

take up further consideration of the Payment of Gratuity (Amendment) Bill.

Shri Govindrao Adik. He is not here.
Shri Thalavai Sundaram.

THE PAYMENT OF GRATUITY (AMENDMENT) BILL, 1997

SHRI N. THALAVAI SUNDARAM
(Tamil Nadu): Thank you, Madam Vice-Chairman, for giving me this opportunity to take part in the discussion on the Payment of Gratuity (Amendment) Bill.

Madam, this is a very simple Bill. It is beneficial to the employees. Therefore, I welcome this Bill. In 1994, the amount was fixed at Rs. one lakh. Through this Bill, this ceiling is being raised to Rs. 3,50,000/-.

I would like to use this opportunity to bring to the notice of the hon. Minister one specific thing. I would like to invite the attention of the hon. Minister to sections 11 and 12 of the Payment of Gratuity Act, 1972. Section 11 says: 'No court shall take cognizance of any offence punishable under this Act, save on an application made by, or, under, the authority of the appropriate Government'. The other section, i.e. section 12, says: 'No suit or other legal proceedings shall lie against the controlling authority or any other person in respect of anything which is in good faith done, or, intended to be done, under this Act, rule or other made thereunder'.

Yesterday, Madam, we considered the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill. Our learned friend, Shri Dipankar Mukherjee, pointed out that more than 15,000 workers are not getting their provident fund and gratuity dues. As far as Tamil Nadu is concerned, more than 12,000 workers are not getting their gratuity amount.

Sometimes, there may be some dispute between the management and the employee. Because of the provisions contained in sections 11 and 12 of the Act, the court cannot interfere. In such a

situation, when the workers' dues are not paid by the management, how are we going to settle the matter? I would like to know from the hon. Minister whether he is thinking of amending the Bill to take care of this aspect. As per the existing provisions, since the court cannot interfere, the workers would not be able to get a single paise from the management. Therefore, this point should be considered. This is one thing.

Secondly, Madam, some companies are depositing the amount in low interest-earning instruments. I would suggest to the hon. Minister to lay down some guidelines in this regard so that the amount is deposited in good and proper interest-earning instruments. Otherwise, there would be a heavy loss for the companies as well as the employees.

To sum up, firstly, there should be an amendment in regard to the court's jurisdiction to interfere. Otherwise, thousands of workers would continue to be denied their dues. Another thing is; how to channelise the gratuity amount. A number of people retire every year. We should see that the matter is settled, at least, one year before.

Thank you, Madam.

SHRI DRUPAD BORGOHAIN (Assam): Thank you, Madam, for allowing me to make certain points on this amending Bill.

Considering the objective of the amendment to the Payment of Gratuity Act, 1972, considering the old age security benefit deserved by the employees on retirement from service, and considering that his amendment, if accepted by the House, would render a better relief to the employees in the present-day situation of escalation of prices, I welcome the amendment to the said Act by the Government.

First of all, I would like to know about the implementation of the law. This amendment which enhances the gratuity ceiling is beneficial. There is no doubt about it. But the question is: for whom

would it be applicable? Would it be applicable to all? Would it be applicable to the employees of the private sector also? The private sector employees are also wanting this type of gratuity. All employees, whether they are in the public sector or they are in the private sector, must get the benefit. I ask whether this will be applicable to all employees, private as well as public.

Then, thirdly, nowadays we know that there is a great violation of the gratuity laws. To prevent violation of the law and to implement it in a proper way, there should be a proper authority. This authority to implement the gratuity law, should be formed like the Provident Fund Authority. There should be some authority. That is very important. Without an authority, it is very difficult to prevent violation of the gratuity laws.

Fourthly, to implement the Gratuity Act, as amended, properly, there must be a fund, from which gratuity may be sanctioned to retiring employees. There must be a fund. This is very essential. Without a fund, no gratuity can be paid in time. To build the fund, the employers should contribute to it regularly in monthly instalments. This should be implemented. This is very important because it will be very difficult for the employees to get gratuity on retirement if there is no fund.

The management of this fund is very important. So, the management of this fund should be given to the Government. The Government should take it over. The authority to manage this fund must be vested in the Government. This authority must be responsible for the proper functioning of the fund. The authority must see to it that the employers' contribution is received regularly as per law.

