

*The motion was adopted.*

First Schedule and Second Schedule were added to the Bill.

Clause 1. The Enacting Formula, the Preamble and the Title

MR. DEPUTY SPEAKER : The question is :

“That Clause 1, the Enacting Formula, the Preamble and the Title stand part of the Bill.”

*The motion was adopted.*

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

SHRI VISHWANATH PRATAP SINGH : Sir I move :

“That the Bill be passed.”

MR. DEPUTY SPEAKER : The question is :

“That the Bill be passed.”

*The motion was adopted.*

15.08 hrs.

HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT BILL

[English]

MR. DEPUTY SPEAKER : Now, I shall pass on the next item—the High Court and Supreme Court Judges (Conditions of Services) Amendment Bill. Time allotted for this is one hour.

THE MINISTER OF LAW AND JUSTICE (SHRI A.K. SEN) : Sir, I move\* :

“That the Bill further to amend the High Court Judges (Conditions of Service Act, 1954 and the Supreme

\*Moved with the recommendation of the President.

Court Judges (Conditions of Service) Act, 1958, be taken into consideration.”

Sir, the matter is not of a controversial nature. This allowance of Rs. 300/- was legislated some time back, and it was felt that Rs. 300 is hardly adequate. That is why we are moving this Bill to at least raise this amount to Rs. 500/- per month.

MR. DEPUTY SPEAKER : Motion moved :

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

Now, Mr. Ayyapu Reddy may speak.

SHRI E. AYYAPU REDDY (Kurnool) : Sir this is a very small and inconsequential Amendment. We are not opposing it, we are supporting it. (*Interruptions*)

15.09 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

I take the opportunity to say that we require to take a second look on the service conditions of the Supreme Court Judges and the High Court judges. I would like to draw the attention of the Hon. Minister to one anomaly which is now existing with regard to the service conditions of the High Court Judges. If any High Court Judge resides in his own house, he is entitled to only 12-1/2 per cent of his salary towards rent. But if he wants a house to be provided, the State Government is bound to provide a new furnished residence for him. The anomaly is, a judge who wants to stick to his residence gets about Rs. 450/- only. Whereas if he quits his house and claims another house, he can rent out his own house for Rs. 3,000 or Rs. 3,500/-. So, those judges who want to take advantage of the present service conditions are willy nilly forced to leave out their own houses and then ask the respective State Government to provide them free residential accommodation. It is costing the State Government nearly Rs. 4,000 to Rs. 5,000, in some cases, to find a suitable

accommodation to the High Court Judges. As a matter of fact, I know a case where the bungalow of 'A' judge was given to 'B' judge and the bungalow of 'B' judge was given to 'C' judge. The State Government had to pay Rs. 9,000 for both these bungalows. Whereas if they are residing in their own houses, it would pay Rs. 900/-. These anomalous conditions have to be removed. Therefore, kindly have a second look at the entire enactment relating to the service conditions of the judges and see that the judges are not forced to leave their own bungalows. If they reside in their own houses, they may be paid Rs. 2,000 or Rs. 2,500 as house rent allowance and no State Government will grudge to pay that amount because in all the State capitals where the High Courts are located, rent varies between Rs. 3,000 and Rs. 5,000. The judges will be very happy to reside in their own houses because they are attached to their houses. If they get Rs. 2,000 as house rent allowance they will be very happy. Therefore, this anomalous situation must be removed and their service conditions may be reviewed and appropriate steps taken for the purpose of making those conditions harmonious, regular and logical.

PROF. N. G. RANGA (Guntur) : Mr. Chairman, we are all aware of the fact that our workers are very much exploited. Peasants are very much exploited. The next most exploited people are the judges. For the sake of prestige, quite a number of very good and competent lawyers agree to become judges. Most of them stand to gain by becoming judges. But after having joined the Bench, they begin to regret because had they remained in the bar for a few years, they could have earned so much more, as they were earning earlier. Yet they are forced to be content with a salary of Rs. 4,000 a month.

