

COMMITTEE ON SUBORDINATE LEGISLATION

(EIGHTH LOK SABHA)

FIFTH REPORT

Presented on 20 March, 1986



LOK SABHA SECRETARIAT
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LOK SABHA SECRETARIAT

Corrigenda to the Fifth Report of the
Committee on Subordinate Legislation
(Eighth Lok Sabha)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION

(1985-86)

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12. Shri Saleem I. Shervani
13. Shri Dharamgaj Singh
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- @15. Shri Yogeshwar Prasad Yogesh

SECRETARIAT

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

%Nominated w.e.f. 18 November, 1985 *vis* 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 *vis* Shri H.G. Ramulu resigned.

@Nominated w.e.f. 7 August, 1985 *vis* 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 this their Fifth Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 18 November, 1982, 24 and 27 January, 1986.

3. At their sitting held on 21 September, 1983, the Committee took oral evidence of the representatives of the then Ministry of Railways (Railway Board)—[now Ministry of Transport (Department of Railways)] regarding (i) Differentiation in the scales of passes admissible to various categories of Railway employees, and (ii) the Indian Railway Conference Association—Conference Rules [Paragraphs 16—18 of Fourteenth Report (Sixth Lok Sabha)]. The Committee wish to express their thanks to the Officers of the Ministry for appearing and for placing the requisite information before them.

4. The Committee considered and adopted this Report at their sitting held on 18 March, 1986. The Minutes of the sittings relevant to this Report are appended to it.

5. 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 I to the Report.

II

THE MINES CRECHE (AMENDMENT) RULES, 1985 (G.S.R. 551 OF 1985)

6. While examining the Mines Creche (Amendment) Rules, 1985 (G.S.R. 551 of 1985), it was noticed that the draft amendment Rules were published in the Gazette on 22 June, 1984 inviting objections and suggestions of all affected persons on or before the expiry of a period of forty-five days from the date of publication of the draft

Rules in the Gazette. The Rules in the final form, however, were published on 8 June, 1985.

7. The Ministry of Labour were asked to state (i) the reasons for delay in publication of the final rules indicating the time taken at each stage; (ii) the manner in which the matters which were sought to be provided for the amending Rules were regulated during that period; and (iii) to significance of the deletion of the word "manager" in the amending Rules.

8. The Ministry in their reply dated 15 October, 1985 stated as under:—

"A statement which indicated date-wise action taken by the Ministry for bringing out consequential amendments to the Mines Creche Rules, 1966, consequent to amendments to Mines Act, 1952, which was brought into force with effect from 31 May, 1984 is enclosed.* A perusal of this would show that a conscious effort was made to complete action and the whole exercise was completed within a year's time.

Incidentally it is mentioned that Government was also simultaneously taking action on new Mines Rescue Rules, consequential amendments to the Coal Mines Regulations 1957, the Metalliferous Mines Regulations, 1961, the Mines Rules, 1955 and the Coal Mines Pithead Bath Rules, 1959. Besides this, Ministry had also to frame new safety regulations for oil mines as the temporary regulations framed in 1983 were to expire on the 28th October, 1984. As framing of new oil Mines Regulations, rescue Rules, and the consequential amendments to the Coal Mines Regulations, 1957, Metalliferous Mines Regulations, 1961 and the Mines Rules, 1955 were comprehensive in nature, there was delay at certain stages in completing action on the Creche Rules.

Amendment to the Mines Creche Rules was only of consequential nature, as section 18 (2) of the Mines Act, 1952 as amended by the Mines (Amendment) Act, 1983 already provided that the responsibility in respect of matters provided for in the rules made under clauses (d), (e) and (p) of section 58 (i.e. canteens, creches and pithead baths)

*See Appendix II.

shall be exclusively carried out by the owner and agent of the mine and by such person (other than the manager) who the owner or agent may appoint for securing compliance with the aforesaid provisions. This substantial provision in the Mines Act protected the interest of the workers and the amendment to the Mines Creche Rules was only of the nature of the completion of procedural formalities. In this connection it is also mentioned that the new Oil Mines Regulations, 1984, Mines Rescue Rules and amendments to the Coal Mines Regulations, Metalliferous Mines Regulations and the Coal Mines Pithead Bath Rules have also been finally notified and copies thereof have already been laid on the Table of the Lok Sabha.

The manager of the mine has necessarily to be a technical person and has to devote his efforts towards increasing production and ensuring safety. It was, therefore, considered desirable that he is relieved of all responsibilities not directly connected with his main work. This was done in consultation with Workers' and employers' organisations and Section 18 of the Mines Act, 1952 was accordingly amended to specifically indicate that the responsibilities in respect of providing for canteens, creches and pithead baths, would rest with the owner and the agent of the Mines and not the Manager. The word 'manager' has therefore, been deleted from the Mines Creche Rules, 1966, to bring them on line with the amended provisions of the Act."

9. The Committee agree with the views of the Ministry of Labour that the Manager of the mine has necessarily to be technical person devoting his efforts towards increasing production and ensuring safety and as such should be divested of other responsibilities not directly connected with his main work. They have therefore, no objection to the deletion of the word 'manager' from the Mines Creche Rules, 1966, so as to bring them in line with the amended provisions of the Act.

10. The Committee, however, cannot refrain from expressing their regret over the delay in the notification of the Mines Creche (Amendment) Rules, 1985 in the final form. The Committee are not convinced with the reasons for delay advanced by the Ministry that they were taking simultaneous action regarding amendment of the various other rules and regulations. The Committee feel that the delay was obviously due to the casual attitude displayed and the scant regard

shown by the Ministry in the matter, especially in the matter of obtaining comments of DGMS which has taken about 5½ months. In this connection, the Committee would like to draw the attention of the Ministry to the observations/recommendations made by them in paragraphs 67 and 68 of their Twenty-fourth Report (Seventh Lok Sabha) wherein the Committee have emphasised the imperative need to reduce the time lag between the publication of draft rules and their final notification in the Gazette. The Committee would like the Ministry to be more cautious and vigilant in such matters in future and strictly adhere to the time limit fixed by the Committee for the purpose.

III

THE AIRCRAFT (FOURTH AMENDMENT) RULES, 1985 (G.S.R. 604 OF 1985)

11. While examining the Aircraft (Fourth Amendment) Rules, 1985 (G.S.R. 604 of 1985) it was noticed from the preamble to the above Rules that the draft Rules were published in the Gazette on 21 July, 1984, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of three months from the date of publication in the said notification in the Official Gazette. The rules were notified in final form on 22 June, 1985, i.e. after an interval of about 8 months even when no objections/suggestions had been received from the public.

12. The Ministry of Tourism and Civil Aviation were asked to state for the information of the Committee on Subordinate Legislation—(i) the reasons for delay in publication of the final rules indicating the time taken at each stage; and (ii) the manner in which matters which were sought to be provided for in the amending rules, were regulated during that period.

13. The Ministry of Transport (Department of Civil Aviation) in their communication dated 31 October, 1985 stated as under:—

“A case study has been done to identify the reasons for delay in the publication of the final Rules. A copy of this case study is enclosed.*

It would be observed that the delay has taken place mainly in the office of the Director General of Civil Aviation. In the first place, they took 30 days to furnish us the final notification on 1-12-1984 and again 58 days in returning the file after revising the text of the notification. Explanation given by the D.G.C.A. in this regard is given below:

The Information and Regulation Directorate of the office of

*See Appendix III.

the D.G.C.A. processes all such proposals relating to amendment in the Aircraft Rules. These proposals emanate from different Directorates of the Office of the D.G.C.A. The present proposal has emanated from the Directorate of Air Route and Aerodromes (Operations). [i.e. DARA (O)].

D.G.C.A. has indicated that Ministry's reminder dated 30-10-1984 was received by him on 5-11-1984, probably due to the disruption that followed the tragic death of the late Prime Minister Smt. Indira Gandhi.

While the Information and Regulation Directorate of D.G.C.A. was preparing a final notification for sending to the Ministry, DARA (O) approached them with a proposal to widen the scope of the proposed notification, by incorporating some additional area in the definition of the "Prohibited area". Since no substantive change could be made in the final notification without pre-publishing the same again, DARA(O) was told that a fresh proposal will have to be drafted for the proposed change. DARA (O) had agreed but all this took about 25 days time. Thereafter D.G.C.A. sent the draft final notification to the Department of Civil Aviation on 1-12-1984.

As a result of examining the draft notification, the Department of Civil Aviation had suggested certain amendments thereto. Since those amendments had to be examined again by the concerned Directorate in D.G.C.A. in consultation with the Ministry of Law, D.G.C.A. could send the final notification to the Department of Civil Aviation only on 12-5-1985.

Lok Sabha Secretariat have also desired to know the manner in which matters which were sought to be provided for in the amending Rules were regulated during that period. In this connection it is stated that the subject area was treated as "Prohibited area" through a Notam (Notice to Airmen) issued by D.G.C.A. in exercise of the powers vested in them by virtue of Rule 133-A of the Aircraft Rules, 1937. This Notam remained operative till the date of coming into force of the notification under question."

14. The Committee observe from the case study furnished by the Ministry of Transport (Department of Civil Aviation), identifying the reasons for delay in the final notification of the Aircraft (Fourth

Amendment) Rules, 1985 that an unduly long period of 8 months has been taken in the final notification of the Rules and that too when no objection or suggestion had been received from the public in that regard. The Committee feel that had the authorities concerned with the matter, spread proper thought and attention right from the point of emanating the proposal, there would not probably have been occasions to ponder over it towards the final stage of the amendment notification. From the reasons attributed for the delay in publication of the Rules in final form, the Committee draw a conclusion that the authorities concerned had considered the proposals for amendment in piece-meal resulting in the revision and re-revision of the texts. Had all the amendments been considered properly at the initial stage, the time taken at the final stage could have been reduced.

15. The Committee feel that there is need to streamline the procedure obtaining in the various Directorates under the Ministry in dealing with important matters like the amendments to the Statutory rules which affect a large section of the public. The Committee would, therefore, again like to reiterate their earlier recommendations/observation made in paragraphs 67 and 68 of their Twenty-Fourth Report (Seventh Lok Sabha) wherein the Committee have emphasised the imperative need to reduce the time lag between the publication of the draft and the final to the barest minimum. The Committee trust that the Ministry would take all precautions in future to cut short the delays in such vital matters relating to Subordinate Legislation.

IV

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 16, 17 AND 18 OF THE FOURTEENTH REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) RE: (I) DIFFERENTIATION IN THE SCALES OF PASSES ADMISSIBLE TO VARIOUS CATEGORIES OF RAILWAY EMPLOYEES; AND (II) THE INDIAN RAILWAY CONFERENCE ASSOCIATION—CONFERENCE RULES

16. From the reply to Lok Sabha Unstarred Question No. 5425 dated 3 April, 1985 regarding value of Passes and P.T.Os. to Railway Staff, it was observed that Class I and Class II Railway employees were entitled to 6 sets of passes per annum, whereas Class III and IV Railway employees could avail of only 1 set of passes per annum after five years' service. The Ministry of Railways (Railway Board) were asked on 9 April, 1985, to state the reasons for differentiation in the number of sets of passes admissible to various categories

of Railway employees and also to furnish a copy of the rules governing the scales of passes and P.T.Os. issued to Railway staff for the information of the Committee on Subordinate Legislation.

17. On 19 September, 1985, the Ministry of Railways (Railway Board) sent a copy of the Indian Railway Conference Association—Conference Rules Part II (in force from 1 March, 1972) containing Pass Rules in Chapter VI thereof. The Ministry also appended a note indicating the reasons for differentiation in the number of sets of Passes admissible to Class I, II, III and IV Railway employees.

18. After considering the above-mentioned note containing the reasons furnished by the Ministry, the Committee on Subordinate Legislation in paragraphs 16 to 18 of their Fourteenth Report (Sixth Lok Sabha) had, *inter alia*, observed that both the Gazetted and Non-gazetted staff made use of the Passes for their family members. Like the Gazetted staff, the Non-gazetted staff also needed to travel widely in India to gain first hand knowledge of the country and the developments that were taking place and the general conditions prevailing on the Railways. The Committee, therefore, saw no reason for discrimination between the Gazetted and Non-gazetted staff in the matter of issue of passes to them urged upon the Ministry to grant identical pass facilities like PTOs to all members of the staff whether gazetted or non-gazetted.

19. As regards the Indian Railway Conference Association Rules under which these passes were issued to the staff, the Committee observed that these rules did not have any legal authority but were based on instructions issued by the Ministry from time to time. In the absence of any legal authority, the rules could not be enforced in a court of law. Hence they must have some sanction of law either emanating from the Constitution or from some other enactment. In this regard, the Committee had time and again pointed out that executive instructions were no substitute to statutory rules framed under legal authority. The Committee, therefore, desired the Ministry to regulate the matters now covered by the Indian Railway Conference Association Rules by statutory rules framed under some legal authority flowing either from an Act of Parliament or the Constitution. The Committee had also desired that the legal authority should be cited in the Preamble to such rules, which should be published in the official gazette for the information of the public.

