Member, Shri Satish Chandra Misra, has raised a serious issue. I have got a notice for Calling Attention just half an hour ago. You have, in your wisdom, allowed this to be raised as a Zero Hour matter. It is a very serious matter. I think that some information has been obtained through the RTI. I will apprise the Government about the matter being raised. I think that the Government will come back with full information and exact details of what is happening very shortly.

श्री सतीश चन्द्र मिश्र: मान्यवर कब तक देंगे, बतला दें? आप दो दिन में लाएंगे, तीन दिन में लाएंगे, यह सदन को बतला दें।

MR. DEPUTY CHAIRMAN: They want to know if it will be within a week. *...(Interruptions)...*

SHRI PRITHVIRAJ CHAVAN: The Government will come back very soon. *...(Interruptions)...*

MR. DEPUTY CHAIRMAN: He is saying that the Government will come back very soon. We have to believe the Minister. *...(Interruptions)...*

SHRI PRITHVIRAJ CHAVAN: The matter concerns a State Government. We will have to get the information from the State Government. I know it is a very serious matter. I will come back on it. I assure the House that there is no question of any diversion of money which is meant for the SC and ST. We have to get correct information. I will come back to the House on this issue as soon as possible.

MR. DEPUTY CHAIRMAN: He may come back even before one week.

श्री सतीश चन्द्र मिश्र: आप यह सदन को बतला दें।

SHRI M. VENKAIAH NAIDU: Sir, 'as soon as' can be before monsoon or it can be after the monsoon. I agree with the Minister because he has to get in touch with the Delhi Government. It takes time. At least he can give the commitment that it will be done in the coming week.

SHRI PRITHVIRAJ CHAVAN: I accept the suggestion given by the hon. Member, Shri Venkaiah Naiduji.

MR. DEPUTY CHAIRMAN: Now we shall take up The Industrial Disputes (Amendment) Bill, 2009.

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GOVERNMENT BILLS

The Industrial Disputes (Amendent) Bill, 2009

THE MINISTER OF LABOUR AND EMPLOYMENT (SHRI MALLIKARJUN KHARGE): Sir, I beg to move:

That the Bill further to amend the Industrial Disputes Act, 1947, be taken into consideration.

The question was put and the motion was adopted .

SHRI BALAVANT *ALIAS* BAL APTE (Maharashtra): Sir, we have before us the Industrial Disputes (Amendment) Bill, 2009 for discussion. I would say that we are visiting this branch of law after a very long time. The Industrial Disputes Act was enacted in 1947. Several developments have taken place in the country after liberalization. There were moves to dilute the protection to the workmen and to give every right to the employer. But, fortunately, those moves fell through and the law continues to give protection to the workmen. During this very period we have seen that there is a great fall in the spirit of trade unionism in many parts of the country. It developed into some kind of extortionism, some kind of *gundagardi* and exploitation of the workmen by the trade unions.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair

The situation in the field has, therefore, developed in various ways. Today, I am happy that the law is being visited again for the purposes of the protection of the workmen.

The Bill was introduced. As usual, it was sent to the Standing Committee. The Standing Committee, after its deliberations, gave its report. Here, I have a question in my mind on the efficacy of the role of the Standing Committees. Normally, we find that the Standing Committees are doing work which really goes to the root of the matter, which finds the merits and demerits in a Bill and then, makes suggestions. Sir, we find that under the rules, the views of these Standing Committees have only a persuasive value. But, now the word 'persuasive' is not understood in the way in which it ought to be understood and we find from Bill to Bill, it is not treated with a persuasive value. The Standing Committee report is treated as a mere formality and the Government does not care to look into concrete suggestions made by the Standing Committee.

Sir, this Standing Committee took the views of the employers, employees and the society, the three parties which are relevant in our country, and they came to a consensus on several issues which I am going to list. Very reasonable and correct suggestions are made by the Standing Committee in the various provisions of this Bill. No prejudice would have been caused to the Government or its prestige if these suggestions were gracefully accepted and incorporated in the Bill. But, the Standing Committee report is before the House; the Bill, as it is, is before the House without the Government bothering to make the Bill better, to make the Bill perfect and to make the Bill more acceptable.

Sir, I regret that the role of the Standing Committee and its report is being defeated by an insensitive Government. It should not be so. This is an affront in a way to the House because the Committee reports on the basis of consensus of the stakeholders. All the central trade unions were represented. All of them expressed their views and there was a broad consensus. The entire implementation machinery of the Government was represented. They gave their views. There was a consensus. That consensus is reflected in the Standing Committee report and the Government ignores it. Then, why waste the time of Members in the Standing Committee? Sir,

that is my question which this House will have to address itself to in so far as the role of the Standing Committees is concerned because they are the creation of this House. Their prestige, their consideration, their views, etc. reflect the views of this House. So, what respect they deserve is something which this House will have to decide at some stage.

Sir, I will refer to the various recommendations made by the Standing Committee which I am endorsing here as a Member of this House. Sir, the Bill is not a comprehensive Bill. Certain suggestions, where there was a consensus in the earlier labour conferences, are incorporated in this Bill and that is how five or six amendments in the various Sections are proposed.

In so far as the definition of 'appropriate Government' is concerned, from time to time, the definition has been amended to bring in various State-controlled corporations with in the purview. Now, there is a comprehensive amendment in which every such State-controlled corporation will automatically be part of the 'appropriate Government.' It is very good. The definition ought to have been recast and with this small part, which is now being added, it becomes the only part of the definition. The earlier part of the definition would become irrelevant. But that application of mind, obviously, is not there.

There was a consensus on the protection of the employees of the contractors. Sir, contract labour is an entirely different aspect for discussion. But, the relationship of the employer and the employee exists between the contractor and his employees and there is a need to protect them. What was suggested on this? If such a dispute is there, then for that dispute also there should be an appropriate Government to refer it to either conciliation or decision. A suggestion, therefore, was made that in so far as contract labour is concerned let that also be included within the purview of this or that 'appropriate Government.' It is a very reasonable suggestion and it is not countenanced. It does not find place in the present Bill.

Now, the question is that of a workman doing supervisory work. Earlier, if his emoluments were Rs. 1,600 then he would not remain a workman; he would go to the higher category. It was sixty years ago. Now, the Bill proposes that the supervisory workman will not be a workman if his salary is more than Rs. 10,000. The reality today is, everybody gets a salary of more than Rs. 10,000. Therefore, the Central Trade Unions suggested for increasing that limit to Rs. 25,000. In Mumbai, a safai karmachari gets Rs. 20,000 and he is not a supervisor. So, this Rs. 10,000 limit — if Rs. 1,600 is un-functionable today — is equally ridiculous. The suggestion was very reasonable that a workman doing supervisory work and earning more than Rs. 25,000 then, maybe, you remove that protection. That suggestion is not accepted. The Bill continues to talk about Rs. 10,000.

The third point is, there is one very salutary amendment being brought here. It was a long overdue. It was a great lacuna in the law. It is that an individual workman cannot go directly to

the Tribunal for redressal for his grievance, particularly in case of his termination of service. He had to go through the rigmarole of conciliation and reference and all the uncertainty of such conciliation and reference bogged down a workman who is already out of employment. Now, there is a provision that he can directly go to the labour court or the industrial court.

There is a three months period. It was suggested that it need not be three months. What is going to happen in conciliation, what is the attitude of employer, etc., becomes clear in the first meeting itself.

So, the Standing Committee, on the basis of a consensus, suggested that bring down that period from three months to 45 days; let the workmen get early justice. Giving him an opportunity to go directly to the Tribunal is very welcome, very necessary and is 60 years late. But after doing that, why is this miserly attitude of prolonging his agony there? No harm to the Government or to the employer. But a reasonable suggestion is, again, rejected and ignored by the Government.

Now, we have a Grievance Redressal Machinery. This Act, before the present amendment, was amended in 1982; in that, this Grievance Redressal Machinery was provided for. For the last 20 years, this provision continued to be a dead letter because it was never sought to be implemented. Now, it appears, and we hope, that that provision is sought to be implemented, and while doing that, the Machinery will be active to solve individual grievances of the employees in establishments where the number of employees is more than twenty. Two salutary suggestions were there. One, there are establishments where individual workmen have grievances and which can be redressed by a machinery instead of going to any court. Even though their number in an establishment is small, even though it is ten, it is easier to solve the problem. So, instead of twenty, bring the number down to ten, a minimum of ten. No countenance. And, then, all of us know, in big industries there are Works Committee. Those industries are not excluded. So, in such a place, there will be a Works Committee and there will be a Grievance Redressal Committee; a duplication which is not necessary. One more authority; not necessary. A very simple suggestion that where there is a Works Committee, let it work as a Grievance Redressal Committee also, and for a grievance redressal in a smaller establishment, let there be a Grievance Redressal Machinery. But the Bill was to be introduced as it is and was going to be passed as it is, without application of mind, without keeping the interests of the people in mind, mechanically and insensitively.

Then there is a provision for enforcement of awards and orders of the Tribunal. A great lacuna. This lacuna continued for the last 60 years. Now, they are saying that Tribunals will be empowered to execute their own awards and the execution will be as if the award is a decree. Sir, execution of an award or any decree requires a machinery, a machinery which is effective and, if necessary, coersive; a machinery which has a power, a sanction. The Labour Courts do not have enough personnel to man the courts. So, we are diluting their qualification by this very legislation.

Now, they will enforce an award without a machinery. So, this provision, without providing for such a machinery, with sanction, authority and power, is meaningless. Calling it a decree of a civil court and giving it the status of a decree to be executed is meaningless if there is no machinery. Today, labour courts don't have such a machinery. If the 1992 amendment, without implementation, can continue on the Statute Book for 20 years, the present amendment, without the provision of a machinery, will be there and will continue on the Statute Book indefinitely without giving any relief to the workman who needs the implementation of the award. Sometimes, such awards are sent to the civil court under some laws. Here that is not the provision. They are not to be sent to the civil court. They are to be executed as civil decrees. But who will do it? Who will go there? Who will recover? Who will auction, if necessary? Who will take coercive measures? Things don't happen by orders on papers. "This award should be executed", the Labour Court writes. What happens? Nothing. Therefore, such a half-hearted provision, maybe, with something good at heart, is useless for the purpose of workmen.

Sir, various amendments which are brought here are in the interest of the employees. Several lacunae which were there for the last more than 60 years are sought to be corrected. Individual workman is given a right; grievance redressal is provided for; the supervisory status is raised from Rs. 1,600 to Rs. 10,000, which ought to be Rs. 25,000. But I believe that the intention initially may be good and I welcome that and, therefore, as it is, I am supporting this Bill. But I believe that the insensitivity of the Government has made it to bring this Bill at this stage. It could have been far better had it been brought after considering all these aspects. Even now the Minister has an opportunity to correct them. He can bring official amendments, correct these lacunae and make the Bill better for the purpose of industrial relations. I urge the Minister to look into it seriously and sincerely and do something. Thank you very much.

