

MR. DEPUTY-SPEAKER: Order please; you have made your point.

Now, Bills to be introduced. There are two Bills to be introduced by the Law Minister, and two Members, Shri S. M. Banerjee and Shri Limaye have given their notices to oppose. I see that the Bills are very similar.

श्री मधु लिमये : हम दो बार नहीं बोलेंगे ।

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Can I take up both together?

MR. DEPUTY-SPEAKER: No, you can't. I am referring to those who oppose that they can make only one speech for both the motions.

14.37 hrs.

SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT BILL*

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): I beg to move for leave to introduce a Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958.

SHRI S. M. BANERJEE (Kanpur): Mr. Deputy Speaker, Sir, normally speaking, I would not have opposed this Bill because I know that the Judges of the Supreme Court and the High Court are also hard-pressed, and they cannot go outside for the betterment of their wages. We want that the Supreme Court and High Court Judges should be given proper salaries or adequate wages. (Interruptions).

What is going on there?

श्री मधु लिमये (बांका) : कांग्रेसों मेंबर चुनाय प्रचार कर रहे हैं ।

MR. DEPUTY-SPEAKER: They can do it in the Lobby or they can do it in the Central Hall. Let us get on which our business. There is too much noise.

SHRI S. M. BANERJEE: If you see the Statement of Objects and Reasons, it says that:

"Since the passing of the Supreme Court Judges (Conditions of Service) Act, 1958, there has been no material modification of the conditions of service of Supreme Court Judges. There has been a persistent demand for the improvement of the conditions of service of the Judges of the Supreme Court. Having considered all aspects of the matter, it is proposed to allow them certain ancillary benefits.

At present, there is no provision for the grant of family pension in the case of Supreme Court Judges who are governed by Part I of the First Schedule to the Act. It is proposed to extend to them the facility of family pension on the same lines as are applicable to Class I Officers of the Central Civil Services.

It is also said here:

"In the case of Class I officers of the higher grades they have to contribute Rs. 5,000 from their gratuity if they opt to be governed by family pension rules...."

It is also proposed to give to every judge of the Supreme Court and of the High Courts an allowance at the rate of Rs. 300 per mensem for the Ministers to make a statement re-benefits are proposed to be given, retrospectively, from 1st October, 1974....

MR. DEPUTY-SPEAKER: What are you opposing?

SHRI S. M. BANERJEE: My submission is only this. The other day I heard with rapt attention the speech of the hon. Finance Minister. When the five instalments of dearness allowance due to the Central Government employees were demanded, the Finance Minister said that it was not possible because millions of people are starving in this country, underfed and ill-clad. But here it is proposed to give to the judges Rs. 300 per month for the maintenance of motor car. In this House when all of us requested the hon. Finance Minister to remove the excise duty on beedi, he did not accept. When we requested him to remove the excise duty on petrol, he said that there was no money and that, if he did that, there would be a financial crisis in the country and all that. But here they are proposing to give Rs. 300 to each judge for maintenance of motor car. This is a gross discrimination. How can I go back to the Central Government employees

MR. DEPUTY-SPEAKER: I sympathise with you.

SHRI S. M. BANERJEE: I want that the judges should be paid a decent salary, that the Constitution should be amended accordingly. I want that the leading barristers and advocates should become judges of High Courts and Supreme Court, I want that they should be of very high calibre. But in this case I oppose it on moral grounds because it is a grave injustice to the have-nots; these people have already something. So, I oppose the introduction of this Bill, and in all fairness, even the judges should refuse to accept it.

श्री सच्चिदानंद (बर्का) उपाध्यक्ष
महोदय, 1954 के बाद हाई कोर्ट के जजों की तनख्वाह और भत्तों में, और 1958

के बाद सुप्रीम कोर्ट के जजों की तनख्वाह में कोई परिवर्तन नहीं हुआ है। इसलिये यह सरकार हम विधेयक के द्वारा पेंशन और कार एक्साइज के बारे में कुछ परिवर्तन करना चाहती है। जहाँ तक हाई कोर्ट के जजों का खवाल है, वह उनके कमान भी देना चाहती है।

हमारे संविधान में जजों की तनख्वाह संविधान की दूसरी सूची, सैकड़ पैडिंग में तय कर दी गई है। हम विधेयक के द्वारा सरकार ने तनख्वाह में परिवर्तन करने का कोई प्रयास नहीं किया। वह केवल एक्साइज के नाम पर इतना बड़ा परिवर्तन करना चाहती है। मेरा विरोध यह है कि यह अप्रत्यक्ष ढंग से वह बीज करना चाहते हैं जो सीधे ही प्रत्यक्ष ढंग में उनको करना चाहिये था।

