

Collection and Distribution of I. T. (C.A.)

(b) All unfilled vacancies, whether in the departmental quota or in the direct recruitment quota, will be carried forward and filled according to Recruitment Rules, in the ratio of 75 : 25 between direct recruits and departmental candidates.

Promotion to the Post of Assistant Executive Engineer in M. E. S.

9693. SHRI S. D. SOMASUNDARAM: Will the MINISTER OF DEFENCE be pleased to state the likely time by which all the 434 Graduate engineers who have completed more than 5 years service in Military Engineer Service as Superintendent Buildings and Roads, Electrical and Mechanical Grade I will be promoted to the rank of Assistant Executive Engineer, even after increasing the departmental quota of promotions from Superintendent (Building and Roads, Electrical/Mechanical) Grade I to the post of Assistant Executive Engineer (Buildings and Roads, Electrical and Mechanical) from 10 to 25 per cent ?

THE MINISTER OF DEFENCE (SHRI SWARAN SINGH): Superintendents (Buildings & Roads and Electrical & Mechanical) Grade I, can be considered for promotion to the rank of Assistant Executive Engineer only after they have been promoted to Grade I Charge Holder. At present there are 61 graduate engineers holding to rank of Grade I Charge Holder. Against the expected average of 25 vacancies in the rank of Assistant Executive Engineer per year, 6 Grade I Charge Holders may expect to be considered for promotion on the basis of merit-cum-seniority, against 6 vacancies, along with other Superintendents, Grade I Charge-Holders who are not graduates.

Introduction of post of Assistant Engineer in Military Engineering Service

9694. SHRI S.D. SOMASUNDARAM : Will the Minister of DEFENCE be pleased to state :

(a) whether it is a fact that the introduction of class II gazetted post of Assistant Engineer in the Military Engineering Service to bring it at par with other Central Engineering Departments like C. P. W.D., G.R. E.F., etc., was recommended by the Engineer-in-Chief, Army Head Quarters to

the Ministry of Defence in January, 1968 ; and

(b) if so, the steps taken by Government in the matter ?

THE MINISTER OF DEFENCE (SHRI SWARAN SINGH): (a) and (b). A proposal for the introduction of Assistant Engineer (Class II) in the M. E. S. was made in February, 1968. Thereafter an alternative proposal has been made to up-classify the post of Charge Holder to Class II (Gazetted), and the matter is under the consideration of Government.

Correction of Answer to Unstarred Question No. 4442 dated 26-3-1969 regarding Irregularities Detected by Audit Department in Indian High Commission, U. K.

THE MINISTER OF EXTERNAL AFFAIRS (SHRI DINESH SINGH): The High Commission of India, London, reported in November, 1966 to the Director of Audit, London, an irregularity in the Malls Branch involving £ 5,240. The two locally recruited official involved, Sarvashri Jugar Singh and N. C. Bose, were dismissed after due enquiry from Service without pension or gratuity.

2. In addition, a suspected case of defalcation in the passport Branch of the Consular Department came to the notice of the Director of Audit, London, in August-September 1968. Detailed investigations are in progress.

3. It is not correct that the accounts of the Consular Department were not audited for the last three years.

12.12 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE—contd.

ATTORNEY-GENERAL'S OPINION ON ADVANCE COLLECTION OF INCOME TAX AND DISTRIBUTION TO STATES—contd.

MR. SPEAKER: Questions to be asked on the statement laid on the Table yesterday ; Shri Mangalathu madam,

SHRI MANGALATHUMADAM (Mavelikara) : According to press reports, the total amount outstanding with the Central Government at present by way of collection of advance tax is Rs. 400 crores. May I know from the hon. Minister whether this is a correct figure? May I also know the amount that will be added to the divisible pool by the latest decision of the Government regarding inclusion of unadjusted advance tax from 1967-68?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI) : As far as the total amount is concerned, it has increased to Rs. 387 crores, out of which Rs. 127.13 crores represent the figure for 1966-67 which could not have been naturally accounted for as the assessments for this amount should have been completed according to law on 1-4-1967. So, actually, the balance is Rs. 259.87 crores. But the gross is Rs. 387 crores.

As far as the devolution of this amount is concerned, the matter has been referred to the Finance Commission and in the light of the recommendations of the Finance Commission the devolution will be done.

