

**COMMITTEE ON SUBORDINATE
LEGISLATION
(1988-89)**

(EIGHTH LOK SABHA)

TWENTY-SECOND REPORT

(Presented on 11th April, 1989)



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1989/Chaitra, 1911 (Saka)

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LOK SABHA SECRETARIAT

CORRIGENDA

TO

THE TWENTY-SECOND REPORT OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)

Introduction, Para 2, Line 2 for 'settings' Read 'sittings'
Page 1, Para 7, Line 6 from bottom for 'Deptdrtment'
read 'Department'
Page 2, Para 7, Line 9 for 'acount' read 'account'
Page 4, Para 15, Line 12 for 'of' read 'was'
Page 4, Para 16, Line 6 from bottom for 'specially'
read 'special'
Page 6, Para 23, Line 4 for 'othe' read 'other'
Page 10, Para 37, Line 1 for 'Regulation' read 'Regulations'
Page 11, Para 41, Line 1 for 'Regulation' read 'Regulations'
Page 12, Para 45, Line 1 for Regulation' read 'Regulations'
Page 13, Para 48, Line 15, for 'Ragulation' read 'Regulation'
Page 24, Para 87, Line 1 for 'focts' read 'facts'

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (1988-89)**

- Shri Zainul Basher — *Chairman*
2. Shri K.J. Abbasi
 3. Shri G.S. Basavaraju
 4. Shri Parasram Bhardwaj
 5. Shri Satyendra Chandra Guria
 6. Shri A. Jayamohan
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 9. Shri Prakash V. Patil
 10. Shri Mullappally Ramachandran
 - *11. Shri Ebrahim Sulaiman Sait
 12. Shri Kalicharan Sakargayen
 13. Shri Natavarsinh Solanki
 14. Shri Katuri Narayana Swamy
 15. Shri Vijay Kumar Yadav

SECRETARIAT

1. Shri K.C. Rastogi — *Joint Secretary*
2. Shri G.S. Bhasin — *Deputy Secretary*
3. Shri Swarn Singh — *Officer on Special Duty*

*Nominated w.e.f. 28 June, 1988.

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 Twenty-second Report.

2. The matters covered by this Report were considered by the committee at their settings held on 16 January, 9 February and 1st March, 1989.

3. The Report was considered and adopted by the Committee at their sitting held on 4 April, 1989. The Minutes of the sittings relevant to the Report are appended thereto.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in consolidated form in Appendix I to the Report.

NEW DELHI ;

4 April, 1989

14 Chaitra, 1911 (Saka)

ZAINUL BASHER

Chairman,

Committee on Subordinate
Legislation

REPORT

I

THE LIFE INSURANCE CORPORATION RULES

(i) *The Life Insurance Corporation (Agents) Rules, 1972*

5. Rule 13 of the Life Insurance Corporation (Agents) Rules reads as under :—

“Termination of Agency :

- (1) If an agent fails to bring in the business required of him under regulation 9 in an agency year, his appointment shall stand terminated at the end of such agency year :

Provided that nothing contained herein shall apply to an agent who has been exempted under sub-regulation (4) of regulation 9 from bringing in the minimum business required under the said regulation.

- (2) An agency which stands terminated under sub-regulation (1) may be reinstated by the competent authority if it is satisfied that the failure of the agent to bring in the business required of him was due to reasons beyond his control.
- (3) Where an agency is reinstated under sub-regulation (2) it should be treated as continuous for all purposes.”

6. The Committee felt that no one should be condemned arbitrarily until or unless he had been given an opportunity of being heard and notice shall always be given to the agent before termination of his appointment.

7. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred for comments, in their reply dated 29 July, 1987 stated as under :—

“The condition of minimum business guarantee is an objective condition laid down to standardize minimum business performance expected of agents. The letter of appointment issued to an agent clearly

specifies the minimum business required to be brought in by the agent during each agency year. Besides after expiry of a period of nine months from the commencement of the agency years, the business performance of the agent is reviewed by the Branch Manager and if his performance by then falls short of the minimum business guarantee, it is brought to his notice and he is advised to bring in the balance business during the remaining period of the agency to avoid termination of his agency. It is, therefore, felt that the termination of an agency on account of failure to complete the prescribed minimum business is not arbitrary. Further, it is felt that if the rule provides for an opportunity to an agent to show cause against such termination, such notice can be served only after the expiry of the agency year. In that case the agency would continue beyond the agency year in which the agent failed to bring in the business required of him and it would be difficult at a later stage to terminate the agency with retrospective effect. Moreover, the sub-clause (2) of the Rule 13 provides that an agency which stands terminated under sub-rule (1) may be reinstated by the competent authority if it is satisfied that the failure of the agent to bring in the business required of him was due to reasons beyond his control.

In view of what is stated it is submitted that no amendment to the rule 13 appears necessary."

8. The Committee note that Rule 13 of the Life Insurance Corporation (Agents) Rules provide that if an agent failed to bring in the business required of him in an agency year, his appointment was liable to be terminated at the end of such agency year. On being enquired whether before terminating the appointment, an opportunity was given to the agent to explain the position, the Ministry had informed that under the existing practice after the expiry of a period of nine months from the commencement of the agency year, the business performance of each agent was reviewed and if it fell short of the minimum business guaranteed, the same was brought to the notice of the agent concerned. The Committee recommend that the existing practice of reviewing the business performance be brought on a statutory footing by suitably amending the Rules.

II

9. Rule 27 of the Life Insurance Corporation (Agents) Rules, 1972 reads as under :—

“Relaxation :

The Executive Committee referred in sub-section (1) of section 19 of the Life Insurance Corporation Act, 1956, (31 of 1956), may in the interests of the Corporation, for reasons to be recorded in its resolution, relax any of the provisions of the regulations in individual cases.”

10. The Committee felt that in order to obviate any scope of discrimination the relaxation of Rules/Regulations should be made with respect to a class or category of persons as contradistinguished from individual cases.

11. The Ministry of Finance (Department of Economic Affairs) in their comments dated 29 July, 1987, stated as follows :—

“The Executive Committee consists of the Chairman, some members of the Corporation and the Managing Directors of the Corporation. Whenever any case is referred to the Executive Committee for relaxation of any provision of the (Agents) Rules, 1972, the pros and cons thereof are deliberated upon and only thereafter the decision is arrived at. This does not leave any scope for discrimination in the decision making process. Further, it is LIC’s experience that reference required to be made to the Executive Committee for relaxation of the provisions of the (Agents) Rules, 1972, in individual cases, are few and far between. Therefore, there does not appear to be any need for classification of agents for this purpose.”

12. The Committee note that under Rule 27 of the Life Insurance Corporation (Agents) Rules, 1972, the Executive Committee was empowered to relax any of the provisions of the regulations in individual cases. The Committee had felt that in order to obviate any scope of discrimination, the relaxation of regulations should be made with respect to a class or category of persons as distinguished from individual cases. The Committee were informed that cases of relaxation were few and far between and such individual cases were invariably referred to the Executive Committee for a decision. According to the Ministry there was no scope for discrimination in the decision making process. The Ministry’s reply appears to be satisfactory and the Committee do not wish to pursue the matter further.

III

(ii) *Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985*

13. Rules 4 and 6 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 *inter alia* provided for payment of special allowance in addition to pay to certain categories of employees.

14. The Ministry of Finance (Department of Economic Affairs) were asked to state the genesis of the above provisions.

15. In their reply dated 29 July, 1987, the Ministry stated as under :—

“In the Life Insurance Corporation, prior to the wage revision, the employees in specific posts were paid a Special Pay in consideration of the arduous nature of duties of specific addition to work or responsibility. This special pay was reckoned as basic pay for all purposes. However, in the comparable industry like Banking, such addition to the pay was called as a Special Allowance and the Special Allowance paid to Class III employees was not reckoned as pay for the purpose of Dearness Allowance, whereas, such Allowance was reckoned as basic pay in the case of Class IV employees. In the course of discussions with LIC Employees’ Unions, for revision of wages of LIC Class III and Class IV employees, a consensus arrived at that the Special Pay payable to them may be replaced by Special Allowance as now specified in Rules 4 and 6. Since Special Allowance is given in place of Special Pay, it is provided in the Rules that the employees would not be entitled to any Special Pay.”

