

with your colleagues, my statement that I, being a Member of the WTO, took a right decision for this country. My friend Shri Jaswant Singh, when he occupied the Treasury Benches for thirteen days, did not demur from that proposition. Once we are Members of the WTO, we have to fall under the discipline of the WTO. We are faithfully adhering to the WTO. We have offered a phase-out and QRs. As the countries are asking for smaller phase-outs, we are discussing it in Geneva. One or two countries have told us that they would like to take us to the Disputes Panel. But we are not afraid of that. We have taken those countries to the Disputes Panel and we have succeeded in those disputes. We do not believe that we are in error. But we think that before going to the Disputes Panel, we must discuss bilaterally and resolve this problem.

The Foreign Minister of Australia was here yesterday. He met me and he met the Prime Minister also. I told him that we are willing to discuss. After all, trade is a bilateral concern. Like they would like to export to us, we would also like to export to them. We cannot have trade as a one way street.

You mentioned about foreign banks. Indian banks have offices abroad. If you do not allow foreign banks to have branches here, they will not allow Indian banks to have branches there. Shall we close down our branches in those countries? It does not work that way. I would urge upon you to consult your party about some statements made by you and the hon. Member Shri Verma. I do not think that that is your party's position either. I think, your party also wants trade liberalisation.

PROF. RASA SINGH RAWAT: What about our interests?

SHRI P. CHIDAMBARAM: Our interests are truly and fully safeguarded by adhering to the WTO requirement. I say with conviction that we are not in breach of any WTO requirement and we will adhere to the WTO requirement.

PROF. RASA SINGH RAWAT: I was talking about providing financial assistance to small-scale industries. You talked about the medium industries.

SHRI P. CHIDAMBARAM: When I made that statement, you were not listening to it. When I was answering to Shri Chatterjee, you were talking to your colleague. I said that consultants have recommended that the focus strategy should be on medium-sized companies. I said, we can take a second look on the report and we can try to find out companies with technological edge and a good track record of exports even in the small-scale sector and they should not be given greater assistance. I said, we can take a second look at it.

With this, I request that the Bill be passed.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Export-Import Bank of India Act, 1981, be taken into consideration."

The Motion was adopted.

MR. CHAIRMAN: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That Clause 2 stand part of the Bill."

The Motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN: The question is:

"That clause 1, Enacting Formula and the long Title stand part of the Bill."

The Motion was adopted.

Clause 1, the Enacting Formula and the long title were added to the Bill.

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The Motion was adopted.

16.18 hrs.

DOCK WORKERS (REGULATION OF EMPLOYMENT)
(INAPPLICABILITY TO MAJOR PORTS) BILL

[English]

THE MINISTER OF SURFACE TRANSPORT (SHRI T.G. VENKATARAMAN): Sir, I beg to move:

"That the Bill to provide for inapplicability of the Dock Workers (Regulation of Employment) Act, 1948 to dock workers of major port trusts and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

With your permission, I would like to say a few words while moving the Dock Workers (Regulation of Employment) Bill, 1997 for consideration of the Lok Sabha as passed by the Rajya Sabha.

Till 1948, the loading and unloading of ships was done by Stevedores, who hired workers either directly or through labour contractors. This labour was not paid suitable wages and not assured regular employment. To provide greater regularity of employment and prevent exploitation of cargo handling labour, an Act was passed by the Parliament, namely, the Dock Workers (Regulation of Employment) Act, 1948. It provided for formulation of necessary schemes by the Government to be administered by Dock Labour Boards to be set up under this Act. Such Dock Labour Boards were set up at seven ports out of the 11 major ports in India.

The operations on board the vessels are carried out

*Moved with the recommendation of the President.

[Shri T.G. Venkataraman]

by dock workers belonging to Dock Labour Boards and on shore are carried out by another set of labour called shore workers, who are port employees. This dual system of labour working under the different bodies leads to non-optimimum and uneconomic utilisation of labour.

We wish to merge the labour of the Dock Labour Boards with the concerned Port Trusts, so that interchangeability of gangs is introduced. I would like to make it clear that no labour will be retrenched or dismissed by this move. All the Dock Labour Boards' employees/workers will become employees/workers of the respective Port Trust and the merger will be carried out only signing an MoU with the labour unions.

The Bombay Dock Labour Board and the Cochin Dock Labour Board have been superseded from 25.2.94 and 27.6.95 respectively after settlements were signed with Labour Unions for merger. They could not be merged with the Port Trusts only because an enabling provision does not exist in the Dock Workers (Regulation of Employment) Act, 1948.

To introduce an enabling provision, a Bill, namely, Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Bill, 1995 was introduced in the Rajya Sabha on 22nd August, 1995. The hon. Chairman, Rajya Sabha referred the Bill to the Departmentally related Parliamentary Committee on Transport and Tourism for examination and report. The Committee submitted its Report to the Rajya Sabha on 4.12.95 and laid it on the Table of the Lok Sabha on 6.12.95. As per the recommendations of the Committee, the Government accepted the amendments suggested to the Bill, which have been adopted and passed by the Rajya Sabha.

This Bill provides that from a date to be notified in the Gazette, the Central Government will have the authority to direct that the provisions of the Dock Workers (Regulation of Employment) Act, 1948 will cease to apply to a Major Port, so specified. On that appointed day, all property, assets, funds, employees and workers of a Dock Labour Board will merge with the respective Port Trust. The terms and conditions of service of the employees will not be changed to the disadvantage of the employees.

I now commend the Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Bill, 1997, as passed by the Rajya Sabha, for the consideration of this House.

MR. CHAIRMAN: Motion moved:

"That the Bill to provide for inapplicability of the Dock Workers (Regulation of Employment) Act, 1948 to dock workers of major port trusts and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

[Translation]

PROF. RASA SINGH RAWAT (AJMER): Mr. Chairman, Sir, I welcome and support the Dock Workers (Regulation of Employment) (Inapplicability of Major Ports) Bill, 1997.

