

# COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

## TWELFTH REPORT

(Presented on <sup>28</sup>~~26~~ July, 1982)



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LOK SABHA SECRETARIAT

Corrigenda to the Twelfth Report  
of Committee on Subordinate Legis-  
lation (Seventh Lok Sabha) presented  
to the House on 28 July, 1982.

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION  
(1982-83)**

1. Shri Mool Chand Daga—*Chairman*
2. Shri Mohd. Asrar Ahmad
3. Shri Xavier Arakal
4. Shri Ashfaq Husain
5. Shri Dalbir Singh (Madhya Pradesh)
6. Shri B. Devarajan
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12. Shri Satish Prasad Singh
13. Shri R. S. Sparrow

**SECRETARIAT**

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

# **REPORT**

## **I**

### **INTRODUCTION**

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

2. The matters covered by this Report were considered and approved by the Committee (1981-82) at their sittings held on 25 January, 10 February, and 10 May 1982.

3. At their sitting held on 10 February, 1982, the Committee took evidence of the representatives of the Ministry of Finance (Department of Revenue).

4. The Report, however, could not be presented to Lok Sabha due to the expiry of the term of the Committee on 14 June, 1982.

5. The Report was again considered and adopted by the Committee (1982-83) at their sitting held on 29 June, 1982. The Minutes of the sittings, which form part of the Report, are appended to it.

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

## **II**

### **THE EX-SERVICEMEN (RE-EMPLOYMENT IN CENTRAL CIVIL SERVICES AND POSTS) RULES, 1979 (G.S.R. 1530 OF 1979)**

7. Rule 8 of the Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 read as under:—

“Interpretation—If any question arises as to the interpretation **in these rules the question shall be decided by the Central Government and the decision of the Central Government shall be final.**”

8. The words ‘the decision of the Central Government shall be final’ gave an impression that jurisdiction of the Courts for entertaining appeals against the decisions of the Central Government was being ousted. In this connection, the Committee in paragraph 18 of

their Fourth Report (Third Lok Sabha), presented to the House on 4 May, 1965, 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 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.’ ”

9. The Department of Personnel and Administrative Reforms, to whom the matter was referred, stated in their reply dated 3 November, 1980 as under:—

“.....the suggestion of the Committee on Subordinate Legislation of Lok Sabha for omitting the words ‘and the decision of the Central Government shall be final’ from Rule 8 of the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules 1979 has been examined in this Department in consultation with the Ministry of Law. The above suggestion has been made on the apprehension that the Rule as worded, may debar the Courts from entertaining appeals against the decisions of the Central Government. This apprehension appears to be unfounded as for barring the jurisdiction of civil courts it is necessary that the statute may specifically provide for ousting the jurisdiction of civil courts. The aforesaid clause in the rule do not take away the jurisdiction of the Courts. This provision has been made as the Government has a right to interpret its own formulations which will have precedence over the individual’s right to give the rules his interpretation unless a point of law or legal interpretation is involved on which a representation is made to the Courts to make a pronouncement.”

10. The Committee feel that although the contention of the Department of Personnel and Administrative Reforms, that Government

have a right to interpret its own formulations and that such interpretation will have precedence over any individual's interpretation of such Rules unless a point of law or legal interpretation is involved therein and on which a representation is made to the Courts to make a pronouncement thereon, may be legally correct, yet the Rules should be worded in such a manner as not to give an impression to the persons concerned that the jurisdiction of the Courts is being ousted in any manner. The Committee, accordingly, desire the Department to amend the Ex-servicemen (Re-employment) in Central Civil Services and Posts) Rules, 1979 on the lines of similar provisions contained in the Kandla Port Employees (Allotment of Residence) Regulations, 1964.

### III

#### THE CENTRAL GOVERNMENT HEALTH SCHEME (AHMEDABAD) RULES, 1979 (G.S.R. 537 OF 1979)

11. The Central Government Health Scheme (Ahmedabad) Rules, 1979 were published in the Gazette of India, Part II, Section 3(i), dated 14 April, 1979 but were made effective from 28 March, 1979.

12. The usual Explanatory Memorandum indicating that the interest of no one would be prejudicially affected as a result of retrospective effect given to them, was not appended to the Rules. In this connection, attention of the Ministry of Health and Family Welfare (Department of Health) was invited to the following recommendation of the Committee made in paragraph 10 of their Second Report (Fourth Lok Sabha), presented to Lok Sabha on 14 December, 1968:—

“.....normally all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if, in any particular case the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given, either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules.”

13. The Ministry of Health and Family Welfare (Department of Health), in their reply dated 22 October, 1980, stated that an adden-

dum in the following form had been issued *vide* Notification No. S. 11012/2/79-CGHS(P) (A) dated 22 October, 1980:—

“Note: ‘No one will be adversely affected as a result of retrospective effect being given to these rules.’”

14. The Committee note with satisfaction that, on being pointed out, the Ministry of Health and Family Welfare (Department of Health) have amended the Central Government Health Scheme (Ahmedabad) Rules, 1979 by adding a foot-note to the effect that no one would be adversely affected as a result of retrospective effect being given to the Rules.

#### IV

#### THE DEFENCE RESEARCH AND DEVELOPMENT SERVICE RULES, 1978 (S.R.O. 8 OF 1979)

15. Rule 4(A) of the Defence Research and Development Service Rules, 1978 provided that the authorised permanent strength of various grades shall be such as might, from time to time, be determined by the Government. Similarly, Rule 4(4) provided that Government might include in the Service any post other than those included in Schedule II or exclude from the Service a post included in the Schedule.

16. It was felt that authorised permanent strength of various grades as well as inclusion and exclusion of any post enumerated in the Schedule should be done by way of an amendment to the Rules and not through executive orders.

17. The Ministry of Defence, to whom the matter was referred stated in their reply dated 17 March, 1980 that inclusion and exclusion of any post in Schedule II of the Rules would be done by way of amendment to the Rules.

18. The Committee note with satisfaction that, on being pointed out, the Ministry of Defence have agreed that inclusion and exclusion of any post from Schedule II to the Defence Research and Development Service Rules, 1978 will be done by way of an amendment to the Rules and not through executive orders.

#### B

19. Rule 8(1) (a) of the Defence Research and Development Service Rules, 1978 read as under:—

“(a) The posts in the grade of Scientist ‘B’ in various disciplines shall be generally filled by direct recruitment

through an open competitive examination in accordance with the scheme of examination that may be approved in consultation with the Commission. *The age limit shall be 26 years (Relaxable for employees of Defence Research and Development Organisation).* Unless covered by any of the exceptions that may, from time to time, be notified by the Government in this behalf, no candidate shall be permitted to avail of more than three chances at the examination. However, all those who have been recruited before the promulgation of these rules as Junior Scientific Officers in the Defence Research and Development Organisation on regular basis and possess the educational qualifications and experience as laid down for direct recruits, shall be eligible, till they are wasted out, for promotion to the post of Scientist 'B' upto 50 per cent of the vacancies in the grade;

\* \* \* \* \*

20. It was felt that exact limit upto which age could be relaxed for employees of the Defence Research and Development Organisation should be indicated in the Rules in order to make them self-contained and for the information of all concerned.

21. The Ministry of Defence, to whom the matter was referred, stated in their reply as under:—

“With reference to the suggestion for indicating the exact limit upto which age can be relaxed in respect of the DRDO employees it is pointed out that in the erstwhile Defence Science Service the individuals in the grade of JSO had a direct line of promotion to the grade of SSO-II (now Scientist 'B'). This line of promotion to the grade of SSO-II has been now provided only for the existing JSOs in the present DRDS Rules. The future JSOs i.e. persons who will become JSOs on promotion from the non-gazetted level will not have a direct line of promotion to the grade of Scientist 'B'. Therefore it has become necessary that the DRDO employees should be allowed to compete for the open competitive examination for appointment as Scientist 'B' without any age bar.”

22. The Committee are not convinced with the reply of the Ministry of Defence for not indicating in the Defence Research and Development Service Rules, 1978 the maximum limit upto which

the age can be relaxed for the departmental employees for recruitment to the grade of Scientist 'B'. The Committee desire the Ministry to amend the Rules at an early date so as to lay down the maximum limit of age relaxation.

### C

23. Rule 8(2) (b) of the Defence Research and Development Service Rules, 1978 read as under:—

“(b) The specific qualification requirements (QR) for promotion to the posts of Scientists 'F' and above shall be determined by the Director General on each occasion in the light of qualifications required for the particular post keeping in view the job requirements for the same.”

24. It was felt that the specific qualifications for promotion to the posts of Scientists 'F' and above should be laid down in the Rules to make them self-contained and for the information of all concerned.

25. The Ministry of Defence, to whom the matter was referred, stated in their reply as under:—

“It would be appreciated that it is not possible to give QRs for each post of Scientist 'F' and Scientist 'G' in the DRDO as the thrust in different disciplines goes on changing with reference to the requirement of the Defence Services.”

26. The Committee are not satisfied with the reply of the Ministry of Defence and desire the Ministry to prescribe certain minimum qualifications for promotion to the posts of Scientists 'F' and above in the Defence Research and Development Service Rules, 1978 at an early date.

### (D)

27. Sub-rules (4) and (5) of Rule 8 of the Defence Research and Development Service Rules 1978 read as under:—

“(4) Officers appointed on deputation by the method mentioned in item (4) of rule 6 shall be initially appointed for a period of two years which may be extended or curtailed at the discretion of the Director General. The total period of deputation shall, in no case, exceed five years. However, deputation allowance shall be admissible only for the first four years of deputation.



- (5) Officer appointed on contract by the method mentioned in item (4) of the 6 shall ordinarily be appointed for a period of six years. They shall, however, be on probation for a period of one year. The period of contract may be curtailed at the discretion, of the Director General. The contract may be renewed at the end of six years."

28. I was felt that in order to obviate any scope of discrimination, the Director General should record the reasons in writing before extending|curtailing the period of deputation/contract.

29. The Ministry of Defence, to whom the matter was referred, stated in their reply as under:—

"The suggestion is agreed to. Whenever the period of deputation or contract is extended/curtailed reasons will be recorded in writing. An amendment to this effect will be made to the DRDS Rules."

30. The Committee note with satisfaction that, on being pointed out, the Ministry of Defence have agreed to amend the Defence Research and Development Service Rules, 1978, so as to provide for recording of reasons in writing before extending or curtailing the period of deputation/contract. The Committee desire the Ministry to amend the Rules accordingly at an early date.

(E)

31. Note below Rule 11 of the Defence Research and Development Service Rules, 1978 read as under:—

"The engineering or medical qualifications referred to in this rule are those laid down in Para 2(b) of Army Instruction 10/S/65 or Para 3(b) of Army Instruction 208 of 1959, as the case may be."

32. It was felt that the qualifications as laid down in the Army Instructions should be indicated in the Rules in order to make them self-contained and to avoid legislation by reference.

33. The Ministry of Defence, to whom the matter was referred, stated in their reply as under:—

"The suggestion is agreed to and the qualifications laid down in the Army Instructions will be reproduced in the DRDS Rules."

34. The Committee note that on being pointed out, the Ministry of Defence have agreed to amend the Defence Research and Development Service Rules, 1978, so as to provide therein the requirements of engineering or medical qualifications on the lines of those laid down in the Army Instructions. They desire the Ministry to notify the requisite amendment at an early date.

(F)

35. Rule 11 (6) of the Defence Research and Development Service Rules, 1978 read as under:—

“Officers appointed to the Service shall be liable to undergo such training and be detailed on courses of instruction in India or abroad as the Director General may decide from time to time. An officer detailed for training or course the duration of which is six months or more or an officer detailed for training outside India or with private firms or factories in India, irrespective of the duration of the training, shall be liable to refund in full the cost of training if, for any reason, during the training or within a period of three years after the completion of such training, he chooses to discontinue his service.”

36. It was felt that decision regarding training or courses should not be left entirely to the discretion of the Director General. Some instructions or guidelines should be issued for the information of all concerned.

37 The Ministry of Defence, to whom the matter was referred, stated in their reply as under:—

“To clarify the position a sentence can be added that ‘This training will be a part of training/preparation of the officer to undertake the projects assigned to him’. The course of training/instructions may differ from one individual officer to another individual officer depending on the nature of work assigned to him and it is not possible to give specific names of courses of instructions or training which may be applicable in the case of all officers.”

38. The Committee note the practical difficulties pointed out by the Ministry of Defence in specifying the names of the courses of training/instructions, and accept the suggestion of the Ministry to

add the following sentence at the end of the existing Rule 11(6) of the Defence Research and Development Service Rules, 1978, so as to make the intention clear:—

**“This training will be a part of training/preparation of the officer to undertake the projects assigned to him.”.**

The Committee desire the Ministry to notify the proposed amendment at an early date.

(G)

39. Entry in Column (3) of Schedule III appended to the Defence and Research and Development Service Rules, 1978 provided that qualifications and experience for the direct recruits to the post of Scientific Adviser and Director General of Research and Development shall be *‘such educational qualifications and experience as may be prescribed by the Government.’*

40. It was felt that the educational qualifications and experience for the above post should be indicated in the Schedule itself to make the Rules self-contained and for the information of all concerned.

41. The Ministry of Defence, to whom the matter was referred, stated in their reply as under:—

“As the post of Scientific Adviser to the Raksha Mantri is the highest post in the DRDS and as the requirement for this post has to be decided by the Government with reference to the defence needs/priorities which the country faces at a given time, it is felt that it is not possible to specifically mention the educational qualifications and experience for this post. However, ‘but which shall not be less than those prescribed for Scientist G’ can be added at the end of the sentence.”

42. The Committee note that, on being pointed out, the Ministry of Defence have agreed to amend the entry in Column (3) of Schedule III to the Defence Research and Development Service Rules, 1978, so as to provide that qualification and experience for recruitment of Scientific Adviser will not be less than those prescribed for the post of Scientists ‘G’. The Committee desire the Ministry to notify the requisite amendment at an early date.

## V.

**THE MINISTRY OF DEFENCE, DEPARTMENT OF DEFENCE PRODUCTION (DIRECTORATE GENERAL OF INSPECTION) (NAVAL WING) CLASS III (NON-TECHNICAL) POSTS RECRUITMENT. (AMENDMENT) RULES, 1978 (S.R.O. 63 OF 1978)**

43. While examining the Ministry of Defence, Department of Defence Production (Directorate General of Inspection) (Naval Wing) Class III (Non-Technical) posts Recruitment (Amendment) Rules, 1978 it was noticed that Column 7 of the Schedule appended to the above Rules did not contain the usual provision regarding crucial date for determining the age limit for recruitment to the post of Stenographer.

44. The Ministry of Defence, with whom the matter was taken up, regretted the omission and amended Column 7 of the Schedule to the Rules to the desired effect *vide* S.R.O. 333 1 December, 1979.

45. The Committee note with satisfaction that, on being pointed out, the Ministry of Defence have amended Column 7 of the Schedule appended to the Ministry of Defence, Department of Defence Production (Directorate General of Inspection) (Naval Wing) Class III (Non-Technical) posts Recruitment Rules, 1975 so as to provide therein the crucial date for determining the age of candidates for recruitment to the post of Stenographer.

## VI

**THE AIR HEADQUARTERS (SENIOR DESIGN ENGINEER) RECRUITMENT RULES, 1972 (S.R.O. 229 OF 1972)—[IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 55 OF THE TWELFTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA)].**

46. In Column 6 of the Schedule appended to the Air Headquarters (Senior Design Engineer) Recruitment Rules, 1972 (S.R.O. 229 of 1972), the age limit for direct recruits to the post of Senior Design Engineer was given as 45 years which was 'relaxable for Government Servants'. There was, however, no indication as to the number of years by which the age could be relaxed in case of Government servants.

47. The Ministry of Defence, with whom the matter was taken up stated in their reply as under:—

“.....the matter has been examined in consultation with Union Public Service Commission. The recruitment rules for the post of Senior Design Engineer, as published in S.R.O. No. 229 of 1972, provide that it will be filled by transfer on deputation failing which by direct recruitment. The field of deputation is Defence Science Service Officers holding analogous posts, failing which officers with three years service in posts in the scale of Rs. 1100—1500 or equivalent from the Defence Science Service.

The recruitment rules *inter alia* provide that age limit for direct recruits should be ‘45 years (relaxable for Government servants)’. If the number of years by which the age would be relaxed in favour of Government servants, is specified, as desired by the Lok Sabha Secretariat, it would obviously restrict the choice of selection and exclude highly qualified and experienced Government servants from being considered for the post. The Commission, however, at the time of selection take into consideration the qualifications and experience of the candidate concerned *vis-a-vis* his age so that he may be useful in the long run and should meet the requirement of the post. Wherever such a provision is incorporated in the recruitment rules, no limit is laid down by the Commission.

In view of the position explained above, it is not considered desirable to specify the number of years by which the age limit prescribed for direct recruits, should be relaxable for Government servants.”

48. The Committee on Subordinate Legislation (1973-74), after considering the above reply, observed in paragraph 55 of their Twelfth Report (Fifth Lok Sabha) as under:—

“The Committee are not satisfied with the explanation of the Ministry of Defence for not specifying the period by which age could be relaxed for Government servants. They are of the opinion that except for Defence Services or in Emergencies, the period by which upper age limit for Government servants could be relaxed taking into account needs of the job should be specifically stated in the Rules and

should not be left to the discretion of the Union Public Service Commission. The Committee desire the Cabinet Secretariat (Department of Personnel) to issue necessary instructions in this regard to all Ministries/Departments of Government."

49. In their action-taken note dated 29 June, 1977, the Ministry of Defence stated as under:—

".....the question regarding the amendment of recruitment rules so as to incorporate the recommendation..... is still under the consideration of the Government in the Department of Personnel and A.R. in consultation with the UPSC. Action to amend the recruitment rules for the post of S.D. Engineer in Air Headquarters will be taken as soon as general instructions in regard to the recommendation are received from the Department of Personnel and A.R."

50. In a communication dated 11 October, 1979, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) stated as under:—

".....a final decision on the recommendation of the Committee on Subordinate Legislation in respect of Groups A and B posts has not yet been taken. The comments of the Commission are still awaited by Government and a final decision will be taken as soon as the comments are received. In so far as group C and D posts are concerned, Government have already issued guidelines (*Vide*..... this Department's O.M. 4/4/74-Estt (D) dated 20-7-1976 and 14017/24/76-Estt. RR dated 22-5-1979.....")

51. Subsequent to the presentation of their Twelfth Report (Fifth Lok Sabha) to the House in May, 1974, the Committee, during the course of their scrutiny of the various Recruitment Rules pertaining to almost all Ministries/Departments of the Government of India, noticed that the precise limit of relaxation of the upper age for appointment to Groups 'A' and 'B' posts had nowhere been laid down. The Committee took up the matter with the concerned Ministries/Departments responsible for administering the respective Recruitment Rules and made a large number of references (Appendix II). The Ministries/Departments showed their inability to take any action in the matter as the general question of relaxing the upper age limit for appointment to Groups 'A' and 'B' posts/services had not been decided by the Department of Personnel and Adminis-

trative Reforms in consultation with the Union Public Service Commission. In one case, namely, the Union Public Service Commission (Ex-Cadre Posts) Recruitment Rules, 1978, the Committee took up the issue with the Department of Personnel and Administrative Reforms. After protracted correspondence, the Department in their interim reply dated 1 May, 1980, stated as under:—

“.....the reply of the Union Public Service Commission about the general question relating to relaxation of the upper age limits has been received and the same is under consideration.....”

52. Subsequently, on 15 April, 1981, the Department of Personnel and Administrative Reforms forwarded a copy of their Office Memorandum No. 4/4/74-Estt. (D) dated 9 April, 1981 containing instructions issued in regard to the extent of relaxation of upper age limit for departmental candidates for appointment to Group 'A' and 'B' posts in their own Departments. The Government took the following decisions in consultation with the Union Public Service Commission in that behalf:—

- “(i) Government servants may not be allowed any relaxation of age for recruitment to Group 'A' or Group 'B' posts on the basis of competitive examination held by the Commission, except in cases where it has been specifically provided for in the scheme of the examinations approved in consultation with the Commission.
- (ii) Government servants may be allowed, on a uniform basis, relaxation of a maximum of 5 years in the upper age limit for recruitment to other Group A or Group B posts by advertisement through the Commission. The age relaxation will be admissible to such of the Government servants as are working in posts which are in the same line or allied cadres and where a relationship could be established that the service already rendered in a particular post will be useful for the efficient discharge of the duties of the post(s) recruitment to which has been advertised. Decision in this regard will rest with the Commission.”

53. On 29 April, 1981 the Ministry of Defence were again asked to state whether they had since amended the Air Headquarters (Senior Design Engineer) Recruitment Rules, 1972 and other Recruitment Rules, with which they were concerned, in the light

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of the aforesaid instructions of the Department of Personnel and Administrative Reforms. In their reply dated 6 May, 1981, the Ministry stated as under:—

“.....this Ministry has not so far received a copy of the MHA (Department of P & AR) O.M. No. 4/4/74/Estt. (D) dated 9-4-1981, and that a copy of the same is being obtained from them.

This Ministry has no objection to amend the Recruitment Rules in accordance with the general instructions issued by the Department of P & AR.....”

54. The Committee note that the Department of Personnel and Administrative Reforms have since issued necessary instructions regarding relaxation of upper age limit for Government servants for appointment to Group ‘A’ and Group ‘B’ posts in various Ministries/Departments vide their Office Memorandum No. 4/4/74-Estt. (D) dated 9 April, 1981.

55. The Committee desire the concerned Ministries/Departments to amend the various Recruitment Rules with which they are administratively concerned so as to indicate therein the extent of exact relaxation of upper age limit for Government servants for appointment to Group ‘A’ and Group ‘B’ posts in accordance with the instructions issued by the Department of Personnel and Administrative Reforms in this behalf.

56. The Committee need hardly emphasize that these instructions should be followed in letter and spirit by all Ministries/Departments while making appointments to these posts with a view to maintaining uniformity of procedure till the Recruitment Rules are actually amended in this regard.

57. The Committee are constrained to observe that although their recommendation made in paragraph 55 of Twelfth Report (Fifth Lok Sabha) was made available to the Department of Personnel and Administrative Reforms soon after the presentation of the Report to the House in May, 1974, that Department took a long period of seven years in coming to a decision in the matter. As a result, hundreds of Recruitment Rules, issued during this period, did not contain the requisite provisions. A good number of references on the issue made by the Committee during the period could also not be disposed of by various Ministries/Departments. This, besides holding up the



schedule of work of the Committee, resulted in infructuous and prolonged correspondence between the Committee and the Ministries on the one hand, and between the Department of Personnel and Administrative Reforms and the rest of the Ministries on the other. The Committee cannot but deprecate such an inordinate delay in implementing their recommendation. The Committee hope that in future the Ministries/Departments would be more responsive to their recommendations.

## VII

### THE INCOME-TAX (CLASS I) SERVICE (REGULATION OF SENIORITY) RULES, 1973 (G.S.R. 54-E OF 1973)—[IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 116, 120, 125, 127 AND 128 OF SIXTEENTH REPORT (FIFTH LOK SABHA)]

58. In their Sixteenth Report (Fifth Lok Sabha), presented to Lok Sabha on 9 May, 1975, the Committee on Subordinate Legislation made the following recommendations/observations regarding the Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973:—

“116. The Committee have repeatedly emphasised that if, in any particular case the rules had to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given either by way of an explanation in the rules or in the form of a footnote to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules. This recommendation of the Committee was brought to the notice of all the Ministries/Departments of Government of India by the Department of Parliamentary Affairs on the 13th May, 1969. The Committee regret to observe that the Ministry of Finance (Department of Revenue and Insurance) have not complied with the above recommendation of the Committee in this case. The Committee are not convinced with the explanation of the Ministry that since the power exercised by the President under the proviso to Article 309 under which the rules in question had been framed, was a plenary legislative power, Government were competent to give retrospective effect to these rules without giving an explanatory note. This explanation of the Ministry indicates

that they have not properly comprehended the purport of the above recommendation of the Committee. In terms of the above recommendation of the Committee, the clarificatory note has to be given in all cases where retrospective effect is given to the rules even though Government may be fully competent to give retrospective effect thereto.

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120. The Committee are unhappy over the manner in which the Department of Revenue and Insurance had acted in this case which had necessitated giving of retrospective effect of 14 years to the rules in question. In the year 1951, the intake of promotee officers was fixed at 33-1/3 per cent but it was so unrealistic that in 1959 and 1960 Government had to upgrade 214 posts to be exclusively filled by promotion. This resulted in the collapse of the prescribed intake ratio between the promotees and the direct recruits, and with it, the seniority also collapsed. All this led to utter 'chaos' in the field of seniority, and 'nobody knew where he stood'. In the opinion of the Committee as soon as it had become evident to Government that the old intake ratio had become unworkable, the proper course for them was to alter the ratio through an amendment to the rules and to give it a prospective effect rather than to continue to fill up posts in a haphazard manner. Had this been done at that time there would have hardly been any need for retrospective effect, which had resulted in unfavourable placement of several promotee officers for no fault of theirs.

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125. It is no doubt true that 209 officers promoted in 1971 and 1973 have gained in their placement by one or two years and correspondingly the direct recruits have been relegated. But the total number of promotees who have lost in their placement is more. The Committee are of the opinion that having promoted a large number of officers from time to time according to needs and exigencies of services, it was not proper for the Department to have relegated their placements. It is certainly the concern of the Government to determine what should be the ratio of intake from the direct recruitment and by promotion but the Committee cannot ignore the frustration caused to a

section of employees who are told several years after their appointment that their placement stands relegated below the direct recruits who joined the Department after them.

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127. It cannot be denied that 62 Assistant Commissioners, who had been promoted in 1973, were reverted in 1974, on account of their placement below direct recruits who had joined the service later as Income tax Officers (Class I). No doubt, they were warned that their appointments were *ad-hoc* but this can at best be considered only an administrative safeguard in the hands of the Department. In the opinion of the Committee, had the original placements not been disturbed, these 62 Assistant Commissioners would normally not have been reverted.

128. In their evidence before the Committee, much stress has been laid by Government on legality. The Committee will like to make it clear that in their approach to rules, they are concerned not merely with legality, but are also concerned that the rules framed by Government conform to the principles of natural justice. When a rule has the effect of hurting a section of the people from a back date, the Committee cannot remain indifferent. The Committee trust that the Ministry will give a serious thought as how to remove frustration and hardship among the promotee officers. The Committee hope that the Government would see that all the officers work happily for the good of the people and the country at large."

59. In their Action-taken Note dated 10 April, 1978, the Ministry of Finance (Department of Revenue) stated as under:—

"Paragraph 116—The observations of the Committee have been noted to be kept in view as and when the need arises for issue of a rule intended to be given retrospective effect.

Paragraph 120—The Committee's observations have been noted.

Paragraph 125—In the Ministry of Finance letter dated the 18th October, 1951, the quotas for direct recruitment and promotions to the grade of Income-tax Officers (Class I)

were fixed at 66-2/3 per cent and 33-1/3 per cent, respectively, for a period of 5 years in the first instance. The promotions from 1957 onwards were, therefore, made with the clear stipulation that the question of seniority was under consideration. The matter was taken up for examination and the views of the Ministry of Finance in that regard were formulated in February, 1960, when a proposal was mooted that with effect from 1-1-1957, the quota for promotion should be raised to 50 per cent and the weightage rule of seniority contained in the Ministry of Finance letter dated 5-9-1952 be done away with. The proposal was formulated keeping in view all relevant factors including the decisions taken in 1959 and 1960 that altogether 214 posts of Income-tax Officers (Class II) should be upgraded to Class I and that they should be filled exclusively by promotions from Class II. The seniority rules issued on 9-2-1973 was thus not different from the proposal formulated earlier in the background of the quantum of promotions contemplated for the period up to 1966.

The rule of seniority issued on 9-2-1973 had not only to provide for the seniority of officers appointed by direct recruitment and promotion from 1959 onwards to be regulated but it had also to accommodate the 73 surplus promotee officers of pre-1959 with a view to absorbing them in a regular manner.

In view of the considerations set out above, the points of time at which officers had been appointed as Income-tax Officers (Class I) by direct recruitment and by promotions, could not determine or form the basis of any placements in the seniority list issued on 9-2-1973 can be compared.

Paragraph 127.—In their judgement dated 16-8-1972, the Supreme Court held *inter alia* that on 16-1-1959 when the Government announced their decision to upgrade 100 Class II posts to Class I and fill them exclusively by promotions from Class II, both the quota rule of 1951 and the seniority rule of 1952 collapsed and that the seniority list issued by the Government on 15-7-1968 was not correct.

The Court directed that Government should freshly frame a just and fair rule to determine the seniority *inter se* between the direct recruits and the promotees from 16-1-1959 onwards. The Government were further directed to draw up a revised seniority list and to file the same before the Court within 6 months of the date of pronouncement of the judgement. The proceedings before the Court were kept pending till objections, if any, against the new seniority rule and the revised seniority list were disposed of.

The effect of the judgement of the Supreme Court was that there was no valid seniority list of Income-tax Officers • (Class I) from which promotions to the higher posts of Assistant Commissioners of Income-tax could be made by the prescribed method of selection on merit. The Government therefore, made an application before the Supreme Court on 2-12-1972 seeking permission for promotions to be made on the basis of the seniority list dated 15-7-1968, pending framing of a fresh rule of seniority and preparation of a revised seniority list. On 21-12-1972, the Court passed the following order, disposing of the Application:

‘The Govt. will be entitled to appoint people in order of seniority determined according to the date of continuous officiating appointments in Class I, subject to suitability which will be decided by the Board. This is without prejudice to the contentions of the parties of their rights in the appeals before us.’

A proposal to make *ad hoc* promotions in terms of the Supreme Court interim order quoted above was mooted. Meanwhile, however, considerable progress towards framing the fresh rule of seniority had been made. The seniority rule and the revised seniority list were issued on 9-2-1973 and were filed before the Supreme Court on 15-2-1973. As the placement of officers in the revised seniority list was radically different from the order in which continuous officiating appointments to Class I had been made in the past, it was evident that the persons who might be promoted *ad hoc* in terms of the Supreme

Court's interim order would have to revert if, and as soon as, the revised seniority list was upheld by the Supreme Court. The Government, therefore, took the view that it would be administratively unsound and inappropriate to make any *ad hoc* promotions by invoking the Supreme Court's interim order. However, the promotee officers demanded *ad hoc* promotions to be made despite Government's reluctance to do so and pressed their demand even while they were aware of the possibility of reversions. It is in these circumstances that *ad hoc* promotions had perforce to be ordered and, on the Supreme Court upholding the revised seniority list in their judgement dated 16-4-1974, most of the officers promoted *ad hoc* had to be reverted.

In view of the position in regard to para 125, as stated above, the rule of seniority issued on 9-2-1973 did not disturb any 'original placements' as such. Moreover, the issue of the rule preceded and did not follow the *ad hoc* promotions. Therefore, judged in the light of the events in their true sequence, the reversions were the direct sequel to the promotee officers' pressing demand for *ad hoc* promotions to be made, despite Government's reluctance to do so, while they were fully aware of the possibility of reversions.

All the reverted officers who are still in service have since secured promotion—excepting one who was not selected for regular promotion, on merits.

*Paragraph 128*—The Committee's recommendation has been noted. With the repromotion of the reverted officers, the frustration on that account stands removed. The Government would continue to consider ways to remove any genuine cause of frustration and hardship among the officers, including the promotee officers, so that all the officers work happily for the good of the people and country at large."

60. In May, 1979, the All India Federation of Income Tax Gazetted Services Associations represented to the Committee that in total disregard to the Committee's recommendation, Government had not done anything to remove frustration and hardship among the promotee officers; rather the action taken by them had accentuated the same. On being asked to clarify the position with

regard to the action taken by Government to mitigate the grievances of the employees, the Ministry of Finance (Department of Revenue) stated in their reply dated 10 July, 1979, as under:—

“ . . . The recruitment to the Income-tax Officers (Group ‘A’) Service is made both by direct recruitment and by promotion and the Officers are adjusted in seniority on 1:1 basis which implies reservation of 50 per cent vacancies for promotion. In very few other services, the promotion quota is prescribed as high as 50 per cent. After initial integration of seniority in Group ‘A’ both the direct recruits and promotees are placed in a single list and further promotions are made from the common seniority list treating them as belonging to one single integrated unit. This position obtains in all other Central Services. Therefore, whatever steps have to be taken for improving the career prospects of the officers of the Department, this has to be done for all the officers in the integrated cadre and not exclusively for promotees or for direct recruits.

One a reference made to the Ministry of Law in the context of the recommendations made in the 49th Report of the Rajya Sabha Committee on Petitions, that Ministry categorically stated that in their opinion, all Group ‘A’ ITOs, whatever might be the original source of their recruitment, form one category of persons and that there is no justification for differentiating between them on the basis of the mode of their entry into Group ‘A’.

It may be mentioned that notwithstanding the legal position as stated above the question of keeping the morale of the officers in the Income-tax Department by bringing about improvements in their conditions of service has been the uppermost concern of this Ministry. Whenever it is considered necessary, corrective measures are taken to remove the bottlenecks if any in the matter of promotional prospects of officers. With this end in view, a number of steps, some of which are enumerated below have since been taken to improve the promotion prospects of the officers of the Income-tax Department including those in Group ‘B’ or promotees in Group ‘A’:—

- (i) 80 additional posts of Commissioners of Income-tax have been created by upgrading an equal number of posts of Assistant Commissioners during the year 1978. (50 per

cent in the scale of pay of Rs. 2250—2500 and 50 per cent in the scale of Rs. 2500—2750). Including available vacancies, 116 Assistant Commissioners of Income-tax were promoted as Commissioners of Income-tax in July, 1978. This has helped in removing stagnation at the level of Assistant Commissioners.

- (ii) 99 posts of Selection Grade Assistant Commissioners (scale of Rs. 2000—2250) have been created. Steps are under way to fill these posts.
- (iii) 87 additional posts of Assistant Commissioners of Income-tax have been created by upgrading an equal number of posts of Income-tax Officers Group 'A' (Senior Scale). All these posts have been filled by making promotions of Income-tax officers Group 'A'. The increased strength of Assistant Commissioners cadre has thus improved the promotion prospects of Income-tax officers Group 'A'.
- (iv) During the last 2 years or so 250 additional posts of Income-tax Officers Group 'A' have been created—thus improving the chances of promotion of Income-tax Officers Group 'B'.
- (v) Although appointments to the grade of Income-tax officer Group 'A' are made 50 per cent by direct recruits and 50 per cent by promotion from the grade of ITO Group 'B', it has been decided that pending regular appointments all vacancies in the grade of ITOs Group 'A' should be filled by *ad-hoc* promotion of Income-tax Officers Group 'B'. In pursuance of this decision, 250 ITOs Group 'B' were promoted to the grade of ITO Group 'A' (Junior scale) in December, 1978. This has accelerated the promotion of ITOs Group 'B'. Except seniority the *ad-hoc* promotees get all the benefits of Group 'A' Scale.
- (vi) Regular appointments to the grade of Income-tax Officer Group 'A' are made in the proportion of 1:1 by direct recruitment and promotions from Group 'B'. It has been decided to increase the annual intake of direct recruits from 80 to 120 from 1978 onwards so that an equal number is taken by promotion from Group 'B', thus accelerating the regular promotion.
- (vii) 150 leave reserve posts of ITOs Group 'B' have been recently created to provide for additional man-power.



The Government would, keep under continuous review the career prospects of the various categories of officers of the Department and take action to improve them from time to time."

61. In a subsequent representation dated 16 January, 1982 (Appendix III), the All India Federation of Income-tax Gazetted Services Associations reiterated their grievances as under:—

"..... the Govt. (Ministry of Finance, Deptt. of Revenue) has not paid any heed to the recommendations of the Committee and has been harping on the Supreme Court decisions and taking shelter behind legalities and technicalities which after due consideration were pointedly rejected by the Committee. The Deptt. has not taken any effective measures to remove the grave injustice caused due to the retrospective effect given to the seniority Rule of 1973 from 15-1-'59. Deep rooted frustration has now found an expression in the form of an agitation for which the responsibility lies on the Deptt. With due respect we may submit that such an attitude towards a parliamentary body virtually amounts to the contempt of the Parliament. We pray that the Deptt. may kindly be advised to remove the stagnation and remedy the harm caused due to the retrospectivity of the Rule as well as by the delay in giving effect to the recommendations of the Committee.

Even at this stage when the officers have launched an agitation to express their resentment over the callous attitude of the Deptt. and on the Deptt's failure to implement the assurances given to them last year in March, '81, they have shown a high sense of responsibility and decided to increase their working hours by half an hour during the period of agitation.

We pray that the Committee may kindly take note of the situation and take some effective measures to ensure the removal of the frustration in the majority of the gazetted strength of the Deptt."

62. The Committee considered the matter at their sitting held on 23 January, 1982 and desired to hear oral evidence of the representatives of the Ministry of Finance. Accordingly, the representatives of the Ministry of Finance, (Department of Revenue) appeared before the Committee on 10 February, 1982 and tendered their evidence.

63. The Ministry of Finance (Department of Revenue) also furnished written replies to various questions of the Committee *vide* their Office Memorandum No. 11016/18/77-Ad. VI dated 25 March, 1982 (Appendix IV). The Chairman of the Committee desired to have further elucidation on certain points (Appendix V) arising out of the Ministry's earlier written replies. Despite repeated reminders, the Ministry of Finance (Department of Revenue) did not care to send their comments thereon. However, Shri S. S. Sisodia, Minister of State for Finance, *vide* his D.O. No. 11016/18/77-Ad. VI/5-293/82 dated 24 April, 1982 (Appendix VI) addressed to the Chairman, Committee on Subordinate Legislation, pleaded that the information already supplied to the Committee on 25 March, 1982 in reply to various questions was complete enough for the Committee to formulate their recommendations in this regard and that information on Supplementary Questionnaire by way of further elucidation on certain points which arose out of the replies of the Ministry of Finance (Department of Revenue) to the original questionnaire should not be insisted upon.

