

14.83 hrs.

STATUTORY RESOLUTION RE : DIS-  
APPROVAL OF ADMINISTRATIVE  
TRIBUNALS (AMENDMENT)  
ORDINANCE 1986  
AND  
ADMINISTRATIVE TRIBUNALS  
(AMENDMENT) BILL—Contd.

[English]

MR. CHAIRMAN : Shri M. C. Daga  
to continue.

PROF. MADHU DANDAVATE : Mr.  
Chairman, one submission.

MR. CHAIRMAN : There can be no  
submission on the statement.

PROF. MADHU DANDAVATE : For-  
merly, when a similar case took place when  
Walcot escaped and ran away, there was an  
adjournment-motion. All I am suggesting is,  
there should be a discussion on the statement.  
We have already given a notice.

MR. CHAIRMAN : Hon. Member have  
mentioned it in the morning. The Speaker  
will decide it. But there can be no discus-  
sion on the statement made by the Minister  
now.

PROF. MADHU DANDAVATE : But  
you communicate to the Minister that he  
should be ready for the discussion. Other-  
wise, he may also escape from the House!

SHRI BASUDEB ACHARIA : The  
notice for adjournment-motion should be  
allowed. (*Interruptions*)

MR. CHAIRMAN : The Speaker will  
decide it.

Yes, Mr. M.C. Daga to continue.

[Translation]

SHRI MOOL CHAND DAGA : I was  
requesting as to whether you will tell us by  
what time your Administrative Tribunal will  
give its judgement ? Will you fix a time limit  
for it ? Or here also, as in the High Courts  
and the Supreme Court, the cases will re-

main pending ? Will its procedure will be  
similar to that of the High Courts or the  
Supreme Court or you will simplify it ? Will  
the people be allowed to engage a lawyer or  
not ? All these things should be intimated  
to us.

I once again submit that if you appointed  
officers in these Tribunals, they will not be  
able to give right judgements. I can say with  
authority that if Joint Secretaries are  
appointed in the Tribunals, the judgments  
will not be of the same calibre as delivered  
by the High Court judges should be posted  
in the Tribunals. They should decide the  
cases. Your Administrative Officers should  
not be posted them.

[English]

SHRI THAMPAN THOMAS (Maveli-  
kara) : Sir, this Administrative Tribunals  
(Amendment) Bill is necessitated because,  
earlier you have not looked into the lacuna of  
the Act. Again, there will be problem in this.  
Delayed justice is denied justice and even in  
this process, which we are now formulating  
with regard to administrative tribunals, there  
should be some mandatory provision where  
the court is bound to give a decision, regard-  
ing the time factor for a decision of the case.

As regards the constitution of this  
tribunal, you are giving position to a person  
from the Joint Secretary's rank from the  
administrative side. According to the promo-  
tion rules in the Government, a person who  
has no judicial experience can become a Joint  
Secretary. In effect, a person is also included  
in the Administrative Tribunal and finally  
decides the matter which may have an  
adverse effect on the decision that may not  
be judicial. So, there is every possibility of  
getting diluted the judicial pronouncement of  
an administrative tribunal.

The second point is you are taking away  
the High Court's right under Article 226 to  
decide this matter and putting it to a body  
of tribunal where you are bringing the  
administrative tribunal. Therefore, the  
Government should make sufficient safeguard  
to see that justice is not denied and also per-  
sons, even though coming from the adminis-  
trative side as Joint Secretary, should have

[Shri Thampan Thomas]

judicial experience Persons who are promotees from the Government who come up to Joint Secretary's rank may not have this experience. My submission is that it should be made clear that a person who works in the Administrative Tribunal should have the judicial experience.

The next point which I would like to highlight is the jurisdiction which you are now intending to bring behind the administrative tribunal and how that is going to conflict with the other main laws of the country like the Industrial Disputes Act or other laws which govern generally the classes who are employed. Industrial Disputes Act, it is said, will not, in any way affect us. The Act is such and the Amendment is also brought to take care of the provisions of the Industrial Disputes Act and how that is serving the service conditions of the employees.

I would like to point out that Industrial Disputes Act is mainly an approach of the industrial law to the collective bargaining purposes.

14.00 hrs.

[MR. DEPUNY SPEAKER *in the Chair*]

Where there is trade union and collectively they bargain for others, there is a decision which is arrived at by the strength of the working class. You have brought railways to the jurisdiction of the administrative tribunal whereas the railway is enjoying the right of collective bargaining, where there is the organisation of trade unions and a permanent machinery which is called PNO machinery wherein the railway union, representatives of the officers as well as representatives of the workers assemble together and decide matters pertaining to their service through negotiations. Now because you have referred this matter to administrative tribunal, this will have a direct contradiction and conflict with the right of working class to collectively bargain. These two Sections which you have taken in are, one the Defence Services and the other is the Railway Services whereas the civil and defence also comes under the administrative tribunal. They are also permitted the trade union right and the jurisdiction of the administrative tribunal will have to be enquired into and the right of the workers to

organise and collectively bargain for their rights will have to be protected.

The area which is given for the operation of these administrative tribunals is a wide area which you have given. This is a larger area. Perhaps the tribunal may not be able to do justice to their work. Various States are put in one administrative tribunal. In such cases, sittings of these tribunals are not possible. You are only envisaging a camp sitting of these Tribunals. I have already touched that point. In Cochin this Tribunal is sitting only occasionally and there are a number of cases. One of the High Courts in India where a large number of service matters are pending is the Kerala High Court and the number of cases has been reduced because cases under Art. 226 are diverted to the Administrative Tribunal. But the Tribunal is not having frequent and continuous sittings in Cochin and they are not hearing the matters and delay occurs in getting orders from the Tribunal. Therefore, I say the decision by these Tribunals will be further delayed and the aggrieved persons may not get justice in these matters.

Another important aspect is that you are only bringing recruitment and service conditions and various things which come under their jurisdiction before this Tribunal. One of the main factors where we used to go to the High Court under Art. 226 in service matters is the policy decision of the body. You have brought the corporation, societies which are registered under the Societies Registration Act, not the co-operative societies, departments, Railways and other institutions under the jurisdiction of the Administrative Tribunal, whereas under Art 226 when in a policy matter where there is a *mala fide* in the mind of the administrative head of a Department or suppose a Board of Directors of a corporation, which are possible to be challenged, naturally the resultant is that of a service condition of the employee and an employee could go under Art. 226 to the High Court. Now, since the Administrative Tribunal is there and the employee can only approach the Tribunal and the Administrative Tribunal only goes through two things, that is the service condition and recruitment, the policy decision may not be in a position to be challenged. Therefore, *mala fide* actions and violations of the statutory provisions by the policy markers

may not be questioned before the Administrative Tribunal. Therefore, my submission is that since you are taking away the right of the worker to go to the High Court, you are reducing the remedy for these people to challenge it on other grounds. Matters pertaining to their service and recruitment may be the Administrative Tribunal may take care of whereas at present the employees who can challenge it on the ground of *mala fides*, want of jurisdiction and such pertinent legal points and constitutional validity cannot go to the Administrative Tribunal on these grounds. Therefore, my submission that in such cases there should be sufficient safeguards which should be provided by the Government in these cases. Of course, I find yet you are on the trial and error method. Earlier you brought this and again you are bringing amendments in the light of the Supreme Court decision. Further also there will be matters where you will have to bring in further amendments and we are waiting for the same.

[Translation]

SHRI ZAINUL BASHER (Ghazipur) :  
 Mr, Deputy Speaker, Sir, I support the Administrative Tribunals (Amendment) Bill, 1986 presented here and through you I want to submit certain points to the Hon. Minister. It is an important step towards administrative reforms by the Government. Many of the employees working in the administrative machinery have genuine grievances. From small employees to big officers working in the administrative services often approach me and the other Hon. Member of this august House with grievances about injustice done to them. We send letters to the Ministers quite often but the fate of these letters is that these are sent directly to those departments where injustice had been done with the complainant and where he had been the victim of the excesses of the head of the department. On receipt of the letter, they prepare a reply in their own way and the Minister concerned sends that reply to us. The only difference is that this letter is signed by the Minister. But the employee does not get justice. If there is a machinery in every Ministry where grievances of the aggrieved employees, who are victims of injustice like supersession in the matter of seniority or wrong punishment, are heard and efforts are made to provide justice to them.

I think it will benefit all the persons. That cell should be in the Department itself. I am aware that in several departments such cell are already working but there also they are not working effectively and the employees do not get the opportunity to submit their case properly and they are not heard properly. If their genuine grievances are redressed there itself, I think very few cases will come before these Tribunals and their burden will be lessened.

Secondly, the type of Tribunals being set up in the Central administrative machinery now already exist in many States which have been set up by the respective Governments for their employees. I would request the Hon. Minister to pay attention to the point being raised by me. I come from Uttar Pradesh and in our State such a Tribunal has been working there for quite a long time. But what happens is that when any employee approaches the Tribunal, his case is not decided for as many as 4 to 6 years. The reason is that the persons who are appointed as Presiding Officers or Members leave after a year or two and new persons are appointed in their place. They start the hearing afresh. They too go and new persons come who start hearing the case *ab initio*. In this way in every employee's case it takes 5 to 6 years to decide the case, whereas the employees go to the Tribunals with the hope of getting justice and relief. I am telling you this from my experience in the case of Uttar Pradesh Administrative Tribunal, I think same is the position in other States also where Tribunals exist and there also the same complaint must be there.

Therefore, I want to submit that in the Central Administrative Tribunal being set up, a time limit should be fixed that the employee will get relief within a stipulated period. The case must be decided within that period. You may provide this in the Bill or through some administrative order, but this arrangement must be made.

One more thing. Provision has been made to appoint in these Tribunals persons upto the rank of Joint Secretary but it is not clear whether they will be retired officers or serving officers. If they are serving officers then I think they will go elsewhere after two or three years; they will be transferred. On their transfer, new officers will take over and they

[Shri Zainul Basher]

will start hearing the case afresh. They will like to hear the entire case and in this way once again a lengthy procedure will start. I have no objection in your appointing the Joint Secretaries or even higher officers in the Tribunals because several administrative officers are good. Administrative officers too are good, honest and capable of doing justice but whosoever is posted here should be posted for at least for 5 or 10 years or he should be a retired person. In no case it should happen that a person who is to be shunted out for two or three years is posted in the Tribunal and when he is able to approach some high up, he may be transferred and posted to a better place. It should never happen. That is what is happening in the States. We have this experience in the case of State Governments. Whenever they feel that an officer is becoming inconvenient, they post him to the Tribunal and when that man is able to approach some high up, he is shifted from there to a better post. This is happening in the States. Therefore, I would request that when a personnel officer is appointed as Presiding Officer in the Tribunal, he should be appointed for a stipulated period and he should be able to work there for that period.

Mr. Deputy Speaker, Sir, I want to say one more thing. Fortunately, the Minister of State for Defence is present here. You have not included Defence Services in it. You have included only employees of civil services. Our Minister of State for Defence must be aware that many cases of the Defence personnel are pending in the High Courts, and the Supreme Court, though you do not want that these cases should go to the courts and there is no such provision also. But under Article 126 of the Constitution they have gone to the Courts and such cases are pending in the Supreme Court. Therefore, I request that if this work cannot be done through these Tribunals, than at least a separate Tribunal should be constituted for the Defence personnel in which Defence personnel from Army, Navy and Air Force may be appointed as Chairman. If it is done, the Defence personnel will feel that they are able to get justice against grievances concerning promotion, pay, salaries and other matters and such people will be able to approach the Tribunal in the hope of getting

justice. Therefore, Mr. Deputy Speaker, Sir, through you, taking advantage of the opportunity, I would request the Government that there is need to constitute a Tribunal for the Defence personnel. Therefore, one Tribunal should be set up for them also.

Mr. Deputy Speaker, Sir, the entire structure is built on our administrative machinery, be it at the district level or the Central level. The implementation of all our policies is carried out by this administrative machinery. This is the machinery through which we can undertake development works and it is this machinery which looks after the administration and law and order in the country. Therefore, it needs to be constantly improved. Wherever such a thing exists, there is scope for improvement in that. There is need to set right the machinery which may have gone out of order or developed some defects. All of us are aware that the bureaucracy is not functioning properly. It is not working the way it should be committed to the national interest and to the development and upliftment of people living below the poverty line and the way it should have worked for them. Today a sizable number of bureaucrats holding high offices in the Administrative service have neither seen poverty nor understood the rural life. They have not even been brought up and bred in Indian customs and traditions. Most of them are convent educated and they are not aware of the realities of the Indians life. Therefore, there is need to encourage the rural youth and the children of poor people so that they too get fair representation in these Administrative Services.

I have been continuously demanding for a long time that Public Schools and Convent Schools in the country should be closed down. Now I am disappointed because I feel that these cannot be closed down. If the public schools cannot be closed down at least efforts should be made to provide equal opportunities to all the students throughout the country. A child studies in a Public School while the other studies in a village primary school—which does not have even a building. How can one say that they are having equal opportunity? There is no doubt that when the two students compete in examination the Public school student will fare far better than the other, but this does not

necessarily mean that only the Public School Student can contribute better to the economic development of the country. Therefore, the need of the hour is that opportunities should be provided to poor families or to those who have been brought up and bred in rural background. Until they are provided good educational facilities they will not get suitable administrative positions. You should try and devise methods to achieve this end and thereby ensure justice. It is for you to ensure it, as you are the Minister of administrative reforms. It has been observed that the bureaucracy is proving an impediment in the proper utilisation of funds.

Allocation to the tune of Crores of rupees has been made for National Rural Employment Programme (NREP) and other anti-poverty programmes. A record allocation has been made for eradicating poverty but what is being done to ensure whether the funds are reaching those for whom it is meant? What are the reasons that it is not reaching them?

We pass the Budget by voting in its favour and the funds are sanctioned but when the funds reach the field or tehsil level, the District Collector is all powerful and we have no control over it. We cannot even enquire from him the progress of the scheme or how and where the funds are being spent.

Today, we came across many complaints in the House. All of us are aware that if the funds for eradication of poverty had been properly utilised we would have been able to achieve our target or even double the target.

I would like to cite the example of Uttar Pradesh in this connection. The District Magistrate in Uttar Pradesh is thought to be the most powerful institution in the country at present. The power to ensure law and order in the district is vested in him. He is incharge of all the programmes that are being carried out in the district. We, M.Ps. and MLAs are mere members of the Committee. He is the Chairman of D.R.D.A., Municipal Board and the Town Area. Besides, he is the Chairman of all the co-operative institutions and all the financial powers are vested in him. He controls the purse with hand and wields the baton in the other hand i.e. all

the financial and administrative powers are vested in him. There is no mass involvement in the programmes. At some places there is no district board or Municipal Corporation. Even elections to cooperatives are not held. Now how can things be managed when the such is the State of affairs? Just now Shri G. K. V. R. Rao mentioned in his report to the Planning Commission that at least poverty alleviation programmes should be kept out of the District Magistrate's jurisdiction. Separate officers should be appointed to supervise them and they should be above the rank of District Magistrate. If he is below that rank, the District Magistrate will not allow his to work. He must have at least put in 14 to 15 years service. This is a very good suggestion. I welcome it. We shall be able to achieve good results in these programmes only if the administrative machinery functions properly.

Besides the need for reforms in the administrative machinery, there is also the need to meet the genuine demands of employees to give the respect due to them and to remove the shortcomings. It is generally said that the administrative machinery is corrupt, as Shri Daga was saying just now. But it not always so. There are many people who are diligent and committed to their work. They have the will and the good intentions to help the poor and work for their upliftment. But if their grievances are not redressed and they feel that they are not getting justice, that injustice has been done to them in the matter of promotion, transfer etc, they will get disheartened and demoralised. The Tribunal which is proposed to be set up under the Administrative Tribunal (Amendment) Bill is a welcome step and I support it whole-heartedly. Therefore, the Hon. Minister should ensure that the aggrieved persons get speedy justice, because as the saying goes, justice delayed is justice denied. If justice is denied to them it would stall promotional chances and add to their woes.

