

THE  
PARLIAMENTARY DEBATES  
OFFICIAL REPORT

IN THE SIXTY-EIGHTH SESSION OF THE RAJYA SABHA

*Commencing on the 28th April, 1969/the 8th Vaisakha, 1891 (Saka)*

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RAJYA SABHA

*Monday, the 28th April, 1969/the 8th Vaisakha, 1891 (Saka). The House met at eleven of the clock, MR. CHAIRMAN in the Chair.*

MEMBER SWORN

Shri Sawai Singh Sisodia (Madhya Pradesh).

ORAL ANSWERS TO QUESTIONS

\*1. [*The questioner (Shri C. Achutha Menon) was absent. For answer, vide cols. 35-36 infra.*]

VIGILANCE CLEARANCE FOR RAILWAY EMPLOYEES

\*2. SHRI A. C. GILBERT: Will the Minister of RAILWAYS be pleased to state:

(a) whether it is a fact that a Vigilance clearance is necessary before a railway employee including officers can be confirmed, promoted and/or retained beyond 55 years;

(b) if so, the number of cases in which promotions and confirmations of employees and officers separately, were withheld because of vigilance cases pending against them and their juniors were given over-riding promotion during the last five years;

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(c) the number of employees and officers separately, who were not retained beyond 55 years due to vigilance cases against them during the last five years; and

(d) whether the employees including officers, after being exonerated from all the charges, get promotion and seniority from the date they became eligible in the first instance; and if not, the reasons therefor?

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS (SHRI PARIMAL GHOSH): (a) Clearance in regard to the integrity of an employee is required before he is promoted to or confirmed in any appointment. In regard to retention in service beyond 55 years, no specific instructions have been issued relating to integrity clearance; a review is to be made to assess the suitability of the individual for further retention.

(b) Information is being collected and will be laid on the Table of the Sabha.

(c) Does not arise in view of the answer to part (a) relating to retention in service beyond 55 years.

(d) Promotion is given from as early as a date as possible after the exoneration. The question of giving retrospective effect to the promotion does not arise as the individual did not hold charge of the higher post

earlier and as the post must have been occupied by another individual. However, the individual is suitably protected in regard to the actual rate of pay on promotion. As for seniority in the higher posts, it is not affected by the delayed promotion.

**SHRI A. C. GILBERT:** Sir, I seek your protection. It is actually a penalty and therefore against the principles of natural justice because punishment is given without proving the charge. After an employee is exonerated of all the charges, may I know if the Government pays any compensation in the shape of money to him which he would have got on promotion at the first instance, especially when he has remained in mental agony during the period of enquiry if not, the reasons therefor?

**SHRI PARIMAL GHOSH:** Sir, as for the question of promotion and confirmation, it is necessary that we must have the vigilance clearance before a particular employee can be promoted or confirmed. Now the question here is this. What happens if he is exonerated? There are two points. So far as the question of giving retrospective effect to his promotion is concerned, as I have already mentioned in my answer, retrospective effect cannot be given for two reasons. Firstly, the post cannot be left vacant and it must have been filled by somebody else. We cannot pay two persons for the same post. Secondly, the question of giving payment to an employee will only arise if in reality he has discharged those duties of the higher post. Regarding the question of pay, normally in those cases their pay is being protected and the employees do not suffer anything so far as the money is concerned. Their seniority is also not affected.

**SHRI A. C. GILBERT:** Sir, he has again misled me, I should say. The enquiry may last for two to three years. Now here the officer is exonerated of all the charges. Of course he gets his seniority but he is not compensated in any way. That is what

I have asked. He has failed to reply to my second question. He should reply to it. Now I put my another supplementary question. May I know what action the Government takes against those officers who frame charges which are not proved in the course of enquiry thus causing unnecessary mental agony and financial loss to the employees?