20. In their Action Taken note dated 28 February and 26 October, 1979, on the aforesaid recommendation of the Committee, the Ministry of Railways had stated as under:—

“Differentiation in the scale of Passes admissible to various Categories of Railway employees

The question of travel facilities to railway employees is reviewed from time to time and it has been reduced both for gazetted and non-gazetted staff. It had always been an endeavour to reduce disparity between the Gazetted and Non-gazetted staff in regard to the grant of travel facilities. The question was again reviewed and the Ministry of Railways have felt that it would be a retrograde step and it is undesirable to precipitate any reduction in the present travel facilities granted to the gazetted officers with a view to bring about uniformity. On the other hand it would also be difficult to liberalise the travel facilities now enjoyed by the non-gazetted staff. It may not be out of place to mention here that gazetted officers are granted more number of passes on the following consideration:

- (i) Officers are recruited on all India basis whereas this is not the case with the non-gazetted staff.
- (ii) Gazetted officers are liable to transfer throughout Indian Railways whereas non-gazetted staff generally remain within the Division|Zonal limits of the Railways on which appointed.

Indian Railway Conference Association-Conference Rules:

It has since been decided to have a separate Pass Manual which would contain travel facilities to railwaymen. This pass Manual would be operated on all the Railways and action has already been initiated in this regard. This Legal authority in the preamble will be given in the Pass Manual when finalised.

The observation made by the Committee on Subordinate Legislation in para 18 of their 14th Report has been noted.

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21. Being not convinced of the above reasons given by the Ministry, the Committee at their sitting held on 18 November, 1982 decided to hear oral evidence of the representatives of the Ministry. Accordingly, the Committee took evidence of the Ministry at their sitting held on 21 September, 1983.

22. During the course of evidence, the representative of the Ministry of Railways clarified that the procedure of issuing railway passes to officers, which had been in vogue from the historical past,

was not being reviewed under the powers derived from Art. 309 of the Constitution. The matter had to be examined at length taking into consideration the large number of employees, both gazetted and non-gazetted, their service conditions etc. In this connection the representative informed the Committee that railway pass facilities also existed in foreign countries like U. K. where the criteria was based on the salary structure of the employees and in France, where the passes were issued unlimited.

23. Regarding making necessary provision in the rules for issue of passes, the representative stated that although their Compendium of rules had a statutory backing, unfortunately the rules for the issue of passes had not been taken up under Art. 309 of the Constitution and which they proposed to do now. The representative, however, expressed his Ministry's inability to accept the recommendation of the Committee for equalisation of passes to railway employees and had promised to send a note giving valid reasons therefor.

24. In the comprehensive note received with the Ministry's communication dated 17 August, 1984, the Ministry had *inter alia* explained the position in regard to (i) the authority to issue passes, (ii) the types of passes to which railway employees are entitled to, and (iii) the reasons for distinction in the number of sets of privilege passes between gazetted officers and non-gazetted staff as follows:—

“(i) *Authority to issue passes*: The powers have been derived under section 3, Item No. 15 and 47 (1) (g) of the Indian Railways Act, 1890. These clauses, taken together, provide legal frame-work to the present practice for the issue of passes. However, as desired by the Committee, elaborate rules have been framed and action has also been initiated to frame Indian Railway Pass Rules in consultation with the Ministry of law under Article 309 of the Constitution of India and powers vested in the Indian Railways Act. The Rules have been framed and are awaiting the vetting of the Ministry of Law. After these rules are vetted by the Ministry of Law, notification in this regard will be issued. In the meantime, as already stated, the issue of passes and privilege ticket orders to the Railway employees is, at present, regulated through administrative instructions issued by the Ministry of Railways from time to time.

(ii) *Types of passes*: The types of passes may be broadly divided into two categories (a) Duty passes for travel on duty granted according to the status of the officer, and (b) Privilege Passes for travel on leave.

Reasons for distinction in the number of sets of privilege passes between gazetted officers and non-gazetted staff.

The gazetted railway officers are granted higher scale of passes **keeping in view the following:**

- (a) **Gazetted officers are recruited on All Indian basis whereas the non-gazetted staff are recruited through Railway Service Commissions located at different places in each State and on their final selection, they are posted on Zonal Railways and Divisions of their choice for posting.**
- (b) **Gazetted officers are liable to be posted anywhere on the Indian Railways in India, whereas the posting of non-gazetted staff is generally restricted within the Divisional/ Zonal Railways.**
- (c) **As they are transferred all over India, the gazetted officers face special problems in regard to education of their children, maintenance of double establishments, etc. These problems do not exist in case of non-gazetted staff who are generally posted near about their native places./ places of their choice as far as possible and mostly remain in that area.**
- (d) **The gazetted officers have been availing the higher scales of passes since the beginning of the Railways in India. These privileges granted to Railway officers in India are in no way unique because employees of the Railways throughout the world are granted similar travel concessions, to the extent following local practices.**
- (e) **The travel facility is considered only as a fringe benefit keeping in view the arduous nature of duties|higher responsibilities required to be performed| shouldered by the officers as compared to the other Railway employees.**
- (f) **The travel concessions which were initially granted as a privilege has by virtue of long standing practice, and by conventions, national and international, assumed the character of being a part of Railway service conditions.**
- (g) **The character and responsibilities of the Railway officers differ from those of non-gazetted staff. As in the matter pay, housing, etc. the fringe benefit of passes also follows different scales for different categories.**

- (h) Reduction in the number of passes to Gazetted officers in order to bring parity with non-gazetted officers is not logical under present day conditions where even the pay structure is different. Further, the number of Gazetted officers is small as compared to non-gazetted officers, being 8000 officers against 15,00,000 non-gazetted employees. In other words, the reduction in number of passes to bring parity would have hardly any material effect on the number of passes issued but will have far-reaching adverse effect in the shape of decommitment amongst gazetted officers and thus on the management of the Railways. As it is, young qualified persons in the top stream increasingly find other employment more attractive than Railways.
- (i) At a time when the general conditions of living are difficult and when various demands for improvement in service conditions are being made with considerable validity, it would be inopportune to curtail a privilege, which is cherished as much as a symbol, as for its material value, particularly when no real or major advantages could be expected from such curtailment. It would, therefore, be administratively unwise to curtail the available concession to a class of employees on whom the burden of running the administration falls.
- (j) It is again repeated that the officers have not been given special privilege in respect of travel facilities alone. As compared to the non-gazetted staff, the Railway Officers are paid according to higher scales of pay, have been delegated additional powers, are given better type of accommodation, certain other facilities like provision of room telephone, transport etc. in order to discharge their functions effectively and efficiently and shoulder higher responsibilities. In other words, disparity exists in other areas also.
- (k) The recommendations of the Pay Commission Railway Convention Committee as well as Estimates Committee on the subject had also been considered earlier and ultimately after deliberating on the pros and cons of the proposals the *status quo* had been allowed to remain.

Travel facilities (other than travel on duty) given to railway employees in other parts of the world

Travel facilities admissible to the railway employees in some of the countries are indicated in Annexure*

*See Appendix IV.

Review over last few decades

The number of passes and PTOs admissible to the railway employees is reviewed from time to time. The statement showing the number of privilege passes/PTOs to various categories of staff during the last half a century are indicated in the Statement** It would be seen therefrom that there has been constant reduction in the number of passes admissible to gazetted officers.

It would also be seen that the number of PTOs admissible to gazetted and non-gazetted staff is equal and constant. The logic of this equality is that for a travel on PTOs the employee has to pay a part and even if a large number of PTOs are to be issued to group C & D in theory, in practice very few are issued. As pointed out in para (h) this logic will not hold for passes."

25. While the Committee accept the explanation of the Ministry for not being able to comply with their recommendation for uniformity in the issue of railway passes to the Gazetted and non-gazetted staff in the Railways, they are constrained to observe that the procedure of issue of passes is still regulated under the Indian Railways Conference Association Rules which as indicated by the Committee earlier do not have legal authority but are based on instructions issued by the Ministry from time to time. In this connection, the Ministry of Railways had informed the Committee in February, 1979, that a separate pass manual regarding travel facilities to railwaymen had been decided upon and the legal authority for the Rules would be cited in its Preamble. However, in their further note dated 18 August, 1984, the Ministry stated that powers to issue passes were derived from sections 3 and 47(1) of the Indian Railways Act, 1890. According to the Ministry, a set of Rules had been framed, in pursuance of Article 309 of the Constitution and the powers vested in Indian Railways Act, and these rules awaited vetting by the Ministry of Law.

26. The Committee are unhappy over the inordinate delay in placing the matter regarding issue of passes etc. on a statutory footing in spite of a categorical recommendation of the Committee made in December, 1978 and accepted by the Ministry in February, 1979.

**See Appendix V.

The Committee are of the view that the Ministry have not taken up the matter regarding framing of statutory rules with the urgency and seriousness it deserves. The result is that the whole system of issuing passes and PTOs which has absolutely on legal basis continued to be followed over all these years in spite of the fact that the Committee recommended as far back as 1978 that statutory rules to regulate these matters should have been notified. The Committee regret to note that the Department has failed to finalise the draft rules even after the lapse of a period of seven years.

27. The Committee, therefore, reiterate their recommendation made in para 17 of the Fourteenth Report (Sixth Lok Sabha) and urge upon the Ministry to take urgent steps to finalise and publish the Rules in this regard without any further delay.

V

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 8 OF THE THIRTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) REGARDING THE PORT OF NEW MANGALORE (REGULATION OF THE USE OF LANDING PLACES) (AMENDMENT) RULES, 1980 (G.S.R. 243-E OF 1980)

28. The Committee on Subordinate Legislation, in paragraph 8 of their Thirteenth Report (Seventh Lok Sabha), presented to the House on 22 October, 1982, observed as follows:—

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

29. In their reply dated 28 March, 1983, the Ministry, while accepting the recommendation, had stated that since the notification amending the relevant rules were under consideration in consultation with the Ministry of Law, Justice and Company Affairs and would take some more time to finalise the matter, extension of time up to 30 April, 1983 for submission of the Action Taken note might be granted to them.

30. In their subsequent communication dated 1 October, 1983, the Ministry expressed their regret for not finalising the matter by

them and requested for further extension of time up to 30 April 1984. In their further communication dated 1 June, 1984, the Ministry again requested for extension of time upto 30 June, 1984 stating that the question of amending the requisite Rules had been further considered in detail in consultation with the Ministry of Law, Justice and Company Affairs and that it would take some more time in implementing the recommendation of the Committee.

31. On each occasion, the Chairman, Committee on Subordinate Legislation had granted necessary extension of time as requested by the Ministry.

32. In their final reply dated 12 July, 1984, the Ministry of Shipping and Transport stated as under:—

“...the question of amending the Port of New Mangalore (Regulation of the Use of Landing Places) Rules had been further considered in detail in consultation with the Ministry of Law.

It has been noted that the rules were framed when the Port was under the purview of the Indian Ports Act, 1908 and the Major Port Trusts Act, 1963 was not applicable. The port has become a Major Port Trust under the Major Port Trusts Act, 1963 w.e.f. 1st April, 1980. As the MPT Act specifically provides for framing of the scale of rates and statement of conditions for the use of the properties owned by the Port Trust it is felt that there is no need to apply the Rules/Regulations under the Indian Port Trusts Act, 1908, which is primarily applicable to the Minor Ports.

Section 49 of the MPT Act empowers the Port Trust Board to frame a scale of rates and statement of conditions under which any property belonging to or in possession or occupation of the Board or any place within the limits of the Ports or the Port approaches may be used. These scales of rates and statement of conditions are to be approved by the Central Government under section 52 of the Act.

The recommendation of the Committee contained in para 8 of the 13th Report relates to provision of right to appeal against resumption of land by the lessor. This provision could be included in the statement of conditions for use of the landing places. The Govt. has directed the port authorities to frame scale of rates and statement of conditions for use of landing places under section 49 of the Act and submit the same for the Government's approval under Section 52. The Port Trust has also been asked to include the condition regarding a right to appeal in the statement of conditions.

It is felt that the purpose behind the recommendations of the Committee would be served by the scale of rates and the condition as mentioned above."

33. The Committee note that at the initial stage, the Ministry of Shipping and Transport (Ports Wing) had agreed to amend Rule 2(4)(c) of the Port of New Mangalore (Regulation of the use of Landing Places) Rules, 1977, as recommended by the Committee and also directed the Port Authorities to take steps for framing scale of rates and statement of conditions for the use of properties owned by the Port Trust. The Port authorities were also asked to include the provision for a right to appeal against resumption of possession of land by the lessor in the statement of conditions.

