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14.05 hrs.

Title: Resolution regarding approval of Government proposal to reject Board of Arbitration Award in respect of grant of touring special pay to audit staff in Indian Audit and Accounts Department.(Resolution adopted).

MR. DEPUTY-SPEAKER: Now, we take up item no.23. Shri Basu Deb Acharia.

SHRI BASU DEB ACHARIA (BANKURA): Mr. Deputy-Speaker, Sir, I beg to move:

In the Resolution,—

for "approves the proposal of the Government"

substitute "refers back to the Government for reconsidering its proposal" (2)

Sir, I oppose this Resolution moved by the Minister of State for Finance. This Award was given in the year 1999, in respect of grant of Touring Special Pay to Audit Staff in Indian Audit and Accounts Department in terms of Para 21 of the Scheme for Joint Consultative Machinery and Compulsory Arbitration. The amount involved is Rs. 5.47 crore which will be required for payment of arrears and the amount involved as a recurring expenditure is Rs. 1.36 crore per annum. The amount is not so high, when we compare the work being done by the auditors. There are Income Tax Inspectors and they are getting this allowance, whereas the audit staff is not given this benefit. They are also doing the same kind of work. The audit staff remains on tour for more than 200 days in a year due to the nature of their work. While moving the Resolution for rejecting this Award, it is stated by the Government that payment of this Touring Special Pay will lead to diversion of scarce resources from Development expenditure to non-productive expenditure and will thus adversely affect the national economy. But I would like to submit that it is not a non-productive expenditure. The work being done by the Audit Staff to find out the exact amount to be paid by the assesseees is not an unproductive work. So, I do not agree with what has been stated in the Resolution.

Moreover, there is a judgement of the Supreme Court with regard to the implementation of the Award of Board of Arbitration. There have been 24 tribunal cases and it has been stated that the audit staff is doing productive nature of work. The audit staff remains away from their families for most part of the year due to their arduous nature of work.

I have already stated that similar allowance has been sanctioned in the case of Income Tax Inspectors for their internal audit duties. The Supreme Court, in its judgment in the year 1978 – SCC case No. 103-1972 in 1972, section 50, Madan Mohan Patnaik versus Union of India - has clearly stated that if the Resolution for rejection of Award by the Board of Arbitration is not brought forward and not passed within six months from the date of that Award by that Board, it should be treated as being implemented. In this particular case, the Award was given in 1999.

Today, a Resolution is being brought forward here to reject the Award given by the Board of Arbitration. This House is not competent to reject it after a lapse of six months. It has to be rejected within six months. If it is not rejected within that period, then it has to be implemented. That is why, there is my Amendment that this should be reported back to the Government for its consideration.

What we always find is that whenever there is an Award in favour of employees or workers, the Government comes forward with a Resolution for rejecting such an Award, even if it is a legitimate one and the employees are entitled for its benefits. In spite of that, it is being rejected. In this particular case, in my opinion, this House should not adopt this Resolution for rejection of the Award given by the Board of Arbitration.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE AND COMPANY AFFAIRS (SHRI ANANDRAO VITHOBA ADSUL): Mr. Deputy Speaker, Sir, I appreciate the views of hon. Shri Badu Deb Acharia because he is attached with the labour movement and he would automatically raise the point.

SHRI BASU DEB ACHARIA : You are also a trade union leader.

SHRI ANANDRAO VITHOBA ADSUL: I have to say that. I am the President of 22 Unions in Maharashtra and also at the Centre. Their membership is about 70,000. ...(*Interruptions*)

This Award is limited to the staff working under the Department of Audit and Accounts of the Government of India. Whenever this Award was decided, the aspect of involvement of other persons was not taken into consideration. Ultimately, the C&AG has recommended that these Awards should be implemented or extended to the other staff in

the Department of Audit and Accounts, that is, to Senior Audit Officers, Audit Officers, Assistant Audit Officers. It is a recommendation given by the C&AG. For the limited staff of the Department of Audit and Accounts, the financial involvement is Rs.54,50,000 per year. If it is extended to the others, like Auditors and Special Auditors, it comes to about Rs. 1.39 crore per year.

Secondly, if arrears are paid, then that amount goes up to Rs.5,47,18,800 till this date. Thirdly, if we implement this Award, then others in services like Railways (Touring Staff), Defence, Civil Departments and Audit Staff will also demand this because they come under the Central Government, and that comes to about Rs.5 crore more. That works out to a total of more than Rs.10 crore.

The Fifth Pay Commission has taken proper care for the Touring Staff and they are getting TA/DA. This was a special demand and an additional demand.

SHRI BASU DEB ACHARIA : All the Touring Staff are getting TA/DA.

SHRI ANANDRAO VITHOBA ADSUL: Yes. I am having the figures with me and this was circulated by the Finance Minister also.

Moreover, this is not in the case of only Central Government but the States Governments also will be affected because all the State Governments have Touring Staff in various Departments. What will happen if this is implemented? At that time this aspect was not taken into consideration that it will affect the nation socially and economically. That is why, the Committee headed by the Cabinet Secretary has rejected this Award and accordingly the Resolution was passed by the Government in its Cabinet Meeting held on 24th February 2003.

Lastly, on the point raised by the hon. Member that it would amount to the contempt of the Supreme Court, I would say that it would not happen so because the Arbitration Award is not governed by the Supreme Court judgement. It is a fact too. That is why nothing would happen as such. But if we accept this Award, what will be the implications? This point has to be noted. That is why the Government has come before the Parliament, which is having all the powers. So, I request that this Resolution should be passed.