SHRI G. SANJEEVA REDDY (Andhra Pradesh): Mr. Vice-Chairman, Sir, I am thankful to you for giving this opportunity to make my submission on the amendments to the Industrial Disputes Act. First of all, I want to support this Bill as well as the amendments, but with some explanations and suggestions to the Governments to improve the Bill. These amendments were discussed in the Indian Labour Conference long ago and we all, in those years, agreed to some amendments. It may be 15 or 20 years ago that it was discussed. After globalisation of the economy our country has undergone a big change economically. Our economic policies have also changed in a big way. A lot of industrial development has taken place in this country and the number of working people in the industrial sectors—small scale, medium scale and informal sectors- -has also increased.

This amendment, at this moment, will fill the gap which was created long back. But today, how far it is effective, is the important question. Whatever Bill or whatever amendment is brought here, it should ensure industrial peace, industrial development and progress of the working class

in the country. The Bill, in no way, is going to solve the present problems of the workers. My first point is about the definition of 'appropriate Government'. All the ports wherever the Government has held 51 per cent of the paid up share capital, they will come under the Government of India. But there are a number of private ports developed recently. The ports which are developed by the private people, who is going to be the appropriate Government for them? The Bill says that for industrial disputes in private ports the appropriate Government is the State Government. If you read the Bill carefully, for the first time, we are handing over the industrial disputes in the port industry to the private sector. How far is it congenial and in the interest of the country? I want the Minister to consider this point. Whatever is done, it should be in the interest of the workers, in the interest of the industry and it should be uniform. The port industry should have uniformity. The port industry cannot be divided into public sector, private sector and corporate sector. Now some ports will go to the State Government and some will go to the Central Government. We are dividing the port industry and the port workers and there will be no uniformity. In this way, you are dividing everything in the port industry, whether it is wage or salary or service conditions. This is going to create more problems for the port industry and port workers. I welcome other amendments. I would request the Minister to consider this point that the ports which are manned and managed by private companies, for them also the appropriate Government should be the Central Government.

My second point is about so called supervisors. If a person is earning Rs. 10,000 or more, he will be considered a non-workman. That means the employer can remove or dismiss him any time and any action can be taken against him. If he is not considered a workman, then he will not be covered under the Industrial Disputes Act. As my friend just now said, in the organized sector, the minimum wage comes to more than Rs. 20,000. Now you are enhancing the wage ceiling of a workman from Rs, 1,600 to Rs. 10,000. Enhancement has got logic because Rs. 1,600 is a very small amount. Even a helper in the industrial sector is getting more than Rs. 1,600. Therefore, the Government wants to enhance it from Rs. 1,600 to Rs. 10,000. Now if a workman gets more than Rs. 10,000, then he will be equal to a supervisor and he will not be covered by the Industrial Disputes Act. What is the difference between a workman and a supervisor? The only difference is, the workman can use the machinery created under the Industrial Disputes Act; whereas, the supervisor does not have any machinery. He is at the mercy of the management. He can be removed or dismissed anytime. Then he does not have any right to go to the Labour Court, the Conciliation Officer, etc. He will just take the money and go home. There is no protection for him. Today you are withdrawing protection from a workman who is doing the job of a supervisor. If he earns Rs. 10,000 or more, he is no more a workman. You are denying him the machinery under the Industrial Disputes Act.

Today, the Government wants to improve the living standards of the workmen, and they are increasing their wages. When the workmen's minimum wage is fixed more than Rs. 10,000 will not be considered for getting the benefits under the Act. If he wants to fight against injustice done to him by the employer, you do not want him to use the machinery under the Industrial Disputes Act. Therefore, I would suggest that you should take out this figure of Rs.10,000. It should be 'any workman or any supervisor'. Supervisors are workmen; they are not officers. They should be considered as industrial workers. But today, with the technical development in the machinery, a supervisory job is the same as that of an operator's job. A skilled job and a supervisory job have a narrow difference. Therefore, I would suggest that protection in law should be given to him. Another point which I would suggest to the Government is that Rs. 10,000 is an outdated amount. We should either take out the money limit itself, or, even if you want to keep it, it should be increased to Rs. 25,000 or Rs. 30,000. So, a worker or a supervisor, who is getting more than Rs. 25,000 or Rs. 30,000 should only be considered as supervisor and be denied of getting protection under this law.

With regard to amendment under Section 2 A, this Amendment has already been done by some State Governments, ten or twenty years back. This Amendment was implemented by the Government of Andhra Pradesh in 1998. Today, after 20 years, the Central Government wants to bring in an amendment, which was brought in by the State Government some 20 years back. So, it is nothing new. We welcome it even though the Government of India has brought it very late. But one point more here. You said, "If a workman is dismissed from his service, he has to wait for conciliation for three months." It is only after that that he can go to the Labour Court for seeking adjudication. First of all, why should he wait for three months for conciliation proceedings? He should have the right to either go in for conciliation or go directly to the Labour Court and file a petition there. Also, he has the right to go to the Court only if it is done within a period of three years. After three years, he has no right to even go to the Court. My submission is that a workman going before the Labour Court is not a big problem. Now, what is our experience in this matter? As I said, this Amendment was brought in by the State Governments of Andhra Pradesh, Tamil Nadu and West Bengal. They did it some 20 years back, and we have got their experience. What has been the experience with regard to clause 2 A? A worker, who filed a petition before the Labour Court, has to wait for ten years for adjudication. He is not getting justice. In Courts, judges are not available. They are not appointed by State Governments. For years together, our Courts are running without judges. A suspended or a dismissed worker has to wait till the time a judge is appointed. And, it takes ten years for him to get any relief. And, they may further go in for an appeal either in the High Court or the Supreme Court. Finally, when everything is done, and he gets a verdict, twenty years would have gone by. Today, what does this country want?

Sir, today this country needs industrial peace, justice to workers, justice to industry, justice to investors and justice to consumers. I do not know if we are providing justice to any of them. The Minister is a very senior Congressman and I have great respect for him. I would like to tell him, first of all, you study this. Before bringing forward this amendment, you should have called us and discussed it with us. We would have seen whether in the circumstances this was required or not and we would have given proper advice to you. Sir, today, what is required is only one thing and, that is, quick disposal. If an employer takes action against a worker, and rightly, then, tell the worker, "Yes. You are involved in this misconduct and that is why the employer has dismissed you. Your dismissal is justified". The employer can get a decision; the worker will also get a decision and he can look for another job. But what has been happening here? It takes ten years, twenty years and before that no justice is available in this country. There is no remedy for that. There is no application of mind by the Government on this issue. Today, Sir, you should put this provision in the law that a labour court has to give its decision within six months. Please put that clause in the law so that justice can be done to the poor worker, so that the suffering worker can be given some relief. Then, Sir, two National Labour Commissions were set up by the Government of India and lakhs and crores of rupees were spent. But what has been the use of the Reports of those two Commissions? Till today, neither the Government nor any of its officers has read any of these Reports. They have not implemented anything. The former Chief Justice of India, Shri Gajendragadkar, was the Chairman of the first Commission and an ex-Labour Minister of the Government of India was the Chairman of the second Commission. Sir, both the Reports have not yet been taken up for consideration. For the last ten-twenty years, the Reports have been lying idle. Nobody has gone through those Reports, not only in the interests of the workers alone, but also in the interest of the country, in the interest of industrial development in the country. We are not advocating the interests of the workers only. The whole development of the country depends on that. They had recommended the abolition of the National Tribunal and the appointment of the Industrial Relations Commission, with a judge and representatives of trade unions, employers, etc. We had also recommended the implementation of that aspect. But, till today, nothing has happened. Sir, you put a time-limit saying that within six months a labour court has to give its decision on an issue, otherwise, the worker will get an interim relief in the form of fifty per cent of his salary and, after six months, full wages till he is reinstated or the judgment is delivered. Then only would we be doing justice to the workers, Sir. Otherwise, it is not justice at all.

Sir, another amendment is about the Grievance Redressal Machinery. Now, there is also a provision for a Works Committee in Section 3 of the Industrial Disputes Act. There is a difference between the two. A Works Committee can be constituted only if there are 100 workers. In case of a Grievance Redressal Machinery, you require only 20 workers. Basically, there should be no

difference between the two. But till this day, 99 per cent of the industrial managements have not appointed any Works Committee. If, at all, these are there, they are not functioning at all. But no action has been taken by the Government. There is no prosecution of any management. So, there is no functioning of the Works Committee. Since the Works Committees were not constituted by any management, there is no representation of workers. Then, how do you expect the grievance redressal machinery to become operative? How do we expect any management to adopt the Grievance Redressal procedures in their establishments? Sir, today, the main problem is only that of a quicker disposal of industrial disputes and timely implementation. These are two very important points for industrial peace in this country, whichever Government may be there. First of all, find out a way as to how to get quick redressal, immediate redressal of the demands of the workers, the grievances of the workers. Deliver that judgment within three months or six months.

Secondly, once the judgment comes, how to implement it? If you implement these two things properly in this country, I can assure the House and the Government that there would be no strikes in this country. But, on these two things, nobody is seriously applying his mind. You say that grievance redressal is not a big deal but you want to create some machinery for it, I do not have any grievance with you, Sir, I welcome it. You can have another try. The Works Committee saw a failure and this is going to be another one, it seems. Just to say that you have done something, in the name of satisfying the people it may be good. Let us see how it would be, I have no objection.

There is one good thing, I welcome it and support the Government on section 11, with regard to award and settlement. For the first time, my Government really applied its mind about implementation of the awards, settlement, arbitration or whatever it may be. The court and tribunal for labour have been given the strength and support; they too can act as civil court and pass a decree on the amount and settle the award. Sir, I would like to know from the Minister as to what he is going to do with section 33(c)(i) and (ii) of the Industrial Disputes Act for recovery of money. The Labour Commissioner or an officer has to determine the award and settlement. Secondly, there is a Labour Court. The whole benefit can be calculated and the amount declared; on that amount, they can give a decree. It is a dual function, again. Here, you are giving a civil court authority to the labour court. On the other side, you already have a provision, section 33(c) which is not implemented properly by the Government. Therefore, workers are suffering. We wanted, as the Labour Minister wanted that an award and settlement should be implemented; if it is not implemented, then affected should have a criminal course. A fine should be recovered. That would have been more effective; the court can be asked to determine the award like a fine; an amount should be taken as a fine and recovered. That could be more effective than the civil course. In the present situation, there is some improvement and, therefore, I welcome. But, one lacuna is going to be there. If an award is there determining the money, then the civil court may ask you to pay the stamp duty. If my award is in the workers'

fund, say Rs. 10 crores or 20 crores or 30 crores, on that if I have to give a stamp duty, then nobody can approach the civil court. If that court should become a civil court, to implement that, nobody would have the affordability to approach that court. So much of money has to be deposited as a stamp duty. Sir, for God's sake, I request the Minister to clarify on this. The award and the settlement, which is going to be implemented, should not require any stamp duty. That should be clarified. Otherwise, it would not be of use to the working class.

