

[Shri K.T. Kosalram]

The wood pulp which is being imported by small paper mills should be exempted from customs duties, as has been done in the case of wood chips which are being imported by the large paper mills. This also will lead to increased production of paper.

(vii) **Need for Central assistance to Himachal Pradesh Government for giving compensation to those whose land/houses were acquired for constructing roads**

श्री कृष्ण दत्त सुल्तानपुरी (शिमला) : उपाध्यक्ष महोदय, हिमाचल के अन्दर राज्य सरकार द्वारा निर्मित की हुई बहुत सी सड़कें ऐसी हैं जिन को बने हुए कई वर्ष हो गए हैं। अभी तक काफी सड़कें ऐसी भूमि से निकाल ली गई जिसकी अधिसूचना सरकारी राजपत्र से नहीं की गई और सड़कें हिमाचल के निधन लोगों के बगीचों, मकानों, खेतों को बरबाद करके बनाई गई जिसका करोड़ों रुपया इन किसानों का मुआवजा बनता है। परन्तु राज्य सरकार इसे देने के लिए समर्थ नहीं है। मैं भारत सरकार से मांग करता हूँ कि राज्य सरकार से भारत सरकार इस बारे में ब्यौरा लेकर मुआवजों के रकम अदा करने हेतु राज्य सरकार को अनुदान दे कर मदद करें ताकि लोगों को न्याय मिल सके।

(viii) **Need to provide drinking water to the people of Mirzapur, Varanasi and small vellages of hilly regions.**

श्री उमाकान्त मिश्र (मिर्जापुर) : पेय-जल जीवन को बुनियादी आवश्यकता है। इसलिए माननीय प्रधान मंत्री जी ने अपने बीस सूत्री कार्यक्रमों में इसे स्थान दिया है। उत्तर प्रदेश में 1971-72 में पेयजल की समस्या वाले गांव की एक सूची बनी थी।

उक्त गांवों में पेयजल की आपूर्ति के लिए कार्यक्रम चलाए जा रहे हैं। किन्तु बहुत से ऐसे गांव और कस्बे हैं जो अभावग्रस्त गांव की सूची में नहीं आ पाए हैं। कुछ गांव तथा कस्बों में नए कार्यों से बाद में समस्या उत्पन्न हो गई है। अतः जो गांव तथा कस्बे पेयजल की समस्या से ग्रस्त हैं उन्हें तत्काल सूची में शामिल करने का निर्देश दिया जाए तथा उन गांवों और कस्बों में पेयजल की आपूर्ति के लिए योजना कार्यान्वित की जाए। जिला मिर्जापुर, वाराणसी के ज्ञानपुर पथा नौगढ़ क्षेत्र एवं बुन्देलखंड में गमियों में अधिकतर क्षेत्रों में पेयजल की समस्या उत्पन्न हो जाती है। इस वर्ष भी ऐसा हो रहा है।

मेरा सरकार से निवेदन है कि पहाड़ी क्षेत्रों के छोटे-छोटे गांवों में एक या आवश्यकतानुसार अधिक हैंडपम्प और कुओं की व्यवस्था हो। किन्तु धनी आबादी वाले क्षेत्रों में पाइपलाइन द्वारा पेयजल की व्यवस्था की जावे।

12.29 hrs.

PAYMENT OF GRATUITY
(AMENDMENT) BILL, 1982—Contd.

MR. DEPUTY-SPEAKER : Now we take up Legislative Business. The House will now take up further consideration of the following Motion moved by Shri Dharmavir on the 24th February, 1984, namely :—

“That the Bill to amend the Payment of Gratuity Act, 1972, be taken into consideration.”

THE MINISTER OF LABOUR AND
REHABILITATION (SHRI VEERENDRA

PATIL : Sir, I would like to make a submission for your kind consideration.

This item No. 8 is with regard to the Amendment of Payment of Gratuity Act. Item No. 9 is also with regard to the same to be further amended. Therefore my submission is, I may be allowed to move this item No. 9 to further amend the Payment of Gratuity Act, 1972. Both the Bills, that is, items 8 and 9, can be taken up for consideration together because it will avoid repetition and we can save a lot of time. I request you kindly to agree to take up both the Bills for consideration.

The next Bill is also the same. I will formally move this Bill for consideration and then the discussion can go on.

MR. DEPUTY-SPEAKER : We can do one thing. You may move it separately for consideration, but the discussion can be together for both the Bills.

SHRI SOMNATH CHATTERJEE (Jadavpur) : The first Bill has been partly discussed, and we have to interrupt the discussion before we can take up the other Bill.

MR. DEPUTY-SPEAKER : We will complete the discussion on this Bill and pass it ; immediately we will take up the other Bill. There may not be a further discussion ; the discussion on this Bill can also be linked to the other Bill.

SHRI SOMNATH CHATTERJEE : You may request the Members to cover both the Bills in their speeches.

SHRI VEERENDRA PATIL : Unless the second Bill is before the House, how are they going to speak on that ?

MR. DEPUTY-SPEAKER : Discussion can take place, but you can formally move it afterwards.

SHRI VEERENDRA PATIL : If this is the understanding, I have no objection.

MR. DEPUTY-SPEAKER : This is only to set right this technical thing.

As I said, the House will now take up further consideration of the Payment of Gratuity (Amendment) Bill, 1982.

Now, the discussion on this Bill is continuing. The next Bill on the agenda also pertains to amendment of the same Act. Three hours have been allotted for the first Bill, and two hours for the second Bill. Hon. Members can take five hours for both the Bills. The earlier Bill will be passed first, and then the Minister will move formally the second Bill and we will pass the same also.

Shri Lawrence has to continue his speech..... He is not present. His speech will, therefore, be deemed to be over.

Shri K. Ramamurthy.

SHRI K. RAMAMURTHY (Krishnagiri) : Mr. Deputy-Speaker, Sir, there are two Bills before the House for consideration; one, the Payment of Gratuity (Amendment) Bill, 1982, and two, the Payment of Gratuity (Amendment) Bill, 1984. The first Bill seeks the sanction of this House for raising the salary limit of Rs. 1000/- to Rs. 1600/-. I think, there is not much controversy in the first Bill.

The second Bill is sought to be introduced in the House by the hon. Minister and the understanding is that we can take that up also for discussion. This Bill has arisen out of the Supreme Court judgement in the case of Lalappa Lingappa Vs Lakshmi Vishnu Textile Mills in February, 1982 over the question of his continued service.

MR. DEPUTY-SPEAKER : Just a minute. On the request of Shri Buto Singh some time ago, we would have had lunch hour today, but you can go and take your lunch. I hope the House agrees.

SEVERAL HON. MEMBERS : Yes.

SHRI K. RAMAMURTHY : The Supreme Court has held that for every year of the entitlement of the gratuity of the workman, he has to work physically for 240 days, uninterrupted service. In view of this judgement of the Supreme Court, a lot of industrial houses in this country have denied the legitimate gratuity of the workmen. This matter was also receiving the attention of the Government; all the trade unions were also raising this issue, and representations were made to the Labour Ministry and even the Prime Minister for proper amendment to the Payment of Gratuity Act, 1972. In the second Bill, I find, there are only two improvements that the Labour Ministry has made. One is that under Section 2(c), regarding continuous service, they have now added one more sentence about absence from duty without leave. They have also qualified it by saying that if the workman is to be punished under the standing orders for his absence from duty that will also be taken into account for the purpose of interrupted service. This is one improvement.

Another improvement is that in an establishment which works for less than six days in a week, the qualifying or uninterrupted service, i.e. the continuous work which the workman is expected physically to do, will be 180 days.

These are the only two improvements the Labour Ministry has brought in the second Bill. This has raised a lot of suspicion and doubt among the working classes. We in the Parliament are representing workmen as well as our party. We have already got this Bill, and we had circulated it among our members and have elicited their opinion. They have expressed genuine doubts on two grounds. The first is that the requirement of 240 days' work every year for entitlement to gratuity, has not been clearly defined. Suppose a workman is not able to attend to work physically for 240 days, but he has worked only for 220 days in a year, Will he be entitled to gratuity or not? Suppose he has taken sick leave or any

other kind of leave, or the establishment was under lock-out or he was put under lay-off; will all these things be reckoned computing 240 days? This explanation they have not provided.

In the same Gratuity Act, they have provided so many explanations to so many points. For the purpose of entitlement of 15 days wages and gratuity, they have given the explanation : suppose there is a workman whose salary has exceeded Rs. 1000/-, there they have inserted the explanation. Why should not Government come forward and insert the same explanation in this case ?

Another kind of suspicion is that as per the Gratuity Act of 1972, gratuity can be denied by the establishment or management. Suppose a workman has done anything wrong, or he is punished for moral turpitude, or a workman has worked in the establishment for 30 years, and he was to retire in the 31st year—if an establishment wilfully wants to serve notice on him, or if he is found fault with, or if some punishment is awarded to him in the 31st year on the ground of moral turpitude—will he then lose the entire gratuity? This aspect has also not been provided for.

In view of this, these two genuine suspicions should be removed by the Labour Ministry. If this explanation is not given, this Bill will be of no use. It will not do justice to workmen, because of the circumstances arising out of the judgement given by Supreme Court in Lallappa's case in 1982.

So, I would like to receive these two explanations from the hon. Minister. If it is warranted, I think it is warranted, he must bring in an explanation in this amending Bill itself.

With these comments, I support the Bill. But I want to insist that this explanation should be inserted. Otherwise, this Bill will not serve any purpose.

DR A. KALANIDHI (Madras Central) : I would like to participate in

the discussions on the Gratuity (Amendment) Bill. I am thankful to you, Sir, for giving me this chance to speak.

It has been mentioned that the Supreme Court has given a judgement in August 1981 that one is eligible for gratuity only if he has worked for 240 days. Even if he has worked for 30 years or 25 years, if he has not worked for 240 days, he is not eligible for gratuity, even though you have announced that an employee is eligible for 196 days leave including medical leave, sick leave, casual leave, festival leave, etc. If you deduct 196 days, the remaining balance will be there. So, it is only an anomaly to say that one has to work for 240 days to get gratuity. So, I feel that the Supreme Court judgement is in favour of the employer rather than the employees. It should be amended in such a way that even if a person works for less than the prescribed period, he should be eligible for such a gratuity.

Some time back, in 1981 Mr. Era Mohan, a Member of Parliament, had brought this to the notice of the Government. The Minister gave a reply that it should be considered as early as possible and a suitable amendment will be brought forward. After three years you have brought forward an amendment. If for such a small thing you have taken 3 years, I think for a bigger problem, for a bigger project you will take 10 years or 15 years to solve it. So, the Minister should concentrate on this and bring forward a comprehensive formula to benefit the workers rather than the employers.

You know that the judgment of the Supreme Court has given a slightly different version. They are not going to give it in favour of the employees as such. So, I do not know why you have delayed it so much even after the judgment which was given in 1981. I only feel that it is delay tactics which are being followed by the ruling party; you are not really interested in the welfare of the workers. You are adopting an anti-labour policy; the government is only following anti-

labour line. You want to give more benefit to the employers rather than the employees.

It has been widely published in *The Times of India*, dated the 14th July, 1981; and the Minister has assured that a suitable amendment will be brought forward to suit both the employers and the employees. But I don't think that the present amendment is going to benefit in any way the employees.

With regard to the judgement, it should be retrospective operation of the award of the tribunal from the date of presentation of the charter of demands which led to the reference to the industrial tribunal or at least from the date of reference.

You have appointed a high level committee. I do not know what is the necessity for doing it? It is only delay tactics. You want to drag on the issue. You know very well the gravity of the situation and the problems of the employees. You have appointed this committee a long time back. But you have brought forward an amendment now. I accuse this government of following delay tactics and doing it purposely. The main purpose for which I am asking for retrospective effect is that in the last 3-4 years many of the retired employees are affected.

Some time back, we had a meeting where we have submitted certain demands. I would like to read out those demands so that our hon. Minister may go through them, because D.M.K. Labour Progressive Federation of which I am one of the Vice-Presidents, has given certain suggestions to the Government of India. They are as follows :

1. "All kinds of ceilings for eligibility for gratuity should be removed.
2. The provision to pay only seven days' pay as gratuity to workers in certain industries such as sugar which is treated as a seasonal one,

[Dr. A. Kalanidhi]

should be scrapped and full gratuity paid to all without discrimination.

3. Gratuity should be paid even if one person is employed in a concern.
4. Another point which I want to mention is about the provision that a worker loses his gratuity on dismissal on account of disciplinary action. This should be removed as this amounts to dual punishment and denial of natural justice.
5. Yet another suggestion which I want to put forth to the Minister is that one month's wages should be paid as gratuity for each year of service. Any amount that is paid on a regular basis in any form and as any kind of wage should form the basis for calculation of gratuity.
6. I finally want to tell the hon. Minister that 26 days' wages should form the basis for one month's service, to fall in line with the judgement of the High Court.

I request the hon. Minister to have a comprehensive formula to cover all the points put forth by me so that the benefit, and the welfare of the workers are protected and the Government is not criticised as an anti-labour Government; it should not adopt a procedure which can be called an anti-labour procedure or anti-labour policy. If you are really interested in the welfare of the workers your preaching about the 20-Point Programme and loans for weaker sections are going to be helpful and to be meaningful, you should try to amend the Act in such a way that you will have a comprehensive formula to cover all the points which have been put forth by me.

MR. DEPUTY-SPEAKER : Shri Mool Chand Daga.

श्री मूल चन्द डागा (पाली) : उपाध्यक्ष महोदय, मजदूरों के हित की बातें हमारी सरकार बहुत गंभीरता से सोचती है। इसी मिलसिले में वह ग्रेच्युटी बिल पेश किया गया और यह घोषणा की गई कि एक हजार से 1600 तक तनख्वाह लेने वालों को भी ग्रेच्युटी मिलेगी। दूसरी बात आपने 240 दिन की कह दी। उसने 240 दिन तक फिजीकली वर्क किया हो। मान लीजिए कोई बीमार हो जाता है या मारल टरपी-ट्यूड उसका कमजोर हो जाता है तो उसका क्या होगा। आप चाहते हैं कि उसने जो कुछ काम किया है उसके बेनिफिट से वह वंचित न हो जाए। आपने इसमें लिखा है—

'Two hundred and forty day's in any other case'. So, this Clause requires an explanation.

240 दिन का मतलब आप क्या लेना चाहते हैं।

Because there are certain regions, where he falls physically unfit. Suppose he falls ill,

तो उसके लिए आपका एक्सप्लेनेशन नहीं होगा कि आपने इंस्पेक्टर को ये पावर्स नहीं दी हैं। आपने इंस्पेक्टर को जो पावर्स दी हैं कि उनको ग्रेच्युटी दिलवा दी जाए। मगर इस बात का वह फंसला नहीं कर सकता। इस तरह से एक मजदूर के लिए यह मुसीबत हो जाएगी। इसके लिए उसको कोर्ट में जाना पड़ेगा। सुप्रीम कोर्ट ने जो जजमेंट दिया है उस जजमेंट के बाद जो भी उसके प्रंदर बताया है—

"The Supreme Court in its judgement in the case of Lalappa Lingappa Vs. Lakshmi Vishnu Textile Mills, held that in terms of the existing definition of continuous service'

in Section 2(c) of the Act, the permanent employees were not entitled to payment of gratuity for the years they remained absent without leave and had actually worked for less than 240 days in a year."

कोई आदमी ऐसी जगह पर बीमार पड़ गया जहाँ से उसके लिए दरखास्त करना भी पासिबल नहीं था, लेकिन आप कहते हैं कि :

"It has been represented that the enforcement of this ruling has resulted in denial of gratuity to a number of employees, whose short term absence had remained unregularised due to lack of appreciation of its significance for the purpose of working out their entitlement to gratuity...It is also proposed to amplify the definition of 'continuous service' to provide—

- (a) that an employee working in an establishment which works for less than six days in a week and who is not in uninterrupted service for one year shall be deemed to be in continuous service for a period of one year if he has actually worked for 190 days in the preceding year..."

मेरे कहने का मतलब यह था कि आपने जो एक्सप्लेनेशन दिया है, वह स्पष्ट नहीं है। बिल में कहा गया है कि :

"That for determining the continuous period of six months for the purpose of payment of gratuity, an employee should have completed half the number of days of actual work which constitute 'continuous service' for a whole year."

