conditions in the region where the candidate is to serve. [80]

Though the conciliation officers are ultimately responsible to the Chief Labour Commissioner, they are immediately under the control of the regional labour commissioners. In matters of discipline and punishment, the conciliation officers are under the control of the President of India. Promotion is made on the recommendation of the Departmental Promotion Committee for Class I posts under the Government of India in the Ministry of Labour and Employment. The regional labour commissioners send to the Chief Labour Commissioner annual confidential efficiency reports about the conciliation officers under their control. In matters relating to their sphere of work, conciliation officers are responsible to the Chief Labour Commissioner through the regional labour commissioners who work as supervising and co-ordinating officers. The regional labour commissioners act as conciliation officers in important disputes in their areas.

Procedure before conciliation officers

Conciliation is the last stage of mutual negotiations, the previous stage being joint negotiations amongst the parties themselves. Conciliation is an attempt to settle the dispute with the help of outsiders who assist the disputants in their negotiations. The sole objective is the settlement of a controversy by bringing the parties themselves to agree upon a solution. The conciliator's task is to pacify the hostile elements and by imagination and persuasive power to develop a common ground upon which the parties can meet. He is not to decide what is right or wrong in any legal sense, but merely to adjust conflicting interests in a practical work-a-day manner. Conciliation involves a balancing of the conflicting factors that influence the opposing parties. A conciliation proceeding cannot be conducted under fixed and rigid rules. The proceedings are and should be as informal as possible. But this is not to say that the conciliator should act without following any rules and procedure. Official conciliation services operate in all countries under certain regulations covering subjects such as regional jurisdiction, jurisdiction of the subject-matter, summons, hearings, taking of evidence, etc. But Governments have set simple and flexible rules and have kept them to a minimum in order to preserve as much of the informal character of conciliation as possible.

Likewise, the rules framed under the Industrial Disputes Act, 1947, concerning the powers, procedure and duties of conciliation officers

80. Rules 4, 5, 6 and 9, The Conciliation Officer (Central) Recruitment Rules, 1958.

are of a very general nature. For example, Rule 12 lays down that the Conciliation Officer must conduct the proceedings expeditiously. So, in disputes in non-public utility services, the conciliation officers before commencing conciliation proceedings make preliminary investigations of the grievances, complaints or demands referred to them by the parties. In the majority of the cases, the complaining parties are the employees.[81] The Conciliation Officer does not take cognizance of demands or grievances referred to him by an individual worker[82] or by any trade union which is not registered under the Trade Unions Act, 1926. The right to represent workers in conciliation proceedings is conferred only on registered trade unions under the provisions of s. 36 of the Industrial Disputes Act.

The preliminary investigation conducted by the Conciliation Officer consists of examining whether the Union referring the dispute to him is a registered one or not and, if it is, whether the grievances or demands which are presented constitute an industrial dispute as the term is defined in the Act, as well as whether the dispute falls under the central sphere or the state sphere.

If he decides to commence proceedings the Conciliation Officer requires the party seeking conciliation to send a statement of its demands to him prior to the date set, with an adequate number of copies, as required under rule 10-A of the Industrial Disputes (Central) Rules, 1957.[83] He sends a copy of the statement when received to the opposite party for its preliminary comments. These comments convey the views of that party and enable the Conciliation Officer to determine whether the demands are bona fide or merely vexatious or frivolous. Generally the time taken for the preliminary investigation ranges from fifteen to thirty days. There are cases where the management delays in

81. In all the 208 cases of failure of conciliation cases, from 1st January, 1959, to 30th June, 1959, the complaining party was the employees.

82. Because the judicial opinion is that an industrial dispute as defined in sec. 2(k) of the Industrial Disputes Act must be a collective dispute, a dispute pertaining to an individual may, if taken up by all the other or a sufficient number of them or by a labour union, becomes collective and, therefore, an industrial dispute. But a dispute which at its inception is an individual one and continues to be such, cannot be regarded as an industrial dispute within the meaning of the Act. *Newspapers Ltd.* v. *State Industrial Tribunal*, [1957] S.C.R. 754: A.I.R. 1957 S.C. 532 at 537.