Sir, I have another point with regard to section 29. Whenever there is a breach of settlement, whether by the worker or the management, there is prosecution and there is an imprisonment of six months. But, up to now, in this country, nobody has been prosecuted whether the worker or the management people for non-implementation of the award or settlement. But, as it is, my submission is that I am not interested in sending the management or the workers to jail. Non-implementation of the award or agreement should be in a more effective way. In the light of the present global economic situation, India is growing as one of the global players. Our industrial development is advancing. Therefore, there is a requirement of new thinking, new approach and new system.

Therefore, my submission is, I am supporting this Bill, but this Bill must have some meaning to bring industrial peace in this country, industrial development in this country, a peace of mind to the investor and the consumer should get the products at a cheaper price. All these things can be taken into consideration while formulating the labour laws. Sir, it has not taken place. I once again request the hon. Minister to kindly take the labour issues a bit seriously; don't take it easily just because it concerns the workers, and, therefore, nobody would demand for that. We poor people here always requesting the hon. Minister to consider sympathetically and effectively so that whatever agreements or settlements have been there, a proper implementation of it can be there. Thank you very much, Sir.

SHRI TAPAN KUMAR SEN (West Bengal): Mr. Vice-Chairman, Sir, I rise to give my observations on the Bill which is before the House. Just now I have heard the presentation by my very senior colleague, Sanjeeva Reddyji, who is also a stalwart of the Indian trade union movement, the President of the INTUC. I fully endorse his views, not just as a Member of this House but also as a trade union activist. Sir, I endorse his views that the issue of labour is not being taken up with the seriousness it deserves, and the whole mindset behind that kind of an approach is, as if just a consideration is being extended to poor workers. Although the very fact remains that whatever GDP growth, etc., etc., we are boasting, and sometimes we are patting ourselves on our back for the management of this economy, the entire value is created by the labour and labour alone. Sometimes the labour themselves do not understand the importance of theirs, and that is why they allow them to be taken for granted for this kind of an approach.

Now, coming to the Bill, let me tell you that every item of this Bill had been a consensus in a Tripartite Indian Labour Conference, not today, seven years back. All the sides had agreed to every aspect, and incidentally, personally, myself and Sanjeeva Reddyji sitting over here were physically associated in building of that consensus. But, unfortunately, again, it was not a priority before the Government, so it took more than seven years to bring a consensus item in the form of a legislation. This is the most unfortunate part of it. Again, while putting that consensus in action, in the form of a law, certain basic practical aspects have been ignored, making thereby a greater part of the effort totally infructuous. It is so because the practical aspects have not been taken into account. I think, all these things have been amply elaborated by Sanjeeva Reddyji, and I do not like to go into the details of that.

Sir, I would like to draw the attention of the hon. Minister to certain aspects. Number one, in the case of appropriate Government, I thank the hon. Minister for accepting the recommendation of the Standing Committee because the contract workers are the worst sufferers. The most important legislation this country is having on contract workers is the Contract Labour (Regulation and Abolition) Act, 1970 which gives recognition to a triangular relationship between the principal employer, the contractor and the contract workers, and where the contract workers under the Central Government establishment is to face a dispute, in that case, the Central Government must be the appropriate Government; otherwise, they have to run from door to door, the poor contract worker in getting their point addressed. So, in that respect, the Standing Committee in its wisdom suggested certain concrete changes in the Bill, and I am thankful to the hon. Minister that he has accepted it by moving an official amendment. That is an important thing. It is because today in the entire workplace contract work has become the order of the day. It is done in violation of the Contract Labour Abolition Act; and in most of the cases, the respective Governments are promoting that kind of a violation.

That is the reality. So, at least, this may be a small weapon in the hands of the poor contract workers to get their things done. I thank for accepting that amendment. Secondly, on the aspect of wage ceiling, it is really ridiculous. Yes, you can make a claim, from Rs.1600 it may be Rs.10000. But you have done it after 25 years. As on today, Rs.10000 does not mean anything. Again you are talking about the Supervisors. I would like to tell you that in majority of the industries it has become an instrument in the hands of the employer. He gives you a name of Supervisor and he takes away all rights from you. That can be taken care of by appropriately taking care of the ceiling aspect. There should be no ceiling. Wherever there is employer-employee relationship, in a civilized democratic country, employee has got a basic democratic right in airing his grievances through established grievance settlement redressal machinery. That is the fundamental of any democratic system. Why should there be a ceiling? In that respect in the matter of industrial disputes, that is, in resolving the disputes between an employer and an

employee, whatever kind of employee he may be, he may be a workman, he may be a helper, he may be any other kind of worker, everybody is having his important contribution to the national GDP and other things, the rationality suggests that the employee who is always at the receiving end has got outreach to get his grievances addressed. In that event, I think the question of putting a ceiling in the matter of industrial disputes is absolutely superfluous, and this Bill deserves deletion of that clause. I urge upon the hon. Minister that all his good intentions will not get reflected in the reality if that thing is kept. By this you are denying the basic democratic right to an employee who is always at the receiving end. He may be an officer. You may give him any name and take away his rights. That is the serious lacuna here which neutralizes rather negates the good intentions behind the Bill. So, I sincerely urge upon the hon. Minister to consider this. The third point is about grievance redressal machinery. I fully agree with Shri Sanjeeva Reddy. The Works Committee was not implemented in 99 per cent cases. It is a statutory arrangement. Have you any record that you have taken care, you have prosecuted the employers for violating these basic items of the law of the land? If somebody violates the law of the land he must be behind bars. But, unfortunately, so far as labour is concerned, the violator of the law of the land shares breakfast or dinner table with who's-who in the Government. That is the reality. What changes are you going to bring about? You bring any number of laws but if the violation is promoted from the enforcement machinery itself that will be an unfortunate thing. So, that aspect has to be taken care of. Similarly, in the matter of grievances redressal machinery, I think the Standing Committee has made an observation. Upto 20, they have allowed. Why? Why should it not be up to 10? Even your Unorganised Workers Act however ineffective it may be, as I consider it, provides some machinery for the establishments employing below 10. So, from 10 to 20, there is an absolute vacuum. How do you propose to address this thing because for 10 to 20 there is no machinery? For below 10, something is there and above 20, we are addressing this. I think that lacuna needs to be properly addressed.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Tapanji, you are making a good speech but unfortunately time allotted to you is eight minute which is already over. You can take two-three more minutes. Conclude in two or three minutes. *...(Interruptions)...*

श्री रुद्रनारायण पाणि (उड़ीसा): सब, लेबर बिल के लिए टाइम देना चाहिए।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I am giving him more time. *...(Interruptions)...* Do not disturb. *...(Interruptions)...*

SHRI TAPAN KUMAR SEN: Then there is the issue of Tribunal. I think some good steps have been taken. I think, it requires repetition and reiteration, please, make a timeframe.

Otherwise, all these facilities mean nothing for the workers. Please make a fixed time-frame for completing adjudication . The award of the Tribunal must also be implemented in a fixed time-frame. Even if the employer wants to challenge it, they must have the right to appeal. But,

he should be allowed to go only after implementing the award. If he wins, the amount, etc., can be recovered. We are even ready to accept that kind of a thing. But, please get it implemented. When you are defining 'appropriate Government', you are bringing all Central Government establishments under this. First set your own redressal machinery in different States. Have more DLC and ALC offices under the Central Ministry spread over the States, so that the 'appropriate Government' can really and practically act as an 'appropriate Government' in addressing the grievances.

The time prescribed should be reduced to a fortnight. A dismissed worker cannot wait. Employer can make this 'wait' for his advantage. They can increase the period of conciliation in collusion with labour department and conciliation officer. Please, if you want to really give a right to worker, do it.

The last point is, you are amending the Industrial Disputes Act. Please, let it be implemented properly. On the one hand, you are amending the Industrial isputes Act to give more rights to workers and, on the other, you are diluting its implementation and some of the provisions through some other legislative exercise. Please, don't do it. Your Bill, which is pending in this House on furnishing of returns, goes at cross purposes with the very intention with which you have brought this Bill. So, please, do not press for it. This is my request...*(time-bellrings)*...

The last point is, I think, the Central Government has a responsibility on it. You have the Industrial Disputes Act to be implemented by the labour department. Now, a new style has come. The Central Government, with its own action, has provoked it. Sir, for the SEZ, the labour department is not responsible to address the labour problems. The Development Commissioner has been appointed. The ILO, in its Governing Body, has recommended that this must be changed and India is a party to that. What are you going to do that? Taking inspiration from that, even in Noida and greater Noida where there is no SEZ, you have made the entire labour department defunct and the District Magistrate and the Collector has been given the right to deal with the labour related grievances. So, you are dismantling the labour law and, at the same time, you are bringing some good amendments to the Industrial Disputes Act! These work at cross purposes. We have written a number of times, including to your Office...*(time-bellrings)*... requesting you to intervene in Noida issue. The labour issue has to be dealt by the labour department and the labour department also needs to be strengthened if the provisions of the Industrial Disputes Act have to be meaningfully implemented. Otherwise, the workers are not benefited. You can make any number of laws. They will bring no benefit to the workers. By that kind of an exercise, you are provoking extremism in the labour sector. I, as a labour activist, would like to warn the Government, please do not allow extremism in the labour areas. That will be a greater disservice to this country and greater disservice to the development prospects of this country. By not implementing the labour laws, you are promoting extremism in the labour sector. Please stop this before the situation gets worsened.

4.00 P.M.

With these few words, I thank you very much.

SHRI TIRUCHI SIVA (Tamil Nadu): Mr. Vice-Chairman, Sir, I rise to support this Bill brought in to amend the Industrial Disputes Act, 1947. The Government is amending this Act on the basis of the earlier experiences. Sir, the Industrial Disputes Act, 1947, provides for settlement of disputes between the workers and the management in industrial establishments. It also specifies conditions under which workers can strike or the companies can declare lay-off.

It also specifies some procedures which have to be followed by the companies when laying off or retrenching workers. It also sets up tribunals or courts. And the jurisdiction of courts and tribunals are specified very well in the provisions. Some amendments have been brought in this Bill. I would be very precise and I would like to highlight the most important point.

One is enhancement of wage ceiling of a workman from one thousand six hundred rupees per month to ten thousand rupees per month under section 2(*s*) of the Act.

Sir, I endorse the views of our senior colleague, Shri Sanjeeva Reddy. After all these years, this one thousand six hundred rupees per month has been enhanced to ten thousand rupees per month. A worker getting Rs.50 on average per day is unimaginable. Given the prevailing situation today, even this ten thousand rupees is very less. All other colleagues have suggested this. The Standing Committee has also recommended it. I would urge the Government to enhance it at least to Rs.25,000. Instead of fixing a ceiling of Rs.10,000 or Rs. 25,000 or anything mere explanation itself will convince.

The Act says "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act. When a workman is defined here, we need not fix a ceiling to decide as to who is the workman. The Standing Committee has also given a recommendation. It has urged the Government to specify a list of highly paid jobs presently covered under the definition of workman category such as airline pilots, which would be outside the purview of the Act. We all know how much pilots are getting. They come under the category of workman. A supervisor also works in a factory. Just because he is having the grade of a supervisor and if he is getting more than Rs. 10,000 and if he is not covered under the Industrial Disputes Act, he would not be covered under the Managerial or other Disputes Act. It has to be dealt with by the Government.

