

he price increase but on the other hand their income is eroded by deducting income tax on an income which is on paper only.

Trends of continuously increasing inflation and eroding value of Rupee result in reduced money value of the above deposits whenever the employee gets back the amount after his retirement.

In view of this situation, I urge upon the Central Government to exempt these Dearness Allowance increase deposited in Provident Fund Account from the purview of Income Tax. Else, the Dearness Allowance increase be paid in cash to the employees ends.

MR. SPEAKER: The House stands adjourned to reassemble at 14.15 hours.

13.18 hrs

*The Lok Sabha then adjourned for Lunch till fifteen minutes past Fourteen of the Clock.*

*The Lok Sabhs re— assembled after Lunch at fifteen minutes past Fourteen of the Clock.*

(MR. SPEAKER *in the Chair*)

THE MOTIONS OBSERVATION BY SPEAKER PROCEDURE FOR CONSIDERING FOR PRESENTING AN ADDRESS TO THE PRESIDENT UNDER CLAUSE (4) OF ARTICLE 124 OF THE CONSTITUTION,  
AND

(ii) FOR CONSIDERING THE REPORT OF THE INQUIRY COMMITTEE CONSTITUTED TO INVESTIGATE INTO THE GROUNDS ON WHICH REMOVAL OF SHRI V. RAMASWAMI, JUDGE, SUPREME COURT OF INDIA, WAS PRAYED FOR

SHRI C.K. KUPPUSWAMY (Coimbatore):  
Mr. Speaker, Sir, *vanakkam*.

I want to know whether this plan is the residence of the Chief Justice. I know this is a very serious matter. He has built this house. It is mentioned here— Residence of Chief Justice,

Ground Floor Plan. He lives in Madras. In this Plan, the place is not mentioned.

14.17 hrs.

*At this stage, Shri C. K. kuppyswamy came and stood near the Table.*

(*Interruptions*)

MR. SPEAKER: I will explain to you.

14.18 hrs.

*At this stage, Shri C. K Kuppyswamy went back to his seat.*

SHRI BUTA SINGH (Jalore): How has this document come to the House?

MR. SPEAKER: I said, I would explain.

What we are going to take up in the House now is a matter which involves a Judge of the Supreme Court and is of a very great importance. Therefore, the discussion may be carried on with all sincerity, solemnity and understanding at our command.

There are no rules provided in the Books of Rules of the Lok Sabha specifically to regulate these proceedings.

The procedure to be followed has to be decided by us. This matter was discussed more than once in the Business Advisory Committee and in the meeting with the Leaders of all parties and Groups in Lok Sabha during the last week.

The matter may be dealt with in a very careful and sound manner to be very precise, correct and just and not to repeat the points, not to bring in extraneous points and not complicate the issue and to arrival at correct conclusions very neatly. Only a few Members may speak. The Report given by the Judges Committee and the defense of the Judge have been made available to the Members well in time. The debate on the Motions may be concluded today itself, if need be, it may continue even beyond 6.00 p.m. About this, I leave the judgment to the House.

The Mover of the Motion may move the Motions and then speak. The Judge or the Lawyer of the Judge may be allowed to make submission to the House in these matter and then withdraw. The Mover of the Motion may reply to the debate, then the Motion and the Address to be presented to the President of India may be put to vote. The Motion and the Address to be passed need the support of majority of the total membership of the House and also the majority of not less than two—third Members of the House present and voting.

We hope the House agrees to this procedure and the arrangements. We request all the hon. Members to cooperate.

About the document, I have received a letter from the judge that this document may be given to the Members. He has given his submission in writing and the map which was given in submission was not probably clear. So, he wanted this document should be given to the Members also, that is why the document is given to every Member, with the submission of the Judge made to is part and parcel of us in writing on which there will be submissions by the lawyer also.

14.2 hrs.

May I now ask Marshal to bring the lawyer of the judge to the Bar please.

