

**COMMITTEE**  
**ON**  
**SUBORDINATE LEGISLATION**

**(EIGHTH LOK SABHA)**

**THIRD REPORT**

*(Presented on 9 December, 1985)*



**LOK SABHA SECRETARIAT**  
**NEW DELHI**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION  
(1985-86)**

1. Shri Mool Chand Daga—*Chairman*
2. Shri D. L. Baitha
3. Shri G. M. Banatwalla
4. Shrimati Usha Choudhari
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6. Shri Syed Masudal Hossain
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12. Shri Saleem I. Shervani
13. Shri Dharamgaj Singh
14. Shri D. Narayana Swami
- ††15. Shri Yogeshwar Prasad Yogesh

**SECRETARIAT**

1. Shri M. K. Mathur—*Joint Secretary.*
2. Shri R. S. Mani—*Senior Legislative Committee Officer.*

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\*Nominated w.e.f. 18 November, 1985 *vice* Shri M. Arunachalam ceased to be a member of the Committee on his appointment as a Minister of State.

†Nominated w.e.f. 20 August, 1985 *vice* Shri H. G. Ramulu resigned.

††Nominated w.e.f. 7 August, 1985 *vice* Shri Lalit Makan died.

# REPORT

## I

### INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sittings held on 12 and 24 June, 10 and 11 July, 1985.

3. The Report was considered and adopted by the Committee at their sitting held on 6 December, 1985. The Minutes of the sittings relevant to the Report are appended thereto.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix-1 to the Report.

## II

### THE TEA RULES, 1954 (S.R.O. 1026 of 1954)

5. The Tea Rules, 1954 were examined by the Committee on Subordinate Legislation (1982-83) and the Committee had discussions with the authorities of the Tea Board, Calcutta and the representatives of the Ministry of Commerce during their visit to Calcutta in December, 1982 in regard to various provisions of the Tea Act, 1953 and the Tea Rules, 1954. The Ministry of Commerce had proposed to make certain amendments to the Tea Act, 1953 and the Tea Rules, 1954 in order to give effect to the suggestions of the Committee. The points raised by the Committee during the discussion and the replies of the Government thereto have been included in this chapter.

### (A)

6. Section 49 of the Tea Act, 1953 provided for laying of the rules framed thereunder before Parliament. However, similar provisions did not exist in

respect of the bye-laws framed under section 50 of the Act. The Committee felt that the bye-laws also being in the nature of subordinate legislation ought to be laid before Parliament and suitable amendment to the said Act was called for. The representatives of the Tea Board were in general agreement with the suggestion of the Committee.

7. The matter was referred to the Ministry of Commerce for ascertaining their comments. In their reply dated 9 July, 1984, the Ministry stated as under :—

“Provision relating to laying of the bye-laws before Parliament does not exist in Section 50 of the Tea Act. As the Committee on Subordinate Legislation is of the view that bye-laws are in the nature of Subordinate Legislation it is accepted that there should be a provision requiring laying of the bye-laws before Parliament. This would require an amendment to Section 50 of the Tea Act and action will be initiated to amend Section 50 of the Tea Act.”

8. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Commerce have agreed to amend Section 50 of the Tea Act, 1953, in order to provide for laying of the bye-laws framed thereunder before Parliament. The Committee desire the Ministry to bring forth the requisite amending legislation before Parliament without any further delay.

(B)

9. Sub-rule (c) of rule 7 of the Tea Rules, 1954 provided that a member of the Board might be removed if he was convicted of a criminal offence involving moral turpitude. The Committee observed that the term ‘moral turpitude’ had not been precisely defined in the rules. The representatives of the Tea Board agreed to consider the suggestion to amend the Rules to the desired effect.

10. The Ministry of Commerce to whom the matter was referred, in their reply dated 9 July, 1984, stated as under :-

“The expression ‘Moral Turpitude’ has a definite connotation and has also been clarified in judicial decisions. The *Balubhai Amidas Khristi Vs. State of Gujarat* 1978 (2) S.L.R. 815, it has been held that moral turpitude must be a conduct involving great infringement of the moral sentiments of the community which would shock the conscience of the society in which man lives and the conduct must be examined in relation to the office held by a person whose conduct is examined.

In *R. N. Dube Vs. Commissioner of Police* 1977 (2) S.L.R. 524 (Cal) it has been held that every case has to be dealt with and decided on its own facts and circumstances in context of the conduct of the delinquent. The expression 'Moral Turpitude' has been used in Section 385(1)(c) of the Companies Act, 1956 (1 of 1956) without defining it. No difficulty apparently has arisen in the interpretation of the said provision necessitating the definition of the term in the said enactment. In view of this position, it would be inexpedient to insert a definition of the term 'Moral Turpitude' in the rules so as to make it rigid."

11. The Committee note the explanation given by the Ministry of Commerce for not defining precisely the term 'Moral Turpitude' used in sub-rule (c) of rule 7 of the Tea Rules, 1954. The Committee are not convinced with the reasoning of the Ministry. The Ministry have conceded in their reply that the expression 'Moral Turpitude' has a definite connotation and has been clarified in the judicial decisions. It would, therefore, be not difficult for the Ministry to define this term in the Rules and it is also necessary to do so in order to avoid different interpretations being given to this term by different authorities/people. The Committee, therefore, desire the Ministry of Commerce, in consultation with the Ministry of Law, to define the term 'Moral Turpitude' in the Rules in order to precisely bring out the intention.

(C)

12. Rule 12 of the Tea Rules provided for election of members of the Board for appointment to various Committees "in such manner as may be laid down by the Board."

13. The term "in such manner as may be laid down" appeared to be vague. The Ministry of Commerce, to whom the matter was referred, in their reply dated 9 July, 1984, stated as under :-

"It is proposed to amend the Tea Rules providing for election of members of the Board to various Committees, in case there is a contest, through the usual procedure of secret ballot."

14. The Committee note with satisfaction, that on being pointed out by them, the Ministry of Commerce have agreed to amend the Tea Rules, so as to lay down the procedure for election of members of the Tea Board to various committees. The Committee desire the Ministry to process the amendment expeditiously and to notify it in the Gazette of India without delay.

(D)

15. Section 25 of the Tea Act, 1953 relating to the levy and collection of the duty on excise on tea, carried a reference to the Central Excises and Salt Act, 1944 whereas Rule 33 of the Tea Rules, 1954 provided for collection of the duty by the same agencies and in the same manner as specified under the Sea Customs Act, 1978 or the Land Customs Act, 1924. It was observed that there was no such Act as the Sea Customs Act, 1978 in existence. Moreover, the procedure under those Acts might not be identical.

16. The matter was taken up with the Ministry of Commerce, who in their reply dated 9 July, 1984, stated that the anomaly would be removed by amending the Tea Act suitably.