34. The Committee further note from the Final reply of the Ministry dated 12 July, 1984, that the rules *ibid* were framed when the Port of New Mangalore was administered by the Indian Ports Act, 1908, but in April, 1980, the Port became a Major Port under the Major Port Trusts Act, 1963, and Section 49 of that Act provided for framing of the scale of rates and statement of conditions for the use of the properties owned by the Port Trust. As such there was no need to apply the Rules/Regulations under the Indian Ports Act, 1908 which were primarily applicable to minor Ports to the Port of New Mangalore.

35. The rules relating to the Port of New Mangalore (Regulations of the use of Landing Places) Rules, 1977 were considered by the Committee in the year 1981. Had the Ministry informed the Committee then that the New Mangalore Port had become a Major Port with effect from April, 1980 and that it was to be administered under the Major Port Trusts Act, 1963, the entire exercise of the Committee and their recommendation in this behalf could have been avoided. The Committee fail to understand the reasons as to why the Ministry of Shipping and Transport had not given the correct picture to the Committee in 1981 or the Committee should believe that it was not in the knowledge of the Ministry then that the Port of New Mangalore had been declared a Major Port in 1980. The Committee take a serious view of the matter. They are constrained to observe that either the Ministry had tried to mislead the Committee or the Ministry had poor knowledge and control over the affairs of the Port of New Mangalore. The Committee, however, desire the Ministry of Transport (Department of Surface Transport) to take immediate action for the insertion of the requisite provision in the Statement of conditions under Section 49 of the Major Port Trusts Act, 1963 and publish them in the Official Gazette.

VI

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 15 OF THE THIRTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) REGARDING THE PORT OF TUTICORIN (REGULATION OF THE USE OF LANDING PLACES) AMENDMENT RULES, 1981
(G.S.R. 312 OF 1981)

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

“(b) Any default, not exceeding seven days in the case of permit card and thirty days in the case of lease deed, in making payment of rent by the date on which it becomes due, shall make the permit card holder or the lessee, as the case may be, liable to pay in addition to the amount of arrears of rent, an interest at the rate of 15 per cent per annum on the accumulated arrears for the period of such default.”

37. It was felt that the levy of interest on the accumulated arrears for the period of default in payment of rent was in the nature of a substantive provision and should more appropriately be provided for in the Parent Act itself *viz.* the Indian Ports Act, 1908.

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

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

39. After considering the above reply of the Ministry, the Committee in paragraph 15 of their Thirteenth Report (Seventh Lok Sabha), presented to the House on 22 October, 1982, made the following observation/recommendation:—

“15. The Committee note with satisfaction that, on being pointed out by them, the Ministry of Shipping and Transport (Ports Wing) have agreed to bring forward a Bill before Parliament to amend the Indian Ports Act, 1908 so as to provide for levy of interest on the accumulated arrears for the period of default in payment of rent. The

Committee desire the Ministry to complete the procedural formalities in this regard at an early date and to omit sub-rule 4(b) of rule 2 of the Port of Tuticorin (Regulation of the Use of Landing Places) Rules, 1977 accordingly."

40. In their final Action Taken note dated 5 June, 1985, the Ministry of Shipping and Transport (Ports Wing) stated as under:—

"...to say that the recommendation of the Committee on Subordinate Legislation has been examined in detail in consultation with the Legislative Department, Ministry of Law, Justice and Company Affairs.

The present rules regarding Regulation of the use of landing places at Tuticorin Port were framed in 1977 when the Port came under the purview of the Indian Ports Act, 1908 and the Major Port Trusts Act, 1963 was not applicable to the Port. As the Port has been entrusted to a Major Port Trust under the Major Port Trust Act, 1963 since 1st April, 1979 the rates and the conditions for the use of landing places etc. are to be framed under section 49 of the MPT Act, with the prior approval of the Central Government as provided under Section 52 thereof. Accordingly, the Tuticorin Port has already notified the rates and statement of conditions for use of landing places under the MPT Act. The conditions include the provision regarding penal interest on defaulted rent also.

The question of providing for levy of penal interest on defaulted rent in the principal Act, has also been considered in consultation with the Legislative Department.

The Legislative Department made the following observations in this regard:—

'Chapter X of the MPT Act, 1963 provides for penalties. Section 117 thereof provides that any person who contravenes any of the provisions of this Act or of any rule, regulation or order made thereunder (this will include the order relating to the scale of rates and statement of conditions under section 50) for the contravention of which no penalty is expressly provided thereunder, shall be punishable with fine which may extend to two thousand rupees. Similarly section 124(3) of the Act empowers the Board to provide in the Regulations that the

breach thereof shall be punishable with fine which may extend to two thousand rupees, and where the breach of is a continuing one, with further fine which may extend to five hundred rupees for every day after the first, during which such breach continues. It will, therefore, be seen that the 1963 Act provides for the penalties to be provided in the regulations and orders framed by the Port Trusts. In view of this provision, there is no necessity of amending the Act as recommended by the Committee on Subordinate Legislation in its 13th Report, for charging levy of interest as the object can be achieved by providing for penalty either under section 117 of the Act or under section 124(3) of the Act by making specific provisions in the regulations and orders for charging penalties upto the maximum limit provided therein.'

The Legislative Department had advised that the Ministry may take steps for framing fresh scale of rates and statement of conditions for use of landing places under the MPT Act, 1963 and the Committee on Subordinate Legislation may be addressed suitably indicating the correct position of law.

A further reference was made to the Ministry of Law for a clarification on the competence of the Tuticorin Port Trust to prescribe a penal interest invoking Section 117 and Section 124(3) of the MPT Act which provide for levy of fine. The following advice was received from the Ministry of Law (Legislative Department):—

'Under sub-rule (4) (b) of rule 2 of Port of Tuticorin (Regulation of the Use of Landing Places) Rules, 1977 any default by a permit card holder or lessee in the payment of rent will render him liable to pay interest at 15% per annum on the arrears. Ordinary interest is not payable but the liability therefor arises only in case of default. Considering the circumstances in which interest is levied under the rule, it can be said that the interest is in the nature of a penalty. While considering the validity of the said rule, the Subordinate Legislation Committee seems to have examined the rule only with reference to the provisions of the Indian Port Trusts Act, 1908, by which the rule is in fact supported. Under section 117 of the said 1963 Act, any person who contravenes, *inter alia*, any rule, for the contravention of which no penalty is expressly provided thereunder, shall be punishable with fine which may extend to two thousand rupees. This section impliedly provides for prescribing a penalty

for the contravention of the rules. The levy of interest contemplated by the rule aforesaid, which is in the nature of a penalty is, therefore, supported by section 117 of the Act and therefore, an amendment of the Act taking specific power for the levy of interest on default in payment does not seem necessary.'

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41. The Committee note from the reply of the Ministry that the Tuticorin Port was entrusted to a Major Port Trust under the Major Port Trust Act, 1963 since April, 1979, and the rates and the conditions for the use of landing places etc. were to be framed under Section 49 of the Major Port Trust Act, 1963 with the prior approval of the Central Government as provided under Section 52 thereof. Accordingly, the Port Authorities had already notified the rates and conditions for use of landing places under the Major Port Trust Act. The provision regarding penal interest on defaulted rent was also included in the conditions.

42. With regard to provision of penal interest on the defaulted payment in the principal Act, the Ministry of Law (Legislative Department) opined that since sections 117 and 124(3) of the Major Port Trust Act provided for the penalties to be provided in the regulations and 'Orders' framed by the Port Trust, it was not necessary to amend the Act as the object of the Committee's recommendation could be achieved by making specific provisions in the regulations and the 'Orders' for charging penalties upto the maximum limit provided under these sections.

43. The Committee cannot help expressing their anguish over the fact that the Ministry had misled the Committee and had failed to give correct information in the year 1982 on the basis of which the Committee had recommended to the Ministry to amend the Indian Ports Act, 1908 which administered the Tuticorin Port. Had the Ministry guided the Committee properly by furnishing the correct information then that the Port of Tuticorin was administered under the Major Port Trust Act, 1963 since 1979, the Committee's recommendation in this behalf and in fact, the whole exercise by the Committee could have been avoided.

44. The Committee while agreeing with the view points of the Ministry of Law (Legislative Department) in the matter desire the Ministry of Transport (Department of Surface Transport) to take early steps to frame fresh scale of rates and statement of conditions under the Major Port Trusts Act as advised by the Ministry of Law (Legislative Department) and notify them in the Official Gazette.

IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE ON SUBORDINATE LEGISLATION MADE IN PARAGRAPHS 50-51 OF THEIR FIFTEENTH REPORT (SEVENTH LOK SABHA) REGARDING THE DEVELOPMENT CREDIT AGREEMENT [SECOND NATIONAL CO-OPERATIVE DEVELOPMENT CORPORATION PROJECT (CREDIT NO. 1146—IN)] EXECUTION AND AUTHENTICATION RULES, 1981 (G.S.R. 813 OF 1981)

45. Rule 2 of the Development Credit Agreement [Second National Cooperative Development Corporation Project (Credit No. 1146—IN)] Execution and Authentication Rules, 1981 read as under:—

“All applications, certificates or other documents required or permitted to be signed or executed in exercise of the executive power of the Union in pursuance of the provisions of the Development Credit Agreement relating to the Second National Cooperative Development Corporation Project (Credit No. 1146—IN) entered into between the Government of India and International Development Association, shall be signed or executed and authenticated on behalf of the President by any of the Senior Accounts Officers or Accounts Officers or *Junior Accounts Officers* in the Department of Economic Affairs, Ministry of Finance.”

46. On an enquiry, whether the Junior Accounts Officers, who had been authorised to sign or execute and authenticate as aforesaid, were competent to do so under the Authentication (Orders and other Instruments) Rules, 1958, the Ministry of Finance (Department of Economic Affairs), in their reply dated 1 July, 1982, stated as under:—

“.....Department of Economic Affairs have since been advised that Junior Accounts Officers in the Department of Economic Affairs are not authorised under the Authentication (Orders and other Instruments) Rules, 1958 to sign documents on behalf of the President of India. The claims submitted to the World Bank for disbursement are no longer being authenticated by Junior Accounts Officers.”

47. When asked to delete the words 'or Junior Accounts Officers' appearing in Rule 2 *ibid.*, the Ministry, in their reply dated 18 August, 1982, stated as under:—

“.....Department of Economic Affairs will have no objection to deleting the words 'Junior Accounts Officers' from the Notification in question.

Ministry of Law, Justice and Company Affairs is being consulted in this regard.”

48. In the meantime, the following rules were also found to contain similar provisions:—

- (i) The Loan Agreement (Second Ramagundam Thermal Power Project) and Development Credit Agreement (Second Korba Thermal Power Project) Execution and Authentication Rules, 1982 (G.S.R. 399 of 1982),
- (ii) The Development Credit Agreement (West Bengal Social Forestry Project) Execution and Authentication Rules, 1982 (G.S.R. 400 of 1982).
- (iii) The Loan and Credit Agreement Fourth ARDC Credit Project (Loan No. 2095—IN and Credit No. 1209—IN) Execution and Authentication Rules, 1982 (GSR 424 of 1982).
- (iv) The Development Credit Agreement (M.P. Major Irrigation Project) Execution and Authentication Rules, 1982 (G.S.R. 446 of 1982).
- (v) The Loan Agreement (Tamil Nadu Newsprint Project 2050—IN) Execution and Authentication Rules, 1982 (G.S.R. 383 of 1982).

49. After considering all aspects of the matter, the Committee made the following recommendations/observations in paragraphs 50-51 of their Fifteenth Report (Seventh Lok Sabha), presented to the House on 25 February, 1983:—

“50. The Committee are amazed how the Department of Economic Affairs allowed the Junior Accounts Officers to sign or execute all applications or certificates or other documents required or permitted to be signed in exercise of the executive powers of the Union in pursuance of the provisions of the Development Credit Agreement with the International Development Association when under the

Authentication (Orders and other Instruments) Rules, 1958 they were not authorised to do so. The Ministry of Finance (Department of Economic Affairs) have, on being pointed out by the Committee, conceded that the Junior Accounts Officers are not authorised under the Authentication (Orders and other Instruments) Rules, 1958, to sign documents on behalf of the President of India and that the claims submitted to the World Bank for disbursement are no longer being authenticated by the Junior Accounts Officers. The Committee further note that the Ministry of Finance (Department of Economic Affairs) have no objection to deleting the words 'Junior Accounts Officers' from the Execution and Authentication Rules. This mistake should be rectified at the earliest.

51. The Committee are distressed to observe that the provision regarding authorising the Junior Accounts Officers to sign documents on behalf of the President of India is being repeated in a number of other Execution and Authentication Rules. The Committee therefore, recommend the Ministry of Finance (Department of Economic Affairs) to amend the various execution and authentication Rules wherein the Junior Accounts Officers have been authorised to sign documents on behalf of the President of India".

