

COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

THIRTEENTH REPORT

(Presented on 22 October, 1982)



LOK SABHA SECRETARIAT
NEW DELHI

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Corrigenda to the Thirteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) presented to the House on 22 October, 1982.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>read</u>
(i)	...	36	(No. Q 1)	(No. 1)
(ii)	...	5	-DGCD(HGI)	-DGCD(HG)
9	26	15	appointed"	appointed' "
23	Against S.No. 3 of Appendix-I in Column (3)	5	1988	1908
25	Against S.No. 6(iii) of Appendix I in Column(3)	3	have	have agreed to amend Regulation 30(1) of the Tuticorin
29	4	1	prson	person
34	S.No.23	3-4	and Advanced Training Institute for Electro-nics and Process Instrumentation at Hyderabad	and Process Instrumentation at Hyderabad
34	S.No.23	5	Rules, 1975 (Amendment)	(Amendment)
34	S.No. 24	3	Rules, 1975	(II Amendment) Rules, 1979.
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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1982-83)

1. Shri Mool Chand Daga—*Chairman*
2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
- *4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri Dalbir Singh (Madhya Pradesh)
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13. Shri M. S. K. Sathiyendran
14. Shri Satish Prasad Singh
15. Shri R. S. Sparrow

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

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

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

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 Thirteenth Report.

2. The matter covered by this Report were considered by the Committee at their sittings held on 25 and 26 May, 29 July and 30 August, 1982.

3. The Committee considered and adopted this Report at their sitting held on 19 October, 1982.

4. The Minutes of the sittings, which form part of the Report, are appended to it.

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

II

THE PORT OF NEW MANGALORE (REGULATION OF THE USE OF LANDING PLACES) AMENDMENT RULES, 1980 (G.S.R. 243-E OF 1980)

6. Rule 2(4) (c) of the Port of New Mangalore (Regulation of the use of Landing Places Rules, 1977, as substituted by G.S.R. 283-E of 1980, reads as follows:—

“(c) In case the default exceeds seven days, in respect of permit card and thirty days in respect of lease deed, the lessor may, after giving a notice in writing of not less than 7 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 or the lease deed.”

7. The Ministry of Shipping and Transport were asked to state if they had any objection to make a provision in the aforesaid rule to the effect that the permit card holder or the lessee, as the case may be, should have a right to appeal against resumption of possession of land by the lessor. In their reply dated 27 February, 1981, the Ministry stated as under:—

“.....this Ministry agrees to amend the rule 2(4) (c) to provide that the permit card holder or lessee shall have a right to appeal against resumption of possession of land by the Port Trust within 7 days of the resumption of land to the Board of Trustees or such other authority not below the authority competent to pass order of resumption as the Board may by general or special order specify.”

8. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to amend rule 2(4) (c) of the Port of New Mangalore (Regulation of the use of Landing Places) Rules, 1977 to provide for a right to appeal against resumption of possession of land by the lessor. The Committee desire the Ministry to notify the amendment in the official Gazette at an early date.

III

THE AIRCRAFT (THIRD AMENDMENT) RULES, 1980 (G.S.R. 537 OF 1980)

9. Sub-rule (1) of Rule 77-C of the Aircraft Rules, 1937, as inserted by the Aircraft (Third Amendment) Rules, 1980, reads as under:—

“77-C—*Investigation of an accident:*—

- (1) The Director General may order the investigation of any incident involving an aircraft of a person associated with the maintenance and operation of aircraft, or both, and may, by general or special order, appoint *any person as Inquiry Officer* for the purpose of carrying out such investigation.”

10. Since ‘any person’ appointed as Inquiry Officer for the purpose of carrying out investigations vested arbitrary powers in the Director General it was felt that the qualifications, which the Inquiry Officer should possess, ought to be spelt out in rules. The Ministry of Tourism and Civil Aviation, with whom the matter was taken up, stated in their reply dated 27 April, 1981, as under:—

“.....the question of spelling out in the Aircraft Rules, 1937, the qualifications required to be possessed by an Inquiry Officer for the purpose of investigating an incident has been examined in consultation with the D.G.C.A. and it is proposed to amend Sub-rule (1) of rule 77-C of the said Rules to read as follows:

‘The Director General may order the investigation of any incident involving an aircraft or a person associated with the maintenance and operation of aircraft, or both, and may, by general or special order, appoint a competent and duly qualified person having experience in aviation accident/incident investigation as Inquiry Officer for the purpose of carrying out such investigation.’

Concurrence of the Lok Sabha Secretariat to the amendment of the rules as proposed above may kindly be intimated to this Ministry, so that it could be notified in the official Gazette.”

11. The Committee concur in the amendment, as proposed by the Ministry of Tourism and Civil Aviation, to rule (1) of Rule 77-C of the Aircraft Rules, 1937 and desire the Ministry to notify it in the official Gazette at an early date.

IV

THE PORT OF TUTICORIN (REGULATION OF THE USE OF LANDING PLACES) AMENDMENT RULES, 1981 (G.S.R. 312 OF 1981)

12. Sub-rule 4 (b) of rule 2 of the Port of Tuticorin (Regulation of the Use of Landing Places) Rules, 1977, as amended by amendment of 1981, reads as under:—

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

13. It was felt that the levy of interest on the accumulated arrears for the period of default in payment of rent was in the nature of substantive provision and should more appropriately be provided for in the parent Act itself.

14. The Ministry of Shipping and Transport (Ports Wing), with whom the matter was taken up, stated in their reply dated 8 March, 1982, as under:—

“..... this Ministry have no objection in amending the Act as proposed by the Committee on Subordinate Legislation. An amendment Bill will be brought forth before the House after the completion of the procedural formalities.”

15. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to bring forward a Bill before Parliament to amend the Indian Ports Act, 1968 so as to provide for levy of interest on the accumulated arrears for the period of default in payment of rent. The Committee desire the Ministry to complete the procedural formalities in this regard at an early date and to omit sub-rule 4(b) of rule 2 of the Port of Tuticorin (Regulation of the Use of Landing Places) Rules 1977 accordingly.

THE DEPARTMENT OF ELECTRONICS (ASSISTANTS' GRADE
OPEN COMPETITIVE EXAMINATION) REGULATIONS, 1982
(G.S.R. 199 OF 1982)

16. Sub-regulation (iii) of Regulation 4 of the Department of Electronics (Assistants' Grade Open Competitive Examination) Regulations, 1982 reads as under:—

“(iii) *Educational Qualifications*—A candidate must possess a Degree of a recognised University:

Provided that merely satisfying the essential qualifications shall not entitle a candidate for admission to the examination, and the Department of Electronics, depending upon the response, shall have the discretion to fix a minimum percentage of marks obtained in the Degree examination as criterion for admission to the examination. This condition of minimum percentage of marks secured in the Degree examination shall be relaxable in respect of the Scheduled Castes and Scheduled Tribes candidates; and may be relaxed in the case of persons already working in the Department of Electronics/Electronics Commission and units under it.”

