

Fourteenth Loksabha

**Session : 5**

**Date : 24-08-2005**

**Participants :** Swain Shri M.A. Kharabela, Bhardwaj Shri H.R., Rathod Shri Harisingh Nasaru, Karunakaran Shri P., Panda Shri Brahmananda, Chakraborty Shri Ajay, Paul Dr. Sebastian, Bhardwaj Shri H.R., Deo Shri V. Kishore Chandra S., Kurup Shri Suresh, Pal Shri Raja Ram, Radhakrishnan Shri Varkala, Kumar Shri Shailendra, Venkatapathy Shri K., Swain Shri M.A. Kharabela

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Title : Discussion on the motion for consideration of the High Court and Supreme Court Judges (Salaries and Conditions of Services) Amendment Bill, 2005 moved by Sh. K. Venkatapathy on behalf of Sh. H. R. Bhardwaj.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY):

Sir, I beg to move:

“That the Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration.”

As you are aware, the Fifth Central Pay Commission in their Report had recommended that D.A. should be converted into Dearness Pay each time the Cost Price Index increases by 50 per cent over the base Index used by the last Pay Commission. This recommendation of the Fifth Pay Commission had been considered and it was decided that in case of all Central Government employees, including the members of All India Services, 50 per cent of the Dearness Allowance be merged with the basic pay with effect from 1<sup>st</sup> April 2004. This is now separately shown as Dearness Pay, which is counted for purposes like payment of allowances including House Rent Allowance, transfer grant, retirement benefits, contribution of GPF and various advances, etc.

Similarly, in case of pensioners, Dearness Relief equal to 50 per cent of the pension has, with effect from 1.4.2004, been merged with pension and shown distinctly as Dearness Pension[R120]. This has resulted in the increase in basic pension of the Central Government employees by 1.5 times.

As such, a necessity is felt to increase the pension, additional pension and maximum pension of the Judges of the High Courts and Supreme Court by 1.5 times with effect from 1st April, 2004.

The family pension for Judges, with effect from 1st April, 2004 is also proposed to be calculated, as in the case of Central Government employees, at the rate of 50 per cent of the salary plus 50 per cent of the Dearness Pay up to the age of sixty five years or first seven years of death, whichever is earlier, and thereafter 30 per cent of salary plus 30 per cent of Dearness Pay subject to a minimum of Rs.1,913.

A Judge of the High Court or the Supreme Court is entitled, without payment of rent, to the use of official residence. Where a Judge does not avail himself of the use of such residence, he is paid every month an allowance of Rs.10,000 per month.

With the merger of 50 per cent of DA with the basic pay, the House Rent Allowance (HRA) admissible to the Central Government employees, including members of All India Services has been revised to 30 per cent of basic pay plus 30 per cent of Dearness Pay, with effect from 1st April, 2004. On the same analogy, the allowance admissible to the Judges in lieu of Government accommodation, is also required to be revised and fixed at 30 per cent of the salary plus 30 per cent of Dearness Pay with effect from 1.4.2004.

The Chief Justices and Judges are required to hold periodical meetings with brother Judges, judicial officers and members of Bar. Sumptuary Allowance is paid to the Judges to entertain the guests at such meetings, with tea and snacks etc. The rates of Sumptuary Allowance were last fixed in 1996. Keeping in view the increase in cost of such items and the number of dignitaries who call on the Chief Justice of India and the Judges of the Supreme Court and High Courts, especially in view of the globalisation trends, the rate of Sumptuary Allowance is proposed to be revised with effect from 1st April, 2004.

Under the provisions of article 124 (3) (b) of the Constitution, an advocate having ten years practice can be directly appointed to the Bench of the Supreme Court. Generally, no advocate below the age of 55 years is considered for appointment. These Judges get pension under Part I of the Schedule to Supreme Court Judges (Salaries and Condition of Services) Act, 1958. They sometimes cannot even complete seven years of service required for eligibility of pension. As such, they are entitled to a fixed amount as pension. For such Judges, it is proposed to add a period of ten years to the qualifying period of service for pension so that they receive substantial pension *vis-à-vis* the other judges of Supreme Court who are elevated from the High Courts. This will also serve as an incentive for meritorious, talented and eminent advocates to be appointed as Supreme Court Judge.

I hope the Bill will receive the wholehearted support of the House.

MR. DEPUTY-SPEAKER: Motion moved:

“That the Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration.”

उपाध्यक्ष महोदय : सभी मैम्बर्स से मेरी रिक्वेस्ट है कि बोलने वाले बहुत ज्यादा हैं, इसलिए एक-एक, दो-दो मिनट ही बोलें। इसमें इतना क्रीटिसाइज करने की जरूरत नहीं है। इसलिए एक-एक, दो-दो मिनट बोलें तो अच्छा है। अगर यह यूनेनिमस्ली हो जाता तो और भी ग्रेसफुल होता।

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): My request is that we may do it tomorrow. Why should legislation be passed in a hurry?... (*Interruptions*)

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF URBAN DEVELOPMENT (SHRI GHULAM NABI AZAD): Tomorrow is the Private Members' Business day. There will be no Legislative Business tomorrow. The Private Members' Business will start from 2 o'clock.

SHRI VARKALA RADHAKRISHNAN : The Private Members' Business is limited to two hours only. After that we can take it up.... (*Interruptions*)

SHRI GHULAM NABI AZAD: This has already been decided in the BAC. We cannot change it now. The decision in the BAC was that we will combine Private Members' Business of two Fridays because last Friday also there was no PMB. Day after tomorrow also there will be no Private Members' Business. That is why it has been decided that on Thursday, immediately after 'Zero Hour' the House will take up Private Members' Business. There will be no other Legislative Business[[R121](#)].

If we do not pass it today, then it cannot become a law because after tomorrow, only two days are left and it has to go to the other House also.

SHRI B. MAHTAB (CUTTACK): Some Members from the other Parties should also be allowed to participate for two-three minutes. Just do not confine it to two political parties.

SHRI KHARABELA SWAIN Sir, I support this Bill about the changes in dearness allowance, house rent allowance, transfer grant, and retirement benefits of the High Court and the Supreme Court Judges. I have no objection. It seems to be a highly technical Bill. I just want to raise only two points.

Firstly, what about the appointment of the High Court and the Supreme Court Judges? The Judges are now appointing the other Judges. Is it a fair practice? What happened to the National Law Commission? Will it be constituted? It should actually recommend the names of the judges. Will it consist of the Prime Minister, the Leader of the Opposition, the Chief Justice of the Supreme Court and two other Judges of the Supreme Court? I would like to have an answer from the hon. Minister.

