

जोकि नये कारखाने खोलना चाहते हैं, उसके लिए जो पूर्व में अशोक मेहता मिनिस्टर थे उन्होंने जापान से एक्सपर्ट मंगवाये थे, तो क्या अब भी सोचते हैं कि जापान, अमरीका से एक्सपर्ट मंगवा कर, उनकी राय लेकर नये कारखाने खोले जायेंगे। हमारे देश के वैज्ञानिकों और उनकी रिसर्च के आधार पर ही कारखाने खोलने का अनुमान क्या किया गया है और इन्होंने आपका क्या मत है, क्या निर्णय है ?

श्री जनेश्वर मिश्र : समापति महोदय, 600 से ज्यादा क्षमता वाले कारखानों के बारे में फारेन नी-हाऊ पर हमें मुनस्तर करना पड़ेगा। हमारे पास कोई भी ऐसा साधन नहीं है कि अपने से ही उन कारखानों को बना सकें। यह जरूरी है जैसे कि इस समय जो नये कारखाने खोलने के बारे में सरकार विचार कर रही है, खास करके बम्बई हाई से जो गैस निकल रही है, उसके आधार पर 1,350 मीट्रिक टन पर डे अमोनिया की क्षमता वाले कारखाने होंगे और हिन्दुस्तान की जो पी.एण्ड डी. या फोडो है, इतने बड़े कारखाने के निर्माण में अभी सक्षम नहीं है। इसलिए हमें विदेश से मदद लेनी पड़ेगी। विदेशी कम्पनियों से

श्री सवाई सिंह सिसोदिया : कौन से देशों से ?

श्री जनेश्वर मिश्र : उस पर हम टेंडर देंगे और जिसका लोएस्ट होगा, उसको मन्जूर करेंगे।

Promotion of Guard 'C' grade to Guard 'A' grade

*273. SHRI K. K. MADHAVAN: Will the Minister of RAILWAYS be pleased to state:

(a) whether Government are aware of the recent decision of the Allahabad High Court by which the promotion of five employees belonging to the Sche-

duled Castes from the post of Guard 'C' grade to Guard 'A' grade has been set aside; and

(b) if so, what action Government propose to take in the matter?

THE MINISTER OF RAILWAYS (PROF. MADHU DANDAVATE): (a) Yes, Sir.

(b) As the judgment of the Allahabad High Court disputes the basic policy and procedure followed by the Government in regard to reservation for Scheduled Castes/Scheduled Tribes in services, action is in hand to file an appeal in the Supreme Court against the High Court's judgment.

SHRI K. K. MADHAVAN: Sir, May I know whether it is a matter for the exercise of power by the executive for preferring an appeal to the High Court because there is a communal roster which is a product of the executive decision according to the Directive Principles of the State Policy of the Constitution and its other relevant articles?

MR. CHAIRMAN: Yes.

SHRI K. K. MADHAVAN: Under these articles of the Constitution, it is the prerogative of the executive which the judiciary cannot question. I am a member of the legal profession for the last 30 years.

MR. CHAIRMAN: Yes.

SHRI K. K. MADHAVAN: You have been allowing so many speakers. Why should you make an exception in my case? I do not understand that. You have been allowing so many speakers to speak under the cover of questions and supplementaries.

MR. CHAIRMAN: Would you like to put supplementaries or only discuss with me?

SHRI K. K. MADHAVAN: Yes, yes my question is this. I am afraid that right from the place of Prayag, Ganga is flowing upwards nowadays so far as social justice is concerned.

PROF. MADHU DANDAVATE: Sir, I fully appreciate and share the feelings and sentiments of the hon. Member. Our lawyers will put forward in the Supreme Court precisely the same arguments which he has put forward. We will put forward the point of view that there are certain commitments on the basis of the Constitution, to which the commitment is not only of the ruling party but of the Opposition also and, therefore, it is a national commitment. There is a roster point system on the basis of which, whenever seats are to be reserved, the first vacancy goes to the Scheduled Castes, the seventh goes to the Scheduled Castes, the 13th goes to the Scheduled Castes and the 20th goes to the Scheduled Castes and the 25th goes to the Scheduled Castes; and in between four seats go to the Scheduled Tribes. And because Scheduled Tribes candidates are not available, we have added to the Scheduled Castes number; and, therefore, we have increased it by four to five. We are going to insist in the Supreme Court that our interpretation of the Constitution is correct. Here I may point out to you that when we applied in the, Allahabad High Court for permission to make an appeal to the Supreme Court, it was rejected. But we were not deterred. (Interruptions) Please listen to me. We are not deterred by the rejection. We are going to take advantage of article 136 of the Constitution under which we will ask for special permission which the High Court will have to grant. And we will go to the Supreme Court and fight the issue tooth and nail in the Supreme Court and see that justice is done to the Scheduled Castes.

