

**INDIAN RESERVE FORCES
(AMENDMENT) BILL**

Mr. Chairman: The House will now resume further consideration of the following motion moved by Sardar Surjit Singh Majithia on the 12th February 1958, namely:—

"That the Bill further to amend the Indian Reserve Forces Act, 1956, as passed by Rajya Sabha, be taken into consideration."

Out of one hour allotted for this Bill, 16 minutes have been availed of and 44 minutes now remain. Shri Warior will continue his speech.

Shri Warior (Trichur): Last time, I was pointing out the difficulties of the reservists in finding employment. In consideration of that, and in consideration of the fact that these reservists are very essential in our defence forces and also in consideration of the fact that they are getting only a meagre amount of Rs. 10 or so as retaining fee, I will appeal to the Government to consider this, and try to enhance this very small amount which is given to them, as an encouragement for others also who may be joining the training as reservists.

In this connection, I may also point out another fact. I do not know exactly whether there is any difference between these two things, namely, the scale of retaining fee paid to the ordinary forces and the J.C.Os. and people of other ranks. If there is no such distinction, I will appeal to the Government to make some distinction in that respect also and give some thing more at least just to show that they are of a higher rank. With these preliminary observations, I wish to add a few points on the merits of the Bill itself.

The main feature in the Bill is the reinstatement of those people who are called for training or for emergency purposes. It is very difficult for them first of all to get employment. Then

there is a break contemplated in between this training or calling them for emergency purposes. After returning from the training, or after the emergency period is over, when they seek employment again, it becomes very difficult for them. This Bill provides only for reinstating them and not to continue them in the service in which they had been employed. I want, by the amendments that I have tabled, that these people should continue in the old places, and not be just reinstated.

Why I insist upon this is because, there are certain provisions in the Payment of Wages Act as amended last year as also in the Trade Disputes Act to the effect that benefit will accrue to those employees only if there is no break at all. If there is a break contemplated, then these benefits may not accrue to those employees, and they may be considered as if they were retrenched and then reinstated or re-employed. If that is not the case, and if that apprehension is baseless, I am ready to withdraw the amendment. But, if that apprehension is valid and has some foundation, then I will insist upon the Government accepting that amendment and seeing that those services do not have a break and continue without a break, so that all the benefits of the Payment of Wages Act as well as the benefits, as in the amended Trade Disputes Act, will be accruing to them. That is the main point I want to stress.

Another point is, these reservists are thrown out after serving till the age of 30 or 40. The prime of youth is spent in the forces. After that, they are sent out as reservists, and without any sufficient emoluments to spend the rest of their lives. It is very hard to find employment also. The reservists find it very difficult to renew the contract they have already entered into with the Defence Department. So, I plead with the Government and I appeal to them that if possible, and if they are eligible, these contracts may be renewed and extended in their cases for some more years. For,

[Shri Warior.]

by the age of 30, if these people are sent out, they will be in difficulties. The needs of life begin from the age of 25 or 30. The children will have grown up and they will have to be provided with education and so many new commitments also come in at the age of 35 to 40. At that time, these people are sent out without any help and then they find it very difficult to get on with Rs. 10 as retaining fee or something like that. With the difficulty of finding jobs also, the whole force gets displeased and dissatisfied. The main defence force comprises the reservists also. In time of emergency, the reservists are always depended upon. Otherwise, there is no necessity for a reserve force if the main defence were not to depend upon them. So, if the defence force is to depend upon these dissatisfied reservists personnel as a whole, I think it will be a mere waste even if this Rs. 10 is paid to them. That would be a waste on the part of Government.

Thus, if satisfaction should be there, if there must be a contented reservist force something else should be done. For that, there is one way of solving their problems to some extent. That is by extending the contract period. Now, when these people enter the colours, they know that they will be there only for a few years and that the full amount of remuneration will be available only in those years. But the Government must understand that the position of employment in the country is such, that the labour market is such, that it is very difficult for people to get something at least to eke out their livelihood. As it is, whether it be for a short duration or not, the people do not look into the consequences in future, and for the small sum that is paid, they take up colours to solve the pressing domestic problems. But thereafter, they do a very big job and execute a patriotic job. But, after eight or 10 years of such work, at the age of 30 to 40, they are penalised. That situation must be removed and the reservists must be able to keep

themselves in readiness and be happy for the next call or training. That is the essential point, namely, that they must be satisfied and contented. For this reason, I have tabled my amendment, so that these disabilities may be removed and we can depend upon them.

