

# COMMITTEE ON SUBORDINATE LEGISLATION

(TWELFTH LOK SABHA)

## THIRD REPORT

*(Presented on 12.3.1999)*



LOK SABHA SECRETARIAT  
NEW DELHI

PRICE: Rs. 15

CORRIGENDA

TO

THE THIRD REPORT OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (TWELFTH LOK SABHA)

-----

| <u>Sl.No.</u> | <u>Page No.</u> | <u>Line</u> | <u>For</u>   | <u>Read</u>                  |
|---------------|-----------------|-------------|--|------------------------------|
| 1.            | (i)             | 36          | "*" mark together with relevant foot note may be deleted |                              |
| 2.            | (iii)           | 11          | Shri Annasahab<br>M.K. Patil                             | Shri Annasaheb<br>M.K. Patil |
| 3.            | 6               | 22          | destrained   | distrained                   |
| 4.            | 6               | 27          | destrain   | distrain                     |
| 5.            | 11              | 8           | therefore  | therefrom                    |
| 6.            | 14              | 30          | in order to  | In order to                  |
| 7.            | 31              | 6           | Annex  | Annexe                       |
| 8.            | 32              | 27          | wherever   | whenever                     |
| 9.            | 33              | 21          | requisite  | requisite                    |

## CONTENTS

|  | Para No. | Page No. |
|--|----------|----------|
| COMPOSITION OF THE COMMITTEE   | 1-4      | (iii)    |
| INTRODUCTION   |          | (v)      |
| REPORT   |          |          |
| I. The Rubber Board Employees (Conduct) (Amendment) Rules, 1995 (GSR 411 of 1995)  | 1.1.-1.4 | 1        |
| II. The Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D Posts) Recruitment (Amendment) Rules, 1995 (GSR 196 of 1995)                                   | 2.1-2.4  | 2        |
| III. The Customs (Attachment of Property of Defaulters for Recovery of Government Ducs) Rules, 1995 (GSR 442-E of 1995)  | 3.1-3.14 | 3        |
| IV. The Ajowan Seeds (Whole and Powdered) Grading and Marking Rules, 1997 (GSR 372 of 1997)  | 4.1-4.5  | 8        |
| V. The Sugar (Price Determination for 1996-97 Production) Second Amendment Order, 1997, (GSR 317-E/ESS.Comm/Sugar of 1997)   | 5.1-5.3  | 11       |
| VI. The Employees' State Insurance (Central) Second Amendment Rules, 1997 (GSR No. 226 of 1997)  | 6.1-6.3  | 12       |
| VII. The Ministry of Defence, Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) Recruitment Rules, 1995 (SRO 106 of 1995)           | 7.1.-7.4 | 14       |
| VIII. Finance Commission for the Union Territory of the Andaman and Nicobar Islands (Conditions of Service and other Miscellaneous Provisions) (Amendment) Rules, 1997 (GSR 307-E of 1997) | 8.1-8.4  | 16       |

### APPENDICES\*

|   |    |
|---|----|
| I. Summary of main recommendations/observations made by the Committee .....                     | 21 |
| II. Minutes of the Second, Fourth and Sixth sittings of the Committee (Twelfth Lok Sabha) ..... | 29 |

\*To be appended at the time of printing of the Report.

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION**

**(1998-99)**

1. **Shri Krishan Lal Sharma—Chairman**
2. **Prof. S.P. Singh Baghel**
3. **Shri Bhupinder Singh Hooda**
4. **Shri Datta Meghe**
5. **Shri B.M. Mensinkai**
6. **Shri Shantilal P. Patel**
7. **Shri Rameshwar Patidar**
8. **Shri Annasahab M.K. Patil**
9. **Shri A. Sai Pratap**
10. **Shri Varkala Radhakrishnan**
11. **Shri Devindra Bahadur Roy**
12. **Shri Raghvendra Singh**
13. **Shri Surinder Singh**
14. **Shri Subramanian Swamy**
15. **Shri Buta Singh**

**SECRETARIAT**

1. **Shri G.C. Malhotra** — *Additional Secretary*
2. **Shri Ram Autar Ram** — *Director*
3. **Shri B.D. Swan** — *Under Secretary*

## INTRODUCTION

1. I, the Chairman, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Third Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 24.9.98 and 14.12.98.

3. The Committee considered and adopted this Report at their sitting held on 10 March, 1999. The Minutes of the sittings relevant to this Report are appended to it.

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

NEW DELHI;  
March, 1999

KRISHAN LAL SHARMA,  
*Chairman,*  
*Committee on Subordinate Legislation.*

## REPORT

### I

#### RUBBER BOARD EMPLOYEES (CONDUCT) (AMENDMENT) RULES, 1995

(GSR 411 of 1995)

The Rubber Board Employees (Conduct) (Amendment) Rules, 1995 were published in the Gazette of India, Part II, Section 3 (i), dated 9 September, 1995. The Amendment Rule 16(3) of the Rules regarding Interpretation Clause read as under:—

“If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2), the decision of the Board thereon shall be final.”