SHRI K. K. MADHAVAN: May I inform the hon. Minister and the Government through him that I have my own misgivings about the highest place of so-called wisdom?

PROF. MADHU DANDAVATE: Sir, we have full faith in the Supreme Court. Only two days ago a very fine

judgment was given by the Supreme Court. We have full faith that we will get full justice in the Supreme Court.

SHRI ANANT PRASAD SHARMA: Sir, there is a procedure laid down by the Railway Department for the promotion of the Scheduled Caste employees and there is a roster also, which the hon. Minister has just now read out. I would like to know as to how, in spite of the procedure that has been laid down and the roster that has also been laid down, the High Court has come to the conclusion that the promotion of these Scheduled Caste employees from Grade C to Grade A was wrong. Is it a fact that the lawyers who appeared on behalf of the Railways have not pleaded the case in the right spirit, in the spirit in which it should have been pleaded as they are unsympathetic to the cause of the Scheduled Castes?

PROF. MADHU DANDAVATE: Sir, I very much object. ...

SHRI K. K. MADHAVAN: I have seen appeals by the trade unions against reservation.

PROF. MADHU DANDAVATE: I very much object to aspersions being cast on the lawyers. I wish to make it very clear that the High Court...

SHRI ANANT PRASAD SHARMA: My aspersion is not against the lawyers. I am talking about the briefing that is done on behalf of the Railway Administration to the lawyers; and of course, they will have to plead according to the briefing.

PROF. MADHU DANDAVATE: A correct briefing was also done. The argument was made. The basic difference between the Railway Administration and the High Court Judges is that whilst the Railway Administration feels that in order to give justice

to the Scheduled Castes and Scheduled Tribes, every time vacancies are created, the formula of 15 per cent must be applied to the vacancies created and not merely to the total number of job opportunities; otherwise the Scheduled Castes will not get justice. On the contrary, the High Court Judges felt that the 15 per cent formula is to be applied not to the vacancies created but to the entire job opportunities. This is the basic difference between the High Court and the Railway Administration. I can assure the hon. Members that our briefing will be correct; it will be very firm and it will be consistent with the national commitment regarding reservation for the Scheduled Castes and Scheduled Tribes.

SHRI K. K. MADHAVAN: I question the wisdom of the High Court judgment.

श्री रामानन्द यादव : श्रीमन् मंत्री जी ने कहा कि सरकार बड़े अच्छे ढंग से ब्रीफिंग करती है लेकिन सरकार जितने केसेज लड़ती है उसमें 99 परसेंट हारती है — because of bad briefing by the Government and the connivance of the legal persons. ऐसा होता है कि वरीयता, दक्षता जो सरकारी नौकरी में लोग हैं चाहे और किसी भी वर्ण के हों उनकी वरीयता, उनकी दक्षता, उनके सर्विस रेकार्ड के आधार पर प्रोन्नति होती रही है। ऐसा देखा जाता है कि हरिजनों की चरित्र पुस्तिका में खासकर ऊंची जाति के लोग गलत ढंग से, खराब रिपोर्ट लिखते हैं जिसके कारण अंततोगत्वा उस हरिजन को सरकारी नौकरी में पदोन्नति मिलने में बड़ी बाधा पहुंचती है और उसका कैरियर बरबाद हो जाता है। ऐसा होता है कि ऊंची जाति के लोग उनके ऊपर पदोन्नति पा जाते हैं तो मैं जानना चाहता हूँ कि क्या सरकार, सरकारी नौकरी में रहने वाले हरिजन लोगों की वरीयता,

दक्षता और उनकी चरित्र पुस्तिका की जांच करने के लिए प्रांतीय सरकारों को कोई निर्देश देगी ताकि वह हरिजन वरिष्ठ अधिकारियों की एक समिति बनाए और समिति बनाकर जांच करके सरकार को रिक्मेंड करे और वह सरकार को मान्य हो और क्या केन्द्रीय सरकार भी—ऐसी ही एक समिति का गठन करेगी जिसमें हरिजन वरिष्ठ अधिकारी हों जो नौकरी में रहने वाले हरिजनों की कार्य दक्षता, वरीयता और उनकी चरित्र पुस्तिका की जांच करके उनकी पदोन्नति के लिए सिफारिश करेगी?