SHRI BASU DEB ACHARIA : Sir, what has been stated is not a fact. The Government has no power to modify the recommendations after the lapse of six months. When it decides to implement an Award, it should be implemented in its entirety. If you cannot bring a Resolution within six months for the rejection of the Award, you have no power to reject it or even to modify it. You cannot even modify it and you have to implement it in its entirety.

This House, today, after the lapse of six months has no power either even to modify or reject any Award. On the other hand, after the expiry of six months from the date of the Award, since the Government did not take steps to place any proposal for modification, it has come into force. There is a judgement of the court and the Government is defying the judgement of the court. How can the Government, after four years, bring a Resolution to reject the Award given by the Board of Arbitration?

SHRI ANANDRAO VITHOBA ADSUL: Sir, here is a paper. I am prepared to lay it on the Table of the House. It says:

"Subject to the overriding authority of Parliament, recommendations of the Board of Arbitration will be binding on both sides.

If, for reasons to be recorded in writing, the Central Government is of opinion that all or any of the recommendations of Board of Arbitration should on grounds affecting national economy or social justice be modified, the Central Government shall, as soon as may be, lay before each House of Parliament the report of the Board containing such recommendations together with the modifications proposed and the reasons therefore, and thereupon Parliament may make such modifications in the recommendations as it may deem fit. Modifications may extend to the rejection of a recommendation. "

Sir, with your permission, I beg to lay on the Table.

REPRODUCTION OF CLAUSE 21 OF THE SCHEME FOR JOINT CONSULTATIVE MACHINERY AND COMPULSORY ARBITRATION

"Subject to the overriding authority of Parliament, recommendations of the Board of Arbitration will be binding on both sides.

If, for reasons to be recorded in writing, the Central Government is of opinion that all or any of the recommendations of Board of Arbitration should on grounds affecting national economy or social justice be modified, the central

Government shall, as soon as may be, lay before each House of Parliament the report of the Board containing such recommendations together with the modifications proposed and the reasons therefore, and thereupon Parliament may make such modifications in the recommendations as it may deem fit. Modifications may extend to the rejection of a recommendation."

SHRI BASU DEB ACHARIA : Sir, it has not been clarified as to why this Resolution has not been brought within four months? ...(*Interruptions*)

SHRI ANANDRAO VITHOBA ADSUL: As I said, on the ground of social justice and national economy, it can be done. ...(*Interruptions*) The repercussion was not taken into consideration by the Board of Arbitration. It was limited to the staff of Audit and Accounts Department. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : Sir, this is not fair. There is a clear judgement of the Court. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: The Central Government can do it.

SHRI ANANDRAO VITHOBA ADSUL: Sir, Rajya Sabha has passed this Resolution yesterday only. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Mr. Minister, not only that, you have already read out that particular portion now.

...(*Interruptions*)

MR. DEPUTY-SPEAKER: Shri Acharia, you will be arguing your case and the hon. Minister will be making his case. Now, I am putting your Amendment to the vote of the House.

SHRI BASU DEB ACHARIA : Sir, he has not replied as to why the Resolution has been brought after four years. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Probably you were not convinced but the hon. Minister has explained everything in detail.

...(*Interruptions*)

SHRI ANANDRAO VITHOBA ADSUL: Sir, Rajya Sabha has passed this Resolution yesterday only. ...(*Interruptions*)

श्री राजो सिंह (बेगूसराय) : उपाध्यक्ष महोदय, माननीय मंत्री जी और माननीय बसुदेव आचार्य जी, दोनों खड़े हैं। दोनों में से किसी की भी बात समझ में नहीं आ रही है। महोदय, इस सदन को पंचायत से भी बदतर क्यों बनने दे रहे हैं ?

उपाध्यक्ष महोदय : राजो सिंह जी, आप भी तो मेरी परमीशन के बिना खड़े होकर बोल रहे हैं। जब तक माननीय सदस्य को-आपरेट नहीं करेंगे, तब तक मुझे सदन की कार्यवाही चलाने में कठिनाई होगी।

श्री राजो सिंह : उपाध्यक्ष महोदय, हम क्या करें, लाचार हो जाते हैं। जब आसन की तरफ से निर्देश नहीं दिया जाता है, तो ऐसा करने पर मजबूर होना पड़ता है।

MR. DEPUTY-SPEAKER: Now, I shall put amendment No. 2 moved by Shri Basu Deb Acharia to the vote of the House.

The amendment was put and negatived.

MR. DEPUTY-SPEAKER: I shall now put the Resolution moved by the Minister to the vote of the House.

The question is:

"That this House approves the proposal of the Government to reject the Award given on 12 February, 1999 by the Board of Arbitration in C.A. Reference No. 13 of 1992 in respect of grant of Touring Special Pay to Audit Staff in Indian Audit and Accounts Department in terms of Para 21 of the Scheme for Joint Consultative Machinery and Compulsory Arbitration, as the implementation of the Award which involves an expenditure of over Rs. 5,47,18,800/- in payment of arrears and a recurring expenditure of Rs. 1,36,79.700/- per annum will lead to diversion of scarce resources from development expenditure to non-productive expenditure and will thus adversely affect the national economy."

The motion was adopted.