Mr. Chairman Sir, there goes a proverb that two of a trade never agree or there can't be two lions in the same forest and same sort of situation is there in the docks of our country in the wake of division in the dock workers. The job, rules, gratuity, pension or pay-scale etc. of the workers of old docks are governed by the Dock Workers (Regulation of Employment Act.) 1948 and they were getting all facilities therein. But several new docks were developed in the country wherein Nhawa, Sheva, Kandla, etc. port trust were formed. They were regulated by port trust Act, wherein there are workers who do loading and unloading on the ships at these ports were included. Therefore, two categories were formed. Those who do loading and unloading work on the ships are governed by the Bill of 1948 and there are workers who do loading and unloading work on trucks also. The workers engaged at the major ports. Radha, Mumbai, Chennai, Vizag, Calcutta, Kandala have been divided into two categories. Suppose the workers living at Sea Shores do not get work or go on strike and keeping in view such problems the Government has brought this Bill. Though this bill has been brought late but it is better late than never. I am sorry to say that the copy of the Bill bears the years 1995 and carries the signature of then minister Shri Jagdish Tytler thereon.

The Government should have better circulated the fresh printed copies of this Bill then, evaluation could have been made as to whether or not the Government has made any amendments into this Bill. The copy we arranged from outside and after cross checking it in today's list of business, I find that the Bill bears the date 9th August, 1995 and carries the name of the then minister Shri Jagdish Tytler. I think that they are carrying forward this weight owing to the support extended by the Congress Party to this Government. Had this Government applied its own mind, this Bill could have been made more effective. In fact, 13 parties have applied their minds besides one from the outside but the mind from outside is predominant in this Bill. Had this Government applied its own mind, this Bill could have been made more effective.

As has been stated in its statements of objects and reasons that:

[English]

"The cargo handling operations on board of the vessel are carried out by dock workers and the employment of such workers is regulated by the Dock Workers (Regulation of Employment) Act, 1948."

[Translation]

Now the law of 1948 is being repealed and all the workers under the old law and these working at present, their payscales funds and rights will be protected under this new Act.

I myself have seen at Mumbai Port Trust that in what

kind of inhuman conditions the workers have to work at the ports. The rainy and ocean water stagnates at places and it is quite deep at the place where the ships stop. The workers find it quite inconvenient to reach there for loading and offloading work on ships. Now with the advent of cranes, automatic containers and so many changes, the life of workers still remain endangered. Many a time accidents occur and the workers do not get even first aid, though the first aid centres do exist on papers but the doctors and necessary facilities which ought to be available at these centres are conspicuously absent. The workers have to carry out the exhausting job of loading and offloading work during winter and rainy seasons. They have to risk their lives while working at machines still they do not get necessary facilities. When we visited Kandala port, we found that high ranking officers were provided all the facilities but the workers were not provided the same facilities. There are two categories of workers—the contract workers and the permanent workers, the condition of the contract workers is pitiable. They further go in for the sub contract at times, there is rush of ships in the port than the workers are not available for loading and offloading work and more often than not they do not get work in the off season. I, through you, would like to ask the Government that it is all right to enact new laws and repeal the old ones so as to ensure implementation of uniform law at all 11 major ports and their interests will be safeguards under the same law but the Government should also see that in what kind of conditions these workers have to work and reside. The Government should make necessary arrangements for the education of their children. They have to do loading and off loading work in shifts day and night. Therefore, they should be provided canteen facilities. I do hope, that the Government should pay full attention to it. Change of law alone would not serve the purpose. Bringing all the workers of 11 ports under the one law alone is not sufficient. In fact, the workers, should get gratuity, salary, pension, P.F. etc. alongwith the payment of full compensation in case of accident. The services of workers working since long as casuals should be regularised. The contractors exploit the workers to earn profit. But the casual labourers working at port under the Government are engaged and disengaged for short intervals so that their services are not regularised and they do not get entitled for regularisation. So Mr. Chairman, Sir, I, through you, would like to seek an assurance from the hon. Minister and the Government that they should take all necessary efforts to save them from the exploitation of the contractors and to safeguard their interests. Whatever facilities were provided in the old and new law should be provided to them and the hon. Minister should ensure that all the benefits in the labour laws are provided to them. The workers who met with accidents at the ports are being paid the compensation at the old Rates which needs to be increased. As today the world has shrunk into a village and the trade has expanded after liberalisation and globalization, the open policy of trade may lead to widespread unemployment, with the induction of giant cranes, machines, containers and state of art technology, retrenchment of labourers should not take place rather their

rights should be safeguarded. The hon. Minister should take full attention to improve their living surroundings, to make arrangements for their children's education and their insurance. As the hon. Minister has himself admitted that

[*English*]

"With the result, it has become difficult to have optimum and economical use of available man-power on port".

[*Translation*]

Several committees were appointed and a number of recommendations were made by them, you are implementing only one recommendation for constitution of Port Trust as a single agency and integration of cargo handling, labourers and bringing them under one law. I through you would like to say that alongwith coordination, retrenchment of labourers should not take place and their rights should be safeguarded and I would also like the hon. Minister to tell the House that the details of the recommendations made by the committees and by which time. The recommendations are to be implemented so that lakhs of workers engaged on various ports perform their jobs in a better manner and their interests, too, are safeguarded.

I can recall that the port workers had gone on a strike some time back and had also put first their list of demands. I would like to know from the hon. Minister as to what are their major demands. The new U.F. Government which has openly stated to give top priority to their grievances and the U.F. Government should not ignore their problems under pulls and pressures from the Congress Party. The Government should give an assurance in this regard. With these words, I thank you for giving me an opportunity to express my views.

SHRI GEORGE FERNANDES (NALANDA): Mr. Chairman, Sir, the hon. Minister while introducing the Bill delineated on the situation prevailing before 1948 as to how the dock workers were exploited and to stop it the Dock Workers (Regulation of Employment) Act, 1948 was conceived and enacted. I have had the close experience of this exploitation as I have been associated with the organisation of Dock Workers but this association was of a later period after 1948 but today on this occasion I cannot but recall that person who brought me in politics and labour movement who struggled hard for this legislation—his name was P. Demello.