Secondly, effective cells should be constituted in the Ministries and Departments — and not for namesake only—to facilitate effective and speedy redressal of grievances of the employees and then there will be no need for such Tribunals. With these words I welcome the Bill and expect the Hon. Minister, who is young, dynamic and energetic and is familiar with the realities of our villages and

[Shri Zainul Basher]

poor people and has long and varied administrative experience, to take effective steps in this regard. With these words I once again thank him.

[English]

SHRI HAROOBHAI MEHTA (Ahmedabad) : Sir, I rise to welcome the Bill for more than one reason. First, it expands the purview of the tribunal jurisdiction by including not only the employees employed in the societies functioning under the control of the Government but also those employees who are otherwise covered by the Industrial Disputes Act. It was rightly pointed out that the Industrial Disputes Act mostly protects collective rights. Undoubtedly Section 11A of the Industrial Disputes Act provide for individual disputes also but under the industrial jurisdiction an employee had to wait for several years before he could get justice. Therefore, the exclusion of employees who were covered by Industrial Disputes Act has now been remedied by including those employees also. That is a welcome measure.

14.34 hrs.

[SHRI ZAINUL BASHER *in the Chair*]

Second is provision for appeal. While High Court jurisdiction was excluded in the principal Act there was no provision for appeal from the judgements of the lower courts which had already decided the case. Now, there is a provision for appeal which can be brought to the Tribunal.

The third important aspect is for benches. In almost all the States there is Income Tax Office, P & T Office, Accountant General's Office, etc. but Tribunal was only functioning from Delhi and a few other centres. Now, the amendment provides for opening of more branches. I welcome this measure. In Gujarat also there is a dire need of establishing a permanent bench, rather than link the bench which is operating only for the purpose of interim order in Gujarat. There is an Income-tax Office P & T Office, Accountant General's Office; the railway employees are also there and there are many other Central Government establishments. The number of litigations pending in the High Court, when the

Tribunal was set up, was very large in Gujarat. Therefore, it is just and proper if the Government establishes a permanent bench anywhere in Gujarat, Gandhinagar or Ahmedabad, at an appropriate time without much delay.

In this connection, it becomes my duty to point out certain other aspects also. First, the amendment so far as it pertains to the jurisdiction of Article 32 requires to be re-considered. Somebody filed a petition in the High Court challenging the validity of the Tribunals Act. In the course of that proceedings before the High Court, it appears that the Government has agreed to restore Article 32 jurisdiction of the Supreme Court. That is not really necessary. Article 323A of the Constitution provides that it will be competent for the Parliament to exclude the jurisdiction of all courts except the jurisdiction of the Supreme Court under Article 136 with respect to the disputes or complaints referred to in Clause (1). The Constitution has empowered the Parliament to exclude the jurisdiction of the Supreme Court under Article 32 of the Constitution so far as the Administrative Tribunals are concerned, which is within the meaning of Article 323A. The principal Act provided for appellate jurisdiction of the Supreme Court to continue, because it cannot be set out under Article 323A. All decisions from the Tribunals are appealable under Article 136 of the Constitution. Assuming that there is some substance in what the Supreme Court decided in Indira Gandhi Versus Raj Narain Case in 1965, the judicial review is a part of the basic structure of the Constitution, and, therefore, cannot be totally done away with.

I join issue with the Supreme Court judgement on this point. Parliament is sovereign and no part of the Constitution is beyond the pale of amending power of Parliament under Article 368. Therefore, to that part of the decision of Keshavanand Bharati case which lays down that the basic structure of the Constitution cannot be amended, it is time the Parliament should take exception to that and we should take steps to restore the parliamentary sovereignty vis-a-vis the amending power. In no other country, the Constitution provides that the content of any constitutional amendment is challengeable in the court. It is only in India that in Golaknath and Keshavanand Bharati case, the Supreme Court assumed powers to undertake judicial

scrutiny of the content of amendment on the ground of basic structures. It was time now to restore the parliamentary sovereignty so far as the constituent power is concerned. We may recall the Bill placed before the Parliament by late Shri Nath Pai to restore the sovereignty of the Parliament after the Golaknath case. I think, similar efforts now be made to restore parliamentary sovereignty after the Kesavanand Bharati case instead of accepting the judgement of the Supreme Court that the basic structure or any part of the Constitution is beyond the parliamentary powers. Therefore, I join issue here. What was the need to capitulate before the Supreme Court when the Supreme Court suggested that powers under Article 32 should be restored to it. We could have said that Parliament is sovereign and Article 323A provides that Parliament can exclude jurisdiction of the Supreme Court. Appeals have been provided, Article 136 has been retained. Once a judicial review has been retained, is it necessary that Article 32 should also be kept open? This will create only one impression, namely that we are not ready to exercise power conferred by the Constitution on us. Constitution confers powers to exclude jurisdiction under Article 32, but we are not ready to do it. I submit that this requires reconsideration.

There is another aspect. I am pointing this out because I am disturbed. Why should we not be keen to restore parliamentary democracy?

The executive administrative tribunals are part of the Government in nature. They will never be supposed to be subordinate judiciary. Right from the time that the administrative tribunals were set up in England, and here also, the appointment of tribunals was within the exclusive jurisdiction of the executive. It is exclusively within the executive power. Now the Supreme Court insists here and our Government readily agrees that in the appointment of the judicial member, the Chief Justice of India will be consulted. So, here also there is a surrender of power on the part of Government at the altar of judiciary. Should we not have insisted that so far as setting up of administrative tribunals is concerned, the appointment of a judicial member is exclusively within the realm of executive power of the State? I do

not think that any compromise is necessary on this issue. This perhaps, is a departure made by the Government so far as the policy of appointment of tribunals is concerned. Today, it is the administrative tribunals. Tomorrow, it may be the revenue tribunals and the Supreme Court may well insist that the Chairman should be appointed only in consultation with the Chief Justice of India. Then there are the social action tribunals also. Here also, if we have to consult the Chief Justice of India, with great respect, I beg to differ on this issue. I request that the Government may kindly reconsider these two issues whether it is time to restore the sovereignty of Parliament by questioning the wisdom of the Supreme Court's judgment that the basic structure of the Constitution is not subject to amendment.

Secondly, regarding the appointment of members of the tribunals also, I would like to say something. After all, we are not appointing judges to the Supreme Court or High Courts. Whenever we appoint them, we do consult the Chief Justice of the Supreme Court as also the Chief Justice of the High Court concerned. Why should we extend that consultative machinery to the tribunals also? This is a very dangerous trend and I think that at least this should be arrested here and let that be made clear.

When the Government is amending this Act, opportunity should also have been given to cover certain other aspects. For example, let us take Defence. Defence employees are excluded from the purview of this Bill. The purpose is that there should be no litigation about it. I welcome that purpose. But then, I do not think that there has been a lot of substance in what has been proposed right now. Let there be a Defence Tribunal. Otherwise people may go to High Courts. Article 227 provides for exclusion of jurisdiction from the Court martials. There is one anomaly which I must point out here. Article 227 provides :

"Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces."

[Shri Haroobhai Mehta]

Therefore, Article 227 is not available so far as court martials are concerned. But there is no such provision in Article 226. I have seen petitions filed questioning the decisions of the court martials and High Courts entertaining petitions against court martials decisions under Article 226. Therefore, the purpose is not served. The member of the Armed Forces will go to High Courts and Civil Courts. Therefore, if there is a separate Tribunal set up for them, then their disputes will be taken away from the purview of the ordinary courts and High Courts. There should be a tribunal functioning and operating under the Army Act in order to help the adjudication of the disputes.

An apprehension has been expressed just a few minutes ago that this Tribunal will not be able to dispense justice on malafide, etc. It is not so. The only limitation that a tribunal has is that it cannot declare any Act or rule or legislation invalid, vis-a-vis constitutional Provisions. The *vires* of an Act or a Rule cannot be challenged in the Tribunal. The Tribunal is a creature of an Act and it has to function on the assumption that the Act is valid and it has no jurisdiction to declare any section of another Act as invalid. Subject to that limitation, a tribunal has powers to strike down any order of the Government on the grounds of malafide, want of jurisdiction or discrimination, etc. keeping in view the mandatory provisions of Article 14 and 16. Therefore, the apprehension expressed that the tribunal has a limited jurisdiction and that it would not be available when the bonafide of the executive action is challenged, I would like to submit with great respect, is not correct. It is perfectly within the jurisdiction of the tribunal to go into the question of malafide, discrimination or want of jurisdiction; etc. subject to only one limitation that an Act or rule cannot be gone into by the tribunal. With these observations, I welcome the move of the Government to amend the Tribunals Act.

**SHRI BHATTAM SRIRAMA-MURTY (Visakhapatnam):** Sir, the Parliament was convened, summoned on 1st February and this ordinance was promulgated on 22 January, 1986, just a few days ahead. And they contemplated that it will

be very convenient and congenial to promulgate this ordinance.

Sir it is a known fact that, Parliament is to meet in the month of February. How is it that the Government keeps quiet and sleeps over the matter for quite some time, and at a time when the Parliament is about to meet, they come forward with an ordinance? They are habitual offenders, in a sense that Parliament is consistently being overlooked, by-passed and they want to administer the country through executive fiat. This is the common, usual practice to which we are habituated. And I urge on the Minister, being young, dynamic and new, that he may not take recourse to such measures hereafter in any case.

Sir, again, let us look to another aspect on it. A batch of writ petitions were admitted by the Supreme Court and they were coming up for discussion. In fact on 31.10.85, interim orders were also passed and that was the time when the Government gave such assurances to the Supreme Court. So, that means, in the early October, certain assurances must have been given to the Supreme Court. In the month of December, the Parliament was meeting. So, in pursuance of the assurances given, how is it that the Government failed to act and woke up suddenly in the month of January and that too at a time when the cases are likely to come up before the Supreme Court again. I quote the relevant sentence here in the Statement of Aims and objects.

“as the writ petitions in which the assurance has been given to the Supreme Court were coming up for hearing in January, 1986, it became necessary to fulfil assurances by making necessary Amendments because they are coming up before the Supreme Court, because the Supreme Court is taking up the matter again and they would pull them up and pass strictures.”

How is it that, you give an assurance and didn't stick to it? Now fulfil your obligations. Is it not a contempt of Court? Now apprehending some such eventualities and consequences, suddenly they wake up



and promulgate an ordinance. So, the position is not only, they try to by-pass the Parliament, but also if possible to the extent, even the assurances given before the Courts are also going to be kept in cold storage, until last minute, unless there is some compulsion, unless they are forced to do so. And this is the situation in which we find the Government and how it moves. He is the Minister, who is incharge of the Administrative Reforms for the speeding up of the matters, taking up expeditious decisions on all relevant public issues which matter for the public convenience let him look into the situation how his own administrative machinery too acts and functions. This is unfortunate. And I will not be able to support such things.

Then, the other thing is, the Parliament of course is no doubt empowered to create tribunals, to adjudicate matters relating to service matters of persons appointed to public services. But, then the question arises whether it is admissible and proper to bar the writ jurisdiction of the Supreme Court and also the High Courts. That is the point in question. That is the crucial issue. At one time, Government had a recommendation which provided for the exclusion of the writ jurisdiction of the Supreme Court under Article 32, as well as of the High Courts under Article 226 of the Constitution. So, in pursuance of that, they have acted.

What is the position now? The position taken by the Government is that the courts are already overburdened. There is a backlog. So many cases are pending, and it will not be possible for them to dispose of various cases, if all of them have got necessarily to go before courts. So, the Administrative Tribunals were constituted, and they are necessary. That is the position which was taken.

This is a vexed problem which has been continuing year after year for a long time now. Why should they not think in terms of bringing reforms? Even the existing vacancies in various High Courts and the Supreme Court are not being filled. The question of judicial reform has receded into the background. What is it due to?

Instead of looking into that aspect of the Constitution, they say: "Why take recourse

to the Supreme Court and High Courts? We are having separate tribunals constituted for the purpose." It is highly deplorable that the Government themselves have to go before the Federal Court of the United States of America in a matter pertaining to the Bhopal gas tragedy. Then they plead that it is not possible (*Interruption*) for us to get speedy, expeditious remedy in the courts of India. That is the object situation to which we are reduced. We have become laughing stock of the world community.

Again, in this particular case it was stated that it is not possible for all the people to go before the various courts, seeking remedy. I would like to urge upon the Minister to re-examine whether it is not possible for the Government to expeditiously translate the assurances given into action, and come forward with some suitable judicial reforms, so as to meet the requirements of the situation, and the needs of the people at present. Barring the jurisdiction of the High Court is not a solution. That is objected to. That is the very matter which is being examined by the Supreme Court. The very constitutional validity of the Administrative Tribunals Act is being examined by the Supreme Court. Those are the circumstances under which certain assurances were given before the Supreme Court.

So, I would once again urge upon the Minister to re-examine and consider whether it is not possible for them to extend similar facilities to these people in the States, whenever they want to go to a High Court also, wherever and whenever needed. Because of the fact that the Administrative Tribunal is there, they first go to the Tribunal and have a decision; and as and when necessary, they may want to seek remedy from the High Courts. They can also invoke the writ jurisdiction of the High Court. The writ jurisdiction of the Supreme Court is going to be restored by this amendment. Why not do this in the case of the High Courts? The same position should apply there also. That is necessary to meet the ends of justice. That is the point I would finally urge upon the Government.

Government have taken a very extraordinary position. I read the relevant sentence here:

[Shri Bhattam Sriramamurty]

"It is, therefore, proposed to include in the Bill a few clarificatory amendments to make certain provisions included in the Ordinance retrospective from the date of establishment of Central Administrative Tribunals."

So, with retrospective effect they wanted to validate it because there were certain doubts, because certain suspicious were there. Therefore, they wanted to clarify the position with retrospective effect, a clarification with retrospective effect with a view to validate all the action taken by earlier various tribunals and government also. So, this is the very extraordinary position which they have taken recourse to; this is unfortunate and unwarranted; this must be avoided, as far as possible.

So, while saying that I will have to say one thing. The jurisdiction of the tribunal was also extended to persons who are governed by the provisions of the Industrial Dispute Act, that is the Central Government employees will hence-forth enjoy the facility of going before the tribunal and also the Supreme Court; so that facility was given to them, restored to them; and this is where I entirely agree with the spirit of the amendment which has been moved and the spirit is good, but the way in which the government machinery functions and how the entire thing is being validated, that itself is very abnoxious and does not sound democratic, and therefore, I oppose it from that point of view and I want the Ministry to reconsider the whole thing from that point of view.

[Translation]

SHRI RAJ KUMAR RAI (Ghosi) : Sir, I am thankful to you that you have given me an opportunity to speak the Administrative Tribunals (Amedment) Bill.

Sir, so far as this Bill is concerned, anyone who knows something about law, cannot disagree with the spirit of the Bill. Besides, the comments made on the Bill are correct and acceptable to all. I welcome it and support it. In addition, I would like to raise two or three points through you.

I do not agree with the Members who had said that this ordinance was promulgated in haste and now it was being converted into a Bill in an undemocratic manner and everything is being done in haste. Sir, an elected Government has certain responsibilities and commitments towards the public which are to be fulfilled and for this purpose certain rules and regulations are to be made. But if Parliament is not in session, it is the duty of the Government to issue ordinances to fulfil its commitments. Thus, it is not wrong if any Government acts in this manner. But, Sir, it has been our experience—you also have a long experience—that certain defects or technical defects always remain in the Bills passed in haste. And when these Bills are challenged in the courts, they do not stand judicial scrutiny and the law-makers find themselves helpless. I would like to say one more thing that our Hon. Minister is a new, very wise and intelligent person and it would be better if all the aspects are looked into before passing the Bill. What reforms should be effected in Judicial administration and what should be the administrative reforms and what would be its far reaching consequences, all these things should be carefully considered and it would be better if a consolidated Act is brought for this purpose. We do not agree with several rulings of the Supreme Court and the High Courts and sometimes we express our resentment. It is right that we are sitting here and have a right but it cannot be denied that the laws enacted in haste are defective and the Supreme Court or the High Courts, after all, interpret the law of the land. Whenever the courts point out some defects, we resent it. Such deficiencies are also there in this Bill.

