

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

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

RAO BIRENDRA SINGH : Madam, I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

*The motion was adopted.*

16.26 hrs.

**SALES PROMOTION EMPLOYEES  
(CONDITIONS OF SERVICE) (AMENDMENT) BILL**

MR. CHAIRMAN : We shall now take up The Sales Promotion Employees (Conditions of Service) (Amendment) Bill. Mr. Dharamvir may move.

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR AND REHABILITATION (SHRI DHARAMVIR) : Madam Chairman, I beg to move :

“That the Bill to amend the Sales Promotion Employees (Conditions of Service) Act, 1976, as passed by Rajya Sabha, be taken into consideration.”

As the House is aware, the Sales Promotion Employees (Conditions of Service) Act was enacted in the year 1976 and it came into force on the 6th March, 1976. The Act, at present regulates the condition of service of sales promotion employees in establishments engaged in the pharmaceutical industry. It extends to the sales promotion employees, the benefits of various labour laws relating to security of service minimum wages maternity benefits, working conditions, payment of bonus and gratuity and also contains provisions for leave and other matters.

The rules framed under the Act which came into force on the 6th March, 1976 give details of holidays and leave admissible to sales promotion employees from

the letter of appointment and registers and other documents to be maintained in respect of such employees. Rule 3 provides that the provisions of Chapter II of the Rules relating to holidays and leave shall have effect notwithstanding anything inconsistent therewith contained in any agreement or contract of service or award applicable to sales promotion employees.

The Committee on Subordinate Legislation of the Rajya Sabha examined the Rules and expressed the view in 1976 that it was the prerogative of the Legislature to annual private agreements which might be inconsistent with the provisions of any Act or Rule framed thereunder by amendment of the statute. Rule 3, in its opinion appeared to go beyond the Rule making power conferred on the Central Government by the Act. The Committee suggested that the Sales Promotion Employees (Condition of Service) Act should be suitably amended so as to give legislative backing to Rule 3. Government accepted this suggestion.

16.27 hrs.

[SHRI N.K. SHEJWALKAR in the Chair].

Sir it is in this background that the Government propose to amend the Sales Promotion Employees (Conditions of Service) Act, 1976, with retrospective effect, by adding a new Section Section 11A—so as to implement the recommendation of the Committee on Subordinate Legislation of the Rajya Sabha.

You must be aware that the Bill was supported by all the Members when it was taken up for consideration in the Rajya Sabha. Members suggestions on the occasion related to extension of the Act to other industries enhancement of wage limited provided in the definition of the term sales promotion employees measures for appointing Inspectors for effective enforcement of the Act, modifying certain provisions connected with penalties for offences under the Act and time limit prescribed for processing applications before the Courts.

A large number of sale promotion employees would get the benefit of the Industrial Disputes Act as the Industrial Disputes (Amendment) Act, 1982, which has already been passed by the Parliament and has received President's assent brings all sales promotion establishments within the purview of the definition of 'Industry.'

The State Government have been asked to strengthen the inspectorate machinery and review the entire working of the Sales Promotion Employees Act from time to time.

We have held discussions with the organisation of pharmaceutical Producers of India and the Federation of Medical Representatives' Associations of India. We are examining the suggestions received by us in consultation with the concerned interests for appropriate remedial measures. However, we are at present concerned with implementing the recommendation of the Committee on Subordinate Legislation of the Rajya Sabha and it is with this objective that I request the honourable Members to support the present measure and pass this amending Bill so that interests of the workers could be effectively protected.

SHRI E. BALANANDAN (Mukundapuram): This is a formal Bill. This Bill has been passed by the Rajya Sabha in accordance with the recommendations made by the Rajya Sabha Committee on subordinate Legislation. They have examined the Act and the Rules and they found that Rule 3 needs amendment if it is to be made valid, some amendment is necessary. As per the recommendation this amendment has been brought in as Sec. 11A. It was introduced in the Rajya Sabha two years ago. The period taken for bringing in this amendment is really astonishing. The sales Promotion Employees Conditions Services of Act was enacted in 1976. It came into force on sixth of March, 1976. The rules made thereof came into force on 8th March. The Committee on Subordinate Legislation in Rajya Sabha examined the rules and expressed the view that it was the prerogative of the legislature to annul private agreements which might be in consistent with the provisions of any Act and Rules framed under the statute. Rule 3 in their opinion appeared to go beyond rule making power of the Central Government. Therefore, to get out of this amendment had been brought in the Rajya Sabha.