My Hon. friend, Mr. Ayyapu Reddy has already drawn the attention of the House in regard to particular anomaly in the house rent allowance. Look at the allowance that is being paid to them. How is it that the Government has been blind for all these years to the fact that they are paid only Rs. 300 a month for maintaining a car? Is it enough? It is most inadequate. It is a ridiculous sum. At long last, they have woken up—either these people who are responsible for draf-

ting this Bill or those authorities who thought of increasing it. Could they not be, generous enough, sensible enough to realise that this amount of Rs. 300 or Rs. 500 is not enough? Rs. 500 is nothing at all. I would like my Hon. friend, the Law Minister to consult his own experience. How much he was spending on the maintenance of his car, even before the petrol prices had gone up? I am sure if he had been given an opportunity of becoming a judge long before he had become the Law Minister here, he would not have agreed. Possibly, he had been offered also and he refused. One of the senior-most Ministers, Mr. Chatterjee became High Court judge and as a protest against uneconomic, unsatisfactory and undignified salary that was being offered to him, he simply resigned on that account and came away. I was angry with him and I found fault with him because we were trained by Mahatma Gandhi and Rs. 4,000 was a heavenly sum. Yet realities were different and he was right and I was wrong. Therefore, just now, unfortunately, I could not give notice for an amendment to this Bill. But if it is, at all possible, my Hon. friend may bring his own amendment, on his own initiative, to the Bill. It should be possible. He is big enough in our Cabinet to be able to take that kind of initiative. I would like him to raise this amount from Rs. 500 to at least Rs. 1,000. It is a contemptuous sum and we must show some respect to our judges. To offer Rs. 500 a month and to come to this Parliament and say that it has been increased from Rs. 300 to Rs. 500 is not good. What is this, Sir? Are we going to do it? I would like to suggest to my Hon. friend that, with the permission of the House, it should be possible for him to agree to raise this amount to Rs. 1,000 in clause 3 of this Bill. If he is good enough to do that, he will be doing some justice to their status and to our sense of justice also here in this House.

(Interruptions)

PROF. MADHU DANDAVATE : (Rajapur) : One clarification from the Minister. Is it for a car or a cart, bullock cart?

SHRI A. K. SEN : This allowance is for the maintenance of a car.

SHRI AMAL DATTA (Diamond Harbour) : Mr. Chairman, this is an amendment which shows the style in spirit the Government functions. It brings *ad hoc* and small amendment from time to time. This amendment to the parent Act has been brought after a long time. Last time, it was brought in 1976. After that, they are proposing now Rs. 200 extra to the judges. It is very good.

Now, the point is, can we not have a discussion on what remuneration we have to pay to the judges? Of course, later today evening we are going to discuss judicial reforms. I do not know whether this is going to cover remuneration...

PROF. MADHU DANDAVATE : I will take in the remuneration of the judges also in that discussion. I am suggesting that.

SHRI AMAL DATTA : It is all right. Mr. Dandavate is the mover of the motion under rule 193 today. So, we will discuss it and we will take part in the discussion. But the main thing is, the Government should have considered, what should be the adequate remuneration for the judges—whether it is in the form of salary or dearness allowance or house rent allowance or car allowance. It does not matter in what form they get. But having judges who are harbouring grievances all the time against the Government against society, it is not good for a democratic society. Judges should be independent of monetary wants. They should also not harbour any grievance against the Government. (*Interruptions*) But I think, so far as remuneration is concerned, we all agree on both sides of the House that the judges are not adequately paid. Even if one compares the remuneration that they were getting at the time of independence, when the Constitution came into effect, it was about Rs. 3,500 as salary. That was in 1950. But if we consider what it is worth today, they are not getting even half of that amount in real terms. That is something which the Government should consider, to what extent they should be compensated against rise in prices, whether they should have dearness allowance which rises with the cost of living index etc. These things should be sorted out.

PROF. MADHU DANDAVATE : If they continue, the real value will go down, still more and more.

SHRI AMAL DATTA : As regards the question of allowance for motor car, of course, it is good. By conveyance, I take it that they mean a motor car. Even Rs. 500/- is a small sum for that.

I would suggest that it may be a condition of service that the judge will be entitled to have the service of the car or he may be taken from his house to court by car provided by the Government. That will be ultimately the best solution because, after all, one cannot keep pace with the rise in prices in all respects. Not only petrol but car prices and prices of all other things go into it. But it is much better, if instead of being paid in cash rather than they are allowed the use of car, just as Secretaries of the Government and other high Government officials do. The judges are no less than that.

In my more than 20 years of practice in High Court, I never came across a High Court Judge who is not aggrieved over his salary and terms and conditions of service. That does reflect upon the judgments which they give. The Government, should, therefore, give a fresh look not only on the question of Rs. 200/- but on how much increase there should be because this proposal of Rs. 200/- is a carry over from the last Parliament and I suspect that since then prices have risen quite a lot. But they have not been able to take that into consideration and they will never be able to do that.

So, I suggest that a salary structure for judges should be thought out and enacted by which the Judges, apart from getting a basic salary which may be whatever we decide upon, be Rs. 3,500/- or Rs. 4,000/-, they should get a dearness allowance which will compensate them at least partially, for the increase in prices and use of a car or car allowance. All these things should be sorted out.