This is my humble submission.

Thank you.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Thank you very much.

He made a very good speech. This was his maiden speech. Very well done.

SHRI C.P. THIRUNAVUKKARASU (Pondicherry): Madam, I am very happy in participating in the discussion on this Bill. The Bill is excellent. The labourers and employees of India will be very happy and probably overwhelmed. But I am bound to say that definitely the labourers are not going to get any benefit out of the Bill in question. We have recently increased the number of nuclear tests from three to five. Yesterday we increased the provident fund contribution from 8.33 per cent to 10 per cent and from 10 per cent to 12 per cent. In the same way, we are now increasing the gratuity amount from Rs. 1 lakh to Rs. 2.5 lakhs.

I say that the implementation of the provisions of this law is very difficult. The reason is that the officers working in the concerned Department are not taking care to implement this law carefully. Above all, violations in the Shops and Establishment and Industries are being committed by industrialists. For instance parts of shoes are manufactured at one place, and they are assembled at another place. At the assembling place only contract labourers are employed. The contract labourers are not getting the benefits of the Gratuity Act or the Provident Fund Act. So also, regarding powders, the powder is manufactured at one place, and the packing takes place at another place where contract labourers are employed.

Unless we are able to bring the contract labour into the purview of the main place of work, it will be difficult for all the labourers to get the benefit of the Act. So, I request that the contract labour should be abolished, and if there are some whose labour is linked to the main department, they should be mingled with the main place of Industries. Unless the authorities are vigilant, it will be very difficult to implement the Act.

श्रम मंत्री (डा० सत्यनारायण जटिया): उप-सभाध्यक्ष महोदया, इस संबंध में जो विचार प्रकट किए

गा है, निश्चित रूप से उनमें सभी ने इस बात का समर्थन किया है कि यह जो बढोत्तरी की गई है, यह केन्द्रीय कर्मचारियों के साथ-साथ इन पर भी विचार करके इसमें अनुरूपता लाने का काम हुआ है। इसलिए इसमें किसी के दो मत नहीं हैं कि इस वृद्धि को कहीं रोका जाए।

जो परिस्थितियाँ सामने हैं, जिस तरह से बातों को कहा गया है, राधवजी ने कहा कि यह सारी बात ठीक है और उन्होंने इसका समर्थन किया। दीपांकर मुखर्जी ने भी इस बात को ठीक बताया। एन० थलवै सुन्दरम जी ने कहा था कि उनका पेमेंट सुनिश्चित हो जाए, इसके लिए हम क्या उपाय करने वाले हैं? यह उनका संदेह था। अभी जो स्पीकर बोल रहे थे, उन्होंने कांटेक्ट लेबर के बारे में, उनकी अनिश्चितता के बारे में प्रश्न पूछे हैं। वास्तव में सेंट्रल गवर्नमेंट के जो कर्मचारी हैं, उनको बराबर लाने की दृष्टि से यह उपबंध किया गया है। पहले यह काम था और अब इसकी साढ़े तीन लाख पर लाकर बराबर कर दिया गया है। मजदूरों के लिए यह बेहतर है क्योंकि सेंट्रल गवर्नमेंट कर्मचारियों को बीस वर्ष की सेवा होने पर यह लाभ मिलता है। इसमें सभी प्रकार के कर्मचारी हैं।

श्री जीवन राय (पश्चिमी बंगाल): महोदया, सेंट्रल गवर्नमेंट में तो लागू हुआ 95 से और यहाँ लागू हुआ 97 से। जिन्होंने इश्टीरिस वगैरह किया, उन्होंने तो गलती की।