50. In their action taken note dated 4 December, 1984, the Ministry of Finance (Department of Economic Affairs) stated as under:—

".....the Committee on Subordinate Legislation, in paragraphs 44—51 of their Fifteenth Report (Seventh Lok Sabha) had recommended to this Ministry *inter alia* to amend the Development Credit Agreement [Second National Cooperative Development Corporation Project (Credit No. 1146—IN)] Execution and Authentication Rules, 1981 so as to delete the words 'Junior Accounts Officers' from such Rules. The Committee had further recommended to this Ministry to amend various other such Execution and Authentication Rules wherein the 'Junior Accounts Officers' had been authorised to sign documents on behalf of the President.

The Authentication (Orders and Other Instruments) Rules, 1958 were amended on June 13, 1983 by the Ministry of

Home Affairs *vide* the Gazette of India Extraordinary Part II—Section 3, Sub-Section (ii)—S.O. 428(E), so as to include Accounts Officers.

As for amending the Execution and Authentication Rules, 1981 (G.S.R. 813 of 1981) and various other such Execution and Authentication Rules wherein the JAOs had been authorised to sign documents on behalf of President of India, it is stated that it would mean retrospective amendment. In this connection this Ministry is of the view that such an amendment may lead to complications as JAOs may have signed some claims under the projects concerned, on the basis on which this Department would have been reimbursed by the World Bank. In view of the fact that JAOs in CAA&A's Office are no longer signing claim papers and that the World Bank has been informed of this action, the amendments called for do not appear to be necessary."

51. The Committee observe from the aforesaid reply from the Ministry of Finance (Deptt. of Economic Affairs) that a retrospective amendment to the various Execution and Authentication Rules so as to delete the words 'Junior Accounts Officer' from such rules might lead to complications as some claims under the concerned projects might have already been signed by the Junior Accounts Officers and reimbursed by the World Bank. The Committee would, therefore, like to urge upon the Ministry to notify the requisite amendments to omit the words 'Junior Accounts Officer, from the various Authentication and Execution Rules forthwith, so as to take effect from the dates of such notifications in the Gazette in order that the infirmity, which has crept into the statutory rules, is not allowed to prolong indefinitely. The Committee also desire that this case should act as an eye opener and proper lesson should be drawn by the Ministry concerned to ensure thorough and prudent scrutiny at the stage of framing such rules, especially where the matters involved financial and international implications.

Act itself will have to be amended since at present it does not contain any rule making provisions. The Essential Commodities Act covers a large number of items and as such a single rule cannot cover the entire range of commodities. As already mentioned, various Control Orders are issued under Section 3 of the Essential Commodities Act and different Control Orders in respect of different items of textiles are in effect within the frame work of the rules within which the industry/trade is controlled. The provisions relating to markings etc. made under the various notifications issued by the Textile Commissioner are reported to provide adequate control and the present system has been working quite satisfactory for the past more than three decades without any difficulty.

With regard to the Committee's main objection i.e. improvements and technological innovations are not that frequent as would make them impossible to be specified in the Order itself, it may be stated that it is a fact such improvements and innovations are taking place quite frequently especially in the man-made textile industry. Textile Commissioner's Notifications with regard to markings and packings of yarn and cloth do not indicate each item separately. Provisions relating to markings to be made are indicated for general categories of Art silk cloth and yarn which will include various varieties and therefore the concept of improvements and technological innovations may not have much relevance to the provisions of the various control orders/notifications issued. Further it would be impossible to indicate every type of cloth and yarn in any particular order since the varieties are many and it would be difficult to go on amending the orders as and when new varieties of cloth or yarn are produced. It is, therefore, felt that the present system of issuing notifications by the Textiles Commissioner under the various Control Orders is adequate to exercise control over the industry/trade and there may be no need to carry out the exercise of incorporating the rule making provisions in the Essential Commodities Act which would be a long drawn process. There have been no representations or complaints from the industry in this regard."

54. In view of the position explained by the Ministry of Commerce (Department of Textiles), the Committee feel satisfied that the present system of issuing notifications by the Textile Commissioner under the various control orders, is adequate to exercise control over

the industry/trade. The Committee, therefore, do not wish to insist that the Art silk Textiles (Production and Distribution) Control (Amendment) Order, 1980 be amended, as recommended earlier.

IX

IMPLEMENTATION OF RECOMMENDATION OF THE COMMITTEE ON SUBORDINATE LEGISLATION CONTAINED IN PARAGRAPHS 73 AND 74 OF TWENTY-FIRST REPORT (SEVENTH LOK SABHA) REGARDING THE DELHI DEVELOPMENT AUTHORITY (DISPOSAL OF DEVELOPED NAZUL LAND) RULES, 1981 (G.S.R. 872 OF 1981)

55. Rule 5 of the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 (G.S.R. 872 of 1981) read as under:—

“5. *Rate of premium for allotment to certain public institutions.*—The Authority may allot Nazul land to schools, colleges, universities, hospitals, other social or charitable institutions, religious, political, semi-political organisations and local bodies for remunerative, semi-remunerative or unremunerative purposes at the premia and ground rent in force immediately before the coming into force of these rules, or at such rates as the Central Government may determine from time to time.”

56. It was felt that the ground rent should be indicated in the Rules to make them self-contained and for the information of all concerned. The Ministry of Works and Housing with whom the matter was taken up, intimated vide their O.M. dated 5 January, 1983 that the Government agreed with the suggestion that the rates of ground rent in force should be specified in rule 5. Accordingly, the Ministry forwarded a copy of the requisite draft notification for approval of the Committee. The Committee, after considering the matter, had made the following observations in paragraphs 73-74 of their Twenty-first Report (Seventh Lok Sabha), presented to the House on 9 December, 1983:—

“73. From the draft notification sent by the Ministry of Works and Housing containing amendment to Rule 5 of the Delhi Development Authority (Disposal of Developed Nazul

Land) Rules, 1981, indicating the rate of ground rent to be charged from the public institutions like schools, colleges, universities, hospitals etc., the Committee note that the amendment as proposed stipulates that the ground rent for such allotment will be recovered at the rates specified in the Annexure to these Rules or *at such rates as the Central Government may determine from time to time hereinafter.*

74. Observing that the amendment as worded had still an element of uncertainty, the Committee desire the Ministry to amend the notification suitably so as to eliminate the element of uncertainty in respect of the ground rent."

57. In their action taken, reply dated 11 March, 1985, the Ministry stated as under:—

"..... the question of amendment of Rule 5 of the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 with a view to specifying therein the rates of ground rent to be charged from the public institutions like schools, institutes, hospitals etc. as suggested by the Committee on Subordinate Legislation in paras 73-74 of its Report under reference cited has been examined further in detail. It may be pointed out that the rates of ground rent are linked to land rates which are subject to revision from time to time. Normally, the exercise for change of land rates is undertaken every two years. Accordingly, if the rates of ground rent are specified in the rules, the rules will have to be amended frequently to notify the rates of ground rent each time the land rates are revised. This is not considered desirable from the practical point of view. In the circumstances, this Ministry is of the view that the rates of ground rent may be left to be fixed by the Central Government from time to time as per the existing provisions in the Rules. Lok Sabha Secretariat is requested to place the matter before the Committee on Subordinate Legislation for their

kind reconsideration and acceptance of the view taken by the Ministry.

This issues with the approval of the Minister of Works and Housing."

58. The Committee note the difficulty pointed out by the Ministry of Works and Housing that if the rates of ground rent are specified in the rules, the rules will have to be amended frequently to notify the rates of ground rent each time as and when the land rates are revised. The Committee also note that this will not be feasible from the practical point of view and that the question of the rate of ground rent may be left to be fixed by the Central Government from time to time as per the existing provisions in the Rules. After considering the whole matter in depth, the Committee agree with the views of the Ministry of Works and Housing (now Ministry of Urban Development) and do not insist on the Government to specify the ground rent in Rule 5 of the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981.

X

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 44—43 OF THE TWENTY-SECOND REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) RE: THE FOREST RESEARCH INSTITUTE AND COLLEGES, (GROUP 'A' AND GROUP 'B' NON-TENURE POSTS) RECRUITMENT (AMENDMENT) RULES, 1979 (G.S.R. 928 OF 1979)

59. The Committee on Subordinate Legislation, in paragraph 48 of their Twenty-second Report (Seventh Lok Sabha), presented to the House on 13 December, 1983, had observed/recommended as under:—

"48. The Committee note from the reply of the Ministry of Agriculture (Department of Agriculture and Cooperation) that the recruitment Rules of 1966 were originally valid upto 19 October, 1971 and their validity was extended from time to time in consultation with the Union Public Service Commission till the revised recruitment rules were published *vide* G.S.R. 1267 dated 13 October, 1979. The Committee further note that although action to review the original rules was initiated on 26 May, 1971 and decision to revise them was taken in December, 1971, the revised rules have been notified only in October, 1979, i.e. after the expiry of a period of about 8 years. The Com-

mittee cannot help deprecating strongly the inordinate delay on the part of the Ministry in the publication of the revised rules. The Committee desire that responsibility should be fixed for such procrastination."

60. In their action taken reply dated 2 June, 1984, the Ministry of Agriculture (Department of Agriculture and Cooperation) stated as under:—

"The circumstances leading to the inordinate delay observed by the Lok Sabha Secretariat have been thoroughly assessed and it has been found that there has, of course, been delay in publishing these recruitment rules but, at the same time, this delay cannot be attributed to any single officer or organisation. The delay occurred mainly because of the complicated nature of the case and the multiplicity of agencies (such as the Ministry of Agriculture, the Forest Research Institute & Colleges, the Department of Personnel and ARS, the Indian Council of Agricultural Research, the Council of Scientific & Industrial Research, the Union Public Service Commission, the Ministry of Law, the Official Languages Commission) involved in the decision making as well as consultations and examinations at various levels. Moreover, most of the officers of the Forest Research Institute and Colleges, Dehra Dun and of this Ministry who dealt with the case at some point of time have either retired or have unfortunately expired. It would, therefore, not be possible to take action against these officers. However, the lapse pointed out by the Committee on Subordinate Legislation has been taken in a constructive spirit and the delay in the matter is regretted very much. The requisite sense of urgency in the finalisation of such cases will be ensured in future."

61. The Committee note the explanation of the Ministry of Agriculture (Department of Agriculture and Cooperation) for the inordinate delay in publishing the draft rules in final form. The Committee also note the assurance given by the Ministry for expeditious action in future in such matters. Since the Ministry have accepted the lapse on their part and regretted for the delay, the Committee do not like to pursue the matter further.

IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE ON SUBORDINATE LEGISLATION MADE IN PARAGRAPH 10 OF THEIR TWENTY-SIXTH REPORT (SEVENTH LOK SABHA) REGARDING THE DEPARTMENT OF ELECTRONICS (ASSISTANTS' GRADE OPEN COMPETITIVE EXAMINATION) (AMENDMENT) REGULATIONS. 1983 (G.S.R. 303 OF 1983)

62. Sub-regulation (2) of Regulation 5 of the Department of Electronics (Assistants' Grade Open Competitive Examination) Regulations, 1982, as amended by G.S.R. 303 of 1983, provided for a refund of 50 per cent of fees paid for the examination to a candidate who did not fulfil the conditions or eligibility laid down under Regulation 4 and was thus not admitted to the examination.

63. To the suggestion that a candidate, who was not admitted to the examination by the Department of Electronics, should be entitled for the full refund of the prescribed fee, the Department of Electronics, in their reply dated 21 September, 1983, stated as under:—

“The refund at the rate of 50 per cent of amount of fees to the candidates not found to be fulfilling the conditions of eligibility as laid down by this Department in the Regulation 4 of the Assistants' Grade Open Competitive Examination (Amendment) Regulations, 1983, is based on the practice being followed by the Union Public Service Commission. In this connection, an extract from Assistants, Grade Examination, 1981 [No. F. 10/3/80-E. 1(b)]. relating to payment of fee and refund thereof is enclosed* for information. Further, retaining of 50 per cent of amount of fees by this Department is only to meet partially the expenditure incurred by this Department on establishment charges, cost of stationery, postage charges, etc. involved in the processing and scrutinising of applications, besides meeting the expenditure towards Money Order charges while refunding the balance 50 per cent amount of fees to the candidates. In order to restrict the number of candidates who are not fulfilling the conditions of eligibility, it is considered necessary to impose some cut while refunding the amount; otherwise ineligible persons by submitting applications will increase avoidable work.”

*See Appendix VI(A.)

64. The Committee on Subordinate Legislation (Seventh Lok Sabha), which considered the above matter desired to know the quantum of fee actually being charged by the Department of Electronics from the candidates for appearing in the Assistants' Grade Open Competitive Examination. The Department of Electronics informed as under:—

“...after the promulgation of the Regulations, only one such examination has been held and no fee has been charged so far. This information is perhaps required in the context of the 'refund' of the fee as also restricting the number of candidates who may apply. It will be more appropriate to charge a fee as and when we go in for open advertisement through Newspapers etc. The number of candidates sponsored by the Employment Exchanges for recently held examination was 83, out of which only 23 people actually appeared in the Examination....”