The Judges may be invited to suggest for themselves what salary will be satisfactory to them and only then we shall get a good judiciary, not aggrieved by their terms and conditions of service, not jealous of Govern-

ment servants that they are enjoying more facilities than themselves.

The present Minister of Law has long experience in the bar.

PROF. N. G. RANGA : He is the senior-most.

SHRI AMAL DATTA : Having long experience in the bar, the Hon. Minister will be able to give it a look and a fresh start so that all these cobwebs which have been accumulated over the years should be washed out and we get a completely new Act in this Parliament itself within a year or so superseding the Act of 1958 which we are now amending and we get a contented judiciary and better people to join the judicial service in the High Court and ultimately they come to the Supreme Court. All around we require some kind of changes and this is one of the ways to encourage such changes.

I support the Bill conditionally hoping that the Hon. Minister will take these matters into consideration and bring about a completely fresh Bill.

SHRI P. CHIDAMBARAM (Sivaganga) : Mr. Chairman, the Hon. Minister, while moving the Bill, said that this is a non-controversial measure. It is indeed non-controversial. But I think one can kick up a lot of controversy about the manner in which we are dealing with our judges.

I have had occasion to speak to a number of judges. No one is satisfied with his conditions of service and the feeling among them is that Parliament votes for itself increases in salary and allowances and that the executive which is the steel-frame of this system, by and large, is able to decide for itself, subject of course to Parliament voting what it should get. But the Judiciary is the Cinderella and nobody takes note of the conditions of service of our Judges. Take for example this very Bill. The conveyance allowance of Rs. 300 was fixed in 1974. In 1983 the Chief Justices' Conference recommended that it should be increased from Rs. 300 to Rs. 500 and in 1985 we are moving the Bill after the Finance Minister has raised the price of petrol. To-day if you give to a

Judge Rs. 500 as conveyance allowance, he can buy about 70 litres of petrol. At Rs. 7.01 per litre, he can buy 70 litres of petrol. If it takes us 11 years to review what happened in 1974, if it takes us 2 1/2 years even to accept such a "non-controversial" recommendation, the question does arise : are we dealing with our Judges fairly ?

Now, the second schedule to the Constitution came into being in 1950. The High Court Judges before the Constitution were drawing Rs. 4000. This is the only class of persons whose salaries were reduced when the Constitution came into being. Art 125 clause 2 proviso and Art 221 clause 2 proviso say that the privileges and allowances of Judges shall not be varied to their disadvantage. Art 125 clause 1 and Art 221 clause 1 fix the salary of the Judges as per the schedule. Now, I think, by and large it is agreed that the idea of fixing the salary of Judges in the Constitution is to ensure that the salaries of Judges are not diminished after their appointment and during their tenure. But the inflation diminishes their salaries. The increase in prices diminishes their salaries. Changes in the economic situation diminish their salaries. Should there not be more permanent arrangement by which the salaries of our Judges is taken care of ? I can quote the example of the United States. There is a Commission there which meets once in four years which reviews the salary of the judiciary and certain other top posts. In England there is a committee on top salaries. That commission meets periodically and reviews the salaries of top civil servants, top officers of Government and top judicial officers. I think the Hon. Law Minister should put forward a proposal where there shall be a permanent statutory body to review the salaries of Judges. Mark it, Sir, the Judges have no constituency. The Judges have nobody to speak on their behalf. The Judges cannot go out and speak for themselves.

Now what has happened ? Look at the reflection on Parliament. Since Parliament did not act, a sitting Judge had to move a petition in the Supreme Court and a practising lawyer has joined in this petition. I think the Hon. Law Minister is fully aware because he was appointed *amicus curiae* to argue the case in the Supreme Court. That is the case filed by Justice Devakinandan of the Allahā-

[Shri P. Chidambaram]

bad High Court in the Supreme Court and joined by another lawyer. That is civil appeal 411 of 1982. After hearing Mr. Ashoke Sen who was *amicus curiae* and another lawyer, Mr. K. K. Venugopal and after hearing the petitioner, the Division Bench of the Supreme Court referred four questions by order dated 19th April 1983 to a larger Bench. I will not read all the four questions but I think the second question is very material and I will read it :

“Whether the expression ‘rupees’ in part (D) of the Second Schedule which stipulates the sums payable to the Judges of the Supreme Court and the Judges of the High Court implies the purchasing power equivalent to the goods and services that could be bought in the year 1950; that is to say whether the salaries so fixed should be construed as meaning their real value in terms of goods and services which they could buy at the commencement of the Constitution or do they represent their nominal value at any given point of time ?”