The second point is that how to find out a way to deal with the acts of misdemeanour committed by the High Court and the Supreme Court Judges. It is now the courts themselves which deal with any such alleged misdeed. The removal of such Judges through the process of impeachment is cumbersome. Most of the times, it is almost next to impossible. So, can a separate body be constituted to deal with the acts of omission and

commission by the High Court and the Supreme Court Judges? I hope the hon. Minister will kindly answer these questions.

SHRI V. KISHORE CHANDRA S. DEO Sir, I rise to support the Bill which has been introduced by the hon. Minister for Law. I am sure that the House will be unanimous in getting this Bill passed. I would like to mention a few things which I think should be taken note of by this august House.

Whenever any Bill or legislation has come with respect to the judges, this august House has always supported it. In many instances, we have also taken unanimous decisions. We have never cribbed or expressed any reservation about the salaries that are to be given to the judges. The judges have to be given proper salaries, allowances and pension schemes so that they can work impartially and they are free from any influence. They should be free from a want as far as everyday sustenance is concerned. They should not be susceptible to any kind of extraneous influences. I presume this is the basic reason as to why the judges deserve and should get a very high and handsome salary.

We must also remember the fact that the judiciary is one of the main arms of our polity. In the constitutional scheme, the judiciary enjoys a special place. It is, of course, the right of the judiciary to interpret the Constitution. They are the final authority as far as that is concerned, but I must hasten to add that in the democratic process, it is the representatives of the people or the Parliament and only the Parliament which has sovereign right to amend the Constitution or alter laws. The judges are free to declare that a law is unconstitutional or *ultra vires* of the Constitution. But the Parliament is free to amend it. They can again declare that amendment also as unconstitutional but Parliament again has the right to correct that and bring about a constitutional amendment. There is a delicate balance between these arms of our Constitution and the judges should remember this. Parliament has never wanted a confrontation with the judiciary. They have issued several judgements which I do not want to quote here. Some of them have been accepted by the Parliament and there have been many cases when Parliament has come out with constitutional amendments. But these should not be looked from an egoistic point of view[\[r122\]](#).

It is not as if one is encroaching upon the territories of the other.

Sir, it is said that politicians or people in public life should not only be clean but they should also appear to be clean. We, the politicians, are not only supposed to be clean but should also appear to be clean. I would like to say before this august House that the judges of the Judiciary should also not only appear to be clean but they should also be intrinsically clean. For that purpose they require to be paid well. Their salaries and pensions have to be reviewed periodically. That is what we are doing today. The Dearness Allowance is being added to the pay. Certain anomalies were there after the recommendations of the Fifth Pay Commission. But the Judiciary must also find ways as to how to curb corruption which has been growing in recent years. I am not saying it, the



former Chief Justice, Justice Bharucha mentioned about corruption in the Judiciary. I do not want to rub into that aspect. Recently, a justice by name Shri Samit Mukherjee of the Delhi High Court had to be removed for reasons of corruption. Why do we not hesitate to give the Judiciary what they deserve in financial terms? It is because we want them to be free from corruption. Some sort of accountability has to be brought in the judicial process.

MR. DEPUTY-SPEAKER: You may please conclude now.

SHRI V. KISHORE CHANDRA S. DEO : Sir, these are all interconnected things.

MR. DEPUTY-SPEAKER: But if you start speaking like this, then how will I control?

SHRI V. KISHORE CHANDRA S. DEO : Sir, if you rule that what I am speaking is irrelevant, then ...  
(Interruptions)

MR. DEPUTY-SPEAKER: You please conclude now.

SHRI V. KISHORE CHANDRA S. DEO : This is a topic that is being discussed all over the country today. Thousands and lakhs of cases are pending and people are suffering in the remotest parts of the country. I think, it is within the purview and right of this august House to at least express its concern or views while passing such a Bill, even though it may not be directly connected with the changes that the hon. Minister is seeking to bring about through this Bill.

Sir, I personally feel that justice should be accessible to all and justice should be cheap if the common man has to expect justice. For justice to be cheap, there is no other alternative but to have expensive judges. I will never come in the way of any perks or any increase in the salaries of the judges that is being made. Unless there are expensive judges, we cannot get justice cheaply. These are some of the basic principles which I feel we must have in our minds and we must remember all these things.

Sir, today the process of initiating a contempt of court proceedings is very difficult. It is because even in cases where facts have been established, truth cannot be used as an allegation for contempt cases. This is an archaic law which was brought in by the colonial powers probably because they did not want their judges to be taken to courts for any case of contempt. It is high time that we reviewed these archaic laws. These contempt laws need to be reviewed.

I agree with my colleague on the other side who just mentioned about the appointment of judges, which was usurped by them. This process should not continue. Probably, we are the only country, the only liberal democracy in the world where judges appoint themselves. I do not think, there is any other example anywhere in the world where judges appoint judges. There should be a process. There should be some high-powered Committee to deal with these appointments. The judges do not have the intelligence machinery to find out the antecedents of a person before appointing him as a judge[[snb123](#)].

You must have reports from police, from intelligence agencies and various other inputs before you appoint a judge because it is a very responsible post. So, this business of judges appointing judges is a phenomenon, which is probably unique only to this country, needs to be immediately changed. The hon. Minister of Law is present here. I hope he will take note of this.

There have been other instances. I would like to cite one or two instances. Recently, there was an incident when the Supreme Court had blatantly invaded upon the powers and privileges of a legislature by ordering that the proceedings of the Legislative Assembly be recorded. This is not going to be appreciated nor is it good for the traditions that we have been nurturing over the last forty or fifty years.

There is one more incident which I would like to mention. The hon. Minister of Parliamentary Affairs is sitting over here. In a case related to Jammu and Kashmir, the Supreme Court, in its Interim Order, had directed that terrorists should be served *biriyani*. Is this a decision to be taken by the Supreme Court? It is for the Executive to decide whether to serve *biriyani* or *chicken curry*. The hon. Minister of Parliamentary Affairs will decide or the military will decide or the police will decide that, not their Lordships. This kind of blatant aggression into others spheres or realms, which do not belong to the courts, will upset that delicate balance. And once this happens with the Judiciary, then we will be in serious trouble. Thank you, Mr. Deputy-Speaker, Sir, for giving me this opportunity. I am sorry that I have taken more time than you intended to give me.

SHRI SURESH KURUP Sir, I welcome and support this Bill. As has been expressed already here, there is no doubt that salaries and perks of the judges of the High Courts and the Supreme Court should be very good because they should not become susceptible to outside influences and they should be able to keep the dignity of their office.