1.2. It was felt that the aforesaid rule, as worded, was apt to give an impression in the minds of the general public that the jurisdiction of the law courts was being ousted, which could never be the intention of any subordinate legislation. In this connection, attention of the Ministry of Commerce was also invited to an oft-repeated recommendation of the Committee on Subordinate Legislation made in para 17 of their Eighth Report (Tenth Lok Sabha), to frame the Interpretation Clause on the lines of regulation 24 of the Kandla Port Employees' (Allotment of Residences) Regulations, 1964 that “If any question arises as to the interpretation of these regulations, the same will be decided by the Board” so as to do away with the probable notion that the jurisdiction of the law courts was being ousted in any manner.

1.3 The Ministry, in their reply dated 7 May, 1996 stated as under:—

“...that the Ministry of Commerce does not have any objection to the proposal for amending the Rule 16(3) of the Rubber Board Employees (Conduct) (Amendment) Rules, 1995, as desired in the aforesaid communication.”

1.4. The Committee note that Rule 16(3) of the Rubber Board Employees (Conduct) (Amendment) Rules, 1995 was giving an impression that the jurisdiction of the law courts was being ousted. The Committee, however, note that on being pointed out, the Ministry of Commerce have agreed to amend the rule to the desired effect. The Committee desire that the Ministry should hasten the process of finalisation of the proposed amendment and notify the same at the earliest.

## II

### **THE CENTRAL FERTILIZER QUALITY CONTROL AND TRAINING INSTITUTE, FARIDABAD (GROUP C AND D POSTS) RECRUITMENT (AMENDMENT) RULES, 1995 (GSR 196 OF 1995)**

The Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and Group D posts) Recruitment (Amendment) Rules, 1995 were published in the Gazette of India, Part II, Section 3(i), dated 22 April, 1995. A note under Column 11 of the Schedule appended to the rules stated that unfilled vacancies pertaining to a particular year shall not be carried over. Normally, the unfilled vacancies are carried over to the next year. In this regard, the concerned Ministry of Agriculture was requested to state the rationale for not carrying forward the unfilled vacancies to the next year. They were also requested to amend the recruitment rules to that effect.

2.2. In their reply dated 17 September, 1996, the Ministry stated as under:—

“....that action is being taken to make necessary amendment in the Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D Posts) Recruitment (Amendment) Rules, 1995. Notification in this regard is expected to be issued by the end of this month.”

2.3 Subsequently, the Ministry vide their Communication dated 6 January, 1997 furnished a copy of the Gazette Notification carrying the desired amendment in the extant recruitment rules.

2.4 The Committee note that under Column 11 of the schedule appended to the Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D posts) Recruitment (Amendment) Rules, 1995, it was prescribed that the unfilled vacancies pertaining to a particular year shall not be carried over, which was against the normal practice of carrying over of the unfilled vacancies to the next year. The Committee, however, note with satisfaction that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have carried out the requisite amendment in the Rules, by deleting the said provision vide Gazette of India Notification No. GSR 443 dated 19 October, 1996.

### III

## THE CUSTOMS (ATTACHMENT OF PROPERTY OF DEFAULTERS FOR RECOVERY OF GOVERNMENT DUES) RULES, 1995 (GSR 442-E OF 1995)

### (A)

The Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 were published in the Gazette of India: Extraordinary, Part II, Section 3(i) dated 26 May, 1995. Rule 5 thereof read as under:

“5....*Attachment of the Property*:—if the amount mentioned in the notice issued in terms of the preceding is not paid within seven days from the date of the service of the notice, the *Proper Officer* may proceed to realise the amount by attachment and sale of the defaulter’s property. For this purpose, the proper officer may arrest or distrain the defaulter’s property until the amount mentioned in the Certificate together with the cost of detention is paid by the defaulter.”

\*\*

\*\*

\*\*

It was felt that the word ‘proper officer’ mentioned in the aforesaid rule was needed to be spelt out and also the minimum rank of the officer who could be appointed as the ‘proper officer’ should also be indicated in the rule so as to make it more specific and precise. The matter was, therefore, taken up with the Ministry of Finance (Department of Revenue) for their comments in that regard.

3.2 The Ministry of Finance in their reply dated 26 July, 1996, stated as under:—

“.... With regard to the term ‘Proper Officer’, it is mentioned that the Proper Officer has been defined in these rules as an Officer subordinate to the Commissioner who is authorised by the Commissioner for the purpose of attachment and sale of the defaulters property. Such an officer is usually an Assistant Commissioner of Customs. *In the Customs Act, 1962, the term ‘Proper Officer’ has not been defined.* The Income Tax Act, 1961 and Income Tax (Certificate proceedings) Rules, 1962 on which these rules are based do not specify the designation of the Proper Officer. Section 223(1) of the Income Tax Act is as follows:

(a) The Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose



jurisdiction the principal place of his business or profession is situated, or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situated.