श्रम मंत्री जी जब उत्तर दें तो मेहरबानी कर के यह बतलाएं कि क्या एक आदमी जो 240 दिन काम नहीं कर सकता है और 190 दिन ही करता है जबकि उसका पीरियड सप्ताह में छह दिन है तो उस हालत में वह ग्रेच्युटी पाने का अधिकारी होगा या नहीं? बीमार होने पर जो उसका बोनाफाइड क्लेम बनता है, उसके लिए वह दिन माने जायेंगे या नहीं? फँवटरी में चाहे बहुत कम लोग काम करते हों लेकिन ग्रेच्युटी का एवट हरेक के लिए लागू होना चाहिए। स्माल स्कूल इंडस्ट्री में मशीनें इतनी डवलप कर गई हैं कि जानबूझकर फँवटरी के मालिक लेबर की संख्या कम ही रखते हैं। कहा जाता है कि फँवटरी एवट के अनुसार लेबर की संख्या कम है, इसलिए ऑप एंटाइटल्ड नहीं हैं। मैं तो यह कहूँगा कि घरों में जो सर्वेंट काम करते हैं, उनको भी ग्रेच्युटी मिलनी चाहिए। इनके साथ बड़ी क्रूरता से व्यवहार किया जाता है। इस ओर आपका ध्यान ही नहीं गया है। जब आप 1984 में कानून लाना चाहते हैं तो क्या आप उन लोगों को अधिकार देंगे या नहीं? आपने लेबर-लाज के लिए अमेंडमेंट नहीं किया बल्कि वही कानून लागू होगा जो इंडस्ट्री में काम करने वाले लोगों के लिए होता है। आपके बिल में यह स्पष्ट होना चाहिए कि 240 दिन न होते हुए भी अगर उसका हक बनता है तो वह ग्रेच्युटी पाने का हकदार है। यह क्लैरिफिकेशन आपके बिल में नहीं है और इस पर बाद में आपत्ति उठ सकती है। दूसरे, मैं चाहता हूँ कि कानून जो बना हुआ है, वह कुछ लोगों के लिए ही नहीं, बल्कि जहाँ कम संख्या में लोग काम करते हों, मजदूरी करते हों, कहीं मुनीम हों या दूसरे सभी के लिए भी लागू होना चाहिए और घरेलू नौकर के लिए भी यह कानून लागू होना चाहिए।

श्री राजेश कुनार सिंह (फिरोजाबाद) : माननीय उपाध्यक्ष महोदय, यह सरकार अपने आप को श्रमिक हितैषी कहती है, मैं तो एक किसान का बेटा हूँ। लेकिन जब मैंने इस बिल को पढ़ा और लोगों के विचार इग के बारे में सुने, उससे मुझे ऐसा लगता है कि हमारे यहां खेत में भी मजदूर काम करते हैं, लेकिन उस बेचारे को मजदूरों में नहीं गिना जाता। मान्यवर, इन दोनों बिलों को देखने के बाद मैं एक बात जरूर कहना चाहता हूँ, वैसे तो इन्होंने भी कहा है कि अन्य स्त्रोतों के साथ-साथ राज्य सरकारों और नियोजकों तथा कर्मकारों के संगठनों से इन बाबत सुझाव प्राप्त हुए हैं। जुलाई, 1980 में हुए श्रम मंत्री सम्मेलन में इस विषय पर चर्चा हुई थी तथा सम्मेलन ने कुछ सिफारिशें भी की हैं। निर्वाह व्यय में हुई वृद्धि के कारण मजदूरी स्तरों में जो बढ़ोतरी हुई है उसको दृष्टि में रखते हुए अधिनियम की व्याप्ति का विस्तार उन व्यक्तियों पर किए जाने का प्रस्ताव है जो सोलह सौ रुपये प्रति मास तक मजदूरी ले रहे हैं। इसके बाद उपदान की बात भी आई है। लेकिन ग्रेच्युटी की बात आपने तब की जब विभिन्न संगठनों की ओर से आपको सिफारिशें प्राप्त हुईं। पता नहीं किस आधार पर आप अपने को श्रमिक हितैषी सरकार कहते हैं। आप तीन साल तक कैसे सोते रहे, तीन साल तक आपने इस दिशा में कुछ नहीं सोचा। अब लगता है कि अगली बार आने वाले चुनावों को ध्यान में रखते हुए ही आप यह कदम उठाने जा रहे हैं ताकि मजदूरों को भी थोड़ा संतुष्ट कर सकें।

दूसरे बिल को लाने की प्रेरणा भी आपको उच्चतम न्यायालय के 1981 के निर्णय से मिली है जिसमें कहा गया है कि

उन्होंने वास्तव में एक वर्ष में दो सौ चालीस दिनों से कम कार्य किया था। वे उपदान के संदाय के लिए हकदार नहीं थे। आपने भी उसी बात को रिपीट भर कर दिया है और उस में कोई परिवर्तन नहीं किया है। सिर्फ 240 दिन की बात कही है। लेकिन जैसा श्री मूलचन्द डागा जी ने तथा कुछ दूसरे साथियों ने इशारा किया, इससे निरंतर सेवा वाली बात स्पष्ट नहीं हो पाई। आपके बिल को पढ़ने से ऐसा लगता है, जब आप कहते हैं कि विनिर्दिष्ट रूप से यह उपबन्धित किया जाए कि अनुपस्थिति की वह अवधि, जिसके संबंध में कोई दण्ड या शास्ति अधिरोपित नहीं की गई है, मान्यवर यह बड़ी विचित्र बात हो जाएगी। क्योंकि यदि हमारे उद्योग-पति न चाहे कि उन्हें ग्रेच्युटी दी जाए तो वे मजदूरों को दण्ड देने वाली साजिश कर सकते हैं। ऐसी साजिशें अकबर हुआ करती हैं, जहां श्रमिकों ने कोई मांग उठाई तो उद्योगपतियों ने कोई पडयंत्र रचकर उन्हें बाहर कर दिया अथवा कोई दण्ड दे दिया। जैसा कि माननीय सदस्यों ने भी कहा मान लीजिए किसी ने 20-25 साल तक काम किया, उसके बावजूद यदि वह इस षडयंत्र में फंस जाता है तो सरकार को उसके लिए भी कुछ व्यवस्था करनी चाहिए। वैसे मैं इस बिल का समर्थन करता हूँ क्योंकि इसमें कुछ अच्छी बातें भी हैं। यदि कोई संस्थान अपने कर्मचारियों की संख्या बचने के लिए 10 से घटाकर 9 कर दें तो उस पर भी यह लागू होगा। सरकार ने यह अच्छा कदम उठाया है। लेकिन मेरा जो संशय है, मैं चाहूंगा कि माननीय मंत्री जी उस संदर्भ में भी विचार करके कोई संशोधन लायें जिससे श्रमिकों का हित बना रहे नहीं तो उद्योग-पतियों में दण्ड देने वाली प्रवृत्ति को नहीं रोका जा सकता। यह कहते हुए, मैं इस

बिल का समर्थन करता हूँ।

13 hrs.

SHRI K. A. RAJAN (Trichur) : Mr. Deputy-Speaker, Sir, we have got two Bills before us—Bill No. 133 of 1982 and Bill No. 30 of 1984. The original Act came into existence in 1972. So far as the coverage of the Act is concerned, I would like to emphasize one point. When we are talking of a comprehensive legislation, we must bear in mind the large majority of workers in the unorganised agricultural sector. Though the members of this House without any party affiliations have been demanding a comprehensive legislation, on the model of the Kerala legislation, for covering the agricultural workers, unfortunately, for reasons best known to himself, the Labour Minister has turned down this request perhaps because of certain objections from some quarters. If they are in agreement with the unanimous demand of this House, why can't they bring those workers within the purview of the Act so that they may get the benefit of the gratuity? In that case, a large section of the unorganised sector of workers, who really need protection, will get that benefit. So, you have to bring a large majority of the agricultural workers under the coverage of this Act, as you have done in the case of the other establishments that have been mentioned here. This is one of the points which I would like to emphasize before going into the details of the Bill.

Coming to the first Bill, Bill No. 133 of 1982, it extends the coverage to the administrative and managerial personnel and treats employees in seasonal establishments on par with employees of non-seasonal establishments. These are all welcome steps, which most of the trade unions were demanding. In 1982 the Ministry had called a meeting of the various central trade union to consult them on the Bill and they had put forward various suggestions. Some of these suggestions were incorporated in the Bill.

So far as the coverage is concerned, I

would like to have one information. When the Bill was brought forward in 1982, the coverage was limited to a salary of Rs. 1,000. Now it has been raised to Rs. 1,600. Of course, it is an improvement. But I could not understand the rationale or sanctity of Rs. 1,600. I find that both in the Payment of Wages Act and the Workmen's Compensation Act the limit now is Rs. 1,600. Is it to conform to the present wage levels that this limit is being raised? If you see the recent agreements which have been entered into between management and unions in most of the public sector undertaking, you will see that in most cases the minimum wage is Rs. 1,000/. In BHEL, NTPC and other establishments it is more. That is why perhaps it is being enhanced to Rs. 1,600. But if we see the present wage level, even after enhancing it to Rs. 1,600, you will notice that a large percentage of the workers would be going out of the coverage in various establishments.

MR. DEPUTY-SPEAKER : I think it has been done on the basis of the recommendations of the 15th Indian Labour Conference.

SHRI K. A. RAJAN : No, Sir, I do not think the 15th Indian Labour Conference has recommended on these lines. Now you take any factory or establishment in the public or private sector. You will see that nearly 60 per cent of the workers are drawing more than Rs. 1,600. So, in effect, this measure will cover only a minority of the workers even in the organised sector. Therefore, I would request the Minister to be realistic and considering the erosion in the value of the rupee and also considering the fact that a majority of the workers are not able to get any advantage by this coverage he should see that the ceiling is suitably revised upwards. Of course, I welcome that you are now treating the employees of seasonal establishments on par with the non-seasonal establishments. It is also a welcome measure that the administrative and managerial personnel have also been brought under the coverage of

[Shri K. A. Rajan]

Rs. 1,600. But there also I would say that once this amount of Rs. 1,600 is raised, naturally that would be applicable to administrative and managerial personnel as well.

Therefore, I would say that the Government should be realistic enough and that it should see that it need not have to come again for another amendment after one year. It should take adequate amendments as necessary measures. This is a social legislation and you must see that it benefits the workers in a desirable manner. Therefore, there should be some rationale keeping in view the money wage-level of a large chunk of the organised workers in the organised industries.

Then I come to Bill 30 of 1984. This Bill was really brought in the light of the judgement of the Supreme Court in interpreting Section 2 (C) of the Gratuity Act. I welcome this measure. This measure was necessitated because of the unfortunate judgement of the Supreme Court as a result of which lakhs and lakhs of workers were deprived of the benefit of the gratuity. If my information is correct, this judgement came in the later part of 1981. Therefore, I do not understand why it took the Government two years to get this thing amended. Government must know what has happened because of the judgement. As a result of this workers of various industrial establishments could not have the benefit of gratuity and a lot of litigations were resorted to. Even the public sector employers stood strongly behind the judgement saying they cannot do anything contrary to the judgement of the Supreme Court. Anyhow, it has been brought now and it is a welcome measure, but I must emphasise that in this measure there should not be any ambiguity left so that these people again may go to the court and create a situation whereby benefit of gratuity is deprived to the workers.

Sir, the judgement lays down that the employee actually must have worked for

240 days in order to be entitled to gratuity for that particular year. That is why no worker was entitled to the gratuity because of this lacunae in the Act; and that is why the judgement of the Supreme Court was such. If allowance had been made for weekly holidays, casual leave, annual leave, sick leave and other benefits, while fulfilling the stipulated period, the workers would not have been deprived of this benefit for no fault of theirs. Therefore, I stress that the Act should be amended adequately to leave no ambiguity. Shri Mool Chand Daga was also very emphatic on this point that if again an ambiguity creeps into this particular clause of continuous service, the same story is going to be repeated. Employers will go to the Supreme Court and they are capable of doing it and again the stalemate will continue and lakhs of workers will be deprived of the benefit. That should be made clear that the gratuity should be paid for every year of actual employment of service and not only on the basis of days' work. That is my point.

Sir, the Act should further be strengthened by providing that in the intervening period between the closure of an establishment or a unit and subsequent re-opening because of shift, take-over of the management nationalisation or even strike, should not operate as a break of service. This is one more important point. The expression actually employed or actually worked in Explanation 1 and 2 under Section C of the Act should be replaced by 'in employment'. If that is to be replaced as it is 'in employment', there would not be any confusion on any point and the workers should not be deprived of the benefit. My only anxiety is that there should not be any ambiguity so that the people may interpret it differently and again they are left at the mercy of the court and again thousands of workers are denied its benefit. So, I again emphasise that the ambiguity regarding continuous service should be cleared and instead of 'actually worked' the words substituted should be 'in employment'.

Sir, I would like to mention one more thing. Now, as it is the qualifying period of entitling an employee the gratuity is stipulated as five years. If a worker should have the benefit of this gratuity, he should at least have a minimum service of five years. That is the entitlement qualification. I think that has to be waived to a reasonable period. At least it should be waived to three years for the entitlement of the gratuity.

I would also like to mention about badli workers. A large number of badli workmen are there. Especially there are a lot of badli workmen in textile, jute and other industries. This Act should be made applicable to them so that the badli workers will also get the benefit. A badli worker does not get employment not because of his own fault. There is a large chunk of badli workers who are attached to certain types of industries. Their rights also should be protected by giving protection under the Gratuity Act.

These are certain suggestions I tried to make. Unfortunately even though it is a belated Bill, I am glad to find that the effect of the Bill has been retrospective from the date of judgement which came out, thereby the workers' entitlements is protected. Again, if they go to the court, that is a different thing. Anyhow, that provision is a well protected provision; I welcome that provision.

With all the humble suggestions that I have made, I thank you for giving me the opportunity to speak on this particular Bill.

SHRI B. K. NAIR (Quilon): Sir, I heartily welcome these two legislations—one regarding extension of the limit to Rs. 1, 600/- and the other regarding the re-definition of continuous employment.

We, the people in the trade unions movement, have always been criticised by Government and other interests saying that our interests are mainly focussed on the higher salaried groups. That, of

course, is a legitimate complaint. Most of the trade unions and organised sections of the people are more interested in extending the benefits to the higher salaried groups, and lesser placed people are not attended to. I think the same charge can be levelled against the Government also in this case. While expressing their anxiety to raise the salary slab from Rs. 1000 to Rs. 1600/- I think they would have been more justified in taking into account the large mass of people who remain outside the purview of the gratuity scheme. By raising the salary slab from Rs 1000 to Rs. 1,600/-, only a very small section of the employees will be extended the benefits of gratuity. But I think lakhs and lakhs of employees employed in various industries are still left out of the benefits of gratuity. Sometimes I feel even strongly opposed to the word "gratuity" because it is not a gratuitous payment, it is not a charity that flows out of the kindness of the employer, but it is a matter of right for the employees. Apart from that, I feel that it is one of those benefits that should flow as a result of employment in any industry or any concern just like the minimum wages. We in this country are going in for smaller and smaller units in industries. The other day we were given the figures of small-scale units. From 1973-74 when the number was only 1.64 lakhs of small units, in 1982-83, the number has gone up to 5.96 lakhs. While in the same period the number of employees has gone up from 3.97 lakhs to 79 lakhs in small scale units. By small scale we mean units employing capital of less than Rs. 20 lakhs. None of these can be brought in the definition of units covered by gratuity as the definition stands now. The definition covers only units much larger than the small scale units. The production in the small scale units has gone up from Rs. 7200 crores to Rs. 35,000 crores in nine years. We are lending all sorts of assistance, encouragement and benefits to the small scale units even at the cost of the larger units. But what about the employees? Why should employee of small units be denied the benefit of right to get gratuity. They should be given the benefit of gratuity just as they are getting the benefit of minimum wages. By limiting the scope

[Shri B.K. Nair]

of law to certain units based on the number of employees, the number of people benefited by this amendment is kept very limited. 80% of the total employees in industry are permanently outside the purview of gratuity. I feel time has come for major review of the whole Act and major amendment be brought in.

Another field of activity is the vast area of plantations. We have got 150,000 units of Rubber Plantation employing about one lakh persons. Not more than 500 of these units will be covered by Plantations Labour Act and no gratuity law applies to not more than 20% of the total. About 80% of the employees working in the rubber plantation industry are deprived of the gratuity benefits.

Another peculiar feature of the plantation industry is that area and size of the plantation is within the power of the planter, to vary and adjust. He can subdivide unit of 100 hectares in five or ten smaller units. But it is not within the power of the workman to defend his right to gratuity which may be endangered as a result. Even a unit providing this benefit till about two years ago can be denied the right by partitioning. Partitioning of property is a very legitimate right of the owner.

Similar is the case with Cardamom and coffee plantation industries also.

The rubber plantation industry is one of the most prosperous industries in the country. It is well within the capacity of the planter to bestow the benefit to all the employees.

Where a person has been employed continuously for a period of years, he should be given the benefit of gratuity just as he has been getting benefit of minimum wages. What is the object of gratuity? It is to safeguard the period of the worker's life after retirement. Longevity of life is on the increase—from 32 years the average has gone over 54 years. The period after retirement now is much longer now. The protection

of life after retirement is very necessary. The life after retirement is much longer now and the burden is also higher after retirement. Why should an employee working for a long time in profitable and efficient small scale units be denied the benefit of gratuity? How can he maintain himself after retirement? Shall he beg about? After a service of over thirty years in a productive unit, what should he do? Should he beg? You may not be able to give other benefits. Provident Fund is outside the scope. What should he do for his family? How can he have his living? Just as we are concerned with the smaller units, we should be concerned with the people employed in smaller units.

Government should come out in a large way to amend the Act so as to extend the scope of the Act, the applicability of the Act to cover all persons who are employed in all industries whether it is plantation or agriculture or any other industry. My hon. friend has mentioned about this. In Kerala, we have drawn up a scheme and implemented the scheme whereby gratuity is paid even to the workers employed in agriculture. My main point is that the applicability of the Act should not be limited, based on the size of the unit where a person is employed. It should be extended to cover all occupations, all industries and all places of work where a person is employed so that the benefit of gratuity can be extended to every workman, who can be legitimately called workman, I mean, any person covered by the definition of the Minimum Wages Act. It should not be limited to statutory employment but extended to workmen who are covered under the Minimum Wages Act. Only by extending and liberalising the Act, we can do some justice to every employee in these industries.

The other point is about "continuous employment". My friend has pointed out about the lacuna. He has expressed the point that during the last three years, people employed for longer years were affected because of the judgement of the Supreme Court. Now, I am happy that

it has been restored with retrospective effect. Now, what is lost will be very difficult to recover. At least, in future, the application of the modified scheme would give some benefit to workmen. There are industries where it is just not possible for the workmen to get continuous employment because of their seasonal nature where the interruption is common. My point is, the definition of the industries and the scope or application of the Act should be so liberally extended to cover all persons employed in any occupation, or in any industry or in any service.

