

[Shri M. K. Mohta]

again, have to be distributed. This is patently unfair and should receive due consideration of the Government. Another instance of hardship would be when a higher bonus is paid to the workmen in pursuance of a voluntary agreement between the employers and the employees, which is much higher than the amount that might have been arrived at by applying the formula of the Bonus Act. In such a case there is absolutely no need for increasing the next year's bonus amount by adding to it the tax-saving on the previous year's bonus payments because in the previous year itself the bonus amount was much higher than the amount which would have been arrived at by applying the formula. In these two particular cases the application of the provisions of the Ordinance would cause undue hardship to industries. Thank you.

The question was proposed.

THE MINISTER OF LABOUR AND REHABILITATION (SHRI JAISUKHLAL HATHI): Madam, I beg to move :

"That the Bill further to amend the Payment of Bonus Act, 1965, be taken into consideration."

THE DEPUTY CHAIRMAN : You can speak on this Motion later. The House stands adjourned till 2 P.M.

The House then adjourned for lunch at four minutes past one of the clock till two of the clock.

The House reassembled after lunch at two of the clock, THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA) in the Chair.

PROCLAMATION ISSUED UNDER ARTICLE 356 OF THE CONSTITUTION IN RELATION TO THE STATE OF BIHAR

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI K. S. RAMASWAMY) : I beg to lay on the Table a copy of the Proclamation issued by the President under article 356 of the Constitution on February 26, 1969 revoking the Proclamation issued by him on 23rd August 1968 under the said article in relation to the State of Bihar. [Placed in Library. See LT-139/69.]

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE PAYMENT OF BONUS (AMENDMENT) ORDINANCE, 1969—*contd.*

II. THE PAYMENT OF BONUS (AMENDMENT) BILL, 1969—*contd.*

SHRI JAISUKHLAL HATHI : The reasons why the proposed amendment has become necessary are explained briefly in the Statement of Objects and Reasons appended to the Bill. As the House knows, there was no legislation on the subject of bonus prior to the enactment of the Payment of Bonus Act, 1965. The Act brought into force a statutory formula for payment of bonus to persons employed in certain establishments. I might refer here briefly to the broad scheme of the Act. The available surplus in respect of an accounting year is determined after deducting from the gross profits, certain sums referred to in section 6 of the Act. Sixty per cent. of the available surplus is then allocated for payment of bonus to the employees in accordance with the provisions of the Act. Disputes have arisen in regard to the amount deductible by way of direct taxes under Section 6(c) of the Act. It has been urged on behalf of workers that the words 'is liable to pay' under section 6(c) of the Act connote the tax actually payable by the employer. The employers have, on the other hand, contended that the tax to be deducted under section 6(c) is a notional amount which may be higher than the actual amount payable because, according to them, the calculation should ignore the tax rebate admissible to an employer under the Income-tax Act, on the amount of bonus paid to the employees. The latter view has been upheld by the Supreme Court in a case arising from a dispute between the Metal Box Company and their workmen. The Supreme Court has decided in that case that bonus paid under the Bonus Act is not to be deducted from the gross profits while computing the amount of tax deductible under section 6(c). As a result of this decision, the tax deductible would be a notional amount higher than the actual tax and the tax rebate admissible to the employer under the Income-tax Act on account of the bonus paid, will wholly go to the employer.

The House is already aware of the Supreme Court's decision delivered in August 1966, whereby certain sections of the Act were declared as invalid. This included Section 34(2) which contained a provision for protecting to a certain extent, the higher bonus benefits enjoyed by a section of workers prior to the enactment of the Bonus legislation. After this development, demands were made by the workers for a complete and wholesale revision of the Bonus formula in their favour. The matter was considered by the Standing Labour Committee on the 28th October 1966. A Sub-Committee was appointed. Unfortunately, no agreement between the employers and workers could be arrived at. It was ultimately left to the Government to take a decision.