Shri P. Demello, in his younger days, was associated with Shri P.N. Rai group and worked in Kalicloth on Bombay Dock. He set up a labour organisation there. He was imprisoned in Mumbai Jails from 1946 to 1948 but continued his struggle to end the exploitation which the hon. Minister has just now referred to, during the regime of Pt. Nehru. When he was freed from the jail, he resumed his struggle for this legislation owing to which he was again put behind the bars in Mumbai Jails. Thereafter hence language based states were not formed, till then, he was deported to his village in South Canara in Karnataka State where I met him.

[Shri George Fernandes]

He set up a labour organisation there in which I also worked with him. He was once again apprehended under the Preventive Detention Act which was enacted in 1949 or 1950. He was perhaps the first Indian to have been arrested under this law. At the time of his arrest, he was in Mangalore and was imprisoned in the Vellore jail of Tamilnadu where he was kept for about one year and nine months. After the charges and restrictions made out against him were removed by the justice Chhagala. He came back to Bombay.

After his arrival in Bombay, he was again jailed after six months for about one year and nine months. He contested the 1952 election from the jail and was kept in Jail till the completion of general elections. He was the single person to have struggled for bringing about improvement in the life of dock workers owing to which he was imprisoned. He fought the 1952 assembly election from the jail as the then Government did not allow him to come out. He was apprehended under the Preventive Detention Act and security of state law.

I recall this person today because no other trade union leader in the country has done such a work. At that time the Dock Workers were paid 2 anas or at best 4 anas. He raised the organisation of such labourers and fought ceaselessly for their interests. He was imprisoned not for once but four times and out of 6-7 years, he spent 4-5 years in Jails.

I want to recall the memories of that person here in this House, who was instrumented in bringing about this legislation to protect the interest of labourers. He was never the member of assembly or the Parliament as he contested the 1952 assembly election from the jail and everytime he was put behind the bars and lost elections each time.

Mr. Chairman, Sir, this Bill relates to the workers who work on ships and carry out loading and unloading work and aims at bringing them under the port trust.

Mr. Chairman, Sir, we do not have any objection to this Bill. This Bill is already under operation in Mumbai. In fact, it had come into force two years back by the agreement reached with the Union. This Bill is for those nine thousands dock workers who carry out loading and unloading work on starboard ships and to bring them under the port trust. We do not and must have not any objection to it. Therefore, I would not comment on it. I do not have any thing worth saying about this Bill. The dock workers have a strong organisation and are fighting for their interests since 1946 and have also succeeded in availing of better pay and facilities than others in the country. They have achieved all these things not by anyone's mercy but by their ceaseless efforts and sacrifices. Several workers were killed in the struggle. Several labourers had fallen to bullets in the banks of ports in Mumbai. I had also contributed to some extent in these struggles which needs not to be mentioned here.

Mr. Chairman, Sir, I while speaking on this Bill have

the apprehension that this Bill relates to the on going process of privatization of Indian ports initiated by the Government. The following is the report of march months of your Ministry.

[English]

Kindly see paragraph 7.40 of page 42. It is given as "Major developments in the port sector" What are the major developments in the port sector? It is privatisation of the port facilities. This is the major development in the port sector, that is, privatisation of port facilities. And what are the facilities that you are going to privatise? Kindly listen to me, Sir. Firstly, it is leasing out assets of the ports.

[Translation]

The dock assets have been raised with the public money your ministry is not of today's ministry. It was constituted years back and when the dock's income was not enough to run these docks, then, Government's money was used for running them and the public money is deposited in the Government's coffers. Therefore, the dock's money is public money. The Government spent its money to construct these docks which is public money. Today the Government is going to privatise these ports. The Government should have some shame. Your major development is:

[English]

"Privatisation of port facilities". First comes leasing out the assets of the port. The second one is more important than the first one. It is "construction and operation of container terminals, multipurpose cargo box and specialised cargo box, warehousing, storage facilities, tank farms, container freight stations, setting up of captive power plants."

[Translation]

Then what remains which you are not privatising? The Government has decided to privatise all the ports of the country constructed with the public money within a period of 40-45 and 50 years, in the 50th year of Independence.

Sir, the person whose name was mentioned by Rawat ji and on whose name a Bill was introduced in the House earlier, represented an American Multi-National Company and the then minister concerned and the hon. Prime Minister had decided to handover the Kandala Port to that company. An agreement was signed to hand over fifteen hectares & Government land which was earmarked for the production of salt and which did not belong to the port but rather served as a safety belt of an island which protected the port from the waters of the sea, to a private American multinational company 'Cargil' after constructing a highly mechanised and ultra-modern berth, I had raised my voice in this House against that deal and in turn also received brickbats and abuses from the said Minister. I have been a member of Parliament since 1967 and I did not receive brickbats from anyone except in that particular case because we had caught them on the wrong foot. We even resorted to 'satyagraha' for six months and 8500

people had courted arrest. We knocked on the doors of the court, as a result, Cargil had to go and the Govt. had to bow down. The name of the Minister was Shri Jagdish Tytler.

Sir, I am mentioning it here because they are talking of ending exploitation in the docks, improvement in the docks and increasing their productivity etc. But when all these issues involve privatisation, why does the Govt. indulge in such a discussion? they are there to seal it out.

Sir, it further mentions—

[English]

"Leasing of equipment for cargo handling and leasing of floating rafts from the private sector."

[Translation]

Then there is a mention of 'pilotage! The employees of the port bring the ships inside the port. They bring big boats to their berth with the help of small boats-pilotage is also being awarded to constructors. It further states—

[English]

"Captive facilities for port-based industries."

