

## INDUSTRIAL DISPUTES (AMENDMENT) BILL

**The Deputy Minister of Labour**  
(Shri Abid Ali): I beg to move:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by Rajya Sabha, be taken into consideration".

[MR. DEPUTY-SPEAKER in the Chair]

2-53½ P.M.

The Bill is purely a clarificatory one and it does not impose any additional liability on employers or detract from any of the benefits accruing to the workers. In the course of the operation of the provisions relating to retrenchment and lay off, doubts were raised as to the exact scope of the law and what the Bill proposes is to remove these doubts.

One of the amendments relates to retrenchment compensation. It has been held that an out-going employer will be liable to pay retrenchment compensation even when, on change of the ownership, the employees are continued in service by the incoming employer on the same terms as under the out-going employer. But this is not what was intended by the original legislation. Apart from this, such an interpretation would tend to do harm by impeding the sale, transfer or amalgamation of companies. Clause 3 of the Bill clarifies the position. While not affecting the workmen in anyway whatever, this might enable the transfer, constitution or amalgamation of companies, whether by agreement or by operation of the law, to be effected without any technical difficulty. The incoming employer shall be responsible for the payment of retrenchment compensation for the entire service of the workmen if at any future date it becomes necessary to carry out any retrenchment.

The second amendment relates to the lay off compensation. Sub-clause (b) of the first proviso to Section 25C has been interpreted in certain

cases as lending support to the view that if a workman is laid off in any year for more than 45 days without any break he will be entitled to lay off compensation only for 45 days and not for the entire lay off period. This also was not the intention, and the present amendment makes it clear that if during a period of twelve months a workman is laid off for more than 45 days, whether with or without break, for a continuous period of one week or more, he will be paid compensation for all the days of any lay off and not for 45 days only.

Today's atmosphere here is one of short speeches and speedy disposal and I should not change this welcome mood of the House. I commend the Bill for the consideration of the House.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by Rajya Sabha, be taken into consideration".

**Shri K. P. Tripathi** (Darrang): The Bill which has been moved is welcome. During the discussions at an earlier stage, when the House decided to grant compensation for lay off to the extent of 45 days, the question that was agitating our minds was, "Why 45 days only and why not the period be extended?" If there is a lay off, the worker has a liability to continue on the spot so that he might be available for work. Now, if you expect a man to be available on the spot for work even beyond 45 days, then the same principle which meant the payment of compensation for the 45 days should apply. Nobody in the country should have the right to expect another man to dance attendance on him and at the same time denying payment. That was the principle on which compensation was fixed. What we said at that time has borne fruit, and I am glad that the Government has

come to the conclusion that compensation should be extended even beyond 45 days. Therefore, this Bill would be welcomed all over the country.

In this Bill, there is a proviso which says that whatever compensation is given shall be adjustable later on against payment of compensation for retrenchment. Here is a question of principle involved—the principle of lay off and the principle of retrenchment. In the earlier stages also, I made the point that the principle on which retrenchment is compensated is completely different from the principle of lay off. In the lay off period, the worker is given compensation in order to carry on. He needs food. He must continue as an individual. Without money he cannot continue. But he continues for the purpose of working in the farm or in the industry. That is the reason why lay off is given. But the principle of compensation for retrenchment is separate. It is given so that he may get some time for searching for alternative employment. When he goes away from one industry, he has to find out alternative employment. Of all the countries in the world, much more in this country, it is not easy to get alternative employment. It always takes time and unless the man goes out in search of an alternative employment, he cannot get one. Therefore, the principle of compensation for retrenchment means that he is given some cash money, some ready cash money, so that he may go out and try to discover if any alternative employment is available elsewhere. Therefore, to adjust compensation which was meant only for lay off against compensation which should be meant for retrenchment is, I think, basically wrong. I do not know the reason which is given for the purpose of retrenchment. It may be that whatever the principle, ultimately the man who is running the industry has to cope up with the industry, and his resources cannot be depleted. Once the resources get depleted, the

difficulty of paying compensation arises. Practical considerations seem to have weighed with the Government when they have provided that the employers would be entitled to adjust the compensation for lay off against compensation for retrenchment. We are going to build a socialist pattern of society, and so, a man who is retrenched must be able to find a job. In countries like England and America, there is unemployment insurance and even if a man does not get a job immediately, he is maintained out of that insurance fund. But in our country, it has not been possible to maintain such a fund and it is not likely that we shall get it quickly. Therefore, in the present context of things, compensation for retrenchment is a highly valued compensation and there is no doubt that the working class in this country will regard it to be so until unemployment insurance is introduced in this country. Till then, we have no doubt that we will continue to press the Government for this benefit; and, just as we have won now in respect of lay off compensation for more than 45 days, we will also be able to prevail upon the Government to accept our view-point on this question of retrenchment compensation not being adjusted against the lay off compensation.