I would like to mention one important matter in this connection. Now, the situation is such that judicial officers are accountable to none. In a democratic society, everybody should be accountable to the people and to the society howsoever high or mighty he may be. Here comes the long-standing demand for appointment of a Judicial Commission. In a country like India, appointment of a Judicial Commission is highly essential. It should consist of the Chief Justice, the Prime Minister and the Leader of Opposition or their nominees. Such a Committee should appoint the judges. Heavens had not fallen down when the Executive had a say in the appointment of judges. Some of the prominent and eminent jurists of our country came to the Supreme Court during those days. I do not want to mention their names. They were independent and were known for their fearless views and they upheld the independence of the Judiciary. But now judges themselves have the power to appoint judges of the Supreme Court and the High Courts. That situation should change. There should be an independent Judicial Commission and it should have a say in the appointment of judges. That is what I want to say.

One major shortcoming in our judicial system, as everybody knows, is the accumulation of cases. In this area, Fast Track Courts are doing a wonderful job. But still a lot of cases are pending. Most of the cases are pending in the subordinate judiciary. While enhancing the salary of the Supreme Court and the High Court

judges, we should remember that major part of the judicial work is going on at the lower rungs of the Judiciary. They should also get a decent pay to keep the dignity of their office[r124].

**19.00 hrs.[mks125]**

Even though it is a matter of the States, the Central Government should also get involved in it. If the State Governments want sufficient funds, these should be given to the State Governments for giving them a better salary.

Sir, when a Magistrate travels with a culprit, who is going to appear before him, in the same train or bus, it is not a good thing to be seen. So, their salary and perks should also be enhanced.

Slowly, corruption is creeping into the various layers of our Judiciary, which none other than the Supreme Court's former Chief Justice had to admit. This thing also should be taken into consideration. I think, only an independent Judicial Commission can assess all these cases and go into these things. It can recommend and find remedy for this.

**उपाध्यक्ष महोदय** : चूंकि एक घंटे के लिए सदन का समय बढ़ाया गया था और अभी यह बिल भी पास करना है। इसलिए मैं चाहता हूँ कि मैम्बर्स थोड़ा समय लें और जितनी देर तक यह बिल पास न हो जाए और स्पेशल मैन्शन समाप्त न हो जाए, तब तक के लिए हाउस का समय बढ़ा दिया जाए। क्या सदन इससे सहमत है?

**अनेक माननीय सदस्य** : सहमति है।

**उपाध्यक्ष महोदय** : ठीक है। श्री शैलेन्द्र कुमार जी, आप बोलें, लेकिन दो मिनट में अपनी बात समाप्त करें।

**श्री शैलेन्द्र कुमार** माननीय उपाध्यक्ष महोदय, चूंकि मुझे लॉ एंड जस्टिस स्टैंडिंग कमेटी का मैम्बर बनने का मौका मिला है, इसलिए मैं अपने कुछ विचार और सुझाव सदन के समक्ष रखना चाहता हूँ। उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्तें) संशोधन विधेयक, 2005 माननीय मंत्री जी ने यहां पेश किया है। केन्द्रीय कर्मचारियों के मूल वेतन और पेंशन में डेढ़ गुना वृद्धि के कारण यह विधेयक लाना पड़ा है। न्यायाधीशों के वेतन और पेंशन में वृद्धि के लिए सुप्रीम कोर्ट ने उत्तर प्रदेश, तमिलनाडु और कर्नाटक को छोड़कर सभी राज्यों और केन्द्रशासित प्रदेशों के जुडिशियल अधिकारियों के लिए एक समान वेतन और पेंशन लागू करने का निर्देश दिया है। इसमें न्यायमूर्ति श्री शेटी आयोग की सिफारिशों को मानते हुए पेंशन के नियमों में बदलाव करने की हिदायत भी कोर्ट ने दी थी तथा वेतनमान के मामले में सुप्रीम कोर्ट ने 21 राज्यों के मुख्य सचिवों और महाधिवक्ताओं को बुलाकर उनके विचार लिये थे तथा उन्हें कहा था कि इसे जल्दी से लागू करें। चूंकि सुप्रीम कोर्ट ने इस पर अपना दुख व्यक्त किया था और कहा था कि सभी राज्यों में इसे लागू किया जाए। जहां तक आयोग की सिफारिश है, उससे 12 हजार जुडिशियल न्यायिक अधिकारियों को लाभ पहुंचा है।

उपाध्यक्ष महोदय, जजों के मूल वेतन को टैक्स फ्री करने का जो प्रावधान माननीय मंत्री जी ने विधेयक में किया है, उसके लिए हम उन्हें धन्यवाद देना चाहेंगे। इसमें यह भी कहा गया है कि सुप्रीम कोर्ट के जजों की रिटायरमेंट की उम्र 65 साल है और हाई कोर्ट के जजों की रिटायरमेंट की उम्र 62 साल है। मेरा माननीय मंत्री जी से निवेदन है कि दोनों को उतना ही बोझ पड़ता है। इसलिए दोनों के रिटायरमेंट की उम्र

65 साल कर दी जाए। इसके अतिरिक्त जहां तक फास्ट ट्रैक न्यायालयों के द्वारा जल्दी फैसलों की बात थी, उसमें रिटायर्ड जजों को रखा गया था। उसमें आपने अब व्यवस्था की है कि जो हमारे वर्तमान जज हैं, वे फास्ट ट्रैक कोर्ट में रहेंगे। इसके लिए भी मैं आपको बहुत-बहुत धन्यवाद देना चाहूंगा।

उपाध्यक्ष महोदय, इसमें यह सिफारिश भी की गई है कि जजों की संख्या बढ़ाई जाए। मैं आपके माध्यम से कहना चाहता हूं कि इस सदन के सम्मानित सदस्यों के बीच से जुडिशियरी में भी आरक्षण की व्यवस्था की जाए। शेड्यूल्ड कास्ट्स और शेड्यूल्ड ट्राइब्स और जो तमाम हमारे विद्वान अधिवक्ता हैं, उनके लिए जुडिशियरी में रिजर्वेशन की व्यवस्था होनी चाहिए। अक्सर निचली अदालतों में भ्रष्टाचार की तमाम घटनाएं सुनने में आती हैं, उस ओर भी मंत्री जी विशेष ध्यान देंगे। कभी-कभी जब इस तरह की बात आती है तो कानून में एक प्रावधान किया गया है कि महाभियोग के मामले में संविधान के अनुच्छेद 124 और

127 में यह व्यवस्था की गई है। लेकिन यह निचली अदालतों में है, उच्च अदालतों में यह आज तक लागू नहीं हुई है। इस ओर भी मंत्री जी विशेष तौर पर ध्यान देते हुए व्यवस्था करेंगे।

इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूं।

श्री राजाराम पाल माननीय उपाध्यक्ष महोदय, मैं आपको धन्यवाद देना चाहता हूं कि आपने मुझे उच्च न्यायलय और उच्चतम न्यायालय न्यायाधीश वेतन और सेवा शर्तों संशोधन विधेयक पर बोलने का अवसर दिया।

