

# Workers connect...

## Over 10 years of Regularisation Battle of Contract Safai Workers

The Supreme Court on 7 April 2017 upheld a Bombay High Court order of 22 December 2016, regularising 2,700 contract workers employed by the solid waste management department of Brihanmumbai Municipal Corporation.

In 2007, the Kachra Vahatuk Shramik Sangh had filed a case for permanency with the Industrial Tribunal on behalf of 2,700 BMC contract safai workers. The tribunal ruled in favour of these workers after seven years on 13 October 2014 and ordered the BMC to regularize all 2700 workers with arrears from 2007. The BMC challenged this order in the Bombay High Court.

The High Court, on 22 December 2016, after two years ruled in favour of the workers and declared the BMC contract as "sham and bogus". The BMC challenged the High Court order in the Supreme Court.

The Supreme Court, while upholding the Bombay High Court ruling stated, that BMC engaged in such a paper arrangement only to avoid giving permanency to the workers and hired them through labour contractors. The SC further noted that the work performed by these workers is integral to the services of the municipality, is done round the year, and is directly supervised and controlled by the BMC, the principal employer in this case.

By the order, all 2,700 contract safai workers have been declared permanent employees of the BMC, with retrospective effect from 2014. This means the workers should be paid their arrears from the date of the Industrial Tribunal order.

A permanent BMC safai worker earns around Rs 22,000 a month against Rs 10,000 of a contract worker. The arrears (difference in salaries paid to permanent and contractual workers) would work out to about Rs 3.6 lakh per worker if calculated from October 2014 and to about Rs 7 lakh if calculated from 2007.

Apart from the 2,700 workers who have just won permanency, 3,000 contract workers

of BMC wait in line in three separate similar industrial disputes.

### State of Safai workers in some other cities

**Bhopal:** Contract safai workers work for 9 hours every day, with 1 hour of mandatory unpaid overtime. There are two shifts of work – the first shift begins at 6:00 am and ends at 3:00 pm and the second shift begins at 5:00 pm and ends at 2:00 am.

The wages are paid according to 2 different kinds of work contracts: (1) a 25 day contract and (2) a 89 day contract. Though the workers are always paid at the end of a month and each worker works for 30 days every month, their contracts differ and their payments too, based on the contracts. The workers on 25 day contracts work for 30 days but are paid for only 25 days in the month. These workers are hired through contractors and these contracts were first floated in 2003. 5 days of wage are lost by the workers every month.

But why do they accept this deduction when wages are so low? The choice and the number of jobs available to a dalit (SC) worker continue to be extremely limited and this employment option, since independence, has been one of the largest absorber of dalit workers in regular government employment with job security and dignity. Their hope is to move to the 89 day contract and then to be regularised as a permanent safai worker with retiral benefits.

The 89 day contract is, as the name suggests, a contract that spreads over 3 months in which the wage loss is for 1 day in 3 months as against 15 days in the 25 day contract. However, even in the 89 day contract, a worker has to work 30/31 days every month for full wages. The 89 day contract workers are workers who were on the rolls of the municipal corporation as casual workers in 2003 when the first contract was floated. They are, today, contract workers directly employed under the Municipal Corporation, while the 25 day workers are employed by contractors. The one day in their 3 month contract is treated

as a break in employment or a layoff and then they are rehired. This is to ensure discontinuity in service in order to ensure no claim can be made for regularisation under the Contract labour (Regulation and Abolition) Act, 1970 and subsequent Supreme Court orders.

In Bhopal Municipal Corporation, the Statutory Minimum Wage for unskilled workers in local authority work in August 2015 was Rs. 239.95 per day. But the safai workers were paid as per the "collectorate rate" (a rate fixed by the collector of the city) which was fixed at Rs. 197 with no paid weekly off.

**Rajkot:** The contract workers in Rajkot are provided work for 4 hours daily. There are three systems of contract in Rajkot: (1) Mitra Mandal – Self help groups of men; (2) Sakhi Mandal – Self help groups of women; and (3) Contract workers under Contractors. Their shift begins at 6:30 am and ends at 10:30 am, except for the Sakhi Mandal for whom the shift starts at 6 am.

**Sakhi Mandals:** According to the contract of the Rajkot Municipal Corporation with the Sakhi Mandals, each unit of a Sakhi Mandal must complete a door to door garbage collection from 300 households/shops. Each unit of a Sakhi Mandal comprises of 8+1 members who should be paid Rs.13 per month from each door they collect the garbage from.

