

Muslim Communities would also welcome an accord which brings peace, stability and progress to their country. I would like to conclude by reiterating the government of India's determination to implement the accord in letter and in spirit and to cooperate fully with the Sri Lankan Government in this respect.

SHRI P. KOLANDAIVELU (Gobichettipalayam): Hats off to Rajiv Gandhi and M.G.R. for having brought about an amicable and historic accord!

16.51 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

PAYMENT OF GRATUITY (AMENDMENT) BILL—*Contd.*

[*English*]

MR. DEPUTY SPEAKER: We now resume further consideration of the following motion moved by Shri P.A. Sangma, on the 30th July 1987, namely:

"That the Bill further to amend the Payment of Gratuity Act, 1972, as passed by Rajya Sabha, be taken into consideration."

Now Dr. Chandra Shekhar Tripathi.

[*Translation*]

DR. CHANDRA SHEKHAR TRIPATHI (Khalilabad): Mr. Deputy Speaker, Sir, I rise to support the Gratuity (Amendment) Bill which has been presented by the hon. Minister of Labour in the House. It is a fact that in a vast country like ours all the facilities are not available to all persons. But gratuity and provident fund occupy an important place in the lives of the workers and their families. Payment of Gratuity Act was first enacted in 1972, providing for payment of gratuity to those workers in factories, mines, plantations and railway companies whose wages were not more than Rs. 1600. As such, the workers falling

within the purview of this Act could get the benefit of gratuity. After sometime the hon. Minister of Labour presented an amendment Bill in this House under which this limit was raised from Rs. 1600 to Rs. 2500. In this connection I would like to make a submission to the hon. Minister of Labour that it was a commendable step to raise this limit from Rs. 1600 to Rs. 2500. Keeping in view the fact that we have in our country private limited companies like Richardson and Hindustan, where workers get wages to the extent of Rs. 2900, this limit of Rs. 2500 should further be raised to at least Rs. 3500.

My second submission is that though you have covered all the factories and mines, yet you have used words like "certain other establishments" I would like the hon. Minister to clarify as to what he means by this expression. Our endeavour should be to provide the facility of gratuity even to such workers as are working in departments other than those included in this Bill, and are drawing wages upto Rs. 2500/-.

16.54 hrs.

[SHRIMATI BASAVARAJESWARI *in the Chair*]

I would further like to submit here, that the condition of 240 days service in a year in the compulsory provision made by us in regard to the payment of gratuity has been posing great difficulties. It is very often seen that employers give a break in service to the worker after he has worked for 10 to 15 or 20 days, or retrench him from service. With such a provision, the workers will find it very difficult to get gratuity. A number of instances can be given to show that the workers, even after working for 4 to 5 years in a factory, do not get the benefit of gratuity because of the breaks in service given to them from time to time. Therefore, this condition of service of 240 days in a year should be relaxed, or a provision be made to prevent the employer from playing with the career of a worker by appointing or

[Dr. Chandra Shekhar Tripathi]

retrenching him at his own sweet will. Besides, according to this Bill, five years' service is a prerequisite for entitlement to get gratuity. I request that this five years' period be reduced to one year. It is not proper to fix any such period of service for a new entrant because after one year's service he becomes eligible for Provident Fund under the present law. Thus, it is not in the fitness of things to fix five years' period for gratuity and it would not be in the interest of the workers. Similarly, the provision of payment of gratuity for fifteen days wages for each completed year of service after ten years of service also does not appear to be sound. He should be given one month salary by way of gratuity. Many hon. Members have raised objections about the maximum limit of Rs. 50,000. If this limit is applicable in the case of the person drawing Rs. 2500, then his total wages for 20 months comes to Rs. 50,000 and at the rate at which the value of our rupee is declining and the prices of essential commodities going up, after ten years these fifty thousand rupees will have the value equal to that of five thousand rupees only. The present value of our rupee is 16—17 paise only. The purchasing power of the rupee at that time will be much less than what it is today. As such, this will not be of much benefit to the workers and thus the purpose of the Government will not be achieved.