17. The Committee note that, on the matter being pointed out by them, the Ministry of Commerce have agreed to amend the Tea Act, 1953 so as to remove an anomaly which had crept in regard to collection of duty due to divergent references in Section 25 of the Tea Act and rule 33 of the Tea Rules. The Committee desire the Ministry to bring forward the amending legislation at an early date.

(E)

18. It was noticed from the press reports that iron particles were found in tea dust in Gujarat and Punjab for which the prosecution was confined only to the dealer and not the producer. It was further noticed that Rules had been framed to regulate the procedure for packaging of tea for export purposes whereas no such Rules existed for packaging of tea for internal consumption. The representative of the Tea Board conceded that there was a lacuna in the Rules.

19. The matter was taken up with the Ministry of Commerce, who in their reply dated 9 July, 1984, stated as under :-

“Instances of adulteration of tea are to be tackled in accordance with the provisions contained in the Prevention of Food Adulteration Act. These provisions are applicable both to the producers as well as to distributors. In regard to packaging there is need for having different standards for export and internal sale. Packaging for export purpose has to take care of longer shelf life and competition from other countries marketing packaged tea. Introduction of similar packaging for internal sale is not advisable and is likely to involve a further rise in the domestic prices of the packaged tea, which has to be avoided.



Under the Tea Warehouses (Licensing) Order, 1980 all large tea warehouses in the country have been licensed. Under the Tea Waste (Control) Order, 1959, Inspectors of the Tea Board stationed at different places make periodic checks. State Governments are also expected to take action under the Prevention of Food Adulteration Act to check adulteration."

20. The Committee note from the explanation of the Ministry of Commerce that cases of adulteration of tea are to be tackled in accordance with the provisions contained in the Prevention of Food Adulteration Act, the Tea Warehousing (Licensing) Order, 1980 and the Tea Waste (Control) Order, 1959 and in regard to packing of tea there was need for having different standards for exports and internal sale. The Committee, however, desire the Ministry to take necessary steps to devise suitable measures by prescribing suitable norms and standards to be specified in their internal rules for proper packaging of tea both for external and internal consumption, so as to prevent adulteration and at the same time without having impact on the cost for domestic consumers.

(F)

21. The Committee had made a suggestion that Form RT-3 mentioned in rule 27 of the Tea Rules could be amplified to eliminate the scope of adulteration in tea and to get more comprehensive information on that score. They emphasized that the Tea Rules could be thoroughly scrutinized and loopholes plugged wherever necessary. The representatives of the Tea Board assured that it would be done accordingly.

22. The matter was also referred to Ministry of Commerce. In their reply dated 9 July, 1984, the Ministry stated as under :—

"The amplification of R.T.-3 may not help in elimination of adulteration. Returns in R.T.-3 are submitted only by those Tea Estates which have a factory and manufacture tea. Any estate not having a tea factory will not be submitting this return. The assessment of the crop of such estate is taken care of by the provision contained in Rule 25(2) of the Tea Rules. A monthly return has been prescribed under the Tea (Marketing) Control Order 1984 through which the production and disposal of tea by each manufacturing unit will be monitored."

Rule 25 of the Tea Rules, 1954, reads as under :—

"25. Meaning of crop.—(1) Crop. in the preceding rule shall after the commencement of the Act, be construed as meaning the

yield or production of manufactured tea i.e. tea either black or green produced in the usual manner for sale in the market and as shown in the return in form R.T. 3 submitted to the Central Excise authorities under the Central Excise Rules, 1944.

Provided that in the absence of returns in form R.T. 3, the Board may determine the crop of a tea estate or subdivision of a tea estate in such manner as it thinks best.

(2) Where tea is not manufactured by tea estate concerned or where evidence of the amount manufactured is not available, the production shall be assumed to be by weight one fourth of the weight of green tea leaf produced."

**23. The Committee note the explanation of the Ministry of Commerce that the amplification of Form RT-3 mentioned in rule 25 of the Tea Rules may not eliminate the scope of adulteration in tea. The Committee would, however, like to recommend that the Ministry do take due precautions in this regard and take necessary steps to eliminate the scope for adulteration in tea and also to undertake a thorough scrutiny of the Tea Rules with a view to plug the loopholes wherever necessary.**

### III

#### THE JUNIOR FINANCE OFFICER (GENERAL CENTRAL SERVICE GROUP 'B' NON-GAZETTED NON-MINISTERIAL) (AMENDMENT) RECRUITMENT RULES, 1978 (G.S.R. 808 OF 1978)

##### (A)

**24. Preamble to the Junior Finance Officer (General Central Service Group 'B' Non-Gazetted Non-Ministerial) (Amendment) Recruitment Rules, 1978 (G.S.R. 808 of 1978) read as under :—**

**"G.S.R. 808—In exercise of the powers conferred by the proviso to article 309 of the Constitution and *in supersession of* the Junior Finance Officer (General Central Service Class-II Non-gazetted, Non-technical) Recruitment Rules, 1968, this Ministry's notification of even number dated the 27th September, 1968 the President hereby makes the following Rules regulating the method of recruitment to the post of Junior Finance Officer, in the Ministry of Finance, Department of Economic Affairs, namely :—"**

25. It was observed that the word '(Amendment)' appearing in the Short Title of these recruitment rules was deceptive as these were not intended to amend the principal rules but instead sought to replace the earlier rules as would be evident from the preamble quoted above.

26. The Ministry of Finance (Department of Economic Affairs), whom the matter was referred to on 15 September, 1980, have accordingly omitted the word '(Amendment)', appearing in sub-rule (1) of rule 1 of the rules *ibid.*, vide G.S.R. 805 dated 5 November, 1983.

27. The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Finance (Department of Economic Affairs) have rectified the error which had crept in the short title clause of G.S.R. 808 of 1978 purporting it to be an Amendment Notification.

(B)

28. Rule 4 of the Junior Finance Officer (General Central Service Group 'B' Non-Gazetted Non-Ministerial) (Amendment) Recruitment Rules, 1978 (G.S.R. 808 of 1978) read as under :—

- “4. *Disqualifications*—(a) No person who has more than one wife living or who, having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment to the said post; and  
(b) No woman whose marriage is void by reason of the husband having a wife living at the time of such marriage, or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to the said post.”

29. The aforesaid provisions were not in conformity with the accepted terminology with regard to attracting disqualification on account of plural marriage. The Ministry of Finance (Department of Economic Affairs), to whom the matter was referred to on 15 September, 1980, have accordingly substituted rule 4 vide G.S.R. 805 dated 5 November, 1983, so as to read as under :—

“4. *Disqualification*—No person,—

- (a) who has entered into or contracted a marriage with a person having a spouse living; or

- (b) who, having a spouse living, has entered into or contracted a marriage with any person.

shall be eligible for appointment to the said post :

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

30. The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Finance (Department of Economic Affairs) have amended rule 4 of the Junior Finance Officer (General Central Service Group ‘B’ Non-Gazetted Non-Ministerial) Recruitment Rules, 1978 so as to put the provisions relating to disqualification on grounds of second marriage of a person, on the usual pattern, for the sake of uniformity.

