

[श्री श्रीनारायण दास]

निकल कर उसके जीवनोपार्जन का कोई प्रबन्ध नहीं होता है तो धार सोच सकते हैं कि किस तरह वह इस प्रकार कर्लकित बन कर चल सकता है। अगर समाज उस पर सन्देह की दृष्टि से न देखे, और उसको कोई काम दे दिया जाये, उसको कर्लकित न समझा जाये, उसका तिरस्कार न किया जाये, उस पर घृणा की नजर से न देखा जाए और नौकरी देने वाले उसको नौकरी दे दें, तो फिर उसका सुधार संभव हो सकता है। ऐसी हालत में क्यों उसको अपने आपको सुधारने का मौका न दिया जाये। मैं चाहता हूँ कि सरकार इसका पता लगावे कि उसे जेलों को चलाने के लिये, जेलों में खाने पीने की व्यवस्था करने के लिये, कितना खर्चा करना पड़ता है और यह भी हमें देखना चाहिये कि जो दंडित लोग हैं जो अपराधी लोग हैं, उनकी देखभाल उनके निरीक्षण, उनके सुधार प्रादि में कितना खर्चा आयेंगा। अगर इसमें खर्चा भी कम पड़ता है और जेल की अपेक्षा सुधार की संभावनायें भी अधिक होती हैं, तो मैं समझता हूँ कि इस ओर भी ध्यान दिया जाना चाहिये।

प्राज्ञ ऐसा बक्त आ गया है जबकि हमको जेल व्यवस्था पर भी ध्यान देना चाहिये। जेलें चाहे राज्यों का विषय हो चाहे केन्द्र का, फिर भी इस कानून पर विचार करते समय इस सदन का ध्यान जेलों की व्यवस्था पर जाना जरूरी है। अगर जेलों की व्यवस्था ऐसी होती है...

Mr. Deputy-Speaker: I hope the hon. Member is trying to conclude.

श्री श्रीनारायण दास: अगर मुझे समय दिया जाये तो मैं कुछ इस बिल की धारामों पर भी कहना चाहता हूँ।

Mr. Deputy-Speaker: Then he might continue the next day.

Now, we will take up non-official business.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

EIGHTH REPORT

Shri Easwara Iyer (Trivandrum): Mr. Deputy-Speaker, Sir, I beg to move:

"That this House agrees with the Eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 13th November, 1957."

Mr. Deputy-Speaker: I will now put it to the House. The question is:

"That this House agrees with the Eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 13th November, 1957."

The motion was adopted.

RESOLUTION RE. APPOINTMENT OF A TRIBUNAL TO REVIEW THE CASES OF DISMISSED GOVERNMENT EMPLOYEES

Mr. Deputy-Speaker: The House will now resume further discussion of the Resolution moved by Shrimati Parvathi M. Krishnan on the 12th September, 1957 regarding 'Appointment of a Tribunal to review the cases of dismissed Government employees'.

Out of 2 hours allotted for the discussion of the Resolution 3 minutes have already been taken up and 1 hour and 57 minutes are left for its further discussion today.

Shrimati Parvathi Krishnan was to have continued her speech. She has written to the Speaker to say that as she has left for Pakistan on a Parliamentary delegation she would not be present in the House today. In the circumstances, I shall treat her speech

as concluded and place the Resolution before the House.

Resolution moved:

"This House is of opinion that a special Tribunal consisting of a High Court Judge as Chairman and two members representing the Government and the workers should be appointed to review the cases of employees whose services were terminated or who were dismissed or who are under indefinite suspension under the Central Civil Services (Safeguarding of National Security) Rules, 1953, Government Servants Conduct Rules and Rule 1708 of Indian Railways Establishment Code."

There are some amendments also. There is amendment No. 1 in the name of Shri Tangamani and Shri Banerjee. Are they going to move that?

Shri Tangamani (Madurai): Yes, Sir. I beg to move:

That in the Resolution—
add at the end:

"during the period from 16th August, 1947 to the 12th September, 1957 and it should submit its findings before end of December, 1957."

Mr. Deputy-Speaker: Amendment Nos. 2 and 3 by the same hon. Members are outside the scope of the Resolution and I, therefore, rule them out.

Amendment moved:

That in the Resolution—
add at the end:

"during the period from 16th August, 1947 to the 12th September, 1957 and it should submit its findings before end of December, 1957."

Shri A. K. Gopalan (Kasargod): Mr. Deputy-Speaker, Sir, the resolution before the House is that a special Tribunal consisting of a High Court Judge as Chairman and two members representing the Government and the

workers should be appointed to review the cases of employees whose services were terminated or who were dismissed or who are under indefinite suspension under the Central Civil Services (Safeguarding or National Security) Rules, 1953, Government Servants Conduct Rules and Rule 1708 of Indian Railways Establishment Code.

I would appeal to the House that we should consider these matters dispassionately. It is not a party issue; it is a national issue. And, there is no doubt that we all agree that government servants must be loyal to the State. But loyalty to the State does not mean loyalty to the party in power because today it may be this party and tomorrow it may be another party. As far as the State is concerned, the government servants must be loyal to the State. As far as breaches of discipline, inefficiency or other things are concerned, there is absolutely no doubt that whatever punishments there are should be applied.

But, here the question is that there are certain very drastic rules and as far as these are concerned, they are abused in their application. We know how in the railways and the postal department many government servants who had served even 15, 20 or 22 years have been dismissed without showing any reason, without giving them any opportunity to know what the charges against them were, or to show whether they were correct or not. In some cases the charge-sheets were not given. That is why I say that this resolution must be discussed dispassionately.

I want to point out that in the First Parliament, on 10th May, 1953, a resolution was moved by Shri Nambiar and that resolution said that these rules must be cancelled and those that had been discharged must be reinstated. Even one or two Members who opposed that resolution said that the circumstances that existed

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when the National Security Rules were passed did not exist then and that it is the duty of the Government to see that those rules were cancelled. The idea of that resolution was that the rules should be cancelled and those that had been dismissed should be reinstated.

This resolution is very simple. It only says that a special Tribunal consisting of a High Court Judge and two Members representing the Government and the workers should be appointed. There must be a review of those cases. This Tribunal must certainly look into those cases and see whether the charges against the persons are correct and that they should be reinstated if the dismissals were not reasonable or just.

It may be said at the beginning that so far as these National Security Rules are concerned, there is already a committee of advisers and they can represent to them and they will decide. I will take that point afterwards when we come to the rules. But we want to say that so far as the committee of advisers is concerned there won't be any justice because one of them is a C.I.D. officer who has given the report. One or two other departmental heads are there. It is before them that these people have to go for justice. I am sure no justice can be obtained from this committee.

What are these rules? They are the Government Servants Conduct Rules. Besides there, there are the Safeguarding of National Security Rules, 1953. Clause 3 of these rules says:

"Where the President is of opinion that a Government servant is engaged or is reasonably suspected to be engaged in subversive activities or is associated with others in subversive activities and that his retention in public service is on that account prejudicial to national security, the

President may make an order compulsorily retiring such Government servant from service."

Then, he will be allowed to give a representation in writing and he may be dismissed after that.

In this rule 3, it is stated that not only is the government servant engaged in subversive activities but is reasonably suspected to be engaged in such activities. Who is the person who decides whether he is reasonably suspected or not? It is the Police Officer. So, if the Police Officer or the Departmental Head, irrespective of whether the person is reasonably suspected to be engaged in subversive activities or not says so, he can be dismissed. I do not want to go into details of each case but when each case comes I will show how it was overdone. Then there is rule 1708 of Indian Railways Establishment Code. It says that the railway servant would be liable to be terminated from the railway service if he was inefficient or overstayed the sanctioned leave or for repeated minor offences, absenting himself without leave. These are the grounds on which action can be taken. But, there is a proviso which says:

"Provided that nothing in this rule shall abrogate the right of the General Manager for causing the removal of a non-pensionable non-gazetted railway servant from service without the application of the procedure prescribed..."

Certain procedure has been prescribed. If it is inefficiency, you have to show what kind of inefficiency and when it was found. If there is any breach of discipline or any other offence is committed, it should be shown to him and he should be asked to prove his innocence.

But there is this proviso. Without assigning any reason or without adopting the procedure prescribed

under the rules, a person can summarily be dismissed. He will not be given any reasons; not even an opportunity to prove his innocence.

Mr. Deputy-Speaker: I shall bring it to the notice of the hon. Member that he is only supporting the Resolution and not moving it. So, he will have only fifteen minutes.

Shri A. K. Gopalan: I request you to give more time because the Mover of the Resolution wanted certain facts should be presented to the House.

Mr. Deputy-Speaker: I do appreciate it. But my limitations are also there. According to the rules, a Member can speak on the resolution for fifteen minutes. He will try to adjust and I will also try to accommodate him.

Shri A. K. Gopalan: I will cut it short. I will show how these provisions are applied. I have already stated that the rules provide a committee of advisors to go into the question. But you cannot expect justice from the CID officers and the departmental officers. That is why we say that an impartial tribunal should go into the matter.

I would also say that these rules go against article 19 of the Constitution. That article gives all citizens—including the Government employees—certain rights: freedom of speech and expression, peaceful assembly, forming associations or unions, to move freely to reside and to settle and so on. Certain restrictions are imposed by the Constitution. These rules do not allow them the use of the freedom. They are not even giving an opportunity to say that the charges against a certain individual are correct or not. It offends the letter and spirit of the Constitution. So, the article in the Constitution and the rules I have pointed out are contradictory. The Constitution right is more important.

Lately, the Railway has sent a circular stating that there should be no

representation to the Members of Parliament or MLAs. If any representation is made to them, it will be treated as breach of discipline and punished. If they are representatives of the people and if a Government servant finds that he cannot represent directly to the authorities or he is afraid, it is only through the representatives of the people that the Government can be made to understand. For instance, there may be corruption or something else. If a circular like this is sent that nobody should approach MPs., I do not know how far this restriction will help efficiency and discipline among the Government servants.

How these powers have been abused, I shall show presently. There is no time and I would only read out some cases. One person by name Shri Ram Wadhaya was charge-sheeted. What are the charges?

"1. Negligence of Duty: In that he at 08:15 hrs. on May 1, 1956 when specifically directed by Jem. Mahi Singh to report for duty in Yard for Grass Cutting did not go there but instead disappeared from place of duty."

Does it go against the security of the State? I do not know. Here is another order dated 4th June 1955. It says:

"All concerned are, therefore, warned to ensure that no T.E. Ind. staff is employed on duties other than loading and unloading, turnover, care and preservation and other duties connected with depot stores only."

It also specifically says that they should not be employed on 'grass-cutting' work. It says here: it is an audit objection:

"In the past employment of T.E. Ind. personnel on the following duties has been viewed as unauthorised expenditure against

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T.E. Grant and objected to by the audit authorities:

.....on planting trees, maintaining garden, sports ground, grass-cutting, etc."

Grass-cutting is objected to by the audit but still a man is dismissed because he does not do it. In 1955, the order is that people should not be engaged on works such as grass-cutting, etc. In 1956, this person is asked to cut grass and he is given a charge-sheet and dismissed because he did not do it. This man is on a hunger-strike somewhere in Delhi. He has sent so many petitions and one does not know what happens to them.

There is another case of a Travelling Ticket Examiner in the Southern Railway. What are the charges against him? He formed or certain persons including himself formed themselves into a group and sponsored a series of acts of sabotage in the years 1952, 1953 and 1954 with the object of derailing the trains, thereby endangering the lives of the travelling public and causing damage to the railway track, and rolling stock.

It is a very serious thing. The officer was knowing that it was done in 1952 and again in 1953 but gives him notice only in 1954. The officer who is responsible for this must be tried for treason. He cannot allow a man like that when he knows that certain persons are engaged in sabotaging. He kept quiet in 1952 and the whole of 1953 also. He charges him in 1954 that he placed a big boulder measuring about 18" x 10" x 9" weighing about 92 tons in the track and so he was charge-sheeted in 1954.

I have no time to go into further details. Otherwise, I would have read over to you how these charge-sheets allege that they were walking in the platform, conspiring together and so on and how all these are

watched by the police and they understand that there is a plot to derail the train. So, they wait till 1954 from 1952 and see only in 1954 that a big stone is being put on the track. So, he is dismissed.