Hon. Chairman, it is true that the Government has been bringing forward various laws from time to time for the welfare of the workers and for raising their standard of living, which shows that the Government is conscious of the interests of the workers but there are such instances also where the worker, after termination of his services under certain unusual circumstances or in the event of his death, his widow has to face a lot of difficulties to get the payment of gratuity and provident fund. He has to run from pillar to post for months together to get back his own money. This results in sheer wastage of his money and energy. This should not be there. Therefore, a provision has been

made that if the payment of gratuity is not made within one month, then the employer will have to pay simple interest on that amount.

Madam, it is a commendable step but you will have to fix a time-limit within which amount is to be paid to the worker because the rate of simple interest is very low and if the employer does not pay the gratuity amount even upto one year and has to pay simple interest thereon, it does not make much difference to him but the worker has to suffer a lot due to the delayed payment. The members of his family are driven to the brink of starvation. Therefore, I request the Government to make a provision to the effect that if an employer does not pay gratuity within six months, he may be asked to pay simple interest thereon and after six months some penal interest should be charged from the employer so that he may make the payment as early as possible. Just as Provident Fund Commissioners are appointed for the facility of Provident Fund, a trust known as gratuity Trust Fund should be operated in every establishment having more than 500 workers. I fail to understand as to when gratuity will be paid to the workers working in establishments which have less than 500 workers. This should be regularised and gratuity trust be created in all the establishments irrespective of whether the strength of an establishment is 10,50 or 500. This would be in the interest of workers.

17.00 hrs.

Therefore, I request the hon. Minister to relax the limit of 500 and implement this law in every establishment irrespective of the number of workers working therein and set up the gratuity trust fund so that the employees could get the payment in time. With these words, I support this Bill.

SHRI MADAN PANDEY (Gorakhpur): I am thankful to you for giving me the opportunity to speak. I congratulate the present Minister of State for Labour, Shri Sangma

that he has taken many steps to ameliorate the lot of workers and now the workers have high hopes from him.

I support this Bill as it deserves whole-hearted support from all quarters. Keeping in view the amendments proposed in this Bill as also those made in the past, I have a suggestion to make to the hon. Minister. Keeping in view the present position of our Government and the social conditions of our country, how far is it possible to amend this law again and again? We raised the amount of gratuity from Rs. 750 to Rs. 1600 and now we are going to raise it further to Rs. 2500 and both these amendments are being made in the present Lok Sabha itself. I believe that the Labour Minister will again have to bring forward another amendment within the term of this Lok Sabha that this ceiling may be dispensed with and the wages of the workers be increased. I request the hon'ble Minister to consider this aspect and in our present socio-economic set up, there is no room for the ceiling and the floor. If these two are not done away with, good results will not be forthcoming.

We are enacting a law, making persons drawing upto Rs. 2500 entitled to get gratuity but the Chairman and the Managers of big companies in the private sector are being paid large amounts as gratuity. There is no ceiling or floor for them. The money being paid to them by way of gratuity is also our money. Laws are enforced only on the poor people and those who are rich and affluent are immune from these laws. I support these amendments but in future it must be kept in mind that this ceiling should be abolished for all and not for a selected few. If this ceiling is not dispensed with, then you will have to bring forward another amendment.

Government has fixed the ceiling of Rs. 50,000 or 20 months' wages for gratuity and has provided for paying 15 days' wages as the gratuity. I have stated a number of times in the House that the people are fast moving ahead. As such, no

useful purpose will be served by just enacting the laws. Implementation of these laws is more important. I fail to understand as to why our Government is not interested in implementing these laws. I want to cite an example. Birla Group's Company HINDALCO has entered into an agreement with the workers that one month's salary will be paid as gratuity. We could not understand the basis of this agreement.

I whole-heartedly support this Bill but request the Government to see the writing on the wall and raise the fifteen days' limit to one month in the case of gratuity.

The amount of gratuity which is deposited in our account is paid to us after retirement. You have made so many laws for it. A provision for penalty of ten thousand rupees and one year's imprisonment has been made but it should be implemented in letter and spirit. Only then it will be beneficial. You will have to evolve some way-out for it. I remember the case of Sugar mills. I can give you proofs, should you desire me to do so. There the employer has gobbled up the amount of provident fund. The amount of gratuity is due but there is no knowledge of the whereabouts of the employer and the workers are leading a very miserable life. As regards the realisation of the amount of gratuity etc. you may provide for whatever penalty you like—Rs. 10 thousand or 5 thousand in the law but the employer will pay the fine only when he is found out otherwise even the interest that he would earn on amounts saved by him by not paying the gratuity etc. to the workers will be sufficient to sustain him throughout his life. So taking this in view, some arrangement should be made to ensure that the workers get the gratuity amount. The intention of the hon. Minister is no doubt good and the steps that he has taken are also praise-worthy but the employers are also clever enough to evade the payment of gratuity. Taking this point into consideration, the hon. Minister should take necessary measure to make it obligatory on the part of the owner of a factory to deposit the amount of