[Translation]

Then what else is left? Port is not meant for trade only. They consider everything as trade for Americans because Americans can send its army anywhere in the world, just as it did to wipe out Iraq. Everything is fair for them. If we face any threat to the Security of the country, tomorrow in the Arabian sea, Bay of Bengal and Indian Ocean, our ports would be converted into war ports. Under such a circumstance, there is a need to maintain secrecy about movements of our war-ships. The Government is privatising the ports. Which means the Govt. is selling out the security of the country in the hands of foreign countries. These people have no right to sit here. I am laying emphasis on this point since this issue is not limited to the speech only. The security of the country is being mocked at from all sides. The most dangerous thing is that the Government is endangering the security of the country by privatising it. Various foreign companies have started entering into partnership in the port sector. Today, these companies are operating in collaboration with the Ports and the Government. The 9th Five Year Plan which is yet to be discussed in the House, has started in practice. The congress Government used to do this and there is no difference between you and them because the United Front Government survives on your support. Therefore, the U.F. Government will do whatever the Congress Party dictates. You should have done it. Those people would not have behaved with your Government in such a way. The data have been given in regard to Ninth Five Year Plan. There is outlay of 17 thousand crore rupees. The outlay of 17 thousand Crore rupees in 1997 is for the five years i.e. upto 2002. For this Five Year Plan they say that:

[English]

Out of this, Port Trust would be funding schemes/projects upto Rs. 10,664 crore.

[Translation]

The Minister has said just now that we will implement this law immediately where it is yet to be implemented because we want more efficiency and more profit. It is justified. More efficiency should be there, more profit should be there. The corruption at Port should be stopped. If you want to know about the extent of corruption there, then, I will tell you about it some other day. That should also be stopped. Profits should be increased. Regarding the profit of ports, last year, you have earned a profit of more than rupees 800 crores from major ports in Hindustan.

In the previous year to that you have received about 650 to 675 crores of rupees. Next year this amount will further increase. If your plan outlay is of rupees 17,000 crores, have completed a scheme of rupees 10,664 crores then this likely profit from ports should have been saved and if after that it is less i.e. if you have added that amount also in your scheme, then just now Finance Minister has said here that there is so much of money in banks that we don't know what to do with that money, so you give some money from banks to ports, why are you taking steps to handover the ports of this country to foreigners?

There is difference between Your theory and practice. On one side you are saying that there is plenty of money and we know that money is there and if you stop this looting then what should be done with the money, this also will not be known to us. There is plenty of money in this country and we are going to give ports of this country to foreigners. We want that this House must think over it, it should not remain satisfied with this Bill only but some discussion should be held in this House about such issues and the bizarre situation in which we are, that situation must be avoided.

About law, I only want to say that it is said in section 4(1) (e) that:

[English]

"Every employee and worker serving under the Dock Labour Board shall hold office or service under the Board on the terms and conditions which are not in any way less favourable than those which would have been admissible to him if there had not been transfer of his services to the Board and shall continue to do so unless and until his employment in the Board is duly terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board".

[Translation]

I want to know whether you are looking at labourers at labour boards/Port Trust by dividing them in two categories? It is not clear in section 4(1) (e).

[Shri George Fernandes]

[English]

I shall put these words across to the hon. Minister, in English, if he so pleases.

My worry is that in section 4(1) (e) of the Bill, which you want to get enacted, you have said,

"every employee and worker serving under the Dock Labour Board shall hold office or service under the Board on the terms and conditions which are not in any way less favourable than those which would have been admissible to him if there had not been transfer of his services to the Board and shall continue to do so unless and until his employment in the Board is duly terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board".

You are not saying, Mr. Minister, that you will have the same service conditions; you will have the same pay as employees in the same category in the Port Trust. You are not saying that. You are treating them as a separate category. Tomorrow, the interpretation of this section will be that they were not part of the Dock Labour Board or the Port Trust in its entirety and their personality was not submerged into the Port Trust. They were not being treated as the employees of the Port Trust because this leaves it open. It would have been admissible to him if there had not been transfer of his services to the Board. So, you are trying to say that they will have not favourable terms than what are available to the Port Trust. You are not saying that they will be assimilated into the Port Trust. You are keeping some kind of a separate category.

This fear in my mind gets confirmed when you read it further. It says,

"...and shall continue to do so unless and until his employment in the Board is duly terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board".

This confirms that you are treating them as a separate category and not as full-fledged employees of the Port Trust. I want a very clear statement from the Minister in this regard whether they are going to be full-fledged employees of the Port Trust or not.

My second question is: If they are going to be full-fledged employees of the Port Trust, what would happen to their seniority? What would be their seniority *vis-a-vis* the other employees of the Port Trust who have been serving there? I know there are employees of the Dock Labour Board who have been working there for the last 30 years. Some of them are due for retirement even. I would like to know: Where do they fit into your seniority? What happens to their promotion as *Tenduams, Muttadums* in any other category? What happens to them? Your Bill does not make it clear.

[Translation]

Therefore I only want from the hon'ble Minister that there is no difference of ours on other issues in this Bill, but this issue here is looking very dangerous to me and we would like the Minister to explain it in details only after getting explanation on this Bill may be supported, otherwise there will be no support to this Bill.

About the Privatization issue we are not in a position to ask something from the Minister because it has been laid on the table by him, therefore there is nothing to ask from him just now but we want that they should not destroy ports by endangering the security of the country in such a way.

SHRI THAWAR CHAND GEHLOT (SHAJAPUR): Mr. Chairman, Sir, I agree with the views expressed by hon'ble Rasa Singh ji and George Fernandes.

I did not consider it necessary to speak more after them but the provisions made in this Bill till now and the apprehensions expressed by Hon'ble Rasa Singh and George Fernandes, the provisions made in sub section two of section 4 of this Bill, I have doubt on that and I think that if difficulty in regard to service is faced by the employees due to this then they can not get justice and the way the old system is going on that will continue, in the same way and those employees will remain sufferers.

I want to read subsection two of Section four:

'Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee under this section to the Board shall not entitle such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, Tribunal or other authority.'

(SHRI CHITTA BASU *in the Chair*)

16.58 hrs.

