

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): We shall now take up clause-by-clause consideration of the Bill.

*Clauses 2 to 10 were added to the Bill.*

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

SHR. MATI SHEILA KAUL: Sir, I move:

"That the Bill be passed."

*The question was put and the motion was adopted.*

#### THE ADMINISTRATIVE TRIBUNALS Bill, 1984

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): Mr. P. Venkatasubbaiah.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH): Sir, I beg to move:

"That the Bill to provide for the adjudication on trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be taken into consideration."

Mr. Vice-Chairman, Sir, this is a very important Bill and I hope that hon. Members of this House will support this Bill unanimously.

Sir, I had introduced the Administrative Tribunals Bill in this House on 21st August, 1984.

Sir, as the House is well aware, Article 323 A of the Constitution of India stipulates that Parliament may

by law set up Administrative Tribunal to provide for adjudication or trial of disputes and complaints with respect to recruitment and conditions of service of persons appointed in connection with the affairs of the Union or of any State as also those employed in connection with the affairs of any local or other authority or of any corporation under the control of the Government of India or the Government of a State. The Bill as now introduced by Government seeks to give practical shape to the provisions of this article by proposing to establish a separate Tribunal called the Central Administrative Tribunal for dealing with disputes relating to service matters of the members of the All India Services and other Central Government employees and State Administrative Tribunals for the employees of various State Governments. In keeping with the constitutional provisions, the Bill also provides for the establishment of Joint Administrative Tribunals for two or more States if they so desire. The State Administrative Tribunals or Joint Administrative Tribunals for two or more States would be established by the Central Government on a request received in this regard from any of the State Government or Governments, as the case may be.

Each Tribunal will have a Principal Bench, presided over by the Chairman and consisting of two other Members. Depending on work load and the regional requirements, additional Benches presided over by Vice-Chairman and consisting of two other Members may be constituted according to requirements.

A serving or retired judge of the Supreme Court or High Court or those who have held the post of Secretary to the Government of India or a post under the Central or a State Government carrying a scale of pay not less than that of Secretary to the Government of India for at least two years are eligible to be appointed as Chairman or Vice-Chairman of a Tribunal.

A serving or retired judge of a High Court or those who have held a post of Additional Secretary to the Government of India for two years or a post of Joint Secretary to the Government of India for three years or a post under the Central or a State Government carrying a scale of pay not less than that of an Additional Secretary to the Government of India for two years or Joint Secretary to the Government of India for three years are eligible to be appointed as Members of the Tribunal. The term of office of the Chairman, Vice-Chairman and Members of the Tribunal will be five years, subject to the age limit of 65 years in the case of Chairman/Vice-Chairman and 62 years in the case of Members. A suitable provision has been made for Members of a Tribunal being appointed as Vice-Chairman and Vice-Chairman being appointed as Chairman and also to provide for movement of Members, etc., from the State Tribunals to the Central Administrative Tribunal. The Chairman, Vice-Chairman and Members are debarred from any other appointment under the Central or State Government on their ceasing to hold office of such Member, etc. of a Tribunal. They cannot also appear or plead before a Tribunal after their ceasing to be Members etc. of a Tribunal. The provisions are intended to ensure objectivity and impartiality in the proceedings of the Tribunal.

With the establishment of the Administrative Tribunal, all service matters as defined in the Bill will fall within the jurisdiction of the Tribunal. Simultaneously, the jurisdiction of all Courts, including High Courts, and of the Supreme Court except under article 136 of the Constitution, over such service matters, will be excluded. Sir, in this connection I would like to say that there are nearly 62,000 cases pending in all the State courts and the Supreme Court. As and when the Tribunals start functioning all the cases pending before the Courts except the Supreme Court under article 136 and appeals before

all courts, would get transferred to the Tribunal. This is in accordance with the provisions contained in article 323A of the Constitution. This is intended to reduce the burden on the courts which have multifarious types of cases before them and which are therefore, hard pressed for time to be devoted to cases relating to service matters. With the establishment of the Administrative Tribunal to exclusively deal with such service matters, not only the burden on the courts will be reduced but Government servants will also be able to get speedy justice from a body devoted entirely to the consideration of their cases. The final orders of the Tribunal will be binding on both the parties and either party aggrieved by any order of the Tribunal can go in appeal to the Supreme Court as provided in article 13 of the Constitution. The Administrative Tribunal will thus fulfil the long-felt need for a body to deal exclusively with service matters of public servants and provide them with speedy justice.

At the time of the introduction of the Bill, one of the Members mentioned that according to clause 2(b) of the Bill, those who are governed by the Industrial Disputes Act are excluded from the review of the Bill. This is not quite correct because it will be seen from the clause that those who are covered by the Industrial Disputes Act are excluded only in so far as matters governed by that Act are concerned. This is because in such matters, there is already an established procedure under the relevant Labour laws for dealing with certain types of matters. In regard to service matters not covered by the Industrial Disputes Act, they will still be within the purview of the Administrative Tribunal. Therefore, this Bill is of very comprehensive nature and I hope it meets the long-felt demand of thousands of Government employees, both Central and State. I hope and expect that this House will extend its unanimous support to this Bill.

**THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU):** There are two amendments for reference of the Bill to a Select Committee. Mr. Ramakrishnan and then Mr. Dhabe.

**SHRI RAMAKRISHNAN (Tamil Nadu):** Mr. Vice-Chairman, Sir, I move:

"That the Bill to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri Sankar Prasad Mitra
2. Shri Kalyan Roy
3. Shri Dipen Ghosh
4. Dr. (Shrimati) Sarojini Mahishi
5. Shri Hukmdeo Narayan Yadav
6. Shri Jaswant Singh
7. Shri Ghulam Rasool Matto
8. Shri P. N. Sukul
9. Shri V. Gopalsamy
10. Shri R. Mohanraman, and
11. Shri R. Ramakrishnan

with instructions to report by the first week of the Hundred and Thirtythird Session of the Rajya Sabha."

**SHRI S. W. DHABE (Maharashtra):** Mr. Vice-Chairman, Sir, I move:

"That the Bill to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruit-

ment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri Lal K. Advani
2. Shri Dipen Ghosh
3. Shri Sankar Prasad Mitra
4. Shrimati Roda Mistry
5. Shri Kalyan Roy
6. Shri Amarprasad Chakraborty
7. Shri Gulam Mohi-ud-din Shawl
8. Shri Makhan Paul
9. Shri Nirmal Chatterjee and
10. Shri S. W. Dhabe

with instructions to report by the 1st March, 1985."

*The questions were proposed.*

**SHRI DIPEN GHOSH (West Bengal):** Mr. Vice-Chairman, I entirely agree with the Minister of State for Home Affairs that this is a very important Bill. Naturally, therefore, as the Minister has himself conceded, in view of the importance of this Bill, a careful and a comprehensive scrutiny is necessary. While piloting the Bill the Minister said that according to Article 323A of the Constitution this Bill has been brought forward to provide for adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union and/or States and/or local Governments and/or Corporations owned or controlled by the Centre or the State Govern-

ments. It is clear, and the Minister has also conceded, that the Bill is meant for the Central and State Government employees. As he has rightly said, the need or the necessity of such a Bill was felt by the Central and State Government employees. But what our honourable Minister has not stated though he must be knowing it but other Members may not be knowing, is that as far back as on 2nd July, 1976 in the meeting of the National Council of the Joint Consultative Machinery of the Central Government employees the official side mooted this proposal for constituting this type of an administrative tribunal. I have got the copy of the minutes of that meeting. I will not quote from these minutes and take the time of the House. At that meeting the representatives of the Central Government employees on the staff side expressed their specific views on the proposed administrative tribunal for dealing with the service matters of the Central Government and State Government employees. The official side assured that the views of the staff side would be taken into consideration while formulating this Bill. Again, at the meeting of the National Council of the Joint Consultative Machinery held in January 1977 it was announced by the official side that this type of administrative tribunals were functioning in some of the Western countries. There was a background for this announcement which again I hope the Minister knows. At that meeting it was proposed by the official side that some representatives from both the staff side and the official side should visit certain foreign countries including the ILO to study the problems and find out how the administrative tribunals functioned in those countries so that on the basis of experience gleaned through such studies, they could bring a comprehensive Bill. In August 1977 at another meeting of the National Council of the JCM the staff side wanted to know what happened to the earlier proposal. Then it was announced by the official side—the Hon'ble Minister must be

knowing this too—that it was desirable to defer it for about a year or so—that means till 1978 or 1979. Since then, as far as I know, this was not discussed in any meeting of the National Council of the JCM nor was the proposal to study the functioning of this type of Tribunals in other countries materialised. If I am wrong, the Hon'ble Minister should correct me. These were not discussed at any of the subsequent meetings of the JCM of the Central Government employees. Naturally, one could conclude that the National Council of the JCM was not taken into confidence in regard to this Bill which the Minister is now placing before the House for consideration.

It is true, as has been mentioned 4 P.M. tioned in the Statement of Objects and Reasons, that in order to ensure expeditious settlement of the grievances in service matters and in order to lessen the burden of the High Courts, where as many as 62,000 to 65,000 cases are pending in service matters, this type of Tribunal is necessary. But, Sir, already in our country, in some of the States, such Administrative Tribunals are in existence and the States are—I think our Minister must be knowing this which the other members may not be knowing—Andhra Pradesh, Uttar Pradesh and Rajasthan and I think perhaps, in the meantime, two or three more States have already set up such Tribunals. But these three States are already having these Tribunals. Now, what is their experience? Have these Administrative Tribunals been able to expeditiously settle the cases of grievances on staff matters and more expeditiously than what the High Courts have been able to do? This is one point.

Secondly, there are workmen who are covered by the Industrial Disputes Act and they are also having this type of Tribunals which are called the Industrial Tribunals. What is the experience in the case of settlement of grievances by such Industrial Tribunals? Have the Industrial Tribunals been able to settle the griev-

[Shri Dipen Ghosh]

ances more expeditiously than the High Courts have been able to do? These are all questions which are to be considered. Since this was first mooted in the Joint Consultative Machinery of the Central Government employees, I would like to know whether that forum was taken into confidence before preparing this Bill and placing it here for consideration and passing because it is all the more concerned with them. Naturally, from this point of view, I want that either this Bill—I am not opposing it—be withdrawn or referred to a Select Committee so that the views of various sections of the people, particularly the organisations dealing with the Central and State Government employees' service matters, can be taken into consideration. I am saying this because it is more important for them. Though I am a Member of Parliament, before coming to this House, I was a Central Government employee for 28 years, not one or two years.

SHRI R. MOHANARANGAM (Tamil Nadu): How many years of service have you to put in for pension?

SHRI DIPEN GHOSH: I have been a Central Government employee for 28 years and I am still associated with the Central Government employees' organisations and so, I know how this Bill is concerned with the Central Government employees. There is Mr. Sukul who is also associated with the State Government employees' organisations and he also knows this. Naturally, their views are more important. Though we are the passing authority, we are the considering authority, their views are more essential than my opinion and it is up to the honourable Minister to consider this. It is not simply a reference, as Mr. Ramakrishnan or Mr. Dhabe has proposed, to a Select Committee. But reference of this Bill to a Select Committee is essential in order to elicit the views of those who would be covered by this Bill

and their organisations.

Sir, without prejudice to my proposal for its reference to a Select Committee, I want to point out certain points for the consideration of the honourable Minister of State for Home Affairs. Sir, you know, and the hon. Minister knows, that this Bill has been prepared in consonance with Article 323A. As a result, the writ jurisdiction of High Courts under Article 226, the superintendence jurisdiction of the High Court under article 227 and writ jurisdiction of the Supreme Court under article 32, have been taken away, barring the appellate jurisdiction of the Supreme Court under article 36 that has been granted here.

I am not going to discuss the merits or demerits of Article 323A because that is an article of the Constitution. But so far as the scope of the Administrative Tribunal is concerned, it is all right. It has become wider. I know, and the Minister also knows, It has become wider. Cases of transfer, cases of retirement, cases of promotion, cases of leave will be covered by this Tribunal which normally High Courts do not entertain. And for that matter this is good. But the point is that if an employee does not get judicial redress or rather redress at all, general redress, from this Tribunal, he will have to go to the Supreme Court for judicial redress. (Time bell rings)

I am taking a little more time, three or four minutes, because I want to discuss this very carefully. You know, Sir, that if a Group D employee has to seek judicial redress from the Supreme Court in our country in the present system what would happen to him. This Administrative Tribunal is said to be a substitute and...

