. Dispensation of port and inland depot labour

Departmental Labour was inducted prior to inception of FCI at Bombay, Chennai, Vishakhapatnam and Kandla Port. These workers were handling imported food grain / fertilizer stocks within the vicinity of port and port godown. Due to cessation of import of food grain / fertilizer in early eighties, a Voluntary Retirement Scheme was introduced with the approval of Ministry of CAF&PD in the year 1985-1986. The majority of FCI port departmental labour retired under the voluntary retirement scheme, left over workers were adjusted in godowns or ports. At present, approximately, 150 departmental port workers are left at Vishakhapatnam port and Godowns in Tamil Nadu Region. Leftover Departmental Port Labour has been deployed against outsourced vacancies of Watch and Ward on an undertaking given by them that they will not claim any benefit extended to watchman. During the year 2003-2004, Special Voluntary Retirement Scheme. Introduced in phased manner between November 2003 and December 2004 to dispense with surplus departmental and DPS labour. Approximately 4000 departmental and DPS labours opted for retirement which was much below the target fixed for dispensation of surplus labour.

9. Following table provides the current status of depots under the following heads:

- Notified for the abolition of contract labour
- Non-notified depots, where the three labour systems have been adopted due to the MOU / settlement with unions

FCI Hqrs vide letter dated 12.07.2016 has issued instructions for the rationalization of labour strength by way of pooling departmental, DPS and NWNP labour based on conditional exemption granted to the establishment of FCI under Section 31 of the Contract Labour (R&A) Act for the period of 2 years. Accordingly 149 depots have been vacated so far. Break up of Notified and Non notified depots under three labour systems after to rationalisation is given as under:

Number of Depots				
	Prior to Rationalisation	Notified	Non Notified	Total
Depots	145			57
DPS	206			158
NWNP	94			81
Total	445			296

Contract labour has been deployed in 149 vacated depots after rationalization of Departmental/DPS/NWNP labours.

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Chapter-III

1. Job Descriptions

In case of contract system the labour supplied by the contractors for FCI operations included only two categories, i.e. loader and casual labour. Even now there is no system of gang formation in the case of contract labour.

The same categorization of labour also continues in NWNP system where the nomenclature used is 'Handling labour' and 'Ancillary Labour' respectively. In the sense, there is no provision for Sardar and Mandal in NWNP system.

However in the Departmental and DPS system, Labour are categorized as Ancillary Labour/Handling Labour, Mandal and Sardar. The existing job description of various categories of labour has been defined as under:

Sardar: Coordinates and supervises the various operations of his gang. Sardar has to ensure speedy working by his gang, proper weighment, and stacking of the bags and expeditious loading/unloading of wagons and trucks.

Mandal: Ensures weighment of the food grain bags on beam-scales and in cases where no weighment is required; the Mandal is deployed as a handling labour.

Handling labour: Works in a gang to lift, carry, stack, load /unload food grain bags, gunny bales and other commodities.

Ancillary Labour: Perform miscellaneous work viz. Cleaning of godowns, collection of scattered food grains, opening and closing of godown shutters, erection of fences, road, repairs, building repairs, shifting of damaged, salvaged bags, carrying spreading of wooden crates, assist in spraying / fumigation etc.

The concept of weighment using weighing scale has become obsolete with the introduction of weigh bridges and hence the role of Mandal needs to be analyzed afresh.

Sardar	Mandal	Handling labour
<ul style="list-style-type: none"> • Function as leader of handling gang • Exercise adequate control over his gang for timely and proper completion of work. • Co-ordinate and supervise the various steps of operations, i.e. unloading, weighment, stacking at the time of receipt and reverse operations at the time of local issue dispatches by rail or road of food grains bags. • Ensure accuracy of weighments and ensure observance of various rules of handling, stacking safety and discipline among handling and Ancillary labour. • Responsible for ensuring speedy working by the gang, proper weighing and stacking of the bags and to expedite loading / unloading of wagons and trucks. 	<ul style="list-style-type: none"> • General supervision of the gang in the absence of Sardar • Mandal will weigh the food grain bag • When there is no weighment Mandal has to work as a part of the gang and perform duties of Handling labour • Any other supervisory duties assigned by the Depot Officer Shed In-charge. 	<ul style="list-style-type: none"> • Load, unload food grains bags, gunny bales and other commodities to or from railway wagons, trucks and other vehicles whether or mechanized or otherwise. • Carry food grain bags on head/back to platform, shed, inside the godown as circumstances may require and build stacks upto prescribed height as ordered. • Weighment of food grains bags, physical verification, standardization of bags, • Break the stacks and re-stack them according to requirements • Unloading from wagons / trolleys / trucks and stacking in godowns • Unloading from wagons and loading into trolleys when required

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Sardar	Mandal	Handling labour
<ul style="list-style-type: none"> • Ensure that sweepings in the wagons and on the scale points are properly cleaned before bagging and the bags are properly stitched. • Any other supervisory duties assigned by the Depot Officer Shed in-charge. 		<ul style="list-style-type: none"> • Re-stacking food grain bags in godowns and loading and stacking into transport vehicles. • Unloading from wagons at the godowns siding and stacking in shed / platform / ground. • Loading into trolleys from godowns served with sidings when required. • Handling operation as per the clause applicable.

2. Manpower norms

Originally the size and weight of the bags used for foodgrain packing was much larger at about 100kg each. The work of handling bags was very strenuous and output per labour beyond a limit was difficult to expect. Therefore, a minimum output norm per day/shift was felt necessary and was fixed for a loader/Handling labour especially in the case of Departmental labour.

Once the output norm was fixed, the need for introducing an incentive scheme became a necessity in order to derive more output per labour at the time of exigency. Hence, an incentive Piece Rate Scheme was evolved by the Awards of Arbitrator Justice Banerjee and Arbitrator Justice K.K Mitra in the early seventies. This was applicable to the Departmental labour represented by the FCI Workers' Union initially in the depots in East/NE Zone, and North Zone, and subsequently in the depots in West and South Zone.

Norms as per the Incentive Scheme of 1999

The norms of output were subsequently negotiated between FCI Management and the representatives of FCI Workers Union in 1998-99 and the revised norms of output for said 95kg bags and 65kg bags were agreed and implemented as under, w.e.f 1.4.1998 as per settlement signed on 13.3.1999 between FCI Management and the FCI Workers Union:-

Brief Description of Activity	Existing Norms/ Datum	
	Above 66kg Bags*	Below 66kg Bags
Unloading from truck and stacking	70	105
Unloading from wagon and stacking	60	90
Unloading from wagon and dumping	90	134
Stacking the bags dumped	90	140
Destacking and loading into trucks	70	110
Destacking and loading into wagons	60	94
Un load from wagon & load in trucks	60	87
Standardization	35	42
Salvaging of damaged food grains	20	30
Breaking stack and restacking	90	140
Weighment	30	82

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REVISION OF DATUM

Subsequently, the size of food grain bags was reduced to 50kg each on the recommendation of International Labour Organization (ILO) and now the majority of the food grain bags are of 50kg throughout the country.

The incentive Piece Rate Scheme effective from 01/04/1998 did not contain any norm for the handling of the 50kg bag. Therefore, a need was felt to have separate handling norms (datum) for handling 50kg bags.

i) Recommendation of Delhi Productivity Council 2002

The study was entrusted to an outside Expert Agency i.e. Delhi Productivity Council (DPC) in the year 2002 to suggest incentive norms for the handling of the 50kg bag. DPC after conducting time and motion study in various depots of FCI made the following recommendations on Norms per Labour/Day.

Brief Description of Activity/Operations	Revised Datum/ Norms recommended by DPC
	Bags for 50kg
Unloading from truck and stacking	155
Unloading from wagon and stacking	130
Unloading from wagon and dumping	190
Stacking the bags dumped	170
Destacking and loading into trucks	155
Destacking and loading into wagons	155
Unload from wagon & load in trucks	220
Standardization	035
Salvaging of damaged food grains	030
Breaking stack and restacking	150
Weighment	100

The recommendations made by DPC were based on following consideration:

- ❖ Detailed Field study in various depots of FCI
- ❖ Recommendations of ILO
- ❖ Analyzing Cycle Time and Optimum Gang Strength for activities and other relevant factors

The proposed recommendations of Delhi Productivity Council were discussed with FCI Workers Union and the FCI (Handling) Workers Union by FCI Management, but the recommendation of DPC were not accepted by the unions.

ii) Recommendation of Saxena Committee 2005

To gather a fresh perspective on the norm aspects, a Committee of three officers comprising of Shri P.K. Saxena, Retd General Manager (IR-L) Shri R.K. Mehindiratta, DGM (Finance) and Shri J.P Gupta, DGM(IR-L) was constituted.

The Committee held discussions with the representatives of both the major unions viz. FCI Workers Union and FCI Handling Workers Union separately from 12th Sept.2005 to 16th Sept.2005.

While no consensus could be arrived for with the norms recommended by the Delhi Productivity Council, there was a general agreement on the need to have discussions on specific handling norms for 50kg bags under the changed scenario.

On the basis of the above discussions, the Saxena Committee recommended the following handling norms for Departmental labour in respect of 50kg bags for different types of operations/activities:-

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Brief Description of Operations/Activity	Existing Norms/ Datum	Revised Norms proposed by Saxena Committee
	for 66kg Bags	for 50kg Bags
Unloading from truck and stacking	105	135
Unloading from wagon and stacking	90	115
Unloading from wagon and dumping	134	170
Stacking the bags dumped	140	180
Destacking and loading into trucks	110	140
Destacking and loading into wagons	94	120
Un load from wagon & load in trucks	87	110
Standardization	42	055
Salvaging of damaged food grains	30	040
Breaking stack and restacking	140	180
Weighment	80	105

The above recommended norms for handling of 50kg bags were accepted by FCI's management and the revised incentive scheme was devised.

The same was challenged by the Union before Regional Labour Commissioner, New Delhi and implementation of revised incentive scheme was stayed till the dispute was sub-judice.

The Government of India, Ministry of Labour exercised its power under Clause (d) (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 and had referred the dispute to CGIT, New Delhi.

"Whether the demand of the Union for withdrawing the new incentive scheme announced vide circular No 18/2005 dated 15.12.2005 is legal and justified? If not, to what relief is the workmen entitled"

iii) Recommendation of JP Gupta Committee

Another study conducted by Shri. JP Gupta ex-DGM (IR-L) recommended in support of the revised norms as under :-

- ◀ The size of the packing has reduced by 50%
- ◀ The weight of the bags is the major consideration in defining the norm. even in case of loaders (coolies) in railway platform, the norm is based on the weight of the luggage in kgs
- ◀ Originally, the Handling labour (loader) at FCI was handling 105 bags of 65 kgs each i.e. total weight of 6825kg.
- ◀ On converting the same into number bags of 50kg each, the no. of bags worked out to be 137 bags. This is an arithmetic rationale for prescribing the norm of 135 bags per loader per day
- ◀ While Union have submitted that for carrying 135 bags the labour will have to take more rounds, it may be submitted that in handling a 50kg bag, the labour will require less physical labour as compared to handling a 65kg bag. In essence, the physical labour by a loader in handling 135 bags of 50kg shall remain almost same as compared to 105 bags of 65kg each.

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iv) Recommendation of National Productivity Council

National Productivity Council conducted study on incentive scheme in respect of departmental workers working in Inland Godowns in the year 1985-1986 and again in the year 2010-2012 on the incentive scheme and handling norms of departmental and DPS workers. However, their recommendations on both the occasions could not be implemented as there was no unanimity with labour Unions to modify the incentive scheme prevailing at that time

The scientific study conducted by the NPC in the year 2010-2012 was based on time and motion for assessing manpower norms. As per the recommendation of National Productivity Council under Alternative I, the prescribed norms for handling work are 174 bags whereas under alternative II it was suggested as 138 bags per labour per day. The recommendation of the National Productivity Council was placed before the Central Govt. Industrial Tribunal Delhi in Industrial Dispute No. 195/2011, where demand raised by the labour Union for withdrawing the new incentive Scheme announced vide Circular No 18/2005 dated 15.12.2005 was under adjudication. However, Hon'ble Central Govt Industrial Tribunal on 05.07.2016 while deciding the above Industrial Dispute held that incentive piece-rate scheme announced vide Circular No. 18/2005 dated 15.12.2005 was legal and justified.

In light of the above aspects, FCI's manpower requirement is continued to be calculated on the basis of existing norm of 135 bags per day per person. The incentive piece-rate scheme based on output of 135 bags per worker circulated vide circular No. 18/2005 dated 15/02/2005 has been held valid and legal by the CGIT Delhi in ID Case 195 of 2011 as mentioned above vide award dated 05.07.2016 published in official gazette on 05.07.2016. Therefore said incentive scheme has been implemented w.e.f 01.12.2005 vide circular no 8/2016 dated 17.08.2016 (file no IR(L)/4(52)/2002(Vol-IV)/PF). Union's have challenged the award before the High Court, Delhi in following writ petition's at Sl. No. 1, 2 & 3:-

- 1) WP(C) No. 8495/2016 FCIHWU v/s FCI & ANR
- 2) WP(C) No. 9260/2016 FCIWU v/s CMD FCI
- 3) WP(C) No. 9412/2016 FCI Shramik Union v/s FCI & ANR
- 4) WP(C) No. 2412/2017 before High Court of Rajasthan at Jodhpur titled Ladhu Ram & Ors v/s FCI.
- 5) WPs(C) No. 2206/2017 & 2133/2017 before the High Court of Guwahati.
- 6) WPs(C) No. 28555(W)/2017 & SCA No. 19651 & 19652/2017 before the High Court of Calcutta and Ahmedabad respectively.

Writ Petitions mentioned at S. No. 1 to 3 above were heard in common proceedings and judgement have been reserved. Hon'ble High Court again heard the application moved by labour union on 13.12.2017 and granted stay on recovery of excess incentive already paid as per pre-revised scheme in respect of Delhi Region till final decision is pronounced stop. Writ Petition mentioned at S. No. 4 to 5 are pending and interim stay granted by Hon'ble High Courts on recovery of excess wages are continuing.

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Chapter IV

Induction / Recruitment / Promotion Policy, Reservation in Promotion and Instructions on Transfers

1 Induction / Recruitment / Absorption of ex-contractor labour

(i) The ex-contractor's labourers were brought into the fold of Departmentalised Labour in FCI as Departmental, DPS, NWNP systems either on need base or on 'as-is where-is' basis i.e. without framing, adopting or following any induction policy during 1970-73. However, the induction of ex-contractor labour was done in the notified depots in 1991 after adopting a principle devised by the FCI management at that time.

2. Direct Recruitment

As a special case recruitment of Handling Labour was done in Maharashtra Region in the year 1999-2000, through open advertisement. Recruitment rules were framed by Hqrs which contained following criteria

- Age - The Minimum age of recruitment to be 18 years and the Maximum age to be 25 years
- Physical fitness
- Statutory provision with respect to SC/ST/OBC to be followed
- The selected candidates to be offered appointment letters

Since the labourers were inducted without any assessment of the requirement of labours in the depots, the regularized labour force was certainly on the higher side. Therefore, in view of such excess labour being deployed in the depots including the depots under study, the need for formulating any recruitment policy was not felt necessary in the initial stage.

Recruitment Policy

A study was given to M/s Deloitte on manpower planning and induction policy in the year 2014. On the study of as-is Recruitment and Induction policy, M/s. Deloitte has observed the following:

- By and large there has been no well-defined Recruitment policy for the labour in FCI including:
 - Defining character antecedents
 - No filter / test for recruitment
 - Roles & responsibilities are not well defined
 - The fitness / medical certificate requirements are not defined

(ii) Background of Promotion Policy

Promotion was by gang-wise and was changed to Depot wise seniority in pursuance to recent Delhi High

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Court order passed in WP No 3256 of 2010 dated 23.08.2013. Promotion policy on the basis of the gang-wise seniority became defunct as a consequence of voluntary retirement / superannuated retirement / death of worker.

Hence, the need was felt to review the promotion policy based on gang wise seniority for the purpose of promotion to the posts of Mandal and Sardar. A revised promotion policy was circulated by FCI vide circular No 7/2006 dated 23/24.02.2006 (File No. IR-L/4(54)/2000) whereby the criteria of gang wise seniority for promotion to the Mandal and Sardar established through bilateral agreement with the Union was changed to depot-wise.

The FCI workers Union challenged the above circular and issued strike notice vide letter dated 12.12.2006 as the system of promotion, issue was settled before the RLC (c) Kolkata on 07.11.2007 and revised instructions were issued vide Circular No. 12/2007 (File No IR-L/1(26)/2006) dated 23.11.2007, whereby it was informed to the all field offices that the terms of above settlement will form the instructions as contained in Circular 7/2006 dated : 23/24/02/06 for all purposes and necessary action may be taken on above lines with reference to reorganization/merger of gangs and promotions in departmental and DPS categories. The instructions were applicable from 07.11.2007. However, the Labour Union challenged the validity of the change of promotion policy fo gang-wise seniority into depot-wise seniority, before the High Court Delhi in W.P No 3256/2010. Hon'ble High Court granted stay on operation of Circular No. 12/2007 which forms part of Circular No 7/2006 dated 23/24.02.06 vide interim order dated 12.05.2010 Hon'ble High Court disposed of W.P No. 3256/2010 on 23/08//2013 in favour of FCI instructions were implemented across the country in DPS and Departmental depots.

(iii) **Criteria for recruitment suggested by M/S Deloitte**

- **Induction level :** Induction should take place only at the level of handling labour or at the level of Ancillary labour, as the case may be
- **Educational qualifications :** Candidate should be able to read and write in any Indian language
- **Age :** The Minimum age of recruitment to be 18 years and the maximum age to be 25 years.
- **Physical fitness :** Only candidates capable of lifting, carrying, stacking, loading / unloading of food grain bags upto the required distance (lead) and height of stack to be eligible. No candidate should be deaf and / or blind. FCI to define the trade test requirements and subject the candidates to undergo the trade test.
- The Statutory provision with respect to SC / ST / OBC to be followed mutatis mutandis.
- The selected candidates may be offered appointment letters immediately after finalization of selection. The appointment letter to duly mention the following conditions :
 - He / she will be entitled for the wages, status & service conditions as per the FCI's policies.
 - The appointment shall be subject to the verification of character, antecedents through police and the services shall be terminated immediately, if any adverse report is received from the police department

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- The appointment shall be subject to a medical fitness certificate from the nearest Government Hospital. FCI to define appropriate medical standards for the same
- In case any information supplied by the candidate is found false or concealed at any time during service, the candidate shall be liable for termination from the services with immediate effect
- Candidates shall be on probation for a period as per specified FCI's policy and confirmation of the candidate to be contingent on certificate from depot manager related to job performance and good behaviour.

The draft recruitment rules have not been adopted so far under changed scenario as there is no proposal to enhance or fill up short fall in the Departmental / DPS category.

The labour strength in departmental / DPS category has been rationalized in fewer depots on the basis of exemption for two years granted by the Ministry of Labour (GOI) under Section 31 of CL (R&A) Act in respect of 226 notified depots / RH vide notification dated 06.07.2016 for the period of 2 years. Consequent upon exemption notification FCI pooled/re-positioned 9193 labours and has been able to vacate 149 depots and the contract labour has been deployed in vacated depots.

Besides more than 50 railheads have also been got vacated by pooling the labour in link depots and contract labour have been deployed.

3. Reservation policy in promotions :

Instructions on reservation policy for SC/ST in recruitment and promotion for the post of Departmental Loaders in FCI.

FCI was traditionally carrying out the work of loading, unloading, stacking inside the godown through Handling & Transport Contractor. Consequent upon labour movement and enactment of Contract Labour (R&A) Act 1970, labours were inducted under departmental labour system as per the orders of the various courts / bilateral settlements with the labour unions and abolition of contract labour system under the provisions of CL(R&A) Act.

The question relating to applicability of reservation policy in the recruitment of post of loader in the category of Departmental Labour was examined in consultation with the Ministry of Food and Civil Supplies and accordingly instructions were issued vide letter No. IR(L)/3(8)/86 dated 26.12.1989 for strict compliance. These instructions have been adhered strictly in recruitment of **loaders through open market in Maharashtra Region.**

Induction of loader under departmental labour category as per settlement dated 12.04.1991 and 01.11.1994.

Consequent upon abolition of contract labour system in 172 depots in addition to 22 depots where contract labour system was already abolished by the state of Haryana in the year 1985 under the provisions of CL(R&A) Act 1971, a settlement was signed with FCI Workers Union to implement the notification in respect of

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96 owned and hired depots of FCI. In these depots, ex-contractor workers were inducted as per assessment norms on the basis of services rendered by them with outgoing contractors of the respective depots. A labour gang under the departmental labour system consists of 14 persons (1 Sardar, 1 Mandal and 12 Handling Labour). The contract workers who were working as Sardar, Mandal and Handling Labour with the outgoing contractor were absorbed as departmental labour in the same category.

National Industrial Tribunal, Mumbai passed an award dated 01.04.1991 in ID Case No.1 of 1989 in favour of workers working under Direct Payment System for their upgradation as departmental labour. This award was implemented through a bilateral settlement signed with FCI Workers Union on 01.11.1994 and the workers covered in the award were upgraded as departmental loader / ancillary labour.

The induction of ex-contractor workers under the departmental category had taken place on the same date. Therefore, the workers by and large of same age. There was hardly an occasion of promotion of handling labour to Mandal and Mandal to Sardar, however, wherever, the promotion was made, the reservation policy was strictly adhered to by the field offices.

Court decision on reservation policy in respect of ex-contractor loaders inducted in FCI depots after abolition of contract labour system

Hon'ble High Court of Andhra Pradesh in WP No. 23418 of 2005 filed by FCI SC and ST Handling Workers Association in its judgement dated 30.12.2005 held as under :-

"The question of effecting reservation at the level of promotion would arise, if only the appointments to the feeder category of posts were made after following the rules of reservation. In the instant case, basically, there is no promotion as such. Even assuming that the nomination of Sardars and Mandals amounts to promotion, the occasion to follow the rules of reservation does not arise, since the Handling workers were not enlisted on the basis of reservation. In that view of the matter, the contention advanced on behalf of the petitioners does not find any merit.

The writ petition is accordingly dismissed. There shall be no order as to costs."

1.2 Promotion policy

Promotion policy of loaders under departmental labour category was framed through a Memorandum of Settlement (Rule 58 of Industrial Disputes (Central Rules) 1957 read with Section 18(1) of ID Act) signed with FCI Workers Union on 24.05.1984 which envisages as under :-

"Seniority for the purpose of promotion

The gang-wise seniority will be considered alongwith other attributes like physical fitness and suitability for the job etc. of the departmental labour for the purpose of promotion of next higher rank. If, however the Leave Reserve Pool Sardars and Mandals are in existence in the Depot, they will be given first preference in taking the place of regular vacancies of sardars and mandals whenever occurring and the promotee sardar or mandal from the gang will take the place of LRP Sardar or Mandal. in case, however, a

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suitable candidate is not available within the gang, depot-wise seniority will be criteria for promotion. the local depot council concerned will be consulted."

The promotion policy was modified by Headquarters' Circular No.7/2006 dated 24.02.2006 wherein it was decided that depot-wise seniority will be applied instead of gang-wise seniority for promotion of Handling Labour to Mandal and Mandal to Sardar. However, these instructions could not be implemented due to litigation / industrial dispute pending before courts / conciliation officers. The matter was disposed by High Court of Delhi in August 2013 thereafter the promotion policy was implemented on the basis of decision of the High Court of Andhra Pradesh, meaning thereby that reservation policy was applied in respect of loaders who were recruited through direct recruitment and not in respect of loaders who were inducted based on the service rendered by them with the ex-contractor.

The gang formation was traditionally on the basis of geographical proximity, caste and state. The exercise was made to collect details of caste of the loaders who had earlier worked with the ex-contractors. The union vehemently opposed the exercise. However, after persistent persuasion, the details of caste collected from the loaders / workers revealed that number of workers hailing from the SC & ST category was much more than 23% and 5% respectively.

As the labour were allowed to work in their particular gangs maintaining their seniority in the same gang, the handling labour could be promoted as a 'Mandal' in the same gang and 'Mandal' of the same gang could be promoted as a 'Sardar'. The flaw in allowing and maintaining a gang wise seniority adversely affected the implementation of the promotion policy with multiple anomalies. For example, in some cases, the junior 'Mandal' or Handling labour of a particular gang got promotion to a 'Sardar' and 'Mandal' respectively in the same gang due to untimely death of the 'Sardar' of that gang. This means that the 'Mandal' or Handling labour of a senior gang could not get promotion by adopting the promotion policy within the gang.

The Induction of ex-contractor labour as the Departmental or DPS was done on 'as-is where-is' basis without adopting any induction policy. All the labour of a particular depot was inducted on the same day i.e. having same date of joining in the services of FCI.

With respect to the Promotion policy, the factual position is summarized as under.

- Promotion policy was adhered by gang-wise and was changed to Depot wise seniority in pursuance to recent Delhi High Court order passed in WP No 3256 of 2010 dt 23.8.2013.
- Promotion policy on the basis of the gang-wise seniority became defunct as a consequence of voluntary retirement / superannuated retirement / death of worker. Hence, the need was felt to review the promotion policy based on gang wise seniority for the purpose of promotion to the posts of Mandal and Sardar. A revised promotion policy was circulated by FCI vide circular No 7/2006 dated 23/24.02.2006 (File No. IR-L/4(54)/2000) whereby the criteria of gang wise seniority for promotion to the Mandal and Sardar established through bilateral agreement with the Union was changed to depot-wise.
- The FCI workers Union challenged the above circular and issued strike notice vide letter dated 12.12.2006

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as the system of promotion on the basis of gang wise seniority was changed to depot wise seniority for the purpose of promotion, Issue was settled before the RLC(c) Kolkata on 07.11.2007 and revised instructions were issued vide Circular No 12/2007 (File No IR-L/1(26)/2006) dt. 23.11.2007, whereby it was informed to all field offices that the terms of above settlement will form the instructions as contained in Circular 7/2006 dt. 23/24/02/06 for all purposes and necessary action may be taken on above lines with reference to reorganization / merger of gangs and promotions in departmental and DPS categories. The instructions were applicable from 07.11.2007. However of the Labour Union challenged the validity of the change of promotion policy of gang-wise seniority into depot-wise seniority, before the High Court Delhi in W.P No 3256/2010. Hon'ble High Court granted stay on operation of Circular No. 12/2007 which forms part of Circular No 7/2006 dated 23/24.02.06 vide interim order dated 12.05.2010. Hon'ble High Court disposed of W.P No. 3256/2010 on 23/08/2013 in favour of FCI thereafter instructions were implemented across the country in DPS and Departmental depots.

4. Settlements/Agreements on shifting/transfer of labour from one depot to other depot

(i) Memorandum of Settlement signed on 24.5.1984

In the Memorandum of Settlement signed on 24.5.1984 between the FCI Management and the representatives of FCI Workers' Union, it was agreed that the Management will have the discretion to shift the labour from one depot to another in consultation with recognized Union and the Union will co-operate.

(ii) Memorandum of Settlement signed on 7.11.1988

As per the MOS signed on 7.11.1988 between FCI Management & the representatives of FCI Workers' Union, it was agreed that the excess DPS worker identified in any DPS godown would be considered for transfer to another DPS depot within the same Zone in consultation with the FCI Workers Union for better utilization of the services of the existing DPS workers.

(iii) Agreement signed on 12.4.1991

In the agreement signed on 12.4.1991 between the Management of FCI and FCI Workers' Union, it was agreed in clause 3(d) that if there is any surplus labour at any of the depots (covered in the agreement), they would be accommodated, to the extent possible, in other depots within the same list limited to the same state to make up the shortage, if any

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(iv) Headquarters' instructions issued on 27.11.2007

Hqrs. Instructions were issued on 27.11.2007 from file No. IR(L)-1(21)/2005 as follow

Area of Transfer	Competent authority to make transfer
Inter-Depot transfer within District	Area Manager
Inter-District transfer within Region	General Manager (Region)
Inter-Region transfer within Zone	E.D. (Zone)
Inter-Zonal transfers.	FCI, Hqrs.

Consequent upon finalization of assessment of requirement of labour for each depot working under the Departmental Labour System and Direct Payment System as per formula / norms prescribed by the Hqrs., adjustment of the short/surplus labour may be done by making inter-depot, inter-district, inter-region and inter-zone transfer in the depots functioning under respective Departmental and DPS system as per the following jurisdiction:

In case of handling gangs, all possibilities may be explored that transfer / adjustment may be done of the concerned gang including Sardar, Mandal and Handling Labour. In case of Ancillary Labour, individual transfer is possible as they are not supposed to be attached with any particular gang.

5. Fall out of regularisation of contract labour in FCI

i) Intricacies of Regularization of Contract Labour

- Frequent indiscipline, aggressive unionization and monopolistic attitude due to service security with guaranteed wage on regularization.
- Creation of Industrial Relations problems during the peak season of procurement, natural calamities etc.
- Expensive, uneconomical & poor productivity.
- Huge payments of idle wages and incentive / high handling cost.
- No rationalization possible due to notifications.
- Provision of guaranteed wage even if no work is available.
- Recurrence of heavy demurrage & wharfage charges on FCI.
- Superannuation age of 60 years. At this age the worker becomes physically weak to lift and carry foodgrain bags resulting into inefficiency and reduction in output

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ii) Multiplicity of Labour Unions

There is no single recognized labour union in FCI. However, it has de-facto dealings with each labour union as and when need arises to look into their grievances and demands by holding periodical meetings. FCI has to deal with the following labour unions / associations:-

- Food Corporation of India Workers' Union
- Food Corporation of India (Handling) Workers' Union
- Transport and Dock Workers' Union, Mumbai
- Transport and Dock Workers' Union, Chennai
- Vishakhapatnam Port Employees Union, Vizag
- Bhartiya Khadya Nigam Mazdoor Sangh, Lucknow
- Lal Jhanda F.C.I. Workers and Palledar Union, Punjab
- F.C.I. Mazdoor Sangh, Utter Pradesh
- FCI Workers Association, Trivandrum
- FCI Shramik Union

8. Recognition of Labour Union

In order to tackle multiplicity of the Trade Unions operative in FCI a study was conducted by M/S Deloitte for framing recognition policy of the Unions. Their recommendations are as under:-

The recognition policy of labour unions is based on detailed understanding of background and the working of labour in FCI depot's under various categories such as the Departmental labour system, Direct Payment System (DPS) and 'No Work No Pay' (NWNP) system only.

- Recognition to be first at the regional level, then zonal level, and finally national level by clubbing the verified membership of all the depots at various levels depot-wise.
- Voter list is to be frozen at the depot level and to be clubbed at Region level for enabling a secret ballot.
- While preparing the voter list, ensure that each labour is a member of one union only.
- The Ministry of Labour may be requested to conduct the verification of membership of the foodgrain handling

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labour engaged under the Departmental system and Direct Payment System (DPS) and 'No Work No Pay' for depot wise recognition as done by the Ministry of Labour in case of staff / labour unions.

- The Unions considered for such recognition must fulfill registration conditions under the Trade Union Act, 1926. The following are the key considerations:
- The union must have completed at least a year after its registration before its claim for recognition can be considered
- The union obtaining highest number of votes through a secret ballot shall be eligible for recognition
- Recognition to be reviewed periodically

6 Grievance Redressal Mechanism for Departmental /DPS/NWNP labour

It has been under active consideration of the management to set up some suitable mechanism for redressal of grievances of labourers working in FCI under Departmental/DPS/NWNP systems as the labourers are generally illiterate or less educated and are therefore, prone to exploitation by the unscrupulous elements. To have fair, expeditious, effective and uniform practices and procedures for handling and processing of grievances of the aforesaid categories of labour following guidelines are issued for strict compliance:

1. All written complaints/grievances should invariably be entered registered in a register to be maintained in each depot/office and status of pending complaints/grievance should be apprised to higher office through monthly returns in Performa annexed hereto as Annexure-I.
2. The oral complaints lodged by the labour shall be reduced to writing and copy thereof be provided to the complainant and the same shall be treated at par with complaints received in writing.
3. Pseudonymous and anonymous complaints/grievances shall not be examined under these guidelines and the same shall be forwarded to Vigilance Division for appropriate action as per CVC guidelines issued from time to time.
4. All grievances should be necessarily acknowledged with an interim reply within 7 days of receipt and prompt redressal thereof may be ensured and in no case the grievance shall remain pending for more than 3 months.
5. All complaints shall be dealt in a fair, objective and just manner and reasoned speaking reply should be issued if the complaint/grievance is rejected. In no case the person complained against or allegedly responsible for

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giving rise to the grievance shall deal with the complaint. In such cases, the matter shall be referred to higher authorities, who shall deal with the complaint/grievance in the same manner as if it has been received directly in his office.

6. The complaints/grievances should be analysed to see if there is any short coming in the policy guidelines and suitable recommendations should be sent to the issuing authority through proper channel if any modification in policy is warranted.
7. The telephone/fax number, e-mail of the signatory of the communication shall be clearly indicated.
8. A Nodal Officer/Labour Grievance Officer be nominated at Depot (not below the rank of AG-I), Area Office level (not below the rank of Manager), Regional office level (not below the rank of AGM) and Zonal Level (not below the rank of DGM), who shall keep a close watch on the progress of the registration as well as disposal of the grievances of the labour.
9. The name, designation and other contact details of the Nodal Officer shall be displayed at convenient places and a locked grievance/complaint box shall also be placed at the reception of the concerned office.
10. Complaints/Grievances marked to subordinate offices should clearly spell out as follows:
 9. For necessary action -no report is required to be sent on such complaint.
 10. Action as deemed fit - no further reference be made with higher office.
 11. Factual report - a report may be sent to higher authority with or without investigation.
 12. Investigation report - investigation be conducted and report be sent to higher office with recommendations of head of concerned office.
- e. Action taken - action taken report be sent to higher office.
11. Performance of grievance/complaint redressal machinery shall be reviewed in every Performance Review Meetings conducted at Area Office/Regional Office/Zonal Office level 1 and appropriate action should be taken for the lapses committed by the officers/officials.
12. If complaint/grievance against an employee of Corporation is found to be malicious, vexatious or unfounded, appropriate action should be initiated against the complainant for making false complaint. Habitual complainants making false complaints should be sternly dealt with.

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Performa for maintenance of grievance redressal

S.No	Name of complainant with address & mobile No.	Date of receipt	Brief matter of complaint	Reference to file No.	Date of acknowledgement	Action taken within 7 days of receipt of complaint	Remarks/outcome	Signature of nodal officer with date
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It is being regulated vide Circular No. 10/2017 dated 12/09/2017 (File No. IR-L/20(8)/2015)

Instructions regarding Periodical Meeting with Labour Unions with view to resolve the grievances at local level. Circular No. 15/2005 (IR-L/4(29)/2005) dated 02.11.2005 Annexure-

Hqrs. guidelines issued in this regards vide Circular No. 3 of 1999 dated 28.01.1999 [File No. IR(L)/4(31)/98] to all ZMs SRMs etc. and Hqrs. letter No. IR(L)/4(54)/2000 dated 18/23.08.2005 addressed to SRM, Haryana with copy to all ZMs / SRMs, are self-sufficient with regard to having periodical meetings with the labour unions at local levels.

These guidelines, inter-alia, provide that:-

- (i) The District Manager should hold at least one meeting in each month with the representatives of the labour unions on the issues / demands so as to convince the unions within the existing instructions / policy and in case the labour leaders are not convinced, the District Manager should immediately report the matter to the SRM concerned with the request to call the leaders of that particular Union and sort out the matter.
- ii) The SRMs should conduct at least one meeting in 2 month with the respective labour unions and discuss the demands / issues including those demands / issues which could not be sorted out at the level of District Manager. The issues / demands which are sorted out by SRM within the prescribed instructions / policy, should be minuted and necessary instructions issued. Those issues / demands which the SRM is unable to sort out at his level should be reported to the Zonal Manager concerned with brief detail on each demand / issue.
- iii) The Zonal Managers should conduct at least one meeting in 3 months with the respective labour unions to discuss the demands / issues received from the SRMs and other issues / demands which fall within the competency of Zonal Managers only. The demands / issues which the Zonal Managers are unable to settle with the labour unions may be sent to Hqrs. along with brief details and proposals / issues. The Hqrs. will hold meetings with the respective labour unions on the unresolved demands / issues received from the Zonal Managers, requiring policy decisions / instructions.

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Chapter V

Wage Structure Service conditions and examples for calculation of incentive and OTA in respect of Departmental Labour Systems

Background

The departmentalized workers engaged at docks and the Port godowns and the depots in port towns were being paid wages on the same basis as the port and dock workers. The same principle had been adopted by the FCI for all departmentalized workers in the other depots, in the state of West Bengal. When departmentalization of labour force was done in other regions a dispute arose with regard to the pay scales to be applied to such workmen and the said dispute with regard to the wage structure of the departmentalized workers in all depots in Bihar, more particularly the depots at Gaya, Mokemah and Jameshpur was referred for arbitration to Shri K.K Mitra, a retired judge of the Calcutta High Court. The learned arbitrator gave his award dated 10.10.1974 whereby it was directed that the wage structure of the departmentalized workers at the depots in Bihar should be brought in line and at par with the rates prevalent in Calcutta. FCI's writ petition against the above award was dismissed on 22.04.1977 and appeal filed by the FCI against said order of learned single judge was dismissed by the Division Bench of High Court by the judgment dated 14th March 1980.

The pay scales of the departmentalized labour in 1973 in the Bihar, Orissa and Assam, Delhi, UP were fixed on the same pattern as was applicable to workers at Calcutta port. Thereafter, there has been revision in the wage structure of workers employed at Calcutta in 1977, 1980 and 1984. However, there had been no corresponding revision in the wages of the workers employed at the depots in Bihar, Assam and Orissa regions. In UP there has been revision in the wages of workers in the year 1974, 1980 and 1984 and there was one revision in the wages of workmen employed in Delhi region in the year 1978. This had given rise to considerable disparity between the wages of workmen employed at the ports, port city godowns and depots in West Bengal on one hand and workers employed in the depots in other regions viz. Bihar, Orissa, Assam, UP and Delhi.

FCI's plea to justify this disparity in the wage structure on the ground that workers employed at the depots in Bihar, Assam, Orissa, UP and Delhi regions cannot claim parity with the pay scales of workers employed at the ports and port city godowns on the basis of the region-cum-Industry formula since workers are working in different regions was not found tenable by the Arbitrator K K Mitra and subsequently by High Court Calcutta. On the basis of above background, FCIWU filed writ petition (civil) no 222 of 1984 (decided on 20th July 1990) before the Supreme Court of India in which following issues were adjudicated.

Labour Law-Parity in employment-wages-zone-cum same employer principle Departmentalized labour of FCI-Corporation directed to revise the wage structure of the departmentalized labour and bring their wages at the same level as the wages of departmentalized labour employed at Calcutta Port and

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Calcutta city godowns and depots of the Corporation in the State of West Bengal - Benefit of revision should be granted w.e.f 01.01.74 the date from which the wages of departmentalized labour employed at Calcutta Port were revised in 1977.

The Honb'le Supreme Court of India while deciding the Writ Petition No 222/1984 filed under Article 32 of constitution of India by FCIWU had directed as summarised below.

"In the result the writ petition is allowed and the respondent Corporation is directed to revise the wage structure of the departmentalized labour employed at depots in Bihar, Orissa, Assam, UP and Delhi regions and bring their wages at the same level as the wages of departmentalized labour employed at Calcutta Port and Calcutta city godowns and depots of the respondent Corporation in the State of West Bengal. This revision of wages should be made with effect from January 1, 1974 in a way that there is corresponding revision in the wages of the departmentalized labour employed at the depots in Bihar, Orissa, Assam, UP and Delhi regions as and when there was revision in the wages of the departmentalized labour employed at Calcutta Port and Calcutta city godowns and depots of the respondent Corporation in the State of West Bengal. The revision in wages in pursuance of these directions should be completed by September 30, 1990 so that the workers are paid the revised wages with effect from October 1, 1990. The computation of the amount found payable to the workers employed at the depots in Bihar, Orissa, Assam, UP and Delhi regions by way of arrears for the periods from January 1, 1974 to September 30, 1990 on account of revision of the wages in pursuance of these direction should be completed by November 30, 1990 and after adjusting the amount that has been paid to these workers in pursuance of the interim order passed by this Court on March 15, 1984 and the settlement dated May 30, 1989, the balance amount of such arrears should be paid to the workers in two equal instalments payable on December 31, 1990 and June 30, 1991.

As regards the future, the respondent Corporation is directed that the wages of the departmentalized labour employed at the depots in Bihar, Orissa, Assam, UP and Delhi regions should be revised with the wages of the labour employed at Calcutta port, Calcutta city godowns and depots in the State of West Bengal as and when wages of such workers are revised."

The Contract Labour after the above judgment was inducted under departmental labour system through bilateral agreement dated 10.04.91 and 01.11.94 in order to implement the prohibitory orders issued under Section 10 of contract labour (R&A) Act and to enforce the award of the NIT Mumbai in ID case No 1/1989 passed on 01.04.1991 respectively. Erstwhile contract workers inducted under 'B' category as per Agreement dated 10.04.91 in the hired notified depots were upgraded as departmental labour in May 1997. These departmental labour were extended pay scales at par with port and Dock workers as per above judgement.

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Brief details of the pay scales applicable to departmental labour category w.e.f. 01.01.1988 are given as under.

S. No.	Date of settlement	Period of settlement	Pay scales followed in respect of FCI Departmental Labour
1	12.06.1989 signed between Management of Major Port Trust and Federation of Port and Dock workers.	01.01.1988 to 31.12.1992	GodownMazdoor 1040-20-1200-25.1425 ModiaStitcher/Ancillary Labour 1055-20-1155-30-1305-1515 Loader/Handling Mazdoor 1065-20-1145-30-1265-35-1545 Mandal / Tindal 1075-30-1195-35-1580 Mukadam /Sardar 1085-35-1645
2	16.12.1994	01.01.93 to 31.12.97	GodownMazdoor = 2010-35-2290-45-2830 ModiaStitcher/Ancillary Labour = 2025-35-2200-50-2450-60-2990 Loader/Handling Mazdoor = 2035-35-2175-50-2375-60-3035 Mandal / Tindal=2045-50-2245-60-3085 Sardar/Mukadum = 2055-60-2775-65-3230
3	02.08.2000	Notionally w.e.f 01.01.97 and effectively from 01.01.98 to 31.12.2006	GodownMazdoor 3700-60-4180-75-5830 (30) ModiaStitcher/Ancillary Labour 3840-80-4320-100-6720 (30) Loader/Handling Mazdoor 3900-90-4260-100-6860 (30) Mandal / Tindal 4000-100-4800-115-7330 (30) Sardar/Mukadum 4160-115-5195-125-7820 (30)
4	19.01.2010	01.01.2007 to 31.12.2011	GodownMazdoor 7800-15800 ModiaStitcher/Ancillary Labour 8100-18200 Loader/Handling Mazdoor 8300-18600 Mandal / Tindal 8600-19900 Sardar/Mukadum 9000-21200

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NOTE:

- (i) Pay scale of Godown Mazdoor in the depots at Borivali, Bombay city godowns Pune, Panvel and Wardha (Maharashtra Region) was merged into the pay scale of the Ancillary Labour/ Modia Stitcher in the year 2004
- (ii) The pay scale of Godown Mazdoor working in Andhra Pradesh (Vishakhapatnam port) and Tamil Nadu under Departmental Labour System were merged into the pay scale of Ancillary Labour on 28.08.2013.
- (iii) At present there are four scales in respect of Godown Mazdoor / Ancillary Labour, Loader / Handling Labour, Mandal /Tindal, Sardar & Mukadam across the country.
- (iv) The post of Modia Stitcher which was existing in the depots of Maharashtra, AP and Tamil Nadu has extinct with the passage of time.
- (v) There is parity in nature of work performed by the Godown Mazdoor and Ancillary Labour, Mandal and Tindal and Sardar & Mukadam.
- (vi) In the depots in Maharashtra Region Ancillary Labour is pronounced as Godown Mazdoor, Mandal and Sardar are pronounced as Tindal and Mukadam respectively
- (vii) Modia stitcher were performing duties of stitching fertilizer bags at port and godown. This work has extinct due to non handling fertilizer bags at ports and port godown.

A Pay Package/wages of Departmental Labour

- Consolidated instructions in respect of the departmental labour were issued vide circular No. 15 of 2011 dated 13.09.2011 (File No IRL/(5)/2007) to ensure uniform application of the instructions and with the passage of time instructions, have been revise. Accordingly updated instructions pertaining to wages and fringe benefits as applicable to the departmental labour are reiterated as under:-
- The wage-structure applicable to FCI Departmental workers working at ports, port-city godowns and Inland depots had been adopted and are revised from time to time on the basis of wage-structure applicable to Port and Dock workers. The last wage-structure adopted for FCI departmental workers expired on 31-12-2011 and the wage-revision became due w.e.f. 1-1-2012.
- In furtherance to the settlement dated 25-10-2013 signed between the Management of Major Ports and representatives of Port and Dock Workers, It has been decided to adopt the provisions of aforesaid settlement in respect of FCI Departmental Labour.

The pay scales and allowances in respect of Departmental Labour are Governed by Circular No. 10/2014 dated 16.05.2014 (File No. IR(L)/4(18)/2013). **(Annexure-I)** Brief details of the instructions are summarised below.