मान्यवर, कार्यपालिका, न्यायपालिका और विधायिका स्वस्थ लोकतंत्र के तीन स्तम्भ हैं। जहां तक वेतन भत्तों को बढ़ाने की बात है, उससे हमारी बहुजन समाज पार्टी पूरी तरह से सहमत है। मैं कुछ सुझाव देना चाहता हूं।

**19.06 hrs.**

( *Shri Varkala Radhakrishnan in the Chair* )

आज न्याय इतना विलंब से मिलता है कि कई बार मरने के बाद भी व्यक्ति को न्याय नहीं मिल पाता है। चुनाव से संबंधित याचिकाओं पर तो कार्यकाल समाप्त हो जाने के बाद भी सुनवाई पूरी नहीं हो पाती। इसमें याचिकाकर्ता के साथ घोर अन्याय होता है। आज न्यायपालिकाओं में पारदर्शिता भी खत्म हो गई है। राज्य और केन्द्र में जिनकी सरकारें होती हैं, उनके फायदे में तो रात में भी न्याय देने में विलंब नहीं करते हैं। 1997 में जो बीएसपी विधायकों का मामला आया वह आज तक लंबित है। दोबारा उत्तर प्रदेश विधान सभा गठित हो गई और 40 विधायकों का मामला भी काफी समय से लंबित है। उस पर आज तक सुनवाई पूरी नहीं हो सकी। ऐसे मामलों में जब न्यायाधीशों के वेतन में वृद्धि के संबंध में आप विधेयक लाए हैं, तो ऐसे मामलों में तीव्रता से न्याय देने की व्यवस्था भी आप सुनिश्चित करें।

सभापति जी, संसद के मामले में जो न्यायालयों का हस्तक्षेप बढ़ा है, उससे सदन निश्चित तौर पर चिन्तित हुआ है। यह सदन समाज के प्रति उत्तरदायी सर्वोच्च संस्था है और जब इसकी समाज के प्रति जवाबदेही है तो न्यायलय भी उससे अलग नहीं हैं। उसकी भी समाज के प्रति उतनी ही जवाबदेही है जितनी संसद की है।



मान्यवर, न्यायालयों में न्यायाधीशों की नियुक्ति में भी अनुसूचित जाति और जनजाति के उम्मीदवारों की नियुक्तियों की जानी चाहिए। न्यायाधीशों की नियुक्ति का जो अधिकार है, उसमें भी पक्षपात किया जाता है। मेरा निवेदन है कि ऐसी पक्षपातपूर्ण नियुक्तियों पर रोक लगे ताकि आम आदमी को न्याय मिल सके। ऐसा निवेदन करते हुए मैं इस बिल का समर्थन करता हूँ।

SHRI AJOY CHAKRABORTY Hon. Chairman, Sir, first of all, I would like to say that the hon. Law Minister is sitting here and it seems that he is in a hurry to get this Bill passed. Therefore, I would humbly submit before you, Sir, not to hurry to pass this Bill[R126].

Sir, I rise to support this Bill. Not only on this day but on earlier occasions also, in this august House, these types of Bills have been brought forward and passed by this House regarding the salaries, pensions and other facilities of the Supreme Court and the High Court judges. We have no objection to increase the salaries, pensions and other facilities as they are holding the highest judicial office in our country. They are the temple of justice. They can make and unmake the laws. As per the provision of the Indian Constitution, there are three pillars, three wings of our country, that is, Legislature, Executive and Judiciary. All the three wings will function, will run side by side. No authority should interfere or encroach upon the jurisdiction and rights of the other authority. All the three pillars, three wings of the country will exercise their rights within their jurisdiction, within their periphery. But, I am sorry to say that recently a tendency has grown up and this tendency to encroach upon the rights and functioning of the Legislature by the Supreme Court and the High Courts is increasing day by day. Today morning, we have seen in the newspaper that the Chief Justice of the Supreme Court has cautioned the Government in a way just giving stricture to the Government. He said, "Shut down us, close the courts". In this fashion he has warned the Government. The Supreme Court and the High Courts are trying to encroach upon the rights of the Legislature and are trying to encroach upon the jurisdiction, rights and functioning of the Parliament... (*Interruptions*)

MR. CHAIRMAN : Hon. Member, we have thoroughly discussed this matter in the morning. The hon. Speaker has also given a ruling.

SHRI AJOY CHAKRABORTY : Sir, I will conclude within two minutes. They are trying to encroach upon the right of the Parliament. The Parliament is the supreme authority of the country. We do not want to close the judicial system. We do not encroach upon the rights and functioning of the Supreme Court and the High Courts. On the contrary, they have tried to encroach upon the functioning of the Parliament. I would like to draw the attention of the Ministry as well as this august House that thousands and thousands of cases are pending throughout the country in different High Courts and the Supreme Court also. It is the basic principle of the law that delay defeats the law. Justice delayed is justice denied. A large number of cases of different High Courts are pending in the Supreme Court. Nobody knows when these cases will get adjudicated and the final decision

will be given by the High Courts or the Supreme Court. Suppose a person's grandfather rushes to the court. After the demise of the grandfather, his father rushes to the court for justice and thereafter, after the demise of his father, he rushes to the court. He is waiting and praying before the court for justice and final adjudication. This is the position of the High Courts and the Supreme Court.

Corruption in the courts is known to everybody. \*Judges are exercising their rights beyond their jurisdiction. You know, very recently, the Kerala High Court has given a verdict that all the mosquitoes should be removed from the city of Kochi. Is it the right of the High Court? It is the duty of the Municipal Corporation of Kochi to remove or destroy all the mosquitoes. These types of judgements are given by the High Court and the Supreme Court. Corruption is rampant in the High Courts and the Supreme Court and it is well-known to everybody.

I need not repeat the same regarding the appointment of judges. My esteemed colleagues have mentioned about the procedure of the appointment of judges. I agree with them.

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\*Expunged as order by the Chair

Lastly, I submit that the Law Ministry should give adequate attention to the lower judiciary, Fast Track Courts. Sir, the Sessions and District Judge Courts, Munsif and Magistrate Courts are the pillars of the judicial system of the country. So far as I know – you will also agree with me – barring the Kolkata, Mumbai and Chennai High Courts, all the other High Courts have appellate jurisdiction. Only these three High Courts, have the original jurisdiction. Barring these High Courts, all the other High Courts are the appellate authority<sup>[bts127]</sup>.

