

INDUSTRIAL UNREST AT TESCO CRANES

Harshita Singh and Debi S. Saini wrote this case solely to provide material for class discussion. The authors do not intend to illustrate either effective or ineffective handling of a managerial situation. The authors may have disguised certain names and other identifying information to protect confidentiality.

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In mid-July 2014, Manish Gera, the chairman, managing director and majority owner of Tesco Cranes Engineers Pvt. Ltd. (Tesco), was on his way to Delhi for a business meeting. Sitting in the back seat of a car, he was thinking about the impact of a number of issues that had led to the closure of the company's sub-assembly plant in December 2012. As he reflected on the series of events that had transpired in the last 14 months, he was wondering if the company could achieve the targets laid out in the aggressive expansion plan developed before the unrest. Even in his wildest dreams, he had never imagined that his loyal workers would join a trade union and create so much chaos for him, and that he would react by throwing all of them out of a job within moments.

Despite all his efforts, Gera had not been able to stop workers from joining a regional trade union in July 2012. Immediately after joining the trade union, workers had slowed down production and gone on strike. Later, the plant had been finally closed by Gera after completing the legal requirements under the Industrial Disputes Act, 1947. The company had suffered a production decline as a consequence of the strike and the subsequent closure of the sub-assembly plant during September to December 2012. In view of these unexpected events, Gera was facing a dilemma. On one hand, he was wondering whether or not he should take some proactive action to prevent a similar situation from occurring in the other two Tesco plants in the future. On the other hand, he was questioning whether it had been ethical of him to close the sub-assembly plant while he was in an impulsive state; he knew well that this decision had left all of those workers unemployed and helpless, with most of them doing menial work or returning to their villages.

COMPANY PROFILE

Tesco belonged to the category of small and medium enterprises (SMEs)¹ and was engaged in the manufacture of construction equipment. It owned three plants in all: two on the outskirts of Faridabad in the state of Haryana, India, and a third, a sub-assembly plant, in the heart of Faridabad New Township.

¹ According to the Micro, Small and Medium Enterprises Development Act, 2006, medium manufacturing or production enterprises were those that had investments in plants and machinery between INR 50 million and INR 100 million, whereas a small enterprise was defined as one where this investment exceeded INR 2.5 million but did not exceed INR 50 million.

COMPANY BACKGROUND

Gera and his brother started their metal fabrication business in 1980 with an initial investment of just INR 2,000.² After working with his older brother for nine years, Gera left the company and took a different job in 1989. Four years later, his older brother died and the responsibility to look after the family business came on him once again. At that time, the company was indebted of INR 4 million. He worked hard, and in just two years he succeeded in paying off the entire business liability. He then incorporated a company under the name Tesco Cranes Engineers Pvt. Ltd. in 1994. His metal fabrication business had started in a small room with a total of just 10 employees. But eventually, Tesco went on to become a leading crane manufacturing company. Its annual turnover in 2013 was INR 1 billion, with the total employee strength of all three plants being 170 (see Exhibits 1 and 2).

In 2011, on his visit to the state of Uttarakhand, where he had a business meeting with the Irrigation Department, Gera also attended a seminar. There, he met individuals from a Japanese micro-turbine manufacturer, Triumph. Triumph was based in Japan and was trying hard to enter the Indian markets. Gera gave the company a business proposal to enter into a joint venture with his company and start manufacturing micro turbines in India. After one and a half years of market planning, Triumph finally decided to enter into the joint venture³ with Tesco for manufacturing micro turbines. The initial plan was to make turbines for the Indian markets and the intention was that after gaining expertise the company would export the turbines to Africa, Japan and other countries.

Gera was quite enthusiastic about the new business venture and was working hard on it. He had a plan to start the production of turbines in his production plants located in the outskirts of Faridabad with the existing labour strength. After attaining success in it, he had a plan to shift it to yet another plant — the fourth one. He also had a plan to enhance the scale of operations to see if the firm would eventually grow into a large-scale enterprise.