SHRI P. VENKATASUBBAIAH: Will you agree, even a Class D employee is running from pillar to post, from one single Judge to full bench...

SHRI DIPEN GHOSH: I know. I am coming to that aspect. I have

personal experience. That is why I am telling. So naturally this Administrative Tribunal is sought to be a substitute of the High Court.

SHRI P. VENKATASUBBAIAH: Not only substitute but....

SHRI DIPEN GHOSH: With appellate jurisdiction also.

SHRI P. VENKATASUBBAIAH: Yes.

SHRI DIPEN GHOSH: Naturally these tribunals must be constituted with the person or persons who can actually be a substitute or rather superior to the High Court.

SHRI P. VENKATASUBBAIAH: That is what I have said.

SHRI DIPEN GHOSH: So I want to draw your kind attention to clause 6(1), (2) and (3). And here legal luminaries are there very much. Mr. Mitra is here Mr. Baharul Islam is here. Other people are here. This clause deals with the qualifications for appointment as Chairman. I quote:

"(1) A person shall not be qualified for appointment as the Chairman unless he—

(a) is, or has been, a Judge of the Supreme Court or of a High Court...."

This is (a). I do not quote (b). I will come to it later I quote (c):

"(c) has for at least two years held the post of a Secretary to the Government of India or any other post in the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India."

Sir, may I ask a simple question in the presence of so many legal luminaries? It is mentioned: A Supreme Court Judge or a Secretary to the Government of India or a State Government official having a pay not less than that of a Secretary. Now, they are all at par in the matter of exer-

cising jurisdiction of a High Court or for that matter a superior court than the High Court. Is it alright? This is the point that I want to make out.

There is another clause (b) which says that he should have held the office of Vice-Chairman at least for two years. If we go to the Vice-Chairman, he should have held office as a member for at least three years. That means that a member with five years of experience can be a Chairman of the Administrative Tribunal. What is the qualification of a member? An Additional Secretary for two years or an official having pay not less than that of an Additional Secretary.

SHRI P. VENKATASUBBAIAH: A Joint Secretary with 3 years also.

SHRI DIPEN GHOSH: That means that an Additional Secretary of two years standing with five years experience in the Tribunal can be the Chairman of an Administrative Tribunal which is meant to be a substitute for a High Court or for that matter a superior court in the matter of dealing with service matters. This is the thing, (*Time bell rings*) which needs scrutiny. I beg your indulgence.

SHRI P. VENKATASUBBAIAH: You have lost the substance and you are after the shadow.

SHRI DIPEN GHOSH: Naturally, these Tribunals are going to be packed by some officials, by some executives and a Tribunal with such executives is sought to be given the jurisdiction of a High Court. This is one aspect. I go to certain other clauses. Here in the matter of the jurisdiction of the Tribunals, some exceptions have been made. It says that the employees of the Supreme Court and the High Courts or the employees of the Parliament will not be covered by this Tribunal because they are guided by other rules, etc. etc. I would like to draw your attention to Article 148(5). As you know, according to Article 148(5), the emp-

[Shri Dipen Ghosh]

loyees of the Indian Audit and Accounts Department are governed by separate rules. Separate rules are to be prepared for them. This is not mentioned here. I do not know whether it includes them. If it includes them, then in order to make it foolproof, some mention is necessary. Otherwise, in respect of the employees of the Indian Audit and Accounts Department this Bill *ipso facto*, cannot apply to them as in the case of the employees of the Parliament of India or of the Supreme Court or of the High Courts. *(Time bell rings)* The third point is about clause 19(2) of the Bill. Then, Sir, I come to clause 19(2). It provides for an application fee of Rs. 100 for every application made under this section. Then, Sir, if you go through clause 20, it provides for applications not to be admitted unless other remedies are exhausted. *(Time bell rings)*. Sir, I am concluding within two minutes. Sir, because the employees of Parliament are not covered by this Bill, so they may not feel interested. Sir, this is simply by way of a joke.

SHRI R. MOHANARANGAM: Sir, my Communist friend is speaking because Mr. Yadav is not there.

SHRI DIPEN GHOSH: You know, Sir, that according to the Central Civil Service (Classification, Control and Appeal) Rules, after an appeal there is the stage of review. An employee can ask for a review if an appeal fails and there is the provision of a reviewing authority. But here after an appeal has failed, he is entitled to go to the tribunal. But to make an application, he has to pay a fee of Rs. 100/. But to file a review petition he is not required to pay a single paise. Would you kindly look into it? *(Time bell rings)*. Sir, only one more point and that is about clause 23. It is provided here that a person making an application to a Tribunal under this Act may either appear in person or take the assistance

of a legal practitioner of his choice to present his case before the tribunal. But suppose an employee himself is not conversant with the rules and regulations of the law, nor is he in a position to pay the fees for the legal practitioner, should he not be allowed to take the assistance of another Central Government employee or a State Government employee to appear before the tribunal, as happens in the case of courts of inquiry constituted under the Central Civil Services (Classification, Control & Appeal) Rules. *(Time bell rings)*

Sir, I have pointed out only these three or four things without any prejudice to my proposal for its reference to the Select Committee so that the Government ...

SHRI P. VENKATASUBBAIAH: Or withdrawal ...

SHRI DIPEN GHOSH: Yes, either withdraw it and make it a comprehensive one or refer it to a Select Committee to elicit the views of the Government employees' organisations both of the Central Government and of the States. Thank you.

SHRI H. HANUMANTHAPPA (Karnataka): Mr. Vice-Chairman, Sir, I rise to support the Bill presented by our hon. Minister of State for Home Affairs. Sir, even our opposition friend, Mr. Dipen Ghosh, who initiated the discussion on the Bill has agreed that it is a very important Bill ... *(Interruptions)*

SHRI P. VENKATASUBBAIAH: Grudgingly ...

SHRI H. HANUMANTHAPPA: But I am disappointed with Mr. Dipen Ghosh's arguments because with his experience of 28 years in the Central service, I expected a much more valuable contribution to make improvements, if any, in the Administrative Tribunals Bill. *(Interruptions)*. I also hope that he has answered his own question of referring this matter, or involving the Central Government

officials, by his participating in the discussion with an experience of 28 years, and being a Member of Parliament here, who has ample opportunities of piloting the Bill itself shows that the interests of the employees have been taken into consideration by the Home Minister while piloting this Bill. Admittedly, as piloted by the Home Minister, this Bill is to see to the speedy and inexpensive remedy to the employees of the Central Government as well as State Governments, against the cumbersome procedure, elaborate and costly procedure in the courts, and that too with 1,84,000 cases pending in the Supreme Court and 9 lakh odd cases pending in the State High Courts, and 76 vacancies of judges in these various courts. We get representations from Government employees about their promotion cases pending since decades, their retirement cases, their pension cases, their leave cases, their suppression cases not being settled. So, with the number of cases accumulating on one side, number of cases pending in the Supreme Court and High Courts, and a number of vacancies of judges in the various High Courts and Supreme Court, on the other side, I compliment the Home Minister who has come out with the new Bill for formation of Administrative Tribunal at the Centre as well as at State level, to see to the speedy disposal of these cases....

**SHRI DIPEN GHOSH:** Eight years have already been taken; another two months can be taken for referring it to a Select Committee.

**SHRI H. HANUMANTHAPPA:** I agree; but better late than never. At least, you must compliment the Minister that the Government is taking care of this problem.

**SHRI DIPEN GHOSH:** It could be referred to the Select Committee and could be brought before the Winter Session of Parliament.

**SHRI H. HANUMANTHAPPA:** Sir, the system of tribunals is not new to our country. We have already seen various tribunals as quasi-judicial agencies to redress the grievances of various sections. Similarly, this is a quasi-judicial arrangement for redressal of grievances. Mr. Dipen Ghosh gave stress on judicial position on replacement of writ jurisdiction of the courts; but I say this need not be wholly judicial system. Then we are not bringing in any change or any new arrangement. The very purpose of tribunals is to take away the employees from the ordeal experience before the courts. This need not be a judicial arrangement; it is a quasi-judicial arrangement. I quote from the report of the Franks Committee about the purpose of the tribunals: "Tribunals were not organs of executive but they are a part of the machinery provided by Parliament for adjudication so as to seize the burden of both courts and the executive". Here, the present executive arrangement for redress is, Minister, Head of the Department, Secretary and a committee. Now, burden will be taken away from the executive as well as from the courts. And this has been the opinion of the Franks Committee appointed in England while reviewing administrative tribunals. The amendment to Article 323A of the Constitution was on the recommendation of Swaran Singh Committee in 1975 who studied the pending cases and recommended that these things should be taken away from the jurisdiction of the courts and a quasi-judicial arrangement is to be made.

I now deal with some of the clauses. While speaking on the Banking Service Commission Bill also, I had said and here I repeat, the bureaucracy has made these tribunals a pensioners' paradise. I am constrained to say so. Unfortunately, the position is that this is going to be a pensioners' paradise.

Then about the age of the head of the tribunal, which is 65 years. Retirement age of a Supreme Court judge

[Shri H. Hanumanthappa]

is also 65. So, no retired Supreme Court judge can head these tribunals. You cannot take away a Supreme Court sitting judge for this purpose, because already there are vacancies of judges. So, something has to be found out to fill up these posts. The retirement age of the judge and also the retirement age of the Chairman is 65 years. That means, there is going to be difficulty in finding the people to head the tribunals. Here, Sir, I certainly agree with Mr. Dipen Ghosh that being quasi judicial, a judicial man only should be made as the Chairman of the tribunal and the administrative man should assist him as one of the members or, if necessary, as Vice-Chairman. This grievance is against his own order sitting in some corner, on some table in some other department.

SHRI R. MOHANARANGAM: He was in the Labour Department.

SHRI H. HANUMANTHAPPA: This grievance his against the same officer sitting in some other corner. He cannot sit on the judgement of his own case or the case of his own colleague of equal rank. So, while appointing the Chairman, a judicial man should only be chosen to head the tribunal and the administrative man should only assist him. One more aspect has to be taken note of. We have forgotten the 'masters' in these tribunals. Sir, 'masters' are the people. Should we not have a representative of the people to see how public servants are functioning. You have called it 'administrative tribunal', it is not a grievance tribunal, but while going through the several clauses of the Bill it seems only to be a grievance tribunal. So, it should include not only the grievance of a public servant but his administration as a whole. What his conduct is towards the policy of the Government, towards the programmes of the people, towards serving the people, all these things should be included in this. I think you will con-

sider how best this can be done. At least, while formulating the rules you should make a mention about the conduct of the official towards the job that is entrusted to him, towards the public at large, towards masters of the public, towards public servants, towards Parliament and the Government. Although this would wider the power of the tribunal but a say has to be given to the masters. So, my suggestions is that you can have one man from the public, may be with experience in the administration, may be in the Parliament, may be in the Ministry, may be in other services. He should be a man from public as a representative of the public opinion. Here both are different parts of administration. One is secluded only dealing with the administrative matters. So, a chance to a man from outside from among the masters, will certainly go a long way in improving the standard of the tribunals.

Coming to the assistance of the legal practitioner, there is one contradiction which I want to bring to your kind notice. Clause 11(f) says, I quote:

"the Chairman, Vice-Chairman or other Member shall not appear, act or plead before Tribunal of which he was the Chairman, Vice-Chairman or other Member."

That means he is allowed to practice or plead in some other Tribunal, except the tribunal in which he participated.

Whereas in clause 23(1) it is said, "A person making an application to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal." Here, if an administrative officer has served as a Member or a Vice-Chairman of a Tribunal, he is barred under clause 23 which power has been given to him under clause 11(f). Under clause 11(f) a Member of a Tribunal is barred to appear before the Tribunal of which he was the Member, he can plead the

case of an emp'oyee in other Tribunal, but clause 23 takes away this power from him. That means, if he is a judicial member who has got the legal practising qualification, he can plead before the Tribunal as per clause 23(1) but clause 11(f) takes away that power from a Member who has served in that Tribunal. There is a contradiction. I request you kindly to take note of it.

Under section 9 about the resignation and removal, I quote:

"Provided that such person shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice..."

The usual practice is that a person who wants to resign has to give a notice of three months. But here he is giving a notice and he continues for another three months. The bonus is shifted to the President either to accept it, or he will continue until the expiry of three months. So before resignation, he should give a notice. That should be changed.