65. After considering the aforesaid reply, the Committee made the following observations in their Twenty-sixth Report (Seventh Lok Sabha), presented to the House on 3 August, 1984:—

“10. The Committee observed that the Union Public Service Commission provided for the refund of Rs. 15.00 to be made to a candidate who had paid the prescribed fee of Rs. 20.00 but was not admitted to the Assistants' Grade Examination held by the Commission in 1981. The ratio of refund by the Commission is thus reckoned at 75 per cent of the prescribed fee as against 50 per cent provided in Regulation 5(2) of the Department of Electronics (Assistants' Grade Open Competitive Examination) Regulations. The Committee, therefore, recommend that the Department of Electronics do take early steps to amend the said Regulations so as to provide for the refund at the rate of 75 per cent of the prescribed fee as per practice obtaining in the Union Public Service Commission in this regard.”

66. With regard to the above recommendation, the Department of Electronics in their action-taken note dated 24 September, 1984, stated as under:—

“As may be seen from the extract enclosed*, the UPSC charges examination fee of Rs. 28|- for the Assistants' Grade Examination and a refund of Rs. 15|- (Rs. 4|-

*See Appendix VI (B)

in the case of candidates belonging to SC|ST) is made to a candidate who has paid the prescribed fee and is not admitted to the examination. However, in the extract enclosed with the Department's OM of even number dated September 21, 1983, the Examination fee was inadvertently mentioned as Rs. 20|- whereas it should have been Rs. 28|- as pointed out above. In view of this, it will be appreciated that amendment of the DOE regulations for the Assistants' Grade Open Competitive Examination does not appear necessary, as our regulations provide for a refund of 50 per cent, which in terms of percentage, comes very nearly to the same as allowed by UPSC (@ Rs. 14|- as against Rs. 15|- allowed by UPSC).

The inconvenience caused on account of the typographical mistake is deeply regretted. It is requested that the above position may kindly be brought to the notice of the Committee on Subordinate Legislation."

.67. The Committee note from the reply of the Ministry that in the facts placed before the Committee earlier in the matter, a patent error had inadvertently crept into the figure of fees chargeable by the Union Public Service Commission for the Assistants' Grade Examination, leading to an erroneous conclusion by the Committee and their consequent recommendation in that regard. Since the Department of Electronics have deeply regretted the —typographical error, the Committee do not like to proceed with the matter any further.

XII

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 46—49 OF THE FIRST REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA) REGARDING THE CENTRAL SECRETARIAT OFFICIAL LANGUAGE SERVICE GROUP 'C' POSTS RULES, 1981 (GSR 842 OF 1981)—[PARAGRAPH 41 OF TWENTY-THIRD REPORT SEVENTH LOK SABHA]

68. In paragraph 41 of their Twenty-third Report (Seventh Lok Sabha) the Committee on Subordinate Legislation had made the following observation:

"41. The Committee find that the practice of intimating the reasons to the officer concerned for extending the period of his probation or while discharging or reverting him

to his substantive posts is already being followed. The Committee feel that the Ministry should, therefore, have no difficulty in placing the same on a statutory footing. The Committee desire the Ministry of Home Affairs (Department of Official Language) to amend Rule 10 of the Central Secretariat Official Language Service (Group 'C' Posts) Rules, 1981 to the desired effect at an early date."

69. In their action taken note dated 2 July, 1984, the Ministry of Home Affairs (Department of Official Language) stated as under:—

".....the recommendation contained in paragraph 41 of the report regarding rule 10 relating to 'Probation' has been considered by this Department in consultation with the Department of Personnel and A.R. It has been decided to amend rule 10(1) to incorporate the provision for communicating the reasons for extension of the period of probation, as recommended by the Committee. Action is being taken separately to notify the amendment. As regards communication of the reasons for discharging or reverting him to the post held by him prior to his appointment, it was incorrectly stated earlier that it is the normal practice to communicate such reasons. In fact it is not considered desirable to make such a provision in rule 10(3) because a Government servant is placed on probation to enable the Government to judge his suitability for the post. If the Government servant proves to be unsuitable, it should be possible to remove him from the post either by termination of his service or by his reversion. In the letters of appointment of persons placed on probation there is a specific condition regarding termination of his service without any notice during or at the end of probation. If the recommendation of the Committee for communicating reasons for termination of service or reversion is accepted, it will amount to giving the person concerned an opportunity to appeal against the decision and as such, the purpose behind placing a Government servant on probation would be defeated. This would result in prolongation of cases and then it will not be possible to terminate the services of a person on probation or to revert him to the lower post without any notice. This will mean that an unsuitable person will remain in service for a longer period than necessary. Moreover, in terms of CCS(CCA) Rules, termination of service of a person appointed on probation is not

a punishment. In view of this it is not desirable to amend the existing provision in rule 10(3). The Committee on Subordinate Legislation may kindly be informed accordingly."

70. The Committee on Subordinate Legislation after considering the above replies made the following observation in paragraphs 48-49 of their First Report (Eighth Lok Sabha) presented to Lok Sabha on 14th August, 1985:—

"48. The Committee note that as recommended by them, the Ministry of Home Affairs (Department of Official Language) are taking action to amend sub-rule (1) of rule 10 of the Central Secretariat Official Language Service (Group 'C' Posts) Rules, 1981 so as to provide for communicating the reasons for extension of the period of probation to the probationers. The Committee hope that the amendment would be notified at an early date.

49. The Committee accept the view of the Ministry that a probationer need not be informed of the reasons for his discharge or reversion to his substantive post. However, with a view to ensure objectivity and justice in such a decision, the Committee recommend that a suitable machinery like a departmental Committee consisting of senior officials be devised to go into the case fully."

71. In their further action-taken reply dated the 19th September, 1985, the Ministry of Home Affairs (Department of Official Language) stated that they have taken action in so far as para 48 is concerned and the necessary notification issued vide G.S.R. No. 1108 dated 27-10-1984. Regarding para 49, the Ministry have stated as under:—

"The Committee has agreed with the view of this Department relating to rule 10(3) that a probationer need not be informed of the reasons for his discharge or reversion to his substantive post but it has been suggested by the Committee that in order to ensure objectivity and justice in such a decision, a suitable machinery like a Departmental Committee consisting of senior officials be devised to go into the case fully. In this regard it may be mentioned that such cases, as per G.C.S. rules, are decided by the competent authority and the decision in such cases, are taken at sufficiently higher level after taking all facts into

consideration and as such, there is no need to have any separate departmental committee as has been suggested by the Committee. The Committee on Subordinate Legislation may kindly be informed accordingly.”

72. The Committee note with satisfaction that, on being pointed out, the Ministry of Home Affairs (Department of Official Language) have issued necessary notification to amend sub-rule (1) of Rule 10 of the Central Secretariat Official Language Service (Group ‘C’ Posts) Rules, 1981 so as to provide for communicating the reasons for extension to the probationers.

73. As regards the recommendation for devising a suitable machinery like a Departmental Committee to go into cases for discharge or reversion to his present department of a probationer, the Committee find that although the Ministry have not agreed to the suggestion in principle, the requirement of the recommendation of the Committee is being met by them through a prescribed procedure being adopted for the purpose. Hence the Committee do not wish to pursue the matter.

NEW DELHI;
 March 18, 1986.
 Phalguna 27, 1907 (Saka)

MOOL CHAND DAGA
 Chairman,
 Committee on Subordinate Legislation.

APPENDICES

APPENDIX I

(Vide paragraph 5 of the Report)

Summary of main Recommendations/Observations made by the Committee

S. No.	Paragraph No.	Summary
(1)	(2)	(3)
1	9	The Committee agree with the views of the Ministry of Labour that the Manager of the mine has necessarily to be a technical person devoting his efforts towards increasing production and ensuring safety and as such should be divested of other responsibilities not directly connected with his main work. They have therefore, no objection to the deletion of the word 'manager' from the Mines Creche Rules, 1966, so as to bring them in line with the amended provisions of the Act.
	10	The Committee, however, cannot refrain from expressing their regret over the delay in the notification of the Mines Creche (Amendment) Rules, 1985 in the final form. The Committee are not convinced with the reasons for delay advanced by the Ministry that they were taking simultaneous action regarding amendment of the various other rules and regulations. The Committee feel that the delay was obviously due to the casual attitude displayed and the scant regard shown by the Ministry in the matter, especially in the matter of obtaining comments of DGMS which has taken about 5½ months. In this connection, the Committee would like to draw the attention of the Ministry to the observations/recommendations made by them in paragraph 67 and 68 of their Twenty-fourth Report

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(Seventh Lok Sabha) wherein the Committee have emphasised the imperative need to reduce the time lag between the publication of draft rules and their final notification in the Gazette. The Committee would like the Ministry to be more cautious and vigilant in such matters in future and strictly, adhere to the time limit fixed by the Committee for the purpose.

2

14

The Committee observe from the case study furnished by the Ministry of Transport (Department of Civil Aviation), identifying the reasons for delay in the final notification of the Aircraft (Fourth Amendment) Rules, 1985 that an unduly long period of 8 months has been taken in the final notification of the Rules and that too when no objection or suggestion had been received from the public in that regard. The Committee feel that had the authorities concerned with the matter, spared proper thought and attention right from the point of emanating the proposal, there would not probably have been occasions to ponder over it towards the final stage of the amendment notification. From the reasons attributed for the delay in publication of the Rules in final form, the Committee draw a conclusion that the authorities concerned had considered the proposals for amendment in piece-meal resulting in the revision and re-revision of the texts. Had all the amendments been considered properly at the initial stage, the time taken at the final stage could have been reduced.

15

The Committee feel that there is need to streamline the procedure obtaining in the various Directorates under the Ministry in dealing with important matters like the amendments to the Statutory rules which affect a large section of the public. The Committee would, therefore again like to reiterate their earlier recommendation/observation made in paragraphs 67 and 68

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of their Twenty-Fourth Report (Seventh Lok Sabha) wherein the Committee have emphasised the imperative need to reduce the timelag between the publication of the draft and the final rules to the barest minimum. The Committee trust that the Ministry would take all precautions in future to cut short the delays in such vital matters relating to Subordinate Legislation.

25

While the Committee accept the explanation of the Ministry for not being able to comply with their recommendation for uniformity in the issue of railway passes to the -Gazetted and non gazetted staff in the Railways, they are constrained to observe that the procedure of issue of passes is still regulated under the Indian Railway Conference Association Rules which as indicated by the Committee earlier do not have any legal authority but are based on instructions issued by the Ministry from time to time. In this connection, the Ministry of Railways had informed the Committee in February, 1979, that a separate pass manual regarding travel facilities to railwaymen had been decided upon and the legal authority for the Rules would be cited in its preamble. However, in their further note dated 18 August, 1984, the Ministry stated that powers to issue passes were derived from Section 3 and 47(1) of the Indian Railways Act, 1890. According to the Ministry, a set of Rules had been framed, in pursuance of Article 309 of the Constitution and the powers vested in Indian Railways Act, and these rules awaited vetting by the Ministry of Law.

26

The Committee are unhappy over the inordinate delay in placing the matter regarding issue of passes etc. on a statutory footing in spite of a categorical recommendation of the Committee made in December, 1978 and accepted by the

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Ministry in February, 1979. The Committee are of the view that the Ministry have not taken up the matter regarding framing of statutory rules with the urgency and seriousness it deserves. The result is that the whole system of issuing passes and PTOs which has absolutely no legal basis continued to be followed over all these years inspite of the fact that the Committee recommended as far back as 1978 that statutory rules to regulate these matters should have been notified. The Committee regret to note that the Department has failed to finalise the draft rules even after the lapse of a period of seven years.

27 The Committee, therefore, reiterate their recommendation made in para 17 of the Fourteenth Report (Sixth Lok Sabha) and urge upon the Ministry to take urgent steps to finalise and publish the Rules in this regard without any further delay.

33 The Committee note that at the initial stage, the Ministry of Shipping and Transport (Ports Wing) had agreed to amend Rule 2(4) (c) of the Port of New Mangalore (Regulation of the use of Landing Places) Rules, 1977, as recommended by the Committee and also directed the Port Authorities to take steps for framing scale of rates and statement of conditions for the use of properties owned by the Port Trust. The Port authorities were also asked to include the provision for a right to appeal against resumption of possession of land by the lessor in the statement of conditions.

34 The Committee further note from the final reply of the Ministry dated 12 July, 1984, that the rules *ibid* were framed when the Port of New Mangalore was administered by the Indian Ports Act, 1908, but in April, 1980, the Port became a Major Port under the Major Port

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Trusts Act, 1963, and Section 49 of that Act provided for framing of the scale of rates and statement of conditions for the use of the properties owned by the Port Trust. As such there was no need to apply the Rules/Regulations under the Indian Ports Act, 1908 which were primarily applicable to minor Ports to the Port of New Mangalore.

