

LETTER OF APOLOGY FROM
SHRI S. MAHANTY

MR. DEPUTY CHAIRMAN: Before we go to the next item, with the permission of the hon. Members I would like to mention what has been a happy ending to the rather disturbed debate in this House. Shri Mahanty has written me this letter:

"Please excuse me if I have caused any feeling in you to be sorry, in course of my speech. I apologize."

I appreciate the gesture. This is just the way how the dignity of both the Chair and the Members can be enhanced.

MOTION RE. AMENDMENT TO THE
INDIAN ADMINISTRATIVE SER-
VICE (RECRUITMENT) RULES, 1954

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Sir, I move:

"That the following modification be made in sub-rule (3)* of rule 4 of the Indian Administrative Service (Recruitment) Rules, 1954, namely:—

In rule 4, at the end of sub-rule (3), the following be inserted, namely:—

"This sub-rule shall remain in force for one year only from the time it comes into force."

Mr. Deputy Chairman, I am sorry that I have to bring this important matter almost at the end of the session but the reason for my bringing it at all is its very great importance. Due to rush of work it appears that a very important item *viz.* the amendment to the Administrative Service

*The sub-rule was published in Government Notification S.R.O. No. 1,124, dated the 14th May, 1956 and

laid on the Table of the Rajya Sabha on the 16th May 1956.

Rules brought in by the Government and put on the Table of the House has gone unnoticed. Otherwise I am sure.....

(Interruptions)

MR. DEPUTY CHAIRMAN: Order, order. The hon. Members will resume their seats.

DR. SHRIMATI SEETA PARMANAND:.....if measures like the Representation of the People Act, the Insurance Bill and the Constitution Amendment Act etc. had not been before the House, I am sure this important item would not have gone unnoticed. The rules as at present governing the recruitment of persons to I.A.S. prescribe three methods under rule 4, namely, by competitive examination, by promotion of members of State Civil Service and by selection in special cases from among persons other than Members of the State Civil Service but serving in connection with the affairs of a State. So this rule which has been brought intends adopting another method by which it would be possible for Government to recruit members to the I.A.S. in the open market. Members are aware of what is called the open market system, that is, people of the ages between 25 and 40 from non-Government services would be taken. The House would fully appreciate and is also aware that Government is in need of experienced people who had not appeared in examinations like the I.A.S., the I.C.S., and who may be of 35 years today and who have had an opportunity of gaining experience particularly in business and other concerns and who would be of use to the Government to man the various Departments in the developmental projects and for that reason this method of recruitment may be permissible. Once before Government had to take recourse to this method when the British element in the service went away and then people from

the open market were taken. At that time this rule was not there. My amendment which says:

“That this sub-rule shall remain in force for one year only from the time it comes into force”.

is meant to give this power to the Government only for a limited time and the reason for that is that had it not been the intention of Government to guard the interests or rather to keep the methods of recruitment to the service on as high a level as possible, this type of rule would have been there already in addition to the three methods by which our recruitment is made. The very fact that people who would be taken in this open market would not have to appear for the competitive examination shows that those people, in spite of their experience, cannot be necessarily of the same intellectual calibre. Apart from that, at present it may be that these 300 or 400 people who would be taken would not in any way jeopardise the prospects of those regularly recruited candidates but if this rule remains as it is, there is no knowing when it would be used and in what manner it would be used. Government today would give us the guarantee that it would be used as sparingly as possible but one can never be sure when such a rule is there, who would be using the power and at what time who would be using and the same Government personnel will not be there to always say that it should not be used now. The method for recruiting these people would be by giving them one essay and one paper in general knowledge—that is all. So in order to guard, as I said, the interests of the people in service as far as promotion etc. goes, in order not to make them feel disheartened as their prospects of promotion etc. would be affected by the recruitment at any time without notice of any new people and of not very high calibre either and also in order to keep the standard of the service at as high a level as possible,