Then section 13 says that there will be a separate secretariat for these tribunals, separate functioning officials for these tribunals. How about their grievances? They have not been included here. Actually in exemptions Parliament officials and other officials have been left. But here when you are creating a separate cell of officials, by separate salaries, separate act of governing rules for them, what about their grievances? Are these tribunals empowered to hear those grievances, or are you making some other agencies. That is not clear from this Bill.

Another important aspect is that the very object is and even the constitution says, to provide for adjudication of disputes, complaints with respect to recruitment and conditions of service of persons. But where is the provision in the entire Bill to consider the complaints or grievances

about recruitment. This is a remedy for the employees who have entered the service. But what about the grievances at the recruitment stage? The constitution says even the disputes in respect of "recruitment are also to be covered. That aspect has not been covered in the Bill.

Section 19(4) can act as a bar. Here while framing the rules we will have to be very cautious I quote:

"Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules".

Now it is the practice that if the case of a person who is aggrieved by a promotional order has been delayed, he can straightaway apply. But here all further proceedings will stop. Whatever may be the speed with which the case is decided, it takes months together. This acts as a bar, as a stay to the current proceedings about promotion or redressal of grievances.

These are some of my suggestions which may kindly be taken note of. As you have rightly said in the Statement of Objects and Reasons, "it is expected that the setting up of such Administrative Tribunals to deal exclusively with service matters would go a long way in not only reducing the burden of the various courts and thereby giving them more time to deal with other cases expeditiously". One or two points Mr. Dipen Ghosh had raised.

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): Please try to conclude early.

SHRI H. HANUMANTHAPPA: I have answered those. With these few suggestions, I support the Bill.

**SHRI R. MOHANARANGAM:** Mr. Vice-Chairman, Sir, according to article 323A of the Indian Constitution Parliament may provide for the adjudication or trial by tribunals of disputes and complaints with respect to the service conditions, promotions and such other items of Central Government employees, State Government employees and others who are under the control of the Central Government. Sir, I support this Bill though with some exceptions.

Sir, not a single day passes without the newspapers referring to cases of problems between employers and employees. Not only in the State Governments and the Central Government but other local boards also it is and such other items of Central Government employees for which we have been searching remedies since Independence. So many persons have quoted with regard to cases, and my friend, Mr. Ghosh, has pointed out that he had put in 28 years' service as a Central Government employee. My friend from Karnataka has also pointed out certain things with regard to the grievances of Central Government employees. As far as my case is concerned, I belong neither to Central Government service nor to the business community to which my friend from Karnataka belongs. I am a person in the political field for the past 25 years and out of my own experience I would like to talk about the employees.

**SHRI DIPEN GHOSH:** Sir, is the Minister of State for Parliamentary Affairs noting these down?

**THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU):** Yes, he is noting down.

**SHRI DIPEN GHOSH:** He was not noting down. Let him note down.

**SHRI R. MOHANARANGAM:** Sir, we are really very much pleased with the exact notes that were taken down by the Minister for Parliamentary Affairs of whatever I said for the past three minutes and my friend, Mr. Ghosh, has pointed, as usual, with regard to Parlia-

mentary Affairs. Considering the size of the man there, he should be taking down the entire points of all the hon. Members who are participating in the debate. It is a very fine and very important Bill that has been brought by the Minister of State for Home Affairs.

Sir, as I was telling you, I do not have any experience with regard to the Central Government, but I have experience with regard to local boards because I was Municipal Chairman for four years and so I know about disputes between employers and employees with regard to service conditions of the employees. Here what I want to ask is, what exactly is the purpose of this Bill? Our Home Minister has very clearly stated that more than 1,84,000 cases are pending with the Supreme Court more than 50,000 cases are pending with the High Court and several cases are pending with the local courts. If that is the position, there are certain cases and, as far as my knowledge goes, there are more than 15 cases, which are not solved for a number of years and employees suffer very much because of not settling these cases. These are pension cases. A person who has retired in the year 1974 has applied for getting pension and is still not getting the pension because the case has not yet been settled. Likewise there are thousands and thousands of cases with regard to pension. My friend has very clearly mentioned that this Bill is a pensioner's paradise I would really endorse his views if the cases are completely settled by the procedures provided in this Bill. I will be very happy if it will be so, but I have got my own doubts. What exactly do they say in this Bill? They say, a large number of cases are pending and this will reduce the burden of the Supreme Court and High Courts because when we appoint these tribunals they will take up the entire responsibility of settling the cases that are pending with the Supreme Court as well as the High Courts. If that is the case, I entirely agree

that the tribunals will definitely settle all the 1,84,000 cases and the other more than 50,000 cases pending for the last eighteen years. My friend here feels that the tribunals will be able to settle these cases within two to three months. But I do not know what exactly they are going to do. I do not want to imagine impossibilities. If I imagine impossibilities then I entirely endorse the views of my friend who has said that within a few months all the cases will be definitely cleared by these tribunals.... (Interruptions)

Another point they have given here is very very beautiful. They say that if the entire cases are transferred to the tribunals, then these courts will have ample time to dispose of other matters. What these other matters are, we know fully well. They are also pending for the past so many decades. Since Independence if you just turn one by one the pages of judicial history you will find that lakhs and lakhs of cases are pending with the Supreme Court as well as the High Courts. He has also pointed out that there are 17 vacancies of Judges who are to be appointed to the Supreme Court and the High Courts. Of course, this is a different matter. But what I was talking about is, about the reduction of pendency of cases the objects of this Bill are really so laudable that I want to support this Bill with the exception of one provision. What exactly I differ with regard to what my friend, Mr. Ghosh, has pointed out is this. If we look at clause 6 of this Bill, it clearly says that a Judge of the Supreme Court is eligible to enter as Chairman of the Tribunal, and that a Member should also be a Judge of a High Court. What about the age of a Judge of the Supreme Court? If my memory is correct, 65 years is the age for a Judge of the Supreme Court. You are going to attract a Supreme Court Judge who is getting more than Rs. 5,000 in the Supreme Court. You ask him to enter into the Tribunal and get Rs. 4,000. Will he agree to

come to the Tribunal as Chairman when he is getting more than Rs. 5000 as a Supreme Court Judge, and that too after 25 years as a lawyer and a High Court Judge? How can you expect a Supreme Court Judge to come and take charge of chairmanship of the Tribunal when the age limit of the Chairman is only 65? How do you expect a Supreme Court Judge who can work up to 65 years in the Supreme Court to come straight from the Supreme Court and join the Tribunal? I ask this from Shri Venkata-subbaiah.

What are the qualifications of a Member? He should be a Judge of a High Court. When a Judge of a High Court is getting more than Rs. 4,000; especially in his home State you are asking him to come to Madras, Bombay, Calcutta and Delhi—the four major cities—and take responsibility as Member of the Tribunal. How can he agree? Mr. Ghosh also clearly pointed out about the Members of the Tribunal and the qualifications of the Chairman and Vice-Chairman. I want to know one thing. Who are the Secretaries? I am not going to talk of the Judges of the Supreme Court. I am going to talk about the IAS officers. What about Secretaries? Until and unless you are an IAS officer, you cannot be a Secretary. Can you show any Secretary in the whole country who is not IAS? Only a Secretary or an Additional Secretary can become a Member of this Tribunal. What about their qualification? They should be IAS officers. And how long are they working there? They are working till the age of 60 years. Then there are some extensions also. After working up to the age of 62 years and after having put in 30-33 years of service, having gained so much of knowledge with regard to various departments, you are expecting then to come to this post. Only IAS officers and Judges are eligible to become Members or Vice-Chairman or Chairman of the Tribunal. What about the leading lawyers? You have not included leading lawyers, who have got sound knowledge about labour laws, who

[Shri R. Mohanaragam]

have got sound knowledge of different aspects of Jurisprudence. They are not in a position to enter the Tribunal. They have mentioned nothing about the lawyers. I want the Minister to take up this point. You have mentioned only Judges and IAS officers. They can say that they have not mentioned IAS officers. They have mentioned Secretaries and Additional Secretaries. That is why I ask the Minister, through you: Can you show one Additional Secretary of Secretary in the whole of the country who is not an IAS officer? They have very cleverly drafted it. Some IAS officer has cleverly drafted it hoping that the Judges would not come into the picture taking charge of the Tribunal. Only IAS officers can come in, and got these posts, all these 45 vacancies. It is only to provide vacancies for the retired IAS officers, or those IAS officers who are expected to retire. Only they will be able to enter a Tribunal as Chairman, Vice-Chairman and Members.

I do not know who has drafted this. But he must be a clever man. In clause 6(5) it is stated: "The Chairman, Vice-Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State." What about the Governor? We have seen for the past four days the role of the Governor. Do you mean to say that Governors are just like judges? While you have laudable ideas and very good aspirations to rectify the defects and remove misunderstanding between employers and employees and when you are in a position to appoint judges here, you have very cleverly included Governors who are chums of IAS and who will never be in a position to do or render justice. That is why, Sir, these Governors. I am quite sure, will never consult the Chief Ministers of the respective States. You can ask me

one thing: Is there no provision in the Indian Constitution that the Governor has to consult the Cabinet or the Chief Minister? That you can point out. But what about the appointment of the Vice-Chancellors? I know fully that in several States the Governors, without getting the advice of the Chief Ministers or without consulting Chief Ministers, have appointed Vice-Chancellors in different States. Likewise, what will be our position? If the Governors come forward and appoint these persons as Vice-Chancellors or Chairmen without consulting the Chief Ministers of the States, then, there will be a fight or quarrel or misunderstanding as the case may be between the Governors and the Chief Ministers. That will definitely happen. That is why I want to change it. You can put it differently. Instead of "The President after consultation with the Governor" you can say, "The President after consultation with the Chief Minister of the particular State" because these cases are completely involving particular States only.

Another thing is the retirement age, we have given...

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): Please conclude.

SHRI R. MOHANARANGAM: How can I conclude, Sir, when I have so many points here? Now generally I want to speak. This Bill has been introduced just to create a colourful and peaceful atmosphere between employers and employees. I am not a labour union leader just like my friend Mr. Ghosh. I am only a politician, to take it into account. But out of personal experience I can say that thousands and thousands of cases you can file in each and every Government Department. And I know fully well how subordinates are kicked by superiors in the Government Departments unless and until they obey the orders of the superiors. Even they have to come and work on Sundays. If they do not come on Sundays, then, there will be a fight between employers and employees,

superior versus the subordinate staff. He just wanted to tackle all these problems. So, our Home Minister has brought this Bill. But personally I feel that there are certain things on which I cannot agree. If at all I want to agree, I have to just still my conscience. Then only I can agree. That is why I submit, through you, to our Home Minister that the entire thing should be sent to the Select Committee consisting of able persons. They will definitely examine this matter clause by clause and intimate the Minister what exactly is to be done in regard to misunderstanding between employers and employees.

With these words, because you asked me to conclude, I conclude my speech.

SHRI P. N. SUKUL (Uttar Pradesh): Mr. Vice-Chairman, Sir. I rise to support the Administrative Tribunals Bill, 1984 which seeks to establish Tribunals at the Centre and in the States for adjudication and trial of disputes and complaints arising out of recruitment and service conditions of Government employees.

However Sir, in my own State of Uttar Pradesh, Administrative Tribunals have been functioning for quite a long time. And my experience of these Tribunals, has not been very happy. There the main reason why justice is not so easily available to the employees from the Tribunals as they are in UP, is the fact that a judge is not there either as Chairman or Vice-Chairman. It is only IAS officers and other officers. That is why I entirely agree with my friends who spoke before me and who suggested that IAS officers should not be there as far as possible. We must not forget that we are going to leave the fate of 30 lakh Central Government employees and 50 lakh State Government employees total 80 lakhs Government employees of the country has to be decided by these Administrative Tribunals. As, we are going to decide the fate of these employees through these Administrative Tribunals. We must also try to ensure that real justice is made available to

these employees and speedy trial is there. In this connection, Sir, as regards the appointment of Chairman, Vice-Chairman and Members, in my humble opinion, the Chairman and Vice-Chairman both must exclusively Judges of High Courts or Supreme Court and no officer should be there. Because if an officer is there, Sir, in the tribunal, some time, he becomes vindictive against those very people. This is my experience of my own State with the Administrative Tribunals. I know that in many cases, in my State, where these officers have become vindictive and they could not mete out proper justice to the suffering employees that was due to them. Therefore, I suggest the Chairman and Vice-Chairman must necessarily be a Judge of the Supreme Court or of a High Court. Some times the Vice-Chairman has also to act as the Chairman of a Bench.

