

MR. DEPUTY-SPEAKER : The House will now take up clause-by-clause consideration of the Bill. The question is :

“That clauses 2 and 3 stand part of the Bill.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

Enacting Formula

Amendment made

1. Page I, line 1,—

for “Thirty-fifth” substitute “Thirty-sixth” (1)

(Shri Abdul Ghafoor)

MR. DEPUTY SPEAKER : The question is :

“That the Enacting Formula, as amended, stand part of the Bill.”

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

MR. DEPUTY SPEAKER : The question is :

“That the Title stand part of the Bill.”

The motion was adopted.

The Title was added to the Bill.

SHRI ABDUL GHAFUOR : I beg to move :

“That the Bill, as amended, be passed.”

MR. DEPUTY-SPEAKER : The question is :

“That the Bill, as amended, be passed.”

The motion was adopted.

14.52 hrs.

ADMINISTRATIVE TRIBUNALS BILL

[English]

MR. DEPUTY SPEAKER : Now we take up Item No. 15.

THE MINISTER OF STATE IN THE DEPARTMENTS OF PERSONNEL AND ADMINISTRATIVE REFORMS AND CULTURE (SHRI K P. SINGH DEO) : I beg to move* :

“That the Bill to provide for the adjudication of trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be taken into consideration.”

Article 323-A of the Constitution provides for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto. The Administrative Tribunals Bill, 1985, is intended to give practical shape to these provisions of the Constitution. The Bill provides for the

* Moved with the recommendation of the President.

setting up of Central Administrative Tribunals for dealing with grievances relating to service matters of the members of the All India Services and other Central Government employees. Likewise, there is a provision for setting up of State Administrative Tribunals for dealing with the grievances relating to service matters of the State Government employees. There is also a provision to extend the jurisdiction of the Tribunals to the employees of local bodies, corporations etc. which are under the control of Government. The Bill provides for the setting up of State Administrative Tribunals by the Central Government on receipt of a request in this regard from the State Government. There is also a provision for setting up of Joint Administrative Tribunals for two or more States if they so desire. As mentioned in Article 323-A of the Constitution, on the setting up of such Tribunals, the jurisdiction of all courts, except the jurisdiction of the Supreme Court under Article 136, would be excluded with respect to matters relating to recruitment and conditions of service of members of the All India Services, the Central Government employees and the State Government employees.

It is estimated that there are at present over 63,000 cases--to be exact 63,880 cases—relating to Central and State Government employees which are pending in the various High Courts all over the country. The setting up of Administrative Tribunals to deal exclusively with service matters would not only reduce the present burden on the courts, thereby enabling them to devote more time to other cases, but also provide speedy relief to Government employees for redressal of their grievances relating to service matters.

It is proposed that every Tribunal will consist of a Principal Bench and such number of additional Benches as may be necessary. The Principal Bench is to be presided over by the Chairman and is to consist of a Vice-Chairman and three other Members. The additional Benches will also consist of at least two other Members. Provision has been made for a three-Member Bench in order to ensure objectivity in dealing with the cases that come up before the Tribunal and for ensuring that

all aspects of the grievances are looked into adequately before a decision is taken. However, provision has also been made for constituting Single-Member Benches to deal with routine cases of a simple character.

The Bill provides that serving or retired Judges of the High Courts or those who are holding or have held posts at the level of Secretary to the Government of India or posts under the Central or the State Governments carrying a scale of pay not less than that of a Secretary to the Government of India for two years, can be appointed as Chairman or Vice-Chairman. Similarly, persons who are, or have been, or are qualified to be judges of High Courts, and those who have held posts of the level of Additional Secretary to the Government of India for two years or a post of Joint Secretary to the Government of India for three years or a post under the Central or a State Government carrying a scale of pay not less than that of an Additional Secretary to the Government of India for two years or Joint Secretary to the Government of India for three years are eligible to be appointed as Members of the Tribunal. The term of the office of the Chairman/Vice-Chairman and Members of the Tribunal will be five years subject to the age limit of 65 years in the case of Chairman/Vice-Chairman and 62 years in the case of Members.

In order to ensure objectivity and impartiality of the Tribunal, it has been provided that the Chairman/Vice-Chairman and Members are debarred from any other appointment under the Central or State Government on their ceasing to hold such office and that they cannot also appear or plead before a Tribunal in which they have held office.

With the establishment of the Administrative Tribunals all the cases pending before the courts, except for appeal cases pending before any of the High Courts or the Supreme Court would get transferred to the Tribunal. This is in accordance with the provisions contained in Article 323A of the Constitution.

The final orders of the Tribunal will be

binding on both the parties and either party aggrieved by any order of the Tribunal can go in appeal to the Supreme Court as provided in Article 136 of the Constitution.

