

SHRI P. CHIDAMBARAM: That judgment is the Punjab High Court judgment. That judgment had struck down a particular detention made before the 8th of June, 1988. We have said "notwithstanding anything is that judgment" you can make a detention under section 14A. Now this judgment is under appeal to the Supreme Court. We have the power to make a validating law. Of course, we are not really resting it on the validating power. The power is there. We are resting this Bill on 22(7) read with Parliament's power to make a law. We are making a new law. The old 14A was struck down but the judgment has been stayed and a new 14A has been added again. Whether 14A is valid or not, will have to be eventually pronounced by the Supreme Court.

Sir, I am absolutely clear in my mind and we have legal advice, that Parliament has the competence to make this law. Whether the law is valid or not—not the competence—whether 14A as it is worded now is valid or not will be decided by the Supreme Court. So, the question really does not arise. Now, we can debate the merits of the Bill.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union Territory of Chandigarh."

The motion was adopted.

S.BUTA SINGH: Sir, I introduce the Bill.

**STATEMENT RE. NATIONAL SECURITY
(AMENDMENT) ORDINANCE, 1987.**

[*English*]

**THE MINISTER OF HOME AFFAIRS
(S.BUTA SINGH):** I bet to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate leg-

islation by the National Security (Amendment) Ordinance, 1987.

13.14 hrs.

The Lok Sabha adjourned for Lunch till fifteen Minutes past Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at twenty Minutes past Fourteen of the Clock

[**MR. DEPUTY-SPEAKER** *in the Chair*]

PAYMENT OF GRATUITY (AMENDMENT) BILL- CONTD.

[*English*]

MR. DEPUTY-SPEAKER: Now, we take up further discussion on the Bill further to amend the payment of Gratuity Act, 1972.

[*Translation*]

DR. G.S. RAJHANS (Jhanjharpur): Mr. Deputy Speaker, Sir, gratuity and provident fund are two such items on which the future of a worker depends. It is well known that these two are the source of malpractices and dishonesty in the industrial establishments. You may make any law. They will find out some loop-holes in it and the poor worker is always the victim.

You propose to amend the Payment of Gratuity Act, 1972, according to which the establishments engaging more than ten workers shall make payment of gratuity to the workers. But you must have seen reports that some establishments which engage 400 or 500 workers are avoiding payment of gratuity because they have appointed only nine or ten workers on permanent basis and the rest are shown as casual workers. Their plea is that only the casual workers work, so why would they employ permanent workers? The provisions of the law are mostly implemented by the State Government machinery. Government machinery is not

[Dr. G. S. Rajhans]
competent enough to detect this malpractice. They do not employ workers on permanent basis. The workers are compelled to work for short period and on different assumed names. What I mean to say is that why can't we make a legislation dispensing with the condition that it shall be applicable only to the establishments employing more than ten workers.

Secondly, the electronics industry has become so advanced that only five or seven persons can achieve production worth millions of rupees. These five-seven persons help the factory owners to earn millions of rupees but they themselves remain paupers through out their life. What type of justice is it? This law has to be changed in the new context. It must be practical and beneficial to the workers under all circumstances.

You take construction industry. It was being discussed during question hour. Lakhs of workers are working in this industry, whether they are from Bihar or U.P. or Rajasthan. The modus operandi is that particular workers are shown to have worked for only five or ten days. After this period, they are shown to have been substituted by other workers. These tricks are played to avoid payment of gratuity and provident fund to them. It is in the know of all us. Still, we keep silent. People have become millionaires through the hard work of these labourers but these construction labourers, people working in building works, are deprived of their rightful gratuity and provident fund.

Earlier also, I had said in this house that in hon. Minister should bring a comprehensive bill incorporating all the labour laws and all the aspects of labour laws. It should protect the interests of all concerned.

By this amendment you propose to raise the ceiling from Rs. 1600/-p.m. to Rs 2500/- - The people engaged in organised industry are getting more wages but those who are in unorganised sector, are suffering. They neither get due wages nor provident fund and gratuity. Today, even a petty peon is getting Rs. 2500/-p.m. Therefore, my sub-

mission is that to limit the amount to Rs. 2500/- is not justified. The limit should be enhanced to Rs. 3000/-p.m. so that middle class Managers are also covered. This will induce the employer to raise the salary to Rs. 2500/-p.m.

You have also provided that the whole payment will be made in lumpsum and that at the time of retirement or when an employee leaves the company, he will get 20 months pay i.e. Rs. 50,000/-. But this amount of Rs. 50,000/- will have little value when he retires at the age of 60 years because of inflation. Therefore, the limit of Rs. 50,000/- enhanced to Rs. 1 lakh and be exempted from income-tax. This is a very important aspect and I have a practical experience of this.