Sir, in the case of Chairman, according to section 6(1)(b):

"he has, for at least two years, held the office of Vice-Chairman."

So, that is why it is necessary that Vice-Chairman must also be not other than High Court or Supreme Court Judge, if you want to show proper justice to your employees.

As regards the case of Members, Sir, preferably he should also be a Judge of a High Court or Supreme Court. But if such a Judge is not available, then he should be only one who had held the position of Secretary to the Government of India or any State Government. Because some times even technocrats have become Additional Secretaries. I know some cases where technocrats have become Additional Secretaries. If this provision stands then my technocrat can also be made a Member of the Tribunal and justice may not be forthcoming in that eventuality.

Now, Sir, coming to section 8, you say that in the case of Chairman or Vice-Chairman, the age should not be more than 65 years. Whereas in the case of a Member it should not be more than 62 years. Sir why this dis-

[Shri P. N. Sukul].  
 crimination is there? I simply cannot understand. I think in the case of Chairman or Members of the Public Service Commission, this discrimination is not there. Even in the case of Chief Justice or a Judge of the High Court, this discrimination is not there. Then why such a discrimination is being kept here? So, this discrimination must be done away with.

My hon. friend, Mr. Dipen Ghosh referred to the section 19(2) regarding the fee of Rs. 100. I think in the cases of employees who have been dismissed or removed from the service or whose services have been terminated and after a year or so you are going to admit those cases, then this fee should not be levied. The fee should be levied only in those cases where the employees are in service who will be in a position to pay this fee.

Sir, in clause 20(2) (b), it has been provided that "if a period of six months from the date on which such appeal was preferred or representation was made has expired" and the final orders of the Government are not forthcoming, then his application can be admitted by the Tribunal. I think this six months period is very long. It must be reduced to three months because it is a general tendency with our bureaucrats that they try to take as long a time as possible in deciding these cases. Therefore, this period should be reduced to three months.

Now, a very important suggestion that I want to make with regard to these Tribunals, and which has not yet been made, is that these Tribunals must also be authorised to issue injunctions or stay orders in the case of an employee who is still in service. You see, the Tribunal that is there in UP and perhaps the Tribunals in other States also do not have this power to issue injunctions. Suppose a man is in service and he has to represent against an adverse entry or something. In that case a stay must be issued. If a man has been removed

from service and one year has elapsed then, of course, you may not issue an injunction. But in the case of a man in service, a stay can be issued, the matter can be looked into and the necessary verdict, of course, announced.

As regards the question of filing an appeal only to the Supreme Court, I have a suggestion to make and that is, that the appeal may also be made to lie in a High Court. Suppose a man is removed from service. The poor fellow has been suffering disciplinary proceedings for a number of years. Then one year after the final order, he comes to the Tribunal. By that time, his financial condition must have deteriorated considerably. So that man must not be made to run from Calcutta to Delhi. An alternative should be provided within the State itself as far as possible, at least in the case of dismissed employees or employees who have been removed from service or whose services have been terminated. So the Government must consider this point that an appeal may be allowed to lie in the High Court also.

With these few words, I support this Bill.

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): Before I call the next speaker, I wish to inform hon. Members that we may sit very late today because there are many Bills pending. The Parliamentary Affairs Minister just now informs me that he invites all of you for dinner because we have to sit till late in the night. Now, I call Dr. Shanti G. Patel.

DR. SHANTI G. PATEL (Maharashtra): Mr. Vice-Chairman, Sir, this Bill seeks to provide a special machinery for the removal of grievances of certain categories of employees, particularly in the sectors of State and Central Government services, local bodies and the like.

[The Vice-Chairman (Shri Syed Rahmat Ali) in the Chair.]

Sir, this is being done under the powers given under article 323A, under which Parliament can make such a

provision if they consider it necessary. The laudable objective behind this Bill is to have expeditious disposal of the day-to-day grievances of the employees, particularly, what is called servic matters. "Service matters" is a term which encompasses a lot of grievances in respect of service conditions, starting from remuneration to promotion, transfer, leave rules and things like that. I welcome this aspect that this Bill makes provision to include all aspects of service conditions and makes provision for an employee to

go to an Administrative Tribunal for seeking justice. The

Bill is welcome to the extent that it at least seeks to have an expeditious disposal of the grievances. But at the same time we have to see how this is sought to be done. I would refer particularly to the composition of the tribunal to which references have already been made. As has been pointed out by a number of previous speakers, this is a provision whereby not merely a person who is a High Court Judge or a Supreme Court Judge, serving or retired, can be made a member particularly chairman or vice-chairman, but a person at the level of a Secretary, Additional Secretary, Joint Secretary or even a person holding a post with a scale of pay not less than that drawn by any one of them, also could be made a member of this tribunal, and even a Vice-Chairman and a Chairman, if he satisfies certain conditions. Here is my objection to the appointment of such a person for the obvious reason that he is the person who, during the course of his service, has also taken certain action against the employees working under him. Therefore, if I may submit with due respect to the persons concerned, he has a prejudicial mind already as far as the employees are concerned. We are trying to provide an appeal or justice rendered, to a person who is aggrieved and he must feel that not merely justice is done but that justice appears to be properly done and unless that is ensured, it is no use having these provisions. Justice should also appear to

be done. That is more important. And one cannot expect a serving officer do this particular type of justice. The persons who constitute this tribunal have to be impartial, independent and judicial. I cannot believe that a person who has served or who has been in service can be a person who can satisfy this qualification. The man has to act not merely fairly and justly, but he should not also act arbitrarily or mechanically without application of mind. This is very necessary if proper justice is to be done. Otherwise, the whole purpose, the laudable objective of this Bill, gets destroyed, gets nullified. That is why, the proposal which has been made for reference of the Bill to a Select Committee needs to be considered with all seriousness, and I hope the Home Minister would agree to that proposal.

Regarding applicability of the Bill, it was stated by the Minister that persons who are governed by the Industrial Disputes Act, particularly in respect of matters which are covered by the Industrial Disputes Act, are not covered by this Bill. This, in my opinion, takes away a large chunk of employees, particularly the industrial employees and even the employees of the local authorities who are governed by this Act. There is not a single matter which cannot become an industrial dispute under the Industrial Disputes Act. Therefore, the coverage of this Bill becomes less and it does not cover as many persons as is envisaged or as is sought to be made out by the Minister.

Then, as compared to the present way of getting the grievances redressed, the means of going to the High Courts and other avenues will not be available now. Of course, in that respect the present Bill gives an advantage in that the time-factor will be reduced. But this again depends on how many tribunals are constituted and how expeditiously they are going to work in practice. The whole thing depends on that. Looking to

[Dr. Shanti G. Patel]

the number of complaints which, I think, is 62,000—odd, the number of tribunals should be in proportion to this number so that the complaints are redressed as early as possible. This is as far as the period is concerned.

As far as the location is concerned, there is not any specific advantage. As far as the expenditure is concerned, there is no specific advantage except that if one is required to go through the High Court, he may be required to spend more.

Another aspect to which I would like to refer is that whenever an application is made to the Tribunal, it has a right to reject it summarily, if it does not satisfy certain conditions. This power is very highhanded. After all the Tribunal should state the reasons for rejection of the application or at least should give sufficient opportunity to the applicant concerned who may be a class IV employee, so that he can remove a particular defect from his application and can, thereafter, have his grievance heard.

In respect of hearing before the Tribunal, even under the Industrial Disputes Act, it is accepted that either the applicant can be heard in person or even the association or the union to which he belongs can appear on his behalf and plead his case. This can save lot of money for the employees particularly when they belong to the lower category. This facility should also be made available to the employee. The Tribunal should not become a place where only legal luminaries come and fight legal battles on the basis of what is wrong or what is right legally. Here the principle of natural justice has to be observed and the Tribunal should adopt a human attitude and not strictly a legal attitude. This atmosphere can be created only if persons of such persuasion or stature are allowed to appear.

Right of application is mentioned in clause 19. There also the service organisation or the Union should have the right to make representation on behalf of the employee. Even under the Industrial Disputes Act, the Union concerned can raise an industrial dispute or a grievance and can agitate for it.

These are some of the provisions which should be brought in so that the expected objective of this Bill can be served.

Lastly, I would like to refer to one more thing. In such matters like this, the employees should have been taken into confidence. I know an effort has been made to discuss the matter at the level of the JCM. But the deliberations that took place were not unfortunately given effect to the extent they should have been. Their suggestion particularly about the composition of the Tribunal should be given effect to. I submit that unless the composition is changed, I do not think the Government employees can be inspired or persuaded to have confidence in the decisions of the Tribunals. I would, therefore, plead that even at this stage the suggestion for referring the Bill to the Joint Select Committee should be accepted. The Committee can elicit the views of the persons concerned and the public at large and modify the Bill in the light of the evidence or views placed before the Committee.

SHRI RAMESHWAR THAKUR (Bihar): Mr. Vice-Chairman, this is a very commendable step that the Government has taken by introducing this Administrative Tribunals Bill, 1984. The objects of the Bill are very comprehensive, namely, to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other autho-

ity. So, that way this is a very comprehensive Bill. This Bill has been drawn up keeping in view article 323A of the Constitution which stipulates that Parliament may by law provide for the adjudication or trial by Administrative Tribunals of certain categories of cases of the Government employees and so on. We are aware, as has been mentioned on the floor of the House by the honourable Minister also, that a large number of cases of the Government employees are pending before the various authorities. It is not a question of time alone and it is not a question of cost alone, but it is a question of mental tension which the Government officers and employees have to undergo on account of the elaborate litigation procedures and in many cases they are not able to get full justice till they retire. It not only affects them, and their families, but it also affects public work because, when such a large number of people are engaged in litigation, naturally, public work is bound to be affected and in many cases they have to seek so many favours and have to seek patronage which is uncalled for. Therefore, providing for speedy trials in such cases is a laudable objective and we all commend it.

Two kinds of Tribunals have been stated in the Bill, the Central Administrative Tribunal and the Joint Administrative Tribunal which would be very useful, and the types of cases which would be covered are also very clearly stated. The term "service matters" has been very clearly defined in clause 3(g). The question that has been raised by some honourable Members with regard to qualifications is also important and it has been provided under clause 6(1) of the Bill.

Sir, I also personally feel, taking a balanced view of things, more particularly when we have excluded the jurisdiction of the High Courts and when only appeals go to the Supreme

Court, it is essential that the Chairman or the Vice-Chairman of the Tribunal should be a person who has held or is holding the position of a Judge of the Supreme Court or a High Court and it is also essential that so far as the Chairman or the Vice-Chairman is concerned, he should be a judicial person exclusively, as has been suggested by my other friends and I personally feel that it would be in the fitness of things if this is so considering the important role that these Tribunals have to play. As regards the membership, it should certainly be open to the persons who qualify for, and who belong to, the Central and State services as specified in the Bill itself.

As regards the question of age, I think this will create certain complications. So far as clause 8 is concerned, that is, the term of office, the age-limit is up to 65 years. Sir, it may be very difficult to expect eminent Judges, particularly senior Judges of the Supreme Court or the High Courts, to leave their jobs in their respective places and to join the Tribunals as Chairman or Vice-Chairman, as the case may be. Then, Sir, there are two complications. One is, if they are to complete their tenure of five years before the age of 65, where will they get employment? Clause 11 lays down that excepting in other Tribunals they cannot hold any Government office. Suppose you get a junior Judge of a High Court whose age has not reached limit. If within five years he has to retire, then it would be very difficult. It has not been made clear in the provisions of this Bill whether those Judges could be re-appointed or whether their services could be extended. This is not very clear. Certainly, Sir, it will create practical difficulties, firstly, in getting such eminent persons, secondly, in holding them and, thirdly, in prohibiting them from entering other offices under the Government. This will create many practical difficulties and problems in getting eminent per-

[Shri Rameshwar Thakur]  
sons. Therefore, I would like to suggest that the honourable Minister should consider these two aspects of the problems.

While I am supporting this Bill on other clauses because it is very loud-able, excepting these two aspects—one with regard to the position of Chairman and Vice-Chairman who should be a Judge of the Supreme Court or a High Court, which should be a mandatory provision, and second, in regard to the ages, which could be even not necessarily be in the Bill but which could be incorporated in the Rules, and suitable amendment could be brought by the hon. Minister either in this House or in the Lok Sabha in regard to these two items.

As regards the application not to be admitted—this is clause 20—unless other remedies have been exhausted, I agree with the suggestion of Mr. Sukul that the period of six months could be reduced to three months.

