

Friday, 20th August, 1943

# COUNCIL OF STATE DEBATES

(OFFICIAL REPORT)

VOLUME II, 1943

(2nd to 31st August, 1943)

## FOURTEENTH SESSION

OF THE

# FOURTH COUNCIL OF STATE, 1943



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**COUNCIL OF STATE**  
*Friday, 20th August, 1943*

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the Chairman (The Honourable Sir David Devadoss) in the Chair.

**QUESTION AND ANSWER**

**PROMOTIONS BY SENIORITY**

142. THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : (a) Is it a fact that the Home Department Communiqué of September, 1942 referred to by the Honourable Member, Posts and Air, in one of his speeches in the last session, lays down that promotions should be given to fit men according to seniority ?

(b) Is it a fact that some junior Hindu officials in the grade of Inspectors of Post Offices and Head Clerks to Superintendents of Post Offices, e.g., Messrs. Shiam Lal Pande, Lal Mohan Chakrawarty and Darshan Lal have been given officiating appointments as Superintendents of Post Offices in the Lucknow, Bundelkhand and Fyzabad Divisions (United Provinces) ?

(c) Is it a fact that Mr. Lal Mohan Chakrawarty is junior to over a dozen Muslims of the grade of Inspectors of Post Offices and has he been sent from his post as Head Clerk in Rohilkhand Division to officiate as Superintendent of Post Offices in Bundelkhand Division ?

THE HONOURABLE SIR MAHOMED USMAN : (a) No.

(b) and (c) Yes. The case is being examined.

**SHORT NOTICE QUESTION AND ANSWER.**

**RESERVATION OF 8½ PER CENT. VACANCIES FOR SCHEDULED CASTE CANDIDATES.**

143. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Is it a fact that 8½ per cent. of all vacancies to be filled by direct recruitment of Indians in the central and subordinate Services to which recruitment is made on an all-India basis shall be reserved for Scheduled Castes candidates ?

(b) Did Government direct the reservation of 8½ per cent. of the posts referred to above for all minorities including the depressed classes but excluding the Muslims in their Resolution No. F. 14/17-B/33, dated the 4th July, 1934 ?

(c) Has reservation referred to in (b) been cancelled or reduced ?

THE HONOURABLE MR. E. CONRAN-SMITH : (a) Yes, except in the case of a few services and posts for which highly technical or special qualifications are required and which have been excluded from the purview of the communal representation orders contained in the Government of India Resolution No. F. 14/17-B/33, dated the 4th July, 1934.

(b) and (c) Under the terms of the Resolution of 1934 the depressed classes were not entitled to any share in the reservation of 8½ per cent. made for minority communities other than Muslims. In fact no separate reservation was made for the Depressed Classes. The question of cancelling such reservation or any part of it does not therefore arise.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Were the Anglo-Indians meant to be provided for within the percentage reserved for the other minorities or not ?

THE HONOURABLE MR. E. CONRAN-SMITH : Anglo-Indians were covered by the 8½ per cent. reservation for other minorities.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What is there here to show that the Depressed Classes were not included ? What is there in this Resolution to show that this percentage of 8½ per cent. was not meant to include the posts to be given to the members of the Depressed Classes ?

THE HONOURABLE MR. E. CONRAN-SMITH : I would call the Honourable Member's attention to paragraph 3 of the Resolution of 1934.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : All that is here is that no reservation has been made for them ?

THE HONOURABLE MR. E. CONRAN-SMITH : Exactly.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** Have they been included in the general reservation or not, though no particular percentage of the posts might have been reserved for them?

**THE HONOURABLE MR. E. CONRAN-SMITH:** The answer, Sir, is in the negative. What used to be called the Depressed Classes now known as the Scheduled Castes came under the 66½ per cent. of general vacancies.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** Does that mean that the proportion for Hindus other than the Scheduled Castes has been reduced to 58½ per cent.?

**THE HONOURABLE MR. E. CONRAN-SMITH:** It means exactly what is stated in the Resolution. The 8½ per cent. reservation for the Scheduled Castes will come out of the 66½ per cent. which at present is open to the general community and to Scheduled Castes.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** It is not clear from the Resolution.

### INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

**THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary):** Sir, I lay on the table the information promised in reply to question No. 51 asked on the 3rd August, 1943.

SECRETARIAT OF THE GOVERNOR GENERAL IN COUNCIL.  
*Higher appointments: Communal composition as on 30th July, 1943.*