डा० सत्यनारायण जटिया: दो अलग-अलग तारीखें हो गई हैं, इसलिए यह संभव नहीं है। कानूनी दांवपेच के कारण यह संभव नहीं है। आपकी बात से सहमत हो कर ही हमने इसको साढ़े तीन लाख किया है। निश्चित रूप से जहाँ केन्द्रीय कर्मचारियों को बीस वर्ष की सेवा के लिए यह लाभ मिलता है, यहाँ यह पांच वर्ष के लिए मिलता है। केन्द्रीय सेवा के रेग्युलर इम्प्लॉइज़ को ही इसका लाभ मिलता है जबकि यहाँ केजुअल, कांटेक्ट और सभी प्रकार के श्रमिकों को इसका लाभ मिलने वाला है। इसकी जो कैलकुलेशन होती है, वह बेसिक पे पर होती है जबकि यहाँ बेसिक पे और डीयलेस एलाउंस को मिला कर उसकी कैलकुलेशन होती है। उसमें स्पेशल पे पर ग्रेच्युटी मिलने का कोई प्रावधान नहीं है जबकि यहाँ स्पेशल पे होने पर भी इसका लाभ मिलेगा। इसकी जो सीमा है वह तय है कि केन्द्रीय कर्मचारियों को साढ़े तीन लाख से अधिक नहीं हो सकता है किंतु समझौते के आधार पर यह साढ़े तीन लाख से भी अधिक किया जा सकता है। इन सारी बातों पर कहीं भी विमत नहीं है और इसलिए आपने जो प्रश्न किया है कि

It cannot be the maximum of gratuity payable under the Act revised to यह सारा जो आपने बताया है क्योंकि पिछली तारीख से इसको लागू करने में कठिनाई है, इसलिए यह नहीं किया जा रहा है। इसलिए मैं सगझता हूँ कि माननीय सदस्यों ने जो विचार व्यक्त किए हैं, यह उनके अनुरूप है और मैं निवेदन करता हूँ कि इसको पारित किया जाए।

श्री राधवजी (मध्य प्रदेश): माननीय मंत्री जी, सभी सदस्यों ने एक स्वर से यह बात कही है कि रिटायरमेंट होने के तत्काल बाद ही उसको ग्रेच्युटी एमाउंट मिल जाए, ऐसी कोई व्यवस्था करने पर आप विचार करेंगे या नहीं?

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, a very important point has been raised by my colleague. He says that the Provident Fund has to be paid by the employer.

3.00 P.M

He says that the provident fund is to be paid by the employer. Since the violation of gratuity fund is very widespread and there is no monitoring authority to oversee its management, there is no remedy for the workers. In the case of provident fund there is at least some remedy on paper, whether they act or not, it is different. But in the case of gratuity there is no remedy. He said that he is not reacting to it. He is suggesting that there may be a gratuity fund and employers may contribute regularly to that fund and the beneficiary list may be maintained by those who are managing the fund. Just like the provident fund authority, there may be a gratuity authority. If this is done, then, in two ways the management may be helped. They are not to pay the money in one go. It is an instalment payment. Secondly, there will be interest accrued on the principal amount. To that extent, the liability of the management will be less. On the other hand, the Government will also be helped because a huge amount accumulates with the gratuity management authority. Then, that fund can be utilised for the development of infrastructure. Why has the hon. Labour Minister preferred to remain silent on this important suggestion of my colleague?

SHRI JIBON ROY: Madam, I would like to add something.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): You must know that the hon. Minister is a new Minister. If you put questions one by one, then, he can respond. I think Gurudasji had put many questions in one go. Mr. Minister, would you like to respond?

SHRI JIBON ROY: Madam, on the same question I would like to add something.

A number of Members have raised the question of payment of gratuity to the employees of the public sector undertakings. I want to say that the Central Government itself is a great defaulter in the payment of gratuity. The outstanding amount is around Rs. 300 crores. Yesterday, the hon. Minister gave us an assurance on this matter, but in the Budget proposal no provision has been made for payment of gratuity and provident fund amounts. These are outstanding dues. It will go on hanging. The hon. Minister should at least assure this House that wherever default of payment is there, it will be made within a specific period and he should pursue it with the Finance Ministry so that some provision can be made in the Finance Bill.

