



Delhi Transport Corporation
(Govt. of NCT of Delhi)
I.P. Estate: New Delhi-110002

No. IRD-2(85/2012/81

Dated: 17.05.2012

CIRCULAR

Further to this office circular No. IRD-2(85)/2011/607 dated 08.12.2011, the salient features of "Code of Discipline" to deal with the Recognized Union are again forwarded for strict compliance by all Depot Managers/Unit Officers. The salient features of the "Code of Discipline" are given in a summarized manner. Details of every point are enclosed:

The salient features of the "Code of Discipline" include:

- I. **Recognition of the union under the Code of Discipline:** The code provides for two types of recognition. A union can claim to be recognized as representative union for an industry as a whole in a local area or it can claim recognition as majority union in an establishment.
- II. **Essential Conditions for Recognition:**
 1. Where there is only one union.
 2. Where there is more than one union.
- III. **Membership of union:** Membership of a union for the purpose of recognition is to be counted only of those workers who had paid subscription for at least 3 months during the period of 6 months immediately preceding the date of reckoning. The date of reckoning is the first of the month in which verification work begins.
- IV. **How to secure Recognition:** A union which satisfies the conditions described above should first request the management (or the concerned Employees' Organization in the case of a representative union) to accord recognition to it under the code. It should send to the management all relevant particulars, such as date of registration under the Indian Trade Unions Act, its membership vis-à-vis total strength of the establishment justifying its claim for recognition. If its request for recognition is not accepted by the management, it may seek the assistance of the concerned Implementation Machinery.
- V. **Procedure for verification of Membership:** If more than one union function in an establishment, it is necessary to verify the representative character of the various unions. The results of the verification are to be intimated to the management which would accord recognition to the majority union.
- VI. **Period of Recognition:** When a union has been recognized, there is to be no change in its position for a period of two years from the date of recognition provided it is not found responsible for a breach of the code during this period.
- VII. **DE-Recognition of a Union:** Failure to observe the code would entail de-recognition normally for a period of one year. It is open to an employer to recognize any other union during this period provided it fulfils all necessary conditions for recognition.

VIII. **Rights of Recognized Unions under the Code of Discipline:**

- (i) to raise issues and enter into collective agreements with employers on general questions concerning the terms of employment and conditions of service of workers in an establishment or, in the case of a Representative Union, in an industry in a local area;
- (ii) to collect membership fees/ subscriptions payable by member to the union within the premises of the undertaking.
- (iii) to put up or cause to put up a notice board on the premises of the undertaking in which its members are employed and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent or inflammatory or subversive of discipline or otherwise contrary to the code.
- (iv) for the purpose of prevention or settlement of an industrial dispute:-
 - (a) to hold discussions with the employees who are members of the union at a suitable place or places within the premises of office/factory/establishment as mutually agreed upon;
 - (b) to meet and discuss with an employer or any person appointed by him for the purpose, the grievances of its members employed in the undertaking;
 - (c) to inspect by prior arrangement, in an undertaking, any place where any member of the union is employed.
- (v) to nominate its representatives on the Grievance Committee constituted under the Grievance procedure in an establishment.
- (vi) to nominate its representatives on Joint Management Councils; and
- (vii) to nominate its representatives on non-statutory bi-partite committees, e.g., production committees, welfare committees, canteen committees, house allotment committees etc., set up by managements.

IX. **Code of Discipline & criteria for Recognition of Unions:**

- (a) To maintain Discipline in Industry (both in public and private sectors) – there has to be (i) a just recognition by employers and workers of the rights and responsibilities of either party as defined by the laws and agreements (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) a proper and willing discharge by either party of its obligations consequent on such recognition). **The points to ensure better discipline are at Appendix -1.**
- (b) Where there are several unions in an industry or establishment, the one with the largest membership should be recognized. The criteria for recognition for union is at Annexure-I.
- (c) Determination of relative strength of Union may be decided either by way of verification of membership of the union or by election through secret ballot as per CLC instructions (copy enclosed).