This is a question which should be resolved by Parliament passing a law and not waiting for a sitting Judge of a High Court to move the Supreme Court and the Supreme Court referring the matter to a larger Bench. Take another case—a recent one where a sitting Judge of the Delhi High Court who retired had to have his pension fixed. The Government took the view, the executive took the view, which, according to me, was hopelessly untenable. The matter went to the Supreme Court. The Supreme Court eventually said, ‘You will have to fix his pension based on his last drawn salary which includes the services rendered by him as a Judge of the Subordinate Court.’ The Government accepted it. Why should the Government take this attitude ? It is this attitude which is bringing us disrepute. It is this attitude which is giving rise to doubt and suspicion whether the Parliament and the executive are really interested in maintaining the high dignity and the exalted status of the judiciary. Sir, we ask our Judges to be purer than Caesar’s wife. There is a famous expression—beg, borrow or steal. To-day I think the Judges were to borrow to maintain their dignity. I hope they do not

have to do anything else. To-day you give a conveyance allowance of Rs. 500. Let me ask you honestly—can a Judge to-day replace his car ? Can a Judge buy a new suit ? Can a Judge take his family to a restaurant ? Can a Judge take his family to his home town and travel first class ? We may as well say that the office of a Judge of a High Court or Supreme Court has no status and that we do not mind if they come in tattered clothes and if they daily take the bus or train to come to the court. I am not saying anything against bus or train travel. In England a Judge of the High Court has no hesitation to step out of his court, catch the train and go back to his home, because the trains are very good. The tube is very good. We cannot expect our Judges to do that. If we want our Judges to have an exalted status, the dignity and the high honour which we want them to enjoy, I think there should be a comprehensive amendment. This piecemeal legislation is niggardly. Whether it is constitutional is a different question. This piecemeal grant of Rs. 100 or Rs. 200 is niggardly. It is not befitting the status of the Judges. It is not befitting the status of Parliament.

I take comfort in one statement which the Hon. Law Minister made on a different occasion. He is fully aware of the facts. In England for example it started at about £ 3600 and to-day the High Court Judges get £ 45,000. In West Germany in 1950 the salary was 1500 Deutschmark. It was revised to 2587 Deutschmark in 1960 and 4593 Deutschmark in 1970 and 8166 Deutschmark in 1980 and to-day it is 9213 Deutschmark. The Hon. Law Minister is fully aware of these figures.

The question to-day is : how are we going to approach this matter ? The Hon. Law Minister on a different occasion assured us that there is a conference of Chief Justices, Chief Ministers and Law Ministers which is meeting by the end of this month and he expects them to take up this subject. We hope they will. But let me beg the Hon. Minister—please don’t appoint another committee to look into the matter. The surest way of shelving a matter is to appoint a committee or a commission. There are enough reports. There are enough recommendations. I think we should act. I think the Hon. Law Minister should come forward

with a comprehensive Bill to replace the 1954 and 1958 Acts. I have not the slightest doubt that the whole House will endorse such a Bill and pass a law which will give our Judges the status that they deserve.

Finally I have only one point to make. I do not want to raise any controversy. I think we have all agreed. The Government has to come forward with a certain policy pronouncement about the conditions of service of Judges, fixing the salary, etc. There are other things. We cannot dilute the quality of our justice. The quality of our justice is being diluted due to a number of reasons. One of the reasons is the salary we pay. But it is also being diluted for other reasons. I do not want to name those reasons. When they come forward with a comprehensive Bill, you have to take note of the other reasons which are diluting the quality of justice and to ensure that good people are recruited. I am not saying that top practitioners should be recruited. In fact the measure of salary for a High Court Judge or a Supreme Court Judge cannot be the income of a top practitioner. I do not even think that top practitioners will make good Judges. What we need is men of compassion, humanity, commonsense, a large heart and a total commitment to the Directive Principles of State Policy. If such people are to be recruited, if such people are to be satisfied, if such people have to discharge their duties with satisfaction, I think they should be not only given good salaries but good non-monetary conditions of service. Let us not over-emphasize the monetary conditions of service and let us not forget the non-monetary conditions of service. So I would appeal to the Hon. Law Minister. If he can take note of the suggestion of our senior leader, Mr. N.G. Ranga and even now if we can send a signal to the world and to the country that we are concerned and if this Rs. 500 can be increased to Rs. 1000, I think it will be welcome. But soon he should come forward with a comprehensive Bill dealing with the conditions of service of our Judges so that their high status and the place of honour which the Constitution gives them is made a reality.

[Translation]

\*SHRI A.C. SHANMUGAM (Vellore) :

\*The speech was originally delivered in Tamil.

