#### 275 Matters under Rule 377

# [Shri K.T. Kosalram]

The wood pulp which is being imported by small paper mills should be exempted from customs duties, as has been done in the case of wood chips which are being imported by the large paper mills. This also will lead to increased production of paper.

(vii) Need for Central assistance to Himachal Pradesh Government for giving compensation to those whose land/houses were acquired for constructing roads

थी कृष्ण दत्त सुल्तानपुरी (शिमला) : उपाघ्यक्ष महोदय, हिमाचल के अन्दर राज्य सरकार द्वारा निर्मित की हई बहत सी सडकें ऐसी हैं जिन को बने हए कई वर्ष हो गए हैं। अभी तक काफी सड़कें ऐसी भूमि से निकाल ली गई जिसकी अधिसूचना सरकारी राजपत्र से नहीं की गई ग्रौर सड़कें हिमाचल के निधन लोगों के बगीचों, मकानों, खेतों को बरबाद करके बनाई गई जिसका करोड़ों रुपया इन किसानों का मुआवजा बनता है। परन्तु राज्य सरकार इसे देने के लिए समर्थ नहीं है। मैं भारत सरकार से मांग करता हं कि राज्य सरकार से भारत सरकार इस बारे में ब्यौरा लेकर मुग्रावजें के रकम ग्रदा करने हेतु राज्य सरकार को अनूदान दे कर मदद करें ताकि लोगों को म्याय मिल सके।

(viii) Need to provide drinking water to the people of Mirzapur, Varanasi and small vellages of hilly regions.

भी उमाकान्त मिश्र (मिर्जापुर): पेय-जल जीवन को बुनियादी ग्रावश्यकता है। इसलिए माननीय प्रधान मंत्री जी ने अपने बीस सूत्री कार्यक्रमों में इसे स्थान दिया है। उत्तर प्रदेश में 1971-72 में पेयजल की समस्या वाले गांव की एक सूची बनी थी।

उक्त गांवों में पेयजल की -म्रापूर्ति के लिए कार्यंक्रम चलाए जा रहे हैं। किन्तू बहुत से ऐसे गांव ग्रीर कस्बे हैं जो अभावग्रस्त गांव की सूची में नहीं आ पाए हैं। कुछ गांव तथा कस्बों में नए का गों से बाद में समस्या उत्पन्न हो गई है। जो गांव तथा कस्बे पेयजल अत: की समस्या से ग्रस्त हैं उन्हें तत्काल सूची में शामिल करने का निर्देश दिया जाए तथा उन गांवों और कस्बों में पेयजल की आपूर्ति के लिए योजना कार्यान्वित की जाए। जिला मिर्जापुर, वाराणसी के ज्ञानपुर पथा नौगढ क्षेत्र एवं बून्देलखंड में गर्मियो में अधिकतर क्षेत्रों में पेयजल की समस्या उत्पन्न हो जाती है। इस वर्ष भी ऐसा हो रहा है।

मेरा सरकार से निवेदन है कि पहाड़ी क्षेत्रों के छोटे-छोटे गांवों में एक या ग्रावश्य-कतानुसार अधिक हैंडपम्प श्रौर कुग्रों की व्यवस्था हो । किन्तु घनी आबादी वाले क्षेंत्रों में पाइपलाइन द्वारा पेयजल की व्यवस्था की जावे ।

12,29 hrs.

# PAYMENT OF GRATUITY (AMENDMENT) BILL, 1982—Contd.

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MR. DEPUTY-SPEAKER: Now we take up Legislative Business. The House will now take up further consideration of the following Motion moved by Shri Dharmavir on the 24th February, 1984, namely :--

"That the Bill to amend the Payment of Gratuity Act, 1972, be taken into consideration."

THE MINISTER OF LABOUR AND REHABILITATION (SHRI VEERENDRA

VAISAKHA 6, 1906 (SAKA)

PATIL): Sir, I would like to make a submission for your kind consideration.

This item No. 8 is with regard to the Amendent of Payment of Gratuity Act. Item No 9 is also with regard to the same to be further amended. Therefore my submission is, I may be allowed to move this item No. 9 to further amend the Payment of Gratuity Act, 1972. Both the Bills, that is, items 8 and 9, can be taken up for consideration together because it will avoid repetition and we can save a lot of time. I request you kindly to agree to take up both the Bills fur consideration.

The next Bill is also the same. I will formally move this Bill for consideration and then the discussion can go on.

MR. DEPUTY SPEAKER: We can do one thing. You may move it separately for consideration, but the discussion can be together for both the Bills.

SHRI SOMNATH CHATTERJEE (Jadavpur): The first Bill has been partly discussed, and we have to interrupt the discussion before we can take up the other Bill.

MR. DEPUTY-SPEAKER: We will complete the discussion on this Bill and pass it; immediately we will take up the other Bill. There may not be a further discussion; the discussion on this Bill can also be linked to the other Bill.

SHRI SOMNATH CHATTERJEE: You may request the Members to cover both the Bills in their speeches.

SHRI VEERENDRA PATIL: Unless the second Bill is before the House, how are they going to speak on that ?

MR. DEPUTY-SPEAKER : Discussion can take place, but you can formally move it afterwards.

SHRI VEERENDRA PATIL : If this is the understanding. I have no objection.

MR. DEPUTY-SPEAKER : This is only to set right this technical thing.

As I said, the House will now take up further consideration of the Payment of Gratuity (Amendment) Bill, 1982.

Now, the discussion on this Bill is continuing. The next Bill on the agenda also pertains to amendent of the same Act. Three hours have been allotted for the first Bill, and two hours for the second Bill. Hon. Members can take five hours for both the Bills The earlier Bill will be passed first, and then the Minister will move formally the second Bill and we will pass the same also.

Shri Lawrence has to continue his speech......He is not present. His speech will, herefore, be deemed to be over.

Shri K. Ramamurthy.

SHRI K. RAMAMURTHY (Krishnagiri): Mr. Deputy-Speaker, Sir, there are two Bills before the House for consideration; one, the Payment of Gratuity (Amendment) Bill, 1982, and two, the Payment of Gratuity (Amendment) Bill, 1984. The first Bill seeks the sanction of this House for raising the salary limit of Rs. 1000/- to Rs. 1600/-. I think, there is not much controversy in the first Bill,

The second Bill is sought to be introduced in the House by the hon. Minister and the understanding is that we can take that up also for discussion. This Bill has arisen out of the Supreme Court judgement in the case of Lalappa Lingappa Vs Lakshmi Vishnu Textile Mills in February, 1982 over the question of his continued service.

MR. DEPUTY-SPEAKER : Just a minute. On the request of Shri Buto Singh some time ago, we would have na lunch hour today, but you can go and take your lunch. I hope the House agrees.

## SEVERAL HON, MEMBERS : Yes.

SHRIK. RAMAMURTHY The Supreme Court has held that for every year of the entitlement of the gratuity of the workman, he has to work physically for 240 days, uninterrupted service. Inview of this judgement of the Supreme Court, a lot of industrial houses in this country have denied the legitimate gratuity of the This matter was also receivworkmen. ing the attention of the Government; all the trade unions were also raising this issue, and representations were made to the Labour Ministry and even the Prime Minister for proper amendment to the Payment of Gratuity Act, 1972. In the second Bill; I find, there are only two improvements that the Labour Ministry has made. One is that under Section 2(c), regarding continuous service, they have now added one more sentence about absence from duty without leave. They have also qualified it by saying that if the workman is to be punished under the standing orders for his absence from duty that will also be taken' into account for the purpose of interrupted service. This is one improvement.

Another improvement is that in an establishment which works for less than six days in a week, the qualifying or uninterrupted service, i.e. the continuous work which the workman is expected physically to do, will be 180 days.

These are the only two improvements the Labour Ministry has brought in the second Bill. This has raised a lot of suspicion and doubt among the working classes. We in the Parliament are representing workmen as well as our party. We have already got this Bill, and we had circulated it among our members and have elicited their opinion They have expressed genuine doubts on two grounds. The first is that the requirement of 240 days' work every year for entitlement to gratuity, has not been clearly defined. Suppose a workman is not able to attend to work physically for 240 days, but he has worked only for 220 days in a year. Will he be entitled to gratuity or not? Suppose he has taken sick leave or any other kind of leave, or the establishment was under lock-out or he was put under lay-off; will all these things be reckoned computing 240 days? This explanation they have not provided.

In the same Gratuity Act, they have provided so many explanations to so many points. For the purpose of entitlement of 15 days wages and gratuity, they have given the explanation : suppose there is a workman whose salary has exceeded Rs. 1000/-, there they have inserted the explanation. Why should not Government come forward and insert the same explanation in this case ?

Another kind of suspicion is that as per the Gratuity Act of 1972, gratuity can be denied by the establishment or management Suppose a workman has done anything wrong, or he is punished for moral turpitude, or a workman has worked in the establishment for 30 years, and he was to retire in the 31st year-if an establishment wilfully wants to serve notice on him, or if he is found fault with, or if some punishment is awarded to him in the 31st year on the ground of moral turpitude-will he then lose the entire gratuity? This aspect has also not been provided for.

In view of this, these two genuine suspicions should be removed by the Labour Ministry. If this explanation is not given, this Bill will be of no use. It will not do justice to workmen, because of the circumstances arising out of the judgement given by Supreme Court in Lallappa's case in 1982.

So, I would like to receive these two explanations from the hon. Minister. If it is warranted, I think it is warranted, he must bring in an explanation in this amending Bill itself.

With these comments, I support the Bill. But I want to insist that this explanation should be inserted. Otherwise, this Bill will not serve any purpose.

DR A. KALANIDHI (Madras Central): I would like to participate in

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the discussions on the Gratuity (Amendment) Bill. I am thankful to you, Sir, for giving me this chance to speak.

It has been mentioned that the Supreme Court has given a judgement in August 1981 that one is eligible for gratuity only if he has worked for 240 days. Even if he has worked for 30 years or 25 years, if he has not worked for 240 days, he is not eligible for gratuity. even hough you have announced that an *temployce* is eligible for 196 days leave including medical leave, sick leave. easual leave. festival leave, etc. If you deduct 196 days, the remaining balance will be there. So, it is only an anomaly to say that one has to work for 240 days to get gratuity. So, I feel that the Supreme Court judgement is in favour of the employer rather than the employees. It should be amended in such a way that even if a person works for less than the prescribed period, he should be eligible for such a gratuity.

Some time back, in 1981 Mr. Era Mohan, a. Member of Parliament, had brought this to the notice of the Government. The Minister gave a reply that it should be considered as early as possible and a suitable amendment will be brought forward. After three years you have brought forward an amendment. If for such a small thing you have taken 3 years, I think for a bigger problem, for a bigger project you will take 10 years or 15 years to solve it. So, the Minister should concentrate on this and bring forward a comprehensive formula to benefit the workers rather than the employers.

You know that the judgment of the Supreme Court has given a slightly different version. They are not going to give it in favour of the employees as such. So, I do not know why you have delayed it so much even after the judgment which was given in 1981. I only fell that it is delay tactics which are being followed by the ruling party; you are not really interested in the welfare of the workers. You are adopting an anti-labour policy; the government is only following antilabour line You want to give more benefit to the employers rather than the employees.

It has been widely published in *The Times of India*, dated the 14th July, 1981; and the Minister has assured that a suitable amendment will be brought forward to suit both the employers and the employees. But I don't think that the present amendment is going to benefit in any way the employees.

With regard to the judgement, it should be retrospective operation of the award of the tribunal from the date of presentation of the charter of demands which led to the reference to the industrial tribunal or at least from the date of reference.

You have appointed a high level committee. I do not know what is the necessity for doing it? It is only delay tactics. You want to drag on the issue. You know very well the gravity of the situation and the problems of the employees. You have appointed this committee a long time back. But you have brought forward an amendment now I accuse this government of following delay tactics and doing it purposely. The main purpose for which I am asking for retrospective effect is that in the last 3-4 years many of the retired employees are affected.

Some time back, we had a meeting where we have submitted certain demands. I would like to read out those demands so that our hon. Minister may go through them, because DMK. Labour Progressive Federation of which I am one of the Vlce-Presidents, has given certain suggestions to the Government of India. They are as follows :

- "All kinds of ceilings for eligibility for gratuity should be removed.
- 2 The provision to pay only seven days' pay as gratuity to workers in certain industries such as sugar which is treated as a seasonal one,

[Dr. A. Kalanidhi]

should be scrapped and full gratuity paid to all without discrimination.

- Gratuity should be paid even if one person is employed in a concern.
- 4. Another point which I want to mention is about the provision that a worker loses his gratuity on dismissal on account of disciplinary action. This should be removed as this amounts to dual punishment and denial of natural justice.
- 5. Yet another suggestion which I want to put forth to the Minister is that one month's wages should be paid as gratuity for each year of service. Any amount that is paid on a regular basis in any form and as any kind of wage should form the basis for calculation of gratuity.
- 6. I finally want to tell the hon. Minister that 26 days' wages should form the basis for one month's service, to fall in line with the judgement of the High Court,

I request the hon. Minister to have a comprehensive formula to cover all the points put forth by me so that the bencfit, and the welfare of the workers are protected and the Government is not criticised as an anti-labour Government : it should not adopt a procedure which can be called an anti-labour procedure or anti-labour policy. If you are really interested in the welfare of the workers your preaching about the 20-Point Programme and loans for weaker sections are going to be helpful and to be meaningful, you should try to amend the Act in such a way that you will have a comprehensive formula to cover all the points which have been put forth by me.

MR, DEPUTY-SPEAKER : Shri Mool Chand Daga

श्री मूल चन्द डागा (पाली) : उपाध्यक्ष महोदय, मजदूरों के हित की बातें हमारी सरकार बहुत गंभोरता से सोचती है। इसी सिलसिले में वह ग्रेच्युटी बिल पेश किया गया और यह घोषणा की गई कि एक हजार से 1600 तक तनख्वाह लेने वालों को भी ग्रेच्युटी मिलेगी। दूसरी बात आपने 240 दिन की कह दी। उसने 240 दिन तक फिजोकली वर्क किया हो। मान लीजिए कोई बीमार हो जाता है या मारल टरपी-ट्यूड उसका कमजोर हो जाता है तो उसका क्या होगा। ग्राप चाहते हैं कि उसने जो कुछ काम किया है उसके बेनिफिट से वह वंचित न हो जाए। आपनं इसमें लिखा है---

'Two hundred and forty day's in any other case'. So, this Clause requires an explanation.

240 दिन का मतलब आप क्या लेन। चाहते हैं।

Because there are certain regions, where he fails physically unfit. Suppose he falls ill,

तो उसके लिए आपका एक्सप्लेनेशन नहीं होगा कि आपने इंस्पेक्टर को ये पावर्स नहीं दी हैं। ग्रापने इंस्पेक्टर को जो पावर्स दी हैं कि उनको ग्रेच्युटी दिलवा दी जाए। मगर इस वात का वह फैसला नहीं कर सकता। इस तरह से एक मजदूर के लिए यह मुसी-बत हो जाएगी। इसके लिए उसको कोर्ट में जाना पड़ेगा। सुप्रीम कोर्ट ने जो जजमेंट दिया है उस जजमेंट के बाद जो भी उसके ग्रंदर बताया है---

<sup>&</sup>quot;The Supreme Court in its judgement in the case of Lalappa Lingappa Vs. Lakshmi Vishnu Textile Mills, held that in terms of the existing definition of continuous service"

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in Section 2(c) of the Act, the permanent employees were not etitled to payment of gratuity for the years they remained absent without leave and had actually worked for less than 240 days in a year."

कोई ग्रादमी ऐसी जगह पर बीमार पड़ गया जहां से उसके लिए दरख्वास्त करना भी पासीबल नहीं था, लेकिन आप कहते हैं कि:

- "It has been represented that the enforcement of this rulling has resulted in denial of gratuity to a number of employees, whose short term absence had remained unregularised due to lack of appreciation of its significance for the purpose of working out their entitlement to gratuity...It is also proposed to amplify the definition of 'continuous service' to provide—
  - (a) that an employee working in an establishment which works for less than six days in a week and who is not in uninterrupted service for one year shall be deemed to be in continuous service for a period of one year if he has actually worked for 190 days in the preceding year..."

मेरे कहने का मतलब यह था कि आपने जो एक्सप्लेनेशन दिया है, वह स्उष्ट नहीं है। बिल में कहा गया है कि :

"That for determining the continuous period of six months for the purpose of payment of gratuity, an employee should have completed half the number of days of actual work which constitute 'continuous service' for a whole year."