The Bill specifies that the State Governments will administer disputes in State Public Sector Undertakings or their subsidiaries. The State Governments shall also administer disputes in autonomous bodies owned or controlled by them. This is an amendment which has to be welcomed wholeheartedly.

Another one is about the scope of the Central Government powers to administer various provisions of the Act. It is for companies where 51 per cent or more shares are held by the Central Government; Central Public Sector Undertakings or their subsidiaries; corporations set up under a law made by the Parliament; and autonomous bodies owned or controlled by the Central Government.

The Bill requires all the industrial establishments with more than 20 workmen to set up one or more grievance redressal committees to resolve grievances of individual workman. Though their numbers have been reduced to twenty, why can't it be ten which was proposed by my colleague Tapan Kumar Sen? It could be considered by the Minister. Nowadays contract labourers should be taken into account. Every workman should be covered under this Act.

I would like to draw the attention of the hon. Minister to one important thing. It is not enough to appoint a Grievance Redressal Committee. After they come into existence, there should be a monitoring committee to see whether this grievance redressal machinery is working or not. In big companies where such grievance redressal machineries are in existence, they are not monitored and they are not functioning well. Just bringing an amendment Bill saying that establishments which have more than 20 workmen can have a grievance redressal machinery is not enough.

It has to be monitored. Then, there are other proposals like the committee shall consist of six members with equal representation from the employer and the workmen and more than that, there is adequate representation for women. Sir, these are the things to be welcomed. The Bill broadens the scope of qualifications required for presiding officers of courts or tribunals established under the Act. In this, I would like to say one thing. Such officers now can include those who have been Deputy Chief Labour Commissioner or Joint Commissioner with a degree in law and, at least, seven years' experience in the Labour Department including three years as a Conciliation Officer or have been an officer of the Indian Legal Service with three years' experience in Grade III. Sir, the Standing Committee has made recommendations for the consideration of the hon. Minister. I would also like to reiterate them. Though the Bill broadens the scope of the qualifications required for the presiding officer, acquisition of law degree along with specified seniority level is sufficient. I also urge the Government to immediately fill the vacancies of the presiding officers in all the labour courts and tribunals. With these words, I support this Bill.

SHRI GOVINDRAO WAMANRAO ADIK (Maharashtra): Sir, I thank you for having given me this opportunity. Sir, at the outset, I would like to congratulate the hon. Labour Minister for having brought in this amendment to the Industrial Disputes Act which was really very much wanted and essential. In fact, this should have been brought earlier but, it does not matter. At least, the Government is now serious about the grievances of the workers and that's why, he has moved the amendment to this important legislation.

Sir, before me, many of our colleagues have expressed their views and made very, very concrete suggestions including Shri Sanjeeva Reddy, Shri Tapan Kumar and Shri Tiruchi Siva. Without repeating what they have said earlier, I would like to add only a few suggestions. Sir, the intention of the Government is very clear that since 1947 till now because of the delay caused in redressing the grievances of the workers, there was a lot of discontent. And it is said in the Statement of Objects and Reasons of the Bill that the disputes arising out of discharge, dismissal, retrenchment and termination of service are treated as industrial disputes and for raising these disputes before the labour court or the industrial court, a reference for adjudication from the appropriate Government or the authority was very essential. It has been our experience that for getting this reference from the appropriate authority or the State Government, workers have lost their many valuable years and it was very difficult for workers to get this reference for the dispute to be brought before the labour court. And, after it was brought before the labour court, there is no limitation for labour courts to decide the matters within a particular limit. Therefore, you have seen in a number of cases, many more years of the workmen were wasted and in spite of that, they could not get the justice they needed. Now, the idea is to get rid of this delay and that's why now, this reference from the Government is not required and the workmen can go directly to the labour court or the industrial court, as the case may be.

But I do not know what is the idea behind keeping one provision in this newly amended section, Sir, which says that this reference can be made or that we can go to the court after three months. I do not know why these three months' time is also kept here. If the Government is intending to get rid of the delay in filing cases before the Labour Court or the Industrial Courts, why do they want the aggrieved worker to wait for three months more? Why don't they allow him to go directly to the court, immediately, without waiting for any other Grievance Committee or any other effort to meet out the difference? That is one thing.

Secondly, as far as this Grievance Committee is concerned, its object is good. You have said that, for the redressal of the grievance, now this Committee is proposed. But, Sir, for the Committee also, now they have said, an equal number of representatives will be there in the Committee; the total number of members will be six; three will be from the working class and three will be from the employers. I do not know who is going to preside over that Committee; there is no mention of it. A Committee consists of six members and that is going to deal with the grievances, but I do not know who is going to preside over that Committee! This is number one. And secondly, suppose one of the members presides over the Committee, and they dispose it of. In case of an equality of votes, what is going to happen? It is not mentioned here in the amended section. That is also going to create problems some time. I, therefore, request the Minister to kindly clarify the position with regard to the Chairman of the Committee as well as the situation which is arising out of the equality of votes in the Committee.

Thirdly, I would like to know from the hon. Minister — this Grievance Committee is all right — what is going to be the binding factor behind the decision of the Grievance Committee; whether it is going to be binding on the employers and also on the employee. Nowhere it is mentioned like that. It will be better if this point is also clarified by the hon. Minister. And with these suggestions only, and subscribing to the views expressed by my colleagues earlier, I support this legislation and amendment of this Bill. Thank you very much, Sir.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Thank you, Shri Govindrao Wamanrao Adik. Now, Shrimati Renubala Pradhan.

SHRIMATI RENUBALA PRADHAN (Orissa): *Mr. Vice Chairman Sir, I welcome and support The Industrial Disputes (Amendment) Bill, 2009. This bill provides for certain provisions which shall take care of the welfare of the industrial workers in the country. The Industrial Disputes Act,1947 has been amended many times over the years. This august House has on may occasions discussed and debated various welfare schemes for industrial workers on the basis of industrial relation and policy.

Sir, so far there was no adequate legal right of the workers of various industries to approach the Labour Court under Section-2A by a group of twenty or more workers of an industry. If any worker was dismissed or retrenched or his service terminated he was not able to approach either the Tribunal or Labour Court for getting justice. Under the present Act a worker was only eligible to lodge his genuine grievance before an in-house settlement as per the amendment of 1982. He has to tolerate the injustice. He was unable to get any way out under the present Act for the redressal of his grievances.

Sir, I am sure the proposed amendment will go a long way in providing justice to the helpless workers. Now they can easily approach the Labour Court. This is a welcome step. Certainly all the skilled and unskilled workers will be benefitted by this amendment. This is also sending a caution to industrialist and employers who have been exploiting the workers.

Sir, Increasing the daily wage of the workers in different industrial concerns from 1600 to 10,000/- is no doubt a welcome step. I demand that this amount may be increased to Rs. 15,000/-

The eligibility qualification of the Presiding Officers of Labour Court is also appreciable as it will ensure impartiality in taking care of the genuine grievances of the workers.

The creation of Grievances Cell in various industries is also a welcome step. The aggrieved workers can approach both the Grievances Cells and also Labour Courts.

I request the Hon'ble Minister to clarify if the power of the state Government will be compromised in relation to its implementation under the present Act. It is unfortunate

*English translation of the original speech in Oriya.

that the opinion of the Standing Committee with regard to this Act has not been reflected in the bill. I hope the Government will take proper notice of this.

While supporting the bill which proposes to do away with the exploitation of unskilled workers by industrialists I hope the Government will ensure its implementation in letter and spirit once it becomes an Act.

Thank you.

श्री आर.सी. सिंह (पश्चिम बंगाल): सर, आपने मुझे बोलने का अवसर दिया, इसके लिए आपको बहुत-बहुत धन्यवाद। मैं कुछ खास बिन्दुओं पर ही बोलूंगा। माननीय जी, संजीव रेड्डी जी ने और तपन कुमार सेन जी ने इस सवाल को बखूबी रखा है। इसके बावजूद कुछ बिन्दु दोबारा आ सकते हैं। मैं एक बात कहना चाहूंगा कि सरकार की मंशा तो अच्छी लग रही है, मैं मंत्री जी को धन्यवाद दे रहा हूँ कि 63 साल के बाद इसमें कुछ परिवर्तन करने के लिए सरकार की नींद खुली है ...(**व्यवधान**)...। हालांकि 1995 में राजस्थान में SRT Corporation *Vs* Krishna Kumar के केस में सुप्रीम कोर्ट ने भी निर्देश दिया था कि 1947 का जो प्रावधान है, उसमें संशोधन किया जाए। चलिए, 15 साल बाद ही सही, लेकिन संशोधन के कुछ points तो इसमें आए हैं। इसके बारे में मुझे कहना है कि गंगा में बहुत पानी बह चुका है और इसमें जो ceiling को 1,600 से बढ़ाकर 10,000 करने का प्रावधान रखा गया है, इसको बिल्कुल delete कर देना चाहिए, क्योंकि salary revision होता रहेगा और 15-20 साल के बाद फिर इसमें संशोधन करना पड़ेगा, जो मुश्किलें खड़ी कर सकता है। इसमें ceiling को 1,600 से बढ़ाकर 10,000 करने का जो प्रावधान है, इसको delete कर देना चाहिए, क्योंकि आज कल सारे लोगों का wages 20-25 हजार से ज्यादा होने जा रहा है।

सर, इसमें सुपरवाइजर्स की बात कही गई है, जो सिर्फ मानसिक works ही नहीं करते हैं, बल्कि physical works भी करते हैं।

मैंने तो mining में देखा है, सारे सुपरवाइज़र्स helmet, belt और ऑक्सीजन जांचने के, गैस जांचने के तमाम apparatus लेकर आठ-आठ घंटों तक continuous काम करते हैं। जो सुपरवाइज़र्स हैं, उनको सारे benefit मिलते हैं, लेकिन इसके अंतर्गत आने से वे इससे मुक्त हो जाएंगे, इसलिए सुपरवाइज़र्स को ये benefit मिलने चाहिए, चाहे वह managerial staff हो या सुपरवाइज़री स्टाफ हो, उनको इसमें include करना चाहिए। मंत्री साहब ने उनको इस दायरे से बाहर रखा है, तो मरा यह कहना है कि उनको इसमें include करना चाहिए।

तीसरी बात जो मैं कहना चाहता हूं, वह यह है कि electronics का युग आ गया है। आजकल एक इंडस्ट्री में पांच लोग भी काम करते हैं, इसलिए यह जो 20 या 20 से ज्यादा की संख्या रखी गई है, इसको घटाकर 5 या 5 से अधिक करना चाहिए, क्योंकि तमाम श्रमिक इसमें काम करते हैं। इससे उनको सामाजिक सुरक्षा मिल सकेगी, इसलिए इस तरह की एक व्यवस्था होनी चाहिए।