64. During evidence before the Committee, when asked as to why an Explanatory Memorandum, stating that nobody would be adversely affected as a result of the retrospective effect given to the 1973 Seniority Rules, was not published in the official Gazette, the representative stated that although no explanatory memorandum was appended to the Gazette notification yet a memorandum was added to the copy of the notification laid on the Table of the House. He further clarified that the rules of seniority were framed as a sequel to the Supreme Court judgement dated 16 August, 1972. The Ministry were in a dilemma on this point. It was never the intention to violate the normal rule laid down by the Committee in that regard. He further explained that there were at least two categories of people—the affected and those not affected. They were affected in different ways by the operation of the Rules. The Government were to devise just and fair seniority rules as between the direct recruits and the promotees and these rules had to be given effect from 16 January, 1959, as directed by the Supreme Court. These rules were, thereafter, submitted to the Supreme Court who found them to be just and fair.

65. When pointed out that the degree of hardship had not been equal to both sides which was not fair and just, the representative stated that though the promotees had indicated that the rules were not fair to them, they themselves could not put forward any rational alternative. They were indeed pleased with the increase in the promotional chances but they were sorry that the artificial seniority which gave them weightage in the past, had been removed. The chances of promotion to the posts of Assistants Commissioners are retarded by the removal of weightage hitherto given to their service as Income-tax Officers Group 'B'. However, on an analysis of vacancies in the higher echelons of the Service and the future and present ages of the promotees, there was really no ground for any despondency. •

66. When enquired whether the Seniority Rules of 1973 were challenged before the Supreme Court, the representative stated that in 1972 the Supreme Court had directed that fresh rules might be framed and the seniority lists drawn up. After the rules had been framed and the lists were drawn, the matter again went to the Supreme Court and it considered the rules as well as the seniority list. The Supreme Court in its judgement of April, 1974, held two things, namely (i) the Seniority Rule was just and fair; and (ii) the Seniority List was in accordance with the rules framed. The representative also stated that after April, 1974 judgement, nobody had gone to the Supreme Court on that point.

67. The matter, however, came up for review before the Supreme Court in the case of K. K. Datta and others V. Union of India (1980) 3 SCR 811. The majority judgement was delivered by Mr. Chief Justice Y. V. Chandrachud and the dissenting judgement was delivered by Mr. Justice D. A. Desai. In his majority judgement, the Supreme Court observed:—

“If indeed the relevant files were produced before the Committee, it would not have expressed its sense of deep shock and resentment at the disappearance of the files. Further para 32 of the Report shows that the Committee had to grope in the dark and indulge in a certain amount of speculation on matters under its consideration. In the circumstances it has done as good a job as a Committee can and no fault need to be found with it. But, nevertheless the said Committee's Report cannot displace the Court's judgements.

Even on merits there is no justification for considering the judgement already rendered by this Court inasmuch as no fresh facts were brought to notice by way of discovery of new and important evidence which would justify reconsideration of the decisions already rendered by this Court after the most careful examination of the competing contentions. The report of the Rajya Sabha Committee on Petitions shows that the relevant files are still not traceable."

68. The report referred to in the above judgement was the Report of Rajya Sabha Committee on Petitions, presented to Rajya Sabha on 9 January, 1976. In this connection, the Ministry of Finance forwarded a copy of the D.O. letter No. 228/MRV/76 dated 4-2-1976 from Shri Pranab Mukerjee the then Minister of State for Finance, addressed to Shri S. S. Mariswami, Chairman, Rajya Sabha Committee on Petitions alongwith the Office Memorandum dated 25 March, 1982 referred to above. In his letter dated 4 February 1976, Shri Mukerjee stated that out of 54 files, 52 files pertaining to the years between 1939 and 1975 were available. Only two files pertaining to 1945 and 1967 were not available. The relevant portion of Shri Mukerjee's letter is reproduced below:—

"2. The report is being examined in all its aspects and I assure you that the Committee's recommendation will receive the Government's most careful consideration. In the meantime, however, I should like to invite your attention to the observations contained in paragraph 32 of the Report wherein the Committee have been pleased to refer to the inability of the administration to supply certain records asked for by them. I find, however, that of the 54 files requisitioned by the Committee, pertaining to several years between 1939 and 1975, 52 were supplied. i.e., all but two, one of 1945 and another of 1967. As the Committee have themselves noted the administration has since 1962 been involved in long-drawn out proceedings before the Courts. During the course of these proceedings, the earlier records were required to be consulted, often simultaneously in several cases, with the result that the movement of the two files could not be kept under watch. You would no doubt appreciate that having regard to all the circumstances, the inability to produce the two files was because of difficulties inherent in the situa-

tion and that there was no attempt to withhold any information from the Committee.

3. The Committee have also referred to another file, relating to the framing of the Seniority Rules of 1973, which is stated to have reported as 'not available' and in place of which only a reconstructed file is stated to have been produced. I have been informed that although the original file (No. 12/11/72-Ad. VI) could not be traced for some time, efforts to locate it were persevered with. It was finally traced out and forwarded to the Rajya Sabha Secretariat on 11-11-1975 with the Ministry's letter F. No. 6/24/76-Ad. VI of the same date, that is, before the Committee adopted the Report in their meeting held on the 4th December, 1975. I find that both the original file and the reconstructed file are mentioned in the list of files which have since been received back from the Rajya Sabha Secretariat.

4. I hasten to bring these point to your notice for such action as you may consider necessary."

69. In the light of the observations of the Supreme Court in the case of K. K. Datta (Supra), the whole matter requires a second thought. In any case, the promotee group of Officers should not be placed in an adverse position and no prejudice should be caused to their interest if the records were not made available at the proper time either to the Supreme Court or to a Committee of Parliament. Even during the course of the hearing before the Supreme Court in the case of K. K. Datta, the Government should have placed all the relevant facts and information contained in those files before the Supreme Court. On the contrary, the Department kept back the relevant material even at that stage and Mr. Justice Desai in his dissenting judgment made the following observations:—

"Repeatedly the Government of India kept back material from this Court filing affidavit after affidavit showing its inability to provide such important information on which the decision of the Court would turn even though it can now be demonstrably established that such material and information was with the Government. If the Government of India had not withheld such material information which has been rather adversely commented upon not by the Court but by the Legislature, the credibility of the

**department would be exposed”.**

The aforesaid observation of Mr. Desai are also supported by Shri Mukerjee's letter dated 4 February, 1976 quoted above.

70. When asked if there was any distinction in the nature of duties assigned to the Income-tax Officers of Group 'A' and Group 'B', the representative of the Ministry replied that legally there was no such distinction. To a question whether the Income-tax Officers, Groups 'A' and 'B' could work on identical posts and perform identical functions under the taxation law, the representative stated that under the Act any Income-tax Officer belonging to Group 'A' or Group 'B' might hold any post, but under administrative instructions, Group 'B' Officers were not put on senior posts. However, to meet some exigencies, when Group 'A' Officers were not available, then Group 'B' Officers could man the senior posts also. The representative agreed that, technically speaking, I.T.O.s Group 'A' and Group 'B' could work on inter-changeable posts. When further questioned as to what was meant by the work 'technically', the representative stated that there was no bar about the interchangeability. However, in actual practice, certain posts were earmarked for Group 'A' Officers and certain other posts for Group 'B' Officers.

71. Clauses (a) to (f) of Section 116 of the Income-tax Act groups income-tax authorities into 6 categories for the purpose of the Act. Clause (e) refers to the Income-tax Officers as one such class. It is section 117 that speaks of Income-tax Officers of Class I Service and Income-tax Officers of Class II Service. Under sub-section (1) of section 117 the Central Government appoint Income-tax Officers of Class I Service and under sub-section (2), the Commissioner has the power to appoint Income-tax Officers of Class II Service. Section 118(2) makes Income-tax Officers as a Class subordinate to the Commissioner, the Inspecting Assistant Commissioner and the Director of Inspection. Here no distinction has been made between Class I and Class II Services. Sub-section (3) of section 118 makes Inspectors of Income-tax subordinate to the Income-tax Officers under whom they are appointed to work. Here again no distinction has been made between Income-tax Officer of Class I Service and Income-tax Officer of Class II Service. Section 124(1) provides that Income-tax Officer shall perform their functions in respect of areas, persons or classes of persons, incomes or classes of income or cases or classes of cases, as the Commissioner may direct. This Section which defines the jurisdiction of Income-tax Officer does not say that the Commissioner shall allot different areas, persons or classes of persons, incomes or classes of income or

cases or classes of cases to Class I and Class II Officers according to some principles. Reference to Class I and Class II Services in Section 117 cannot be assumed to have a significance in the absence of any provision to indicate the purpose of or the basis of the classification. Therefore, though Section 117 mentions two Classes, it cannot be construed as creating two Classes of Service unequal in status and pay and the grouping of the Income-tax Officers in Class I and Class II is violative of Articles 14 and 16 as it is not for the purpose of the Act and there is no nexus between the object of the statute and the grouping.

72. In the recent judgement in the case of *Randhir Singh Vs. Union of India* (1982) AIR 879, the Supreme Court has held that equal pay for equal work is not a mere demagogic slogan. It is a Constitutional goal capable of attainment through Constitutional remedies by the enforcement of Constitutional rights. This decision has made a significant departure from the existing concept of law according to which the principle of equal pay for equal work was described as an abstract doctrine which had nothing to do with Article 14. In *Randhir Singh's* case, the Supreme Court referred to its old decision in the case of *K. M. Bakshi Vs. Union of India* (1962) AIR 1139 and has observed that the *Bakshi's* case is not itself of any real assistance on the subject and there, what was decided was that there could be different scales of pay for different grades of service. In *Randhir Singh's* case, the Supreme Court has held that, construing Articles 14 and 16 in the light of the Preamble and Article 39 (d), it is clear that the principle of equal pay for equal work is deducible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification, though those drawing the different scales of pay do identical work under the same employer. This is a forward looking posture and will go a long way in eradicating inequality wherever it may lie.

73. The Committee find that neither under provisions of direct tax laws nor in actual practice, there is any rational justification for the classification of the Income-tax Officers into Class I and Class II. There is no nexus between the purpose of the Act and the classification. This is the real malady which deserves to be cured by amending the existing rules of Service and the corresponding provisions of Section 117 and in all fairness there should be only one class of Income-tax Officers without any artificial class distinction as at present.

74. When asked as to why equal status and pay were not given to Group 'A' and Group 'B' Officers when they were doing the same type of work, the representative stated that the two services carried different scales of pay and their method of recruitment was also different. This was not peculiar to this Service. It existed throughout the Government of India and it had been there for decades. Even their prospects were different. The representative also admitted that there were unequal opportunities for advancement to officers working in these two categories. The representative further elaborated that statutory rules prescribed the conditions of service and the Department laid down their duties.

75. Though it was admitted by the Government representative that there were unequal opportunities to the Officers of two categories for their career advancement, it was justified on the ground that it existed throughout the Government of India and it had been there for decades. The defence of the system which is *prima facie* unjust and unfair could not be based on the ground that similar injustice existed elsewhere too and that had been perpetrated for decades. The Committee are not aware of existence of exactly identical situation in any other Department where a Group 'B' Officer, or an *ad hoc* Group 'A' Officer or a regular Group 'A' Officer might be working on interchangeable posts and performing identical functions and enjoying equal authority and power under the statute until their promotion to the junior administrative grade.

76. With regard to mitigating the sufferings of the Income-tax Officers, Group 'B', the representative stated that equating of both the categories completely was not possible. They were considering the conversion of a large number of Group 'B' posts into Group 'A' posts. About 400 posts were proposed to be converted into Group 'A' posts in consultation with the Department of Personnel who had advised that the number should be smaller.

77. The Committee, however, feel that the proposed conversion is not a solution to the serious problem of stagnation existing in the Department. Much more effective steps need be taken in this direction.

78. The representative of the Ministry stated that there were 2,042 Group 'B' Officers as under:—

With less than five years of service—910

With more than five years but less than 10 years of service

—705



With more than ten years but less than 12 years of service  
—305

With more than 12 years but less than 13 years of service  
—122

79. The Ministry of Finance *vide* their Office Memorandum dated 25 March, 1982 (Appendix IV), informed the Committee that since November, 1973 it has been the practice to promote Income-tax Officers, Group 'B' on *ad hoc* basis to the grade of Income-tax Officers, Group 'A' so that they might hold posts of Income-tax Officers, Group 'A' which could not be filled up by the normal method of direct recruitment through U.P.S.C. and by promotion from Group 'B'. The number of Officers promoted on *ad hoc* basis from 1973 to 1981 was stated to be 1123.

80. This brings out two aspects into light:—

- (a) The Group 'B' Officers though appointed to Group 'A' are treated as *ad hoc*. They perform the job of a Group 'A' Officer without getting the benefit of seniority or the senior scale of pay as the period of *ad hoc* Group 'A' service is not counted for any purpose.
- (b) This practice was started since 1973, that is, the time since when seniority rule of 1973 was made. This brings out the fact that the rules were not only unjust and unfair but they had also proved to be inadequate to the requirements of Income-tax Service.

81. The Group 'B' Officers performing identical functions as Group 'A' wait for 13 long years for their promotion first on *ad hoc* basis to Group 'A' and thereafter they wait for yet another about 3 years to be regularised as Group 'A' i.e. for a total period of about 16 years. This is because of the fact that so long as a direct recruit to Group 'A' has not been recruited, the promotee cannot be declared as a regularly promoted Group 'A' Officer even though he has already been appointed by the Government as a Group 'A' Officer. There are hundreds of Officers promoted to Group 'A' on *ad hoc* basis who are yet to be regularised. Thus, the Government are not able to fill up the regular Group 'A' posts because of the handicap created by the Seniority Rules of 1973 and this, as illustrated above, acts directly to the prejudice of the promotee Officers.

82. When asked as to how many years, they would take to become Assistant Commissioners, the representative stated that first they had to go to Group 'A', take their seniority with the direct recruits and then become Assistant Commissioners. The senior most People had put in 15 years in Group 'B' cadre and they had to wait for another 10 years after their promotion to Group 'A' cadre before they become Assistant Commissioners. No weightage was being granted now to Group 'B' service. The Central Pay Commission had advised in 1973 to give some weightage and the question was under consideration with the Department of Personnel but no decision had so far been taken in that regard.

83. According to the eligibility rules for promotion to the cadre of an Assistant Commissioner, 8 years' Group 'A' service is essential. The combined effect of the Seniority Rules of 1973 and the eligibility rules for promotion to the cadre of Assistant Commissioner is that a promotee Officer becomes eligible only in 6 years of field work i.e. 8 years minus 2 years of training. Thus, the difference is 4 times, and the discrimination is very glaring when viewed in the light of the fact that there is no distinction in the nature of work.

84. The Ministry of Finance *vide* their O.M. dated 25 March, 1982 (Appendix IV) have informed that there has been a steady decline in the ratio of the promotees in the cadre of Assistant Commissioner. In 1959, the ratio of promotees was 70 per cent. It has come down to 32 per cent as on 1 February, 1982. This is apparently because the promotees have to wait for 23 years to earn their eligibility for promotion as Assistant Commissioner due to the unfairness of the seniority and promotion rules. Naturally, they suffer the retirement before they get promoted, and the vacancies caused by their retirement go to the share of the other side, i.e., the direct recruits. If this process is allowed to continue, promotees will be wiped out totally even from the rank of Assistant Commissioner. This state of affairs further establishes the unfairness of the rules and runs counter to the well-established principle of administration, according to which there should be a healthy and happy blend to experience and youth at the higher echelons.

85. On being questioned as to whether the rules served the desired purpose of bringing about efficiency in the service and removing frustration amongst the Group 'B' Officers, the representative stated that that would be an ideal situation. They had been working in an environment of service structure where people came from different sources. One major point was that one group or the other

group should not be set against each other. The question was one of balancing the hopes and aspirations of one group *vis-a-vis* the other group.

86. As already pointed out in the preceding paragraph, the rules are one-sided and they cannot serve the desired purpose. They have wiped out one class of Officers altogether from the senior administrative grade i.e. from the rank of the Commissioner as their present percentage according to the O.M. dated 25 March, 1982 of the Ministry of Finance is only 2 per cent.

87. The adverse effect of the Seniority Rules, 1973 on the promotee Officers is also evident from the following data supplied by the Ministry of Finance *vide* their aforesaid O.M. dated 25 March, 1982. The rules were given retrospective effect from 15 January, 1959 and the quota of 50 per cent was also introduced from the back date i.e. 15 January, 1959. The quota was 20 per cent prior to 1951, and it was increased to 33.3 per cent from 1951 to 1959. The waiting period for promotion from Group 'B' to Group 'A' at three points of time was as follows:—

- (a) Prior to 1951 when the promotion quota was only 20 per cent—5 to 7 years.
- (b) From 1951 to 1959 when promotion quota was raised to 33.3 per cent—8 to 10 years.
- (c) After 1959 when the quota was raised to 50 per cent—10 to 14 years. (Presently it is 16 years).

88. Thus the waiting period for promotion from Group 'B' to Group 'A' has been steadily increasing and the quota even though increased to 50 per cent which is said to be highest among the Central Services, has only made the position of Group 'B' Officers from bad to worse.

89. The real adverse effect of 1973 Rules on the promotees will not be known if one ignores the fact that no compensation or weightage is being allowed for the long period of 14, 15 or 16 years of Group 'B' service during which period a Group 'B' Officers performs identical functions like a Group 'A' Officer. The gravity of the situation becomes manifest if one deducts three years weightage from the waiting period of 5 and 8 years prior to 1951 and 1959 respectively. After deduction of the weightage, the handicap of Group 'B' service remained only for 2 to 5 years respectively at that time as against 15 years on an average at present.

90. The grant of weightage was recommended by the Third Pay Commission in 1973 and accepted by the Government of India at the Cabinet level in May, 1974. The Government representative informed that the grant of weightage and senior scale to the Group 'B' Officers was recommended by the Ministry of Finance but it was pending with the Department of Personnel. The Committee desire that a very early decision should be taken on this question and pending abolition of the arbitrary class distinction amongst the officers doing the identical work, the weightage equal to half the length of the Group 'B' Services should be allowed to all the promotee Officers. This benefit should be allowed not only to those who are to get their promotions in future but also to those promotee Officers who had already been promoted as Group 'A' Officers or Assistant Commissioners or Commissioners and their seniority should be readjusted accordingly. With a view that no prejudice was caused to the direct recruits, suitable number of posts of Income-tax Officers Group 'A' be upgraded to those of Assistant Commissioners and Commissioners.

91. The policy of the Government is illustrated in the following policy guidelines circulated by the Prime Minister to the various Ministries in 1975:—

“The present rules and practices regarding direct recruitment and promotion need to be looked into with a view to provide a large measure of opportunity for promotion at the lower levels consistent, of course, with the need to maintain efficiency. Employees should not feel that they are for ever condemned to stagnate at lower levels because of a poor start at the outset. They should have the assurance that through disciplined hard work they can rise to higher echelons. Genuine concern for the welfare of employees will surely lead to better morale and performance.”

92. The promotee Officers constitute the majority of the Gazetted service of the Income-tax Department. The Committee view it with concern that there has been widespread frustration among the Group 'B' and promotee Officers. The entire intake in Group 'B' is from the rank of Inspectors who are a part of the Non-Gazetted staff. The stagnation at the level of Group 'B' Officers has its consequential adverse effect upon the Inspectors and down below. The promotee Officers including Group 'B' Officers are about 4000 all over India and the Non-gazetted Officers are about 45,000. These two together constitute 97 per cent strength of the Department. The simmering

discontentment germane to the stagnation of Group 'B' and promotee Officers has spread into the rank and file of the Department. That was why both Gazetted and Non-Gazetted Officers had embarked upon an agitational programme last year. While no indiscipline among the services can be permitted, it is important for the Government to remove the discontentment responsible for creation of such situations. The Federation has contended before the Committee that the assurances given to them last year in March, 1981 when they postponed their strike scheduled for the 9 March, 1981 all over the country, have not been fulfilled so far. This is a serious matter and the Committee view it with great concern as the non-fulfilment of assurances given to its own Officers and employees is bound to erode their faith and would not be conclusive either for maintenance of efficiency or discipline.

93. The Income-tax Department is one of the most important services of the Government of India and the Government can ill-afford the present state of affairs prevailing in the Department; where the Officers are engaged in the battle royal in the Supreme Court and the litigation is still going on between the promotees and the direct recruits; where the Officers and staff are driven to stage demonstrations on the roads, resort to Dharna, pen-down strikes, mass walk-outs, etc. Such tendencies ought to be curbed and the causes for creation of such situations ought to be removed at the earliest.

94. The Committee feel that there has been too much of misguided and false motion of economy in dealing with the problems concerning this Department. As observed by Prof. Nicolas Kaldor of Cambridge University, it is idle to expect highest standard of efficiency from the officers, on whose attitude depends crores of revenue, by keeping them dissatisfied and disgruntled. In economically advanced countries like America revenue services receive highest regard and reward in the matter of pay and perquisites.

95. The Committee note that due to the retrospective operation of the Income-Tax (Class I) Service (Regulation of Seniority) Rules, 1973, a large number of promotee Officers had been relegated or reverted or otherwise adversely affected so far as their seniority in Group 'A' was concerned. The Committee are constrained to observe that despite their findings to this effect in paragraphs 127 and 128 of their Sixteenth Report (Fifth Lok Sabha), presented to Lok Sabha on 9 May, 1975, the Government have not taken adequate steps to

remove the frustration, discontentment and imbalance among promotee Officers of the Department. The corrective measures stated to have been taken by the Government have failed to achieve the desired results.

96. The Committee, therefore, recommend that—

- (1) The Seniority Rules of 1973 which have failed to prove just and fair to all categories of officers should be replaced by an equitable Seniority Rules to ensure equal opportunities to the promotees as well as the direct recruits;
- (2) There is no justification for keeping two categories of Income-tax Officers in the Income-tax Service, and the Government should take steps to remove the class distinction as early as possible;
- (3) The denial of the weightage for Group 'B' service is highly unjust and unfair particularly when there is no distinction in the nature of duties. Adequate compensation should be granted for the Group 'B' service and the extent of the compensation or weightage should be decided with reference to the length of Group 'B' service. The minimum weightage to be allowed should be equal to half the length of the Group 'B' service. It is needless to add that the Constitutional validity of the grant of weightage has been upheld by the Supreme Court in the case of S. G. Jaisinghani Vs. Union of India 1967 (SCR) 703, and that the recommendation of the Third Pay Commission has also been accepted by the Government in this behalf and that the Ministry of Finance has already sent the proposals recommending the grant of weightage to the Group 'B' Officers to the Department of Personnel. The weightage should not only be allowed to those who have to be promoted from Group 'B' to Group 'A' but to all those who have already been promoted to Group 'A' or as Assistant Commissioners and the seniority should be revised accordingly. In order that no prejudice is caused to the direct recruits, suitable number of Group 'A' posts should be upgraded to those of Assistant Commissioners and Commissioners. The necessary provision should be made to this effect in the fresh seniority rules which may be

framed under the proviso to Article 309 of the Constitution. The hardship has been caused due to the retrospective effect having been given to the Seniority Rules of 1973 and they must, therefore, be withdrawn in the circumstances retrospectively;

- (4) 50 per cent is not adequate for promotion from Group 'B' to Group 'A' keeping in view the fact that the waiting period in Group 'B' has been steadily increasing as indicated above. Instead of resorting to the ad hoc measures of conversion of certain number of Group 'B' posts into Group 'A', the quota of promotion should be raised from 50 per cent to 75 per cent and the increased quota should continue till the waiting period in Group 'B' for promotion to Group 'A' is brought down to a reasonable limit of 6 to 9 years. Thereafter, the quota may be reviewed again. The proposed grant of weightage equal to half the length of Group 'B' service would prove to be equitable as with the increase in quota, the extent of weightage would go on decreasing alongwith the decrease in the waiting period in Group 'B'. This would be helpful in removing the stagnation in Group 'C' too as the larger number of vacancies arising in Group 'B' would consequently benefit Group 'C' all along the line down below. It would also help in keeping the number of direct recruits to a reasonable figure, say 80 or 100 per years, and thereby in forestalling the stagnation among the direct recruits too. The large intake by way of direct recruitment might impair the equality also.

97. While recommending the increase in the quota, the Committee have kept in view the recommendation of the Direct Taxes Inquiry Committee popularly known as Wanchoo Committee wherein they had suggested the increase in quota to 66.6 per cent. The stagnation has considerably increased since then and there is a need for more effective measures in this behalf.

98. The Committee feel that most of the difficulties and disputes have arisen due to the fixation of quota and the allocation of vacancies among the promotees and direct recruits and the rules governing fixation of inter se seniority. There has been a long drawn legal battle between the promotees and direct recruits of the Income-tax Department. It started from the case of S. C. Jaisinghani (supra) and the subsequent cases are B. S. Gupta No. 1 1975 SCR supplement

**491, B. S. Gupta No. 2 1975 I SCR 104, M. Jangmaiya 1977 2 SCR 23 and K. K. Dutta (supra).**

99. Delivering the judgement in the case of N. K. Chauhan Vs. State of Gujarat 1977 1 SCR 1037, the Supreme Court observed:—

“The decisions cited before us start with the leading case in *Mervyn Countindo & Ors. V. Collector of Customs, Bombay* and closes with the last pronouncement in *Badami V. State of Mysore & Ors.* This time-span has seen dicta go zigzag but we see no difficulty in tracing a common thread of reasoning. However, there are divergencies in the *ration-cination* between *Mervyn Counindo (1966) SCR 600* and *Govind Dettaray Kelkar & Ors. Vs. Chief Controller Imports and Exports & Ors (1967) SCR 29* on the one hand and *S. G. Jaisinghani Vs. Union of India (1967) SCR 703* *Bishan Sarup Gupta V. Union of India (1975) Supp. SCR 491* *Union of India & Ors. V. Bishan Sarup Gupta (1975), ISCR 104* and *A. K. Subbaraman & Ors. V. Union of India (1975) 2SCR 977* on the other, especially on the rota system and the year being regarded as a unit, that this Court may one day have to harmonize the discordance unless Government wakes up to the need for properly drafting its service rules so as to eliminate litigative waste of its servants' energies.”

100. It is high time that the Government should harmonize the discordance by properly re-drafting the rules so as to eliminate the litigative waste of the Income-tax Officers' energies. In the light of the observations of Supreme Court, the Committee is of the view that the Government should consider an alternative suggestion of revising the rules in a manner which should provide for a time bound promotion according to which an officer should be promoted to the next higher grade after certain period of his efficient and honest service e.g. after every 5 to 10 years and such promotions should not depend upon the quota or the rota or the resultant vacancies and so on. The Committee recommend that such a system be devised and made applicable with effect from 15 January, 1959 i.e. the date from which the effect was given to the Seniority Rules of 1973.



101. The present scales of pay of various officers in the Income-tax Department are as follows:—

I. T. O. (Group 'B')

650-30-740-35-810-EB-35-880-40-1000-EB-40-1200.

I. T. O. (Group 'A')

Junior scale: 700-40-900-EB-40-1100-50-1300.

Senior Scale: 1100-50-1600.

Assistant Commissioners (Ordinary Grade)

1500-60-1800-100-2000.

Assistant Commissioner (Selection Grade)

2000-125/2-2250.

Commissioner Level II

2250-125/2-2500.

Commissioner Level I

2500-125/2-2750.

Member, Central Board of Direct Taxes and Chairman  
3000.

102. It would be seen that the difference between the scales of pay of Group 'B' and Group 'A' (Junior scale) is only Rs. 50/- at the beginning and Rs. 100/- at the end. By the time, a Group 'B' Officer is promoted to Group 'A' (Junior scale), he has already crossed several stages of Group 'A' (Junior Scale) due to long years of his service as indicated above and in several cases either he would reach the minimum of the Senior scale of Group 'A' or would even cross it. Similarly, due to long years of service, a promotee Group 'A' Officer would stagnate at the maximum of the senior scale i.e. at Rs. 1,600/- before his promotion to the grade of Assistant Commissioner and the financial benefit on promotion as Assistant Commissioner would be negligible. Due to loss of seniority, the promotee Assistant Commissioner would not even reach the selection grade too and stagnate at the maximum of the ordinary grade of Assistant Commissioner i.e. at Rs. 2000/-. All these anomalies would be removed by introduction of a running scale which would equally protect the interests of the promotees and direct recruits.

103. Pending abolition of Group 'B' cadre as suggested above, the new rules should provide for the time-bound promotions in the existing scales as follows:—

#### I. Promotee Officers

##### (a) From Group 'B' to Group 'A':

As per existing rules, a Group 'B' Officer becomes eligible for promotion to Group 'A' after five years. In the scale of Rs. 650-1200, he gets Rs. 810 after completion of five years.

A direct recruit to Group "A" reaches at Rs. 820/- in the scale of Rs. 700-1300 after three years and he is promoted to senior scale after four years i.e. 1100-1600 and, thereby, he gets a financial benefit of Rs. 280/-.

With a view to ensuring a reasonable financial benefit to the Group 'B' Officers at the time of their promotion to Group 'A', they should be promoted to the senior scale of Group 'A' not later than seven years when they will be drawing Rs. 845/-. This will give them a financial benefit of Rs. 255/- as against the benefit of Rs. 280/- to the direct recruits.

In actual practice, a Group 'B' Officer would be drawing much more than Rs. 845/- due to his long years of service. Therefore, he should continue to get the benefit of the Concordance Table as at present according to which he gets a benefit of maximum Rs. 200/-.

##### (b) From Group 'A' to Assistant Commissioner:

The promotee Group 'A' Officer should go to the grade of Assistant Commissioner after eight years i.e. in the integrated scale of Rs. 1500-2250/-. This will avoid stagnation at both the levels, i.e. at the time of promotion as Assistant Commissioner as well as at the stage of selection grade which should be merged in the integrated scale of Rs. 1500-2250/-.

##### (c) From Assistant Commissioner to Commissioner.

Promotion to the rank of Commissioner be made after ten years of service as Assistant Commissioner in the scale of Rs. 2250-2750/-.

## II. Direct Recruits:

- (a) From ITO Group 'A' (Jr. scale) to (Senior Scale):  
Four years.

Here he will get a benefit of Rs. 280/- and will reach the senior scale after four years as against seven years in the case of promotees.

- (b) From Group 'A' to Assistant Commissioner:

After eight years of Group 'A' service as at present. Here it is to be noted that while a direct recruit will become Assistant Commissioner after eight years, in the scale of Rs. 1500-2250, a promotee will reach to that level after fifteen years.

- (c) From Assistant Commissioner to Commissioner.

After ten years.

With this, a direct recruit will become a Commissioner in the scale of Rs. 2250—2750/- after 18 years as against 25 years in the case of promotees. Most of the promotees would not reach this level and even those who reach this level will waste out at this level itself because of the period spent by them in the non-gazetted service.

104. The Committee are of the view that the above scheme can well be implemented within the existing scales of pay with minor adjustments as indicated above and will ensure a fair and reasonable opportunity to the direct recruits as well as promotees. The Committee also recommend that the aforesaid scheme should be made applicable w.e.f. 15 January, 1959 and the seniority and scales of pay may be re-adjusted accordingly. However, with a view to avoiding the financial burden on the exchequer, no arrears of pay need be allowed and the benefit should be given only to those officers who may be in service as on 1 April, 1982.

105. The Committee are also of the view that the selection to the ranks of Assistant Commissioner and Commissioner should be made on the basis of meritorious record of service and not in the routine manner of seniority-cum-fitness in order that the quality of service at higher levels is maintained and the officers are made to realise that they can get promotion only by hard, efficient and honest work to the higher echelons and not merely by their seniority or the mode of induction in the service.

106. The Committee re-emphasize that the retrospective operation of the Seniority Rules of 1973 has adversely affected the promotee Officers and desire the Ministry of Finance (Department of Revenue) to substitute these rules forthwith to give effect to their recommendations in this regard.

### VIII

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

107. The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix VII.

MOOL CHAND DAGA,

*Chairman.*

*Committee on Subordinate Legislation.*

NEW DELHI;

June 29, 1982.

Asadha 8, 1904 (Saka).

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## APPENDICES

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## APPENDIX I

(Vide Paragraph 6 of the Report)

### *Summary of main Recommendations/Observations made by the Committee*

Sl. No.	Paragraph No.	Summary
(1)	(2)	(3)
1	10	The Committee feel that although the contention of the Department of Personnel and Administrative Reforms that Government have a right to interpret its own formulations and that such interpretation will have precedence over any individual's interpretation of such Rules unless a point of law or legal interpretation is involved therein and on which a representation is made to the Courts to make a pronouncement thereon, may be legally correct yet the Rules should be worded in such a manner as not to give an impression to the persons concerned that the jurisdiction of the Courts is being ousted in any manner. The Committee, accordingly, desire the Department to amend the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 on the lines of similar provisions contained in the Kandla Port Employees (Allotment of Residence) Regulations, 1964.
2	14	The Committee note with satisfaction that, on being pointed out, the Ministry of Health and Family Welfare (Department of Health) have amended the Central Government Health Scheme (Ahmedabad) Rules, 1979 by adding a foot-note to the effect that no one would be adversely affected as a result of retrospective effect being given to the Rules.

(1)	(2)	(3)
3	18	The Committee note with satisfaction that, on being pointed out, the Ministry of Defence have agreed that inclusion and exclusion of any post from Schedule II to the Defence Research and Development Service Rules, 1978 will be done by way of an amendment to the Rules and not through executive orders.
4	22	The Committee are not convinced with the reply of the Ministry of Defence for not indicating in the Defence Research and Development Service Rules, 1978 the maximum limit upto which the age can be relaxed for the departmental employees for recruitment to the grade of Scientist 'B'. The Committee desire the Ministry to amend the Rules at an early date so as to lay down the maximum limit of age relaxation.
5	26	The Committee are not satisfied with the reply of the Ministry of Defence and desire the Ministry to prescribe certain minimum qualifications for promotion to the posts of Scientists 'F' and above in the Defence Research and Development Service Rules, 1978 at an early date.
6	30	The Committee note with satisfaction that, on being pointed out, the Ministry of Defence have agreed to amend the Defence Research and Development Service Rules, 1978 so as to provide for recording of reasons in writing before extending or curtailing the period of deputation/contract. The Committee desire the Ministry to amend the Rules accordingly at an early date.
7	34	The Committee note that, on being pointed out, the Ministry of Defence have agreed to amend the Defence Research and Development Service Rules, 1978 so as to provide therein the

(1)	(2)	(3)
		requirements of engineering or medical qualifications on the lines of those laid down in the Army Instructions. They desire the Ministry to notify the requisite amendment to the Rules at an early date.
8	38	<p>The Committee note the practical difficulties pointed out by the Ministry of Defence in specifying the names of the courses of training/ instructions, and accept the suggestion of the Ministry to add the following sentence at the end of the existing Rule 11(6) of the Defence Research and Development Service Rules, 1978, so as to make the intention clear:—</p> <p>“This training will be a part of training/ preparation of the officer to undertake the projects assigned to him.”</p> <p>The Committee desire the Ministry to notify the proposed amendment at an early date.</p>
9	42	<p>The Committee note that, on being pointed out, the Ministry of Defence have agreed to amend the entry in Column (3) of Schedule III to the Defence Research and Development Service Rules, 1978, so as to provide that qualification and experience for recruitment of Scientific Advisor will not be less than those prescribed for the post of Scientist ‘G’. The Committee desire the Ministry to notify the requisite amendment at an early date.</p>
10	45	<p>The Committee note with satisfaction that, on being pointed out, the Ministry of Defence have amended Column 7 of the Schedule appended to the Ministry of Defence, Department of Defence Production (Directorate General of Inspection) (Naval Wing) Class III (Non-Technical) posts Recruitment Rules, 1975 so as to provide therein the crucial date for determining the age of candidates for recruitment to the post of Stenographer.</p>



(1)	(2)	(3)
11(i)	54	The Committee note that the Department of Personnel and Administrative Reforms have since issued necessary instructions regarding relaxation of upper age limit for Government servants for appointment to Group 'A' and Group 'B' posts in various Ministries/Departments vide their Office Memorandum No.4/4/74-Eastt.(D) dated 9 April, 1981.
11(ii)	55	The Committee desire the concerned Ministries/Departments to amend the various Recruitment Rules with which they are administratively concerned so as to indicate therein the extent of exact relaxation of upper age limit for Government servants for appointment to Group 'A' and Group 'B' posts in accordance with the instructions issued by the Department of Personnel and Administrative Reforms in this behalf.
11(iii)	56	The Committee need hardly emphasize that these instructions should be followed in letter and spirit by all Ministries/Departments while making appointments to these posts with a view to maintaining uniformity of procedure till the Recruitment Rules are actually amended in this regard.
11(iv)	57	The Committee are constrained to observe that although their recommendation made in paragraph 55 of Twelfth Report (Fifth Lok Sabha) was made available to the Department of Personnel and Administrative Reforms soon after the presentation of the Report to the House in May, 1974, that Department took a long period of seven years in coming to a decision in the matter. As a result, hundreds of Recruitment Rules, issued during this period, did not contain the requisite provisions. A good number of references on the issue made by the Committee during the period could also not be

(1)	(2)	(3)
		<p>disposed of by various Ministries/Departments. This, besides holding up the schedule of work of the Committee, resulted in infructuous and prolonged correspondence between the Committee and the Ministries on the one hand, and between the Department of Personnel and Administrative Reforms and the rest of the Ministries on the other. The Committee cannot but deprecate such an inordinate delay in implementing their recommendation. The Committee hope that in future the Ministries/Departments would be more responsive to their recommendations.</p>
12 (i)	73	<p>The Committee find that neither under provisions of direct tax laws nor in actual practice, there is any rational justification for the classification of the Income-tax Officers into Class I and Class II. There is no nexus between the purpose of the Act and the classification. This is the real malady which deserves to be cured by amending the existing rules of Service and the corresponding provisions of Section 117 and in all fairness there should be only one class of Income-tax Officers without any artificial class distinction as at present.</p>
12 (ii)	77	<p>The Committee feel that the proposed conversion of a large number of Group 'B' posts into Group 'A' posts is not a solution to the serious problem of stagnation existing in the Department. Much more effective steps need to be taken in this direction.</p>
12 (iii)	90	<p>The grant of weightage was recommended by the Third Pay Commission in 1973 and accepted by the Government of India at the Cabinet level in May, 1974. The Government representative informed that the grant of weightage and senior scale to the Group 'B' Officers was recommended by the Ministry of Finance but it</p>

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was pending with the Department of Personnel. The Committee desire that a very early decision should be taken on this question and pending abolition of the arbitrary class distinction amongst the officers doing the identical work, the weightage equal to half the length of the Group 'B' Service should be allowed to all the promotee Officers. This benefit should be allowed not only to those who are to get their promotions in future but also to those promotee Officers who had already been promoted as Group 'A' Officers or Assistant Commissioners or Commissioners and their seniority should be readjusted accordingly. With a view that no prejudice was caused to the direct recruits, suitable number of posts of Income-tax Officers Group 'A' be upgraded to those of Assistant Commissioners and Commissioners.

