

Shri B. K. Gaikwad: No, no I just want to make a proposal which will be acceptable even to the hon. Minister. When the hon. Minister of Home Affairs was Chief Minister of U.P., I am told he had instructed the Public Service Commission there to maintain two separate lists, one of Scheduled Castes and Scheduled Tribes and the other of general candidates. May I request the hon. Minister to instruct the UPSC to maintain such similar lists? That is my proposal. If it is accepted by the hon. Minister, he can do it.

Mr. Deputy-Speaker: The hon. Minister yields so easily that I cannot interfere.

Shri Datar: I want to be kind to my friends, they are my friends. That is my softness, I agree. I shall not be soft.

Shri Balkrishna Wasnik: One clarification in this matter, Sir.

Shri Datar: I shall not yield.

Mr. Deputy-Speaker: Order, order, the hon. Members shall have to be content now. The hon. Minister has said he would not yield. Therefore, no other hon. Member should stand.

Shri Narayanankutty Menon: I thought he had finished his speech and sat down.

Shri Datar: I sat down out of deference to hon. Members, not because I had finished.

Shri Narayanankutty Menon: To hon. Shri Gaikwad.

Shri Datar: I shall bring to a close what I have to say. I am very glad that we have got a report. The report cannot be burdened with more details because we know what they are doing and there are a number of matters which have to be left exclusively to them.

We have to trust them fully and implicitly and, therefore, I am obliged

to the Members of the U.P.S.C. for the labour they have spent, for the conscientiousness with which they have carried on their work.

I am glad that almost all the Members of this House except a few—and that too in certain details—have expressed their appreciation of the very fine manner in which the U.P.S.C. are carrying on their work.

Shri Narayanankutty Menon: One point, Sir.

Mr. Deputy-Speaker: No questions; he has finished.

The question is—

“That this House takes note of the Eighth Report of the Union Public Service Commission, laid on the Table of the Lok Sabha on the 24th November, 1958.”

The motion was adopted.

16 12 hrs

MOTION RE CENTRAL CIVIL
SERVICES (CONDUCT) RULES

Mr. Deputy-Speaker: Now, we take up the consideration of motions relating to modification of the Central Civil Services (Conduct) Rules, 1955 (as amended up to 3-3-59) laid on the Table on the 13th March 1959.

The Minister of State in the Ministry of Home Affairs (Shri Datar): May I point out, Sir, that this was not a motion for consideration of modifications etc. What I thought and had also written to the hon. Speaker was that this was a discussion for half an hour and that this is not the place where they can bring in amendments. I have no objection to the matter being considered and I shall try to reply also to some of them. But the limited scope of this discussion should be understood.

Mr. Deputy-Speaker: This has been decided by the Committee on Subordi-

nate Legislation The Committee considered that, once such rules are laid on the Table of the House, the House is seized of the matter and it has the inherent power to recommend such modifications in those rules as it likes irrespective of the fact whether the enabling Act stipulates that the rule shall be subject to modifications by the House or not Whether there is that stipulation or not, when they are laid on the Table, this House has the inherent right to modify them

But, there is one thing It is not in the ordinary course that these modifications are made when the rules are laid down These rules are made by the President and these are the recommendations that are to be made by this House so that Government may consider them and make modifications This is the wish of Parliament and, perhaps, they would pay deference to them and make those modifications accordingly

There is one other thing I was told that Shri Banerjee had agreed, when the Speaker had taken objection to it that there was no time,—and we may call it a gentleman's agreement—that it may be given half an hour in which observations could be made

Shri Braj Raj Singh (Ferozabad): There is no question of Shri Banerjee agreeing The House is seized of these rules

Mr Deputy-Speaker: If there is no question, then this was not to be on the agenda for today After it had been agreed, it was decided that it should be put on the agenda Otherwise, this was not going to find a place here in today's business After this assurance had been given—on that understanding alone—this had been put on the Order Paper today

Shri Narayanankutty Menon (Mukandapuram) Now, it is 4 15 and the rest of the business is the continuance of the discussion on the Report

of the Sanskrit Commission. As the hon. Speaker pointed out the other day there are about 12 more hon. Members to speak on that and it is not likely that the discussion on the Report will be finalised today Therefore, my suggestion is that so far as these rules are concerned, it is a matter which agitates the minds of millions of people, and some time should be allowed for the discussion of these rules

Mr. Deputy-Speaker: If the House agrees that the discussion of the report of the Sanskrit Commission may be postponed to the next session, I have no objection to allotting 45 minutes instead of 30 minutes for this item of business But we should finish by 5 o'clock

Shri Narayanankutty Menon: What the hon Minister said was that he had agreed only to a half-an-hour discussion and that the scope of the whole discussion is quite limited That is quite out of place

Mr Deputy-Speaker: I am not talking of what the Minister said I am talking as to how we agreed on putting this item on the Order Paper

Shri Narayanankutty Menon: He cannot say that the scope of discussion of this item is so limited

Mr Deputy-Speaker: I am not taking that into account

Shri Narayanankutty Menon: My suggestion is that about an hour may be given for the discussion, and the further debate on the Sanskrit Commission Report may be held in the next session

Mr. Deputy-Speaker: Is it the desire of the House that the discussion on the Sanskrit Commission Report be continued in the next session?

