
OCCUPATIONAL SAFETY AND HEALTH

STRUGGLE FOR JUSTICE

CASE STUDY OF AN ASBESTOS VICTIM

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Sri Mangabhai Patel is an asbestos victim from India. He worked for the thermal power plant in Ahmedabad that was the capital of the State of Gujarat until 1970, after which the capital was transferred to Gandhinagar. The plant is owned by Ahmedabad Electric Company. It was a state-owned company, at present it is partly privatised, with shares owned by Torrent group, whose main interests are in the pharmaceutical industry. The thermal power plant was established in 1945, though in 1913, it was established to generate power using diesel.

Mangabhai was an unemployed youth and regularly visited the power plant where large numbers of job seekers waited at the gate like him. Eight to 10 people from his village, Chandkheda, worked in the plant. He beseeched them to take him with them and help to get him employed. They advised him to be at the gate daily at 8 a.m. If there is a need for labourers in the plant, people would ring up the gate and ask the personnel department to send labourers. Absenteeism was always high in the boiler department, where he was sent most frequently, working there most days. He was classified as a 'non-card casual labourer' from 1965. In those days there were 25 boilers and 16 turbines. In 1973, he was given the status of 'card holder casual labourer'.

In the boiler department, he was assisted by a mason.

In 1980, he became a permanent employee and was sent for 'pre-employment medical examination' on 23 October 1980 – after working for seven long years. Medical Officer Dr. Doshi, declared him 'fit for the job'. On 1 December 1980, he was sent the appointment letter, assigning him as a 'temporary labourer' for six months. He was sent for a medical examination on 18 January 1982 and was declared to be suffering from tuberculosis; as a result he was refused appointment as a 'probationer'. He worked as a temporary labourer from 23 October 1980 to 13 March 1983. On 11 March 1983, he was again examined by the doctor who declared him 'fit'. He was lucky this time. Ultimately, from 1 June 1983, he was absorbed as a permanent labourer and was placed with a mason. Their job was to stop leakages from pipe-joints,

arches, header caps, or drum levels. Valve joints used to be covered with asbestos. His job was to hammer the outer asbestos cover and remove it. Thereafter he had to make a fresh mixture of magnesium silicate, asbestos, and other materials necessary for repairs. He had to bring materials from stores like asbestos blocks, asbestos ropes, asbestos belts, and took left-over material back to the stores.

From 1991 to 1992 he started having breathing problems, and started getting tired early. By and by his condition worsened. The company carried out medical examinations every two to three years, but they did not detect any illness. Then he came to me one day and talked to me at length about his problem.

I went to Dr S H Clarke, a retired occupational health consultant working with the Consumer Education and Research Centre (CERC). After retiring from the Industrial Toxicology Research Centre he joined our power plant as Factory Medical Officer, but had differences with the management and soon quit. During his tenure, I had established a good rapport with this kind old man. He was fond of me. Moreover he was staying nearby, which provided me with an opportunity to spend my spare time with him and learn from him.

He talked with his colleagues at CERC, whose lawyer Late Rani Advani became interested in the matter and called me. She asked if there were any other workers with similar symptoms. After discussions we found that there were eight workers who had similar complaints. Ms Advani made a petition with Gujarat High Court, which ordered the National Institute of Occupational Health (NIOH) to examine these workers and submit a report.

Two workers, Motiram (5 January 1996) and Manaji Rathod (2 February 1996) died before NIOH could examine them. NIOH examined the remaining six and submitted a report to the Court on 22 June 1996. The NIOH found that four of them were suffering from tuberculosis and two had asbestos-related illnesses. The Court passed an order on 8 May 1997 to pay interim compensation to the two workers. One of them, Kishan Gopalani, died soon after the court passed the order. His family was paid Rs 25,000 (\$568). The other was Mangabhai, who was paid Rs 10,000 (\$229) as interim compensation. The petition has been pending since 1996 for final disposal. We wonder when the final verdict will be delivered.

I remember an incident which speaks volumes for the integrity of the medical professionals in the field. In the process of the petition with the High Court, we received more and more complaints of illness which were probably related with workplace exposure. A list was submitted to the Court, which ordered that Employees State

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Insurance Corporation (ESIC) should examine them and decide. As a result, the ESIC Medical Board invited these 41 workers to the Board on 28 September 1998. Among the panel of doctors on this Board, one was from NIOH. Mangabhai was among the 41 workers, and has accompanied me to this conference. He was examined by the same NIOH doctor as in 1996, where he was declared as suffering from an asbestos-related illness. He was again examined by the same doctor as one of the expert panel of the ESIC Board. Mangabhai was not asked about his history. After the Board had examined the workers, as we were walking out of the building, the NIOH expert asked me why we did not include the patient who was seen earlier by him and declared as an asbestos victim. I was stunned. I immediately introduced Mangabhai to him and said, "Sir, he is the same person whom you examined earlier at NIOH." He thought for a while and then turned to the Chairperson and said, "Madame, there is some mistake. NIOH has already seen this patient earlier." Then they went back and made some changes in their records. Had this not happened, Mangabhai would have been declared as suffering from TB.

Recently, with the help of Kalyaneshwari, a Kolkata based non-governmental organisation, we examined 94 workers of the Asbestos Cement company and 12 from the Power plant. A local hospital was engaged to carry out lung function, X-ray, blood, and urine tests, and a questionnaire was filled out. Later, the X-rays were sent to an eminent expert in Bombay for his opinion. It was revealed that, 55 workers from the cement plant and 12 workers

from the power plant were suffering from asbestos-related illnesses. The wives of the three workers were also suffering from asbestos-related diseases, though they had never worked in any industry; they were exposed to asbestos through their husbands' work clothes.

Ahmedabad is more advanced than other cities. It is a torchbearer for the campaign against asbestos. Back in 1996 CERC took up the issue of asbestos exposure at the Asbestos Cement plant in Ahmedabad. When it was convinced that the local administration would not be able to secure workers' safety, they made a petition with the Supreme Court of India, which passed a historical judgment in favour of workers' safety regarding asbestos in this petition in 1996.

I assure the august gathering here that the OHSA is committed to a complete asbestos ban in India. I hope this conference will go a long way in achieving this goal and create an atmosphere for securing safer workplaces, especially workplaces, free of asbestos.



This article was presented at the Global Asbestos Congress 2004 in Tokyo