MANAGERIAL STYLE

Tesco was Gera's family's concern. He was chairman of the company's board of directors, his wife Rakhi Gera was the company's administrative head and his oldest daughter looked after marketing. Being the majority owner, Gera was a very dynamic, enthusiastic and self-motivated person. He had a penchant for efficiency and discipline. As an individual, he was genuinely kind and helpful. He had acquired good technical and market-related knowledge and expertise about his area of operation. He often demonstrated a deep concern for the welfare of his workers. Praising his style of managing and helping workers, Ganesh, a worker, explained:

If my wife was unwell, the owner would send for me and inquire about her condition and the treatment she was undergoing. He would advise me to admit her in a good hospital. He would then remark that hospitalization is expensive, and would ask me how I was hoping to meet the expenses. If I said that I was hard-pressed with money, he would ask me to meet someone in the office to fix things for me.

² As of July 31, 2014, one U.S. dollar was equal to 60.47 Indian rupees.

³ A foreign company could invest in an Indian company through a joint venture agreement (or as a wholly owned subsidiary) in the areas which were not reserved exclusively for the public sector or which were not under prohibited categories such as real estate, insurance, agriculture and plantations. Foreign investment in India was governed by its foreign direct investment policy and the Foreign Exchange Management Act, 1999.

The workers were treated by him with considerable dignity. However, another side of his personality was that he was quite a strong-willed, business-minded person. He believed that workers needed to be consistently supervised and directed. The owner-worker relationship at Tesco was clearly one of superordination and subordination. Any hint of lowering the power distance at any time while dealing with employees was anathema to him.

Gera was the man who really mattered in the company. All important decisions throughout the entire gamut of operations were made by him. He was also bestowed with power related to personnel matters, especially the power to hire, fire, reward and punish. Workers knew that in all these matters the ultimate appeal was to be made to him.

THE UNION'S EMERGENCE

There was no trade union at any of the three plants of Tesco from 1989, when the company went into production, until 2012. The sub-assembly plant employed 63 core and 20 contract workers in its different operations. In July 2012, workers of the sub-assembly plant joined a trade union named Hind Sewak Sangh.⁴ This was a regional trade union whose leader, Rohit Singh, was a member of the Indian National Janata Party⁵ and also had close links with some ministers in the state government.⁶ The labour situation at this ancillary plant offered immense scope for him to carve out a following for himself. After all, his influence among the workers of this unit of Tesco was valuable capital for him and assured him a steady income. He looked for industrial relations issues with which to rally the workers around him, and especially wanted to demonstrate his utility when the wage settlement was negotiated between the management and workers. The company had agreed to a workers' wage structure that envisaged a wage of INR 5,800 per month⁷ for the year 2012. But Singh campaigned that the wages were extremely low and were symptomatic of the exploitation of the workers. He would thus arouse a feeling of unrest among workers, which would also serve his ulterior motives. He persuaded one of the shop-floor workers of the company, Bhagyanath Jha, to become the worker representative under his leadership.

THE FIRST PHASE

With Singh coming into the picture, the scene was set for a showdown, which would force management to recognize the new realities in the plant. It was alleged by Singh that the management had a free hand in setting the production levels, which created continuous pressure on the workers to meet increased production targets, and that their wages were not taking into view the enhanced efforts that they were

⁴ In India, there was a large number of trade union federations at the national and local levels, and most had political affiliations. Almost all political parties had trade union wings. Even smaller state-level political parties had them. Many self-styled trade union leaders, who were actually "brief-case" union leaders, were running full-time unionism as a vocation.

⁵ The Trade Union Act, 1926 provided for the possibility of the political affiliation of trade unions. There was provision of a political fund, but contribution to the political fund was optional. No member could be compelled to make a contribution to it.

⁶ The government enjoyed tremendous power in industrial relations in India under different sections of the Industrial Disputes Act, 1947, which was a pre-independence piece of legislation. Among other powers, it gave the state the ability to control industrial relations in the country.