SCALE OF PAY

- (a) The revised pay scale corresponding to pay scale applicable to the different category of workers shall be as under:

Sl. No.	Designation	Existing Pay Scales (Rs.)	Revised pay scales w.e.f 1.1.2012 (Rs.)
1.	Sardar / Mukadam	9000 - 21200	15600 - 36800
2.	Mandal / Tindal	8600-19900	14900-34600
3.	Handling Labour / Loader	8300-18600	14400-32300
4.	Ancillary Labour / Godown Mandoor / Modia Stitcher	8100-18200	14100-31600

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- (b) The revised pay scale will be linked to All India Consumer Price Index Number 198 points for industrial workers (Genl.) based on 2001=100 (AICPI series). The revised pay scale corresponding to the existing scale from 01.01.2012 are given above.

1.2 FITMENT OF PAY ON THE 1ST JANUARY, 2012 IN THE REVISED PAY SCALE

- (a) Basic pay in the revised pay scale would be fixed as under :

A	B	C	D
Basic Pay as on 31.12.2011 and Special Pay & Stagnation Increment.	Variable D.A. up to AICPI 198 points (Base year 2001=100) on basic pay and dearness pay as on 01.01.2012	10.5 of (A + B)	Aggregate amount A+B+C

As per the Circular no. WR-11-2011-04 dated 3.1.2012 Issued by AGM (EP/WRC) FCI, Hqrs the D.A as on 01-01-2012 was 56.7%

The aggregate amount would be rounded off to next ten rupees and pay fixed in the revised pay scale.

- (b) The above fitment formula is not applicable to the workers appointed on or after 01.01.2012 and they will start at the minimum of the corresponding revised pay scale.
- (c) If the feeder and promotional posts fall in the same revised pay scale. The worker so promoted would be allowed fixation benefits as per the existing practice.
- (d) The pay of the labourers on roll of the Corporation as on 31.12.2011 drawing IDA shall be fixed in the revised pay scale corresponding to the basic pay drawn in the pre-revised scale of pay i.e. basic pay as on 31.12.2011.

1.3 STAGNATION INCREMENT

Pay scales have been restructured in such a way, that there will not normally be any stagnation. However, if there is stagnation, one stagnation increment will be allowed every two years. In addition, an employee stagnating after the expiry of the period of settlement will be granted stagnation increment every two year subject to adjustment in the next wage settlement.

1.4 RATE OF INCREMENT AND DATE OF NEXT INCREMENT IN THE REVISED PAY SCALE AND FIXATION OF PAY ON PROMOTION

- (a) The annual increment will be granted at 3% of the revised basic pay with cumulative effect and the amount so arrived at shall be rounded off to the next Rs. 10/- After the pay of a Worker is fixed in the revised scale of pay, his next increment will be due on the anniversary of the last increment drawn in the existing pay scale. In the case of those whose anniversary date of increment is 1st January, they will be allowed the normal increment of the revised pay scale from 1st January.

Where the pay of two or more workers of the same category in the existing scale of pay and in the inter-se seniority gets fixed at the same amount in the revised pay scale and the date of increment of the senior of the two workers falls due after the date of increment of the junior worker, the date of increment of the senior worker will be advanced to coincide with the date of increment of the worker junior to him provided other conditions for advancing the date of increment are fulfilled.

- (b) The workers will be permitted to opt for the revised scale with effect from 01.01.2012 or from the date of next increment due before 31-12-2012.
- (c) Employees promoted on or after 01.01.2012 will be permitted to exercise fresh option for fixation of pay as per the existing provisions.
- (d) If the feeder and promotional posts fall in the same revised pay scale, the employee so promoted would be allowed fixation, benefits by granting two increments as per the existing practice.

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- (e) On promotion, an employees will be granted one increment equal to 3% of his revised pay and pay fixed in the promoted pay scale by rounding off to next multiple of 10.

1.5 PERSONAL PAY FOR SMALL FAMILY NORM

In respect of increment granted for small family norms sanctioned prior to 01.01.2012, instructions issued by FCI or Government of India from time to time will apply.

1.6 INDUSTRIAL DEARNESS ALLOWANCE

- (a) All India Consumer Price Index Number for Industrial Workers (General) based on 2001=100 (AICPI) series will be used for grant of compensation to the employees for price rise.
- (b) I.D.A installment would be released 4 times in a year; with effect from 1st January, 1st April, 1st July and 1st October.
- (c) I.D.A. would be paid for increase in AICPI above quarterly index average of 198 to which the pay scales are related.
- (d) The percentage increase in the Quarterly average of the AICPI for the quarter ending February, May, August and November over the index 198 would be taken up to two decimal points.

The rate of compensation to the workers over the basic pay at Index average of 198 will also be in whole numbers with fractions carried forward.

Foot Note I

Index Average	Payable from
September, October and November	1st January
December, January and February	1st April
March, April and May	1st July
June, July and August	1st October

Foot Note II

The Quarterly average of AICPI for the months of September, October and November, 2011 worked out to 198 and from 01-01-2012 is being merged in the basic pay. D.A instalment would be Nil on 01.01.2012.

The percentage of neutralization to employees in different pay ranges would be 100%.

If and when Government announces its decision in respect of the revision of Industrial Dearness allowance scheme, it will be made applicable to the FCI Departmental workers also.

The payment of D.A. involving fractions of 50 paise and above will be rounded off to the next higher rupees and fractions of less than 50 paise will be ignored.

The pay for the purpose of calculation of D.A will be the basic pay drawn in the prescribed scale of pay including stagnation increment but will not include any other type of pay like special pay, personal pay etc.

The D.A. will continue to be a distinct element of remuneration and will not be treated as pay within the ambit of FR9(21).

Quarterly IDA Payable w.e.f 01.01.2012

1.1.12	Zero
1.4.12	Zero
1.7.12	3.0
1.10.12	6.7
1.1.13	9.4
1.4.13	11.6
1.7.13	14.1
1.10.13	18.3
1.1.14	21.5
1.4.14	20.2

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1.7 HOUSE RENT ALLOWANCE (AS CONTAINED IN THIS SETTLEMENT)

The Departmental Workers who is not allowed accommodation will be paid HRA at the following rates without production of rent receipt:

Classification of Citites /Town	From 1.1.2012 to 31.12.2016	Percentage of Actual Basic Pay
"X"		30%
"Y"		20%
"Z"		10%

The existing practice (HRA rates at par with FCI Class IV employees) to give House Rent Allowance (HRA) to Departmental labour at par with the FCI and Government Employees will continue w.e.f. 01.01.2012.

1.8 PORT ALLOWANCE

The existing rate of Port Allowance being paid to departmental port workers working in Chennai Port and Vishakhapatnam Port @ Rs. 300/- per month and @ Rs. 200/- Per month respectively will be increased by 10% w.e.f.02.01.2012.

2 Minimum Guaranteed Shifts in a month

The Departmental workers are eligible to get guaranteed minimum 21 days wages (in addition to 4 to 5 paid weekly offs) in a month and attendance allowance for the rest of the days of the month as per the Circular dated 11.6.1991 (File No. IR(L)/8(1)/91), subsequently revised vide letter no. IR (L)/3(3)/96 dated 30.04.1996.

If the attendance of a Departmental Labour in a particular month of 31 days is - Booking 17 days, Weekly off 5 days, Casual Leave one day, paid Holiday one day. The said Departmental Labour shall be paid wages as follow -

Minimum Guaranteed days,

Weekly off	5 days
Casual leave	1 day
Paid holiday	1 day
Attendance allowance	3 days

However, if in above case, month is of 30 days, a Departmental Labour in similar circumstances shall be paid attendance allowance for 2 days instead of 3 days. The number of days on attendance allowance shall further be reduced in case of the month of February having 28 or 29 days.

The minimum guaranteed wages for 21 days in a month shall be allowed to a worker provided he has reported for duty on all the working days of the month as per FCI Hqrs instructions contained in letter No. IR (L)/3(3)/96 dated 30.4.96. The number of minimum guaranteed wages of 21 days shall be reduced proportionately as clarified by this office vide letter No. IR(L)/4(4)/92 dated 20.5.2002 in the following manner, in case the worker has not reported for duty on working day of a month :-

No. of days for which wage to be guaranteed	=	$\frac{\text{No. of days for which work is guaranteed (21 days)}}{\text{No. of actual working days in a month (26, for 30 day month with 4 weekly off days)}}$	X	Number of days for which reported for duty.
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3) Calculation of Daily Wage

The daily wages/Minimum Guaranteed wages of the Departmental labour as quoted in point no. 2 shall be calculated as per Circular dated 14.09.1990(file no. IR(L)/2(7)/84) in the following manner:-

$$\begin{aligned} \text{Monthly Basic Pay}/26 &= A \\ \text{Monthly rate of allowances (DA + HRA)} \times 12 / (365 \text{ or } 366) &= B \\ \text{Daily Wage} &= A+B \end{aligned}$$

4) Calculation of Attendance Allowance

The rate of attendance allowance shall be 1/60th of the monthly wages comprising of Basic Pay in various scales, plus variable dearness allowance as per Circular dated 14.9.1990 (file no. IR(L)/2(7)/84).

$$\text{Attendance Allowance} = \frac{\text{Monthly Basic Pay} + \text{DA}}{60}$$

NOTE:

- (i) Amount of attendance allowance shall not be counted for deduction of CPF and shall not be considered as 'Wage' for the purpose of calculation of ex-gratia in lieu of Bonus / PLI.
- (ii) HRA shall be paid in full for the days of attendance allowance.

5) Various Leaves with pay

The Departmental Labour will be entitled to the various leaves mentioned in Certified Standing Orders as approved by Dy. CLC(c) vide order no. 5(1)/96 LS-1 dated 31.8.1999 and as modified vide circular No. 19/2013 dated 25.11.2013 **Annexure-2** (File No. IRL/4(10)/2008 Vol. III) and reiterated as below:

- 5.1 Privilege leave** - A worker will be entitled to Privilege Leave @ 15 days for every 6 months and the same would be credited on 1st January and on 1st July of every calendar year. The maximum limit for accumulation of Privilege Leave is for 180 days. (Ceiling limit of accumulation amended vide Circular No. 19/2013 dated 25.11.2013)
- 5.2 Sick Leave** - 10 (Ten) days sick leave in a calendar year. The accumulation of such sick leave shall be up to 120 days maximum. (Ceiling limit of accumulation amended vide Circular No. 19/2013 dated 25.11.2013)
- 5.3 Casual Leave** - A worker will be entitled to 12 days casual leave in a Calendar year in the depots situated in North, East & North East Zone. In West Zone, Departmental workers are eligible for 8 days casual leave in a calendar year. A fresh recruit will be entitled to Casual Leave on pro-rate basis.

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5.4 Maternity leave- Will be allowed as per the Maternity Benefit Act, 1961 as amended from time to time.

5.5 Disability Leave - The worker who is disabled by the injury accidentally incurred in or in consequence of his performance of official duty which has the effect of increasing his liability to injury beyond the ordinary risk attached to his job shall be granted Special Disability Leave by the competent authority. The maximum number of days of leave with pay granted by the competent authority should not exceed more than 120 days. If the worker remains in the disabled condition beyond 120 days, the remaining period shall be treated as half-pay leave. As the workers are covered under Workmen's Compensation Act, 1923, as amended from time to time the amount of leave salary shall be reduced by the amount of compensation payable under Clause 'd' of Sub Section 1 of Section 4 of the said Act.

In addition to above, the Departmental Labour is entitled for Paid and Non Paid Holidays (Letter No. IR(L)/4(3)/92 dated 31.12.1996) explained as:

5.6 Paid Holidays - 8(Eight) paid holidays including 3 National holidays will be available to the Departmental workers in a Calendar year.

5.7 Non-paid Holidays - The Departmental Labourers shall be eligible for 11 (Eleven) non-paid holidays. If a labour is booked on the non-paid holiday, then he will get the same wages as paid holiday, but if a labour is not booked on non-paid holiday, he will get attendance allowance for that day including HRA. The paid and non-paid holidays are required to be finalized by ED(Zones)/GM(Regions) concerned with reference to the importance of the festivals being enjoyed in the state.

5.8 Paid Holiday on Ambedkar Jayanti on 14th April of every year: Holiday declared by the Government of India on account of birth anniversary of Dr. B. R. Ambedkar on the April of every year may treated as paid holiday as per instructions contained in letter no IR-L/3(23)/2002 dated 31.05.2004 **Annexure 2.**

6 Provident Fund : Departmental workers are governed by the Employees Provident Fund and Miscellaneous Provision Act 1952. FCI is an exempted organization under Section 17 of the said Act and has framed their Contributory Provident Fund Regulations with the approval of the Ministry of Labour and Employment (GOI) Provident Fund of the departmental as well as DPS category is being maintained by the FCI, CPF Trust Board. Whereas other two Social Security Scheme i.e. Employees Pension Scheme 1995, Employees Deposit Linked Insurance Scheme 1976 are regulated directly by the Employees Provident Fund organization.

7 Supply of Towel

A Towel of two meter length only, subject to cost limit Rs-138/-(One Hundred twenty), is to be provided to each Departmental labour twice in a year in the month of January and July in terms of Hqrs. Circular No. 12 of 2013 (File no. IR(L)/31(12)/97 - Vol II) Dated 26.08.2013. **Annexure-3**

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8 Encashment of Privilege Leave

The Departmental labour is entitled to encashment of Privilege leave once in a calendar year. The formula for calculation issued vide letter no. IR(L)/4(8)/81 dated 29.8.1984 is as follows:

$$= \text{Basic Pay} / 26 + (\text{DA} + \text{VDA}) \times 12 / 365$$

It has been clarified vide circular No 12/2008 dated 10.11.2008 file no IR-L/31(12)/1997/Vol II dated 10.11.2008 that EPFO on the direction of the Hon'ble Supreme Court of India has informed vide their letter No Coord/3(4)/02 dated 02.07.2008 that amount leave Encashment for deduction of provident fund need not be included w.e.f. 12.03.2008.

9 Gratuity

I) Payment of Gratuity to the Departmental workers would be regulated as per Payment of Gratuity Act and Gratuity Central Rules 1972. However, in order to maintain parity with FCI employees as well as Port and Dock workers (There in parity on pay scales of FCI's departmental labour with the Port and Dock workers) departmental labour on Industrial Dearness Allowance pay scales vide circular No. 1/2014 dated 06.01.2014 (File No. IRL/4(6)/81/Vol IV) **Annexure-4** were allowed payment of gratuity amount on the ceiling limit of 1000000 (Ten Lakh) w.e.f. 01/01/2007 (Date of revision of pay scale) to 24/05/2010 (Date of revision of ceiling limit under the payment of gratuity Act 1972) subject to Income Tax Acts /rules.

II) Circular No 6/2003 dated 04.04.2003 (**Annexure-5**)- Method of Calculation of Gratuity amount

Sardar/Mandal/H/L =	$\frac{*(\text{BP} + \text{DA} + \text{Incentive earning for preceding 90 days}^*)}{26} \times 15 \times \text{render services}$ * Monthly * from date of super annuavation cessation of service
Ancillary Labour	$\frac{= \text{BP} + \text{DA}^* \times 15 \times \text{rendered service}}{26}$ * Monthly

15 days wages is payable for the every completed year of qualifying service

Qualifying for the entitlement of gratuity amount is minimum 5 years this condition is not applicable in case of death.

III) **Circular No. 3/2006 dated 13.01.2006 (IR.L/3(6)/2002) Annexure-6**

Forfeiture of Gratuity wholly or partially

The departmental / Direct Payment System (DPS) / No Work No Pay (NWNP) System workers of FCI are covered under the Payment of Gratuity Act 1972 on the basis of instructions as contained Vigilance Division Circular No 32/2005 dated 3/7/06/2005 containing guidelines for forfeiture of gratuity wholly or partially, while processing the cases of guilty under the Payment of Gratuity Act 1972 in respect of above category of

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Labourers following guidelines may be followed.

1. As per Section 4(6)(a) of Payment of Gratuity Act, 1972, gratuity of the labourers, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to or destruction of property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.
2. In view of the aforesaid explicit provision termination of service is a condition precedent to forfeiture of gratuity wholly or partially.
3. Penalty of Dismissal, Removal from service and even compulsory retirement also amount to termination of service within the meaning of Section 4(6)(a) of Payment of Gratuity Act, 1972.
4. It is necessary to make specific mention in the penalty order of Dismissal or Removal from service or compulsory retirement for forfeiture of gratuity wholly or partially according to the amount of loss ordered to the recovered by the Disciplinary Authority.
5. Where no orders for forfeiting gratuity, wholly or partially have been passed in the penalty order of Dismissal or Removal from service or compulsory retirement, no subsequent orders to this effect can be passed as the same would amount to review of its own order by the Disciplinary Authority which is not permissible.
6. The cases in which a decision has already been taken by the Disciplinary Authority for imposition of the penalty of 'Dismissal' and the requisite orders have been passed without any mention about the forfeiture of gratuity, partially or wholly, in terms of Section 4(6) of the Payment of Gratuity Act, 1972, need not be re-opened.

10 Festival Advance

The Departmental labour is entitled to festival Advance of Rs. 10,000/- recoverable in ten equal instalments as per Hqrs Circular No EP-24-2011-13 dated 26th April, 2011. **Annexure-7.**

Enhanced limit of Festival Advance for unionized Staff, Departmental Labour and Category II Officers is given as under :-

Category	Existing amount	Revised amount
Unionized Category III & IV employees including Departmental Labour.	Rs. 1500 /-	Rs. 10,000/-

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2. Eligibility Conditions :

- (a) The amount of Festival Advance is admissible once in a calendar year.
- (b) The amount of Festival advance will be free of Interest.
- (c) The advance will be recovered in ten equal monthly installments.
- (d) Earlier advance, if any, should have been recovered in full before sanction of new advance.

11 Conveyance Advance for Purchase of Scooter/Motor Cycle/ Moped Eligibility Criteria for grant of conveyance advance to departmental labour for purchasing moped/scooter/motor cycle

As per the MOU dated 7.5.1993, the Departmental labour are entitled for grant of conveyance advance of purchase of scooter/motorcycle/moped on the same terms and conditions governing the grant of conveyance advance to the employees as prescribed by the corporation from time to time, as per Hqrs circular No. 5 of 1993 dated 13.5.1993 (file no. IR(L)/4(3)/92). Eligibility criteria for grant of Conveyance advance to departmental labour for purchase of Moped/ Scooter/ Motor Cycle was circulated vide circular No 16/2012 dated 24.09.2012 (File No IR-L/4(10)/2008/Vol II) **Annexure-8**

The departmental workers in the pre revised scale were entitled for grant of Conveyance Advance for purchase of Moped on the basic Pay of Rs. 4960 /- and above and for scooter / motor-cycle on the basic pay of Rs. 5720/- and above. Consequent upon revision of Pay Scales w.e.f. 01.01.2007, the eligibility criteria for purchase of Moped / scooter / Motor-cycle stands revised to Rs. 10,880/- and Rs. 12,540/- which are corresponding stages of Rs. 4960 /- and Rs. 5720 /- respectively. The quantum of Advance for the purchase of Moped / Scooter / Motor-cycle to departmental workers may be regulated on the basis of instructions issued in respect of Staff from time to time.

12 Ex-Gratia Relief

The Departmental workers suffering from prolonged diseases like TB, Leprosy, Cancer etc. will be entitled to an ex-gratia relief of Rs. 400/- per month in terms of Hqrs. Letter No. IR(L)/3(2)/89 dated 9.6/1989 as per MOU with FCIWU dated 30.05.89.

13 Award of Memento (Gift) to the retiring Departmental Workers

The Departmental workers are entitled to Moment to at the time of their retirement as per the terms and conditions contained in the Hqrs. Circular No. EP-24-2011-14 dated 26th April 2011. **Annexure-9**

The monetary value of Memento was raised from Rs 3000/- to Rs 5000/- w.e.f. 26.04.2011. Memento is also allowed to employees / workers who are relieved due to pendency of disciplinary proceedings (Minor pendency proceedings only) but not to employees / workers who resign or are dismissed / removed as result of disciplinary action or against whom major disciplinary proceeding are pending.

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14 Lunch Subsidy

The Departmental workers working in Ports / Port City / Inland godowns are being paid lunch subsidy @ Rs. 200/- per month as per Circular No. 02/2011 dated 4.4.2011 w.e.f. 06.04.2011 **Annexure-10** subject to following conditions.

The lunch subsidy shall be paid for days of attendance, weekly days of rest with wages, National Holidays, paid closed holidays and attendance allowance days. For calculating the rate of Lunch Subsidy, the amount of Rs 200/- shall be divided by 30 in all cases.

The lunch subsidy will not count for any purpose including encashment of earned leave.

The amount of lunch subsidy would increase by 25% when dearness allowance in the revised pay structure goes up by 50%. Accordingly the amount of lunch subsidy was raised to Rs. 250 automatically, when dearness allowance of the departmental labour reached 50% in pre revised pay scale prior to 1.01.2012. In the revised pay scale applicable from 01.01.2012 lunch subsidy would be increased by 25% from Rs. 250/- when dearness allowance goes upto by 50%.

15 Dusting operator Allowance

The Departmental Ancillary Labourers / Godown Mazdoors working in various godowns/ depots are paid dusting operators allowance @ 1/30th per day of the monthly Dusting Operator Allowance as applicable to the Class-IV employees and as revised at Rs 250/- per day w.e.f. 06.04.2011 only for the days on which they have actually performed duties relating to fumigation, spraying etc. strictly in accordance with the records / documents in FCI as certified by Manager(QC)/Technical Assistant concerned.

The amount of dusting operators Allowance would increase by 25% every time when dearness allowance on the revised pay structure goes up by 50%. (Circular No. 3/2011 dated 30.3.2011). **Annexure-11**

16 Medical fixed allowance

It is governed by the circular No.4/2011 dated 04/06.04.2011 (**Annexure-12**) issued from file No. IRL/4(10)2006/Vol.II. The Departmental workers of FCI in the regular time scale of Pay are allowed reimbursement of medical expenses at a flat rate of Rs 1500/- (Rupees One Thousand Five Hundred only) per quarter per worker after furnishing self-certificate prescribed for the purpose effective from 1.12.2008. The amount of fixed Medical reimbursement would increase by 25% every time dearness allowance goes upto 50%. Accordingly medical expenses at a flat rate of Rs 1500/- (per quarter) became Rs 1875/- in the pre revised pay scales of the departmental labour prior to 1.01.2013. Consequent upon revision of pay scales w.e.f. 1.01.2013 of the departmental labour existing flat rate of medical expenses (per quarter) i.e. Rs 1875/- would be increased by 25% when D.A on revised pay structure goes up to 50%.

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Departmental workers on industrial D.A. pattern are eligible to get reimbursement of expenses incurred on diagnostic test as per the instructions contained in Hqrs Circular No 02/2014 dated 09.01.2014 (file no IR-L/4(10)/2008/Vol III) Scheme for reimbursement of expenses incurred on diagnostic tests for the category III and IV employees as contained in circular no EP-12-2010-08 dated 15.07.2010 (file no EP43(3)2010) is applicable to the departmental labour.

17. Medical indoor treatment

Indoor Medical treatment of departmental labour and their dependents in the Hospitals empanelled with FCI shall be governed by circulars dated 28.04.97 and 14.01.1998 issued from file No. IRL/31(9)/97. Instructions on this subject are being issued by Hqr's EP section from time to time in respect of employees and departmental labour.

18 Medical Health Scheme for Retired Departmental Worker

Instructions as contained in Circular No. EP-12-2008-13 dated 26/05/2008 (**Annexure-13**) in respect of Medical Health Care Scheme for retirees is applicable to the employees and departmental labour. Headquarter vide Circular No 48 of 1999 dated 16.02.1999 (Issued from file No. EP 43(1)/90/Vol.III) introduced self contributing Medical Health Scheme for retirees of the Corporation including departmental labour wherein the contribution is made by serving employees subject to deposit of one month Basic Pay plus DA as on their retirement. The benefits under scheme have been enhanced from time to time but it continues to be a self funded scheme. Benefits under the scheme as indicated below have been enhanced vide EP Division Circular No EP 12-2010-13 dated 28.06.2012 (**Annexure-14**).

- a) The ceiling on annual reimbursement for IPD (Indoor patient) OPD (Outdoor patient) was separated as under
 - i) IPD - Rs 1,00,000/-
 - ii) OPD - Rs 12,000/-
- b) If no reimbursement is taken by the beneficiary for IPD treatment an amount of Rs. 50,000/ would be carried forward to the next year Reimbursement taken for OPD treatment is not to be taken into account for deciding the carry forward amount.
- c) The list of prolonged disease for OPD Treatment contains 13 diseases and amount disbursed for IPD and OPD shall be separately accounted for
 - (i) Heart ailments and FUC Hypertension
 - (ii) Diabetes mellitus

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- (iii) Paralysis / Cerebrovascular attack
- (iv) FUC Thyroid disorder
- (v) Kidney disorders
- (vi) Bronchial Asthma
- (vii) Cancer /Malignant Tumors
- (viii) Haemolytic Disorder
- (ix) Tuberculosis
- (x) Rheumatoid Arthritis & (OA) Osteo Arthritis
- (xi) Osteoporosis
- (xii) Thalassemia
- (xiii) Chronic Liver Disease

As the existing scheme is self-contributory and the benefits can be availed by retired employees subject to availability of funds, it is essential to ensure that the scheme is properly administered and suitable action is taken against those who lodge or facilitates false medical claims. However, the following measures are further specified for better administration and internal Control of the scheme :

The membership of the concerned person shall be terminated without any refund of contribution in case his claim is found to be false. There shall be no time limit for verification of bills.

19 Reimbursement scheme of LTC (Bharat Darshan) to the departmental workers and enhancement of the ceiling of pay for purpose of LTC (Bharat Darshan)

It is being governed by the circular No. 2/2012 dated 13.04.2012 issued from file No. IRL/4(10)/2008/Vol.III (**Annexure-15**). Area Manager have been delegated powers to sanction LTC / Bharat Darshan and encashment of LTC (Bharat Darshan) for eligible departmental labour subject to guidelines laid down by Hqrs on facility of LTC to the departmental labour issued from time to time. DGM (Region's) are competent for change in the place of visit availing Bharat Darshan after commencement of the journey provided the distance is not increased.

Reimbursement scheme of LTC (Bharat Darshan) to the departmental labour working in North East and NEF Zone was extended as per Memorandum of understanding dated 03.11.89 and was notified vide

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Circular No. 2 of 1990 dated 13.02.1992 (File No. IR(L)/2(1)/87). Leave Travel Concession (Bharat Darshan) in a block year of 4 years is to be reimbursed restricting it upto a distance of 1500 Km each way at 75% of second class rail fare limited for a maximum of 4 adults (family consisting of self, spouse dependent children) on production of a certificate by each departmental worker as allowed to officials of the corporation. This would be in replacement of the existing scheme of LTC (Bharat Dharshan) subsequently limit a distance of 1500 Kms each way at 75% of the entitled Rail fare was raised to 1600Kms each way vide circular No. 4 of 1993 dated 14.05.1993 (File No. IR(L)/4(3)/1992).

The wage structure applicable to the FCI departmental labour was revised w.e.f. 01.01.2007 for the period of five years. Consequent upon revision of pay scales of departmental minimum ceiling of pay above Rs.5120/- per month for the purpose of entitlement of 1st class / A.C III tier Rail fare for LTC (Bharat Darshan) was raised to corresponding pay of Rs 11,230/- (Rupees Eleven thousand Two Hundred and Thirty only) w.e.f. 13.04.2012 vide circular No. 2/2012 dated 13.04.2012 (File No IRL/ 4(10)/2008 Vol. III) dated 13.04.2012

20 FCI Group Insurance Scheme 1980 (Employees Deposit Linked Insurance scheme)

FCI Group Insurance Scheme 1980 as circulated vide circular No. 9/2011 dated 10.06.2011 has been amended and replaced by the Employees Deposit Linked Insurance 1976 (EDLI as amended from time to time) vide EP Division's Circular No EP-24-2012-02 dated 06.03.2012 (File No EP-42(1)/94).The aforesaid instruction was reiterated to all the field offices for strict compliance vide circular No. 4 of 2012 dated 01.06.2012 (File No. IRL/4(8)/95 Vol.II) (**Annexure-16**). (collectively).

The provisions of above Circular No. EP-24-2012-02 dated 06-03-2012 shall also be applicable to the Departmental Labour of FCI and other categories of labourers viz. Piece-rate ('B' Category) System and DPS workers who are governed by the FCI, CPF regulations, 1967 in terms of various agreements signed between FCI Management and Labour Unions.

In case of all the above categories of labourers governed by FCI (CPF) Regulation, 1967 who died on or after 01-03-2012, the payment under EDLI scheme shall be disbursed by the Employees Provident Fund Organization (EPFO) as per the provisions of EDLI Scheme, 1976 amended from time to time. All offices shall accordingly be required to send Form no. 5(IF), duly filled in all respect to the respective Zonal Offices who shall be responsible for submitting the forms of the claimants with EPFO and depositing the requisite fee (inspection charges, Insurance Contribution, administrative charges).

21 The Benevolent Fund:-

The Benevolent Fund Scheme has been extended to the Departmental Labour on the same terms and conditions as applicable to the employees of the Corporation w.e.f. May, 93 as per instructions contained in circular No. 7 of

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1993 under Ref. No. IR(L)/4(10)/91 dated 14.5.93 on the terms and conditions as applicable to FCI employees and was amended vide Circular No EP-24/2012-25 dated 25.10.2012 (**Annexure-17**).

Employees Benevolent Fund cum Welfare Scheme covering Employees and Labour as modified by the EP Section FCI Hqrs vide Circular No EP 24-2012-25 dated 25th October 2012 it was divided into two parts as given below

Modified Benevolent Fund cum Welfare Scheme

It covers Staff and Labour (as existing)

Contribution : The contribution by the members shall increase from existing Rs. 10/- per month to Rs. 30/- per month.

Grant :

- (a) The amount of grant in case of death is revised to Rs. 65,000 in place of existing Rs. 30,000. As in the existing scheme, Rs. 15,000 of the total grant amount will be borne by the Corporation while Rs. 50,000 will be charged to the fund.
- (b) In case of premature retirement on medical grounds or due to permanent disability, a grant of Rs. 2,50,000 will be provided in each case in place of existing Rs. 30,000. The entire amount may be charged to the fund while there shall be no contribution by the Corporation.

Advance

- (a) The quantum of advance for specified purposes is revised to 25% of Basic Pay for each month of service left or Rs. 1.50 Lakhs, whichever is lower. A member may also be allowed to apply for an amount lower than his maximum entitlement, subject to a minimum of Rs. 25,000.
- (b) Refundable Advance to members of the Benevolent Fund Scheme shall also be extended for marriage of self in addition to the purposes already defined under the existing scheme.
- (c) The principal amount due shall be recoverable from monthly salary in a maximum of 75 installments. An annual interest rate equal to CPF rate shall be payable on monthly reducing balance. The interest accrued during a month shall be payable at the end of the month. The revised methodology of recovery of advance and charging of interest on advance shall be applicable for all new advances given w.e.f. 1st October, 2012 onwards.
- (d) Any employee who avails of such advance may not be entitled to apply for another advance under this Scheme during repayment period and for a further period of 3 years from the payment of last installment.

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(e) An employee would become eligible for advance upon completion of 3 years in service, instead of 5 years at present.

1. Fund management: The fund would be invested in the Corporation and the interest would be allowed at the average annualized Cash Credit rate on the average of opening and closing balance of the fund instead of opening balance as at present. This provision shall be effective from the financial year 2012-13.

2. Employees funded contributing social Security scheme

It covers Executive and Staff who are member of the Benevolent Fund cum Welfare scheme (except labour).

22 Transfer Grant:-

Departmental Labour will be entitled to the transfer grant as per Circular No. 12/2011 dated 11.08.2011 (file No. IR(L)/4(10)/2008 - Vol II) (**Annexure-18**) as summarized below:-

- (a) Rs 3800/- per worker for transfer within the region
- (b) 90% of one month Basic Pay for transfer outside region
- (c) The allowance would increase by 25% every time the dearness allowance on revised pay scale applicable from 01.01.2013 goes up by 50%.

23 Grant of Children Education Allowance, Reimbursement of Tuition fee etc. to the Departmental labour.

The departmental workers are entitled to get children Education Allowance tuition fee etc. as per the instructions contained in the Circular No. 13/2011 dated 11.08.2011 (File No. IRL/4(10)/2008/Vol.II) (**Annexure-19**). Further; it has been clarified vide Circular No. 03/2014 dated 17.01.2014/ 02.2014 (File No. IRL/4(10)/2008/Vol II/PF File) (**Annexure-20**) that the departmental labour will have option to avail benefits of Hostel subsidy or Children Education Allowance at par with FCI class III,IV employees up to maximum of two (2) children.

i. Children Education Allowance / Reimbursement of Tuition Fee.

The departmental workers have been extended revised rates of Children Education Allowance, reimbursement of tuition fee etc., at par with the Class IV employees vide Circular 1 of 2002 dated 5.2.2002 and subsequent instructions as contained in other Circular No. 19/2003 dated 6.11.2003 (file no. IR(L)/8(1)/91-Vol-III) w.e.f. 1.6.2003. The Children Education Allowance for Category III and IV has been revised w.e.f. 1.12.2008, consequently it has been decided to revise the Children Education Allowance to Rs. 12000/- per annum which will be regulated as per the conditions applicable to Central Govt. Employees. As per the Govt. instructions the

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Children Education Allowance will be regulated according to following terms and conditions:

- (a) Children Education Allowance and Reimbursement of Tuition Fee which were hitherto payable separately will be merged and will henceforth be known as 'Children Education Allowance Scheme'.
- (b) Under the Scheme of Children Education Allowance reimbursement can be availed by Departmental Workers up to a maximum of 2 children.
- (c) Reimbursement as indicated above will be applicable for expenditure on the education of school going children only i.e., for children from classes nursery to twelfth, including classes eleventh and twelfth held by junior colleges or schools affiliated to Universities or Boards of Education.
- (d) Henceforth, the reimbursement of Children Education Allowance shall have no nexus with the performance of the child in his class. In other words, even if a child fails in a particular class, the reimbursement of Children Education Allowance shall not be stopped.
- (e) Reimbursement for the following items can be claimed under this Scheme Tuition Fee, admission fee laboratory fee, special fee charged for agriculture, electronics, music or any other subject, Fee charged for practical work under the programme of work experience, fee paid for the use of any aid or appliance by the child.
- (f) library fee, games / sports fee and fee for extra-curricular activities. They also includes reimbursement for purchase of one set of text books and notebook two sets of uniforms and one set of school shoes which can be claimed for a child in a year.
- (g) The annual ceiling fixed for reimbursement of Children Education allowance Rs. 12,000.
- (h) Under this scheme, reimbursement can be claimed once every quarter. The amount that can be claimed in a quarter could be more than Rs. 3000. And another quarter less than Rs. 3000, subject to the annual ceiling of Rs. 12,000 per child being maintained.
- (i) In case both the spouse are Government Servant, only one of them can avail reimbursement under Children Education Allowance.
- (j) Hostel subsidy will be reimbursed up to the maximum limit of Rs. 3000 per month per child subject to a maximum of 2 children. However, both hostel subsidy and Children Education Allowance cannot be availed concurrently.
- (k) The above limits would be automatically raised by 25% every time the Dearness Allowance on the

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revised pay structure goes up by 50%.

This scheme is effective from 1-12-2008.

ii. Hostel Subsidy

Option to avail Children Education Allowance or Hostel Subsidy to the Departmental Workers.

Labour unions have raised demand for exercising option to avail Hostel subsidy or Children Education Allowance as per the existing scheme for other eligible employees of the Corporation. Board of Directors, made deliberation on this demand, in its 360th meeting held on 19-12-2003 and approved the proposal for option to the departmental labourers to avail benefits of Children Education Allowance or Hostel Subsidy at par with Class III & IV employees of FCI. However both Hostel Subsidy and Children Education Allowance would not be allowed to be availed concurrently.

Hitherto departmental labourers will have option to avail benefit of Hostel Subsidy or Children Education Allowance at par with FCI Class III & IV employees upto maximum of two (2) children. Instruction as contained in this office letter no. IR(L)/4(10)/2008/Vol-II/250 dated 16-03-2012 stand superceeded. Other terms and conditions as contained in circular no. 13/2011 dated 11-08-2011 shall remain unchanged.

24. TA/DA to the Departmental Labour shall be regulated by Circular No. 9 of 2012 dated 22/27.06.2012 (File No. IRL/4(15)/94/Vol III) (Annexure-21).

Common instructions for the departmental and DPS category workers

	Daily Allowance per day per worker	
Designation / Category	Cities classified as 'X' and 'Y' for the purpose of HRA	All other Cities / Stations
(A) Daily Allowance to Departmental Labour		
(i) Sardar, Mandal and Handling Labour	Rs. 224/-	Rs. 184 /-
(i) Ancillary Labour	Rs. 208/-	Rs. 176 /-

This order will be effective from the date of issue of these instructions.

Daily allowance applicable to DPS Category labour has been mentioned in para no. 21 under wages structure of Direct Payment System.

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24. Transport Reimbursement

The rates of Transport reimbursement to the departmental labour fixed vide Hqrs Circular No. 06/2010 dated 24.05.2010 (File NO. IRL/4(10)/2008) as Rs 270/- per month plus applicable D.A) in the pre revised pay scale. Pay scales of the departmental labour were revised and transport reimbursement was fixed as 525/- P.M (plus applicable D.A) vide Circular No. 10/2014 dated 13/16.5.2014 (File No. IRL/4(18)/2013) plus applicable DA. **(Annexure-I)(Para I)**

25. Washing Allowance/Reimbursement

The rate of washing allowance payable to the departmental labour was fixed as Rs 100/- vide Circular No. 06/2010 (File No. IRL/4(10)/2008) with automatic increase of 25% when DA goes up to 50%. Accordingly rates were fixed as Rs 125 per month, prior 31.12.2012. Subsequent upon revision of pay scales w.e.f. 01.01.2012, the rate were fixed as Rs 155/- with automatic increase of 25% when dearness allowance cost goes up by 50% vide Circular No. 10/2014 (File No. IR (L)/4(18)/2013) dated 13/16.05.2014 with the condition that existing terms and conditions will remain unchanged. **(Annexure-I)(Para I)**

26. Fare well to departmental labour on superannuation

It shall be governed under circular No.3/2009 dated 27.01/01.02.2009 issued from file No. IRL/31(12)/97/Vol.II **(Annexure-22)**.

Refreshment on official account will be provided to labours attending the farewell parties arranged for retiring departmental labour on their superannuation as is being done in case of FCI employees. This approval should not be cited as a precedent.

Area Manager has been nominated as Competent Authority to sanction the expenditure on such farewell party. Guidelines/Instructions as applicable to the employees on the subject will be followed.

27. Small Family Incentive

It shall be governed by the circular No. 17/2011 dated 12.12.2011 issued from file No. IRL/4(10)/2008/Vol.II **(Annexure-23)**

Consequent upon the revision of pay scales w.e.f. 01.01.2007 revised rate of family planning Incentive were fixed as under

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S. No.	Category of labour	Revised Scale	Revised rate of family planning
1	Sardar / Mukkadum	9000-21,200	Rs 230/-
2	Mandal / Tindal	8600-19900	Rs 210/
3	Handling Labour / Loader	8300-18600	Rs 210/
4	Ancillary Labour	8100-18200	Rs 210/
5	*Godown Mazdoor	7800-15800	Rs 210/

*Pay scale of Godown Mazdoor has been merged into pay scales Ancillary Labour

28. Ex gratia in lieu of bonus

Ex-gratia in lieu of bonus is paid to the departmental labour as per the provision of payment of Bonus Act. GOI (Ministry of Labour & Employment) has made amendment in the provision of payment of Bonus Act in the year 2016. Accordingly from Financial year 2015-2016 as per this latest amendment if wages of the departmental labour exceeds Rs 7000/- (rupees seven thousand per month) the amount of wages/earnings of the departmental for the purpose of calculation of ex gratia in lieu of bonus will be restricted to Rs 7000 (seven thousand) per month.

Ex gratia in lieu of bonus shall be payable @ 8.33 of 7000/- only to those departmental labour who are drawing wages/earning up to 21000/- (Twenty one thousand) per month.

Instructions are being issued in every financial year.

29. Payment of Productivity Linked Reward (PLR) to FCI departmental labour of Chennai/Vishakhapatnam. Instructions are being issued every year based on the guidelines / orders of Ministry of shipping and Transport

The FCI departmental Port Labour covered under this scheme is not eligible for PLI (Productivity Linked Incentive) and ex-gratia lieu of bonus. At present approximately 150 port departmental labour working at Vishakhapatnam Port and Tamil Nadu Region are covered under this scheme.

Ministry of shipping Road Transport and High Ways, Department of Shipping and Transport announces rates of PLR of each Financial Year. According these workers are paid PLR at the rates as declared by the Ministry of Shipping. Salary/ Wages of each worker for this purpose consist of Basic Pay, DA and incentive subject to maximum Rs. 7000/- per month from F.Y. 2014-15. Instructions are being issued by Hqrs. for every Financial Year on receipt of orders from the Ministry of Shipping and Transport.

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30. Extension of benefit of non-refundable ex gratia of Rs 5000/- to legal heirs of the departmental labour who die while in service

It is being governed by circular No. 02/2009 dated 27.01/12.02.2009 issued from file No. IRL/31(12)/97 Vol.II **(Annexure-24)**.

In super session of all the previous instruction on this subject, it was decided vide this circular that Legal heirs of the departmental labour who dies in harness are entitled to get non-refundable ex-gratia of Rs.5000/- towards funeral expenses as an immediate assistance w.e.f. 01.01.2008. This approval should not be cited as a precedent. The Area Manager was designated as competent authority to sanction ex-gratia payment as per guideline instruction applicable to employees.

31. Monetary compensation to the dependent family members/legal heirs of departmental labour who die due to terrorist attacks bomb/mob attack natural calamities

It is being governed by circular No 6/2009 dated 18/20.05.2009 issued from file No. IRL/4(30)/2004 **(Annexure-25)**

Monetary Compensation of Rs.1,30,000/- to dependent family member/legal heirs of the departmental labour who die due to terrorist attack bomb/mob attack natural calamities working in inland depots, Port/Port godowns was extended vide this circular at par with Class IV employees as per guidelines / procedure and terms and conditions contained in FCI Hqrs Circular No. EP-24-2001-24 dated 06.08.2008 (File No. EP-42(2)/2007)

32. Background of working hours and OTA rates in respect of Departmental, DPS

Departmental and DPS Labour

Initially working hours and OTA rates of the Departmental labour in depots situated in North, North East and East Zone were being regulated by the Provisions of the Shops and Establishment Act of the respective States. One of the Union namely FCIWU raised an Industrial Dispute before the CGIT Calcutta to bring working hours of the departmental labour working in Delhi (2 depots) and UP (4 depots) at par with the working hours of the employees. On this issue an understanding was reached between ED (North) the then Zonal Manager (North) on 06.06.90 to the extent that working of the Departmental labour in 6 depots of North Zone will be brought at par with employees, to ensure smooth functioning and subject to withdrawal of pending cases in the Court / Tribunal on this matter, meaning thereby that working hours in respect of departmental labour in six depots were reduced to 6 ½ hours from 8 hours (Excluding lunch hours). On the basis of this understanding Industrial Dispute pending before the Central Government Industrial Tribunal, Kolkata was closed by way of consent award in July 1990. At that time there was no provision for the payment of OTA and fixed working hours in respect of Direct Payment System.

In the year 1991 large number of ex-contractor workers were inducted under departmental labour and B category labour system vide agreement dated 12.04.91. The lot of problem was experienced in regulating working hours and OTA rates of the newly inducted departmental/B category labour and DPS category Labour already on roll.

An understanding was reached with FCIWU on 13.06.94 to the extent that working hours of the departmental / DPS / B category workers will be fixed as 6 ½ hours (excluding ½ lunch hours) and OTA rates will be regulated as per the provisions of Shops and Establishment Act of the respective States from May 1994 ir-respective of fact as to whether the respective State Government have granted exemption to the FCI from OTA provisions of the said Act or not. Circulars both dated 16.06.1994 were issued for giving effect to the Memorandum of understanding. As per this Memorandum of understanding working hours of the departmental labour were brought at par with that of staff and

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working hours of the DPS/B category/ mate system were fixed as 6 ½ hours + ½ hour lunch hour.

In other words, the working hours of the departmental labours were reduced from 9 hrs (including one hour lunch) to 6 ½ hrs (and ½ hour in lunch hour). As such an anomalous situation was created where working hours of the departmental labour were the same as that of staff but the departmental as well as DPS category workers got substantially higher rate of overtime than the staff. Comptroller and Auditor General also took note of this anomaly and made observation for its rectification.

In order to address CAG Audit observation and rectifying anomaly a notice under Section 9-A of the Industrial Dispute Act was issued to the workmen / union on 01.07.2002 to the extent OTA rates in the exempted area (where FCI has been granted exemption from the OTA provision of Shops and Establishment Act) will be 1.1 of hourly wages. In the non exempted area OTA rates will continued to be regulated as per the provisions of respective Shops and Estt. Act of the States. Matter was seized for conciliation by the RLC (C) Delhi. The conciliation proceedings ended with failure of conciliation. After expiry of period of conciliation, as per section 20 of the Industrial Dispute Act, instruction to regulate OTA rates were issued vide Circular No. 1/2004 (departmental) 2/2004 (DPS) both dated 19.01.2004. The Ministry of Labour and Employment on the direction of High Court, Delhi referred the method of the calculation of OTA rates as contained in above Circulars for adjudication to the National Industrial Tribunal Mumbai and Industrial Dispute was registered as Case No. 1/2005.