Hon. Mr. Chairman, Sir, I welcome wholeheartedly the Bill that has been brought forward by our Hon. Minister of Law, which seeks to enhance the conveyance allowance of Judges from Rs. 300 to Rs. 500/-. As pointed out by the senior leader of the ruling Party, Prof. Ranga, I am sure that the Minister of Law will soon bring forward another amendment enhancing this amount of Rs. 500 to Rs. 1000/- so that the Judges are enabled to work in an atmosphere of contentment. As mentioned by the Member belonging to Telugu Desam the Judges should be given housing facilities and their salaries should also be raised. The Hon. Member from Tamil Nadu Shri Chidambaram made a fervent and an eloquent plea that the service conditions of the Judges deserve reconsideration in the hands of our Law Minister and he wanted a more comprehensive Bill in that regard. It is the inevitable duty of the Government to enhance the salaries of Judges and to provide with other facilities for them; if talented lawyers with the monthly income of Rs. 50,000 to Rs. 1,00,000 are to be attracted and if the quality of justice is not to be diluted. I hope that the Hon. Law Minister will ponder over this problem and ensure expeditious legislation in this matter.

Sir, there is invidious distinction between the Judges of the High Courts and the Judges of Supreme Court in the matter of retirement age. The Supreme Court Judge retires at 65, while his counterpart in the High Court retires at 62. This kind of discrimination should be done away with. There should be uniform age of retirement for all the Judges in the country, irrespective of the fact whether one is a District Court Judge or a High Court Judge or a Supreme Court Judge.

Here it becomes pertinent to point out that while must give all the necessary facilities for the Judges, they should also endeavour to reduce the number of pending cases. The Hon. Minister of Law should also look into this and if necessary increase the number of Judges immediately. As on 31.12.1984 there were 5,48,891 cases pending before the Supreme Court and as on 30.6.1984 there were 8 lakhs of cases pending before the High Courts in the country. It is not that the Judges or the Lawyers or the Government who are affected by this inordinate delay. It is the plaintiff and the defendant who are

[Shri A.C. Shanmugam]

affected. In Tamil Nadu there are thousands of families who have been decimated in such endless litigation. The cases are pending for 15 years, 20 years. I have to mention here the oft-repeated dictum Justice delayed is Justice denied. All the necessary steps must be taken for expeditiously settling all the pending cases in the interest of common people.

While the cases are pending for decades, I do not understand why we should continue with the British tradition of having two months of summer holidays for the Courts. Sir, the Hon. Minister of Law should ensure that there is only one month of summer holiday for the Courts, at least till all the pending cases are settled.

I also want that time-limit should be fixed for different cases. There should be a specific time limit for civil cases and a time-limit for criminal cases. There should be prescribed time for cases before the High Courts and similarly there should be time-limit for cases before the Supreme Court. The inordinate delay in the settlement of cases helps in the escape of criminals and also assists in the disappearance of evidence. I want that the Hon. Minister of Law should formulate legislative proposals in this regard and get it approved by the House soon.

Our Chief Minister, Dr. M. G. R. has been repeatedly stressing the obvious that the Chief Justice of the High court should be one who knows the language of the State. The system of arguing in the local language in the smaller courts and the delivery of judgment in the local language is being followed in Tamil Nadu with great success. The Chief Justice should be able to appreciate the sentiments of the local people and the judgment should also reflect his understanding of the local conventions. Without knowing the local language he will not be able to do justice. The argument of national integration is being adduced for the transfer of Chief Justice from State to State. I do not think that the concept of national integration should not be restricted to the transfer of Chief Justice. It has a wider connotation and an all-embracing meaning. I want the Hon. Minister of Law to pay attention to this and ensure that the Chief Justice of

the High Court is one who knows the local State language so perfectly as to understand and appreciate the arguments advanced before him in the local State language.

Justice Bhagwati has paid encomium to Tamil Nadu for effectively and successfully implementing Free Legal Aid for the benefit of oppressed and downtrodden. Tamil Nadu occupies a pre-eminent place in free legal aid practices. Should this not be introduced in all the States of the country for the benefit of downtrodden?

While talking about arrears of cases, for the past four years 7 posts of Judges are vacant in Madras High Court. Now the post of Chief Justice is also vacant. In the place of 25 judges there are only 17 judges now. You can imagine the delay in the completion of cases and the hardship caused to the people seeking justice. Similarly, there are many vacancies of Judges in the other High Courts also. All such vacant posts should be filled up without much delay.

For decades the people of Tamil Nadu has been demanding the establishment of a bench of Madras High Court at Madurai and at Coimbatore. Now the report of the Jaswant Singh Committee seems to have recommended the same.

MR. CHAIRMAN : You are going beyond the scope of the Bill.