Shri Supakar (Sambalpur) The Speaker the other day said that the Sanskrit Commission Report should be disposed of in this session in order to enable the Government to take a decision

Mr. Deputy-Speaker: Is some resolution to be passed there? Only the views had to be expressed, and I think we have taken much more time than we had intended and those views have been expressed. If the Government wanted to have the views of the Members of the House, that has been done. So, without going further we can close it just now. I was rather solicitous to the hon. Members who still desired to speak. If it be the intention that we close it, we can close the discussion straightaway and proceed with the present motion.

Several Hon. Members: Yes.

Mr. Deputy-Speaker: Then, the discussion of the report of the Sanskrit Commission will be continued in the next session.

Shri Harish Chandra Mathur: 45 minutes could be given for the motions on the Central Civil Services (Conduct) Rules.

Shri C. R. Pattabhi Raman (Kumbakonam): I should like to say a few words. I do not wish to intrude but I would say this much. These rules have been placed before the House. I have seen the note and the rules with regard to delegated legislation, and the Speaker's inherent powers. But I do feel this. If an amendment to these rules is considered now, will it not be legislation by the back-door method? I feel that here is a case of the rules being placed on the Table of the House. As far as I know, if certain amendments are accepted, then, it will be legislation; it may be subordinate legislation or delegated legislation. Nonetheless, it is legislation *proprio vigore*, by the back-door.

Dr. Sushila Nayar (Jhansi): How is it back-door legislation? The House is deciding.

Mr. Deputy-Speaker: There is nothing that is back-door. This legislation is not by the back-door. The Government has thought it necessary already to frame these rules and they

ought to be placed on the Table. As soon as they are framed they come into force and they are given effect to. They have the effect immediately they are framed and notified. Afterwards, after some time, if Parliament makes any modifications, they are to be inserted in the rules and the rules are accordingly modified though it may be done long afterwards and though some time has elapsed. Here, if the Parliament arrives at certain conclusions, those recommendations would be made to the Government. It would be for the Government then to take them into account. So, there is nothing that is irregular or anything of the sort.

Shri Narayanankutty Menon: What is the time for this item?

Mr. Deputy-Speaker: Up to 5 o'clock. On the last day, we should not sit beyond 5 o'clock!

Shri S. M. Banerjee (Kanpur): Mr. Deputy-Speaker, Sir, I was extremely happy when I read in the newspapers that the Central Civil Services (Conduct) Rules of 1955 were so amended as to give certain concessions to the Central Government employees or to exempt Central Government employees from various sections which were considered by the Central Government employees as bad. On 13-3-1958, these rules were placed on the Table of the House in reply to a starred question. The question was whether Government propose to amend the conduct rules for the industrial employees working under the Central Government. When I read the amended rules, I found that certain sections which were introduced during the time of the threatened strike in 1957 by the P. & T. employees, viz., rules 4A and 4B, were not removed.

I will come to my amendments later on. First of all, I wish to point out that, in 1952, an assurance was given by the then Home Minister,

Dr. Katju, in this very House on 23rd June, 1952 He said in reply to unstarred question No 231, that

"Government are considering revision of the Government Servants' Conduct Rules to bring them in consonance with the provisions of the Constitution of India"

This assurance was given in 1952 by Dr Katju, but in 1955 these rules were brought I personally feel—and that is the feeling of the Central Government employees in this country—that their trade union rights and democratic rights have been mortgaged in the Home Ministry Exemptions have been given to a section of employees, viz, employees working in ports and docks, defence installations except training establishments, public works establishments in so far as they relate to work-charged staff, irrigation and electric power establishments, mines and factories as defined under the Factories Act and field units of the CTO I have a feeling that these people have been exempted from 4A and 4B, but still the P & T employees and other Central Government employees working in the Secretariat, survey department, civil aviation Auditor-General's office—nearly more than 10 lakhs of employees are still today facing these obnoxious sections known as 4A and 4B

Mr. Deputy-Speaker. The hon Member is more anxious about his speech and I am anxious if he is moving his amendments Is he moving all his five amendments?