12 (iv) 92

The promotee Officers constitute the majority of the Gazetted service of the Income-tax Department. The Committee view it with concern that there has been wide-spread frustration among the Group 'B' and promotee Officers. The entire intake in Group 'B' is from the rank of Inspectors who are a part of the Non-Gazetted staff. The stagnation at the level of Group 'B' Officers has its consequential adverse effect upon the Inspectors and down below. The promotee Officers including Group 'B' Officers are about 4,000 all over India and the Non-gazetted Officers are about 45,000. These two together constitute 97 per cent strength of the Department. The simmering discontentment germane to the stagnation of Group 'B' and Promotee Officers has spread into the rank and file of the Department. That was why both Gazetted and Non-Gazetted Officers had embarked upon an agitational programme last year. While no indiscipline among the services can be permitted,

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it is important for the Government to remove the discontentment responsible for creation of such situations. The Federation has contended before the Committee that the assurances given to them last year in March, 1981 when they postponed their strike scheduled for 9 March, 1981 all over the country, have not been fulfilled so far. This is a serious matter and the Committee view it with great concern as the non-fulfilment of assurances given to its own Officers and employees is bound to erode their faith and would not be conducive either for maintenance of efficiency or discipline.

12(v) 94

The Committee feel that there has been too much of misguided and false notion of economy in dealing with the problems concerning this Department. As observed by Prof. Nicholas Kaldor of Cambridge University, it is idle to expect highest standard of efficiency from the officers, on whose attitude depends crores of revenue, by keeping them dissatisfied and disgruntled. In economically advanced countries like America revenue services receive highest regard and reward in the matter of pay and perquisites.

12(vi) 95

The Committee note that due to the retrospective operation of the Income-Tax (Class I) Service (Regulation of Seniority) Rules, 1973, a large number of promotee Officers had been relegated or reverted or otherwise adversely affected so far as their seniority in Group 'A' was concerned. The Committee are constrained to observe that despite their findings to this effect in Paragraphs 127 and 128 of their Sixteenth Report (Fifth Lok Sabha), presented to Lok Sabha on 9 May, 1975, the Government have not taken adequate steps to remove the frustration, discontentment and imbalance

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among promotee Officers of the Department. The corrective measures stated to have been taken by the Government have failed to achieve the desired results.

12(vii) 96

The Committee recommend that:—

- (1) The Seniority Rules of 1973 which have failed to prove just and fair to all categories of officers should be replaced by an equitable Seniority Rules to ensure equal opportunities to the promotees as well as the direct recruits;
- (2) There is no justification for keeping two categories of Income-tax Officers in the Income-tax Service, and the Government should take steps to remove the class distinction as early as possible;
- (3) The denial of the weightage for Group 'B' service is highly unjust and unfair particularly when there is no distinction in the nature of duties. Adequate compensation should be granted for the Group 'B' service and the extent of the compensation or weightage should be decided with reference to the length of Group 'B' service. The minimum weightage to be allowed should be equal to half the length of the Group 'B' service. It is needless to add that the Constitutional validity of the grant of weightage has been upheld by the Supreme Court in the case of S. G. Jaisinghani Vs. Union of India 1967 (SCR) 703, and that the recommendation of the Third Pay Commission has also been accepted by

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the Government in this behalf and that the Ministry of Finance has already sent the proposals recommending the grant of weightage to the Group 'B' Officers to the Department of Personnel. The weightage should not only be allowed to those who have to be promoted from Group 'B' to Group 'A' but to all those who have already been promoted to Group 'A' or as Assistant Commissioners and the seniority should be revised accordingly. In order that no prejudice is caused to the direct recruits, suitable number of Group 'A' posts should be upgraded to those of Assistant Commissioners and Commissioners. The necessary provision should be made to this effect in the fresh seniority rules which may be framed under the proviso to Article 309 of the Constitution. The hardship has been caused due to the retrospective effect having been given to the Seniority Rules of 1973 and they must, therefore, be withdrawn in the circumstances retrospectively.

- (4) 50 per cent quota is not adequate for promotion from Group 'B' to Group 'A' keeping in view the fact that the waiting period in Group 'B' has been steadily increasing as indicated above. Instead of resorting to the *ad hoc* measures of conversion of certain number of Group 'B' posts into Group 'A', the quota of promotion should be raised from 50 per cent to 75 per cent and the increased quota should continue

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till the waiting period in Group 'B' for promotion to Group 'A' is brought down to a reasonable limit of 6 to 9 years. Thereafter, the quota may be reviewed again. The proposed grant of weightage equal to half the length of Group 'B' service would prove to be equitable as with the increase in quota, the extent of weightage would go on decreasing along with the decrease in the waiting period in Group 'B'. This would be helpful in removing the stagnation in Group 'C' too as the larger number of vacancies arising in Group 'B' would consequently benefit Group 'C' all along the line down below. It would also help in keeping the number of direct recruits to a reasonable figure, say 80 or 100 per year, and thereby in forestalling the stagnation among the direct recruits too. The larger intake by way of direct recruitment might impair the equality also.

12(viii) 97

While recommending the increase in quota, the Committee have kept in view the recommendation of the Direct Taxes Inquiry Committee popularly known as Wanchoo Committee wherein they had suggested the increase in quota to 66.6 per cent. The stagnation has considerably increased since then and there is a need for more effective measures in this behalf.

12(ix) 98

The Committee feel that most of the difficulties and disputes have arisen due to the fixation of quota and the allocation of vacancies among the promotees and direct recruits and the rules governing fixation of inter se seniority. There has been a long drawn legal battle between the

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promotees and direct recruits of the Income-tax Department. It started from the case of S. G. Jaisinghani (Supra) and the subsequent cases are B. S. Gupta No. 1 1975 S.C.R. Supplement 491, B. S. Gupta No. 2 1975 ISCR 104, M. Jangmaiya 1977 2 S.C.R. 28 and K. K. Dutta (supra).

12(x)      100

It is high time that the Government should harmonize the discordance by properly re-drafting the rules so as to eliminate the litigative waste of the Income-tax Officers' energies. In the light of the observations of Supreme Court, the Committee is of the view that the Government should consider an alternative suggestion of revising the rules in a manner which should provide for a time bound promotion according to which an officer should be promoted to the next higher grade after certain period of his efficient and honest service e.g. after every 5 to 10 years and such promotions should not depend upon the quota or the rota or the resultant vacancies and so on. The Committee recommend that such a system be devised and made applicable with effect from 15 January, 1959 i.e. the date from which the effect was given to the Seniority Rules of 1973.

12(xi)      104

The Committee are of the view that the scheme of time bound promotions can well be implemented within the existing scales of pay with minor adjustments and will ensure a fair and reasonable opportunity to the direct recruits as well as promotees. The Committee also recommend that the aforesaid scheme should be made applicable with effect from 15 January, 1959 and the seniority and scales of pay may be re-adjusted accordingly. However, with a view to avoiding the financial burden on the exchequer, no arrears of pay need be allowed and the benefit should be given only to those officers who may be in service as on 1 April, 1982.

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12(xii)	105	The Committee are also of the view that the selection to the ranks of Assistant Commissioner and Commissioner should be made on the basis of meritorious record of service and not in the routine manner of seniority-cum-fitness in order that the quality of service at higher levels is maintained and the officers are made to realise that they get promotion only by hard, efficient and honest work to the higher echelons and not merely by their seniority or the mode of induction in the service.
12(xiii)	106	The Committee re-emphasize that the retrospective operation of the Income-tax (Class I) Service (Regulation of Seniority) Rules, 1973 has adversely affected the promotee Officers and desire the Ministry of Finance (Department of Revenue) to substitute these rules forthwith to give effect to their recommendations in this regard.
13	107	The Committee note with satisfaction the action taken by Government on their earlier recommendations as indicated in Appendix V.

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## **APPENDIX II**

**(Vide Paragraph 51 of the Report)**

*List of orders wherein list of relaxation of upper age for appointment to groups 'A' and 'B' Posts has not been indicated*

### **I. MINISTRY OF AGRICULTURE**

1. Andaman Forest Department (Group 'A' and Group 'B' Gazetted posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 263 of 1978).
2. The Department of Agriculture (Assistant Poultry Development Officer) Recruitment Rules, 1978 (G.S.R. 340 of 1978).
3. The Forest Research Institute and Colleges, Dehra Dun (Coordinator Group 'A') Recruitment Rules, 1977 (G.S.R. 341 of 1978).
4. The National Sugar Institute (Group A and B Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 378 of 1978).
5. The Directorate of Agricultural Aviation (Senior Radio Mechanic) Recruitment Rules, 1978 (G.S.R. 487 of 1978).
6. The Directorate of Agricultural Aviation (Field Officer) Recruitment Rules, 1978 (G.S.R. 488 of 1978).
7. The Logging Training Centres Project (Group 'A' and Group 'B' Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 562 of 1978).
8. The Kaju Vikas Nideshalaya (Directorate of Cashewnut Development) (Class I and II Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 518 of 1978).
9. The Department of Agriculture Deputy Commissioner (Intensive Cattle Development Programme/Cattle Development/Herd Book) Recruitment Rules, 1978 (G.S.R. 519 of 1978).
10. The Department of Agriculture Deputy Commissioner (Fertiliser) Recruitment Rules, 1978 (G.S.R. 520 of 1978).
11. The National Sugar Institute (Group A and Group B Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 523 of 1978).

12. The Forest Research Institute and Colleges (Group 'A' and Group 'B' Non-Tenure posts) (First Amendment) Rules, 1978 (G.S.R. 561 of 1978).
13. The National Sugar Institute, Kanpur (Group 'A' and Group 'B' Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 566 of 1978).
14. The All India Soil and Land Use Survey Organisation (Senior Technical Assistant) Recruitment Rules, 1978 (G.S.R. 597 of 1978).
15. The Union Territory of Andaman & Nicobar Islands (Joint Director of Agriculture) Recruitment Rules, 1978 (G.S.R. 611 of 1978).
16. The Directorate of Pulses Development (Deputy Director) Recruitment (Amendment) Rules, (G.S.R. 644 of 1978).
17. The Directorate of Pulses Development (Senior Technical Assistant) Recruitment (Amendment) Rules, 1978 (G.S.R. 645 of 1978).
18. The Tambaku Vikas Nideshalaya (Directorate of Tobacco Development) (Class I and Class II posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 676 of 1978).
19. The Integrated Fisheries Projects, Superintendent (Operation and Repairs) Recruitment Rules, 1978 (G.S.R. 746 of 1978).
20. The Department of Agriculture Research Officers (Land Reforms) Recruitment Rules, 1978 (G.S.R. 813 of 1978).
21. The Central Institute of Fisheries Education (Accounts Officer) Recruitment Rules, 1978 (G.S.R. 816 of 1978).
22. The Delhi Milk Scheme (Assistant Engineer) Recruitment Rules, 1978 (G.S.R. 865 of 1978).
23. The Department of Agriculture, Deputy Director (Forestry Statistics) Recruitment Rules, 1978 (G.S.R. 1142 of 1978).
24. The Central Ground Water Board (Group 'A' and Group 'B' Services) Recruitment (Second Amendment) Rules, 1978 (G.S.R. 1198 of 1978).
25. The Department of Food, Central Government Fruit Juice Plant (Group 'A' and 'B' and 'C' posts) Recruitment Rules, 1978 (G.S.R. 1398 of 1978).

26. The Union Territory of Lakshadweep (Plant Protection Officer) Recruitment Rules, 1978 (G.S.R. 1512 of 1978).
27. The High Level Inservice Training (Poultry) Institute, Bangalore (Director) Recruitment Rules, 1977 (G.S.R. 489 of 1978).
28. The Directorate of Plant Protection, Quarantine and Storage (General Central Service, Group 'A') Recruitment Rules, 1977 (G.S.R. 609 of 1978).
29. The Directorate of Plant Protection, Quarantine and Storage (General Central Service, Group 'A') Recruitment Rules, 1977 (G.S.R. 610 of 1978).
30. The Agricultural Prices Commission Research Investigators Grade I (Economic/Statistical) Recruitment Rules, 1978 (G.S.R. 817 of 1978).
31. The Directorate of Extension (Vistar Nideshalaya) Photographic Officer Recruitment Rules, 1978 (G.S.R. 1143 of 1978).
32. The Directorate of Rice Development (Joint Director) Recruitment (Amendment) Rules, 1978 (G.S.R. 84 of 1979).
33. The Directorate of Rice Development [Director (Rice Development)] Recruitment (Amendment) Rules, 1979 (G.S.R. 85 of 1979).
34. The Directorate of Pulses Development [Director (Pulses)] Recruitment (Amendment) Rules, 1979 (G.S.R. 167 of 1979).
35. The Delhi Milk Scheme (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 378 of 1979).
36. The Department of Food (Group 'A' and Group 'B' Non-Secretariat Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 404 of 1979).
37. The Directorate of Agricultural Aviation (Junior Aircraft Maintenance Engineer) Recruitment Rules, 1979 (G.S.R. 406 of 1979).
38. The Directorate of Plant Protection, Quarantine and Storage, Junior Chemist (Quality Control) Recruitment Rules, 1979 (G.S.R. 407 of 1979).

39. The Department of Agriculture, Assistant Commissioner (Forestry) Recruitment Rules, 1979 (G.S.R. 409 of 1979).
40. The Central Fertiliser Control Laboratory, Faridabad (Group 'A' and Group 'B' posts) Recruitment Rules, 1979 (G.S.R. 839 of 1979).
41. The Department of Agriculture Technical Officer (Forestry) Recruitment Rules, 1979 (G.S.R. 927 of 1979).
42. The Directorate of Millets Development (Joint Director) Recruitment (Amendment) Rules, 1979 (G.S.R. 1044 of 1979).
43. The Union Territory of Andaman and Nicobar Islands Assistant Engineer (Minor Irrigation) Recruitment Rules, 1979 (G.S.R. 1048 of 1979).
44. The Food and Nutrition Board (Non-Secretariat Gazetted Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 1053 of 1979).
45. The Central Fertiliser Control Laboratory, Faridabad, (Director) Recruitment Rules, 1979 (G.S.R. 1986 of 1979).
46. The Union Territory of the Andaman and Nicobar Islands [Assistant Engineer (Agriculture)] Recruitment Rules, 1979 (G.S.R. 1106 of 1979).
47. The Kaju Vikas Nideshalya (Directorate of Cashewnut Development) (Group 'A' and 'B' Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 1131 of 1979).
48. The Forest Research Institute and Colleges (Group 'A' and Group 'B' Non-tenure posts) Recruitment (Amendment) Rules, 1975 (G.S.R. 1267 of 1979).
49. The Directorate of Plant Protection Quarantine & Storage, Senior Technical Assistant (Bio-Efficacy) Recruitment Rules, 1979 (G.S.R. 1327 of 1979).
50. The Exploratory Fisheries Project and its Bases (Recruitment to Group 'A' and Group 'B' Posts) Amendment Rules, 1979 (G.S.R. 1328 of 1979).
51. The Exploratory Fisheries Project and its Bases (Recruitment to Group 'A' and Group 'B' Posts) Amendment Rules, 1979 (G.S.R. 1329 of 1979).
52. The Union Territory of the Andaman and Nicobar Islands (Lecturer. (Training Instructor) Recruitment Rules, 1979 (G.S.R. 1356 of 1979).

53. The Exploratory Fisheries Project (Senior Technical Assistant) Recruitment Rules, 1979 (G.S.R. 1464 of 1979).
54. The Directorate of Plant Protection, Quarantine and Storage [Senior Technical Assistant (Packaging)] Recruitment Rules, 1979 (G.S.R. 1469 of 1979).
55. The Forest Research Institute and Colleges, Dehradun (Coordinator Group 'A') Recruitment Rules, 1979 (G.S.R. 1518 of 1979).
56. The Directorate of Plant Protection, Quarantine and Storage Deputy Director (Bio-assay) Recruitment Rules, 1979 (G.S.R. 12 of 1980).
57. The Directorate of Plant Protection, Quarantine and Storage Senior Scientific Officer (Bio-assay), Recruitment Rules, 1979 (G.S.R. 218 of 1980).
58. The Directorate of Plant Protection, Quarantine and Storage Agronomist (Herbicides) Recruitment Rules, 1979 (G.S.R. 220 of 1980).
59. The Directorate of Plant Protection, Quarantine & Storage Junior Scientific Officer (Bio-assay) Recruitment Rules, 1979 (G.S.R. 277 of 1980).
60. The Patsan Vikas Nideshalaya (Directorate of Jute Development) (Group 'A' and 'B' posts) Recruitment (Second Amendment) Rules, 1979 (G.S.R. 247 of 1980).
61. The Ministry of Food and Agriculture (Recruitment) to Technical Non-Gazetted (Group 'B' and Group 'C' Posts) Amendment Rules, 1980 (G.S.R. 331 of 1980).
62. The National Sugar Institute, Kanpur (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 389 of 1980).
63. The National Sugar Institute, Kanpur (Group 'A' and Group 'B' posts) Recruitment (Second Amendment) Rules, 1980. (G.S.R. 390 of 1980).
64. The Directorate of Agricultural Aviation Senior Administrative Officer Recruitment Rules, 1979 (G.S.R. 494 of 1980).
65. The Food & Nutrition Board (Non-Secretariat Gazetted Posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 530 of 1980).

66. The Union Territory of the Andaman and Nicobar Islands [Research Officer (Soil)] Recruitment Rules, 1980 (G.S.R. 556 of 1980).
67. The Union Territory of the Andaman and Nicobar Islands (Veterinary Assistant Surgeon) Recruitment Rules, 1980 (G.S.R. 880 of 1980).
68. The Directorate of Millets Development (Director Millets) Recruitment (Amendment) Rules, 1979 (G.S.R. 945 of 1979).
69. The Directorate of Extension (Vistar Nideshalaya) Process Officer Recruitment Rules, 1980 (G.S.R. 1030 of 1980).
70. The Directorate of Plant Protection, Quarantine and Storage, Deputy Director (Toxicology and Pharmacology) Recruitment Rules, 1979 (G.S.R. 1247 of 1980).
71. Union Territory of the Andaman and Nicobar Islands (Senior Soil Surveyor) Recruitment Rules, 1980 (G.S.R. 16 of 1981).
72. The Department of Agriculture Technical Officer (Forestry) Recruitment Rules, 1978 (G.S.R. 83 of 1979).
73. The Department of Agriculture Joint Commissioner (Meat and Meat Products) Recruitment of Rules, 1978 (G.S.R. 169 of 1979).
74. The Directorate of Extension (Vistar Nideshalaya) Deputy Director (Administration) Recruitment Rules, 1979 (G.S.R. 489 of 1979).
75. The Directorate of Agricultural Aviation (Senior Pilot) Recruitment Rules, 1978 (G.S.R. 543 of 1979).
76. The Forest Research Institute and Colleges, Dehra Dun (Isolated Group 'A' and Group 'B' Posts) Recruitment Rules, 1979 (G.S.R. 632 of 1979).
77. The Exploratory Fisheries Project (Group 'A') Joint Director Fisheries (Fisheries/Engineering) Recruitment Rules, 1979 (G.S.R. 1402 of 1979).

## II. MINISTRY OF CIVIL SUPPLIES

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

79. The Directorate of Vanaspati, Vegetable Oils and Fats (Programme) Recruitment Rules, 1979 (G.S.R. 1083 of 1979).
80. The Forward Markets Commission Class I and Class II Recruitment (Amendment) Rules, 1979 (G.S.R. 1488 of 1979).
81. The Directorate of Vanaspati, Vegetable Oils and Fats (Chief Director, Deputy Chief Director, Director and Deputy Director) Recruitment Rules, 1979 (G.S.R. 50 of 1980).
82. The Regional Reference Standard Laboratory (Deputy Director) Recruitment Rules, 1979 (G.S.R. 111 of 1980).
83. The Indian Institute of Legal Metrology (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 112 of 1980).
84. The Directorate of Vanaspati, Vegetable Oils and Fats (Assistant Director) Recruitment Rules, 1980 (G.S.R. 263 of 1980).
85. The Department of Civil Supplies, Director (Weights and Measures) Recruitment Rules, 1980 (G.S.R. 704 of 1980).
86. The Directorate of Vanaspati, Vegetable Oil and Fats (Development Officer (Oils) Recruitment Rules, 1978 (G.S.R. 9 of 1979).

### III. MINISTRY OF COMMERCE

87. The Import and Export Trade Control Organisation (Statistical Investigators Grade I, Economic Discipline and Statistical Discipline) Recruitment Rules, 1979 (G.S.R. 1344 of 1979).
88. The Group 'A' Gazetted Posts (Office of the Textile Commissioner) Recruitment (Amendment) Rules, 1979 (G.S.R. 1023 of 1979).
89. The Group 'A' Gazetted posts (Office of the Textile Commissioner) Recruitment (Amendment) Rules, 1980 (G.S.R. 795 of 1980).
90. The Weavers' Service Centres and the Indian Institutes of Handloom Technology (Groups 'A' and 'B' Gazetted Posts) Recruitment Rules, 1979 (G.S.R. 1396 of 1979).



#### IV. MINISTRY OF COMMUNICATIONS

91. The Scientific and Technical Officers Grade I Assistant Directors and Deputy Directors (Telecommunication Research Centre of Posts and Telegraphs Department) Recruitment Rules, 1977 (G.S.R. 500 of 1978).

#### V. MINISTRY OF DEFENCE

92. The Military Engineering College, Librarian (Grade I) Recruitment Rules, 1977 (S.R.O. 64 of 1978).
93. The Ministry of Defence Library (Chief Librarian) Recruitment Rules, 1978 (S.R.O. 165 of 1978).
94. The Army Educational Corps Training College and Centre (Class I Posts) Recruitment (Amendment) Rules, 1978 (S.R.O. 275 of 1978).
95. The Air Force Reprographic Unit, Air Headquarters (Deputy Manager Photo Litho) Recruitment Rules, 1978 (S.R.O. 280 of 1978).
96. The Military Engineer Services [Assistant Engineer (B/R) and Assistant Engineer (E/M)] Recruitment Rules, 1978 (S.R.O. 304 of 1978).
97. The Ministry of Defence (Group 'A' posts in Radar and Communications Project Office) Recruitment Rules, 1978 (S.R.O. 346 of 1978).
98. The Armed Forces Medical Stores Depots (Group 'A') and 'B' Posts) Recruitment Rules, 1978 (S.R.O. 364 of 1978).
99. The Indian Ordnance Factories Service (Group 'A') Recruitment (Amendment) Rules, 1979 (S.R.O. 186 of 1979).
100. The Ministry of Defence, Radar and Communications Project Office, Senior Scientific Assistant (Trunk Boards) Recruitment Rules, 1979 (S.R.O. 232 of 1979).
101. The Navy (Class II Gazetted Posts) Recruitment (Amendment) Rules, 1979 (S.R.O. 284 of 1979).
102. The Navy (Civilian Gazetted Scientific Officers Posts) Recruitment Rules, 1980 (S.R.O. 27 of 1980).
103. The Navy (Civilian Gazetted) Assistant Surgeon Grade I/ Medical Officer (Lady Doctor) Recruitment Rules, 1980 (S.R.O. 68 of 1980).

104. The Armed Forces Medical College, Pune (Group 'A' posts) Recruitment Rules, 1980 (S.R.O. 123 of 1980).
105. The Army Ordinance Corps, Civilian Assistant Programmer (Gazetted Group 'B') Recruitment Rules, 1979 (S.R.O. 247 of 1980).
106. The Ministry of Defence, Radar and Communications Project Office (Project Engineer—Voice Frequency) Recruitment Rules, 1979 (S.R.O. 231 of 1979).
107. The Military Engineer Service (Administrative Officer Grade II) Recruitment Rules, 1979 (S.R.O. 261 of 1979).
108. The Navy (Civilian Gazetted Stores Officers Posts) Recruitment Rules, 1979 (S.R.O. 297 of 1979).
109. The Military Engineer Service (Senior Barrack Stores Officer and Barrack Stores Officer) Recruitment Rules, 1979 (S.R.O. 469 of 1979).

## VI. MINISTRY OF EDUCATION

110. The Archaeological Survey of India (Class I and Class II Gazetted Posts) Recruitment (Fifth Amendment) Rules, 1978 (G.S.R. 679 of 1978).
111. The Central Hindi Directorate, Assistant Education Officer (Regional Languages) [Evaluators (Regional Languages) Recruitment Rules, 1978 (G.S.R. 710 of 1978)]
112. The Archaeological Survey of India (Class I and Class II Gazetted Posts) Recruitment (Seventh Amendment) Rules, 1978 (G.S.R. 711 of 1978).
113. The Andaman and Nicobar Islands Administration Government College, Port Blair (Lecturer) Recruitment Rules, 1978 (G.S.R. 752 of 1978).
114. The Archaeological Survey of India (Class I and Class II Gazetted Posts) Recruitment (Eighth Amendment) Rules, 1978 (G.S.R. 773 of 1978).
115. The Directorate of Adult Education, Assistant Director (Publication) Recruitment Rules, 1978 (G.S.R. 882 of 1978).
116. The Anthropological Survey of India (General Central Service Class I and Class II Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 410 of 1978).

117. The Anthropological Survey of India (General Central Service Class I and Class II posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 411 of 1978).
118. The Department of Culture (Assistant Director, Regional Languages Library and Central Hindi Library) Recruitment Rules, 1978 (G.S.R. 526 of 1978).
119. The National Research Laboratory for Conservation of Cultural Property (General Central Service Group 'B' Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 774 of 1978).
120. The National Museum, New Delhi (Class I and II posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 842 of 1978).
121. The National Museum of Man (Senior Photographer and Senior Artist) Recruitment Rules, 1978 (G.S.R. 1230 of 1978).
122. The National Museum of Man (Group 'C' Posts) Recruitment Rules, 1978 (G.S.R. 1242 of 1978).
123. The Directorate of Adult Education (Director) Recruitment Rules, 1980 (G.S.R. 188 of 1980).
124. The National Library, Calcutta, Assistant Librarian (German) and Assistant Librarian (French) Recruitment Rules, 1980 (G.S.R. 278 of 1980).
125. The Andaman and Nicobar Islands Administration (Group 'A' and Group 'B' posts) the Department of Education, Recruitment Rules, 1980 (G.S.R. 333 of 1980).
126. The National Library Calcutta (Senior Administrative Officer) Recruitment Rules, 1980 (G.S.R. 624 of 1980).
127. The Directorate of Adult Education (Librarian Grade I) Recruitment Rules, 1980 (G.S.R. 646 of 1980).
128. The National Research Laboratory for Conservation of Cultural Property (Group 'B' Posts) Recruitment Rules, 1980 (G.S.R. 670 of 1980).
129. The Directorate of Adult Education (Senior Statistical Assistant) Recruitment Rules, 1980 (G.S.R. 720 of 1980).
130. The Directorate of Adult Education (Senior Technical Assistant) (Publication) Recruitment Rules, 1980 (G.S.R. 721 of 1980).

131. The Ministry of Education & Culture (Department of Education and Department of Culture) (Senior Investigator) Recruitment Rules, 1980 (G.S.R. 781 of 1980).
132. The National Museum of Man (Office Superintendent) Recruitment Rules, 1980 (G.S.R. 805 of 1980).
133. The Andaman and Nicobar Islands Administration Government College, Port Blair (Lecturer) Recruitment Rules, 1980 (G.S.R. 840 of 1980).
134. The National Museum of Man (Officer on Special Duty) Recruitment Rules, 1978 (S.R.O. 18 of 1979).
135. The Central Hindi Directorate Evaluators (Correspondence •Courses) Recruitment Rules, 1978 (G.S.R. 206 of 1979).
136. The Central Hindi Directorate (Additional Director) Recruitment Rules, 1978 (G.S.R. 152 of 1979).
137. The Directorate of Adult Education (Hindi Officer) Recruitment Rules, 1978 (G.S.R. 152 of 1979).

#### VII. MINISTRY OF EXTERNAL AFFAIRS

138. The Ministry of External Affairs (Interpreters' Cadre) Recruitment Rules, 1978 (G.S.R. 767 of 1978).
139. The Assistant Haj Officer of the Ministry of External Affairs Recruitment Rules, 1978 (G.S.R. 1259 of 1978).

#### VIII. MINISTRY OF FINANCE

140. The Security Paper Mill (Class I and Class II posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 284 of 1978).
141. The India Security Press (Class I and Class II Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 549 of 1978).
142. The Directorate of Inspection (Research Statistics and Publication) Assistant Statistician (Income-tax) Recruitment Rules, (G.S.R. 630 of 1978).
143. The Junior Finance Officer (General Central Service, Group 'B' Non-Gazetted Non-Ministerial) (Amendment) Recruitment Rules, 1978 (G.S.R. 808 of 1978).

144. The Ministry of Finance, Bureau of Public Enterprises, Senior Investigator (Management and Information and Research Division) Recruitment Rules, 1978 (G.S.R. 1131 of 1978).
145. The Ministry of Finance, Bureau of Public Enterprises, Assistant Director (Production) Recruitment Rules, 1978 (G.S.R. 1190 of 1978).
146. The Security Paper Mill (Class I and Class II posts) Recruitment (Second Amendment) Rules, 1979 (G.S.R. 1082 of 1979).
147. The Ministry of Finance, Bureau of Public Enterprises Assistant Director (Management and Information and Research Division) Recruitment Rules, 1978 (G.S.R. 1304 of 1978).
148. The Ministry of Finance, Bureau of Public Enterprises, Deputy Director (Management and Information and Research Division) Recruitment Rules, 1978 (G.S.R. 1305 of 1978).
149. The Security Paper Mill (Class I and Class II posts) Recruitment (Third Amendment) Rules, 1979 (G.S.R. 1513 of 1979).
150. The Government Opium and Alkaloid Works Undertaking, Neemuch (Class I and Class II posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 1531 of 1979).
151. The Indian Security Press (Class I and Class II posts) Recruitment (Third Amendment) Rules, 1979 (G.S.R. 137 of 1980).
152. The Central Board of Direct Taxes (Attached and Subordinate Offices) (Hindi Officer) Recruitment Rules, 1979 (G.S.R. 177 of 1980).
153. The Group 'B' Officers in the Directorate of Statistics and Intelligence (Central Excise and Customs) Recruitment Rules, 1980 (G.S.R. 477 of 1980).
154. The Ministry of Finance, Department of Economic Affairs (Bank Note Press Dewas, Class I and Class II posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 550 of 1980).

155. The Security Paper Mill (Group A and Group B posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 825 of 1979).
156. The India Security Press (Class I and Class II posts) Recruitment (Second Amendment) Rules, 1978 (G.S.R. 76 of 1979).

#### IX. MINISTRY OF HEALTH AND FAMILY WELFARE

157. The All India Institute of Hygiene and Public Health, Calcutta, (Group 'A' posts) Recruitment Rules, 1977 (G.S.R. 260 of 1978).
158. The Directorate of National Malaria Eradication Programme, Research Officer (Chemistry) Recruitment Rules, 1977 (G.S.R. 261 of 1978).
159. The Willingdon Hospital (Deputy Nursing Superintendent) Recruitment Rules, 1978 (G.S.R. 317 of 1978).
160. The Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Medical Records Officer) Recruitment Rules, 1978 (G.S.R. 554 of 1978).
161. The Central Drugs Laboratory, Calcutta (Group B and Group C posts) Recruitment Rules, 1978 (G.S.R. 675 of 1978).
162. The BGG Vaccine Laboratory Guindy, Madras (Group 'B' Posts) Recruitment Rules, 1978 (G.S.R. 703 of 1978).
163. The National Institute of Communicable Diseases, Ministry of Health and Family Welfare (Department of Health) Recruitment Rules, 1978 (G.S.R. 704 of 1978).
164. The Central Government Health Scheme, Homoeopathic Physicians Recruitment (Amendment) Rules, 1978 (G.S.R. 898 of 1978).
165. The Central Food Laboratory, Calcutta (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 899 of 1978).
166. The Publicity Officer (Audio Visual Aids) (Group 'B' Gazetted Post) Recruitment Rules, 1978 (G.S.R. 1073 of 1978).

167. The Safdarjang Hospital and the Dr. Ram Manohar Lohia Hospital and Nursing Home (Non-Medical Gazetted Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1107 of 1978).
168. The Directorate General of Health Services (Research Assistants) Recruitment (Amendment) Rules, 1978 (G.S.R. 1138 of 1978).
169. The National Tuberculosis Institute, Bangalore (Group A post) Recruitment Rules, 1978 (G.S.R. 1260 of 1978).
170. The Homoeopathic Pharmacopocial Laboratory, Ghaziabad (Group 'A' Technical Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1307 of 1978).
171. The All India Institute of Hygiene and Public Health, Calcutta (Class II—Non-Medical Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1335 of 1978).
172. The Lakshadweep Administration Ayurvedic Physician (Group 'B' post) Recruitment Rules, 1978 (G.S.R. 333 of 1979).
173. The Central Research Institute, Kasauli, Deputy Assistant Director (Non-Medical) Recruitment Rules, 1979 (G.S.R. 943 of 1979).
174. The Central Drugs Laboratory, Calcutta (Group 'B' Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 1322 of 1979).
175. The Directorate General of Health Services (Deputy Director, (Library) Recruitment Rules, 1979 (G.S.R. 1427 of 1979).
176. The Research Officer (Siddha) Recruitment Rules, 1979 (G.S.R. 214 of 1980).
177. The Assistant Adviser (Ayurveda) (Group 'A' Technical Post) Recruitment Rules, 1979 (G.S.R. 270 of 1980).
178. The National T.B. Institute Veterinarian, Bangalore Recruitment Rules, 1979 (G.S.R. 328 of 1980).
179. The Central Government Health Scheme. Senior Phvsician (Homoeopathy) Recruitment Rules, 1980 (G.S.R. 359 of 1980).
180. The Research Officer (Unani) Recruitment Rules, 1980 (G.S.R. 415 of 1980).

181. The Directorate General of Health Services (Assistant Architect) Recruitment Rules, 1980 (G.S.R. 459 of 1980).
182. The Department of Health Research Officer (Homoeopathy) Homoeopathic Pharmacopoeia Committee (Recruitment) Rules, 1980 (G.S.R. 522 of 1980).
183. The Kalwati Saran Children's Hospital (Administrative Officer) Recruitment Rules, 1980 (G.S.R. 734 of 1980).
184. The Directorate General of Health Services (Chief Architect) Recruitment Rules, 1980 (G.S.R. 799 of 1980).
185. The Chief Administrative Officer (Hospitals) Recruitment Rules, 1979 (G.S.R. 1399 of 1979).
186. The Central Dental (Health) Service Recruitment Rules, 1979 (G.S.R. 508 of 1979).
187. The Directorate General of Health Services (Industrial Establishment Officer) Recruitment Rules, 1978 (G.S.R. 150 of 1979).
188. The Central Drugs Standard Control Organisation (Senior Scientific Assistant) Recruitment Rules, 1979 (G.S.R. 403 of 1979).
189. The National Tuberculosis Institute, Bangalore (Groups 'A' & 'B' Non-Medical Posts) Recruitment Rules, 1979 (G.S.R. 539 of 1979).

#### X. MINISTRY OF HOME AFFAIRS

190. The Institute of Criminology and Forensic Science (Senior Scientific Assistant-Chemistry) Recruitment Rules, 1978 (G.S.R. 448 of 1978).
191. The Lakshadweep Administration (District Employment Officer) Recruitment Rules, 1978 (G.S.R. 449 of 1978).
192. The Union Public Service Commission (Ex-Cadre posts) Recruitment Amendment Rules, 1978 (G.S.R. 509 of 1978).
193. The Office of the Registrar General and *Ex-officio* Census Commissioner for India, [Assistant Director of Census Operations (Technical)] Recruitment Rules, 1978 (G.S.R. 546 of 1978).



194. The Office of the Director General, Backward Classes Welfare Senior Investigator Recruitment Rules, 1978 (G.S.R. 847 of 1978).
195. The Institute of Criminology and Forensic Science (Assistant Directors) Recruitment (Amendment) Rules, 1978 (G.S.R. 1327 of 1978):
196. The Department of Official Language (Assistant Director (Hindi Typewriting and Hindi Stenography) Recruitment Rules, 1978 (G.S.R. 1417 of 1978).
197. The Office of the Registrar General, India and *ex-officio* Census Commissioner for India (Class I and Class II posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1506 of 1978).
198. The Bureau of Police Research and Development (Government Examiner of Questioned Documents and Assistant Government Examiner of Questioned Documents) Recruitment Rules, 1979 (G.S.R. 503 of 1979).
199. The Sardar Vallabhbhai Patel National Police Academy, Hyderabad, Professor in Business Management and Reader in Behavioural Science and Teaching Methodology Recruitment Rules, 1979 (G.S.R. 952 of 1979).
200. The Ministry of Home Affairs Senior Research Officer Recruitment Rules, 1979 (G.S.R. 74 of 1980).
201. The Institute of Criminology and Forensic Science, Senior Scientific Assistant (Toxicology) and Senior Scientific Assistant (Serology) Recruitment Rules, 1979 (G.S.R. 321 of 1980).
202. The Documentation Assistant (Ministry of Home Affairs) Recruitment) Rules, 1980 (G.S.R. 567 of 1980).
203. The Ministry of Home Affairs Senior Interpreter and Junior Interpreter Recruitment Rules, 1980 (G.S.R. 700 of 1980).
204. The Librarian (Ministry of Home Affairs) (Recruitment) Rules, 1979 (G.S.R. 1177 of 1979).
205. The Department of Personnel and Administrative Reforms (Director of Canteens) Recruitment Rules, 1979 (G.S.R. 816 of 1979).

