

Sir, on behalf of Shri Buta Singh, I beg to move :—

"That this House do agree with the Sixty second Report of the Business Advisory Committee Presented to the House on the 30th April, 1984."

MR. CHAIRMAN : The question is :

"That this House do agree with the Sixty second Report of the Business Advisory Committee presented to the House on the 30th April, 1984."

*The motion was adopted.*

14.17 hrs.

### INDUSTRIAL DISPUTES (AMENDMENT BILL)\*

MR. CHAIRMAN : Shri Buta Singh will introduce the Bill on behalf of Shri Veerendra Patil.

The Minister of Parliamentary Affairs, sports and works and Housing.

SHRI BUTA SINGH : On behalf of my colleague Shri Veerendra Patil and with your permission, I beg to move for leave to introduce a Bill further to amend the Industrial Disputes Act, 1947.

MR. CHAIRMAN : Motion moved :

"That leave to introduce a Bill further to amend the Industrial Disputes Act, 1947 be granted."

*(Interruptions)*

MR. CHAIRMAN : Shri Harikesh Bahadur will speak.

SHRI HARIKESH BAHADUR (Gorakhpur) : Sir, I oppose the introduction of the Bill on the ground that this bill is not a comprehensive Bill. There should have been a comprehensive Bill because there are lot of problems of retrenched employees in various Departments.

Specially about railways I have mentioned a number of times that thousands of employees have been retrenched and they are not being properly adjusted and it has become a continuous process and Government is not taking any action. In this Bill, they have not brought any provision for the redressal of grievances of those people who have been retrenched as casual labourers in the railways.

Therefore, I feel that this Bill should be withdrawn and a comprehensive Bill should be brought in its place. This is my brief statement on this Bill.

प्रो० अजित कुमार मेहता (समस्तीपुर) : सभापति महोदय इस बिल के इन्ट्रोडक्शन का विरोध करने के दो कारण हैं। पिछले साल जब यह विधेयक लाया गया था, तो उस समय यह आश्वासन दिया गया था कि हॉस्पिटल और एजुकेशन इंस्टीट्यूशन को इससे अलग कर दिया गया है और उनके सम्बन्ध में सरकार का इरादा अलग से बिल लाने का है। इस एक साल के दरमियान ऐसा कुछ नहीं किया गया और मंत्री महोदय उसी बिल में दोबारा संशोधन करने के लिए सदन में आये हैं। अगर मंत्री महोदय इसके स्थान पर एक काम्प्रिहेंसिव बिल लाते, जिसमें सब बातों को इनक्लूड किया जाता, तो ज्यादा अच्छा होता। इस तरह पैचवर्क से कब तक काम चलाया जायेगा ?

इस बिल में रिट्रेचमेंट यानी छंटनी की परिभाषा बदल दी गई है। उसमें कहा गया है कि मजदूरों के साथ किये गये कंट्रैक्ट की समाप्ति पर अगर उसका नवीकरण न किया जाये तो उन मजदूरों को छंटनीग्रस्त नहीं कहा जायेगा, जिसके कारण वे छंटनीग्रस्त होने के कारण मिलने वाली सब सुविधाओं से वंचित हो जाते हैं। अब तो एम्प्लायर ऐसा करेगा कि वे मजदूरों को कंट्रैक्ट के तहत नियुक्त करेंगे और जिस मजदूर से वे छुटकारा पाना चाहते हैं या जिसको वह लाभ नहीं देना चाहते हैं, उसके कंट्रैक्ट का वे नवीकरण नहीं करेंगे।

इस तरह से यह सारे मजदूर छंटनी की वजह से, जो भी लाभ उनको होने वाला है, उससे वंचित हो जायेंगे। इसी आधार पर मैं इस बिल का विरोध करता हूँ क्योंकि इसमें बहुत ज्यादा मजदूरों को जो वर्तमान सुविधा मिल रही है वह छिन जायेगी। इसलिए हमें ऐसा नहीं करना चाहिए। इन आधारों पर मैं इस विधेयक के पेश होने का विरोध करता हूँ।

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और सम्भ्रता हूँ मन्त्री जी इस पर विचार करेंगे और इसके बारे में सोच करके, अगर सम्भव हो तो स्वयं ही संशोधन पेश करके इस तरह की जो गड़बड़ी पैदा हो रही है, उसका समाधान करेंगे।

PROF. MADHU DANDAVATE (Rajapur): My basic objection to the functioning of the Government vis-a-vis such Bills is this. We have been consistently insisting in this House that, whenever any Bill concerning labour is brought before the House, as far as possible the Central trade union organizations should be consulted. There are certain trade union organizations in which even Members belonging to the ruling party are a so there, and they also have been demanding that there should be a wider consultation with the various Central trade union organizations before any labour Bill is brought before the House. No such consultation has taken place. I would stand corrected if the hon. Minister tells me that such consultation has already taken place.