What happens is that when a worker or some middle-rung Manager retires, he gets many other benefits in addition to this amount of Rs. 50,000/- which taken together attracts heavy income-tax and 60 percent of the amount is deducted towards income-tax. You should make such provision as would allow him more benefit. If you accept, I would like to make a suggestion. You deposit the amount of gratuity in some fund and purchase units of the Unit Trust. Don't give this amount in his hand. He will get a handsome dividend every year. You can also create Unit Trust by formulating housing schemes. Everybody wants to have a house. This will solve his housing problem. Whenever he wants to acquire a house on hire-purchase basis or wants to purchase a flat, at that time this scheme will help him. I would suggest that he should be exempted from payment of income tax while purchasing a flat for or house. The root of the problem is that he should get full benefit of his hard earned gratuity amount.

Regarding insurance cover, you have stated that establishments employing 500 or more workers will be covered. I suggest that it should be extended to all irrespective of strength of workers.

I have come across one more practical difficulty. As in the case of provident fund

the employers deliberately avoid making nomination, for payment of gratuity and when a worker retires after 50-30 years of service, he is told that he has not made any nomination. In this way, the amount is left with the employer. So, I will request you to make a law to provide for compulsory nomination for gratuity as you have done in respect of provident fund. The nomination may be in the name of his wife or son or it is distributed among three-four persons. What I mean to say is that the benefit should go to the family of the worker and not to the employer.

For example, take the Bidi Industry. There, the people have earned crores of rupees, but if you ask the owner of a Bidi Factory, he will say that there are not even five workers with him. So you can imagine how inadequate this law is. We talk of welfare of workers but allow his hard-earned money to slip out of his hand. Therefore, the time has come to give a serious thought to this matter. There is need to bring a comprehensive bill covering provident fund, compulsory insurance, health scheme, gratuity and all other welfare schemes. This piecemeal legislation will not do.

In the end, I would like to say that we should try to ensure that the benefit of gratuity and other schemes goes to those who are entitled to it.

[English]

SHRI AJOY BISWAS (Tripura West): The hon. Minister has brought forward a Bill, a piece of legislation on the scheme for payment of gratuity.

SHRI INDRAJIT GUPTA (Basirhat): It is a maiden speech after suspension.

MR. DEPUTY-SPEAKER: Every day, every one is making a maiden speech, i.e. the first speech.

SHRI AJOY BISWAS: But I think what has been suggested in the Bill is a marginal benefit for the workers. A comprehensive Bill

is actually needed so that the non-Government workers in particular should get more benefit and their financial and other security after retirement can be maintained.

In the Government Sector, the Government employees are getting pension besides gratuity. So, after retirement the Government employees have the security till death. But in the private sector the workers get gratuity only. The quantum of the gratuity is also meagre. My proposal, therefore, is that the Minister should bring a comprehensive bill to protect the Government workers from their plight, from their starvation and from the present state of affairs.

The original Bill was passed in 1972. It has been said that gratuity is to be paid on superannuation, retirement or resignation if the worker completes five years continuous service'. I feel, this period of five years of qualifying service for getting gratuity seems to be unjustified.

For bonus and provident fund, the qualifying service is one year. If in the case of Provident Fund and bonus the qualifying service is one year, why not reduce this qualifying five years service to one year in respect of gratuity payable on superannuation, retirement or resignation?

I find no logic in this. Sir, it has been mentioned that for entitlement of gratuity, a qualifying service of five years is necessary. My request to the Hon'ble Minister is that he should consider this point and reduce the period of qualifying service from five years' to one year.

Another point is that the concept of gratuity has changed. The present Act was enacted in 1972. Between 1972 and till today, concepts of wage and services have undergone a sea change. But the concept of gratuity still continuing in the same old way as it was in 1972. If any worker wants to get the gratuity, he has to complete either 75% or 240 days compulsory service in a year. That is the crux of the problem. Is it possible for a worker to complete a continuous serv-

[Sh. Ajoy Biswas]
 ice of 240 days in a year or 75% of the total working days in a year? The employers always try to break the services of the workers after two month or three months or four months of their continuous service. They even break their service after 7 or 8 days of their continuous service and again the workers are taken into service. Under these circumstances, they will never complete a continuous service of 240 days in a year. I know many workers have been woking for 8 or 9 years. But they have not completed during these 8 or 9 years' period a continuous service of 240 days in a year. If the hon. Minister wants to save the workers from the clutches of the employers, I propose that this provision should also be amended, that is, 75% or 240 days of continuous service in a year should be changed to 50% or 150 days in a year.