The passing of the Administrative Tribunals Bill, 1985 by Rajya Sabha in their last session, was to fulfil the long-felt need of a body to deal exclusively with service matters of public servants so as to provide them with speedy justice. I am sure that this Bill will be welcomed by all sections of this House. I therefore, commend this Bill for consideration and passing by this House.

Incidentally, the Bill had been passed by Rajya Sabha. But before the Bill could be introduced in Lok Sabha, the term of Lok Sabha was terminated and, therefore, it has been brought as a fresh legislation.

MR. DEPUTY SPEAKER : Motion moved :

“That the Bill to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be taken into consideration.”

SHRI NISSANKARA RAO VENKATARATNAM (Tenali) : Mr. Deputy-Speaker, Sir, it is a welcome feature that the Administrative Tribunals are constituted all over the country to solve disputes relating to service matters. Previously the only difficulty that the public servants were facing was that when a judgment was given by the tribunal, it was not binding on the State Government. The State Government might neither reject nor accept that judgment. That is why a large number of cases are pending in the courts.

Of course, it is a welcome feature, as I heard from the hon. Minister, that the

decision or the judgment of the Tribunal is binding on both the parties. Previously, there were so many decisions which were not accepted by the State Governments.

15.00 hrs.

There were so many cases, which were rejected by the State Governments, which were pending with the various tribunals. I would request the hon. Minister to see that they also come within the purview of this Bill. That will give relief to the Government servants. There are thousands of cases, which are accepted by the Tribunal, which are rejected by the State Governments. If you give retrospective effect to this Bill and make it binding for both cases, it will give relief to Government servants. Clause 30 says :

“All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of sections.....of the Indian Penal Code.”

Here I would request the hon. Minister to add “and binding on both the parties, irrespective of qualifications”. I would also request the hon. Member to give it retrospective effect so that all the cases that were rejected by the State Governments will come within the purview of this Bill.

SHRI PRIYA RANJAN DAS MUNSHI (Howrah) : Mr Deputy-Speaker, Sir, no doubt, this is a very good Bill, which seeks to provide relief to the Government servants engaged at the national or State level. It is very well directed. But I would like to highlight some points.

The most important point is regarding the composition of the Tribunal. According to the Bill, and also the statement made by the hon. Minister, there will be a Chairman, 16 Vice-Chairmen and 33 members. Coming to their qualifications, the Bill says :

“A person shall not be qualified for appointment as the Chairman unless he—

(a) is, or has been, a Judge of a High Court, or

(c) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or State Government, carrying a scale of pay, which is not less than that of a Secretary to the Government of India."

Similarly, a member of the Tribunal can be an Additional Secretary or Joint Secretary. Keeping in view the very spirit of jurisprudence, if you want to deal with the cases of Government servants before a tribunal and provide them adequate relief, it will not be fair to appoint an existing or retired Secretary as Chairman or Additional Secretary as member or in any other capacity. Suppose I was an Under Secretary in a particular State Government and, during my tenure, I was victimised by my departmental boss, at that time the Secretary to Government in the State. It so happens that my suffering started under his leadership for various reasons, personal or otherwise. Now when I approach the Tribunal, I find that particular officer is heading the Tribunal. Without imputing any motive to bureaucracy or casting any aspersion on any officer, if you want to adopt a fair practice in jurisprudence, then it is an absolutely unjust and unfair provision. How can this person, who has worked under the very same senior officer and has suffered, get justice if that senior officer is heading the tribunal? I can understand your appointing High Court Judges, but not existing or retired Secretaries or Additional Secretaries, if you really want to provide relief to the officers concerned. So, my first objection is to the very composition of the Tribunal.

I know any number of cases, where the officers have suffered, not because of the Ministers or politicians, but because of the inter-service rivalries in the department. Some officers suffer in the matter of promotion or transfer because of these inter-service rivalries, thanks to the performance of the Janata Government, when they came to power, because it is they who inducted politics in the whole bureaucracy and started shifting people here and there. That process is still continuing throughout the country. Under those circumstances, if

you have senior officers in the composition of the Tribunal, that would defeat the very object of this Bill. So, I would request the hon. Minister to delete that provision.

15.05 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

I oppose the provision for appointment of retired Judges. Why should you go in for retired Judges for this purpose? There are enough efficient members in the bar, who are competent to be appointed as members of the Tribunal. Why do you not appoint them to the Tribunal? Don't you think that there are dynamic people outside who can be inducted into the Tribunal? Why do you follow the same old British tradition of appointing retired officials, on a salary of Rs. 4,000, where they can continue for three years, enjoy and do whatever they like? This is not fair. We cannot afford in this country the luxury of appointing retired people. Personally, I have no hatred against them, but I want you to adopt a new approach.