In Industrial Dispute Act, 1947, some rights have been given to employees and, I don't understand the logic behind imposing restriction in this Bill on these rights. On Institution, this board is being included in this Port. These assets of Port Employees, their rights, their service records etc. will be included in Port Board and if any difficulty is faced by Port Employees in this transfer and if they want to get justice in the court then the sub-section (2) of section (4) of this Bill stops them from this. This is against the principle of justice.

There is provision in the Constitution of India that if there is injustice to anyone then he is free to go to court. This provision is there in the constitution but this section is putting restriction on that so I want to know from the hon'ble Minister as to why this provision has been made and its need has been felt. Whether he is ready to withdraw this section even today? There will be several such difficulties before the port employees.

17.00 hrs.

Whenever there would be transfer in the port then those who used to undertake work of permanent nature, suppose they have attended the work for 240 days, they have the right to be made permanent. If they do not have such sort of rights, since there are various unions and there is the provision in it that by holding meetings with the unions, all those who come under its purview should be included in it and they should be given the rights. They will decide. Suppose if there is lacuna in taking the decision then those employees have the right to remove it. Legally they have the right to knock the doors of the court. A ban is being imposed on it which should not be done. Otherwise this Bill is worth supporting. If the intention and the policy of the Government are alright, whether the rights were being protected in that institution or would be protected here, something can be achieved from the aims of bringing this Bill otherwise nothing can be achieved.

I support this Bill and I would like to have the reply from the hon. Minister with regard to the doubts I have expressed.

SHRI SATYA PAL JAIN (CHANDIGARH): Mr. Chairman Sir, prior to me two senior leaders Shri Rawat ji and Shri George Fernandes have spoken in favour of this Bill. While agreeing with their views I would like to draw your attention towards two three points. This Bill was introduced in 1995. As the hon. Minister has said while introducing the Bill that this Bill was referred to the select Committee after consideration of the Rajya Sabha and the representatives of all the parties were in the committee and now it has come to this House. The object of this Bill becomes clear from section 3 of this Bill. I would like to read out that section for your consideration:

[*English*]

"The Central Government may, after settlement is arrived at between the Dock Labour Board of any major port, its workmen and the management of that major port in accordance with the provisions of the Industrial Disputes Act, 1947, direct by notification in the Official Gazette that the provisions of the Dock Workers (Regulation of Employment) Act, 1948 shall cease to have effect in relation to that major port with effect from the date specified in that notification."

[*Translation*]

As they have written in the objects and reasons of this Bill that the labourers had been facing two types of managements and two types of laws. To bring parity and to remove the disparity a provision has been made in this Bill. I think that it is right and it should be supported.

I would like to draw the attention of the hon. Minister towards two-three points. As Rawat ji has said that it has been seen that there is no provision of education and medical facilities for the children of the workers of the at the place of their work. The labourers work on a little wages. Provisions should be made for school and medical

facilities for the children of labourers. If you do so then it is a right thing. There is no time frame to settle down the dispute between the management and the workers. Whether someone goes to labour court or any A or B authority it has been observed that there disputes are not settled for a long period. When the dispute with the management lingers on the worker comes to a position of disadvantage since the management can have a good lawyer, can pass on a good time and can pay a good amount. It has an upper hand.

Therefore, in case if any dispute arises between the Management and worker and a worker goes to any forum or tribunal, Authority or Dispute settlement Board contributed by you, then a time frame should be fixed to resolve the dispute within two-three or six months, then, I think you would be able to do a lot for the poor people and workers and you can protect their interests.

The worker faces a lot of difficulties on the question of implementing an award or decision given on a dispute. The workers don't have their unions, everywhere and where there are unions even there, the workers and their unions face a lot of difficulties in this regard. I had given a suggestion earlier and now again I would like to give a suggestion. As per criminal law, when any person commits a crime then the state fights the case on his behalf. If a dispute arises between any worker and the Management or the Management commit excesses against him or do not want to implement the award given in his favour or do not want to reinstate him or give him benefit then I would request the Government to ponder over this suggestion that the Government should fight the case on his behalf.

[*English*]

It should be state versus management, not workers versus management.

[*Translation*]

The Management do not implement the decision given in favour of the employees or any workers. This is a crime against the society. For instance, under criminal Law, when a person hurts anyone or fights with anybody then it is not a crime against an individual but it is a crime against the society. I feel the same thing in this case. If the Management do not implement the decision or award given in favour of any worker then it is a crime against an individual as well as the society. This suggestion is a major revolutionary step. If the Government are ready to take steps in this direction then they should make amendment in the said legislation in future whether it is Industrial Dispute Act, Abolition of Contract Labour Regulation Act or any other law. I think we can take a good revolutionary step in favour of the employees and workers on the occasion of 50th anniversary of Independence.

The hon. Minister has said that after disparities among the two are removed, there would be no changes in the service conditions and rules of these employees and then would be no retrenchment. I hope that the Government would keep this promise and also implement all these

[Shri Satya Pal Jain]

suggestion. As said by Rawatji, such a situation will not arise particularly in the case of those who have worked at a time with the management. Those who have worked under one law should also get all the service benefits irrespective of whether they have worked for 240 days or less. I hope that the Government would ponder over in this regard.

Sir, I would conclude my speech after making one point. Some time frame should be fixed for the implementation of awards or decisions given in favour of the workers. Under whomsoever the case goes, even if it goes for execution, three or six months time limit should be fixed for this. Along with this we should think in this direction also. If the Management makes appeal against any award or decision given in favour of any employee or worker then there should be no provision for getting stay. The Management should implement that award at first so that the worker could get the money. If he gets the money then he can defend his case easily.

With these words, while supporting what an hon. Member had said before me, I support this Bill and thank you for giving me an opportunity to speak on this Bill.

SHRI GIRDHARI LAL BHARGAWA (JAIPUR): Mr. Chairman, Sir, after listening to the speeches of several speakers, the hon. Minister must have reached the conclusion that there are several lacunae in this Bill. I request him to remove these shortcomings in the Bill. I welcome this Bill and request him to remove the shortcomings in the Bill.

