

From the Editor's Desk



National Shipping Administration, be need-based on the authority of ideas, rather than the idea of authority. There is no question that should be impossible to ask, no subject that should be beyond the scope of inquiry, no issue that should be regarded as finally settled and no one who should be above or beyond a debate, to be addressed for content management, towards a step forward from the normal to the creamy layer, for refined thoughts of discovery. The creamy layer, need to come out from pure merits, with crystal clear thoughts of transparency, not by a result of quota or concessions or shortcuts or from sympathies, after achieving almost six (6) decades period of independence, living in a sovereign democratic republic country, which should be a justified motivating factor for national development. One needs an open mind to accept this fact by now, viewing the surge of scientific developments that we see and experience before us, in our daily lives. National Maritime Administration, need to be more involved with Indian National Ship Owners' Association (INSA), Foreign Ship Owners and Ship Managers' Association (FOSMA), Maritime Association of Ship Owners Association (MASSA), and ensure to provide proper regulation of seafarers and other stake holders, devise the special purpose training requirements with a view to enhance the employability of our national (Indian) seafarers in international shipping. Considering the notion that seafaring is an unsafe line of work with further threat of piracy and officer kidnapping. In the words of Kofi Annan: "Good governance is perhaps the single most important factor in eradicating poverty and promoting development" which primarily calls for fairness and justice, from the learned marine professionals in the corporate.

Institutions of Maritime Education, need to develop a healthy competition, as shipping is international, with possibility of strengthening our higher education system, with the preparedness to move ahead on to the proposed Maritime University. What prevails now is no standard, for what constitutes a necessary curriculum. Successful education focuses on Research, professional education, as well as on under-graduate study. Maritime Institutions should have their objective for not just apprenticeship training but for providing case-studies, updates of new knowledge, extent of knowledge to be imparted as mandatory, enactments in the pipeline etc. The vital need for generating a Data Bank with a foresight to emerging needs and changes, all relevant shipping industrial work process. etc.

"You can have all the knowledge and skills in the world, but if your "blueprint" isn't properly set for success, you're financially doomed." - T. Harv Eker

"Smart Men and Women professionals' can well understand that if to succeed in today's turbulent, highly competitive world, one need to continually increase their knowledge and skill ability, to adapt to rapid changes". Only then, they can keep to the top of their professional world. The shipboard job demands physical activity, alertness, intelligence and high professional knowledge, as one cannot take chances viewing risk management. When these attributes are stretched for a prolonged duration, the individual is likely to suffer severe stress. It may lead to boredom, dissatisfaction, anger etc flaring up into altercations and heated debates or near manhandling of colleagues. All are not trained to combat such situation and contain outbreaks. A leader cannot just watch such scenes but intervene. To cope up with similar shipboard environment and to enhance professional competence, a serious thought of management in "Human Relations and Human Resource Development" calls for to maintain morale of all onboard to live and work in harmony. Good interface management is the key to success.

"Engineers" irrespective of what they be, the Chief Engineer or the Superintendent-Engineer, they form a member in a strata of the institution of engineers, or specialized sections of production/manufacturing engineers, marine engineers, safety engineers, quality assurance engineers etc. the class of membership Fellow, Member, Associate Member, Graduate/Student Member etc. distinguishes members from others, which only matters. Professional Associations are not to merely function as recreation clubs, parties, excursions etc. but for maintaining code of professional ethics, if to innovate and develop, for professional image development and achievement with creative thinking. Chief Engineers (Marine), don't have nor need a separate association, the engineering feat is far more wide and universal. "Chief Engineer" is an entity in the organizational set-up of hierarchy, designated ashore as Marine / Mechanical / Shipyard Engineer, Engineer Surveyor, Consulting Engineer etc. The technical and/or Management acumen, speaks off individual's credibility of their rich qualification, experience and knowledge, contribution in technical and/or management society. "Try not to become a man/person of cheap success. Rather become a person of values" - Albert Einstein.