Over and above this payment, the Sakhi Mandal is paid an additional Rs. 2000 by the Municipal Corporation for their services. This means, each unit of a Sakhi Mandal is paid a total of Rs. 3900 + 2000 = Rs 5900 per month for their 4 hour service every day of the month. This further means that each member of the Sakhi Mandal earns a maximum of Rs. 655.55 per month, which is nowhere near the minimum wage. In fact, it is less than 2 days of minimum wage for safai work in the city the Rajkot.

The monthly fund earned by the members of the Sakhi Mandal is kept in a bank and the members can borrow from this fund at times of economic exigency at a nominal interest rate which again becomes an earning for the Mandal. Thus, the members of the Mandal are not paid a wage on a monthly basis at all.

**Kanpur:** In Kanpur Municipal Corporation, the statutory minimum monthly wage for a Safai worker in August 2015 was Rs. 8741 (Rs. 7500 monthly pay + 885 PF + 365 ESI). But, the

contract awarded to the contractor was signed at a rate of only Rs. 5969 per worker, inclusive of all government taxes. There was no additional provision of PF or ESI specified in the contract.

**Delhi:** The erstwhile unified Municipal Corporation of Delhi (MCD) was trifurcated in 2012 into NDMC, SDMC and EDMC. There are around 60,000 safai karamcharis working in the 3 Delhi Municipal corporations.

There have been several strikes since 2015 of the municipal safai workers. The reason for the strikes have primarily been – non-payment of wages and arrears due to lack of funds.

Workers hired through private contractor are the worst off. They are paid about Rs.5,000 a month and have no protective equipment and are made to perform the most hazardous tasks. More than 3,500 sewerage workers have died between 1996 and 2015 in Delhi alone. The 2008 Delhi High Court order on a public interest litigation petition directed the civic bodies to provide adequate protective gear and free medical care, compensate for occupational diseases, and create separate funds for statutory provisions like provident fund and gratuity. The civic authorities have hardly followed any of these judicial instructions properly.

The East Delhi Municipal Corporation where the longest strikes have taken place employs around 25,000 sanitation workers out of which around 17,000 are permanent. The EDMC has renamed the municipal contract sanitation workers as 'paryavaran sahayaks' but the payment of wages has not regularised.

## Policy News

### ***EPFO allows 90% withdrawal to buy a house:***

**24 April 2017:** Employees will now be allowed to withdraw up to 90 per cent of their accumulations in their Provident Fund account for purchase of a house. The EPFO has amended the scheme by inserting a new paragraph - 68 BD - to the Employees' Provident Funds (EPF) Scheme, 1952, to enable a subscriber to make down payment to buy land, flat or a house of your own and pay EMIs through the EPF account.

This is subject to 3 primary conditions: 1. the member applying should have at least contributed to the fund for three years; 2. The facility will be available only once to every member during his or her lifetime; and 3. The

rule applies to all those who together with their subscriber spouse have at least Rs 20,000 in their accounts.

## **Collective Bargaining**

### **No progress in wage revision discussions in Tamil Nadu utensil manufacturing cluster:**

17 April 2017: Employers at the Anupparpalayam stainless steel, brass and copper utensils manufacturing cluster in Tirupur have started insisting for introduction of 'slab based revision' of wages thereby further delaying the wage revision for workers. The unit owners are opposing the conventional system of fixing a flat rate of increase in wages for a three-year wage agreement period. They are proposing an agreement on a rate of increase of wages, and then spreading that out over a period of 3 years.

The employers have raised this issue after fourth round of negotiations between them and representatives of eight labour unions. The unions are opposed to this new formula for wage increment.

### **Union at IDBI Bank calls off strike as wage negotiations begin:**

12 April 2017: The United Forum of IDBI Officers and Employees called off its one-day nationwide strike following a conciliation meeting held by the Deputy Chief Labour Commissioner in which the management has been advised to finalise the wage revision settlement before 8 May.

In view of this, the strike has been deferred and Union has decided to attend bilateral talks to explore the possibility of settlement.

## **Discrimination**

### **Jet Airways pilots claim discrimination at work:**

29 April 2017: The National Aviators' Guild (NAG), the union of Jet's Indian pilots, lifted their decision of 15 April to not fly with the expat pilots of the airline from 1 May.