Sir, the lower courts are supposed to be the pillars of justice. Suppose, a person files a case in a Munsif Court or in a Magistrate Court, ultimately he will come to Sessions and District Court or to a High Court to get justice. Even the conditions of the lower courts, Munsif Courts, Magistrate Courts and Sessions and District Courts are very bad. The infrastructure of these courts is very bad. Some time back, I had an occasion to appear in one of such courts where I found the condition was just like a cowshed. This type of condition is not fit for the functioning of the Judiciary. That is not fit even for adjudication. So, the Government should give due attention to the lower courts, Munsif Courts, Magistrate Courts and Sessions and District Courts for better judgement and better functioning of the Judiciary in the country.

Due to time constraint, I conclude my speech.

SHRI BRAHMANANDA PANDA Hon. Chairman, Sir, I rise to support this Bill. The Judges should be given proper salaries, allowances and all other benefits as suggested by the hon. Minister of Law and Justice.

At the outset, I would like to draw the attention of the hon. Minister that the Courts are temples of justice. They must be above everything. They have to maintain a clean and impartial image. Earlier, allegations of sexual abuse were levelled against some of the Judges which is no doubt shocking. During my 33 years of practice as a criminal practitioner, I had conducted cases of drug mafia Azad Pervez and also of Dara Singh where I found that the trials were delayed due to lack of infrastructure. It used to take more than five years for conclusion of a trial. This is a very serious issue which should be looked into, otherwise the delivery of justice at the right level will be defeated.

I would like to pose a question to the hon. Law Minister that we boast of being a working democracy while our judicial system is unable to deliver justice in time or appear to be doing its job to deliver timely justice. As some of my known friends have rightly stated, justice delayed is justice denied. During the days of my practice, I had the opportunity of conducting cases from Rourkela to Koraput and I found that the trials of those cases were delayed due to lack of facilities. The witnesses were not turning out. Necessary steps were not being taken even to procure the attendance of the witnesses. There were not able public prosecutors to conduct the cases properly as a result of which justice was defeated. Earlier, we talked about the Protection of Women from Domestic Violence Bill. I find that a number of cases with regard to dowry death and torture are pending in different courts, and for the disposal of those cases, we find that the trials are going on for more than five years. There is a hue and cry that special courts should be constituted to administer timely justice to women, but it is never done.

Sir, I would like to draw your kind attention that even criminal appeals are pending in the High Courts for more than 10 years[c128].

Sir, many people are languishing in custody for several years without the matter being taken up by courts for hearing. The courts are not disposing of their bail applications in time in many cases. The courts must administer timely justice to the people. Suppose the appeal is dismissed in a criminal case which will enable the appellant prefer an appeal in the apex court to redress his grievance. I belong to Orissa which is a backward State. The people of my State are not able to approach the hon. apex court due to financial stringency.

We say that a judge has to administer justice without fear or favour. But we have to look into as to how far this has been practically achieved.

Sir, I would like to further submit that due to vacancies of judges in different High Courts, including the Orissa High Court, several cases are pending. In the Orissa High Court, more than 1,50,000 cases are pending. We require more than 30 judges to give some justice to the people of my State. But with only 14 judges, it is difficult to administer justice to the people even after 58 years of Independence. So, the Law Ministry should examine as to what kind of adequate steps it can take to administer real justice to the people.



Some of my learned friends have also expressed their concern regarding the condition of the subordinate judiciary. At the grassroot level, the subordinate judiciary is to play a vital role in administering justice to the people. But I find that in some district headquarters and also in some sub-divisional headquarters, the courts are in a very bad condition. They have to be maintained properly. When the accused is presented in the court, he should have some fear in his heart. Sometimes, it is said that the magistrates are made to move along with culprits in buses. So, unless proper attention is given for improving the conditions in the subordinate judiciary, we cannot administer justice properly to the poor and downtrodden people.

Sir, I would like to bring to the attention of the hon. Minister that civil cases like First Appeals are pending for more than two decades in our courts and even second appeals, the cases are not disposed of by the courts. I hope that the judicial system, which is the backbone of the country and the custodian of liberty of innocent citizens, would be given more importance. I hope and trust that we would have more judges in the Orissa High Court to administer real justice to the people of my State in a time-bound manner. The accused should not be allowed to languish in custody for indefinite period. This is not the way to administer justice.

With these few words, I would like to thank you very much for giving me an opportunity to speak on this Bill.

DR. SEBASTIAN PAUL Mr. Chairman, Sir, I support this Bill as there is no scope for any dissent. Periodical revision of salary, allowances and benefits is necessary to keep our judges in good condition both physically as well as mentally. At the same time, this opportunity could have been effectively used to examine the present state of the Judiciary. The delicate constitutional scheme of checks and balances among the three branches of the State is seriously threatened. There are mutual accusations of encroachment and only yesterday the hon. Chief Justice of India challenged the Government or even Parliament to wind up the Judiciary before enacting legitimate legislations on many issues[k129].

Such [r130]unfortunate situation should be avoided. The unsatisfactory situation of judges themselves finding out their successors should be corrected. India is perhaps the only country where the political Executive has no control over the selection and appointment of judges. I think, it was a spurious grabbing of power by interpreting the constitutional provision and unfortunately, the Government did not challenge that judgement. So, that should be reviewed and the procedure should be corrected. The correct legal position be restored.

Even in America, the President appoints the judges, subject to ratification by the Senate. That means that there is even parliamentary control and parliamentary involvement. So, that position should be restored. We should immediately and urgently evolve a scheme for the proper selection of judges, judges with social vision and commitment, because we are now feeling or facing that danger also that so many judgements are coming



from the Supreme Court without any social vision or commitment, without any concern for the people, without any concern for the poor. That means, biased and class attitude of the judges, who are appointed by the judges themselves.

The earlier position was somewhat satisfactory where the political wing of the Government was finding out the judges. That position should be restored with sufficient safeguards. The Government should give urgent and immediate attention for the formation of a Judicial Commission for the sole purpose of appointment and supervision of the judges.