35

The rules relating to the Port of New Mangalore (Regulations of the use of Landing Places), 1977 were considered by the Committee in the year 1981. Had the Ministry informed the Committee then that the New Mangalore Port had become a Major Port with effect from April, 1980 and that it was to be administered under the Major Port Trusts Act, 1963, the entire exercise of the Committee and their recommendation in this behalf could have been avoided. The Committee fail to understand the reasons as to why the Ministry of Shipping and Transport had not given the correct picture to the Committee in 1981 or the Committee should believe that it was not in the knowledge of the Ministry then that the Port of New Mangalore had been declared a Major Port in 1980. The Committee take a serious view of the matter. They are constrained to observe that either the Ministry had tried to mislead the Committee or the Ministry had poor knowledge and control over the affairs of the Port of New Mangalore. The Committee, however, desire the Ministry of Transport (Department of Surface Transport) to take immediate action for the insertion of the requisite provision in the Statement of conditions under Section 49 of the Major Port Trust Act, 1963 and publish them in the Official Gazette.

41

The Committee note from the reply of the Ministry that the Tuticorin Port was entrusted to a Major Port Trust under the Major Port

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Trust Act, 1963 since April, 1979, and the rates and the conditions for the use of landing places etc. were to be framed under Section 49 of the Major Port Trust Act, 1963 with the prior approval of the Central Government as provided under Section 52 thereof. Accordingly, the Port Authorities had already notified the rates and conditions for use of landing places under the Major Port Trust Act. The provision regarding penal interest on defaulted rent was also included in the conditions.

42

With regard to provision of penal interest on the defaulted payment in the principal Act, the Ministry of Law (Legislative Department) opined that since Section 117 and 124(3) of the Major Port Trust Act provided for the penalties to be provided in the regulations and 'Orders' framed by the Port Trust, it was not necessary to amend the Act as the object of the Committee's recommendation could be achieved by making specific provisions in the regulations and the 'Orders' for charging penalties upto the maximum limit provided under these Sections.

43

The Committee cannot help expressing their anguish over the fact that the Ministry had misled the Committee and had failed to give correct information in the year 1982 on the basis of which the Committee had recommended to the Ministry to amend the Indian Ports Act, 1908 which administered the Tuticorin Port. Had the Ministry guided the Committee properly by furnishing the correct information then that the Port of Tuticorin was administered under the Major Port Trusts Act, 1963 since 1979, the Committee's recommendation in this behalf and in fact, the whole exercise by the Committee could have been avoided.

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44 The Committee while agreeing with the view points of the Ministry of Law (Legislative Department) in the matter desire the Ministry of Transport (Department of Surface Transport) to take early steps to frame fresh scale of rates and statement of conditions under the Major Port Trusts Act as advised by the Ministry of Law (Legislative Department) and notify them in the Official Gazette.

51 The Committee observe from the aforesaid reply from the Ministry of Finance (Deptt. of Economic Affairs) that a retrospective amendment to the various Execution and Authentication Rules so as to delete the words 'Junior Accounts Officer' from such rules might lead to complications as some claims under the concerned projects might have already been signed by the Junior Accounts Officers and reimbursed by the World Bank. The Committee would, therefore, like to urge upon the Ministry to notify the requisite amendments to omit the words 'Junior Accounts Officer' from the various Authentication and Execution Rules forthwith, so as to take effect from the dates of such notifications in the Gazette in order that the infirmities, which has crept into the statutory rules, are not allowed to prolong indefinitely. The Committee also desire that this case should act as an eye opener and proper lesson should be drawn by the Ministry concerned to ensure thorough and prudent scrutiny at the stage of framing such rules, especially where the matters involved financial and international implications.

54 In view of the position explained by the Ministry of Commerce (Department of Textiles), the Committee feel satisfied that the present system of issuing notifications by the Textile Commissioner under the various control orders, is adequate to exercise control over the industry/

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trade. The Committee, therefore, do not wish to insist that the Artsilk Textiles (Production and Distribution) Control (Amendment) Order, 1980 be amended, as recommended earlier.

58

The Committee note the difficulty pointed out by the Ministry of Works and Housing that if the rates of ground rent are specified in the rules, the rules will have to be amended frequently to notify the rates of ground rent each time as and when the land rates are revised. The Committee also note that this will not be feasible from the practical point of view and that the question of the rate of ground rent may be left to be fixed by the Central Government from time to time as per the existing provisions in the Rules. After considering the whole matter in depth, the Committee agree with the views of the Ministry of Works and Housing (now Ministry of Urban Development) and do not insist on the Government to specify the ground rent in Rule 5 of the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981.

61

The Committee note the explanation of the Ministry of Agriculture (Department of Agriculture and Cooperation) for the inordinate delay in publishing the draft rules in final form. The Committee also note the assurance given by the Ministry for expeditious action in future in such matters. Since the Ministry have accepted the lapse on their part and regretted for the delay, the Committee do not like to pursue the matter further.

67

The Committee note from the reply of the Ministry that in the facts placed before the Committee earlier in the matter, a patent error had inadvertently crept into the figure of fees chargeable by the Union Public Service Commission

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for the Assistants' Grade Examination, leading to an erroneous conclusion by the Committee and their consequential recommendation in that regard. Since the Department of Electronics have deeply regretted the typographical error, the Committee do not like to proceed with the matter any further.

72

The Committee note with satisfaction that, on being pointed out, the Ministry of Home Affairs (Department of Official Language) have issued necessary notification to amend sub-rule (1) of Rule 10 of the Central Secretariat Official language service (Group 'C' Posts) Rule, 1981 so as to provide for communicating the reasons for extension to the probationers.

73

As regards the recommendation for devising a suitable machinery like a Departmental Committee to go into cases for discharge or reversion to his present department of a probationer, the Committee find that although the Ministry have not agreed to the suggestion in principle, the requirement of the recommendation of the Committee is being met by them through a prescribed procedure being adopted for the purpose. Hence the Committee do not wish to pursue the matter.

APPENDIX II

(Vide Paragraph 8 of the Report)

Statement showing the action taken for amending the Mines Croche Rules, 1966 as a consequence to amendment made to the Mines Act, 1952.

<i>Date</i>	<i>Event</i>
31st May, 1984	Amendment Act came into force.
22nd, June, 1984	Draft Notification sent to the press for publication in Gazette of India for inviting public opinion.
30th June, 1984	Notification inviting public opinion published in the Gazette of India.
20th to 28th July, 1984	Copies of the notification forwarded to State Govt. Mining Boards, workers and employers etc. requesting them to furnish their comments to the DGMS so as to reach him by 29th September, 1984. The DGMS was also asked to examine the comments received from various parties and send the same along with his own views in Sectional Note form.
29th September, 1984	Last date for receipt of comments.
14th/17th December, 1984	The DGMS was reminded to expedite the comments received from various parties along with his own views.
17th December, 1984	Comments received from the DGMS.
19th December, 1984	Comments received, examined and put up for orders. Draft notification finalising the amendments also put up
15th January, 1985	L.M. approved the amendments.
16th January, 1985	File referred to the Legislative Department for vetting of notification.
5th March, 1985	File received back from the Legislative Department after vetting of notification.
6th March, 1985	File submitted for being referred to Official Languages Wing for Hindi translation of the notification.
11th March, 1985	File referred to Official Languages Wing.
2nd April, 1985	File received back with Hindi version of notification.
6th April, 1985	File submitted for issue of Notification. Notification sent to CR for cutting stencils of English and Hindi versions.
29th May, 1985	Notification issued.
8th June, 1985	Notification published in the Gazette of India dated 8-6-1985.

APPENDIX III

(Vide Paragraph 13 of the Report)

Statement showing the time taken at various stages of finalisation of the draft Aircraft (Fourth Amendment) Rules, 1985

<i>S.No.</i>	<i>Date</i>	<i>Particulars</i>	<i>Time Taken</i>
1	2	3	4
1.	21-7-84	Draft notification published in the Gazette.	Not applicable
2.	20-10-84	Statutory period of three months over.	Not applicable
3.	27-10-84	Case put to remind DGCA that he should expedite the final notification.	7 days
4.	29-10-84	Under Secretary clears the reminder.	2 days
5.	30-10-84	Reminder sent to DGCA	1 day
6.	01-12-84	Final notification received from DGCA.	30 days
7.	06-12-84	Case put up for obtaining Law Ministry's approval for final notification.	5 days
8.	11-12-84	Under Secretary desired that the case may be discussed with him.	5 days
9.	12-12-84	Case discussed with Under Secretary and put up again for referring it to DGCA to consider revising the text of the notification in the light of the point raised by Under Secretary.	1 day
10.	13-12-84	Under Secretary clears the case.	1 day
11.	15-12-84	File sent to DGCA	2 days
12.	12-2-85	DGCA return the file after revising the text of the notification.	58 days
13.	14-2-85	Case put up to obtain the Law Ministry's approval.	2 days
14.	15-2-85	Case cleared by Section Officer	1 day
15.	16-2-85	Case cleared by Under Secretary	1 day
16.	18-2-85	File sent to Law Ministry	2 days
17.	04-3-85	Law Ministry return the file with a query	13 days
18.	05-3-85	File put up to Under Secretary explaining the answer to the query.	1 day
19.	12-3-85	Under Secretary clears the file	7 days

1	2	3	4
20.	14-3-85	File sent back to Law Ministry	2 days
21.	20-3-85	Law Ministry return the file saying that an officer dealing with the subject may bring up the file in person for discussion.	6 days
22.	23-3-85	File sent to DGCA for deputing the concerned officer to Ministry of Law.	3 days
23.	15-4-85	Law Ministry clears the file	21 days
24.	18-4-85	Notification sent to OLLC for Hindi translation.	3 days
25.	01-5-85	Hindi Translation received from OLLC	12 days
26.	04-5-85	Case put up for Hindi stencilling	3 days
27.	06-5-85	Case sent to Hindi Section for stencilling	2 days
28.	10-5-85	Hindi stencil received from Hindi Section	4 days
29.	13-5-85	Case put up for obtaining Ministers approval, to the proposal.	3 days
30.	17-5-85	Under Secretary desired that Section Officer should discuss the case with him.	4 days
31.	23-5-85	Case discussed with US and put up accordingly.	6 days
32.	25-5-85	Under Secretary clears the case.	2 days
33.	27-5-85	Dy. Secretary/Joint Secretary and Secretary clears the case.	2 days
34.	28-5-85	Minister clears the case.	1 day
35.	30-5-85	File received back in the Sec.	2 days
36.	01-6-85	Notification Section to Govt. of India Press for Publication.	1 day
37.	22-6-85	Notification published in the Gazette	21 days

APPENDIX IV

(Vide Paragraph 24 of the Report)

Statement showing the scale of passes and PTOs admissible to Railway employees in Foreign Countries

Name of the Country	Travel concession admissible to serving Railway employees per year	
British Railways	Pass/No.	PTOs/No./Rate
Officers and Management Staff	9 sets in I Class	Unlimited No. of PTOs at 1/4th rate
(i) 10 years service or more		
(ii) Less than 10 years Staff service	6 sets in I Class	Do.
(iii) 10 years service or more	7 sets in II Class	Do.
(iv) Less than 10 years service	4 sets in II Class	Do.
	(Note : This includes wife and children)	
FRANCE		
All Railway Employees	Unlimited for self	Unlimited No. at 10%
Families of Employees	8 sets	Unlimited No. at half rate
GERMAN FEDERAL RAILWAYS		
Officers and Staff at all levels	8 sets for self and 4 sets for family. Duty passes cannot be used for non-duty & travel free with family.	—
PAKISTAN RAILWAY		
Directly recruited Class I Officers	6 sets in ACC	6 sets in ACC
Officers promoted from ranks with pay of over Rs. 926/-	Do.	Do.
Officers promoted from ranks with pay of less than Rs. 926/-	6 sets in I Class	6 sets in I Class
Non-Gazetted :		
With one year's service	—	—
With 1 to 10 years' service	1 set	2 sets
With 10 to 25 years' service	2 sets	4 sets
With above 25 years' service	3 sets	6 sets
	(Note : On Pakistan Railways, non-gazetted staff with pay above Rs. 480/- are entitled to I Class pass and rest in II Class)	
RAILWAYS		
I. Salaried and pensionable employees	6 sets	—

APPENDIX - V

(vide para 24 of the Report)

Statements showing the scale of Passes and P.T.Os applicable to Railway employees in India

Period	Gazetted Officer	Pay Rs. 126/- p.m. & above with service less than 20 years	Non-Gazetted (Class III & IV) Pay Rs. 50/- p.m. & over but less than Rs. 126/p.m. with service less than 20 years	Pay Rs. 50/- p.m. and over but less than Rs. 126/p.m. with 20 years or more of service	Pay less than Rs. 50/- with less than 20 years of service	Pay less than Rs. 50/- with 20 years or more of service	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
From 21-9-35 to 31-12-36	Passes-12 sets PTOs — No mention	4 sets	5 sets	3 sets	4 sets	3 sets	4 sets
From 1-1-37 to 31-12-38	Passes-12 sets PTOs 12sets	1st year 2nd year to 10th year 11th to 20th yr. 21st yr. & over	Nil 1 2 3	Nil 6 6 6	Nil 1 2 3	Staff on the Revised Scales of Pay	Staff on the old scales of Pay
			Passes (Sets)	PTOs (Sets)			Passes PTOs (Sets) (Sets)

Staff on the Revised scales of pay

From	Passes-12 sets (appointed prior to 1-1-1939)	PTOs-12 sets	Passes (Sets)	PTOs (Sets)
1-1-39 to 31-12-47	6 sets		Nil	Nil
	(appointed on or after 1-1-1939)		1	16
			2	6
			3	6
		Those on the old scale of pay after completing 24 years of service	4	6
From 1-1-48 to Sept. 49	Passes-6 sets		Nil	Nil
			1	6
			3	6
From Oct. 49 to 31-12-56	Passes-6 sets		Nil	Nil
			1	8
			3	3
From 4-1-57 to 18-8-58	Passes- PTOs- Nil		Nil	Nil
			1	6
			3	6
From 19-8-58 to date	PTOs- 6 sets Passes-6 sets		1	6
			3	6
	PTOs- 6 sets			

APPENDIX VI

(Vide Paragraphs 63 and 68 of the Report)

(A) *Extract from the Union Public Service Commission Notice for Assistants' Grade Examination, 1981 [F. No. 10|3|80-EI(B).]*

(Examination Fee Rs. 20|-)

* * * *

(iii) A refund of Rs. 15.00 (Rs. 4.00 in the case of candidates belonging to Scheduled Castes and Scheduled Tribes) will be made to a candidate who has paid the prescribed fee and is not admitted to the examination by the Commission.