Sir, this Bill provides that the laws enacted in this regard would apply equally on all the eleven ports and all the employees of the port trust would get equal facility. Shri George Fernandes has identified several shortcomings in the Bill and he had read out a booklet in this regard. I too understand that from the country's safety point of view it is very important. Importing of goods or any place outside the country has got lesser importance but if places in India are handed over to England or USA or a joint venture is set up in this regard, I think it would not be proper in the country's interest. I hope that the hon. Minister would be serious while taking a decision in this regard. The hon. Minister was stating that the earlier Minister has handed it over to an American company and this deal was signed by him.

I hope, the hon. Minister would certainly consider over it. From the safety point of view also these ports should neither be privatised nor there should be any private participation in them. This Bill further states that it would be instrumental in eradicating corruption also. I would also like to request the hon. Minister to consider the suggestion of my friend that there should be no check on going to court. Shri George Fernandes states about part 'B' of the Bill.

[English]

"If there had not been transfer of his services to the Board and shall continue to do so unless and until his employment in the Board is duly terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board."

[Translation]

I hope that the hon. Minister would consider this clause also. Apparently, this Bill seems good. The provisions regarding gratuity, services and rules seem good. One more thing, the contractors have separate rules for engaging labourers. Our colleague hailing from Chandigarh who is also an advocate has rightly said that there should be proper arrangement for education of all these labourers and there should be no discrimination with them in regard to their condition and insurance. Their residence should be neat and clear and arrangement should be made for their sports like football. Volley ball and indoor and outdoor sports. If they get clean atmosphere after reaching home, and adequate place to play, they would remain healthy and work properly.

The delay taking place in court should be avoided. The decision taken by Arbitration should be implemented first. If some one wants to appeal further, he can do so. I hope that the present Government would not repeat the mistakes committed by Shri Jagdish Tytler by handing over port to Americans. The hon. Prime Minister should not give statement that he is like Draupadi among 15 parties. This Government of 15 parties should bring Bill applying its mind and considering the suggestions extended by me and Shri George Fernandes. My leaders have welcomed this Bill. I also welcome it half heartedly. I also have the same opinion as Shri George Fernandes that neither the port should be privatised in favour of foreign companies nor they should be allowed to have partnership and the labourers should get facilities. Thanks for providing me an opportunity to speak.

[English]

SHRI HANNAN MOLLAH (ULUBERIA): Mr. Chairman Sir, I thank you for giving me an opportunity to speak on this Bill. I support the Bill.

The necessity for this cargo handling labour under a single agency will integrate the service, will bring better coordination between two sets of work and it will improve the efficiency. That is the purpose.

And to that extent, this Bill is in proper order as all the Committees have recommended passing of this Bill. So I support the Bill.

But I want to seek only one clarification. When two authorities were there, a large number of workers were in the Dock Labour Board. My apprehension is that when it will be integrated, immediately, there may not be any retrenchment but the provision of new recruitment will be reduced because they will try to give more work or work

load to one set to reduce the recruitment to the other set as it is existing today. That apprehension is there.

Sir, you already know about the Pay Commission's recommendations. They have accepted that and they have abolished 3.5 lakh posts. There are crores of unemployed people in this country. Here, I again apprehend that there will be a reduction of further recruitment under this single agency. So, if the Minister clarifies this position, I hope it will be all right.

With these words, I conclude.

THE MINISTER OF SURFACE TRANSPORT (SHRI T.G. VENKATARAMAN): Mr. Chairman, Sir, I first of all thank all the Members who have supported the Bill. Almost, there is not a single note of dissension so far as I could gather. Therefore, initially I thank all the Members who participated. Valuable suggestions have been made in this connection and will be able to answer them one by one, though I could not mention the names and all that. I will be able to give explanation as they require.

Sir, the senior hon. Member who spoke first about this Bill made some remarks about the Party now in power, the Party which is backing and all that. I want to submit to him very humbly that this Committee which I referred to, i.e. the Parliamentary Committee, was headed by no less a person than Shri Pramod Mahajan. He was the Chairman of that Committee. Therefore, the entire thing that what he has stated about the Party backing, this and that is completely taken away. So the Committee has gone into it very carefully, met all the Labour Unions and all others concerned. It also met the Chairman of Port Trusts and various organisations. Finally, after the complete scrutiny, the Standing Committee suggested only one amendment which has been carried out in this Bill which forms part of the Bill as Clause 3. That has been added to. Therefore, initially I may submit to the senior Member, that after the scrutiny of the certificate by Shri Pramod Mahajan and all that, I think you will now be satisfied that he has gone into it completely. What has been represented now, almost been thrashed out by meeting unions, labour leaders, Port Trusts and all concerned. The only thing that was suggested was that which we have incorporated Amendment in Clause 3. Therefore, so far as this Bill is concerned, it is not as though haphazardly this Bill has been brought into existence.

Of course, the only point which he has scored is that the Bill bears the name of Shri Jagdish Tytler and this is where I think that I must also put in my apologies to him because that bears that name. It is only the thing that cannot be made much about it. But anyway, he wanted to point out. In future, I think, these mistakes should not occur. That is the advice I could take from the senior hon. Member who has pointed out this. I do not take it in any other sense of criticism but I take it that it should be carefully looked into. This Bill, of course, has been followed since 1995.

A lot of apprehensions have been raised by the hon. Members. Apart from that my senior hon. Members has also raised so many points. But I am sorry and it is my

misfortune that he is not present here to hear my answer. He has gone away. But anyway it is my duty—Members may be here or may go out of the House—to answer all the Members so far as my capacity is concerned and within the command of my knowledge I will be able to satisfy and answer the question as briefly as I can without taking much time of the House.

Most of the Members have pointed out with regard to clause 4 (1) (e), which is very important. They say that it should not be a taboo. I quote:

"every employee and worker serving under the Dock Labour Board shall hold office or service under the Board on the terms and conditions which are not in any way less favourable than those—I stress on the word *which are not in any way less favourable than those*—which would have been admissible to him if there had not been transfer of his services to the Board..."

