

4. Consider the court's suggestion that standardization widens the scope for collective bargaining? How?
5. Consider the court's suggestion that standardization improves labour solidarity? How?

Note: A frequent practice in the United States is to study jobs and evaluate each. The result is likely to be represented by a curve on a chart. Some workers will be found to receive less, and some more, than the value of their job as thus charted. Those receiving less get increased wages at once. Those receiving more continue to get their excessive wage so long as they stay on that job. Because it is customary to put red circles around their names, their jobs are called "red-circle jobs". When any such worker retires or transfers to other work, his replacement will receive the correct wage for that job thereafter. *Eds.*

B. DEARNESS ALLOWANCE (D.A.)

The words "dearness allowance" primarily mean an allowance paid to workers to help them to meet an increasing cost of living. If prices rise while money wages do not, buying power (the real wage) falls. Thus the worker suffers.

This name "dearness allowance" is used only in India (and perhaps in Pakistan). In other countries the usual method of keeping real wages steady is to raise the money wages. But cost-of-living allowances (which are dearness allowances by another name) are sometime used. They may be automatic, upon stipulated increases in the cost of living, or they may result from renegotiations.¹

Such special allowances for higher costs of living appeared in India during the Second World War. In Ahmedabad and Bombay the organized cotton textile workers demanded—and demanded successfully—that they be paid extra for the rise in prices. Other industries followed suit. When peace came and wartime industry slackened, these allowances sometimes shrank, and in some cases even merged entirely with the basic wages.

But demands for "dearness allowances," due to increase in prices even after the war, spread. Some of these demands were sealed by agreements; others by adjudication. The adjudicators decided the cases on an ad hoc basis. Their awards differed widely from one centre to another,

1. I.L.O., Wages: A Workers' Education Manual 25-26 (Geneva, 1964).

and from industry to industry. Sometimes they differed between different units of the same industry. Their extreme variations in kind and amount led the Gregory Committee to point out that the "present state of affairs is completely chaotic²."

This chaos is natural because there are so many varying theories and practices. One theory is that D.A. should protect the real wages of workers at every level. A sharply opposed theory is that D.A. should protect the real wages of low-paid workers only, with mere marginal adjustments for the better paid. Practices also vary sharply: sometimes D.A. is a small addition to the basic wage; sometimes it exceeds the basic wage. Sometimes the two elements are partially or completely merged. Sometimes D.A. is fixed and remains unchanged unless and until a wage-revision occurs; sometimes it moves automatically with changes in the consumer price-index. Sometimes it adds a flat amount to the wage of every worker whom it touches; sometimes it adds a fixed percentage to every worker's pay, so that the higher-paid worker gets a larger D.A. Sometimes the amounts, or percentages, diminish (by "slabs") for the better-paid workers so that they benefit less proportionately. With all these variables the possible permutations and combinations are almost infinite, and the chaos that has resulted is easy to understand.

The need for dearness allowance has been recognized by various commissions and committees. The First Pay Commission (1947) observed that "so long as the cost of living continues to be substantially higher, some system of dearness allowance... must continue in operation³." The Committee on Fair Wages (1948) emphasized that, "it is clearly necessary... to continue to pay dearness allowance to neutralize, wholly or at least substantially, the increase in the cost of living⁴." The Second Pay Commission (1957-59) pointed out that this is a "device to protect to a greater or lesser extent, the real income of wage earners and salaried employees from the effects of rise in prices⁵." The Gajendragadkar Commission (1967) for the first time warned that rising prices were becoming a permanent—not a temporary—phenomenon. It said that, "the problem of rising prices may pose a very serious danger to the whole of our

2. Para 14, Report of the Gregory Committee.

3. Para 18, page 13.

4. Para 42.

5. Para 10, page 93.

national economy unless it is tackled effectively, comprehensively and without delay⁶.”

The concept of dearness allowance is related to the absolute requirement of mitigating the hardship of the lowest paid employees—living on subsistence level⁷, and of “cushioning” the impact on the higher paid employees⁸. In the words of the Supreme Court of India⁹, “the whole purpose of dearness allowance is to neutralise a portion of the increase in the cost of living.”