एक बात और है कि बहुत सी जगहों पर जो छोटी-छोटी इंडस्ट्रीज़ हैं, उनमें अधिकतर contract पर लोग काम करते हैं और contract workers की, उनके यहां attendance या principal employer होने के नाते कोई responsibility नहीं रह पाती है, इसलिए वे पूरा फिगर शो नहीं करते हैं। मैं एक बड़ी कंपनी के बारे में कहता हूं। पिछले महीने टाटा के जमशेदपुर के कारखाने में contract workers और management की security में बहुत मार-पीट हुई थी। जब मैं वहां गया था तो पता लगा कि वहाँ 35,000 contract workers वहां काम करते हैं, कोई एक-दो नहीं, लेकिन उनकी कोई सोशल सिक्योरिटी नहीं है। Wages की भी नहीं है और अब मरज़ी होती है, तब contractor बैठा देता है। Principal employer की कोई responsibility नहीं होती है।

इसलिए इस ऐक्ट में इस तरह के प्रावधान को जोड़ा जाना चाहिए कि principal employer की एक responsibility रहे और अगर principal employer अपनी responsibility fulfill नहीं करता है, कोई award या High Court/Supreme Court के ऑर्डर को नहीं मानता है, तो उसके लिए एक punishment की व्यवस्था होनी चाहिए और implementation के लिए proper responsibility होनी चाहिए कि सारी clauses implement हों, इस बात को इसमें जोड़ा जाना चाहिए। इसके लिए आपने और भी कुछ प्रावधान रखें हैं, जिसके बारे में मेरी थोड़ी सहमति भी है लेकिन क्या यह seriously implement किया जाएगा? इस तरह से इसमें नहीं हो सकता है कि tribunal का award आ गया, तब इसको implement करते हैं। मैं जानता हूं कि tribunal में हारने के बाद, सुप्रीम कोर्ट मे हारने के बाद Coal India ने बहुत सारे awards में implement नहीं किया, दस-पंद्रह सालों से केस पेंडिंग पड़े हुए हैं और negotiation चल रहा है, दोबारा कोर्ट में जाना पड़ रहा है। कोयला मंत्री जी सुन रहे हैं, इसलिए मैं इस बात को बता रहा हूं कि ई.सी.एल. में इस तरह के award हुए हैं। वहां जो contract workers थे, उन्होंने डिग्री हासिल की थी और उनको इंप्लिमेंट नहीं किया गया, employment नहीं दिया गया, उनको wages नहीं दिए गए हैं। वे अभी भी punished हैं।

चौथी बात मैं कहना चाहता हूं कि जिनको suspend किया जाता है, dismiss किया जाता है, वे गरीब वर्कर हैं, रोज़ कमाते हैं, रोज़ खाते हैं, इसलिए उनको उस पीरियड का - जब तक कि फाइनल डिसीज़न नहीं आता है, उनको fully paid करना चाहिए। उन्हें इस तरह का प्रावधान इस ऐक्ट में लाना चाहिए और मैं समझता हूं कि वे लाएंगे।

सर, मैं ज्यादा समय नहीं ले रहा हूं, मैं केवल प्वाइंट्स बोल रहा हूं। ...(**समय की घंटी**)... एक या दो मिनट और लूंगा। सर, मैंने उनके वेतन की बात कही है। Awards के और सुप्रीम कोर्ट के प्रावधान के बारे में कहा है कि उनको fully implement करने की पावर होनी चाहिए और ट्रेड यूनियन का compulsory recognition देना चाहिए। बहुत सी organizations हैं, जहां ट्रेड यूनियन का compulsory recognition नहीं होता है, recognition करने नहीं देते हैं, इसके लिए भी इसमें प्रावधान होना चाहिए कि ट्रेड यूनियन को fully recognition मिल सके, इस तरह की बात होनी चाहिए। Social security benefit के बारे में मैंने कहा है, मैं दोबारा कहता हूं कि चाहे administrative स्टाफ हो, managerial हो या सुपरवाइज़री हो, उनको भी सामाजिक सुरक्षा मिल सके, इसलिए उनको भी इसमें जोड़ना चाहिए। Punishment के बारे में मैंने कहा कि management अगर इसको implement नहीं करता है, तो उनके लिए punishment की व्यवस्था होनी चाहिए।

श्री रुद्रनारायण पाणि: उपसभाध्यक्ष, महोदय, इस विधेयक पर कई पार्टियों के प्रमुख वक्ता, पार्टियों के पहले वक्ता शायद बाद में आए, इसलिए प्रमुख विपक्ष की ओर से श्री बलवंत उर्फ बाल आपटे जब पहले बोल रहे थे तो शायद नहीं सुने और ट्रेड यूनियन मूवमेंट के, INTUC के अध्यक्ष श्री जी. संजीव रेड्डी थोड़ा गुस्से में और थोड़ा चिल्लाकर बोले, इसलिए उनको ही ज्यादा रेफर किया गया। संजीव रेड्डी जी के बहुत सारे विचार ऐसे रहे, हालांकि वे रूलिंग पार्टी के मेंबर हैं और विधेयक का समर्थन करते हैं, यह सहमति हो गयी है कि इस विधेयक का सब समर्थन करेंगे और इसको आज ही पारित कर लिया जाएगा। लेकिन इस विधेयक के इम्प्लीमेंटेशन को लेकर बहुत शंकाएं हैं। उसके साथ-साथ पुराने जितने विधेयक कानून में तबदीक हुए हैं, उनको जिस ढंग से सरकार इम्प्लिमेंट कर रही है, उसको देखते हुए उनके मन में जो विचार हैं, अपने मन की उस भावना को संजीव रेड्डी जी ने अपने वक्तव्य में व्यक्त किया है। माननीय बाल आपटे जी का पहला कथन था कि Standing Committee on Labour ने जिस प्रकार की सिफारिशें या टिप्पणियां दी हैं इसके प्रति इस सरकार के श्रम मंत्रालय ने कोई ध्यान नहीं दिया है। इन्होंने बहुत ही गंभीरता से यह खेद व्यक्त किया। महोदय, संयोग से मैं Standing Committee on Labour का एक मेंबर हूं, आज से नहीं, यूपीए-2 में नहीं, यूपीए-1 से, सन् 2004 से हूं। इसमें बहुत सारी सिफारिशें और टिप्पणियां की गयी थीं जिनको किनारे कर दिया गया। जो दस हजार बढ़ाया गया है, इसको 25,000 के लिए कहा गया था किन्तु उसे किनारे कर दिया गया। क्लॉज़

वाइज़ श्रद्धेय बाल जी ने इसका dissection चर्चा किया है। जो 3 साल का प्रावधान रखा गया है, उसको सात साल करने की हमने सिफारिश की थी, लेकिन इसको भी किनारे कर दिया गया। महोदय, एक और महत्वपूर्ण मुद्दा है। यहां पर सीपीएम के प्रमुख वक्ता श्री तपन कुमार सेन जी CITU को belong करते हैं और INTUC, जो ट्रेड यूनियन मूवमेंट से आते हैं - सेंट्रल ट्रेड यूनियन और ट्रेड यूनियन मूवमेंट के बारे में जब कहते हैं तो union reorganization उसमें एक अहम भूमिका रखता है। महोदय, हमने अपनी स्टेंडिंग कमेटी की ओर से यह सिफारिश की थी "ट्रेड यूनियनों को अनिवार्य मान्यता। समिति यह नोट कर गंभीर रूप से चिंतित है कि नियोजकों को जैसे ही कर्मकारों द्वारा अपने संघों को पंजीकृत कराने के प्रयास की सूचना मिलती है, नियोजक कर्मकारों को स्थानांतरित और पीड़ित करना प्रारंभ कर देते हैं। समिति महसूस करती है कि औद्योगिक विवाद अधिनियम-1947 के तहत शामिल औद्योगिक प्रतिष्ठानों द्वारा पंजीकृत श्रम संघों को अनिवार्य मान्यता दिए जाने हेतु अधिनियम में विशेष उपबंध किया जाए।" यह जो हमारी अहम सिफारिश थी, इसको इस उपबंध में कोई स्थान नहीं दिया गया क्योंकि जब यूनियन का रजिस्ट्रेशन होगा, उसके बाद सेंट्रल ट्रेड यूनियन बनता है। जब फैक्ट्रियों और कारखानों में सात लोग रजिस्ट्रेशन के लिए कोई पहल करते हैं तब उनका स्थानांतरण करना, उनको पीड़ित करना - यह सब काम नियोजकों की ओर से चालू हो जाता है। कम से कम industrial peace के बारे में जो कहा गया, Industrial Dispute Act का संशोधन हम जो करा रहे हैं, इसमें आज जब industrial peace को महत्व दिया जा रहा है तो factory में, कारखाने में, industry में यूनियन को मान्यता देने के अहम सुधार को अगर मंत्री महोदय लाते तो ज्यादा अच्छा होता। महोदय, यहां पर यूपीए सरकार का, कांग्रेस लेड यूपीए सरकार का काम, शुरू से ही श्रम के नाम पर भ्रम पैदा करना है और यूपीए-1 के समय वामपंथी मित्रों द्वारा यह समर्थित थी इसलिए लगता था कि श्रम कानून को सुधारने के लिए Gratuity Act का, Workmen's Compensation Act का केवल संशोधन करके नए कानून बना देना, यह इनका विचार रहा। इसीलिए यूपीए-1 का टर्म जब समाप्त हुआ, इस विधेयक को राज्य सभा में 26 फरवरी, 2009 को पेश किया गया, जो कि संसद का, 14वीं लोक सभा का आखिरी दिन था, तब इस विधेयक को वहां पेश कर दिया गया था। बाद में राज्य सभा में पेश किया गया था इसलिए यह बिल लिविंग बिल बना और स्टैंडिंग कमेटी को गया। स्टेंडिंग कमेटी में हमने जो सिफारिश की थीं, जो भी अहम सिफारिशें थीं, उनमें से एक भी सिफारिश की ओर ध्यान नहीं दिया गया। आज जो विधेयक को कानून में तब्दील किया गया है।

