

COMMITTEE ON SUBORDINATE LEGISLATION

ELEVENTH REPORT
(SECOND LOK SABHA)

(Presented on the 4th May, 1961)



LOK SABHA SECRETARIAT
NEW DELHI

May, 1961

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**COMPOSITION OF COMMITTEE ON SUBORDINATE
LEGISLATION (1960-61)**

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14. Shri Ajit Singh Sarhadi
- *15. Shri Satyendra Narayan Sinha

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

*Ceased to be a member of the Committee on his resignation from Lok Sabha w.e.f. the 28th February, 1961.

REPORT

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to present the Report on their behalf, present this their Eleventh Report.

2. Subsequent to the presentation of the Tenth Report, the Committee have held two sittings and considered 450 new 'Orders'. The Committee also considered the 'Orders' that were pending for final disposal at the time of presentation of the Tenth Report. At the sitting held on the 28th April, 1961, the Committee considered and adopted this Report.

3. Observations of the Committee on matters of special interest made during the course of examination of the 'Orders', matters which required to be brought to the notice of the House as well as the recommendations of the Committee, have been included in this Report.

II

THE ALL INDIA SERVICES (CONDITIONS OF SERVICE—RESIDUARY MATTERS) RULES, 1960 (G.S.R. 925 OF 1960)

4. The All India Services (Conditions of Service—Residuary Matters) Rules, 1960 have been made under section 3 of the All India Services Act, 1951 which empowers the Central Government to make rules for the regulation of recruitment and conditions of service of persons appointed to an All India Service (I.A.S. or I.P.S.).

5. Under Rule 2 of the said rules the Central Government assumed fresh power to regulate the conditions of service of the personnel of All India Services in respect of residuary matters *i.e.*, matters not covered by the existing rules, by issuing regulations instead of rules. The reasons for doing so were not clear in view of the fact that the Central Government had already got power to regulate the condition of service by rules. Further it was also not clear as to what were the residuary matters in contemplation which required to be regulated by regulations.

6. On a reference being made the concerned Ministry of Home Affairs have stated that the regulations are generally framed under a provision in the rules for regulating matters arising out of rules themselves. The statutory rules and regulations have been framed, the

Ministry add, in respect of important conditions of service and for the time being it does not appear necessary to have such statutory provisions in respect of any other condition. However powers have been taken under the rules in question to frame regulations in respect of any other conditions of service which might become necessary in future and that it is not possible to enumerate those matters.

7. The Committee having considered the Ministry's reply note that the rule in question has not been framed in respect of any specific matter relating to conditions of service. It is, therefore, not a question of "regulating matters arising out of rules themselves" as is the case, for instance, with the recruitment rules for the All India Services which lay down the methods of recruitment *viz.* recruitment by competitive examination, by promotion or by selection in special cases and how these methods would be set in motion is provided in the regulations framed thereunder.

Further no specific instance of "residuary conditions of service" which necessitated its provision by regulations instead of by rules, has been mentioned by the Ministry. Even if any unforeseen "residuary condition of service" does arise the power is already vested in the Government to regulate it by rules under section 3 of the All India Services Act, 1951.

8. The Committee feel that this acquisition of power to issue regulations which would also circumvent the statutory provision of laying the rules before Parliament is unjustified and the conditions of service should be regulated by rules as provided in the parent Act.

III

THE TELEGRAPH ENGINEERING SERVICE (CLASS I) RULES, 1960

9. In para 29 of their Eighth Report the Committee had recommended that the Telegraph Engineering Service (Class I) Rules, 1960 (G.S.R. 64 of 1960) ought to be amended to provide that if the Head of a Department withheld permission to a departmental candidate to appear in the competitive examination for admission to the said service he should communicate to the applicant in writing the reasons for withholding his application.

10. The Ministry of Transport and Communications in their reply have stated that all adverse entries in the confidential reports are communicated to the official concerned. If the application of an official is withheld, it will be because of an adverse record, entries regarding which would have already been communicated to the candidate. It would only be a repetition if the official, whose application is withheld, is told that he had an adverse record.

11. The Committee are of the view that inspite of the fact that adverse entries are communicated to the persons concerned it will be still desirable to inform the applicant in writing that because of "adverse remarks already communicated to him" his application has been withheld.

IV

AMENDMENT TO THE BYE-LAWS FOR THE PROVISION OF CULVERTS AND PAVEMENTS IN SHAHJAHANPUR CANTONMENT (S.R.O. 251 OF 1960)

12. Bye-law 9 of the Bye-laws for the provision of culverts and pavements in the Shahjahanpur Cantonment, as amended by S.R.O. 251 of 1960, required an applicant seeking permission to construct a culvert/pavement, to furnish a declaration which *inter alia* provided that the license shall be terminable by the Central Government/Cantonment Board at any time without any previous notice to him. As this condition appeared to be against the principle of natural justice the matter was referred to the Ministry of Defence, who after consulting the Ministry of Law, have decided to omit the objectionable condition from the declaration referred to above.

13. The Committee note the assurance given by the Ministry.

V

DELAY IN LAYING OF 'ORDERS' ON THE TABLE

14. The Committee have noted a number of cases involving delay in laying of the "Orders" on the Table of the House. [A statement showing the delays is given in Appendix I]

VI

ACTION TAKEN OR PROPOSED TO BE TAKEN BY GOVERNMENT ON VARIOUS RECOMMENDATIONS OF COMMITTEE ON SUBORDINATE LEGISLATION

15. The recommendations of the Committee which have been implemented/accepted by the Government are given in Appendix II.

NEW DELHI;

May 3, 1961.

Vaisakh 13, 1883 (S).

