

[Shri Datar]

to take into account the principle that there ought to be some enquiry. Merely because some man comes and makes a complaint, it would not be the basis for prosecution, especially in regard to such offences. Before the Government gives the sanction, it makes an enquiry and the moment it is satisfied that there is a *prima facie* case, it grants the sanction. In the absence of sanction, it would be understood that there is scope for harassment of the officer if the officer is honest. This question is fully taken into account and sanction is not refused when there is a good case. Let not my hon. friend misunderstand what I have said in a very proper manner.

Shri M. C. Jain: There is an enquiry in every cognizable case.

Mr. Chairman: The question is:

"That the Bill, as amended, be passed".

The motion was adopted

INDIAN RESERVE FORCES  
(AMENDMENT) BILL

Mr. Chairman: Let us now take up the Indian Reserve Forces (Amendment) Bill.

Shri D. C. Sharma (Gurdaspur): What is the time allotted for this Bill?

Mr. Chairman: One hour.

The Deputy Minister of Defence (Sardar Majithia): I beg to move:

"That the Bill further to amend the Indian Reserve Forces Act, 1938, as passed by Rajya Sabha, be taken into consideration".

While moving for consideration of this Bill, I have to say only a few words. The reserve liability of a man comes in because of his peculiar terms of his service. In some cases, a man when he joins up, has to put

in eight years of call-up service followed by seven years of reserve service, whereas in certain services he joins up for nine years call-up service followed by six years of reserve service. When he goes to the reserve which he has to, because the terms of service are such, he is given a retaining fee of Rs. 10 which means that he has to seek alternative employment for the rest of his useful life.

Now, at the outset, I must say that the employers have mainly been very helpful but there are a few employers who, finding that the particular person is liable to be called up or called up for having training for a particular number of days in a year, feel hesitant to re-employ him or reinstate him in the service that he was in. It is, therefore, that it has become necessary for the Government to bring in this Bill to give a statutory safeguard to the reservists. When a reservist has completed his training or if he is called up for service in an emergency and has completed that period of service, and when he goes back, the employer may not say "No" to him but he has to employ him on conditions which are not less favourable to the employee when he left service

Therefore, with these few remarks, I would commend this motion for consideration of the House.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Indian Reserve Forces Act, 1938, as passed by Rajya Sabha, be taken into consideration".

Before we proceed, I think we better make clear the time allotment. One hour has been allotted for the Bill. How much for the general reading and how much for the rest? What is the desire of the House? We have to be careful. There are 11 amendments to the Bill. I suggest that probably it will be better—I do

not think there is much difference of opinion regarding the Objects and Reasons—if we can have a shorter period for general reading and a longer period for the clause-by-clause consideration.

Shri Jadhav (Malegaon): Half an hour for general discussion and half an hour for clause-by-clause consideration.

Mr. Chairman: Yes; I take it that it is the general desire of the House,—half an hour for general discussion and half an hour for clause-by-clause consideration.

Shri Hem Barua (Gauhati): I have just gone through the Statement of Objects and Reasons to this Bill. This Bill seeks to impose a statutory liability on the employers to afford necessary protection to members of the Reserve Forces in civil employment. I welcome this Bill, because this is a commendable idea, and the provisions of this Bill carry us forward to a certain extent, but that is not the end of the high way. Unless and until we make the members of the Reserve Force enthusiastic and cheerful, we may not be able to make things as attractive as possible.

Somehow or other, it has not been made so. This army was modelled on the British pattern and that pattern was for the purpose of nourishing an empire. Now the objective has changed, and with the change of the objectives, there is change of the psychology as well. We do not want to nourish empires. But we want to defend our country for the security of this country. For that sufficient enthusiasm has to be instilled in them.

Originally, this Act was passed in 1888. Now we have become free for over ten years. It is only now, after a period of ten years, that this Bill has been introduced in this House. I would say that this is an important matter, and being an important matter, it should have been placed before the House long ago. Then, the

argument that might be offered by the Defence Ministry would be that the Parliament was very busy with other legislations and that is why Parliament could not find the time to consider this Bill. But I would say that when Parliament found time to introduce tons of legislation in this House, it should have found time to introduce this Bill also, not today but some years before.

Then, Sir... (laughter).

Mr. Chairman: The hon. Member may address the Chair as he desires, either as Sir or as Madam.

Shri Hem Barua: In the Statement of Objects and Reasons, one sentence reads as follows:

“Reservists of the Indian Army are liable to undergo periodical military training and also to be called up for service in the event of an emergency.”

