

COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

SIXTEENTH REPORT

(Presented on 3 March, 1983)



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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
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2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

*Nominated w.e.f. 12-7-1982.

**Nominated w.e.f. 13-10-1982.

I

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sitting held on 4 October, 1978, 25 May, 30 August, 13 and 24 September, 1982.

3. At their sitting held on 24 September, 1982, the Committee took evidence of the representatives of the Ministry of Education and Culture (Department of Education) regarding the Auroville International Advisory Council Rules, 1981. The Committee wish to express their thanks to the officers of the Ministry for appearing before the Committee and furnishing the information desired by them.

4. The Committee considered and adopted this Report at their sitting held on 24 February, 1983. The Minutes of the sitting, which form part of the Report are appended to it.

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

II

THE NATIONAL MUSEUM OF MAN (SENIOR PHOTOGRAPHER AND SENIOR ARTIST) RECRUITMENT RULES 1978 (G.S.R. 1230 of 1978)—PROVISION REGARDING POWER TO RELAX

6. Rule 6 of the National Museum of Man (Senior Photographer and Senior Artist) Recruitment Rules, 1978 (G.S.R. 1230 of 1978), read as under:—

“6. *Power to relax.*—Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons or posts.”

7. It was observed that the 'power to relax' was usually confined to any class or category of persons and that it did not extend to 'posts'. The Ministry of Education and Culture (Department of Culture), with whom the matter was taken up, stated in their reply dated 13 April, 1981 that they had taken up the matter with the Ministry of Law, Justice and Company Affairs and further action would be taken in the light of the advice of that Ministry.

8. Similar lacuna was noticed in a number of other recruitment rules enumerated in Appendix II. References were accordingly made to the respective administrative Ministries. By and large, the Ministries agreed with the suggestion to drop the words 'or posts' from the relevant rules. In many cases, the rules had already been amended at the suggestion of the Committee.

9. In this connection, the Committee find that the Department of Personnel and Administrative Reforms have issued a set of Consolidated Instructions *vide* their Office Memorandum No. 14017|24|76-Estt (RR) dated 22 May, 1979 for facilitating the drafting of the Recruitment Rules by various Ministries. In paragraph 3.16 of these Instructions, the Department have laid down the following model clause, which indicates that the power to relax is exercisable only with respect to 'any class or category of persons', for inclusion in the Recruitment Rules:—

“(vii) *Power to relax* clause as under:—

(the portion underlined is applicable to Group 'A' & Group 'B' posts, Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order) for reasons to be recorded in writing *and in consultation with the Union Public Service Commission*, relax any of the provisions of these rules with respect to any class or category of persons.”

10. In the case of the Staff Selection Commission (Group 'C' Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 (G.S.R. 510 of 1978), the Committee took up the matter with the Department of Personnel and Administrative Reforms to elicit their comments and thereafter made the following observations in paragraph 19 of their First Report (Seventh Lok Sabha), presented to the House on 15 July, 1980:—

“The Committee note with satisfaction that, on being pointed out, the Department of Personnel and Administrative Reforms have agreed to delete the words 'or post' from rule 5 of the Staff Selection Commission (Group 'C'

Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 regarding 'power to relax' in order to confine the relaxation provision of rules to a class or category of persons. The Committee desire the Ministry to issue the necessary amendment to the above rules at an early date."

11. The Committee recommend that rule 6 of the National Museum of Man (Senior Photographer and Senior Artist) Recruitment Rules, 1978 should be amended so as to omit the words 'or posts'.

12. A number of other instances have also come to the notice of the Committee wherein the words 'or posts' have been included in the relaxation provisions as is borne out by the illustrative list of such Orders given in Appendix II. It clearly shows that the provisions of the model relaxation clause set out by the Department of Personnel and Administrative Reforms have not been applied to various recruitment rules by the Ministries while framing those rules. The Committee are of the opinion that relaxing a rule or otherwise suspending its operation with respect to a post or posts is tantamount to an amendment of such rule without resorting to the formality of actually amending the statutory rules. With this end in view as also for the sake of uniform practice in the matter of relaxation provisions in the recruitment rules, the Committee desire all Ministries/Departments to omit the words 'or posts' wherever they occur in the 'power to relax' clause of various recruitment rules. The Committee further desire the Department of Personnel and Administrative Reforms to impress upon all concerned once again to follow their instructions in this regard scrupulously in future.

III

THE AUROVILLE INTERNATIONAL ADVISORY COUNCIL RULES, 1981 (G.S.R. 675 of 1981)

(A)

13. Sub-rule (2) of rule 2 of the Auroville International Advisory Council Rules, 1981 (G.S.R. 675 of 1981), read as under:—

"(2) A member of the Council may resign his office by writing under his hand addressed to the Central Government and on such resignation being notified by the Central Government in the Official Gazette he shall be deemed to have vacated his office."

14. The Ministry of Education and Culture were asked to specify the maximum period within which the resignation must be accepted by the Government. In their reply dated 26 March, 1982, the Ministry stated as under:—

“...the very nature and the composition of the Council is such as will have only eminent persons as its members. The present Council has on it the Director General of UNESCO as one of its members. Late Madam Ludmila Zhivkova was its another member. The Indian members of the Council are Shri P. V. Narasimha Rao, External Affairs Minister and Shri J. R. D. Tata. The resignation from a person of such eminence and dignity is obviously a matter of great significance and will engage Government's deep attention at the highest level. As such, some months will perhaps be required for the Government to consider the resignation and complete the formalities connected therewith. It is also felt that a specification of a period for accepting the resignation may by implication hasten the process of consideration which may not be eventually in the public interest.”

15. Sub-rule (3) of rule 4 of the Auroville International Advisory Council Rules, 1981 read as under:—

“(3) The allowances of the members of the Council shall be defrayed from the Consolidated Fund of India.”

16. It was felt that the aforesaid provision was of substantive nature and should, therefore, more appropriately be provided in the enabling Act itself. In their reply dated 26 March, 1982, the Ministry of Education and Culture stated as under:—

“...in the financial Memorandum attached to the Bill, which sought to replace the Auroville Ordinance 1980, it was clearly mentioned that ‘Clause 6 of the Bill provides for the constitution of an Advisory Council and payment of allowances and other remuneration to the members thereof in accordance with the rules made thereunder’. As such, the Houses, while considering the Bill, were aware of the fact that the expenditure on payment of allowances and other remuneration to the members of the Council will be defrayed from the Consolidated Fund of India, and that a provision to this effect would be made in the ‘Rules’ made in pursuance of Clause 6 of the Bill. In view of these facts it is perhaps not necessary to amend

the Auroville (Emergency Provisions) Act, 1980 to include a provision of this character."

17. At their sitting held on 30 August, 1982, the Committee considered the reply of the Ministry in detail and desired to hear oral evidence of the representatives of the Ministry to seek further clarification. Accordingly, the representatives of the Ministry of Education and Culture appeared before the Committee on 24 September, 1982 to tender their evidence.

18. On being asked as to what were the qualifications laid down for the membership of the Auroville International Advisory Council to be constituted under Section 6 of the Auroville (Emergency Provisions) Act, 1980, the representative of the Ministry of Education and Culture stated that sub-section (4) of section 6 laid down that only those persons who, in the opinion of the Government, were devoted to the ideals of humanity, peace and progress, could be members of the Council.

19. On being enquired if the rules were framed in exercise of the powers conferred under Section 17, the representative replied in the affirmative. With regard to the interpretation of the words 'such' and 'if any' in sub-section (6) of section 6 of the Act, the representative of the Ministry stated that payments were to be made in connection with travel and daily allowances of the members of the Council. The terms of the allowances and other remuneration would be such as might be prescribed under the rules. In this connection, he cited rule 4 of the Rules which laid down for payment of travelling and daily allowances at the rates admissible to a member of the Council of Ministers in respect of tours undertaken by him in the discharge of his official duties under the Salaries and Allowances of Ministers Act, 1952. He conceded that the rules were not self-contained. When asked to interpret the words 'whether by sea, land or air or under the Salaries and Allowances of Ministers Act, 1952', the representative confessed that he could not say as to what exactly was the legal implication of the word 'or'. He further agreed that there was a mistake which shall be rectified in consultation with the Ministry of Law.

20. When asked about the entitlement of members of the Council of Ministers for the daily allowance in respect of tours undertaken by them, the representative pleaded his ignorance in the matter. When told that the Ministers were not entitled to any daily allowance on tour and how some rules on that analogy could work, the representative agreed that there was a mistake and it had been rightly pointed out by the Committee.

21. When enquired as to what was the time-limit for accepting a resignation tendered by a member of the Council, the representative stated that they had not fixed the time-limit for the purpose. He further stated that it was something similar to what obtained in the Constitution of India with regard to Members of Parliament and Members of Legislature.

22. As to who were the members of the Council, the representative stated that the following were the members for the time being:—

- (1) Shri P. V. Narasimha Rao, Minister of External Affairs.
- (2) Shri J.R.D. Tata.
- (3) The Director General of UNESCO.
- (4) He also stated that there was a fourth Member, Madam Ludmila Zhivkova, Minister of Culture, in the Government of Bulgaria, who had since passed away.

23. The representative further informed that nobody had been so far nominated against the vacancy which occurred 8 to 9 months back on the demise of Madam Zhivkova. So there were only 3 members and the membership of the Council could not exceed 5. Only one meeting was held and three members attended the meeting.

24. When emphasized that there must be a time-limit within which a resignation must be accepted, the representative accepted the suggestion and stated that in consultation with the Ministry of Law, a period would be laid down for accepting the resignation. As regards the tenure of the Advisory Council, the representative stated that it was two years.

25. With regard to quorum at the meeting, the representative stated that it had not been laid down in the rules. When asked that even if one member was present, would it constitute a quorum, the representative replied that at such a meeting, fifty per cent present would constitute a quorum.

26. When asked as to what amount had been paid in terms of T.A. and D.A. to members of the Council, the representative replied that no body had claimed so far.

27. The representative summed up that he had taken note of two points. One was that the rules should be self-contained and the other was that reasonable time-limit for accepting the resignation be laid down in the rules. In this connection, the representa-

tive noted the suggestion made by the Committee that a time-limit of six months would be reasonable. He assured that the recommendations of the Committee would be implemented within a period of six months.

28. The Committee note with satisfaction that, on being pointed out, the Ministry of Education and Culture have agreed to amend the Auroville International Advisory Council Rules, 1981, so as to make them self-contained wherever they are wanting and also to lay down a time-limit within which the resignation tendered by a member of the Council must be accepted by the Government. The Committee desire the Ministry to take immediate action to amend the rules to the necessary effect.

29. Rule 5 of the Aurvoille International Council Rules, 1981 read as under:—

“5. *Time and place of the meetings of the Council.*—The Council shall meet at such times and at such places as the Central Government may, from time to time, determine.”

30. The Ministry of Education and Culture were asked to specify the places of meetings in the rules. In their reply dated 26 March, 1982 the Ministry stated as under:—

“The Government of India is considering to amend this Rule so as to specify that the meetings of the Council will take place in Delhi or Auroville, though it can also be held at any other place depending on the occasion and the contingencies.”

31. The Committee note with satisfaction that the Ministry of Education and Culture, who were asked to specify the place of meeting in rule 5 of the Auroville International Council Rules, 1981, have agreed to amend the rule to achieve the desired effect.

IV

THE CENTRAL EXCISE (TWENTY-FIRST AMENDMENT) RULES, 1981 (G.S.R. 991 OF 1981)

32. Sub-clause (i) of clause (a) of Rule 173-P(3) of the Central Excise Rules, 1944, as inserted by the Central Excise (Twenty-first Amendment) Rules, 1981 (G.S.R. 991 of 1981), read as under:—

“(i) return such goods to the original manufacturer of this goods for whom the applicant had obtained them under

bond within such period and subject to such conditions as may be prescribed by the Collector in this behalf, and every such returned goods shall be added to the non-duty paid stock of the original manufacturer and dealt with accordingly. The applicant shall be accountable for the loss or deficiency, if any, during transport of the goods from the applicant's premises to the place of the original manufacturer; or"

Similar sub-clause (i) was also inserted by the above amendment to Rule 196-B of the said Rules.

33. It was felt that the phrase 'within such period and subject to such conditions as may be prescribed by the Collector in this behalf' appearing in the aforesaid sub-clauses tended to vest in the Collector excessive arbitrary powers. It was pointed out to the Ministry of Finance (Department of Revenue) that the period and conditions might be specified in the rules themselves to make them self-contained and to obviate any possibility of misuse of the powers in favour of certain individuals.

34. In their reply dated 12 March, 1982, the Ministry stated as under:—

"Normally the substantive provisions are made in the rule and minor details of the procedure such as prescribing the period and other conditions of procedural nature are left to the Collectors who are very senior officers and heads of the department. If a detailed procedure is laid down in the rule it will make the rule very bulky, complex and rigid. Since the requirements of each industry and assessee may differ, laying down the detailed procedure in the rule may not take care of all the situations and circumstances prevailing in all the industries. It is necessary to have certain flexibility in the rule so that the Collector considering the requirements of each industry and assessee and the circumstances of each case, may lay down the period and the conditions to be observed within the framework of the rule. If all the details are built in the rule, it will need more frequent amendments as and when there is any change in such details. This will add to the complexities and make the rule devoid of simplicity. In view of these considerations the Government have been framing the rules containing the substantive provisions only and leaving the minor details of

the procedure to be prescribed by the Collectors. However in order to avoid divergence of practice in application of the rule and misuse of the power, the Department issues instructions to the Collectors laying down the guidelines for invoking the powers under the rule.

This principle has been followed while issuing the Central Excise (Twenty-first Amendment) Rules, 1981 referred to by the Lok Sabha Secretariat. A copy of the instructions F. No. 212/24/81-CX.6 dated 13-11-1981 laying down the guidelines for invoking this rule, is enclosed**.

35. The Committee note from the reply of the Ministry of Finance (Department of Revenue) that instructions have already been issued to the Collectors laying down the guidelines for invoking the powers under Rule 173-P (3) and 196-B of the Central Excise Rules, 1944. On the analogy of the Committee's earlier observations in this regard as contained in paragraph 32 of their First Report (Sixth Lok Sabha), the Committee are of the opinion that the Ministry should have no difficulty or objection whatsoever in placing the administrative instructions, already issued, on a statutory footing.

V

THE CIVIL SERVICE (SECOND AMENDMENT) REGULATIONS 1975 (S.O. 1683 OF 1976)

(A)

36. Clauses (3) (d), (4) (b) (i) and (5) (e) of Article 193 of the Civil Service Regulations, as substituted by the Civil Services (Second Amendment) Regulations, 1975 (S.O. 1683 of 1976), provided as under:—

Clause (3) (d)

“In cases other than those covered by sub-clause (b) (including cases where the order of dismissal, removal or compulsory retirement from service is set aside by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of the provisions of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and no further inquiry is proposed

*See Appendix III.

to be held), the Government servant shall, subject to the provisions of the sub-clauses (f) & (g), be paid such proportion of the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired, or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period as may be specified in the notice:

Provided that any payment under this sub-clause to a Government servant shall be restricted to a period of three years immediately preceding the date on which orders for reinstatement of such Government servant are passed by the appellate authority or reviewing authority or immediately preceding the date of retirement on superannuation of such Government servant, as the case may be."

Clause (4) (b) (i)

"4(b)(i) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court solely on the ground of non-compliance with the requirements of the provisions of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and where he is not exonerated on merits, the Government servant shall, subject to the provisions of sub-clause (g) of clause (3), be paid such proportion of the full pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsory retired, or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period as may be specified in the notice:

Provided that any payment under this sub-clause to a Government servant shall be restricted to a period of three years immediately preceding the date on which the judgment of the court was passed, or the date of retirement

on superannuation of such Government servant, as the case may be”.

Clause (5) (e)

“In cases other than those falling under sub-clause (b) & (c), the Government servant shall subject to the provisions of sub-clauses (h) and (i) be paid such proportion of the full pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period as may be specified in the notice.”

37. It was felt that the period within which the Government servant might submit his representation, should be specified in the Regulations, in order to make them self-contained and for the information of all concerned.

38. The Ministry of Finance (Department of Expenditure) (Defence Division), with whom the matter was taken up, have amended the Regulations (*vide* S.O. No. 3132 dated 15 October, 1977) by providing therein a period of 60 days within which the Government servant may submit his representation.

39. The Committee are happy to note that, on being pointed out, the Ministry of Finance (Department of Expenditure) have amended Clauses (3)(d), (4)(b)(i) and (5)(e) of Article 193 of the Civil Service Regulations by providing therein a period of 60 days within which a Government servant may submit his representation to the competent authority for determining his pay and allowances.

(B)

40. Provisos to the aforesaid Clauses (3) (d) and (4) (b) (i) of Article 193 of the Civil Service Regulations provided that payment to a Government servant shall be restricted to a period of three years.

41. The Ministry of Finance (Department of Expenditure) were asked to state the considerations on which the maximum period of three years had been fixed and whether they had any objection to extending the time-limit in cases where delay was not attributable to any action on the part of the Government servant.

42. The Ministry of Finance (Department of Expenditure), in their reply dated 10 January, 1978, stated as under:—

“.....the restriction of pay and allowances for a period of three years have been laid down in F.R. 54(4) and 54A-(2)-(f) [corresponding to clauses 3(d) and 4(b) of Civil Services (Second Amendment) Regulations 1975] based on Ministry of Home Affairs O.M. No. F-2/9/59-Estt(A) dated 27th May, 1961 and 30th May, 1962. The considerations on which the time limit was laid down are better known to that Ministry now Department of Personnel and A.R.). A reference in this context, has been made to that Department and their reply may be awaited. The other point viz., whether any objection would be there, if the time limit of three years is extended in cases where the delay in the finalisation of disciplinary proceedings is not directly attributable to any action on the part of the Government servant, requires detailed examination in consultation with the Department of Personnel and A.R. and Ministry of Law.....”

