

**COMMITTEE ON SUBORDINATE
LEGISLATION**

(SEVENTH LOK SABHA)

ELEVENTH REPORT

(Presented on 19 March, 1982)



**LOK SABHA SECRETARIAT
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TION (SEVENTH LOK SABHA) (PRESENTED ON
19 MARCH, 1982)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1981-82)

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2. Shri M. G. Agarwal—*Senior Legislative Committee Officer.*

*Nominated w.e.f. 22-2-1982.

REPORT

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 Eleventh Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 5 and 6 January, 8 and 9 July, 5 October, 14 December, 1981 and 2, 4, 5 and 23 January, 1982.

3. At their sittings held on 5 October, 1981 and 2, 4 and 5 January, 1982, the Committee took evidence of the representatives of (i) the Ministry of Labour regarding the Employees' State Insurance Corporation (Family Welfare Project) Accounts Rules, 1978, (ii) the Ministry of Home Affairs regarding the Arunachal Pradesh Civil Service (Class I) Rules, 1974, (iii) the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) and the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) regarding the All India Services (Leave Travel Concession) Rules, 1975 and (iv) the Ministry of Health and Family Welfare (Department of Health) regarding the Indian Medicine Central Council Act, 1970 and the Homoeopathy Central Council Act, 1973. The Committee wish to express their thanks to the officers of the Ministries 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 16 March, 1982. The Minutes of the sittings which form part of the Report are appended to it.

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

II

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 62 OF THE SIXTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) RE. THE ALL INDIA SERVICES (LEAVE TRAVEL CONCESSION) RULES, 1975 (G.S.R. 225 OF 1975)

6. Rule 3 of the All India Services (Leave Travel Concession) Rules, 1975 states as under:—

“Regulation of Leave Travel Concession:—The leave travel concession of a member of the service shall be regulated in the

same manner, and subject to the same conditions, as are applicable to the officers of Central Civil Services, Class I."

7. Attention of the Cabinet Secretariat (Department of Personnel and Administrative Reforms) was drawn to the recommendation made by the Committee on Subordinate Legislation in paragraphs 12-13 of their First Report (Fourth Lok Sabha) that Rules should be self-contained and legislation by reference should be avoided as far as possible. They were requested to state whether they had any objection to making the above Rules self-contained.

8. In their reply, the Cabinet Secretariat (Department of Personnel and Administrative Reforms) stated as under:—

".....the matter has been examined carefully in consultation with the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs). 'Legislation by reference' can be assailed mainly on the grounds: (i) it has resulted in excessive legislation by the Subordinate Legislation Authority and (ii) it causes inconvenience to the consumers i.e. people who are frequently required to refer to the legislation. Since in both the cases, it is the Central Government which issues the orders, there is no question of delegation of the authority. Rule 3 of the All India Services (Leave Travel Concession) Rules, is a very small rule and makes reference to only one set of orders, copies of which have been/will be supplied to the State Governments and the Accountants General, who are frequently required to refer to these orders. Further it would not be feasible to make self-contained rules by incorporating the various instructions issued from time to time in respect of officers of Central Civil Services Class I. Even if such a set of rules were to be framed, then as and when the executive instructions are modified, the statutory rules would require to be amended. There would invariably be a time-lag between the date of issue of executive instructions and the date of the amendment to the statutory rules. On the other hand, the All India Services (Leave Travel Concession) Rules, 1975, as they stand, obviate the need for such amendments and have also the advantage of providing for the automatic application, to the members of the All India Services, of the instructions, issued in respect of officers of the Central Civil Services, Class I, from time to time.

The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) have advised that it is a well-accepted legislative practice to incorporate by reference,

if the legislative so chooses, the provisions of some other Act in so far as they are relevant for the purpose of and in furtherance of the scheme and objective of that Act. This has been recognised by the Supreme Court in *A. T. Corporation vs. Assistant Collector of Customs* (1972 S.C. 648 at 654). In the present case all the provisions regarding Leave Travel Concession applicable to Central Services, Class I, have been made applicable to the members of the All India Services. That being so, there would be no difficulty to the public in locating and referencing the rules. Moreover, as these rules are of interest only to members of the All India Services, the members of the public would not require and may not be interested to know the details. There would also be no difficulty to the service personnel, advocates and courts in locating these rules.

In view of the considerations mentioned above, it is felt that the All India Services (Leave Travel Concession) Rules, 1975 (G.S.R. 225 of 1975) do not call for any modification."

9. Not being satisfied with the above reply of the Department of Personnel and Administrative Reforms, the Committee in paragraph 62 of their Sixth Report (Sixth Lok Sabha) observed as under:—

"The Committee are not satisfied with the reply of the Department of Personnel and Administrative Reforms that they have not framed self-contained rules regarding leave travel concession of All India Services by incorporating therein the various instructions issued from time to time in respect of officers of the Central Civil Service, Class I with a view to obviate the necessity of amending them as and when the executive instructions are amended. The Committee feel that this is not a plausible reason for regulating through executive instructions matters which should be governed by statutory rules under the All India Services Act, 1951. The Committee need hardly point out that the executive instructions are no substitute for statutory rules, for, whereas the rules framed under the Act are required to be laid before Parliament and are subject to modification or annulment by Parliament, this requirement is not fulfilled in the case of executive orders. Further, whereas the rules are also published in the Gazette, the executive orders are not, so published and therefore, do not come to the notice of the Committee on Subordinate Legislation. As such, the Committee are unable to examine whether they contain any provision which is apt to

be abused. The Committee will, therefore, like the Department of Personnel and Administrative Reforms to make the rules in question self-contained by incorporating the relevant executive instructions therein."

10. In their action-taken reply dated 13 March, 1980, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) stated, *inter-alia*, as under:—

".....the recommendation contained in para 62 of the Sixth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) has been re-examined carefully in consultation with the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs). The main objection of the Committee on Subordinate Legislation on the reply contained in this Department's O.M. No. 28062/6/75-AIS (II) dated 15th July, 1976 stems from the consideration that the executive orders do not come to the notice of the Committee and as such the Committee will be denied the opportunity to examine whether they contain any provision which is apt to be abused. In this connection attention is invited to the All India Services (Leave Travel Concession) Rules, as were originally framed in 1975. The rule 3 before it was amended in 1977 provided as under:

'The Leave Travel Concession of the member of the Service shall be regulated in the same manner and subject to the same conditions as are applicable to the officers of the Central Civil Services, Class I.'

It will, thus, be clear from the above that this Department has not reserved to themselves any power to issue executive instructions specifically to cover the members of All India Services. The All India Services (LTC) Rules, 1975, before it was amended in 1977, provided that only those instructions which are applicable to officers of the Central Civil Services, Class I will apply to AIS Officers. The A.I.S. (L.T.C.) Rules were amended in 1977 (G.S.R. 236-E of 1977). By this amendment, it has been provided that the Leave Travel Concession admissible to a member of the Service serving in connection with the affairs of the State shall be regulated in the same manner and subject to the same conditions as are applicable to the State Civil Service Officers, Class I and in case of a member of the Service serving in connection with the affairs of the Union, shall be regulated in the same manner and

subject to the same conditions as are applicable to the officers of Central Civil Services, Group 'A' provided that this concession shall not at any time be inferior to what the officer would have got had he been appointed to serve in connection with the affairs of the Union. It is evident from above that officers of All India Services serving under the State Governments are treated at par with that of State Civil Service Officers, Class I Central Civil Service Officers, Group A for the purpose of Leave Travel Concession and no instructions can be issued by the Central and State Governments permitting variations in respect of All India Service Officers. Thus, there is no scope to abuse the power vested under the rules.

In case, the recommendation of the Committee is to be implemented to make the All India Services (LTC) Rules, 1975 self-contained, then all the instructions issued from time to time by the Central Government as also the instructions issued by all the State Governments will need to be codified. This may give rise to further problems. For instance, whenever there is any modification in the State rules then an amendment has to be made incorporating those modifications in the All India Services (LTC) Rules. Further, there is no mechanism to keep a watch as to whether every amendment in the State rule is brought to the notice of the Central Government for making consequential amendments in the All India Services (LTC) Rules. The objection of the Committee for issuing executive orders appears to be on account of the fact that they would not be in a position to examine whether the executive orders contained any provision which is apt to be abused. In this context it will be relevant to note the observations of the Supreme Court in *Sant Ram v. State of Rajasthan* (A.I.R. 1967 S.C.P. 1910)

'It is true that the Government cannot amend/or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed.' In view of the aforesaid observations of the Supreme Court, it is felt that there cannot be any legal objections provided the test laid down by the Supreme Court is satisfied.

It is requested that the above considerations may be placed before the Committee on Subordinate Legislation."

11. The Committee considered the above reply of the Department of Personnel and Administrative Reforms at their sitting held on 5 January,

1981 and also heard evidence of the representatives of the Department of Personnel and Administrative Reforms on 5 October, 1981 in the matter.

12. When enquired whether Leave Travel Concession Rules for the Central Civil Services Group 'A' posts as applicable to the All India Services Officers had since been framed, the representative of the Department of Personnel and Administrative Reforms stated that there were no such Rules but executive instructions were there. He further stated that in the absence of Rules on the subject, the executive instructions took the place of rules provided they were not inconsistent with any other statutory Rules. He also conceded that those executive instructions were not published in the Gazette of India.

13. On being pointed out that in the absence of publication of executive instructions in the Gazette of India, the Committee was deprived of opportunity to scrutinise them, the representative of the Department of Personnel and Administrative Reforms stated that there was no question of any deprivation. The executive instructions could be issued by the President where there were no Rules. It was not contemplated that on every subject pertaining to administration, Rules must be framed. It was not practicable also to frame the whole range of Rules.

14. When asked that although rule 3 of the All India Services Act provided that Leave Travel Concession to the Officers shall be regulated in same manner and conditions as were applicable to the Officers of the Central Civil Service, Group 'A', yet no Rules were framed for the Central Civil Services Officers and every thing was being governed by the executive instructions, the representative of the Department of Personnel and Administrative Reforms stated that they had not done anything contrary to the Act. They had been advised that there was no legal objection for issuing the executive instructions. He further stated that Committee were referring to two different Rules. One was regarding All India Services (LTC) Rules where Rules existed but they did not provide details of the facilities available to the members of the Service. The other was regarding LTC for the officers of the Central Civil Services where there were no Rules. In that case executive instructions had been issued and that position had been upheld by the Supreme Court.

15. When asked why the action-taken reply of the Ministry regarding implementation of recommendation contained in paragraph 62 of the Sixth Report (Sixth Lok Sabha) was delayed, the representative of the Ministry accepted the responsibility for delay in sending the reply to the Committee.

16. After hearing views of the representatives of the Department of Personnel and Administrative Reforms, the Committee felt that the judgment of the Supreme Court in the case of Sant Ram Vs. State of Rajas-

than (AIR 1967 C. S. P. 1910), referred to by the Department of Personnel and Administrative Reforms, had no bearing on that matter. The Committee, therefore, decided that the representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) might also be asked to appear before the Committee to clarify the position.

17. At their sitting held on 4 January, 1982, the Committee heard evidence of the representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in the matter.

18. In regard to the contention of the Department of Personnel and Administrative Reforms that certain matters on which there were no Rules etc. or on which Rules etc. were silent, could be regulated by Government through administrative instructions, when the Chairman enquired whether the Committee could examine such administrative instructions, the representative of the Ministry stated that such administrative instructions were not Subordinate Legislation and if the terms of reference of the Committee were interpreted strictly, those would not fall within the scope of examination by the Committee.