Then, so far as clause 28 is concerned, my friend Mr. Dipen Ghosh has mentioned about the exclusion of the jurisdiction of court. Now, I think he has taken only one part of the aspect. Article 323A itself provides for the exclusion. It says: "... may exclude the jurisdiction of all courts, except the judisdiction of the Supreme Court under article 136 with respect to the disputes or complaints referred to in clause (1)".

Therefore, this is not something which has been provided in the Bill. It is a commendable thing as per the provision made in the Constitution itself.

Therefore, this aspect should be taken as it is and the matter should not be referred to the High Courts for application. It should be directed to the Supreme Court to have more speedy decisions.

Now, about the transfer of existing pending cases, this is quite com-

mendable. Some Members suggested that it should not be done. (*Time bell rings*)

Lastly, Sir, some Members suggested about the appointment "with the approval of the President or the Governor". I think this is a provision made normally everywhere. In the process the Governor or the President is advised by the State Government or the Central Government. Therefore, the provisions as it is a proper provision in consonance with all similar provisions made in other laws.

In nutshell, I would like to mention that we need this Bill which is a very timely Bill. It should have been brought forward long back. It is in pursunace of the provisions of the Constitution, and it should be passed by this august House, subject to the two amendments in regard to the Chairman and Vice-Chairman's terms of appointment reference. In regard to these two, I earnestly request the hon. Minister to take care of these amendments either in this House or in the other House. The rest of it should be passed as it is.

**श्री जगदम्बी प्रसाद यादव (विहार) :**

माननीय उपसभापति जी, मैं जब इस प्रशासनिक अधिकरण विधेयक को देखता हूँ तो मुझे लगता है कि माननीय मंत्री जी ने पहले यह विचार नहीं किया कि इस को काम्प्रोहेंसिव और उपयुक्त बनाया जाय या अन्य जो सम्बन्धित व्यक्ति हैं उन से भी विचार कर लिया जाय । इस लिए मैं इस पर कुछ बोलने से पहले मंत्री जी से एक निवेदन अवश्य करना चाहूंगा । हमारी तरफ या सरकारी बेंच की तरफ से ऐसा कोई भी सदस्य नहीं मिलेगा जो इस दृष्टि से कुछ न कुछ आलोचना न करे कि इस विधेयक को या तो प्रवर समिति के सौंपा जाय या अगर इस में सात वर्ष की देरी हो गयी है तो इस सब का विलम्ब और करके इस को काम्प्रोहेंसिव बनाया जाय ।

हमारे दो माननीय सदस्यों ने इस को प्रवर समिति को भेजने के लिए कहा है। मैं भी यह निवेदन करना चाहूंगा कि हमारे गृह मंत्री जी इस पर ध्यान दें तो शायद इस का लाभ ज्यादा होगा। मैं एक बात यह भी गृह मंत्री से कहना चाहता हूं कि उन्होंने सोचा होगा कि लगभग 1 करोड़ लोग इस बिल से प्रभावित होंगे—38 लाख केन्द्र के और 50 लाख राज्य सरकारों के और उतने ही स्थानीय संस्थाओं के भी होंगे और अगर मंत्री जी की निगाह आगामी चुनाव पर हो तो संभवतः वे हमारे प्रवर समिति के विचार को स्वीकार न करें, अगर वे समझते हों कि हम उन कर्मचारियों को प्रसन्न कर उन से कुछ लाभ ले सकते हैं तो बात दूसरी है अन्यथा मैं मंत्री जी से निवेदन करूंगा कि उन सारे कर्मचारियों का विचार वे कांफ्रेंसिव रूप से करें और इस लिए मैं फिर से दोहराना चाहता हूं कि कोई भी इस सदन में ऐसा नहीं है कि जिस के मन में यह भाव न हो कि इस बिल पर कुछ और विचार यदि कर लिया जाता तो ज्यादा अच्छा होता और इसी लिये मैं इस बात को आपसे कह रहा हूं।

मैं चाहता हूं कि इस पर आप विचार करें कि इसकी जो परिधि रखी गयी है वह बहुत विशाल है। किसी व्यक्ति के संबंध में पारिश्रमिक, पेंशन और अन्य सेवा निवृत्ति फायदे, सेवा घृति जिस के अंतर्गत पृष्टि ज्येष्ठता, प्रोन्नति, प्रतिवर्तन, आदि या किसी प्रकार की छुट्टी, अनुशासनिक विषय या किसी प्रकार का कोई अन्य विषय शामिल है और यह बहुत बड़ा क्षेत्र है जिस पर विचार करने की बात है। वैसे तो बात भर्ती से ही शुरू हो जाती है, लेकिन भर्ती का संदर्भ इस में नहीं है, उस की कंडीशन्स का संदर्भ नहीं है। अगर उस

से प्रारंभ किया जाय तो कर्मचारी की मृत्यु तक का विचार हो सकता है। इसलिए इस पर संजुलित रूप से विस्तार से विचार होना अनिवार्य है और यह ज्यादा नहीं एक ही सत्र की बात होगी। उसी समय में इस पर विचार हो सकता है।

इसी तरह से जब दूसरे अध्याय को देखते हैं—अधिकरणों और उनकी न्यायापीठों की संरचना को, तो मैं उन में यदि विस्तार से न जाऊं तो भी अपने विचार प्रकट करना चाहता हूं कि इस की संरचना में दो, तीन मुद्दे ठीक नहीं हैं। एक तो आप ने जो न्यायापीठ की रचना की है, मुझे ऐसा लगता है कि कोई न्यायाधीश आप को इस काम के लिए प्राप्त नहीं होगा—न वेतन के हिसाब से और न उम्र के हिसाब से और न सुविधा के हिसाब से। यह तीनों अवस्थाएँ इस में ऐसी नहीं हैं कि जो आप के न्यायाधीशों को आकर्षित कर सकें इस में आने के लिए। दूसरी बात इस में जिस प्रकार से आप को आपके विभाग ने इस अधिकरण की संरचना के उपाय बताये हैं उस से लगता है कि यह सारा न्यायापीठ अधिकारियों का अधिकरण होगा। इस में सिर्फ आप को अधिकारी ही प्राप्त होंगे और अधिकारी ही इस न्यायापीठ में न्याय करने वाले प्रमुख लोग होंगे। तो मेरा निवेदन है कि कर्मचारियों को जिन के विरुद्ध शिकायत होगी कि उन की भर्ती की कंडीशन्स ठीक नहीं है, उन की प्रोन्नति ठीक नहीं होती या उन को छुट्टी ठीक से नहीं मिलती या उन की सविस्तर कंडीशन्स ठीक नहीं हैं अगर उन का न्याय करने की बागडोर उन्हीं व्यक्तियों के हाथ में थमा देंगे कि जिन के विरुद्ध उन को शिकायत है तो उन सरकारी कर्मचारियों को कितनी सुख सुविधा प्राप्त हो सकेगी। इसलिए जब मैं गंभीरता पूर्वक विचार कर के

[श्री जगदम्बी प्रसाद यादव]

देखता हूँ तो लगता है कि यह जो विधेयक है यह हमारे सरकारी कर्मचारियों को बड़े अधिकारियों के क्लेच में रखने के लिए है।

मैं एक ही बात पूछना चाहता हूँ कि हमारे सरकारी कर्मचारियों की शिकायत कौन सी है। उन की सविस्तर कन्डीशन्स में जो कठिनाइयाँ हैं वे कहाँ से उन को मिली हैं और अगर यह कठिनाइयाँ बड़े अधिकारियों की ओर से हैं तो उन को हल करने के लिए उन्हीं के हाथ में सौंपना कहाँ तक उचित होगा, उनको अलूत करना न्यायाधीश का नाम ले कर कहाँ तक जायज होगा। इस में सरकार का कोई भी लाभ हो देखने में, सुनने में, जानने में, वह ठीक नहीं होगा और ऐसा होने पर सरकारी कर्मचारी कुंठाग्रस्त हो जायेंगे। इस लिए मैं चाहता हूँ कि इन न्यायाधीशों में बड़े अधिकारी नहीं होने चाहिए। जज ही होने चाहिए और जज जब आज सुप्रीम कोर्ट और हाई कोर्टस के लिए प्राप्त नहीं हो रहे हैं तो आप को कैसे प्राप्त होंगे। अच्छे वर्कर्स की आज जजों से कहीं अधिक आय है। हम जज को आज जो वेतन देते हैं उस पर जो आयकर लगता है उस के बाद उसे उसमें आकर्षण नहीं रह जाता। इसीलिए मैं समझता हूँ कि जो बड़े न्यायाधीश हैं जो अवकाश प्राप्त करने की स्थिति में आयेंगे वह जाना भी चाहेंगे तो उनकी जो पेंशन मिलती है उसमें कमी होगी। तो इस बात पर मंत्री जी विशेष रूप से ध्यान दें कि किस प्रकार से जजों की सेवा इस काम के लिए वह प्राप्त कर सकेंगे। उनको वेतन, मान मर्याद और उम्र के हिसाब से उनको प्राप्त नहीं होंगे तो वह इस में कैसे आयेंगे जो हाई कोर्ट और सुप्रीम कोर्ट हैं उनमें भी आज यह कठिनाइयाँ आ रही है। उनको देखते हुये आप इस पर विचार करें।

यह ठीक है कि आपने कहा कि 62 हजार केसेज कोर्टों में पड़े हुए हैं सविसेज के। दूसरे केसेज को जोड़कर उनकी संख्या लाखों में जाएगी। सचमुच ऐसा लगता है कि हम एक न्याय व्यवस्था को सरल बनाने की कोशिश कर रहे हैं, सेवा में लगे हुए लोगों को सरलता से न्याय दिलाना चाहते हैं। इसमें दो मत नहीं हो सकते कि यह इन्साफ़ उनको शीघ्रातिशीघ्र मिले।

आपने पृष्ठ 7 पर यह प्रावधान किया है कि वह किसी और नियोजन का पात्र नहीं होगा। यह भी एक प्रतिबंध है जिसके कारण जजों के यहाँ आने पर कठिनाई हो। मैं तो समझता हूँ कि प्रलोभन देने के बाद भी कभी-कभी सुप्रीम कोर्ट के जज कुछ बनने के लिए तैयार हो जाते हैं। और प्रलोभन की बात नहीं होगी तो इस काम में वह आने के लिए सक्रिय नहीं होंगे।

एक और बात जो मैं कहना चाहता हूँ वह यह है कि आपने कुछ सविसेज को इससे अलग रखा है चाहे वह सुरक्षा की हो, चाहे संसद की हो, राज्य विधान मंडलों की हो। मैं यह जानना चाहूंगा कि जो कठिनाइयाँ आपने दूसरी सविसेज के लिए सोचीं वह कठिनाई यहाँ पर नहीं है क्या? जो एक प्रजातांत्रिक देश है उसमें सविसेज का भी रूप गंभीर होता जा रहा है। वहाँ भी आज जिस प्रकार से न्याय देने की पद्धति है वह कठिनाई में डालने वाली है। मैं संसद के जो कर्मचारी हैं उनकी भी कठिनाइयों को समय समय पर देखता हूँ। ऐसा लगता है कि वे एक पैरे में, गिरफ्त में आ गये हैं जहाँ से बाहर निकलने पर वे इन्साफ़ नहीं पा सकते हैं। ऐसा लगता है कि जमींदारों की जमींदारी में वे फँस गये हैं, उससे निकल नहीं सकते। अगर आप

सचमुच में प्रवर समिति में इसे भेज देते, तो इस पर विचार करने का मौका मिलता कि इन सर्विसेज को भी इसमें इनक्लूड किया जाये। इसलिए मैं चाहूंगा कि आप इस पर भी गंभीरता से विचार करें तो अच्छा होगा।

मंत्री जी, इसका फैसला लगभग अन्तिम होगा। कुछ सुप्रीम कोर्ट में जाने वालों को छोड़ दें तो अन्तिम फैसला होगा। तो इस अन्तिम फैसले के लिए भी हमें चिन्ता करनी चाहिये कि सचमुच अन्तिम फैसला कितना सटीक, और कितना सन्तोषजनक होगा। जब तक आप इसको नहीं सोचेंगे तब तक मैं समझता हूँ कि आप जो चाहते हैं उसका प्रतिफल नहीं मिलेगा।