43. In their subsequent reply dated 15 May, 1978, the Ministry of Finance (Department of Expenditure) stated, *inter-alia*, as under:—

“.....the period of 3 years for payment of pay and allowances has been prescribed with reference to the provisions in Limitation Act because of the fact that a Government servant should not be paid more than what he would get if he takes the matter to a court of Law.”

44. In this connection, attention of the Ministry of Finance (Department of Expenditure) was invited to paragraph 49 of the Ninth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) wherein commenting upon a similar provision in the All India Services (Discipline and Appeal) (Second Amendment) Rules, 1976, the Committee observed as under:—

“It is not appropriate for Government to proceed on the analogy of the law of limitation in such cases and restrict payment to only three years. The affected members of the service should get pay and allowances for the whole period immediately preceding the date of their reinstatement during which they remained dismissed, removed or retired from service or suspended.”

45. The Department of Personnel and Administrative Reforms to whom this subject matter was referred, in their reply dated

14 October, 1981, informed that the Fundamental Rules, 54(4) and 54A(2)-(i) [corresponding to clauses (3)(d) and (4)(b)(i) of Article 193 of the Civil Service Regulations] have been amended by omitting the provision of the time-limit of three years for claiming payments by Government servant *vide* G.S.R. 1888 dated 11 July, 1981, in the light of observations of the Committee made in paragraph 49 of their Ninth Report (Sixth Lok Sabha).

46. On further pursuing the matter, the Ministry of Finance (Department of Expenditure) intimated on 11 June, 1982 that the provisos to clauses (3)(d) and (4)(b)(i) of Article 193 of the Civil Service Regulations, which restricted the payment to Government servants for a period of three years, have been omitted *vide* S.O. 1823 dated 22 May, 1982.

47. The Committee are happy to note that, on being pointed out, the Ministry of Finance (Department of Expenditure) have omitted the provisos from clauses (3)(d) and (4)(b)(i) of Article 193 of the Civil Service Regulations which restricted the payment of pay and allowances to the Government servants for a period of three years in cases other than those covered by sub-clause (b) of clause (3), including cases where the order of dismissal, removal or compulsory retirement from service of a Government servant is set aside—

- (i) by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of the provisions of the Central Civil Service (Classification, Control and Appeal) Rules, 1955 and no further inquiry is proposed to be held; and
- (ii) by the Court solely on the ground of non-compliance with the requirements of the provisions of the Central Civil Service (Classification, Control and Appeal) Rules, 1955 and where he is not exonerated on merits.

VI

THE FOREIGN CONTRIBUTION (ACCEPTANCE OR RETENTION OF GIFTS OR PRESENTATIONS) REGULATIONS, 1978

(S.O. 402-E of 1978)

48. Sub-regulations (5) and (6) of regulation 3 of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 (S.O. 402-E of 1978), read as under:—

- “(5) Such assessment shall be made within thirty days from the date of receipt of the gift or presentation in the

Toshakhana, in accordance with the rules applicable, for the time being in force, to the valuation of articles in the *Toshakhana*, and such person shall be intimated in writing of such assessment forthwith.

- (6) The assessment so made under sub-regulation (5) shall be final and shall not be called in question by such person."

49. It was felt that the language used in sub-regulation (6) was apt to give an impression that no appeal could lie in a court of law against an assessment made under sub-regulation (5) of regulation 3 *ibid*. The matter was taken up with the Ministry of Home Affairs who were informed that the Committee on Subordinate Legislation had time and again emphasised that the language used in the rules etc. should not be such as to give an impression on the general public that the jurisdiction of courts was being ousted in any manner. The Ministry of Home Affairs, in their reply dated 12 February, 1980, stated as under—

".....the Department of Legal Affairs in consultation with whom the said Regulations were drawn up have expressed the following opinion:

'It will be seen from a reading of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 that the Scheme is to restrict the acceptance/retention of foreign gifts by members of Indian delegation. However, exception to this general policy has been made in respect of gifts which are of small value or on payment of the price of gifts valued above Rs. 1000. Hence provision of assessment has been made and in order to decide the matter promptly and finally Reg. 3(6) provides that assessment made in sub regulation (5) 'shall be final and shall not be called in question by such person'. However, this does not prohibit a person aggrieved by the assessment to move the High Court for relief. This has been done in order to promptly decide the dispute and to stop continued litigation from the lower level upto High Court. Thus the fear that the jurisdiction of courts is debarred is apparent and not real.'"

50. The Committee note the opinion expressed by the Department of Legal Affairs that regulation 3(6) of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regula-

tions, 1978, does not prohibit a person aggrieved by the assessment made under regulation 3(5) to move the High Court for relief and is intended to stop continued litigation from the lower level upto High Court. The Committee, however, feel that the words "shall be final and shall not be called in question" are apt to convey an impression that they bar the right of appeal to a court. The Committee are of the view that the regulations should be suitably amended so as to make the intention of the Government expressly clear. The Committee, therefore, desire the Ministry of Home Affairs to amend sub-regulation (6) of regulation 3 of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 to the desired effect.

VII

- (1) THE INDIAN FOREST SERVICE (APPOINTMENT BY COMPETITIVE EXAMINATION) AMENDMENT REGULATIONS, 1978 (G.S.R. 452 of 1978);
- (2) THE INDIAN ADMINISTRATIVE SERVICE (APPOINTMENT BY COMPETITIVE EXAMINATION) AMENDMENT REGULATIONS, 1978 (G.S.R. 453 OF 1978); AND
- (3) THE INDIAN POLICE SERVICE (APPOINTMENT BY COMPETITIVE EXAMINATION) AMENDMENT REGULATIONS, 1978 (G.S.R. 454 OF 1978).

51. Sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the Indian Forest Service (Appointment by Competitive Examination) Regulations, 1967, as substituted by G.S.R. 452 of 1978, read as under:—

"11. *Disciplinary action*—A candidate who is or has been declared by the Commission to be guilty of—

(i) obtaining support for his candidature by any means, or

* * *

(vi) resorting to any other irregular or improper means in connection with his candidature for the examination, or

* * *

(viii) writing irrelevant matter, including obscene language or poronographic matter, in the script(s), or

(ix) misbehaving in any other manner in the examination hall, or

*

*

may, in addition to rendering himself liable to criminal prosecution, be liable:—

- (a) to be disqualified by the Commission from the examination for which he is a candidate; or
- (b) to be debarred either permanently or for a specified period—
 - (i) by the Commission, from any examination or selection held by them;
 - (ii) by the Central Government, from any employment under them; and
- (c) If he is already in service under Government, to disciplinary action under the appropriate rules.

52. Identical amendments were effected in regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955 and the Indian Police Service (Appointment by Competitive Examination) Regulations, 1955 *vide* G.S.R. 453 and 454 respectively of 1978.

53. Comments of the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) were sought on the following points arising out of the examination of regulation 11, as substituted, of the Indian Forest/Administrative/Police Service (Appointment by Competitive Examination) Regulations:—

- (i) *Regulation 11 (i)*: The words 'any means' were vague in as much as these could be interpreted differently by different persons. The sub-regulation was, therefore, needed to be more precisely worded.
- (ii) *Regulation 11 (vi)*: The phrase 'any other irregular or improper means' was vague and could be construed differently by different persons.
- (iii) *Regulation 11 (viii)*: It was felt that if a candidate wrote any irrelevant matter, he was likely to get discredit in marks in that paper. The reasons for further subjecting him to the disciplinary action on this score were considered on the high side. Apart from it, it appeared to

be quite difficult in some cases to decide 'relevancy' of an answer.

- (iv) *Regulation (ix)*: The phrase 'any other manner' seemed to be vaguely worded and needed elaboration.

54. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms), with whom the matter was taken up, stated in their reply dated 5 July, 1980 as under:—

".....the points raised.... have been examined in consultation with the Ministry of Law (Department of Legal Affairs) and the comments of this Department are as under:—

- (i) *Regulation 11 (i)*: The expression 'any means' in Regulation 11 (i) is an expression of wide connotation. The words 'any means' have been used in regulation 5 for disqualification for admission. In these two regulations the expression 'any means' would appear to be any means which is not permitted or is not lawful.
- (ii) *Regulation 11 (vi)*: The rule of law generally known as the *ejusdem generis* is that where there are general words following particular and specific words, the general words following particular and specific words must be confined to things of the same kind as those specified. It will be seen that regulation 11(ii), (iii), (iv) and (v) indicate the specific and particular grounds where disciplinary proceedings can be taken, viz, impersonation, (ii) procuring impersonation, (iii) submitting fabricated documents etc., (iv) making statements which are incorrect or false. Thus by applying the rule of *ejusdem generis*, the general words 'other irregular and improper means' in sub-regulation (vi) must be confined to irregular and improper means of the kind specifically stated.
- (iii) *Regulation 11 (viii)*: Regulation (viii) is to be read with sub-regulations (vii) and (ix) which relate to using unfair means during the examination and misbehaving in any other manner in the examination hall. Writing irrelevant matter referred in sub-regulation (viii) does not relate to wrong answers being written for which discredit will be given in marks as has rightly been pointed out by the Lok Sabha Secretariat. 'Irrelevant matter' in sub-regulation (viii) has to be read with

sub-regulations (vii) and (ix). It will then be clear that writing irrelevant matter relates to some sort of misbehaviour as has also been explained in the same regulation by including the words 'obscene language or pornographic matter'.

- (iv) *Regulation 11 (ix)*: By the same rule of *ejusdem* the expression 'any other manner' in regulation 11 (ix) is to be restricted to such misbehaviour as mentioned in sub-regulations (vii) and (viii), that is, using unfair means during the examination and writing irrelevant matter.

In view of the position explained above, the Department is of the opinion that there is no need to modify the Regulations....."

55. In the opinion of the Committee, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) in consultation with the Ministry of Law (Department of Legal Affairs) have taken too legalistic a view of the things and have tried to assign meaning to the various phrases and words by resorting to the principle of *ejusdem generis*. The regulations are meant for the general public who may not be well conversant with the legal and technical interpretation assigned to the various expressions by the Ministry. In this connection, the Committee re-stress their earlier observations made in paragraph 50 of the Seventh Report (Sixth Lok Sabha), presented to the House on 4 April, 1978, that it is of utmost significance that the provisions of legislation (including subordinate legislation) are spelt out with precision and, as far as possible, use of vague expressions, which may be interpreted differently by different persons, is avoided.

56. The Committee feel that the expressions like 'any means', 'any other irregular or improper means', 'irrelevant manner' and 'any other manner' used in sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the IFS/IAS/IPS (Appointment by Competitive Examination) Regulations are vaguely worded, too wide and general, and are apt to be interpreted differently by different persons. With a view to obviate any possibility of discrimination in their application, the Committee consider it necessary that the provisions are suitably re-worded to make them intelligible for the common man.

57. The Committee desire the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to suitably amend the regulation 11 of the IFS/IAS/IPS (Appointment by Competitive Examination) Regulations at an early date.

VIII

THE KANDLA FREE TRADE ZONE ADMINISTRATION,
GANDHIDHAM, ADMINISTRATIVE OFFICER, RECRUITMENT
RULES 1978 (G.S.R. 262 of 1980)

58. The Kandla Free Trade Zone Administration, Gandhidham, Administrative Officer, Recruitment Rules, 1978 were first published under G.S.R. 552 in the Gazette of India, Part II, Section 3 (i), dated 29 April, 1978. These rules were deemed to have come into force retrospectively on 1 April, 1978. However, the requisite explanatory memorandum that no one would be adversely affected by such retrospective effect, had not been appended.

59. The matter was taken up with the then Ministry of Commerce, Civil Supplies and Co-operation and their attention was drawn to the following recommendation of the Committee made in paragraph 22 of their Fifth Report (Fourth Lok Sabha), presented to Lok Sabha on 29 April, 1970:—

“The Committee reiterates its earlier recommendation made in para 10 of its Second Report (Fourth Lok Sabha) that normally all rules should be published before the date of their enforcement or they should be enforced from the date of their publication in the Gazette. If, however, due to certain unavoidable reasons, it becomes absolutely necessary to give retrospective effect to any rule, the fact that no one will be adversely affected by such retrospective effect, should always be stated by way of an explanatory note appended to such rules. The Committee also desires that the Ministry of Law to whom ‘Orders’ are sent by the Ministries of Home Affairs etc. for vetting before their publication in the Gazette, should ensure that the aforesaid recommendation is followed in future.

60. In their reply dated 29 March, 1979, the Ministry stated as under:—

“...an Explanatory Memorandum indicating the reasons for making the.....Recruitment Rules applicable retrospectively *w.e.f.* 1st April, 1978, had already been attached to the Recruitment Rules sent to the Government of India Press for publication in the Gazette which reads as under:—

“The post of Administrative Officer, Kandla Free Trade Zone has been held with effect from 31.3.1973 (after-

noon) by taking an officer on deputation, the maximum period of which is expiring on 31st March, 1978. Beyond 31-3-1978, it is proposed to fill up the post in accordance with the new Recruitment Rules. It is, therefore, proposed to make the new Recruitment Rules effective from 1st April, 1978. It is certified that in making the new rules effective from 1st April, 1978, interest of no person will be adversely affected.'

* * * *

"... The Govt. Press, Mayapuri, New Delhi were requested to publish the Explanatory Memorandum immediately in the first available Gazette. But, though the Government of India Press, have again published the Notification and R/Rules, in the Gazette of India dated 16th September, 1978 (G.S.R. 1133 of 1978), as they had published in the Gazette of India dated 29th April, 1978 (G.S.R. 552 of 1978), the Explanatory Memorandum indicating the reasons for making the rules with retrospective effect has not once again been published by them. The error has been pointed out to them and the Government of India Press have again been requested to publish the Explanatory Memorandum after the rules, immediately in the first available gazette. This Ministry, as such has no objection to issuing the Explanatory Memorandum, as desired by the Lok Sabha Secretariat. However, the recommendations of the Committee on Subordinate Legislation have been noted for future guidance."

61. In a subsequent reply dated 2 April, 1980, the Ministry intimated that the recruitment rules for the post of Administrative Officer in the Kandla Free Trade Zone, Gandhidham, along with the Explanatory Memorandum certifying 'that in making the rules effective from 1.4.1978, interest of no person will be adversely affected' had been published in the Gazette of India, Part II, Section 3 (i), dated 8 March, 1980 under G.S.R. 262 of 1980.

62. The Explanatory Memorandum stated that the tenure of the Administrative Officer, who had been on deputation since 31 March, 1973, expired on 31 March, 1978. The Ministry of Commerce were again asked to state the reasons as to why the new recruitment rules could not be framed well before the expiry of the period of deputation of the Administrative Officer prolonging for 5 years so

as to avoid giving retrospective effect to the recruitment rules. In their reply dated 25 September, 1980, the Ministry of Commerce *inter-alia* stated as under:—

“As regards giving retrospective effect after 2 years to the Recruitment Rule it may be clarified that the Recruitment Rules had been finalised by the first week of April, 1978 itself and we had sent them to the Government Press for publication in the Official Gazette on 12.4.1978. Thus, we had proposed giving retrospective effect only for 12 days and not 2 years. While the Government Press had published the Notification along with Recruitment Rules in the Gazette dated 29.4.1978, they had left the ‘Explanatory Memorandum’ unpublished after the ‘Schedule’ to the ‘Notification’. The Government Press were again requested to publish the ‘Explanatory Memorandum’ also, which had been left unpublished, along with the Recruitment Rules. The Government Press published again the Recruitment Rules in the Gazette dated 16.9.78 but the same mistake of not publishing the ‘Explanatory Memorandum’ in the Gazette was repeated The Government Press finally published the ‘Explanatory Memorandum’ along with the Recruitment Rules *vide* Gazette dated 8.3.1980. Thus, this is the third time when the Recruitment Rules have been published in March, 1980 and not the first time. It is remarkable that the Government of India Press itself took two years to correctly publish the rules in toto, including the ‘Explanatory Memorandum’. It is hoped that the above statement clarifies the position.”

63. The Committee are unhappy to note that the Kandla Free Trade Zone Gandhidham, Administrative Officer, Recruitment Rules, 1978 were notified in the Gazette of India thrice i.e. on 29 April, 1978, 16 September, 1978 and 8 March, 1980. If the Explanatory Memorandum, which was sought to be appended to the rules, was left out at the time of first publication of the rules on 29 April, 1978, the best course for the Ministry of Commerce would have been to come out with a corrigendum to the necessary effect immediately. Instead, the Ministry moved the Government of India Press to re-publish the rules with Explanatory Memorandum. Unfortunately, the Explanatory Memorandum was again omitted when the notification was republished on 16 September, 1978. As a consequence, the rules had again been notified on 8 March, 1980 with the Explanatory Memorandum. Thus, one set

of rules has been notified in the Official Gazette under three separate G.S.R. numbers leading to utter confusion. The Committee deplore this gross negligence on the part of the concerned authorities in the vital matter of publication of statutory rules in the Gazette.

64. The Committee also observe that the Ministry of Commerce moved the Press authorities to rectify the error with regard to omission of the Explanatory Memorandum from being printed in the Gazette along with the recruitment rules only after it was so pointed out to them. The Committee cannot but re-stress that the Ministries/Departments concerned are not absolved of their responsibility after sending the rules etc. to the Press for publication in the Official Gazette. It is also their duty to ensure that these are correctly printed in the Gazette and corrigendum issued wherever necessary without waiting for some one else to point out the mistakes therein.