19. Explaining the background for issuing administrative instructions governing Leave Travel Concession to All India Services, the representative of the Ministry stated that when the members of All India Services were serving with the affairs of the Union, they were governed by the Rules applicable to Group 'A' Officers serving in connection with the affairs of the Union. When they served in connection with the affairs of a State, they would be governed by similar Rules applicable to the members of the State Services provided that the State Rules were not less favourable than the Central Rules applicable to them. He further stated that the present system had certain advantages. A number of members of the All India Services were serving in the States and their conditions of service varied. When a State made a new Rule, it would automatically apply to the members of the All India Services serving in that State. If all those instructions were incorporated in the Rules it would become very bulky and might lead to unnecessary delay and retrospective effect would have to be given to those amendments.

20. When pointed out that the representatives of the Department of Personnel and Administrative Reforms had admitted before the Committee that there were no Rules regulating the Leave Travel Concession applicable to Group 'A' Officers of the Central Civil Services, but there were only Executive Instructions the representative of the Ministry of Law stated that generally, Rules were framed after a certain degree of stability had been reached. He further stated that it was difficult to frame Rules where there were frequent changes.

21. When asked about the specific opinion of the Ministry of Law (Department of Legal Affairs) on the codification of the Rules, the representative of that Ministry opined that it would be desirable to codify the executive instructions in the form of substantive Rules but it was for the Department of Personnel and Administrative Reforms to decide whether or not the stage for that had reached.

22. In view of the clarifications given and difficulties explained by the representatives of the Department of Personnel and Administrative Reforms and Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in making the All India Services (Leave Travel Concession) Rules, 1975 self-contained by incorporating therein all the executive instructions, the Committee do not insist upon the implementation of their recommendation to this effect made in paragraph 62 of their Sixth Report (Sixth Lok Sabha). At the same time, the Committee do not see any justification in not framing statutory Rules in place of executive instructions regulating the Leave Travel Concession applicable to Group 'A' officers of the Central Civil Services. In this connection, the Committee note that the representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) are also of the view that it would be desirable to codify the executive instructions into the form of statutory Rules. The Committee, therefore, cannot but reiterate their of repeated observation that the executive instructions are no substitute of statutory Rules. Whereas the Rules are published in the Gazette of India, the executive instructions are not so published and, therefore, do not come to the notice of the Committee so as to judge their fairness.

23. The Committee, therefore, recommend that statutory Rules be framed in place of executive instructions regarding Leave Travel Concession availed of by the Group 'A' Officers of the Central Civil Services.

III

THE RAILWAY PASSENGERS (CANCELLATION OF TICKETS AND REFUND OF FARES) AMENDMENT RULES, 1979 (S.O. 3556 OF 1979)

24. Note 2 below rule 5 of the Railway Passengers (Cancellation of Tickets and Refund of Fares) Rules, 1976, as substituted by the above amending Rules reads as under:—

“Note-2. Passengers kept on the waiting list and getting reservation subsequently due to cancellations shall be liable to pay the cancellation charges prescribed under these rules.”

25. As the purport of above amendment was not clear, the Ministry of Railways (Railway Board) were asked to state the genesis of the am-

endment as also the position before the substitution of the above amendment.

26. The Ministry in their reply stated as under:—

“...prior to September, 1977 (Prior to amendment to Note to Rule 5 of the Cancellation of Tickets and Refund of Fares Rules, 1977) cancellation charges were not levied on wait-listed tickets when a Reservation Ticket was not issued, even though provided with reserved accommodation due to subsequent cancellations. It was brought to the notice of the Ministry of Railways that the facility was being misused by the anti-social elements causing lot of inconvenience to the genuine passengers. The matter was considered in detail and it was decided to levy the cancellation charges on the wait-listed tickets provided with the reserved accommodation due to subsequent cancellations and the Cancellation of Tickets and Refund of Fares Rules, 1977 were amended accordingly.

The matter has been reviewed and it has since been decided to revert to the old practice that existed prior to September 1977 and not to levy any cancellation charges on the wait-listed tickets. A copy of the Notification* issued to the Zonal Railways in this regard is enclosed herewith.....”

27. The Committee note that the Ministry of Railways (Railway Board) have issued instructions to the Zonal Railways for not levying cancellation charges on the wait-listed tickets. The Committee have time and again observed that executive instructions are no substitute to statutory Rules as these instructions are not published in the Gazette of India and escape the scrutiny by the Committee. The Committee, therefore, desire the Ministry of Railways to notify these instructions in the Gazette of India at an early date in the form of amendment to the Railway Passengers (Cancellation of Tickets and Refund of Fares) Rules, 1976, for the information of all concerned.

IV

THE EMPLOYEES' STATE INSURANCE CORPORATION (FAMILY WELFARE PROJECT) ACCOUNTS RULES, 1978 (G.S.R. 1456 OF 1978)

28. The draft Employees' State Insurance Corporation (Family Welfare Project) Account Rules, 1978 were published in the Gazette on 1

*See Appendix II.

October, 1977 and objections/suggestions from public were invited within a period of 45 days but the final Rules were published in the gazette on 2 December, 1978, i.e. after a time lag of more than a year.

29. The Ministry of Labour were requested to state the reasons for the delay in publishing the final Rules and also the manner in which the matters were regulated during the intervening period.

30. The Ministry, in their reply dated 7 February, 1980, stated as under:—

“.....there was a certain measure of delay at the initial stage due to rush of work. The Hindi translation also took some time. Unfortunately the relevant file was misplaced thereafter and this led to further delay. Efforts will be made to avoid such delays in future.

Pending finalisation of the rules, the accounts were being maintained by the ESI Corporation in accordance with draft rules.”

31. The Committee considered the above reply of the Ministry of Labour at their sitting held on 6 January, 1981, and heard the evidence of the representatives of the Ministry regarding delay in the publication of the final Employees State Insurance Corporation (Family Welfare Project) Accounts Rules, on 2 January, 1982.

32. When asked during evidence, as to why the Ministry had taken more than one year in notifying the final Rules, their representative admitted that there had been a delay of two months or nine weeks in finalization of Rules. Normally it should not have taken more than three weeks, particularly when no objections or modifications had been received. The representative himself disowned the reasons for delay given by the Ministry in their comments, e.g. Parliament session, and rush of work.

33. The representative further admitted that there was a delay of about two months in sending the Rules to the Ministry of Law for vetting. The draft rules were sent to the Official Languages Commission of the Ministry of Law for Hindi translation on 23 February, 1978 and were received back on 1 May, 1978. When asked whether any follow-up action was taken to get the Hindi version thereof expedited the representative stated that there had always been a long queue in the Official Languages Commission and normally it did not take less than six weeks. He added that some expressions had to be changed in the draft rules and hence the vetting of Rules by the Law Ministry could not be avoided.

34. When questioned as to how the relevant file got misplaced in the Ministry as stated in their written reply, the representative admitted that

that was not a satisfactory reply and expressed regrets therefor. He assured the Committee that such things would not happen in future.

35. When asked as to what specific steps were being taken to eliminate such delays in future, the representative stated that it had been decided to add such items to the list of important matters being reviewed in the monthly O&M meeting in the Ministry.

36. In a further communication dated 16 January, 1982, the Ministry had stated that necessary instructions* had already been issued to all concerned in the Ministry to avoid delay in finalisation of draft Rules.

37. The Committee are constrained to observe that the Ministry of Labour have taken more than a year in publishing the final Employees' State Insurance Corporation (Family Welfare Project) Account Rules, 1978 although no objections/suggestions had been received from the public on the draft Rules. The Committee are not convinced by the reasons advanced by the Ministry for such delay, e.g. delay in getting the Hindi translation of the Rules and vetting of Rules by the Ministry of Law. According to their own admission during evidence, the Ministry should not have taken a period of more than two months in finalisation of these Rules. The Committee feel that had the Ministry been vigilant such delays would have been avoided or at least cut short.

38. The Committee note that the Ministry of Labour have issued necessary instructions to all officers in the Ministry to avoid delay in the finalisation of draft Rules and their final publication in the Gazette. They hope that these instructions would be followed scrupulously in the Ministry. The Committee recommend that in cases where no objections/suggestions are received on the draft Rules, efforts should be made to finalise and publish the final Rules well before the stipulated period of one year.

V

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 147 OF THE EIGHTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) RE: THE HOMOEOPATHY CENTRAL COUNCIL BILL, 1973 (AS PASSED BY RAJYA SABHA)—PROVISIONS REGARDING SUBORDINATE LEGISLATION PARAGRAPH 12 OF TWELFTH REPORT—(FIFTH LOK SABHA)

39. The Committee on Subordinate Legislation (1973-74) recommended in paragraph 12 of their Twelfth Report (Fifth Lok Sabha) as under:—

“The Committee are not convinced with the explanation given by the Ministry of Health and Family Planning for not providing

*See Appendix III.

in the Homoeopathy Central Council Act, 1973*, for publication of Regulations framed thereunder in the Gazette. According to the Ministry, even though it is not specifically mentioned in the Act, the Regulations will normally be notified in the Gazette. The Committee desire the Ministry of Health and Family Planning to amend the Central Health Council Act so as to provide therein specifically for publication of Regulations."

40. In their action-taken note, the Ministry stated as follows:—

"The recommendation of the Committee is acceptable to Government and necessary amending legislation will be undertaken at the earliest opportunity."

41. The Committee on Subordinate Legislation (1975-76), which considered the matter, observed in paragraph 147 of their Eighteenth Report (Fifth Lok Sabha) as under:—

"The Committee note the assurance given by the Ministry of Health and Family Planning (Department of Health) that necessary amending legislation to provide for publication of Regulations framed under the Homoeopathy Central Council Act, 1973, will be undertaken at the earliest opportunity."

42. In their action-taken note dated 22 December, 1980 on the aforesaid recommendation, the Ministry of Health and Family Planning stated as under:—

".....while giving assurance vide M/o Health O.M. No. H. 11013/1/74-H dated September, 1974, under para 12 of the Twelfth Report of the Committee on Subordinate Legislation (5th Lok Sabha), that the recommendation of the Committee is acceptable to Government and necessary amending legislation will be undertaken at the earliest opportunity, the intention of the Ministry was that Section 33 of the Homoeopathy Central Council Act, 1973 would be suitably amended so as to provide for publication of the regulations in the Official Gazette when the next opportunity arises for amending the Act in other respects."

The Ministry of Health and Family Welfare is contemplating amendments to the Medical Council of India Act on various aspects. As for amending the Central Council of Homoeopathy Act, many provisions of the Medical Council of

*The Bill was passed by Lok Sabha on 19-11-1973.

India Act will have to be adopted. The Ministry of Health and Family Welfare would take necessary action to implement the recommendations of the Committee under reference, after the Medical Council of India Act has been suitably amended. The delay in reply is regretted."

43. The Committee considered the above reply of the Ministry of Health and Family Welfare at their sitting held on 8 July, 1981 and heard evidence of the representatives of the Ministry on 5 January, 1982 regarding delay in implementation of the recommendation of the Committee.

44. With regard to the delay in given effect to the Committee's recommendation for amending the Homoeopathy Central Council Act, 1973, the representative of the Ministry stated that there were three Acts on this subject similar to each other. Some amendments in the Medical Council of India Act were under their active consideration. The proposed amendments would have repercussions on all the three Acts. Instead of going through the entire process of amending legislation in piece meal, it would be better to do so in one lot on a single point. They had decided to go ahead with the legislation as soon as the stipulated amendments were finalised. It was expected that a Bill incorporating these amendments in the parent Act would be brought forward before Parliament in the next Session (Eighth Session) of the Seventh Lok Sabha.

45. On being asked as to how many such amendments were to be made in the Act, the representative replied that it could be five to ten.

46. When asked as to when the Committee's recommendation regarding the desirability to amend the parent Act was received by them, the representative stated that it was in 1976. He added that the Homoeopathy Central Council Act, 1973, was comparatively a recent one and that an amendment to that effect had been agreed to, but could not be made due to the proposed comprehensive changes. In this connection, the representative assured the Committee that any regulation framed under the Act would be published in the Gazette, because they had issued executive instructions in that behalf only a few days back.