206. The Mobile Civil Emergency Force, Delhi (Medical Officer) Recruitment Rules, 1979 (G.S.R. 234 of 1979).

#### XI. MINISTRY OF INDUSTRY

207. The Small Industries Development Organisation (Group 'A' posts) Recruitment Rules, 1977 (G.S.R. 190 of 1978).
208. The Directorate General of Technical Development (Group A posts) Recruitment (Amendment) Rules, 1977 (G.S.R. 218 of 1978).
209. The All India Handicrafts Boards [Group A and Group B (Gazetted Posts)] Recruitment (Amendment) Rules, 1978 (G.S.R. 702 of 1978).
210. The Department of Industrial Development (Senior Investigators) Recruitment Rules, 1978 (G.S.R. 878 of 1978).
211. The Small Industries Development Organisation (Technical Publicity Division-Group 'A' posts) Recruitment Rules, 1977 (G.S.R. 1161 of 1978).
212. The Directorate General of Technical Development (Programmer) Recruitment (Amendment) Rules, 1978 (G.S.R. 832 of 1979).
213. The All India Handicrafts Board Deputy Director and Assistant Director (Administration and Coordination) Recruitment Rules, 1979 (G.S.R. 1042 of 1979).
214. The Andaman and Nicobar Administration (Director of Industries) Recruitment Rules, 1980 (G.S.R. 520 of 1980).
215. The Lakshadweep Administration (Director of Industries), Recruitment (Amendment) Rules, 1980 (G.S.R. 778 of 1980).
216. The All India Handicrafts Board (Research Officer) Recruitment Rules, 1980 (G.S.R. 796 of 1980).

#### XII. MINISTRY OF INFORMATION AND BROADCASTING

217. The Directorate of Field Publicity (Class II Technical posts) (Amendment) Rules, 1977 (G.S.R. 275 of 1978).
218. The Research and Reference Division (Documentation Officer) Recruitment Rules, 1978 (G.S.R. 416 of 1978).
219. The All India Radio (Class I Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 498 of 1978).

220. The All India Radio (Class I Posts) Recruitment (Fourth Amendment) Rules, 1978 (G.S.R. 910 of 1978).
221. The Central Board of Film Censors (Administrative Officer, Group A) Recruitment Rules, 1978 (G.S.R. 1084 of 1978).
222. The Directorate of Film Festivals (Group A posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1271 of 1978).
223. The Directorate of Advertising and Visual Publicity (Group 'A' posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 452 of 1979).
224. The Directorate of Advertising and Visual Publicity (Group 'A' posts) Recruitment (Second Amendment) Rules, 1979 (G.S.R. 1507 of 1979).
225. The Directorate of Advertising and Visual Publicity (Deputy Chief Visualiser) Recruitment Rules, 1980 (G.S.R. 224 of 1980).
226. The Films Division Assistant Director (Music) Recruitment Rules, 1980 (G.S.R. 626 of 1980).
227. The Facilities Officer (Group 'A' post) Recruitment Rules, 1979 (G.S.R. 949 of 1979).
228. The Songs & Drama Division (Assistant Director) (Administration) and (Administrative Officer) Recruitment Rules, 1978 (G.S.R. 157 of 1979).
228. The Office of the Registrar of Newspapers for India (Senior Investigator) Recruitment (Amendment) Rules, 1978 (G.S.R. 155 of 1979).

### XIII. MINISTRY OF IRRIGATION

230. The Central Water Commission (Assistant Director, Publicity) Recruitment Rules, 1979 (G.S.R. 1285 of 1979).
231. The Central Ground Water Board Superintending Chemist, Recruitment Rules, 1979 (G.S.R. 1400 of 1979).
232. The Central Ground Water Board Senior Geophysicist Recruitment Rules, 1979 (G.S.R. 1401 of 1979).

233. The Central Ground Water Board (Group 'A' and Group 'B' Recruitment (Amendment) Rules, 1979 (G.S.R. 1434 of 1979).
234. The Central Ground Water Board (Senior Administrative Officer) Recruitment Rules, 1979 (G.S.R. 1470 of 1979),
235. The Central Ground Water Board Junior Geophysicist and Assistant Geophysicist Recruitment (2nd Amendment) Rules, 1979 (G.S.R. 1495 of 1979).
236. The Central Ground Water Board Superintending Geophysicist Recruitment Rules, 1979 (G.S.R. 1540 of 1979).
237. The Ganga Basin Water Resources Organisation (Hindi Officer) Recruitment Rules, 1979 (G.S.R. 121 of 1980).
238. The Central Ground Water Board (Senior Cartographer) Recruitment Rules, 1980 (G.S.R. 493 of 1980).
239. The Inland Water Transport Directorate (Assistant River Surveyor) Recruitment Rules, 1980 (G.S.R. 844 of 1980).

#### XIV. MINISTRY OF LABOUR

240. The Directorate of Employment, Directorate General of Employment and Training (Class I and II Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1153 of 1978).
241. The Superintendent (Machine Tabulation Unit) Labour Bureau, Recruitment Rules, 1979 (G.S.R. 466 of 1979).
242. The Directorate of Training (Group 'A' and Group 'B' posts) Recruitment (Second Amendment) Rules, 1979 (G.S.R. 155 of 1979).
243. The Directorate General of Mines Safety (Group 'A' and Group 'B' Posts) Recruitment Rules, 1980 (G.S.R. 287 of 1980).
244. The Directorate of Training (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 543 of 1980).
245. The Labour Welfare Organisation, Ministry of Labour (Groups A and B posts) Recruitment Rules, 1979 (G.S.R. 108 of 1979).

## XV. MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

246. The Monopolies and Restrictive Trade Practices Commission (Recruitment of Members of Staff) Amendment Rules, 1978 (G.S.R. 357-E of 1978).
247. The Ministry of Law, Justice and Company Affairs (Legislative Department) Group 'B' and Group 'C' Posts Recruitment Rules, 1977 (G.S.R. 425 of 1978).
248. The Monopolies and Restrictive Trade Practices Commission (Recruitment of Members of Staff) (Second Amendment) Rules, 1978 (G.S.R. 594-E of 1978).
249. The Office of the Director of Investigation, Monopolies and Restrictive Trade Practices Commission (Group A and Group B Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1322 of 1978).
250. The Ministry of Law, Justice and Company Affairs, (Department of Legal Affairs, Central Government Advocates, Bombay, Delhi and Calcutta), Recruitment (Amendment) Rules, 1979 (G.S.R. 134 of 1980).
251. The Ministry of Law, Legislative Department Vidhi Sahitya Prakashan, (Group 'A' posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 745 of 1980).
252. The Monopolies and Restrictive Trade Practices Commission (Recruitment of Members and Staff) Third Amendment Rules, 1980 (G.S.R. 3 of 1981).
253. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) (Junior Central Government Advocates) Recruitment Rules, 1978 (G.S.R. 1 of 1979).
254. The Ministry of Law, Justice and Company Affairs (Legislative Department) Official Language Wing (Group A posts) Recruitment Rules, 1979 (G.S.R. 363 of 1979).
255. The Ministry of Law, Justice and Company Affairs (Legislative Department) Official Language Wing. (Group 'B' posts) Recruitment Rules, 1979 (G.S.R. 364 of 1979).

## XVI. MINISTRY OF PLANNING

256. The Central Statistical Organisation, Department of Statistics (Senior Investigator) Recruitment Rules, 1978 (G.S.R. 456 of 1978).
257. The National Sample Survey Organisation, Survey Design and Research Division (Hindi Officer) Recruitment Rules, 1978 (G.S.R. 635 of 1978).
258. The Field Operations Division, National Sample Survey Organisation (Chief Administrative Officer) (Amendment) Recruitment Rules, 1978 (G.S.R. 1128 of 1978).
259. The Central Statistical Organisation, Department of Statistics Administrative Officer (Training of Indian Statistical Service Personnel) Recruitment Rules, 1978 (G.S.R. 1474 of 1978).
260. The Planning Commission, Programme Evaluation Organisation (Computer Unit) (Non-Secretariat Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 265 of 1979).
261. The Planning Commission (Librarian) Recruitment Rules, 1978 (G.S.R. 298 of 1978).
262. The Planning Commission (Joint Adviser—Communications, Labour and Employment) Recruitment Rules, 1979 (G.S.R. 753 of 1979).
263. The Planning Commission Deputy Advisor (Data Bank, Engineering and Non-ferrous Metals) Recruitment Rules, 1979 (G.S.R. 819 of 1979).
264. The Planning Commission (Chief Librarian-cum-Documents Officer) Recruitment Rules, 1979 (G.S.R. 820 of 1979).
265. The Planning Commission (Librarian) Recruitment Rules, 1980 (G.S.R. 113 of 1980).
266. The Planning Commission (Research Assistant Recruitment Rules, 1980 (G.S.R. 413 of 1980).
267. The Planning Commission (Senior Technical Assistant) Recruitment Rules, 1978 (G.S.R. 8 of 1978).

## XVII. MINISTRY OF PETROLEUM, CHEMICALS AND FERTILIZERS

- 268. The Ministry of Chemicals and Fertilizers Project Officer (Fertilizer) Recruitment Rules, 1977 (G.S.R. 220 of 1978).
- 269. The Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) (Research Officer), Recruitment Rules, 1978 (G.S.R. 640 of 1978).
- 270. The Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) (Junior Investigator) Recruitment Rules, 1978 (G.S.R. 641 of 1978).
- 271. The Ministry of Petroleum, Chemicals and Fertilizers (Department of Petroleum) Librarian Recruitment Rules, 1978 (G.S.R. 859 of 1978).
- 272. The Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) Technical Officer (Drugs) Recruitment Rules, 1978 (G.S.R. 1511 of 1978).

## XVIII. MINISTRY OF RAILWAYS

- 273. The Indian Railways Law Officer, Assistant Law Officer and Estate Officer Recruitment Rules, 1978 (G.S.R. 967 of 1978).
- 274. The Railway Board Editor, 'Bharatiya Rail' Recruitment Rules, 1979 (G.S.R. 350 of 1979).
- 275. The Indian Railways Metropolitan Transport Project (Railways), Calcutta, (Legal Adviser) Recruitment Rules, 1978 (G.S.R. 351 of 1979).
- 276. The Indian Railways Metropolitan Transport Project (Railways), Calcutta, (Legal Adviser) Recruitment Rules, 1978 (G.S.R. 391 of 1979).
- 277. The Indian Railways Intermediate College, Higher Secondary School, Higher Secondary Multipurpose School and High School (Group 'A' and Group 'B' posts) Recruitment Rules, 1979 (G.S.R. 934 of 1979).
- 278. The Railway Board Senior Research Officer (Operational Research) Recruitment Rules, 1980 (G.S.R. 252 of 1980).

279. The Indian Railways Degree College, Intermediate College, Higher Secondary School, Higher Secondary Multi-purpose School and High School (Group A and Group B posts) Recruitment Rules, 1980 (G.S.R. 374 of 1980).
280. The Railway Board (Librarian) Recruitment Rules, 1978 (G.S.R. 153 of 1979).
281. The Editor (Indian Railways), Ministry of Railways (Railway Board) Recruitment Rules, 1978 (G.S.R. 59 of 1979).

#### XIX. MINISTRY OF RURAL RECONSTRUCTION

282. The Directorate of Marketing and Inspection (Group A and Group B posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 61 of 1980).
283. The Directorate of Marketing and Inspection (Group 'A' and 'B' Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 62 of 1980).
284. The Directorate of Marketing and Inspection Engineer (Market Design) Recruitment Rules, 1980 (G.S.R. 187 of 1980).
285. The Directorate of Marketing and Inspection, Administrative Officer (Central Agricultural Marketing Research and Training Institute) (Recruitment Rules, 1979 (G.S.R. 607 of 1979).

#### XX. DEPARTMENT OF SCIENCE AND TECHNOLOGY

286. The Department of Science and Technology (Scientific Attache in the Indian Missions abroad) Recruitment Rules, 1978 (G.S.R. 258 of 1978).
287. The Zoological Survey of India (Central Service Group 'A' & Group 'B' posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 637 of 1978).
288. The Department of Science & Technology (Research Assistant) Recruitment Rules, 1978 (G.S.R. 638 of 1978).
289. The Department of Science and Technology (Group 'A' Scientific posts) Recruitment Rules, 1978 (G.S.R. 770 of 1978).
290. The Botanical Survey of India (Documentation Officer) Recruitment Rules, 1978 (G.S.R. 861 of 1978).



291. The National Atlas Organisation (Hindi Officer) Recruitment Rules, 1978 (G.S.R. 862 of 1978).
292. The Survey of India (Hindi Officer) Recruitment Rules, 1978 (G.S.R. 940 of 1978).
293. The Department of Science and Technology (Group A Scientific Posts) Recruitment Rules, 1978 (G.S.R. 1216 of 1978).
294. The Department of Science and Technology [Principal Scientific Officer (New Energy Sources)] Recruitment Rules, 1978 (G.S.R. 1288 of 1978).
295. The Department of Science and Technology [Senior Environmental Officer (Instrumentation)] Recruitment Rules, 1978 (G.S.R. 1336 of 1978).
296. The Senior Administrative Officer (National Atlas Organisation) Recruitment (Amendment) Rules, 1979 (G.S.R. 211 of 1980).
297. The National Atlas Organisation (Senior Librarian) Recruitment (Amendment) Rules, 1979 (G.S.R. 240 of 1980).
298. The Department of Science and Technology, Science and Engineering Research Council Project (Technical Assistant) Recruitment Rules, 1980 (G.S.R. 863 of 1980).
299. The Department of Science and Technology, National Museum of Natural History (Director, National Museum of Natural History) Recruitment Rules, 1980. (G.S.R. 1087 of 1980).
300. The Department of Science and Technology (Group A Scientific Posts) Recruitment Rules, 1978 (G.S.R. 49 of 1979).

## XXI. MINISTRY OF SHIPPING AND TRANSPORT

301. The Ministry of Shipping and Transport, Transport Research Division (Transport Wing), (Group B and Group C Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 497 of 1978).
302. The Port of New Mangalore (Assistant Secretary) Recruitment Rules, 1978. (G.S.R. 776 of 1978).

303. The Andaman and Nicobar Administration (Home Trade Master M. V. "Tarmugli") Recruitment Rules, 1978 (G.S.R. 1311 of 1978).
304. The Department of Lighthouses and Lightships Group 'A' and Group 'B' (Non-technical posts) Recruitment Rules, 1978 (G.S.R. 1314 of 1978).
305. The Development Adviser's Organisation (Class I and Class II Engineering Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 997 of 1979).
306. The Port of New Mangalore (Librarian) Recruitment (Amendment) Rules, 1979 (G.S.R. 1191 of 1979).
307. The Department of Lighthouses and Lightships (Recruitment to Group 'A' and Group 'B' Gazetted Technical Posts) Second Amendment Rules, 1979 (G.S.R. 1195 of 1979).
308. The Directorate General of Shipping and Mercantile Marine Department (Group 'A' Technical Posts) Recruitment Rules, 1980 (G.S.R. 379-E 1980).
309. The Inland Water Transport Directorate (Executive Officer, Patna) Recruitment Rules, 1980 (G.S.R. 397 of 1980).
310. The Group 'A' Gazetted Posts Recruitment Rules, 1978 (G.S.R. 213 of 1979).

## XXII. MINISTRY OF SOCIAL WELFARE

311. The National Institute of Social Defence, Department of Social Welfare (Statistician) Recruitment (Amendment) Rules, 1978 (G.S.R. 828 of 1978).
312. The Child Development Project Officers, Ministry of Social Welfare Recruitment Rules, 1979 (G.S.R. 1305 of 1979).
313. The Ministry of Social Welfare (Senior Research Investigator) Recruitment Rules, 1980 (G.S.R. 248 of 1980).

## XXIII. MINISTRY OF STEEL AND MINES

314. The Indian Bureau of Mines (Class I and II Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 459 of 1978).

315. The Indian Bureau of Mines (Class I and II Posts) Recruitment (Second Amendment) Rules, 1978 (G.S.R. 460 of 1978).
316. The Geological Survey of India including Exploration Wing (Class I and Class II Posts) Recruitment (Second Amendment) Rules, 1978 (G.S.R. 1980 of 1978).
317. The Geological Survey of India including Exploration Wing (Class I and Class II posts) Recruitment (Third Amendment) Rules, 1978 (G.S.R. 1265 of 1978).
318. The Geological Survey of India including Exploration Wing (Class I and II posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 597 of 1979).
319. The Geological Survey of India including Exploration Wing (Class I and Class II posts) Recruitment (Second Amendment) Rules, 1979 (G.S.R. 598 of 1979).
320. The Indian Bureau of Mines (Class I and II posts Recruitment (Second Amendment) Rules, 1979 (G.S.R. 1352 of 1979).
321. The Geological Survey of India (Group A and Group B posts) Recruitment (Fourth Amendment) Rules, 1979 (G.S.R. 1397 of 1979).
322. The Indian Bureau of Mines (Class I and II posts) Recruitment (Third Amendment) Rules, 1979 (G.S.R. 1463 of 1979).
323. The Department of Mines (Group A Technical Posts) Recruitment Rules, 1980 (G.S.R. 618 of 1980).
324. The Geological Survey of India (Group A and Group B posts) Recruitment (Second Amendment) Rules, 1980 (G.S.R. 715 of 1980).
325. The Geological Survey of India (Group A and Group B posts) Recruitment (Third Amendment) Rules, 1980 (G.S.R. 716 of 1980).

#### XXIV. MINISTRY OF SUPPLY AND REHABILITATION

326. The Office of the Chief Development-cum-Rehabilitation Commissioner (Engineering Overseer) Recruitment Rules, 1978 (G.S.R. 420 of 1978).

327. The Rehabilitation reclamation Organisation (Group 'A' and Group 'B' posts) (Amendment) Rules, 1978 (G.S.R. 575 of 1978).
328. The Rehabilitation Reclamation Organisation (Group 'A' and Group 'B' Posts), Recruitment (Amendment) Rules, 1978 (G.S.R. 694 of 1978).
329. The Department of Rehabilitation (Research Assistant) Recruitment Rules, 1978 (G.S.R. 726 of 1978).
330. The Office of the Chief Development-Cum-Rehabilitation Commissioner (Agricultural Officer/Agricultural Extension Officer, Assistant Soil Conservation Officer and Assistant Survey Officer Recruitment Rules, 1978 (G.S.R. 886 of 1978).
331. The Dandakaranya Project (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1498 of 1978).
332. The Directorate General of Supplies and Disposal (Deputy and Assistant Directors, Litigation) Recruitment (Amendment) Rules, 1979 (G.S.R. 152 of 1980).
333. The Dandakaranya Project, Education Organisation (Class I and Class II posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 173 of 1980)
334. The Dandakaranya Project, Agricultural Organisation (Group A and Group B posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 285 of 1980).
335. The Rehabilitation Reclamation Organisation (Group 'A' and Group 'B' Posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 604 of 1980).
336. The Dandakaranya Project (Gynaecologist) Recruitment (Amendment) Rules, 1979 (G.S.R. 847 of 1979).
337. The Rehabilitation Reclamation Organisation, Drilling Sub-Division [Assistant Engineering (Drilling) Class II post] (Amendment) Rules, 1979 (G.S.R. 352 of 1979).
338. The Dandakaranya Project (Class I and Class II posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 99 of 1979).

**XXV. MINISTRY OF TOURISM AND CIVIL AVIATION**

339. The Civil Aviation Department (Group A and Group B posts) Recruitment (Amendment) Rules, 1977 (G.S.R. 321 of 1978).
340. The Civil Aviation Department (Assistant Electrical and Mechanical Officer) Recruitment Rules, 1978 (G.S.R. 1204 of 1978).
341. The Civil Aviation Department (Group 'A' and Group 'B' posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 1523 of 1979).
342. The Civil Aviation Department (Group A and Group B posts) Recruitment (Amendment) Rules, 1980 (G.S.R. 316 of 1980).

**XXVI. MINISTRY OF WORKS AND HOUSING**

343. Town and Country Planning Organisation, Senior Research Officer (Geography) Recruitment (Amendment) Rules, 1978 (G.S.R. 1289 of 1978).
344. The Ministry of Works and Housing (Group A Technical posts) Recruitment Rules, 1978 (G.S.R. 1349 of 1978).
345. The National Buildings Organisation (Photo Officer) (Group 'B') Recruitment Rules, 1978 (G.S.R. 1410 of 1978).
346. The Central Water Laboratory (Group A and Group B posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1539 of 1978).
347. The Town Country Planning Organisation (Class I and II posts) Recruitment Amendment Rules, 1979 (G.S.R. 1307 of 1979).
348. The Andaman and Nicobar Administration (Public Works Department) (Group A and Group B posts) Recruitment Rules, 1980 (G.S.R. 739 of 1980).
349. The Deputy Director of Estates (Recruitment) Rules, 1979 (G.S.R. 181 of 1979).

## APPENDIX III

(Vide Paragraph 61 of the Report)

**COPY OF REPRESENTATION DATED 16 JANUARY, 1982 FROM  
THE ALL INDIA FEDERATION OF INCOME-TAX GAZETTED  
SERVICES ASSOCIATIONS, NEW DELHI**

I am enclosing herewith ten copies each of the following publications of the Federation:—

(a) "To the Peoples' Representatives in the Parliament" (Annexure I).

(b) "Problems and Solutions" (Annexure II).

Boht the publications are self-explanatory.

2. Federation submits that the Govt. (Ministry of Finance, Deptt. of Revenue) has not paid any heed to the recommendations of the Committee and has been harping on the Supreme Court decisions and taking shelter behind legalities and technicalities which after due consideration were pointedly rejected by the Committee. The Deptt. has not taken any effective measures to remove the grave injustice caused due to the retrospective effect given to the Seniority Rule of 1973 from 15.1.59. Deep rooted frustration has now found an expression in the form of an agitation for which the responsibility lies on the Deptt. With due respect we may submit that such an attitude towards a parliamentary body virtually amounts to the contempt of the parliament. We pray that the Deptt. may kindly be advised to remove the stagnation and remedy the harm caused due to the retrospectivity of the Rule as well as by the delay in giving effect to the recommendations of the Committee.

Even at this stage when the officers have launched an agitation to express their resentment over the callous attitude of the Deptt. and on the Deptt's failure to implement the assurances given to them last year in March, '81, they have shown a high sense of responsibility and decided to increase their working hours by half an hour during the period of agitation.

We pray that the Committee may kindly take note of the situation and take some effective measures to ensure the removal of the frustration in the majority of the gazetted strength of the Deptt.

## **ANNEXURE I**

(Vide Paragraph 1(a) of Appendix III)

### **ALL INDIA FEDERATION OF INCOME -TAX GAZETTED SERVICES ASSOCIATIONS, NEW DELHI**

**President : J. N. MAITRA**

**Vice President : K. JAYA RAMAN**

**Secretary : OM SHANKER BAJPAI**

**Addl. Secy : K.K. MALHOTRA**

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**TO  
PEOPLES' REPRESENTATIVES  
IN**

**THE PARLIAMENT**

---

**CAN YOU HELP?**

**WE BELIEVE YOU CAN**

**We, the Members of All India Federation of Income-tax Gazetted Services Associations are promotee Income-tax Officers (Group B & Group A) and Assistant Commissioners.**

**We are neither agitators nor trade unionists.**

**Our loyalty to the Govt. of India is second to none.**

**We want justice and a civilised and dignified treatment.**

**We want emancipation from rules which smack of colonial hang-over.**

**And we do not wish to be driven to strike work by the callous and insensitive attitude of the bureaucracy.**

---

**CAN YOU HELP?**

There is no distinction in the nature of duties of Group B (Class II) and Group A (Class I) officers under the Income-tax Act, Wealth-tax Act, Gift-tax Act or Estate Duty Act, yet the class-distinction plagues this Deptt.

Day in and day out this myth of distinction is being kept alive.

As a result, there is a world of difference in the promotional prospects of the two groups of officers.

Do you approve of such bureaucratic casteism and policy of apartheid practised by the administration even after 33 years of our independence?

Can the stigma of class-distinction be wiped out only by changing the nomenclature from "Class I" to Group "A", from Class II to "Group B" and so on?

#### CAN YOU HELP?

An Income tax officer Group B becomes eligible for his promotion to group A in five years but he gets this promotion in about 15 years.

Today, there are roughly 1600 officers of Group B who have put in 5 to 15 years of service and have become eligible for promotion.

Most of them are working on the posts ear-marked as Group-A posts.

Is it equitable to deny a Group B Income tax Officer his promotion to Group A for fifteen years though he becomes eligible in five years and has been working on a group A post all these years?

#### CAN YOU HELP?

A direct recruit Income tax Officer becomes eligible for promotion to the cadre of Assistant Commissioner in six years (eight years minus two years of training spent by him).

A promotee Income tax Officer becomes eligible for his promotion to the cadre of Assistant Commissioner in twenty-three years.

Both classes of Officers perform same functions and work on interchangeable posts.

Is it just and fair that two classes of officers performing same functions and working on interchangeable posts have such unequal opportunities for career advancement?

#### CAN YOU HELP?



There are 2400 Class-II I.T.O's including those promoted to Class-I on *ad hoc* basis.

The Class-II cadre has been expanded to more than thirty times since first re-organisation in the Deptt. in 1944.

No promotions were made from Class-II to Class-I in the years 1963, 1965 and 1967 to 1970 adding enormous dimension to already woeful plight of the Class-II officers.

Govt. introduced 1:1 Rule in 1973, paying little regard to the cadre-composition (i.e. the ratio of Class-II and Class-I Officers *inter-se*), waiting period for promotion from Class-II to Class-I, age, experience, expertise, competence and progress in the career *vis-a-vis* direct recruit. In doing so, somehow the Govt. has persuaded itself to believe that it has done its best and nothing more was needed to be done. But the reality of the situation has proved that what the Govt. considered as a panacea for our ills turned out to be something worse than the malady itself wiping out entire promotee class of officers from the higher cadres.

At the present rate of intake of 80 per year, it would take 30 years for 2,400 group-B officers to get their promotion to Group-A and many would retire even before getting into Group-A what to speak of going to higher cadres.

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- (i) Is the Seniority Rule of 1973 not the most retrogressive measure that could ever be conceived?
  - (ii) Are the Seniority Rule, 1973 & ratio of 1:1 so sacrosanct that they cannot be changed irrespective of whether it destroys human values, incentive to work, morale of the service and so on?
- 

CAN YOU HELP?

In less than a decade the posts of Commissioners have been increased by about six times i.e. from about 30 in 1972 to 180 in 1981.

As if this was not enough, 178 posts of Commissioners and 21 posts of Regional Commissioners are proposed to be created further in a recent cadre-review.

Promotees' share in the Commissioners posts is as follows:

Commissioners	Direct recruits	Promotees	Total
(a) Level—I	78	8	86
(b) Level—II	102	6	108

(FIGURES AS ON 1-1-1980)

After a year or so, there will be no promotee Commissioners in the Department.

Promotees do not have their representation even in the selection grade of Assistant Commissioner.

Rules are so adverse that vacancies created on retirement of promotees at the level of Commissioners as well as Assistant Commissioner are going to the Direct recruits only.

This is when the Deptt. stated before the Supreme Court in the case of B. S. Gupta Vs. U.O.I. (1975) 1 SCR 114, as follows:

"On behalf of the Department it is contended that on the analysis of the vacancies which may occur in the higher echelons of service in future and the present ages of the promotees, there is really no despondency for the promotees."

Primarily on the basis of this representation the Supreme Court held in the case supra as under:

"We must remember that in all higher services appointments are generally by selection and not merely on the basis of seniority in which case, promotees with the necessary merit may well reach the top."

Promotees have no place in the cadre-review which is mainly intended to create the posts of Commissioners and above to be manned only by the direct recruits.

---

Is this farce of cadre-review not a surreptitious exercise of the direct recruits, by the direct recruits, for the direct recruits?

Threatened with total extinction, can we who constitute the core of the service in our own right, ever hope to reach the top?

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CAN YOU HELP?

We constitute 80 per cent gazetted strength of the Income-tax Department.

We are about 3300 in number.

We bear the brunt of levy and collection of taxes.

Unfair and unjust seniority and promotion rules based on artificial class-distinction have completely marred our chances of promotion to higher echelons and demoralised the service.

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How long can you hold in leash the monster of tax-evasion with such a frustrated, disgruntled and demoralised force of officers?

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### CAN YOU HELP?

Third Pay Commission recommended grant of weightage and senior scale to Group B Officers on their promotion to Group A as long back as in 1973.

The recommendation was accepted by the Union Cabinet as early as in 1974.

Weightage is being granted to promotees in other services like Railways, IAS etc.

No weightage is granted to Group B officers of the Deptt. on their promotion to Group A, even though their waiting period is 15 years as against eligibility period of 5 years.

No senior scale is given to these officers at the time of their promotion to Group A, even though the Central Govt. has accepted other recommendations of Third Pay Commission with effect from 1-1-73.

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- (i) Do you approve such blatant discrimination and inordinate delay?
  - (ii) Should the Govt. not remove the injustice without any further delay and with retrospective effect for which there is no legal bar?
- 

### CAN YOU HELP?

Various Parliamentary Bodies, Committees and Commissions recommended abolition of artificial class-distinction among Income-tax Officers Class-II and Class-I, prompt redressal of long standing grievances of Class-II ITOs and improvement of their promotional prospects:

- (1) Public Accounts Committee, 29th Report, 1967-68: Para 2.41.
- (2) Working Group of Administrative Reforms Commission on the Direct Tax Administration, 1968: Para 7.30.
- (3) Views expressed by Sh. Morarji Desai, the then Finance Minister on 1-11-58 before silver jubilee session of the Federation against Class-differentiation for the same job (*vide* Central Board of Revenue Bulletin for Dec. 1958).
- (4) Report of Select Committee on the Taxation Laws (Amendment) Bill, 1973, para 74.
- (5) Report of the Committee on Subordinate Legislation, 5th Lok Sabha, 16th Report, Paras 126—128.
- (6) Public Accounts Committee, 5th Lok Sabha, 186th Report, Chapter XII, Paras 12—16.
- (7) Report on Direct Taxes Enquiry Committee (Wanchoo Committee) 1971, Paras 6.48 and 6.128.
- (8) Third Pay Commission recommendations accepted *vide* Ministry of Finance Resolution No. F (ii) (35)/74-IC dated 1-5-74 on the question of grant of weightage and Paras 28 and 29 of chapter 3 on the question of grant of senior scale.

---

Is it not incumbent upon the Government of India to show highest regard and consideration to the far-sighted recommendations of such august bodies and take corrective measures to remove distortion and imbalance which has been afflicting the service for over two decades?

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CAN YOU HELP?

The fact that injustice has been perpetuated on the promotee group of officers was recognised and conceded by successive Finance Ministers, Shri Morarji Desai in 1958 and 1969. Shri H. M. Patel in 1977-78 and Shri R. Venkataraman in 1980. All of them held out assurances to mitigate our grievances.

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**Can anyone say to the credit of this Govt. that it gives assurances that are not observed in breach?**

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### **CAN YOU HELP?**

Rajya Sabha Petition Committee in its 49th Report presented to the Rajya Sabha on the 9th January, 1976 disposing of a petition filed by the Federation observed as follows:—

“The Committee is shocked at the pleas of loss of vital records taken by the administration. In response to the Committee's requests relating to important files the administration has taken a similar plea. The Committee asked for a file which could possibly show the correct position on the question whether the 80:20 quota during the period 1945-50 was really operative. The file is reported missing. Another file reported missing is that relating to the framing of the recruitment rules, 1945. The file relating to Shri R.C. Dutt's affidavit (filed in Jaisinghani's case) is also not available. Even the very recent file relating to the framing of seniority Rules, 1973 is reported as 'not available'. On our insistence they have produced a thick sheaf of papers said to be 'reconstructed file'. It is strange that many of the files which could probably have thrown light on the question of excess promotions, are reported 'missing' or 'not available'. The conclusion is inescapable that these losses of files are far from being accidental. **We can only conclude that important information was deliberately withheld from the Supreme Court as well as from the Committee**”.

(emphasis supplied)

Referring to the above observations, Mr. Justice Desai of Hon'ble Supreme Court made following observations in his judgement dated 25-4-80 in the case of K.K. Dutta vs. U.O.I.:

“Repeatedly the Government of India kept back material from this Court filing affidavit after affidavit showing its inability to provide such important information on which the decision of the Court would turn even though it can now be demonstrably established that such material and information was with the Government. If the Government of India had not withheld such material information which

has been rather adversely commented upon not by this Court but by the Legislature, the credibility of the Department would be exposed."

- 
- (i) Does it not shock your conscience?
  - (ii) Should the Administration not atone for its sins to restore its lost credibility?
- 

#### CAN YOU HELP?

434. Promotee Income-tax Officers who had already put in 8 to 10 years service in Class II and 3 to 4 years in Class I were made junior to the Class-I direct recruits who must have been reading in 4th or 5th class in their schools when the said Income-tax Officers had started doing the technical job of levy and collection of taxes.

This was the result of impious Seniority Rules of 1973 given retrospective effect from 16-1-59.

Disposing of the Review Petition in *K. K. Dutta vs. U.O.I.* Mr. Justice Desai of Hon'ble Supreme Court of India observed in his judgement dated 25-4-80:

"under the old weightage rule promotees were given a weightage for service of 2—3 years over direct recruits because direct recruits were unable to undertake regular assessment work for a period of 2—3 years when they were more or less under training while promotees have been doing this work for a number of years and their experience is reflected in the weightage. The whole thing now appears in the reverse gear in that an uninitiated direct recruit takes precedence over an experienced promotee. **The unfairness of the new rule is writ large on the face of it.**"

"This rule violates another important rule well recognised in the service Jurisprudence that in the absence of any valid rule of seniority, date of continuous officiation provides a valid rule of seniority".

"With utmost hesitation I must say that service Jurisprudence hardly permits a situation where a man not in service comes and challenges something which has been done much before he came into service and gets such an advantage which on the face of it appears to be unfair."

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Is there no remedy against this iniquitous and infamous state of affairs?"

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The Prime Minister issued following policy guidelines to various Ministries in April, 1975:—

“The present rules and practices regarding direct recruitment and promotion need to be looked into with a view to provide a large measure of opportunity for promotion at the lower levels consistent, of course, with the need to maintain efficiency. Employees should not feel that they are forever condemned to stagnate at lower levels because of a poor start at the outset. They should have the assurance that through disciplined hard work they can rise to higher echelons.

Genuine concern for the welfare of employees will surely lead to better morale and performance.”

---

Do you uphold that in a country like ours progress of a person in his career should be decided solely on the basis of his birth-mark in the service not on the basis of human worth and ability?

Should a person starting at a lower rung of the Govt. hierarchy be condemned for his life to stagnate irrespective of his merit?

---

#### CAN YOU HELP?

We are the persons in-charge of implementation of Summary Assessment Scheme.

We are prepared to prove to everyone who wants to know the truth. The truth is that there is huge loss of revenue to the National Exchequer on account of the Scheme which has become one of the biggest sources of the proliferation of black money.

We do support the scheme if it is intended to benefit **small taxpayers** deriving income from salary, rent, interest, dividends and the like or for that matter, even from petty trade.

But we do not support the scheme which benefits the business cases upto income limit of Rs. one lac in a country like ours where tax evasion has become science and art in our business enterprises and where the per capita income is still ignobly low.

Now strong vested interests have grown to support the existence and extension of the scheme unmindful of the damage to the national economy, social and moral values.

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Why should an unscrupulous businessman pay his taxes correctly if he can avail himself of Summary Assessment Scheme and escape with impunity?

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Why should he subscribe to the bearer bonds when he has a better alternative in the Summary Assessment Scheme and enjoy the spoils?

Why should a person other than a saint, obey and respect the law made by the Parliament if executive instructions permit him to bypass it?

Is it wise or creditable for any Govt. to be a privy to tax-evasion taking shelter behind an alibi of saving tax-criminals from harassment?

Is it right for any Govt. to gift away hundreds of crores of rupees to the tax-dodgers and be stingy enough to deny even a small fraction thereof for the betterment of its own employees?

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#### CAN YOU HELP?

Prof. Nicholas Kaldor of University of Cambridge made the following thought provoking observations in 1956:—

"I feel that there is too much of false and mis-guided economy in India. So long as the situation continues in which the local Income-tax Officer starts with a salary of Rs. 350/- (the then scale of Rs. 350-900) and even after a number of years of service and occupying a position of considerable responsibility earns Rs. 600/- p.m. (scale Rs. 600—1150), it is idle to expect that highest standards of efficiency can be attained"

"Apart from the question of ability and adequacy of qualified officers I have a feeling that it is fundamentally wrong to pay officers, on whose attitude and conduct very large sums of money may depend, at such extremely meagre rates."

Cost of collection of direct taxes in this country is about 2 per cent which is claimed to be the lowest in the world.

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"Penny wise, pound foolish". What instance could be more glaring than this?

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#### CAN YOU HELP?



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CAN YOU HELP?  
WE BELIEVE YOU CAN.  
WE TRUST YOU WILL.

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## ANNEXURE II

(Vide Paragraph 1(b) of Appendix III).

