

ted for those services and for that year, be taken into consideration."

*The motion was adopted.*

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

The question is :

"That Clauses 2 and 3 and the Schedule stand part of the Bill."

*The motion was adopted.*

*Clauses 2 and 3 and the Schedule were added to the Bill.*

*Clauses 1, the Enacting Formula and the Title were added to the Bill.*

SHRI JANARDHANA POOJARY : Sir, I beg to move."

"That the Bill be passed."

MR. DEPUTY SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted.*

12.59 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF ADMINISTRATIVE TRIBUNALS (AMENDMENT) ORDINANCE, 1986 AND ADMINISTRATIVE TRIBUNALS (AMENDMENT) BILL

[English]

MR. DEPUTY SPEAKER : The House will now take up items 13 and 14 of the agenda together.

SHRI AJAY BISWAS (Tripura West) : Sir, I beg to the move :

"This House disapproves of the Administrative Tribunals (Amendment) Ordinance, 1986 (Ordinance No. 1 of

1986) promulgated by the President on the 22nd January, 1986."

I move this Resolution because the Government has promulgated this Ordinance and is also coming forward with the Bill to amend the Administrative Tribunals Act, 1985. The main objection is this.

13.00 hrs.

When I spoke on the main Bill, I suggested to the Government that there were so many lacunae in the original Bill and that the Government should not be in a hurry to pass that Bill.

We see now that after passing the original Bill more than a year has passed, but the Central Government is not able to constitute the Administrative Tribunal till now. The Government this time has come forward to amend the original Bill. I further suggested at that time as it involved the fate of at least 80 to 90 lakhs of State and Central Government employees, the Employees, Organisations should be consulted. But the Government did not pay any heed to that also.

Sir, I am connected with the State employees. The Government employees in general and the State employees in particular are opposing this type of administrative tribunals. This time, I think, the Government has come forward to amend the Bill and the Government has three objectives.

One is to keep the jurisdiction of the Supreme Court in tact, because in the original Act the jurisdiction of the Supreme Court was taken away. Under Article 32 of the Constitution, the Government can do that. But according to Dr. Ambedkar, when he dealt with this article at the time of framing the Constitution—he said that Article 32 is the soul of the Constitution, because according to Article 32, the fundamental rights of the citizens, particularly the employees and workers are protected. So, he gave great importance to Article 32. I think that the Government now wants to keep the jurisdiction of the Supreme Court in tact. But in spite of that the problems of the employees and the workers will not be solved. Because the jurisdiction of the High Courts and other courts are taken away. It is not

possible for Class-III and Class-IV employees to go to the Supreme Court for justice. The Minister should know that the cost of the Supreme Court is so much that it would not be possible for Class-IV and Class-III employees to get justice from the Supreme Court.

So, you are keeping the jurisdiction of the Supreme Court. Actually that is the main thing. What are you doing about the jurisdiction of the High Courts and other courts? You are taking them away. That is clear. Any employee can go to the the High Court and other courts for their benefit. So, I think this is nothing but a farce that the Government wants to show to the people that they are democratic and so, they are keeping the option open for the employees and the workers to go to the Supreme Court, to the judicial arena. I think, this amendment will also not serve the purpose.

The second thing is that there is an attempt to depict the administrative tribunal and the judicial outlook. Previously there was a binding that the judicial persons should be the members of the tribunals. This time the Government wants to amend the original Bill by including a judicial person in the Administrative Tribunal. The other members of the Tribunal including the Chairman and the Secretary have only administrative background. Sir appointing one judicial person in the Tribunal will not change the character of the Administrative Tribunal. Actually what you are doing is that you replacing the judicial system by Administrative Tribunal. In place of judicial system the Administrative Tribunal cannot be the alternative. So, the amendment which is sought here is insignificant and it will not change the basic character of the original law. The members of the Tribunal are either Secretaries or Joint Secretaries who have worked in the administration. After having worked in the administration and with bureaucratic outlook when they will deal with the affairs of the employees definitely their outlook will be administrative and not judicial. So, the employees cannot get justice from this Tribunal. I am sure the Tribunal will go against the basic interests of the employees.