The labours Unions have challenged these Circulars under the Industrial Dispute Act for alleged change of their service condition, prejudice to their interest. The Hon'ble Tribunal passed an award on 7.9.2012 in favour of workmen. FCI aggrieved by the decision of National Industrial Tribunal challenged the award before the High Court B'bay by way of writ petition No. 10823 of 2013. Hon'ble High Court B'bay set aside the award dated 07.09.2012 of National Industrial Tribunal Mumbai vide order dated 22-04-2014 passed in the above writ petition and directed the National Industrial Tribunal to decide the reference in light of what is stated in the order dated 22.04.2014 of High Court B'bay. Ministry of Labour and Employment vide order No L-22012/359/2003IR(C-II) dated 09.01.2015 referred the matter to the National Industrial Tribunal Mumbai for re adjudication in light of order dated 22.04.2014 of the Hon'ble High Court B'bay mentioned above. Hon'ble Tribunal by order dated 21.04.2016 framed the issues and directed the parties to the Industrial Dispute No. 1/2005 to file written argument. Matter is at present pending for adjudication.

33. Over Time Allowance

Departmental Labour shall be paid OTA as per Circular No. 01/2004 (File no. IR(L)/4(33)/2003) dated 19.1.2004 (**Annexure-26**) and clarification as contained in Circular No. 6/2012 dated 18.06.2012 (File No.IRL/1(15)/2007/Vol.II) (**Annexure 27**)

Rate of O.T.A

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1.	Areas where FCI has been granted total exemption from O.T. Provisions of Shops & Establishments Act of the concerned state and where the "Appropriate Authority" of the shops & Establishment Act has clarified that this Act is not applicable to the establishments of FCI in the area.	1.1 times of normal hourly rate of wage.
2. (i)	In other areas where neither the exemption has been granted to the FCI establishments nor it has been clarified by the appropriate authority that the Shops & Establishments Act is not applicable to the establishments of FCI.	As per the Shops & Establishments Act of the respective State.
(ii)	In these areas, for the intervening period i.e. after prescribed working hours and upto the statutory working hours given in the respective Shops & Establishment Act.	1.25 times of Normal hourly rate of wage.

The other terms and conditions in the matter as contained in Headquarters Circular No. IR(L) 4(2)/93 dated 16.6.1994 issued from file No. IR(L)/4(2) 91-Vol.II, shall remain the same.

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34. Example for calculations of OTA (Normal Duty Hours - 10:00 AM to 5:30 PM)

- (i) Areas covered under Shops and Establishment Act - Twice hourly wages beyond statutory hours.
- (ii) Intervening Period i.e between statutory working hours and duty hours fixed by FCI = 1.25 times of hourly wages.
- (iii) Area in respect of which exemption has been granted to FCI from OTA provisions of Shops and Establishment by the respective state government or it has been clarified by the respective State govt. that Shop and Establishment Act is not applicable to FCI = 1.1 times of hourly wage.
 - a) Examples for calculating incentive earning for work done beyond normal duty hours
 - b) Suppose, A Labour Gang consisting 12 handling labour is deployed up to 23.30 hours.
 - c) Total OT hours - 23.30 - 17.30 hours = 6 hours
 - d) Hourly norm of output per labour per hour = $\frac{135 \text{ bags}}{7} = 19.28$ say = 19
 - e) Suppose number of bags handled by a Gang of 12 H/L = 1400 B/s, in six overtime hours within in height of 10 layers and lead within 66 ft.
 - f) Output per H/L output = 116 = B/s
 - g) Number of bags required to handled per handling labour in 6 hour of OTA @ 19 bags per hrs per H/L $19 \times 6 = 114$ bags
 - h) Number of B/s for which handling incentive payable = $116 - 114 = 2$ Bags payable
 - i) Incentive to each Handling Labour payable for 2 bags = $6.02 \times 2 + 8\% = \text{Rs. } 12.04 + 0.96 = \text{Rs. } 12.99 = 13$ per H/L

OTA Payable in the Area where shop and Establishment Act is applicable.

- a) Rate of OTA after nine hour including 1 hour lunch (Statutory hour) i.e upto 19 hours (7PM) in a day = Twice of the normal wage
- b) Rate of OTA for intervening period = 1.25 times of the normal wage
- c) Hourly wage = $\text{Rs. } 116.29$ ($\text{Rs. } 814.03 \div 7$ hours)
- d) Intervening period ($1 \frac{1}{2}$ hours) = $19 \text{ hour} - 17.30 \text{ hour} = 1 \frac{1}{2}$ hours
- e) OTA period from statutory hours up to 23.30 hours (from 23.30 - 19.00) = $4 \frac{1}{2}$ hours
- f) OTA payable Intervening period = 116.29 (hourly wage) $\times 1.25 \times 1 \frac{1}{2} = \text{Rs. } 218.04$
- g) OTA payable beyond 19.00 hours = 116.29 (hourly wage) $\times 2$ (OTA rate) $\times 4 \frac{1}{2} = \text{Rs. } 1046.61$
Total OTA payable = $\text{Rs. } 218.04 + 1046.68 = \text{Rs. } 1264.65$
- h) Total Earning per H/L = Incentive ($\text{Rs. } 13$) + OTA = ($\text{Rs. } 1264.65$) = $1277.65 = \text{Total} = 1277.50$

Note: Sardar and Mandal will be paid extra amount equivalent to earning of H/L (Incentive + OTA)

Incentive and OTA Payable for work done beyond duty hours in case of Exempted Area

- a) Incentive = $\text{Rs. } 13.00$
- b) O.T.A = $\text{Rs. } 767.00 = (\text{Rs. } 116.29 \times 1.1 \times 6 \text{ hours})$
Total earning = $\text{Rs. } 780.00$

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35. Incentive Scheme in respect of the departmental labourers working in Inland godowns/ port godowns

Incentive scheme as applicable respect of the departmental labour was circulated vide letter No.IR(L)/4(31)/98 dated 10.05.99 for handling of bags up to 66 KG and above 66 Kg based on a settlement dated 13.03.1999 signed with the labour union.

The recommendation of ILO's convention that maximum carriable weight by a manual labour would be 50 KG was ratified by the Govt. of India and same was adopted for handling of foodgrain stock in 50 kg bag in FCI depots. Accordingly incentive scheme for handling of 50 KG bags was revised and circulated vide circular No.18/2005 dated 15.12.2005 (File NO. IRL/4(52)/2002) for its implementation w.e.f. 01.12.2005. However, these instructions were kept in abeyance, in view of Industrial Dispute raised by the labour Unions against its implementation before the conciliation officer later due to adjudication of the instant industrial dispute before the CGIT. II. Delhi.

The Handling norm for operation of "unloading from truck and directly loading into another truck" has been included in the incentive scheme vides Circular No. 12/2012 dated 12.07.2012 (File No. IR(L)/1(5)/07/Vol.III) **(Annexure-28)**

Revision of Incentive Scheme in respect of departmental workers working in Pune, Panvel, Wardha and Manmad w.e.f 01.01.2009.

Incentive scheme applicable in respect of the departmental labour working in Borivali, Pune Panvel Wardha and Manmad was different from the incentive scheme prevalent in inland depots across the country. The period of operation of the said scheme expired on 31.12.2008. Thereafter, Labour Union's insisted for extension of incentive scheme circulated by Hqrs vide letter No. IR-L/4(31)/98 dated 10.05.99 in respect of departmental labour by and large affiliated with FCIWU. To the departmental worker working in above mentioned depots. An under-standing was reached by the GM (R) Maharashtra / ED (Zone) Mumbai, with Labour Unions on this subject. Accordingly, it was decided by Hqus. vide letters / circulars given below to extend incentive scheme dated 10.05.99 to the departmental labour working in Borivali Pune, Panvel, Wardha and Manmad conditionally i.e. subject to outcome of ID case No 195/2011 and 239/2011 relating to validity of the incentive scheme of 50 kg B/s contained in Circular No. 18/2005 dated 15.12.2005 pending before the CGIT II Delhi at that time.

Letter no. IR-L/3(33)/2006/W.Z/Vol III dated 13.04.2011-**(Annexure-29)**

Circular No 20/2011 dated.16.12.2011 (File No. IR-L/3(33)/2006/W.Z/Vol IV)**(Annexure-30)**

Incentive scheme in respect of departmental labour working at Vishakhapatnam Port was also revised subject to outcome of above mentioned ID case No 195/2011 & 239/2011 pending before the CGIT Delhi at that times vide circular No11 /2013 dated 29.8.2013 (File No. IR-L/4(6)/2013) **(Annexure-31)**.

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The Hon'ble Tribunal vide award dated 05.07.2016 had held that the incentive Scheme made for handling of 50 KG bags by the departmental labour and circulated vide circular No. 18/2005 dated 15/12/2005 w.e.f 01.12.2005 was legal and justified. Accordingly instructions have been issued vide circular No. 8 of 2016 dated 17.08.2016 (File No. IRL/4(52)/2002) **(Annexure-32)** (collectively 23 pages) for its implementation with effect from 01.12.2005. The Labour Unions have challenged the award dated 05.07.2016 of CGIT II Delhi before the High Courts at Delhi, Guwahati, Ahmedabad, Kolkata and Jodhpur by various writ petitions. Hon. High Court of Delhi has granted an interim stay on making recovery of excess incentive of workers to working in Delhi region till final decision on pending writ petitions, whereas High Courts of Guwahati, Ahmedabad, Kolkata and Jodhpur have granted stay on the recovery of excess incentive from the wages of departmental labour working in Assam, Gujarat, West Bengal Regions and Jodhpur depot respectively.

36. ILLUSTRATION FOR CALCULATIONS OF INCENTIVE WAGE IN CASE OF DEPARTMENTAL WORKERS

Gang formation

Sardar	-	1
Mandal	-	1
Handling Labours	-	12
Total	-	14

Assuming that Sardar, Mandal and 12 H/L are present on duty

Departmental Handling Labour (Loader)

Pay Scale - Rs.14400 - Rs.32300

Daily wage for the purpose of Incentive

(A) Daily wage at lowest basic pay of HIL as on 01.05.2014 i.e. = Rs. 14810/- per month

Monthly Basic Pay = Rs.14810 ÷ 26 = Rs. 569.61 -----(A)

Monthly Variable DA @ 20.2% = Rs.2991.62

Monthly HRA @ 30% = Rs.4443

Total = 7434.62

Total Daily D.A + HRA = $\frac{7434.62 \times 12}{365}$ = Rs.244.42 -----(B)

365

Total wage per day = (A)+(B) = Rs.814.03

(B) General Norms of output for which minimum wage is payable and no incentive is payable.

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- (a) Handling-135 Bags (each weighing upto 50 Kg) per Handling Labour per day / Shift.
- (b) Stacking (Height)-10 Bags high (layers) for bags Weighing upto 50 KG per Handling Labour per day.
- (c) Lead (Distance) - 66 Ft.

Note: Stacking of bags is always referred to standard stacking of interlocking pattern with basic of standard size with a view to utilize maximum storage space.

(C) Statement of Norms / Datum of Output for Different Operations

Brief Description of Operations/Activity	Existing Norms/ Datum
	for 50kg Bags
Unloading from truck and stacking	135
Unloading from wagon and stacking	115
Unloading from wagon and dumping	170
Stacking the bags dumped	180
Destacking and loading into trucks	140
Destacking and loading into wagons	120
Un load from wagon & load in trucks	110
Standardization	055
Salvaging of damaged food grains	040
Breaking stack and restacking	180
Weighment	105

(D) General norms of output and incentive payable

(a)	Handling	70 bags (each weighing 66 kgs and above Or 105 bags (each weighing below 66 Kgs. per Handling Mazdoor per day/shift) Or 135 bags (each bag weighing upto 50 kg per Handling Mazdoor per day/shift)
(b)	Stacking	8 bags high (for bags weighing 66 kgs and above each) Or 10 bags high (for bags weighing below 66 kgs each) and upto 50 kg.
(c)	Lead	66'

At present handling of foodgrains bag is being done in bags weighing upto 50 kg. The incentive parameters

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for regulating incentive wages for handling of above bags are as under :-

Above norms (135 bags per worker - for bags weighing upto 50 kg)

First 30 bags	Full wages for 30 bags + 8% extra	Full wages mean Pay + DA + HRA for actual number of bags.
Next 30 bags	Full wages for 30 bags + 15% extra	
Next 30 bags	Full wages for 30 bags + 35% extra	
Beyond 90 bags	Full wages for actual number of bags handled in this slab + 50% extra	

Height Incentive:

11 to 12 high	10% of full wages for actual number of bags stacked in this slab.
13 to 14 high	25% of full wages for actual number of bags stacked in this slab.
15 to 16 high	30% of full wages for actual number of bags stacked in this slab.
17 to 18 high	40% of full wages for actual number of bags stacked in this slab.
19 and above high	50% of full wages for actual number of bags stacked in this slab.

Lead Incentive (Per gang)

Lead norms - 66'

67 to 99'	15% of full wages for actual number of bags carried in this slab.
100 to 132'	30% of full wages for actual number of bags carried in this slab.
133 to 165'	50% of full wages for actual number of bags carried in this slab.
Above 165'	100% of full wages for actual number of bags carried in this slab.

For Sardar / Mandal

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Incentive wages to Sardar / Mandal will be paid equal to the average incentive earning of the Handling Mazdoor in the Gang provided the concerned Sardar / Mandal has attended to the work with his gang.

(E) Normal Duty Hours

10:00 AM to 5:30PM (including half an hour lunch)

(F) Illustration for incentive calculation for work done during normal shift hours:-

(G) Suppose a gang having 12 Handling Labour (H/L) unloaded 1800 bags weighing about 50 KG each from truck and stacking inside godown in a countable position as per stack plan of $(13 + 8) \times 6 = 126$ per layer (high), assuming Sardar, Mandal & 12 Handling Lablur of the gang are present on that particular day. Out of the said 1800 bags that The gang has also carried 300 bags beyond 66 ft lead.

Item No 2- Unloading from truck and stacking inside Godown = 135 bags (Norms/Datum) per handling worker

Calculations:

- (i) Norms of output per H/L for above operation = 135
- (ii) Daily wage of a H/L for 135 bags = Rs. 814.03
- (iii) Normal wage per bag = Rs. 6.02
- (iv) Actual output per H/L s per shift = $1800 \div 12 = 150$ Bags/Shift
- (v) Output for which handling incentive is payable = $150 - 135 = 15$ Bags per H/L
- (vi) No. of bags stacked upto norm of 10 high = 1260 bags
- (vii) No. of bags stacked for which height incentive is payable:

(a) At 11 - 12 high = 252 bags

(b) At 13 - 14 high = 252 bags

(c) At 15 high = 36 bags

540 bags

Note (i) Calculation of handling incentive are done on "per worker" basis.

(ii) Calculation of height incentive and lead (distance) incentive are done on "per gang" basis.

Handling Incentive per H/L

- Upto norm of 135 bags - No incentive (normal wage)
- For next 15 bags - Normal wage for 15 bags + 8%

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i.e. $Rs.6.02 \times 15 = Rs.90.03 + 7.22 (8\%) = Rs.97.25$

- Total handling incentive for 15 bags = Rs.97.25 per handling labour

Height Incentive per Gang

For 1260 bags stacked upto - No Incentive

10 high (i.e. upto norm)

For next 252 bags stacked at - 10% of full wage for 252 bags

11 & 12 high = $Rs.6.02 \times 252 \times 10\% = Rs.151.70$

For next 252 bags stacked at = 25% of full wages for 288 bags

13 & 14 height + remaining 36 bags = $(Rs.6.02 \times 288) = 1733.76$

Stacked at 15 high = 288 bags = $Rs.1733.26 \times 25\% = Rs.433.4$

Note : 36 bags have been stacked at 15 high. As per incentive scheme next slab rate would payable on completion of stacking of 2 layers at 15 and 16 high. Therefore, lower slab rates of height incentive for stacking in respect of 36 bags are payable.

Total Height Incentive payable = $Rs.151.70 + Rs.433.40 = Rs.585.14$

to the gang for bags stacked beyond

Norm of 10 high

Height Incentive payable to each = $Rs.585.14 \div 12 = Rs.48.76$

Handling Labour of gang

Lead Incentive Per Gang

For 300 bags carried beyond 15% of full wages for 300 bags

66 ft lead distance = $(Rs.6.02 \times 300) = Rs.1806/-$

= $Rs.1806 \times 15\% = Rs.270.90 / 12$

Lead Incentive per handling labour $(270.90 \div 12) = Rs.22.57$

Total lead Incentive Payable to each gang (Handling+ Height+Lead) = $Rs.97.25 + Rs.48.76 + Rs.22.57 = Rs.168.58$ per worker

Total wage including incentive payable per Handling Labour for that Day:-

(I) Minimum Daily Wage = Rs.814.03

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(II) Incentive = Rs. 168.58

Total Rs. 982.61

In case output of the HL is less than 135 bags or equal to the same, then the HL of Labour Gang will be paid daily minimum wages of Rs 814.03 or Minimum daily wages worked as per the basic pay of each H/L if the work was not available

If the basic pay of 12 H/L are same then Sardar and Mandal will be paid extra amount equivalent to the average earning of H/L, otherwise equivalent to incentive earning of senior most H/L

I) Incentive scheme for the work done beyond normal duty hours, Normal Duty Hours : 10:00 AM to 5:30PM (including half an hour lunch)

i) HANDLING INCENTIVE (per Handling Labour)

Handling Norm = 19 bags per hour (135 bags ÷ 7 hours)

First 5 bags above norm Full wage for 5 bags + 8% extra.

Next 5 bags above norm Full wage for 5 bags + 15% extra.

Next 5 bags above norm Full wage for 5 bags + 35% extra.

Beyond 15 bags Full wage for actual number of bags handled in this slab + 50%

ii) HEIGHT INCENTIVE PER GANG

As per Clause 8 (B) of scheme above concerning Height Incentive

iii) LEAD

As per Clause 8 (B) of scheme above concerning Lead Incentive

37) Handling Norms for Gunny operations

The revision of rates of extra wages for loading/unloading of gunny bales by the departmental labour and procedure for merging food grain handling operation with gunny bale handling in exigency as given below had been circulated vide Circular No. 17/2012 dated 08.10.2012 (File NO. IRL/4(52)/2002/Vol.III) **(Annexure-33)**.

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Handling Norms for Gunny operations

The revision of rates of extra wages for loading/unloading of gunny bales by the departmental labour and procedure for merging food grain handling operation with gunny bale handling in exigency as given below had been circulated vide Circular No. 17/2012 dated 08.10.2012 (File No. IRL/4(52)/2002/Vol.III) **Annexure-34**

S. NO.	Operation	Norm per worker per day	Rate payable after completion of norms
1	Unloading gunny bags from truck/wagon and dumping on the platform and stacking in the godown up to 4 height wherever space is available.	7 bales per worker per day	Rs. 61/-
2	Destacking/Removing the bales from godown and loading inside truck/wagon.	7 bales per worker per day	Rs. 76/-

Manual Handling

S. NO.	Operation	Norm per worker per day	Ratio of unification of gunny bales with food grain bag
1	Unloading gunny bags from truck/wagon and dumping on the platform and stacking in the godown up to 4 height wherever space is available.	7 bales per worker per day	One gunny bale will be equivalent to 15 bags
2	Destacking/Removing the bales from godown and loading inside truck/wagon.	7 bales per worker per day	DO

The above circular has been super ceded by the another circular No. 05/2014 dated 22/28.01.2014 (File No. IRL/ 4(52)/02/Vol. III) (**Annexure-39**) and ratio for unification of gunny bales with food grain bags has been fixed as detailed below:

S. NO.	Operation	Norm per worker per day	Ratio of unification of gunny bales with food grain bag
1	Unloading gunny bales from truck/wagon and dumping on the platform and stacking in the godown with aid of wheel borrow (where ever space is available)	22 bales	Proportion of one gunny bale was fixed equivalent to 5 bags.
2	Destacking/Removing the gunny bales from truck/ godown and stacking inside truck/wagon with the aid of wheel borrow.	17 bales	Proportion of one gunny bale was fixed equivalent to 6 bags.

Note: (1) The operation at 1 includes unloading/dumping and stacking of bales and operation (2) includes destacking / removing and loading of bales. In case part of operation is performed rate norms will be adjusted proportionally.

b) Shifting of bales within the godown will be treated as part operation

Note : Incentive scheme as contained in circular no. 18/2005 dated : 15.12.2005 has been implemented with effect from 01.12.2005 on the basis of award dated 05.07.2016 in ID Case No. 195/2011. Accordingly ratio of unification of gunny bales with food green bags has been modified in FAP.

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38. Clarification regarding incentive payment

Norms for operations regarding Railway Platform to Truck :

It is a redundant operation and form a part of actual operation namely "unloading of wagons and loading in Trucks. Therefore the depot incharge should ensure that deliberate attempt to bifurcate the operation" "unloading of wagons and loading in truck " into two i.e. unloading of wagons and dumping on platform" and "loading from Railway platform to truck has to be avoided.

Stacking : Stacking of bags will always refer to standard stacking of inter locking pattern with basis of standard size with view to ensure to optimum utilization of storage space. Therefore, dumping for any other purpose then storage should never be construed as stacking and thus no height incentive is to be taken for such operation.

39). Submission of work slip

Instructions as contained in Circular No.16/2011 dated 26.09.11 issued from file No.IRL/1(5)/2007(**Annexure-35**).

The work done slips are the basic documents that are prepared at depot level for departmental / DPS / NWNP labour on the basis of which the wages / incentives / OTA are prepared by the District Offices. Delay in submission of work slip adversely affect finalization of monthly wages / piece rate wages and OTA.

In order to streamline the system, strict instructions were given to Depot Officer as also to Area Manager to ensure submission of work done 'slip/output slip' on weekly basis. It was also conveyed to field offices vide this circular that "work done / output slips" should be completed on weekly basis. For a particular month such claims should be submitted with the Area Officers by the 3rd of the succeeding month:

It was also emphasized through this circulars that the work done slips in case are not received at the district offices by 3rd day of the succeeding months, the incentive / OTA / Wages etc shall not be paid by District Office.

40. Important Records being maintained in Depots for doing manual transactions

The practice to maintain Gate Entry register, booking register, output slips, work done register and other personal records as per the certified Standing Order in respect of the departmental labour is already existing in the departmental depots since its inception. However, in order to implement the instructions relating to payment of wages, incentive wages and allowances to the Departmental labour and to avoid any manipulation in the calculation of the incentive wages, following documents/records must be maintained at the depot. The House keeping Section of the District Office should ensure that enough stock of requisite registers/books statements are kept in store and are provided to the concerned officers and officials as per the requirement at appropriate time.

a) Gate Entry Register

The register should be maintained at the Gate. The Workers shall mark their attendance in form of signature/thumb impression where biometric machines are not functional or have not been installed. Separate registers may be maintained for each Gang in order to avoid delay in reporting for work.

b) Booking Register

The Labour Cell shall maintain this register to depict the days on which labour gang has been booked for work and the days on which labour has been sent back on Attendance allowance.

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c) **Output Slips**

Output slips shall be maintained in quadruplicate by Unit/Shed Incharge. The purpose of each copy is mentioned as below:

Original - for District Office/Pay Office

Duplicate - for labour Cell of the depot

Triplicate - for Sardar/Mandal of the Gang

Quadruplicate - office copy

d) **Work Done Register**

The work done register for each gang and a consolidated figure for depot shall be maintained by Labour Cell under the supervision of Depot Incharge. The date-wise work done for each operation should be depicted separately in that register. The format of work done register is as follows:

Details of Depots and District Office

Month – Gang No

Date	Output Slip No.	Number of workers present	Unit/Shed no./ Rail head	Name of Operation 1	Name of Operation 2	Name of Operation 3	Remark
01.09.2017							
02.09.2017							
03.09.2017							

The Items of operations to be included in the Work Done register could be done on the basis of actual operations carried out in the Depots of District. Efforts shall be made to have Uniformity in work done register of Depots across the District. However, Area Managers may formulate separate Work Done register for Depots having Rail Siding of Rail Head.

During the discussions at IFS Gurgaon, on 27th and 28th May 2011 it was brought to the notice that records needed for preparation of the salary, incentive and OTA such as attendance, booking slips and administrative approvals of OTA are received at District offices (Drawing and disbursing officers) very late and in some cases after a period of 2-3 months. In order to avoid delay in preparation of the monthly salary, incentive and OTA, all the GMs (Region) are requested to ensure that attendance, output slips and OTA records should be followed in a calendar month basis and same should be submitted by the Depot Offices to the District Offices on Weekly Basis. However, since the same is not possible as depot offices are following different practices in formulation of these documents. Therefore, a standardized procedure may be followed by all the depots for timely preparation of Records in Departmental Labour system depot.

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1. When the workers report for duty in the morning, they should mark their attendance by affixing signature/thumb impression, where biometric machines are unfunctional or have not been installed.
2. Labour Cell shall assign the work within 2 hours otherwise the workers should be sent back on attendance allowance.
3. The workers shall report to the Unit Incharge as assigned by Labour Cell, who after the completion of work will make entry in the Output slip of their presence as well as the work done.
4. On demand the triplicate copy may be given by the Unit/Shed Incharge to the Sardar/Mandal of the Gang. The duplicate shall be deposited by Unit Incharge with labour cell/labour officer of the Depot.
5. In case the gang is sent on tour, the practice of sending the Output slip Book along with gang must be stopped. In such cases a certificate of attendance and the work done from the concerned officer Incharge of the depot where the work operation has been carried out shall be sent directly to the depot Incharge from where the gang has been sent on tour. On the basis of that certificate the labour cell shall make a booking slip for the work done by labour on tour.
6. The Unit/Shed Incharge shall submit the Original copies of Output slip at the end of every week with Depot Incharge who in turn will forward it to District Office after verifying the same from Work Done Register.
7. The Depot Incharge shall send the attendance of the workers duly indicating the days on which the workers has been sent back on attendance allowance within 5 days from last day of month.

This practice of the maintenance of above record on the above mentioned lines if already existing, the same will remain unchanged. However, wherever the records/statement mentioned above are not in practice the same may be added in the existing procedures/practice.

Further, it is mentioned that except the instructions/circulars mentioned above and which could be read in conjunction with instructions contained herewith, others stand superseded if they are in contravention with this Circular.

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41) Records to be maintained in respect of Departmental, Direct payment labour and NWNP on switching over to Online depot management system.

Work Slip for Departmental Labour

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DEPOT NAME, DISTRICT OFFICE

GANG NUMBER: xyx FAP Code: pqrs

WORK SLIP FOR date (ddmmyyyy)

	Activity Name	Item No.	Number of bags handled	Stack height					Lead Wagon Numbers	Code of Labours present	Bags handled during office hrs(10 AM-5:30PM)	Bags handled beyond office hrs (Before 10AM & After 5:30 PM)
				Upto 10	11-12	13-14	15-16	17-18				

Signature of Shed Incharge

Signature of Manager (Depot Officer)

Work Slip for DPS/NWNP Labour

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DEPOT NAME, DISTRICT OFFICE

GANG NUMBER: xyx FAP Code: pqrs

WORK SLIP FOR date (ddmmyyyy)

Sl	Activity Name	Item No.	Number of bags	Stack height				Wagon Numbers	Code of Labours present	Bags handled during office hrs(10 AM-5:30PM)	Bags handled beyond office hrs (Before 10AM & After 5:30 PM)
				Upto 10	11-16	17-20	21+				

Signature of Shed Incharge

Signature of Manager (Depot Officer)

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Work Slip for Ancilliary Labour

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DEPOT NAME, DISTRICT OFFICE

WORK SLIP FOR date (ddmmyyyy)

Sl	Code of Labours present	Work carried out	Time of Commencement of work	Time of Completion of work	Remarks

Signature of Shed Incharge &

Signature of Technical Assistant (Only if work of fumigation has been done)

Signature of Manager (Depot Officer)

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ATTENDANCE REGISTER -

W-on work | M-Medical Leave | C-Casual Leave | F-Half Pay | V-Privilege | I-Disability | T-Maternity | A-Absent | H-Weekly Off | P-PH | N-NPH

Gang Number -

N a m e																													No. of Days Present			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28		29	30	31
A																																
PM																																

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42(A). Extracts of Circular No. 6/2012 dated 18.06.2012 (File No.IR(L)/1(5)/2007/Vol II) (Annexure-36) (Para 31).

This circular contains replies to the multiple queries of field offices on payment of wages incentive , raised before FAP in respect of the departmental labour.

S. NO.	Query/Point	Relevant Circular/ letter No. and date	Extracts of Circular/Clarification
1	Bifurcation of the operation "unloading from Wagon and Dumping on Platform" and stacking the dumped food grains.	IR(L)/4(31)/98 dated 10.05.99	<p>Extracts of letter No. IR(L)/4(31)/98 dated 10.05.99:- Operation No. (iii) "Unloading from the wagon and dumping on platform" General Condition No. (viii) The dumping of stocks i.e. operation No. (iii) Should be allowed only to ensure that there is no demurrage on wagon and stocks so dumped should be stacked or issued on the next day but no dumped stacks should be kept for more than 3-4 days.Operation No. (iv) "Stacking inside godown, removing the bags dumped"ClarificationItem No. (i) viz. "Unloading from truck and stacking inside godown is not relevant for removing the bags dumped. Incentive Wages Scheme provides clearance of dumped stocks under item No. (iv) viz. "stacking inside godown, removing the bags dumped."</p>
2	Lunch Subsidy/ Washing/Transport/ Dusting Operator Allowances to be given on Monthly basis (30 days or 31 days) or Daily basis.	<p>(i) Circular No. 21/2002 dated 12.11.2002. (ii) Circular No. 03/2003 dated 21/24.02.2003. (iii) Letter No. IRL/4(5)/93 dated 03.02.1995 (iv) Circular No. 3/2011 dated 30.03.2011.</p>	<p>Extracts of circular No. 3/2011 (For dusting Operator Allowance) The Departmental Ancillary Labourers /Godowns Mazdoors working in various godowns / depots are paid Dusting Operators Allowance at the rate of 1/30th per day of the monthly Dusting Operator Allowance as applicable to the Class-IV employees and as revised from time to time for the days on which they have actually performed duties relating to fumigation, spraying etc. strictly in accordance with the records/documents in FCI as certified by Manager (QC)/Technical Assistant concerned." Lunch Subsidy Circular no. 21/2002 and circular 03/2003 is relevant and enclosed for guidance. Washing Allowance Refer sub heading washing Allowance of Letter No. IR(L)/ 4(5)/93 dated 03.02.1995. [Copy of letter enclosed]. Transport Reimbursement Refer sub heading Transport Reimbursement of Letter No. IR(L)/4(5)/93 dated 03.02.1995. [Copy of letter enclosed].</p>

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S. NO.	Query/Point	Relevant Circular/ letter No. and date	Extracts of Circular/Clarification
3	Whether Lunch Subsidy, Washing Allowance and Transport Allowance are payable for the days of sanctioned leave or not	<p>(i) Circular No. 03/2003 dated 21/24.02.2003 (Lunch Subsidy).</p> <p>(ii) Letter No. IRL/ 4(5)/93 dated 03.02.1995 (Transport reimbursement).</p>	<p>Extracts of Circular No. 03/2003 dated 21/24.02.2003(Lunch Subsidy)</p> <p>"Departmental Labourer who remains on leave for more than 30 days period continuously will not be entitled to lunch subsidy for the entire period of such absence. In other words, lunch subsidy will be paid for the days when the departmental labourer is on leave including casual and special casual leave."</p> <p>Extracts of letter No. IRL/4(5)/93 dated 03.02.1995 (Transport reimbursement)</p> <p>"There will be proportionate reduction in the Transport reimbursement on account of leave other than Casual leave and holidays."</p> <p>Washing Allowance</p> <p>The procedure for making payment of Washing Allowance shall be the same as given above for Transport reimbursement.</p>
4	Whether Lunch Subsidy, Washing Allowance and Transport Allowance are payable for the days of sanctioned leave or not	<p>(i) Circular No. 03/2003 dated 21/24.02.2003 (Lunch Subsidy).</p> <p>(ii) Letter No. IRL/ 4(5)/93 dated 03.02.1995 (Transport reimbursement).</p>	<p>Extracts of Circular No. 03/2003 dated 21/24.02.2003(Lunch Subsidy)</p> <p>"Departmental Labourer who remains on leave for more than 30 days period continuously will not be entitled to lunch subsidy for the entire period of such absence. In other words, lunch subsidy will be paid for the days when the departmental labourer is on leave including casual and special casual leave."</p> <p>Extracts of letter No. IRL/4(5)/93 dated 03.02.1995 (Transport reimbursement)</p> <p>"There will be proportionate reduction in the Transport reimbursement on account of leave other than Casual leave and holidays."</p> <p>Washing Allowance</p> <p>The procedure for making payment of Washing Allowance shall be the same as given above for Transport reimbursement.</p>

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S. NO.	Query/Point	Relevant Circular/ letter No. and date	Extracts of Circular/Clarification
5	Whether Non-Paid Holidays be given a Actual Basic Pay + DA or Monthly Basic Pay + DA	Circular No. IR(L)/2(7)/84 dated 14.9.1990 And Circular No. 15 of 2011 dated 13.9.2011	Extracts of Item 6 of Circular No. IR(L)/2(7)/84 dated 14.9.1990 "For work on non-paid holiday the workers shall be paid daily basic wage as extra wage." Extracts of Item 5 of Circular No. 15 of 2011 dated 13.9.2011 "If a Departmental labour is booked on the Non-paid holiday, then he will get the same wages as on paid holiday. But if a labour is not booked on non-paid holiday he will get attendance allowance for that day including HRA"
6	Non-Paid Holidays/ Extra Wages to be considered for CPF deduction or not.	Circular No. IR(L)/2(7)84 dated 14.9.1990	Extracts of item 6 of Circular No. IR(L)/2(7)/84 dated 14.9.1990 "For work on non-paid holiday, the workers shall be paid daily basic wage as extra wage. (not countable for any other purpose) in addition to the daily wage when booked." Clarification In view of the above, CPF will not be deducted on extra wage.
7	Deduction from wage of the DPS and Departmental labour for loan from Credit and Thrift Society and Insurance Company etc.	Letter No. IR(L)/4(13)/94 dated 26/29.1997	Extracts of letter No. IR(L)/4(13)/94 dated 26/29.9.1997 ".....that deductions and remittance of dues to the Credit Society may be made regularly to avoid any complaint from the society/union." Clarification Deductions on account of Group Insurance or Monthly Scheme are statutory and cannot be ignored. However, efforts should be made by the field offices to take minimum responsibility towards deduction from Wages of the labour.
8	Whether the Gazetted / paid holidays will be counted to calculate total number of working hours of a labour in a week for the OTA rate.		Clarification It is clarified that hours of holiday / gazette holiday will not be counted to determine number of working hours of a week for OTA rate. However, if work has been done, those hours will be counted. This is relevant in areas, where at present OTA is being regulated as per S&E Act of the respective state.

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(B) Re-organization / Merger of Labour gangs in the departmental and DPS categories criteria to be followed at the time of merger of gangs, fixation of seniority for the purpose of promotion from Handling Labour to Mandal and from Mandal to Sardar.

This scheme is being regulated by following circulars:-

- a) Circular No. 7/2006 dated 23/24.02.2006 (File No. IR.L/4(54)/2000)(Annexure-37).
- b) Circular No. 12/2007 dated 20.11.2007 dated 20.11.2007 (File No. IR.L/4(26)/2006)(Annexure-38).

Merger of Labour gangs and switching over to depot wise seniority in respect of departmental and DPS category workers.

As a consequence of voluntary retirement/superannuated retirements/deaths of worker, in the departmental and DPS depots, the strength of most of the labour gangs got reduced considerably. The existence of such short/broken gangs had adverse impact on efficiency and productivity of labour. Hence in the said context circular No. 7/2006 dated 23/24.2.2006 (File No. IR(L)/4(54)/2000) was issued where by the criteria of gang wise seniority for promotion to the post of Mandal and Sardar which was established through agreement dated 24/05.1984 with the labour union was changed to depot wise seniority for purpose of promotion.

c) Labour Unions challenged the afore said instructions under I.D. Act and settlement was reached before the RLC (C) Kolkata on 7.11.2007 vide which it was decided that instructions in question will be made applicable from 7.11.2007 and revised instructions were issued vide circular No.12/2007 dated 20.11.2007 which contains following terms and condition.

Hence forth depot wise seniority will be maintained for the purpose of promotion in departmental and DPS category labour.

Merger/reorganization of labour gang will be done by breaking the last number of gang of the depot first and process should proceed further in descending order. Left over Sardar / Mandal and handling workers after merger/reorganization of full labour gang will be kept in "Leave Reserve Pool" subject to depot wise seniority. The Leave Reserve Pool workers will be utilized strictly against leave/casual vacancy and regular gangs against the further vacancy on the basis of depot wise seniority as per clause (iii) and (iv) of Circular No. 7/2006 dated 23/24.2.06

Labour union challenged the Circular No. 12/2007 dated 20.11.2007 before High Court of Delhi and the operation was stayed vide order dated 17.05.2010 which continued till its disposal i.e. August 2013.

Hon'ble High Court Delhi in W.P No.3256 of 2010 (FCIHWI V/S FCI) held vide order dated 23.08.13 that above instructions circulated vide Circular No.7/2007 referred to above are valid and rejected the plea of Labour Union.

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(C). Uniform

The rates and scale of summer/winter uniform to departmental labour shall continue to be governed by circular dated 16.11.1994 i.e. within the ceiling amount and also the stitching charges as prescribed for class IV employees from form time to time (**Annexure-39**).

(D). Conversion of Cadre from Ancillary Labour to Handling Labour in departmental Labour. It is being governed by the instructions as contained in letter No. IR-L/4(54)/2000 dated 20.01.2005 (Annexure 40)

The matter relating to conversion of Cadre from Ancillary Labour to Handling Labour was discussed with the representatives of FCI Workers Union in a meeting held in Hqrs. on 27th December, 2004. The following guidelines have been conveyed for conversion of Cadre from Ancillary Labour to Handling Labour in departmental Labour category:

- i. The vacancy / vacancies of Handling Labour in the gang may be filled in by options to the available Ancillary Labour in the depot. The senior most Ancillary labour, out of such optees, may be given preference to this Handling Labour subject to fitness for the post of Handling Labour i.e. he should not be a handicapped person and should be able to pass a test of loading / unloading at least 90 big bags (each weighing more than 65 kgs) or 135 small bags (each weighing 65 kgs or less) in a day / shift. It may be ensured that such change of cadre to Handling Labour should be against a clear vacancy of Handling Labour.**
- ii. He will be the junior most Handling Labour in the gang and will not have any lien in the capacity of Ancillary Labour.**
- iii. The vacancy of Ancillary Labour which would occur on account of change of cadre as Handling Labour will stand abolished in view of surplus labour available in the FCI.**
- iv. The basic pay of the incumbent will be fixed in the appropriate stage available in the pay scale of Handling Labour without giving any increment in the scale of pay of Ancillary Labour as the conversion of cadre will be optional and on his request.**
- v. However, while implementing the change of cadre from Ancillary Labour, it may be ensured that the work meant for Ancillary Labour is not adversely affected.**

The competent authority to allow change of cadre, as above, shall be Regional Manager / Sr. Regional Manager and accordingly the office order in this regard may be issued by District Manager concerned.

(E). Light Duty to departmental labour injured while on duty

Light duty to departmental labour as per the procedure in vogue and Protection under persons with

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disability (Equal opportunities) protection of Right and full participation Act 1995 in respect labourers engaged under Departmental System.

i) It is being governed by Circular No. 03/2010 dated 06.04.2010 (File No. IR(L)/4(20)/2006) **(Annexure-41)**. As per this Circular departmental labourers who acquires any of the disease mentioned in above circular during the service and becomes permanently disabled to perform duty are entitled to the benefits of Section 47 of the Act on the basis of disability certificate issued by the Competent Authority. Executive Director Zone of respective Zone have been delegated authority to decide cases covered under the "Persons with disability (Equal opportunities) protection of right and full participation Act 1995 as per policy issued by Hqrs from time to time. Light Duty to departmental labour and conversion of their cadre into Ancillary Labour is continued to be governed by the old scheme as contained in circular No-6/99 dated 30.03.99

ii) **Light Duty as Ancillary Labour (Maximum for 15 months)**

GM(Region) is the competent authority. The Departmental workers, who is temporarily disabled on account of injury or certain diseases as mentioned hereunder may be allowed light duty as Ancillary Workers for the period as the Medical condition warrants and as certified by the competent authority that the workers is not fit for doing handling work for the said period subject to the maximum period of 15 months with the condition of periodical review of six months :-

- a. Skeletal disorders as certified by Orthopedic Surgeon to whom the case may be referred to by the FCI.
- b. Tuberculosis of Lungs.
- c. Cogestive cardiac failure.
- d. Cancer.
- e. Lung infection, heart trouble, asthma, paralysis, myopia and eye cataract and such other diseases which render him unfit temporarily for doing the handling job on the basis of the Medical Certificate issues either by the Government Hospital or FCI Medical Officer.

iii) Conversion of Cadre / Re-appointment as Ancillary Labour

ED(Zone) is Competent Authority. The Departmental Food grain Handling Workers who were injured while on duty and whose injury had rendered them unfit, permanently for heavy work that they were performing may however be re-appointed without termination of their services and with the benefit of continuity of service as Ancillary Worker provided that

- (a) They request in writing for appointment in lower post unconditionally;
- (b) They are certified as fit for light work / duty by the competent Medical Authority.
- (c) There is vacancy of Ancillary Worker in concerned depot/ ports.
- (d) The wages of such workers would be refixed in the lower scale applicable to Ancillary Workers by

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giving increment on the basis of number of completed years of services rendered by them as handling labourers.

iv) **Protection under "Persons with Disability {Equal Opportunities, Protection of Rates and Full Participation} Act 1995"**

Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 provides as under:

(a) **"No establishment shall dispense with or reduce in rank, an employees who acquires a disability during his service safeguards of this provision .**

Provided that, if an employee after acquiring disability is not suitable for the post he was holding could be shifted to some other post with same pay scale and service benefit.

Provided, further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation whichever is earlier."

(b) The Departmental labourers who acquire any of the following disabilities during his service and becomes permanently disabled to perform their duty will be given benefit of Section 47 of the Act as above on the basis of disability Certificate issued by the competent authority. The format of the disability certificate to be issued by the competent authority as per above Act is enclosed :-

v) **DEFINITION OF DISABILITIES**

"Definitions of categories of disabilities are given below

- (1) (a) Blindness: "Blindness" refers to a condition where a person suffers from any of the following conditions namely:
 - (b) Total absence of sight; or
 - (c) Visual acuity not exceeding 6/60 or 20/20 (snellen) in the better eye with correcting lenses;or
 - (d) Limitation of the field of vision subtending an angle of 20 degree or worse;
- (2) Low vision : " Person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning of execution of a task with appropriate assistive device.
- (3) Hearing Impairment: "Hearing Impairment" means loss of sity decibels or more in better ear in the conversational range of frequencies.
- (4) (a) Locomotor disability: ""Locomotor disability means disability of the Bones, Joints and muscles leading to substantial restriction of the movement of the limbs or any form of

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cerebral palsy."

- (b) Cerebral Palsy: " Cerebral Palsy" means a group of non-progressive conditions of-a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the prenatal, peri-natal or infant period of development.
- (c) All the cases of orthopaedically handicapped persons would be covered under the category of "locomotor disability or cerebral palsy."

ED(Zone) is the Competent Authority for considering cases as per above Act.

vi) **Dispensation of Services**

The Departmental labourers , who are declared totally unfit for employment either because of Injury while on duty or due to causes directly attributed to employment or are not eligible for the protection under section 47 of the Act (Persons with Disability Equal Opportunities, Protection of Rates and Full Participation Act 1995) on the basis of disability certificate issued by the competent authority, will be retired from service after payment of compensation under the Workmen Compensation Act and admissible terminal dues.

The services of the departmental labour who have acquired disability during the service and are not eligible for protection as per the provisions of this Act in furtherance to the disability certificate issued by the competent authority as envisaged in the Act in-question, will also be dispensed with after payment of the admissible terminal dues. ED(Zone) will be competent authority to decide these cases.

(F) Appointment on compassionate ground

a Departmental labour system

The compassionate appointment scheme is applicable for appointment of:

- (i) Dependent of the deceased departmental labour;
- (ii) Dependent of the departmental labour who had been retired on medical ground; and
- (iii) Dependent of the departmental labour who seek retirement on medical ground themselves on or before attaining the age of 55 years.

In case of the procedure for appointment on compassionate ground mentioned at sub para (iii) only male dependent of the departmental labour whose age does not exceed 30 years on the date of the acceptance of request of labours for their retirement (on medical ground) are eligible subject to availability of the vacancy.

In case of the procedure mentioned at Sl. No. (i) & (ii) above female dependent of the deceased /medically retired labour are also entitled for appointment on compassionate ground if there is no surviving male member, against the post of Ancillary labour.

In the case of employees and officers of the Corporation, the compassionate appointment of the legal heirs/dependents was restricted within 5% ceiling limit of vacancies earmarked for the direct recruitment

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quota in group C&D as per DPE guidelines. The ceiling limit of 5% vacant vacancies for the purpose of compassionate appointment in the case of labours was imposed w.e.f 04.03.2003 to bring parity with the procedures of compassionate appointment as applicable to the employees and the labour. The aforesaid proposal was approved by the Board of Directors in the 287th meeting of Board of Directors held on 16th December 2002.

FCI Workers Union later on also filed writ petition no. 3362 of 2004 before the High Court of Delhi at New Delhi with the prayer that the industrial dispute raised by them on this subject may be referred for adjudication by the tribunal. They also filed misc. application no. 10560 of 2004 before the Hon'ble High Court of Delhi that the applications of the dependents of the Departmental and DPS workers pending on 04.03.2003 (the date on which the restrictions of 5% ceiling of the vacancies was imposed) may be decided irrespective of the ceiling limit. The misc. application was decided in favour of workmen on 31.03.2005. FCI filed LPA No. 1672/2005 against the order dated 31.03.2005 mentioned above which was decided in favour of FCI on 30.01.2006. The Ministry of Labour on the direction of the Hon'ble High Court referred the matter for adjudication before the National Industrial Tribunal, Kolkata. FCI Workers Union filed SLP No. 6877/2006 against the judgment dated 30.01.2006 in LPA 1672/2005 of the High Court of Delhi which was dismissed on 31.03.2008 with the rider that it will have no effect on the industrial dispute pending before the NIT, Kolkata and the Tribunal will decide the matter regarding compassionate appointment of the dependents of labour on merit. The matter is still pending with NIT, Kolkata.

i) Important instructions/circulars related to compassionate appointment.