it is necessary that this rule should, whenever there is need for making such recruitment, be kept there for a limited period. It is rather unfortunate that while the Parliament has the power to bring amendments even to any Act, it has not the power to bring an amendment to a rule once it is made, after fourteen days have passed, that is, after keeping it on the Table of the House for fourteen days and for that reason, even at this late hour it was thought that though the 14 days elapsed yesterday, that at least the opinion of the House in this matter should be made known to the Government so that Government themselves should come forward at the end of a year proposing the deletion of this rule. In this respect, if I want to forestall the arguments that may be put by the hon. Home Minister that the other House is not meeting and it is therefore too late in the day to bring this, I would like to refer to article 312 of the Constitution which gives greater power in this respect to the Rajya Sabha than even to the Lok Sabha and the article says in reference to Chapter XI dealing with legislative powers of States and the Union Government and the different Legislatures:

“Notwithstanding anything in Part XI, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all-India services common to the Union and the States, and, subject to the other provisions of this Chapter,”

That means the Chapter which deals with the Administrative Services.

The next few words are very important:

“regulate the recruitment and the conditions of service of persons appointed, to any such service.”

The question here is not one of starting any new service and what I would

[Dr. Shrimati Seeta Parmanand.]
 like to point out to you and to the House is that the rules which govern recruitment are also within the purview of the Rajya Sabha and need not preclude its supervision over renewed rules and it is a matter over which the Rajya Sabha is expected to keep a close watch.

I am anxious that within the short time at our disposal many other hon. Members should be able to speak, particularly Dr. Kunzru who has very kindly agreed to remain here for five more minutes, and so I would conclude here. I only request the Deputy Minister.....

AN HON. MEMBER: He is not a Deputy Minister.

DR. SHRIMATI SEETA PARMANAND: I am very sorry, I mean the hon. Minister of State.

MR. DEPUTY CHAIRMAN: No, he is not Minister of State. He is a full Minister.

DR. SHRIMATI SEETA PARMANAND: Yes, yes, the Cabinet Minister. I am sorry for this slip of the tongue.....

THE MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): That does not matter.

DR. SHRIMATI SEETA PARMANAND: I request that the Government should delete this rule after one year and thus meet the wishes of this House and also safeguard the interests of the service people, especially of the younger generation, and maintain the high standards of our service which is intended to be maintained by the Regulations as they were provided to begin with.

MR. DEPUTY CHAIRMAN: I will place the motion before the House. Motion moved:

"That the following modification be made in sub-rule (3) of rule 4 of the Indian Administrative Service (Recruitment) Rules, 1954, namely:—

In rule 4, at the end of sub-rule, (3) the following be inserted, namely:—

'This sub-rule shall remain in force for one year only from the time it comes into force.'

SHRI H. N. KUNZRU (Uttar Pradesh): Sir, in view of the recruitment that has to be made to the Indian Administrative Service at present, I think it is proper that Government should have the power to recruit persons in ways other than those laid down in the present rules. But I do not think that it is desirable to make this new method a permanent part of the recruitment rules. If a special situation exists, have a special power. If the period of one year suggested by Dr. Shrimati Seeta Parmanand is not enough, make it two years or even three years. But there is no reason why the new method should become a permanent part of the rule relating to the recruitment to the I.A.S. I do not know why Government have proposed a permanent addition to these rules. If they make this permanent, then they may, from time to time, be tempted to make use of it in a way that would cause dissatisfaction among the public. It is true that the rule says that the method that has been suggested, I mean the new rule will be used only after consultations with the States and with the Union Public Service Commission. But even so, even with this restriction, I do not think that it is desirable to make it a permanent feature of the rule relating to the recruitment to the I.A.S.

SHRI RAJENDRA PRATAP SINHA (Bihar): Sir, I rise to support the amendment moved by Dr. Shrimati Seeta Parmanand for I also consider that it is not desirable to have such a rule permanently incorporated in the recruitment rules. I would, therefore, urge in the interest of maintaining the high standards of our service, in the interest of the prospects of persons in service, particularly in the State services for which it is

provided that a certain percentage of them will be promoted every year, that any such recruitment from the open market, without any competitive examination should be limited to a specified period. I am in agreement with the Government that there is the necessity at the present moment for recruiting a large number of officers, and they also want experienced men, elderly persons, whom they cannot get quickly except by taking recourse to the method of open recruitment. But the Government should, I think, give us some assurance that if there is any technical difficulty in amending the rules, they will amend this particular rule in due course. That will satisfy us. I hope the hon. Minister for Home Affairs will take note of the views expressed by us here and do the needful in the matter.