श्री बल्लभ वर्मा (गढ़वाल): जनापति महोदय, मैं इस विधेयक का स्वागत और समर्थन करते हुए प्रतिरक्षा बंसी महोदय की सेवा में कुछ थोड़े से सुझाव रखना चाहता हूँ।

सबसे पहली बात तो यह है कि मुझे इस बात की प्रसन्नता है कि पहले इंडियन आर्मी की रिजर्विस्ट्स को जो ३ रुपये प्रति मास का रिटेनिंग एलाउंस दिया जाता था वह बढ़ा करके ५ रुपये किया गया और पिछले २, ३ वर्षों से वह १० रुपये कर दिया गया है। लेकिन जैसा कि मेरे अन्य माथियों ने भी कहा यह अब भी यथेष्ट नहीं है और अगर हो सके तो रक्षा मंत्रालय को इसकी जांच करनी चाहिए कि प्राया इसको और बढ़ाया जा सकता है अथवा नहीं।

दूसरी बात में प्रतिरक्षा मंत्रालय के सामने यह रखना चाहता हूँ कि अबसर इस तरह की शिकायतें मुझने में आई हैं कि जिन निपाहियों से अगर कोई थोड़ी सी गलती हो जाय या अबसर जरा नाराज हो जाये तो उनको रिजर्व में भेजने की कोशिश की जाती है। मुझे पता नहीं कि कोई इस तरीके का नियम है या नहीं। अभी दो तीन दिन पहले माननीय उपमन्त्री जी ने इस विधेयक को यहाँ पर पेश किया था और उन्होंने बतलाया था कि ७ साल से लेकर १० साल तक नौकरी करने के बाद उन को रिजर्व में भेज दिया जाता है और इस बीच उन्हें रिटेनिंग एलाउंस दिया जाता है। मैं बंसी महोदय के ध्यान में यह बात लाना चाहता हूँ कि इस तरह की शिकायतें मिली हैं कि इस सम्बन्ध में कोई निश्चित नियम नहीं मालूम होता कि प्राया

७ वर्ष से लेकर १० वर्ष तक जो नौकरी कर लेते हैं, उन सब को रिजर्व में भेज दिया जाता है या उनके बीच में काट-छांट की जाती है या यह होता है कि जिस सिपाही ने जाकर समय पर सलाम नहीं किया या भफसर के घर में जाकर सेवा नहीं की या उसका कोई काम नहीं किया तो उस को दंड देने के लिए रिजर्व में भेज दिया जाता है; और जिन से खुश हुए उनको फौज में रहने दिया जाता है, ताकि उनको तरफकी मिल जाय। इस बारे में जांच होनी चाहिए और इस सम्बन्ध में कोई स्पष्ट नियमों का निर्धारण कर देना चाहिए।

तीसरी बात जो सबसे महत्वपूर्ण है वह यह है कि इस विधेयक में यह व्यवस्था की जा रही है कि मालिकों को अगर इस बात का कोई फंसला हो जायगा तो ६ महीने तक की तनखाह नी पड़ेगी और १ हजार रुपये का दंड दिया जा सकेगा। मैं इस चीज का स्वागत करता हूँ, लेकिन जैसा कि श्री वारियर ने कहा कि जितने दिनों बाद वह ट्रेनिंग से आकर के फिर नौकरी करते हैं उतने दिनों के लिए वह लीव विद् भ्राउट पं करके पुराने मालिक की इम्टी पर माने जायें, लेकिन उस बीच में उनको बेतन प्रतिरक्षा मंत्रालय की ओर से मिल रहा है तो इस बीच में उनकी पूरी सविस् मानी जाय और इस बात का सवाल न उठाया जाय कि वे दुबारा नौकरी कर रहे हैं।

