

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(FIFTH LOK SABHA)

SEVENTH REPORT

(Presented on the 25th July, 1973)



**LOK SABHA SECRETARIAT
NEW DELHI**

July, 1973 | Sravana, 1895 (Saka)

Price : Re. 1.70 Paise

LOK SABHA

Corrigenda to the
Committee on Subor
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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1973-74)**

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SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary*.

Shri H. G. Paranjpe—*Deputy Secretary*.

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 Seventh Report.

2. The Committee have held six sittings—on 21st, 22nd, 23rd May, 30th June, 2nd and 20th July, 1973. At their sitting held on the 23rd May, 1973, the Committee took evidence, *inter alia*, of the representatives of the Cabinet Secretariat (Department of Personnel and Administrative Reforms) and the Ministry of Railways (Railway Board) regarding (i) the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, (ii) Indian Police Service (Appointment by Promotion) Regulations, 1955 and (iii) implementation of the recommendation of the Committee on Subordinate Legislation contained in paras 35—38 of their Second Report (Fifth Lok Sabha)—Rules regarding recruitment of Member-Secretaries in the Railway Service Commission.

3. The Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and Indian Police Service (Appointment by Promotion) Regulations, 1955 referred to above are out of 49 Regulations which were made prior to 1-7-1967, under or in pursuance of the Rules framed under the All India Services Act, 1951 and had not been laid on the Table of the House so far. The Committee scrutinised these Regulations after they were circulated to Members of Lok Sabha by the Department of Personnel and Administrative Reforms (Cabinet Secretariat) consequent upon the debate in the House on the All India Services Regulations (Indemnity) Bill, 1972. The comments of the Committee on two such Regulations were included in their Sixth Report presented to Lok Sabha on the 7th May, 1973. Their comments on the Regulations mentioned in para 2 above are contained in paras 6—14 of this Report.

4. The Committee considered and adopted this Report at their sitting held on the 20th July, 1973. The Minutes of the sittings which form part of the Report are appended to it.

5. A statement showing the summary of recommendations|observations of the Committee is also appended to the Report (Appendix I).

II

(i) THE I.A.S. (APPOINTMENT BY PROMOTION) REGULATIONS, 1955 (S.R.O. 1216 OF 1955)

(ii) THE I.P.S. (APPOINTMENT BY PROMOTION) REGULATIONS, 1955 (S.R.O. 1219 OF 1955)

6. Regulation 8 of the I.A.S. (Appointment by Promotion) Regulations, 1955, provides as follows:—

“Appointment to Cadre Posts from the Select List.—Appointments of members of the State Civil Service from the Select List to posts borne on the State Cadre or the Joint Cadre of a group of States, as the case may be, shall be made in accordance with the provisions of rule 9 of the Cadre Rules. In making such appointments, the State Government shall follow the order in which the names of such officers appear in the Select List:

Provided that where administrative exigencies so require, a member of the State Civil Service whose name is not included in the Select List or who is not next in order in that Select List may, subject to the aforesaid provisions of the Cadre Rules, be appointed to a cadre post if the State Government is satisfied—

- (i) that the vacancy is not likely to last for more than three months; or
- (ii) that there is no suitable cadre officer available for filling the vacancy.”

The above proviso appears to empower the State Governments to ignore persons whose names are included in the Select List.

Proviso to Regulation 8 of the I.P.S. (Appointment by Promotion) Regulations, 1955, is identical.

7. The Department of Personnel (Cabinet Secretariat), who were asked to state the considerations for making this provision, have replied as under:—

“Regulation 8 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, (hereinafter referred to as the “Promotion Regulations”) itself refers to Rule 9 of the Indian Administrative Service (Cadre) Rules, 1954 (hereinafter referred to as the “Cadre Rules”) and appointment of Select List Officers to cadre posts has

to conform to the requirements not only of Regulation 8 of the Promotion Regulations but also of Rule 9 of the Cadre Rules. Thus, if a non-cadre officer (whether borne on the Select List or not) is appointed to a cadre post for a period exceeding three months, the State Government is required to report the fact forthwith to the Central Government together with the reasons for making the appointment. On receiving such a report or otherwise, the Central Government may direct that the State Government shall terminate the appointment of such person and appoint thereto a cadre officer, and where any direction is so issued, the State Government has to give effect to it. Thus, the power of the State Government to ignore a Select List Officer while making appointment to a cadre post is restricted to a maximum period of three months."

It has been held by the Ministry of Law and Justice that though Regulation 8 of the Promotion Regulations empowers a State Government to ignore a Select List Officer while making appointments to Cadre Posts if the State Government is satisfied:—

- (i) that the vacancy is not likely to last for more than three months; or
- (ii) that there is no suitable cadre officer available for filling the vacancy.

it will not be correct to give a literal interpretation to the second condition so that once it is satisfied, an officer borne on the Select List could be ignored indefinitely while making appointment to a cadre post.

It has further been held that the regulation as a whole requires that once a Select List comes into force, it should be scrupulously followed in making appointment to a cadre post except where administrative exigencies require a deviation in a short-term vacancy. This Department has been keeping in view the advice given by the Ministry of Law and Justice while considering reports made to the Central Government under Rule 9 of the Cadre Rules.

In 1968, the Central Government proposed to the State Governments that the word "or" occurring in the proviso to Regulation 8 of the Promotion Regulations be substituted by the word "and", as the intention behind the provision was that both the conditions should be satisfied if appointments were to be made in disregard of the order in which names were arranged in the Select List. Most of the State Governments were not in favour of this amendment, as they felt that it would introduce considerable rigidity in the matter

of posting Select List Officers to cadre posts. Having regard to the views expressed by the State Governments, this Department proposes to substitute the proviso to Regulation 8 by the following:—

(1) Appointment of Select List Officers to posts borne on the State cadre or the joint cadre of a group of States, as the case may be, shall be made in accordance with the provisions of rule 9 of the Cadre Rules. In making such appointments, the State Government shall follow the order in which the names of such officers appear in the Select List.

(2) Notwithstanding anything contained in sub-regulation (1), a junior Select List Officer may be appointed to a cadre post, subject to the provisions of rule 9 of the Cadre Rules, even though his senior has not been so appointed, in a case where, due to administrative exigencies, the senior Select List Officer is appointed to a post other than a cadre post, under the State Government or the Central Government, or on foreign service, which is:

(a) in a time-scale indetical to the time-scale of a cadre post, or

(b) equal in status and responsibilities to a cadre post,

and the State Government concerned furnishes a certificate to the Central Government within three months of his appointment to a post other than a cadre post or within three months of the date on which the next junior Select List Officer is appointed to a cadre post, whichever is later, that he would have so officiated, but for his appointment to a post other than a cadre post.—

(i) as relating to a post under clause (a), for a period not exceeding one year and, with the approval of the Central Government, for a further period not exceeding two years, or

(ii) as relating to a post in clause (b), for a period not exceeding three years;

Provided that the certificate in respect of a post in clause (b) shall be furnished with the approval of the Central Government

Provided further that:

(i) the number of officers in respect of whom the certificates shall be current at one time shall not exceed one-half of

the maximum size of the list permissible under sub-regulation (i) of regulation 4;

- (ii) such certificate shall be given only if, for every senior Select List Officer appointed to a post other than a cadre post, there is one junior Select List Officer officiating in a cadre post under rule 9 of the Cadre Rules; and
- (iii) the number of Select List Officers, in respect of whom such certificate is given, shall not exceed the number of posts by which the number of cadre officers holding posts other than cadre posts under the control of the State Government falls short of the deputation reserve sanctioned under the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955.'

A final decision on this substitution will be taken after the views of the State Governments are considered and the Union Public Service Commission is also consulted. Even pending such amendment, similar criteria are being observed by this Department while examining reports submitted to the Central Government by the State Governments under Rule 9 of the Cadre Rules.

It will be observed that both the existing provision and the provision proposed to be made permit the State Governments to ignore a Select List Officer while making appointment to cadre posts, for a period not exceeding three months. It is considered necessary to have this flexibility, so that for filling up short-term vacancies, such as those which arise on an officer proceeding on leave, a number of changes in postings need not be made.

These comments apply *mutatis mutandis* to the provisions of the proviso to Regulation 8 of the Indian Police Service (Appointment by Promotion) Regulations, 1955 also.

This Office Memorandum issues with the approval of the Minister of State in the Department of Personnel."

8. The Committee heard the view of the representatives of the Cabinet Secretariat (Department of Personnel and Administrative Reforms) at their sitting held on the 23rd May, 1973. He explained that in terms of the proviso to Regulation 8, where administrative exigencies so required, the State Government could appoint to a cadre post a member of the State Civil Service whose name was not included in the Select List or who was not next in order in that list, This was, however, limited to a period of three months. In a short term vacancy in certain circumstances, it might not be possible to

put the officer who was at the top of the Select List. Suppose a district magistrate had to proceed on leave, the officer in the district next in command would have to be appointed to hold charge of the post. It might not be in the public interest to fill that post by any other man, as being a new man, he would not be acquainted with the local conditions for appointment. For a period beyond three months, but less than six months, Central Government's approval was necessary and if it was to be for more than six months, the Union Public Service Commission had also to be consulted.

9. When attention of the representative of the Department of Personnel was drawn to the second alternative in Regulation 8, he stated that the Law Ministry had advised that the word 'or' in the regulation had the force of 'and'. The State Governments were not allowed to take shelter behind the provision and if a person officiated beyond three months without the approval of the Central Government, he would not be entitled to draw pay in the I.A.S. scale. He further stated that they proposed to replace Regulation 8 by a more detailed provision specifying the conditions in which a Select List Officer could be appointed to a cadre post even though an officer senior to him in the Select List was holding a non-cadre post.

10. In reply to a query whether as a check on State Governments they should be required to inform the Central Government even when they appointed a person for three months, he said that they could issue instructions that a report should be sent to them when such an appointment was made, certifying that the period was not likely to exceed three months and explaining why the senior select officer could not be appointed.

11. The Committee desired the Department of Personnel and Administrative Reforms to furnish information *inter alia* about the cases in which the period of three months of temporary appointment of non-cadre officers to cadre posts was extended by the State Governments. The information received from the Department is at Appendix II. From its perusal, the Committee observe that during the period from 1st April, 1970 to 31st March, 1972, there were 24 cases of non-cadre officers officiating in cadre posts for a period exceeding 3 months. Out of these, in 13 cases, either the officiation was not in accordance with the order in which the names of the officers occurred in the Select List or non-Select List Officers officiated in cadre posts. During the same period, the total number of cases in cadre posts for a period exceeding 6 months was 182. Out of these, in 40 cases, the officiation was either of non-Select List Officers or of Select List officers not next in order in the Select List. The Government had no information about the cases in which non-cadre

officers officiated in cadre posts for period less than three months, as no report is required to be sent to Central Government regarding such officiation.

12. The Committee regret to note the large number of cases in which non-cadre officers whose names were either not included in the Select List or were not next in order in Select List officiated in the cadre posts. The Committee feel that once a select list comes into force, it should be followed scrupulously in making appointments to cadre posts except when administrative exigencies require a deviation in a short-term vacancy.

13. In order to have a check on the State Governments ignoring Select List Officers in appointments to cadre posts, the Committee desire that instructions be issued to all State Governments to report to the Central Government even those cases where non-Select List Officers or Select List Officers not next in order in the Select List Officiate in cadre posts for less than three months and the Rules be amended accordingly.

14. The Committee also desire the Department of Personnel and Administrative Reforms to take early action for substituting the present proviso to Regulation 8 by a more detailed provision specifying the conditions in which a junior Select List Officer may be appointed to a cadre post even though his senior has not been so appointed.

III

THE JUTE (LICENSING AND CONTROL) AMENDMENT ORDER, 1963 (S.O. 3893 OF 1968)

15. New Clause 8A of the Jute (Licensing and Control) Order, 1961, as inserted by the said S.O., reads as follows:—

“8A. Power to control production of jute textile—

The jute commissioner may, by order, direct *any manufacturer, or class of manufacturers, or the manufacturers generally*, to produce or not to produce such classes or specifications of jute textiles as may be specified in the order and prescribe the maximum or minimum quantities of jute textiles which each such manufacturer, or class of manufacturers, or manufacturers generally shall produce during such period as may be specified in the said order:

Provided that in making an order under this clause, the Jute Commissioner shall have regard to—

- (a) the capacity of the manufacturer, or class of manufacturers, or the manufacturers generally, to manufacture jute textiles;
- (b) the need to maintain the supplies with particular reference to the availability of raw jute, the requirements for domestic consumption and the need to safeguard export earnings; and
- (c) any other relevant factor."

16. The Sub-Committee of the Committee on Subordinate Legislation, which considered the matter at their sitting held on the 15th October, 1969, desired to know the considerations that led to the insertion of the aforesaid new clause 8A.

17. In their reply, dated 13-11-1969, the Ministry of Commerce stated as follows:—

"... Following a review of the problems and prospects of the jute industry in the context of an exceptionally short crop in 1968-69, consultations were held between the Central Government, the Government of West Bengal, the representatives of the jute industry and labour in October, 1968 and it was decided to relate the production of jute goods on a planned and regulated basis, to the availability of raw materials and to the needs and requirements of both domestic and overseas consumption. Accordingly, a scheme was worked out for regulation of purchase of raw jute by each of the jute mills. The Jute Commissioner was to administer the scheme in exercise of the powers vested in him under the Jute (Licensing and Control) Order, 1961. Under the Scheme, the total quantity of raw jute earmarked for distribution among the mills from the month of November, 1968 onwards was to be allocated to the mills in proportion to their production of jute goods during the period 1st July, 1967 to 30th June, 1968. In order to make the scheme effective, it was necessary to delegate powers to the Jute Commissioner to control production of jute goods. The intention was that while allotting raw jute every month, the Jute Commissioner would also pass orders requiring each mill to limit its production of jute goods to its monthly allocation, specifying that the production of carpet backing cloth would

not be less than the average monthly production during the period July-September, 1968. It was anticipated that with the existing stocks of hessian, sacking, carpet backing and the uninterrupted production of carpet backing the exporters would be able to meet the overseas demand for their products. The delegation of powers to the jute Commissioner to control the production of jute goods was accordingly inserted as clause 8A of the Jute (Licensing and Control) Order, 1961. No production control is being exercised from August, 1969 onwards in view of the good crop expected in 1969-70. This step was considered necessary with a view to ensure that the available stocks of jute were proportionately distributed among all mills and that no particular group with large financial resources could corner the stocks of fibre."

18. The above reply of the Ministry of Commerce was considered by the Sub-Committee at their sitting held on the 1st April, 1970 and by the main Committee at their sitting held on the 13th July, 1970. The Committee desired that the words 'any other relevant factor' appearing in proviso to clause 8A might be got elucidated from the Ministry.

19. In reply dated 7-10-1970, the Ministry stated as under:—

"The words 'any other relevant factor' appearing in Sub-Clause (c) to the proviso to clause 8A means and is intended to mean that in making an order under the said clause the Jute Commissioner shall have regard, in addition to the points mentioned at (a) and (b), any other factor which is relevant for the purpose of controlling the production of jute textiles. The other relevant factors broadly include factors such as—

- (i) actual production of jute goods of each unit in reference period to be determined from time to time,
- (ii) loss of production, if any, on account of strikes, etc.,
- (iii) pattern of production of jute goods in each unit; and
- (iv) weightage for jute specialities manufactured exclusively for exports and by small units.