आखिर, मैं यह देख रहा हूँ कि लोग तनख्वाह में परिवर्तन नहीं चाहते, एम-नीटीज, सुविधाओं और भत्तों के नाम पर दुनिया का ठगने का काम किया जा रहा है। इसलिये मैं मंत्री महोदय से पहले यह कहना चाहता हूँ कि जब कमीशन के लिये बिल प्रायेगा, उस समय वह क्वान्टिफिकेशन करके पूरा विवरण दे दे कि पब्लिक सैक्टर के जो मैनेजर्स हैं, उनको तनख्वाह, भत्ते और सुविधाएँ क्या मिलती हैं। उसी तरह संशोधनों को क्या सुविधाएँ और भत्ते मिलते हैं, इनका भी क्वान्टिफिकेशन करके वही विवरण दें।

श्री एस० एम० बनर्जी: कितना ऊपर से सिद्धा है।

श्री सच्चिदानंद: उसी पर मैं आ रहा हूँ। साथ क्वान्टिफिकेशन का माफ़ा उसी पर चल रहा था। पी० एम० जो एक अमाने में सेशन आफ़र थे, उनका माफ़ा है।

मेरा पहला मुद्दा यह है कि यह काम बीजा करवा करके इसके लिये संविधान

में संशोधन की आवश्यकता है, उसको करना चाहिए।

सूझते, उसी दर्जे में जो अफसर लोग हैं, पब्लिक रीपटर में हों, सरकारी सचिव हो, मंत्री हों उनको सुविधाओं, भत्ते, तनखाह आदि का विवरण देना चाहिए।

सरकार का मुख्य उद्देश्य यह है कि हाई कोर्ट और सुप्रीम कोर्ट में अच्छे लोग आयें। अमरीकन सुप्रीम कोर्ट ने एक दफे तीन क्लीटिया रखी थी। उन्होंने कहा था कि अच्छे और लायक व्यक्ति आयें, दूसरी बात उन्होंने कही कि वह ऐसे व्यक्ति हों जो निजी हितों के प्रभाव से मुक्त हों, They should withdraw from the temptations of private interest.

तीसरी बात उन्होंने कही थी कि वे स्वतंत्र और निष्पक्ष हों।

पहले में एक बुनियादी मवाल उठाना चाहता हूँ। आजकल जब मैं जिलों में जाता हूँ, बार एसोसियेशन और बार काउन्सिल के लोग मुझे बुलाते हैं तो मैं पता लगाने की कोशिश करता हूँ कि जिनकी प्रैक्टिस 5 हजार में अधिक है, ऐसे कितने बकील हैं? साधारण जिले में भी 8, 10 ऐसे बकील मिल जाते हैं और अधिकांश लोग ऐसे होते हैं, जो बैंक द्वारा वेमेट नहीं लेते। काना धन कमाने वाले तस्करी करने वाले और करी की बोरी करने वाले लोगों की बकालत करने वालों की आवश्यकता का अगर ध्यान पना लगायेंगे तो आप दंग रह जायेंगे। इसलिए केवल ऐसा करने से काम नहीं बनेगा। एक तो सीधा संविधान में परिवर्तन करें।

MR. DEPUTY-SPEAKER: It is not relevant.

श्री मधु लिखते मंत्री महोदय, यह बिल क्यों लाये हैं, इनका कहना है कि अच्छे लोग नहीं आ रहे हैं। मैं जानना

चाहता हूँ कि यह जो 30, 40 और 50 हजार का प्रैक्टिस करने वाले लोग हैं; इनके क्लाइंटस कौन हैं? बड़ी बड़ी कम्पनियों के क्लाइंट करने वाले और बैंक की बोरी करने वाले लोग और स्मगलर, मैं जानना चाहता हूँ कि इसको कैसे रोका जायगा? ये लोग बैंक को नहीं देने हैं। बहुत कम बकील ऐसे हैं जो केवल बैंक के द्वारा वेमेट स्वीकार करते हैं।

जब तक इन लोगों की जाँच के बारे में यकीन महोदय नहीं सोचेंगे और कोई मुकम्मिल योजना नहीं लायेंगे इस तरह की जी-पॉली में काम चलने वाला नहीं है। इस लिये मंग रिटोअर डा वान को लेकर है, यह नहीं कि नुक तनखाह में सुधार न हो। मंग रिटोअर यह है कि ये प्रत्यक्ष ढग से और सँघे गम्ते से नहीं करना चाहत है। वे अप्रत्यक्ष ढग में करना चाहते हैं।

श्री जनेश्वर मिश्र (इ.हागाद)
उपाध्यक्ष महोदय, हम एक मिनट में ही खत्म कर देंगे, बाधा समय दे दीजिये।

MR. DEPUTY-SPEAKER: You have not given your name. Please do not insist.

श्री जनेश्वर मिश्र यह मंत्री है मैंने नोटिस नहीं दिया है मैं मंत्री महोदय को एक मजबूत देना चाहता हूँ।

SHRI H R GOKHALE The hon Member may send his suggestions to me afterwards

Sir, I am grateful to the two hon. Members who have apparently opposed the Bill 'Apparently'—I use the word with a purpose because I do not think they are opposed to it in principle. They have suggested that the salary should be raised and if for that, an amendment of the Constitution is necessary, it should be carried out. Now, one difficulty, of course, is that the salaries of the Judges of the High Courts and the

[Shri H. R. Gokhale]

Supreme Court are fixed in the Second Schedule of the Constitution. Fixed amounts have been mentioned and the salaries cannot be increased without an amendment of the Constitution.