As far as this Bill is concerned, it deals with two types of amendments. Sometimes the Supreme Court gives certain judgments and there are certain consequential changes to be made in the Act. The second amendment that is sought to be made here follows the Supreme Court judgment in the Excel Wear case. Therefore, as far as that amendment is concerned, one cannot object because really speaking he is only trying to give legislative competence to whatever is the judgment of the Supreme Court. But I am really opposed to the first amendment. The Statement of objects and Reasons says :

"Difficulties have arisen in the interpretation of the expression 'retrenchment'. It is proposed to exclude from the definition of 'retrenchment' as contained in the Act termination of the service of a workman as a result of the non-renewal of the contract of employment on its expiry and of the termination of such contract in accordance with the provisions thereof;"

I do not think that any trade union will be prepared to accept this amendment for the very simple reason that this would make the present Act more retrograde. 'retrograde' in the sense that if the management or a particular owner of an enterprise is able to

enter into certain agreement or contract with a particular individual, 'X' or 'Y', then according to this amendment, if the earlier contract is not renewed, in that case the removal of that particular worker will not be deemed as a retrenchment and, therefore, he will be liable to lose all the benefits that have accrued to him, and the owner may be free to have a fresh agreement with someone else. No doubt, that vacancy will be filled up by taking some other person through a separate agreement or a separate contract. But as a result of that, the original worker will stand to lose all the benefits. To that extent, I feel, this amendment would mean a more retrograde step. That is the reason why even at the introduction stage we oppose. One does not oppose any Bill, as you know very well, at the very introduction stage unless one feels very strongly against the Bill.

Therefore, while supporting the second part, as far as the first amendment is concerned, I strongly feel that not only the Unions, the Central Unions, have not been consulted, but it will open up the floodgates for the owners to see that contracts are not renewed and retrenchment takes place but at the same time the workers are made to lose heavily as far as their commitments and benefits are concerned. That is the reason why I oppose this Bill at the introduction stage and I would like that the Minister should reply to this point adequately and try to point out to us why this particular amendment is being brought.

SHRI BUTA SINGH : *rose*—

MR. CHAIRMAN : Will you reply or will the Minister of Labour reply ?

• SHRI BUTA SINGH : Partly I am responsible because it is introduction of a Bill and opposition to introduction falls in my jurisdiction as Minister for Parliamentary affairs. Therefore, to that extent I can meet the points of the hon. Members, opposite. I do not say that the contentions that they have made are not relevant, they may in fact be useful, but my hon. colleague will deal with them when he comes to the clauses or provisions of the Bill because they are matters of detail. So far as comprehensive legislation is concerned, I am sure Mr. Veerendra Patil, while replying to the clause by clause discussion and the general discussion, will meet all points

raised by the hon. Members. At this stage, as you know, Sir, the Bill is opposed only on the ground of legislative competence of this very House. I find that the House is quite competent because the subject is in the Concurrent List and Parliament has all the rights to pass this Bill. Therefore, there is hardly any ground for opposing the Bill at this stage.

**PROF. MADHU DANDAVATE :** If you go through the proceedings, you will find that at the introduction stage it is not only the legislative competence that is challenged but on some other basic objections also where if we strongly feel we oppose at the introduction stage. I think, the Chair will uphold my point.

**SHRI BUTA SINGH :** I am purely on procedure. Opposition can be taken to introduction of a Bill if it does not fall within the legislative competence of the House or if the provisions of the Bill go against the spirit of the Constitution. I find that in this particular Bill no such breach has been highlighted by the hon. Members opposite. Therefore, I do not find any ground for withdrawing the Bill or for not introducing the Bill.

**प्रो० मजिद कुमार मेहता :** जो प्वाइंट्स रज किए गए हैं, उनका जवाब दें, तभी पता चल सकता है।

**श्री बूटा सिंह :** उसी के लिए आए हैं। आप प्वाइंट्स रज कर लें तो मिनिस्टर साहब आपके प्वाइंट्स का जवाब देंगे।

**PROF. MADHU DANDAVATE :** That is, when we go to the merits of the case. At the introduction stage, if some basic objections are raised, they should be replied to. I do not mind if the Labour Minister replies.

**SHRI BUTA SINGH :** The objections that have been raised are not so basic that they will interfere with the Constitutional provisions. That is what I have said. Those objections are legitimate objections on the merits of the Bill, and when the hon. Minister deals with the Bill, I am sure he will meet those points...

**SHRI HARIKESH BAHADUR :** It is not a comprehensive Bill. Therefore, it should be withdrawn; it should not be introduced.

**SHRI BUTA SINGH :** It is comprehensive so far as the provisions of the Bill are concerned. Nothing can be that comprehensive which can satisfy you for all times to come. Tomorrow there may be a situation where even the most comprehensive piece of legislation today can fall short of their comprehension. I am sure my hon. colleague will explain this that at the given time and in the present circumstances, the best method of meeting some of the outstanding problems of the working class is through this Bill. Therefore, I commend the Bill to the House.