You have stated that the Chairman and Vice-Chairman shall continue in office till they reach the age of 65 and the members till they reach 62. Why do you have this discrimination? Does it mean that the members, who are also Judges of the High Court, are inferior or they will reach senility earlier, within two years, while the Chairman and Vice-Chairman will reach senility only after five years? I cannot understand this. Whether it is 5 years or 2 years, it should be applicable to all. I would request the hon. Minister to clarify this.

The hon. Minister has stated that cases now pending in the High Court cannot be transferred. Suppose I have got a fair judgment from a single judge and my opponent has filed an appeal before a division bench, and that bench is in the process of giving a judgment very soon. In such cases, what principles are you going to follow? Can they be transferred? Is it logically correct? Will it not impair the very basis of justice? This requires clarification.

Then, there are some *part-heard* cases,

where the concerned High Court Judges have been transferred. In such cases, how will you treat them? Will they be transferred to the Tribunal?

Thirdly, suppose a writ has been issued but it has not been disposed of. In those cases, how will you shift or transfer the case? These points should be clarified by the hon. Minister, while replying to the debate, as they vitally concern the Government servants.

As I understand, the Tribunal enjoys the same status as a High Court. It has been mentioned in the Bill and also in the statement of the Minister. But, under article 226, one has got the right to approach the High Court by special leave. You cannot stop that; so, that object is defeated. If the Government servant is convinced that the composition of the Tribunal is such that he will not get justice, he will rush to the High Court under article 226. Then the Tribunal can simply sleep and enjoy a good time. That is why I say that the composition of the Tribunal will have to be such that it will carry conviction to the employees that here is a body to which you can go for real and speedy justice.

Again, coming to the composition, if you want to appoint judges for a State Tribunal, kindly see to it that the judges are not from that State. I am not casting any aspersion on the judiciary, but it is a fact of life that today the social compulsions, the political, regional and caste compulsions make the situation so horrible that it will not be fair to appoint a sitting or retired judge from a particular State in that State Tribunal. This is my other suggestion to the Minister.

Now I speak in regard to the Police officers. I can cite four States—Assam, Bihar, Punjab and West Bengal. Due to regional, social, political, emotional and cultural and, in Bihar, caste compulsions, the appointment and transfers of the officers are made in such a naked manner by their senior bosses that they aggravate the problems of the State and the region. I cite the example of Monghyr in Bihar. I have gone through a number of stories. If a dacoit belongs to a particular caste and the head of the Police belongs to that caste, that

dacoit will not be detained. You can obtain information in this regard from the Members of Parliament representing those areas. This has been a long practice in Bihar. Suppose I am from the Uttar Pradesh Cadre and I go to Monghyr and turn against a man. He goes and makes a fictitious complaint against me. So, the Administrative Tribunal should also look into this type of matter. Where the administration at every level is polluted by caste or regional considerations, in a State, unless you get rid of this evil your tribunal cannot render justice. Most of the riots in some parts of Uttar Pradesh are conducted partly by the Provincial Armed Constabulary by their very dangerous sentiments against the Muslims or any other community. While I was Youth Congress(I) leader, I had been to the affected areas. I have seen that with my own eyes how they behaved and functioned. They provoke the people to go and loot. This has happened in Bihar on many occasions.

Now, I take up Assam. Assam is a very sensitive State. If an officer is appointed there deliberately to insult or ignore the culture of Assam, their utterances and speeches to the constables, to deputies, go to the market, go to the society, go to the Universities and the situation flares up. Many times it happens. I have seen this in Assam especially. Since you are in charge of the Administrative Reforms, I would urge apart from giving training, first you provide national integration training to the Members of the bureaucracy to learn what India's culture is. A member who goes from UP to Assam must know how to respect the festivals of Assam. A member from Assam, when he goes to UP, must know how to honour the Holy festival in that part of the land. These are the basic things which are lacking on the part of the Administrative Officers and creating serious problems in the country and contributing to the disintegration of the country. This part of the training programme is not there. I do not want to mention names. A man from the Civil service was promoted as a Governor of West Bengal. He was the Governor of West Bengal. On the Birthday of Raja Ram Mohan Roy, he told many people that he did not know who Raja Ram Mohan Roy was. And he was promoted as Gover-

nor ! So, such kinds of people are therein the administrative arrangement.

Now, I come to West Bengal. I do not blame anybody. Members of the Opposition should not feel about it. Rightly or wrongly West Bengal is a politically sensitive State and the political shadows do come to the officers, employees and the Police. Why ? Because in West Bengal, as you know, Students Union movement has been permitted since the British days and I welcome it. Due to the activities of the student movement, its having been affiliated to A or B bloc, when they come out from the big colleges and get laurels, they have a big turn-out in the IAS or IPS examination. But, whatever may be their feeling, they cannot just forget their past days. The result is that it has a direct bearing or reflection on the total administrative arrangement. For instance, I cite one example. During the elections to the Lok Sabha, one Superintendent of Police** in the presence of the State Election Commission observers mercilessly started beating the members of the electorate, roughly telling that he had been instructed to do so and that he would do so. Twenty thousand members of the electorate in the queue were beaten and thrown out.