Sir, you will find that this Bill will provide speedy justice to the employees of the central as well as of the state Governments but not on time bound basis; what should be done for it. Your main object is that the people are not getting justice because courts are over burdened and cases are lying pending before the High Courts and the Supreme Court for a long time.

15.00 hrs.

[SHRI SHARAD DIGHE *in the chair*]

Justice delayed is justice denied. Justice should be provided to those who are not getting it. We must do something for them.

[English]

Justice should not only be done, but it should seem to be done.

[Translation]

We are doing that. Now I would like to read it for you.

[English]

"If the members of the Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it."

[Translation]

Those who go to the courts are the aggrieved persons, they are facing problems and some Administrative officer is certainly responsible for their sufferings. As such you should have brought a law to provide for a central administration for I. A. S. Officers so that you can transfer them anywhere you like. If they remain for long at one place they develop vested interests. You have made State cadres and they remain there.

[English]

SHRI AJAY MUSHRAN : IAS means 'I am safe'.

SHRI RAJ KUMAR RAI : My friend here says, that 'IAS mean 'I am saved' and they have got the State cadres also.

[Translation]

You are going to regularise it. The Central Government employees or state Government

employees are the victims of the misdoings of these officers. Now they are not only posted in the Tribunal but also given power of voting. Whatever our views about the judiciary, the people belonging to judicial services do not have biased feelings about their colleagues just as our administrative officers have. They have vested interest and can go to any length to harm their colleagues. If they ignore the main cause or object of trouble, it will not be surprising. There should have been an option to the employees themselves.

There is an old saying in our area.

*Chame ka Bera kukur rakhwar*

Which means the aggrieved person is asked to seek redressal from one who is the cause of his troubles. It will be better if this responsibility is entrusted to the judicial services. Industrial Dispute Act is also there which has similar anomalies. Despite several rulings for and against this piece of legislation, it has not been amended even after such a long period. There is need to review the Administrative structure, because it is not in consonance with the present requirements. I was talking about the Administrative officers who have become big men after qualifying in a stiff competitive examination. They become members of such an elite class that even in this House no one can accuse them of any mistake. Today, we are sitting in the Indian Parliament which looks after the interest of the poor, the downtrodden and other different sections. Therefore, we would like to say that all the rights have been vested in these I. A. S. officers by making them members or chairmen of committees, tribunals, D. R. D. A. or District Councils. Everywhere you will find one remedy of all the troubles and that remedy is I. A. S. officer and that is what you are doing. It will be of no use to the country. By giving such powers to them, the Members of Parliament are bound to flatter them. If they become unhappy, neither you nor Government would listen to us. Whatever may be the status in the protocol or in the constitution, the implementation of the programmes and other things will be effected through them. I would, therefore, urge the Hon. Minister through you to desist from such tendency, as there is still a lot to be done. You should not leave the fate of the

[Shri Raj Kumar Rai]

people in the hands of I. A. S. officers and give them chance to do as they like. You should rely maximum on the judicial personnel. I donot say that they will not commit any mistake or their character is unblemished, but such persons can hardly be found among them whereas you can hardly find such a person among I. A. S. officers who has sympathy for the welfare of the people and who has a lenient view towards his colleagues. So, I would like to advise you to be careful in this matter. With these words I convey my thanks to you for giving me an opportunity to speak.

[English]

SHRI A. CHARLES (Trivandrum) : I support the Administrative Tribunal (Amendment) Bill which has been presented before this august House.

The original Act which was passed in 1985, provides for setting up of an Administrative Tribunal at the Centre for dealing with grievances on service matters of the members of the All India Services and the Central Government employees, and State Tribunals dealing with the cases of employees belonging to the State Governments. That Bill was enacted under Article 323(a) of the Constitution.

I was hearing some of the arguments put forward by some of the Hon. Members from the other side. One Hon. Member has said that on the eve of Parliament it was not fair to promulgate an ordinance and according to him, it amounts to contempt of this august House. I am sorry to say that the Hon. Member has not gone through the Statement of Objects and Reasons appended with this Bill. The House had passed the Bill in 1985 and the Administrative Tribunal had already been established. A number of cases were also pending before it. Then doubts were raised in the Supreme Court. It was the duty of the Government to help the persons whose petitions were pending before the Tribunal. The Hon. Minister has given a careful thought to this and taken a very timely action by promulgating this ordinance. I congratulate the Hon. Minister removing the difficulty of so many persons who are in

service and whose petitions are pending before the Tribunal.

The Hon. Member has also stated that it was not proper to give retrospective effect to certain provisions of the Ordinance. But anybody who has some knowledge of the jurisprudence, knows that when such an ordinance is promulgated, necessarily it means that certain provisions will have to be given retrospective effect. I see nothing extraordinary in bringing this ordinance. It was only timely. It only shows that the Ministry was very careful and vigilant in removing the difficulties faced by the employees. I am happy that in the beginning of the session the necessary legislation to replace the ordinance, has also come up.

Regarding the Constitution of the Tribunal, I must point out to clause 6(3) which deals with the qualification for appointment as a judicial member. This is a very elastic provision. I feel that only a sitting judge of the High Court should be made eligible for appointment as a judicial member of the Tribunal. In case there is any difficulty in doing so, then as the retirement age for the Members of the Tribunal has been fixed, even a retired judge within that age limit can be appointed. It is one thing to be a judge "but it is quite another to have the necessary qualifications to be a judge". The Hon. Minister himself is a lawyer

(Interruptions)

The Hon. Minister is a renowned lawyer, and he knows that every lawyer cannot wield the responsibility of such an important office. He should have some experience in the administrative methods. This is obvious from the qualifications fixed for the Administrative Members. A person who has been an Additional Secretary, should be having the administrative experience but in spite of the fact, under section 6(3) dealing with the qualifications of the Administrative Member, there is a stipulation that the person should have administrative experience. So, I suggest that this clause should be deleted. Further, the term 'adequate' is also very loose. I cannot understand how the term 'adequate' is legally explained. Something may be adequate for the Minister but for the court that may not be adequate. So, it should be specifically

explained in the legislation, especially the clause which says that a person who is transferred from the Government, a person who has held the post of an Additional Secretary to the Government of India, or any other post under Central or State Government, should have the necessary administrative experience. I request the Hon. Minister that if at all any administrative experience is to be fixed, it should be for the Judicial Member. I also suggest that the term "is qualified to be" under section 6(3) (a) should be deleted because when we appoint a Judge as a Member of the Tribunal, the vacancy caused in the judiciary can be very well filled up by a person who is qualified to hold that post, but I personally feel that a Judicial Member should have the necessary administrative experience also. Only a judge or a retired judge should be brought to this high place.

As has already been stated in the Statement of Objects and Reasons, it is clear that the Bill has now been brought forward to overcome certain difficulties in disposing of the writ petitions pending before the Supreme Court. I am glad that the Supreme Court jurisdiction is still retained. So, anybody who wants to go in for appeal can very well go to the Supreme Court. I, therefore, feel that this legislation has been brought very timely and I give my full support to this Amendment Bill.

**SHRI AJAY MUSHRAN (Jabalpur) :**  
 Mr. Chairman, Sir, I rise to support the Administrative Tribunals (Amendment) Bill, 1986. The Hon. Minister deserves congratulations for having brought this Bill which is not only timely but appropriate also. It was only last night that the Hon. Minister appeared on TV and he made a point that those who are involved in governing have got to be not only changing in their way of thinking and the way of administering the Government but even the justice mated out to the people who feel aggrieved. This point has to be gone into. I think that this amending Bill deserves to be supported by the whole House in that context. He made very many points which are very valid. Not only valid, but I am glad to say, that through this Bill some of those suggestions and ideas are being implemented.

There is yet another aspect in this Bill. Some of the Hon. Members have said that even those people who are in the defence services should have accessibility to the right of coming to the Administrative Tribunals. I personally would like to differ with those Hon. friends because any person who is serving in the army, navy or air force in uniform has got accessibility to the court of inquiry or a summary of evidence and then a court martial. Now, in the Military, the most equivalent term for these processes can be administrative tribunal. Even the court martial proceedings have got to be confirmed by that authority which holds the right to order for a court martial. Now, keeping all these things in view I think it is a very dangerous phenomena or it would have been a very dangerous phenomena had this uniformed category been included under the proviso of this Administrative Tribunal Bill. I say this because I feel that defence services stand on certain traditions and principles of discipline. So far as the people who are not in uniform, who are called civilians in the term of their services are concerned, they have been included under this Bill; they can come forward to the administrative tribunals for redressal of their grievances. My only suggestion to the Minister through you, Mr. Chairman is this : I find that there is a bit of a confusion here. I feel that there are three types of civilians so far as the services are concerned. One is those civilians who are working under those installations which are under the Chief of Army, Navy or Air Force staff; the second is those civilians who are working under the defence installations who come under DGOF or Ministry of Defence, Department of Defence Production; the third are those civilians who may be serving in these defence installations or who may be non-combatants but who have got the embodiment liability; and the fourth is those who are ex-servicemen but who still have the reserve liability. It means that those who have retired can be called to service in case of emergency or the outbreak of war. Their position has not been cleared in those specific terms as I am sure the Minister would like to categorise and specify particularly those who have gone on retirement. Large number of cases are there where these persons have gone to the High Courts. The person who is going to retire has gone to the High Court saying, I have been unjustifiably retired. But God forbid, if there is an

[Shri Ajay Mushran]

opportunity or if there is a necessity for him to be called back to active service and if the case has gone to the administrative tribunal, what will be the position of the case and that man who has got to be dealt with? I suggest that such a category should specifically be excluded from the civilians who can go to the administrative tribunal and till a person is under the liability of recall to active service, he should not claim the right to go to the administrative tribunal. He can go to the High Court because as the Bill is silent over a civilian who is also under the Labour Act, he can go to a labour tribunal or he can go to the administrative tribunal. In the same way a person who has a liability of going to be recalled to service, he can either go to the Minister of Defence or he can go to the High Court. He has got the two channels to redress his grievance and ask for justice, but there is no need for him to have this third course open also because that will not only be an impediment in the smooth and disciplined way of discharging duties in the Defence Services, but will unnecessarily mount the number of cases which are already mounting in front of the administrative tribunals. One of the aims of bringing these administrative tribunals into existence is that we should have an agency where the cases of this type which can be dealt with by the administrative tribunals or at the moment under the High Court and there is a vast number of cases outstanding, has necessitated for these tribunals to come up because they will take the line of the High Court and justice will be meted out to people expeditiously because as some of the Hon. colleagues have brought out, at the moment justice delayed to the working class is justice denied and if a large number of people go to the High Courts, a case may be pending for 20 years, they have even retired, but the case of stoppage of their promotion or upgradation, permanency etc. has not been settled, although the person who has gone to the High Court may have retired. Such a long time is taken by the High Court for settling these cases.

The second aspect is, very strictly speaking, people working in the Defence installations under the Ministry of Defence are not under the Labour Act. They have been

allowed to form labour unions, but for all purposes they are Government servants. This category, whether they enjoy this right or it is only by usage that they have been allowed to use this privilege, must be clarified because if this is not clarified, at a later date their going to the administrative tribunals can be challenged whereas they could have got the justice because somebody would see that these people have not got even the rights and privileges under the Labour Act. This aspect, I am sure the Hon. Minister would have either looked into or would prefer to look into.

There are some suggestions which I have about the Bill itself. On page 4, clause 7, there is an insertion suggested in sub-section (2) of section 6, after clause (b), which is as follows :

“the following clause shall be inserted, namely :

“(bb) has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India.”

There is another insertion under the same clause 7 of the Bill, namely, 3A, which says :

“A person shall not be qualified for appointment as an Administrative Member unless he :

(a) has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India.”

Firstly, it is the general feeling which even some of the Hon. Members have said that these insertions make it very evident that the persons who would be most qualified to be the administrative member of the Tribunal or even the judicial member of the Tribunal would be IAS officers.

**SHRI P. CHIDAMBARAM :** Not judicial member.

**SHRI AJAY MUSHRAN :** O. K. it is administrative member. If that be so, why the category of other than IAS officers could not be categorised here. There is nothing against the IAS officers. But generally if you see the cases of administrative injustice, they are against some of the administrative instructions passed by the IAS officers during their tenure of being Under Secretary, Deputy Secretary, Joint Secretary, Additional Secretary and so on and so forth, if not that of their kith and kin. Now we are all aware of their intense *esprit de corps* and I am sure most of the Hon. Members of this august House will agree with me that it has been found generally that wherever you had a commission of inquiry or justice and if there was an IAS officer on that commission of inquiry, he would have either absolved the IAS officer in question completely from any responsibility or injustice or he would have mitigated it to such an extent, he would have watered it down to such an extent that the IAS officer involved goes scot free. My humble submission is, barring IAS officers, there are certain other categories of officers .. (*Interruptions.*)

**SHRI P. CHIDAMBARAM :** It is not confined to IAS officers alone.

**SHRI AJAY MUSHRAN :** That is the first picture emerges in my mind, that it is built-in.

**SHRI P. CHIDAMBARAM :** It is not confined to IAS. Instead of my learned friend proceeding on a misconception, let me clarify. The provisions are very clear : anyone who has held the post at a particular level—IAS officer as well as officer belonging to any other Central Civil Services—is eligible to become a member. They are holding posts at different levels. We have appointed officers from other services also the tribunals. I will give you the names in my reply.

**SHRI AJAY MUSHRAN :** I am grateful to the clarifications given by the Hon. Minister. My further suggestion would be, it

will be even better, if you do not have IAS officers at all in this tribunal.

**SHRI P. CHIDAMBARAM :** I will note that point.

**SHRI AJAY MUSHRAN :** On the same two sub-clauses, I have to say this. By the time a person reaches the scale of Additional Secretary or held the post of Additional Secretary for five years, he is bloody old. There is a lot of generation gap. The people who come to the administration tribunal for justice against whom injustice done to them earlier belong to the very low strata of class 4 class 3 or at least class 2 level. The officer who sits on the tribunal should not have such a big gap as Additional Secretary, Government of India as he will have lost touch with various problems, with various administrative hazards faced by the lower classes of people. The Additional Secretary, Government of India would have been in the North Block, South Block for the last 10 years before appointed on this tribunal. I am of the opinion that a younger person in the younger bracket of administrative bureaucracy should be considered so that, he has not lost touch with the problems and difficulties of those people who will come to the administrative tribunal for redressal of their grievances. We have got the Hon. Minister and he will understand the difference between having a young Minister and an old Minister.

Secondly, in the higher courts of the High Courts and the Supreme Court, some Hon. colleague was telling that anybody who has got a little knowledge of law will agree with him on a certain point. I personally feel that even a person like me who has no knowledge of the law, except military law, is of the view, that the hours of working of these tribunals, whether it is administrative or labour or high or low or whatever courts, must be long. Simply working for two or three hours and the rest of the day is only spent in contemplations, is not enough.

There has been a case which has been going on in this country's newspapers and public opinion where the judgment of the Supreme Court has made some stir in the

[Shri Ajay Mushran]

country. If you read that judgment, the first part of the judgment is legal. No objection. The second part of the judgment is purely sermon. Now sermonising is our sole prerogative. Interpreting what we make here is a big thing. Even in the administrative tribunal, this must be made in the rules and regulations which, I am sure, will be made after the Bill has been enacted. There will be certain rules and regulations for the procedure of this administrative tribunal. It should also be made specific that the judgment should not be more than two or three or four pages and purely on judicial matters, they should not say what is the demand of the society today and what is the demand of the poor class. This is for us to say. This aspect makes a judgment contradictory and controversial and they spent more time on the second part of the judgment. If you see, you will agree with me. There should be something stipulated in these rules and regulations which will be later made, as to what part of the judgment should be. There are some cases where the evidence is of lesser number of pages than the judgment.