श्री हरिभाऊ राठौड़ सभापति महोदय, जजों की सैलरी और पेंशन के बारे में यह बिल लाया गया है। सरकार और सांसद ही इस देश को चलाते हैं। मीडिया, सरकार और न्यायपालिका को लोकतन्त्र के पिल्लर कहा जाता है। ऐसी स्थिति में जजों का बहुत महत्व है। उनको ज्यादा से ज्यादा सैलरी देनी चाहिए। इस बारे में मैं कुछ नहीं कहूंगा, लेकिन यहां जो फाइनेंशियल इम्प्लिकेशंस वर्क आउट की गई हैं, वे शायद गलत हैं। जजों की सैलरी, अलाउंसिस, पेंशन आप बढ़ा रहे हैं, लेकिन उससे टोटल कांसोलीडेटेड फंड पर कितना बोझ पड़ेगा, इसलिए फाइनेंशियल स्टेटमेंट दिया जाता है। इसका उद्देश्य यही है। जब हम ऐसा करने जा रहे हैं तो सरकार के ऊपर कितना सालाना बोझ आएगा। मैंने देखा है और इन्होंने बताया है कि दिल्ली हाई कोर्ट, पंजाब और हरियाणा का प्रतिशत उसमें दिया हुआ है। 30 लाख रुपए साल का खर्चा आएगा। मैं मंत्री जी से इस बारे में स्पटीकरण चाहता हूं। हम जो सैलरी बढ़ा रहे हैं वह पूरे देश के जजों के लिए बढ़ा रहे हैं या सिर्फ दिल्ली, पंजाब और हरियाणा का मामला है। जो आपने एक्ट प्रस्तुत किया है उससे जो सैलरी बढ़ेगी, उससे हर राज्य पर बोझ बढ़ने वाला है।...(व्यवधान)

विधि और न्याय मंत्री (श्री हंस राज भारद्वाज) : यह कौन कहता है कि सैलरी बढ़ा रहे हैं? आप पहले इसे पूरा पढ़िए।

श्री हरिभाऊ राठौड़ : डीए तो बढ़ा रहे हैं।

श्री हंस राज भारद्वाज : डीए भी नहीं बढ़ रहा है। इसमें तीन प्रावधान हैं। डीए मर्ज होने से सिविल सर्विसिज़ की पेंशन बढ़ गई है। लेकिन जजों को पेंशन कम मिल रही है। अब इस कानून के जरिए पेंशन बढ़ाई [VÉÉAMÉÉÒ\[i131\]](#)।

डीए और पे मर्ज करके पहले जो पेंशन मिल रही है, वही मिलेगी, सिर्फ लॉ अमेंड करना है। सम्पचुअरी एएलाउंस जो 2,000 रुपये मिल रहा था, उसे 4,000 रुपये कर दिया गया। यह चाय-पानी का खर्च है। तीसरा, पेंशन का है। जस्टिस संतो हेगड़े कर्नाटक के जज थे जो बाहर से आए थे। उनको पेंशन नहीं मिलती थी, लेकिन हमने दस साल उनके एड करके उनकी भी पेंशन कर दी। इसके अलावा इसमें कोई लम्बी-चौड़ी बात नहीं है। यह छोटा सा बिल है जो बहुत इनांकुअस है। इसमें कोई सैलरी, डीए नहीं बढ़ रहा है।

श्री हरिभाऊ राठौड़ : इसमें पेंशन बढ़ रही है, फाइनेंशियल इम्प्लीकेशन है। इसे मानना चाहिए कि यह पूरे देश में लागू हो रहा है। इससे कन्सोलीडेटेड फंड पर बोझ पड़ेगा।

मैं मानता हूँ कि मंत्री जी ने क्लैरीफाई किया है, लेकिन आजकल कोर्ट की इंटरफियरेंस इतनी बढ़ रही है कि कभी-कभी यह बात चलती है कि सरकार कौन चलाता है। यह बात भी आती है कि कोर्ट ही सरकार चलाती है।

मैं एक बात बताना चाहता हूँ। जब मेडीकल कॉलेज में कुछ मामला गया था, तो फीस कितनी होनी चाहिए, इसे भी कोर्ट ने तय किया। कॉलेज में कितनी फीस होनी चाहिए, यह देखना सरकार का काम है। हाई कोर्ट और सुप्रीम कोर्ट को इन बातों में नहीं जाना चाहिए क्योंकि यह उनके दायरे में नहीं आता। जहां संविधान की बात हो, वहां ठीक है। परसों भी यहां बहुत हंगामा हुआ। जब सुप्रीम कोर्ट ने क्लैरीफाई

किया कि हम सरकार को बता रहे हैं कि इसमें लूपहोल्स हैं, आप उन्हें दुरुस्त कीजिए। इससे पहले पूरे देश में हंगामा हुआ कि सारे जजेस कौन थे, कोई एससी, एसटी या ओबीसी के थे। एससी, एसटी का कोई नहीं था। जब एससी, एसटी के बारे में बात हो, तो उसके लिए एससी, एसटी या ओबीसी का जज होना चाहिए। इसे भी देखना चाहिए। आज संसद में अच्छी बात हुई। सुप्रीम कोर्ट को भी मानना चाहिए और सरकार ने भी माना है कि हम अपने-अपने क्षेत्र में काम करेंगे।

SHRI P. KARUNAKARAN Sir, I support this Bill. At the same time, we have to see that there are different views among the people with regard to the verdicts of the hon. Supreme Court and High Courts. But, I do not want to go into the details. It is true that the High Courts and the Supreme Court are the supreme authorities on the legal side, but in some cases they are encroaching the limit directed by the Constitution. I also do not want to go into the details. The Judiciary, the Legislature and the Executive have their own role but they should not contradict especially in the policy as well as the administrative issues.

There are many other issues that we can point out with regard to the recent developments in the judicial sector. The most important issue, I think, is the accountability, as stated by some other hon. Members. In many other countries, I think, there are such mechanisms like National Judicial Commission etc. When we say that there is some mechanism, it does not mean that we are anyway reducing the status of the Judiciary. Really, what we are doing is that we are increasing the creditability of the Judiciary because we are really minimising the burden that the Judiciary has taken now with regard to the appointment of Judges, transfer of Judges and all other things.

The other issue is this. When we think about the facilities of the Judges, we also have to think about the facilities that we are giving to the common people. I would like to quote from the 120<sup>th</sup> Report on Manpower Planning in Judiciary, of the Law Commission. [\[r132\]](#)[\[lh133\]](#)

It says:

“This Report essentially deals with the problem of judicial manpower planning, an area that has been generally ignored in India’s planned development.”

When we speak about this, I would like to mention that today, India has only 10.5 judges per million. When we say that there is accumulation of cases, we have to see infrastructure also. At the same time, in countries where the population is very less compared to India, there are more judges. In Australia, it is 41.6 judges per million. In Canada, it is 75.2 judges per million. In England, it is 15.9 judges per million. In U.S.A. it is 107 judges per million. It shows that we have to give more importance to infrastructure.

Before concluding my speech, I would like to highlight here some examples of Kerala. Up to 30-9-2004, the number of cases pending in the District and Subordinate Courts was 2,54,204, the number of cases pending in the Magistrate Courts was 4,06,308, and the total number of cases pending was 6,60,522. You think about the magnitude of the cases that are pending before the courts.

With regard to the family courts also, the number of cases pending was 29,849 and the number of motor accident claims pending up to 2004 was 1,59,733. It means that the number of judges are less not only in the Supreme Court and the High Courts but also in the District and Subordinate Courts. So, the infrastructure of these Courts has to be strengthened with immediate effect.