Shri S. M. Banerjee: Yes

I beg to move

This House recommends that in sub-rule (2) of rule 1 of the Central Civil Services (Conduct) Rules, 1955 (as amended upto 3-3-59), laid on the Table on the 13th March, 1959, in

reply to Starred Question No 1223, for the second proviso and Explanation the following proviso be substituted, namely,—

"Provided further that rules 3A, 9, Explanation to sub-rule (2) of rule 10, rule 11, sub-rule (2) of rule 12, rule 13, sub-rules (1), (2) and (3) of rule 15, rules 16, 17 and 18 shall not apply to any Government servant drawing a pay of Rs 500/- or less per mensem and holding a non-gazetted post in any of the establishments, other than railway establishments, owned or managed by the Government"

This House recommends that in the Central Civil Services (Conduct) Rules, 1955 (as amended upto 3-3-59), laid on the Table on the 13th March, 1959, in reply to Starred Question No 1223 rule 4(A) be deleted

This House recommends that in the Central Civil Services (Conduct) Rules, 1955 (as amended upto 3-3-59) laid on the Table on the 13th March, 1959, in reply to Starred Question No 1223, rule 4(B) be deleted

This House recommends that in the Central Civil Services (Conduct) Rules, 1955 (as amended upto 3-3-59) laid on the Table on the 13th March, 1959, in reply to Starred Question No 1223, the following proviso be added to sub-rule (1) of rule 5, namely —

"Provided that no such sanction shall be required in the case of a Government servant, who is an office-bearer of a trade union or service association of such Government servants, with regard to any publication of such trade union or service association"

This House recommends that in the Central Civil Services (Conduct) Rules, 1955 (as amended upto 3-3-59) laid on the Table on the 13th March, 1959, in reply to Starred Question No 1223, in the proviso to clause (1)

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of rule 6, after "trade union" the words "or service association" be inserted.

The other day, we were told in this House that no employee has suffered due to the inclusion of rules 4A and 4B in 1957. I want to read before this House what is the total number of Government employees who have become victims of rule 4A banning strike and demonstrations. I have got a list of the number of Government servants charge-sheeted for violation of rule 4A, the number of Government servants who were punished and the nature of punishment awarded. The total number of Government employees charge-sheeted for violation of rule 4A is 941. The number of Government employees punished is 207. Punishments awarded are: warned 3, censured 173, increment withheld 19, pay reduced 6, compulsorily retired 1 and removed from service 2; the total is 207. More cases are under the consideration of the Government.

Shri Ram Shankar Lal (Domaria Ganj): Of all the employees.

Shri S. M. Banerjee: You will have more. Why bother?

The number of posts and telegraphs people working under the Director General of Posts and Telegraphs is 827. Out of these 941 employees, who have been charge-sheeted for violation of rule 4(A) the number of Posts and Telegraphs employees is 827. You can imagine as to why today Central Government employees are condemning this 4(A) and 4(B).

During the threatened postal strike, an ordinance was brought. That was withdrawn. The Essential Services Bill was brought but it was not placed before the other House and it was allowed to lapse. I do not know why rules 4(A) and 4(B) were not withdrawn, when the Central Government employees always wanted to settle their grievances peacefully and

constitutionally. The second proviso to sub-rule (2) of rule 1 says:

"Provided further that rules 3A, 4A, 4B, 9.....following establishments....."

The establishments are mentioned. My amendment is that this should be extended to all Central Government employees including Posts and Telegraphs, Civil Aviation, Survey Department and the Secretariat people. It should be extended to all. All persons who are drawing Rs. 500/- or less per month should be exempted, because this discrimination is of the worst type. I feel that Government employees are responsible people. They realise their responsibility towards the nation. They have behaved in an excellent way and have helped the Government in every sphere of their work. There is no reason why it should not be withdrawn.

The figures which I have quoted will reveal that more cases are pending consideration. There will be more charge-sheets. There will be more of censuring and some people may lose their jobs. In the Auditor-General's establishment a young man of 28 or 29 years of age has been asked to retire compulsorily because of this infringement, that is, violation of rule 4(A).

Then rule 4(B) says that nobody can join a particular union unless it seeks recognition within six months of its registration. Recognition is not statutory in this country. Recognition is a matter of discretion. Whether it is in the public sector or in the private sector owners can easily say that they will not recognise a particular union.

Recently, in the month of April, recognition rules have been issued by the Government of India. That too is a debatable matter. It is a disputed one and requires reconsideration. There are unions which have not been recognised. For instance, I will men-

tion that there is a union in Dehra Dun under the Survey of India. For the last ten years it has been referring its case to the Government of India. Still it has not been recognised. The Naval Dockyard Worker Union in Bombay has been going to the Ministry several times for recognition, but it has not been recognised. So, my submission is that it is against article 19 of the Constitution. We must have a union of our own choice.