श्री राम विलास पासवान (हाजीपुर) :

उपाध्यक्ष महोदय, माननीय मंत्री जी ने इस सदन में जो संशोधन विधेयक प्रस्तुत किया है उसका मैं स्वागत करता हूँ। मैं समझता हूँ इसको तो बहुत पहले आ जाना चाहिए था। 1982 का यह ऐक्ट है और 1984 में ये संशोधन ला रहे हैं, जबकि लेबर मिनिस्ट्री में इस संबंध में 1980 में ही बैठक हो गई थी लेकिन चार साल के बाद इसको यहाँ पर प्रस्तुत किया गया है। मैं इस संबंध में दो तीन बातें उठाना चाहता हूँ।

आज से कुछ दिन पहले रेलवे मिनिस्टर ने इसी सदन में कहा था कि अकेले रेलवे मिनिस्ट्री में दो लाख कैजुअल लेबर हैं। तो एक समस्या है प्राइवेट इंडस्ट्री की, दूसरी समस्या है कान्ट्रैक्ट लेबर की और तीसरी समस्या उस लेबर की है जोकि गवर्नमेंट मिनिस्ट्रीज की तहत काम करता है। रेलवे कंसल्टेटिव कमेटी में मैं भी था और मैं समझता हूँ कि सभी लोग इस बात को जानते हैं कि रेलवे में जो मजदूर काम करते हैं उनको ग्रेच्युटी एलाउंस न मिल सके सिर्फ इसीलिए एक सर्टेन पीरियड—90 दिन या तीन महीने काम कराने के बाद उनके नाम बदल दिए जाते हैं हालांकि काम उन्हीं से लिया जाता रहता है। अगर

कॉन्ट्रिब्यूटरी उनका नाम रहे तो वे ग्रेच्युटी के हकदार हो जाएंगे इसलिए ऐसा किया जाता है। इसी तरह से एफ० सी० आई० में भी होता है। एफ० सी० आई० में 1977 से ही ग्रान्दोलन चल रहा है।

MR. DEPUTY SPEAKER : In the Railways, if they put in continuous service for 240 days, according to the Miabhoi Report, they must be absorbed in the Department. I think, the Labour Minister knows this.

SHRI BAM VILAS PASWAN : What I am going to say is that the administration does not allow him to work for 240 days regularly. 90 दिन से ही नाम चेंज कर दिया जाता है। एफ० सी० आई० का मामला हम 1977 से लगातार उठा रहे हैं। सरकार वेतन के लिए पैसा देती है, लेकिन ग्रेच्युटी के डर के कारण कान्ट्रैक्टर द्वारा वह काम करवाया जाता है। नतीजा यह होता है कि कान्ट्रैक्टर कभी एन्जॉब नहीं करेगा कि कोई फायदा मजदूरों को मिले। आपके बिल में अच्छी संज्ञा है कि इसके लिए आप ने इन्स्पेक्टर बहाल किया है। और वह सारी चीजों को देखेगा। आप श्रम मंत्री हैं, आप का जो विभाग है क्या आप ऐसी कोई व्यवस्था करने जा रहे हैं कि जो मजदूर काम कर रहा है, उसको 240 दिन तक कोई बाधा पैदा नहीं की जाएगी। उसके मांग में कोई स्थानीय प्रशासन द्वारा बाधा नहीं उठायी जाएगी। इसके लिए क्या आपके पास कोई योजना है? प्रत्येक मिनिस्ट्री में मिनिस्टर को मालूम रहता है, अधिकारी को छोड़िए, कि किस विभाग में 90 दिन के बाद नाम चेंज कर दिया जाता है। आप सी० पी० डब्ल्यू० डी० में जाकर देख लीजिए। हॉर्टिकल्चर विभाग में जाकर देख लीजिए। एक ही

[श्री राम विलास पासवान]

मजदूर काम करता है, लेकिन तीन महीने के बाद सर्विस में उसका नाम बदल दिया जाता है। जब कि काम वही व्यक्ति करता है। यह बहुत अच्छी बात है कि सुप्रीम कोर्ट ने फैसला दिया है, मजदूरों के हित में, आपने सशोधन कर दिया है। 240 की परिभाषा तय कर दी है अब उसको 190 दिन पर ले आए हैं। इसके लिए सबसे बड़ी चीज यह है कि जो प्राइवेट सैक्टर हैं या कान्ट्रैक्ट लेबर्स हैं, इनको जब तक इस परिधि में नहीं लाया जाएगा, तब तक कोई फायदा इनका पहुंचने वाला नहीं है। लाखों मजदूर फैक्ट्रीज में काम कर रहे हैं, खानों में काम कर रहे हैं, इंट भट्टों के रूप में काम कर रहे हैं। आप कहेंगे कि इसके लिए फैक्ट्रीज एक्ट बना हुआ है, लेकिन मेरी दृष्टि में वह सफि-शियेंट नहीं है। मैं समझता हूँ कि अगर यह सुविधा मजदूरों को मिलनी शुरू हो जाए तो बहुत बड़ा कल्याण होगा। इस पर सरकार को कोई न कोई अकुश रखना चाहिए और जो मजदूर काम करते हैं, उन के नाम बदल कर उनकी सर्विस को डिसकंटीन्यू न किया जाए।

दूसरी बात मैं यह कहना चाहता हूँ कि देश में बहुत बड़ी संख्या ऐसे मजदूरों की भी है, जो गांवों में काम करते हैं, जिनको खेतिहर मजदूर के नाम से जाना जाता है। जिनका कोई संगठन नहीं है। जिनके लिए आप न्यूनतम मजदूरी लागू करते हैं, लेकिन वह भी उनको नहीं मिलती है। उन गांवों के खेतिहर मजदूरों को जमींदारों की इच्छा पर काम करना पड़ता है। गांवों में तीन महीने काम रहता है और नौ महीने कोई काम नहीं रहता है। हम लोगों ने अपने समय में फूड-फार-वर्क की योजना चलाई थी। इसमें

कुछ गलतियां हो सकती हैं। हम चार कि॰ अनाज दिया करते थे, तो जमींदारों को भी भूकर मार कर चार किलो अनाज देना पड़ता था। क्योंकि यदि उनको कम दिया गया तो मजदूर सरकार द्वारा चलाई गई योजना के अन्तर्गत काम करना शुरू कर देगा। सरकार के पास इस तरह की कोई योजना है कि खेतिहर मजदूरों का भी संगठन हो या वे भी भलिभांति आगे बढ़ सकें? उनके परिवार को भी कुछ बेनिफिट मिले, इस आजाद मुल्क में उनके लिये भी कोई सुनहला भवसर आये—क्या इस के लिए भी कोई योजना सरकार के पास है? यदि नहीं तो क्या सरकार कुछ विचार कर रही है कि जो भूमिहीन मजदूर हैं, खेतिहर मजदूर हैं, उन को कुछ सालाना या मासिक दिया जाय, जो मजदूरी उनको अपने मालिक से या जमींदार से या किसान से मिलती है, उसके अलावा 200 रु॰ प्रति माह प्रत्येक मजदूर परिवार को दें जिसे वे अपने लड़के का भरण-पोषण कर सकें, उसको एजूकेट कर सकें, अच्छी तालीम दिलाकर उसको भी आदमी बना सकें। यह ठीक है कि आपकी इस योजना से कल कारखानों में जो लोग काम करते हैं उन का भविष्य सुनहला हो सकता है, लेकिन जो हमारे करोड़ों भाई गांवों में रहते हैं, खेतिहर मजदूर हैं, जो नौकरी के लोभ में अपने गांवों को छोड़कर दिल्ली का चक्कर लगाते हैं—उनको जब तक कोई इंसेन्टिव नहीं मिलेगा तो वे निराश हो जायेंगे, उनका कोई भविष्य नहीं रहेगा।

इस लिये जहां मैं इस बिल का समर्थन करता हूँ, आप ने जो कदम उठाये हैं उनका स्वागत करता हूँ, साथ ही आप से यह आग्रह करता हूँ कि जो प्राइवेट फैक्ट्रीज में काम करते हैं, जो कान्ट्रैक्ट लेबर हैं, जो आपकी रेलवे और अन्य मिनिस्ट्रीज के

अन्दर काम करते हैं—उन की सेवाओं को 90 दिन के बाद डिसकॉन्टिन्यू न किया जाय और उन को भी इस के बेनिफिट मिलें तथा गांवों के खेतिहर मजदूरों के लिये आप कोई विधेयक लायें जिस के अन्तर्गत प्रत्येक परिवार को 200 प्रति माह सरकार अपनी तरफ से दे—जिस से उन का भविष्य सुधर सके।

श्री रीतलाल प्रसाद बर्मा (कोडरमा) : उपाध्यक्ष महोदय, मैं इस बिल का स्वागत करता हूँ क्योंकि इस में मजदूरों के हितों के लिए विचार किया गया है। हालांकि यह विधेयक 1972 में आया था। उस समय से आज तक देश, काल और परिस्थिति के अनुसार जीवनोपयोगी वस्तुओं के मूल्य जिस तरह से बढ़े हैं उसको दृष्टि में रखते हुए इस को लाना चाहिये था, लेकिन यह परिस्थिति तब पैदा हुई जब शोलापुर लक्ष्मी-विष्णु टैक्सटाइल मिल्स और लालप्पारंगप्पा तथा अन्य लोगों के मामलों को लेकर सुप्रीम कोर्ट ने डिसीजन दिया। कुछ जजेज ने जो आडजर्वशंज पास किये उसके अनुसार इस को लाना पड़ा। फिर भी यह स्वागत योग्य है।

लेकिन जहां तक 1972 से अब तक की प्राइस-लाइन और मूल्य स्तर को देखा जाय तो इन्होंने जो बढ़ाया है, उसमें 1000 से बढ़ा कर 1600 रुपये तक किया है, जब कि प्राइस लाइन के अनुसार यह 2775 रु० तक होना चाहिये। माननीय मंत्री जी यदि इस को बढ़ाकर 2500 रुपये तक वेतन पाने वालों को इस में शामिल कर दें—तो वह सोशलज्जम के सिद्धांतों के अनुसार होगा। लेकिन इस मसले पर इन्होंने अभी भी यह रक्त दिया है कि क्रमिक वर्ग फिर से आन्दो-

लन करे, उन के आन्दोलन करने के बाद ये फिर से कम्प्रीहेन्सिव बिल लायेंगे। लेकिन जरूरत यह थी कि जब एक बार संशोधन हो रहा है तो उसके अनुसार 2500 रु० तक रखते जिससे सभी मजदूरों को, सभी नियमित कर्मचारियों को इस का लाभ प्राप्त होता।

यह बात भी बहुत महत्त्वपूर्ण है कि बहुत से खान-कोलियरी और बाग-बगीचों में काम करने वाले जो नियमित कर्मचारी हैं उन लोगों के बारे में कोई खास विचार नहीं किया जाता या उन पर कोई नियंत्रण नहीं है। मैं विशेष रूप से निजी सैक्टर में काम करने वाले कर्मचारियों के लिए कहना चाहता हूँ इसके अंदर जो नियमित काम करने वाले मजदूर हैं उनको तो किसी तरह से यह उपदान मिल जाता है, लेकिन इसके मिलने को कोई निश्चित अवधि नहीं होती है। गवर्नमेंट में भी इस तरह के कई उद्यम हैं, जिनको न्याय सही ढंग से नहीं मिलता है। अलीगढ़ गवर्नमेंट प्रेस, जो भारत सरकार का उपक्रम है, वहां पर भी कर्मचारियों को ग्रेचुयेटी या दूसरे नामों से जो यह दी जाती है, डेढ़-डेढ़ वर्ष तक नहीं मिलती है। कई कर्मचारियों की मेरे पास दरख्वास्तें आई हैं और वे घूमते-घूमते हैरान हो जाते हैं और उनको ग्रेचुयेटी समय से नहीं मिलती है। इसलिए मेरा कहना यह है कि पेमेंट ग्राफ ग्रेचुयेटी के लिए सरकार को एक टाइम फिक्स करना चाहिए। जो आदमी रिटायर हो जाता है या सेवा से मुक्त हो जाता है, तो कितने दिनों के बाद उस को ग्रेचुयेटी मिलनी चाहिए, इसके लिए कोई टाइम लिमिट नहीं है और इसके पेमेंट में डेढ़, दो और ढाई वर्ष तक लग जाते हैं और कर्मचारी दौड़ते-दौड़ते परेशान हो जाते हैं। मेरे पास छः अधिकारी प्रोवीडेंट फंड के मिले

[श्री रीत लाल प्रसाद वर्मा]
 और उन्होंने बताया कि दो-ढाई वर्ष से उन की प्रेच्युयेटी का मामला क्लियर नहीं हुआ है। इस प्रकार की शिकायतें घनबाद से भी मिली हैं जोकि श्रमिक बाहुल्य क्षेत्र है और वहां पर प्रोवीडेंट फंड कमिश्नर रहता है। यहां तक होता है कि जब कमिश्नर रिटायर होता है तो उसकी भी वही हालत हांती है। अब आप सोचिये कि जब उसके साथ ऐसा हो सकता है, तों अन्य मजदूरों की क्या हालत होगी इसलिए मेरा मंत्री महोदय से आग्रह है कि पेमेंट आफ प्रेच्युयेटी के लिए या जो अन्य उपदान हैं, उनके भुगतान के लिए एक निश्चित भ्रवधि होनी चाहिए। रिटायर होने के बाद दो महीने, तीन महीने में पेमेंट हां जाना चाहिए और मैं तो यह समझता हूं कि तीन महीने की मैक्सिमम लिमिट इस के लिए रखनी चाहिए। आप यह सोचिए कि जब सरकार के अंदर ऐसी अंधेरगदों चलेगी, तो प्राइवेट लोगों के साथ क्या होता होगा। इसलिए मैं मंत्री जी से यह आग्रह करूंगा कि इसके पेमेंट के लिए कोई टाइम फ्रैक्टर होना चाहिए क्योंकि इस बिल में इसके बारे में कोई प्राविजन नहीं है। भुगतान का समय निश्चित होना चाहिए ताकि संबंधित अधिकारी को भ्रष्टाचार करने का अवसर न मिले क्योंकि बार-बार जब लोग घूमते हैं, तो वे उन से कहते हैं कि आप हमें इतना परसेन्ट दो, तब प्रेच्युयेटी का पेमेंट होगा। जब तीन महीने का समय निश्चित हो जाएगा, तो कम्पलसरीली उनको इतनी अवधि के अन्दर पेमेंट करना पड़ेगा। मंत्री जी को इस तरफ ध्यान देना चाहिए ताकि कर्मचारियों को इस मामले में राहत मिले।

मैं आपका अधिक समय न लेते हुए यही

कहना चाहता था कि टाइम लिमिट फिक्स होनी चाहिए और निश्चित भ्रवधि के अन्दर पेमेंट होना चाहिए।

दूसरी बात जैसा कि राम विलास पासवान जी ने कही है कि प्राइवेट कम्पनियों में जो लोग काम करते हैं, उनकी बहुत सी शिकायतें मेरे पास भी आई हैं कि उनके नाम चेन्ज करते रहते हैं और इस कारण वे नियमित नहीं होते और मौसमी मजदूरों यानी रीजनल लेबर की तरह से काम करते हैं। इसके लिये मेरा सुझाव यह है कि जब भी प्राइवेट सेक्टर में कोई आदमी काम पर लगे, तो जिस दिन से वह उद्योग में लगा है, उसको एक आइडेंटिफिकेशन कार्ड इशू होना चाहिए और यह कार्ड लेबर सुपरिटेन्डेंट या ऐसे ही किसी अधिकारी द्वारा इशू किया जा सकता है ताकि उसके जो अधिकार हैं, उनका हनन न हो सके। नाम बदल दिया जाता है हालांकि वही आदमी काम करता है और इस तरह से उसका जो प्रेच्युयेटी का पैसा होता है, उस को वे हजम कर जाते हैं।

इन शब्दों के साथ मैं अपनी वृत्त सभास्त करता हूं।

श्री राम लाल राहो (मिसरिख) :
 उपाध्यक्ष महोदय, यह जो उपदान संदाय (संशोधन) विधेयक है, इसके दो खंड हैं और यह प्रेच्युयेटी के सम्बन्ध में है।

माननीय मंत्री जी को लगभग सभी सदस्यों ने धन्यवाद दिया है कि वे ऐसा बिल लाए हालांकि वे देर से यह बिल लाए पर देर आयद दुस्त आयद। मैं श्री इनको इसके लिए धन्यवाद देना चाहता हूं लेकिन

मंत्री जी जब जवाब देंगे तो खुद खेद व्यक्त करेंगे अपनी सरकार की नीति के प्रति क्योंकि सन् 1980 में जब ग्रेच्युटी आदि के सम्बन्ध में बैठकें हुईं श्रम मंत्रियों की तब यह निर्णय लिया गया कि ग्रेच्युटी के संबंध में कोई विधेयक लाया जाए। तो चार साल के बाद यह विधेयक लाना, इससे पता लगता है कि सरकार की नीति मजदूरों के प्रति कैसी है ?

