

"The provisions of this article follow very closely the provisions contained in the Government of India Act, section 60, for the creation of the Legislative Council and section 308 which provides for the abolition. The procedure adopted here for the creation and abolition is that the matter is really left with the Lower Chamber, which by a resolution may recommend either of the two courses that it may decide upon. In order to facilitate any change made either in the abolition of the Second Chamber or in the creation of a Second Chamber, provision is made that such a law shall not be deemed to be an amendment of the Constitution, in order to obviate the difficult procedure which has been provided in the Draft Constitution for the amendment of the Constitution."

Mr. Ambedkar, while moving the Bill for the relevant article, said that the discretion was left completely to the Assembly of the State concerned. The Government of India was quite grudging in considering it. It is obvious. I am at least happy that wiser counsels, though belated, prevailed upon the Government.

SHRI H. R. BHARADWAJ : With your kind permission, Sir, I would like to reciprocate the feeling and put the record straight. You will kindly appreciate that new norms of democratic behaviour have been set in as this Government has taken over, and you will find that when we implement the Resolution of the Andhra Pradesh Assembly, we are doing something which is highly democratic. And in doing so, I am also grateful to the leaders of the opposition who have said that they will not like to speak on this. As you know, Sir, our party had majority in the Council and we had lot of opposition from our own people. But, as I said, if democracy has to thrive, institutions have to be nurtured, we will have to make sacrifices. I am happy that with this spirit, Mr Jaipal Reddy will take it. There is absolutely no other spirit except that. To uphold the highest traditions of democracy in this country, we will cooperate in future also.

MR. DEPUTY SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

14.15 hrs.

PAYMENT OF BONUS (AMENDMENT) BILL, 1985

[*English*]

MR. DEPUTY SPEAKER : Now, we shall take up Item No. 12—Payment of Bonus (Amendment) Bill. Shri Ghulam Nabi Azad may move the Bill for consideration on behalf of Mr. Anjiah.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD) : Sir, on behalf of Shri Anjiah. I beg to move :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by the Rajya Sabha, be taken into consideration."

SHRI S. JAIPAL REDDY : Sir, I am on a point of order. The convention is that when the Bill is to be moved, it must be moved by the concerned Minister and the concerned Minister is not here now. So, he is not going to listen to the speeches made in the House. Then how is he going to reply? It is too much.

(*Interruptions*)

MR. DEPUTY SPEAKER : The Minister is held up on an urgent business. Meanwhile, the other Minister is going to note whatever the points that are being raised by Members.

SHRI S. JAIPAL REDDY : I have no doubt about the capacity of Mr. Anjiah.

MR. DEPUTY SPEAKER : The Minister is going to note the points. There is no problem.

Motion moved :

"That this Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration."

Now, Mr. Dora may speak.

SHRI H. A. DORA (Srikakulam) : Mr. Deputy-Speaker, Sir, now the Amendment introduced by the Government is for the deletion of Section 12 of the Bonus Act of 1965. The only amendment that is now sought to be made to this Act, viz, Bonus Act of 1965, is to delete Section 12 of the Bonus Act. In other words, Section 12 of the Payment of Bonus Act, 1965, shall be omitted. I respectfully submit to this august House that this particular piece of amendment is, no doubt, a progressive piece of legislation but as the Hon. Minister for labour contended on 9th of this month in the Rajya Sabha that he would bring about a piece of comprehensive legislation to cover all sections of employees in this country, I am only sorry that such a piece of legislation has not been introduced in this august House, particularly in this Session, though it was promised by the Hon. Minister in the other House on 9th of this month.

Now the Hon. Minister for Labour has come to the House and therefore, the objection which my learned friend raised is now waived, I think. Now that the Hon. Minister has come, I would like to submit that this particular piece of legislation as also the emphasis laid on it is no doubt a progressive piece of legislation, but it does not cover all employees in this country.

14.19 hrs.

[SHRI SOMNATH RATH *in the Chair*]

Sir, the working class in this country obtained their share of bonus not through any piece of legislation, but through a hard struggle in which several persons lost their lives in this country and that the result of the struggle which has been there prior to the coming into force of the Payment of Bonus Act of 1965 is crystallised in this form and therefore, what I would like to submit is that the omission of this particular Section does not accrue to the benefit of the railway employees in this country. You are aware that the railway employees who are working in Railways in India are innumerable. There are lakhs of employees who are working under this public sector undertaking and who are not getting this particular bonus. The Bonus Act is conspicuously silent and it does not come to their benefit

and therefore, the omission of this particular Section is not sufficient though it gives benefit to a smaller section of organised employees. You are aware that there are a number of unorganised employees in this country. Crores of such people are there, but the Amendment is silent about those employees and I would have congratulated the Hon. Minister if he had brought a different amendment, a positive amendment to this particular Act embracing the employees of all the unorganised and organised sectors in this country. Of course, the Hon. Minister, who held the post of Chief Minister of Andhra Pradesh, is well aware and he hails from labour community and he respects the labour community, he knows how the labour community in this country are exploited. He is not alien to that particular sect of people, as some Ministers in this august House are. I would like to submit that there are certain provisions which exclude the benefit of this particular Act and they are contained in Section 32 of the Bonus Act of 1965. I may be permitted to quote this Section 32 :

“Nothing in this Act shall apply to—

- (i) employees employed by any insurer carrying on general insurance business and the employees employed by the Life Insurance Corporation of India;
- (ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;
- (iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948, and employed by registered or listed employers;
- (iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;
- (v) employees employed by—
 - (a) the Indian Red Cross Society or any other institution of a like nature (including its branches);
 - (b) universities and other educational institutions;

- (c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;
- (vi) employees employed through contractors on building operations."

I submit that Section 32 is a bar and it really takes away the benefit of a large number of employees in this country. I submit that this section 32 could have been deleted and an amendment to this effect could have been introduced in the House instead of section 12 of the particular Act.

It is necessary to recognise the strength of the labour force in this country. You are aware that 51 per cent of our population live below the poverty line. And this 51 per cent is working in different sectors of the establishments in this country. They are working in factories and under the contractors. You are also aware that there are contractors who engage a large number of labour force. But they are also exempted under section 32 of the Bonus Act. I, therefore, urge the Hon. Labour Minister that at least in the ensuing piece of legislation, he should bring an amendment for the deletion of this section 32 from the Bonus Act which would definitely benefit a large number of labour force in this country.

With these few words, I conclude my speech.

SHRI SHARAD DIGHE (Bombay North Central): Mr. Chairman, Sir, I rise to welcome this Bill which has been brought forward by the Labour Minister. I welcome this firstly because the amendment was overdue, secondly because, there was an announcement by the Finance Minister in his Budget speech that the Government would be bringing before this House such an amendment. By bringing this Bill, the Government is honouring its commitment which has been made in the Budget speech by the Finance Minister.

The Payment of Bonus Act was passed in 1965 and at that time this section 12 enacted wherein it was decided that even was though an employee was getting a salary of Rs.1,600, he would get the bonus as if his salary was only Rs.750. Now, we are deleting this section 12 which was putting a limit on

the payment of bonus. The limit was that the salary for the purpose of bonus is to be calculated only at Rs. 750, even though the employee might be getting more salary. Now, by deleting this section 12, as I said, we are removing this limit and now the employee drawing a salary of up to Rs. 1,600 will get a bonus, actually, according to his salary without any ceiling of Rs. 750/-. This is a very welcome amendment that is being made in the Bonus Act.

While I say so, I would also like to point out to the Government that in a way it is a half-hearted measure. When we are amending this Payment of Bonus Act by deleting section 12, we should have also amended another section which would have been a logical amendment.

Now, when the Payment of Bonus Act was passed, the scheme of the Act was as follows.