My next point is about the calculation of the gratuity. Now, gratuity is calculated on the basis of 15 days' wage for each year after completion of 10 years' service. I think it is very meagre. At the same time, I know that you are raising the ceiling upto Rs. 50,000. But many workers get only Rs. 2000 or Rs. 3000 or 4000 as gratuity. Now, this rise in ceiling will not change the position. I would therefore submit that the workers should get one month's salary for each year of service rendered by him in lieu of 15 days' wage. Otherwise the workers who are getting low wages will not get any benefit in their quantum of gratuity. It will remain as Rs. 2000 or 3000 or 4000. So, my request is that the basis of calculation of gratuity should be changed and it should be equivalent to one month's wage for each year of service.

My next point is that you have raised the ceiling of entitlement of gratuity from Rs. 1600 to Rs. 2500. But, Sir, it will not improve the situation. The maximum period fixed for calculation of gratuity is 20 month's wages. If you calculate taking into account the new ceiling of Rs. 2500 multiplied by 20 months' wages, you will arrive at a figure of Rs. 50,000.

So, what you have done is, you have

raised the ceiling up to Rs. 50,000/-. But many workers, particularly in the public sector and other industries are getting more than Rs. 2500/-. According to the provision if any worker is to get Rs. 2700/-, then he is not entitled to the gratuity. so, my proposal is that the maximum gratuity should be Rs. 50,000. But you should ensure that no worker is deprived of the gratuity and every worker gets at least 20 months' wages as gratuity. If you ensure that, then all the workers will get proper gratuity.

My last point is about the harassment for the payment of gratuity. In the case of provident fund there is a Provident Fund Commissioner and the employers are bound to deposit the money in the provident fund accounts maintained by the Provident Fund Commissioner. In spite of that, many workers are having trouble in getting back their dues after retirement. More than that, if any worker retires, there is no guarantee about his gratuity even in the public sector concerns. In 1987, about Rs. 50 lakhs are due from the public sector, as gratuity. If this is the position in the public sector, what will be the position in the private sector? In respect of poorer section of the workers, if the employers are not interested to give gratuity after their retirement, it is not possible for the poor workers to go to the court. So, my suggestion is that like the Provident Fund Commissioner, you have to set up another Board another type of such organisation, and employers should deposit the gratuity of the workers in the Fund maintained by that Board, so that the workers will get the gratuity from that Fund, not from the employers. You can utilise that fund for the development of the country. After completing 30 years of service, the worker will get the gratuity from that Fund. So, the amount of gratuity each worker is to get can be taken from the employer in advance and deposited in a fund and that can be utilised for the development of the country. By this, we can also ensure the workers payment of gratuity in time. So, I hope you will bring a comprehensive Bill in the near future to save the workers from the clutches of the employers.

SHRI SRIBALLAV PANIGRHI (Deogarh): Mr. Deputy-Speaker, Sir, I rise to support this Payment of gratuity (Amendment) Bill wholeheartedly.

Sir, this is going to add another feather to the cap which our hon. Labour Minister is putting on his head. During the last few months there have been a number of such welcome legislative amendments having been brought forward by the hon. Minister in charge of Labour Sir, this is, in fact, a simple Bill intended to improve different provisions existing in the Payment of Gratuity Act, 1972. And these amendments have been proposed on the recommendation of the Conference of Labour Minister held, I think twice before this, in 1982 and 1983. In fact, that way it should have come earlier, but of course, better late than never. In 1987, this Bill has come up for discussion and this is going to be passed and I congratulate the Minister for that.

Sir, the payment of gratuity is at present restricted to employees drawing wages up to Rs. 1600/- per month and the same is subject to a ceiling of 20 months' wages. Through this Bill, this wage-limit is going to be enhanced to Rs. 2500/- If you recall, earlier we had passed such a provision. We have made such a provision by way of an amendment, as proposed by the hon. Minister, in the Bonus Act. As far as Bonus is concerned, earlier the limit was Rs. 1600 and that was raised to Rs. 2500/- So, now it is at par with that provision. I would suggest that all such Acts, with relevant provisions wherever they do exist, should be amended. There is nothing to discuss about it. Of course, it is a question whether it could be enhanced will further. It could still be raised. Anyway, in the Bonus Act, we have extended the limit up to Rs. 2500/- and it is going to be at par with that. This is a welcome feature.

Secondly, the amount is raised to Rs. 50000 now. It is subject to a ceiling of 20 months' wages at the rate of-as the hon. Member Shri Biswas earlier said-Rs. 1600. The total comes to Rs. 32000 for 20 months.