When this was originally discussed in 1976, the hon. Members who took part in the discussion wanted a change in the 'definition' of The Sales Promotion Employees. It was restricted to those employees who were getting Rs. 750/- per month. This will only cover 20 per cent of the employees. Then, those hon. Members wanted the Minister to cover all other employees. The Minister while piloting the Bill said, "All right; let us enact a comprehensive amendment so that the other Sections of the employees can also be brought in. When this amending Bill was discussed in Rajya Sabha, this question again came up. All the Members irrespective of Ruling Party or Opposition Party, pointed out that this small amendment was of 10 conse-

quence unless the Government was prepared to bring in a comprehensive amendment to the Act so as to cover all the employees who were working in the pharmaceutical industries. The Minister said, he wants to have a discussion with the pharmaceutical industry. Who are they? They are the people who make high rate of profit. The pharmaceutical industry, in India, is getting higher than what its counterpart is getting in U.S.A. The price of drugs is also the highest, more or less, as compared to other countries. I do not want to make a speech on the drug industry as such. I only want to point out that if some privileges are given to the workers, the pharmaceutical industry is not going to be affected at all.

Last time when the Bill was introduced in Rajya Sabha, all the Members wanted that this definition should be changed. The Minister, while replying said, as our hon. Minister now says, "They want to conserve all the interests." The interest of whom? The Federation of the Medical Representatives of India have made several representations to the Government of India demanding, among other things, that comprehensive changes be brought in in the Act.

In answer to the Question put by Sarmiti Kanak Mukhejee the Minister said:

"The Federation of the Medical Representatives Associations of India has submitted a charter of demands on various occasions—in November, 1978 and recently in October, 1980. The Government have examined this charter of demands carefully and certain amendments to the Act of 1976 are under consideration."

The reply was given just two years back. Now also, our Minister comes to the House and says, it is still under consideration. How long will it be under the consideration of the Government? This is a wonderful position.

And then, during the discussion of this Amending Bill in Rajya Sabha, Shri Venkata Reddy, said, I have to consult all the interests. Very good—there must be consultations. But with whom you are going to have consultations? Is it with the pharmaceutical employers? Who are they? They are the people who are not concerned about the health of the people and they are the people who are not concerned about giving better medicines to the country. However, it was not done by the Government. That is one question, I have to ask the Minister now.

[Shri E. Balanandan]

In this Amendment, there is nothing to be opposed. I may support fully. But without an assurance from the Government that a comprehensive amendment would be brought in in this Act so as to cover all the pharmaceutical employees under the purview of the Act, it would be very difficult to support. As per the original Act, Section 3 empowers that the Government can include other sales promotion employees who are working in other industries also.

I am told, many State Governments have suggested many industries to be included and brought into the purview of this Act. I do not know what the Government have done. So I ask the Government to explain what are the other industries brought into the purview of this Act, as per the recommendation of the State Governments.

Again, as per Section 8 of the parent Act, there are to be inspectors to see whether this Act is being properly implemented in the States. I want to know in how many States this kind of inspectors are appointed and, if anywhere they are not appointed, why. So, the experience that we have from 1976 to 1982 has to be gone to. Has the Government examined that this Act has not been seriously taken note of by several State Governments? Therefore, I would request the Government to take all necessary steps in that direction. The main and important point to be taken note of is that the original Act has to be amended comprehensively as demanded by the Federation of Sales Promotion Employees, Association of India. I think, the Government will not find any difficulty in doing that. I am only saying that do not go by the suggestions which are made by these cut-throat multinationals who are in the drugs and pharmaceutical industry.

There is no other point to be covered. This Bill is such a small Bill. The only point I want to impress upon the Government is that when matters concerning workers come up, they take a lot of time. For a simple Bill like this, they have taken two years to come before the House. The amendments that are being proposed by the hon. Minister are that on p. 1, line 1, in the Enacting Formula, for "Thirty-first", substitute "Thirty-third" and on p. 1, line 2, for "1980", substitute "1982". Two years have gone for what? Again, it is after four years, as per the recommendation of the Committee Subordinate Legislation, this amending Bill has been brought forward. So, six years have been taken for such a small Bill. If I say that the Government is not

seriously looking after the interests of working class, nobody can complain about it because the evidence is there. I do not want to make a wrong allegation. It comes out of this.