Now, there is a transfer of service. Both the labourers and the Board have been put together. Therefore, it is very relevantly pointed out that every employee and worker serving under the Dock Labour Board shall hold office or service under the Board on the terms and conditions which are not in any way less favourable than those which would have been admissible to him if there had not been transfer of his services to the Board and shall continue to do so unless and until his employment in the Board is duly terminated or until his tenure, remuneration of terms and conditions of service are duly altered by the Board.

Therefore, he holds the same position; he has got the same rights. Therefore, there is not much of a change in his liberty or his right to as being mixed with the other labourers. His rights are not being taken away. Therefore, in my view, this apprehension, is not at all based on facts. I submit that there cannot be any change of right by mixing of these two labourers. Therefore, according to me, this apprehension is not at all correct.

The other important aspect which has been pointed out was that you are debarring a man from going to the court, which is a right guaranteed by the Constitution. That is only for a limited purpose.

Now, I will read out the relevant part 4 (1) (2):

"Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee under this Section to the Board shall not entitle such employee to any compensation under that Act of other law, and no such claim shall be entertained by any Court..."

So, this Bill has been brought only for a limited purpose, namely, compensation. There is nothing else. Therefore, it will not in any way affect the right of the party concerned.

As far as privatisation of ports is concerned, I will come to that later on because this is not the subject matter of discussion today. However, it has been raised by the hon.

[Shri T.G. Venkataraman]

Member and I will come to that later on. I will also answer the other points which the learned Members have mentioned.

One other aspect which is pointed out by the Member is with regard to the agreement and all that. That is also one thing which, I think, the Members might have raised after having read the Bill. I may clarify here that it is not by any force or anything else that we are forcing it. It is only after due consideration and due consultation with the unions and also with the other Members that it has emerged.

Two Dock Labour Boards of Mumbai and Cochin have been superseded in the year 1994 and 1995. Only after due consideration and consultation it has been done. They have signed it and agreed to that. The merger will take place only after consulting the members and unions.

It is also stated that the welfare of the labour should be taken into consideration. In this regard, I would say that the Government has already implemented a number of welfare schemes for workers of different Port Trusts. The full-time labour welfare officers appointed by the Port Trusts and the Chairman are also continuously engaged in looking after statutory and other welfare schemes. Therefore, there is no grouse about it. Wherever there is any pointed reference, I am ready to see that things that are damaging the labour so far as their living conditions, hospital and other amenities are concerned are rectified. If such things are brought to my notice, I will certainly take them into consideration.

PROF. RASA SINGH RAWAT: What about seniority?

SHRI T. G. VENKATARAMAN: I will come to that point later.

A point was raised about security also. It is not as though the Members are not aware of it. When there is satellite communication, the security point of view will not bear much weight in the circumstances, I submit, because these are very advanced days.

They have also spoken about privatisation. They have said that privatisation should not have been there, but unfortunately there is a provision in the Port Trust Act itself. According to Section 42(3) of Major Port Trusts Act, the Board may, with the previous sanction of the Central Government, authorise any person to perform any of the services that the Board performs on such terms and conditions as may be agreed upon. There is a specific provision and that is being acted upon. Now, there cannot be any bar now saying that the foreign investors are coming and therefore, there is a danger and all that. Therefore, I most respectfully submit that actually a provision is there and it is only being implemented; it is not that I have come down and almost changed the entire law.

As a result of merging, there are so many benefits. Formerly, the labourers were not getting monthly income; they were getting only daily wages. Now by merging this Dock Labour Board and Shore Labour Board, currently they

get a monthly salary and there is security of salary every month. Also, there is a uniform cargo handling agency and no labour will remain idle. On the other hand, when two sections were there, one was idly-sitting and the other was working. One man was getting monthly salary while the other was not getting monthly salary. Therefore, there is no idling now and every labourer is assured of monthly income. Their condition will improve, thereby improving the productivity of the ports. There will be no shortage of funds for implementation of welfare schemes for the labourers since the major Port Trust have got adequate surplus funds. For this purpose, every port has got sufficient funds.

The implementation of the welfare schemes will continue and they will be funded by the Port Trust. I am not getting anything from the General Budget. It is being funded by the Port Trust.

As I have already submitted, no labour will be retrenched, and that is the intention of this Bill. I assure you that there will be no retrenchment. It has been pointed out that there may not be any retrenchment at present, but retrenchment would be there when there is further employment of labourers. There is a policy, according to which, we must be able to cut down the staff by ten per cent every year. The productivity should be there and also the manpower should be reduced. We cannot avoid that policy. We have to take it as it is. In the Board of Trustees, various labour unions and other interests are well represented. Therefore, the problems of the labour force is being carefully looked into, and there is no difficulty at all in putting across labour problems.

SHRI NIRMAL KANTI CHATTERJEE (DUMDUM): You are making a suggestion that reduction in the labour force in terms of productivity might be a requirement. The other route could be expansion. That is our view also. Imports and exports are expected to grow and, therefore, productivity can increase with the volume of imports and exports without hurting the employment ratio.

SHRI T.G. VENKATARAMAN: That is why, I have pointed out this provision. This ten per cent cut is there in all the ministries. We are reducing it, according to the instructions. Until and unless that ten per cent cut goes, we cannot help it. It is applied in all the ministries.

SHRI NIRMAL KANTI CHATTERJEE: Is it a rule?

SHRI T.G. VENKATARAMAN: It is a rule. That is why, I cannot go against it, until and unless that rule is changed or removed, we cannot do anything. Therefore, only in such circumstances, there will be retrenchment. Otherwise, I assure you that there will be no retrenchment at all.

The senior Member, Shri George Fernandes, paid a lot of encomiums to De Mello, who struggled and fought for it. He mentioned the De Mello's name with fond memories. I am very thankful to him for having reminded me because I am not aware of it. I think, the hon Members have also been enlightened by that. We all respect it. Only in a discussion, we will be able to gather all these things.