IX

THE DEPARTMENT OF EXPLOSIVES (GROUP C POSTS) RECRUITMENT RULES, 1978 (G.S.R. 1287 OF 1978)

(A)

65. Rule 5 of the Department of Explosives (Group C Posts) Recruitment Rules, 1978 (G.S.R. 1287 of 1978). read as under:—

“5. Disqualification.—No person,—

- (a) who has entered into or contracted a marriage with a person having a spouse living, or
- (b) who, having a spouse living, has entered into, or contracted, a marriage with any person shall be eligible for appointment to any of the said posts.”

66. It was observed that the following proviso was omitted from rule 5:—

“Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of the rule.”

67. The Ministry of Industry (Department of Industrial Development), with whom the matter was taken up, in their reply dated 30 September, 1980, stated that they had since amended the rules, as suggested by the Committee *vide* their notification published in the Gazette of India under G.S.R. 266 dated 8 March, 1980.

68. The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have amended rule 5 of the Department of Explosives (Group C Posts) Recruitment Rules, 1978 so as to insert therein the following proviso *vide* G.S.R. 266 dated 8 March, 1980:—

“Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of the rule.”

(B)

69. Rule 6 of the Department of Explosives (Group C Posts) Recruitment Rules, 1978 read as under:—

“6. Power to relax.—Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons or posts.”

70. It was felt that the provisions relating to ‘Power to relax’ should be confined to a class or category of persons and not to posts.

71. The Ministry of Industry (Department of Industrial Development), with whom the matter was taken up, in their reply dated 30 September, 1980, stated that they had amended the rule in question as suggested, *vide* G.S.R. 266 dated 8 March, 1980.

72. The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have amended rule 6 of the Department of Explosives (Group C Posts) Recruitment Rules, 1978 so as to omit the words ‘or posts’ therefrom *vide* G.S.R. 266 dated 8 March, 1980.

THE KHADI AND VILLAGE INDUSTRIES COMMISSION EMPLOYEES (GRATUITY) REGULATIONS, 1975 (G.S.R. 2257 OF 1975)

73. Sub-regulation (2) of regulation 4 of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257 of 1975) read as under:—

“(2) Gratuity shall not be paid to an employee who resigns from service or whose services are terminated for misconduct, insolvency or inefficiency.”

74. In a communication dated 19 April, 1977, the Ministry of Industry and Civil Supplies (Department of Industrial Development) informed that they had under consideration a proposal regarding modification of the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 so as to incorporate therein such provisions of the Payment of Gratuity Act, 1972 as were beneficial to the employees of the Khadi and Village Industries Commission. One of the provisions proposed to be incorporated was that gratuity would be admissible to an employee even on his/her resignation provided he/she had rendered service of not less than five years. The Committee considered the reply at their sitting held on 4 October, 1978 and desired to know whether an employee whose services were terminated on account of inefficiency or misconduct for any regulation 4(2) *ibid.*, would also be entitled to any gratuity and if so, of what amount in respect of the period during which he had rendered satisfactory service.

75. In a communication dated 16 November, 1979, the Ministry of Rural Reconstruction came out with the reply that no gratuity was admissible to an employee of the Commission whose services were terminated on account of inefficiency or misconduct for any period whatsoever. In this connection, the Ministry also forwarded a copy of letter No. Adm. II/366 dated 30 December, 1978 from the Khadi and Village Industries Commission containing the following comments:—

“(i) Under the notified Khadi & V.I. Commission Employees (Gratuity) Regulations, 1975, no gratuity is admissible to an employee of the Commission whose services are terminated on account of inefficiency or misconduct, for any period whatsoever.

- (ii) Those provisions were modelled on the provisions of the model schemes for payment of Gratuity to the employees of the Public Undertakings.
- (iii) The Commission has already proposed to the Government to issue a fresh Notification to provide for supersession of the KVIC Employees (Gratuity) Regulations, 1975 and in its place to apply the provisions of the payment of Gratuity Act, 1972 to all employees of the Commission including those engaged in managerial, supervisory or administrative capacity, drawing wages exceeding Rs. 1000/- p.m., provided further that the total wages to be taken into account shall be limited to Rs. 2500/- per month and the amount of gratuity admissible to an employee shall not exceed Rs. 30,000/-, *vide* Commission's letter No. Adm. II/336/465 dated 13-9-1978.
- (iv) The provisions of the Payment of Gratuity, 1972 *inter alia*, provides that in the case of an employee whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of property belonging to the employer the forfeiture of gratuity shall be limited to the extent of the damage or loss so caused. However, the gratuity shall be wholly forfeited if the services of the employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part or an act which constitutes an offence involving moral turpitude. The relevant Section 4 (6) of the Act reads as follows:—
- (6) Notwithstanding anything contained in sub-section (1),—
- (a) The gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused
- (b) the gratuity payable to an employee shall be wholly forfeited—
- (i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or
- (ii) if the services of such employee have been terminated for any act which constitutes an offence involving

moral turpitude, provided that such offence is committed by him in the course of his employment.'

- (v) Once the proposed Notification of the Commission is approved and published in the Gazette, the aforesaid provisions of the Payment of Gratuity Act, 1972, will be automatically applicable to all the employees of the Commission."

76. The Committee note that no gratuity is admissible to an employee of the Khadi and Village Industries Commission if his services are terminated due to inefficiency or misconduct, for any period whatsoever.

77. The Committee find that the provisions regarding payment of gratuity under the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 are not at par with those of the Payment of Gratuity Act, 1972. In this connection, the Committee observe that the Commission has already made suggestions to the Government for supersession of existing regulation and for application of the provisions of the Payment of Gratuity Act, 1972 to all its employees. The Commission desire the Ministry of Rural Reconstruction to process the matter expeditiously and to ensure that the employees of the Commission are not subjected to any discrimination or hardship on this score.

XI

THE PORT OF NEW MANGALORE (PETROLEUM) RULES, 1979 (G.S.R. 317 of 1979)

(A)

78. Sub-rule (2) of rule 4 of the Port of New Mangalore (Petroleum) Rules, 1979 (G.S.R. 317 of 1979), read as under:—

"(2) No oil tanker shall berth at any of the wharves other than the oil jetty after having discharged Petroleum Class A until the tanks which contain Petroleum Class A have been gas-freed and following certificates obtained, namely:—

- (i) a certificate from the Controller of Explosives or Deputy Controller of Explosives to the effect that he has examined all tanks, Cofferdams pump-rooms and such other parts as deemed necessary with the aid of an approved vapour testing equipment and all the above

compartments are free from dangerous petroleum vapours, and it shall also state the conditions which should be complied with to maintain gas-free conditions of the various compartments of the ship;

- (ii) a certificate from the Master of the vessel to the effect that to the best of his knowledge, there is no dangerous petroleum vapour present in any part of the ship not covered by the above certificate and that the conditions specified in the certificate issued by the Controller of Explosives or Deputy Controller of Explosives has been complied with."

79. It was felt that the conditions, which were required to be complied with, should be specified in the rules in order to make them self-contained and for the information of all concerned.

80. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred, in their reply dated 20 May, 1982, proposed to amend rule 4(2) so as to read as under:—

"(2) No oil tanker shall berth at any of the wharves other than the oil jetty after having discharged petroleum Class A until a certificate is produced from the Controller of Explosives or Deputy Controller of Explosives to the effect that he has examined all the tanks cofferdams, pumprooms, pipelines and such other parts of the oil tanker as deemed necessary with the aid of an approved vapour testing equipment and the whole tanker is free from dangerous petrol Vapours."

81. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 4(2) of the Port of New Mangalore (Petroleum) Rules, 1979 to the desired effect. The Committee approve the said amendment and desire the Ministry to notify it in the Gazette at an early date.

(B)

82. Sub-rule (5) of rule 4 of the Port of New Mangalore (Petroleum) Rules, 1979, read as under:—

"(5) Discretion to allot the Oil jetty to any oil tanker and to order shifting of any tanker whenever necessary shall vest in the Deputy Conservator and his orders in this regard shall be binding on all Masters of oil tankers."

83. It was felt that there should be a provision for appeal against the orders of the Deputy Conservator which were binding on all Masters of oil tankers.

84. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred, in their reply dated 20 May, 1982, proposed to amend rule 4(5) so as to read as under:—

“Allotment of the oil jetty to or shifting of any oil tanker shall be decided by the Deputy Conservator and an appeal against his decision shall be to the Conservator of the port.”

85. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 4(5) of the Port of New Mangalore (Petroleum) Rules, 1979 by making therein a provision for appeal to the Conservator of the Port against the orders of the Deputy Conservator regarding allotment of the oil jetty or shifting of any oil tanker. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

(C)

86. Sub-rule (6) of rule 5 of the Port of New Mangalore (Petroleum) Rules, 1979 provided as under:—

“(6) Throughout the period that petroleum is being discharged or loaded, connections on the oil tanker or the pipelines or both shall be under the constant supervision of a responsible officer of the oil tanker.”

87. It was felt that the words ‘responsible officer’ appearing in above sub-rule were vague. The minimum rank of the officer should be indicated in the rules to make them self-contained.

88. The Ministry of Shipping and Transport (Ports Wing), with whom the matter was taken up, in their reply dated 20 May, 1982, proposed to substitute the words ‘a certified navigating officer’ for ‘a responsible officer’ in rule 5(6).

89. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 5(6) of the Port of New Mangalore (Petroleum) Rules, 1979 by substituting therein the words ‘a certified navigating officer’ for ‘a responsible officer’ to supervise the connections on the oil tanker or the pipelines or both throughout the period when petroleum is being discharged or loaded. The Com-

mittee desire the Ministry to notify the proposed amendment in the Gazette at an early date.

(D)

90. Sub-rule 8(i) of Rule 5 of the Port of New Mangalore (Petroleum) Rules, 1979 read as under:—

“(8)(i) When landing or loading of petroleum has been commenced such landing or loading shall be proceeded with due diligence.”

91. It was felt that the words ‘due diligence’ occurring in the above sub-rule were vague and their meaning should be amplified in the rules.

92. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred, in their reply dated 20 May, 1982, proposed to amend sub-rule 8(i) of rule 5 so as to read as under:—

“When discharging or loading of petroleum has been commenced such discharging or loading shall be proceeded with utmost caution keeping in mind the safety of the tanker, the oil jetty, moorings and other fitments on the jetty including the safety of the personnel working on board the tanker and the oil jetty.”

93. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 5(8)(i) of the Port of New Mangalore (Petroleum) Rules, 1979 for making them self-explicit by specifying therein the safety measures to be taken care of while discharging or loading of petroleum. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

XII

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS MADE BY, AND ASSURANCES GIVEN TO, THE COMMITTEE ON SUBORDINATE LEGISLATION

94. With a view to ensure speedy implementation of their recommendations, the Committee on Subordinate Legislation in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), presented to the House on 9 May, 1975, fixed a time-limit of six months for implementation thereof by the Ministries/Departments of the Government of India.

95. The Committee have come across a number of cases where the Ministries/Departments have taken an unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 5 and 6 of Appendix IV that the period of delay ranges between 5 and 7 years in implementing the recommendations made by the Committee in various Reports presented during Fifth and Sixth Lok Sabha. The Committee cannot help expressing their concern over the inordinate delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The Committee would emphasise that the Ministries/Departments should be more careful in future and strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations.

96. As regards the recommendations at S. No. 7 of the Appendix, the Committee note that Government are considering to bring forth the necessary legislation in respect of the two matters viz., implementation of Government's Archival Policy Resolution, 1972 and Destruction of Records Act, 1917 which has to be updated as it is obsolete, in order to specifically meet the Committee's requirement regarding enacting a comprehensive archival law. The Committee hope that Government would introduce the two Bills, viz., (i) Bill on Records of National Importance, and (ii) Bill on Public Records, in the House at an early date.

97. In certain cases listed in Appendix the Committee find that the recommendations have been implemented within the time-limit prescribed by them. The Committee place on record their appreciation of the promptness with which the Ministries/Departments concerned have implemented their recommendations within the time-limit.

NEW DELHI;

February 24, 1983.

Phalgun 5, 1904 (Saka)

MOOL CHAND DAGA.

Committee on Subordinate Legislation.

APPENDIX I

(Vide Paragraph 5 of the Report)

Summary of Recommendations/Observations made by the Committee

S.No.	Paragraph No.	Summary
(1)	(2)	(3)
1.	11	The Committee recommend that rule 6 of the National Museum of Man (Senior Photographer and Senior Artist) Recruitment Rules, 1978 should be amended so as to omit the words 'or posts'.
2.	12	A number of instances have come to the notice of the Committee wherein the words 'or posts' have been included in the relaxation provisions as is borne out by the illustrative list of such Orders given in Appendix II. It clearly shows that the provisions of the model relaxation clause set out by the Department of Personnel and Administrative Reforms have not been applied to various recruitment rules by the Ministries while framing those rules. The Committee are of the opinion that relaxing a rule or otherwise suspending its operation with respect to a post or posts is tantamount to an amendment of such rule without resorting to the formality of actually amending the statutory rules. With this end in view as also for the sake of uniform practice in the matter of relaxation provisions in the recruitment rules, the Committee desire all Ministries/Departments to omit the words 'or posts' wherever they occur in the 'power to relax' clause of various recruitment rules. The Committee further desire the Department of Personnel and Administrative Reforms to impress upon all concerned once again to follow

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- | (1) | (2) | (3) |
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| | | their instructions in this regard scrupulously in future. |
| 3 | 28 | The Committee note with satisfaction that on being pointed out, the Ministry of Education and Culture have agreed to amend the Auroville International Advisory Council Rules, 1981, so as to make them self-contained wherever they are wanting and also to lay down a time-limit within which the resignation tendered by a member of the Council must be accepted by the Government. The Committee desire the Ministry to take immediate action to amend the rules to the necessary effect. |
| 4. | 31 | The Committee note with satisfaction that the Ministry of Education and Culture, who were asked to specify the place of meeting in rule 5 of the Auroville International Council Rules, 1981 have agreed to amend the rule to achieve the desired effect. |
| 5. | 35 | The Committee note from the reply of the Ministry of Finance (Department of Revenue) that instructions have already been issued to the Collectors laying down the guidelines for invoking the powers under Rules 173-P(3) and 196-B of the Central Excise Rules, 1944. On the analogy of the Committee's earlier observations in this regard as contained in paragraph 32 of their First Report (Sixth Lok Sabha), the Committee are of the opinion that the Ministry should have no difficulty or objection whatsoever in placing the administrative instructions already issued on a statutory footing. |
| 6. | 39 | The Committee are happy to note that, on being pointed out, the Ministry of Finance (Department of Expenditure) have amended Clauses (3) (d), (4) (b) (i) and (5) (e) of Article 193 of the Civil Service Regulations by providing therein a period of 60 days within which a Govern- |
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ment servant may submit his representation to the competent authority for determining his pay and allowances.

7. 47 The Committee are happy to note that, on being pointed out, the Ministry of Finance Department of Expenditure have omitted the provisos from clauses (3)(d) and (4)(b)(i) of Article 193 of the Civil Service Regulations which restricted the payment of pay and allowance to the Government servants for a period of three years in cases other than those covered by sub-clause (b) of clause (3), including cases where the order of dismissal removal or compulsory retirement from service of a Government servant is set aside—

(1) by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of the provisions of the Central Civil Service (Classification, Control and Appeal) Rules, 1955 and no further inquiry is proposed to be held; and

(ii) by the Court solely on the ground of non-compliance with the requirements of the provisions of the Central Civil Service (Classification, Control and Appeal) Rules, 1955 and where he is not exonerated on merits.

8. 50 The Committee note the opinion expressed by the Department of Legal Affairs that regulation 3(6) of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978, does not prohibit a person aggrieved by the assessment made under regulation 3(5) to move the High Court for relief and is intended to stop continued litigation from the lower level upto High Court. The Committee, however, feel that the words "shall be final and shall not be called
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(1)

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in question" are apt to convey an impression that they bar the right of appeal to a court. The Committee are of the view that the regulations should be suitably amended so as to make the intention of the Government expressly clear. The Committee, therefore, desire the Ministry of Home Affairs to amend sub-regulation (6) of regulation 3 of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 to the desired effect.

9(i)

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In the opinion of the Committee, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) in consultation with the Ministry of Law (Department of Legal Affairs) have taken too legalistic a view of the things and have tried to assign meaning to the various phrases and words by resorting to the principle of *ejusdem generis*. The regulations are meant for the general public who may not be well conversant with the legal and technical interpretation assigned to the various expressions by the Ministry. In this connection, the Committee re-stress their earlier observations made in paragraph 50 of the Seventh Report (Sixth Lok Sabha), presented to the House on 4 April, 1978, that it is of utmost significance that the provisions of legislation (including subordinate legislation) are spelt out with precision and, as far as possible, use of vague expressions, which may be interpreted differently by different persons, is avoided.

9(ii)

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The Committee feel that the expressions like 'any means', 'any other irregular or improper means', 'irrelevant manner' and 'any other manner' used in sub-regulation (i), (vi), (viii) and (ix) of regulation 11 of the IFS|IAS|IPS (Appointment by Competitive Examination) Regulations are vaguely worded too wide and general, and are apt to be interpreted differently by

(1)	(2)	(3)
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different persons. With a view to obviate any possibility of discrimination in their application, the Committee consider it necessary that the provisions are suitably re-worded to make them intelligible for the common man.

9(iii) 57 The Committee desire the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to suitably amend the regulation 11 of the IFS|IAS|IPS (Appointment by Competitive Examination) Regulations at an early date.