83. Rule 10-A(2): The party representing workmen involved in a dispute in a non-public utility service or in a dispute in a public utility service where no notice of strike is given under Rule 71, shall forward a statement of its demands to the conciliation officer (central) concerned before such date as may be specified by him for commencing conciliation proceedings. The statement shall be accompanied by as many spare copies thereof as there are opposite parties.

sending its comments, with the result that frequent reminders have to be sent by the Conciliation Officer and much time is taken in correspondence.

After examining the demands of the complaining party and the comments of the opposite party, the Conciliation Officer decides whether he should intervene or not. Once he decides to intervene, he intimates to the parties the date of commencement of the proceedings and requests them to attend a joint conference.[84] Neither the Act nor the rules have prescribed a form for the notice or the period of notice to be given, but each Conciliation Officer has evolved a kind of form. In the large majority of cases, a notice of seven days is given and enquiries have shown that the parties have found this period to be adequate. A specimen copy of the notice is appended to this Report as Appendix 'D'. In some cases the workmen enter into mutual negotiations with the management after sending a statement of their demands to the Conciliation Officer and inform him about the same.

The Conciliation Officer may hold a meeting of the representatives with both parties jointly or with each party separately.[85] But, generally in the beginning the officer issues notice to the parties for a joint meeting since it saves time and also affords the parties an opportunity to face each other and put forward their respective view points and comments about the dispute. There are occasions when one of the parties, usually the employer, refuses to attend a joint meeting. The fear of the management often is that joint discussions with the union representative before the Conciliation Officer would amount to recognition of the union which the management has not recognized. In such cases, the Officer meets the parties separately.

The Officer uses his discretion in selecting the venue for holding conciliation proceedings according to the convenience of the parties and the circumstances of the case. Where the parties are at a long distance from his office he fixes a place suitable to them. At his first meeting with the parties the Conciliation Officer ascertains that the representatives of the parties have been duly authorized to negotiate and enter into a settlement. In the past there have been

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84. On an average, the Conciliation Officer takes 64 days for completing investigation of the case before commencing formal conciliation proceedings. This average was arrived at on a study of 373 cases of failure of conciliation from July 7, 1958, to June 30, 1959.

85. Rule 11, Industrial Disputes (Central) Rules, 1957.

instances where failure to verify this fact has led to ineffective settlements. [86] The rules have prescribed a form of authorization for representatives [87] and lay down that a party appearing by a representative is bound by his acts. [88]

The Conciliation Officer usually permits a limited number of workers to sit with the union representatives because first, the Union representatives may be outsiders and unfamiliar with the workers of a unit or the complete data supporting the demands of the working and secondly, the representatives would hardly be in a position to put forward modified proposals without consultation with members of the group. Hence the presence of such members may avoid delay in the conclusion of the proceedings. As already stated, the proceedings are very informal in character. The parties sit around a table in the presence of the Conciliation Officer and discuss the matters raised by the dispute and the officer aids them to find a common ground for reaching an agreement.

The time-limit for conclusion of conciliation proceedings is fourteen days from the commencement. But experience has shown that the officer cannot adhere to this schedule in many cases. He may then prolong the proceeding with the written consent of all the parties.[89] But non-compliance with this provision does not render further proceedings before him invalid.[90] From the point of view of substance the Conciliation Officer is really expected to find out within fourteen days the chances of settlement, so that, if such chances are remote, further delay may be avoided and the dispute considered for compulsory adjudication as quickly as possible. In respect of public utility services, however, the Conciliation Officer strives very hard to conclude the proceedings within fourteen days, because the parties are prohibited from going on strike or declaring a lock-out during the pendency of the proceedings. [91] In order to pre-