17. It was felt that the percentage of marks for being eligible to appear in the examination should be specified in the Regulations for the information of all concerned and to avoid any scope of discrimination.

18. The Department of Electronics, with whom the matter was taken up, in their reply dated 13 April, 1982, stated as under:—

“As per recruitment rules initially framed, for direct recruitment to the post of Assistant in the Department of Electronics only such graduates who had secured 60 per cent marks in their degree examination were eligible. But, subsequently, in order to widen the base of access/eligibility of applicants so as to secure enough applicants the condition of 60 per cent marks in the degree examination was deleted. Therefore, now every graduate is eligible

for being considered for this post. But it is beyond the resources at the disposal of this Department to arrange an examination of the applicants whose number may run into thousands for selection against a very limited number of vacancies (8—10 for the first examination and 3-4, on the average, for subsequent examinations). The proviso to regulation 4(iii) has, therefore, been made as an enabling clause to restrict the number of candidates if a very large number of persons respond to the advertisement for the above examination. The percentage of marks obtained in the Degree examination being an intelligible differentia, the classification based on this criteria for the purpose of admission to the examination, in our opinion, is a reasonable classification and this may not lead to discrimination. Ministry of Law have also seen and formally cleared the Regulations.”

19. The Committee are not convinced with the reply of the Department of Electronics. They are of the opinion that frequent changes in the minimum standard of eligibility can hardly lead to any healthy practice of recruitment policy. The Committee feel that with the experience gained in the past, the Department of Electronics could either lay down a certain percentage of marks as a criterion for admission to the Assistants' Examination in the proviso to sub-regulation (iii) of Regulation 4 of the Department of Electronics (Assistants' Grade Open Competitive Examination) Regulations, 1982. If on experience it is found that the marks prescribed for eligibility of a candidate are too severe or too lenient, the Regulations could be amended. But the advantage of prescribing the percentage of marks will be that prospective candidates will know them beforehand. Alternatively all those candidates, who satisfy the essential qualifications of graduation, should be made eligible to appear at such examination.

VI

THE CENTRAL EXCISE AND LAND CUSTOMS DEPARTMENT GROUP 'C' POSTS RECRUITMENT RULES, 1979 (G.S.R. 742 OF 1979)

20. Note below Column 12 (Grade from which promotion is to be made) against the post at S. No. 2 regarding Inspector (Ordinary Grade) mentioned in the Schedule appended to the Central Excise and Land Customs Department Group 'C' Posts Recruitment Rules, 1979 provides as under:—

“Note: Candidates will be required to possess such physical standards and pass such written test and physical tests and conform to such age limits as may be specified by the Central Board of Excise and Customs from time to time.”

21. It was observed that age limit has already been laid down in Column 7 of the Schedule to these Rules. However, it was felt that the physical standards|tests should be specified in the Rules in order to make the Rules self-contained and for the information of all concerned.

22. The Ministry of Finance (Department of Revenue) with whom the matter was taken up, in their reply dated 15 April, 1982, stated as under:—

“.....at the time of framing of Recruitment Rules it was decided in consultation with the DOP&AR and Ministry of Law that physical standards and nature of tests should not be notified and should be left to the Central Board of Excise and Customs as it was felt that physical standard|tests are often subject to changes and involve suitable changes in the recruitment rules itself.....”.

23. The Committee are not convinced by the arguments advanced by the Ministry of Finance (Department of Revenue) for not indicating the physical standards/tests in the Note below column 12 against the post at S. No. 2 regarding Inspector (Ordinary Grade) mentioned in the Schedule appended to the Central Excise and Land Customs Department Group 'C' Posts Recruitment Rules, 1979. The Committee

are of the view that physical standard, nature of written tests are basic information which a prospective candidate ought to know. It is common knowledge that whereas the Rules are notified in the Gazette, the instruction issued by the Department in the above matter is accessible to candidates with great difficulty. The Committee, therefore, desire the Ministry to give these details in the Rules in the form of an Annexure in order to make them self-contained.

VII

THE TUTICORIN PORT TRUST EMPLOYEES (RECRUITMENT, SENIORITY AND PROMOTION) REGULATIONS, 1979 (G.S.R. 234-E OF 1979)

(A)

24. Proviso (i) to Regulation 7 of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979 provides as under:

“Provided that the prescribed upper age limits may be relaxed.—

(i) by the Chairman upto 5 years where the minimum experience prescribed is 10 years or more and upto 3 years where the minimum experience prescribed is 5 to 9 years”.

25. It was felt that some provision should be made in the regulations to restrain the misuse of discretionary powers vested in the Chairman to relax the upper age limit.

26. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred, stated in their reply dated 9 November, 1981, as under:

“The suggestion made by the Lok Sabha Secretariat in regard to proviso (i) under Regulation 7 has been considered. It is proposed to amend the said proviso on the following lines ‘provided that the prescribed upper age limits may be relaxed by the Chairman upto 5 years where the minimum experience prescribed is 10 years or more and upto 3 years where the minimum experience prescribed is 5 to 9 years if there is shortage of suitable candidates or if the candidate selected is educationally more highly qualified than required under the Regulations and possesses at least three years previous experience in the field in which he is proposed to be appointed.”

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

have agreed to amend proviso (1) of Regulation 7 of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979. The Committee desire the Ministry to notify it in the Official Gazette at an early date.

(B)

28. Regulation 8(3) of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979 provides that the period of probation may, if the appointing authority deems fit, be curtailed in deserving cases.

29. It was felt that the appointing authority should record in writing the reasons for curtailing the period of probation as also there should be some guidelines for the appointing authority in that regard.

30. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred, stated in their reply dated 9 November, 1981 as under:—

“Since probation period is normally not curtailed and power for curtailing the period of probation is not necessary either for better personnel management or for any other purpose it is proposed to delete regulation 8(3) of the TPT Employees (Recruitment, Seniority and Promotion) Regulations, 1979.

Lok Sabha Secretariat may kindly confirm that they agree with the above proposal.”

31. The Committee note with satisfaction, that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to delete the Regulation 8(3) of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979. The Committee desire the Ministry to notify it in the Official Gazette at an early date.