Jet has about 100 expat and 860 Indian commanders for its mixed fleet of Boeing 737, 777; Airbus 330 and ATRs. In all, the airline has about 1,900 pilots (co-pilots and commanders).

The contention between the two sections of pilots is that expat pilots work for eight weeks and get two weeks off, while Indian pilots have to work upto 11 weeks to earn the same two

weeks break.

The decision of 15 April of not training or flying with the expat pilots was triggered by the racist comments and physical/ verbal abuse by certain expat pilots.

In light of the busy holiday season ahead, the management has assured the union that due process will be followed and suitable action as per company policy would be taken against the concerned expat pilots.

### **UP government proposes shifting of Kanpur Tanneries:**

15 April 2017: The newly elected Uttar Pradesh government has proposed to shift the Kanpur tanneries to a new site as these are a 'major source of pollution' of the river Ganga.

The earlier government had opposed the idea of shifting over 400 of these tanneries from the Jajmau cluster of Kanpur that provide employment to over 20 lakh people due to paucity of land. While most of the employers are muslims, the workers are dalits. In the last 5 years, about 150 of these 400 have been shut down following the NGT order.

The pollution of the Ganga is not caused solely by the tanneries. Effluents from other industries like distilleries, sugar, paper and pulp units also need to be looked into.

## **Health and Safety**

### **EPF members can now submit self-declaration for advance in case of illness:**

28 April 2017: EPF members can now submit a self-declaration for the advance in case of illness of themselves or their dependents. Differently-abled members will also get advance on the basis of self-declaration. A member will no longer be required to submit any medical certificate or any other such document to avail advances under paragraph 68-J or under paragraph 68-N of EPF Scheme 1952.

### **Bengal to merge five social security schemes:**

17 April 2017: The West Bengal government today decided to merge five social security schemes into a single "Samajik Suraksha Yojana". The 5 schemes are: Social Assistance Scheme of Provident Fund for Unorganised Workers, West Bengal Unorganised Sector Worker Health Security Scheme, Building and Other Construction Workers' Welfare Board

Scheme, West Bengal Transport Workers Social Security Scheme and West Bengal Bidi workers welfare Board Scheme.

## **Workplace Safety Watch**

**2 Safai workers choke to death in Tarn Taran; 1 died in a manhole in Jamshedpur:** 2 contract safai karamcharis, Aman Kumar (35) and Prem Kumar Kaka (29), were asphyxiated to death while cleaning a manhole in Tarn Taran on 30 April 2017. Both workers did not have any protective gear.

Ganesh Karua, a 30-year-old contract worker employed by the JUSCO health and sanitation wing, died of asphyxiation due to methane poisoning in Jamshedpur on 11 April morning after his supervisor sent him down a 20-foot-deep sewer manhole on the company's premises to fetch a gas measurement equipment that the latter accidentally dropped.

**5 killed in explosion at fireworks factory: 29 April 2017:** 5 persons, Rashid Ali (55), Sagir Khan (40), Ashfaque Ali (40), Qutubuddin (50) and Rafique (60), were charred to death at a fireworks factory after a barrel full of explosives caught fire and detonated in Ghaziabad's Farukh Nagar area. There are as many as 20-25 fireworks factories are located in the area, many of these are unregistered.

**Autoworker dies on duty:** Gurugram, 6 April 2017: Shatrughan Prasad (37), a migrant contract worker from Bihar, died when his head got stuck in the conveyer belt while cleaning it. He has been working at SPM Autocomp Systems Pvt. Ltd. in sector 3, IMT Manesar for the last 3 years. The company manufactures Exhaust Manifold for Maruti Suzuki India Limited. Over 500 workers are employed at this plant. This incident occurred at about 5 am.

**NREGS workers die of sunstroke:** Kotipalli Satyanarayana, a 65-year-old NREGS worker died due to sunstroke while cleaning Mankinapalli water tank at Kamavarapukota village in West Godavari district on 26 April. He was engaged in the Mankinapalli tank work since February this year.

Earlier on 22 April, 25-year-old JRamesh, who was engaged in the NREGS works at Kollivarigudem of Guntupalli panchayati in Kamavarapukota mandal also died of a sunstroke.