All Depot Managers/ Unit Officers are requested to adhere to the instructions circulated in this regard and compliance report may also be sent on monthly basis for kind perusal of CMD.

This issues with the approval of competent authority.


Encl: a/a

All Depot Managers/ Unit Officers

All HoDs: for kind information please.

All RMs: for kind information please.

Copy to : Sr. Manager (Tr.) CMD Sectt. : for kind information of CMD please.


(K.P. Singh)
Labour Officer

I. RECOGNITION UNDER THE CODE OF DISCIPLINE

Clause III(vii) of the Code of Discipline Appendix I) requires managements to recognise unions in accordance with the Criteria for Recognition of Unions appended thereto. The Code provides for two types of recognition. A union can claim to be recognised as representative union or an industry as a whole in a local area or it can claim recognition as the majority union in an establishment if certain conditions, described below, are fulfilled.

II. ESSENTIAL CONDITIONS FOR RECOGNITION

(1) Where there is only one union

2. If there is only one union in an industry or in an establishment, it can claim recognition provided it has not been found responsible for a breach of the Code during the period of one year immediately before claiming recognition. Later, the Central Implementation and Evaluation Committee made the following recommendations:

(i) A union not affiliated to any of the four Central Workers' Organisations should wait for a period of one year after accepting the Code of Discipline before its request for recognition can be considered. (11th meeting - November 26, 1965).

(ii) A breach of the Code of Discipline should be established by the concerned Implementation Committee and not the Implementation Machinery for considering whether or not it was entitled to claim recognition. (15th meeting - August 24, 1966).

(2) Where there is more than one union

3. Where there are several unions in an industry or in an establishment, the one with the largest membership and fulfilling the conditions mentioned in paras 4 to 8 is to be recognised.

The Indian Labour Conference (19th Session-October 1961) decided that technicians, supervisory staff, etc., should be free to form their own unions to represent their interests. If, however, a majority of technicians, etc., are members of a general union and that union is a representative union, such a union would be entitled to represent the interests of technicians, etc., also. At the Indian Labour

Conference (22nd Session-July 1964) which considered the matter further the consensus was that the recognition of category-wise/departmentwise unions should not be encouraged.

(a) Recognition as a representative union for an industry

4. A union can claim to be recognised as a representative union for an industry in a local area if -

- (i) it has been functioning for a period of at least one year after registration under the Trade Unions Act.
- (ii) it considers that it commands a majority of membership - in any case not less than 25% - of the workers in that industry in that area.
- (iii) it has not been found responsible for a breach of the Code during a period of one year immediately before claiming recognition.
- (iv) the existing recognised representative union, if any, has completed a period of two years after recognition under the Code.

5. For the purpose of defining an industry, the classification of industries (Appendix II) used by the Labour Bureau, Simla is to be adopted and industry would mean any business, trade, undertaking, manufacture of calling of employment, handicraft or industrial occupation or avocation of workmen.

6. The term 'local area' occurring in the criteria is to be defined by the concerned appropriate Government.

7. A representative union has the right to represent workers in all the establishments in the industry but if a union of workers in a particular establishment has a membership of 50% or more of the workers of that establishment it would have the right to deal with matters of purely local interest such as the handling of grievances pertaining to its own members. All other workers who are not members of that union might either operate through the representative union or seek redress directly.

(b) Recognition as a majority union in an establishment

8. A union can claim to be recognised as a majority union in an establishment if -

- (i) it has been functioning for a period of one year after registration under the Trade Unions Act.

The requirement need not be fulfilled if it is the only union functioning in the establishment.

In case of branches of a union recognised under the Code as a representative union for the industry, the qualifying period of one year is not to be insisted upon for granting recognition to the branch union at the unit level provided it satisfies the prescribed membership qualification and is operating in the same local industry as the representative union.

- (ii) it considers that it commands a majority of membership - in any case not less than 15% - of the workers of that establishment;
- (iii) it has not been found responsible for a breach of the Code within one year immediately before claiming recognition;
- (iv) the existing recognised union, if any, in the establishment has completed a period of two years after recognition under the Code.