These factors were broadly taken into account when production of jute textiles was controlled during 1968-69. The authority to consider 'any other relevant factor' is the Jute Commissioner."

20. On a further review of the said S.O., it was found that the expression 'any manufacturer or class of manufacturers, or the manufacturers generally' used in clause 8A indicated that the Jute Commissioner had powers to issue directions to any individual manufacturer as contra-distinguished from manufacturers generally.

21. The Ministry, were, therefore, asked to elucidate the following further points:

- (i) whether any procedural or other safeguards had been evolved to ensure that the powers vested in the Jute Commissioner under Clause 8A to issue directions to any manufacturers as contradistinguished from manufacturers generally do not result in discriminatory treatment; and
- (ii) whether the orders issued by the Jute Commissioner under Clause 8A are of a general character or issued to individual manufacturers and whether they are published for the information of the trade and or the general public.

22. The Ministry were also requested to state whether they had any objection to providing for appeals to the Central Government against the orders of the Jute Commissioner under Clause 8A in cases where a manufacturer feels aggrieved by such orders.

23. In their reply, the Ministry of Commerce stated as under:—

"Clause 8(A) of the Jute (Licensing and Control) Order, 1961 contains adequate safeguards against arbitrariness and discriminatory treatment. Powers vested in the Jute Commissioner under the said clause are exercised, having regard to the provisions (a), (b) and (c) of that Clause. While controlling the production of the jute textiles, the method of allocation of quotas to mills is first determined having regard to the above guidelines and then orders are issued on each mill. The question of any discrimination does not arise as a uniform method is followed.

The orders under Clause 8A are issued to individual manufacturers. These orders are not published for information of trade and/or general public.

This Ministry have no objection to the incorporation of a provision providing for appeals to the Central Government against the orders/directions of the Jute Commissioner, in cases where the manufacturer feels aggrieved by such orders/directions."

24. The Committee are satisfied with the reply of the Ministry of Commerce that Clause 8A was inserted in the Jute (Licensing and Control) Order, 1961, with a view to relate the production of jute goods on a planned and regulated basis, to the availability of raw materials and to the needs and requirements of both domestic and overseas consumption.

25. The Committee are further satisfied to note from the reply that adequate safeguards are contained in Clause 8A against discriminatory treatment by the Jute Commissioner. In exercise of the powers vested in him under that clause, the Jute Commissioner follows a uniform policy, having regard to the guidelines contained in that clause and issues orders to individual manufacturer or class of manufacturers or manufacturers generally for the purpose of controlling the production of jute textiles.

26. The Committee also note that the Ministry of Commerce have no objection to the incorporation of a provision in the Order for appeal to the Central Government against the orders|directions of the Jute Commissioner, in cases where the manufacturer feels aggrieved by such orders directions. The Committee desire the Ministry to take necessary action in this regard at an early date.

IV

THE BYE-LAWS FOR THE REGULATION OF COLLECTION AND RECOVERY OF TAX ON CYCLES, TRI-CYCLES AND CYCLE RICKSHAWS IN THE DEHU ROAD CANTONMENT S.R.O, 30 OF 1968).

27. Bye-law 10 of the Bye-laws for the regulation of collection and recovery of the tax on cycles, Tri-cycles and Cycle Rickshaws in the Dehu Road Cantonment reads as follows:—

“If the badge or number plate issued in respect of any vehicle, is lost, mutilated or destroyed, a duplicate thereof may be issued on payment of such charges as may be fixed by the Board, and on production of such proof as may be asquired by the Executive Officer.”

28. It was felt that empowering the Board to fix the amount of charges for issue of duplicate badges or number plates tantamount to sub-delegation, for which an express authorisation of the parent law was necessary.

29. The Committee note with satisfaction that the Ministry of Defence with whom the matter was taken up have amended Bye-law 10 so as to prescribe the fee for issue of duplicate badges/number plates (*vide* S.R.O. No. 4 of 1973).

V

THE BYE-LAWS FOR COLLECTION AND RECOVERY OF CYCLE-TAX IN DINAPORE CANTONMENT

(S.R.O. 123 OF 1968)

(A)

30. Bye-law 1 of the Bye-laws for collection and recovery of Cycle tax in Dinapore Cantonment issued under Clause 3 of Section 282 and Section 283 of the Cantonment Act, 1924 provided that every owner of a bicycle or other cycle which was used or kept for use within the limits of the Cantonment of Dinapore shall be liable to pay the tax at the rate specified in the Notification of the late Government of Bihar and Orissa No. 2455-P, dated the 30th March, 1926, as subsequently amended.

31. It was felt that having regard to the difficulties involved in locating the notification issued by the late Government of Bihar and Orissa on the 30th March, 1926 and the amendments thereto issued subsequently, the rates should either have been mentioned in the bye-laws, or, in the alternative the relevant extracts from the above notification, as subsequently amended should have been appended to the bye-laws.

32. In this connection, attention of the Ministry of Defence was invited to paragraph 13 of the First Report of the Committee on Subordinate Legislation (Fourth Lok Sabha), wherein the Committee restressed that Rules should be self-contained and 'Legislations by Reference' should be avoided as far as possible so that no difficulty was caused to the public in locating and referencing the Rules.

33. The Committee note with satisfaction that the Ministry of Defence to whom the matter was referred have accepted the suggestion of making the Rules self-contained and towards this end draft amendments to the bye-laws have been published locally by the Cantonment Board for inviting objections and suggestions from the members of the public. The Committee desire the Ministry of Defence to take further necessary action in the matter at an early date.

(B)

34. Bye-law 6 of the above bye-laws provided that if the token issued in respect of any cycle was lost, another token shall be issued on payment of such amount as may be fixed by the Cantonment Board.

35. It was felt that empowering the Cantonment Board to fix the amount payable for duplicate tokens might tantamount to sub-delegation, for which an express authorisation of the parent Law was necessary or in the alternative these charges should be laid down in the Rules.

36. The Committee note with satisfaction that the Ministry of Defence to whom the matter was referred have agreed to incorporate in the Bye-laws the amount payable for issue of duplicate tokens and towards this end, draft amendments to the Bye-laws have been published locally by the Cantonment Board. The Committee desire the Ministry to take further necessary action in the matter at an early date.

VI

THE SMALL SCALE INDUSTRIES ORGANISATION CLASS III (NON-MINISTERIAL) POSTS RECRUITMENT RULES, 1968

(S.O. 1464 OF 1968)

37. Under the Small Scale Industries Organisation [Class III (Non-Ministerial) Posts] Recruitment Rules, 1968 the Development Commissioner, Small Scale Industries had been given the powers to relax age and qualifications in case of candidates otherwise well qualified, in respect of all the posts mentioned in the Schedule to the Rules, *ibid*. This was in addition to the power to relax any of the provisions of the Rules which vested in the Central Government under Rule 5 *ibid*.

38. Normally, it is seen that in case of recruitment rules relating to non-gazetted posts, power to relax the rules vests only in the Central Government. The Ministry of Industrial Development were, therefore, requested to state:

- (i) the special circumstances which made it necessary to give the Development Commissioner the power to relax age and qualifications, in addition to the power vested in the Central Government to relax any of the provisions of the Rules;

- (ii) whether the Development Commissioner was required to record the reasons in writing before exercising his discretion to relax the age and qualifications; and
- (iii) whether the power vested in the Development Commissioner to relax age and qualifications was subject to confirmation or check at any other level.

39. In their reply, the Ministry of Industrial Development stated as under:—

“This Ministry has not been able to locate any statutory order in support of the statement that normally the powers to relax the recruitment rules vest only with the Central Government. Development Commissioner (Small Scale Industries) was vested with the power to relax age and educational qualifications on the analogy of similar powers enjoyed by the Union Public Service Commission in respect of recruitment of gazetted posts. The power to relax educational qualifications and age was delegated to Development Commissioner (Small Scale Industries) since he is the recruiting authority for these posts. This has been done to avoid reference of each case of relaxation of age and education qualifications to the Ministry. The Central Government however retains the power not only to relax the age and educational qualifications but also the provisions of the recruitment rules relating to any Class or Category of persons or posts.

The reasons in writing are recorded by the office for the Development Commissioner (Small Scale Industries) to exercise the discretion to relax the age and educational qualifications in respect of a candidate, who is otherwise well-qualified.

The power vested in Development Commissioner (Small Scale Industries) to relax age and educational qualifications is not generally subject to any confirmation or check by any other authority. But the Ministry may take up any case under the general powers vested in it, under the Rules.”

40. The Committee are not convinced by the arguments given by the Ministry of Industrial Development for Festing in the Development Commissioner the power to relax age and educational qualifications. It is true that there is no statutory order which requires

that the power to relax recruitment rules should vest only with the Central Government. Normal practice, however, is that in case of non-Gazetted posts the power to relax rules lies with the Central Government. There are no special circumstances which warrant an exception to be made in the case of the office of the Development Commissioner, Small Scale Industries.

41. It is not very often that cases for relaxation of age and qualifications arise and approval of the Ministry can be obtained without difficulty in a deserving case. For the sake of uniformity also in the pattern of recruitment Rules, it is not desirable that the Development Commissioner, Small Scale Industries should have the power to release age and qualifications in addition to the power of the Central Government in this regard. The Committee, therefore, desire the Ministry of Industrial Development to amend the Rules so as to delete therefrom the provision giving power to the Development Commissioner to relax age and educational qualifications.

VII

(i) THE EXPORT OF HUMAN HAIR (INSPECTION) RULES,
1968 (S.O. 1609 OF 1968)

(ii) THE EXPORT OF VACUUM FLASKS (INSPECTION)
RULES, 1968 (S.O. 1617 OF 1968)

42. Rule 5 of the Export of Human Hair (Inspection) Rules, 1968 provided that if the Export Inspection Agency was satisfied that the consignment to be exported complied with the requirements of rule 3, it would within 4 days of the receipt of the intimation and declaration of the specification issue a certificate to the exporter declaring the consignment export-worthy. The Rules, however, did not provide for a maximum time-limit within which the refusal to issue a certificate and the grounds therefore would be communicated to the exporter. There was a similar lacuna in the Export of Vacuum Flasks (Inspection) Rules, 1968.

43. The Ministry of Commerce were requested to state whether they had any objection to making such a provision in the Rules so that the appeals to be preferred by the aggrieved parties were not unduly delayed.

44. The Committee note with satisfaction that the Ministry of Commerce have amended the Rules so as to provide therein the maxi-

imum time-limit within which the refusal to issue the certificate and the grounds therefor would be communicated to the exporter (vide S.O. No. 3853 of 1972 and S.O. No. 274 of 1973).

VIII

THE SYNTHETIC RUBBER (PRICE CONTROL) ORDER, 1969 (S.O. 4922 OF 1969).

45. Clause 8 of the Synthetic Rubber (Price Control) Order, 1969 reads as follows:—

“Power of inspection, entry and search—

The Controller or such officer of the Central Government or of the State Government as may be authorised by the Central Government in this behalf, may,—

(a) inspect or authorise any person to inspect—

- (i) any books, accounts or records relating to the manufacture of synthetic rubber and belonging to or under the control of a manufacturer of synthetic rubber in India;
- (ii) any books, accounts or records relating to the purchase, sale or other transaction in synthetic rubber and belonging to or under the control of a dealer; or
- (iii) any stocks of synthetic rubber belonging to or under the control of such manufacturer or dealer;

(b) enter or search or authorise any person to enter or search any premises where synthetic rubber is manufactured or sold or where the Controller or the authorised officer has reason to believe that a contravention of this Order in respect of the synthetic rubber has been, is being or is about to be committed.”

46. The Sub-Committee of the Committee on Subordinate Legislation considered the above clause at their sitting held on the 27th October, 1970 and desired to know the definition of the words “any person” occurring in sub-clauses (a) and (b) of clause 8, *ibid*.

47. The Ministry of Petroleum and Chemicals stated as follows in their reply:

“In clause 8 of this Order, the rank of the persons, who would come within the category ‘any person’ has not been specified because the Controller and the few officers authorised

in each State are not sufficient in number to carry out the necessary checks and raids without the help of other available persons. For the implementation of this Order no independent machinery is available. The Controller (an officer of the Ministry of Petroleum and Chemicals) and the officers authorised in the States naturally have to rely on some of the subordinates within their own organisation. The person whose help is taken would depend entirely on the exigencies of the situation and it is felt that it may not be possible to draw up a list of 'ranks' of Government Officers who are to be used."

48. The Committee on Subordinate Legislation (1971-72) considered the above reply of the Ministry at their sitting held on the 17th November, 1971, and desired that the following further information be called for from the Ministry:—

- (i) Number of searches|seizures so far carried out under the Order; and
- (ii) the ranks of the persons deployed to carry out searches|seizures in each of the cases mentioned in (i) above.

49. The Ministry of Petroleum and Chemicals stated in their reply that the requisite information in respect of all the States|Union Territories may be treated as 'nil'.

50. In this connection, attention may be invited to the following recommendation of the Committee on Subordinate Legislation contained in para 15 of their Fifth Report (3rd Lok Sabha):—

"The Committee, after having considered the matter at some length, are of the view that it should specifically be stated in the Order that a Government servant not below a specified rank or equivalent officer might be authorised to conduct searches and seizures etc. under the aforesaid order. It should not be left worded in a manner which would give the Executive the power to authorise any and every Government servant to exercise the power of conducting searches and seizures under the aforesaid Order."

The above recommendation has been repeatedly stressed by the Committee on Subordinate Legislation.

51. The Committee on Sub-ordinate Legislation have also stressed from time to time that, while authorising entry or search, suitable safeguards like presence of witnesses, preparation of inventories of seized goods and giving a copy thereof to the person concerned, should be provided for. [Paras 22—24 of 3rd Report (Second Lok Sabha) and paras 23-24 of Second Report (Third Lok Sabha).]

There are no provisions on the above lines in the Order in question.

52. According to the information furnished by the Ministry of Petroleum and Chemicals, the Committee observe that no searches/seizures had so far been carried out under the above Order in any State/Union Territory, while in their earlier reply the Ministry had stated that the Controller and the few officers authorised in each State were not sufficient in number to carry out the necessary checks and raids without the help of other available persons. The Committee, therefore, desire the Ministry to amend the Order so as to specify the minimum rank of the person to be authorised to carry out search/seizures. The Committee further desire the Ministry to provide in the Order suitable safeguards like presence of witnesses preparation of inventories of seized goods and giving a copy thereof to the person concerned at the time of carrying out the search/seizure.

IX

THE INCOME-TAX DEPARTMENT APPRAISERS' RECRUITMENT RULES, 1969 (G.S.R. 473 OF 1970)

53. The Income-tax Department Appraisers' Recruitment Rules, 1969, were published in the Gazette of India, Part II, Section 3(i), dated 22-8-1970 and came into force on the date of their publication, vide Rule 1(2), *ibid.*, but in the short title thereof, the Rules were referred to as of '1969'. It was further noticed that these rules were given G.S.R. No. 473 of 1970, whereas this G.S.R. number had already been given to the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) (Second Amendment) Rules, 1970, framed by the Ministry of External Affairs and published by them in the Gazette of India, Part II, Section 3(i), dated 21-3-1970.