3 P.M.

There is a very important provision towards the end of this Bill with regard to the conditions of service in firms or industries which change hands. The question dealt with here is, what would happen if a firm or an industry changes hands, so far as the interests of labour are concerned? It will be remembered that in the course of the last three years, a large number of industrial units have changed hands; particularly those owned by foreigners were sold out at tremendous prices in a boom market. They used to have huge reserve funds and those reserve funds were repatriated. At the same time, as soon as the new employers came, the workers were served with notices saying, "Your service is new; you do

[Shri K. P. Tripathi ]

not get the benefit of your past service and the benefit of a share in the reserve fund". All these questions were raised and under the existing law of the land, there was no answer. All that wealth which had been accumulated in the course of several years out of savings of the industry, for which both the employers and the workers had to forego some benefits, went to the employers alone. When this agitation started, the Government considered the matter and ultimately they have come forward with this legislation. It says that when the conditions of service of the workers under the first employer and under the second employer continue to be the same without any change, then the workers shall not be entitled to any compensation. By implication, it may be meant that if there is a change in the conditions, then at least they might be entitled to compensation. . .

**Shri Abid Ali:** If it harms the workers.

**Shri K. P. Tripathi:** If it harms the workers, then they would be entitled to compensation. This is by implication; it is not said so in positive terms. The Bill provides in a negative form that if there is no change, no compensation should be paid. For the first time it is put on the statute-book and from our workers' point of view, it is a very important principle that the workers are entitled to compensation when there is a change in the conditions of service. This will be welcomed all over the country.

I will now try to discuss what happens to the accumulations in the industry by way of reserve funds. I do not know about other countries, but particularly in India, it will be remembered that most of the reserve funds arise out of the savings of the industry. So much so, the industry in India has come forward with this argument that for the purpose of further development, these savings must be utilised. In other countries, fresh capital is raised for the purpose

of further development, but in India no fresh capital is raised. In other countries, the capital which is saved is utilised for the purpose of replacement only. In this country also, the Income-tax Department gives them relief, so that replacement might be continued. But, it is not merely a question of replacement. If a firm starts with a capital Rs. 1 lakh for one type of industry, it goes on saving year after year and out of the savings, it expands and builds a new industry. A firm dealing in cement now expands and takes up plantations, jute, cotton and so on, out of the savings. In other countries, this is not regarded as proper; they raise fresh capital for fresh ventures. When you save, the saving might arise either by foregoing your dividends or by giving less wages to labour. In this country, it has been accepted as a principle that bonus is the right of workers. Bonus comes out of profits and annual sharing of profits is bonus. If it is admitted that the worker has a right to share the profits, and if out of profits accumulations are made and kept as non-distributed profits, it is very clear that the workers have a right to share the non-distributed profits put into the reserve fund. If a firm changes hands, the question arises as to whom the reserve fund should belong; should it belong only to the employer or to both. If it should belong to both, in that case, it is very clear that the worker has a right to get compensation if the firm changes hands and the reserves are repatriated. But, if the reserves are retained in the industry which changes hands—instances are there—the question of compensation does not arise. But, if the reserves are taken away—it happened during the last two or three years that a very large number of firms changed hands and the reserves were repatriated to England—the question obviously arises: What is the share of the workers in that? It is not a small question. The conditions of service remain the same, but both the employers and the workers forewent certain benefits and created a reserve

fund. If the reserve fund is taken away, then the capital itself is taken away to that extent; the company becomes poorer and its capacity to weather the storm is reduced. So, I humbly submit that when we are progressing towards a socialist pattern of society, the society has to determine the most important things like capital formation. Capital formation determines the difference between the socialist pattern of society and the capitalist pattern of society and one must be able to say that this is the way in which the capital formation could arise in a socialist pattern of society.

I humbly beg to submit that in a socialist pattern of society whatever reserves are created after the distribution of normal dividends, in that there should be a share for the workers and if such reserves are likely to be taken away then the workers should be given their share. The workers' demand for such a share is not by way of compensation but by way of right just as if I deposit an amount in a bank and then the question arises as to whom that deposit should go, it should obviously come to me. But that has not been included in this.

Then again there is the new point arising out of the decision of this Parliament to have a socialist pattern of society as the goal. Since we have adopted this view, it has become incumbent on our part to consider the question of reserves also because reserve is capital formation and socialist pattern of society determines capital formation in a particular way, at least with regard to allocation, with regard to ownership. Therefore, I humbly beg to submit that while this clause 3, which amends clause 25, is quite acceptable to the working classes as it is, the working classes go further in its interpretation and their demands and the demands are with regard to what should happen with regard to reserves or reserves which are capitalised, reserves which are non-distributed, and the demand is that there

should be legislation which should authorise distribution of the same to workers also.