इस सम्बन्ध में मैं एक निवेदन मंत्री महोदय से यह करना चाहता हूँ कि इस बात की शिकायत मिली है कि हमारा प्रतिरक्षा मंत्रालय ऐसे नौजवानों का ध्यान नहीं रखता जो कि १७, १८ या २० साल की उम्र में नौकरी में आते हैं और जब २५, ३० वर्ष की की उनकी उम्र होती है तो उनको रिजर्व में भेज दिया जाता है। क्या प्रतिरक्षा मंत्रालय यह अपनी नैतिक और कानूनी जिम्मेदारी नहीं समझता है कि ऐसे लोगों को भी कोई

रोजगार दिलाने की व्यवस्था की जाय ? इसके लिए मैं यह सुझाव देना चाहता हूँ कि प्रतिरक्षा मंत्रालय में एक खास सेक्शन इस बात के लिए होना चाहिए कि जिन लोगों की रिजर्व में भेजा जाता है उन लोगों के लिए नौकरियों भी दिलवाने की व्यवस्था करें। आप रिजर्व में उनको भेज देते हैं और १० रुपये रिटेनिंग एलाउंस देते हैं और यह भाशा करते हैं कि देश के भंदर कोई आफत प्रा जाय तो वह अपने प्राणों की भी बाजी लगा कर के देश की रक्षा के लिए प्रायेण और इस बीच में वह ट्रेनिंग भी पातें रहेंगे। यह बहुत अच्छी चीज है। यह व्यवस्था जो की जा रही है उसका मैं स्वागत करता हूँ। लेकिन मैं ने देखा है कि नौजवानों के ऊपर रोजगार की उचित व्यवस्था न होने से मुसीबत का एक पहाड़ सा टूट जाता है और उनकी समझ में नहीं आता कि वे किधर जायें और कहा जाकर नौकरी खोजे। इसलिए मैं प्रतिरक्षा मंत्रालय को यह सुझाव देना चाहता हूँ कि उनके वहा एक विशेष विभाग होना चाहिए जो कि उन्हें नौकरी दिलवाये और इसमें कोई कठिनाई नहीं होनी चाहिए। हमारे यहां प्रतिरक्षा मंत्रालय के अनेक उप-विभाग हैं जैसे एम० डी० एस० सी०, आई० ओ० एस० सी० और रेलवे प्रोटेक्शन फोर्स हैं और प्रान्तीय सरकारों में पुलिस का महकमा है, पी० ए० सी० है, होमगार्ड है और जेल के वार्डर्स हैं, इन जगहों में इन लोगों को नौकरिया दी जायें और यह नौकरिया इस तरह की हों जिसमें फौज की पाई हुई ट्रेनिंग का उपयोग हो सके और जब जरूरत पड़े उनको वापिस बुलाया जा सके, और तब उसमें सवाल ही नहीं होगा कि उनको दंड दिया जाय।

मैं इस विधेयक का स्वागत और समर्थन करते हुए प्रतिरक्षा मंत्रालय को यह चन्द एक सुझाव देना चाहता था और मैं भाशा करता हूँ कि उन पर विचार करके उनको स्वीकार कि जायेगा। प्रतिरक्षा मंत्रालय को अपनी जिम्मेदारी महसूस करनी चाहिए कि जब

[श्री भक्त स्वामी]

उनको रिजर्व में भेजा जाता है तो उनकी योग्यता के भूग्राहिक धीरे-धीरे उनकी ट्रेनिंग मिली है उसके अनुसार उनको नौकरी दी जाय। भला हमारे बीजवानों के पास हथर, उधर भटकने के लिए कहाँ सा है कि वह मुकद्दमेबाजी करें और अत्यासत के सामने जाकर पेश हों। इस मुसीबत से उनको बचाने का एक ही तरीका है कि उनकी नौकरी की प्रबन्ध की जिम्मेदारी गवर्नमेंट अपने ऊपर ले और प्रान्तीय सरकारों से मिल करके और केन्द्रीय सरकार की जितनी मिनिस्ट्रीज हैं और जितने सरकारी डिपार्टमेंट्स हैं उनमें ऐसी जगहों पर जो उनके अनुकूल हों वहाँ पर उनको रखा जाय। मैं ब्रह्मा करता हूँ कि मेरे न चन्द एक सुझावों पर विचार किया जायगा और इनको स्वीकार करने की कृपा की जायेगी। धन्यवाद।

Shri D. C. Sharma (Gurdaspur):
Mr. Chairman, this amendment is like the repair of an old model car, which might have been good at one time, but which is utterly unsuited to the conditions which prevail in this country today. From 1888 to 1958 is a very big chunk of time and though this Bill has been revised once and it is undergoing revision now, I feel that the basic structure remains the same, and that basic structure, I will submit, is neither good for the defence services, nor for these reservists, nor for our country.