(a) Extract of Circular No.5/2003 dated 04.03.2003 (File no. IR(L)/31(15)/96/Vol.II) (**Annexure 42**) is as under:-

"As per the existing instructions, as contained in Hqrs. Circular No. 24(8)/75-IR (P) dated 2nd February, 1977, 12th January, 1978, 27th November, 1980 and 14th April, 1981 the dependant of the deceased departmental worker who dies in harness and the dependants of the departmental workers retired on medical ground by FCI can be appointed on compassionate ground without sponsoring their names through Employment Exchange. There is also a scheme issued vide Hqrs. Circular No. IR(L)/31(27)/87 dated 03.07.1996 that benefit of compassionate appointment shall be extended to male dependant of those departmental workers who seek retirement on medical ground at their own request subject to certain terms and conditions laid down therein. It was also clarified vide Hqrs. Circular No. IR(L)/31(2)/96 dated 06.08.1997 that only a widow (who has not remarried) or son or daughter will be considered for appointment on compassionate ground. Further, it was also clarified vide Hqrs. Circular No. IR(L)/31(15)/96 dated 22nd July, 1997 that appointment on compassionate ground may be given to the female dependant of the deceased departmental workers against the post of Ancillary Labour in exceptional cases where no male dependent is available in the family at the point of time.

The existing scheme of appointment of next kin and kith of departmental workers under the above mentioned schemes have been reviewed in the light of ruling contained in the various judgments and instructions of Govt. of India for considering cases compassionate appointment. It has been now decided

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that henceforth the principal of ceiling limit of 5% of vacancies ear-marked for the direct recruitment at entry level post for appointment on compassionate ground under various labour systems as already applicable in case of employees of the Corporation will also be followed in cases of appointment on compassionate ground in respect of departmental labour system as per the existing schemes. The limit of 5% quota on appointment on compassionate grounds cannot be increased or relaxed in the light of the instructions of Govt. of India.

DETERMINATION / AVAILABILITY OF VACANCIES:

The compassionate appointment in case of departmental labour can be made upto a maximum of 5% of vacancies falling under direct recruitment quota. The appointing authority will hold upto 5% of vacancies in this category to be filled up on compassionate appointment. The sanctioned strength as on 30th November, 2002 will be taken to calculate the vacancies ear-marked for compassionate appointments. The post of Ancillary and Handling Labour will be clubbed to consider appointment on compassionate ground. Female dependant will be appointed as per existing instructions against the post of Ancillary labour. It will be open for appointing authority to accommodate the person in the waiting list for compassionate appointment in place where vacancies are available.

ii) Guidelines based on the judgement of Supreme Court of India in civil Appeal No 3451/2006 (FCI and others Vs Ramkesh Yadav) extract of circular no 13/2007 dated 10.12.2007 (file no IR-L4/(02)/2007) (Annexure 43) to deal with compassionate appointment of cases.

Attention is invited to this office Circular No. IR(L)/31(27)/87 dated 03.07.1996 relating to extension of benefits of compassionate ground appointment to the dependent of the Departmental workers who seek retirement on medical ground at their own request subject to the condition laid therein. As per the instructions contained in the aforesaid Circular, the candidates / dependents seeking appointment on compassionate ground are required to submit their application in the prescribed proforma. The compassionate appointment cases are being regulated in furtherance to the instructions contained in this office Circular 5 of 2003 dated 04.03.2003 issued from file No. IR(L)/31(15)/96/Vol.II, within the ceiling limit of 5% of the vacant vacancies. It has been observed that the Departmental Workers particularly in UP Region had submitted conditional application for retirement on medical ground which were accepted by the concerned Area Managers / General Managers without pointing out waiver of conditional remarks contained therein, which subsequently led to legal complications. Needless to mention that appointment on compassionate ground is subject to availability of vacancies even on the cases where the Departmental Workers have sought retirement on medical ground at their own request. The Hon'ble Supreme Court of India in Civil Appeal No. 3451 of 2006 (Food Corporation of India & others V/s. Ramkesh Yadav and others. Observed as under:-

When an offer is conditional, the offeree has the choice of either accepting the conditional offer, or rejecting the conditional offer, or making a counter offer. But what the offeree cannot do, when an offer is conditional to accept a part of the offer, which results in performance by the offeror and then reject the condition subject to which the offer is made.

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In the context of second Respondent's conditional offer of voluntary retirement contained in the letter dated 26.04.1999, FCI had, therefore, the following options:-

- a) Reject the request of voluntary retirement on the ground that a conditional offer was contrary to the Scheme and it was not willing to consider any conditional offer.
- b) Reject the request of compassionate appointment on the ground that the employee was more than 55 years of age or on the ground that it was not a deserving case or because there was no vacancy, and then refer the employee to a Medical Board for compulsory retirement on medical grounds.
- c) Require the employee to make separate applications for voluntary retirement on medical grounds and for compassionate appointment strictly as per rules and the scheme.
- d) Accept the request of the employee for voluntary retirement on medical ground subject to the condition stipulated by the employee and provide appointment to his son on compassionate grounds.

When FCI accepted the offer unconditionally and retired the second respondent from service by office order dated 29.07.2000, it was implied that it accepted the conditional offer in entirety, that is the offer made (voluntary retirement) as also the Condition subject to which the offer was made (appointment of his dependent son on compassionate ground). In his application, the second respondent made it clear that he desired to retire voluntarily on medical grounds only if his son (First respondent herein) was provided with employment. If FCI felt that such a conditional application was contrary to the Scheme or not warranted, it ought to have rejected the application. Alternatively, it ought to have informed the employee that the compassionate appointment could not be given to his son because he (employee) had already completed 55 years of age and that it will consider his request for retirement on medical grounds delinking the said issue of retirement, from the request for compassionate appointment. In that event, the employee would have had the option to withdraw his offer itself. Having denied him the opportunity to withdraw the offer, and having retired him by accepting the conditional offer, FCI cannot refuse to comply with the condition subject to which the offer was made.

Keeping in view the above observations of Hon'ble Supreme Court, all the GM(Region) / Area Managers are advised to scrutinize the applications of the Departmental workers who seek retirement on medical ground at their own request and ensure that no conditional application which contains condition for appointment on compassionate ground of his dependent after his retirement may be accepted and while conveying sanction for retirement, it may be ensured that no commitment is made for automatic appointment of his dependent on compassionate ground. It is open fact that appointment on compassionate ground is a welfare measure and cannot be claimed as matter of right. It is subject to availability of the vacancies.

iii) Calculation of 5% vacancies to be earmarked for compassionate appointment (Letter no. IR(L)/4(46)/2004/Vol.II dated 24.06.2008) (Annexure 44) The extract of this letter is as under:

"It is stated that sanction strength in respect of Departmental and DPS system workers circulated vide this office letter No.IR-L/1(21)/2005 dated 27th November 2007 may be taken into consideration to calculate the 5% vacancies to be earmarked for compassionate appointments. As regards determination /availability of vacancies within the ceiling limit of 5% instruction contained in this office Circular No. 4 of

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2003 and circular No.5 of 2003 both dated 04.03.2003 are explicitly clear.

iv) Extract of Letter No 4(1)/87-Vol IV dated 20.03.2012

Sub :- Appointment of next kin and kith of the departmental and deceased DPS workers.

	Query	Clarification
1	At the time of submission of application by the applicant, his age is less than 30 years but at the time of accrual of vacancy within 3 years period, he crossed age of 30 years, whether the case is to be considered for appointment.	Age eligibility shall be determined with reference to the date of application and not the date of appointment.
2	What would be the criteria for seniority of roster i.e. date of death or date of completion of documents?	Date of death shall be the criteria for seniority roster.
3	If at the submission of application, the applicant is minor then what would be the seniority criteria i.e. date of completion of document or date of becoming eligible.	Date of attaining the age of 18 years shall be criteria for seniority.

The above instructions should be read with instructions contained in Hqrs Circular No 4/2003 (DPS Labour) and No 5/2003 (Departmental Labour) Act on may be taken accordingly."

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v) **Extract of Circular No. 3/2013 dated 09.04.2013 (File no. IR(L)/4(46)/2004/Vol.VI)(Annexure 45) is as under:-**

"Attention is invited to this office circular No.5/2003 dated 04/13.03.2003 (File No. IR(L)/31(15)/96/Vol.II) vide which instructions for compassionate appointment of next kith and kin of the departmental workers within the ceiling limit of 5% vacancies of direct recruitment were issued. At present, compassionate ground appointment of next kith and kin of the departmental workers are being considered by the respective GM(Region) subject to availability of vacancies within the ceiling limit of 5% in the following circumstances :-

- i) Next kin & kith of **deceased** departmental worker;
- ii) Next kin & kith of departmental workers who is **retired on medical ground** by FCI; and
- iii) Dependents of departmental workers who **sought retirement on medical ground at their own request** on or before attaining the age of 55 years. In this case appointment on compassionate ground is being allowed to the male dependent only against the post of Handling Labour who has not attained the age of more than 30 years.

The labour unions have been demanding time and again that the dependents / next kith and kin of those departmental workers who died on work spot while performing the duties may be considered irrespective of the 5% ceiling limit, on humanitarian ground to mitigate the financial hardships of the family members who are left in the indigent condition. The demand of the union has been examined for redressal of the grievances of the workmen / union. The Board of Directors of FCI in its meeting held on 18.03.2013 (355th BD) has authorized CMD, FCI to approve such cases of compassionate appointment of next Kith & Kin of workers who died on work spot within the Regions/Zones concerned irrespective of ceiling of 5% of total vacancies under DR quota subject to the condition that the total number of cases of compassionate appointment should not be allowed to exceed 5% of the total vacancies (on All India basis) under DR quota.

It is requested that number of vacancies available within the ceiling limit of 5% may be calculated zone/region-wise as per the existing instructions and be sent to this office on priority. Further, all the EDs (Zone)/ GMs (Region) may send the cases of compassionate appointment of dependent of those departmental workers who died **at work spot while performing duties** after examining their eligibility within the laid down parameters, to headquarters for consideration / decision.

vi) **Extract of letter No IR-L/4(46)/2004/Vol.VI Dated 20.08.2013(Clarification in regard to implementation of Circular No. 5/2013 dated 09/04/2013)**

1. "The EDs (Zone) should advise GM(Region) concerned for appointment of kith and kin of those workers who died on work spot on priority and in case vacancy is not available in a region to make such appointment the vacancies of other regions within the zone may be transferred for making appointment

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subject to availability of vacancies against 5% ceiling limit within the zone in the respective category of labour i.e Departmental /DPS as the case may be.

2. After considering the cases of appointment of kith and kin of those workers who died on work spot, if any vacancy remains unfilled against 5% ceiling the same may be filled by issuing appointment to the kith and kin of deserving normal death cases and for making appointment in such cases no relaxation of shifting of vacancies shall be permissible.

In no case the appointment on compassionate ground should exceed the ceiling limit of 5% of DR vacancies within the region."

vii) Payment of subsistence allowance to departmental worker

It is being governed by the circular No. 20/2012 dated 16.10.2012 issued from File No. IRL/3(1)/88/Vol V **(Annexure-46) common instructions.**

The Departmental workers placed under suspension are entitled to the payment of subsistence allowance as per clause 16(1)(b) of the certified standing order pending investigation or inquiry into complaint or charges of misconduct whereas DPS placed under suspension are entitled to the payment of subsistence allowance on similar situation as per section 10-A of the Industrial Employment Standing Order Act, 1946 until the standing orders in respect of DPS category are certified.

The terms and conditions of the payment of subsistence allowance of both the set of workers are given as under:

(a) Departmental Labour

(i) 50% of wages (Basic Pay + DA) which workman was entitled to immediately preceding the date of such suspension for the first ninety days of suspension.

(ii) Other compensatory allowance e.g. house rent allowance, other than conveyance allowance, admissible from time to time, on the basis of pay of which he was in receipt on the date of suspension subject to the fulfilment of other conditions laid down for the withdrawal of such allowances. If the headquarters of a worker under suspension are changed in the public interest, he shall be entitled to the allowance as admissible at the new station.

(b) DPS workers

50% of Minimum Guaranteed wage which workman was entitled to immediately preceding the date of such suspension for the first ninety days of suspension

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In case the suspension period of a workman is prolonged the amount of subsistence allowance shall be increased or reduced as under:-

(i) The amount of subsistence allowance may be **increased** by a suitable amount not exceeding 50% of the subsistence allowance admissible during the first ninety days, if in the opinion of the said authority the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the workers concerned.

(ii) The amount of subsistence allowance may be reduced by a suitable amount not exceeding 50% of the subsistence allowance admissible during the first ninety days, if in the opinion of the said authority the period of suspension has been prolonged for reasons to be recorded in writing directly attributable to the workers concerned.

No payment of suspension allowance shall be made unless the worker concerned furnishes a certificate that he is not employed / engaged in any other employment / business.

viii). Permission to the Departmental labour for joining of Educational Institutions to pursue higher studies outside normal office hours

It is being governed by Circular No.9/2009 dated 28.05.2009 issued form file No.IRL/3(3)/2009/W.Z (**Annexure-47**).

The departmental labour who seek permission to pursue studies in the educational institution outside normal office hours can be allowed permission by the respective Area Manager as per guidelines applicable to class IV employees as contained FCI Headquarters Circular No. 4-8/78-EP dated 17/23.06.1983, given below.

(i) Pursuit of such studies should not detract from efficient discharge of official duties.

(ii) The grant of permission will not provide the employee being required to work outside office hours if this is considered necessary in the exigencies of official work.

(iii) Permission is liable to be withdrawn at any time without assigning any reason.

(iv) Grant of leave including casual leave either for preparing or for appearing at the examination shall be subject to administrative exigencies.

(v) Grant of leave including casual leave either for preparing or for appearing at the examination shall be subject to administrative exigencies.

ix) Voluntary Retirement Scheme for departmental labour of the FCI. It is being governed by a letter No IR-L/4(2)/81 dated 01.09.82 and reiterated to field offices vide letter No IR-L/4(41)/2004/Vol-

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III dated 15.06.2016(**Annexure-48**)(collectively-2 pages)

The departmental workers are entitled to retire under this voluntary retirement scheme subject fulfilment of precondition contained therein and the extra benefits admissible to them are as under.

(i) Departmental workers who have put in not less than 10 years of service would be allowed to voluntarily retire provided that there are at least two more years to serve for their normal retirement.

(ii) They would be paid the following benefits:-

(a) Provident Fund Contribution of the workers plus matching contribution of employer together with interest.

(b) Gratuity as admissible under the Payment of Gratuity Act.

(c) Additional benefit for the purpose of payment of gratuity by giving weightage of service limited to the number of years to be rendered for superannuation or 5 years whichever is less. (For instance, if a worker has 3 years' service to go, the weightage will be for 3 years (45 days of wages as gratuity) and not 5 years. The maximum additional benefit to a worker under this clause will be limited to 75 days wages as gratuity).

(d) Compensation @ 15 days' wages for every completed year of service or part thereof in excess of 6 months.

(e) Wages in respect of unavailed leave to the credit of the workman.

x) Enhancement of retirement age for departmental workers and workers under DPS/NWNP System, age 60. It is being governed by circular No IR-L/4(10)/98 dated 29.05.1998 (**Annexure-49**) **Common instructions** as per instruction on date, the departmental workers as well as workers under direct payment system and no work no pay system shall be superannuating from services on attaining the age of 58 years (Fifty eight years). The Government of India has since decided to enhance the age of superannuation from 58 to 60 years in carrying employees working in Central Public Sector Enterprises. In terms of such decision of the Government of India, it has been decided that the age of retirement for the departmental workers, workers under 'direct payment system and no work no pay' system shall be enhanced from the age of 58 years to 60 years w.e.f. 29th May 1998. However, workers whose date of birth is the first of the month shall retire from service on the afternoon of the last date of the preceding month on attaining the age of 60 years. All other terms and conditions shall remain unchanged.

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CHAPTER-V(b)

2. Wages structure service condition and Examples for calculation of piece rate wages and OTA in respect of Direct Payment System

Background

The Direct Payment system came into existence initially in 1973. The Handling operations were carried out at the piece rates of "Above schedule of Rates" (ASOR) percent at which the erstwhile contractor was working. However, this was subject to periodical revisions and several modification have been made in the direct Payment Scheme from time to time.

1	Settlement dated 24.05.1984 signed with FCIWU	Terms of settlement includes Payment of Minimum guaranteed wages of Rs 600/- per month or Rs 20/- per day if total earning according to ASOR% falls short of aforesaid amount, together with fringe benefits like Provident Fund, Gratuity, ex-gratia in lieu of bonus. 7 days sick leave in a year and 6 days paid holidays including 3 National Holidays in year and paid weekly off.
2	Bipartite settlement dated 7.11.1988	Enhancement of minimum guaranteed wages of 20/- per day and monthly wages Rs 600/- per worker to Rs 26/- per day and Rs. 780/- per month respectively ii) Enhancement Piece rate wages iii) Revision of sick leave from 7 days to 10 days in a year.
3	Bipartite settlement dated 10.04.92	It was mutually agreed to enhance the minimum guaranteed wages by Rs 10/- per day (Rs 300/- per month) from rate of Rs 26/- per day (Rs 780/- per month) to Rs 1080/- PM w.e.f 01.04.92 as an interim relief till next settlement on wages due from 01.09.1992
4	Bipartite settlement dated 07.05.1993	It was mutually agree to revise the daily wages of Sardar / Mandal /H/L /A/L. as under Sardar/Mandal –Rs 52/per day – or Rs 1560/-per month H.L, Ancillary labour – Rs 50/- per day or Rs 1500 per month. Piece rate wages:-Rate per 100 Bags 1.Calcutta complex Asansal, Durgapur, Suri Rs 110/- 2.Delhi and Faridabad Rs 110/- 3.Ambala, Amritsar and Nawanshahar Rs 110/- 4.DPS depots in Assam and NEF Rs 105/- 5.All other depots under DPS Rs 100/- It was further mutually agreed that above piece rate as well as minimum guaranteed wages shall remain in force upto 31.08.1994. Thereafter, for a period upto 31.08.1996, it was agreed that piece rate as well as minimum guaranteed wages would be revised on the basis of percentage of increase in All India Consumer Price Index between 01.09.92 and 31.08.1994.

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5	Bipartite settlement dated 01.11.94	<p>The piece rate for basic operation “unloading food grain bags from wagon/trucks or any other transport vehicle and directly loading onto truck or any transport vehicle into wagon” as mentioned in the relevant clause of MTF was revised to Rs 115/- per 100 bags w.e.f 01.01.94 for DPS Where ever existing rates were higher then Rs 115/- same were protected till next revision.</p> <p>The equivalent percentage increase so arrived at in the existing piece rate in respect of above operation shall be allowed as “ASOR” percentage for all other operations.</p> <p>Further total earning of a labour gang on a day shall be divided by number of handling labours actually present in the gang on that day and average amount so arrived at per handling labour shall be paid by FCI to Sardar and Mandal provided they were present in the gang on that day</p> <p>Minimum daily wages of DPS Labour w.e.f 01.01.94</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Category</th> <th style="text-align: right;">Amount</th> </tr> </thead> <tbody> <tr> <td>Sardar</td> <td style="text-align: right;">Rs 71/-</td> </tr> <tr> <td>Mandal</td> <td style="text-align: right;">Rs 67/-</td> </tr> <tr> <td>Handling Labour</td> <td style="text-align: right;">Rs 65/-</td> </tr> <tr> <td>Ancillary Labour</td> <td style="text-align: right;">Rs 55/-</td> </tr> </tbody> </table> <p>It was agreed that above Minimum guaranteed wages shall be revised in future after expiry of two years based on the percentage increase in All India Consumer Price Index published by GOI Ministry of Labour, Labour Bureau, Shimla. Next revision will be due w.e.f 01.01.96.</p>	Category	Amount	Sardar	Rs 71/-	Mandal	Rs 67/-	Handling Labour	Rs 65/-	Ancillary Labour	Rs 55/-
Category	Amount											
Sardar	Rs 71/-											
Mandal	Rs 67/-											
Handling Labour	Rs 65/-											
Ancillary Labour	Rs 55/-											
6	Tripartite settlement dated 03.08.2012	<p>Ministry of Labour and Employment (Govt of India) vide notification No. SO1284(E) dated 20.05.2007 issued under Minimum Wages Act fixed basic wages of minimum wages in respect of unskilled employees engaged in the schedule employment of “loading and unloading” in respect of warehouse and godowns “Area wise” from 2009 onwards. Variable Dearness allowance is revised by the CLC© at on internal of six months on 1st October and 1st April on the basis of Average Consumer Price Index number for industrial workers.</p> <p>The minimum guaranteed wages and piece rate wages in respect of DPS labour of FCI's depots were being revised and fixed in the periodicity of two years on the basis of changes in the percentage of points of All India Consumer Price Index in terms of settlement dated 01.11.94. There was uniformity in minimum guaranteed wages in respect of DPS category workers across the country.</p>										

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		<p>As a result of fixation and revision of minimum rates of wages by Appropriate Government, wherever minimum rate of wages fixed by the Appropriate Govt. i.e. Central Govt become higher then the minimum guaranteed wages of FCI. The FCI management allowed increase to make that at par with minimum wages fixed by the appropriate Govt. for areas depending upon their place of posting. Labour Union vehemently opposed applicability of different minimum daily wages in respect of DPS Labour employed in 'A' 'B' and 'C' Area. After prolonged and threadbare discussion and persuasion by the Dy. CLC @ Kolkata the settlement dated 1.11.94 governing fixation of minimum guaranteed wages and piece rate wages was modified w.e.f 01.10.2011 by the tripartite settlement dated 03.08.2012.</p>
7	Discussions dated 2nd and 3rd December 2013	<p>In consonance with decision taken bilaterally with the Union following modification in the provisions of the Memorandum settlement dated 1.11.94 and 3.08.2012 were done. Provision II (a) of MOS dated 1.11.94 relating to payment of piece rate wages to Sardar and Mandal under DPS category "It was decided that a gap of Rs 5/- and Rs 13/- between H/L and Mandal and Mandal and Sardar respectively shall be maintained irrespective of fact as to whether piece rate earning of handling exceeds daily wages or not as applicable in case of Sardar and Mandal. Instructions were issued vide Circular No 4/2014 dated 21.01.14.</p> <p>Provision No 5 of MOS dated 03.08.2012 regarding periodicity of revision of ASOR% / piece rate. It was decided that parity in enhancement made in the minimum wages and piece rate wages from 01.01.2011 would be maintained as on 01.10.2011. The piece rate wages would be revised notionally upto 01.10.2011. The revised piece rates, so arrived would be made applicable from 01.10.2012 for the purpose of Payment of arrears. Accordingly increase in piece rate wages was synchronized with increase in dearness allowance of daily minimum wages of DPS workers vide Circular No 8/2014 dated 04.02.2014 (File No IR(L)/3(6)/88/Vol XIII)</p>

1) INSTRUCTION APPLICABLE TO DIRECT PAYMENT SYSTEM LABOUR

i) The complaint No.1/2007 which was filed before National Industria Tribunal, Mumbai against clarifactory Circular No 16/2006 dated 27.07.2007 setting out procedure for calculation of piece rate wages for the bags weighing upto 35Kg 50Kg above 50Kg The complaint was disposed of on 30.05.2013 and FCI was directed to keep the aforesaid circular in abeyance till an award is given in ID case No. 1/ 2003 which is still pending.

The minimum daily wages and piece rate wages (ASOR%) were revised vide Circular No 13/2012 dated 16/08/2012 (File No IR(L)/3(6)/88/Vol. XI) **(Annexure-50)** respect of Direct Payment System (DPS)

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workers working in the depots w.e.f 01.10.2011 and 01.04.2012. Variable DA and piece rate wages are being revised at an interval of six months Govt. of India on 1st Oct. and 1st April of every year after, the issue of orders of revision of DA by the Chief Labour Commissions (C)

2). The procedure relating to revision of piece rate wages was further modified as per understanding arrived with labour Union on 2nd and 3rd December 2013, wherein it was decided that parity in enhancement made in the minimum wages and piece rate wages from 01.01.2010 would be maintained as on 1/10/2011. The piece rate would be revised notionally up to 1/10/2011. The revised piece rates, so arrived would be made applicable from 1/10/2012 for the purpose of payment of arrears. Accordingly increase in piece rate wages was synchronized with increases in dearness allowance of Daily minimum wages of DPS. Workers vide circular No. 08/2014 dated 04.02.2014 (File No. IR(L)/3(6)/88/Vol. XIII) **(Annexure-51)**

Extract of the Circular No. 8/2014 dated 04.02.2014.

In partial modification of Circular No. 13/2012 dated 16.08.2012, Circular No. 22/2012 dated 16.11.2012, Circular No. 07/2013, corrigendum dated 27.06.2013 to Circular No. 7/2013 and Circular No. 16/2013 dated 12.11.2013, all issued from (file No. IR(L)/3(6)/88/Vol. XI & XIII). It was informed that piece rate wages fixed per 100 bags in respect of Basic operation for big bags w.e.f 01.10.2011 to 01.10.2013 have been revised notionally from 01.10.2011 (for purpose of calculation) and effectively from 1.10.2012 (for the purpose of payment of arrears) to maintain parity in proportionate to increase in minimum wages as per practice in vogue from 01.01.1994 to 01.01.2010 as detailed in following paras:

Status	w.e.f	Minimum daily wages of H/L	Piece rate per 100 bags/each weighing more than 65 K.G Existing - Revised
No arrears	1.1.2010	193	342 - NA
	1.10.2010	286	399 - 507
	1.04.2011	300	407 - 532
Arrears to be paid	1.10.2012	309	435 - 548
	1.04.2013	327	453 - 580
	1.10.2013	340	481 - 603

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a) Wages and piece rate (category wise) of the DPS workers as on 01.04.2017, revised vide circular No. 8/2017 dated 24.7.2017 are under.

Date of implementation	Piece rate for basic operation per 100 bags (more than 65 Kg each)	Minimum Guaranteed Wage SardarMandal H/labour A/labour			
		Rs.	Rs.	Rs.	Rs.
1/4/2017	1004.64	584	571	566	536
1/10/2017	"	"	"	"	"

Variable DA as on 01.10.2017 has not increased, therefore, piece-rate wages / minimum basic wages as mentioned above are applicable from 01.10.2017.

b) The FCI management has been implementing the above agreed clauses of the settlement as follow from time to time:-

Date of implementation	Piece Rate for basic operation per 100 bags (more than 65 kg each)	Minimum Guaranteed Wage paid effect			
		Sardar Rs.	Mandal Rs.	H/Labour Rs.	A/Labour Rs.
1/10/2011	507	304	291	286	256
1/4/2012	532	318	305	300	270
1/10/2012	548	327	314	309	279
1/4/2013	580	345	332	327	297
1/10/2014	580	358	345	340	310
1/04/2014	637	377	364	359	329
1/10/2014	642	380	367	362	332
1/04/2015	670	396	383	378	348
1/10/2015	679	401	388	383	353
1/04/2016	706	416	403	398	368
1/10/2016	717	422	409	404	374
19/01/2017	985	572.93	559.93	554.93	524.93
01/04/2017	1004.64	584	571	566	536
01.10.20__	1004.64	584	571	566	536

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(3) Procedure for calculation of piece rate wages was modified in respect of Mandal and Sardar to maintain inter-se-differential between Sardar and Mandal when earning of DPS, H/L exceeds minimum daily wage of Sardar and Mandal vide circular No. 4/2014 dated 21.01.2014 (File No. IR(L)/3(6)/88 Vol. XIII PF) (Annexure-52)

Extract of circular No.4/2014 dated 21.01.2014

Maintenance of inter-se differential between the daily wages of the sardar Mandal on the day the Handling Labour of DPS are earning wages exceeding fixed minimum daily wages of sardar and Mandal.

1. "The labour unions have been raising the above demand persistently for maintaining the inter-se differential between the daily wages of sardar and mandal when on any day piece rate earnings of handling labour exceeds minimum daily wages of sardar and mandal.

2. In this connection attention is invited to clause 3 of MOs sated 03.08.2012 duly approved by BOD in its meeting held on 19.07.2012 which envisages as under:

The gap of Rs.30/- Rs. 5/- Rs 13/- in the daily minimum wages between Ancillary labour and handling labour, handling labour and Mandal & Mandal and Sardar respectively shall be maintained.

3. The instant demand has been agreed during the discussion held with labour union on 2nd & 3rd December 2013 in Headquarters in view of the aforesaid provision.

Hitherto Gap of Rs.30/-, Rs.5/- & Rs.13/- in the wages between Ancillary Labour & Handling Labour & Mandal & Sardar respectively shall be maintained irrespective of whether piece rate earnings of handling labour exceeds the daily wages or not as applicable in case of Sardar & Mandal."

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4). The DPS workers were allowed the other benefits vide Circular No. IR(L)/4(15)/94 dated 05.12.94 as under :-

S. NO.	Benefits	For DPS Workers	Effective from
1	Paid weekly off	Allowed	1.1.1994
2	Sick Leave	10 days per calendar year with accumulation upto a maximum of 40 days.	1.1.1994
3	Paid Holidays	6 days (including 3 National Holidays) in a calendar year	1.1.1994
4	Provident Fund	CPF as per FCI (CPF) Regulation	1.1.1994
5	Ex-gratia in lieu of Bonus Fund	As per the latest instructions issued vide circular No. 11 of 2017 dated 06.16.2017 DPS Workers shall be paid ex-gratia in lieu of bonus @8.33%of their annual wages subject to following conditions i)Monthly wages/earnings will be treated as Rs. 7000/- per month if it exceeds the said limit or actual wage whichever is less above ii) The workers drawing above Rs 21,000/- per month will not be eligible to get ex-gratia in lieu of bonus total earning means wages or piece rate wages whichever is higher on a particular day.	1.1.1994
6	PLI	As declared from FCI time to time	1.1.1994
7	Gratuity	Allowed as per payment of Gratuity Act	1.1.1994
8	Compensation under Workmen's Compensation Act	Allowed	1.1.1994
9	Employees Pension Scheme 1995	Allowed	16.11.1995
10	Benevolent Fund	At par with class IV Employees	1.1.1994

5. PIECE RATE WAGES (ASOR%) FOR HANDLING OF 50 KG BAGS

Categorization of weight of foodgrains bags was done by Stg. and Contract Division of FCI Hqrs into three categories i.e. upto 35 K.G, 50 KG and above 50KG in M.T.F applicable in respect of Contract labour consequent upon switching over of handling of bags to 50 Kg. The schedule of rates for the bags weighing up to 65 kg and above 65 kg as contained in old M.T.F of respective Regions were being followed to regulate piece rate wages of

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the DPS workers in terms of settlement dated 01.11.94. Therefore a clarification was issued vide Circular No. 16/2006 dated 27.07.2006 (**Annexure-53**) setting out procedure for the calculation of piece rate wages (ASOR%) for the bags weighing up to 35kg, 50kg and above 50kg, however said circular had to be kept in abeyance vide Circular No 07/2007 dated 09/20/2007(**Annexure-54**) issued form file No. IR (L)/3(6)/88/Vol.IX as the unions filed complaint No 1/2007 arising out in ID case No. 1/2003 (Parity in wages and fringe benefits of DPS / NWNP worker with depts. Labour) before the National Industrial Tribunal Mumbai for alleged violation of the provision of Section 9 and 33 of the Industrial disputes Act. The said complaint was decided on 30.05.2013 by the National Tribunal and directed the FCI Management to keep the Circular No. 16/2006, referred to above, in abeyance till the main ID case No. 1/2003 is decided. FCI management may issue a fresh circular after award is passed in the main ID case No. 1/2003. The said industrial dispute still pending. At present status of DPS workers is subjudice before the National Industrial Tribunal in the instant Industrial Dispute (equal pay for equal work). Therefore, ASOR% piece rate wages in respect of DPS workers are being calculated with reference to the bags weighing above 65kg and below. The concerned Regional offices are calculating the revised ASOR% on the basis of rates fixed by Hqrs in respect of item no. 1(b) of old MTF

6). WORKING HOURS

The working hours for labourers were increased by ½ hour vide Circular No. 07/2002 dated 4/4/2002 issued from File No. IR(L)/31(12)/97 (**Annexure-55**) and same were fixed as 7 ½ including ½ hour lunch break. **Common instructions in respect of departmental and DPS Workers.**

7). INTERIM RELIEF

DPS workers working in various depots are eligible for the payment of Interim relief of Rs. 50/- on the day of actual working as per order dated 27.05.2004 of National Industrial Tribunal, Mumbai, modified vide order dated 14.10.04 of Hon'ble Mumbai High Court (Single bench) and upheld vide order dated 05.04.2005 of the Hon'ble Division Bench of Mumbai High Court in LPA no. 24/2005 as per Circular No. 16/2005 dated 9.11.2005 (No.IR(L)/1(14)/2003/Vol.X) (**Annexure-56**)

8). While revising the wage structure in respect of DPS workers vide agreement dated 03/08/2012 it was agreed under clause 6 of MOS dated 03.08.2012 that "An additional payment of Rs 50/- as an interim relief as per interim order dated 27.05.2004 of National Industrial Tribunal and as modified by the Hon'ble High Court of Bombay vide order dated 14/10/2004 (WP No. 7716/2004) shall be payable on the actual day of working". Accordingly interim relief is being continued to be paid to DPS workers strictly as per the order dated 14/10/2004 of High Court of B'bay passed in WP No. 7716/2004)

9). Headquarter has given clarifications in regard to queries raised by the field offices to regulate payment of Interim Relief in terms of the court orders vide letters mentioned below:-

(a) No.IR(L)/1(14)/2003/Vol.X dated 12.01.2006 (**Annexure-57**)

Query	Clarification
Whether the aforesaid interim relief is to be paid for all the working days of the month or for the days the DPS has actually rendered services?	The Hon'ble Single Judge of Bombay High Court order dated 14-10-2004 (extract of which has been reproduced in above Circular at Page 2) in WP to 7716 of 2004 has clarified that an additional payment of Rs. 50/- per day per workman would relate only to those days on which the work will be actually rendered by the workers.

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Query	Clarification
Whether the additional payment of Rs. 50 per worker per day is to be taken for calculation of gratuity / ex-gratia/PLI/CPF of DPS workers?	Since the said additional payment of Rs. 50 per day per worker will be in the shape of wage, the same may be taken for calculation of Gratuity / Ex-gratia/PLI/CPF of workers concerned.
Whether the additional payment of Rs. 50 per day per worker is recoverable from these workers who have retired or due to retire shortly on superannuation against their dues.	Since the condition of undertaking from the retired / retiring workers has been withdrawn as per the orders dated 25-10-05 of Hon'ble Bombay High Court in Contempt Petition No. 181 / 2005 and 285 / 2005. The additional payment of Rs. 50 per day per worker may not be recovered from the retired / retiring workers.

(b) No. IR(L)/1(14)/2003/Vol.X/PF dated 25.07.2006 **(Annexure-58)**

Query	Clarification
i) Since interim relief is payable only for the days, on which work will be actually performed by the worker, the amount of interim relief payable will vary from month to month? Therefore, for the purposes of calculation of gratuity, whether the interim relief paid in the last month of service has to be taken or interim relief of last 3 months is to be taken?	The DPS workers are paid on piece rates. Therefore, their earnings over & above the minimum guaranteed wage, are taken into consideration for 90 days from the preceding date of retirement / termination of employment and are divided by 90 for calculating 1 day wages for the purpose of payment of gratuity. The said Rs. 50 /- per day per worker is payable only for the day, on which the worker performs work and the same is not payable on the days on which no work is performed by the worker. Therefore, the said amount of Rs. 50/- is paid over and above the MG wage of the DPS workers, the same paid during the last 3 months may be divided by 90 for the purpose of payment of gratuity.
(II) Whether the said interim relief Rs. 50 per day per worker is to be included in the MG wages while calculating the ASOR payable to the workers or not?	The said Interim relief of Rs. 50 per day per worker is payable on the days the worker has performed the work. This amount of interim relief is not to be included in MG wage while calculating the ASOR payable to the DPS workers.

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Query	Clarification
(III) Whether the said interim relief of Rs. 50 per day per worker is to be included for working out the hourly rate of OTA or not?	The hourly rate for the purpose of payment of OTA to DPS worker is arrived at on the basis of actual earnings for the actual work done and the same is not based on the MG wage. The said interim relief of Rs. 50/- is payable to the DPS workers in addition to what they are being paid only for the day on which the worker has performed the work. Therefore, the said amount of Rs. 50/- per day per worker may not be treated as wage for the purpose of calculating hourly rate of OTA to the DPS workers

10). Overtime Allowance

The working hours and rates of OTA in respect of DPS labour were fixed vide Circular No. IR(L)/4(2)/93 dated 16.06.1994 **(Annexure-59)** Subsequently, clarification on payment of OTA wages to workers working in various depots under DPS was issued vide Circular No. 13/99 dated 27.09.1999 (File No. IR(L)/14(31)/98) **(Annexure-60)** as there has been a number of queries from field office seeking clarification on payment of OTA to the DPS labourers as they were interpreting the Headquarters instruction differently.

In the year 2002, the duty hour of DPS workers were raised by ½ hour and their effective working hours are now 7 hours instead of 6 and ½ hours. In the circular No. 7/2002 dated 04.04.2002, already enclosed **(Annexure-61)** it was specially mentioned that the calculation of OTA rates will be made by treating the working hours as 7 hours instead of 6 and ½ hours.

The OTA rates payable to the DPS workers were revised vide Circular No. 2/2004 dated 19/01/2004 (File No. IR(L)/4(33)/2003) **(Annexure-62)**. On the basis of above Circular, OTA rates applicable to DPS workers for food handling workers of various godowns are as under:-

(i)	Areas where FCI has been granted total exemption from O.T. provision of Shops and Establishment Act of the concerned State and where the appropriate authority of the Shops & Establishment Act has clarified that this Act is not applicable to the establishments of FCI in that area.	1.1 times of hourly rate of earnings
(ii)	In other areas where neither the exemption has been granted to the FCI establishments nor it has been clarified by the appropriate authority that the Shops & Establishments Act is not applicable to the establishments of FCI.	As per the Shops & Establishments Act of the respective State.
(iii)	In these areas, for the intervening period i.e. after prescribed working hours and up to the statutory working hours given in the respective Shops & Establishment Act.	1.25 times of hourly rate of earnings.

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The labours Unions have challenged this Circular under the Industrial Dispute Act for alleged change of their service condition prejudice to their interest. Hon'ble Tribunal passed an award on 7.9.2012 in favour of workmen. The FCI aggrieved by the decision of National Industrial Tribunal challenged the award before the High Court B'bay by way of writ petition Hon'ble High Court B'bay set aside the award of National Industrial Tribunal Mumbai vide order dated 22-04-2014 in WP No. 10823/2013 and remanded the matter to the Tribunal for re-adjudication. At present matter is subjudice in ID case No. 1/2005 before the NIT Mumbai. Hon'ble Tribunal has framed issued in the course of proceedings held on 21.04.2016.

The IR(L) Division has also given clarification to the GM (Accounts), FCI, Hqrs, that a workman who is not entitled for wages on rest day as per the provision of Minimum Wages Act but is deployed on the rest day will be paid minimum daily rate of a day or OTA rates whichever is higher. Further, after discussion with Labour Unions to mitigate their grievance in regard to payment of OTA to DPS worker on Sunday clarification was issue vide Circular No. 7/2014dt. 03.02.2014 **(Annexure-63)**

Extract of circular No 07/2014 dated 03.02.2014

"At present wages for Sunday are not paid in those cases where a worker has been absent on any day during the preceding week days. It has been decided as per the discussions held with the unions & with the approval of competent Authority that a provision would be made for 15 days leave without pay per annum & any absence during week day would be governed accordingly against this special leave. So that the deduction for Sunday in such cases is not warranted."

11) In order to clarify multiple queries Hqr has issued Circular No. 05/2012 dated 19/06/2012 (File No. IR-L/14(31)/98/Vol III). **(Annexure-64)**. Extract of the aforesaid Circular is given as under:-

Multiple queries relating to payment of wages, OTA etc. in respect of DPS workers have been raised by the field offices before the FAP Hqrs. These issues were also discussed in a meeting held in Headquarters on 08.05.2012 with the officers of FAP and Finance Division. Accordingly, clarification in respect of queries / issues is given as under:-

S. No.	QUERY	CIRCULAR NO. & DATE	CLARIFICATION
1	In case sufficient work is not made available to the workers and piece rate earnings are less than the minimum guaranteed daily wage. Then how OTA be calculated in following situation: Case No. 1- On week days. Case No- 2- On weekly-off	Circular No. 13/99 dated 27/30.09.99 issued from file No. IR(L)/14(31)/98	As regards Case No.1 (Weekly days), Extract of Para 4 of Circular dated 27/20.09.99 is given as under:- The hourly rate for the purpose of payment of overtime wage for the work done on week days will be calculated by dividing the total earnings for the entire day including work done during and after shift hours by the handling workers for that day. The total earnings for the entire day including work done during and after normal duty hours, will be apportioned in ratio to the number of

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S. No.	QUERY	CIRCULAR NO. & DATE	CLARIFICATION
			<p>hours work done in the normal shift hours and number of hours work done beyond normal working hours. The proportionate actual earnings so calculated for the work done in the normal shift hour shall be payable subject to minimum guaranteed wage of the labourers.</p> <p>As regards Case No.2 (weekly Off), Extract of Para 5 of Circular dated 30.09.1999 is given as under:-</p> <p>"... In case sufficient work is not made available to the workers due to which the actual earnings are less than the Minimum Guaranteed Daily Wages, the hourly rate will be worked out by dividing minimum guaranteed daily wages by 6 ½ (now it is 7 hours) i.e. effective normal duty hours."</p>
		<p>Circular No. 7/2002 dated 04.04.2002 issued from file No. IR(L)/31(12)/97</p>	<p>Extract of the Circular No. 7/2002 is given as under :-</p> <p>(i) Working hours for inland depots where departmental and DPS workers are working -10.00 AM to 5:30 PM with lunch break of half an hour.</p> <p>(ii) The calculation of overtime rates will be made by treating the shift hours as 7 hours instead of existing 6 ½ hours. Other terms & conditions of calculation of overtime will remain unchanged.</p> <p>(iii) These instruction were applicable w.e.f 04.04.2002.</p>

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S. No.	QUERY	CIRCULAR NO. & DATE	CLARIFICATION	
		Circular No. 2 of 2004 dated 19.01.2004	Extract of the revised OTA rates applicable to DPS workers in depots/godowns:	
			1	Areas where FCI has been granted total exemption from O.T. provision of Shops and Establishments Act of the concerned State and where the 'Appropriate Authority' of the Shops and Establishments Act has clarified that this Act is not applicable to the establishment of FCI in that area.
			2 (i)	In other areas where neither the exemption has been granted to the FCI, establishment nor it has been clarified by the Appropriate Authority that the Shops and Establishments Act is not applicable to the establishment of FCI.
			(ii)	In these areas, for the intervening period i.e. after prescribed working hours and upto the statutory working hours given in the respective Shops and Establishments Act.
				1.1 times of hourly rate of earnings
				1.1 times of hourly rate of earnings
				1.25 times of hourly rate of earnings.

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S. No.	QUERY	CIRCULAR NO. & DATE	CLARIFICATION
			<p>CLARIFICATION:</p> <p>It is reiterated that OTA in respect of DPS labour is to be calculated as per the revised rates mentioned above.</p>
2	<p>WEEK DAY (Case No. 1)</p> <p>(i) If a DPS labour gang is detained / deployed on OTA before the commencement of daily hours but no work was available during the period of OTA.</p> <p>(ii) If a DPS labour is deployed before the commencement of duty actual work is provided from 10 to 20 hours.</p>		<p>(i) If no work is provided to the worker concerned during overtime and working hours then hourly wages will be calculated as per the minimum wages of the workers concerned divided by existing normal working hours (7 hours as on date).</p> <p>(ii) [a] OTA hours (Before/After normal working hours) during which no work was performed; Hourly wages will be calculated as given under:- Minimum Guaranteed Wages divided by existing normal working hours (7 hours as on date)</p> <p>(ii) [b] OTA hours (Before/After normal working hours) during which work was performed; Hourly wages will be calculated as given under:- Piece-rate earning divided by no. of hours actual work performed.</p> <p>OR</p> <p>Minimum Guaranteed Wages divided by 7 (existing normal working hours) The higher hourly rate, out of the above, will be payable.</p> <p>ILLUSTRATION</p> <p>Actual work is provided from 10 to 20 hours; the hourly rate would be calculated as under:- Piece-rate earning divided by 5 (20 hours – 15 hours). OR Minimum Guaranteed Wages divided by 7 (existing normal working hours) The higher hourly rate, out of above, will be payable.</p>

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S. No.	QUERY	CIRCULAR NO. & DATE	CLARIFICATION
	<p>WEEKLY OFF (Case No.2) (iii) On weekly off days what will be mode of calculation of OTA rate if work load was available for only three hours in a day.</p>		<p>WEEKLY OFF (iii) The hourly rate for the purpose of payment of overtime allowance for the work done on weekly off days will be calculated as given under:- Piece-rate earning divided by 7 (existing normal working hours) or piece rate earning divided by actual working hour The higher hourly rates out of the above will be payable.</p>
3	Deduction of CPF in respect DPS labour		<p>(i) DPS workers are Piece rated workers. However they have been given protection of Minimum Guaranteed Daily Wages as per the settlement dated 01.11.1994 and subsequently, Minimum Daily Wage fixed under Minimum Wages Act w.e.f. 01.04.2010. The piece rate wages forms part of their wages which is calculated as per ASOR%. Therefore it will be counted for deduction of CPF as per practice in vogue. In other words, CPF will be deducted on Minimum Guaranteed Wages or Piece-rate earning of workers concerned whichever is higher.</p> <p>(ii) Interim relief of Rs. 50/- payable to the DPS workers as per interim award of the NIT, Mumbai on actual day of working. Extract of Letter No. IR(L)/1(14)/2003/Vol.X dated 12.01.2006 is given as under:- “Since the said additional payment of Rs. 50/- per day per worker will be in the shape of wage, the same may be taken for calculation of Gratuity/Ex-gratia/PLI/CPF of workers concerned.”</p>

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S. No.	QUERY	CIRCULAR NO. & DATE	CLARIFICATION
4	If Payment of Sardar/Mandal is less as compared to Handling Labour in DPS system.	Circular No. IR(L)/4(15)/94 dated 05.12.1994	<p>It is reiterated that as per instructions contained in Circular No. IR(L)/4(15)/94 dated 05.12.1994 (Para-I), the total earning of a labour gang on a day shall be divided by the number of Handling labourers actually worked in the gang on that day and the average amount so arrived at per H/L shall be paid by FCI to the Sardar and Mandal provided they were present in the gang on that day.</p> <p>* The perusal of the above clause will make it explicitly clear that Sardar and Mandal are entitled to get Piece rate earning of the day equivalent to average Piece rate earning of the handling labour. There is no provision to protect the proportionate gap in the daily minimum guaranteed wages of handling labour, Mandal and Sardar.</p>
5			This method of calculation has been revised vide Circular No. 4/2014 dated 21.01.2014 mentioned in para no 4 above.