The jurisdiction for this purpose the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board or by the Chief Commissioner or Commissioner who is authorised in this behalf by the Board in pursuance of Section 120."

Here too the Tax Recovery Officer is defined as the officer in whose jurisdiction the assessee resides. Jurisdiction is defined as that assigned to the Tax Recovery Officer under directions issued by the Board. Accordingly it is felt that no further amendment seems necessary".

3.3. The reply of the Ministry was not found to be correct. Whereas the Ministry had stated that the term 'Proper Officer' was not defined in the Customs Act, 1962, it was found that section 2(34) of the Act clearly defined the term "Proper Officer" as under:—

*"Proper Officer"* in relation to any functions to be performed under this Act, means the officer of Customs who is assigned these functions by the Board or the Commissioner of customs."

3.4 The matter was therefore, again taken up with the Ministry to ascertain the correct position.

3.5. In their reply dated 10 April, 1997, the Ministry stated as under:—

"....With regard to the term 'proper officer', it is clarified that what was meant in the Ministry's letter was that the rank of the 'proper officer' has not been defined in the Customs Act, 1962 and not the meaning of the word 'proper officer' itself.

The above rules have been modelled after similar recovery rules obtaining under the Income Tax Act. As per 2nd Schedule of Income Tax Act, 1961, an officer means, a person authorised to make an attachment or sale under the Schedule. Further 'recovery officer' has been defined in Section 2(44) of Income Tax Act as "any Income Tax Officer who may be authorised by the Chief Commissioner or Commissioner by general or Special Order in writing, to exercise the powers of a Tax Recovery Officer."

Therefore, in the Income Tax Act, itself, the rank of the 'proper officer' has not been fixed. Similarly the rank of the 'proper officer' was not fixed in these rules.

However, in view of the suggestion it is proposed to fix the rank of the proper officer not below the rank of Asstt. Commissioner of Customs and Central Excise.

Necessary amendment of the regulation would be carried out in due course.”

3.6. With their subsequent communication dated 6 January, 1998, the Ministry enclosed a copy of the gazette notification issued *vide* G.S.R. No. 692(E) dated 11 December, 1997 carrying the desired amendment in rule 2(v) as under:—

“(v) Proper officer means an officer subordinate to the Commissioner and not below the rank of Assistant Commissioner of Customs or Assistant Commissioner of Customs and Central Excise, who is authorised by the Commissioner for the purpose of attachment and sale of defaulters property and for realising the amount mentioned in the Certificate”.

3.7. The Committee note that Rule 5 regarding Attachment of the Property of the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 provided that a ‘Proper Officer’ may proceed to realise the amount by attachment and sale of the defaulter’s property. The Committee feel that the term ‘proper officer’ appearing therein should be spelt out as also the minimum rank of the officer appointed for the purpose. In this context, the Committee note with satisfaction that the Ministry have clarified that ‘Proper Officer’ is an officer not below the rank of Assistant Commissioner of Customs or Assistant Commissioner of Customs and Central Excise, who is authorised by the Commissioner for the purpose of attachment and sale of defaulter’s property and for realising the dues. The Committee further note with satisfaction that the Ministry had notified the necessary amendment to this effect in the aforesaid Rules *vide* Gazette of India notification No. GSR 692-E dated 1 December, 1997.

(B)

---

3.8. Rule 8 of the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 thereof read as under:

“8. *Inventory*:— After attachment of the property of the defaulter, the Proper Officer shall prepare an inventory of the property attached and specify in it the place where it is lodged or kept and shall hand over a copy of the same to the defaulter or the person from whose charge the property is arrested or distrained.

3.9. It was felt that the word ‘arrested’ used in the aforesaid rule 8 in the context of property was not proper and somewhat confusing also. The Ministry of Finance, Department of Revenue were, therefore, requested to state whether they had any objection in amending the rules so as to give it more clarity.

3.10. In their reply dated 26 July, 1996, the Ministry of Finance stated as under:—

“..... It is not clear as to what is the nature of amplification required with regard to the term ‘arrested’. As per Rule, 8, it is clear that the term ‘arrested’ refers to the property, and not the person from whom the property is to be arrested.”

3.11. In this connection attention of the Ministry was drawn to section 222(1) of the Income Tax Act, 1962 which prescribed the various modes of recovery of arrears due from the assessee, one of which is by “arrest” of assessee and his detention in prison. It was accordingly pointed out to the Ministry that the word “arrest” has been used in the Income Tax Act for the defaulter and not for the property in his possession. Instructing the Ministry of Finance to be more vigilant while replying to the correspondence with the Parliamentary Committee in future, they were again requested to state whether they still had any objection to amend the rules to the desired effect so as to do away with the term “arrest” being used for property.