III. MEMBERSHIP CONDITION

9. Membership of a union for the purpose of recognition is to be counted only of those workers who had paid subscription for at least 3 months during the period of 6 months immediately preceding the date of reckoning. The 'date of reckoning' is the first of the month in which verification work begins, i.e., when the Verification Officer asks the unions to submit their lists and books for scrutiny.

IV. HOW TO SECURE RECOGNITION

10. A union which satisfies the conditions described above should first request the management (or the concerned Employers' Organisation in the case of a representative union) to accord recognition to it under the Code. It should send to the management all relevant particulars, such as date of registration under the Indian Trade Unions Act, its membership vis-a-vis total strength of the establishment justifying its claim for recognition. If its request for recognition is not accepted by the management, it may seek the assistance of the concerned Implementation Machinery.

V. PROCEDURE FOR VERIFICATION OF MEMBERSHIP

11. If more than one union function in an establishment, it is necessary to verify the representative character of the various unions. The verification has to be done either by the concerned Implementation Officer or an officer of the Central or State Industrial Relations Machinery. A procedure to be followed for ascertaining the membership of the unions has been laid down by the Standing Labour Committee; its details are given in Appendix III. The results of the verification are to be intimated to the management which would accord recognition to the majority union.

VI. PERIOD OF RECOGNITION

12. When a union has been recognised, there is to be no change in its position for a period of two years from the date of recognition provided it is not found responsible for a breach of the Code during this period.

VII. DE-RECOGNITION OF A UNION

13. Failure to observe the Code would entail de-recognition normally for a period of one year. This period may be increased or decreased by the Implementation Committee concerned. It is open to an employer to recognised any other union during this period provided it fulfils all necessary conditions for recognition.

14. At the 12th meeting of the Central Implementation and Evaluation Committee (August 1966) it was agreed that in order to de-recognise a union on account of a breach of the Code of Discipline the breach should be established by the concerned Implementation Committee and not the Implementation Machinery.

15. The Central Implementation and Evaluation Committee (15th meeting - August 24, 1968) recommended that the period of one year of derecognition of a union should be counted from the date on which the concerned Implementation Committee establishes the breach on the basis on which an employer de-recognises the union. The Committee also recommended that the information about its decision should be conveyed to the concerned parties soon after the date of the decision and in any case, not later than a week.

VIII. RIGHTS OF RECOGNISED UNIONS UNDER THE CODE OF DISCIPLINE

16. At the tripartite meeting on labour-management relations in coal mines held on the 5th May, 1962 at New Delhi it was decided that if in a colliery a recognised union exists the management should deal with that union only for negotiating general questions of terms of service and re-employment of workers. It was also decided that unrecognised union(s), if any, would not disturb the agreement(s) on these questions between the recognised union and the management.

17. The question of rights of unions recognised under the Code of Discipline vis-à-vis unrecognised unions was discussed at the 20th Session of the Indian Labour Conference (August, 1962). While a decision on the rights of unrecognised union was deferred for future consideration, it was agreed that unions granted recognition under the Code of Discipline should enjoy the following rights:-

- (i) to raise issues and enter into collective agreements with employers on general questions concerning the terms of employment and conditions of service of workers in an establishment or, in the case of a Representative Union, in an industry in a local area;
- (ii) to collect membership fees/subscriptions payable by members to the union within the premises of the undertaking;
- (iii) to put up or cause to put up a notice board on the premises of the undertaking in which its members are employed and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent or inflammatory or subversive of discipline or otherwise contrary to the Code;
- (iv) for the purpose of prevention or settlement of an industrial dispute;
 - (a) to hold discussions with the employees who are members of the union at a suitable place or places within the premises of office/factory/establishment as mutually agreed upon;

- (b) to meet and discuss with an employer or any person appointed by him for the purpose, the grievances of its members employed in the undertaking;
- (c) to inspect, by prior arrangement, in an undertaking, any place where any member of the union is employed.
- (v) to nominate its representatives on the Grievance Committee constituted under the Grievance Procedure in an establishment.
- (vi) to nominate its representatives on Joint Management Councils; and
- (vii) to nominate its representatives on non-statutory bi-partite committees, e.g., production committees, welfare committees, canteen committees, house allotment committees etc., set up by managements.