13.09 hrs.

[SHRI SOMNATH RATH *in the Chair*]

Further the jurisdiction of the courts under Industrial Disputes Act will be retained. Some employees who are working in the undertakings and who have the right to seek justice under Industrial Disputes Act and other Acts their right to go to the Industrial Tribunal will be retained. Side by side the Administrative Tribunal will also be there. The employees who can go to the Industrial tribunals simultaneously the administrative tribunals will also be applicable to them. I am not against that but what I say is that it is a contradiction. It is an ambiguity. So, I oppose the original Bill as well as this amending Bill. Actually, the Government want to snatch away the existing judicial rights of the employees and workers of the country. About 80-90 lakh Central Government employees constitute 60-65 per cent of the organised workers of the country. Therefore, you are snatching away the judicial rights of 60-65 per cent of the organised workers of the country, It is a serious thing; it is a serious action being taken after the independence. Why is the Government doing this ?

Further, it is not an isolated act. If we see the role of the Government at least from 1980, we shall find that by one act after the other, the Government is trying to snatch away the trade union and democratic rights of the people. The Government passed the National Security Act and the Essential Service Maintenance Act and by passing those Acts, the trade union and democratic rights of the workers and employees were snatched away and the workers have now no right to go on strike. The strike can be banned any time by the Government. If the workers want to demonstrate after office hours, they can be fined or imprisoned. As I said, the Government is systematically snatching away the democratic and judicial rights of the workers. Therefore, this attempt to constitute the Administrative Tribunals is not an isolated act on the part of the Government. It is very much linked with the total attempt, total movement of the Government to snatch away the trade union, democratic and judicial rights of the working people of this country.

The Government is facing economic and other crisis and they want to shift the entire

[Shri P. Chidambaram]

burden on the shoulders of the working people, the common people to overcome such crisis.

I oppose this Bill. I request the Government to withdraw not only this amendment but to withdraw the entire thing and keep the judicial rights of the employees, Central and State, in tact. You should allow the employees to go to the lower courts and high courts for full justice.

I may inform the Central Government that the Left Front Governments in West Bengal and Tripura are defending the trade union and democratic rights of the workers. Even if this Bill is passed, in spite of that, the West Bengal and Tripura Left Front Governments will not constitute these tribunals. We shall keep open for the employees to go to the lower courts and the high court. I oppose this Bill totally.

THE MINISTER OF STATE IN THE  
MINISTRY OF PERSONNEL, PUBLIC  
GRIEVANCES AND PENSIONS (SHRI P.  
CHIDAMBARAM) : I beg to move :

"That the Bill to amend the Administrative Tribunals Act, 1985, as passed by Rajya Sabha, be taken into consideration."

Sir, among the Hon. Members who had given notice of this Statutory Resolution, only Shri Ajoy Biswas is here to move the Resolution. It may not be incorrect on my part to infer that the other members have had second thoughts about the Statutory Resolution and they broadly welcome this Amendment Bill.

In fact, this Bill was debated extensively when the parent Bill was introduced and passed by this House as well as Rajya Sabha. What we have done now is to take note of certain subsequent events and I submit that the Amending Bill is totally non-controversial and therefore, there should really be no dissent or reservation about this Amending Bill.

What have we done in this Amending Bill? I shall very briefly deal with the major provisions of the Amending Bill.

Firstly, we have decided that it is not necessary to take away the jurisdiction of the Supreme Court under Article 32 of the Constitution. Article 323A enables us to make a law taking away the jurisdiction of the High Court under articles 226 and 227, as well as the jurisdiction of the Supreme Court under Article 32. But on second thoughts, Government have come to the conclusion that it is not necessary to touch the jurisdiction of the Supreme Court under Article 32. It will be quite adequate to take away the jurisdiction of the High Courts under Articles 226 and 227 and vest them in the Tribunal.