3.12. The Ministry in their communication dated 10.4.97 stated as under:—

“As regards the term “arrested”, it may be seen that the word is used as “the person from whose charge the property is arrested or distrained.” As the “arrest” word is preceded by the word ‘property’ it is, therefore, felt that it did not need any clarification. While in the Income Tax Act, the word “arrest” has been used for the person, here it has been used to arrest the property only.

“similarly it is proposed, for ease of understanding, to replace the words “arrest” and distraint with the words “attachment and sale”.

Necessary amendment of the regulation would be carried out in due course.”

3.13. With their subsequent communication dated 6 January, 1998, the Ministry enclosed a copy of the Gazette notification issued *vide* GSR No.692(E) dated 11 December, 1997 carrying the requisite amendment to rule 8 as under:—

“*Inventory:* After attachment of the property of the defaulter, the Proper Officer shall prepare an inventory of the property attached and specify in it the place where it is lodged or kept and shall hand over a copy of the same to the defaulter or the person from whose charge the property is distrained.”

3.14. The Committee note that the word “arrested” was used for the attachment of property of the defaulter under rule 8 of the aforesaid rules. The Committee feel that the word “arrested” was normally used for persons and not for property. The Committee, however, note that on being

pointed out, the Ministry have carried out the requisite amendment to rule 8 by omitting the word "arrested" appearing therein *vide* GSR No. 692(E) dated 11 December, 1997.

## IV

### THE AJOWAN SEED (WHOLE AND POWDERED) GRADING AND MARKING RULES, 1997 (GSR 372 of 1997)

The Ajowan Seeds (Whole and Powdered) Grading and Marking Rules, 1997 were published in the Gazette of India, Part-II, Section 3(i), dated November 8, 1997. It was observed therefrom that the draft of the rules for eliciting the public opinion thereon were notified on 19 August, 1996 whereas the final rules in this regard were notified only on 8 November, 1997 *i.e.* after a lapse of more than one year. It was felt that there was an inordinate delay in the notification of the final rules.

4.2. The concerned Ministry of Rural Areas and Employment were requested to state the reasons for such an inordinate delay in the notification of the final rules. In this connection, the attention of the Ministry was also invited to the following oft-repeated recommendation of the Committee on Subordinate Legislation:—

“In cases where the rules/regulations/bye-laws are published in draft form for inviting comments/suggestions from the public, those should be finalised and notified in final form within a period of 3 months after the receipt of comments/suggestions thereon. (Para 68, 24 R, 7 L.S.)”

4.3. In their reply dated 26 March, 1998, the Ministry stated as under:—

“The delay caused in the issue of the notification of the final Rules was due to the following reasons:—

(i) The draft preliminary notification of the aforesaid Rules was circulated to all the concerned for inviting their suggestions/comments immediately after its publication in Official Gazette *vide* GSR 369 dated 19.8.1996. A large number of suggestions/comments were received by the Directorate of Marketing and Inspection from the affected traders/organisations, who have requested to hold a meeting under the chairmanship of the Agricultural Marketing Adviser to the Government of India. The entire process consumed a considerable time (about 7 Months) in fixing the date of meeting, receiving the comments on draft rules, compilation of suggestions, their technical examination and drafting the final Rules after incorporating the decisions taken in the meeting. The draft final Rules were received in this Ministry on 1.4.1997 for publication in the Official Gazette after vetting them by the Ministry of Law (Legislative Department)”.

(ii) The vetted copy of the Rules was received from the Ministry of Law (Legislative Department) on 27.5.1997 and soon it was sent to the Directorate of Marketing and Inspection for fair typing of the vetted draft Rules, which consumed about a period of two months.

The fair typed copy of the vetted Rules were received in the Ministry on 20.6.1997. The fair copies of vetted Rules were returned to the Head Office of Directorate of Marketing and Inspection at Faridabad on 2.7.1997 with instructions to make out stencils in English and Hindi. The fair stencils (in English and Hindi) were received in the Ministry for the signature of the competent authority on 6.8.1997. Finally, the signed copies of the stencils (both in English and Hindi) were returned to the Directorate of Marketing and Inspection, Faridabad on 29.8.1997 for preparing adequate number of copies. The cyclostyled copies of the final Rules are received in the Ministry on 23.9.1997 for sending them to the Government of India Press for publication in the Official Gazette. The final Rules were sent to the Press on 26.9.1997 which were notified in the Official Gazette on 8.11.1997 i.e. after a period of about one and a half month.