10(i) 63 The Committee are unhappy to note that the Kandla Free Trade Zone Administration Gandhidham, Administrative Officer, Recruitment Rules, 1978 were notified in the Gazette of India thrice i.e. on 29 April, 1978, 16 September, 1978 and 8 March, 1980. If the Explanatory Memorandum which was sought to be appended to the rules, was left out at the time of first publication of the rules on 29 April, 1978, the best course for the Ministry of Commerce would have been to come out with a corrigendum to the necessary effect immediately. Instead, the Ministry moved the Government of India Press to re-publish the rules with Explanatory Memorandum. Unfortunately, the Explanatory Memorandum was again omitted when the notification was republished on 16 September, 1978. As a consequence, the rules have again been notified on 8 March, 1980 with the Explanatory Memorandum. Thus, one set of rules has been notified in the Official Gazette under three separate G.S.R. numbers leading to utter confusion. The Committee deplore this gross negligence on the part of the concerned authorities in the vital matter of publication of statutory rules in the Gazette.

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| 10(ii) | 64 | <p>The Committee also observe that the Ministry of Commerce moved the Press authorities to rectify the error with regard to omission of the Explanatory Memorandum from being printed in the Gazette along with the recruitment rules only after it was so pointed out to them. The Committee cannot but re-stress that the Ministries/Departments concerned are not absolved of their responsibility after sending the rules etc. to the Press for publication in the Official Gazette. It is also their duty to ensure that these are correctly printed in the Gazette and corrigendum issued wherever necessary without waiting for some one else to point out the mistakes therein.</p> |
| 11. | 68 | <p>The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have amended rule 5 of the Department of Explosives (Group C Posts) Recruitment Rules, 1978 so as to insert therein the following proviso <i>vide</i> G.S.R. 266 dated 8 March, 1980:—</p> <p style="padding-left: 40px;">“Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of the rule.”</p> |
| 12. | 72 | <p>The Committee note with satisfaction that, on being pointed out, the Ministry of Industry (Department of Industrial Development) have amended rule 6 of the Department of Explosives (Group C Posts) Recruitment Rules, 1978 so as to omit the words ‘or posts’ therefrom <i>vide</i> G.S.R. 266 dated 8 March, 1980.</p> |

(1)	(2)	(3)
13(i)	76	The Committee note that no gratuity is admissible to an employee of the Khadi and Village Industries Commission if his services are terminated due to inefficiency or misconduct, for any period whatsoever.
13(ii)	77	The Committee find that the provisions regarding payment of gratuity under the Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 are not at par with those of the Payment of Gratuity Act, 1972. In this connection, the Committee observe that the Commission has already made suggestions to the Government for supersession of existing regulations and for application of the provisions of the Payment of Gratuity Act, 1972 to all its employees. The Committee desire the Ministry of Rural Reconstruction to process the matter expeditiously and to ensure that the employees of the Commission are not subjected to any discrimination or hardship on this score.
14.	81	The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 4(2) of the Port of New Mangalore (Petroleum) Rules, 1979 to the desired effect. The Committee approve the said amendment and desire the Ministry to notify it in the Gazette at an early date.
15.	85	The Committee note with satisfaction that, on being pointed out the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 4(5) of the Port of New Mangalore (Petroleum) Rules, 1979 by making therein a provision for appeal to the Conservator of the Port against the orders of the Deputy Conservator regarding allotment of the oil jetty or shifting of any oil tanker. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

- | (1) | (2) | (3) |
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| 16. | 89 | The Committee note with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 5(6) of the Port of New Mangalore (Petroleum) Rules, 1979 by substituting therein the words 'a certified navigating officer' for 'a responsible officer' to supervise the connections on the oil tanker or the pipelines or both through out the period when petroleum is being discharged or loaded. The Committee desire the Ministry to notify the proposed amendment in the Gazette at an early date. |
| 17. | 93 | The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have proposed to amend rule 5(8) (i) of the Port of New Mangalore (Petroleum) rules, 1979 for making them self-explicit by specifying therein the safety measures to be taken care of while discharging or loading of petroleum. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date. |
| 18. | 95 | The Committee have come across a number of cases where the Ministries/Departments have taken an unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 5 and 6 of Appendix IV that the period of delay ranges between 5 and 7 years in implementing the recommendations made by the Committee in various Reports presented during Fifth and Sixth Lok Sabha. The Committee cannot help expressing their concern over the inordinate delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The Committee would emphasise that the Ministries/Departments should be more careful in future and strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations. |

(1)	(2)	(3)
19.	96	As regards the recommendations at S. No. 7 of Appendix IV; the Committee note that Government are considering to bring forth the necessary legislation in respect of the two matters viz. implementation of Government's Archival Policy Resolution, 1972 and Destruction of Records Act, 1917 which has to be updated as it is obsolete, in order to specifically meet the Committee's requirement regarding enacting a comprehensive archival law. The Committee hope that Government would introduce the two Bills, viz. (i) Bill on Records of National Importance; and (ii) Bill on Public Records in the House at an early date.
20.	97	In certain cases listed in Appendix IV, the Committee find that the recommendations have been implemented within the time-limit prescribed by them. The Committee place on record their appreciation of the promptness with which the Ministries/Departments concerned have implemented their recommendations within the time-limit.

APPENDIX II

(Vide Paragraphs 8 and 12 of the Report)

LIST OF ORDERS IN RESPECT OF WHICH REFERENCES WERE MADE TO MINISTRIES/DEPARTMENTS REGARDING 'POWER TO RELAX' PROVISIONS

I. MINISTRY OF AGRICULTURE

1. Agricultural Prices Commission Research Investigators Grade I (Economic/Statistical) Recruitment Rules, 1978 (G.S.R. 817 of 1978).
2. The Directorate of Extension (Vistar Nideshalay) Photographic Officer Recruitment Rules, 1978 (G.S.R. 1143 of 1978).
3. The Forest Research Institute and Colleges, Dehra Dun (Isolated Group 'A' and Group 'B' posts) Recruitment Rules, 1979 (G.S.R. 632 of 1979).
4. The Central Fertilizer Control Laboratory, Faridabad (Group 'C' posts) Recruitment Rules, 1979 (G.S.R. 865 of 1979).
5. The Central Ground Water Board Technical Bearer and Technical Attendant Recruitment (Amendment) Rules, 1979 (G.S.R. 1188 of 1979).
6. The Exploratory Fisheries Project, (Group 'A') Joint Director, Fisheries (Fisheries/Engineering) Recruitment Rules, 1979 (G.S.R. 1402 of 1979).
7. The Department of Agriculture and Cooperation (Assistant Commissioners) Recruitment Rules, 1980 (G.S.R. 313 of 1980).
8. The Tractor Training and Testing Station Budni (Group 'C' posts) Recruitment Rules, 1979 (G.S.R. 599 of 1980).

II. MINISTRY OF CIVIL SUPPLIES

9. The Ministry of Civil Supplies and Cooperation (Assistant Director and Metrological Assistant) Recruitment Rules, 1977 (G.S.R. 372 of 1978).

10. The Directorate of Vanaspati, Vegetable Oils and Fats [Development Officer (Oils)]. Recruitment Rules, 1978 (G.S.R. 9 of 1979).
11. The Regional Reference Standard Laboratory (Deputy Director) Recruitment Rules, 1979 (G.S.R. 111 of 1980).
12. The Directorate of Vanaspati, Vegetable Oils and Fats (Assistant Director) Recruitment Rules, 1980 (G.S.R. 263 of 1980).

III. MINISTRY OF COMMERCE

13. The Weavers' Service Centres and the Indian Institutes of Handloom Technology (Group-A and Group-B Gazetted posts) Recruitment Rules, 1979 (G.S.R. 1396 of 1979).
14. The Ministry of Commerce and Civil Supplies (Department of Commerce) Kandla Free Trade Zone, Customs Appraiser Recruitment Rules, 1980 (G.S.R. 706 of 1980).

IV. MINISTRY OF DEFENCE

15. The Ordnance & Ordnance Equipment Factories (Group 'A' Medical Officers) Recruitment Rules, 1978 (S.R.O. 154 of 1978).
16. The Armed Forces Medical College, Pune, Anaesthetist (Registrar or Senior Resident), Family Planning Welfare Worker and Auxiliary Nurse-Midwife Recruitment Rules, 1978 (S.R.O. 273 of 1978).
17. The Ministry of Defence (Group 'D' Posts) Recruitment Rules, 1978 (S.R.O. 276 of 1978).
18. The Artificial Limb Centre, Pune, Groups 'C' and 'D' (Industrial) Posts Recruitment Rules, 1978 (S.R.O. 277 of 1978).
19. The Raksha Utpadan Vibhag, Directorate General of Inspection (Industrial Group 'C' and Group 'D' Posts) Recruitment Rules, 1978 (S.R.O. 279 of 1978).
20. The Army Service Corps (Central Civil Group 'C' posts) Recruitment Rules, 1978 (S.R.O. 324 of 1978).
21. The Armed Forces Medical Services (Group 'C' Storekeeping Posts) Recruitment Rules, 1978 (S.R.O. 338 of 1978).
22. The Military Farms (Group 'C' Civilian posts) Recruitment Rules, 1978 (S.R.O. 363 of 1978).

23. The Military Engineer Service (Senior Barrack, Stores Officer and Barrack Stores Officer) Recruitment Rules, 1979 (S.R.O. 46 of 1979).
24. The Canteen Stores Department, Ministry of Defence (Group 'A' and Group 'B' posts) Recruitment Rules, 1979 (S.R.O. 64 of 1979).
25. The Librarian Grade II, Librarian Grade III and Assistant Librarian (Groups of Electrical and Mechanical Engineers) Recruitment Rules, 1979 (S.R.O. 162 of 1979).
26. The Navy Group 'C' (Instructional Staff) Posts Recruitment Rules, 1979 (S.R.O. 165 of 1979).
27. The National Defence Academy (Group 'C' Posts) Recruitment Rules, 1980 (S.R.O. 67 of 1980).
28. The Defence Research and Development Organisation, Ministry of Defence, Group 'C' and Group 'D' (Fire Service) posts Recruitment Rules, 1980 (S.R.O. 82 of 1980).
29. The Armed Forces Medical College, Pune (Group 'A' posts) Recruitment Rules, 1980 (S.R.O. 123 of 1980).
30. The Formation Headquarters and Station Staff Offices (Conservancy Staff) Recruitment Rules, 1980 (S.R.O. 128 of 1980).
31. The Armed Forces Headquarters and Inter Service Organisations Security Escort Grade I and Grade II Recruitment Rules, 1980 (S.R.O. 218 of 1980).
32. The Defence Headquarters Security Troops, Ministry of Defence Group 'C' Non-Gazetted, Industrial, Non-Ministerial posts Recruitment Rules, 1980 (S.R.O. 225 of 1980).
33. The Defence Research and Development Organisation, Ministry of Defence, Group 'C' Non-Gazetted (Ministerial) posts Recruitment Rules, 1980 (S.R.O. 228 of 1980).
34. The Indian Air Force (Civilian Gazetted Officer) Recruitment Rules, 1980 (S.R.O. 345 of 1980).
35. The Indian Air Force, Senior Computer (Civilian) Recruitment Rules, 1979 (S.R.O. 36 of 1979).
36. The Navy Group 'C' and Group 'D' Motor Transport Staff Industrial Posts Recruitment Rules, 1979 (S.R.O. 313 of 1979).
37. The Navy Group 'C' and Group 'D' Motor Transport Staff Industrial Posts Recruitment Rules 1979 (S.R.O. 313 of 1979).

V. MINISTRY OF EDUCATION

38. The Central Hindi Directorate Assistant Education Officer (Regional Languages) Evaluators (Regional Languages) Recruitment Rules, 1978 (G.S.R. 710 of 1978).

39. The National Museum of Man (General Central Service Group 'D' posts) Recruitment Rules, 1978 (G.S.R. 826 of 1978).

40. The National Archives of India, Record Centre, Jaipur (Group 'C' and Group 'D' posts) Recruitment Rules, 1978 (G.S.R. 1145 of 1978).

41. The National Archives of India, National Register, State Cell (Group 'C' and Group 'D' posts) Recruitment Rules, 1979 (G.S.R. 1168 of 1979).

42. The National Research Laboratory for Conservation of Cultural Property (Group 'C' posts) Recruitment Rules, 1980 (G.S.R. 335 of 1980).

43. The Archaeological Survey of India (Group 'D' Non-Gazetted Posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 18 of 1981).

VI. MINISTRY OF EXTERNAL AFFAIRS

44. The Ministry of External Affairs (Interpreters' Cadre) Recruitment Rules, 1978 (G.S.R. 767 of 1978).

VII. MINISTRY OF FINANCE

45. The Government Opium and Alkaloid Works, Neemuch (Group 'C' and 'D' Posts) Recruitment Rules, 1978 (G.S.R. 632 of 1978).

46. The Hindi Translators Recruitment Rules, 1979 (G.S.R. 743 of 1979).

47. The Central Excise and Land Customs Department (Group 'D' posts) Recruitment Rules, 1979 (G.S.R. 741 of 1979).

48. The National Savings Organisation (Group 'C' and Group 'D' posts) Recruitment Rules, 1978 (G.S.R. 146 of 1979).

VIII. MINISTRY OF HEALTH AND FAMILY WELFARE

49. The National Institute of Communicable Diseases and the National Malaria Eradication Programme (Group 'C' posts) Recruitment Rules 1978 (G.S.R. 462-E of 1978).

50. The B.C.G. Vaccine Laboratory, Guindy, Madras (Group 'B' posts) Recruitment Rules, 1978 (G.S.R. 703 of 1978).

51. The Central Food Laboratory, Calcutta (Group 'C' posts) Recruitment Rules, 1978 (G.S.R. 788 of 1978).

52. The National Malaria Eradication Programme, (Deputy Assistant Director (Stores) and (National Institute of Communicable Diseases, (Stores Officer) Recruitment Rules, 1977 (G.S.R. 822 of 1978).

53. The National Tuberculosis Institution, Bangalore (Group 'A' Post) Recruitment Rules, 1978 (G.S.R. 1260 of 1978).

54. The National Institute of Communicable Diseases (Group 'C' posts) Recruitment Rules, 1978 (G.S.R. 1532 of 1978).

55. The Doctor Ram Manohar Lohia Hospital and Nursing Home (Group 'D') Recruitment Rules, 1979 (G.S.R. 374 of 1979).

56. The Central Dental (Health) Service Recruitment Rules, 1979 (G.S.R. 508 of 1979).

57. The Chief Administrative Officer (Hospitals) Recruitment Rules, 1979 (G.S.R. 1399 of 1979).

IX. MINISTRY OF HOME AFFAIRS

58. The Department of Personnel and Administrative Reforms (P. Wing) (Group 'C' Posts) Recruitment Rules, 1978 (G.S.R. 1206 of 1978).

59. The Staff Selection Commission (Non-Ministerial, Non-Gazetted, Group 'C' posts of Staff Car Driver) Recruitment Rules, 1979 (G.S.R. 237 of 1979).

60. The Central Industrial Security Force (Draughtsman and Book Binder) Recruitment Rules, 1979 (G.S.R. 432 of 1979).

61. The Librarian (Ministry of Home Affairs) (Recruitment) Rules, 1979 (G.S.R. 1177 of 1979).

X. MINISTRY OF INFORMATION AND BROADCASTING

62. The Songs and Drama Division (Superintendent), Recruitment Rules, 1978 (G.S.R. 156 of 1979).

63. The Songs and Drama Division Assistant Director (Administration) and (Administrative Officer)] Recruitment Rules, 1978 (G.S.R. 157 of 1979).

64. The All India Radio (Group 'C' Posts) Recruitment Rules, 1979 (G.S.R. 762 of 1979).

65. The Songs and Drama Division (Technical Assistant, Hindi) Recruitment Rules, 1979 (G.S.R. 284 of 1979).

XI. MINISTRY OF INDUSTRY

66. The Small Industries Development Organisation (Technical Publicity Division—Group 'A' Posts) Recruitment Rules, 1977 (G.S.R. 1161 of 1978).

67. The Office of the Controller General of Patents, Designs and Trade Marks—Patent Office, Calcutta (Group 'C' Non-gazetted Posts) Recruitment Rules, 1978 (G.S.R. 1193 of 1978).

68. The Department of Industrial Development (Record Keeper) Recruitment Rules, 1979 (G.S.R. 371 of 1979).

XII. MINISTRY OF LABOUR

69. The Vocational Rehabilitation Centres (Group 'C' and 'D' Posts) Recruitment Rules, 1980 (G.S.R. 743 of 1980).

XIII. MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

70. The Ministry of Law, Justice and Company Affairs (Legislative (Department) Official Languages Wing (Group 'A' posts) Recruitment Rules, 1979 (G.S.R. 363 of 1979).

71. The Ministry of Law, Justice and Company Affairs, (Legislative Department) Official Languages Wing (Group 'A' posts) Recruitment Rules, 1979 (G.S.R. 364 of 1979).

XIV. MINISTRY OF PETROLEUM, CHEMICALS AND FERTILIZERS

72. The Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) Senior Analyst (Work Study) (Group 'A' Gazetted) Recruitment Rules, 1978 (G.S.R. 639 of 1978).

XV. MINISTRY OF PLANNING

73. The Central Statistical Organisation, Department of Statistics, New Delhi Junior Investigator and Computer (Senior Scale) Recruitment Rules, 1978 (G.S.R. 831 of 1978).

74. The Planning Commission (Joint Adviser) Recruitment Rules, 1979 (G.S.R. 440 of 1979).

75. The Planning Commission (Senior Attendant and Junior Attendant in the Computer Services Division of the Programme Evaluation Organisation) Recruitment Rules, 1979 (G.S.R. 180 of 1980).

76. The Planning Commission (Copy Holder) Recruitment Rules, 1979 (G.S.R. 818 of 1979).

XVI. MINISTRY OF RAILWAYS

77. The Indian Railways Law Officer, Assistant Law Officer and Estate Officer Recruitment Rules, 1978 (G.S.R. 967 of 1978).