A 1965 bulletin of the Labour Bureau¹⁰ notes that the four central wage boards—those for cement, cotton textiles, jute, and sugar—have recommended that the D.A. for each industry should be linked to the consumer price index. The Wage Board for Working Journalists has determined it by linking it to the all-India cost-of-living index¹¹. The Bureau suggests, that the wage boards for plantations growing tea, coffee, and rubber, and the wage boards for iron and steel, coal mines, iron ore, and limestone and dolomite mines, might decide to recommend linked D.A.'s, “if they so desire,” for some or all of those industries. Where workers demand such a linked allowance, and where no wage boards are operating, the matter is one for negotiations.

6. Page 69. The Commission also pointed at p. 61 that “the index has been registering a rapid rise, almost from month to month. In fact, whereas it took eight months (November 1965 to July 1966) for the twelve months average to rise by ten points, the next rise of the same magnitude was witnessed in six months. Some economists have warned us that this rise may be registered at a faster rate within the next six or eight months, unless effective action is taken by the Government to control this alarming rise.”

7. “One thing that is clear and is universally recognised by industrial adjudication in our country is that no employer in any organised industry can engage an employee below the subsistence level.” Gajendragadkar Report 29 (1967). For discussion on subsistence level, see section on wages in this same part.

8. Gajendragadkar Report 10 (1967).

9. *Hindustan Times Ltd. v. Their Workmen*, (1963) 1 L.L.J. 108.

10. See 8 *Ind. Jour. of Lab. Econs.* 80, 82 (1965).

11. Cost-of-living index, now more usually called “consumer price index” in India is intended to measure the changes in the current retail prices of a fixed basket of goods and services popularly consumed by working classes as compared to their respective prices during a fixed period known as the base period.” *Working Class Consumer Price Index Numbers*, 8 *Ind. Jour. Lab. Econs.* 69 (1965).

If a linked dearness allowance is to neutralise higher costs completely, it must rise at least as fast, proportionately, as the cost of living rises. Anything less obviously means less than 100% neutralisation. But even that is not enough because it is the total wage—not the D.A.—that has to rise as fast as costs. Assume a total wage (including basic and D.A.) of Rs. 100, and assume a 10% increase in prices. The following figures illustrate the increases required in D.A. for 100% neutralisation:

Basic wage	D.A.	Increase in Rs. needed for 100% neutralisation	% increase in D.A. so needed.
40	60	10	16.67%
50	50	10	20%
75	25	10	40%
90	10	10	100%

For full neutralisation so that the worker can meet his expenses, D.A. must go up much faster than price index.

Unions have consistently urged that the D.A. should be merged with basic wages¹². And some wage boards did recommend such a merger, either of the entire D.A. or of a large part of it¹³. The employers, on the other hand, consistently urged that D.A. be retained as a distinct and separate part of the wage, on the supposition that the cost of living might fall again. By now, this has become quite unrealistic. And in as much as benefits such as provident fund, retrenchment, and lay-off relief, etc. are uniformly calculated on the entire wage including the D.A., the consolidation has little importance (except on the question of neutralisation) other than as a psychological gratification of the unions' wishes¹⁴.

Unions generally and naturally insist on 100% neutralization. The theoretical argument is flawless: the most poorly paid worker needs the same basic necessities as the better-paid worker. Anything less than 100% neutralization makes them both suffer. The answer of the employers, and a view accepted by some of the adjudicators, is: *first*, that 100% neutralization would create a total wage beyond the industry's

12. *Fonseca, Wage Determination and Organized Labour in India* 116-18, 122 (1964).

13. *Id.* at 124, 142.

14. *Id.* at 123-124.

capacity to pay, and could increase inflationary dangers and dislocation of the economy; *second*, that the workers, along with everybody else, should bear a share of the sufferings caused by wars and inflationary prices¹⁵; and, *third*, that the skilled worker is entitled to larger increments than the unskilled worker.