86. Before the amendment of the rules in this respect, there was an instruction issued by the Ministry of Labour and Employment that the Conciliation Officers should verify that officers of trade unions or federations of trade unions on the one hand and officers of associations of employers or federations of such associations have the necessary authority to legally commit their organisations to any decisions that may be arrived at in the course of such proceedings. No. LR. 1 (169)/51.
Subsequently, in 1952, this matter has been incorporated in the rules by notification No. S R.O. 469 dt. March 7, 1952.
87. Rule 36, Industrial Disputes (Central) Rules, 1957. See Appendix 'E'.
88. Rule 37, *ibid.*
89. Section 12(6), The Industrial Disputes Act, 1947.
90. *The State* v. *Andheri Marol Kurla Bus Service*, A.I.R. 1955 Bom. 324.
91. Section 22(1)(d) and (2)(d), The Industrial Disputes Act, 1947.

vent delays departmental instructions have been issued to the conciliation officers not to give more than one or two adjournments and to complete the cases in all events within a period of two months.[92]

If the parties reach a settlement in the course of the proceedings, the Conciliation Officer drafts a memorandum of settlement in accordance with a form prescribed in the rules, [93] and has the parties sign it. He then sends a report to the Central Government, Director, Labour Bureau, Simla, Chief Labour Commissioner and the Regional Labour Commissioner.

Statistics of settlements [94]

A study of three hundred and fifty-six settlement cases in a one year period has revealed that on an average the Conciliation Officer takes sixty one days for arriving at a settlement. The range is from one day to three hundred sixty eight days and the median is fifty-nine days. When the cases are divided subject-wise, the data suggest that generally speaking, the conciliation machinery is sensitive to the urgency of the matters involved. In all cases where the workmen have threatened to go on strike or have actually gone on strike, or in which the employers have declared lock-outs the study of cases shows that the officer brought about a settlement within seventeen days on an average. In non-stoppage cases the officer takes an average of forty-seven days to settle a dispute in cases relating to discharge, suspension, dismissal

92. Ministry of Labour and Employment, Instructions dated November 30, 1954.

93. Section 12(3), The Industrial Disputes Act, 1947. A settlement arrived at in the course of conciliation proceedings or otherwise shall be in Form 'H' (Rule 58). The Form is given in Appendix 'B'. *Supra* note 37.

94. The period taken into account for arriving at an average is from July 7, 1950, to June 30, 1959, for settlement as well as failure of conciliation cases. The statistics of failure cases is discussed later.

356 settlement cases of this period (settlement arrived at in the course of conciliation proceedings) were examined. The general average of 61 days was obtained on the basis of 276 settlement cases because in other cases the eports of the Conciliation Officer did not mention the date of receipt of the dispute. In the majority of cases among the 276 cases the date of receipt of dispute is taken to be the date of the union's letter representing the dispute to the Conciliation Officer.

The total of 276 was divided up into three categories based on the subject-matter of the dispute. In the first category as is mentioned above in the text, there were 93 cases, 125 cases were in the second category and 58 were in the third.

There are 34 cases which involved either strike, or threatening of strike by employees or lock-out by employers.

or retrenchment of workmen. Disputes involving fiscal issues, such as demands for bonus, gratuity, provident fund, arrears of wages, the average time taken is longer, namely, seventy-six days, no doubt because of the economic difficulties involved. In all other types of cases, the average duration is fifty-seven days.

Subsequent steps in failure cases

When the Conciliation Officer finds himself unable to bring the parties to an amicable settlement, he tries to secure agreement by the parties to arbitration or voluntary adjudication in accordance with further provisions of the Act. [95] There is an administrative instruction to the effect that the officers of the Central Industrial Relations Machinery should not serve as arbitrators even if the parties desire them to function as such.