[Shri Madan Pandey]

gratuity with the Government, as is done in the case of provident fund. You will have to find some way out for the gratuity as well. A trust can be set up or some fund can be opened and the amount of gratuity of the worker can be deposited with it so that the worker is not compelled to beg before the employer. If some such measure is not taken, then there will be no use of any law that is enacted. So, some suitable measure should be taken at any cost. You can throw some light in this connection. If we pass the Bill by bringing some kind of amendment to it, it will please the workers and the capitalists will not be able to cheat the workers in this respect.

17.12 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

With these words, I shall not take much time of the House and would request that such laws should be followed strictly. Some easy way-out must be found to realise the amount of gratuity so that the workers may not have to run from pillar to post. Besides the provision of paying 15 days wages as gratuity on each completed year of service should be changed and instead of 15 days, one month salary should be paid as gratuity and steps should also be taken to end both the ceilings. If you cannot take this step now, an amendment to this effect may be brought forward next time. With these words, I convey my thanks to you and support this Bill.

SHRI HARISH RAWAT (Almora): Mr. Deputy Speaker, Sir, we welcome this Bill. The hon. Minister has taken some good steps for the welfare of the workers. I would like to give a few suggestions to the hon. Minister through you.

The gratuity Act has been made applicable in the case of the workers drawing salary upto Rs. 2500/-. It is a good step but at present a number of workers are drawing more than Rs. 2500/-. A number of

private firms and public undertakings give better salary to their workers, so it is essential that those workers should also get the benefit of this Bill. So, in my opinion, the limit of salary should be increased to Rs. 3,000/- or Rs. 3,200/-. It is also essential that the lower ceiling of salary of workers should be fixed at least at Rs. 500/- for the purpose of gratuity. The base of salary for paying gratuity should be fixed at Rs. 500/- instead of at Rs. 350/-. If we treat their present salary as the base, then the amount of gratuity will be much less.

Previously, the ceiling for gratuity was twenty months pay which has been increased to Rs. 50,000. I would like to suggest that as at present the value of rupee has declined considerably, and taking into consideration the decreasing value of a rupee, the amount of Rs. 50,000 is very meagre. The workers should get atleast Rs. 75,000/- as gratuity. They should also be intimated two months before their retirement about their accounts. If they are not intimated about their accounts. If they are not intimated about their accounts before one or two months of their retirement, they will have to face difficulty because once they are retired, nobody cares for them. The worker should be intimated in regard to the amount of his gratuity at least one month before his retirement so that it may be paid immediately to him. It is proposed to charge simple interest on the gratuity if the employer does not make payment of gratuity to the workers within one month of his retirement. But there are a number of such employers who will take advantage of it. They would not make payment of gratuity for a month because they will have to pay only simple interest and they will be able to reap a number of benefits using this provision as a tool. I would request you to reconsider this matter. Actually the payment of gratuity should be made within one week and if this payment is not made to workers within one week of his retirement, some penal action should be taken against employer so that he may have some fear in his mind that if gratuity is not paid to the workers with in time, legal paid to the workers within time, legal

fixed a month's time for making payment of gratuity thereby allowing the employer to take advantage at the expense of the workers. I would request you to reconsider it so that gratuity is paid to the workers immediately after their retirement.

My last suggestion is that the Government should plug the loopholes in the payment of Gratuity Act so that the employers may not be able to take advantage of them and gratuity is paid to the workers as soon as it becomes due to them. The capitalists find out such loopholes so as to deprive the workers of their just rights. There is need to plug these loopholes. You cannot solve the problems by just enacting laws because already there are so many laws in existence. There is no dearth of employers who want to evade the payment of gratuity in the area where you are working and taking recourse to the laws. The Government has good intentions and it wants to do a lot in this field and it has enacted laws for the welfare of the labour, but there are persons who want to harass the workers by taking advantage of the loopholes. Therefore, such areas should be identified where the employers take advantage of the loopholes and harass the workers. Some way out should be found to plug these loopholes.