**MR. CHAIRMAN :** Mr. Patil, do you want to add anything?

The Minister of Labour and Rehabilitation (**SHRI VEERENDRA PATIL**) :

I do not know why the hon. Members are opposing this Bill. On the other hand, I was under the impression, the hon. Members particularly from the other side would welcome this proposal or this amending Bill. I would like to bring to the notice of the hon. Members, particularly hon. Member Prof. Madhu Dandavate, that there are certain clauses in the existing Industrial Disputes (Amendment) Act with regard to closure, lay-off and retrenchment. What has happened in certain States, particularly in Tamil Nadu and Rajasthan, is that the provisions relating to lay-off and retrenchment have been struck down by the High Court. So far, the employers are taking advantage of it and they have been resorting to closures, retrenchments and lay-offs. With the result, the workers are suffering.

On many occasions, the trade union leaders have demanded in the Labour Ministers' Conference and they have also said that immediately this should be done, if necessary, by an Ordinance. I told the State Governments that I have got certain formalities to be gone through and so I might take my own time. Why not you do that at your level? What happened was this. I have got the figures and I can quote the figures of the man-days lost during the year 1983 as compared to the man-days lost during the year 1982 and 1981. The man-days lost during the year 1983 are mostly because of closures and lay-offs—not because of strikes. So, the employers are indiscriminately making use of these judgments which have been passed. These clauses have been struck down by the High Courts and

have suggested that the clauses that have been drafted are very bad. They have also given certain suggestions. And, in the light of the suggestions that the High Courts have given, we have, in consultation with the Law Ministry, got them re-drafted and have brought forward this Bill. In regard to the closure, the existing provision in the Industrial Disputes Act have been struck down by the Supreme Court. (*Interruptions*),

PROF. MADHU DANDAVTE : Excuse me. You are dealing with that particular aspect about which the entire House is totally agreed. We do not differ at all. You leave that out. We are supporting it. Our objection is in regard to the first part...

SHRI VEERENDRA PATIL : The hon. Member, Shri Harikesh Bahadur even went to the extent of saying that I must withdraw this Bill and I should bring forward a comprehensive Bill. I will take my own time for bringing forward a comprehensive Bill. What will happen to the workers in the mean-time ?

PROF. AJIT KUMAR MEHTA : He is satisfied about the first part.

SHRI HARIKESH BAHADUR : I am opposing this Bill only on the ground that there should have been a provision for other people who are working in the various other sectors. If you are giving me an assurance on that, I have no objection to the introduction of the Bill.

SHRI VEERENDRA PATIL : The only objection by Prof. Dandavate is in regard to the interpretation of the definition 'retrenchment'. As regards the definition of 'retrenchment' what has happened is that several courts have interpreted it in several ways. Therefore, we thought that in order to remove the ambiguity and confusion, it should be defined very clearly. Therefore, this definition has been incorporated in this Bill. When there is a contract, after the expiry of it, automatically, the worker who is working under that contract ceases to be an employee. But, the hon. Member, Prof. Dandavate says that even after that, he should be considered as an employee and if his services are terminated, then, he should be declared as retrenched and compensation should be paid to him. How can we do that because, under the agreement, he is supposed to work for a particular period? After the expiry of the agreement, the rela-

tionship between the employer and the employee ceases to exist. Therefore, we wanted to make it very clear.

Once again I make an appeal to the hon. Members that anyhow this Bill is going to come up for consideration. At that time, they will have ample opportunities; and, if there are any doubts lurking in their minds, I will be prepared to clear them.

PROF. AJIT KUMAR MEHTA : *rose*.

MR. CHAIRMAN : Mr. Mehta, please take your seat. Now, I am on my legs.

श्री रामबिलास पासवान (हाजीपुर) : आप भी बैठकर बोलिये ।

सभापति महोदय : अगर मैं बैठ जाऊंगा तो आप खड़े हो जायेंगे । इस लिये खड़ा हुआ हूँ ।

Let me read out to you the relevant rule, that is. Rule 72. Let me educate them.

'If a motion for leave to introduce the Bill is opposed.....

PROF. MADHU DANDAVATE : This is not a kindergarten. We know all this.

MR. CHAIRMAN : You know it.

PROF. MADHU DANDAVATE : We know all this.

MR. CHAIRMAN : So, the legislative competence is not challenged. I cannot, therefore, allow a general discussion on this.

Now I shall put this to the vote of the House.

The question is :

"That leave be granted to introduce a Bill further to amend the Industrial Disputes Act, 1947."

(*The motion was adopted.*)

MR. CHAIRMAN : Leave is granted. The Minister may now introduce the Bill.

SHRI HARIKESH BAHADUR : Even I did not say 'no' to this.

MR. CHAIRMAN : You are now in agreement with the Minister.

SHRI VEERENDRA PATIL : Sir, I introduce the Bill.

MR. CHAIRMAN : Now, Matters under 377.