Section 10-A of the Industrial Disputes Act provides that parties to an industrial dispute may, by a written agreement, refer a dispute to arbitration. Rule 7 of the Industrial Disputes (Central) Rules, 1957, requires that the agreement to refer an industrial dispute for arbitration under sec. 10-A of the Act should be accompanied by the consent in writing of the arbitrator. An instruction states that officers of the Central Industrial Relations Machinery should not serve as arbitrators even if the parties desire them to function as such. The reasons, that the Government give, are the following :

(1) The function of arbitrators and those of officers of Industrial Relations Machinery are entirely different; while the arbitrator's award is binding on the parties, Industrial Relations Machinery officers have to bring the parties together and effect a settlement of the dispute by mutual consent and goodwill of the parties.

(2) As the officers of the Industrial Relations Machinery have been entrusted with the responsibility for the enforcement of awards and settlements in respect of industrial disputes in the central sphere,

95. In Bombay, under the Bombay Industrial Relations Act, 1946, before the close of the proceeding before him, the Conciliator has to ascertain from the parties whether they are willing to submit the dispute to arbitration. When the parties agree in a conciliation proceeding to refer the dispute for arbitration, the Conciliator must forthwith refer the dispute to the Labour Court or the Industrial Court as the case may be. See Sec. 58(6)(b) of the Bombay Industrial Relations Act, 1946. In addition, the Conciliator is empowered to refer any question of law arising in any conciliation proceeding to the Industrial Court for decision and any order passed by the Conciliator or the Board in such proceeding must be in accordance with such decision Sec. 61, the Bombay Industrial Relations Act, 1946.

they will have to enforce their own decisions as arbitrators. Combining these two functions, is not desirable.

(3) Arbitration by the officers of the Industrial Relations Machinery may expose them to various allegations in case any of the parties to the dispute feel aggrieved by the decision given. This may make it difficult for the officer concerned to perform his duties in his jurisdiction. An arbitration award is binding on the parties and has the same force in law as an award of an Industrial Tribunal.

If he fails to get the parties to agree to arbitration, the Conciliation Officer attempts to persuade them to agree to refer the dispute to adjudication by sending in a joint or separate application for such a reference under sec. 10(2) [96] of the Industrial Disputes Act. If the Government is satisfied that persons applying for this reference represent the majority of each of the disputing parties reference is ordered. There is an administrative instruction that in cases where both parties agree to refer a dispute for adjudication, the report of the conciliation proceedings should be accompanied by a joint application under sec. 10(2) of the Act specifying the addresses of the parties and including a certification by the Conciliation Officer or Regional Labour Commissioner, as the case may be, that the union which is concerned represents a majority of the workmen in the establishment in question. This instruction is issued to aid the Ministry in referring the dispute to a tribunal without delay, for the Act lays down that if both parties apply jointly or separately for reference of the dispute to a Conciliation Board or Tribunal, the Government is bound to comply if it is satisfied that the persons applying represent the majority of each party. If the failure report and application are accompanied by the required certification, a considerable amount of time is saved.

If the officer finds that the parties are not able to agree either to a settlement or to a reference to arbitration or voluntary adjudication, he is left with no other alternative but to submit a failure report to the central Government. The submission is required to be within two days. The failure report is factual in nature. It generally contains a brief history of the dispute and the circumstances leading to it and of his efforts to resolve it. The arguments advanced by the disputing

96. Sec. 10(2), The Industrial Disputes Act: When the parties to an industrial dispute apply in the prescribed manner whether jointly or separately, for a reference of the dispute to a Board, Court, Labour Court, Tribunal or National Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

parties are summarised. Since the setting up of a Code of Discipline [97] in industry in 1958, the conciliation officers are to indicate in their reports whether there have been breaches of the Code. A copy of the report is now supplied to both the parties. [98] Before 1950 the report was not supplied to the parties, but in that year the Chief Labour Commissioner instructed that copies should be supplied on request. In 1956, instructions were issued in accordance with suggestions made by the Informal Consultative Committee of Parliament attached to the Ministry of Labour & Employment to the effect that the copies should be supplied as a matter of course.