47. Attention was then drawn to the Ministry's earlier assurance to the Committee given in 1973 that even though it was not specifically so mentioned in the Act, regulations made thereunder would be notified in the Gazette. On being asked to reconcile as to how the executive instructions had been issued to that effect only a few days back, the representative admitted that it was a lapse on the part of the Ministry.

48. The Committee are unhappy to note that Ministry of Health and Family Welfare could not bring forward the necessary legislative proposal for seven years to amend the Homoeopathy Central Council Act,

1973, so as to provide for publication of the Regulations framed under Section 33 of that Act in the Official Gazette and for their 'laying' before Parliament inspite of categorical assurances given to this effect by the Ministry from time to time. The Committee hope that this amendment would now be introduced during the current Budget session of Parliament (1982), as assured by the representatives of the Ministry during their evidence

VI

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 58 OF THE EIGHTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) RE: NON-EXERCISE OF RULE- MAKING POWER UNDER THE INDIAN MEDICINE CENTRAL COUNCIL ACT, 1970.

49. The Committee on Subordinate Legislation (1975-76), in paragraph 58 of the their Eighteenth Report (Fifth Lok Sabha) observed as under:—

“As regards framing of regulations under section 36 of the Act, the Committee note that only one set of regulations has so far been framed. In so far as the remaining 14 matters laid down in section 36 are concerned, the Ministry have promised to make every effort to finalise the regulations by the end of December, 1975. The Committee trust that the Ministry will finalise the regulations in respect of all the remaining 14 matters by the contemplated date.”

50. In regard to the action-taken in pursuance of the Committee's recommendation, the Ministry of Health and Family Welfare stated in their Office Memorandum of 10 June, 1980 that the following Regulations had been framed under Section 36 of the Indian Medicine Central Council Act, 1970:—

- (i) Regulation under Clause (a) of Section 36 of the Act on 23 September, 1971;
- (ii) Regulation under Clause (b) to (g) of Section 36 of the Act on 5 May, 1976;
- (iii) Regulation under Clause (h) of Section 36 of the Act on 9 June, 1977;
- (iv) Regulations under Clauses (i), (j) & (k) of Section 36 of the Act on 18 September, 1976 and 23 January, 1979;
- (v) Regulation under Clauses (m) and (e) of Section 36 of the Act on 12 January, 1979.

The Ministry also stated—

“The finalisation of the remaining Regulations under Clauses (l) and (n) Section 36 of the Indian Medicine Central Council Act, 1970 is under active consideration.

* * * * *

The said Act (Indian Medicine Central Council Act, 1970) does not provide for publication of Regulations in the Gazette of India and as such the Regulations have not been published in the Gazette.”

51. The Committee considered the above reply of the Ministry of Health and Family Welfare at their sitting held on 8 July, 1981 and heard evidence of the representatives of the Ministry on 5 January, 1982 regarding delay in framing of Regulations under the Indian Medicine Central Council Act, 1970.

52. During their evidence, the representative of that Ministry submitted that they had already framed the Rules under the aforesaid Act in 1975 and that the delay had been in framing the Regulations only. He explained that under Section 36 of the Indian Medicine Central Council Act, 1970, Regulations relating to sixteen matters had to be made in all. Regulations had already been made with regard to all items except one item, i.e. standards of professional conduct and code of ethics. In regard to the inordinate delay in framing the Regulations, the representative explained that the Central Council was responsible for framing them. The Central Government only approved them. He further submitted that it was the Central Council who had taken long to frame Regulations.

53. When enquired as to when the Regulations under Clause (n) of Section 36 were made, the representative stated that they had approved the same only a day before, i.e. on 4 January, 1982. When asked as to how the things were regulated in the absence of Regulations under Clause (l), the representative stated that those would be for guidance only. They had been pursuing that matter with the Central Council. In a letter dated 30 December, 1981, the Central Council had stated that the matter was under their consideration.

54. The representative further stated that the draft Regulations under clause (l) had also been framed and shown to the Law Ministry. The observations made by the Law Ministry had been conveyed to the Central Council for recasting the regulations. He added that the members of the Council were medical practioners and they met once or twice a year. However, the matter was being pursued quite seriously and it was reasonably hoped to finalise the remaining Regulations within the next few months.

When pointed out that the Regulations should have been framed within six months from the date of commencement of the Act, the representative assured that they would definitely complete the work by June, 1982.

55. With regard to the publication of the Regulations in the Gazette, the representative stated that pending amendment in the Act in that behalf, they had issued executive instructions for notification of the Regulations.

56. When asked as to whether the Government would also like to incorporate a Section in the parent Act so as to empower them to issue instructions to the Central Council for speedy publication of regulations, the representative stated that the point could well be taken into consideration while amending the Act to provide for notification of the Regulations.

57. The Committee note that the Ministry of Health and Family Welfare who had themselves fixed December, 1975 as the deadlines for framing Regulations under the Indian Medicine Central Council Act, 1970, in respect of all the remaining 14 matters, could frame Regulations in respect of 12 matters only till June, 1980. The Committee cannot but deprecate this inordinate delay of more than 4 years on the part of the Ministry and for not adhering to the target date fixed therefor, by them.

58. The Committee hope that the Regulations on the remaining matters would now be framed by the Ministry by June, 1982, as assured by them during their evidence before the Committee. The Committee also recommend that the Indian Medicine Central Council Act, 1970, should be suitably amended to provide for notification of all the Regulations framed thereunder in the Gazette of India and also for their 'laying' before Parliament.

VII

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 65 OF SIXTEENTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING THE ARUNACHAL PRADESH CIVIL SERVICES (CLASS I) RULES, 1974 (G.S.R. 31-E OF 1974)

59. There was no provision in the Arunachal Pradesh, Civil Service (Class I) Rules, 1974 for associating the Union Public Service Commission with selection of candidates for appointments to the Arunachal Pradesh Civil Service (Class I). The Ministry of Home Affairs were asked to state the considerations for not making selection through the Union Public Service Commission as was done in the case of the Union Territory of Delhi.

60. The Ministry in their reply had stated as under:—

“Posts in Arunachal Pradesh are outside the purview of the U.P.S.C. No provision has, therefore, been made in the Arunachal Pradesh Civil Service (Class I) Rules, 1974, for the association of the U.P.S.C. with selections for appointment to the Arunachal Pradesh Civil Service (Class I).”

61. Not satisfied with the reply furnished by the Ministry, the Committee on Subordinate Legislation, in paragraph 65 of their Sixteenth Report (Fifth Lok Sabha), observed as under:—

“The Committee are not satisfied with the reply given by the Ministry of Home Affairs. The Committee feel that, as in the case of other Union territories e.g. Delhi, recruitment to the Arunachal Pradesh Civil Service Class I should also be made through U.P.S.C. The Committee desire the Ministry of Home Affairs to amend the Rules so as to associate the U.P.S.C. with selection for appointments to the Arunachal Pradesh Civil Service Class I.”

62. In their action-taken reply, the Ministry of Home Affairs stated *inter alia*, as under—

(1) Class I posts in the erstwhile North-East Frontier Agency Administration were excluded from the purview of the U.P.S.C. in order to obtain the special type of officers required for the Agency. The ruggedness of the terrain and the extremely difficult conditions under which the officers have to work in Arunachal Pradesh make it imperative that the persons selected possess the necessary physical fitness and mental attitude. An Officer, apart from having a positive personality and character, should have aptitude for hard and difficult life in the hilly areas and should be able to adjust and adapt himself to living in isolated outposts in the deep and remote areas completely cut off from the townships. He should have genuine desire to serve and live with the tribals and should be able to win the confidence and respect of tribals through an approach based on humility and understanding. Selection of such officers cannot be ensured through the conventional methods of selection.

(2) Most of the outposts are devoid of Civil facilities (about 50 per cent. of them are still unconnected by roads) and the areas has little to offer in the way of social life or entertainment. There is, therefore, considerable reluctance on the part of persons selected to take up jobs in Arunachal Pradesh. Selection through the UPSC would cause endless delays and would ham-

per the work of the Administration while it is necessary that selection and appointment of officers to fill the posts is done with utmost speed. Selection through the UPSC takes longer time due to the formalities which have to be gone through.

- (3) When NEFA became the Union Territory of Arunachal Pradesh, the question was considered whether the exemption from the purview of the UPSC should continue. It was decided that the existing arrangement should not be disturbed. Conditions in Arunachal Pradesh have not undergone any material change and the considerations which weighed with the Government in excluding the posts from the purview of the UPSC are still valid and relevant. It is, therefore, felt that the time is not yet ripe for these posts to be brought within the purview of the U.P.S.C.”

63. The Committee considered the above reply of the Ministry of Home Affairs at their sitting held on 14 December, 1981 and also heard evidence of the representatives of the Ministry in the matter on 2 January, 1982.

64. When enquired about associating the Union Public Service Commission with the selection of personnel for appointment to the Arunachal Pradesh Civil Service Class I, as recommended by the Committee in paragraph 65 of their Sixteenth Report (Fifth Lok Sabha), the representative stated that the Ministry did agree with it in principle, but in view of certain special conditions prevailing in that area, it could not be implemented for some more time. They further added that whenever centralised recruitment had taken place at an all-India level, a few of the selected candidates had been willing to go to Arunachal Pradesh with the result that the vacancies remained unfilled.

65. When asked as to how the appointments were being made, the representative stated that the selections were being made by a Selection Board consisting of the Joint Secretary and one more officer in the Ministry of Home Affairs and the Chief Secretary of that Union territory. The appointments were being made by the Administrator of the Union territory on the basis of the recommendations of the Selection Board.

66. When enquired about the feasibility of a member of the Union Public Service Commission being appointed on the Selection Board, the representative expressed doubt that the Union Public Service Commission would agree to it until they had a complete say in the matter. Further, the Arunachal Pradesh Government did not support it for they felt that intake of the local Arunachal candidates could be ensured by allowing the present Selection Board to continue for some time more. The withdrawal

of the exemption to consult Union Public Service Commission was likely to adversely affected the interests of the local tribal candidates.

67. The representative further stated that the Arunachal Pradesh Government had requested for continuance of the existing exemption from the purview of the Union Public Service Commission for another period of five years. However, the exemptions were granted after periodical review and normally it was for one year. Notwithstanding the request from Arunachal Pradesh, the matter was being considered by the Department of Personnel also.

68. When asked whether the exemptions were not violative of Article 320 of the Constitution, the representative stated that the exemption was issued after consulting the Union Public Service Commission who could waive it off under the U.P.S.C. Exemption Rules. The representative, however, assured the Committee that exemption would be given for six months at a time and then reviewed.

69. In view of the position explained by the representatives of the Ministry of Home Affairs during their evidence, the Committee do not consider it necessary to pursue further their recommendation contained in paragraph 65 of their Sixteenth Report (Fifth Lok Sabha)

VIII

THE JUTE (LICENSING AND CONTROL) (AMENDMENT) ORDER, 1978 (S.O. 79-E OF 1978)

70. Clause 7A, of the Jute (Licensing and Control) Order, 1961, as inserted by the Jute (Licensing and Control) (Amendment) Order, 1978, reads as under—

“APPEAL AGAINST ORDER OF LICENSING AUTHORITY:

Any person aggrieved by an order refusing to grant a licence or an order suspending or cancelling a licence may, within a period of thirty days from the date of communication of such order, prefer an appeal:—

- (a) if the order is made by the licensing authority, other than the Jute Commissioner, to the Jute Commissioner, or
- (b) if the order is made by the Jute Commissioner, to the Central Government for ~~his~~ its decision thereon.”

71. It was felt that the period of thirty days within which any aggrieved person may prefer an appeal should be counted from the date of the receipt of the communication and not from the date of issue of such order.

72. The Ministry of Industry (Department of Industrial Development) to whom the matter was referred, accepted the above suggestion and amended the said order accordingly (*vide* S.O. No. 102-E dated 20 February, 1979).