मैं निवेदन करना चाहता हूँ कि इस देश के जितने संगठित मजदूर हैं कल कारखानों में उनकी बात तो सरकार का सुननी ही पड़ती है। तालाबंदी हो जाती है, इंकलाब जिंदाबाद हो जाता है। लेकिन जब तक गोली लाठी न चले तब तक सरकार किसी की बात सुनती नहीं है। लेकिन इस देश में 80 फीसदी किसान हैं और उसमें कम से कम 20 फीसदी खेतिहर मजदूर हैं। आपने मिनिमम वेजेज का कानून बनाया है। 13 अप्रैल 1984 को एक प्रश्न के उत्तर में आपने बताया है, मैं पढ़ना नहीं चाहता हूँ, बहुत समय लग जायेगा, इसमें आपने राज्य-वार ब्योरा दिया है कि राज्यों में हम यह निम्नतम मजदूरी दे रहे हैं। मैं चाहता हूँ कि जब आप जवाब दें तो सीने पर हाथ रखकर इस बात का भी जवाब दें कि क्या आपने यह जवाब ईमानदारी से दिया है। या फिर यह कह देना कि जैसे सरकार चलती है वैसे ही जवाब दे दिया है। मैं बताना चाहता हूँ कि राय बरेली जहाँ से प्रधान मंत्री जी आती हैं वहाँ पर खेतिहर मजदूर को दो-तीन ६० से ज्यादा मजदूरी नहीं दी जाती।

श्री बिल्ल बसु (बारसाट) : मेडक में।

श्री राम लाल राही : मेडक का तो मैं नहीं कह सकता। मैं उत्तर प्रदेश की बात बता सकता हूँ। मेरे क्षेत्र में महमूदाबाद, मिसरिख तहसीलों में दो-तीन ६० से ज्यादा मजदूरी नहीं दी जाती। यह क्षेत्र उत्तर प्रदेश सरकार में बैठे दो मंत्रियों के हैं। (व्यवधान)

एक माननीय सदस्य : यह गलत है।

(व्यवधान)

श्री राम लाल राही : जिस सरकार ने 8 ६० मजदूरी निर्धारित की है उसी सरकार के प्रधानमंत्री के क्षेत्र में दो रूपए से तीन रूपए मजदूरी प्रति दिन लेकर मजदूर काम कर रहे हैं। यह अत्यंत दुखद है। (व्यवधान)

यह बिल जो मंत्री महोदय ने पेश किया है, इसके लिए सब ने प्रसन्नता व्यक्त की है। सबने कहा कि मजदूरों के हित में यह बिल लाया गया है। मैं भी कहता हूँ, लेकिन सन् 1972 में कानून के हित में ग्रेच्युटी का लेकिन क्या उस पर इमानदारी से अमल हुआ है? क्या अमल नहीं होने पर न्यायालय की शरण में जाना पड़ता है? जब लोग न्यायालय में गए, तब आप संशोधन ला रहे हैं। आप, अच्छे-अच्छे कानून बनाए लेकिन इन कानूनों पर अमल कैसे होगा; क्या इस पर आपने कभी विचार किया है। जो कानून बनते हैं, ऐसा लगता है कि रद्दी की टोकरी में चले जाते हैं। कानून वह जो बड़े-बड़े उद्योगपतियों के रक्षक हैं जहाँ उन को टैक्स की चोरी करने का अवसर मिलता है। जहाँ पर मुनाफा कमाने के अधिक अवसर मिल जाते हैं, ऐसे कानून थे पर अच्छी तरह से अमल होता है। मुझे याद है, 1980 में जब सरकार बनी थी और यहाँ

[श्री राम लाल राही]

पर वित्त मंत्री जी ने बजट पेश किया था तो उस समय यह कहा था कि भ्रमुक-अमुक चीजों पर इतनी एक्साइज ड्यूटी कम कर दी गई है। इसके मायने यह थे कि जो चीजें उसी मूल्य में बिक रही थी, उनके दाम कम होने चाहिये थे। लेकिन क्या प्रधान मंत्री जी, वित्त मंत्री जी और श्रम मंत्री जी ने इस बात का जायजा लिया कि मूल्य घटे या बढ़े? कल भी इसीलिए मैंने 377 के अन्तर्गत स्टेटमेंट दिया था आज फिर कहना चाहता हूँ कि इस देश में गरीब को मजदूरी व प्रोच्युटी देने के लिए कानून तो अच्छा बना रहे हैं लेकिन आपकी नीयत साफ नहीं है। इसीलिए अमल नहीं हो पा रहा है। आपका जो प्रशासन इसको लागू करने का काम करता है, उस पर कड़ाई से निगरानी कीजिए ताकि गरीब का हित हो अन्यथा उसका हित होना संभव नहीं है। हमारे यहां सीतापुर में लक्ष्मी शुगर मिल है जिसको सरकार चला रही है। टेक-ओवर कर लिया है। आपने आठ रूपए निर्धारित किए हैं परन्तु मजदूर को सात रु० दिए जाते हैं। राम विलास जी ने भी कहा और मैं भी कहना चाहता हूँ कि सी० पी० डब्ल्यू० डी० हार्टिवल्वर, और मूचना मंत्रालय के अन्तर्गत टी० वी० रेडियो में हजारों की तादाद में लेबर व केजुअल आर्टिस्ट काम करते हैं। इन सबको निर्धारित मजदूरी नहीं मिलती है। एक-दो महीना काम करने के बाद चार-पांच दिन के लिए बैठा दिया जाता है। आप ने कहा है कि 240 दिन जिनके हो जायेंगे, उनको इसका लाभ मिलेगा। जो अधिकारी 240 दिन पूरे नहीं होने देते और दो महीने या 45 दिन काम करने के बाद ही बैठा देते हैं और दो दिन के बाद पुनः लगाते हैं

या मजदूर का नाम बदल देते हैं, ऐसे अधिकारियों के खिलाफ क्या कोई एक्शन शिकायत मिलने पर लिया जाता है? नहीं लिया जाता, यह मुझे मालूम है। सरकार विभागों में यह हाल है और सरकार की नीयत खराब है। इसीलिए तो इंदिरा गांधी के क्षेत्र में रहने वाले किसान या गरीब मजदूर को दो-तीन रूपए दिए जाते हैं तो कोई पाप नहीं है। हमारे क्षेत्र में भी ऐसी हालत है। बड़े मंत्री जी इस समय चले गए हैं लेकिन छोटे मंत्री जी बैठे हुए हैं। जिस वर्ग से छोटे मंत्री जी आते हैं, मैं भी उसी वर्ग से आता हूँ। इनके और हमारे वर्ग के 80 फीसदी मजदूर किसी संगठित असंगठित प्रतिष्ठान या किसी खेत में काम करते हैं लेकिन हम तो यहां पर बैठे हुए हैं, हम यहां पर बैठे हैं, वाहवाही जरूर लूट रहे होंगे, कि हम संरद-सदस्य बन गए, हम मंत्री हो गए, लेकिन हम इन लोगों के लिए कुछ नहीं कर पा रहे हैं। इस सरकार में आप बैठे हैं, यह सरकार भी कुछ नहीं कर पा रही है। आप उनके लिए कुछ करिए। जितने आप ने उनके लिए कानून बनाये हैं, उनपर अमल हो और ऐसी स्थिति पैदा की जाए कि उनके हित की बात हो। यदि आप ऐसी स्थिति पैदा नहीं कर सकते तो सरकार छोड़ दीजिए, आपको वाहवाही मिलेगी नहीं तो लोग कहेंगे कि सरकार में भी बैठे और काम भी कुछ नहीं किया। मैं फिर से मंत्री जी को घन्यवाद देना चाहूंगा कि आप जो बिल लाए हैं, वह मजदूरों के हित में है, लेकिन 1972 से आज तक कोई अमल नहीं हुआ। आप आज यह प्रतिज्ञा कीजिए कि जो संशोधन आप लाये हैं, उन पर सच्चे मानों में अमल होगा और उससे किसी भी तरह से मजदूरों का अहित नहीं

हो पाएगा। इन शर्तों के साथ मैं अपनी बात को समाप्त करता हूँ।

श्री गिरधारी लाल व्यास (भोलवाड़ा) : उपाध्यक्ष महोदय, पेमेंट ग्राफ ग्रेच्युटी (अमेंडमेंट) बिल, 1982 तथा पेयमेंट आफ ग्रेच्युटी (अमेंडमेंट) बिल, 1984, दो बिल सरकार ने इस सदन में प्रस्तुत किए हैं। दोनों ही स्वागतयोग्य हैं। पहले 1982 वाले बिल में 1600 रु० तनख्वाह तक पाने वाले मजदूरों को कवर किया गया है, जब कि यह लिमिट पहले कम थी। इसको बढ़ाने से अब ज्यादा तादाद में मजदूर इसकी परिधि में आ जाएंगे तथा पहले से ज्यादा लोगों को ग्रेच्युटी मिल सकेगी जो निश्चित रूप से स्वागत योग्य कदम है। दूसरे बिल में जो मैनेजीरियल कैपेसिटी में रहने वाले व्यक्ति उसके प्रावधानों में शामिल नहीं होते थे, अब इस बिल के द्वारा जिनको 1600 रुपये माहवार तक तनख्वाह मिलती है, चाहे वे मैनेजीरियल कैपेसिटी में ही क्यों न हों, इसके प्रावधानों में सम्मिलित कर लिए गए हैं, जब कि वे पहले भी मजदूरों की श्रेणी में ही आते थे। इस कदम की भी मैं सराहना करता हूँ। तीसरे, ग्रेच्युटी की पेमेंट के संबंध में बड़े लोग अक्सर बाधाएं और विपदाएं डाला करते थे कि कैसे उसको गिना जाए, साल में 14 या 15 दिन कैसे बनाए जाएं अथवा कैसे मजदूर को फायदा न हो सके। अब वर्तमान प्रावधान के अनुसार एक साल में 15 दिनों की पेमेंट सुनिश्चित हो जाने से यह मसला हल हो जाता है। अब मंत्री जी ने ऐसी व्यवस्था कर दी है कि पंजीपति लोग अनुचित लाभ नहीं उठा सकेंगे और यह भी स्वागत योग्य कदम है। इससे सारी व्यवस्था सुचारू रूप से चल सकेगी। लेकिन जैसा हमने पहले भी कई

दफा कहा है, हमारे बर्मा जी ने भी सुप्रीम कोर्ट के निर्णय का हवाला दिया, उसमें यह कहा गया है कि लगातार 5 साल तक काम करने पर ग्रेच्युटी दी जाएगी जबकि पहले व्यवस्था के अनुसार एक साल में यदि वह 240 दिन पूरे कर लेता है तो उसके बाद लगातार उसको ग्रेच्युटी मिलती रहेगी। मैं समझता हूँ कि सुप्रीम कोर्ट के फैसले के कारण अब व्यवस्था पैदा हो गई थी और 1984 वाले बिल में जिस तरह से प्रावधान किया गया है, उससे निश्चय ही लाखों मजदूरों को लाभ होगा। क्योंकि जैसा आप जानते हैं, मैं बड़े शहरों की बात तो नहीं करता, वहाँ लोगों को बराबर काम मिलता रहता है और वे उसी में लगे रहते हैं, मगर छोटे-छोटे टाउंस में तथा एग्रीकल्चर क्षेत्र के नजदीक पड़ने वाले स्थानों पर ऐसे मजदूर ज्यादा है जो खेती का काम तो करते ही हैं, साथ में मजदूरी भी करते हैं। इस कारण बहुत सारे लोग 240 दिन साल में लगातार काम नहीं कर पाते और ग्रेच्युटी से वंचित रह जाते थे। अब किए गए प्रावधान के अनुसार, पहले साल 240 दिन, उससे अगले साल 190 दिन और जिन अस्थाई कामों पर, जहाँ 6 महीने काम चलता हो, यदि उनमें भी 75 परसेंट उसका अटैन्डेंस रही हो तो वह ग्रेच्युटी का हकदार बन जाता है। इससे निश्चय ही लाखों मजदूरों को लाभ होगा। यह व्यवस्था सरकार को पहले ही करनी चाहिए थी, क्योंकि इससे मजदूरों को काफी नुकसान हुआ। माननीय उपाध्यक्ष महोदय, चूंकि यह लेबर से संबंधित बिल है, हम उसको आज भी प्राथमिकता नहीं देते, पार्लियामेंट भी प्राथमिकता नहीं देती और लेबर विभाग भी उसमें विशेष दिलचस्पी नहीं लेता क्योंकि हमारे यहाँ लेबर सबसे पिछड़ा वर्ग माना जाता है

[श्री गिरधारी लाल ग्यास]

और उसके बारे में कोई दिलचस्पी नहीं दिखाता जिसके कारण सारी व्यवस्था में गड़बड़ पैदा हो जाती है। 1982 में प्रस्तुत किया हुआ बिल आज यहाँ सदन में आया है इसी से मालूम होता है कि लेबर से संबंधित कानूनों को क्या प्रायरीटी दी जाती है। लाखों मजदूर जो सुपरएन्युएशन में आ गये हैं उनको ग्रैच्युटी नहीं मिल रही है। बहुत से पूंजीपति ग्रैच्युटी देना ही नहीं चाहते। क्या आपने इसके लिये कोई पीनल प्रोवीजन लगाया है जिससे ऐसे डीफाल्टर पूंजीपतियों को सजा मिल सके? हमारे यहाँ मेवाड़ टैक्सटाइल में 25, 30 आदमी ऐसे हैं जो साल भर से ग्रैच्युटी के लिये परेशान हैं, उस का पेमेंट नहीं किया गया है। हमने भी इस बारे में लिखा, राजस्थान के श्रम विभाग को लिखा, मंत्री जी, आपको भी लिखा कि ग्रैच्युटी का पेमेंट नहीं हो रहा है। लेकिन कुछ कार्यवाही नहीं हुई। जो आदमी रिटायर हो गया उसको पेंशन न मिले और समय पर ग्रैच्युटी भी न मिले तो उसका कैसे काम चलेगा? लोगों को प्रोवीडेंट फंड की रसीदें नहीं मिलती हैं जिसकी वजह से वह अपने फंड से पैसा नहीं ले सकते। खानों के अंदर मजदूरों द्वारा प्रोवीडेंट फंड में 10, 10 साल से जमा की हुई राशि की आज तक रसीदें नहीं मिली हैं। इसी तरह से मेवाड़ टैक्सटाइल मिल में पैसा जमा नहीं होता, और अगर जमा होता है तो रसीद नहीं मिलती। मिल मालिक मजदूरों के प्रोवीडेंट फंड का 30, 40 लाख रु० खा गया। उसके खिलाफ कोई एक्शन नहीं लिया गया। उल्टे उसको आपने 3, 4 करोड़ रु० और दे दिया। आम मजदूरों के हितों की रक्षा करने वाले हैं इसलिये ऐसे मालिकों के खिलाफ सख्त कार्यवाही करें ताकि मजदूरों को प्रोवीडेंट

फंड का पैसा न खा सकें। ई० एस० आई० में 20 रु० मजदूर देता है और 30 रु० मालिक का कटौतब्युशन होता है। इसका भी 5, 10 लाख रु० मिल मालिक खा गया, सरकार के पास जमा नहीं किया जिसकी वजह से मजदूरों को दवाई नहीं मिल रही है। डिपेंडेंसी में दवाई नहीं है, अगर बाजार से खरीदें तो उसका कोई पेमेंट करने वाला नहीं है। कोई भी सुविधा मजदूरों को नहीं मिल पा रही है। आपका श्रम विभाग क्या काम करता है केवल भाषण देने से काम नहीं चलेगा। कानून में जो सुविधायें मजदूरों को दी हैं वह उनको मिल सकें तो अच्छा रहेगा। इस तरह जो मजदूरों के साथ अन्याय हो रहा है हमें आशा है कि श्रम मंत्री होने के नाते आप उस अन्याय को दूर करेंगे।

मंत्री जी आपको इसलिए मैं फिर दोहरा दूँ कि मेवाड़ टैक्सटाइल मिल का मालिक प्रोवीडेंट फंड के लाखों रु० खा गया, ई० एस० आई० का पैसा खा गया, मजदूरों को दवायें नहीं मिलती हैं। मजदूरों को ग्रैच्युटी साल, साल भर नहीं मिलती है। उसके बाद भी उनको पेमेंट नहीं होता है। वहाँ इस प्रकार के हालात हैं, उनको कोई देखने वाला नहीं है।

प्रोवीडेंट फंड की रसीद नहीं मिलती है, कर्जा नहीं मिलता है जिसकी वजह से सारी समस्याएँ हैं जो कि हल होनी चाहियें। मजदूरों को जो सहुलियतें मिलती हैं, ग्रैच्युटी भी एक सहुलियत है। इसके अलावा मजदूरों का पैसा काटकर जो सहुलियतें मिलती हैं, उन्हें वह भी उपलब्ध नहीं है। इसलिये यह भी मजदूरों को समय पर दिलाने की आप कोशिश करें।

14 hrs.

लेबर डिपार्टमेंट का काम लेबर के हित में काम करना है न कि पूंजीपतियों के हित में करना है। डिपार्टमेंट को पूंजीपतियों से पैसा बसूल करना चाहिये और अगर नहीं देते हैं तो उनके खिलाफ कार्यवाही करनी चाहिये और मजदूरों को मिलने वाली सहूलियतें दिलवानी चाहियें। जिससे वह आपकी जय बोलें और इंदिरा गांधी जी की जय बोलें, वरना आज लोगबाग आपको भी गालियां देते हैं, हमको भी गालियां देते हैं। इस सारी ब्यबस्था को आप ठीक कीजिए।

आप बिल अच्छा लाये हैं, इससे मजदूरों को फायदा मिलेगा। मैं इसका समर्थन करता हूं, लेकिन मजदूरों की कठिनाइयों को निश्चित तरीके से दूर करने की कोशिश कीजिए।

SHRI A. K. ROY (Dhanbad) : Mr. Deputy-Speaker, Sir, the House is under a deception that the two Bills combined together would give much to the workers. On the contrary, the way the Bills have come reflects a very sad and unfortunate attitude of the Government towards the workers.

14.01 hrs.

SHRI SOMNATH CHATTERJEE *in the Chair*

The benefit to labour has become a non-issue to the House, and, so the labour legislations have now been receiving or have received the lowest priority. This is the first time I am facing a situation where we have to take up and discuss at one time two amending Bills, one pertaining to the year 1982 and the other to 1984. The Bill of 1982 has its origin to a Labour conference of—1980 and the Bill of 1984 has come up because of a judgement of the Supreme Court in 1981. This is the

urgency the present Government attaches to the interests of the workers, as shown in bringing these two small Bills.

Gratuity is not something of a charity to the workers. It is something due, it is an expression of the gratefulness of the employers to the employees, who serve the employers. If we go through the debate on the original Bill of 1972 in this House, you will find that the Members referred to certain limitations of the original Bill. The Select Committee which processed that Bill also referred to certain limitations. We expected that the new Bill which would come as a comprehensive Bill would take care of those limitations, at least correct some of the principal limitations. What are the principal limitations of the original Bill? Firstly, its coverage should have been extended.