(C)

31. During the course of scrutiny of the Junior Finance Officer (General Central Service Group ‘B’ Non-Gazetted Non-Ministerial) (Amendment) Recruitment Rules, 1978 (G.S.R. 808 of 1978), it was noticed that these rules did not contain the usual ‘Saving’ clause on the following lines :—

“*Saving.*—Nothing in these Rules shall affect, reservations, relaxation in age limit and other concessions required to be provided to the Scheduled Castes, the Scheduled Tribes and other categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.”

32. The Ministry of Finance (Department of Economic Affairs), with whom the matter was taken up, have since added a new Rule 6 *vide* G.S.R. 805 dated 5 November, 1983 to the necessary effect.

33. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Finance (Department of Economic Affairs) have since added a new saving rule in the Junior Finance Officer (General Central Service Group ‘B’ Non-Gazetted Non-Ministerial) Recruitment Rules, 1978 so as to provide for reservations, relaxation of age limit and other concessions for the Scheduled Castes, Scheduled Tribes and other special categories of persons.

## IV

**THE RAILWAY INSPECTORATE SERVICE (GROUP 'A' RECRUITMENT RULES, 1979 (G.S.R. 371 OF 1980)**

34. In the Schedule appended to the Railway Inspectorate Service (Group 'A' Recruitment Rules, 1979 (G.S.R. 371 of 1980), the Entry under Column 13 against the post of Deputy Commissioner Safety (General) at S. No. 3 read as under :—

“As required under UPSC (Exemption from Consultations) Regulations 1958”.

35. It was observed that the circumstances under which the UPSC was to be consulted in making recruitment to the said post were not clearly spelt out and instead the aforesaid Entry made a mere reference to Regulations of 1958.

36. As legislation by reference has been objected to by the Committee on Subordinate Legislation a number of times in the past, the matter was taken up with the Ministry of Tourism and Civil Aviation. The Ministry *vide* their Notification No. RS 25-N (1)/78 dated 22/27 February, 1985 have since amended the Entry to read as follows :—

“Selection shall be made in consultation with the Union Public Service Commission.”

37. The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Transport (Department of Civil Aviation) have amended the entry under Column 13 (Circumstances in which U.P.S.C. is to be consulted in making recruitment) of the Schedule appended to the Railway Inspectorate Service (Group 'A') Recruitment Rules, 1979 *vide* G. S. R. 279 of 1985 providing that selection shall be made in consultation with the Union Public Service Commission.

## V

**THE RAILWAY ACCIDENTS (COMPENSATION) (AMENDMENT) RULES, 1982 (S.O. 387-E OF 1982).**

38. Sub-rules (1) and (2) of rule 5 of the Railway Accidents (Compensation) Rules, 1950, as substituted by the Railway Accidents (Compensation, (Amendment) Rules, 1982 provided as under :—

“5 (1) *An ad hoc* Commissioner appointed to enquire into and determine claims arising out of an accident shall be paid such remuneration

and such travelling and other allowances as may be determined by the Central Government.

- (2) He may also be paid a suitable honorarium as determined by the Central Government per case as decided by him on merits within a period of six months from the date of accident."

39. In respect of sub-rule (2) of rule 5 of the Rules *ibid*, it was felt that the specific amount of honorarium to be paid to an *ad hoc* claims Commissioner as also the guiding principles for its determination should be mentioned in the Rules to make them self-contained.

40. On the matter being taken up with the Ministry of Railways (Railway Board), the Ministry in their reply dated 29 March, 1984, intimated that they had since deleted the portion of the Rules dealing with the payment of honorarium to the *ex-officio* Claims Commissioner.

41. In regard to sub-rule (1) of Rule 5 of the aforesaid Rules the Ministry of Railway (Railway Board) were asked to state whether they had any objection to specifying the remuneration as also travelling and other allowances payable to the *ad hoc* Claims Commissioner under the said Rules so as to make them self-contained. In their reply dated 3 May, 1985, the Ministry stated as follows :—

....."this Ministry has issued certain guidelines to the Railway Administrations regrading the terms and conditions which should normally govern the appointment of and payment of pay and allowances to the Claims Commissioner . . . . .The Railway Administrations have been functioning smoothly within these guidelines and have not faced any problems in fixing the salary and allowances of the Claims Commissioner except in one or two cases where certain marginal adjustments had to be made to suit the local requirements. Under the circumstances this Ministry does not consider It necessary to make any change in the existing procedure which provides the necessary flexibility to make suitable changes to meet local needs"

42. The Committee note with satisfaction that on being pointed out by them, the Ministry of Transport (Department of Railway) have deleted sub-rule (2) of Rule 5 *vide* S. O. 171-E of 1984 relating to payment of honorarium to *ex-officio* Claims Commissioner. The Committee are, however, not convinced by the argument advanced by the Department of Railways (Railway Board) in regard to sub-rule (1) of Rule 5 that they had issued certain guidelines to the Railway Administrations regarding the terms and conditions which should normally govern

the appointment and pay and allowances of the Claims Commissioner and the Railway Administrations were functioning smoothly within those guidelines. The Committee feel that it is necessary to specify the remuneration, travelling and other allowances payable to the *ad hoc* Claims Commissioner in the Rules so as to avoid manipulation in regard to those matters and to make position clear to all concerned. The Committee, therefore, recommend that the Ministry should suitably amend sub-rule (1) of rule 5, as substituted by the Railway Accidents (Compensation) (Amendment) Rules, 1982, with a view to avoid legislation by reference and make it self-contained or alternatively to incorporate the guidelines as an Annexure to the said Rules.

## VI

### THE SOLATIUM FUND (AMENDMENT) SCHEME, 1983 (S.O. 168-E OF 1983)

43. While examining the Solatium Fund (Amendment) Scheme, 1983, published in the Gazette of India Extraordinary, Part II, Section 3(ii), dated 9 March, 1983, it was noticed that the usual Explanatory Memorandum stating the reasons for giving retrospective effect to the Amendment Scheme w. e. f. 1 October, 1982 was not appended to the Scheme.

44. The Ministry of Shipping and Transport (Transport Wing), with whom the matter was taken up on 2 September, 1983, in their O. M. dated 27 September, 1983 stated as under :—

“... the usual Explanatory Memorandum stating the necessity for giving retrospective effect to the Solatium Fund (Amendment) Scheme, 1983 could not be sent alongwith our notification no. 168E of 1983 published on 9th March, 1983 due to inadvertance. The omission is regretted.