The present Bill is to clarify certain positions. I may mention that when the Payment of Bonus Bill, 1965 was being discussed in the other House, an amendment was proposed to clarify that the amount of tax concession should go wholly to the employers. The amendment however was rejected after the then Labour Minister had made the following statement regarding the intention of the Government :

"Regarding the other point about tax concession obtained on the bonus paid, we have considered that point also. Having given so much of concession for improving the industries, we thought that this may not be allowed for the Management. Therefore, I am not in a position to accept any of these amendments."

The Supreme Court's decision in the Metal Box case however showed that the language of the statute did not bring out the above intention. As the Parliament was not in session, the workers were agitating and there were demands that the whole Act should be overhauled and as these benefits have been denied to them, something should be done. Therefore an Ordinance was promulgated. As a result of the amendment proposed to be made through the Bill, the amount of tax rebate on bonus paid or payable in respect of an accounting year will be added to the available surplus of the succeeding accounting years. As I have said earlier,

the available surplus is distributed between the employer and employees in the ratio of 40 : 60. Forty per cent. of the amount of tax rebate will thus go to the employers and the balance 60 per cent. will go to the employees. However, if the Act is not amended, the entire tax rebate will go to the employers, with the result that the workers have lost by Section 34(2) being struck down by the Supreme Court and also this. It is therefore that this measure is brought and I commend this measure to the House.

The question was proposed.

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA) : I would bring to the notice of Members that two hours have been allotted for consideration and passing of this Bill. Keeping that in view I would request that Members may kindly confine themselves to ten minutes and not all Members who have given their names may be called unless the time is extended. Shri Vasavada.

SHRI S. R. VASAVADA (Gujarat) : Mr. Vice-Chairman, the amendment that has been moved to the Bonus Act is fully justified by the circumstances that have arisen in this field of industrial dispute. The history of bonus payment in this country is actually 50 years long and all these years it has been a very chequered history. It is true that there was a convention of paying bonus to the workers during the First World War but that system was abolished immediately peace came but with the commencement of the Second World War, from 1940 onwards, the workers are paid bonus from year to year but rather very grudgingly. In the earlier stages workers even said that if the prices were not allowed to be raised, if the consumers' interests were safeguarded, they would forego their bonus. But unfortunately it did not happen so, and since the workers were not getting their living wages, the gap between the living wages and the actual wages had to be adjusted from year to year by payment of bonus. But, as I said, it was done very grudgingly.

It was also known that every year warfare was started and that it was after considerable loss of working days, tensions and bitterness that the bonus was paid. These disputes began to go to the tribunals. The tribunals also were not of one

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mind. There were a number of formulas. Ultimately, when the first case in the Bombay textile industry went to the Labour Appellate Tribunal, a formula for the whole of the country was evolved but, unfortunately, there was a provision for rehabilitation. And so, those who were in charge of the industry were completely at freedom to work that formula in the way they liked, because there were so many notional things about it. The workers again felt that, even though there was a formula evolved by the highest Industrial Tribunal in the country, that formula also did not give them justice because of this item of rehabilitation. Cases were even referred to the Supreme Court, and in one case even Supreme Court pronounced that this was a matter on which Parliament should enact some legislation. Then, Parliament, before enacting this legislation, appointed a Bonus Commission. And when the Bonus Commission's report was submitted to the Government, unfortunately there was no unanimity, and the Government found it difficult to accept the majority report. Here I would like to point out that though the Bonus Commission, in its majority report, had allowed 4 per cent on the reserves—before finding out the available surplus for distribution as bonus—and 7 per cent interest on paid-up capital, the Government, in their wisdom, changed these items. Instead of 4 per cent they allowed 6 per cent on reserves, and instead of 7 per cent on paid-up capital they raised it to 8½ per cent. The Bonus Commission, while evolving their formula, had with them the balance-sheets of hundreds of companies for the previous three consecutive years and had one objective in view, that is, that the bonus which was paid in the previous three consecutive years so far as the quantum of the bonus was concerned, should remain constant. There may be a change to the extent of 25 to 30 lakhs of rupees here and there but the total payment was nearly 30 to 31 crores of rupees per annum should not be very much changed. The formula which the Bonus Commission had suggested, when applied to the balance-sheets, also brought about the same figure of 30 to 31 crores of rupees. But when the Government changed that formula, the workers were put to loss, and that 30 to