Article 19, Right to Freedom, lays down

"All citizens shall have the right to freedom of speech and expression; to assemble peacefully and without arms, to form associations or unions."

Here, rule 4(B) compels the employees to join a particular union which may not be of their own choice. Why I am raising this question is because this is against the spirit of the Constitution. It should be withdrawn. This has resulted in the recognition of only those unions, which are the line of some people, or which are formed by the Government sponsored Indian National Trade Union Congress. But other unions are not recognised and I know how recognitions are withdrawn. When I was a government employee and in 1956 I was discharged from service, the next day I was declared by the then Defence Minister as *persona non grata*. I was not allowed to enter any place in defence land. I was not allowed to organise meetings, though my union was a recognised union.

An hon. Member: So you entered Lok Sabha!

Shri S. M. Banerjee: The recognition of my union was withdrawn, because they wanted me to be excluded from the union office-bearership. The union took a decision not to do so. They said you may discharge Mr. Banerjee, but we cannot discharge him. The net result was that recognition was withdrawn. The day I was

elected to Lok Sabha I became *persona grata* and recognition was given to my union. Can you treat trade union and fundamental rights of workers who are the essential services of this country in this manner? This is too bad.

My fourth amendment suggests the addition of this proviso—

"Provided that no such sanction shall be required in the case of a Government servant, who is an office-bearer of a trade union or service association of such Government servants, with regard to any publication of such trade union or service association."

You cannot give any news to newspaper, you cannot issue statements, you cannot write in a periodical. Of course, the word "trade union" is there. I want associations also to be included and I hope that this will be done.

So, all my amendments can be accepted if we really believe in democratic rights and there is no scope for fear. I can assure the hon. Minister and this House that a Central Government employee who is responsible for the success of the Second and Third Five Year Plans will not do anything which might harm our national Government. There have not been instances of this type. So, I would request the hon. Minister to kindly consider this matter and not reject it merely because he once imposed these Rules on the Central Government employees.

When this discussion came I knew the fate of my amendments. But I am one of those who believe that human nature changes. I know the nature or attitude of the Home Ministry has changed and I am sure it will view the entire thing in a changed light. I know they will accept this amendment.

Another point I wish to mention

Mr. Deputy-Speaker: He should try to conclude now.

Shri S. M. Banerjee: I will take only two or three more minutes. Even the Royal Commission on Labour remarked as follows three decades back:

"In our view the weakest point of the Indian provision is that while it restricts the powers of the workers in the public utility services to coerce their employers, it gives in return no assurance that their grievances will receive a hearing."

I have no time; otherwise I would have quoted that in many countries the civil servants have got more rights and privileges. I fully realise that the Central Government employees and other Government employees, whether in State Service or local self-governing bodies must have their rights and obligations. I do not want that they should only fight for their rights. I am equally conscious of their responsibilities to the country. Now there are about 59 lakhs of employees, about 18 lakhs in Central Government, 21 lakhs State Government employees and about 20 lakhs local self-government bodies employees. I am afraid if the report of the Pay Commission is delayed long, there will be demonstrations, peaceful demonstrations and the list of charge-sheeted people may increase, because Rule 4A says clearly that you cannot do anything. What are the wordings?

"No Government servant shall participate in any demonstration or resort, to any form of strike in connection with any matter pertaining to his conditions of service."

What should they do, Sir? I do not say that they should always do it, but sometimes they have to demonstrate. And if they demonstrate for their genuine grievances, nobody is going to see whether the grievance is genuine or not; they will be charge-sheeted.

With these words I make a fervent appeal to the hon. Minister kindly to accept these amendments, so that the Central Government employees may feel that whatever the Government or the national leaders who are in power talk in public they also practise in Parliament and office. It will give courage and conviction to these people and they will have much confidence, because this 4A, 4B and other rules will not be there. I hope the hon. Minister will kindly consider this sympathetically, realising that the Central Government employees are their loyal employees and they want this country to prosper, and the prosperity of the country will depend on the goodwill of those employees.

Mr. Deputy-Speaker: I have got ten minutes. Two Members can speak within those ten minutes.

Shri C. K. Bhattacharyya (West Dinajpur): May I have only two minutes? I wish to make only one observation.