The explanation on the points raised is as follows :—

- (a) As for the aspect whether anyone would get adversely affected due to retrospective effect to the provisions of notification, it may be stated that not only that nobody will be adversely effected but on the contrary, that would enable the rightful claimants for Solatium Compensation to have their claims considered, which otherwise would have become time barred for no fault of theirs.
- (b) Under the Solatium Fund Scheme, it has been provided that the claim application for payment of Solatium of Rs. 5000/-in the case of death and Rs. 1000/-in the case of grievous hurt to the victims of

“hit and run” motor accidents are to be filed by the heirs of the victim/victims, as the case may be, within a period of one month from the date of accident. The scheme has been made applicable as from 1-10-82 under the provisions of the Motor Vehicle Act 1939. In view of newness of this provision, details of the scheme could be finalised and notified only on 12th November, 1982. The Scheme was circulated to the State Govts/UT Administrations and they were requested to take early steps for its implementation through State Machinery. The pivotal role for implementation is that of District Collector/Dy. Commissioner of a Revenue District who has been nominated a Claims Settlement Commissioner and SDM/Tehsildar of a Revenue Talug, who has been nominated as a Claim Enquiry Officer. Since the introduction of the Solatium Fund Scheme was entirely a new provision of its kind, the State Governments also took some time to organize themselves for putting it into implementation. It was also felt that the scheme did not get sufficient publicity, whereby a large number of “hit and run” motor vehicles victims may not have filed their claims within the stipulated period of one month. Keeping the above facts in view, it was decided to empower the Claim Inquiry Officers to entertain application for solatium claim even after the expiry of the said period of one month. It will thus be seen that enforcement of the scheme w. e. f. a retrospective date did not adversely affect anybody but rather would enable all such victims of motor accidents after 1-10-1982 to file their solatium claims if they had not done so earlier.

- (c) Section 109C (2) (c) of the Motor Vehicles (Amendment) Act 1982... .. provides for giving retrospective effect to any provisions of the Solatium Fund Scheme from a date not earlier than the date of establishment of fund provided that such action of retrospective effect shall not adversely affect interests of any person who may be governed by such provisions. The amendment under notification no. 168E has been made effective only from the date from which the main scheme was brought into force and the date when Solatium Fund has been established namely i. e. 1st October, 1982. As clarified above, the interests of persons governed by the provision have also not been affected adversely.

\* \* \* \*

It is requested that the above clarifications may kindly be accepted” :



45. The Ministry of Shipping and Transport, with their subsequent O. M. dated 18 November, 1984, have forwarded a copy of Notification No. TGM-28/82 dated 22 October, 1984 containing the requisite Explanatory Memorandum since published in the Gazette under S. O. No. 804E.

46. The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Transport (Department of Surface Transport) have notified the requisite Explanatory Memorandum stating therein the reasons for giving retrospective effect to the Solatium Fund (Amendment) Scheme, 1983 from 1 October, 1982 and that giving of such retrospective effect to the amendment has not affected anyone prejudicially, *vide* S. O. 84-E dated 22 October, 1984. In this connection, the Committee would also like to point out that mere notification of the Solatium Scheme in the Official Gazette may not fully serve the purpose in view unless wide publicity is given to acquaint the people in this regard. The Committee, therefore, desire that the main features of the Scheme may also be given wider publicity through the media of leading newspapers and regional newspapers in the country for the information of the common masses.

## VII

### THE DIRECTORATE OF TRAINING (THE UNIT OF CENTRAL TRAINING INSTITUTE FOR INSTRUCTORS AND MODEL TRAINING INSTITUTE ATTACHED THERETO; CENTRAL STAFF TRAINING AND RESEARCH INSTITUTE AND THE REGIONAL DIRECTORATE OF APPRENTICESHIP TRAINING AT CALCUTTA) GROUP C POSTS RECRUITMENT (FOURTH AMENDMENT) RULES, 1982 (G.S.R. 667 OF 1983)

47. Entry relating to the post of skilled worker under column 11 against serial number 47 of the Schedule to the Directorate of Training (the Unit of Central Training Institute for Instructor and Model Training Institute and the Regional Directorate of Apprenticeship Training at Calcutta) Group C Posts, Recruitment Rules, 1974, as substituted by the Amendment Rules, 1982 (G.S.R. 667 of 1983) provided for promotion from two different sets of personnel to the post of skilled worker. It was observed that neither any ratio between the two sets of personnel was specified nor the circumstances as to when a particular set of personnel would be considered for promotion at any given time, were given.

48. The Ministry of Labour and Rehabilitation (Directorate General of Employment and Training), with whom the matter was taken up, had intimat-

ed *vide* their O.M. dated 15 June, 1984, that the Recruitment Rules in question have since been amended *vide* G.S.R. 614 of 1984, to the desired effect.

49. The Committee are glad to note that, on the matter being pointed out by them, the Ministry of Labour have substituted the entry relating to the post of Skilled Worker appearing against Serial No. 47 under Column 11 of the Schedule appended to the principal recruitment rules *viz.* the Directorate of Training (the Unit of the Central Training Institute for Instructors and the Model Training Institute attached thereto, the Central Staff Training and Research Institute, the Regional Directorate of Apprenticeship Training at Calcutta), and Model Industrial Training Institute, Choudwar (Orissa) Group 'C' Posts Recruitment Rules, 1974 *vide* G. S. R. 614 of 1984 clarifying the underlying intention to provide for promotion from amongst the categories included in the first set of personnel and failing which, from amongst the categories included in the second set of personnel already stated in the Schedule.

### VIII

#### THE RAILWAY ACCIDENTS (COMPENSATION) (AMENDMENT) RULES, 1984 (S.O. 171-E OF 1984)

50. The Railway Accidents (Compensation) (Amendment) Rules, 1984 published on 20 March, 1984 were deemed to have come into force retrospectively from 4 March, 1983. However, the requisite explanatory note indicating the reasons for such retrospective operation of the rules was not appended to the said rules.

51. The Ministry of Railways (Railway Board), with whom the matter was taken up, stated in their reply dated 20 September, 1984, that the notification containing the requisite explanatory note has since been published in the Gazette of India Extraordinary for general information.

52. The Committee note with satisfaction that, on being pointed out to them, the Ministry of Transport (Department of Railways) have published for general information, a Notification in the Gazette of India containing the requisite explanatory note *vide* S. O. 690-E dated 11-9-1984 indicating the reasons for giving retrospective operation to the rules and that no one would be adversely affected by retrospective operation of the Railway Accidents (Compensation) (Amendment) Rules, 1984 (S. O. 171-E of 1984).

## IX

THE OFFICE OF THE REGISTRAR GENERAL AND EX-OFFICIO  
CENSUS COMMISSIONER FOR INDIA (MAP OFFICER) RECRUIT-  
MENT RULES, 1984 (G.S.R. 70 OF 1984)

53. Rule 5 of the Office of the Registrar General and Ex-Officio Census Commissioner for India (Map Officer) Recruitment Rules, 1984 (G.S.R. 70 of 1984) relating to 'Power to relax' read as under :—

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

54. The Ministry of Home Affairs who were asked to state whether they had any objection to amend rule 5 so as to provide for consultation with the Union Public Service Commission while relaxing any of the provisions of the said recruitment rules relating to the posts in Group 'A', had stated as follows in their reply dated 10 May, 1984 :—

“...Rule 5 of the Recruitment Rules for the post of Map Officer is being amended as suggested, to provide for relaxation of any of the provisions of the said rules in consultation with the Union Public Service Commission. As soon as the corrigendum is issued in this regard, the same will be sent to you, for record.”