16. The Committee note that Rules 4 and 6 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 *inter alia* provided for payment of specially allowance in addition to pay to certain categories of employees. The Ministry explained that since special allowance was given only in lieu of special pay, it had been provided in the Rules that the employees would not be entitled to any special pay. The Committee consider the Ministry’s reply to be satisfactory and decide not to pursue the matter further.

IV

17. Rule 5 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 provides that there shall be no fresh appointments or promotions to the cadre of Section Heads and Superintendents on or after the 1st July, 1985.

18. The Ministry of Finance (Department of Economic Affairs) were asked to state the genesis for imposing ban on above appointments/promotions.

19. In their reply dated 29 July, 1987, the Ministry explained the position as under :—

“In the Life Insurance Corporation, there were two supervisory cadres in Class III viz., the Superintendents and the Section Heads. Subsequently, in 1972, the cadre of Higher Grade Assistant was also made a supervisory cadre. Thus, even in the Class III clerical cadre, there were three supervisory cadres and this was creating some anomaly. In view of the fact that duties of the cadre of superintendent were by and large the same as that of the Officers in the lower category, viz., Assistant Administrative Officer/Assistant Branch Manager (A), it was decided in 1980, that the vacancies in the cadre of Superintendent need not be filled in. Further at the time of discussions with the Employees’ Unions for the purpose of wage revision, the concensus was arrived at that no fresh appointment be made in the cadre of Section Head also, so that there would be only one supervisory cadre in Class III, viz., that of Higher Grade Assistant. Thus, when the Rule was issued, it was provided that there would be no fresh appointments to the cadre of Section Heads and Superintendents but revised scales were prescribed for both the cadres in the Rules so that the existing Section Heads and Superintendents are placed in the respective revised scales.”

20. The Committee note that Rule 5 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 provides that no fresh appointments or promotions to the cadre of Section Heads and Superintendents be made on or after 1st July, 1985. Explaining the genesis for imposing such a ban on appointments/promotions, the Ministry had stated that at the time of discussions held with the Employees Unions, a concensus had been arrived at that no fresh appointments to the cadre of Section Heads and the Superintendents would be made after 1st July, 1985 and this had been provided for in the Rules. In view of the clarification given by the Ministry, the Committee do not wish to pursue the matter further

21. Rule 17 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 reads as under :—

“Maternity Leave : The competent authority specified in Schedule IV to the Staff Regulations may grant to a female employee maternity leave for a period which may extend upto 3 months subject to a maximum of 12 months during the entire period of an employee's service.”

22. Above rule provided for grant of maternity leave to female employees for a period of 3 months subject to maximum of 12 months during entire period an employee's service. This provision implied that a female employee could avail of maternity leave for having 4 children. It was not in consonance with the general norms of family planning and policies for ensuring small families.

23. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred for comments in their reply dated 29 July, 1987 stated as under :—

“Prior to the revision of pay scales and othe benefits, the female employees of the corporation were eligible for maternity leave upto three months on each occasion subject to a condition that the maternity leave will end at the expiry of six weeks from the date of confinement and such maternity leave could be sanctioned upto a period of 12 months during the entire period of the employee's service. During the course of discussions with the Employee's Unions, it was represented that the condition of restricting the maternity leave to six weeks from the date of confinement was causing hardship and it was agreed that the restriction would be removed thereby allowing a female employee to avail of maternity leave of three months on each occasion subject to a maximum of 12 months during the entire period of service. The maximum of 12 months is provided in view of the fact that all the deliveries may not be live deliveries and the existing maximum of 12 months during the entire service was, therefore, left undisturbed.”

24. The Committee note the clarification furnished by the Ministry that the provision of maximum period of 12 months of maternity leave during the entire service period of female employees had been made in the rules keeping in view the fact that all the deliveries may not be live deliveries. In view of the clarification the Committee, do not wish to pursue the matter further.

VI

25. **Rule 14 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985** read as under :—

“Superannuation and retirement : An employee belonging to the Class II or Class IV appointed to the service on or after the 22nd February, 1983, shall retire on completion of 58 years of age, provided that the competent authority specified in Schedule IV to the Staff Regulations may, if it is of the opinion that it is in the interest of the Corporation to do so, direct such employees to retire on completion of 55 years of age or at any time thereafter on giving him three months’ notice or salary in lieu thereof.”

26. The Ministry of Finance (Department of Economic Affairs) were asked to indicate (i) the normal retirement age of all the categories of employees ; (ii) the reasons for making a provision that Class III and Class IV employees appointed on or after 22-2-1983 shall retire on completion of 58 years of age ; (iii) whether proper notice, opportunity of being heard was provided by the competent authority before directing an employee to retire on completion of 55 years of age and (iv) whether any guidelines had been laid down in this respect. If so, details thereof.

27. The Ministry in their reply dated 29 July, 1987 stated as under :—

“(i) The retirement age of all the employees who have been transferred from the various insurers is 60. The retirement age of a Class I or Class II Officer appointed to the service of the Corporation on or after 1st September, 1956 is 58 years of age whether directly appointed to the service of the Corporation or promoted from Class III. The retirement age of those Class III and Class IV employees appointed prior to 22-2-83 is 60 and of those appointed on or after 22-2-83 is 58 years.

(ii) In the case of Class I and Class II officers, the retirement age for those recruited by the Corporation is fixed at 58 years, it was felt that there should be uniformity in the matter and since it was not intended to give any retrospective effect to the Rules, the Rule issued on 22-2-83 provided that the Class III and Class IV employees appointed on or after that date shall retire on completion of age 58 years. The Rule issued on 22-2-83 was reincorporated in the 1985 Rule providing for revision of terms and conditions of service of the employees of the Corporation.

(iii) The provision made in Rule 14 for retiring an employee on completion of age 55 years is same as the provision made in Regulation 19 of LIC (Staff) Regulations. Under the Rules, the competent authority may direct an employee to retire on completion of 55 years of age or at any time thereafter after giving him three months' notice or salary in lieu thereof. No separate provision is made for giving an opportunity of being heard before directing an employee to retire on completion of age 55 years. However, a Committee is constituted with three senior Officers to go into the records of the employee concerned and on the basis of the recommendations of the Committee, the competent authority takes a decision to retire or otherwise an employee who has completed 55 years of age. The competent authority in the case of Class III and Class IV employees is the Managing Director and at present, the Committee constituted, consists of an Officer of the rank of Zonal Manager and two Officers of the rank of Secretaries. Since a decision is taken at a very senior level, it is felt that no separate provision needs to be made to provide for an opportunity of being heard before directing him to retire on completion of 55 years of age or at any time thereafter.

(iv) In view of what is stated above, it may be seen that the guidelines are that the Committee shall assist the Managing Director who is the competent authority to retire a Class II or a Class IV employee before passing an order directing an employee to retire on completion of age 55 years or thereafter.

28. The Committee note from the reply of the Ministry that provision contained in Rule 14 for retiring an employee on completion of the age of 55 years is similar to the provision made in regulation 19 of LIC (Staff) Regulations. Under these Regulations the competent authority could direct an employee to retire on completion of 55 years of age or at any time thereafter by giving him three months notice or salary in lieu thereof. The Committee further note that although no separate provision for giving an opportunity of being heard before directing an employee to retire on completion of 55 years had been made, yet a Committee has been constituted which goes into the records of the employees concerned and makes recommendations to the competent authority in regard to retirement of an employee after he had completed 55 years of age. The Committee feel that the Ministry should have no difficulty in putting the existing practice on a statutory footing by amending the Rules. The Committee, therefore, recommend that the Ministry should initiate necessary action for suitably amending rule 14.

VII

LIFE INSURANCE CORPORATION REGULATIONS

(i) Life Insurance Corporation Regulations, 1959

29. Regulation 5 of the Life Insurance Corporation Regulations, 1959 reads as under :—

“Not less than 15 days notice of each meeting shall be given to the Members. If it shall become necessary to convene an emergency meeting, sufficient notice shall be given to every Member in order to enable him to attend. Any accidental omission to give any such notice to any of the Member shall not invalidate any resolution passed at any such meeting.”

30. The term ‘sufficient notice’ appeared to be vague. The Committee felt that definite period for convening such meeting should be specified in the regulation itself to make it self-contained for information of all concerned.

31. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987 stated as under :—

“There are rare occasions to convene the emergent meeting and at present ordinarily LIC is holding one Board meeting in a month. However, as recommended by the Committee the words “not less than three days” may be added after the words “sufficient notice” in Regulation 5.”