There is another clause "on the application of any one of the parties or after notice", page 7, para 25. This is substitution of a Section for Sections 25 and 26. This says about the application any party can give for transfer of any case pending before a Bench. This means we are accepting that we will have a Bench in which some people will not have confidence. Why have people appointed on administrative tribunal against whom somebody will have a doubt? This is one of the delaying tactics which can be used by the administration, more than by the party and even the party can use it. I am not denying it. But why a Clause where delaying tactics can succeed whether they be of one party or the other. I personally feel once a Bench has been fixed, that Bench must deal with that case because after all, people whom you are going to have on this Bench, as the Minister said, are going to be people of impartiality. They will not be from IAS probably and the other judicial members will be of such eminence that their antecedents and their credentials will not be questionable. So, a Clause like this will result in delays of cases and this must be looked into

and I am sure the Hon. Minister will look into this.

In the end, I only want to say that this Administrative Tribunal Amendment Bill which is being brought is being brought, with a very correct idea in mind, to do justice to people who are aggrieved, in the shortest possible time. I am sure that delay in disposing of cases should not occur and should not be allowed to happen. This will only prove that our intention of bringing this Bill is fulfilled. Outstanding cases will naturally water down our intention and water down the aims and objectives of bringing this Bill.

In the end I vehemently support this Bill and I am sure in future also the Hon. Minister will bring more youthful Bills where people with 30 years service do not have a chance to become an administrative Member but we must have a younger lot of not only Ministers but also Administrative Tribunal Members. I conclude with supporting this Bill.

SHRI SRIBALLAV PANIGRAHI (Deogarh) : I rise to support this Bill, the Administrative Tribunals (Amendment) Bill, 1986. In fact this is a simple Bill and there is nothing to object to it. Only the Supreme Court's suggestion which, for all purposes, has to be treated as a directive, has been accommodated mostly or mainly in this Amending Bill and while that suggestion has been accommodated, naturally some more lacunae which were noticed are sought to be removed and also some explanatory amendments are proposed in this Bill.

There has been a lot of discussion on different aspects of not only this amending Bill but also the original Act itself. Its working has also come under review by the House, by the Hon. Members who have taken the floor before me and there is not much left for me to speak on it.

The origin of this Bill, as I find, dates back to 1975. In 1975 Swaran Singh Committee had recommended that instead of burdening the courts with service matters, for speedy disposal, for expeditious bearing



or for redressal of the grievances of the government officers and employees, such Tribunals should be appointed. It was a sequel to this that in 1976 in 42nd Amendment to the Constitution the Government was empowered to appoint such Tribunals by amending Art 323. Under Art 323B(3) of the Constitution these Tribunals have been formed.

As you know the Tribunal has come into existence. It has started functioning since 1st November 1985 and in the course of its functioning also some employees went before different High Courts and also the Supreme Court and there was a suggestion given by the Supreme Court itself that there should be a two-man Tribunal, that every Bench of the Central Administrative Tribunal should have two members instead of one and one of the two will have to be a Judicial Member. This is really a good suggestion, and I feel by amending this Act accordingly in deference to the stand of the Supreme Court, certainly the image and the credibility of these tribunals will be enhanced. The judicial officers do certainly command confidence of the different sections of society in our country. However, impartial an administrative officer may be, in his approach, it is common knowledge that he does not command as much confidence as a judicial officer does and as such when the tribunal does not consist of the administrative officer alone but it consists of judicial officer also naturally the credibility or the image of the tribunals will go up. It will create a greater sense of confidence in the employees and in the officers who go before the tribunals. We have different types of tribunals like the industrial tribunals, administrative tribunals, labour tribunals in the States also. Earlier, before this arrangement came into existence at the Central level, some States have already such administrative tribunals functioning in their States. These tribunals are quasi-judicial in nature and when we remove the power of the High Court and vest such powers with such quasi-judicial bodies, we should also see that full justice is meted out to the aggrieved employees or the Government officers coming before them. Sometimes, injustice is done to the employees and it has to be checked immediately without waiting for loss of time. In such cases, only the aggrieved employees will be disappointed because there is no pro-

vision for stay or injunction exercisable by these tribunals.

**SHRI P. CHIDAMBARAM :** There is a provision for this under Section 24 of the Act.

**SHRI SRIBALLAV PANIGRAHI :** Sir, then it is all right. Further, an additional feature of this would be that some workmen or employees within the meaning of the Industrial Disputes Act, have the option to go before the tribunals and the Labour Courts. I think there will be confusion because some employees of one organisation can go and prefer the case before the tribunal and some employees of the same organisation may like to go to the labour courts and if contradictory verdicts are given by these two bodies, what will happen? Today we have the Bill under discussion, in this House. Immediately after this, we will take up the Contract Labour (Regulation and Abolition) Amendment Bill for discussion.

We find that amendment has been proposed to replace an Ordinance and the Ordinance was intended to, according to the version of the Minister as given in the Statement of Objects to have a uniform approach in, the Labour field. To have uniform industrial relationship throughout the country, they are trying to restrict some powers given earlier to the States in the matter of abolition of contract labour. That is good, but what will happen here is this. In respect of one Act, we find that the Government of India have come forward with an Ordinance and now to replace that Ordinance with an amending Bill : in order to have a uniform labour law or labour relations, the power which was earlier exercised or enjoyed by the State Governments to abolish contract labour is being taken away and it will now be concentrated in the hands of the Central Government. It is well and good; a uniform approach should be there. But at the same time here we find that the same class of Government employees—they may be called industrial workers coming within the definition of the Industrial Disputes Act—can go before the labour court and again they have the option to go before the Tribunal also. In the case of divergence or conflicting judgments or views expressed by these two organisations,

[Shri Sriballav Panigrahi]

the labour court and the Tribunal, what will happen. This should be sorted out. I would like the Hon. Minister to reply to this doubt being expressed in different quarters.

As I said, there are so many Tribunals. It is good we are having Tribunals. The law courts are over-burdened. You know, Sir—you have the experience of the Bar; you are an esteemed member of the Bar—it takes quite a long time to get justice from the law courts, and it is always preferable to have a Tribunal. We welcome the constitution of Tribunals. This new Bill is having certain good features introduced to remove the lacunae which have been noticed in their functioning since November. They have done appreciably well; they have disposed of as many as 266 petitions in one month, that is, in February. It is very good. The doubt that was being expressed about appeal, etc., then about the Union Territory, how it will be covered, all those things have been made clear now. But I do not find any provision for review of the performance or the working of the Tribunal. So many Benches will be there; whether they are doing the work properly, whether there is some scope for improvement, whether some grievance is there, to attend to all these things there should be a provision for review. There is this system of Tribunals working satisfactorily in Great Britain; they have their Tribunals and to review their work and to give them proper guidance there is a Council in Great Britain. I would like to know from the Hon. Minister whether there is any proposal with the Central Government to have such a Council. I feel that the working of these Tribunals should be closely watched and whenever it is felt that such a review is necessary, there should be a Council to do that. I do not mean that they should interfere in the day-to-day working of these Tribunals but for the overall improvement etc., and to give them guidance, if necessary, from time to time there should be a Council constituted at the central level.

To start with we had five Benches. That is also being raised to eight with three Benches established at Guwahati, Chandigarh and Bangalore. I think, India being a very vast country, and also since we are taking

away the powers of the High Courts we should have such Benches at as many places as possible. Of course, there is a proposal to locate such a Bench at the place of the Headquarters of every High Court, it should be expedited. There is a proposal to go in for expansion or extension with five Benches to be established shortly at five places including one at Cuttack. As you know Sir, justice delayed is justice denied. So we have to see that justice is delivered dispensed as quickly as possible and at the door steps of these employees. They are Government employees and we know their financial conditions. If some injustice is done to them, they feel that they have grievances and they want to come before such tribunals. We have to see that they are not required to spend heavily on this account. Therefore, as early as possible such Benches should be established in different States.

With these suggestions I would like to conclude. I give my support to this Bill. There is nothing to object. As I said, it has been customary on the part of the opposition friends to come up with opposition. Whenever there is an ordinance, they try to find some loopholes to justify their opposition. Why it came in the form of an ordinance? The President of India promulgated this ordinance on the 21st of January. By that time there were summons etc. not issued for this Parliament Session. So, what is there to take objection to this?

Again, this was a very technical matter and cases were already pending before the High Court.

The High Court having no jurisdiction according to the provisions of this Act, this become a complicated matter and in order to avoid further complications the Supreme Court in their wisdom gave a good suggestion to accommodate a judicial member in all the Benches of the tribunal, and the Government promptly came to implement that suggestion given by the Supreme Court, the highest judicial body what is wrong in that? There is nothing to object to this.

Even the Supreme Court in a couple of its earlier judgements had recognised the need for people familiar with service laws to be on such tribunals. They themselves have

said earlier that sometimes, even the judges—not all the judges—are not very familiar with the service laws. The service laws in course of time have become very complicated and that needs to be looked into.

Certain expertise has got to be developed in respect of service laws also. It is good that we have this sort of tribunals. The lacunae or the suggestions made by the Supreme Court—that came forward in course of its functioning—have been accommodated in this Bill.

With this, I support this Bill wholeheartedly and request the Hon. Minister to give his kind consideration to some of the points that I have raised and to expedite the establishment of different Benches including one at Cuttack because those places are quite remote considered from national angle and people, if required to go elsewhere for this purpose naturally will have to face difficulty and also incur under financial expenditure.

**SHRI BHOLANATH SEN** (Calcutta South) : Mr. Chairman, Sir, I rise to support the Bill but I have a little confusion in my mind not because of anything else but because of the actions and observations taken or made by the Supreme Court. The Supreme Court has not allowed transfer of petition made under Article 32 but has not stayed transfer of the petition made to High Court under Article 226. I do not understand this. Under Article 32 the Supreme Court has lesser power though they exercise more. Article 32 says :

“The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights.”

Now, I will also read out Article 226 :

“Notwithstanding anything under Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases,

any government, within those territories directions, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari of any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.”

So, Sir, as has already been pointed out by earlier speaker, the Supreme Court has not been given the power but still they are exercising this power. There have been occasions when the judgements passed by an earlier Bench were changed by a larger Bench later saying that the previous Bench had gone beyond the jurisdiction.

**PROF. MADHU DANDAVATE** : How is it that this point was not raised in the Supreme Court by anyone ?

**SHRI BHOLANATH SEN** : Supreme Court itself has admitted that fact on many occasions. I can show you where they reversed, distinguished and disagreed with the previous judgement. I can show you a number of such decisions. This point came up in 1975 when AICC was considering this aspect of the matter.

Article 14 is ‘equality before law.’ In Menaka Gandhi’s case Justice Iyer said Article 14 is omnipresent throughout India. This is now being challenged. Take the case of Andhra Pradesh where the age of retirement was arbitrarily reduced. Now, is it a fundamental right or is it not ? If it is a fundamental right to get that order quashed as it was quashed by the Supreme Court then where will you go ? Will you go to the Tribunal for this purpose or to High Court ? But the Tribunal cannot quash the order or enforce fundamental rights like High Court or Supreme Court. Article 226 says it has the same power to issue directions, orders or writs. Supposing for the Railway employees some rule is made which needs to be struck down as un-Constitutional it has happened many a time in respect of Customs rules or Railway rules which were struck down by the Supreme Court or High Court who has got the striking down power ? The Tribunal has not got the power to issue writs, etc. Where does that man go ? Who has got the constitutional right ? Where he can complain

[Shri Bholanath Sen]

against the validity of the law which has been passed contrary to the Constitution.

16.00 hrs.

[SHRI VAKKOM PURUSHOTHAMAN  
*in the Chair*]

Another thing is that when he has been adversely affected by virtue of that law. This is a complicated case. Where will he go? Will he go to the Tribunal? The Tribunal has not got the power to issue *mandamus*. What is the statutory provision?

Most of the case in India today are being fought by the employees for the purpose of preservation of their Fundamental Rights and equality before the law. That is the main thing. If certain rules are not followed, you can get the relief anywhere, but equality before law is even now at stake at the hands of some administrators. They just like one and do not like another, and acts without any hearing. The Supreme Court itself has said that actions in violation of natural justice is a nullity. He will have to suffer nullity; that order cannot be quashed by tribunal on that ground.

SHRI SATYENDRA NARAYAN  
SINHA : But who will suffer that nullity?

SHRI BHOLANATH SEN : The employee would not get any relief.

SHRI STAYENDRA NARAYAN  
SINHA : Do you mean to say that the order of the Central Administrative Tribunal would be deemed to be nullity?

SHRI BHOLANATH SEN : Might be...  
(*Interruptions*). The order has to be declared as a nullity, as the Supreme Court has said that non-compliance with the natural justice is a nullity.

Now, a new concept is coming up, in relation to Article 21, where it is being said that a man has a fundamental right to life and livelihood. It has been said in a case

from Bombay slums that Article 21 includes not only protection to life, but livelihood also. The Supreme Court has declared that, but I cannot go to tribunal, I can't, say : "Quash this order because it takes away my livelihood."?

I am not going very much into the small aspects, the Hon. Minister is competent enough and he will be able to look into the matter. I have great personal respect for him.

Kindly see Article 227. Article 226 has not been amended. High Court has the power, but a citizen will be deprived of that power, because it deals with the service conduct matters. There is a Tribunal in Calcutta. Article 227 says :

"Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction."

Now, will they go to the Central Tribunal by way of appeal, or if there is anything wrong in law will they go to the High Court? This law says that no court shall have jurisdiction except the Supreme Court under Article 32.

Now, if an industrial award is made, what happens? An industrial award is made, and because there is a mistake in law, in the award, the High Court will quash it, though not on facts generally. Similarly, Supreme Court has also done the same thing. What is superintendence under Article 227(2). It says :

"Without prejudice to the generality of the foregoing provision, the High Court may—

- (a) call for returns from such courts;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts."

Then, Article 227(3) :

“The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocats and pleaders practising therein...”

Then 227(4) :

“Nothing in this article shall be deemed to be confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.”

Therefore, the High Court can make rules. The High Court alone can control and supervise and it has been held under Article 227 that if a man is aggrieved, because the Tribunal has acted beyond jurisdiction or has not decided a point of law, he can go to the High Court under Articles 226 and 227. Now again, I think there is a little bit to be thought about this thing. Naturally, the labour will have a right to go the Industrial Court (that has not been abolished) as well as to the Administrative Tribunal. There are public undertakings from which the workers can go to Industrial Courts and also in addition, if they do not like the face of a judge, they can go to the Administrative Tribunal. But a man, who does not belong to an organisation like industry, a man who is just an employee of the Government, he cannot go to the High Court. He can go only to the Tribunal. The Supreme Court's contribution in this case is that there should be a Bench of two. The Supreme Court has not yet approved the law. The law made may well be struck down, if the constitution of the Bench be different. Here find that violation of Article 14 looms large. It has been said that a Government employee or a public undertaking employee can go to the Supreme or High Court for violation of fundamental rights regarding his service rules, etc. But a man who is working in a public undertaking or industry cannot only go to the Supreme court or High Court for his fundamental rights or violation of the constitutional law but two the tribunal as also to the industrial court. These courts remain open to him. If the High Court is ruled out now, there are still three courts for him to go to. Here you say that instead of High

Court making the rules, the Central Government will make the rules. How can the High Court's power of making rules be taken away as long as it is in the Constitution? I know the objective is laudable and there is no doubt about it. But the real thing is this. The High Courts have become so over-congested. They do not have any speedy remedy and the costs are also expensive. Just see what is happening in Calcutta. I noticed it the other day. There are about 3000 cases that have been transferred from High Court. There are only four judges. And I am told that 1,000 more cases will be coming within a month or so. How many cases will be expedited with four judges? There is not much chance! Now, if the question of cost is involved, how will the costs be reduced? There is again no chance! Instead of increasing the number of the High Courts or other courts, this has been done. And expenses also will not be reduced on the part of the Government.