On the very face of it, shows that it is false. Is there no Preventive Detention Act? Even if the offence could not be proved, at least if it is found that he was doing something against the State, he could have been arrested and detained. I know the man; he is himself not 92 lbs. He is only 20 lbs. or so.

Mr. Deputy-Speaker: Perhaps the hon. Member is talking of a Lilliputian.

Shri A. K. Gopalan: He is a tall man; but as far as his weight is concerned, even the hon. Deputy-Minister will understand that that man is physically and mentally not capable of that. For derailing, he must be capable physically and mentally. He was charge-sheeted in 1952 and 1953 for sponsoring acts of sabotage and in 1954 they found him trying to place a 92 lbs. boulder on the track. Do you know the reason for all this? The reason is that he is an active trade union worker. The Shoranur-Nilambur railway was dismantled and the union was exposing the corruption that was unearthed when relaying of the railway was done. Not only that. A wall collapsed and a child died. The authorities wanted not to say that. The union brought it out and then the Railway Board took prompt action and punishment was given. Simply because he is an active trade union worker, he was charge-sheeted and he is still under suspension. That man has put in 10 or 12 years service.

I want to point out some more cases. In Cordite Factory, Aruvakadu, the secretary of the union gave certain suggestions for utilising surplus capacity. He also refuted the stand of the authorities by giving cer-

tain known figures in an appeal to M.P.s. He was charge-sheeted for violating Government Servants Conduct Rules and dismissed in January, 1957.

Shri Ram Wadhawa Anand of C.O.D. Agra refused to cut grass and was dismissed from service. Then, in the case of eight employees in the ordnance factory, Muradnagar—their services were terminated in October, 1957 for participating in the strike against retrenchment and they are not the junior-most people.

Sitaram Singh of Railway at Allahabad was suspended in 1949. The Sessions Court declared the dismissal illegal and ordered reinstatement. But till now he is not reinstated.

Here is another important case: "Complaint against Shri Nand Lal Chharimali, Porter, Raigarh who is alleged to have openly supported the P.S.P. candidate." This is a letter to the General Manager, South-Eastern Railway, Calcutta from the Assistant Director, Railway Board. Here is the translation of the Hindi letter dated 19-3-57 from the President, City Congress Committee, Raigarh, addressed to Shri Jagjivan Ram, Minister of Railways. He says:

"I have got sufficient documents to prove that Shri Nandalal Chharimali made an open propaganda in favour of the candidate mentioned above among the citizens of Raigarh, Railway employees...."

and so action must be taken. So, there was a letter from the Congress President saying that action must be taken and action is taken for supporting a P.S.P. candidate.

Here is another case there is no reason given, the case of Shri Kanai Lal Chatterjee. He has got 14 years of service, but he is told, "No reason will be given to you. You are dismissed from service."

Tribunal to review the cases of dismissed Government employees

Mr. Deputy-Speaker: Has the hon. Member got all these documents from those persons?

Shri A. K. Gopalan: Yes.

Mr. Deputy-Speaker: He may place them on the Table.

Shri A. K. Gopalan: Yes. On 13-9-57 the Superintendent of Post Offices, South Calcutta Division, forwarded a letter from the Deputy Secretary, Ministry of Communications. I have got here the cases of about 48 persons and I place them here; the names, departments, stations etc are all given.

Here is another case about Shri S. P. Awate. He had been charge-sheeted and he has also been dismissed. It is very important. The reasons given are:

"After your release, you were noticed attending some of the public meetings organised by the Communist Party of India. You are closely associated with members of the Communist Party of India. You were seen attending the public meeting organised by the Communist Party of India in Parel on the following days when you were accompanied by your wife and some other friends: 15th August, 1954—Independence Day Meeting; 28th January, 1955—Republic Day Meeting; 7th November, 1954—Russian Revolution meeting."

The charge is he attended those meetings accompanied by his wife and some friends. He could not say to his friends, "I am a Government servant; you must go away." Because he attended the Independence Day meeting and the Republic Day meeting, a charge-sheet is given and he is told, "You have done something against the security of the State so you are dismissed from service." There are other reasons also given which are more absurd.

Mr. Deputy-Speaker: He may lay all those papers on the Table; he might need time to say a word or two afterwards.

[Placed in Library. See No. LT-385|57].

Shri A. K. Gopalan: I will point out only one or two more cases. The charge against Shri M. P. Narayan Nambiar, Class IV official of the Cannanore Railway Station Post Office was his alleged participation in the rehearsal of a drama called *Rent arrears*, said to have been sponsored by subversive activities. He did not act in the drama; he only went to see the drama. Simply because the name of the drama was *Rent Arrears*, it was called a subversive activity and the man was dismissed, although he only went to see drama. He was not an actor, but only an onlooker. But that was the reason why his services were terminated

There is the case of an active railway worker, Shri R. K. Shandilya. He has given a printed notice of hunger strike in which he has given the reasons also. I place it here.

There is a memorandum presented to the Members of Parliament by the Eastern Railwaymen's Union, the South-Eastern Railwaymen's Union and the North-Eastern Railway Mazdoor Union. Shri S. Subrahmaniam, ex-General Secretary of the S. E. Railwaymen's Union has been charge-sheeted to be removed from service for addressing a letter to the *Hindustan Standard* as General Secretary of the Union. The Assistant Secretary of the Tatanagar Branch of the Union has been charge-sheeted for collecting subscription on behalf of the Union. The President of the Madhupur Branch of the Eastern Railwaymen's Union has been charge-sheeted for filing a nomination in the Madhupur municipal election. Secretary, Khurda Road Branch of the S. E. Railwaymen's Union has been charge-sheeted for forwarding an advance copy of his appeal to a Member of Lok Sabha.

I do not want to go into any more cases because, as you have said, there is no time. There are so many other cases also. But so far as charge-sheeting is concerned, it is very clear that under the cloak of security and discipline, it is only for stopping the trade union work. It is only a political prejudice. A Government servant is charge-sheeted because he was seen walking with Communist members, and he is told he is indulging in subversive activities. They say that these are subversive organisations. Suppose the Kerala Government, which is not a Congress Government, say that there are certain parties including the Congress Party, which are indulging in subversive activities, say that these are subversive organisations, and suppose they dismiss any employee on the ground that he has got sympathy towards the Congress, will the hon. Minister agree they can do it? The question is not whether you have sympathy towards this ideology or that ideology; we only want that you must do your work properly, efficiently and in a disciplined manner.

So, as far as these things are concerned, we only make an appeal to the Government that there have been abuses of the powers; there is so much discontent. Let the Government appoint a special tribunal and let these cases be put before the tribunal. Let an opportunity be given to the employees to explain and let the tribunal decide who is correct and who is not.

This is the time when we want the co-operation of the employees. There are about 300 to 400 employees who have got experience of 10 years, 15 years and 22 years. We want them now because we want to expand our industries in order to have more production. We want their services very badly. Now, if we leave them at the road side and do not take their services, certainly that will be a great loss to our country. Further, the morale of our services will also be affected, if we do not take them back.

15 hrs.

Now, as far as the rules are concerned, our opinion is that they should be scrapped. That is our firm opinion. But the resolution does not say so. It only says that as far as the cases of the dismissed employees are concerned a Tribunal should be appointed to review all those cases.

I do not want to mention any more points. I have got a copy of the speech of the hon. Deputy Minister. He has promised several times that he will look into those cases. Now I am only requesting him just to go into those cases. This resolution, which is a very simple one, gives effect to my proposal by appointing a Tribunal. I, therefore, request the hon. Minister to accept this resolution.

श्री स० म० बनर्जी (कानपुर) : उपाध्यक्ष महोदय, जो प्रस्ताव इस सदन के सामने है, उसमें एक तरफ़ीम में पेश की है और वह यह है कि १६ अगस्त, १९४७ से लेकर १२ सितम्बर, १९५७ तक जितने भी केसिज हुए हैं, उन की जांच ट्रिब्यूनल, जिस की कि हम मांग कर रहे हैं, करे।

हमारे मित्र गोपालन जी ने काफी तफ़सील के साथ इस सम्बन्ध में केसिज रखे हैं, जिन को सुन कर इस सदन के सारे सदस्यों के सामने यह बात कम से कम साफ़ हो चुकी है कि बहुत से लोगों का विक्टिमाइजेशन किया गया है। जब भी हम विक्टिमाइजेशन का लफ़्ज इस्तेमाल करते हैं, तो आम तौर पर हमारी सरकार और उस के अफ़सरान यह कहते हैं कि यह विक्टिमाइजेशन नहीं है। क्या आप चाहते हैं कि सरकारी मुलाजमीन में इनडिसिप्लिन हो, अनुशासनहीनता हो ? अगर अनुशासन नहीं होगा, तो किस तरीके से, किस के तूते पर, यह सरकार चलेगी ? मैं यह कहना चाहता हूँ कि मैं भी एक निकाला हुआ सरकारी मुलाजिम हूँ।

उपाध्यक्ष महोदय : वह केस तो आज आप नहीं ले रहे हैं ?

श्री स० म० बनर्जी : जी नहीं, वह नहीं ले रहा हूँ। मैं लेना चाहता भी नहीं हूँ।

इस लिए मैं जानता हूँ कि किस तरीके से लोग नौकरी से निकाले गए हैं। अभी गोपालन जी ने बताया कि कुछ निकाले हुए कर्मचारी प्रधान मंत्री जी के बंगले के सामने अनशन कर रहे हैं। यह ठीक है कि अनशन नहीं करना चाहिए। आखिर फ़ाकाकशी करना किस को अच्छा लगता है? लेकिन सवाल यह है कि वह ऐसा क्यों कर रहे हैं। उन के बारे में बार-बार यह कहा जाता है कि घास काटना जुर्म नहीं था। आखिर वे क्यों निकाले गए? मालूम हुआ है कि वहाँ पर मिलटरी अफ़सरान काम करते हैं और मिलटरी के जवान भी हैं। इस लिए अगर उस केस को, जिस को उन्होंने इनडिसिप्लिन का केस समझ रखा है, तय कर दिया जाता है, डिसाइड कर दिया जाता है, डिफ़ेन्स मिनिस्ट्री उस का फैसला कब देती है, तो हमारी आर्मी के मारेल पर, उस के जवानों के मारेल पर अगर पड़ेगा और अगर मारेल कम हुआ, तो पता नहीं क्या होगा। इस बिना पर आर्मी चीफ़ साहब कहते हैं कि उस केस को कन्सिडर न किया जाय।

जहाँ तक एम० पी० का ताल्लुक है, गोपालन जी ने अभी बताया है कि अगर कोई भी सरकारी मुलाजिम, चाहे वह रेलवे में हो, डिफ़ेन्स में हो या पी० एंड टी० में हो, या किसी दूसरी जगह में हो, एक एम० पी० के पास रिप्रेजेन्टेशन करता है, तो उस की नौकरी जाने का खतरा होता है। मैं निवेदन करना चाहता हूँ कि ब्रिटिश पार्लियामेंट की बहुत सी चीज़ें हम लोगों ने ली हैं और कामनवैलथ में रहने के नाते हम उस की प्रशंसा भी करते हैं और करनी चाहिए, लेकिन क्या माननीय मंत्री जी को मालूम है कि उस पार्लियामेंट के किसी भी सदस्य के पास उस की कांस्टीच्युएन्सी का कोई भी कर्मचारी अपने केस के

[श्री स० म० बनर्जी]

लिए जा सकता है, और अगर इस बजह से उस पर कोई एक्शन लिया गया, तो वह प्रविलेज का सवाल हो जाता है। मैं गुजरािश कर्कंगा प्रधान मंत्री जी, होम मिनिस्टर साहब और जो मंत्री महोदय बैठे हैं, उन से—मुझे अफसोस है कि ऐसा मालूम होता है कि विक्टिमाइजेशन की सारी मानोपली इन्हीं की है। अगर दूसरे मिनिस्टर साहबान और डिफेंस मिनिस्टर साहब भी यहां पर इस समय मौजूद रहते, तो हमें खुशी होती और हम सारी बातें उन के सामने रखते—कि जब हम ब्रिटिश पार्लियामेंट की और चीजें लेते हैं, तो अच्छी चीजें भी लें, ताकि एम० पी० को हक हो कि अपनी कास्टीच्युएन्सी के सरकारी मुलाजमीन और दूसरे व्यक्तियों मामलों को हल कर सके।

