

**Bill No. 45 of 2008**

THE RAILWAYS (SECOND AMENDMENT) BILL, 2008

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BILL

*further to amend the Railways Act, 1989.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Railways (Second Amendment) Act, 2008.

Short title.

24 of 1989.

2. In the Railways Act, 1989, after section 198, the following section shall be inserted, namely:—

Insertion of new section 198A.

“198A. The power to make rules under section 198, for the purposes of subsection (7) of section 33, shall include the power to make such rules with retrospective effect from a date not earlier than the date of the commencement of this Act, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interest of any person to whom such rule may be applicable.”.

Power to make certain rules with retrospective effect.

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## STATEMENT OF OBJECTS AND REASONS

Sub-section (7) of section 33 of the Railways Act, 1989 provides that the Chairman and other Members of the Tribunal (Railway Rates Tribunal) shall hold office on such terms and conditions as may be prescribed. Further, section 198 of the Act provides that without any prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of the Act. Accordingly the Central Government notified the Railway Rates Tribunal (Salaries and Allowances and Conditions of Service of Chairman and Members) Rules, 1995 which were based on the 4th Central Pay Commission scales of pay and allowances. While examining the question of revising the salary, pension and allowances payable to the Chairman and other Members of the Railway Rates Tribunal with effect from 1-1-1996 on the basis of the recommendations of the Fifth Central Pay Commission and to extend the pensionary benefit to those who demitted the office of Chairman and Members in Railway Rates Tribunal prior to 30-1-1999, the date from which pensionary benefits were made available to the Chairman and Members, by suitably amending the relevant rules, it has been observed that there is no enabling provision in the said Act to give retrospective effect to the rules as provided in the Administrative Tribunals Act, 1985 and the Railway Claims Tribunal Act, 1987. In order to overcome this difficulty, it is proposed to amend the Railways Act, 1989 to provide for an enabling provision to make such rules with retrospective effect not earlier than the date of commencement of the said Act.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

LALU PRASAD.

*The 24th January, 2008.*

## FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new section 198A in the Railways Act, 1989, to empower the Central Government to make rules for the purpose of sub-section (7) of section 33 of the said Act with retrospective effect from a date not earlier than the date of commencement of the said Act. The matter with respect of which such rules may be made relate to salaries, pension and allowances payable to the Chairman and Members of Railway Rates Tribunal.

2. As the said Bill seeks to provide for an enabling provision to make rules, the financial implications would be known only after the Railway Rates Tribunal (Salary and Allowances and Conditions of Service of Chairman and Members) Rules, 1995 are amended. Hence, it may not be possible to estimate the exact expenditure at this stage. The expenditure, if any, will be met out of the budgetary grant of the Ministry of Railways.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to insert a new section 198A in the Railways Act, 1989, to empower the Central Government to make rules for the purpose of sub-section (7) of section 33 of the said Act with retrospective effect from a date not earlier than the date of commencement of the said Act. The new section 198A specifically provides that no such retrospective effect shall be given to any such rule so as to prejudicially affect the interest of any person to whom such rule may be applicable. The rules made under section 198A shall also be laid before each House of Parliament.

2. As the matters with respect to which such rules may be made to give retrospective effect relate to salaries, pension and allowances payable to the Chairman and members of Railway Rates Tribunal, it is not practicable to provide them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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further to amend the Railways Act, 1989.

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*(Shri Lalu Prasad, Minister of Railways)*