It is not only raising of salaries and allowances of the Judges. Of course, it is very essential. At the same time, when we speak about the social obligation, it deals with the people of this country but they are not getting these benefits and they are not getting what they really need. So, this issue has also to be taken into account by the Ministry as early as possible.

MR. CHAIRMAN : Now, the hon. Minister will reply.

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): Sir, some points have been raised by the hon. Members. I am very grateful to this House for extending unanimous support to this Bill because the tradition of this House and the other House is that when we discuss the Salaries and Conditions of Service of Judges, the House unanimously supports it. It is because of the regards which Parliament has for the Judiciary. I am very grateful for the sentiments of this House, and the Judiciary, I hope, will also respond to our sentiments.

Sir, the hon. Member, Shri Kharabela Swain, who initiated this debate, raised some fundamental questions. I have noted them. After 1993, we are all aggrieved about the process of consultation, which was provided in the Constitution. It starts in the High Court for appointment of High Court judges. Then, it goes to the State Governments, then to the Law Minister, then to the Chief Justice of India, then to the Prime Minister, and then to the President. It is a participatory consultation process by which a lot of filtration is done and everybody's view is available, and finally the President of India – I am emphasizing on this – is the appointing authority. So, the power still vests with the President of India. The only aberration that has taken place by virtue of the judgment in the case of Advocate on Record *versus* the Union of India is that the Judiciary has made their views binding on the Executive and whatever they recommend, we are bound by their views because they said that they are collegium views and not the view of a single Chief Justice, and it is the collective wisdom of the Supreme Court. So, everybody is agitated on this.

The earlier Government headed by Shri Vajpayee brought a Bill for introducing a National Judicial Commission but they also appointed a Constitution Review Committee headed by Justice Venkatachalaiah. Whatever power and shape was given to the Commission was not the recommendation of the Venkatachaliah Committee and we could not agree on that proposition[[lh134](#)].



[\[m135\]](#)

The matter is still open. As the House has spoken on this issue, when we all agree, we will try to find out a method by which we can find a solution to retrieve the old procedure where there was no binding nature of the recommendation of the Judiciary. Of course, earlier also, when I had been two times the Law Minister of this country right from 1985, I know in S.P. Gupta's case and later on in Shri Subash Sharma's case where the primacy of the Chief Justice was really in question. So, the primacy has been restored, but now the primacy of the Chief Justice's view has been snatched by his own colleagues. If two judges block, the Chief Justice's office is rendered ineffective. So, this is a system which is not showing the result which it was desired to show. So, we are looking into it.

The other issue raised was about judicial accountability and corruption. I am very happy that this issue has been raised. You must have read it. I have already prepared a Bill and circulated to the Judiciary on the National Judicial Council which will make the Judiciary accountable to the country. A forum will be available for every citizen of India to complain about the erring judges and they will have to be inquired into and investigated by their own peers. If the consultation on this Council is over, I think, by the next Session of Parliament I will be coming to this august House for your approval.

We are not leaving anything, any institution without accountability. Parliament is accountable to the people of India and we are elected representatives and we are open to so much of scrutiny. I hope it is time that all the institutions are accountable, and the judges are already aware about the Government's view. So, we are working in that direction. We have borrowed extensively from the Canadian model, American model and from other places, and finally we have come round to a view. So, soon we will have a National Judicial Council in position where all the citizens will have the redressal of their grievances. This is with regard to judicial accountability and corruption.

Now, about the strength of judges, the strength of each High Court is decided, and every third year a review is provided to see how many more judges can be appointed. So, every third year we review the strength of the judges and the workload in the courts. We provide more judges based on that account. You are all aware that the burden of finance is borne by the State in the case of High Court. So, we have to take their views also.

Regarding subordinate judiciary, a lot of emphasis has been laid on the subordinate judiciary. I am very conscious of it. In earlier first tenure, I appointed Justice Shetty Commission and requested him to go into the uniform pay scale for the judicial officers of the whole country. The Report was received but you know, the financial position of most of the States is not very healthy. So, they showed some resentment in implementing that Report. But I am very happy to inform this House that most of the States, despite their financial constraints, have implemented it.

SHRI BRAJA KISHORE TRIPATHY (PURI): You should come forward to help the States. You know the financial position of the States.

MR. CHAIRMAN : Let him complete.



SHRI H.R. BHARDWAJ: Please hear me. I am already helping. I want to inform him. Will you please listen? I am assisting you as best as I can. If you are not satisfied, later on you can ask.

With regard to the Shetty Commission, the States have been very generous. As I remind this House, in the matter of accommodating Judiciary, all the States of this country have been very generous, and they have implemented it. We have also given them their arrears. So, there is hardly anything which remains to be done or is yet to be done. With regard to assistance, the last Government gave Rs.500 crore from the Finance Commission for Fast Track Courts. That was a very good measure because for the first time, some money from the Central Finance Commission went to the States to start clearance of arrears. Sir, 15 lakh cases were given to the Fast Track Courts and about eight lakhs of them were tried and finished. So, there is a good result. It has come to light now that if we assist the States, then the arrears can be cleared.

Sir, you will be very happy to know that I have put in my Budget funds. We will continue the 1500 Fast Track Courts at the district level in all the States and 100 per cent money will be funded by the Central Government. I have given about Rs.400 crore for full computerization of the courts in the States[m136]. Hundred per cent funds from the Central budget are given to computerise the States, and the courts at the *tehsil* or the *taluka* levels will be fully computerized to improve their infrastructure. We are already sharing the infrastructure of court buildings and judicial housing on 50:50 basis with the States. We are still requesting the Planning Commission to give some 10 years' perspective by which we can help the States to build more court buildings, more judicial housing, bar rooms and all these things. This is a continuing process. We are a vast country. We have a colossal population. Hopes and aspirations of the people are increasing. They are going to the courts. It is not that the courts are not disposing of cases. The disposal rate remains the same. One High Court Judge is expected to dispose of 1,000 cases in the High Court in a year. The average is the same. But the institution has increased, and we have to cope up with the institution so that the arrears are wiped out. We are trying to modernize the system. We were working with the old system by which handwritten evidences and all was there. Now, it will be fully computerized. See the results that have been achieved in the Supreme Court by computerization.