This is a very laudable idea because, as I said, we have to protect our frontiers. So, at the time of emergency, Government has the right to call upon people to join the forces. In that light, the Reserve Force is a very welcome thing.

But, at the same time, we have to see that sufficient enthusiasm is created in them. Here it is stated that they will be given Rs. 10 per month. I say this is a very meagre provision. The Defence Minister calls it “retaining fee”. By whatever name you might call, a rose is a rose and will smell the same. In the same way, by whatever perfumed phraseology you might call an act of injustice it will stink.

I say this is an injustice. It is a very meagre sum. You might call it a retaining fee. At the same time, it is not enough for the reservists. It cannot create the necessary climate or enthusiasm or inspiration.

At the same time, in the Statement of Objects and Reasons, it has been admitted that it will be essential for them to take up civil employment.

[Shri Hem Barua]

Now, in these days of mounting unemployment, can Government assure them that they would be fruitfully employed. Government cannot give them that assurance. Government wants the reservists with a retaining fee of Rs. 10/- a month to fall back on civil employment. So, the crux of the problem is that Government cannot assure them civil employment.

About the non-technical personnel, there might be some chance of their getting employment. But, so far as gun-men are concerned, so far as sappers and other technical and skilled people are concerned, it would be very difficult for them to find out alternative employment.

That has to be taken into account as well.

There are certain provisions here which are calculated to give relief to the reservists. But, I find that many of the provisions enacted here are mitigated by other provisions which run counter to the whole thing. For instance, there is provision in clause 7(1) which says:

"If a person belonging to the Indian Reserve Forces is, during the period of his employment under an employer, called up for training, muster or Army service in pursuance of his liability under any rule or order under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training, muster or army service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted."

This is a fine provision. But, then, this provision is mitigated by the other provisions. Here is one.

"Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such

person, or if for any reason, representation of such person is represented by the employer to be impracticable, either party may refer the matter to the authority prescribed in this behalf by rules made under this Act, and that authority shall, after .....

There is this provision of referring it to an authority.

I know the history of this in the U.S.A. There, always priority is given in the courts of law to such cases. At the same time, in such cases, no court fees are charged. Here, we do not have any provision like that. For instance, a Nayak gets a princely pittance of Rs. 30 a month. For him to go to a law court, — it is well known that expenses in law courts are unbearable — or for a reservist who gets a retaining fee of Rs. 10 a month to go to a court of law and fight for his legitimate rights is not possible. There should be some provision here as the provision in the U.S.A. where top priority is given to such cases and at the same time, court fees are not charged at all.

In the U.S.A., there is another thing. If a man is re-employed, he cannot be dismissed for at least a year. There is no provision like that in this Bill. A man may, under the provisions of this Bill, be re-employed. But, after a period of two months, his services may be dispensed with. We should have some provisions here so as to ensure him security of service at least for a period of one year.

I think sub-clause (3) of clause 7 should be deleted. It mitigates clause 7. Sub-clause (3) says:

"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."

In the U.S.A., the period allowed is 90 days. At the same time, when the man lies in hospital, he is given a period of one year to apply for reinstatement after release from the hospital. Here, the two months period is a meagre time in the sense that the man may not be able to apply for reinstatement within this period.

At the same time, according to the Payment of Wages Act, 15 days' gratuity for every year of service put in is payable. But, here, there is no provision like that, for payment of gratuity. There is another loophole in this Bill about the closure of the establishment. The establishment may be closed in the meanwhile. A man may be called for emergency service, but the establishment may be closed in the meanwhile. He loses his provident fund benefit and the benefit of re-employment.

Therefore, my own argument is, this is a commendable Bill though a belated Bill. At the same time, there are so many loopholes that the reservists, instead of getting relief, are likely to be faced with innumerable and enormous odds. Therefore, I feel that this Bill, because the purpose of it is to bring relief to the reservists, must be so ordered or amended that the reservists may actually get relief and his retaining fee increased and

he may get employment and protection in his employment.

Shri Warier (Trichur): I welcome the object of this Bill, but at the same time I concur with the last speaker that it is a very belated measure.

The question is the difficult position of these reservists who seek employment in the civil services. If the Government steps in to employ these reservists, or give them priority in the public sector, many of them would have been absorbed. In the private sector also, wherever the Government give aid, they could have insisted upon these reservists being taken and priority in employment being given to them. That not being done, many reservists are now without employment. At the same time, the provision that they may be called for training or for emergency purposes also deters employers from employing them because many employers do not want a break in the service of their employees.

Mr. Chairman: The hon. Member may continue tomorrow.

17 hrs.

(The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 13th February, 1958)