Now, it is at the enhanced rate. The new amount will be Rs. 50000/-. There will be no difference. It can still be made higher. In this connection, I would like to give some suggestions about the existing ceiling of 20 months' wages. On what basis was it arrived at? The calculation is made on the basis of 15 days salary for a working year. Based on this calculation, if a worker puts in 40 long years of service, he will be reaching this limit. The highest limit is Rs. 50000/- that is, 20 months' wages. This he will be entitled to get only after putting in 40 long years of service. The question is: how many employees are privileged enough to work for such a long period? I would like to draw the kind attention of the hon. Minister through you, Sir, to the Bonus provisions as existing in the Bonus Act. It has been fixed at 8.33 per cent, i.e. a month's salary. The minimum payable bonus is a month's salary. Why not this also be kept at par with that i.e. the 15 days wages and in that case it will be doubled. As far as the non-seasonal establishment is concerned, it is for 15 days. In the case of seasonal establishment it is as low as 7 day's wages. Naturally, this 7 days wages will be doubled; 15 days wages will be doubled. It may be as we are now keeping at par with the Bonus Act in which the limit is Rs. 2500/-. This should also be at par with that provision.

Further, the Central Government employee gets this gratuity up to a maximum of 16 1/2 months salary. There is also some disparity between the two. This could be made up. About the period, unless an employee puts in a continuous service of 5 years, he is not entitled to gratuity. This is also on the higher side. You know, Sir, we have a large contingent of casual workers and the nature of work is permanent. The organisations are permanent. The Railways and the different public sector undertaking, have got permanent nature of work. Such establishments are on a permanent basis. But to avoid or to debar the working class employees from getting the benefits they engage many workers as casual workers. As you know, after some time they do away with their services and after some time they

[Sh. Sriballav Panigrahi]
again recruit them. That way also, if a worker has put in one year continued service, I suggest, he should be entitled to gratuity.

About the time limit, a very welcome provision has been made. But we know that the entrepreneurs, particularly the private industrialists, try their best to avoid making payment and they engage themselves in delaying tactics. Now there is a penalty. The penalty is that if, after such a payment has fallen due, they do not pay the gratuity within 30 days, they will have to pay interest, and the interest is only simple interest. This does not seem to be a punishment at all. As you know, many of these industrialists, entrepreneurs, employers, just manage not to pay and the amount that is liable to be paid, that is due to be paid, to workers is invested by them in more profitable ways. Therefore, a stiffer, a more stringent, punishment is called for. I suggest that it should be compound interest instead of simple interest. In fact, the rate should be fixed; the rate should be on par with the rate given for fixed deposits in banks. I would request the Government to consider imposing a more stringent punishment with regard to this so that the industrialists may not like to avoid payment to these people.

Provision is being made for compulsory insurance of employer's liability to pay gratuity under the Act or in the alternative for the setting up of a gratuity fund under the provisions of the Act in relation to establishments employing five hundred or more employees. This provision is welcome, but why is there this restriction on the number, that only when the working force is 500 or more, it will be applicable? Why not bring down this number to 100? I think, this number could be brought down to 100. This is my humble suggestion.

As I was saying a little earlier, this Bill adds another feather to the cap of our hon. Labour Minister. We have enacted several good and progressive laws. Several amendments which were awaited for long have been cleared by the House, have been passed by the House. But what about implementation? Much emphasis should be

laid on right type of implementation, on proper implementation of all these laws. I would suggest that there should be a monitoring system in his own Ministry as in the case of Provident Fund where it is monitored by the Provident Fund Commissioner. Unless there is adequate staff, adequate monitoring arrangement, whatever laws we may pass here, however lofty the ideals which we may cherish, will not really benefit the working force in the country.

With these words, I support wholeheartedly this progressive piece of legislation brought forward by our hon. Labour Minister.

SHRI INDRAJIT GUPTA (Basirhat): Mr. Deputy-Speaker, Sir, this subject of social security for our workers is frequently discussed in different forums, and the hon. Labour Minister knows that the trade unions have been making a number of suggestions over the years for the improvement and strengthening of the social security system in our country. I am sorry to find that most of those suggestions have not been incorporated in this amending Bill. Perhaps, the hon. Minister feels that we should proceed cautiously or something-I do not know what. But I find here that a number of hon. Ministers, irrespective of their political parties' allegiance, are making very similar types of suggestions for the workers' welfare in respect of gratuity scheme. That is a welcome thing because it shows that the welfare of the workers is in the minds of large number of our members and I would request the Hon. Minister to give more sympathetic attention to what has been said here.