Along with the failure report the Concilation Officer sends a full assessment of the dispute to the Regional Labour Commissioner, the Chief Labour Commissioner and the central Government indicating the parties to the dispute together with their addresses; whether the union constitution provided for the method of settling disputes by adjudication or arbitration; whether a strike or lock-out has occurred in connection with the dispute and, if so, what the details about it are; the approximate number of workers involved in the dispute and employed in the establishment concerned; and, where possible, the membership of the union sponsoring the dispute and of any rival unions there may be. If the Conciliation Officer recommends adjudication, he is required to state clearly the issues that are to be referred.

The Indian Labour Conference held at Madras in 1959 evolved a set of model principles for reference of disputes to adjudication. These principles have been circulated to the concerned staff and have superseded the instructions that existed in the matter before. The officers of the Central Industrial Relations Machinery are to take the following principles into consideration before recommending adjudication, and the Government is to consider them before referring disputes to adjudication.

(1) All disputes may ordinarily be referred for adjudication on request.

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97. At the eighteenth Session of the Indian Labour Conference held at Nainital in 1958, the management and the four central trade union organizations agreed to abide by the rules contained in the Code of Discipline in Industry to achieve industrial harmony. The Code only morally enjoins its provisions on the employers and employees.

As the implementation of the Code is vital to industrial peace, the conciliation officers, in their task of conciliation, have been instructed to ascertain breaches of Code if there are any, and report to the Regional Labour Commissioner. The text of the Code is given in Appendix 'F'.

98. No specific form is prescribed for the report of the Conciliation Officer in respect of cases of failure of conciliation.

(2) Disputes may not, however, be ordinarily referred for adjudication

(i) Unless efforts at conciliation have failed and there is no further scope for conciliation and the parties are not agreeable to arbitration ;

(ii) If there is a strike or lock-out declared illegal by a court or a strike or lock-out resorted to without seeking settlement by means provided by law and without proper notice or in breach of the Code of Discipline, as determined by the machinery set up for the purpose, unless such a strike (or direct action) or lock-out, as the case may be, is called off ;

(iii) If the issues involved are such as have been the subject-matter of recent judicial decisions or in respect of which an unduly long time has elapsed since the origin of the cause of action ; and

(iv) If in respect of demands other legal remedies are available, *i.e.*, matters covered by the Factories Act, Workmen's Compensation Act, Minimum Wages Act, *etc.*

(3) Industrial disputes raised in regard to individual cases, *i.e.*, cases of dismissal, discharge or any action of management on disciplinary grounds, may be referred for adjudication when the legality or propriety of such action is questioned and in particular

(i) If there is a case of victimization or unfair labour practice ;

(ii) If the standing orders in force or the principles of natural justice have not been followed ; and

(iii) If the conciliation machinery reports that injustice has been done to the workman.

Within two days of his receipt of the failure report, the Regional Labour Commissioner forwards his recommendations to the Chief Labour Commissioner and the Ministry of Labour. He is also required to communicate his recommendations to the Ministry of Labour within five days of his receipt of the report. In the Chief Labour Commissioner's Office, the failure reports and the statement of demands of the parties and the view of the Regional Labour Commissioners are thoroughly scrutinized, and in case of omission of facts or vagueness in presentation of facts clarifications are sought from the conciliation officers concerned. Thereafter the Chief Labour Commissioner's recommendations are sent to the Ministry of Labour. There may be differences among the recommendations of the Regional Labour Commissioners, the Chief Labour Commissioner, and the

Conciliation Officer. The Ministry, except in very rare cases, acts on the recommendations of the Chief Labour Commissioner.

