

APPEAL BY AIR INDIA EMPLOYEES FOR FULL WAGES DURING LAY-OFF PERIOD

* 107. **SHRI T. V. ANANDAN** : Will the Minister of TRANSPORT, AVIATION, SHIPPING AND TOURISM be pleased to state :

(a) whether it is a fact that a representation has been submitted to Government by the low-paid employees of the Air India for full wages for the period they were laid-off owing to the recent Flight Navigators' strike; and

(b) if so, what action has been taken thereon ?

THE MINISTER OF STATE IN THE MINISTRY OF TRANSPORT AND AVIATION (SHRI C. M. POONACHA) : (a) No, Sir.

(b) Does not arise.

SHRI T. V. ANANDAN : To question 103 the hon. Minister replied that the period has been asked to be converted into leave due or leave to their credit. May I bring to the notice of the Government that the Government's action there is not within the law ? The law in this connection is section 22(3) (b) of the Payment of Wages Act which says :

"If the employees present themselves at the place of work and express their desire to work and if the employer fails to provide them with work, then they will have to be paid their wages."

So if the Government says that they were prepared to work but the Air India were not able to provide these people with work, then they are entitled to payment and not for the conversion of that period into leave due to them.

SHRI C. M. POONACHA : The hon. Member refers to a different rule. I shall, with your permission, Sir, quote the particular rule that applies in this case. It is section 25(c) of the Industrial Disputes Act which runs as follows:

"No compensation shall be paid to a workman who has been laid-off.

(iii) if such a laying-off is due to a strike or slowing down of production on the part of the workman in any part of the establishment."

Also, the rules that govern the relationship with Air India employees are the Air India Service Regulations and in a case where employees are laid-off regulations 53 and 54 apply and it is stated :

"In cases where employees are laid-off under regulations 53 and 54, they shall be considered as temporarily unemployed and the period of such unemployment shall be treated as leave with pay to the extent such leave is admissible and leave without pay for the balance of the period. When, however, employees have to be laid-off for an indefinite period exceeding two months, their services may be terminated after giving them due notice . . ."

Therefore, the Air India Management are within the rules, both of the Industrial Disputes Act and the Air India Service Regulations.

SHRI T. V. ANANDAN : May I invite the attention of the hon. Minister to section 22, sub-section (2) of the Industrial Disputes Act under which this can be construed as lock-out because the workers presented themselves and were prepared to work ? It is not as if the low-paid workers were on strike. The navigators were on strike and so employment was not provided to these workers. Therefore, they are entitled and under section 22, sub-section (2) of the Industrial Disputes Act this can be construed as a lock-out and so these workers are entitled to their wages. Will the hon. Minister examine this point ?

SHRI C. M. POONACHA : I am afraid that is not quite correct in relation to this particular case.

SHRI T. V. ANANDAN : May I advise the Government that if these workers go to a court of law they will win their case and the Government will have to pay them ?

SHRI C. M. POONACHA : Sir, I can only anticipate questions not advice here.

SHRI M. M. DHARIA: Without entering into the legalities of the question when the employees had presented themselves for duty why should they not be paid? Even if there are rules to the contrary why should the Government not take a sympathetic view towards these employees who have presented themselves for duty?

SHRI C. M. POONACHA: Sir, the circumstances in this case are slightly different. I do not want to go into those matters because they are more or less fairly settled and they have accepted this position. If it is to be argued, of course there are arguments on this side, perhaps stronger arguments.

SHRI ATAL BIHARI VAJPAYEE: Sir, a little while ago the hon. Minister stated that only the navigators went on strike and not the other employees and that is why their absence from work has been taken as leave. That shows that the Government is willing to accept the proposition that they had presented themselves for work and that they did not go on strike. If the Government accepts that position why should they not pay these employees?

SHRI C. M. POONACHA: Their salaries have not been cut at all for the lay-off period. Only those days have been adjusted against their leave in accordance with the rules that we have for our employees.

SHRI ATAL BIHARI VAJPAYEE: Sir, they have been deprived of their leave. That is a punishment.

SHRI C. M. POONACHA: The hon. Member perhaps would not re-open the whole question because these are all matters which have been settled.

SHRI MULKA GOVINDA REDDY: I would like to know whether the Unions have accepted the decision that the Government has taken or whether the Government has taken a decision and imposed it on the employees.

SHRI C. M. POONACHA: It is the Corporation which is dealing with this

and the Corporation has taken the decision which is strictly in accordance with the provisions of law as well as their own regulations governing the service conditions of employees.

SHRI MULKA GOVINDA REDDY: Sir, he has not answered my question. He says that the Corporation has decided. But what I want to know is whether the Unions of the employees have accepted this decision.

SHRI N. SANJIVA REDDY: They were talking between themselves and they have come to an agreement and this is what has been decided. The Government does not come into the picture at all. It has been settled between the two, the Union and the Corporation.

श्री राम कुमार भुवालका : क्या मंत्री जी बताएंगे कि जिस एक्ट के बारे में उन्होंने कहा वह सारी इन्डस्ट्रीज के वास्ते है या खाली एयर इंडिया के वास्ते है ?

SHRI C. M. POONACHA: As far as the Industrial Disputes Act is concerned, it is for all; the rules governing service conditions in the Corporation are in respect of the Corporation employees.

SHRI RAJENDRA PRATAP
The hon. Minister has quoted one section, section 25(C) of the Industrial Disputes Act and he has particularly referred to the workers going on strike and so on and so forth. Now, here the navigators have gone on strike. Do the navigators come under the definition of 'worker' under the Industrial Disputes Act?

SHRI C. M. POONACHA: May I repeat that? It is very specific that if a lay-off is due to a strike . . .

SHRI N. SANJIVA REDDY: His question was different. The navigators do come under the definition of 'worker' as the law stands now. That is what the Government is worried about and we are trying to see if we cannot remove these people from the category of 'workers'.