* * * *

(B) *Extract taken from the Union Public Service Commission Notice for Assistants' Grade Examination, 1981 [F. No. 10|3|80- EI(B)]*

(Examination fee Rs. 28|-)

* * * *

(iii) A refund of Rs. 15.00 (Rs. 4.00 in the case of candidate belonging to Scheduled Castes and Scheduled Tribes) will be made to a candidate who has paid the prescribed fee and is not admitted to the examination by the Commission.

* * * *

MINUTES

LVI

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

The Committee met on Thursday, 18 November, 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 Hussain
6. Shri C. D. Patel
7. **Shri Chandrabhan Athare Patil**
8. Shri M. Ramanna Rai
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*

*	*	*	*
*	*	*	*
*	*	*	*

5. The Committee then considered Memoranda Nos. 145 to 149 on the following subjects:

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

- (i) *Implementation of recommendations contained in Paragraphs 16, 17 and 18 of the Fourteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) re: (i) Differentiation in the scales of passes admissible to various categories of railway employees; and (ii) the Indian Railway Conference Association Conference Rules—(Memorandum No. 145).*

6. The Committee considered the above Memorandum in detail and they were not convinced with the reasons advanced by the Ministry of Railways (Railway Board) for not giving identical pass facilities to all Members of its staff whether gazetted or non-gazetted. The Committee were also not satisfied with the Railway Board's statement for having pass Manual containing travel facilities to Railwaymen with legal authority in the Preamble instead of converting the Indian Railway Conference Association Conference Rules into Statutory Rules. After some discussion, the Committee decided to hear oral evidence of the representatives of the Ministry of Railways (Railway Board).

LXXXIII

MINUTES OF THE EIGHTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1983-84)

The Committee met on Wednesday 21 September, 1983 from 11.00 to 13.00 hours.

PRESENT

Shri R. S. Sparrow—*Chairman*

MEMBERS

2. Shri Mohammad Asrar Ahmad
3. Shri Xavier Arakal
4. Shri A.E.T. Barrow
5. Shri Ashfaq Hussain
6. Shri Dalbir Singh (Madhya Pradesh)
7. Shri Amal Datta
8. Shri B. Devarajan
9. Shri B.R. Nahata

10. Shri C.D. Patel
11. Shri Satish Prasad Singh
12. Shri Vijay Kumar Yadav

WITNESSES

I. *Ministry of Education and Culture (Department of Education).*

1. Shri D. S. Misra—Joint Secretary.
2. Shri O.P. Kelkar,—Director of Education, Delhi Administration.
3. Shri C. K. Sharma—Deputy Secretary.
4. Shri V. P. Singh—Deputy Director (Delhi Admn.)
5. Shri P. C. Gupta—Education Officer, Delhi Admn.

II. *Ministry of Railways (Railway Board)*

1. Shri C.K. Swaminathan—Member Traffic
2. Shri S. Sarath—Member Staff
3. Shri P. C. Misra—Director Traffic Commercial
4. Shri T.K. Balasubramanian—Joint Director Estt (W)

III. *Ministry of Shipping and Transport*

1. Shri P.G. Gavai—Secretary
2. Shri D. K. Jain—Joint Secretary.
3. Shri K. A. Sundram—Chairman Tuticorin Port Trust.

SECRETARIAT

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

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

II

5. The Committee next took evidence of the representatives of the Ministry of Railways (Railway Board) regarding implementation or recommendations contained in paragraphs 16-18 of the Fourteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) viz. (i) Differentiation in the Scales of Passes admissible to various categories of Railway employees, and (ii) Indian Railway Conference Association—Conference Ruels Part-II.

6. The Committee desired to know the reasons for adopting different norms for the issue of passes to the various categories of Railway staff as also the statutory authority therefor. The representative of the Ministry informed that they had four categories of staff i.e. Groups A, B, C and D. Groups A and B were treated as gazetted while Groups C and D were non-gazetted. Groups C and D were more in number as compared to Groups A and B and more than size, there was also the question of actual compensation to the staff. As regards authority, the representative stated that the powers had been derived from section 3, itme 15 and section 47(i)(g) of the Indian Railways Act.

7. When pointed out by the Committee that the above sections of the Act did not empower the authority to issue passes, the representative of the Ministry admitted that the legal position in this behalf was not clear and that the procedure of issuing passes had been derived from the general powers for the management of the Railways. He added that the Indian Railway Establishment Manual, which incorporated all the rules were being examined and after getting them vetted by the Ministry of Law would be laid on the Table of the House.

8. Clarifying the position further, the representative of the Ministry stated that the procedure of issuing railway passes to officers, which had been in vogue from the historical past, was now being reviewed under the powers derived from Art. 309 of the Constitution. The matter had to be examined at length taking into consideration the large number of employees, both gazetted and non-gazetted, their service conditions etc. In this connection the Committee were informed that railway pass facilities also existed in foreign countries like U.K. where the criteria was based on the salary structure of the employees and France where the passes were issued unlimited.

9. The Committee then desired to know whether the Ministry had taken into consideration the recommendation of the Committee

for making necessary provision in the rules for issue of railway passes. The representative of the Ministry informed that although their Compendium of rules had a statutory backing, unfortunately the rules for the issue of passes had not been taken up under Art. 309 of the Constitution and which they proposed to do now. They, however, expressed their inability to accept the suggestion of the Committee for equalisation of passes and promised to send a note giving valid reasons therefor.

(The witnesses then withdrew)

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XVIII

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

The Committee sat on Friday, 24 January, 1986 from 15.00 to 15.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri D. L. Baitha
3. Shrimati Usha Choudhari
4. Shri Dharam Pal Singh Malik
5. Shri Vakkom Purushothaman
6. Shri I. Rama Rai
7. Shri Dharamgaj Singh
8. Shri Yogeshwar Pradsad Yogesh

SECRETARIAT

Shri R. S. Mani—*Senior Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 30 to 37 as under:
 - (i) *Implementation of recommendations contained in para-*

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

graphs 16, 17 and 18 of the Fourteenth Report of Committee on Subordinate Legislation (Sixth Lok Sabha) regarding (a) Differentiation in the scales of passes admissible to various categories of railway employees, and (b) The Indian Railway Conference Association Conference Rules—(Memorandum No. 30)

While the Committee accepted the explanation of the Ministry for not being able to comply with their recommendation for uniformity in the issue of railway passes to the Gazetted and non-gazetted staff in the Railways, they were constrained to observe that the procedure of issue of passes was still being regulated under the Indian Railway Conference Association Rules which as had been indicated by the Committee earlier did not have any legal authority but were based on instructions issued by the Ministry from time to time. The Ministry of Railways had informed the Committee in February, 1979 that a separate pass manual which would contain travel facilities to railwaymen had been decided upon and the legal authority for the Rules will be cited in its preamble. However, in their further note dated 18 August, 1984, the Ministry had stated that powers to issue passes had been derived from Section 3 and 47(1) of the Indian Railways Act, 1980. According to the Ministry, a set of Rules were framed in pursuance of Article 309 of the Constitution and the powers vested in the Indian Railways Act. The Rules, however, awaited vetting by the Ministry of Law. The Committee were unhappy over the inordinate delay in placing the matter regarding issue of passes etc. on a statutory footing in spite of a categorical recommendation of the Committee made in December, 1978 and accepted by the Ministry in February, 1979. The Committee felt that the Ministry had not taken up the matter regarding framing of statutory rules with the urgency and seriousness it deserved. The result was that the whole system of issuing passes and PTOs which had absolutely no legal basis was continued to be followed over all these years inspite of the fact that the Committee recommended as far back as 1978 that statutory rules to regulate these matters should be notified. The Committee regretted to note that the Department had failed to finalise the draft rules and notify them even after the lapse of period of seven years.

The Committee, therefore, reiterated their recommendation made in para 17 of the Fourteenth Report (Sixth Lok Sabha) and urged the Ministry to take urgent steps to finalise and publish the Rules in this regard without any further delay.

- (ii) *Implementation of recommendation contained in paragraph 8 of the Thirteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) regarding the Port of New Mangalore (Regulation of the use of Landing Places) (Amendment) Rules, 1980 (G.S.R. 243-E of 1980)—(Memorandum No. 31)*

The Committee noted, that at the initial stage, the Ministry of Shipping and Transport (Ports Wing) had agreed to amend Rule 2(4) (c) of the Port of New Mangalore (Regulation of the use of Landing Places) Rules, 1977, as recommended by the Committee and also directed the Port authorities to take steps for framing scale of rates and statement of conditions for the use of properties owned by the Port Trust in accordance with the provisions contained in Section 49 of the Major Port Trusts Act, 1963. The Port authorities had also been asked to include the provision for a right to appeal against resumption of possession of land by the lessor in the statement of conditions.

The Committee further observed from the final reply of the Ministry dated 12 July, 1984, that the rules *ibid* were framed when the Port of New Mangalore was administered by the Indian Ports Act, 1908, but in April, 1980, the Port had become a Major Port under Major Port Trusts Act, 1963, and Section 49 of the Act provided for framing of the scale of rates and statement of conditions for the use of the properties owned by the Port Trust. As such there was no need to apply the Rules|Regulations under the Indian Ports Act, 1908 which was primarily applicable to minor Ports.

In this connection, the Committee felt that had the Ministry informed during 1981, that the New Mangalore Port had become a Major Port with effect from April, 1980, and that it was to be administered under the major Port Trust Act, 1963, the Committee's recommendation would not have been necessary. The Committee failed to understand why the Ministry of Shipping and Transport did not give correct picture to the Committee in 1981 or the Committee should believe that the Ministry did not know in 1981 that the Port of New Mangalore had been desired the Ministry to take immediate action for insertion of the requisite provision in the Statement of conditions under Section 49 of the Major Port Trust Act, 1963, after getting the approval of the Government under Section 52 thereof and publish them in the official gazette.

- (iii) *Implementation of recommendation contained in paragraph 15 of the Thirteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) regarding the Port of Tuticorin (Regulation of the use of Landing Places) Amendment Rules, 1981 (G.S.R. 312 of 1981)— (Memorandum No. 32)*

The Committee noted from the reply of the Ministry that the Tuticorin Port was entrusted to a Major Port Trust under the Major Port Trust Act, 1963 since April, 1979, and the rates and the conditions for the use of landing places etc. were to be framed under Section 49 of the Major Port Trust Act, 1963 with the prior approval of the Central Government as provided under Section 52 thereof. Accordingly the Port Authorities had already notified the rates and conditions for use of landing places under the Major Port Trust Act. The conditions included the provision regarding penal interest on defaulted rent also.

As for the provision of penal interest on the defaulted payment in the principal Act, the Ministry of Law (Legislative Department) observed *inter alia* that since Section 117 and 124(3) of the Major Port Trust Act provided for the penalties to be provided in the regulations and 'Orders' framed by the Port Trust there was no necessity for amending the Act as the object of the Committee's recommendation could be achieved by making specific provisions in the regulations and the 'Orders' for charging penalties up to the maximum limit provided under these Sections.

The Committee while agreeing with the view points of the Ministry of Law (Legislative Department) in the matter desired the Ministry of Shipping and Transport (Ports Wing) to take early steps for framing fresh scale of rates and statement of conditions under the Major Port Trusts Act as advised by the Ministry of Law (Legislative Department) and notify the same.