Mr. Deputy-Speaker: I am sorry, it will not be possible for me. He has not sponsored any amendment Shri Vittal Rao

Shri T. B. Vittal Rao (Khammam): Sir, these rules are of very great importance as they concern and affect nearly five to six lakhs of civil service employees in non-gazetted posts under the Central Government. Only the other day I was reading a small review prepared by the Ministry of Labour and Employment on the working of trade unions in India. In that review it was stated that the trade union organisation ratio in our country is very low and very unsatisfactory. There are some industries where the trade union ratio is 62 to 64 per cent, but many of them do not have more than 30 per cent. These Central Civil Services (Conduct) Rules that have been amended do not at all encourage the formation of trade unions. The Second Five Year Plan

has clearly laid down that trade unions should be encouraged and allowed to grow and be strengthened if the country has to advance. But these Rules prevent the healthy growth of trade unionism. These rules, 4A and 4B, are very obnoxious. They are against the spirit of the Constitution. They cannot be justified. So many times the Government have taken action against the employees. There are several cases in which the High Courts and the Supreme Court have declared that the dismissal was illegal. Such rules are framed that no person can demonstrate when a grievance has been turned down. When a person has approached all channels of redressal and exhausted them and yet the grievance is not redressed, and then if he makes a small demonstration he is liable to be proceeded with under rule 4A.

We have seen in the country, two years ago, Government was very adamant; in spite of several requests, in spite of several representations made for the appointment of a Second Pay Commission, they did not yield. Only when a strike notice was given by the National Federation of P. & T. employees and several Central Government employees, the Government moved and appointed the Second Pay Commission. This is the thing. Unless and until the employees take to the last resort after exhausting all channels and avenues of reasonable representation, nothing moves. What is that last resort? Strike. It has been recognised everywhere. It has been recognised by every trade union. It has been recognised in every genuine trade union. You deny this right to 5 or 6 lakhs of people. The Railways are exempted. They constitute 11 lakhs. Under what right, under what rule is this refused? Therefore, I request the hon. Minister to reconsider. Of course, they have considered and modified these rules to some extent. It was there for already one year or nearly two years, and modification, has been made. But

the modification has to go still further.

I refer to rule 4 (B) under which no government employee can become a member of a union for which there is no recognition or recognition is refused or withdrawn. As was pointed out by my friend, this cuts at the very provisions of the Trade Union Act. A member can join a union of his choice. This is what we want. How can, simply because recognition is refused or withdrawn, it be said that he should cease to be a member of that union? I do not know whether the hon. Minister has read the debate that took place when the Trade Union Amending Bill was passed in this House. Unfortunately, that has not been enforced. We provided for statutory recognition of all unions or associations. In the absence of such a legislation, in the absence of enforcement of that, I do not know why he should refuse or he should say that so and so should become member of a recognised union. We have seen on several occasions, on mere flimsy grounds, recognitions have been withdrawn. There have been instances which have just now been cited. A particular member has been democratically elected by the members of the association as an office-bearer. They say that recognition will not be granted to that union so long as that person is an office-bearer of that union. These are the conditions. I would like the hon. Home Minister to bring forward legislation or bring forward any rule providing for compulsory recognition. Let there be a democratic provision. Then, I will accept, that that union which has been chosen or the association which has got democratically the highest number of votes be recognised. I will have no quarrel. Then, we can say, that people should become members of that particular union, even though it abridges democratic rights.

There should be no conditions for issuing of statements by the office-bearers of a trade union or organisation. They write for redressal of

[Shri T. B. Vittal Rao]

their grievances in some of their magazines. Government can take action if these rules are there. It is a legitimate right to run a journal or a magazine wherein you can state your difficulties. When these difficulties which they are experiencing are brought to the notice of officers through magazines, they have taken note of these things and actually tried to redress them. There have been instances. Yet, an office-bearer of an association which has been duly registered under the Trade Union Act cannot issue a statement. This means to say that we will have to give up all our rights. Already, democratic rights have been given up. Further, we will have to give up even trade union rights. Therefore, I again earnestly appeal to the hon. Minister to see that these things are modified as suggested in our amendments.

Shri C. K. Bhattacharyya: Mr. Deputy-Speaker, I simply want to point out, what appears to me, to be a gross inconsistency in these rules. By rule 1, it is provided that rule 18 shall not apply to any government servant drawing a pay of Rs. 500 or less. This rule 18 is about bigamous marriages. It is said that no government servant who has a wife living can contract another marriage without obtaining the permission of the Government. Does the Home Minister intend that the lesser the pay, the more the freedom to contract bigamous marriages? That would be the effect of this rule.

Mr. Deputy-Speaker: Perhaps, that is the intention.

Shri C. K. Bhattacharyya: That is what I want him to make clear, and that is the rule to which I want his attention to be drawn. It appears to me grossly inconsistent. I do not raise the question of discrimination. Government servants with a salary of Rs. 500 or less will be free to contract bigamous marriages and Government servants with higher pay

will be denied bigamous marriages. I do not raise the question of discrimination. It appears to be inconsistent.