(C)

32. Regulation 30(1) of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979 reads as under:

“Field of selection for promotions.—Where promotion is to be made to a non-selection post, the employees, who are senior most in the gradation list of the cadre from which promotions are made, shall ordinarily be considered for selection. Where promotion is to be made to a selection

post, the field of selection shall not be less than three times and shall not be more than five times the number of vacancies subject to employees with necessary qualifications and experience being available. The departmental promotion committee may, at its discretion, alter these limits to suit exceptional circumstances.”

33. It was felt that in order to avoid any scope of favouritism there should be a provision for recording of reasons in writing before altering the limits of field of selection by the Departmental Promotion Committee.

34. The Ministry of Shipping and Transport (Ports Wing), to whom the matter was referred, stated in their reply dated 9 November, 1981, as under:

“This Ministry agree with the suggestion made by the Lok Sabha Secretariat. It is proposed to amend the Regulations as under:

‘the Departmental Promotion Committee, may at its discretion, for reasons to be recorded in writing, alter these limits to suit exceptional circumstances.’”

35. The Committee note with satisfaction, that the Ministry of Shipping and Transport (Ports Wing), on being pointed out by them, have agreed to amend Regulation 30(1) of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979 so as to make therein a provision for recording of reasons in writing before altering the limits of field of selection by the Departmental Promotion Committee. The Committee desire the Ministry to notify the amendment in the Official Gazette at an early date.

VIII

- (1) THE UNION PUBLIC SERVICE COMMISSION (CLASS IV POSTS) RECRUITMENT (AMENDMENT) RULES, 1978 (G.S.R. 113 OF 1978); and
- (2) THE DEPARTMENT OF ADMINISTRATIVE REFORMS (CLASS III AND CLASS IV) RECRUITMENT (AMENDMENT) RULES, 1978 (G.S.R. 213 OF 1978).

36. Note below the entries relating to the post of Peon in the Union Public Service Commission (Class IV Posts) Recruitment Rules, 1974, as inserted by the Union Public Service Commission (Class IV Posts) Recruitment (Amendment) Rules, 1978, reads as under:—

"Note:— Liability of persons appointed as peons to undergo training as Home Guards. Notwithstanding anything contained in these rules, every person appointed as a peon under these rules shall undergo training as a Home Guard for a period of three years:

Provided that the Commandant General to the Home Guards may, having regard to the performance of, and standard of training achieved by, and person during the period of training reduce such period to two years."

37. As this appeared to be a new provision, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) were asked to state the genesis for making the above provision. They were further asked to state whether they had any objection to specify in the proviso that before reducing the period of training from three to two years, the Commandant General shall record the reasons in writing.

38. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms), in their reply dated 10 November, 1978, stated that the genesis for making the provision for training as Home Guards of persons appointed to the posts of Peon under the Central Government was contained in their O.M. No. 2/92/73-Estt (D), dated 2 August, 1975 (Appendix II).

39. As regards recording of reasons in writing by the Commandant General before reducing the period of training from three to two years, the Ministry of Home Affairs, in their reply dated 23

February, 1979 given in connection with the Department of Administrative Reforms (Class III and Class IV) Recruitment (Amendment) Rules, 1978, stated as under:—

“.....the Ministry of Home Affairs have since issued instructions to all State Governments/Union Territories on the subject *vide* their letter No. 10|2|73-DGCD (HG) dated 25/27-1-1979 (copy enclosed*). The instructions provide that whenever the normal period of training in Home Guard is reduced from three to two years by the Commandant General, Home Guards, in the case of a peon in the Government of India Office, the reasons thereof may be recorded by the said Commandant General, Home Guards, in writing.”

40. Similar references were made to several other Ministries in a number of recruitment rules. An illustrative list of such rules is at Appndix IV. In a number of cases, the amendment regarding recording of reasons in writing by the Commandant General before reducing the period of training from three to two years had already been issued at the instance of the Committee.

41. The Committee note from the reply of the Department of Personnel and Administrative Reforms that it was with the intention of inculcating a sense of discipline and devotion to duty amongst the staff that direct recruitment of Peons was subjected to the condition that they would undergo training as Home Guards for a period of two to three years. The Committee further note with satisfaction that, on being pointed out, the Department have issued necessary instructions to the Commandants General, Home Guards through the Home Secretaries of States/Union Territories that in cases where the period of training is reduced from three to two years, the reasons therefor must be recorded in writing by the Commandant General.

42. The Committee, however, observe (from the information furnished to them) that all the Ministries/Departments have not so far issued the requisite amendments to the respective Recruitment Rules wherein such training has been prescribed. The Committee, therefore, desire the Department of Personnel and Administrative Reforms to impress upon all Ministries/Departments to examine the respective Recruitment Rules and issue necessary amendments wherever necessary in order to have uniform provisions in various Recruitment Rules.

* See Appendix III.

IX

THE BUREAU OF POLICE RESEARCH AND DEVELOPMENT (PEONS) RECRUITMENT RULES, 1981 (G.S.R. 292 OF 1981).— PROVISION REGARDING CRUCIAL DATE FOR DETERMINING THE AGE LIMIT FOR DIRECT RECRUITS

43. Entry in Column 6 (Age for direct recruits) of the Schedule appended to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 reads as under:—

“Between 18 to 25 years”.

44. It was pointed out to the Ministry of Home Affairs that in the aforesaid column, the usual note regarding crucial date for determining the age limit for direct recruits had not been given. In their reply dated 16 November, 1981, the Ministry stated that they proposed to amend the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 to specify therein the crucial date for determining the age-limit for direct recruits.

45. The Committee on Subordinate Legislation considered the reply of the Ministry at their sitting held on 26 May, 1982 and asked further clarification as to whether they had any objection to mention the crucial date for determining the age-limit in the advertisement or letter sent to the Employment Exchange for calling candidates for the recruitment of Peons.

46. In their reply dated 14 July, 1982, the Ministry of Home Affairs stated as under:—

“...there is no objection to mentioning the crucial date for determining the age-limit in the requisition to be sent to the Employment Exchange for calling candidates for the recruitment of Peons. Accordingly, a revised draft notification, proposed to be issued is attached.*

It is requested that the concurrence of the Committee to the proposed amendment may please be obtained and communicated to this Ministry at an early date.”

47. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Home Affairs have agreed to mention

*See Appendix-V.

the crucial date for determining the age limit in the requisition to be sent to Employment Exchange for calling candidates for the recruitment of Peons. The Committee concur in the following note proposed by the Ministry for insertion in Column 6 of the Schedule appended to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 in this regard:—

“Note:— The crucial date for determining the age limit will be the last date upto which the Employment Exchange is asked to submit the names. The crucial date will be indicated in the requisition to be sent to the Employment Exchange.”