I do not want to go into the relative importance of the reservists, though they constitute a very big unit so far as the defence potential of our country is concerned. But I will submit that they are being treated like neglected children of the Defence Ministry.

In the first place, I would like to know the relationship in terms of emoluments, in terms of pension and other things, between the colour service and the reserve force. When we compare the service conditions

between the regular force and the reserve force, we find that there is an anti-climax. I would very respectfully submit to the Defence Ministry that they should take away this feeling of "climb down" from the minds of the reservists. I think that feeling is very much justified now.

I now come to the question of their pay. They are getting a nominal pay of Rs. 10/- a month. I think it is a joke. It is a farcical sum which is being given to our reservists. I don't think there is any parallel for it in any other country. If there is, I am sorry for it. This nominal fee of Rs. 10/- a month, to say the least of it, is very much unjustified in terms of the services that you want from these men.

I concede that you want to give them only a nominal fee. I concede it for the sake of argument. But, are not these people entitled to some kind of welfare measures? After all, we have got some kind of ameliorative measures for our services. I do not see any reason why these people should not be entitled to something of that kind. Even if you may not do it on that scale, it should be done on some other scale for the reservists. You can give education to their children and some other facilities. So, I very respectfully submit to the Hon. Minister that they should think of giving these persons some sort of relief, some sort of hope, by giving them some kind of facilities.

Again, I want to ask one thing. How are we treating the reservists? Of course, in this Bill we are treating them as defence personnel. But that is neither here nor there. They do not get those advantages which the workers get and also they do not get those advantages which the regular employees get. They are not treated as skilled workers, though, I think they should be in that category. They have learnt the art of defence, which is one of the most difficult arts.

The Defence Ministry is not treating them even as skilled civilian employees. How can you expect these persons to defend your country in a time of emergency when you have reduced their status? It has given them a psychological jolt and an economic jolt. After doing all that, you think that they are going to be the bulwark of the nation in a time of emergency. I would, therefore, say that it should be made clear as to how we are going to deal with them.

I think that they should not be dealt with in this casual fashion. Now their terms of service, terms of employment and terms of emoluments are a jest for anybody.

Again, I have been told that when these persons come for training, they are in a state of—I do not want to use harsh words—physical exhaustion. They are not able to do justice to the training and other things given to them. Since they come in that state of physical fitness, they are not able to make use of the training which is given to them. This is a well-known fact. Of course we may shut our eyes to it. But I ask, if they are not given the right kind of treatment when they are in civil employment, how are they going to be benefited fully and to the maximum possible extent when they come for their training? I think the training and other things that are done are such as do not contribute to their morale and they are not in a fit condition physically and psychologically to get the best of that training.

If we read the Statement of Objects and Reasons, it has been said that because the employers are not prepared to reinstate the reservists in employment, soldiers are reluctant to be transferred to the Reserve. But I would say that the reluctance is not only due to the fact that they cannot go back to the employment they hold. The reluctance is also due to the fact that the Defence Ministry is

not dealing with the problem in as fitting a manner as it should. We have got welfare agencies and I do not see any reason why we should not have all those things here. I would also support the point brought forward by my friend, Shri Bhakt Darshan about employment. Of course, we could have an agency for providing them with employment. But I may say that if that agency is there, it has to be brought into full gear to serve all the needs of these. Mostly these persons come from the rural areas and there the conditions are not as good as they should be. Therefore, I would say that for looking after these persons, the Defence Ministry should organise an agency which would take charge of the over-all needs of these persons—welfare work and all those things. Unless that is done, I am sure this Bill will not serve its purpose.