In order to permit effective supervision of the work of conciliation officers and to avoid delay in the disposal of conciliation cases, the officers were instructed in July, 1958, to report in each case the date of receipt of the dispute, the time of the actions taken by the Conciliation Officer at the various stages, the dates of meetings and postponements, and the reasons for delay at any stage. Previously there was no readily available information concerning, among other things, the time consumed by such proceedings. Hence the data collected for this report begin at that time. The introduction of this reform has supplied a healthful check on the tendency of conciliation officers to prolong the proceedings before them.

The Ministry informs the parties to the dispute of the date of its receipt of the failure report in order to give notice of the termination of the conciliation proceedings which are deemed to have been concluded only on that date.[99] On consideration of the report and the recommendations of the Regional Labour Commissioner and Chief Labour Commissioner, the Government may refer the dispute to a Conciliation Board, Labour Court, Tribunal or National Tribunal, if it is satisfied that there is a case for such a reference. If the Government does not make the reference, it records and communicates its reasons to the parties. As mentioned earlier, the Government almost invariably follows the recommendations of the Chief Labour Commissioner.

The Ministry took an average of forty days to consider its final order in one hundred and thirty eight instances from January 1 to June 30, 1959. There are cases where the Ministry takes more than two months to reach its decision,[100] especially when it seeks clarifications from conciliation officers or consults other Ministries, including the Ministry of Law for proper phrasing of terms of reference. Sometimes the delay may be deliberately designed in the interest of industrial peace, to permit tempers to cool and negotiations to take place. In urgent cases the Ministry may act with great speed, as it did in fourteen of the instances studied.

99. Section 20(2)(b), The Industrial Disputes Act, 1947.

100. The total number of failure of conciliation cases from January 1, 1959, to June 30, 1959, is 208. In 70 cases the Ministry had not passed the final order. In 31 cases the Ministry took more than two months. In the remaining 107 cases the Ministry passed the final order in less than two months. In fourteen of these the Ministry passed the final order within fourteen days and in one case the very next day.

There are instances in practice where, after the submission of failure reports by conciliation officers, conciliation proceedings are re-opened either by the officers themselves or by the Regional Labour Commissioner upon the instruction of the Chief Labour Commissioner or the Ministry. Amicable settlements are sometimes brought about in this manner. The legality of this practice will be discussed later.

The Regional Labour Commissioners have been instructed by the Chief Labour Commissioner to themselves undertake conciliation where the issues involved are important and the pressure on conciliation officers is great. The conciliation officers and Regional Labour Commissioners have to submit monthly statements to the Chief Labour Commissioner showing the number of conciliations taken up by them and the number of cases disposed of during each month. These statements enable the Chief Labour Commissioner to watch the progress of the cases.

Statistics of failure of conciliation cases [101]

A study of three hundred and seventy three cases of failure of conciliation from July 7, 1958, to June 30, 1959, shows that in such cases, on an average, the conciliation officers take sixty-four days for investigation and forty days to conclude the proceedings. The total time taken from the receipt of a dispute to receipt of failure report by the Government is one hundred and eight days. When the workmen have given notice of strike or have gone on strike, or when employers declared lock-outs, however, the conciliation officers have concluded the proceedings and sent failure reports to the Government within ten days on an average. In disputes relating to discharge, suspension, dismissal and retrenchment of workmen taken together, the time consumed for investigation, conciliation efforts, and over-all has been forty-seven days, forty days and ninety-one days respectively. In cases involving fiscal demands the corresponding time taken has been eighty-six days, forty-six days and one hundred and thirty-four days respectively. In all other types of cases they have been sixty-five days, thirty-eight days and one hundred and six days respectively.

101. As in the settlement cases, 373 cases of failure of conciliation were examined in the period from July 7, 1958, to June 30, 1959. The total number was classified into three, categories on the basis of the subject-matter of the dispute mentioned in the text. There were 166 cases in the first category, 103 in the second and 104 in the third. There were 18 cases which involved strike or threatening of strike by workmen or lock-out by employers.