जैसा असंगठित कामगारों का सामाजिक सुरक्षा विधेयक। इसको 2008 में पारित कर दिया गया। इस बारे में स्टेंडिंग कमेटी में भी हम सब ने कहा है, देश भर से तमाम लोग बोले हैं कि इसमें फंड की क्या व्यवस्था है? इसमें नेशनल सोशल सिक्योरिटी फंड जैसी एक व्यवस्था होनी चाहिए। तीन-तीन साल तक गुहार करने के बाद असंगठित कामगारों के लिए पिछले बजट में मात्र एक हजार करोड़ रुपए का प्रावधान किया गया है। पिछला बजट 11 लाख 6 हजार करोड़ का लाया गया था, जिसमें असंगठित कामगारों की सामाजिक सुरक्षा फंड की पहल के लिए एक हजार करोड़ दिया गया है। एक कंस्ट्रक्शन लेबर एक्ट है, यह 1996 से लागू हुआ और अटल जी के समय इसके रूल का प्रोकल्मेशन किया गया। कंस्ट्रक्शन लेबर एक्ट का जो कानून है, उसका भी ठीक ढंग से पालन नहीं होता है, केवल अभी थोड़ा एक्टिव हुआ है। कई राज्यों में सैस कलक्शन होता है, लेकिन उससे हिताधिकारियों को कोई लाभ दिए जाने के लिए इसके अंदर ढंग से काम नहीं होता है। महोदय, यह जो इंडस्ट्रीयल डिस्पुट एक्ट है यह आर्गनाइज्ड सैक्टर का, इण्डस्ट्रीयल वर्कर्स का है, लेकिन सरकार अब जो लाई है उसमें जो धारा है, वह प्राइवेट इकॉनोमी की ओर जा रहा है, यह बिल्कुल स्पष्ट है। जैसे पोर्ट के बारे में कह रहे थे और माननीय संजीव रेड्डी अपनी व्यस्तता जाता रहे थे प्राइवेट पोर्ट का एप्रोप्रिएट गवर्नमेंट कौन होगा। यह अहम बात नहीं है कि एप्रोप्रिएट गवर्नमेंट कौन होगी, लेकिन जो देश की इकॉनोमी है, इसको सरकार प्राइवेट सैक्टर की तरफ ले जा रही है, जैसे इसका प्राइवेटाइजेशन करना और उद्योगपतियों का जमाना लाना। जो गरीब कामगार है, जो फिजिकल लेबर करते हैं, आप मिनिस्ट्रीयल स्टॉफ कहिए, आप क्लेरिकल स्टॉफ कहिए, अलग-अलग किस्म के जो कर्मचारी हैं, एम्प्लाइज हैं इनके बारे में

कानून का जो परिवर्तन करते हैं वह ठीक है। लेकिन 120 करोड़ की आबादी वाला हमारा देश है तथा यहां जो आम आदमी की बात कही जाती है, यहां पर इतने सारे लोग हैं, उनको हर, हाथ को काम देने का, अगर यह हमारी इकॉनोमी का आधार बनेगा तो यह हमारे आर्थिक विकास के लिए अच्छा होगा, जैसे चीन हमसे ज्यादा आबादी वाला देश है, लेकिन अब चीन अमेरिका की इकॉनोमी को चेलेंज कर रहा है। तो चीन में जिस प्रकार का आर्थिक विकास हो रहा है विशष रूप से उद्योग क्षेत्र में, हमारे देश में उद्योग क्षेत्र में और उसके साथ-साथ कृषि के क्षेत्र में विकास के लिए और कृषि को उद्योग का दर्जा देने के लिए सरकार के सामने गुहार लगाई गई थी, जो वर्षों से लगाई जा रही है कि आप खेतिहर मजदूरों के लिए सोचिए, गहराई से सोचिए और एक कम्प्रहेंसिव बिल लाइए। आज तो अपने प्राइवेट इकॉनोमी जैसा कर दिया, जिससे सारे देश भर में कांट्रेक्ट लेबर, केज्युअल लेबर हो गया है। आप किसी भी क्षेत्र को लीजिए जिसको फार्मल सैक्टर भी कहते हैं, वहां पर श्रमिकों के हर काम को ठेके पर दे देना है, तो यह जो कांट्रेक्टर लेबर है उनके बारे में आप गहराई से सोचिए और कांट्रेक्टर लेबर के बारे में एक कम्प्रहेंसिव बिल लाइए। इस प्रकार से माइग्रेंट लेबर देश भर में एक प्रदेश से दूसरे प्रदेश को जाते हैं और इनका माइग्रेशन होता रहता है। इसलिए माइग्रेंट लेबर के बारे में भी आपको गहराई से सोचना होगा। आपकी मिनिस्ट्री का नाम भी लेबर मिनिस्ट्री है, इसलिए जो फिजिकल लेबर करते हैं, इनके बारे में सोचकर जो आर्गनाइज्ड सैक्टर और फार्मल सैक्टर के कर्मचारियों के dispute, जैसे आप इंडस्ट्रियल वर्कर की बात करते हैं, यह 1947 में सोलह सौ रुपए था, आज 63 साल बाद आपने इसको दस हजार किया है। हमने स्टेंडिंग कमेटी में सुपरवाइजरी स्टाफ के लिए 25 हजार कहा था, लेकिन आप दस हजार पर ही स्टिक्ट करके रह गए। फिर यह होगा कि यह तो वेज लिमिट में आता नहीं है। तो जिनको कम पैसा मिलता है, कम मजदूरी मिलती है, इन लोगों के बारे में आप सोचिए और कम्प्रहेंसिव बिल लाएं। देश के विकास के लिए लेबर की अहम भूमिका रहती है जो फिजिकल लेबर करते हैं। जो भी कर्मचारी है उन पर सब लोगों का जहां-जहां वे काम करते हैं, जो भी dispute होता है, चाहें वे इंडस्ट्री में काम करते हैं.... वे इंडस्ट्री में काम करते हैं, इसलिए इंडस्ट्रियल डिस्प्यूट नाम दे दिया है। आप एग्रीकल्चर को इंडस्ट्री का दर्जा देकर, अगर एग्रीकल्चर को साइंटिफिक रूप में भी नहीं लेंगे, तो देश में फूड सिक्योरिटी के मद्देनजर अगर आप एग्रीकल्चर का विकास करेंगे तो एग्रीकल्चर के विकास के लिए आपको खेतिहर मजदूरों को बहुत ही सक्रिय करना होगा। खेतिहर मजदूर ढंग से काम कैसे करेंगे, इसके बारे में आपको सोचना होगा। आप उन लोगों की सोशल सिक्योरिटी के बारे में भी सोचिए। उसके साथ-साथ जो उनके एम्प्लॉयर हैं, जिनके भी एम्प्लॉयर हैं- मैंने कह दिया था, इसीलिए आपने कहा, बाद में मैंने कई लोगों से सुना कि नहीं, इन्होंने क्यों कहा, संसद के अंदर भी लोग काम करते हैं, अलग-अलग प्रकार का काम करते हैं, यहां मिनिस्टिरियल स्टाफ है, आपका वाच एंड वार्ड का स्टाफ है। हमारे देश के अंदर जहां भी कोई भी काम करता है, परिश्रम करता है - आजकल तो ऐसा है कि इलेक्ट्रॉनिक का जमाना हो गया है और इलेक्ट्रॉनिक का जमाना ऐसा हो गया है कि एक व्यक्ति कुछ भी दिमाग लगाता है, कुछ फिजिकल लेबर भी करता है, कोई भी काम करता है, तो उसकी एक तो सोशल सिक्योरिटी की बात हो और फिर जहां काम करता है, वहां जो डिस्प्यूट होता है, इस डिस्प्यूट को किस ढंग से रिड्रेसल किया जाएगा, यह हो। कोई भी शिकायत आए, तो उसका कैसे समाधान करके, उस क्षेत्र में इंडस्ट्रियल पीस हो, यह सब करके इन सबका समाधान होगा। आप इसके बारे में भी कंप्रिहेंसिवली सोचें कि जहां पर भी वह काम करता है, वहां पर कैसे शांति आए। आप इसके बारे में भी सोच सकते हैं। उपसभाध्यक्ष महोदय, आपने मुझे मौका दिया, इसके लिए बहुत-बहुत धन्यवाद।

SHRI RAMA CHANDRA KHUNTIA (Orissa): I rise to support the amendment to Industrial Disputes Act, 1947 and also to thank the Government because they have brought an amendment, which will extend facilities of the workers to go to the court, in the definition of the worker and on some other points. Many speakers have made many important points. Hon. Members, Shri Reddy, Shri Tapan Senji, Shri Apte and Shri Rudra Pany have suggested many things. Almost all important points have been covered. But, some hon. Members said that the

Bill could not come in 61 years. The hon. Member who was speaking before me said that the Bill was delayed and that in February 2009, towards the end of the Government the Bill was brought. But I would like to make it clear once again that whatever the legislations on labour have been brought and passed in this country, till today, it is only when the Congress was in power excepting in the case of one legislation, that is, Inter-State Migrant Labourers Act, 1979. It was in 1979 but it has never been implemented. The Building Construction Workers' Act also legislated in 1996, but was promulgated in the form of an ordinance in 1995 when the Congress was in power. So, it proves that it is not the attitude of the Government to neglect labour-related issues.

When Shri Apte was speaking, he was saying that when people expect some liberalisation in view of liberation or economic reform and that creating some problems for the labourers, giving advantage to the employers. But, UPA-I and UPA-II, till today have a good image not only inside the country but in the whole world; including the ILO, ICL and the international community, all have said that this UPA Government is a pro-labour Government and it has not acted in a way that is detrimental to the interests of the working class. Today, this legislation has been brought for protecting the interests of the working class.

Sir, regarding the appropriate Government, which has brought the amendment today, I would like to mention here that this was raised in early '80s in the case of the Airports Authority of India in Mumbai and the Electricity Board's case that when the contract labour applied for a regularisation, the hon. Supreme Court pointed out the administrative department of the respective Government to be the appropriate Government.

And from that date till today, the discussion was in Labour Conference, in Standing Labour Committee and in Standing Committee. A lot of water has flown in river Ganga and Yamuna, but that has not been done till today.

(MR. DEPUTY CHAIRMAN in the Chair)

As a result of this, regarding the appropriate Government, in many cases, the dispute about the authority of the State Government or the authority of the Central Government has created a confusion, and has given problem to the workers. I think the amendment about the appropriate Government will definitely give a clear indication about the appropriate Government, and it will also be helpful for the workers. But it has two problems. One, whether the appropriate Government, the Central Government has enough strength in the Labour Department to take up the issue. I support what Mr. Tapan Sen has said, and urge upon the Government to let the Government and the Labour Department also analyse about its strength and requirement and also take a decision to appoint more officers, DLCs, LCs to meet the urgency and to give the benefit to the workers.

Secondly, about the appropriate Government also, unless the staff strength is there, this cannot be met. About the contract labour, there is a difference. In case of the contract labour, they may not be included. I think this is also not correct. I am saying this because the problem is more with the contract labour. While amending it, if we say that less than 10,000 workers will be

included in it, and we will not include the contract labour, we will also not include the workers who are getting more salary than Rs.10,000. That means, it will benefit none. I think the Government should also reconsider it. The hon. Minister should consider to include the contract labour in this clause.