XVII. MINISTRY OF RURAL RECONSTRUCTION

78. The Directorate of Marketing and Inspection Stenographer, Sub-office Recruitment Rules, 1978 (G.S.R. 818 of 1978).

79. The Directorate of Marketing and Inspection (Junior Gestetner Operator) (Group 'D' posts) Recruitment Rules, 1978 (G.S.R. 54 of 1979).

80. The Directorate of Marketing and Inspection, Administrative Officer (Central Agricultural Marketing Research and Training Institute) Recruitment Rules, 1979 (G.S.R. 607 of 1979).

XVIII. DEPARTMENT OF SCIENCE AND TECHNOLOGY

81. The Department of Science and Technology (Research Assistant) Recruitment Rules, 1978 (G.S.R. 638 of 1978).

82. The Department of Science and Technology (Group 'A' Scientific Posts) Recruitment Rules, 1978 (G.S.R. 770 of 1978).

83. The Department of Science and Technology (Group 'A' Scientific Posts) Recruitment Rules, 1978 (G.S.R. 1216 of 1978).

84. The Department of Science and Technology (Group 'A' Scientific Posts) Recruitment Rules, 1978 (G.S.R. 49 of 1979).

85. The Geological Survey of India (Group D Posts) Recruitment Rules, 1980 (G.S.R. 597 of 1980).

86. The Department of Science and Technology, National Museum of Natural History (Director, National Museum of Natural History). Recruitment Rules, 1980 (G.S.R. 1087 of 1980).

XIX. MINISTRY OF SHIPPING AND TRANSPORT

87. The Department of Lighthouses and Lightships (Group 'C' and Group 'D' posts) Recruitment Rules, 1978 (G.S.R. 1294 of 1978).

88. The Department of Lighthouses and Lightships (Non-Gazetted Lighthouse personnel) Recruitment Rules, 1978 (G.S.R. 546 of 1979).

89. The Department of Lighthouses and Lightships (Non-Gazetted posts Marine Branch) Recruitment Rules, 1978 (G.S.R. 547 of 1979).

90. The Ministry of Shipping and Transport (Roads Wing) (Group 'C' and 'D' Posts) Recruitment Rules, 1979 (G.S.R. 799 of 1979).

XX. MINISTRY OF TOURISM AND CIVIL AVIATION

91. The Civil Aviation Department, Subordinate Officers Hindi Translator Grade I (Group C posts) Recruitment Rules, 1979 (G.S.R. 613 of 1979).

XXI. MINISTRY OF WORKS AND HOUSING

92. The National Buildings Organisation (Group A) Liaison Officer Recruitment Rules, 1978 (G.S.R. 318 of 1979).

APPENDIX III

(Vide Paragraph 34 of the Report)

Circular No. 74/81-CX.6

F. No. 212/24/81-CX.6

Government of India

Ministry of Finance

(Department of Revenue)

New Delhi, dated the 13th November, 1981

To

All Collectors of Central Excise.

Sir,

SUBJECT:—Central Excise—Return of damaged or defective goods received by L. 6 Licensee under Chapter X of Central Excise Rules, 1944, to the original manufacturer—Amendment to Rule 196-B—Regarding.

I am directed to draw your attention to notification No. 125/80-CE dated 2-8-1980 by which Rule 196-BB was introduced and clause (i) of Rule 196-B was deleted. Consequent to the deletion of clause (i) of Rule 196-B, defective or damaged goods received by L.6 licensees could not be returned to the original manufacturer under Chapter X procedure.

2. Representations were received from the trade voicing the difficulty that the facility which was earlier available to them for return of damaged or defective goods to the original manufacturer under the earlier Rule 196B(i) was no longer available to them from 2-8-1980 onwards. It was also represented by L.6 Licensees, particularly, motor-vehicle manufacturers, that some defects in the motor-vehicle parts received by them, under Chapter X procedure, came to light only at the time when such parts were about to be fitted as O.E. parts.

3. This issue has been carefully examined by the Board and it has been decided to restore the facility of return of defective or damaged goods to the original manufacturer as it existed prior to the deletion of clause (i) of Rule 196-B on 2-8-1980. Accordingly,

requisite amendment has been made in Rule 196-B by Notification No. 176/81-C.E. dated 7-11-1981 introducing the earlier provision with some modification aimed at having flexibility in the matter of safeguards that may be necessary to prevent abuse of the facility. For this purpose, Collectors have been given powers to provide such conditions and time for return of such goods. The said notification also carries out consequential amendments to Rule 173P, which incorporates relevant rules of Chapter X as applicable to units covered under Chapter VIIA.

4. It may be noted that damaged or defective goods can be returned to the original manufacturer without payment of duty. It may, however, be ensured that the goods which have actually been put to ~~use~~ are not returned to the original manufacturer under the guise of damaged or defective goods and remission claimed. Collectors may ask for segregation of such damages or defective goods with separate accounts and also prescribe one month as the time limit for the return of such goods by the L.6 licensees and may also make it clear that this facility will not be available for goods taken into use other than for quality control, test or inspection without being put into any actual manufacturing process in the L.6 premises.

5. The procedure followed at present for the return of the surplus goods under Rule 196A may *mutatis mutandis* be observed in respect of return of the damaged or defective goods under Rule 196 B (i).

6. The trade may kindly be informed of the above changes and suitable instructions may also be issued to the field formation.

7. Receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

(R. SHARMA)

*Under Secretary to the Government
of India.*

Distribution as usual

APPENDIX IV

(Vide Paragraphs 95-97 of the Report)

Statement showing the Action taken by Government on the Recommendations made by, and assurances given to the Committee on Subordinate Legislation

Sl. No.	Reference to para Nos. of Report and date of its presentation	Summary of Recommendations/Assurances	Gist of Government's reply
1	2	3	4
1	<p>Thirteenth Report, (Fifth Lok Sabha) 20-21, 53-58, 63-64, 66-67, 71-74, & 79 12-8-1974</p>	<p>20. The Committee are alarmed at the very large number of categories of posts for which Recruitment Rules had not been framed till 1-4-1973. The Constitutional provision regarding framing of statutory Rules came into operation in 1950. It is shocking that in spite of nearly 25 years having elapsed, recruitment rules in respect of 3403 categories of services/posts covering one lakh eight thousand eight hundred and seventy three persons as on 1-4-73 remain to be notified. The position regarding framing of statutory Recruitment Rules in the attached/subordinate offices is much worse than in the Secretariat itself. It appears that the Administrative Ministries/Departments have failed to emphasise upon the attached and subordinate offices the need for urgent framing of statutory Recruitment Rules.</p>	<p>Para Nos. 20-21, 53-58, 63-64, 66-67, 71-74 and 79</p> <p>(i) The Ministry of Law, Justice and Company Affairs (Legislative Department) vide their O.M. No. F.4(8)/74-LI dated 15 January, 1977 stated that the Department of Personnel and Administrative Reforms was already seized of the recommendations of the Committee regarding non-framing/delay in framing of recruitment Rules and was watching the progress made by all the Departments through quarterly returns and this Ministry was also sending quarterly returns to that Department. The Legislative Department further stated that there was no service or post at present in their Depart-</p>

ment for which Recruitment Rules had not been made.

21. The Committee had called for evidence only 10 out of 25 Ministries/Departments. But the Progress reported by these Ministries is a fair indication of the total progress achieved in the matter after 1-4-1973. The Committee regret to note that except in the case of Ministry of Tourism and Civil Aviation the progress made has been painfully slow and halting.
53. It is clear from the evidence of certain selected Ministries tendered before the Committee as also from the material subsequently furnished by them that in most cases the delay in framing Recruitment Rules occurred because of initial inaction on their part. The Ministries/Departments have been depending too much on the initiation of proposals by the subordinate/attached officers, which the latter were slow to submit.
- (ii) The Department of Personnel and Administrative Reforms *vide* their D.O. No. 2/29/74-Estt. (D) dated 26 November, 1974, stated that as desired in paragraphs 64 and 74 of the Report the Ministries/Departments had been addressed on the question of framing of Recruitment Rules for services/posts with a view to (i) furnishing quarterly Reports relating to the progress made in the finalisation of Recruitment Rules and (ii) in reducing delay in finalisation of these Rules, *vide* their O.M. Circular Nos. 2/24/74-Estt. D dated 17-10-74 and No. 2/26/74-Estt. D dated 31-10-74. The Department have also furnished a copy of the instructions issued by them to all Ministries etc. regarding framing of Rec't. Rules. *vide* their O.M. No. 14017/58/76-Estt. D. (Cell) dated 15 April, 1980.

- (iii) The Ministry of Industry (Department of Industrial Development) *vide* the their O.M. No. 10/18/74-Parl. dated 29 May 1980. stated that the recommendations/observations of the Committee had been circulated to the concerned officers of the Ministry for implementation. It was further stated that since many a changes had taken place in
54. The Committee decried the tendency of postponing finalisation of rules everytime there was slightest change in circumstances in the hope of their making a perfect rule. Proviso to Article 309 does not bar amendments to Statutory Recruitment Rules if situation warrants. In most of the cases referred to above the Committee are of the opinion that the Ministries/Departments should have finalised Recruitment Rules by now. As observed earlier the

representatives of the Ministries/Departments who appeared before the Committee themselves admitted that the delay could have been avoided in most cases.

55. Barring the cases where the further processing of the rules had to be shelved on account of the matters going to the court (as for example in the case of the Income-tax service Class I and the Hindi Officer) in other cases the Committee are not convinced of the reasons advanced by the Ministries/Departments for delay in framing of Recruitment Rules.

56. In the opinion of the Committee too much time was allowed for consultations to be made with the U. P. S. C., Department of Personnel and Law Ministry, etc. The Committee are far less convinced of some of the other explanations given by some of the Ministries while forwarding statistics of pending rules as on 1-4-1973 such as (i) awaiting Model Recruitment Rules; (ii) work studies being carried out by the Staff Inspector Unit; (iii) the posts lying vacant; (iv) anticipated changes in the light of the Pay Commission's Report; (v) ever since the appointment

the set up of their Department during this long gap of 6 years they again took note of the recommendations/observations and also circulated them again to the concerned officers/Administrative Sections in the Department for their guidance and strict compliance *vide* U.O. No. 10/18/74-Parl. dated 27 May, 1980.

(iv) The services/posts in the Ministry in respect of which Recruitment Rules not framed/remained to be notified related to the Police Division of the Ministry and the National Integration Division and the Office of the Registrar General of India. These offices have stated that either they have framed the Rules/in process of framing the Rules or the posts/services have been abolished. The Ministry have also circulated the extracts of these paragraphs to all

of persons to the post no vacancy arose (vi) lapse of a Bill in Lok Sabha due to dissolution and (vii) the Ordnance Factory to which the posts are related has been in project stage.

57. The Constitution of India came into operation in 1950. Nearly 25 years have elapsed since then. This is sufficiently a long period to frame Statutory Recruitment Rules under proviso to article 309 in most cases. The Committee are constrained to observe that sufficient attention was not paid to the scheme of article 309 and the proviso thereto. The Committee would stress upon all Ministries/Departments to bear in mind the scheme of article 309 and the proviso thereto and until such time as Parliament enacts laws for various services/posts, frame Recruitment Rules under the proviso where they have not been framed so far and if drafts have already been prepared, to finalise them at an early date.

58. Almost all the representatives who appeared before the Committee agreed that the period of finalisation of Recruitment Rules should not normally be more than one year. The Ministry of Tourism and Civil Aviation have shown that with drive the rules pending for many years could be finalised and notified in about a fortnight. The Committee would like all the Ministries/Departments to finalise the rules pending with them within six months as proposed by the Department of Personnel.

59. The Committee are surprised to note that the representatives of most of the Ministries/Departments

their Sections for necessary action *Vide* their Circular No. 11013/37/74 dated 2 January, 1975.

(Ministry of Home Affairs O. M. No. 11013/37/74 dated 26-11-76 and D. O. No. I-11013/1/83-Pers. I dated 18-2-1983).

Note:—So far as the Department of Parliamentary Affairs are concerned, their reply has since been included in Eighth Report (Sixth Lok Sabha) at S. Nos. 38 to 49 of Appendix III

who appeared before them were not aware of the general circular issued by the Ministry of Home Affairs to all Ministries/Departments from time to time, wherein they had emphasised the necessity of framing of Recruitment Rules for all Services/Posts under the proviso to Article 309 of the Constitution and also prescribed a quarterly return to be furnished to them by each Ministry/Department indicating the progress made in the framing of recruitment rules and the reasons for delay, if any. The Committee are also surprised at the observation of the Department of Personnel that they did not find the returns much useful.

67. The representative of the Ministry of Finance while arguing that since detailed instructions in the matter of Recruitment existed had during the evidence, referred to the Supreme Court decision in the case of S. G. Jaisinghani Vs. Union of India and others, according to which even if there were no statutory rules governing conditions of services, executive instructions/Orders issued under the power derived from article 309 had the force of law and were binding on the Government. The Planning Commission also drew attention to the Supreme Court decision in Nagrajan Vs. State of Mysore where it was held by the Court that "it is not obligatory under proviso to article 309 to make rules of recruitment before service can be constituted or post created or filled".

The Committee would like to make it clear that it is not their contention that recruitment to a Government service/post cannot be validly made through Departmental instructions. Even if it is legally permissible to regulate recruitment to a service/post through departmental instructions, the Committee desire that for the reasons given in para 66 above, recruitment to Government services/posts should be regulated either through Acts of Parliament or through statutory rules.

71. The Committee regret to note that the Ministries/Departments are not following strictly the instructions laid down by the Department of Personnel for framing of Recruitment Rules, which necessitated to and for references. The Committee desire that they should strictly follow the instructions of the Department of Personnel. The Ministry of Law and UPSC should also issue suitable instructions to various Ministries about the manner in which the latter had to submit proposals, so that frequent cases of references complained of by Ministries/Departments could be avoided.

72. The Committee note with satisfaction that with a view to reduce the time taken in inter-Ministerial consultations, the Department of Personnel have under consideration, in consultation with the UPSC a suggestion for constituting a committee consisting of the representatives of the Ministries/Departments concerned and those of the Department of Personnel and Administrative Reforms, Ministry of Law, and the UPSC which would meet periodically and

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finalise the Recruitment Rules in one or more sittings. The Committee desire that such committees should be constituted for all Ministries/Departments.

73. The Committee also endorse the suggestion of the Ministry of Defence that within each Ministry there should be a cell to process the proposals emanating from subordinate/attached offices and to deal with inter-Ministerial consultations. The Ministry of Defence are stated to hold weekly meeting of Secretary with Joint Secretaries to review the progress made in finalisation of recruitment rules. The Ministries of Health and Family Planning and Works and Housing have proposed that hereafter finalisation of the Recruitment Rules would receive the personal attention of Joint Secretary in-charge of the administration who would review the situation once in every month and additional Secretary would also keep a watch from time to time. These examples should be emulated by other Ministries/Departments according to their requirements.

74. While all Ministries have accepted the suggestion that a time limit should be laid down for processing Statutory Rules under the proviso to article 309 the Ministry of Finance (Department of Revenue and Insurances) whose representative during the evidence earlier had agreed that the normal time-limit for finalisation of recruitment rules should be one year have in written information submitted

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after evidence, stated as follows "need for time limit would really be necessary only where appointments are made on purely *ad-hoc* basis without laying down clear-cut method and where such method is laid down there may not be any need to fix a time limit. It is, however, admitted that Statutory Rules should be framed as soon as possible and accorded high priority." The Committee do not agree with the view of the Department of Revenue and Insurance regarding time limit. The Committee have already pointed out that Departmental Instructions, however, detailed cannot be a substitute for statutory rules. The Committee, therefore, recommend that Department of Personnel should fix a time-limit from the date of creation of post within which recruitment rules should be framed under the proviso to article 309. If in exceptional cases it is not possible to stick to this limit, the case should be put up before the Head of the Ministry/Deptt, who should personally see that the bottlenecks, if any, are removed and the rules are finalised without unnecessary delay.

79. The Committee regret to note that there has been undue delay on the part of the Ministries/Departments mentioned in para 75 of the Report in furnishing information regarding non-framing of Recruitment Rules. The information was sent by them only after their representatives had been called for evidence. The Committee are not convinced with the reasons given by them for the delay. The Committee feel that if the matter had been looked into at a higher level in the Ministry, the delay could have been

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avoided. The Committee strongly desire all Ministries/Departments to be careful in future and send the prompt replies to the communications from the Committee.

2. **THIRTEENTH
REPORT (Fifth
Lok Sabha) 93-94 &
143-144**

12-8-1974

93. The Committee regret to note that delay should have occurred in laying Notifications on the Table of the House on account of delay in the receipt of their Hindi version from the Official Language (Legislative) Commission. The Committee feel that in most cases it could have been avoided if proper judgement had been exercised in according priority to the translation work in the Commission. The Committee trust that with the new instructions issued to the officers and staff of the Commission, such cases of delay will not occur in future and sufficient precaution will be taken to get the translation in Hindi in time to avoid such delay on this account.

94. The Committee are unhappy to note that the Ministry of Finance (Deptt. of Rev. & Ins.) did not ascertain the facts regarding the delay in laying of the Emergency Risks (Goods) Insurance (Amendment) Scheme, 1972 and the Emergency Risks (Under-takings) Insurance (Amendment) Scheme, 1972 on the Table of the House and attributed it to the delay in preparation of Hindi versions. The fact is that Hindi versions of these Notifications had been made available to the Ministry on the 25th March, 1972 where as they were laid on the Table on the

(i) The Ministry of Law, Justice and Company Affairs (Legislative Department) *vide* their O.M. No F. 4 (8) /74-LI dated 15 January, 1977 stated that the Department had issued instructions to all the officers concerned with the work of translation of rules etc. into Hindi that no delay should occur in the translation and the instructions issued in this regard had been included in Appendix VI of the Report. This provision was being watched through monthly reports submitted by the translation Wing of this Ministry with a view ensure that no delay occurred in the translation of rules etc. which were required to be placed before Parliament. The Ministry further stated that the recommendations of the Committee had also been brought to the notice of all concerned.