But the basic point remains. Are we going to discriminate amongst the persons all of whom are workers? Some of them are employees of the Government; some of them are employees of the Government undertakings. Those who get less, they may go to the Industrial Court as well as the tribunals. Those who do not come within the definition of 'worker', they cannot go to the High Court. They can go to the Supreme Court or tribunal for identical relief. Everybody cannot go to the Supreme Court. But if you want to go to the High Court, you cannot. This power is excluded from the High Courts. The objective, I have no doubt in my mind, is very good and procedure should be found to expedite justice. Probably, the Hon. Minister will try to increase the number of judges or the Benches so that there is no delay. I would request one thing. One request to you. If a worker or an employee wins a case in the Tribunal, then, the State should not appeal or the employer should not appeal to the Supreme Court or the Central Tribunal and all that. This is possible in England, in the criminal matters, where the State does not appeal. So, in this particular case, our being a Welfare State more judges should be employed. In the Government, in the Public Sector Undertakings, in the big houses, organised industry, etc., where the employee wins a case in the Tribunal, there should be

[Shri Bholanath Sen]

no appeal to the Supreme Court. Don't take them to the Supreme Court, Don't allow that to happen. What is Industrial Disputes Act? A man will not get justice for 30 years and his employer goes to the High Court and if he wins in tribunal then they say this procedure has not been followed or that procedure has not been followed. Ultimately, the Supreme Court says, no such point will be entertained, except in a way. Now, I am reminding the Hon. Minister about this that there should be no appeal, although, I am speaking for their benefit only. Otherwise they will not get that benefit, which you have in your dreams. Please try and think about that matter. Apart from that, because of the laudable object of the Act, possible quick remedy and quick justice, I am all for this Bill.

[Translation]

\*KUMARI MAMATA BANARJEE (Jadavpur): Mr. Chairman, Sir, I rise to support this Administrative Tribunals Bill. I support this because of the reasons given by my previous speaker, Shri Bholanath Sen, an Hon. Member of the House. I entirely agree with some of the things said by him. I think that after this Bill passed, the labourers, workers and other employees of the State Government as well as the Central Government will be able to get quick justice, and they will get their lawful rights through this Bill. Before I started to speak, I faced some opposition. This is because whenever we, from the treasury benches, try to say something those members from the opposition side try to shut us. Not all the opposition leaders of course, there are some opposition leaders who really encourage us and from them we get fatherly treatment. We have great regard for them. But there are some opposition parties who cannot accept India as India, who cannot accept and recognise any good in our country, whose main aim is not good of India's politics, economy, India's culture, social life etc. those whose ideal is not Mahatma Gandhi, Subhas Bose, revolutionary poet Kazi Nazrul Islam, Rabindra Nath Tagore, Swami Vivekananda, Rama Krishna Paramhansa Dev etc. Those

\* The speech was originally delivered in Bengali.

who believe that their guiding stars are Karl Marx and Lenin only. Those who cannot accept mother India as their mother, they only try to oppose everything that is good in this country. Sir, we know that the job of the opposition is to oppose. But they must oppose in a constructive way. They should not oppose everything good merely for opposition's sake. Their opposition must have constructive suggestions. They must produce fruitful results. The result should not be to take the country backward. They should not always simply criticise all the progressive steps taken by our dynamic Prime Minister Shri Rajiv Gandhi, they should not always criticise our Ministers. They should cooperate with our Government and give constructive suggestions if they have any. I will request them to join hands in the task of taking the country forward. Sir, I was trying to say that this Bill will be very effective for the good of the working classes. The Government employees will have no need to knock at the doors of the High courts. Both the State Government employees and the Central Government employees shall be benefited. The bench of the tribunal at the Centre and in the States will be able to solve the problems of the employees after fixing priorities. As Shri Bholanath Sen was saying a short while ago, cases are pending in the High Courts for 10 years or 15 years. In the Industrial tribunals also we have seen that cases under the Industrial Disputes Act are kept pending for years together. A worker who goes to them with some grievance has to wait for a long time to get justice. But as a result of this Administrative tribunal that delay will be cut short to a great extent. Sir, I do not want to cast any aspersions on the judiciary of our country, I have great respect and regard for our judges and the judicial system. But there is saying that 'good money good law; good money good barrister and good money good justice'. One with resources gets all justice but one who has not got anything does not get any justice. Somebody will get justice and somebody will not get it, that will not do. Equality and equal justice is the main thing. I believe that through this Bill, the workers will get that justice. The Hon. Minister is himself an experienced lawyer and a dynamic youth leader. I want to tell him a few things. The Chairman of the Administrative Tribunal at the Centre, which will be on an All India

basis, should be the Chief Justice of the Supreme Court. But I think there is some differences amongst us about the person who will be appointed at the Administrative level. The tribunal that will be set up at the State level, will have the Chief justice of the High Court as its Chairman. Then only the people will get justice. While making the appointment at the administrative level we should see what type of experience has he got. At the same time it should be ensured that he has got a good reputation; whether he has got past experience of dealing with cases under the industrial disputes Act. Sir, there is a saying in Bengali that :

*“Apan bedona sei jon bojhe,  
 je jon bhuktobhugi; Rog jantrana  
 Kobhu na bojhe hoi ni je  
 Kobhu rug!”*

One who has got experience of labour cases and has sympathy for the workers at heart, he can only deal with their cases in a just manner. He must understand the language of workers' pathos, pain and suffering. There is another saying :

*“Danditer Sathe Dandadata  
 Kande Jobe Seman Aoghate  
 Sarva Shrestha Se bichar.”*

Therefore to dispense proper justice to the workers, the person who will be appointed on the Tribunal at the administrative level must have enough experience and sympathetic attitude towards the workers. At the same time he must have a good past reputation. I am somewhat apprehensive in this respect because 'a burnt child dreads the fire'. I know that the Government is trying to set up holding companies at certain levels. But for the chairmanship of such companies some such names have come, who are known for their past misdeeds, due to whose mismanagement one after another company fell sick, due to whose mismanagement in the past thousands of workers are on the streets today. I am afraid that they may be appointed on these tribunals and actually rewarded instead of being punished for their misdeeds. You must be on your guard against this sort of thing happening. You must keep a strict vigil against this.

Now Sir, I want to say something about Article 311 (2) (c). This a very important Article. You are going to set up administrative tribunals. We welcome it. At the same time, in the judgement of the Supreme Court under Article 311 (2)(c) it has been stated that if any Government employee indulges in anti-national or traitorous activities, then the administrative authorities have powers to take any action against him. He can be dismissed from Government service without assigning any reason. I support this view. If any body indulges in anti-national activity or does espionage work against the country's interests, he should be dismissed. I think not only I, but every member of this House will support such action. But Sir, I have a fear that this power may be misused. If some administrative officer has a personal grudge against some employee or is chemical towards him, he may misuse the provisions of this Article and dismiss the said employee ruining his life and career. You should ensure that the employee who is sought to be punished under Article 311 (2) (c) should be given a charge sheet and he should be given an opportunity to show cause and explain his position. At least he should know why he is being dismissed from service. No officer should be allowed to misuse his chair to ruin the career of some employee. Since the judgement of the Supreme Court was announced under this Article, all the State Government employees and the Central Government employees are passing their days under great suspense. A pall of gloom and disappointment has descended on their lives. They are apprehensive that any moment the administration or management may develop an adverse attitude towards them and they may be dismissed unceremoniously. The Government must intervene to allay this fear. Another thing Sir, the proper implementation of this legislation has got to be ensured. The Parliament has passed many legislation but they have not been properly implemented. As there are laws, so there are loopholes in them. In the anti-dowry act passed by Parliament it has been clearly stated that nobody can take dowry and nobody can give dowry. Both the given and taken of dowry is liable to be punished. In Muslim law it has been provided that the hands of a thief shall be chopped off. But are these laws really implemented There are many such laws which are implemented. I do wish to go in the details. After this Adminis-

[Kumari Mamata Banarjee]

irative Tribunal Bill is passed, it must be implemented at the earliest. Then only the workers and employees will get quick justice.

The path of the employees to approach the tribunals should be made easy. If they have to cross several hurdles or are obstructed at every step to approach the tribunals, or if they have to pay huge fees, then the purpose will be defeated. It will not be possible for the workers to go to the tribunals to seek justice.

Now, Sir, I want to say something about the States. You are trying to set up benches of the tribunal in the States. It is necessary to take the view of the States because the States have an important role to play in the case of State Government employees no doubt. But do you know Sir, what is happening in West Bengal and Tripura? Particularly in Tripura those State Government employees who do not belong to the CPM cadre or those who do not subscribe to their ideology are being harassed. Those who are members of the Federation or of the INTUC or of the Employees' Action Committees, are being transferred now and then on the slightest pretext so as to prevent them from forming parties or to fight for the rights of the workers or to fight for their political rights. They are being transferred from one place to another upsetting their domestic lives. You know Sir, under the provisions of 311 (2) (c) a large number of employees there are in dread of losing their jobs unless, they are CPI (M) minded and are prepared to lick their fact. The Central Tribunal should have the total responsibility to look to such things, enquire into them and to give final decisions.

[English]

SHRI AJOY BISWAS : I am on a point of order.

SHRI P. R. KUMARAMANGALAM : No, he cannot raise any point of order.

MR. CHAIRMAN : Anybody can raise a point of order. Why are you worried about it? What is the point of order? Before I

come to your point of order, which rule has been infringed? (*Interruptions*)

PROF. MADHU DANDAVATE : Rule 376.

MR. CHAIRMAN : That rule 376 is about point of order.

You Continue.

SHRI P. R. KUMARAMANGALAM : Please sit down.

SHRI AJOY BISWAS : She is referring to Article 311.

MR. CHAIRMAN : I will not allow you to say anything. Anything said without the permission of the Chairman will not form part of the record.

SHRI SAIFUDDIN CHOWDHARY : Everything she has said should go on record?

MR. CHAIRMAN : I will not allow any interruption.

KUMARI MAMTA BANERJEE : Sir, I thank the Hon. Member because I have been able to hit them where it hurts. There is a Bengali proverb that 'A thief's mind is always towards the bundle'.

[Translation]

As I have succeeded in hitting at the right place, the Hon. Member has felt the hurt. There is no harm in that Sir, the worker speaks his own language. It can neither be the language of 'Bande Mataram' a language of Marxism. The language of the worker is the language of his hunger, of his survival and his rights. They want their just dues and rights. There cannot be any question of Communists or Congress here. But Sir, the State Government of West Bengal and Tripura are misusing total powers and are victimising the workers. Those who do not belong to their cadre, those who are not members of CITU or the Coordination Committee, they are transferred to far flung places overnight. Sir, there are Government rules that if husband and wife work at the same station, one of them cannot be transferred out. But the West Bengal Government



is one such Government who transfer the husband to one place and his wife to same other place thus creating a division between husband and wife. The Administrative Tribunal is a vital thing. I will point out that the Block Development Officers there who are of the I. A. S. and I. P. S. cadre cannot work naturally. If some B. D. O. tries to work neutrally, the CPI (M) pressurises him to cater to CPM supporters. This is the alarming situation there ! There was a question in the House today as to why the activities of the NBCC is at a standstil. A few days ago the CPM goondas attacked the NBCC and stopped the work there. Not only in NBCC Sir, all work on the Metre railway on the circular railway, all work in the Haldia Complex has been stopped by the goondas and musalman of the CPI (M).

All work has stopped due to them. Through goondaism and muscle power politics can be done for a day but no constructive work can be done. I have to say humbly that it is the responsibility of the Central Government to look the welfare of the State Government employees also. It is the duty of the Administrative tribunal to watch the activities of the labour welfare committees. Whether the State labour welfare committees do welfare of the labour or of some particular individuals ? Are they doing welfare of the party or of labour ? Some time back labour welfare committees has been constituted in West Bengal. Those present here who are involved in trade unions, those who are wellwishers and sympathisers of labour, will be shocked to hear that in that labour welfare committee no representative of labour has been kept. Selected comrades of the CPM have been appointed in the labour welfare committee. How will the labour and workers get justice in this situation ? I am supporting this Administrative Tribunal. But side by side I will say that there is need of constant communication and cooperation between the Centre and the States. There should be uniformity of justice. It must not differ from person to person. Further, Sir, the public undertakings should also be brought under the jurisdiction and ambit. The employees of the public undertakings should also be an able to get quick justice in these tribunals. I will request the Hon. Minister to consider this. I once again wholeheartedly support the setting up the

administrative tribunals and suggest that some retired officers may be made members of this tribunal. That will be a good step, as they have sufficient experience to handle such cases properly. Sir, I thank you for giving me time to speak and with that I conclude.

DR. G. S. RAJHANS (Jhanjharpur) :  
Mr. Chairman, I support the Bill, Hon. Mamataji has covered most of the points about the Bill which merited consideration but when you have given me an opportunity to speak, I would like to raise a few points. Members of the Tribunal would be appointed from judiciary and from among Joint Secretaries and the Additional Secretaries but if you appoint some professor of the Public Administration as the Member, he would bring fresh enthusiasm in the field.

Two or three days back a number of Hon. Members decried the proposal to reduce the age for administrative services examinations from 28 years to 26 years as a great injustice. It was the view of almost all the Members that it is difficult for the children of the poor and the children living in the villages to enter these services. Perhaps you may not be aware that in the Hindi speaking states the results of examinations are not declared for as many as 3 to 4 years. Perhaps the Hon. Minister is not aware of it. It seems that the bureaucracy of this country has conspired not to allow the candidates belonging to Hindi speaking states to enter the Central Services.

May I know whether some thought has ever been given to the point why a the child of an I.A.S. officer becomes an I.A.S. officer and the child of an I.P.S officer become an I.P.S. officer ? (*Interruptions*) The affluent section of the society educate their children through the English medium and that is why they are selected as IAS officers but can the child of a poor man, who lives in a village and who finds it difficult to make ends meet, dream of becoming an I.A.S. or I.P.S. officer ? I had already said that this country is divided into two parts. One is called "India" where the people are

[Dr. G. S. Rajhans]

sophisticated, speak English and study in the Public Schools and inculcate 5 star culture. The other part is called "Bharat" where the people migrate from Bihar, Uttar Pradesh, Madhya Pradesh, Rajasthan to the capital in search of livelihood. They speak Hindi and the people ridicule them by calling them Bhayyan. The constitution provides for equal opportunities to all in the name of equality but can the poor ever enjoy equal opportunities? We have become victims of this wrong system and effort should be made to do away with this system. A poor boy living in a village can never pass B.A. at the age of 22-23 years; he can pass it only at the age of 24 to 25 years. As such he should get 3 to 4 years time to compete for the Central Services. There is the theory of protection. If you want to arrange a wrestling bout between a wrestler and a child, one should wait till the child becomes a wrestler by taking good diet and is able to give a fight to that wrestler. This is the theory of international trade which should be made applicable in the Indian context.

Mr. Chairman, Sir, the matter is very serious. You cannot say that as there is no one to espouse the cause of that helpless class so they should not come forward to compete in the IAS or IPS examinations or are not fated to become IAS or IPS officers. These days IAS and IPS officers are considered demi-gods. I recall that in a Hindi state, a Chief Minister visited an old freedom fighter. While he was taking leave, the wife of the freedom fighter blessed him that he might become a collector. Such is the terror of the Collector or the District Magistrate that they have disrupted the entire system. Just now our colleague has said that the District Magistrate wields both financial and administrative power. He can change the fate of thousands of people.