A person getting a salary of Rs. 1600/-, was entitled to bonus. But the bonus must be calculated actually only upto the salary of Rs. 750/-. So when we delete Section 12, in a way we are raising that salary limit up to Rs. 1600/- for calculating the bonus. Therefore, the higher limit for qualifying bonus should have been also logically raised at least to Rs. 3000/-. My submission, therefore, is that when we are deleting Section 12, we should have at the same time amended the definition of 'employee' given in Section 2 of the Act. The definition of 'employee' says, "any person (other than an apprentice) employee on a salary or wage not exceeding one thousand and six hundred rupees per mensem"...So, the bonus is to be given to the employees who are drawing salary up to Rs, 1600/-. My submission is that if this ceiling was put in the year 1965, then it was necessary to raise this ceiling in the year 1985 when particularly the value of the rupee has gone down. Many employees will be denied bonus because they are drawing emoluments more than Rs. 1600/-. So, logically this definition also should have been amended at the same time, so that a person drawing salary not exceeding Rs. 3000/- also will be entitled to bonus. As I stated, the Payment of Bonus Act was passed as far back as in 1965. At that time also the deliberations took place from the year 1961. Formally there was a formula suggested by the Labour Appellate

[Shri Sharad Dighe]

Tribunal for Bonus. It was confirmed by the Supreme Court and the Bonus Commission was appointed on 6th December 1961. In order to fix the terms of reference of that Bonus Commission, a Tripartite Committee was also appointed and ultimately the Report of that Bonus Commission was received on 24th of January 1964, which was placed before this House on 2nd September. Therefore, my submission is that these figures which were fixed regarding the lower limit and higher limit for the payment of bonus were fixed as far back as between 1961 and 1964. Those figures are not valid now according to the price index figures and according to the value of the rupee, which has also fallen down. Therefore, as I have stated, the Government should have come forward regarding the amendment of the definition of 'employee' also in this Act. Fortunately for me—I read in the newspapers that in the Conference of Labour Ministers recently held under the Chairmanship of the Central Labour Minister, the same point has been expressed and our Union Labour Minister has also assured that the Government was intending to make this kind of amendment also and in the case of the employee, the upper limit is at Rs. 1600/- is proposed to be raised to Rs. 3000/-. That assurance has been given in the Labour Ministers' Conference as I have read in the newspapers. I have also learnt that in the Consultative Committee attached to the Labour Ministry, there also the Union Labour Minister has expressed in the same way. Therefore, I hope that this amendment also will be brought by the Government in the near future so that logically the whole Act will be properly balanced and proper justice will be given to the employees.

My further submission is also this—that even the other parts of the Act also require immediate amendment. For example, the Act applies to establishments in which 20 or more persons are employed. My submission is that in the present context, this figure of 20 should have been replaced by 10 and the Act should apply to all establishments in which 10 or more persons are employed so that more and more employees will get the benefit because as we know, now it has been settled that bonus is not *ex gratia* payment but if it is a sort of a deferred wage. Therefore, if it is in the form of a deferred wage, employees who are employed in establishments

having employees between 10 to 20 should also justifiably get the benefit of the bonus. Therefore, I will appeal to the Government that in the near future they should take a comprehensive view of the whole Bonus Act and bring a comprehensive Bill suggesting the overall amendments. The formula of bonus also requires to be reviewed. Several provisions of the Act should be reviewed properly and a comprehensive Bill may be brought before the House as early as possible. I will again congratulate the Union Labour Minister for at least making this amendment urgently in this session and I will again urge upon him to take a comprehensive view and bring in the next session all the amendments which are necessary for this Bonus Act.

[*Translation*]

SHRI. K.N. PRADHAN (Bhopal): Sir, I want to congratulate the Labour Minister on his bringing forward the Payment of Bonus (Amendment) Bill. One of the announcements made for the benefit of the workers in the Budget by the Government related to bonus.

Sir, the workers have been struggling for their right since time immemorial and after this long struggle only, they have been able to get their rights, including the right to Bonus. In the beginning, the employers considered it as parting with some profit in favour of the workers but the fight continued and ultimately the workers succeeded in getting it accepted as deferred wages. Government enacted the payment of Bonus Act in 1965. The amendment now brought forward of course, will benefit some of the employees but a large section of the employees will still remain deprived of this facility. Rather, it will not be wrong to say that they will suffer a loss, because the definition of the workers and employees given in sub-section 13 section 2, of the payment of Bonus Act of 1965 has been confined to those workers and employees whose pay is only upto Rs. 1600, which would mean that only these persons will be entitled to get bonus.

One big anomaly in this amendment Bill is that if you count, you will find that an employee who is presently getting a pay of Rs. 1600, will get a bonus of Rs. 320 at the rate of 20 per cent. In this way, actually he will get Rs. 1920 in one month whereas a

senior employee whose pay is Rs. 1610 or Rs. 1650 or even Rs. 1800 will become junior in pay. It is a big anomaly in the present amendment Bill. How many employees will be benefited by it, this I shall tell you by way of an example. When this Act was enforced in 1965, in BHEL, Bhopal, except one or two officers nearly 18000 employees were benefited by this, but now only 6000 employees are going to be benefited.

14.40 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

Out of them those who get a pay of Rs. 750 have not been benefited much. The employees whose pay is between Rs. 750 and Rs. 1600 only have been benefited. Earlier 1800 employees used to get bonus but now only 4000 more will be added to this number.

The intention of the Bill is good but since the time when the way for the welfare of the workers was paved by the Government led by the late Jawahar Lal Nehru in which Shri Gulzari Lal Nanda was the labour Minister, this is the first time when the workers instead of gaining something are going to lose through the enactment of a law. With this law, a large number of employees are going to be deprived of the benefit. Therefore, I submit that unless an amendment is made in this regard, they will remain losers.

Sir, there are other anomalies also. For example, when the gross profit of a company is calculated, income tax is deducted from that and bonus is paid to the workers from the remaining profit but if the income of the employee who gets bonus becomes taxable after getting bonus then income tax is deducted from his pay also. I feel that deduction of income tax from two sources is not justified.

Similarly, we have put a ceiling of 20 per cent for payment of bonus. When it is a question of payment to the workers, why should a ceiling be fixed? Similarly, from the available surplus also, only 60 percent is paid whereas in the name of capital investment and revenue deduction a large portion is sliced away. Then why should the bonus not be paid from the cent per cent available surplus?

In 1984-85, you had increased the depreciation rates. This has resulted in less payment

of profit to the workers. I would like to point out to the Hon. Labour Minister that after Independence every law has helped the workers in getting more and more benefits. This time also our intention was to give more bonus to the workers. It looks as if you either overlooked this point in the beginning or because of the conflicting views of different Departments or in the apprehension that certain Departments might have to pay more, Government did not think on this point. Considering the rights of the workers and in the name of deferred wages, which is the hard earned income of the workers, no Department has a right to think as to how much they will have to lose or gain.

Sir, in conclusion, I would like to make one more appeal that the employees of the other Departments i.e., Government officials should also get the right to bonus. They should also be given bonus. I am confident that our Hon. Labour Minister, who has a very good rapport with the labourers and who is very sympathetic to the workers, will not delay it further but amend the Bonus law at the earliest to make it practical.

In addition, there are many other laws which need amendment today. In the morning, we had been discussing Birla Mills affairs. Mr. Speaker did not give me a chance to speak but I would like to say that our textile industry is the oldest industry of our country and even today it plays a significant role in our economy. During the last 15 to 20 years a tendency has developed that the owners of the mills gradually swallow all the profits and cause their mills to suffer losses and ultimately take it to a stage where the workers have to face unemployment. The result is, that Government are obliged to take over the industry under compulsion. For the last 10 to 15 years this trend has been going on. Keeping in view this increasing tendency of the mill owners can Government not take a decisive action? Did we not opt for mixed economy in the hope that the private sector people would also contribute their mite in improving the economy of the country? But does their present attitude not show that they have not proved sincere to the desired extent? I, therefore, submit that the problem of the textile industry should be resolved once for all. During the last several years, the workers of several textile mills had to face miserable conditions, many of them died

[Shri K. N. Pradhan]

of starvation and others became jobless and in spite the best efforts of Government, the mill owners went on causing their mills to suffer losses, they never tried to bring improvements in them and ultimately, Government had to take over their mills.

I am fully confident that the Hon. Labour Minister will be kind enough to amend the other labour laws at the earliest as per requirements. With these words, I support the Bill.

[English]

SHRI AJOY BISWAS (Tripura West) : Sir, Government has brought forward a small piece of legislation. This will definitely help a section of the workers. But I think without a comprehensive Bill the problems of the workers are not going to be solved. What is the concept of bonus? Bonus is a deferred wage. According to the Constitution, the State shall endeavour to provide a living wage to the workers and employees of the country. But the workers and employees of the country are not getting this living wage. They are not even getting the need based minimum wage. They are getting far below the need based minimum wage. So, there is a gap between the living wage and the wage which the workers and employees are getting. Bonus is a compensation of this gap. It is a deferred wage, as I said. If it is so, then, all the employees, all the workers, of the country should get the bonus. But it is not so. Workers have earned this right, not by any gratuitous relief or by charity but the workers have earned this right through their blood and through their sweat.