Now, you file a case today, mention it tomorrow in the court, and the third day it is listed. In my times, when I was practising, it used to take six months or a year to list a case. The arrears have come down from 1 lakh to 30,000. The High Courts are also showing a decline in the arrears. We will have to be generous in the matter of funding the Judiciary. You will agree with me that justice now-a-days is a cry of the common man. We had promised speedy and inexpensive justice from the day we became free, but the common man still feels that justice eludes him. This is what we are doing. The earlier Governments also introduced the *Lok Adalats*. It was a good step. We are further strengthening it by introducing ADR. The West Bengal Government did a miracle in the last few months. I visited there. They are bringing conciliation at the block level. Conciliation, mediation and all these arbitrations are well known systems of adjudication. Our country will have to be innovative in the matter of finding conciliation. I am also thinking to have *gramin nyayalayas* headed by a stipendiary court very soon. A magistrate will go to the village to give justice at the doorsteps of the people, and I hope to bring this Bill also very soon before you. You will need to increase the strength of judges. Without giving the Judiciary more manpower, you cannot expect a judge to work day and night. For that, we will need cooperation of this

House, and we will have to get the cooperation of the States. You will be happy to know that two months ago, I invited all the hon. Law Ministers of the States in Shimla, and we had a very cordial meeting wherein everybody assured us that they want to give India the most modern justice system. I agree with the hon. Speaker who said, what is the use of all these reforms when there are no judicial reforms. The justice must improve side by side with other economic conditions. I promise to you that the time will come when India will have the best justice system in the world.

Today, we have an academy in each State. We have an apex academy in Bhopal where outside judges are coming for training with us. We are slowly and steadily gaining strength in this direction. So, I assure you that the system is going in the correct direction. We cannot dilute the quality of justice. That has to be maintained. The common man must be given his due access to justice. That is our anxiety.

Now, there is another area that has been touched by the hon. Speaker although this morning yet it was concluded. There are some tensions on some points. One observation falls from the Court about certain things. Similarly, sometimes we also feel that this area does not belong to the Judiciary. For example, what happened in this House is none of the business of the Judiciary. This is for the Chair to regulate. This is a privileged House. This is as privileged as any other institution. This is a sovereign House. We have to maintain the sovereignty of this House. Our unity in this House is the strength to preserve the strength of Parliament, and we will preserve it. We have demonstrated it that this House, when united, has tremendous amount of strength and sovereignty. There is no reason to be anxious because the Chair regulates our strength and we are all committed to uphold the highest tradition of Parliament and its standard[t137]s. So[RSG138], nobody should worry about it.

Similarly, we have assigned and this Parliament has assigned the role of interpretation of law and Constitution to the Judiciary. This is our decision that in the Constitution we gave this power to the Judiciary. We should show respect to their judgement and I am very proud that so far this country has upheld the highest traditions in respecting the Judiciary's administration of justice. There is no reason to show anguish time and again on this issue. We are all unanimous in whatever recommendations we are making to the House. We are all agreeing. There is no difference of opinion. Therefore, this country has always treated the Judiciary as a temple in a vast building and its sanctity has to be preserved and we have done so.

With regard to the conditions of service, we are bringing these three matters today. For example, in the case of civil servants, their DA was merged in their pay and their pension was fixed two years ago. They are getting an increased pension now, after the merger of the DA. The Judges' pension is also linked to that of the IAS officers but we had not done this earlier. As a matter of fact, this should have been done two years ago. Now, the old retired Judge is not getting the pension which he should get, after retirement. After this Bill is passed, they would get two years' arrears because earlier they got lesser pension on retirement.



MR. CHAIRMAN : Hon. Minister, is there any proposal to have a uniform retirement age for the Judges? For the High Court Judges it is 62; and for the Supreme Court Judges, it is 65. Therefore, when the Chief Justice of a High Court is about to retire, he would aspire to become a Supreme Court Judge. So, is there any proposal to have a uniform retirement age?

SHRI H.R. BHARDWAJ: Sir, I would submit, I quite see your point. There was a proposal in the Chief Justices Conference to increase the age of retirement of High Court Judges. Mr. Ram Jethmalani had moved a Private Members' Bill in this regard. We have still a proposal. For this, we would require an amendment of the Constitution. I would have to consult the parties first, within the Government and outside. It is not within my competence to say now that we would increase the retirement age. The earlier Government had some hesitation. We have to now make a consensus for such things. But we are in favour of increasing the age of retirement because the living conditions have changed and it should be uniform. This proposal is pending consideration of the Government.

I am against intrusion into the power of the Legislature and I have assured you that so far minor aberrations have taken place over which the hon. Speaker – we have one of the most outstanding Speakers who is a great lawyer – has made an observation from the Chair. After that, we should not precipitate matters.

The Judiciary, when sitting in the Court, is also dealing with a lot of cases. Our Supreme Court is deciding more cases than it ought to decide. The House of Lords decided not more than a hundred cases in a year. The American Supreme Court does not decide more than 50 cases in a year. But our Supreme Court decided thousands and lakhs of cases. So, Courts are doing very well. We have neglected this institution. We should give more funds and more support to the Judiciary and insist that they should decide cases within a time frame, there should be no delay and there should be no arrears.

I am very grateful to you that you gave me the support and I hope that this Bill would be passed unanimously.

SHRI KHARABELA SWAIN (BALASORE): Mr. Minister, Sir, I have only one question.

During the time of the earlier Government, some law was passed with regard to gathering of evidence, fixing of time of arguments and things like that. On most occasions, lawyers very stubbornly opposed it. I would like to know whether they are still implemented or not and whether it is giving any type of benefit for reducing the time taken in the judicial process.

SHRI H.R. BHARDWAJ: Sir, you would be aware, the earlier Government did a very good job in passing amendments to the CPC to provide certain steps to be taken in civil suits and to make them time bound by introducing conciliation, mediation and in-house conciliation in civil trials[\[RSG139\]](#).

That is doing very good to the country. If the Bar cooperates, we would like to further recommend the functioning of courts in a time-bound way. Otherwise, you go on taking adjournments after adjournments and no cost is imposed. That is where the arrears are mounting, if you take just adjournments and do nothing. Why

blame the court? So, that step which was taken by the amendment of the Code of Civil Procedure is showing very good results. We are modernising everything and we are improving upon that. ... (*Interruptions*)

MR. CHAIRMAN : There are a number of 'Zero Hour' submissions before me and we will not be able to reach home before 9 o' clock. Every day I am sitting like this.

... (*Interruptions*)

MR. CHAIRMAN: The question is:

“That the Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration.”

*The motion was adopted.*

MR. CHAIRMAN: The House will now take up clause-by-clause consideration of the Bill.

The question is:

“That clauses 2 to 11 stand part of the Bill. ”

*The motion was adopted.*

*Clauses 2 to 11 were added to the Bill.*

*Clause 1, the Enacting Formula and the Long Title were added to the Bill.*

MR. CHAIRMAN: Now, the hon. Minister may move that the Bill be passed.

SHRI H.R. BHARDWAJ: I beg to move:

“That the Bill be passed. ”

MR. CHAIRMAN: The question is:

“That the Bill be passed. ”

*The motion was adopted.*



**SPECIAL MENTIONS**