The *Minimum Wages Act*, 1948 has provided no guiding principles for the determination of dearness allowance as such. It does, however, authorize the appropriate authorities to prescribe, for industries covered by the Act, a consolidated minimum wage (including dearness allowance) or to fix a basic minimum wage plus a specified added allowance, either fixed or adjustable to accord with changes in the consumer-price index. Some states have fixed consolidated minimum wages. One state has allowed a separate dearness allowance linked with a consumer-price index. Other states have mixed the two methods, fixing consolidated minimum wages for some employments and a basic minimum wage plus a dearness allowance for others.

The 1967 Report of the Gajendragadkar Committee on dearness allowance for employees of the Central Government adopts the view—as did the First and Second Pay Commissions (1947 and 1959)—that the main purpose of dearness allowance is protection of the subsistence worker.

RASHTRIYA MILL MAZDOOR SANGH v MILL OWNERS'
ASSOCIATION, BOMBAY

Labour Appellate Tribunal, (1955) I L.L.J. 329

[The Union demanded fixation and standardization of wages: and increase in the dearness allowance. The Industrial Court, Bombay fixed the minimum wage at Rs. 30 per month and standardised the wages. It granted a flat rate of Rs. 66 as dearness allowance at index 105 which neutralised 90% of the increase in the cost of living. At the same time, it fixed a dearness allowance of 1.9 pies per day per point for future increases in the cost of living index up to 325 (based on 1939 as 100). The Union and the Millowners both appealed. The Union contended that the dearness allowance fixed was too low; the Mill owners, that it was too high and that the industry was not in a position to bear the extra burden. The Labour Appellate Tribunal decided:]

We are not disposed to accept the claim of the union that the minimum total wage today must be the cost of living of 1939 fully neutralized,

15. *Id.* at 120-124

and that a concern which is unable to pay this amount has no right to exist. The enunciation of this claim arises from a misconception as to the guiding principles of wage fixation. The division of the total wage into basic wages and dearness allowance is a creature of circumstance; in other countries in consequence of the rise in the cost of living wages have increased to meet the changed circumstances. In India a different system has been adopted and generally followed: a basic wage usually calculated at the pre-war level is given, and to meet the additional cost of living an amount is added to it by way of dearness allowance as a means of neutralizing the high cost of living. This scheme has become general in India and has been accepted as a fair approach to the problem of wages. The basic wages today are fixed at the cost of living of a particular time to provide for the contingency that some day prices might recede and that the necessity for dearness allowance would thereby disappear. Then again in India in the past the benefits of provident fund, retrenchment relief, etc., were calculated on the basic wages. But the position has now changed; and benefits like contributions to provident fund, lay-off and retrenchment relief, and State insurance are all calculated on the total emoluments, which means basic wages plus dearness allowance. The apparent object with which a system of separate basic and dearness allowance was adopted so as to provide for a possible recession of prices cannot be said to have altogether disappeared, although in the opinion of experts the cost of living is not likely to travel below 270 on base 1939=100. But there is no particular significance to be now attached to the fixation of basic wages at the cost of living of a particular year or to any scheme for consolidation of basic wages and dearness allowance at 280 as suggested, and to that extent the concept of wages has received a shift in emphasis. Such consolidation can have no practical advantage except where particular circumstances exist, while on the other hand it would upset the stabilized differentials, and would create unnecessary ferment all over India for re-fixation of wages which would be without any real merit or justification. It is true that the Gadgil Committee has recommended consolidation of basic wages and dearness allowance at 280 for Government servants, but be it noted only for the purpose of calculating compensatory, house-rent and travelling allowances. It is therefore our view that in the ultimate analysis what we are required to ascertain as a first step is a fair total emolument for the lowest-paid workman consisting of his basic wages and dearness allowance; in effect the workman's pay packet. In present circumstances it matters not to the workman whether his basic wage is increased and his dearness allowance reduced; he is concerned with his total emoluments; and as we have said before his other benefits like provident fund, retrenchment relief and State insurance are all calculated on basic wages plus dearness allowance. Our approach to the