⁷ In India, the Minimum Wages Act, 1948 provided for the fixation and enforcement of minimum wages in respect to scheduled employment. The Act also required the appropriate government (both the central and state governments) to fix minimum wages in respect to employment specified in the schedule and also review and revise this at intervals not exceeding five years. Minimum wages fixed by the Haryana government for the year 2012 were INR 5,617 for highly skilled workers, INR 5,357 for skilled workers and INR 4,967 for unskilled workers.

compelled to put in. The three main union demands included revision of the existing wages to double the amount, a 16 per cent bonus⁸ and a provision of six uniforms per year for all the workers.

Immediately after the trade union took over, there was a fall in the production level by as much as 20–30 per cent. Management issued memos threatening disciplinary action against delinquent workers if production did not pick up. The memos were ignored. Both sides had their egos to defend. Towards the end of September 2012, as production was rapidly declining, Gera called Pal for a meeting. He was prepared to discuss workers' demands on the condition that normal production levels were restored. The union's position was that the production question must be negotiated bilaterally first. It wrote to the management as follows:

The level of production has been unilaterally decided by the management and there is an unreasonable pressure on workers to accept these production levels. A calm and objective consideration of the workers' situation is necessary for a lasting peace in the company. A precondition for this is that the dispute over production levels must be settled amicably.

Gera knew that the union's insistence on a bargain was not just aimed at resolving the production question. By forcing the management into a bargain, the union wanted to compel Gera to come to the terms outlined by the new union leadership. He was very determined to see that this did not happen. Gera thought that he could deal directly with his workers and succeed in resolving the problem.

THE SECOND PHASE

On September 18, 2012, Gera called a meeting of the workers where he exhorted them as follows:

A factory should be first allowed to find its feet before anyone can think of asking for more. Our company started with small orders from the builders. The initial capital comes from the advance payment made by the builders for the machines they order. In view of such realities, we are not in a position to consider demands for wage increases and the like at this stage.

The workers agreed to his suggestions and decided to maintain the same production levels as were earlier provided. Gera gave the impression that he was willing to consider a revision of wages very soon. He was happy and relieved with this outcome of his interaction with the workers. However, hardly had he left for home after the meeting when he received a call from his plant manager saying that workers had halted production in the plant. This made him rethink the way he was dealing with the workers.

THE THIRD PHASE

Gera soon discovered that the reaction of the workers during the conflict did not suggest that they saw him as a caring person towards them or that he had a personalized relationship with them. They had already started showing signs of insubordination, which alarmed him. The industrial relations situation deteriorated rapidly at Tesco. On September 19, 2012, Gera called the union leader of the All Escorts Employees Trade Union, another major union in the region, to facilitate negotiations with the workers, but all such efforts failed. The dispute now landed with India's conciliation machinery. At no stage during the conciliation meetings could the management establish that there existed bargained wages and workload structures. Nevertheless, management was very unwilling to make a bargain on the demands.

⁸ *The Payment of Bonus Act, 1965 applied to every establishment in which 20 or more persons were employed on any day during an accounting year. It was enacted to provide for the payment of bonuses to persons employed in certain establishments on the basis of profits or productivity and for related matters.*

The conciliation officer was bribed heavily by Gera to delay the proceedings. Gera thought that such a delay would break workers' confidence in Singh and that they would soon resume work. However, nothing like that actually happened and the strike continued for a number of days.

THE FINAL PHASE

Gera now decided to use strong-arm tactics. On September 20, 2012, six workers were suspended⁹ for instigating a "go-slow" and some others were charged for riotous behaviour, insubordination, willful slowing down of production and habitual breach of rules. Gera was unwilling to negotiate on the production levels and wages, especially considering that the new union was a difficult customer. The union also demanded the withdrawal of suspensions and charges. Its argument was that the inability of workers to conform to the arbitrarily fixed production norms did not amount to a "go-slow." The management was quite firm in its decision to go ahead with the disciplinary action.

The very next day, the entire workforce went on a stay-in strike.¹⁰ After waiting for a few days in the hope that the situation might improve, the management declared a lockout¹¹ on September 30, 2012.