SHRI J. S. BISHT (Uttar Pradesh): Mr. Deputy Chairman, I only want to ask for a little clarification on certain points which I had raised earlier also. First of all, I want to know whether Government servants can also apply for the open-market posts. I understand that there are 380 vacancies of which about 125 will be filled from the open market and the rest will be from the Government Departments. What I want to know is whether those persons who will be recruited from the service, will they be recruited exclusively from the Provincial Civil Service? Or will they be recruited from other services as well, namely from the Police Department, the Education Department and so on? I want to know whether those service officers who are not in the Provincial Civil Service will also be entitled to be recommended by the Provincial Government; and if so I want to know what is the machinery set up by the Government in the provinces for recommending these names. Usually the Chief Secretary of the Provincial Government or some other officer associated with him will be the person who will be recommending these officers for the I.A.S. Our experience in the first emergency recruitment has been that almost all

the officers taken were the P.C.S. people, that is to say, they were persons belonging to the Provincial Civil Service, the Deputy Collectors—the other officers in the provincial government had no chance. What I want to know from the Home Minister is.....

MR. DEPUTY CHAIRMAN: But the scope of the.....

SHRI J. S. BISHT: Sir, in his reply the hon. Minister I hope will be able to give me this clarification.

MR. DEPUTY CHAIRMAN: The scope of the amendment is to restrict the rule only for one year. You cannot go beyond that.

SHRI J. S. BISHT: Secondly, from the open market, they propose to take 125 persons. I want to know if these officers in the provinces can also come in by open market competition for recruitment to the I.A.S. I would like the hon. Minister in his reply to clarify these points.

SHRIMATI PARVATI KRISHNAN (Madras): Mr. Deputy Chairman, I rise to support the amendment moved by Dr. Shrimati Seeta Parmanand. Of course, it may be necessary for the Government to make emergency recruitments on a particular occasion. But at the same time to make this a permanent rule, in my opinion, is not a desirable thing. There are no qualifications prescribed here and therefore when such qualifications and minimum standards are not prescribed, there are always various complications that would arise. Also this method of recruitment from the open market will lead to another problem. We all know that unemployment among the educated is increasing in our country. So what will be the qualifications according to which, or from which sections will this special cadre be recruited? All these things will have to be clarified. In view of the situation as it exists today, I feel very strongly that at least this time-

[Shrimati Parvati Krishnan.]
limit must be there and that will be some guarantee and safeguard against any confusion or any misuse of such powers.

PANDIT S. S. N. TANKHA (Uttar Pradesh): Sir, I am sorry I have to oppose the amendment moved by my hon. friend Dr. Shrimati Seeta Parmanand. My reason for doing so is that I think it will be wrong on our part to restrict the power of the Government to recruit men in the Indian Administrative Service whenever it is necessary for them to do so, outside the usual examination system and the limits prescribed for the junior entrants. As the rule stands, I am sure it cannot be the intention of the Government to do away with the usual method of recruitment through the examination system altogether. But the Government has taken this power only because they may at times stand in need of recruiting more qualified and experienced elderly persons, and it is only then, I am sure, that the Government will exercise this right of going into the open market to recruit men to the I.A.S. If it had not been the intention of the Government to have elderly and more experienced persons, then they could always fall back upon the usual system of examination and recruit more entrants, I mean more young men through the examination, instead of going into the open market. Therefore Sir, it seems that Government feels the necessity of having more experienced elderly men rather than raw young men and because the Government's activities are expanding and they find the need for more experienced men, it is desirable that they should have the necessary powers. It has been suggested by Dr. Kunzru, that the Government may be given the power to make such recruitment only within the next two years or so, but then too in so doing it will mean restricting them to a particular period. It is possible that after the present recruitment which the Government proposes to do in the