**SHRI PARIMAL GHOSH:** As I have already stated, there is no financial loss. As far as the question of giving punishment to the officer who has framed the charges is concerned, Sir, enquiries are conducted on the basis of various reports. A *prima facie* case is established on the basis of such reports. In many cases it is proved that there is not much of a substance in those charges; so the employees concerned are exonerated. The question of giving punishment to the officer who conducted that enquiry does not arise.

**SHRI ARJUN ARORA:** Sir, may I know how much time the Vigilance Commission usually takes in the cases referred to it? I find that the cases are referred to the vigilance authorities of the Railway, then to the Vigilance Commission and it appears everyone forgets about them: it takes a number of years and during that period the officer concerned is not promoted; he is denied the benefits of seniority and is left completely demoralised. May I know what is the actual average time taken by the various vigilance authorities in deciding the cases and whether any steps are being taken to curtail that period?

**SHRI PARIMAL GHOSH:** Sir, the time taken in finalising a vigilance case depends on so many factors, the nature of the case, the number of witnesses to be interviewed and the co-operation of persons concerned. Sometimes what happens is that when a notice is sent for furnishing the necessary information, both the parties make delay and as such a lot of delay takes place. But I can assure the House that all possible steps will be taken to minimise the time, so far as the Administration is concerned.

**SHRI ANANT PRASAD SHARMA:** The Minister has just now said in reply to Mr. Gilbert's question that there is no question of the employees suffering any disadvantages. Sir, the employees suffer so many disadvantages during this period. Firstly, they are not selected for higher-grade promotions, if they are entitled to them. Secondly, they are not paid during the period their conduct is under investigation. He has simply said "... because they have decided." I do not know who has decided, and what is the basis of that decision, why those decisions are not given retrospective effect. What is the fault of that employee whose conduct is under investigation and it is proved that he is not guilty? During that period he is denied the advantage of higher pay and so many other things and during that period there might have been another chance of promotion also. What is the difficulty in giving retrospective effect to that decision? He has simply said that two persons cannot be paid for the same post. There is also a rule that a supernumerary post can be created for such a person, especially when it is not his fault.

**SHRI PARIMAL GHOSH:** Sir, it raises a very basic point. In the case of Railway Administration where we employ about 13 lakhs of people the question of vigilance enquiry is rather inevitable. It is not that we are taking these steps because of our decision but because of the Corruption Enquiry Committee Report that vigilance is inevitable in such cases. And naturally there will be some time-lag between enquiries and decisions. As I have mentioned, there can only be two things. One is promotions with retrospective effect and the other is loss in emoluments. With regard to promotion with retrospective effect, as I have already mentioned, it is not possible for the Administration to accept this plea for two reasons. In the period during which the officer was not given promotion somebody else must have been given promotion, because I cannot keep the post vacant and also we cannot pay to two persons for the same post.

**SHRI ANANT PRASAD SHARMA:** That is my question. Why should he not be paid when it is not his fault?

**SHRI PARIMAL GHOSH:** In some cases it may not be his fault; in some other cases he may be found guilty. So it is a question which can be decided only after the investigation is completed. Regarding the main point about emoluments and seniority I have stated that they are not affected.

**SHRI ANANT PRASAD SHARMA:** Emolument is affected because he does not get for his past period. Therefore some remedy has to be found.

**SHRI Z. A. AHMED:** In view of the fact that a lot of heartburning exists among the Government employees on this account, in view of the fact that there is inordinate delay in the disposal of these cases and in view of the questions raised by Members here, would the Government consider it necessary to re-examine these rules to remove the flaws and weaknesses therein? Will the Government do that?

**SHRI PARIMAL GHOSH:** So far as the question of amending the rules is concerned, certainly I will look into the matter and do whatever is possible.

**MR CHAIRMAN:** I see that this is a matter to which the Government's attention is to be drawn to see how best to amend the rules to avoid unnecessary harassment.

\*3. [Transferred to the 7th May, 1969.]

**RATIO OF OFF-GRADE BILLETS TO TESTED QUALITY BILLETS**

\*4. **DR. B. N. ANTANI:** Will the Minister of STEEL AND HEAVY Engineering be pleased to state: