

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(SEVENTH LOK SABHA)

SEVENTEENTH REPORT

(Presented on 22nd March, 1983)



**LOK SABHA SECRETARIAT
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LCK SABHA SECRETARIAT

Corrigenda to the Seventeenth Report
of the Committee on Subordinate
Legislation (Seventh Lok Sabha)
presented to the House on 22 March, 1983.

<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
6	28	Providentd	provident
14	12	not	note
19	22	1965	1976
32	14	D.M.T.	D.M.I.
32	21	sample	ample

CONTENTS

	PARA No.	PAGE No.
COMPOSITION OF THE COMMITTEE		(iii)
REPORT		(v)
I. INTRODUCTION	1-5	1
II. The Gold Storage Order, 1980 (S.O. 2453 of 1980)	6-17	1
III. The Ministry of Home Affairs (Directorate of Coordination Police Computers) Group A and B Posts Recruitment Rules, 1980, (G.S.R. 1104 of 1980)	18-21	3
IV. The Export of Basmati Rice (Inspection) Rules, 1980 (S.O. 1086 of 1980)	22-27	4
V. The Coal Mines Provident Fund (Second Amendment) Scheme 1980 (G.S.R. 907 of 1980); The Andhra Pradesh Coal Mines Provident Fund (Amendment) Scheme; 1980 (G.S.R. 903 of 1980); and The Rajasthan Coal Mines Provident Fund (Amendment) Scheme, 1980 (G.S.R. 909 of 1980)	28-30	6
VI. The Lifting Bolier (Third Amendment) Regulations, 1980 (G.S.R. 590 of 1980)	31-34	8
VII. The Static and Mobile Pressure Vessels (Unfired) Rules, 1981 (G.S.R. 45-E of 1981)	35-40	9
VIII. The Export of Beche-de-mer (Inspection) Rules, 1978 (S.O. 2195 of 1978)	41-45	11
IX. (i) Implementation of recommendation contained in paragraph 51 of the Seventeenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding the University Grants Commission (Disqualification, Retirement and Conditions of Service of Members) (Second Amendment) Rules, 1976 (G.S.R. 295 of 1976); and	46-54	12
(ii) Implementation of recommendation contained in paragraph 61 of the Sixteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding Giving of Retrospective effect to the 'Orders' framed under various Acts of Parliament [The University Grants Commission (Disqualification, Retirement and Conditions of Service of Members) (Second Amendment) Rules, 1973 (G.S.R. 1006 of 1973)]		12
X. Implementation of recommendation contained in paragraph 60 of the Nineteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding--	55-64	
(i) The Department of Space Employees (Classification, Control and Appeal) Rules, 1976 (S.O. 270E of 1976) ;		15
(ii) The Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 (G.S.R. 543 of 1976) ; and		15
(iii) The Central Civil Services (Classification, Control and Appeal) Rules, 1965.		15
XI. Implementation of recommendation contained in paragraph 33 of the Sixteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding the Directorate General Ordnance Factories Headquarters Clerical Service Rules 1977 (S.O. 44 of 1977)	65-70	20

328

XII.	Action taken by Government on the Recommendations made by, and Assurances given to, the Committee on Subordinate Legislation.	21
------	---	----

APPENDICES

I.	Summary of recommendations/observations made by the Committee.	25
II.	Copy of letter No. F.4-290/78-D.III dated 5-11-1980 from the Directorate of Marketing and Inspection (BHO) (Ministry of Rural Reconstruction), Nagpur addressed to the Export Inspection Council (Calcutta).	32
III.	Statement showing the action taken by Government on the recommendations made by, and Assurances given to, the Committee on Subordinate Legislation.	33
IV.	Minutes of the Fifty-seventh, Sixty-first and Sixty eighth sittings of the Committee on Subordinate Legislation (Seventh Lok Sabha)	61

COMPOSITION OF THE COMMITTEE ON SUBORDINATE
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*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 Seventeenth Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 22 November and 9 December, 1982.

3. The Committee considered and adopted this Report at their sitting held on 8 March, 1983.

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 COLD STORAGE ORDER, 1980 (S.O. 2453 OF 1980)

(A)

6. Clause 1(2) of the Cold Storage Order, 1980, published in the Gazette of India, Part II, Section 3(ii), dated 20 September, 1980, reads as under:

“It extends to the whole of India except the States|Union Territories exempted in this regard by the Central Government.”

7. It was felt that the names of States|Union Territories exempted by the Central Government should be specified in the Order itself so as to make it self-contained.

8. The Ministry of Rural Reconstruction, with whom the matter was taken up, in their reply dated 3 July, 1981 stated as under:

“Almost all laws have an exemption clause under which certain territories or institutions are taken out of its purview. The position under the Cold Storage Order may also keep changing with regard to some State or the other which may be exempted. It does not, therefore, appear necessary to make a mention of the States which are not covered by the exemption.”

9. The Committee are not convinced with the reply of the Ministry of Rural Reconstruction, in as much as the Ministry have not cited any specific Law which has an exemption Clause under which certain States/Union Territories, etc. have been taken out of its purview without mentioning the names of those States/Union Territories in the Act itself. The Committee desire the Ministry of Rural Reconstruction to state the specific Laws containing similar exemption Clause or specify in Clause 1(2) of the Cold Storage Order, 1980, the names of States/Union Territories exempted from its operation so as to make the Order self-contained.

(B)

10. Clause 8 of the Cold Storage Order, 1980 reads as under:

“Relaxation of conditions of licence.—Every licence granted under clause 7 shall be subject to the term and conditions specified in the Schedule:

Provided that in case of a cold storage already in existence before the commencement of this Order, the Licensing Officer may relax any condition if he is satisfied that the compliance with such a condition is not practicable.”

11. In order to avoid any scope for discrimination, it was felt that the Licensing Officer should record the reasons for relaxation in writing.

12. The Ministry of Rural Reconstruction to whom the matter was referred, in their reply dated 3 July, 1981, stated that the suggestion of the Committee for recording the reasons for relaxation in writing by the Licensing Officer while relaxing any of the conditions was acceptable to them.

13. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Rural Reconstruction have agreed to amend Clause 8 of the Cold Storage Order, 1980 so as to provide for recording of reasons in writing by the Licensing Officer while relaxing any of the conditions specified in the Schedule appended thereto. The Committee desire the Ministry to notify the proposed amendment in the official Gazette at an early date.

(C)

14. Second proviso to Clause 9 of the Cold Storage Order, 1980 provides for cancellation of licence without giving the licensee an opportunity of being heard.

15. It was felt that the provision was too harsh and, therefore, some guidelines should be provided for with the Licensing Officer to check misuse of his discretionary powers.

16. The Ministry of Rural Reconstruction, with whom the matter was taken up, in their reply dated 3 July, 1981, stated as under:

"The suggestion is acceptable in principle. However, it is felt that a better arrangement would be to vest the Agricultural Marketing Adviser, with the authority to suspend a licence without hearing the licensee, pending an enquiry into the reasons for the cancellation of licence under clause 9."

17. The Committee note with satisfaction that the suggestion made by them is acceptable to Government in principle and concur in the alternative proposal of the Ministry of Rural Reconstruction to vest the Agricultural Marketing Adviser with the authority to suspend a licence without hearing the licensee pending an inquiry into the reasons for cancellation of licence under Clause 9 of the Cold Storage Order, 1980. The Committee, therefore, desire the Ministry to amend the second proviso to Clause 9 of the Order accordingly and notify it in the official Gazette at an early date.

III

THE MINISTRY OF HOME AFFAIRS (DIRECTORATE OF COORDINATION POLICE COMPUTERS) GROUP A AND B POSTS RECRUITMENT RULES, 1980 (G.S.R. 1104 OF 1980)

18. Rule 6 of the Ministry of Home Affairs (Directorate of Coordination Police Computers) Group A and B Posts Recruitment Rules, 1980 reads as under:—

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

19. It was observed that the Rule relating to 'power to relax' was usually confined to 'any class or category of persons' and so did not extend to 'posts'. It was further observed that the said Rules which related to Group A and B posts did not provide for consultation with the Union Public Service Commission for relaxing any of the provisions of these rules with respect to any class or category of persons.

20. On a reference made to the Ministry of Home Affairs, that Ministry, in their reply dated 24 May, 1982, stated as under:—

".....the matter has since been examined in consultation with the Department of Personnel and A.R., the UPSC and the Ministry of Law. As recommended by the Committee on Subordinate Legislation, it is proposed

to amend Rule 6 of Ministry of Home Affairs (DCPC) Group A and B Posts Recruitment Rules, 1980 so as to read as under:—

'6. Power to Relax:—

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

It is requested that the matter may please be placed before the Committee on Subordinate Legislation and their concurrence communicated to this Ministry at an early date."

21. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Home Affairs have agreed to amend rule 6 of the Ministry of Home Affairs (Directorate of Coordination Police Computers) Group A and B Posts Recruitment Rules, 1980 so as to read as under:

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

The Committee concur in the above amendment proposed by the Ministry of Home Affairs and desire them to notify it in the Gazette at an early date.

IV

THE EXPORT OF BASMATI RICE (INSPECTION) RULES, 1980 (S.O. 1026 OF 1980)

22. Rule 8 of the Export of Basmati Rice (Inspection) Rules, 1980 reads as under:—

"Appeal.—If any authorised packer is aggrieved by the refusal of the Inspecting Officer to grade a consignment or to issue a certificate under sub-rule (7) or sub-rule (10) of rule 4, he may request the Inspecting Officer, in writing, latest by 5 p.m. on the following working day to refer the matter to the Agricultural Marketing Adviser, who may constitute an advisory panel to advise him on the dispute in accordance with the procedure laid down by him. The decision of the Agricultural Marketing Adviser shall be final."

23. The words 'The decision of the Agricultural Marketing Adviser shall be final' gave an impression that jurisdiction of Courts of Law for entertaining appeals against the decision of the Agricultural Marketing Adviser was being ousted. The Committee on Subordinate Legislation have time and again emphasised that the language used in the rules etc. should not be such as to give an impression that the jurisdiction of courts is being barred in any manner. 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 not be worded in a manner which may give an impression on the mind of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desire that if it is considered necessary to retain an interpretation clause in the rules, the clause should be worded on the lines of regulation 24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964, which reads as under:

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

24. The Ministry of Commerce, to whom the matter was referred, furnished a copy of Directorate of Marketing and Inspection, Nagpur letter No. F-4-290/78-D: I II dated 5 November, 1980 addressed to the Export Inspection Council, Calcutta (Appendix—II), containing their views in the matter.

25. The Ministry of Commerce also showed the views of the Directorate (Appendix-II) to the Ministry of Law for advice who opined as follows:

"Prima facie, the existing rule 8 would serve the purpose. The word shall not be question by any court of law, added in the proposed proposal is implied in the existing provision and appears no need to elaborate incorporating the above phrasology. The decision of the Agri. Marketing Adviser shall be final, means normally it shall not be questioned in a court of law. However, if the dept. desires to make it clear by incorporating the above they may do so...."

26. In view of the aforesaid advice of the Law Ministry, the Ministry of Commerce felt that it was not necessary to amend the existing Rules and desired that the matter be placed before the Committee for consideration.

27. The Committee are not convinced by the arguments advanced by the Ministry of Commerce. The words 'the decision of the Agricultural Marketing Adviser shall be final' in Rule 8 of the Export of Basmati Rice (Inspection) Rules, 1980 definitely give an impression to the common man who is not expected to be aware of the legal interpretation of words that jurisdiction of Courts of Law for entertaining appeals against the decision of the Agricultural Marketing Adviser is being ousted. The Committee, therefore, desire the Ministry to amend the language of Rule 8 of the Rules on the lines of Regulation 24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964 as recommended by them in paragraph 18 of their Fourth Report (Third Lok Sabha) presented to Lok Sabha on 4 May, 1965 so as not to give an impression that the jurisdiction of the courts is being barred in any manner.

V

THE COAL MINES PROVIDENT FUND (SECOND AMENDMENT) SCHEME, 1980-GSR 907 OF 1980; THE ANDHRA PRADESH COAL MINES PROVIDENT FUND (AMENDMENT) SCHEME, 1980-GSR 908 OF 1980 AND THE RAJASTHAN COAL MINES PROVIDENT FUND (AMENDMENT) SCHEME, 1980 (GSR 909 OF 1980).

28. Sub-paragraph (3) of Paragraph 66 of the Coal Mines Provident Fund Scheme, 1948 and corresponding Paragraphs of the Andhra Pradesh Coal Mines Provident Fund Scheme, 1956 and Rajasthan Coal Mines Provident Fund Scheme, 1958, as substituted by the above-mentioned Amending Scheme of 1980, provided *inter alia*, that if the person, to whom any amount of Provident fund was to be paid under these schemes, was a minor, the payment would be made to the natural guardian and in the absence of a natural guardian to such person as was considered to be the proper person representing the minor by the Assistant Commissioner/Regional Commissioner/Joint Commissioner and Commissioner, respectively.

29. It was felt that the provision in the said rules "to make payment to such person as was considered to be the proper person representing the miner" vested too wide a discretionary power in the authority concerned. The Ministry of Energy (Department of Coal), with whom the matter was taken up for laying down some guidelines for exercising such discretion by the authorities, stated in their reply dated 21 April, 1981 as follows:

"..... Paragraph 66(3) of the Coal Mines Provident Fund Scheme and corresponding paragraphs of Andhra Pradesh Coal Mines Provident Fund Scheme and Rajasthan Coal Mines Provident Fund Scheme provide

the manner for payment of provident fund accumulations of the deceased members to the minor payees entitled to receive the same. The spirit behind this provision is that the amount payable to the minors is utilised in the best interest of such payees. In order to ensure this, a provision has been made for payment to the persons on behalf of minor payees in the following order:

- (1) Guardian appointed under Guardians and Wards Act, 1890.
- (2) Guardian appointed under the provisions of the Coal Mines Provident Fund Scheme.
- (3) Natural Guardian.
- (4) In the absence of natural guardian to such person as considered to be the proper person representing the minor by the appropriate authority—Defecto Guardian.

2. The payment to the persons at S. No. 1 to 3 above is well-defined and there is no discretion on the part of the authorities sanctioning payment to them. The discretion in respect of the persons representing minor who is commonly known as 'De-facto Guardian', is only for the limited purpose of verification as to whether such De-facto Guardian is actually looking after the minors or not. In such cases, the De-facto Guardians are required to furnish indemnity bonds and the payments are released only thereafter.

In view of the position explained there does not appear any excessive discretionary powers vested in the concerned authorities. This may kindly be brought to the notice of the Committee on Subordinate Legislation."

30. The Committee note from the position explained by the Ministry of Energy (Department of Coal) that there is a provision contained in paragraph 66(3)(4) of the Coal Mines Provident Fund Scheme, 1948 and corresponding paragraphs in the Andhra Pradesh Coal Mines Provident Fund Scheme, 1956 and the Rajasthan Coal Mines Provident Fund Scheme, 1958 for making payment in the absence of natural guardian to such person as considered to be the proper person representing the minor by the appropriate authority-defacto guardian, after verification and after they have furnished indemnity bond. There being, thus, sufficient safeguards against the misuse of discretionary powers by the concerned authorities, the Committee feel satisfied and do not insist on laying down any separate guidelines for such authorities in this regard.

**THE INDIAN BOILER (THIRD AMENDMENT) REGULATIONS,
1980 (G.S.R. 590 OF 1980)**

31. Sub-regulation (4) of regulation 3 of the Indian Boiler Regulations, 1950, as substituted by the Indian Boiler (Third Amendment) Regulations, 1980 reads as under:

“(4) Where no provision is made in these regulations for design or manufacture of any pressure part, the Board may permit the design, manufacture, stage inspections and certification of such pressure part including the valves mounting and fittings to the codes or standards, which are known to be commonly used in industrially advanced countries for use in the country”.

32. It was felt that the amendment, as made, was vague inasmuch as the specifications (codes or standards) of pressure parts had not been provided in the aforesaid sub-regulation.

33. The Ministry of Industry (Department of Industrial Development) to whom the matter was referred, in their reply dated 15 March, 1982 stated that the Central Boilers Boards had decided to amend sub-regulation (4) of Regulation 3 as pointed out to them and further necessary action was being taken by them in that regard. The proposed amendment of the regulation reads as follows:—

“3(4). Where no provision is made in these regulations for design or manufacture of any pressure part, the Board may permit the design, manufacture, stage inspections and certification of such pressure part including the valves, mounting and fittings to the Codes or Standards like B.S., ASME Boiler and Pressure Vessel Code, TEMA, TRD, GOST and JIS, which are known to be commonly used in industrially advanced countries, for use in the country”.

34. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Industry (Department of Industrial Development) have decided to amend sub-regulation (4) of Regulation 3 of the Indian Boiler Regulations, 1950 so as to specify therein the codes or standards of pressure parts which are known to be commonly used in industrially advanced countries, for use in the country. The Committee agree with the amendment as proposed by the Ministry of Industry (Department of Industrial Development) and desire that it should be notified in the Gazette at an early date.

**THE STATIC AND MOBILE PRESSURE VESSELS (UNFIRED)
RULES, 1981 (G.S.R. 45-E OF 1981).**

(A)

35. Preamble to the Static and Mobile Pressure Vessels (Unfired) Rules, 1981 (G.S.R. 45-E of 1981) stated that the draft rules were published in the Official Gazette on 16 October, 1978 and copies thereof were made available to the public on 28 October, 1978 inviting objections/suggestions thereon within a period of 30 days. The final rules were, however, notified in the Gazette on 4 February, 1981 after more than 26 months from the last date for receiving objections/suggestions from the public.

35. The Ministry of Industry (Department of Industrial Development) were asked to explain the reasons for the enormous time taken in notifying the final rules. In their reply dated 24 September, 1982, the Ministry stated as under:—

“Draft Static and Mobile Pressure Vessels (Unfired) Rules, 1981 were published *vide* Notification No. G.S.R. 498(E) dated 16.10.1978 for inviting objections and suggestions from all persons likely to be affected thereby. The said Gazette Notification was made available to the public on 28.10.1978. While no objection/suggestion was received in the Ministry even till January, 1979, representations were received in April, 1979 on behalf of the oil industry requesting withholding of the finalisation and publication of the rules, as the industry had yet to study the rules to offer their comments. Meanwhile, a rule by rule review of the Draft rules was undertaken by the Chief Controller of Explosives, Nagpur, with a view to plug any discernible lacunae and to update various clauses on the basis of objections and suggestions received from different affected parties. Concrete suggestions and objections to the Notification were also received from M/s. Hindustan Petroleum Corporation Limited, Bharat Petroleum Corporation Limited and National Organic Chemical Industries Limited which could not be ignored merely on the ground that they were received late, considering the highly technical nature of the rules which have been framed for the first time in the country and also the fact that they would have wide implications affecting all industries and consumers. The rules were, therefore, modified accordingly. Final Notification was received from the Chief Controller of Explosives, Nagpur on 24th August, 1979. This was referred to Ministry of Law for vetting

on 6th September, 1979. Ministry of Law raised various points for clarification on vetting and the same were finally replied to on 30th July, 1980. Vetted final notification was received from Ministry of Law on 18th August, 1980 and the Hindi version of the Notification was received from the Official Languages Wing on 20th December, 1980. The final Notification (both in English and Hindi) was sent to the Press on 4th February, 1981 and its printed copies were received in this Ministry on 27th February, 1981.

Since this is a highly technical and voluminous legislation, in which various authorities are involved, some time has been taken by them to examine the views and some delay has occurred, which is regretted.....”.

37. The Committee have time and again emphasized that the time lag between the publication of the draft Rules and their final notification in the Gazette should not exceed one year rather efforts should be made to further reduce this period. The Committee note that although the Static and Mobile Pressure Vessels (Unfired) Rules, 1981 are of highly technical nature and framed for the first time in the country, yet at the same time, they feel that the Ministry have taken too long a period to finalise these Rules and notify them in the Gazette. The Committee desire the Ministry of Industry (Department of Industrial Development) to be careful in such matters in future and try to adhere to the time limit of one year for finalising and publishing the final Rules.

(B)

38. Rule 65 of the Static and Mobile Pressure Vessels (Unfired) Rules, 1981 (G.S.R. 45-E of 1981) read as under:

“65. *Powers to exempt.*—The Central Government may, on the recommendation of the Chief Controller, in exceptional cases, by order and for reasons to be recorded in writing, exempt storage and transportation of any compressed gas in any vessel from all or any of the provisions of these rules, on such conditions, if any, as may be specified in the order.”

39. It was felt that the conditions for granting exemption should be specified in the rule itself to make it self-contained. The Ministry of Industry (Department of Industrial Development), with whom the matter was taken up, stated in their reply dated 24 September, 1982, as under:—

“As regards the suggestion that the conditions for granting exemption under rule 65 should be specified, the same has been examined in detail in consultation with the technical authorities. It is felt that, although the suggestion is very valuable, it would be impossible to anticipate at this stage the conditions under which relaxation could be

given in each individual case. In view of this, this Ministry feels that the conditions for granting exemption need not be specified in the Rules”.

40. The Committee feel satisfied with the reply of the Ministry of Industry (Department of Industrial Development) and recommend that the Ministry should watch the working of the Rules for some time more and specify in Rule 65 of the Static and Mobile Pressure Vessels (Unfired) Rules, 1981, the conditions under which exemption can be granted by the Chief Controller of Explosives for shortage and transportation of any compressed gas in any vessel in the light of the experience gained.

VIII

THE EXPORT OF BECHE-DE-MER (INSPECTION) RULES, 1978 (S.O. 2136 OF 1978).

41. Rule 3 of the Export of Beche-de-mer (Inspection) Rules, 1978 (S.O. 2136 of 1978) reads as under:

“3. *Basis of Inspection*—Inspection of Beche-de-mer for export shall be carried out with a view to seeing that Beche-de-mer conforms to the specifications recognised by the Central Government under Section 6 of the Act (hereinafter referred to as the recognised specifications)”

42. It was suggested to the Ministry of Commerce and Civil Supplies (Department of Commerce) that the above rule should also make a reference to the S.O. number and the date of the Gazette notification in which the specifications, recognised by the Government, were published.

43. In their reply dated 8 February, 1980, the Ministry stated that they had no objection to the suggestion and that the action to amend the notification was being taken.

44. The Committee recall that the representatives of the Ministry of Commerce during their evidence before the Committee on 26 November, 1982 have already agreed, in an analogous case of the Export of Cumin Seeds (Quality, Control and Inspection) Rules, 1979 to publish the specifications in the Annexure to the notification.

45. As agreed to by the Ministry of Commerce in the case of Export of Cumin Seeds (Quality Control and Inspection) Rules, 1979*, the Committee feel that the specifications recognised by the Government in respect of inspection of Beche-de-mer for export should also be published in the Annexure to the Export of Beche-de-mer (Inspection) Rules, 1978. The Committee, therefore, desire the Ministry to amend Rule 3 of the Rules *ibid* and notify it in the official Gazette at an early date.

*See paragraphs 11—28 of the Fifteenth Report of the committee on subordinate legislation (Seventh Lok Sabha)

IX

(i) IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 51 OF THE SEVENTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) RE: THE UNIVERSITY GRANTS COMMISSION (DISQUALIFICATION, RETIREMENT AND CONDITIONS OF SERVICE OF MEMBERS) SECOND AMENDMENT RULES, 1976 (G.S.R. 295 OF 1976).

(ii) IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 61 OF THE SIXTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING GIVING OF RETROSPECTIVE EFFECT TO THE 'ORDERS' FRAMED UNDER VARIOUS ACTS OF PARLIAMENT. [THE UNIVERSITY GRANTS COMMISSION (DISQUALIFICATION, RETIREMENT AND CONDITIONS OF SERVICE OF MEMBERS) (SECOND AMENDMENT) RULES, 1973 (G.S.R. 1006 OF 1973)].

46. In paragraph 10 of their Tenth Report (Sixth Lok Sabha), presented to the House on 25 July, 1978, the Committee on Subordinate Legislation recommended as under:—

"10. The Committee note that the Ministry of Education and Social Welfare (Department of Education) have agreed to incorporate a provision in the University Grants Commission Act to empower the Central Government to give retrospective effect to the rules. The Committee desire the Ministry to bring the amending legislation for the purpose by the end of this year. The Committee further desire that provision be made in the Act for validating the rules already made and given retrospective effect".

47. In their Action Taken Note, dated 15 November, 1978, the Ministry of Education and Social Welfare (Department of Education) stated as under:—

"Government have already agreed to incorporate a provision in the University Grants Commission Act to empower them to give retrospective effect to the Rules, as and when the Act is next amended. Till then, no retrospective effect will be given to any Rule framed under the Act. Having regard to the fact that Parliament is fully occupied with important legislative programmes, Government do not consider it advisable to go in for an amending legislation for this purpose alone. Further, the Report of the UGC Review Committee is presently under consideration of Government and it is likely that acceptance of some of the recommendations may involve amendments of the UGC Act. Thus, a consolidated legislation would be introduced as early as possible and

the recommendations of the Committee on Subordinate Legislation would also be implemented at that time”.

48. Not satisfied with the above reply of the Ministry, the Committee, in paragraph 51 of their Seventeenth Report (Sixth Lok Sabha) presented to the House on 22 March, 1979, recommended as under:—

“The Committee are unhappy to note that the Ministry of Education and Social Welfare (Department of Education) who had agreed to amend the University Grants Commission Act, 1956 to empower the Government to give retrospective effect to the rules framed thereunder have failed to do so within the time limit fixed by them in para 10 of their Tenth Report (Sixth Lok Sabha). The Committee are not convinced by the reply of the Ministry that since the Report of the University Grants Commission Review Committee is under their consideration and that the acceptance of some of its recommendations might involve amendment of the Act, a consolidated legislation would be introduced as early as possible. The Committee desire that the Ministry should now bring forth the amending legislation exclusively for giving retrospective effect to the rules framed thereunder during the present Session of Lok Sabha (*viz.* Budget Session) itself, in case other proposed amendments are likely to take further time in their finalisation”.

49. In a similar case regarding the University Grants Commission (Disqualification, Retirement and Conditions of Service of Members) (Second Amendment) Rules, 1973, the Committee in paragraph 61 of their Sixteenth Report (Sixth Lok Sabha), presented to the House on 28 February, 1979 observed as under:—

“The Committee note that according to the advice given by the Ministry of Law, the Ministry of Education and Social Welfare (Department of Education) have no power to give retrospective effect to the University Grants Commission (Disqualification, Retirement and Conditions of Service of Members) (Second Amendment) Rules, 1973. The reply of the Ministry of Education and Social Welfare (Department of Education) that the retrospective effect given to the rules was void and consequently the rules would automatically be deemed to have come into force from the date of their publication in the Gazette is not convincing. The Committee feel that in order to remove any legal ambiguity it is necessary for the Ministry to take steps either to notify in the Gazette that the rules would have effect only from the

date of their publication or to amend the University Grants Commission Act to empower Government to give retrospective effect to orders framed thereunder”.

50. In their reply dated 8 April, 1980, the Ministry of Education and Culture (Department of Education) stated that necessary steps for introducing a Bill in Parliament to amend the University Grants Commission Act, 1956 to give effect to the recommendation of the Committee, had already been initiated and it was expected that the Bill would be introduced during the next Session of Parliament (i.e. Monsoon Session, 1980).

51. In their further reply dated 5 November, 1980, the Ministry stated that draft not for consideration by the Cabinet containing the proposal for amendment of the said Act in accordance with the Committee's recommendation had been approved by the Education Minister and referred to the Ministry of Law for concurrence. On receipt from the Ministry of Law, the proposal would be submitted to the Cabinet for their approval. Subsequently, the Ministry, in their reply dated 26 October, 1981, intimated as under:—

“.....all formalities connected with the proposal for amendment to the UGC Act in accordance with recommendations of the Committee on Subordinate Legislation have been completed at the official level. However, when the proposal was placed before the formal Education Minister for obtaining the formal approval of the Cabinet to the introduction of the Bill in Parliament, he directed that this proposal could be incorporated in the substantive amendments to the UGC Act which are being formulated on account of Education being brought in the concurrent list. He felt that introduction of a separate legislation would only add to the heavy legislative business before both the Houses and that the possibility of such a legislation being taken up for consideration during the last Session was remote.

In deference to the above directions of the Education Minister, it became necessary to keep the proposal pending for some time. Meanwhile, formulation of proposals for substantive amendments to the UGC Act, is now in progress and the Ministry expects to give final shape to them as early as possible.

52. On being enquired about the latest position in the matter, the Ministry of Education and Culture (Department of Education) stated in their O.M. dated 19 March, 1982 that the proposals for substantive amendments to the University Grants Commission Act, 1956 were still under consideration and the recommendation of the Committee in question, which had already been accepted by Government, was also included in these proposals.

53. The Committee note with concern that even after a lapse of four years, the Ministry of Education and Culture (Department of Education) have not been able to bring forward a comprehensive University Grants Commission (Amendment) Bill incorporating therein also a provision to empower the Central Government to give retrospective effect to 'Orders' framed there under as recommended by the Committee in paragraph 61 of their Sixteenth Report and paragraph 51 of their Seventeenth Report (Sixth Lok Sabha), presented to Lok Sabha on 28 February and 22 March, 1979, respectively.

54. The Committee deplore the delay on the part of the Ministry and desire them that in case the proposed comprehensive University Grants Commission (Amendment) Bill is not going to be introduced during the current Session of Lok Sabha (viz. Budget Session, 1983), they should introduce a Bill exclusively dealing with the amendment of the University Grants Commission Act for the purpose of implementing the recommendation of the Committee which has been accepted by the Government as far back as on 15 November, 1978.

X

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 60 OF THE NINETEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING—

- (i) THE DEPARTMENT OF SPACE EMPLOYEES' (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1976 (S.O. 270-E OF 1976);
- (ii) THE BOMBAY PORT TRUST EMPLOYEES' (CLASSIFICATION, CONTROL AND APPEAL) REGULATIONS, 1976 (G.S.R. 643 OF 1976); AND
- (iii) THE CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1965.

55. Rule 3(2) of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 reads as under:

"Notwithstanding anything contained in sub-rule (1), the President may by order exclude any class of employees from the operation of all or any of these rules."

56. Similarly, Rule 3(2) of the Bombay Port Trust Employees' (Classification, Control and Appeal) Regulations, 1976, reads as under:

"Notwithstanding anything contained in sub-regulation (1), the Chairman may by order, and with the prior approval of the Central Government, so far as it concerns an em-

ployee, referred to in clause (a) of sub-section (1) of section 24 of the Act, exclude from the operation of all or any of these regulations, any employee or class of employees."

57. Rule 3(2) of the Department of Space Employees (Classification, Control and Appeal) Rules, 1976 corresponds to rule 3(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1976 which reads as under:—

"Notwithstanding anything contained in sub-rule (1), the President may by order exclude any class of Government servants from the operation of all or any of these rules."

58. It was observed that under the above provisions the President|Chairman could by an order provide that the procedure for disciplinary proceedings laid down in the rules|regulations would not apply to any employee or class of employees. The matter was referred to the Department of Space, the Ministry of Shipping and Transport (Transport Wing) and the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to state for consideration of the Committee on Subordinate Legislation the considerations for making such a provision in the rules|regulations.

59. After considering the replies received from the Department of Space, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) and the Ministry of Shipping and Transport (Transport Wing), the Committee in paragraph 60 of their Nineteenth Report (Sixth Lok Sabha), presented to the House on 25 April, 1979, made the following recommendations:—

"The Committee are not convinced by the arguments advanced by the Department of Space, Department of Personnel and Administrative Reforms and the Ministry of Shipping and Transport (Transport Wing) for retaining Rule 3(2) of the Classification, Control and Appeal Rules. The Committee feel that when sub-rule (1) of Rule 3 of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976, the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 and the Central Civil Services (Classification, Control and Appeal) Rules, 1965, list the categories of Employees who have been exempted from the operation of the respective Rules, the provisions of sub-rule (2) of Rule 3 of these Rules appear to be redundant because such discretionary powers may result in favouritism leading to discrimination. The Committee therefore desire the Department of Space, Department of Personnel and Administrative Reforms and Ministry of Shipping

and Transport (Transport Wing) to delete sub-rule (2) of Rule 3 of their respective Classification, Control and Appeal Rules.”

60. The above recommendation was forwarded to the Departments concerned for implementation. In their reply dated 6 September, 1982, the Department of Space intimated that they had since deleted sub-rule (2) of Rule 3 of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976.

61. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms), in their reply dated 25 May, 1979, while pleading to retain sub-rule (2) of Rule 3, gave the following reasons:—

“.....the view of the Committee on Subordinate Legislation, that the exercise of powers conferred by Rule 3(2) of the CCS(CCA) Rules, 1965 'may result in favouritism leading to discrimination' has been carefully examined in this Department. It is seen that the powers under the aforesaid Rule 3(2) have been invoked so far to exclude the under-mentioned categories of personnel from the purview of CCS(CCA) Rules, 1965:

MINISTRY OF EXTERNAL AFFAIRS

Locally recruited staff in Missions abroad.

MINISTRY OF COMMUNICATIONS

Post and Telegraphs Department.

- (i) Extra-Departmental Agents.
- (ii) Monthly-rated staff paid from contingencies other than those brought on to regular establishment.
- (iii) Monthly-rated work-charged and other employees not on regular establishment.
- (iv) Daily-rated staff paid from contingencies.
- (v) Daily-rated workmen paid by the day, week, month etc.
- (vi) All hot weather and monsoon establishment.
- (vii) Non-departmental telegraphists and telephone operators.

MINISTRY OF HOME AFFAIRS

Police officers up to the rank of Inspector of Police in Delhi Special Police Establishment.

MINISTRY OF WORKS AND HOUSING

Work-charged personnel of the Central Public Works Department, the President's Garden Establishment and the Estate Office.

MINISTRY OF TOURISM AND CIVIL AVIATION AND MINISTRY OF SHIPPING & TRANSPORT

- (i) Locally-recruited staff in Tourism Offices abroad.
- (ii) Work-charged personnel of the Mangalore Projects and the Tuticorin Harbour Project.

2. The above list would show that the exclusion from the purview of CCS(CCA) Rules, 1965 is not made in the case of individual Government servants but in the case of definitely identifiable groups of employees to whom it is not necessary to apply the elaborate procedure laid down in the aforesaid rules. For example it is not necessary to provide for the same security of tenure as available to Indian citizens appointed to civil posts under the Government of India in the case of locally recruited staff of Indian Missions and Indian Tourist Offices located in foreign countries. In the case of police officers up to the rank of Inspector of Police in Delhi Special Police Establishment, the exclusion was made as it was intended that they should be governed by a separate set of rules known as Special Police Establishment (Subordinate ranks) (Discipline & Appeal) Rules. Work charged personnel, daily-rated employees paid from contingencies, non-departmental workers of the P & T Department etc. have been excluded from the operation of the CCS(CCA) Rules, 1965 on account of the short term of their tenure or the nature of their work. Thus, the exercise of powers under Rule 3(2) of the CCS(CCA) Rules, 1965 has been resorted to only where there was adequate justification and such exercise of powers has not been arbitrary or discriminatory. Further, action in exercise of the powers conferred by *Rule 3(2) ibid can be taken only by the Department of Personnel & A.D. and as such*, there is no question of any other authorities exercising the powers in their own discretion in so far as Central Government employees are concerned. Action is taken by this Department to exclude specified categories of Central Government employees from the purview of the CCS (CCA) Rules, 1965, only where there is sufficient justification for doing so, on the recommendation of the administrative Ministries and Departments concerned. The exercise of powers to do not, therefore, result in any 'favouritism leading to discrimination', as observed by the Committee on Subordinate Legislation. As already pointed out, the exclusion from the purview of CCS(CCA) Rules, 1965, is done in respect of well-identifiable groups of employees, on sufficient grounds."

62. The Ministry of Shipping and Transport, in their reply dated 30 October, 1979, requested for permission to retain regulation 3(2) and advanced the following reasons:—

“the recommendation contained in para 60 of the 19th Report of the Committee on Subordinate Legislation has been very carefully examined by this Ministry in consultation with the Bombay Port Trust and the Department of Personnel & Administrative Reforms. A provision similar to Regulation 3(2) of the Bombay Port Trust Employees (CCA) Regulations, 1976 exists in the CCS(CCA) Rules, 1965. In exercise of the powers conferred by rule 3(2) of the CCS(CCA) Rules, 1965, among the categories so excluded from the purview of these rules are the work-charged personnel of the Mangalore and Tuticorin Harbour Projects which were Government Ports (Tuticorin Port has a Port Trust Board from 1-4-79). It is considered that a situation may arise when it may become necessary to exclude certain classes of employees not covered by regulation 3(1), from the purview of BPT rules under regulation 3(2). This Ministry, therefore, is of the view that regulation 3(2) of BPT employees (CCA) Regulation, 1965 is only an enabling rule to cover certain unforeseen situations and should therefore, be allowed to be retained.”

63. The Committee note with satisfaction that, on being pointed out by them, the Department of Space have deleted sub-rule (2) of Rule 3 of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 as recommended by the Committee in paragraph 60 of their Nineteenth Report (Sixth Lok Sabha), presented to Lok Sabha on 29 April, 1979.

64. From the reasons advanced by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) and Ministry of Shipping and Transport for retention of sub-rule (2) of Rule 3 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and Regulation 3(2) of the Bombay Port Trust Employees' (Classification, Control and Appeal) Regulations, 1976, the Committee note that the employees who are excluded from the purview of these rules are not individual Government Servants but are well identifiable groups of employees of certain Ministries because of special nature of their work leaving little scope for exercise of discretionary powers resulting in favouritism and discrimination. The Committee, therefore, do not insist on deletion of sub-rule (2) of Rule 3 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and Regulation 3(2) of the Bombay Port Trust Employees' (Classification, Control and Appeal) Regulations, 1976.

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 33 OF THE SIXTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) RE: THE DIRECTORATE GENERAL ORDNANCE FACTORIES HEADQUARTERS CLERICAL SERVICE RULES, 1977 (S.R.O. 44 OF 1977).

65. Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 reads as under:—

“Regulations for the competitive examination—The rules for the competitive examinations referred to in the Third Schedule shall be as determined by regulations made by the Director General, Ordnance Factories.”

66. When enquired whether the Ministry of Defence had any objection to the publication of the regulations framed under the above rule in the Official Gazette for the information of the general public, the Ministry, in their reply dated 21 September, 1978, stated as follows:—

“.....framing of regulations for competitive examination under rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 is still under examination. However, there will be no objection to the publication of the regulations in the gazette as and when these are finalised.”

67. Accordingly, the Committee on Subordinate Legislation, in paragraph 33 of their Sixteenth Report (Sixth Lok Sabha), presented to the House on 28 February, 1979, made the following recommendation:—

“The Committee note that the framing of Regulations for the competitive examination under rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977, is under examination of the Ministry of Defence. The Committee desire the Ministry to finalise these regulations at an early date and publish them in the Gazette for the information of all concerned.”

68. The Ministry of Defence, when reminded as to whether the regulations had since been published in the Gazette, informed as follows:—

“.....During the course of examination of the draft regulations, we were advised by the Deptt. of Personnel and AR that with the promulgation of Govt. Resolution No. 46|1(S)|74-Estt(B) dated the 4th November, 1975, constituting the staff Selection Commission, all posts under the Govt in the non-technical non-gazetted category fell

within the purview of Staff Selection Commission. As such, any exemption earlier given for direct recruitment in the clerical cadre, other than through the Institute of Secretariat Training and Management (now Staff Selection Commission) stood automatically withdrawn. Now recruitment of LDCs in DGOFF Hqrs is being made through Staff Selection Commission.

In the light of the above advice, it has become necessary to delete Rule 20 from the Directorate General Ordnance Factories Hqrs. Clerical Service Rules, 1977. Action in this regard has already been initiated and necessary amendments to the Rules will be carried out soon."

69. The Committee note from the reply of the Ministry of Defence that Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 has now become redundant as recruitment in the clerical cadre is now done through the Staff Selection Commission constituted under the Department of Personnel and Administrative Reforms vide Government Resolution No. 46|1(S)|74-Estt (B) dated 4 November, 1975.

70. In view of the position explained by the Ministry of Defence, the Committee do not like to pursue the matter further. The Committee, however, desire the Ministry to take early steps for the deletion of Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 and to notify the amendment in this regard in the Official Gazette at an early date.

XII

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

71. With a view to ensure speedy implementation of their recommendations, the Committee on Subordinate Legislation in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha) had fixed a time-limit of six months for implementation of their recommendations by the Ministries|Departments of Government of India.

72. The Committee have come across a number of cases where the Ministries|Departments have taken unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 8, 11, 15, 18, 19, 20, 26, 28 and 34 of the Statement at Appendix III that the period of delay which occurred ranges between 2 and 8 years in implementing the recommendations made by the Committee in various Reports during the Fifth and Sixth Lok Sabha.

73. The Committee cannot help in expressing their concern over the delay on the part of the concerned Ministries|Departments in the

matter of implementation of their recommendations. The Committee would like the Ministries/Departments to be more careful in future and should strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations and in sending timely intimation to them as and when the recommendations made by the Committee are implemented.

74. In certain cases listed in Appendix III, the Committee find that their recommendations have been implemented within the time-limit fixed therefor. The Committee express their appreciation for the promptness shown by certain Ministries/Departments in implementing their recommendations well in time.

NEW DELHI;

March 8, 1983

Phalgun 17, 1904 (Saka)

MOOL CHAND DAGA

Chairman,

Committee on Subordinate

Legislation

A P P E N D I C E S

APPENDIX I

(Vide paragraph 5 of the Report)

Summary of main recommendations/observations made by the Committee

Sl. No.	Paragraph No.	Summary
(1)	(2)	(3)
1 (i)	9	The Committee are not convinced with the reply of the Ministry of Rural Reconstruction, inasmuch as the Ministry have not cited any specific Law which has an exemption Clause under which certain States Union Territories, etc. have been taken out of its purview without mentioning the names of those States/Union Territories in the Act itself. The Committee desire the Ministry of Rural Reconstruction to state the specific Laws containing similar exemption Clause or specify in Clause 1(2) of the Cold Storage Order, 1980, the names of States/Union Territories exempted from its operation so as to make the Order self-contained.
1 (ii)	13.	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Rural Reconstruction have agreed to amend Clause 8 of the Cold Storage Order, 1980 so as to provide for recording of reasons in writing by the Licensing Officer while relaxing any of the conditions specified in the Schedule appended thereto. The Committee desire the Ministry to notify the proposed amendment in the official Gazette at an early date.
1 (iii)	17	The Committee note with satisfaction that the suggestion made by them is acceptable to Government in principle and concur in the alternative proposal of the Ministry of Rural Reconstruction to vest the Agricultural Marketing Adviser with the authority to suspend a licence without hearing the licensee pending an inquiry into the

(1)	(2)	(3)
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reasons for cancellation of licence under Clause 9 of the Cold Storage Order, 1980. The Committee, therefore, desire the Ministry to amend the second proviso to Clause 9 of the Order accordingly and notify it in the official Gazette at an early date.

- 2 21 The Committee note with satisfaction that, on being pointed out by them, the Ministry of Home Affairs have agreed to amend rule 6 of the Ministry of Home Affairs (Directorate of Coordination Police Computers) Group A and B posts Recruitment Rules, 1980 so as to read as under:

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

The Committee concur in the above amendment proposed by the Ministry of Home Affairs and desire them to notify it in the Gazette at an early date.

- 3 27 The Committee are not convinced by the arguments advanced by the Ministry of Commerce. The words ‘the decision of the Agricultural Marketing Adviser shall be final’ in Rule 8 of the Export of Basmati Rice (Inspection) Rules, 1980 definitely give an impression to the common man who is not expected to be aware of the legal interpretation of words that jurisdiction of Courts of Law for entertaining appeals against the decision of the Agricultural Marketing Adviser is being ousted. The Committee, therefore, desire the Ministry to amend the language of Rule 8 of the Rules on the lines of Regulation 24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964 as recommended by them in paragraph 18 of their Fourth Report

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| | | (Third Lok Sabha), presented to Lok Sabha on 4 May, 1965 so as not to give an impression that the jurisdiction of the courts is being barred in any manner. |
| 4 | 30 | The Committee note from the position explained by the Ministry of Energy (Department of Coal) that there is a provision contained in paragraph 66(3) (4) of the Coal Mines Provident Fund Scheme, 1948 and corresponding paragraphs in the Andhra Pradesh Coal Mines Provident Fund Scheme, 1956 and the Rajasthan Coal Mines Provident Fund Scheme, 1958 for making payment in the absence of natural guardian to such person as considered to be the proper person representing the minor by the appropriate authority— <i>de facto</i> guardian, after verification and after they have furnished indemnity bond. There being, thus, sufficient safeguards against the misuse of discretionary powers by the concerned authorities, the Committee feel satisfied and do not insist on laying down any separate guidelines for such authorities in this regard. |
| 5 | 34 | The Committee note with satisfaction, that on being pointed out by them, the Ministry of Industry (Department of Industrial Development) have decided to amend sub-regulation (4) of Regulation 3 of the Indian Boiler Regulations, 1950 so as to specify therein the codes or standards of pressure parts which are known to be commonly used in industrially advanced countries, for use in the country. The Committee agree with the amendment as proposed by the Ministry of Industry (Department of Industrial Development) and desire that it should be notified in the Gazette at an early date. |
| 6(i) | 37 | The Committee have time and again emphasized that the time lag between the publication of the draft Rules and their final notification in the Gazette should not exceed one year, rather efforts should be made to further reduce this period. The Committee note that although the Static and Mobile Pressure Vessels (Unfired) Rules, 1981 |

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| | | are of highly technical nature and framed for the first time in the country, but at the same time, they feel that the Ministry have taken too long a period to finalise these Rules and notify them in the Gazette. The Committee desire the Ministry of Industry (Department of Industrial Development) to be careful in such matters in future and try to adhere the time limit of one year for finalising and publishing the final Rules. |
| 6(ii) | 40 | The Committee feel satisfied with the reply of the Ministry of Industry (Department of Industrial Development) and recommend that the Ministry should watch the working of the Rules for some time more and specify in the Rule 65 of the Static and Mobile Pressure Vessels (Unfired) Rules, 1981, the conditions under which exemption can be granted by the Chief Controller of Explosives for storage and transportation of any compressed gas in any vessel in the light of the experience gained. |
| 7(i) | 44 | The Committee recall that the representatives of the Ministry of Commerce during their evidence before the Committee on 26 November, 1982 have already agreed, in an analogous case of the Export of Cumin Seeds (Quality, Control and Inspection) Rules, 1979 to publish the specifications in the Annexure to the notification. |
| 7(ii) | 45 | As regard to by the Ministry of Commerce in the case of Export of Cumin Seeds (Quality, Control and Inspection) Rules, 1979, the Committee feel that the specifications recognised by the Government in respect of inspection of Beche-de-mer for export should also be published in the Annexure to the Export of Beche-de-mer (Inspection) Rules, 1978. The Committee, therefore, desire the Ministry to amend Rule 3 of the Rules and notify it in the official Gazette at an early date. |
| 8(i) | 53 | The Committee note with concern that even after a lapse of four years, the Ministry of Education and Culture (Department of Education) has not been able to bring forward a comprehensive University Grants Commission (Amendment) |

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Bill incorporating therein also a provision to empower the Central Government to give retrospective effect to 'Orders' framed thereunder as recommended by the Committee in paragraph 61 of their Sixteenth Report and paragraph 51 of their Seventeenth Report (Sixth Lok Sabha) presented to Lok Sabha on 28 February and 22 March, 1979 respectively.

- 8(ii) 54 The Committee deplore the delay on the part of the Ministry of Education and Culture (Department of Education) and desire them that in case the proposed comprehensive University Grants Commission (Amendment) Bill is not going to be introduced during the current Session of Lok Sabha (*viz.* Budget Session, 1983), they should introduce a Bill exclusively dealing with the amendment of the University Grants Commission Act for the purpose of implementing the recommendation of the Committee which has been accepted by the Government as far back as on 15 November, 1978.
- 9(i) 63 The Committee note with satisfaction that, on being pointed out by them, the Department of Space have deleted sub-rule (2) of Rule 3 of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 as recommended by the Committee in paragraph 60 of their Nineteenth Report (Sixth Lok Sabha), presented to Lok Sabha on 29 April, 1979.
- 9(ii) 64 From the reasons advanced by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) and Ministry of Shipping and Transport for retention of sub-rule (2) of Rule 3 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and Regulation 3(2) of the Bombay Port Trust Employees' (Classification, Control and Appeal) Regulations, 1976, the Committee note that the employees who are excluded from the purview of these rules are not individual Government Servants but are well identifiable groups of employees of certain Ministries because of special nature of their work leaving little scope of exercise
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- | (1) | (2) | (3) |
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| | | of discretionary powers resulting in favouritism and discrimination. The Committee, therefore, do not insist on deletion of sub-rule (2) of Rule 3 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 and Regulation 3(2) of the Bombay Port Trust Employees' (Classification, Control and Appeal) Regulations, 1976. |
| 10(i) | 69 | The Committee note from the reply of the Ministry of Defence that Rule 20 of the Directorate General, Ordnance Factories Headquarters Clerical Service Rules, 1977 has now become redundant as recruitment in the clerical cadre is now done through the Staff Selection Commission constituted under the Department of Personnel and Administrative Reforms <i>vide</i> Government Resolution No. 46 1(S) 74-Estt(B) dated 4 November, 1975. |
| 10(ii) | 70 | In view of the position explained by the Ministry of Defence, the Committee do not like to pursue the matter further. The Committee, however, desire the Ministry to take early steps for the deletion of Rule 20 of the Directorate General, Ordnance Factories Headquarters Clerical Service Rules, 1977 and to notify the amendment in this regard in the Official Gazette at an early date. |
| 11(i) | 72 | The Committee have come across a number of cases where the Ministries/Departments have taken unusually long time in implementing their recommendations. It will be seen from the cases mentioned at S. Nos. 4, 8, 11, 15, 18, 19, 20, 26, 28 and 34 of the Statement at Appendix III that the period of delay occurred ranges between 2 and 8 years in implementing the recommendations made by the Committee in various Reports during the Fifth and Sixth Lok Sabha. |
| 11(ii) | 73 | The Committee cannot help in expressing their concern over the delay on the part of the concerned Ministries/Departments in the matter of implementation of their recommendations. The |

(1)	(2)	(3)
		<p>Committee would like the Ministries/Departments to be more careful in future and should strictly adhere to the time-limit fixed by the Committee for implementation of their recommendations and in sending timely intimation to them as and when the recommendations made by the Committee are implemented.</p>
11(iii)		<p>In certain cases listed in Appendix III, the Committee find that their recommendations have been implemented within the time-limit fixed therefor. The Committee express their appreciation for the promptness shown by certain Ministries/Departments in implementing their recommendations well in time.</p>

APPENDIX II

(Vide Paragraph 24 of the Report)

A copy of letter No. F-4-290/78-D. III dated 5-11-1980 from the Directorate of Marketing and Inspection (BHQ) (Ministry of Rural Reconstruction), Nagpur addressed to the Export Inspection Council (Calcutta)

There has been a lot of correspondence on the framing of the working of the appeal clause under Rule 8 between the Directorate of Marketing and Inspection, the Export Inspection after prolonged correspondence that Ministry had agreed to the version of the appellate clause as has been given in Rule 8 as incorporated in the Basmati Rice Grading and Marking Rules issued by the Commerce Ministry.

The appointment of the local Advisory Panel by the D.M.T. forms the part of the instructions and the Local Advisory Panels have already been appointed by the Agril, Marketing Adviser for various grading centres. This has also been done in the case of Basmati Rice Grading scheme for export.

The dispute is referred to the Advisory Panel only if there is a disagreement between the inspecting officer and the exporter. The exporters are given sample opportunities to satisfy themselves with regard to the drawing of test and check samples. In case of disputes sample is referred to Advisory Panel. The analysis in the case of Basmati Rice is mostly physical and the Panel members do not necessarily require the assistance of the laboratory. In case of disagreement between the Panel members there is no provision of appointing any appellate panel further and as such the disputes are referred to the Agricultural Marketing Adviser for final decision. The dispute is referred to the Agril, Marketing Adviser alongwith the complete details of the case and the analytical results and also the sample of disputed lot. It is on examination of the relevant records and analytical details and also the sample referred that the Agricultural Marketing Adviser will give his decision which is final. It is in view of this that in the Rule 8 it has been stated that the decision of the Agricultural Marketing Adviser shall be final. It does not mean the ousting of the jurisdiction of the court of law. As per Section 7(5) of the Export (Quality Control and Inspection) Act of 1963, it has been stated that "the decision of the appellate authority where an appeal is filed shall be final and shall not be questioned in any court of law." The relevant rule i.e. Rule 8 (Appeal) has been framed under the Section 7(5) mentioned above. In view of this position and the fact that the Law Ministry had agreed to the content of Rule 8, I feel, it is not necessary to amend Rule 8 as has been suggested in your letter under reference.

APPENDIX III

(Vide paragraphs 72 and 74 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 Report and date of its presentation	Summary of Recommendations/Assurances	Gist of Government's reply
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(1)	(2)	(3)	(4)
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1 EIGHTH REPORT
(Fifth Lok Sabha)
102
30-8-1973

The Committee are glad to note that the Ministry of Labour and Rehabilitation (Department of Labour and Employment) have accepted the suggestion of the Committee to provide for the opportunity of being heard to the aggrieved party before action is taken against him under Rule 22 of the Payment of Wages (Minces) Rules, 1956. The Committee desire the Ministry to amend the Rules at an early date.

The Ministry of Labour have amended the Payment of Wages (Mines) Rules to the necessary effect vide GSR 1383, dated 15-10-1977.

2 TENTH REPORT
(Fifth Lok Sabha)
83
3-4-1974

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

The Saugor Cantonment Bye-laws have since been superseded by the Saugor Cantonment (Licensing of Premises for Use as Stables or Cow-houses or as Accommodation for Sheep or Goats)

(1)

(2)

(3)

(4)

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 so 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.

Bye-laws, 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.

3 TENTH REPORT
(Fifth Lok Sabha)

84

3-4-1974

The Committee cannot help observing that the Ministry had explained the position only after dis-pleasure of the Committee had been conveyed to them in May, 1973. The Committee will like the Ministry of Defence to take care to give prompt replies to the Committee in future.

The observation 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.

4 TENTH REPORT
(Fifth Lok Sabha)

106

3-4-1974

The Committee note that the reason given by the Ministry of Works and Housing for delay in implementing the recommendation of the Committee in regard to amendment of the Delhi Development Act, 1957, was that they had not received the recommendation of the Committee earlier (*vide* Para 103 of the Report). The Committee are unable to accept this explanation. They

The Ministry of Works and Housing have noted the observations of the Committee for information and compliance *vide* their Office Memorandum No. H-11013/3/80-Plt., dated the 16th June, 1980.

feel that it is the duty of each Ministry/Department to keep themselves informed of the recommendations of the Committee and to take early action thereon, as the Reports become public on presentation to the House.

5 ELEVENTH REPORT
(Fifth Lok Sabha)

123

9-5-1974

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

Rule 1(3) of the Radiation Protection Rules, 1971 has since been amended to the necessary effect *vide* G. S. R. 762 of 1974.

6 ELEVENTH REPORT
(Fifth Lok Sabha)

126

9-5-1974

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 would like the Department of Parliamentary Affairs to bring this recommendation to the notice of all Ministries/Departments for compliance.

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. F. 32(5)/74-R&C, dated 30th May, 1974.

7 ELEVENTH
REPORT (Fifth Lok
Sabha)

155
9-5-1974

The Committee take a serious view of the lapse on the part of the concerned Ministries/Departments in not sending final replies to the communications sent by the Committee. They need hardly mention that unless information is furnished to them in time, they cannot express their views on the various Rules/Regulations scrutinized by them and submit their report to the House. They would like the defaulting Ministries/Departments to send replies within 3 months of the presentation of this Report.

8 TWELFTH
REPORT

31
10-5-1974

The Committee do not agree with the reply of the Ministry of Labour that the agency of the Vice-Chairman of the Advisory Committee for Housing Board is utilised only as *modus vivendi* and the powers are in fact delegated by the Central Government. They are of the opinion that in case the Central Government wants to entrust the powers of the Vice-Chairman to incur expenditure to some other authority, the name of the authority with the extent of power should be mentioned in the Coal Mines Labour Welfare Fund Rules, 1949. The Committee desire the Ministry to amend the Rules accordingly at an early date.

9 TWELFTH
REPORT

52
10-5-1974

The Committee note with satisfaction that the Ministry of Industrial Development have agreed to rectify the discrepancies in the Indian Salt Service Recruitment Rules, 1970 by issue of a formal Noti-

The Department of Parliamentary Affairs have circulated the recommendation of the Committee to all Ministries/Departments for information and compliance *vide* their O.M. No. F. 32(5)/74-R&C, dated the 30th May, 1974.

The Ministry of Energy (Department of Coal) have omitted sub-rule (4) of Rule 21 of the Coal Mines Labour Welfare Fund Rules, 1949, *vide* Notification No. H-14013/6/74-CMW, dated 2nd December, 1982.

The Indian Salt Service Recruitment Rules, 1970 have since been amended to the necessary effect. (See G.S.R. 22 of 1976, dated 3-1-1976).

tification. They desire the Ministry to take necessary action in the matter at an early date.

10 TWELFTH
REPORT
(Fifth Lok Sabha)
58

10-5-1974

The Patents Rules, 1972, have since been amended to the necessary effect. (See S.O. 2908 of 1976, dated 14-8-1976.)

The Committee are not satisfied with the explanation of the Ministry of Industrial Development that notices and communications to parties to various proceedings before the Controller are invariably sent by Registered post except in the case of patent agents at Calcutta to whom they are delivered by messenger. In this connection, they would like to invite the attention of the Ministry to para 25 of their First Report (Fifth Lok Sabha) wherein the Committee had stressed that departmental instructions could hardly be a proper substitute for a built-in legal safeguard. The Committee desire the Ministry to give statutory shape to the procedure being followed by them at present for sending communications to parties by making suitable amendments to the Patents Rules, 1972.

11 TWELFTH
REPORT
(Fifth Lok Sabha)
62

10-5-1974

The Committee are not satisfied with the explanation of the Ministry of Industrial Development for allowing only English in documents submitted before the Controller of Patents. They feel that the restriction on the use of Hindi in these documents goes against the spirit of the Official Languages Act, 1963 which was enacted to ensure progressive use of Hindi for official purposes of the Union. The Committee, therefore, desire the Ministry to allow the use of Hindi also in addition to English in documents furnished to the Controller under Rule 9 of the Patents Rules.

The Patents Rules, 1972, have since been amended to the necessary effect. (See S.O. 3598 of 1977, dated 26-11-1977.)

12 TWELFTH

REPORT

(Fifth Lok Sabha)

65

10-5-1974

The Committee note from the reply of Ministry of Industrial Development that the Controller is required to give a hearing to a party before exercising any discretionary power under the Patents Act, 1970 and the Patents Rules, 1972 adverse to the Party. They, however, feel that a specific provision should be made in the Rules for giving an opportunity of being heard to a person before expunging his name from the roll of scientific advisers. The Committee desire the Ministry to amend the Rules accordingly at an early date.

The Patents Rules, 1972, have since been amended to the necessary effect. (See S.O. 2908 of 1976, dated 14-8-1976.)

13 TWELFTH

REPORT

(Fifth Lok Sabha)

141

10-5-1974

The Committee note with satisfaction that both the Ministry of Planning and the Ministry of Tourism and Civil Aviation have agreed to delete from (i) The Planning Commission (Veri-type Operator) Recruitment Rules, 1971 (G.S.R. 1651 of 1971). (ii) The Civil Aviation Department (Accounts Officer) Recruitment Rules, 1971 (G.S.R. 1586 of 1971), the rule regarding liability to serve in the Defence Services as such a provision is required to be made only in Rules for recruitment of graduates, engineers and doctors. The Committee desire the Department of Personnel and Administrative Reforms to issue necessary instructions to all the Ministries/Departments to examine the recruitment Rules with which they are concerned, and delete

The Ministry of Tourism and Civil Aviation have since amended the Civil Aviation Department (Accounts Officers) Recruitment Rules, 1971 *vide* G.S.R. 865 dated 10-8-1974.

The Planning Commission have intimated that post of veritype operator has since been abolished and that the incumbent holding the post has voluntarily retired with effect from 1-10-1977. [*vide* Seventh Report, Seventh Lok Sabha, para 44.]

therefrom the provision regarding liability to serve in Defence Service where it is not necessary to keep it in order to maintain uniformity in the Rules.

14 **TWELFTH**
REPORT
(Fifth Lok Sabha)
146, 150 & 155
10-5-1974

The Committee are not convinced with the reply of the Ministry of Labour that Section 3(2)(k) of the Dock Workers (Regulation of Employment) Act, 1948 covers clause 21 of the Kandla Dock Workers (Regulation of Employment) Scheme providing for charging of medical fees for re-medical examination. The Committee feel that there should be an express provision in the Act authorising the Government to charge fees for re-medical examination. The Committee desire the Ministry either to delete the relevant clause from the Scheme or make a specific provision in the Act authorising the levy of the fee.

The Committee note with satisfaction that the Ministry of Labour have amended Clause 49(5) of the Kandla Dock Workers (Regulation of Employment) Scheme, 1969 by deleting the words 'and the order passed on such appeal shall be final and conclusive'. The Committee desire the Ministry to amend likewise similar clauses in the Calcutta Dock Workers Scheme and the Calcutta Dock Clerical and Supervisory Workers Scheme.

The Committee have noted the reply of the Ministry of Labour that summary proceedings contemplated in the Emergency Clause in Dock Workers

The Kandla Dock Workers (Regulation of Employment) Scheme, 1969, the Calcutta Dock Workers (Regulation of Employment) Scheme, 1970 and the Calcutta Dock Clerical and Supervisory Workers (Regulation of Employment) Scheme, 1970, have since been amended *vide* S.O. 5433 of 1975. S.O. 2761 of 1975 and S.O. 4514 of 1975, respectively.

Schemes would appear to include an opportunity of being heard before action was taken thereunder. The Committee feel satisfied with the reply except that they desire incorporation of a statutory provision in the Schemes for providing an opportunity of being heard in cases where services were terminated as a result of action taken under the Emergency Clause.

15 TWELFTH
REPORT
(Fifth Lok Sabha)
159
10-5-1974

The Committee are not satisfied with the reply of the Ministry of Labour that though there is no specific authorisation in the Dock Workers (Regulation of Employment) Act, 1948, in regard to framing rules for contribution to Welfare Fund, Section 5B(1) empowers the Board to exercise such powers and perform such functions as may be conferred on it by the Scheme. The Committee are of the opinion that there must be express provision in the Act authorising the Board for creation of the Fund and its administration and desire them to bring suitable amendment to the Act at an early date.

The requisite provision has been incorporated in the Dock Workers (Regulation of Employment) Act, 1948 through insertion of above sub-clause (f) in sub-section (2) of Section 3 thereof *vide* Amendment Act of 1980 (49 of 1980).

16 TWELFTH
REPORT
(Fifth Lok Sabha)
206
10-5-1974

The Committee are glad to note that the Ministry of Finance have agreed to distinguish various Notifications issued under the Indian Coinage Act fixing standard weights of coins and remedy allowed by making a reference in their short titles to the denomination and metallic composition of the coins involved apart from the year of issue.

The observations of the Committee have been noted by Government for compliance in future. (See Ministry of Finance O.M. No. F. 1/24/74-COIN dated 24th May, 1977.)

The Committee are not at all satisfied with the reply of the Ministry of Commerce regarding the delay of over five years in the framing of the Cardamom Board Service (Classification, Control and Appeal) Rules, 1971. It was, *inter alia*, urged in extenuation that in the initial years of its establishment when the Board had only a limited staff strength, it did not consider the necessity of framing separate service rules. The Committee, however, note that even after the Board had felt the desirability of framing separate service rules and forwarded the same to Government for approval in April, 1968, the latter had taken more than three years to finalise them. The Official (Language) Legislative Commission alone had taken more than a year in translating the notification into Hindi, which ran into 45 typed pages only. The Committee cannot be happy over such delays. A still more distressing fact is that even though a period of over nine years has elapsed since the Act came into force rules in respect of clauses (q) and (r) of sub-section 2 of section 33 of the Cardamom Act, 1965, are yet to be framed.

The Committee have now been informed that the question of framing rules in respect of these matters is under examination of the Ministry, in consultation with the Cardamom Board. According to the Ministry, necessary formalities are likely to take some time—between 6 months and 1 year. The Committee desire that the Ministry should

The Ministry of Commerce have amended the Cardamom Rules, 1966, to implement the Committee's recommendation *vide* G.S.R. 1458 dated 5 November, 1977.

finalise the rules in question within the stipulated period.

18 EIGHTEENTH
REPORT

(Fifth Lok Sabha)

132

12-1-1976

The Committee are not satisfied with the reply of the Ministry of Industry and Civil Supplies (Department of Industrial Development) that the post of Development Commissioner (Small Scale Industries) has been upgraded to that of Additional Secretary to the Government of India, and therefore, he may be considered as appropriate and adequate authority for exercising the power to relax in regard to age and educational qualifications for Class III posts. The Committee are of the view that the upgradation of the post is not very germane to the point at issue in this case. They note that rule 5 of the Small Scale Industries Organisation (Class III Non-Ministerial Posts) Recruitment Rules, 1968, specifically vests the power to relax in the Central Government. The Committee are of the opinion that once this power has been vested in the Central Government under the main rules, the question of empowering another authority, viz, the Development Commissioner, Small Scale Industries under the Schedule to the above-mentioned Rules appears to be redundant. The Committee, therefore, reiterate their earlier recommendation made in paras 40-41 of their Seventh Report (Fifth Lok Sabha) that

The Small Industry Promotion Officers and Investigators (Small Scale Industries Organisation) Recruitment Rules, 1962 have since been amended.
[See S.O. No. 2378 of 1981, dated 12-9-1981] *vide* Ministry of Industry (Department of Industrial Development O.M. No. A-12018(3)/76-SSI-III Pt, dated 31-8-1981.]

the Ministry should take early steps to amend the rules so as to delete there from the provision giving power to the Development Commissioner to relax age and educational qualifications.

**19 EIGHTEENTH
REPORT**

(Fifth Lok Sabha)
143-144
12-1-1976

The Committee are not satisfied with the reply of the Department of Personnel and Administrative Reforms that as a standard proforma has already been prescribed by them and all recruitment rules are being framed in that proforma, it is not considered necessary to issue any further instructions on the subject. The Committee are surprised to note that both the sets of rules in question have been issued by the Department of Personnel and Administrative Reforms who had not cared to follow the standard proforma themselves.

The Committee reiterate their earlier recommendation made in para 71 of their Eleventh Report that necessary instructions should be issued to all concerned for following a uniform pattern in framing recruitment rules. They also desire the Department to take early action to delete rule 5 from both the sets or rules, viz: the Central Vigilance Commission (Research Assistant) Recruitment Rules, 1971 and the Central Vigilance Commission (Stenographer) Recruitment Rules, 1971, to bring them in uniformity with other recruitment rules.

**20 THIRD REPORT
(SIXTH LOK
SABHA)**

85
14-12-1977

The Committee feel concerned to note that the Ministry of Home Affairs have not been able to complete the review of the Central Reserve Police Force Act even six years after the Committee had made their recommendation that provisions of rules 36-C,

(i) The Department of Personnel and Administrative Reforms have issued Consolidated instructions regarding framing of Recruitment Rules for or amendments thereto *vide* their O.M. No. 14017/24/76-Ests. (RR) dated 22-5-1979.

(ii) The Central Vigilance Commission (Stenographer) Recruitment Rules, 1972 stands superseded by new rules omitting provisions of rule 5. [See The Central Vigilance Commission (Stenographers) Recruitment Rules, 1975 (G.S.R. 72 dated 17-1-1976)].

(iii) Omitted rule 5 of the Central Vigilance (Research Assistant) Recruitment Rules, 1971 [See The Central Vigilance Commission (Research Assistant) Recruitment (Amendment) Rules, 1976 (G.S.R. 1015 dated 17-7-1976)].

Rules 36-C, 36-G and 36-I of the Central Reserve Police Force Rules, 1955 have been omitted *vide* The Central Reserve Police Force (1st Amendment) Rules, 1983 published in Ministry of Home Affairs

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36-G and 36-I of the Central Reserve Police Force Rules, 1955, which are of an overriding nature, should either form part of the Act or there should be a specific authorisation therefor in the Act. The Committee desire the Ministry to expedite the matter, as the implementation of their recommendation has already been inordinately delayed.

Notification No. R. IX-10/82 (Admn. I)
Pers. II dated 10-2-1983.

21 **FOURTH RE-
PORT**
(Sixth Lok Sabha)

36
22-12-1977

The Committee regret to note that the printed copies of the Gazette containing the draft Industrial Undertaking (Management, Liquidation of Reconstructions) Rules had reached the public 40 days after the date of its publication, when the period allowed to the public for furnishing objections/suggestions on the draft Rules had almost expired. The Committee have been repeatedly stressing that when the Acts give a right to the public to send their comments on certain draft rules, it is only reasonable that sufficient time should be given to the public to study the draft rules and send their comments/suggestions on their provisions. The Committee cannot but re-emphasize that a period of not less than 30 clear days should invariably be given to the public to send their comments/suggestions on the draft rules. The Committee will also like to re-stress that in case a Ministry/Department find that in a particular case due to any

(i) The Directorate of Printing have issued instructions for timely printing and supply of Weekly and Extraordinary Gazettes to all Ministries/Departments of the Government of India and to the Managers of the Government of India Press (Minto Road and Ring Road) New Delhi, Faridabad and Nasik *vide* Ministry of Works and Housing Office Memorandum No. H. 11016/4/77-PBN dated 3 June, 1978.

The Department of Parliamentary Affairs have already issued instructions in their behalf in pursuance of Committee's earlier recommendations made in paragraphs 11—13 of their First Report (Sixth Lok Sabha) to all Ministries/Departments of the Government of India for their guidance and strict compliance *vide* their Office

reason the net period made available to the public works out to less than 30 days they should extend the period for receipt of comments/suggestions so that the net period allowed to the public does not fall short of 30 clear days.

१३ FOURTH RE-
PORT
(Sixth Lok Sabha)
37

१२-12-1977

The Committee note that the main reason for the reduction of the time allowed to the public in this case was unconscionable delay in the printing of the Gazette containing the draft Rules. The particular issue of the Gazette which bore the date, 2nd March, 1974 was in fact brought out 37 days thereafter. The Committee take a serious view of such delays. It is unthinkable that a weekly publication like the Gazette should issue more than five weeks after the date of its publication. The Committee note that, besides the draft Rules in question, the particular Gazette issue contained many sets of final rules. As usually the rules come into force on the date of their publication in the Gazette, most of the final rules contained in the particular issue of the Gazette had come into force on the 21 March, 1974 long before they came to the notice of the public. This, in the opinion of the Committee, to say the least was anomalous. The Committee, however, note the assurance of the Ministry of Works and Housing that in future weekly Gazettes would be despatched to the Department of Publications on the date of issue (*i.e.* on every Saturday) in order that the printed copies of the same are made available on sale to the public either on the same day or the next day. The Committee

Please see Column 4 of S. No. 21.

(1) (2) (3) (4)

23 FOURTH RE-
PORT
(Sixth Lok Sabha)
78
22-12-1977

trust that the Ministry of Works and Housing will keep their assurance, and take care to avoid such delays in future.

The Committee note that rules in respect of 13 subjects specified in the Water (Prevention and Control of Pollution) Act, 1974 have already been framed by the Ministry of Works and Housing but rules in respect of the following 3 subjects enumerated in the said Act have not yet been framed:-

(i) Prohibition or regulation of bathing in any stream or well or the washing or cleaning therein of things of any class or description, or the putting of litter or other objectionable matter, whether poisonous, noxious or polluting or not into any stream or well.

(ii) Prohibition or regulation of the keeping or use, on any stream, of vessels provided with sanitary appliances from which polluting matter passes into the stream.

(iii) Rules regarding service conditions of the employees of the Central Board for Prevention and Control of Water Pollution.

Sections 12 and 63 of the Water (Prevention and Control of Pollution) Act, 1974 have suitably been amended *vide* Amendment Act No. 44 of 1978.

The Committee note from the reply of the Ministry that they propose to empower the Central Board

to frame regulations on subjects mentioned at items (i) and (iii) above by making suitable amendments to the Act. Similarly, in respect of item (ii), the Committee note that the Ministry propose to bring an amendment to the Act so that the rules for pollution from ships in the territorial waters may be made by the Ministry of Shipping and Transport under the Merchant Shipping Act, 1958. The Committee desire the Ministry of Works and Housing to bring forward the proposed amendments to the Act as early as possible in order that the rules/regulations covering the three subjects are framed without any further delay.

24 FOURTH RE-
PORT
(Sixth Lok Sabha)
63

22-12-1977

The Committee note that the Ministry of Industry (Department of Industrial Development) have conceded that the Petroleum Act, 1934 does not empower Government to sub-delegate their powers, and as such Rule 146(2) of the Petroleum Rules, 1976, which empowers the Licensing authority to omit, alter or add to any of the conditions specified in the form of licence, notwithstanding anything contained in Rule 145, may have to be deleted. The Committee desire the Ministry to omit the said rule at an early date and inform them as and when this has been done.

The Ministry of Industry (Department of Industrial Development) have omitted Rule 146 of the Petroleum Rules 1976 *vide* G.S.R. 757 dated 15 August, 1981.