In 1965 the Central Government passed the Bonus Act. Bonus was linked with the deferred wage. But the Central Government and State Government employees and semi-Government employees were left out from the purview of this Bonus Act. I don't understand this. If the Government has accepted the principle that Bonus is deferred wage, then, why should the Central Government employees, State Government employees and semi-Government employees be left out from the purview of this Bonus Act? Sir, even several High Courts and the Supreme Court gave their verdict

that the bonus is a deferred wage. The Central Government employees and the Railway employees did not accept the stand taken by the Government. They waged a bitter struggle you know all about Railwaymen's strike in 1974. Ultimately Government accepted the bonus in the case of the Central Government employees. But you will see that the bonus has been implemented in the case of Central Government employees but it is to be linked with the productivity. Here I would point out that in the case of private sector you have accepted that the bonus is linked with the deferred wage. But when the Government implement the Bonus Act for their own employees, they say that it is to be linked with the productivity. I do not know why the Government is maintaining double standard in this case. By doing so, it will enthuse the capitalists and the exploiters of the country. So, you have to decide in the case of giving bonus to the Government employees whether bonus will be linked with the deferred wage or not.

Now, Sir, about 60 lakh State and the semi-Government employees are not getting the bonus. They are in doldrums. A few State Governments have sanctioned to their employees some ex-gratia payment. That is not the bonus. It is the Central Government who can formulate the National Wage Policy or the Bonus Policy. It is the Parliament which can pass the Act. The State Governments have no powers. So, I would like to know from the Hon. Minister whether he would consider bringing forward a comprehensive Bill so that these 60 lakh of the State Government and the semi-Government employees also get the bonus.

Now, Sir, in this legislation, the ceiling of the calculation has been raised from Rs. 750 to Rs. 1600. I welcome this. But what about the eligibility ceiling of the bonus? It is still kept at Rs. 1600. The Bonus Act was passed in 1965. During these 20 years, the wages have increased due to price rise. The quantum of wages has been increased but the real wages has not increased. Many workers were getting bonus previously and now they have been left out from the purview of the Bonus Act. Thousands and thousands of the workers are being deprived of the bonus because of the ceiling fixed at Rs. 1600. If you are really interested to do something for the workers, definitely you have to remove this ceiling limit.

My third point is about the maximum ceiling limit of 20 per cent. Sir, when you are not able to fix any ceiling on profit, you have no right to fix ceiling limit on bonus. Actually, the employers, the owners, the capitalists are earning at the cost of the workers. I would strongly plead that the workers should also have a share of the profit. When you have accepted that bonus is a deferred payment of wage, why should there be any ceiling ?

With regard to the allocable surplus, I do not know the idea behind this. Who will determine the allocable surplus ? It is the owner. The workers have no access to the accounting of the owners. Why should not the workers get bonus on the basis of the balance-sheet ? The balance sheet is to be taken into account otherwise the workers are being deprived of their due share of profit.

Lastly, I shall request the Hon. Minister to bring a comprehensive Bill in which the State Government and semi-Government employees should also be included and brought within the purview of the Bonus Act. Sixty lakh State Government and semi-Government employees are on the path of agitation. In 1974 they organised a one-day strike. Even on the 15th of this month, fifty lakh State Government employees organised demonstrations throughout the country for bonus. If the Central Government claims that India is a welfare State, and the Government is for the workers, in that case you should definitely have a National Bonus Policy. Once again, I request the Labour Minister to bring forward a comprehensive Bonus Bill in the near future, so that all sections of the people get bonus according to the norms of bonus as deferred wages.

14.56 hrs.

[SHRIMATI BASAVA RAJESHWARI
in the Chair]

SHRI SOMNATH RATH (Aska) : Sir, I rise to support the Payment of Bonus (Amendment) Bill.

Under the dynamic leadership of Shri Rajiv Gandhi, ours is a progressive and pro-labour Government. It is not only a slogan,

the Government has exhibited its intentions at the first Budget session, when the Finance said that relief is to be given to workers and the Hon. Labour Minister has now brought forward this amending Bill.

This Act came into force in 1965. We should take into consideration the price rise and as such the upper limit that has now been raised from Rs. 750/- to Rs. 1600/- ought to be raised still further to Rs. 3200. Under the leadership of late Shrimati Indira Gandhi, it was decided to give bonus to class III and class IV employees, but some States have not as yet given bonus to these employees. When the Hon. Labour Minister brings forward a comprehensive Bill, I have a suggestion to make for his consideration. As it is, if an employee or worker gets an increment and his wages go a little over Rs. 1600, he does not get bonus, he is deprived. The increment will thus not be a boon for him, but it will be a curse. When a Comprehensive Bill be brought I suggest that bonus may be given not taking into consideration the wages, but the category of the employees. If the bonus is to be given according to category of employees then when low worker gets an increment, that will not affect his entitlement to bonus.

As far as the companies are concerned, the profit indicated in the balance sheet showing profit and loss is taken for granted.

15.00 hrs.

A labourer or a worker has no chance to oppose. It so, some provision is to be made in the Act so that in case, there is some dispute about the Balance Sheet, over profit or loss, the Government should intervene and a decision has to be taken. Once again, I congratulate the Labour Minister because this Amendment will give relief to thousands of workers and a comprehensive Bill will certainly give further relief.

15.01 hrs.

[SHRIMATI BASAVA RAJESHWARI
in the Chair]

SHRI SATYENDRA NARAYAN SINHA (Aurangabad) : Mr. Chairman, Sir, I also rise to support the Amendment before the House. This is no more a matter to be disputed now that bonus is a legal claim and

[Shri Sateyendra Narayan Sinha]

a worker is entitled to claim it is a matter of right. Those days are over, when it used to be a bakshish or ex-gratia payment or a gift. In 1965 the Payment of Bonus Act was passed, when this national ceiling of Rs. 750 was fixed and the eligibility criterion was fixed at Rs. 1600/-. The amendment now brought before the House seeks to remove this notional ceiling of Rs. 750, which means that an employee getting Rs. 1600/- becomes eligible to bonus. But Sir, the other part of it is missing, viz. the eligibility criterion. All the members who have spoken before me have been unanimous in asking to raise the limit of eligibility to Rs. 3000. Their argument is that the notional ceiling of Rs. 750 fixed in 1965 is too low on account of the erosion in the value of rupee, and then the upper limit also should, by the same token, be raised to Rs. 3000/- so that the benefit of this can be made available to a large number of workers. Now Sir, when this Payment of Bonus Act was passed, the salary of most of the workers was near about Rs. 750. Now a skilled worker is getting much more than Rs. 2000 or in the neighbourhood of Rs. 2500 to Rs. 3000. So, those workers are getting more than Rs. 1600 and they are skilled workers. Just because inflationary pressures or for other reasons, their salary has gone up beyond Rs. 1600 and they will be deprived of the benefit of this Act. So, it is logical and reasonable that Government should have come up with an amendment that a person who is getting more than Rs. 1600 or a person who is getting Rs. 3000 or Rs. 2500 would be eligible to get bonus, calculated on the basis of notional ceiling at Rs. 1600, just as in the previous Act, in which it was calculated on the notional basis of Rs. 750. In this context, the notional ceiling would be Rs. 1600. This would have been more logical, reasonable and proper.

My next suggestion is that bonus which has been accepted as deferred wage, should be extended to all employees of Government, whether they are serving in the public sector or semi-Government undertakings or in the Government undertakings. It should not be linked with their productivity, because in that case the whole concept of making it a deferred wage will be defeated. It should be treated as a part of his wage. As my friend Mr. Ajoy Biswas said just now, bonus is

treated as a deferred wage, a device to fill the gap between the living wage and the actual wage. If that is so, it should not be linked with productivity as has been done in the case of Railways or Telegraphs. This has to be clarified; and since, as I said earlier, the law is settled on this point, the concept has been accepted, there is no point in not extending the application of this law to these undertakings.

I do not agree with what Mr. Ajoy Biswas said when he spoke about profits, viz. that they have made a contribution to the earning of profits, because then you cannot talk of this productivity; you cannot say that it should not be linked with productivity, i.e. if you talk of profits. So, irrespective of profits earned, my submission is that a worker should get bonus as a deferred wage, and it should be calculated on the basis, as if he was getting Rs. 1600/-. This should be the criterion.