73. The Committee note with satisfaction that as pointed out by them, the Ministry of Industry (Department of Industrial Development) have amended Clause 7A of the Jute (Licensing and Control) (Amendment) Order, 1978, so as to provide that the period of thirty days, within which any aggrieved person may prefer an appeal against the order refusing to grant a licence or an order suspending or cancelling a licence, would be counted from the date of receipt of the communication containing such order and not from the date of issue of such communication.

IX

THE CENTRAL RESERVE POLICE FORCE (MEDICAL OFFICERS CADRE) AMENDMENT RULES, 1978 (G.S.R. 251 OF 1978)

(A)

74. Rule 6(4) (c) as inserted by the Central Reserve Police Force (Medical Officers Cadre) Amendment Rules, 1978 provides that the age limit of 50 years fixed for recruitment to the post of Chief Medical Officer is relaxable in the case of retired or serving Government servants. This provision appeared to be vague and it was felt that the limit upto which age could be relaxed should be indicated in the Rules for the information of all concerned.

75. The Ministry of Home Affairs, to whom the matter was referred, stated in their reply as under:—

“.....according to clause (c) to sub-rule (4) of Rule 6 of the CRPF (Medical Officers Cadre) Rules, the age prescribed for direct recruitment as CMO is 'below 50 years'. However, the above age limit is relaxable in the case of retired or serving Government servants. The Cadre being young departmental candidates will not be eligible for this post for some time to come. The post thus can be filled up, for the present, by direct recruitment failing which by transfer on deputation and failing both by re-employment of retired Army Officers. In the circumstances, if an upper limit for relaxation of age is prescribed, regular appointments to the post of CMCs will not be possible as even the Army Officers of the AMC are available for re-employment only at about the age of 55 years.

In view of the foregoing, upper-limit for age relaxation has not been provided in the Rules.”

76. The Committee are not convinced by the reply of the Ministry of Home Affairs that if an upper limit for relaxation of the prescribed 50 years age is specified in the Rules, in the case of retired or serving Government servants, departmental candidates for regular appointments to the post of Chief Medical Officer would not be available, as even the retired Army Medical Officers are available for re-employment at the age of about 55 years or more. The Committee are, therefore, of the view that the prescribed upper age limit of 50 years should in no case be relaxed by more than 5 years and desire the Ministry of Home Affairs to amend the Rules accordingly at an early date.

(B)

77. Rule 8(2), as substituted by the Central Reserve Police Force (Medical Officers Cadre) Amendment Rules, 1978, reads as follows:

"The Central Government may, if it thinks fit, extend or reduce the period of probation specified in sub-rule (1)*. The period of probation may be extended by one year at a time, so however, that the total period of such extension shall not, in any case, exceed two years."

78. It was felt that the reasons for the extension or reduction of probation period should be recorded in writing by the authority concerned in order to obviate any scope of discrimination.

79. The Ministry of Home Affairs, to whom the matter was referred, stated in their reply as under:—

"... The observations for recording the reasons for the extension or reduction in probation period (Sub-rule (2) to Rule (8) has also been examined and it has been clarified by the DG CRPF that the orders regarding extension or reduction of the period of probation are passed by the appropriate authority on the basis of a probation report in prescribed proforma. In case of Group 'A' Gazetted Officers, such orders are passed by the Government only after being fully satisfied about the suitability in each. The reasons for extension or reduction of probation period are already being recorded in the case files."

80. The Committee note that the reasons for extending or reducing the probation period are recorded in the case files under Rule 8(2) of the Central Reserve Police Force (Medical Officer Cadre) Rules, 1976, as amended by aforesaid Rules. The Committee are of the view that when the reasons are already being recorded in the case files, the Ministry of Home Affairs should have no difficulty in indicating such reasons in the Rules also for the information of all concerned. The Committee, accordingly, desire that Ministry to amend the Rules to this effect at an early date.

*Sub-rule (1) provides for probation period of 2 years.

X

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 34 OF THE SECOND REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) RE: THE NATIONAL BUILDINGS ORGANISATION (HINDI OFFICER) (GROUP 'B') RECRUITMENT RULES, 1977.

81. Entry under column 13 of the Schedule appended to the National Buildings Organisation (Hindi Officer) (Group 'B') Recruitment Rules, 1977 did not make it clear whether the Union Public Service Commission would be consulted in the recruitment to the post of Hindi Officer, a Gazetted post.

82. Normally, rule 5 of the Recruitment Rules pertaining to the gazetted posts provides for the relaxation of those Rules in consultation with the Union Public Service Commission with respect to any class or category of persons.

83. The Ministry of Works and Housing with whom the matter was taken up, in their reply dated 10 October, 1977, stated as under:—

“..the matter was referred to the Department of Personnel and Administrative Reforms who have amplified that since the recruitment Rules for group 'A' and 'B' posts are framed in consultation with the UPSC and the Department, no provision thereof can be amended, modified or relaxed, unless the Department of Personnel and Administrative Reforms and UPSC are consulted.

In view of the above and the fact that the post of Hindi Officer in question is a Group 'B' post it is, as advised by the Department of Personnel and Administrative Reforms, not necessary to make a provision as suggested by the Lok Sabha Secretariat in the recruitment rules, which are statutory rules.”

84. The Committee was not convinced by the above reply of the Ministry and in paragraph 34 of their Second Report (Seventh Lok Sabha) observed as under:—

“The Committee are not inclined to agree with the argument for not incorporating a provision regarding consultation with the U.P.S.C. advanced by the Ministry of Works and Housing that since the recruitment rules for Group 'A' and 'B' posts are framed in consultation with the Union Public Service Commission and the Department of Personnel and Administrative Reforms, no provision thereof could be amended, modified or

relaxed without prior consultation with them. The Committee feel that in order to obviate any scope for speculation, it is but proper to incorporate the provision regarding consultation with the Union Public Service Commission expressly in the rules. The Committee, therefore, desire the Ministry to amend the National Buildings Organisation (Hindi Officer) (Group 'B') Recruitment Rules, so as to provide for prior consultation with the Union Public Service Commission before relaxing any of the provisions of these rules with respect to any class or category of persons."

85. In their action-taken note on the above observation of the Committee, the Ministry of Works and Housing, in their reply dated 26 March, 1981, stated as under:—

"... The recommendation of the Committee on Subordinate Legislation (7th Lok Sabha) contained in para 34 of their Second Report, regarding the amendment of the National Buildings Organisation (Hindi Officer) (Group 'B') Recruitment Rules so as to provide for prior consultation with the UPSC before relaxing any of the provisions of these rules with respect to any class or category of persons has been considered in this Ministry in consultation with the Department of Personnel and A.R. and the Department of Official Language. The post of Hindi Officer in the NBO is being included in the Central Services Official Language Service, proposed by the Deptt. of Personnel and A.R. for which separate Recruitment Rules are under consideration of that Department. In view of this, there appears to be no need to amend the recruitment rules for Hindi Officer in the National Buildings Organisation, at this stage.

It may further be stated that recruitment rules for the post of Hindi Officer, in NBO, have not so far been made effective. In view of this also, no amendment of the Rules is considered necessary. The Deptt. of Personnel have indicated that a general provision would be included in the Recruitment Rules for the Central Services Official Language Services for superseding the existing Rules for those posts included in the Service, for which separate rules have been framed, as in the case of NBO."

86. The Committee note that the recruitment Rules for the post of Hindi Officer in the National Buildings Organisation have not been made effective and that post is being included in the Central Services Official

Language Service for which separate Recruitment Rules are being framed, The Committee also note that the Department of Personnel and Administrative Reforms have indicated that a general provision will be included in the Recruitment Rules for the Central Services Official Language Service for superseding the existing Rules for those posts included in the service, for which separate rules have been framed, as in the case of National Buildings Organisation. The Committee, therefore, do not desire to pursue their recommendation contained in paragraph 34 of their Second Report (Seventh Lok Sabha) any further.

XI

THE KHADI AND VILLAGE INDUSTRIES COMMISSION (LEAVE) RULES, 1977 (G. S. R. 177 OF 1978)

87. Rule 4 of the Khadi and village Industries Commission (Leave) Rules, 1977, reads as follows:—

“Interpretation.—If any question arises relating to the interpretation of these rules, it shall be referred to the Commission and its decision shall be final.”

88. It was felt that the words “its decision shall be final” could give an impression that employees were debarred from going to law court for the redressal of their grievances. The matter was taken up with the Ministry of Industry (Department of Industrial Development) inviting their attention to an earlier recommendation of Committee contained in paragraph 18 of their Fourth Report (Third Lok Sabha) wherein the Committee had observed as under:—

“The Committee are of the view that although it is true that the interpretation of the rules given by the Executive is not binding on the Courts, yet the rules should not be worded in a manner which may give an impression on the mind of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desire that if it is considered necessary to retain an interpretation clause in the rules, the clause should be worded on the lines of regulation 24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964 which reads as under:—

‘24. *Interpretation of regulations.*—If any question arises as to the interpretation of these regulations, the same shall be decided by the Board.’

89. The Ministry of Industry (Department of Industrial Development), in their reply, stated as under:—

“.....the Khadi and Village Industries Commission has been consulted in the matter who have informed that there is no objection to amend the Rule 4 of the Khadi and Village Industries Commission (Leave) Rules, 1977 on the lines proposed by the Lok Sabha Secretariat.....Necessary amending Notification* will be issued as soon as possible.”

90. The Committee note with satisfaction that on being pointed by them, the Ministry of Industry (Department of Industrial Development), have omitted from Rule 4 of the Khadi and Village Industries Commission (Leave) Rules, 1977, the words ‘decision shall be final’ so that it may not give the impression that jurisdiction of Court is being ousted.

XII

THE KHADI AND VILLAGE INDUSTRIES COMMISSION (HOUSE BUILDING ADVANCES) REGULATIONS, 1977 (G.S.R. 315 OF 1978)

91. Regulation 3 of the Khadi and Village Industries Commission (House Building Advances) Regulations, 1977 reads as under:—

*“Terms and conditions governing the grant of advances:—*The terms and conditions of advances laid down in the rules applicable for the time being to the Central Government Servants in respect of grant of advances for construction/purchase of houses/flats shall be applicable to the employee of the Commission, subject to the following modification, namely:—

- (i) The references to ‘Central Government’ and ‘Sanctioning authority’ in the said rules shall be construed as reference to ‘Commission’ and ‘Chief Executive Officer’ respectively;
- (ii) the employee shall be either a permanent servant in the Commission or should have put in at least ten years of continuous service in the Commission and the sanctioning authority is satisfied that he is likely to continue in the service of the Commission till the house/flat for which advance is sanctioned, is built or acquired and the same is duly mortgaged in favour of the Commission.”

92. It was felt that extension of the Central Government Rules to the employees of the Khadi and Village Industries Commission amounted to legislation by reference. The Ministry of Industry (Department of Industrial Development) were requested to state whether they had any objection to framing of separate Regulations for the employees of the Commission.

*Rules have been amended vide G.S.R. 173 of 1981

93. In their reply, the Ministry of Rural Reconstruction stated as under:—

“.....As regards the suggestion regarding framing of separate Rules for the employees of the Commission on the lines of those applicable to Central Government employees, it may be stated that the Khadi and Village Industries Commission, at whose instance the Regulations relating to the employees of the Khadi and Village Industries Commission are framed were consulted in the matter. The Khadi and Village Industries Commission have expressed the view and this Ministry concurs in the same, that framing of separate Regulations for the employees of the Commission on the lines of those applicable to Central Government employees would not be feasible as the process of bringing both the amendments to the Commission's Regulations is always time-consuming and it would be difficult for the Commission to keep pace with the liberalisation and relaxations announced by the Government from time to time in respect of the Central Government employees on the one hand and effecting corresponding amendments in the Khadi and Village Industries Commission's Regulations on the other.”