As far as composition is concerned, I must tell this Hon. House that in writ petitions filed before the Supreme Court and writ petitions transferred from the High Courts to the Supreme Courts, their Lordships of the Supreme Court were pleased to observe that in their view it would be better if the Branches were composed of one judicial member and one administrative member. Government looked into it and accepted the suggestion. We also believe that instead of having three members on the Benches, it be adequate to have two members on each Bench, one judicial member and one administrative member. In fact Hon. Members know that even today in the High Courts most service matters are heard only by one learned judge. In rare cases, an original writ petition is heard by Bench consisting of two learned judges. Only in very complicated cases involving grave questions of constitutional law, is the matter heard at the initial stage, by a full Bench of three judges. Therefore, we have provided now that each Bench of the Tribunal will consist of one judicial member and one administrative member. It is not as though such a pattern does not prevail in other Tribunals. For example, in the Income tax Appellate Tribunal, there are two members, one judicial member and one accountant member and persons who go to the Income Tax Appellate Tribunal for relief have found this arrangement very satisfactory. We believe that this arrangement of one judicial member and one administrative member will be a very satisfactory arrangement. The Bench will bring to bear upon the cases, judicial experience, judicial knowledge and understanding of the law, as well as administrative experience and understanding of the working of the system of govern-

ment and understanding of the working of the rules and understanding of the practical implications in deciding service matters.

We have also taken this opportunity to provide an additional forum to those Government servants who are also workmen within the meaning of the Industrial Disputes Act. I think, Hon. Member Shri Ajoy Biswas has completely misunderstood the scope of this provision. As the provision originally stood, a government servant who is also a workman within the meaning of the Industrial Disputes Act was not governed by the Administrative Tribunals Act in regard to such matters in respect of which he is governed by the Industrial Disputes Act.

Sir, I confess that that provision was rather ambiguously worded. One could argue that all that was kept out was a kind of case which would fall under Section 2 A of the Industrial Disputes Act. One could also contend that every matter for which provision is made in the Industrial Disputes Act was kept out. Sir, Hon. Members know that the procedure for making a reference of a dispute to the Labour Court or the Industrial Tribunal is a cumbersome procedure, and I do not think it is less cumbersome in the State from which Hon. Member Shri Ajoy Biswas hails. Today, we have provided an additional forum by which a Government servant who is also a workman as a matter of right, can take his dispute to the Tribunal. He need not go before a conciliation officer, he need not wait upon the Government to make a reference, he need not have a union espousing his cause, he need not do the 100 things required under the Industrial Disputes Act. He will have his dispute adjudicated by the Tribunal, as a matter of right. I think this is a far-reaching provision - a tremendous improvement upon the parent Act, and Hon. Member like Shri Ajoy Biswas who champions the rights of the working class should welcome this provision heartily.

Finally, we found that some small States found it difficult to establish separate Tribunals. In fact, it would have been wholly uneconomical for the Central Government to set up a Bench of the Central Tribunal in

a small State like Himachal Pradesh. It would also be wholly uneconomical for that State to set up its own State Tribunal to deal with the service matters of the State Government employees. We have, therefore, taken this opportunity to take power to designate Members of a Bench of the Central Tribunal as the Members of the State Tribunal with the consent of the State Government and if they so desire, and the contra power to designate the Members of the State Tribunal as the Members of the Bench of the Central Tribunal. This will save money; it will give the tribunal adequate number of cases to deal with in a year, both the Central Government employees and the State Government employees would approach the same Members of the two Tribunals. Sir, some minor clarificatory Amendments have been made to get over some problems which had been made to get over some problems which had been posed by some cases pending in the Courts. For example, whether the word "Union" included "Union Territory". Obviously, it does. And we have taken the opportunity to clarify it.

Regarding location of a Bench in New Bombay, the question was whether "Bombay" included "New Bombay". Whether "Delhi" included "New Delhi". We have clarified that. I think, it is a non-controversial Amending Bill and I commend this for consideration and adoption by this House. And I do sincerely hope that the House would be able to pass this Bill without dissent or reservation.

MR. DEPUTY SPEAKER : Motions moved :

"This House disapproves of the Administrative Tribunals (Amendment) ordinance, 1986 (Ordinance No. 1 of 1986) promulgated by the President on the 22nd January, 1986."

"That the Bill to amend the Administrative Tribunals Act, 1985, as passed by Rajya Sabha, be taken into consideration."