Rank.	Community.	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1	2	Civil Defence.	Commerce.	Defence.	E., H. & Lands.	External Affairs.	Finance.	Food.	Home.	Indians Overseas.	Industries and Civil Supplies.	Information and Broadcasting.	Labour.	Legislative.	Posts and Air.	Supply.	War.	War Transport.	Total.
Secretary	Non-Asiatic domicile	1	...	1	1	1	1	1	1	1	...	1	1	1	...	1	...	...	12
	Hindu	...	1	...	...	...	...	...	...	...	...	...	...	...	1	...	1	1	4
	Muhammadan	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	1
Addl. Secy.	Non-Asiatic domicile	...	...	...	...	...	1	...	1	...	...	...	1	...	...	...	1	...	4
	Hindu	1	...	...	1	1	1	...	1	...	...	1	...	...	...	2	1	1	10
	Muhammadan	...	1	...	...	...	...	...	...	...	1	...	...	...	...	3	...	...	5
Deputy Secy.	Non-Asiatic domicile	...	...	1	...	1	1	1	...	...	1	1	...	1	...	2	4	1	14
	Hindu	1	2	...	2	2	1	2	1	...	1	1	1	2	1	4	...	...	21
	Muhammadan	...	...	...	...	1	...	...	...	...	...	...	...	...	...	2	...	...	3
Under Secy.	Non-Asiatic domicile	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	4	...	13
	Hindu	1	4	1	1	...	2	2	3	...	1	1	2	...	3	...	1	...	22
	Muhammadan	...	1	1	...	1	...	§	...	1	1	...	1	...	1	2	1	...	10
*Asst. Secy.	Non-Asiatic domicile	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	1
	Hindu	...	2	1	...	...	2	1	...	1	...	...	3	1	...	6	3	2	23
	Muhammadan	...	...	1	...	...	...	...	...	...	...	...	...	...	...	2	...	...	3
*Superintendent.	Non-Asiatic domicile	...	...	...	...	1	1	...	...	...	...	...	1	...	...	...	...	...	3
	Hindu	3	5	1	2	3	7	2	4	2	6	1	11	3	2	12	5	6	75
	Muhammadan	...	1	2	1	...	1	1	2	1	1†	1	2	...	1	6	1	...	21
†	Non-Asiatic domicile	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	1
	Hindu	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
	Muhammadan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
‡	Non-Asiatic domicile	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
	Hindu	1	...	...	3	1	...	1	1	...	...	...	1	1	...	...	...	...	9
	Muhammadan	...	...	2	1	1	...	1	...	...	...	...	1	...	...	1	...	...	7

\* The figures indicate the communal composition, as it was on the 30th June, 1943.

† Another Muslim has since been appointed as Superintendent.

‡ A Muslim has since been selected for appointment as Assistant Secretary.

§ A Muslim Under Secretary has since joined the Department.

## WAR INJURIES (COMPENSATION INSURANCE) BILL.

THE HONOURABLE MR. H. TUFNELL-BARRETT (Labour Secretary):  
Sir, I move :—

“ That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability, as passed by the Legislative Assembly be taken into consideration.”

Sir, the purpose of this Bill is to ensure that adequate compensation is paid in respect of workmen who are killed or injured as the result of enemy action.

Such cases are not covered by the Workmen's Compensation Act and although some relief is admissible from public revenues under the War Injuries Scheme made under the War Injuries Ordinance, 1941, this relief is not adequate in the case of higher paid labour.

It is not feasible for Government to increase the scale of relief under the War Injuries Scheme or to undertake liability to pay additional compensation to particular classes of employees. It is proposed, therefore, that the obligation to pay such additional compensation as seems necessary should be placed on employers.

The benefits of the Bill apply to all employees drawing more than about Rs. 24 per month and the Bill provides for the payment of compensation roughly equivalent to the difference between what is payable by Government under the War Injuries Scheme and what would be payable under the Workmen's Compensation Act if war injuries had been covered by that Act.

In order to spread the cost of the scheme over employers in all parts of the country and at the same time guard against the possibility of an employer being unable to pay the compensation provided for owing to financial embarrassment or the destruction of his assets or undertakings, the Bill also provides that employers must insure with the Government against their liability to pay compensation.

The insurance will be effected through agents appointed by the Central Government and the premiums will be paid into a Fund which will be administered by the Central Government.

Premiums will not exceed four annas per hundred rupees of the wages bill of the employer in the case of the first payment and will be payable not more than once in each quarter of the year. The amount of the second and subsequent premiums will depend on the amount of compensation paid and the state of the Fund.

If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance will be constituted into a new Fund to be used by the Central Government for the benefit of workmen.

For the purposes of the Bill, labour or works contractors will be regarded as employers. Contractors who are engaged for periods of one month or less will, however, be exempt from the payment of premiums and compensation, but compensation will be payable from the Fund in respect of the workmen employed by these contractors.

If an employer fails to insure under the provisions of the Bill and compensation becomes payable, Government will pay the compensation out of the Fund and subsequently recover the dues of the employer either with or without a penalty.

The Bill applies to workmen employed by the Crown, but as Government does not insure against its liabilities, no premiums will be payable in respect of Crown employees and compensation will be paid out of general revenues.

The Bill also applies to workmen employed by Federal Railways, but in this case also premiums will not be payable by the Railways unless the Central Government otherwise directs and compensation will be payable out of Railway Funds.

Sir, I move.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, may I know from the Honourable Secretary whether the premium thus paid will be deducted from income-tax while assessing the income-tax. Employers of labour, as we all know, are paying a very heavy taxation and I should like the point to be cleared whether or not the premium thus paid by the employers will be deducted while determining the income.