31 crores came down to several crores less, and the workers felt that the appointment of the Bonus Commission and the enactment of the Bonus Act deprived them, to an extent, of the bonus that they were formerly getting; that instead of giving them some increase it had deprived them even of their legitimate dues. So the workers' representatives approached the Prime Minister and other Cabinet Ministers. Their point of view was explained to them, and at the time of actually putting the legislation before Parliament the Government thought it proper that one more sub-section, one which was not provided for by the Bonus Commission, should be added, and it was added in the legislation; so far as I remember, it was sub-section 34(2). Now that sub-section provided that, because of the Government's modification of the recommendation of the Bonus Commission if the workers were to lose anything, that loss should be made good. Then, some of the employers went to the Supreme Court, and there that sub-section 34(2) was declared *ultra vires* the Constitution. Thus the workers were reduced to the same position as they were before. As a result, industrial peace was disturbed. Life was jeopardised. Agitations were going on. And something had to be done. Let it be remembered that this amendment to the Bonus Act is nothing new. For a number of years the tax rebate which was paid from the gross profits, the rebate which was paid to the industry on the bonus paid, was added to the available surplus. In some cases the tax was actually deducted first and then the bonus was paid. Therefore, the amendment which is sought to be made here is nothing new. If the logical effect is seen, if it is looked at from the judicial point of view, the tax was paid on the money which was given to the workers and that tax should legitimately go to the workers also. This is the least that the Government can do if justice is to be done to the workers.

It has been said that there is no provision for rehabilitation. Sufficient provision has been made for rehabilitation. If the employers in the country had not frittered away their profits and the return that was paid to them out of the Excess Profits Tax—this morning one of my friends in the Opposition said about the textile indus-

try—if the moneys were not frittered away like this in the post-war period, I say that the textile industry would not be in this plight, in this miserable plight. Even now the Bonus Act makes adequate provision. The provisions are there, 4 per cent to 6 per cent, 7 per cent to $8\frac{1}{2}$ per cent, the return on paid-up capital, all the taxes actually paid including the direct taxes, etc. All these concessions are there, and I do not think it is proper for the employers to grudge this little thing which is given to the workers.

It is also said that when a company has made losses, even then that company will have to pay back the rebate. Where is the question of payment of rebate for such a company? If the company has made a loss, that company has not paid any tax at all.

SHRI BABUBHAI M. CHINAI (Maharashtra) : But he has paid 4 per cent bonus.

SHRI S. R. VASAVADA : In such a case he does not get any rebate at all.

Therefore I would appeal to the House to note that no injustice is done to the industry. And here only the least or minimum justice is done to the workers whereas the workers have a right to get something more. Now it is no use opening up the whole controversy once again. Whatever little Government has done, I would advise the working classes in the country also to be satisfied for the present. A time may come after some time when there will be the economic recovery even in the industries where there have been the recessionary trends, when the 4 per cent minimum rate may go up to 5 per cent, 6 per cent and so on gradually. But so far as the present scheme is concerned, I think it is a satisfactory scheme and the amendment before us is justified by the circumstances that have arisen.

I fully support the amending Bill and oppose the Resolution.