55. In their subsequent reply dated 3 September, 1985, the Ministry have intimated that they have issued a corrigendum vide Notification No. 3/12/75-Ad. 1 dated 8 June, 1984 to amend Rule 5 to the desired effect.

56. The Committee are happy to note that, on being pointed out by them, the Ministry of Home Affairs (Office of the Registrar General, India) have since amended Rule 5 of the office of the Registrar General and Ex-Officio Census Commissioner for India (Map Officer) Recruitment Rules, 1984 inserting a provision therein for consultation with the UPSC before granting relaxation of any of the provisions of the said Rules.

THE DEPARTMENT OF ELECTRONICS (DEPARTMENTAL COMPETITIVE EXAMINATION FOR RECRUITMENT TO STENOGRAPHER GRADE III) REGULATIONS, 1984 (G.S.R. 321 of 1984)

57. While examining the Department of Electronics (Departmental Competitive Examination for recruitment of Stenographer Grade III) Regulations, 1984, it was noticed that Regulation 5 relating to eligibility or otherwise of a candidate for the said post and Regulation 11 regarding relaxation of the recruitment rules provided that the decision of the Secretary of the Department shall be final in the matter of their interpretation.

58. As these provisions were apt to give an impression in the minds of the general public that the jurisdiction of the courts of law was being ousted, the attention of the Department of Electronics was invited to the following observations of the Committee on Subordinate Legislation made in paragraph 18 of their Fourth Report (Third Lok Sabha).

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 court 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 rises as to the Interpretation of these regulations, the same shall be decided by the Board.’”

59. The Department of Electronics to whom the above matter was referred have stated in their reply dated 28 June, 1984 as under :—

“.....this Department accepts in principle, the suggestion given by the Committee on Subordinate Legislation to substitute the words by ‘the same shall be decided by the Secretary of the Department’ Action to amend the Regulations will be taken in due course.”

60. The Committee are gratified to note that, on being pointed out by them the Department of Electronics have agreed to amend regulations 5 and 11 of the Department of Electronics (Departmental Competitive Examination for Recruitment to Stenographer Grade III) Regulations, 1984, on the lines indicated in the

recommendation as contained in paragraph 18 of Fourth Report (Third Lok Sabha) of the Committee on Subordinate Legislation so as to avoid any impression that the jurisdiction of the courts was being barred in any manner. The Committee desire the Department of Electronics to issue the necessary amendment to the Regulations at an early date.

## X

THE ENGINEERING DEPARTMENT, CHANDIGARH (HORTICULTURAL OFFICERS) RECRUITMENT RULES, 1984 (G.S.R. 452 of 1984)

61. While examining the Engineering Department, Chandigarh (Horticultural Officers) Recruitment Rules, 1984, it was observed that the said rules did not contain the usual 'Saving Clause' regarding concessions to the Scheduled Castes/Scheduled Tribes and other special categories of persons in accordance with the orders of the Central Government issued from time to time in this regard.

62. The Ministry of Works and Housing (Works Division), with whom the matter was taken up, have intimated in their reply dated 15 September, 1984, that the clause in question has been left out through an oversight. Subsequently, the Ministry have amended the Engineering Department, Chandigarh (Horticultural Officers) Recruitment Rules, 1984 *vide* G.S.R. 123 dated 2 February, 1985 so as to insert the following clause :—

"6. Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard."

63. The Committee are happy to note that, on being pointed out by them, the Ministry of Urban Development have since amended the Engineering Department, Chandigarh (Horticultural Officers) Recruitment Rules, 1984 so as to insert the requisite saving clause in the said Rules.

NEW DELHI;  
December 6, 1985  

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Agrahayana 15, 1907 (Saka)

MOOL CHAND DAGA  
Chairman,  
Committee on Subordinate Legislation.

## APPENDIX-I

(Vide Paragraph 4 of the Report)

### *Consolidated Statement of Recommendations/Observations made by the Committee*

Sl. No.	Para No.	Recommendation/Observation
(1)	(2)	(3)
1.	8	The Committee note with satisfaction that, on being pointed out by them, the Ministry of Commerce have agreed to amend Section 50 of the Tea Act, 1953 in order to provide for laying of the bye-laws framed thereunder before Parliament. The Committee desire the Ministry to bring forth the requisite amending legislation before Parliament without any further delay.
2.	11	The Committee note the explanation given by the Ministry of Commerce for not defining precisely the term 'Moral Turpitude' used in sub-rule (c) of rule 7 of the Tea Rules, 1954. The Committee are not convinced with the reasoning of the Ministry. The Ministry have conceded in their reply that the expression 'Moral Turpitude' has a definite connotation and has been clarified in the judicial decisions. It would, therefore, be not difficult for the Ministry to define this term in the Rules and it is also necessary to do so in order to avoid different interpretations being given to this term by different authorities/people. The Committee, therefore, desire the Ministry of Commerce, in consultation with the Ministry of Law, to define the term 'Moral Turpitude' in the Rules in order to precisely bring out the intention.
3.	14	The Committee note with satisfaction, that on being pointed out by them, the Ministry of Commerce have agreed to amend the Tea Rules, so as to lay down the

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(1)	(2)	(3)
		<p>procedure for election of members of the Tea Board to various committees. The Committee desire the Ministry to process the amendment expeditiously and to notify it in the Gazette of India without delay.</p>
4.	17	<p>The Committee note that; on the matter being pointed out by them, the Ministry of Commerce have agreed to amend the Tea Act, 1953 so as to remove an anomaly which had crept in regard to collection of duty due to divergent references in Section 25 of the Tea Act and rule 33 of the Tea Rules. The Committee desire the Ministry to bring forward the amending legislation at an early date.</p>
5.	20	<p>The Committee note from the explanation of the Ministry of Commerce that cases of adulteration of tea are to be tackled in accordance with the provisions contained in the Prevention of Food Adulteration Act, the Tea Warehousing (Licensing) Order, 1980 and the Tea Waste (Control) Order, 1959 and in regard to packaging of tea there was need for having different standards for exports and internal sale. The Committee, however, desire the Ministry to take necessary steps to devise suitable measures by prescribing suitable norms and standards to be specified in their internal rules for proper packaging of tea both for external and internal consumption, so as to prevent adulteration and at the same time without having impact on the cost for domestic consumers.</p>
6.	23	<p>The Committee note the explanation of the Ministry of Commerce that the amplification of Form RT-3 mentioned in rule 25 of the Tea Rules may not eliminate the scope of adulteration in tea. The Committee would, however, like to recommend that the Ministry do take due precautions in this regard and take necessary steps to eliminate the scope for adulteration in tea and also to undertake a thorough scrutiny of the Tea Rules with a view to plug the loopholes wherever necessary.</p>
7.	27	<p>The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Finance</p>

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(1)	(2)	(3)
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(Department of Economic Affairs) have rectified the error which had crept in the short title clause of G.S.R. 808 of 1978 purporting it to be an Amendment Notification.