The examinations conducted by the Mercantile Marine Department of the DGS, were not equated with the University Degrees or Diplomas with corresponding academic contents, since one should bear in mind that this arena is restricted to operation and maintenance skills specific assignment, the mariners inducted into the department were generally under-graduates with professional apprenticeship training but equated with the creamy layer bureaucrats of the nation, without much competition, nor additional qualification, unlike other Class one officers. It is left to interested seafarers to enhance their qualification/knowledge viewing shore assignments, in this competitive world, making use of the Open University system (distance/e-learning). "SHIPPING CALLS FOR QUALITY AND COMPETENCY IN SEAFARER'S TRAINING", Maritime Training Institutes to usher in excellent quality, modern technology and efficiency in the training of Indian Seafarers. Updating of professional knowledge is imperative to perform maritime operations, in the most efficient manner. Constant refresher training with updates will only make the Indian Officers more competent than those of other seafaring nations. With this objective in mind, a strict benchmarking of maritime training institutions and unbiased monitoring by international credit rating agencies, will keep in good stead.

The charter of crew duties need to be well defined while an extra hand is not positioned onboard, to meet exigencies. At sea, this decision of manning turns out to be unrealistic, by those incompetent with just Port/ harbour/CIWT apprentice background, without wider vision, as one should realize that crew may be summoned to meet contingencies, any moment of time. If one of the critical machinery among the numerous fails at sea, the manning structure goes topsy-turvy and the rating crew and officers have to slog till things are set right. It is impractical to call for assistance during emergencies out at sea, hence the only option is to stretch the available skilled manpower. The physical or mental weakness resulting from such prolonged and tiring effort or activity out at sea called fatigue, need to be considered an important factor, while the life at sea has inherent-fatigue. The ageing of ship, the maintenance standards and living conditions onboard contribute to excessive level of stimulation or prolonged exertion. When fatigue strikes, the crew's ability for spontaneous action during emergencies diminishes owing to disturbed presence of mind to take the right decision and this can lead to serious consequences of disaster. A foolproof method has yet to be devised, for" Database of Indian National Seafarers(DINS)", expressed earlier by us "Marine Waves" to look into differentiating the Indian CDC No. and the existing INDOS No.as per M.S. Notice 2 of 2001. One needs to love his own country first, "but what if it is wrong" "Right or Wrong", do people not have the right to express their ideas peacefully? Focus on these issues not from the point of view of a statesman but from the point of view of a person who tries to understand the inner pain and suffering of the seafarers, causing even unwanted complications to documentation of our Indian seafarers, instead concentrate on the social security of the seafarers working in hazardous zones out on the deep seas, earning foreign exchange to their country?

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recommendations. In December last year, Army Chief J J Singh reportedly issued a circular to his officers asking them not to entertain the RTI requests till the government took a final decision on Act's applicability to defence forces.

Subsequently Defence Minister Pranab Mukherjee asserted that the RTI would be applicable to the defence forces.

Apart from defence forces, Delhi Police and Central Bureau of Investigation (CBI) have also sought certain modifications in the Act. While the CBI has demanded that applicants be asked to prove their 'nexus' with the information (interest in information) they seek, the police have sought same status as of paramilitary forces. In another interesting

development, Magsaysay Award winner Sandeep Pandey has submitted an application at the CIC office, seeking information about expenditure on the convention. In the application, he sought to know how much the CIC spent on the convention and paid artiste Jaspal Bhatti and a Rajasthani group, which performed the event.