54. Both the points were taken up with the Ministry of Finance (Department of Revenue & Insurance). In their reply, they *inter alia* stated as follows:

"... This confusion about the GSR number occurred because the number 473 for the Income-tax Department Appraisers' Recruitment Rules, 1969 was allotted by this Department by mistake, whereas, according to the advice given by the Ministry of Law, the GSR number was to be filled in by the Press. However, the Hindi version of the Appraisers' Recruitment Rules was correctly published under

GSR 1215 on 22-8-1970. It is proposed to correct the GSR number of the English version of the notification to 1215 in order to remove the confusion referred to above.

Moreover, the Appraisers' Recruitment Rules were issued in 1969 (on 23-12-69) but they could be published in the Gazette only in 1970 (on 22.8.70). This delay in publication of the rules in the Gazette occurred because some time was taken in receiving the Hindi version of the notification from the Ministry of Law.... It is proposed to amend the title of the existing rules to 'Income-tax Department Appraisers' Recruitment Rules, 1970'."

55. The Committee note with satisfaction that the Ministry of Finance have agreed to correct the G.S.R. No. and short title of the above Rules and desire them to take necessary action in the matter at an early date.

X

THE EXPORT INSPECTION COUNCIL CONTRIBUTORY PROVIDENT FUND RULES, 1969 (S. O. 2413 of 1969)

56. The Export Inspection Council Contributory Provident Fund Rules, 1969 were published in the Gazette of India, Part II, Section 3(ii) dated the 21st June, 1969 but were deemed to have come into force from the 10th March, 1965, vide Rule 1(2), *ibid.* The Export (Quality Control & Inspection) Act, 1963 under which the Rules had been framed did not empower the Government to give retrospective effect to the Rules.

57. Attention of the Ministry of Foreign Trade (now Commerce) was invited to the following *observations of the Attorney General made in connection with Exemption Notifications issued under the Central Excises and Salt Act, 1944 and the Rules framed thereunder:

"The Legislature may make a law with retrospective effect. A particular provision of a law made by the Legislature may operate retrospectively if the law expressly or by necessary intendment so enacts. A law made by the Legislature may itself further empower subordinate legislation to operate retrospectively. Without such a law no subordinate legislation can have any retrospective effect.
...."

*Para 1.14 of the Hundred and Eleventh Report of the P.A.C. (1970-71).

58. In their reply, the Ministry of Foreign Trade stated as under:—

“The C.P.F. Rules of the Council were made effective from 10th March, 1965, the day the Council's Secretariat was set up and its employees were first appointed. In this connection it is stated that the C.P.F. Rules framed under Section 17 of the Act were placed before each of the Houses of Parliament for their approval. Since the Rules were approved by both the Houses without any modification it was felt that it may be taken for granted that the Rules have been approved by both the Houses with back effect i.e., from 10th March, 1965. In this connection it is also stated that if the Committee is still of the view these rules will be made effective from 24th May, 1969, the day on which the rules were notified in the official Gazette.”

59. The Committee do not agree with the contention of the Ministry of Commerce that since the Rules had been laid on the Table, it might be taken for granted that they were approved by both the Houses with retrospective effect. The Export Inspection Council Provident Fund Rules, 1969 were laid on the Table for a period of 30 days as required by Section 17(3) of the Export (Quality Control and Inspection) Act, 1963. In para 8 of their Fifth Report (Second Lok Sabha) the Committee on Subordinate Legislation had observed that mere laying of Rules on the Table of the House for a specified period did not amount to their approval which could only be achieved by bringing forth an affirmative motion in the House in that behalf. Therefore, the presumption made by the Ministry of Commerce that the Rules had been approved by the House is not correct. The Committee desire that necessary instructions should be issued to all Ministries Departments of Government to make it clear to them that mere laying of Rules on the Table for a specified period does not amount to their approval by the House.

60. The Export (Quality Control and Inspection) Act, 1963 does not provide for giving retrospective effect to the Rules made thereunder. In view of the opinion of the Attorney General made in connection with exemption Notifications issued under the Central Excises and Sait Act, 1944, no subordinate legislation can have retrospective effect unless the parent Act under which it was framed empowered it to operate retrospectively. Retrospective effect to the above Rules, therefore, appears to have been given without any legal authority. The Committee desire the Ministry of Commerce to amend the Rules so as to give effect to them from the date of their publication.

THE CENTRAL INDUSTRIAL SECURITY FORCE RULES, 1969
(S.O. 4632 OF 1969)

61. Rule 23 of the Central Industrial Security Force Rules, 1969 reads as under:—

"23. Powers of Inspector General to frame Regulations.—The Inspector General may from time to time for the proper administration of the force frame and issue regulations with the approval of the Central Government, and the supervisory officers and the members of the Force shall as a condition of their service, be governed by such regulations in the discharge of their duties."

62. Attention of the Ministry of Home Affairs was invited to para 90 of their First Report (Second Lok Sabha) where the Committee had felt that an express authority under the parent Act was necessary for sub-delegation of legislative power. The Ministry were requested to indicate whether there existed any express provision in the C.I.S.F. Act, authorising the framing and issue of Regulations by the Inspector General.

63. In their reply, the Ministry of Home Affairs stated as under:

"Rule 23. Section 7(1) of the CISF Act, 1968 has vested the I.G., CISF. with the administration of the Force, which shall be carried on by him in accordance with the provisions of the said Act and of any rules made thereunder. Accordingly, the I.G. has been empowered to frame and issue rules and regulations under Rule 23 of the CISF Rules, 1969 with the approval of the Central Government for the proper administration of the Force. Thus the delegation of powers to the I.G., for framing and issuing of administrative rules and regulations with the approval of the Central Government under the said rule which is based on Section 7(1) of the said Act, is complete and absolute and there appears to be no necessity for creating an 'express authority' for this purpose in the said Act, under the provisions of para 90 of the First Report of the Committee on Subordinate Legislation (Second Lok Sabha)."

64. The Committee are not convinced by the reply of the Ministry of Home Affairs that Rule 23 of the Central Industrial Security Force Rules, 1969 which empowers the Inspector-General to frame and

issue regulations for the proper administration of the Force is based on Section 7(1) of the Central Industrial Security Force Act, 1968. Section 7(1) of the Central Industrial Security Force Act, 1968 states as under:—

“The superintendence of the Force shall vest in the Central Government, and subject thereto the administration of the Force shall vest in the Inspector-General and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.”

This Section requires the Inspector General to carry on the administration of the Force in accordance with the provisions of the Act and the Rules made thereunder and does not empower him to frame Regulations for that purpose. The Committee are, therefore, of the opinion that sub-delegation of legislative power to the Inspector-General under Rule 23 is not authorised by the parent Act. The Committee desire the Ministry to delete this Rule from the Central Industrial Security Force Rules.

XII

THE INCOME-TAX DEPARTMENT (INSPECTION) RECRUITMENT RULES, 1969 (G.S.R. 2800 OF 1969).

65. In column 10 of the Schedule appended to the Income-tax Department (Inspector) Recruitment Rules, 1969 it was stated that 33.1/3 per cent of the total of 1974 posts of Inspectors would be filled by direct recruitment. There was no indication whether the posts would be filled on the basis of a competitive examination and or *viva voce*. There was also no mention whether the recruitment would be made through advertisements in the newspapers or be confined to the candidates registered with the employment exchanges.

66. The Ministry of Finance (Department of Revenue and Insurance) who were requested to state whether they had any objection to giving the above details in rule schedule, stated as under:

“13 of the vacancies in the Inspector's grade are filled on the basis of Competitive Examination held on all India basis. The Rules for this examination are published in the Gazette of India. Action is being taken to make a provision to this effect in the Schedule to the Income-tax Department (Inspector) Recruitment Rules, 1969.”

67. The Committee note with satisfaction that the Ministry of Finance are taking action to indicate the manner of recruitment etc.,

in the Schedule to the Rules. They desire the Ministry to amend the Rules at an early date.

XIII

THE KANDLA HARBOUR CRAFT (AMENDMENT) RULES, 1969 (G.S.R. 2285 OF 1969)

(A)

68. There was no indication in the Kandla Harbour Craft (Amendment) Rules, 1969 about (a) the date on which the draft rules were published in the Gazette; (b) the date on which the Gazette copies containing the draft rules were made available to the public; and (c) the last date fixed for the receipt of the public comments thereon as required under Section 6(2) of the Indian Ports Act, 1908.

69. The Ministry of Shipping and Transport (Transport Wing) to whom the matter was referred, stated as follows:—

“It was an unfortunate omission not to have pre-published the Rules as required under Section 6(2) of the Indian Ports Act, 1908. This is very much regretted. Steps are being taken to re-issue the Rules after pre-publication in the draft form. This Ministry's Notification No. GSR. 2285 dated the 17th September, 1969 will be cancelled when the revised amendment rules are issued.”

70. The Committee regret to note that the Ministry of Shipping and Transport did not published the Rules in draft form for inviting objections/suggestions from the public as required by Section 6(2) of the Indian Ports Act, 1908. They trust that necessary steps will be taken to avoid such an omission in future. The Committee desire the Ministry to take early action for re-issuing the Rules after their pre-publication in draft form to comply with the requirement of the Act.

(B)

71. Rule 4(a), of the Kandla Harbour Craft (Amendment) Rules 1969 reads as follows:—

“If any owner, or person in-charge of a craft is found to engage or attempting to engage or abetting engagement by any person, or allowing the craft to be engaged, for smuggling or any other activity saving those for which the craft has been licensed, the licence shall be forfeited; and no licence shall be issued for any craft, owned by him, or owned by a joint family in which he is Karta, member

or partner or owned by a partnership firm of which he is a partner, or owned, by a company registered under the Companies Act, 1956, in which he is the Managing Director or a member of the Board of Directors, for a period upto three years from the date of such engagement."

72. There was no indication in the rule to show that before a licence was forfeited under the above rule, an opportunity of being heard would be provided to the person concerned.

73. The Ministry of Shipping and Transport (Transport Wing) who were referred in the matter, stated that in the revised amendment Rules, provision would be made for an opportunity of being heard to the person concerned before forfeiture of the licence.

74. The Committee note with satisfaction that the Ministry of Shipping and Transport have agreed to make a provision in the Rules for an opportunity of being heard to the person concerned before his licence is forfeited under the Rules. The Committee desire the Ministry to amend the Rules to this end at an early date.

XIV

THE COIR RETTING (LICENSING) ORDER, 1968 (S.O. 2747 OF 1968)

75. Clause 10 of the above Order provided as under:

"10. *Maintenance of records*:—The Licensing Officer may, by general or by special Order, direct the holder of a licence to maintain such records of his business in such manner, and to submit to him such returns relating to the business, as may be specified in the Order."

76. The Ministry of Industrial Development were requested to state the reasons for not specifying the records and returns in the Order itself, as otherwise it was likely to lead to different practices being followed in different cases/areas.

77. In their reply the Ministry of Industrial Development stated as under:

"Clause 10 of the Coir Retting (Licensing) Order provides for the Licensing Officer to issue general or special order to direct the licensee to maintain and submit certain records and returns pertaining to his business. It also provides that the Licensing Officer should specify such records and returns in the general or special order to be issued by

him in this respect. Clause 10 does not intend to specify such records and returns in the Coir Retting Licensing Order.

Coir retting is mainly done in the coastal areas of Kerala though the Order extends to the whole of the States of Kerala and Madras. Even in Kerala where the Special Officer (Coir of the Government of Kerala has been designated as the Licensing Officer under the Order, could not proceed further in the implementation of the provisions of the Order because of the following developments:—

- (i) Immediately after the promulgation of the said Order the retters of husk have filed a writ petition in the High Court of Kerala and the issue had become sub-judice.
- (ii) In January, 1972, the Kerala High Court allowed the writ mentioned above and declared the Coir retting Licensing Order as issued without jurisdiction and illegal.
- (iii) On appeal preferred on the above decision, the full Bench of the Kerala High Court reversed the earlier Court order but declared the levy of licence fee for retting places as unjustified and illegal as is not supported by any *quid pro quo* or special benefit or services.

The court also ruled to review the fixation of price of husks and to refix it in accordance with law, till then the price fixed earlier should not be implemented. Consequently no further action could be taken on this Order by the Licensing Officer.

- (iv) Kerala Government, in the meanwhile, proposed to introduce a comprehensive legislation in the State Legislature plugging all the loopholes. Previous sanction of the President was necessary for introduction of the Bill. The State Government referred the Bill to this Ministry. The Ministry of Law raised some points which have to be sorted out in consultation with the State Government. In case the President's sanction to the introduction of the Bill in the State Legislature is given, the Licensing Order will have to be annulled as it would not remain applicable in Kerala State. In case the Bill cannot be passed by the State Legislature, the Order will have to be revised keeping in view the verdict of the High Court.

In view of the above position, it is felt that no useful purpose will be served by any amendment in this respect at this stage."

78. In their reply the Ministry of Industrial Development have stated that in case the Bill on coir retting proposed by the Kerala Government is not passed by the State Legislature, they will have to revise the Coir Retting (Licensing) Order in the light of the verdict of the Kerala High Court. The Committee desire that at the time of revision of the Order, the Ministry should make suitable amendment in Clause 10 so as to specify therein the records and returns to be maintained by licence-holder.

XV

THE CENTRAL EXCISE (THIRD AMENDMENT), RULES, 1968 (G.S.R. 872 OF 1968).

79. The Study Group of the Committee on Subordinate Legislation examined the Central Excise (Third Amendment) Rules, 1968, at their sitting held on the 21st September, 1968, and desired that a note setting forth an assessment of the working of the new procedure laid down in Chapter VII-A (Removal of excisable goods on determination of duty by producers, manufacturers or private warehouse licensees) in the Central Excise Rules (As inserted by G.S.R. 872 of 1968), might be obtained from the Ministry of Finance (Department of Revenue and Insurance), with special reference to receipts of excise duties under that Chapter and also the number of cases in which penalties had been imposed and the total amount received and goods confiscated under rule 173K.

80. The Committee on Subordinate Legislation (1970), at their sitting held on the 9th April, 1970, considered the note furnished by the Ministry of Finance on the above points. After some discussion, the Committee decided that the Ministry might be asked to watch the working of this new procedure for some time and furnish a note to the Committee for their information as to whether this procedure was working satisfactorily and also whether Government was considering to make further amendments to the Central Excise Rules to improve its working in the light of the experience gained as a result of the working of the new procedure.

81. The Ministry of Finance (Department of Revenue and Insurance) furnished the following note on the satisfactory working of the new procedure:—

"The procedure contained in Chapter VIIA of the Central Excise Rules, 1944 introduced under G.S.R. 872 of 1968

was generally working satisfactorily. As a result of the experience gained in its working for about a year w.e.f. 1-6-68, the procedure was extended, under G.S.R No. 1723 of 1969 to all excisable commodities except manufactured tobacco with effect from 1-8-1969 and to all the operations listed below which earlier required physical supervision by Central Excise Officers:

- (1) Removals for export whether under bond or under claim for rebate of duty;
- (2) Removal and receipts in bound;
- (3) Removals for destruction;
- (4) Removals of unmanufactured tobacco for agricultural use without payment of duty from warehouses attached to cigarette factories;
- (5) Receipt of duty paid damaged goods for reprocessing or repairs; and
- (6) Receipts of duty paid raw materials or components for use in the manufacture of finished goods subject to proforma credit of duty paid being given to the assessee.

The rules under Chapter VII-A of the Central Excise Rules, 1944 have also been amended suitably to meet the above requirements.