There is one point more. We have been doing a great deal to increase the defence potential of our country and our Reserve Forces also constitute one good unit. We brought some-time back the Navy Bill. We are trying to re-think our problems of defence and to do things in a way which will be most useful. Therefore, I would say that the Ministry should bring forward a comprehensive Bill for the reservists, which should relate to their appointment as regular reservists etc. and which should relate to all things which are going to make them fit soldiers and which are going to give them economic stability, psychological stability and also a sense of civil responsibility. All these things should be given in this Bill. I would only say that this Bill shows how casually the whole thing is being done. It is an imperfect measure. It is a measure which does not show much thought on the part of the people who are responsible for this measure and it shows how little they are interested in the over-all picture of the welfare of the reservists. I would, therefore, welcome a measure which would look to the comprehensive needs of the reservists and

Bill

[Shri D. C. Sharma.]

which would make them more useful members of the Reserve Forces.

Shri B. K. Galkwad (Nasik): It is already 2.30 and there is no quorum.

Mr. Chairman: The bell is being rung. Now there is quorum. The hon. Deputy Minister.

The Deputy Minister of Defence (Sardar Majithia): I am very grateful to all sections of the House for giving this Bill their unstinted support. There have been three speakers who have given various suggestions, but if I may respectfully submit, they appear to me to be a bit confused as to what the real reserve is. I said in my opening remarks that reserve in the Indian Army is there on certain set rules and that is when a person is enrolled, he puts in a certain number of years as regular service and then after that he goes into the reserve.

My friend over there asked me if there is any method of selection or if there is any discrimination shown while selecting people for the reserve. As a matter of fact, I can definitely say that there is no discrimination at all while selecting people for the reserve. Those who are good, those who have shown that they have by the training given to them, fitted themselves for higher ranks become Naiks, Havildars and Havildar Majors and as they go on progressing, they even rise to the rank of Subedar Major, in which case it is not that they put in only 7 or 8 years' service, but they do the complete term which runs up to 25 years or so. Therefore, by their dint of labour, they earn not only the extra emoluments but extra tenure of service.

This incidentally also answers the other point that the people should be given a second tenure. I can say without any hesitation that if a soldier, after having completed his original term, wants to get re-enrolled, provided he is fit, we have got

certainly no objection to it. He can do it. He will have to take fresh enrolment and start all over again.

Naturally a question may be asked, why should you not continue him without a break. The obvious reason is that he has not been found fit to go up as a non-commissioned Officer. He has to stay in the ranks and therefore it does not make any difference whether he gets himself enrolled or carries on.

But, the point again comes up and that is, that the people who have gone into the Reserve are neglected. That was a point raised by my very old colleague and professor, Shri D. C. Sharma. As I said, he is very fond of the word comprehensive Reserve Bill. I do not know what he means by comprehensive. If he had only cared to read the Bill as it is, he would have seen that it is so. It has stood the test of time. There have been no complaints about it. It has worked rather well. It is, I maintain, comprehensive.

One point which all the speakers raised was that the retaining fee of Rs. 10 per month is hardly adequate. For that, I would like to submit that that is not meant to maintain the soldier for the rest of his life. After all, when he goes back,—as my friend says, they mostly come from the rural areas—he goes back to his land. He works on his land which is his own land. This extra sum of Rs. 10 is just meant as a reward: not meant to maintain him in any case. It is just given *ex-gratia*. Besides, my friend forgot that if we were to raise this amount, it would mean that our budget, naturally, will go up. Whereas on the one hand, my friends are keen that we should not increase our defence budget because we have no warlike ideas on anybody, and we have got the friendliest of feelings for every nation in this world, this goes contrary to it.

14.44 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

On the one hand, if we increase the defence budget and on the other, say that we have no warlike intentions or designs, they do not go together. From that point of view also, it would not be right if we go on paying any more to the reservists who really get Rs. 10 a month, just sitting in their homes, doing absolutely no work for the Government. It is only for the liability that they have to serve the Government in the case of an emergency that they are getting this small amount.

My hon. friend opposite, Shri Warrior I do not know how to pronounce the name—

Some Hon. Member: It is correct.

Sardar Majithia: Warrior, minus the arms, I suppose.

The Deputy Minister of Food and Agriculture (Shri A. M. Thomas): The arms are surrendered.

Sardar Warrior: That is a discovery.

Sardar Majithia: They cannot do violence in that case. He suggested that the J.C.O.s should get more money for their retaining fee. As I said in the beginning, there seems to be a lot of confusion in the minds of hon. Members as to these reservists. I say again that the J.C.O.s have a longer tenure. They have done their full period of service and they are not going back at 30, but very much later. They are not liable for reserve service either. Therefore, this hardly arises.