People talk of corruption prevalent among politicians but these bureaucrats in every State build palatial buildings for their own use. Has anyone enquired into the source of their income? There are people in Delhi who because of their vested interest openly say that politicians can go but the bureaucrat will continue. There is oneness

and a feeling of fraternity among the bureaucrats which is not there among the politicians.

So, I would say that there is need to give attention towards administrative reforms afresh and the bureaucrats should be made accountable to the people. Even if you enact a number of legislations but unless you take steps in this direction the bureaucrats will not allow any policy to succeed. We have got our own experiences in this regard. We know that when we go to our constituencies, how these bureaucrats behave with us; they treat us in a very scornful manner. The solution of all these problems in this regard is that they should be told that the people elect the Government and we are the true representatives of the people and they are accountable to us. Whether we are in the treasury benches or in the opposition, we should ponder in a true spirit how the bureaucracy is befooling us even after 38 years of independence and even now we are playing in their hands. How is the money being utilised which has been earmarked for development? It is now time to think about the whole system of bureaucracy afresh. In China, there are bare-foot civil servants. They go to their work on foot. They do not need any jeep or vehicle. But here there are as many as six vehicles at the disposal of a collector. His children study in the convent school. His official vehicle is used to receive and to see off his guests at the station. There are as many as twenty servants at the disposal of a S. P. or a Collector. In this facility available to others? A new kind of fraternity has been developed which looks down upon the rest of the people. They think that they are running the country and others are doing nothing. You will have to ponder over it seriously that in which direction the country is moving. If you failed in taking timely action, the bureaucrats will not allow your policy to succeed.

SHRI VIRDHI CHANDER JAIN  
(Barmer) : Who should take the place of  
the bureaucrats? (*Interruptions*)

SHRI G. S. RAJHANS : The people will have to be told that their representatives are accountable to them and the bureaucrats are accountable to the elected representatives

of the people. You will have to make the people aware of this fact.

If we visit our district we request the Collector to undertake some essential work in our area. The Collector replies in a hanghty manner that the work cannot be undertaken because of the paucity of funds, whereas we know the true position. If he is a promotee collector his behaviour is all the more ..... (*Interruptions*)

SHRI AJAY MUSHRAN (Jabalpur) :  
A bad man in a bad company.

SHRI G. S. RAJHANS : Now time has come when we will have to think over the whole matter seriously.

[*English*]

MR. CHAIRMAN : What happens when the bureaucrats become politicians ?

AN HON. MEMBER : Then they become accountable.

DR. G. S. RAJHANS : My submission should not be taken lightly. My humble submission is that bureaucrats should be responsible to elected representatives of this country. Bureaucrats should have the welfare of people in their hearts. They should understand what the public want, not that they should live in 5-star culture, not that they should act as students of public schools.

[*Translation*]

I would like to submit that you will have to give a serious thought to the entire issue. You might have observed that the son of an I.A.S. officer becomes an I.A.S. officer very easily. It is very rare that the son of a farmer becomes an I.A.S. officer. Even if one qualifies in the competition, he is not selected as I.A.S. officer. You will have to give a serious thought to all the problems, as this country belongs to the poor and the farmers. The bureaucrats of this country will not allow the effective implementation of your economic and socialist policies I would, therefore, like to submit that it is now time when we will have to consider all the problems very seriously.

There is not much to say about the Bill, as our colleagues have already covered most of the points and I do not want to repeat them. Our Minister is a very competent and experienced person. He is highly educated and has got a lot of experience about civil service. He has received his education in a very good institution. I would, therefore, request him to adopt a practical approach. A young Minister has got an opportunity to work under a young Prime Minister and he should understand this fact very well that this country belongs to the poor, the agriculturists and the farmers. The bureaucrats will have to mould themselves according to the aspirations of the poor and the agriculturists and all the laws should be framed accordingly otherwise the future of this country cannot be improved. With these words I would like to express my thanks to you.

[*English*]

SHRI P. R. KUMARAMANGALAM (Salem) : Mr. Chairman, Sir, at the outset while welcoming the Bill from the point of view of the object of making it easier to the service employees to get relief, I may point out one or two very unfortunate outcomes due to certain sections in the Bill. Firstly, I am totally unable to understand the necessity to have a representation from the Administration on the tribunal because each one of us understands that invariably the matters that go before the tribunal are matters against the order of some member of the Administration who sits over and above invariably the rank of the Joint Secretary. So, obviously the Joint Secretary or the Additional Secretary or the Secretary of the Department who sits in the tribunal is in one way asked to look into the legalities, the justice, the fairness of an order of a colleague of his. It is unavoidable that he would be partial in one way or at least influenced by the fact that a colleague of his has passed the order. One cannot expect a member from the Administration sitting on the tribunal to be really fair. After all, justice is not only to be done, but also seen to be done. Can we expect that in the administrative tribunal? And if you are going to have a representation from the Administration, why not have a representation from the employees also? Why only

[Shri P. R. Kumaramangalam]

leave the Administration to have a representative on this tribunal? Why not have the employees? Elect them, if necessary, by means of a secret ballot among the employees to come up and sit in the tribunal and then, I would say, 'Yes, it is on par; there is one judicial member, there is one member representing the Administration and one representing employees.' But why only one from the Administration and none from the employees? In this not a situation where one is really tilting the balance of justice in favour of the administration and the bureaucrats? My good friend, Dr. Raj Hans just now categorically said that bureaucrats have to be made accountable. There is no doubt about it. Without quoting any names, we have seen bureaucrats who, while they were bureaucrats, how they behaved and when they became accountable to the people how they behaved. There is definitely a change.

THE MINISTER OF URBAN DEVELOPMENT (SHRI ABDUL GHAFOOR) :  
And when they became Ministers ?

SHRI P. R. KUMARAMANGALAM :  
They will become better because they are more accountable. They will be accountable not only to their constituencies, but they will be accountable to the House also.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI P. CHIDAMBARAM) : Mr. Patel will feel guilty.

SHRI P. R. KUMARAMANGALAM :  
Why he will feel guilty, Sir ? (*Interruptions*)

MR. Chairman, If I may humbly submit that the first question that arises is, are we going to really give justice to the service employees under this Bill by having an administrative member. I understand the object of the Bill is very laudable, undoubtedly. The employees in the service sector, the workers in the service sector required to have a new avenue where they could get quicker relief. In fact, in my capacity as lawyer, I have often felt the brunt which my poor clients used to feel of

delays in the courts. But now the point is, well there are not many member of tribunals that have been get up. I fact, they are lesser than the number of High Courts as there are more number of benches of High Courts in certain places. Will the tribunals not also pile up cases? Would not there also be great waiting time? Is it not necessary for us to create a situation factually where at least within six months, we can ensure that an employee or a member of the service who approaches the tribunal would get a result statutorily? Should it not be made enforceable, instead of just creating another court where there is some influence of bureaucracy in that court?

Mr. Chairman, the short question that arises is, while one talks of service law or rules, one undoubtedly is attracted to the fundamental rights and articles 310, 311 and even 309 where persons belonging to the civil service undoubtedly catch the right straw. When a fundamental right is violated, what happens is, according to the present situation, article 32 is the only way by which he can get the relief. But coming to the Supreme Court is not a mere joke. It costs thousands of rupees. Are you going to impose on the common civil servant, say class IV employee working in a State Government to come all the way to Delhi, for example, for my State of Tamil Nadu to challenge a rule which he feels is violative of article 14 or 15 or 16 or any of the other fundamental rights, under article 32? He has to pay a fancy fee to a fancy lawyer in the Supreme Court and also pay a fancy fee to a fancy clerk of the lawyer and finally he sells his property, hawks his wife jewels in order to prove that a particular rule is violative of the fundamental rights. I have a suggestion here. If the Hon. Minister is willing to remove firstly the administrative member, i.e. a member of the administration sitting on the tribunal, it is possible under article 32 (3) itself to grant power by law to any other court which includes tribunals to exercise powers within the local limits of its jurisdiction or any other powers exercisable by the Supreme Court under article 32 (2). So, he should consider whether it is possible to give tribunals the power to issue writs, which was a question which a very senior legal Member of this House, Shri Bhola Nath Sen has raised.

It is possible under clause (3) of article 32 to empower by law the tribunals to exercise these powers within the local limits of its jurisdiction. Of course, the definition of a "court" can be gone into. If it is not possible, then my submission would be, at least, let the High Courts be given the powers, when it comes to the violation of fundamental rights. If you feel there is no means by which you can give tribunals the status of a court and that you are constrained to give it a lower status of that being only a tribunal, in that event, you feel that it cannot strike down a particular rule because it is violative of fundamental rights, then we are in a position where we are back to square 1.

The rule making power is still exercised not by a legislation made on the floor of the House but by rules made under article 309, issued by the Presidential notification. Therefore, ultimately, it is the bureaucratic coin that rules and quite shamelessly in the last 36 years, they have made rules morning, night and day, which have violated the fundamental rights and have been struck down by the High Courts and Supreme Court off and on. The Hon. Minister knows. He has been in the profession for long enough and has varied experience of the service law. He is aware of how many rules—he himself has seen—were struck down by the courts because of being violative of fundamental rights. If that is the state of affairs, where does the poor service employee go? Is he to go all the way to Supreme Court? What is the objective of having this Act at all? Because if every time you say a particular rule is violated which is often so, when you talk of Article 16, and even if you talk of Article 311, you have to come all the way running here. What is the state of affairs?

This Act is ultimately going to defeat the purpose. Are we going to give quicker justice to the service employees, or are we going to end up with giving delayed, partial, prejudiced justice to the employees?

I would request, through you, the Hon. Minister to consider this point of violation of fundamental rights and find and seek a solution how it is that he can reduce the expenses that an employee goes through, to

ensure that he can challenge a particular rule, statutory or otherwise or even a particular Act to be violative of the fundamental rights. After all, the writ of certiorari does not lie in the tribunal, I presume.

The next question is let us come to Article 227. If you remove the jurisdiction under 226, what is the situation? Otherwise, when it comes to 227:

"Every High Court shall have superintendence over all courts and tribunals throughout the territory in relation to which they exercise jurisdiction."

Suppose, the tribunal at Madras, exercises, jurisdiction over the State of Tamilnadu. Does the High Court of Judicature sitting in Madras has jurisdiction under Article 227 of superintendence over this tribunal? If it does it, then we have a situation which is highly embarrassing and even if it does not have, we have a situation which is embarrassing. It is like Delhi's *laddu*. If you have it, it will harm and if you do not have it, it will harm. The situation is very simple. If the High Court has a right, it is 100 per cent certain, if not, 150 per cent certain, that every matter that the employee wins in the tribunal, will go to the High Court first, spend another ten years in the High Court and then come to the Supreme Court for another 20 years. After all, the money does not go from the pocket of the IAS bureaucrats. It goes from our pocket and Consolidated Fund of India while for the employees, his wife's Mangalasutra he sells, to see that he somehow retains the respect in society. The monetary benefit that he will get will not be even half of what he would have spent in the courts.

If he cannot go, then comes the question, what happens if the administrative tribunal goes berserk? Once again, it is only the Supreme Court and there is the possibility of its going berserk because there is the Member of the Administration sitting. As a two Member Bench, one is Hon. judicial Member and the other is a representative of an obvious force, one of those who is a colleague of one who has issued the order which is under question. It is easily possible that the Judicial Member will sing in tune with the Administration Member. Then what happens?

**SHRI AJAY MUSHRAN :** He says he will be a non-IAS Officer.

**SHRI P. R. KUMARAMANGALAM :** Let us see. What sort of IAS Administration? It is not just Indian Administrative Service that matters. It is a class that matters. They all cling to each other, whether they belong to IAS or otherwise. Once they become part of the Administration and exercise power as the superior administrative force, they definitely have a class consciousness among themselves and treat the Class III, IV, II and I as inferiors to them.

**SHRI RAM PYARE PANIKA :** This is a fact.

**SHRI P. R. KUMARAMANGALAM :** I am sure many of the Members of the House would agree. Let us only see this. I can give an example. The Supreme Court struck down the recognition rules so far as the Government Employees Union is concerned, not now, way back. 13 years ago.

17.00 hrs.

But till date we have not seen the new rules coming. Why? For the simple reason that certain people in the bureaucracy find it very convenient to see that these rules does not come into being. There are certain very convenient friends who belong to us, the working class no doubt about it, who sit there with them, hobnob with them and get away with them. Therefore, the third question is: when they can restrain the government from bringing a rule for recognition for 13 years by mere friendship, do you not think, Mr. Chairman and I am sure the members of the House will agree with me, that they will be capable of ensuring a hundred per cent that the judgments or orders issued by the Tribunal are influenced.

A very important point which I would like to raise is that to-day morning I had presented a petition signed by over 5 crores citizens of India asking for security of service under Art 311 which in fact has been withdrawn by the judgment of the Supreme Court. Now the third question is: you want this country to move to the 21st century. If you want this country to move to the 21st century

in a victorious phase where we have productivity and we turn out to be one of those countries which are called developed countries, is it possible to do it without taking the working class into confidence or merely by taking the bureaucrats into confidence?

This Administrative Tribunal Amendment Bill which is coming before us is an amending Bill. But are the amendments sufficient? Is it going to really ensure on the one side to the millions of employees, 'Yes, you will get justice, you will get quick justice.'? No. If this is not going to do it, on the other hand when the Supreme Court gave unlimited and arbitrary powers to the bureaucrats, are you going to come forward and say, 'No, we shall correct the situation, we shall ensure what the framers of the Constitution wanted and the civil servants can exercise the powers honestly and without fear or favour.'? At the moment we do not see the signs of that. On the contrary, the Supreme Court has said in the judgment in the Tulsiram Patel's case—the Hon. Minister is very much aware of that—that you can remove an employee from service without giving him any show cause notice and without giving him any opportunity not necessarily when he indulges in violence or even against national security, it is sufficient if an allegation is there that in a particular office mass insubordination has taken place with or without violence and you can throw that person out of service. Then what happens to him? What is going to happen? You have created today, the Supreme Court's judgment has created it, without doubt a sense of insecurity and this Administrative Tribunal Amendment Bill, according to me, is only going to heighten that sense of insecurity unless you remove the administrative member from this Bill.

I would like to complete only by saying one last thing. There are certain services which according to the Supreme Court are both an integral part of the Army and at the same time an integral part of the civil service. It is a very nebulous situation. I refer to the Border Roads Organisation. It is an organisation which is supposed to be according to the Supreme Court an integral part of the Army but has the application of the Civil Services Procedure, Discipline and Conduct Rules. I would like to know what happens such employees. On the one side he is court-

martialled under the Army Act and on the other side does he have the remedy under the Administrative Tribunals Amendment Bill? It is a question which is important because Border Roads Organisation is one example I have given but there are many such departments and sections of the Services who do a tremendous duty for this country but who are treated as second rate citizens. It is extremely an unfortunate situation. I would like to request the Hon. Minister, through you Mr. Chairman, not to take this effort as a light effort. He has been a service lawyer and he has been in the trade union movement and he should be able to appreciate and I am sure that he does appreciate the fact that the workers, the employees, are today very much worried about their future. It is necessary that something is done to make them feel a little more secure and something is done to see that the bureaucrats do not continue their harrassment and atrocities which they perpetrate on the employees. Thank you, Sir.

SHRI HUSSAIN DALWAI (Ratnagiri) : Sir, we are discussing an amendment which is arising out of the litigation pending in the Supreme Court. This Bill was passed only last year. The matter was referred to the Supreme Court and the Supreme Court held that it is contravening the provisions of Article 32 and Article 226. For us, the Members of Parliament, it is a very serious thing that what we pass in this House is struck down by the judiciary. At present the dispute is going on as to who is Supreme. As far as the legislative power is concerned, Parliament is supreme. We have to see that whenever we pass certain legislation, it does not infringe the provision of the Constitution. Today what we feel is that within one year, we have to go in for an Ordinance which is to be regularised today. This amendment a compromise which has been arrived at in the litigation where we have decided that as per the suggestion of the Supreme Court, we will amend the provisions of the Act passed last year in this House.