On the whole the procedure has been found to be working satisfactorily even in its extended scope. The Government is however keeping a continuous watch on its working in the case of each commodity and will be taking steps to correct any weakness in the system whenever signs of such weakness are visible."

82. The Committee are satisfied to note that the new procedure laid down in Chapter VIIA of the Central Excise Rules regarding the removal of excisable goods on determination of duty by producers manufacturers or private warehouse licensees is generally working satisfactorily and has been extended to all excisable commodities except unmanufactured tobacco.

**THE BANKING COMPANIES (AMENDMENT) RULES, 1969
(G.S.R. 236 OF 1969)**

83. Rule 15B(1) of the Banking Companies Rules, 1949, as inserted by G.S.R. 236 of 1969, reads as under:—

“15B. Manner of holding inquiries.—(1) for the purpose of holding an inquiry under sub-section (2) of section 47A of the Act, the Reserve Bank shall appoint in writing one of its officers for holding the inquiry and shall also authorise him to exercise the powers conferred on the Reserve Bank under sub-section (3) of the said section 47A”.

84. The Sub-Committee of the Committee on Subordinate Legislation (1970-71) examined the Banking Companies (Amendment) Rules, 1969, at their sitting held on the 19th September, 1970 and desired to know the status of the officer who is appointed to hold an inquiry under sub-section (2) of section 47A of the Banking Regulation Act, 1949, as prescribed in Rule 15B(1) above.

85. The Ministry of Finance (Department of Banking), to whom the matter was referred, clarified the position as follows:

“... the functions of the officer appointed for conducting an inquiry are to hear the case presented by the Reserve Bank of India on the one hand, and the representative of the banking company on the other hand. In terms of clause (8) of the above Rule, the inquiry officer's findings alongwith the entire record have to be submitted to the Reserve Bank of India. Any penalty to be imposed after taking into consideration the findings of the inquiry officer is to be determined by the Reserve Bank and not by the said officer. The only function of that officer is to hold the inquiry, give his findings and to submit the case to the Reserve Bank; thus his role is analogous to that of an officer inspecting a banking company under section 35 of the Banking Regulation Act, 1949 (10 of 1949) where also the Report on the inspection is prepared by the Reserve Bank on the basis of inspecting officer's findings. It may be observed in this connection that although section 35 of the Banking Regulation Act does not state the rank of the officer who should conduct the inspection, it is ensured that a suitable officer of sufficient

seniority, having regard to the size and resources of the bank to be inspected is deputed for the purpose. Similarly, for the purpose of Rule 15B, it is the Reserve Bank's intention to assign the inquiry work to a suitable officer according to the circumstances and merits of the case. It is for these reasons that it was not considered necessary to make a specific mention in the Rule itself of the rank of the Officer who should conduct an inquiry."

86. The Committee are satisfied to note from the reply of the Ministry of Finance that the officer appointed to conduct an inquiry under sub-section (2) of Section 47A of the Banking Regulation Act, 1949 submits his findings to the Reserve Bank of India. The penalty if any, to be imposed after taking into consideration the findings of the Inquiry officer is determined by the Reserve Bank and not by the said officer. The Committee are also satisfied that the inquiry work is assigned to a suitable officer according to the circumstances and merit of each case.

XVII

THE IMPORT AND EXPORT TRADE CONTROL ORGANISATION (CLASS I and CLASS II POSTS), RECRUITMENT (AMENDMENT) RULES, 1969 (G.S.R. 951 OF 1969).

87. The Sub-Committee of the Committee on Subordinate Legislation (1970-71) examined the Import and Export Trade Control Organisation (Class I and Class II Posts) Recruitment (Amendment) Rules, 1969, at their sitting held on the 26th October, 1970 and desired to know the reasons for prescribing 9 years' standing as Class I Officer in any of the Organised Accounts Services, e.g., Indian Audit and Accounts Service, Indian Defence Accounts Service, Indian Railway Accounts Service or Posts and Telegraphs Accounts and Finance Service, for appointment as Officer on Special Duty, in column 11, against item 6 of the Schedule appended to the said Rules.

88. The Ministry of Foreign Trade (now Commerce), to whom the matter was referred for clarification, stated as under:

"..... the Union Public Service Commission while approving the draft recruitment rules for the post of O.S.D. in the Office of the Chief Controller of Imports & Exports, laid down, the condition that Class I Officer with 9 years' standing as such from any of the organised Accounts Services would be eligible for appointment to the post of

O.S.D., which is in the same pay scale as Deputy Secretary in the Central Secretariat. It may be clarified that normally a Class I Officer of the said Accounts Services becomes eligible to hold a post sanctioned in Deputy Secretary's scale of pay only when he completes 9 years' in his Accounts Service. The same consideration was apparently kept in view by the Commission."

89. The Committee are satisfied with the explanation of the Ministry of Commerce that normally a Class I officer of the organised Accounts Service becomes eligible to hold a post sanctioned in Deputy Secretary's scale of pay only when he completes nine years in his Accounts Service. This consideration was apparently kept in view by the Union Public Service Commission while approving the condition of 9 years' standing as Class I officer for appointment as officer on Special Duty under the above Recruitment Rules.

XVIII

THE PLANNING COMMISSION (SENIOR HINDI TRANSLATORS) RECRUITMENT RULES, 1969 (G.S.R. 251 OF 1969).

90. Proviso to Rule 4 of the Planning Commission (Senior Hindi Translators) Recruitment Rules, 1969, provides that—

"the upper age limit prescribed for direct recruitment may be relaxed in the case of Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders of the Government of India issued from time to time."

91. The Sub-Committee of the Committee on Subordinate Legislation (1970-71) examined the above Rules at their sitting held on the 19th September, 1970, and desired that the words 'other special categories of persons' appearing in the proviso might be elucidated so as to make it clear whether the upper age limit prescribed for direct recruits is relaxable in the case of candidates belonging to other backward classes also.

92. The matter was referred to the Planning Commission who stated as follows:—

".....the words 'other special categories of persons' occurring in proviso to Rule 4 of the Recruitment Rules for the post of Senior Hindi Translator in the Planning Commission, refer to displaced persons from East Pakistan, repatriates of Indian origin from Ceylon and Burma etc.

for whom certain age concessions have been granted by special orders issued by the Government of India. No such orders for age relaxation, have been issued in respect of backward classes other than Scheduled castes and Scheduled Tribes.

It may be stated that the age concession in the matter of recruitment to services under the Central Government is admissible only to members of S.C. | S.T. The Government of India have not recognised any class other than S.C. | S.T. as backward classes for purposes of reservation (and age relaxation) in services under them. In 1961, it was decided by the Government of India that no All India lists of backward classes (other than the existing lists of S.C. S.T.) be drawn up; and that each State Government may for its own purpose, determine lists of Backward classes by applying economic tests rather than considerations of caste."

93. The Committee are satisfied with the reply of the Planning Commission that 'other special categories of persons' who are entitled to age concession under the above Rules refer to displaced persons from East Pakistan, repatriates of Indian origin from Ceylon and Burma etc., age concessions for whom had been granted by special orders issued by the Government of India. No backward classes other than the Scheduled Castes and Scheduled Tribes had been recognised by Government for age relaxation.

XIX

THE UNION PUBLIC SERVICE COMMISSION (MEMBERS) REGULATIONS, 1969 (G.S.R. 2404 of 1969).

94. Article 318(a) of the Constitution under which the Union Public Service Commission (Members) Regulations, 1969, have been framed *inter alia*, provides that in the case of the Union Commission or a joint Commission, the President may by regulations, determine the number of members of the Commission and their conditions of service.

95. Regulation 22, *ibid.*, regarding conditions of service in residuary matters provides as follows:

"In respect of any matter for which special provision is not made by these Regulations, the Chairman and other members of the Commission shall be governed by the rules and orders for the time being applicable to such classes of Government servants as shall be specified by the President. "

96. The Sub-Committee of the Committee on Subordinate Legislation examined the aforesaid Regulations at their sitting held on the 27th October, 1970, and desired to know the reasons for not specifying in regulation 22, *ibid.* the classes of Government servants, rules and orders in respect of whom might be made applicable to the Members of the Commission, as had been done in Regulation 20, *ibid.* whereunder the rules and regulations applicable to the Secretaries and Additional Secretaries of the Government of India in respect of allotment of accommodation had been made applicable to the Chairman and Members of the Commission respectively.

97. The Cabinet Secretariat (Department of Personnel) to whom the matter was referred, stated as follows:—

"Provision has been made in the U.P.S.C. (Members) Regulations, 1969, for all important conditions of service of the Chairman and Members of the U.P.S.C., such as pay, leave, pension, provident fund, travelling allowance, leave travel concession, medical facilities, allotment of accommodation and, advance for the purchase of conveyance etc. The provision in Regulation 22 of the aforesaid Regulations regarding conditions of service in residuary matters is intended to vest in the President powers to issue orders on matters not already covered by the aforesaid Regulations and to meet any eventuality or contingency which cannot even with the utmost care, be anticipated. On the other hand the provision contained in Regulation 20 of the above said regulations is in respect of a specific matter in regard to allotment of residential accommodation to the Chairman and Members of the Commission. By the very nature of the generality of the provisions of Regulation 22 it would neither be appropriate nor feasible to specify as has been done in Regulation 20, that in respect of residuary matters, the Chairman and other Members of the Commission shall be governed by the rules and orders for the time-being applicable to a Secretary to the Government of India respectively. Regulation 22 deals with residuary matters and provides for flexibility in the application to the Chairman and other Members of the Commission of the rules for the time-being applicable in the case of Government servants. Since it would obviously be difficult to envisage all the matters which might come up, it was not possible to specify the class of Government servants to whom the UPSC Members should be equated in respect of all the residuary matters because any equation made in advance might not be appropriate in

regard to any particular matter. The equation of Secretary|Additional Secretary to the Government was made in Regulation 20 because of the particular rules applicable to these officers in respect of allotment of accommodation. Apart from that there are no rules relating to conditions of service which are specially applicable to Secretaries|Additional Secretaries. It was in order to safeguard a position under which a specific provision might eventually turn out to be inappropriate in respect of any particular matter, that it was considered desirable to make a general provision in regard to residuary matters as in Regulation 22. This regulation would enable the President to issue such orders as might be necessary to meet any particular contingency."

98. Regulation 22 seeks to empower the President to regulate, by orders, the conditions of service of the Chairman and Members of the U.P.S.C. in respect of residuary matters by orders, whereas Article 318(a) of the Constitution envisages that these should be determined by Regulations. The Ministry of Law who were consulted about this inconsistency opined as under:

"Regulation 22 is in the nature of residuary provision. It is intended to give a guideline and no more as to situations which are not known but which may arise. It is the usual legislative practice to include in rules and regulations such a residuary provision, only for the purpose of making it clear that the rules and regulations need not be treated as exhaustive and self-contained with regard to all matters.

It is well settled that a regulation or a rule cannot over-rule the constitutional or statutory provision under which it is made. In the present case also there is nothing in Regulation 22 which has the effect of over-ruling Article 318 (a). On the other hand it provides for the matter being referred to the authority who can act under Article 318(a) and since that Article does not provide any specific mode in which regulations may be made, anything which the authority does in pursuance of reference under Regulation 22 will itself qualify as a regulation under Article 318(a)."

99. The Committee do not agree with the opinion of the Law Ministry that an order issued by the President under Regulation 22 of the U.P.S.C. (Members) Regulations would itself qualify as regulation under Article 318(a) of the Constitution, as it is specifically provided in Article 318(a) that the conditions of service of the U.P.S.C.

Members should be determined by Regulations. Even otherwise, Regulation 22 does not appear to be necessary as it is always open to the President to provide for unanticipated contingencies by amending or amplifying the Regulations, under Article 318(a). The Committee feel this course would also have the added advantage that the Regulations would be a self-contained code dealing with all matters relating to the conditions of service of U.P.S.C. Members. The Committee, therefore, desire the Department of Personnel (Cabinet Secretariat) to amend the Regulations suitably so that the conditions of service in residuary matter also are governed by Regulations.

XX

THE MILITARY LANDS AND CANTONMENTS SERVICE (CLASS I AND II) RULES 1951—REPRINTING OF RULES

100. The Military Lands and Cantonments Service (Class I and II) Rules which were initially issued in 1951 had been extensively amended from time to time. The Ministry of Defence were asked whether they had any objection to the reprinting of above Rules incorporating therein all the amendments issued so far. In this connection their attention was also invited to paras 28-29 of the Fourth Report of the Committee on Subordinate Legislation (First Lok Sabha), wherein the Committee observed as follows:—

“.....The Committee feel that it is very necessary to re-print the amended rules with amendments incorporated therein in order that the general public as also the departments of the Government can refer to them more easily and without any inconvenience.

The Committee recommend, that whenever there are extensive amendments to any rules, the rules should be reprinted. The question of economy should be balanced against the convenience to the persons for whose use rules are made.”

101. The Ministry of Defence in their reply on 23rd July, 1971 stated that they had no objection to the re-printing of aforesaid rules incorporating therein all the amendments issued so far. In their communication dated 29th September, 1972, the Ministry, however, stated as follows:

“So far as necessary action to re-print the Military Lands and Cantonments Service (Class I and II) Rules, is concerned, it is pointed out that the same could not be taken so far because there have been certain more amendments to

the Rules under consideration. Out of these some have since been finalised and are being published for inviting objections suggestions. Some others are in final stages of consideration. As soon as these are finalised the amended ML&C Service Rules will be re-produced in the SRO incorporating all amendments made from time to time for the information of all concerned as desired."

102. The Ministry in their latest reply dated 17th March, 1973, again stated as follows:—

".....as soon as some amendments to the ML&C Service (Class I and II) Rules, 1951, now under consideration are finalised, the rules will be reproduced in the SRO. This course has been proposed keeping in view the economy aspect and to avoid another revision after a short period. The matter is however being expedited."

103. In paras 28—29 of their Fourth Report (First Lok Sabha), the Committee on Subordinate Legislation had recommended re-printing of Rules etc. whenever there were extensive amendments to them so that the general public as also the Departments of the Government could refer to them without any inconvenience. The Committee had also observed that the question of economy in such cases should be balanced against the convenience to the persons for whose use the Rules are made. The Committee regret to observe that the Ministry of Defence have failed to comply with the above recommendation of the Committee by not reprinting the Military Lands and Cantonements Service (Class I and II) Rules even though they have been amended several times. The Committee desire the Ministry to re-print the Rules without any further delay. The Committee will also like to stress upon all Ministries/Departments of Government the need for strict compliance with their afore-mentioned recommendation.

XXI

THE INDIAN FOREST SERVICE (RECRUITMENT) SECOND AMENDMENT RULES, 1969 (G.S.R. 2227 OF 1969)

104. Sub-rule (A3) of the Indian Forest Service Recruitment Rules, 1966 as inserted by the above amendment Rules provided as under:—

"(3A) Notwithstanding anything contained in sub-rule (2), where the appointment of any person to the service in

pursuance of the recruitment under sub-rule (1) is declared invalid by any judgment or order of any court, the Central Government may make fresh recruitment under that sub-rule to fill up such appointment and may give effect to the appointment so filled up from the same date on which the appointment which is declared invalid as aforesaid had been given effect to."

105. The Department of Personnel (Cabinet Secretariat) were requested to state the genesis of above sub-rule with particular reference to the power of the Government to give retrospective effect to the fresh appointment made thereunder.