Presently, a worker becomes entitled to gratuity if he has at his credit 5 years' qualifying service, but in case of substitute or contract workers, it is very difficult to fulfil this condition. The employers try their best to see that such workers do not get the gratuity. I would, therefore, urge upon the Government that the worker who has worked for 240 days in a year, should become entitled to get payment of gratuity. Necessary provisions should be incorporated in the Bill for this purpose

With these words, I support this Bill.

[English]

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P.A. SANGMA): Sir, I am grateful to the hon.

Members who have participated in this debate and have fully supported this Amendment Bill, though Dr. Rajhans wanted this Bill to be a foolproof Bill. Hon. Dr. Datta Samant has been a little uncharitable in saying that Labour Ministry has done nothing for the workers. Dr. Datta Samant was a part and parcel of the Labour Ministry some time back in his career before I came in touch with the Labour Ministry. I thought Dr. Datta Samant will at least claim during that time when he was a part and parcel of the Ministry, something good had been done. Anyway, we have tried to bring some improvement in the Gratuity Act. I certainly do not claim that it is a foolproof Act. No law can be so foolproof, I am afraid. It has brought some amendments. Wage limit has been increased from Rs. 1600 to Rs. 2500 which means now that it will cover more workers.

Shri Vyas and some other hon. members—Shri Raj Mangal Pande has just now said that Rs. 2500 ceiling also is not enough and there should have been no ceiling at all and that I should come back to this House and the ceiling should be increased. I want to submit that I need not come back to the House to increase this ceiling because by raising this limit from Rs. 1600 to Rs. 2500 we have also provided an enabling provision for enhancing the limit. Whenever Government feels that it should be enhanced, the limit could be raised. So this enabling provision is available in this Amendment Bill. Whenever we feel that the ceiling of Rs. 2500 should be raised we can raise it.

Dr. Datta Samant has, of course, made a point saying that there is no meaning Rs. 1600, Rs. 2500 because it will be calculated @ Rs. 1600, which is not true. So, the law is that the gratuity will be payable on the basis of the last pay drawn. It can be Rs. 1700 or it can be Rs. 1800.

DR. DATTA SAMANT (Bombay South Central): As per this Act.

SHRI P.A. SANGMA: Yes. Of course, as per the original Act, on the last pay drawn. It will be calculated on the basis of the last

[Shri P.A. Sangma]

pay drawn. But upper limit is at the moment Rs. 2500/-. But Government can without coming for an amendment raise it. This is the law.

DR. DATTA SAMANT: Let it be clear.

SHRI P.A. SANGMA: It is very clear.

DR. DATTA SAMANT: Somebody is drawing Rs. 2000. Gratuity will be calculated on Rs. 2000 as per this Act.

SHRI P.A. SANGMA: Yes, of course—last pay drawn upto Rs. 2500/-.

SHRI ANANDA GOPAL MUKHOPADHYAY (Asansol): That is a silver line.

SHRI P.A. SANGMA: You did not read it properly, Dr. Samant. What can I do?

So, that is a wrong explanation which I think was supposed to be given.

Now the second point which the hon. Members have unanimously raised was the qualifying years of service—five years of qualifying service—why should it be five years? A person who has put in one year's service should also be entitled to gratuity fund, the benefit of gratuity. This is what the hon. members have pleaded. I wish we could have done that. But at the moment we are not in a position to do because even with five years of qualifying service under Section 4A of Payment of Gratuity Act, on somebody's petition the Punjab High Court has struck down this particular Section 4(1). It says that in order to be entitled to gratuity benefit one should complete five years of service.

Now, it is observed like this and I quote the observation made by the Punjab High Court:—

“The gratuity is essentially a retirement benefit payable to the workmen as a reward for good, efficient and faithful service ren-

dered for a considerable period and as such it is essential that longer minimum period should be prescribed for earning gratuity in case of voluntary resignation.”

This is what the Punjab High Court has said. I want to make it very clear that we respectfully differ from the judgement of the Punjab High Court and we have gone on appeal, the Government has gone on appeal against the decision of the Punjab High Court. The matter is now lying with the Supreme Court and when the matter is *sub judice* before the Supreme Court, I cannot come and say that the qualifying year of service should be less than five years because five years period has been struck down. This is the position which I want to clarify.