The Indian working class does not mean the organised working class. The Members are praising the Minister. They should praise, because he has done a great thing by enlarging the scope from Rs. 1,000 to Rs. 1,600 per month. I would like to know what per-centage of the Indian working class comes under that category? What percentage? Are all legislations made for them only? Sir, the organised working class, public sector and private sector minus Government employees, State and Central, would not be more than 5 to 6 million. That is my calculation. The total number of organised sector's workers and employees combined together, comes to 22 or 23 millions. And the number of organised sector's workers for whom these Gratuity Bills etc. are applicable, would not be more 5.5 million or 6 million workers, i.e., less than one crore. But the number of working people in India is nearly 20 crores—25 crores as per the 1981 Census. So Sir, the number of total employees and workers in the organised sector becomes one-tenth of the total working force of the country. So, it is not the point. The Minister has extended the scope from Rs 1000/- to Rs. 1600/-. I am not opposed to that. That matters very little. The point is, how to extend the benefit of the Gratuity Act to those people, whose pay is less than Rs. 300/- leave alone Rs. 1,600/-.

[Shri A K. Roy]

The average worker's wage in our country is less than Rs. 300/-, that means Rs. 10/- per day. I would like to know upto what extent you are bringing your Gratuity Act to benefit those people, those who work in the fields, those who build roads, construct houses, casual workers, construction workers, etc? How are you benefiting those people? Is there any provision in your entire Bill like that? Sir, you have made a small concession. Shops and establishments, etc, which employ less than ten people would also be covered by the Gratuity Act. But it does not specifically say whether it can be applicable to those people who are engaged in rural reconstruction, agricultural workers, road makers, people engaged in construction work, etc. You don't mention anything about it. But, what is more, what are the principal limitations regarding which, many members pointed out even in 1972 debate?

Your condition of 5 years continuous service to make a worker eligible for gratuity would deprive the unorganised sectors from its purview. You must formulate certain rules. I do not say this in a flat way, it is very easy to say so, but attempts should be made in that direction, so that, that particular limitation of 5 years continuous service to make people eligible for gratuity, does not become a harsh condition.

The second point is how to define this continuous service. There is nothing about it in your Bill. You are very vague about it. Mr. Daga is correct when he says that your object is not reflected in your legislation. In the text of the Bill you say that you have made this concession. Suppose somebody is sick, sick leave and other things should not be considered in counting the continuity of service. Or, they would be included, by counting your actual days' work. That is the only concession. But you have also spoken about strikes, lock-outs and other thing for which the employees are not responsible. Who will decide whether the strike or lock-out was justified? There, you have said that it will not be included. Because of strikes,

lock-outs, closures etc., if they would not complete 240 days of service, they would be debarred from gratuity. This is what your Act says. That should be clarified.

Mr. Chairman, Sir, I would remind you that in 1972, you opened the debate on the Gratuity Act. Very rightly you then referred to the judgement of Justice Gajendragadkar or disqualifying the workers for gratuity, when it results from termination of service for alleged misconduct. Who decides that the employee's services were terminated rightly or wrongly? It is totally under the management's discretion. For this, should he be deprived of his earning in the form of gratuity? It means he is losing both, i. e. the job as well as the gratuity. Even if we accept that any employee has committed some fault, for a fault committed to-day, should he forfeit the right to gratuity for services rendered earlier?

We have this judgement given by Justice Gajendragadkar in 1961. Gratuity is earned by an employee for long and meritorious service. It is difficult to understand why the benefit thus earned for long and meritorious service should not be available to the employee, even though at the end of such service he might have been guilty of misconduct which entails his dismissal.

Gratuity is not paid to the employees, gratuitously or merely as a matter of boon. It is paid to him for the service rendered by him to the employer. Once earned, it is difficult to understand why it should be necessarily denied to him, whatever may be the nature of the misconduct leading to dismissal.

But your amendment only says 'partially and totally'. That particular clause should have been removed. That actually means denial of natural justice. But you have not done it. You have simply touched it and said that it is total or partial.

There are other important things. One of them is about the purview. The

second is about the denial of gratuity. Delay in payment of gratuity should be dealt with here. There must be a provision in the rules which you have made. There are rules; and in the rules, there is so much scope for confusing things. Hardly any employee, whether he is working in the private or public sector, gets gratuity in time. There should be a provision that it should be paid within a particular time-limit. If within that particular time-limit gratuity is not paid, some penalty should be there. A penal rate of interest should be levied, and paid to the employees. Unless that provision is made, you cannot ensure timely payment of gratuity to the workers. They are asked to pay interest 9 percent or 10 percent or whatever it is on it for delaying the payment so that they are afraid to delay the payment of gratuity, because people get gratuity at the old age; at that time, they are not in a position to pressurise you for quick payment and all that. So, for old people, infirm people, you must be very considerate and any delay should not be excused.

You have mentioned about the misconduct of the workers; they should be deprived of the gratuity. What about the misconduct of the employers? What provision have you kept for them? It is only three months imprisonment or Rs. 1000 fine. Is it any deterrent measure against the employers? It should be made 3 months imprisonment and Rs. 1000 fine. Instead of 'or' it should be 'and'.

So, these are things which should be corrected. Though I do not approve of the Bill, this Bill should have sent to a Select Committee and asked them to give their report within 2 or 3 months, so that they can give certain very comprehensive suggestions, so that those points which were agitating the mind of the people should have been correctly incorporated in the Bill; and we could have presented really a beneficial Bill.

श्री अशुल शशीद काबुलो (श्रीनगर) :
आनरेबल चेयरमैन साहब, यह बिल जो इस

वक्त हाउस के सामने लाया गया है, बल्कि दो बिल हैं पेमेंट आफ ग्रेच्युटी (अमेंडमेंट) बिल, 1982 और पेमेंट आफ ग्रेच्युटी (अमेंडमेंट) बिल, 1984—इन्में जो भी कशेशंस दिए गए हैं उनका तो मैं स्वागत करूंगा। जहां पहले 1000 रु० की आमदनी की हद मुकर्रर थी बढ़ाकर 1600 कर दिया गया है और साथ ही साथ पहले के ऐक्ट में जो कमियां रह गई थीं उनकी बजाह्त की गई गई है, पेमेंट आफ ग्रेच्युटी ऐक्ट, 1972 की कमियों को दूर करने के लिए कदम भी उठाए गए हैं। इसमें वाजय किया गया है। कि कंटिन्युअस सर्विस में जो माइंस में काम करने वाले लोग हैं या इमी किस्म के जो दूसरे इस्टैबलिशमेंट हैं जहां वकिंग डेज 6 दिन हैं उनके लिए कान्टीन्युड सर्विस (Continued Service) 190 दिन मुकर्रर किए गए हैं। बाकी केसेज में 240 दिन मुकर्रर किए गए हैं। माइन्स के लिए आधे साल के लिए 95 दिन मुकर्रर किए गए हैं और इसी तरह से बाकी इस्टैबलिशमेंट्स में 120 दिन मुकर्रर किए गये हैं जोकि एक बहुत अच्छी बात है और इसका स्वागत होना चाहिए।

लेकिन एक बात मेरा समझ में नहीं आ रही है। जो पेमेंट आफ ग्रेच्युटी ऐक्ट, 1972 है उसके आब्जेक्ट्स ऐंड रोजन्स में यह बात कही गई है कि यह फॅक्टरीज, माइंस, आदल फील्ड्स, प्लांटेशंस, पोर्ट्स, रेलवे, दूसरे किस्म के कारखानों और शास के सिलसिलों में बनाया गया और फिर यह भी कहा गया है :

“The matter came up for discussion in the Labour Ministers' Conference held in July, 1980 and the Conference has also made certain recommendations.”

[श्री अब्दुल रहीद काबुली]

सवाल यह पैदा होता है कि दस साल तक सरकार कहाँ थी। 1972 में जो प्रोच्युटी ऐक्ट बना उसमें तबदीली लाने के लिए मजदूरों ने आबाजें उठाई, हर तरफ से इस सिलसिले में सरकार की तबज्जह दिलाई गई फिर ऐसा क्यों हुआ कि दस साल तक सरकार ने कोई दिलचस्पी नहीं दिखाई? हालाँकि सरकार का दावा है कि सरकार मजदूरों के लिए काम कर रही है। जुलाई 1980 में लेबर मिनिस्टर काफ़ेस हुई, जिनमें कुछ पास हुई, 1980 से 1984 तक चार साल और गुजर गए, अब 1984 में इस ऐक्ट को पास कर रहे हैं। मैं इस बात को कहे बिना नहीं रह सकता कि सरकार ने खास तौर से श्रम मंत्रालय ने कोताही का सबूत दिया है। इससे जाहिर होता है कि मजदूरों के साथ जो हमदर्दी करनी चाहिए थी और पसामांदा लोगों के लिए सरकार को जो कदम उठाने चाहिए, उनमें, सरकार ने अपनी जिम्मेदारी का सबूत नहीं दिया है। इसके लिए मुझे बड़ा दुख हो रहा है। इस के साथ मैं यह भी अर्ज करना चाहता हूँ कि मजदूरों के लिए सिर्फ़ लिखा-पढ़ी या बिल बनाने से मसायल हल नहीं होंगे। मेरे ब्याल से करीब एक करोड़ मजदूर इस कानून की गिरफ्त में आयेंगे। फाइनेंशियल मैमोरैंडम में बताया गया है सेंट्रल इंडस्ट्रियल रिलेशंस मशीनरी का फायदा उठाकर भगनूत को इम्प्लीमेंट करने के लिए इन्सपेक्टर्स नियुक्त किए जाएंगे जिन पर रिकॉरिंग एक्सपेंडिचर 18 लाख के करीब होगा और नान-रिकॉरिंग एक्सपेंडिचर दो लाख ६० के करीब होगा। इस रकम से तकरीबन एक करोड़ मजदूरों के लिए काम किया जा रहा है। जिनको इस कानून की गिरफ्त में लाया जा रहा है। मैं जानना

चाहता हूँ इतनी थोड़ी सी रकम से किस हद तक अपनी इयूटी को अन्जाम दे पाएगा। यह इतनी बड़ी जिम्मेदारी का काम है। सब से बड़ी बदकिस्मती यह है कि प्राइवेट सैक्टर में सबसे ज्यादा बाधनी है, सबसे ज्यादा नाइंसाफी हो रही है। मजदूरों के हक तलफ हो रहे हैं, उनके हकूक पर डाका डाला जा रहा है। मैं खुद अपनी रियासत में देख रहा हूँ कि हजारों लाखों की तादाद में दस्तकार प्राइवेट सैक्टर में काम करते हैं, जो किसी भी हाल में लेबर लाई के तहत नहीं आते हैं। जब प्रोच्युटी का प्रश्न आता है तो सारी की सारी लिस्टें बदल दी जाती हैं। न सिर्फ़ इसी को दुस्त करना पड़ेगा, बल्कि प्रोच्युटी के मामले में सैकड़ों केसेस हो रहे हैं, न सरकार के पास कोई ताकत है और न अमली तौर पर कुछ काम ही हो रहा है। इसके अलावा प्रोवीडेंट फंड और मैडिकल ऐड इत्यादि बातें हैं, जिन पर सरकार को ध्यान देना चाहिए। इसलिए मैं आपसे जानना चाहता हूँ कि यह जो बिल आप लाए हैं, इसके इम्प्लीमेंटेशन के सिलसिले में आप क्या करने जा रहे हैं? दस बरस तक आप कुछ नहीं कर पाए हैं, 1972 से 1982 तक, 1982 में नया कानून लाए और 1984 में अब यह कानून ला रहे हैं, देखना है कि किस हद तक आप प्राइवेट सैक्टर को फँस करेंगे। किस हद तक आप ज़रूरतमंद हैं। (courageous) मजदूरों के प्रोवीडेंट फंड और उनके जो बाकी हकूक हैं आप किस तरह से दिलायेंगे?

मैं एक बात यह भी अर्ज करना चाहता हूँ कि इम्प्लीमेंटेशन मशीनरी में भी काफी बपला होता है। इन्सपेक्टर्स को आपने इस काम को करने की जिम्मेदारी दी है, अगर वह अमली तौर पर कानून को इम्प्लीमेंट नहीं करता है, तो उसके खिलाफ किस

कानून के तहत कौन भी कार्रवाई करेंगे। कौन से एक्सांज उनके खिलाफ लेंगे—इस बिल में इसके बारे में बजाहत नहीं की गई है। मेरी नजर में यह बहुत जरूरी है कि जिन इंसपेक्टर्स को इस कानून को अमली-जामा पहनाना है—वे अगर अपने फराएज को सही तरीके से सरअन्जाम न दें, तो उन के खिलाफ क्या कार्यवाही की जायगी इसकी बजाहत होनी चाहिये। आम तौर पर इस तरह की शिकायतें आती हैं—प्राइवेट सेक्टर के साथ उनकी अंडरस्टैंडिंग हो जाती है, मजदूरों के हित में काम न करके वे कार-खानेदार की मदद करने लगते हैं। इस बिल के लागू होने से जाहिर बात है प्राइवेट सेक्टर के लोगों को बड़ी दिक्कत बढ़ाकर देनी होगी, उस रकम का कम करने के लिये इंसपेक्टर्स को करप्ट करने की कोशिश की जायगी और वे उनसे पैसा लेकर मज-दूरों के मुफाद के खिलाफ काम कर सकते हैं। जिन इंसपेक्टर्स को आप यह जिम्मेदारी दे रहे हैं कि वे रजिस्ट्रारों की जांच करें, जो कानून-शिकनी हो उसके खिलाफ सरकार को बतलायें ताकि उन मालिकों के खिलाफ कार्यवाही की जा सके बिलफर्ज अगर वे अपने फराएज सही तरीके से सरअन्जाम नहीं देते हैं तो उनके खिलाफ आप क्या एक्शन लेंगे ?

जहां तक आप इस कानून में तबदीली लायें हैं और जो कंसेशन आपने दिये हैं—यह बहुत अच्छी बात है, लेकिन 10 साल का अर्सा गुजर जाना सरकार की बहुत बड़ी क़ोताही को जाहिर करता है। यह कानून बहुत पहले आना चाहिये था और अब तक इम्प्लीमेंट होना चाहिये था।

श्री عبدالशुक्र काली (मरी नगर): आरंभिल चिर्मिन صاحب-ये بل جو اس وقت اؤس کے سامنے لایا گیا ہے بلکہ دو بل ہیں۔ پینٹ آف گریجویٹ (ایمپلمینٹ) بل ۱۹۸۲ اور پینٹ آف گریجویٹ (ایمپلمینٹ) بل-۱۹۸۳ ان میں جو بھی کنسیشن دیئے گئے ہیں ان کا تو یہی سوگت کر دوں گا۔ جہاں پہلے ۱۰۰ روپیہ کی آمدنی کی حد مقرر تھی بڑھا کر ۱۶۰ کر دیا گیا ہے اور ساتھ ہی ساتھ پہلے کے ایکٹ میں جو ترمیمیں تھیں ان کو بھی وضاحت کی گئی ہے۔ پینٹ آف گریجویٹ ایکٹ ۱۹۷۲ کی گیموں کو دُور کرنے کے لئے قدم بھی اٹھائے گئے ہیں۔ اس میں واضح کیا گیا ہے کہ کینیڈنس سو سو میں جو مائنس میں کام کرنے والے لوگ ہیں یا اس قسم کے جو دوسرے اسٹیبلشمنٹ میں جہاں رنگڈ ڈیز ۶ دن ہیں ان کے کینٹوڈیسروس ۱۹۰ دن مقرر کیئے گئے ہیں بانی کیسٹرس میں ۲۳۰ دن مقرر کیئے گئے ہیں۔ مائنس کے لئے آدھے سال کے لئے ۹۵ دن مقرر کیئے گئے ہیں اور اسی طرح سے باقی اسٹیبلشمنٹس میں ۱۲۰ مقرر کیئے گئے ہیں جو کہ ایک بہت اچھی بات ہے اور اس کا سوگت ہونا چاہئے۔

لیکن ایک بات تیری سمجھ میں نہیں آ رہی ہے۔ جو پینٹ آف گریجویٹ ایکٹ ۱۹۷۲ ہے اس کے آج بیکلیٹس ایسٹ ریٹنس میں یہ بات بھی گئی ہے کہ یہ فیکٹریز مائنس آف فیلڈس پلانٹیشن بورڈس ریڈیوے دوسرے قسم کے کارخانوں اور شاپس کے سلسلے میں بنایا گیا اور پھر یہ بھی کہا گیا ہے۔

“The matter came up for discussion in the Labour Ministers' Conference held in July, 1980 and the Conference has also made certain recommendations.”

سوال یہ پیدا ہوتا ہے کہ دس سال تک سرکار کہاں تک ۱۹۷۲ میں جو گریجویٹ ایکٹ بنا اس میں تبدیلی لانے کے لئے مزدوروں نے آوازیں اٹھائیں ہر طرف سے اس سلسلے میں سرکار کی توجہ دلائی گئی پھر ایسا کیوں ہوا کہ دس سال تک سرکار نے کوئی دلچسپی نہیں دکھائی۔ حالانکہ سرکار کا دعوہ ہے کہ یہ مزدوروں کے لئے کام کر رہی ہے۔ جولائی ۸۰ میں لیبر منسٹر کانفرنس ہوئی جن میں کچھ سفارشات پاس

کو سٹلائس تاکہ ان مالکوں کے خلاف کارروائی کر جاسکے۔ بالفرض
 اگر وہ اپنے فرض صحیح طریقے سے سر انجام نہیں دیتے ہیں تو ان
 کے خلاف آپ کیا ایکشن لیں گے۔
 جہاں تک آپ اس قانون میں تیسری لائن لائے ہیں۔ اور
 جو کسٹمر آپ نے دیئے ہیں یہ بہت اچھی بات ہے لیکن
 ۱۰ سال کا عرصہ گزر جانا سروسز کی بہت بڑی کوتاہی
 ظاہر کرتا ہے۔ یہ قانون پہلے آنا چاہیے تھا۔ اور اب
 تک ایمپلیمنٹ ہونا چاہیے تھا۔

SHRI SUBODH SEN (Jalpaiguri) :

Before I come directly to the Bill I should say that the Government should have come with a more comprehensive Bill in the light of the experiences that we all have earned during the last ten years.