25 FIFTH REPORT
(Sixth Lok Sabha)
98
3-3-1978

The Committee note that the Department of Personnel and Administrative Reforms have since initiated necessary action to amend the Probation Rules so as to lay down the maximum period up to which the Central Government may extend the period of probation in individual cases. If the pro-

(i) The Indian Administrative Service (Probation) Rules, 1954 have accordingly been amended *vide* Department of Personnel and Administrative Reforms notification No. 11037/8/75-AIS(III)-A dated 3 September, 1976.

bationer fails to clear the final examination within the probationary period that may be so extended, he will be considered for being discharged from service under Rule 12(a) of the Probation Rules. The Committee further note that the Department of Personnel have since omitted the expression "or pass such other order as it may think fit" from Rule 9 of the I.A.S./I.P.S. (Probation) Rules, 1954 and Rule 10 of the I.F.S. (Probation) Rules, 1968. The Committee desire the Department of Personnel to issue the proposed amendment to the Probation Rules without further delay.

(ii) The Indian Police Service (Probation) Rules, 1954 have accordingly been amended *vide* Department of Personnel and Administrative Reforms Notification No. 11037/8/76-AIS(III)-B dated 4 September, 1976.

(iii) The Indian Forest Service (Probation) Rules, 1968 have accordingly been amended *vide* Department of Personnel and Administrative Reform Notification No. 11037/8/75-AIS(III) dated 20 October, 1976.

26 SIXTH REPORT
(Sixth Lok Sabha)

95

17-3-1978

The Committee note from the reply of the Ministry of External Affairs that the purpose of rule 18-A(5) of the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) Rules, 1964 was to absorb into Grade III of Stenographers' sub-cadre of the Indian Foreign Service Branch 'B' one Hindi Stenotypist who had been appointed before the encadrement of the post of Hindi Stenotypist in the Stenographers' sub-cadre. Likewise, rule 25(5) was incorporated with a view to determine the seniority of the said Stenotypist in the Service. The Committee do not want to disturb the appointment and seniority of the said Hindi Stenotypist.

The Ministry of External Affairs have since amended Rule 18-A(5) and Rule 25(5) of the Indian Foreign Service Branch 'B' (Recruitment, Cadre, Seniority and Promotion) Rules, 1964 *vide* Notification No. 7/Cad/82 dated 28-8-1982. (O.M. No. QJGP/799/1/80-CAD dated 6-10-1982).

However, having regard to the fact that the manner of filling vacancies and principles of determining seniority are basic ingredients of any service rules, the Committee desire that these should be incorporated in the rules. The Committee will like the Ministry of External Affairs to amend the rules in question to this end with prospective effect.

27. EIGHTH REPORT
(Sixth Lok Sabha)

17

The Committee are not happy over the manner in which the Ministry of Agriculture and Irrigation (Department of Agriculture) have acted in the present case. As far back as May, 1959, the Committee on Subordinate Legislation in para 34 of their Fifth Report (Second Lok Sabha) had urged 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. The Committee, however, regret to observe that more than 17 years after the coming into force of the Prevention of Cruelty to Animals Act, 1960, final rules in respect of five matters specified in clause (c), (g), (h), (i) and (k) of subsection (2) of Section 38 of the Act—are still to be issued. Whatever the reasons for the failure of the Ministry before the examination of the matter by the Committee in August, 1975, the Committee find no justification whatever for such failure after the examination of the matter by the Committee. In para 24 of their Eighteenth Report (Fifth Lok Sabha) the Committee had urged the Ministry to make 'all-out efforts' to finalise the rules by the 31st March, 1976 the target date indicated by the

The Ministry of Agriculture (Department of Agriculture and Cooperation) have intimated *vide* D.O. No. 14-24/82-LD-I dated 27 September, 1982, that the following rules have been published :—

- (1) The Prevention of Cruelty to Animals (Regulation of Catt's Premises) Rules, 1979 (G.S.R. 162, dated 13-9-1979).
- (2) The Prevention of Cruelty (Capture of Animals) Rules, 1979 (S.O. 1056 dated 24-3-1979).
- (3) The Prevention of Cruelty to Animals (Application of Fines) Rules, 1978 (Published in the Gazette, Part I, Section I (Ordinary) for week ending 27-5-1978.
- (4) The Prevention of Cruelty to Animals (Transport of Animals) Rules, 1978 (Published in Gazette, Part I, Section I, (Ordinary) dated 27-5-1978).

Ministry themselves. The fact that even more than two years after the elapse of the said target date, not even a single set of final rules has so far been issued indicates that the Ministry have not dealt with the matter with the seriousness it deserved. From a statement furnished by the Ministry, the Committee find that there has been a lack of due sense of urgency both on the part of the Ministry as well as the Animal Welfare Board. The Committee will now like the Ministry to act with greater expedition in the matter and see to it that final rules in respect of all the five aforesaid matters, the primary object of which is prevention of cruelty to animals, are issued latest within six months from the presentation of this Report. For this purpose the Ministry may, if necessary sort out matters with other agencies concerned with the finalisation of rules by personal contacts or hold inter-Departmental meetings, instead of making frequent time-consuming to and from references and waiting for their replies to be received in due course. They may also, if necessary, send draft rules to all the concerned agencies simultaneously, instead of sending them to one agency at a time and waiting for their reply to be received before taking further action in the matter. Like-wise, in order that the final publication of the rules is not delayed on account of delay in receipt of Hindi translation from the Official Languages Commission, the Ministry may,

The Ministry also intimated that the Transport of Animals Rules cover the over crowding of Animals and no separate rules had been prepared. (D.O. No. F. 14-24/82,LD-I dated 27-9-1982).

instead of sending the entire rules at a time, send them in batches to the Official Languages Commission for translation.

28. NINTH REPORT
(Sixth Lok Sabha)
79—80
11-5-1978

The Committee note that the Ministry of Works and Housing have agreed to republish the Central Engineering Service/Central Electrical Engineering Service, Class I (Direct Recruitment) Rules, after incorporating therein all the amendments issued from time to time. They desire the Ministry to re-print the said Rules without any further delay.

The Committee also recommend that expeditious action should be taken to re-print the Central Engineering Service/Central Electrical Engineering Service, Class II Rules, after the relevant cases pending in the Supreme Court are disposed of.

The Central Engineering Service Class I (Direct Recruitment) Rules were re-printed incorporating all the amendments upto 7-7-1980. The Central Engineering Service Group 'A' Recruitment Rules (Corrected upto September, 1982) have also been reprinted.

Pending disposal of court cases in respect of Central Electrical Engineering Service/ Central Engineering Service Class II Rules, have also been reprinted.

51

(Ministry of Works and Housing D.O. No. 21012(3)/78-EWI (Vol. II), dated 30-12-1982 and O.M. dated 18-2-1983

29. TENTH REPORT
(Sixth Lok Sabha)
41
25-7-1978

The Committee note with satisfaction that on being pointed out, the Ministry of Finance (Department of Revenue) have agreed to amend the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 for taking specific power for levy of copying and inspection fees. The Committee desire the Ministry to introduce the proposed amending Bill in this regard in Parliament at an early date.

The following class has since been inserted in Sub-section (2) Section 26 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 *vide* Act No. 55 of 1980:—

“(aa) the fees which shall be paid for the inspection of the records and registers of the Appellate Tribunal or for obtaining a certified copy of any part thereof under sub-section (8) of section 12;”

30 TENTH REPORT
(Sixth Lok Sabha)

62
25-7-1978

The Committee note with satisfaction that, on being pointed out, the Ministry of Agriculture and Irrigation (Department of Food) have agreed to amend the Levy Sugar Price Equalisation Fund Rules, 1977 to provide for a time limit for settlement of the claims of refund from the Levy Sugar Price Equalisation Fund. The Committee concur with the proposal of the Ministry to lay down a maximum time-limit of three months from the date of receipt of claims for granting refund from the Fund, with provision for relaxation of this limit in special circumstances involving bulk buyers of sugar, like fruit products manufacturers, pharmaceuticals, baby food manufacturers, etc. where the incidence of the higher price of levy sugar is passed on to the consumers. The Committee, however, feel that relaxation of time-limit in such cases should be for a minimum necessary period and for specific reasons to be recorded in writing. The Committee desire the Ministry to amend the rules to the necessary effect at an early date.

The Ministry of Agriculture (Department of Food) have inserted the following rule in the Levy Sugar Price Equalisation Fund Rules, 1977 *vide* G.S.R. 621 dated 7 June, 1980:—

“6A. *Time limit for grant of refund.*—The Central Government shall grant refund admissible under the provisions of the Act within a period of three months from the date of receipt by the Central Government of an application mentioned in rule 6 ;

Provided that the aforesaid period may be extended by the Central Government, in special circumstances, for reasons to be recorded in writing.”

31 TWELFTH REPORT
(Sixth Lok Sabha)
57, 59, 61, 62, & 63
22-1-1978

The Committee note that in respect of provision similar to that contained in sub-rule (4) of rule 13 of the Indian Medicine Central Council (Election) Rules, 1975 existing in the Homoeopathy Central Council (Election) Rules, 1975, the Department of Health have agreed to amend the Rules so as to provide therein for sending the election papers to

The Ministry of Health and Family Welfare have amended (i) the Indian Medicine Central Council (Election) Rules, 1975 *vide* S.O. 532-E dated 15-9-1979, (ii) the Dental Council (Election) Regulations, 1952, *vide* Ministry O.M. No. B. 12011/4/79-PMS, dated 31 December, 1981.

the electors by registered post *vide* para 45 of the Committee's Twentieth Report (Fifth Lok Sabha). However, in the present case, the Department of Health, while appreciating the Committee's desire to ensure delivery of election papers to the electors, have advanced the plea of financial implications to the tune of about rupees five lakhs which they may have to spend for sending the papers to over two lakh persons by registered post. Taking into consideration the huge sum of money involved in the process, the Committee do not insist upon sending the papers by registered post. But with a view to ensuring delivery of papers to all electors, the Committee suggest that, after the papers have been sent under certificate of posting, a notice should be published in important newspapers about the posting of such papers at the registered addresses of the electors so that a person not getting the same contact the office of the Council and obtained them. The Committee, therefore, desire the Ministry to amend the Indian Medicine Central Council (Election) Rules, 1975 so as to include therein a revision to the above effect, at an early date.

The Committee note with satisfaction that, on being pointed out, the Ministry of Health and Family Welfare (Department of Health) have agreed not to insist upon receipt of election papers through registered post and have decided to leave the mode of posting to the electors concerned. The Committee therefore, desire the Ministry to amend the Indian Medicine Central Council (Election)

(iii) The Indian Medical Council Rules, 1957 *vide* S.O. 3229 dated 22-11-1980 and (iv) The Homocopathy Central Council (Election) Rules, 1975, *vide* G.S.R. 576-E dated 29-9-1982.

Rules, 1975 to the necessary effect at an early date.

The Committee are not convinced with the reply of the Ministry of Health and Family Welfare (Department of Health) in regard to the provision of rule 23 of the Indian Medicine Central Council (Election) Rules, 1975 empowering the Vice-Chancellor to determine the manner in which the members of the Faculty or Department in Ayurveda, Siddha and Unani Systems of Medicine of the University shall elect their members to the Central Council. The Committee note in this connection that sub-section (1) of section 4 of the Indian Medicine Central Council Act, 1970 provides for the election of Members to the Council to be conducted in accordance with the rules to be prescribed. Instead of prescribing the manner of election in the rules, Government have further delegated this power to the Vice-Chancellor. In Committee's view this is tantamount to sub-delegation of legislative authority without any specific authorisation to that effect in the parent Act.

The Committee are also not convinced with the argument put forth by the Ministry of Health and Family Welfare that if the general procedure for election is adopted in this case, Returning

Officers will have to be appointed for conducting elections in various Faculties/Departments concerned and that may not be feasible in the case of small groups. The Committee feel that whatever the procedure is to be followed for electing the members, it should be laid down in the Rules as per provisions of section 4(1) of the Act instead of sub-delegating the legislative power to the Vice-Chancellor without an express authorisation to that effect in the parent Act. The Committee, therefore, desire the Ministry to prescribe in the rules the manner of conducting elections by the members of the Faculty or Department of each of the Ayurveda, Siddha and Unani Systems of Medicine of the University. Alternatively, the Ministry may bring necessary legislation before Parliament for amending the parent Act so as to provide therein for authorising the Vice-Chancellor to prescribe the manner of conducting these elections, at an early date.