94. The Committee are not convinced by the reason given by the Ministry of Rural Reconstruction for not framing separate House Building Advance Regulations for the employees of the Khadi and Village Industries Commission. The Committee are of the opinion that the difficulty in amending the Commission's Regulations so as to keep pace with liberalisation and relaxations announced by the Central Government from time to time in respect of the Central Government Employees is not a justifiable ground for not framing separate Regulations for the employees of the Khadi and Village Industries Commission. The Committee, therefore, desire the Ministry to frame separate House Building Advance Regulations for the employees of the Khadi and Village Industries Commission on the lines of those applicable to the Central Government employees.

XIII

THE DRUGS (PRICES CONTROL) ORDER, 1979, (S. O. 190-E OF 1979)

(A)

95. Paragraphs 3, 4(b) and (c) and 5 of the Drugs (Prices Control) Order, 1979 contain expression 'such inquiry as it deems fit'. This expression appeared to be vague and it was felt that the nature of inquiry to be

made under the above paragraphs should be indicated in the Order to make itself contained and for the information of all concerned.

96 The Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers), to whom the matter was referred, in their reply dated 8 August, 1979, stated as under:—

“The words ‘such inquiry as it deems fit’ have been adopted from the proviso to para 4 of the Drugs (Prices Control) Order, 1970. There is an elaborate procedure for the fixation of bulk drug prices. The Bureau of Industrial Costs and Prices conduct cost-cum-technical examination based on the information received from the manufacturers. The prices proposals received from the BICP are considered by the Policy and Planning Committee for Drug Industry, which is a high level inter-departmental Committee, comprising, *inter-alia*, representatives of the Deptt. of Industrial Development, Finance, D. G. T. D., Min. of Health besides Deptt. of Chemicals and Fertilizers. The recommendations of this inter-Departmental Committee are further subject to the approval of the Minister. Since such a detailed procedure obtains in the matter and this is known to the Drug Industry since 1970 when the DPCO 1970 was notified, it is not considered necessary to specify the nature of the enquiry.”

97. The Committee are not convinced by the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) that an elaborate procedure for the fixation of bulk drug prices already exists and has been known to the Drug Industry since 1970. The Committee feel that the Ministry should have no difficulty in indicating the nature and the manner of the requisite ‘inquiry’ in the Drugs (Prices Control) Order itself so as to make it self-contained. The Committee, therefore, desire the Ministry to amend the said Drugs (Prices Control) Order, 1970 accordingly.

(B)

98. Paragraph 9(2) of the Drugs (Prices Control) Order, 1979 reads as under:—

“For the purpose of making any order under sub-paragraph (1), the Government may call for such information from manufacturers, importers or distributors, of bulk drugs as it may consider necessary and such manufacturers, importers or distributors shall be bound to furnish such information within such time as may be specified by the Government.”

99. It was felt that some time limit should be fixed for furnishing the information by the manufacturer, importers or distributors.

100. The Ministry of Petroleum, Chemicals and Fertilizers, to whom the matter was referred, stated as under:—

“The nature of information to be called for in pursuance of para 9(2) of the Order, from various manufacturers, importers of distributors of bulk drugs, may vary in the circumstances. However, as suggested,.....it should be possible to fix a maximum time limit in this regard.”

101. The Committee are happy to note that, as pointed out by them, the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) have agreed to amend the Drugs (Prices Control) Order so as to lay down the maximum time-limit for furnishing of information by manufacturers, importers or distributors under paragraph 9(2) of the aforesaid Order. The Committee have no doubt that the Ministry would amend the Order in question at an early date.

(C)

102. Paragraph 15(a) of the Drugs (Prices Control) Order, 1979 provides as under:—

“The Government may, after obtaining such information as it may consider necessary from a manufacturer or an importer, fix or revise the retail price of one or more formulations marketed by such manufacturer or importer, including a formulation not specified in any of the categories of the Third Schedule, in such manner as the pre-tax return on the sales turnover of such manufacturer or importer does not exceed the maximum pre-tax return specified in the Fifth Schedule.”

103. It was felt that the nature of information to be called for from the manufacturer or importer should be indicated in the Order to make it self-explicit.

104. The Ministry of Petroleum, Chemicals and Fertilizers, to whom the matter was referred, agreed with the above suggestion.

105. The Committee note with satisfaction that, as pointed out by them, the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) have agreed to amend paragraph 15(a) of the Drugs (Prices Control) Order, 1979 so as to specify the nature of information to be called for from a manufacturer or imported thereunder. The Committee desire the Ministry to amend the Order in question accordingly at an early date.

(D)

106. Paragraph 17 of the Drugs (Prices Control) Order, 1979 provides that the Government shall maintain an account to be known as the Drugs Prices Equalisation Account.

107. It was felt that maintenance of Drugs Prices Equalisation Account was a substantive provision for which authority should emanate from the parent Act.

108. The Ministry of Petroleum, Chemicals and Fertilizers, to whom the matter was referred, stated in their reply as under:—

“The *vires* of the provision relating to Drugs Prices Equalisation Account has been thoroughly examined and cleared by the Law Ministry with reference to the provisions of Essential Commodities Act, 1955. Similar equalisation accounts also figure in the Price Control Orders relating to steel, cement, etc.”

109. The Committee are not convinced with the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) that the provision relating to the Drugs Prices Equalisation Account was not made in the parent Act as its *vires* had been thoroughly examined and cleared by the Law Ministry and similar provision relating to equalisation accounts figured in the Price Control Orders relating to steel, cement etc. and not in the parent Act. The Committee are of the view that such provision is in the nature of a substantive provision and, therefore, it should more appropriately be included in the enabling Act itself rather than to be regulated by the Order issued thereunder. The Committee, accordingly, desire the Ministry to bring forward necessary legislation in this respect before Parliament at the earliest.

(E)

110. Paragraph 23(a) of the Drugs (Prices Control) Order, 1979 reads as under:—

“No manufacturer or distributor shall withhold from sale or refuse to sell to a dealer any drug without good and sufficient reasons.”

111. It was felt that the reasons for refusal to sell any drug to a dealer should be mentioned in the Order to make it self-contained and for the information of all concerned.

112. The Ministry of Petroleum, Chemicals and Fertilizers, to whom the matter was referred, stated in their reply as under:—

“Since manufacturers, major manufacturers in particular, are in a position to dominate the manufacturer-dealer relations specifying the reasons in the Order might militate against dealer interests.”

113. After considering the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers), the Committee are of the opinion that the probable reasons for refusal to sell any

drug to the dealers may be laid down in the Drugs (Prices Control) Order itself so as to make the Order self-contained and eliminate the element of vagueness in this regard. The Committee, therefore, desire the Ministry to amend this Order accordingly at an early date.

NEW DELHI;

16 March, 1982.

25 Phalguna, 1903 (S).

MOOL CHÂND DAGA,

Chairman,

Committee on Subordinate Legislation.

A P P E N D I C E S

APPENDIX I

(Vide Paragraph 5 of the Report)

SUMMARY OF MAIN RECOMMENDATIONS/OBSERVATIONS MADE BY THE COMMITTEE

Sl. No.	Paragraph No.	Summary
(1)	(2)	(3)
1(i)	22	In view of the clarifications given and difficulties explained by the representatives of the Department of Personnel and Administrative Reforms and Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) in making the All India Services (Leave Travel Concessions) Rules, 1975 self-contained by incorporating therein all the executive instructions, the Committee do not insist upon the implementation of their recommendation to this effect made in paragraph 62 of their Sixth Report (Sixth Lok Sabha). At the same time, the Committee do not see any justification in not framing statutory Rules in place of executive instructions regulating the Leave Travel Concession applicable to Group 'A' officers of the Central Civil Services. In this connection, the Committee note that the representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) are also of the view that it would be desirable to codify the executive instructions into the form of statutory Rules. The Committee, therefore, cannot but reiterate their oft repeated observation that the executive instructions are no substitute of statutory Rules. Whereas the Rules are published in the Gazette of India, the executive instructions are not so published and, therefore, do not come to the notice of the Committee so as to judge their fairness.
1(ii)	23	The Committee, therefore, recommend that statutory Rules be framed in place of executive instruc-

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(3)

tions regarding Leave Travel Concession availed of by the Group 'A' Officers of the Central Civil Services.

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The Committee note that the Ministry of Railways (Railway Board) have issued instructions to the Zonal Railways for not levying cancellation charges on the wait-listed tickets. The Committee have time and again observed that executive instructions are no substitute to statutory Rules as these instructions are not published in the Gazette of India and escape the scrutiny by the Committee. The Committee, therefore, desire the Ministry of Railways to notify these instructions in the Gazette of India at an early date in the form of amendment to the Railway Passengers (Cancellation of Tickets and Refund of Fares) Rules 1976, for the information of all concerned.

3(i)

37

The Committee are constrained to observe that the Ministry of Labour have taken more than a year in publishing the final Employees' State Insurance Corporation (Family Welfare Project) Accounts Rules, 1978 although no objections/suggestions had been received from the public on the draft Rules. The Committee are not convinced by the reasons advanced by the Ministry for such delay, e.g. delay in getting the Hindi translation of the Rules and vetting of Rules by the Ministry of Law. According to their own admission during evidence, the Ministry should not have taken a period of more than two months in finalisation of these Rules. The Committee feel that had the Ministry been vigilant such delays would have been avoided or at least cut short.

3(ii)

38

The Committee note that the Ministry of Labour have issued necessary instructions to all officers in the Ministry to avoid delay in the finalisation of draft Rules and their final publication in the Gazette. They hope that these instructions would be followed scrupulously in the Ministry. The Committee recommend that in cases where no objections/suggestions are received on the draft Rules, efforts should be made to

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finalise and publish the final Rules well before the stipulated period of one year.

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The Committee are unhappy to note that the Ministry of Health and Family Welfare could not bring forward the necessary legislative proposal for seven years to amend the Homoeopathy Central Council Act, 1973, so as to provide for publication of the Regulations framed under Section 33 of that Act in the Official Gazette and for their 'laying' before Parliament in spite of a categorical assurances given to this effect by the Ministry from time to time. The Committee hope that this amendment would now be introduced during the current Budget session of Parliament (1982), as assured by the representatives of the Ministry during their evidence.

5(i)

57

The Committee note that the Ministry of Health and Family Welfare who had themselves fixed December, 1975 as the deadline for framing Regulations under the Indian Medicine Central Council Act, 1970, in respect of all the remaining 14 matters, could frame Regulations in respect of 12 matters only till June, 1980. The Committee cannot but deprecate this inordinate delay of more than 4 years on the part of the Ministry and for not adhering to the target date fixed therefor, by them.

5(ii)

58

The Committee hope that the Regulations on the remaining matter would now be framed by the Ministry by June, 1982, as assured by them during their evidence before the Committee. The Committee also recommend that the Indian Medicine Central Council Act, 1970, should be suitably amended to provide for notification of all the Regulations framed thereunder in the Gazette of India and also for their 'laying' before Parliament.

6

69

In view of the position explained by the representatives of the Ministry of Home Affairs during their evidence, the Committee do not consider it necessary to pursue further their recommendation contained in

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(3)

paragraph 65 of their Sixteenth Report (Fifth Lok Sabha).

7

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The Committee note with satisfaction that as pointed out by them, the Ministry of Industry (Department of Industrial Development) have amended Clause 7A of the Jute (Licensing and Control) (Amendment) Order, 1978, so as to provide that the period of thirty days, within which any aggrieved person may prefer an appeal against the order refusing to grant a licence or an order suspending or cancelling a licence, would be counted from the date of receipt of the communication containing such order and not from the date of issue of such communication.

8(i)

76

The Committee are not convinced by the reply of the Ministry of Home Affairs that if an upper limit for relaxation of the prescribed 50 years age is specified in the Rules, in the case of retired or serving Government servants, departmental candidates for regular appointments to the post of Chief Medical Officer would not be available, as even the retired Army Medical Officers are available for re-employment at the age of about 55 years or more. The Committee are, therefore, of the view that the prescribed upper age limit of 50 years should in no case be relaxed by more than 5 years and desire the Ministry of Home Affairs to amend the Rules accordingly at an early date.