18. The rights referred to above would be without prejudice to the privileges being enjoyed by the recognised unions at present, either by agreement or by usage.

19. The Indian Labour Conference (22nd Session - July 1964) recommended that unions not recognised under the Code of Discipline should have the right to represent individual grievances relating to dismissal and discharge or other disciplinary matters affecting their members. However, soon thereafter the Central Employers' Organisation represented against the above recommendation, it was therefore decided that the implementation of this recommendation need not be insisted upon for the present.

IX. PATTERN OF RECOGNITION OF UNIONS UNDER THE CODE IN LIFE INSURANCE CORPORATION, STATE BANK AND RESERVE BANK OF INDIA.

20. In the Life Insurance Corporation, the State Bank of India and the Reserve Bank of India the Code has been accepted by the managements and employees' organisations with some agreed clarifications. The pattern of recognition in these undertakings is as follows:-

CODE OF DISCIPLINE AND CRITERIA FOR
RECOGNITION OF UNIONS

- I. To maintain Discipline in Industry (both in public and private sectors) - there has to be (i) a just recognition by employers and workers of the rights and responsibilities of either party, as defined by the laws and agreements (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) a proper and willing discharge by either party of its obligations consequent on such recognition.

The Central and State Governments, on their part, will arrange to examine and set right any shortcomings in the machinery they constitute for the administration of labour laws.

To ensure better Discipline in Industry.

- II. Management and Union(s) agree -

- (i) that no unilateral action should be taken in connection with any industrial matter and that disputes should be settle at appropriate level;
- (ii) that the existing machinery for settlement of disputes should be utilised with the utmost expedition;
- (iii) that there should be no strike or lock-out without notice;
- (iv) that affirming their faith in democratic principles, they bind themselves to settle all future differences, disputes, and grievan-ces by mutual negotiation, conciliation and voluntary arbitration.
- (v) that neither party will have recourse to (a) coercion, (b) intimidation, (c) victimisation or (d) gc-slow;
- (vi) that they will avoid, (a) litigation, (b) sit-down and stay in strikes and (c) lock-outs;
- (vii) that they will promote constructive co-ope-ration between their representatives at all levels and as between workers themselves and abide by the spirit of agreements mutually entered into;

- (viii) that they will establish upon a mutually agreed basis, a grievance procedure which will ensure a speedy and full investigation leading to settlement;
- (ix) that they will abide by various stages in the grievance procedure and take no arbitrary action which would by-pass this procedure; and
- (x) that they will educate the management personnel and workers regarding their obligations to each other.

III. Managements agree -

- (i) not to increase work-loads unless agreed upon or settled otherwise;
- (ii) not to support or encourage any unfair labour practice such as (a) interference with the right of employees to enrol or continue as union members, (b) discrimination, restraint or coercion against any employee because of recognised activity of trade unions and (c) victimisation of any employee and abuse of authority in any form;
- (iii) to take prompt action for (a) settlement of grievances and (b) implementation of settlements, awards, decisions and orders;
- (iv) to display in conspicuous places in the undertaking the provisions of this Code in the local language(s);
- (v) to distinguish between actions justifying immediate discharge and those where discharge must be preceded by warning, reprimand, suspension or some other form of disciplinary action and to arrange that all such disciplinary action should be subject to an appeal through normal grievance procedure;
- (vi) to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitate action by workers leading to indiscipline; and

- (vii) to recognise the union in accordance with the criteria (Annexure I) evolved at the 16th session of the Indian Labour Conference held in may 1958.