श्रम मंत्री जींजब उत्तर दें तो मेहरवानी कर के यह बतलाएं कि क्या एक आदमी जो 240 दिन काम नहीं कर सकता है और 190 दिन ही करता है जबकि उसका पीरियड सप्ताह में छह दिन है तो उस हालत में वह ग्रेच्यूटी पाने का ग्रधिकारी होगा या नहीं ? बीमार होने पर जो उसका बोनाफाइड क्लेम बनता है, उसके लिए वह दिन माने जाथेगे या नहीं ? फैक्टरी में चाहे बहुत कम लोग काम करते हो लेकिन ग्रेच्युटी का एक्ट हरेक के लिए लाग होना चाहिए। स्माल स्केल इंडस्टी में मजीने इतनी डवलप कर गई हैं कि जानबुभकर फैक्टरी के मालिक ले**बर** की संख्या कम ही रखते हैं। कहा जाता है कि फैक्टरी एक्ट के अनूसार लेबर की संख्या कम है, इसलिए आप एंटाइटल्ड नहीं हैं। मैं तो यह कहूंगा कि घरों में जो सर्वेन्ट काम करते हैं, उनको भी ग्रेच्युटी मिलनी चाहिए । इनके साथ बड़ी करता से व्यवहार किया जाता है। इस ओर म्रापका ध्यान ही नहीं गया है। जब आप 1984 में कानून लाना चाहते हैं तो क्या आप उन लोगों को म्राधिकार देंगे या नहीं ? आपने लेबर-लाज के लिए अमेंडमेट नहीं किया बल्कि वही कानन लागु होगा जो इडस्टी में काम करने वाले लोगों के लिए होता है। आपके बिल में यह स्पष्ट होना चाहिए कि 240 दिन न होते हए भी ग्रगर उसका हक बनता है तो वह ग्रेच्यटी पाने का हकदार है। यह क्लैरि-फिकेशन आपके बिल में नहीं है और इस पर बाद में आपत्ति उठ सकती है। दूसरे, मैं चाहता हं कि कानून जो बना हआ है, वह कुछ लोगों के लिए ही नहीं, बल्कि जहां कम संख्या में लोग काम करते हों, मजदूरी करते हों, कहीं मूनीम हों या दूसरे सभी के लिए भी लागू होना चाहिए और घरेलू नौकर के लिए भी यह कानून लागू होना चाहिए।

श्री राजेश कुनार सिंह (फिरोजाबाद) : माननीय उपाध्यक्ष महोदय, यह सरकार अपने आप को श्रमिक हितैषी कहती है, मैं तो एक किसान का बेटा हूं। लेकिन जब मैंने इस बिल को पढा धौर लोगों के विचार इस के बारे में सूने, उससे मुर्फ ऐसा लगता है कि हमारे यहां खेत में भी मजदूर काम करते हैं, लेकिन उस बेचारे को मजदूरों में नहीं गिना जाता । मान्यवर, इन दोनों बिलों को देखने के बाद में एक बात जरूर कहना चाहता हूं, वैसे तो इन्होंने भी कहा है कि अन्य स्त्रोतों के साथ-माथ राज्य सरका से और नियोजकों तथा कर्मकारों के संगठनों से इन वाबत सूभाव प्राप्त हुए हैं। जुलाई, 1980 में हुए श्रम मंत्री सम्मेलन में इस दिपय पर चर्चा हुई थी तथा सम्मेलन ने कुछ सिफारिशें भी की हैं। निर्वाह व्यय में हुई वृद्धि के कारण मजदूरी स्तरों में जो बढ़ोत्तरी हुई है उसको द्धिट में रखते हुए अधिनियम की व्याप्ति का विस्तार उन व्यक्तियों पर किए जाने का प्रस्ताव है जो सोलह सौ रुपये प्रति मास तक मजदूरी ले रहे हैं। इसके बाद उपदान की बात भी आई है। लेकिन ग्रेच्युटी की बात ग्रापने तब की जब विभिन्न संगठनों की ओर से आपको सिफारिशें प्राप्त हुईं। पता नहीं किस आधार पर आप अपने को श्रमिक हितैषी सरकार कहते हैं। आप तीन साल तक कैसे सोत रहे, तीन साल तक आपने इस दिशा में कुछ नहीं सोचा । अब लगता है कि ग्रगली बार आने वाले चुनावों को ध्यान में रखते हुए ही आप यह कदम उठाने जा रहे हैं ताकि मजदूरों को भी थोड़ा संतुष्ट कर सकें।

दूसरे बिल को लाने की प्रेरणा भी आपको उच्चतम न्यायालय के 1981 के निर्णय से मिली है जिसमें कहा गया है कि

उन्होंने वास्तव में एक वर्ष में दो सौ चालीस दिनों से कम कार्य किया था। वे उपदान के संदाय के लिए हकदार नहीं थे। म्रापने भी उसी बात को रिपीट भर कर दिया है और उस में कोई परिवर्तन नहीं किया है। सिर्फ 240 दिन की बात कही है। लेकिन जैसा श्री मूलचन्द डागा जी ने तथा कुछ दूसरे साथियों ने इशारा किया, इससे निरंतर सेवा वाली वात स्पष्ट नहीं हो पाई। आपके बिल को पढ़ने से ऐसा लगता है, जब आप कहते हैं कि विनिष्टि रूप से यह उपवन्धित किया जाए कि अनुपस्थिति की वह ग्रावधि, जिसके संबंध में कोई दण्ड या शास्ति अधिरोपित नहीं की गई है, मान्यवर यह बड़ी विचित्र बात हा जाएगी । क्योंकि यदि हमारे उद्योग-पतिन चाहे कि उन्हें ग्रेच्युटी दी जाए तो वे मजदूरों को दण्ड देने वाली साजिश कर सकते है। ऐसी साजिशें अक्सर हुआ करती हैं, जहां श्रमिकों ने कोई मांग उठाई तो उद्धोगपतियों ने कोई पडयंत्र रचकर उन्हें बाहर कर दिया श्रथवा कोई दण्ड दे दिया । जैसा कि माननीय सदस्यों ने भी कहा मान लीजिए किसी ने 20-25 साल तक काम किया, उसके बावजूद यदि वह इस षडयंत्र में फंस जाता है तो सरकार को उसके लिए भी कुछ व्यवस्था करनी चाहिए। वैसे मैं इस विल का समर्थन करता हूं क्योंकि इसमें कुछ ग्रच्छी बातें भी हैं। यदि कोई संस्थान अपने कर्मचारियों की संख्या बचने के लिए 10 से घटाकर 9 कर दें तो उस पर भी यह लागुहोगा। सरकार ने यह अच्छा कदम उठाया है। लेकिन मेरा जो संशय है, में चाहूंगा कि माननीय मंत्री जी उस संदर्भ में भी विचार करके कोई संशोधन लायें जिससे श्रमिकों का हित बना रहे नहीं तो उद्योग-पतियों में दण्ड देने वाली प्रवृत्ति को नहीं रोका जा सकता। यह कहते हुए, मैं इस बिल का समर्थन करता हूं।

# 13 hrs.

SHRI K.A. RAJAN (Trichur) : Mr. Deputy-Speaker, Sir, we have got two Bills before us-Bill No. 133 of 1982 and Bill No. 30 of 1984. The original Act came into existence in 1972. So far as the coverage of the Act is concerned. I would like to emphasize one point. When we are talking of a comprehensive legislation, we must bear in mind the large majority of workers in the unorganised agricultural sector. Though the members of this House without any party affiliations have been demanding a comprehensive legislation, on the model of the Kerala legislation, for covering the agricultural workers, unfortunately, for reasons best known to himself, the Labour Minister has turned down this request perhaps because of certain objections from some quarters. If they are in agreement with the unanimous demand of this House, why can't they bring those workers within the purview of the Act so that they may get the benefit of the gratuity ? In that case, a large section of the unorganised sector of workers, who really need protection, will get that benefit. So, you have to bring a large majority of the agricultural workers under the coverage of this Act. as you have done in the case of the other establishments that have been mentioned here This is one of the points which I would like to emphasize before going into the details of the Bill.

Coming to the first Bill, Bill No. 133 of 198', it extends the coverage to the administrative and managerial personnel and treats employees in seasonal establishments on par with employees of nonseasonal establishments. These are all welcome steps, which most of the trade unions were demanding. In 1982 the Ministry had called a meeting of the various centr d trade union to consult them on the Bill and they had put forward various suggestions. Some of these suggestions were incorporated in the Bill.

So far as the coverage is concerned, I

#### Payment of Gratuity 290 (Amendment) Bill, 1982

would like to have one information. When the Bill was brought forward in . 1982, the coverage was limited to a salary of Rs 1,000 Now it has been raised to Rs. 1,600. Of course, it is an improvement. But I could not understand the rationale or sanctity of Rs 1,600. I find that both in the Payment of Wages Act and the Workmen's Compensation Act the limit now is Rs. 1,600. Is it to conform to the present wage levels that this limit is being raised? If you see the recent agreements which have been entered into between management and unions in most of the public sector undertaking, you will see that in most cases the minimum wage is Rs. 1,000/. In BHEL, NTPC and other establishments it is more ! That is why perhaps it is being enhanced to Rs. 1.60<sup>0</sup>. But if we see the present wage level, even after enhancing it to Rs. 1,600, you will notice that a large percentage of the workers would be going out of the coverage in various establishments.

MR. DEPUTY-SPEAKER : I think it has been done on the basis of the recommendations of the 15th Indian Labour Conference.

SHRI K. A. RAJAN : No. Sir. I do not think the 1<sup>-</sup>th Indian Labour Conference has recommended on these lines. Now you take any factory or establishment in the public or private sector. You will see that nearly 60 per cent of the workers are drawing more than Rs. 1,600. So, in effect, this measure will cover only a minority of the workers even in the organised sector. Therefore, I would request the Minister to be realistic and considering the erosion in the value of the rupee and also considering the fact that a majority of the workers are not able to get any advantage by this coverage he should see that the ceiling is suitably revised upwards. Of course, I welcome that you are now treating the employees, of seasonal establishments on par with the non-seasonal establishments. It is also a welcome measure that the administrative and managerial personnel have also been brought under the coverage of

[Shri K.A. Rajan]

Rs. 1,600. But there also I would say that once this amount of Rs. 1,600 is raised, naturally that would be applicable to administrative and managerial personnel as well.

Therefore, I would say that the Government should be realistic enough and that it should see that it need not have to come again for another amendment after one year. It should take adequate amendments as necessary measures. This is a social legislation and you must see that it benefits the workers in a desirable manner. Therefore, there should be some rationale keeping in view the money wage-level of a large chunk of the organised workers in the organised industries.

Then I come to Bill 30 of 1984. This Bill was really brought in the light of the judgement of the Supreme Court in interpreting Section 2 (C) of the Gratuity I welcome this measure. This Act measure was necessitated because of the unfortunate judgement of the Supreme Court as a result of which lakhs and lakhs of workers were deprived of the benefit of the gratuity. If my information is correct, this judgement came in the later part of 1981. Therefore, I do not understand why it took the Government two years to get this thing amended. Government must know what has happened because of the judgement. As a result of this workers of various industrial establishments could not have the benefit of gratuity and a lot of litigations were resorted to Even the public sector employers stood strongly behind the jugdement saying they cannot do anything contrary to the judgement of the Supreme Court. Anyhow, it has been brought now and it is a welcome measure, but I must emphasise that in this measure there should not be any ambiguity left so that these people again may go to the court and create a situation whereby benefit of gratuity is deprived to the workers,

Sir, the judgement lays down that the employce actually must have worked for

#### Payment of Gratuity 292 (Amendment) Bill, 1982

240 days in order to be entitled to gratuity for that particular year. That is why no worker was entitled to the gratuity because of this lacunae in the Act; and that is why the judgement of the Supreme Court was such. If allowance had been made for weekly holidays, casual leave, annual leave, sick leave and other benefits, while fulfilling the stipulated period, the workers would not have been deprived of this benefit for no fault of theirs. Therefore, I stress that the Act should be amended adequately to leave no ambiguity. Shri Mool Chand Daga was also very emphatic on this point that if again an ambiguity creeps into this particular clause of continuous service, the same story is going to be repeated. Employers will go to the Supreme Court and they are capable of doing it and again the stalemate will continue and lakhs of workers will be deprived of the benefit. That should be made clear that the gratuity should be paid for every year of actual employment of service and not only on the basis of days' work. That is my point.

Sir, the Act should further be strengthened by providing that in the intervening period between the closure of an establishment or a unit and subsequent re-opening because of shift, take over of the management nationalisation or even strike, should not operate as a break of service. This is one more important The expression actually employed point. or actually worked in Explanation 1 and 2 under Section C of the Act should be raplaced by 'in employment'. If that is to be replaced as it is 'in employment'. there would not be any confusion on any point and the workers should not be deprived of the benefit. My only anxiety is that there should not be any ambiguity so that the people may interpret it differently and again they are left at the mercy of the court and again thousands of workers are denied its benefit So, F again emphasise that the amb guity regarding continuous service should be cleared and instead of 'actually worked' the words substituted should be 'in employment'.

Sir, I would like to mention one more thing. Now, as it is the qualifying period of entitling an employee the gratuity is stipulated as five years. If a worker should have the benefit of this gratuity, he should at least have a minimum service of five years. That is the entitlement qualification. I think that has to be waived to a reasonable period. At least it should be waived to three years for the entitlement of the gratuity.

VAISAKHA 6, 1906 (SAKA)

I would also like to mention about badli workers. A large number of badli workmen are there. Especially there are a lot of badli workmen in textile, jute and other industries. This Act should be made applicable to them so that the badli workers will also get the benefit. A badli worker does not get employment not because of his own fault. There is a large chunk of badli workers who are attached to certain types of industries. Their rights also should be protected by giving protection under the Gratuity Act.

These are certain suggestions I tried to make. Unfortunately even though it is a belated Bill, I am glad to find that the effect of the Bill has been retrospective from the date of judgement which came out, thereby the workers' entitlements is protected. Again, if they go to the court, that is a different thing. Anyhow, that provision is a well protected provision; I welcome that provision.

With all the humble suggestions that I have made, I thank you for giving me the opportunity to speak on this particular Bill.

SHRI B. K. NAIR (Quilon): Sir, I heartily welcome these two legislations one regarding extension of the limit to Rs. 1, 600/- and the other regarding the re-definition of continuous employment.

We, the people in the trade unions movement, have always been criticised by Government and other interests saying that our interests are mainly focussed on the higher salaried groups. That, of

course, is a legitimate complaint. Most of the trade unions and organised sections of the people are more interested in extending the benefits to the higher salaried groups, and lesser placed people are not attended to. I think the same charge can be levelled against the Government also in this case. While expressing their anxiety to raise the salary slab from Rs. 1000 to Rs. 1600/- I think they would have been more justified in taking into account the large mass of people who remain outside the purview of the gratuity scheme. By raising the salary slab from Rs 1000 to Rs. 1,600/-, only a very small section of the employees will be extended the benefits of gratuity. But I think lakhs and lakhs of employees employed in various industries are still left out of the benefits of gratuity. Sometimes I feel even strongly opposed to the word "gratuity" because it is not a gratuitous payment, it is not a charity that flows out of the kindness of the employer, but it is a matter of right for the employees. Apart from that, I feel that it is one of those benefits that should flow as a result of employment in any industry or any concern just like the minimum wages. We in this country are going in for smaller and smaller units in industries. The other day we were given the figures of small-scale units. From 1973-74 when the number was only 1.64 lakhs of small units, in 1982-83, the number has gone up , to 5.96 lakhs. While in the same period the number of employees has gone up from 3.97 lakhs to 79 lakhs in small scale units By small scale we mean units employing capital of less than Rs. 20 lakhs. None of these can be brought in the definition of units covered by gratuity as the definition stands now. The definition covers only units much larger than the small scale units. The production in the small scale units has gone up from Rs. 7200 crores to Rs. 35,000 crores in nine years. We are lending all sorts of assistance, encouragement and benefits to the small scale units even at the cost of the larger units. Rut what about the employees ? Why should employee of small units be denied the benefit of right to get gratuity. They should be given the benefit of gratuity just as they are getting the benefit of minimum wages. By limiting the scope

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# [Shri B.K. Nair]

of law to certain units based on the number of employees, the number of people benefited by this amendent is kept very limited. 80% of the total employees in industry are permanently outside the purview of gratuity. I feel time has come for major review of the whole Act and major amendment be brought in,

Another field of activity is the vast area of plantations. We have got 150,000 units of Rubber Plantation employing about one lakh persons. Not more than 500 of these units will be covered by Plantations Labour Act and no gratuity law applies to not more than 20% of the total. About 8.% of the employees working in the rubber plantation industry are deprived of the gratuity benefits.

Another peculiar feature of the plantation industry is that area and size of the plantation is within the power of the planter, to vary and adjust He can subdivide unit of 100 hectares in five or ten smaller units. But it is not within the power of the workman to defend his right to gratuity which may be endangered as a result. Even a unit providing this benefit till about two years ago can be denied the right by partitioning. Partitioning of property is a very legitimate right of the owner.

Similar is the case with Cardamom and coffee plantation industries also.

The rubber plantation industry is one of the most prosperious industries in the country. It is well within the capacity of the planter to bestow the benefit to all the employees.

Where a person has been employed continuously for a period of years, he should be given the benefit of gratuity just as he has been getting benefit of minimum wages. What is the object of gratuity? It is to safeguard the period of the worker's life after retirement. Longivity of life is on the increase—from 32 years the average has gone over 54 years. The period after retirement now is much longer now. The protection

#### Payment of Gratuity 296 (Amendment) Bill, 1982

of life after retirement is very necessary, The life after retirement is much longer now and the burden is also higher after retirement. Why should an employee working for a long time in profitable and efficient small scale units be denied the benefit of gratuity ? How can he maintain himself after retirement? Shall he beg about? After a service of over thirty years in a productive unit, what should he do? Should he beg? You may not be able to give other benefits. Provident Fund is outside the scope. What should he do for his family ? How can he have his living ? Just as we are concerned with the smaller units, we should be concerned with the people employeed in smaller units.

Government should come out in a large way to amend the Act so as to extend the scope of the Act, the applicability of the Act to cover all persons who are employed in all industries whether it is plantation or agriculture or any other industry My hon, friend has mentioned about this. In Kerala, we have drawn up a scheme and implemented the scheme whereby gratuity is paid even to the workers employed in agriculture. My main point is that the applicability of the Act should not be limited, based on the size of the unit where a person is employed. It should be extended to cover all occupations, all industries and all places of work where a person is employed so that the benefit of gratuity can be extended to every workman, who can be legitimately called workman, I mean, any person covered by the definition of the Minimum It should not be limited to Wages Act statutory employment but extended too workmen who are covered under the Minimum Wages Act. Only by extending and liberalising the Act, we can do some every employee in these justice to industries.

The other point is about "continuous employment". My friend has pointed out about the lacuna. He has expressed the point that during the last three years, people employed for longer years were affected because of the judgement of the Supreme Court Now, I am happy that

it has been restored with retrospective effect. Now, what is lost will be very difficult to recover. At least, in future, the application of the modified scheme would give some benefit to workmen. There are industries where it is just not possible for the workmen to get coutinuous employment because of their seasonal nature where the interruption is common. My point is, the definition of the industries and the scope or application of the Act should be so liberally extended to cover all persons employed in any occupation, or in any industry or in any service.

भी राम विलास पासवान (हाजीपुर): उपाध्यक्ष महोदय, माननीय मंत्री जी ने ईस सदन में जो संशोधन विधेयक प्रस्तुत किया है उसका मैं स्वागत करता हूं। मैं समभता हूं इसको तो बहुत पहले आ जाना चाहिए था। 1982 का यह ऐक्ट है और 1984 में ये संशोधन ला रहे हैं, जबकि लेबर मिनि-स्ट्री में इस संबंध में 1980 में ही बैठक हो गई थी लेकिन चार साल के बाद इसको यहां पर प्रस्तुत किया गया है। मैं इस संबंध में दो तीन बातें उठाना चाहता हूं।

आज से कुछ दिन पहले रेलवे मिनिस्टर ने इसी सदन में कहा था कि भनेले रेलवे मिनिस्ट्री में दो लाख कंजुअल लेबर हैं। तो एक समस्या है प्राइवेट इंडस्ट्री की, दूसरी समस्या है कान्ट्रेक्ट लेबर की और तीसरी समस्या उस लेबर की है जोकि गवनंमेंट मिनिस्ट्रीज की तहत काम करता है। रेलवे कंसल्टेटिव कमेटी में मैं भी था भौर मैं समफ़ना हूं कि सभी लोग इस बात को जानते हैं कि रेलवे में जो मजदूर काम करते हैं उनको ग्रेच्युटी एलाउंस न मिल सके सिर्फ इसीलिए एक सर्टेन पीरियड-90 दिन या तीन महीने काम कराने के बाद उनके नाम बदल दिए जाते हैं हालांकि काम उन्हों से लिया जाता रहता है। अगर कटिनुअसली उनका नाम रहे तो वे ग्रेच्युटी के हकदार हो जाएंगे इसलिए ऐसा किया जाता है। इसी तरह से एफ० सी० आई० में भी होता है। एफ० सी० आई० में 1977 से ही प्रान्दोलन चल रहा है।

MR. DEPUTY SPEAKER : In the Railways, if they put in continuous service for 240 days, according to the Miabhoi Report, they must be absorbed in the Department. I think, the Labour Minister knows this.