- (iv) *Implementation of recommendations contained in paragraphs 9—12 of the Twenty-first Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) re: the Artsilk Textiles (Production and Distribution) Control (Amendment) Order, 1980 (S.O. 2619 of 1980)— (Memorandum No. 33)*

The Committee after considering the reply of the Ministry of Commerce (Department of Textiles) felt that the present system of issuing notification by the Textile Commissioner under the various control orders was adequate to exercise control over the industry/trade. As no useful purpose was likely to be served by incorporating the rule making provision in the Essential Commodities Act, the Committee did not insist for an amendment in the said Act.

- (v) *Implementation of recommendations of the Committee on Subordinate Legislation contained in paragraphs 73-74 of the Twenty-first Report (Seventh Lok Sabha) re. the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 (G.S.R. 872 of 1981)—(Memorandum No. 34)*

The Committee noted the difficulty pointed out by the Ministry of Works and Housing that if the rates of grounds rent were specified in the rules, the rules would have to be amended frequently to notify the rates of ground rent each time as and when the land rates were revised. The Committee also felt that this would not be feasible from the practical point of view and that the question of the rate of ground rent might be left to be fixed by the Government from time to time as per the existing provisions in the Rules.

After considering the whole matter in depth, the Committee agreed with the views of the Ministry and did not like to insist to specify the ground rent in the Rule 5 of the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981.

- (vi) *Implementation of recommendations contained in paragraphs 44-48 of the Twenty-second Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) re: the Forest Research Institute and College (Group 'A' and Group 'B' Non-tenure Posts) Recruitment (Amendment) Rules, 1979 (G.S.R. 928 of 1979)—(Memorandum No. 35)*

The Committee noted the explanation of the Ministry for the inordinate delay in publishing the draft rules in final form. The Committee also noted the assurance given by the Ministry for expeditious action in future in such matters. Since the Ministry had accepted the lapse on their part in a constructive spirit and had regretted for the delay, the Committee did not like to pursue the matter further.

- (vii) *Implementation of recommendations contained in paragraphs 46-49 of the First Report of the Committee on Subordinate Legislation (Eighth Lok Sabha) re: implementation of recommendations of the Committee on Subordinate Legislation made in paragraph 41 of their 23rd Report*

(Seventh Lok Sabha) about the Central Secretariat Official Language Service (Group 'C' Posts) Rules, 1981 (G.S.R. 842 of 1981)—(Memorandum No. 36)

The Committee noted with satisfaction that the Ministry of Home Affairs (Department of Official Language) had since issued a notification in pursuance of the Committee's recommendation contained in paragraph 48 of their First Report (Eighth Lok Sabha) regarding communicating the reasons for extension of the period of probation to the probationers. As regards the recommendation contained in paragraph 49 regarding devising a suitable machinery like Departmental Committee to go into cases for discharge or reversion to parent Department of a probationer, although the Ministry had not agreed in principle, the requirement of the recommendation was being met by them through a prescribed procedure and as such the Committee did not insist upon their earlier recommendation.

(viii) *Examination of the Mines Creche (Amendment) Rules, 1985 (C.S.R. 551 of 1985)—(Memorandum No. 37)*

The Committee were not satisfied with the reasons furnished by the Ministry of Labour for the delay in the final publication of the Mines Creche (Amendment) Rules, 1985. The Committee felt that the delay was obviously due to the casual attitude displayed and the scant regard shown by the Ministry in the above matter. The Committee, therefore, desired the Ministry to strictly follow the observations/recommendations made by them in their 24th Report (Seventh Lok Sabha), presented to the House in December, 1983 wherein the Committee had emphasised the imperative need to reduce the time lag between the publication of draft rules and their final notification in the gazette, for their guidance in future.

The Committee then adjourned to meet again on 27 January, 1986.

XIX

MINISTER OF THE NINETEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA) (1985-86)

The Committee set on Monday, 27 January, 1986 from 11.00 to 13.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri D. L. Baitha
3. Shri G. M. Banatwalla

4. Shri Dharam Pal Singh Malik
5. Shri Vakkom Purushothaman
6. Shri I. Rama Rai
7. Shri Ram Swarup Ram
8. Shri K. S. Rao
9. Shri Dharamgaj Singh
10. Shri Yogeshwar Prasad Yogesh

Secretariat

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

2. The Committee took up for consideration Memoranda Nos. 38 to 42, 23 and 24 as follows.

- (i) *The Aircraft (Fourth Amendment) Rules, 1985 (G.S.R. 604 of 1985)—(Memorandum No. 38).*

The Committee considered the above Memorandum and noted that the Ministry of Transport (Department of Civil Aviation) had taken an unduly long period of eight month in final notification of the Aircraft (Fourth Amendment) Rules, 1985 particularly when no objection or suggestion had been received from public in that regard. The Committee observed that had the authorities concerned with the matter, spared proper thought and attention right from the point of emanating the proposal, there would no probably have been occasions to ponder over it towards the final stage of the amendment notification. The Committee were not convinced of the reasons for delay in publication of the rules in final form. They had come to conclusion that the authorities concerned had considered the proposals for amendment in piece-meal, resulting in the revision and re-revision of the texts. Had all the amendments been considered properly at the initial stage, the time taken at the final stage could have been reduced. The Committee felt that there was need to streamline the procedure obtaining in various Directorates under the Ministry in dealing with the important matters like the amendments to the statutory rules which affected a large section of the people. The Committee decided to reiterate an earlier recommendation made in that regard in paragraph 68 of their Twenty-fourth Report (Seventh Lok Sabha) for reducing the time-lag between the publication of the Draft and final rules to the barest minimum.

- (ii) *Implementation of recommendations of the Committee on Subordinate Legislation made in paragraphs 50-51 of their Fifteenth Report (Seventh Lok Sabha) regarding the Development Credit Agreement [Second National Cooperative Development Corporation Project (Credit No. 1146—IN)] Execution and Authentication Rules, 1981 (G.S.R. 813 of 1981)—(Memorandum No. 39)*

The Committee considered the above Memorandum and noted from the reply of the Ministry of Finance (Department of Economic Affairs) that a retrospective amendment to the various Execution and Authentication Rules so as to delete the words 'Junior Accounts Officer' from such rules might lead to complications as some claims under the concerned projects might have already been signed by the Junior Accounts Officers and reimbursed by the World Bank. The Committee, therefore, decided to urge upon the Ministry to notify the requisite amendments to omit the words 'Junior Accounts Officer' from the various Authentication and Execution Rules forthwith so as to take effect from the dates of such notifications in the Gazette in order that the infirmities, which had crept into the statutory rules were not allowed to prolong indefinitely

- (iii) *Implementation of recommendation contained in paragraph 35 of the Sixteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) regarding the Central Excise (Twenty-first Amendment) Rules, 1981 (G.S.R. 991 of 1981)—(Memorandum No. 40)*

The Committee considered the above Memorandum and decided to hear oral evidence of the representatives of the Ministry of Finance (Department of Revenue) with a view to discuss the matters further.

- (iv) *Implementation of recommendations contained in paragraphs 55—57 of the Sixteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) regarding (1) the Indian Forest Service (Appointment by Competitive Examination) Amendment Regulation, 1978 (GSR 452 of 1978); (2) the Indian Administrative Service (Appointment by Competitive Examination) Amendment Regulations, 1978 (GSR 453 of 1978); and (3) the Indian Police Service (Appointment by Competitive Examination) Amendment Regulations, 1978 (GSR 454 of 1978)—(Memorandum No. 41).*

The Committee considered the above Memorandum and noted the position as stated by the Department of Personnel and Administrative Reforms. The Committee, however, desired to call the representatives of the concerned Ministry and the Ministry of Law and Justice (Legislative Department) for oral evidence before the Committee with a view to discuss the matters further.

- (v) *Implementation of recommendation of the Committee on Subordinate Legislation made in paragraph 10 of their Twenty-sixth Report (Seventh Lok Sabha) regarding the Department of Electronics (Assistants' Grade Open Competitive Examination) (Amendment) Regulations, 1983 (GSR 303 of 1983)—(Memorandum No. 42).*

The Committee considered the above Memorandum and noted that in the facts placed before the Committee a patent error had inadvertently crept into the figure of fees chargeable by the Union Public Service Commission for the Assistants' Grade Examination, leading to an erroneous conclusion by the Committee. As the Department of Electronics had since deeply regretted the typographical error, the Committee decided not to proceed with the matter any further.

- (vi) *Import and Export Policy for 1985—88—Question of Respective Disqualifications—(Memorandum No. 23).*

The Committee considered the above Memorandum and were not convinced with the reply of Government. With a view to enquire the facts further, the Committee decided to hear oral evidence of the representatives of the Ministry of Commerce as also to elicit the views of the representatives of the Ministry of Law and Justice (Department of Legal Affairs) on the matters.

- (vii) *The Exports (Control) Order, 1977 (S.O. 254—E of 1977)—(Memorandum No. 24).*

The Committee considered the above Memorandum for some time and then postponed its consideration to a subsequent sitting of the Committee.

The Committee then adjourned to meet again on 7 February, 1986.

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

The Committee sat on Tuesday, 16 March, 1986 from 15.00 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Dharam Pal Singh Malik
3. Shri Vakkom Purushothaman
4. Shri I. Rama Rai
5. Shri K. S. Rao
6. Shri Saleem I. Shervani
7. Shri Dharamgaj Singh

SECRETARIAT

Shri R. S. Mani— *Senior Legislative Committee Officer.*

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

3. The Committee authorised the Chairman and, in his absence, Shri K. S. Rao to present the Report to the House on their behalf on 20 March, 1986.

4. The Committee then took up Memorandum No. 43 regarding implementation of recommendations contained in paragraphs 73, 77, 90, 92, 94—98, 100 and 104—106 of their Twelfth Report (Seventh Lok Sabha) pertaining to the Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973 (G.S.R. 54-E of 1973) and decided to hear oral evidence of the representatives of the Ministry of Finance (Department of Revenue) on 3 April, 1986 to elicit the matters further. In the meantime, the Committee proposed to discuss the aforesaid memorandum further at a sitting to be held on 15 March, 1986 for the purpose.

The Committee then adjourned.

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA
SECRETARIAT PUBLICATIONS—1986**

Sl. No.	Name of Agent	Sl. No.	Name of Agent
ANDHRA PRADESH		UTTAR PRADESH	
1.	M/s. Vijay Book Agency, 11-1-477, Mylargadda, Secunderabad-500361.	12.	Law Publishers, Sardar Patel Marg, P. B. No. 77, Allahabad, U.P.
BIHAR		WEST BENGAL	
2.	M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar).	13.	M/s. Manimala, Buys & Sells, 123, Bow Bazar Street, Calcutta-1.
GUJARAT		DELHI	
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380006. (T. No. 79065).	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi. (T. No. 351663 & 350806).
MADHYA PRADESH		15.	M/s. J. M. Jaina & Brothers, P. Box 1020, Mori Gate Delhi- 110006. (T. No. 2915064 & 230936).
4.	Modern Book House, Shiv Vilas Palace, Indore City. (T. No. 35289).	16.	M/s. Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi-110001. (T. No 3315308 & 45896).
MAHARASHTRA		17.	M/s. Bookwell, 2/72, Sant Niran- kari Colony, Kingsway Camp, Delhi-110009. (T. No. 7112309).
5.	M/s. Sunderdas, Gian Chand, 601, Girgaum Road, Near Princes Street, Bombay-400002.	18.	M/s. Rajendra Book Agency, IV-DR59, Lajpat Nagar, Old Double Storey, New Delhi-110024. (T. No. 6412362 & 6412131).
6.	The International Book Service, Deccan Gymkhana, Poona-4.	19.	M/s. Ashok Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110033.
7.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-400001.	20.	M/s. Venus Enterprises, B-2/85, Phase-II, Ashok Vihar, Delhi.
8.	M/s. Usha Book Depot, 'Law Book Seller and Publishers' Agents Govt. Publications, 585, Chira Bazar Khan House, Bombay- 400002.	21.	M/s. Central News Agency Pvt. Ltd., 23/90, Connaught Circus, New Delhi-110001. (T. No. 344448, 322705, 344478 & 344508).
9.	M&J Services, Publishers, Repre- sentative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor 68, Jyotiba Fuele Road, Nalgaum-Dadar, Bombay-400014.	22.	M/s. Amrit Book Co., N-21, Connaught Circus, New Delhi.
10.	Subscribers Subscription Services India, 21, Raghunath Dadaji Street, 2nd Floor, Bombay-400001.	23.	M/s. Books India Corporation Publishers, Importers & Expor- ters, L-27, Shastri Nagar, Delhi- 110052. (T. No. 269631 & 714465).
TAMIL NADU		24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110002.
11.	M/s. M. M. Subscription Agencies, 14th Murali Street, (1st floor) Mahalingapuram, Nungam- bakkam, Madras-600034. (T. No. 476558).		