Now I wish to welcome the step taken by the Labour Minister in constituting a Committee of Labour Ministers of several States—which I found in the newspapers—to evolve a National Wage Policy. When a national wage policy is actually evolved, I think it will take care of all these factors. Our friends have been unanimous in requesting the Minister to come up with a comprehensive legislation. I hope he will take all these factors into consideration. There are several laws like the Workmen's Compensation Act. The definition also differs from Act to Act. All the definitions should be made uniform, and there should be no ambiguity and there should be no room for any dispute or conflict. He should come up with a wage policy, fixing the minimum wage, and the upper i.e. the maximum wage. I would remind the Hon. Minister that Pandit Jawahar Lal Nehru had declared the intention of the Government that there should be an upper limit as well as a lower limit. Today, the upper limit is nowhere to be seen. The sky is the upper limit. For the worker, there is a lower limit. Still, it is a fact that 50 per cent of the people in India are living below the poverty line. Developmental activities have given them no benefits. They have been deprived of the benefits. Their standard of living has not gone up. But when the national wage policy is evolved, all these factors have to be taken into consideration.

Now with regard to unorganized labour. I know that the labour, e.g. in tea plantation which is an organized industry, gets bonus. But what about the large number of agricultural workers who are not organized? They depend on the sweet will of the landholders. Even with regard to the minimum wages, there is dispute. Minimum wages are not being paid to them. All kinds of troubles are being faced by them. I have mentioned this point in the House several times and I would request the Hon. Labour Minister to take these factors into account when the national labour policy is evolved, so that he takes care of every section of the country, and nobody is allowed to languish in poverty or deprivation, when the goal we have set for ourselves is the bringing in of a socialist society. My friend on other said: we have abandoned the socialist path.

SHRI INDRAJIT GUPTA : I never said that, because they were never on that path.

SHRI SATYENDRA NARAYAN SINHA : No, we were. We have taken all anti-poverty measures, to improve the living conditions of the people; that is true. But much more has to be done; and the Labour Minister, who has worked in the labour field also should take into consideration the conditions of all kinds of labour so that they can get every benefit of the laws that we are enacting here; these laws should be properly implemented so that labour can get full benefits.

With these words, I, once again, support this Bill and request the Hon. Labour Minister to come up with a comprehensive legislation and evolve a national wage policy which will take into consideration all the factors and will be to the benefit of every section of the society.

SHRI V. S. KRISHNA IYER (Bangalore South) : The Hon. Labour Minister has raised lot of hopes in the minds of the working class not only while replying to the debate on the demands for grants of his Ministry but also in the Labour Ministers' Conference recently held and in the Consultative Committee meeting. So, I am confident that he will implement all that he has said.

There are innumerable laws in respect of labour not only at the Centre level but also at the State level. As I know, there are a

number of laws in some of the States and even rules for the laws have not been framed and they have not been implemented; but laws are there. As far as their implementation is concerned, in some cases, it has been nil and in some other cases it has been very slow. So, I join my other friends in demanding that a comprehensive law should be brought forward at the next session itself. The Labour Minister has promised about it and I sure he will do it.

Coming to this particular amendment, I welcome to the extent the ceiling has been enhanced from Rs. 750 to Rs. 1,600. The basis on which this has been enhanced is not known to us. Just now, Mr. S. N. Sinha said something about it. In 1965, it was fixed at Rs. 750, but, then very few people were getting this much of salary. If I remember correctly—this is subject to correction—the cost of living index was then about 137; now it is more than 588. If you calculate on that basis also, the ratio will be more than 2,500. I do not know on what basis this figure had been arrived at. Of course, it was announced by the Finance Minister and the Labour Minister has worked out. But I do not know whether it is scientifically worked out. Of course, I am happy that the Labour Minister in the Conference has given a hint that it will be enhanced to 3000.

How many workers are going to be benefited from this? Why should we discriminate between workers and workers? What is needed in our country today is production and more production alone. All people, Government, management, labourers, we must all unitedly see that the country produces more in all fields. In order to do that, the labour must have at least minimum facilities, at least living facilities. In this, thousands of workers have been left out of Bonus Act; they will not get bonus. I also strongly urge that not only this limit should be raised but also I will be happy if there is no limit at all; that is also necessary, I think. This bonus was started as *baksheesh*, but now it has become a legal right; and as many members said, it has now considered as a deferred wage. I remember quite well that in this very House Pandit Jawaharlal Nehru said that every worker must have the need-based minimum wage. How many workers are getting the minimum wages leave alone the need

[Shri V. S. Krishna Iyer]

based wage. Even the minimum wages that have been fixed have not been paid for.

Madam Chairman, we should not forget that lakhs and lakhs of unorganised workers are there who constitute nearly 80 per cent of the labour force. I would earnestly request the Labour Minister to remember this. I am convinced about his anxiety to help them, I know that he has sympathy towards the labour, because he was himself a labour leader. I know that, and I requested him to consider the case of the unorganised labour force.

Then there are lakhs and lakhs of landless labourers also who are working in the country. You know that, Madam, in our own State there are landless labourers, who constitute 50 per cent of the labour force. They are not paid minimum wages, leave alone bonus. They are not even paid minimum wages, regularly. So, I once again earnestly urge the Government that our aim should be that we should see that the workers are paid minimum wage in all sectors, whether it is the public sector or the private sector or any other sector. A minimum wage must be there for every worker. So, I would once again request the Hon. Minister that he should not think of linking payment of bonus with productivity. Irrespective of productivity, whether it is increased or not, bonus should be paid. Because the labourer does his duty honestly. Please do not distrust the labour. I am not a trade union leader but I can say one thing. When the labour asks for bonus, he will do so only when he is convinced that management could afford to pay please do not think that they want to paralyse or sabotage the industry. It is not so. They work hard for the development of the industry. The management has to understand the labour and give them the bonus when they ask for it. Whether it is the private sector or the public sector the management should realise this.

I would therefore request the Hon. Minister to ensure that every worker is covered by this Act and also to see that he brings forward the proposed comprehensive legislation about the need based minimum wage and also the amendments—much promised—to the Labour Act. I hope that when we meet here again for the next session, that is the monsoon session, the comprehensive

Bill that piece of legislation will be placed here.

MR. CHAIRMAN : Shri Mool Chand Daga.

[*Translation*]

SHRI MOOL CHAND DAGA (Pali) : Madam Chairman, today there is not a single Member of Parliament who does not support the principle of bonus. If he has to enter the politics of vote, he should support the principle of bonus as much as possible. If someone asks for 20 per cent bonus, he should demand for 25 per cent. But our Labour Minister has crammed a very good reply that the Bonus Amendment Act is about to come and that they are going to bring forward a comprehensive legislation in this regard. Regarding bonus I want to know one basic thing namely how many times how many mandays were lost for demanding bonus? In the beginning when 8.33 per cent bonus was declared, the workers had had to struggle hard for that. Then later on, when it was increased to 20 per cent, for that also the workers had to struggle much. Now a days, in every industry, there are two or three unions. One union asks for 10 per cent, the other demands 20 per cent bonus. If in Maharashtra, 20 per cent bonus is demanded, then in Karnataka the workers ask for 25 per cent bonus and in Tamil Nadu for 40 per cent.

ONE HON. MEMBER : What will be the demand of the Rajasthan workers?

SHRI MOOL CHAND DAGA : They will ask for 100 per cent bonus. This is the situation today and the Labour Minister will not say what is going to be the limit. In India, whosoever speaks more in support of bonus, he will be applauded more by the workers'. The bone of contention of the workers is bonus and I think the workers get in several places Puja bonus, Dussehra bonus, etc., separately. Now the workers say, "Let us check the balance sheet" and when they see the balancesheet, they say that the businessmen, the *baniyas*, are thieves.

One thing more. It has been stated in Article 39(2) that there shall be labour participation. This participation should be at every stage. Otherwise how will you come to know that the profits earned by the

company have been included in their balance-sheet or not. Presently, we have to depend on the balance-sheet. If we appoint someone as a judge, he also starts taking his share. Many a time, the labour leaders also take their share of money. That is why I say that a comprehensive Bill should be brought on bonus and for that the Hon. Minister will have to fix a criterion. Earlier, bonus was linked with productivity. You are aware that in 1974 in spite of the strike in the railways, bonus was paid. After that, Prof. Dandavate became the Railway Minister and bonus was paid to the workers. In Defence also, bonus was paid. In spite of losses to the Railways, bonus was paid. Even if the Public Undertakings incur losses, they have to pay the bonus. The employees of the P & T Department also get bonus, even if the letters posted may reach their destinations after seven days. My submission is that there should be some criterion for the payment of bonus. When Shri Shiv Raj Patil was not a Minister, he also used to favour the payment of bonus. This subject has become so common that it causes loss of mandays.

[English]

AN HON. MEMBER: Why are you opposing bonus?

SHRI MOOL CHAND DAGA: I am not opposing bonus. Should I lose all my votes? I have been the President of the INTUC for the last so many years.