ALL INDIA FEDERATION OF INCOME-TAX 'GAZETTED  
SERVICES ASSOCIATIONS  
NEW DELHI

ROOM NO. 399, CENTRAL REVENUES BUILDING    INDRA-  
PRASTHA, NEW DELHI

TEL. NO. 273216, 275081|279|231, 384708.

*President* : J. N. Maitra

*Vice-President* : K. Jaya Raman.

*Secretary* : Om Shanker Bajai

*Addl. Secretary* : K. K. Malhotra.

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PROBLEMS AND SOLUTIONS

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# **ALL INDIA FEDERATION OF INCOME TAX GAZETTED SERVICES ASSOCIATIONS NEW DELHI**

## **Gist of the proposals at a Glance**

- I.** Proposals take care of interests of promotees as well as direct recruits.
- II.** Proposals take care of arrears of assessments, outstanding demand and other pending items of work on one hand and the interests of Officers on the other.
- III.** Financial implications are meagre compared to the gain to revenue, better public service and restoration of goodwill and harmony in the Department.
- IV.** Solution to the problem in two fold;
  - (i) Cadre restructure through expansion and suitable adjustment at different levels of hierarchy; and
  - (ii) Substitution of present unjust rules of seniority and promotion by just and equitable rules.
- V.** Proposals bring out that there is no legal or practical difficulty in ensuring reasonable career prospects to the promotees as well as direct recruits. Proviso to Article 309 of the Constitution is wide enough to enable the Govt. to frame any kind of rule with retrospective effect to solve the problem.
- VI.** To sum up, the solution lies in promoting 1744 Group—B Officers to Group-A at the cost of Rs. 15,69,600; in creating 300 to 500 posts of Assistant Commissioners at the cost of Rs. 1,44,000 to Rs. 2,40,000 and about 100 super-numerary posts of Commissioners at the cost of Rs. 3,00,000 per annum.

What is needed is the administrative and political will to solve the problem.

**Note submitted to Shri Jagdish Chand, Chairman, Central Board of Direct Taxes in pursuance of the Discussion which he had .. with the Managing Committee of the All India Federation the 8th July, 1981 and with the Secretary of the Federation on later dates.**

The problem is divided for the sake of convenience into three parts:—

- (a) Pertaining to the promotee Assistant Commissioners;
- (b) Pertaining to the promotee Group-A Officers;
- (c) Pertaining to the Group-B Officers.

**(a) Pertaining to the Promotee Assistant Commissioners**

a. 1. As per seniority list dated 1-1-1981 there are 248 promotee Assistant Commissioners. Most of them are going to retire within 5 to 7 years as is evident from the following chart:—

1981	51
1982	56
1983	43
1984	32
1985	21
1986	17
1987	16
1988	7
1989	2
	<hr/>
	248
	<hr/>

a. 2. They have been wronged in the worst possible manner as they were the victims of anti-weightage of two to four years clamped upon them with retrospective effect.

a. 3. Now there are three alternative suggestions to solve the problem of promotee Assistant Commissioners:—

- 1. To grant the weightage of 3 years as per old rules;
- 2. To maintain the seniority on the basis of continued officia-  
tion of Class-I service;
- 3. To provide for certain super-numerary posts of Commis-  
sioners to be manned exclusively by the promotee Assis-  
tant Commissioners.

a. 4. The then Chairman, Central Board of Direct Taxes is committed to consider the grant of weightage with retrospective effect vide Minutes of Meeting held on 7-3-1981, with the Federation. However, keeping in view the fact that the matter pertaining to alternatives at S. Nos. 1 & 2 above is still *sub-judice* before the Supreme Court in the writ-petition of Shri Sajnani, the most effective solution which can be thought of is the creation of super-numerary posts of Commissioners to be manned exclusively by the promotee Asstt. Commissioners. In this connection reference is invited to the Cadre Review of IRS (IT) 1980—82 wherein it has been shown that the existing cadre strength of Group-A (ad hoc) Group-A (Junior and Senior scale), Junior Admn. grade and Senior Admn. grade is 2683 (kindly see pages 16 & 17 of the report). It is on the basis of the cadre strength of 2683 that the comparative position in the higher grade and senior administrative grade, is shown *v's-a-vis* other services, e.g., it is shown that while IRS (IT) has only 5.9 per cent in the Senior Administrative Grade, the highest percentage is 17.4 per cent in Railway Traffic. Similarly it is shown that while IRS (IT) has nil percentage in higher grades, the highest is 1 per cent in Railway Traffic. [Kindly see pages (viii) & 20 of the report on cadre review, 1980—82].

a. 5. The ratio of promotees in the total number of 2683 is approximately as follows:—

	Promotees	Direct Recruits	Total
1. Ad-hoc . . . . .	200	Nil	200
2. Leave-reserve . . . . .	100	100	200
3. Group—A (Junior & Senior time-scale) . . . . .	665	830	1495
4. Junior Admn. Grade . . . . .	248	392	630
5. Senior Admn. Grade . . . . .	8	150	1
	<hr/> 1221	<hr/> 1462	<hr/> 2683

a. 6. Thus, the percentage of promotees in the total cadre strength of Group-A officers is 45.51. Therefore, it is but fair that the promotees should have their proportionate share in the hierarchy at the level of Senior Administrative Grade and Higher Grade, i.e., about 45 per cent. Accordingly 45 per cent of about 220 posts of Commissioners, i.e., about 99 should go to the promotees. If it is not to be done and all posts at the Senior Admn. Grade are to go only to the direct recruits, then it is mis-leading and incorrect to include the number of promotees in working out the comparative percentage. If

we make a comparison of the percentage at the level of Higher Grades and Senior Admn. Grade *vis-a-vis* other services taking into account the entire strength of promotees and direct recruits, it would also be fair to see as to in how many years a Group-B Officer is promoted to Group-A in other services and whether he gets the benefit or Group-B service by way of weightage or not. What is the extent of such weightage and in how many years he reaches the Junior Administrative grade and whether or not he has any chances to reach the senior administrative grade and what is the ratio of promotees *vis-a-vis* direct recruits at that level. For example, in Railway Traffic where the percentage is shown to be the highest, a Group-B officer is promoted to Group-A in about 10 years and gets weightage equal to half the length of Group-B service subject to a maximum of 5 years. It is not only desirable but would be administratively healthy, just and fair to remove the sense of frustration and injustice from the minds of the promotee Assistant Commissioners by creating at least 100 super-numerary posts to be filled up exclusively by them. A proposal of this kind does not harm the interest of direct recruits, and therefore they ought to have no objection to this arrangement. Above all, the Administration will be able to ensure that all groups of officers in the department are contented and the incentive to do their best is kept alive.

a. 7. It is needless to say that if the creation of 178 posts of Commissioners (Kindly see page xii of the Report) can be justified and recommended on the grounds like having new posts for Commissioners (Appeals) (50), Commissioners (Company Circles) (20), Commissioners (Intelligence) (16), & Survey (16), Commissioners (Internal Audit) (16), Commissioners (Recovery) (16), Commissioners (Salary and TDS) (16), Commissioners (Judicial) (8), Commissioners (Central) (6), Commissioners (Admn.) (11), Commissioners in Directorate (12) and so on, it should certainly not be difficult in the interest of more efficient administration to secure sanction for about 100 super-numerary posts for promotee group of officers. Only 54 out of 178 posts of Commissioners having been sanctioned, there is still scope for about 124 on the grounds already stated.

**a. 8. Financial Implications of creating 100 super-numerary posts of Commissioners level-II to be filled up exclusively by promotee Assistant Commissioners.**

Minimum of the pay scale of Commissioner Level-II is Rs. 2250. Every promotee Asstt. Commissioner who would be entitled to be promoted as Commissioner would be one who has been stagnating

at the maximum of the Assistant Commissioners' scale, i.e., at Rs. 2,000. The cost of creating one super-numerary post would be 250 12 Rs. 3,000 per year only. Cost will be nil in those cases where they are getting selection grade of Rs. 2250. Thus, the total cost of creating 100 super-numerary posts will be less than Rs. 3 lacs. This is too small an amount considering the magnitude of the problem it would solve. It is needless to add that the government must have spent several lacs of rupees on the litigation alone which has been pursued unthoughtfully and is still continuing.

**(b) Pertaining to Promotee Group-A Officers**

b. 1. At the very outset, it should be pointed out that there were no promotions in the years 1963, 1965, 1967, 1968, 1969 and 1970 with the result that the officers promoted in 1971 lost their seniority by about 6 years merely because of delay in promotions. They were not granted any weightage for their Group-B services. Therefore, if one considers the loss of seniority on account of denial of weightage and the delay in promotions together, it aggregates to about 9 years. Then, there were no promotions in 1972 and 1974 also. From 1975 onwards, the promotions started regularly every year, but no weightage was allowed for the Group-B service of 15 years and more put in by these officers with the result that promotees are being slowly and slowly wiped out from the rank of even Assistant Commissioners. They have already been wiped out from the rank of Commissioners. This is contrary to what the Department represented before the Supreme Court in (1975) ISCR 114 that the promotees had no reason for despondency and on that basis the Supreme Court upheld the present Rule as just and fair and observed that the promotees had the chance to reach the top. All that is proved to be incorrect in practical working of the rule.

b. 2. An analysis has been done of all those promotee Group-A officers who are placed in the senior scale today. Their number is 338 as would be evident from the chart at page No. 20 of this note. It would be seen that even if the promotees are granted weightage equal to half the length of Group-B service subject to a maximum of 7 years (taking the waiting period to be 15 years on an average) most of the promotee officers would not reach the level of Commissioner. If, however, the period of weightage is reduced to 4 or 5 years, the situation would be rather worse.

b. 3. At present a Group-A officer requires about 25 years of Group-A service to be promoted to the rank of Commissioner Level-II. Even considering that this period will get reduced on

account of newly sanctioned posts of Commissioner, to, say, 21 or 22 years, none of the promotee Group-A officers, barring a few exceptions, would survive for being considered for promotion as Commissioners even then. This is proved by the following facts:—

### Illustration No. 1

<i>Promotees of 1971</i>	<i>With grant of Weightage</i>	
	<i>4 yrs</i>	<i>7 yrs</i>
i) Year of promotion to Class-I	1971	1971
ii) Adjustment against Direct Recruits of . . . . . a	1967	1964
iii) Year of consideration for promotion as Commissioners alongwith the direct recruits of 1967/1964 taking 22 years as the waiting period for the purpose.	1989	1986

With the grant of weightage of 4 years, out of 12 promotees of 1971 all will retire by 1989 except 2: out of remaining two, one will retire in 1993 and the other one in 1994.

And with the grant of weightage of 7 years, 8 out of 12 promotees will retire by 1988, and out of remaining 4, 2 will retire in 1987, one in 1993 and the last one in 1994.

### Illustration No. 2

	<i>With grant of weightage</i>	
	<i>4 yrs</i>	<i>7 yrs</i>
( i ) Year of promotion to Class-I	1973	1973
(ii) Adjustment against Direct recruits	1969	1966
(iii) Year of consideration for pro- motion as commissioners .	1991	1988

With the grant of weightage of 4 years, all 131 promotee officers will retire by 1991. And with the weightage of 7 years, 117 will retire by 1988 and only 14 will survive.



**Illustration No. 3**

	<i>With the grant of weightage</i>	
	<i>4 yrs</i>	<i>7 yrs</i>
i) Year of promotion to Class-I . . . . .	1975	1975
ii) Adjustment against the direct recruits of . . . . .	1971	1968
iii) Year for the consideration for pro- motion as commissioners . . . . .	1993	1990

With 4 years weightage all 55 officers will retire by 1993 and with 7 years, out of 55 only 2 will survive.

**Illustration No. 4**

	<i>With grant of weightage</i>	
	<i>4 yrs</i>	<i>7 yrs</i>
i) Year of promotion to Class-I . . . . .	1976	1976
ii) Adjustment against the direct recruits of . . . . .	1972	1969
iii) Year of consideration for promotion as Commissioners . . . . .	1994	1991

With 4 years weightage, 69 out of all 70 officers will retire by 1994 and remaining 1 will retire in 1995. With 7 years, out of 70 only 6 will survive beyond 1991.

**Illustration No. 5**

	<i>With grant of weightage</i>	
	<i>4 yrs</i>	<i>7 yrs</i>
i) Year of promotion to Class-I . . . . .	1977	1977
ii) Adjustment against the direct recruits . . . . .	1973	1970
iii) Year of consideration . . . . .	1995	1992

With 4 years, all 64 officers will retire by 1992 itself what to speak of surviving till 1995. Even with 7 years, none will survive beyond 1992.

b. 4(1) This shows the shape of things to come in the subsequent years. With the increase of waiting period in the Group-B and lower levels, the position in the later years becomes worse.

b. 4(2) To sum up, with the grant of weightage of 7 years only 26 out of 338 will survive for consideration for commissionership and with the weightage of 4 years, only 3 officers survive out of 338, for consideration for promotion as commissioners.

b. 4(3) It is thus evident that the clash of interest, if any, between the promotees and the direct recruits is at the level of Assistant Commissioners only and the solution to this problem even at this level can be found in such a manner that while the chances of promotion of direct recruits are not at all impaired, the sense of injustice and frustration from which the promotees are suffering is effectively removed.

b. 5. Solution:

It is suggested that:—

- (i) The present lot of promotee Group-A officers who had to slog as Group-B officers for 15 years or more should be granted weightage equal to half the length of their Group-B service.

If that is done, then alone, as indicated above 26 out of 338 Group-A officers survive for being considered for promotions as Commissioners. But if even that is not done and the period of weightage is restricted to 4 years, none except 3 out of total 338 survive for being considered as Commissioners. It is, therefore, essential that the suggestion of creation of 100 super-numerary posts to be filled in exclusively by promotees may be considered on a permanent basis if the period of weightage is restricted to only 4 years.

- (ii) Alternatively, every two years of Group—B service be treated as equal to one year of Group—A service for counting the Eligibility period of eight years for promotion to the post of Assistant Commissioner. Thus, these promotees and direct recruits who become eligible on this basis should be considered in the running order of their seniority among the eligibles. Eligibility Rule may be suitably amended for this purpose.

**No. of posts of Assistant Commissioners required  
for promotees and direct recruits on the basis of  
4 years weightage**

The number of posts of Assistant Commissioners required on the basis of grant of weightage of 4 years so as to accommodate the promotees as well as the direct recruits will be as follows:—

b. 6. By granting weightage of 4 years the promotees of 1977 will be adjusted against the direct recruits of 1973, promotees of 1976 against the direct recruits of 1972 and the promotees of 1975 against the direct recruits of 1971; and the promotees of 1973 against the direct recruits of 1969.

**Promotees and Direct recruits who will become eligible in 1981**

Promotees of	1971	12	
	1973	137	
	1975	55	
	1976	70	
	1977	64	
		<hr/>	
		338	
Deduct retirements in	1981	<hr/>	
		35	333
Direct recruits of	1971	44	
	1972	30	
	1973	56	
		<hr/>	
			160
			<hr/>
			463
			<hr/>

**Availability of vacancies**

Existing vacancies	115
Expected vacancies consequent upon the cadre review	85
	<hr/>
	200
	<hr/>
Additional requirement	268
	<hr/>

b. 7. By this arrangement, direct recruits with 8 years service and promotees with 19 to 25 years of service as ITO will get promotion as Assistant Commissioner.

b. 8. With 7 years' weightage, additional requirements of posts of Assistant Commissioner will be  $(263+226)=489$ . Thus, by creating about 300 additional posts of Assistant Commissioner it would be

possible to solve to a great extent the problem which has been defying solution over decades. Financial implications of creation of these posts of Assistant Commissioners would be very meagre (as to appear almost ridiculous) considering the satisfaction and the restoration of an atmosphere of goodwill that it would generate within the department.

### **Financial Implications of creating 300 Posts of Assistant Commissioners**

b. 9. The promotee Group—A officers slog at the maximum of their pay scale for at least 2 years before they are promoted to the rank of Assistant Commissioner and even then, the benefit of pay to them is hardly Rs. 20/-. Those promotee Group—A officers who are on deputation posts, suffer the loss of their deputation pay and those who draw special pay barely get their special pay protected. Therefore, while some of the officers will suffer loss of pay the others will gain only Rs. 20/-. A few others may gain one increment of Rs. 80/-. On an average, the additional annual burden may be taken at Rs. 40/- p.m. for each post. At the rate of annual burden of Rs. 480/- per post, the total cost of creating about 300 posts of Assistant Commissioners would be Rs. 1,44,000/- only, and of 500 posts Rs. 2,40,000/-.

b. 10. The position in future years will be as follows:—

#### **Requirement in the year 1982**

Promotees who will become eligible in 1982 (i.e. of 1978 adjusted with D. Rs. of 1974)	65
Deduct: those retiring in 1982	20
	<hr/>
	45
Add: direct recruits of 1974	55
	<hr/>
Total requirement	100
	<hr/>

As against the requirement of 100 vacancies of Assistant Commissioners in 1982, following vacancies will arise in that year:—

i) Out of retirement of ACs in 1982	26
ii) Out of retirement of promotee ITOs (of 1977 adjusted with 1973 & who would become A.C.s by 1981)	45
	<hr/>
	101
Add: Retirements of Commissioners	16
	<hr/>
	117

Thus there will be a surplus of 17 vacancies in the year 1982.

**b. 11. Requirement of vacancies in 1983**

Promotees of 1979 who will become eligible with the direct recruits of 1975	76
Less retirements	19
	<hr/>
Add. Direct recruits of 1975	57
	60
	<hr/>
Total requirement	117
	<hr/>

**Vacancies arising in 1983**

i) Out of retirement of A.Cs.	43
ii) ITOs of 1978 promoted as A.C.s	41
iii) By 1982 estimated vacancies arising on retirement of commissioners	17
iv) Balance carried over from last year	17
	<hr/>
Total availability	118
	<hr/>

**b. 12. Requirement of vacancies in the 1984**

Promotees who will become eligible in 1980	107
Less retirements	37
	<hr/>
	70
Direct Recruits of 1976	61
	<hr/>
Total requirements	131
	<hr/>

**Availability of Vacancies**

Retirement of Asstt. Commissioners	32
Retirement of ITOs after promotion as A.C.s	56
Estimated vacancies arising on retirement of C.I. Ts.	25
	<hr/>
Total availability	113
	<hr/>

**b. 13. Requirement of vacancies in 1985**

Promotees who will become eligible in 1981	79
Less retirements	47
	<hr/>
	32
Direct recruits of 1977	60
	<hr/>
Total requirement	92
	<hr/>

**Availability of vacancies**

Retirement A.C.s'	24
ITOs promoted as A.C.s'	62
	<hr/>
Less retirements	86
	25
Estimated retirement of Commissioners	
	<hr/>
Total availability	111
	<hr/>

It would thus be seen that with an immediate creation of about 300 posts, the problem of both the groups of officers will get solved at an additional cost of Rs. 41,44,000 per annum only.

### C. Pertaining to Group—B Officers

.....

c. 1. There are about 2400 Group-B Officers at present. Out of this, the number of those who have completed 5 years and above is 1744 and the number of those who have completed 10 years and above is 1025 as indicated below:—

#### *Promoted to Group-B*

1966	36
1967	112
• 1968	260
1969	306
1970	204
1971	107
1972	113
1973	185
1974	62
1975	233
1976	126
	<hr/>
	1744

c. 2. Various alternatives which can be considered to solve the problem of Group-B Officers are:—

- (a) Outright abolition of Group-B service and its total merger in Group-A by promotion of 2400 Group-B officers to Group-A. This may be done all at once or in a phased manner, e.g., in 2 years. It would be equitable to grant weightage equal to half the length of Group-B service as it would enable one who has waited for 15 years or so to get compensated at least to the extent of 7 years, and one who has waited for 2 years, to get compensated for 1 year only.

In future, there would be only one grade of ITOs, i.e., in Group-A. The Inspectors after putting in certain number of years of service may be promoted to the rank of ITOs. Certain percentage of Inspectors' posts may be declared as Group-B gazetted and from there the promotion made to the rank of an I.T.O.

- (b) The other alternative is to promote all those Group-B officers who have completed 5 years of service in Group-B

and have become eligible for promotion to Group-A. The number of such officers is 1744.

If that is not possible in a single phase, it may be done in two phases, namely (i) those who have completed 8 years (i.e., 1323), or (ii) those who have completed 10 years (i.e., 1025) may be promoted in the first phase and the balance in the second phase. It would be but equitable to grant weightage equal to half the length of Group-B service on promotion to all such officers. The effect of this suggestion *vis-a-vis* direct recruits is illustrated in the following paras.

c. 3. As the position stands today, it should be possible to make promotions of about 1000 Group-B officers to Group-A in the following manner:—

(a) By proposed conversion of 400 officers	400
(b) By newly sanctioned posts of officers Group-A and those arising consequent upon the recent cadre review	285
(c) Those who are due for promotion to Group-A (against the direct recruits of 1981)	80
	<hr/> 765
Balance	.. 235
	<hr/> 1000

The balance of 235 posts can be filled up by increase in quota from 50 per cent to 2/3rd for which the proposal has already been sent to the D.O.P. by the Board. That means if there is a direct recruitment of about 100 officers, 200 promotions can be made next year bringing the total to 1000 approximately.

c. 4. The increase in quota to 2/3rd may continue for few years till it brings down the waiting period to a reasonable level say to 8 years and then with the grant of weightage of 4 years to those who may be promoted within a period of 8 years. It would ensure fair career prospects for the promotee officers in future.

c. 5. The other alternative is to stop the direct recruitment for a few years or to raise the quota to 80 per cent so that it should be possible to promote about 400 Group-B officers to Group-A every year against direct recruitment of 100. Thus, in four years it would be possible to clear about all 1744 who have completed 5 years. With

this, the waiting period would come down to about 8 or 9 years. Later on the quota may be suitably reduced.

c. 6. Age group of the Group-B officers waiting for promotion to Group-A is such that even with the grant of weightage of 7 years most of them will not survive to be considered for promotion as Commissioners. It is evident from the following illustrations:—

**c-7 Illustration-A**

	<i>Weightage</i>	
	4 yrs	7 yrs
1. Year of promotion to Group-B	1966	1966
2. Adjustment with the direct recruits of	1977	1974
3. Taking the 22yrs period of Class-I service required for promotion to the rank of commissioners—Year of likely consideration	1999	1996
With 7 yrs, out of 36, 35 will retire by and the remaining one will retire in 1997	1995	With 4 years, all will retire by 1997 and none will survive.

**c.8. Illustration-B**

1. Year of promotion to Group-B	1967	1967
2. Adjustment with the direct recruits of	1977	1974
3. Likely to be considered for commissionership in	1999	1996

All 112 will retire by 1997 and none will survive upto 1999

Out of 112, 110 will retire by 1996 and the remaining will retire in 1997.

**c.9 Illustration-C**

	<i>Weightage</i>	
	6 yrs	4 yrs
1. Year on promotion to Group-B	1968	1968
2. Adjustment with the direct recruits of	1975	1975
3. Likely to be considered for Commissionership in	1997	1999
Out of 260, 253 will retire by 1997, remaining 7 will retire in next 3 years		Out of 260, 259 will retire by 1999, and the remaining in 2000.



**c.10. Illustration-D**

	6 yrs.	4 yrs.
1. Year of promotion to Group-B	1969	1969
2. Adjustment with direct recruits of	1975	1977
3. To be considered for Commissionership in	1997	1999
	With 6 yrs, out of 306, 297 will retire by 1997, remaining 9 will retire within next three years.	With 4 yrs, out of 306, 304 will retire by 1999 and remaining 2 will retire in next 2 years.

**c.11 Illustration-E**

	5 yrs.	4 yrs.
1. Year of promotion to Group-B	1970	1970
2. Adjustment with the direct recruits of	1976	1977
3. Likely to be considered for commissionership in	1998	1999
	With 5 yrs, out of 204, 191 will retire by 1998, remaining 13 will retire within next 3 years.	With 4 yrs, out of 204, 195 will retire by 1999 remaining 9 will retire within next 2 years.

**c.12. Illustration-F**

	5 yrs.	4 yrs.
1. Year of promotion	1971	1971
2. Adjustment with Direct recruits of	1976	1977
3. Likely to be considered for Commissionership	1998	1999
	With 5 years out of 107, 89 will retire by 1998, and the remaining 18 by 2003.	With 4 years out of 107, 92 will retire by 1999 and the remaining 15 will retire within next 4 years i.e. by 2003.

**c.13. Illustration-G**

	<i>4 years</i>
1. Year of promotion	1972 & 1973
Adjustment with direct recruits of	1977
3. Likely to be considered for Commissionership	1999

Out of 298 (of 1972 & 1973), 266 will retire by 1999 and the remaining 32 will retire within next 4 years.

c. 14. It is thus evident that out of 1323 Group-B ITOs (promoted to Group-B from 1966 to 1973) only 58 will survive for being considered for promotion as Commissioners. The percentage, thus comes to a meagre figure of 4.5 per cent. These 4.5 per cent only may survive to be considered for promotion as Commissioners and may get it only for a year or two. But let us again remind ourselves that that would be possible only on grant of weightage equal to half the length of service, as envisaged above. It further evidences the fact that there is no clash of interest between the present Group-B Officers and direct recruits at the level of Commissioners and the problem exists only at the level of the Assistant Commissioners.

**c. 15. Justification for creation of Group—A Posts:**

- (i) DOMS recommended that about 900 Group—B officers had been working on Group—A posts. There is, therefore, no reason why these Group—B officers not be given the status and pay of Group—A officers.
- (ii) Chart at page 23 of this Note shows the mounting arrears of revenue-yielding assessments from year to year as well as arrears of outstanding demand and other items of work like penalties etc. These pending items of work justify creation of new posts of ITOs Group—A & of Assistant Commissioners immediately and expansion of the department is rather over-due at these levels. This has been further elucidated in the following paras.

c. 16. The only question which remains to be tackled is the effect of promotion of about 1000 or larger number of Group—B officers to Group—A in the cadre of Assistant Commissioners. A large number of Group—B officers will retire by the year 1986-87 i.e., by

the time they become eligible to be considered for promotion to the rank of Assistant Commissioner:—

<i>Year of promotion to Group-B</i>	<i>No. of ITOs retiring by 1987</i>
1966	23
1967	45
1968	130
1969	95
1970	98
1971	47
1972	57
Total	495

c. 16. Retirements on one hand and expansion on the other, year to year will take care of the remaining. At the present rate of ever increasing work load and mounting arrears of assessment and collections it should not be difficult to secure creation of about 100 additional posts of Assistant Commissioners every year or say 500 to 600 by 1986-87. Every year we are adding about one lac and more new cases by survey, we are carrying a huge pendency of revenue yielding cases from year to year including company assessments whose percentage of disposal is only 46 per cent cases with income above Rs. 5 lacs whose percentage of disposal is about 37 per cent (in 1979-80), percentage of disposal of scrutiny assessments which include search and seizure assessments, assessments re-opened under Section 147, film circle and special trade assessments needing special scrutiny and so on, is only 52 per cent. This aspect has been further dealt with in a separate chart attached to this Note which would show that there is such a sound basis and justified ground for expansion of the department at various levels for giving effect to the suggestions contained in this Note.

c. 18. It is needless to emphasize that it is a microscopic percentage of the promotees who survive for consideration for promotion as Commissioner and that too if they get the benefit of weight-age equal to half the length of their Group-B service. Thus, even presuming that the promotion of direct recruits is delayed by a year or so in the cadre of Assistant Commissioners, it would not make any overall difference in the period of promotion as Commissioners.

c. 18. Time bound promotions not depending on number of vacancies but on the merit of men and need of the service.

This also brings me to the last but one alternative to solve the entire problem at different levels. Entire solution in this Department is beset with difficulty due to the fact that the promotions at different levels have to be made on the basis of number of vacancies available from time to time. Every three years, a cadre review has to be carried out and whole exercise is repeated, the pulls and pressures are brought on to get new posts created leaving the service to the mercy of a few individuals sitting in D.O.P., Ministry of Home Affairs who are deciding the fate of services on their whims and fancies, prejudices and pressures. This must stop. This style of functioning in the matter of promotions and career prospects should be replaced by a straight forward method wherein the promotions should be streamlined and made not on the basis of number of vacancies which may be doled out by D.O.P. or which might otherwise arise, but on the basis of the merit of men and exigencies of service. How can this be achieved.

c. 19. During the course of discussion with the present Chairman, it transpired that in the early years of his career, the difference in the careers of promotees and direct recruits used to be about five years at different levels. It is needless to add that the present problem would not have arisen if the promotion from one cadre to another was decided on the basis of number of years of service put in and on the basis of the merit and suitability of the men without restricting the promotions to the number of available vacancies. One might remind himself of the bitter litigation between the promotees and direct recruits which took place on the ground of availability of number of vacancies to one side or the other on the basis of quota. The battle royal has not come to an end as yet. If someone is really interested in solving the problem of the service, in stopping the officers from wasting their time and energy in the court rooms, in restoring the atmosphere of goodwill and harmony between two classes of officers; it may be worthwhile to follow the path devised and followed, as we understand, by the great scientist, this nation ever produced, viz. Shri Homi J. Bhabha, who had the blessings and approval in introducing the system, of no less a person than Pt. Jawaharlal Nehru himself who freed the Atomic Research Establishment from the clutches of the bureaucracy in the matter of promotions, The system devised a periodical review say after every fifth year,

eighth year or tenth year of the performance of a scientist and if he is found fit and meritorious, he is promoted to the next grade/cadre irrespective of number of vacancies. The scientist might continue to work on the same job for the sake of continuity without disrupting the set-up and without being disturbed in what he had been doing. Contrary to this, in our department a person investigating a complicated matter in the Central Circle or as ADI is removed from that job and posted elsewhere consequent upon his promotion only because there is no vacancy. No doubt, now, it has come to be recognised in our department too that an Income-tax Officer as well as Assistant Commissioners should do the assessment work but the question of number of vacancies is still haunting the department and has become important more than the exigencies of service or the interests of revenue. Therefore what is needed is that a time-bound programme of promotion more or less on the pattern of Bhabha Atomic Energy Establishment or the Military Services should be introduced in this department too e.g., a person who has put in five years as Income-tax Officer, Group-B should be promoted as Income-tax Officer, Group--A; A person who has completed 8 years in Group—A may be promoted as Assistant Commissioner; and a person who has completed 8 or 10 years as Assistant Commissioner may be promoted as Commissioner level II and so on. It may be fair to maintain a difference of five years between a promotee and a direct recruit on this basis and Merit should be the criterion for promotion to the higher ranks. This will do away with litigation and create an atmosphere in the Deptt. wherein everyone would feel that there is reward for good work and punishment for bad work which is at present lacking altogether. Presently the direct recruits are so sure of their promotion in short time that they need not do their best. On the contrary, promotees are so frustrated that they know that they would be denied promotion even though legitimately due to them, therefore, they too cannot be expected to give their best to the nation. Whole service is in chaos. On the basis indicated above, the promotees who have been anti-weightage should be restored to their rightful position and those Group—B officers who were made to slog in Group—B for 15 years without any weightage only because of lack of vacancies should be properly compensated and given their due position on the above basis. Direct recruits too will be ensured of getting what is legitimately due to them and can have no sensible objection to this kind of proposal.

c. 20. There is no legal difficulty in framing the rules with retrospective effect under Proviso to Article 309 of the Constitution.

c. 21. What is needed the most and what has been lacking the most is the administrative will and capacity to solve the problem.

**c. 22. Segregation at all Levels**

Last alternative which may be considered is the segregation of the promotees and direct recruits all along the line i.e. right upto the level of Commissioners. For this purpose quota of vacancies of Group—A, Assistant Commissioners and Commissioners be fixed separately for the promotees and the direct recruits. This suggestion is basically different from the one made by the Rajya Sabha petitions Committee in the 49th Report in as-much-as it removes the legal hurdle in the way of accepting that suggestion. On the basis of the Supreme Court judgements in S.M. Pandit and Marvin Cotino, it was contended that once the integration had taken place at the level of ITO, Group—A, no distinction survives on the basis of birth mark in the service in the matter of subsequent promotions. Our suggestion is that no integration should be made at any level—not even at the level of Asstt. Commissioner or Commissioners unlike suggestion of the Rajya Sabha Petitions Committee. Two lists should function Separate fields of seniority i.e. the seniority list of promotees should indicate their inter-se seniority alone and the seniority list of the direct recruits should indicate the inter-se seniority of the direct recruits alone. Promotions should be made from each separate seniority list on the basis of quota of vacancies assigned to the promotees and direct recruits in the cadre of Assistant Commissioners and Commissioners.

c.23. With the suitable expansion/adjustment of the cadre structure of the Department at different levels based on the requirement of vacancies and with the allotment of quota equitably amongst promotees and direct recruits, it should be possible to satisfy the career aspirations of all sections of officers and all problems whose genesis is the inter-se adjustment of seniority between those recruited through two different sources will never arise in future.

**c. 24. Financial Implications of Promotion of 1000/1744 ITOs Group—B to Group—A**

Scales of ITO Group—B and Group —A are as follows:—

Group—B:—650-30-740-810-EB-35-880-40-1000-EB-40-1200

Group—A:—700-50-900-EB-40-1100-50-1300 (Jr. Time Scale)

Average of maximum & minimum of Group—B scale comes to Rs. 925/- and of Group—A comes to Rs. 1000/-. Difference comes to Rs. 75/- only. Thus, an yearly burden of one post will come to Rs. 900 and of 1000 posts to Rs. 9,00,000/- and of 1744 posts Rs. 15,60,600/-. Compared to the clearance of arrears of assessments wherein huge amounts of revenue remain blocked and collection of outstanding demand as a result of creation of these posts, the additional expenditure is too meagre. It should be treated as an investment which would yield very heavy dividends.

(OM SHANKER BAJPAI)

Secretary

# RETIREMENT POSITION OF PROMOTEE ASSISTANT COMMISSIONERS

Years of Promotion as ITO (Class I)	Years of promotion as Asstt. Comm.	YEAR OF RETIREMENT										Grand Total
		1981	1982	1983	1984	1985	1986	1987	1988	1989		
1956 .	1966	2	1		1						4	
1957 .	1968	1	1								2	
1958 .	1969	3	1		3	1					8	
1959 .	1970	8	5	3	1	2					19	
1960 .	1970	4	2	1	4	1					12	
1961 .	1972	3	6	1	2	3	1				18	
1962 .	1974/1977	9	10	7	4	5	6		2		42	
1964 .	1977/1978	8	7	8	2	2	2		1		31	
1966 .	1979	4	6	6	5	2	2	2		1	28	
1971 .	1979/1980/81	9	17	17	10	8	6	12	4	1	84	
Total .		51	56	43	32	24	17	16	7	2	248	

## RETIREMENT POSITION OF PROMOTEE GROUP-A ITO'S (1971-77)

Yr. of Promotion	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Total
1971 .	.	.	1	3	3	1	2						1	1				12
1973 .	.	14	25	15	15	12	16	10	6	7	2							137
1975 .	.	9	7	9	2	8	4	6	4	3	1	1						55
1976 .	.	3	6	5	11	8	6	6	3	6	7	3	4	1	1			70
1977 .	.	9	6	11	9	5	4	6	6	3	3	1	1					64
Total .	.	35	45	40	40	39	27	36	23	18	18	6	2	6	2	1		338



# RETIREMENT POSITION OF PROMOTEE GROUP A OFFICERS (1971-81)

Promoted to Group-A.	1981									
	82	83	84	85	86	87	88	89	90	
1971	1		3	3	1	2				
1973	14	25	15	15	12	16	10	6	7	
1975	9	7	9	2	4	6	4	3	1	
1976	3	6	5	11	8	6	3	6	7	
1977	9	6	11	9	5	4	6	3	3	
1978	8	12	1	10	9	4	3	7	1	
1979	6	2	11	6	7	5	3	5	9	
1980	8	10	12	7	7	8	13	12	2	
1981	13	9	12	7	6	5	5	4	1	
Total (ITO)	70	78	76	70	68	60	47	46	31	

Promoted to Group-A	1991	92	93	94	95	96	97	98	99	2000	Total
1971				1							12
1973	2										137
1975		1	1								55
1976	3		4	1	1						70
1977	1	1									64
1978	1	2	1								65
1979	6	6	2	1		1					76
1980	5	7	6	4	1						107
1981	2	3	4								79
Total (ITO)	20	20	19	7	2	1					665

Years	1981	82	83	84	85	86	87	88	89	90	91	92	93	94
1966 . . .	3	4	3	6	3	3	1		1		1	6	2	1
1967 . . .	1	3	7	6	9	13	6	7	6	4	16	13	7	6
1968 . . .	8	19	26	17	21	23	16	13	17	16	8	20	18	11
1969 . . .	1	13	13	13	14	16	25	18	14	28	30	23	26	24
1970 . . .	5	11	16	21	18	12	15	11	5	8	4	7	13	21
1971 . . .	1	6	7	12	8	7	6	4	1	4	9	7	5	2
1972 . . .	3	7	7	13	10	7	10	5	6	2	7	4	4	3
1973 . . .	5	6	10	9	19	9	9	10	11	12	8	6	6	10
1974 . . .		3	3	2	5	1	3	5	5	4	7	3	3	1
1975 . . .	5	4	6	18	8	15	14	23	11	17	14	10	13	9
1976 . . .	1	1	4	5	3	6	12	7	4	5	11	10	6	8
G.T. . . .	33	77	102	122	118	112	117	103	81	100	116	109	103	96

Years	95	96	97	98	99	2000	2001	02	03	04	05	06	07	G.T
1966 .	1	—	1	—	—	—	—	—	—	—	—	—	—	36
1967 .	2	4	2	—	—	—	—	—	—	—	—	—	—	112
1968 .	9	2	9	4	2	1	—	—	—	—	—	—	—	260
1969 .	24	6	9	4	3	2	—	—	—	—	—	—	—	306
1970 .	7	9	5	2	5	8	1	—	—	—	—	—	—	204
1971 .	4	2	2	2	3	4	8	1	2	—	—	—	—	107
1972 .	1	—	—	4	3	3	11	2	1	—	—	—	—	113
1973 .	7	5	4	2	8	7	8	6	4	3	1	—	—	185
1974 .	5	2	—	1	1	2	2	..	—	2	1	1	—	62
1975 .	10	7	3	4	6	6	6	7	6	8	2	1	—	233
1976 .	1	6	3	4	1	2	7	3	7	2	4	2	1	126
G.T.	71	43	38	27	32	35	43	19	20	15	8	4	1	1744

# **BASIS FOR CREATING NEW POSTS OF INCOME-TAX OFFICERS GROUP-A AND ASSISTANT COMMISSIONERS**

Nature of work and work-load	Norms	No. of additional posts needed to cope up with the work-load
(1)	(2)	(3)
<b>A. Company Assessments :</b>		
	1980-81    1979-80	
(i) For disposal . . . . .	97,193	81,892
(ii) Disposal . . . . .	44,939	38,030
(iii) Balance . . . . .	52,254	43,862
(iv) Percentage of disposal .	46.43%	46.43%
For disposing of 54% of pendency carried over from year to year, additional strength of Asstt. Commissioners (Asstt.) required will work out to :—		
		52254 ÷ 180 = 290
<b>B. Assessment with income of Rs. 5 lacs and above :</b>		
	1980-81    1979-80	
(i) For disposal . . . . .	*9,500	8,649
(ii) Disposal . . . . .	3,690	3,281
(iii) Balance . . . . .	5,900	5,368
(iv) Percentage of disposal .	38%	37.93%
*NOTE : Since separate figures for 1980-81 are not available they are estimated on the basis of 1979-80.		
For disposing of 62% of pendency carried over from year to year, additional strength of Asstt. Commissioner (Asstt.) required will work out to :		
		5,900 ÷ 35 = 169.