हम यह ट्रिब्यूनल क्यों चाहते हैं ? इस सिलसिले में एक बात साफ़ है और वह यह कि बार बार रिप्रेजेंटेशन करने के बाद भी कोई इस्तीफानाबख्श जबाब हम को वही मिलता है। जब भी किसी कर्मचारी के बारे में हम कहते हैं तो एक ही बात कही जाती है कि क्या किया जाय, अनुशासनहीनता का सवाल है, यह डिफेंस मिनिस्ट्री का सवाल है, यह रेलवे का सवाल है, यह पी० एड टी० का सवाल है, किस तरह अनुशासनहीनता फैलाई जाय ? मैं यहां पर कुछ केसिज का जिक्र करना चाहता हूँ। एक मेरा केस हमारे सिंघाराम जी का है। आप को उस के बारे में सुन कर ताज्जुब होगा। आर्डिनेंस फ्रैक्टरी में छंटनी हो रही थी, तो उन्होंने पार्लियामेंट के तमाम सदस्यों के सामने, भले वे कांग्रेस के हों या आपोजीशन पार्टीज के, एक सुझाव पेश किया कि किसी तरीके से सरप्लस मैनुफैक्चरिंग कैपेसिटी आफ़ दि आर्डिनेंस फ्रैक्टरी का इस्तीमाल किया जा सकता है। उस के बाद उन्हें चार्जशीट मिला कि उन्होंने सीनेट चीजें धाउट कर दी हैं और उन को निकाल दिया गया। मैं बताना

चाहता हूँ कि आज अगर एक हिन्दुस्तानी दूसरे हिन्दुस्तानी के पास, जो कि संसद का सदस्य है, आर्डिनेंस फ्रैक्टरीज में किस तरीके से काम बढ़ सकता है, इस बारे में सुझाव भेजता है, तो सीनेट धाउट करने की बात कही जाती है, जब कि इन्हीं आर्डिनेंस फ्रैक्टरीज को काफ़ी तादाद में फ़ारेनर्ज चला रहे हैं। सीनेट उनसे नहीं है। लेकिन अगर अपने देश का एक नौजवान यूनिजन की मारफ़त इस विषय का सुझाव देता है कि किस तरीके से छंटनी रक सकती है और आर्डिनेंस फ्रैक्टरीज का विकास हो सकता है, तो उस की नौकरी जा सकती है।

अब मैं दूसरी मिसाल देता हूँ। जब कानपुर की सूती मिलों में अस्सी दिन की हड़ताल हुई और मैं वहां पर गिरफ़तार हो गया, तो आर्डिनेंस फ्रैक्टरी के चार मजदूरों को उनके घरों से गिरफ़तार कर लिया गया और कहा गया आप बनर्जी की बजह से हड़ताल कर रहे हैं। बाद में यू० पी० गवर्नमेंट ने जेनेरल एमनेस्टी डिक्लेयर की और तमाम लोगों को छोड़ दिया गया। कानपुर सरमायादारों ने, जो कि अपनी संगदिली के लिए मग़ज़ूर हैं, सात सौ आदमियों को भरती कर लिया, लेकिन सेंट्रल गवर्नमेंट के इन चार बदकिस्मत मुलाजिमों को नौकरी नहीं मिली और फ़ाकाकशी की नीबत भाई। उनकी कचहरी में लड़ना पड़ा और जब उनका धानरेबल एक्विटल हो गया, तो उनको भरती किया गया, लेकिन एक भाई सुन्दरसिंह को दोबारा चार्जशीट दे कर निकाला गया। एक की कलकत्ता से ईशापुर ट्रांसफ़र कर के निकाल दिया गया और तीसरे को एम० ई० एस० चकरी में ट्रांसफ़र कर के निकाल दिया गया।

यहां पर नुरादनगर की बात कही गई है। १५ सितम्बर, १९५६ को तमाम हिन्दुस्तान में छंटनी के खिलाफ़ हड़ताल हुई। हड़ताल के बाद टैम्पोरेरी सविधि

रूल के रूल ५ के मातहत आठ आदमियों को निकाल दिया गया। अगर आप उस रूल को देखें, तो आप को ताज्जुब होगा। अगर किसी को निकाला जाय, तो कोई रीजन नहीं बताया जा सकता है। तमाम जगहों में नो विक्टिमाइजेशन का आश्वासन मिला और कहा गया कि देयर विल बि नो विक्टिमाइजेशन आफ्टर दि एंड आफ दि स्ट्राइक, लेकिन उस के बाद क्या हुआ? उन लोगों को निकाल दिया गया। आज भी उन के घरों में फाकाकशी की नौबत है। मैं कहना नहीं चाहता लेकिन हमारे पुराने डिफेंस मिनिस्टर साहब—एम० डी० ओ० साहब—के उमाने में मने देखा कि जो आदमी इंडियन नेशनल ट्रेड यूनियन कांग्रेस में सम्बन्धित नहीं होता था, तो उस की नौकरी खतरे में पड़ जाती थी। वे भ्राया करते थे कि सब हमारी लाइन को टो करें। टेलीफोन पर आर्डर इशू किए गए कि इस आदमी को ट्रांसफर कर दो, इस को डिस्चार्ज कर दो, इस को डिसमिस कर दो। अगर इस मामले की खुली जांच की जाय, तो डिफेंस मिनिस्ट्री इस बात की साक्षी है कि कितना अन्याय और अत्याचार उन गरीब मजदूरों पर हुआ है। हम अपने कांस्टीच्यूशन में उन लोगों के एमोसियेशन बनाने के या यूनियन बनाने के हक को गारण्टी करते हैं, लेकिन उन के इन राइट्स को बुरी तरह कुचला गया।

मैं यह निवेदन करना चाहता हूँ कि यह सिर्फ डिफेंस मिनिस्ट्री का सवाल नहीं है, दूसरी मिनिस्ट्री में भी यही हालत है। डायरेक्टर आफ मैप पब्लिकेशन के आफिस में जो कि मिनिस्ट्री आफ साइंटिफिक रिसर्च के अंडर है, एक आर्डर निकाला गया कि क्लास फोर का कोई भी आदमी यूनियन का मेम्बर नहीं बन सकता है। वहाँ पर दो आदमियों को निकाला गया—विक्टिमाइज किया गया।

आबादी मिलने के बाद १९५७ में हमारे इरविन-आजीब प्रचान मंत्री कलकत्ता में गए, तो वहाँ के एक एम्प्लॉई—एस० सी०

दास—ने कहा कि भाषे दिन की छट्टि हो जानी चाहिये। जब संखेयर जेनेरल ने उस बात को मन्जूर नहीं किया, तो उस ने मजदूरों से कहा कि हम अपने देश के प्रधान मंत्री को देखना चाहते हैं, प्रधान मंत्री की शकल में उनका पहला दर्शन करना चाहते हैं। बाद में उस पर इनसाइटिंग इल्लीगल स्ट्राइक का चार्ज लगा कर उस को निकाल दिया गया।

मैं चाहता हूँ कि आप इस तरफ देखें। गोपालन साहब ने काफी चीजें आपके सामने रखी हैं। मैं आपके सामने एक दो केस रखना चाहता हूँ और बतलाना चाहता हूँ कि किस तरह से लोगों को निकाला गया है। एक एन० वी० नारायण नम्बियार जोकि कानपुर में पोस्ट आफिस में क्लास फोर स्वेट था, उसको इस बिना पर निकाल दिया गया कि वह रिहर्सल करने के लिए उस ड्रामे का जिस का शीर्षक 'रेंट एरियर' था गया। यह कहा गया कि यह कम्युनिस्ट ड्रामा था और वह उसमें कैसे भाग ले सकता था। उसको कहा गया कि तुम गवर्नमेंट सर्वेंट हो एंड यू आर सपोज्ड टू बी ए लायल सर्वेंट। मैं आपको बतलाना चाहता हूँ कि इस ड्रामा को एक फेमस कांग्रेस जनल में भी पब्लिश किया गया था। अगर आप इन सब चीजों पर गौर करें तो इससे मुझे बड़ी खुशी होगी। इन चीजों पर गौर करने के लिए एक ट्रिब्यूनल की आवश्यकता है या नहीं, इस पर भी आपको ध्यान देना होगा। मैं समझता हूँ कि इस की बहुत ज्यादा आवश्यकता है। इसको बनाने के बहुत से रीजन मौजूद हैं। आप यह न समझें कि यह चीज चूकि विरोधी दल की ओर से रखी जा रही है, इस वास्ते इसको पास नहीं किया जा सकता है। आपका बहुमत है, इस चीज को मैं मानता हूँ। लेकिन आपको ईसाफ करना चाहिए। मैं आपको एक सीता राम का केस भी बतलाना चाहता हूँ जो कि पोस्ट एंड टैलिग्राफ आफिस मलाहाबाद में काम करता था। वह भी एक बीता

[श्री स० म० बनर्जी]

हुमा केस है। उसको सन् १९४८ में सस्पेंड किया गया और १९५३ में डिस्चार्ज किया गया। जब वह अदालत में गया तो वहां पर वह जीत गया। लेकिन आज भी उसको नौकरी पर बहाल नहीं किया गया है और वह फाकाकशी की जि दगी बसर कर रहा है। हमारे प्रधान मंत्री बड़े हर दिल-झाजिज हैं और हम सब की उन पर श्रद्धा है। उनकी हर जगह इज्जत की जाती है। मैं निवेदन करना चाहता हूँ कि वह इन मामलों को देखें और इनको समझने की कोशिश करें। ये वही मुलाजिम हैं जिनके सहारे देश की हकूमत चल रही है और उनसे यह आशा की जाती है कि वे अच्छी तरह से और ईमानदारी से अपना काम करें। आज द्वितीय पंच वर्षीय योजना तथा दूसरी स्कीमस को कामयाब बनाने के लिए इनके सहयोग की अपेक्षा की जाती है और इनको कहा जाता है कि वे इस काम में योग दें। ऐसी हालत में उनको फाकाकशी करने के लिए क्यों मजबूर किया जाता है और उनके केसिस पर क्यों सहानुभूति से विचार नहीं किया जाता है। आज जो ट्रिब्यूनल की मांग की जा रही है क्यों इन पर एतराज पेश किए जाते हैं।

अब मैं जो कानून आप ने बना रखे है उनके बारे में थोड़ा सा अर्थ करना चाहता हूँ। आज हमें यह देखना है कि क्या हमने लोगों को फ्रीली अपने आइडियास एक्सप्रेस करने का तथा स्पीच देने का अधिकार दे रखा है या नहीं। हमने कहा कि फ्रीडम आफ स्पीच एंड एक्सप्रेशन होना चाहिए। मैं एक केस का हवाला देना चाहता हूँ और उसके बारे में जो हाई कोर्ट की जजमेंट है उसको पढ़ना चाहता हूँ। यह केस कृष्ण चन्द्र चटर्जी का है जिसको डिस्मिस कर दिया गया था इस वजह से कि उसने कोई पब्लिक या लीफलेट निकाला था जिस में उसने कुछ आरोप लगाये थे या अपनी मांगों के बारे में कुछ

लिखा था। उसको कहा गया कि उसने गवर्नमेंट सर्वेंट्स कंडक्ट रूल्स के रूल २१ की खिलाफवर्जी की है। उसने हाई कोर्ट में इसके खिलाफ अपील की। इसका फैसला १९५४ में हुआ और अपने फैसले में जस्टिस सिन्हा ने जो कुछ लिखा वह मैं आपको पढ़ कर सुनाना चाहता हूँ। उन्होंने लिखा :—

"His lordship upheld this contention and set aside the order of dismissal observing that it was entirely vague and uncertain to say that a Government servant could not say anything or write anything which was 'capable of embarrassing' the relation of the Government and the people or the Government and foreign country or the ruler of a State".

बाद में उन्होंने लिखा है :—

"The fundamental right of freedom of speech and expression was thus made subject to the 'arbitrary subjective satisfaction of a few persons in authority and mainly of a hierarchy of Government officials, and this was against the letter and spirit of the fundamental rights of free speech and expression guaranteed by the Constitution'".