But there is another specific provision, both in respect of high Courts and the Supreme Court's Judges that other conditions of a service like allowances and other things can be provided for by ordinary legislation. That is why the Acts of 1954 and 1958 were passed and there is no question of doing it indirectly because, for a constitutional amendment, we have to come to you. For a legislation also, we have to come to you. In either case we cannot go and do anything behind the back of the Parliament. So, there is no question of doing anything indirectly or surreptitiously.

Now, all of us are agreed and both the hon. Members are also agreed that ever since the passing of the Constitution, there have been no material changes—I find there have been very insignificant changes—in the emoluments and service conditions of the High Courts and Supreme Court Judges and there is a general feeling...

SHRI S. M. BANERJEE: Why is there this discrimination?

SHRI H. R. GOKHALE: I will meet that point also.

I think there is a general feeling which I have observed in the Consultative Committee meetings also as also in the course of debates in Parliament and incidentally, whenever this question come up before the House, people have actually accused the Government of being tardy and slow in proceeding with this matter. I wish we had been speedier—I must confess. At any rate, there is no opposition to the proposal in principle. So, let the Bill go through. However,

the hon. Members have made certain points. We will bear them in mind and if there are any suggestions which are possible, we will consider it at the time of consideration of the Bill. We will certainly give it consideration although I cannot give an assurance that I will do this or I will do that at the present moment.

SHRI S. M. BANERJEE: The Bill says that the Supreme Court judges will get car allowance from 1st October, 1974.

SHRI H. R. GOKHALE: There is a misconception. It is there in both; the same retrospective effect is there in both.

MR DEPUTY-SPEAKER: It is in the Bill itself; it is the same thing in both these Bills 1st October, 1974.

SHRI S. M. BANERJEE: Why the Statement of Objects and Reasons does not say so?

MR. DEPUTY-SPEAKER: May be, printing mistake.

SHRI H. R. GOKHALE: The Bill contains this. It is the same thing in both the Bills.

There is provision for family pension of the Government servants when they did in harness to their families for a certain in period of time. Only judges have not been getting this pension and that provision is now made. That could be done by legislation only. With regard to public sector and other things which Mr. Madhu Limaye referred to...

SHRI MADHU LIMAYE: A comparative study....

SHRI H. R. GOKHALE: I will look into it.

SHRI MADHU LIMAYE: And place a statement.

SHRI H. R. GOKHALE: If necessary I will plam. I would strongly recommend that the Bill may be allowed to be introduced.

MR. DEPUTY-SPEAKER: The question is...

MR. DEPUTY-SPEAKER: Mr. Banerjee, take the first Bill, Supreme Court Judges Bill, first page. It says 'It shall be deemed to have come into force on the 1st day of October, 1974.' Come to High Court Bill. First page. It also says, 'It shall be deemed to have come into force on the 1st day of October, 1974.'

SHRI H. R. GOKHALE: It is exactly the same.

SHRI SOMNATH CHATTERJEE (Burdwan): Don't give them further appointment. I am appealing to the Law Minister. If you want to increase their retirement age, don't give them future appointment after retirement.

MR. DEPUTY-SPEAKER: The question is:

That leave be granted to introduce a Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1956.*

The motion was adopted.

SHRI H. R. GOKHALE: I introduce† the Bill.

14.53 hrs.

HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT BILL*

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): I beg to move for

leave to introduce a Bill further to amend the High Court Judges (Conditions of service) Act, 1954.

MR. DEPUTY SPEAKER: The question is:

'That leave be granted to introduce a Bill further to amend the High Court Judges (Conditions of Service) Act, 1954.'

The motion was adopted.

SHRI H. R. GOKHALE: I introduce †the Bill.

14.54 hrs.

RE. VIJAYA BANK

श्री मधु सिन्घे (बाका): उपाध्यक्ष महोदय, मैंने नियम 377 के अन्तर्गत नोटिस दिया हुआ है। वह कल नहीं आया था।

MR. DEPUTY-SPEAKER: I don't see it in the order paper you may bring it up tomorrow. I don't know.

श्री मधु सिन्घे: मुझे कल कहा गया था कि मीसा (संगोषन) विधेयक के बाद वह आया। लेकिन जब उस विधेयक के बारे में विवाद 7 1/2 बजे तक चला, तो मेरा नियम 377 का नोटिस कैसे आता?

MR. DEPUTY SPEAKER: Send a reminder notice; let it come tomorrow.

श्री मधु सिन्घे: मैं अभी खत्म कर देता हूँ। क्या नोटिस क्या देना है? अफिनिंड बिजनेस को तो लेना ही है।

MR. DEPUTY-SPEAKER: It is not in the order paper. The order of business is fixed from day today.

*Published in Gazette of India Extraordinary, Part II, section 2, dated 8-5-75.

†Introduced with the recommendation of the President.