[Translation]

In respect of bonus, the Government machinery has to go into many aspects. You should appoint a Committee in this regard so that the comprehensive Bill which may be brought forward should include all the aspects. It will avert loss of mandays and will help in the payment of proper amount of bonus. The employers should also earn some profit. We shall have to find some way out for this.

I want to tell you that there are industries which incur losses due the payment of bonus. Even if they are incurring loss, they will have to pay bonus at the rate of 8.33 per cent. They cannot refuse to pay this much bonus. You will have to rethink about the productivity-linked bonus also. The agricultural labourers have no unions, the unions

should be formed for them also and they should be paid bonus for 15 days. There is difference of opinion on the rate of bonus also. The criteria for productivity linked bonus will also have to be changed. Otherwise, a new question will arise in the States. Everybody will demand bonus. Gradually we have started paying bonus to the P&T employees, and the Railway and Defence employees. We are paying bonus to the LIC employees also irrespective of their gross salary. In this way, everybody will ask for bonus.

Now he has given the definition of bonus as deferred wages. What is this deferred wages? If it is a deferred wage then pay interest on it. We have heard the expression 'deferred wages.'

[English]

It is a deferred wage. Very good! If it is a deferred wage, why don't you take interest for this deferred wage?

[Translation]

I request the Hon. Minister that he should, after consulting all the parties and keeping in view all the points, reformulate the Bonus Act. You should keep this thing in mind that mandays should not be lost because of this law. The people who are entitled to bonus should get the bonus and the profit should remain with those for whom it is meant. You will have to keep all these things in mind.

You have said that you will call a meeting in July or October. After that you will formulate the Bonus Act. If it is done, we shall not be able to discuss it in the Monsoon Session. My request is that this Bill should be brought in the Monsoon Session and passed so that this question is resolved once for all.

*SHRI R. ANNANAMBI (Pollachi): Madam Chairman, I am grateful to you for giving me this opportunity to say a few words on behalf of my party the All India Anna D.M.K., on the Bonus Amendment Bill.

It augurs well for the labour in our country that their representative is at the

*The speech was originally delivered in Tamil.

[Shri R. Annanambi]

helm of affairs. We have started experiencing the benefits of having a real labour leader as the Labour Minister. On 7.5.1985 while speaking on the demands for grants of the Ministry of Labour I had demanded the formulation of a National Wage Policy. With due deference to the views expressed by the Members on the floor of this House and in great promptitude our Labour Minister has constituted a high level committee to formulate the national wage policy. I welcome this and I am sure that this Committee will soon complete its work. I was thrilled to see the other day the news item about the constitution of this high level committee. This confirms the commitment of our Labour Minister and his dedication to the cause of labour in our country.

Similarly, in my speech on that day, I welcomed the announcement of our Hon. Prime Minister about five national awards for the labour. This will go a long way to enthuse the labour to give their best for the good of the nation. Our Hon. Prime Minister, in whom the labour of the country have reposed their full confidence and unflinching faith, has vindicated his Government by the announcement of national awards for the labour. This Bill itself is a further proof of our Hon. Prime Minister's commitment for the cause of labour.

I should say that this Bill is in pursuance of our Hon. Finance Minister's proposition in his Budget enhancing the ceiling of Rs. 750/- per month to Rs. 1600/- for the entitlement of bonus. I have no doubt that this Bill will get the unanimous approval of this House. The Hon. Members who preceded me have made several suggestions including the elimination of this ceiling limit of Rs. 1600. I am sure that the Hon. Labour Minister will bestow his personal attention on these suggestions and act accordingly. I would not go into the technicality of bonus being a deferred wage and hence it should not be linked with productivity. I am concerned primarily with the labour getting bonus which is their birthright. Here I have to refer to the prevalence of contract labour system and casual labour system in the country. You will agree with me, Madam, if I say that the workers will not be able to derive any benefit from labour laws such as the bonus law etc. so long as these pernicious

systems are in vogue. The Hon. Labour Minister is fully conversant with the woes and wails of contract labourers and casual labourers, as he has himself gone through the mill. He should earnestly endeavour to abolish the contract labour system and the casual labour system in the country. It may be difficult for him to abolish casual labour system in the private industrial sector. But its existence in public sector industries is obnoxious. Every attempt must be made to abolish casual labour system from public sector industries.

Before I go further, I would like to refer to the pitiable plight of plantation workers in Valparai area of my Pollachi Parliamentary constituency. Thousands of men and women are working in Coffee and Tea Plantations in this area. For more than 10 years, 20 years, they are treated as daily wage labour. I am personally conversant with the miserable living of these plantation workers. The plantation owners fleece them and deny them fair wages. I know many hundreds of young women workers in their prime of age are wasting away their youth; they cannot get married because they cannot pay dowry from their wages. The Hon. Minister of labour should in fact formulate a separate law for plantation labour in our country. Their nature of work and their conditions of living are quite distinct from other workers in the plains. I have no doubts in the capacity of our Labour Minister to rise to the occasion for the good of plantation labour in the country.

The casual labour system being followed in our Indian Railways, in P & T Department and in other public sector undertakings should be done away with immediately. Though the possibilities for doing away with casual labour system in private industrial sector may be remote, yet the Hon. Labour Minister should exert in that direction also.

Recently he has announced that a national tripartite conference will be convened to discuss the problems of labour in our country and to formulate constructive proposals to resolve them. I should commend the ceaseless efforts of our Labour Minister for ameliorating the living conditions of our labour. I would take this opportunity to refer to a few allied matters connected with the welfare of workers.

In 1983, 5280 Works Committees should have been constituted in the industrial sector of the country. So far only 1838 Works Committees have been constituted, covering 50 per cent of the workers. The Hon. Labour Minister should ensure the constitution of works committees in all the industries covering the entire labour force.

The minimum wages being paid under the Minimum Wages Act bear no relationship to the existing price level. The prices of essential commodities are soaring sky high. Presently, once in two years the minimum wages are reviewed. I suggest that once in twelve months such a review should be undertaken so that the minimum wages reflect the rising prices of essential commodities. It should be made mandatory on the part of State Governments to have such an annual review of the minimum wages being fixed under the Minimum Wages Act. Then only the workers will get some tangible benefits.

Presently there is no equal pay for equal work. The women workers are the victims, though there is Equal Remuneration Act. This Act is not being implemented effectively and uniformly throughout the country. I demand that the Labour Minister should take personal interest in getting this law implemented by the States so that the women workers get equal wages like their male counterparts. The Hon. Labour Minister has mentioned in the other House that he will soon bring a comprehensive labour law covering different aspects of the problems of our workers. I want that this should be done expeditiously. Before I conclude, I would appeal to the Labour Minister that he should by law ensure that the workers who have put in three to five years of continuous service are treated as permanent workers and they should become entitled for all the benefits under the labour laws. I am sure that this will gradually eliminate the casual labour system in the country. Once again I extend my support to this Bill and conclude my speech.

[English]

SHRI RAJ MANGAL PANDE (Deoria) :
Madam Chairman, we have heard much about the bonus and productivity-linked bonus and also some speeches that there

should be no ceiling on the amount of salary on which the bonus accrue. We all proclaim that we are living in a prosperous India and all our plans were meant to give a happy life to the poorer, to make their living better than what we are getting at present, but our efforts have not succeeded and the result has been that the poor has become poorer and the rich has become richer. Now, so far as the case of giving bonus to the employees and the workers of this country is concerned, I believe we have a different philosophy. Our Senior leader, Shri Satyendra Narayan Sinha has demanded that there should be no ceiling so far as bonus to be given to these employees and workers is concerned because now in this Act any person who is getting a salary of Rs. 1600/- only is entitled or eligible to have a bonus or get a bonus, but those people whose salary is more than Rs. 1600/- are not entitled to it. My contention is that there should be some kind of limitation because unless we have that kind of limitation, if we go on granting that much of bonus to everybody, then there are people who are getting salaries of more than Rs. 4000 or Rs. 5000. So, if we at all give them also bonus, then what will be our formula about those people to whom bonus should not be given in the registered list? We have already proclaimed that even those workers whose salary is much less as a consequence of their lower jobs, should not be paid a bonus of more than Rs. 50/-. It indicated that we have a slab so that the poorer persons or those people who are at the lowest grade, they must have some kind of higher bonus so that they may have a living which must be worth living. Now, with this exemption on income, if we go on granting that much of liberty or freedom to any person who is getting Rs. 5,000 to be eligible to get bonus, then naturally it is a serious erosion of our economy so much so that those people who are getting bonus at a lesser rate will also have a disparity and discontentment. So, our Labour Minister who has brought this Bill to give bonus to a person whose salary is Rs. 1,600 or less than Rs. 1,600 has done a good thing and I support the Bill, The bonus should not be given to persons who are getting salary above Rs. 1,600.