यह जजमेंट कोई आपोजीशन के मंत्रियों का नहीं है या उनका लिखा हुआ नहीं है। यह एक जज का लिखा हुआ है जिस को आप इसाफ का प्रतीक मानते हैं। इन रूल्स को आपको बहुत पहले बदल देना चाहिये था। ये ब्रिटिशर्स ने हम पर हकूमत करने के लिए बनाये थे और आज भी ये उसी तरह से चले आ रहे हैं। मैंने जब यहां पर एक सवाल किया और पूछा कि क्या इन रूल्स में कोई तरमीम की जा रही है, तो हमारी राष्ट्रीय सरकार की ओर से यह जवाब दिया गया कि जी नहीं "इट इज नॉट प्रोपोज्ड"।

Tribunal to review
the cases of dismissed
Government employees

में कहूंगा कि गवर्नमेंट सर्वेंट्स कंडक्ट रूल्स आफिशल सीक्रेट एक्ट इत्यादि जो ये तमाम चीजें हैं इन सब में परिवर्तन होना चाहिए। अगर आप ऐसा नहीं करते हैं तो लोग इस बात पर विश्वास नहीं करेंगे कि आप लोगों की भलाई के लिए और जमहूरी उसूलों पर सरकार को चला रहे हैं। लोगों को विश्वास नहीं होगा कि आप समाजवाद की ओर जा रहे हैं और इस लक्ष्य को आप सिद्ध करने की चेष्टा कर रहे हैं। मैं निवेदन करना चाहता हूँ कि यह जो ट्रिब्यूनल की मांग है जिसको कि मैं सपोर्ट कर रहा हूँ इस पर आप तथा हमारे रेलवे मिनिस्टर तथा हमारे प्रधानमंत्री संजीदगी के साथ गौर करें और इसको मंजूर करें इसके बगैर आप उन सरकारी मुलाजिमों को कैसे, जोकि भूख हड़ताल पर हैं, जोकि फाकाकशी कर रहे हैं, इत्मीनान दिला सकते हैं?

अन्त में मैं एक बार फिर बड़े जोरदार शब्दों में दरखास्त करता हूँ कि आप इस सवाल पर राष्ट्रीय दृष्टिकोण से विचार करें कि किस तरह से आपको देश को आगे ले जाना है, किस तरह से आपको देश की योजनाओं को कामयाब बनाना है, किस तरह से आपको समाजवाद इस देश में लाना है और इन सब से अनुरूप ही आपको आचरण करना चाहिए।

Shri Tangamani: Mr. Deputy-Speaker, I have already moved an amendment to this Resolution of Shrimati Parvathi Krishnan and as amended, the Resolution will read as follows:

"This House is of opinion that a special Tribunal consisting of a High Court Judge as Chairman and two members representing the Government and the workers should be appointed to review the cases of employees whose services were terminated or who were dismissed or who are under indefinite suspension under the Central Civil Services (Safeguarding of National Security) Rules, 1953,

Government Servants Conduct Rules and Rule 1708 of Indian Railways Establishment Code during the period from 16th August, 1947 to the 12th September, 1957 and it should submit its findings before end of December, 1957."

My object in moving this amendment is to fix the period from which we are to consider the various cases of dismissals and suspensions and also to fix the period within which this has to be limited, namely, the day on which the motion was moved. The amendment also wants that the findings of this Tribunal must be published before the end of this year.

Already, Shri A. K. Gopalan has mentioned how the various Safeguarding of National Security Rules and Government Servants Conduct Rules have been used against important trade union activists. I would mention that ever since 1948, this has been used very freely against trade union activists belongs to trade unions other than the Indian National Trade Union Congress. Those who were affiliated to the All India Trade Union Congress or the Hind Mazdoor Sabha have always been picked out for the purpose of special harassment by the Railway board or by the Central Government departments.

I would mention a few cases. One of the Vice-Presidents of the Southern Railway Labour Union, Shri N. Krishnaswami by name, who is a senior engine driver, who went to Punjab during 1947 days for bringing refugees is one of those who have been sent out under the Safeguarding of National Security Rules. Another Vice-President of the same Union, Shri J. B. Purushottam is still under suspension. Such activists, nearly 20 in number belonging to the Railway Labour Union and also senior workers in the ex-S.I.R. have been dismissed under some pretext or other.

I would mention the nature of the charges that have been given to some of these employees. There was one case which came up before the High

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Court. That was the case of one Anantha Narayanan.

The Minister of State in the Ministry of Home Affairs (Shri Datar): On a point of order, when hon. Members, in support of their plea, refer to certain cases, I believe you once ruled that in all such cases, those cases should be intimated to us so that we can look into those individual cases and reply when that reply is necessary.

Shri Tangamani: I would mention...

Shri Datar: Let the hon. Member wait and hear. You are aware that there are so many lakhs of government servants and there may be cases here and there of dismissal or termination of service. In all such cases, in fairness to the Government, it would be better if previous intimation is given to us, I believe it was the ruling by the Chair, so that we can place the other side before the House.

Shri Tangamani: I would like to mention that some of the cases which I am going to mention have already been referred to the Government and the replies received from the Government also I am going to read.

Mr. Deputy-Speaker: I follow that. I agree with the hon. Minister in this respect that previous notice of such cases ought to have been given. It has been ruled once before also, I recollect that. Even if such cases had been brought to the notice of the Government, it is not possible for the Minister to keep them read when this discussion is called for or is taken up unless pointed reference has been made, and he has got that notice about these cases that are going to be referred to. Even admitting that these cases were brought to the notice of the Government at some earlier time, we cannot presume that the Minister would be ready with all those cases at this time. If now certain cases are taken up and the Minister is not able to make a reply to

those specific cases, an impression would be created in the press and in the public outside, that the Government had no answer to make to them, and perhaps the Members also who are referring to them may not be satisfied with the incomplete answers that they get at this moment. Therefore, either the Government should take some time and place those answers to the cases afterwards on the Table, or should get some time to prepare the answers and bring them to the notice of the Members here at some later moment. I do appreciate that difficulty. So far as the cases cited by Shri A. K. Gopalan are concerned, I asked him to place them on the Table of the House and he has done it. That is correct. Now, I cannot expect the hon. Minister to answer each one of them off-hand without looking into the records, without calling for the information. That might have to be done from outside perhaps, it may not be readily available here.

Shri S. M. Banerjee: This information exists in their departments because they have sent numerous reminders

Mr. Deputy-Speaker: That might be, but could it be expected that these would be referred to here, and can he get the information? That is what I am referring to, that it was not possible and would not be possible for any human being to anticipate all those cases that would be referred during this discussion. That is what I am saying. Therefore, the debate would become unreal, that is the difficulty.

Shri Tangamani: These are only illustrative examples. What we really require is that a tribunal may be appointed as certain types of charges have been framed. It is not the individual who is important now. The Government may take their own time to pursue the cases of these individuals and find out whether such types of charges were made or not. Here we bring to the notice of the House,

and through the House to the Minister how certain charges were framed under these various rules, and we say that these will not stand the scrutiny of a tribunal. It will amount to what we would call in the trade union field "victimisation for trade union activities". That is the point.

Mr. Deputy-Speaker: This is correct. The thing that is being asked is the appointment of a tribunal, but that would be answered in general terms, but the case for the appointment of a tribunal is being built up by citing these cases and stating that these are the reasons. It may be the case that such injustice has been done in certain cases, and if that be so, certainly there is a case for enquiry and the appointment of a tribunal. This is what is being argued. But unless the Government is satisfied that those cases really are such as is being represented, how can an effective answer come from the Government at this moment? How can Government make up their mind whether really there is a case or not? Therefore, unless the hon. Minister knows those cases and has found out from the department whether such a thing exists and whether injustice has been done as has been attempted to be made out, surely it will not be possible for the Minister to make a reply. This is the difficulty that I am experiencing. Now we will see what the hon. Minister says. The hon. Member might resume his speech, and conclude the point that he has to make about the cases.

Shri Tangamani: I would like to mention about a specific charge which was framed against a worker by name Anantanarayanan who is now employed in the Southern Railway. The charges as set out in the Madras High Court decision on Writ Appeal No. 16 of 1955 between the General Manager and R. Anantanarayanan, respondent, are:

"You are a member of the Communist Party of India and of

the Communist-controlled Southern Railway Labour Union.

You are in touch with the Politbureau of the Communist Party.

You contributed articles to the Communist organ criticising the Government of India and the railway administration with a view to spreading discontent and disaffection among the railway staff.

You spread the doctrine of communism among the public and railway staff.

You collected funds for the Communist Party of India and you actively canvassed for the Communist Party candidates in the last elections to the Legislative Assembly."

The original writ petition which was decided in favour of the petitioner was again confirmed and.....

Mr. Deputy-Speaker: What is the hon Member reading from?

Shri Tangamani: It is from the judgment.

Mr. Deputy-Speaker: Is it a certified copy?

Shri Tangamani: It is a reported case. I had occasion to quote this report.

Mr. Deputy-Speaker: Now he is reading from what? Are these reports?

Shri Tangamani: From my copy.

Mr. Deputy-Speaker: That is the difficulty. The Government might say they cannot satisfy themselves whether.....

Shri Tangamani: It is a reported case.

Mr. Deputy-Speaker: Quite right, I do not dispute it.

Shri Tangamani: They only set out the charges in the course of the judgment. These were the charges levelled

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against a particular person, and the Judges proceed to say that if charges of this kind.....

Shri S. A. Dange (Bombay City-Central): May I know whether the line that we follow in the future debates will be such that we cannot make an argument unless we put the Government in a position of effectively answering that?

Mr. Deputy-Speaker: I never said that. The hon. Member has misunderstood me.

Shri S. A. Dange: Otherwise, the interpretation would be that. Any case we cite the Government cannot reply to, therefore we cannot use it.

Mr. Deputy-Speaker: It is not a correct interpretation of what I said.

Shri Datar: Otherwise, it would be only an one-sided representation.

Shri S. A. Dange: How one-sided?

Mr. Deputy-Speaker: Now let us hear the hon. Member.

Shri A. K. Gopalan: The object of the resolution is this. What we want is not an answer.

Mr. Deputy-Speaker: The hon. Member is proceeding with his speech. How could there be an objection?

Shri Tangamani: They say in their statement that no Government servant could be confident of remaining in service beyond a week if such charges were made. As a result of the decision he was re-instated, but we find that he has been subject to harassment, being transferred from one centre to another within a period of ten days etc. I only brought this judgment to notice to show the sort of charges levelled against trade unionists.

There is another case of Shri Desikan, carpenter T. C. No. C.B. 278 who was working in the Perambur workshop of the ex-M.S.M. Railway, and the charge against him is that he distributed a pamphlet signed by the Communist Party of that area and that the pamphlet contained certain allega-

tions like the following: "Trade test which is a bribe test; Administration have sent away 7,000 workers; Administration's men like formen and P.W. Inspectors are forcing the labourers and the gangmen to sign the option forms". Such allegations were said to be contained in a pamphlet which was distributed by this worker, and this pamphlet is alleged to have been prepared or signed by a certain unit of the Communist Party. On this charge he has been sent away. An appeal to the General Manager and to the Railway Board has been of no avail at all.

I would also like to mention cases where the High Court has held that the dismissal was unjustified, and I would be able to give the references if the hon. Minister wants. There were three or four cases in the Madras High Court where the worker was ordered to be reinstated. He was reinstated and then he was again dismissed under article 311, clause (3) by special powers, and then because it is a dismissal by the special order of the President, no appeal lies. This is the way the High Court order is also circumvented.

Shri Gopalan also pointed out the case of Sitaram who has been ordered to be reinstated by the District Judge of Allahabad, but nothing has been done to this day. I may also inform you that there are three cases of railway workers and one case of a telephone operator in the Bombay High Court where the dismissal was held to be unjustified, and to this day they have not been reinstated. Such instances can be multiplied.