SHRI A.C. SHANMUGAM: A bench of Madras should be established at Madurai and one at Coimbatore also. The Maharashtra High Court has a bench at Nagpur. If that is feasible, why should it not be feasible for the Madras High Court to have a bench in Madurai and one in Coimbatore. For all the four southern States, there should be a bench of the Supreme Court also at Madras. Sir, the Centre and the State Governments formulate projects for development activities. Their implementation is retarded because the Courts issue indiscriminate Stay Orders. Naturally the implementation of such social welfare scheme is retarded. I want to the Hon. Minister of Law to ponder over this problem and do something so that Stay Orders do not become a monotonous routine, affecting the progress of the country. With these few words, I conclude my speech.

[English]

**SHRI SOMNATH RATH (Aska) :** Sir, I only wish to say that instead of giving Rs.500 as car allowance, I think, it is better if the Government supplies the judges with a State car, besides giving them 100 litres of petrol per month. When we want efficient persons from the Bar to be elevated to the Bench, their condition of service should be such that they will have mental satisfaction to serve as judges and to lead decent lives. We have found many advocates not accepting the post of judges when offered to them. The Law Minister may kindly consider this aspect. In my view, Rs. 2,000 allowance per month which will be income-tax free may be given besides their salary. When a comprehensive Bill is to be brought forward, this may please be considered.

**SHRI V.S. KRISHNA IYER (Bangalore South) :** Sir, I whole-heartedly support this Bill. I agree with many of my Hon. friends that instead of paying money, you can pay them in kind in terms of so many litres of petrol per month. We can visualise how many litres of petrol a judge may require at a particular place. It will, of course, vary from place to place. What may be sufficient at a place like Bombay, may not be sufficient at other places. We can first of all, make out how many litres of petrol, a Supreme Court judge or a High Court judge would require and it is better, as I said, that we give them in kind that is in terms of so many litres of petrol per month.

I had really expected that a comprehensive Bill will be brought before the House and it would cover various aspects about the conditions of service of the judges. However, the other day the Law Minister had told us that he was holding a conference of Chief Justices of the various High Courts and Chief Minister and Law Minister of Kerala State and that a comprehensive Bill regarding service conditions etc. of the judge would be brought before the House.

More than the service conditions or giving them money etc. I agree with Shri Chidambaram that the quality of judges is very important. Concentration should be on the quality of judges rather than the amount we pay or the allowances we pay to them.

There is another point which has not been referred to by the Hon. Members. In a number of cases, the judges of the High Courts or Supreme Court are sent on deputation to as Commissions of Enquiry; whenever there is a judicial enquiry, a judge of the High Court or Supreme Court is appointed to do that job. The judge is given his terms of reference and he is asked to give his report within a certain period. But unfortunately, till that period is over, he is not provided with proper accommodation or staff; nobody cares for that. That has happened in a number of States in a number of cases. That is the experience of many of us. At the present moment, judicial enquiry is being held into the Bhopal tragedy by a judge. But he was not given accommodation till his first term was over. He has been given extension. It is not his fault. I would request the Law Minister to look into this aspect seriously. Do not appoint him unless the required infrastructure, court room, staff etc. are made available. The Central Government or the State Government concerned must provide all the required infrastructure immediately a judge is appointed as a Commission of enquiry etc. What is happening otherwise? Lakhs and lakhs of cases are pending before the High Courts and the judges are not there. So many seats are vacant. This is because for such jobs, you are drafting the sitting judges and are not appointing fresh judges.

Then, the judges require a number of facilities, apart from improving their conditions of service. The Chief Justice of the Supreme Court is paid Rs. 5000; Judges of the Supreme Court are paid Rs. 4000 and the Judges of the High Courts are paid Rs. 3500. The other day we were told that they get D.A. at par with a Secretary of the Government. I welcome that, but that is not that important. What is important is that the dignity of the judges and decorum should be maintained. A judge is not a politician; he is above all. He must maintain the dignity. He cannot move about like us; he cannot talk like us. Therefore, to keep his dignity you must see and provide to him whatever is needed, so that the judges can work in an objective and impartial manner without any pressure or pull. The dignity of the judiciary must be maintained at all costs. With these works, I support this measure whole-heartedly.

[Shri V. S. Krishna Iyer]

Many people may wonder, why the Parliament is considering such a small measure, which would raise the allowance by Rs. 200 only. But it is a beginning. We hope, the Law Minister will come before the House in the next session with a comprehensive Bill which will include measures to improve the service conditions of the judges.

PROF. P. J. KURIEN (Indukki) : Sir, I support this Bill. But this Bill is only to enhance the conveyance allowance by Rs. 200/-.