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Another point that was raised was with regard to the foreign companies taking part in this privatisation. According to the policy of the Government, which has been taken earlier and not now, since funds and technical assistance are required, we are not only canvassing for foreign investment but we are also inviting the Indian investors as per the provisions of this Act. Therefore, there cannot be any difficulty at all. There cannot be any security problems with regard to this. With regard to the other aspects, I submit to the hon. Members that if any problems crop up in future, then I will come out with certain amendments, if necessary. For the present, this Bill would certainly serve the purpose. So, I request the hon. Members to pass this Bill.

PROF. RASA SINGH RAWAT: Sir, if you please allow me, I want to seek only one clarification.

MR. CHAIRMAN: The hon. Minister has clarified it adequately. But if you insist, then you may go ahead.

[Translation]

PROF. RASA SINGH RAWAT: Sir, when there were two unions, one was governed by the rules of 1948. They had all their rules and regulations, services, funds, security of services etc under it. The second union was that of shore workers. Now, both unions will come under the purview of your law and all the employees numbering 8-9 thousand would become employees of port trust.

[English]

how the seniority will be decided? What will be the criteria for deciding the seniority?

SHRI T.G. VENKATARAMAN: That is why, I have read out the provision 4 (e) wherein it has been mentioned that 'he shall hold or serve office under the Board on terms and conditions which are not in any way less favourable'. So, whatever he was enjoying earlier, he will be enjoying now also.

Therefore, there is no question.

SHRI SATYA PAL JAIN (CHANDIGARH): That is not the question.

SHRI T.G. VENKATARAMAN: I understand. That is the Government position. One set is there. The other set is joining. You are asking what is the seniority.

SHRI SATYA PAL JAIN: The question is whether he will get the benefit of the past service under the new management or not. That is the basic question. The second question is whether that will be counted for the purpose of seniority or not. I request you to kindly clarify this point. Otherwise, there will be lot of problem. Be clear about it.

SHRI T.G. VENKATARAMAN: If a number of years' service is there, he will enjoy the same position as the law stands. That is what I am pointing out.

SHRI SATYA PAL JAIN: Will he get the benefit of that?

SHRI G.L. KANAUIA (KHERI): You have to clarify what criterion you will have in fixing seniority and how will you fix it. If you do not clarify, all the cases will go to the court and there will be lot of confusion about it. We are facing this problem. We faced it in Vayudoot and in Indian Airlines. If you can make it clear here, that becomes a rule.

SHRI T.G. VENKATARAMAN: That is why I read out the Section. Whatever you enjoy as a matter of seniority will be protected.

SHRI G.L. KANAUIA: That is not sufficient. Either you say date of joining or you say what is the seniority, whoever has jointed first will come first. Benefit does not matter.

[Translation]

The worker who is good and preferable should be relied upon. The Govt. had idea of creating post in one range but the problem arises when there is availability in one and non-availability in other. The Govt. should clear it because there are several such cases pending in courts and it has also occurred in medical side.

[English]

MR. CHAIRMAN: You cannot decide these niceties in this manner. The hon. Minister has said that so far as the Bill is concerned, the Bill has made it clear that no worker will suffer adversely. That is the provision in the Bill.

SHRI G.L. KANAUIA: Here in Indian Airlines and Air India and in other bank services, there is lot of confusion about it.

MR. CHAIRMAN: Have you got anything further to clarify?

SHRI T.G. VENKATARAMAN: The merger is not by force. The unions are being consulted and that is being taken into consideration and it will be certainly not to the disadvantage of workers.

SHRI G.L. KANAUIA: Can you not say that the date of the seniority will be from the date of appointment?

MR. CHAIRMAN: That will be decided in consultation with the union.

SHRI NIRMAL KANTI CHATTERJEE: I appreciate your point. There is a problem whenever there is a merger on deciding *inter-se* seniority. For that, I do think that the hon. Minister should clarify in the House. Otherwise, there will be jealousies and all kinds of controversies.

MR. CHAIRMAN: The hon. Minister had adequately explained the position and I think we should proceed further.

[Translation]

SHRI THAWARCHAND GEHLOT: Mr. Chairman, Sir,

[Shri Thawarchand Gehlot]

I also would like my one doubt regarding dock workers to be removed. The hon. Minister should also clear that if an employee of Junior grade is working in higher grade or against upgraded post after merger, whether he would be upgraded or not, he would get all the previous facilities?

[English]

MR. CHAIRMAN: The hon. Minister has made it clear that all these points will be decided in consultation with the unions.

[Translation]

SHRI G.L. KANAUJIA: I would like to get assurance from the hon. Minister that beside salary, his status would also not be lessened ...*(Interruptions)*

SHRI THAWARCHAND GEHLOT: His status would not be lessened but if any employees works against any upgraded post, would he get all the facilities of upper grade or not?

[English]

MR. CHAIRMAN: All these niceties are not discussed on the floor of the House. The hon. Minister has said that the interest of a worker after merger will not be adversely affected and the other problems arising there from will be decided in consultation with the union. Nothing more. Anyway, I cannot help.

[Translation]

SHRI G.L. KANAUJIA: If you clear the position of status alongwith emoluments, it would make much difference, and would not create contradictions.

[English]

MR. CHAIRMAN: The question is:

"That the Bill to provide for inapplicability of the Dock Workers (Regulation of Employment) Act, 1948 to

dock workers of major port trusts and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House shall now take up clause-by-clause consideration of the Bill.

The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clause 2 to 4 were added to the Bill.

MR. CHAIRMAN: The question is:

"The clause 1, Enacting Formula and the Long Title stand part of the Bill".

The Motion was adopted.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

SHRI T.G. VENKATARAMAN: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

SHRI T.G. VENKATARAMAN: I thank all the hon. Members for having passed this Bill.

MR. CHAIRMAN: The House stands adjourned to meet tomorrow, the 24th July, 1997, at 11 a.m.

17.42 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, July 24, 1997/Shravana 2, 1919 (Saka).