I will mention only a recent case. In Sealdah station in Calcutta on 21st February, 1957 when a gang of workers were repairing under the rake of a passenger train. They were made to work without safety measures although the workers opposed it. Of course, there was an accident. One worker died and several were injured. Many witnessed it. A representation was made by the trade union as a

result of this. For having made the representation, six persons of the department were charge-sheeted on the ground of some sort of agitation. The Divisional Superintendent was asked to concretise the charges so that the workers could submit a defence, but they are setting up an enquiry under the disciplinary regulations. As soon as a particular enquiry is demanded by the workers or by the trade union, down comes the heavy arm of these disciplinary rules, or the special powers of the President. I would submit that if this practice is allowed to continue, it would really be a challenge to the various Central trade union organisations of this country.

A discrimination is sought to be made by Government, although there is the declared policy as to how trade unions are going to be recognised. A Bill for the recognition of trade unions has been long overdue. But we find in actual practice that if there are trade unions and central trade union organisations which do not toe the line of Government, then under some pretext or the other, active trade union workers are being victimised. That is the special charge that we would like to make.

I remember the case of some three workers who are still placed under suspension in the Southern Railway. And this is the sort of reply that those workers get. The letter of the Railway Board, Ref. No. ES. 4/AE/14/5, New Delhi, dated 23rd July, 1954 stated:

"The cases of Shri Ponnappan and Shri J. V. Purushottaman are still under the consideration of the Government, together with other similar cases, and a decision is likely to be taken shortly..... The case of Shri Jagannathan is still under consideration."

These cases are under consideration from 23rd July, 1954. The workers were placed under suspension somewhere in the year 1948. And in 1954, the Railway Ministry wrote that the

cases were still under consideration. Today, we are at the end of 1957, and yet these cases are still under consideration.

My submission is that these are cases where patent injustice has been done by the railway authorities or whoever was in power. And if these persons are reinstated, the authorities are afraid that people may know that the purpose for which these workers were sent away was only to show that so long as they belonged to a particular trade union, the heavy arm of the Government was going to fall upon them, and further, if they are reinstated, the workers would become more confident of joining a trade union of their own choice.

I submit that this kind of victimisation should not be allowed. There are several instances of this character. Already, my hon. friend Shri S. M. Banerjee has referred to the instance from the Posts and Telegraphs Department, where a worker was victimised for having issued a particular statement; and he has already read out that statement. The High Court found in that case that merely because he had issued a statement which was not to the whims and fancies of a particular official there, he could not be victimised and he could not be sent away. Such strictures are there, from many High Courts, from the Calcutta High Court, from the Bombay High Court, from the Madras High Court, and so on. In spite of that, the Central Government, whether it be the Defence Ministry or the Transport and Communications Ministry or the Railway Ministry, are not giving respect to the findings of these various High Courts.

So, it is about time that justice is done to these employees who have served Government well and who are still prepared to serve Government well. Most of them are very skilled workers with several years of service. If the House does not protect them, then who else is going to protect them?

[Shri Tangamani]

That is why I say that the demand of this resolution is a very modest one, namely that the cases of these workers must be placed before a tribunal. If the tribunal decides otherwise, that is a different matter. But these workers have been without job for several years, and this is the only hope for them. So, I commend this resolution, as amended, to this House.

Shrimati Renu Chakravarty (Basirhat): I just want to place one or two cases before this House. One has already been stated, namely that of Shri Kanhaiyalal Chatterjee, a clerk in the Posts and Telegraphs division of South Calcutta. This gentleman had been working for fourteen to seventeen years in the department. Suddenly, one fine morning, he is forwarded a letter from his superintendent, a letter written by the Secretary to the Communications Ministry, saying that the President has ordered under his powers under article 311 that the said Kanhaiyalal Chatterjee's services are no longer required, because of the security of the State, and because of the security of the State in the year 1957 no cause shall also be shown to him whereby he may give a defence as to why he should not be dismissed.

I remember, a few months ago, when my hon. friend Shri Narayanankutty Menon was speaking about this matter in the course of the discussion on the Railway Budget, the Minister of Railways said that if any concrete cases were put before him, he would certainly enquire into them and examine them. In the case of the Communications Ministry, I hope that a similar thing will be done. In the year 1957, to bring forward this excuse of the security of the State is as laughable as any other. That is one concrete case which I would like the Minister to examine. Perhaps, this was done with a view to satisfy the whims and fancies of certain local people who may not have particularly liked that person, or may be even certain local Congressmen of that village might have writ-

ten to the authorities saying that this gentleman was a subversive element, and, therefore, action might have been taken. That a person with 17 years of service, with a family to maintain, to be told suddenly on one fine morning that he was a subversive element, and that he was against the security of the State, and in the interests of the security of the State, he should be thrown out, is a clear enough case which will show that there was victimisation taking place at a time when there was absolutely no justification to do so, and that it was only a political victimisation.

The second concrete case that I would like to give is that of certain gangmen who were repairing under the rake of a passenger train which was to start from Sealdah station. This was on 21st February, 1957. At that time, no proper safety measures had been undertaken; and as you know, to work under a rake under such conditions was a very dangerous thing. The workers themselves had objected to it. But, strangely enough, without safety measures, in spite of the fact that there were no safety measures, the Administration forced them to do the repair work. What happened was that another rake came and bumped against it. One worker was killed, many were injured, and several passengers also were injured. There was great agitation over it, in which the public also participated, and there was dislocation.

After that, the district magistrate came, and in front of the divisional superintendent, he came to the conclusion that there would be no victimisation of the workers, because there had been a serious negligence in regard to the taking of safety measures. After all that had been signed, in spite of that, we find that the workers have been given break-in-service notices. One, Shri Chota Lal, a labourer applied for leave, and he was refused privilege passes and leave due to him, which again indi-

rectly proves that there has been break in services. Besides they have not given any time, to advance their defence, and they are not given any grounds why there should be break in service. All this has been done in a subterranean fashion.

Again, six persons were given charge-sheets under item 6, that is for removal from service. And what was the ground? The ground was that of creating some sort of agitation. When the staff demanded that there should be some more concrete charges so that they may submit their defence, the authorities set up an enquiry committee under the disciplinary regulations. And even the staff who had actually suffered injury have now been put under pay-cut and break in service. In this connection, the name of one Shri Nagamani also had been stated, whose gratuity has been held up after superannuation on 1st August, 1957. All this shows that the attitude of the authorities is that they will not allow the staff to have any knowledge of the fault with which they are charged, and subsequently action is taken in respect of the same.

We find also that even people who had not actually been present at the scene were victimised. For instance, there is one Kumud Behari Loadh, a pipe-fitter in Sealdah station; he was not there at all, but he is also included in the list. Now, what has happened is that the man who is actually against no-victimisation, that is, the divisional superintendent there is asked to enquire; the man who is the prosecutor becomes the judge again. And again an enquiry is being undertaken by that very gentleman who was opposed to having this agreement on no-victimisation.

Similarly, there are other cases of break in service. There is the case of the fitter at the Narkel Danga loco shed. There, an engine was shunted as per the orders of the LFI, and actually, he did not conform to the rules of procedure in carrying out shunting in the sheds. As a result, this man was very seriously injured. Then, there was agitation, and because

of this agitation, there was dislocation. In spite of the fact that the foreman did not actually stand by the various rules, and in spite of the fact that he did not take care to take the necessary precautions in regard to shunting, these workers are being given break-in-service notices.

All this sort of victimisation is taking place. So I would request the hon. Minister to look into this matter very seriously. This is the year 1957, a moment of time when everybody is demanding justice to the workers. If there is any cause for grievance, let it be inquired into properly and thoroughly. Let the workers know exactly what is the cause for which you want to throw them out of service, and on the basis of a clean sheet and clear conscience, let us proceed.

That is why we demand that in every one of these cases—there are hundreds of other cases—we would like Government to go into them; that is why we demand that there be set up a Tribunal before which all these cases can be properly inquired into so that justice could be meted out to these people.

Shri Narayanankutty Menon (Mukandapuram): I do not want to make a mention of the specific cases, because almost all the glaring specific cases have been pointed out before the House.

When article 311 of the Constitution was adopted by the Constituent Assembly, from all sides of the House there was a general apprehension regarding the possible misuse of article 311(3). When this article was originally put before the Constituent Assembly and was debated, every section of the House at that time felt that there should be security of service to all government employees, irrespective of their position. Then categorical assurances were given by the Government that there would be enough safeguards for the Government themselves to prevent possible misuse.

[Shri Narayanankutty Menon]

From the moment article 311 was effective, from 1950, uptil this time, even though only very few cases were pointed out before this House, there are more and more cases where the grounds given were more ridiculous than the grounds already stated before this House. Let us look into the position whether there has actually been any emergency where the Government were confronted with a situation when the extraordinary powers given under article 311(3) should be used. As far as all sections of government servants are concerned, there are very elaborate rules governing their service conduct. All the charges that could be framed against them, could come under those rules. The Government are aware that according to the Government Servants' Conduct Rules, even a small, little smile of a government servant against a superior officer could be brought within the purview of misconduct, because any act which is done and which is embarrassing to the superior officer is a misconduct under those rules.

So when any act which is against the security of the State or which is merely misconduct could be dealt with with particular reference to those rules and that particular employee given an opportunity to defend himself against those charges, what is the necessity of bringing this extraordinary provision into application unless there are real and genuine grounds which could not be disclosed either to the public or to anybody concerned?

Here is a fundamental principle is involved, because apart from practically misusing these provisions, they are also used for bolstering up party positions, that is, using these provisions against those who are politically against them. Any government servant may one fine morning get a sack order whereby he does not know what actually he has done, and later on if certain circumstances come and some grounds are given for him and when those grounds are before the Government, the Government will find

it at a loss to understand or appreciate these difficulties. All these cases are there without anybody to look into the matter.

When the President exercises this extraordinary function, it is possibly on the report of some inferior officer. In these cases, we find that the reports given by the inferior officer, whether genuine or not, are believed by the topmost authority and the person is given the sack order.

Without going into the merits of the cases—because the hon. Minister has said that if we are going into individual cases, the Government may not be able to reply to these individual cases; that question does not really arise here because we are not discussing the merits of individual cases of dismissal of one employee or the other—the Resolution seeks only for the appointment of a judicial authority to inquiry into the dismissal cases whereby he could be satisfied whether the security of State was really in danger or the dismissals were due to extraneous reasons as a result of which certain personal prejudices worked.

We heard certain reasons for dismissing certain servants which were later on given in which the Head of the State exercised this discretion. One ground was that a person refused to cut grass. If the security of the Indian Union depends upon a class IV worker in the railways cutting grass or not, to what ridiculous position that security will be reduced?

It may be that in a case—we do not know—a person may commit certain acts of treason and in the interest of the security of the State, that person may have to be removed. If this happens in a time of emergency, it may not be possible for Government also to disclose the reason immediately. We do not rule out this possibility, if Government put forth that there were cases like this where they might have taken action, but our main case is that a large number of cases, 99.9 per cent. were as a result

of political prejudice or some sort of prejudice on the part of petty officials against the small servants. When the Government have been told that all these charges are frivolous, is it too much to demand that some judicial agency should be appointed with power to inquire into these cases and determine whether these people have been deprived of their positions in the interest of national security? That is not too much to ask. The Government need not on this score alone get too much perturbed because, as the hon. Minister put it, it will not prejudice their case if reasons are given.

If these reasons are given and all these cases are looked into, as the hon. Railway Minister assured me the other day in the course of the debate, that each individual case would be looked into in future, it will be far better to entrust the whole job to a judicial authority who would inquire into them and decide whether actually the power given under article 311(3) has been properly exercised or not.

Therefore, I appeal to the Government not only in the interest of those who have been dismissed from service without any reason but in the interest of the good name of Government also to prove that in all cases Government have used this power *bona fide*. Let the exercise of their power stand with the approval of a judicial authority. On the other hand, if really injustice has been done to a large number of employees, let that injustice be removed so that Government also may feel that the injustice has been removed.