DR. DATTA SAMANT: There are a number of judgements and they do not come in your way.

SHRI P.A. SANGMA: I do not know where you have seen that the 22 days in a month have been taken for calculation. It is not so.

DR. DATTA SAMANT: It is given there. It is 22 days.

SHRI P.A. SANGMA: No, no. The Supreme Court's ruling is 26 days and this is what I am implementing now. You show me the Supreme Court's ruling. I am very firm on this judgement, Dr. Samant. I was a lawyer by profession and I have also seen the judgement.

DR. DATTA SAMANT: My workers are getting.

SHRI P. A. SANGMA: I know that your workers are getting much more than others. That is why you are worried about Rs. 2500 limit. But you said that in Bombay people were getting more than Rs. 2500 per month. So many people are getting more than Rs. 2500. Why are you worried?

DR. DATTA SAMANT: Now, I am for the country, Sir.

SHRI P.A. SANGMA: There are some people who are getting Rs. 6 a day in Maharashtra. (*Interruptions*)

Sir, a point has been made that those who are not in regular service, the qualifying days of work are 240 days. It has been mentioned that this has not been made with leave, holidays and sickness and so many other things. It is very difficult for a casual and contract labour to fulfil 240 days of qualifying days of work. Now, in this amendment we have come with a proposal that for the purpose of counting the 240 days work in a year, the leave and holidays shall also be counted. Even if a person has not worked for a national holidays, these days will be counted as having worked for the purpose of calculating the payment of gratuity. So, that is a slight improvement. There has been a demand that it should be brought down to 120 days. That can be examined. But I must say that there is a slight improvement in this because holidays and other things have been taken into account.

The third point which was raised by the hon. Members was about the payment of interest that if the management does not pay the gratuity within a period of one month, they shall be liable to pay interest and that interest will be a simple interest. Now, many hon. Members have said that instead of simple interest, it should be compound interest. Now, if a particular worker really feels that he should get compound interest because it has been delayed too much, he can go in for claim to the competent authority and the competent authority has the power of awarding to a worker the compound interest. So, that provision has also been made. Then, of course, the whole House has welcomed the proposal for creation of Gratuity Trust Fund and also compulsory insurance.

[*Translation*]

SHRI HARISH RAWAT: What is the

need of making provision of interest?

SHRI P.A. SANGMA: Vyasji, you were not present when I replied to your point.

SHRI GIRDHARI LAL VYAS (Bhilwara): It should be yearly.

SHRI P.A. SANGMA: The case is lying pending in the Supreme Court.

SHRI GIRDHARI LAL VYAS: We gave suggestion for Trust Fund. There should be provision of insurance.

SHRI P.A. SANGMA: This was a point in regard to the Trust Fund.

[*English*]

Well, people who are employing 500 or less should be exempted from going for the trust fund. For them, it is a compulsory insurance. They should also be allowed to go for trust fund, if they want. Now, the Act provides that this trust fund should be made from the date of the notification of the Act. If somebody has already created a trust fund, those establishments which are employing below 500 people, then they shall be allowed to continue with the fund. In fact, I had the delegation of some of the establishments. They wanted that they should be allowed to create fund. I said, before the Act is notified you go ahead. We will not disturb you and you shall be allowed. If any employers employing less than 500 want to go for creation of trust fund, they are welcome to do it and they shall not be disturbed. They will be disturbed only after the notification of this Act.

One hon. Member has raised the question of penalty, that the penalty is not stringent enough. The original Act provides, for the contravention of any provisions of this Act, he is punishable and it may extend to one year imprisonment. That is, maximum limit has been put. Of course, Mr. Dighe, as a lawyer knows, that it may extend to one year means, normally till the rising of the court or Rs. 5 as fine. So, this is what we experience as lawyers.

DR. DATTA SAMANT: So far, nobody is punished for the last 40 years.

SHRI P.A. SANGMA: The proposal which we have brought here is, the minimum period of imprisonment is prescribed, on the other hand. Instead of saying, it may extend to one year, I have said that the punishment will be imprisonment of not less than three months. It can be more than 3 months to any extent but it shall not be less than three months. There is certainly an improvement in that. You cannot say that the quantum of punishment is not enough.

DR. DATTA SAMANT: Nobody was arrested in 40 years, you forget about punishment.