डा० सत्यनारायण जटिया: यह जो प्रस्ताव आप सुझा रहे हैं यह सुनिश्चित करना चाहिए, इसमें कोई दो सय नहीं है। इसमें जो अधिनियम है, जो प्रावधान है, उसमें नियोजक को यह करना होता है लेकिन जो कम्प्यूटेट अथॉरिटी है, उसकी कम्प्लेंट पर कोर्ट में जाया जा सकता है। इसको और सरल करने की दृष्टि से जो कुछ सुझाव दिये गये हैं, उसको तत्परी करने के लिए, उसको करने के लिए मैं हमेशा तैयार हूँ और इसमें कोई संदेह आपको नहीं होना चाहिए।

SHRI JIBON ROY: What about payment of gratuity amount? It is the most important thing.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): The question is:

"That the Bill further to amend the payment of Gratuity Act, 1972, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): We shall now take up clause-by-clause consideration of the Bill. In clause 2, there is an amendment by the Minister.

Clause-2 Amendment of Section 4 of Act 39 of 1972

DR. SATYANARAYAN JATIA: Madam, I move:

"That at page 1, for lines 4-5, the following be substituted namely:—

"2. In section 4 of the Payment of Gratuity Act, 1972, (hereinafter referred to as the principal Act) in sub-section (3), for the words "one lakh", the words "three lakhs and fifty thousand" shall be substituted."

The question was put and the motion was adopted.

Clause 2, as amended, was added to the Bill.

NEW CLAUSE-3

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Now, I shall put new Clause 3 to vote. There is an amendment, insertion of new Clause 3, by the Minister.

Dr. SATANARAYAN JATIA: Madam, I move:

"That at page, 1, after line 5, the following clause be inserted namely:—

"3. (1) The Payment of Gratuity (Amendment) Ordinance, 1998 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act."

The question was put and the motion was adopted.

New Clause 3 was added to the Bill.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Clause 1. There is one amendment by the Minister.

CLAUSE-1: SHORT TITLE

DR. SATYANARAYAN JATIA:
Madam, I move:

"That at page 1, for line 3, the following be substituted namely:—

"1. (1) This Act may be called the payment of Gratuity (Amendment) Act, 1998.

2. It shall be deemed to have come into force on the 24th day of September, 1997."

The question was put and the motion was adopted.

Clause 1, as amended, was added to the Bill.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): The Enacting Formula. There is one amendment by the Minister.

ENACTING FORMULA

DR. SATYANARAYAN JATIA:
Madam, I move:

"That at page 1, line 1, for the word "Forty-eighth" the word "Forty-ninth" be substituted."

The question was put and the motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

DR. SATYANARAYAN JATIA:
Madam, I beg to move:

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

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Now, I would like to take up the Chemical Weapons Convention Bill, 1997. Shri Surjit Singh Barnala.

THE CHEMICAL WEAPONS
CONVENTION BILL, 1997

THE MINISTER OF CHEMICALS AND FERTILIZERS (SHRI S.S. BARNALA): Madam, I beg to move:

"That the Bill to give effect to the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their destruction and to provide for matters connected therewith or incidental thereto, be taken into consideration."

I also move that the Bill be passed.

....(Interruptions)

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, what is the reaction of the Government about the hike in prices? Kindly ask the Minister of State for Parliamentary Affairs to say something on this.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI DILIP RAY): Madam, the Finance Minister is coming at four o' clock.

SHRI GURUDAS DAS GUPTA:
Why is he coming at four o' clock?

SHRI DILIP RAY: Because he is in the Lok Sabha.

श्री अनन्तराय देवशंकर दवे (गुजरात): मन्त्रोदया, यह तो बात ठीक नहीं है। वह कह रहे हैं कि चार बजे फाइनेंस मिनिस्टर स्टेटमेंट कर रहे हैं।
...(व्यवधान)...

श्री नीलोत्पल बसु (पश्चिमी बंगाल): गलती आप लोगों ने की है।...(व्यवधान)... आप लोगों ने गलती की है तो हमसे सुनना पड़ेगा।
...(व्यवधान)... आप लोगों को गुस्सा नहीं होना चाहिए।

श्री अनन्तराय देवशंकर दवे: हम गुस्सा नहीं कर रहे हैं।

श्री गुरुदास दासगुप्त: मैडम, इनको इतनी जल्दी गुस्सा नहीं होना चाहिए। गलती सरकार की है, मेरी नहीं है...(व्यवधान)...

श्री अनन्तराय देवशंकर दवे: कोई गलती नहीं है...(व्यवधान)...