Finally, I would like to make one point beside the bill. The hon. Labour Minister is here. I support this Bill. Yesterday, we had a big discussion on the Bombay textile workers strike. At that time, the Labour Minister was not here. We very much wanted him to be here. The Minister of Commerce and Industry was making a bis speech. In that, we are not able to compete with him. You may explain this way and we may explain other way. But as a nation can we afford to lose, on any account, one-third textile production for nine months in the industrial Capital city, Bombay? Labour is a concurrent subject. Our workers have starved for nine months. We have lost production worth thousand crores of rupees. In this way, our country cannot progress. I would, in the end, request the Labour Minister to exercise whatever power he has to immediately intervene and settle the Bombay textile workers strike.

श्री बी. डी. सिंह (फूलपुर): सभापति महोदय, यह विक्रय संवर्धन कर्मचारी अधिनियम 1876 में पारित किया गया था और जैसा कि पूर्ववक्ता साथी ने बताया है कि उसी माह मार्च 1976 में 6 तारीख से यह लागू हो गया था। इस अधिनियम के तहत कर्मचारियों को सारे लाभ जैसे कि रोजगार की सुरक्षा, न्यूनतम मजदूरी बोनस ये सब इसके अंतर्गत आ जाते हैं। जैसा कि बताया गया है कि राज्यसभा की सर्वाडिनेट लेजिसलेशन कमेटी ने अपनी बाइसवी और 26वीं रिपोर्ट में कुछ अनुशंसाएं की थी कि मुख्य अधिनियम के नियम 3 को कानूनी आधार प्रदान किया जाना चाहिए। उन अनुशंसाओं को कार्यान्वित करने के लिए यह संशोधन विधेयक लाया गया है, ऐसा में समझता हूँ।

इसमें मान्यवर मुझे दो-तीन बातें कहनी हैं। एक बात यह कि जब 1976 में यह अधिनियम पारित हुआ था, अधिनियम के खण्ड 2 (डी) में ऐसी व्यवस्था की गई थी कि इसमें 750 रुपये तक पाने वाले कर्मचारी ही इससे लाभान्वित होंगे। मैं आपके माध्यम से माननीय मंत्री जी से कहना चाहूंगा कि 1976 में रुपये का क्या मूल्य था और आज करीब साढ़े 6 साल बाद रुपए की



क्या मूल्य है। कितनी गिरावट आई है। उसको देखते हुए 750 रुपए की आज क्या कीमत रह गई है? इसको देखना होगा। ख्याल से 1976 से लेकर अब तक किसी भी इसमें करीब 15000 कर्मचारी लाभान्वित होंगे, लेकिन उसके बाद आप देखें कि वेतन वृद्धि हुई है। पिछले 6 सालों में वेतन वृद्धि की वजह से स्वभावतः कर्मचारियों की संख्या कम रह गई है। इसलिए इन सब बातों को ध्यान में रख कर इसकी सीमा को बढ़ाया जाना चाहिए और इसको 12-15 साल तक किया जाना चाहिए।

दूसरी बात यह है कि इसमें केवल अधि उद्योगता को इसके तहत नहीं लिया गया। जब अधिनियम बनाया गया था, उसमें उपखण्ड 5 में यह व्यवस्था थी कि सरकार समय-समय पर नोटिफिकेशन के द्वारा अन्य उद्योगों को भी इसके तहत ले सकती है लेकिन मेरे ख्याल से 1976 से लेकर अब तक किसी भी उद्योग को इसके तहत नहीं लिया गया। इसलिए मैं माननीय मंत्री जी से आपके माध्यम से अनुरोध करूंगा कि बहुत से ऐसे उद्योग हैं, जिनके कर्मचारियों को इससे लाभ मिलना चाहिए। इसलिये आप राज्य सरकारों से सम्पर्क करके इन उद्योगों को भी इसके अन्तर्गत लीजिये। तमाम उद्योग हैं जैसे साबून, साँदर्य प्रसाधन, राबर का सामान, रेडीमेड कपड़े, जूते बनाने का उद्योग, बिजली का सामान, कृषि औजार, बाड़ी-सिगरटे ऐसे कई उद्योग हैं। आप राज्य सरकारी से सम्पर्क करके मालूम करें ताकि ज्यादा से ज्यादा कर्मचारियों को इससे लाभ मिले।

इन शब्दों के साथ मैं इस संशोधन बिल का समर्थन करता हूँ और जैसा कि मेरे पूर्ववक्ता साथी ने सुझाव दिया है कि जो मुख्य अधिनियम है, उसमें कं प्री हींसव, एक आमूल-चूल परिवर्तन करके एक ऐसा विधेक लाया जाना चाहिए, जिससे इस प्रकार के सभी कर्मचारियों को इसका लाभ मिल सके।