26th April, 1972. In their explanatory statement for delay in laying the Notifications, the Ministry should have explained the subsequent delay of one month, after the receipt of Hindi versions from the Law Ministry. The Committee desire the Ministry of Finance (Deptt. of Rev. & Ins.) to be careful about these matters in further. The Committee also desire the Department of Parliamentary Affairs to issue instructions to all Ministries in this regard.

143. The Committee are not satisfied with the reasons advanced for delay in laying 'Orders' on the Table within the prescribed period of 15 days from the date of their publication in the Gazette. In para 35 of their Ninth Report (5th Lok Sabha), the Committee had drawn attention to the new procedure introduced by the Controller of Printing and Stationery for supply of G.S.R. Number etc. *vide* his O.M. No. 11013/1/72-P dt. 9-2-72 addressed to all Ministries/Departments. The new procedure *inter alia* provides that the Ministries/Departments should not wait for supply of spare copies of the Notifications by the Press for laying them on the Table of the House. They should obtain the G. S. R. or S.O. number of the notification by making request in writing in duplicate one day after the date of publication of the Notification in the case of Extraordinary issues and on Mondays, in the case of Notifications published in the weekly Gazette. The Committee desire the Department of Parliamentary Affairs also to bring the new procedure to the notice of all Ministries/Departments and emphasise upon them the necessity

(ii) As regards action taken on recommendations contained in paragraphs 143-144 of the Report the Ministry of Home Affairs *vide* their O. M. No. H. 11013/37/74-Parl dated 26 November, 1976, regarding laying of 'Orders' on the Table stated that the necessary instructions had already been circulated in that Ministry *vide* their communication No. H. 11013/37/74-Parl. dated 2 January, 1975.

of adhering to the time-limit of 15 days in laying Notifications on the Table.

144. The Committee are distressed to note that in 19 cases out of 30, the Ministries have not laid the statements showing reasons of delay along with the Order. The Committee wish to re-emphasise that statements showing reasons for delay should be laid on the Table along with the Orders in all cases where it has not been possible to adhere to the time-limit of 15 days due to any reasons whatsoever. The Committee desire all Ministries/Departments to strictly comply with the recommendation of the Committee in this regard.

(iii) Ministry of Industry (Department of Industrial Development) have since circulated the recommendations of the Committee to all officers in the Department *vide* their U.O. No. 10(18)/74-Parl. dated 9/16. September, 1974.

[Ministry of Industry (Department of Industrial Development) O.M. No. 10(18)/74-Parl. dated 24 April, 1980]

Note : In regard to paragraphs 93 and 143, the Action taken Note of the Department of Parliamentary Affairs has already been included in Eighth Report (Sixth Lok Sabha) at Sl. Nos. 50 and 54 of Appendix III.

The Committee are not satisfied with the amendments to rule 121 of the Petroleum Rules, 1937, made by the Ministry of Industrial Development. They feel that in cases mentioned in the provisos to rule 121(1), *idib.*, the Licensing Authority or

The Ministry have stated that subsequent to this, the Petroleum Rules of 1937 were replaced by the Petroleum Rules, 1976 *vide* G.S.R. No. 479-E dated 30-6-76. In the new rule, the earlier Rule 121 was

the Central Governments should first suspend a licence for a fixed period, thereafter give an opportunity of being heard to the licensee and cancel the licence if so considered appropriate. The Committee desire the Ministry to amend the rule accordingly.

duly amended and renumbered' as Rule 153.

[Ministry of Industry (Department of Industrial Development O. M. No. 26(23)/74-MI (Pt. File) dated 5 June, 1980].

**4. SIXTEENTH
REPORT
(Fifth Lok Sabha)
11 and 20—22
9-5-1975**

11. The Committee note with satisfaction that, on being pointed out, the Ministry of Education and Social Welfare (Department of Education) have agreed to amend sub-rule (2) of rule 24 of the Delhi School Education Rules, 1973 so as to provide one-third of the total membership of the Curriculum Committee as quorum for its sittings. The Committee desire the Ministry to issue the amendment at an early date.

Amendments to rule 115(4) and 24(2) of the Delhi School Education Rules, 1972 have been notified in the Delhi Gazette Part IV on 28-7-1982.

[Ministry of Education and Culture (Deptt. of Education D.O. No. F 44-22/74-UT-1 (Sch. 6) dated 11-12-82)]

20. The Committee note that while it is not possible for the Ministry of Education and Social Welfare (Department of Social Welfare) to specify all the circumstances under which the provisions of rule 115(4) could be invoked, they have given an example when an order of dismissal or removal from service is set aside on a technical ground and looking into the circumstances of the case, the disciplinary authority decides to hold a further inquiry.

21. In para 59 of their Fifteenth Report (Fifth Lok Sabha), Committee, while commenting upon a similar provision contained in the Coir Board

Services (Classification, Control and Appeal) Bye-laws, 1969, had desired that the provision be amended so as to make it clear that it was designed to meet a situation where the court passes an order on purely technical grounds without going into the merits at all.

62. The Committee desire the Ministry of Education and Social Welfare (Department of Education) to amend rule 115 (4) of the Delhi School Education Rules, 1973, on similar lines.

5. NINETEENTH REPORT (Fifth Lok Sabha)

6a and 6b

15-4-1976

62. The Committee note with satisfaction that on being pointed out, the Ministry of Railways (Railway Board) have agreed to amend the rules in question so to the incorporate therein the scale of pay post of Inspector-General, Railway Protection Force. The Committee desire the Ministry to issue the amendment at an early date.

65. The Committee note with satisfaction that on being pointed out, the Ministry of Railways (Railway Board) have agreed to amend the Rules in question so as to specifically mention the Union Public Service Commission (Exemption from Consultation) Regulations in column 13 of the Schedule. The Committee desire the Ministry to amend the Schedule at an early date.

Ministry of Railways (Railway Board) *vide* their O.M.No. 75/E(GR)/1/22/1 dated 16-5-1981 have stated that the Recruitment Rules for the Gazetted Posts in the Railway Protection Force have since been re-notified and that in the revised Rules, the amendment suggested by the Committee in paragraphs 62 and 65 of their 19th Report (Fifth Lok Sabha) have been incorporated *vide* Notification No. 78/F(GR)/1/22/1 dated 8 May, 1981. The Notification containing the Revised Rules known as the Railway Protection Force (Group A and Group B Posts) Recruitment Rules, 1981 has been published under GSR 520 dated 30 May, 1981.

6 FIRST REPORT
(Sixth Lok Sabha)

54

16-7-1977

The Committee note that the Labour Officer had been advised by the Ministry of Shipping and Transport (Transport Wing) to issue a show cause notice and give a reasonable opportunity of being heard to the worker even in cases falling under clause 43(3) of the Scheme. The Committee, however, do not agree with the contention of the Ministry that a formal amendment of the Scheme to make it obligatory on the Labour Officer to issue a notice may not be appropriate. As already observed by the Committee in para 25 of their First Report (Fifth Lok Sabha), a departmental instruction is no substitute for a built in legal safeguard. The Committee, therefore, desire the Ministry to put the above departmental instruction on a statutory footing by amending the Scheme suitably at an early date.

The Ministry have since amended clause 43(3) of the Bombay Foodgrain Handling Workers (Regulation of Employment) Scheme, 1975, as desired by the Committee *vide* S.O. 2174 dated 12-6-1982.

[Ministry of Shipping and Transport
(Labour Division) O.M. No. LDB/22/
80-L.IV dated 22 September, 1982].

7 FIRST REPORT
(Sixth Lok Sabha)

65—66

16-7-1977

From the material furnished by the Department of Culture, the Committee observe that the Committee on Archival Legislation had urged on Government to enact a comprehensive archival law in 1960, and Government had accepted this recommendation in their Archival Policy Resolution in December, 1972.

The Department of Culture in their last O.M. No. F.7-10/77-CAI(2)/Lib., (Part) dated 15 October, 1982 explained the present position in regard to bringing forth the necessary legislation in respect of the two Bills namely (i) Bill on Records of National Importance and (ii) Bill on Public Records as follows:—

(i) *Bill on Records of National Importance.*

The matter is still under consideration in this Department in consultation with the

The Committee note from the reply of the Department of Culture that the Destruction of Records Act, 1917, was obsolete and inadequate to meet the present requirements of management of record, and that the destruction of records of

Government was at present being regulated according to executive instructions without the due backing of law. The Committee are surprised that even though the Committee on Archival Legislation had urged on Government to enact a comprehensive archival law as far back as in 1960 and Government had accepted this recommendation in their Archival Policy Resolution in December, 1972, the necessary legislation has not so far been brought forward. The Committee cannot help regretting the undue delay on the part of Government in this regard. The Committee now urge upon the Department of Culture to enact the contemplated archival law at an early date.

National Archives of India and the Archaeological Survey of India. After holding two meetings on 11-12-81 and 8-4-82, it was decided that the Director, National Archives of India should prepare illustrative points which could be incorporated in the proposed bill after consulting the Ancient Monuments and Archaeological Sites and Remains Act, 1958 etc. The points furnished by the Director, National Archives of India are being considered in further meeting proposed to be convened shortly.

(ii) *Bill on Public Records.*

In an Inter-Departmental Meeting, the self contained note prepared for the Cabinet was discussed on 7-4-82 between the officers of the Department of Culture/Department of Personnel and Administrative Reforms and the Director, National Archives of India. The Department of Personnel and Administrative Reforms had agreed to furnish the illustrative points for incorporation in the proposed law for the examination of the National

Archives of India. The points have been sent by the Department of Personnel and Administrative Reforms in July, 1982. However, these points are still under consideration in this Department in consultation with the department of Personnel and Administrative Reforms and the National Archives of India for the finalisation of these points for incorporating in the bill.

In view of the position explained above, it is difficult for this Department to indicate precisely the time by which these two bills will be ready. However, every effort is being made by this Department to finalise action on these two bills as early as possible.

In their O.M. No. 24/7/75-CL. III dated 29 August, 1978, the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have stated that the suggestion of the Committee has been noted and the same shall be complied with while issuing amalgamation orders in future.

The Committee note that under the provision of Section 53(2) (a) of the Companies Act, 1956, it is sufficient to send documents (including Orders) by ordinary post. For getting his papers by Registered Post a member has to intimate the Company in advance and also deposit money with them to defray the expenses of doing so. The Committee, however, feel that it is necessary to ensure that the papers relating to allotment of shares in the new company reach the shareholders of the dissolved company. With this end in view the Committee desire that a provision should be made in the Amalgamation Orders for publication

Thirteenth Report
(Sixth Lok Sabha)

52

29-11-1978

of a notice in all important newspapers about the fact of despatch of those papers to the shareholders so that persons not getting the same could contact the company and obtain the papers.

9 Fourteenth Report
(Sixth Lok Sabha)
30-31
15-12-1978

The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (4) of rule 2 of the Port of New Mangalore (Regulation of the Use of Landing Places) Rules, 1977 so as to make it clear that if the lessee or the permit card holder failed to pay the rent on the due date, he shall be asked to pay the penal interest in the first instance failing which provision for cancellation of the lease deed/permit will be invoked.

However, after its perusal, the Committee feel that the proposed amendment has not been properly drafted. The Committee, therefore, desire that the Ministry should first get the amendment vetted by the Ministry of Law before it is issued.

10 Eighteenth Report
(Sixth Lok Sabha)
70-73

70. The Committee are not convinced by the arguments advanced by the Ministry of Law, Justice and Company Affairs (Department of Legal

The Ministry have since amended rule 2(4) of the Port of New Mangalore (Regulation of the Use of Landing Places) Rules, 1977 vide G.S.R. 243(E), dated 29 April, 1980.

[Ministry of Shipping and Transport (Ports Wing) O.M. No. PGL-81/77, dated 28 May, 1980.]

The Ministry of Civil Aviation have stated that the Aircraft (Amendment) Bill, 1982 to further amend the Aircrafts Act,

Affairs). The Committee observe that the Ministry of Law have referred to a decision of the Supreme Court in support of the view that the power conferred on the Director-General of Civil Aviation are within the permissible limits of delegated legislation. However, the decision of the Supreme Court refers to the power of delegation with regard to fixation of the rate of excise duty under the Karnataka Excise Act on the ground, *inter alia*, that the Act provides for laying of rules before the legislature which has the power of even repealing the rules, the Committee find that in the present case, the question is not of conferment of power of delegation but it concerns with the power of the Director-General to approve or disapprove or revise the fares of the tariffs. It appears to the Committee that the Ministry have equated the power of approval or disapproval of the Director-General with the power to fix the rates. The Committee, therefore, feel that the decision of the Supreme Court quoted by the Ministry is not wholly appropriate in the present case.

71. The Committee are aware that there are provisions in the Aircraft Act, 1934 for laying of the rules/regulations framed thereunder before Parliament with usual provision of modification or amendment or annulment thereof by the Houses of Parliament.

1934 on the lines of recommendations made by the Committee on Subordinate Legislation has been introduced in the Rajya Sabha on 5-11-1982.

[O.M. No. Av. 110 12/3/74-A.Vol. II, dated 22 November, 1982.]

72. Although the Committee on Subordinate Legislation do not exercise powers as contemplated by the Act yet it is a functionary of the House and exercise the right to examine rules/regulations framed under various Acts and recommend changes therein on behalf of the House.

73. The Committee, therefore, reiterate their earlier recommendation and desire that the Ministry of Tourism and Civil Aviation should take suitable steps immediately to amend the Aircrafts Act, 1934 as suggested by them in para 70 of their Twelfth Report (Sixth Lok Sabha).

11 Twenty-first Report
(Sixth Lok Sabha)
41-42
17-5-1979

41. The Committee note the assurance given by the As desired by the Committee in paras Ministry of Law, Justice and Company Affairs (Department of Company Affairs) regarding sending of a notice by a transferee company to every person whose name is entered immediately before the appointed day in the Register of shareholders in the transferor companies giving particulars as to the allotment of new shares and an allotment letter of new shares by registered post acknowledgement due. The Committee trust that the assurance would be duly complied with.

As desired by the Committee in paras 41-42 of their Twenty-first Report (Sixth Lok Sabha) the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have noted the suggestion of the Committee made in paragraph 52 of their Thirteenth Report (Sixth Lok Sabha) for compliance while issuing amalgamation order in future.

42. The Committee also reiterate their earlier recommendation made in para 52 of their Thirteenth Report (Sixth Lok Sabha) that the fact of despatch of papers to the shareholders of the dis-

[O.M. 24/7/75/CL. III. dated 29 August, 1979 received with their O.M. No. 2/2/75/CL. III dated 26 March, 1980].

solved company regarding allotment of shares in the new company should be published in all important Newspapers to enable a person not getting the same to contact the company and obtain them.

12 Twenty First Report
(Sixth Lok Sabha)

37

17-5-1979

The Committee note with satisfaction, that, on being pointed out, the Ministries/Departments concerned have agreed to amend rule 5 of the Rules to provide for consultation with the Union Public Service Commission before relaxing any of the provisions of those Rules in respect of any class or category of persons. The Committee desire Ministries/Departments concerned to notify the necessary amendments at an early date, if not already done.

I. The Ministry have since amended the following Rules to the desired effect:—

(i) The Department of Agriculture [Assistant Directors (Fertilisers Movement)] Recruitment Rules 1977 *vide* Notification No. A. 12018/77-2-Estt. I dated 21-2-80.

(ii) The All India Soil and Land Use Survey Organisation (Senior Technical Assistant) Recruitment Rules, 1975 *vide* Notification No. 1-15/74-Lands dated 1 May, 1976.

[Ministry of Agriculture (Department of Agriculture and Cooperation) O.M. No. A-12018/72-Estt. I dated 9 July 1980 and O.M. No. 1-36/80-lands dated 23 July, 1980].

II. Department of Personnel and Administrative Reforms have since amended the Lal Bahadur Shastri National Academy of Administration, Research Asstt. (Statistics/Mathematics) Recruitment Rules, 1975 *vide* G.S.R. 1110 of 1976.

Note: The Department are also requesting the Ministries/Departments who are concerned with the Recruitment Rules mentioned in para 33 of the said Report to amend the relevant Recruitment Rules, accordingly.

III. The Department of Social Welfare have since amended the National Institute of Social Defence Department of Social Welfare Head of Division (Training) Recruitment Rules, 1977 (Vide Corrigendum No. 14/4/76-SD, Dated 28 December, 1977.

[Department of Social Welfare O.M. No. F. 14/4/76-Sd, dated 15 June, 1979]

IV. The Ministry have since amended the Department of Company Affairs (Joint Director) Recruitment Rule, 1975 *vide* Notification No. A-12011/3/74-Admn. I dated 16-10-1974.

[Ministry of Law, Justice, and Company Affairs (Department of Company Affairs) O.M. No. A-12011/3/74Admn. I dated 7-6-1979].

V. The Ministry have since amended the Indian Grain Storage Institute (Suprintendent) Recruitment Rules, 1937 vide Notification No. A—12015/3/76-E-VI dated 14-6-1978.

[Ministry of Agriculture & Irrigation (Department of Food) O.M. No.H—11018/1/79—E—VI dated 20 June, 1979]

VI. The Ministry have since amended the Defence Services Staff College, Wellington (Group 'A' Post) Senior Civilian Staff Officer (Coordination) Recruitment Rules 1977 *Vide* S.R.O. 336 dated 1-12-79.