SHRI SHANTARAM NAIK (Panaji) : Mr. Chairman, Sir, at the outset, let me say that the Amendment which is proposed is

[Shri Shantaram Naik]

really required and it will be doing a very good service to the main Act by improving the legislation to a great extent.

Shri K. P. Singh Deo, then Minister in-charge had submitted [in the Lok Sabha at that time that "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 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.

In fact, the object of the main Act is such. But may I mention the case of the Union Territory of Goa, Daman and Diu in this context? You will see, we have a Bench for Bombay High Court established at Panaji. Matters under Article 226 of the Constitution can be dealt with by that Bench speedily. May be the other High Courts in the country take time to dispose of the cases pending with them. But any Government employee in Goa could have the redressal of his grievances in respect of such matters within a short span of time, of six months or a maximum of one year.

In respect of this Tribunal, we are now attached to Bombay; and Government servants will undergo a lot of suffering if they have to go all the way to Bombay for the purpose of filing of applications and setting the process in motion. You can understand how much hardship it will cause to a Government employee in Goa.

In this context, I request that a Bench of any of the Tribunals be established at Panaji, to solve this problem. If this is going to take some time, I will earnestly request you to restore the jurisdiction on the Bombay Bench till the time the Tribunal starts working. Otherwise, because of procedural reasons, it will take six months to one year, and damage will be done to the interests of Government servants.

As it is, you know that as far as recruitment to certain posts are concerned, it is done by UPSC. It is the UPSC which recruits people in Goa. They have to go to Delhi for the purpose of appearing before UPSC. So, nothing with respect to service matters is taken up in Goa. In respect of redressal of grievances also if they have to go miles away, it will become a problem. This may kindly be considered.

I would like to tell the Hon. Minister that in fact, since Portuguese times, we have an administrative Tribunal in Goa. It was earlier dealing with certain other matters. But now that Tribunal has been re-constituted and it deals with tenancy and rent matters. I suggest that the same Tribunal may be re-constituted with sufficient additional members; or even a separate Administrative Tribunal can be constituted. The Goa Tribunal is already functioning with a different jurisdiction and different powers vested in it, under local Statutes.

If any Administrative Tribunal is to be effective, then the recruitments rules of Government servants have also to be streamlined. I know you are doing considerable work in this respect. But in certain States, if you go to any Government Printing Press, you will not even get a booklet containing the recruitment rules in respect of Government servants. Government servants are not aware of their rights, and rules governing their service matters. So, if rules pertaining to Government servants are available, these rights will be known to them, and this may avoid unnecessary litigation i.e. if these rights are made well known, and are well circulated among the people.

I want to strengthen the whole structure of administrative tribunals. Character Rolls and Confidential Reports are maintained by the State Governments because promotions are based on the Character Rolls. In most of the States, I believe there are no Statutes governing the writing of Character Rolls. Except All India Services, we do not have any rules about how Character Rolls of Government Servants are to be written. This gives rise to so much of litigation with regard to service matters. If these rules are well laid down, and correctly explained to Government servants, it may reduce litiga-

tion Sometimes even higher officers do not know how to write a Character Roll. For example, once an officer wanted to write a Character Roll on an employee working under him. In fact, that employee was working very hard.

In fact, he want that this thing should be noted in his character roll; he wanted to say that he was doing a good job. But the officer wrote there, Mr. A worked hardly; in the sense he wanted to say that he worked hard, but he wrote in the character roll that he worked hardly. I am just pointing out this to you to show how it makes a different types of notings which are written in the character rolls by different officers, which makes different things for different Government Servants and interpretation of various courts by their things. Therefore, there is a need to streamline the procedure of writing character rolls. I know you are doing a lot in this field and you have put great efforts in this. Unless this aspect is strengthened, our whole structure of the tribunal may not be that effective.

You have also framed rules and they provide for interim injunction. As far as filing of applications before this tribunal is concerned, the rules state, in fact, the law itself says that a certain set of applications with all the documents are to be filed along with a full size empty envelope. Which tribunal or a court of law would require even an envelope to be given along with the petition? It is possible, but is it so essential that this should be mentioned in this statute that a full size empty envelope should be enclosed along with the papers. You may kindly consider this because ultimately these are minor things which the tribunal itself can look into.