SHRI GADILINGANA GOWD (Kurnool) : May I know from the hon. Minister whether it is a fact that the Finance Commission has objected to the present system of excluding the advance tax collection amounting to about Rs. 387 crores from the divisible pool of the States, and whether it is a fact that the Comptroller and Auditor General has informed the Government that the previous certificates issued by him under the Constitution were not correct, and since this procedure has adversely affected the development of States in the country, would the Government consider the inclusion of all the accumulated amounts of Rs. 387 crores in the divisible pool of the States at least this year for which the Attorney-General has not certified?

SHRI P. C. SETHI : As far as the divisible pools for these two years are concerned, according to the old system it would be Rs. 80 crores and Rs. 90 crores. But the whole matter has been referred to the Finance Commission and they would take into account all the things.

As far as the ways and means position of the States is concerned, the Finance Commission in para 39 of their report has explained that this has not adversely affected the ways and means position of the States. I would like to read out the last two lines of that para :

"We do not, therefore, consider that the contention of some States that these measures have led to unauthorised overdrafts is justified."

SHRI P. VISWAMBHARAN (Trivandrum) : It has been the policy of the Central Government to deprive the States of all elastic sources of revenue and also to exclude more and more items of revenue from the divisible pool. The advance tax collection is only one among them. Before that, the corporation tax was excluded from the divisible pool, and in 1959, by an Act, taxes on income of companies were taken away from the divisible pool. The States, including, the Congress States, have other complaints also. They have complained that the Centre is not fair to the States in the matter of devolution of funds. The Minister in his statement says that this particular decision to exclude the advance tax from the divisible pool was taken in 1948 and the matter was communicated to all the then provincial governments and it was accepted by them. In view of the fact that, in 1948, it was the same Party which was ruling at the Centre and in the States and that now the political situation has changed and that even the Congress Governments have begun to complain, I would ask the Minister whether Government would set up an expert body to go into the Constitutional provisions of Centre-State financial relations with a view to suggesting suitable amendments.

THE DEPUTY PRIME MINISTER AND MINISTER OF FINANCE (SHRI MORARJI DESAI) : The question of setting up a body does not arise out of this question at all. The Administrative Reforms Commission has considered Centre-State relations and is sending a report, which will be considered and on that we can take a decision.

SHRI P. K. DEO (Kalahandi) : You happened to be a Chief Minister and you can bear me out. The States have limited

fiscal capabilities but they are faced with various pressing demands like payment of dearness allowance, etc., due to conditions for which the Centre is primarily responsible. The Centre have been pursuing wrong policies and are creating inflationary conditions in this country, but the States are being penalised for that. So far as my State is concerned, Rs. 18 crores have to be paid every year for dearness allowance and in five years about Rs. 90 crores out of Rs. 200 and odd crores which is the outlay for the Fourth Plan. There are various pressing needs, especially development of backward areas and uplift of the backward classes. It is very difficult to match the resources and the requirements.

Secondly, there is the tendency to run down and financially strangle the State Governments and particularly of non-Congress State Governments. This can be borne out by several instances. Firstly the non-reimbursement of Rs. 15.1 crores to the Orissa Government spent on the Paradip Port even after the centre has taken over the Port, not allowing the State Government to raise the iron ore royalty to Re. 1 from .25 per ton even though the Central Government has increased their export duty because of the enhanced world prices of iron ore—all these incidents will go to prove that the accumulation of the advance collection of the taxes and excluding it from the divisible pool might have helped the ways and means position of the centre to the detriment of the interests of the State. Taking into consideration all these facts, I congratulate my former colleague Mr. Mahavir Tyagi and others for having raised this matter and the identical views of the Attorney General and the Comptroller and Auditor General that this practice is *ultra vires* of the Constitution. May I know if the Government is thinking of making expeditious payment to the various States according to the quota and that too with interest because some of the cases are pending for more than 16 years and the States have been deprived of their legitimate share?

SHRI MORARJI DESAI: I have stood all the criticisms the hon. Member has made. The question of iron ore has been referred to. It does not belong to Orissa alone, It is in all the States. It is

not to deprive Orissa that anything is being done. It is a matter of policy as to how much royalty has to be paid and it has been increased from time to time and, therefore, it is not right that this is done particularly against the non-Congress Governments. Let them show one instance that any discrimination has been made and I am prepared to pay penalty for it. What is the use of merely making charges like this?