8. 30

The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Finance (Department of Economic Affairs) have amended rule 4 of the Junior Finance Officer (General Central Service Group 'B' Non-Gazetted Non-Ministerial) Recruitment Rules, 1978 so as to put the provisions relating to disqualification on grounds of second marriage of a person, on the usual pattern, for the sake of uniformity.

9. 33

The Committee note with satisfaction that, on being pointed out by them, the Ministry of Finance (Department of Economic Affairs) have since added a new saving rule in the Junior Finance Officer (General Central Service Group 'B' Non-Gazetted Non-Ministerial) Recruitment Rules, 1978 so as to provide for reservations, relaxatinn of age limit and other concessions for the Scheduled Castes, Scheduled Tribes and other special categories of persons.

10. 37

The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Transport (Department of Civil Aviation) have amended the entry under Column 13 (Circumstances in which U.P.S.C. is to be consulted in making recruitment) of the Schedul-appended to the Railway Inspectorate Service (Group 'A') Recruitment Rules, 1979 *vide* G.S.R. 279 of 1985 providing that selection shall be made in consultation with the Union Public Service Commission.

11. 42

The Committee note with satisfaction that, on being pointed out by them, the Ministry Transport (Department of Railways) have deleted sub-rule (2) of Rule 5 *vide* S.O. 171-E of 1984 relating to payment of honora-rium to *ex-officio* Claims Commissioner. The Committee are, however, not convinced by the argument advanced by the Department of Railways (Railway Board) in regard

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to sub-rule (1) of Rule 5 that they had issued certain guidelines to the Railway Administrations regarding the terms and conditions which should normally govern the appointment and pay and allowances of the Claims Commissioner and the Railway Administrations were functioning smoothly within those guidelines. The Committee feel that it is necessary to specify the remuneration, travelling and other allowances payable to the *ad hoc* Claims Commissioner in the Rules so as to avoid manipulation in regard to those matter and to make position clear to all concerned. The Committee, therefore, recommend that the Ministry should suitably amend sub-rule (1) of rule 5, as substituted by the Railway Accidents (Compensation) (Amendment) Rules, 1982, with a view to avoid legislation by reference and make it self-contained or alternatively to incorporate the guidelines as an Annexure to the said Rules.

12. 46

The Committee note with satisfaction that, on the matter being pointed out by them, the Ministry of Transport (Department of Surface Transport) have notified the requisite Explanatory Memorandum stating therein the reasons for giving retrospective effect to the Solatium Fund (Amendment) Scheme, 1983 from 1 October, 1982 and that giving of such retrospective effect to the amendment has not affected anyone prejudicially, *vide* S.O. 84-E dated 22 October, 1984. In this connection, the Committee would also like to point out that more notification of the Solatium Scheme in the Official Gazette may not fully serve the purpose in view unless wide publicity is given to acquaint the people in this regard. The Committee, therefore, desire that the main features of the Scheme may also be given wider publicity through the media of leading newspapers and regional newspapers in the country for the information of the common masses.

13. 49

The Committee are glad to note that, on the matter being pointed out by them, the Ministry of Labour have substituted the entry relating to the post of Skilled Worker appearing against Serial No. 47 under Column 11

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of the Schedule appended to the principal recruitment rules viz. the Directorate of Training (the Unit of the Central Training Institute for Instructors and the Model Training Institute attached thereto, the Central Staff Training and Research Institute, the Regional Directorate of Apprenticeship Training, at Calcutta), and Model Industrial Training Institute, Choudwar (Orissa) Group 'C' Posts Recruitments Rules, 1974 *vide* G.S.R. 614 of 1984 clarifying the underlying intention to provide for promotion from amongst the categories included in the first set of personnel and failing which, from amongst the categories included in the second set of personnel already stated in the Schedule.

14. 52

The Committee note with satisfaction that, on being pointed out to them, the Ministry of Transport (Department of Railways) have published for general information, a Notification in the Gazette of India containing the requisite explanatory note *vide* S.O. 690-E dated 11.9.1984 indicating the reasons for giving retrospective operation to the rules and that no one would be adversely affected by retrospective operation of the Railway Accidents (Compensation) (Amendment) Rules, 1984 (S.O. 171-E of 1984).

13. 56

The Committee are happy to note that, on being pointed out by them, the Ministry of Home Affairs (Office of the Registrar General, India) have since amended rule 5 of the Office of the Registrar General and Ex-Officio Census Commissioner for India (Map Officer) Recruitment Rules, 1984 inserting a provision therein for consultation with the UPSC before granting relaxation of any of the provisions of the said Rules.

16. 50

The Committee are gratified to note that, on being pointed out by them, the Department of Electronics have agreed to amend regulations 5 and 11 of the Department of Electronics (Departmental Competitive Examination for Recruitment to Stenographer Grade III) Regulations, 1984, on the lines indicated in the recommendat on as con-

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tanied in paragraph 18 of Fourth Report (Third Lok Sabha) of the Committee on Subordinate Legislation so as to avoid any impression that the jurisdiction of the courts was being barred in any manner. The Committee desire the Department of Electronics to issue the necessary amendment to the Regulations at an early date.

17.

63

The Committee are happy to note that, on being pointed out by them, the Ministry of Urban Development have since amended the Engineering Department, Chandigarh (Horticultural Officers) Recruitment Rules, 1984 so as to insert the requisite saving clause regarding concessions to the Scheduled Castes, Scheduled Tribes and other special categories of persons, in the said Rules.

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**MINUTES**

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## APPENDIX H

(Vide Paragraph 3 of the Report)

### MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA) (1985-86)

The Committee met on Wednesday, 12 June, 1985 from 11.00 to 12.15 hours.

#### PRESENT

Shri Mool Chand Daga—*Chairman*

#### MEMBERS

2. Shri M. Arunachalam
3. Shri D. L. Baitha
4. Shri G. M. Banatwalla
5. Shrimati Usha Choudhari
6. Shri Syed Masudal Hossain
7. Shri Mohanbhai Patel
8. Shri I. Ram Rai
9. Shri K. S. Rao

#### SECRETARIAT

1. Shri S. Balasubramanian—*Chief Legislative Committee Officer.*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*
2. The Committee considered Memoranda Nos. 1 to 6 as under :-

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(iv) *The Railway Inspectorate Service (Group 'A') Recruitment Rules, 1979 (G.S.R. 371 of 1980)—(Memorandum No. 5)*

The Committee noted with satisfaction that on the matter being pointed out by them, the Ministry of Tourism and Civil Aviation had amended the

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

entry under Column 13 (the circumstances under which the UPSC was to be consulted in making the recruitment) of the schedule to the Railway Inspectorate Service (Group 'A') Recruitment Rules 1979 *vide* G.S.R. 279 of 1985 to read as under :-

“Selection shall be made in consultation with the Union Public Service Commission.”