Normally the tendency is to make justice cheaper. In the High Court, a petition can be filed on Rs. 2 stamp paper. Now, these cases are with respect to Government Servants; some of them are very low grade Government Servants. When a writ petition can be filed in the High Court on a Rs. 2 stamp paper, why Rs. 50 are charged for filing an application before the tribunal with the requirement of an empty full size envelope and a set of papers? We have to make the justice cheaper. Now-a-days, Rs. 2 and

Rs. 50 matter. Otherwise also, the Government Servants have to spend a lot, but it makes all the difference in the sense that you are taking away the jurisdiction from the High Court which charges a nominal fee and giving it to the tribunal, special tribunal which deals with matters of Government Servants by charging a fee of Rs. 50; it does not look to be fair. You may kindly review this aspect also.

There are so many matters which are involved in the service litigations. There are very crucial issues coming up before this tribunal. If there is a matter which the tribunal finds very crucial or if there is a matter where a constitutional issue of great importance is involved, I think that should be provided in the main Act for referring the matter to the Supreme Court of India, because service matters involve a lot of constitutional matters, and therefore, the highest tribunal should reserve such matters wherever issues of constitutional and great importance are coming before this tribunal. And then consequently some aspects of financial burden on the party especially the government servant will come. In such circumstances, I would suggest that in case the matter is referred to the Supreme Court and if the party, that is the government servant before the tribunal is unable to bear the expenses of litigation before the Supreme Court, he should be given the legal aid especially to appear before the Supreme Court; the legal assistance in the matter should be given to him.

[Translation]

SHRI K. N. PRADHAN (Bhopal) : Mr. Chairman, Sir, I welcome the Amendment Bill presented by the Hon. Minister. It is highly commendable. Some improvements have been effected in it. There is no point in objecting why this ordinance was promulgated just before the session. Actually there were some suggestions of the Supreme Court and one of the suggestions was that there should be a judicial member in it. A good suggestion should be implemented at the earliest and there should not be any objection to it. By including a judicial member in the tribunal, its credibility among the people will increase. It pained me when Shri Ajoy Biswas opposed the Bill during his speech.

[Shri K. N. Pradhan]

So far as safeguarding of the interests of the workers and granting rights to them is concerned, you will not find an example in any country where the Government itself granted so many rights to the workers and the employees and safeguarded their interests to this extent.

I would like to say to my colleagues who are opposing the Bill that if the form of Government of that country changes in accordance with the ideology of the party to which they belong, the rights, which they are enjoying here will not be available to them any longer.

**SHRI BASUDEB ACHARIA (Bankura) :**  
There they have no such problem.

**SHRI K. N. PRADHAN :** They do not have a magic wand there. There no one can speak out; how can one ventilate one's grievances? You have made it a point to oppose every good measure.

Just now the Hon. Minister has stated that some categories of workers can raise their problems under the Industrial Disputes Act but the procedure is very complicated. Moreover, there will be two types of judgements on a similar set of facts. This will create an anomaly. You have given them a very good facility and saved them from a lot of botheration so that their problems are solved and they get justice. But we will also have to see that there must not be any anomaly.

Similarly, you have established some Division Benches and some more benches are proposed to be established. For this you have laid down the principle that Division Benches will be opened only in areas having permanent Benches of High Courts. But at many places where there are permanent Division Benches, they are not being opened, e.g. no Division Bench has been opened at Panaji. The basic thing is that it is necessary to open such Benches for securing inexpensive and easily available justice to the people. In this connection I would like to give a suggestion. Incidentally, Madhya Pradesh is a state in the country where there is neither High Court

nor Division Bench of the High Court. Jaswant Singh commission has, of course, submitted its report. We should keep it in mind that the seat of the Government and the seat justic should be at the same place. In many cases, the Government is a party to a case and the officers have to attend the court with files. To avoid this inconvenience, decision will have to be taken for the establishment of a Division Bench at Bhopal. Till such time as the Division Bench of the High Court is established, you must keep in mind that the employees of Bhopal, which is the capital of the biggest state, should get justice easily. I would request that this condition may not be implemented for the time being or at least there should be exception in this case so as to secure benefit for the maximum number of employees. With these words, I would again convey my thanks to the Hon. Minister for accepting the necessary amendments without delay because it is better to accept good suggestions immediately. If you had accepted it a little later, it would not have made such difference but you have accepted it immediately so that the employees may get justice speedily, the anomalies may be removed so as to enhance their faith. You have done the right thing, For this, you definitely deserve congratulations.