श्रीमन्, पृष्ठ 13 पर जो आपने प्रतिबन्ध किया है आवेदनपत्र का, वह सचमुच समुचित ढंग से नहीं किया गया है। अगर समुचित ढंग से नहीं रखा जायेगा तो मैं समझता हूँ कि यह भी आगे चलकर आवेदक को बाधा डालेगा।

आपने पृष्ठ 14 पर यह कहा कि यह अधिकरण दंड प्रक्रिया संहिता 1908 की कथित प्रक्रिया द्वारा आबद्ध नहीं होगा। लेकिन आपने 22(1) में और 22(2) में सिविल प्रक्रिया संहिता के सिवा और कुछ नहीं किया। इससे लगता है कि विचार अच्छा करने का था, लेकिन उसके लिए आपको समय नहीं मिला और आपने फिर उसी विचार को रख दिया।  
(समय की घंटी)

माननीय उपसभाध्यक्ष जी, आपका आग्रह है, इसलिए मैं अपनी बात समाप्त करते हुए केवल यह कहना चाहता हूँ कि अगर इसकी कठिनाइयों को हल करके आप एक कांफ्रिहेसिव बिल बना सकते हैं जैसा कि माननीय सदस्य दीपेन घोष जी ने कहा है तो इस पर आप सोचिये।

एक मौका आप दीजिए पूरे रूप में सर्विसेज में विचार करने का तो इससे उनको राहत मिलेगी। इसी के साथ मैं अपनी बात समाप्त करता हूँ।

**श्री सुरज प्रसाद (बिहार) :** महोदय, यह बिल संविधान की धारा 323-ए के अनुसार लाया गया है। संविधान में प्रावधान पहले से था। कई राज्यों ने इस सम्बन्ध में ट्रीब्यूनल बना लिया है बहुत पहले ही। केन्द्र सरकार इसको बनाने में इतना बिलम्ब क्यों कर रही है, यह तक हमको समझ नहीं आई। सरकार को यह बताना चाहिये हमको कि संविधान के लागू होने के 34-35 वर्ष बाद भी इस बिल को सरकार क्यों ला रही है और क्या इसके सम्बन्ध में कठिनाई थी? जब राज्य सरकार ने इस तरह का बिल पहले ही बना लिया है और जिसके मुताबिक फैसले भी होते हैं तो केन्द्रीय सरकार तो उनसे भी ज्यादा शक्ति-सम्पन्न है तो इनको इस बिल को लाने में क्या कठिनाई थी? इस बिल के सम्बन्ध में पहला प्रश्न तो यह उठता है।

दूसरी बात मैं यह कहना चाहता हूँ इस सम्बन्ध में कि कई माननीय सदस्यों ने बोलते हुए इस बात का हवाला दिया कि इस तरह के जो ट्रीब्यूनल स्थापित हैं उनके द्वारा जो न्याय होता है उसमें काफी बिलम्ब होता है। सरकार ने अभी जो ट्रीब्यूनल बनाया उस ट्रीब्यूनल के अन्दर भी कैसेज आयेगे। मैं सरकार से जानना चाहता हूँ कि क्या ऐसी बात इसमें होगी जिससे लोगों को न्याय जल्दी मिल सकेगा। इस बिल की धारा 22 के मुताबिक यह कहा गया है कि ट्रीब्यूनल कोशिश करेगा

The Tribunal shall decide every application made to it as expeditiously as possible."

इसमें कहा है कि जितनी जल्दी हो सकेगा उतनी जल्दी ट्रीब्यूनल केंसों को

### [श्री सूरज प्रसाद]

फैसला करेगा। उसमें कोई टाइम नहीं दिया गया है। मैं तो कानून के मामले में कोई विशेषज्ञ नहीं हूँ। लेकिन मैं समझता यह हूँ कि अगर इस बिल के अन्दर यह भी प्रावधान होता कि केमों का फैसला कम से कम कितने दिनों के अन्दर होगा तो जो सरकारी कर्मचारी हैं केन्द्र के और राज्यों के, निगम के या लोकल बाडीज के, उनको इससे काफी सुविधा होती और यह शीघ्र न्याय पाने की दिशा में यह एक बड़ा कदम होता।

तीसरी बात जो मैं इस सम्बन्ध में कहना चाहता हूँ वह यह है कि सरकार ने इस बिल के अन्दर यह प्रावधान किया है कि जो ट्रीब्यूनल बनाया गया उसका चैयरमैन या वाइस चैयरमैन सरकारी सचिव भी हो सकते हैं चाहे राज्य सरकार के हों या केन्द्र सरकार के हों। जो राज्य सरकारों के सचिव होंगे इस ट्रीब्यूनल के, जाहिर है कि वे सरकारी कर्मचारियों के प्रति उनकी समस्या से पीड़ित होंगे। ऐसी अवस्था में उनको इस ट्रीब्यूनल का चैयरमैन या वाइस चैयरमैन बनाना न्यायोचित नहीं जान पड़ता।

साथ ही एक दूसरा प्रश्न इसके साथ उठता है और वह यह है कि हम इस सिद्धान्त को मान कर चलते हैं कि जुडिशियरी और एग्जीक्यूटिव को अलग होना चाहिये। आप जानते हैं कि यह न्याय का एक मान्य सिद्धान्त है। लेकिन इस बिल में ऐसा लगता है कि सरकार एग्जीक्यूटिव और जुडिशियरी की कम्बाइंड करने की दिशा में कोशिश कर रही है। यह बात सेरेशन आफ पावर्स के सिद्धान्त का, ऐसा लगता है, भारी हनन है। इस तरह के कोर्ट से जो इस बिल के प्रावधानों के मुताबिक गठित होगा, यह उम्मीद नहीं की जा सकती है कि

जो सरकारी कर्मचारी हैं उनको सरकारी सचिवों से सही न्याय मिल सकेगा। इसलिए मैं यह चाहूंगा कि सरकार को अभी भी इस पर विचार करना चाहिये कि धारा 6 के अन्दर जहां सचिवों को बोर्ड का चैयरमैन या वाइस चैयरमैन या मेम्बर बनाने की बात कही गई है वहां इस बात की कोशिश करनी चाहिये कि वहां पर आप इस प्रावधान को डिलीट कर दें और सिर्फ हाई कोर्ट और सुप्रीम कोर्ट के जो जजेज हैं उन्हीं को चैयरमैन, वाइस-चैयरमैन या सदस्य बनायें।

तीसरी बात मैं इस सम्बन्ध में यह कहना चाहूंगा कि इस बिल के अन्दर अपील का जो यह प्रावधान किया गया है कि अपील सुप्रीम कोर्ट में ही हो सकती है, वह ठीक नहीं मालूम पड़ता है। सुप्रीम कोर्ट में अपील करने की जो बात है वह साधारण कर्मचारियों के बूते के बाहर की बात है। हमारे देश में सस्ता न्याय पाना आम बात होनी चाहिये, इस तरह से वह आम सस्ता न्याय नहीं होगा। आप जानते हैं कि न्याय न केवल सस्ता होना चाहिये बल्कि वह सुलभ भी होना चाहिये। न्याय सस्ता होना चाहिये, इसी उद्देश्य से इस कोर्ट का गठन किया गया है। ऐसा लगता है कि इस ट्रीब्यूनल के गठन के लिए जो यह प्रावधान किया गया है और सुप्रीम कोर्ट में न्याय पाने के सम्बन्ध में जो अपील की व्यवस्था की गई है, वह सही नहीं जान पड़ती है। इसके अन्दर यह भी प्रावधान होना चाहिये कि हाई कोर्ट में भी लोग अपील कर सकते हैं। मैं समझता हूँ कि अगर इस तरह की व्यवस्था को जाय तो जो गरीब कर्मचारी हैं या जो साधारण कर्मचारी हैं उन्हें सस्ता और सुलभ न्याय पाने में सुविधा होगी। लेकिन मंत्री जी यह कहेंगे कि इसमें संविधान की कठिनाई है। मैं समझता हूँ कि अगर आप

चाहें तो उस कठिनाई को भी पार किया जा सकता है। मैं चाहता हूँ कि मंत्री जो को इस पर विचार करना चाहिये। इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

SHRI S. W. DHABE: Mr. Vice-Chairman, Sir, this is a very important Bill having a very wide canvas. The growth of administrative tribunals came into existence due to the expansion of the Government activities, much more so in the welfare States. Today, the State undertakes a vast number of activities and, therefore, employs a large number of workers and officers and this nature of activity has given rise to a number of problems. The persons who serve under them and the government servants have problems right from the recruitment stage. Recruitment rules are not followed. Where there is a decision of the Government that only one person will be employed from one family more than one person or sometimes the whole family is employed in government service. Service conditions are not followed, promotions are affected, social security benefits to which they are entitled are also not given to them. They are arbitrarily dismissed or removed from service. Even suspension is there for days together.

This has given rise to numerous cases to be handled by the courts. Many of the claims are made by persons of small means—Class III and Class IV employees. Judicial review of the administrative action in our country is based on the doctrine of ultra vires. Like India, England and the USA have also got the same system and the same jurisprudential thinking. The power is exercised today by ordinary courts and also by the labour courts and industrial tribunals, but not by special administrative courts, as envisaged in this Bill. In France there is a hierarchy of administrative courts and the highest administrative court is called "Conseil de l'Etat". It exercises control

over all the administrative courts, like the civil judiciary in our country. Unlike our country, in France the tribunals have been given powers not only to see the severity of the action taken but also to go into the merits of the complaint made. Though Industrial jurisprudence has grown to a large extent and labour or industrial courts exercise their powers, still in the realm of management some sections are not covered. The supervisory staff etc. are not in the realm of the tribunals.

The very object of article 323A and 323B was that all such actions should come before a tribunal where a large number of grievances of the government servants and workers will be removed. Sir, the tests of the efficacy of Administrative Tribunals are—expertness, cheapness, expediency and flexibility of procedure. These are some of the attributes of the quality of the Administrative Tribunals in the whole world. Therefore, when we think of Administrative Tribunals, if these tests are not fulfilled, there is no use having an hierarchy of Administrative Tribunals in our country.

Another aspect which has grown in our country over the last 15 years or so is that industrial jurisprudence, or even ordinary jurisprudence contemplates that the person who administers justice or who is the Presiding Officer should be independent of parties. He cannot be a person connected with administration or a Secretary of a department.

I am finishing, Sir. In this you will find under article 323A there is a provision for referring matters relating to "recruitment" also to the Tribunal. Article 323A says "complaints with respect to recruitment". Now this is not covered by this Bill. One of the objections which I had raised is about the coverage given in the Bill and the Minister has stated in his remarks while moving the Bill that persons

[Shri S. W. Dhabe]

under the Industrial Disputes Act will also be covered. Under clause 2, sub-clause (b), it is very specifically stated:

“any person governed by the provisions of the Industrial Disputes Act, 1947, in regard to such matters in respect of which he is so governed.”

Now the definition of a “workman” under the Industrial Disputes Act, 1947, is clerical staff, technical staff, supervisory staff drawing up to Rs. 1000. They are covered by the Industrial Disputes Act. Therefore, this Act will cover only some officers and very small section of the employees. This needs reconsideration and therefore we are asking for its reference to a Select Committee.

Another thing which is very important and which my friends have also stated is that under clause 6 the Tribunals can be manned by Secretaries or Additional Secretaries. This position was considered and I think the hon. Minister must be knowing that the Congress Party had appointed a Committee under the Chairmanship of Sardar Swaran Singh—which is called the Swaran Singh Committee—to suggest amendments to the Constitution. Arising out of the Report of that Committee and further consultations, the 44th Amendment to the Constitution was made and brought into force in 1976. When the 44th Amendment came for consideration before this House, an amendment was moved by one of the Members, Shrimati Sumitra Kulkarni. It is reported on page 126 of Rajya Sabha Debates, dated 10th November, 1976. She moved this amendment.

“Parliament may, by law, provide for the adjudication or trial by administrative tribunals consisting of persons eligible to be appointed as Judges of the High Court....”

While moving the amendment she has given the same reasons, that these

tribunals should not be in the hands of bureaucracy but in the hands of somebody outside and above the bureaucracy. In reply to this, the then hon. Minister for Law, Shri H. R. Gokhale—at page 135—stated:

“But the general suggestion which is made is that particularly dealing with Government employees and certain other important matters, these tribunals should also be made up of people who had some judicial experience.”

After that he said that it did not arise at that stage but when they shall bring before Parliament a Bill they would consider whether the administration should be in the tribunal or not. This assurance was given by him when the 44th Amendment to the Constitution was passed. Therefore, when Members of Parliament apprehend that Secretaries and bureaucracy would try to enter into the tribunals and see that the scheme is sabotaged, my suggestion to the Minister is that they should completely delete all these provisions which have been made here about inclusion of Secretaries therein.