SHRI AMAL DATTA (Diamond Harbour) : Why were they beaten ?

SHRI PRIYA RANJAN DAS MUNSHI : Why are you shouting ? I am not mentioning you. I am talking of the Superintendent of Police.

(Interruptions)

SHRI PRIYA RANJAN DAS MUNSHI : Now, Mr. Chairman, Sir, they are caught in the trap. I am not mentioning their names. I did not mention any party. I mentioned the Superintendent of Police. Now they are exposed. I am glad, Mr. Chairman,

(Interruptions)

Mr. Chairman, Sir, you have to protect me. Mr. Chairman, Sir, I am talking of the

Superintendent of Police, not party. Why are they defending him ?

(Interruptions)

SHRI AMAL DATTA : What actually happened, he has to explain.

SHRI PRIYA RANJAN DAS MUNSHI : I will explain that.

(Interruptions)

I am not yielding.

SHRI AMAL DATTA : Sir, I would like to know if a member can speak like that without notice. This will demoralise the officials of the Government. What is your ruling ?

(Interruptions)

SHRI PRIYA RANJAN DAS MUNSHI : Seven days before the election that Officer publicly said : "Hindi speaking people will vote for Indiraji's hand symbol. I will not tolerate them in Howrah, and he started beating them in the morning dispersing them from the queue.

(Interruptions)

Mr. Chairman, Sir, these are the Officers I refer to who continue to disrupt the national programme. These are the officers who are polluting the administration.

(Interruptions)

Why are you shouting ? I am not attacking your party.

SHRI AMAL DATTA : I would like to know whether it is permitted under the rules.

MR CHAIRMAN : Please address the Chair and speak on the Bill.

SHRI PRIYA RANJAN DAS MUNSHI : I am confining myself to the Bill. (Interruptions)

Yatha badhht badhte rajan,

Tatha skandh na bandhte.

I am grateful to you. Because of my intervention they have come out in their true colours. I am glad they have established their connivance with the Officer i.e. the S.P. of Howrah.

I would again request the Minister that before officially passing this Bill my suggestions should be taken into account. And for West Bengal if any request comes for the tribunals, he should see that the judges are appointed from outside the State and not from within West Bengal and no departmental civil servant should be allowed. Such officers of the police service should be dealt with firmly as are trying to humiliate the electorate and people in the State by using their force. This is what I say. I am grateful to Mr. Amal Datta ; at least he has identified his connection with the police.

SHRI AMAL DATTA : The whole allegation against the concerned officer should be deleted because no notice has been given.

SHRI PRIYA RANJAN DAS MUNSHI : Thank you for defending him.

SHRI AMAL DATTA : I am not defending him, I am defending the rules of the House. You are violating the rules and you should be ashamed. Rules do not permit you to allow this. Please delete it from the proceedings.

MR. CHAIRMAN : He has not given name of official.

SHRI SAIFUDDIN CHOWDHURY : If this type of allegations continue, where will they speak ?

DR. KRUPASINDHU BHOI : I want to make a submission.

MR. CHAIRMAN : No submission at this stage.

DR. KRUPASINDHU BHOI : Just a point of order, Sir.

SHRI AJOY BISWAS (Tripura West) : Mr. Chairman, Sir, I do not understand why the Government is in so much hurry to bring this Bill in Parliament. I find so many lacunae in the Bill. This Bill actually will cover about eighty to ninety lakhs of the State and Central Government employees. So, I think before bringing this Bill in Parliament, Government should have discussions with the All-India organisations of the Central and State Government employees.

Sir, I am connected with the State Government employees. I know the affairs of the State Government employees and the Employees' Federation. They wrote to the Central Government several times for discussion on the matters which are connected with the State Government employees, but actually the Central Government is not paying heed to their demand.

The main argument of the Government is that there are so many cases pending before the High Courts and that is why this Administrative Tribunals Bill has been brought forward. If this plea, is taken by the Government in respect of other cases also, I do not know what the Government will do. Many cases in connection with land disputes and other types of cases are also pending before the High Courts. I do not know whether the Government will bring forward such type of Bills for setting up Tribunals in respect of those cases also. There are many cases pending in the High Courts. But what is our experience about the Industrial Tribunals ? There are already Industrial Tribunals set up. We see that many cases are pending before the Industrial Tribunals also for years together. So, the main reason is that there is a shortage of Judges in the High Courts and there is a shortage of Judges in the Tribunals also. I am afraid the same thing will happen in the case of Administrative Tribunals. What is required is the appointment of more Judges to dispose of the cases early.