SHRI M. V. BHADRAM (Andhra Pradesh) : Mr. Vice-Chairman, Sir, while supporting the Bill I would like to state some of the facts which the Government had not taken care of earlier. The pre-

sent Bill is the product or the outcome of the decision of the Supreme Court as stated by the Minister in the Metal Box Company of India case. According to that decision of the Supreme Court the entire tax rebate on the bonus paid or payable will accrue to the employers. Now according to the Bill only 60 per cent of the rebate goes to the employees and 40 per cent will go to the employers. The Government is very lenient towards the employers. Mr. Vasavada has narrated the history to some extent, I may say. Now, what has the LAT given? The LAT has given 100 per cent of the rebate as surplus available to be distributed to the workers and not 60 per cent but the Bonus Act itself has reduced it to 60 per cent. The only advance made by the Bonus Act is that a minimum has been assured; even there some employers might argue. The cry of the trade union movement in India for the last fifteen years has been that the bonus should be treated as deferred wage. That principle in a way has been accepted by the Bonus Commission as well as by the Bonus Act also. This four per cent is the deferred wage of the workers for the work that they have done in the last twelve months.

In this connection I would like to draw your attention to certain concessions that the employers have got after the enactment of the Bonus Act. For instance, the Finance Minister was good enough to accommodate the employers to convert the reserves into bonus shares. From 1966 up-to-date during the last three years Rs. 228.50 crores have been converted into bonus shares. Now on these bonus shares the employers get huge returns. If they are only reserves they will get only 6 per cent return but if they are converted into bonus shares the return will be much more; they will get an additional 2.5 per cent. Therefore the mechanics of the law has helped the employers. And during the last three years the total value of the bonus shares has gone up to Rs. 228 crores odd. Prior to that in 1964-65 it was only Rs. 4.1 crores and in 1965-66 it was only Rs. 4.9 crores but during these three years it has gone up to Rs. 228 crores. So the worker is put in a very disadvantageous position because of the conversion of the reserves into bonus shares.

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There is another concession given to the employers by the Finance Minister. There is a tax relief on dividend tax up to 10 per cent and that applies to the bonus shares also. Then there is the reduction of the bank rate. The Finance Minister has reduced it from 6 to 5 per cent and the interest which the employer will have to pay will also go down. So a material change has taken place during these four years since the enactment of the Bonus Act, and all these things have got to be taken into consideration but the Labour Ministry and the Bill have not taken all these things into consideration while accommodating the employers to the extent of 40 per cent in the rebate. Therefore in a way because of these conversions and the concessions given to them the employers, almost every one of them, are showing balance sheets which provide only the minimum for the workers. Therefore though a maximum of 20 per cent is stipulated in the Act it does actually only helps the worker to get the minimum and at best this can be called the Payment of Minimum Bonus Act.

I should like to say one more word. The Bonus Commission by a majority report has given certain recommendations but one man who is considered to be employers' representative, one Mr. Dandekar, has made a note of dissent and on his only dissent the entire Government of India with bended knees has accommodated him and from 7 per cent the whole thing has been increased to 8.5 per cent in respect of return on paid-up capital. The LAT recommended only a maximum of 4 per cent on the reserves but the Bonus Act gives much more than what has been in vogue for the last sixteen or seventeen years. When this Bonus Act was being legislated, as Mr. Vasavada stated there was agitation to protect the existing gains that were made by the working class in the country and the late Lal Bahadur Shastri gave an assurance which is incorporated in section 34(2) of the Bonus Act. Now this was struck down by the Supreme Court in 1966 and these four years the Government has been sleeping over the matter.

SHRI JAISUKHLAL HATHI : How is it four years ? It is only two years.

SHRI M. V. BHADRAM : I am sorry but you concede that you were sleeping for the last two years and not four years ?

SHRI AKBAR ALI KHAN (Andhra Pradesh) : You consider whatever he says is doubly exaggerated always; if it is two he will say four.