There is the enhancement of the wage ceiling of the workmen from Rs.1,600 per month to Rs.10,000, which is definitely a welcome step. But, as other Members said, why is it Rs. 10,000? Why it can't be Rs. 25,000? Maybe, the Government has decided on Rs. 10,000 because the ESI, Provident Fund and Bonus limit is still Rs. 10,000. Based on that, they might have decided on Rs. 10,000. But, here, I would like to make one point regarding supervisors, regarding workmen definition and regarding the officers' definition. Why is not the Government of India, at this stage, considering one thing? Till date, we have not ratified the ILO Convention 87/98 which is about giving the trade union right to everybody. The Government of India says to the ILO and the international community that we have given them other avenues to form associations, that is why we are not ratifying the ILO Convention. Once the ratification of the ILO Convention is done, the workmen definition is not necessary. I want to ask the Government that since you have amended the Industrial Disputes Act, but what about the Minimum Wages Act, what about the Payment of Wages Act, what about the Compensation Act. In every Act, there is a ceiling of Rs. 1,500, so all these Acts should be amended. Now, the question is, in our country, now the IAS Officers are also going on strike; sometimes the judicial staff is also going on protest; the engineers are going on strike; the businessmen are going on strike. If everybody has the right to strike, then, what is the problem in ratifying the ILO Convention 87/98 which gives the trade union right to everybody? Once it is done, then, the definition of workmen is not required. That would be very good for maintaining good industrial relations. I am saying this because, at present, in a factory, there would be a trade union, there would be a supervisors' association, there would be officers' association, there would be operators' associations, there would be engineers' association. If everybody is going on strike, and everybody has the right to go for a struggle, so, let them also be given the trade union right. In the developed countries where the ILO Convention 87/98 has been ratified, heaven is not falling in that country. Everything is okay there. There is one organization, one association, and everybody is a member of that, and they are also maintaining very well. So, why not we also do that? Once it is done, for all Acts, all legislations, it will be equal, and the definition of workmen will not be different from place to place, from legislation to legislation. The Government may not agree now, but the Government must prepare its mind to assent to this Convention, and to ratify this Convention.

Sir, third point is about direct access by the workman to the labour court or tribunal in case of dispute arising out of Section 2A of the Act. It is definitely a good suggestion. What was happening was that first conciliation, then its failure is there, it would be referred to the Government and the Government has the authority either to refer it or not to refer it. So, two or three years pass at the Central Government or the State Government level. After that it will be

referred to the court for adjudication. In the court, as Mr. Reddy has said, there will be no judge to try it. It will take ten to fifteen years and the workman will not get justice. It is definitely a praiseworthy proposal that the workman has a right by this amendment to go the court. But why should it be after six months? Now you have stated that there will be a grievance handling machine where there will be six members and there would be the chairman in rotation. Already it is there that the chairman will be by rotation. But once grievance handling is there, then the workman has to go to the employer again. If there is a grievance handling case, why will the workman go to the employer again? There must be some other avenue or if he fails to get justice from the grievance handling procedure then he must have the right to go to the court. That means once the grievance handling procedure pass three months then there is an appeal for one month, then he raises the dispute in the conciliating authority for three months and then he has right to go to the court. That means it takes about seven months to reach the court and after that only trial can start if the judge is available in the court. I think the idea is good but idea should not be used to delay. I think the grievance handling procedure can really function, then only some cases can be decided at that level. If the attitude of the Government is that some cases can be settled in the grievance handling procedure and some cases in the conciliation procedure, it is welcome. But sometimes it is also misused to delay the thing and the workman can reach the court for delayed proceedings. The second point is about expanding the scope of qualification of presiding officers of the labour court or tribunal under section 7 of this Act. It is also a good proposal. In many courts, there would be shortage of judges and the posts of the presiding officers remain vacant. So, in this case if a Deputy Labour Commissioner or a Joint Labour Commissioner having law degree and experience is also eligible to act as the presiding officer. A person working in the legal department can also be appointed, of course, after resigning. I think by this way the posts which are lying vacant in labour courts and labour tribunals could be filled up and the cases can be expedited. This is definitely a good proposal and this will expedite the decision process. Last point is about empowering the tribunals or labour courts to exclude the orders and settlements awarded by the labour court or the labour tribunal. This is also very important. I do not know why it has been delayed. In the case of bank NPA, the Parliament also passed a law empowering them to directly implement it without going to any court. Likewise it is also a good proposal and the Government has brought amendments so that decision of the labour court or tribunal is awarded directly so that labourers get justice at an early stage. But the most important thing, as has been stated by many Members, we are very much apprehensive about the implementation of this legislation which we are amending and passing in the Parliament. India is very much famous for legislating pro-labour legislations in whole of the world. But India is also famous for not implementing the labour legislations in our country. Maybe, it is due to inadequate labour machinery, maybe, it is due to the persons involved are not taking proper action, maybe, it is due to some people who are misusing at some level not to give the benefit and protect the interests of the employees.

The protection of employer's interest is the concern of the Government. The Government may protect him. One reason behind giving labour less priority is because people think that capital is more important. That is not the fact. Capital is important for development of the country. But that capital does not belong to the capitalist alone. My labour is my labour. But the capital invested in industry does not belong to that capitalist. It is the capital of the general public who have share market or capital given by financial institution in the form of loan or capital or mutual funds. So, capital invested in industry does not belong to that particular man. It may belong to mutual fund or LIC or share market or banks. So, just by investing capital nobody should take it for granted. The Government should also not think that labour has a less role in the progress and development of the country. Labour and worker have an equally important role in the progress and development of the country. I do expect the hon. Labour Minister, the labour Department and the UPA Government as a whole have to do whatever best is possible for protecting the interest of the working class. Thank you.

श्रम और रोजगार मंत्री (श्री मल्लिकार्जुन खरगे): सर, Industrial Disputes (Amendment) Bill, 2009 पर कम-से-कम 9 सदस्यों ने अपने विचार सदन के सामने रखे हैं। खास कर श्री बलवंत उर्फ बाल आपटे जी ने बहुत ही अच्छे सजेशंस दिए हैं। उन्होंने खास कर स्टैंडिंग कमेटी की रिपोर्ट्स के जो बहुत से विचार स्वीकार नहीं किए गए, उनके बारे में बताया है। यह मैं बाद में बताउँगा कि उसके कितने सजेशंस हमने accept किए हैं और कितने नहीं किए गए हैं। उनके बारे में भी मैं बताउँगा, लेकिन उनका भाषण बहुत ही अच्छा था।

उसी ढंग से श्री जी. संजीव रेड्डी साहब जो एक सीनियर लीडर हैं, ट्रेड यूनियन लीडर हैं और खुद आंध्र प्रदेश में लेबर मिनिस्टर भी थे, उन्होंने भी अपने विचार इस सदन के सामने रखे हैं। इसके साथ-ही-साथ सी.पी.एम. के ट्रेड यूनियन लीडर श्री तपन कुमार सेन जी, श्री तिरुच शिवा जी, श्री गोविंदराव आदिक जी, श्रीमती रेणुबाला प्रधान, श्री आर.सी. सिंह जी और श्री रुद्रनारायण पाणि जी ने भी अपने विचार रखे। पाणि जी बहुत ही vocal हैं, मजदूरों के बारे में बहुत हमदर्दी रख कर बात करते हैं और हमेशा अच्छे सुझाव भी देते हैं, लेकिन कभी-कभी अच्छे सुझाव को मानते नहीं हैं। श्री रामचन्द्र खूंटिआ जी, जो ट्रेड यूनियन के बहुत बड़े लीडर हैं, उपाध्यक्ष हैं, उन्होंने भी अपने विचार इस सदन के सामने रखे।

मैं अपने विचारों को इस सदन के सामने रखना चाहता हूं। यहाँ पर जो बहुत से सवाल उठाए गए थे, उनका जवाब इसमें मिलेगा। इसमें जो नहीं भी आएगा, उसे अपनी स्टैंडिंग कमेटी की रिपोर्ट और उसके उत्तर में हमने क्या किया है, उसे बताने के समय बताउँगा।

Sir, the Ministry of Labour and Employment is mandated to create a work environment conducive to achieving a high rate of productivity and economic growth with due regard to protecting and safeguarding the interests of the working class in general and those of the vulnerable sections of the society in particular.

The Industrial Disputes Act, 1947 is a significant piece of legislation which provides a framework for investigation and settlement of industrial disputes. It provides for conciliation and

adjudication in industrial disputes and regulates strikes and lockouts, so that a healthy work environment can be created and industrial harmony is maintained. The Act was last amended in 1982. Now, the Industrial Disputes (Amendment) Bill, 2010 has been finalised after detailed consultations with stakeholders and my Ministry has formulated these proposals mainly on the issues on which consensus had been arrived at.

As you are aware, the Industrial Disputes (Amendment) Bill, 2009 was introduced in the Rajya Sabha on 26.2.2009. After its introduction, the Bill was referred to the Standing Committee on Labour. The Standing Committee has submitted its report on 9.12.2009. The Standing Committee made certain recommendations for further modifications to the amendments proposed in the Bill. The recommendations have been examined by the Government and it was decided to accept some of their recommendations.

I would now like to elaborate briefly the major amendment/ proposals and also the recommendations of the Standing Committee which have been accepted by the Government.

The Industrial Disputes (Amendment) Bill, 2010 seeks to amend Section 2(a)(i) relating to 'appropriate Government' which is appreciated by all and all the Members supported this definition. Therefore, I don't want to elaborate it further.

Secondly, the Standing Committee has recommended that the appropriate Government for the industrial disputes between a contractor and contract labour employed in any industrial establishment should be clearly indicated in the provisions. I would like to bring it to the notice of this august House that the Government has accepted this recommendation of the Committee. We expect that this amendment would further clarify the issue of 'appropriate Government' in case of contract labour.

Then comes, Section 2(s)(iv). At present persons employed in supervisory capacity drawing wages exceeding Rs. 1,600 per month are not treated as workmen under the Industrial Disputes Act, 1947. As you are aware, wage levels have increased over the years. Hence, this Bill seeks to enhance the wage ceiling to Rs. 10,000 per month. This would also bring about parity with other labour laws like the Payment of Bonus Act, 1965 and the Payment of Wages Act, 1936. As Khuntiaji rightly said, to bring parity with other Acts, we have enhanced it from Rs. 1,600 to Rs. 10,000. I know many Members suggested that it should be kept at Rs. 25,000. That is a good suggestion. And many good suggestions are given by all the speakers. In future, I would definitely examine those good suggestions.

Then comes Section 2A. Through this Bill, we also propose to provide direct access for the workman to the Labour Court or Tribunal in case of disputes arising out of Section 2A pertaining to retrenchment, discharge, dismissal or termination of services, etc. At present, the workman can approach the Labour Court or Tribunal only after a reference is made by the appropriate Government.

5.00 P.M.

Through the proposed amendment, the workman can now directly approach the Industrial Tribunal-cum-Labour Court after filing his grievance before the conciliation machinery and giving 45 days for conciliation. Earlier, it was 90 days. That has been reduced to 45 days by the amendment. Originally, the Government proposed a period of three months for conciliation process to resolve the industrial dispute. The Standing Committee has recommended that this period be reduced to 45 days which has been accepted by the Government. The proposed amendment would help in an effective and speedy redressal of worker's grievances, giving him a choice either to continue with conciliation or to go to adjudication. They need not wait for 6-7 months. He has got a choice. Either he can go for redressal from the committee or if he does not like, he can directly go in for conciliation and courts. Therefore, we have made it easy. I don't want to claim that everything is perfect. If there are any lacunae, definitely, we will examine and re-examine. In future, I will also take into consideration whatever good suggestions you have made.