With these words, I support the Bill.

[*English*]

**SHRI RAJ MANGAL PANDE (Deoria) :**  
Sir, this is a very welcome measure. This will facilitate speedy disposal of thousands and thousands of cases pending in high Courts.

I think, all Members present here, are conscious of the fact that it is the low paid employee who suffers the most when his service conditions are affected and relief is not granted for many years to come. By this measure, we hope, that he will be able to have the relief within the shortest possible time and he will be happy to see that a bright future lies before him and his children.

This is not something new. There was already an Act and against this Act, there were certain misconceptions in the mind of judges of the Supreme Court. They suggested certain changes to be made in this Act Up-

till now the practice had been that if a Central Government employee had any complaint or grievance, he could either go to the Tribunal or the High Court under Article 226 of the Constitution or the Supreme Court under Article 32 of the Constitution. All the three remedies were there. And the result was that there was virtually an option with the Central or State Government employees to seek the remedy in any of the Courts. Now, by this amendment, it has been clearly amplified that the Central or State Government employees are required to go to the Administrative Tribunals. Unless they exhaust all the processes, the Supreme Court or the High Court will not listen to any grievance or complaint. The High Court jurisdiction under Article 226 of the Constitution has been taken away. I know for certain that in High Court service matters were pending for five to six years. Even a Class III or IV employee getting about Rs. 700 or Rs. 800 used to spend about Rs. 10,000 to Rs. 15,000. The result was that even after their reinstatement and getting back all their emoluments, they had virtually collapsed either socially or by other way. So, I am grateful to the Minister concerned, who has brought forward this welcome measure to see that justice is done to those people who had suffered a great deal. Now, they will have sigh of relief at the bright future before them.

There are minor changes proposed in the Bill. Earlier it was Corporation. Now, they are including corporations and societies controlled by the Government. There are certain other very minor changes, regarding a Judicial Member and a Non-judicial Member. It has been suggested that the Judicial Member will be appointed in consultation with the Chief Justice and a Non-Judicial Member must be of the status of not less than Additional Secretary with two years experience, or a Joint Secretary with not less than three years experience. So, it gives a clear guarantee to all those people who had some kind of apprehension that in service matters, the absence of a Judicial Member did not give them such kind of relief which they will get now, though they were virtually satisfied that they could get the relief otherwise by this Act. So, I am grateful to the Minister who has brought forward this Bill. The Bill does

not need more discussion. It should be passed and I shall request the House to pass it.

[*Translation*]

SHRI MOOL CHAND DAGA (Pali) : Mr. Chairman, Sir, why has this question arisen ? What was the necessity to frame such a law ? When all the Chief Secretaries had assembled here, our Prime Minister had said one thing :

[*English*]

“The Prime Minister Rajiv Gandhi said here on Thursday that our endeavour has to be not only to redress the present grievances of the people but also to modify the entire system in a manner which will prevent such grievances from arising in the future”.

[*Translation*]

What is its reason ? The reason is that your Government do not have the capability to frame rules and regulations. Recently, you passed an Act, but within a few months you had to bring forward amendments to it. The Committee on Sub-ordinate Legislation submits its recommendations about the rules and regulations framed by the Government.

[*English*]

But they take years together to give reply. Whether those rules and regulations are in accordance with the Act or not, they do not care.

[*Translation*]

Who is framing rules and regulations in the Government ? A U. D. C. just copies the old rules and regulations. I was going through this article. It has been mentioned in it :

[*English*]

This article was written about the occasion when all the Chief Secretaries met together in Delhi. The article says : “The participants called for the simplification of the rules and procedures as well as a review of the controls and regulations, in order to review the conduct of the officials and those seeking clearances”.