SHRI P.A. SANGMA: The point which Mr. Dighe vehemently made, quoting from what you call the statement made by the then Labour Minister is that the payment of gratuity shall be made applicable to all establishments irrespective of how many number of people are employed. We did discuss this issue very thoroughly. Now the establishments which are employing less than 10 people are really a very tiny sector. They are not even a small-scale sector. They are actually known in the industry as tiny sector and most of them are self-employed people. We are already having a lot of representations from the tiny sector that they are subjected to so many labour laws. I also feel that tiny sectors which are employing less than 10 people and most of them are self-employed people, they should not be subjected to so many burdens. That is why, we have deliberately at this stage, kept them out. It is because, we must also encourage people to have self-employment for themselves and then create some employment for others. If you put too much of pressure on them that they have to pay provident fund, ESI Contribution, gratuity fund and all those things then, I don't think, we will be in a position to encourage self-employment for the people. That is why, we have not gone for those people who have employed less than 10 people. May-

be in future, depending upon the economic growth, we can think of that.

Now, for the purpose of giving gratuity, I have explained Dr. Samant's point of 22 days or 23 days. The point was why only 15 days salary, it should be one month salary. This is absolutely in line with the gratuity payable to the Government servants. Even the Government servants under the Government of India Gratuity settlement also get gratuity equivalent to 15 days or half a month's pay. So, we have also followed the same thing.

I do not think there has been any other important points raised. These are some of the points raised. But I can assure the hon. Members that as far as covering of more establishments is concerned, Government is competent.

[*Translation*]

SHRI GIRDHARI LAL VYAS: What have you done about the bonus? You said that 8.33 per cent will be given to all the employees. If you are giving 8.33 per cent as bonus, then why don't you give gratuity? There is no rationale behind paying bonus to the Government employees, but they are also getting one month's salary as bonus.

[*English*]

DR. DATTA SAMANT: Staff Council minimum salary for gratuity, at least Rs.11/- we are asking for the minimum wage. Somewhere it is Rs. 400 or Rs. 500/-

SHRI P.A. SANGMA: No, no. There is no minimum limit. Any amount is applicable. The qualifying thing is only in establishments with ten or more workers. The salary, bottom line limit is there. It will be Rs. 10/-. There is no problem. Only upper ceiling is Rs. 2,500/- at this instance now. But we have enabling power up to Rs. 3,000/- or Rs. 3,500/- as per the situation. There is no restriction on lower limit.

DR. DATTA SAMANT: It is much less.

SHRI P.A. SANGMA: Bonus and gratuity are quite two different concepts. I do not think these are comparable and, of course, about the concept of bonus which we started, I do not want to make a comment here now about bonus. But bonus is different from gratuity. So, it cannot be compared. But gratuity payable to Central Government employees is half a month's salary and we are precisely following the same thing for industrial workers also.

As far as the coverage of more categories of establishments is concerned, we have been extending the Gratuity Act to many establishments and we have also now decided to extend it to some other category of establishments like Air Transport Undertakings, Housing Board or Housing Corporations, Electricity Boards, at the moment, it is not applicable, we are going to make it applicable, Water and Sewage Board, Cold Storages, Banks and other financial institutions, Educational institutions. Also we are going to cover now, Hospital and Medical institutions, establishments engaged in production, distribution, processing and display of films, laboratories, museum, Botanical and Zoological Gardens and so on and so forth. We are going to cover more and more establishments.

These are the few changes. We have brought in some improvement. As is the practice, constantly we review the working of all the labour laws and whenever we find that something new should be brought in, we always do that and we shall even watch how this Act is being implemented, and how it is brought in and if there is any deficiency, we are always willing to compensate.

MR. DEPUTY SPEAKER: The question is:

"That the Bill further to amend the payment of Gratuity Act,

1972, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY SPEAKER: Now, we will take up clause by clause consideration of the Bill.

Clause 2— (Amendment of section 2)

DR. DATTA SAMANT: I beg to move:

"Page 2,—

after line 7, insert.....