Shri Sadhan Gupta: The lesser pay is a deterrent.

Shri Tangamani: May I take only ten minutes before you call the hon. Minister?

Mr. Deputy-Speaker: I have not got ten minutes. I told the hon. Member that altogether, I had only ten minutes and that he has been exhausted.

Shri Tangamani: I shall take only five minutes.

Mr. Deputy-Speaker: But the difficulty will be that we cannot adjourn at five o'clock, because fifteen minutes are required by the hon. Minister.

Shri Tangamani (Madurai): I shall only mention the points briefly.

First of all, I want to congratulate the Ministry for reacting to the movement and also the demands of the Central Government employees. So, on 3rd March, 1959, they came forward with an amendment, and they have sought to exclude certain employees in ports, docks, wharves or jetties, defence installations except training establishments, public works establishments, in so far as they relate to work-charged staff and so on. But after their having excluded certain sections of workers, I want to know why some other sections have not been excluded, for example, in the Posts and Telegraphs Department, in the Civil Aviation Department, in the Survey of India, in the CPWD and certain other departments. I shall be very grateful to the hon. Minister if he can tell us the reason why these sections of the employees have not been excluded. I can understand security services or police or military being included. But when we have excluded a certain section of the employees, what is the special reason for not excluding the categories of

employees that I have mentioned That is the first point that I would like to know from the hon. Minister.

My second point is in regard to rule 4-A and rule 4-B, which have been elaborately dealt with by Shri T B Vittal Rao and also Shri S M Banerjee This House has discussed this matter in great detail on the resolution moved by Shri P S Daulta.

My third point is this Although there have been observations by the various High Courts that Government should not be too sensitive in regard to criticism by their employees especially whenever it concerns their terms of employment, I do not know why the very harmless amendment which is sought to be included, namely amendment No 5 to rule No 6 is not going to be accepted I would like to know the reason why the hon Minister is not going to accept this amendment

My fourth point is that freedom was given to people to speak on the radio or write in the press, but now certain extra restrictions are put on those people Why should this be so? Has such a practice been adopted in countries like the Commonwealth countries, such as Britain, Australia or Canada or even in a country like France? What is the practice there so far as the Central Government employees are concerned, like the Posts and Telegraphs Department employees or the Civil Aviation Department employees or the CPWD employees? Do they have these types of rules governing their conditions of service? From my knowledge, I can say that no such thing governs them So, unless there is any special reason, there is absolutely no justification for denying them this right

I would just refer to one last point with your indulgence The hon. Minister of Transport and Communications, when the Demands were being discussed, was pleased to say that normal trade union activities would

not be curtailed in the name of rule 4-A To that extent, we are grateful to him.

In conclusion, I would again request that the rules may be suitably modified, and if certain employees are not excluded, special reasons may be given, and the House taken into confidence.

Mr. Deputy-Speaker: Is Shri C R Pattabhi Raman particular about speaking?

Shri C R. Pattabhi Raman: I just wish to say one or two things I am glad that Shri T B Vittal Rao has been fair enough to say that a number of exemptions have been granted as required, for employees in the ports, docks, wharves or jetties, in defence installations except training establishments, public works establishments and so on I shall not enumerate the whole list, but there are seven items given here And the various industrial or near-industrial units, and even factories which may be connected with the Posts and Telegraphs Department may perhaps come under these exemptions So, these rules cover only the white-collared workers of Government What is it that he has got, on the other hand, in his favour? A reference was made to article 19 I will refer to it presently, and I will be very brief He has got article 311 of the Constitution by which he has to be given notice, and there is a regular paraphernalia Many a Government servant has approached the courts and has been able to strike down many orders against him either suspending him or dismissing him or in any way punishing him

Shri S. M., Banerjee: May I point out for his information that though the defence employees have been exempted, I hope he knows it, no advantage can be taken of article 311 by Defence employees because of article 310? All cases have been rejected by the High Courts

16.51 hrs. .

[MR SPEAKER in the Chair]

Mr. Speaker: Yes, he may go on

Shri C. E. Pattabhi Raman: I have already referred to article 311. With regard to Shri Banerjee's point, I will not labour it now. If there is any marginal case and doubt about it, it is for him to agitate it before the courts of the land. I wish there is more recourse taken to the courts of the land. Frankly, that is not a debatable point at all. And then Defence installations are out of it.

Shri Narayanankutty Memon: I wish to point out that Government is resorting to the terms of the contract where by giving one month's notice, the services of the employee can be terminated. So, in any case of misconduct under this, by mentioning the misconduct, the other provision under the terms of the employment is used, and the courts have held that even though misconduct is mentioned in the chargesheet, if the Government takes recourse to the particular course of giving one month's notice under the terms of the contract, they are unable to interfere. That is the genuine difficulty.