[Shri Mool Chand Daga]

[Translation]

Can you not find out some way to frame properly the rules and regulations already-made? What you do is—

[English]

First you frame the rules, then they are vetted by the Law Department and then they are placed on the Table of the House.

[Translation]

Sometimes even rules are not framed.

[English]

Even the Act is passed but the rules are not framed.

[Translation]

Sometimes regulations are not framed.

[English]

I am giving you one instance. I do not want to go into the details, and you will not allow me also to do that. I am just reading this Act. This is Import and Export Control Act, 1947. Mr. Chairman, you will take interest in seeing what this Act says and what are the rules framed by the Government. I want to point out only one or two instance. What it says is this. The definition is given in the Act. 'Act' means the 'Imports and Exports (Control) Act, 1947. Now, what are the subordinate officers doing? Who are the subordinate officers? This is defined in the Exports Control Order, 1977. I would like to read out to you what it says. It says as follows :

“Chief Controller of Imports and Exports includes Additional Chief Controller of Imports and Exports, Export Commissioner in the Office of the Chief Controller of Imports and Exports, a Joint Chief Controller of Imports and Exports, a Deputy Chief Controller of Imports and Exports, Assistant Chief Controller of Imports and Exports and Controller of Imports and Exports.”

Sir, who has given them powers? We have never given them the powers. The Attorney-General says that you cannot go beyond the scope of the Act. But you do it. You go beyond the scope of the Act.

[Translation]

When Government do not frame rules, regulations and by-laws according to the constitution, it gives rise to more litigation. There are several definitions under it.

[English]

I was the Chairman of the Committee in 1982. I would like to read a few lines. The Committee is miniature Parliament.

[Translation]

I would like to submit to our new Minister for Administrative Reforms that he should frame rules, regulations, procedure and by-laws properly. It is very essential. The Committee has given a suggestion in this regard :

[English]

The Committee trust that the Ministry will give a serious thought as to how to remove frustration and hardship among the promotee officers. The Committee hope that the Government would see that all the officers work happily for the good of the people and the country at large.

[Translation]

The high officials of the Government are not capable of working at a quicker pace. They can work only when strong administrators are appointed. I would like to tell you what the Supreme Court has said about it.

SHRI RAJ KUMAR RAI (Ghosi) : Is it not traceable?

SHRI MOOL CHAND DAGA : It would take one more minute. I would read it out to you.

SHRI RAJ KUMAR RAI : Sir, we want to listen to him.

SHRI MOOL CHAND DAGA : The Supreme Court has further said :

[English]

Why don't you make certain amendments to the rules ?

It is stated on page 38 of the Twelfth Report of the Committee on Subordinate Legislation :

"In the light of the observations of Supreme Court, the Committee is of the view that the Government should consider an alternative suggestion of revising the rules in a manner which should provide for a time bound promotion according to which an officer should be promoted to the next higher grade after a certain period of his efficient and honest service, e.g. after every 5 to 10 years and such promotions should not depend upon the quota or the rota or the resultant vacancies and so on."

[Translation]

Have you made any enquiry after the recommendation of the committee ?

[English]

This is a Report of 1982. Four years have passed.

[Translation]

The Government have not taken any action on that report and as the rules and regulations of the Government are not framed properly, the number of court cases increases. I would, therefore, like to request you to draft the laws properly so that the people could be benefited.

There is one thing more. How many months would these Tribunals require to deliver their judgements ? Is there any time limit for this ? After the framing of these rules and regulations, thousands of cases would come up and people would also go to the courts. Who are the people who go to the courts these days ? Only those employees go to the courts at present, who have other sources of income ; otherwise most of other people do not want to go to the courts.

SHRI RAJ KUMAR RAI : It is not correct on your part to say that all the corrupt and dishonest people go to the Supreme Court or Tribunal. Good people also go to the court, who have some grievance and they seek redressal of their grievances from the court.

[Translation]

AN HON. MEMBER : The corrupt people are never entrapped.

SHRI MOOL CHAND DAGA : They are not entrapped. What is happening these days is that no action can be taken against the officers. He cannot be suspended. If he has done anything wrong, can he be suspended ?