A new Chapter II-B has been added, setting up of Grievance Redressal Machinery in order to promote better industrial relations at the industrial establishment level. There has been a long-felt need to provide for an in-house Grievance Redressal Machinery which would work as an elaborate grievance ventilation within an establishment and reduce the burden on adjudicators. The present Bill seeks to establish a Grievance Redressal Machinery within industrial establishment having 20 or more workmen with one stage appeal at the head of the establishment for resolution of disputes within the organisation itself with minimum necessity for adjudication. Originally, the Bill prescribed 45 days for completion of proceedings by the Grievance Redressal Machinery. The Standing Committee recommended that this period should be reduced to one month. The Government has accepted this recommendation of the Committee. It may be noted that setting up of GRM will, in no way, affect the right of the workmen to raise dispute on the same issue under the Industrial Disputes Act, 1947.

Then, Sir, I come to Section 7 and 7(A). At present, retired/serving High Court or District Judges are eligible to work as presiding officers in the Industrial Tribunal-cum-Labour Courts. This is creating considerable problems in the availability of officers willing to serve as presiding officer. In order to have a wider range of eligible officers from the relevant field, the Bill seeks to expand the scope of qualifications of presiding officers by making officers of Central Labour Service of the rank of Deputy Chief Commissioner and State Labour Department of the rank of Joint Labour Commissioner and officers of the Indian Legal Service Grade-III also eligible to be appointed as presiding officers. So, this will solve the problem of inadequate number of presiding officers in the Tribunal and this will enhance the scope and now, a number of people will come forward to preside over the Industrial Tribunal.

Section 11 provides for insertion of new sub-section (9) and (10). In the existing provisions, there are no powers given to the Tribunals under the Industrial Disputes Act 1947 to enforce the award or order given by them. As a result, enforcement machinery finds it extremely

difficult to enforce the awards. Now, it is proposed that any award, order or settlement by a Tribunal shall be executed as a decree of a civil court. It also provides for transmitting to civil courts the awards etc. for executions. We expect that the amendment will ensure better enforcement of awards given by the Industrial Tribunal or Labour Courts. Here, Apteji has expressed this doubt as to how the decree is going to be implemented in a Tribunal without the executing machinery or without the people.

That is his apprehension. So, I will try to find out the ways because this is the first experiment we are doing, and whenever any lacuna comes, definitely, I will once again come before this House to ratify it. Therefore, at present, this provision will help the labourers to redress their grievances; that is my feeling. I hope that we will be successful in that.

Sir, by clause 8, section 38 clause (ab) shall be omitted and clause (c) is to be substituted by the new clause (c). At present, there is no specific provision in the Act with regard to salaries and allowances, and other terms and conditions of service of Presiding Officers of Industrial Tribunals-cum-Labour Courts. This amendment empowers the Government to make rule to decide and review all these terms of conditions for Presiding Officers. The details will be worked out while framing the rules.

So, whatever the Standing Committee has suggested, we have tried to accept it; wherever there is a consensus, that much we have accepted, and where there is a dispute or where there is some type of reservation, that we have not brought in this amendment.

PROF. P.J. KURIEN: What about raising the ceiling to ten thousand rupees?

SHRI MALLIKARJUN KHARGE: That is there.

MR. DEPUTY CHAIRMAN: He has explained that.

SHRI MALLIKARJUN KHARGE: I have quoted the Minimum Wages Act, the Bonus and other Acts, and on a par with that, the supervisory limitations we have kept. So, from Rs. 1,600/-, we have raised it to Rs.10,000/-. *...(Interruptions)...*

MR. DEPUTY CHAIRMAN: Let him complete.

SHRI MALLIKARJUN KHARGE: If it is not workable and a higher number of people in the working class come, then, raising it to above Rs. 10,000/-, we can think of. Sir, at present, it is raised from Rs. 1,600/- to Rs. 10,000/-. Whatever we have done, I think, is sufficient. Sir, the Members have wholeheartedly supported the Bill; the entire House is for the Bill, and I am also very glad. क्योंकि इस कानून को सारे सदस्यों ने, irrespective of party, सपोर्ट किया है और उसको ठीक ढंग के अनुष्ठान में लाने के लिए सरकार को कहा है, तो हम पूरी कोशिश करेंगे कि इस बिल के पास होने के बाद अनुष्ठान में लाकर हम कर्मचारियों के हित में काम करेंगे, इसलिए मैं तमाम सदस्यों का धन्यवाद करता हूं, अभिनंदन करता हूं कि उन्होंने इस बिल को सपोर्ट किया है और मैंने पहले ही कहा है कि अगर इसमें कुछ खामियां भी हैं, तो फिर से इसको हम लाएंगे, यह इसका end नहीं है। हो सकता है यह 60 साल या 63 साल के बाद आया हो, लेकिन मैं यह पूरी कोशिश करूंगा कि मेरे समय में अगर इनमें और कुछ सुधार कर सकते हैं, तो दोबारा इसके बारे में हम ज़रूर सोचेंगे। इसमें कोई exaggeration नहीं है और कर्मचारियों की भलाई के लिए हम सब इस विषय पर एक हैं। इस हाऊस ने यह बता दिया है कि, irrespective of party politics, हम

वर्कर्स के हित में हैं और इस बिल पर चर्चा करते समय सबने यह दिखाया है, इसलिए मैं तमाम सदस्यों का धन्यवाद करता हूं।

श्री रुद्रनारायण पाणि: सर, कांट्रेक्ट लेबर का क्या होगा?

SHRI G. SANJEEVA REDDY: Sir, there is some confusion with the Minister. The Bonus Act, the Payment of Minimum Wages Act वर्कमैन के लिए नहीं है, यहां वर्कमैन को recognize करने के लिए 10,000 है, वहां तनख्वाह रिकवर करने के लिए है। यह definition अलग है, वह definition अलग है। कौन आदमी सुपरवाइज़र होगा 10,000, सुपरवाइज़र होंगे, तो वह इसमें applicable नहीं होता है। इसीलिए मिनिस्टर साहब से मेरा निवेदन है कि आप इसको कीजिए, हम आपके साथ हैं, मगर आप समझिए कि यहां जो 10,000 रुपया बताया गया है, यह सुपरवाइज़र को पहचानने के लिए है। वहां आपको मिनिमम वेज कितनी देनी चाहिए, वह वर्कमैन के बारे में है और यहां पर सुपरवाइज़र का है।

महोदय, एक और छोटी सी बात है। आपने जो रिकवरी करने के बारे में रखा है, जिसमें सिविल कोर्ट से लेबर कोर्ट को आथोराइज़ किया गया है, उसमें लिखा गया है कि 18 महीने तक सेटलमेंट प्राइवेट होता है। फिर वह रिकवरी कर सकता है या नहीं कर सकता है क्योंकि यहां ऐक्ट के अंदर लिखा हुआ है कि labour court के सामने ही रिकवरी कर सकता है। इस संबंध में अगर आप क्लैरीफिकेशन देंगे तो अच्छा होगा।

SHRI RUDRA NARAYAN PANY: We are happy that one ruling party Member is serving our purpose.

श्री मल्लिकार्जुन खरगे: सर, इसमें वेज सीलिंग कितनी भी हो सकती है - दस हजार, बीस हजार, पच्चीस हजार - लेकिन सुपरवाइज़र के लिए वेज सीलिंग जो पहले थी, उसे हमने 1,600 से 10,000 किया है। सभी माननीय सदस्य चाहते हैं कि उसको 25 हजार किया जाए या उसको निकाल दिया जाए, यह माननीय सदस्यों का कहना है। जैसा मैंने कहा कि अब हम इस बिल को लेकर आए हैं, आगे हम फिर से एक बार इस संबंध में देखेंगे।

MR. DEPUTY CHAIRMAN: The question is:

That the Bill to further to amend the Industrial Disputes Act, 1947, be taken into consideration.

The motion was adopted.

We shall now take up clause-by-clause consideration of the Bill. In clause 2, there is one amendment by the Minister.

CLAUSE 2 — Amendment of Section 2.

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

3. That at page 2, *after* line 6, the following proviso be *inserted*, namely:-

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.

The question was put and the motion was adopted.
Clause 2, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We shall now take up clause 3. There is one amendment by the Minister.

CLAUSE 3 — Amendment of Section 2A.

SHRI MALLIKARJUN KHARGE: Sir I beg to move:

4. That at page 2, lines 13 and 14, *for* the words "three months", the words "*forty* five days" be substituted.

The question was put and the motion was adopted.
Clause 3, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We shall now take up clause 4. There is one amendment by the Minister.

CLAUSE 4 — Amendment of Section 7.

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

5. That at page 2, line 28, the words "after having acquired degree in law" be *deleted*.

The question was put and the motion was adopted.
Clause 4, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We shall now take up clause 5. There is one amendment by the Minister.

CLAUSE 5 — Amendment of Section 7A.

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

6. That at page 2, line 39, the words "after having acquired degree in law" be *deleted*.

The question was put and the motion was adopted.
Clause 5, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We shall now take up clause 6. There is one amendment by the Minister.

CLAUSE 6 — Substitution of new chapter for chapter IIB.
CHAPTER IIB — GRIEVANCE REDRESSAL MACHINERY
9C — Setting up of Grievance Redressal Machinery

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

7. That at page 3, line 20, *for* the words "forty-five days", the words "thirty days" be *substituted*.

The question was put and the motion was adopted.
Clause 6, as amended, was added to the Bill.
Clauses 7 and 8 were added to the Bill.

MR. DEPUTY CHAIRMAN: We shall now take up clause 1. There is one amendment by the Minister.

CLAUSE 1 — Short title and commencement.

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

2. That at page 1, line 2, *for* the figure "2009", the figure "2010" be *substituted*.

The question was put and the motion was adopted.
Clause 1, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We shall now take up the Enacting Formula. There is one amendment by the Minister.

ENACTING FORMULA

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

1. That at page 1, line 1, *for* the word "Sixtieth", the word "Sixty-first" be *substituted*.

The question was put and the motion was adopted.

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

SHRI MALLIKARJUN KHARGE: Sir, I beg to move:

That the Bill, as amended, be passed.

The question was put and the motion was adopted.

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MESSAGE FROM THE LOK SABHA

To elect one member of Rajya Sabha to the Joint Committee on Offices of Profit

SECRETARY-GENERAL: Mr. Deputy Chairman, Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:—

"I am directed to inform you that Lok Sabha, at its sitting held on Tuesday, the 3rd August, 2010, adopted the following motion:—

> "The this House do recommend to Rajya Sabha that Rajya Sabha to elect me member of Rajya Sabha, in accordance with the system of proportional representation by means of single transferable vote, to the Joint Committee on Offices of Profit in the vacancy caused by the retirement of Shrimati Mohsina Kidwai from Rajya Sabha and do communciate to this House the name of the member so elected by Rajya Sabha to te Joint Committee."

2. I am to request that concurrence of Rajya Sabha in the said motion, and also the name of the member of Rajya Sabha appointed to the Joint Committee, may be communicated to this House."