32. The Committee are happy to note that on being pointed out by them, the Ministry have agreed that a notice of not less than 3 days would be provided in the Regulations for convening an emergent meeting. The Committee recommend that the Regulations may be amended accordingly at an early date.

VIII

33. Regulations 12, 34 and 43A(xv) of the Life Insurance Corporation Regulations, 1959 *inter-alia* provided that proceedings of meetings of the Corporation/Committees should be circulated to the Members.

34. The Committee felt that some time limit within which such proceedings should be circulated to the members might be specified in the regulations in order to make them self-contained,

35. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987, stated as under ;—

“These Regulations do not only relate to emergency meeting but relate to all the meetings of the Boards, Executive Committee and Employees and Agents Relations Committee. As a matter of existing practice the proceeding are being circulated. However, it may be added in the respective Regulations that the proceedings shall be reported/circulated on or before the date of next meeting.”

36. The Committees are happy to note that on being pointed out by them, the Ministry have agreed to provide in the regulation that proceedings may be reported/circulated to the Members on or before the date of next meeting. The Committee recommend that Regulations may be amended on the above lines at an early date.

IX

37. Regulation 16(iv), 23(iv) and 36(iv) of the Life Insurance Corporation. Regulations, 1959 provided for holding of the adjourned meetings at a time, date and place to be decided by the Chairman, within a week.

38. The Committee felt that time, date and place of the adjourned meetings should be intimated to the members telegraphically or on telephone.

39. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987 explained the position as under :—

“These Regulations provide for holding of adjourned meetings which may take place the same day or on some other day. As and when any such occasion arises necessary steps are being taken by LIC to inform the members of the time, date and place either telegraphically or by telephone wherever possible. It is felt that the Regulation may not be amended to make this a part thereof.”

40. Regulations 16(iv), 23(iv) and 36(iv) of the Life Insurance Corporation Regulations *inter alia* provides for holding of the adjourned meetings of the Corporation at a time, date and place to be decided by the Chairman. The Committee felt that time, date and place of the adjourned meetings might be intimated to the members telegraphically or on telephone. The Ministry have informed them that as per practice Life Insurance Corporation informed the

members about such details either telegraphically or by telephone wherever possible. The Committee recommend that the relevant Regulation may be suitably amended so that the practice in vogue is reflected therein.

X

41. Regulation 32(a) and 34 of the Life Insurance Corporation Regulations, 1959 read as under :—

“32(a). The Chairman shall be the Chief Executive and shall, subject to such general or special directions as the Corporation or any of its Committees may from time to time give, exercise all such powers as may be exercised and do such acts and things as may be done by any of the Committees of the Corporation appointed under sub-sections (1) and (3) of section 19 of the Act.

Any action taken by the Chairman shall be reported by him, as soon as may be, to the appropriate Committee.

34. Proceedings of all the Committees of the Corporation shall be circulated to all the members and shall also be placed before the Corporation for record and where necessary for information.”

42. Above Regulations *inter-alia* provided that any action taken by the Chairman shall be reported by him to Committees of Corporations. It was felt that some time limit for submission of such reports in writing should be specified in the regulation itself.

43. The Ministry of Finance (Department of Economic Affairs) in their reply dated 2 November, 1987, have explained their position as under :—

“It may be specified in the Regulation that the action taken by the Chairman shall be reported/circulated on or before the date of next meeting of the concerned Committee.”

44. The Committee are happy to note that at their instance the Ministry of Finance (Department of Economic Affairs) have agreed to specify in the Regulations that any action taken by the Chairman shall be reported/circulated to the appropriate committee on or before the date of next meeting of the concerned committee of the Corporation. The Committee desire the Ministry to amend the relevant Regulation accordingly at an early date.

45. Regulation 37 and 38(i) of the Life Insurance Corporation Regulations, 1959 read as under :—

“37. The Managing Directors (including any acting Managing Director) may, with the approval of the Chairman, and with the prior sanction of the Corporation or any Committee of the Corporation, delegate or sub-delegate to any other officers or employees all or any of the powers, authorities and discretions which may be necessary for the efficient conduct of the business of the Corporation. 38(i). The Managing Directors of the Corporation (including any Acting Managing Director) and the Executive Director at the Central Office of the Corporation may, both within India and in all territories outside India, institute, conduct, defend and represent the Corporation in all suits, appeals, applications and execution proceedings by or against the Corporation or to which the Corporation may be a party and in addition they may make all such petitions, applications and representations and sign and execute all appearances and warrants of attorney for engagement of advocates, solicitors, notaries and other legal professional persons and sign and verify all pleadings, memoranda of appeal, petitions, counter-petitions, representations, applications, cross-objections, applications for execution and all legal documents of whatsoever nature and make all affidavits and declarations and give all sanctions and consents on behalf of the Corporation and accept service of writs of summons and all other processes of Court of judicial or semi-judicial bodies. The Managing Director may delegate any of the authorities aforesaid to any officer of the Central Office.”

46. Above regulations *inter-alia* provide for delegation/sub-delegation of powers, authorities and discretions to any officer or employee. The term “any officer, employee” appeared to be vague. It was felt that rank/designation of such officer/employee should be indicated in the regulations.

47. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987, stated as under :—

“With regard to the suggestions for delegation/sub-delegation of powers under Regulation 37, LIC has pointed out that such delegation in LIC’s present decentralised system may be required at various

levels including staff in the Branch. It is felt that as and when occasion arises and where it is necessary for the efficient conduct of business of the Corporation, the power may be delegated by the concerned authority to any officer/employee and it may not be advisable to specify the rank or designation in view of practical difficulties.

With regard to Regulation 38(i) it may be specified that the delegation shall be to any officer in the Central Office not below the rank of Assistant Divisional Manager."

48. Regulations 37 and 38(i) of the Life Insurance Corporation Regulations *inter-alia* provide for delegation/sub-delegation of powers, to any officer or employee of Life Insurance Corporation. The Committee felt that the term 'any officer, employee' appeared to be vague and therefore, the rank/designation of the officer/employee should be indicated in the Regulations. The Ministry intimated that there was no objection to the delegation of powers under Regulation 38(i) to an officer not below the rank of Assistant Divisional Manager. However, in case of delegation of powers under Regulation 37, it was pleaded that it may not be possible to specify the rank and designation of the officers to whom powers could be delegated.

The Committee see no force in the arguments advanced by the Ministry for not specifying the rank/designation of the officers to whom powers could be delegated under Regulation 37. The Committee, therefore, recommend that the rank/designation of the officer for the purpose of delegation of powers under Regulation 37 should also be specified as has been agreed in the case of Regulation 38(i) and the requisite amendments to the regulations may be issued at an early date.

XII

(ii) *Life Insurance Corporation (Staff) Regulations, 1960.*

49. Regulation 10 of the Life Insurance Corporation (Staff) Regulations, 1960 reads as under :—

"The age of a person at the time of his appointment to the service of the Corporation shall not be less than 18 or more than 25 years, provided that the competent authority will have the discretion to relax or waive the limit on upper age wherever necessary."

50. It was felt that in order to obviate any scope of discrimination the maximum limit upto which age could be relaxed should be specified in the Regulation itself and necessary guidelines may be laid down.

51. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred for comments, in their reply dated 2 November, 1987 stated as under :—

“Regarding waiver of upper age limit it may be pointed out that guidelines have been provided in the recruitment procedure. However it is proposed that the authority to relax upper age limit may vest with the appellate authority, except where the appointing authority is M.D. or above. To fix the maximum age limit in the Regulation may create practical difficulties, as LIC may (although rarely) have to recruit people directly at senior levels with experience possessing technical qualifications and expert knowledge. LIC has to employ reserved categories, physically handicapped persons, ex-servicemen and relatives of employees who die while in service on compassionate ground where maximum age limit has to be relaxed depending on the circumstances of each case even if appointments are at a lower level to non-technical posts. Hence, the existing provisions may remain.”

52. The Committee note that Regulation 10 of the Life Insurance Corporation Regulations inter-alia provides that wherever considered necessary, the competent authority could at its discretion relax or waive the upper age limit for recruitment to service in the Corporation. To an enquiry whether maximum limit upto which age could be relaxed should not be specified in the Regulation itself, the Ministry of Finance (Department of Economic Affairs) stated that guidelines for waiver of upper age limit had been provided in the recruitment procedure and it was proposed that the authority to relax upper age limit might vest only with the appellate authority except where the appointing authority was M.D. or above. It was also stated that to fix the maximum age limit in the Regulation itself might create difficulties. The reasoning given by the Ministry is not convincing. The Committee feel that the Life Insurance Corporation should have no difficulty in indicating the maximum limit upto which age could be relaxed for recruitment to various categories of posts and the relevant rule may accordingly be amended. The Committee also desire that vesting of authority to relax the age limit in a appellate body might also be provided for in the Regulation itself and the regulation may be amended suitably.