Sir, I have two small points. Firstly, Industrial tribunals and Labour courts are free of cost. But here you have prescribed fees. Under clause 35 powers have been given that the Central Government can frame rules prescribing fees. I am totally against charging of fees in such matters. No fees are charged by labour courts and industrial courts and there are no provisions for costs to be awarded in this Bill. Sir, the corollary to this Bill is that the Government must take steps to establish Supreme Court Benches at different places in the country. A large number of demands are pending right from Calcutta to Tripura, Nagpur, Hyderabad and Bangalore. If you have got administrative tribunals, for poor people Supreme Court Benches must be established at every seat of High Court and other places where a man can go and have justice

cheaper. With the existing structure of the Supreme Court today, this Administrative Tribunals Bill will not be sufficient. You must take further steps of establishing centralised higher judiciary and have Benches at different places so that justice is given cheaper and poor people can get justice at their own places.

**SHRI AMARPROSAD CHAKRABORTY** (West Bengal): Mr. Vice-Chairman, Sir, I am not giving the background or other things but straightway I go to the point and I pointedly draw the attention of the hon. Minister to this point for his consideration.

Sir, the tribunal will be composed of three members one being Chairman appointed as the Presiding Officer who shall be the principal Bench and the other Benches shall be known as the additional Benches. Sub-clause 5(2) says, "Subject to the other provisions of this Act, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of at least two other Members." So he is contemplating minimum three Members in the Tribunal. Under article 323A(d) we are taking away power of the High Courts. Only provision has been made under article 136 to go in appeal to the Supreme Court. I want to know whether the Minister can consider having a two-tier Tribunal. One-man Bench may be created for hearing first application and an appeal Bench consisting of two Members presided over by the Chairman or Vice-Chairman and a Member. I would like to know whether this consideration would be taken note of by the hon. Minister because this will save many things. Normally, class III or class IV Government staff cannot go straight to the Supreme Court under article 323A(d). They have to go under article 136. From my little experience I can tell you that it is impossible for such a poorly paid employee to go straight to High Court or Supreme Court. If the hon. Minister

wants to give some relief to the employees, what is the harm in constituting two-tier Tribunals? Instead of constituting one Bench of three, let him constitute one Bench of one and let him constitute another Bench of two as an appellate Bench. Nobody can go to the Supreme Court. That some can go afterwards. But he will get relief here, whether it is in Calcutta or in Bombay or in Delhi. At least a two-tier system in Tribunal can be created. This is my first suggestion to the hon. Minister. If this is done, the object of the Bill will be fulfilled and satisfied.

My second point is about the qualifications for appointment. Though, by and large, this Bill aims at the object of giving benefit to the employees, I object to the composition and constitution of the Tribunal. I leave it for the consideration of the hon. Minister. This has been provided in such an ingenious way. You will find one thing. Only High Court or Supreme Court Judges will be there. Sir, a Supreme Court Judge retires at the age of 65 years and a High Court Judge at the age of 62 years. So some berth has been created for those Judges who will be coming near to the retirement age. Generally they will not dare to go against the Government. Their judgments will be vitiated. They will think that if they went against the Government, they will not get berth as Chairman or something like that. And the most objectionable thing is that Chairmanship or Vice-Chairmanship could go to the Executive. With all humility to the Minister I can say with my experience in the judicial line for more than 33 years that the temperament of a judicial person and the temperament of an executive person are just the reverse. An executive person will only be interested to see that the matter is ended by a stroke of pen. But a judicial officer will never do like that. He will give a thought. He will give an opportunity. He will consider the

[Shri Amarprasad Chakraborty]

thing. So this combination of Judiciary with the Executive of the Government will vitiate the entire purpose of the Tribunal. My second point here is that scope has not been given to those persons who are holding the post and having experience in the judicial line for more than 10 years. Why should they be excluded? Why should we be waiting for a 65 year old Supreme Court Judge to come? He will not come. You see the Financial Memorandum. The pay has been selected as Rs. 1,000, and that of the Vice-Chairman as Rs. 3,000. Sir, how will a High Court Judge give up his service in the High Court and come and join the Tribunal because he gets more in the Court? Even if this Bill is passed, the real purpose will not be served. This is my second suggestion to the hon. Minister for his consideration.

Thirdly, a peculiar provision has been made that if a complaint is lodged, he has to pay Rs. 100. Then the matter may be summarily dismissed. Against summary dismissal the only authority from where he can get relief is the Supreme Court. My suggestion to the hon. Minister is this. Why should he not create an appeal bench here? Instead of constituting three persons, let one person be the first Tribunal, the first tier, and let the two persons be called a division bench as in the Supreme Court or the High Court, so that the poor employee can go in appeal to the bench and can have his fate decided there. Provision has been made for summary dismissal. There is not even recording of the reasons, not even giving an opportunity. It would be summarily dismissed. Sir, from my experience, that person will have no other scope in his life. How will this provision come to the help of the employees? I do not know.

Fourthly, the hon. Minister has tried to convince us that he wanted expeditious trial. Undoubtedly, for expeditiously trial, we are also very

much willing. My experience of these Tribunals is this. You know, the Tribunals are not courts. They have trappings of courts. They pursue some procedure. It takes more time. The hon. Minister may have some experience of the industrial tribunals. It takes more time. Expeditious trial would not be made here. Why? It is your statement. Somebody says that more than 1 lakh cases are pending. According to the Minister, 62,000 service matters are pending. Service matters and constitutional matters are pending. What justice do they get? All the courts they try. Court is not a machine. In America during the war time, we used to hear, what they said, "You manufacture a machine. You put all the documents on one side, and the judgement will be coming on the other side." This will be just like that. Summary dismissal and summary trial will be just like that. There will not be expeditious trial because those 1 lakh cases will be transferred to these Tribunals to be set up under clause 29 of the Bill. So, these 1 lakh cases will be coming before the Tribunals, and these Tribunals cannot function expeditiously.

Sir, with these observations, I would support my friends Mr. Ghosh and Mr. Dhabe. Let him have cool thinking over the matter. It should be done. The Administrative Tribunals may be there. We are not opposing that spirit of the Bill. But some little time should be given, some thought should be given. There are many clauses. I have no time. At least this should be sent to some committee suggested by many Members. It should be foolproof. Even it can be sent to the Joint Consultative Machinery which is the highest machinery for staff council. My friends here have the experience. I too have a little experience of it. Let it be considered at least. We do not oppose it. The constitutional provision is there. Let it be passed as soon as possible, Sir. But the hon. Minister will kindly give a just thought. It is better to

have better consideration. Let it be sent to some committee.

**THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI):** Reply by the hon. Minister for Home Affairs.

**SHRI P. VENKATASUBBAIAH:** Sir, I am highly thankful to the hon. Members who have participated in this discussion.

When Shri Ramakrishnan moved that this matter be referred to the Joint Select Committee, perhaps he little realised that his suggestion would be enthusiastically taken up by the Members of the Opposition.

Sir, one hon. Member has 6 P.M. come out openly that we are bringing this Bill to achieve some political objectives. He also suggested that this matter should be referred to a Select Committee. Sir, I will put in a reverse way to those people, perhaps they did not like the Government to get the credit by winning the sympathies of the large number of employees in this country, which was their long cherished demand for appointment of such a Tribunal. When the Government has come forward with such a Bill my friends on the opposite side suggested that this Bill should be referred to a Select Committee. I do not want to attribute any motives against those persons.

[Mr. Deputy Chairman in the Chair.]

Sir, Mr. Dipen Ghosh has said that this Bill has been very long delayed and delayed. I will give for the information of the House, the reasons as to why this has been deferred. There has been consultations going on, with the staff side. As a matter of fact, under Article 323(a), these Tribunals were constituted. Sir, one point which the hon. Member had raised was that the staff side was not consulted or taken into confidence in this matter. Sir, I will come to that point, because let there be no ambiguity or let there be no doubt left in this matter. In the preliminary stages of consideration of the matter, the staff side were duly consulted.

Sir, while generally welcoming the setting up of the Tribunals for service matters, the hon. Members have expressed a view that a representation from the staff side should also be included in the Tribunal. As Tribunals are to replace High Courts and are not in the nature of arbitrary powers, therefore, it would not be possible for the Government to accept this suggestion. Further they also expressed a view that certain matters like premature retirement, etc., should be specifically brought under the purview of the Tribunal. This aspect has been duly taken care of in the definition of service matters in clause 3(q).

Sir, another matter about going abroad to study the working of the Tribunals in foreign countries has been suggested by Mr. Dipen Ghosh. I know that Mr. Dipen Ghosh had 28 years of experience in the Government service; and I am glad that he has come to the Parliament and he will be able to represent several problems of the Government employees. I welcome his suggestion. But, Sir, at the same time, may I ask Mr. Dipen Ghosh whether we have to copy anything from other countries. What is the experience we gained? We go on studying...

**SHRI DIPEN GHOSH:** It was your suggestion.

**SHRI P. VENKATASUBBAIAH:** May be our suggestion. But, Sir, the democratic structure and the functioning of the Government employees are quite different from other countries. Please tell me whether there is any similarity of such Administrative Tribunals existing anywhere in other countries.

**SHRI DIPEN GHOSH:** It was the suggestion of the official side.

**SHRI P. VENKATASUBBAIAH:** Sir, it may be the suggestion of an official side. But when they have gone into this matter, perhaps, they thought that this suggestion has been made without realising the actual state of affairs.

[Shri P. Venkatasubbaiah]

Sir, then upto 1976, my friend has said that nothing had materialised. But in 1977 another Government came into power and they have deferred this matter. That is why the reasons for delay is not on our part. I may tell the hon. Members, Mr. Dipen Ghosh in his hearts of hearts is very happy that this Bill has been brought.

SHRI DIPEN GHOSH: I have said it.

SHRI P. VENKATASUBBAIAH: He said it because the employees problems are at his heart. Though for some time he tried to take the posture of a politician, the instinct of a Government employees is still there in him.

SHRI DIPEN GHOSH: Yes, I still have it. It is no laughing matter. Your Leader of the House was also a Central Government employee for three years.

SHRI P. VENKATASUBBAIAH: So, I value his suggestions as far as they go to the welfare of the employees, nothing less, nothing more. As a matter of fact, the Staff side has not made any substantial suggestions except these two matters. So we feel and we conclude that the Staff side are also willing to have this sort of a Bill being placed before the House and being passed.

Then, Sir, another matter which has been perhaps universally voiced, which has been voiced by a large number of Members, is about the provision of Secretaries to the Government being made Chairmen or Vice-Chairmen of the Tribunals...

SHRI S. W. DHABE: Or Members.

SHRI P. VENKATASUBBAIAH: ... or Members. Sir, I do not know why hon. Members have developed a sort of allergy to the Secretaries. A person will become Secretary after nearly 30 years of service. (Interruptions) Please hear me. In many in-

stances where service matters were referred to the courts, the judges exclaimed: "This is an administrative matter. We will not be able to apply our mind to very complicated administrative matters." There are several such instances where the judges have expressed this idea. That is why—we have not excluded the judges entirely—we thought that along with the judges, persons who have got 30 to 32 years of administrative experience, who have come up from all levels of administration to the post of Secretary, Additional Secretary or Joint Secretary, will be able to appreciate more the problems of the Government employees than any other person. Sir, at one time...

SHRI DIPEN GHOSH: How do you put them on par? You say a Supreme Court judge or a Secretary. How can you put them on par?

SHRI P. VENKATASUBBAIAH: I am not putting them on par. The Secretary in the administrative set-up is as good as the judge in the Supreme Court. That is a different hierarchy and this is a different hierarchy. I am not equating them. But I can tell you... (Interruptions)

MR. DEPUTY CHAIRMAN: Mr. Chakraborty, you have already spoken. Every time you cannot get up. You have given your suggestions. Now hear him.

SHRI AMARPROSAD CHAKRABORTY: We are not opposing the Bill.

MR. DEPUTY CHAIRMAN: You have expressed your views. Now hear him.

SHRI P. VENKATASUBBAIAH: They are neither opposing it nor approving it. That is the whole difficulty. So we have not equated judges with Secretaries or Secretaries with judges. We only said that by having Secretaries, we have an inherent advantage when dealing with the problems of a Government employee. However eminent a judge may be,

however, judicious-minded a judge may be, so far as service matters are concerned, hon. Members will agree with me perhaps that a Secretary or an Additional Secretary will be more conversant with the rules and regulations than a judge. So, that answers the point.