So far as the employers right is concerned, he is quite free and is at liberty to sell away the company along with the reserves. In that case he gets higher price. If I sell a company with reserves, obviously I get higher price. If the company has a capital structure of three lakhs of rupees and reserves of three lakhs of rupees, then obviously the employer can sell that company for six lakhs of rupees. Then what happens? He realises the price of the company plus the reserves also, the total reserves. In this way, by an agreement between the seller and the buyer, the total reserves, part of which belong to the workers, go to the original employer or, if he makes a mistake, to the buyer. In either case, who loses? It is the worker about whom there is no legislative provision in the law of today. Therefore, I humbly beg to submit that this question has to be considered sometime or other and I hope the Government would, like in the case of lay off compensation where they have been kind enough to consider and come to the conclusion regarding its extension beyond 45 days, in the case of workers' right to a share in the reserves once a company is transferred also, make the law up to date in terms of our intentions to establish a socialist pattern of society.

**Shri Tushar Chatterjea** (Serampore): While welcoming this Bill, I fully support what Shri Tripathi has said firstly with regard to the right of the workers to have compensation in case of retrenchment and secondly about the more fundamental point that he has raised about the workers' share in the matter of reserves.

The point about compensation for retrenchment is, I think, a very vital one and when the Government has come forward to amend that part of the clause, I think that gap should be filled up in this amending Bill. If a worker, who has already got lay off benefit for 45 days, is retrenched

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after that, he is not entitled to get any other compensation. That goes against the original section 25F of the Industrial Disputes Act. In this section very clear conditions have been laid down for compensation, for retrenchment and, as Shri Tripathi has stated, lay off and retrenchment, these two things should be judged in different ways. Whereas lay off is a temporary measure, retrenchment is a drastic measure by which the worker is rendered unemployed. Therefore, in this amending Bill, the proviso in clause 2 should be suitably amended so that the worker, even if he is being retrenched after 45 days, is entitled to get compensation. I know personally, having my connection with a number of trade unions, if any worker is regarded as an undesirable element by the employer, he can easily be retrenched in this way and he can easily be deprived of this compensation benefit. I think it is a very vital point. It touches the very basic principle and, therefore, suitable modification should be made.

Another thing which Shri Tripathi has not mentioned but I want to mention is this. It is quite right that benefit for lay off has been provided even beyond 45 days. But here it is stated:

“and the lay off after the expiry of the first forty-five days comprises continuous periods of one week or more.....”

That means, if further lay off is more than a week, then only the worker is entitled to get lay off benefit for that further period. That is to say, if his lay off is for any period which is less than a week, he is not entitled to get any lay off benefit. This puts the worker in a difficult position. I do not understand why when this benefit has been extended beyond 45 days, this special restriction has been imposed that if beyond 45 days, more than seven days lay off is there, then only the worker is entitled to get benefit, otherwise

not. I suggest that this defect should be remedied.

Lastly, as Shri Tripathi has pointed out, I also feel that the wording of the new section 25FF, as it has been put here, may give rise to legal complications ultimately in case of any transfer of ownership. If the service condition of the worker is in any way disadvantageous than the previous one, he will get compensation. If the service conditions remain the same, he is not entitled to any compensation. But the wording of the proviso here is:

“... the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer;”

I think this qualification should not be included in the proviso. If it is included in the proviso, then the main part of the section may be interpreted in a different way and there may be complications ultimately. So, I think, instead of putting it in a negative way, it should be put in a positive way so that in such cases where service conditions have been altered in any way compensation should be paid. This sort of direct assertion should be made. As the Minister himself says as regards the first portion of the amendment, this has been brought forward only because of some misinterpretation by the legal interpreters. From that point of view, I think, section 25FF should be suitably re-written so that there remains no loophole for making a wrong interpretation of this provision.

I think this Bill has corrected some defect but I feel that it should have gone much further to safeguard those fundamental rights of the workers that are involved in the case of retrenchment benefit.

**Shri Abid Ali:** Mr. Deputy-Speaker, taking the last point of the hon. Member Shri Chatterjea first, I

may mention that section 325FF is a positive section. It says what shall happen. The workman has been guaranteed one month's notice in writing and compensation. The proviso to the section is also definite. It is in negative form. What he wants is already in section 25FF. Proviso (b) to section 25FF says—

“(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer;”

If it is more favourable he will be of course happier; but if it is less favourable, then the worker would be entitled to retrenchment compensation as has been provided for in the Act.

The point about one week was raised by Shri Chatterjea. There is nothing new to that effect mentioned in the amending Bill. It has only been reproduced from the original section. So, we are not making any amendment to the clause to the detriment of the worker, as has been pointed out by Shri Chatterjea. He will find it in the principal Act.