This is a country in which the social security systems and funds available are adversely affected by two or three factors. One is the fact that there has been such a drastic erosion in the value of the rupee, the depreciation of the rupee. For example, you say you are laying down a ceiling of Rs. 50,000 for the gratuity which is payable to any employee. But, today actually this Rs. 50,000 is worth about Rs. 8,000 or so. If we take the Government calculation rupee is worth 16 paise or so. So, the man at the end of his service, even if he qualifies for the

whole of Rs. 50,000, in terms of actual value today it is not an adequate figure to provide for his retirement or his old age. So, I think this Rs. 50,000 does not have much relevance and this concept of ceiling should be removed. Why should there be a ceiling at all, I cannot understand? You are fixing a rate at which he gets gratuity. As long as he is in services, let him earn. There need not be any ceiling at all.

Similarly, this 20 months. 20 months and Rs. 50,000 comes to the same thing. There is no difference in the two. But for Rs. 50,000 the maximum amount for which he can be eligible at the rate of 15 days wages per month-it is a matter of arithmetic- a man will have to work for 40 years. If he completes 40 years at 15 days wages per month, then only he can earn Rs. 50,000. Well, who can work for 40 years? Nobody works for 40 years. It is too much. Therefore, I would say, please give a second look at this. These two ceilings, the Rs. 50,000 ceiling and 20 months ceiling, are really very unreal and have no relevance to the actual economic situation and the financial situation today. So, these ceilings in my opinion should be removed. There is no need for these ceilings. The removal of ceiling is not going to have an upsetting effect except that the employer, the private sector employer is reluctant to pay. They don't want to pay. That is all. I regret to find that unpaid gratuity is also mounting up as public sector units are involved in that also. I find from some figures that Rs. 58 lakhs of unpaid gratuity can be attributed to the public sector units alone. In the case of private sector, it must be much more. I have no figures with me. I don't know.

14.59 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

The Hon. Minister knows that in the case of provident fund and employees state insurance, a huge amount running into lakhs have been defaulted by the employer. It was deducted from the workers' wages but no deposit in the corresponding social security fund was made. I don't know whether in any other country, on such a large scale, this kind of default, this malpractice by the employer

of these funds which are contributions from the workers' wages are diverted by the employers for their own business and profitable purposes and workers are deprived. This is a very serious matter altogether and since the Hon. Minister is also frequently having to go and attend these ILO meetings and conferences where international standards for social security and so on are laid down and we are supposed to adhere to those, it is very necessary in any way to see that this kind of malpractices are firmly put down and also that implementation of whatever is good and positive in our legislation, is tightened up. For example I can tell the Minister what I find here and what they have incorporated in this Bill as the explanation. It reads that:

15.00 hrs.

"In the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen."

This is a small point on which we have been agitating for so long. The question is whether you divide this monthly wage by 30 or by 26. When the matter went to Supreme Court, the Supreme Court held that it should be divided by 26 and not by 30 in order to work out the daily wage and then multiply it by 15. But you would be surprised to know perhaps; you should not be because I personally also have written several letters about a public sector unit in West Bengal, Braithwaite a well established and one time British owned big engineering concern which consistently refused to implement even that Supreme Court decision. They are continuing to calculate the gratuity by dividing the monthly wage not by 26, but by 30, while other units round about are doing the correct thing. Now you have put it as a clause here. I welcome that.

But you will have to tighten up your implementation machinery to see that this is really adhered to. Because what happens is

[Sh. Indrajit Gupta]
that the worst sufferers are the dependants of the workers who have retired earlier or may have died. I have seen before the gates of the Braithwaite factory in Calcutta that on the pay day a number of widows and dependants—the old fathers and mothers—of the deceased workers just come and helplessly sit there before the gates of the factory and try to somehow or the other get their full share of the gratuity which is to be calculated correctly according to the law; but it is not done.

I support the other thing that some other Hon. Members have suggested that why should not you consider the rate of gratuity as 8.33% of his annual wage instead of 15 days per year. This is the thing which we have already accepted in the case of bonus. 8.33% works out to one month's wage. So, instead of 15 days wages, I also feel that the rate of gratuity should be raised to 8.33% which will be roughly one month's wages per year.

The qualifying period is now put as five years. I cannot understand this also. If somebody has worked for four years or four and a half years continuously, he is not liable to get gratuity unless he has completed five years. Why should he be put on a sort of probation? I don't understand it. What fault has he committed? I am totally against the qualifying period of five years. I think for the entire period of his employment, whatever it is, for the total period during of his employment, whatever it is, for the total period during which he has been an employee, he should be paid gratuity without any deductions on account of other things.