(v) *The Junior Finance Officer (General Central Service Group 'B' Non-Gazetted Non-Ministerial) (Amendment) Recruitment Rules, 1978 (G.S.R. 808 of 1978)—(Memorandum No. 6)*

The Committee noted with satisfaction that on the matter being pointed out by them, the Ministry of Finance (Department of Economic Affairs) had rectified the error that had crept in the short title which made it purport to be an Amendment Notification and substituted Rule 4 of the Junior Finance Officer (General Service Group 'B' Non-Gazetted Non-Ministerial (Amendment) Recruitment Rules, 1978 *vide* GSR 805 of 1983, so as to indicate clearly the provisions relating to disqualification on grounds of second marriage of an applicant, on the usual pattern, for the sake of uniformity.

*The Committee then adjourned to meet again on 24 June, 1985.*

MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)

The Committee met on Monday, 24 June, 1985 from 15.00 to 16.30 hours.

PRESENT

Shri Mool Chnd Daga—*Chairman*

MEMBERS

2. Shri D. L. Baitha
3. Shri G. M. Banatwalla
4. Shrimati Usha Choudhari
5. Shri Dharam Pal Singh Malik
6. Shri Sayed Masudal Hossain
7. Shri I. Ram Rai
8. Shri K. S. Rao
9. Shri Dharamgaj Singh

SECRETARIAT

1. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

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3. The Committee then took up for consideration Memoranda Nos. 7 to 14 on the following subjects :—

- (i) *The Solatium Fund (Amendment) Scheme, 1983 (S. O. 168-E of 1983)*  
—(*Memorandum No. 7*).

The Committee considered the above Memorandum and noted that, on the matter being pointed out, the Ministry of Shipping and Transport (Transport Wing) had notified the requisite Explanatory Memorandum stating

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

therein the reasons for giving retrospective effect to the Solatium Fund (Amendment) Scheme, 1983 (S. O. 168-E of 1983) from 1 October, 1982 and that giving of retrospective effect to the amendment had not affected anyone prejudicially *vide* S.O. 84-E dated 22 October, 1984. In that connection, the Committee also expressed the view that merely notifying the Scheme in the Official Gazette would not fully serve the desired purpose and that the main features of the Scheme might also be given wide publicity through the media of leading newspapers to make them known to the common masses.

(ii) *The Directorate of Training (the Unit of Central Training Institute for Instructors and Model Training Institute attached thereto; Central Staff Training and Research Institute and the Regional Directorate of Apprenticeship Training at Calcutta) Group C Posts Recruitment (Fourth Amendment) Rules, 1982 (G.S.R. 667 of 1983—(Memorandum No. 8).*

The Committee considered the above Memorandum and noted that, on the matter being pointed out, the Ministry of Labour had substituted the Entry relating to the post of Skilled Worker against Serial No. 47 under Column 11 of the Schedule appended to the principal recruitment rules *viz.*, the Directorate of Training (the Unit of the Central Training Institute for Instructors and the Model Training Institute attached thereto, the Central Staff Training and Research Institute, the Regional Directorate of Apprenticeship Training at Calcutta), and Model Industrial Training Institute, Choudwar (Orissa) Group 'C' Posts Recruitment Rules, 1974 (G.S.R. 682 of 1974) *vide* G.S.R. 614 of 1984 clarifying the underlying intention to provide for promotion from amongst the categories included in the first set of personnel, failing which, from amongst the categories included in the second set of personnel, stated in the Schedule.

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*The Committee then adjourned.*



MINUTES OF THE FIFTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)

The Committee met on Wednesday, 10 July, 1985 from 15.00 to 16.40 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Arunachalam
3. Shri D. L. Baitha
4. Shri G. M. Banatwalla
5. Shri Dharam Pal Singh Malik
6. Shri I. Ram Rai
7. Shri Dharamgaj Singh

SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary*
2. Shri S. Balasubramanian—*Chief Legislative Committee Officer*
3. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee considered Memoranda Nos. 15 to 21 as under :—

(i) *The Tea Rules, 1954 (S.R.O. 1026 of 1954)—(Memorandum No. 15).*

(A)

The Committee noted with satisfaction that on the matter being pointed out by them, the Ministry of Commerce had agreed to initiate action to amend section 50 of the Tea Act, 1953, so as to provide for laying of the bye-laws before Parliament and desired the Ministry to bring forward the requisite amending legislation before Parliament at an early date.

(B)

The Committee noted the explanation of the Ministry of Commerce for not precisely defining the term "moral turpitude" used in sub-rule (c) of rule 7

of the Tea Rules, 1954. According to the Ministry, the expression "moral turpitude" had a definite connotation and had been further clarified in judicial decisions. The expression had also been used in Section 385(1) (c) of the Companies Act, 1956, without its being defined and no difficulty had arisen in the interpretation of the said term necessitating the definition thereof in the said enactment. Hence the Ministry felt that it would be in expedient to insert a definition of the term "moral turpitude" in the rules so as to make it rigid.

The Committee, not being convinced of the views of the Ministry desired them to define at an early date the term "Moral Turpitude" in the Rules/Act so as to precisely bring out the intention of the legislation.

(C)

The Committee noted that on the matter being pointed out by them, the Ministry of Commerce had agreed to amend rule 12 of the Tea Rules so as to lay down the procedure for election of members of the Tea Board to various committees. The Committee desired the Ministry to process the amendment expeditiously and to notify it in the Gazette at an early date.

(D)

The Committee noted the explanation given by the Ministry of Commerce underlying the difficulties in having a single and uniform code of rules governing the service conditions of the Central Government employees and the employees and Officers of the Tea Board. The Committee decided not to pursue the matter further since the question of treating the employees of the autonomous bodies at par with the employees of the Central Government was one relating to the broad policy of the Central Government and further, the employees of the Tea Board had already gone to a Court of Law in the matter.

(E)

The Committee noted that on the matter being pointed out by them, the Ministry of Commerce had agreed to amend the Tea Act so as to remove an anomaly which had crept in regarding collection of duty in view of divergent references in Section 25 of the Tea Act and in Rule 33 of the Tea Rules. The Committee desired the Ministry to bring forward the amending legislation at an early date.