problem must therefore be conditioned by the circumstance that if there is any change of approach to the problem of wage fixation since the time of the *Standardization* award, it is mainly concerned not so much with working out what the workman received for living in 1939 and multiplying the result by $3\frac{1}{2}$, but with ascertaining what would be a fair wage for the workman today, and whether the scale which he is at present receiving has become inadequate. It is true that in an investigation of this character we shall have to consider what the same workman required in 1939, and we have also to bear in mind all the while that the index in Bombay has risen from 100 to 365 (assuming that the selection, quality and quantity of the various articles of consumption have remained the same) and then we must judge what should be a fair total emolument having regard to the principles enunciated in the fair wages committee's report, the decisions of the Labour Appellate Tribunal, to the ideas of the Planning Commission on the subject and to the other aspects to which our attention has been drawn. No circumstance is too small to be considered in an investigation of this character; on the other hand it must be appreciated that any result of mathematical accuracy can hardly be achieved. We must take a commonsense view of the requirements of the worker as also of the capacity of the concern to pay based on the facts which are available to us. In the *Buckingham and Carnatic Mills* case [1951-II L.L.J. 314] the Labour Appellate Tribunal fixed a certain basic wage below which it was not prepared to go, but it fixed a dearness allowance which neutralized below 90 per cent, and the resultant figure was held to be a reasonable wage for the category of worker concerned. In the *Banks* award the Labour Appellate Tribunal directed its attention more to the total emoluments than to the less fruitful discussions as to the cost of living of different years and the extent to which it should be neutralized. The relevant fact is the cost of living of a worker of today and that information is not available, and it is a poor substitute to say that we should take the cost of living of that worker of 1939 and multiply it by 3.6. Furthermore, as has been observed in the *Banks* award, this system of multiplying the cost of living of 1939 by $3\frac{1}{2}$ produces results which have to be toned down by the requirements of the situation. Shri Ambekar himself has freely admitted that his claim of Rs. 165 for the lowest-paid worker, while according to him correctly based on the 1939 figures and neutralized up to date, is figure which it is not possible to sustain. He has therefore brought it down to Rs. 112 for present-day requirements which is Rs. 16 more than what the lowest-paid workman is getting today, and which itself in its reduced form will cost the industry an additional 7 crores of rupees per year.

Before we discuss to what extent the dearness allowance needs revision, it is pertinent to mention that the textile scale of dearness allowance, as this

is called, has become a favourite with commercial concerns. It is regarded as a generous addition to the basic wages even though very few of the 120 odd concerns which have adopted the formula have given the same neutralization. It is by any standard a high scale of dearness allowance, and although the Ahmedabad mills give 96 per cent neutralization it must be remembered that their lowest basic is Rs. 28 as against Rs. 30 in Bombay. The charge of Sri Ambekar against this scheme of dearness allowance is not an attack on the scheme itself, but against the scheme in combination with the standardization of wages. A complaint is made that as the cost of living rises, the lower groups get a much higher percentage of neutralization than the groups higher up. This is true but there is nothing wrong in the percentage of dearness allowance tapering off as we go upwards in basic wages, for that is the essence of a sound scheme of dearness allowance, provided of course that the tapering is not too pronounced. It is inevitable in any scheme of flat rate of dearness allowance that the disparity tends to become wider in proportion to the difference in amount between the total emoluments of the lowest and of the highest of the categories. In the case before us that difference is not so great. The lowest paid gets Rs. 96 and the highest Rs. 204. The lowest gets a dearness allowance of Rs. 66 with his basic of Rs. 30, and the highest also gets Rs. 66 with his basic of Rs. 138, and we cannot say that the amounts are so disproportionate that there is a call for intervention on that account. . . . The *Standardization* award while fixing differentials and the dearness allowance indicated that if the cost of living went beyond index 325 the amount of dearness allowance ought to be re-considered. The cost of living today is 365 and it cannot be said to be so high as to invalidate the view then taken by the industrial court on wages and differentials. In any event the position of the industry since 1947 and its present position are not such as to justify us in altering the wage structure which had been settled by the *Standardization* award of 1947, subject however to the increase in dearness allowance which must necessarily be granted.