SHRI BAM VILAS PASWAN : What I am going to say is that the administration does not allow him to work for 240 days regularly. 90 दिन में ही नाम चेंज कर दिया जाता है। एफ० सी० आई० का मामला हम 1977 से लगातार उठा रहे हैं। सरकार वेतन के लिए पैसा देती है, लेकिन ग्रेच्टी के डर के कारण कान्ट्र क्टर द्वारा वह काम करवाया जाता है। नतीजा यह होता है कि कान्ट्र बटर कभी एलाउ नहीं करेगा कि कोई फायदा मजदूरों को मिने ! आगके बिल में अच्छी मंशा है कि इसके लिए आप ने इंस्पैक्टर बहाल किया है। ग्रीर वह सारी ची जों को देखेगा। आप श्रम मंत्री हैं, माप काजो विभाग है क्या आप ऐसी कोई व्यवस्था करने जा रहे हैं कि जो मजदूर काम कर रहा है, उसको 240 दिन तक कोई बाधापैदा नहीं की जाएगी। उसके मांग में कोई स्थानीय प्रशासन द्वारा बाधा नहीं उठायी जाएगी। इसके लिए क्या आपके पास कोई योजना है? प्रत्येक मिनिस्ट्री में मिनिस्टर को मालम रहता है, अधिकारी को छोड़िए कि किस विभाग में 90 दिन के बाद नाम चेंज कर दिया जाता है। ग्राप सी० पी० डब्ल्य० डो॰ में जाकर देख लीजिए। होटिकल्चग विभाग में जाकर देख लीजिए। एक ही

# Payment of Gratuity 309 (Amendment) Bill, 1982

# [श्री राम विलास पासवान]

मजदूर काम करता है. लेकिन तोन महीने के बाद सर्विस में उसका नाम बदल दिया जाता है। जब कि काम वहीं व्यक्ति करता है। यह बहुत ग्रच्छी बात है कि सुप्रीम कोर्ट ने फैसला दिया है, मजदूरों के हित में, आपने संशोधन कर दिया है। 240 की परिभाषा तय कर दी है मब उसको 190 दिन पर ले आए हैं। इसके लिए सबसे बड़ी चीज यह है कि जो प्राइवेट सैक्टर हैं या कान्ट्रैक्ट लेवर्रस हैं, इनको जब तक इस परिधि में नहीं लाया जाएगा, तब तक कोई फायदा इनका पहुंचने वाला नहीं है । लाखों मजदूर फैक्ट्रीज में काम कर रहे हैं, खानों में काम कर रहे हैं, ईंट भट्टों के रूप में काम कर रहे हैं । म्राप कहेंगे कि इसके लिए फैक्ट्रीज **ए**क्ट बना हुआ है, लेकिन मेरी दृष्टि में वह सफि-शियेंट नहीं हैं। मैं समफता हूं कि अगर यह सुविधा मजदूरों को मिलनी शुरू हो ज।ए तो बहुत बड़ा कल्याण होगा। इस पर सरकार को कोई न कोई ग्रकुश रखना चाहिए और जो मजदूर काम करते हैं, उन के नाम बदल कर उनकी सविस को डिसकंटीन्यून किया সাए।

दूसरी बात मैं यह कहना चाहता हूं कि देश में बहुत बड़ी सख्या ऐसे मजदूरों की भी हैं, जा गांवों में काम करते हैं, जिनको खेतिहर मजदूर के नाम से जाना जाता है। जिनका कोई संगठन नहीं है। जिनके लिए आप न्यूनतम मजदूरी लागू करते हैं, लेकिन बह भी उनको नहीं मिलती है। उन गांवों के खेतिहर मजदूरों को जमीदारों की इच्छा पर काम करना पड़ता है। गांवों में तीन महीने काम रहता है और नौ महीने कोई काम नहीं रहता है। हम लोगों ने प्रपने समय में फूड फ्रार-वर्क की योजना चलाई थी। इसमें

कुछ गलतियां हो सकती हैं। हम चार कि॰ अनाज दिया करते थे, तो जमीदारों को भी भक मार कर चार किलो अनाज देना पड़ता था। क्योंकि यदि उनको कम दिया गया तो मजदूर सरकार द्वारा चलाई गई योजना के अन्तर्गत काम करना घुरू कर देगा । सरकार के पास इस तरह की कोई योजना है कि खेतिहर मजदूरों का भी सगठन हो या वे भी भलिभांति आगे बढ़ सकें ? उनके परिवार को भी कुछ बेनिफिट मिले, इस आजाद मुल्क में उनके लिये भी कोई सुनहला भवसर ग्राये----क्या इस के लिए भी कोई योजना सरकार के पास है? यदि नहीं तो क्या सरकार कुछ विचार कर रही है कि जो भूमिहीन मजदूर हैं, खेतिहर मजदूर हैं, उन को कुछ सालाना या मासिक दिया जाय, जो मजदूरी उनको अपने मालिक से या जमीदार से या किसान से मिलती है, उसके अलावा 200 रु॰ प्रति माह प्रत्येक मजदूर परिवार को दें जिश्से वे अपने लड़के का भरण-पोषण कर सकें, उसको एजूकेट कर सकें, अच्छी तालीम दिलाकर उसको भी ग्रादमी बना सकें। यह ठीक है कि आपकी इस योजना से कल कारखानों में जो लोग काम करते हैं उन का भविष्य सुनहला हो सकता है, लेकिन जो हमारे करोड़ों भाई गांवों में रहते हैं, खेतिहर मजदूर हैं, जो नौकरी के लोभ में अपने गांवों को छोड़कर दिल्ली का चवकर लगाते हैं – उनको जब तक कोई इंसेन्टिव नहीं मिलेगा तो वे निराश हो जायेंगे, उनका कोई भविष्य नहीं रहेगा।

इस लिये जहां मैं इस बिल का समर्थन करता हूं, आप ने जो कदम उठाये हैं उनका स्वागत करता हूं, साथ ही आप से यह आग्रह करता हूं कि जो प्राइवेट फैक्ट्रीज में काम करते हैं, जो कांट्रैक्ट लेबर हैं, जो आपकी रेलवे और अन्य मिनिस्ट्रीज के

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अन्दर काम करते हैं --- उन की सेवाओं को 90 दिन के बाद डिसकटीन्यून किया जाय भौर उन को भी इस के बेनिफिट मिलें तथा गांवों के खेतिहर मजदूरों के लिये आप कोई विषेयक लायें जिस के अन्तर्गत प्रत्येक परिवार को 200 प्रति माह सरकार अपनी तरफ से दे -- जिस से उन का भविष्य सुधर सके।

श्री रोतलाल प्रसाद वर्मा (कोडरमा): उपाध्यक्ष महोदय, मैं इस बिल का स्वागत करता हूं क्योंकि इस में मजदूरों के हितों के लिए विचार किया गया है। हालांकि यह विधेयक 1972 में आया था। । उस समय से म्राज तक देश, काल मौर परि-स्थिति के अनुसार जीवनोपयोगी वस्तुश्रों के मूल्य जिस तरह से बढ़े हैं उसको दृष्टि में रखते हुए इस को लाना चाहियेथा, लेकिन यह परिस्थिति तब पैदा हुई जब कोलापुर लक्ष्मी-विष्ण् टैक्सटाइल मिल्स ग्रौर लालप्पा-रंगप्पा तथा ग्रन्थ लोगों के मामलों को ले कर सुप्रीम कोर्टने डिसीजन दिया। कुछ जजेज ने जो आब्जर्वेशंज पास किये उसके मनूसार इस को लाना पड़ा। फिर भी यह स्वागत योग्य है।

लेकिन जहां तक 1972 से अब तक की प्राइस-लाइन और मूल्य स्तर को देखा जाय तो इ होंने जो बढ़ाया है, उसमें 1000 से बढ़ा कर 1600 रुपये तक किया है, जब कि प्राइस लाइन के प्रनुसार यह 2775 रु० तक होना चाहिये । माननीय मंत्री जी यदि इस को बढ़ाकर 2500 रुपये तक वेतन पान वालों को इस में शामिल कर दें — तो वह सोशलिज्म के सिडांतों के अनुसार होगा । लेकिन इस मसले पर इन्होंने अभी भी यह रख दिया है कि श्रमिक वर्ग फिर से ग्रान्दो-

# Payment of Gratuity 301 (Amendmeni) Bilt, 1982

लन करे, उन के बान्दोलन करने के बाद ये फिर से कम्प्रीहेन्सिव बिल लायेंगे। लेकिन जरूरत यह थी कि जब एक बार संशोधन हो रहा है तो उसके प्रनुसार 2500 रु० तक रखते जिससे सभी मजदूरों को, सभी नियमित कर्मचारियों को इस का लाभ प्राप्त होता।

यह बात भी बहत महत्वपूर्ण है कि बहुत से खान-कोलियरी और बाग-बगीचों में काम करने वाले जो नियमित कर्मचारी हैं उन लोगों के बारे में कोई खास विचार नहीं किया जाता या उन पर कोई नियंत्रण न ी है। मैं विशेष रूप से निजी सैक्टर में काम करने वाले कर्मचारियों के लिए कहन। चाहता हूं इसके अपंदर जो नियमित काम करने वाले मजदूर हैं उनको तो किसी तरह से यह उपदान मिल जाता है, लेकिन इसके मिलने की कोई निश्चित अवधि नहीं होती है। गवर्न मेंट में भी इस तग्ह के कई उद्यम हैं, जिनको न्याय सही ढंग से नहीं मिलता है। ग्रलीगढ़ गवनंमेंट प्रेस, जो भारत सर-कार का उपक्रम है, वहां पर भी कर्मचारियों को ग्रेच्येटी या दूसरे नामों से जो यह दी जाती है, डेढ़-डेढ़ वर्ष तक नहीं मिलती है। कई कर्मचारियों को मेरे पास दरख्वास्तें आई हैं और वे घुमते-घूमते हैरान हो जाते हैं और उनको ग्रेचुयेटी समय से नहीं मिलती है। इसलिए मेरा कहना यह है कि पेमेंट झाफ ग्रेच्येटी के लिए सरकार को एक टाइम फिक्स करना चाहिए। जो आदमी रिटायर हो जाता है या सेवा से मुक्त हो जाता है, तो कितने दिनों के बाद उस को ग्रेच्येटी मिलनी चाहिए, इसके लिए कोई टाइम लिमिट नहीं है और इसके पेमेंट में डेढ. दो और ढाई वर्षतक लग जाते हैं और कर्मचारी दौड़ते-दौड़ते परेशान हो जाते हैं। मेरे पास छः ग्रधिकारी प्रोवीडेंट फंड के मिले

[श्री रीत लाल प्रसाद वर्मा] मौर उन्होंने बताया कि दो-ढाई वर्ष से उन की ग्रेचुयेटी का मामला क्लियर नहीं हुआ है। इस प्रकार की शिकायतें घनबाद से भी मिली हैं जोकि श्रमिक बाहुल्य क्षेत्र है ग्रौर वहां पर प्रोवीडेंट फंड कमिश्नर रहता है। यहां तक होता है कि जब कमिश्नर रिटायर होता है तो उसकी भी वही हालत होती है। अब आप सोचिये कि जब उसके साथ ऐसा हो सकता है, तों अन्य मजदूरों की क्या हालत होगी इसलिए मेरा मंत्री महोदय से म्राग्रह है कि पेमेंट आफ ग्रेच्येरी के लिए या जो अन्य उपदान हैं, उनके भुगतान के लिए एक निश्चित अवधि होनी चाहिए । रिटायर होने के बाद दो महीने, तीन महीने में पेमेंट हो जाना चाहिए और मैं तो यह समभता हं कि तीन महीने की मैक्सीमम लिमिट इस के लिए रखनी चाहिए। ग्राप यह सोचिए कि जब सरकार के अंदर ऐसी अंधेरगर्दी चलेगी. तो प्राइवेट लोगों के साथ क्या होता होगा। इसलिए मैं मंत्री जी से यह आग्रह करूंगा कि इसके पेमेंट के लिए कोई टाइम फैक्टर होना चाहिए क्योंकि इस विल में इसके बारे में कोई प्राविजन नहीं है। भुगतान का समय निविचत होना चाहिए ताकि संबंधित अधिकारी को भ्रष्टाचार करने का अवसर न मिले क्योंकि बार-बार जब लोग घूमते हैं, तो वे उन से कहते हैं कि आप हमें इतना परसेन्ट दां, तब ग्रेच्येटी का पेमेंट होगा। जब तीन महीने का समय निश्चित हो जाएगा, तो कम्पलसरीली उनको इतनी अवधि के अन्दर पेमेंट करना पड़ेगा। मंत्री जी को इस तरफ घ्यान देना चाहिए ताकि कर्मचारियों को इस मामले में राहत मिले ।

में ग्रापका ग्रधिक समय न लेते हुए यही

# Payment of Gratuity 304 (Amend ment) Bill, 1982

कहना चाहता था कि टाइम लिमिट फिक्स होनी चाहिए और निश्चित अवधि के अन्दर पेमेंट होना चाहिए।

APRIL 26, 1984

दूसरी बात जैसा कि राम विलास पासवान जी ने कही है कि प्राइवेट कम्प-नियों में जो लोग काम करते हैं, उनकी बहुत सी शिकायतें मेरे पास भी आई हैं कि उनके नाम चेन्ज करते रहते हैं और इस कारण वे नियमित नहीं होते श्रौर मौसमी मजदूरों यानी रीजनल लेबर की तरह से काम करते हैं। इसके लिये मेरा सूफाव यह है कि जब भी प्राइवेट सेक्टर में कोई ग्रादमी काम पर लगे, तो जिस दिन से वह उद्योग में लगा है, उसको एक आइडेंटीफिकेशन कार्ड इशू होना चाहिए और यह कार्ड लेबर सुपरिटेन्डेंट या ऐसे ही किसी भ्रधिकारी द्वारा इश् किया जा सकता है ताकि उसके जो अधिकार हैं, उनका हनन न हो सके। नाम बदल दिया जाता है हालांकि वही आदमी काम करता है और इस तरह से उसका जो ग्रेंच्येटी का पैसा होता है, उस को वे हजम कर जाते हैं।

इन शब्दों के साथ मैं अपनी ॄ्वात समाप्त करता हूं।

श्वी राम लॉल राही (मिसरिख) : उपाध्यक्ष महोदय, यह जो उपदान संदाय (संशोधन) विधेयक है, इसके दो खंड हैं श्रीर यह ग्रेच्येटी के सम्बन्ध में है।

माननीय मंत्री जी को लगभग सभी सदस्मों ने घन्यवाद दिया है कि वे ऐसा बिल लाए हालांकि वे देर से यह बिल लाए पर देर आयद दुरुस्त आयद । मैं भी इनको इसके लिए घन्यवाद देना चाहता ठूं लेकिन

### 305 Payment of Gratuity VAISAKHA 6, 1906 (SAKA) (Amendment) Bill, 1982

मंत्री जी जब जवाब देंगे तो खुद खेद व्यक्त करेंगे प्रपनी सरकार की नीति के प्रति क्योकि सन् 1980 में जब ग्रेच्युटी आदि के सम्बन्ध में बैठकें हुई श्रम मंतियों की तब यह तिर्णय लिया गया कि ग्रेच्युटी के संबंध में कोई विधेयक लाया जाए। तो चार साल के बाद यह विधेयक लाना, इससे पता लगता है कि सरकार की नीति मजदूरों के प्रति कैसी है ?