The provisions of the Payment of Gratuity Act are not negotiable. It should be adhered to both by the employers as well as the employees. But in the case of weaker sections, what do we find today? Take for instance plantations. When we go there, we find that some 100 or 200 persons who have already retired, have not received any gratuity. There is a great backlog. It did not behave either on the part of the trade unions or the Government officials to negotiate. We have to negotiate payment of gratuity on instalment basis. The Government should have taken notice of it. Why should the Government not come with a comprehensive Bill? Like Provident Fund, Gratuity Fund will have to be created by the enterprise. In the life insurance business, there is assessment of life fund and life fund is kept apart. If in computing the balance-sheet the employer can very well set apart for depreciation, why should not the Government prescribe something in the nature that assessment should be made every year as to the liability in regard to the gratuity and create a gratuity fund like the provident fund and other funds and out of that gratuity should be paid outright and it should remain non-negotiable and non-instalment payment?

Another thing which has come to our notice is this. Nowadays, in the time of

recession, quite a large number of enterprises very often changes hands. What happens? The new employer tells the workers that he is not going to take up any responsibility for the payment of gratuity or even the arrears or wages, which are likely to have accumulated over the bygone years. When the Act is being amended, some provision should be made to protect the workers. So, the new employer should be made responsible for the payment of gratuity and other dues of workers.

PROF. N. G. RANGA (Guntur) :
 Is it not there now?

SHRI SUBODH SEN : Suppose one company owns ten tea estates and it sells one estate to a new company, which is a different company. Then there is no continuity of the company. I think there is no precise law to regulate it.

Coming to 26 working days in a month, some companies and establishments have started saying that they would take into account 13 days, and not 15 days' wages, for every year of service. This is a new development during the last two years, which should be taken care of while bringing new amendments.

Then you have practically sought to remove the clause regarding superannuation. According to the parent Act. "superannuation" in relation to an employee means (i) the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment; and (ii) in any other case, the attainment by the employee of the age of fifty-eight years. How you have sought to remove the provision about 58 years. You have simply stated :

"Superannuation", in relation to an employee means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment."

[Shri Subodh Sen]

Unfortunately, there are establishments in our country where there are no conditions of service stipulated, where there is no system of giving an appointment letter. So, if you remove that clause then it would be interpreted in any way the owners like. So, I think this clause should have been retained.

Regarding the forfeiture of the right to gratuity in the original Act it is stated :

“the gratuity payable to an employee shall be wholly forfeited—

- (i) if the service of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part.”

You have not thought of removing the main difficulty. You have only modified it. For the words “shall be wholly forfeited”. You want to substitute the words “may be wholly or partially forfeited”. But what is the Connotation of “riotous or disorderly conduct”? Who is to determine it? Sir, I come from a very backward area. I have noticed that for three months the workers in some plantations have not been paid their full wages. So, if on the third month some four hundred workers come to the office and ask the Manager to make the payment since they are starving and that they have got to feed themselves and their family members, the Manager may issue a chargesheet for the disorderly behaviour and riotous conduct and by that way some five, six or ten leaders are dismissed. That way their right to payment of gratuity is forfeited. I am sure that will be deemed as disorderly behaviour and riotous conduct by the employers and they will issue chargesheet like that. We have got some model rules of standing orders. But the model rules of standing orders need to be amended in relation to this. In the period of recession it will invariably come to your notice that the workers will not be paid and that they will be coming in block demanding their wages. For that

reason their services will be dismissed and that they will be taken to task. So, the question is, for this reason should they forfeit their right to payment of gratuity? All these are regarding the Amendment Bill No. 133 of 1982. Particularly in this regard I would emphasise that Clause; 58 years should be retained and that it should not be deleted.

As regards the new Bill of 1984, I would say—as Shri Mool Chand Daga has said and many of our friends have also said—in Clause under 2A for the purpose of this Act the qualifying clause—really to qualify lay-offs strikes, lock-outs, or cessation of work not due to any fault of the employee has been stated in a way that if will infringe upon the right of the workers. After all, if there is a strike, the question is : is it justified or is it not justified; if there is a lock-out, is it justified or not justified? In case of strike, if it is justified, then the fault lies with the owner and if it is not justified then the fault lies with the employees. Who will determine this? Then do you mean to say that notwithstanding the fact that even if a Union and the employer come to an agreement for a settlement, for this simple issue, they have to rush to the tribunal to decide whether it was justified and with whom lies the fault. So, this qualifying clause that ‘not due to any fault of the employee’ should be removed. All cases of lay offs, strikes, lock-outs, cessation of work etc. should be regarded as a period within the uninterrupted service. That is my humble suggestion.

No, the question is what do you mean by cessation of work? From my experience I have found that on alleged constraint of funds, employers have reduced, rather imposed the reduced working days per week to three or four days. There is a method for doing so. For three or four months they carry on this practice. That is, you may call it ‘work punctuated by cessation of work’ or you may call it ‘cessation of work punctuated by work’. So, what is the suggestion here? The employers themselves have imposed cessation of work sometimes for three days at a time or

cessation of work on every alternate day. So, these things need to be clarified. Otherwise, I think the purpose will not be served. Obviously the purpose is good, but it may not be served and it may give rise to dissensions.

So, while supporting this, I would request the hon. Minister to bring a comprehensive Bill in the light of the experiences of the working of this Payment of Gratuity Act for the last 10 or 12 years to plug all the loopholes so that the intention with which the Act has been passed will be realised.

With these words, Sir, I conclude.

*SHRI ERA MOHAN (Coimbatore) : Mr. Chairman, Sir, on behalf of my party the Dravida Munnetra Kazhagam, I wish to make a few suggestions on The Payment of Gratuity (Amendment) Bill, 1982 and Payment of Gratuity (Amendment) Bill, 1984, which are being discussed together.

The hon. Members who preceded me have spoken eloquently and elaborately about the provisions of these two Bills and also about the steps to be taken for strict enforcement of the provisions of these Bills. Hence I would be brief in my remarks.

The present act was passed in 1972 and during the past 12 years many defects and deficiencies have been noticed, which are sought to be removed by these two bills now in 1984. Though these bills have been brought forward belatedly, yet I welcome them because the workers are being assured of legal protection for their rightful claims and the workers are the beneficiaries. I wish to take this opportunity for making a few suggestions for the good of the workers in our country.

In 1980 the State Labour Ministers' Conference was held in New Delhi, in

which many of the problems confronting the workers were highlighted and many suggestions were also made at this Conference. It has taken four years for the Government to give legal shape to the decisions arrived at this Conference. In 1980 the ceiling of Rs. 1200 per month was there for gratuity entitlement. The State Labour Ministers' Conference felt in 1980 that this ceiling was very low in view of the then prevailing value of rupee and suggested the enhancement of this ceiling to Rs. 1600. After four years this ceiling of Rs. 1600 is being enforced through this Bill. I need not tell you what is the value of rupee today. What was considered feasible in 1980 is not really feasible today in 1984 because of the steep fall in the value of rupee. The Government on its own should have enhanced this ceiling to Rs. 2200 so that wide spectrum of labour can become entitled to gratuity. After five, six years even this Rs. 2200 may have to be revised upwards because by then the value of rupee would have still gone down. Since the Government have not done this *suo motu*, I demand that this ceiling should be raised to Rs. 2200 by the Labour Minister. The workers should not become the scapegoat for the Government's inordinate delay in implementing the decision arrived at in 1980. In view of the prevailing value of rupee, the ceiling of Rs. 1600 for gratuity entitlement should be enhanced to Rs. 2200.

Sir, the provisions of these two Bills will not be applicable to lakhs of workers who are withering and wilting under the casual labour system and the contract labour system. The Government which swears by the name of labour welfare is also not an example to be emulated by the private sector. There are about 2 lakhs of casual labour on the Railways. The Central Government is Manning the Railways. The State Governments cannot be blamed for the existence of casual labour on the Railways. These two lakhs of workers are denied the gratuity facility. The hon. Minister of Railway on the floor of this House expressed his antipathy towards the casual labour on the

* The original speech was delivered in Tamil.

[Shri Era Mohan]

Railways. But at the same time he pleaded his inability to get rid of this system. If the Cabinet Minister in charge of Railways, where there is this system of casual labour, pleads his helplessness in doing away with the system of casual labour, I wonder who else can get this done. Can anyone go to a Court of Law and get this blot removed? This kind of administrative policy of running with the hare and hunting with the hound must be stopped immediately in the interest of workers on the Railways. The casual labour system on the Railways must be ended forthwith.

It is not merely the Railways who are to be blamed. In many of the Central public sector understandings the casual labour system is prevalent. In private sector we have the contract labour system. We have in Shri Veerendra Patil a Labour Minister who is committed to the cause of labour welfare. He must ensure the abolition of casual labour and also the contract labour system in our country. These workers must become entitled to gratuity.

Another important issue is the misuse of gratuity money by the private sector. Proper accounts are not being maintained. The gratuity money is being utilised for personal aggrandisement by the industrialists. There is presently no check on this. I demand the creation of a separate fund exclusively for gratuity. I suggest that the Government must also have regular check on the use of gratuity money for other purposes. If necessary, the Government should not hesitate to have a separate law for the purpose of prohibiting the use of gratuity money for other purposes.

Through the payment of Gratuity (Amendment) Bill, 1984, the Government has annulled the obnoxious judgement of the Supreme Court which denied gratuity to workers who have put in less than 240 days of continuous services. I welcome this Bill because I represent Coimbatore Parliamentary constituency

which has the largest labour force. Lakhs and lakhs of workers are employed in the textile mills here. After the Supreme Court's Judgement in 1980, during the past 4 years thousands and thousands of workers have retired after having put in 30 years and 40 years of service. They have all been denied gratuity by the textile mill owners who took shelter under the Supreme Court's judgement. They just get gratuity for 5 or 6 years of service only. All their hopes and aspirations for a happy retired life have thus been belied. To a question of mine in 1981, the Labour Minister had replied that the Government would soon bring an amendment to the Act. This amending Bill has come only in 1984. This is a classic illustration of sluggish working of the Government even in regard to labour welfare. Inquire upon the Labour Minister that retrospective effect must be given to the provisions of this Bill so that thousands of workers who have retired after the Supreme Court's judgement are also enabled to get their full gratuity. I do not know whether ways and means have been evolved for this purpose. If they are not there, they should be evolved. The sufferings of workers must be redressed, if necessary even be further amending the labour laws to plug the loopholes. I welcome these two Bills. While concluding my speech, I demand the abolition of casual labour and contract labour system which deprive the workers from getting gratuity and other benefits from the labour laws.

With these words I conclude my speech.

MR. CHAIRMAN : I am having names of 4 hon. Members, May I request the hon. Members that each may take between 5 minutes and 7 minutes.

Shri S. N. Jatiya.

श्री सत्यनारायण जटिया (उज्जैन) :
समापति महोदय, उपदान संदाय अधिनियम
1972 का संशोधन के रूप में पेमेंट आफ
ग्रेच्युटी ऐक्ट, 1972 के संशोधन में और

संशोधन इस प्रकार है, इस विधेयक की धारा 2 की उपधारा (1) में जो वर्णन किया है उसको मैं पढ़ देना चाहता हूँ। उसमें कहा गया है कि 1,000 रु० शब्दों के स्थान पर उन चारों स्थान पर जहाँ वे आते हैं 1,600 रु० शब्द रखे जायें। यह संशोधन इस विधेयक के माध्यम से लाना चाहते हैं, और इसके लिये जो उद्देश्य और कारण में बताया गया है उसमें कहा गया है कि निर्वाह व्यय में हुई वृद्धि के कारण मजदूरी स्तरों में जो बढ़ोत्तरी हुई है उसको दृष्टि में रहते हुए निर्वाह व्यय में वृद्धि के कारण अधिनियम की व्यापता का विस्तार उन व्यक्तियों पर किये जाने का प्रस्ताव है जो 1,600 रु० प्रतिमास तक मजदूरी ले रहे हैं।

मतलब यह कि निर्वाह व्यय बढ़ा है, उस आधार पर 1000 रु० के बजाय 1,600 रु० रखना उपयुक्त होगा। 1600 रु० का आधार क्या है? कोई बेसिस तो होना चाहिये? 1,700 रु० या 2,000 रु० क्यों नहीं? उसका आधार क्या होगा? यदि मूल्य सूचकांक ही लें तो उसकी तुलना कर लीजिए 1971 के प्राइस इंडेक्स के आधार पर। उस साल यदि बेस 100 मान लें तो इस वर्ष 1984 मार्च में बढ़कर 323.3 है। आज तक जो मंहगाई बढ़ी है सरकारी आंकड़ों के अनुसार वह तिगुनी बढ़ी है। उपभोक्ता वस्तुओं के भाव 3 गुना बढ़ गये हैं। अगर आपने मंहगाई को आधार बनाया है तो यह हजार के बजाय 3 हजार होना चाहिये। लेकिन मुझे इसका कोई आधार दिखाई नहीं देता।

अगर 60-61 को आधार वर्ष मान लें तो जो फरवरी 1984 का 'प्राइस इंडेक्स' मिला है उसमें 519 है तो उससे तो यह 5 गुना बढ़ गया। 70-71 को आधार मान लें तो

3 गुना बढ़ गया। अब आप बतायें कि इस का आधार क्या है? यह 1000 की जगह 1600 कैसे रखा गया है? इसे 1600 की बजाये 1700, 1800 भी रखा जा सकता था। जब आप उत्तर दें। मैंने मूल्य सूचकांक के आंकड़े इसलिये दिये हैं कि आपने उद्देश्य में कहा है कि निर्वाह करने के लिए बड़ी मंहगाई बढ़ गई है इसलिए यह सारा परिवर्तन किया है। मैं समझता हूँ कि यह साइं-टिफिक नहीं है। इसमें आपने सारे वेजेज भी मिलाये हैं और मंहगाई भत्ता भी शामिल है। जो कर रहे हैं, तो उपकार के बदले प्रतिकार मिल रहा है। यह उसकी सेवाओं के बदले मिलना चाहिये और यह विलम्बनीय वेतन है जो कि उनको मिलना चाहिये था। यह हम उसको दे रहे हैं सेवा निवृत्ति के बाद जिससे वह परिवार का ठीक से जीवन यापन कर सके। यह ठीक है, लेकिन मूल विधेयक का जो आधार है, उसमें सुधार की आवश्यकता है।

आप यह विधेयक टुकड़े-टुकड़े में ला रहे हैं। अगर आपको परोचना है, कुछ देना है तो पूरी थाली परोसिए, टुकड़े-टुकड़े में मत दीजिए। आप श्रमिकों का भला चाहते हैं तो चाहे दाल रोटी दीजिये, ठीक दीजिये, लेकिन दाल में पानी मत मिलाइयें। इस तरह से दाल का काम का पता नहीं लगता है।

जो विधेयक आप लाये हैं, यह शुरूआत है। कुछ न मिलने से जो कुछ मिले अच्छा है लेकिन यह नहीं कि कुछ तो देना है इस लिये आष यह करें।

सभापति महोदय, आप मजदूरों के बारे में बहुत कुछ जानते हैं कि उनके बारे में कोई कार्यवाही ही हो नहीं पाती। भविष्य निधि के बारे में 24 अप्रैल को मैंने एक प्रश्न पूछा था सं० 8537। उसके जवाब में

[श्री सत्य नारायण जटिया]
बताया गया है कि जो भविष्य निधि का भुगतान नहीं किया गया है उसकी राशि 49 करोड़ 7 लाख है। जो जमा नहीं कराया गया है प्रबंधकों के द्वारा और जिन एस्टे-ब्लिशमेंट्स को छूट दे दी गई है, वह राशि है 43.37 करोड़। इस बारे में कोई कारगर कार्यवाही नहीं हुई है। उसका कोई परिणाम नहीं है। इस तरह के लुंज-पुंज नियमों के आधार पर, जिनका कोई प्रभावी परिणाम नहीं हो सकता, कोई लाभ नहीं है। आप इन श्रम कानूनों को टुकड़ों में न करके एक बार पूरी श्रम नीति बनायें और सेन्ट्रल ट्रेड यूनियन आर्गनाइजेशंस को आमंत्रित कीजिये और फिर निर्णय कीजिये। आप करते तो जरूर हैं, लेकिन बहुत देर से करते हैं, पता नहीं क्या रुकावट आती है। श्रम मंत्रालय शर्म की स्थिति में नहीं आना चाहिये। "श्रमेव जयते" का एक नारा दिया गया था जिसका अर्थ था कि श्रम की ही विजय है। किन्तु आज तो श्रम की जगह बंधुआ की स्थिति हो गई है।

सारे मजदूरों के बारे में पूरा विचार कीजिए। आज खेतिहर मजदूरों को कोई देखने वाला नहीं है। इंस्पेक्टर बढ़ाकर आप सारा करने वाले हैं, मैं कहना चाहता हूँ कि जो आप करना चाहते हैं वह करना चाहिये, परन्तु जिस प्रकार की मशीनरी और कानून आपके पास है, वह बिल्कुल अपर्याप्त है, बल्लम है और इससे मजदूरों का हित होने वाला नहीं है। इसलिए मजदूरों के कानून को इंप्लीमेंट करने की दृष्टि से पुस्तक कानून लाइये। जितना बढ़ाया है, उसके बारे में जितना मजदूर को मिलता वह तो लेना चाहिये। लेकिन आगे के लिए संघर्ष करना चाहिये। जितना आपने दिया है, वह साइंटी-

फिक नहीं है। आप इसे साइंटीफिक बनायें, इसका आधार बनायें। इससे मुझे प्रसन्नता होगी। आपने जो समय दिया उसके लिये धन्यवाद।

SHRI HARIKESH BAHADUR (Gorakhpur): Mr. Chairman, I do not want to tax the patience of the hon. Minister. Therefore, I will be brief in my speech. I will take only three or four minutes.

I have already said something on this subject.

So far as bringing this legislation is concerned, I have a word of appreciation for it. This should have been brought forth earlier in the House. The hon. Minister is bringing forward this legislation at least at this stage. I appreciate it.

The workers should have the fundamental right of getting payment of gratuity. The workers may be in the private sector or public sector. They may be permanent or casual. But they must get this benefit.