Another point raised by Shri Bhakt Darshan was, why is it that we want to put in the word reinstate, why should not we substitute it by the word 'continue'. The answer is quite obvious. He is called up for training for a short period. When he goes back, he continues his normal service and the point does not arise. It is

only when the employer refuses to take him back and says, I cannot take you, the Government says, No, he is to be reinstated because there has been a break. Because there has been a break so far as that employer is concerned in his service, it cannot be continuance, it is reinstatement. The Bill is quite clear on that point. It is laid down that he will go back into his old service on conditions not less favourable and therefore, his objective has been served by the words which are contained in the Bill and it is hardly necessary for me to accept this amendment. I take it, it is not called for.

My learned friend Shri D. C. Sharma, who, I find, is not here, raised a point that we neglect the children of the servicemen. I do not know how he got that idea. When a man joins up, he is about 20 years old. He is not married at that time, I know that. He puts in about 8 years of service.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): Shri D. C. Sharma is not married.

Sardar Majithia: He has not had experience; he is an old professor; I can't say that. After 8 or 9 years service, when he is leaving at 28, even if he is married during that period when he is 25 or 26, which I doubt very much, the possibility is he may have one child or so, and that too about 2 years old. You cannot put a child of two years to school. I do not know how he has got the idea that we neglect them.

Shri Narayanankutty Menon (Mukandapuram): Why do you allow only one child in this period?

Sardar Majithia: I do not allow. I said possibility. He might have twins. You might have better experience. In any case, as I said, the question of not looking after the children of the reservists really does

[Sardar Majithia.]

not crop up. On the other hand, so far as the serving personnel are concerned, we do look after their children. We do have schools run by the units and the education of those children is looked after. Apart from that, we have got the King George's Schools where we have 50 per cent of the vacancies reserved purely for the children of the other ranks, that is who are serving, and that education is more or less on the public school lines. The children get it at a very nominal fee. It is only about ten per cent of their pay which is hardly anything, and the Government is bearing quite a lot of expenditure on that account. I should like to controvert the feeling that my hon. friends have that we do not look after the children of our ex-servicemen.

Another point made was about their employment. It was said that the Government should have a special agency which should look after the employment of the people whom we sent to the reserve. Perhaps my hon. friends have forgotten that there is an employment exchange which is particularly meant for these things. All those who register themselves in this employment, I take it, are people who really want to be employed. I cannot imagine that he wants employment also for those people who go back and settle on their land, because they are already employed. People who want to be re-employed do get registered in the employment exchange, and that exchange is always on the look for various services and they are put into them. Apart from that, there is an order of the Home Ministry which says that preference will be given to the ex-servicemen for employment in those places where they find that the military training has been an asset, as in the Police, Home Guards and the Ministry of Defence Security Service. They do get employment there. It is not that they do not get it. They are employed.

श्री शक्त बर्ज़न : मेरा मतलब यह था कि एम्प्लायमेंट एक्सचेंजों के पास इतना बम्बो चौड़ा बनकर रजिस्टर होता है कि ऐसे लोगों की थोर से पूरा व्यवस्था नहीं दे सकते। इसलिए ऐसे लोगों के लिए अगर डिफेंस मिनिस्ट्री को कोई अपनी सुवेची हो तो ज्यादा अच्छा हो।

Shri Narayanankwity Menon: The defect is not that of the agency, but want of employment.

Sardar Majithia: I am afraid there is so much unemployment that they have to take their chance. As industrial growth takes place in the country, they will automatically find more employment, and I am quite sure that with the training and the discipline that these ex-servicemen have got, they will be definitely preferred to the others.

Now I should only like to say one thing, and that is, that most of the employers do take them back. There has been no case at least to my knowledge where the employer has not taken back a reservist after he has been away for a short time for his training or for a longer period in case of an emergency. It is only as a safeguard that this amendment has been brought forward. In case there is a particular employer who wants to be funny, we can force his hands to re-employ that particular ex-serviceman.