* This provision has been modified vide circular no. 4/2014 dated : 21.01.2014 (file no. IRL /3 (6/88 Vol-XIII)

12) Example of Calculation of Piece Rate Wages in respect of DPS Labour:

Hqrs fixes rates per 100 bags in respect of item no. 1 (b) of MTF. Respective Regional offices derive ASOR% on the basis of SOR of the item No 1 (b) and calculate rates of other items as per same ASOR% of the Region. This example is based on rates per 100 B/s fixed as Rs 1004.64 w.e.f 01.10.2017 for item no. 1 (b) by the Head Quarters on the basis of SOR of the instant item as applicable in Punjab region Number of bags handled by a Gang of 12 Handling Labour = 1800 bags for unloading food grain bags from wagon / trucks and stacking inside godown (item no. 3 of MTF):

Piece rate per 100 bags as Rs 1006.64/- fixed by FCI Hqrs as on 01.04.2014 in respect of item no 1(b) of MTF (Model Tender Form) - Unloading foodgrain bags from wagon / truck or any other vehicle and directly loading on truck or any transport vehicle/ into wagons vice versa in respect of DPS workers.

Schedule of Rate (Basic Rate) for the item No. 1 (b) as in vogue in Punjab Region is Rs 59.50 (SOR) per 100 bags.

Above Schedule of Rate (ASOR) percentage (Above Schedule of Rate) of Punjab Region will be = $\frac{1004.64 - 59.50}{100} \times 100 = 1588.47\%$

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in respect of item No. 1 (b) will workout on the basis Rs. 1004.06 applicable from 1/10/2017 for above item 59.50

* Schedule of Rate in MTF as applicable to DPS Labours in Punjab Region.

As explained above ASOR% in Punjab Region to be applied in said Region in case of DPS Labour has been calculated as 1588.47% as on 01.10.2017, which will be applicable for calculation of piece rate in respect of all other items of the MTF. As such, worker is paid Rs 1004.64/- (inclusive of Basic Rate) for handling 100 bags against item no 1(b) which is unloading foodgrain bags from wagon / trucks and directly loading into truck or wagon (vice versa).

Schedule of Rate (SOR) per 100 bags (for bags weighing upto 65 KG) as applicable in respect of DPS labour in Punjab Region for unloading food grain bags from wagon / trucks and stacking inside godown (item no.3 of MTF) is as under:

- Upto Rs. 10 high = Rs. 29.75
- Upto 16 high (for actual number of bags stacked over 10 high) = Rs 35.70
- Upto 20 high (for actual number of bags stacked over 16 high) = 41.65

Break up of 1800 bags handled by 12 handling labour in a day as per stack plan of (13+8) x 6 = 126 per layer.

Layer wise bifurcation of number of bags handled by DPS labour while stacking inside godown:

No. of Bags handled upto 10 height = 1260

No. of Bags handled upto 16 height = 540

Total bags handled = 1800

Piece Rate Earning as per SOR (Schedule of Rates) for 1260 bags will be calculated as:

SOR for 100 bags (upto 10 height) = Rs. 29.75

SOR for 1260 bags = $Rs. 29.16 \div 100 \times 12.60 = Rs. 374.85$ (A)

Piece Rate Earning as per ASOR for 1260 bags shall be calculated as:

$\frac{374.85 \times 1588.47}{100} = 5954$ (B)

100

Total earning for 1260 bags (A+B) = 6328.96 (X)

Piece Rate Earning as per SOR (Schedule of Rates) for 540 bags upto 16 height will be calculated as:

SOR for 100 bags = Rs. 35.70

SOR for 540 bags = $35.70 \div 100 \times 540 = 192.78$ (C)

Piece Rate Earning as per ASOR for 540 bags stacked beyond 10 upto 16 height layers shall be calculated as:

$(192.78 \times 1588.47) / 100 = Rs. 3062.25$ (D)

Total Piece Rate Earning for 540 bags (C+D) = Rs. 3255.03 (Y)

Total Piece Rate Earning for 1800 bags (X+Y) = Rs. 9583.99 (for 12 labours)

Piece Rate Earning per Labour = $9583.99 / 12 = Rs. 798.66$

Important : No extra wages is payable for travelling lead beyond 66 ft. as per MTF.

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Equal amount of piece rate earning of Handling Labour will be paid to Sardar & Mandal if they were present and proportionate gap of Rs. 5/- Rs. 13/- between Handling Labour and Mandal, Mandal and Sardar respectively will be Maintained.

Example of OTA Calculation /on the basis of working hours given as under :

(a)	Working hours in a day	7 (excluding lunch break)
(b)	Number of handling labourers present in the gang and worked during the day	12
(c)	Time at which work started by the gang	10.00 A.M.
(d)	Work carried on upto	6.30 PM
(e)	Overtime period (from 5.30 pm to 6.30 pm)	1 hour
(f)	Total hours of work done	7 hours (during normal duty hour from 10 AM to 5 ³⁰ PM with ½ hour lunch break) 1 hour overtime
	Total duty hours (7 hours normal duty + 1 hour OTA)	8 hour
(g)	Statutory working hours as per Shop and Establishment Act	8 hour a day (Excluding one hour lunch break)

13) Non-exempted Areas (FCI has not been granted exemption from OTA Provision of Shops and Establishment Act by the State Government)

Example No.1 (Daily wages of Handling Labour =Rs. 566/- hourly wages = Daily wages divided by 7= 80.85)
Suppose total earning of gang is Rs. 4900/- i.e 566/7 = 80.85

Method of Calculation

(I)	Suppose Actual earning per handling labour	$4900/12 = 411.66$, say – Rs. 412.00
(II)	Hourly earnings per handling labour	Actual earning of a worker divided by Total hours work done = $412/8 = 52/-$
(III)	Proportionate earning for hours of the work done during duty hours (i.e. 7 hours)	Hourly rate *7 hours Rs. 52 * 7= Rs.364
(IV)	Wages/earning payable each handling labour for normal duty hour.	Minimum daily wages or piece rate earning whichever is higher i.e. 566/- per H/L

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In this case piece rate earning as per output is Rs. 412/- which is less than Daily Wages of Handling Labour, Mandal & Sardar, therefore, they will be paid Minimum Daily Wages as detailed below:

Category	Minimum Daily Wages
Handling Labour	566/-
Mandal	571/-
Sardar	584/-

In addition overtime wage shall be payable for an hour for the work done between 5.30 PM and 6.30 PM to each worker present on duty.

1	For the intervening period of 1 hour	Hourly rate * 1 hr * 1.25 times i.e. Rs 52X1.25 = Rs. 65/- per H/L
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Total earning of a handling labour on that day = Rs. 566 + Rs. 65 = Rs. 631.00

Note : OTA of Rs. 65 each will also be paid to Sardar and Manal in addition to their respective minimum day wages provided they were present on that day.

Example no. 2

Period of deployment

a	Effective working hours in a day	7 hours (excluding lunch break of ½ hours)
b	Number of handling labourers present in the gang and worked during the day	10 hours
c	Time at which work started by the gang	11.30 AM
d	Worked carried on up to	7.00 pm
e	Overtime period	1 ½ (5.30 Pm to 7Pm)
f	Total hours of work done	7 hours (5 ½ +1 ½ hours) Excluding half an hour lunch break
g	Statutory working hours as per shops and Establishment Act	8 hours a day
h	Suppose total piece rate earning during 7 hours	Rs. 500/-

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Calculation:

(i)	Actual earning per Handling Labour	Rs. 5000/10 = Rs. 500
(ii)	Hourly earnings per Handling Labour	Actual earnings/Hours of work done i.e. 500 / 7 = Rs. 71.4 , say Rs. 72/-
(iii)	Proportionate earning for actually work done	Hourly rate x No. hours for work done actually during daily hours Rs. 72x5 ½ = Rs. 392.85
(iv)	Wages / Earnings payable to each handling labour for duty hours	(Piece rate earning) Rs. 392.85/- or minimum daily wages, whichever is higher i.e. Rs. 566 per handling labour.

In addition overtime wages shall be payable as follow:

(i)	For intervening period of 1 hour (17.30 Pm - 18.30 Pm)	Hourly rate x Hours x 1.25 times i.e 72x1x1.25=Rs. 90
(ii)	For ½ hour beyond statutory 8 hours (18.30 hours to 19.00 hours)	½ x72 X 2 (or as the case may be under the Act) = Rs.72/-
(iii)	Total OTA to each H/L of gang	Rs. 90+ 72 = Rs. 144

Note : Same amount of OTA of Rs. 144.00 will be paid to Sandar and Mandal in addition to their respective daily wages provided who ever was present on that day.

14) OTA payable in the exempted areas @ 1.1 of hourly rate (Areas where FCI has been granted exemption from the OTA provisions of Shops and Establishment Act by the respective State Government.)

Example 1

For one hour = 1X 1.1 = Rs. 72X1.1 = Rs. 79.20 (5.30 to 6.30 PM)

Example 2

For 1 ½ hours = Rs. 72 x1 ½ X 1.1 = Rs. 118.80 (5.30 to 7.00 PM)

15). Payment of ex-gratia in lieu of bonus to the DPS workers

DPS workers are paid ex-gratia in lieu of bonus as per latest instructions issued vide Circular No 12 of 2016 dated 7.10.2016 for FY-2015-2016 which stipulates that where wage earnings of labour/employee exceeds Rs 7000/- per month, the amount of wages/earnings for purpose of calculation of ex-gratia in lieu of bonus will be restricted to Rs 7000/-. Workers drawing more than Rs 21,000/- in a month shall not be

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eligible to get ex-gratia payment.

Departmental Labour/DPS/ No Work No Pay system workers are paid ex-gratia in lieu of bonus subject to following condition given from the F.Y. 2015-2016

- i) Ex-gratia is payable only to those drawing wage/earning upto 21000/ per month.
- ii) where wages/earning exceeds Rs 7000/- per month, the amount of wages/earning for purpose of calculation of ex-gratia in lieu of bonus will be restricted to Rs 7000/- (Seven thousand per month), or actual wages paid whichever is less.

Instructions on this subject are being issued by Hqrs for every financial year.

16. Medical facility

(I) Only first aid facility in case of injury while on duty. Indoor Hospital treatment in empanelled Hospital of FCI in case of accident while on duty in terms of Hqrs. Circular No. 10/2005 dated 23.8.05 issued form file No. IR(L)/14(2)/2005(**Annexure-65**).

(i) These instructions are not applicable in respect of those areas which are covered under ESI Act. The DPS worker who sustains serious injury / accident during the course of his employment at his work spot and the injury / accident sustained demands / warrants immediate hospitalization in Emergency, he may be immediately taken to the nearest hospital which has been empanelled by FCI for indoor medical treatment of the Departmental labour and employees under "Direct Payment Scheme."

(ii) In case such empanelled hospital is not available nearby, then the injured DPS worker may be taken to the nearest Government Hospital for similar hospitalization in Emergency.

(iii) FCI shall bear the expenses only for such hospitalization in the empanelled hospital or the Government hospital, as the case may be, and FCI shall make payment directly to the hospital for such hospitalization treatment including cost of medicines, operation charges, if any, during the treatment. Such payments may be made to the hospital by Asstt. Manager (Depot) with the approval of District Manager concerned, as & when required by the hospital, out of the contingency fund and due prescription / receipts may be obtained. The expenses for such hospitalization in respect of DPS worker will be made directly to the empanelled hospital with the rates which have been agreed to by the hospital with FCI for providing indoor medical treatment to the Departmental labour and employees of the Corporation.

(iv) Since the payments for such hospitalization in respect of DPS worker will be made directly by FCI to the concerned hospital, there will be no question of having any reference from FCI Medical Officer for indoor treatment to empanelled hospital or Government hospital and accordingly no authority letter for indoor treatment will be required in case of DPS worker for such hospitalization.

(v) Expenses for such hospitalization will be borne by FCI, as above, till the DPS worker will be discharged by the hospital.

(vi) Since the expenses for such hospitalization of DPS worker will be paid by FCI directly to the hospital concerned, as above, there will be no question of preferring bill by the DPS worker and reimbursement of any such expenses to the DPS worker;

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(vii) In case the injured DPS worker will be required to be kept in the Hospital Ward / Room for treatment, then his entitlement shall be the lowest category of ward / room of the hospital concerned.

I. However, the above facility of hospital treatment will not be admissible to the injured DPS worker in the following contingency:

(a) If injury sustained under the influence of intoxication or due to violation of safety measures / rules; and

(b) In case of hospitalization in any non-empanelled private Hospital / Nursing Home.

3. The concerned District Manager shall be the competent authority to approve the payment / reimbursement of the expenses to the hospital concerned for such hospitalization of the seriously injured DPS worker.

4. It may be clarified that compensation, if any, payable to the injured DPS worker under the provisions of workmen's compensation Act, 1923 shall not have any bearing on the expenses of hospitalization in case of serious injury to be borne by FCI, as above.

(II) Medical health care benefits under ESI Act for indoor and outdoor treatment as per the instructions contained in Circular No. 14/2011 dated 02.01.2011 (File No. IR(L)/14(2)/05) (Annexure-66).

Benefits under ESI scheme are given as under.

a. **Medical Benefit :** Full medical facilities for self and dependents are admissible from day one of entering insurable employment. Whereas, the primary, outpatient, inpatient and specialist services are provided through a network of Panel clinics, ESI dispensaries and Hospitals, Super Speciality Services are provided through a large number of advanced empanelled medical institutions on referral basis.

b. **Old Age Medical Care :** Full Medical Care for self and spouse on superannuation subject to having completed five years in insurable employment immediately before superannuation in case of having suffered permanent physical disablement during the course of insurable employment. The Rate of Contribution for Superannuated/Disabled insured persons is Rs. 120/- per annum payable in lump sum at the branch office for availing full medical care for self and spouse.

c. **Sickness Benefits (Cash) :** Sickness Benefit is payable to an insured person in cash, in the prevent of sickness resulting in absence from work and duly certified by an authorized insurance Medical Officer / Practitioner. The benefit becomes admissible only after an insured employee has paid contribution for atleast 78 days in a contribution period of six months.

d. **Maternity Benefits (Cash) :** Maternity Benefit is payable to insured women in case of confinement or miscarriage or related sickness from pregnancy. For claiming the benefit an insured women should have paid contribution for atleast 80 days in two consecutive contribution periods i.e. one year.

e. **Disablement Benefits (Cash) :** Diablement - Benefit is payable to insured employees suffering from physical disablement due to employment injury or occupational disease insured person should be an

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employee on the date of accident.

f. **Dependents Benefit (Cash)** : Dependent Benefit (Family pension) becomes payable to dependents of a deceased insured person where death occurs due to employment injury or in occupational disease. A widow can receive this benefit on a monthly basis for life or till her remarriage. A son or daughter can receive this benefit on a monthly basis till eighteen years of age other dependents like parents can also receive this benefit under certain conditions, for life.

g. **Funeral Expenses** : On death of an insured person subject to a maximum of Rs. 5,000/- It is payable at the Branch Office.

h. **Vocational Rehabilitation** : In case of disablement, insured persons under 45 years of age with 40 percent or more disablement. Vocational training is also made available to those insured persons who are rendered unemployed unwillingly, for ensuring re-employability. These vocational trainings will be provided through AVTIs.

i. **Medical Bonus** : The rate of confinement expenses for Rs. 2,500 per confinement.

j. **Physcial Aids**: Free supply of physical aids and appliance such as crutches, wheelchairs, dentures, spectacles and other physical aids.

k. **Unemployment Allowance (Rajiv Gandhi Shramik Kalyan Yojna)** : Unemployment Allowance is payable to those workers facing involuntary unemployment due to closure of factory/establishment; retrenchment or permanent invalidity arising but of non-employment injury. The daily rate of Unemployment Allowance is at par with the standard sickness benefit rate which is just above 50 percent of daily wages. This allowance is payable for a maximum period of 12 months either in one spell or different spells of not less than one month's duration. The insured person's eligibility condition has now been relaxed to three years from earlier five years, for being able to avail the Unemployment Allowance.

17) FCI Group Insurance 1980 (Common instruction in respect of Departmental and DPS labour)

FCI group Insurance scheme 1980 as has been amended and replaced by the Employees Deposit linked Insurance Scheme 1976 (EDLI) as amended from time to time vide EP Division's Circular No. EP 24-2012-02 dated 06.03.2012 (File No. EP :42(1)/94) and was reiterated to all the field offices vide circular No. 4 of 2012 dated 01.06.2012 (File No. IRL/4(8)/95/Vol.II). Already enclosed as **Annexure-67**.

18). Compassionate appointment Scheme of dependent of the Direct Payement System worker

(a). Extract of Circular No. 4/2003 dated 04.03.2003 (File No. IRL/31(15)/96/Vol.II) (Annexure 68) is as under :

(i) As per the existing scheme for compassionate appointment contained in Hqrs Letter No. IR (L)/4(L)/78 Vol-II dated 22/28-1-1998 the next kin of the deceased DPS worker are being considered against post of Handling Labours only. However, compassionate engagement is being given to the female member as Ancillary Labour under Direct Payment System, only in the cases

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where no male member is available in family of the deceased DPS worker for engagement as Handling Labour.

- (ii) The matter has been reviewed in the light of the rulings of various courts and the instructions of Govt. of India and it has been decided that henceforth condition of ceiling of 5% of vacancies against sanctioned strength for appoint on compassionate ground in Direct Payment System, as already applicable in case of employees of the appointment under the Direct Payment System. The limit of 5% quota on appointment on compassionate ground in Direct Payment System, as already applicable in case of employees of the Corporation, will also be applicable in case of compassionate appointment under the Direct Payment System. The Limit of 5% quota on appointment on compassionate ground cannot be increased or relaxed in the light of the instructions of Govt. of India. Proceeding for determinates / availability of vacancies).
- (ii) The compassionate appointment in case of Direct Payment System workers may be made upto a maximum of 5% of vacancies falling under direct recruitment quota. The sanctioned strength as on 30th November, 2002 and laboures in position against the post of Handling / Ancillary / Labour as on 30th November, 2002 will be taken to calculate the vacancies ear-marked for compassionate appointments. The post of Ancillary / Handling Labour will be clubbed to consider appointment on compassionate ground. Female dependents will be appointed as per the existing instructions against post of Ancillary Labour. It will be open for appointing authority to accommodate the person in the waiting list for compassionate appointment in the place where vacancies are available.
- (iii) The other terms and conditions of compassionate appointment as contained in the existing instructions will remain unchanged."

(b) Extract of letter No.4(46)/2004-vol.II dated:24.06.2008 (Annexure 69) (common instructions)

"it is stated that sanction strength in respect of Departmental and DPS system workers circulated vide this office letter No.IR-L/1(21)/2005 dated 27thNovember 2007 may be taken into consideration to calculate the 5% vacancies to be earmarked for compassionate appointments. As regards determination /availability of vacancies within the ceiling limit of 5% instruction contained in this office Circular No. 4 of 2003 and circular No. 5 of 2003 both dated 04.03.2003 are explicitly clear."

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(c). Extract of letter No.4(1)/87-vol.IV dated: 20.03.2012 (common instructions)

	QUERY	CLARIFICATION
1	At the time of submission of application by the applicant, his age is less than 30 years but at the time of accrued of vacancy within 3 years period, he has crossed the age of 30 years, whether the case is to be considered for appointment.	Age eligibility shall be determined with reference to the date of application and not the date of appointment.
2	What would be the criteria for seniority of roster i.e date of death or date of completion of documents	Date of death shall be the criteria for seniority of roster.
3	If at the time of submission of application, the applicant is minor then what would be the seniority criteria i.e date of completion of documents or date of becoming eligible	Date of attaining the age of 18 years shall be the criteria for seniority.

The above instructions should be read with instructions contained in Hqrs Circular No 4/2003 (DPS Labour) and No 5/2003 (Departmental Labour) Act on may be taken accordingly."

(d) Extract of Circular No. 4/2013 dated 09.04.2013 (File No. IRL/4(46)/2004/Vol.VI)(Annexure 70) is as under :

"Attention is invited to this office circular No. 4/2003 dated 04.03.2003 (File No. IR(L)/31(15)/96/Vol-II) vide which instructions for compassionate appointment of next Kith and Kin of the DPS workers within the ceiling limit of 5% vacancies of DPS was issued. At present, the cases of compassionate ground appointment of next kith and kin of the deceased DPS workers are being considered by the respective GM(Region) subject to availability of vacancies within the ceiling limit of 5%.

The Labour unions have been demanding time and against that the dependents / next kith and kin of those DPS workers who died on work spot while performing the duties may be considered irrespective of the 5% ceiling limit on humanitarian ground to mitigate the financial hardships of the family members who are left in the indigent condition. The demand of the union has been examined on humanitarian ground for redressal of the grievance of the workmen/union.

The Board of Directors of FCI in its meeting held on 18-03-2013 (355th BD) has authorized CMD, FCI to approve such cases of compassionate appointment of next Kith & Kin of workers who died on work spot

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within the Regions/ Zones concerned irrespective of ceiling of 5% of total vacancies under DR quota subject to the condition that the total number of cases of compassionate appointment should not be allowed to exceed 5% of the total vacancies (on All India basis) under DR quota.

It is requested that number of vacancies available within the ceiling limit of 5% may be calculated zone/region-wise as per the existing instructions and be sent to this office on priority. Further, all the EDs(Zone)/GMS (Region) may send the cases of compassionate appointment of dependent of those DPS workers who died at work spot while performing while performing duties after examining their eligibility within the laid down parameters to headquarters for consideration / decision."

(e) Extract of letter No IR-L/4(46)/2004/Vol.VI Dated 20.08.2013 (clarification in respect of circular 4/2003 dated 09/04/2013 common instructions)

1. "The EDs (Zone) should advise GM(Region) concerned for appointment of kith and kin of those workers who died on wok spot on priority and in case vacancy is not available in a region to make such appointment the vacancies of other regions within the zone may be transferred for making appointment subject to availability of vacancies against 5% ceiling limit within the zone in the respective category of labour i.e Departmental /DPS as the case may be.

2. After considering the cases of appointment of kith and kin of those workers who died on work spot, if any vacancy remains unfilled against 5% ceiling the same may be filled by issuing appointment to the kith and kin of deserving normal death cases and for making appointment in such cases no relaxation of shifting of vacancies shall be permissible.

In no case the appointment on compassionate ground should exceed the ceiling limit of 5% of DR vacancies within the region."

19) Payment of Gratuity

As per the provision of Payment of Gratuity Act

Method calculation of Gratuity in respect of DPS Labour as contained in Circular No. 06/2003 dated 04.04.03 issued from File No. IR(L)/4(6)/81 Vol III dt 4/04/03 (**Annexure-71**).

S/M/H/L- (Monthly daily wages 26	+ <u>piece rate earning above daily wages</u>) x <u>rendered service</u> x 15 90
A/L- <u>Monthly daily wages</u> 20	x <u>rendered service</u> x 15

As per the provision of Payment of Gratuity Act 1972 an employee / a worker is entitled for the gratuity amount equivalent to 15 days wages / salary based on the rate of wages last drawn for each completed year of his service or part thereof in excess of six month.

Minimum qualifying service for the entitlement of gratuity is 5 years. In case of death / disablement condition for minimum qualifying service does not apply.

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In case of a piece rated employee daily wages shall be computed on average of total wages received by him for period of three months immediately preceeding the termination of his employment OTA paid shall not be taken into account.

(20) Extract of circular No.01/2008 (Annexure-72)

The erstwhile contract workers who were working in the notified depots of Kerala region were regularized by FCI as direct payment system workers w.e.f. 1.5.1996 as per the agreed terms and conditions and payment of their engagement under DPS. They were/ are entitled for gratuity as per payment of gratuity act w.e.f. the date of their induction/regularization in FCI under DPS.

The ex DPS workers of various direct payment system depots of Kerala region had filed collective/ individual applications before the ALC(C) and controlling Authority , Trivandrum seeking direction to FCI for payment of gratuity to them by reckoning the period of their service rendered under various handling & transport contractors / labour cooperative societies prior to their induction under direct payment system in FCI as continuous service for payment of gratuity. The ALC(C) upheld the prayer of the workers in all these cases.

The GM, RO Kerala filed WPs before the Hon'ble High court of Kerala at Ernakulum against the above decision of the ALC(C) but the same was also dismissed in favour of the workers by its judgement dated 12.07.2005.

Subsequently the GM, RO Kerala filed writ Appeals before the Division against judgement dated 12.07.2005. The Hon'ble Division Bench delivered its common judgement on 18.08.06 in W.A. No.1953 of 2005 vide which judgement dated 12/07/2006 was set aside.

The operational part of the judgement dated 18.08.06 in the W.A.No.1953 of 2005 is reproduced below:-

In the absence of any express provision contained in the Payment of Gratuity Act to rope in such period as service rendered while the workmen work under the employment of third person. The applicant cannot be mulcted with the liability to pay gratuity reckoning such past service as well. The claim if any by the workmen can only be laid against the employer under whom they were employed during that period.

Leaving open the right of the workmen to claim gratuity from whom so ever concerned for the past services they rendered we hold that the appellants are not liable to pay gratuity for the services they rendered by the workmen to the private contractors or the society prior to the introduction of the Direct Payment System. In the circumstances, we set aside the judgment of the learned single judge and also the orders passed by the controlling Authority and the Appellate Authority and allow the appeals.

Note : Circular No.3/2006 dated 13.01.2006 (File No. IR(L)/3(6)/2002) regarding forfeiture of Gratuity wholly or partially as mentioned against para 8 of Pay Package / wages of departmental is applicable in respect of DPS category also.

21) Daily Allowance admissible to Food Handling DPS workers including Ancillary workers working in depots

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It is being governed by the instructions as contained in Circular No. 9/2012 dated 22/27.06.2012 (File No. IR(L)/4(15)/94/Vol.II) already enclosed as **annexure -73** against para 22 of pay packages and service condition of the departmental labour.

Designation/Category	Daily Allowance per day per worker	
	Cities classified as 'X' and 'Y' for the purpose of HRA	All the other cities / stations
(i) Sardar, Mandal and Handling labour	Rs 144/-	Rs 128/-
(ii) Ancillary labour	Rs 128/-	Rs 112/-

Note : These daily rates has been mentioned in the common instructions issued in respect of department and DPS category workers. Daily allowance rates as applicable to the departmental and DPS workers are separate .

22). Option for change of cadre from Ancillary Labour to Handling under DPS are governed by the circulars No. 14/2016 dated 17.10.2016 (File No.1(8)/2016/WZ) dated 17.10.2016 (Annexure -74) Extract of instructions is given as under

" The matter has been examined and it has been decided with the approval of Competent Authority to consider the request for conversion of Ancillary Labour to Handling Labour".

1. The vacancy / vacancies of Handling Labour in the gang may be filled in by options to the available Ancillary Labour in the depots. The senior most Ancillary Labour, of such optees, may be given preference to make handling labour subject to fitness for the post of Handling Labour i.e. he should not be a handicapped person and should be able to pass a test of loading / unloading atleast 90 big bags or 135 50 Kg bags in a day/shift. It may be ensured that such change of cadre to Handling Labour should be against a clear vacancy of Handling Labour.
2. He will be the junior most Handling Labour in the gang and will not have any lien in the capacity of Ancillary Labour.
3. The vacancy of Ancillary Labour which could occur on account of change of cadre as Handling Labour will stand abolished in view of surplus labour available in the FCI.
4. However, while implementing the change of cadre from Ancillary Labour, it may be ensured that the work meant for Ancillary Labour is not adversely effected.

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The Competent Authority to allow change of cadre as above shall be General Manager (Region)

23). Payment of Dusting operator allowance

Ancillary labourers/godown Mazdoors working in various godowns/depots under Direct Payment System/NWNP system are entitled for the payment of dusting operator allowance only for the days on which they actually perform duties relating to fumigation, spraying etc. in terms of Circular no.23/2012 dated 21.11.2012 (File No. IR(L)/3(4)/96/Vol.III) **(Annexure-75)**

24). Retirement Age - 60 years as fixed vide circular No. IR(L)/4(10)98 dated 29 May 1998. Already enclosed as Annexure - 49 Common instructions of Departmental DPS and NWNP.

25) Protection under person with Disability (Equal opportunities protection of Right and full Participation) Act-1995 in respect of labourers engaged under Direct Payment System. It is being governed by the circular No 4/2010 dated 06/07.04.2010 (File no IR-L/4(20)/2006) **(Annexure-76).**

The Direct Payment System Labourers who acquire any of the following disabilities during his service and becomes permanently disable to perform their duty will be given benefit of section 47 of the Act on the basis of disability certificate issued by competent authority. The format of the disability certificate issued by the competent authority as per the instant Act.

(A) Definition of disabilities are given below.

(I) (a) Blindness: "Blindness" refers to a condition where a person suffers from any of the following conditions namely:

(i) Total absence of sight; or

(ii) Visual acuity not exceeding 6/60 or 20/20 (Snellen) in the better eye with correcting lenses; or

(iii) Limitation of the field of vision subtending an angle of 20 degree or worse;

(b) Low vision: "Person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning of executing of a task with appropriate assistive device.

(II) Hearing Impairment: "Hearing Impairment" mean loss of sity decibels or more in better ear in the conversational range of frequencies.

(III) (a) Locomotor disability: "Locomotor disability means disability of the Bones, Joint and

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muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy."

(b) Cerebral Palsy: "Cerebral Palsy" means a group of non-progressive conditions of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the prenatal, peri-natal or infant period of development.

(c) All the cases of orthopedically handicapped persons would be covered under the category of "locomotor disability or cerebral palsy."

ED (Zone) is competent authority for considering cases as per above Act

(B) Dispensation of Services

The labourers, who are declared totally unfit for employment either because of injury while on duty or due to causes directly attributed to employment and are not eligible for the protection under section 47 of Act (persons with Disability (Equal Opportunities, Protection of Rates and Full Participation) Act 1995) on the basis of disability certificate issued by the competent authority, will be retired from service after payment of compensation under the Workmen Compensation Act and admissible terminal dues.

The service of the Direct Payment System labour who have acquired disability during the service and are not eligible for protection as per the provisions of this Act in furtherance to the disability certificate issued by the competent authority as envisaged in the Act in question will also be dispensed with after payment of the admissible terminal dues. ED (Zone) will be competent authority to decide these cases.

3. Retirement Profile

M/S Deloitte Consultancy has conducted the retirement analysis the overall manpower at the start of every five-year period has been defined below:

Five Year Period	Departmental Manpower at the start of period	DPS Manpower at the start of period	Total Manpower at the start of
2013-17	18003	28482	46485
2018-22	13995	24460	38455
2023-27	9262	17102	26364

As per table above, as against a total manpower of 46,485 at the start of 2013-18, the manpower will deplete substantially over the next few years on account of retirements.

Departmental Labour

The table below indicates a year wise analysis of the Departmental system labour retirements over the next few years:

Period	Departmental Retirees in 5 years periods	Cumulative Departmental Retirees	% of total Departmental Labour Retired
2013	637	637	4%
2014-2018	4187	4824	27%
2019-2023	4801	9625	53%

It can be observed that more than half of departmental system labour will retire next 6 years (by 2023)

DPS Labour

The table below indicates a year wise analysis of the DPS system labour retirements over the next few years:

Period	DPS Retirees in five year periods	Cumulative DPS Retirees	% of total DPS Labour Retired
2013	653	653	2%
2014-2018	4578	5231	18%
2019-2023	7961	13192	46%

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CHAPTER V (C)

3. Wage structure of the No Work No Pay labours

Background

	Date of settlement	Terms and conditions of settlement
1	MOU signed between FCI and FCIWU on 12.07.93	<p>Introduction of direct payment through Three Member Committee nominated by the FCIWU from among the workers who will receive the payment from FCI subject to following conditions</p> <p>Payment was strictly according to the piece rate system. The piece rate system for the purpose of payment to the workers through TMC was at then contract rate wherever such contract is existing or at last expired rate. In case of ancillary / casual workers they would be paid at the statutory minimum wages of that area.</p> <p>The payment was strictly in accordance with no work no pay basis and there will be no minimum guaranteed wages</p> <p>As the payment are being made to the 3 member committee as a group representative of the labour no income will be deducted at source for the present. However, the no Income Tax as was to be payable by the worker on their individual earnings for the Financial year was to be deducted by the 3 member committee.</p> <p>As regards the Ancillary labour the practice of 4 workers for 5000 tones capacity was to be maintained.</p> <p>This Payment system was to be followed upto 31st December 1993.</p>

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	Date of settlement	Terms and conditions of settlement
2	Memorandum of settlement dated 01.11.94	<p>Clause III Direct Payment through 3 member committee on NWNP basis in 73 depots of Punjab Region.</p> <p>In 73 depots of Punjab region NWNP system was introduced on same ASOR as applicable to erstwhile contractor during 1993. In most of these depots currency of contract period was to expire and rates would have been due for revision. Hence after protracted negotiations, it was agreed to have a uniform ASOR for all the 73 depots from a common date i.e. 1st September 1994. The piece rate for basic operations of “unloading food grains bags from wagons / trucks or any Transport vehicle and directly loading on truck or any Transport vehicle / into wagon” as mentioned in the relevant service clause of Model Tender Form was to be revised to Rs 115/- (Rupees one hundred and fifteen only) per 100 bags w.e.f 1st September 1994.</p> <p>The equivalent percentage increase so arrived at in the then existing piece rate in respect of above operation was allowed as ASOR percentage for all other operations wherever the existing ASOR percentage was higher; the same was protected until next revision. FCI will continue to bear the employer's share of EPF. The corporation was to release the ex-gratia payment in lieu of bonus along with departmental labour for the Financial year 1993-1994.</p>
3	Settlement dated 05.04.1995	<p>The workers under “Productivity Linked Piece Rate” system which prevailed in 73 depot of Punjab by virtue of MOU dated 12.07.95 through this settlement were extended following benefits</p> <p>Minimum guaranteed wages of Rs53/- per day to Ancillary labour and Rs 63/- per day for Handling labour including Mandals and Sardars. This was payable even on those days when corporation couldnot provide any work.</p> <p>In case a worker was employed on the day of his weekly off would be paid one extra wage or wages for the work done on such day whichever was higher for such weekly of day provided he has worker on all the working days proceeding the day of weekly off.</p> <p>Six holiday including three National Holidays in Calendar year</p> <p>PLI (Productivity Linked Incentive) after 1.1.95 if and when declared by FCI for departmental labour.</p> <p>NOTE: This Labour system was upgraded as DPS through settlement dated 13.03.99</p>

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	Date of settlement	Terms and conditions of settlement
4	04.07.95	<p>NWNP (Productivity Linked Piece Rate through three members committee) was introduced in 14 depots (10 UP + 1 Bihar + 3 Rajasthan)</p> <p>The all inclusive piece rate for the purpose of payment was then contract rate wherever such contract is existing or at the last contract rates where the contract has expired. In case of ancillary / casual labour, they were to be paid at the statutory wages of that area. Above rates will be in force for a period of the presently existing contract. Thereafter, the piece-rate will be revised proportionate to the percentage increase in the Consumer Price Index on the date of revision over the Consumer Price Index prevailing at the time of commencement of original contract.</p>
5	<p>2010-2011 Introduction of NWNP in 76 owned depots notified under Section 10 of the contract labour (R & A) Act 1970.</p>	<p>NWNP labour system was introduced in 76 owned depots where contract labour was abolished under Section 10 of the C.L (R&A) Act. These workers are entitled to piece-rate or Minimum Daily Wages as fixed under Minimum Wage Act for 'A' 'B' 'C' area on the day of their deployment whichever is higher. Revision of VDA on 1st April and 1st October of every year as published by the Chief Labour Commissioner (C), GOI NWNP labours are also getting.</p> <ol style="list-style-type: none"> 1. OTA as per provision of Minimum wages Act 2. Medical treatment through ESIC under ESI Act 3. Gratuity under payment of Gratuity Act 4. Provident Fund as per provision of Employees Provident 5. Fund and Misc. provisions Act. 6. EDILS / EPS 1995 framed under the above Act. 7. Festival advance / ex-gratia in lieu of bonus 8. Three National holiday 9. Revision of piece-rate wages after every two years on the basis of percentage increase in the points of AICP.

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Guidelines for regulating the service condition of NWNP workers

NWNP labour system was introduced in 76 owned depots notified under the provision of CL(R&A) Act. 1970 with the approval of Ministry of CAF and P.D. (GOI), based on the approval conveyed by the Ministry of CAF and PD Broad guidelines for regulating the service condition of "No Work No Pay System" were circulated to all the field offices vide letter No. - IRL/3(7)/99-Vol VII dated 10/08/2011 as reproduced below.

(i) The assessment of requirement of labour strength for the depot should be done as per norms given below:-

(a) Average annual turn over of preceding 3 years = Number of H/L required
240 X 135

(b) 4 Ancillary Labour against 5000 MTs storage capacity.

(ii) Only those workers who had been paid wages for at least nine months during the last twelve months preceding cessation of operation in the depot, are to be considered for employment under "No Work No Pay System".

(iii) This clause was subsequently amended vide letter No IR-L/3(7)/99/Vol. VIII dt. 27.10.2011 **(Annexure-77)** (collectively 3 pages) .with the provision given as under :

"For induction of ex-contractor workers under "No Work No Pay" system in the notified depots, seniority list may be prepared for each depot on the basis of actual number of days work performed by each worker during the last three years in the concerned depot with the contractors from the date of notification or cessation of work in the notified depots"

(iv) Corporation will resort to direct payment on 'No Work No Pay' basis through a committee consisting of 2-3 labour representatives nominated by the workers concerned who will be inducted under this system based on the criteria as discussed above.

(v) The said committee of 2-3 labourers will receive the payment, from FCI for disbursement amongst the concerned workers based on the work done by them.

(vi) The all inclusive piece-rate for the purpose of payment would be at the last contract rate, for the remaining period of the existing contract.

(vii) The piece-rate well be revised every two years proportionate to the percentage increase in the All India Consumer Price Index (AICPI) (base 2001=100) for industrial workers as published by Government of India, Ministry of Labour, Labour Bureau, Shimla.

(viii) The labourers engaged under this system will be paid the minimum wages fixed under the Minimum Wages Act as notified by the Ministry of Labour and Employment, Government of India in respect of 'A', 'B' & 'C' areas, if their piece-rate earning on a day (when the worker engaged as per the existing procedure) is less than the notified rates of wages.

In case the piece-rate earning on a day per worker is more than the GOI's notified daily minimum wages, then actual amount earned will be payable under the schedule of rates as per the existing procedure.

(ix) The names of the workers as in muster roll will be maintained by the said Committee consisting of 2-3

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representative of the workers and one copy of the acquaintance roll will be given to the local FCI Officers, after disbursing wages.

(ix) The matter regarding detailing of number of labour for various operations based on the estimated volume of work of a day and their rotation, will be done by the committee, in consultation and approval of the Depot Officer.

(x) The committee will submit the bills duly supported by work done slips issued by Depot In charge on a calendar month basis for the work done including engagement of Ancillary Workers. Amount so claimed will be scrutinized and admissible amount shall be passed for payment. 12 % of the amount so passed will be recovered towards employee's subscription towards EPF. The committee shall furnish schedule of such recoveries, worker-wise, indicating both employee's as well as employer's contribution. FCI would contribute 12% of the amount towards Employer's Share and arrange to deposit the entire 24% of the amount to the Provident Fund Authorities based on the above statement. The balance amount paid to the committee will be released to each worker in the presence of FCI Officials nominated for the purpose.

(xi) The Corporation shall consider the payment of ex-gratia in lieu of bonus payable under the Payment of Bonus Act on the basis of the Bills submitted by the committee.

(xii) The Corporation shall also bear the liability, if any, due under the Workmen's Compensation Act and Payment of Gratuity Act.

(xiii) The daily rate of Minimum wages as notified by the Ministry of Labour & Employment, Govt. of India includes wages for weekly day of the rest also.

(xiv) List of the workers found eligible for their induction under the 'No Work No Pay' system shall be displayed on the Notice Board of the Depot and must be uploaded in FCI's Website.

(xv) Labourers on NWNP system will be eligible for paid wages for three National Holidays falling on 26th January, 15th August and 2nd October every year provided the NWNP labour has worked immediately before and after such holidays. (As per agreement dt 11.05.2011)

(xvi) The left over ex-contractor workers, if any, will be given preference at the time of subsequent augmentation of labour strength in the respective depots.

(2) Provident Fund

(a) The 'No Work No Pay' system Labour are governed by the provisions of Employees Provident Fund & Miscellaneous Provisions Act, 1952. Employees deposit linked Insurance Scheme 1976, Employees pension scheme 1995.

(b) In case of 'No Work No Pay' System Labour 12% share has to be deducted from their earnings. FCI shall contribute 13.51% (12% as employer's Share + 1.61% as administrative charges) of the earnings of individual NWNP System Labour. The whole amount i.e. employee share, employer share and the administrative charges, shall be deposited with the Provident Fund

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Authorities against code number allotted by the concerned RPF office(s). It has to be ensured that the individual workers are allotted their respective PF numbers. The workers/members, should also be provided with annual contribution/subscription slips.

(3) CIRCULAR NO. 18/2012 (File No. IR.L/31(13)/2011) dated 15.10.12 (Annexure 78)

TA/DA to NWNP workers

i) The "No Work No Pay" system is prevalent in many depots including the depots recently notified by the Ministry of Labour prohibiting engagement of contract labour. Field Offices of FCI have recommended that provision for payment of TA/DA may be made in respect of this category of labour when they are deployed to other depots in exigency of work. Similar demand has been raised by the labour unions also.

ii) The matter has been examined and it has been decided to extend the facility of TA/DA to the "No Work No Pay" System Workers. The rates of TA/DA which will be payable to the No Work No Pay" System workers are given as under:-

(a) Travelling Allowance: Actual ordinary bus fare

(b) Daily Allowance:-

CITY CLASSIFICATION	HANDLING LABOUR	ANCILLARY LABOUR
For X & Y Cities	Rs. 144/-	Rs. 128/-
Other Cities	Rs. 128/-	Rs. 112/-

(4) Payment of wages / piece rate wages to NWNP worker

CIRCULAR NO. 19/2012 dated 15.10.2012 (File no IR-L/3(7)/99/Vol-VII) (Annexure 79)

i) Attention is invited to this office letter- No. IR(L)/3(7)/99/Vol.VII dated 10.08.2011 enclosing therewith broad guidelines for regulating the service condition of the workers brought under NWNP system consequent upon issuance of notification by the Ministry of Labour for prohibition of Contract Labour System.

ii) In this context, it is stated that Paras (iii), (iv), (viii) and (x) of the broad guidelines envisages constitution of three member committee consisting of 2 - 3 labour representatives nominated by the workers concerned inducted under NWNP 'system, preparation of bills of work done and disbursement of wages, amongst the worker and maintenance of records under EPF Act etc.

iii) The field offices of FCI are experiencing difficulties in making disbursement of wages through committee of workers, labour unions have also made representation in regard to the difficulties in receiving payment through three member committee.

iv) In view of difficulties being experienced by the field office to regulate payment of wages to the workers (NWNP Labour System) and maintain records of wages / EPF etc., the role of three member committee has been reviewed in consultation with legal and Finance Division. In order to make payment of wages to the eligible workers in conducive manner, it has been decided henceforth that all payments including of wages to the NWNP system workers should be made directly by FCI instead of the present practice of making payment of wages through the committee of workers.

Further, it is stated that disbursement of wages/payments be made to the eligible workers either through

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Accounts Payee Cheque or Electronic Clearance System after making deduction of Income Tax if required as per the provisions of Income Tax Act as per-existing mode of payment of wages to the departmental and DPS labour.