(SHRI KAPIL SIBAL WAS THEN BROUGHT IN AND HE STOOD AT THE BAR OF THE HOUSE)

SHRI ANBARASU ERA (Madras Central) Members may be permitted to seek classifications from the counsel of the judge.

MR SPEAKER You know this matter was discussed and it was the opinion of all the Leaders and the Members of the Business Advisory Committee that we are allowing the lawyer to appear before the House and to make his submission, to give him an opportunity. But he does not happen to be a Member of this

House

If we are asking the questions, the questions can be asked on facts. Even questions can be asked on law also sometimes, but not always. So, the lawyer is expected to argue the case on the basis of the papers which are with him. So, there would not be any point in allowing the question to be put, we are allowing the lawyer to make his submission and allow Mr. Samantha Chatterjee to make his submission, and then leaving the matter to the House.

May I now ask Mr. Somanath Chatterjee to move the Motion and to make his submission.

SHRI R. PRABHU (Nilgiris) Sir, I am on a point of order. My point of order is in two parts: (1) the Motion for the removal of the learned judge does not comply with Article 124 of the Constitution read with Section 3 of Judge Inquiry Act.

MR SPEAKER Let me be very careful on this. Which part of Article 124 are you referring to?

SHRI R. PRABHU I am quoting only from this book which has been given to us.

MR SPEAKER Which part of Article 124 are you referring to?

SHRI PRABHU Article 124 (4) and 124 (5) Under rules, The Judges (Inquiry) Act, 1968 has been drawn up. If I can explain here just a little bit, the Speaker on 27.2.1991 and after that the Speaker admitted this motion on 12.3.1991. As we all know, the Ninth Lok Sabha was dissolved on 12.3.1991 but the Supreme Court had held that this motion can be kept pending. And subsequently the Speaker appointed a Committee on 15.3.1991. Now I am talking to you to this Judges Inquiry Act, 1968 Section 3 reads as follows:

"If notice is given of a motion for presenting

an address to the President praying for the removal of a Judge signed, —

MR SPEAKER · On which page?

SHRI R PRABHU It is on page 7 Today, the motion is and we have to read section 6 which reads as follows

“Consideration of report and procedure for presentation of an address for removal of Judge ”

Just now you were kind enough to say that we have not prescribed procedure and that we have to find out the procedure for ourselves

So I am trying to understand what procedure we are trying to adopt here On page 10, if you kindly see page 10 of this, same Section 6 (2), now we are on this stage of the proceedings

‘ If the report of the Committee contains a finding that the Judge is guilty of any misbehaviors or suffers from any incapacity, then the motion referred to in sub—section (1) of section 3 shall, together with the report of the Committee be taken up for consideration by the House or the House of Parliament in which it is pending ”

Here I have two points to make One, that the Ninth Lok Sabha has been dissolved Now this motion has been kept pending, it is not up to me to question the judgment of the Supreme Court But then everything else has lapsed, how can this motion be kept pending

I have been a Member of 7th, 8th 9th and 10th Lok Sabha When the Lok Sabha was dissolved, I got a notice to vacate my house, my telephone connection in Madras was cut and the whole thing lapsed, but this motion is kept pending the point I am trying to make here is that Prof Madhu Dandavate is not a Member of this House 108 Members has signed the petition and gave it to the Ninth Lok Sabha 58 Members of those are not the Members of the Tenth Lok

Sabha If we treat the people of Ninth Lok Sabha on equivalent basis, then my rights and privileges as a Member of this Lok Sabha are affected

So my contention is, this notice is not valid under Section 124 (4), read with Section 3 With all respects to Shri Somanth Chatterjee, he has no right to move this motion