For example, some employers may suspend some workers and keep them under suspension for one or two years. They are often doing that. Often you find that workers are suspended and the suspension orders remain in force for two-three years. The employers are supposed to hold a domestic inquiry within the shortest possible time and either to withdraw the suspension or take any other action on it. But I think in a number of cases the workers remain in suspension for two, three or four years and when it comes to calculating the gratuity that he is

going to get, the whole suspension period is deducted from his service. This is not fair at all. This is worth looking into.

I would strongly plead with the Minister that for the entire period of his actual employment, he should be paid gratuity. There should not be any deduction.

I also support another Member's suggestion with regard to the interest that is payable by the employer for inordinate delay in paying the gratuity. This is a frequent complaint. Thousands of workers are complaining about it. They have retired, but they don't get their gratuity. It is not a question of 30 days only. If they get it in 30 days, they can consider themselves to be lucky. It is not 30 days, it may be 30 months also. Are the employers to be penalised for this at all? They are keeping their money with them; they are using it for their own business purposes. I regret to say that even the public sector units do this kind of a thing. I don't know why do they do it and what do they want to do with this money. So the penalty should not be payment of simple interest. The big employers will be willing to pay simple interest. They do not bother. They have got much money. The penalty should not be payment of simple interest but interest rate normally paid on fixed deposits in banks. After all the employer may be using the money for his profitable business. So why he should not be forced to pay fixed deposit rate?

Finally I would say that the Gratuity Trust Fund is a welcome suggestion in this new Bill. But it has been provided that this Gratuity Trust Fund is to be applicable to units only which are employing 500 or more workers. I think it is an arbitrary distinction. I do not see any reason why it should be applicable only to units which are employing 500 workers. I think it should be reduced to units employing 100 workers. Further these moneys should not be allowed to be somehow or other diverted for other purposes and the poor workers made to suffer.

Sir, these are some of the suggestions that I have to make. I suppose it is not possible to hope for any improvement in the Bill which has already come for discussion in the

House yet I expect the Labour Minister to give some assurance on the many positive and concrete suggestions which have been made. I hope action will be taken sooner rather than later so that further amendments can be brought about. It is not a difficult job otherwise in the next meeting with the trade union representatives he will have to face to face a lot of criticism.

DR. PHULRENU GUHA (Contai): Mr. Chairman, Sir, I support Payment of Gratuity (Amendment) Bill. I wholeheartedly welcome the Bill which intends to give wider coverage to workers. The amendment will benefit the workers though I strongly feel that there are some short-comings in this Bill.

The first thing is that time-limit has been fixed for the purpose of payment of gratuity. Secondly if the amount is not paid within the stipulated period the employer is liable to pay interest for the amount which is due to the employee. Thirdly this scheme of gratuity will help the working class. The amount of gratuity is equivalent to the pension paid to a retired government officer. So I feel very strongly that 15 days wages is very little. It should be raised to at least one month if not more. I would like to suggest that the scheme may be applicable to casual labour also. There are lot of casual workers in the public sector undertakings, railways and other government departments. So it is necessary that Labour Ministry should see that the services of the casual workers are regularised. This cannot be kept pending for long since they have already suffered for too many years.

Gratuity is paid subject to the ceiling of 20 months wages. This is ceiling or that was the ceiling. The limit of 20 months wages is proposed to be replaced by the limit of Rs. 50,000/-. I do not understand what is the basis of changing this replacement of the ceiling of 20 months to Rs. 50,000/-.

Apart from that, I again say that the gratuity should be shared at least on the basis of one month. A man is kept on proba-

tion for one year and he is entitled to get bonus. So why not an employee is entitled for gratuity after he completes one year? I feel a period of five years for getting gratuity seems to be rather on the high side.

It is mentioned in the Bill that interest will be paid on the amount of gratuity for the delayed period. Other hon'ble Members have suggested compound interest and all that. But I strongly suggest to you to amend the Bill or to frame some rules so that if the employer does not pay the money within 30 days, he should be punished. There is no punishment for the employer. When he pays even the interest, he is not paying from his pocket. He is paying from the workers' hard-earned wages. We should not forget that. Some punishment must be included so that the employer does not go scot free. Sir, I would like to say that many of the workers do not get their gratuity during their lifetime. What is the use of getting interest after their death? I strongly suggest again that punishment should be added either in this Bill or in some rules. A delay of four to five years for payment of gratuity is quite common. Sir, excuse me when I say that I may not be working in the trade union field. But I have seen a number of workers who did not get their gratuity during their lifetime. Their widows have complained to me.

Sir, I would like to say that a majority of the workers are illiterate. Many of them do not know what benefits they can get out of all these Acts. So, there must be some arrangement so that they know about all their claims and they do not suffer unnecessarily. Some protection to avoid them inconveniences is required.