The Bill has been prepared in consonance with Article 323A as a result of which the

jurisdiction of the High Courts and the Supreme Court is taken away in respect of the cases of retirement, promotion, leave, etc. All these types of cases have been included in the jurisdiction of the Administrative Tribunal. But I feel that the Government should have had a discussion with other organisations concerned and should have brought forward a comprehensive Bill. Otherwise, some of the lacunae which are there will not be removed.

Another point that has been made by my hon. friend Mr. Priya Ranjan Das Munshi, which is pertinent to this Bill is who will be the Chairman of this Administrative Tribunal. The Bill provides that a retired Judge will be the Chairman or a retired Secretary or Additional Secretary to the Government will be the Chairman of the Tribunal. If a Secretary or an Additional Secretary will be the Chairman of this Tribunal, then there is an apprehension that the employees may not get justice because he will not be having judicial thinking. The judgment of the Tribunal may be of an administrative nature. When an Officer of the rank of Secretary or Additional Secretary takes action against an employee and, after retirement, he is made the Chairman of the Tribunal, at that time, definitely, he will not be in a free state of mind. At that time, his every judgment, his every notion, his every thinking will be guided by the administrative way of thinking. So, this kind of provision should be changed. Otherwise, the very purpose of the Administrative Tribunals Bill will be defeated and it will not serve any purpose at all.

Another point that I would like to make is that there is a provision that an employee may appear in person or take the assistance of a legal person of his choice to present the case before the Tribunal. If an employee is not conversant with the rules and regulations of the Tribunal and if he is not able to pay the fees of a legal person, in that case what will be the provision in the Bill? That is not clear in the Bill. In that case, whether he will not be able to appear before the Tribunal or not has to be made clear.

In this connection, I want to point out one thing that there is a system still in Central Government and State Government

that on behalf of the employee, another employee can appear before the proceedings of the Central/State Governments Department. If that is included here that on behalf of the employee, another employee of the Central or State Government can appear before the Tribunal, that will be helpful for the State and Central Government employees.

Another point is if the employee will not get any redress in the tribunal, then only he can go the Supreme Court. It is a serious thing. Class III and Class IV employees cannot go the Supreme Court. You know what is the cost involved in the Supreme Court. If a Class IV employee will not get redressal in the Tribunal, then his only alternative is to go to the Supreme Court. Is it possible for him to go to the Supreme Court for getting justice from the Supreme Court? I think that this Tribunal Bill, particularly this provision, is not helpful for the employees of the Central and State Governments.

My last point is that I shall request this Government to withdraw the Bill and discuss with all the organisations of the Central and State Governments' employees and bring a comprehensive Bill. That will be helpful for the Central and State Government employees. Otherwise, the purpose of this Bill will be defeated.

[*Translation*]

SHRILALIT MAKEN (South Delhi):
Mr. Chairman, Sir, I welcome the Administrative Tribunals Bill moved in this House. As has been stated here, there are about 63,000 cases relating to the employees either of the State Governments or the Central Government pending in different courts of India awaiting decision and the Administrative Tribunals have been set up to dispose of such staggering number of cases speedily. I think it is a good move in this direction. It will provide justice to those thousands of employees of the State Governments and the Central Government who are waiting for justice and whose cases are pending in various courts. I feel, with the constitution of these tribunals they will get quick justice and their rights will be protected.

As has been mentioned here, Administrative Tribunals would be constituted to

improve the recruitment and service as well as working conditions of government employees. The more welcome feature is that their decision will be binding on both the parties, the Government as well as the employees. I think the object of the Bill is laudable but there are certain lacunae in the Bill and I would like to draw the attention of the House to them.

One of my friends from the Opposition has stated here that after decision of the Tribunal, the employees will be able to move only the Supreme Court and this will harm their interest. But I do not agree with this argument. On the contrary, I think it will be beneficial for them because generally we see that if an employee wins a case in the lower court, the Government takes it to the High Court and if he wins it in the High Court, the Government takes it to the Supreme Court. I think after the passage of this Bill one stage will be eliminated and Government employees will be saved from moving the High Court where the cases used to be kept pending for years involving a lot of expenditure and time of the employees. Now they can directly seek justice in the Supreme Court.

We already have Labour Tribunals in the country just like the proposed Administrative Tribunals. If you look at them you will find that thousands of cases have been pending for years together. I want that the condition of these Administrative Tribunals should not be as bad as prevailing in the Labour Tribunals. I would like to request that these Tribunals should be made time-bound. Some time should be prescribed for different types of cases to achieve the aim of providing speedy justice.