XIII

53. Regulations 11 and 56(4) of the Life Insurance Corporation (Staff) Regulations, 1950 reads as under :—

“11. Salary on Appointment : All first appointments shall be made on the minimum basic pay of the grade to which the appointment is made, (provided that the competent authority may authorise the grant of advance increments with reference to the circumstances in each case).

56. Increment :

* * * *

(4) The competent authority may grant advance or special increments or temporary increments to an employee if the circumstances require it.”

54. It was felt that the circumstances under which advance increments could be granted should be recorded in writing and some guidelines should be laid down in this respect for the guidance of the competent authority.

55. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987 explained the position as under :—

“The authority lies at a very senior level i.e. with the Chairman or Executive Director (P). This in itself is a guideline. Moreover, for a Corporation which has to run on business principles, authority to grant advance/special increments depend on need such as supply of technically qualified personnel, prevailing emoluments in the market etc. Future circumstances, requiring grant of advance increments cannot be determined in advance and laying down criteria is not practicable.”

56. The Committee note that Regulations 11 and 56(4) of the Life Insurance Corporation (Staff) Regulations *inter-alia* authorise the competent authority to grant advance/special increments to the employees of the Corporation. The Committee felt that the circumstances under which advance increments could be

granted should be recorded in writing and some guidelines for that authority should be laid down. The Ministry stated that authority for grant of advance/special increments vested with the Chairman or Executive Director (P) and this itself was a guideline. It was also stated that laying down of criteria for grant of advance increments was not practicable. The Committee are not convinced with the above reply and desire the Ministry to lay down proper guidelines for the exercise of the discretionary powers now vested with the competent authority.

XIV

57. Regulation 12 of the Life Insurance Corporation (Staff) Regulations, 1960 read as under :

“Reappointment : No person who has been dismissed from the service of the Corporation shall be re-employed. A person who has been compulsorily retired or removed from service or whose services have been terminated, may be re-employed with the prior sanction of the Corporation in the case of appointments to posts belonging to Class I and the Executive Committee in the case of appointments to posts belonging to Class II, III & IV.

Provided that the appointing authority may re-employ, with the approval of the Chairman, persons who have resigned from service.

Explanation : Re-employment of retrenched temporary employees shall not be deemed to be re-employment under this regulation and such persons may be re-employed without the sanction of the Chairman, the (Executive Committee) or the Corporation.”

58. The Ministry of Finance (Department of Economic Affairs) were asked to state :

- (i) whether any guidelines had been issued for the appointing authority regarding cases of re-appointment ; and
- (ii) genesis of explanation regarding re-employment without the sanction of the Chairman/Executive Committee/Corporation.

59. In their reply dated 2 November, 1987, the Ministry stated as under :

"No guidelines have been issued but normally only the cases where the employees have resigned are considered for re-employment. Considering the facts and circumstances each case is decided on merits by the competent authority.

As regards the genesis of Explanation to Regulation 12 is concerned, LIC has pointed out that in terms of the provisions of Section 25-H of the Industrial Disputes Act the retrenched employees will automatically get preference in the matter of employment and in such cases it is not obligatory for the appointing authority to seek prior approval of the Chairman, which is otherwise necessary for re-employment."

60. Regulation 12 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides for re-employment of ex-employees of the Corporation. It is, however, not clear as to which of the ex-employees are covered under this regulation and whether any guidelines had been laid down in that respect. The Ministry informed the Committee that no guidelines had been issued for the appointing authority but normally only those cases where the employees had resigned were considered for re-employment. The Committee felt that intention of the Ministry was not evident from the wording of the Regulation. The wording of the rule was such as to suggest that persons removed from service or whose services had been terminated stood on a different footing *vis-a-vis* persons dismissed from service. The Committee desire that proper guidelines for the appointing authority may be laid down in order to avoid any scope of discrimination. Further the wording of the rule may be suitably changed to make the intention clear.

XV

61. Regulation 19 of the Life Insurance Corporation (Staff) Regulations, 1960 read as under :—

"19 (1). An employee belonging to Class III or Class IV and a transferred employee belonging to Class I or Class II shall retire on completion of age of 60; but the competent authority may, if it is of the opinion that it is in the interest of the Corporation, to do so direct such employee to retire on completion of 55 years of age or at any time thereafter, on giving him three months' notice or salary in lieu thereof,

Provided that an employee who is a member of any approved superannuation fund, as defined in clause (a) of section 58-N of the Indian Income-Tax Act, 1922 and which has been recognised and allowed to be continued by the Corporation, shall be permitted upon request to retire before the date of retirement specified in this sub-regulation either (a) on completion of 25 years of service or (b) on completion of 20 years of service or provided he has reached age 50 or (c) on completion of 20 years of service if he is incapacitated for further active service.

(2) An employee belonging to Class I or Class II appointed to the service of the Corporation on or after 1st September, 1956 shall retire on completion of 58 years of age, but the competent authority may, if it is of the opinion that it is in the interest of the Corporation to do so, direct such employee to retire on completion of 50 years of age or at any time thereafter on giving him three months' notice or salary in lieu thereof.

(2A) Notwithstanding what is stated in sub-regulations (1) and (2) above an employee may be permitted to retire at any time after he has completed age 55 provided he gives three months notice to the appointing authority of his intention to retire.

Explanation: The notice required under this sub-regulation may be waived in part or in full by the appointing authority at its discretion.

62. As per explanation appended to the regulation, the notice period required under sub-regulation 2A may be waived in part or full by the appointing authority at its discretion. It was felt that in order to obviate any scope of discrimination in exercise of such powers some guidelines should be issued for the appointing authority.

63. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred for comments, in their reply dated 2 November, 1987 stated as under :—

"No guidelines issued in this regard. Considering the facts and circumstances, each case is decided on merits. These include (a) age, (b) length of service, (c) work record, (d) amount of leave taken recently and the quantum of various types of leave to the employee's credit, (e) Organisation, if any, indicated by the employee which he proposes to join, (f) provision for substitute, etc. It may be added

that for different cadres of employees the competent authority for waiving the notice period is different and where the employee belongs to a higher cadre, the competent authority is also at a higher level and it is therefore, expected that the discretion to waive the notice period would be exercised on sound consideration."

64. Regulation 19 of the Life Insurance Corporation (Staff) Regulations *Inter-alia* provides for retirement of an employee at any time after completion of 55 years of age provided he gave 3 months notice to the appointing authority. The requisite notice period can be waived by the appointing authority. Asked whether any guidelines had been issued for the guidance of the appointing authority for waiving the notice period, the Ministry stated that each case was decided on merits and no guidelines had been issued. The Committee recommend that on the basis of their past experience, some guidelines might be laid down for the guidance of the appointing authority, in order to obviate any scope of discrimination in such cases.

XVI

65. Regulation 22 of the Life Insurance Corporation (Staff) Regulations, 1960 reads as under :—

"No employee shall, while in service or after his retirement, resignation or discharge, except in accordance with any general or special order of his superior officers or Corporation or in performance, in good faith, of the duties assigned to him, communicate directly or indirectly any official documents or information to any employee or any other persons to whom he is not authorised to communicate such document or information."

66. It was not clear how compliance of above provision could be ensured from an employee who had since retired or resigned.

67. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply stated as under :—

"It is true that once an employee ceases to be LIC employee, the provisions of the (Staff) Regulations are in applicable. However, it would be desirable to retain the existing provision, since in the event of breach, LIC may have recourse to proceed under Civil or any other Law."

68. Regulation 22 of the Life Insurance Corporation (Staff) Regulations, 1960 *inter-alia* provided that no employee while in service or after retirement communicates directly or indirectly any official documents or information to any other person. To a question how the compliance of above provision could be ensured from the persons who had since retired or resigned, the Ministry replied once the employee ceased to be an employee of the corporation the provisions of the regulation would be inapplicable. However, it would be desirable to retain the said provision as in the event of breach, Life Insurance Corporation could have recourse to proceedings under civil or any other law. In view of Ministry's reply the Committee do not wish to pursue the matter further.