प्रो० मधु दण्डवते : श्रीमन्, जो अधिकार रेलवे क्षेत्र के या रेलवे मंत्रालय के हैं वह हम राज्य सरकार को कभी देने के लिए तैयार नहीं हैं। यह हम लोगों की जिम्मेदारी है और इस जिम्मेदारी से रेलवे मंत्रालय पीछे हटने वाला नहीं है।

श्री रामानन्द यादव : समिति गठन करने के लिए भी मैंने पूछा है।

प्रो० मधु दण्डवते : साथ-साथ मैं यह भी आपको यकीन दिलाना चाहता हूँ और यह राय जो आपकी है कि इस देश में हाई कोर्ट और सुप्रीम कोर्ट के जो निर्णय होते हैं, फैसले होते हैं वह जनता के खिलाफ होते हैं यह ठीक नहीं है। हमें लोगों का पीछे का अनुभव ऐसा नहीं है। कई शैड्यूल्ड कास्ट कोर्ट के सामने गए हैं और कोर्ट ने कहा है कि कंस्टीट्यूशन के मुताबिक शैड्यूल्ड कास्ट्स और शैड्यूल्ड ट्राइब्स को न्याय मिलना चाहिए। कोई शिकायत इस समय कोर्ट के सामने नहीं है। अगर मतभेद होंगे तो हम सुप्रीम कोर्ट के सामने जायेंगे। दूसरी बात यह है कि हमारे पास ऐसी मशीनरी है कि जब शैड्यूल्ड कास्ट्स की पदोन्नति का सवाल आता है या उनकी अप्पाइंटमेंट का सवाल आता है और ट्रेनिंग

में कमी होती है तो इसके लिए हम लोगों ने अलग से ट्रेनिंग सेंटर तैयार किए हैं जहाँ नाकामयाब होने वाले कैंडिडेट्स को ट्रेनिंग देकर इन्टरव्यू के लिए भेजते हैं और उसके बाद पदोन्नति या अप्पॉइंटमेंट देते हैं। यह हम करते हैं और यह काम जारी रहेगा। जो सुझाव आपने दिया है उसको हम स्वीकार करते हैं।

SHRI S. W. DHABE: The Allahabad High Court judgment of 9th December, 1977 is very clear, and I fail to understand why the Government wants to go to the Supreme Court. The case was Grade B guards were denied promotion while Grade C guards were given promotion in preference to Grade B guards. The Government relied on Circular dated 20th April, 1977. Their Lordships of the High Court have said that "in view of the above discussion we are of opinion that the Railway Board Circular dated 20th April, 1977 made a reservation to the extent of 15 per cent for Scheduled Castes and Scheduled Tribes in the posts and not in the vacancies." Therefore, the main question before the Allahabad High Court was that the reservation circular did not apply to vacancies. Instead of going to the Supreme Court seeking justice for Scheduled Castes and Scheduled Tribes, the honourable Minister should read the Allahabad High Court judgement and amend the said Circular at administrative level and should not delay the matter for such a long time.

PROF. MADHU DANDAVATE: The Railway Board Circular is to be re-ad in conjunction with all other rules, the roster system and also the various circulars that have been issued earlier. In the court we quoted all the rules that we have been following, the roster system, etc. In conjunction with all that, there is a division of opinion among the people. Even the legal opinion is that the attitude we are adopting is correct,

and even the basis of the Circular dated 20th April, 1977 commits vacancies alone and not posts. We will, therefore, put forward that attitude and I am sure we will win in the Supreme Court.

SHRI K. K. MADHAVAN: Sir.....

MR. CHAIRMAN: You cannot have another supplementary now.

SHRI K. K. MADHAVAN: There is fresh information now.

MR. CHAIRMAN: No, you cannot have another supplementary.

SHRI YOGENDRA MAKWANA: There are certain officers in the, Railway Ministry who are acting against the reservation and the Government policy in a preplanned manner. I am a member of the Scheduled Castes and Scheduled Tribes Welfare Committee. We visited several places, several State Capitals in the, country. Wherever we went we met with opposition from the so-called railway unions. In Chandigarh there was a blackflag showing against the Scheduled Castes and Scheduled Tribes Welfare Committee. At several places also it has happened. At one place the members were attacked by the (railway employees. It has been brought to the notice of the hon. Minister. Now, some unions have publicised big posters against the reservation order. There is some correspondence between the railway officers and the employees at the lower level on this issue. This has been going on since long and probably the Minister is aware of it. If he is not aware, the Committee on the Welfare of Scheduled Castes and Tribes is going to submit a memorandum and other literature to the hon. Minister I would like to know from the hon Minister as to what action the Minister is proposing to take against these officers who are actively involved in the anti-reservation activities and against that policy of the Government.