106. In their reply, the Department of Personnel stated as under:

"The Supreme Court while admitting writ petitions of certain State Forest Service officers of J&K quashed the initial selections and appointments made in pursuance of sub-rule (1) of rule 4 of the I.F.S. (Recruitment) Rules 1966, to the I.F.S. Cadre of J&K. The main ground, on the basis of which the earlier selections were struck down by the Supreme Court, was that since the Chief Conservator of Forests of J&K was a member of the Special Selection Board as well as a candidate for selection, the rules of natural justice were violated and hence the whole selection made by the Board on which the Chief Conservator of Forests was a member, was vitiated. Since there was no provision in the I.F.S. (Recruitment) Rules or the I.F.S. (Initial Recruitment) Regulations to make fresh selections to State Cadres where the earlier selections were struck down by any judicial order, the matter was considered, in consultation with the Ministry of Law, and it was decided to introduce sub-rule (3A) to rule 4 of the I.F.S. (Recruitment) Rules, 1966 to empower the Central Government to make fresh selections in such cases. The above said sub-rule was introduced through an amendment to the Recruitment Rules vide Ministry of Home Affairs Notification No. 317/69, (i) AIS (IV) dated 6th September, 1969.

Following the judgment of the Supreme Court in A.K. Kraipak and other Vs. Union of India and others, briefly referred to in paragraph 2 above, the High Courts of Mysore, Assam, Bihar and U.P. have allowed writ petitions filed by certain State Forest Service Officers and quashed the earlier initial appointments made to the respective State Cadres.

The Government of India were earlier advised that the judgment of the Supreme Court in *A. K. Kraipak and others Vs. Union of India and others* was construed to be applicable only to J&K because there the Chief Conservator of Forests, who was a member of the Special Selection Board as well as a candidate for selection was not holding the post of G. C. F. on a substantive basis and his appointment as C. C. F. as well as his seniority in the State Forest Service had been challenged by some Conservators of Forests. In the other States this situation did not exist. The Government of India, therefore, moved an application for leave to appeal to the Supreme Court but Hon'ble High Courts of Mysore and Assam did not grant the certificate for leave to appeal. The Government's applications for special leave to appeal were also rejected by the Supreme Court. Consequent upon these orders of the Supreme Court, Government of India were advised that it was necessary to treat all the earlier selections made to the I.F.S. at its initial constitution as null and void irrespective of whether any High Court had passed any orders quashing those initial selections or not. Accordingly, the Government of India have decided to make fresh selections to all the remaining State Cadres. For this purpose sub-rule (3A) has further been modified through an amendment to the I.F.S. (Recruitment) Rules, 1966 vide this Department's notification No. 3/30/70-(i) AIS(IV) dated 1st March, 1971.

It has been provided for in the two amendments to Rule 4 that the appointments made to the I.F.S. Cadre, on the basis of fresh selections, may be given effect from the same date on which the appointments which had become invalid by reasons of any judgment or order of any Court had been made. As regards the question whether it is legally possible to give retrospective effect to the appointment made on the basis of fresh selections, the Ministry of Law have advised as follows:—

“The Supreme Court in Kraipak's case has held that the initial Selections made, are void. We are only making new selections in the place of void selections. These are not appointments from retrospective date. Giving effect to court decisions stand on a different footing.”

In view of the specific provision made in sub-rule (3A) of rule 4 of the L.F.S. (Recruitment) Rules, 1966 that appointments made on the basis of fresh selections may be given effect from the date from which the earlier selections, which have been treated as null and void, were given effect to and also in view of the Ministry of Law's opinion, there seems to be no objection to give retrospective effect to the appointments made under sub-rule (3A) mentioned above."

107. The Committee are satisfied with the explanation given by the Department of Personnel for inserting sub-rule (3A) of Rule 4 of the Indian Forest Service (Recruitment) Rules, 1966, which empowers the Central Government to make fresh selections in cases where the appointment of any person to the service is declared invalid by any judgement or Order of any Court and to give effect to the fresh appointments from the same date on which the earlier appointments had been made.

XXII

IMPLEMENTATION OF OUTSTANDING RECOMMENDATION OF THE COMMITTEE ON SUBORDINATE LEGISLATION CONTAINED IN PARAS 35—38 OF THEIR SECOND REPORT (FIFTH LOK SABHA)—RULES REGARDING RECRUITMENT OF MEMBER-SECRETARIES IN THE RAILWAY SERVICE COMMISSIONS.

108. The Committee on Subordinate Legislation (Fourth Lok Sabha) in para 49 of their Fourth Report had made the following recommendation:—

"The Committee feels that the revised notification regarding the recruitment of Member-Secretary in the Railway Service Commissions, which has been sent to the Union Public Service Commission for their acceptance is not satisfactory. The notification, as it is worded, leaves ample scope for appointing the serving or retired Railway Officer as member of a Railway Service Commission without having first hand knowledge of the working of any of the Zonal Railways. The Committee feels that the recruitment rules should be suitably amended in order to provide that an officer of the Railway Board's Secretariat or of the Zonal Railway will be eligible for appointment as Member-Secretary provided he has held office on a Zonal Railway for at least five years."

109. The Committee on Subordinate Legislation (1970) and 1971-72 reconsidered the matter in paras 57-58 of their Sixth Report (Fourth Lok Sabha) and paras 35—38 of their Second Report (Fifth Lok Sabha) respectively, and reiterated the above recommendation.

110. In their reply, the Ministry of Railways (Railway Board) stated as follows:—

“... the recommendation has been carefully considered by the Minister for Railways and he has decided that service in the Railway Board Secretariat gives adequate knowledge of Railway working and that the recruitment rules for the post of Member-Secretary do not, therefore, need any amendment.”

111. The Committee heard the views of the representative of the Ministry of Railways (Railway Board) at their sitting held on the 23rd May, 1973. He explained that they had four Railway Service Commissions at Calcutta, Allahabad, Bombay and Madras. There was a Chairman and Member-Secretary in each Commission. Field of choice for the appointment of the Chairman consisted of retired Railway or Government officers, ex-Members of Parliament, men of repute for example, educationists, eminent lawyers etc. For the appointment of Member-Secretary, the person has to be a serving Railway Officer who must have held office on the Railways/Railway Board for ten years. As to the method of selection, a panel of suitable names was prepared by the Ministry and it was sent to the U.P.S.C. for final selection.

112. When asked as to the qualifications for the appointment of Chairman, he stated that so far as academic qualifications were concerned, no specific qualifications as such had been laid down. They were either retired Railway officials or Government officers or ex-Members of Parliament or eminent educationists etc. Present Chairman of the Allahabad Service Commission was retired Judge of Mysore State. Bombay Service Commission was headed by an ex-Member of Parliament. The Chairman of the Calcutta Service Commission was an ex-M.L.A. and also a Member of the Senate of Berhampur University. Chairman of the Madras Railway Service Commission was a retired General-Manager of the Railways.

113. Explaining the functions of the Commission, the representative of the Ministry of Railways stated that the Commission conducted a written examination for recruitment to both technical and non-technical jobs. Valuation of answer papers for recruitment to technical jobs was done by technical officers of the Railways. In case of non-technical jobs, where the number of candidates was less than

1000, the Chairman and the Member-Secretary valued 500 papers each. But if it was more than that they were distributed to a panel of examiners which was maintained by the Railway Service Commission. Considering the nature of work to be done by them, the officers of the Railway Board Secretariat were suitable even without the experience on the open line Railways for functioning effectually as Member-Secretary of the Commission.

114. When asked to explain the difficulty in accepting the recommendation of the Committee he stated that the experience in the Railway Board Secretariat was equivalent to and as good as experience in the Railways. It was not easy for them to send people from Secretarial Services for working on the open line Railway for a period of five to six years.

115. In reply to a further question, he stated that the officer who was recommended for appointment as Member-Secretary was not below the rank of Joint Director.

116. He further stated that none of the member-Secretaries today was a Secretarial officer. All of them had been Railway Officers in the past. There were of course two cases in the Allahabad and Bombay Railway Service Commissions. The incumbents had a term of four and three years respectively who were taken from the Secretariat Service. The present provision in the Rules for including the Railway Secretariat Officers in the field of selection for Member-Secretary was only a permissive one. It had been made after due consultation with the U.P.S.C.

117. The Committee, thereupon, asked whether they had any objection in giving preference to a Railway employee with 5 years open line experience. The witness stated that they would take note of it.

118. The Committee desired the Ministry of Railways (Railway Board) to furnish information on certain points arising out of the evidence. A Note containing the requisite information furnished by the Ministry is at Appendix III. From its perusal the Committee observed that out of seven officers appointed as Member-Secretary during the last five years, five of them had experience on the Railways while the other two had experience in the Railway Board Secretariat. In their Note, the Ministry have also stated that they intend to approach the U.P.S.C. for substituting the existing note, under the recruitment rules for the post of Member-Secretary, by the following:—

*Note-1. A permanent officer of the Railway Board Secretariat or of Zonal Railways shall be eligible for appointment as

Member-Secretary provided he has held office on the Zonal Railways and/or the Railway Board Secretariat for at least ten years and has not more than six years to serve in his regular post and eventually retires in his capacity as such Member-Secretary.

Preference will, however, be given to officers who have had experience on Zonal Railways."

119. The Committee note with satisfaction that the Ministry of Railways (Railway Board) have agreed to give preference to officers having experience on Zonal Railways in appointment to the post of Member-Secretary, Railway Service Commission. The Committee desire the Ministry to amend the Rules in question at an early date.

NEW DELHI;

VIKRAM MAHAJAN,

Chairman,

Committee on Subordinate Legislation.

the 20th July, 1973.

APPENDIX I

(vide para 5 of the Report)

Summary of main recommendations/observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
12		The Committee regret to note the large number of cases in which non-cadre officers whose names were either not included in the Select List or were not next in order in Select List Officiated in the cadre posts, under the proviso to Regulation 8 of the I.A.S./I.P.S. (Appointment by Promotion) Regulations 1955. The Committee feel that once a Select list comes into force, it should be followed scrupulously in making appointments to cadre posts except when administrative exigencies require a deviation in a short-term vacancy.
13		In order to have a check on the State Governments ignoring Select List Officers in appointments to cadre posts, the Committee desire that instructions be issued to all State Governments to report to the Central Government even those cases where non-Select List Officers or Select List Officers not next in order in the Select List Officiate in cadre posts for less than three months and the Rules be amended accordingly.
14		The Committee also desire the Department of Personnel and Administrative Reforms to take early action for substituting the present proviso to Regulation 8 by a more detailed provision specifying the conditions in which a junior Select List Officer may be appointed to a cadre post even though his senior has not been so appointed.

(1)	(2)	(3)
2	24	The Committee are satisfied with the reply of the Ministry of Commerce that Clause 8A was inserted in the Jute (Licensing and Control) Order, 1961, with a view to relate the production of jute goods on a planned and regulated basis, to the availability of raw materials and to the needs and requirements of both domestic and overseas consumption.
	25	The Committee are further satisfied to note from the reply that adequate safeguards are contained in Clause 8A against discriminatory treatment by the Jute Commissioner. In exercise of the powers vested in him under that clause, the Jute Commissioner follows a uniform policy, having regard to the guidelines contained in that clause and issues orders to individual manufacturer or class of manufacturers or manufacturers generally for the purpose of controlling the production of jute textiles.
	26	The Committee also note that the Ministry of Commerce have no objection to the incorporation of a provision in the Order for appeal to the Central Government against the orders/directions of the Jute Commissioner, in cases where the manufacturer feels aggrieved by such orders/directions. The Committee desire the Ministry to take necessary action in this regard at an early date.
3	29	The Committee note with satisfaction that the Ministry of Defence with whom the matter was taken up have amended Bye-law 10 of the Dehu Road Cantonment Bye-laws for the regulation of collection and recovery of tax on cycles, tricycles and cycle Rickshaws so as to prescribe the fee for issue of duplicate badges/number plates (<i>vide</i> S.R.O. No. 4 of 1973.)
4(A)	33	The Committee note with satisfaction that the Ministry of Defence to whom the matter was referred have accepted the suggestion of making the Dinapore Cantonment Bye-laws for

(1)	(2)	(3)
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collection and recovery of Cycle-tax self-contained by specifying the rate of cycle tax therein and towards this end draft amendments to the bye-laws have been published locally by the Dinapore Cantonment Board for inviting objections and suggestions from the members of the public. The Committee desire the Ministry of Defence to take further necessary action in the matter at an early date.

(B) 36 The Committee note with satisfaction that the Ministry of Defence to whom the matter was referred have agreed to incorporate in the Dinapore Cantonment Bye-laws for collection and recovery of cycle tax, the amount payable for issue of duplicate tokens and towards this end, draft amendments to the Bye-laws have been published locally by the Cantonment Board. The Committee desire the Ministry to take further necessary action in the matter at an early date.

5 40 The Committee are not convinced by the arguments given by the Ministry of Industrial Development for vesting in the Development Commissioner the power to relax age and educational qualifications under the Small Scale Industries Organisation [Class III (Non-Ministerial) Posts] Recruitment Rules, 1968. It is true that there is no statutory order which requires that the power to relax recruitment rules should vest only with the Central Government. Normal practice, however, is that in case of non-Gazetted posts the power to relax rules lies with the Central Government. There are no special circumstances which warrant an exception to be made in the case of office of the Development Commissioner, Small Scale Industries.

41 It is not very often that cases for relaxation of age and qualifications arise and approval of the Ministry can be obtained without difficulty

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in a deserving case. For the sake of uniformity also in the pattern of recruitment rules, it is not desirable that the Development Commissioner, Small Scale Industries should have the power to relax age and qualifications in addition to the power of the Central Government in this regard. The Committee, therefore, desire the Ministry of Industrial Development to amend the Rules so as to delete therefrom the provision giving power to the Development Commissioner to relax age and educational qualifications.

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The Committee note with satisfaction that the Ministry of Commerce have amended the Export of Human Hair (Inspection) Rules, 1968 and the Export of Vacuum Flasks (Inspection) Rules, 1968 so as to provide therein the maximum time-limit within which the refusal to issue the certificate of export worthiness and the grounds therefor would be communicated to the exporter (*vide* S.O. No. 3853 of 1972 and S.O. No. 274 of 1973).

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According to the information furnished by the Ministry of Petroleum and Chemicals, the Committee observe that no searches/seizures had so far been carried out under the Synthetic Rubber (Price Control) Order, 1969 in any State/ Union Territory, while in their earlier reply the Ministry had stated that the Controller and the few officers authorised in each State were not sufficient in number to carry out the necessary checks and raids without the help of other available persons. The Committee, therefore, desire the Ministry to amend the Order so as to specify the minimum rank of the person to be authorised to carry out searches/seizures. The Committee further desire the Ministry to provide in the Order suitable safeguards like presence of witnesses, preparation of inventories of seized goods and giving a copy thereof to the person concerned at the time of carrying out the search/seizure.