It is evident from the above position that delay can be attributed mainly to the technical examination of the comments/suggestions received on draft preliminary notification from the affected traders/organisations and also in getting the approval and legal vetting by the Ministry of Law (Legislative Department). Moreover, the delay caused in publication of the final notification was due to reasons beyond the control of the Ministry as it required liaison at different levels between different agencies and Government Departments. It is assured that utmost care will be taken in future to complete the various formalities to avoid such delays in the publication of the final notification”.

4.4. The Committee do not find the reply of the Ministry convincing in which the Ministry had attributed the delay in notification of the final rules mainly to the receipt of a large number of comments/suggestions from the affected traders/organisations and their compilation and critical examination etc. and the time consumed in vetting by the Law Ministry, getting a fair copy of rules as vetted by the Law Ministry, stencilling etc. and so on. In this regard, the Committee observe that the reasons for delay as pleaded by the Ministry are of routine nature and the Committee on Subordinate Legislation have fixed a maximum time limit of six months for notification of final rules from the date of notification of draft rules only after keeping in mind all such routine processes involved therein.

**4.5. The Committee, therefore, desire that the Ministry should prepare a chart of various stages involved in notification of final rules alongwith a time table to execute them so as to ensure that there is no delay in the final notification of the rules and it will also help the Ministry to carry out their work in more convenient manner in the future. The Committee hope that the Ministry would take care to avoid such delays in future as assured by them.**

**THE SUGAR (PRICE DETERMINATION FOR 1996-97 PRODUCTION) SECOND AMENDMENT ORDER, 1997 (GSR 317-E/ESS. COMM./SUGAR OF 1997)**

The Sugar (Price Determination for 1996-97 Production) Second Amendment Order, 1997 was published in the Gazette of India, Extraordinary Part-II, Section 3(i) dated 9 June, 1997. It was observed therefore that amended notification did not contain the usual foot note normally appended to an amendment Order indicating the particulars of publication of the Principal Order and the subsequent amendments made thereto for facilitating easy reference.

5.2. The matter was therefore, taken up with the concerned Ministry of Food who were asked to intimate the Special reasons, if any, for departure from the normal practice in this respect. In their reply dated 24 September, 1997, the Ministry stated as under:—

“.....Corrigendum to the Sugar (Price Determination for 1996-97 Production) Second Amendment Order of 1997 (GSR No. 317-E/ESS/COMM/Sugar of 1997) dated 9.6.97, to rectify the error as pointed out by the Lok Sabha Secretariat has been issued *vide* notification of the Gazette of India dated 24.9.97.....”

5.3. The Committee note with satisfaction that on being pointed out, the Ministry of Food have issued the necessary corrigendum *vide* Gazette of India notification dated 24.9.1997 (GSR No. 566-E) to rectify the error by inserting the foot-note indicating the particulars of publication of the Principal Order and the subsequent amendments made thereto. The Committee desire that the Ministry should evolve necessary procedural safeguards against recurrence of such lapses in future.



## VI

### THE EMPLOYEES' STATE INSURANCE (CENTRAL) SECOND AMENDMENT RULES, 1997 (GSR NO. 226 OF 1997)

The Employees' State Insurance (Central) Second Amendment Rules, 1997, were published in the Gazette of India, Part II, Section 3(i), dated 10 May, 1997. It was observed therefrom that whereas draft rules were notified on 24.8.1991 for inviting comments/suggestion, the final rules were notified on 10 May, 1997 i.e. after a gap of almost six years. The Ministry of Labour were, therefore, requested to state the reasons for such an inordinate delay in the publication of final rules.

6.2. The Ministry of Labour in their reply dated 29th August, 1997 stated as under:—

**“STATEMENT INDICATING THE REASONS FOR DELAY IN PUBLICATION OF FINAL RULES CALLED THE EMPLOYEES' STATE INSURANCE (CENTRAL) SECOND AMENDMENT RULES, 1997.”**

The draft of the ESI (Central) Second Amendment Rules, 1991 was published in the Gazette of India on 24th August, 1991 *vide* GSR No. 487. The persons affected by the proposed rules were given notice of 45 days to submit their objections/suggestions to the Government. After completion of the notice period the matter was examined and on 7th April, 1992 the ESIC was requested to clarify whether there will be any administrative inconvenience if the administrative expenses of the ESIC are limited upto 15% of the contribution income. The ESIC examined the matter and reported that fixing administrative costs at 15% of the contribution income will not be practicable because the cost of the existing administrative infrastructure works out to be 18.12%. The Corporation, therefore, requested for an alternative formula for fixing the percentage of administrative expenses. The request of the ESIC was accepted and the Corporation was asked to re-examine the matter realistically and furnish a fresh proposal to the Government in this regard.