open market there may no longer be any necessity in the following year for the Government to go into the open market for recruitment but it is possible that two or three years hence it may become necessary for the Government to do that again. Therefore I see no reason why this limit of time should be placed on the Government's activities and specially so as I have no reason to suspect that it is their intention to do away with the examination system. Even though I am sure the Government as well as the public outside are fully satisfied with the existing examination system yet I see no reasons to refuse them the right to go into the open market whenever it is found necessary for them to do so and specially when restrictions have been placed on the Government's powers to do, namely that before they go into the open market it will be necessary for them to consult the Governments of the States as also the Public Service Commission itself, which holds the usual recruitment examinations. It is only when those authorities also agree with the Government's point of view, that it will be entitled to go into the open market for the extraordinary recruitment. That being so Sir, I see no reason why the hands of the Government should be tied down by us by limiting the period to one year or two years as proposed by Dr. Kunzru, or take away that power from the Government altogether as suggested by the mover.

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Deputy Chairman, I rise to say this that I am in agreement with the proposal made by Dr. Seeta Parmanand. I think it will not tie the hands of Government at all because the position can be reviewed by them after a year. For a year the rule operates and if they find that the rule has worked well they can continue it. If they find that the rule has not worked well they can find some other solution and therefore I think Dr. Seeta Parmanand's amendment has merit in it.

The second thing that I wanted to say is this.

Engineering students and science students and students of technology are all eligible for these I.A.S. posts. That is all right, but what about medical students? It has been brought to my attention that medical students are not eligible for I.A.S. positions. Why is that so? Perhaps the Home Minister will be able to enlighten us on this point.

Thank you.

SHRI H. C. DASAPPA (Mysore): Mr. Deputy Chairman, I rise to support the amendment of Dr. Seeta Parmanand. In fact I really don't understand why the rule has been modified by the Government without any limit on the period during which it should last. The idea is that it is an emergency recruitment and it obviously means that it is caused by certain peculiar circumstances and it is not a normal thing. So if they want anything of an emergency recruitment, the period has got to be prescribed, otherwise there is this risk and this danger that it will be practically neutralising the functions and the powers of the U.P.S.C. I do not mean to say it is going to be arbitrary, by no means, and Mr. Datar may come and say, "You can trust us to do the right thing." By all means, but yet we cannot escape this fact, namely, that it is possible for the Ministry to resort to more and more of emergency recruitment and less and less to the normal recruitment. Therefore, Sir, I think it would be very good if we have this period of one year. We will have gained some experience and we will see then, at the end of the year, whether we should have it extended and it is always possible for the hon. Minister to come to the House and to tell us that another fresh emergency has arisen and let him not convert emergency into normality. That I think, Sir, goes against the very grain of any kind of a fair rule for the guidance of the Government. I therefore

strongly feel that the hon. Minister should accept this amendment. But there is just one suggestion made that if ever they should accept this amendment it will mean that the whole work will come to a stand still because, if this rule is modified, it may have to go to the Lok Sabha also. Certainly not, and for two reasons. One thing is that since it is not sought to be amended in a way as to stop the work of the Ministry in connection with the present emergency recruitment, the emergency recruitment can go on. It only seeks that it should be in existence for one year and, after all, the work that it has taken up will all be completed within this year. So there is no question of this coming in the way of the progress of the work that they have taken on hand. Secondly, Sir, I may say that I do not see why, if he accepts this amendment here, this should go again before them. There is no reason. As amended, it will be laid no doubt before the Lok Sabha. They will have their fourteen days' time and they can go on. They can change it if they like and then it will be.....

MR. DEPUTY CHAIRMAN: Parliament has to amend it in the same session. Parliament means the two Houses.

SHRI H. C. DASAPPA: Then I will be satisfied with the first string to my bow. I had two strings, I thought. I do not want to discuss the point now that the second string to the bow is not there. Now that the amendment is not for suspending the work, there should be no reason why he should not accept it.