**THE HONOURABLE SARDAR BAHADUR SOBHA SINGH** (Nominated Non-official): Sir, in clause 1 (2) of the Bill it is said that it extends to the whole of British India and applies also to British subjects in any part of India, while in the Statement of Objects and Reasons, paragraph 5, it is stated that—

“ A provision has also been made to extend the scheme of insurance to employers in States provided that provisions substantially corresponding to the provisions of this Bill are made in that State ”.

Sir, I just want to know whether an employer in an Indian State who has got a factory and is recruiting labour from British India will be liable to insure under this Act or he can evade ?

**THE HONOURABLE MR. H. TUFNELL-BARRETT** : Only if there is a corresponding State law.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU** (United Provinces Northern : Non-Muhammadan) : Mr. Chairman, I welcome this Bill, which seeks to provide for the payment of compensation to labour in certain cases. Welcoming as I do the principle underlying the Bill I should like to know whether it has been made applicable to the employees of the Railways owned by Government and other Government services ? It may not be necessary in the case of these employees to provide for compulsory insurance but will Government see that the purpose of the Bill is fulfilled in the case of its own employees in an adequate manner ? As Government themselves will be the insurers under the new scheme it is obvious that no scheme for the compulsory insurance of the workmen, whom I have referred to, need be required but it is necessary to see that the Government employees, and particularly those of the Railways, derive that benefit which they would have been entitled to had they been employed in the factories and other Services which come within the purview of the Bill. This question was raised by Mr. N. M. Joshi but as the newspaper report of the discussion in the Assembly is very meagre I do not know what reply Government gave on this point in the other House.

**THE HONOURABLE MR. H. TUFNELL BARRETT** : I would draw the Honourable Member's attention to sub-clause (3) of clause 3 of the Bill and to the remarks I made in introducing the Bill a few minutes ago. The Bill does apply to workmen employed by the Crown and also to workmen employed on Federal Railways.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU** : Is the Honourable Member referring to the Bill as it has come from the Select Committee ?

**THE HONOURABLE MR. H. TUFNELL-BARRETT** : No, as it has come from the Assembly.

**THE HONOURABLE MR. R. H. PARKER** (Bombay Chamber of Commerce) : Sir, may I say a few words ? With the general principle that damage due to war should be compensated I think we will all agree but I personally think that the whole of the compensation ought to be paid by the State and not by the industries concerned. Therefore, I think that sub-clause (3) of clause 3 should apply in general terms to the State in respect of all employees or persons injured in the course of the war and that there should not be any question of the industries paying a premium. It should in fact be paid at the expense of the general revenues and any balance remaining should revert to general revenues and not to any other cause.

Then, theoretically, I do not think it is a very important point, but it is, I think, unsound to legislate and provide by legislation that you raise certain funds for one purpose which can ultimately be diverted to a different purpose. In principle I disapprove of that. On the other hand, the amount involved is limited and small, so I have nothing more to say.

\***THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan) : I should like to know the reason which prompted the Government to reduce the amount of compensation payable under this Act from the amount that was payable under the Workmen's Compensation Act of 1923 ? The amounts that are payable for injuries as well as for disability have been substantially reduced from the amounts to which a workman was entitled under the Compensation Act. His death will be as much a calamity to his family whether he dies through neglect on the part of the industry and anything else or from enemy action. How has the Government evaluated

\* Not corrected by the Honourable Member.

it and found that death by enemy action is less of a calamity than death from ordinary causes? I am referring to clause 5—Amount of compensation.

**THE HONOURABLE MR. H. TUFNELL-BARRETT:** The compensation payable under the Bill is based on the difference between what is payable under the War Injuries Scheme and what would have been payable under the Workmen's Compensation Act had that Act applied to such cases.

**THE HONOURABLE MR. HOSSAIN IMAM:** Will he get compensation twice?

**THE HONOURABLE MR. H. TUFNELL-BARRETT:** He will get the difference between the compensation payable by Government under the War Injuries Ordinance which is already in force and what he would have got under the Workmen's Compensation Act had that applied to war injuries.

**THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS:** My question has not been answered by the Honourable Secretary.

**THE HONOURABLE MR. H. TUFNELL-BARRETT:** I understood the Honourable Member to inquire whether a rebate of income-tax would be admissible on the premiums paid under the Scheme. The answer is in the affirmative.

**THE HONOURABLE THE PRESIDENT:** Motion moved:—

“That the Bill to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide, for the insurance of employers against such liability, as passed by the Legislative Assembly, be taken into consideration”.

Question put and Motion adopted.

Clauses 2 to 21 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**THE HONOURABLE MR. H. TUFNELL-BARRETT:** Sir, I move:—

“That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

#### STATEMENT OF BUSINESS.

**THE HONOURABLE SIR MAHOMED USMAN (Leader of the House):** Sir, the only item of business which now remains is the Delhi University (Amendment) Bill. As it is not possible to anticipate when the Bill will be passed by the Legislative Assembly, I would request you, Sir, to adjourn the Council to a date to be intimated later by circular.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan):** Can the Honourable the Leader of the House give us any rough indication of the time when the Bill may come up to this House?

**THE HONOURABLE SIR MAHOMED USMAN:** I am sorry, Sir, that it is not possible to add to what I have said.

The Council then adjourned to a date and time to be notified by circular.