During 1991-92, the wage ceiling for coverage under the ESIS was Rs. 1600/-P.M. Due to general rise in wages a large number of workers went out of the ESI Scheme. As a result the contribution income of the ESIC fell down drastically. The Government considered the matter and decided to increase the wage ceiling from Rs. 1600/- to Rs. 3000/- P.M. w.e.f. 1.4.1992. In view of this development the ESIC in July, 1992 recommended that the entire matter of fixing a percentage limit for administrative expenses

should be examined at the close of the financial year 1992-93 when a clear picture on improved contribution income of the ESIC was known.

The recommendation of the Corporation was accepted and in July, 1993 the ESIC was requested to furnish their revised proposal to the Government. On receipt of the revised proposal from the ESIC, the matter was examined and in December, 1993 because of serious implications it was decided that the whole matter may be placed before the Standing Committee/whole meeting of the ESIC. The Corporation considered the matter and finally on 27.1.1997 sent a proposal recommending that the percentage of the total income of the ESIC which may spend every year on account of administrative expenses may be limited to 15% of the total income of the ESIC. The proposal of the ESIC was re-examined in detail and after obtaining approval of the Legislative Department on 8.4.1997, the final notification was issued on 22nd April, 1997, Hence the delay."

6.3. The Committee note that the Ministry of Labour has attributed the delay of almost 6 years in the final publication of the rules mainly in arriving at a formula by the Employees' State Insurance Corporation in fixing the percentage of total income of the Corporation which may be spent every year on account of administrative expenses. In this regard, the Committee observe that the matter has been kept shuttling between the Government and the Employees, State Corporation on several occasions without any serious efforts on the part of the Ministry resulting in the inordinate delay in finalisation of the rules. The Committee take a serious note of such enormous delay and desire that the Ministry of Labour should streamline their procedure so as to avoid recurrence of such enormous delays in the publication of final rules, in the future. In this regard, the Committee recommend that whenever there is any delay in the finalisation of the rules the responsibility of such delay should be fixed on the Secretary of the concerned Ministry.

## VII

### THE MINISTRY OF DEFENCE, ARMY HEADQUARTERS, GENERAL STAFF BRANCH SIGNAL INTELLIGENCE DIRECTORATE (GROUP 'A' AND GROUP 'B' POSTS) RECRUITMENT RULES, 1995 (SRO 106 OF 1995)

The Ministry of Defence, Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) Recruitment Rules, 1995 were published in the Gazette of India Part II, Section 4, dated 8 July, 1995. It was observed therefrom that at S. No. 5 against the post of *Junior Research Officer* the educational qualification of Diploma/Interpretership in one of the foreign language was prescribed as *compulsory for promotion* whereas for direct recruits the knowledge of a foreign language was made *desirable* only. Further, for deputationists, neither requirement nor desirability of any foreign language was prescribed. It was therefore, felt that the Senior Technical Assistants who were, otherwise, eligible for promotion as Junior Research Officer were placed in a disadvantageous position as compared to direct recruits or deputationists as regard qualification in a foreign language was concerned.

7.2. The matter was, therefore, taken up with the Ministry of Defence who were requested to state the rationale behind prescribing such a discriminatory provision for promotion to the post of Junior Research Officer. The Ministry were also requested to state whether they had any objection in amending the rules to the desired effect so as to do away with such provision.

7.3. The Ministry of Defence in their reply dated 27 February 1998 stated as under:—

“The functional requirements of the Signal Intelligence Directorate are such that the knowledge of a foreign language is essential for appointments upto the level of Research Officer. In order to attain this essential knowledge the Directorate also affords facilities to the concerned employees for attaining diploma interpretership qualification in prescribed foreign language at the School of Foreign Language Ministry of Defence for direct recruits as well as promotees. It is ensured that all the direct recruits/deputationists are detailed for foreign language course.

Retention of foreign language qualification for promotion to the posts of Junior Research Officer and Research Officer in the revised recruitment rules was a conscious decision keeping in view the functional requirement of the organisation and the fact that

earlier very few persons (Particularly Promotees) used to volunteer for undergoing language courses.

In view of the aforesaid, we do not propose to change the relevant qualification of the recruitment rules till user Directorate recommends for the same as functional justification."

**7.4. The Committee are in disagreement with the reply of the Ministry of Defence regarding pre-requirement of knowledge of foreign language as compulsory one for employees of the Directorate eligible for promotion to the post of Junior Research Officer merely on the ground that the Directorate affords facilities to the concerned employees for attaining diploma/interpretership qualification in prescribed foreign language and that earlier very few such employees used to volunteer for language courses. This is so because no such pre-requirement of knowledge in foreign language had been made compulsory in the case of direct recruits or the deputationists. In this context, the Committee note that the disability which has been so imposed on the employees of the Directorate who otherwise are eligible for promotion is against the principles of natural justice. The Committee, therefore, desire that the Ministry of Defence should amend the Ministry of Defence, Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) Recruitment Rules, 1995 so as to do away with the provision which is discriminatory to the interests of the employees of the Directorate who otherwise fulfil other eligibility conditions for promotion to the post of Junior Research Officer.**