[English]

It is stated in *Commerce* dated February 16, 1985 (p.293) as follows :

"In the discussion of Indian public administration one fact of cardinal importance is overlooked that the officers belonging to the all-India services enjoy virtually absolute immunity against punishment. No Chief Minister has got the powers even to suspend, far less to dismiss, an officer belonging to the Indian Administrative Service or Indian Police Service. The fear of losing a job, for which persons in other walks of life might be prompted to make compromises, is absent in the top civil servants in the country. If, nevertheless, there is so much of corruption and indolence among the top civil service, it is a matter that requires some special consideration.

[Translation]

If a collector is found to be indulging in malpractices, the Chief Minister does not have the power to suspend him. How much power do you want to delegate to the officers? You provide them advance for purchase of a motor car or a conveyance. They are provided house building advance to the tune of more than Rs. one lakh. They have got the facility of telephone and staff car. I would like to say that they might be provided even

[Shri Mool Chand Daga]

more facilities, but I would like to submit that they should work with honesty and dedication.

[English]

MR. CHAIRMAN : Mr. Daga, you will continue after the Statement by the Minister.

13.58 hrs.

STATEMENT RE : ESCAPE OF PRISONERS FROM TIHAR JAIL

[English]

THE MINISTER OF STATE OF THE MINISTRY OF COMMUNICATIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI RAM NIWAS MIRDHA) : At about 2.50 P.M., on 16th March, 1986, the Superintendent, Central Jail, was informed by Deputy Superintendent, Jail, Incharge Jail No.3. that some prisoners had escaped from Jail No. 3. The Superintendent, Central Jail, along with some officials rushed to the spot and an alarm was sounded. The Superintendent found that persons, who were on duty at the gate of Jail No.3, were lying in a state of semi-consciousness. These included Assistant Superintendent, Jail, on duty, two Warders, and two Constables from Tamil Nadu Special Police. The S.H.O. Janakpuri and Police Control Room as well as senior officers were informed. Counting of prisoners was also undertaken and it was found that the following 7 prisoners were missing and had escaped :-

1. Charles Shobraj S/O Hoth Chand (U/T).
2. Laxmi Narain S/O Goman Singh (U/T).
3. Ajay Singh S/O Vijay Singh (U/T).
4. Brij Mohan S/O Lokman (U/T).
5. Bajrang Lal S/O Ram Gopal (U/T).
6. Bhola Ram S/O Rati Ram (Convict).
7. Dinesh Kumar S/O Jiwan Singh (Convict).

The staff on duty at the Main Gate of Jail Na.3 in varying state of unconsciousness were taken to Jail Hospital and thereafter shifted to Ram Manohar Lohia Hospital. Further facts of the case will be known when these people make statements.

On receipt of the information, the Police Control Room immediately flashed messages to all the other States and declared a Red Alert and started a hunt for the escapees. Through Interpol, information has also been sent to other countries.

Seven Jail officials including one Asstt. Superintendent, Jail, 4 Warders and two Constables of Tamil Nadu Special Police have been arrested. Eight Jail officials including one Deputy Superintendent of Jail No. 3 and one Assistant Superintendent, four Warders besides two Constables of Tamil Nadu Special Police have been placed under suspension. The Police have also registered a case and is conducting investigations. The Lt. Governor, Delhi who also visited the Jail has ordered an enquiry to be conducted by Shri S.D. Lakhar, a senior officer of the Delhi Administration, and at present Chairman, Civil Supplies Corporation. He will be assisted by Shri B.L. Anand, an Additional District Magistrate. The term of reference of the enquiry are as follows :-

- (a) To determine and inquire into the sequence of events and the circumstances leading to the escape of Charles Shobraj and six other prisoners from the Central Jail No.3, Tihar, New Delhi, in the afternoon of 16th March, 1986.
- (b) To fix responsibility for negligence or lapses, if any, on the part of the officials and security personnel posted at the Jail.
- (c) To determine the shortcomings and weaknesses in Jail Administration and to suggest remedial measures therefor.
- (d) Any other matter having bearing on the security and safety of the Jail.

The report will be submitted by the Enquiry Officer within one month.