मैं निवेदन करना चाहता हूं कि इस देश के जितने संगठित मजदूर हैं कल कारखानों में उनकी बात तो सरकार को सुननी ही पड़ती है। तालावंदी हो जाती है, इंकलाब जिदाबाद हो जाता है। लेकिन जब तक गोली लाठीन चलेतब तक सरकार किसी की बात सुनती नहीं है। लेकिन इस देश में 60 फीसदी किसान हैं और उसमें कम से कम 20 फीसदी खेतिहर मजदूर हैं। आपने मिनिमम वेजेज का कानून बनाया है। 13 मप्रैल 1984 को एक प्रश्न के उत्तर में भापने बताया है, मैं पढ़ना नही चाहता हूं, बहुत समय लग जायेगा, इसमें आपने राज्य-वार ब्यौरा दिया है कि राज्यों में हम यह निम्नतम मजदूरी दे रहे हैं। मैं चाहता हूं कि जब म्राप जवाब दें तो सीने भर हाथ रखकर इस बात का भी जवाब दें कि क्या आपने यह जवाब ईमानदारी से दिया है। या फिर यह कह देना कि जैसे सरकार चलती है बैसा ही जवाब दे दिया है। मैं बताना चाहता हूं कि राय बरेली जहां से प्रधान मंत्री जी आती हैं वहां पर खेतिहर मजदूर को दो-तीन रु० से ज्यादा मजदूरी नहीं दी जाती।

भी चित्त बसु (बारसाट) : मेडक में ।

भी राम माल राही: मेडक का तो मैं नहीं कह सकता। मैं उत्तर प्रदेश की बात बता सकता हूं। मेरे क्षेत्र में महमूदाबाद, मिसरिख तहसीलों में दो-तीन रु० से ज्यादा मजदूरी नहीं दी जाती। यह क्षेत्र उत्तर प्रदेश सरकार में बैठे दो मंत्रियों के हैं। (य्यवधान)

एक माननीय सबस्य : यह गलत है।

# (व्यवधान)

श्री राम लाल राही: जिस सरकार ने 8 रु० मजदूरी निर्धारित की है उसी सरकार के प्रधानमंत्री के क्षेत्र में दो रुपए से तीन रुपए मजदूरी प्रति दिन लेकर मजदूर काम कर रहे हैं। यह अत्यंत दुखद है। (व्यवधान)

यह बिल जो मंत्री महोदय ने पेश किया है, इसके लिए सब ने प्रसन्नता व्यक्त की है। सबने कहा कि मजदूरों के हित में यह बिल लाया गया है। मैं भी कहता हूं, लेकिन सन् 1972 में कानून के हित में ग्रेच्युटी का लेकिन क्या उस पर इमानदारी **से अमल** हवा है ? क्या भ्रमल नहीं होने पर न्याया-लय की शरण में जाना पड़ता है? जब लोग न्यायालय में गए, तब झाप संशोधन ला रहे हैं। आप, अच्छे-अच्छे कानून बनाइए लेकिन इन कानूनों पर अमल कैसे होगा, क्या इस पर आपने कभी विचार किया है। जो कानून बनते हैं, ऐसा लगता है कि रही की टोकरी में चले जाते हैं। कानून वह जो बड़े-वड़े उद्योगपतियों के रक्षक हैं जहां ऊन को टैक्स की चोरी करने का अवसर मिलता है। जहां पर मुनाफा कमाने के जघिक ग्रवसर मिल जाते हैं, ऐसे कानून थे पर मच्छी तरह से अमल होता है। मुझे याद है, 1980 में जब सरकार बनी थी झौर यहां

[श्री राम लाल राही]

पर वित्त मंत्री जी ने बजट पेश किया था तो उस समय यह कहा था कि म्रमुक-अमुक चीजों पर इतनी एक्साइज ड्युटी कम कर दी गई है। इसके मायने यह थे कि जो चीजें उसी मूल्य में बिक रही थी, उनके दाम कम होने चाहिये थे। लेकिन क्या प्रधान मंत्री जी, वित्त मंत्री जी और श्रम मंत्री जी ने इस बात का जायजा लिया कि मूल्य घटे या बढे ? कल भी इसीलिए मैंने 377 के अन्तर्गत स्टेटमेंट दिया था आज फिर कहना चाहता हं कि इस देश में गरीव को मजदूरी व ग्रेच्युटी देने के लिए कानून तो अच्छा बना रहे हैं लेकिन आपकी नीयत साफ नहीं है। इसीलिए अमल नहीं हो पा ग्हा है। आ यका जो प्रशासन इसको लागू करने का काम करता है, उस पर कड़ाई से निगरानी कीजिए ताकि गनीब का हित हो अन्यशा उसका हित होना संभव नहीं है। हमारे यहां सीतापुर में लक्ष्मी शुगर मिल है जिसको सरकार चला रही है। टेक-ओवर कर लिया है। आपने आठ रुपए निर्धारित किए हैं परन्तुमजदूर को सात रु० दिए जाते हैं। राम विलास जी ने भी कहा और मैं भी कहना चाहता हूं कि सी० पी० डब्ल्यू० डी० हार्टिव ल्चर, और मुचना मत्रालय के अन्तर्गत टी० वी० रेडियो में हजारों की तादाद में लेबर व केजुमल आर्टिस्ट काम कग्ते हैं। इन सबको निर्धारित मजदूरी नहीं मिलती है। एक-दो महीना काम करने के बाद चार-पांच दिन के लिए बैठा दिया जाता है । आप ने कहा है कि 240 दिन जिनके हो जायेगे, उनको इसका लाभ मिलेगा। जो अधिकारी 240 दिन पूरे नहीं होने देते श्रीर दो महीने या 45 दिन काम करने के बाद ही बैठा देते हैं और दो दिन के बाद पुन: लगाते हैं या मजदूर का नाम बदल देते हैं, ऐसे अधि-कारियों के खिलाफ क्या कोई एक्शन शिकायत मिलने पर लिया जाता है ? नहीं लिया जाता, यह मुझे मालुम है। सरवार विभागों में यह हाल है भीर सरकार की नीयत खराब है। इसीलिए तो इंदिरा गांधी के क्षेत्र में रहने वाले किसान या गरीब मजदूर को दो-तीन रुपए दिए जाते हैं तो कोई पाप नहीं है। हमारे क्षेत्र में भी ऐसी हालत है। बड़े मंत्री जी इस समय चले गए हैं लेकिन छोटे मंत्री जी दैठे हुए हैं। जिस वर्गसे छोटे मंत्री जी आते हैं, मैं भी उसी वर्ग से आता हूं। इनके और हमारे वर्ग के 80 फीसदी मजदूर किसी संगटित असगटित प्रतिप्ठान या किसी खेत में नाम करते हों लेकिन हम तो यहां पर बैठे हुए ₹, हम यहां पर वैठे हैं, वाहवाही जरूर लुट रहे होगे, कि हम संर.द-सदस्य बन गए, हम मंत्री हो गए, लेकिन हम इन लोगों के लिए कुछ नहीं कर पां रहे हैं। इस सरकार में आप बैठे हैं, यह सन्कार भी कुछ नहीं कर पा रही है। ग्राप उनके लिए कुछ करिए । जितने आप ने उनके लिए कानन बनाये हैं, उनपर अमल हो श्रौर ऐसी स्थिति पैदाकी जाए कि उनके हित की बात हो । यदि आप ऐभी स्थिति पैदा नहीं कर सकते तो सरकार छोड़ दीजिए, आपको वाहवाही मिलेगी नहीं तो लोग कहेंगे कि सरकार में भी बैटे और काम भी कुछ नहीं किया। मैं फिर से मंत्री जी को धन्यवाद देना चाहंगा कि आप जो बिल लाए हैं, वह मजदूरों के हित में है, लेकिन 1972 से माज तक कोई ग्रमल नहीं हुआ। ग्राप म्राज यह प्रतिज्ञा कीजिए कि जो संशोधन आप लाये हैं, उन पर सच्चे मानों में अमल होगा ग्रीर उससे किसी भी तरह से मजदूरों का श्रहित नहीं

# 309 Payment of Gratuity VAISAKHA 6, 1906 (SAKA) (Amendment) Bill, 1982

हो पाएगा। इन घल्दों के साथ मैं अपनी बात को समाप्त करता है।

श्री गिरधारी लाल व्यास (भीलवाड़ा) : उपाध्यक्ष महोदय, पेर्मेंट म्राफ ग्रेच्युटी (अमेंडमेंट) बिल, 1982 तथा पेयगैंट आफ ग्रेच्युटी (ग्रमेंडमेंट) बिल, 1984, दो बिल सरकार ने इस सदन में प्रस्तूत किए हैं। दोनों ही स्वागतयोग्य हैं। पहले 1982 वाले बिल में 1600 रु० तनस्वाह तक पाने वाले मजदूरों को कवर किया गया है, जब कि यह लिमिट पहले कम थी। इसको बढ़ाने से अब ज्यादा तादाद में मजदूर इसकी पश्धि में ग्राजाएंगे तथा पहले से ज्यादा लोगों को ग्रेच्युटी मिल सकेगी जो निध्चित रूप से स्वागत योग्य कदम है। दूसरे बिल में जो मैनेजीरियल कैपेसिटी में रहने वाले व्यक्ति उसके प्रावधानों में शामिल नहीं होते थे. अब इस बिल के द्वारा जिनको 1600 रुपये माह-वार तक तनस्वाह मिलती है, चाहे वे मैंने-जीरियल कैंपेसिटी में ही क्यों न हों, इसके प्रावधानों में सम्मिलित कर लिए गए हैं, जब **कि वे पहले भी मजदूरों की श्रेणी में ही** आते थे। इस कदम की भी मैं सराहना करता हूं। तीसरे, ग्रेच्युटी की पेमेंट के संबंध में बड़े लोग ग्रक्सर बाधाएं और विपदाएं डाला करते थे कि कैसे उसको गिना जाए. साल में 14 या 15 दिन कैंसे बनाए जाएं अथवा कैसे मजदूर को फायदा न हो सके । ग्रत्र वर्तमान प्रावधान के अनुसार एक साल में 15 दिनों की पेमेंट सुनिधिवत हो जाने से यह मसला हल हो जाता है। अब मंत्रीजीने ऐसी ब्यवस्था कर दी है कि पुंजीपति लोग अनुचित लाभ नहीं उठा सकेंगे और यह भी स्वागत योग्य कदम है। इससे सारी व्यवस्या सुचारू रूप से चल सकेगी।लेकिन जैसा हमने पहले भी कई

# Payment of Gratuity 310 (Amendment) Bill, 1982

दफा कहा है, हमारे वर्मा जींने भी सुप्रीम कोर्ट के निर्णय का हवाला दिया, उसमें यह कहा गया है कि लगातार 5 साल तक काम करने पर ग्रेच्युटी दी जाएगी जबकि पहले व्यवस्था के मनूसार एक साल में यदि वह 240 दिन पूरे कर लेता है तो उसके बाद लगातार उसको ग्रेच्युटी मिलती रहेगी। मैं समभता हं कि सुप्रीम कोर्ट के फैसले के कारण अब्यवस्था पैदा हो गई थी और 1984 वाले बिल में जिस तरह से प्रावधान किया गया है, उससे निश्चय ही लाखों मजदूरों को लाभ होगा। क्योंकि जैसा आप जानते हैं. मैं बड़े शहरों की बात तो नहीं करता, वहां लोगों को बराबर काम मिलता रहता है और वे उसी में लगे रहते हैं, मगर छोटे-छोटे टाउंस में तथा एग्रीकल्चर क्षेत्र के नजदीक पड़ने वाले स्थानों पर ऐसे मजदर ज्यादा है जो खेती का काम तो करते ही हैं, साथ में मजद्री भी करते हैं। इस कारण बहत सारे लोग 240 दिन साल में लगातार काम नहीं कर पाते और ग्रेग्रेच्युटी से वंचित रह जाते थे। अब किए गए प्रावधान के अनुसार, पहले साल 240 दिन, उससे अगले साल 190 दिन ग्रीर जिन अस्थाई. कामों पर, जहां 6 महीने काम चलता हो. यदि उनमें भी 75 परसेंट उसका अटैंन्डैंस रही हो तो वह ग्रेच्युटी का हकदार बन जाता है। इससे निश्चय ही लाखों मजदुरों को लाभ होगा। यह व्यवस्था सरकार को पहले ही करनी चाहिए थीं, क्योंकि इससे मजदूरों को काफी नुकसान हुआ। माननीय उपाध्यक्ष महोदय, चूंकि यह लेबर से संबं-थित बिल है, हम उसको आंज भी प्राथ-मिकता नहीं देते, पार्लियामेंट भी प्राथमिकता नहीं देती और लेबर विभाग भी उसमें विशेष दिलचस्पी नहीं लेता वयोंकि हमारे यहां लेबर मबसे पिछडा वर्ग माना जाता है

APRIL 26, 1984

# [श्री गिरवारी लाल व्यास]

और उसके बारे में कोई दिलचस्पी नहीं दिखाता जिसके कारण सारी व्यवस्था में गड़बड़ पैदा हो जाती है। 1982 में प्रस्तुत किया हुआ बिल माज यहां सदन में माया है इसी से मालूम होता है कि लेबर से संबं-षित कानूनों को क्या प्रायरिटी दी जाती है। लाखों मजदूर जो सुपरऐन्यूएशन में आ गये है उनको ग्रेच्युटी नहीं मिल रही है। बहुत से पूंजीपति ग्रेच्टीं देना ही नहीं चाहते। क्या आपने इसके लिये कोई पीनल प्रोवीजन लगाया है जिससे ऐसे डीफाल्टर पुंजीपतियों को सजा मिल सके ? हमारे यहां मेवाड़ टैंक्सटाइल में 25,30 म्रादमी ऐसे हैं जो साल भर से ग्रेचुटी के लिये परेशान हैं, उस का पेमेंट नहीं किया गया है। हमने भी इस बारे में लिखा, राजस्थान के श्रम विभाग को लिखा, मंत्री जी. आपको भी लिखा कि ग्रेचुटी का पेमेंट नहीं हो रहा है। लेकिन कुछ कार्यवाही नहीं हुई । जो आदमी रिटायर हो गया उसको पेंशन न मिले झौर समय पर ग्रेचुटी भीन मिले तो उसका कैसे काम चलेगा ? लोगों को प्रोवीडेंट फंड की रसीदें नहीं मिलती हैं जिसकी वजह से वह अपने फंड से पैसा नहीं ले सकते । खानों के ग्रंदर मजंदूरों द्वारा प्रोवीडेंट फंड में 10, 10 साल से जमा की हुई राशि की आज तक रसीदें नहीं मिली हैं। इसी तरह से मेवाड़ टैक्स-टाइल मिल में पैसा जमा नहीं होता, और मगर जमा होता है तो रसीद नहीं मिलती। मिल मालिक मजदूरों के प्रौवीडेंट फंड का 30, 40 लाख र० खा गया। उसके खिलाफ कोई एक्शन नहीं लिया गया। उल्टे उसको आपने 3, 4 करोड़ रू० मौर दे दिया। आम मजदूरों के हितों की रक्षा करने वाल हैं इसलिये ऐसे मालिकों के खिलाफ सख्त कार्यवाही करें ताकि मजदूरों को प्रोवीडेंट

फंड का पैसान सां सकें। ई० एस० आई० में 20 रु॰ मजदूरं देता है भौर 30 रु॰ मालिक का कट्रीब्यूघन होता है। इसका भी 5, 10 लाख रु० मिल मालिक खा गया, सरकार के पास जमा नहीं किया जिसकी वजह से मजद्रों को दवाई नहीं मिल रही है। डिस्पेंसरी में दवाई नहीं है, अगर बाजार से खरीदें तो उसका कोई पेमेंट करने वाला नहीं है। कोई भी सुविधा मजदूरों को नहीं मिल पा रही है। आपका श्रम विभाग क्या काम करता है केवल भाषण देने से काम नहीं चलेगा। कानून में जो सुविधायें मज-द्रों को दी हैं वह उनको मिल सकें तो अच्छा रहेगा। इस तरह जो मजद्रों के साथ अन्याय हो रहा है हमें आशा है कि श्रम मंत्री होने के नाते झाप उस अन्याय को दर करेंगे ।

मंत्री जी झापको इसलिए मैं फिर दोहरा दूं कि मेवाड़ टैक्सटाइल मिल का मालिक प्रोबीडेंट फंड के लाखों रु० खागया, ई० एस० ग्राई० का पैसा खा गया, मजदूरों को दवायें नहीं मिलती हैं। मजदूरों को ग्रे चुटी साल, साल भर नहीं मिलती है। उसके बाद भी उनको पेमेंट नहीं होता है। वहां इस प्रकार के हालात हैं, उनको कोई देखने वाला नहीं है।

प्रावीडेंट फंड की रसीद नहीं मिलती है, कर्जा नहीं मिलता है जिसकी बजह से सारी समस्याएं हैं जो कि हल होनी चाहियें। मज-दूरों को जो सहूलियतें मिलती हैं, धेच्यूटी भी एक सहूलियत है। इसके अलावा मजदूरों का पैसा काटकर जो सहूलियतें मिलती हैं, उन्हें बह भी उपलब्ध नहीं हैं। इसलिये यह भी मजदूरों को समय पर दिलाने की आप कोशिय करें। 14 hrs.

लेबर डिपॉर्टमेंट का काम लेबर के हित में काम करना है न कि पूंजीपतियों के हित में करना है। डिपार्टमेंट को पूंजीपतियों से पैसा बसूल करना चाहिये झौर अगर नहीं देते हैं तो उनके खिलाफ कार्यवाही करनी चाहिये झौर मजदूरों को मिलने वाली सहूलियतें दिलवानी चाहियें। जिससे वह आपकी जय बोर्ले झौर इंदिरा गांधी जी की जय बोर्ले, वरना आज लोगबाग आपको भी गालियां देते हैं, हमको भी गालियां देते हैं। इस सारी व्यवस्था को झाप ठीक कीजिए।

आप बिल अच्छा लाये हैं, इससे मजदूरों को फायदा मिलेगा । मैं इसका समर्थन करता हूं, लेकिन मजदूरों की कठिनाइयों को निश्चित तरीके से दूर करने की कोशिश कोजिए ।

SHRI A. K. ROY (Dhanbad): Mr. Deputy-Speaker, Sir, the House is under a deception that the two Bills combined together would give much to the workers. On the contrary, the way the Bills have come reflects a very sad and unfortunate attitude of the Government towards the workers.

14.01 hrs,

# ISHRI SOMNATH CHATTERJEE in the Chair]

The benefit to labour has become a non-issue to the House, and, so the labour legislations have now been receiving or have received the lowest priority. This is the first time I am facing a situation where we have to take up and discuss at one time two amending Bills, one pertaining to the year 1982 and the other to 1984. The Bill of 1982 has its origin to a Labour conference of --- 1980 and the Bill of 1984 has come up because of a judgement of the Supreme Court in 1981. This is the urgency the present Government attaches to the interests of the workers, as shown in bringing these two small Bills.

Gratuity is not something of a charity to the workers. It is something due, it is an expression of the gratefulness of the employers to the employees, who serve the employers. If we go through the debate on the original Bill of 1972 in this House, you will find that the Members referred. to certain limitations of the original Bill. The Select Committee which processed that Bill also referred to certain limita-We expected that the new Bill tions. which would come as a comprehensive Bill would take care of those limitations, at least correct some of the principal limitations. What are the principal limitations of the original Bill ? Firstly, its coverage should have been extended.

The Indian working class does not mean the organised working class. The Members are praising the Minister. They should praise, because he has done a great thing by enlarging the scope from Rs. 1,000 to Rs. 1,600 per month. I would like to know what per-centage of the Indian working class comes under that category? What percentage? Are all legislations made for them only ? Sir, the organised working class, public sector and private sector minus Government employees. State and Central, would not be more than 5 to 6 million. That is my calculation. The total number of organised sector's workers and employees combined together, comes to 22 or 23 millions. And the number of organised sector's workers for whom these Gratuity Bills etc., are applicable, would not be more 5.5 million or 6 million workers, i.e., less than one crore. But the number of working people in India is nearly 20 crores-25 crores as per the 1981 Census. So Sir, the number of total employees and workers in the orgr = nised sector becomes one-tenth of the total working force of the country. So. it is not the point. The Minister has extended the scope from Rs 1000/- to Rs. 1600/-. I am not opposed to that, That matters very little The point is, how to extend the benefit of the Gratuity Act to those people, whose pay is less than Rs. 300/- leave alone Rs. 1,000/-.

The average worker's wage in our country is less than Rs. 300/-, that means Rs. 10/per day. I would like to know upto what extent you are bringing your Gratuity Act to benefit those people, those who work in the fields, those who build roads, construct houses, casual workers, construction workers, ec? How are you benefiting those people ? Is there any provision in your entire Bill like that ? Sir, you have made a small concession. Shops and establishments, etc., which employ less than ten people would also be covered by the Gratuity Act. But it does not specifically say whether it can be applicable to those people who are engaged in rural reconstruction, agricultural workers, road makers, people engaged in construction work, etc. You don't mention anything about it. But, what is more, what are the principal limitations regarding which, many members pointed out even in 1972 debate ?