XVII

69. Regulations 25 (3), 32 (2), 33 (3) and 38 of the Life Insurance Corporation (Staff) Regulations, 1960 *inter alia* provided that decision of Chairman/Corporation shall be final.

70. The expression "decision shall be final" gives an impression that jurisdiction of the Court is being ousted. Use of this expression had been objected to by the Committee in the past.

71. The Ministry of Finance (Department of Economic Affairs to whom the matter was referred, in their reply dated 2 November, 1967 stated as under :—

"Life Insurance Corporation has pointed out that the wording 'decision shall be final' does not take away the right of the concerned employee to take recourse to any remedy available to him under the law of land. However, for the removal of any doubt, it may be provided that the decision taken by the concerned authority shall be final so far as the remedy available under the Life Insurance Corporation (Staff) Regulations is concerned."

72. Regulations 25(3), 32(2), 33(3) and 38 of the Life Insurance Corporation Regulations *inter-alia* provide that "decision of the Chairman/Corporation shall be final". The Committee pointed out that the expression 'decision shall be final' might give an impression that jurisdiction of the Courts was being ousted. The Life Insurance Corporation has agreed to suitably amend the Regulation. The Committee desire that necessary amendment in the Regulation may be carried out at an early date.

XVIII

73. Regulation 36 (4) of the Life Insurance Corporation (Staff) Regulations, 1960 reads as under :—

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36 (4) where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders."

74. The Committee observed that once the court had decided a particular case, the constitution bars a fresh, inquiry and punishment for the same offence. If the intention was to hold further inquiry in cases where the court had set aside the penalty on technical grounds and not on merits of the case then the position should be clarified in the regulation itself.

75. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred for comments, in their reply dated 2 November, 1987 stated as under :—

"A proviso may be added that no such further enquiry shall be held unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case."

76. Regulation 36(4) of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided that where the penalty of dismissal, removal or compulsory retirement imposed upon an employee is set aside by a court of law and the disciplinary authority decides to hold further inquiry, the employee shall continue to remain under suspension. The Committee pointed out that if the intention was to hold further inquiry in cases where the court had set aside the penalty on technical grounds without going into the merits of the case, then the position should be clarified in the regulation by a suitable amendment. The Ministry in

their reply agreed to amend the above Regulation by adding the following proviso :—

“...that no such further enquiry shall be held unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.”

The Committee would like the Ministry to amend the Regulations to the desired effect.

XIX

77. Regulation 40 of the Life Insurance Corporation (Staff) Regulations, 1960 *inter-alia* provided that ‘no appeal shall lie against an order made by the Corporation.’

78. It was felt that the expression used in above provision appeared to bar the jurisdiction of law Courts. If the intention was different then the same should be made clear in the regulations itself.

79. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987, stated as under :—

“The provision may be elaborated that under the (Staff) Regulations or any other Rules/Regulations no appeal shall lie against an order made by the Corporation. At present it does not and cannot take away the legal right of the person concerned available to him under law by implications.”

80. Regulation 40 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides that no appeal shall lie against an order made by the Corporation. The Committee pointed out that this provision tends to give an impression that the jurisdiction of Court was being ousted. The Ministry have agreed to elaborate the Regulation suitably. The Committee desire the Ministry to issue the requisite amendment at an early date.

XX

81. Regulation 61 (2) of the Life Insurance Corporation (Staff) Regulations, 1960 *inter-alia* provided that the Chairman may delegate the authority of granting special leave to any officer.

82. The term 'any officer' appeared to be vague. It was felt that specific rank/designation of the officer should be indicated in the regulation itself.

83. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987 stated as under :—

"The designation of the officer may be specified as an officer not below the rank of Asstt. Divisional Manager."

84. Regulation 67(2) of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides that the Chairman may delegate his authority to 'any officer'. Asked whether the designation of the officer concerned to whom authority may be delegated could not be specified, the Ministry informed the Committee that the Regulation was being amended so as to indicate the designat^on of the officer to whom the authority was being delegated. The Committee desire that the requisite amendment may be issued early.

XXI

85. Regulation 16 of the Life Insurance Corporation (Staff) Regulations, 1960 read as under :—

"*Relaxation* : The Executive Committee may, in the interest of the Corporation, for reasons to be specified in its resolution, relax any of the provisions of these Regulations in individual cases."

86. It was felt that in order to avoid discrimination, the relaxation should be with respect to class or category of persons as contradistinguished from individual cases.

87. The Ministry of Finance (Department of Economic Affairs) to whom the matter was referred, in their reply dated 2 November, 1987, stated as under :—

"It may not be practicable to consider class or category for the purpose of relaxation or any provisions of the (Staff) Regulations because the relaxation is only made in exceptional circumstances depending on the merit of individual case. It may not be practicable or advisable to extend such benefit to a class or category of employees

because the facts and circumstances which may influence the decision of the competent authority to relax any provisions of the Regulations in a given cases may not exist in other case/s."

88. Regulation 86 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides for relaxation of any provision in individual cases. Asked whether the relaxation could not be provided with respect to a class or category of persons as contradistinguished from individual cases, the Ministry informed the Committee that it was not practicable/advisable as the facts/circumstances of each case might vary. In view of the Ministry's reply, the Committee do not wish to pursue the matter any further.

NEW DELHI

4, April, 1989

ZAINUL BASHER

Chairman,

14 Chaitra, 1911 (Saka)

Committee on Subordinate Legislation

APPENDICES

APPENDIX I

(Vide paragraph 4 of the Report)

Summary of main recommendations/observations made by the Committee

S. No.	Paragraph No.	Summary
1	2	3
I	8	<p>The Committee note that Rule 13 of the Life Insurance Corporation (Agents) Rules provides that if an agent failed to bring in the business required of him in an agency year, his appointment was liable to be terminated at the end of such agency year. On being enquired whether before terminating the appointment, an opportunity was given to the agent to explain the position, the Ministry had informed that under the existing practice after the expiry of a period of nine months from the commencement of the agency year, the business performance of each agent was reviewed and if it fell short of the minimum business guaranteed, the same was brought to the notice of the agent concerned. The Committee recommend that the existing practice of reviewing the business performance be brought on a statutory footing by suitably amending the Rules.</p>
2	12	<p>The Committee note that under Rule 27 of the Life Insurance Corporation (Agents) Rules, 1972, the Executive Committee were empowered to relax any of the provisions of the regulations in individual cases. The Committee had felt that in order to obviate any scope of discrimination, the relaxation of regulations should be made with respect to a class or category of persons as distinguished from individual cases. The Committee was informed that cases of relaxation were few and far</p>

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between and such individual cases were invariably referred to the Executive Committee for a decision. According to the Ministry there was no scope for discrimination in the decision making process. The Ministry's reply appears to be satisfactory and the Committee do not wish to pursue the matter further.

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The Committee note that Rules 4 and 6 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 *inter-alia* provided for payment of special allowance in addition to pay to certain categories of employees. The Ministry explained that since special allowance was given only in lieu of special pay, it had been provided in the Rules that the employees would not be entitled to any special pay. The Committee consider the Ministry's reply to be satisfactory and decide not to pursue the matter further.

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The Committee note that Rule 5 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 provides that no fresh appointments or promotions to the cadre of Section Heads and Superintendents be made on or after 1st July, 1985. Explaining the genesis for imposing such a ban on appointments/promotions, the Ministry had stated that at the time of discussions held with the Employees Unions, a concensus had been arrived at that no fresh appointments to the cadre of Section Heads and the Superintendents would be made after 1st July, 1985 and this had been provided for in the Rules. In view of the clarification given by the Ministry, the Committee do not wish to pursue the matter further.

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The Committee note the clarification furnished by the Ministry that the provision of maximum

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period of 12 months of maternity leave during the entire service period of female employees had been made in the rules keeping in view the fact that all the deliveries may not be live deliveries. In view of the clarification, the Committee, do not wish to pursue the matter further.

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The Committee note from the reply of the Ministry that provision contained in Rule 14 for retiring an employee on completion of the age of 55 years is similar to the provision made in regulation 19 of LIC (Staff) Regulations. Under these Regulations the competent authority could direct an employee to retire on completion of 55 years of age or at any time thereafter by giving him three months notice or salary in lieu thereof. The Committee further note that although no separate provision for giving an opportunity of being heard before directing an employee to retire on completion of 55 years had been made yet a Committee has been constituted which goes into the records of the employees concerned and makes recommendations to the competent authority in regard to retirement of an employee after he had completed 55 years of age. The Committee feel that the Ministry should have no difficulty in putting the existing practice on a statutory footing by amending the Rules. The Committee, therefore, recommend that the Ministry should initiate necessary action for suitably amending rule 14.