The Committee desire the Ministry to notify the amendment expeditiously.

THE ADAPTATION OF SIKKIM LAWS (NO. 1) ORDER, 1975
(S. O. 207-E OF 1975)—[IMPLEMENTATION OF RECOMMEN-
DATION CONTAINED IN PARAGRAPH 14 OF SECOND
REPORT (SIXTH LOK SABHA)]

48. The Adaptation of Sikkim Laws (No. 1) Order, 1975 (S.O. 207-E of 1975) was issued by the President of India in exercise of the powers conferred by Clause (1) of Article 371F of the Constitution. Clause 5 of this 'Order' provided *inter alia* that the 'Home and Police Department Notification No. 4081/HP regarding the control of undesirables within Sikkim' shall have effect subject to the modification that the following will be substituted for paragraph 4 of the Notification:—

"The District Magistrate, on receipt of the report from the Deputy Commissioner of Police may, after giving the person concerned a notice to show cause as to why his movements should not be restricted within the area or areas specified in the notice or why he should not be expelled from the State of Sikkim, direct him either to remove himself to the area specified in the Order or from the State itself. The order shall specify the route by which the person concerned shall remove himself into the area or out of the State as also the period within which the removal should be executed.

Provided that the person aggrieved by the order shall have a right of appeal to State Government *within such time as may be specified in the order and the Government may either rescind the order or confirm it.*"

49. Under the proviso to paragraph 4, as substituted, the period within which an aggrieved person can file an appeal to the State is to be specified in the order of the District Magistrate. The Ministry of Law (Legislative Department) were requested to state whether they had any objection to laying down a time-limit for filing an appeal in the Notification itself.

50. In their reply, the Legislative Department stated as under:—

"The Sikkim Home and Police Department Notification No. 4081/HP referred to in the O.M. of the Lok Sabha Secre-

ariat relates to the control of undesirables within Sikkim. As the notification relates primarily to a matter in the State List and as under article 371 F(g) of the Constitution, the Governor of Sikkim has a special responsibility for peace, the Ministry of Home Affairs was requested to consider the matter in consultation with the Government of Sikkim. That Ministry has confirmed that having regard to the fact that Sikkim is a strategic border State and having regard to the possibility of the presence of dangerous undesirables in the State and the need for dealing with them effectively, it would not be desirable to prescribe a time-limit for preferring an appeal as suggested in the aforementioned O.M. of the Lok Sabha Secretariat.

This Department is of the opinion that although ordinarily the prescribing of a specific time-limit for preferring an appeal would be desirable and would avoid scope for abuse of discretion, an exception has to be made in the present case. As the Supreme Court conceded in *Virendra vs. the State of Punjab* (AIR 1957 SC 896) in connection with a provision leaving it to the State Government to direct the prohibition of the printing or publication of any document relating to a particular subject 'for the purpose of preventing or combating any activity prejudicial to the maintenance of communal harmony affecting or likely to affect public Order':—

'quick decision and effective action must be of the essence of those powers and the exercise of it must, therefore, be left to the subjective satisfaction of the Government charged with the duty of maintaining law and order. To make the exercise of these powers justiciable and subject to the judicial scrutiny will defeat the very purpose of the enactment. The same reasoning applies in the present case also. If a rigid period of limitation for preferring an appeal is provided for, it may lead to the situation of the State Government being compelled to allow a dangerous undesirable to remain in the State or in a particular vulnerable area of the State, as the case may be, until the period of limitation is over and the presence of such a person in the State or in the

particular area for the duration of the period of limitation may defeat the very purpose of the notification. It has, therefore, been considered sufficient to leave it to the authority to specify the time-limit for appeal to the State Government in the order itself."

51. After considering the reply of the Ministry, the Committee on Subordinate Legislation, in paragraph 14 of their Second Report (Sixth Lok Sabha), presented to the House on 18 November, 1977, observed as under:—

"The Committee are not satisfied with the reply of the Ministry of Law, Justice and Company Affairs (Legislative Department) for not laying down a minimum, time-limit for filing an appeal in the proviso to para 4 of the Adaptation of Sikkim Laws (No. 1) Order, 1975. The Committee apprehend that under the said proviso, as worded, the the District Magistrate could specify so short a period for lodging an appeal to an aggrieved person as virtually to deny him any right of appeal. The Committee feel that when a right of appeal has been given to an aggrieved person, the right should not be just illusory. The Committee, therefore, desire the Ministry of Law, Justice and Company Affairs (Legislative Department) to amend the proviso to paragraph 4 to provide for grant of some reasonable time-limit for filing an appeal."

52. In their action taken note dated 16 August, 1982, the Ministry of Law, Justice and Company Affairs (Legislative Department) stated as under:—

"Under clause (1) of article 371F of the Constitution, the Adaptation of Sikkim Laws (No. 1) Order, 1975, was issued by the Legislative Department in consultation with the Ministry of Home Affairs and the Ministry of External Affairs. Under clause (1) of article 371F, the President has no longer any power to issue any order as the period of two years specified in the clause has already expired. Further, the Sikkim notification in question falls within a matter exclusively within the State List. The State Governments and the State Legislatures are, under our Constitution, plenary authorities within their allotted fields. As such, the only thing that this Department could have done in the matter was to bring the observations of the Committee to the notice of the Sikkim Government. This the Department has done. This De-

partment has also tried to ascertain from the Sikkim Government through reminders as to what action the State Government had taken in the matter. We have not received any reply.

If we try to remind the State Government in strong terms, the State Government may well be justified in taking the stand that the matter is one which is within their exclusive jurisdiction. Perhaps, the appropriate course would be to close the matter as it is something which falls within the State List.

53. In view of the position as stated by the Ministry of Law, Justice and Company Affairs (Legislative Department) that the matter falls within the jurisdiction of the State Government of Sikkim, the Committee do not insist upon the implementation of their recommendation made in paragraph 14 of their Second Report (Sixth Lok Sabha) and treat the matter as closed. The Committee however, regret to observe that this information was furnished to them after five years. They deplore such delays.

NEW DELHI;

October 19, 1982

Asvina 27, 1904 (Saka)

MOOL CHAND DAGA

Chairman,

Committee on Subordinate Legislation.