Your condition of 5 years continuous service to make a worker eligible for gratuity would deprive the unorganised sectors from its purview. You must formulate certain rules. I do not say this in a flat way, it is very easy to say so, but attempts should be made in that direction, so that, that particular limitation of 5 years continuous service to make people eligible for gratuity, does not become a harsh condition.

The second point is how to define this continuous service. There is nothing about it in your Bill. You are very vague about it. Mr, Daga is correct when he says that your object is not reflected in your legislation. In the text of the Bill you say that you have made this concession. Suppose somebody is sick, sick leave and other things should not be considered in counting the continuity of service Or, they would be included, by counting your actual days' That is the only concession. But work you have also spoken about strikes, lockouts and other thing for which the employees are not responsible. Who will decide whether the strike or lock-out was justified ? There, you have said that it will not be included. Because of strikes,

lock-outs, closures etc., if they would not complete 240 days of service, they would be debarred from g atuity. This is what your Act says. That should be clarified.

Mr. Chairman, Sir. 1 would remind you that in 1972, you opened the debate on the Gratuity Act. Very rightly you then referred to the judgement of Justice Gajendragadkar or disqualifying the workers for gratuity, when it results from termination of service for alleged misconduct. Who decides that the employce's services were terminated rightly or wrongly? It is totally under the management's discretion, For this. should he be deprived of his earning in the form of gratuity? It means he is losing both, i. c. the job as well as the gratuity. Even if we accept that any employee has committed some fault, for a fault committeed to-day, should he forfeit the right to gratuity for services rendered earlier ?

We have this judgement given by Justice Gajendragadkar in 1961. Gratuity is earned by an employee for long and meritorious service. It is difficult to understand why the benefit thus earned for long and meritorious service should not be available to the employee, even though at the end of such service he might have been guilty of misconduct which entails his dismissal.

Gratuity is not paid to the employees gratuitously or merely as a matter of boon. It is paid to him for the service rendered by him to the employer. Once earned, it is difficult to understand why it should be necessarily denied to him, whatever may be the nature of the misconduct leading to dismissal.

But your amendment only says 'partially and totally'. That particular clause should have been removed That actually means denial of natural justice. But you have not done it, You have simply touched it and said that it is total or partial.

There are other important things. One of them is about the purview. The

second is about the denial of gratuity. Delay in payment of gratuity should be dealt with here. There must be a provision in the rules which you have made. There are rules; and in the rules, there is so much scope for confusing things. Hardly any employee, whether he is working in the private or public sector, gets gratuity in time. There should be a provision that it should be paid within a particular time-iimit If within that particular time-limit gratuity is not paid, some penalty should be there. A penal rate of interest should be levied, and paid to the employees. Unless that provision is made, you cannot ensure timely payment of gratuity to the workers. They are asked to pay interest 9 percent or 10 per cent or whatever it is on it for delaying the payment so that they are afraid to delay the payment of gratuity, because people get gratuity at the old age; at that time, they are not in a position to pressurise you for quick payment and all that So. for old people, infirm people, you must be very considerate and any delay should not be excused.

You have mentioned about the misconduct of the workers; they should be deprived of the gratuity. What about the misconduct of the employers? What provision have you kept for them? It is only three months imprisonment or Rs. 1000 fine. Is it any deterrent measure against the employers? It should be made 3 months imprisonment and Rs, 1000 fine. Instead of 'or' it should be 'and'.

So, these are things which should be corrected. Though I do not approve of the Bill, this Bill should have sent to a Select Committee and asked them to give their report within 2 or 3 months, so that they can give certian very comprehensive suggestions, so that those points which were agitating the mind of the people should have been correctly incorporated in the Bill; and we could have presented really a beneficial Bill.

श्री झड़बुल रुशीव काबुली (श्रीनगर) : आनरेबल चेयरमैन साहब, यह बिल जो इस

वक्त हाउस के सामने लाया गया है बल्कि दो बिल हैं पेमेंट आफ ग्रेच्युटी (अमेंडमेंट) बिल, 1982 ग्रीर पेमेंट ग्राफ ग्रेच्युटी (अमेंडमेंट) बिल, 1984---इनमें जो भी कंशेशंस दिए गए हैं उनका तो मैं स्वागत करूंग। । जहां पहले 1600 रु० की आमदनी की हद मूकरंर थी बढ़ाकर 160() कर दिया गया है और साथ ही साथ पहले के ऐक्ट में जो कमियां रह गई थीं उनकी बजाहत की गई गई है, पेमेंट आफ ग्रेच्युटी ऐक्ट. 1972 की कमियों को दूर करने के लिए कदम भी उठाए गए हैं। इसमें वाजय किया गया है। कि कंटिनुग्रस सविस में जो माइन में काम करने वाले लोग हैं या इसी किस्म के जो दूसरे इस्टैबलिशमेंट हैं जहां बर्किंग डेज 6 दिन हैं उनके लिए कान्टीन्यड स्विस Cantiniued Service) 190 दिन मुकरंर किए गए हैं। बाकी केसेज में 240 दिन मूकर्रर किए गए हैं। माइनसं के लिए आधे साल के लिए 95 दिन मुकरंर किए गए हैं और इसी तरह से बाकी इस्टैबलिशमेंट्स में 120 दिन मुकरंर किए गये हैं जोकि एक बहुत अच्छी बात है और इसका स्वागत होना चाहिए।

लेकिन एक बात मेरं। समभ में नहीं आ रही है। जो पेमेंट आफ ग़ेच्युटी ऐक्ट, 1972 है उसके आब्जेक्ट्स ऐंड रोजन्स में यह बात कही गई है कि यह फैंक्टरीज, माइंस, झायल फील्ड्स, प्लांटेशंम, पोर्ट्स, रेलवे, दूसरे किस्म के कारखानों और शाप्स के सिलसिलें में बनाया गया और फिर यह भी कहा गया है:

"The matter came up for discussion in the Labour Ministers' Conference held in July, 1980 and the Conference has also made certain recommendations."

APRIL 26, 1984

# [श्री अब्दुल रशीद काबुली]

सवाल यह पैदा होता है कि दस साल तक सरकार कहां थी। 1972 में जो ग्रेच्युटी ऐक्ट बना उसमें तबदीली लाने के लिए मज-वूरों ने आबाजें उठाई, हर तरफ से इस सिलसिले में सरकार की तबज्जह दिलाई गई फिर ऐसा क्यों हुआ। कि दस साल तक सरकार ने कोई दिलचस्पी नहीं दिखाई ? हालांकि सरकार का दाबा है कि सरकार मजदूरों के लिए काम कर रही है। जुलाई 1980 में लेबर मिनिस्टर कान्फ्रेंस हुई, जिनमें कुछ पास हुई, 1980 से 1984 तक चार साल और गुजर गए, ग्रब 1984 में इस एक्ट को पास कर रहे हैं। मैं इस बात को कहे बिना नहीं रह सकता कि सरकार ने खास तौर से श्रम मंत्रालय ने कोताही का सबूत दिया है। इससे जाहिर होता है कि म जदूरों के साथ जो हमदर्दी करनी चाहिए थी ग्रीर पसामांदा लोगों के लिए सरकार को जो कदम उठाने चाहिय, उनमें, सरकार ने अपनी जिम्मेदारी का सबूत नहीं दिया है। इसके लिए मुक्ते बड़ा दुख हो रहा है। इस के साथ मैं यह भी अर्ज करना चाहता हूं कि मजदूरों के लिए सिर्फ़ लिखा-पढ़ी या बिल बनाने से मसायल हल नहीं होंगे । मेरे स्थाल से करीब एक करोड़ मजदूर इस कानून की गिरफ्त में आयेंगे । फाइनेंशियल मैमोरेंडम में बताया गय। है सैन्ट्रल इंडस्ट्रियल रिलेशंस मशीनरी का फायदा उठाकर कानून को इम्पली-मेंट करने के लिए इन्सपेक्टर्स नियुक्त किए जाएंगे जिन पर रिकरिंग एक्सपैंडिचर 18 लाख के करीब होगा और नान-रिकरिंग एक्सपैंडिचर दो लाख ६० के करीब होगा। इस रकम से तकरीबन ऐक करोड़ मजदूरों के लिए काम कियाजारहा है। जिनको इस कानून की गिरफ्त में लाया जा रहा है। मैं जानना

## Payment of Gratuity 320 (Amendment) Bill, 1982

चाहता हूं इतनी थोड़ी सी रकम से किस हद तक भपनी ड्यूटी को अन्जाम दे पाएगा। यह इतनी बड़ी जिम्मेदारी का काम है। सब से बड़ी बदकिस्मती यह है कि प्राईवेट सैक्टर में सबसे ज्यादा घांघली है, सबसे ज्यादा नाइंसाफी हो रही है। मजदूरों के हक तलफ हो रहे है, उनके हकूक पर डाका डाला जा रहा है। मैं खुद ग्रपनी रियासत में देख रहा हूं कि हजारों लाखों की तादाद में दस्तकार प्राइवेट सैक्टर में काम करते हैं, जो किसी भी हाल में लेबर लॉ के तहत नहीं आते हैं। जब ग्रेच्युटी का प्रश्न आता है तो सारी की सारी लिस्टें बदल दी जाती हैं। न सिफंइसी को दुइस्त करना पड़ेगा, बल्कि ग्रेचुटी के मामले में सैकड़ों केसेस हो रहे हैं, न सरकार के पास कोई ताकत है और न अमली तौर पर कुछ काम ही हो रहा है। इसके ग्रल।वा प्रोवीडेंट फंड और मैडिकल ऐड इत्यादि बातें है, जिन पर सरकार को ध्यान देना चाहिए। इसलिए मैं आपसे जानना चाहता हूं कि यह जो बिल आप लाए हैं, इसके इम्पलीमेंटेशन के सिलसिले में ग्राप क्या करने जा रहे हैं ? दस बरस तक आप कुछ नहीं कर पाए हैं, 1972 से 1982 तक, 1982 में नया कानून लाए और 1984 में अब यह कानून ला रहे हैं, देखना है कि किस हद तक माप प्राइवेट सैक्टर को फैस करेंगे। किस हद तक आप अरूरतमंद हैं। (courageous) मजदूरों के प्रोवीडेंट फंड और उनके जो बाकी हकूक हैं आप किस तरह से दिलायेंगे ?

में एक बात यह भी मजं करना चाहता हूं कि इम्पली में देशन मशीनरी में भी काफी घपला होता है। इंस्पैक्टसं को आपने इस काम को करने की जिम्मेदारी दी है, मगर बह अमली तौर पर कानून को इम्पली मेंट नहीं करता है, तो उसके खिलाफ किस

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कानून के तहत कौन सी कार्रवाई करेंगे। कौन से एक्शांज उनके खिलाफ लेंगे----इस बिल में इसके बारे में वजाहत नहीं की गई है। मेरी नजर में यह बहुत जरूरी है कि जिन इंस्पैं इटसंको इस कानून को अपनी-जामा पहनाना है --- वे अगर मपने फराएज को सही तरीके से सरग्रन्जाम न दें, तो उन के खिलाफ क्या कार्यवाही की जायगी इसकी वजाहत होनी चाहिये । आम तौर पर इस तरह की शिकायतें स्राती हैं----प्राइवेट सैक्टर के साथ उनकी ग्रंडरस्टैंण्डिंग हो जाती है, मजदरों के हित में काम न करके वे कार-खानेदार की मदद करने लगते हैं। इस बिल केलागु होने से जाहिर बात है प्राइवेट सैक्टर के लोगों को बडी दिवकन बर्दाश्त करनी होगी. उस रकम का कम करने के लिये इंस्पैक्टर्स को करप्ट करने की कोशिश की जायगी और वे उनसे पैसा लेकर मज-दरों के मुफाद के खिलाफ काम कर सकते हैं। जिन इंस्पैक्टर्स को आप यह जिम्मेदारी दे रहे हैं कि वे रजिस्टरों की जांच करें, जो कानू-शिकनी हो उसके खिलाफ सरकार को बतलायें ताकि उन मालिकों के खिलाफ कार्यवाही की जा सके बिलफर्ज अगर वे अपने फराएज सही तरीकें से सरअन्जाम नहीं देते हैं तो उनके खिलाफ श्राप क्या एक्शन लेंगे ?

"The matter came up for discussion in the Labour Ministers' Conference held in July, 1980 and the Conference has also made certain recommendations."

موال یہ بید ہو اب مرد دس سال یم سرکار کو ان تک ۱۹۵۲ میں جو تو بیکونٹی ایک بنا اس میں تبدیل لاف سے لئے مزدوروں نے آوازی الحابی مرطرف سے اس سلسے میں سرکار کی توجد ولائی گئی جرالیہ کمیوں مراک کہ سرکا دکادیوہ مسرکا ریے کو ف دلچسین میں دکھائی - حالا تکہ سرکا دکادیوہ سیے سرسر کا نفرنٹ ہون جن میں کچہ سفارت سے باس

مر سرکار کے باس کوتی طاقت ، درز عمل تحور مرجم کام می ہور باب - اس کے علا دہ يراويد نين فند اورميد نيل ايترا تیاری باتیں میں جن پر مرکز مرکو و حدیان دینا جا ہے ۔ اس لئے بس آب سيرج سنا جابت بول كديد جوبل آب لاسخ بول س کے امپر ایسکشن کے ست سط میں آب کیا کونے جا رہے جی دس برس مك آب كم شيس كريات إي - ٢٠ ١٩ ١٩ مر، مَن قانون لائ ادر ١٩٨ مين اب بن قانون لاس بن د بجنب کر کس حد تک آب الیو بیٹ مسیکر کو فیس کر سنگے کسی ترک آب جراکت مند میں مزدوروں کے براد پڑنیٹ کنڈ اور باقی جوان کے حقوق ہیں آب کس طرح سے دنا منگے۔ بس ابک بابت پیجی عرض کرنا چا نها جول که امیکینشن بنرى ين كافى كميلا بوتاب ، انتيكر سكواب فاس کام کو کرنے کی دمیر داری دی ہے ۔ اگرو دعلی طور میتوانون کو امپدیمیٹ نہیں کرنا ہے تو ایسے خلاف کسی قانون کے محت کو ن می کار رو انی کر س کے ابر کون سے ایکشنز ان کے خلاف لینے ۔اس بل میں اس کے یارے مربضاحت نہیں کی گئیسیے ۔ میری نظرمیں یہ بہت حزد دی۔ کہ جن انسپیکٹرس کواس قالون کوعملی جامہ میںا ناہے وہ اگر اين ذائف كو صحيح طريقه سے سمرانجام منہ دیں توان شکے خلاف کچپ كُنْ رِدِوْ ا بْي كَي جائم كَي - اس كَي وَصَّاحت مِو بْ جابيمُ - عامطور یراس طرح کی شکابتیں آتی ہیں . پرائیوسٹ سکم کے ان طمے انڈراسٹنڈ نگ ہوجاتی ہے ۔ مزدور وں کے ہت میں کام بنہ کر کے وہ کارخانہ دارگی مدد کرنے لگتے ہیں ۔اس بل کے لاطحو ہونے سے طاہ بات ہے برائیوٹ سیکڑ کے لوگوں کو بڑی دىتى بردائست كرنا بون كى اس رقم كوكم كرف سى ك انسکاس کو کرمیٹ کرنے کی کوشش کی جائے گی اور دہ ان بیسے بسید ہے خرمزد وروں کے مفاد کے خلاف کام کر سکتے یں .جن ان پیکاس کوآب ی فقرداری سے سے اس کوہ رتجسرو كالجاج كدين جوقا يون شكنى مواسك خلاف كركو

الان - ١٩٨٠ م ٢ ٨ ٩ أكم چارسال كزر ك اب ١٩٨٠ چس اس ایکٹ کو باسی کرسے ہیں ۔ میں اس بات کو کچے بین ہیں دہ سکیا کرمسرکا دنے خاص طور سے مشرح منترالے نے کوہای کا نبوت دیا بدم ۔ اس سے خط ہر ہوتا ۔ بی کد مزدار وں کے مساتھ جو ہمدود ی کرفی با سینیایتی اور پس ما ندہ توگوں کے لئے سکار كوجوقدم تلماسه جابي التي الس مي سركلرف اين دمارى كاتبوت مس بوكايت است لي محمد لرادكم جور با يدان کے کہا تھ تھی یا بھی عرف کر : یہ ہتا ہوں کہ مزدور دن کے لیۓ م ن بھی بڑھی این سائٹے سے مساکل طرنہیں ہوں کے میں یہ خیال سے قریب ایک کروڑ مزد دراس قایز ن کی گرفت میں آیئر گے۔ فائنینٹ ال میموزنڈ م میں بتمایا کیا ہے ار... رو المستينين كافا رو الطاكر فايذ ف كواللمن بی کے ایک کنسٹ کر کر کر ہا کچیے جا بی گے جن پر ر کرنگ ایک پینید تحرم ۱ ما که ک فرسیب ہو کا اور ما ن. سید بی د ولاک رو با کے قریب موکا ماں رقم المته تفريبًا آب كردام دور ف كم الح كام كيت جار بابیجہ حرّن کو اس قانوں کی گرفت میں لایا جارتھا ہے میں جا نتاج*ت اہت*ا ہوا۔ آپنی <sup>م</sup>توڑی سی رقم سے **کر حسد** بیر برسل بنی ڈیونی کوانجام و بے پائے گا - یہ آنتی یڑی دمدداری کا کام ہے ۔ سب سے بڑی بتسبتی پر ہے ر بی سب سے زیادہ د صاند صل بوتی یسے زیاد دیکا لغیاقی *مور ہی کہ مے* مردوروں یے جق ملقب ہورہے ہیں۔ ان کے حقوق سریڈ اکہ ڈ الاجاما یم - بېر جو داينې رياست بې**س د که**ر با **بول که صندارد**ن ال کر، آحداز نین است کا رہا بیکو میٹ سیکٹر میں کا م کرتے ہی جوکسی بھی جاں میں لیسرپا کیج تحت نہیں آنے تھیں بیب کریچویں کریکتین آیا۔ یے تومباری کی ساری سنگیب ہدل دی جاتی ہوں۔ نہ صرف اس کو درست کر نا پڑ ہے گا بلکہ كريجونه يرمعان بي سيكرد ل سيسر بوق يرت بي

کو ښلایش ناکدان مالکوں کےخلاف کارر د ان کی حاصیح ۔ بالفن اگردہ بینے ذرض صح طر**یقے سے** سرانجام نہیں دیتے ہیں تو ان کے خلاف کیپ کا ایکٹن لیں گے۔ جاري برب آبيداس قانون ميس نبسد بي لاسي بس - اور جو کمنٹ بنز آپ نے دیئے ایں پر بہت اچھی بات نے لیکن ۱۰ سال کا عرص کر روبا نا سسر کا رکی بہت بڑی کو ہای ظاہر کرتا ہے۔ یہ وانون جیلے ' ناچا ہیئے تھا۔اور اب تك المبليمنيط جوناجام يتحا -

SHRI SUBODH SEN (Jalpaiguri): Before I come directly to the Bill I should say that the Government should have come with a more comprehensive Bill in the light of the experiences that we all have earned during the last ten years.