Shri Ambekar says that the cost of the additional dearness allowance of 10 per cent as given by the industrial court would impose a burden of about 1.34 crores per year. He contends that rather than distribute this amount as dearness allowance he would prefer consolidation of basic and dearness allowance at 280 and a readjustment of the differentials. But for the reasons which we have given we are unable to accede to this claim. We have no particular predilection towards a basic wage of Rs. 30 or towards the *Standardization* award; but we must attach importance to the fact that Rs. 30 as found as the basic minimum has been confirmed by other calculations and is generally adopted as the basic minimum. We must also acknowledge the care with which the differentials have been fixed,

and unless there is an impelling necessity we are not prepared to upset a well-settled arrangement. That necessity has not been shown.

As to the actual figures, it has been pointed out to us by the Millowners' Association that the 10 per cent increase of dearness allowance as awarded, is given retrospective effect from May 1953 amount to 3.02 crores. If from April 1951, 5.87 crores; and there would be a recurring expenditure of $1\frac{1}{2}$ crores. It is true that any increase in the wage bill means a diminution in the available surplus out of which bonus must come, but we do not take that as a factor in a consideration of this subject, for even after the payment of higher dearness allowance there may be sufficient available surplus to pay bonus. The Millowners' Association however contends that the grant of this 10 per cent is much too high and is not justified by the circumstances; that it swells the wage bill which is already too high. They contend that the burden of this 10 per cent increase including the extra provident fund and State insurance contributions would be 2.5 crores, and that the industrial court has awarded 10 per cent not restricted to any point over 325. They complain that as soon as the index rises from 325 to 326 a sum of Rs. 5-12-0 becomes payable to each workman at once; that at 366 it rises from Rs. 66-10-0 to Rs. 73-5-0. In effect they say that the dearness allowance up to 325 should be as at present, and thereafter 2.09 pies in which case the burden would be 24 lakhs.

It appears to us that the quantum of the increase of dearness allowance needs further consideration. The basic fact is that beyond cost of living index 325 the dearness allowance becomes insufficient. But a sudden jump as soon as the index becomes 326 is contrary to the objective of a properly balanced dearness allowance. We say nothing about the propriety or the advantages of this flat rate of dearness allowance except that having regard to the fact that the lowest-paid gets Rs. 30 and the highest paid Rs. 140 the payment of a flat dearness allowance of Rs. 66 or Rs. 75 does not in our view do any special injustice to the higher groups. It would have been different if the difference between the lowest and the highest was a good deal more than that. There is however substance in the contention of the employers that a flat rate of 10 per cent increase of dearness allowance does not take into account the gradual rise in the cost of living above 325, and that it would be more logical and more reasonable that the increase in dearness allowance ought to be in proportion to the rise above 325. We must, therefore, decide what would be a suitable increase in the dearness allowance for that slab above 325 to allow for appropriate neutralization. In our view, the object could be

best achieved by giving a graduated percentage rise above 325. We therefore direct, in modification of the industrial court's order—

- (a) that the existing scale of dearness allowance will apply as at present up to cost of living index 325;
- (b) that so long as the cost of living index is above 325, then in addition to the dearness allowance given by the *Standardization* award, there shall be given the following percentage of increase of existing dearness allowance:—

For index between 325 and 335...5 per cent
For index between 335 and 350...7½ per cent
For index between 350 onwards...10 per cent....

The order of the industrial court is, therefore, confirmed subject to the modifications as regards dearness allowance.

NOTE

In *Greaves Cotton & Co. v. Their Workmen*¹ (1964) I L.L.J. 342, 349, the Supreme Court said, "Time has now come when employees getting the same wages should get the same dearness allowance irrespective of whether they are working as clerks, or members of subordinate staff or factory-workmen. The pressure of high prices is the same on these various kinds of employees. Further, subordinate staff and factory-workmen these days are as keen to educate their children as clerical staff and in the circumstances there should be no difference in the amount of dearness allowance between employees of different kinds getting the same wages. Further, an employee whether he is of one kind or another getting the same wage hopes for the same amenities of life and there is no reason why he should not get them, simply because he is, for example, a factory-workman though he may be coming from the same class of people as a member of the clerical staff. On the whole, therefore, the tribunal was in our opinion right in following the trend that has begun in this region and in fixing the same scale of dearness allowance for subordinate staff and factory-workmen as in the case of clerical staff."