[Ministry of Defence O.M. No. 91007/GS/MT—7/506—PR/D(Appts) dated 7 May, 1980]

13 Twenty-first Report.
(Sixth Lok Sabha)

71

17-5-1979

The Committee note with satisfaction that on being I. pointed out, the Ministries/Departments concerned have either amended or have agreed to amend the entry under Column 13 of the respective recruitment rules indicating the circumstances under which U.P.S.C. will be consulted. The Committee desire the Ministries/Departments who have not issued the amendment so far to do so expeditiously. The Committee also desire the Depart-

The Ministry have since amended the Indian Bureau of Mines (class I & II Posts) Recruitment (Second Amendment) Rules, 1976, vide G.S.R. 649-dated 5-5-1979. [Ministry of Steel and Mines (Department of Mines O. M.No. A. 12018/5/79-MVI dated 5/8 May, 1980].

ment of Personnel and Administrative Reforms to issue necessary instructions to all Ministries/Departments in this connection so that this infirmity of the rules may not continue any more.

II. The Ministry have since amended the National Sugar Institute, Kanpur (Group A and Group B posts) Recruitment Rules, 1964 to the desired effect *vide* G.S.R. 1473 dated 8-12-1979. [Ministry of Agricultural (Department of Food) O.M. No. A. 12018/778-Sugar Desk-I, dated 13-5-1980].

III. The Department of Light Houses and Light Ships (Recruitment to Group 'A' and Group 'B' Gazetted Technical Posts) Rules, 1977 have since been amended *vide* G.S.R. 456 dated 17 March, 1979.

[M/O Shipping and Transport (Shipping Wing) O.M. No. SW/LL-E-42-80 dated 23 August, 1980].

IV. As desired by the Committee, the Department of Personnel have since issued necessary instructions in this regard to the Ministries/Departments of the Government of India. About the amendment of the Recruitment Rules concerning them, the Department have stated that since the post of junior Analyst to which the Sche-

dule to the Union Public Service Commission (Ex-Cadre Posts) Recruitment (Amendment) Rules, relates has been abolished w.e.f. 12-9-1977, the question of amending column 13 of the Schedule does not arise. The Department have further stated that in regard to amendment of column 13 in the case of other posts in the office of the UPSC, a review is being undertaken.

[M/o Home Affairs (Department of Personnel O.M. No. 39017/4/80-Estt(B), dated 24 May, 1980].

V. The Ministry have since amended the National Test House, Calcutta, Director Recruitment Rules, 1977 *vide* GSR 328 of 1978, to the desired effect.

[M/o Supply and Rehabilitation (Department of Supply) O.M. No. A-12018/9/77 ESI, dated 15 May, 1980].

VI. The Ministry have since amended (i) the Office of the Controller General of Patents, designs and Trade Marks [Class I and II (Gazetted) Posts] Recruitment (Second Amendment)

Rules, 1976 (GSR. 130 of 1976) *vide* their Notification No. A. 12018/1/74-EI, dated 6 March, 1979, and (ii) The Bureau of Industrial Costs and Prices (Group 'A' and Group 'B') Recruitment Rules, 1977 (G.S.R. 416 of 1977).

[M/o Industry (Department of Industrial Development) O.M.No. A-12018/1/74-E.I. dated 21 June, 1979 and D.O. No. H-11011/1/83-E. IV dated 11 February, 1983 respectively].

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VII. The following Rules have since been amended by the Ministry of Defence:

- (i) Ministry of Defence (Officer on Special Duty) Recruitment Rules, 1977 *vide* S.R.O. 240 dated 6 May, 1978;
- (ii) The Civilian Gazetted Officer (Equipment) Recruitment (Amendment) Rules *vide* S.R.O. 358 of 1979.

- (iii) The Civil Staff Officer (Equipment) Recruitment Rules, 1977 *vide* S.R.O. 359 of 1979.
- (iv) The Corps of Signals (Group 'A' and Group 'B' of Instructors) Recruitment Rules, 1977 *vide* S.R.O. 105 dated 30 March, 1981.

NOTE: Action taken Notes from the following Ministries/Departments on the recommendation of the Committee are awaited:

- (i) Ministry of Labour.
- (ii) Ministry of Agriculture (Deptt. of Agriculture.)
- (iii) Ministry of Tourism and Civil Aviation.
- (iv) Ministry of Home Affairs.
- (v) Ministry of Commerce.

14 First Report

(Seventh Lok Sabha)

44

15-7-1980

The Committee note that the Ministry of External Affairs have agreed to publish the Explanatory Memorandum as a corrigendum explaining the reasons for giving retrospective effect to the Indian Foreign Service (Recruitment, Cadre, Seniority and Promotion) Amendment Rules, 1973, framed under Article 309 of the Constitution. The Committee desire the Ministry to notify the necessary

The Ministry have stated that after consulting the Ministry of Law they have issued Explanatory Memorandum as an Addendum to Notification No. G.S.R. 211 of 1973, *vide* Notification No. 6/GA/82 dated 25 June, 1982 and sent for publication in the Gazette of India on 2-8-82.

corrigendum in the Gazette at an early date. The Committee also desire the Ministry to be careful in such matters in future.

(Ministry of External Affairs O.M. No. 9/GA/560/4/81 dated 11 November, 1982).

15 Fourth Report
(Seventh Lok Sabha)

43
10-12-1980

The Committee note with satisfaction that the Ministry of Health and Family Welfare (Department of Health) has agreed to lay down suitable guidelines in matters of minimum requirements of equipment, staff, capacity for manufacture and other facilities necessary for grant of a loan licence to a manufacturing unit and have proposed to place the matter before the Ayurvedic and Unani Drugs Technical Advisory Board at its next meeting for the purpose. The Committee desire the Ministry to process the matter expeditiously and to lay down suitable guidelines in the matter at their earliest.

The Ministry of Health and Family Welfare (Department of Health) vide their O.M. No. 11011/1/80-APC (Vol. 1) dated 19 October, 1982 have stated that the Drugs Technical Advisory Board examined the draft guidelines submitted by the Guidelines Sub-Committee constituted by the Board for this task and approved them with a few modifications which have been accepted by the Government. The Ministry have forwarded a copy thereof for placing before the Committee which reads as under:—

1. "... Present provisions of loan licence given under Rule 154-A are required to be fulfilled by the firm and the firm whose facilities are utilised should possess licence in Form 25—D.
2. Spare capacity of a firm offering its premises for loan licence would be taken into consideration to see that adequate plant, technical personnel premises, testing and storage facilities are provided by

the firm for manufacturing of Ayurvedic, Unani and Siddha products on loan arrangement.

3. The loan licensed firm should be allowed to manufacture only these drugs on loan licences, for which parent firm have acquired expertise.
4. Loan Licence for repacking of drugs is not to be granted.
5. Loan Licence should have a business premises in the State where Loan Licence is to be obtained as their principal place of business.
6. The manufacturer whose facilities are utilised should maintain manufacturing and testing records pertaining to products manufactured on behalf of loan licenses. In addition, they should also maintain purchase and testing records in respect of raw materials. The Loan Licence should maintain records pertaining to purchase of raw materials and sales records for the drugs and responsibility for the quality of the drugs manufactured under loan licences rest both on the loan licensee as well as the firm whose facilities are utilised.

7. Tests involving sophisticated instruments may be got done at any approved laboratory for testing Ayurvedic, Unani and Siddha Drugs."

16. Sixth Report
(Seventh Lok Sabha)
17-18
21-4-1981

17. The Committee are happy to note that there was virtually no time-lag between the framing of the Seaward Artillery Practice Rules, 1978 and the coming into force of the provisions of the enabling Act of 1973. The Seaward Artillery Practice (Amendment) Act, 1973, as well as the Seaward Artillery Practice Rules, 1978 came into force on the same day i.e. 21 January, 1978. The Committee, however, desire the Ministry of Defence to examine the feasibility of inserting a foot-note to the Rules by way of clarification that the 1973 Act came into force from 31 January, 1978, for the convenience of the general public.

It has been stated that the Ministry agree to insert a note to the Rules by way of clarification that the 1973 Act came into force from 21 January, 1978 and an Annexure to the Rules listing out the previous Rules superseded by the Seaward Artillery Practice Rules, 1978 and that S.R.O. No. 88 in this regard has been published in the Gazette.

[Ministry of Defence O.M. No. F.15(9)/80/D(N-III) dated 10 August, 1982]

18. The Committee note with satisfaction that the Ministry have no objection to mentioning in the Preamble the previous rules which have been Superseded by the Seaward Artillery Practice Rules, 1978. If the number of superseded rules is large enough to render the Preamble clumsy and long-winded, the Committee do not see any objection to listing out such rules in the form of an Annexure.

Note : As regards paragraph 19, Ministry's reply is included in the interim reply cases.

17. Sixth Report
(Seventh Lok Sabha)

44. The Committee note from the reply of the Ministry of Shipping and Transport (Transport Wing) that

The Ministry have noted the observations of the Committee made in paras 44-46

the post of the Caretaker in the Ministry was redesignated as 'Maintenance and Meeting Officer' with effect from 17 December, 1977 under an administrative order. However, the amendment to the Recruitment of Caretaker (Ministry of Transport and Shipping) Recruitment Rules, 1968, to give effect to the change in nomenclature of the post, could be notified in the official Gazette on the 29 April, 1978, that is, after a lapse of over four months. The Committee are unable to accept the plea of the Ministry that the administrative order in question was of no consequence or effect in as much as the incumbent in office had continued to be the same. The Committee cannot but emphasise that executive orders are no substitute to statutory rules and that no statutory rules can be amended by executive orders. The Committee in this connection note the assurance given by the Ministry that such a slip will not be allowed to occur in future.

45. The Committee observe that the Recruitment of Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules, 1978 consist of a single Rule assigning a short title and indicating the date of its coming into force. Excepting for a mention in the Preamble that the rules being framed are intended to amend the Recruitment of Caretaker (Ministry of Transport and Shipping) Recruitment Rules, 1968, the rules, as they stand, convey very little meaning. The Committee cannot ignore the careless and thoughtless manner in which the present piece of subordinate

and with regard to para 45 the Ministry have clarified that the rules in question were vetted by the Ministry of Law and also seen by the Department of Personnel and administrative Reforms.

With regard to para 47, the Ministry have stated that the Recruitment Rules for the post of in question have since been amended and notified in the Gazette *vide* Notification No. EST/ENS(43)/80 dated 29 October, 1982. These Rules are now known as the Maintenance and Meeting Officer (Ministry of Shipping and Transport) Recruitment Rules.

[Ministry of Shipping and Transport
(Transport Wing O.M. No. EST/ECS
(25)/77 dated 17-12-1982.)]

legislation has been drafted by the Ministry. It appears that the Rules were not vetted by the Ministry of Law. At least that Ministry could have put the Rule in the proper form.

46. The Committee cannot ignore the fact that without amending the original Rules, the Ministry have started paying Rs. 50/- per month to the incumbent, for which there is no provision in the Rules. In this matter, the Ministry have transgressed the powers delegated to them. This payment of special pay has no legal sanction. The Committee do not desire to put the employee concerned to financial loss because of an illegal act of the Ministry.

47. The Committee recommended that the original Rules should be amended immediately to provide for the payment of special pay to the employee concerned. The Committee do expect the Ministry to be more careful in future and not to effect any change in the Statutory Rules etc. through administrative or executive orders.

18. Seventh Report
(Seventh Lok Sabha)
25 and 29
8-9-1981

25. The Committee note that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have agreed to amend sub-regulation (b) of regulation 5 of the Tuticorin Port (Authorisation of Pilots) Regulations, 1979 so as to lay down the limit of age relaxation for appointment of the

The Ministry have accepted the recommendation of the Committee and have since issued the necessary notification to the Press on 22-12-1982 for publication in the Gazette.

(M.O. Shipping and Transport O.M. No. P.Q./P.G.L-2/80, dated 11 January, 1983.

Probation Pilots in respect of Ex-servicemen and Scheduled Castes/Scheduled Tribe candidates. The Committee concur in with the amendments proposed by the Ministry in this regard excepting clause (iii) thereof which the Committee fee is again in the nature of vaguely defined provisions of law. The Committee, therefore, desire the Ministry to issue the proposed amendment at an early date omitting clause (iii) thereof.

29. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have decided to delete regulation 6(2) of the Tuticorin Port (Authorisation of Pilots) Regulations, 1979. The Committee desire the Ministry to notify the amendment in this regard at an early date.

19. Seventh Report
(Seventh Lok Sabha)

37

8-9-1981

The Ministry have since noted the recommendation of the Committee for future compliance.

[M/o Commerce O.M. No. 6(22)/74-
EI&EP dated 17 November, 1982.]

The Committee note with satisfaction that, on being pointed out, the Ministry of Commerce have amended the relevant rules, namely, Rule 3 of the Export of Roasted and Salted Cashew Kernels (Inspection) Rules, 1978 and Rule 3 of the Export of Rosin (Inspection) Rules, 1978, *vide* S.O. dated 6 January, 1979 and S.O. 2210 dated 30 June, 1979 respectively indicating therein the S.O. numbers and the dates of their publication in the Gazette under which the specifications recognised by Government were published. The Committee, however, desire the Ministry to take care in future to ensure that whenever similar Rules are notified, they invariably indicate the relevant S.O. number

and the date of its publication, containing the specifications recognised by Government in that behalf, without waiting for the Committee to point it out.

In order to avoid recurrence of such situations in future the Committee recommend that whenever any reference is made by the Committee to the Ministries/Department, they should give it prompt attention and consider the matter in all aspects including obtaining the opinion of the Department of Legal Affairs, if considered necessary, before forwarding their comments for consideration of the Committee.

The Department of Parliamentary Affairs have since circulated the recommendation of the Committee *vide* their O.M. No. F.32(11)/81-R & C dated 15 October, 1981 to all Ministries /Departments of the Government of India requesting them to ensure that all references received from the Committee were promptly dealt with and where necessary they should seek extension of time from the Committee after explaining the difficulties in the implementing the recommendation within the prescribed time limit.

[D.P.A. U.O. No. F. 32(11)/81-R&C dated 30-10-1982a.]

The Ministry have since amended the Regulations *vide* G.S.R. 388 dated 11-4-1981.

20. Seventh Report
(Seventh Lok Sabha)
75
8-9-1981

21. Eighth Report
(Seventh Lok Sabha)
17-18
18-9-1981
17. The Committee note with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have agreed to insert the following proviso to sub-regulation (5) of Regulation 7 of the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976:-

“Provided that no such further inquiry shall be ordered 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.”

18. The Committee desire the Ministry to issue the necessary amendment at an early date.

22. Eighth Report
(Seventh Lok Sabha)
25
18-9-1981

The Committee note that on being pointed out, the Ministry of Defence have amended sub-rule 5(a) of Rules 24 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977. The Committee, however, deplore the inordinate delay of almost three years in rectifying an obvious error by the Ministry. The Committee have time and again stressed that the Ministry/Department concerned are not absolved of their responsibility after sending the rules, etc. for publication in the Gazette to the Press. It is also their duty to see that the rules, etc., are correctly published in the Gazette rather than waiting for the Committee to point out mistakes therein.

While explaining reasons for the delay in issuing the amendment, the Ministry have regretted the delay. The Ministry have further stated that steps are being taken to check the printed copies of Recruitment Rules immediately after the publication in the Gazette with a view to correcting errors therein, if any.

[M/O Defence O.M. No. CP (G)/1421/78/
6782/D (Appb) dated 12 November, 1981]

23. Eighth Report
(Seventh Lok Sabha)
29-30
18-9-1981

The Committee find that consolidated instructions regarding framing of Recruitment Rules for Posts/Services or amendments thereto have since been issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) *via* their Office Memorandum No. 14017/24-76—Estt. (RR) dated 22 May, 1979 to all Ministries/Departments of the Government of

The Rules have since been amended *vide*
S.R.O. 26 dated 22 January, 1983.

India for facilitating the drafting of recruitment rules and preparing the schedules thereto. Paragraph 3.15 of these instructions refers to the circumstances in which Union Public Service Commission is to be consulted in making recruitment, etc. The specimen entires with regard to the circumstances in which Union Public Service Commission is to be consulted in making appointments to Group 'A' and Group 'B' posts have been shown as under:—

Group 'A' posts :—

Selection shall be made in consultation with the UPSC on each occasion. Consultation with the Commission also necessary while amending/relaxing any of the provisions of these rules.

Group 'B' posts:—

Consultation with the UPSC necessary while making direct recruitment and amending/relaxing any of the provisions of these rules.

30. The Committee feel that in view of the consolidated instructions issued by the Department of Personnel and Administrative Reforms, the Ministry of Defence should have no difficulty in amending Column 13 of the Schedule appended to the

Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 on the Lines suggested in the above mentioned instructions.

24

Eighth Report
(Seventh Lok Sabha)

38

18-9-1981

The Committee note from the reply of the Ministry of Agriculture (Department of Agriculture) that S.R. 317-J-20 corresponds to S.R. 317-B-21 of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, which has also not been amended by the Ministry of Works and Housing on the lines of the amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977) through G.S.R. 157 dated 9 February, 1980, by inserting the following sub-rule (1A) in S.R. 317-A.N.—20:—

“(1A) An officer against whom action is taken by the Allotting Authority under sub-rule (1) shall have a right of appeal against the orders of the Allotting Authority cancelling the allotment of residence, to the Head of the Department, within a period of two months from the date of issue of orders by the Allotting Authority and the Head of the Department may, after hearing the appellant and calling such further information from the Allotting Authority as he may consider necessary, pass such order on the appeal as he may think proper.”

The Ministry of Works & Housing have since published the requisite amending notification *vide* S.O. 1607 dated 24-4-1982.

[Directorate of Estates O.M. No. 17013(11)/81-Pol. II dated 24-11-1982]

The Committee desire the Ministries of Works and Housing and Agriculture to amend the corresponding Rules on the lines of the amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976.