IV. Union(s) agree-

- (i) not to engage in any form of physical duress;
- (ii) not to permit demonstrations which are not peaceful and not to permit rowdyism in demonstration;
- (iii) that their members will not engage or cause other employees to engage in any union activity during working hours, unless as provided for by law, agreement or practice;
- (iv) to discourage unfair labour practices such as (a) negligence of duty, (b) careless operation, (c) damage to property, (d) interference with or disturbance to normal work and (e) insubordination;
- (v) to take prompt action to implement awards, agreements, settlements and decisions;
- (vi) to display in conspicuous places in the union offices, the provisions of this Code in the local language(s); and
- (vii) to express disapproval and to take appropriate action against office-bearers and members for indulging in action against the spirit of this Code.

CRITERIA FOR RECOGNITION OF UNIONS

1. Where there is more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there is only one union, this condition would not apply.

2. The membership of the union should cover at least 15% of the workers in the establishment concerned. Membership would be counted only of those who had paid their subscription for at least three months during the period of six months immediately preceding the reckoning.

3. A union may claim to be recognised as a representative union for an industry in a local area if it has a membership of at least 25% of the workers of that industry in that area.

4. When a union has been recognised, there should be no change in its position for a period of two years.

5. Where there are several unions in an industry or establishment, the one with the largest membership should be recognised.

6. A representative union for an industry in an area should have the right to represent the workers in all the establishments in the industry, but if a union of workers in a particular establishment has a membership of 50% or more of the workers of that establishment it should have the right to deal with matters of purely local interest such as, for instance, the handling of grievances pertaining to its own members. All other workers who are not members of that union might either operate through the representative union for the industry or seek redress directly.

7. In the case of trade Union federations which are not affiliated to any of the four central organisations or labour, the question of recognition would have to be dealt with separately.

8. Only unions which observed the Code of Discipline would be entitled to recognition.

1542-A
14/6/80

Government of India/Ministry of Labour
Office of the Chief Labour Commissioner (C)
Shram Shakti Bhawan, Rail Bldg.

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20/6/80

No. CLC's Instruction No. 25/80.

New Delhi dated 18.12.80

MEMORANDUM

Subject: Determination of relative strength of Unions operating in an establishment/industry in a local area, under the Central Sphere by Secret Ballot.

CLC
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17/6/80

As you are aware, certain trade Union Organisations have been representing by the Govt. for determination of relative strength of unions operating in an establishment by Secret Ballot System. A copy of the procedure, as evolved by this office and approved by the Ministry of Labour, is enclosed for information.

2. In order to conduct elections through secret ballot by CIRM for establishments falling in the Central sphere, the following instructions are issued to all field officers for their information and guidance.

3. On receipt of the request either from the management or from a union for the purpose of recognition of a union in an establishment, or in any industry in a local area, through Secret Ballot, the Ministry of Labour have to examine particulars of Union(s) to consider their eligibility for recognition. For this purpose, the field officers of the CIRM are required to collect preliminary data, including:-

Consent of
Management

i) Consent of the management and of all the Union(s) functioning in the establishment for holding secret ballot for the purpose.

ii) Consent of both the management and of the union(s) for secret ballot to be conducted by the CIRM.

iii) Undertaking from the management and also from the unions that they will accept the result of such secret ballot as binding for the purpose, and.

iv) Undertaking from the management that they will accord recognition of the basis of such verdict in secret ballot.

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4. After examination of the preliminary report, the Ministry of Labour will advise the Chief Labour Commission (Central) to undertake necessary steps to determine the relative strengths of all the eligible unions. Therefore, the CLC(C) will notify the Returning Officer under whose supervision the election through secret ballot will be conducted with the assistance of the management concerned. The CLC will fix the month of election while the actual date of election will be fixed by the Returning Officer.