HUKAM SINGH,

Chairman,

Committee on Subordinate Legislation.

SUMMARY OF RECOMMENDATIONS

Serial No.	Ref. to para No. in the Report	Summary of Recommendations
✓ 1.	8	Acquisition of power under rule 2 of the All India Services (Conditions of Service—Residuary Matters) Rules, 1960 (G.S.R. 925 of 1960) to issue regulations which would also circumvent the statutory provisions of laying the rules before Parliament is unjustified. The conditions of service of the personnel of All India Services (I.A.S. & I.P.S.) should be regulated by rules as provided in the parent Act.
✓ 2.	II	In spite of the fact that adverse entries are communicated to the persons concerned it will be still desirable to inform the applicant in writing that because of "adverse remarks already communicated to him" his application has been withheld. (Also see Committee's recommendation at para 29 of the Eighth Report, Second Lok Sabha.)

APPENDIX I

(See para 14)

Statements of 'Orders' in respect of which there has been delay in laying them on the Table

Serial No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	*Delay Approximately			Name of the Ministry concerned
					Yrs.	Months	Days	
1	2	3	4	5	6	7	8	9
1	S. O. 2760 of 1960	The Standards of Weights and Measures (Conversion to Standard Weights) Rules, 1960.	19-11-60	13-12-60	..	..	24	Commerce and Industry
2	S. O. 2816 of 1960	The Fertilisers and Chemicals Companies Amalgamation Order, 1960.	26-11-60	16-12-60	..	..	20	Do.
3	S. O. 2874 of 1960	The Standards of Weights and Measures (Conversion of Land Areas) Rules, 1960.	3-12-60	21-12-60	..	..	18	Do.
4	G.S.R. 1162 of 1960	Amendment to the Post Office Savings Certificates Rules, 1960.	1-10-60	7-12-60	..	..	23	Finance
5	G. S. R. 1448 of 1960	Amendments to the Central Excise Rules, 1944.	1-12-60	[23-12-60	..	..	22	Do.
6	G. S. R. 1359 of 1960	The Sugarcane Control (State of Pondicherry) Order, 1960.	19-11-60	14-12-60	..	..	25	Food and Agriculture
7	G. S. R. 1440 of 1960	Amendment to the Bombay Sugar (Export Control) Order, 1959.	3-12-60	22-12-60	..	..	19	Do.

*See footnote on next page.

8	G. S. R. 984 of 1960	The Rajasthan Medical Council Order, 1960.	27-8-60	16-11-60.	..	2	18	Home Affairs
9	G. S. R. 1252 of 1960	The Territorial Councils (Consultation with Union Public Service Commission) Rules, 1960.	29-10-60	2-12-60	..	..	18	Do.
10	G. S. R. 1367 of 1960	The Ministers' (Allowances, Medical Treatment and other Privileges) Amendment Rules, 1960.	21-11-60	15-12-60	..	..	24	Do.
11	G. S. R. 1413 of 1960	Amendment to Schedule III to the I.A.S. (Pay) Rules, 1954.	3-12-60	17-2-61	..	2	14	Do.
12	G. S. R. 1414 of 1960	Amendment to Schedule III to the I.P.S. (Pay) Rules, 1954.	3-12-60	17-2-61	..	2	14	Do.
13	G. S. R. 422 of 1960	Amendment to the Indian Electricity Rules, 1956.	16-4-60	15-11-60	..	7	..	Irrigation and Power
14	G. S. R. 1311 of 1960	The Oil and Natural Gas Commission Rules, 1960.	5-11-60	7-12-60	..	..	23	Steel, Mines and Fuel
15	S. O. 1047 of 1960	The Motor Vehicles (Diplomatic and Consular Officers' Vehicles) Registration Rules, 1960.	30-4-60	15-11-60	..	6	15	Transport and Communications
16	G. S. R. 1267 of 1960	The Shipping Development Fund Committee (General) Amendment Rules, 1960.	29-10-60	6-12-60	..	..	22	Do.
17	S. O. 286 of 1960	The Inter-State Transport Commission Rules, 1960.	30-1-60	9-12-60	..	10	..	Do.
18	G. S. R. 1434 of 1960	Amendment to the Indian Telegraph Rules, 1951.	3-12-60	16-2-61	..	2	13	Do.

*The inter-session periods have not been counted for delay in the case of those 'Orders' which were published when the House was not in session and were laid on the Table during the session immediately following their publication in the Gazette.

APPENDIX II

(See para 15)

Recommendations of the Committee that have been implemented/accepted by the Government

Serial No.	Reference to para number of the Report	Summary of recommendations	Gist of Government's reply
1	3	4	
1	<p>FIRST REPORT (Second Lok Sabha) ✓ 9—13 and</p> <p>SECOND REPORT (Second Lok Sabha) ✓ 9—11</p>	<p>The power to impose fees by rules or bye-laws cannot be exercised unless specifically given in the parent Act. If the Nasirabad and the Poona Cantonment Boards want to levy grazing fees under the Cantonments Act, 1924, the Act should be suitably amended to provide for levy of such fees.</p>	<p>The provision for levying of grazing fee has been deleted from the bye-laws of the Poona Cantonment Board (<i>vide</i> S.R.O. 20 of 1961). Necessary instructions have also been issued by the Military Land and Cantonment Directorate to the local authorities directing them to take necessary action to delete from their bye-laws the provisions for levy of grazing fee.</p>
			<p>Necessary action is also being taken to amend the Cantonments Act, 1924, suitably as recommended by the Committee.</p>

[DPA O.M. Nos. SR-I(9-13)CB/57 dated 18th January, 1961 and SR-II(9-11)CB/57 dated 31st January, 1961]