As far as the purpose of this Act is concerned, we have brought this legislation only because several matters of services of the Government employees are pending in Courts for a considerable time and in order to give them expeditious disposal, we have brought this legislation.

17.07 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

The purpose is very laudable and in order to give early decision in such pending matters, we wanted that such a tribunal should be established and Government should take prompt action in establishing such tribunals. Now the tribunals have started functioning. In order that the working of the tribunals should not be obstructed, we have arrived at this compromise and an ordinance was promulgated to that effect and now we are replacing that Ordinance by this amendment Bill. But I would like to suggest here that the main Article under which the Supreme Court is feeling that the jurisdiction of the Supreme Court is being snatched away is Article 32. As a matter of fact, the provisions of the Act do not tamper with the inherent power of judicial review of the Supreme Court. On the contrary what we are doing is in the larger interest of the country and the people with a view to avoid delay in giving justice to the Government servants. But the Supreme Court is hurt that their jurisdiction of judicial review is being snatched away by this provision. The original provision which has been made in the Act was to appoint three members of the tribunal presided over by one of them. Under the amendment, the tribunal will consist of two members—one from Administration side and one from Judicial side. The Supreme Court has directed that there must be two members, *i.e.*, One Administrative Member, and the other Judicial Member. No appointment of Chairman/Vice-Chairman or a judicial member will be made except after consultation with the Chief Justice of India. So, that I feel is that in the proposed amendment we have agreed to the directions which have been given by the Supreme Court during the hearing of the proceedings pending before it arising out of the Administrative Tribunal Act.

Really speaking, we will have to set at rest this point some day whether once we pass legislation in this House keeping in view the larger national interest, whether it is within the powers of the court to have adverse judicial interpretation thereof. The other point which I wanted to highlight is about the members who are appointed from the admi-

[Shri Hussain Dalwai]

nistration—can they really be responsible for delay in disposing service matters which are pending before them. The tribunals should not be headed by the bureaucrats who will not give justice to the employees. The aim of the tribunals is to give expeditious decision in service matters and as such if a man with judicial background is appointed on the tribunal, the matter could be impartially decided. Such provision should have been made. All the members of the Tribunal should have some judicial background. Otherwise, the administrative bureaucrats will interfere and will again try to do injustice to the employees, and the purpose for which this legislation has been brought will not be served.

As far as the decision-making power of the Tribunal is concerned, I think, unless members with judicial background are appointed, this cannot be done. That is why I would like to request the Hon. Minister to think over this provision which he is making now; whether it will be foolproof or not. I endorse the view of my learned friend, Shri P. R. Kumaramangalam, in this regard. Please think over it again so that you do not have to come with an amendment again before this House. That is why I request that the Hon. Minister may consider this proposal regarding the formation of the administrative tribunals.

With these words, I support the amendment.

[Translation]

SHRI P. NAMGYAL (Ladakh) : Mr. Deputy Speaker, Sir, I rise to support the Administrative Tribunals (Amendment) Bill, which has been brought forward by the Government. As the Hon. Deputy Speaker has asked me to be brief, I would like to give a few suggestions only.

My first suggestion is that before going to the tribunal, there should be a cell in each Department or a Committee at the Departmental level to deal with the problems of service matters. Many cases can be solved at that level and this much of time and

money can be saved. If one does not get justice in the cell, there is the provision of appealing to the Administrative Tribunal. In order to ensure that they get justice, a provision has been made for the appointment of two members—one from the Administrative cadre and the other from the Judicial service cadre. In my view, it is a must, because the non judicial Member is fully aware of the atmosphere in the services, as he has worked in all the Departments. He is fully aware of the problems of the employees and would be able to provide justice to them. So far as the question of appealing to Supreme Court is concerned, everybody cannot go to Supreme Court. Almost all the Members have said that every person cannot afford to go to the Supreme Court, as thousands of rupees have to be spent on each hearing. Therefore, if each case is disposed of at the Tribunal level, people would be able to get justice. The grievances regarding service matters generally pertain to postings, transfers and appointments. These Tribunals should have the power to review the appointments made by the Central Government and particularly by the State Governments. Just now one of our colleagues was mentioning about the state of affairs in some of the States, especially in West Bengal where persons of C. P. M. Cadre are reported to have been recruited in the various services. Same is the case in Punjab. You might have heard that anti-social elements/convicts who had been apprehended under the Terrorists Act and had been put behind the bars had been released unconditionally and now those very people are being recruited in the Police. You can just imagine as to what would be the condition when persons of such a background would be recruited in the Police force. What is the situation there and what is the condition of law and order there? Incidents of murder, loot and arson are taking place daily. Similar is the situation in Kashmir. Pro-Pak elements and communalists have been recruited in the police of Jammu and Kashmir.

SHRI CHARANJIT SINGH ATHWAL (Ropar) : Sir, I rise on a point of order.

[English]

MR. DEPUTY SPEAKER : Under what rule ?



[Translation]

**SHRI CHARANJIT SINGH ATHWAL :** He has said that the persons who have been released are responsible for the incidents of murder. I would like to ask my friend if he can cite any instance that the persons who have been released are responsible for such incidents..... (Interruptions).....

[English]

**MR. DEPUTY SPEAKER :** There is no point of order.

[Translation]

**SHRI P. NAMGYAL :** Such incidents have been happening especially in the border states. I am talking of Kashmir. Such people are being recruited in the Police force and Police remains a silent spectator to all the disturbances taking place there. Many communal riots have taken place there and the Police was also present on the spot, but it remained a silent spectator. Similar things are happening in Punjab and other places. What I mean to say is that these Administrative Tribunals should have the power to look into even minor complaints. These Tribunals should also have the powers to review the cases of anti-social elements recruited in the services as also to see whether the posting has been done in a regular manner or not.

As time is very short, with these few words, I support the Amendment Bill brought forward in the House.

**SHRI RAM PYARE PANIKA (Roberts-ganj) :** Mr. Deputy Speaker, Sir, I rise to support the Administrative Tribunals (Amendment) Bill under discussion in the House, because only one amendment is being made in it which is according to the verdict of the Supreme Court. I would also like to say that there is great resentment among the Central Government employees and the employees of the corporation due to the judgement of the Supreme Court and it would be very wrong on our part if we do not amend Article 311 of the constitution. I would like to submit to you that it is only in our country where natural justice is provided and in every country there is a rule that a person must be intimated with the

reasons of his dismissal from service. I would like to submit to you that there is great resentment among the Government employees due to the judgement of the Supreme Court and not only that, a feeling of insecurity has also developed among them. As you know the opposition had given the call for a 'Bandh' and if all the employees had not opposed the 'Bandh', it would have been successful. Six million workers opposed it because they expect protection from the Government in case a bureaucrat expels them from service. There is a Tribunal in my own state, Uttar Pradesh. Sir, you would be surprised to know that not even a single finding of the Tribunal against I.A.S. officers has been implemented and no action has been taken against any I.A.S. officer and no I.A.S. officer has been punished. All the reports were suppressed.

Sir, it is not that I am levelling any allegation against I.A.S., but it has become an exclusive class. I.A.S. and I.P.S. are two separate cadres and these two cadres fight among themselves. Officers belonging to both the cadres claim superiority over each other. There is tension between both the cadres. Therefore, what is required today is the development of such a system of administration in the country and preparation of such cadres in which all the people get equal opportunities.

Sir, I would like to submit that before punishing a person, he should be given an opportunity to present his case. Sir, I support this Bill, but I also request that Government should bring forward a Comprehensive Bill defining specifically the powers and duties of I.A.S. and I.P.S. Cadres separately. We are seeing in various states as to how there is tension between I.A.S. and I.P.S. Cadres and as a result difficulty is being experienced in maintaining law and order at various places. At one place there is fight for seniority and at another place there is tussle for status. I would, therefore, request the Government to bring forward a Bill in this session to amend Article 311 of the constitution to bring about a definite feeling of security among the employees of all the categories and also the workers of the country could get natural justice. Our democratic Government has always been defending the interests of its employees, the poor and

[Shri Ram Pyare Panika]

the weaker sections. As Shri Kumarmanglamji has also said, Government should bring forward an amendment to Article 311 in this session of Parliament.

**SHRI HARISH RAWAT (Almora) :**  
Mr. Deputy Speaker, Sir, when I look towards our Minister, Shri Chidambaram, my mind is inclined to support the Bill, but when I try to analyse this Bill, I shudder with fear. I had hoped that Shri Chidambaram would bring forward a Bill which would have provisions to control the bureaucracy, to define their powers and to make it more responsive towards public, but when I went through this bill, it pained me very much. Whereas our bureaucracy had already been vested with unlimited powers, we are going to delegate them even more powers.

Mr. Deputy Speaker, Sir, a massive rally of the employees was held in Delhi in which a demand was made to amend Article 311 of the constitution, because a feeling of insecurity had developed among the employees due to the interpretation of some of the provisions of Article 311 of the constitution by the Supreme Court. Our bureaucracy has already been treating the employees very badly. Through this Bill, you are delegating more powers to the same bureaucracy and thus curtailing the rights of our workers. In this way bureaucracy would treat the employees as their personal servants. You propose to appoint one member from the civil services on this Tribunal. Through this Tribunal you are going to allow bureaucracy to enter into the jurisdiction of the judiciary. The judgements which the judiciary has so far been delivering in favour of the workers would no longer be in their favour.

He could have hoped a little to get justice but the appointment of the Administrative Member in the Central Administrative Tribunal has made people apprehensive about getting justice and I am myself apprehensive in this respect. The facts of the cases, in which an employee is harassed by a bureaucrat, would be covered up. Therefore, I shall ask you to reconsider this matter. In case it is not possible to reconsider it, besides appointing an Administrative Member you

should also appoint a Member from among the representatives of the employees, who would generally be a party in the appeal. You should give them representation in the Tribunal. As Shri Rangrajan just now mentioned, if the Administrative Member is appointed on the Tribunal, there must be a representative from employees' side also, which would ensure justice to the employees. Besides, a feeling was expressed regarding more branches of the Tribunal. At present all the tribunals are overburdened with cases, and there is a fear that they may also not turn into courts. The aim of getting speedy justice is not being fulfilled. I would, therefore, stress two points. First, you should again consider about the justification of appointing the Administrative Member in the Tribunal and if you find it justified the employees should also be given proper representation in it. Secondly, it should have more branches, so that the people may get justice within a reasonable time.

With these words, I shall request my young friend to reconsider the Bill.

**CH. SUNDER SINGH (Phillaur) :**  
Mr. Deputy Speaker, Sir, as far as this Bill is concerned, I am support it, because I am very happy with the bureaucrats. The landless people in our society, who are struggling to get possession of land for the last 20 to 30 years, are unable to do so because of the collusion between the bureaucrats and the owners. I feel that the 20 Point Programme is not being implemented properly by these bureaucrats. They will not let you implement any of your schemes. You may enact any law they will not let it be enforced. Now, when they felt aggrieved they demanded this remedy. Their children are studying in public schools and are enjoying all the facilities whereas the poor man, who is landless, is even denied justice. How will you usher in a socialistic pattern. Mahatma Gandhi had said :

[English]

“Among the many evils of foreign rule, this blighting imposition of a foreign medium upon the youth of the country will be counted by history as one of the greatest, It has sapped the energy of the nation, it has shortened

the lives of the pupils. It has estranged them from the masses, it has made education unnecessarily expensive. If this process is still persisted in, it bids fair to rob the nation of its soul".

[Translation]

This is a quotation from Gandhiji. As far as the bureaucrats are concerned. They do not let any legislation to be implemented properly. Now, when they were in trouble they suggested this remedy and hence this Bill. Leave aside the Tribunal, they will not let any law to be implemented properly. I am totally against them and you should not listen to them. Even Patwaris are against them. Whenever one goes to meet them, one is told that the Saheb is in the bathroom. If we go to a minister, his Secretary does not listen to him. When we approach the Ministers about the redressal of the grievances of Harijans and other people we are sent to lower levels, where the bureaucrats write such lengthy notes that the minister is puzzled.

Nobody listens to us (*Interruptions*). The situation is very bad. No work is done for as many as two months. I belong to the Congress party that is why I am saying what I feel, otherwise I do not feel like saying so. (*Interruptions*) I have been trying for the last thirty years but nobody listens to the poor. If a Harijan or a poor person approaches an officer or a Minister the work is not done for as many as 4 weeks which should normally take a week. The people think that Ch. Sunder Singh has become an M. P. and as such he can get them transferred; but in fact nothing happens as the Minister replies.

[English]

"I will have the matter looked into".

[Translation]

We try our level best but our letter is marked to junior officers where it takes months together. I am fed up with the bureaucracy. I do not understand what type of Tribunal are you setting up. You will listen to the sons of an I. A. S. or I. P. S. officer but

nobody listens to the poor...(*Interruptions*) In the end, I would say that I also support the Bill...(*Interruptions*).

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI P. CHIDAMBARAM) : Mr. Deputy Speaker, Sir, I am grateful to the Hon. Members for the very wide-ranging discussion which we have had this afternoon, on what I thought was a very non-controversial Bill and which would be adopted after a very brief discussion. But I would like to take this opportunity to clarify some doubts which have been raised by the distinguished members, many of them distinguished lawyers and many of them familiar with the intricacies of administrative law.

Firstly, let me briefly recount what these tribunals have done since they were established on the 1st of November 1985. We established only 5 benches on the 1st of November. We worked out a phased programme of establishing more benches and we promised ourselves and we told the Supreme Court that three more benches would be established before 31st March. I am glad to tell the House that even on the 3rd of March, we were able to establish three additional benches at Bangalore, Chandigarh and Guwahati. We also promised ourselves and we told the Supreme Court that we would establish seven more benches before the 30th of June. I am glad to tell the House that we will keep the deadline and well before the deadline, seven more benches will be established at Ahmedabad, Cuttack, Ernakulam, Hyderabad, Jabalpur, Jodhpur and Patna.

SHRI RAM PYARE PANIKA : What about Lucknow ?

SHRI P. CHIDAMBARAM : Sir, we are obliged to establish benches in the first instance at the permanent seats of the High Courts because we are taking away the jurisdiction of the High Courts and vesting it in the tribunals. Therefore, logically as also because it is reasonable, we first established the benches where there is a permanent seat of High Court. But that does not mean that

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we will not establish more benches. I can assure the House that it is our intention to provide speedy and effective justice to the government servants and to achieve this objective, we will establish as many benches are necessary particularly in those areas where the High Court today sits in circuit or where there is a concentration of Central Government employees. The programme is a phased programme. But as we work, this programme, Hon. Members will be able to appreciate that we will keep our promise of establishing as many Benches as are necessary to provide speedy and effective justice to Government servants.

Sir, as far as Panaji is concerned, there is today a Bench of the Bombay High Court. We have not yet established a Bench of the Tribunal at Ahmedabad. When we are able to establish a Bench of the Tribunal at Ahmedabad, I expect that the Bench of the Tribunal which is now located at New Bombay will sit in circuit at Panaji and later, if it becomes necessary to establish a Bench at Panaji, taking into account the number of cases which arise from Government employees working under the Union Territory of Goa, Daman and Diu as well as the Central Government employees, we can always consider establishing a Bench at Panaji. But what I said about all other Benches will also apply to Panaji. Our objective is to establish as many Benches as may be necessary to provide speedy and effective justice.