Madam, there must be some tribunal or agency which must decide such kinds of agitational approaches even for the sake of

[Shri Raj Mangal Pandey]

wages, bonus or any other benefit on account of which man-days are lost in this country. Mr. Daga is very much right in his contention on the issue of bonus that many working days, hundred and thousands of working days have been lost. So, it indicates we do not have the uniform national policy or national philosophy regarding grant of bonus. I shall request the Hon. Labour Minister to have some such kind of tribunal which may not only look into the question of wages, work-hours etc., but may also decide all kinds of issues which virtually arise between the Government on the one side, the management and the workers on the other side. These tribunals should be given so much of power to deal with these cases. With the establishment of a tribunal, all these conflicts regarding the grant of bonus in different factories and undertakings will stop. There have been many cases where concerns like Eveready and other factories' workers have demanded 40 per cent bonus. There are concerns where the workers have demanded 33 per cent as bonus. In Government undertakings, even when we are in loss, we give 8.33 per cent as bonus. I mean to say that there must be some kind of agency, a national agency which might decide all these issues because they are the only factors which cause conflict in the workers-management relations and thereby our national economy suffers, mandays are lost and loss of billions and billions of rupees to the national exchequer. So, my humble submission is that there must be labour participation or workers' participation in the management so that the labour union is acquainted with or made aware of the loss or profit made by the company. Secondly, they must have the sense of participation so that the management must also be conscious that any irregularity or any improper balance sheet by which they show it to the Government and deny the workers the benefit, cannot be done and it should be stopped. Unless we do it and unless we have a national agency to decide all these issues, our imposing any kind of ceiling of Rs. 1600 or less than that or more than that will not work. So, my humble submission is that the ceiling of Rs. 1,600 or less than that, is a very reasonable ceiling by which the workers who have been placed at the lower level might not have any discontent against those who are getting higher salary, because once we start increas-

ing the ceiling, there is no check. Then, there will be further discontentment and the result will be unnecessary conflict between the management and the workers.

I shall now request one thing more. The very purpose of giving bonus is to give an incentive to the workman or to the employee so that he may have an inspired feeling; that he has to work for the nation; he has to work for the society. When we see the other people who do not have any such outlook or do not have any such outlook which affects the solidarity and unity of the nation, when they are getting more than what they should get and when these workers are getting much less than what they should get, then there is this kind of discontentment. So, to avoid this kind of situation there should be a comprehensive law and there should be a uniform policy, and at least three categories of enactment must be there—the factories whose earning is beyond a particular amount, the factories who are in between the amounts and the factories who are going in losses. We remember that in the Emergency period we were giving bonus at the rate of 4.33 per cent, even when there were losses. Even during the present period, even when those public undertakings are under losses, we have been giving 8.33 per cent. What is this all? Madam, when there are losses, even in public undertakings where the balance sheets are not fraudulently prepared, if we give bonus at the rate of 8.33 per cent or even more than that, how could our economy be improved? That is a very serious point to be considered. So, I shall very humbly submit to the House and to the Hon. Minister to have a look into all these matters and go in for such a comprehensive Bill so that the worker must be satisfied as only a contented labour could produce more than what the nation requires, and unless the labour is given its dues, and unless the labour is given its wages and the bonus which you think it is its due or which you think it is a deferred wage, the society and our national goal of socialism cannot be achieved.

With these words I support the Bill.

SHRI INDRAJIT GUPTA (Basirhat): Madam, I would be very brief. So, I am not going into all the different aspects of the present Payment of Bonus Act.

MR. CHAIRMAN : Time fixed is only two hours. We are nearing it now.

SHRI INDRAJIT GUPTA : How much time is left ?

MR. CHAIRMAN : Two minutes are left.

SHRI INDRAJIT GUPTA : I will take only five minutes.

This Amending Bill has got an extremely limited purpose. That is, it is replacing two ceilings by one ceiling. Up to now in the Act there were two ceilings. One was a ceiling on eligibility which was Rs. 1600 per month. Nobody drawing more than that could get bonus and there was another ceiling on the calculation of the bonus. That ceiling was Rs. 750, a notional ceiling, which has no justification in any logic or any accounts or anything, but it was there. The merit of this Bill is only this, Madam, that it replaces these two ceilings by one ceiling, that is, Rs. 1600 is now the ceiling both for eligibility and for actual calculation of the amount which he will get. Of course, it is inadequate and I am not going to take time now to suggest various other things which should be done to make this Payment of Bonus Act more comprehensive and more satisfactory. But as far as this ceiling of Rs. 1600 is concerned for the purpose of eligibility, I think almost all Members who spoke here wanted that this ceiling should be raised—some said it should be raised higher, some said it should be abolished altogether. I think that whatever is done should be defensible on some logical basis. There is no defence. How it is Rs. 1600/- ? What is the logic behind it ? What is the legal validity of this ceiling of Rs. 1600/- ? There is no validity at all. This bonus is payable to those people who are defined in this legislation as workmen. Workmen is a category in our country. In the Industrial Disputes Act it defines very clearly what is meant by a 'workman'. All I am asking for is that anybody irrespective of his salary who comes within the definition of 'workman' must be eligible to get bonus. It does not matter if he is earning Rs. 2000 or Rs. 2500 or Rs. 3000—he won't be earning more than that. Somebody was talking about people earning Rs. 5000 or Rs. 6000. Those are officers, I am not talking about officers, I am talking

about workmen under the Amendment of the Act. And why should you blame him if his salary has gone up now or is going to go up further ? You cannot blame the workman. You are now changing the whole structure of your industry, you are modernising the industry, you are bringing in new technologies, you are telling us every-day that your whole industrial policy and financial policy is geared towards modernising the industry, bringing computers and all kinds of sophisticated equipment. The people who work on those sophisticated machines and who will require training also—without training they cannot handle those machines—if they earn Rs. 3000/- or more why should they be penalised for that. It is a part of the whole process of modernisation. If you modernise the machine the worker will also be modernised. So, you must think ahead. We are going into a situation where you can have no longer workers who will be getting Rs. 700 or Rs. 800 per month. They will be earning much higher. The number may not be big just now but there will be such people. There is no reason why they should be debarred from getting bonus.

I would here like to remind the Minister the view that the Supreme Court has taken on this arbitrary discrimination between worker and worker. In the case of liberalised pension benefits for Central Government employees, Government took a decision and announced that people who retired before a certain date only they will be eligible to get liberalised pension and those who retired after a certain date will not get it. There was a big agitation and discontentment. Finally they went to the court over this and the Supreme Court held the view that just by fixing a date, an arbitrary date, viz., if you retire one or two days before you will get the higher pension and if you retire one or two days later then you will not get it, it amounts to arbitrary discrimination between employee and employee and is not sustainable and they have struck down the Government order and, as such, all government employees have become eligible for liberalised pension benefits.

I am just drawing a broad parallel. So, on the question of salary limit there should not be this arbitrary limit. This will not stand the test of any law. Therefore, I

[Shri Indrajit Gupta]

would request the Minister to be careful not to get into difficulty which may later on create lot of complications. It is better to take the straight forward view that who ever comes under the definition of 'workman' gets bonus irrespective of his salary. We are getting so many letters and representations everyday. I am sure the Minister is also getting representations from people saying that this Rs. 1600 limit deprives them of the bonus as they are getting a little more than Rs. 1600.

Sir, some people seem to imply that this bonus is an incentive for strike. I want to say it is not an incentive for strike. Rather it is a dis-incentive for strike. I will tell you how. Whatever the total wages I have actually earned in the whole year the bonus is a percentage of that. The lowest figure is 8.33 per cent and the highest ceiling is 20 per cent. If I am on strike I am not paid wages for that strike period. No work no pay. If I am on strike for three months my total wages earned during the year will get reduced proportionately. Therefore, when the percentage is calculated my bonus also goes down. So; how it is an incentive for strike! If I want to earn more bonus I should not go on strike. If I go on strike my bonus will also be less. *(Interruptions)*

We are not producing very much here. I think the workers are producing more than we are producing. We are producing nothing but words.

PROF. N. G. RANGA : We are not producing children . . . *(Interruptions)*

MR. CHAIRMAN : Why you say we are not producing ? We are producing.