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APPENDICES

APPENDIX I

(Vide Paragraph 5 of the Report)

SUMMARY OF MAIN RECOMMENDATIONS/OBSERVATIONS MADE BY THE COMMITTEE

Sl. No.	Paragraph No.	Summary
(1)	(2)	(3)
1	8	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to amend rule 2(4)(c) of the Port of New Mangalore (Regulation of the use of landing Places) Rules, 1977 to provide for a right to appeal against resumption of possession of land by the lessor. The Committee desire the Ministry to notify the amendment in the Official Gazette at an early date.
2	11	The Committee concur in the amendment as proposed by the Ministry of Tourism and Civil Aviation to rule (1) of Rule 77-C of the Aircraft Rules, 1937 and desire the Ministry to notify it in the official Gazette at an early date.
3	15	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to bring forward a Bill before Parliament to amend the Indian Ports Act, 1988 so as to provide for levy of interest on the accumulated arrears for the period of default in payment of rent. The Committee desire the Ministry to complete the procedural formalities in this regard at an early date and to omit sub-rule 4(b) of rule 2 of the Port of Tuticorin (Regula-

(1)

(2)

(3)

tion of the Use of Landing Places) Rules, 1977 accordingly.

4

19

The Committee are not convinced with the reply of the Department of Electronics. They are of the opinion that frequent changes in the minimum standard of eligibility can hardly lead to any healthy practice of recruitment policy. The Committee feel that with the experience gained in the past, the Department of Electronics could either lay down a certain percentage of marks as a criterion for admission to the Assistants' Examination in the proviso to sub-regulation (iii) of Regulation 4 of the Department of Electronics (Assistants Grade Open Competitive Examination) Regulations, 1982. If on experience it is found that the marks prescribed for eligibility of a candidate are too severe or too lenient, the Regulations could be amended. But the advantage of prescribing the percentage of marks will be that prospective candidates will know them beforehand. Alternatively, all those candidates, who satisfy the essential qualifications of graduation, should be made eligible to appear at such examination.

5

23

The Committee are not convinced by the arguments advanced by the Ministry of Finance (Department of Revenue) for not indicating the physical standards/tests in the Note below column 12 against the post at S. No. 2 regarding Inspector (Ordinary Grade) mentioned in the Schedule appended to the Central Excise and Land Customs Department Group 'C' Posts Recruitment Rules, 1979. The Committee are of the view that physical standard, nature of written tests are basic information which a prospective candidate ought to know. It is common knowledge that whereas the Rules are notified in the Gazette, the instruction issued by the Department in the above matter is acces-

(1)	(2)	(3)
		sable to candidates with great difficulty. The Committee, therefore, desire the Ministry to give these details in the Rules in the form of an Annexure in order to make them self-contained.
6 (i)	27	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to amend proviso (i) of Regulation 7 of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979. The Committee desire the Ministry to notify it in the Official Gazette at an early date.
6 (ii)	31	The Committee note with satisfaction, that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to delete the Regulation 8(3) of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979. The Committee desire the Ministry to notify it in the Official Gazette at an early date.
6 (iii)	35	The Committee note with satisfaction, that the Ministry of Shipping and Transport (Ports Wing), on being pointed out by them, have Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979 so as to make therein a provision for recording of reasons in writing before altering the limits of field of selection by the Departmental Promotion Committee. The Committee desire the Ministry to notify the amendment in the Official Gazette at an early date.
7 (i)	41	The Committee note from the reply of the Department of Personnel and Administrative Reforms that it was with the intention of inculcating a sense of discipline and devotion to duty amongst the staff that direct recruitment of Peons was subjected to the condition that they would undergo training as Home Guards

(1)

(2)

(3)

for a period of two to three years. The Committee further note with satisfaction that, on being pointed out, the Department have issued necessary instructions to the Commandants General, Home Guards through the Home Secretaries of States/Union Territories that in cases where the period of training is reduced from three to two years, the reasons therefor must be recorded in writing by the Commandant General.

7 (ii) 42

The Committee, however, observe (from the information furnished to them) that all the Ministries/Departments have not so far issued the requisite amendments to the respective Recruitment Rules wherein such training has been prescribed. The Committee, therefore, desire the Department of Personnel and Administrative Reforms to impress upon all Ministries/Departments to examine the respective Recruitment Rules and issue necessary amendments wherever necessary in order to have uniform provisions in various Recruitment Rules.

8 47

The Committee note with satisfaction that, on being pointed out by them, the Ministry of Home Affairs have agreed to mention the crucial date for determining the age limit in the requisition to be sent to Employment Exchange for calling candidates for the recruitment of Peons. The Committee concur in the following note proposed by the Ministry for insertion in Column 6 of the Schedule appended to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 in this regard:—

“Note:—The Crucial date for determining the age limit will be the last date upto which the Employment Exchange is asked to submit the names. The crucial date will be indicated in

(1)

(2)

(3)

the requisition to be sent to the Employment Exchange."

The Committee desire the Ministry to notify the amendment expeditiously.

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In view of the position as stated by the Ministry of Law, Justice and Company Affairs (Legislative Department) that the matter falls within the jurisdiction of the State Government of Sikkim, the Committee do not insist upon the implementation of their recommendation made in paragraph 14 of their Second Report (Sixth Lok Sabha) and treat the matter as closed. The Committee, however, regret to observe that this information was furnished to them after five years. They deplore such delays.

APPENDIX II

(vide paragraph 38 of the Report)

IMMEDIATE

No. 2|92|73-Estt(D)

Government of India/Bharat Sarkar
Cabinet Secretariat|Mantrimandal Sachivalaya
Department of Personnel and Administrative Reforms
(Karmik aur Prashasanik Sudhar Vibhag)

New Delhi-110001 dt. 2nd August, 75.

OFFICE MEMORANDUM

Subject: Training in Home Guards Organisation to be made a condition for appointment to Class IV posts under Government of India.

With a view to inculcate a sense of discipline and devotion to duty amongst Class IV officials of the Government of India, the question whether recruitment of peons should be subject to the condition that they would undergo training as Home Guards for a specified period has been examined, in consultation with the Ministry of Home Affairs (Director General Civil Defence), and it has been decided that direct recruitment to the post of peon under the Central Government should hereafter be made subject to the condition that they would undergo training as Home Guards for a period of two to three years, the actual period of training depending on the discretion of the Commandant General, Home Guards, in individual cases on the basis of the performance and standard of training achieved by the individual.

2. As far as possible it is envisaged that the normal period of training shall be outside office hours. However if the Government servant is required to undergo training during office hours the period of training shall be treated as duty. If as a member of the Home Guards organisation the Government servant is required to perform any duties and functions (apart from training) during office hours, the period of absence shall be treated as special casual leave. The

Government servants concerned shall be permitted to receive in addition to their civil pay, such allowances as may be paid to them under the Home Guards Rules. They shall not, therefore, be given any T.A./D.A. separately for the training period or for the performance of any other duty which they are required to perform as members of the Home Guards organisation.