8(ii)

80

The Committee note that the reasons for extending or reducing the probation period are recorded in the case files under Rule 8(2) of the Central Reserve Police Force (Medical Officer Cadre) Rules, 1976, as amended by aforesaid Rules. The Committee are of the view that when the reasons are already being recorded in the case files, the Ministry of Home Affairs should have no difficulty in indicating such reasons in the Rules also for the information of all concerned. The Committee, accordingly, desire that Ministry to amend the Rules to this effect at an early date.

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- 9 86 The Committee note that the recruitment Rules for the post of Hindi Officer in National Buildings Organisation have not been made effective and that post is being included in the Central Services Official Language Services for which separate Recruitment Rules are being framed. The Committee also note that the Department of Personnel and Administrative Reforms have indicated that a general provision will be included in the Recruitment Rules for the Central Services Official Language Services for superseding the existing Rules for those posts included in the service, for which separate rules have been framed, as in the case of National Buildings Organisation. The Committee, therefore, do not desire to pursue their recommendation contained in paragraph 34 of their Second Report (Seventh Lok Sabha) any further.
- 10 90 The Committee note with satisfaction that on being pointed by them, the Ministry of Industry (Department of Industrial Development), have omitted from Rule 4 of the Khadi and Village Industries Commission (Leave) Rules, 1977, the words 'decision shall be final' so that it may not give the impression that jurisdiction of Court is being ousted.
- 11 94 The Committee are not convinced by the reasons given by the Ministry of Rural Reconstruction for not framing separate House Building Advance Regulations for the employees of the Khadi and Village Industries Commission. The Committee are of the opinion that the difficulty in amending the Commission's Regulations so as to keep pace with liberalisation and relaxations announced by the Central Government from time to time in respect of the Central Government Employees is not a justifiable ground for not framing separate Regulations for the employees of the Khadi and Village Industries Commission. The Committee, therefore, desire the Ministry to frame separate House Building Advance Regulations for the employees of the Khadi and Village Industries Commission on the lines of those applicable to the Central Government employees.

(1)	(2)	(3)
12(i)	97	The Committee are not convinced by the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) that an elaborate procedure for the fixation of bulk drug prices already exists and has been known to the Drug Industry since 1970. The Committee feel that the Ministry should have no difficulty in indicating the nature and the manner of the requisite 'inquiry' in the Drugs (Prices Control) Order itself so as to make it self-contained. The Committee, therefore desire the Ministry to amend the Drugs (Prices Control) Order, 1979 accordingly.
12(ii)	101	The Committee are happy to note that, as pointed out by them, the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) have agreed to amend the Drugs (Prices Control) Order so as to lay down the maximum time-limit for furnishing of information by manufacturers, importers or distributors under paragraph 9(2) of the aforesaid Order. The Committee have no doubt that the Ministry would amend the Order in question at an early date.
12(iii)	105	The Committee note with satisfaction that, as pointed out by them, the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) have agreed to amend paragraph 15(a) of the Drugs (Prices Control) Order, 1979 so as to specify the nature of information to be called for from a manufacturer or importer thereunder. The Committee desire the Ministry to amend the Order in question accordingly at an early date.
12(iv)	109	The Committee are not convinced with the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) that the provision relating to the Drugs Prices Equalisation Account was not made in the parent Act as its <i>vires</i> had been thoroughly examined and cleared by the Law Ministry and similar provision relating to Equalisation Accounts figured in the Price Control Orders

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relating to steel, cement etc. and not in the parent Act. The Committee are of the view that such provision is in the nature of a substantive provision and, therefore, it should more appropriately be included in the enabling Act itself rather than to be regulated by the Order issued thereunder. The Committee, accordingly, desire the Ministry to bring forward necessary legislation in this respect before Parliament at the earliest.

12(v)

113

After considering the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers), the Committee are of the opinion that probable reasons for refusal to sell any drug to the dealers may be laid down in the Drugs (Prices Control) Order itself so as to make the Order self-contained and eliminate the element of vagueness in this regard. The Committee, therefore, desire the Ministry to amend this Order accordingly at an early date.

APPENDIX II

(Vide paragraph 26 of the Report)

GOVERNMENT OF INDIA (BHARAT SARKAR)

MINISTRY OF RAILWAYS (RAIL MANTRALAYA)

(Railway Board)

No. TGI|2003|72|1|Vol. II.

New Delhi, dated 8-8-1980.

The General Managers,

All Indian Railways.

SUB.: *Revision of Refund Rule relating to cancellation of tickets and refund of fare.*

As per Note (2) to Rule 213.3 of I.R.C.A. Coaching Traffic No. 22 Part I Vol. I (C.S. No 108 of 23-1-80), passengers kept on the waiting list and getting reservation subsequently due to cancellations shall be liable to pay the cancellation charges prescribed under these rules.

2. The Ministry of Railways have reconsidered the matter and have decided that the cancellation charges should not be levied even when the wait-listed passengers are provided reserved accommodation subsequently due to cancellation etc., as per the practice and rules in vogue prior to Sept. 1977. They, therefore, desire that the Note (2) of the above rule may be deleted and Note (1) may be revised as under:—

“This rule shall also apply to a person who seeks reservation but is wait-listed and reservation ticket is not issued to him.”

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

2. This will take effect from 15-8-1980.

Necessary instructions in the matter may please be issued to the concerned staff immediately.

Hindi version will follow.

Sd./-

(U. N. Kapoor)

Joint Director, Traffic Commercial
(R)-II, Railway Board.

DA: Nil.

APPENDIX III

(Vide paragraph 36 of the Report)

No. I-27|1|82-SO

IMMEDIATE

GOVERNMENT OF INDIA|BHARAT SARKAR

MINISTRY OF LABOUR|SHRAM MANTRALAYA

Dated New Delhi, the 4th January, 1982.

CIRCULAR

SUBJECT:—*Finalising Rules under Delegated powers under various Acts.*

In one of the cases cited by the Committee of Parliament on Subordinate Legislation, it was noticed that this Ministry took more than a year to finalise the draft rules. This was most inexcusable. All the Joint Secretaries are, therefore, requested to keep a close watch in such cases and ensure that the draft rules are finalised without any avoidable delay and the final rules are published as soon as possible after the time period given for inviting objections, is over.

2. It has been separately decided that this matter would be regularly reviewed in the monthly O&M meetings of the Senior Officers held by the Secretary.

Sd/-

(Girija Eswaran)

Joint Secretary.

All Officer in the Ministry.

MINUTES

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4

APPENDIX IV

(Vide paragraph 4 of the Report)

XIII

MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)

(1980-81)

The Committee met on Monday, the 5th January, 1981 from 11.30 to 13.35 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Eduardo Faleiro
4. Shri Harish Kumar Gangwar
5. Shri K. Lakkappa
6. Shri T. Nagaratnam
7. Shri M. Ramanna Rai
8. Shri Ratansinh Rajda
9. Shri Ajit Pratap Singh

SECRETARIAT

1. Shri S. D. Kaura—*Senior Legislative Committee Officer.*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*

2 to 15 * * * *

(viii) *Implementation of recommendation contained in para 62 of the Sixth Report of Committee on Subordinate Legislation (Sixth Lok Sabha) re: The All India Services (Leave Travel Concession) Rules, 1975 (G.S.R. 225 of 1975)—(Memorandum No. 45).*

16. The Committee considered the above Memorandum and decided to bear evidence of the representatives of the Department of Personnel and Administrative Reforms regarding codification of executive instructions issued in connection with the Leave Travel Concession of All India Services/ Central Civil Services Class I Officers.

17 to 21 * * * *

The Committee then adjourned.

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

XIV

MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Tuesday, the 6th January, 1981 from 11.30 to 13.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Eduardo Faleiro
3. Shri Harish Kumar Gangwar
4. Shri Jaipal Singh Kashyap
5. Shri M. Ramanna Rai
6. Shri Ratansinh Rajda
7. Shri Ajit Pratap Singh
8. Shri Chandra Shekhar Singh
9. Shri Xavier Arakal

SECRETARIAT

1. Shri S. D. Kaura—*Senior Legislative Committee Officer.*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*

2 to 13 * * * *

(viii) *The Employees' State Insurance Corporation (Family Welfare Project) Accounts Rules, 1978 (G.S.R. 1456 published in the Gazette of India, Part II, Section 3(i) dated the 2nd December, 1978—(Memorandum No. 58).*

14. The Committee considered the above Memorandum and decided to call the representatives of the Ministry of Labour for oral evidence regarding delay in the publication of final rules.

15 to 20 * * * *

The Committee then adjourned.

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

XXI

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

(1981-82)

The Committee met on Wednesday, 8 July, 1981 from 15.00 to 16.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Xavier Arakal
3. Shri Ashfaq Husain
4. Shri K. Lakkappa
5. Shri M. Ramanna Rai
6. Shri Ratansinh Rajda
7. Shri Chandra Shekhar Singh

SECRETARIAT

1. Dr. D. N. Gadhok—*Chief Legislative Committee Officer.*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 64 to 71 on the following subjects:—

* * * *

3 to 11

(vii) *Implementation of recommendations contained in para 58 of the Eighteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha), regarding non-exercise of rule-making power under the Indian Medicine Central Council Act, 1970—a Memorandum No. 70).*

12. The Committee considered the above Memorandum and decided to hear oral evidence of the representatives of the Ministry of Health and Family Welfare regarding inordinate delay in framing of regulations under Section 36 of the Indian Medicine Central Council Act, 1970.

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

(viii) *Implementation of recommendations contained in para 147 of the Eighteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Homoeopathy Central Council Bill, 1973 (as passed by Rajya Sabha)—provisions regarding subordinate Legislation (Para 12 of Twelfth Report—Fifth Lok Sabha) —(Memorandum No. 71).*

13. The Committee considered the above Memorandum and decided to hear oral evidence of the representatives of the Ministry of Health and Family Welfare regarding inordinate delay in implementing the Committee's recommendation made in para 147 of Eighteenth Report (Fifth Lok Sabha).

The Committee then adjourned.

XXII

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

The Committee met on Thursday, 9 July, 1981, from 11.30 to 12.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Ankineedu
3. Shri Xavier Arakal
4. Shri Ashfaq Husain
5. Shri K. Lakkappa
6. Shri Balasaheb Vikhe Patil
7. Shri M. Ramanna Rai
8. Shri Ratansinh Rajda

SECRETARIAT

1. Dr. D. N. Gadok—*Chief Legislative Committee Officer*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 72 to 76 on the following subjects:—

* * * * *

3-4.

(ii) *The Drugs (Prices Control) Order, 1979 (S.O. 190-E of 1979)—(Memorandum No. 73).*

(A)

5. The Committee considered the above Memorandum and were not convinced with the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) that an elaborate procedure for the fixation of bulk drug prices was already there and has been known to the Drug Industry since 1970. The Committee felt that the Ministry should have no difficulty in indicating the nature and the manner of inquiry to be made in the Drugs (Prices Control) Order itself to make it self-contained.

6. * * * * *

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

(C)

7. The Committee noted that, on being pointed out, the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) had agreed to amend the Drugs (Prices Control) Order so as to lay down the maximum time-limit for furnishing of information by manufacturers, importers or distributors under sub-para (2) of paragraph 9 of the aforesaid Order. The Committee desired the Ministry to issue the necessary amendment in this regard at an early date.

(D)

8. The Committee noted that, on being pointed out, the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) had agreed to amend sub-para (a) of paragraph 15 of the Drug (Prices Control) Order, 1979 so as to specify the nature of information to be called for from the manufacturer or importer thereunder. The Committee desired the Ministry to amend the Order accordingly.