## VIII

### FINANCE COMMISSION FOR THE UNION TERRITORY OF THE ANDAMAN AND NICOBAR ISLANDS (CONDITIONS OF SERVICE AND OTHER MISCELLANEOUS PROVISIONS) (AMENDMENT) RULES, 1997 (GSR 307-E of 1997)

The Finance Commission of Union Territory of the Andaman and Nicobar Islands (Conditions of Service and Other Miscellaneous Provisions) (Amendment) Rules, 1997 were published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 5 June, 1997. It was observed therefrom that in the Preamble to the rules, the precise statutory authority under which these rules were framed and notified was not indicated. It was further observed that the rules had been given retrospective effect w.e.f. 8 September, 1995 but the usual Explanatory Memorandum certifying that interest of none would be adversely affected by giving such retrospective effect, was not appended to the rules. The matter was therefore, taken up with the Ministry of Home Affairs for their comments. The attention of the Ministry was also invited to the recommendations of the Committee made in para 10 of their Second Report (Fourth Lok Sabha) namely:

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

The Ministry were also requested to state whether they had any objection to amending the rules to the desired effect.

8.2. In their reply dated 24 September, 1997, the Ministry stated as under:

**“(I) Preamble:**

GSR 307-E dated 5 June, 1997 has been issued in exercise of the powers conferred by sub-section (2) of Section 186 of the Andaman and Nicobar Islands (Panchayats) Regulation 1994 (No. 1 of 1994). The said Regulation is a primary legislation. It is promulgated by the

President in exercise of powers conferred by Clause (1) of article 240 of the Constitution. The said sub-section (2) of Section 186 of the Regulation provides that the President may by rules provide for the composition of the Commission etc. A copy of the Regulation is enclosed for ready reference as (Annexure-I).

**(ii) Commencement of Rule:**

It is correct that a suitable explanation should have been added to the effect that the amended provision does not adversely affect any of the employees of the Finance Commission of the Union Territory of the Andaman and Nicobar Islands by its retrospective effect. The omission is regretted. It is, however, clarified that the implementation of the revised pay structure with retrospective effect does not adversely affect any of the employees of the Commission. It is further stated that corrective action for amendment of the notification in this regard is being taken in consultation with the Ministry of Law and Justice. A further communication will be sent as soon as the proposed notification is issued."

8.3 In their subsequent communication dated 5 December, 1997 the Ministry furnished a copy of the Gazette Notification issued *vide* GSR No. 684-E dated 2nd December, 1997 carrying the desired amendment in the rules.

8.4 The Committee note from the clarification furnished by the Ministry of Home Affairs that the extant rules have been notified under Section 186 (2) of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 which is a primary legislation promulgated by the President in exercise of powers conferred by Article 240(1) of the Constitution. As regards giving of retrospective effect to the notification in order to implement the revised pay structure, the Committee note that the Ministry have regretted their omission for not appending the requisite Explanatory Memorandum thereto certifying that interest of none would be adversely affected by giving such retrospective effect. In this regard, the Committee note with satisfaction that the Ministry have issued an amendment notification *vide* GSR 684-E dated 2 December, 1997 incorporating the desired Explanatory Memorandum. The Committee desire that the Ministry should devise suitable procedural safeguards so as to ensure that the recommendations of the Committee on Subordinate Legislation are also kept in mind while framing the rules.

---

# **APPENDICES**

---

## APPENDIX I

(Vide para 4 of the Introduction)

### Summary of Recommendations made in the Report of the Committee on Subordinate Legislation (Twelfth Lok Sabha)

| Sl. No. | Reference to para No. in the Report | Summary of Recommendations  |
|---------|-------------------------------------|---|
| 1       | 2                                   | 3   |
| 1.      | 1.4                                 | <p><i>The Rubber Board Employees (Conduct) (Amendment) Rules, 1995 (GSR 411 of 1995)</i></p> <p>The Committee note that Rule 16(3) of the Rubber Board Employees (Conduct) (Amendment) Rules, 1995 was giving an impression that the jurisdiction of the law courts was being ousted. The Committee, however, note that on being pointed out, the Ministry of Commerce have agreed to amend the rule to the desired effect. The Committee desire that the Ministry should hasten the process of finalisation of the proposed amendment and notify the same at the earliest.</p>   |
| 2.      | 2.4                                 | <p><i>The Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D Posts) Recruitment (Amendment) Rules, 1995 (GSR 196 of 1995)</i></p> <p>The Committee note that under Column 11 of the schedule appended to the Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D Posts) Recruitment (Amendment) Rules, 1995, it was prescribed that the unfilled vacancies pertaining to a particular year shall not be carried over, which was against the normal practice of carrying over of the unfilled vacancies to the next year. The Committee, however, note with satisfaction that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have carried out the requisite amendment in the Rules, by deleting the said provision <i>vide</i> Gazette of India Notification No. GSR 443 dated 19 October, 1996.</p> |