DR. P. SUBBARAYAN (Madras): Sir, I feel that this amendment is a very salutary one for the simple reason that, I think, no executive should be armed with such extended power. I feel that, after all, they want this special recruitment because they have not got enough men in the service, who could fill the places that are necessary to be filled. As Dr. Kunzru pointed out, they could ask for two

[Dr. P. Subbarayan.]

years if they thought it could not be done within the period of a year. I do not think it is going to restrict the Government specially in the matter of recruitment to fill the places that are to be filled now. Therefore I think it is only reasonable that they should say, "All right, we will have this power for a year and if we find it necessary we shall come before you and have this extended for another year or two which may be necessary to fill the places that are vacant now." I know the difficulties that have arisen. There are so many undertakings which are becoming Government undertakings because of the difference between the public and the private sectors and the kind of recruitment that you may need for the public sector, specially in industrial concerns, may be different from what you are doing for the Indian Administrative Service and if they want some people there, even that power could be got when necessary. I do not think Government will be making any mistake in accepting this very reasonable amendment.

SHAH MOHAMAD UMAIR (Bihar):

I feel that there is great force behind the amendment moved by my friend, Dr. Seeta Parmanand and if the Government can adjust themselves, I think they should accept the amendment. I wholeheartedly support it.

SHRI B. N. DATAR: Mr. Deputy Chairman, I find that though the present special recruitment has been generally approved of by all sections of the House, there is considerable misunderstanding so far as the scope of this rule is concerned, and secondly it has not been properly appreciated as to whether any amendment can be accepted at this stage. The House will kindly note that these rules have been made under the All India Services Act, 1951, passed by both Houses of Parliament and under this Act it has been made clear that rules have to be made in consultation with the State Governments and then they have to be laid on the Table of both

the Houses. Now, this rule has been introduced for the purpose of making it possible for the Government to have this special recruitment which has generally been approved of by all the Members. So unless this rule is there it would not be possible to carry on the work so far as special recruitment is concerned. Now what has happened is this. This rule has been made and laid before both Houses of Parliament and that House did not raise any question at all. It is open to Parliament to make amendments and whenever amendments are to be made it is to be understood as a constitutional requirement that the amendments have to be accepted by both the Houses. The present position is that the rules made by the Government after consultation with the State Governments under the All India Services Act have been accepted by both Houses. Assuming for the sake of argument that any amendments were to be accepted by us, it would mean that this rule which has been made would be again reduced to fluidity and in the next session we shall have to raise the question in the other House. It may or may not be possible to raise it and that is the reason why in the original rules it has been stated that all rules are to be placed before both Houses and if for example any amendments have to be made, then those amendments will have to be accepted by both Houses of Parliament in the same session.

SHRI H. C. DASAPPA: Where is it stated?

SHRI B. N. DATAR: In the original rules; not here.

MR. DEPUTY CHAIRMAN: Under sub-section (2) of section 3 of the All-India Services Act, 1951, all rules are required to be laid for not less than fourteen days before Parliament as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as Parliament may make on a motion made during

the session in which they are so laid. It must be both Houses and in the same session.

DR. SHRIMATI SEETA PARMANAND: I would like to say one thing. It would be better in such important cases if the changes made are circulated. It would be easier for Members to read them, otherwise with the rush of work it is difficult because so many things are there which require their attention all at once.

MR. DEPUTY CHAIRMAN: The Act enjoins the Government to lay the rules on the Table as soon as they are made.

DR. SHRIMATI SEETA PARMANAND: What I suggest is, they should circulate copies. After all, so much literature is published and this should not be difficult.

SHRI B. N. DATAR: Anyway, that is for future guidance.

MR. DEPUTY CHAIRMAN: The rules have been complied with.

SHRI B. N. DATAR: Yes; the rules have been complied with. As I said, assuming for the sake of argument that this amendment is to be accepted, naturally the whole progress would be stopped and a further eventuality would also have to be noted, namely, that action has already been taken.