श्री का० ना० पांडे (हाता) :
 उपाध्यक्ष महोदय जैसा इस प्रस्ताव पर बोलने वालों ने कहा है और कई उदाहरण भी दिए हैं कि फला एम्प्लायी निकाल दिया गया और उस के मामले में यह जजमेंट हुआ। इसी तरह से बोलते हुए उन्होंने आई० एन० टी० यू० सी० का भी नाम लिया है और कहा कि गवर्नमेंट खास तौर से आई० एन० टी० यू० सी० के साथ फेवर करती है। मैं भी

एक उदाहरण देना चाहता हूँ। मुझे मालूम है कि एन० ई० रेलवे में एक यूनियन ऐसी है जिसे गवर्नमेंट रिकग्नाइज करती है। उस के जेनरल सेक्रेटरी कम्प्यूनिस्ट हैं और उसकी कार्यकारिणी में भी कुछ सदस्य ऐसे हैं जो कम्प्यूनिस्ट हैं। वहीं पर एक यूनियन ऐसी है जिस के प्रेजिडेंट यू० पी० सूबा कांग्रेस कमेटी के प्रेजिडेंट हैं लेकिन रेलवे विभाग ने उसे रिकग्नाइज नहीं किया। इसलिए यह कहना कि चूंकि भ्रमूक भ्रादमी कम्प्यूनिस्ट पार्टी से सम्बन्ध रखता है इसलिए उसके साथ गवर्नमेंट के जरिए से खास तौर पर सलूक होता है मे इसे मानने के लिये तैयार नहीं हूँ।

दूसरी बात में यह निवेदन करना चाहता हूँ कि श्री बेंनर्जी साहब ने एक बात का उल्लेख किया और कहा कि उनको यह मालूम है कि फला मिनिस्टर ने टेलिफोन पर क्या कहा अब आप खुद समझ लीजिए कि अगर इस टेलिफोन की बात किसी आपरेटर ने बेंनर्जी साहब से कहा है तो यह डिजिटल है या इन्डिजिटल है। अगर उस भ्रादमी के खिलाफ गवर्नमेंट की तरफ से कोई ऐक्शन होता है तो इस दुनियां के भ्रन्दर और डिमाक्रेसी के जमाने में यह अन्याय नहीं कहा जा सकता। साधारण भ्रादमी के लिए भी यह बात होती है अगर मैं टेलिफोन से किसी से बात करूं तो आपरेटर का फर्ज है कि वह किसी से भी उस बात को न कहे। फिर अगर कोई बात गवर्नमेंट कहती है और वह उसको कहता है तो वह कितनी बुरी बात है। तो या तो यह बात बिल्कुल गलत है कि इस तरह की कोई बात टेलिफोन पर हुई और अगर हुई और कही गई तो उस एम्प्लायी के खिलाफ यदि ऐक्शन लिया जाय तो उसके साथ अन्याय किया जाना नहीं कहा जा सकता।

आज कल एक फेशन सा हो गया है कि जहां किसी बात से मजदूरों का ताल्लुक या सम्बन्ध हुआ आई० एन० टी० यू० सी० का नाम जरूर लिया जाता है। मैं आप से कहना चाहता हूँ कि आई० एन० टी० यू० सी० गवर्नमेंट की सपोर्ट पर नहीं बढ़ती है वह

[श्री का० ना० पांडे]

अपनी मेरिट पर बढ़ती है। जहां तक ट्रीब्यूनल का सवाल है हम पहले से उसकी मांग करते थे। आप तो ट्रीब्यूनल में विश्वास ही नहीं करते थे आप लड़ाई में विश्वास करते थे। इस के बावजूद आप में देखा कि कंट्री के लोगों ने इस बात को महसूस किया। हम वैधानिक तरीके से काम कर के ही अपनी यूनियन को इस्टैब्लिश कर सकते हैं न कि एक दम लड़ाई करके और उसका नतीजा आप ने देखा। बावजूद आप की कोशिशों के आज आई० एन० टी० यू० सी० की स्ट्रेंथ १५ लाख है और आपकी नेगिजिबल है। इस लिए यह कहना कि गवर्नमेंट

श्री स० म० बनर्जी: रिफरेंडम से लाजिए।

श्री का० ना० पांडे: आप रिफरेंडम की बात करते हैं। जब गवर्नमेंट की तरफ से इन्क्वायरी होती है तो आप की मेम्बरशिप कम निकलती है। और रिफरेंडम भी हो गया है। रिफरेंडम के मामले में, उपाध्यक्ष महोदय, मैं यह निवेदन करना चाहता हूँ कि वे लोग रिफरेंडम की बात करते हैं? बड़े जोर जोर से चिल्लाने हैं कि कानपुर में ८० दिन की स्ट्राइक हुई। मैं बतला देना चाहता हूँ कि स्ट्राइक को लीड करने वाले जो कम्युनिस्ट पार्टी के सेक्रेटरी थे वह एलेक्शन में हार गए और कांग्रेस के लोगों ने स्ट्राइक के खिलाफ कहा था। हमने वह कहा था कि वहां पर एक कमेटी बननी चाहिए वहां कांग्रेस का कैंडिडेट जीता है। यह रिफरेंडम तो अभी हो चुका है क्या अब दूसरा रिफरेंडम होना जरूरी है।

मैं यह कह देना आवश्यक समझता हूँ कि किसी पार्टी या किसी यूनियन की मेम्बरशिप का डिटेर्मिनेशन कैसे होता है। जितनी आर्गनाइज्ड यूनियनों या रजिस्टर्ड यूनियनों हैं उनकी मेम्बरशिप को देखा जाता है। कम्युनिस्ट पार्टी की जो यूनियन है उसकी मेम्बरशिप को भी देखा जाता है आई० एन० टी० यू० सी० की मेम्बरशिप को भी देखा जाता है।

कई मर्तबा इस तरह की एन्क्वायरी हुई। यह भी साबित हुआ कि आप लोगों ने फ़रजी नाम पेश करने चाहे लेकिन इसके बावजूद आप एन्क्वायरी में ठहर न सके। मैं यह बताना चाहता हूँ कि आई० एन० टी० यू० सी० अपने काम करने के ढंग से घाबे बढ़ती है। वह गवर्नमेंट की स्पोर्ट से घाबे नहीं बढ़ती है। यह बात जरूर है कि चूंकि आप की यूनियन का पोलिटिकल एनायंस है कम्युनिस्ट पार्टी के साथ तो आई० एन० टी० यू० सी० एक पोलिटिकल आर्गनाइजेशन नहीं है वह एक ट्रेड यूनियन आर्गनाइजेशन है और उसका पोलिटिकल एनायंस कांग्रेस के साथ है। कोई कितनी तालियां पीटे इससे कुछ होता नहीं है। सारी दुनिया जानती है। तमाम प्रचार के बावजूद भी अब भी हिन्दुस्तान में सब से प्रमुख हाथ आई० एन० टी० यू० सी० का है और वह होगा। अगर आप लोग गलत बातों का प्रचार करते रहेंगे तो आप ऐसे ही नज़र करते रहेंगे। मैं इस बारे में कुछ ज्यादा नहीं कहना चाहता हूँ। मैंने यह इसलिए कहा है कि चूंकि सदस्यों ने कहा है कि फ़लां आदमी चूंकि कम्युनिस्ट पार्टी के साथ ताल्लुक रखता है इसलिए उसके खिलाफ एक्शन लिया गया। उन सदस्यों को साथ ही साथ यह भी बतलाना चाहिए था कि क्या आई० एन० टी० यू० सी० के साथ रहने वालों के खिलाफ कोई एक्शन नहीं लिया गया।

श्री स० म० बनर्जी: नहीं हुआ है। आप बताइये।

श्री क. राजाiah पांडे: वह गलत बात है। मैं सबूत पेश करूंगा। इसी तरह की बात जब आपने कही तो स्पीकर साहब ने कहा कि पहले आप को वह सूचना मिनिस्ट्री को देनी चाहिये थी। मैं आप की तरह से काम नहीं करना चाहता हूँ। मैं वे एग्जाम्पलज मिनिस्ट्री के सामने रखूंगा। मिनिस्ट्री इस तरह से काम नहीं करे कि फ़लां आदमी

आई० एन० टी० यू० सी० या कम्युनिस्ट पार्टी के साथ है इस लिए उसको रखा जाय या निकास जाय । जिन बातों को आप ने यहां पेश किया है हम उनके मेरिट के बारे में कुछ नहीं कह सकते हैं कि वे ठीक हैं या नहीं क्योंकि हम ने इंडिविजुअल केसिज की जांच नहीं की है । मिनिस्ट्री आपको जबाब देगी । मैं समझता हूं कि ग्राम सिद्धान्त यह है कि अगर हम सुचारु रूप से ड्यूटी की पाबन्दी करते रहें, तो सिर्फ इस लिए एक्शन नहीं लिया जा सकता कि हम कम्युनिस्ट पार्टी के आदमी हैं या हम आई०एन० टी० यू० सी० के आदमी हैं । जिन लोगों के काम में थोड़ी सी खराबी होती है वही पर एक्शन लिया जाता है । इस सम्बन्ध में मुझे इससे ज्यादा निवेदन नहीं करना है ।

Shri Achar (Mangalore): Sir, I rise to oppose the resolution.

Shri T. B. Vittal Rao (Khammam): Wholeheartedly!

Shri Achar: Yes, wholeheartedly; are you satisfied?

One of the members of the Opposition seems to think that there are no persons to rise from this side to oppose the resolution. In fact, one particular Member made such a remark. We did not rise. We have heard you very patiently without any disturbance and may I have that indulgence?

Mr. Deputy-Speaker: At least I assure the hon. Member that he will have that same indulgence from the Chair.

Shri Achar: I know the Chair is always indulgent. The trouble is with the Opposition.

I say I oppose this resolution more in the interests of good general principles of administration. Several individual instances have been quoted. Even the Minister had to say that he will not be in a position in all cases to reply in regard to them without previous notice. The House certainly cannot expect that I will go into the

individual cases at all. But, it is not a question of individual cases at all. It is the general principle underlying the resolution that has to be opposed. I say that in the name of good administration.

We may remember that one of the hon. Members had to concede while arguing that a judicial Tribunal should be appointed that he had to appeal to the Minister to consider these cases. If they have confidence only in judicial tribunals I do not understand why this appeal is made to the Minister. So far as the administration is concerned, there has to be some discipline, and some amount of good morale. I submit that all cases where there is indiscipline and where there is good reason to dismiss are not generally left to the discretion of the immediate officer only. There are several higher officers and there is the Ministry. The party in power has put the Ministry in office. If we are not trusting them and if for every case we want a judicial tribunal, then, I do not now where we will be. (*Interruption.*) I hope there won't be any disturbance.

Mr. Deputy-Speaker: The hon. Member shall have to go on in spite of interruption.

Shri Achar: I was submitting that from the point of view of administration, from the point of view of discipline there is to be some ultimate decision, whether these matters have to be decided by the officials or by the Ministry at last.

Our friends of the Opposition have quoted several instances where they have had the privilege of going to High Courts also. Only in a few cases the President's powers might have been invoked. But, all the same, to say that in all cases where there has been a dismissal or suspension there should be a judicial tribunal, I would submit, is going too far. We must have some amount of trust in the Government whom the people have put in power. It is not a question of officials only. There are, as I said, higher officials and the Ministry also.

[Shri Achar]

That being the case, I submit that to ask for a tribunal is not in the best interests of the administration of the country.

All this appeal comes from a party who know what the principle is. Let us remember the recent fact in Russia. Even Marshal Zuhov who was considered to be the hero of Moscow has been demoted. I do not know exactly the reason. But there is no doubt about that. Are they going to have a tribunal for that? Here at least the Opposition is allowed to discuss the matter and ask for a tribunal. Is it allowed in that country from where our friends are getting inspiration? Take for instance Malenkov. There are several instances. High officials believed to be persons holding responsible position are suspended or transported. We do not know what exactly happens to them. . . . (Interruptions.)

16 hrs.

Mr. Deputy-Speaker: There should be silence.

Shri Achar: In view of these facts, I submit that there is no case made out for the appointment of a Tribunal and I whole-heartedly oppose this Resolution

The Minister of Railways (Shri Jagjivan Ram): Sir, I did not propose to intervene in the debate. It will not be possible for me to give a reply to the individual cases that have been quoted. I must say that the colour that has been given to these individual cases is not as it is made to appear. In the last Session, I have said on an appeal from that side that I will review some of the old individual cases, I only wanted to inform the House that we have already started the work of reviewing those cases and where we found that there was some justification for modifying the orders, I would not hesitate to do that. I wanted to tell only this much.