'(iii) after clause (h), the following clause (hh) shall be inserted, namely:—

(hh) "Gratuity" means the amount of wages last drawn by an employee;"

(1)

In the first amendment, there is printing mistake. On the last salary, gratuity should be paid. That is the meaning. But, the good point is that, many of the workers in multinationals and all companies are drawing more than Rs. 2,500/- salary and somebody drawing Rs. 3,000/- is totally disqualified as per this Act. Employers always take advantage. Somebody drawing Rs. 2,500/- will get Rs. 50,000/-. But somebody drawing Rs. 2,600/- will not get anything. The Act is not proper. So, amendment should have been made, to the effect that somebody who is drawing more than Rs. 2500 will get this amount as per Rs. 2500/- This is the loophole. As per this Act, 80 per cent of my workers working in the Premier Automobiles etc. all those people will not get the gratuity. So, I request that the hon. Minister must do the correction. (*Interruptions*) There are many industrial workers. Now-a-days, the salary has gone up already. That is why I am suggesting this thing. There are some big industries like Glaxo and many other pharmaceutical units. They are paying salary as Rs. 3000/-

[Dr. Datta Samant]

etc. Let them give even Rs. one lakh. Why you are going to come in between? Otherwise that money is going to become black money. That is my intention of moving this amendment. So, I humbly request the hon. Minister that Rs. 2500 be the calculation. Workers who are getting Rs. 2500, for them the gratuity should be paid on Rs. 2500/- Otherwise a number of workers will be totally disqualified. As per this Clause, they remain at the mercy of the employers. This improvement should be done. That is my first amendment. My second amendment is.....

MR. DEPUTY SPEAKER: No, no. There is only one amendment. Let the Minister reply first.

SHRI P.A. SANGMA: I have already explained it. I have given it in Clause 2 which says: for the words "one thousand and six hundred rupees per mensem", the words "two thousand and five hundred rupees per mensem, or—please note—such higher amount as the Central Government may, having regard to the general level of wages, by notification, specify..."

So, we have, at the moment, raised it from Rs. 1600 to Rs. 2500/- If we think it necessary to raise further, we have got this enabling provision here. We will do it in future.

MR. DEPUTY SPEAKER: I shall now put the amendment moved by Dr. Datta Samant to the vote of the House.

Amendment No 1 was put and negatived.

MR. DEPUTY SPEAKER: There is no amendment given notice of to Clause 3. Therefore, I am putting Clauses 2 and 3 to the vote of the House. 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 4-(Amendment of Section 4)

MR. DATTA SAMANT: I beg to move

"Page 2, line 45,—

after "twenty-six" insert—

"or by twenty-two where working days in an establishment are twenty-two" (2)

I have already spoken in my speech....

MR. DEPUTY SPEAKER: Then why are you repeating again?

DR. DATTA SAMANT: Let it be on record. Even by dividing the monthly salary by 26 which is the system at present and which the hon. Minister has proposed now—the workers will get 15 per cent more. That is a good thing. But what I am again observing is that 26 means the working days of the month is 26. But in Bombay and in many big factories, the working days are 22. Therefore, the monthly salary be divided by 22 i.e. one day's salary is multiplied by 15. It is going to give another 15 per cent more gratuity. In this connection, I would like to refer to the Supreme Court's judgement 4 years back in the Glaxo case, which is one of the pharmaceutical companies. The Supreme Court has directed that this monthly salary should be divided by 22. Find out one day's salary and multiply by 15. It has been implemented in about 15-20 factories. Therefore, where the working days of the month are 22, it should be divided by 22. I think the hon. Minister will correct it.

SHRI P.A. SANGMA: I have stated in my reply that this matter was gone into by the Supreme Court and the Supreme Court

has given its ruling. I am only implementing the Supreme Court's ruling that the month will be taken as 26 days. So, this is the Supreme Court's ruling. I cannot help it.

MR. DEPUTY SPEAKER: I shall now put the amendment moved by Dr. Datta Samant to the vote of the House.

Amendment No.2 was put and negatived.

MR. DEPUTY SPEAKER: The question is:

"That Clause 4 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—(Insertion of new Section 4A)

DR. DATTA SAMANT: I beg to move:

'Page 3,—

after line 43, insert—

"(5A). The worker shall also get the interest on the instalments paid by the employer towards the gratuity fund alongwith the gratuity payable to him at the end of his service." (3)

Sir, this is a very important issue. The hon. Minister has not given his reply to this also. I want you to find out.

MR. DEPUTY SPEAKER: Even if he gives, you will move it and speak.