1. For facts of the case, see this same case above, in the section of this part on wages.

HINDUSTAN ANTIBIOTICS LTD. v THEIR WORKMEN
Supreme Court (1967) 1 L.L.J. 114; [1966-67], 30 F.J.R. 461

[For the facts of the case, see this same case above, in the section of this part on wages. Excerpts relating to dearness allowance, from the judgment, delivered by Suba Rao, C. J., follow:]

The first argument is based upon a fallacy. The doctrine of dearness allowance was only evolved in India. Instead of increasing wages as it is done in other countries, dearness allowance is paid to neutralise the rise in prices. This process was adopted in expectation that one day or other we would go back to the original price levels. But, when it was found that it was only a vain hope or, at any rate, it could not be expected to fall below a particular mark, a part of the dearness allowance was added to the basic wages, that is to say, the wages, to that extent, were increased. While the Tribunal increased the wages, in fixing the dearness allowance, it looked into the overall picture, namely, whether the total wage packet would approximate to the total packet wages in comparable industries. There is no question, therefore, of paying dearness allowance on dearness allowance, but it was only a payment of dearness allowance in addition to the increased wages. Even on the basis of the increased wages, dearness allowance was necessary to neutralise the rise in prices. That is exactly what the Tribunal has done. The Tribunal adverting to this argument stated:

I am, however, of opinion that in linking the dearness allowance, a portion of which has been merged in the basic wage, the totality of emoluments should not be ignored, otherwise in the case of a marked increase in the cost of living, if the linkage is done without bearing in mind the total emoluments, the total emoluments would not be satisfactory and may even become out of line with those in other large concerns in the region. Again the linkage need not be done so as to provide increase in dearness allowance at a uniform rate. Otherwise increase in dearness allowance on account of rise in the cost of living for employees drawing wages and salaries above certain ranges of basic wage or pay as would very inadequately neutralise the rise in cost of living.

It is, therefore, clear that the Tribunal increased the wages of the lower category of employees by adding part of the dearness allowance to their original basic wages, at the same time bearing in mind that the total packet of wages and dearness allowance compared favourably with those

in similar concerns. It has introduced the slab system so that in the case of employees falling in the higher slabs, the rise in prices is adequately neutralised. The Tribunal did not commit any error of principle.

Nor can we accede to the argument that there was a double provision for house rent. The fact that in the Index for Poona one of the components is house rent only means that the rise in the house rent was also taken into consideration in arriving at the Index. Unless it is established that the house rent was a major item which went in inflating the price index, it cannot be said that the Tribunal by awarding house rent allowance has given a double advantage to the employees in question. It has not been established before us that the Index for Poona was inflated because of its rent component. Indeed, this argument does not appear to have been raised before the Tribunal. We cannot, therefore, accept this argument.

In the result, the contentions raised in respect of dearness allowance are rejected.

C. BONUS

MUIR MILLS CO. v SUTI MILLS MAZoor UNION

A.I.R. 1955 S.C. 170

[In 1948 the Company made a profit of nearly Rs. 12 lakhs and paid bonus to the workers at the rate of one-fourth of their basic earnings. But in 1949 it paid a bonus of only one-eighth, due to a loss of nearly Rs. 5 lakhs in that year. The Workers claimed a higher bonus on the ground that the Company had paid dividends to the ordinary shareholders out of the last year's profits. A Conciliation Board, by a majority, awarded a bonus of one-fourth. On appeal the Industrial Court (Textiles and Hosiery) Kanpur set the award aside. The Labour Appellate Tribunal reinstated the bonus of one-fourth. The Company obtained special leave to appeal to the Supreme Court, Excerpts from the judgment, delivered by Bhagwati, J. follow:]

The primary meaning of the word "bonus" according to the definition given in the New English Dictionary is:

"A boon or gift over and above what is nominally due as remuneration to the receiver and which is therefore something wholly to the good"....