PROF. MADHU DANDAVATE : Mr. Kurien, this Bill is not even the petrol bill.

PROF. P. J. KURIEN : That is correct. It is only a small pittance. I would like to draw your attention to a statement made by our present Chief Justice that the quality of judgments is coming down because of the fact that they are not getting experts. Of course, they are qualified judges, but not with the required expertise in the field. The reason is, to be a lawyer is much more paying than to be a judge. Therefore, well-experienced lawyers are not prepared to take up the post of judges. This is the statement of our present Chief Justice. I would like the Hon. Minister to take note of it. Therefore, it is not enough that we increase their conveyance allowance or their dearness allowance. Judges, whether they belong to Supreme Court or High Court, should have sufficient means to live with dignity and also to give judgements without fear or favour.

Sir, judiciary should be above all corruption and it should be above board. But if you go about it, if you go about people who are approaching judiciary for justice, you can hear a number of stories where even the judiciary is not above board. The reason is simple. Judges of lower courts or of High Courts and even of the Supreme Court are not able to make both ends meet because of the low income they are not getting. Maybe, their income is comparative higher, but because of their peculiar profession, they are not able to live upto their standard with dignity.

I would like to draw your attention to the number of cases pending. Thousands of

cases are pending disposal in the High Courts and in the Supreme Court. There is a saying, 'justice delayed is justice denied.' If you want to forestall any Governmental programme, or any developmental programme, go to the court, file a writ and get a stay. If you want to deny justice, go to the Court and get a stay. Even against *Koran* you can get a stay. You know that. You yourself took interest in getting it dismissed.

But Sir, what is hapening in this country ? Thousands and thousands of cases are pending disposal. The poor victims are denied justice. Therefore, I request you to find out the number of cases pending and if judges are not sufficient, you appoint sufficient number of judges so that these cases are disposed in time. If somebody approaches a court for getting justice, at least within a period of three or six months, the final result should come from that particular court. The case goes from the lower court to High Court and from the High Court it may again go to Supreme Court and it may take even 25 years in total for deciding the case, that means a complete working life is over, by the time justice is meted. There are cases which are pending for ten or fifteen years. What is this ? We profess that we have an independent judiciary. I admit it. But in practice, what is happening ? I have to say that Government should ensure that a case which is admitted in a court should be disposed within a certain period. They should give all facilities to the judges.

I would like to mention one more point. Can the poor people approach even a lower court ? Poor people cannot approach the courts. There are the advocate's fees, this expenditure, that expenditure and so on. Even when he approaches the lower court, if the verdict is against the poor man, he may have to go to the High Court and from High Court even to Supreme Court. It is so expensive. Just think about it. Suppose a person in Andhra Pradesh or Karnataka or Tamil Nadu or Kerala has to file a writ in the Supreme Court. Is it possible ? For an ordinary man—whether he is an employee or an otherwise ordinary man—it is impossible to come to Delhi, to get an advocate; it is very expensive. Therefore, justice is actually finally denied to the people. So I request the Government to have a fresh look into the

working of the Judiciary, and also of the Supreme Court and High Court Benches. I would suggest that there should be more High Court Benches and more Supreme Court Benches.

In States like U.P., there should be a High Court Bench at Lucknow. One has to travel 500 kms. to reach Allahabad. Again in Kerala, the problem is the same. Government should consider constituting more Benches of the High Court.

What about the Supreme Court? People have to come to Delhi to approach the Supreme Court. M. Ps. can come; but what about the common man? So, Government should consider setting up a Bench of the Supreme Court at Bangalore or Hyderabad or Madras or Cochin or Trivandrum. We have no quarrel with the place. Of course, I will welcome having it in Trivandrum.

Yesterday, I read a statement by the minister in Rajya Sabha, ruling out the setting up of a Supreme Court Bench in the South. How can he do that? I want him to give a categorical assurance. I am talking of the people of the whole of South. We also want justice. Therefore, I request the Minister that a Bench of the Supreme Court should be set up in the South. I hope this assurance will come from the Minister.

With these words, I support the Bill. I hope the Minister will come forward with another Bill for increasing the salaries of the Judges, and also for setting up a Bench of the Supreme Court in the South. I support the Bill with the expectation of another Bill.

**MR. CHAIRMAN :** Now Shri Vijoy Kumar Yadav.

**PROF. P.J. KURIEN :** I hope the Hon. Minister will appreciate that the entire House is supporting this demand.

**MR. CHAIRMAN :** There is no right of a second speech.

**PROF. MADHU DANDAVATE :** There can be a relapse of the speech also, like typhoid.

**MR. CHAIRMAN :** Mr. Vijoy Kumar Yadav.

[*Translation*]

**SHRI VIJOY KUMAR YADAV (Nalanda) :** Mr. Chairman, Sir, It is correct that the scope of this Bill is very limited. It is a matter for happiness that a separate discussion on its scope is scheduled to be held today itself.