THE ROAD AHEAD

Gera intended to increase the production of micro turbines produced in the other two plants and export them to other Asian markets within the next few months. Agreeing to all the reasonable and unreasonable demands of workers to maintain production was one option before him. But this would lead to increased costs, which the company could not afford at this stage. The other option was to close the plant¹² and contract out the sub-assembly work to outsiders.

Failing to achieve any mutual settlement, the management decided to close¹³ its sub-assembly plant permanently.

On December 30, 2012, three months after the declaration of the lockout, Gera decided to permanently close the plant. He gave a closure notice to the workers and the state government as required by law. He also offered closure compensation to the workers as mandated under the law. The closure decision resulted in the workers becoming unemployed and the company suffered huge losses due to the lockout. The only course left for the workers was to accept the closure compensation¹⁴ offered by the company and leave. All but six workers accepted it. These six who refused to accept any such compensation filed a case

⁹ According to the Industrial Disputes Act, 1947, a permanent worker could be removed from service only for proven misconduct, habitual absence, ill health or reaching retirement age.

¹⁰ This was a job action that consisted of a slowdown or work stoppage by employees who remained at their workplace.

¹¹ According to the Industrial Disputes Act, 1947, a lockout meant the temporary closing of a place of employment, the suspension of work, or the refusal by an employer to continue to employ any number of persons employed.

¹² Under the Industrial Disputes Act, 1947, companies employing more than 100 workers had to receive government permission before any closure. However, an industrial establishment employing fewer than 100 workers could retrench its surplus employees in accordance with the provisions under Section 25F, 25G & 25H of the Act without seeking the permission of the appropriate government. The total employee strength of Tesco was 170. Worker strength at Tesco's sub-assembly plant was 83.

¹³ Closure under Section 2(cc) of the Industrial Disputes Act, 1947 was defined as the permanent closing down of a place of employment or a part thereof, and was taken as an event which might occur due to industrial disputes or because of other reasons such as financial stringency, shortage of power or raw materials, inter/intra-union rivalries, accumulation of stocks, lack of demand, breakdown of machinery, indiscipline, violence, etc.