PROF. MADHU D AND A V ATE: This question or the supplementary that has now been asked does not strictly come under the main body of the question. Even then, in order to avoid misunderstanding, I will clarify the position. I would like to inform the hon. Member that the social caste orthodoxy in the country is not restricted only to one section. It affects the trade unions, it affects politics and it affects all social institutions. Therefore, even among the trade unions there are orthodox sections who are not happy about this particular provision in the Constitution regarding preferential opportunity given to the Scheduled Castes and Scheduled Tribes. I had an opportunity to meet some of the trade unionists. Probably their objection to this is that because of this preferential opportunity given to the Scheduled Tribes and Castes, they lose seniority. Then I told them categorically that these Scheduled Castes and Scheduled Tribes have suffered from lack of seniority for centuries and therefore we will continue to give them seniority and will not be cowed down by the pressure from any section. We will not yield to pressure on this issue. This is what I have told them categorically. If we find that some sections are responsible for violating this Constitutional provision, we will take necessary steps against them. The House can rest assured of it.

MR. CHAIRMAN: Mr. L. R. NAIK. You are not attentive. Do you want to put a supplementary?

SHRI L. R. NAIK: May I know from the hon. Minister whether he wants to apply the roster system to direct recruitment to posts created or does it hold good in respect of promotional vacancies also?

PROF. MADHU DANDAVATE: If the Scheduled Castes and Tribes have to wait for direct recruitment, they will never get it. We want to apply this formula to vacancies created. The

roster system is to be applied whenever vacancies are created. The Scheduled Castes people are satisfied with this and not with the 15 per cent of the entire job opportunities.

SHRI N. K. P. SALVE: Notwithstanding his faith in the Supreme Court, from the extract of the judgment quoted by Shri Dhabe, this high-sounding national policy is not involved in it. It is not as though the rules have been impugned as unconstitutional. If that be so, if you are really concerned, if that be the issue, why not have the rules modified and amended to make the absolutely unequivocal and clear instead of fighting this matter out, in the national and international interests?

PROF. MADHU DANDAVATE: I appreciate the concrete and constructive suggestion. But I wish to point out that...

SHRI N. K. P. SALVE: Have you taken the Law Ministry's opinion?

PROF. MADHU DANDAVATE: I have taken everybody's opinion. Without that I never come before the House...

SHRI N. K. P. SALVE: That is the trouble. He takes everybody's opinion. Has he taken the opinion of somebody who knows this?

PROF. MADHU DANDAVATE: When I say 'everybody', I mean the Law Ministry in this legal context. I assume that elementary understanding on the part of an intelligent Member...(Interruptions). My assumption is correct.

I wish to make it clear that even in his judgment the Judge has not challenged the Board's circular. They say that it has been wrongly interpreted. They say that two types of interpretations are possible and we have put forward all the background material and all the relevant facts. Unfortunately, they were not convinced. When the lower court is not convinced, in a democracy the only

way open to us is to go to the higher court to get justice done. That is what we have done.

*274. [The questioner (Shri Balram Das) was absent. For answer vide cols. 40-41 infra]

Demands of station Masters and Assistant Station Masters in the Southern Railway

*275. SHRI S. KUMARAN: f
SHRI JAGJIT SINGH ANAND:
SHRI LAKSHMANA
MAHAPATRO:

Will the Minister of RAILWAYS be pleased to state:

(a) whether Government's attention has been drawn to the serious situation arising out of the activities of the Station Masters and Assistant Station Masters in the Southern Railway to press some of their urgent demands;

(b) whether Government have suspended/charge-sheeted a number of such employees;

(c) whether it is a fact that this agitation has resulted in large scale dislocation of passenger and freight traffic; and

(d) if so, what are the demands of these employees and what steps are proposed to be taken by Government to arrive at an amicable settlement?

†The question was actually asked on the floor of the House by Shri S. Kumaran.

THE MINISTER OF RAILWAYS (PROF. MADHU DANDAVATE): (a) to (d) A statement is laid on the Table of the House.

Statement

(a) to (d) Some Station Masters and Assistant Station Masters on the Southern Railway started an agitation from the midnight of 19th/20th April, 1978 by refusing to give line clear to goods trains or by locking up their stations. In order that the service could be maintained, the Railway Administration had to relieve a number of unwilling staff of their duties by suspending them. In this way, 189 employees were suspended and substitute staff posted to maintain the services. Later, some Station Masters and Assistant Station Masters absented themselves by reporting sick. Charge-sheets were also issued on certain employees for specific offences. In all about 800 Station Masters/ Assistant Station Masters out of about 3500 joined the agitation.

The agitation was called off at 11.30 P.M. on 27th April, 1978 and those who took part in the agitation have since come back to duty. Following this, the suspensions earlier ordered have all been revoked.

The Railway Administration had called representatives of the above staff for an informal discussion on 19-3-1978, but the representatives did not turn up. Later on, however, there were discussions on 29-3-78 and 3-4-78.

A statement giving the demands of the employees is attached as annexure. The Railway Administration would hold further discussions with the representatives of staff.