### C. Scrutiny assessments :

	1980-81	1979-80	360 assessments per I.T.O. per year.
(i) For disposal (17,36,692—97193—9500) 16,29,999		(19,45,076—81892—8649) 18,54,835	
(ii) Disposal (908,818—44939—3600)	8,60,279	(9,17,776—38030—3281)	=8,76,465
(iii) Balance	7,69,720	9,78,070	
(iv) Percentage	52.78%	47%	

$7,69,720 \div 360 = 2138$   
 Pendency of 48% includes search and seizure, cases, Trust Cases Surtax Cases, cases assigned u/s 125-A, film cases, cases of suspected tax evasion and those reopened u/s 147. About 2100 additional posts of assessing officers are required. If 2/3rd of these posts are as I.T.O. Group-A and 1/3rd Assistant Commissioner (Asstt.) would give 700 and 1,400 posts.

### D. New Cases

Every year more than one lacs new cases are being added.

$$= 1,00,000$$

$1,00,000 \div 1440 = 69$  posts required every year.

$$69 \times 5 = 345 \text{ in five years}$$

(NOTE : These may be divided suitably between Asstt. Commissioners & I.T.O. Group-A).

1,440/-

(3)

(2)

(1)

## E. Wealth-tax :

	1978-79	1979-80	
(i) For disposal			
(ii) Disposal	8,07,000	7,59,000	(i) 720 assessments
(iii) Balance	4,75,000	3,26,000	with wealth of
(iv) Percentage	3,32,000	4,33,000	Rs. 5 lacs and
	58.8%	42.9%	above.
			(ii) 1440 assessments
			with wealth of
			less than 5 lacs.

Applying the norm of 1440 per WTO per year on an estimated pendency of 4,50,000 the number of additional assessing officers required :—

$$4,50,000 \div 1440 = 312$$

NOTE : These may be suitably divided between Asstt. Commissioner and I.T.O. Group-A.

## F. Gift-tax :

(i) For disposal			
(ii) Disposal	1,03,000	90,000	1440 per G.T.O.
(iii) Balance	81,000	63,000	per year.
(iv) Percentage	22,000	27,000	
	78.6%	70.6%	

$$27,000 \div 1440 = 18 \text{ posts}$$

## G. Estate Duty :

(i) For disposal			
(ii) Disposal	65,000	68,000	180 assessments per
(iii) Balance	37,000	33,000	I.T.O. per year.
(iv) Percentage	20,000	35,000	
	56.9%	48.5%	

$$35,000 \div 180 = 194$$

NOTE : These may again be suitably divided between I.T.O. Group-A and Asstt. Commissioners.

H. Other items of work which remain pending from year to year and are so important from the point of view of revenue as well as good public relations.

NATURE OF WORK	PENDING WORK	
	1979-80	1978-79
(1) Direct refund claim.	16,000	10,000
(2) Adverse appellate or revision over awaiting giving of effect.	3,000	3,000
(3) Rectifications u/s 154/155	36,000	35,000
(4) Asstt. reopened u/s 146 set-aside u/s 251, 254, 263 or 264	23,565	
(5) Penalty proceeding	7,70573	..
(6) Arrear demand outstanding	Rs. 616 crores	Rs. 577 crores
(7) Percentage of collection of arrear demand.	13.7%	17.5%

Figures in item at (6) & (7) above are alarming and need immediate attention. It is essential to distribute the work load by creating new posts of Assistant Commissioners and I.T.O. Group-A.



## APPENDIX IV

(Vide Paragraphs 63, 79 and 84 of the Report)

F. No. 11016/18/77-Ad. VI

Government of India

Ministry of Finance

Department of Revenue

New Delhi the 25th March, 1982.

### OFFICE MEMORANDUM

**Subject.—The Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973 (G.S.R. 54-E of 1973) [Implementation of recommendations contained in paragraphs 116, 120, 125, 127 and 128 of Sixteenth Report (Fifth Lok Sabha)].**

The undersigned is directed to refer to the correspondence resting with the Lok Sabha Secreariat O.M. No. 43/CCI/78 dated the 24th February, 1982 on the subject cited above and to say that information on the points metioned therein is given below:—

- (i) Since November, 1973 it has been the practice not to make postings of ITOs, Group 'B' to the vacancies in the grade of I.T.O. Group 'A' but to promote Income-tax Officer Group 'B' on *ad hoc* basis to the grade of Income-tax Officers Group 'A' so that they hold posts of I.T.Os Group 'A' which could not be filled by the normal method of direct recruitment through the Civil Services Examination and by regular promotion from Group 'B'. The number of officers who were promoted on *ad hoc* basis from 1973 to 1981 is 1123.
- (ii) The number of Income-tax Officers Group 'B' who were promoted to Group 'A' on regular basis from 1972 to 1981 is 789.
- (iii) Promotions to the grade of Assistant Commissioners of Income-tax are made from amongst Income-tax Officers Group 'A' with not less than 8 years service in the grade. Income-tax Officers Group 'B' are not eligible to be

promoted as Assistant Commissioners of Income-tax. The number of Income-tax Officers Group 'A' (Promotees), who were promoted to the grade of Assistant Commissioners of Income-tax from 1972 to 1981 is 332.

- (iv) As stated in reply to point (iii) above Income-tax Officers Group 'B' are not eligible to be considered for promotion as Assistant Commissioner of Income-tax/Commissioner of Income-tax. If, however, the intention is to seek information as regards percentage of promotee officers in the grades of Assistant Commissioners and Commissioners of Income-tax, it may be stated that the percentage of promotee officers in posts in the two grades of C.I.T. and Assistant Commissioners of Income-tax as on 1-2-1982 is 2.5 and 32 respectively.
- (v) The number of Group 'A' Income-tax Officers promoted as Assistant Commissioner of Income-tax during the last 10 years is 825. Of them, 493 were direct recruits.
- (vi) No proposal to grant weightage to Group 'B' Officers while promotions to the rank of Assistant Commissioners are made is under consideration. The point raised at the meeting related to the grant of weightage to Group 'B' officers on their promotion to Group 'A'. It is stated that this matter is being examined in the Department of Personnel and Administrative Reforms and for this purpose inter-departmental meetings have been held twice.
- (vii) A copy of the reply sent to Rajya Sabha Committee on Petitions' observations regarding missing files is enclosed. (Annexure I).
- (viii) Replies to the questions listed in the Questionnaire prepared by the Lok Sabha Secretariat are also enclosed. (Annexure II).

Sd/-

(Yoginder Paul)

Under Secretary to the Govt. of  
India

To

The Lok Sabha Secretariat,  
(Sh. S. D. Kaura, Chief Legislative Committee Officer),  
New Delhi.

## ANNEXURE I

(Vide Item (vii) of Appendix IV)

D.O. No. 223/MRB/76

February 4, 1976

Dear Shri Mariswamy,

**SUBJECT:—**Petition signed by Shri R. C. Pandey, General Secretary, All India Federation of Income-tax Gazetted Services Associations, New Delhi, praying for the repeal of the Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973 and for the framing of fresh seniority rules in lieu thereof.

Please refer to the Rajya Sabha Secretariat Office Memorandum No. RS|5(v)|74-Com. II, dated the 9th January, 1976, forwarding therewith copies of the Forty-ninth Report of the Committee on Petitions of the Rajya Sabha which was presented to the Rajya Sabha on the 9th January, 1976, on the petition mentioned above.

2. The report is being examined in all its aspects and I assure you that the Committee's recommendations will receive the Government's most careful consideration. In the meantime, however, I should like to invite your attention to the observations contained in paragraph 32 of the Report where in the Committee have been pleased to refer to the inability of the administration to supply certain records asked for by them. I find, however, that of the 54 files requisitioned by the Committee, pertaining to several years between 1939 and 1975, 52 were supplied, that is, all but two, one of 1945 and another of 1967. As the Committee have themselves noted the administration has since 1962 been involved in long-drawn out proceedings before the Courts. During the course of these proceedings, the earlier records were required to be consulted, often simultaneously in several cases, with the result that the movement of the two files could not be kept under watch. You would no doubt appreciate that having regard to all the circumstances, the inability to produce the two files was because of difficulties inherent in the situation and that there was no attempt to withhold any information from the Committee.

3. The Committee have also referred to another file, relating to the framing of the Seniority Rules of 1973, which is stated to have been reported as 'not available' and in place of which only a reconstructed file is stated to have been produced. I have been informed that although the original file (No. 12|11|72-Ad. VI) could not be traced for some time, efforts to locate it were persevered with. It was finally traced out and forwarded to the Rajya Sabha Secretariat on 11-11-1975 with the Ministry's letter F. No. 6|24|74-Ad. VI of the same date, that is, before the Committee adopted the Report in their meeting held on the 4th December, 1975. I find that both the original file and the reconstructed file are mentioned in the list of files which have since been received back from the Rajya Sabha Secretariat.

4. I hasten to bring these points to your notice for such action as you may consider necessary.

With regards,

Yours sincerely,

Sd/-

(Pranab Mukherjee)

Sh: S. S. Mariswamy, Chairman,  
Committee on Petitions, Rajya Sabha.

## ANNEXURE II

(Vide Item (viii) Appendix IV)

### QUESTIONNAIRE

**QUESTION NO. 1.**—What is the distinction in the nature of duties assigned to (i) Income-tax Officers Group 'A' and (ii) Income-tax Officers Group 'B' under the Income-tax Act, Wealth Tax Act, Gift Tax Act, Estate Duty Act, etc.?

**QUESTION NO. 2.**—Whether the Income-tax Officers Group 'A' and Group 'B' work on interchangeable posts and perform identical functions under the Direct Taxes Laws?

1&2. The Clauses of Income-tax authorities for the purpose of Income-tax Act are listed under section 116 of the Income-tax Act. Sec. 117(1) and 117 (2) specify the Central Government and the Commissioner of Income-tax as the authorities empowered to appoint Income-tax Officers of Class I Service and Income-tax Officers of Class II Service respectively. Though under the Income-tax Act, 1961, Income-tax Officers, both Group 'A' and Group 'B', may have equal powers, the factual position is that Income-tax Officers, Group 'A' are generally put in charge of important wards like Companies Circles, Scrutiny Circles, Circles having cases of search. Estate Duty, Circles, circles with important wealth-tax cases, etc. Often, they are in administrative charge of the ward offices. These jobs carry higher responsibilities than others. Income-tax Officers, Group 'B', are however generally posted only in less important wards. A large majority of them deal with summary assessments only.

The posts of Income-tax Officers are sanctioned separately in Group 'A' and Group 'B'. There is no interchangeability of posts between Income-tax Officers, Group 'A' and Group 'B'. The practice since 1973 is that the vacancies in the grade of Income-tax Officer, Group 'A' which cannot be filled by regular promotion/direct recruitment are filled by *ad hoc* promotion of Income-tax Officers, Group 'B'.

**QUESTION No. 3.**—What are the reasons for not according equal pay and status for the similar duties performed by Group 'A' and Group 'B' Income-tax Officers?

Grant of pay and status to various officers is regulated keeping in view the source of recruitment and the type of work on which the officers are employed. Income-tax Officers (Group 'A') and Group 'B' belong to different grades in the Income-tax Service. Their methods of recruitment, minimum qualifications etc. required for appointment to the two grades and the work on which they are normally employed are different. The posts of Income-tax Officers (Group 'A'), Junior Scale are filled 50 per cent by direct recruitment through the Civil Services Examination held by the Union Public Service Commission every year and 50 per cent by promotion on the basis of selection from Income-tax Officers (Group 'B') who have rendered not less than 5 years service in the grade.

The posts of Income-tax Officers (Group 'B') are nowadays filled by promotion from the grade of Inspectors of Income-tax. However in 1969, on the results of the *ad hoc* selection made by the Union Public Service Commission about 180 officers were recruited directly to the grade of Income-tax Officer (Group 'B').

As stated above, Income-tax Officers (Group 'B') are generally employed on jobs of less importance.

There is also no merit in the plea that because several persons perform duties under the Income-tax Act, there should be no differentiation either in status or salaries. Even as at present, assessments and other ancillary duties are being attended to by different officers like Assistant Commissioner of Income-tax, Income-tax Officer, Group 'A', Income-tax Officer, Group 'B' and Inspector. It will be trite to argue that there should be no distinction *inter se* as between the different functionaries. As stated earlier, when the postings are made, relative importance of the jobs is generally kept in view.

QUESTION NO. 4: What steps have been taken to merge Group 'A' and Group 'B' posts of Income-tax Officers with a view to removing dissatisfaction prevailing amongst Group 'B' Officers?

There is no proposal to merge Group 'A' and Group 'B' posts of Income-tax Officers. In fact, the question whether the grade of ITOs Group 'B' should be abolished and there should be only ITOs Group 'A' has been examined by different Committees and Commissions, in the past, like the First Pay Commission (1946-47), the Second Pay Commission (1959), the Direct Taxes Administration Enquiry Committee (1958-59), the Administrative Reforms Commission, the Direct Taxes Enquiry Committee (Wanchoo Committee 1971) and lately the Third Pay Commission. None of these bodies has accepted the suggestion for abolition of the Group 'B' service in

the Income-tax Department. The abolition of the grade of Group 'B' is also opposed by the Service Associations of Non-Gazetted Staff since such a step would extinguish the chances of promotion now available to the Non-Gazetted Staff to Gazetted grades.

Two or more grades of officers performing similar functions exist in other Central Services also. From the expenditure angle of optimum utilisation it will not be appropriate to employ Group 'A' Officers on jobs of less importance; these can be easily handled by Group 'B' officers.

**QUESTION NO. 5:** What is the time-limit for a Group 'B' Income-tax Officer to become eligible for promotion to Group 'A' posts? How far this limit has actually been adhered to in practice?

Income-tax Officers Group 'B' who have rendered not less than 5 years' service in the grade are eligible to be considered for promotion to the grade of Income-tax Officers, Group 'A' (Junior Scale). As stated in reply to item No. 3, half of the vacancies arising in Group 'A' are filled by promotion of Income-tax Officers, Group 'B'. The basis of promotion is selection by merit. The Income-tax Officers, Group 'B', who are eligible to be considered for promotion to Group 'A' are included in the zone of consideration for selection upto 3 times the number of vacancies which are to be filled by promotion each year. There can be no maximum time limit within which Income-tax Officers, Group 'B' should actually get promotion to Group 'A'. The 5 years minimum service mentioned above is an eligibility condition and does not envisage that all officers with 5 year service must be promoted to Group 'A' posts. The actual promotion depends on the number of vacancies available for promotion each year.

There can be no uniformity in the promotion prospects of different services. As it is, there is no equality even among the direct recruits from the annual Civil Services Examination who join different Central Services. To narrow down the disparities in promotion prospects, on the recommendations of the 3rd Pay Commission, Cadre Review Committees have been set up to make periodical review of the cadre structure of various services. For the Income-tax Service, Group 'A', two such reviews have taken place, first in 1978 and second in 1981. As a result of these reviews a number of posts have been created, which have improved the prospects of officers.

QUESTION NO. 6: For how long period, a Group 'B' Income-tax Officer had to wait for promotion to Group 'A' posts—

- (a) Prior to 1951 when promotion quota was 20 per cent.
- (b) From 1951 to 1959 when promotion quota was raised to 33.3 per cent.
- (c) After 1959 when promotion quota was raised to 50 per cent.

It is not possible to indicate precisely the period taken by officers before promotion to Group 'A' because officers of one batch selected by the D.P.C. have varying periods of service at the time of promotion. However, information on approximate basis is given below:—

- (a) Prior to 1951 when promotion quota was 20 per cent—5-7 years.
- (b) From 1951 to 1959 when promotion quota was raised to 33-1/3 per cent—8-10 years.
- (c) After 1959 when promotion quota was raised to 50 per cent—10-14 years.

The Income-tax Service was reorganised in September, 1944 when Class I Service of ITOs was created w.e.f. 1-10-44. Prior to that Income-tax Officers were only in Class II Service. Even though under the reorganisation scheme promotion quota for Class II Officers was fixed at 20 per cent, the period upto 1950 was treated as formative years and the 20 per cent quota was not adhered to. For the period 1951, to 1959, there were promotions in excess of the prescribed quota. This was one of the causes which led to prolonged litigation in courts and ultimately the Supreme Court directed to the Government by a *Mandamus* issued on 21-2-1967 to regulate seniority of officers in accordance with the prescribed quota. It was later calculated that on 15-1-1959 there were 73 promotees in excess of the quota. The effect of the excess promotions had to be felt by officers who were promoted to Group 'A' after 1959 also because, in accordance with the judgement of the Supreme Court, the excess promotees were to be adjusted first before the officers promoted after 1959 from Group 'B' could be adjusted.

QUESTION NO. 7: What should be the effective percentage of promotion quota so as to ensure timely promotions to Group 'B' Income-Tax Officers? .....

Recruitment to Services of the Union is generally made through two sources, direct selection of fresh graduates by open competition



and by promotion of meritorious experienced departmental officers in the lower grade. Direct recruits are taken into the service at young age so that in due course they are in a position to hold higher posts in the Department.

The question as to what percentage of vacancies in Group 'A' should be filled by promotion from Group 'B' was considered by the Administrative Reforms Commission as a general issue applicable to all Central Services including the Indian Administrative Service. The Administrative Reforms Commission had recommended that 40 percent of the vacancies in Group 'A' should be filled by promotion of Group 'B' officers. The percentage of vacancies available for promotion of ITOs, Group 'B' to the grade of ITO, Group 'A' is higher than 40 per cent recommended by the Administrative Reforms Commission. Promotion to the extent of 50 percent is considered adequate and it is not considered desirable to raise it further.

**QUESTION NO. 8:** What is the criterion for fixation of the quota for promotion? How far the factors like the vacancies occurring in Group 'A' and 'B' posts, nature of duties performed, experience, career prospects etc. influence the promotion ration?

While fixing the quota of promotion and direct recruitment all relevant factors are taken into consideration. The paramount consideration is to have a proper mix of fresh blood and experience so that the quality of the service is maintained at a high level. Generally, appointment to a Group 'B' post marks the culmination of the career of efficient Group 'C' officers. Therefore, while providing for adequate avenues of promotion to experienced and meritorious Group 'B' officers, care has to be taken that service prospects of officers who are recruited directly through the annual civil Services Examination do not suffer. The ratio of promotion in the Income-tax Service being 50 per cent is the highest among most of the Central Service, Group 'A'. In no other service, the promotion quota exceeds 50 per cent. This quota is considered to be adequate.

**QUESTION NO. 9:** Whether a direct recruit Income-tax Officer becomes eligible for promotion to the cadre of Assistant Commissioner in 6 years (8 years minus 2 years of training spent by him) whereas a promote officer takes as much as 23 years for the same? If so, the reasons therefor.

Income-tax Officers, Group 'A' both direct recruits and promotees, who have rendered not less than 8 years of service as ITO, Group 'A', are eligible to be considered for promotion to the grade of Assistant Commissioners of Income-tax depending upon the

number of vacancies that became available each years. The 8 years service includes the period spent by direct recruits on training. The service rendered by an Income-tax Officers, Group 'B' before promotion to Group 'A' in the lower grade of Group 'B' is not relevant for the purpose of determining his eligibility for promotion to the grade of Assistant Commissioner of Income-tax. Group 'B' officers have to get promotion to Group 'A' first. After promotion they are included in the seniority list of ITOs, Group 'A', in the ratio of 1:1 along with direct recruits. Once the officers, both promotees and direct recruits, are integrated into the grade of ITOs, Group 'A', they lose their birth marks and further promotions are made from the common seniority list and no differentiation is and can be made on the basis of the source of recruitment. Group 'B' service is taken into consideration for the purpose of promotion as ITO, Group 'A' and not for promotion to the other higher grades. Since there can be no comparison between unequals, it is not correct to say that while direct recruits take 8 years, promotees take 23 years for promotion as Assistant Commissioner of Income-tax since service in Group 'B' is not comparable to service in Group 'A'.

**QUESTION NO. 10:** What steps have been taken to create parity in the promotional avenues between the direct recruits and promotee officers?

Income-tax Officer, Group 'A' taken from the two sources i.e. direct recruitment and promotions from Group 'B' are integrated into the same grade of ITO, Group 'A' (Junior Scale) in the ratio of 1:1. Once this integration takes place, all promotions to higher grades are made from the common seniority list and there is no disparity in the promotional avenues on the basis of the source of recruitment. If certain promotees cannot reach the level of Commissioners of Income-tax or even Assistant Commissioners of Income-tax, it is not that there is any disparity between the direct recruits and the promotees in the matter of promotion but because the promotee officers having joined the lower ranks retire before reaching a certain position while the direct recruits who are younger in age can get higher promotions. However, the promotees would have enjoyed quite a few promotions already before they came to be integrated with direct recruits in Group 'A'. The level, which each individual can reach in his career, depends upon several factors, the most important of which are the stage of entry and the age at entry. There can be no equality of the level to be attained by officers who joined as Group 'A' officers and those who joined as Group 'B' or Group 'C' officers.

**QUESTION NO. 11:** Is it a fact that the vacancies created by the retirement of the promotee Commissioners/Assistant Commissioners are going to the direct recruits.?

No posts in the higher hirarchical structures are earmarked as to be held by a promotee/direct recruit. Once a promotee enters Group 'A' he loses his birth mark as a departmental promotee and is entitled to all the fortunes and vicissitudes, the Class I Service officers at the higher supervisory levels. The same position obtains in respect of the direct recruits as well.

**QUESTION NO. 12:** What is the present percentage of promotees in the ranks of Commissioners and Assistant Commissioners of Income-tax? How far does it compare with the one obtaining prior to 15-1-1959?

The percentage of promotees in the ranks of Commissioners and Assistant Commissioners as on 1-2-1982 and as on 15-1-1959 is as indicated below—

As on 1-2-1982.

Commissioners of Income-tax	25
Assistant Commissioners of Income-tax	32

As on 15-1-1959.

Commissioners of Income-tax	100
Assistant Commissioners of Income-tax	70

The percentage of promotee officers in the grades of Commissioners and Assistant Commissioners has now gone down compared to what it was in 1959, for obvious reasons. Under the reorganisation scheme of 1944, Class I Service of ITOs was introduced with effect from 1-10-44 and the first batch of direct recruits joined the service in 1945. Before that all higher posts were manned by officers promoted from Class II service. In January, 1959, no direct recruit was senior enough to be appointed as Commissioner of Income-tax. Even in the grade of Assistant Commissioners, only those direct recruits were working who had joined between 1945 and 1950. Their number was, therefore, small. On the other hand, promotees with longer service were occupying higher posts.

The higher percentage of promotees then is also attributable to the fact that as on 16-1-1959, there were promotees in excess of the normal quota for promotion. This excess led to litigation ultimately resulting in the revision of seniority.

**QUESTION NO. 13:** Whether any candidates belonging to the cadre of Inspectors of Income-tax and Examiners of Accounts could reach the top level i.e. Chairman of the Central Board of Direct Taxes, in the past? To what level a directly recruited Inspector is likely to reach with the present set up of rules?

There is only one post of Chairman of Central Board of Direct Taxes which is filled from amongst Members of the CBDT are appointed on the basis of selection from amongst the senior Commissioners of Income-tax Level-I. When there was no direct recruitment to the Income-tax service, Group 'A', the service was entirely composed of officers promoted from Class II, many among whom would have been promoted from Class III. However, only such officers could reach the level of Chairman, CBDA who had become eligible to be considered by having become Members of the Board before retirement. The position had to be changed considerably after young officers were recruited directly to the grade of I.T.O., C.I.I. The age of entry at the level of Inspector & ITO Group 'A' by direct recruitment being the same, there is no question of any Inspector superseding officers recruited directly to Group 'A' to become Chairman of the CBDT.

Promotion from the grade of Inspector to the grade of I.T.O., Group 'B' is on the basis of selection on merit. Promotion of I.T.Os. Group 'B' to the grade of I.T.O., Group 'A' is also on the basis of selection on merit. Similar is the position in regard to further promotions. The level to which a directly recruited Inspector can reach in his career, therefore, depends upon a variety of circumstances, including merit. The same is equally true of all other classes of Government servants.

**QUESTION NO. 14:** Whether in the case of B. S. Gupta Vs. U.O.I. (1975) ISCR 214, the Supreme Court has observed that the promotees with necessary merit had the opportunity to reach the top and that there was no room for any dependency for them? If so, how far the Seniority Rules of 1973 have afforded sufficient and just opportunities to the promotee officers to reach the top level positions?

The Supreme Court in their judgement dated 16-4-74 in the case of B. S. Gupta Vs. Union of India had made the following observations:—

"But one thing cannot be ignored in this respect. Direct recruit are recruited on All India basis after a competitive examination. They belong to a certain age group

and are bound to be younger than the promotees. In practically all All India Services promotees do not always have an equal chance with the direct recruits in the matter of appointments to the higher posts. Those who are young may indeed reach the top. Promotees who belong to a higher age group have necessarily to pay the price and that is so in any of the higher services, appointments are generally by selection and not merely on the basis of seniority in which case promotees with the necessary merit may well reach the top."

2. The Income-tax Officers (Class I) Services (Regulation of Seniority) Rules, 1973 provide for intake of promotees and direct recruits in the ratio of 1:1. The ratio of officers promoted from Class II before the introduction of this rule was 33.1/3 per cent. The rules of 1973 have increased the intake of promotees to 50 per cent and to that extent these rules have afforded better opportunities to the officers in Group 'B'. In regard to the promotees reaching the highest level of Commissioners of Income-tax in the department, it depends on the age and merit of the individuals. After the officers, both direct recruits and promotees, are integrated in a common seniority list of Income-tax Officers, Group 'A', they have equal opportunities to rise to any position in the department.

**QUESTION NO. 15:** What are the general guidelines laid down by the Supreme Court in the case of *B. S. Gupta Vs. U.O.I. (Supra)* and earlier judgement in the same case, regarding service policy governing directly recruited and promotee officers? Whether the judgements in any way stand in the way of the Government from laying down or restoring just and fair rules for the betterment of the employees?

The Supreme Court do not appear to have laid down any general guidelines in *B. S. Gupta's* case regarding service policy governing directly recruited and promotee officers. On the other hand the court have stated in its judgement dated 16-4-74 that they are not concerned with government's policy in recruiting officers in service. The relevant extract from the judgement is reproduced below:—

"When considering this point it must be clearly understood that this court is not concerned with Government's policy in recruiting officers to any service. Government runs the service and it is presumed that it knows what is best in the public interest. Government knows the calibre of candidates available and it is for the Government to determine how a particular service is to be

manned—whether by direct recruits or by promotees or by both and, if by both, what should be the ratio between the two sources having regard to the age factor, experience and other exigencies of service. Commissions and Committees appointed by the Government may indeed give useful advice but ultimately it is for the Government to decide for itself.”

The Income-tax Officers (Class I) Services (Regulation of Seniority) Rules 1973 were framed by the Government in pursuance of the directions of the Supreme Court given in their judgement dated 16-8-72. The Government had taken into consideration as many as four alternatives for framing the rules regulating the seniority of officers and decided upon the 1:1 formula. These rules were filled in the Supreme Court alongwith a revised seniority list of ITOs, Cl. I prepared in accordance with these rules. Both direct recruits and promotees, who were parties to the case pending in the Supreme Court, had argued their respective points of view before the court. The court after hearing all sides gave its judgement dated 16-4-74 holding that the said rules were just and fair and that the seniority list framed in accordance therewith was the correct seniority list. The judgement of the Supreme Court applies to the said rules framed in 1973. There is no restraint or inhibition placed on the Government to make changes in the Rules, after considering all relevant circumstances.

**QUESTION NO. 16:** Whether the seniority Rules of 1973 have resulted in causing hardship, dissatisfaction and demoralisation amongst the promotee officers? What remedial steps have actually been taken since then to redress the grievances of such officers?

The seniority rules of 1973 have provided a larged percentage of intake of officers by promotion method. Before their introduction, the promotion quota was 33.1/3 per cent and it has been raised to 50 per cent under the new seniority rules. The weightage in seniority of three years which was allowed to promotees on promotion to Group ‘A’ has however, been withdrawn. Even so, the increase in the promotion quota has the effect of off-setting the loss of weightage after a period of about three years or so. In the long run, therefore, the revised seniority rules substantially improve the chances of promotion of Group ‘B’ officers to Group ‘A’. Even though the seniority rules have been held as just and fair by the Supreme Court, the All India Federation of Income-tax Gazetted Services Associations, which represents the promotee officers, has been representing to Government for improving the promotion

prospects of Group 'B' officers. The Government have considered these representations and have taken inhand/implemented the following proposals:—

- (1) A proposal to convert a number of posts of ITOs, Grade 'B' to Group 'A' and to fill them entirely by appointment of ITOs Group 'B' is under examination.
- (2) The Department of Personnel and A.Rs. are examining, as a general issue, the question of giving weightage in seniority to Group 'B' officers on promotion to Group 'A'.
- (3) As a result of the two cadre reviews undertaken by the Government a large number of posts at various levels have been created which will improve the promotion prospects of officers—both direct recruits and promotees.
- (4) All vacancies existing in the grade of ITOs, Group 'A' have been filled by promotion of ITOs Group 'B' on *ad-hoc* basis pending regular recruitment/promotion. There are at present more than 500 ITOs Group 'B' appointed to Group 'A' on *ad hoc* basis.

**QUESTION NO. 17:** Whether Government have considered any proposal for rescinding or replacing the Seniority Rules of 1973?

The seniority rules of 1973 were framed by Government after careful consideration of all the factors involved. These rules have the effect of raising the promotion quota from 33.1/3 per cent to 50 per cent and to that extent are an improvement over the rules existing prior to their introduction, so far as the chances of promotion of Group 'B' officers are concerned. The Supreme Court had examined these rules and after hearing the arguments from both direct recruits and promotees had held them to be just and fair. The Government does not find any justification for rescinding or replacing these rules.

**QUESTION NO. 18:** What are the reasons behind the proposal to upgrade 400 Group 'B' Posts to Group 'A' Posts?

The proposal for upgradation does not stem from lack of promotion opportunities but is because of the need arising on account of classification of the work content of the posts of ITOs. This examination has revealed that certain Group 'B' Posts have to be converted as Group 'A' Posts.

**QUESTION NO. 19:** What is the reaction of the Government to the following proposals/suggestions of the Federation of the Income-tax Gazetted Services Association aimed at rationalising the situation

The service conditions of Government servants are governed by the rules framed by the Government of India. The existing service conditions are mainly based on the recommendations of the 3rd Pay Commission. There is a near uniformity in the service conditions of officers of most of Central Services. Any basic change in these conditions can have repercussions on other services. The Ministries of the Government of India are guided in the matter of framing of rules governing service conditions of the government servants by the Ministry of Home Affairs, Department of Personnel & A.Rs. Any changes to be brought about have to be done after consultation with the Department of Personnel.

The position in regard to the suggestions made by the Federation of Income-tax Gazetted Services Association mentioned in the para is as follows:—

(a) Pertaining to the promotee Assistant Commissioners:

(i) Grant of weightage of 3 years as per old rules

(i) The question of grant of weightage to officers on promotion from Group 'B' to Group 'A' is being examined by the Deptt. of Personnel & A. Rs. as a general issue applicable to all Central Services.

(ii) To maintain the seniority on the basis of continued officiation of Group A Service.

(ii) The seniority of officers in the grade of ITOs Group 'A' is governed by the Income-tax Officers (Class I) Services (Regulation of Seniority) Rules, 1973. The suggestion to regulate seniority on the basis of continued officiation of Group 'A' service is not acceptable. In any case, appointments to vacancies in the grade of ITO Group 'A' are now being made by direct recruitment and promotion in the ratio of 1 : 1 and the promotion of ITOs Group 'B' to Group 'A' and direct recruitment are being made in such a manner that the dates of joining of direct recruits and the date of promotion of ITOs Group 'B' are almost in the same years as that there is no difficulty in regulating their seniority on the basis of 1 : 1 formula.



- (iii) To provide for certain super-numerary posts of Commissioners to be manned exclusively by the promotee Assistant Commissioners.

(iii) The suggestion for provision of certain super-numerary posts of Commissioners of Income-tax to be manned exclusively by promotee Assistant Commissioners is not acceptable as that would amount to making reservation in favour of a group of officers which is not permissible under the law.

(b) Pertaining to the Promotee Group 'A' officers:

- (i) To grant weightage equal to half of length of their service to Group 'B' officers; or
- (ii) Alternatively, every two years of Group 'B' service be treated as equal to one year of Group 'A' service for counting the eligibility period of eight years for promotion to the post of Assistant Commissioner.

(i) & (ii) The matter regarding grant of weightage to officers promoted from Group 'B' to Group 'A' is being examined by the Department of Personnel & A. Rs. as a general issue in consultation with the cadre controlling authorities of the various Central services. The extent of weightage that will be allowed, if it is decided to do so, can be known only after the matter has been finally decided by Government.

(c) Pertaining to Group B officers:

- (i) Outright abolition of Group B service and its total merger in Group A by promotion of 2400 Group B officers to Group A.
- (i) Outright abolition of Group 'B' service is not acceptable for the reasons stated in reply to items 3 & 4 of the questionnaire above.
- (ii) Alternatively, to promote all those Group B officers who have completed 5 years of service in Group B and have become eligible for promotion to Group A.
- (ii) As already stated, appointments to the grade of Income-tax Officer Group 'A' are made 50 per cent by direct recruitment and 50 per cent by promotion from Group 'B'. In view of this provision it is not possible to promote all Group 'B' officers who have completed 5 years service in Group B because there are not sufficient vacancies falling to the promotion quota to promote all Group B officers with 5 years service.

(iii) As a third alternative, to stop the direct recruitment for a few years or to raise the quota to 80 per cent to promote about 400 Group B officers to Group A each year against direct recruits of 100.

(iii) It has already been submitted above that the quota for promotion from Group 'B' being 50 per cent is the highest among Central Services. There is no justification to increase it to 40 per cent. It is also not desirable to stop direct recruitment for a few years.

## APPENDIX V

(Vide Paragraph 63 of the Report)

### SUPPLEMENTARY QUESTIONNAIRE SEEKING FURTHER ELUCIDATION ON CERTAIN POINTS ARISING OUT OF THE REPLIES OF THE MINISTRY OF FINANCE (DEPART- MENT OF REVENUE)

#### Para (1)

1. Was any exercise done in November, 1973 or at any time thereafter to earmark as to how many posts (job-wise) are in Group—A how many in Group—B?

2. What was the working strength of Group—A officers (Promotees and direct recruits to be shown separately) and of Group—B officers on the corresponding dates of such study. No. of Ad-hoc group—A should be shown separately?

3. Working papers of DOMS giving calculations of Group—A posts (job-wise) alongwith the relevant circulars of the Board earmarking posts job-wise as Group—A Sr. Scale, Group—A Jr. Scale and Group—B posts should be filed. Number of Group—A Jr. Scale and senior scale posts manned by Group—B officers and ad-hoc Group—A officers as on the date of study by the DOMS and as on today should be filed alongwith a clear statement as to how many Group—A Sr. and Jr. Scale posts have been manned by the Group—B and Ad-hoc Group—A officers during last 10 years.

You have stated in para (iv) that the percentage of promotee Commissioners & Asstt. Commissioners is 2.5 per cent & 32 per cent respectively. Please state as to what was the percentage yearwise during the last preceding ten years? And if there has been a steady decline in the percentage of promotees, then, state clearly whether or not the vacancies caused due to the retirement of the promotees at the level of the Commissioners and Asstt. Commissioners have gone to the direct recruits. Number of vacancies arising due to the retirement of the promotees in the cadre of Commissioners and Asstt. Commissioners and the number of such posts filled up by the promotion of promotee group of officers in the last ten years should be given in a tabular form.

Please send the original and the reconstructed file relating to the framing of seniority Rule, 1973 as referred to in the Minister's letter dated 4-2-76 immediately for the perusal of the Committee.

### QUESTIONNAIRE

Q. No. (1) Has not been answered correctly. A misleading answer has been recorded by citing Sections 116 and 117 which have no relevance to the question at issue which relates to the nature of duties. The relevant section is 124 which deals with the jurisdiction of the ITOs which does not make any distinction of Group—A and Group—B ITOs in the matter of administration of the statute. To make the position clear you are requested to file the annual transfer orders (cyclostyled copies which should be readily available in each commissioner's charge) for the last ten years making against each officer's name whether he was Group—B, Group—A Pr. Scale or Senior Scale?