MR. DEPUTY CHAIRMAN: If the hon. Minister agrees with the amendment he may not accept it but he may consider the question of.....

SHRI B. N. DATAR: That is an entirely different matter.

DR. SHRIMATI SEETA PARMANAND: He need not accept the amendment but he can give an assurance that they will sort of cancel the rule after.....

SHRI B. N. DATAR: If the hon. Member does not want to press this amendment at this stage, then a different question should arise. Then I

would point out to the Member another thing. So far as the matters of this rule are concerned, what have we done? That is a matter which we have to understand.

SHRI H. C. DASAPPA: You have done nothing.

SHRI B. N. DATAR: We have done nothing. We have only introduced an amendment in a certain rule. According to the present practice, as the hon. lady Member herself has pointed out, there are certain channels and all that we have done is to add a new channel and the wording has been made so clear that special recruitment, or whatever it is, is to be added only after consulting the Union Public Service Commission and the State Governments. All the State Governments have to be consulted and the Union Public Service Commission also has to be consulted. The House has got the greatest safeguarding factor in the Union Public Service Commission. Therefore we cannot use those powers arbitrarily at all. Let it be understood very clearly that the Government of India or the Home Ministry would not use such powers because the rules do not allow us to use such powers. I would read out the rule so that it will be clear. "Notwithstanding anything contained in sub-rule (1), if in the opinion of the Central Government the exigencies of the service so require, the Central Government may, after consultation with the State Governments and the Commission,....." Here Commission means the Union Public Service Commission. "..... adopt such methods of recruitment to the Service other than those specified in the said sub-rule as it may by regulations made in this behalf prescribe." So a number of things have been introduced. Rules have to be made; State Governments are to be consulted; the Union Public Service Commission has to be consulted and regulations will have to be made. So you will find, it is not possible for me to accept this now. Nor, on merits, is it advisable to go behind what has

[Shri B. N. Datar.]

been done because there is no need to suspect that this rule will not be used properly or will be used arbitrarily.

Only one last word, Sir.

DR. W. S. BURLINGAY (Madhya Pradesh): The regulations will also be placed before the House?

SHRI B. N. DATAR: Yes; they will have to be placed here. So far as the other objection is concerned, namely, that all this might come under article 312, with due deference to the House I might point out.....

DR. SHRIMATI SEETA PARMANANDI: I said the spirit of the recruitment rules.....

SHRI B. N. DATAR: We are guided by the words and not by the spirit, whatever that spirit might be, when we have a written Constitution. Article 312(1) refers to the creation of new services and so far as the making of rules is concerned, they are only in respect of the new services. And all India services like the Indian Administrative Service, the Indian Police Service have been referred to in article 312(2).

Now, other questions have been raised first relating to the Special Recruitment Rules by an hon. Lady Member from that side and second about the method in which candidates other than those who are to be taken from the open market are to be taken. So far as the first question is concerned the words used are "Government servants, Central or State" and a medical officer also is a Government servant. In the rule it has been made very clear that he should be getting a pay of not less than Rs. 300/- per month in the case of an employee

of either the Central or the State Government or a State-owned Corporation or undertaking. So you will find that it is perfectly open to any Government employee either at the Centre or in the States to make an application provided he satisfies other conditions which we are liberalising in deference to the wishes of Members of Parliament.

So far as this channel of recruitment is concerned—open market recruitment for about 125 vacancies—all eligible persons including Government servants, Central or State, will be entitled to apply. The other channel is by promotion from the State services. The number expected is 260; of these 85 per cent. will be from the State Civil Services and the remaining 15 per cent. will be from other State Services if suitable persons are available from the latter.

SHRI H. C. DASAPPA: What about medical?

SHRI B. N. DATAR: Medical would also come in.

MR. DEPUTY CHAIRMAN: What about the amendment, Madam?

DR. SHRIMATI SEETA PARMANAND: I would beg leave to withdraw it.

The motion was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The House stands adjourned *sine die*.

The House then adjourned *sine die* at twenty minutes past seven of the clock.