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The Committee are happy to note that on being pointed out by them, the Ministry have agreed that a notice of not less than 3 days would be provided in the Regulations for convening an emergent meeting. The Committee recommend that the Regulations may be amended accordingly at an early date.

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The Committee are happy to note that on being pointed out by them, the Ministry have agreed to provide in the regulation that proceedings may be reported/circulated to the Members on or before the date of next meeting. The Committee recommend that Regulations may be amended on the above lines at an early date,

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Regulations 16(iv), 23(iv) and 36(iv) of the Life Insurance Corporation Regulations *inter-alia* provided for holding of the adjourned meetings of the Corporation at a time, date and place to be decided by the Chairman. The Committee felt that time, date and place of the adjourned meetings might be intimated to the members telegraphically or on telephone. The Ministry have informed that as per practice Life Insurance Corporation informed the members about such details either telegraphically or by telephone wherever possible. The Committee recommend that the relevant Regulation may be suitably amended so that the practice in vogue is reflected therein.

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The Committee are happy to note that at their instance the Ministry of Finance (Department of Economic Affairs) have agreed to specify in the Regulations that any action taken by the Chairman shall be reported/circulated to the appropriate Committee on or before the date of next meeting of the concerned Committee of the Corporation. The Committee desire the Ministry to amend the relevant Regulation accordingly at an early date.

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Regulations 37 and 38(i) of the Life Insurance Corporation Regulations *inter-alia* provided for delegation/sub-delegation of powers, to any officer or employee of Life Insurance Corporation. The Committee felt that the term any officer, employee' appeared to be vague and therefore, the

rank/designation of the officer/employee should be indicated in the Regulations. The Ministry intimated that there was no objection to the delegation of powers under regulation 38(i) to an officer not below the rank of Assistant Divisional Manager. However, in case of delegation of powers under Regulation 37, it was pleaded that it may not be possible to specify the rank and designation of the officers to whom powers could be delegated.

The Committee see no force in the arguments advanced by the Ministry for not specifying the rank/designation of the officers to whom powers could be delegated under regulation 37. The Committee, therefore, recommend that the rank/designation of the officer for the purpose of delegation of powers under Regulation 37 should also be specified as has been agreed to in the case of Regulation 38(i) and the requisite amendments to the regulations may be issued at an early date.

The Committee note that Regulation 10 of the Life Insurance Corporation Regulations *inter-alia* provided that wherever considered necessary, the competent authority could at its discretion relax or waive the upper age limit for recruitment to service in the Corporation. To an enquiry whether maximum limit upto which age could be relaxed should not be specified in the Regulation itself, the Ministry of Finance (Department of Economic Affairs) stated that guidelines for waiver of upper age limit had been provided in the recruitment procedure and it was proposed that the authority to relax upper age limit might vest only with the appellate authority except where the appointing authority was M.D. or above. It was also stated that to fix the maximum age limit in the Regulation itself might create difficulties. The Committee

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feel that the Life Insurance Corporation should have no difficulty in indicating the maximum limit upto which age could be relaxed for recruitment to various categories of posts and the relevant rule may accordingly be amended. The Committee also desire that vesting of authority to relax the age limit in a appellate body might also be provided for in the Regulation itself and the regulation may be amended suitably.

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The Committee note that Regulations 11 and 56(4) of the Life Insurance Corporation (Staff) Regulations *inter-alia* authorised the competent authority to grant advance/special increments to the employees of the Corporation. The Committee felt that the circumstances under which advance increments could be granted should be recorded in writing and some guidelines for that authority should be laid down. The Ministry stated that authority for grant of advance/special increments vested with the Chairman or Executive Director (P) and this itself was a guidelines. It was also stated that laying down of criteria for grant of advance increments was not practicable. The Committee are not convinced with the above reply and desire the Ministry to lay down proper guidelines for the exercise of the discretionary powers now vested with the competent authority.

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Regulation 12 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides for re-employment of ex-employees of the Corporation. It is however, not clear as to which of the ex-employees are covered under this regulation and whether any guidelines have been laid down in that respect. The Ministry informed the Committee that no guidelines had been issued for the appointing authority but normally only those cases where the employees had resigned were considered for re-

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employment. The Committee felt that intention of the Ministry was not evident from the wording of the Regulation. The wording of the rule was such as to suggest that persons removed from service or whose services had been terminated stood on a different footing *vis-a-vis* persons dismissed from service. The Committee desire that proper guidelines for the appointing authority may be laid down in order to avoid any scope of discrimination. Further the wording of the rule may be suitably changed to make the intention clear.

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Regulation 19 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides for retirement of an employee at any time after completion of 55 years of age provided he gave 3 months notice to the appointing authority. The requisite notice period can be waived by the appointing authority. Asked whether any guidelines had been issued for the guidance of the appointing authority for waiving the notice period, the Ministry stated that each case was decided on merits and no guidelines had been issued. The Committee recommend that on the basis of their past experience, some guidelines might be laid down for the guidance of appointing authority, in order to obviate, any scope of discrimination in such cases.

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68

Regulation 22 of the Life Insurance Corporation (Staff) Regulations, 1960 *inter-alia* provides that no employee while in service or after retirement communicates directly or indirectly any official documents or information to any other person. To a question how the compliance of above provision could be ensured from the persons who had since retired or resigned the Ministry replied once the employee ceased to be an employee of the corporation the provisions of the regulation would be

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inapplicable. However, it would be desirable to retain the said provision as in the event of a breach, Life Insurance Corporation could have recourse to proceedings under civil or any other law. In view of Ministry's reply the Committee do not wish to pursue the matter further.

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Regulations 25(3), 32(2), 33(3) and 38 of the Life Insurance Corporation Regulations *inter-alia* provide that "decision of the Chairman/Corporation shall be final". The Committee pointed out that the expression 'decision shall be final' might give an impression that jurisdiction of the Courts was being ousted. The Life Insurance Corporation has agreed to suitably amend the Regulation. The Committee desire that necessary amendment in the Regulation may be carried out at an early date.

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Regulation 36(4) of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides that where the penalty of dismissal, removal or compulsory retirement imposed upon an employee is set aside by a court of law and the disciplinary authority decides to hold further inquiry, the employee shall continue to remain under suspension. The Committee pointed out that if the intention was to hold further inquiry in cases where the court had set aside the penalty on technical grounds without going into the merits of the case, then the position should be clarified in the regulation by a suitable amendment. The Ministry in their reply agreed to amend the above Regulation by adding the following proviso :—

".....that no such further enquiry shall be held unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case."

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The Committee would like the Ministry to amend the Regulations to the desired effect.

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Regulation 40 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides that no appeal shall lie against an order made by the Corporation. The Committee pointed out that provision tend to give an impression that the jurisdiction of Court is being ousted. The Ministry have agreed to elaborate the Regulation suitably. The Committee desire the Ministry to issue the requisite amendment at an early date.

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Regulation 67(2) of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides that the Chairman may delegate his authority to 'any officer'. Asked whether the designation of the officer concerned to whom authority may be delegated could not be specified, the Ministry informed the Committee that the Regulation was being amended so as to indicate the designation of the officer to whom the authority was being delegated. The Committee desire that the requisite amendment may be issued early.

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88

Regulation 86 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provides for relaxation of any provision in individual cases. Asked whether the relaxation could not be provided with respect to a class or category of persons as contradistinguished from individual cases, the Ministry informed the Committee that it was not practicable/advisable as the facts/circumstances of each case might vary. In view of the Ministry's reply, the Committee do not wish to pursue the matter any further.

MINUTES

APPENDIX-II

(vide paragraph 30th Report)

MINUTES OF THE SEVENTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA) (1988-89)

~~The Committee met on Monday, the 16 January, 1989 from 15.00 to 15.30~~
hours.

PRESENT

Shri K.J. Abbasi—*in the Chair*

MEMBERS

2. Shri G.S. Basavaraju
3. Shri Parasram Bhardwaj
4. Shri Satyendra Chandra Guria
5. Shri Vishnu Modi

SECRETARIAT

1. Shri K.C. Rastogi—*Joint Secretary*
2. Shri G.S. Bhasin—*Deputy Secretary*
3. Shri Swann Singh—*Officer on Special Duty*

2. In the absence of the Chairman, Shri K.J. Abbasi was chosen to act as Chairman for the sitting in terms of Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered Memorandum Nos. 140 to 144 as under :

(i) *The Life Insurance Corporation (Agents) Rules, 1972 -- Rule 13 thereof* —(Memorandum No. 140).