Sir, it has been said that industries employing more than 500 employees will have the benefit of insurance. I think this is too upper a limit. I suggest that industries employing 50 persons may be permitted to have insurance for gratuity fund.

Nobody bothers about the seasonal workers. There is hardly any record also. Everybody is registered as 'temporary'. After working for 15-20 years, one remains a

[Dr. Phulrenu Guha]
temporary worker. I humbly request the hon'ble Minister that this problem must be looked into.

With my limited knowledge I have gone through this Bill a number of times and I find one thing lacking and that is that there is no provision for the small scale industry. Am I right or wrong, I do not know. The point is, Sir, in our country small scale industries are in large number and the time is coming when more small scale industries will be established in our country. So, the workers of small scale industry should get the benefit. In the village or in the small towns there are large number of small scale industries where workers are limited ranging from 5 or 6 to 9. So, I would request the minister to look into and give the benefit of the gratuity to the workers who are working in the small scale industries.

Sir, with these words, I support the Bill but I expect the Minister to consider the points mentioned by me and my other friends. So, I would request the Minister once again if not possible to include all this in Bill, in the next Session he should bring some other amendments and at least give some more benefits to the workers, who have suffered for a long time.

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Chairman, Sir, I broadly support the Bill. I think it is good as far as it goes, but perhaps it has not gone far enough. I would like to make some brief comments where I feel that the Bill is inadequate.

The ceiling has been raised from Rs. 1600 per mensem to Rs. 2500 per mensem. But the statement of objects and purpose of the Bill does not provide any rationale for this figure. If we take it that Rs. 1600 was the ceiling fixed in 1972 then in relation to the rise in the cost of living corresponding decline in the value of the rupee, the ceiling should have been at least Rs. 5,000 because between 1972 to 1987 the rupee value has certainly become 1/3 or even 1/4.

Sir, I find that the definition of the family

has been revised to include 'dependent parents of his wife'. Now, it is possible, the Hon. Minister has in his mind, to have a situation in which the in-laws are dependent upon the worker and, therefore, subsequent to his death may continue to be dependent. But this is a bit contradictory, if the workers in-laws may be dependent upon their own son or other children and, therefore, not dependent upon this particular family. That clarity is not there and, therefore, the language needs to be slightly revised.

Then, Sir, "20 months' wages" has been replaced by Rs. 50,000. One question why this ceiling ought to be there. After all if a person has worked for more than 20 months or has a salary of more than Rs. 2500, in that case there should be no monetary loss. He should receive whatever is due to him, according to the principles laid down in the Bill, I find that this Rs. 50,000 ceiling is a rather unfair ceiling.

I would hope that the hon. Minister takes away the very concept of ceiling, but if he does not, this needs to be revised and I would prefer to have the earlier formulation, i.e. 20 months wages.

I certainly agree with the view expressed on the floor of the House that the limitation for the creation of the Gratuity Fund to establishment employing 500 or more persons is rather arbitrary. I can appreciate the fact that this concept cannot be extended to all establishments without any restrictions as to their size because every establishment has a certain accounting capability. Therefore, I would suggest that there should be a compromise and the ceiling should be limited to an establishment employing 100 persons or more. Hundred is big enough and with increasing mechanisation, we would have many more factories in which, while the output remains the same, the number of workers goes down. Therefore, I would suggest that for the creation of Gratuity Fund, this figure of 500 should be reduced to 100.

I have another comment on Section 7 of this Bill. It is not clear when it says, 'The

employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom gratuity is payable'. It is good to have this limit. But my question is this. Since this amending Bill is to come into force on a particular date that the Government may appoint and publish, one does not know what happens to the claim for gratuity which became payable before this Bill comes into operation and has not been paid. So, I would suggest that if a particular claim for gratuity is pending on that day when this Bill or this provision comes into force, then this particular provision 'that it should be paid within 30 days and if it is not, then interest should be payable' should be made applicable to such cases also.

On Section 8, I am certainly in agreement with that view that the employer who has defaulted in the payment of gratuity should not be let off so lightly. He should not be permitted to use his employee's money. There should be a penal provision. I would suggest that when the government fixes the rate, it should keep in view that the rate should be somewhat higher, say, one per cent higher, than the bank rate prevailing at that particular time. I suggest this because in Section 8, it seeks to substitute the words 'at the rate of 9 per cent per annum' with 'at such rate as the Central Government may, by notification, specify'.

With these suggestions, I would like to generally support the Bill and express the hope that we shall continue to maintain the tradition of having an enlightened labour legislation in our country and we shall refine our social security system as we go along and as we gain more experience.