SHRI INDRAJIT GUPTA : We are producing words, of course !

MR. CHAIRMAN : We are producing something .

SHRI INDRAJIT GUPTA . If I say this tomorrow outside Parliament I may be hauled up for sedition. There is a Bill coming. If I say outside that Parliament produces nothing but words, I may be put in jail for sedition, I am told. I don't know;

I have not seen this Bill. I would suggest that this is a wrong idea. Either do away with the whole concept of bonus if you can do it. There are advanced countries of the West, for example capitalist countries, where they don't have such a thing as bonus. But they have an indexed wage system. All they get is their wages but their wages is linked with the cost of living with the price movement and automatically their wages go up as prices go up. We cannot do that. So we have invented this bonus. We have invented one separate dearness allowance and one separate bonus as a category which are different from basic wage, basic salary. Now we are concerned only with this bonus so, for the limited purpose of this Bill I would request the Minister humbly, please don't keep this kind of arbitrary limit and ceiling. It makes distinction and discrimination between employee and employee, which I don't think any court in this country will uphold also. Because, you must have a basis for a discrimination like that. There is no such basis. It is better that bonus is made available to all workmen irrespective of what salary he is earning; if he is workman he should get bonus. For that matter take the case of agricultural labour, who has been referred to here. I don't know whether you can calculate what percentage of the total wages he earns throughout the year to be paid as bonus. It is very difficult in our country's conditions. First of all he does not work for the whole year. He works only for a few months during harvesting and sowing season and then his wages are not always paid in cash. Sometimes they are paid part in cash and part in kind. There is no record kept; he has no record also of the wage that he earns *(Interruptions)* He is supposed to be given a minimum wage. In some cases he manages to get it where he is organised; in many cases he does not get it. And at the end of the year he may have gone away also. He has no fixed employer also. He is working in somebody's else field today and somebody else's field tomorrow. So all these problems are there. We have to think about it, how we can help them, who are the weaker sections of all. So, far as the workmen goes, under the Act, there should be no limit, no ceiling, on his salary; he should be eligible for the bonus. That is all that I say. For the moment I have got my

reservations on other aspects, of the Bonus Act; but I do not wish to go into them now. Thank you.

[*Translation*]

SHRI ABDUL RASHID KABULI (Srinagar): Madam Chairman, I am not opposing this Bill, I am rather supporting the spirit of the Bill. It has been mentioned repeatedly in this House that in 1965, when this law was brought, the ceiling for the payment of bonus was fixed at Rs. 750, but now in 1985 when you are amending this law, you have accepted a ceiling up to Rs. 1600. I want to submit that the labour agitations are going on and they have put forth certain demands. Over 16 crore workers and employees are facing difficulties and problems for which no solution has been found out by Government. These people belong to a section which has a fixed income. In our society, these are people who have more than one means of income but our workers and employees have only limited income and they have to meet the expenses on the education of their children and other expenses within their fixed income.

16.00 hrs.

The way the prices are spiralling and the difficulties of the workers and employees are increasing, Government should try to resolve the matter in its entirety and should not come before the House with piecemeal legislation. It is an important matter and all efforts should be made to solve it. When you expect that the workers should increase production and when you want that the country should progress and become prosperous, it is necessary that you should think of the betterment of the workers and employees on whose shoulders this responsibility lies. Unless you provide them with better facilities and solve their problems and unless you give them need based wages, how can you expect the country's production to increase and about 16 lakh employees and workers to take the country ahead on the path of progress and development speedily? This cannot be expected from them. Therefore, you have to find out some solution to remove the dissatisfaction among the employees and to stop strikes, lockouts and the increasing number of disputes in the factories.

Another thing I want to submit is and here I agree with Shri Sinha—that in our country production and the wages of the workers are not related to each other. The profit of the factories and the wages of the workers are not inter-linked. Today, the problem is that of production. We should pay more and more profit and bonus to the workers in proportion to the increase in production. Special attention should be paid towards this aspect. Many of the public sector industries are incurring losses and even then they are paying bonus to their workers, but in the private sector, the owners think more about their own profit than about giving benefits to their workers. You should solve this problem in a different way because the industrialists and the capitalists are trying to pocket more and more profit for themselves even at the cost of the sufferings of the employees. Therefore, the workers of the private sector should get their rights. Presently, they are not getting their rights.

One important thing is, — and you are already committed to this and the matter has been raised in this House also,—that there should be employees' participation in management. Without this, there cannot be any solution because we do not know how much the income is and how much the profit earned is. The workers are being kept totally in the dark about these things. Unless their participation is there they will not come to know the extent of profit the industrialists are earning.

Thirdly, I would like to submit that there is a section of workers in our country for whom there are no labour laws. In our villages, there are lakhs of artisans who work with their hands and their products are sold in the country as well as sent, abroad to earn foreign exchange. This is a big source of earning foreign exchange. But generally it happens that the middlemen exploit them and we do not have any details about them. Through you, I would like to tell the Hon. Minister that there are lakhs of workers in our State of Jammu and Kashmir who are engaged in vocations like carpet weaving, *papier mache*, wood carving, etc. They are very skilled and honest workers. I am pained to say that their daily income is between Rs. 6 and Rs. 8 only, what to speak of the minimum wage. They

[Shri Abdul Rashid Kabuli]

work day and night, sometimes for 10 hours or so but they do not get full wage whereas the owners of carpet factories and others are earning crores of rupees from papier mache, wood carving and other handicrafts. There is great contribution of these artisans in earning foreign exchange, but they are not getting any benefit from it. The workers are not getting any benefit because the basic laws are not being implemented there.

I would like to request the Hon. Minister that the interests of these illiterate workers may be kept in mind while bringing forward a comprehensive Bill concerning labour, because these people are being exploited. The factory-owners and the middlemen are earning profit to the tune of crores of rupees, but the people who actually work are not getting any benefit.

I would like to inform the House that a carpet manufactured in Kashmir is second to none in the world. At present our competition is with Pakistan. Kashmir can produce carpets in such a large number that this industry can become a source of revenue to the country. I would like to inform you that thousands of innocent children are engaged in this industry. Labour laws are not applicable to them. The structure of their bodies gets distorted. Their hands and feet get twisted and generally they remain ill. Therefore, labour laws should be made applicable to these artisans also.

The people who know how to agitate for their rights, get these laws enforced, but the illiterate persons cannot do so. The factory-owners and the middlemen are very clever and dishonest and they avoid enforcement of these laws in their factories. I have personally seen that thousands of workers are working in their factories but the owners do not show any labour on their registers. They indulge in malpractices and dishonest methods.

I would therefore, like to point out that the present Bill is not going to serve the purpose, because many an issue is linked with the issue of bonus. There is the issue of the workers and their children. There is the issue of bonded labour. Which is the

place where bonded labour problem does not exist? We should put an end to it. One of the points included in the 20 point programme of the Congress (I) is the abolition of the bonded labour system.

I would therefore, like to request that a comprehensive Bill should be brought after looking into all these factors. Every possible effort should be made to solve all the labour problems.

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR (SHRI T. ANJIAH) : Madam Chairman, many Hon. Members have expressed their views on this Bill. You are aware that the workers have been agitating for bonus for years together. At last a permanent bonus system was introduced in 1965. Again in 1980, Indrajit got a law enacted for giving 8.33 per cent bonus to the workers. You are aware that while bonus is being given to some, it is not being given to the others. Mr. Kabuli, an M. P. from Kashmir has stated just now that it is not being given to some workers. It is a fact but there are many anomalies in the labour laws in this country, which are not there in other democratic countries whether they are capitalist countries or socialist countries, and we have to look into that. The capitalists in our country are still of the view that our country is an agricultural country and they pay wages accordingly. Today, the plight of the farmer, the agricultural labourer and the industrial worker is pitiable. An unskilled worker in foreign countries gets Rs. 2000 as salary which is equal to the salary of a skilled worker here. Mr. Daga has told just now that these very workers get Rs. 10000 in foreign countries. That is why they go abroad for work. These workers go to U. S. A. and to the Arab countries as they get more money there. Here a worker has to work for 8 hours as against 6 hours in other countries. Here Sunday is the only closed holiday whereas in other countries two holidays are granted. Besides, many other facilities are provided to them. The management is never willing to give facilities to the workers here. A voice is raised here to provide housing, medical and transport facilities to the workers, but the people in the management treat it as sheer waste of money. They try to set up another industry by saving money on these items. The capital-

ists have become money-minded. You may compare the present condition of the big industrialist with their earlier condition. Many people say that they are paying high salaries. I do not agree to it, I still maintain that a worker gets much less in India, whether he is an agricultural labourer or other worker. Unless the purchasing power of the people is increased, more industries cannot be set up. If people have more money, they will spend more. Then new industries will be set up. If a worker gets more, he is not going to set up a factory. With the excess money he may purchase T. V., scooter, clothes etc. or he may construct his house with the result that new industries will be set up and the unemployment problem will be solved thereby. Without purchasing power the unemployment problems cannot be solved. There is no unemployment problem in other countries. Go to East Germany, the Soviet Union and other Communist countries and see for yourselves the increased purchasing power of the people there. That is why there is no unemployment problem there.