DR. DATTA SAMANT: The workers are working for a period of 30-40 years and retire after that. Within the 30 years, the value of Rupee is going down. Previously, the value of rupee was 60 paise. Now it is only 14 naya paise. Here the point is this. The hon. Minister has been kind enough to start compulsory insurance of employers' liability. It is giving guarantee for the workers. It is a good move. But what I want

is this. The workers should get the interest on these instalments paid by the employer. The gratuity amount must go up. What I am suggesting is a very genuine thing. For every year I must get a gratuity of 15 days; for 30 years I am working. Whatever instalments you are paying to the insurance, LIC, on that I should get the accumulated interest at the time of my retirement. Government should consider this because the value of the rupee is going down, and actually the workers are getting the same amount after a number of years. The textile workers got just Rs. 9000/- as gratuity. What can be done in a city like Bombay? Therefore, the Government should at least consider this amendment.

SHRI P.A. SANGMA: I am not accepting it.

MR. DEPUTY-SPEAKER: I shall now put Amendment No. 3, moved by Dr. Datta Samant, to the vote of the House.

Amendment No.3 was put and negatived.

MR. DEPUTY-SPEAKER: There is no amendment given notice of to Clause 6. So, I shall put Clauses 5 and 6 together to the vote of the House.

The question is:

"That Clauses 5 and 6 stand part of the Bill."

The motion was adopted.

Clauses 5 and 6 were added to the Bill.

Clause 7—(Amendment of Section 7)

DR. DATTA SAMANT: Sir, I beg to move:

'Page 4,—

Omit lines 12 to 22.' (4)

Not only have I spoken on this, but even Members from the Treasury Benches have supported it. When a worker retires or dies,

[Dr. Datta Samant]

at that time he is going to be paid gratuity. One month's time should be sufficient for this purpose.

In the Bill, a provision is being made that with simple interest they can go on. This will be very badly used by the employers because in the banks and outside the interest rate is 18 or 20 per cent. If the employers know that they can delay payment of the gratuity amount, they will exploit it. At the time of retirement, the workers need this gratuity amount because provident fund money, they get after six months. About 10 to 15 per cent of the workers die at the time of retirement and, therefore, their families, wife or children, go there and ask for the gratuity amount. It should be paid immediately. This provision of giving simple interest should not be put in this law at all. On the contrary it must be made compulsory that, whenever any worker retires or dies, the gratuity amount must be paid within one month. I think, the hon. Minister will agree with me in this. If there is a provision for giving simple interest, then the employers will exploit the situation and will use the money of the workers. The second thing which is going to happen is this. At the time the gratuity amount is to be paid, the worker is out of the factory; he is helpless; he wants the money. I have seen the widow wives of the workers going to the employers and pleading with them. The employers exploit the situation: they will say, "An amount of Rs. 30,000 is due; but if you want payment, you take Rs. 20,000/-" and they will take her signature for the full amount. Therefore, I totally oppose introduction of this amendment which was not there in the law earlier. This is a retrograde step. Some of the improvements are good and I have welcomed them. At any cost, the gratuity amount must be paid within one month, and if it is not paid, they should be prosecuted; action should be taken against them. Therefore, I request the hon. Minister at least to accept this amendment.

SHRI P.A. SANGMA: It is precisely what

the hon. Member is saying that has been provided for in this Bill. We are saying that the gratuity must be paid within a period of one month. It was not there earlier. There was, therefore, a lot of delay in the payment being made to workers. Now we are saying that it must be paid within a period of one month and in case they fail, the workers must get interest. He was talking about simple interest. I have also said another thing. He has not read Clause 8. Clause 8 says that the controlling authority can also impose compound interest; the only condition is that the interest imposed should not exceed the total amount of gratuity. It may be one paisa less or two paise less, but should not exceed the total amount of gratuity. That is the only restriction we have put.

MR. DEPUTY SPEAKER: I shall now put Amendment No. 4, moved by Dr. Datta Samant, to the vote of the House.

Amendment No. 4 was put and negated.

MR. DEPUTY SPEAKER: Now, there are no amendments to Clauses 8 and 9. So, I shall now put Clauses 7 to 9 together to the vote of the House.

The question is:

"That Clauses 7 to 9 stand part of the Bill"

The motion was adopted.

Clauses 7 to 9 were added to the Bill.

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

SHRI P.A. SANGMA: 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.