Implementation of awards

The Officers of Central Industrial Relations Machinery are entrusted with the duty of verifying the implementation of awards and of settlements arrived at between the parties themselves or in the course of conciliation proceedings. To this end the Conciliation Officer asks for implementation reports from the employers and trade unions concerned. The Conciliation Officer seeks confirmation of employers' reports from the unions. After receiving it he informs the Regional Labour Commissioner of the implementation. The Regional Labour Commissioner informs the Chief Labour Commissioner who in turn conveys the information to the Ministry of Labour and Employment. If the Conciliation Officer does not hear from the union, he addresses a registered letter with acknowledgment due to the union, stating that in case he does not receive a reply within seven days the award or settlement will be considered as implemented and the case treated as closed. In fifty-one out of four hundred and twenty-one cases from July 7, 1958, to June 30, 1959, the union failed to reply to such a notification.

In case either of the parties to an award or settlement commits a breach, the Conciliation Officer issues a show cause notice to the party at fault as to why it should not be prosecuted under sec. 29 of the Industrial Disputes Act.[102] Under the Act, any person who commits a breach of an award or settlement binding on him is punishable with six months' imprisonment or with fine or with both.

The statistics[103] of the settlements effected by the Central Industrial Relations Machinery officers for the past four years reveal that on an average sixty four per cent. of the conciliation proceedings result in amicable settlements. Thus the Industrial Relations Machinery can claim considerable credit for bringing about industrial peace.

An Evaluation and Implementation Division under a Joint Secretary has been set up in the Ministry of Labour and Employment

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102. Only in 2 out of 421 cases from July 7, 1958, to June 30, 1959, the Conciliation Officer issued show cause notices to the employers for not implementing the settlement.

103.

	1954–55	1955–56	1956–57	1957–58
Conciliation proceedings and joint meetings held.	2168	2229	2273	1745
Settlements effected.	1496 (60%)	1573 (62%)	1480 (65%)	1097 (63%)

to examine cases of non-implementation or partial, delayed or defective implementation of labour laws, awards and settlements. The Division also makes a scientific evaluation of the results of these various measures. The state Governments, All-India Organizations of Employers and Workers and Members of Parliament have been requested to furnish information concerning such non-implementation. This Division also studies the observance of the Code of Discipline in industry by employers and employees.

SUGGESTIONS AND RECOMMENDATIONS

I. Adoption of a rule authorising reopening of a conciliation case after failure report

Neither the Industrial Disputes Act, nor the rules framed thereunder, has any provision for re-opening of conciliation proceedings after the submission of failure report by the Conciliation Officer. But in practice the Chief Labour Commissioner or the Ministry, on receipt of a failure report of the Conciliation Officer, occasionally directs the Regional Labour Commissioner to intervene after giving the parties adequate notice. In such cases, the Regional Labour Commissioner initiates conciliation proceedings *de novo* and sometimes succeeds in persuading the parties to come to a settlement.[104] The object of the Act in bringing about industrial peace and the policy of the Government in settling disputes by voluntary means without resorting to compulsory adjudication are fulfilled by this practice. But there is no stated basis for this practice. The view can be taken that, if it is announced, the parties to dispute would tend to rely on it and to be more adamant in their position during the original proceeding. At the same time the accepted principle in conciliation that all possible efforts be made to settle disputes should lead to formal recognition of the actual practice. A rule that specified it would be desirable.

II. The conciliation officers should reduce preliminary correspondence with the parties and should convene joint meetings of the parties at the earliest opportunity

In practice, as has been noted, the Conciliation Officer is rarely able to conclude the proceedings before him within the statutory period

104. An examination of the files of failure of conciliation cases from January 1, to June 30, 1959, reveals that out of a total of 208 cases, only in 9 cases the officers of the Central Industrial Relations Machinery re-opened conciliation proceedings after submission of failure report. Out of these 9 cases, in 5 cases holding of conciliation proceedings *de novo* resulted in an amicable settlement. In the remaining cases, the subsequent conciliation attempts were unsuccessful.