Background of Working Hours in Respect of NWNP Labour System

Ministry of Labour and Employment(G.O.I) vide notification No. S01824(E) dated 20.05.2009 issued under the Minimum Wages Act had fixed "area-wise" basic daily wages in respect of unskilled employees engaged in the scheduled employment of " loading and unloading" in warehouses and godowns. NWNP workers are paid basic daily wages as per above notification. Labour Unions demanded fixation of duty hours and payment of overtime allowances in respect of the NWNP workers as per the provision of Minimum Wages Act and Central rules framed there under, on the basis that employment of the Loading/Unloading in the godowns/warehouses is covered under the provisions of Minimum Wages Act and Central Rules framed there under. Accordingly the OTA rates and working hours of NWNP workers are being regulated as per provisions of Minimum Wages Act and Central Rules framed thereunder.

(5) Fixation of duty hours and Payment of O.T.A - It is being governed by Circular No-17/2013 dated 22.11.2013 (File No IR-L-31(38)/2012) (Annexure 80)

The Labour unions have demanded fixation of duty hours and payment of Overtime allowance to NWNP system workers as per the provisions of Minimum Wages Act on the basis that Employment of Loading /Unloading in Godown/warehouse is covered under the provisions of Minimum Wage Act and Central Rules framed therein.

BOD (FCI) in its meeting held on 24.07.2013 deliberated the demand of the Union in furtherance to the provisions of Section 13 and section 14 of the Minimum Wages Act and Rule 24 and 25 of the Minimum Wages (Central) Rules, 1950 (Extracts of the relevant provisions and rules are enclosed), and approved fixation of duty hours and payment of the Overtime Allowance to the workmen at the rates prescribed under Act/Rules provided he has worked for more than nine hours in any day or for 48 hours in a week. Hence, the duty hours of these workers will be nine hours in a day inclusive of one hour lunch break. The workers working in the 'NWNP' system depots of FCI are eligible for the payment of OTA in furtherance to the statutory provisions of the Minimum Wages Act and rules framed therein.

The matter relating to regulation of OTA under the Minimum Wages Act has been examined in consultation with the Legal and the Finance Division of the Hqrs.

Further, it is relevant to mention that in day to day depot operations different situations are being experienced. In order to regulate OTA on emergence of such situation on week days and weekly off procedure to be followed is summarised below in tabulated form.

S. No.	Situation	CLARIFICATION
1	In case sufficient work is not made available to the workers and Piece rate earnings are less than the minimum daily wage. Then how OTA be calculated in following situations: Case No. 1- On week days	Case No. 1 (weekly days):- The hourly rate for the purpose of payment of overtime wage for the work done on week days will be calculated by dividing the total earnings for the entire day including work done during and after or before shift hours by total number of hours put in for work by the handling workers for that day. The total earnings for the entire day including work done during before and after normal duty hours, will be apportioned in the ratio to the number of hours work done in the normal shift hours and number of hours actual work done beyond normal working hours (before or after). The proportionate actual earnings so calculated for the work done in the normal done in the normal duty hour shall be payable subject to admissible minimum daily wage of the labourers.

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S. No.	Situation	CLARIFICATION
	Case No.2- on weekly off	<p>Case No.2 (weekly off):-</p> <p>In case sufficient work is not made available to the workers due to which the actual earnings are less than the Minimum Daily Wages, the hourly rate will be worked out by dividing minimum daily wages by 8 hours.</p>
2	<p>WEEK DAY (Case No.1)</p> <p>If a NWNP labour is detained/ deployed on OTA before the commencement of daily hours but no work was available during the period of OTA.</p> <p>If a NWNP labour is deployed before the commencement of duty hours but actual work is provided from 1500 to 2000 hours.</p>	<p>[i] If no work is provided to the worker concerned during overtime and working hours then hourly wages will be calculated as per the daily wages of the workers concerned divided by normal working hours (8 hours as effective hours).</p> <p>[ii][a] OTA hours (Before/After normal working hours) during which no work was performed; Hourly wages will be calculated as given under:-Minimum Daily Wages divided by normal working hours (8 hours as effective hours).</p> <p>[b] OTA hours (Before/After normal working hours) during which work was performed; Hourly wages will be calculated as given under:-Piece-rate earning divided by no. of hours actual work performed</p> <p>Or</p> <p>Minimum daily wages divided by 8 (effective working hours prescribed under Minimum Wages Act).The higher hourly rate, out of the above, will be payable.</p> <p>ILLUSTRATION Actual work is provided from 1500 to 2000 hours; the hourly rate would be calculated as under:</p> <p>Piece-rate earning divided by 5 (20:00 hours-15:00 hours)</p>
2	<p>WEEK DAY (Case No.2)</p> <p>(iii) On weekly off days what will be mode of calculation of OTA rate if workload was available for only 3 hours in a day.</p>	<p>WEEK DAY</p> <p>[ii] The hourly rate for the purpose of payment of overtime allowance for the work done on weekly off days will be calculated as given under:-</p> <p>Piece-rate earning divided by 3 i.e. actual hours of work done.</p> <p>Or</p> <p>Minimum daily Wages divided by 8 (effective normal working hours)</p> <p>The higher hourly rates out of the above will be applicable.</p>
3	Deduction of CPF in NWNP labour for OTA.	Not Applicable

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In order to ensure implementation of instructions as contained in above circular, respective GM(Region) have been advised to notify the timing of duty hours in respect of depots operative under NWNP vide letter No. IR(L)/31(38)/2012 dated 01.10.2015.

(6) Ex-gratia in lieu of Bonus

Payment of ex-gratia in lieu of bonus to the NWNP

Departl./DPS/NWNP workers are being paid ex-gratia in lieu of bonus through common instruction which are issued every year. Latest instructions have been issued vide Circular No.11 of 2017 dated 06.10.2017 for FY-2016-2017 which stipulates following conditions for the payment of ex-gratia in lieu of bonus to eligible workers.

- i) Ex-gratia is payable only to those drawing wage/earning upto 21000/ per month.
- ii) where wages/earning exceeds Rs 7000/- per month, the amount of wages/earning for purpose of calculation of ex-gratia in lieu of bonus will be restricted to Rs 7000/- (Seven thousand per month), or actual wages paid which ever is less.

7 Minimum daily wages as on 01.10.2017 area wise under Minimum wages Act and applicable to the NWNP workers.

1. Part-I Basic rates of minimum wages :

Area	Minimum Wages per day (In Rupees)	Rate if variable Dearness Allowance for every point rise or fall beyond 271, which is the average monthly Consumer Price Index Number for Industrial Workers. (Base 2001=100) for the period January - June 2016	Total
(1)	(2)	(3)	
A	523.00	13	536
B	437.00	11	448
C	350.00	9.00	359

2. Part-II Rate of Variable Dearness Allowance :

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(8) Payment of Gratuity- As per provisions of Payment of Gratuity Act 1972 and central rules framed under the said Act.

Method of calculation of gratuity Amount in respect of NWNP workers was circulated vide Circular No 4/2016 (File No IRL/31(1)/2016) dated 17.05.2016 (**Annexure-81**) and is given below.

Piece rate wages (for loaders / handling labour)

Total Earnings of Proceeding Three months x 15 x Rendered service

90

Time Rated wages (for Ancillary labour):

Monthly Daily wages x 15 x Rendered Service

26

The method of calculation given above will be applicable subject to following conditions.

The total piece rate earning should not include the piece rate earned towards OTA.

If the piece rate earnings is less than the minimum wages than minimum wage has to be taken daily wages for calculating gratuity.

(9) Festival Advance: It is being governed by Circular No 12/2017 dated 06.10.2017 (File No IR-L 31(36)/2013).

Festival advance to "No Work No Pay" system workers was allowed for the calendar year subject to the following conditions:-

- (i) This advance will be given only once in a calendar year
- (ii) This advance will be recovered in 10 (Ten) equal monthly instalments without interest.
- (iii) The said advance should be paid to any such NWNP system workers who have already repaid earlier festival advance.
- (iv) Earlier advance, if any have to be recovered in full before sanction of new advance.

(10) Dusting operator allowance: (Common instruction already enclosed as 76)

Ancillary labourers/godown mazdoors working in various godowns/depots under Direct Payment System/NWNP system are entitled for the payment of dusting operator allowance only for the days on which they have actually performed duties relating to fumigation, spraying etc. in terms of Circular no.23/2012 dated 21.11.2012 (File No. IR(L)/3(4)/96/Vol.III) (**Annexure-82**).

(11) Retirement Age 60 years as fixed vide circular No IRL/4(10)/98 dated 29 may 1998 (**Common Instructions**) **Common instruction already enclosed as annexures-49**

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Immediate necessary action may be taken to implement the above instructions of the Headquarters.

Comparative Chart of Wages/Benefits under different systems

S. No.	Description	Departmental Labour	DPS Labour	NWNP System
1	Wages	Scale of Pay, VDA, HRA	Piece rates as per ASOR % OR Minimum guaranteed daily wage, whichever is higher.	Wages on respective ASOR % or minimum daily wages which ever is higher on day of engagement
2	Paid Weekly Off	Admissible	Admissible	Admissible
3	Privilege Leave	30days in a calendar year	N.A	N.A
4	Casual Leave	12 days in year in North, East and North zone, 8 days in remaining zones	N.A	N.A
5	Paid Holidays in a year	8 including 3 national holidays	6 including 3 national holidays	3 National holidays
6	Sick leave in a year	12 per year (accumulation upto 120 days)	10 per year (accumulation upto 40days)	N.A
7	Non-paid Holidays	11 days in a year	N.A	N.A
8	Injury leave	Maximum 120 Days	N.A	N.A
9	Provident Fund	CPF under FCI CPF Scheme	CPF under FCI CPF Scheme	EPF with respective RPFC under EPF & Misc. Act
10	Ex-gratia in lieu of bonus	8.33%, as per the provision of payment of Bonus Act.	8.33%, as per the provision of payment of Bonus Act.	8.33%, as per the provision of payment of Bonus Act.
11	Productivity Linked Incentive (At par with the employees)	As & when declared by FCI (At par with the employees)	As & when declared by FCI	N.A
12	Lunch Subsidy	Rs.250/- per month per worker	N.A	N.A

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S. No.	Description	Departmental Labour	DPS Labour	NWNP System
13	Uniform	One (1 full pant & 1 full shirt) per year per worker as summer uniform & one set of winter uniform for every 2 years	Allowed 1 set of summer uniform from the calendar year 2016	Allowed 1 set of summer uniform from the calendar year 2016
14	Shoes/ Chappal	One pair of leather shoes/chappals per year	N.A.	N.A.
15	Towel	2 Towels per year with at the cost of Rs.138/- per towel	N.A.	N.A.
16	Washing Allowance	Rs.155/- per month (with automatic increase of 25% when dearness allowances cost is up by 50%)	N.A.	N.A.
17	Ex-gratia relief for suffering prolonged disease	Rs.400/- per month	N.A.	N.A.
18	Transport reimbursement	Rs.525/- + applicable DA per month per worker	N.A.	N.A.
19	Children Education Allowance /Hostel subsidy	Allowed as per rules of Govt. of India	N.A.	N.A.
20	LTC (Bharat Darshan & Home Town)	Admissible at par with class IV employees	N.A.	N.A.
21	OTA*	Admissible as per Shops & Estt. Act. @ 1.1 of hourly wage, where exemption from the S&E Act has been granted by the Appropriate Authority or said Act does not apply.	Admissible as per Shops & Estt. Act or 1.1% of hourly earnings where exemption from S&E Act has been granted by the appropriate authority or said Act does not apply.	As per Minimum Wages Act

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S. No.	Description	Departmental Labour	DPS Labour	NWNP System
22	Medical Allowance to class iv employee	i) Rs.1875/- per quarter for Outdoor treatment ii) Indoor treatment in empanelled hospitals under direct payment scheme as applicable to class iv employees.	(i) Medical Facilities through ESIC (Indoor and outdoor both) wherever ESI Act is applicable. (ii) Indoor treatment for injury sustained in course of employment where ESI Act does not apply.	Medical Facilities through ESIC (Indoor and outdoor both) wherever ESI Act is applicable
23	Festival Advance	Rs.10000/- at par with staff	Rs.5000/-	Amount of Festival advances is being decided every year.
24	Gratuity	As per Payment of Gratuity Act,1972	As per Payment of Gratuity Act,1972	As per Payment of Gratuity Act,1972
25	Workmen's Compensation	As per Workmen's Compensation Act	As per Workmen's Compensation Act	As per Workmen's Compensation Act
26	Benevolent Fund	As per the Scheme of FCI	As per the Scheme of FCI	N.A.
27	Compassionate appointment of Kith & Kin	Allowed as per admissibility within ceiling limit of 5%	Allowed as per admissibility within ceiling limit of 5%	N.A.
28	Advance for Natural calamities	Rs. 2500/- as per the scheme for staff	Rs. 1250/- per worker given recently in Tamil Nadu Region	N.A.

*Rates as prescribed under Shops & Establishment Act of the respective state after completion of statutory working hours of a day and a week.

@ 1.25 of normal hourly rate of wages for the intervening period.

@ 1.1 of hourly wages in the areas where establishment of FCI has been exempted from the OTA provisions of Shops & Establishment Act.

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Chapter- VI

DELEGATION OF POWERS

FOR DEPARTMENTAL WORKERS ONLY

S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
1.	Authority competent to sanction Payment of Festival/Flood / Cyclone Advance.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Subject to guidelines laid down by Headquarters from time to time
2.	Authority competent to grant Conveyance Advance.	--	--	--	--	G.M. Region	Full Powers	--	--	--	--	Subject to guidelines laid down by Headquarters from time to time and also subject to budgetary provisions.
3.	Authority competent to decide matters pertaining to wage revision of departmental labour at ports & depots.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
4.	Extension/grant of any fringe benefits to departmental labour at ports & depots at par with DLBs/Port trusts.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
5.	Authority competent to revise / finalize various Piece Rate Incentive Schemes for Departmental labour.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
6.	Competent Authority to decide/approve extension of any benefit to the departmental labour at par with staff of FCI.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
7.	To negotiate and enter into settlements with labour unions on demands of food handling labour	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval
8.	To grant fringe benefits statutory as per Act of Parliament.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	
9.	Payment of retrenchment compensation under ID Act	--	--	--	--	G M (Region)	Full Powers	--	--	--	--	As per instructions & guidelines of Headquarters in respect of departmental labour.
Additional item proposed for framing comprehensive Delegation of Powers.												
10.	Pay fixation on promotion.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Powers are to be exercised in consultation with associate finance.
11.	Authority competent to grant leave: i) Leave of various kinds excluding special disability leave & casual leave for departmental labour in depots.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Powers to be exercised as per policy decision of Hqrs from time to time & with due recommendations of concerned Manager (Depot)
	ii) Any special disability leave for departmental labour in depots.	--	--	--	--	G.M. Region	Full Powers	--	--	--	--	- Do -
	iii) Casual Leave .(4)	Manager Depot Incharge	Full Powers	--	--	--	--	--	--	--	--	- Do -
12.	Authority competent to grant Leave Encashment for departmental labour in depots.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Powers to be exercised as per policy decision of Hqrs from time to time & with due recommendations of concerned Manager (Depot)

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
13.	Authority competent to approve tours.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per policy of hqrs. on amount of TA/DA to departmental labour.
14.	Authority competent to sign mortgage deed/ agreement, Reconveyance etc. executed by the departmental labour who have been granted Conveyance advance, for and on behalf of the Corporation.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Subject to guidelines laid down by Headquarters from time to time
15. (i)	Authority competent to sanction LTC Bharat Darshan & Encashment of LTC (Bharat Darshan) for eligible departmental labour.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Subject to guidelines laid down by Headquarters on LTC facility to departmental labour from time to time.
(ii)	Competent Authority for change in the place of visit availing LTC (Bharat Darshan) after commencement of the journey provided the distance is not increased.	--	--	--	--	DGM (Regions)	Full Powers	--	--	--	--	- Do -
16.	Permission for purchase of moveable/ immoveable property and noting down of transactions in official records of departmental labour.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	--
17.	Issue of NOC for acquiring Passport and leaving country for departmental labour.	--	--	--	--	G.M. Region	Full Powers	--	--	--	--	--
18.	Drawing and Disbursing Authority in case food handling workers engaged in depots etc.	--	--	Mgr. (A/cs) at District office	Full Powers	--	--	--	--	--	--	--

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
19.	Competent Authority to initiate disciplinary action against labour.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	--
20.	Revision of Dearness Allowance (DA).	--	--	--	--	--	--	--	--	CMD FCI	Full Powers	As per the guidelines of Department of Public Enterprises.
21. (i)	Competent Authority to grant Light duties as Ancillary worker (Maximum for 15 months).	--	--	--	--	GM Region	Full Powers	--	--	--	--	As per policy of head-quarters.
(ii)	Competent Authority for conversion of cadre/Re-appointments as Ancillary labour	--	--	--	--	--	--	ED (Zone)	Full Powers	--	--	As per policy of head-quarters.
(iii)	Protection under "Persons with Disability (Equal opportunities, Protection of Rates and full Participation Act 1995).	--	--	--	--	--	--	ED (Zone)	Full Powers	--	--	As per policy of head-quarters.
(iv)	Dispensation of services on being declared totally unfit for employment due to injury while on duty or due to causes directly attributed to employment or are not eligible for the protection under "Persons with Disability (Equal opportunities, Protection of Rates and full Participation Act 1995).	--	--	--	--	--	--	ED (Zone)	Full Powers	--	--	As per policy of head-quarters.
22.	Appointment on compassionate ground.	--	--	--	--	G.M.	Full Powers	--	--	--	--	In accordance with the Scheme framed by Hqrs.
23.	Authority competent to transfer departmental workers.	--	--	Area Manager	Inter depots transfers within District	G.M. Region	Inter district transfers within Region	ED (Zone)	Inter Region transfers within Zone	E.D (IR-L) at Hqrs.	For inter-zonal transfers.	Transfers of labour may be done with due recommendation of concerned Manager(D)/ Area Manager/ GM(R)/ ED (Zone)

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
24.	Competent Authority for purchase of Liveries & all other related articles applicable to departmental labour.	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	As per instructions & guidelines of Headquarters in respect of departmental labour.
25.	Payment of compensation under Workmen's /Employees Compensation Act, 1923, as modified in the year 2010.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	--
26.	Authority competent to upgrade the present/ extant status/system of engagement of labour.	--	--	--	--	--	--	--	--	MoCA, F&PD post recommendation of BoD.	Full Powers	--

DELEGATION OF POWERS

FOR DIRECT PAYMENT SYSTEM (DPS) WORKERS

S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
1.	Authority Competent sanction Payment of Festival /Flood/ Cyclone Advance.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	Subject to guidelines laid down by Headquarters in respect of DPS workers from time to time
2.	<i>Authority competent for extension / revision of any statutory benefit, fringe benefit, welfare benefit etc. to DPS Labour.</i>	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Within the frame work of guidelines/ instructions of the Ministry of CA, F & PD
3.	Authority competent to decide wages/ remuneration etc. of DPS Labour.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
4.	Competent Authority to decide/approve extension of any benefit to the DPS workers at par with departmental labour and/or staff of FCI.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
5.	Revision of Minimum Basic wages/VDA/ Piece Rate wages at the interval of six (06) months on 1st October and 1st April of every year as per the notification order issued by the appropriate authority under Minimum Wages Act.	--	--	--	--	--	--	--	--	CMD FCI	Full Powers	As per policy and guidelines.
6.	To negotiate & enter into settlements with labour unions on demands of food handling labour.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
7.	To grant retrenchment compensation under ID Act.	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	As per instructions & guidelines of Hqrs in respect of DPS labour.
8.	Authority competent to approve tour.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per policy of hqrs. on TA/DA to DPS workers.(Pg /c)
9.	Permission for purchase of moveable/ immovable property and noting down of transactions in official records of DPS workers.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	--
10.	Competent Authority for issue of NOC for acquiring Passport and leaving country by the DPS workers.	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	--
11.	Payment of compensation under Workmen's /Employees Compensation Act, 1923 as modified in the year 2010, wherever applicable	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per instructions & guidelines of FCI Hqrs. r.o DPS labour.
12.	Appointment on compassionate ground	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	In accordance with the Scheme framed by Hqrs. for DPS workers

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
13.	Drawing and Disbursing Authority in case of food handling workers engaged in depots etc.	--	--	Mgr. (A/cs) at District office	Full Powers	--	--	--	--	--	--	--
14.	Extension of medical benefits as per the provisions of ESIC Act.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per instructions and guidelines of Headquarters in respect of DPS workers.
15.	Authority competent to transfer DPS workers.	--	--	Area Manager	Inter depots transfers within District	GM Region	Inter district transfers within Region.	ED (Zone)	Inter Region transfers within Zone	E.D (IR-L) at Hqrs.	For inter-zonal transfers.	Transfers of labour may be done with due recommendation of concerned Manager(D)/Area Manager/GM(R)/ED(Zone)
16.	Competent Authority to initiate disciplinary action against labour.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	--
17.	Authority competent to upgrade the present/extant status/system of engagement of labour.	--	--	--	--	--	--	--	--	--	MoCA, F&P D post recommendation of BoD..	Full Powers

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DELEGATION OF POWERS FOR 'NO WORK NO PAY'(NWNP) SYSTEM WORKERS

S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
1.	Authority competent to upgrade the present/ extant status/system of engagement of labour.	--	--	--	--	--	--	--	--	MoCA, F&PD post recommendation of BoD.	Full Powers	--
2.	Authority competent to select food-handling labour for induction in depots.	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	As per instructions & guidelines of Hqrs. from time to time.
3.	Authority competent to sign and issue appointment letters, as per approved select list.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per the policy and guidelines of Ministry of CA, F&PD and policy decision of Hqrs from time to time.
4.	Authority competent to decide wages/remuneration etc. of NWNP workers.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
5.	Authority competent for extension / revision of any statutory benefit, fringe benefit, welfare benefit etc. to NWNP Labour.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Within the frame work of guidelines/ instructions of the Ministry of CA, F&PD
6.	To negotiate & enter into settlements with labour unions on demands of food handling labour.	--	--	--	--	--	--	--	--	Board of Directors	Full Powers	Subject to Government of India approval.
7.	Revision of Minimum Basic wages/VDA at the interval of six(06) months on 1st October and 1st April of every year as per the notification order issued by the appropriate authority under Minimum Wages Act.	--	--	--	--	--	--	--	--	CMD FCI	Full Powers	As per policy & guidelines of FCI Hqrs.

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S. No.	Nature of Powers Delegated	Depot Level		District Level		Regional Level		Zonal Level		Headquarters Level		Remarks
		Authority	Power	Authority	Power	Authority	Power	Authority	Power	Authority	Power	
8.	Revision of piece rate wages.	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	--
9.	To grant retrenchment compensation under ID Act.	--	--	--	--	GM (Region)	Full Powers	--	--	--	--	AS per instructions & guidelines of Hqrs in respect of NWNP labour.
10.	Competent Authority to decide any issue on Provident Fund deposited with RPFC Office in respect of NWNP system workers under EPF & Misc. Act.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	All documents required by RPFC office from workers may be verified and forwarded by concerned Manager (Depot)
11.	Payment of compensation under workmen's/ Employees Compensation Act 1923 as modified in 2010 wherever applicable	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per instructions and guidelines of Headquarters in respect of NWNP system workers.
12.	Extension of medical benefits as per the provisions of ESIC Act.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per instructions and guidelines of Headquarters in respect of NWNP system workers.
13.	Authority competent to approve tours.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	As per policy of Hqrs. on TA/DA to No Work No Pay System Workers.
14.	Drawing and Disbursing Authority in case food handling workers engaged in depots etc.	--	--	Mgr. (A/cs) at District office	Full Powers	--	--	--	--	--	--	--
15.	Authority competent to transfer NWNP workers.	--	--	Area Manager	Inter depots transfers within District	G.M. Region	Inter district transfers within Region	ED (Zone)	Inter Region transfers within Zone	E.D (IR-L) at Hqrs.	For inter-zonal transfers.	Transfers of labour may be done with due recommendation of concerned Manager(D)/ Area Manager/ GM(R)/ED(Zone)
16.	Competent Authority to initiate disciplinary action against labour.	--	--	Area Manager	Full Powers	--	--	--	--	--	--	--

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Chapter VII

Applicability of Standing Orders Certified under Industrial Employment (Standing Orders) Act 1946

(A) Initially Standing Orders in respect of FCI port/ godown departmental labours at major ports i.e. Vishakhapatnam, Madras harbour and Bombay port / godown and Manmad depot were certified separately under Industrial Employment (S.O) Act 1946 through the erstwhile respective Regional Director (Food) during the period 1968-69.

Consequent upon mass induction of departmental labour in the depots situated in North, East and North- East Zones. Standing Order under Industrial Employment (Standing Orders) Act 1946 were certified in respect of the Departmental labour working in the above zones vide order dated 27.02.96 and same were modified by the Appellate Authority vide order dated 31.08.99. The certified Standing Order is applicable in respect of departmental worker.

(B) Direct Payment System workers are governed by the Model Standing Orders framed under Industrial Employment (Standing Order) Act 1946 in respect of Industrial Establishment other than **Coal Mines till issue relating to Certification of separate standing orders in respect of DPS category is settled.**

FCI Headquarters submitted draft standing order for certification in respect Direct Payment Labour System under Sub Section 3(1) of the Industrial Employment (S.O) Act before the Regional Labour Commissioner (C) cum certifying Officer New Delhi. The RLC (C) / certifying officer vide order dated 25.08.2008 (**Annexure-83**) declined to certify separate standing order in respect of DPS category worker. An appeal filed by the FCI under Section 6(1) of the Industrial Employment (Standing Orders) Act 1946 before the Dy C.L.C (C). New Delhi was also disallowed vide order dated 17.10.2012 (**Annexure-84**).

The order dated 17.10.2012 of the Dy C.L.C (C) /Appellate Authority have been challenged before the Hon'ble High Court of Delhi in W.P (C) No. 1972 / 2013 and the matter is subjudice. In the mean time DPS category workmen are continued to be governed by the Model Standing Orders. The existing Certified Standing Orders approved by the Regional Labour Commissioner (C) New Delhi and modified by the Dy CLC(C) New Delhi are at present applicable to the Departmental Labour working in North, North East and East Zones of FCI. Separate Standing Order are also in vogue in respect of departmental labour working in Bombay godown / Railhead, Madras harbour and Vishakhapatnam port and godown. In the year 2009, FCI filed an application before the RLC (C) New Delhi to raise the territorial jurisdiction of existing Certified Order applicable in respect of Departmental Labour working in the Depots in North, North East and East Zone to the workers in MP, Chhattisgarh, Gujarat and Maharashtra other than Bombay, Pune, Panvel , Wardha and Manmad, Vishakhapatnam and Tamil Nadu . However an application was not considered by the RLC (C) / Certifying Officer vide order dated 24.12.2014.

FCI Hqrs, filed an appeal U/s 6 of I.E (S.O) against the order dated 24.12.2014 of the RLC (C) Delhi referred to above before the Appellate authority i.e Deputy Chief Labour (C) Delhi which has been disallowed vide order dated 25.07.2016. The above Decision of the appellate authority / Dy C.L.C (C) has been challenged before the High Court, Delhi. Matter is subjudice in W.P No. 2096 of 2017. In the meantime Departmental labour working in M.P , Chhattisgarh, Gujarat, Nagpur, Gondia and Akola (dehired) labour

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were adjusted in other depot, is continued to be governed under Model Standing Order framed under I.E (Standing Orders) Act 1946. FCI Departmental port labour working at Vishakhapatnam and Tamil Nadu is continued to be governed by the certified Standing Order applicable to them since inception of the Departmental labour system in the mid 60's when import of foodgrain and fertilizer at major port operation under the Regional Director of Food, Ministry of Food (Govt. of India) was being done.

S.N	Subject	Annexure No.
1	Certified Standing Order for the Industrial establishment of the FCI as certified officer vide order No ND-37/5/89/PA dated 27.02.96 and modified / approved by the Appellate authority / Deputy Chief Labour Commissioner (C) vide order No. 5(1)/96-LS-1 dated 31.08.99	85
2	Standing Orders for the workmen employed under the Regional Director (Food). Madras for handling of food grains and fertilizers at Vishakhapatnam port and/ or any warehouse leased out to the department of Food, Government of India at Vishakhapatnam	86
3	Standing Order for workmen employed at Madras Harbour	87
4	Standing orders in respect of workers employed in the godown and Rail Heads in Bombay	88

Note:-

- 103 Departmental labour are working at Vishakhapatnam and are deployed as watch and ward
- 41 Departmental labour working in Tamil Nadu Region has been deployed as watch and ward.
- These Departmental Port workers have given undertaking that they will not claim for the wages fringe benefits applicable to the regular watchmen of FCI.

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Chapter-VIII

Notification issued under Section 10 of the Contract labour (R & A) Act, 1970 and its implementation

1. To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith, the Central Government enacted **"The Contract Labour (Regulation and Abolition) Act, 1970 [No. 37 of 1970] on 5th September, 1970.** The twin objectives of the Act, therefore are (i) To regulate the contract labour system by prescribing the requirements for registration and other welfare and health matter relating to contract labour and (ii) Prohibition of contract labour system in certain establishment after following procedure and conditions prescribed in the Act. In other words, wherever the notifications under Section 10 of the Act have not been issued, the existing contract labour system is legally permissible in case the conditions and rules attached to such system are followed.

According to Section 10 of the Act, an Appropriate Government may, after consultation with the Central Board or State Board, prohibit, by notification, employment of contract labour in any process, operation or other work in any establishment. However, before issuing any notification, the Appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors.

The State Governments were initially the **"Appropriate Government"** under the Act for all the establishments. However, the definition of "Appropriate Government" was amended in 1986. Accordingly, the "Appropriate Government" is Central Government in relation to establishments where the "Appropriate Government" is the Central Government under the Industrial Disputes Act, 1947 and Government of that State in which any other establishment is situated. Therefore, Central Government is the appropriate Government for FCI w.e.f. 28.01.1986 under the amended Act.

The Act also provides for constitution of Central Advisory Board and State Advisory Board [under Section 3 & 4] to advise the Central Government and State Governments respectively on matters arising out of the administration of the Act.

2. Notifications under the Act

Food Corporation of India Workers Union filed a writ petition No 13508 of 1983 (FCIWU V/s FCI and other in the Supreme Court in 1983 for direction to the State Governments, who were then the appropriate Government under the Contract Labour (Regulation & Abolition) Act, 1970, to consider abolition of contract labour system in the Corporation. On direction from the Supreme Court, given vide judgment 01.03.1985 various State Governments set up Committees. The following State Governments took different decisions based on the recommendations of their Advisory Committees, while others did not take any decision:

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Table 2

Bihar	Decided to abolish contract labour in all the Depots*
Haryana	Decided to abolish contract labour in 22 depots**
Uttar Pradesh	Decided for continuance of the contract labour.
Orissa	Decided for continuance of the contract labour.
Rajasthan	Decided for continuance of the contract labour.

* Notification issued by the Govt. of Bihar in 1985 was upheld by the Supreme Court of India.

** Notification issued by the Government of Haryana in respect of 22 depots in the 1985 was also upheld by the Supreme Court of India.

The Ministry of Labour in the Central Government issued various notifications between June, 1989 and March 1991 prohibiting employment of contract labour in 172 depots (including 56 depots which were already being manned by DPS labour since 1973). Apart from this, 22 depots earlier notified by the Government of Haryana in 1985, were upheld by the Supreme Court. Faridabad (in Haryana) was notified twice i.e. by the Haryana Government as well as Central Government. Thus in all 193 depots stood notified for abolition of the contract labour system upto 1991.

Subsequently, Ministry of Labour, had issued notifications dated 12.11.2001 and 15.07.2004 prohibiting employment of contract labour in 3 depots in Kerala and 1 depot in West Bengal respectively. Later on 3.7.2007 the Ministry of Labour had issued notification prohibiting employment of contract labour in 1 depot (Kakutoor) in Andhra Pradesh and 1 depot (Ratnagiri) in Maharashtra.

3. Various studies conducted by the Ministry of Labour and Employment on demand raised by labour unions for abolition of contract labour system under Section 10 of the Contract Labour (R&A) Act 1970

S. No.	Year	Agency	Matter	Outcome
1	1987	Asnani Committee	Sub-committee constituted by the Ministry of Labour and Employment to examine demand raised by the Labour Unions to abolish contract labour system in FCI depots under Section - 10 of CL (R & A) Act.	The committee recommended partial prohibition of contract labour system in FCI depot. The findings of the committee report were accepted by the GOI. Accordingly Contract Labour system was abolished in 172 depots (hired and owned) during 1989-91.

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S. No.	Year	Agency	Matter	Outcome
2	1995	Ishwari Prasad Committee	GOI (Ministry of CAF&PD) constituted a committee under the chairmanship of ShriIshwari Prasad, Retired Secretary Ministry of Labour on the direction of Supreme Court of India given in SLP No 15483/94 on 27.3.95 to look into question of abolition of contract labour system in 140 depots of Punjab.	The recommendation of the committee for abolition of contract labour system in 45 depots was accepted by the GOI. It was implemented in respect of 14 depots vide Hqrs Letter No. IR.L/8(20)/99/Vol II dated 18/02/1997. In the remaining 31 depots NWNP system through "Three Member Committee was operative as per agreement dated 12.07.1993. In order to restore contract labour system in place of "NWNP" Labour system through three member committee functional in 42 depots, notice under section 9 A of the Industrial Dispute Act was issued to workmen / Union. One of the Labour Union namely FCIWU brought a stay order on the operation of the said notice from Hon'ble High Court, Delhi, thus process of restoring Contract Labour system in 42 was stalled under legal compulsion. Labour Unions also resorted to direct action an understanding on this dispute was reached with Labour Union and all the 73 depot operative under three member committee

3. Implementation of the Notifications

As a result of various Memoranda of Settlement arrived at with the concerned labour Unions by the Government of India, the foodgrain handling labour at following ports/godowns were departmentalized between 1964 to 1967:-

Bombay Port	-	3.10.1964
Bombay Godowns	-	1.08.1964
Madras Port	-	1.01.1965
Vizag Port	-	29.04.1965
Vizag Godown	-	4.06.1965
Egmore (Madras) Gdn	-	1.11.1965
Kandla Port	-	27.04.1967

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Subsequently, on the persistent demand of workers unions the FCI started departmentalization of labour working under the contractors in depots in and around Calcutta called Calcutta Complex w.e.f. 15.01.1970 to May, 1970. As a result the depots of Cossipore, Behala, Lake-I, Lake-II, Shalimar, Howrah-I, Howrah-II, JJP, Brooklyn and Kalyani and Silo at Calcutta Docks were brought under departmentalization. Similarly, the Union demanded further departmentalization of depots in Bihar, Orissa, Assam, NEF& Delhi. In the circumstances, three depots in Bihar at Gaya, Mokameh and Jamshedpur were departmentalized w.e.f. 1st May, 1971. An understanding with the Union was reached by FCI in May 1973 to bring 18 depots in Delhi, Bihar, Orissa and Assam under departmentalization. In addition, 4 depots in Uttar Pradesh were also departmentalized on the demand by another Union (Bhartiya Khadya Nigam Mazdoor Sangh) which was then representing for Uttar Pradesh only. Thus by the year 1973, 39 depots with 9950 labourers were departmentalized without issuance of any notification prohibiting employment of contract labour by the Appropriate Governments under the Act.

After discussions and negotiations with the unions, 193 depots covered by the notifications issued by the Appropriate Governments upto 1991, the Corporation implemented the Government notifications in respect of 97 depots only and contract labour was brought under departmentalization / piece rate system w.e.f. 1.4.1991 (in case of Haryana depots w.e.f. 1.1.1991) by way of an agreement signed with FCI Workers Union on 12.04.1991. The other notified depots which were either of Central Warehousing Corporation / State Warehousing Corporations or were functioning under Labour Cooperative Societies, were kept out of the purview of departmentalization. Subsequently on persistent demand from FCI Workers Union, erstwhile contract labourers were inducted as Direct Payment System labourers in 33 notified owned depots w.e.f. 1.5.1996.

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4. The various labour unions in FCI approached the Ministry of Labour, GOI in the year 2000 for abolition of contract labour system in 198 more depots of FCI spread in various States as under:-

State	No. of Depots
Punjab	60
Haryana	13
Rajasthan	11
Uttar Pradesh	36
Uttaranchal	03
Himachal Pd.	04
Chhattisgarh	03
Madhya Pradesh	15
Gujarat	13
Assam/NE	13
Sikkim	02
West Bengal	02
Bihar	07
Andhra Pradesh	06*
Pondicherry	01
TamilNadu	04
Karnataka	02
Maharashtra	01*
Orissa	02
Total:	198

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5. Court Cases

Ministry of Labour and Employment under Section 10 of the Contract Labour (R&A) Act abolished employment of Contract Labour in 95 owned and hired depot during the period 2001 - 2011 out of the list of 198 depots submitted by labour unions to the ministry of labour. Year wise details of the notifications issued under Section 10 of the Contract Labour (R&A) Act are as under:

SN	Notification date and number	Number of depots
1	12.11.2001, SO 1121(E)	Three depots (owned) Kerala Region
2	15.07.2004 U/23013/16/01/L.W	One depot (owned), West Bengal
3	03.07.2007 SO 1085(E)	Two depot (owned) oneeach in Maharashtra & A.P
4	23.04.2010 SO-947(E)	60 depots (owned & hired) -31 Punjab,11 -U.P,7 - Tamilnadu, 3-Andhra Pradesh, 3-Karnatka,4-H.P, 1 - Uttarakhand Total-60
5	07.02.2011 S.O 278(E)	29 (owned and hired) 15 depots (owned) Rajasthan, 13 depots (owned and hired) and one Rail Head in Haryana
	Total	95

Out of the 95 owned and hired depots "No Work No Pay" Labour system was introduced in 76 owned depots and remaining depot were de hired. Ex contractor workers were inducted as per FCI assessment norms. Labour Union have demanded induction of all the ex-contractor labour and have raised various Industrial disputes which are pending for adjudication before the Tribunal at Chandigarh and Kanpur. Therefore if Ministry notify more depots, FCI is likely to face court cases from the existing contract labourers for their regularization / absorption even though they do not have any right for automatic absorption either as per the provision of Contract Labour (R&A) Act or the notifications being issued by the appropriate Government under this Act and also as upheld by Hon'ble Supreme Court of India in its judgment dated 30.08.2001 in case of SAIL and others V/s National water front workers and others.

7. Ministry's directions to FCI on notified depots

The Ministry of CAF&PD (Govt. of India) constituted a committee under the Chairmanship of Shri. Vivek Mehrotra, the then AS & FA in the year 2007 to look into the question of implementation of notification Prohibiting employment of Contract Labour in FCI depot The Ministry of CAF&PD accepted the recommendation of Mehrotra Committee, which stipulates as under :

that after considering the legal aspects of pending / subjudice court cases, the notifications already issued in respect of 3 depots of Kerala viz West Hill (Calicut), Mavelikara and Chelakudy and 1 depot of Adra in West Bengal and the notification (s) which may be issued in future, may be

- (a) Implemented by utilizing the available surplus Departmental workers and Direct Payment System labourers with FCI instead of regularizing the existing ex-contractor labourers. The deployment of surplus Departmental labourers and Direct Payment System labourers may be done strictly as per the requirement

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of labour on the basis of FCI's norms for the depot concerned and transfer for such deployment may be done first from the same district, then from the same region, and then on inter-zonal basis as per the FCI organizational structure.

- (b) If after full deployment of the entire existing surplus Direct Payment System / Departmental labourers in notified depot(s), there remains further requirement of labour as per the FCI's norms, the existing contract labourers of the depot concerned may be given preference for deployment as DPS workers as per the remaining vacancies of the labourers if otherwise found suitable as per the criteria laid down by the Supreme Court in its judgment dated 30.08.2001.

The above recommendation could not be implemented at the time of implementation of the notifications issued between 2001-2011 for the reason given below :

The recommendation of Shri Vivek Mehrotra (the then AS&FA, Ministry of CAF&PD) Committee report could not be implemented as at that point of time rationalization of the departmental and Direct payment system in same labour system involved inter Zonal / Regional transfer as a first step, thereafter exploring possibility to adjust left over Contract Labour of the depots concerned against the requirement of labour as per FCI norms assessed in respect of 76 owned depots where in employment of Contract Labour system was abolished under Section 10 of Contract labour (R&A) Act during the year 2001-2011 Labour Unions vehemently opposed to the rationalization of labour strength as per the recommendations of the said committee by resorting to strike and legal remedy. Lastly Ministry of Consumer Affairs Food and PD themselves decided to induct ex-contract workers under No Work No Pay system. At that time the NWNP Labour System was existing only in 19 depots and labour strength in these 19 depots was also not surplus to meet corresponding requirement of Labour assessed in respect of 76 owned notified depots.

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***One depot each of these States has been notified on 3.7.2007**

5. The Ministry of Labour, GOI considers and issues notifications for abolishing contract labour system in an establishment in consultation with the Central Advisory Contract Labour Board (CACLB). The said Board of Ministry of Labour, GOI had constituted its various Sub-Committees to study and make recommendations on the demand for abolition of contract labour system in the said 198 depots of FCI in various States / Regions.

a) Views submitted by FCI before the CACLB of Ministry of Labour & Employment

Views of FCI were also sought by the CACLB and the same have been submitted as under:-

It was explained that Section 10 of the Contract Labour (R&A) Act, 1970 provides for prohibition of employment of contract labour in an establishment. One of the conditions is

"Whether it is of perennial nature, that is to say it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment."

In this connection, it was emphasized by the FCI representatives before the Advisory Board that every depot in FCI is an establishment in itself so far as labour engagement is concerned. It is necessary to see whether the work is of perennial nature and of sufficient duration. The volume of workload varies not only from depot to depot but large variations are there within a depot with regard to quantum of workload handled on day-to-day. With such variations in every aspect, it can never be said that the work in FCI depot is of perennial nature. Keeping in view the nature of work in FCI depot, it is not sufficient to just count the days on which the depot functioned. What is more important is to see that for how many days in a year or a month, there was "sufficient work". There may be a large depot which might have engaged just few labourers on a particular day and 250 or 500 labourers on the following day in the same depot.

b) Criteria available with Central Government on abolition of contract labour in FCI depots

On fresh direction from the Supreme Court of India in connection with the petition filed by the FCI Workers' union in 1983 praying for abolition of contract labour system from the depots of FCI, the Central Government in the Ministry of Labour had constituted a Sub-Committee (popularly known as Asnani Committee) under the Central Advisory Board to make recommendations as to whether the abolition of the contract labour in the Corporation, was required under the Act. The Committee recommended partial prohibition of contract labour in FCI depots where 20 or more workers were engaged on a day. The committee further recommended that there should be sufficient quantum of work for 240 days in a year (receipts and issues) during two financial years at least out of last 3 financial years. In order to

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calculate sufficient workload for a day means, 90% of the total receipts and issues in a year divided by 300 days. The Committee report was available in 1987 itself, but the Government did not implement the same. However, thereafter the Central Government has been issuing various notifications prohibiting employment of contract labour in FCI depots during the period 1989-1991. Above 198 depots, the Central Government had issued a notification on 03.07.2007 prohibiting employment of contract labour in respect of Kakutoor depot in Andhra Pradesh and Ratnagiri depot in Maharashtra including in the list of 198 depots submitted by the labour unions demanding abolition of Contract Labour in these depots during the course of examination on of above demand by the Central Advisory Board.

The total notifications issued by the Appropriate Authority between 1985-2011 are given below as under

Table-3

SN	No. of Notification	Date of notification	Number of depots notified
1.	XX.13(4)84-20ab	29.11.1985	22
2.	SO-497(E)	29.06.1989	56
3.	SO-691(E)	07.09.1989	08
4.	SO-178(E)	28.02.1990	01
5.	SO-833(E)	01.11.1990	62
6.	SO-966(E)	31.12.1990	16
7.	SO-216(E)	26.03.1991	03
8.	SO-227(E)	27.03.1991	26
9.	S.O-161(E)	10/03/1999	1
10	S.O-1121(E)	12/11/2001	3
11.	U/23013/16/01-L.W	15/07/2004	1
12.	S.O-1085(E)/	03/072007	2
13.	S.O-947(E)	23/04/2010	60
14.	S.O-278(E)	07/02/2011	29
	Total		290

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Notifications issued under Section - 10 of the Contract Labour (R&A) Act and mentioned in the above table are available at **(Annexure-89)** (collectively-33).

7. Over the years, FCI has been facing lot of challenges on day to day basis while dealing with the departmentalised labour systems like:
 - a. Huge incentives becoming payable to departmental workers who tend to exploit the incentive scheme made applicable to these workers out of a settlement in 1999.
 - b. Frequent detention of Railway rakes by these workers both at FCI's sidings and Railway good sheds.
 - c. Rationalisation of workforce, whenever attempted by FCI, strongly resisted by the labour unions resulting in idle wages at some depots and huge incentives in heavy workload depots.
 - d. Frequent acts of arm twisting by the highly unionised workers like work to rule and strikes holding FCI to ransom.

8. Proposal for denotification / exemption of notified depots

It was felt that FCI should approach GOI, Ministry of labour to plead for exemption from the provisions of CL(R&A) Act since the nature of work in its depots is not of perennial nature and therefore doesn't satisfy the main criteria laid down under Section 10 of CL(R&A) Act 1970 for notification of its depots prohibiting employment of contract labour system.

- (a) In the meeting of Committee of Secretaries (COS) held on 28.07.2010, issue relating to notifications issued between the year 2001-2010 was discussed and following decision was taken:-

"Taking up the case of suitable amendment to Contract Labour (R&A) Act with Ministry of Labour in order to exempt FCI from the purview of the Act keeping in view that FCI's stocks keep fluctuating from year to year depending on procurement on off-take."