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| 8 | 55 | <p>The Committee note with satisfaction that the Ministry of Finance have agreed to correct the G.S.R. No. and short title of the Income-tax Department Appraisers' Recruitment Rules, 1969 and desire them to take necessary action in the matter at an early date.</p> |
| 9 | 59 | <p>The Committee do not agree with the contention of the Ministry of Commerce that since the Export Inspection Council Contributory Provident Fund Rules, 1969 had been laid on the Table, it might be taken for granted that they were approved by both the Houses with retrospective effect. The Export Inspection Council Provident Fund Rules, 1969 were laid on the Table for a period of 30 days as required by Section 17(3) of the Export (Quality Control and Inspection) Act, 1963. In para 8 of their Fifth Report (Second Lok Sabha) the Committee on Subordinate Legislation had observed that mere laying of Rules on the Table of the House for a specified period did not amount to their approval which could only be achieved by bringing forth an affirmative motion in the House in that behalf. Therefore, the presumption made by the Ministry of Commerce that the Rules had been approved by the House is not correct. The Committee desire that necessary instructions should be issued to all Ministries/Departments of Government to make it clear to them that mere laying of Rules on the Table for a specified period does not amount to their approval by the House.</p> |
| 60 | | <p>The Export (Quality Control and Inspection) Act, 1963 does not provide for giving retrospective effect to the Rules made thereunder. In view of the opinion of the Attorney-General made in connection with exemption Notifications issued under the Central Excises and Salt Act, 1944, no subordinate legislation can have retrospective effect unless the parent Act under which it was framed empowered it to operate retrospectively. Retrospective effect to the above</p> |

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Rules, therefore, appears to have been given without any legal authority. The Committee desire the Ministry of Commerce to amend the Rules so as to give effect to them from the date of their publication.

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The Committee are not convinced by the reply of the Ministry of Home Affairs that Rule 23 of the Central Industrial Security Force Rules, 1969 which empowers the Inspector-General to frame and issue regulations for the proper administration of the Force is based on Section 7(1) of the Central Industrial Security Force Act, 1968. Section 7(1) of the Central Industrial Security Force Act, 1968 states as under:—

“The superintendence of the Force shall vest in the Central Government, and subject thereto the administration of the Force shall vest in the Inspector-General and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.”

This Section requires the Inspector-General to carry on the administration of the Force in accordance with the provisions of the Act and the Rules made thereunder and does not empower him to frame Regulations for the purpose. The Committee are, therefore, of the opinion that sub-delegation of legislative power to the Inspector-General under Rule 23 is not authorised by the parent Act. The Committee desire the Ministry to delete this Rule from the Central Industrial Security Force Rules.

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The Committee note with satisfaction that the Ministry of Finance are taking action to indicate the manner of recruitment etc. in the Schedule to the Income-tax Department (Inspector) Recruitment Rules, 1969. They desire the Ministry to amend the Rules at an early date.

- | (1) | (2) | (3) |
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| 12(A) | 70 | <p>The Committee regret to note that the Ministry of Shipping and Transport did not publish the Kandla Harbour Craft (Amendment) Rules, 1969 in draft form for inviting objections/suggestions from the public as required by Section 6(2) of the Indian Ports Act, 1908. They trust that necessary steps will be taken to avoid such an omission in future. The Committee desire the Ministry to take early action for re-issuing the Rules after their pre-publication in draft form to comply with the requirement of the Act.</p> |
| (B) | 74 | <p>The Committee note with satisfaction that the Ministry of Shipping and Transport have agreed to make a provision in the Kandla Harbour Craft (Amendment) Rules, 1969 for an opportunity of being heard to the person concerned before his licence is forfeited under the Rules. The Committee desire the Ministry to amend the Rules to this end at an early date.</p> |
| 13 | 78 | <p>In their reply the Ministry of Industrial Development have stated that in case the Bill on coir retting proposed by the Kerala Government is not passed by the State Legislature, they will have to revise the Coir Retting (Licensing) Order in the light of the verdict of the Kerala High Court. The Committee desire that at the time of revision of the Order, the Ministry should make suitable amendment in Clause 10 so as to specify therein the records and returns to be maintained by licence-holder.</p> |
| 14 | 82 | <p>The Committee are satisfied to note that the new procedure laid down in Chapter VIIA of the Central Excise Rules regarding the removal of excisable goods on determination of duty by producers, manufacturers or private warehouse licensees is generally working satisfactorily and has been extended to all excisable commodities except unmanufactured tobacco.</p> |

(1)	(2)	(3)
15	86	<p>The Committee are satisfied to note from the reply of the Ministry of Finance that the officer appointed to conduct an inquiry under sub-section (2) of Section 47 of the Banking Regulation Act, 1949 submits his findings to the Reserve Bank of India. The penalty, if any, to be imposed after taking into consideration the findings of the Inquiry officer is determined by the Reserve Bank and not by the said officer. The Committee are also satisfied that the inquiry work is assigned to a suitable officer according to the circumstances and merit of each case.</p>
16	89	<p>The Committee are satisfied with the explanation of the Ministry of Commerce that normally a Class I officer of the organised Accounts Service becomes eligible to hold a post sanctioned in Deputy Secretary's scale of pay only when he completes nine years in his Accounts Service. This consideration was apparently kept in view by the Union Public Service Commission while approving the condition of 9 years' standing as Class I officer for appointment as Officer on Special Duty under the Import and Export Trade Control Organisation (Class I and Class II Posts) Recruitment (Amendment) Rules, 1969.</p>
17	93	<p>The Committee are satisfied with the reply of the Planning Commission that 'other special categories of persons' who are entitled to age concession under the Planning Commission (Senior Hindi Translators) Recruitment Rules, 1969 refer to displaced persons from East Pakistan, repatriates of Indian origin from Ceylon and Burma etc., age concessions for whom had been granted by special orders issued by the Government of India. No backward classes other than the Scheduled Castes and Schedules Tribes had been recognised by Government for age relaxation.</p>

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The Committee do not agree with the opinion of the Law Ministry that an order issued by the President under Regulation 22 of the U.P.S.C. (Members) Regulations would itself qualify as regulation under Article 318(a) of the Constitution, as it is specifically provided in Article 318(a) that the conditions of service of the U.P.S.C. Members should be determined by Regulations. Even otherwise, Regulation 22 does not appear to be necessary as it is always open to the President to provide for unanticipated contingencies by amending or amplifying the Regulations under Article 318(a). The Committee feel this course would also have the added advantage that the Regulations would be a self-contained code dealing with all matters relating to the conditions of service of U.H.S.C. Members. The Committee, therefore, desire the Department of Personnel (Cabinet Secretariat) to amend the Regulations suitably so that the conditions of service in residuary matters also are governed by Regulations.

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In paras 28-29 of their Fourth Report (First Lok Sabha), the Committee on Subordinate Legislation had recommended reprinting of Rules etc. whenever there were extensive amendments to them so that the general public as also the Departments of the Government could refer to them without any inconvenience. The Committee had also observed that the question of economy in such cases should be balanced against the convenience to the persons for whose use the Rules are made. The Committee regret to observe that the Ministry of Defence have failed to comply with the above recommendation of the Committee by not reprinting the Military Lands and Cantonments Service (Class I and II) Rules even though they have been amended several times. The Committee desire the Ministry to reprint the Rules without any further delay. The Committee will also like to stress upon all Minis-

(1)	(2)	(3)
20	107	tries/Departments of Government the need for strict compliance with their afore-mentioned re-commendation.
21	119	<p>The Committee are satisfied with the explanation given by the Department of Personnel for inserting sub-rule (3A) of Rule 4 of the Indian Forest Service (Recruitment) Rules, 1966, which empowers the Central Government to make fresh selections in cases where the appointment of any person to the service is declared invalid by any judgement or Order of any Court and to give effect to the fresh appointments from the same date on which the earlier appointments had been made.</p> <p>The Committee note with satisfaction that the Ministry of Railways (Railway Board) have agreed to give preference to officers having experience on Zonal Railways in appointment to the post of Member-Secretary, Railway Service Commission. The Committee desire the Ministry to amend the Recruitment Rules in question at an early date.</p>

APPENDIX II

(Vide para 11 of the Report)

Information received from the Department of Personnel and Administrative Reforms regarding appointment of non-Cadre officers to Cadre posts under the I.A.S./I.P.S. (Appointment by Promotion) Regulations, 1955

Question:

(a) Please state whether there have been cases, when period of three months of temporary appointment of non-cadre officers to cadre posts, was extended by the State Government.

Answer:

The details of such cases, separately for each cadre, are given in the statement appended to this note.

Question:

(b) If so, the number of such cases during the last three years may be given Statewise—

(i) when the period was extended upto 6 months; and

(ii) when the period was extended beyond 6 months.

Answer:

From the records of this Department it has been possible to collect information only for the period from the 1st April, 1970, to the 31st March, 1972. Complete information relating to the period from the 1st April, 1972, to the 31st March, 1973, is not available in this Department. The information, separately for each cadre, is given in the statement appended to this note. From the Statement it will be seen that there were in all 24 cases of non-cadre officers officiating in cadre posts, in each case for a period exceeding three months but not exceeding 6 months. Out of these, in 13 cases, either the officiation was not in accordance with the order in which the names of the officers occurred in the Select List or non-Select List Officers officiated in cadre posts. The particulars of these thirteen cases are as follows:—

(a) In Orissa, the Chief Electoral Officer was re-employed, after retirement, for a period of three months, in view of the then impending General Elections.

- (b) In Punjab, six Select List Officers were appointed to cadre posts, while officers senior to them in the Select List were officiating in non-cadre posts. This officiation of the Junior Select List Officers was not approved by the Central Government.
- (c) In the Union Territories Cadre, five non-Select List Officers officiated in Cadre posts, since there was no Select List during the period involved.
- (d) In West Bengal, one Select List Officer officiated in a cadre post while officers senior to him in the Select List were officiating in non-cadre posts. Hence the officiation of the junior Select List Officer was not approved by the Central Government.

The total number of cases in which non-cadre officers officiated in cadre posts, in each case for a period exceeding six months, is 182. Out of these, in 40 cases the officiation was either of non-Select List Officers or of Select List Officers not next in order in the Select List. The details of the cases, separately for each cadre, are given in the statement appended to this note. Thus, the total number of cases of officiation in cadre posts of a non-cadre officer whose name was not included in the Select List is 53, during the period from the 1st April, 1970, to the 31st March, 1972. Considering that the total number of cadre posts of the Indian Administrative Service (on the 1st January, 1972) was 1608, this is an extremely small figure.

ANNEXURE

Details of the officiation of non cadre officers in cadre posts for the period from the 1st April, 1970 to the 31st March, 1972

S. No.	Cadre	Total No. of Non-Cadre officers officiating in Cadre Posts	
		Between 3 to 6 months	for more than 6 months
(1)	(2)	(3)	(4)
1	Andhra Pradesh	Nil	15(4)
2	Assam Maghalaya	1	Nil
3	Bihar	Nil	8(5)
4	Gujarat	Nil	20(4)
5	Haryana	Nil	11(1)
6	Himachal Pradesh	4	Nil
7	Jammu and Kashmir.	Nil	8
8	Kerala	Nil	1
9	Madhya Pradesh	2	16(4)
10	Maharashtra	Nil	26(2)
11	Manipur-Tripura	Nil	Nil
12	Mysore	1	8
13	Nagaland	Nil	1(1)
14	Orissa	2(1)	Nil
15	Punjab	6(6)	1
16	Rajasthan	Nil	Nil
17	Tamil Nadu	Nil	Nil
18	Union Territories	6(5)	10(7)
19	Uttar Pradesh	Nil	49(7)
20	West Bengal	2(1)	8(5)
		24(13)	182(4)

Note :—The figures in () indicate the number of cases of officiation in cadre posts of non-Select List Officers and of Select List Officers not in the order in which their name occurred in the Select List in force.

APPENDIX III

(Vide para 118 of the Report)

*Information received from the Ministry of Railways regarding
appointment to the post of Member-Secretary in Railway
Service Commissions*

There are four Railway Service Commissions located at Allahabad, Bombay, Calcutta and Madras. Till February, 1968, the sanctioned strength of each Service Commission consisted of a Chairman and two Members. With a view to effect some reduction in expenditure on Railway Service Commissions, consequent on reduction in the quantum of recruitment of Class III staff on the railways, it was decided in February, 1968, that each Railway Service Commission should consist of a Chairman and only one Member-Secretary; the post of Secretary in senior scale was abolished. It was also decided that the post of Member-Secretary should be filled by a serving officer of the Railway Board Secretariat or of the Zonal Railways. The composition of Railway Service Commissions, Calcutta, Bombay and Allahabad since February, 1968, has therefore, been one Chairman and one Member-Secretary each. In the Railway Service Commission, Madras, however, the post of Member-Secretary was not operated and the post of Secretary in senior scale was continued. In other words, the Railway Service Commission, Madras, consisted of only one Chairman. The post of Member-Secretary was however, filled w.e.f. 18-10-1972.

2. The recruitment rules for the post of Member-Secretary, Railway Service Commission, were framed in February, 1970 in consultation with the U.P.S.C. The rules provide that a candidate will be selected by the U.P.S.C. from a panel of officers of the Railway Board Secretariat or of the Zonal Railways, considered suitable by the Ministry of Railways and forwarded to them. The rules also provide:—

“A permanent officer of the Railway Board Secretariat or of Zonal Railways shall be eligible for appointment as Member-Secretary provided he has held office on the Zonal Railways and/or the Railway Board Secretariat for atleast ten years and has not more than six years to serve in his regular post and eventually retires in his capacity as such Member-Secretary.”

It will be seen from the above that no minimum educational qualifications have been prescribed for appointment to the post of

Member-Secretary. The only qualification prescribed is that he should be a permanent officer of the Railway Board Secretariat or of Zonal Railways and that he must have held office on the Zonal Railways or Railway Board Secretariat for atleast ten years and has not more than six years to serve and has to retire as Member-Secretary.

3. The total number of Member-Secretaries appointed during the last five years and the number out of them who had experience of zonal railways is as under:—

Name of Railway Service Commission	Total number of Member Secretaries appointed	Number of the Member Secretaries who had experienced on the Zonal Railways
1. Allahabad	1	—
2. Bombay	3	2
3. Calcutta	2	2
4. Madras	1	1
	7	5
TOTAL		

It will be seen from the above that out of 7 officers appointed as Member-Secretary during the last 5 years, five of them had experience on the Railways (The other two had experience in the Railway Board Secretariat).

4. The recruitment rules for the post of Member-Secretary, Railway Service Commission, have been framed in consultation with the U.P.S.C. Any amendment to the rules can, therefore, be made only with the concurrence of the Commission. In the light of the evidence given before the Committee on Subordinate Legislation on 23-5-1973, it is now proposed to approach the U.P.S.C. for substituting the existing note, under the recruitment rules for the post of Member-Secretary, by the following:—

"Note 1. A permanent officer of the Railway Board Secretariat or of Zonal Railways shall be eligible for appointment as Member-Secretary provided he has held office on the Zonal Railways and/or the Railway Board Secretariat

for atleast ten years and has not more than six years to serve in his regular post and eventually retires in his capacity as such Member-Secretary.

Preference will, however, be given to officers who have had experience on Zonal Railways."

Sd/- K. S. A. Padmanabhan
Additional Member Staff,
Railway Board.

MINUTES

APPENDIX IV

(Vide para 4 of the Report)

XXVI

MINUTES OF THE TWENTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73)

The Committee met on Thursday, the 11th January, 1973 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri Dharnidhar Das
4. Shri T. H. Gavit
5. Shri Samar Guha
6. Shri Subodh Hansda
7. Shri Dinesh Joarder
8. Shri S. A. Kader
9. Shri Y. S. Mahajan
10. Shri D. K. Panda
11. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee considered Memoranda Nos. 66 to 70, on the following subjects and 'Orders':—

S. No.	Memo. No.	Subject
1 to 4	66 to 69	* * *
5.	70	Implementation of outstanding recommendation of the Committee on Subordinate Legislation contained in paras 35-38 of their Second Report (Fifth Lok Sabha)—Rules regarding recruitment of Member-Secretaries in the Railway Service Commissions.