The provisions of the Payment of Gratuity Act are not negotiable. It should be adhered to both by the employers as well as the employees. But in the case of weaker sections, what do we find today? Take for instance plantations. When we go there, we find that some 100 or 200 persons who have already retired. have not received any gratuity. There is a great backlog. It did not behave either on the part of the trade unions or the Government officials to negotiate. We have to negotiate payment of gratuity on instalment basis The Government should have taken notice of it. Why should the Government not come with a comprehensive Bill ? Like Provident Fund, Gratutity Fund will have to be created by the enterprise. In the life insurance business. there is assessment of life fund and life fund is kept apart. If in computing the balance-sheet the employer can very well set apart for depreciation, why should not the Government prescribe something in the nature that assessment should be made every year as to the liability in regard to the gratuity and create a gratuity fund like the provident fund and other funds and out of that gratuity should be paid outright and it should remain non-negotiable and non-instalment payment?

Another thing which has come to our notice is this. Nowaday, in the time of

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recession, quite a large number of enterprises very often changes hands. What happens? The new employer tells the workers that he is not going to take up any responsibility for the payment of gratuity or even the arrears or wages, which are likely to have accumulated over the bygone years. When the Act is being amended, some provision should be made to protect the workers. So, the new employer should be made responsible for the payment or gratuity and other dues of workers.

PROF. N. G. RANGA (Guntur): Is it not there now ?

SHRI SUBODH SEN: Suppose one company owns ten tea estates and it sells one estate to a new company, which is a different company. Then there is no continuity of the company. I think there is no precise law to regulate it.

Coming to 26 working days in a month, some companies and establishments have started saying that they would take into account 13 days, and not 15 days' wages, for every year of service. This is a new development during the last two years, which should be taken care of while bringing new amendments.

Then you have practically sought to remove the clause regarding superannuation. According to the parent Act. "superannuation" in relation to an employee means (I) the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment; and (ii) in any other case, the attainment by the employee of the age of fifty-eight years. How you have sought to remove the provision about 58 years. You have simply stated :

"Superannuation', in relation to an employee means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment;"

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Unfortunately, there are establishments in our country where there are no conditions of service stipulated, where there is no system of giving an appointment letter. So, if you remove that clause then it would be interpreted in any way the owners like. So, I think this clause should have been retained.

Regarding the forfeiture of the right to gratuity in the original Act it is stated :

- "the gratuity payable to an employee shall be wholly forfeited
  - if the service of such emp-(i) loyee have been terminated for his riotous of disorderly conduct or any other act of violence on his part."

You have not thought of removing the main difficulty. You have only modified it. For the words "shall be wholly forfeited". You want to substitute the words "may be wholly or partially forfeited". But what is the Connotation of "riotous or disorderly conduct"? Who is to determine it ? Sir, I come from a very backward area. I have noticed that for three months the workers in some plantations have not been paid their full wages. So, if on the third month some four hundred workers come to the office and ask the Manager to make the payment since they are starving and that they have got to feed themselves and their family members, the Manager may issue a chargesheet for the disorderly behaviour and riotous conduct and by that way some five, six or ten That way their leaders are dismissed right to payment of gratuity is forfeited. I am sure that will be deemed as disorderly behaviour and riotous conduct by the employers and they will issue chargesheet like that. We have got some model rules of standing orders. But the model rules of standing orders need to be amended in relation to this. In the period of recession it will invariably come to your notice that the workers will not be paid and that they will be coming in block demanding their wages. For that

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reason their services will be dismissed and that they will be taken to task. So, the question is, for this reason should they forfeit their right to payment of gratuity ? All these are regarding the Amendment Bill No. 133 of 1982. Particularly in this regard I would emphasise that Clause; 58 years should be retained and that it should not be deleted.

As regards the new Bill of 1981, I would say-as Shri Mool Chand Daga bas said and many of our friends have also said-in Clause under 2A for the purpose of this Act the qualifying clause-really to qualify lay-offs strikes, lock-outs, or cessation of work not due to any fault of the employee has been stated in a way that if will infringe upon the right of the workers. After all, if there is a strike, the question is : is it justified or is it not justified; if there is a lock-out, is it justified or not justified? In case of strike, if it is justified, then the fault lies with the owner and if it is not justified then the fault lies with the employees. Who will determine this? Then do you mean to say that notwithstanding the fact that even if a Union and the employer come to an agreement for a settlement, for this simple issue, they have to rush to the tribunal to decide whether it was justified and with whom lies the fault. So, this qualifying clause that 'not due to any fault of the employee' should be removed. All cases of lay offs, strikes, lock-outs, cessation of work etc. should be regarded as a period within the uninterrupted service. That is my humble suggestion.

No, the question is what do you mean by cessation of work ? From my experience I have found that on alleged constraint of funds, employers have reduced, rather imposed the reduced working days per week to three or four days There is a method for doing so. For three or four months they carry on this practice. That is, you may call it 'work punctuated by c.ssation of work' or you may call it 'cessation of work punctuated by work'. So, what is the suggestion here? The employers themselves have imposed cessation of work sometimes for three days at a time or

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cessation of work on every alternate day. So, these things need to be clarified. Otherwise, I think the purpose will not be served Obviously the purpose is good, but it may not be served and it may give rise to dissentions.

So, while supporting this, I would request the hon. Minister to bring a comprehensive Bill in the light of the experiences of the working of this Payment of Gratuity Act for the last 10 or 12 years to plug all the loopholes intention with which 50 That the passed will the Act has been be realised.

With these words, Sir, I conclude.

\*SHRI ERA MOHAN (Coimbatore): Mr. Chairman, Sir, on behalf of my party the Dravida Munnetra Kazhagam, I wish to make a few suggestions on The Payment of Gratuity (Amendment) Bill, 1982 and Payment of Gratuity (Amendment) Bill, 1984, which are being discussed together.

The hon. Members who preceded me have spoken eloquently and elaborately about the provisions of these two Bills and also about the steps to be taken for strict enforcement of the provisions of these Bills Hence I would be brief in my remarks.

The present act was passed in 1972 and during the past 12 years many defects and deficiencies have been noticed, which are sought to be removed by these two bills now in 1984. Though these bills have been brought forward belated y, yet I welcome them because the workers are being assured of legal protection for their rightful claims and the workers are the beneficiaries. I wish to take this opportunity for making a few suggestions for the good of the workers in our country.

In 1980 the State Labour Ministers' Conference was held in New Delhi, in

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which many of the problems confronting the workers were highlighted and many suggestions were also made at this Conference. It has taken four years for the Government to give legal shape to the decisions arrived at this Conference. In 1980 the ceiling of Rs, 1200 per month was there for gratuity entitlement. The State Labour Ministers' Conference felt in 1980 that this ceiling was very low in view of the then prevailing value of rupee and suggested the enhancement of this ceiling to Rs. 1600. After four years this ceiling of Rs. 1600 is being enforced through this Bill. I need not tell you what is the value of rupee today. What was considered feasible in 1980 is not really feasible today in 1984 because of the steep fall in the value of rupee. The Government on its own should have enhanced this ceiling to Rs. 2200 so that wide spectrum of labour can become entitled to gratuity. Atfer five, six years even this Rs. 2200 may have to be revised upwards because by then the value of rupee would have still gone down. Since the Government have not done this suo motu, I demand that this ceiling should be raised to Rs. 2200 by the Labour Minister. The workers should not become the scapegoat for the Government's inordinate delay in implementing the decision arrived at in 1980. In view of the prevailing value of rupee, the ceiling of Rs. 1600 for gratuity entitlement should be enhanced to Rs. 2200.

Sir, the provisions of these two Bills will not be applicable to lakhs of workers who are withering and wilting under the causal labour system and the contract labour system. The Government which swears by the name of labour welfare is also not an example to be emulated by the There are about 2 lakhs private sector. of casual labour on the Railways. The Central Government is Manning the Railways. The State Governments cannot be blamed for the existence of casual labour on the Railways. These two lakhs of workers are denied the gratuity facility. The hon. Minister of Railway on the floor of this House expressed his antipathy towards the casual labour on the

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## [Shri Era Mohan]

Railways. But at the same time he pleaded his inability to get rid of this system If the Cabinet Minister in charge of Railways, where there is this system of casual labour, pleads his helplessness in doing away with the system of casual labour, I wonder who else can get this done. Can anyone go to a Court of Law and get this blot removed? This kind of administrative policy of running with the hare and hunting with the hound must be stopped immediately in the interest of workers on the Railways. The casual labour system on the Railways must be ended forthwith.

It is not merely the Railways who are to be blamed. In many of the Central public sector understandings the casual labour system is prevalent. In private sector we have the contract labour system. We have in Shri Veerendra Patil a Labour Minister who is committed to the cause of labour welfare. He must ensure the abolition of casual labour and also the contract labour system in our country. These workers must become entitled to gratuity

Another important issue is the misuse of gratuity money by the private sector. Proper accounts are not being maintained. The gratuity money is being utilised for personal aggrandisement by the indus. trialists. There is presently no check on this. I demand the creation of a separate fund exclusively for gratuity. I suggest that the Government must also have regular check on the use of gratuity money for other purposes. If necessary, the Government should not hesitate to have a separate law for the purpose of prohibiting the use of gratuity money for other purposes.

Through the payment of Gratuity (Amendment) Bill, 1984, the Government has annulled the obnoxious judgement of the Supreme Court which denied gratuity to workers who bave put in less than 240 days of continuous services. I welcome this Bill because I represen Coimbatore Parliamentary constituency

which has the largest labour force. Lakhs and lakhs of workers are employed in the textile mills here. After the Supreme Court's Judgement in 1980, during the past 4 years thousands and thousands of workers have retired after having put in 30 years and 40 years of service. They have all been denied gratuity by the textile mill owners who took shelter under the Supreme Court's judgement They just get gratuity for 5 or 6 years of service only. All their hopes and aspirations for a happy retired life have thus been belied. To a question of mine in 1981, the Labour Minister had replied that the Government would soon bring an amendment to the Act. This amending Bill has crome only in 1984. This is a classic illustruction of sluggish working of the Govermen even in regard to labour welfare. Inrgue upon the Labour Minister that retrospsective effect must be given to the provisious of this Bill so that thousands of workers who have retired after the Supreme Cour's judgement are also enabled to get their full gratuity. I do not know whether ways and means have been evolved for this purpose. If they are not there, they should be evolved. The sufferings of workers must be redressed, if necessary even be further amending the labour laws to plug the loopholes. I welcome these two Bills. While concluding my speech, 1 demand the abolition of casual labour and contract labour system which deprive the workers from getting gratuity and other benefits from the labour laws.

With these words I conclude my speech.

MR. CHAIRMAN : I am having names of 4 hon. Members, May I request the hon. Members that each may take between 5 minutes and 7 imnutes.

Shri S. N. Jatiya.

श्री सत्यनारायण जटिया (उज्जैन) : सभापति महोदय, उपदान संदाय श्रधिनियम 1972 का संशोधन के रूप में पेमेंट आफ ग्रेच्युटी ऐक्ट, 1972 के संशोधन में और

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संशोधन इस प्रकार है, इस विघेयक की घारा 2 की उपधारा (1) मे जो वर्णन किया है उसको मैं पढ़ देना चाहता हूं। उसमें कहा गया है कि 1,000 रु० शब्दों के स्थान पर उन चारों स्थान पर जहां वे आते हैं 1,600 रु० शब्द रखे जायें। यह संशोधन इस विधेयक के माध्यम से लाना चाहते हैं, और इसके लिये जो उद्देश्य और कारण में बताया गया है उसमें कहा गया है कि निर्वाह ब्यय में हुई वृद्धि के कारण मजदूरी स्तरों में जो बढ़ोत्तरो हुई है उसको दृष्टि में रहते हुए निर्वाह ब्यय में वृद्धि के कारण अधिनियम की ब्यापता का विस्तार उन ब्यक्तियों पर किये जाने का प्रस्ताव है जो 1,600 रू० प्रतिमास तक मजदूरी ले रहे हैं।

मतलब यह कि निर्वाह व्यय बढ़ा है, उस आधार पर 1 000 रु० के बजाय 1,600 रु० रखना उपयुक्त होगा । 1600 रु० का ग्राधार क्या है ? कोई बेसिस तो होना चाहिये ? 1,700 रू० या 2,000 रू० क्यों नहीं ? उसका आधार क्या होगा ? यदि मूल्य सूचकांक ही लें तो उसकी तुलना कर लीजिए 1971 के प्राइस इंहैक्स के ग्राधार पर। उस साल यदि बेस 100 मान लें तो इस वर्ष 1984 मार्च में बढ़कर 323.3 है। आज तक जो मंहगाई बढ़ी है सरकारी आंकड़ों के अनुसार वह तिनुनी बढ़ी है। उपभोक्ता वस्तुग्रों के भाव 3 गुना बढ़ गये हैं। अगर ग्रापने मंहगाई को ग्राधार बनाया है तो यह हजार के बजाय 3 हजार होना चाहिये। लेकिन मुझे इसका कोई आधार दिखाई नहीं देता ।

अगर 60-61 को आघार वर्ष मान लें तो जो फरवरी 1984 का 'प्राइस इंडैक्स' मिला है उसमें 5!9 है तो उससे तो यह 5 गुना बढ़ गया। 70-71 को प्राधार मान लें तो

3 गुना बढ़ गया। यब आप बतायें कि इस का आधार क्या है? यह 1000 की जगह 1600 कैसे रखा गया है ? इसे 1600 की बजाये 1700, 1800 भी रखा जा सकता था। जब आप उत्तर दें। मैंने मूल्य सूचकांक के आंकड़े इसलिये दिये हैं कि आपने उद्देश्य में कहा है कि निर्वाह करने के लिए बड़ी मंहगाई बढ़ गई है इसलिए यह सारा परि-वर्तन किया है। मैं सम भवा हुकि यह साइं-टिफिक नहीं है। इसमें ग्रापने सारे वेजेज भी मिलाये हैं श्रीर मंहगाई भत्ता भी शामिल है। जो कर रहे हैं, तो उपकार के बदले प्रतिकार मिल रहा है। यह उसकी सेवाओं के बदल मिलना चाहिये और यह विलम्बनीय वेतन है जो कि उनको मिलना चाहिये था। यह हम उस को दे रहे हैं सेवा निवृत्ति के बाद जिससे वह परिवार का ठीक से जीवन यापन कर सके। यह ठीक है, लेकिन मूल विधेयक का जो माधार है, उसमें सुधार की आवश्यकत। है।

आप यह विधेयक टुकड़े-टुकड़े में ला रहे हैं। अगर आपको परोभना है, कुछ देना है तो पूरी थाली परोसिए, टुकड़े-टुकड़े में मत दीजिए। आप श्रमिकों का भला चाहते हैं तो चाहे दाल रोटी दीजिये, ठीक दीजिये, लेकिन दाल में पानी मत मिलाइये। इस तरह से दाल का काम का पता नहीं लगता है।

जो विधेयक ग्राप लाये है, यह शुरूआत है। कुछ न मिलने ते जो कुछ मिले ग्राच्छा है लेकिन यह नहीं कि कुछ तो देना है इस लिये आव यह करें।

सभापति महोदय, आप मजदूरों के बारे में बहुत कुछ जानते हैं कि उनके बारे में कोई कायंवाही ही हो नहीं पाती। भविष्य निधि के बारे में 24 अप्रैल को मैंने एक प्रश्न पूछा या सं० 8537। उसके जवाब में

श्री सत्य नार। यण जटिया] बताया गया है कि जो भविष्य निधि का भगतान नहीं किया गया है उसकी राशि 40 करोड़ 7 लाख है। जो जमा नहीं कराया गया है प्रबंधकों के द्वारा ग्रीर जिन एस्टै-बलिशमेंटस को छुट दे दी गई है. वह राशि है 43.37 करोड़ । इस बारे में कोई कारगर कार्यवाही नहीं हई है। उसका कोई परिणाम नहीं है। इस तरह के लुंज-पुंज नियमों के आधार पर, जिनका कोई प्रभावी परिणाम नहीं हो सकता, कोई लाभ नहीं है। आप इन श्रम कानूनों को टुकड़ों में न करके एक बार पूरी श्रम नीति बनायें और सेन्ट्रल ट्रैड युनियन आर्गेनाइजेशंस को ग्रामंत्रित कीजिये और फिर निणंय कीजिये। आप करते तो जरूर हैं, लेकिन बहत देर से करते हैं, पता नहीं क्या रुकावट आती है। श्रम मंत्रालय शमंकी स्थिति में नहीं आना चाहिये। "श्रमेव जयते'' का एक नारा दिया गया था जिसका अर्थ था कि अस की ही विजय है। किन्तू ग्राज तो श्रम की जगह बंधुआ की स्थिति हो गई है।

सारे मजदूरों के बारे में पूरा विचार कीजिए । आज खेतिहर मजदूरों को कोई देखने वाला नहीं है । इंस्पेक्टर बढ़ाकर झाप सारा करने वाले हैं, मैं कहना चाहता हूं कि जो आप करना चाहते हैं वह करना चाहिये, परन्तु जिस प्रकार की मशीनरी श्रौर कानून ग्रापके पास है, वह बिल्कुल ग्रपर्याप्त हैं, बाला नहीं है । इसलिए मजदूरों का हित होने बाला नहीं है । इसलिए मजदूरों के कानून को इंपलीमेंट करने की दूष्टि से पुख्ता कानून लाईये । जितना बढ़ाया है, उसके बारे में जितना मजदूर को मिलता वह तो लेना चाहिये । लेकिन झागे के लिए संघर्ष करना चाहिये । जितना झापने दिया है, बह साइंटि- फिक नही है। आप इसे साइंटिफिक बनायें, इसका ग्राधार बनायें। इससे मुफ्रे प्रसन्नता होगी। ग्रापने जो समय दिया उसके लिये बन्यवाद।

SHRI HARIKESH BAHADUR (Gorakhpur): Mr. Chairman, I do not want to tax the patience of the hon. Minister. Therefore, I will be brief in my speech. I will take only three or four minutes.