Q. No. (2) The question of interchangeability of postings in the matter of performance of duties has been deliberately confused with the sanctioned strength i.e., number of sanctioned posts in Group—A and Group—B. It should be stated clearly whether Group—B ITOs are posted or not against posts earmarked as Group—A Jr. Scale and Senior Scale?

It should also be stated as to how many Group—B or Group—A *ad-hoc* officers are working at present in the posts marked as Group—A Jr. Scale or Group—A senior scale posts (Job-wise).

To answer the question of interchangeability it should be stated clearly as to how many Group—B Officers & *ad-hoc* Group—A officers were posted on the posts earlier manned by regular Group—A officers during the last ten years. This information should be given with reference to the transfer orders of the respective charges of the Commissioners. It is a fact that after a Group—B officer is promoted as a Group—A officer on *ad-hoc* basis, he performs the same function as regular Group—A officer does but he is not given the benefit of seniority nor his *ad-hoc* service is counted for the senior scale. The answer should be given in yes or no only.

The statement of Shri V. V. Badami, Chairman CBDT (Retired) before the Petitions Committee of the Parliament on the question of the nature of the duties performed by the ITOs Group—B and Group—A as well as before other Committees if any, on this subject should also be made available to the Committee.

Please also indicate as to in which kind of ward (important or unimportant, summary or scrutiny wards) are the ITOs directly

recruited to Group—A are posted after completion of training? Are they given an independent charge at the initial postings. If not, why not? It should also be indicated as to after how long they are given an independent charge of a ward and after how many years of service they are given charge of a scrutiny ward?

Is it a fact that a Group—B officer is given independent charge of a ward straightaway on his promotion?

How many Group—B and ad-hoc Group—A officers are there all over the country who are posted in scrutiny charge, mixed summary & scrutiny wards, company circles wards having search cases, wealth-tax cases and estate duty cases at present.

In how many pure summary asstt. wards are posted Group—B and ad-hoc Group—A officers and in how many such charges are posted the directly recruited Group—A officers at present all over India.

Q. No. (3) It is stated that the Grant of status to various officers is regulated keeping in view the source of recruitment and the type of work on which the officers are employed?

If this is correct, that the pay and status also depends on the type of work, then a group—B officer or an ad-hoc group—A officer given the same scale of pay and same status in the matter of counting his seniority for the purpose of promotion as an Asstt. Commissioner as in the case of a Group—A Officer? (Answer should be given in yes or no).

If the answer is no, then is it correct that the pay and status depend only on the source of recruitment and not on the type of work?

(Pl. answer in yes or no)

It is stated that the minimum qualifications etc. are different?

Does it mean the educational qualifications or what kind of qualifications?

Is it a fact that there is no difference in the nature of duties of a Group—B officer and the duties of a Junior scale directly recruited group—A officer?

(Pl. answer in yes or no)

If the answer is yes, then why equal pay and status is not granted. Please give reasons without confusing it with the source of recruitment. The question relates to the denial of equal pay and status because in this case, merely the recruitment is from a different source though the work is equal?

Please state what is the difference importance-wise in the jobs assigned to the Group—B officers and ad-hoc Group—A officers on one hand and the Jr. Scale directly recruited Group—A officers on the other?

Last para of the answer to Q. No. 3 is mis-leading. The plea is not that because several persons perform duties under the I. T. Act, there should be no differentiation in status or salaries.

The plea is that there should be no differentiation in the status or salaries if the same duties are being performed as in the case of Group—B and Ad-hoc Group—A Officers on one hand and the directly recruited Jr. Scale Group—A officers, on the other.

Examples of IAC (Assts.), ITO Group—B & Inspectors given in the present context are intended to mislead deliberately. Neither do they work on interchangeable posts as in the case of Group—B and ad-hoc Gr. A officers and directly recruited Jr. Scale Group—A officers, nor their functions and powers in law or in practice are the same. An ITO is a subordinate of IAC as an Inspector is a subordinate of an ITO. The IAC has to perform several additional statutory functions over and above an ITO like levy/approval of penalties, approval of an order u/s 132(5) in a search & seizure case, to give instructions u/s 144-A & 144-B to the ITO and so on. An Inspector's main job is to make enquiries & survey and to do all such jobs as an ITO may direct. He does not have any independent power. He derives his authority from the ITO and assists the ITO in performances of his (ITO's) functions.

It is only in minor asstt. cases upto income of certain limit, the Inspector has been asked to frame asstt. orders. Can he, for that reason, be equated with the ITO? How blatantly mis-leading is the comparison. How many statutory functions has an ITO to perform under the Direct Tax Laws? Does the Inspector perform all those functions.

Is an Inspector posted incharge of any ward or circle to perform all those functions which an ITO has to perform? (Pl. answer in yes or no).

**Q. No. (4)** Please state clearly as to what were the precise recommendations of various committees and commissions and whether anyone of those recommendations have been accepted for removing the dissatisfaction of the Group—B & promotee group of officers in the following form:—

Name of the Committee	Yr. in which recommendations made	Detailed recommendations	Whether implemented or not?	If implemented, then to what extent?
1	2	3	4	5

1. Wanchoo Committee 1971 (on the issue of quota & weightage).
2. Third Pay Commission (on the issue of weightage and senior scale).
3. Public A/cs Committee, 5th Lok Sabha 186th Report, Chapter XII, Paras 12-16.
4. Select Committee on the Taxation Laws (Amendment) Bill, 1973, para 74.
5. Views expressed by Morarji Desai, the then Finance Minister on 1-11-58 against class differentiation for the same job (vide Bulletin of Dec., 1958 published by the Central Board of Revenue).

What are other Central Services in which the Group—B and Ad-hoc Group—A and directly recruited Group—A officers and regularly promotee Group A officers are performing identical functions. please give this information in the following proforma:—

Name of the Service	Designation of Group-B Officers	Designation of Group-A Officers	Nature of duties of Group-B Officers giving details of duties
1	2	3	4
Waiting period for promotion from Group-B to Group-A on regular basis	Quota of promotion from Group-B to Group-A	Waiting period for going to Senior scale of Group-A (including Group-B service)	Extent of weightage granted, if any.
5	6	7	8

Please give details of all Central services including Railways.

Q. No. 5. As a result of cadre review of 1978 and 1981, what benefits have ensured to the Group—B officers? Please state the following:—

- (a) What was the waiting period for promotion in the yrs. preceding the Cadre Reviews for promotion to Group—A and what was after the reviews? Has there been any difference?
- (b) What was the percentage of promotee group of officers in the cadre of Commissioners and assistant Commissioners in 1973, 1974, 1975, 1976 and 1977 i.e. five years preceding the first cadre review in 1978 and what was the ratio in 1979 and in 1982?
- (c) Pl. also indicate to bring out a correct comparative picture as to what was the waiting period of a directly recruited Gr. A officer for his promotion as Asstt. Commissioner & Commissioners (level I & II in the years the distinction came in):—
  - (i) 1951
  - (ii) 1956
  - (iii) 1959
  - (iv) 1973
  - (v) 1975
  - (vi) 1977
  - (vii) 1982

Q. No. 6. Answer is mis-leading. Following points be clarified:—

(a) Period upto 1951:

- (i) What was the number of Class-I and Class-II officers in 1944 after reorganisation was done? Please state the number and the ratio?
- (ii) What is the basis for saying that the quota was not adhered to?
- (iii) Why was the quota violated, if at all? Who was the responsible for that? Was it violated in the interest of work or for any malafide reasons? What was the extent of such violation



- (iv) Is the period of 5 to 7 years before deducting the period of three years weightage? If the period of weightage is deducted will the period come down to 2 to 4 years?
- (v) What was the Affidavit of R. C. Dutt on the subject of quota?

1951 to 1959

- (i) Is the period of 8 to 10 years given in respect of those excluding 73 spill-over? If not, the period should be given only for those who were held to be within the quota of 33 1/3 per cent by the Supreme Court? (The answer should not be confused with 73).
- (ii) Has the period of weightage been deducted? If not, the same should be deducted to present the correct comparative picture.

1959 onwards:

- (1) Period of 10 to 14 years is mentioned. Has the period of anti-weightage been included therein? If not then it should also be included to give the correct picture for the years 1959 to 1970. Was the period not 15 years and above?
- (2) The waiting period for those promoted in 1971, and 73 should be stated separately without averaging it out with the period of scheduled castes or those promoted out of turn. Was the period not 15, 16 & 17 years on an average?
- (3) What is the present waiting period? Is it not correct that the Group—B Officers of 1966 are yet to be regularised? Is the present waiting period not 16 years, thus?

Is it not correct that with the 50 per cent quota, the handicap of group—B service has increased to four times as compared to when the quota was only 20 per cent (Please answer in yes or no).

**Q. No. 7.** It has been stated that the quota of 50 per cent is justified with reference to 40 per cent recommended by the Adm. Reforms Commission. There is a deliberate suppression of relevant facts. Please state:—

- (a) What was the extent of stagnation at the time when the administrative Reforms Commission had recommended quota of 40 per cent. What was the waiting period in Group—B & What was the handicap after deducting weightage at that time as compared to 16 years at present?

- (b) Why has the recommendation of Wanchoo Committee been deliberately omitted from being mentioned wherein quota of 66  $\frac{2}{3}$  per cent was recommended?

Q. No. 8. It is stated that the paramount consideration for fixing the quota is to have a proper mix of fresh blood and experience so that quality of the service is maintained at the high level. Please clarify the following points in this regard:—

- (a) Is the percentage of 2.5 per cent at the level of Commissioners is considered adequate for the promotees for the proper mix of fresh blood and experience at that level?
- (b) After retirement of the present promotee Commissioners, what will be the percentage of such mix after
- (i) One year
  - (ii) Two years.
  - (iii) Three years.

If the present rules continue will it be zero?

- (c) What will be the percentage of similar mix at the level of the Asstt. Commissioners after
- (i) One year.
  - (ii) Two years.
  - (iii) Five years.

(d) Even with these percentages, is the quota of 50 per cent to be considered adequate?

It is said that generally appointment to a Group—B post marks the culmination of the career of Group—C Officers? Please state.

- (i) Whether it applies even to the Inspectors, who belong to Gr. C?
- (ii) How will the healthy blend youth with experience be brought about at the high levels of the service if the career of a Group—C Officer is to terminate at Gr. B level only and all Group—A posts and those at higher levels are to be manned by young direct recruits only. Is there not an obvious contradiction?
- (iii) Does this not directly mititate with the following guidelines issued by the P.M. in 1975 to all the Ministries:—

“The present rules and practices regarding direct recruitment and promotion need to be looked into with a view to provide a larger measure of opportunity for

promotion at the lower levels consistent, of course, with the need to maintain efficiency. Employees should not feel that they are for ever condemned to stagnate at lower levels because of a poor start at the outset. They should have the assurance that through disciplined hard work they can rise to higher echelons.

Genuine concern for the welfare of employees will surely lead to better morale and performance."

Q. No. 9. Does a Group—B an ad-hoc Group—A Officer not perform identical duties as a direct recruit to Gr. A Jr. Scale? If so—does a promotee officer not have to slog for 23 years doing same work to earn his eligibility as against a direct recruit who has to do the same work only for 6 years. Please answers the Question, keeping in view the nature of work and not the rules whose fairness itself is under examination.

Q. No. 11 & 12. (a) Answer to Q. No. 11 is misleading. It is not a question of losing the birth-mark, it is the question about the fairness of the rules. Please present the data in the following chart:—

- (a) No. of promotee Asstt. Commissioners and Commissioners percentage.
- (b) No. of D.R. Asstt. Commissioners and Commissioners percentage since 1951 to 1981.

These figures alone will show as to what is the real impact of the seniority rule of 1973 in so far as its fairness is concerned?

- (b) Do you think the present ratio of 25 per cent in the Commissioner's cadre is reasonable?
- (c) Do you think the decline of percentage from 70 per cent to 32 per cent in the cadre of the Asstt. Commissioner fair? Does it not show that the vacancies created on the retirement of the promotees are being systematically usurped by the direct recruits.

Q. No. 13. Both the segments of the question have not been answered. Please state:—

- (a) Whether in the past Inspectors and examiners of A/cs reached the level of Members, Central Board of Direct Taxes and Chairman or not?

(Please answer in yes & no).

If yes, how many persons reached the level of Members, Board and Chairman who had started their career either as Inspectors, or as Examiners of A/cs in the past?

- (b) Was it not due to a fair handicap of 2 to 4 years (after adjusting weightage) that a meritorious Group B officer could supercede by his outstanding merit & thus, had a fair opportunity to reach the top & retire, if not, as Chairman in each case, at least upto the level of a member? Are the rules not so much one sided now that no such opportunity exists,
- (c) Please state how many years an Inspector on an average take to become a Group-B Officer, and how many years a Group-A officer & so on? And state clearly as to upto what level can a directly recruited Inspector reach now in the normal course?

Q. No. 14. Please state whether with all their merit & with all possible supersessions, can a promotee officer reach the top on in any case with the existing seniority rule 1973? (Pl. answer in yes or no)?

In para 2, it is stated that the ratio of officers promoted from Cl. II to Cl. I before introduction of seniority Rules, 1973 was 33 1/3 per cent. This rule has increased the intake to 50 per cent to that extent these rules have afforded better opportunity to Group-B Officers.

Quota itself cannot be considered in vacuum to make a comparison between the period the quota was 33 1/3 per cent and now when it is 50 per cent. Please state if—

- (1) Waiting period increased from 8 years to 16 years and handicap from 5 years to 16 years. Considering weightage, or not?
- (2) Percentage of promotees at the level of Asstt. Commissioner declined from 100 per cent to 2.5 per cent and 70 per cent to 32 per cent or not?

Is this the improvement of opportunity?

Q. No. 15. The Committee has already considered all those arguments and directed that they are not concerned with mere technicalities but the fairness of the rules and satisfaction in the service.

What has the government done to remove the unfairness of the rules which have proved to be so unjust and one-sided in actual

implementation, keeping in view the fact that the Supreme Court too left it to the Government to decide as to what should be the proper rules of seniority & promotion?

Q. No. 16. (a) If the increase in quota to 50 per cent alone was fair, then why has the waiting period in Group—B increased than decreased since when the quota was only 33 1/3 per cent? And why has the percentage of promotees in the cadre of Commissioners come to be almost zero and in the cadre of Asstt. Commissioners declined from 70 per cent to 32 per cent. Is it an improvement?

(b) If 50 per cent quota had increased the prospects, why has it led to the frustration and why has the govt. embarked upon the remedial measures? Are the two statements not self-contradictory?

(c) Are the measures adequate?

Q. No. 17 (1) Can the govt. give effect to any remedial measure without amending the existing seniority Rule of 1973?

(2) Has the Supreme Court ordained that the Rule would remain effective till the eternity even though in actual practice it has the effect of wiping out one class of officers altogether from the higher echelons?

Q. No. 18 (i) Reply to question No. 16 is directly contradictory to the reply to the question No. 18. There it is said, that on the representation by All India Federation for improving the promotional prospects, the govt. is examining measures to convert number of posts etc. here, it is said, that it stems from classification of work content of the ITOs' posts.

(ii) In reply to a parliament question, Shri S.S. Sisodia, said:—

"It is with a view to improving their chances of promotion that the above proposal to convert 400 posts of Group-B has been taken up."

Please state as to which of the different statements quoted above should be treated as correct?

(iii) If proposal for conversion of 400 posts stems from the work content only, then please state:—

(a) How many Gr. B posts all over India were found to be such which had Group—A work content?

(b) What was the basis for arriving at the figure at (a) above?

(c) Why was the number of conversion limited only to 400 and;

(d) Why has it been reduced to 258 now?

(e) Is it correct that the DOMS found that about 900 Group-A posts were manned by Group-B officers which should be upgraded? On what basis the number was first reduced to 527 & then to 400 & now 253.

In this connection please produce all the relevant notings, files & connected materials regarding (a) to (e) above.

Ans. (a) (i).

Q. No. 19. Please confirm that the grant of weightage to the promotee Asstt. Commissioners is also under consideration.

(a) (ii) The very suggestion has not been understood. The question of consideration of length of officiating service arises only in those cases of promotees who received anti-weightage due to the retrospective effect of 1973 Seniority Rule from 15-1-59 and not to those whose seniority is to be fixed in future? Please clarify.

(i) & (ii) What specific suggestions have been made by the Central Board of Direct Taxes (Ministry of Finance) with regard to the grant of weightage, its extent and its retrospective effect from 1-1-73 the date from which all other recommendations of the Third Pay Commission have been implemented?

c(i) What measures apart from conversion of certain number of posts from Gr. B to Gr. A are being considered to remove the stagnation at Group-B level?

(ii) How much will be the handicap of Group-B service after giving effect to the measures at hand.

## APPENDIX VI

(Vide Paragraph 63 of the Report)

**COPY OF D.O. LETTER NO. 11016/8/77-AD. VI/5-293/82 DATED 24 APRIL, 1982 FROM SHRI S. S. SISODIA, MINISTER OF STATE FOR FINANCE TO THE CHAIRMAN COMMITTEE ON SUBORDINATE LEGISLATION**

**SUBJECTS: Income-tax officers (Class I) Service (Regulation of Seniority) Rules, 1973—Implementation of recommendations contained in paragraphs 116, 120, 125, 127 and 128 of Sixteenth Report (Fifth Lok Sabha).**

My dear Daga,

The Lok Sabha Secretariat have sent to the Department of Revenue a copy of the comments made by you as Chairman of the Committee on Subordinate Legislation on the information furnished to the Committee by the Department in their Office Memo. dated 25th March, 1982 and have informed the Government that the Committee would like to have further information on a large list of questions raised by you.

2. It has been brought to my notice, that the Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973 have already been subjected to detailed scrutiny by the Committee on Subordinate Legislation and the Committee had made its recommendations in its 16th Report presented to the Lok Sabha on 9th May, 1975. The recommendations of the Committee were carefully examined by the Government and the action taken report was sent to the Lok Sabha Secretariat on the 10th April, 1978. Thereafter another communication was sent on 10th July 1979 detailing the various steps taken by the Government to improve the promotion prospects of the officers of the Income-tax Department including those in Group 'B' and promotees in Group 'A' in pursuance of the recommendations, of the Committee on Subordinate Legislation in para 128 of their report mentioned above.

3. In my view the matter should have been treated as finally disposed of at that stage. However, I am given to understand that the Committee on Subordinate Legislation have apparently started the examination of above-mentioned seniority rules afresh. After further evidence before the Committee on 10-2-1982, a very elaborate

questionnaire was sent to the Department for reply. The required information by the Committee in that questionnaire was sent on 25-3-1982.

4. I find that the reference dated 2-4-82 from the Lok Sabha Secretariat asks for further information on the same points which have already been replied to and are generally in the nature of arguments or counter arguments. Hardly any further factual information as such has been asked for. I am distressed to note that without apparent cause the information already sent to the Committee has been viewed with suspicion as if some vital facts have been suppressed or they have been deliberately twisted to give misleading information. In my view such remarks are not justified.

5. In the communication from the Lok Sabha Secretariat information has been asked for on a number of points pertaining to periods extending from 10 to 30 years. Voluminous information has been asked to be collected from all Commissioners of Income-tax throughout India in regard to posting of ITOs. for the last 10 years. According to the extent instructions of the Government, records in the Ministry are retained only for a limited period and thereafter they are weeded out. Even if an attempt is made to collect this information at great expense of time, labour and money, complete information will not become available in a reasonably short time. The information already supplied to the Committee is complete enough in my opinion for the Committee may formulate its recommendation on the basis of that information. I shall, therefore, be grateful if the information asked for now is not insisted upon.

With kind regards.

Yours sincerely,

Sd/-

(S.S. SISODIA)

Shri M. C. Daga.  
Chairman,  
Committee on Subordinate Legislation,  
New Delhi.



## APPENDIX VII

(Vide paragraph 107 of the Report)

Statement showing the action taken by Government on the recommendations made by and assurances given to the Committee on Subordinate Legislation.

Sl. No.	Reference to paragraph Nos. of the Report	Summary of Recommendations/Assurances	Gist of Government reply
1	2	3	4

1 Sixth Report  
(Fifth Lok Sabha)  
9

The Committee desire the Ministry of law and Justice (Legislative Department) to examine in consultation with all other Ministries/Departments whether there are any such Rules, which do not provide for giving a reasonable opportunity of being heard to an aggrieved party, before a penalty is imposed on him thereunder by and if so, early steps should be taken by the concerned Ministry/Department to amend them suitably in the light of the observations made by the Committee

The Ministry of Law, Justice and Company Affairs (Legislative Department) have since circulated the observations of the Committee to all Ministries/Departments of the Government of India vide their Memorandum No. F. 4(1)/78-Leg. I dated 21 May, 1973, asking them to amend rules, regulations, byelaws, etc. with which they are administratively concerned as suggested by the Committee. The Ministry have further issued/periodic reminders to various Ministries/

Departments to follow up the matter *vide* their Office Memoranda Nos E. 4 (1)/73-Leg I dated 27 October, 1975, 1 July, 24 August and 3 November, 1978 and 22 October, 1980.

2. Eighth Report  
(Fifth Lok Sabha)  
115

The Committee desire the Ministry of Petroleum and Chemicals to amend paragraph 23 of the Drugs (Prices Control) Order, 1970, so as to provide therein specifically the minimum rank of the officers to be authorised to conduct searches and seizures under the Order.

The Drugs (Prices Control) Order, 1970 has since been superseded by the Drugs (Prices Control) Order, 1979. Provision in the corresponding paragraph 26 of the new Order conform to the recommendation of the Committee.

3. Tenth Report  
(Fifth Lok Sabha)  
83

The Committee are glad to note that the Saugor Cantonment Board have since amended the Bye-laws for rendering necessary the licences for the use of premises within the Saugor Cantonment as stables, cattle-sheds, etc. for profit, to delete therefrom the provision for levy of grazing fee. They are further glad to note that as this Committee do not wish the local authorities to have unfettered discretion, the Ministry of Defence propose to ask the Saugor Cantonment Board to recast the Bye-laws as to omit therefrom the words "such conditions as the Board may think fit to impose." The Committee desire that the Bye-laws should be amended to this effect at an early date.

The Saugor Cantonment Byelaws have since been superseded by the Saugor Cantonment (Licensing of Premises for Use as Stables or Cowhouses or as Accommodation for Sheep or Goats) Byelaws, 1976 *vide* Ministry of Defence Notification No. SRO-12/3/C/L&C/74 dated 12 June, 1976. The new Bye-laws conform to the recommendation of the Committee.

4. Tenth Report  
(Fifth Lok Sabha)  
84

The observations of the Committee have since been brought to the notice of all DDs ML & C/Cantonment Executive Officers with instructions to furnish replies to the references from the Committee within 30 days of the receipt of the report of the Committee *vide* Ministry of Defence Circular No. 12/CSL/Saugor/C/L&C/72 dated 10 May, 1976.

5. Eleventh Report  
(Fifth Lok Sabha)  
123

The Committee note with satisfaction that, on being pointed out the Department of Atomic Energy have agreed to amend Rule 1(3) of the Radiation Protection Rules, 1971, so as to make it clear of that they came into force from the date of their publication in the Gazette. The Committee desire the Department of Atomic Energy to amend above Rules at an early date.

6. Eleventh Report]  
(Fifth Lok Sabha)  
126

The Department of Parliamentary Affairs have brought the recommendation of the Committee to the notice of all Ministries/Departments of the Government of India for information and strict compliance *vide* their Office Memorandum No. 12/CSL/Saugor/C/L&C/72 dated 10 May, 1976.

The Committee deprecate the delay of 9 years on the part of the Department of Atomic Energy in framing the Rules under the Atomic Energy Act. They would like the Department of Atomic Energy to be more careful in future. In

this connection, the committee reiterate their earlier recommendation made in Para 34 of their Fifth Report (Second-Lok Sabha) that ordinarily Rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. They should like the Department of Parliamentary Affairs to bring this recommendation to the notice of all Ministries/Departments for compliance.

Memorandum No. F. 32(5)/74—R & C dated 30 May, 1974.

7. Twelfth Report  
(Fifth Lok Sabha)  
195

The Committee note with satisfaction that the Ministry of Finance have decided to incorporate the provisions of their O.M. Nos. F. (16)-Est. (Spl)/50, dated the 2nd January 1951 and 21st February, 1951 as Appendix to the Central Civil Services (Pension) Rules. The Committee desire the Ministry to amend the Rules at an early date.

The operative part of the provisions of O.M. No. F. 3(16)-Est. (Spl)/50 dated 2 January, 1951 and 21 February 1951 has since been incorporated in Rules 42, 45 and 47 of the Central Civil Services (Pension) Rules, 1972 *vide* S. O. 835 dated 30 March, 1974.

8. Twelfth Report  
(Fifth Lok Sabha)  
199

The Committee note with satisfaction that the Ministry of Finance have agreed to the suggestion of giving an opportunity of representation to a person before excluding him from the expression 'family' in terms of Note below Rule 54(14) (b) (i) of C.G.S. (Pension) Rules. The Committee desire the Ministry to amend the Rules accordingly at an early date.

Rule 54 (14) (b) of the Central Civil Services (Pension) Rules, 1972 has since been amended to the desired effect *vide* Notification No. 6 (4)-EV (A)/74 dated 20 November, 1974.

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The Fertilizer (Movement Control) Order, 1973 has accordingly been amended to the desired effect *vide* the Fertilizer (Movement Control) Fourth Amendment Order, 1976 (S.O. 696-E of 1976).

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The Committee note with satisfaction that, on being pointed out, the Ministry of Agriculture and Irrigation have agreed to amend clause 4(1) of the Fertilizer (Movement Control) Order, 1973, so as to indicate therein the minimum rank of 'any person' who may be authorised by the Central and State Government to conduct searches and seizures and also to omit therefrom the provision for further authorisation of persons of unspecified ranks to conduct searches and seizures. The Committee desire that the Order in question should be amended suitably at an early date.

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9. Fifteenth Report  
(Fifth Lok Sabha)  
83

10. Fifth Report  
(Sixth Lok Sabha)  
46

The Committee note with concern that the Ministry of Industry (Department of Industrial Development) had taken more than five years in issuing an amendment to re-designate the posts of Junior Field Officers as those of Small Industry Promotion Officers, which had necessitated retrospective effect to the Junior Field Officers and Investigations (Small Scale Industries Organisation) Recruit-

The observations of the Committee have been noted for strict compliance in future *vide* Ministry of Industry (Department of Industrial Development) Office Memorandum No. 10(15)/80-SSI (MI), dated 8 August, 1986.

ment (Amendment) Rules, 1975 G.S.R. 2608 of 1975). One of the reasons given by the Ministry for delay in issuing the above amendment was that a writ petition filed by some of the Junior Field Officers in the Delhi High Court for according them seniority in the feeder list of the Indian Economic Service and the Indian Statistical Service was pending. The Committee, however, observe from the subsequent reply of the Ministry that the question of redesignation of the posts did not figure in the issue before the Delhi High Court directly and that a period of more than three and a half years had elapsed in issuing the notification even after the High Court had delivered their judgement. From the facts of the case before them, the Committee, cannot help observing that the Ministry had not dealt with the matter with the expedition it deserved. The Committee note the assurance given by the Ministry that all efforts will be made to ensure that delays in issuing amendments to rules do not recur in future. The Committee trust that care will be taken by the Ministry to keep their assurance to the Committee. The Committee will also like to stress upon all Ministries/Departments that retrospective effect to the rules should be avoided as far as possible. In cases

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where it is not possible for certain unavoidable reasons to amend the relevant statutory rules simultaneously with the enforcement of an executive decision, such rules should be amended at the earliest so that the period of retrospective effect is reduced to the barest minimum.

11. Sixteenth Report  
(Fifth Lok Sabha)

77

The Committee are not satisfied with the reply given by the Ministry of Home Affairs in regard to making the rules self-contained. The Committee desire the Ministry to make the rules self-contained by incorporating therein the form of agreement and details of training and departmental examination.

Government of Arunachal Pradesh (Appointment Department) have issued Notification No. Appptt. 139/75 dated 30 January, 1982 amending the Arunachal Pradesh Civil Service Rule s, 1974 [Previously the rules were known as the Arunachal Pradesh (Class I) Rules, 1974] to make the rules self-contained by incorporating therein the form of agreement and details of training and departmental examination on the basis of the recommendation of the Committee. [M/O HAO.M. No. U. 14012/3/80-UTS-dated 23-2-1982].

12. Fifth Report  
(Sixth Lok Sabha)

54

The Committee note that, pursuant to their recommendation made in para 42 of their First Report (Fifth Lok Sabha) wherein they had desired the Government to amend the Indian Forest Service (Ré-

The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have noted the observations of the Committee for information and strict compliance in future *vide* their Office

recruitment) Rules, 1966 to specifically provide that the State Governments would be empowered to promote only those junior officers in supersession of their seniors who had passed the prescribed departmental examinations, Government had decided not only to amend the Indian Forest Service (Recruitment) Rules but also the Indian Administrative Service (Recruitment) Rules and the Indian Police Service (Recruitment) Rules to this effect. Unfortunately, however, this fact was not brought to the notice of the Committee when a reference in this regard was made to them. The Committee in this connection note the assurance of the Department of Personnel and Administrative Reforms that steps have been taken by them to ensure that no delay occurs in future in the implementation of the recommendations of the Committee. The Committee trust that care will be taken by the Department to keep their assurance to the Committee.

13. Fifth Report  
(Sixth Lok Sabha)  
62

The Committee have given a careful thought to the whole matter. They desire the Ministry of Finance (Department of Economic Affairs) to amend the additional Emoluments Compulsory Deposit (Employees other than employees of Government and Local Authorities) (Amendment) Scheme, 1975 and the Additional Emoluments

Memorandum No. 11939/4/78-AIS(1)  
dated 12 August, 1980.

(i) The Additional Emoluments Compulsory Deposit (Employees other than employees of Government and Local Authorities) Scheme, 1974 has been amended as suggested by the Committee *vide* G.S.R. 763 of 1978.



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(ii) The Additional Emoluments Compulsory Deposit (Local Authority Employees Scheme, 1974 has been amended as suggested by the Committee *vide* G.S.R. 762 of 1978.

Compulsory Deposit (Local Authority Employees) (Amendment) Scheme, 1975 so as to provide for the issue of a demand notice for payment within a specified period, as is being done in cases of Income-tax, before the nominated authority moves the Collector to recover the dues from the specified authority as arrears of land revenue.

14. Fifth Report  
(Sixth Lok Sabha)

91

The Committee note with satisfaction that on being pointed out, the Ministry of Agriculture and Irrigation (Department of Rural Development) have agreed to amend Rules 6(2) of the Besan (Gram Flour) Grading and Marking Rules, 1975, for incorporating the particulars and manner of marking in the Rules, instead of their being specified by the Agricultural Marketing Adviser. The Committee desire the Ministry to do the needful at an early date.

Sub-rule (2) of rule 6 of the Besan (Gram Flour) Grading and Marking Rules, 1975 has since been amended to the necessary effect *vide* Amendment Rules of 1979 (S.O. 1101 dated 31 March, 1979).

15. Eighth Report (Sixth Lok  
Sabha) 35

The Ministry of Works and Housing have accordingly notified a new set of rules, namely, the Delhi Development Authority (Issue of Debentures) Rules, 1977 (G.S.R. 1224 of 1977) in exercise of powers conferred by §1b-section (1) of

The Committee note that the Ministry of Works and Housing have decided in consultation with the Ministry of Law that the Central Government may themselves frame the Delhi Development Authority (Issue of Management of Bonds) Rules

under section 56(2) (mm) of the Delhi Development Act, 1957 and publish them in the official Gazette, instead of amending the Delhi Development Act, 1957 for the conferment on power on the Delhi Development Authority to frame the regulation of the subject and to publish them in the Official Gazette. The Committee agree with the above decision of the Ministry of Works and Housing and desire them to finalise and notify the said rules in the official Gazette without losing any further time.

16 Eighth Report  
(Sixth Lok Sabha)

51

section 56 of the Delhi Development Act, 1957 read with clauses (mm) and (r) of sub-section (2) of that section *vide* Ministry of Works and Housing Office Memorandum No. 2-4 /69 -UDIB(Pt) dated 14 June, 1978.

In paragraph 100 of their Seventeenth Report (Fifth Lok Sabha), the Committee on Subordinate Legislation had desired that a Court of Inquiry should as far as possible be manned by Officers senior to the person being proceeded against. However in any particular case if it is not possible to man a Court wholly by senior officers, at least the Presiding Officer of the Court should be sufficiently senior to the Officers being proceeded against. The Committee note that while the Ministry of Home Affairs have expressed certain practical difficulties in amending Rule 170 of the Border Security Force Rules 1969, to the above effect they have assured that necessary executive instructions will be

Necessary instructions have accordingly been issued to all concerned *vide* Directorate General, Border Security Force Circular No. 1/15/78—CLC BSF dated 11 June, 1978.

issued for implementing the above a recommendation of the Committee while constituting a Court of Inquiry, as far as possible under the given circumstances. The Committee desire the Ministry to issue necessary instructions to the above effect without delay. The Committee hope that the Ministry of Home Affairs will ensure that the instructions issued by them are followed in letter and spirit by the formations and that, save in exceptional circumstances, the aforesaid recommendation of the Committee will normally be implemented.

**Tenth Report**  
**(Sixth Lok Sabha)**

The Committee note with Satisfaction that on being pointed out, the Ministry of Finance (Department of Revenue) have agreed to amend the Settlement Commission (Income-Tax/Wealth-Tax) (Conditions for Service of Chairman and Members) Rules, 1976 to the effect that if there is any dispute relating to the interpretation of the rules, it shall be referred to the Central Government for its decision. The Committee desire the Ministry to issue the necessary amendment to the rules at an early date.

Rule 8 of the Settlement Commission (Income-Tax/Wealth-Tax) (Conditions for Service of Chairman and Members) Rules, 1976 has accordingly been amended vide G.S.R. 5 dated 6 January, 1979.

The Committee note that the urban land (Ceiling and Regulation) Removal of Difficulties Order No. 1 was published thrice and the Betwa River Board Rules, 1977 were published twice in the Gazette. The Committee have time and again emphasized that the responsibility of a Ministry/Department does not cease with the sending of the notification to the Press. After the rules, regulations, etc. are published in the Gazette, the Ministry/Department concerned should take immediate steps to see whether they have been correctly printed and, if necessary, issue a corrigendum thereto at the earliest opportunity. In both the cases, the Ministries concerned took action to issue the corrigendum only after it was pointed out to them by the Committee. Had the Ministries of Works and Housing and Agriculture and Irrigation (Department of Irrigation) been vigilant in this respect they would have themselves detected the mistakes and issued the necessary corrigendum. The Committee take a serious view of such lapses as already pointed out by them in para 93 of their Twentieth Report (Fifth Lok Sabha) and brought to the notice of all concerned *vide* Department of Parliamentary Affairs O.M. No. F. 32(1)/76. R&C, dated the 31st January, 1977.

The Ministry of Irrigation have intimated that a copy of the notification which was endorsed to other authorities, inadvertently found its way to the Government of India Press resulting in publication of the notification twice in the Gazette. The Ministry of Irrigation have accordingly issued instructions to all concerned to take due care in future *vide* their Office Memorandum No. 5/29/80-P. IV/P. III dated 1 April, 1982.

19. Fifteenth Report  
(Sixth Lok Sabha) 76

The Committee desire that the matter may be taken up with the Press authorities also to inquire into the circumstances leading to the publication of the rules time and again and suitable corrective measures may be devised to ensure against recurrence of such instances in future.

Same as against  
Sl. No. 18

20. Seventeenth Report (Sixth Lok  
Sabha) 24

The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (4) of Rule 2 of the Major Port of New Tuticorin (Regulation of the use of Landing Places Rules, 1977 so as to make clear that if the lessee or the permit card holder failed to pay the rent on the due date, he shall become liable to pay the penal rent in the first instance failing which provision for cancellation of the lease deed/permit card could be invoked by the lesser in which case the lessee shall not be entitled to any compensation on any account or to remove and take away any improvements made on the land. The committee desire the Ministry to issue the amendment at an early date.

The Ministry of Shipping and Transport (Ports Wing) have since amended Rules 2(4) and 2(8) of the Major Port of New Tuticorin (Regulation of the Use of Landing Places) Rules, 1977 which read as follows :-

“(4)(a) The rent shall be payable in the manner specified in the permit card or the lease deed, as the case may be.

(b) Any default, not exceeding seven days in the case of permit card and thirty days in the case of lease deed, in making payment of rent by the date on which it becomes due, shall make the permit card holder or the lessee, as the case may be, liable to pay in addition to the amount of ar-

The Committee note that on a reference made to the Ministry of Shipping and Transport (Transport wing), The Ministry are considering a proposal to amend sub-rule (8) of Rule 2 of the Major Port of New Tuticorin (Regulation of the use of Landing Places) Rules, 1977 to provide that in the event of non-disposal of the application for lease by the Port authorities at the appropriate time, the previous lessee who has submitted an application for continuance of lease, shall continue to be the lessee on the same terms and conditions, till the Port authorities took further decision. The Committee desire the Ministry to finalise the proposed amendment expeditiously, if not already done, and issue the same without any further delay in order to obviate the possibility of any hardship that may be caused to the existing lessees in this regard.

years of rent, an interest at the rate of 15 per cent per annum on the accumulated arrears for the period of such default.

(c) In case the default exceeds seven days, in respect of permit card and thirty days in respect of lease deed, the lesser may, after giving a notice in writing of not less than seven days, to the permit card holder or the lessee, as the case may be, resume possession of the land allotted to him under the permit card of the lease deed.

(d) In the case of such a resumption of possession of land, the permit card holder or lessee, as the case may be, shall not be entitled to claim any compensation on account of such resumption of possessions or to remove and take away the improvements, if any, made by him on the land.

(e) No interest on arrears of rent under this rule shall be levied except after affording a reasonable opportunity of being heard to the permit card holder or lessee, as the case may be."