5. The NLC/RIC as the case may be, who is notified by the CLC, as the Returning Officer, will take the following steps:

- 1) The Returning Officer will address the management to furnish 5 copies of the lists of all employees/workers borne on the muster roll of the establishment on the first of the month in which the election is proposed to be held in the enclosed proforma (Annexure-I). The management will also be told not to include workmen engaged by Contractor or a other agency, which are not employed directly by the management, this list will constitute the voters' list.
- ii) The management will display the voters list on the notice board(s) and also supply copy of the voters list to each of the unions for raising objections, if any. The unions will submit the objections to the Returning Officer within the stipulated period and the decision of the Returning Officer will be final in this regard.
- iii) The Returning Officer will address all the eligible participating registered unions to furnish requisite details and cooperate with the Presiding Officer(s) for the conduct of the proposed election, on the stipulated date under intimation to this office.
- iv) The management will be asked to make necessary arrangements to:
 - a) give wide publicity to the date of election by informing the unions and affixing a notice on the notice board for the information of all workers.

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(b) Print requisite number of ballot papers in the prescribed proforma (Annexure-III) in consultation with the Returning Officer incorporating therein the names of all the participating unions in an alphabetical order after ascertaining different symbols of respective unions.

(c) Setting up of requisite number of polling stations/booths near the premises of the establishment in consultation with the returning Officer.

✓(d) If the workers are spread over a large No. of distant places and their No. at each such place is less than 20, such workmen may be supplied with postal ballots, subject to concurrence of the parties, and no polling stations/booths may be provided at such places.

(e) Providing of ballot boxes with requisite stationary, boards, sealing wax etc..

v) The returning Officer will nominate Presiding Officer for each polling station/booth with requisite number of Polling assistants who will conduct the election in an impartial manner.

vi) The Presiding Officer will allow only one representative of each union to be present at each polling station/booth as observer. The signature of all observers will be obtained in Part I of Annexure III in token of their being present at the time of secret ballot. No representative of the management will be associated in the actual conduct of the election in any manner, either as Presiding Officer or as Polling Officer, as the case may be.

vii) At the time of polling, the Polling Assistant will first secure out the name of the employee workman, who comes for voting, from the Master copy of the Voters' List and advise him thereafter to procure the Secret Ballot paper from the Presiding Officer.

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viii) The Presiding Officer will hand over the Ballot paper to the workmen concerned after affixing signatures thereon. He will ensure that the Ballot Paper is put in aids the box in his presence, after the voter is allowed to mark on the symbol of the candidate with the inked rubber stamp in camera.

ix) After close of the polling, the Presiding Officer will complete Part I of the Report in Annexure III and hand over the same to the Returning Officer for compilation of result.

6. After the close of the polling, the ballot boxes will be opened and counted by the Returning Officer or by his representative in the presence of the representative of each union. All votes which are marked more than once, spoilt, cancelled or damaged, etc. will not be taken into account as valid votes but a separate account will be kept thereof. The Returning Officer will also render account of all postal ballots received by him separately in the report.

7. The result of voting will be compiled on the basis of valid votes polled in favour of each union in the prescribed proforma (Annexure -III) and signature obtained thereon from the representatives of all the unions concerned in lieu of counting having been done in their presence.

8. After declaring the results on the basis of the votes polled in favour of each union by the Returning Officer, he will send a report of his findings, in duplicate, to the C.C.

9. In case any objections are raised by any of the representatives of the participating unions, and in one opinion of the Returning Officer these objections are minor/flimsy objections and do not merit any examination at higher levels, he may declare the results and send a report to the C.C. However, wherever the objections raised are important and need examination/consideration at higher levels, the Returning Officer will withhold the declaration of the results and communicate the objections raised by the Union(s) together with his comments to the C.C. The C.C. will thereupon

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enquire into the matter and furnish a report to the Ministry giving his observations/comments in this regard for decision of the Ministry.

Receipt of this Memorandum may please be acknowledged.

Sd/-

(P.N. Kazdan)

Joint Chief Labour Commissioner (2)

All RLM/ALCO/LEOs

Copy for information to the Ministry of Labour (L&E Division), New Delhi.

Sd/-

For Joint Chief Labour Comm(C)

PROFORMA

Voters' list showing details of all employees/workmen borne
on the muster roll of the establishment
as on _____ (name)

Sl. No.	Name	Ticket/ Taxon No.	Father's Name.	Designation	Section/Department place in which working.	Remarks.
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