I have already said something on this subject.

So far as bringing this legislation is concerned, I have a word of appreciation for it. This should have been brought forth earlier in the House. The hon. Minister is bringing forward this legislation at least at this stage. I appreciate it.

The workers should have the fundamental right of getting payment of gratuity. The workers may be in the private sector or public sector. They may be permanent or casual. But they must get this benfit.

#### 15 hrs.

[SHRI N.K. SHEJWALKAR in the chair]

Gratuity should be paid to the agricultural workers, to the construction workers and to the workers in various private sector organisations and factories etc. working temporarily on daily wages beccause they are the greatest sufferers at present. If Government is really interested in the welfare and good of these poor and miserable workers, it must come up with a comprehensive legislation for payment of gratuity to these workers. Some of hon. Members have demanded such a legislation and I hope that the hon. Minister will give consideration to this demand.

About 25,000 railway employees are working in any Constituency. Therefore,

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I am compelled to speak on this amendment to the Bill. I know their miseries and their problems after their retirement from service. They are not being paid their gratuity in time. This is the greatest tragedy. Gratuity is of great help to the workers. They immediately require this amount, once they retire. But we find that some of them are very much harassed. They are not paid gratuity in time. That is why, they are always getting frustrated and running to us all the time.

I would like to request the hon, Minister to see that the workers after retirement must get gratuity immediately so that they may not feel harassed.

Lakhs of casual workers are working in Indian railways and they are deprived of gratuity. These workers are unfortunate that they are not made entitled to receive gratuity. Therefore, I have demanded that casual workers should be made entitled for gratuity and this gratuity should be paid to them also. Some of the casual workers have been working for the last ten to twelve years. But unfortunately they are not yet declared permanent in service This is also a very serious matter.

We have raised this point in this House several times before and requested the Minister of Railways and the Minister of Labour also to fulfil our demand. But so far nothing has been done in the matter.

A general assurance is given to the Members that the casual workers would be made permanent, all their problems would be solved and they would get all the benefits of the permanent employees. Effective action should be taken in this regard immediately.

I would like to make the demand that even if the workers are not made permanent, they should be paid gratuity. The workers whether permanent or temporary put in hard labour as a result of which production is increasing in yarious sectors. It is through the hard

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labour of the workers that the economy is improved. And if those hard-working workers are denied the service facilities like gratuity, they get demoralised and they lose all interest in increasing production and in the working of the organisation in which they are employed.

Therefore, I earnestly request the hon. Minister to look into this matter and specifically ask his colleague the hon. Minister of Railways to provide the payment of gratuity to the casual and permanent workers in the railways so that they do not get frustrated and feel the satisfaction of getting all the service benefits. This would go a long way in increasing production.

SHRI BRAJAMOHAN MOHANTY (Puri): Mr. Chairman, Sir, I had given notice of an amendment to Clause 4 of the Bill, to insert "within three months" after the word 'shall" on page 3, line 16. Clause 4 of the Bill as it stands now reads:

"The Controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the employer."

Although I had given notice of the Amendment, I did not press it. But all the same I would urge upon the hon Labour Minister to take this into urgent consideration. As a matter of fact, labour disputes have been lingering on for years together as a result of which discontent is spreading resulting in manifestation of violence and different forms of unrest which is not desirable. If we are to make this working class democracy a success in India, my submission would

#### [Shri Brajmohan Mohanty]

be that all controversies and disputes must be settled at the earliest point of time. So, my request to the hon. Minister would be that he should take this fact into consideration and provide a time limit for disposal of the disputes so that the disputes are settled expeditiously and a healthy atmosphere is created.

Two Bills are there, one arising out of the Supreme Court judgment and the other arising out of the fact that the, value of the money has gone down and, therefore, a higher income group habeen included. It is allright, it is wellcome, and I fully textend my support to the Labour Minister for this. But the problem is this I am recalling one observation of the Chief Justice of the Supreme Court, Justice Chandrachud, in the Silver Jubiles function of the Jammu & Kashmir High Court He has categorically observed that some judges. who have been brought up in aristocratic environment, in an affluent atmosphere. are not able to appreciate matters relating to compensation to the labour, if for example, a labour; is crippled by accident and the question of compensation comes up, they are not able to appreciate because they have been brought up in a different atmosphere; but when the question of giving reduction in income-tax comes, they are very enthusiastic and they could appreciate the difficulties of the assessees, The problem is because of the social values obtaining in the society, or atmosphere in which they have been brought That attitude is prevailing in their UD. mind, as a result of which justice is not This is not my observation, being done. this is the observation of the Chief Justice of the Supreme Court. This is the case whenever any labour law is to be interpreted. I do not mean any particular law or any particular court. But a section of judges, as a matter of fact, is not sympathetic to the cause of the working class.

Then I come to public sector undertakings and also private sector. So far as public sector undertakings are concerned, there is no question of exploitation as in the private sector because the

#### Payment of Gratuity 340 (Amendment) Bill, 1982

ownership vests in the community. But in that background the difficulties of the working class in the public sector undertakings should not be minimised because the attitude of the Manager or Director in the public sector undertakings is unsympathetic towards the working class, that is because they have been brought up in a different atmosphere and they are not acquainted with the agony of the workers, with the sufferings of the workers, with the exertions of the toiling masses. Naturally, although on principle, statutorily, on the basis of the rules formulated, the workers are entitled to some benefits, because of the mischief done by the Managers or Directors, they are not getting those benefits. It is this that creates crisis, So my submission would be : let the Labour Minister take into consideration these two aspects. Tt is not that I have to tell you. You may like to make a statute completely immune so that no court can do any mischief. But you cannot do that. It is humanly impossible. All the statutes, however carefully drafted, come before the court and it may take a different view and give a different interpretation. It is a matter of the attitude of the Judges that will decide the fate of the My submission is : nowhere labour. in the world it is also possible. The problem is the question of attitude.

Similarly, is the case of public sector undertakings, the Managers and Directors in some cases are not sympathetic. I do not want to give any particular illustration of it. But I have the experience of it. I do not want to place it. That will be very awkward. I do not want to name any particular Director or Manager. But the fact remains that they are not sympathetic and their attitude is not sympathetic to the cause of the working class. This is the problem.

Another aspect in the Indian trade union movement is that certain sections of the political leadership are using the trade unions as an instrument of political gains, . They are using it for political purposes—not for the genuine purpose of the working class interest,

One thing-the trade union movement is not only a negative movement it is not only a movement only to be directed for the economic and Social upliftment of the workers. So far as the public sector undertakings are concerned, it. has also the responsibility of the trade union to see that the performance improves, to see that there is no corruption, to see that corruption is reduced and to see that wastage is reduced. I am reminded of the way the present leaders of the Soviet Union are tackling it. Within 2 to 3 days of their coming to power, they had given a directive, a directive to all the men of literature and journalists. For what? They have to create a new theme so that the workers will be influenced to check the wastage, to check corruption and to improve the performance. That was the directive. Of course, in this country no Government can give any directive. We have not got that much of freedom. They have got total regimenta tion of the society there. . They can do that. My submission would be that so far as trade union is concerned, there should be a national consensus. I do not say about the private sector undertakings. There there is exploitation and the surplus value of the labour is being misappropriated by certain other persons. But in the public sector there is no such feature. Why should there not be a positive approach to improve the performance, to remove all the weaknesses that are there in the industrial management, to remove corruption and to reduce wastage. These are positive things. So the various aspects of the positive responsibility the trade union movement in this country should take up so far as public sector undertakings are concerned. Unless drastically and radically we change our approach, I think we are not going to succeed.

The Chief Minister of West Bengal has new realised one thing He has evolved a concept - the concept of work ethics. Now he has learnt the lesson. I know some friends of the Left Front are opposed to it. I do not know whether Mr. Chitta Basu is opposing it or accepting it. Now the fact remains that it is a very positive attitude, The worker should have

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a certain ethics and what is that ethicsto improve the performance and to reduce corruption and wastage and to improve the management. So, unless we incorporate these things and unless we create a conscientiousness in the country amongst the workers about their positive responsibility, I am sorry we cannot reach our objective.

Thank you very much. I can again request the Labour Minister to consider my point and let him fix up a time limit for inquiry and final disposal of labour disputes.

प्रो० अजित कुशार मेहता (समस्तीपुर): सभापति जी, इस विधेयक का साधारणत: समर्थन ही किया जाना चाहिये ग्रीर मैं भी इस का समयंन करता हूं। यद्य पि मुफ्ते यह देख कर आश्चर्य होता है कि जिन विश्वेयकों पर हम इस समय विचार कर रहे हैं उनमें से एक 1982 में पेश किया गया था भौर दुसरा 1984 में पेश किया गया था. ऐसी कौन सी बाधा छा गई थी जिसके कारण ग्राप इन इन विषेयकों को सभी तक पारित नहीं कर सके। 1982 से 1984 तक आप क्यों सो रहे थे ? इससे यह सिद्ध होता है कि....

PROF. N. G. RANGA : Was Parlament sleeping ?

MR. CHAIRMAN : Ranga Ji, Parliament was not sleeping.

PROF N. G. RANGA : Parliament was sleeping for two years. Otherwise, this Bill should have been passed. Why was it introduced in 1982? And why is it that we are discussing it here now ?

AJIT KUMAR MEHTA : PROF. This is what I am saying. The Government has brought forward this Bill in Parliament two years back for consideration. इसीसे मैं समक रहा हूं कि आप इन संशोधनों को कितनी प्राथमिकता दे रहे हैं। फिर भी ''देर आयद-दूरुस्त-आयद'', यदि अभी भी पारित हो जाय तो मुर्भ प्रसन्नता ही होगी।

APRIL 26, 1984

# [प्रो॰ ग्रजित कुमार मेहता]

सभापति जी, संगठित मजदूरों की तरफ तो सबका ध्यान है, उनका वेलफेयर कैसे हो, किस प्रकार से उनका कल्याण किया जाय, लेकिन श्राप उन मजदूरों की भी कल्पना कीजिये जिनके बारे में स्रभी श्री राय ने बतलाया था। 20 करोड के लगभग इन असंगित मजदूरों की संख्या है और खास कर देहातों में जहां से मैं आता हं---- "भादों केकांघों में पानी से भीगते हुए, जेठ की दोपहरी में लूसे तपते हुए और माघ की शीत लहर में आधा तन ढक कर सर्दी में काम करते हए"----खेतों में काम करते है। आप जराकल्पना कीजिए—इन हालात में काम करते हुएं जब उनका बुढ़ापा आता है, तो उनकी क्या दशा होती होगी । आपने इस विधेयक में सुपरेनुएशन का प्रावधान रखा है, लकिन उनका रिटायरमेंट, उनका सुपरेनुए-**गन तब होता है जब** वे अशक्त ही जाते हैं ग्रीर अशक्त होने के बाद एक बूढ़ें कूसे की तरह से मरने के लिये उनको घर से भगा दिया जाता है, भीख मांगने के लिये विवश कर दिया जाता है। उनके लिये आपके यहां क्या प्रावधान है ? क्या कभी किसी ने उनके बारे में सोचा है ? जनता राज के समय में वृद्धावस्था पेंशन की व्यवस्था हुई थी ग्रीर पिछले दिनों में वृद्ध-मवस्था पेंशन बहुत जगहों पर दी भी गई है, हालांकि उसकी भी इस सदन में मौर सदन से बाहर कटु आलोचना हुई है, मगर मैं आप की बतलाना चाहता हूं कि न्यूद्धावस्था पेंशन उपयुक्त और उचित लोगों को दी ही नहीं गई है। जिन उपयुक्त और उचित लोगों को दी भी गई है, वह उनके लिये बहुत अपर्याप्त है। इस लिये मेरा कहना है कि जब आप संगठित मजदूरों के बारे में सोवते हैं तो इन लोगों के बारे में भी सोचना हमारा और

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आपका कत्तंव्य है। हमसे ज्यादा माप इस बारे में सोचने की स्थिति में हैं, क्योंकि ग्राप शासन में हैं, सत्ता में हैं। इस लिये इस पर आप को विशेष ध्यान देना चाहिये। जब संगठित मजदूर की बात आती है, तो जैसा कि पहले भी कहा जा चुका है 1600 रुपये वेतन की सीलिंग आपने रखी है और वहां तक इस सुविधा को बढ़ाने की बात आपने की है मगर मैं समफता हूं कि जिस तरह से कीमतें बढ़ी हैं, उन को देखते हुए यह कम है। जिन लोगों को 1972 में यह सुविधा उपलब्ध थी और 1972 के 1000 रुपये के वेसन की तुलनामें कम से कम 2250 और 2500 रुपयं वह वेतन होता है। इसलिए मेरा कहना यह है कि 1972 को अगर आप आदर्शमान लें, तो 1600 रु० की सीलिंगको बढ़ा कर आप को 2500 रु० कर देना चाहिए। : :

सभापति जी, 1972 में जिस समय यह विभेयक यहां पर आया था और विभेयक पर इस सदन में चर्चा हो रही थी, तो उस समय वाद-विवाद को मैंने पढ़ा झौर उस समय के भी सौमनाथ चटर्जी ने दो मुद्दे उठाए थे झौर मैं समभता हूं कि वे बहुत प्रासंगिक हैं। एक तो यह है कि 15 दिन जो रखा गया है वह कम है, इस को 30 दिन किया जाना चाहिए श्रीर दूसरे 5 वर्षका बंधन क्यों लगाया गया है। पांच वर्षका मतलब यह है कि जिस मजदूर ने 4 वर्ष और 364 दिन काम किया है, बह इस सुविधा को नहीं ले सकेगा इसलिए मैं यह समभत्ता हूं कि यह सही नहीं है। पांच वर्ष पूरेन हों, इसके लिए किस प्रकार से उपाय किये जाते है, यह श्राप जानते ही हैं। पांच वर्ष पूरा होने से पहले किसी न किसी कारणवश कोई भी कार्यवाही करके यातो उसे सेवा से हटा दिया जाता है या सजा दे दी जाती है जिससे लगातार

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5 वर्षं काम करने में व्यवधान ग्रा जाए। बड़े उद्योगों में ऐराान होता हो लेकिन जो छोटे उद्योग हैं, जहां पर 10-15 मजदूर काम करते हैं और जो इस कानून के घेरे में आते हैं, इस तरह की बातें होती हैं। इसलिए इस बात का ध्यान रखा जाना चाहिए कि उन मजदूरों को कोई हानि न होने पाए।

एक बात की ग्रोर मैं आपका ध्यान दिलाना चाहता हूं कि यह जो 10 मजदुरों के काम करने का बंधन है ग्रीर जिस उद्योग में 10 मजदूर या इससे ज्यादा सजदूर काम करते हैं, उस उद्योग में उन मजदूरों को सूविधा मिल जाएगी, इससे बचने की किस तरह से कोशिश की जाती है, यह मैं आपको बतलाना चाहता हूं। मान लीजिए किसी छोटे उद्योग में 10 या 10 से ज्यादा मजद्रों का काम है। इस कानून के बंधन से बचने के लिए वे केवल 9 मजदूरों की ही काम षर लगाते है लेकिन उनसे ओवरटाइम करा कर काम को पूरा करते हैं। अगर एक मज-दूर को 8 घंटे काम करना है, तो उससे 12 षंटे प्रति दिन काम लिया जाता है और उस को म्रोवर टाइम दिया जाता है। इस तरह से जहां पर 12 मजदूर काम करने चाहिए. बहापर 9 से ही काम लिया जाता है। अब ऐसे उद्योगों के लिए झाप क्या करेंगे। वह उद्योगपति छोटा है लेकिन इस तरह से बेई-मानी करके वह इस कानून के बंधन से मुक्त हीना चाहता है जिससे मजदूरों को लाभ म मिल सके। उनको आप किस तरह से इस कानून के घेरे में लाएंगे. इस पर झाप को विचार करना चाहिये। छोटे उद्योग तो क्या, आज रेलवे का जो सबसे बढ़ा भारत-वर्ष का सरकारी उपकम है, वहां पर लाखों मज़वूर काम करते हैं और बहा पर मजदूरों को

# नैमसिक मजदूर, के जुझल लेबर के रूप में रखा जाता है। साल भर में उनसे बीच-बीच में काम लंकर उनको कुछ दिनों के लिए छुट्टी दे दी जाती है और इस तरह से वह नैमसिक मजदूर की तरह ही काम करता है। मैं यह कहना चाहता हूं कि उस पीरियड में, जिस पीरियड में केजुअल मजदूर को छुट्टी दे दी गईहोती है रेलवे में कोई दूसरा नैमसिक मजदूर काम नहीं करता है। किसी विभाग में, किसी भी मंडल को आप लीजिए इस तरह के नैमसिक मजदूर काम

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लाजिए इस तरह का नमात्तक मजदूर काम करते हैं। तीन महीने तक 50 मजदूरों को बहां रखा और तीन महीने वाद उनको छुट्टी देकर दूसरे 50 मजदूरों को रख लिया। इस तरह से रेलवे दो तरह की बेईमानी करती है। एक तो उनके ग्रेच्युटी के हक को समाप्त करती है दूसरी उनको रेगुलर करने से कत-राती है। तो इस तरह की बेईमानी जो सरकार के उपक्रम में हो रही है, उसके लिए आप क्या उपाय करने जा रहे हैं।

मेरे इन सुफावों पर आशा है आप झ्यान देंगे। इन शब्दों के साथ-साथ मैं ध्रापका धम्यवाद करता हूं।

THE MINISTER OF LABOUR AND **REHABILITATION (SHRI VFEREN-**DRA PATIL) : Mr. Chairman, Sir, in today's debate 18 hon Members have participated. Almost all the Members who participated in the debate have supported the two amending Bills to the Payment of Gratuity Act. While supporting, they made certain suggestions also, In the beginning I made an appeal to hog. Members that although the second amending Bill has not been formally moved, it is also before the House and Members participating in the debate should express their views on the second amending Bill also. I am very happy and indeed grateful to hon. Members that they have responded to my request ; they expressed views on the second amending Bill also, "

#### [Shri Veerendra Patil]

Many hon. Members took exception to the delay in moving the two Bills. I agree there has been some delay. I don't say that there is no delay at all. Prof. Ranga pointed out that this was introduced in 1982 and only today we are in a position to pass it. I don't know whom is to be blamed for it. I don't blame anybody because there is so much rush of work not only in Parliament, Many members may not be able to appreciate the procedure I have to go through, the formalities to be completed, before I introduce any Bill in the House and get it passed. The Bills have to be drafted by Law Minister. Their hands are also full. There is lot of rush of work. Therefore I do not wish to blame anybody and I own this responsibility and I say there has been some delay.