SHRI RATANSINH RAJDA  
(Bombay South) : Mr. Chairman, Sir, this is an enabling Bill which has been brought forward with a view to getting over certain lacunae which were in the Act of 1976. This has also been brought at the instance of the recommendations of the Committee on Subordinate Legislation. They want to amend section 3 and introduce section 11A to implement the recommendations

of the Committee on Subordinate Legislation. This is with regard to certain benefit accruing to the sales promotion employees like holidays leave etc., notwithstanding anything inconsistent there with contained in any agreement contract or service or award. I have gone through this Bill. In my opinion this is a halfhearted measure brought by the Government, it is not comprehensive at all, because only 20 per cent of the employees will be touched by this and 80 per cent of the employees sales promotion employees will be out of the ambit of the legislation. If the provisions of a particular Act do not cover all the sales promotion employees or who benefit they propose to bring this legislation, then I do not understand what is the purpose of bringing forward such a Bill. The provisions are completely inadequate. Your own purpose is defeated. You merely touch the fringe of the problem. Only 20 per cent of the sales promotion employees especially in the pharmaceuticals will be touched. In the past also in Rajya Sabha whenever there was a debate on this subject, recommendations and suggestions were made by hon. Members and they have pleaded with the Government that the provisions of this Act should be extended to the other categories also. I do not know why Government is fighting shy of that, why Government is not extending it to the other categories. Now that our energetic Labour Minister is there, I hope he will apply his mind to this. I find that it is confined at present only to the pharmaceutical industry. In spite of demands made in the Rajya Sabha, they are not extending it to the other categories of workers.

16.54 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Moreover this applied only to the employees whose salary is upto Rs. 750/-. In multi-nationals, the salaries are more than Rs. 750/- or sometimes they play a trick by which they make them officers, they have designated their employees not as sales promotion employees though they do the same sales promotion work but have designated them as officers so that they are out of the purview of the provisions of this Act.

These are the main lacunae from which the provisions of this Act suffer. That is why I would like to plead that the definition of sales promotion employees must be widened to cover and bring in its purview even those people who are receiving a salary of more than Rs. 750/-. Under the Industrial Disputes Act many benefits are best owed on other workmen. Now, in the Indian Airlines or Air India

[Shri Rattan Singh Rajda]

even a pilot getting Rs. 1750 or Rs. 1800, for that matter, is termed as a workman and he gets all the benefits but those benefits are denied under the provisions of this Act. Only Rs. 750 because we have made that limit of Rs. 750. So all employees of sales promotion are not covered by this and under the Industrial Disputes Act the workmen get all the benefits. That is one thing to which I would like to draw the attention of the hon. Minister. I would suggest that though this is meant for the pharmaceutical industry, it must be widened and its scope must be extended to other industries. As far as its definition is concerned it must apply to all sales promotion employees. That is one thing.

Second thing I would like to ask the Government is to bring about a comprehensive legislation so that justice could be done to all these employees and all benefits under the different Labour Acts, the Industrial Disputes Act, etc. like bonus and other things would be accruing to the sales promotion employees also. That is what I have to say.

MR. DEPUTY SPEAKER : Mr. Bhogendra Jha.

SHRI BHOGENDRA JHA : Mr. Deputy Speaker, Sir...

MR. DEPUTY SPEAKER : Even if I request you, you will not come to the front. All right from there you speak.

SHRI BHOGENDRA JHA : As far as this Bill goes, I support this Bill because it is simply seeing to remove certain lacunae in the parent Act. But I would like to draw the attention of the Minister to two facts. One is that in the parent Act itself when the term establishment has been defined, establishment here means an establishment engaged in the pharmaceutical industry or any notified industry. Again the term, any notified industry is very vague and I think that should be clearly defined so that the advantages may accrue to other employees also.

Second thing I would like to emphasize is that there the ciling was Rs. 750 per month or Rs. 9000 per annum. That was more or less correct at that time. That was in 1976. Now taking into account the inflationary trend in our country I think this amount should be raised. The limit here is except those who are in the managerial side. That is all right but the salary limit has to be raised simply because of the time gap and the gap in the purchasing power of the money.

With these two reservations I do support the Bill as far as it goes and I think, if not to-day in the Bill he may bring forward later on, he should remove these two lacunae.

