

# Mr. Nandkishore



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## Short Description

**Mr. Nandkishore**

## Description

**Mr. Nandkishore    CAST STUDY    solution**

**Read the case given below and answer the questions given at the end.**

Mr. Nandkishore is a workman employed in the despatch department of a cement factory. The factory is located in one of the towns of a politically sensitive state. It employs about 1,500 employees besides the managerial staff. The annual turnover of the company is around Rs. 150 crores and its capacity utilization is 75 percent. The factory has three unions besides a Security Staff Association and a Management Association. For eight years, only one union has been recognized, on the basis of its "claim" that it has the

largest following of workmen. Continued recognition of a single union led to strained relations between the two unrecognized unions and the Management, and also among the unions themselves. Mr. Nandkishore is an office bearer of one of the unrecognized unions. The industrial relations situation in the factory has been fluctuating from periods of harmony to periods of disturbances. On December 10, 1988, Mr. Nandkishore fell down from the ladder, while working during the second shift. This accident resulted in serious injury to his right arm. He was admitted to a Government hospital for treatment. An accident report was sent to the Commissioner under Workmen's Compensation Act, to determine the amount of compensation if any, to be paid to Mr. Nandkishore for the loss of any earning capacity. Meanwhile, the union in which he is an office bearer requested the management to pay a sum of Rs. 5,000 as advance to the injured workman for covering medical expenses. It also stated that the above amount may be deducted from the compensation which Mr. Nandkishore may get, according to the Commissioner's decision. The Management paid Rs. 3,000 as advance, after obtaining a written undertaking from the union that this amount will be deducted from the compensation payable. The union also agreed to this condition. It also arranged for the release of Rs. 2,000 from the Labour Welfare Fund. The Medical Officer treating the workman submitted a report in February, 1989. The Medical Report did not mention any kind of disablement (Full / Partial, Temporary / Permanent) to the workman. The Commissioner, after processing the case and studying the report, ruled that the workman, Mr. Nandkishore shall be paid only half - monthly wages for these two months against his request for compensation as there was no permanent or partial disablement. On receipt of this report from the Commissioner, the Management asked the workman to repay Rs. 3,000 given as an advance and requested the union to do the needful in this regard. The union, however, contended that since the accident occurred during and in the course of employment, the Management must treat it as ex - gratia payment and that it should not demand its repayment as the money was used for treatment. The Management, however, pointed out that at the time of taking advance, both the union and workman had agreed that this amount will be recovered from the compensation payable and since no compensation is payable, the workman should pay back the advance. The Management, further pointed out that it cannot waive the recovery of the above advance as it is bound by the rules. The union however insisted that Management should not proceed on the recovery of advance from the workman. The Management. also heard rumours that the said union may stage a "show down" over this issue.

### **Questions :**

**(a) Identify the problems in the case and analyse the issues which led to genesis of the problem.**

**(b) How should one deal with such a situation ?**

**(c) Discusss the Act under which this case can be dealt.**

**Details**

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