I should also like to deal with one of the amendments here, where they have made out that we should not exempt any employer from re-employing a person no matter what reason there might be. I can only give you an example. Suppose a particular man has been called up for service in an emergency, and he has been away for about six months or so, and during those six months that particular firm has gone into liquidation. Now, a firm which does not

Bill

exist cannot be forced to employ this gear shop who has come up for his training or for reservist service. You have to make certain exceptions.

Let me give another example. It is quite possible that after receiving his training this particular reservist may find another employment which is more remunerative. After about two months or so, he finds that he does not like the new employer or that the employer does not like him and sends him away. Surely you cannot give him the right now to come up and say: "My first employer must employ me because I went from that place". It is hardly fair to the employer, and it is therefore that certain...

Shri Narayanankutty Menon: That question does not arise because that is governed by normal industrial law. That example does not suit here.

Sardar Majithia: Therefore, we have to make certain exceptions, and it is therefore I oppose these amendments.

That only leaves me with the two amendments that I have moved which are entirely consequential. This Bill came up before the Rajya Sabha in 1957 and that is why you find the words "Eighth year of the Republic of India" in the Enacting Formula. It is now the ninth year and that is why I have brought forward an amendment. Consequent on this, in the short title of the Bill also, the year has to be changed from 1957 to 1958.

These are the remarks I have to make on the Bill. I commend the Bill to the House.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Indian Reserve Forces Act, 1888, as passed by Rajya Sabha, be taken into consideration"

The motion was adopted.

CLAUSE 2—(Insertion of new sections 7 and 8 in Act 4 of 1888)

Shri Jadhav (Malgaon): I beg to move:

(i) Pages 1 and 2—

omit lines 16 to 19 and 1 to 14 respectively.

(ii) Page 2, lines 15 and 16,—

for "obey the order of any such authority as is referred to in the proviso to sub-section (1)" substitute "reinstate"

(iii) Pages 2, lines 17 and 18—

for "one thousand rupees" substitute "two thousand rupees"

(iv) Pages 2, line 21—

for "six months" substitute "twelve months"

page 2, line 29—

for "two months" substitute "six months"

Shri Naushir Bharucha (East Khandesh): I beg to move:

Page 2, after line 40, add:

"Explanation.—"Employer" shall mean a person, or a partnership, a corporation, a society or an institution between whom and an employee a contract of service, oral or written, subsists, and shall include any successor-in-title to such person, partnership, corporation, society or institution."

Shri Warlor: I beg to move:

(i) Page 1, line 11 and wherever it occurs—

for "reinstate" substitute "continue"

(ii) Pages 1 and 2,—

for lines 16 to 19 and 1 to 14 respectively, substitute—

"Provided that such person shall not be eligible for his pay and such other allowances as he would have received if he would

[Shri Naushir Bharucha.]

not have been called up for training:

Provided further that if the employer refuses to continue the services of the person, such authority as may be prescribed under this Act shall collect from the employer as arrears of land revenue the total emoluments that such person would be entitled to receive if his employment would have been continued, along with an amount, which the authority shall fix as costs and such authority shall disburse the said amount collected as such to the person."

Mr. Deputy Speaker: All these amendments are before the House.

15 hrs.

Shri Naushir Bharucha: Amendment No. 8 which I propose is an explanation of the word 'Employer', and it reads thus:

"'Employer' shall mean a person, or a partnership, a corporation, a society or an institution between whom and an employee a contract of service, oral or written, subsists, and shall include any successor-in-title to such person, partnership, corporation, society or institution."

I think it is necessary to introduce this explanation. In law, what happens is this. Suppose a reservist is employed by a partnership firm, and one of the partners dies; then, in the eyes of law, that firm automatically dissolves. If the remaining partners carry on business, they can very well evade the law by pointing out that they are not the same legal entity as entered into a contract of service with the reservist. Therefore, unless a precaution like this is taken, and employer is defined as including the successor-in-title, there will be any number of evasions. And this is not the only case where the legal entity of a

partnership firm ceases. Even when one partner goes out and another comes in, it becomes a new firm, and in the eyes of law, it may very well repudiate its liability on that ground. A third case is where the assets of the firm have been transferred to a third party, and the same business may be carried on but in changed hands, and because he is a transferee, the third party can say 'I am not the employer, I am not the same firm, because in the eyes of law, I am a new firm.'