Shri C. E. Pattabhi Raman: Then he will not come under article 311. There is a clear dichotomy. Is he a Government servant with the advantage and sanction of article 311 behind him or not? The misconduct the hon. Member is referring to is in respect of cases of industrial units where the other remedy is open to Government. They are exempted as it is.

Apart from that, they are entitled to pension, and are sui generis. No orderly Government is possible if the right to form associations is given to them.

Actually what is article 19? When my hon. friend was reading article 19, he was only reading the main article. He read article 19(1) (c)

about the right to form associations, but it is subject to article 19(4) which says

"Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause."

So, it is subject to reasonable restrictions and there are quite a number of decisions with regard to the right to form associations. Therefore, people who really come under the rule are those enumerated here, really the white collar workers who have got all the benefits not only of pension and the various other Government benefits, but also of article 311 of the Constitution.

Shri Datar: I would point out in the first instance that article 19 has no application, because under article 19, Government can lay down certain restrictions, and so far as Government servants in general are concerned, the House will find that even in respect of the recent orders there are a number of restrictions to which a Government servant can be subjected without violating the provisions of the Constitution. In so far as a person becomes a Government servant he renders himself liable to the Central Civil Services (Conduct) Rules, and therefore these rules have to be taken into account as valid restrictions under article 19. Even now, from the first, we have got certain rules which show that it is not open to a government servant to do certain things which he would otherwise have done as a private citizen under the Constitution. Now, on account of certain recent events, to which I need not make a reference, when there were certain threatened strikes which would have threatened the whole administrative machinery, it was considered proper, in the interest of the nation, that the right

to such a strike should be taken away from a government servant Rule 4(A), which has been introduced, reads

"No government servant shall participate in any demonstration or resort to any form of strike in connection with any matter pertaining to his conditions of service"

Therefore, this was considered absolutely essential

Under Rule 4(B), restrictions have been laid down regarding the joining by government servants of associations that have not been recognised May I point out that there is a certain degree of difference between a government servant and a government servant? Broadly, all government servants can be divided into two categories One category would be the civilian employees of Government. They are in various departments of Government Generally, these civilian employees are governed by a set of rules They may be in the administrative services, they may be working in supervisory posts in managerial posts All these can be clubbed together and treated as a category of civilian employees There is also another category There are as you are aware, certain other employees who come within the definition of industrial labour

When this Rule was first made, it was put in the Central Civil Services (Conduct) Rules, and the question arose as to whether this rule normally might not apply to civilians, though the Civil Services (Conduct) Rules might apply to all the government services of the two categories The question arose whether this rule about restrictions in so far as joining non-recognised associations or taking part in strikes was concerned should apply to industrial labour as well

Now, as you are aware, we have got labour legislation and under that legislation, industrial labour, even under Government, are subject to

different restrictions Therefore, the whole question was considered after 4(A) and 4(B) were introduced in the Central Civil Services (Conduct) Rules, whether these restrictions should be made applicable to industrial employees as well

Then the question was considered various Ministries concerned were also consulted As I have pointed out, instead of making these rules applicable to all the members of the industrial employees, Government took a decision that there should be a certain exemption in respect of certain categories of employees, though, normally, they would be industrial employees That is the reason why a certain exemption was made The rule, as it has now been made, carries a proviso exempting certain categories of employees from the operation of these two rules in particular, and others also with which we are not directly concerned The hon Members who have moved amendments made a reference principally to these two rules, 4(A) and 4(B)

The new amended Central Civil Services (Conduct) Rules state that they would generally apply to government servants So far as railway servants are concerned they are governed by their own set of rules, though generally they are on a par and quite in consonance with the rules that we have made so far as the other central services are concerned

Then it was further provided

"Provided further that rules 3A, 4A, 4B shall not apply to any government servant drawing a pay of Rs 500 or less per mensem and holding a non-gazetted post in any of the following establishments, "

So, Shri Vittal Rao appreciates the position to a partial extent What he wants is that inasmuch as we have exempted certain categories of services or establishments from the operation of these rules, therefore,

[Shri Datar]

according to him, all the government servants wherever they are, ought to be completely exempted. That is his stand.

I would point out here that this particular exemption was made by way of concession—it should be understood very clearly—to the members or the employees of certain establishments, though to a certain extent they were like the industrial labour also. It was considered that it may not be necessary to have these rules enforced against the members or the employees of these establishments. That has been made very clear—ports, docks, wharves or jetties; defence installations except training establishments; public works establishments, in so far as they relate to work-charged staff.