4. The Committee noted that Rule 13 of the Life Insurance Corporation (Agents) Rules provided that if an agent failed to bring in the business required of him in an agency year, his appointment was liable to be terminated at the end of such agency year. On being enquired whether before terminating the appointment, an opportunity was given to the agent, the Ministry had informed that under the existing practice after the expiry of a period of nine months from the commencement of the agency year, the business performance of each agent was reviewed and if it fell short of the minimum business

guaranteed, the same was brought to the notice of the agent concerned. The Committee recommended that the Ministry may be asked to bring the existing practice on statutory footing by suitably amending the Rules.

(ii) Life Insurance Corporation (Agents) Rules, 1972—Rule 27 thereof—(Memorandum No. 141)

5. The Committee noted that under Rule 27 of the Life Insurance Corporation (Agents) Rules, 1972, the Executive Committee was empowered to relax any of the provisions of the regulations in individual cases. The Committee had felt that in order to obviate any scope of discrimination the relaxation of regulations should be made with respect to a class or category or persons as distinguished from individual cases. The Committee had been informed that cases of relaxation were few and far between and such individual cases were invariably referred to the Executive Committee for a decision. According to the Ministry there was no scope for discrimination in the decision making process. The Committee considered the Ministry's reply as satisfactory and decided not to pursue the matter further.

(iii) Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 (Rule 4 and 6 thereof)—(Memorandum No. 142)

6. The Committee noted that Rules 4 and 6 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 *inter-alia* provided for payment of special allowance in addition to pay to certain categories of employees. On being enquired, the Ministry explained that since special allowance was given only in place of special pay, it had been provided in the Rules that the employees would not be entitled to any special pay. The Committee considered the Ministry's reply to be satisfactory and decided not to pursue the matter further.

(iv) Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 (Rule 5)—(Memorandum No. 143)

7. Rule 5 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 provided that no fresh appointments or promotions to the cadre of Section Heads and Superintendents be made on or after 1st July, 1985. Explaining the genesis for imposing such a ban on the appointments/promotions, the Ministry had stated that at the time of discussions held with the Employees Unions, a concensus had been arrived at that no fresh appointments to the cadre of Section Heads

and the Superintendents would be made after 1st July, 1985 and this had been provided for in the Rules. In view of the clarification given by the Ministry, the Committee decided not to pursue the matter further.

(v) *Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985—Rule 17 thereof—(Memorandum No. 144).*

8. Rule 17 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 provided for grant of maternity leave to female employees for a period of three months subject to maximum of twelve months during the entire period of service. On being enquired the Ministry had clarified that the maximum period of 12 months of maternity leave provided in the rules had been done in view of the fact that all the deliveries may not be live deliveries and hence the existing maximum of 12 months during the entire service had been left undisturbed. The Committee found the explanation given by the Ministry satisfactory and decided not to pursue the matter further.

The Committee then adjourned

**MINUTES OF THE SEVENTY-SIXTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH
LOK SABHA) (1988-89)**

The Committee sat on Thursday, the 9 February, 1989 from 16:00 to 16.40 hours.

PRESENT

Shri Zainul Basher— *Chairman*

MEMBERS

2. Shri K.J. Abbasi
3. Shri G.S. Basavaraju
4. Shri Parasram Bhardwaj
5. Shri Satyendra Chandra Guria
6. Shri R.S. Khirhar
7. Shri Mullappally Ramacharan
8. Shri Kalicharan Sakargayen
9. Shri Natavarsinh Solanki
10. Shri Katuri Narayana Swamy

SECRETARIAT

Shri Swarn Singh— *Officer on Special Duty*

2. The Committee considered Memoranda Nos. 145 to 150 as under :—

(i) *The Life Insurance Corporation Regulations, 1959 (Regulation 5)—
(Memorandum No. 145).*

3. The Committee noted that Regulation 5 of the Life Insurance Corporation Regulations *inter-alia* provided that in case of an emergent meeting of corporation, sufficient notice should be given to every Member. On being enquired whether definite period of time for convening such meetings could not be specified in the regulation itself for the information of all Member, the Ministry had informed that a period of not less than 3 days could be

provided in the Regulations. The Committee recommended that Ministry may be asked to amend the Regulations accordingly.

(ii) *The Life Insurance Corporation Regulations, 1959 (Regulation 12, 34 & 43A (xv))—(Memorandum No. 146).*

4. The Committee noted that Regulations 12, 34 and 43A (xv) of the Life Insurance Corporation Regulations *inter-alia* provided that proceedings of the meetings of the Corporation/Committees should be circulated to the Members but no time limit within which proceedings should be circulated had, however, been indicated. The Committee felt that some time limit for circulation of proceedings should be specified. The Ministry informed the Committee that Regulation could be amended to provide that proceedings might be reported/circulated on or before the date, of next meeting. The Committee directed the Ministry to amend the Regulations on the above lines.

(iii) *Life Insurance Corporation Regulations, 1959 (Regulation 16 (iv), 23 (iv) and 36 (iv))—(Memorandum No. 147).*

5. Regulations 16 (iv), 23 (iv) and 36 (iv) of the Life Insurance Corporation Regulations *inter-alia* provided for holding of the adjourned meetings of the Corporation at a time, date and place to be decided by the Chairman. The Committee felt that time, date and place of the adjourned meetings might be intimated to the members telegraphically or on telephone. The Ministry informed that necessary steps were being taken by Life Insurance Corporation to inform the members about such details either telegraphically or by telephone wherever possible. The Committee recommended that the Ministry might amend the relevant Regulation so that the practice in vogue is reflected therein.

(iv) *Life Insurance Corporation Regulations, 1959 (Regulation 32 (a) and 34)—(Memorandum No. 148).*

6. Regulations 32 (a) and 34 of the Life Insurance Corporation Regulations *inter-alia* provided that any action taken by the Chairman should be reported by him to Committees of Corporation. The Committee felt that some time limit for submission of such reports in writing might be specified. The Ministry agreed to specify in the Regulations that action taken by the Chairman shall be reported/circulated on or before the date of next meeting of the

Committee of Corporation. The Committee recommended that the relevant Regulation may be amended accordingly.

(v) *Life Insurance Corporation Regulations, 1959 (Regulation 37 and 38 (i))—(Memorandum No. 149).*

7. Regulations 37 and 38 (i) of the Life Insurance Corporation Regulations *inter-alia* provided for delegation/sub-delegation of powers, to any officer or employee of Life Insurance Corporation. The Committee had felt that term 'any officer, employee' appeared to be vague and therefore, the rank/designation of the officer/employee should be indicated in the Regulations. The Ministry intimated that there was no objection to the delegation of powers under regulation 38(i) to an officer not below the rank of Assistant Divisional Manager. However, in case of delegation of powers under regulation 37, it was pleaded that it may not be possible to specify the rank and designation of the officers to whom powers could be delegated. The Committee were not convinced with the reply of the Ministry and recommended that the minimum rank/designation of the officer for the purpose of delegation of powers under Regulation 37 should also be specified as had been agreed to in the case of Regulation 38 (i).

(vi) *Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 (Rule 14)—(Memorandum No. 150).*

8. The Committee noted that rule 14 of the Life Insurance Corporation Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 *inter-alia* provided that an employee belonging to Class III or Class IV, appointed to the service on or after the 22 February, 1983, retire on the completion of 58 years of age, provided that if the competent authority was of the opinion that it was in the interest of the Corporation to do so, direct such employee to retire on completion of 55 years of age or at any time thereafter on giving him three months notice or salary in lieu thereof. The Committee were informed by the Ministry that the provision made in Rule 14 for retiring an employee on completion of age of 55 years was similar to the provision made in regulation 19 of LIC (Staff) Regulations. Under the Rules the competent authority could direct an employee to retire on completion of 55 years of age or at any time thereafter giving him three months notice or salary in lieu thereof. The Committee noted that although no separate provision for giving an opportunity of being heard before directing an employee to

retire on completion of 55 years had been made. A Committee had been constituted which went into the records of the employees concerned and made recommendations to the competent authority in regard to retirement of employee after he had completed 55 years of age. The Committee felt that there should be no difficulty in putting the existing practice on a statutory footing and accordingly recommended that the Ministry may initiate necessary action for suitably amending Rule 14.