Clause 6 of this Bill says that Secretaries and Joint Secretaries can also become Chairmen of the Tribunals. I strongly oppose it. As my friend has also said, if any retired Secretary or Joint Secretary, who had victimised any employee while in the office, is appointed as Chairman of the Tribunal and if the same victimised employee goes to the Tribunal seeking justice, he will be victimised again. This is a simple matter. I even go further to say that attitude of bureaucracy all over India is anti-employees.

I would like to state here that these bureaucrat Secretaries and Joint Secretaries in the State/Central Government offices have the same biased attitude towards the employees as the big industrialists and factory owners have towards their workers. Therefore, this is the question of different systems, different sections of the society. They are two different categories of people. So bureaucracy is responsible for injustice and inflicting atrocities. If the future of the victimised employees is to be decided by the same persons who have committed injustice, then I can say that they will never be able to get justice.

Clause 6 provides for appointment of Secretaries and Joint Secretaries as Chairmen. But I think that these are judicial organisations and bureaucrats should not be associated with them in any manner. If you want to provide justice to Government employees, I would request you that in no case should the Secretaries and Joint Secretaries be appointed as Chairmen of these Tribunals.

I have found the biggest lacuna in clause 3 in which it is mentioned that any victimised employee can approach the Tribunal to safeguard his rights. In the case of Labour Tribunals, the representative unions fight the case, put forward the charter of demands to the management and if no agreement is reached with the management, the case is referred to the Labour Tribunal and a decision is taken. But no such provision has been included in this Bill.

There is no such provision in this Bill under which associations of State or Central Government employees can put forth their charter of demands, disputes, which could not be decided in J.C.M., departmental Council, States, before the tribunal. Therefore, I would urge upon the hon. Minister that a suitable provision for the same should be made in this Bill. If no reference is made about the Associations in this Bill it would amount to great disrespect to the Trade Unions. As in the case of industrial disputes Employees Associations have been allowed to take their cases to Industrial Tribunals and Labour Tribunals, similarly, Government employees associations, whether they are Central Government employees associa-

tions or State Government employees' associations, should be given right to put forth their views before the Tribunal

Section 2 refers to those employees who are not covered under this Bill. It says that besides naval, military and airforce personnel, Lok Sabha and Rajya Sabha employees are also not covered under this Bill. There is another category of employees in India which is not taken into account at all as they are neither covered under public service commissions nor treated as defence employees. These are the employees of Border Roads Organisation whose number is in lakhs in India at present. They construct roads at the height of 20 to 25 thousand feet. They work day and night in winter at places where temperature is 10 degree and construct roads for our soldiers. I am sorry that no mention has been made about them anywhere in this Bill. They demand all the facilities.

During the Janata regime, the then Defence Minister had stated that the Border Roads Organisation employees can form their associations. After this statement of the Defence Minister, they formed their associations and thereafter during the Janata regime they were sent to jails and their services were terminated. Therefore, I request that the concerned officers should be asked to include them in the category of military personnel so that they can also avail of all those facilities. With these words, I conclude.

SHRI ZAINUL BASHER (Ghazipur) : Mr. Chairman, Sir, I welcome this Bill in many respects. It is a fact that today a large number of cases of Government employees are pending right from lower courts to Supreme Court. These cases have been pending there for years. Some cases have been pending for as many as 20 to 25 years and have not yet been decided. The fate of the Government employees is hanging in balance. Hon. Minister has stated that after the setting up of this tribunal the position will not remain like this. This Bill provides for judicial proceedings but as has been said by my friends earlier that purpose would not be served if Government Officers, particularly like Secretary, Additional Secretary are appointed to this tribunal. This Bill is drafted by

Secretaries and Government employees. I am not aware whether at the time of drafting this Bill, this department was under the hon. Minister or not and whether he had made any contribution in drafting this Bill. If he had applied his mind to the Bill, he would have definitely grasped the objections raised by our friends here. When judicial process is involved in it, only judges should be appointed to this Tribunal. All the Government employees, whether they are Government Officers, Secretaries, Joint Secretaries or Additional Secretaries, in the first instance, go in for appeal. There is a procedure for that also. When their appeal is not accepted, they go to courts. If these very Government Officers who might have already heard the appeals are appointed to the Tribunal and if they have to hear the case already heard by them, the aggrieved party may not get the justice. They might not be involved in that case personally but there might be some of their friends, there might be a person about whom they think that he cannot give wrong decision, hence justice cannot be done. Therefore, I request the hon. Minister to reconsider this point.

Secondly, I would like to point out particularly that the army, navy and airforce personnel have not been brought under the jurisdiction of this Bill. This is a very big disciplined force. There is no doubt that in this force there is discrimination in promotion, pay fixation and in many other matters. Hon. Minister has been our Defence Minister also. He is aware that armed forces personnel have taken many cases to the High Court and Supreme Court.