- (b) In furtherance to the decision taken in the COS meeting on 28.07.2010, the proposal for denotification/exemption was submitted by FCI on 11.03.2011 through the Ministry of Food to the Committee of Secretaries (COS). The Committee of Secretaries (COS) after deliberations on 08.11.2011 decided as under:

- (i) **Department of Food and Public Distribution will make a detailed reference at the earliest to Ministry of Labour and Employment regarding their proposal for exemption of FCI depots and railheads under the Contract Labour (R&A) Act, 1970, indicating inter-alia, statistics regarding quantum and nature of work at individual depots/railheads, alongwith current and future financial implications in case contract labour is prohibited as well as if contract labour is permitted.**

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(ii) On receipt of the reference from Department of Food and Public Distribution, Ministry of Labour and Employment will comprehensively examine the matter, factoring in all the constraints in abolishing contract labour and other issues brought out by Department of Food and Public Distribution, so as to resolve the issue at the earliest.

(c) In compliance of the above decision of the Committee of Secretaries taken on 08.11.2011, a detailed reference was made by FCI Hqrs. to the Ministry of Consumer Affairs, Food and Public Distribution (CAF&PD) on 20.01.2012 seeking exemption wherein it was specifically mentioned that the work of FCI is of sporadic nature. The Ministry of CAF&PD after carefully examining the detailed proposal, forwarded the same to the Ministry of labour & Employment on 14.02.2012 for granting exemption to FCI establishments.

(d) The Ministry of Labour & Employment(DGLW) after vigorous persuasion, called for more information in respect of the depots notified under CL(R&A) Act, proposed to be de-notified/exempted from the provisions of Contract Labour (R&A) Act, 1970 vide its D.O. letter No. S- 6012/95/2911-LW dated 30.06.2014. Same was sent vide FCI, Hqrs. D.O. letters No. IR(L)/ 31(10)/ 2004/ Vol- V dated 05.08.2014 and 12.08.2014 through the Ministry of CAF&PD in respect of 226 notified depots (owned/hired).

(e) The Central Advisory Contract Labour Board (CACLB) held its 85th meeting on 31.10.2014 at Kolkata. Thereafter a Working Group was constituted comprising of Dr. Vivek Monteiro, Shri R.V. Subha Rao and Shri R. Mohan Das. Joint Secretary & DG (Labour Welfare) vide his D.O. No. S-16012105/2011-LW dated 23.04.2015 requested Ministry of Consumer Affairs, Food & Public Distribution to furnish the additional submissions with regard to proposal for the de-notification of the notified depots. Accordingly additional submissions were furnished by FCI Hqrs. vide letter no. IR(L)/31(10)/2004Vol.VI/PF dated 01.06.2015 to the Ministry of Labour & Employment through the Ministry of CAF&PD, Government of India.

(f) The Central Advisory Contract Labour Board (CACLB) held its 86th meeting at Mumbai on 27.08.2015 wherein the Labour Unions vehemently opposed the proposal for "de-notification of depots". After hearing the arguments from both sides, CACLB observed that since the issue has wide implications on pan India basis, therefore, views of Ministry of CAF&PD may also be required to be heard before any final view is taken. CACLB adjourned the matter for further deliberations.

(g) In the meantime, Hon'ble High Court of Mumbai, Nagpur Bench, in a case suo motto PIL, after hearing the parties before it, was pleased to pronounce judgment dated 20.11.2015 containing following directions to the respondents.

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- "(i) The Government of India is directed to decide the representation made by the Food Corporation of India for grant of exemption under the provisions of Section 31 of the said Act within a period of one month from today, in the light of observations made by us herein above within a period of one month from today.
- (ii) The Government of India shall decide the issue regarding de-notification of the depots of the Food Corporation of India, in respect of which notification is issued u/s. 10 of the said Act, within a period of six months from today, in the light of observations made by us herein above and the report of the M/s. Deloitte Consultancy and the report of High Level Committee appointed by the Government of India itself.
- (iii) We clarify that the Respondent No.1 Food Corporation of India would be entitled to transfer the services of departmental labourers from one depot to another subject to protecting their salary and all other service conditions.
- (iv) We also clarify that the respondent / Corporation would be at liberty to implement its policy of change in the Scheme of Incentives.
- (v) The Government of India shall also take a decision regarding abolition of system of departmental labourers in a phased manner or absorbing their services in other establishments as recommended by the High Level Committee."
- (h) The Ministry of Labour & Employment vide letter dated 30.11.2015 asked FCI to furnish depot-wise work-load data of 2014-15. Which was furnished through Ministry of CAF&PD, Govt. of India, vide its letter dated 29.12.2015 to Ministry of Labour & Employment.

In order to comply with the directions of the Hon'ble High Court of Bombay (Nagpur Bench), Ministry of Labour held a meeting on 7th January, 2016 with the Chairman(CACLB), concerned authorities of FCI, Ministry of Food & Consumer Affairs and other stake holders to decide on further course of action in a time bound manner. Accordingly extension to implement the direction of the Hon'ble High Court of Bombay, Nagpur Bench was sought by the Ministry of CAF&PD vide application dated 06.02.2016 which was heard on 11.02.2016 **and the Hon'ble High Court of Mumbai Nagpur Bench was pleased to grant 4 months extension to Government of India (Ministry of Labour and Employment) for compliance of the order of Hon'ble High Court dated 20.11.2015 in regard to the exemption.**

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(i) Central Advisory Contract Labour Board (CACLB)

CACLB in its 87th and 88th meeting held at Goa and Kolkata on 10.2.2016 and 30.3.2016 respectively made deliberation with FCI and Union's representatives. FCI submitted action plan and comprehensive written arguments for exemption and denotification of already notified depots before the CACLB in its meeting held on 30.3.2016 at Kolkata. CACLB did not recommend grant of exemption under section 31 of C L (R&A) Act 1970 and denotification of the already notified depot also after pronouncement of judgement dated 20.11.2015 of High Court Bombay Nagpur Bench and recorded their observations in the minutes of 88th meeting as under :

"In view of the above explained reasons, the CACLB unanimously decided not to accept the request of the FCI for grant of exemption for following reasons :-

- (i) The ground of emergency submitted by FCI is not establishment-wise / depot-wise and not specific.**
- (ii) The non-production of future rationalization action plan of the establishment.**
- (iii) FCI seeking blanket exemption for entire establishment without conditions and without fixed period which cannot be granted as per Section 31 of Contract Labour (R&A) Act 1970."**

(j) FCI submitted its objections against dissenting note on the recommendation made by the CACLB in its 88th meeting held at Kolkata before the Ministry of Labour and Employment through the Ministry of CAF&PD vide letter No IR(L)/31(10)/2004/Vol-III dated 22.04.2016.

(k) Ministry of Labour & Employment conveyed a Secretary level meeting on 10.5.2016, where in detailed brief note on this subject was submitted. After intensive deliberation the Director General (L.W.) Ministry of Labour and Employment (GOI) issued notification under Section 31 of the C.L. (R&A) Act 1970 on 06.07.2016 vide which 226 depots/ R.H. **(Annexure- 90)** in which employment of contract labour was prohibited under section 10 of the said Act through various notifications from the provisions of CL(R&A) Act 1970 for a period of two years subject to provisions of Rule 25 (2) (v)(a) of CL(R&A) Central Rules 1971. This notification has been implemented vide instruction dated: 12.7.2016.--**(Annexure- 91)**. Matter relating to denotification of notified depots is still pending before the Ministry of Labour and Employment. Grounds for seeking denotification are as under:-

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Grounds for denotification of depots:

CACLB RECOMMENDATIONS:

- The CACLB had submitted its report dated 30.3.2016. Regarding de-notification of depots, it has been recorded in the report that "The Board was of the view that there is no provision in the Act in regard to de-notification of a prohibitory notification."
- The Board has not spelt out anything on such a vital direction of the Hon'ble Nagpur Bench except recording the abovementioned single sentence although the Corporation had made elaborate oral as well as written submissions on this issue.
- The findings of the CACLB on de-notification are not legally tenable for the following reasons:
 - i) As per section 21 of the General Clauses Act, 1897, the authority conferred with the power to issue notification is also empowered to rescind the same. The said statutory provision is reproduced below for ready reference:

"Where, by any Central Act or Regulation, a power to issue notifications, orders, rules, or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any) to add to, amend, vary or **rescind** any notifications, orders, rule or byelaws so issued."

While examining the object and purpose of the General Clauses Act, the Hon'ble Supreme Court had observed in the case titled "**The Chief Inspector of Mines v. K. C. Thapar**" that: Citation 1961 AIR.838 - 1962 SCR(1)9. "The purpose of the Act is to place in one single statute different provisions as regards interpretation of words and legal principles which would otherwise have to be specified separately in many different Acts and regulations. **Whatever the General Clauses Act says, whether as regards the meanings of words or as regards legal principles, has to be read into every statute to which it applies.**"

As such, the provisions of CL(R&A) Act are required to be read along with the provisions of the General Clauses Act. Therefore, the mere fact that no specific provision has been incorporated in the CL(R&A) Act, 1970 for de-notification does not by itself imply that no authority has power to de-notify the notified depots. The Central Government, which issued the notification in respect of the FCI Depots, is fully empowered under the law to de-notify the said depots. The recommendations of CACLB, being based on erroneous interpretation of law are liable to be rejected by the authority empowered under the Act to take final decision i.e. Central Government.

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- ii) It is further submitted that the questions, such as, the power of the Government to de-notify or the absence of a provision in the said Act for this purpose do not arise in the circumstances of the case since the High Court had already considered such issues and had given direction for deciding the issue regarding de-notification.

The directions of the Hon'ble High Court of Bombay at Nagpur Bench as reproduced above clearly lays down the following parameters on which the Government has to consider and decide the issue:

- a) The observations made by the High Court in the said judgment;
- b) The report of M/s. Deloitte Consultancy;
- c) The report of the High Level Committee appointed by the Government of India.

Summary of the developments relating to exemption granted under Section 31 of CL(R&A) Act

- ◀ Notification issued by the Government of India from time to time (1989 to 2011) abolishing contract labour in 290 depots. The same was implemented in 226 depots. The notification was not implemented in the depots under CWC/SWC and State Agency godowns.
- ◀ In case of non-notified depots, departmental or DPS labour system settlements (arising out of prolonged agitations/court orders) from time to time.
- ◀ FCI work being of sporadic nature, the matter taken up with the Ministry of Labour & Employment to denotify the depots and exempt FCI from CL (R&A) Act. Matter referred to COS which had its deliberations on 08.11.2011 and desired FCI to make a detailed reference to Ministry of Labour. The needful was done accordingly.
- ◀ CACLB held its 4 meetings in the recent past as follows:

Date	Venue
30.10.2014	Kolkata
27.08.2015	Mumbai
10.02.2016	Goa
30.03.2016	Kolkata

- ◀ In all of above meetings, besides written submissions, verbal pleadings were also made emphasizing intermittent and sporadic nature of FCI work, supported by Deloitte Study, recommendations of HLC and also recent directions dated 20.11.2015 of Hon'ble High Court of Bombay (Nagpur Bench) in PIL No. 84 of 2014.

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- ◀ As per the Deloitte findings, 65% of the yearly volume in FCI depots is handled in top 30% of the days and on an average, handling operation took place in 255 days i.e. there was no work for 110 days.
- ◀ It was further established by the study that the availability of work in FCI depends upon handling of Railway rakes at the depots. Number of rakes handled in a month differs from depot to depot and from time to time depending upon the level of procurement, storage capacity and PDS off take etc. In most of the deficit regions, there is a peak load work on 7 to 10 days (when the rake is handled) while on remaining days there is not enough work for all the workers. Therefore, it cannot be said that the work is of perennial nature-the basic requirement for abolition of contract system under the Act.
- ◀ CACLB was also apprised that under the present dispensation, FCI has to pay idle wages in the depots on the days of lesser/nil work and huge incentives become payable where the volume suddenly increases for a few days in the depot. In the certain cases the earning of individual labour even touches up to Rs 3 lakhs and beyond, in a month.
- ◀ The proposal of FCI to rationalize the departmentalized workers in a few depots (as per its full requirement) to bring down the incentives and engaging contractual workers in the vacated depots denotification/exemption, was also explained to the CACLB in the above meetings. Detailed above plan in the event of denotification and exemption was also submitted to CACLB in writing, at Kolkata meeting held on 30.03.2016.
- ◀ FCI seeks denotification of depots since the very basis of notification was not valid and conditions under Section 10(2) of Contract Labour (R&A) Act are not satisfied in case of FCI.
- ◀ In similar organizations like CWC, IFFCO etc., contract system is allowed to operate and working successfully.
- ◀ CACLB informed that there is no provision for denotification of the depots in the Act. In this regard, Section 21 of the General Clauses Act was quoted by FCI counsel which reads as under:

" 21. Power to issue, to include power to add to, amend, vary or rescind, notifications, orders, rules or bye-laws. Where, by any Central Act or Regulation, a power to issue notifications, orders, rules, or bye-laws is conferred, then what power includes a power, exercisable in the like manner, and subject to the like sanction and conditions (if any) to add to, amend, vary or rescind any notifications, orders, rule or byelaws so issued."

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- Ministry of Labour and Employment vide notification dated 06.07.2016 already enclosed **(Annexure- 90)** granted exemption under Section 31 of CL(R&A) Act in respect of 226 depots for the period of two years subject to compliance of rule 25(2)(V)(a) of CL(R&A) Act. Hqsrs vide letter No. IR(L)/31(10)/2004/ Vol.10 dated 12.07.2016 issued guidelines for implementation of exemption notification dated 06.07.2016 under section 31 of Contract labor (R&A) act 1970 issued by the Ministry of Labour and Employment as mentioned above

Rail Head is not establishment of FCI under Contract Labour (R&A) Act 1970

Rail Head is not extended unit of the depots. It is an establishment of railways which is being used by private parties and other Govt. agencies for handling their stock from Railway wagon. High Court of Karnataka vide its order dated 11.10.1996 in writ petition No 28760 & 28761 both of 1996 has held that even in the event of issue of notification by the Ministry of Labour prohibiting employment of Contract Labour in FCI depots under Section-10 of Contract Labour (R&A) Act. FCI can engage contractors for handling and Transportation work at rail Heads at notified places and also for transportation work within to and from notified depots/godown. The judgement was circulated vide Hqsrs letter No IR-L/8(22)/94 dated 29.4.1997 **(Annexure- 92)**.

Grounds as given below corroborates that Rail Head is a separate establishment

1. The Railhead / Goodshedis a separate and independent establishment. The same was upheld by High Court of Karnataka vide order dated 11.10.1996 in W.P No. 28760, 28761 / 1996
2. The Goodsheds are used not only by FCI but other PSU's as well as Private Parties for loading / unloading of various commodities. FCI is loading an average of 6.7 Rakes per month at a particular Goodshed. Further, it is apprised that Rail Heads are not notified for any other Establishment / PSU / Private party in the state of Haryana.
3. The Indian Railways is operating round the clock and whereas FCI's working for departmental / DPS is seven hours a day excluding half an hour Lunch period. Due to this there will be detention of Rakes at Goodshed which will be National loss. CAG has also objected to deployment of direct employed labours at Goods Shed.
4. That the Supreme Court of India had quashed the 1976 Notification regarding cleaning / sweeping for above reason.

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Chapter-IX

Important judgment of Supreme Court of India

S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
1	CA No. 1055(NL) of 1981 Workmen of the FCI V/s. FCI and another	28.02.1985	<p>This appeal was filed by FCI Workers Union against the judgment of High Court Calcutta vide which it was held that decision of Tribunal holding restoration of contract Labour System at Siliguri Depot West Bengal in place of Direct Payment System was within frame work of rules.</p> <p>Industrial Dispute Act 1947 Section 9(A) –Contract System abolished and Direct Payment Labour System introduced. Subsequently Contract Labour System are introduced, question arose as to whether introduction of Contract Systems amount to discharge, termination of service or retrenchment of workmen. Whether notice 9A is a condition precedent to such change – effect of non issuance of such notice.</p>	<p>The court held that the award of the Tribunal rejecting the reference and denying the benefits must be quashed and set aside the award. Award be made that aforementioned 464 workmen involved in this case who had become the workmen of the Corporation continued to be the workmen employed by the Corporation and shall be entitled to all the rights, obligations and duties as prescribed for the workmen by the Corporation . A formal award to that effect shall be made by the Tribunal. The Hon'ble Court held that these workmen continued to be employed, undoubtedly under contractor since the illegal change was introduced. The question of paying back wages does not arise. The tribunal however, must satisfy itself before making the final award whether any workman was denied work and consequently wages. The corporation shall pay cost quantified at Rs 10,000/- to appellant union.</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
2	W.P No. 13508 of 1983 FCI Workers Union V/s. FCI and another	01.03.1985	<p>F.C.I. Workers Union filed this writ petition under article 32 of the constitution before the Supreme Court Of India seeking writ of mandamus against central/State Govt to abolish contract Labour and to extend benefits under Contract Labour (R&A) Act and also abolish contract labour system in the depots of FCI. The FCI resisted the claim for abolition of contract Labour on the ground t h a t o p e r a t i o n o f loading/unloading food grain were seasonal, sporadic and varied from region to region</p> <p>Issues adjudicated by the Hon'ble Court</p> <p>Contract Labour Regulation and Abolition) Act, 1970 Section 2 (1) (a) read with sections 2 (1) (e) 1(4) (a), (b)and Proviso and 1(5) (a) and (b) and the Explanation-Terms' appropriate government.</p>	<p>The Hon'ble Supreme Court Clarified as under:</p> <p>Appropriate Government for the purposes of taking necessary steps under the Act of 1970 to redress the grievances of the contract labours working with the Food Corporation of India's establishment situated in the States is the respective State Government under sub-section 2 of section 2 (a) and not the Central Government-Canon of statutory construction explained- Any industry carried on by or under the authority of the Central Government" which is in part material with Section 2 (a) (l) of the Industrial Disputes Act, 1947, meaning of-Nature of relief that can be granted, outlined.</p> <p>However, we are of the opinion that it may not be possible or proper for us to grant the reliefs prayed for by the petitioner in full on the materials on record. The materials are scanty and insufficient for a comprehensive adjudication of the claims of the petitioners and to grant them reliefs as prayed for. The Act contains provisions enabling the 'appropriate Government' to get reports as to how to implement the provisions of the Act.</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
2 (A)	W.P No. 13508 of 1983 FCI Workers Union V/s. FCI and another	01.03.1985		<p>Accordingly a writ of mandamus was issued to all the State Governments except the State of Madhya Pradesh for appointing a committee under Section 5 of the Act within three months from today to enquire whether contract labour in the Corporations could be abolished. The committee was to submit a report within four months of its constitution and the Government is directed to take action on such report within two months thereafter. The necessary expenses for the committees will be borne by the Corporation. Since the Madhya Pradesh Government has already constituted committees under Section 5, the said State was directed to ask the committees so appointed to make its report expeditiously and to take appropriate action on the report as indicated above. The Corporation will be at liberty to place materials before the committees whether it comes within the exemption clause. The writ petition was allowed as indicated above with costs to the petitioner quantified at Rs. 2,000 payable by the Corporation. However definition of appropriate Govt was amended in 1986 central Government became Appropriate Government for FCI w.e.f. 28.01.1986.</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
3	W.P. (Civil) No. 222 of 1984	20.07.1990	<p>This writ petition was filed by the F.C.I. Workers Union over alleged disparity in the wages and fringe benefits amongst the departmental labour employed in depots of FCI seeking writ of mandamus against FCI Management to extend pay scales/fringe benefits to departmental workers working at depots in Bihar, Orissa, Assam, UP and Delhi at par with departmental Labour working at depots in Kolkata state of West Bengal and Kolkata port on the basis of arbitration award of the justice KK Mitra.</p>	<p>The Hon'ble Supreme Court of India allowed the writ petition and directed to the respondent corporation to revise the wage structure of the departmentalized labour employed at depots in Bihar, Orissa, Assam, UP and Delhi Regions and bring their wages at the same level as the wages of departmental labour employed at Kolkata Port and Kolkata City Godown and depots of the respondent corporation in state of West Bengal. This revision of wages should be made w.e.f. 01.01.1974. the Hon'ble Court also directed that wages of the departmentalized labour employed at the depots in Bihar, Orissa, Assam, UP and Delhi Region should be revised by FCI alongwith the wages of labour employed at Kolkata Port, Kolkata City Godowns and Depots in the state of West Bengal as and when wages of such workers are revised. On the basis of above judgment pay scale of the of the departmental workers working at depots across the country are being revised as and when pay scale of Port and Dock workers are revised by the Ministry of Shipping and transport with the approval of competent authority.</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
4	CA No. 9182 of 1996 Arising out of SLP(C) No. 22275 of 1994 FCI Workers Union V/s. FCI and Another	16.07.1996	<p>The Honourable Supreme Court of India in CA No.1055(NL) of 1981 (FCI Workers Union v/s FCI and others) had set aside the award of the CGIT Kolkata in respect of contract workers of Siliguri depot, West Bengal and remanded the case to the Tribunal to pass formal orders to that effect</p> <p>Accordingly Hon'ble Tribunal passed an award dated 24.11.1988 in furtherance to the direction given by the Hon'ble Supreme Court of India in Civil Appeal No. 1055 (NL/81) by judgement dated 28.02.1985.</p> <p>FCI agitated the matter again in Civil Appeal No. 155/1990, two member bench of Supreme Court of India vide judgement dated 17.08.1990 directed the tribunal to proceed to examine the identification of the 464 workmen including 203 persons in respect of whom there was no dispute from the FCI management.</p> <p>Subsequently, Tribunal had passed award dated 05.11.1993, after completing the identification exercise in respect of 287 workmen and their number in the</p>	<p>The Issued decided in the instant civil appeal/SLP are reproduced below:</p> <p>"We are constrained to say on the fact of this case. So we direct that such of those persons reinstated after identification, as indicated above shall also be paid back wages calculated at 70% of normal earning from the date of expiry of the period specified in CA No. 155/90 i.e. 17.04.1990 till they are reinstated. It is order accordingly. We there fore set aside the order of the Tribunal, appeal against and allow this appeal in manner indicated hear in above with cost quantified as Rs. 25000/- payable to appellant by 1st respondent corporation.</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
			<p>list of 464 workmen mentioned by the Appellant Union in the statement filed by it.</p> <p>Aggrieved by the decision in award dated 05.11.1993, the appellant , Food Corporation of India Workers Union Calcutta filed the present proceedings and respondents were - (1) the Food Corporation of India, New Delhi and (2) The Presiding Officer, Central Government Industrial Tribunal at Calcutta. FCI Workers Union(Appellant) filed a statement consisting names of 464 persons claiming them as ex. contract workers including those 287 persons already verified by the Tribunal as genuine vide award dated 05.11.1993.</p> <p>This appeal was filed assailing the award passed by the Central Government Industrial Tribunal (the 2nd respondent) dated 5.11.1993 in Reference No. 13 of 1977 and published by the Central Government on 5.3.1994.</p>	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
5	<p>CASE NO.: Appeal (civil) 6009- 6010 of 2001 PETITI- ONER: STEEL AUTHORITY OF INDIA LTD. & ORS. ETC. Vs. RESPON- DENT: NATIONAL UNION WATER FRONT WORKERS & ORS.</p>	30/08/2001	<p>In Food Corporation of India, Bombay & Ors. vs. Transport & Dock Workers Union & Ors. , a two-Judge Bench of this Court, having noticed the conflict of opinion between different Benches including two three-Judge Benches of this Court on the interpretation of the expression appropriate Government in Section 2(1)(a) of the Contract Labour (Regulation and Abolition) Act, 1970 (for short, the CLRA Act) and in Section 2(a) of the Industrial Disputes Act, 1947 (for short, the I.D.Act) and having regard to the importance of the question of automatic absorption of the contract labour in the establishment of the principal employer as a consequence of an abolition notification issued under Section 10(1) of the CLRA Act, referred these cases to a larger Bench. The other cases were tagged with the said case as the same questions arose in them also. That is how these cases have come up before us.</p>	<p>The Civil Appeals of FCI were decided in this judgment in its favour</p> <p>C.A.Nos.5798-99/1998</p> <p>In these appeals, the Food Corporation of India is the appellant. Having regard to the un-amended definition of the appropriate Government which was in force till 28.1.1986, the Appropriate Government within the meaning of CLRA Act was the government of the State in which the concerned establishment of FCI was situated, howeakes with effect from 28.1.1986, the amended definition of that expression under the CLRA Act came into force.</p> <p>Consequently, the definition of that expression as given in the Industrial Disputes Act would apply for purposes of the CLRA Act also. FCI is included within the definition of Appropriate Government in sub-clause (1) of clause (a) of Section 2 of the Industrial Disputes Act. It follows that for any establishment of FCI for the purposes of the CL (R&A) Act, the Appropriate Government will be the Central Government. In these appeals, prohibition notification was issued on March 26, 1991 under Section 10(1) of</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
				<p>the CLRA Act prohibiting employment of contract labour in the concerned establishment in the process, operation or work of handling of foodgrains including loading and unloading from any means of transport, storing and stacking. The respondents claimed absorption of contract labour in the concerned establishment of the appellant. A Division Bench of the High Court of Bombay following the judgment of this Court in Air India case (supra) directed the appellant to absorb the contract labour engaged in the depots of the appellant in Jalgaon, Srirampur and Ahmednagar (Khedgaon). In as much we have overruled the judgment in Air India case (supra), the appeals deserve to be allowed. We, accordingly, set aside the judgment of the High Court under challenge and allow these appeals leaving it open to the contract labour to seek appropriate relief in terms of the main judgment.</p> <p>C.A.Nos.6013-22/2001 of SLP(C) Nos. 16122-16131/98.</p> <p>These appeals by FCI from the judgment of a Division Bench of the Karnataka High Court in W.A. Nos. 345-354/97 dated April 17, 1998 confirming the</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
				<p>judgment of a learned Single Judge passed in W.P.NO.22485/94.</p> <p>Hon'ble Supreme Court of India held that</p> <p>“In as much as impugned judgement under challenge, was passed following the judgement in Air India Case (Supra) which has since been over ruled , we set aside the judgement of High Court and allow these appeals accordingly, leaving it open to contract labour to seek appropriate relief in terms of main judgement.”</p> <p>GENERAL IMPACT OF THIS JUDGEMENT</p> <p>The Hon'ble Supreme Court in its landmark judgement dated 30.8.2001 in the case of SAIL &Ors. has upheld the spirit of the Contract Labour (R&A) Act, 1970 as follow:-</p> <p>a) It is the 'Appropriate Govt.' who can issue notification prohibiting employment of contract labour in any establishment under the provisions of Contract Labour (Regulation & Abolition) Act, 1970.</p> <p>b) The contractor labourers do not have right for their automatic absorption/regularization with the</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
				<p>principal employer even in the event of issue of notification under the Act. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment.</p> <p>c) If principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical</p>
6	Writ Petition (Civil) No. 422/2000 FCI Workers Union V/s. FCI and others	05.04.2002	FCI is having labour system known as (i) Departmental and (ii) Direct Payment System. The labourers under Departmental Labour System are getting better benefits than those who are being engaged under DPS. Aggrieved by this, FCIWU, petitioner union filed the writ petition seeking to enforce the claim of its members employed in 223 depots of FCI under Direct Payment System for payment of wages at par with the Departmental workmen of FCI. The petitioner	<p>The Hon'ble Supreme Court of India held that:</p> <p>“When the same issue is being agitated by the petitioner union by raising an industrial dispute, it is all the more inappropriate for this court to make an adjudication on merits in a writ petition filed under Article 32. The award of the NIT on which reliance was placed virtually stands superseded by the settlement arrived at between the parties culminating in the disposal of the writ petition challenging the said award in terms of such settlement.</p>

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT
			union relied upon alleged discriminatory and violative of article 14 and 21 of the Constitution, in short this petition under article 32 was based on the plea of equal pay for equal work. A writ was filed to direct respondent corporation to grant same wages , allowance, status and other benefits to the handling workers deployed under DPS in 223 depots as are available to departmentalized workers.	We, therefore, decline to grant any relief under Article 32 of the Constitution. We leave / have it is to the petitioner to agitate the issue before the Appropriate Forum. The writ petition is, therefore, dismissed. The dismissal of this petition shall not be construed as an expression of any view on the merits of the respective contentions.

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Chapter IX (A)

IMPORTANT AWARDS OF NIT CGIT AND ARBITRATORS IN RESPECT OF DEPARTMENTAL / DIRECT PAYMENT SYSTEM /CONTRACT LABOUR SYSTEMS

S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
1	Arbitration Award of Justice B.N Banerjee	27.07.1972	<p>Issues in respect of 2200 workers who were brought under Departmental Labour System in the depots situated in the Kolkata w.e.f. 15.01.1970 through a tripartite settlement with FCI Workers Union. The following issues were adjudicated and settled in this award:-</p> <p>(i) Specific matter in dispute</p> <p>(a) whether the workers departmentalized w.e.f. 15.01.1970 by the Food Corporation of India, Eastern Zone, Calcutta working in the Depot/Godown/Dock are eligible for the payment of arrears with effect from 01.01.1969 arising out of the recommendation on of the Central Wages Board</p>	<p>On the state of evidence before me, I am inclined to hold that workmen were absorbed into service of the Corporation with effect from 15th January. That like workers departmentalized with effect from 15.01.1970 are not eligible for payment of arrears with effect from 01.01.1970 arising out of the recommendation of the Central Wage Board for Port and Dock Workers.</p> <p>Workers departmentalized with effect from 15.01.1970 by FCI Eastern Calcutta working in the depots / godowns/ dock were eligible for the payment of bonus from January 1969 to January 1970 keeping in view the terms of employment existing prior to departmentalization.</p> <p>An Incentive Scheme was admittedly introduced by FCI</p>	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
			<p>for the Port & Dock Workers at the major ports as accepted by the Government of India, in the Ministry of Labour and Employment under Resolution dated 28th March 1970. If so keeping in view the terms of employment existing prior to departmentalization, whether the Food Corporation of India, is responsible for effecting the said payment.</p> <p>(b) Whether the workers departmentalized with effect from 15.01.1970 by the Food Corporation of India , Eastern Zone, working in the depot/godown/dock, are eligible for the payment of Bonus from 01.01.1969 to 15.01.1970. If so, keeping in view the terms of employment existing prior to departmentalization whether the Food Corporation of India is</p>	<p>in relation to the piece-rated handling workers working in the godowns in the greater Calcutta, with effect from 14.12.1970. I, therefore, leave that out of my consideration. I feel that this scheme should be modified to the extent that the percentage of the incentive wages, wherever to be calculated on percentage basis must be calculated on the basis of full wages not Basic Pay.</p> <p>Reference which was answered in favour of the workmen was implemented.</p>	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
			<p>responsible for effecting the payment of Bonus from 01.01.1969 to 15.01.1970.</p> <p>(c) whether the Incentive Scheme introduced by the Food Corporation of India , Eastern Zone, Calcutta dated 14.12.1970 in relation to the piece rate handling workers in their godowns in Greater Calcutta, needs any modification/alternation/a mendment. If so, what should be the modification/alteration/a mendment in relation to the various clauses of the Incentive Scheme introduced with effect from 16.12.1970 by the Food Corporation of India Eastern Zone, Calcutta.</p> <p>(ii) Total number of workmen employed in the undertaking affected.</p> <p>2200 approximately.</p>		

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
2	Shri K.K.Mitra Award	17.10.1974	<p>In the matter of a reference under Section 10-A of the Industrial Disputes Act, 1947, in respect of an industrial dispute between the employers in relation to the management of the Food Corporation of India, Bihar Region, Patna, within the Eastern Zone, Calcutta and their workmen, represented by the Food Corporation of India Workers Union, Calcutta.</p> <p>The specific matter in dispute, enumerated in the aforesaid notification are as follows:-</p> <p>1(a) What should be the workload of an individual handling mazdoor/gang and munshis and ancillary mazdoor/ in a shift of eight hours at the P.S. Depots, Gaya, Mokameh and Jamshedpur.</p> <p>(b) What should be the incentive scheme of Sardars, Munshis, Mondals and Handling Mazdoor.</p>	<p>Incentive Scheme was introduced in Calcutta with effect from 16.12.1970 and it applies to Sardar, Mandal and Handling Labour. I have find no reason to extend the scheme to Munshi by award of Shri B.N.Banerjee. It was decided that the calculation on per centage basis should be made on full wages not basic wage. I adopt the same rules as in Calcutta viz-a-viz West Bengal read with that award and the scheme and award is made as a part and parcel of this award.</p> <p>It would , therefore, be fair and proper to fix up the wage structure on West Bengal pattern not merely because it had been agreed to but that otherwise it would be creating unnecessary discrimination without reasonable ground in wages between workmen and workmen doing same work under the same, employer.</p>	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
				<p>The rate applicable in Calcutta viz-a-viz West Bengal will be applicable to piece-rated handling mazdoors , Mandals, Sardar and Ancillary Labour in these three depots of Bihar as the same are just fair. This means guaranteed minimum wages.</p> <p>The criteria of determination strength of the Handling Labour as prevalent in state of West Bengal depot was made part of this award.</p> <p>Reference was answered in favour of the workmen. FCI unsuccessfully challenged this award before the High Court of Calcutta. The Hon'ble Supreme Court of India in Writ Petition No. 222/1984 held that this award will be applicable to the departmental workers working in Assam, Orissa, Bihar, Delhi and UP and the depots situated outside Calcutta in West Bengal.</p>	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
				<p>The judgement dated 20.07.1990 of the Hon'ble Supreme Court in the Writ Petition referred to above was implemented in respect of the departmental workers working in the states mentioned in the judgement. However, subsequently, it was extended to the newly departmentalized labour inducted after 01.01.1991. FCI is implementing wages structure of the Port and Dock Workers in respect of all the Departmental Workers in the depots working across the country since 01.01.1974.</p>	
3	ID Case No.1 /2003 raised by FCI workers Union and Group of 16 DPS Workers. In which FCI Handling Workers Union, FCI	27.05.2004	<p>The FCI Workers Union and other Unions raised their ID on the same issue with the Ministry of Labour who, in turn, on 8.07.2003 referred the dispute to National Industrial Tribunal, Mumbai with the following terms of reference:-</p> <p>“Whether the workers working under Direct</p>	<p>Meanwhile, the labour unions filed their applications before NIT Mumbai for grant of interim relief. The Hon'ble National Industrial Tribunal, Mumbai gave its order on 27.05.2004. The operating part of the award given by the Presiding Officer, National Industrial Tribunal,, Mumbai on 27.05.2004 is reproduced as under:-</p>	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
	Lal Jhanda Palledar Union and other unions became impleaded party		<p>Payment System, No Work No Pay system and the Management Committee System are entitled for the same pay and other benefits as are available to the departmentalized labour in various depots of FCI throughout the country? If so, to what benefits they are entitled to?"</p> <p>The various labour unions / individuals concerned filed their Statements of Claim before NIT Mumbai and the FCI also filed its counter statement in defence before NIT Mumbai. The matter is still pending before NIT Mumbai for its final adjudication.</p>	<p>"Having considered the entire matter on record and the respective arguments of the counsel for parties and further noting the change in piece rate from Rs.205/- to 219/- per 100 bags, this Tribunal is of the opinion that it would be proper to grant additional interim relief to the extent Rs.50/- per day per workmen instead of Rs.100/- per day per workmen. Accordingly the FCI is directed to an additional sum of Rs.50/- per worker on all working days to each workmen under Direct Payment System, NO Work No Pay system or Management Committee in addition what they are being paid every day. The interim relief so granted to workman shall be worked out on the basis of working days in a month. The relief is given from 1.12.2003 as all the applications for interim relief were filed in the month of November. All the applications are hereby allowed to content indicated above. No costs."</p> <p>Interim Order has been held valid by the Hon'ble High Court of Bombay in WP No.</p>	

FOOD CORPORATION OF INDIA

S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
				7716 of 2004 vide judgment dated 14.10.2004 and by the Division Bench in Letter Patent Appeal No. 24 of 2005 vide judgment dated 05.07.2007. Hon'ble Supreme Court also did not intervene vide order dated 30.11.2012.	
4	Award of CGIT, New Delhi in ID No. 30/2005	28.01.2008	<p>FCI was having departmental labour in major ports to handle import of foodgrain and fertilizer. Import of foodgrains/fertilizer was closed in earlier eighties. A Voluntary Retirement Scheme with the approval of Ministry of finance and Consumer Affairs, Food and Public Distribution introduced VRS between the year 1985-87, majority of FCI Port Workers opted for VRS.</p> <p>The Ministry of Labour by its letter No. L - 22012/133/2005-IR9C-II) (IR(M) Central Government dated 13.04.2005 has referred the following point for adjudication.</p> <p>Whether" the action of the management of FCI Departmental Workers of Ports to exercise option to</p>		93

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT	CRUX OF THE JUDGEMENT	ANNEX
			come over to the Pension Scheme as given to the Port and Dock Workers by Ministry of Surface Transport is legal and justified/ If not, to what relief they are entitled."	Reference was answered in favour the FCI. Operative	
5	Industrial Dispute No. 195/2011 CGIT, Delhi	05.07.2016	"Whether the demand of the union for withdrawing the new incentive scheme announces vide Circular No.18 / 2005 dated 15.12.2005 is legal and justified? If not, to what relief is the workmen entitled.	CGIT held that "the demand of FCI unions for withdrawing the new incentive scheme is neither legal nor justified. A w a r d h a s b e e n implemented unions have challenged before the High Court of Delhi, Jodhpur, Ahmedabad, Kolkata and Guwahati. Matter is subjudice.	94
6	Industrial Dispute No. 15/2013 CGIT cum Labour Court Eranakulam	27.04.2017	This is a reference under clause under Section 10 (1)(d) and (2A) of the Industrial Disputes Act, 1947 (Act 14 of 1947) for adjudication. 2. The Industrial dispute referred for adjudication was: "Whether the action of the management of FCI in terminating the services of 47 laboures (list enclosed) engaged by them is correct? If not, to what relief they are	1. Even though the workmen have stated that they were employed directly by the management - Food Corporation of India, there is no acceptable evidence to substantiate the same. The evidence tendered by WWI probabilities the fact that the workmen were paid wages by the contractor initially and later it was paid through the society. There is nothing on record to prove that the workmen involved in this reference i.e. 47 persons were	

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S. N.	CASE NO.	DATE OF JUDGEMENT	SUBJECT/PLEADING	CRUX OF THE JUDGEMENT	
			<p>The points arising for consideration are:-</p> <p>i) Whether the 47 employees as per the list annexed to the reference order are employed directly by the management?</p> <p>ii) Whether the 47 employees as per the list are entitled to the benefits as allowable to the permanent employees under the management?</p> <p>iii) Whether the management of FCI had terminated the service of 47 labourers as per the list? If so, whether the said action is just and proper?</p> <p>Reliefs and costs.</p>	<p>employed directly by the management. In such circumstance the union was not entitled to the relief as per the claim statement filed in the case. Therefore the points for consideration were answered against the union and in favour of the management.</p> <p>2. In view of the findings on Point No (i) to (iii) the union was not entitled to the relief claimed as per the claim statement. The point was answered accordingly.</p> <p>3. In the result an award was passed holding that the union was not entitled to any relief as per this reference No. costs.</p> <p>The award will come into force one month after its publication in the Official Gazette.</p> <p>Pronounced by me in the Open Court on this the 27th day of April, 2017.</p>	

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Chapter IX (B)

1. High Court of Bombay, Nagpur Bench Judgement dated 20.11.2015-(Annexure- 95).

In the month of August 2014, 370 labourers of Borivali depot received wages more than Rs. 4 lakhs which was published in the "Times of India newspaper" on 15.11.2014. The Hon'ble High Court of Bombay, Nagpur Bench suo-moto registered a PIL No. 84/2014 suspecting that there was abuse of government fund and inflated wages are being paid to the labourers by manipulation operations.

Hon'ble High Court nominated Shri S.P Bhandarkar as Amicus-curiae for filing petition. FCI Workers Union had also filed an impleadment application in the High Court of Bombay. FCI was directed by the Hon'ble Court to file detailed affidavit apprising the factual position. The Hon'ble High Court of Bombay after hearing Amicus-Curie, FCI's counsel and the counsel of FCI Workers Union, gave following direction:

- (i) **The Government of India is directed to decide the representation made by the FCI for grant of exemption under the provisions of Section 31 of the said Act within a period of one month from today, in the light of observations made by us herein above within a period of one month from today.**
- (ii) **The Government of India shall decide the issue regarding de-notification of the depots of the FCI, in respect of which notification is issued u/s. 10 of the said Act, within a period of six months from today, in the light of observations made by us herein above and the report of the M/s. Deloitte Consultancy and the report of High Level Committee appointed by the Government of India itself.**
- (iii) **We clarify that the Respondent No. 1 FCI would be entitled to transfer the services of departmental labourers from one depot to another subject to protecting their salary and all other service conditions.**
- (iv) **we also clarify that the respondent / Corporation would be at liberty to implement its policy of change in the Scheme of Incentives.**
- (v) **The Government of India shall also take a decision regarding abolition of system of**

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departmental labourers in a phased manner or absorbing their services in other establishments as recommended by the High Level Committee.

Decision of Hon'ble Supreme Court fo India

(i) High Court, Bombay, Nagpur Bench Jugment dated 20.11.2015 of Hon'ble High Court Bombay, Nagpur Bench is to 8/2014 was challenged by the labour unions through following SLPs in Supreme court :

CC No. 136/2016 filed by FCI Workers Union

CC No. 913/2016 filed by FCI Shramik Union

CC No. 11465/2016 filed by FCI Handling Workers Union

Hon'ble Supreme Court had directed Learned Solicitor General of India to take instructions from Government of India regarding steps taken in terms of the judgement passed by the Nagpur Bench. A detailed affidavit was filed by Government of India on 19.02.2016 praying for dismissal of the SLP and during subsequent the course hearing held on 08.07.2016, Hon'ble Bench presided over by the Chief Justice of India was pleased to grant following directions :

“Permission to file the special leave petitions was granted.

SLP (C) 136 of 2016

Mr. Ranjit Kumar submit that Mr. Neeraj Kumar Sharma, Advocate , has already entered appearance on behalf of respondent no. 1- U. O. I. Mr. Y.P. Rao, learned counsel appears on behalf of respondents no. 3 to 6.

Notice to respondents no. 2, 7 and 8 were dispensed with for the present.

Mr. Ranjit Kumar had already filed a counter affidavit on behalf of respondent no. 1- U. O. I. He proposes to file a supplementary affidavit to bring on record certain subsequent developments. He may do so within six weeks. Rejoinder affidavit, if any, be filed by the petitioner within two weeks thereafter. Post on a non-miscellaneous day after the needful is done.

We make it clear that the pendency of the present proceedings shall not prevent the petitioners from filing a petition, if so advised, to challenge the notification issued under section 31 of the Act on all such grounds as are legally open to it.

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Objections, if any, to the application for impleadment, be filed by learned counsel for the parties in the meantime.

SLP (C) No. 913 of 2016

SLP (C) No. 11465 of 2016

Mr. Ranjit Kumar, learned Solicitor General, appears and accepts notice on behalf of respondent no. 1 – U.O.I. Mr. Y. P. Rao, Advocate, appears and accepts notice on behalf of Food Corporation of India and its officers. Notices to the remaining respondents are dispensed with for the present.

Counter affidavit be filed by the respondents within six weeks. Rejoinder affidavit, if any, be filed by the petitioners within four weeks thereafter. “

Further it is related that in compliance to direction (i) of High Court Bombay at Nagpur, Ministry of Labour and employment issued notification dated 06.07.2016 exempting 226 depots/rail head from the applicability of provisions of earlier notification for a period of 2 years subject to compliance of provisions of conditions laid down under Rule 25 (2) (v) (a) of Contract Labour (R&A) Central Rules 1971. In order to implement the exemption notification dated 06.07.2016, detailed guidelines have been issued vide Hqrs. letter dated 12.07.2016 to all Region in which a safeguard was incorporated to ensure compliance of condition as continued in the aforesaid notification dated 06.07.2016 which stipulation as under.

The pooling of the departmentalized labourers in fewer depots may be done by making inter-depot, inter region zone (in exceptional cases) transfers from one depot to the other depots operative under the same labour system so that it does not attract the provisions of Rule 25 (2) (v) (a) of Contract Labour (R&A) Rules 1971.

The above SLPs and transfer applications No 1382/2016 (FCIHWU vs UOI) came up for hearing before the Supreme Court of India on 31.7.2017 and were dismissed. The operative portion of the judgement is as under:

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“ We do not see any merit in these special leave petitions, which are hereby dismissed. We make it clear that this order shall not prevent the petitioners- Food Corporation of India Workers Union/Food Corporation of India Shramik Union/FCI Handling Workers Union, to (dated 20.11.2015), in appropriate proceedings before an appropriate court. In case, such a challenge is raised by the petitioner(s), in contribution of the liberty granted to the petitioner(s), the claim raised by the petitioner(s) shall be considered in accordance with law, uninfluenced by any observations made by the the High Court in the impugned order (dated 20.11.2015).”

Transfer Petition (C) No. 1382/2016

"The Instant transfer petition has been rendered infructuous, in view of the disposal of the Special Leave Petition (C) No. 19218/2016 and connected petitions by this Court on 31.07.2017. The same is accordingly disposed of, as having been rendered infructuous".

2 Important decisions/judgements of High Courts on exemption notification dated 6.7.2016 issued under section of CL (R&A) Act and transfer made for the rationalisation of labour strength as per guidelines issued by FCI Hqrs vide letter dated 12.7.2016 based on permission given to engage contract labour in already notified depot. Vide exemption notification dated 6.7.2016.

(i) Exemption Notification dated 06.07.2016 had been challenged by the Labour Unions before the High Court of Madras, Kerala, Delhi and Allahabad, Case-wise position is given as under :-

(a) Judgement dated 17.08.2016 of High Court of Madras. C.S. Saran Kumar petitioner in WP 26628 of 2016 v/s U.O.I. and others. **(Annexure-96).**

Prayer in WP No. 2668 of writ petition filed under Article 226 of the Constitution of India for writ of Certiorari to call for the record of the respondent no. 1 i.e. Ministry of Labour in connection with its notification dated 06.07.2016 bearing number SO. 2327(E) dated 06.07.2016 and quash the same.