The Committee then adjourned.

**MINUTES OF THE SEVENTY-SEVENTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(EIGHTH LOK SABHA) (1988-89)**

The Committee sat on Wednesday, the 1st March, 1989 from 15.00 to 15.30 hours.

PRESENT

Shri Zainul Basher-- *Chairman*

MEMBERS

2. **Shri K.J. Abbasi**
3. **Shri G.S. Basavaraju**
4. **Shri Satyendra Chandra Guria**
5. **Shri Ebrahim Sulaiman Sait**

SECRETARIAT

Shri G.S. Bhasin -- *Deputy Secretary*

2. The Committee considered Memoranda Nos. 151 to 160 as under :—

(i) *Life Insurance Corporation (Staff) Regulations 1960 (Regulation 10)*
— (*Memorandum No. 151*).

3. The Committee noted that Regulation 10 of the Life Insurance Corporation Regulations *inter-alia* provided that wherever considered necessary, the competent authority could at its discretion relax or waive the upper age limit for recruitment to service in the Corporation. On being enquired whether maximum limit upto which age could be relaxed should not be specified in the Regulation itself, the Ministry of Finance (Department of Economic Affairs) stated that guidelines for waiver of upper age limit had been provided in the recruitment procedure and it was proposed that the authority to relax upper age limit might vest with the appellate authority except where the appointing authority was M.D. or above. It was also stated that to fix the maximum age limit in the Regulation itself might create difficulties. The Committee were not convinced with the above reply and recommended that Life Insurance Corporation should have no difficulty in indicating the maximum limit upto which age could be relaxed for recruitment to various categories of posts. The Committee also directed that vesting of authority to relax the age

limit in a appellate body might also be provided for in the Regulation itself and the regulation may be amended suitably.

(ii) *The Life Insurance Corporation (Staff) Regulations, 1960 [Regulation 11 and 56 (4)]—(Memorandum No. 152).*

4. The Committee noted that Regulations 11 and 56 (4) of the Life Insurance Corporation (Staff) Regulations *inter-alia* authorised the competent authority to grant advance/special increments to the employees of the Corporation. The Committee felt that the circumstances under which advance increments could be granted should be recorded in writing and some guidelines for that authority should be laid down. The Ministry stated that authority for grant of advance/special increments vested with the Chairman or Executive Director (P) and this itself was a guidelines. It was also stated that laying down of criteria for grant of advance increments was not practicable. The Committee was not convinced with above reply and have desired the Ministry to lay down proper guidelines for the exercise of the discretionary powers now vested with the competent authority.

(iii) *Life Insurance Corporation (Staff) Regulations, 1960 (Regulation 12)—(Memorandum No. 153).*

5. Regulation 12 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided for re-employment of ex-employees of the Corporation. It was, however, not clear as to which of the ex-employees were covered under this regulation and whether any guidelines had been laid down in that respect. On being enquired the Ministry had informed that no guidelines had been issued for the appointing authority but normally only those cases where the employees had resigned were considered for re-employment. The Committee felt that intention of the Ministry was not evident from the wording of the Regulation. The wording of the rule was such as to suggest that persons removed from service or whose services had been terminated stood on a different footing *vis-a-vis* persons dismissed from service. The Committee desired that proper guidelines for the appointing authority may be laid down in order to avoid any scope of discrimination. Further the wording of the rule may be suitably changed to make the intention clear.

(iv) *Life Insurance Corporation (Staff) Regulations, 1960 (Regulation 19)—(Memorandum No. 154).*

6. Regulation 19 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided for retirement of an employee at any time after completion of 55 years of age provided he gave 3 months notice to the appointing

authority. The requisite notice period could be waived by the appointing authority. On being enquired whether any guidelines had been issued for the guidance of the appointing authority for waiving the notice period, the Ministry stated that each case was decided on merits and no guidelines had been issued. The Committee therefore, recommended that on the basis of their past experience, some guidelines might be laid down for the guidance of appointing authority, in order to avoid any scope of discrimination in such cases.

(v) *Life Insurance Corporation (Staff) Regulations, 1960 (Regulation 22)*—(Memorandum No. 155).

7. Regulation 22 of the Life Insurance Corporation (Staff) Regulations, 1960 *inter-alia* provided that no employee while in service or after retirement communicate directly or indirectly any official documents or information to any other person. On being enquired how the compliance of above provision could be ensured from the persons who had since retired or resigned, the Ministry stated once the employee ceased to be an employee of the Corporation the provisions of the regulation could be inapplicable, however, it would be desirable to retain the said provision as in the event of breach Life Insurance Corporation could have recourse to proceed under civil or any other law. In view of Ministry's reply the Committee decided not to pursue the matter further.

(vi) *Life Insurance Corporation (Staff) Regulations, 1960 [Regulations 25 (3), 32 (2), 33 (3) and 38]*—(Memorandum No. 156).

8. Regulations 25 (3), 32(3) 33(3) and 38 of the Life Insurance Corporation Regulations *inter-alia* provided that "decision of the Chairman/Corporation shall be final". The Committee felt that the expression 'division shall be final' might give an impression that jurisdiction of the Courts was being ousted. On being pointed out by the Committee, the Life Insurance Corporation agreed to suitably amend the Regulation. The Committee directed that necessary amendment in the Regulations may be carried out.

(vii) *Life Insurance Corporation (Staff) Regulations, 1960 [Regulation 36 (4)]*—(Memorandum No. 157).

9. Regulation 36 (4) of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided that where the penalty of dismissal, removal or compulsory retirement imposed upon an employee was set aside by a court of law and the disciplinary authority decided to held further inquiry, the employee shall continue to remain under suspension. The Committee pointed

out that if the intention was to hold further inquiry in cases where the court had set aside the penalty on technical grounds without going into the merits of the case, then the position should be clarified in the regulation by a suitable amendment. The Ministry in their reply agreed to amend the above Regulation by adding following proviso :

“.....that no such further enquiry shall be held unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.”

The Committee desired the Ministry to amend the Regulations to the desired effect.

(viii) *Life Insurance Corporation (Staff) Regulations, 1950 (Regulation 40)*—(Memorandum No. 158).

10. Regulation 40 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided that no appeal shall lie against an order made by the Corporation. That provision tended to give an impression that the jurisdiction of Court was being ousted. On being pointed out, the Ministry agreed to elaborate the Regulation so as not to give the above impression. The Committee desired the Ministry to issue the requisite amendment at an early date.

(ix) *Life Insurance Corporation (Staff) Regulations, 1960 [Regulation 67 (2)]*—(Memorandum No. 159).

11. Regulation 67 (2) of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided that Chairman may delegate his authority to ‘any officer. On being enquired whether the designation of the officer concerned to whom authority may be delegated could not be specified, the Ministry informed that the Regulation was being amended so as to indicate the designation of the officer to whom the authority was being delegated. The Committee desired that the requisite amendment may be issued early.

(x) *Life Insurance Corporation (Staff) Regulations, 1960 (Regulation 86)*—(Memorandum No. 160).

12. Regulation 86 of the Life Insurance Corporation (Staff) Regulations *inter-alia* provided for relaxation of any provision in individual cases. On being enquired whether the relaxation could not be provided with respect to class or category of persons as contradistinguished from individual cases, the Ministry informed that it was not practicable/advisable as the facts/circumstances of each case might vary. In view of the Ministry’s reply, the Committee decided not to pursue the matter any further.

The Committee then adjourned.

**MINUTES OF THE SEVENTY-NINTH SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(EIGHTH LOK SABHA) (1988-89)**

The Committee sat on Tuesday, the 4th April, 1989 from 16.00 to 16.30 hours.

PRESENT

Shri Zainul Basher—Chairman

MEMBERS

2. Shri K.J. Abbasi
3. Shri Parasram Bhardwaj
4. Shri Satyendra Chandra Guria
5. Shri Kalicharan Sakargayen

SECRETARIAT

1. Shri K.C. Rastogi— *Joint Secretary*
2. Shri G.S. Bhasin— *Deputy Secretary*
3. Shri Swarn Singh— *Officer on Special Duty*

2. The Committee considered the draft Twenty-second Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri K.J. Abbasi, M.P. to present the Report to the House on 11th April, 1989.

The Committee then adjourned.