Shri Datar: The Resolution that has been placed before the House is of

a very sweeping or roving character. What has been stated therein deserves reading in the light of what I am going to say. What they want is a special tribunal consisting of certain persons to review the cases of certain employees. Certain rules have been referred to. The point made out is that all the cases of termination of service or dismissal ought to be reviewed.

We have to consider whether such a case has been made out by the hon. Members opposite for the purpose of reviewing all the cases of terminations or dismissals of service. They have to satisfy the House whether the rules that have been framed and validated by the Constitution have been wrongly applied or whether there has been any impropriety of conduct on the part of the Government in these terminations and dismissals.

Certain instances were quoted by some hon. Members. Without going into the other aspects of the case, I should say that they quoted them in their own light and according to the case that they seek to make out. I was naturally surprised to find that the hon. Leader of the Communist Party wanted that his party should make out an effective case and that the Government should have no opportunity of giving an effective answer. It is an entirely wrong principle.

Shri A. K. Gopalan: Certainly not. (Interruptions.) We do not want that the Government should not reply.

Mr. Deputy-Speaker: The hon. Minister is not referring to Shri Gopalan but to Shri Dange.

Shri Datar: If the sponsor of the Resolution had a right to effectively place his case before the House, the Government also should have an effective opportunity of placing its side before this House.

Shri A. K. Gopalan: It is not a question of our effectively putting the case and your effectively answering. It is not a debate. What we say is that there are some injustices

done. You say 'No.' So, we say let them be placed before a tribunal. We do not want a debating society.

Shri Datar: Mr. Deputy-Speaker, Sir, you will agree with me in fairness that when instances are quoted on the floor of this House, it is quite likely that they would be quoted in a particular light and at best it is an one side presentation of the case. It is not the final case. If the Government had no opportunity of meeting the case, it will be understood that Government possibly have no case at all. Therefore, I would make a general observation that all these cases either in the Railways or other Departments of the Government have been quoted and they are only one-sided presentation and the Government had absolutely no opportunity either of studying or examining the real facts. Therefore, I would request you and the hon. Members not to look to these cases at all. With these remarks, I shall now deal with the resolution before us.

This Resolution deals with a number of rules. It refers to the Central Civil Services (Safeguarding of National Security) Rules, 1953, Government Servants' Conduct Rules and Rule 1708 of the Indian Railways Establishment Code. I will deal with them *seriatim*.

The first of these rules was made in 1949 for the first time. Those rules were revised with a view to give more opportunity to the persons complained against in 1953. Apart from these rules, article 311 of the Constitution says:

"No person who is a member of a civil service of the Union or an all India Service or a Civil Service of State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed."

No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him."

Then there is a proviso which says that this clause shall not apply in certain cases.

"Where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause; or

Where the President or Governor as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity."

In these cases, it need not be given at all.

Shri Easwara Iyer (Trivandrum): But, may I have this information?

Shri Datar: I am not yielding. Let me be heard. (*Interruptions.*)

Mr. Deputy-Speaker: The hon. Minister may not yield but then the position might be left to the Chair.

An Hon. Member: Why this temper?

Shri Datar: No temper. We have not temper, but reason, on our side. In such cases, the decision of the President or the Governor as the case may be shall be final according to article 311(3).

These rules were first made, as I stated already, in 1949 and modified in 1953. The object of these rules was this. In certain cases where a particular Government servant is taking part in subversive activities or is suspected on reasonable grounds to have been taking part in such activities, it is open to the Government to have a particular machinery or procedure which would not be against the interest of the country. In ordinary cases, whenever there are departmental proceedings, the man is allowed an opportunity and he can examine or cross-examine as he likes. But in such cases where the interests of the country are involved, it might be damaging to the interests of the country if an open enquiry is held.

[Shri Datar]

That is the reason why these rules were brought into effect. I would point out presently that so far as the use of these powers is concerned, they have been used extremely sparingly. That is what I am going to satisfy this House about.

Between 1950 and 1955, during six years, how many cases were there so far as the Central Services, except the Railway Services are concerned? In all there were 40 cases in respect of which a reference was made to what is known as the committee of advisers. It is a committee of senior officers which goes into these matters and the Minister concerned of that particular Ministry has personally to look into them. Only then, if he is satisfied, that particular officer will be removed from service.

I shall point out how Government has taken great steps to see that the Government servants' interests are properly safeguarded. In six years, in 40 cases, reference was made to the committee of advisers. The committee recommended that suitable action should be taken and action was taken in 21 cases, in six years. Let hon. Members understand that so far as Railway Services are concerned, the number is probably 10 lakhs. So far as other services are concerned, they are between 7 and 8 lakhs. So, in respect of 7 to 8 lakhs of servants, Government found it necessary in the interest of the security of the land to have a reference made in respect of 40 cases and the committee of officers recommended that action should be taken by way of removal of that particular officer from service in 21 cases. So, you will find that in a period of six years on account of reasons connected with the security of the land, Government had to take action only in such a small number of cases.

You will agree that so far as these rules are concerned, Government have been using them only in highly exceptional circumstances. If the figures are taken year after year, in the year 1950 in 7 cases action was taken: in 1951—6 cases; in 1952—1

case; in 1953—3 cases; in 1954—4 cases; in 1955—2 cases; in 1956—7 cases and in 1957 only 14 cases.

Shri Tangamani: What about the cases between 1949 and 1950?

Shri Datar: I have not got those figures. In any case, 1949 is far behind; we are in 1957.

Let hon. Members also understand that whenever action is taken for the removal of that man from service, there are no further disabilities against him as when a man has been dismissed from service. When a man has been dismissed from service, certain very serious consequences arise therefrom. But so far as removal from service is concerned, he will get whatever he is entitled to by way of gratuity, pension etc. In other words, he will get all the retirement benefits he would be entitled to. The order that is passed under those national safeguarding rules is only removal from service. That is what the House should kindly understand.

A reference has been made to the Government Servants Conduct Rules in general. The Government Servants Conduct Rules deal with or regulate the conduct of the officers and the Government servants concerned, but the action that is taken is under what is known as the Central Civil Services (Classification, Control and Appeal) Rules. Also according to the ruling of the Supreme Court, the Government have an inherent right of laying down conditions of service. This is what has been accepted by the Supreme Court. Therefore we have to understand what the purport of the rules is.

Ofentimes reference is made to fundamental rights, especially the fundamental right of speech and expression, as it is put down in the Constitution. We have to understand that when we deal with article 19, we also deal with the various provisos or exceptions where it has been stated that it is open to the State to place certain restrictions for public order or for other reasons.

Shri Narayanankutty Menon: It is a wrong quotation. It is not "certain restrictions" but "reasonable restrictions". He is quoting the Constitution.

Shri Datar: I have no objection to saying "restrictions which are reasonable"; if they want that satisfaction, I am prepared to give. I would point out that in the same Constitution, we have got certain provisions in the chapter dealing with services. According to those provisions, these rules have been made. I would point out to this House one rule to which no reference was made. According to that rule, certain rights of the Government servants as citizens are taken away. They have got to be taken away in the interests of the discipline of the service. I would point out what has been said in the Government Servants Conduct Rules. It is stated there that it is not open to a Government servant to be a member of any political party. No Government servant shall be a member or be otherwise associated with any political party. Let my friend, Shri Gopalan, understand that all Government servants have no right to take part in the activities of any political party....

An Hon. Member: Except Congress!

Shri Datar: This rule is absolute and it applies to all Government servants. We have also said that it is not open to a Government Servant, so long as he is a Government servant, to go on carrying adverse criticism against Government and in case he does not follow these rules, he renders himself liable to punishment. Various forms of punishment have been laid down and I may point out that there is a very elaborate process laid down in respect of these departmental enquiries. He is given a full hearing. An enquiry officer goes into all those things. When the matter relates to a higher officer, naturally after the report is received, we consult the UPSC also. Let hon. Members understand the particular procedure that we are following.

Shri T. B. Vittal Rao: May I seek a clarification?

Mr. Deputy-Speaker: After the hon. Minister finishes.

Shri Datar: I may point out that in all these cases, generally we follow the recommendations of the UPSC. When we do not follow—such instances are very rare—then we have to place a memorandum before this hon. House as to why we have not followed that particular recommendation. In respect of other services, where either the appointing authority or the terminating authority is some other person than the President, in that case it is open to an officer who has been awarded a certain punishment as laid down in these rules to prefer an appeal to the President. Then also we follow the rule and ask for the advice or the recommendation of the UPSC. Then the President passes final orders either in originating capacity or appellate capacity. Thus, it would be found that so far as the general rules are concerned, we follow a procedure which is in perfect consonance with the principles of natural justice. Therefore, I would point out to this House that in all these cases, full care is taken by the Government of India.

Reference was made to the Central Services (Temporary Service) Rules dealing with temporary services. Reference was made to rule 5 of these rules. I would request hon. Members to go through all those rules. Rule 5 is for the purpose of having authority vested in Government for removing purely temporary servants. Please understand it correctly.

Mr. Deputy-Speaker: Not only should the hon. Minister address the Chair, but he should appear to address the Chair.

Shri Datar: So far as these rules are concerned, they were framed for the purpose of giving certain special rights to those Government servants who were for long in Government service but who were not confirmed. It is for the purpose of conferring benefits on those people that these rules had been made.

[Shri Datar]

These people are known as quasi-permanent servants. Certain rights have been given to them. They are not permanent servants. Rule 5 deals with those who are only temporary servants. As you are aware, there are departments where you have to appoint persons on a temporary basis. Then the Government ought to have the right of terminating their services without necessarily going through any particular procedure. Let the hon. Members understand this position clearly. They are not covered by rule 5. In this connection the whole concept of the rules should be considered. They are meant for the purpose of giving certain benefits in respect of service to those temporary servants who were in service for a longer period than three years. They are known as quasi-permanent servants.

So far as purely temporary servants are concerned, Government ought to have—every employee ought to have—the right to remove them especially when the number of temporary Government servants is very large. Oftentimes members complain that the number of temporary Government servants is very large. We are trying either to absorb them in quasi-permanency or make them permanent. But, where it is not possible to do that, it would be highly inadvisable and highly costly to maintain those persons. In all such cases where there are purely temporary Government servants who are governed by rule 5, it should be open to the Government under these rules to terminate their services. It is not necessary to give any reasons at all. The reason may be retrenchment or any other reason.

But we have always been following the principle of fairplay according to which we give them either one month's notice or one month's pay in lieu of that. So I would point out to the House that so far as these rules are concerned, they are perfectly in consonance with the principles of natural justice.

Secondly, as I have pointed out, the number of cases of dismissal or removal is very small. It is extremely small. Whenever there is any dismissal, there is always the right of appeal. We have got a certain procedure, which is quite proper. It is perhaps more elaborate than it ought to be. The Government servant concerned is given an opportunity for placing his view before the enquiring officer. Then, we always consult the Union Public Service Commission and we are guided by their views.

So far as the railway rules are concerned, they are more or less on the same footing as the rules made by the Home Ministry in respect of the other services. There also, I may point out, the number is not so large. Some references were made to certain individual cases. So far as they are concerned, there also the same identical procedure was followed. As the hon. Railway Minister has pointed, he has every desire to see that no injustice is done to any person.

Under these circumstances, I would request the House to consider whether there is any need for reviewing all the hundreds or probably a few thousands of cases where there were termination of services and dismissals. And they were all proper cases. You cannot go into all such cases. In the case of temporary Government servants, their services have to be terminated whenever necessary. Otherwise, it will be extremely costly. Hon. Members opposite would criticise Government for having kept so many persons.

Shri Narayanankutty Menon: Not from this side.

Shri Datar: So far as temporary servants are concerned, there cannot be any objection at all.

So far as removal under the Safe guarding of National Security Rules is concerned, there also we have got a procedure and that procedure is congenial to fairplay. We follow that.

Beyond that we cannot go in the interests of the security of the land I may tell you that we have got power under the Constitution itself under article 311. In proper cases Government can have recourse to these powers under the Constitution, instead of invoking the powers under the Safeguarding of National Security Rules.

I submit that no case has been made out for reviewing all the cases; much less has anything been said about wrong removals or wrong dismissals. The only fate that this resolution must have is a complete rejection by this House.