[*Translation*]

SHRI K.N. PRADHAN (Bhopal): Mr. Chairman, Sir, I welcome this Bill. I would like to congratulate the hon'ble Minister of Labour for bringing this Bill in a very short time. There may be some shortcomings in it, but he has made efforts to update the labour

laws. It is a step in the right direction.

Mr. Chairman, there is no doubt that these efforts have helped the workers a lot and the industrial relations in our country have improved considerably over the past years. There was a time when we used to hear that the workers covered by Trade Union Act and Industrial Dispute Act had resorted to strike. But, Now if we go through the newspapers, we find that some doctors, teachers and engineers are on strike. This shows that today at least in those places, where Trade Union Act and Industrial Disputes Act are applicable, the atmosphere and the industrial relations are far better. The government employees have given notice of strike, the University teachers and engineers are on strike and the doctors have just called off their strike. They might not be registered under the Trade Union Act, but they are pursuing the lines of trade the unions. Then, why don't you bring them also under any such Act'. If they come under the Labour Minister, their industrial relations can improve and their problems solved. I want to congratulate the hon. Labour Minister for his endeavour to improve the industrial relations in this country.

Sir, so many things have been said and all of us agree that you have made a good effort but it is not sufficient and is still away from our expectations. All have said something about the ceiling and you have enhanced it from Rs. 1600/- to Rs. 2500/- but I want to point out that when the limit of Rs. 1600/- was fixed, there were very few executives it can be verified from the records of establishments who were drawing above Rs. 1600/-. So, almost all the workers were eligible to get this amount. Now, with upward revision of wage structure it was felt necessary to increase the limit of eligibility. The question of increasing the limit under Bonus Act came up, it was raised to Rs. 2500/-. Our base, our basic law and our basic approach of fixing the limit of Rs. 1600/-, are no more valid. There were very few executives at that time who were not covered and most of the workers used to

[Sh. K.N. Pradhan]

get it. Therefore, either you raise the limit or scrap it totally. Under the existing limit of Rs. 1600/- only a few workers are benefited. Similarly, several hon. Members have spoken on the limit of 20 months and Rs. 50,000/- but no body has understood the complexity. I am surprised to note that our hon'ble Labour Minister has not seen the game of the capitalists. This is in fact bargaining between the workers and employers. It can be 15 days gratuity today and one month's gratuity tomorrow and you may also accept it now or it may be accepted in our next conference, but we have given the capitalists a handle to compel us to have talks with them for increasing the upper limit. If you continue the limit of 20 months salary, it will not solve the problem. You may say that one even does not complete 40 years service and therefore there is no meaning of upper limit. But I would like to say that these days nobody below the age of 18 years enters service. If a person gets employment at the age of 18 years and retires at the age of 58 years, only then he can complete 40 years service. Previously, people used to enter service at the age of 16 years or 15 years but the number of such persons is not much. Only two, three or four persons may be found who might have completed 41, 42 or 45 years service. Then what wrong have they done. Why should they be denied their gratuity for two-four years? In view of this I think this limit is not justified and you will have to reconsider it.

Now, all the hon. Members who have expressed their views on 15 day's gratuity are unanimous that 15 day's gratuity for a completed year of service is not justified from any angle under the prevailing conditions. You must reconsider it and raise it to one month. Similarly, all of them have spoken about the payments not being made on time and interest being paid if payments are delayed. I want to that this provision should be deterrent so that the employer is forced to make timely payment. If a person retires and dies, and his children do not get the gratuity, then what is the use of gratuity. Earlier, you had not provided for payment of interest and

such a provision has been made now but the workers are not going to benefit with this provision also if they were not made timely payment. We have so many concerns where a number of workers work.

[English]

MR. CHAIRMAN: Mr. Pradhan, you may continue next time. We now take up Private Members' Business:

Shri Janga Reddy.

15.30 Hrs.

COMMITTEE ON PRIVATE MEMBERS'
BILLS AND RESOLUTIONS

[English]

Thirty Seventh Report

SHRI C. JANGA REDDY (Hanamkonda): I beg to move:

"That this House do agree with the Thirty-seventh Report of the Committee on Private Member's Bills and Resolutions presented to the House on the 29th July, 1987."

MR. CHAIRMAN: The question is:

"That this House do agree with the Thirty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 29th July, 1987."

The motion was adopted.

Now, Bills to be introduced - Shrimati Basavarajeswari.

AGRICULTURAL WORKERS (MINIMUM
WAGES AND WELFARE) BILL*

SHRIMATI BASAVARAJESWARI (Bellary): I beg to move for leave to introduce a

* Published in Gazette of India Extraordinary, Part II, section 2, dated 31.7.1987.