(E)

9. The Committee were not convinced with the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) with regard to the provision relating to the Drug Prices Equalisation Account. The Committee felt that the provision relating to the Drugs Prices Equalisation Account, being in the nature of a substantive provision, should more appropriately be made in the enabling Act itself rather than to be regulated by the Orders issued thereunder. The Committee desire the Ministry to bring forth the necessary legislation before Parliament so as to give effect to the aforesaid recommendation in respect of the present Order under examination and also the Price Control Orders relating to Steel, Cement, etc. which contained similar provisions.

(F)

10. The Committee considered the reply of the Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers). The Committee were of the opinion that the probable reasons for refusal to sell any drug to the dealers might be laid down in the Drugs (Prices Control) Order itself so as to make the Order self-contained and eliminate the element of vagueness in this regard. The Committee desired the Ministry to amend the Order accordingly at an early date.

11 to 14.

The Committee then adjourned

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

XXIX

MINUTES OF THE TWENTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA (1981-82))

The Committee met on Monday, 5 October, 1981 from 11.00 to 13.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri T. V. Chandrashekarappa
3. Shri Balasaheb Vikhe Patil
4. Shri M. Ramanna Rai
5. Shri Ratansinh Rajda
6. Shri Ajit Pratap Singh
7. Shri Chandra Shekhar Singh

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS (DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS)

1. Shri A. C. Bandopadhyay, *Secretary*.
2. Shri K. C. Sharma, *Joint Secretary*.
3. Shri T. V. Ramanan, *Joint Secretary*.

SECRETARIAT

Shri S. S. Chawla—*Senior Legislative Committee Officer*.

2. The Committee heard evidence of the representatives of the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) regarding the All India Services (Leave Travel Concession) Rules, 1975 (G.S.R. 225 of 1975). [Implementation of recommendation contained in paragraph 62 of the Sixth Report (Sixth Lok Sabha)].

3. When enquired whether Leave Travel Concession Rules for the Central Civil Services Group 'A' posts as applicable to the All India Services Officers had since been framed, the representative of the Department of personnel and Administrative Reforms stated that, there were no such Rules but executive instructions were there. He further stated that in the absence of Rules on the subject the executive instructions take the place of rules provided they were not inconsistent with any other statutory Rules. He also conceded that those executive instructions were not published in the Gazette of India.

4. When asked that in the absence of publication of executive instructions in the Gazette of India, the Committee was deprived of opportunity to scrutinise them, the representative of the Department of Personnel and Administrative Reforms stated that there was no question of any deprivation. The executive instructions could be issued by the President where there were no Rules. It was not contemplated that on every subject pertaining to administration, Rules must be framed. It was not practicable also to frame the whole range of Rules.

5. When asked that rule 3 of the All India Services Act provided that Leave Travel Concession to the Officers shall be regulated in same manner and conditions as were applicable to the Officers of the Central Civil Service, Group 'A' but no Rules were framed for the Central Civil Service Officer and every thing was being governed by the executive instructions, the representative of the Department of Personnel and Administrative Reforms stated that they had not done anything contrary to the Act. They had been advised that there was no legal objection for issuing the executive instructions. He further stated that Committee were referring to two different Rules. One was regarding All India Services (LTC) Rules where Rules exist but they did not provide details of the facilities available to the members of the Service. The other was regarding LTC for the officers of the Central Civil Services where there were no Rules. In that case executive instructions had been issued and that position had been upheld by the Supreme Court.

6. When asked why the action taken reply of the Ministry regarding implementation of recommendation contained in paragraph 62 of the Sixth Report (Sixth Lok Sabha) was delayed, the representative of the Ministry accepted the responsibility for delay in sending the reply to the Committee.

7. The Committee were of the view that the judgement in the case of Sant Ram vs. State of Rajasthan (AIR 1967 C.S.P. 1910) as referred by the Department of Personnel and Administrative Reforms was not applicable to the point at issue and therefore the representative of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) might also be asked to appear before the Committee to clarify the position.

8. The representatives of the Department of Personnel and Administrative Reforms were then asked to furnish following papers to the Committee:—

- (i) A copy of any judgement other than that of Sant Ram vs. State of Rajasthan on the matter.
- (ii) A copy of full reply of the Ministry of Law as given to the Department of Personnel and Administrative Reforms in July, 1976 on the subject.

(The witnesses then withdrew).

The Committee then adjourned.

XXXII

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

The Committee met on Monday, 14 December, 1981 from 15.30 to 16.20 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri Xavier Arakal
3. Shri Eduardo Faleiro
4. Shri M. Ramanna Rai
5. Shri Chandra Shekhar Singh

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*.
2. Shri Ram Kishore—*Senior Legislative Committee Officer*.

2. The Committee considered Memoranda Nos. 83 to 92 on the following subjects:—

3 to 11 * * * * *

(vii) *Implementation of recommendation contained in paragraph 65 of the Sixteenth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Arunachal Pradesh Civil Services (Class I) Rules, 1974 (G.S.R. 31-E of 1974)—(Memorandum No. 89).*

12. The Committee considered the above Memorandum and decided to hear the evidence of the representatives of the Ministry of Home Affairs for further elucidation.

13 to 15. * * *

The Committee then adjourned.

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

XXIV

MINUTES OF THE THIRTY-FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1981-82) (SEVENTH LOK SABHA)

The Committee met on Saturday, 2 January, 1982 from 11.00 to 14.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri M. Ankineedu
3. Shri Ashfaq Husain
4. Shri Eduardo Faleiro
5. Shri Ratansinh Rajda

WITNESSES

I. REPRESENTATIVES OF THE MINISTRY OF LABOUR

1. Shri B. G. Deshmukh, Secretary.
 2. Shri R. K. A. Subrahmanhyam, Additional Secretary.
 3. Shri Harmander Singh, D.G., E.S.I.C.
 4. Dr. K. M. Saxena, Dy. Medical Com., E.S.I.C.
- * * *

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Vardan, Additional Secretary.
2. Shri I. P. Gupta, Joint Secretary.
3. Shri R. V. Pillai, Joint Secretary.

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*.
2. Shri S. S. Chawla—*Senior Legislative Committee Officer*.

2. The Committee first heard the representatives of the Ministry of Labour regarding delay of over one year in final publication of the Employees' State Insurance Corporation (Family Welfare Project) Accounts Rules, 1978 after their notification in draft form in the Gazette dated 1 October, 1977.

3. With regard to the arrangements that existed in the Ministry to deal with Parliamentary work, the representative stated that there was no centralised machinery. Every Officer looked after the work pertaining to his subject regarding the issue of rules. The rules under reference had been published by the Deputy Secretary of the concerned Branch. However, the Joint Secretaries had been asked to keep a special watch and to review such matters at their monthly meetings in the Ministry.

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

4. When asked as to why the Ministry had taken more than one year in notifying the final rules, the representative admitted that there had been a delay of two months or nine weeks in finalization of Rules. Normally it should not have taken more than three weeks, particularly when no objections or modifications had been received. The representative himself disowned the reasons for delay given by the Ministry in their comments, e.g. Parliament session, and rush of work.

5. The representative further admitted that there was a delay of about two months in sending the Rules to the Ministry of Law for vetting. The draft rules were sent to the Official Languages Commission of the Ministry of Law for Hindi translation on 28 February, 1978 and were received back on 1 May, 1978. When asked whether any follow-up action was taken to expedite the getting of Hindi version, the representative stated that there had always been a long queue in the Official Languages Commission and normally it did not take less than six weeks. He added that some expressions had to be changed in the draft rules and hence the vetting of Rules by the Law Ministry could not be avoided.

6. When questioned as to how the relevant file got misplaced in the Ministry as stated in their written reply, the representative admitted that that was not a satisfactory reply and expressed regrets therefor. He assured the Committee that such things would not be allowed to happen in future.

7. When asked as to what specific steps were being taken to eliminate such delays in future, the representative stated that it had been decided to add such items to the list of important matters being reviewed in the monthly O & M meeting in the Ministry.

(The witnesses then withdrew.)

8 to 13 * * * * *

14. Thereafter, the Committee heard the representatives of the Ministry of Home Affairs regarding the Arunachal Pradesh Civil Service (Class I) Rules, 1974. [Implementation of recommendations contained in paragraphs 65 and 77 of their Sixteenth Report (Fifth Lok Sabha)].

15. When enquired if the Ministry had since amended the Arunachal Pradesh Civil Service (Class I) Rules, 1974 to make them self-contained by incorporating therein the form of agreement and details of training and departmental examination, in compliance with the Committee's recommendation made in paragraph 77 of their Sixteenth Report (Fifth Lok Sabha), the representatives of the Ministry stated that the Government of Arunachal Pradesh had since framed the Rules and those would be notified within

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a couple of months. The amendments would be incorporated in the existing Rules to provide for departmental examination and training. They assured the Committee that the amendments would definitely be notified by the end of February, 1982.

16. When pointed out that relevant recommendation was made as early as May, 1975 and the matter was hanging over for more than six years, the representative admitted that there had been an administrative lapse on the part of the Ministry in not pursuing the matter with the State Government right from the beginning. The representatives explained that it was on receipt of a reminder from the Lok Sabha Secretariat in March, 1980, that the Ministry had moved the Arunachal Pradesh Government to carry out the necessary amendments to the Rules. The amendment had been received in the Ministry and after showing the same to the Selection Board it would be published in the Gazette.

17. When enquired whether the proposed amendment would also provide for association of the Union Public Service Commission with the selection of personnel for appointment to the Arunachal Pradesh Civil Service Class I, as recommended by the Committee in paragraph 65 of their Sixteenth Report (Fifth Lok Sabha), the representatives stated that the Ministry did agree with it in principle, but in view of certain special conditions prevailing in that area, could not implement it for some more time. They further added that whenever centralised recruitment had taken place at an all-India level, a very few of the selected candidates had been willing to go to Arunachal Pradesh. With the result, the vacancies remained unfilled.

18. When asked as to how the appointments were being made, the representatives stated that the selections were being made by a Selection Board consisting of the Joint Secretary and one more officer in the Ministry of Home Affairs and the Chief Secretary of that Union Territory. The appointments were being made by the Administrator of the Union Territory on the basis of the recommendations of the Selection Board.

19. When enquired about the feasibility of a number of the Union Public Service Commission being appointed on the Selection Board, the representatives expressed doubt that the Union Public Service Commission would agree to it until they had a complete say in the matter. Further, the Arunachal Pradesh Government did not support it for they felt that intake of the local Arunachal candidates could be ensured by allowing the present Selection Board to continue for some time more. The withdrawal of the exemption to consult Union Public Service Commission was likely to adversely affect the interests of the local tribal candidates.

20. The representatives further stated that the Arunachal Pradesh Government had requested for continuance of the existing exemption from the purview of the Union Public Service Commission for another period of five years. However, the exemptions were granted after periodical review and normally it was for one year. Notwithstanding the request from Arunachal Pradesh, the matter was being considered by the Department of Personnel also.

21. When asked whether the exemptions were not violative of Article 320 of the Constitution, the representatives stated that the exemption was issued after consulting the Union Public Service Commission who could waive it off under the U.P.S.C. Exemption Rules. The representatives, however, assured the Committee that exemption would be given for six months at a time and then reviewed continuously.

The Committee then adjourned.

**MINUTES OF THE THIRTY-FIFTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)
(1981-82)**

The Committee met on Monday, 4 January, 1982 from 11.00 to 13.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri Ashfaq Husain
3. Shri Eduardo Faleiro
4. Shri Ratansinh Rajda
5. Shri Ajit Pratap Singh
6. Shri Chandra Shekhar Singh

I. REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

1. Shri P. B. Venkatasubramanian—*Secretary*.
2. Shri P. K. Kartha—*Joint Secretary*.

* * * * *

SECRETARIAT

1. Shri Gian Chand—*Additional Secretary*.
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*.
3. Shri S. S. Chawla—*Senior Legislative Committee Officer*.