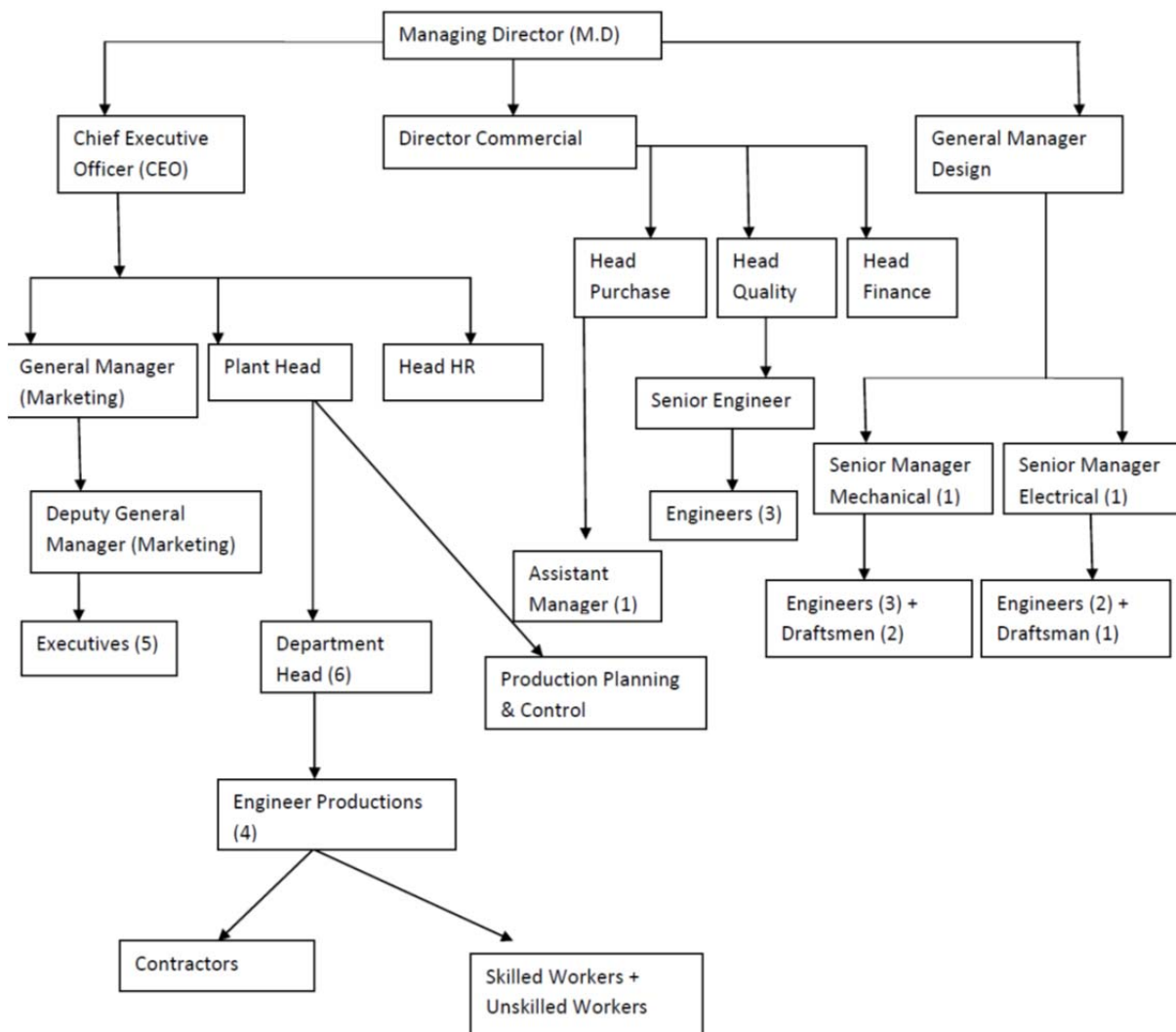
¹⁴ Under Section 25F of the Act, the retrenchment compensation to be offered to a retrenched worker had to be 15 days' salary for every completed year of service and an amount equivalent to one month's salary.

of unfair treatment of workers and closure against Tesco. The case proceedings were still pending in the district labour court as of September, 2014.

Workers were wondering whether what had happened on the industrial relations front at this unit was avoidable and whether they would have still resorted to the industrial action had they known that Gera would close the sub-assembly plant if they persisted with their demands. They were feeling quite restless given the long time that the dispute had taken. They resigned themselves to fate and accepted the closure decision. The six workers who did not accept the seemingly unjust and unfair power-play of Gera through his interactions with the conciliation officer were perplexed at what was happening. The case had already taken 20 months at the Industrial Tribunal in Faridabad, and there did not appear to be any possibility of an immediate decision.

For several months after the closure of the sub-assembly plant, Tesco had not been able to meet its commitments related to pending orders.” The closure of the sub-assembly plant had considerably tarnished its image in the eyes of loyal customers; many of them placed orders with competitors. Building a rapport with outside vendors for raw materials also became a challenge for Tesco. Its production costs increased substantially due to dependence on external vendors for raw materials.

As he travelled to Delhi, Gera faced the ethical dilemma of whether what had eventually happened to workers of the sub-assembly plant was right or not. Would the company be able to gain customers’ confidence again? His conscience was pricked when he thought of the now-unemployed workers’ fate, even though he felt that the rigid stance of the workers was responsible for the plant’s closure. He considered at least relocating his loyal workers to a new role in the company’s main production plants.

EXHIBIT 1: ORGANIZATION CHART — TESCO CRANES

Source: Created by authors using original company documents.

EXHIBIT 2: TESCO CRANE ENGINEERS PVT. LTD. — LAST FIVE YEARS' TURNOVER

Year	Turnover (INR in Millions)	Net profit (INR in Millions)
2007–2008	125.4	2.48
2008–2009	252.4	5.1
2009–2010	252.47	6.8
2010–2011	247.38	8.78
2011–2012	258.6	11

Source: Created by authors using company information.