(F)

The Committee noted the explanation of the Ministry of Commerce on the press reports and complaints regarding adulteration in Tea, According

to the Ministry, the cases of adulteration of tea were to be tackled in accordance with the provisions contained in the Prevention of Food Adulteration Act, the Tea Warehousing (Licensing) Order, 1980 and the Tea Waste (Control) Order, 1959. In regard to packaging, there was need for having different standards for exports and internal sale of tea. The Committee, therefore, desired the Ministry to take urgent steps to devise suitable measures by prescribing some standards to be specified in their internal rules for proper packaging of tea for both external and internal consumption, so as to prevent adulteration and at the same time without any impact on the cost for the consumers.

(G)

The Committee while agreeing to the explanation of the Ministry of Commerce that the amplification of the Form RT-3 mentioned in Rule 25 of the Tea Rules might not held in elimination of adulteration in Tea, emphasized that the Ministry should take all necessary steps to eliminate the scope for adulteration in tea and also undertake a thorough scrutiny of the Tea Rules with a view to plug the loopholes wherever necessary.

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(iii) *The Railway Accidents (Compensation Amendment) Rules, 1982 (S.O. 387-E of 1982)—(Memorandum No. 17).*

The Committee not being convinced of the argument advanced by the Ministry of Railways (Railway Board) regarding pay and allowances being within the guidelines which were issued by the Ministry in this regard to the Claims Commissioner appointed to enquire into and determine claims arising out of an accident, desired the Ministry to suitably amend sub-rule (1) of rule 5 of the Railway Accidents (Compensation Amendment) Rules, 1982, so as to avoid legislation by reference and make it self-contained or alternatively to incorporate the guidelines as an Annexure to the said Rules.

(iv) *The Railway Accidents (Compensation) (Amendment) Rules, 1984 (S.O. 171-E of 1984)—(Memorandum No. 18).*

The Amendment Rules in question which were notified in the Gazette on 20 March, 1984 had retrospective effect from 4 March, 1983. The reasons for giving retrospective effect to the rules and the assurance that no one would be affected by retrospective operation of the rule had however not been appended to the Rules. The Committee noted with satisfaction that on the matter being pointed out by them, the Ministry of Railways (Railway Board)

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

had published for general information a Notification in the Gazette of India containing the requisite explanatory note indicating the reasons for giving retrospective operation and that no one would be adversely affected by retrospective operation of the Railway Accidents (Compensation) (Amendment) Rules, 1984 (S.O. 171-E of 1984).

- (v) *The Office of the Registrar-General and Ex-Officio Census Commissioner for India (Map Officer) Recruitment Rules, 1984 (G.S.R. 70 of 1984) —(Memorandum No. 19)*

The Committee noted with satisfaction that on the matter being pointed out by them, the Ministry of Home Affairs (Office of the Registrar-General, India) had since issued a corrigendum to amend Rule 5 of the Office of the Registrar General and Ex-officio Census Commissioner for India (Map Officer) Recruitment Rules, 1984, so as to insert a provision for consultation with the Union Public Service Commission before granting relaxation of any of the provisions of the said Rules.

- (vi) *Department of Electronics (Departmental Competitive Examination for recruitment to Stenographer Grade III) Regulations, 1984 (G.S.R. 321 of 1984)—(Memorandum No. 20)*

The Committee noted that on the matter being pointed out by them, the Department of Electronics had agreed to amend Regulations 5 and 11 of the Department of Electronics (Departmental Competitive Examination for recruitment to Stenographer Grade III), Regulations, 1984, which implied that the decision of the Secretary of the Department shall be final in the matter of eligibility or otherwise of the candidates or regarding relaxation of the recruitment rules by substituting the workings by 'the same shall be decided by the Secretary of the Department', so as not to create an impression that the jurisdiction of the Courts was being ousted in any manner. The Committee desired the Ministry to issue the proposed amendment at an early date.

- (vii) *The Engineering Department, Chandigarh (Horticultural Officers) Recruitment Rules, 1984 (G.S.R. 452 of 1984)—(Memorandum No. 21)*

The Committee noted with satisfaction that on the matter being pointed out by them, the Ministry of Works and Housing (Works Division) had amended the Engineering Department Chandigarh (Horticultural Officers) Recruitment Rules, 1984 so as to insert the requisite 'Saving Clause' regarding concessions to the Scheduled Castes/Scheduled Tribes and other special categories of persons in accordance with the orders of the Central Government issued from time to time in this regard.

*The Committee then adjourned to meet again on 11 July, 1985.*

MINUTES OF THE SIXTH SITTING OF THE COMMITTEE ON SUB-  
ORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1986-86)

The Committee met on Thursday, 11 July, 1985 from 11.00 to 13.15 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Arunachalam
3. Shri D. L. Baitha
4. Shri G. M. Banatwalla
5. Shri Dharam Pal Singh Malik
6. Shri Sayed Masudal Hossain
7. Shri I. Ram Rai
8. Shri K. S. Rao
9. Shri Dharamgaj Singh

WITNESSES

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*II. Representatives of the Ministry of Law and Justice (Legislative Department)*

1. Shri R. V. S. Peri Shastri, Secretary.
2. Shri B. K. Sharma, Joint Secretary and Legislative Counsel.
3. Shri Y. P. Sud, Deputy Legislative Counsel.

SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary.*
  2. Shri S. Balasubramanian—*Chief Legislative Committee Officer.*
  3. Shri R. S. Mani—*Senior Legislative Committee Officer.*
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\*Omitted portions of the Minutes are not covered by this Report.

20. The Committee drew the attention of Secretary (Legislative) to the fact that the term "moral turpitude" had not been defined in the Tea Rules, 1954 (SRO 1026 of 1954, published in Gazette of India, Part IV, dated 25 March, 1954). Secretary (Legislative) stated that though it was difficult to define it, it was a well-understood concept. He said that he would look into the matter and send a note to the Committee.

21. The attention of Secretary (Legislative) was then drawn to the rule regarding disqualification on grounds of second marriage for recruitment purposes, with reference to the Junior Finance Officer (General Central Service Group 'B' Non-gazetted Non-Ministerial) (Amendment) Recruitment Rules, 1978 (GSR 808 of 1978). When asked whether this did not impose hardship on women particularly in our present state of society, the Secretary (Legislative) said that the proviso could be amplified to provide for exemption in case of hardship.

*[The witnesses then withdrew]*

*The Committee then adjourned.*

MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1985-86)

The Committee sat on Friday, 6 December, 1985 from 15.30 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri G. M. Banatwalla
3. Shri I. Rama Rai
4. Shri K. S. Rao
5. Shri D. Narayana Swami

SECRETARIAT

1. Shri M. K. Mathur—*Joint Secretary*
2. Shri R. S. Mani—*Senior Legislative Committee Officer*

2. The Committee considered their draft Third Report and adopted it.
3. The Committee authorised the Chairman and, in his absence, Shri K. S. Rao to present the Third Report to the House on their behalf on 9 December, 1985.

*The Committee then adjourned.*

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