Sir, a lot of learned arguments were advanced on the scope of the jurisdiction of this Tribunal. Sir, I do not want to convert this discussion into an argument before a Court. These arguments will no doubt take place in the Supreme Court, where the Act has been challenged. But I want to mention one or two things. We are quite clear in our minds that Article 323 A enables us to make a law, taking away the jurisdiction of the Supreme Court under Article 32. It also enables us to make a law taking away the jurisdiction of the High Courts under Article 226 and Article 227. In fact the parent Act did take away the jurisdiction of both the High Court and the Supreme Court. When the Act was challenged in the Supreme Court, the Supreme Court in its wisdom stayed the

transfer of petitions filed under Article 32. The Supreme Court made some other suggestions, but let me make it clear, the Supreme Court did not suggest, that we cannot pass a law taking away the power of the Supreme Court under Article 32. That was a question that the Supreme Court would consider at the final disposal of the writ petitions. Government have reconsidered the matter. Hon. Members are aware, what are service cases about. Most service cases are about dismissal, retrenchment, removal, reduction in rank, seniority, promotion, supersession. Incidentally, a service case may invoke Article 14 and Article 16. But the primary grievance is not to enforce a Fundamental Right, but to enforce rights under Service Rules. And what is our experience? Our experience is that the vast bulk of service cases are filed in the High Courts under Article 226. In fact, it is only on a rare occasion that Article 32 is invoked and I may also add that the Supreme Court is quite restrained in entertaining an original petition under Article 32, invariably the Supreme Court advise the petition should go to the High Court and seek relief under Article 226. Considering all these matters, Government came to the conclusion that it was not necessary at this point of time to take away the jurisdiction of the Supreme Court under Article 32 and it would be quite adequate keeping in mind the objectives for which this Act was passed to take away the jurisdiction of the High Courts under Article 226 and Article 227 and vest them in the Tribunal.

Now, Sir, I know many Hon. Members feel that we should take the first opportunity to re-agitate the questions which have arisen consequent upon Kashwanand Bharathi, on the power of Parliament. But I ask in all humility is this the Act, is this the occasion, is this the time to join issue with Supreme Court? Our objective, is to quickly set up a machinery whereby Government servants who have been suffering huge delays in the High Court—10 years, 12 years, 15 years—they have an effective forum where they get the speedy relief. That is our objective.

I do not think this is the issue on which we need join issue with persons who question the sovereign power of Parliament to amend any part of the Constitution, who question the validity of the 42nd Amendment, and who question Article 323A. Maybe there

will be another occasion, but this is not the occasion; and keeping in mind the objective, we thought the best course was not to tamper with the jurisdiction of the Supreme Court under Article 32.

But having said that, let me also say this: After these tribunals have been established, after these tribunals work for 5 or 10 years, after they win the confidence of the Government servants, after they win the confidence of the public, after they gain the confidence of the judicial system and the Supreme Court, 5 or 6 years later, we can always amend the Act, and once again take away the power of the Supreme Court under Article 32, because I am quite clear in my mind that Article 323A enables us to pass the law taking away the jurisdiction of the Supreme Court as well as the jurisdiction of the High Courts to deal with service matters.

Then, questions were raised about what is the jurisdiction of these tribunals *vis-a-vis* the jurisdiction of the High Court. I do not know why this doubt has arisen now. In fact, we have not touched that Section at all. That Section is under the parent Act. Section 14 makes it quite clear, viz.

“(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court...)”

AN HON. MEMBER : Including the Writ of *Mandamus* ?

SHRI P. CHIDAMBARAM : Yes. I may make it quite clear that the tribunals, in Government's opinion, have all the powers of the High Court, under Article 226, including powers conferred specifically to issue high prerogative writs, and to pass such other orders, to render justice. In fact, these tribunals, if one looks at the background of Article 323A, it is quite clear if one looks at the history of the legislation behind Article 323A, that these tribunals displace High Courts; and whatever power the High Court has got under Article 226 or Article 227 now vests solely in the tribunals, and the High

Courts do not have power either under Article 226 or under Article 227 to interfere in any service matter.

The question has also been raised whether, under Article 227 the High Court would still continue to exercise superintendence over the tribunals. We gave our attention to that; and I may only point out that Section 27 of the parent Act has now been amended by Clause 18 of the amending Bill; and the result of the amendment is to make the orders of the tribunal final, and to make it beyond interference by any court. We have specifically provided that the order of the tribunal finally disposing of an application, shall be final, and shall not be called in question in any court. This, I think, read with Section 14 would make it quite clear that the High Courts do not have power under Article 226 or Article 227 to interfere in any service matter, or to interfere with any final order made by the tribunal.

Some doubt has been raised about the scope of the amending Bill which deletes Section 2(b). As I said in my introductory remarks, this is an additional right, this is a right which is now conferred upon the individual workman. Under the Industrial Disputes Act, firstly his right had to be espoused by a union; and in a limited class of cases which fell under Section 2A, he had an individual right, no doubt; but that individual right could not be exercised unless he obtained a reference from the appropriate Government.

Today, we have taken a dramatic step forward; and I sincerely hope the Hon. House will appreciate the tremendous improvement, the tremendous step forward that we have taken, so far as conferring this right upon Government servants who are also workmen is concerned. We have a class of Government servants who are not mere Government servants, but who are also workmen within the meaning of the Industrial Disputes Act. Now their rights under the Industrial Disputes Act are preserved. If they want to raise a collective dispute, if they want to agitate and gain for themselves a new contract which an industrial tribunal can make for

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the employer and an employee under the South Indian Bank case ratio, they can still go to the industrial tribunal.

But what we have now done is that an individual workman who is dismissed, removed, retrenched or whose conditions of service have been altered or 3 or 4 workmen with a common cause can today without the intervention of the Union, without conciliation without seeking a reference before the appropriate Government, take a piece of Paper, go to the tribunal, lodge his grievance, lodge his petition and ask his case to be disposed of. This is the additional right; it is an additional form. We have done nothing which they do not have now. Today, they have a right under the Industrial Disputes Act; they have also a right to approach the High Court under Article 226, because he is workman he goes to the Industrial Disputes Act, because he is a government servant, he goes under Article 226. What we have done is we have merely transferred jurisdiction from the High Court to the tribunal. So, today, a workman he can go under the Industrial Disputes Act, as a government servant, he can go to the tribunal. I think this is a tremendous step forward and I am quite sure, as time passes, when all these tribunals begin to exercise their jurisdiction. Hon. members as well as people of this country and the government servants will realise that this is a valuable right which has been conferred by deleting section 2(b) and bringing them within the purview of the tribunal.

Hon. member, Shri Ajoy Biswas, bravely declared that his government will never establish a tribunal. I am sorry, he does not look far enough. When all the States of this country begin to establish State Tribunals for their own government servants, when Central Government Servants in Bengal go to the Central Administrative Tribunal, Government Servants under the Government of Bengal will realise that their government is stubbornly refusing them a right which other government servants have now been given, the pressure will come from his own government servants, the pressure will come from their own trade unions, the pressure will come from their own people to establish

a tribunal; and the day you establish a tribunal, you can take it from me, you have to eat your words.

I do not wish to dilate too much upon other questions. I am not putting the administrative member for the first time in this tribunal; it was there in the Parent Act. This matter was debated at great length on the last occasion and my distinguished predecessor has answered it effectively; he explained why it was necessary to keep persons there who are familiar with the administrative law, who are familiar with service laws, who are familiar with rules. It is government's intention to ensure that the tribunal has a proper mix, has a proper balance. There will be one judicial member and one administrative member.

In fact, I do not wish to take the time of this Hon. House, but the Supreme Court itself on a number of occasions had said, it is to the advantage of the government servants to have in a tribunal, somebody who knows service laws, somebody who is familiar with service laws and somebody who is familiar with the way administration works. I think the tribunal as it is now to be composed of consisting of one judicial member and one administrative member will be able to deliver justice. I may only give this Hon. House the figure for the month of February; February is one of our smaller months. We have only five benches and five benches have disposed of 266 cases. Can we name five High Courts which together disposed of 226 service cases in the month of February? I am quite confident, I am optimistic that this tribunal will be able to deliver speedy and effective justice and the superintendence of the Supreme Court under Article 136 will be an adequate monitor for the proper functioning of these tribunals.

We have accepted the suggestion of the Supreme Court that the judicial members must be appointed in consultation with the Chief Justice of India. I think this is a wholesome provision and I think when we take somebody from the judiciary to man a tribunal, it is a wholesome constraint; it is a wholesome principle to be followed that the Chief Justice of India should be consulted; and certainly consulting the

Chief Justice is not retrograde step but a positive step, so that the judiciary which is at the apex, supervising implementation of the laws in this country, can always feel confident that these tribunals are manned by proper people.

PROF. N. G. RANGA : Will these tribunals be asked to submit their annual reports ?

SHRI P. CHIDAMBARAM : The tribunals are under the administrative control of the Ministry and the Ministry monitors the functioning of the tribunals and we can ask these tribunals to submit annual reports about their working, about the number of cases disposed of.

I am grateful to the suggestion of the Hon. Member, and I shall keep that in mind.

A number of other point were made about the time limit, etc. These are matters which should be governed by the rules. A set of rules were framed. After I joined the Ministry I have taken a look at the rules, I am not satisfied with the rules. but we were only waiting for this amending Bill to be passed, because it would be purposeless to make a set of rules when an amending Bill is pending before this House. When the amending Bill is passed by this House, we will frame—in the next few days—a new set of rules and you will find that the new set of rules will make the procedure far more simpler. We will ensure that the judgments are short, to the point and are delivered within a reasonable period of time. These are matters which we can take care of under the rules.

Sir, I think you must judge us by the concrete steps we take. Look at the persons whom we have appointed to the Tribunals. We have appointed distinguished, retired judges; even the civil servants whom we have appointed are distinguished civil servants. Look at their record. We have not appointed only IAS officers, we have appointed officers from very many services, we have appointed officers from the IPS, we have appointed officers from the IA&AS, and the other

Central Services. And we will attempt to draw the best talent that is available to us from the civil services, men of total integrity, impartiality, learning, wisdom and maturity.

And, on the other side, on the judicial side, we will appoint distinguished judges in consultation with the Chief Justice of India. I do not think that anybody has so far complained about any single appointment that the Government of India has made under this Act after the parent Act was passed.

Sir, I do not think that it is necessary for me to touch upon some of the other points which were made by the Hon. Members. I shall certainly keep them in mind while framing the rules. Most of these can be taken care of while framing the rules. I am sure that Hon. Members will be satisfied when the rules are published.

I beg to submit that this is a non-controversial Bill, this Bill removes all the lacunae, it is a Bill which takes the parent Act forward, it is an improvement upon the parent Act and I would most sincerely request Shri Ajoy Biswas not to press his Statutory Resolution but to join us in passing this Bill without any dissent or reservation.

SHRI AJOY BISWAS (Tripura West) : I do not agree with the arguments which have been advanced by the Minister in support of the Bill. Actually, I want to make it quite clear and I categorically stated it also, that the Government of Tripura will not set up such type of administrative tribunals. This is not a new thing Because, the Left Front Government want to uphold the rights of the working classes, trade unions and other rights of the employees.

You have enacted the National Security Act. You know that we are not implementing that Act in Tripura. (*Interruptions*)

To uphold the right of the working classes, to uphold the rights of the employees, we are working. You have enacted the Essential Services Maintenance Act, and actually the rights of the working classes have been snatched away by that Act. We are not implementing that Act in our State. So, in the same way we do not want to set up

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the tribunals in, in Tripura and West Bengal because we think that the present system of  
(Interruptions)

SHRI RAM PYARE PANIKA : Who are you ? Are you representing the Government of Tripura ?

SHRI AJOY BISWAS : I am not yielding.

SHRI RAM PYARE PANIKA : Sir, is he speaking on behalf of the Tripura Government, or is he speaking as a Member of Parliament ?

(Interruptions)

Sir, I want one clarification, whether a Member of Parliament can categorically state that he is not going... (Interruptions)

MR. DEPUTY SPEAKER : He can express his views, but he cannot represent the Government.

SHRI AJOY BISWAS : I know the stand of my Government.

MR. DEPUTY SPEAKER : Otherwise, he may persuade the Government to establish the tribunals. On behalf of that Government he cannot say anything.

SHRI AJOY BISWAS : The Minister has said that the employees will put pressure on the State Government for establishing State Tribunal. I am the President of the State Government employees of Tripura, On behalf of the employees I can assure the Minister that the employees will not put pressure on the State for establishing Tribunal there. Rather, they are happy that the Tripura Government is not establishing Administrative Tribunal there. The difficulty is that the Central Government is not able to judge the mind of the people. What is the present situation ? The Hon. Member, Shri Kumaramangalam, has correctly pointed out that the State and Central employees are now having fear psychosis after the judgment of the Supreme Court. They want more judicial right or power, extension of the

present judicial system and amendment to the Constitution so that Article 311 (2)(a) (b) (c) goes. In the circumstances, when the mind of the employees is agitating over this issue, you have brought forward this amendment Bill in order to snatch away the existing judicial right of the employees. So, there is a clear contradiction in what the employees are demanding and what Government is doing.

AN. HON. MEMBER : What is your suggestion ?

SHRI AJOY BISWAS : Do not disturb the present system.

SHRI P. CHIDAMBARAM : Is it his suggestion that they should go to the High Court and wait there for ten or fifteen years? Is that securing rights for your workers ?

SHRI AJOY BISWAS : What about Labour Tribunal ? More than one lakh cases are pending there and some of the cases are pending for the last 15 years. So, how can you say that this Tribunal will speed up disposal of cases ?

SHRI P. CHIDAMBARAM : You see the result of February.

SHRI AJOY BISWAS : Will speeding up disposal of cases be in favour of the administration or the employees ? At this rate, in one year, you will clear all the cases. That is going to happen. You are speeding up the pending cases in favour of the administration. That is why, you have put in there bureaucrate.

The employees are agitated over the issue of Article 311(2) (a) (b) (c). After the Supreme Court judgment, the situation has taken a serious turn. In 1975, 29 State Government employees and teachers were removed under Article 311(2) (c) in.

Tripura. Tripura is a small State. There are only 35,000 employees and your Government removed 29 employees under article 311(2) (c). On 26th 50 lakh State Government employees observed total strike urging the Government to amend the article-311(2) (a) (b) (c) of the Constitution.



18.00 hrs.

So, this Bill actually adds fuel to the fire. I do not agree with the arguments that have been advanced by the Minister. Therefore, I oppose this Bill and press my Resolution.

MR. DEPUTY-SPEAKER : I shall put the Statutory Resolution moved by Shri Ajoy Biswas to the vote of the House. The question is :

"This House disapproves of the Administrative Tribunals (Amendment) Ordinance, 1986 (Ordinance No. 1 of 1986) promulgated by the President on the 22nd January, 1986."

*The motion was negatived.*

MR. DEPUTY SPEAKER : The question is :

"That the Bill to amend the Administrative Tribunals Act, 1985, as passed by Rajya Sabha, be taken into consideration."

*The motion was adopted*

MR. DEPUTY SPEAKER : The House will now take up clause by clause consideration of the Bill. The question is :

"That clauses 2 to 26 stand part of the Bill."

*The motion was adopted*

Clauses 2 to 26 were added to the Bill

MR. DEPUTY SPEAKER : The question is :

"That Clause 1, Enacting Formula and Title stand part of the Bill."

*The motion was adopted.*

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

MR. DEPUTY SPEAKER : The Minister may now move that the Bill be passed.

SHRI P. CHIDAMBARAM : Sir, I beg to move :

"That the Bill be passed."

MR. DEPUTY SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted.*

#### PAPERS LAID ON THE TABLE

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : Sir, I beg to lay on the Table a copy of Notification No. 210/86-Customs (Hindi and English versions) published in Gazette of India dated the 17th March, 1986 together with an explanatory memorandum making certain amendment to Notification No. 110-Customs dated the 17th February, 1986 so as to extend the benefit of concessional rate of duty applicable under Heading 98.01 of the Customs Tariff to all goods imported into India for the Gateway Telephone Exchange Project, under section 10 of the Customs Tariff Act, 1975.

[Placed in Library. See No.LT.2259/86]

MR. DEPUTY SPEAKER : The House stands adjourned to meet tomorrow at 11 A. M.

18.03 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, March 18, 1986/Phalguna 27, 1907 (Saka).*