*Omitted portions of the Minutes are not covered by this Report.

(v) *Implementation of outstanding recommendations of the Committee on Subordinate Legislation contained in paras 35—38 of their Second Report (Fifth Lok Sabha)—Rules regarding recruitment of Member-Secretaries in the Railway Service Commissions (Memorandum No. 70).*

11. After considering the above Memorandum for some time, the Committee decided to postpone its further consideration to a later date.

The Committee then adjourned to meet again on Friday, the 9th February, 1973.

XXVIII

MINUTES OF THE TWENTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73).

The Committee met on Tuesday, the 20th March, 1973 from 15.00 to 16.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri T. H. Gavit
3. Shri S. A. Kader
4. Shri D. K. Panda
5. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2 to 9

10. The Committee took up further consideration of Memorandum No. 70 regarding recruitment of Member-Secretaries in the Railway Service Commission which was postponed for further consideration at their sitting held on the 11th January, 1973. The Committee decided that representatives of the Railway Board be called for giving oral evidence on the implementation of the recommendation of the Committee made in paras 35—38 of their Second Report (Fifth Lok Sabha).

The Committee adjourned to meet again at 15.30 hours on Monday, the 16th April, 1973.

*Omitted portions of the Minutes are not covered by this Report.

XXIX

MINUTES OF THE TWENTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73).

The Committee met on Monday, the 16th April, 1973 from 15.30 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri T. H. Gavit
4. Shri P. Narasimha Reddy
5. Shri Dinesh Joarder
6. Shri G. Y. Krishnan
7. Shri Y. S. Mahajan
8. Shri S. N. Misra

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee considered Memoranda Nos. 82, 83 and 85, 86 on the following subjects and 'Orders':—

S. No.	Memo. No.	Subject
1.	82	The I.A.S./I.P.S. (Appointment by Promotion) Regulations, 1955 (S.R.O. 1216/1219 of 1955).
2 to 5	83 to 86	.

(i) *The I.A.S./I.P.S. (Appointment by Promotion) Regulations, 1955 (S.R.O. 1216/1219 of 1955) (Memorandum No. 82)*

3 The Committee considered the Memorandum for some time and decided to hear the representatives of the Department of Personnel in the matter.

4 to 8

The Committee adjourned to meet again at 15.30 hours on Thursday, the 3rd May, 1973

*Omitted portions of the Minutes are not covered by this Report.

XXXI

MINUTES OF THE THIRTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73).

The Committee met on Monday, the 21st May, 1973 from 15.00 to 16.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

2. Shri M. C. Daga
3. Shri Dharnidhar Das
4. Shri T. H. Gavit
5. Shri Dinesh Joarder
6. Shri S. A. Kader
7. Shri P. Narasimha Reddy

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee considered Memoranda Nos. 87 to 97 on the following subjects and 'Orders':—

Sl. No.	Memo. No.	Subject
(1)	(2)	(3)
(i)	87	Bye-laws for the regulation of collection and recovery of tax on Cycles, Tri-cycles and Cycle Rickshaws in the Dehu Road Cantonment (S.R.O. 30 of 1968)
(ii)	88	The Jute (Licensing and Control) Amendment Order, 1968 (S.O. 3893 dt. 30-10-68)
(iii)	89	The Export of Human Hair (Inspection) Rules, 1968 (S.O. 1609 of 1968)
(iv)	90	The Export of Vacuum Flasks (Inspection) Rules, 1968 (S.O. 1617 of 1968).

(1)	(2)	(3)
(v)	91	• • • •
(vi)	92	• • • •
(vii)	93	The Bye-laws for collection and recovery of Cycle-tax in Dinapore Cantonment (S.R.O. 123 of 1968)
(viii)	94	The Small Scale Industries Organisation [Class III (Non-Ministerial) Posts] Recruitment Rules, 1968 (S.O. 1464 of 1968).
(ix)	95	The Military Lands and Cantonment Service (Class I and II) Rules, 1951—Reprinting of Rules.
(x)	96	The Coir Retting (Licensing) Order, 1968 (S.O. 2747) of 1968).
(xi)	97	• • • •

(1) *Bye-laws for the regulation of collection and recovery of tax in Cycles, Tri-cycles and Cycle Rickshaws in the Dehu Road Cantonment (S.R.O. 30 of 1968) (Memorandum No. 87)*

3. The Committee considered the above Memorandum and noted that, on being pointed out, clause 10 of the Bye-laws had been amended so as to provide therein for the charges for issue of duplicate badges|number plates in respect of Cycles, Tri-cycles and Cycle Rickshaws.

(ii) *The Jute (Licensing and Control) Amendment Order, 1968 (S.O. 3893 of 1968) (Memorandum No. 88).*

4. The Committee considered the above Memorandum and were satisfied with the reply of the Ministry of Commerce that Clause 8(i) of the Jute (Licensing and Control) Order, 1961, contained adequate safeguards against discriminatory treatment by the Jute Commissioner in exercise of the powers vested in him under Clause 8A to issue directions to any manufacturer as contradistinguished from manufacturers generally.

5. The Committee further noted that the Ministry had no objection to the incorporation of a provision in the Order for appeals to the Central Government against the Orders|Directions of the Jute Commissioner. The Committee desired the Ministry to take early action in the matter.

*Omitted portions of the Minutes are not covered by this Report.

(iii) *The Export of Human Hair (Inspection) Rules, 1968 (S.O. 1609 of 1968) (Memorandum No. 89)*

6. The Committee considered the above Memorandum and noted that the Ministry of Commerce, on being pointed out to them, had amended rule 5, *ibid.*, to provide for maximum time-limit within which the refusal to issue a certificate of export worthiness and the grounds therefor would be communicated to the exporter (*vide* S. O. 274 of 1973 dt. 3-2-1973).

(iv) *The Export of Vacuum Flasks (Inspection) Rules, 1968 (S.O. 1617 of 1968) Memorandum No. 90)*

7. The Committee considered the above Memorandum and noted that the Ministry of Commerce, on being pointed out to them, had amended rule 4(5), *ibid.*, to provide for a maximum time-limit within which the refusal to issue a certificate of export worthiness and the grounds therefor would be communicated to the exporter (*vide* S.O. 3853 of 1972 dt. 18-11-1972).

8 to 11 . * * * *

(vii) *The Bye-laws for collection and recovery of Cycle-tax in Dinapore Cantonment (S.R.O. 123 of 1968) (Memorandum No. 93)*

I

12. The Committee considered the above Memorandum and noted that the Ministry of Defence had accepted their suggestion to provide for the rate of tax in the above bye-laws, so as to dispense with the necessity of referring to another Notification for ascertaining it. The Committee desired the Ministry to take early action in the matter.

II

13. The Committee further noted that the Ministry of Defence, on being pointed out to them, had agreed to provide for the amount payable for duplicate token for cycles in the above bye-laws. The Committee desired the Ministry to take early action in the matter.

(viii) *The Small Scale Industries Organisation [Class III (Non-Ministerial) Posts] Recruitment Rules, 1968 (S.O. 1464 of 1968) (Memorandum No. 94)*

14. The Committee considered the above Memorandum and were not satisfied with the reasons given by the Ministry of Industrial Development for giving the power to relax age and qualifications under the above Rules to the Development Commissioner, Small

*Omitted portions of the Minutes are not covered by this Report.

Scale Industries, in addition to the power to relax any provision of the Rules which vested in the Central Government under Rule 5, *ibid.* Normal practice was that in case of non-gazetted posts, the powers to relax the rules lay with the Central Government. There were no special circumstances which warranted an exception to be made in the case of the office of the Development Commissioner, Small Scale Industries.

15. The Committee, therefore, desired the Ministry of Industrial Development to amend the Rules so as to delete therefrom the provision giving power to the Development Commissioner to relax age and educational qualifications.

(ix) *The Military Land and Cantonments Service (Class I and II) Rules, 1951—Reprinting of Rules (Memorandum No. 95).*

16. The Committee considered the above Memorandum and felt that further postponement of reprinting of the above Rules was not desirable. The Committee, therefore decided to stress upon the Ministry of Defence the necessity of reprinting the Rules at the earliest so that general public as also the Departments of Government could refer to them more easily without any inconvenience.

(x) *The Coir Retting Licensing Order, 1968 (S. O. 2747 of 1968) (Memorandum No. 96)*

17. The Committee considered the above Memorandum and noted the reply of the Ministry of Industrial Development that in case the Bill proposed by the Kerala Government on the subject could not be passed by the State Legislature, the above Order would have to be revised, keeping in view the verdict of the Kerala High Court on it.

The Committee desired that at the time of the revision of the Order, the Ministry should make suitable amendment in Clause 10 so as to specify therein the records and returns to be maintained by a licence-holder.

18 to 22 • • • •

The Committee then adjourned to meet again on Tuesday, the 22nd May, 1973.

XXXII

MINUTES OF THE THIRTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) (1972-73)

The Committee met on Tuesday, the 22nd May, 1973 from 10.30 to 12.30 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*

MEMBERS

- 2 Shri Dharnidhar Das
3. Shri T. H. Gavit
4. Shri S. A. Kader
- 5 Shri P. Narasimha Reddy
6. Shri K. Narayana Rao

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*

2. The Committee considered Memoranda Nos. 98 to 128 on the following subjects and 'Orders':—

S. No.	Memo No.	Subject
(1)	(2)	(3)
(i)	98	* * * * *
(ii)	99	The Central Excise (Third Amendment) Rules, 1968 (G.S.R. 872 of 1969)
(iii)	100	The Banking Companies (Amendment) Rules, 1969 (G.S.R. 236 of 1969)
(iv)	101	The Import and Export Trade Control Organisation (Class I and Class II Posts) Recruitment (Amendment) Rules, 1969 (G.S.R. 951 of 1969)
(v)	102	The Planning Commission (Senior Hindi Translators) Recruitment Rules, 1969 (G.S.R. 251 of 1969).

*Omitted portions of the Minutes are not covered by this Report.

(1)	(2)	(3)
(vi)	103	The Union Public Service Commission (Members) Regulations, 1969 (G.S.R. 2404 of 1969).
(vii)	104	The Synthetic Rubber (Price Control) Order, 1969 (S.O. 4922 of 1969).
(viii)	105	The Income-Tax Department Appraisers' Recruitment Rules, 1969 (G.S.R. 473 of 1969).
(ix)	106	The Export Inspection Council Contributory Provident Fund Rules, 1969 (S.O. 2413 of 1969).
(x)	107	The Indian Forest Service (Recruitment) Second Amendment Rules, 1969 (G.S.R. 2227 of 1969).
(xi)	108	The Central Industrial Security Force Rules, 1969 (S.O. 4632 of 1969).
(xii)	109	.
(xiii)	110	The Income tax Department (Inspector) Recruitment Rules, 1969 (G.S.R. 2800 of 1969).
(xiv)	111	.
(xv)	112	The Kandla Harbour Craft (Amendment) Rules, 1969 (G.S.R. 2285 of 1969).
(xvi) to (xxxi)	113 to 128	.

2-3

(ii) *The Central Excise (Third Amendment) Rules, 1968* (G.S.R. 872 of 1968)—(Memorandum No. 99)

4. The Committee considered the note furnished by the Ministry of Finance regarding the working of the new procedure laid down in Chapter VIIA (as inserted by G. S.R. 872 of 1968) regarding the removal of excisable goods on determination of duty by producers manufacturers or private ware-house licensees. They were satisfied to note that the procedure was generally working satisfactorily and as a result of the experience gained in its working for about a year had been extended to all excisable commodities except unmanufactured tobacco w.e.f. 1-8-1969.

(iii) *The Banking Companies (Amendment) Rules, 1969* (G.S.R. 236 of 1969)—(Memorandum No. 110)

5. The Sub-Committee of the Committee on Subordinate Legislation (1970-71) had desired to know the status of the officer who was appointed under Rule 15B of the above Rules for holding an inquiry under sub-section 13 of Section 47A of the Banking Regulation Act, 1949. The Committee were satisfied with the reply of

* Deleted portions of the Minutes are not covered by this Report.

the Ministry of Finance according to which the only function of the officer was to hold the inquiry and submit his findings to the Bank which determined the penalty after taking them into consideration. The inquiry work was assigned to a suitable officer according to the circumstances and merits of each case.

(iv) *The Import and Export Trade Control Organisation (Class I and II Posts) Recruitment (Amendment) Rules, 1969 (G.S.R. 951 of 1969)—(Memorandum No. 101)*

6. The Committee considered the clarification furnished by the Ministry of Foreign Trade for the Condition of 9 years standing as Class I Officer in any of the organised Accounts Service for recruitment to the post of Officer on Special Duty as laid down by the above Rule.

6. The Committee considered the clarification furnished by the Ministry of Finance that normally a Class I officer of the organised Accounts Services became eligible to hold a post sanctioned in Deputy Secretary's scale of pay only when he completed 9 years in his Accounts Service. This condition was apparently kept in view by the U.P.S.C. while approving the above recruitment rules.

(v) *The Planning Commission (Senior Hindi Translators) Recruitment Rules, 1969 (G.S.R. 251 of 1969)—(Memorandum No. 102)*

8. The Sub-Committee of the Committee on Subordinate Legislation (1970-71) had desired elucidation of the words 'other special categories of persons' occurring in the proviso to Rule 4 of the above Recruitment Rules so as to make it clear whether the upper age limit was relaxable in the case of candidates belonging to other backward classes also.

9. The Committee were satisfied with the reply of the Planning Commission that other special categories of persons referred to displaced persons from East Pakistan, repatriates of Indian Origin from Ceylon and Burma, etc., for whom certain age concessions had been granted by special orders issued by the Government of India. No orders for age relaxation had been issued in respect of backward classes other than the Scheduled Castes and Scheduled Tribes.

10 to 11. * * * * * *

(vi) *The Union Public Service Commission (Members) Regulations 1969 (G.S.R. 2404 of 1969) (Memorandum No. 103).*

12. The Committee considered the above Memorandum and were not satisfied with opinion of the Ministry of Law regarding the in-

*Omitted portions of the Minutes are not covered by this Report.

consistency between Regulation 22 which empowers the President to regulate the conditions of service of the Chairman and Members of the Union Public Service Commission in respect of residuary matters by orders and Art. 318 (a) of the Constitution which envisages that these should be determined by Regulations.

13. The Committee did not agree with the opinion of the Law Ministry that an order issued by the President under Regulation 22 would itself qualify as regulation under Art. 318(a) as it was specifically provided in Art. 318(a) that the conditions of service of Union Public Service Commission Members should be determined by Regulations. Even otherwise, Regulation 22 did not appear to be necessary as it was always open to the President to provide for unanticipated contingencies by amending or amplifying the Regulations under Art. 318(a). According to the Committee, this course would also have the added advantage that the Regulations would be a self-contained code dealing with all matters relating to the conditions of service of Union Public Service Commission Members. The Committee, therefore, desired the Department of Personnel (Cabinet Secretariat) to amend the Regulations suitably so that conditions of service in residuary matters also are governed by Regulations.