3. The Ministry of Finance etc. are, therefore, requested that the recruitment rules for the posts of Peon under them including those in their attached and subordinate offices may be amended, in consultation with this Department, to incorporate the above decision. The names of the persons recruited to the post of Peon, in accordance with the revised recruitment rules, may be sent by the employing office/department to the concerned commandant General, Home Guards, of the respective States/UTs to whom necessary instructions in this regard are being issued by the Director General Civil Defence, Ministry of Home Affairs, New Delhi, shortly. The terms and conditions of the Home Guards training would be governed by such instructions as are laid down from time to time, by the Director General, Civil Defence.

4. In so far as person serving in the Indian Audit & Accounts Department are concerned, these orders are issued in consultation with the Comptroller and Auditor General of India.

Sd/- Shiv. Kumar Varma .

Under Secretary to the Government of India.

To

All the Ministries of the Govt. of India, (including all attached and subordinate offices under the Deptt. of Personnel and A. R.)

All Union Territory Governments/Administrations.

Institute of Secretariat Training and Management, New Delhi.

D.G.E.&T, D.G.P. & T. and Bureau of Public Enterprises.

All regular sections of the Deptt. of Personnel & A. R.

No. 2/92/73-Estt (D)

New Delhi-110001, dated
2nd August, 1975.

Copy forwarded for information to the Ministry of Home Affairs (Director General, Civil Defence, Home Guards) with reference to their U.O. No. 10/2/73-DGCD(HQ) dated 30-4-1975.

Sd/- Shiv. Kumar Varma

Under Secretary to the Government of India.

APPENDIX III

(Vide paragraph 39 of Report)

No. 10|2|73-DGCD(HG)

Government of India

Ministry of Home Affairs

New Delhi, the 25 January, 79.

To

The Home Secretaries of all States/UTs (Except Kerala, Nagaland, Lakshadweep & Arunachal Pradesh)

Sir,

I am directed to refer to this Ministry's letter No. 10|2|73-DGCD(HG) dated 4-9-1975 and No. 10|2|73 DGCD(HG) (i) dated 30.9.77 (copies enclosed)* on the subject noted above and to say that under the recruitment rules for the post of peon framed for the offices of the Government of India, it has been provided that every person appointed as peon under those rules shall undergo training as Home Guards for a period of three years, provided that the Commandant General Home Guards, may having regard to the performance of and standard of training achieved by any person reduce such training period to two years. It has now been decided that whenever the normal period of training in Home Guards is reduced from three to two years by the Commandant General Home Guards in the case of a Peon in the Government of India Office, the reasons thereof may be recorded by the said Commandant General Home Guards, in writing. It is requested that the above instructions may please be communicated to the Commandant General Home Guards of your State/UT for compliance.

Yours faithfully,

Sd/-

(S. S. AHLUWALIA)

Director

No. 10|2|73-DGCD(HG)

New Delhi, the 25, 27 January, 1979.

*Not reproduced

Copy forwarded to the Commandants General Home Guards of all States/UTs, as above, for information and necessary action.

Sd/-

(S. S. AHLUWALIA)

Director

No. 10|2|73-DGCD(HG)

New Delhi,

Jan., 1979

Copy to Estt(E)|Estt(RRF), Deptt. of P&AR, MHA, New Delhi with reference to their OM No. 39016|25|77-Estt(B)|Estt(RR) dated 10.11.1978 (5 spare copies).

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Sd/-

(S. S. AHLUWALIA)

Director

Copy to PS to DGCD

APPENDIX IV

(Vide paragraph 40 of the Report)

LIST OF ORDERS ON WHICH REFERENCES WERE MADE TO MINISTRIES/DEPARTMENTS REGARDING PROVISION PERTAINING TO TRAINING AS HOME GUARDS

I. MINISTRY OF AGRICULTURE

1. The Ministry of Agriculture and Irrigation (Department of Food) Group D Recruitment Rules, 1978 (G.S.R. 342 of 1978).
2. The Ministry of Agriculture and Irrigation (Department of Agricultural Research and Education) (Daftry and Peon) (Group 'D' posts) Recruitment Rules, 1978 (G.S.R. 471 of 1978).
3. The Ministry of Agriculture and Irrigation (Group D posts) (Amendment) Recruitment Rules, 1978 (G.S.R. 866 of 1978).
4. The Pre-investment Survey of Forest Resources Recruitment (Amendment) Rules, 1978 (G.S.R. 867 of 1978).
5. The Directorate of Extension (Group C and Group D Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 902 of 1978).
6. The Nariyal Vikas Nideshalaya (Directorate of Coconut Development) (Group C and Group D posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 933 of 1978).
7. The Kaju Vikas Nideshalaya (Directorate of Cashewnut Development) (Class III and Class IV posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 446 of 1979).

II. MINISTRY OF EDUCATION AND SOCIAL WELFARE

8. The National Institute of Social Defence, Department of Social Welfare (Peon) Recruitment Rules, 1979 (G.S.R. 637 of 1979).
9. The Archaeological Survey of India (Class IV Non-Gazetted Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 443 of 1978).

III. DIRECTORATE OF COMMERCIAL INTELLIGENCE AND STATISTICS

10. The Office of the Director General of Commercial Intelligence and Statistics (Group 'D' Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 1391 of 1978).

IV. DEPARTMENT OF SCIENCE & TECHNOLOGY

11. The National Atlas and Thematic Mapping Organisation (Recruitment to Class III and Class IV Posts) Third Amendment Rules, 1978 (G.S.R. 1197 of 1978).

V. MINISTRY OF FINANCE

12. The Department of Expenditure (Civil), Ministry of Finance (Class IV Posts) Recruitment Amendment Rules, 1978 (G.S.R. 367 of 1978).

13. The Defence Accounts (Class III and IV Posts) Recruitment (Amendment) Rules, 1978 (S.O. 2506 of 1978).

VI. MINISTRY OF HOME AFFAIRS

14. The Staff Selection Commission (Group 'D' Posts) Recruitment Rules, 1978 (G.S.R. 478 of 1978).

15. The Central Bureau of Investigation (Daftry, Peon and Sweeper) Recruitment (Amendment) Rules, 1978 (G.S.R. 508 of 1978).

16. The Class-III and Class-IV (Non-Gazetted) (Central Emergency Relief Training Institute) Recruitment (Amendment) Rules, 1978 (G.S.R. 540 of 1978).