Sir, another point that has been made by Mr. Dipen Ghosh is why petitioners before the Tribunals cannot take the assistance of Government servants. Sir, he knows it. There is a real practical difficulty. A retired Government employee, if he has got a case, if he has to take advice from a Government employee, to that extent, the Government employee, though he is ready to give advice to this man, his functioning in the Government will get affected. Why should we introduce such bad precedent? A situation may arise when a large number of Government servants may be engaged in giving legal advice to those people. That is why we said this is not a healthy precedent or this is not a healthy manner of doing this. That is why we have precluded it. He can privately take their advice. There is no difficulty at all.

Regarding recruitment I would only invite the attention of the honourable Members to Clauses 4 and 15 which define the jurisdiction, powers and authority of State Administrative Tribunals. So there should not be any doubt in this matter. Mr. Hanumanthappa asked about the Secretariat working under the Tribunals as to whether they will come under the purview of the Tribunals. Certainly rules will be made and the Department will take all possible steps to bring this type of people also under the purview of the Tribunals. Mr. Amarprosad Chakraborty said that by raising the upper age limit to 65 and 62 Government is trying in an oblique matter to distribute patronage and bring in retired and retiring Judges. That is what he meant if I understood him correctly. There is no basis in this argument. We want younger

judges to be appointed to the State Tribunals. They can come forward; they enjoy the same status and facilities as any other High Court Judge. There should be no bar and the Government is not going to solve the unemployment problem in this manner. We want good people, judges who have got objectivity, who can dispassionately go into the matter. Government employee toils hard, works hard, has to do several duties assigned to him. We do not want these Tribunals to be manned by people who do not have that sort of objectivity. That is why we said High Court Judges, Supreme Court Judges and officers of administrative experience. I don't think Mr. Chakraborty had in his mind any doubt about our bona fides when we prescribed this.

Then, Shri Suraj Prasad said that there must be an appeal to the High Court. Then, why these Tribunals? What is the purpose of constituting these Tribunals. It is only to provide for an expeditious solution that these are being constituted. The Tribunals are being constituted only for an expeditious disposal and redressal of the problems of the Government employees. As a matter of fact, Article 323 itself prohibits such appeal. That is why we have said,—

“exclusion of the jurisdiction of all courts, except that of the Supreme Court under Article 136 of the Constitution...”

Taking, an appeal to the High Court will only aggravate the problem, it will not solve it.

Then Shri Shanti Patel said that the Tribunal be vested with summary powers. I would like to clarify that this provision is only for a limited aspect; that of rejecting an application when the Tribunal is satisfied that the requirements of the Act have not been met. This conclusion cannot be reached by the Tribunal unless it is so satisfied after such enquiry as it may deem fit as mentioned in clause 19(3). Shri Dipen Ghosh mentioned another

[Shri P. Venkatasubbaiah]  
 matter about audit employees. Setting up of Administrative Tribunals does not affect in any way the service conditions laid down in article 148(5) of the Constitution. Article 323A itself provides that the provisions of that article shall have effect notwithstanding anything contained in any other provision of the Constitution. Article 148(5) is not attracted. More importantly, article 148(5) is itself subject to other provisions of the Constitution. This should satisfy him.

Somebody said that there has been a contradiction between clause 11(f) and clause 23. Clause 11(f) says that the Chairman, Vice-Chairman or other Member shall not appear, act or plead before Tribunal of which he was the Chairman, Vice-Chairman or other Member. It is only a prohibitory clause. It does not confer any right under clause 23. The Chairman, Vice-Chairman, or Member can help a Government servant only if he is a legal practitioner. But under clause 11 (f) he will be prohibited from doing so in a Bench where he was sitting.

Then recruitment matters. This is included in service matters under clause 3(q). I do not know whether I have answered. Mr. Mohanarangam's point.

SHRI R. MOHANARANGAM: No. I have raised two points. One is about appointment of Judges as Chairman, Vice-Chairman or Member of the Tribunal. I said that you have prescribed the maximum age of 60 for a High Court Judge and 65 years for the Supreme Court Judge. But when you prescribe the minimum age of 65 for the Chairman and the Vice-Chairman and 62 for the Member, do you expect any High Court Judge or Supreme Court Judge to leave that post and come to the Tribunal as Chairman, Vice-Chairman or Member?

Secondly, it is said that the Chairman or the Vice-Chairman of the State Tribunal shall be appointed by the President after consultation with the Governor of the concerned State. We all know what will happen after consultation with the Governor now a days. Instead of consulting the Governor, the Chief Minister should be consulted before appointing the Chairman or Vice-Chairman.

SHRI P. VENKATASUBBAIAH: Mr. Mohanarangam is an able Parliamentarian. He must know that the Governor is advised by his Council of Ministers.

SHRI R. MOHANARANGAM: When you go through the records you will see that, while I was speaking, I said that according to the Indian Constitution the Governor has to consult his Council of Ministers. But no Governor does it now a days. You know how the Vice-Chancellor of a University was appointed by the Governor without consulting his Chief Minister. Therefore, I do not agree with you. Why not include Chief Minister instead of the Governor?

SHRI P. VENKATASUBBAIAH: I do not know why my friend is so much depressed these days. I do not understand his fear. At the Central level the President has the powers. At the State level the Governor has been given the power. There is no Constitutional impropriety. Mr. Mohanarangam need not be afraid.

SHRI R. MOHANARANGAM: I am not afraid of anybody. I am afraid of you.

SHRI P. VENKATASUBBAIAH: What I said is the Constitutional position. We have only kept it up.

About fees and review cases. I can only say that we will look into it. Whatever is possible we will try to do. I think I have met all the points.

SHRI DIPEN GHOSH: What about Mr. Sukul's point?

SHRI P. VENKATASUBBAIAH: Second appeal or first appeal lies with the Tribunal itself. If the Chairman wants, he can have a two-tier thing. He cannot be precluded.

SHRI AMARPROSAD CHAKRABORTY: Unless there is a provision, he cannot do that.

SHRI P. VENKATASUBBAIAH: I think I will be able to satisfy Mr. Sukul also.

So, Sir, I think I have been able to answer all the questions. Thank you, Sir.

MR. DEPUTY CHAIRMAN: I shall now put the amendment of Shri R. Ramakrishnan to vote.

The question is:

"That the Bill to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by Government and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri Sankar Prasad Mitra
2. Shri Kalyan Roy
3. Shri Dipen Ghosh
4. Dr. (Shrimati) Sarojini Mahishi
5. Shri Hukmdeo Narayan Yadav
6. Shri Jaswant Singh
7. Shri Ghulam Rasool Matto
8. Shri P. N. Sukul
9. Shri V. Gopalsamy
10. Shri R. Mohanarangam
11. Shri R. Ramakrishnan

with instructions to report by the first week of the Hundred and Thirty-third Session of the Rajya Sabha."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: Since the Motion of Mr. S. W. Dhabe is the same as that of Mr. Ramakrishnan, that is, for reference of the Bill to a Select Committee of the Rajya Sabha, it automatically stands negatived.

MR. DEPUTY CHAIRMAN: I shall now put the motion of Mr. P. Venkatasubbaiah to vote.

The question is:

"That the Bill to provide for the adjudication on trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY CHAIRMAN: We shall now take up the clause-by-clause consideration of the Bill.

*Clause 2 Act not to apply to certain persons*

SHRI S. W. DHABE: Sir, I beg to move:

1. "That at page 2, line 10 to 12 be deleted."

*The question was proposed.*

Sir, the Bill provides that a person governed by the Industrial Disputes Act will be excluded from the purview of this Bill. There are workmen in many departments of the Go-

[Shri S. W. Dhabe]  
 vernment like the Railways, P. & T, Ordnance Factories etc. who are governed or at least 80 per cent of whom are governed by the Industrial Disputes Act. Now, Class III and Class IV and other technical staff may not get the benefit of this legislation if this provision is retained as it is. Therefore, I appeal to the Minister to agree to cover all the employees and not to exclude the employees governed by the Industrial Disputes Act.

MR. DEPUTY CHAIRMAN: The question is:

1. "That at page 2, lines 10 to 12, be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

Clause 2 was added to the Bill.

Clause 3—Definitions

Shri S. W. Dhabe: Sir I beg to move.

2. "That at page 3, after line 16, the following be inserted, namely:—

(ivA) termination, discharge, removal or dismissal;"

*The question was proposed.*

Sir, I only want that termination, discharge, removal or dismissal should be governed by the Administrative Tribunal and it should be clearly mentioned.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 3, after line 16, the following be inserted, namely:—

(ivA) termination, discharge, removal or dismissal;"

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall now put the clause to vote.

The question is:

"That Clause 3 stand part of the Bill."

*The motion was adopted.*

Clause 3 was added to the Bill.

Clauses 4 and 5 were added to the Bill

Clause 6—Qualification for appointment as Chairman, Vice-Chairman or other Member

SHRI S. W. DHABE: Sir, I beg to move:

3. "That at page 5, lines 18 to 21, be deleted."

SHRI S. W. DHABE: Sir, I beg to move:

4. "That at page 5, lines 26 to 29, be deleted."

SHRI S. W. DHABE: Sir, I beg to move:

5. "That at page 5, lines 35 to 43, be deleted."

SHRI S. W. DHABE: Sir, I beg to move:

6. "That at page 6, lines 9 to 14, be deleted."

*The questions were proposed.*

Sir, all these amendments are similar. I only want that the Secretary of any Department of the Government should not be allowed to become the Member of a Tribunal.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 5, lines 18 to 21, be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page, 5 lines 26 to 29, be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 5, lines 35 to 43, be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 6, lines 9 to 14, be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall now put Clause 6 to vote.

The question is:

"That Clause 6 stand part of the Bill."

*The motion was adopted.*

Clause 6 was added to the Bill.

Clauses 7 to 37 were added to the Bill.

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

SHRI P. VENKATASUBBAIAH: Sir, I beg to move:

"That the Bill be passed."

*The question was put and the motion was adopted.*

## I. THE FAMILY COURTS BILL 1984

### II. THE DOWRY PROHIBITION (AMENDMENT) BILL, 1984

MR. DEPUTY CHAIRMAN: We are now taking up two other Bills, the Family Courts Bill and the Dowry Prohibition (Amendment) Bill. (*Interruptions*)

SHRI R. RAMAKRISHNAN (Tamil Nadu): Are you taking up the two Bills together, or one by one? They are two different Bills.

SHRI DIPEN GHOSH: They are not similar in nature.

SHRI R. RAMAKRISHNAN: They are two different Bills (*Interruptions*) We will adhere to the time-limit. (*Interruptions*)

MR. DEPUTY CHAIRMAN: This matter was raised in the BAC and it was agreed in the BAC that the two Bills will be taken up together. (*Interruptions*)

SHRI K. MOHANAN (Kerala): It is a very serious thing. (*Interruptions*)

MR. DEPUTY CHAIRMAN: No, please. (*Interruptions*)

SHRI NIRMAL CHATTERJEE (West Bengal): When we discussed. .... (*Interruptions*)

MR. DEPUTY CHAIRMAN: This is no good. Every time should not stand up... (*Interruptions*)

THE LEADER OF THE HOUSE (SHRI PRANAB KUMAR MUKHERJEE): We have already decided in the Business Advisory Committee.

SOME HON. MEMBERS: No, no. (*Interruptions*)

SHRI NIRMAL CHATTERJEE: When we discussed in the Business Advisory Committee, there was only one lady Member. You will recollect she mentioned it that the purposes of the two Bills are different and they should be taken up separately. Now some of us supported her. But it seems somehow it got entangled into the decision that it should be discussed together. Why I submit this is that subsequent to that again I consulted lady Members not only of our party but also of the Congress Party and they also felt that these Bills should be discussed separately. (*Interruptions*).

MR. DEPUTY CHAIRMAN: Members can speak on both the Bills. The time available will be the same so far as speaking is concerned. There is no problem.

SHRIMATI RODA MISTRY (Andhra Pradesh): It is not fair to the woman of this country. After all you bring a Bill after so long. And it is not fair to... (*Interruptions*)

SHRI PRANAB KUMAR MUKHERJEE: If the Members want to use their time, there will be no problem. But it will not be correct to reveal the discussions in the Business Advisory Committee. And it was wrong on the part of Mr. Chatterjee. The pro-