He has also referred to Rs. 15 crores not being reimbursed to the Orissa Government. Paradip port was taken over by the Centre from Orissa on condition that will not be reimbursed and in spite of that my hon. friend has the cheek to say that we are not paying them. I think this is a wrong way of putting things. You can ask for more. That I can understand. What is the use of saying that we are not giving what is due.

Coming to this advance tax, if the advance tax had been paid before, then other adjustments would have been made. After all it is the something from which money is distributed. Then other devolutions would not have come. That is all that would have happened. It would have made no difference in that case. The Finance Commission will consider all that and will make its recommendations. Until the Finance Commission makes its recommendations and shows us how it is to be done, it is not possible for us to give it. It will be given as soon as the Finance Commission recommends it. It is not as if this Government has one view. The Comptroller and Auditor General had the same view until 1968 and all the States had the same view until 1968 and some of them wrote to the Finance Commission. It was not that only non-Congress Governments wrote. The Congress Governments also wrote. Therefore, it is not as if there is a difference. When it comes to the States, the States think on the same line whether they are Congress or non-Congress Governments. I would not say that there is anything wrong in it.

SHRI DINKAR DESAI (Kanara): The Attorney General clearly stated that the Central Government's failure to put the advance tax in the divisible pool is wholly unconstitutional. That means a constitutional

fraud was committed by the Central Government on the States all these 20 years. When the Central Government commits a constitutional fraud on the States you cannot expect cordial relations between the Centre and the States. I would like to know whether this is not an important matter in the deterioration of Central-State relations. This is not the first time that this was detected. The Finance Minister has said that some State Governments have already complained to the Centre about it. I would like to know why at that time the Government of India did not get this matter thoroughly examined. The Central Government is treating the States like municipalities, not like autonomous States. I would like to have definite information from the Minister as to which States have complained. He has said that some States have complained. We would like to know the names of those States. Also, I would like to know, why the Government of India did not take the legal advice at that time in the matter.

Another point. The final assessment takes 15 years, it has been stated. This is scandalous. So, I would like to know from the Minister whether he is going to reduce this period of 15 years. What is he going to do for that ?

Finally I want to ask this. Since Government have agreed to put the advance tax in the divisible pool there will be considerable difficulty for the Central Government to meet this situation and therefore, I would like to know what steps the Government of India propose to take to meet this financial situation in the sense that the Government of India will be put to some financial difficulties and I would like to know what steps they are going to take, and what the Finance Minister proposes to do, to meet this difficulty.

SHRI MORARJI DESAI : I am very sorry that the hon. Member who is so very well-read and who is otherwise very courteous should use abuses only for this purpose. At one time he calls it fraud ; and another time he says, scandalous.

SHRI DINKAR DESAI : I said, it is unconstitutional.

SARI MORARJI DESAI : The hon. Member need not spend all his energy at

shouting at me ; but if he just hears me I will try to pacify him. Why does he no, have some patience ? Even Comptroller and Auditor General had not considered it differently till August, 1968. And all had thought on the same line, including the States and the Centre. It was only in 1968 that three States, Bihār, Maharashtra and Kerala wrote to the Finance Commission, not to the Government of India, putting their claims before them and they said that this advance tax also must be put in the divisible pool. It arose only at that time. Then the Finance Commission reported to us and the Comptroller and Auditor General. We discussed it with the Comptroller and Auditor General. The Comptroller and Auditor General began to think. Yes, there is something ; this is a matter which is doubtful. Then we said, let us ask the Attorney General. Then we asked the Attorney General. My hon. friend will see, no time is lost at all. The Attorney General has not said that what has been done before has been unconstitutional. It is all a question of reading as you want to. What the Attorney General now has said is this. If the President passes an order it can be done. It is not that the advance tax was not given ; It has been taken into account. It has been taken into account after assessments are finalised. That is what has always been done. Now this is to be done before assessments are finalised. He does not say that that was unconstitutional. He says, if now the President passes an order with retrospective effect then it will be unconstitutional. That is all. That is what he says. And we accept that position. Therefore, we are doing it. He says, this has to be given from 1967-68. We are giving it ; there is no question of not giving it. Also we have asked the Finance Commission. We have made a reference to them asking them to let us know how this is to be done, in what proportion this is to be divided and given to the States.

Then he asked me about the other point, how the financial position of the Government of India will be affected. Well, the financial position of the Government will be affected in this way, the money of the Government of India is there, whatever amount it is, from which we give also to the States and that assistance will be less. That is all,