The question of opposing this Bill does not arise. The condition of the judicial service personnel is very pitiable. Whenever they happen to meet us, they ask us how to raise this matter as they cannot stage a demonstration and cannot resort to agitation, and that is why they are not listened to.

15.59 hrs.

[**MR. DEPUTY SPEAKER** *in the Chair*]

Just now a suggestion has been made that a comprehensive Bill may be brought forward in this regard. I feel that the Hon. Minister should not have any objection to accepting this suggestion. In his reply an assurance should be given to this effect. Generally speaking everyone agrees on this point that a comprehensive Bill should be brought forward in this regard. I would like to know the views of Hon. Minister in this regard.

There is not only the question of conveyance allowance. Whatever facilities are available to them at present are having an impact on the working of the judiciary.

16.00 hrs.

In the entire country, there is total lack of the type of justice desired by the people or provided for in the Constitution. Under the prevailing circumstances if we expect that the cases will be disposed of expeditiously and judges will apply their mind properly and deliver justice, it will not be possible to do so.

[*English*]

**MR. DEPUTY SPEAKER :** It is already 4 P.M. So, we have to start discussion under

193. You stop here and you can continue this discussion next time.

Prof. Madhu Dandavate will start this discussion. The time allotted is two hours.

DISCUSSION RE : URGENT NEED  
FOR JUDICIAL REFORMS IN THE  
COUNTRY

[English]

PROF. MADHU DANDAVATE (Rajapur) : Mr. Deputy Speaker, Sir, I rise to raise the discussion on the judicial reforms in the country. You are quite aware of the fact that, some observations of the Supreme Court Judges regarding the appointment and transfer of judges in various courts and evolution of healthy norms by the Government so that judges are appointed on the basis of merit and well defined norms, when those observations appeared in the Press, I was impelled to give a motion that would plead for the judicial reforms in the country. It is hoped that the debate will provoke the Government to give up its lethargy, rise to the occasion and try to have a comprehensive judicial reforms which are a must for improving the judicial system in the country.

There is no dearth of material regarding judicial reforms in the country. Our veteran Prof. Ranga is not here. He was a member of the Constituent Assembly and the debates of the Constituent Assembly are available in which a number of problems concerning the reforms of judiciary were discussed at the time of drafting the Constitution, certain suggestions made by eminent jurists and others in the Constituent Assembly were found not to be suited to the conditions then, but if we take the conditions of today we find that some of the amendments that were suggested in the Constituent Assembly as early as 1948, 1949 and 1950, they will be found to be relevant to the situation today. So, one source is the debates of the Constituent Assembly. Then we have got the Law Commission's Report and their recommendations; then we have got monumental work by the famous jurist Shri H. M. Seervai, the well-known work, "Constitutional Law

of India" in which he also summarises the need for judicial reforms in the country; and then there are various recommendations by various seminars held by the Bar Council of India and the Bar Councils and Bar Associations in different parts of the country. The central theme for the judicial reforms would be the very concept of judiciary itself.

For a long time, we have been hearing about the so-called committed judiciary. I would like to warn the House about this fashionable concept of committed judiciary. Permit me to say, without casting aspersion on anyone, that a concept of committed judiciary would only mean bonded judiciary, which cannot mean anything else. Of course, others can argue. But, I have not the least doubt.

Taking into account the long judicial history of India and the attitude of the Government to the institution of judiciary and their attitude to the Judges and their outlook, I have come to the conclusion that this current coining 'committed judiciary' in the country is a glorified name for a bonded judiciary in the country and I totally reject this concept. Such a judiciary will ever be willing to show different favours to the establishment of the time, no matter, whether it is the Janata Government or the Congress Government or the Communist Government. The moment you talk in terms of committed judiciary' it is very likely that they shall try to extend their favours to the establishment of the time and that is a dangerous precedent for any judicial system. I can understand a case being 'committed to the sessions', but I can never understand judiciary being committed! And, therefore, these concepts have to be completely given up if we want to start really basic reforms in the judiciary.

The central theme will be the procedure for the appointment of the Judges and the procedure that has been laid down for the transfer of Judges. Not only the Constitutional provision—the Constitutional provisions have not stood the test of time; certain interpretations have been put forward and you will find that the constitutional provisions regarding the appointment of Judges and their transfer have to be carefully gone through. Article 124(2) of the Constitution says—