*Rule 2(8)* If the renewal of the permit issued or the lease entered into under these

rules" is required for a further period a fresh application in this behalf shall be made by the person concerned, not less than seven days in advance in the case of permit and thirty days in advance in the case of lease, before the expiry of the period of validity of the said permit of lease.

Provided that where such person makes such fresh application within the period so specified the existing permit or lease, as the case may be, shall remain valid after the period of its validity on the existing terms and conditions, until such fresh application has been decided."

(Ministry of Shipping and Transport  
Notification No. PW-PGL-80/77 issued  
*vide* G.S.R. 312 dated 21 March, 1981).

After unification of the minor port with the Major Port of New Tuticorin, the Ministry have adopted new name for the unified port, *viz.*, 'Port of Tuticorin' in place of Major Port of New Tuticorin'. Hence the Rules of 1977 have been renamed as 'Port of Tuticorin (Regulation of use of the Landing Places) Rules, 1977, (O.M. No. PGL-80/77 dated 26 February, 1980).

Fourth Report (Seventh Lok Sabha) 24

The Committee have time and again stressed that the administrative instructions are no substitute to statutory rules/regulations. Such instructions are not being published in the Official Gazette and, therefore, escape the notice of the Committee. The Committee, desire the Department of Space and the Ministry of Commerce to amend the Department of Space Employees' (Classification, Control and Appeal) Rules; and the Export Inspection Council Employees' (Classification, Control and Appeal) Rules and the Export Inspection Agency Employees' (Classification, Control and Appeal) Rules respectively on the lines of instructions issued by the Ministry of Home Affairs on the 18th March, 1978. They further desire the Ministry of Home Affairs (Department of Personnel and Administrative

- (i) The Export Inspection Council Employees (Classification, Control and Appeal) Rules, 1978 have since been amended as recommended by the Committee *vide*, S.O. No. 556 of 1982.
- (ii) The Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978 have since been amended as recommended by the Committee *vide* S.O. No. 557 of 1982.
- (iii) The Central Civil Services (Classification, Control and Appeal) Rules, 1955 have since been amended as recommended by the Committee *vide* SO. 2512 of 1981.
- (iv) The Department of Space Employees (Classification, Control and Appeal) Rules, 1976 have since been amended as recommended by the Committee *vide* S.O. 2592 of 1981.



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Reforms) to amend Rule 10 (4) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 so as to place the instructions on a statutory footing.

23 Fourth Report (Seventh Lok Sabha) 30

The Committee note with satisfaction that on being pointed out, the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) in consultation with the Department of Personnel and Administrative Reforms and the Department of Legal Affairs have agreed to amend sub-rule (5) of Rule 12 of the Central Company Law Service Rules to do away with the effect of its nullifying the principles of fixation of seniority laid down in sub-rules (1) to (4) of Rule 12 *ibid*. The Committee approve the following amendment, as proposed and desire the Ministry to issue it at an early date.

"Rule 12(5) : In cases not covered by sub-rules (1) to (4) above seniority of officers appointed to the service shall be governed by such principles as may be decided upon by the Government in consultation with the Commission."

The Central Company Law Service Rules, 1965 have since been amended on the lines approved by the Committee *vide* G.S.R. 907 of 1981.

24 Eighth Report (Seventh Lok Sabha) 9

While noting that the Ministries concerned, viz., Defence, Rural Development, Finance and Home Affairs, are taking necessary steps for incorporation of the requisite provisions in the enabling enactments for laying of the Statutory Orders framed thereunder before Parliament, the Committee are constrained to observe that the Ministries concerned have not shown the due urgency and earnestness in implementing the recommendation of the Committee and infirmities have been allowed to prolong for years. The Committee, therefore, once again impress upon the Ministries concerned to bring forth the necessary amending legislation before Parliament to incorporate in the Acts the requisite provisions for laying of the Statutory Orders framed thereunder as recommended by the Committee in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) presented to the House on 20th December, 1974. In cases where finalisation of other amendments is likely to take some more time, the Ministries should bring forward the amending legislation exclusively for this purpose immediately.

25 Eighth Report (Seventh Lok Sabha) 23

The Committee note that on being pointed out, the Ministry of Defence have amend-

The observations of the Committee have since been circulated to all Ministries/Departments of the Government of India for their information and guidance *vide* Department of Parliamentary Affairs Office Memorandum No. F. 32(12)/81-R & G dated 6 February, 1982.

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

26 Eighth Report (Seventh Lok Sabha) 50

The Committee observe that in paragraph 103 of their Seventh Report (Sixth Lok Sabha), the Committee had conveyed their acceptance to certain amendments, proposed by the Ministry of Tourism and Civil Aviation themselves, to Rule 78-C of the Aircraft Rules. However, the Ministry have now on reconsideration pleaded retaining the original provisions in sub-rule (2) of Rule 78-C *ibid*. Obviously, the Ministry had not considered the matter, when it was referred to them

The observations of the Committee have since been circulated to all Ministries Depts. of the Govt. of India for their information and guidance *vide* Dept. of Parliamentary Affairs O.M. No. F. 32 (12)/81—R & C dated 6th Feb. 1982.

by the Committee, with the seriousness it deserved. Had the Ministry examined the various aspects of the matter initially with due care, there could not probably have arisen an opportunity of altering what they had stated earlier.

The Committee need hardly emphasize that the matters referred to by a Parliamentary Committee should be scrutinised thoroughly at the highest level in the Ministry in consultation with any other agency, if so necessary, before submitting the same to the Committee. Hurriedly disposed of matters like the one, not only deprive the Committee of examining the matter in proper perspective but also result in prolonging infirmities in the rules.

27 Eighth Report  
(Seventh Lok Sabha)

52

The Committee further observe that their recommendations were forwarded to the Ministry for purposes of implementing them, immediately on presentation of their Report in this regard to the House in April, 1978. However, it was only in December, 1979 that the Ministry came out with a reply in respect of amendments sub-rule (2) whereas nothing has been stated about the action taken by them in respect of The amendment stipulated in sub-rule (1) and (3) of Rule 78-G of the Aircraft Rules. The Committee have time and again emphasized that their recommendations

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should be implemented as early as possible and in any case within a period of six months failing which the Ministry should seek specific extension of time from the Committee stating the reasons therefor. The Committee desire the Department of Parliamentary Affairs to issue instructions to all Ministries to follow this procedure scrupulously to avoid inordinate delays in implementing their recommendations in future. The Committee trust that the Ministry of Tourism and Civil Aviation will take immediate steps to amend the Aircraft Rules to the necessary effect.

The Committee note that on 5 July, 1978, the Ministry of Law, Justice and Company Affairs (Department of Company Affairs) forwarded two notifications to the Government of India Press for publication in the Official Gazette. However, only one notification was published in the Gazette. The Committee observe that this is illustrative of the mismanagement in the Government of India Press. The Committee cannot but emphasize that the Press

(i) The Ministry of Law, Justice and Company Affairs (Department of Company Affairs) have since issued detailed instructions to regulate the procedure for publication of notifications in the Gazette of India *vide* their Circular No. A. 45011/42/81-Admn. I dated 30 April, 1981.

(ii) The Department of Parliamentary Affairs have circulated the Observations

of the Committee to all Ministries/ Departments of the Government of India for future guidance. *vide* their Office Memorandum No. P. 32(1)/82-R & C dated 11 February, 1982.

should take due care in handling the statutory notifications which have direct bearing on the public at large.

29 Tenth Report  
(Seventh Lok Sabha)

13

However, the fact remains that the Department of Company Affairs also did not pursue the matter in right earnestness after they had written to the Press on 13 December, 1978 to enquire the fate of their second notification pertaining to the Monopolies and Restrictive Trade Practices Commission, Office of the Registrar of Restrictive Trade Agreements (Officers and Staff) Recruitment Amendment Rules. It took the Department nearly two years to get the rules published in the Gazette. Had the Department exercised due vigilance and care, the error could have been detected and rectified much earlier and the period of retrospective effect could have been curtailed. The Committee expect the Ministries/ Departments to take due care of important legislative matters at stages.

30 Tenth Report  
(Seventh Lok Sabha)

14

The Committee cannot help reiterating their oft-repeated recommendation that the Ministries/Departments should not rest content with merely sending the notifications to the Press. Instead they should ensure that the notifications are duly published in the Gazette. The Committee desire the Department of

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Company Affairs to streamline their procedure in order that such a lapse does not recur in future.

31 Tenth Report (Seventh Lok Sabha) 18

The Committee find that the process of finalisation of the amendment to the Drugs and Cosmetics Rules took over 15 months after the receipt of the public comments in the Ministry of Health and Family Welfare (Department of Health) despite their earlier assurance to the Committee to streamline the procedure so as to reduce this period to one year. The Ministry have, however, reassured the Committee to finalise the amendments with in the stipulated period of one year in future. The Committee trust the Ministry will keep their assurance in future and reduce the time-lag between the publication of draft rules and final rules to the minimum.

The Ministry of Health and Family Welfare have noted the observations for compliance *vide* their Office Memorandum No. X. 11014/82-DMS&PFA dated 1st February, 1982.

32 Tenth Report (Seventh Lok Sabha) 21

The Committee note that the Ministry of Health and Family Welfare (Department of Health) have regretted the delay of nearly two years in finalisation of the amendment to the Prevention of Food

The Ministry of Health and Family Welfare have noted the observations for compliance *vide* their Office Memorandum No. X. 11014/182-DMS&PFA dated 1 February, 1982.

Adulteration Rules after receipt of the comments from the public and have taken the following further remedial steps to keep such a gap to the minimum in future and in no case to allow it to extend beyond a period of one year as recommended by the Committee in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha) :—

- (i) All finalised amendments are now being issued in the Gazette of India, Extraordinary under the name of Joint Secretary which ensures its publication immediately ;
- (ii) Files relating to amendment of Rules will be put up and with a tag indicating that the contents are time-bound in nature; and
- (iii) Closer liaison will be maintained with DGHS and with Official Language Commission to avoid delay.

The Committee will like to watch the effectiveness of the new measures for some time. The Committee hope the Ministry will make earnest efforts to reduce the time-lag between publication of the draft rules and the final rules to the minimum.



velopment have expressed their regrets for the inordinate delay in finalisation of the Petroleum (Amendment) Rules, 1980. In this connection, the Committee reiterate their earlier recommendation made in paragraph 14 of their Fifteenth Report (Fifth Lok Sabha) that efforts should be made to finalise an amendment within, at the most, a period of one year from the date of its publication for comments in the Gazette and the Ministry should consider whether the time-lag between the publication of draft rules and final rules can be further reduced. The Committee desire the Ministry of streamline the procedure and issue necessary instructions to all concerned stressing the need for avoiding delay in final issuance of statutory rules after their publication in draft form and expiry of the time limit for receipt of comments thereon.

observations of the Committee and brought them to the notice of all concerned for compliance *vide* their Office Memorandum No.3(8)/77-DPR/EGG dated 30 March 1982.

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# MINUTES

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## APPENDIX VIII

(Vide Paragraph 5 of the Report)

### XXXVIII

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

The Committee met on Monday, 20 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 K. Lakkappa
5. Shri Balasaheb Vikhe Patil
6. Shri M. Ramanna Rai
7. Shri Ratansinh Rajda
8. Shri Chandra Shekhar Singh

#### SECRETARIAT

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

2. The Committee considered the following six memoranda (Nos. 100 to 105):—

- \*                      \*                      \*
- (ii) The Ministry of Defence, Department of Defence Production (Directorate General of Inspection) (Naval Wing) Class III (Non-Technical) Posts Recruitment (Amendment) Rules, 1978 (S.R.O. 63 of 1978)—(Memorandum No. 101).

4. The Committee considered the above Memorandum and noted that on being so pointed out by them, the Ministry of Defence had

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

amended Column 7 of the Schedule appended to the Ministry of Defence, Department of Defence. Production (Directorate General of Inspection) (Naval Wing) Class III (Non-Technical) Posts Recruitment (Amendment) Rules, 1978 so as to provide crucial date for determining the age limit for recruitment to the post of Stenographer.

**(iii) The Central Government Health Scheme (Ahmedabad) Rules, 1979 (G.S.R. 537 of 1979) (Memorandum No. 102).**

5. The Committee considered the above Memorandum and noted that on being so pointed out by them the Ministry of Health and Family Welfare (Department of Health) had amended the Central Government Health Scheme Ahmedabad Rules, 1979 by adding a foot-note to the effect that no one would be adversely affected as a result of retrospective effect given to the Rules.

**(iv) The Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 (G.S.R. 1530 of 1979)—(Memorandum No. 103).**

6. The Committee considered the above Memorandum but did not agree with the contention of the Department of Personnel and Administrative Reforms that Government had a right to interpret its own formulations and that such interpretation would have precedence over any individuals interpretation of those Rules unless a point of law or legal interpretation was involved therein and on which a representation made to the Court to make a pronouncement thereon. The Committee were of the view that the Rules should be worded in such a manner that the same might not give an impression to the persons concerned that the jurisdiction of Courts was being ousted.

The Committee, therefore, desired the Department of Personnel and Administrative Reforms to amend the Rules accordingly on the lines of the Kandla Port Employees (Allotment of Residence) Regulations, 1964.

**(v) The Defence Research and Development Service Rules, 1978 (S.R.O. 8 of 1979)—(Memorandum No. 104).**

**(A)**

7. The Committee considered the above Memorandum and noted that on being so pointed out by them, the Ministry of Defence had agreed that inclusion and exclusion of any post mentioned in Schedule II to the above Rules should be done by way of amendment to the Rules and not through executive Orders.

(B)

8. The Committee was not convinced with the reply of the Ministry of Defence for not indicating maximum limit upto which age could be relaxed for the departmental employees in connection with recruitment to the posts of Scientist 'B' and accordingly desired that Ministry to amend the Rules so as to provide maximum limit of age relaxation.

(C)

9. The Committee considered the reply of the Ministry of Defence and desired that Ministry to lay down certain minimum qualification requirements in the Rules for promotion to the posts of Scientists 'F'.

(D)

10. The Committee noted that on being so pointed out by them, the Ministry of Defence had agreed to amend the Rules so as to provide for recording of reasons in writing before extending or curtailing the period of deputation/contract. The Committee desired that Ministry to amend the Rules accordingly.

(E)

11. The Committee noted that on being so pointed out by them, the Ministry of Defence had agreed to amend the above Rules so as to provide therein the requirements of engineering or medical qualifications on the lines of those laid down in the Army Instructions and desired that Ministry to notify the amendment at an early date.

(F)

12. The Committee noted that on being so pointed out by them, the Ministry of Defence had agreed to amend the Rules so as to clarify the position regarding training or courses which the officers had to undergo. The Committee desired that Ministry to amend the Rules accordingly and notify the amendment at an early date.

(G)

13. The Committee noted that on being so pointed out by them, the Ministry of Defence had agreed to amend the entry in Column 3 of Schedule III to the Defence Research and Development Service Rules, 1978 so as to provide that qualification and experience for recruitment of Scientific Adviser would not be less than those prescribed for the post of Scientist 'G'. The Committee desired that Ministry to amend the Rules accordingly and notify the amendment at an early date.

(vi) **The Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973 (G.S.R. 54-E of 1973)[Implementation of Recommendation of the Committee on Subordinate Legislation contained in paragraphs 116, 120, 125, 127 and 128 of the 16th Report (Fifth Lok Sabha)]—(Memorandum No. 105).**

14. The Committee considered the above Memorandum and decided to hear oral evidence of the representatives of the Ministry of Finance (Department of Revenue) in the matter.

*The Committee then adjourned.*

## XXXIX

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

The Committee met on Wednesday, 10 February, 1982 from 11.00 to 12.45 hours.

#### PRESENT

Shri Mool Chand Daga—*Chairman*.

#### MEMBERS

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

#### REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

1. Shri V. B. Eswaran—*Secretary (Revenue)*.
2. Shri Jagdish Chand—*Chairman, Central Board of Direct Taxes*.

#### SECRETARIAT

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

2. The Committee heard the views of the representatives of the Ministry of Finance (Department of Revenue) regarding the Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973 (G.S.R. 54-E of 1973)— [Implementation of recommendations contained in paragraphs 116, 120, 125, 127 and 128 of the Sixteenth Report (Fifth Lok Sabha)].

3. When asked as to why an Explanatory Memorandum, stating that nobody would be adversely affected as a result of the retrospective effect given to the 1973 Seniority Rules, was not published in the official Gazette, the representative stated that although no explanatory memorandum was appended to the Gazette notification yet a memorandum was added to the copy of the notification laid on the Table of the House. He further clarified that the rules of seniority were framed as a sequel to the Supreme Court judgement dated 16 August, 1972. The Ministry were in a dilemma on this point. It was never the intention to violate the normal rule laid down by the Committee in that regard. He further explained that there were at least two categories of people—the affected and those not affected. They were affected in different ways by the operation of the Rules. Government were to devise just and fair seniority rules as between the direct recruits and the promotees and these rules had to be given effect from 16 January, 1959 as directed by Supreme Court. These rules were thereafter submitted to the Supreme Court who found them to be just and fair.

4. When pointed out that the degree of hardship had not been equal to both sides which was not fair and just, the representative stated that though the promotees had indicated that the rules were not fair to them, they themselves could not put forward any rational alternative. They were indeed pleased with the increase in the promotional chances but they were sorry that the artificial seniority which gave them weightage in the past, had been removed. The chances of promotion to the posts of Assistant Commissioners were somewhat retarded by the removal of weightage hitherto given to their service as Income-tax Officers Group B. However, on an analysis of vacancies in the higher echelons of the Services and the future and present ages of the promotees, there was really no ground for the ascendancy.

5. When enquired whether the 1973 Rules were challenged before the Supreme Court, the representative stated that in 1972 the Supreme Court had directed that fresh rules might be framed and the seniority lists drawn up. After the rules had been framed and lists were drawn, the matter again went to the Supreme Court and thus it considered the rules as well as the seniority list. The Supreme Court in its judgement of April, 1974, had held two things, namely, (i) the Seniority List was just and fair, and (ii) the seniority list was in accordance with the rules framed. The representative also stated that after April, 1974 judgement, nobody had gone to the Supreme Court on that point.



6. When asked if there was any distinction in the nature of duties assigned to the Income-Tax Officers of Group 'A' and Group 'B' the representative replied that legally there was no such distinction. To a question whether the Income-tax Officers Groups 'A' and 'B' could work on identical posts and perform identical functions under the taxation law, the representative stated that under the Act any Income-Tax Officer belonging to Group 'A' or Group 'B' might hold any post, but under administrative instructions, Group 'B' Officers were not put on senior posts. However, to meet some exigencies, when Group 'A' Officers were not available, then Group 'B' Officers could man the senior posts also. The representative agreed that, technically speaking, I.T.Os Group 'A' and Group 'B' could work on inter-changeable posts. When further questioned as to what was meant by the word 'technically', the representative stated that there was no bar about the interchangeability. However, in actual practice, certain posts were earmarked for Group 'A' Officers and certain other posts for Group 'B' Officers.

7. When asked as to why equal status and pay was not given to Group 'A' and Group 'B' Officers when they were doing the same type of work, the representative stated that the two services carried different scales of pay and their method of recruitment was also different. This was not peculiar to this service. It existed throughout the Government of India and it had been there for decades. Even their prospects were different. The representative also admitted that there were unequal opportunities for advancement to officers working in these two categories. The representative further elaborated that statutory rules prescribed the conditions of service and the Department laid down their duties.

8. With regard to mitigating the sufferings of the Income-tax Officers Group 'B', the representative stated that equating of both the categories completely was not possible. They were considering the conversion of a large number of Group 'B' posts into Group 'A' posts. About 400 posts were proposed to be converted into Group 'A' posts in consultation with the Department of Personnel who had advised that the number should be smaller. The last review of cadre strength was done in 1981.

9. The representatives of the Ministry stated that there were 2042 Group 'B' officers as under:—

With less than five years of service—910

With more than five years but less than 10 years of service—  
705.

With more than ten years but less than 12 years of service—  
305

With more than 12 years but less than 13 years of service—  
122.

10. When asked as to how many years, they would take to become Assistant Commissioners, the representative stated that first they had to go to Group 'A', take their seniority with the direct recruits and then become Assistant Commissioners. The senior most people had put in 12 years in Group 'B' cadre and they had to wait for another 10 years after their promotion to Group 'A' cadre before they become Assistant Commissioners. No weightage was being granted now to Group B service. The Central Pay Commission had advised in 1973 to give some weightage and the question was under consideration with the Department of Personnel but no decision had so far been taken in that regard.

11. On being questioned as to whether the rules served the desired purpose of bringing about efficiency in the service and avoiding frustration amongst the Group 'B' officers, the representative stated that that would be an ideal situation. They had been working in an environment of service structures where people came from different sources. One major point was that one group or the other group should not be set against each other. The question was one of balancing the hopes and aspirations of one group vis-a-vis the other group.

12. When asked to state the steps taken to create a promotional parity between the direct recruits and the promoted officers, the representative stated that those who were in the eligible zone would be considered for vacancies that had fallen vacant. The representative further stated that parity depended partly on rules and partly on the numbers of vacancies. At the I.T.Os' level, a proposal to convert a large number of Group B posts into Group A posts was under consideration. Additional posts had been created in September, 1981 in the context of requirements for supervision and for dealing with the existing workload. Thus, there was already a built-in scope for promotion.

13. The representative of the Ministry promised to furnish detailed information on certain points raised during the evidence in

about three week's time to improve the promotion avenues of Group 'B' Income-tax Officers.

*(The witnesses then withdrew)*

Implementation of recommendation contained in paragraph 55 of the Twelfth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding the Air Headquarters (Senior Design Engineer) Recruitment Rules, 1972 (S.R.C. 229 of 1972)—(Memorandum No. 106).

14. The Committee then considered Memorandum No. 106 on the above subject and noted that the Department of Personnel and Administrative Reforms had since issued necessary instructions in regard to the extent of relaxation of upper age limit for Government servants for appointment to Group 'A' and Group 'B' posts in various Ministries/Departments *vide* their Office Memorandum No. 4/4/74-Estt.(D) dated 9 April, 1981.

15. The Committee desired the concerned Ministries/Departments to amend the various Recruitment Rules with which they were administratively concerned so as to indicate therein the extent of exact relaxation of upper age limit for Government servants for appointment to Group 'A' and Group 'B' posts in the light of the instructions issued by the Department of Personnel and Administrative Reforms in that behalf.

16. The Committee further emphasized that the instructions should be followed in letter and spirit by all Ministries/Departments while making appointment to those posts with a view to maintaining uniformity of procedure till such time the Recruitment Rules were amended in that regard.

17. The Committee observed that the recommendation made in paragraph 55 of their Twelfth Report (Fifth Lok Sabha) was made available to the Department of Personnel and Administrative Reforms soon after the presentation of the Report to the House in May, 1974. However, the Department had taken a period of seven years in coming to a decision in that regard, with the result, hundreds of Recruitment Rules issued during that period had not contained the requisite provisions. An equally good number of references on the issue made by the Committee during the period were also not disposed of by various Ministries/Departments which resulted in holding up the schedule of work of the Committee. It also resulted in infructuous and prolonged correspondence between the Committee and the Ministries on the one hand and between the

Department of Personnel and Administrative Reforms and the rest of the Ministries on the other. The Committee deprecated this inordinate delay on the part of the Government in implementing the recommendation of the Committee. The Committee expected the Ministries/Departments to be more prompt in such matters in future.

*The Committee then adjourned.*

## XLI

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

The Committee met on Monday, 10 May, 1982 from 11.00 to 12.00 hours.

#### PRESENT

Shri Mool Chand Daga—*Chairman*

#### MEMBERS

2. Shri M. Ankineedu
3. Shri Ashfaq Husain
4. Shri Eduardo Faleiro
5. Shri K. Lakkappa
6. Shri M. Ramanna Rai
7. Shri Chandra Shekhar Singh

#### SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
2. Shri N. G. Agarwal—*Senior Legislative Committee Officer.*
3. Shri D. M. Chanan—*Senior Legislative Committee Officer.*

2. At the outset, at the suggestion of the Chairman, the Committee decided to hold their next sittings on 25th and 26 May, 1982 before their term came to an end. It was also decided that there should be a photograph of the Committee on either of these two days, i.e., on 25 or 26 May, 1982.

3. The Committee then took up consideration of their draft Twelfth Report. Shri Chandra Shekhar Singh pointed out that some of the recommendations relating to the Income-tax (Class I) Service (Regulation of Seniority) Rules, 1973, contained in Chapter VII of the Report, were too positive, categorical and related to matters which should more appropriately be dealt with by the Government and not by the Committee. In that connection, paragraph 103 of the Report was particularly referred to wherein it had been recommended that pending abolition of Group 'B' cadre of Income-tax Officers, new rules should be framed to provide for time-bound

promotions, etc. Shri Eduardo Faleiro suggested that suitable modifications be made in the recommendations contained in Chapter VII of the draft Report so as to do away with the rigidity of the recommendations and afford a flexible approach to Government.

4. The Chairman then observed that he did not agree with these views because the Committee could give its concrete and positive recommendations and would ask the Government to amend Rules as the Committee thought fit. It was for the Government to accept or not to accept the positive recommendations made by the Committee and, therefore, the draft Report be adopted. If certain changes were required to be made in the language it might be left to the Chairman. The Members agreed and the draft Report was adopted.

*The Committee then adjourned.*

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

The Committee met on Tuesday, 29 June, 1982 from 15.00 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri Mohd. Asrar Ahmad
3. Shri Xavier Arakal
4. Shri Ashfaq Husain
5. Shri B. Devarajan
6. Shri Chandrabhan Athare Patil
7. Shri T. Damodar Reddy
8. Shri M. S. K. Sathiyendran
9. Shri R. S. Sparrow

SECRETARIAT

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

2. The Chairman welcomed the members of the Committee on Subordinate Legislation and explained to them broadly the scope, functions and working of the Committee (Annexure).

3. The Chairman informed the members that the draft Twelfth Report was adopted by the Committee on Subordinate Legislation (1981-82) at their sitting held on 10 May, 1982. The report, however, could not be presented as the Lok Sabha was not in session at that time and subsequently the term of the Committee expired on 14 June, 1982.

4. The Committee re-adopted the said Report and authorised the Chairman and, in his absence, Shri Xavier Arakal to present the Twelfth Report to the House on their behalf on 26 July, 1982.

5. Shri Xavier Arakal then submitted that in view of the large volume of regulations, rules, bye-laws etc. which the Committee were required to examine, it would be better if the Committee divided themselves into two Groups for effective scrutiny in the matter of delegated legislation. After some discussion, the Committee postponed further consideration of the suggestion to their next sitting.

6. The Committee decided to hold their next sitting on 20 July, 1982.

*The Committee then adjourned.*



## ANNEXURE

(Vide Paragraph 2 of the minutes)

### ADDRESS BY THE CHAIRMAN TO THE MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1982-83) (June 29, 1982)

Friends,

It gives me great pleasure to welcome you to this first sitting of the newly-constituted Committee on Subordinate Legislation.

2. These days when in the context of the Welfare State, the nature and range of functions of Government are fast changing, the responsibilities of Parliament are also getting increasingly onerous. There is hardly any walk of citizen's life which is not regulated by the State in one way or the other. Over the years, Parliament has passed an increasingly larger volume of legislation, extending the activities of Government into a number of fields and often involving provisions of considerable complexity. It is impossible for any body of legislators to deliberate upon, discuss and approve every rule or regulation which may be essential for the purpose of administering various laws. The extension of Government activity into economic and social life of the country has created problems for Parliament in the matter of enactment of laws. It has, therefore, become important to lighten the load borne by the legislative machine. Apart from the pressure on Parliamentary time, the technicality of the subject matter, the need to meet unforeseen contingencies, the requirement of flexibility etc. make delegated legislation a necessity. Parliament by statute lays down the broad policy and principles of new law and the executive may by means of delegated legislation work out the details as to its applicability within those principles.

3 Delegation of legislative power, 'inevitable and indispensable' as it is, has certain risks inherent in it. One of the risks pointed out is that the Parliamentary statute may tend to be skeletal, containing only the barest general principles omitting matters of substance which may have a vital bearing on the life of the citizen. Another risk pointed out is that the powers delegated might be so wide as to subject the citizen to a harsh or unreasonable action by the administration. The third risk is that some powers may be

loosely defined that the areas they are intended to cover may not be clearly known. All these risks are there. Our job is to evolve safeguards against these risks.

4. With a view to check the assumption of arbitrary powers by the Executive through the rules, the Committee have always insisted that all rules/regulations framed by the delegated authority should not only be laid before the two Houses of Parliament but that the Parliament should also have statutory right of annulling or modifying them. With that end in view, the Committee have evolved the following standard formula for inclusion in all Acts/Bills providing for delegated legislation (*vide* paragraph 33-34 of Second Report—Fifth Lok Sabha);—

“Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions; and if, before the expiry of the session immediately following the session of the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

The Committee scrutinise all Bills which are introduced in Lok Sabha or transmitted by Rajya Sabha to see that they incorporate the requisite provisions for laying and modification of the rules, regulations sub-rules, bye-laws etc. to be framed thereunder. In their Fourteenth Report (Fifth Lok Sabha), the Committee have recommended for incorporation of similar provisions even in earlier Acts providing for rule-making power which do not contain the standard provision. I may mention that the Ministry of Law, Justice and Company Affairs (Legislative Department) have already moved a proposal for bringing before Parliament during the ensuing session a comprehensive legislation to implement the recommendation of the Committee on Subordinate Legislation *vide* their Circular Office Memorandum (No. 1(39)/82-LI dated 17 May, 1982 to all Ministries/Departments of the Government of India.

5. Under Direction 103A of the Directions by the Speaker, the Speaker may refer a Bill containing provisions for delegation of legislative powers, to the Committee. When a Bill is so referred, the Committee is required to examine the extent of the powers sought to be delegated; and if they are of the opinion that the provisions contained in the Bill delegating legislative powers should be annulled in whole or in part, or should be amended in any respect, they may report that opinion and the grounds therefor to the House before the Bill is taken up for consideration in the House. A special responsibility is, therefore, cast upon the members of this Committee to see that full use is made of this direction. Whenever they find that any Bill introduced in the House seeks to make excessive or abnormal delegation of legislative powers, they may raise the matter in the House or approach the Hon'ble Speaker for referring it to our Committee.

6. The broad principles governing the work of the Committee in regard to examination of 'Orders' are contained in Rule 320 of the Rules of Procedure and Conduct of Business in Lok Sabha. In addition, the Committee have over the years evolved some further guiding principles to help their deliberations. To mention some of them:—

- (i) It is a well-known maxim that no fee can be levied under a rule unless the parent act expressly empowers to do so. In such cases, the Committee have always insisted that Government should bring the requisite amending legislation before Parliament for obtaining an express power for the levy of fee.
- (ii) To check the abuse of power of search and seizure, the the Committee have always insisted upon specifying the minimum rank of the Government officer, presence of witness, preparation of inventories and handing over a copy thereof to the persons concerned should be provided for in the rules.
- (iii) The Committee have always upheld that a delegate cannot sub-delegate his legislative power without express authorisation to that effect in the parent law.

As we come across new problems, new solutions are to be found and new guidelines evolved; and this is a continuous process.

7. Over the past thirty years, the Committee have made a number of recommendations which constitute a valuable treasure-house for guidance. Some of the broad principles underlying those recommendations can be summed up as follows:—

- (i) As far as possible guidelines/criteria to be followed by the authority vested with the discretionary powers should be laid down in the rules.
- (ii) In cases where the authority concerned deviates from a norm, the reasons for such deviation must be recorded in writing.
- (iii) The powers of exemption/relaxation should be exercisable in respect of 'categories or class of persons' as contradistinguished from individuals.
- (iv) Before taking any adverse action, the party concerned should be given a reasonable opportunity of being heard, and after a decision adversely affecting a party has been taken, that party should have the right of appeal or representation, as the case may be.
- (v) In case where an authority is vested with the power to suspend a licence or supplies pending institution of regular proceedings, a maximum time-limit for suspension should be laid down in the rules.
- (vi) In case of rules relating to disciplinary proceedings, not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority should also be laid down in the rules.
- (vii) The conditions of service should be determined only through statutory rules and not through executive Orders. The executive Orders are not notified in the official Gazette and therefore, escape scrutiny by the Committee.

8. In their approach, the Committee do not confine themselves within the frame work of legality, but they aim still higher and ensure that all subordinate legislation is directed towards maximum public good. Besides ensuring that the rules, regulations, etc. do not transgress the limits prescribed in the parent Acts, the Committee strive to see that they do not violate the canons of enquiry and natural justice or result in unnecessary harassment or inconvenience to the common man.

9. I shall also like to refer to certain matters on which the Committee commented rather strongly during the preceding few years:—

- (1) Where a statute confers a right on the public to make suggestions on the draft rules, is it but reasonable that sufficient time should be given to the people to submit their objections/suggestions. For this purpose the Committee have laid down that a period of not less than 30 days, exclusive of time taken in publishing the draft rules in the official Gazette and despatching the Gazette copies to various parts of the country, should be given to the public to offer their comments on such draft rules.
- (2) In cases where statutes confer a right of appeal to an aggrieved party, it is very necessary that such a right is not rendered just illusory in actual practice. In their second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, the Committee have recommended for prescribing a reasonable time-limit in the rules for purposes of filing an appeal.
- (3) One disquieting feature with regard to laying of rules, regulations etc. on the Table of the House is enormous delay. The Committee have always viewed such cases with concern. To ensure still better compliance of the Committee's recommendations, the Committee have summoned the Heads of the Departments/Ministries for tendering evidence to explain the reasons for delay exceeding six months. This had a salutary effect in reducing delays on this score.
- (4) An appreciable number of statutes provide for laying of rules before Parliament framed thereunder. However, such statutes did not contain provisions for laying of regulations framed thereunder. In their Seventh Report (Sixth Lok Sabha), presented to the House on 4 April, 1978 the Committee called upon all Ministries to review all such Acts and to incorporate suitable provisions for laying the regulations before Parliament in those Acts which did not contain such provisions.
- (5) The Committee have invariably viewed with concern whenever the rules are given retrospective effect. Even in cases where statutes confer such a power on the executive, the Committee have been insisting that such power should be exercised only in unavoidable circumstances and in each case the rules, etc. should be accompanied by

an explanatory note or memorandum affirming that no one would be adversely affected as a result of retrospective effect.

- (6) Often statutes delegate rule-making power to State Governments. However, barring a few, there is no provision for laying of the rules framed thereunder by State Governments either before State Legislatures or Parliament. Consequently, such rules completely escape legislative scrutiny. In their Twentieth Report (Sixth Lok Sabha), presented to the House on 27 April, 1979 the Committee dealt with the matter in *extenso* and concluded that such rules should better be examined by the State Committees on Subordinate Legislation.

10. During the last year, the Committee on Subordinate Legislation held 25 sittings, considered 48 Memoranda and heard oral evidence of Heads of Ministries/Departments in 15 cases. They presented five Reports to the House. Besides, the Committee considered and approved one more Report but it could not be presented to the House as their term was over. The Committee also undertook on-the-spot study visits to Simla and Chandigarh, for informal discussions with the authorities of certain statutory bodies on the rules concerning them. The visits were also utilised for exchange of views with the Committees on Subordinate Legislation of Punjab, Haryana and Himachal Pradesh Legislative Assemblies.

11. A special feature of the work done by the Committee last year was holding of a Conference of the Committees on Subordinate Legislation of Parliament and State Legislatures at New Delhi on 25 and 26 July, 1981. The Conference was a great success inasmuch as it afforded a unique opportunity of discussing various common problems across the table and creating an awareness of the useful role that such Committees could play in exercising control on subordinate legislation in the country.

12. Some of the important matters discussed at the Conference were as follows:—

- (i) Delay in framing of rules.
- (ii) Delay in laying of rules before Legislature.
- (iii) Need for uniformity in the Rules of Procedure of State Legislatures with reference to the constitution, scope and functions of the Committees on Subordinate Legislation.

- (iv) Need to empower Committee on Subordinate Legislation to examine Service Rules made by Companies incorporated under the Companies Act and organisations registered under the Registration of Societies Act.
- (v) Preventing of sub-delegation of delegated powers.
- (vi) Examination of rules framed by State Governments under Central Acts.
- (vii) Framing of rules under an Ordinance promulgated by the President.
- (viii) Desirability of examining the rules/regulations by the Committee on Subordinate Legislation at draft stage.
- (ix) Safeguards against administrative arbitrariness in the rules.
- (x) Implementation of recommendations of the Committee on Subordinate Legislation.

13. The Lok Sabha Secretariat, which renders all Secretarial assistance to the Committee, undertakes the scrutiny of various 'Orders', whether laid on the Table of House or not, framed in pursuance of the provisions of the Constitution or any statute delegating power to any subordinate authority to make such 'Orders', culls out important points; obtains comments of concerned administrative Ministries on those points; and then prepares self-contained Memoranda for consideration of the Committee. This does not, however, preclude the Members from examining the 'Orders' and giving suggestions on their own. For this purpose, copies of all 'Orders' which are laid on the Table of the House, are circulated to the members of the Committee in convenient batches from time to time.

14. It has been the tradition of the Committee that all their decisions are arrived at unanimously and party considerations are not allowed to affect their deliberations. This has been developed as a very healthy convention and I hope and trust that it will be kept up by the members of this Committee too.

15. Before I conclude, I would like to emphasize that in the discharge of our duties, we shall not be acting in hostility to the executive. Our job is to ensure the implementation of the will of the Parliament as expressed through its statutes and our efforts in this direction should be complementary to that of the executive. In this

connection, I would like to quote what Mr. Speaker Mavalankar, in his address to the Lok Sabha Committee on Subordinate Legislation, had stated:—

“The Committee is not conceived in any sense as opposition to the Executive Government or Administration. It is conceived as a body of persons who are in touch with the people and, not being concerned with the actual administration, are capable of taking independent and detached views. They are the collaborators, the cooperators and friends of the Administration and they approach the examination of the rules and regulations in that spirit.”

Thank you.