My second part of this point of order is, the Supreme Court has been kind enough to say and observed in one of the judgments recently that Parliament is sitting as a judicial body for this impeachment motion So, each one of us sitting here is a judge to judge the actions of a Judge Now about what has been appearing in the newspapers in the last few days, especially this morning, I have given a privilege notice Notice of privilege against the Indian Express and Shri Ram Jethmalani They are trying to influence our decision today They are the keepers of our conscience If you want me to extract those portions, I can read them out But I have given this motion

MR SPEAKER You may not refer to that motion because I have not given the consent to raise it We do not raise it

SHRI R PRABHU So I will not refer to it I am mentioning that they have been trying to influence our judgment today and by this, it is a matter of privilege My privilege is affected, privilege of all other Members of this House is affected

[Translation]

SHRI GEORGE FERNANDES (Muzaffarpur) Mr Speaker, Sir, I would like to draw your attention to Article 105 (3) of the Constitution

[English]

MR SPEAKER In fact I can decide it

[Translation]

SHRI GEORGE FERNANDES There is no question of deciding it, it should be made clear because it is being discussed outside also. Even if our colleagues have any doubt in this regard, particularly when one Member of this House is saying himself that he has been a Member of this House for four terms, they should know that the Article 105 (3) reads

[English]

This is about the powers and privileges of this House. The Chapter heading is 'Powers, Privileges and Immunities of Parliament and its Members'

"In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament By law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty—fourth Amendment) Act, 1978 "

[Translation]

Before this Amendment Act this Article read

[English]

"In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of this Constitution "

[Translation]

When 44th Amendment was made in the

Constitution in 1978, this word was substituted and while substituting this word, the Parliament decided that the Article, which was in force before the 44th Amendment was made in 1978, will continue, the House defines by law the privileges and responsibilities of the House

[English]

I am quoting from Erskine May's *Parliamentary Practice*, (21st edition) page 66

"Effect of prorogation The effect of a prorogation is at once to terminate all the current business of Parliament. Not only the sittings of Parliament that are held but all proceedings pending at the time are quashed, except impeachment by the Commons and Appeals before the House of Lords "

[Translation]

I would like to draw your attention to page No 222 (*Interruptions*)

[English]

SHRI R PRABHU It is not a question of prorogation, it is a question of dissolution. He is misleading the House

(*Interruptions*)

MR SPEAKER May I request hon Members not to interrupt from their seats?

(*Interruptions*)

[Translation]

SHRI GEORGE FERNANDES The matter is quite clear. Our powers are the same today which were there before the amendment made in the Constitution in 1978. Those powers are quite clear

[English]

"House of Commons of the United King-

dom and of its Members and Committees and at the commencement of the Constitution "

[Translation]

Our powers are the same which we were enjoying earlier and the House of commons is also very clear about it that the dissolution of the House does not obstruct the powers of impeachment in any way

[English]

SHRIR PRABHU I would like to make one point clear. He has said about the prorogation of Parliament. But here, the Ninth Lok Sabha has been constituted. The Members of the Ninth Lok Sabha are not here. Probably the Supreme Court Judges in their wisdom at that time—when they decided this case—thought that those members would get elected again but unfortunately they did not get elected. (Interruptions) Also not only that now a rule is a rule for everybody

MR SPEAKER I will give the ruling just now

SHRIR PRABHU This Resolution is two years old. They could have moved another resolution and got another Committee appointed. What prevented them to do so? Why do they try to hide under this sort of thing?

\*SHRIR K KUPPUSWAMY (Coimbatore)

Sir, under Article 124 of the Constitution president of India appoints a Judge. It is not Parliament, but the President who is empowered to appoint a Justice. It is not Lok Sabha. It is not Parliament. (Interruptions)

Sir, it is only the President of India under Article 124 who nominates a Judge to any Higher Court in this country. Parliament has nothing to do in this. If you have brought the issue in this

House of the Parliament, then you may have to bring the occupant of the Highest office of this country to the Parliament. I feel that Parliament might be led to show disrespect to the President of India. I would like to add that an instance of this kind has never happened in this Indian sub-continent ever before. I would like to raise a question at this juncture. I would like to ask the Members of Parliament as to how many of them claim Traveling Allowance (T A) in a right way. I find quite a number of them making false claims. How can we accept that? I am just giving an instance. Do we find true claims of T A by Members in all the cases? Even without going to their places they claim Traveling Allowances sitting right here. But, without going in for self-propriety, they drag a person who was in the same place for about twenty years and has only furnished his official residence. Blowing this beyond proportion would only set a bad precedence in this country. That is why I feel it is my bounded duty to bring it to the notice of this august House.