VII. MINISTRY OF IRRIGATION & POWER

17. The Central Water Commission (Group D Posts) Recruitment Rules, 1979 (G.S.R. 864 of 1979).

18. The Ministry of Irrigation and Power (Ganga Basin Water Resources Circle) Class IV posts Recruitment (Amendment) Rules, 1979 (G.S.R. 381 of 1979).

VIII. MINISTRY OF LABOUR

19. The Directorate of Training (Central Training Institute for Instructors and the Model Training Institute attached thereto; the Central Staff Training and Research Institute and the Regional Directorate of Apprenticeship Training at Calcutta) Class IV posts Recruitment (II Amendment) Rules, 1979 (G.S.R. 898 of 1979).

20. The Directorate of Training (Central Training Institute for Instructors and Model Training Institute attached thereto; and Regional Directorate of Apprenticeship Training at Bombay) Class IV posts Recruitment (II Amendment) Rules, 1979.

21. The Directorate of Training (Central Training Institute for Instructors and Model Training Institute attached thereto; the Regional Directorate of Apprenticeship Training at Kanpur) Class IV posts Recruitment (II Amendment) Rules, 1979 (G.S.R. 903 of 1979).

22. The Directorate of Training (Central Training Institute for Instructors and Model Training Institute attached thereto; Regional

Directorate of Appreniceship Training and Advanced Training Institute at Madras), Class IV posts Recruitment (II Amendment) Rules, 1979 (G.S.R. 905 of 1979).

23. The Directorate of Training (Central Training Institute for Instructors and Model Training Institute attached thereto; and Advanced Training Institute for Electronics and Advanced Training Institute for Electronics and Process Instrumentation at Hyderabad) Class IV posts Recruitment Rules, 1975 (Amendment) Rules, 1979 (G.S.R. 906 of 1979).

24. The Directorate of Training (Central Training Institute for Instructors and Model Training Institute attached thereto; at Ludhiana) Class IV Posts Recruitment Rules, 1975 (G.S.R. 908 of 1979).

25. The Directorate of Training (the Unit of Foremen Training Institute at Bangalore) Class IV posts Recruitment (II Amendment) Rules, 1979 (G.S.R. 910 of 1979).

26. The Directorate of Training [The Central Training Institute for Instructors (Women) at New Delhi] Class IV posts Recruitment Rules, 1975 (G.S.R. 912 of 1979).

IX. MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

27. The Ministry of Law, Justice and Company Affairs, Department of Legal Affairs and Legislative Department (Group D Posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 914 of 1978).

28. The Ministry of Law, Legislative Department Vidhi Sahitya Prakashan, Group 'D' Posts Recruitment (Amendment) Rules, 1978 (G.S.R. 1321 of 1978).

X. DEPARTMENT OF PARLIAMENTARY AFFAIRS

29. The Department of Parliamentary Affairs (Recruitment and Conditions of Service) First Amendment Rules, 1978 (G.S.R. 950 of 1978).

XI. MINISTRY OF SHIPPING AND TRANSPORT

30. The Department of Lighthouses and Lightships (Non-Gazetted, Non-Technical) posts Amendment Rules, 1977 (G.S.R. 241 of 1978).

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

XII. DEPARTMENT OF SUPPLY

32. The Director General of Supplies and Disposals at Headquarters Office, New Delhi (Group D posts) Recruitment (Amendment) Rules, 1978 (G. S. R. 65 of 1979).

XIII. MINISTRY OF TOURISM & CIVIL AVIATION

33. The Ministry of Tourism and Civil Aviation (Department of Tourism) Group 'D' Posts Recruitment (Amendment) Rules, 1978 (G.S.R. 466 of 1978).

34. The Ministry of Tourism and Civil Aviation (Department of Tourism) Tourist Offices of Government of India (Group 'D' Posts) Recruitment Amendment Rules, 1978 (G.S.R. 466 of 1978).

35. The India Meteorological Department (Class III and Class IV posts) Amendment Recruitment Rules, 1978 (G.S.R. 573 of 1978).

APPENDIX V

(Vide paragraph 46 of the Report)

[TO BE PUBLISHED IN PART II SECTION 3, SUB-SECTION (I)
OF THE GAZETTE OF INDIA]
No. 24/80-Ad.I/BPR&D (Pers. I)

Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
New Delhi, the
NOTIFICATION

G.S.R. In exercise of the powers conferred by proviso to Article 309 of the Constitution the President hereby makes the following rules to amend the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981, namely:—

- (1) These rules may be called the Bureau of Police Research and Development (Peons) Recruitment (Amendment) Rules, 1981.
- (2) They shall come into force on the date of their publication in Official Gazette.

3. In the Schedule to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981, Column 6 under the existing entry, the following note shall be inserted namely:—

"Note:—The crucial date for determining the age limit will be the last date upto which the Employment Exchange is asked to submit the names. The crucial date will be indicated in the requisition to be sent to the Employment Exchange."

(N. S. SHARMA)

UNDER SECRETARY TO THE GOVT. OF INDIA

** ** *

MINUTES

APPENDIX VI

(Vide PARAGRAPH 4 OF THE REPORT)

XLII

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

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

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

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

SECRETARIAT

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

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

* * * * *

(ii) *The Port of New Mangalore (Regulation of the Use of Landing Places) Amendment Rules, 1980 (G.S.R. 243-E of 1980)—(Memorandum No. 108)*

6. The Committee considered the above Memorandum and approved amendment to rule 2(4) (c) of the Port of New Mangalore (Regulation of the Use of Landing Places) Rules, 1977 as proposed by the Ministry of Shipping and Transport providing for right to appeal against resumption of possession of land by the lesser.

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

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

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

The Committee met on Wednesday 26 May, 1982 from 11.00 to 11.40 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 Ajit Pratap Singh
9. Shri Chandra Shekhar Singh

SECRETARY

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

2. The Committee considered Memoranda Nos. 109 to 111 on the following subjects:—

(i) *The Aircraft (Third Amendment) Rules, 1980 (G. S. R. 537 of 1980)—(Memorandum No. 109)*

3. The Committee approved the amendment to sub-rule (1) of Rule 77-C of the Aircraft Rules, 1967, as proposed by the Ministry of Tourism and Civil Aviation and desired the Ministry to amend the Rules at an early date.

(ii) *The Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 (G. S. R. 292 of 1981)—(Memorandum No. 110).*

4. The Committee after perusing the Memorandum desired to have further clarification from the Ministry of Home Affairs with

ther they had any objection to mention the crucial date for determining the age-limit in the advertisement or letter sent to the Employment Exchange for calling candidates for the recruitment of Peons.

(iii), *The Port of Tuticorin (Regulation of the Use of Landing Places)—Amendment Rules, 1981 (G.S.R. 312 of 1981)—Memorandum No. 111*).