Today, certain industrial workers are considered to be a privileged class, but I do not think so keeping in view the economic condition of India, they can be considered a privileged class to some extent but unless they spend money, nobody is going to be benefitted. If the farmers and the workers do not have the purchasing power, then how is industry going to be benefitted? If the industrial worker has got money, he can spend that and the process goes on. What is happening is that the purchasing power of the industrial worker has not increased whereas the industrialist have constructed big buildings. If you see you will find that the entire money is with them. I am not against the private sector, but the exploitation of the workers in the country should stop. Right from the late Jawahar Lal Nehru to Indira Gandhi and now our Prime Minister, Shri Rajiv Gandhi, all have taken steps in this direction. Mr. Indrajit Gupta was saying just now that the interests of all those who come under the definition of workman should be protected. What is the definition of a worker in India? They think that only fitter or turner comes under the category of workman, which is not correct. In the democratic countries, the doctors also come under this category. Here the outlook is different. When we have adopted the path of

socialism, many things can come under that. Many Members talked about several other issues besides bonus. It is impossible for our country to be at par with other countries. The history of industrialisation is 200 or 250 years old. It is only after Independence that more industries were set up here. Prior to that Birlaji or some others had their industries here. Now that our country is becoming industrially developed, the issue of wages and other issues will naturally come up. No body can check them, even if he so desires. we have taken the step keeping in view the heavy burden. The D. A. of the public sector employees has been increased by Rs. 600 crores. What does the private sector pay? You all know that. Even after earning huge profits the private sector shows losses. The balance-sheet is prepared in such a manner that no profit is shown at all, whereas the position is otherwise. This position may be different in the case of some of the industrialists. Multi-national companies at least show their profits. I am not praising them. The industrialists in our country employ only Badli labour, N. M. R. labour, casual labour or temporary labour, who remain casual labour for their entire life. No change takes place in their position. Under the leadership of our Prime Minister we propose to amend all the labour laws so that production may increase rapidly and there may not be any violence. We shall not encourage the leadership of violence in any way. Violence is not needed to get justice. Justice can be secured through the laws. Violence will ruin the industries and the nation. Hon. Shri Indrajit Gupta has also said that strike results in the loss of bonus. He has said a very wise thing. Even the private industrialist is not going to give anything under the pressure of strike. Some labour laws are proposed to be amended by bringing forward a comprehensive Bill. There are certain anomalies in the existing laws. The Bonus and minimum wages Acts also come under it. It is under our consideration as to what should be done for the workers throughout the country, from Kashmir to Kanya Kumari. The Government of Jammu and Kashmir have not yet implemented the labour laws. When I asked them why they had not implemented the labour laws they replied that they were going to do so.

SHRI RAJ MANGAL PANDEY : Will you consider giving 8.33 per cent bonus in

the public sector undertakings, irrespective of the fact that they are incurring losses ?

SHRI T. ANJIAH : Everybody knows the amount of bonus to be given if there is profit. The workers have been given the right to get one month's pay as bonus. The people in India only say that they are incurring losses.

SHRI RAJ MANGAL PANDEY : We are talking about the public sector undertakings.

SHRI T. ANJIAH : Only some public undertakings are incurring losses while others are showing good performance. Bonus will be given there also. The question of non-payment of bonus in any industry does not arise. Bonus shall be given in all the industries whether they are incurring losses or earning profit.

Madam, you know that a number of industries have been set up in Bangalore. Leave aside the aspect of loss being suffered by them. We know how an industry earns profit and how another incurs loss. The management of certain public sector undertakings is very efficient. Experienced and efficient people are there. In the management of certain other industries, there are some people who know nothing about them and still they are there. We know all these things. We are trying to affect changes in the industries, wherever needed. These industries incur loss due to this very reason. We are trying to improve their working.

Our Government will not tolerate that an undertaking should incur loss constantly. We shall try to see that efficient and experienced officers having good knowledge of a particular industry are projected in that industry. We are trying to see that they somehow earn profit. For instance, BHEL is earning good profit. It is not incurring loss now. Besides, many other undertakings like H. M. T. etc. are earning profit to the tune of lakhs of rupees. The main reason for the loss in these undertakings is that the management does not have experience and complete information about them. I am of the view that with the appointment of efficient officers, there will be no loss in the undertakings.

Now, so far as the question of the ceiling limit of pay for giving bonus to the workers is concerned, as you know, the system of giving bonus is a traditional one and it started from Bombay. Initially, bonus used to be given on the occasion of Dussehra, Diwali etc. but this system has now undergone changes and it is now no more a customary or traditional bonus but has become a permanent feature. Therefore, the system of granting bonus has not started today, it has been in vogue since long. We only want to give it a legal shape now and it is in this context that this Bill is before you.

I can assure you that this proposal to enhance the ceiling for bonus has been made by Government after a thorough consideration. With these words, I appeal to all the Hon. Members to support this Bill.

[English]

PROF. N. G. RANGA : Shri Indrajit Gupta and Shri Mool Chand Daga talked about the ceiling. Are we to continue this ceiling.

SHRI T. ANJIAH : There is a difference between a skilled worker and a semi-skilled worker. Those who are drawing more than Rs. 750 should get bonus of Rs. 1600.

MR. CHAIRMAN The question is :

“That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration.”

The motion was adopted.

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

Clause 2

MR. CHAIRMAN : There are no amendments to clause 2. The question is :

“The clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN : The question is :

"That Clause 1, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

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

SHRI T. ANJIAH : I beg to move :

"That the Bill be passed."

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

16.23 hrs.

**COMPANIES (AMENDMENT)
BILL, 1985***

[English]

THE MINISTER OF CHEMICALS AND FERTILIZERS AND INDUSTRY AND COMPANY AFFAIRS (SHRI VEERENDRA PATIL) : I beg to move :

"That the Bill further to amend the Companies Act, 1956, as passed by Rajya Sabha, be taken into consideration."

The Hon'ble Members will recall that the Government had made certain important policy announcements while introducing the Finance Bill on 16th March, 1985. One such announcement was that the companies should be permitted to make political contribution in order to enable the corporate sector to play a legitimate role within the defined norms in the functioning of our democracy and for this purpose necessary legislation would be undertaken. In recent years, a view has gained ground that a certain amount of openness rather than a blanket ban on political donation will really augur well for a cleaner political and economic environment. Representatives of trade and industry have been equally urging upon the Government to reconsider replacement of the existing provision of section 293A by the law which

obtained prior to 1969 and which was introduced by 1960 to permit companies to make political contributions subject only to certain ceilings. Companies often argue and rightly that they are entitled to support a political party which believes in certain amount of freedom of private business. Secondly, many companies feel that they can resist any pressure from any political party for "out of the books" donations if they are allowed to contribute, by an enabling provision of the statute, a certain sum which is within their capacity to spend. Thirdly, it is also argued, with some force, that a company itself functions on the principle of shareholders' democracy, and, therefore, a ban on political donation in a democratic society is an anachronism. Fourthly, political donation by companies is permitted, within limits, in other democratic countries of the world which have not suffered on account of permitted political donation.

Taking all these considerations in mind, it seems that the balance of advantage would lie in restricting rather than imposing a total ban on political contributions. However, to make these restrictions really meaningful, a few important features have been incorporated in the Bill. Since companies not having profits should not be encouraged to make political contributions, monetary ceiling as an alternative to a certain percentage of profits for arriving at the permissible amount of political donation has been done away with. The present Bill also provides for absolute prohibition against political donation as far as Government companies are concerned. Additionally, it is proposed in the Bill that companies which have been in existence for less than three financial years should not be permitted to make political contribution. So that there may not be any controversy in the future as to what constitutes political donation, the Bill makes it clear that any donation or subscription or payment in whatever form to a political party would amount to political donation. Even an expenditure incurred directly or indirectly or any advertisement in souvenirs, brochure, pamphlet or the like would be brought within the definition of political contribution. Of course, provision is also made in the Bill for the

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