(a) WP No. 26628 to 26630/16, 27697 to 27699/16 filed by Shri C.S. Saran Kumar and two others before the Hon'ble Madras High Court. The Hon'ble High Court of Madras was pleased to grant interim stay on the operation of notification dated 06.07.2016 issued by Ministry of Labour & Employment exempting FCI depots/ railheads from the applicability of provisions of notifications issued earlier. FCI had filed counter affidavit on 10.08.2016 and the matter came up for hearing on 12.08.2016 and 17.09.2016, the Hon'ble Court was pleased to pass common order as under :-

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“Though many contentions were raised by both the parties regarding the maintainability of the Writ Petitions and also the issue regarding the regularization of the petitioners, which are pending before the Hon'ble Supreme Court, taking into consideration the apprehension of the petitioners that their service conditions will be affected based on the Government Order, Mr.G.Rajagopalan, learned Additional Solicitor General would submit that no action would be taken to affect service conditions of the petitioners in employing them in Food Corporation of India. The said assurance is enough to safeguard the interest of the petitioners

Recording the above said assurance given by the learned Additional Solicitor General, these Writ petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed.No costs.”

(b) Judgement dated 13.01.2017 of High Court Kerala at Erankulam (Annexure-97).

WP (C) No 35398 and 36743 of 2016 and WP (C) No 178 of 2017 (High Court of Kerala).

(i) W.P (C) No. 3598 / 2015 was filed by DPS workers attached to Karunagapally depot challenging transfer from Karunagapally depot to Kollam depot.

(ii) WP No 36743/2016 (C) was filed by DPS workers of Karunagapally seeking direction for Vol - I (GOI) denotification of already notified under ambit of C.L (R&A) Act to the union government to denotify the Kollam depot for purpose of the C.L (R&A) Act.

(iii) WP(C) No. 178/2017 was filed by DPS workers at Alleppay challenging their transfer from Alleppay depot to Kollam depot.

WPs were disposed of with following orders and direction.

i) Challenge regarding transfer to Kollam depot by the petitioners was repelled

ii) The Govt of India Ministry of Labour sixth respondent in WP (C) No. 36743 of 2016 was directed to consider denotification of Kollam depot after obtaining views of FCI within three months.

The proposal for denotification of kollam depot as per the direction of Hon'ble High Court Kerla has been sent by FCI Head Quarter to the Ministry of Labour through the Department of food & Consumer Affairs but decision is awaited.

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(c) Judgment dated 20.07.2016 in WP No. 1935 of 2016 of High Court Bombay (Ravi B Ghorpade and others v/s Union of India and others)-(Annexure-98).

The petitioners filed this Writ Petition and prayed for setting aside the transfer orders dated 17.07.2016 from Borivali to Manmad and Panvel, issued by FCI based upon direction dated 20.11.2015 issued by the Nagpur Bench of B'bay High Court in PIL No. 84/2014. Hon'ble High Court B'bay after hearing the parties disposed of writ petition with following direction:

“In view of the above, we are not inclined to entertain the present writ petition filed by the petitioner. It is based upon the order and directions so issued by the Nagpur bench and also for the fact that the proceedings against the same are pending in the Supreme Court. As regards the submission as made on behalf of the petitioners on merits referring to the placements/transfers, we are not inclined to accept these submissions for the extensive reasons recorded in the judgment of the Nagpur Bench so referred above, and also for the fact that a Special Leave Petition is pending. The remedy of the petitioner is therefore, elsewhere.

For the above reasons we accordingly dismiss the present petition. No costs.”

(d) Judgement dated 26.09.2016 of High Court Allahabad in WP No. 38560 of 2016 (FCI Mazdoor Sangh and 40 others v/s FCI)- (Annexure-99).

FCI Mazdoor Sangh filed this Writ Petition before the High Court Allahabad challenging the transfer of departmental labour from FSD, Naini to FSD, Maduadih. Hon'ble High Court dismissed the writ petition and passed following orders:

“15. Judicial propriety and consistency requires that in similar facts and circumstances, similar orders be passed. I am otherwise of the opinion that merits of the rationalization process or justification to effect orders of transfer need not be gone into, any further, as these are administrative acts undertaken, purportedly in compliance of the directions issued by the Nagpur Bench of Bombay High Court, against which an appeal is pending before the Apex Court. So far as violation of the Standing Orders or other provisions of ID Act is concerned, remedy available to the petitioners is to approach the Industrial Adjudicator.

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16. The writ petition, consequently, fails and is dismissed. Interim order is discharged.”

Judgement dated 19.10.2016 in Special Civil Application No. 14738 of 2016 High Court Ahmedabad, (Annexure-100).

(e) By this petition filed under Article 226 of the Constitution of India Transfer orders have been challenged by the group of workers vide which they (departmental labour) of FSD at Vadodara including petitioner were transferred to Sabarmati for their gain full utilization. Hon'ble High Court after hearing the parties held that “In the fact of the case, the court finds that the petitions have failed to make out any case so far to interfere with impugned order of transfer in exercise of power under Article 226 of the Constitution of India. The petition is therefore rejected.”

III) Industrial Dispute pending before National Industrial Tribunal, Mumbai and other important litigations:

(a) DPS & NWNP Category workers have been agitating for treating them at par with Departmental Category for all purposes and an Industrial Dispute was raised by workmen represented by Trade Unions, for extending all the DPS and NWNP workers, the same wages and perquisites as are admissible to regular departmental workers of FCI. Ministry of Labour and Employment has referred the matter to the National Industrial Tribunal, Mumbai which is still pending for adjudication. This case is being defended by FCI on the ground that **each depot of FCI is a separate establishment**. Even while shifting, workers under a particular labour system are being shifted only to the depots under the similar labour system.

(b) Besides the above, High Court of Chennai and Kerala have given a ruling in favour of workmen granting them parity in wages with Departmental workers. FCI's appeal in the above case is still pending in Supreme Court of India.

The instant industrial dispute is being defended on the ground that dual labour system does not exist in one depot and each depot is treated as a separate establishment.

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Other Major Industrial Disputes are summarized below:

- Industrial Dispute raised by the unions for the removal of 5% ceiling before NIT Kolkata in compassionate appointments
- Industrial Dispute raised by FCI Workers' Union before NIT Kolkata for the extension of career Progression Scheme (w.e.f. August 2000) and revision of HRA& CCA (w.e.f. 01.01.1998) to the Departmental workers at par with Port and Dock Workers

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Chapter -X

Labour Laws applicable to FCI

The Labour Laws which are generally applicable in case of FCI is as under:

1. The Employees' Provident Funds & Miscellaneous Provisions Act, 1952
2. The Employees' State Insurance Act, 1948
3. The Industrial Disputes Act, 1947
4. The Minimum Wages Act, 1948
5. The Payment of Bonus Act, 1965
6. The Payment of Gratuity Act, 1972
7. The Workmen's Compensation Act, 1923
8. Contract Labour (Regulation & Abolition) Act. 1970
9. The Industrial Employment (Standing orders) Act, 1946
10. Shops and Establishment Act, 1946 (For O.T.A Provision only)
11. The Protection under Persons with Disability (Equal Opportunities) Protection of Right and Full Participation Act 1995.

The following are the labour laws which are applicable to contract labour, also, the relevant provisions of them are briefly described below:

1. The Employees' Provident Funds & Miscellaneous Provisions Act, 1952

As per section 2(f) of the Act, any person employed by or through a contractor in or in connection with the work of the establishment is also an employee unless otherwise covered under the Act and will thus be eligible to get the benefits of the schemes framed under the Act. Thus, the employees engaged through the

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Contractor will be liable to be covered under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952. It shall be the responsibility of the principal employer to pay both the contributions as payable for the employees directly employed by him and also in respect of the employees employed through a contractor and the submission of the principal employer is clarified by Para 36(B) of the Scheme which provided that every Contractor shall submit to the principal employer a statement showing the recoveries of contributions of employees employed by him.

From 12 under the Act and Scheme contains a separate column 'employees engaged through the contractor'.

Also the Employees Provident Fund Organization in its clarification No. E.1 /17(3)93/ Vol. 111 dated 12-2-2001 has opened the allotment of separate Codes (Identification Numbers) to the employers rendering services on contract basis.

2. The Employees' State Insurance Act, 1948

In factories and such other establishments to which the Employees' State Insurance Act applies, contract labour will be eligible for the benefits as conferred under the Act to the employees so long as they meet the requirements of the expression "employee" as defined in section 2(9) thereof which reads as under:

"employees" means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and---

- (i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere; or
- (ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinary part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

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- (iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service, and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof of which the purchase of raw materials for, or the distribution or sale of the products of, the factory or.....

In view of the above, the employees engaged by the contractor in an establishment as covered under the Employees' State Insurance Act, are liable to be covered. In another case also, it has been held that the principal employer will be liable to pay ESI contributions of the employee employed through the contractor. In one case, the Kerala High Court has held that the workers employed by contractor for the work of the principal employer connected with the business of the factory are liable to be included for the purpose of contribution under the Act, even if such workers were casual. Also the employees engaged through the contractor to do ancillary jobs for the principal employer will be covered under the ESI Act. The employees working in a canteen run in a factory under statutory requirements will be deemed to be the employees of the principal employer. The Supreme Court has held that persons working in under contractors are entitled for their regularization when the principal employer is under statutory obligation to maintain a canteen hence the Supreme Court will not interfere with the order of the Division Bench of the High Court.

3. The Industrial Disputes Act, 1947

A 'workman' under the Contract Labour (Regulation and Abolition) Act is also a 'workman' under the Industrial Disputes Act. The contractor would be the employer of such person. The principal employer under the Act would be employer under the Industrial Disputes Act in certain circumstances, against whom an "industrial dispute" could be raised.

In one case, the Karnataka High Court has clarified that the workers, engaged through the contractor, would also be entitled to the wages as fixed under the Minimum Wages Act and in case their wages are lesser than as fixed, they can recover the same from principal employer by filing petition under section 33 (C) (2) of the Industrial Disputes Act providing for recovery of money due from an employer since such workers will also have status of 'workmen' as defined by section 2(s) of the Industrial Disputes Act. It was further observed that the High Court will not interfere with the order of the Labour Court

allowing difference in minimum rates of wages to be paid to the workers engaged through Contractors since they were being paid lesser amount which statutorily becomes due to them and the plea of the principal employer that the claims were not maintainable under Industrial Disputes Act has been rightly rejected by the Labour Court since the legal position under the Contract Labour (Regulation & Abolition) Act is clear that if the Contractor fails to pay wages as fixed and / or revised under the Minimum Wages Act within the prescribed time or makes short payment, the liability is fixed on the Principal employer to make the payment of wages in full or of unpaid balance due since a Principal employer is under dual obligation in this context.

4. The Minimum Wages Act, 1948

Sub-rule of rule 25 of the Contract Labour (Regulation and Abolition) Act provides that the principal employer will ensure that the workers as engaged through the contractor will be paid wages not less than the minimum rate of wages as fixed under the Minimum Wages Act.

Clause (iv) of sub-rule 25 of the rules reads as under:

The rates of wages payable to the workmen by the contractor shall not be less than the rates prescribed under the Minimum Wages Act, 1948 (11 of 1948) for such employment where applicable and where the rates have been fixed by agreement, settlement or award not less than the rates so fixed; for more details about parity of wages, please refer to classifications.

The Karnataka High Court has observed that rule 25(2)(iv) of the Contract Labour Central Rules provides that the rates of wages payable to the contract workers by the contractor shall not be less than the rates prescribed under the Minimum Wages Act, 1948, the High Court said that this provision also indicates that the rates of wages fixed by the appropriate Government alone would govern. As under the Minimum Wages Act the appropriate Government for the company was the State Government, even in terms of rule 25(2)(iv) the company was liable to pay wages only at the rates fixed by the State Government under the Minimum Wages Act.

5. The Payment of Bonus Act, 1965

Neither the Contract Labour (Regulation and Abolition) Act nor the Payment of Bonus Act provides that the said Act will be applicable. It has been held by Kerala High Court that the principal employer will be liable to

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pay wages to the employees of the contractor if the latter fails to make the payment of wages to his employees. It has further been held that the bonus will not be payable by the principal employer to the workers engaged by two contractors since the bonus does not come within the purview of wages.

By an Ordinance dated 27th October, 2007, the government has within the exemption which was hitherto available to the employees employed through contractor on building operation. However, this will be the obligation of the contractor to make payment to its workers but at the same time, the principal employer will have to reimburse the contractor such payment.

6. The Payment of Gratuity Act, 1972

Neither the Contract Labour (Regulation and Abolition) Act, nor the Payment of Gratuity Act provide that the employees engaged through the contractor will be entitled to gratuity from the principal employer and as such the principal employer will not be liable to pay gratuity to the employees engaged through the contractor. This clarification has been made by the Kerala High Court also.

In one case, the Madras High Court has held that the Principal employer can be directed to pay gratuity to the employees of the contractor and also holds the license under the Contract Labour (Regulation and Abolition) Act and cannot escape the liability though when having its own establishment. In turn, the principal employer can recover the gratuity as paid to the employees of the contractor. However, the judgement of Kerala High Court, as referred to above, was to be taken into consideration.

The facts of another case were that the first appellant – Food Corporation of India is a public sector undertaking under the control of Central Government which engages contractors for handling food grains. These contractors, in turn, employ workers for activities like loading, unloading, stacking, clearing, bagging, etc. in the various depots, in question, subsequently, the workers employed by the private contractors formed a co-operative society and the society used to undertake the contract work by themselves competing with other private contractors. During the period when the workers were engaged by the private contractors or by the society, as the case may be, they were paid wages by the concerned employer namely independent contractors or the society. Thus, the workmen were directly in the employment of the private contractors or the co-operative society. Subsequently, a direct payment system was introduced in 1996 by the Food Corporation of India. Ext. P2 is a communication issued by the Food Corporation of India, to the Zonal Manager and Regional Manager of Food Corporation of India,

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after introduction of the Direct Payment System which would also show that the workmen should fill up the performa in the prescribed form and the workers were to be allowed to work in notified depots. Some of the workers retired whose gratuity accounts were settled by the appellant by reckoning their total service from the date of Direct Payment System till the date of retirement. Accounts of some of the workers who died while in service were also settled in the like manner. But they contended that the workers are entitled to be paid gratuity for the total services, including the past service rendered with the private contractor claiming balance amount towards gratuity less what is paid by the management, they approached the Controlling Authority under the Payment of Gratuity Act. It was held by the Controlling Authority that the continuous service under section 2A includes past service rendered with the third parties as well and allowed the petitions. On appeal, the Appellate Authority confirmed the same against which the writ petitions were preferred before the High Court. The learned single judge, by the common judgement impugned in these appeal, dismissed the writ petitions.

The learned Single Judge held that the Payment of Gratuity Act is a piece of social welfare legislation and once the employees are employed in the establishment, such employment has to be treated as part of the continuous service reckonable as per section 2A for the purpose of Act. It was also held that the Controlling Authority was right in holding that the employees is perennial and an integral part of the principal work done by the function of the FCI depot which continues to be so even now. On the above reasoning, the view taken by the Authorities below was upheld and the writ petitions were dismissed.

Aggrieved by the Order passed by the learned single judge, the Corporation filed an appeal before the Division Bench of the Kerala High Court.

The Division Bench relied upon the judgement in the *Workmen of the Food Corporation of India v. Food Corporation of India*, 1985 (2) LLJ 4 : 1985 Lab IC 876, wherein the dispute was also between the Food Corporation of India and its workmen. There also, Direct Payment System was introduced in 1973 which was continued till 1975 when the FCI changed the method of payment of wages and reintroduced the contract system. The Food Corporation of India also discontinued the employment of 464 workmen attached to Siliguri Depot and brought in the intermediary contractor and treated the handling workmen as the workman employed by the contractor without issuing notice under section 9A of the Industrial Disputes Act and the matter was referred for adjudication. But the Industrial Tribunal has rejected the claim and the matter went ultimately to the Apex Court. The Apex Court, in Para 12 of it's judgement, has

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held as follows (Para 11 of AIR).

“Briefly stated, when Corporation engaged a contractor for handling food grains at Siliguri Depot, the Corporation had nothing to do with the manner of handling work done by the contractor, the labour employed by him, payments made by him, etc. in such a fact situation, there was no privity of contract of employer and workmen between the Corporation and the workmen...”

The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that there should be, in other words, an employment of his by the employer and him as between employer and employee or master and servant. Unless a person is, thus, employed there can be no question of his being a 'workman' within the definition of the term as contained in the Act.

Nowhere a contractor employs a workman to do the work which he contracted with a third person to accomplish on the definition as it stands, the workman of the contractor would not without something more become the workman of that third person. Therefore, when the contract system was in vogue, the workmen employed by the contractor were certainly not the workmen of the Corporation and no claim to that effect has been made by the Union.

The above dictum laid down by the Apex Court, though with reference to the provisions contained in the Industrial Disputes Act, will squarely apply in considering as to whether there is any employee-employer relationship between the appellant and the workman prior to the dictum laid down by the Apex Court, it has to be held that there was no employer-employee relationship between the appellant and the workman prior to the introduction of the Direct Payment System. If so, in the absence of any express provision contained in the Payment of Gratuity Act, in such period as service rendered while the workmen were under the employment of third person, the appellants cannot be mulcted with the liability to pay gratuity reckoning such part service as well. The claim, if any, by the workmen can only be laid against the employer under whom they were employed during that period.

Leaving open the right of the workmen to claim gratuity from whomsoever concerned for the past services they rendered, it is held that the appellants are not liable to pay gratuity for the service rendered by the workmen to the private contractors or to the society prior to the Direct Payment system.

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7. The Workmen's Compensation Act, 1923

Section 12 of the Act deals with the liability for payment of compensation as per the provisions of the Act to a contract labour for personal injury caused by accident arising out of and in course of employment. Section 12 of the Workmen's Compensation Act reads as under:

- (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for employer except that the amount of compensation shall be calculated with reference to the wages of the workman for the purposes of his trade or business contract with any person (hereinafter in this section referred to as the contractor) for execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the workmen under the employer by whom he is immediately employed.
- (2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.
- (3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.
- (4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

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It is thus clear that the principal employer cannot escape from his liability to pay compensation to the employees of the contractor and in turn, the principal employer can recover the amount paid from the contractor as held by the Bombay High Court. It has been held that the principal employer will be liable for payment of compensation when an employee engaged by the contractor dies out of his/her employment. The Madras High Court has also held that the principal employer would be liable to pay compensation to workmen through contractor for execution of principal employer's work.

In another case, it has also been held that Principal Employer will be liable to pay compensation in an accident covered under the Workmen's Compensation Act even when the employee is engaged through the contractor whereas recovery can be made by the principal employer from the contractor for the compensation as paid.

8. Contract Labour (Regulation Abolition) Act 1970

Key sections of the Contract Labour (Regulation & Abolition) Act, 1970

Section 1: Applicability

- Applicable to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour
- Applicable to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen
- It shall not apply to establishment in which work only of an intermittent or casual nature is performed

- If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Govt. shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation : Work performed in an establishment shall not be deemed to be of an intermittent nature in following scenarios

- If it was performed for more than one hundred and twenty days in the preceding twelve months, or

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- If it is of a seasonal character and is performed for more than sixty days in a year

Section 10 : Prohibition of employment of contract labour

(1) Notwithstanding anything contained in this Act, the appropriate Govt. may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Govt. shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as:

- (a) Whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;
- (b) Whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
- (c) Whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;
- (d) Whether it is sufficient to employ considerable number of whole time workmen;

Explanation: If a question arises whether any process or operation or other work is of perennial nature, the decision of the Appropriate Government thereon shall be final.

Section 31: Powers to exempt in special cases. The Appropriate Government may, in the case of an emergency, direct, by notification in the official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishment or any class of contractors.

Implication of engaging 2 types of labour i.e departmental as well as contract labour in a depot:

- (i) **Implication of Rule 25 (2) (v) (a) of Contract Labour (R&A) Central Rule 1971**

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It is to state that in a WP No. 13508 of 1983 (FCI Workers Union v/s FCI & others) the various issues relating to Contract Labour (R&A) Act & Central Rules 1971 w.r.t. establishment of FCI were examined and it was held that each depot of FCI is a separate establishment. It will further be evident from the various notifications issued by Min. of Labour & Employment under Section 10 of Contract Labour (Regulation & Abolition) Act, 1970 during period 1989-2011 that contract labour system was abolished after analysing the workload of each depot and name of the depot is indicated separately in each notification issued by Ministry of Labour and Employment.

It may also be pertinent to mention here that in the depots operating under Contract Labour System, no regular labour is deployed. FCI has around 1800 depots out of which there are around 1500 depots where handling of foodgrains is carried out through Departmental, DPS, NWNP labour systems due to notifications issued by the Ministry of Labour and settlements with Unions where under the contract labours were inducted as regular workers in any of the labour system Departmental / DPS /NWNP aforesaid systems. As the notifications under CL (R&A) Act were issued during 1989 to 2011, therefore different types of labour systems to induct contract labour on regular basis were adopted by the Corporation based on past experience and the negotiations held with labour unions. Since we are not deploying more than one labour system in a depot, therefore, is no implication of Rule 25 (2) (v) (a) of Contract Labour (R&A) Central Rule 1971.

The contract workers have been engaged in separate depots and all the statutory provisions applicable in respect of such workers including provisions of Contract Labour (R&A) Act are being complied with. A copy of the agreement which FCI management signed with Contractor is enclosed. The FCI management is not bound to extend fringe benefits of Departmental labour under Rule (25)(v)(a) of Contract Labour (R&A) Central Rule 1971 to Contract Labour as Dual Labour System do not exist in one depot.

One of the labour union preferred an application under Rule 25 (2)(v)(a) of Contract Labour (R&A) Central Rule 1971 over alleged non-payment of equal wages at par with the Departmental workers in respect of contract labourers engaged by FCI in six depots of Gujarat Region. The DY. CLC (C), Ahmedabad allowed the application of the labour and directed FCI to make the payment equivalent to wages of departmental workers vide order dated 18.07.2014. The said order of these above order of Dy. CLC © was challenged by FCI before the High Court of Gujarat in Special Civil Application No. 12621 of 2014 on the basis of decision of Hon'ble Supreme Court of India in case of FCI Workers Union V/s. FCI reported in AIR 1985 SC 488. This judgement of Hon'ble Supreme Court of India envisages that each depot of FCI is a separate establishment and the labour system engaged in one depot cannot be compared with the labour

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system engaged in other depot. The Hon'ble High Cour has granted stay on the operation of order dated 18.07.2014 by Dy. CLC (C), Ahmedabad vide order dated 15.09.2014. The matter is at present subjudice.

The position explained above will indicate in case contract workers and departmental workers are engaged in one depot then the contract workers may claim parity in wages and fringe benefits of departmental labourers on the basis of Rule 25 (2)(v)(a) of Contract Labour (R&A) Central Rule 1971 which reads as under:

“In case where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work.

Provided that in case of any disagreement with regard to the type of work the same shall be decided by the Dy. Chief Labour commissioner (central).”

It will be difficult to defend the claim on the ground that they are working in the separate establishment. Even the notification dated 06.07.2016 issued under Section 31 of Contract Labour (R&A) Act envisages compliance of above Rule if two set of workers are deployed in one depot. Therefore conscious decision has been taken to have a single labour system in a depot, so that no one can claim parity with wages/other attendant benefits

Hqrs has issued instructions from time to time for strict compliance of Statutory Provisions of various laws applicable respect of FCI Labour and Contract Labour, vide various circulars and enclosed with this chapter and also summarised below.

1. Circular No. 01/2008 dated 09.01.2008 (IR-L/14(11)/03) (Annexure 101)

Calculation of Gratuity in respect of Ex contract Labour inducted under Departmental Direct Payment and No Work No Pay labour system from the date of induction. The period of service of such Labourers rendered with erstwhile contractor/ Labour cooperative society not to be counted as continuous service for calculation of the gratuity amount.

The erstwhile contract workers who were working in the notified depots of Kerala Region were inducted under DPS Category w.e.f. 01.05.1996. As per their service condition they were entitled for

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gratuity w.e.f. date at induction under DPS. However, ALC(C), Controlling Authority under Payment of Gratuity Act, 1972 held that past service rendered by such workmen with erstwhile contractor prior to their induction in FCI may be reckoned as continuous service for calculation of the gratuity amount.

It has been brought to the notice of field offices vide this Circular that Hon'ble High Court Kerala (Division Bench) in WA No. 1953 of 2005 along with WA No. 1942/2005 vide order dated 18.08.2006 held that "In the absence of any express provision contained in the Payment of Gratuity Act to rope in such period as service rendered while the workmen were under the employment of third person. The appellants cannot be mulcted with liability to pay gratuity reckoning such past service as well. The claim if any workmen can only be laid against employer under whom they were employed during that period."

This judgement was upheld by the Hon'ble Supreme Court of India gratuity amount from the date they were inducted under DPS category.

2. Circular No. 11/2011 dated 08/12.08.2011 (File No. IR-L/31(6)/2011)(Annexure 102)

Nomination of the Area Manager as employer for the purpose of section 2(e) of the minimum wages Act 1948 and other Labour laws.

The Enforcement Officers were filing prosecution cases against senior officers of FCI for alleged non maintenance of records, registers and returns as required under various labour laws at the level of depot / Area office.

In order to ensure strict compliance of the statutory provisions of the applicable laws, vide this circular the Area Manager were notified as "Employer" for the purpose of Section 2 (e) of the Minimum Wages Act, 1948 and other labour laws including Contract Labour (R&A) Act.

3. Circular No. 7/2012 dated 23.07.2012 (File no. IR-L/31(6)/2011)(Annexure 103)

Compliance of various Laws in respect of FCI and contract Labour.

In order to ensure for compliance of statutory provisions of labour laws in respect of the departmental, Direct Payment System, No Work No Pay System and Contract Labour System workers, bunch of Instructions have been issued by the IR-L, Storage & Contract and CPF Divisions of Hqrs as listed below have been reiterated to the field officers vide instant circular.

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IR(L)		Minimum Wages Act, 1948
Division	1.	Circular No. 18/2011 dated 13/15.12.2011 issued from file No. IR(L)/3(6)/88/Vol.XI
	2.	Circular No. 19/2011 dated 13.12.2011 issued from file No. IR(L)/8(18)/95-Vol.V
		Employees Provident Fund & Miscellaneous Provisions Act, 1952
	3.	Headquarters vide letter / Circular No. IR(L)/3(7)/99-Vol.VII dated 10.08.2011
		Payment of Gratuity Act, 1972
	4.	Circular No. 8/2010 dated 13.07.2010(file No. IR(L)/4(6)/81/Vol.IV)
		Employees Compensation Act, 1923
	5.	Headquarters vide letter / Circular No. 17/2003 dated 20.10.2003 (File No. IR(L)/4(41)/2003) has issued guidelines to ensure compliance of the provisions of Workmen Compensation Act (now Employees' Compensation Act, 1923).
		Employees State Insurance Act (Medical Health Care Benefits To Direct Payment / NWNP System Labour), 1948.
	6.	Headquarters Circular No. 14/2011 dated 02.09.2011 issued from file No. IR(L)/14(2)/2005.
S&C		Contract Labour (Regulation & Abolition) Act, 1970.
Division	7.	Headquarters' Storage & Contract Division vide letter No. E1(Misc.)/WZ/06/Cont.PF dated 29.10.2007 (Annexure-III) has circulated check list to all EDs(Zone) and GMs(Region).

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IR(L)		Minimum Wages Act, 1948
S&C		Liabilities of H&T Contractor for Personnel
	8.	Headquarters vide letter No.F1(21)/CVC/2011/Cont dated 02/05.09.2011has circulated revised Model Tender Form for Handling and Transport Contract.
	9.	S&C Division Circular No. F.2/9/17/77.Cont dated 09.01.86- regarding payment of EPF to RPFC concerned in respect of labourers / employees engaged through contractor.
	10.	S&C Division Circular No. F.1/5/93.Cont dated 05.01.1998- regarding registration of FCI as “Principal Employer” and licensing of handling and transport contractors under Contract under Contract Labour (R&A) Act, 1970 and implementation of other Acts like EPF Act, Minimum Wages Act, etc.
	11.	S&C Division Circular No. F.1/5/93.Cont dated 22.11.2000- regarding registration of FCI as “Principal Employer” and licensing of handling and transport contractors under Contract under Contract Labour (R&A) Act, 1970 and implementation of other statutory provisions of Employees' Provident Fund, Minimum Wages Act, etc.
	12.	S&C Division Circular No. F.1(22)/Statutory Acts/2000-Cont. dated 11.03.2003- regarding Strict Compliance of various provisions of Labour Laws like Contract Labour (R&A) Act, 1970, EPF Act and all the terms & conditions of the Contract signed between H&T Contractors and the FCI Management in respect of labourers employed by the contractors in FCI Depots.

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4. Circular No. 11/2012 dated 11.07.2012 (Annexure 104)

Compliance of provisions of the payment of Gratuity at 1972 and payment of Gratuity rule 1972.

The labourers working under the Departmental Direct Payment / No Work No Pay System are covered under the provisions of payment of Gratuity Act, 1972 and rules framed there under as per instructions issued from time to time by the Hqrs vide Circulars dated 17.12.93, 09.12.94, 10.05.2001, 4.9.2003 and Circular dated 13.07.2010. The Enforcement Officers in some of the cases had issued show cause notice to the Chairman and Managing Director FCI Hqrs to rectify the irregularities pointed out by them in their Inspection Report conducted under the instant Act. The statutory provisions and rules of the Payment of Gratuity Act and Payment of Gratuity central rules as given below have been implementation to field officer vide instant circular for to avoid legal complication for any default on part of FCI's officers.

- (i) Section-7- Determination of the amount of Gratuity
- (ii) Rule 4(1) 9 and 20 of Payment of Gratuity (Central) Rules 1972
- (iii) Rule 20 Display of abstract of the Act and Rules.

5. Circulars No. 6/2013 dated 13/17.05.2013 (File No. IR-L/31(6)/2011) (Annexure 105)

Compliance of the provisions of Employees Provident Fund and Misc Provision Act 1952 and Employees State Insurance Act 1948 in respect of the contract Labour

Executive Director (vig) FCI Hqrs expressed apprehension of misappropriation of amount of EPF and ESIC Contribution of outsourced Contract workers engaged through security or other agencies in FCI. In order ensure that there is no ambiguity slackness patt of FCI's officers in regulating applicable Labour laws in respect of out sourced contract worker the provisions of Employees Provident Fund and Misc. Provisions Act, 1948 in respect of Contract Labour were reiterated to the field officer for strict compliance. Vide instant circular to the field officers.

6. Circulars No. 07/2013 dated 13.05.2013 (File No. IR-L/31(6)/2011)(Annexure 106)

Implemantation of the provisions of contract Labour (R & A) Act

The Executive Director (Vig.) FCI, Hqrs observed noncompliance of the provisions of Contract Labour (R&A) Act particularly with regard to upkeep of authentic records in respect of Contract Workers which is of vital importance while working out the seniority of workers at the time of their induction in the event of notifications of the Depot under the said Act. It was therefore felt imperative that all the provisions under the Contract Labour (R&A) Act are meticulously compiled with by the concerned Manager (Depot), Area Manager and GM Region. In view of this some of the provisions as contained in Model Tender Form including check list earlier circulated to all ED(Zone) and GM(Region) to keep strict watch on performance of contractor and take remedial action if any defect is found in observance of law / rules were reiterated along with responsibility of Contactors and of FCI as Principal Employer toward payment of wages to Contract workers vide this Circular for strict compliance.

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Sl. No.	Date	Status	Brief Subject	Annex										
1	14.11.1970	MOS	MOS u/s 12(3) of the ID Act 1947 between the management of FCI, Calcutta and the workmen represented by the FCI Workers' Union (INTUC) Calcutta on strike notice dated 16.09.1970 over charter of 5 demand.	107										
2	11.05.1984	MOS	Extension of Fringe benefits to the departmental workers of Delhi region.	108										
3	24.05.1984	MOS	Extension on Fringe benefits to the departmental workers of UP & Delhi region.	109										
			<table border="1"> <tr> <td>1</td> <td>Adhocincrease in monthly wage and lump sum payment.</td> </tr> <tr> <td>2</td> <td>30% increase on the incentive earning.</td> </tr> <tr> <td>3</td> <td>Incentive earning to be counted for the calculation of gratuity and Provident Fund.</td> </tr> <tr> <td>4</td> <td>HBA facility to the departmental labour.</td> </tr> <tr> <td>5</td> <td>Fringe benefits including minimum guaranteed wages to the Direct Payment System Workers.</td> </tr> </table>	1	Adhocincrease in monthly wage and lump sum payment.	2	30% increase on the incentive earning.	3	Incentive earning to be counted for the calculation of gratuity and Provident Fund.	4	HBA facility to the departmental labour.	5	Fringe benefits including minimum guaranteed wages to the Direct Payment System Workers.	
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4	HBA facility to the departmental labour.													
5	Fringe benefits including minimum guaranteed wages to the Direct Payment System Workers.													
4	03.07.1986	MOS	Memorandum of understanding dated 03.07.1986 between the FCI workers Union and the management of FCI.	110										
			<table border="1"> <tr> <td>(i)</td> <td>Introduction of DPS in 14 depots w.e.f. 01.05.1986</td> </tr> <tr> <td>(ii)</td> <td>Adhoc increase in wages of Rs. 150/- per month to departmental workers of Assam, Bihar, Orissa and Delhi and Rs. 125/- per month for departmental works for UP will be treated as wages for the purpose of OTA, Incentive, wage encashment of leave and ex-gratia w.e.f.date of adhoc increase.</td> </tr> <tr> <td>(iii)</td> <td>Award of Momento (Gift) to retiring departmental labour. it was agreed to give Momento (gift) of Rs. 500/-</td> </tr> </table>	(i)	Introduction of DPS in 14 depots w.e.f. 01.05.1986	(ii)	Adhoc increase in wages of Rs. 150/- per month to departmental workers of Assam, Bihar, Orissa and Delhi and Rs. 125/- per month for departmental works for UP will be treated as wages for the purpose of OTA, Incentive, wage encashment of leave and ex-gratia w.e.f.date of adhoc increase.	(iii)	Award of Momento (Gift) to retiring departmental labour. it was agreed to give Momento (gift) of Rs. 500/-					
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Sl. No.	Date	Status	Brief Subject		Annex
6	07.11.1988	MOS	Extension of certain benefits to the DPS labourers		112
			1	Enhancement of minimum guaranteed wages of DPS workers to Rs. 780/- per month	
			2	Enhancement of ASOR (piece rate wages)	
			3	Revision of Sick Leave from 7 days to 10 days	
			4	Identification of surplus DPS workers	
			5	Payment of arrears of Sunday/holidays	
7	08.11.1988	MOS	It was agreed to adjust DPS labour of closed Sahibabad depot to Nareladepot in Delhi Region subject to payment for minimum guaranteed wages piece-rate wages and other benefits etc as contained in MOS dated 24.05.1984 and 07.11.1988		113
8	08.11.1988	MOS	It was agreed to pay total payment of incentive arrears amounting to Rs. 190/- for the major depots and Rs. 130/- for minor depots per worker per month as full and final settlement of all claims towards incentive wages arrears for the concerned departmental labour of Assam, Bihar and Orissa against Mitra Award and for all items of work performed by the concerned departmental labour in the concerned depots during the relevant period i.e. 1971-73 and 1981. FCI workers Union agreed not to raise this issue again before any authorities in future, as it was settled once and for all.		114
			Extension of Fringe benefits to the departmental workers of Delhi region.		115
9	30.05.1989	MOS	1	Lump sum payment of Rs. 3000 - 3500 and Rs. 200/- per month as interim relief subject to adjustment as per the final decision in WP No 222/1984	
			2	Increase in the ceiling limit of funeral expenses, supply of towel, boot, enhancement of ex-gratia amount of Rs. 1000/-	
			Extension of certain benefits to the departmental workers and introduction of direct payment system		
10	03.11.1989	MOS	1	Enhancement of Adhoc relief by 15% in calculation of incentive wages in respect of departmental labour	116

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Sl. No.	Date	Status	Brief Subject		Annex
			2	Lumpsum payment of medical expenses for outdoor treatment and reimbursement scheme of LTC expenses and admission of direct payment system workers in FCI's CPF scheme	
11	03.11.1989	MOS	(i)	It was agreed vide this settlement that 403 petitioner employed through handling contractors at Amritsar (Bhagawala, Vallah, Bhariwala and Sangrur sahib) and 67 petitioner workers of Nawanshahr depots and 31 petitioner workers of Ambala depots at the time of petition, will henceforth be engaged directly by FCI as direct payment system (DPS) workers subject to the benefits, terms and other conditions as exist in the settlement dated 24.05.1984 and	117
			(ii)	The settlement was in full and final settlement of all claims of the workers and they will have no claims whatsoever against the corporation in any matter connected with the Central Government Industrial Tribunal Award 12/83 and 24/83 and 49/84 or otherwise. No arrears would be paid to for any period prior to this agreement and all such claims for arrears by the workers will be dropped.	
12	05.06.1990	Minutes	Minutes of the meeting regarding induction of DPS workers in Amritsar Complex and Nawanshahr and parity in the working hours of the departmental and FCI employees in Delhi and UP Region.		118
13	12.04.1991	Agreement	Agreement between FCI management and FCI workers' Union regarding introduction of departmental and piece rate Labour system (B Category) in the notified owned and hired depots respectively.		119
14	10.04.1992	MOS	Extension and modification of the fringe and the wages benefits to the departmental/DPS/mate system workers.		120
			1	Reimbursement Scheme of lunch expenses, washing allowance and transport expenses to departmental workers.	
			2	Enhancement of the sanctioned strength in departmental/PRS depots w.r. to railhead operation and regularisation of 69 casual workers as Ancillary labour in FSD Mayapuri (Delhi).	

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Sl. No.	Date	Status	Brief Subject		Annex
			3	Extension of minimum guaranteed wages to mate system workers and interim revision of minimum guaranteed wages payable to DPS.	
15	15.05.1992	MOS	Extension of minimum guaranteed wages to the piece rate system (PRS) workers (B Category)		121
			1	Payment of minimum guaranteed wages to all PRS workers covered in agreement dated 12.04.1991	
16	07.05.1993	MOS	1	DEPARTMENTAL WORKERS Revision of rates of medical reimbursement and extension of scheme of Benevolent Fund/ Group Insurance/ Memento at the time of retirement. Filling of vacancies against sanctioned strength of departmental handling labour at Naraina. Payment of conveyance advance and of encashment of LTC (Bharat Darshan).	122
			2	DIRECT PAYMENT SYSTEM WORKERS Revision of ASOR (Piece rate wages), minimum guaranteed wages and minimum guaranteed wages PLI Scheme	
			3	MATE SYSTEM WORKERS Assessment of labour strength and extension of minimum guaranteed wages to the Mate system workers	
17	12.07.1993	MOS	Introduction of Three Member Committee (TMC) in 73 depots in Punjab Region.		123
18	01.11.1994	MOS	Introduction of Departmental System in the depots covered in NIT, Bombay Award. Upgradation of Mate System into DPS and assurance for examination of demand for abolition of Contract System in 72 depots.		124
19	01.11.1994	MOS	1	Departmental Workers Revision of rates of liveries, TA, Ceiling Limit of Sick Leave/Casual Leave and Holidays, and revision of present incentive scheme.	125
			2	Direct Payment System Workers Revision of Minimum Guaranteed Wages/ ASOR.	
			3	Revision of S.O.R in respect of "Three Member Committee System" 73 depots of Punjab Region.	
			4	Miscellaneous Revision of Rates of Benevolent Fund to PRS (B Category) and DPS workers.	

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Sl. No.	Date	Status	Brief Subject	Annex
20	06.12.1994	Settlement	Settlement of Wage Structure of the Port and Dock Workers from 01.01.1993 for five years by the Management of Major Port Trusts. The payscale as contained in this settlement were extended to FCI departmental labour as per the judgment dated 20.07.1990 of Hon'ble Supreme Court of India.	126
21	05.04.1995	Bipartite Settlement	Extension of fringe benefits and Minimum Guaranteed Wages to the three Member Committee workers in Punjab Region.	127
22	24.05.1995	Minutes	Induction of 69 workers closed Dal Mill Workers of Talkatora Lucknow depot under Departmental Labour System	128
23	28.06.1995	MOS	Induction of PRS (B Category)/Departmental Workers in notified depots of UP region DPS workers in Kosikalan. Adjustment of workers of closed Dal Mill.	129
24	04.07.1995	Bipartite Settlement	Introduction of TMC on the basis of 'No work no Pay' in UP, Rajasthan and Bihar Region	130
25	07.12.1995	Minutes of Meeting	Minutes of Meeting with FCIWU regarding sanction/induction/identification of Ancillary labours in 73 depots under TMC in Punjab Region.	131
26	13.03.1999	Bipartite Settlement	Bipartite Settlement under section 18(1) of Industrial Dispute Act, 1947 and Rule 58 of Industrial Disputes (Central Rules), 1957 between FCI Management and FCI Workers Union regarding (i) incentive wages scheme of departmental labour (ii) introduction of DPS in PB Region.	132
27	02.08.2000	Tripartite Settlement	This settlement was signed between Management of Major Port and Federation of Port and Dock Workers Union on revision of pay scale of port and Dock Workers w.e.f. 01.01.1997 (Notionally) 01.01.1998 (effectively) to 31.12.2006 and fringe benefits from the dates mentioned in settlement item-wise. The pay scales as applicable to Dock Workers were granted to FCI departmental labour, in view of the judgement/order dated 20.07.1990 of Hon'ble Supreme Court of India in SLP No. 222 of 1984 (FCIWU v/s. FCI).	133

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Sl. No.	Date	Status	Brief Subject	Annex
28	23.08.2005	MOU	MOU between the Management of FCI and FCI Workers Palledar Union (Khanna), FCI Workers' Palledar Union (Tohana) and All India Trade Union Congress (AITUC) for introduction of Contract Workers Committee in depots of FCI in Punjab and Haryana.	134
29	01.06.2007	MOU	MOS was Signed between FCI and FCI workers Union for introduction of Contract Labour through workers committee in the 8 depots of Punjab.	135
30	07.11.2007	Tripartite Settlement	This settlement has been signed with FCIWU before the RLC(C), Kolkata on merger of labour gangs working under departmental and DPI Labour System and filling up of the posts of Sardar from Mandal and Mandal from Handling Labour on the basis of depot-wise seniority.	136
31	19.01.2010	Tripartite Settlement	This settlement was signed between the Management of Major Port Trust and Federation of Port and Dock Worker on revision of pay scale of Port and Dock Workers w.e.f. 01.01.2007 to 31.12.2011 and fringe benefits from the dates mentioned in this settlement item-wise.	137
32	07.04.2011	Tripartite Settlement	This settlement was signed with FCIWU before the RLC(C), Kolkata in regard to payment of an advance of Rs. 5,000/- to DPS labour against their demand for the revision of rates of minimum daily wages and piece-rate wages w.e.f. 01.04.2010.	138
33	11.05.2011	Tripartite Settlement	This settlement was signed with FCIHWU on following items (i) Extension of three national holidays to NWNP system on National Holidays. (ii) The ex-contractor workers will be inducted as per the assessment norms of FCI in the depots notified for the prohibition of contract labour under CL (R&A) Act.	139
34	03.08.2012	Tripartite Settlement	This settlement was signed with FCIWU before the Dy. CL C(C) Kolkata on following items	140
			(i) Revision of minimum daily wages in respect of DPS Labour System workers across the country on the basis of rates notified by the Ministry of Labours, Govt. of India for 'A' areas after every six months i.e. on 1st October and 1st April of every year.	

FOOD CORPORATION OF INDIA

Sl. No.	Date	Status	Brief Subject	Annex
			(i) Revision of minimum daily wages in respect of DPS Labour System workers across the country on the basis of rates notified by the Ministry of Labours, Govt. of India for 'A' arears after every six months i.e. on 1st October and 1st April of every year.	
			(ii) Minimum daily wages of 'A' arears as notified by the "Appropriate Government" shall be paid to Ancilliary Worker as base throughout the country. The gap of Rs. 30/-, Rs. 5/- and Rs. 13/- in the daily minimum wages between Ancillary Labour and Handling Lbaour and handling laour and mandal and sardar respectively shall be maintained.	
			(iii) Periodicity of revision of ASOR/piece rate shall be every six months i.e. 1st October and 1st April of every year instead of existing procedure of two years. Misc. items - (i) Payment of exgratia in lieu of bonus as per amended provision of the payment of Bonus Act from the finacial year 2006-07 (ii) Settlement of Industrial dispute explore possibility for the pending before the RLC (C) Guwahati in respect ex-labour ex-cooperative society worker of Sangaiprou and Ukrul DPS depots (Manipur State) (iii) Payment of statutory terminal benefits to the DPS workers or their legal heirs of Karnataka and Maharashtra Regions of FCI (iv) Revision of rates of dusting operator allowance to direct payment and No Work No Pay Labour System works.	
35	03.08.2012	Tripartite Settlement	(i) This settlement was signed with FCI H.W.U in regard to revision of minimum daily wages, piece rate wages of DPS Labour working in the FCI's depots across the country on simillar lines as contained in the settlement dated 03.08.2012 signed with FCI W.U.	141
			(ii) Miscellaneous Payment of exgratia in lieu of bonus as per amended provisions of the payment of Bonus Act from the financial year 2006-2007 to the Departmental/DPS/ No Work No Pay Labour System.	



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