5. The Committee noted from the Memorandum that on being pointed out, the Ministry of Shipping and Transport had agreed to bring forward an amendment Bill to empower the Government to charge the interest at the rate of 15 per cent per annum on the accumulated arrears of rent. However, the Committee desired the Ministry to complete the procedural formalities in that regard at an early date and sub-rule 4(b) of Rule 2 of the Port of Tuticorin (Regulation of the use of Landing Places) Rules, 1977, should be omitted.

6. The Chairman then thanked the Members of the Committee for the whole-hearted cooperation and keen interest taken by them in the work of the Committee during the year. He also placed on record his appreciation of the assistance rendered by the staff attached to the Committee by their hard work and dedication to their duties.

7. Thereafter, a group photograph of the Members of the Committee was held. The Speaker and the Secretary graced the occasion by their presence.

The Committee then adjourned.

XLVI

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

The Committee met on Thursday, 29 July, 1982 from 15.00 to 16.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri Dalbir Singh (Madhya Pradesh)
7. Shri Chandrabhan Athare Patil
8. Shri M. Ramanna Rai
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. At the outset, the Chairman desired that in addition to the Rules already selected by the Committee for detailed examination at their sitting held on 20 July, 1982, by the two Study-Groups, the Export/Import Rules and L.I.C. Rules might also be examined by those Study-Groups.

3. The Committee then considered Memoranda Nos. 112 to 124 on the following subjects:—

- (1) *The Department of Electronics (Assistants' Grade Open Competitive Examination) Regulations, 1982 (G.S.R. 199 of 1982)—(Memorandum No. 112).*

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

4. The Committee, after perusing the Memorandum, desired that the Department of Electronics should either lay down certain percentage of marks as a criterion for admission to the Assistants' examination in the Rules *ibid* or all those who satisfy the essential qualifications of graduation should be made eligible for such examination.

(ii) *The Central Excise and Land Customs Department Group 'C' Posts Recruitment Rules, 1979 (G.S.R. 742 of 1979)—(Memorandum No. 113).*

5. The Committee were not convinced by the arguments advanced by the Ministry of Finance (Department of Revenue) for not indicating the physical standards/tests for the post of Inspector in the Rules. The Committee were of the view that once the norms of physical standards/tests were fixed those were not apt to frequent changes. The Committee desired the Ministry to give those details in the Rules in the form of Annexure.

(iii) *The Tuticorin Port Trust Employees Recruitment, Seniority and Promotion) Regulations, 1979 (G.S.R. 234-E of 1979)—(Memorandum No. 114).*

6. The Committee, after considering the Memorandum, approved the amendments to proviso (1) to Regulation 7 and Regulations 8(3) and 30(1) of the Tuticorin Port Trust Employees Recruitment, (Seniority and Promotion) Regulations, 1979, as proposed by the Ministry of Shipping and Transport (Ports Wing) and desired them to notify those amendments at an early date.

* * * * *

(vii) (i) *The Union Public Service Commission (Class IV posts) Recruitment (Amendment) Rules, 1978 (G.S.R. 113 of 1978).*

(ii) *The Department of Administrative Reforms (Class II and Class IV) Recruitment (Amendment) Rules, 1978 (G.S.R. 213 of 1978)—(Memorandum No. 118).*

11. The Committee considered the above Memorandum and noted that the Rules under reference contained a provision for training as Home Guards for a period of three years provided that the Commandant General Home Guards could reduce such period to two years. Such a provision was also noticed by the Committee in various other Rules as mentioned in @Annexure I. The Committee also noted that the Department of Personnel and Administrative

*Omitted portions of the Minutes are not covered by this Report.
@See Appendix IV.

Reforms had impressed upon all the Ministries/Departments (Vide **O.M. No. 2|92|73-Estt (D) dated 2 August, 1975), the importance of the training as Home Guards to Class IV Officials of the Government of India and issued instructions to the Commandants General Home Guards through the Home Secretaries of States/Union Territories that whenever the normal period of training as Home Guards was reduced from three to two years by the Commandant General in the case of a peon in the Government of India Office, the reasons thereof might be recorded by the said Commandant, in writing. (Vide*** O.M. No. 10|2|73-DGCD (HG) dated 25 January, 1979).

12. The Committee further noted that in the cases of Rules mentioned in Annexure I@, all the Ministries/Departments had not issued the necessary amendments regarding recording of reasons in writing by the Commandant General before reducing the training from three to two years.

13. The Committee desired that, in order to have uniformity in the Recruitment Rules, the Department of Personnel and Administrative Reforms should issue necessary instructions to all the Ministries/Departments to the effect that they should examine the Recruitment Rules, with which they were concerned and wherever there was a provision for reducing the period of training as Home Guards from 3 to 2 years, the relevant Rules should be amended to provide that it should be done by the Commandant General by recording the reasons therefor in writing.

* * * * *

The Committee then adjourned * * * * *

**See Appendix II.

***See Appendix III

@See Appendix IV.

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

XLIX

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

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

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

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

SECRETARIAT

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

2. The Committee considered Memoranda Nos. 126—129 and 132—136 as follows:—

- (i) The Bureau of Police Research and Development (Peons) Recruitment Rules, 1981 (G.S.R. 292 of 1981)—(Memorandum No. 126).

3. The Committee noted with satisfaction that, on being pointed out, the Ministry of Home Affairs had agreed to mention the crucial date for determining the age limit in the requisition to be sent to Employment Exchange for calling candidates for the recruitment of peons. The Committee concurred with the following note proposed by the Ministry for insertion in Column 6 of the Schedule

appended to the Bureau of Police Research and Development (Peons) Recruitment Rules, 1981:—

“Note:—The crucial date for determining the age limit will be the last date up to which the Employment Exchange is asked to submit the names. The crucial date will be indicated in the requisition to be sent to the Employment Exchange.”

The Committee desired the Ministry to notify the amendment expeditiously.

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The Committee then adjourned.

XLIV

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

The Committee met on Tuesday, 19 October, 1982 from 15.30 to 16.15 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*.

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Dalbir Singh (Madhya Pradesh).
5. Shri C. D. Patel
6. Shri M. Ramanna Rai
7. Shri Ebrahim Sulaiman Sait
8. Shri R. S. Sparrow

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*.
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*.
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer*.

2. * * * *

3. The Committee considered their draft Thirteenth Report and adopted it.

4. The Committee authorised the Chairman and, in his absence, Shri R. S. Sparrow to present the Thirteenth Report to the House on their behalf on 22 October, 1982.

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The Committee then adjourned.

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