The Committee recommend that the Dental Council (Election) Regulations, 1952, the Indian Medical Council (Election) Rules, 1975, and the Homoeopathy Central Council (Election) Rules, 1975, which contain provisions similar to Rule 23 of the Indian Medicine Central Council (Election) Rules, 1975, should be amended so as to lay down the procedure for holding elections of representatives of Universities to the respective Council in the Rules/Regulations themselves instead of empowering the Vice-Chancellor to prescribe the manner of election. Alternatively the Ministry may bring

suitable amending legislation before Parliament to provide for authorising the Vice-Chancellor to prescribe the manner of conducting these elections.

32 TWELFTH
REPORT
(Sixth Lok Sabha)
64

22-11-1978

The Committee observe that reference in regard to the points arising out of the Indian Medicine Central Council (Election) Rules was made to the Ministry of Health and Family Welfare on the 4th February, 1976, where as the Ministry have sent their final reply on the 16th March, 1978 i.e. after a lapse of over two years and one month. The Committee take a serious note of such an unduly long time taken by the Ministry in sending their reply and stress upon them to be prompt in attending to the communications from the Committee and send an interim reply wherever it is not possible for them to furnish comments in time due to some genuine difficulties and ask for extension of time giving reasons therefor.

The Ministry of Health and Family Welfare have noted the observations of the Committee for future guidance *vide* their No. V. 26012/4/79-AE dated the 6th June, 1980.

33 EIGHTEENTH
REPORT
(Sixth Lok Sabha)

51

9-4-1979

The Committee are not convinced with the reply of the Ministry of Labour in respect of the Coal Mines Labour Welfare Fund (First Amendment) Rules, 1973. The Committee wish to stress again that mere appending of an Explanatory Memorandum to the rules to justify the retrospective effect, did not do away with the legal necessity of amending the parent Act so as to vest in the Government the

The Coal Mines Labour Welfare Fund Act, 1947, has since been amended to the necessary effect *vide* Labour Welfare Fund (Amendment) Act, 1981, published in Gazette of India Extraordinary Part II-Section I dated 9-11-1981.

powers to frame rules thereunder with retrospective effect.

94 NINETEENTH
REPORT
(Sixth Lok Sabha)

35

25-4-1979

The Committee feel that the incorporation of a provision regarding laying of rules, regulations etc. framed under the Acts before Parliament is very important. It provides an opportunity to the Members to suggest amendments to the Rules, Regulations, etc. laid on the Table, if they contain any lacuna. The Committee desire the Ministries of Labour and Communications (P&T Board) to bring the necessary amending legislation at an early date. If some other proposed amendments to the Act are likely to take further time, they may bring amending legislation exclusively for the laying provision as early as possible, but in no case later than the Monsoon Session, 1979.

The Indian Post Office (Amendment) Bill, 1982, incorporating *inter-alia* laying provision in the Principal Act, has been introduced in Lok Sabha on 13-8-1982.

(Ministry of Communications, Posts and Telegraphs Board D.O. No. 1-3/79-CI) dated 13-9-1982.

MINUTES

APPENDIX IV

(Vide paragraph 4 of the Report)

LVII

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

The Committee met on Monday, 22 November, 1982 from 11.30 to 12.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri N. E. Horo
4. Shri Ashfaq Husain
5. Shri Dalbir Singh (Madhya Pradesh)
6. Shri B. Devarajan
7. Shri C. D. Patel
8. Shri Chandrabhan Athare Patil
9. Shri T. Damodar Reddy
10. Shri M. S. K. Sathiyendran
11. 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 Committee considered Memoranda Nos. 150 to 154 as under:—

- (i) The Cold Storage Order, 1980 (S.O. 2453 of 1980) — (Memorandum No. 150).

(A)

3. The Committee felt that the reply of the Ministry of Rural Reconstruction was not satisfactory. They desired that the Ministry might be asked to state the specific laws containing similar exemption clause or specify in the Cold Storage Order, 1980 the names of States/Union Territories exempted from its operation.

(B)

4. The Committee noted with satisfaction that, on being pointed out, the Ministry of Rural Reconstruction had agreed to amend Clause 8 of the Cold Storage Order, 1980 so as to provide for recording of reasons in writing by the Licensing Officer before relaxing any conditions specified in the Schedule appended thereto. The Committee desired the Ministry to notify the amendment at an early date.

(C)

5. The Committee approved the proposal of the Ministry of Rural Development to vest the Agricultural Marketing Adviser with the authority to suspend a licence without hearing the licensee pending an inquiry into the reasons for cancellation of licence under Clause 9 of the Cold Storage Order, 1980. The Committee desired the Ministry to notify the amendment at an early date.

* * * *

(ii) The Ministry of Home Affairs (Directorate of Coordination Police Computers) Group A and B Posts Recruitment Rules, 1980 (G.S.R. 1104 of 1980) — (Memorandum No. 151).

7. The Committee noted with satisfaction that, on being pointed out, the Ministry of Home Affairs had agreed to amend rule 6 of the Ministry of Home Affairs (Directorate of Coordination Police Computers) Group A and B Posts Recruitment Rules, 1980 so as to read as under:—

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

The Committee concurred in the amendment as proposed by the Ministry and desired them to notify it at an early date.

(iii) The Export of Basmati Rice (Inspection) Rules, 1980 (S.O. 1026 of 1980)—(Memorandum No. 152).

8. The Committee were not satisfied with the reply of the Ministry of Commerce and desired them to amend rule 8 of the Export

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

of Basmati Rice (Inspection) Rules, 1980 on the lines of regulation *24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964 so that it did not give an impression that the jurisdiction of courts was being barred in any manner.

- (iv) The Coal Mines Provident Fund (Second Amendment) Scheme, 1980 (GSR 907 of 1980); The Andhra Pradesh Coal Mines Provident Fund (Amendment) Scheme, 1980 (GSR 908 of 1980); and the Rajasthan Coal Mines Provident Fund (Amendment) Scheme, 1980 (GSR 909 of 1980)—(Memorandum No. 153).

9. The Committee felt that in view of the existing provision in paragraph 66(3) (4) of the Coal Mines Provident Fund Scheme, 1958 and corresponding paragraphs in the Andhra Pradesh Coal Mines Provident Fund Scheme and Rajasthan Coal Mines Provident Fund Scheme for making payment to the *de facto* guardians, after verification and after they had furnished indemnity bond, in the absence of natural guardian, it was not necessary to lay down any guidelines for the concerned authorities in this behalf.

- (v) The Indian Boiler (Third Amendment) Regulations, 1980 (GSR 590 of 1980)—(Memorandum No. 154).

10. The Committee noted that the Ministry of Industry (Department of Industrial Development) had already decided to amend the sub-regulation (4) of Regulation 3 of the Indian Boiler Regulations so as to specify therein the codes or standards of pressure parts which were known to be commonly used in industrial advanced countries, for use in the country. The Committee desired the Ministry to notify the proposed amendment at an early date.

The Committee then adjourned.

*Regulation 24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964 reads as under—

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

LXI

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

The Committee met on Thursday, 9 December, 1982 from 15.00 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri N. E. Horo
5. Shri Ashfaq Husain
6. Shri Chandrabhan Athare Patil
7. Shri T. Damodar Reddy
8. Shri Satish Prasad Singh

SECRETARIAT

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

2. The Committee considered five Memoranda Nos. 156 to 160 on the following subjects:

- (i) (1) Implementation of recommendation contained in paragraph 51 of the Seventeenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) *re*: the University Grants Commission (Disqualification, Retirement and Conditions of Service of Members) Second Amendment Rules, 1976 (G.S.R. 295 of 1976).
- (2) Implementation of recommendation contained in paragraph 61 of the Sixteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) regarding giving of retrospective effect to the 'Orders' framed under various Acts of Parliament. [The University Grants Commission (Disqualification, Retirement and Conditions

of Service of Members) (Second Amendment) Rules, 1973 (G.S.R. 1006 of 1973)]—(Memo. No. 156).

3. The Committee considered the above Memorandum and noted with concern that after a lapse of four years, the Ministry of Education and Culture (Department of Education) was not able to bring forward a comprehensive University Grants (Amendment) Bill, incorporating the amendments recommended by the Committee in paragraph 61 of their Sixteenth Report (Sixth Lok Sabha) presented to the House on 28 February, 1979.

The Committee desired the Ministry that in case the proposed comprehensive University Grants Commission (Amendment) Bill, incorporating the amendment as recommended by the Committee, was not going to be introduced during the forthcoming Budget Session, 1983, an amending Bill, exclusively dealing with the amendment recommended by the Committee, might be introduced for implementing the Committee's recommendation which was accepted by the Government and had been pending for over four years.

(ii) Implementation of recommendation made in paragraph 60 of the Nineteenth Report (Sixth Lok Sabha) regarding:—

- (1) The Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 (S.O. 270-E of 1976);
- (2) The Bombay Port Trust Employees' (Classification, Control and Appeal) Regulations, 1976 (G.S.R. 643 of 1976); and
- (3) The Central Civil Services (Classification, Control and Appeal) Rules, 1965—(Memo. No. 157).

4. The Committee considered the above Memorandum and noted that the Department of Space had since deleted sub-rule (2) of Rule 3 of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976.

The Committee also perused the reasons advanced by the Ministry of Home Affairs and the Ministry of Shipping and Transport pleading for retention of sub-rule (2) of Rule 3 of the Central Services (Classification, Control and Appeal) Rules, and Regulation 3(2) of the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976, respectively. After some discussion, the Committee did not insist on deletion of the said Rule/Regulation in view of the special circumstances explained by the Ministry of Home Affairs and the Ministry of Shipping and Transport.

(iii) Implementation of recommendation contained in paragraph 33 of the Sixteenth Report of the Committee on

Subordinate Legislation (Sixth Lok Sabha) regarding the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 (S.R.O. 44 of 1977)—Memo. No. 158).

5. The Committee considered the above Memorandum and noted from the reply of the Ministry of Defence that Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 which provided for framing of regulations for the competitive examination for the above service had become redundant in view of the recruitment to these posts now being done through the Staff Selection Commission constituted under the Department of Personnel and Administrative Reforms Resolution No. 46/1(S)/74-Estt(B) dated the 4th November, 1975, and that the action was being taken by the Ministry of Defence to amend the Rules.

The Committee desired the Ministry to delete Rule 20 of the Directorate General Ordnance Factories Headquarters Clerical Service Rules, 1977 at an early date.

(iv) The Static and Mobile Pressure Vessels (unfired) Rules, 1981 (G.S.R. 45-E of 1981)—(Memo. No. 159)

(A)

6. The Committee considered the above Memorandum. From the explanation offered by the Ministry of Industry (Department of Industrial Development) regarding delay in the publication of final rules, the Committee noted that as the rules were of highly technical nature and were being framed for the first time, all the industries concerned and the consumers had to be consulted before publication of the Rules in the final form. The Committee, however, felt that the period of 26 months taken by the Ministry in notifying the final Rules was too long a period. The Committee expressed their concern in not notifying the final Rules within a period of 12 months as recommended by the Committee.

(B)

After perusing the reply of the Ministry, the Committee noted that the Static and Mobile Pressure Vessels (Unfired) Rules, were published only in 1981 and as such the Committee were of the view that the Ministry might need more time to watch the working of the rules before specifying the conditions under which exemption could be granted in the light of experience gained. In this connection, the Committee also noted that safeguards had been provided in the rules by way of recording reasons whenever exemption was to be granted. The Committee recommended that the conditions under which exemption could be granted might be laid down in

due course of time in the light of experience gained in regard to the working of these Rules.

- (v) The Export of Beche-de-mer (Inspection) Rules, 1978 (S.O. 2136 of 1978) (Memo. No. 160).

7. The Committee considered the above Memorandum. The Committee recalled that the representatives of the Ministry of Commerce, during their evidence before the Committee on 26 November, 1982 in an analogous case of Cumin Seeds (Inspection) Rules, had agreed to publish the specifications in the Annexure to the Notification. The Committee desired that the specifications recognised by the Government in respect of inspection of Beche-de-mer for export might also be published in the Annexure to the Export of Beche-de-mer (Inspection) Rules, 1978 at an early date.

The Committee then adjourned.

LXVIII

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

The Committee met on Tuesday, 8 March, 1983 from 11.00 to 12.15 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 M. Ramanna Rai
7. Shri R. S. Sparrow

** ** ** **

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. K. Kaura—*Chief Legislative Committee Officer.*

** ** ** **

9. The Committee then considered their draft Seventeenth Report and adopted it.

10. The Committee authorised the Chairman and, in his absence, Shri Ashfaq Husain, M.P. to present the Seventeenth Report to the House on their behalf on 22 March, 1983.

The Committee then adjourned.

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

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