W o r l d I n f o D e s k

Not in class: THE English high court has held that the underwriters of hull insurance on a tanker damaged by a typhoon were not liable because the vessel's class had been cancelled. The owners had bought the vessel in Korea after it had been damaged by a previous typhoon and obtained hull insurance by way of an endorsement that extended cover under an existing hull policy for the owners' other two vessels. Cover was effective from the date of purchase of the vessel and the endorsement provided for cover subject to a limitation of trading in Indonesian waters only. Additional cover was provided for the delivery voyage from Korea to Indonesia, with coverage given "subject to vessel being in class". The vessel's class was stated in the endorsement to be 'KR', a reference to the Korean Registry of Shipping. On July 4, 2004, the vessel was struck by a second typhoon and went aground. The owners claimed under the hull policy, and the underwriters rejected the claim and sought to avoid the policy. On the date of the grounding, the vessel was not in class with the Korean Registry of Shipping. On March 31, 2004, the vessel's class with the registry had been suspended and on July 1, 2004 it had been cancelled. On June 28, 2004, six days before the damage and the date of the endorsement's inception, the sellers had entered the vessel with the International Maritime Bureau of Panama, which had issued interim class certificates.

Justice Langley held that the reference to 'Class: KR' was a warranty that the vessel was classed with the Korean Registry. The owners were in breach of this warranty as the Korean Registry had cancelled the vessel's class. On this ground alone the underwriters were held not to be liable. The court also found that the endorsement clearly stated that cover for the delivery voyage was "subject to vessel being in class and crewed to class standards". This was held to be a

reference to the Korean Registry only and could not be read as "some or any class". Thus, the underwriters were off-risk at the time of the loss.

Arresting discussion: DOUGLAS Lindsay, of Maritime Resolve Ltd, has written in response to our recent call for comments about the apparent decline in ship arrest appointments. He says, "There are actually three certainties in life - death, taxes, and the next shipping depression." Having been involved in ship arrest and repossession for quite some time, I have watched cycles at work for a long time. Yes, things are quiet just now but, in a market where you have to be incompetent or desperately unlucky not to be making handsome profits, it is hardly surprising that arrests have diminished. With the exception of fringe cruise operators and perhaps cable ships, virtually every kind of thing that floats is making money. "Ah, but for how long? It was many years ago that a wise old head in maritime law said to me that, during a boom, owners are too busy making money to bother with legal action. In a bad market, they turn to their lawyers and sue each other vigorously as an alternative source of income, using all the old claims they've stacked up during the good times. (Question: what happens when the boom time exceeds the statute of limitations?) "Predictions are always a dangerous hostage to fortune, but we suspect that the next slump will see a different sort of arrest predominating. Whereas last time it tended to be the smaller owners with old tonnage who got into difficulties, next time round it may well be new ships which are recovered. Many have been built and paid for at prices which can only show a profit in boom times, and with large sums outstanding banks will not be slow to reach for their security when owners can no longer cover their inflated mortgages. I know, of course the prudent (uninsured?) owner will have put away funds to carry him through the bad times. But back in the real world you don't have to lift very many stones to find a more

cynical and greedy approach - and all those lavish parties will have had to be paid for

Unsigned charter binding: THE high court in England has upheld an arbitration ruling that an unsigned charter party became binding as a result of the conduct of the parties. IN 2001, OSA entered negotiations with DSND for the charter of the "Botnica". DSND had previously bareboat-chartered the vessel from the Finnish Maritime Administration under terms whereby the vessel might need to return to Finnish waters for ice-breaking duties. DSND sent its draft terms for the charter to OSA, which faxed back a signed copy containing handwritten amendments. DSND then signed every page of a full version of the Supplytime 89 Form, which provided in relevant part that the charter terms had to be signed by both parties before becoming binding. O S A never signed



the charter agreement, but the vessel still went on hire in October, 2001, and both parties signed an on-hire statement to that effect. In November, 2001, OSA was advised that the vessel would have to return to Finland, and the parties signed an off-hire statement.

DSND claimed that OSA had not paid the sums due under the terms of the charter. At subsequent arbitration, it was found that the charter was binding, and that the arbitrators had jurisdiction to hear the dispute. OSA applied to the high court for a declaration that the charter was not valid as the requirement for both parties to sign had not complied with and, consequently, the arbitration clause in the charter was not binding either. The high court confirmed the arbitration ruling, noting that, by its conduct, OSA