MR. CHAIRMAN : Probably the point is : Why should the Bill after introduction take this much time ?

SHRI VEERENDRA PATIL : After introduction, it is for the Business Advisory Committee to fix up time and date for consideration. But before the Business Advisory Committee there are so many other pressing engagements; there are many other legislations also. Therefore, I am not here to apportion any blame, but anyhow there has been some delay.

Simply because there has been delay in introducing this Bill, its consideration and passing, it should not be said that the Government is anti-labour, or Government is interested in delaying such legislation and the Government wants to help the employers.

So far as the second amendment is concerned, we have made it very clear that it will take retrospective effect; this amendment is proposed to be given effect to from 11th February, 1981, that is, the date of judgement of the Supreme Court. There has been delay, but because of that we do not want the workers to suffer. Therefore, we have made sufficient provisions in the Bill itself in order to give retrospective effect to that.

Some hon, Members, Shri Jatiya and others, wanted to know the basis for fixing Rs. 1600. The existing Act is applicable to the workers who are getting wages of a thousand rupees or below, not above. As and when they go above a thousand rupees, they go out of the scope of this Act. We are now amending this Act and bringing workers getting upto Rs. 1600 within the scope of this Bill. I agree that Rs. 1600 also may be low under the present circumstances, looking into the cast of living and other things. The basis is that in other labour laws also, the wage limitation is Rs. 1600, for instance in the Provident Fund Act and Payment of Wages Act, the wage limit is Rs. 1600.

भी सत्यनारायण जटियाः बोनस का आधार साहे सात-सौ ही है।...(व्यवधान)

भी वीरेख पाटिल : आपको मालूम होगा, वोनस में भी सोलह सौ है। लेकिन, बोवस जो दिया जाता है, वह साढ़े-सात सौ के बेसिस पर केलकुलेट किया जाता है। सौलह सौ जो बेजेस पाता है, वह बोनस के लिए एंटाइटल्ड है।

He is entitled for bonus. In other labour laws, the wage limit is Rs. 1600; in the Employee State Insurance Act also the wage limit is Rs. 1000; we are thinking of bringing that also to Rs. 1600. The idea is to bring it at par with other labour laws.

I agree that this wage limit of Rs. 1600 is not going to be there for a long time, because the wage level is increasing. In that case, we have is increase it; it may become Rs. 2000 or 2500 after some time. As and when we are in a position to raise the wage limit in other labour laws, we will see that the wage limit fixed here is accordingly raised, but before doing that I have to consult the State Governments and after that it will be possible for me to take a decision.

**PROF. N.G. RANGA :** My Suggestion would be, that if it is possible now, the Government should have powers under the rule making provision, not only for this, but for other labour legislations also regarding this kind of fixture of wage limit. Once in every five years, they should be able to review the limit in the light of rising level of prices to raise it, of course it can never be lowered, to a corresponding reasonable level.

MR. CHAIRMAN : Professor, I am afraid that cannot be done They make a specific proposal for that later.

SHRI VEERENDRA PATIL : The proposals that have been made by Prof. Ranga are not so easy, because it is not the only legislation where we had fixed the wage limit There are so many legislations where we have fixed wage limit and whenever we want to fix the wage limit, we have to come before the Parliament and take the Members of Parliament into confidence. Supposing if we want to take powers, the Members from the other side will complain that Government wants to exercise more power and ignores the Parliament.

MR. CHAIRMAN : That has to be made through legislation itself.

SHRI VEERENDRA PATIL: That is why, I say, this Rs. 1600 is also not final. A time may come very soon that I may come forward or whoever is there in charge of this Ministry, he may come forward with another legislation saying that in the present circumstances, Rs 1600 is not adequate and we have to go upto Rs. 2000/- and after some time it may be Rs. 2500/-.

SHRIA, K. ROY: Instead of making it **Rs.** 1600/- or Rs. 2000/- can you not make it Rs. 1000/- at the 1972 price level? Payment of Gratuity 350 (mendmen) Bill, 1982

SHRI VEERENDRA PATIL : I have to make similar provision in other Labour Laws and that is my problem.

Hon'ble member gave several sugges-I can only tell at the outset that tions it is not a comprehensive Bill. Both the Bills are not comprehensive. These two Bills have been introduced only to overcoma certain specific difficulties that have arisen in the implementation of the provision of the Act and not to change the entire scheme of the Act So, there is a limit ed purpose in bringing forth these two legislations. We are not proposing a whole change in the scheme with these legislations. Because of the judgment given by the Supreme Court t here were certain difficulties and in order to overcome those difficulties I have to bring in an amendment. Similarly we have to bring other amendments because time and again we have been consulting the Labour Ministrers of different States and the suggestions that we received from Labour Unions also we have to incorporate to an extent.

I want to repeat that this is not a comprehensive Bill and a time will come when we think of a comprehensive Bill and bring it as early as possible.

Sir, some members felt that this gratuity benefit is being denied to casual Labour, contract labour, etc. Some members mentioned casual labour and contract labour in Railways and others. I may make it clear that so far as this Gratuity Act is concerned, it does not make any distinction between permanent, temporary or casual employees in the matter of payment of gratuity. All these categories of employees are eligible for gratuity. The only condition is that they should complete a minimum 5 year qualifying service prescribed in the Act. Sir, regarding this 5 years also, some members wanted to know why this 5 years is prescribed. The Supreme Court has declared that the gratuaty scheme must provide for a reasonable minimum period of service. after which a workman becomes entitled to gratuity. In the light of the judgment of the Supreme Court, in passing this

[Shri Veerendra Patil] legislation in the year 1971-72, this 5 year period was fixed.

MR. CHAIRMAN: The point is that some employers find out some device by which they will not allow an employee to continue for 5 years. If I may repeat, that is the difficulty.

SHRI VEERENDRA PATIL : The Act is meant for those who have completed 5 years to be specific. If any employer is misinterpreting or misusing this, there are several safeguards. The employee can go to a Labour Court and fight out his case. He can represent to the Conciliation Officer and seek justice. Even though the legislation is there, if anybody wants to escape form the provisions of the Act, while implementing it, then what is the remedy ? Although the legislation is there, in the matter of implementation if anybody wants to escape from the clutches of the Act, what is the remedy? Can you find every remedy in the Act itself ? It is not possible.

There seems to be allot of confusion about this 240 days' continuous service. So, for the benefit of the hon. Members, I want to read the definition of continuous service in the original Act, passed in 1972. This Act envisages two categories of services. One is uninterrupted service; and the other is interrupted service. So far as uninterrupted service is concerned, there is no condition like putting in 240 days of continuous service, or anything like that. So, I am reading the definition of continuous service. Under Section 2 (c) of the Act, the definition of continuous service is given. It says :

"Continuous Service" means uninterrupted service and includes service which is interrupted by sickness, accident, leave, lay-off, strike or a lock-out."

So, even if there is any interruption because of strike, it is continuous service. One hon. Member was asking; "If the strike is there, how can it be continuousservice ?" Deliberately, the definition is made in this way. Government wanted to help the workers. Therefore, we have made it fool-proof. I will read the whole definition. It says :

" 'Continuous service' means uninterrupted service and includes service which is interrupted by sickness, accident, leave, lay-off, strike or a lock out or cessation of work not due to any fault of the employee concerned......."

"Cessation of work not due to any fault of the employee concerned"—So, this is not relevant to firike or lock-out. It is only relevant to the word "cessation" whether such an uninterrupted service was rendered before or after the commencement of this Act.

And then the Explanation says this. That is the second category of interrupted service. It says :

"In the case of an employee who is not in uninterrupted service....."

that means a person who is in interrupted service,

- ".....for one year, he shall be deemed to be in continuous service if he has been actually employed by an employer during the twelve months immediately preceding the year for not less than ...
  - (i) 190 days, if employed below the ground in a mine, and
  - (ii) 240 days, in any other case, except when he is employed in a seasonal establishment."

So, when will he be in interrupted service ? He will be in interrupted service, only when he is on unauthorized leave. If he goes on unauthorized leave, then he is considered to be in interrupted service. Even with an interrupted service, if be puts in 240 days, then he is eligible for gratuity.

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This was the judgement of the Supreme Court. So, in order to overcome this difficulty, now the amendment that we have thought of, says  $v_{ide}$  Clause 4 of this Bill:

"An employee shall be said to be in continuous service for a period if he, has.".....for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave ......."

All that we have continued, and also said:

"(not being absence in respect of which an order imposing a punishment or penalty or treating the absence as break in service has heen passed in accordance with the standing orders, rules or regulations governing the employees of the establishment.)

Only when the employer passes an order imposing a Penalty or declare; it as break in service, will he come under the category of interrupted service. Other-wise he will not come under it Supposing he is on unauthorized leave, if the management has not taken any action, if they have not penalized him - they have to penalize him; even for penalizing him. even for punishing him, even for declaring that it is treated as break in service, they have to follow a certain procedure. That is why we have said that "These orders have to be passed by the management in accordance with the standing orders. rules and regulation, governing the employees of the establishments." Only then he comes in the category of interrupted Otherwise, he will continue in service. uninterrupted service. So long as he continues in the category of uninterrupted service, the question of 240 days or whatever it is, is not attracted. That safeguard we have given now. I think the workers and the trade unions should be fully satlisfied with this provision.

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Now, in the original Act, it is said that those who are working underground, for them, it is 119 days. Now, there we have said about it because we know that there are establishments who work only for 5 days a week; those establishments who work below 6 days-because even if they want earned leave and other leave, all put together, it comes nearly to 95 days; so, those who work only 5 days in a week. they cannot do continuous service for 240 days. Therefore, in that case, also we have said that those who are working in establishments where the working days are below 6 days, the need not put in 240 days, but 119 days are enough for that purpose. So, we have seen that sufficient safeguard is made for the workers working in such establishments also.

Several hon, members mentioned about the agricultural labour and also unorganised labour. I agree with the sentiments expressed by the hon. Members that in our country out of total work force, which is only 10 percent of the work force which is in organised sector, the remaining 90 percent of the work force is in the unorganised sector and compared to the plight of the workers in unorganised sector, I entirely agree with the hon. members that the plight of the workers in unorganised sector is very bad and pitiable; and all these benefits about labour laws and the benefits about social security legislation and measures, they are the main beneficiaries, only the organised sector employees, not at all the agricultural sector employees or the unorganised sector employees.

Now, the question is whether this Gratuity Act should be extended to other agricultural workers. There are several laws. I do not want to enter into any controversy or the details about legislation for the benefit of the unorganised sector; that is a different matter. But the question is whether we should extend this Gratuity Act to unorganised sector, particularly to agricultural sector. So, we have to consider whether in agricultural sector, whether a farmer is in a position to pay gratuity and other benefits; we have to look into the conditions of the employers

#### [Shri Veerendra Patil]

in agricultural sector also, because I know that under dry farms, even for a farmer holding 50 acres of land, if the seasonal conditions are bad, then he will desert the land and go also in search of an employment. But in the case of government farms, I have already made it clear, whether it is the agricultural sector, whether it is the casual labour, whether it is the contract labour, whoever puts in 5 years service, he is entitled for this gratuity. In government farms also, if any worker has Put in 5 years service, he is entitled; and in agricultural farm owned by the government, the minimum wages are fixed; if the farm is owned by the government of India, we fix the minimum wages; but if the farm is owned by the State Governments, the State Governments are fixing the minimum wages; and we are asking the State Governments not only to fix the minimum wages but also to revise them.

Some hon. Members suggested that some time limit should be there for payment of gratuity. And, as hon. Member, Shri Mohanty, even went to the extent of suggesting that three months' time should be fixed for the payment of gratuity, and for settling the dispute also. For settling the dispute the controlling authority has to set the records and look into them He has to get the records from the employers and the employee also and unless both the employer and the employee cooperate it is not possible for the controlling authority to dispose of the case within a particular time limit, Therefore, instead of putting a time limit in the statute-while I enriely agree with the spirit in which he has moved his amendment-I will see if it is possible to issue some administrative instructions or orders to ensure that the cases are disposed of winhin a time limit. But it is not possible to have a part of the statute.

As regards the time limit for payment of gratuity also, under the Payment of Gratuity (Central) Rules, it is already provided that an employee snall apply for the payment of gratuity due to him, within thirty days from the date it becomes due and the employer shall pay the gratuity within thirty days from the date of receipt of application for payment of gratuity. So, if he does not act, in the Act itself there are certain provisions that he has to undergo imprisonment and all that. All these provisions are there. If there are any such cases the concerned authority will take action.

One or two hon. Members mentioned that while calculating the gratuity it is done on the basis of 30 days a month, instead of calculating it on the basis of 26 days, with the result they are getting only 13 days, for one year's service. That is not the case. According to the Supreme Court judgment, montly wages are to be divided by 26 and multiplied by 15, which comes to 17 days of wages for every year of services. There is no possibility of any worker being paid for 13 instead of 15 days. On the other hand they are paid 17 days wages.

These are the few points; because the time is short I do not want to take more time, but I want to clarify one point. The agricultural farms are not at present covered under this Act. But we have got the power to cover establishments and agricultural farms and we have so many other establishments and if time comes and it is found possible we will think of covering them also. But these are not covered by the Act now. I have replied to hon. Members to the extent possible, These two Bills have been welcomed from all quarters. I do not want to take much time of the House. I am again thankful to the hon. Members who have participated and expressed their valuable suggestions.

MR. CHAIRMAN : Shri Jatiya, first. We are very much short of time. Just the question.

SHRI SATYANARAYAN JATIYA: In the case of employees getting salary of more than Rs. 1,600 per mensem, while calculating the amount of gratuity due to him as per the amended gratuity rates the period of service served by the employee

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after touching the maximum limit of Rs. 1,600 is not taken into consideration, I want to suggest here one thing.

MR. CHAIRMAN: No suggestions now. If you want to seek any clarification. You may do so.

श्री सत्यनारायण जटियाः जो कर्मं सारी एक बार ग्रेचुइटी नियमों के अन्तर्गत आ जाए, वह निरंतर वहां बना रहना चाहिए। परन्तु 1600 रुपए की एमालुमेंट्स होने के बाद उसको ग्रेचुइटी नहीं दी जाएगी। मंत्रालय इस बारे में क्या कर रहा है ?

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR AND REHABILITATION (SHRI DHARMA-VIR): This cannot be decided at th s stage.

MR. CHAIRMAN: How does this question arise at this time? This is not a new point. I am not allowing it.

श्री सत्यनारायण जटियाः मेरा प्रश्न 1600 रुगए की लिमिट से संबंधित है। जो फायदा किसी कर्मचारी को मिलता है, उस लिमिट के बाद वह उसे नहीं मिलेगा, वह डिसकांटीन्यु हो जाएगा। जो फायदा उस को मिल रहा है, वह निरंतर मिलना चाहिए। मेरी समफ में नहीं आता कि ग्राप मुफे एलाऊ क्यों नहीं कर रहे हैं।

SHRI VEERENDRA PATIL : Supposing, today a worker is getting Rs. 1000/- he will go on getting gratuity at the rate of 15 days of wages every year upto the wage limit of Rs. 1600/-. The moment he crosses Rs. 1600/- he will not get this benefit.

SHRI SATYANARAYAN JATIYA : If the period is less than five years, then what will happen. SHR1 VEERENDRA PATIL : That is not applicable here.

SHRI K. RAMAMURTHY : On the second Bill I raised a very simple doubt. The Minister has stated that uninterrupted service arising out of the Supreme Court judgment is 240 days. Now, they have incorporated an amendment absence from duty without leave If any worker works physically for 220 days and the rest of 20 days he happens to be absent from duty by sickness or by lay off or lock out, is he entitled for gratuity ? How far complete denial of gratuity on the ground of moral turpitude is justifiable ? Has that attracted the rttention of the Minister ?

SHRI VEERENDRA PATIL : If you go through the definition I have raade it very clear...

MR. CHAIRMAN : Do not repeat it.

SHRI KRISHNA CHANDRA HAL-DER (Durgapur) : Regarding unorgauised workers the Minister has said that when they work for five years they are entitled to get gtatuity in Government concerns Lastly he has stated that agricultural labourers will not be covered in this. There are many Government agricultural farms where the workers work. Will they get gratuity after working for five years ?

SHRI VEERENDRA PATIL : What I have said is that today the agricultural farms are not covered. But if the Government wants to extend this Act to be the agricultural farms, it can extend to those workers also.

SHRI SUBODH SEN: The hon. Minister has stated just now that the definition of uninterrupted service also means cessation of work not due to the fault of the employee. But here note the wordings 'lay-off, strike or lock out or cessation of work'. Cessation of work has been placed in the same category. So, who will accept that interpretation ? It has been made analogous. SHRI VEERENDRA PATIL : I have already made it clear.

MR. CHAIRMAN : The question is :

"That the Bill to amend the Payment of Gratuity Act, 1972, be taken consideration."

The Motion was adopted.

MR. CHAIRMAN : The question is :

"That clause 2 stand part of the Bill"

The motion was adopted.

Clause 2 was added to the Bill.

Blause 3-(Amendment of section 4) Amendment made:

Page 2, line 38,-

for "1982" substitute "1984" (3)

(Shri Veerendra Patil)

MR. CHAIRMAN : The question is :

"That Clause 3, as amended, stand part of the Bill"

The Motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Clause 5—(Insertion of new sections 7A and 7B)

Amenment made :

Page 4, line 16,---

for "assistance" substitute "assistants" (9)

(Shri Veerendra Paul)

MR. CHAIRMAN : The question is :

"That clause 5, as amended, stand part of the Bill" Payment of Gratuity 360 (Amendment) Bill, 1982

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Caluse 6 was added to the Bill.

Clause 1-(Amendment of section 2)

Amondment made:

Page 1, line 4,-

fot "1982" subbstitute "1984" (2)

(Shri Veere dra Patil

MR. CHAIRMAN : The question is :

"That clause 1, as amended, stand part of the Bill"

The motion was adopted.

Clause 1, as amended, was added to the Bill.

#### The Enacting Formula

Amendment made :

Page 1, line 1,-

for "Thirty-third" substitute "Thirtyfifth" (1)

(Shri Veerendra Patil)

MR. CHAIRMAN : The question is :

"The Enacting Formula, as amended, stand part of the Bill".

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The title was added to the Bill.

SHRI VEERENDRA PATIL : I move :

"That the Bill, as amended, be passed"

MR. CHAIRMAN : The question is :

"That the Bill, as amended, be passed"

The motion was adopted.