25 Eighth Report
(Seventh Lok Sabha)
58
18-9-1981

In view of the position stated by the Ministry of Finance (Department Economic Affairs) in their reply, the Committee agree with their proposal for recording of reasons in writing in the internal proceedings before issue of the notice terminating the term of office prematurely to the officer concerned. The Committee desire the Ministry to issue the necessary instructions in this regard at an early date.

The Ministry have stated that in terms of sub-clause (1A) of clause 8 of the 'Nationalisation Scheme' 1970 and clause 8(2) of the 'Nationalisation Scheme' 1980, the Central Government has the right to terminate the term of office of Managing Director/Executive Director at any time before the expiry of the specified term by giving to him a notice of not less than three months or three months' salary and allowances in lieu of the notice. Before resorting to the above course of action, Government will record in writing the reasons for such termination. In view of this, no separate instructions are required to be issued by the Government. Government have, therefore, noted the recommendations of the Committee contained in paragraph 58 of the Report and would keep them in view as and

when an occasion arises for issue of a notice to the Managing Director/Executive Director of a nationalised bank for termination of his term of office prematurely.

[Ministry of Finance (Department of Economic Affairs), O.M. No. F. 16/30/81/BO. I, dated 16-11-1982].

MINUTES

APPENDIX V

(Vide Paragraph 4 of the Report)

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

(1978-79)

The Committee met on Wednesday, 4 October, 1978 from 10.30 hours to 11.00 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman.*

MEMBERS

2. Shri Durga Chand
3. Shri Ram Sewak Hazari
4. Shri B. K. Nair
5. Shri T. S. Negi
6. Kumari Maniben Vallabhbhai Patel
7. Shri G. S. Reddi
8. Shri Saeed Murtaza
9. Shri Madan Lal Shukla
10. Shri Sachindralal Singha
11. Shri Ramji Lal Suman
12. Shri Krishnarao Thakur
13. Shri C. N. Visvanathan

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered Memorandum Nos. 164 to 174 on the following subjects:—

- * * * * *
- (iii) The Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257 of 1975) (Memorandum No. 166)
- * * *

9. The Committee also desired that information might be obtained from the Ministry whether an employee whose services are

***Omitted Portions of the minutes are not covered by this Report.

terminated on account of inefficiency or misconduct under Regulation 4(2) *ibid* would be entitled to any gratuity and if so, of what account? On receipt of this information, the matter as regard this aspect may be placed before the Committee for their consideration.

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The Committee then adjourned.

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

MINUTES OF THE FORTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION. (SEVENTH LOK SABHA) (1981-82)

The Committee met on Tuesday, 25 May, 1982 from 11.00 to 11.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

PRESENT

2. Shri M. Ankineedu
3. Shri Xaxier Arakal
3. Shri Ashfaq Husain
5. Shri K. Lakkappa
6. Shri M. Ramanna Rai
7. Shri Ajit Pratap Singh
8. Shri Chandra Shekhar Singh

SECRETARIAT

Shri T. E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 107 and 108 on the following subjects:—

- (i) The National Museum of Man (Senior Photographer and Senior Artist) Recruitment Rules, 1978 (G.S.R. 1230 of 1978)—(Memo, No. 107)

3. The Committee noted from the Memorandum that the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) had issued a set of consolidated Instructions *vide* their O.M. No. 14017/24/76-Estt. (RR) dated 22 May, 1979 for facilitating the drafting of Recruitment Rules, Paragraph 3.16 thereof contained the model relaxation rule which clearly indicated that the power to relax should be confined to 'any class or category of persons' and did not extend to 'posts'.

4. The Committee noted in this connection that in their Fifth and Ninth Reports (Fifth Lok Sabha); Ninth and Sixteenth Reports

(Sixth Lok Sabha); and Second and Fifth Reports (Seventh Lok Sabha), the Committee had consistently recommended in similar cases the omission of the words 'or posts'. By and large the Ministries had agreed and had issued the necessary amendments by omitting words 'or posts', from the Rules.

5. In order to have uniformity in the Recruitment Rules, the Committee desired that the Department of Personnel and Administrative Reforms might issue fresh instructions to all the Ministries/Departments to follow the model Relaxation Rule as contained in the consolidated Instructions of 22 May, 1979, referred to the para (3) above in letter and spirit.

* * *

The Committee then adjourned to meet again on 26 May, 1982 at 11.00 hours.

MINUTES OF THE FORTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1982-83)

The Committee met on Monday, 30 August, 1982 from 11.30 to 12.45 hours.

PRESENT

Shri Mool Chand Daga—Chairman

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Dalbir Singh (Madhya Pradesh)
5. Shri B. Devarajan
6. Shri Chandrabhan Athare Patil
7. Shri T. Damodar Reddy
8. Shri Satish Prasad Singh
9. Shri R. S. Sparrow

SECRETARIAT

Shri T. E. Jagannathan—Senior Legislative Committee Officer.

2. The Committee considered Memoranda Nos. 128—129 and 132—136 as follows:—

* * *

(iii) The Auroville International Advisory Council Rules, 1981 (G.S.R. 675 of 1981)—(Memorandum No. 128).

(A) & (B)

6. The Committee discussed in detail the reply of the Ministry of Education and Culture and decided to hear oral evidence of the representatives of the Ministry of Education and Culture to seek further clarification.

(C)

The Committee noted with satisfaction that the Ministry of Education and Culture, who were asked to specify the place of

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

meeting in Rule 5 of the Auroville International Council Rules, 1981, had agreed to amend the Rule to achieve the desired effect.

(iv) *The Central Excise (Twenty-first Amendment) Rules, 1981 (G.S.R. 991 of 1981)*—(Memorandum No. 129).

7. The Committee noted from the reply of the Ministry of Finance (Department of Revenue) that instructions had already been issued to the Collectors laying down the guidelines for invoking the powers under Rule 173-P(3) and 196-B of the Central Excise Rules, 1944. On the analogy of the Committee's earlier observations in that regard as contained in paragraph 32 of their First Report (Sixth Lok Sabha) implemented by Government, the Committee opined that the Ministry should have no difficulty or objection whatsoever in placing the administrative instructions, already issued, on a statutory footing.

(v) *The Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 (S.O. 402-E of 1978)*—(Memorandum No. 132).

8. The Committee considered the above Memorandum and noted that Regulation 3 (6) of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 provided that assessment of valuation made under Regulation 3(5) shall not be called in question by the aggrieved person. In their reply, the Ministry of Home Affairs had, however, clarified that it did not prohibit the person aggrieved by the assessment to move High Court for relief. The Committee observed that Regulation 3(6) did not distinguish between the lower level courts and High Courts and it was apt to give rise to the impression that the matter was being taken out of the jurisdiction of the courts of law. The Committee had time and again emphasised that the language used in the rules, etc. should be simple and easily intelligible for the common average men. The Committee felt that it did not seem to be in keeping with the structure of the Constitution to curtail or limit the powers of Courts by rules made by a subordinate authority. The provision pertaining to the jurisdiction of the Courts was a substantive provision and should more appropriately be provided in the Act itself.

(vi). (a) *The Indian Forest Service (Appointment by Competitive Examination) Amendment Regulations, 1978 (G.S.R. 452 of 1978)*;

(b) *The Indian Administrative Service (Appointment by Competitive Examination) Amendment Regulations, 1978 (G.S.R. 453 of 1978)*; and

(c) *The Indian Police Service (Appointment by Competitive Examination) Amendment Regulations, 1978 (G.S.R. 44 of 1978)*—(Memorandum No. 133).

9. The Committee considered the above Memorandum and observed that the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) had taken too legalistic a view in their reply and had tried to assign meanings to the various phrases and words by resorting to the principle of *ejusdem generis*. The Committee felt that the terms were too wide and general and were apt to be interpreted differently by different persons. The Committee emphasised that the rules were framed for the general public who might not be well conversant with the legal and technical interpretation assigned to those vague phrases by the Ministry. With a view to obviate any possibility of discrimination in that behalf, the Committee considered it necessary that the provisions were suitably reworded to make them intelligible and precise for the common man. The Committee, in that connection, also referred to their similar observations made in paragraph 50 of their Seventh Report (Sixth Lok Sabha).

(vii) *The Department of Explosives (Group 'C' posts) Recruitment Rules, 1978 (G.S.R. 1287 of 1978)*—(Memorandum No. 134).

10. The Committee noted with satisfaction that on being pointed out, the Ministry of Industry (Department of Industrial Development) had since amended the Department of Explosives (Group 'C' posts) Recruitment Rules, 1978 as suggested.

(viii) *The Khadi and Village Industries Commission Employees (Gratuity) Regulations, 1975 (G.S.R. 2257 of 1975)*—(Memorandum No. 135).

11. The Committee considered the above Memorandum and noted that no gratuity was admissible to an employee of the Commission whose services were terminated on account of inefficiency or misconduct for any period whatsoever. The Committee found that the provisions for payment of gratuity in the Commission were not at par with those of the Payment of Gratuity Act, 1972. In that connection, the Committee noted that the Khadi and Village Industries Commission had already proposed to the Government to issue a fresh notification superseding the existing Regulations so as to apply the provisions of the Payment of Gratuity Act, 1972 to all employees of the Commission. The Committee desired that the

matter be processed expeditiously and it might be ensured that the employees of the Commission were not subjected to undue harassment on that score.

(ix) *The Kandla Free Zone Administration, Gandhidham, Administrative Officer, Recruitment Rules, 1978 (G.S.R. 262 of 1980)*—(Memorandum No. 136).

12. The Committee were unhappy to note that the Kandla Free Zone Administration, Gandhidham, Administrative Officer, Recruitment Rules, 1978 were notified in the Gazette of India thrice on 29 April, 1978, 16 September, 1978 and 8 March, 1980. If the Explanatory Note was left out at the time of first publication of the Rules on 29 April, 1978 the other course for the Ministry of Commerce was to come out with a corrigendum to the necessary effect. Instead, the Ministry moved the Government of India Press to re-publish the rules with the Explanatory Memorandum. Unfortunately, the Explanatory Memorandum was again omitted when the rules were re-published on 16 September, 1978. As a consequence, the rules had again to be published on 8 March, 1980 with the Explanatory Memorandum. Thus, one set of rules had been published under three different G.S.R. numbers which gave rise to confusion and doubt. The Committee decided to express their displeasure with both the Government of India Press and the Ministry of Commerce for the lapse on their part and the exhort them to ensure that rules etc. should be published correctly in the official Gazette.

The Committee then adjourned to meet again on 13 September, 1982.

MINUTES OF THE FIFTIETH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)
(1982-83)

The Committee met on Monday, 13 September, 1982 from 15.00 to 17.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri B. Devarajan
7. Shri C. D. Patel
8. Shri Chandrabhan Athare Patil
9. Shri M. Ramanna Rai
10. Shri T. Damodar Reddy
11. Shri Satish Prasad Singh
12. Shri R. S. Sparrow.

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SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
2. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

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10. The Committee then considered Memoranda Nos. 137 to 140 on the following subjects:—

- (i) *The Port of New Mangalore (Petroleum) Rules, 1979 (G.S.R. 317 of 1979)—(Memorandum No. 137).*

(A)

11. The Committee noted with satisfaction that on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing)

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

had proposed to amend rule 4(2) of the above Rules by specifying therein the conditions which were required to be complied with by the oil tanker to have a berth at the wharves other than the oil jetty. The Committee approved the proposed amendment and desired the Ministry to notify it at an early date.

(B)

12. The Committee noted with satisfaction that on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) had proposed to amend rule 4(5) of the above Rules by making therein a provision for appeal against the orders of the Deputy Conservator regarding allotment of oil jetty to any oil tanker. The Committee approved the proposed Amendment and desired the Ministry to notify it at an early date.

(C)

13. The Committee noted with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Ports Wing) had proposed to amend rule 5(6) of the above Rules by substituting the words 'a certified navigating officer' for 'a responsible officer'. The Committee approved the proposed amendment and desired the Ministry to notify it at an early date.

14. In view of position explained by the Ministry that 'it was not considered desirable to lay down any qualifications for the employees of the owners of the Petroleum, the Committee decided not to pursue the amendment of rule 5(7) of the above Rules.

(D)

15. The Committee noted with satisfaction that on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) had proposed to amend rule 5(8) (i) of the above Rules by making them self-explicit by providing therein the measures to be taken care of while landing or loading of petroleum. The Committee approved the proposed amendment and desired the Ministry to notify it at an early date.

(E)

16. The Committee noted from the reply furnished by the Ministry of Shipping and Transport (Ports Wing) that the power to exempt any party or oil tanker under rule 8 could be exercised by the Port Trust Board which was also the Conservator of the Port, and not by an individual. Therefore, there could not be any ap-

prehension about the misuse of that power by the Port Trust Board. The Committee decided not to pursue that matter any further.

(ii) The Civil Service (Second Amendment) Regulations, 1975 (S.O. 1683 of 1976)—(Memorandum No. 138).

(A)

17. The Committee noted with satisfaction that on being pointed out by them, the Ministry of Finance (Department of Expenditure) (Defence Division) had amended clause (3) (d), (4) (b) (i) and (5) (e) of Article 193 of the Civil Services Regulations by providing therein a period of 60 days within which the Government servant may submit his representation.

(B)

18. The Committee noted with satisfaction that on being pointed out by them, the Ministry of Finance (Department of Expenditure) (Defence Division) had omitted provisos to clauses (3) (d) and (4) (b) (i) of Article 193 of the Civil Service Regulations which restricted the payment to Government servants for a period of 3 years.

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The Committee then adjourned.

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

MINUTES OF THE FIFTY-SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1982-83)

The Committee met on Friday, 24 September, 1982 from 15.00 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Ashfaq Hussain
5. Shri Chandrabhan Athare Patil
6. Shri T. Damodar Reddy

REPRESENTATIVES OF THE MINISTRY OF EDUCATION AND CULTURE (DEPARTMENT OF EDUCATION)

1. Shri Kireet Joshi, *Educational Adviser.*
2. Shri Baldev Mahajan, *Deputy Secretary.*
3. Miss P. S. Sakuntala, *Deputy Secretary.*
4. Dr. R. M. Kalra, *Deputy Educational Adviser.*

SECRETARIAT

Shri S. D. Kaura—*Chief Legislative Committee Officer.*

2. The Committee heard the views of the representatives of the Ministry of Education and Culture (Department of Education) regarding the Auroville International Advisory Council Rules, 1981 (G.S.R. 675 of 1981).

3. On being asked as to what were the qualifications laid down for the membership of the Auroville International Advisory Council to be constituted under Section 6 of the Auroville (Emergency Provisions) Act, 1960, the representative stated that Sub-section (4) of Section 6 laid down that only those persons who in the opinion of the Government, were devoted to the ideals of humanity, peace and progress, could be members of the Council.

4. On being enquired if the rules were framed in exercise of the powers conferred under Section 17, the representative replied in the affirmative. With regard to the interpretation of the words 'such' and 'if any' in sub-section (6) of section 6 of the Act, the representative of the Ministry stated that payments were to be made in connection with travel and daily allowances of the members of the Council. The terms of the allowances and other remuneration would be such as might be prescribed under the rules. In this connection, he cited rule 4 of the Rules which laid down for payment of travelling and daily allowances at the rates admissible to a member of the Council of Ministers in respect of tours undertaken by him in the discharge of his official duties under the Salaries and Allowances of Ministers Act, 1952. He conceded that the rules were not self-contained. When asked to interpret the words 'whether by sea, land or air or under the Salaries and Allowances of Ministers Act, 1952', the representative confessed that he could not say as to what exactly was the legal implication of the word 'or'. He further agreed that there was a mistake which shall be rectified in consultation with the Ministry of Law.

5. When asked about the entitlement of members of the Council of Ministers for the daily allowance in respect of tours undertaken by them, the representative pleaded his ignorance in the matter. When told that the Ministers were not entitled to any daily allowance on tour and how some rules on that analogy could work, the representative agreed that there was a mistake and it had been rightly pointed out by the Committee.

6. When questioned as to what was the time limit for accepting a resignation tendered by a member of the Council, the representative stated that they had not fixed the time-limit for the purpose. He further stated that it was something similar to what obtained in the Constitution of India with regard to Members of Parliament and Members of Legislature.

7. With regard to the members of the Council, the representative stated that the following were the members for the time being:—

- (1) Shri P. V. Narasimha Rao, Minister of External Affairs
- (2) Shri J. R. D. Tata
- (3) The Director General of UNESCO
- (4) He also stated that there was a fourth Member, Madam Ludmila Zhivkova, Minister of Culture, in the Government of Bulgaria, who had since passed away.

The representative further informed that nobody had been so far nominated against the vacancy which occurred 8 to 9 months back on the

demise of Madam Zhivkova. So there were only 3 members and the membership of the Council could not exceed 5. Only one meeting was held and three members attended the meeting.

8. When emphasised that there must be a time limit within which a resignation must be accepted, the representative accepted the suggestion and stated that in consultation with the Ministry of Law, a period would be laid down for accepting the resignation. As regards, the tenure of the Advisory Council, the representative stated that it was two years.

9. With regard to quorum at the meeting, the representative stated that it had not been laid down in the rules. When asked that even if one member was present, would it constitute a quorum, the representative replied that at such a meeting, fifty per cent present would constitute a quorum.

10. When asked as to what amount had been paid in terms of T.A. and D.A. to members of the Council, the representative replied that no body had claimed so far.

11. The representative summed up that he had taken note of two points. One was that the rules should be self-contained and the other was that reasonable time-limit for accepting the resignation be laid down in the rules. The representative noted the suggestion made by the Committee that a time-limit of six months would be reasonable. He assured that the recommendations of the Committee would be implemented within a period of six months.

(The witnesses then withdrew)

The Committee then adjourned.