## **Legal News**

**India eases rules to allow merger of Indian companies with foreign firms:**

**19 April 2017:** Government of India will allow local companies to merge with overseas firms, easing rules to help home-grown businesses restructure their expanding global operations. Until the 13 April notification, only inbound mergers were permitted. The merger would be in compliance with the Companies Act, 2013, and require prior approval of the Reserve Bank of India (RBI).

The notification also lists certain jurisdictions on the foreign companies, covering countries that comply with rules such as being members of the Financial Action Task Force (FATF) and whose central banks are members of the Bank for International Settlements (BIS).

**Government makes compliance of Labour Laws and Rules easy:**

**1 April 2017:** Government notified the Rationalisation of Forms and Reports under Certain Labour Laws Rules, 2017 on 28 March 2017 thereby reducing the number of forms and reports to be submitted under 3 laws: The Contract Labour (Regulation and Abolition) Act, 1970; The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; and The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 from 36 to 12.

The overall aim of the exercise is to simplify forms and reports and reduced the compliance responsibility of employers.

## **In and Around**

**MGNREGS wage hike lowest ever:**

**1 April 2017:** The wages under the Mahatma Gandhi National Rural Employment Guarantee Scheme have been raised by 2.7 per cent for 2017-18, the lowest hike ever under the scheme.

For states such as Assam, Bihar, Jharkhand, Uttar Pradesh and Uttarakhand, such a low percentage increase would translate into an increase of just Re 1. While drought-hit states such as Odisha and Tamil Nadu would see an increase of Rs 2, and the states of Andhra Pradesh and Telangana of Rs 3.

Earlier, the finance ministry rejected the recommendations of an expert committee set up

by the rural development ministry, which sought a fair revision of MGNREGA wages to bring them on par with the minimum wages paid to unskilled agricultural workers in the states. In its report, the 7-member expert committee made two essential recommendations: the baseline for MGNREGA indexation should be the current minimum wage fixed by the state for unskilled agricultural workers; the Consumer Price Index for Rural (CPI-Rural), which reflects the current consumption pattern of rural households, should be the basis for revising MGNREGA wage rates, and not CPI for Agricultural Labourers, which is based on the consumption pattern of 1983.

With stagnation of the MGNREGS wages, in over half the states the MGNREGS wages are way below the state's minimum agricultural wage. In several others, it is only marginally higher.

Jharkhand, which has the highest out-migration according to the Economic Survey of India 2017, has the lowest MGNREGA wage — Rs 168 per day, way below its agricultural minimum wage of Rs 224 per day.

### ***UP government bans strikes in universities, colleges under ESMA:***

*Lucknow, 1 April 2017:* The Uttar Pradesh government has put employees and teachers in the state universities under the Essential Services Maintenance Act (ESMA) and put a complete ban on strike by them with immediate effect.

UP has 18 state universities, and close to 4,000 colleges including government, government-aided and self-finance

## ***News from Around the World***

### ***4 years after Rana Plaza:***

*Dhaka, 24 April 2017:* Thousands of garment workers staged tearful demonstrations across the country to mark the anniversary of the Rana Plaza factory disaster of 2013 in Savar area of Dhaka district that killed 1,138 people, injuring over 2500 workers, demanding justice for the victims and better pay and working conditions at garment factories in Bangladesh.

Four years later, no one has yet been convicted over the collapse of the Rana Plaza factory complex in one of the world's worst industrial tragedies. A court last year ordered that Sohel Rana, the owner of the building and 40 others, including officials of the 5 garment factories operating in the building and government

inspectors, should face trial for murder. They are accused of falsely certifying the factory complex as safe.

The building housed a number of separate garment factories employing around 5,000 people, several shops, and a bank. The factories manufactured apparel for brands including Benetton, Bonmarché, the Children's Place, El Corte Inglés, Joe Fresh, Monsoon Accessorize, Mango, Matalan, Primark and Walmart.

Authorities have provided compensation for the 3,000 victims, including the injured and families of the dead, but many survivors say it is not enough to even cover their medical expenses.

*Brazil goes on countrywide strike: 29 April 2017:* Brazilian trade unions and left organisations staged countrywide strikes against President Michel Temer's austerity measures that would weaken labour laws and cut pensions. Strikes hit all 26 states and the Federal District.

On the streets, police clashed with demonstrators in several cities, blocking protesters from entering airports and firing tear gas in efforts to free roadways. Police used tear gas to clear highways of protesters, but bus services, the metro and trains all stopped working, bringing the city temporarily to a standstill.