SHRI M. V. BHADRAM : We do not want anything more. We only say, give us our share. When this has been struck down by the Supreme Court the Ministry has not taken care to come before Parliament to amend what has been struck down. Even now it is pending; it is not yet set right and the matter was taken up in the Sub-Committee of the Standing Labour Committee where all the workers unanimously made a recommendation saying that the LAT formula should be accepted but the employers have not accepted it and so the Government has not accepted it. From this entire scheme of things we can only understand this that only when the employer gives the green signal will the Government move.

SHRI JAISUKHLAL HATHI : They have given green signal for this Ordinance ?

SHRI M. V. BHADRAM : I will come to that. Probably you are afraid that. . .

SHRI A. G. KULKARNI (Maharashtra) : Mr. Bhadram, you are mixing up arguments with politics. It seems to be a joint approach.

SHRI M. V. BHADRAM : It is left to you to understand in the way in which you want. But is there no politics behind you or is there only co-operative politics ?

SHRI A. G. KULKARNI : This sitting on bended knees and all that is political.

SHRI M. V. BHADRAM : The Government is also guided by the politics of the country.

SHRI CHITTA BASU (West Bengal) : Of a particular class.

SHRI M. V. BHADRAM : Yes; of a particular class; always in favour of the employers. Even if Mr. Mohta had been the Minister of Labour he could not have done better than this present Bill because

only 60 per cent of the rebate in respect of amounts paid or payable as bonus is given to the workers and not 100 per cent. I do not understand what justification there is for the Government to allocate 40 per cent to the employers, particularly in view of the various concessions which have been given to the employers in the last three years either through the Finance Bill or by modifications in the Income-tax Act and other things.

SHRI U. K. LAKSHMANA GOWDA (Mysore) : Mr. Bhadram, you say that all the allocable surplus should be made available to the workers only ?

SHRI M. V. BHADRAM : I want the entire rebate should be added to the allocable surplus, not available surplus. (Interruptions) Without eating nobody will work.

(Interruptions)

SHRI A. D. MANI (Madhya Pradesh) : But not somebody else's money.

SHRI M. V. BHADRAM : It is my money. I am producing the money. It is not your grandfather's property. Therefore, coming to the last point, the Bonus Act itself is biased in favour of the employers. There are two or three provisions which I would like to mention. For the payment of bonus a time-limit of eight months is given after the closing of the accounting year and even there the officer concerned can extend the time-limit. It is also there.

SHRI AKBAR ALI KHAN : Sir, ...

SHRI M. V. BHADRAM : I am not yielding.

SHRI AKBAR ALI KHAN : He had referred to the grandfather of Mr. Mani. That should be expunged. He said grandfather of Mr. Mani. That should not be there. That should be expunged. Nobody's grandfather should be brought in here.

SHRI M. V. BHADRAM : I appeal as my grandfather. Section 27 says and it has been laid down that the balance-sheet and accounts should be provided and it is presumed to be a correct one. The presumption is there. But we know how the

accounts and the balance-sheets are being audited or being manipulated. The whole country knows it and several times the whole Parliament has discussed these things. How is it the Government could say that the balance-sheet should be presumed to be correct ?

Another thing, what is the machinery for settling the dispute ? Again, it is the old, rotten, outmoded Industrial Disputes Act under which the machinery is constituted. There must be speedier remedy for the settlement of these disputes.

Finally, coming to the last point, what is the necessity of the Ordinance ? The Ordinance does not give any retrospective effect and it takes effect from the accounting year which begins on any day in 1968. It means that the year completes only in 1969 and we are in 1969. So, it is applicable only to the future and not to the preceding year. I would like to say in this connection that the way in which the Ordinance has been promulgated shown that the Labour Ministry were afraid of not getting the green signal from the employers. They have resorted to this Ordinance, so that nobody can say anything. Because the Ordinance has got to be passed by Parliament, this was resorted to by them. Otherwise, if the Labour Ministry was clear about their intentions, section 34(2) had been struck down by the Supreme Court. Various other measures, which have been accepted unanimously and recommended by the Standing Labour Committee, were not given effect to by legislation. Even then I am supporting the Bill. At the same time, it should be 100 per cent, not 60 per cent.