2. The Committee first heard evidence of the representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) regarding codification of the All India Services (Leave Travel Concession) Rules, 1975 [Implementation of recommendation contained in paragraph 62 of the Sixth Report of the Committee on subordinate Legislation (Sixth Lok Sabha)].

3. In regard to the Contention of the Department of Personnel and Administrative Reforms that certain matters on which there were no Rules etc. or on which Rules etc. were silent, could be regulated by Government through administrative instructions, when the Chairman enquired whether the Committee could examine such administrative instructions, the representative of the Ministry stated that such administrative instructions were not Subordinate Legislation and if the terms of reference of the Committee were interpreted strictly, those would not fall within the scope of examination by the Committee.

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

4. Explaining the background for issuing administrative instructions governing Leave Travel Concession to All India Services, the representative of the Ministry stated that when the members of All India Services were serving with the affairs of the Union, they were governed by the Rules applicable to Group 'A' Officers serving in connection with the affairs of the Union. When they served in connection with the affairs of a State, they would be governed by similar Rules applicable to the members of the State Services provided that the State Rules are not less favourable than the Central Rules applicable to them. He further stated that the present system had certain advantages. A number of members of the All India Services were serving in the States and their conditions of service varied. When a State made a new Rule, it would automatically apply to the members of the All India Services serving in that State. If all those instructions were incorporated in the Rules it would become very bulky and might lead to unnecessary delay and retrospective effect would have to be given to those amendments.

5. When it was pointed out to the representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) that the representatives of the Department of Personnel and Administrative Reforms had admitted before the Committee that there were no Rules regulating the Leave Travel Concession applicable to Group 'A' Officers of the Central Civil Services, but there were only Executive Instructions, the representative of the Ministry of Law stated that generally, Rules were framed after a certain degree of stability had been reached. He further stated that it was difficult to frame Rules where there were frequent changes.

6. When asked about the specific opinion of the Ministry of Law (Department of Legal Affairs) on the codification of the Rules, the representative of that Ministry stated that it would be desirable to codify the executive instructions in the form of substantive Rules but it was for the Department of Personnel and Administrative Reforms to decide whether or not the stage for that had reached.

The representatives of the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) then withdrew.

7 to 11

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The Committee then adjourned.

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

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

The Committee met on Tuesday, 5 January, 1982 from 11.00 to 12.00

PRESENT

Shri Chandra Shekhar Singh—*In the Chair.*

MEMBERS

2. Shri M. Ankineedu
3. Shri Xavier Arakal
4. Shri Ashfaq Husain
5. Shri T. V. Chandrashekharappa
6. Shri K. Lakkappa
7. Shri M. Ramanna Rai
8. Shri Ajit Pratap Singh

WITNESSES

Representatives of the Ministry of Health and Family Welfare (Department of Health)

1. Dr. S. S. Sidhu, *Secretary.*
2. Shri T. V. Antony, *Joint Secretary.*
3. Shri H. S. Dhakdalia, *Under Secretary (ISM).*
4. Dr. R. Ganapati, *O. S. D. (Election).*

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer*
2. Shri Ram Kishore—*Senior Legislative Committee Officer*
3. Shri S. S. Chawla—*Senior Legislative Committee Officer*

2. The Committee first heard the representatives of the Ministry of Health and Family Welfare (Department of Health) regarding the Indian Medicine Central Council Act, 1970.

3. During his evidence, the representative of that Ministry submitted that they had already framed the rules under the aforesaid Act in 1975; the delay had been in framing the regulations only. He explained that under Section 36 of the Indian Medicine Central Council Act, 1970, regulations

relating to sixteen matters had to be made in all. Regulations had already been made with regard to all items except one item *i.e.* standards of professional conduct and code of ethics. A lot of time had been taken by the Central Council in making the regulations. The Central Government only approved them.

4. When enquired as to when the regulations under Clause (n) were made, the representative stated that they had approved the same only a day before. When asked as to how the things were regulated in the absence of regulations under Clause (1), the representative stated that those would be for guidance only. They had been following up this matter with the Central Council. In a letter dated 30 December, 1981, the Central Council had stated that the matter was under their consideration.

5. The representative further stated that the draft regulations under clause (1) had also been framed and shown to the Law Ministry. The observations made by the Law Ministry had been conveyed to the Central Council for recasting the regulations. He added that the members of the Council were medical practitioners and they met once or twice a year. However, the matter was being pursued quite seriously and it was reasonably hoped to finalise the remaining regulations within the next few months. When pointed out that the regulations should have been framed within six months from the date of commencement of the Act but they had not been framed for a long period, the representative assured that they would definitely complete the work by June, 1982.

6. With regard to the publication of the regulations in the Gazette, the representative stated that pending amendment in the Act in that behalf, they had issued executive instructions for notification of the regulations.

7. When asked as to whether the Government would also like to incorporate a Section in the parent Act so as to empower them to issue instructions to the Central Council for speedy publication of regulations, the representative stated that the point could well be taken into consideration while amending the Act to provide for notification of the regulations.

8. The Committee noted the assurance of the Ministry that the remaining regulations would be finalised by June, 1982 and desired that they should try to expedite it and finalise the matter as quickly as possible.

9. The Committee then examined the representatives of the Ministry regarding the Homoeopathy Central Council Act, 1973.

10. With regard to the delay in giving effect to the Committee's recommendation for amending the Homoeopathy Central Council Act, 1973, the representative stated that there were three Acts similar to each other. Some

amendments in the Medical Council of India Act were under their active consideration. The proposed amendments would have repercussions in all the three Acts. Instead of going through the entire process of amending legislation in piecemeal, it would be better to do so on a single point. They had decided to go ahead with the legislation as soon as the stipulated amendments were finalised. It was expected that a Bill incorporating these amendments in the parent Act would be brought forward before Parliament in the next Session (Eighth Session of the Seventh Lok Sabha).

11. On being asked as to how many amendments were to be made in the Act, the representative replied that it could be any number between five and ten.

12. When asked as to when the Committee's recommendation regarding the desirability to amend the parent Act was received by them, the representative stated that it was in 1976. He added that the Homoeopathy Central Council Act, 1973 was comparatively a recent one and that an amendment to that effect had been agreed to, but could not be made due to the proposed comprehensive changes. In this connection, the representative assured the Committee that any regulation framed under the Act would be published in the Gazette, because they had issued executive instructions in that behalf only a few days back.

13. Attention was then drawn to the Ministry's earlier assurance to the Committee given in 1973 that even though it was not specifically mentioned in the Act, regulations made thereunder would be notified in the Gazette. On being asked to reconcile as to how the executive instructions had been issued to that effect only a few days back, the representative stated it to be a lapse on the part of the Ministry.

14. With regard to the system in the Ministry for replying to Parliamentary references, the representative stated that highest importance was attached to any thing coming from Parliament. A separate tag was put on that file. There was a system of continuous review about such things in the staff meeting. All letters from honourable Members were also attended to expeditiously.

The Committee then adjourned.

XXXVII

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

The Committee met on Saturday, 23 January, 1982 from 11.00 to 12.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Xavier Arakal
3. Shri Ashfaq Husain
4. Shri T.V. Chandrashekharappa
5. Shri M. Ramanna Rai
6. Shri Ratansinh Rajda
7. Shri Chandra Shekhar Singh

SECRETARIAT

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

2. The Committee considered the following seven Memoranda (Nos. 93 to 99):

3. * * * * *

(ii) *The Jute (Licensing and Control) (Amendment) Order, 1978 (S.O. 79-E of 1978)—(Memorandum No. 94).*

4. The Committee considered the above Memorandum and noted that on being so pointed out by them, the Ministry of Industry (Department of Industrial Development) had amended Clause 7A of the Jute (Licensing and Control) (Amendment) Order, 1978 so as to provide that the period of thirty days, within which any aggrieved person might prefer an appeal, would be counted from the date of receipt of the communication of such order and not from the date of such communication.

(iii) *The Central Reserve Police Force (Medical Officers Cadre) Amendment Rules, 1978 (G.S.R. 251 of 1978)—(Memorandum No. 95).*

(A)

5. The Committee considered the above Memorandum but were not convinced by the reply of the Ministry that if an upper limit for relaxation

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of age was prescribed in the case of retired or serving Government servants, departmental candidates for regular appointments to the post of Chief Medical Officer would not be available, as even the Army Medical Officers were available for re-employment only at about 55 years of age. The Committee were of the view that the prescribed upper age limit of 50 years should in no case be relaxed by more than 5 years and desired that the Ministry of Home Affairs might amend the relevant Rules accordingly.

(B)

6. The Committee noted that the reasons for extension or reduction of probation period under Rules 8(2) as substituted by the Central Reserve Police Force (Medical Officers Cadre) Amendment Rules, 1978 were being recorded in the case files. The Committee were of the view that the Ministry of Home Affairs should have no difficulty in indicating such reasons in the Rules for the information of all concerned and desired that Ministry to amend the Rules to that effect.

- (iv) Implementation of recommendations contained in para 34 of the Second Report of Committee on Subordinate Legislation (Seventh Lok Sabha) re: The National Buildings Organisation (Hindi Officer) (Group 'B') Recruitment Rules, 1977—(Memorandum No. 96).

7. The Committee considered the above Memorandum and noted that the recruitment rules for the post of Hindi Officer in National Buildings Organisation had not been made effective and that post was being included in the Central Services Official Language Service. The Committee, therefore, decided not to further pursue the recommendation contained in paragraph 34 of their Second Report (Seventh Lok Sabha).

- (v) The Khadi and Village Industries Commission (Leave) Rules, 1977 (G.S.R. 117 of 1978)—(Memorandum No. 97).

8. The Committee considered the above Memorandum and noted that on being so pointed by them, the Ministry of Industry (Department of Industrial Development), had amended Rule 4 of the Khadi and Village Industries Commission (Leave) Rules, 1977 by omitting therefrom the words 'decision shall be final'. The Rule so amended did not give the impression that jurisdiction of Court was being ousted.

- (vi) The Khadi and Village Industries Commission (House Building Advances) Regulations, 1977 (G.S.R. 315 of 1978)—(Memorandum No. 98).

9. The Committee considered the above Memorandum but were not convinced by the reasons given by the Ministry of Rural Reconstruction

for not framing separate House Building Advance Regulations for the employees of the Khadi and Village Industries Commission. The Committee accordingly, desired that Ministry to frame separate House Building Advance Regulations for the employees of the Commission on the lines of those applicable to the Central Government employees.

(vii) The Railway Passengers (Cancellation of Tickets and Refund of Fares) Amendment Rules, 1979 (S. O. 3556 of 1979)—
(Memorandum No. 99).

10. The Committee considered the above Memorandum and noted that the Ministry of Railways (Railway Board) had issued instructions to the Zonal Railways for not levying cancellation charges on the wait-listed tickets. The Committee desired the Ministry of Railways to notify those instructions in the Gazette of India in the form of amendment to the Railway Passengers (Cancellation of Tickets & Refund of Fares) Rules, 1976. for the information of all concerned.

The Committee then adjourned to meet again on 25 January, 1982 at 11.00 hours.

XL

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

The Committee met on Tuesday, 16 March, 1982 from 15.00 to 15.30 hours.

PRESENT

Shri Mool Chand Daga—Chairman

MEMBERS

2. **Shri Xavier Arakal**
3. **Shri Ashfaq Husain**
4. **Shri Eduardo Faleiro**
5. **Shri M. Kandaswamy**
6. **Shri K. Lakkappa**
7. **Shri M. Ramanna Rai**
8. **Shri Ratansinh Rajda**

SECRETARIAT

1. **Shri S. D. Kaura—Chief Legislative Committee Officer**
2. **Shri M. G. Agrawal—Senior Legislative Committee Officer**

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

3. The Committee authorised the Chairman and, in his absence, Shri Ashfaq Husain, to present the Eleventh Report to the House on their behalf on 19 March, 1982.

The Committee then adjourned.