Shri Narayanankutty Menon: The hon. Minister said that under rule 5 of the Temporary Civil Services (Classification, Control and Appeal) Rules, when the Government do not find any necessity for the temporary servant, they can retrench him.

Shri Datar: Let him ask a question instead of replying to me.

Shri Narayanankutty Menon: Is it a fact that when the Government dismisses or terminates the services of a temporary Government servant under rule 5 of the Central Civil Services (Temporary Service) Rules, they conform to the principle generally accepted that the "last come first go"?

Shri Datar: We follow that principle in all cases.

Mr. Deputy-Speaker: Let all the questions be put first.

Shri T. B. Vittal Rao: The hon. Minister was narrating the procedure laid down to be followed when a gazetted officer is removed from service. May I enquire from him whether there is any single instance of a gazetted officer, whose services have been terminated under the Safeguarding of National Security Rules during the last three years?

Shri S. M. Banerjee: The hon. Minister has just now mentioned that rule 5 is only meant to terminate the

services of a temporary employee. But nobody is discharged on ground of retrenchment under rule 5. Rule 5 is actually meant to discharge for other reasons. What I really wish to ask him is whether rule 5 was complied with at the time of retrenchment, whether in ordnance factories or in other defence installations. Rule 5 was complied with only in the case of those trade union workers who were victimised. I submit that let there be an open enquiry about it.

Mr. Deputy-Speaker: That is not a question. Only questions can be asked.

Shri Tangamani: The hon. Minister was pleased to refer to the number of cases pending from 1951 onwards to show that there were only a few cases of dismissals under the Classification, Control and Appeal Rules. The amendment which I have tabled has specifically stated that cases have to be taken into account from August 1947. May I know whether he will be in a position to give us the number of cases of such dismissals during the year 1947?

Shri S. A. Dange: The hon. Minister said that he was not sure because there were hundreds of thousands of cases which he had to decide. Would he give us the exact figure—the number of hundreds of thousands in regard to dismissal?

Shri Easwara Iyer: The hon. Minister referred to the extraordinary provisions under article 311, sub-clause (1) and the proviso. I would like to know, where the normal procedure of notice to show cause is taken and a person has been dismissed and the dismissal is held by the High Court to be unjustified and he is asked to be reinstated, is there any justification to have recourse to the extraordinary provisions under the proviso on the same charge?

Shri Datar: I would seek your help in understanding all the questions because there were so many of them.

Shri S. A. Dange: I will help by repeating if he has forgotten.

Mr. Deputy-Speaker: I thought that the hon. Minister was attentive and would reply.

Shri Datar: When there are floods of questions, I am likely to forget the first. I shall answer the last two questions.

Shri S. M. Banerjee: The second question is important.

Mr. Deputy-Speaker: If that is not answered, he may get up later and get an answer.

Shri Datar: I shall make a reference to Shri S. A. Dange's question. I have never said hundreds of thousands of cases. I have stated hundreds, perhaps thousands of termination of service under the temporary rules are concerned. I was very clear in making a clear reference to dismissal. So far as dismissals are concerned, they are only few. They are not so many as the hon. Member thinks.

Shri S. A. Dange: Are they hundreds or thousands?

Mr. Deputy-Speaker: May be thousands, he says.

Shri Datar: I can't say so many.

Mr. Deputy-Speaker: He says that there are hundreds, may be thousands.

Shri Datar: So far as termination of service under rule 5 is concerned, let me be understood clearly.

The second question that Shri S. M. Banerjee raised was this: whether the ordinary procedure or the normal procedure is followed. May I assure him that we follow the normal procedure. Whenever any departmental proceeding is started under the Government Servants Conduct Rules, the full normal procedure is followed which, as I have already said, is elaborate.

Shri S. M. Banerjee: I mentioned Rule 5.

Shri Datar: What I stated was, their conduct itself was abnormal. There were certain circumstances where an open enquiry could not be held. Under those circumstances, Government have

the right and Government exercise that right wherever it is necessary.

Mr. Deputy-Speaker: He wanted to know.....

Shri S. M. Banerjee: Whether clause 5 is applied also.....

Mr. Deputy-Speaker: I am only giving the hon. Member's question. He wanted to know whether clause 5 has been applied to cases other than under the Safeguarding of National Security Rules.

Shri S. M. Banerjee: My question is specific. You said that rule 5 is applicable in the case of retrenchment where the employer reserves the right to terminate the services of any one he liked. Agreed. Let him understand. There were mass retrenchments in Defence. This rule 5 was never applied. My submission is that this rule 5 is only applicable to those cases where the Government wishes to terminate the services because they are active trade union workers.

Shri Datar: That is not correct. It is true that the Government would desire to use rule 5 against persons whose services have to be terminated. But, the particular reason that the hon. Member has suggested is not correct.

Shri Narayanankutty Menon: My question is not answered.

Mr. Deputy-Speaker: If there is no answer, the hon. Member would appreciate, I cannot give the answer.

Shri Narayanankutty Menon: That is important.

Mr. Deputy-Speaker: That is all. The time also is over.

I shall now put the amendment of Shri Tangamani to the House.

The question is:

That in the Resolution—

add at the end:

"during the period from 16th August, 1947 to the 12th September, 1957 and it should submit its findings before end of December, 1957."

The motion was negatived.

Mr. Deputy-Speaker: I shall now put the Resolution to vote. The question is:

"This House is of opinion that a special Tribunal consisting of a High Court Judge as Chairman and two members representing the Government and workers should be appointed to review the cases of employees whose services were terminated or who were dismissed or who are under indefinite suspension under the Central Civil Services (Safeguarding of National Security) Rules, 1953, Government Servants Conduct Rules and Rule 1708 of Indian Railways Establishment Code."

Those in favour may please say 'Aye'.

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against may please say 'No'.

Some Hon. Members: No.

Mr. Deputy-Speaker: The 'Noes' have it.

Some Hon. Members: The 'Ayes' have it.

Mr. Deputy-Speaker: Let the bell be rung; let the lobbies be cleared.

Shri S. M. Banerjee: At least we should express our sentiment by voice vote.

Mr. Deputy-Speaker: There is no point in the hon. Member mentioning this. When it is challenged, there is no option for me.

An Hon. Member: Challenged seriously.

Shri S. M. Banerjee: Because you are victimising government employees, naturally it is serious.

16-38 hrs.

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

Mr. Speaker: I shall once again put the Resolution to the vote of the House.

The question is:

"This House is of opinion that a special Tribunal consisting of a High Court Judge as Chairman and two members representing the Government and workers should be appointed to review the cases of employees whose services were terminated or who were dismissed or who are under indefinite suspension under the Central Civil Services (Safeguarding of National Security) Rules, 1953, Government Servants Conduct Rules and Rule 1708 of Indian Railways Establishment Code."

The Lok Sabha divided: Ayes 35; Noes 87.

Division No. 1]

AYES

[16-39 hrs.]

Banerjee, Shri S.M.
Bharucha, Shri Naushir
Chaudhuri, Shri T.K.
Dange, Shri S.A.
Dasgupta, Shri B.
Gaikwad, Shri B.K.
Ghosal, Shri
Gupta, Shri Sadhan
Iyer, Shri Easwara
Kar, Shri Prabhak
Katti, Shri D.A.
Kodiyar, Shri

Kumaran, Shri
Kunhan, Shri
Majhi, Shri R.C.
Maney, Shri
Menon, Shri Narayanankutty
Nair, Shri Vasudevan
Nayar, Shri V.P.
Pandey, Shri Sarju
Panigrahi, Shri
Parulekar, Shri
Patil, Shri Balasaheb
Pillai, Shri Anthony

Ramam, Shri
Rao, Shri D.V.
Rao, Shri G.B. Vittal
Singh, Shri L. Achav
Siva Rao, Shri
Sonule, Shri H. N.
Soren, Shri
Tangamani, Shri
Vajpayee, Shri
Warrior, Shri
Yajnik, Shri

NOES

Abdur Rahman, Molvi
Achar, Shri
Ambalam, Shri Subbiah
Anjanappa, Shri
Arumugham, Shri R.S.

Ayyakkannu, Shri
Banerjee, Shri S.K.
Bangali Thakur, Shri
Barman, Shri
Basappa, Shri

Basumateri, Shri
Bhagat, Shri B.R.
Bhogji Bhai, Shri
Chandra Shanker, Shri
Chettiar, Shri R. Ramanath

Delfit Singh, Shri
Das, Shri Shree Narayan
Datar, Shri
Escharan, Shri I.
Elayapermal, Shri
Hasda, Shri Subodh
Hathi, Shri
Hasarika, Shri J.N.
Heda, Shri
Hukam Singh, Sardar
Iqbal Singh, Sardar
Jain, Shri M.C.
Jaipal Singh, Shri
Jang Bahadur Singh, Shri
Jinachandran, Shri
Jogendra Sen, Shri
Kastliwal, Shri
Kayal, Shri P.N.
Kedarig, Shri C. M.
Khan, Shri Osman Ali
Khan, Shri Sadath Ali
Khan, Shri Shah Nawaz
Kishna Chandra, Shri
Lahiri, Shri

Laxmi Bai, Shrimati
Mafida Ahmed, Shrimati
Maiti, Shri N.B.
Malvia, Shri K.B.
Mandal, Dr. Pashupati
Maniyangadan, Shri
Mathur, Shri Harish Chandra
Mehta, Shri J.R.
Misra, Shri Bibhuti
Mohammad Akbar, Shaikh
Murmu, Shri Paika
Murthy, Shri B.S.
Nadar, Shri P.T.
Nair, Shri C.K.
Narayanassamy, Shri R.
Nehru, Shrimati Uma
Padam Dev, Shri
Pande, Shri C.D.
Pandey, Shri K.N.
Pattabhi Raman Shri C. R.
Raghunir Sahai, Shri
Raghuramiah, Shri
Rajiah, Shri
Ramaswami, Shri S.V.

Ramaswamy Shri K.
Ramaswamy, Shri P.
Ram Subhag Singh, Dr.
Rane, Shri
Roy, Shri Bishwanath
Sahu, Shri Bhagabat
Samanta, Shri S.C.
Samant sinhar, Dr.
Sharma, Shri D.C.
Shastri, Shri Lal Bahadur
Siddanajappa, Shri
Singh, Shri D.N.
Singh, Shri D.P.
Singh, Shri M.N.
Sinha, Shri Gajendra Prasad
Snatak, Shri Nardeo
Subramanyam, Shri T.
Tariq, Shri A.M.
Thummaiah, Shri
Thomas, Shri A.M.
Tiwar, Shri R.S.
Upadhyaya, Shri Shiva Datt
Vedakumari, Kumari M.
Vyas, Shri R. Lalal

The Resolution was negatived.

**APPOINTMENT OF A STATUTORY
BODY FOR CONTROLLING THE
QUALIFYING EXAMINATION RE:
CERTIFYING COSTING RESULTS**

Shri C. R. Narasimhan (Krishna-
giri): My Resolution reads:

"This House is of opinion that facilities should be made available for the training of suitable persons, both in the theory and practice, of costing and that Government should take steps to create a Statutory Body for controlling the conduct of the necessary qualifying examinations and for regulating the practical training and enrolment of members who have qualified in such examinations and that such members alone should be permitted to certify the costing results of the industrial undertakings."

The necessity for this kind of resolution will be understood if you will kindly permit me to read an extract from the Ninth Report of the Estimates Committee of which you were then the distinguished Chairman. The Estimates Committee as early as

1953-54 in their Ninth Report dealing with administrative, financial and other reforms, commented as follows:

"Cost Accounting Organisation: Allied to the accounting system is the question of proper costing and evaluation of materials produced or work done by a national Undertaking. At present, there is a deplorable lack of trained personnel in Cost and Works Accounting. The Committee have had occasions to note in the case of several Ministries that no attempts had been made so far to make good this deficiency. Many of the Undertakings or schemes have suffered losses considerably because of the non-appointment of experienced Cost Accountants. In some cases, it was at the instance of this Committee or the Public Accounts Committee that Costing Organisation was introduced or improved. The Committee wish to make it quite clear that no business Undertaking will be a success unless staff highly specialised in Cost and Works Accountancy are posted from the