श्री धर्मवीर: उपाध्यक्ष महोदय, मैं माननीय बालानन्दन, माननीय बी. डी. सिंह, माननीय राजदा और माननीय भ्रू का आभारी हूँ कि उन्होंने इस बिल का समर्थन किया है। किसी ने इस पर अपना संशोधन नहीं दिया है। यह जो संशोधन विधेयक है इसकी मंशा को भी उन्होंने समझा है।

उन्होंने दो तीन बातों की तरफ ध्यान दिलाया है। उन पर विचार हो रहा है। बालानन्दन जी ने फार्मास्यूटिकल एम्प्लोयीज की जो मांगें हैं उसकी चर्चा की है। वह मांग हमारे पास आई हुई है। उस पर शासन विचार कर रहा है और जल्दी निर्णय ले लिया जाएगा।

श्री बी. डी. सिंह ने और अन्य उद्योगों को भी इसमें शामिल करने का सुझाव दिया है और कहा है कि केवल फार्मास्यूटिकल एम्प्लोयीज तक ही इसको सीमित न रखा जाए। इसके बारे में हमने राज्य सरकारों से अनुरोध मांगी थी। ग्यारह राज्य सरकारों ने अपनी अनुरोध भेजी है और जिन उद्योगों को शामिल करने के लिए सुझाव दिये हैं वे हैं:

1. Cosmetics and soap,
2. Rubber products including tyre,
3. Automobiles, including accessories and spare parts,
4. Readymade garments,
5. Footwear,
6. Breweries,
7. Electrical Appliances,
8. Agricultural Implements,
9. Paints and varnishes,
10. Bid cigarette and other Tobacco Products,
11. Soft Drinks.

यह सारी इसके अन्दर स्टेट्स की अनुरोध आयी है। इस पर सिर्फ नोटिफिके-

शन की आवश्यकता है। सरकार इसको नोटिफाई कर के इसको धोषित करेगे और जल्दी ही कदम उठायेगे।

वेज लिमिट का जहां तक सवाल है आई. डी. एक्ट पास होने के बाद इनकी सारी फौंसिलिटीज मिलेंगी, चाहे आई. एस. आई की फौंसिलिटी हो या अन्य कोई फौंसिलिटी हो क्योंकि, कोई वेज लिमिट नहीं है एम्प्लाइज के लिए। इसलिये कोई इससे प्रभावित नहीं होता है। राज्य सभा की समिति ने इसको स्टेट्यूटरी फ़ोर्स देने की स्वीकृति की थी जिसे हमने स्वीकार कर लिया है, और अन्य संशोधनों के साथ आपके सामने आये हैं। आप इसको स्वीकार करें। इसका व्यापक समर्थन हो चुका है, और कोई विशेष जानकारी माननीय सदस्यों ने नहीं चाही है। जो सूचना चाही थी उसकी जानकारी मैंने दे दी है। मुझे आशा है कि आप इस बिल स्वीकार करेगे।

17.00 hrs.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill to amend the Sales Promotion Employees (Conditions of Service) Act, 1976, as passed by Rajya Sabha, be taken into consideration.”

*The motion was adopted.*

MR. DEPUTY-SPEAKER : Now, the House will take up Clause by Clause consideration of the Bill. There are no amendments to Clauses 2 and 3.

The question is :

“The Clauses 2 and 3 stand part of the Bill.”

*The motion was adopted.*

*Clauses 2 and 3 were added to the Bill.*

*Clause 1—Short Title*

MR. DEPUTY-SPEAKER : There is Government Amendment to this Clause. You may move.

*Amendment made.*

“Page 1, line 4,—

for “1980” substitute “1982” (2)

[Shri Dharamavir]

MR. DEPUTY-SPEAKER : The question is :

“The Clause 1, as amended, stand part of the Bill.”

*The motion was adopted.*

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

### ENACTING FORMULA

MR. DEPUTY-SPEAKER : There is Government Amendment to the Enacting Formula. You may move it.

*Amendment made.*

“Page 1, line 1,—

for “Thirty-first”

substitute

“Thirty-third” (1)

[Shri Dharamavir]

MR. DEPUTY-SPEAKER : The question is :

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

*The motion is adopted.*

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

MR. DEPUTY-SPEAKER : The question is :

“That the Title stand part of the Bill.”

*The motion was adopted.*

*The Title was added to the Bill.*

MR. DEPUTY-SPEAKER : Now, the Minister may move that the Bill, as amended, be passed.

SHRI DHARMAVIR : Sir, I beg to move :

“That the Bill, as amended, be passed.”

MR. DEPUTY-SPEAKER : The question is :

“That the Bill, as amended, be passed.”

*The motion was adopted.*

17.04 hrs.

### POWERS-OF-ATTORNEY (AMENDMENT) BILL

MR. DEPUTY-SPEAKER : The House will now take up the next item