SHRI A. D. MANI : Sir, before you call on the next speaker, it is all very good humour, but I think we should leave out our grandfathers and grandmothers in this House and I am sure my hon. friend, Mr. Bhadram, would allow this expression to be expunged from the record.

SHRI M. V. BHADRAM : What is there ?

SHRI B. K. P. SINHA (Bihar) : The hon. Member really did not say Mr. Mani, but money bags. In the interruptions the word "bags" was not heard properly and, therefore, they were not recorded.

THE VICE-CHAIRMAN (SHRI RAM NIWAS MIRDHA) : He did not say Mani's grandfather, but grandfather's money.

STATEMENT BY MINISTER *RE* STRIKE
BY DEGREE COLLEGE TEACHERS
OF U.P.

THE MINISTER OF EDUCATION AND YOUTH SERVICES (PROF. V. K. R. V. RAO) : Sir, the teachers of non-Government Degree Colleges in Uttar Pradesh have for some time been agitating for the improvement of their service conditions. They took mass casual leave on January 24, 1969, and for some days observed a relay fast in front of the Vidhan Bhawan. From February 4, 1969, a section of them have gone on strike. Out of 224 non-Government Degree Colleges, 106 have been totally affected and 24 partially.

2. The main demands of the teachers are as follows :—

(i) Sanction of an integrated pay scale of Rs. 400-950-Qualification Bar-1250.

(ii) Advance increments depending on the length of service.

(iii) Provision of scale of Rs. 700-1100 to qualified teachers other than Head of Departments, within the prescribed limit of 25 per cent.

(iv) Progressive increase in the quota of 25 per cent for posts in the scale of Rs. 700-1100.

(v) Grant of Dearness Allowance at Central Government rates.

(vi) Allowing government grants to teachers in un-approved posts as also to those in B.Ed. and M.Ed. Departments.

3. The attitude of the State Government has been sympathetic. It has already announced through a Press Note its willingness to meet the demand relating to the provision of the scale of Rs. 700-1100 for qualified teachers other than the Heads of Departments, to grant dearness allowance at State Government rates provided the managements meet half of the additional cost, and to recognise B.Ed. and M.Ed. Departments for purposes of grant-in-aid. The State Government has requested the Universities to amend their

Statute, and Ordinances to bring the designations of the posts, pay-scales, etc. in line with those proposed by the University Grants Commission. As soon as this is done, it would become obligatory on the colleges to give the same scale of pay to teachers working on unapproved posts as prescribed for those working on posts approved for grant-in-aid.

4. The State Government is not willing to accept the demands regarding the integrated pay-scale and progressive increase of 25 per cent quota for posts in the scale of Rs. 700-1100, as they are not in accord with the approved Central scheme for assistance and involve considerable additional expenditure which the State Government is unable to find.

5. The State Government is also not willing to accept the demand for advance increments as such increments were neither given to State Government employees nor to University and College teachers when their salary scales were revised in 1962 and 1965.

6. The State Government had suggested the formation of a Committee to examine the demands of the teachers from all aspects but unfortunately this suggestion has not been found acceptable so far by the teachers' representatives.

7. A deputation of the Federation of U.P. University College Teachers Association met me on February 19, 1969, and placed their demands before me. I told the teachers that only such of their demands could be considered by the Central Ministry of Education as fell within the framework of the scheme of revision of salary scales recommended by the U.G.C. and approved by Central Government and promised to use my good offices with the State Government to secure the acceptance of the same. I also impressed upon the teachers the necessity of acting in a manner that would improve their image in the public eye and that they should therefore call off the strike. They promised to bear in mind the advice given and to consider the matter in their Executive Committee meeting soon.

8. Another deputation of teachers from Kanpur representing the U.P. Federation as also the All India Federation of University and College Teachers' Organiza-