Then, we have iv, v, vi and vii. Seven categories of establishments have been exempted. What the hon. Member desires is that inasmuch as Government have exempted 7 categories of establishments, why not exempt all categories

I would point out that this question has been very fairly considered and Government have gone to the utmost limits in giving exemptions. Government are anxious that essential services are essentially carried out. Government have to take a decision and find out a point up to which they can go and beyond which they cannot go.

I would invite the attention of the House to rule 6. There is, however, rule 4B, wherein we have stated that an employee cannot be a member of an association or trade union unless it has been properly recognised. Let the House understand that in rule 6 also we have introduced a proviso by which it is open to a member of such an association to have a *bona fide* expression of views. I would read that portion:

"Provided that in the case of any Government servant included in

any category of Government servants specified in the second proviso to sub-rule (2) of rule 1, nothing contained in this clause shall apply to *bona fide* expression of views by him as an office-bearer of a trade union of such Government servants for the purpose of safeguarding the service conditions of such Government servants or for securing an improvement therein;"

Thus, on the one hand, the right to join or participate in demonstration has been taken away in respect of certain categories of services—the right not to join an unrecognised association is also there, on the other.

It has been pointed out that Government are anxious not to take away or to deny to the members of the unions their right to express in a *bona fide* manner their own grievances. It would not be proper to read 4A and 4B without reading the proviso to rule 6. So, that is sufficient guarantee.

So far as non-exempted establishments are concerned, it would be open to them to give expression to their *bona fide* views so far as their own conditions or the improvement of their conditions is concerned. Under these circumstances, I am afraid it is not possible to accept the further amendments because, as I have said, these rules could have been made applicable to all the classes of servants, either the civilian employees or the civil side, industrial labour, etc., but Government have gone to a large extent in giving exemption to the members of certain services and I would request hon. Members not to press this particular matter.

Shri Narayanankutty Menon: There is one difficulty regarding rule 18 which prohibits....

Shri Datar: About rule 18, the matter is very simple.

Shri Narayanankutty Menon: Rule 18 prohibits that the Government employees shall not have two wives living except in the case of the Muslims. The law prohibits having two wives—whether *de jure* or *de facto* wives.

Shri Datar: There is no *de facto* wife at all.

Mr. Speaker: The hon. Minister need not answer it. I do not know whether the hon. Member is a bachelor or is a married person.

Shri Narayanankutty Menon: The difficulty is, the law prohibits any person having two wives in cases where.

Mr. Speaker: I am not able to see the point. What is *de facto* wife apart from *de jure* wife?

Shri Narayanankutty Menon: One case occurred as far as the Ministry of Transport and Communications was concerned. A woman sent a petition and said that she was the wife of a particular person, particular individual. Therefore, on that basis, action was taken and the particular man was dismissed. That is why I pointed out to him.

Mr. Speaker: There is no question of *de facto* wife.

Shri S. M. Banerjee: During the British rule, the Britishers framed these rules. Originally they had no 4(A) and 4(B). So, I want to know why instead of amending or modifying those rules, they have brought in this? During the British times there were no more strikes than during the present time.

Shri Datar: The rules have to be made in accordance with the conditions prevailing. In some respects, conditions are worse now (*Interruptions*).

Mr. Speaker: Order, order.

Shri C. K. Bhattacharyya: Could not the hon. Minister say something on this question as to why when making rules against bigamy applicable to one section of the Government servants, they were not made applicable to another section? That is, Government servants drawing a pay above Rs 500 are prevented from bigamy while Government servants drawing pay below Rs 500 are allowed the pleasure of bigamy.

Shri C. D. Pande (Naini Tal): It is not a pleasure.

Shri Narayanankutty Menon: About *de facto* wife, I say it is on genuine grounds, because the law prohibits having two wives, except in the case of Muslims. In a case where a simple petition has been forwarded by some woman, action has been taken, and the person concerned cannot have recourse to a court of law. That is why I said that I wanted to have a clarification. How is action taken by the hon. Minister?

Mr. Speaker: It is only a question of evidence as to whether really it is *de jure*. After coverture for so many years, there is the presumption in favour of marriage.

Shri Narayanankutty Menon: That is not done (*Laughter*).

Mr. Speaker: The hon. Member who is not a lawyer laughs at it. Are any of these motions pressed?

Shri S. M. Banerjee: They may be put to voice vote.

The motions were put and negative.

17.10 hrs.

MESSAGES FROM RAJYA SABHA

Secretary: Sir, I have to report the following messages received from the Secretary of Rajya Sabha—

- (1) In accordance with the provisions of sub-rule (6) of rule 162 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am