MR SPEAKER My ruling on this point is that notice which was given in the Ninth Lok Sabha, the rules framed under the Judges (Inquiry) Act and the Constitution apply more than the rules which we are following in the House.

And that is why, it is decided in the judgment given by the Supreme Court that under the rules given under the Judges (Inquiry) Act, the notice will survive. The notice survived, the Committee was constituted, the Committee did go into the charges leveled against the judge. The Committee has given the report and the report has been presented to the House. We are in the process. Because of this situation the notice survives and we are entitled to go ahead with it.

SHRIR PRABHU Sir, what you have said is entirely right. But you have to read this together with what I have pointed out. We are making a procedure according to the Judge

\*Translation of the speech originally delivered in Tamil

[Sh R Prabhu]

(Inquiry) Act and Section 6 of that Act says

'Consideration of report and procedure for presentation of Address for removal of a judge'

Now kindly take page 10 Sir I am not questioning your ruling I am just pointing it out to you

MR SPEAKER I allowed you and I respect the manner in which you are presenting the case

SHRI R PRABHU Kindly turn to page 10 sub—section (2) These words are very important It says

The motion referred to in sub—section (1) of Section 3 shall together with the report of the Committee be taken up for consideration by the Houses of Parliament in which it is pending "

This is the first time that this motion is coming to this House So it has to comply with section 3 of the Judges (Injury) /act So one hundred Members of Parliament of this House will have to serve this motion Otherwise it is not valid it is Infructuous

MR SPEAKER I have given my ruling already As this notice was given to the hon former Speaker it was referred to the Committee the Committee has gone into it, the Committee has given the report and the report is here Now we are allowing this motion to be moved in the House because until it is moved in the House, it is not before the House To give the notice to the Speaker more than one hundred Members are required To bring it here I do not find anything of that kind is required

Now Shri Somnath Chatterjee will move his Motion

14.38 hrs.

MOTION FOR PRESENTING AN ADDRESS TO THE PRESIDENT UNDER CLAUSE (4) OF ARTICLE 124 OF THE CONSTITUTION FOR REMOVAL FROM OFFICE OF JUSTICE V RAMASWAMI OF THE SUPREME COURT OF INDIA FOR HIS ACTS OF MISBEHAVIOR

AND

MOTION FOR CONSIDERING THE REPORT OF THE INQUIRY COMMITTEE TO INVESTIGATE INTO THE GROUNDS ON WHICH REMOVAL OF SHRI V RAMASWAMI JUDGE SUPREME COURT OF INDIA WAS PRAYED FOR

SHRI SOMANATH CHATTERJEE (Bolpur) Mr Speaker Sir with deep anguish in response to the call of duty to the nation I rise to move the following —

"This House resolves that an address be presented to the President for the removal from office of Justice V Ramaswami of the Supreme Court of India for his following acts of misbehavior —

- (1) That during his tenure as Chief Justice, Punjab and Haryana between November 1987 and October 1989, Justice V Ramaswami personally got purchased carpets and furniture for his residence and for the High Court costing about Rs 50 lakhs from public funds from hand-picked dealers at highly inflated prices This was done without inviting public tenders and by privately obtaining a few quotations, most of which were forged or bogus
- (2) That he also got payments made to hand—picked dealers for furniture and carpets ostensibly purchased for his residence which were never delivered