With regard to the provision for setting off the lay off compensation in case there is ultimately retrenchment and the retrenchment compensation may become less, I may submit that this has been put with a purpose, to give an employer some chance to make all attempts for working the factory. Otherwise, if we make him pay off the lay off compensation and then ultimately retrenchment compensation, then some employers may at the very beginning of the trouble coming up pay the workers retrenchment compensation and close the factory. We feel it is in the interest of the workers that the factory is worked and should not be closed. It is a sort of inducement to the employers in the interest of the workers and the industry, so that they may continue to run the factory. There may be difficulty about mar-

ket conditions, raw materials may not be available, finance may not be available. In those circumstances he should be given some breathing time to get the necessary help from the sources he can and continue the factory. From that point of view I hope hon. Members who did not like this provision would welcome it.

About sharing the profits, I am one with my hon. friends who have spoken that certainly workers should get their due share in the prosperity of the concern. About that there can be no two opinions. We are ourselves very much anxious to find some norms to fix, if it is possible, the bonus from the profits and also otherwise. But the difficulty, as hon. Members who are themselves field-workers, know, is that nobody has been able to find an all satisfactory solution. Some solution has been found for current bonus about which there is some opposition from some quarters. We hope that in course of time that also will subside and the system which has become popular in some of the industries in some parts of the country will become more popular elsewhere also and perhaps that may be adopted universally by trade union workers everywhere.

My hon. friend Shri Tripathi mentioned about profits. That is true. But if there is loss that also has to be taken into consideration. While making rules or framing legislation all the possible contingencies have to be taken into consideration and not profit alone. I do not agree with the remarks that the Bill is defective in that respect, because that particular provision cannot find a place in the Industrial Disputes Act. As hon. Members know, we are appointing wage boards for some of the important industries. Perhaps it may be possible for the wage board to give some consideration to the suggestion the hon. Member has made and this effort will of course continue. It is an important matter not only from the worker's point of view, but also from the point of view of the industry. It cannot be given up as it is and will be continued through the wage

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boards and other sources. I hope that this explanation will satisfy hon. Members and they will appreciate that we are also alive to the issues that they have in mind.

**Mr. Deputy-Speaker:** The question is:

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by the Rajya Sabha, be taken into consideration."

*The motion was adopted.*

*Clauses 1 to 3, the Enacting Formula and the Title were added to the Bill.*

**shri Abid Ali:** Sir, I beg to move:

"That the Bill be passed."

**Mr. Deputy-Speaker:** The question is:

"That the Bill be passed."

*The motion was adopted.*

#### BUSINESS OF THE HOUSE

**Shri Rane (Bhusaval):** May I make a request that the House be adjourned for a few minutes because the business has collapsed? Seven hours had been allotted for two Bills.

**Mr. Deputy-Speaker:** The House is adjourned for half an hour to meet again at four o'clock.

**Pandit Thakur Das Bhargava (Gurgaon):** Why adjourn for half an hour? Let it be adjourned for tomorrow. As matter of fact, the next motion about displaced persons was to come up on the 22nd.

**Shri C. R. Narasimhan (Krishnagiri):** The House has already adjourned.

**Pandit Thakur Das Bhargava:** It was by chance that on all the other Bills there was no debate or discussion and the whole thing collapsed. This

item was to come off on the 22nd. I was informed that it will be taken up on the 22nd. Some Members asked me whether it will come up today or they could remain absent. I told them to remain absent if they so chose as these rules were not coming for discussion today.

**Mr. Deputy-Speaker:** That was my information also. Lala Achint Ram enquired of me yesterday at Hissar. He thought that it would be coming up after the 21st. If the House is of that view....

**Pandit Thakur Das Bhargava:** It happened like this. I received a chit from the Secretariat that this will be taken up on the 22nd. I came back from Hissar yesterday. I did not even look into the papers. This morning Lala Achint Ram asked me if it was coming up today. I said, no. He asked, why is it so. I said that I had received a chit that it will come up on the 22nd. When I came to the House today at about 12, and saw there was some chance of the business coming up, I collected my books. Though I may be ready, the hon. Minister is not ready.

Then, it is not fair to those whom we have asked to be not present....

**Mr. Deputy-Speaker:** Readiness has to be known subsequently. For the present, the Minister is not here.

**Pandit Thakur Das Bhargava:** The Minister is not here. Lala Achint Ram asked me at about 9-30 this morning. I asked him to go away because according to the note from the Secretariat which I received, I knew it was coming up on the 22nd. I asked him to go away. He wanted to take part in the debate. If the House is to be adjourned, let it be adjourned to tomorrow.

**Some Hon. Members:** Day after tomorrow.

**Shri C. R. Narasimhan:** If the business has collapsed earlier can we not wait?