15 hrs.

[SHRI N.K. SHEJWALKAR *in the chair*]

Gratuity should be paid to the agricultural workers, to the construction workers and to the workers in various private sector organisations and factories etc. working temporarily on daily wages because they are the greatest sufferers at present. If Government is really interested in the welfare and good of these poor and miserable workers, it must come up with a comprehensive legislation for payment of gratuity to these workers. Some of hon. Members have demanded such a legislation and I hope that the hon. Minister will give consideration to this demand.

About 25,000 railway employees are working in any Constituency. Therefore,

I am compelled to speak on this amendment to the Bill. I know their miseries and their problems after their retirement from service. They are not being paid their gratuity in time. This is the greatest tragedy. Gratuity is of great help to the workers. They immediately require this amount, once they retire. But we find that some of them are very much harassed. They are not paid gratuity in time. That is why, they are always getting frustrated and running to us all the time.

I would like to request the hon. Minister to see that the workers after retirement must get gratuity immediately so that they may not feel harassed.

Lakhs of casual workers are working in Indian railways and they are deprived of gratuity. These workers are unfortunate that they are not made entitled to receive gratuity. Therefore, I have demanded that casual workers should be made entitled for gratuity and this gratuity should be paid to them also. Some of the casual workers have been working for the last ten to twelve years. But unfortunately they are not yet declared permanent in service. This is also a very serious matter.

We have raised this point in this House several times before and requested the Minister of Railways and the Minister of Labour also to fulfil our demand. But so far nothing has been done in the matter.

A general assurance is given to the Members that the casual workers would be made permanent. All their problems would be solved and they would get all the benefits of the permanent employees. Effective action should be taken in this regard immediately.

I would like to make the demand that even if the workers are not made permanent, they should be paid gratuity. The workers whether permanent or temporary put in hard labour as a result of which production is increasing in various sectors. It is through the hard

labour of the workers that the economy is improved. And if those hard-working workers are denied the service facilities like gratuity, they get demoralised and they lose all interest in increasing production and in the working of the organisation in which they are employed.

Therefore, I earnestly request the hon. Minister to look into this matter and specifically ask his colleague the hon. Minister of Railways to provide the payment of gratuity to the casual and permanent workers in the railways so that they do not get frustrated and feel the satisfaction of getting all the service benefits. This would go a long way in increasing production.

SHRI BRAJAMOHAN MOHANTY (Puri) : Mr. Chairman, Sir, I had given notice of an amendment to Clause 4 of the Bill, to insert "within three months" after the word "shall" on page 3, line 16. Clause 4 of the Bill as it stands now reads :

"The Controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the employer."

Although I had given notice of the Amendment, I did not press it. But all the same I would urge upon the hon. Labour Minister to take this into urgent consideration. As a matter of fact, labour disputes have been lingering on for years together as a result of which discontent is spreading resulting in manifestation of violence and different forms of unrest which is not desirable. If we are to make this working class democracy a success in India, my submission would

[Shri Brajmohan Mohanty]

be that all controversies and disputes must be settled at the earliest point of time. So, my request to the hon. Minister would be that he should take this fact into consideration and provide a time limit for disposal of the disputes so that the disputes are settled expeditiously and a healthy atmosphere is created.

Two Bills are there, one arising out of the Supreme Court judgment and the other arising out of the fact that the value of the money has gone down and, therefore, a higher income group has been included. It is alright, it is well-come, and I fully extend my support to the Labour Minister for this. But the problem is this. I am recalling one observation of the Chief Justice of the Supreme Court, Justice Chandrachud, in the Silver Jubilee function of the Jammu & Kashmir High Court. He has categorically observed that some judges, who have been brought up in aristocratic environment, in an affluent atmosphere, are not able to appreciate matters relating to compensation to the labour, if for example, a labourer is crippled by accident and the question of compensation comes up, they are not able to appreciate because they have been brought up in a different atmosphere; but when the question of giving reduction in income-tax comes, they are very enthusiastic and they could appreciate the difficulties of the assessee. The problem is because of the social values obtaining in the society, or atmosphere in which they have been brought up. That attitude is prevailing in their mind, as a result of which justice is not being done. This is not my observation, this is the observation of the Chief Justice of the Supreme Court. This is the case whenever any labour law is to be interpreted. I do not mean any particular law or any particular court. But a section of judges, as a matter of fact, is not sympathetic to the cause of the working class.

Then I come to public sector undertakings and also private sector. So far as public sector undertakings are concerned, there is no question of exploitation as in the private sector because the

ownership vests in the community. But in that background the difficulties of the working class in the public sector undertakings should not be minimised because the attitude of the Manager or Director in the public sector undertakings is unsympathetic towards the working class, that is because they have been brought up in a different atmosphere and they are not acquainted with the agony of the workers, with the sufferings of the workers, with the exertions of the toiling masses. Naturally, although on principle, statutorily, on the basis of the rules formulated, the workers are entitled to some benefits, because of the mischief done by the Managers or Directors, they are not getting those benefits. It is this that creates crisis. So my submission would be: let the Labour Minister take into consideration these two aspects. It is not that I have to tell you. You may like to make a statute completely immune so that no court can do any mischief. But you cannot do that. It is humanly impossible. All the statutes, however carefully drafted, come before the court and it may take a different view and give a different interpretation. It is a matter of the attitude of the Judges that will decide the fate of the labour. My submission is: nowhere in the world it is also possible. The problem is the question of attitude.

Similarly, in the case of public sector undertakings, the Managers and Directors in some cases are not sympathetic. I do not want to give any particular illustration of it. But I have the experience of it. I do not want to place it. That will be very awkward. I do not want to name any particular Director or Manager. But the fact remains that they are not sympathetic and their attitude is not sympathetic to the cause of the working class. This is the problem.

Another aspect in the Indian trade union movement is that certain sections of the political leadership are using the trade unions as an instrument of political gains. They are using it for political purposes—not for the genuine purpose of the working class interest,

One thing—the trade union movement is not only a negative movement it is not only a movement only to be directed for the economic and Social upliftment of the workers. So far as the public sector undertakings are concerned, it has also the responsibility of the trade union to see that the performance improves, to see that there is no corruption, to see that corruption is reduced and to see that wastage is reduced. I am reminded of the way the present leaders of the Soviet Union are tackling it. Within 2 to 3 days of their coming to power, they had given a directive, a directive to all the men of literature and journalists. For what? They have to create a new theme so that the workers will be influenced to check the wastage, to check corruption and to improve the performance. That was the directive. Of course, in this country no Government can give any directive. We have not got that much of freedom. They have got total regimentation of the society there. They can do that. My submission would be that so far as trade union is concerned, there should be a national consensus. I do not say about the private sector undertakings. There there is exploitation and the surplus value of the labour is being misappropriated by certain other persons. But in the public sector there is no such feature. Why should there not be a positive approach to improve the performance, to remove all the weaknesses that are there in the industrial management, to remove corruption and to reduce wastage. These are positive things. So the various aspects of the positive responsibility the trade union movement in this country should take up so far as public sector undertakings are concerned. Unless drastically and radically we change our approach, I think we are not going to succeed.

The Chief Minister of West Bengal has now realised one thing. He has evolved a concept—the concept of work ethics. Now he has learnt the lesson. I know some friends of the Left Front are opposed to it. I do not know whether Mr. Chitta Basu is opposing it or accepting it. Now the fact remains that it is a very positive attitude. The worker should have

a certain ethics and what is that ethics—to improve the performance and to reduce corruption and wastage and to improve the management. So, unless we incorporate these things and unless we create a conscientiousness in the country amongst the workers about their positive responsibility, I am sorry we cannot reach our objective.

Thank you very much. I can again request the Labour Minister to consider my point and let him fix up a time limit for inquiry and final disposal of labour disputes.

प्रो० अजित कुमार मेहता (समस्तीपुर) : सभापति जी, इस विधेयक का साधारणतः समर्थन ही किया जाना चाहिये और मैं भी इस का समर्थन करता हूँ। यद्यपि मुझे यह देख कर आश्चर्य होता है कि जिन विधेयकों पर हम इस समय विचार कर रहे हैं उनमें से एक 1982 में पेश किया गया था और दूसरा 1984 में पेश किया गया था, ऐसी कोन सी बाधा आ गई थी जिसके कारण आप इन इन विधेयकों को अभी तक पारित नहीं कर सके। 1982 से 1984 तक आप क्यों मो रहे थे? इससे यह सिद्ध होता है कि.....

PROF. N. G. RANGA : Was Parliament sleeping?

MR. CHAIRMAN : Ranga Ji, Parliament was not sleeping.

PROF. N. G. RANGA : Parliament was sleeping for two years. Otherwise, this Bill should have been passed. Why was it introduced in 1982? And why is it that we are discussing it here now?

PROF. AJIT KUMAR MEHTA : This is what I am saying. The Government has brought forward this Bill in Parliament two years back for consideration. इसीसे मैं समझ रहा हूँ कि आप इन संशोधनों को कितनी प्राथमिकता दे रहे हैं। फिर भी 'देर-आयद-दुरुस्त-आयद', यदि अभी भी पारित हो जाय तो मुझे प्रसन्नता ही होगी।

[प्रो० अजित कुमार मेहता]

सभापति जी, संगठित मजदूरों की तरफ तो सबका ध्यान है, उनका वेलफेयर कैसे हो, किस प्रकार से उनका कल्याण किया जाय, लेकिन आप उन मजदूरों की भी कल्पना कीजिये जिनके बारे में अभी श्री राय ने बतलाया था। 20 करोड़ के लगभग इन असंगित मजदूरों की संख्या है और खास कर देहातों में जहां से मैं आता हूँ—“भादों के काषों में पानी से भीगते हुए, जेठ की दोपहरी में लू से तपते हुए और माघ की शीत लहर में आधा तन ढक कर सर्दी में काम करते हुए”—खेतों में काम करते हैं। आप जरा कल्पना कीजिए—इन हालात में काम करते हुए जब उनका बुढ़ापा आता है, तो उनकी क्या दशा होती होगी। आपने इस विधेयक में सुपरेनुएशन का प्रावधान रखा है, लेकिन उनका रिटायरमेंट, उनका सुपरेनुएशन तब होता है जब वे अशक्त ही जाते हैं और अशक्त होने के बाद एक बूढ़े कुत्ते की तरह से मरने के लिये उनको घर से भगा दिया जाता है, भीख मांगने के लिये विवश कर दिया जाता है। उनके लिये आपके यहां क्या प्रावधान है? क्या कभी किसी ने उनके बारे में सोचा है? जनता राज के समय में वृद्धावस्था पेंशन की व्यवस्था हुई थी और पिछले दिनों में वृद्धावस्था पेंशन बहुत जगहों पर दी भी गई है, हालांकि उसकी भी इस सदन में और सदन से बाहर कटु आलोचना हुई है, मगर मैं आप को बतलाना चाहता हूँ कि वृद्धावस्था पेंशन उपयुक्त और उचित लोगों को दी ही नहीं गई है। जिन उपयुक्त और उचित लोगों को दी भी गई है, वह उनके लिये बहुत अपर्याप्त है। इस लिये मेरा कहना है कि जब आप संगठित मजदूरों के बारे में सोचते हैं तो इन लोगों के बारे में भी सोचना हमारा और

आपका कर्तव्य है। हमसे ज्यादा आप इस बारे में सोचने की स्थिति में हैं, क्योंकि आप शासन में हैं, सत्ता में हैं। इसलिये इस पर आप को विशेष ध्यान देना चाहिये। जब संगठित मजदूर की बात आती है, तो जैसा कि पहले भी कहा जा चुका है 1600 रुपये वेतन की सीलिंग आपने रखी है और वहां तक इस सुविधा को बढ़ाने की बात आपने की है मगर मैं समझता हूँ कि जिस तरह से कीमतें बढ़ी हैं, उन को देखते हुए यह कम है। जिन लोगों को 1972 में यह सुविधा उपलब्ध थी और 1972 के 1000 रुपये के वेतन की तुलना में कम से कम 2250 और 2500 रुपये वह वेतन होता है। इसलिए मेरा कहना यह है कि 1972 को अगर आप आदर्श मान लें, तो 1600 रु० की सीलिंग को बढ़ा कर आप को 2500 रु० कर देना चाहिए।

सभापति जी, 1972 में जिस समय यह विधेयक यहां पर आया था और विधेयक पर इस सदन में चर्चा हो रही थी, तो उस समय वाद-विवाद को मैंने पढ़ा और उस समय के भी सौमनाथ चटर्जी ने दो मुद्दे उठाए थे और मैं समझता हूँ कि वे बहुत प्रासंगिक हैं। एक तो यह है कि 15 दिन जो रखा गया है वह कम है, इस को 30 दिन किया जाना चाहिए और दूसरे 5 वर्ष का बंधन क्यों लगाया गया है। पांच वर्ष का मतलब यह है कि जिस मजदूर ने 4 वर्ष और 364 दिन काम किया है, वह इस सुविधा को नहीं ले सकेगा इसलिए मैं यह समझता हूँ कि यह सही नहीं है। पांच वर्ष पूरे न हों, इसके लिए फिर प्रकार से उपाय किये जाते हैं, यह आप जानते ही हैं। पांच वर्ष पूरा होने से पहले किसी न किसी कारणवश कोई भी कार्यवाही करके या तो उसे सेवा से हटा दिया जाता है या सजा दे दी जाती है जिससे लगातार

5 वर्ष काम करने में व्यवधान आ जाए। बड़े उद्योगों में ऐसा न होता हो लेकिन जो छोटे उद्योग हैं, जहाँ पर 10-15 मजदूर काम करते हैं और जो इस कानून के घेरे में आते हैं, इस तरह की बातें होती हैं। इसलिए इस बात का ध्यान रखा जाना चाहिए कि उन मजदूरों को कोई हानि न होने पाए।

एक बात की ओर मैं आपका ध्यान दिलाना चाहता हूँ कि यह जो 10 मजदूरों के काम करने का बंधन है और जिस उद्योग में 10 मजदूर या इससे ज्यादा मजदूर काम करते हैं, उस उद्योग में उन मजदूरों को सुविधा मिल जाएगी, इससे बचने की किस तरह से कोशिश की जाती है, यह मैं आपको बतलाना चाहता हूँ। मान लीजिए किसी छोटे उद्योग में 10 या 10 से ज्यादा मजदूरों का काम है। इस कानून के बंधन से बचने के लिए वे केवल 9 मजदूरों की ही काम पर लगाते हैं लेकिन उनसे ओवरटाइम करा कर काम को पूरा करते हैं। अगर एक मजदूर को 8 घंटे काम करना है, तो उससे 12 घंटे प्रति दिन काम लिया जाता है और उस को ओवर टाइम दिया जाता है। इस तरह से जहाँ पर 12 मजदूर काम करने चाहिए, वहाँ पर 9 से ही काम लिया जाता है। अब ऐसे उद्योगों के लिए आप क्या करेंगे। वह उद्योगपति छोटा है लेकिन इस तरह से बेईमानी करके वह इस कानून के बंधन से मुक्त होना चाहता है जिससे मजदूरों को लाभ न मिल सके। उनको आप किस तरह से इस कानून के घेरे में लाएँगे, इस पर आप को विचार करना चाहिये। छोटे उद्योग तो क्या, आज रेलवे का जो सबसे बड़ा भारत-वर्ष का सरकारी उपक्रम है, वहाँ पर लाखों मजदूर काम करते हैं और वहाँ पर मजदूरों को

नैमित्तिक मजदूर, केजुअल लेबर के रूप में रखा जाता है। साल भर में उनसे बीच-बीच में काम लेकर उनको कुछ दिनों के लिए छुट्टी दे दी जाती है और इस तरह से वह नैमित्तिक मजदूर की तरह ही काम करता है। मैं यह कहना चाहता हूँ कि उस पीरियड में, जिस पीरियड में केजुअल मजदूर को छुट्टी दे दी गई होती है रेलवे में कोई दूसरा नैमित्तिक मजदूर काम नहीं करता है। किसी विभाग में, किसी भी मंडल को आप लीजिए इस तरह के नैमित्तिक मजदूर काम करते हैं। तीन महीने तक 50 मजदूरों को वहाँ रखा और तीन महीने बाद उनको छुट्टी देकर दूसरे 50 मजदूरों को रख लिया। इस तरह से रेलवे दो तरह की बेईमानी करती है। एक तो उनके ग्रैज्युटी के हक को समाप्त करती है दूसरी उनको रेगुलर करने से कतराती है। तो इस तरह की बेईमानी जो सरकार के उपक्रम में हो रही है, उसके लिए आप क्या उपाय करने जा रहे हैं।

मेरे इन सुझावों पर आशा है आप ध्यान देंगे। इन शब्दों के साथ-साथ मैं आपका धन्यवाद करता हूँ।

THE MINISTER OF LABOUR AND REHABILITATION (SHRI VEERENDRA PATIL): Mr. Chairman, Sir, in today's debate 18 hon Members have participated. Almost all the Members who participated in the debate have supported the two amending Bills to the Payment of Gratuity Act. While supporting, they made certain suggestions also. In the beginning I made an appeal to hon. Members that although the second amending Bill has not been formally moved, it is also before the House and Members participating in the debate should express their views on the second amending Bill also. I am very happy and indeed grateful to hon. Members that they have responded to my request; they expressed views on the second amending Bill also.

[Shri Veerendra Patil]

Many hon. Members took exception to the delay in moving the two Bills. I agree there has been some delay. I don't say that there is no delay at all. Prof. Ranga pointed out that this was introduced in 1982 and only today we are in a position to pass it. I don't know whom is to be blamed for it, I don't blame anybody because there is so much rush of work not only in Parliament. Many members may not be able to appreciate the procedure I have to go through, the formalities to be completed, before I introduce any Bill in the House and get it passed. The Bills have to be drafted by Law Minister. Their hands are also full. There is lot of rush of work. Therefore I do not wish to blame anybody and I own this responsibility and I say there has been some delay.