(vii) *The Synthetic Rubber (Price Control) Order, 1969* (S. O. 4922 of 1969) (Memorandum No. 104)

14. The Committee considered the above Memorandum and noted that according to the information furnished by the Ministry of Petroleum and Chemicals, no searches/seizures had so far been carried out under the above Order in any State/Union Territory. This belied the earlier reply of the Ministry that the Controller and the few officers authorised in each State were not sufficient in number to carry out necessary checks and raids without the help of other available persons. The Committee, therefore, desired the Ministry of Petroleum and Chemicals to amend the Order so as to specify the minimum rank of the person to be authorised to carry out searches/seizures under clause 8, *ibid.* The Committee further desired the Ministry to provide in the Order suitable safeguards like presence of witnesses, preparation of inventories of seized goods and giving a copy thereof to the person concerned at the time of carrying out search/seizure.

(viii) *The Income-tax Department Appraisers' Recruitment Rules, 1969* (G.S.R. 473 of 1970) (Memorandum No. 105)

15. The Committee considered the above Memorandum and noted that as pointed out to them, the Ministry of Finance (Department

of Revenue and Insurance) proposed to change the G.S.R. number of the Rules in order to remove the confusion created by the same number having been already given to the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) (Second Amendment) Rules, 1970 published in the Gazette of India, Part II Section 3 (i) dated the 21st March, 1970. The Committee further noted that the Ministry proposed to amend the short title of the existing rules to change the year from 1969 to 1970.

16. The Committee desired the Ministry of Finance to issue the requisite amendment to the Rules at an early date.

(ix) *The Export Inspection Council Contributory Provident Fund Rules, 1969 (S.O. 2413 of 1969) (Memorandum No. 106)*

17. The Committee considered the above Memorandum and were not satisfied by the reply given by the Ministry of Commerce that the Rules had been laid on the Table and approved by both the Houses without any modification. It had therefore, been taken for granted that the Rules were approved with retrospective effect.

18. The Rules were laid on the Table under section 17(3) of the Export (Quality Control and Inspection) Act, 1963. While laying the Rules under the Act, formal approval by the House is neither sought nor given. Therefore, the presumption made by the Ministry that the Rules were approved by the House was not correct.

19. The Export (Quality Control and Inspection) Act, 1963 did not provide for giving retrospective effect to the rules made thereunder. According to the observations* of the Attorney General made in connection with exemption Notifications issued under the Central Excises and Salt Act, 1944, no subordinate legislation could have any retrospective effect unless the parent Act under which it was framed empowered it to operate retrospectively. Retrospective effect to the rules, therefore, appeared to have been given without any legal authority. The Committee, therefore, desired the Ministry of Commerce to amend the rules so as to give effect to them from the date of their publication.

(x) *Indian Forest Service (Recruitment) Second Amendment Rules, 1969 (G.S.R. 2227 of 1969) (Memorandum No. 107)*

20. The Committee considered the above Memorandum and were satisfied with the reply of the Department of Personnel, explaining the circumstances under which sub-rule (3A) of the Indian Forest Service (Recruitment) Rules, 1969 had to be framed. This sub-rule

*Vide Para 1.14 of the 111th Report of the Public Accounts Committee (1970-71).

empowered the Central Government to make fresh selections in cases where the appointment of any person to the service was declared invalid by any judgement or order of any court and to give effect to appointments made on the basis of fresh selection from the same date on which earlier appointments had been made.

(xi) *The Central Industrial Security Force Rules, 1969 (S.O. 4632 of 1969) (Memorandum No. 108).*

21. The Committee considered the above Memorandum and were not convinced by the reply of the Ministry of Home Affairs that Rule 23 of the Central Industrial Security Force Rules, 1969 which empowered the Inspector-General to frame and issue regulations for the proper administration of the Force was based on Section 7(1) of the Central Industrial Security Force Act, 1968. They were of the opinion that sub-delegation of legislative power to the Inspector-General under this Rule was not authorised by the parent Act. The Committee, therefore, desired the Ministry of Home Affairs to delete Rule 23 of the Central Industrial Security Force Rules, 1969.

22. * * * *

(xiii) *The Income-tax Department (Inspector) Recruitment Rules, 1969 (G.S.R. 2800 of 1969) (Memorandum No. 110).*

23. The Committee considered the above Memorandum and noted that action was being taken by the Ministry of Finance (Department of Revenue and Insurance) to make the necessary provision regarding the manner of recruitment, etc. in the Schedule to the above Rules. The Committee desired the Ministry to amend the Rules at an early date.

24. * * * *

(xv) *The Kandla Harbour Craft (Amendment) Rules, 1969 (G.S.R. 2285 of 1969) (Memorandum No. 112).*

I

25. The Committee considered the above Memorandum and noted that the Ministry of Shipping and Transport (Transport Wing) had regretted their failure to pre-publish the said Rules as required under Section 6(2) of the Indian Ports Act, 1908. They also noted that the Ministry were re-issuing the Rules after pre-publication in the draft form and cancelling their earlier notification bearing G.S.R. No. 2285, dated 17th September, 1969. The Committee desired the Ministry to be careful in future and also take early action in the matter.

*Omitted portions of the Minutes are not covered by this Report.

II

26. The Committee further noted that the Ministry had agreed to provide, in the revised amendment Rules, for an opportunity of being heard to the person concerned before his licence was forfeited under rule 4(a), *ibid.* The Committee desired the Ministry to take early action in the matter.

27 to 54. * * * * *

The Committee then adjourned to meet again on Wednesday, the 23rd May, 1973.

**MINUTES OF THE THIRTY-THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1972-73)**

The Committee met on Wednesday, the 23rd May, 1973 from 10.30 to 13.00 hours.

PRESENT

Shri Vikram Mahajan—*Chairman*.

MEMBERS

2. Shri M. C. Daga
3. Shri Dharnidhar Das
4. Shri T. H. Gavit
5. Shri Samar Guha
6. Shri P. Narasimha Reddy
7. Shri S. A. Kader
8. Shri K. Narayana Rao
9. Shri Tulmohan Ram

REPRESENTATIVES OF THE MINISTRY OF COMMERCE

1. Shri R. Tirumalai, *Additional Secretary*.
2. Shri S. G. Bose Mullick, *Chief Controller of Imports and Exports*.
3. Shri Thakat Ram, *Deputy Chief Controller of Imports and Exports*.

**REPRESENTATIVE OF THE MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

(Shri K. S. A. Padamanabhan, *Additional Member (Staff)*).

**REPRESENTATIVES OF THE DEPARTMENT OF PERSONNEL
(CABINET SECRETARIAT)**

1. Shri B. P. Bagchi, *Secretary*
2. Shri R. N. Haldipur, *Joint Secretary*

SECRETARIAT

Shri H. G. Paranje—*Deputy Secretary.*

2 to 12.

* * * * *

(ii) *Implementation of recommendation contained in para 49 of Fourth Report of Committee on Subordinate Legislation (Fifth Lok Sabha) and reiterated in para 58 of Sixth Report (Fourth Lok Sabha) and para 38 of Second Report (Fifth Lok Sabha) in regard to the recruitment of Member-Secretaries in the Railway Service Commissions.*

13. The representative of the Ministry of Railways stated that they had four Railway Service Commissions at Calcutta, Allahabad, Bombay and Madras. There was a Chairman and Member-Secretary in each Commission. Field of choice for the appointment of the Chairman consisted of retired Railway or Government officers, ex-Members of Parliament, men of repute for example, educationists, eminent lawyers etc. For the appointment of Member-Secretary, the person has to be a serving Railway Officer who must have held office on the Railways/Railway Board for ten years. As to the method of selection, a panel of suitable names was prepared by the Ministry and it was sent to the U.P.S.C. for final selection.

14. When asked as to the qualifications for the appointment of Chairman, he stated that so far as academic qualifications were concerned, no specific qualifications as such had been laid down. They were either retired railway officials or Government officers or ex-Members of Parliament or eminent educationists etc. Present Chairman of the Allahabad Service Commission was a retired judge of Mysore State. Bombay Service Commission was headed by an ex-Member of Parliament. The Chairman of the Calcutta Service Commission was an ex-M.L.A. and also a Member of the Senate of Berhampur University. Chairman of the Madras Railway Service Commission was a retired General Manager of the Railways.

15. Explaining the functions of the Commission, the representative of the Ministry of Railways stated that the Commission conducted a written examination for recruitment to both technical and non-technical jobs. Valuation of answer papers for recruitment to technical jobs was done by technical officers of the Railways. In case of non-technical jobs, where the number of candidates was less than 1000, the Chairman and the Member-Secretary valued 500 papers each. But if it was more than that they were distributed to

*Omitted portions of the Minutes are not covered by this Report.

a panel of examiners which was maintained by the Railway Service Commission. Considering the nature of work to be done by them, the officers of the Railway Board Secretariat were suitable even without the experience on the open line Railways for functioning effectually as Member-Secretary of the Commission.

16. When asked to explain the difficulty in accepting the recommendation of the Committee he stated that the experience in the Railway Board Secretariat was equivalent to and as good as experience in the Railways. It was not easy for them to send people from Secretarial Services for working on the open line Railway for a period of five to six years.

17. In reply to a further question, he stated that the officer who was recommended for appointment as Member-Secretary was not below the rank of Joint Director.

18. He further stated that none of the member-secretaries today was a Secretarial officer. All of them had been Railway Officers in the past. There were of course two cases in the Allahabad and Bombay Railway Service Commission. The incumbent had a term of four and three years respectively who were taken from the Secretariat Service. The present provision in the Rules for including the Railway Secretariat Officers in the field of selection for Member-Secretary was only a permissive one. It had been made after due consultation with the U.P.S.C.

19. The Committee, thereupon, asked whether they had any objection in giving preference to a Railway employee with 5 years open line experience. The witnesses stated that they would take note of it.

20. The Committee desired the Ministry of Railways (Railway Board) to furnish information on the following points arising out of the evidence:

- (i) Composition of all the Railway Service Commissions during the last five years;
- (ii) Qualifications of the Members including educational qualifications;
- (iii) Total number of Member-Secretaries appointed during the last five years and the number out of them who had experience of Zonal Railways.

- (iv) A draft amendment to recruitment rules relating to Member-Secretaries in the Railway Service Commissions in the light of discussions during the evidence.

(The witness then withdrew).

- (iii) *The IAS/IPS (Appointment by Promotion) Regulations, 1955 (S.R.O. 1216/1217 of 1955).*

21. Under the proviso to Regulation 8 of the Promotion Regulations, where administrative exigencies so required, a member of the State Civil Service whose name was not included in the Select List or who was not next in order in that list might also be appointed to a cadre post if the State Government was satisfied, *inter alia*:

- (i) that the vacancy was not likely to last for more than three months; or
- (ii) that there was no suitable cadre officer available for filling vacancy.

22. This provision appeared to empower the State Government to ignore persons whose names were included in the Select List. The representative of the Department of Personnel explained that it was limited to a period of 3 months. In a short term vacancy in certain circumstances, it might not be possible to put the officer who was at the top of the Select List. Suppose a District Magistrate has to proceed on leave. Then the officer in the district next in command will have to be appointed to hold charge of the post. It may not be in the public interest to fill that post by any other man, as being a new man, he may not be acquainted with the local conditions for appointment. For a period beyond three months, but less than six months, Central Government's approval was necessary and if it was to be for more than six months, the Union Public Service Commission had also to be consulted.

23. When attention of the representative of the Department of Personnel was drawn to the second alternative in Regulation 8, he stated that the Law Ministry had advised that the word 'or' in the regulation had the force of 'and'. The State Government were not allowed to take shelter behind the provision and if a person officiated beyond three months without the approval of the Central Government, he would not be entitled to draw pay in the I.A.S. scale. He further stated that they proposed to replace Regulation 8 by a more detailed provision specifying the conditions in which a Select List Officer could be appointed to a cadre post even though an officer senior to him in the Select List was holding a non-cadre post.

24. In reply to a query whether as a check on State Governments they should be required to inform the Central Government even when they appointed a person for three months, he said that they could issue instructions that a report should be sent to them when such an appointment was made, certifying that the period was not likely to exceed three months and explaining why the senior select list officer could not be appointed.

25. The Committee then desired the Department of Personnel to supply information on the points noted in the Annexure arising out of the evidence.

(The witnesses then withdrew).

26. As it was the last meeting of the Committee for the year 1972-73, the Chairman thanked all the Members for their cooperation. He stated that during the past year they had presented 3 Reports to the House, heard oral evidence of 7 Ministries Departments and cleared several old 'Orders' which were pending for final replies from the Departments. He also thanked the Secretariat for the hard work done by them.

The meeting then adjourned.

ANNEXURE

(Vide para 25 of the Minutes)

(i) Don't you agree that the proviso to Regulation 6 empowers the State Governments to ignore persons whose names are included in the Select List?

(ii) Please state the administrative exigencies which may require the State Government to appoint a member of the State Civil Service whose name does not appear in the Select List or who is not next in order in that list, to a cadre post.

(iii) Please state whether a senior Select List Officer is informed when he is ignored and a junior select List Officer or a non-cadre officer is appointed to the cadre post, in his place.

(iv) Is there any procedure laid down to obtain the option of a senior officer whose name appears in the Select List and is appointed to a post other than a cadre post, under the State Government or the Central Government or on foreign service, when an officer much junior to him in the Select List or member of the State Civil Service whose name does not appear to the Select List, is appointed to a cadre post?

(v) (a) Please state whether there have been cases, when this period of three months of temporary appointment of non-cadre officers to cadre posts, was extended by the State Governments.

(b) If so, the number of such cases during the last three years may be given, State-wise:

(i) when the period was extended up to 6 months; and

(ii) when the period was extended beyond 6 months.

(vi) (a) Please state whether there have been cases in which the Central Government issued directions to the State Governments to terminate the appointment of a non-cadre officer, who was appointed to a Cadre Post by the State Government for more than three months.

(b) If so, the number of such cases during the last 2 years may please be given State-wise.

(vii) (a) Please state whether final decision has been taken on the proposed substitution of the existing proviso to Regulation 8 in consultation with the State Governments and the Union Public Service Commission.

(b) If not, at what stage the matter stands at present?

(viii) Proviso to Regulation 8 of the Promotion Regulations empowers the State Government to ignore a Select List Officer while making appointment to cadre posts if the State Government is satisfied—

(i) that the vacancy is likely to last for more than three months; or

(ii) that there is no suitable cadre officer available for filling the vacancy.

Please state, as per your experience, on which of the above two grounds, the State Governments frequently ignore a Select List Officer.

XXXVI

**MINUTES OF THE THIRTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(FIFTH LOK SABHA)
(1973-74)**

The Committee met on Friday, the 20th July, 1973 from 15.00 to 15.30 hours.

PRESENT

Shri Vikram Mahajan—Chairman.

MEMBERS

2. Shri M. C. Daga
3. Shri Samar Guha
4. Shri S. A. Kader
5. Shri K. Lakkappa
6. Shri S. N. Misra
7. Shri Mohan Swarup
8. Shri K. Narayana Rao
9. Shri Tulmohan Ram

SECRETARIAT

Shri H. G. Paranjpe—Deputy Secretary

2. The Committee considered their draft Seventh Report and adopted it.

3. The Committee authorised the Chairman and in his absence, Shri S. N. Misra, M.P. to present the Report to the House on their behalf on the 25th July, 1973.

4. The Committee then adjourned to meet again on the 23rd August, 1973.