Similarly, in the case of a corporation, as the Deputy Minister pointed out just now, a corporation may go into liquidation. That is true. But a corporation can also go into voluntary liquidation for the purpose of reconstitution. There again, the question arises that in the eyes of law, it may not be the same employer. The same thing will be true of a society or an institution also. The same society may carry on business, it may get registered, or its registration may be taken away or something else may happen, and again, it may say. 'We are not the same employers'.

It is to cover these loopholes that I am moving this explanation

Shri Jadhav: In amendment No. 1, I have suggested that the proviso to clause 2 should be dropped. If we want to guarantee employment to the reservist, there should be no proviso to this clause, since it will give scope for the employer to evade the provision.

In amendment No. 2, I seek to drop the words 'obey the order of any such authority as is referred to in the proviso to sub-section (1).' If the proviso is dropped, then there is no necessity of keeping these words. Then, I have provided in this amendment that if any employer fails to reinstate, then action may be taken against him.

It is provided in sub-section (2) of proposed section 7 that the employer who fails to obey the order shall be

punishable with fine which may extend to one thousand rupees. In order that the punishment should be a deterrent one, I have provided in amendment No. 3 that the fine should be increased to two thousand rupees.

It is further provided in sub-section (2) of section 7 which is proposed that the employer who fails to reinstate the person should be asked to pay to him a sum equal to six months' remuneration. I have provided in my amendment No. 4 that it should be twelve months' remuneration.

Sub-section (3) of proposed section 7 reads:

"In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training, muster or army service".

The period of two months provided here will be short, and, therefore, in amendment No. 5 I have sought to increase it to six months.

Shri Warrior: I have nothing to add to what I have said already about these amendments

Sardar Majithia: It is my unpleasant duty to oppose these amendments for the simple reason that they are not necessary.

As for the dropping of the proviso, I have already given my reasons, and I need not repeat them.

The only point that remains is about the definition of 'employer'. My hon. friend has made out that we should define the term 'employer'. Apart from the fact that by putting in a definition we shall be leaving out certain categories and thus restrict the provision, I would like to state that we want the term to have

a wider scope and include all the employers, in the accepted sense of the term or as the term is understood by everyone. So, rather than restrict this term, we would like it to have a wider scope. Therefore, I oppose these amendments.

Mr. Deputy-Speaker: I shall now put the amendments to clause 2 to vote.

The question is:

Pages 1 and 2,—

omit lines 16 to 19 and 1 to 14 respectively.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, lines 15 and 16—

for "obey the order of any such authority as is referred to in the proviso to sub-section (1)" substitute "reinstate"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, lines 17 and 18—

for "one thousand rupees" substitute "two thousand rupees"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 21—

for "six months" substitute "twelve months"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 29—

for "two months" substitute "six months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

shall fix as costs and such authority shall disburse the said amount collected as such to the person."

Page 2—

after line 40, add:

Explanation.—"Employer" shall mean a person, or a partnership, a corporation, a society or an institution between whom and an employee a contract of service, oral or written, subsists, and shall include any successor-in-title to such person, partnership, corporation, society or institution.'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 1, line 11 and wherever it occurs,

for "reinstate" substitute "continue"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Pages 1 and 2—

for lines 18 to 19 and 1 to 14 respectively, substitute:

"Provided that such person shall not be eligible for his pay and such other allowances as he would have received if he would not have been called up for training:

Provided further that if the employer refuses to continue the services of the person, such authority as may be prescribed under this Act shall collect from the employer as arrears of land revenue the total emoluments that such person would be entitled to receive if his employment would have been continued, along with an amount, which the authority

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Amendments made:

(i) Page 1, line 1,

for 'Eighth' substitute 'Ninth'.

(ii) Page 1, line 4,

for '1957' substitute '1958'.

[Sardar Majithia]

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, the Enacting Formula, as amended, and the Title stand part of the Bill."

The motion was adopted.

Clause 1, as amended, the Enacting Formula, as amended, and the Title were added to the Bill.

Sardar Majithia: 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.

DEMANDS* FOR SUPPLEMENTARY GRANTS, 1957-58

Mr. Deputy-Speaker: The House will now take up the Supplementary Demands for Grants for expenditure of the Central Government (excluding railways) in 1957-58 presented on

*Moved with the recommendation of the President.