Temer's original proposal would set a new minimum age for retirement — sixty-five years — eleven years ahead of the current average retirement age. The bill mostly applies to younger workers, but men over fifty and women over forty-five would suffer a 50 percent increase in their remaining contribution time. The problem is that now one has to work for double the time to earn the pension they have already earned. It would delink pensions from the already-low minimum wage. And it would seek to eliminate special provisions for Brazil's public-sector workers, a move clearly in keeping with Temer's broader privatization agenda.

### ***Amazon using peer pressure to keep German warehouse workers from taking sick leave:***

*20 April 2017:* To push workers not to use their paid sick leave, Amazon has instituted a controversial policy that relies on peer pressure to ensure higher attendance at work.

The policy, in effect at some of Amazon's fulfillment centers in Germany, gives workers a

bonus of between 6% and 10% of their monthly salary if they have used few paid sick days that month. But workers can only reach the top bonus level if coworkers on their teams also have good attendance records. German law ensures that workers generally receive full pay for sick days, and workers are not required to provide a doctor's note until after the third day they stay home with an illness. Amazon, has 9 fulfillment centers and about 12,000 permanent workers in Germany, implemented the "paid sickness bonus" policy last year.

Ver.di, the trade union that represents Amazon workers, has rejected the group bonus structure as it plays workers against each other and encourages them to come to work sick since wages are extremely low.

### **GMB files 'Uber-like' case against Amazon:**

**1 April 2017:** The GMB union, representing workers at Amazon, today launched legal action against national logistics company UK Express, on behalf of workers at Amazon. The case is the latest in a series being brought by GMB on behalf of members to tackle the growing trend of bogus self-employment and gig economy exploitation. It follows the union's ground-breaking victory against Uber.

GMB has taken the legal cases on behalf of members who deliver for Amazon, contending that the drivers should be classed as workers, meaning they would be legally entitled to 5.6 weeks paid annual leave per year, the National Minimum Wage at £7.20 per hour for over 25s, increasing to £7.50 from April 2017, paid rest breaks and whistleblower protection.

GMB claim that Amazon drivers are workers, and potentially employees, on the ground that: (i) Amazon impose control on drivers relating to routes, sanction them for 'poor performance' and require them to pay for a van hired from the company; (ii) Amazon Logistics require the drivers to be available for 15 days per month; (iii) Limited right of substitution - money is deducted from a driver's pay if they cannot work; and (iv) Drivers are prohibited from working for a competitor.

### **Corporate Watch**

**After 21 years in operation, GM shuts Halol plant:** General Motors, one of the earliest foreign automotive multinationals to enter

India, stopped its operations at its Halol facility in Gujarat on 28 April 2017. The plant, with a capacity of 110,000 units a year, and with a workforce of about 1000, produced the Tavera, Enjoy and the Cruze models. GM had started the Halol plant in 1996 with products made under the German brand Opel. GM will now operate only from its Talegaon facility in Maharashtra.

The automaker had announced its decision to stop operations at this plant in July 2015.

About 625 of the 1,000-odd workers continued to agitate against the voluntary separation scheme (VSS) package and transfer offers. About 50 had accepted the financial package of upto Rs. 10 lakh while over 350 had opted for a transfer to Talegaon last October. The company had initially offered to pay for 40 days of wage per year of service in addition to their gratuity. After a prolonged struggle, the company is now offering a 100-day of wage per year of service. This roughly works out to be around Rs 8-10 lakh per worker. The average salary of the permanent workers is around Rs 28,000-30,000 per month.

The Halol unit has faced workers' struggle in recent years. In October 2010, workers went on a 4-day strike demanding higher wages, followed by an indefinite strike, in less than six months, raising safety issues. This strike lasted for about six weeks. Again in 2014, contract workers went on strike for wages and other issues.

On the other hand, GM's dwindling market share in India's automobile sector and weakening financial position due to mounting accumulated losses — at around Rs. 8,000 crore — may have prompted the company to shut the Halol plant and search for potential buyers for the plant.

China's largest automaker SAIC Motor Corp has signed a deal with General Motors to buy its GM India's Halol plant in Gujarat, the company said in a filing with the Shanghai Stock Exchange. The workers are demanding that the new company absorbs the workers along with the factory assets. The Competition Commission's had already given approval to SAIC Motor Corp, in January this year to acquire certain assets of the Halol plant.