Several cases of armed forces personnel are also pending in courts. Therefore, I would suggest that he should think about setting up a separate Tribunal for these personnel in the armed forces itself, so that these people who have to run to courts time and again in connection with their promotion cases and other cases and have to face great hardship, may get speedy justice.

So far as the employees of Parliament and courts are concerned, I understand the position because there the Speaker is the final authority for hearing and redressal of grievances and I think the Speaker, whether he is of Parliament or a Legislature, always

does justice. Therefore, keep them out of the jurisdiction of this tribunal but if you do not want to include the armed forces personnel in it, you should set up a separate tribunal for them.

In this context, I would like to add one thing. This tribunal is being set up for Government employees and Officers but Government officers and employees do injustice to the people, do not behave properly with them or when there are complaints of corruption and violation of rules against them. I would like to know whether he has under consideration a proposal to set up a tribunal to go into all such complaints against them? It has been seen that if any person levels a charge of corruption against any Government employee or officer, and files application against him, the same application goes to the same officer for examination against whom complaint has been made. We are Members of Parliament. I myself have experience and many of us might also be having the same experience that when we make complaint against any officer, the complaint goes to the same officer for examination. I would, therefore, like to know whether the hon. Minister is going to set up any Tribunal for this purpose also? Home Minister is a very efficient person and as Defence Minister he has discharged his duty very efficiently. Therefore, I would also like to know whether he proposes to set up a tribunal which should go into the public complaints against Government officers and employees and take action thereon? He should make efforts to set up such a tribunal. I hope that he will consider it.

*SHRI R. ANNA NAMBI (Pollachi) : I am thankful to you, Mr. Chairman, for giving me an opportunity to say a few words on behalf of my party the All India Anna Dravida Munnetra Kazhagam on the Administrative Tribunals Bill, 1985.

Sir, this Bill should have been brought long ago. It would have reduced the burden on the Courts of Law. It would have ensured expeditious decisions on issues relating to the Government employees. Consequently, the Courts would have been enabled to lay greater emphasis on cases of

common people.

Though this Bill is belated, yet I welcome it because it is for the good of Government employees. The Tribunals are going to be set up both at the Centre and in the States. The Government employees are not able to get redressal of their genuine grievances expeditiously. They are running from pillar to post. They are to manage the court cases and their families within their limited means. They are suffering manifold misery on account of inordinate delay in the settlement of their disputes. The Courts cannot be blamed because they are burdened with thousands of cases. Only the other day in reply to a Starred Question raised by late Shri K.T. Kosalram, whose death we mourned today morning, the Government have indicated the total number of cases pending before the Courts of law. It will take several years for the Courts to dispose of all these cases. On behalf of Shri K.T. Kosalram and on my own behalf I must thank the hon. Minister for having brought forward this legislation, which will be beneficial both to the common people and to the Government servants.

The common people will have a sigh of relief because they are also to wait for decades to get judgments on their cases. It so happens that their witnesses even disappear in between. They have to arrange for new witnesses. The intermediaries eat away all their money. With the taking away of cases relating to Government employees from the purview of Courts, the Courts will be able to deliver speedier justice. Hereafter, there will be no room for saying that justice delayed is justice denied.

Now I would like to point out that for each and every thing we need not appoint Judges as the Chairman. It is not that Judges alone are omniscient. I suggest that a Secretary who has served the Home Department either at the Centre or in the State for five years and more should be appointed as Chairman of the Tribunal. The Vice-Chairman should be a public man of eminence evoking the confidence of the Government employees. Similarly, a repre-

representative of the Government employees duly elected by them should be made a Member of the Tribunal. I suggest that it is very necessary to have common tenure for the Chairman and for the Members. It should be uniformly five years for the Chairman and Members of the Tribunal.

I extend my wholehearted support to the laudable effort of our hon. Minister. He has proved by bringing forward this Bill that the interests of Government employees are uppermost in his mind and he is committed to the redressal of their grievances.

With these words I conclude my speech.

[English]

THE MINISTER OF STATE IN THE DEPARTMENTS OF PERSONNEL AND ADMINISTRATIVE REFORMS AND CULTURE (SHRI K. P. SINGH DEO) : Mr. Chairman, Sir, at the outset, I would like to thank the hon. Members for their very good suggestions and their apprehensions which give me an opportunity to reply to some of the questions that have been raised by them. At the same time, I am extremely grateful to the hon. Members for supporting this piece of legislation. First and foremost, I would like to mention that this Administrative Tribunal has been brought forward after it had been deliberated upon at every step. The Staff Association has been consulted during the initial stages, the State Governments have been consulted, the Legal Department has been consulted and then the Cabinet has brought forward this piece of legislation.

The Bill had been passed in the Rajya Sabha, but because the life of the 7th Lok Sabha had ended, the Bill has been brought afresh here now.