MR. CHAIRMAN : Probably the point is : Why should the Bill after introduction take this much time ?

SHRI VEERENDRA PATIL : After introduction, it is for the Business Advisory Committee to fix up time and date for consideration. But before the Business Advisory Committee there are so many other pressing engagements ; there are many other legislations also. Therefore, I am not here to apportion any blame, but anyhow there has been some delay.

Simply because there has been delay in introducing this Bill, its consideration and passing, it should not be said that the Government is anti-labour, or Government is interested in delaying such legislation and the Government wants to help the employers.

So far as the second amendment is concerned, we have made it very clear that it will take retrospective effect ; this amendment is proposed to be given effect to from 11th February, 1981, that is, the date of judgement of the Supreme Court. There has been delay, but because of that we do not want the workers to suffer. Therefore, we have made sufficient pro-

visions in the Bill itself in order to give retrospective effect to that.

Some hon. Members, Shri Jaiya and others, wanted to know the basis for fixing Rs. 1600. The existing Act is applicable to the workers who are getting wages of a thousand rupees or below, not above. As and when they go above a thousand rupees, they go out of the scope of this Act. We are now amending this Act and bringing workers getting upto Rs. 1600 within the scope of this Bill. I agree that Rs. 1600 also may be low under the present circumstances, looking into the cost of living and other things. The basis is that in other labour laws also, the wage limitation is Rs. 1600, for instance in the Provident Fund Act and Payment of Wages Act, the wage limit is Rs. 1600.

श्री सत्यनारायण जडिया : बोनस का आधार साढ़े सात-सौ ही है ।... (व्यवधान)

श्री वीरेन्द्र पाटिल : आपको मालूम होगा, बोनस में भी सौलह सौ है । लेकिन, बोनस जो दिया जाता है, वह साढ़े-सप्त सौ के बेसिस पर केलकुलेट किया जाता है । सौलह सौ जो बेजेस पाता है, वह बोनस के लिए एंटाइटल्ड है ।

He is entitled for bonus. In other labour laws, the wage limit is Rs. 1600 ; in the Employee State Insurance Act also the wage limit is Rs. 1000 ; we are thinking of bringing that also to Rs. 1600. The idea is to bring it at par with other labour laws.

I agree that this wage limit of Rs. 1600 is not going to be there for a long time, because the wage level is increasing. In that case, we have to increase it ; it may become Rs. 2000 or 2500 after some time. As and when we are in a position to raise the wage limit in other labour laws, we will see that the wage limit fixed here is accordingly raised, but before doing that I have to consult the State Governments and after that it

will be possible for me to take a decision.

PROF. N.G. RANGA : My Suggestion would be, that if it is possible now, the Government should have powers under the rule making provision, not only for this, but for other labour legislations also regarding this kind of fixture of wage limit. Once in every five years, they should be able to review the limit in the light of rising level of prices to raise it, of course it can never be lowered, to a corresponding reasonable level.

MR. CHAIRMAN : Professor, I am afraid that cannot be done. They make a specific proposal for that later.

SHRI VEERENDRA PATIL : The proposals that have been made by Prof. Ranga are not so easy, because it is not the only legislation where we had fixed the wage limit. There are so many legislations where we have fixed wage limit and whenever we want to fix the wage limit, we have to come before the Parliament and take the Members of Parliament into confidence. Supposing if we want to take powers, the Members from the other side will complain that Government wants to exercise more power and ignores the Parliament.

MR. CHAIRMAN : That has to be made through legislation itself.

SHRI VEERENDRA PATIL : That is why, I say, this Rs. 1600 is also not final. A time may come very soon that I may come forward or whoever is there in charge of this Ministry, he may come forward with another legislation saying that in the present circumstances, Rs 1600 is not adequate and we have to go upto Rs. 2000/- and after some time it may be Rs. 2500/-.

SHRI A. K. ROY : Instead of making it Rs. 1600/- or Rs. 2000/- can you not make it Rs. 1000/- at the 1972 price level?

SHRI VEERENDRA PATIL : I have to make similar provision in other Labour Laws and that is my problem.

Hon'ble member gave several suggestions. I can only tell at the outset that it is not a comprehensive Bill. Both the Bills are not comprehensive. These two Bills have been introduced only to overcome certain specific difficulties that have arisen in the implementation of the provision of the Act and not to change the entire scheme of the Act. So, there is a limited purpose in bringing forth these two legislations. We are not proposing a whole change in the scheme with these legislations. Because of the judgment given by the Supreme Court here were certain difficulties and in order to overcome those difficulties I have to bring in an amendment. Similarly we have to bring other amendments because time and again we have been consulting the Labour Ministers of different States and the suggestions that we received from Labour Unions also we have to incorporate to an extent.

I want to repeat that this is not a comprehensive Bill and a time will come when we think of a comprehensive Bill and bring it as early as possible.

Sir, some members felt that this gratuity benefit is being denied to casual Labour, contract labour, etc. Some members mentioned casual labour and contract labour in Railways and others. I may make it clear that so far as this Gratuity Act is concerned, it does not make any distinction between permanent, temporary or casual employees in the matter of payment of gratuity. All these categories of employees are eligible for gratuity. The only condition is that they should complete a minimum 5 year qualifying service prescribed in the Act. Sir, regarding this 5 years also, some members wanted to know why this 5 years is prescribed. The Supreme Court has declared that the gratuity scheme must provide for a reasonable minimum period of service, after which a workman becomes entitled to gratuity. In the light of the judgment of the Supreme Court, in passing this

[Shri Veerendra Patil] ...
legislation in the year 1971-72, this 5 year period was fixed.

MR. CHAIRMAN : The point is that some employers find out some device by which they will not allow an employee to continue for 5 years. If I may repeat, that is the difficulty.

SHRI VEERENDRA PATIL : The Act is meant for those who have completed 5 years to be specific. If any employer is misinterpreting or misusing this, there are several safeguards. The employee can go to a Labour Court and fight out his case. He can represent to the Conciliation Officer and seek justice. Even though the legislation is there, if anybody wants to escape from the provisions of the Act, while implementing it, then what is the remedy? Although the legislation is there, in the matter of implementation if anybody wants to escape from the clutches of the Act, what is the remedy? Can you find every remedy in the Act itself? It is not possible.

There seems to be a lot of confusion about this 240 days' continuous service. So, for the benefit of the hon. Members, I want to read the definition of continuous service in the original Act, passed in 1972. This Act envisages two categories of services. One is uninterrupted service; and the other is interrupted service. So far as uninterrupted service is concerned, there is no condition like putting in 240 days of continuous service, or anything like that. So, I am reading the definition of continuous service. Under Section 2 (c) of the Act, the definition of continuous service is given. It says :

“Continuous Service” means uninterrupted service and includes service which is interrupted by sickness, accident, leave, lay-off, strike or a lock-out.”

So, even if there is any interruption because of strike, it is continuous service. One hon. Member was asking; “If the

strike is there, how can it be continuous service?” Deliberately, the definition is made in this way. Government wanted to help the workers. Therefore, we have made it fool-proof. I will read the whole definition. It says :

“ ‘Continuous service’ means uninterrupted service and includes service which is interrupted by sickness, accident, leave, lay-off, strike or a lock-out or cessation of work not due to any fault of the employee concerned.”

“Cessation of work not due to any fault of the employee concerned”—So, this is not relevant to strike or lock-out. It is only relevant to the word ‘cessation’—whether such an uninterrupted service was rendered before or after the commencement of this Act.

And then the Explanation says this. That is the second category of interrupted service. It says :

“In the case of an employee who is not in uninterrupted service.....”

that means a person who is in interrupted service.

“.....for one year, he shall be deemed to be in continuous service if he has been actually employed by an employer during the twelve months immediately preceding the year for not less than ...

- (i) 190 days, if employed below the ground in a mine, and
- (ii) 240 days, in any other case, except when he is employed in a seasonal establishment.”

So, when will he be in interrupted service? He will be in interrupted service, only when he is on unauthorized leave. If he goes on unauthorized leave, then he is considered to be in interrupted service. Even with an interrupted service, if he puts in 240 days, then he is eligible for gratuity.

This was the judgement of the Supreme Court. So, in order to overcome this difficulty, now the amendment that we have thought of, says *vide* Clause 4 of this Bill :

“An employee shall be said to be in continuous service for a period if he, has,”for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave

All that we have continued, and also said :

“(not being absence in respect of which an order imposing a punishment or penalty or treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment.)

Only when the employer passes an order imposing a Penalty or declare; it as break in service, will he come under the category of interrupted service. Other-wise he will not come under it. Supposing he is on unauthorized leave, if the management has not taken any action, if they have not penalized him—they have to penalize him; even for penalizing him, even for punishing him, even for declaring that it is treated as break in service, they have to follow a certain procedure. That is why we have said that “These orders have to be passed by the management in accordance with the standing orders, rules and regulation, governing the employees of the establishments.” Only then he comes in the category of interrupted service. Otherwise, he will continue in uninterrupted service. So long as he continues in the category of uninterrupted service, the question of 240 days or whatever it is, is not attracted. That safeguard we have given now. I think the workers and the trade unions should be fully satisfied with this provision.

Now, in the original Act, it is said that those who are working underground, for them, it is 119 days. Now, there we have said about it because we know that there are establishments who work only for 5 days a week; those establishments who work below 6 days—because even if they want earned leave and other leave, all put together, it comes nearly to 95 days; so, those who work only 5 days in a week, they cannot do continuous service for 240 days. Therefore, in that case, also we have said that those who are working in establishments where the working days are below 6 days, the need not put in 240 days, but 119 days are enough for that purpose. So, we have seen that sufficient safeguard is made for the workers working in such establishments also.

Several hon. members mentioned about the agricultural labour and also unorganised labour. I agree with the sentiments expressed by the hon. Members that in our country out of total work force, which is only 10 percent of the work force which is in organised sector, the remaining 90 percent of the work force is in the unorganised sector and compared to the plight of the workers in unorganised sector, I entirely agree with the hon. members that the plight of the workers in unorganised sector is very bad and pitiable; and all these benefits about labour laws and the benefits about social security legislation and measures, they are the main beneficiaries, only the organised sector employees, not at all the agricultural sector employees or the unorganised sector employees.

Now, the question is whether this Gratuity Act should be extended to other agricultural workers. There are several laws. I do not want to enter into any controversy or the details about legislation for the benefit of the unorganised sector; that is a different matter. But the question is whether we should extend this Gratuity Act to unorganised sector, particularly to agricultural sector. So, we have to consider whether in agricultural sector, whether a farmer is in a position to pay gratuity and other benefits; we have to look into the conditions of the employers

[Shri Veerendra Patil]

in agricultural sector also, because I know that under dry farms, even for a farmer holding 50 acres of land, if the seasonal conditions are bad, then he will desert the land and go also in search of an employment. But in the case of government farms, I have already made it clear, whether it is the agricultural sector, whether it is the casual labour, whether it is the contract labour, whoever puts in 5 years service, he is entitled for this gratuity. In government farms also, if any worker has put in 5 years service, he is entitled; and in agricultural farm owned by the government, the minimum wages are fixed; if the farm is owned by the government of India, we fix the minimum wages; but if the farm is owned by the State Governments, the State Governments are fixing the minimum wages; and we are asking the State Governments not only to fix the minimum wages but also to revise them.

Some hon. Members suggested that some time limit should be there for payment of gratuity. And, as hon. Member, Shri Mohanty, even went to the extent of suggesting that three months' time should be fixed for the payment of gratuity, and for settling the dispute also. For settling the dispute the controlling authority has to set the records and look into them. He has to get the records from the employers and the employee also and unless both the employer and the employee cooperate it is not possible for the controlling authority to dispose of the case within a particular time limit. Therefore, instead of putting a time limit in the statute—while I entirely agree with the spirit in which he has moved his amendment—I will see if it is possible to issue some administrative instructions or orders to ensure that the cases are disposed of within a time limit. But it is not possible to have a part of the statute.

As regards the time limit for payment of gratuity also, under the Payment of Gratuity (Central) Rules, it is already provided that an employee shall apply for the payment of gratuity due to him,

within thirty days from the date it becomes due and the employer shall pay the gratuity within thirty days from the date of receipt of application for payment of gratuity. So, if he does not act, in the Act itself there are certain provisions that he has to undergo imprisonment and all that. All these provisions are there. If there are any such cases the concerned authority will take action.

One or two hon. Members mentioned that while calculating the gratuity it is done on the basis of 30 days a month, instead of calculating it on the basis of 26 days, with the result they are getting only 13 days, for one year's service. That is not the case. According to the Supreme Court judgment, monthly wages are to be divided by 26 and multiplied by 15, which comes to 17 days of wages for every year of services. There is no possibility of any worker being paid for 13 instead of 15 days. On the other hand they are paid 17 days wages.

These are the few points; because the time is short I do not want to take more time, but I want to clarify one point. The agricultural farms are not at present covered under this Act. But we have got the power to cover establishments and agricultural farms and we have so many other establishments and if time comes and it is found possible we will think of covering them also. But these are not covered by the Act now. I have replied to hon. Members to the extent possible. These two Bills have been welcomed from all quarters. I do not want to take much time of the House. I am again thankful to the hon. Members who have participated and expressed their valuable suggestions.

MR. CHAIRMAN : Shri Jatiya, first. We are very much short of time. Just the question.

SHRI SATYANARAYAN JATIYA : In the case of employees getting salary of more than Rs. 1,600 per mensem, while calculating the amount of gratuity due to him as per the amended gratuity rates the period of service served by the employee

after touching the maximum limit of Rs. 1,600 is not taken into consideration, I want to suggest here one thing.

MR. CHAIRMAN : No suggestions now. If you want to seek any clarification, You may do so.

श्री सत्यनारायण जटिया : जो कर्मचारी एक बार ग्रेचुइटी नियमों के अन्तर्गत आ जाए, वह निरंतर वहां बना रहना चाहिए। परन्तु 1600 रुपए की एमालुमेंट्स होने के बाद उसको ग्रेचुइटी नहीं दी जाएगी। मंत्रालय इस बारे में क्या कर रहा है ?

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR AND REHABILITATION (SHRI DHARMAVIR) : This cannot be decided at this stage.

MR. CHAIRMAN : How does this question arise at this time ? This is not a new point. I am not allowing it.

श्री सत्यनारायण जटिया : मेरा प्रश्न 1600 रुपए की लिमिट से संबंधित है। जो फायदा किसी कर्मचारी को मिलता है, उस लिमिट के बाद वह उसे नहीं मिलेगा, वह डिस्कॉन्टीन्यु हो जाएगा। जो फायदा उस को मिल रहा है, वह निरंतर मिलना चाहिए। मेरी सभक में नहीं आता कि आप मुझे एलाऊ क्यों नहीं कर रहे हैं।

SHRI VEERENDRA PATIL : Supposing, today a worker is getting Rs. 1000/- he will go on getting gratuity at the rate of 15 days of wages every year upto the wage limit of Rs. 1600/-. The moment he crosses Rs. 1600/- he will not get this benefit.

SHRI SATYANARAYAN JATIYA : If the period is less than five years, then what will happen.

SHRI VEERENDRA PATIL : That is not applicable here.

SHRI K. RAMAMURTHY : On the second Bill I raised a very simple doubt. The Minister has stated that uninterrupted service arising out of the Supreme Court judgment is 240 days. Now, they have incorporated an amendment absence from duty without leave. If any worker works physically for 220 days and the rest of 20 days he happens to be absent from duty by sickness or by lay off or lock out, is he entitled for gratuity ? How far complete denial of gratuity on the ground of moral turpitude is justifiable ? Has that attracted the attention of the Minister ?

SHRI VEERENDRA PATIL : If you go through the definition I have made it very clear...

MR. CHAIRMAN : Do not repeat it.

SHRI KRISHNA CHANDRA HALDER (Durgapur) : Regarding unorganised workers the Minister has said that when they work for five years they are entitled to get gratuity in Government concerns. Lastly he has stated that agricultural labourers will not be covered in this. There are many Government agricultural farms where the workers work. Will they get gratuity after working for five years ?

SHRI VEERENDRA PATIL : What I have said is that today the agricultural farms are not covered. But if the Government wants to extend this Act to be the agricultural farms, it can extend to those workers also.

SHRI SUBODH SEN : The hon. Minister has stated just now that the definition of uninterrupted service also means cessation of work not due to the fault of the employee. But here note the wordings 'lay-off, strike or lock out or cessation of work'. Cessation of work has been placed in the same category. So, who will accept that interpretation ? It has been made analogous.

SHRI VEERENDRA PATIL : I have already made it clear.

MR. CHAIRMAN : The question is :

“That the Bill to amend the Payment of Gratuity Act, 1972, be taken consideration.”

The Motion was adopted.

MR. CHAIRMAN : The question is :

“That clause 2 stand part of the Bill”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Amendment of section 4)
Amendment made :

Page 2, line 38,—

for “1982” substitute “1984” (3)

(Shri Veerendra Patil)

MR. CHAIRMAN : The question is :

“That Clause 3, as amended, stand part of the Bill”

The Motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Clause 5—(Insertion of new sections 7A and 7B)

Amendment made :

Page 4, line 16,—

for “assistance” substitute “assistants” (9)

(Shri Veerendra Patil)

MR. CHAIRMAN : The question is :

“That clause 5, as amended, stand part of the Bill”

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

Clause 1—(Amendment of section 2)

Amendment made :

Page 1, line 4,—

for “1982” substitute “1984” (2)

(Shri Veerendra Patil)

MR. CHAIRMAN : The question is :

“That clause 1, as amended, stand part of the Bill”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula

Amendment made :

Page 1, line 1,—

for “Thirty-third” substitute “Thirty-fifth” (1)

(Shri Veerendra Patil)

MR. CHAIRMAN : The question is :

“The Enacting Formula, as amended, stand part of the Bill”.

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The title was added to the Bill.

SHRI VEERENDRA PATIL : I move :

“That the Bill, as amended, be passed”

MR. CHAIRMAN : The question is :

“That the Bill, as amended, be passed”

The motion was adopted.