Many hon. Members have raised certain apprehensions regarding the composition and jurisdiction of the Tribunal. They have also suggested that the Tribunal should also include certain categories of persons.

I would like to mention that the Administrative Tribunal is different from a High Court in one essential respect and that is, while the High Courts deal with cases relating to all kinds of laws affecting the public,

the proposed Tribunal will deal exclusively with service matters of Government employees. Therefore, the examples and the comments made by the hon. Members regarding including various people as well as associations and the Armed Forces are not relevant and would be outside the jurisdiction of this. For the armed forces, there are the Army Act, the Navy Act and the Air Force Act, and there are other provisions also. However, all the points mentioned by the hon. Members have been taken note of. Of course, a debate is also going on regarding setting up a Tribunal for the Armed Forces. But it is for them to decide, not for this Ministry. This Bill, as I said, does not have jurisdiction over the Armed Forces. Even the Border Roads Organisation does not come within the purview of this. That is a different set up. They are governed by the different Acts, and are under the Ministries of Defence and Shipping and Transport. Let us not complicate matters; that is not relevant to this.

Regarding composition of the Tribunal, many hon. Members, particularly Shri Priya Ranjan Das Munshi, have raised a lot of apprehensions. I would like to assure them it is only because of objectivity and justice that the composition of the Tribunal has been kept in the manner it has been incorporated in the Bill. It is an enabling provision to have Secretaries, serving or retired Judges to act as Chairman, or as proposed. It is to make them eligible. The President will be the sole appointing authority in respect of the Central Tribunal and he will take into consideration all aspects which have been raised by the hon. Members. As far as the State Tribunals are concerned, he will do so in consultation with the Government concerned, and the Governor will take into consideration all the relevant aspects, for example from the justice point of view, as also the various apprehensions raised by the hon. Members.

The Tribunals are not going to be parallel High Courts, but they will be doing the work of the High Courts as far as the problems and cases pertaining to the service conditions of the employees are concerned. Therefore, to bring in objectivity, even the Supreme Court had opined that senior civil servants, who have experience and who

know the various intricacies of the service conditions should be included in these Tribunals, and according to Article 323 of the Constitution, which is the enabling clause that has given rise to this legislation.

Regarding internal rivalry and victimisation of certain Officers, I would say that these are very unkind remarks and we cannot generalise all Officers of the administrative services to fall into this category. There are blacksheep everywhere, but due care will be taken to see that this does not occur.

One hon. Member said about the shortage of judges, and because of that a lot of cases are pending. That is exactly the reason, why we are bringing this legislation to have speedier justice, and to relieve the High Courts of these sorts of cases, which are taking their time. Some hon. Members said correctly that justice delayed is justice denied.

This is exactly what we seek to redress by having speedy justice.

Regarding Associations, which has been mentioned by hon. member Mr. Lalit Makan, it is for individuals or for a party to think. This is not for associations. For associations, courts are there. Administrative Tribunals are for service matters, service conditions of individuals, those in service. This point is outside the purview.

Sir, most of these are common points. There was one point raised by Shri Priya Ranjan Das Munshi as to why there is a discrimination, the age limit being 62 for members and 65 for Chairman. This is to enable the member after one tenure to be a chairman or a vice-chairman....

(Interruptions)

I did not disturb you when you were speaking and I hope I get the same courtesy.

This is exactly the pattern followed in the UPSC.

I think I have answered to most of the points that have been raised. Some of them

are common. So, I seek the indulgence of the House and commend that this Bill be passed.

MR. CHAIRMAN : The question is :

“That the Bill to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be taken into consideration.”

The motion was adopted.

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

“That clauses 2 to 37 stand part of the Bill.”

The motion was adopted.

Clauses 2 to 37 were added to the Bill.

Clause 1 was added to the Bill.

Enacting Formula

Amendment made :

Page 1, line 1,

for “Thirty-fifth” substitute “Thirty-sixth” (1)

(Shri K.P. Singh Deo)

MR. CHAIRMAN : The question is :

“That the Enacting Formula, as amended, stand part of the Bill.”

The motion was adopted.

*The Enacting Formula, as amended,
was added to the Bill.*

The Title was added to the Bill.

SHRI K.P. SINGH DEO : I beg to
move :

“That the Bill, as amended, be
passed.”

MR. CHAIRMAN : The question is :

“That the Bill, as amended, be
passed.”

The motion was adopted

MR. CHAIRMAN : May I remind the
hon. Members that tomorrow the House
will be meeting at 10.58 hours ? Now, we
will adjourn.

15.58 hrs.

*The Lok Sabha then adjourned till Fifty-
eight minutes past ten of the Clock
on January 30, 1985/Magha 10,
1906 (Saka).*