1 2

3

---

The Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 (GSR 442-E of 1995)

3. 3.7

The Committee note that Rule 5 regarding Attachment of the property of the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 provided that a 'Proper Officer' may proceed to realise the amount by attachment and sale of the defaulter's property. The Committee feel that the term 'Proper Officer' appearing therein should be spelt out as also the minimum rank of the officer appointed for the purpose. In this context, the Committee note with satisfaction that the Ministry have clarified that 'Proper Officer' is an officer not below the rank of Assistant Commissioner of Customs or Assistant Commissioner of Customs and Central Excise, who is authorised by the Commissioner for the purpose of attachment and sale of defaulter's property and for realising the dues. The Committee further note with satisfaction that the Ministry had notified the necessary amendment to this effect in the aforesaid Rules *vide* Gazette of India notification No. GSR 692-(E) dated 1 December, 1997.

4. 3.14

The Committee note that the word 'arrested' was used for the attachment of property of the defaulter under rule 8 of the aforesaid rules. The Committee feel that the word 'arrested' was normally used for persons and not for property. The Committee however, note that on being pointed out, the Ministry have carried out the requisite amendment to rule 8 by omitting the word 'arrested' appearing therein *vide* GSR 692(E) dated 11 December, 1997.

The Ajowan Seeds (Whole and Powdered) Grading and Marking Rules, 1997 (GSR 372 of 1997)

5. 4.4

The Committee do not find the reply of the Ministry convincing in which the Ministry had attributed the delay in notification of the final rules mainly to the receipt of a large number of comments/suggestions from the affected traders/organisations and their compilation and critical examination etc. and the time

---

| 1  | 2   | 3   |
|----|-----|---|
|    |     | consumed in vetting by the Law Ministry, getting a fair copy of rules as vetted by the Law Ministry, stencilling etc. and so on. In this regard, the Committee observe that the reasons for delay as pleaded by the Ministry are of routine nature and the Committee on Subordinate Legislation have fixed a maximum time limit of six months for notification of final rules from the date of notification of draft rules only after keeping in mind all such routine processes involved therein.  |
| 6. | 4.5 | <p>The Committee, therefore, desire that the Ministry should prepare a chart of various stages involved in notification of final rules alongwith a time table to execute them so as to ensure that there is no delay in the final notification of the rules and it will also help the Ministry to carry out their work in more convenient manner in the future. The Committee hope that the Ministry would take care to avoid such delays in future as assured by them.</p> <p>The Sugar (Price Determination for 1996-97 Production) Second Amendment Order, 1997 (GSR 317-E/ESS. Comm/Sugar of 1997)</p>    |
| 7. | 5.3 | <p>The Committee note with satisfaction that on being pointed out, the Ministry of Food have issued the necessary corrigendum <i>vide</i> Gazette of India notification dated 24.9.1997 (GSR No. 566-E) to rectify the error by inserting the foot-note indicating the particulars of publication of the Principal Order and the subsequent amendments made thereto. The Committee desire that the Ministry should evolve necessary procedural safeguards against recurrence of such lapses in future.</p> <p>The Employees' State Insurance (Central) Second Amendment Rules, 1997 (GSR No. 226 of 1997)</p> |
| 8. | 6.3 | <p>The Committee note that the Ministry of Labour has attributed the delay of almost 6 years in the final publication of the rules mainly in arriving at a formula by the Employees' State Insurance Corporation in fixing the percentage of total income of the Corporation which may be spent every year on account of administrative expenses. In this regard,</p>   |

1

2

3

the Committee observe that the matter has been kept shuttling between the Government and the Employees' State Corporation on several occasions without any serious efforts on the part of the Ministry resulting in the inordinate delay in finalisation of the rules. The Committee take a serious note of such enormous delay and desire that the Ministry of Labour should streamline their procedure so as to avoid recurrence of such enormous delays in the publication of final rules, in the future. In this regard, the Committee recommend that whenever there is any delay in the finalisation of the rules, the responsibility of such delay should be fixed on the Secretary of the concerned Ministry.

The Ministry of Defence, Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) Recruitment Rules, 1995 (SRO 106 of 1995)

9. 7.4

The Committee are in disagreement with the reply of the Ministry of Defence regarding pre-requirement of knowledge of foreign language as compulsory one for employees of the Directorate eligible for promotion to the post of Junior Research Officer merely on the ground that the Directorate affords facilities to the concerned employees for attaining diploma/interpretership qualification in prescribed foreign language and that earlier very few such employees used to volunteer for language courses. This is so because no such pre-requirement of knowledge in foreign language had been made compulsory in the case of direct recruits or the deputationists. In this context, the Committee note that the disability which has been so imposed on the employees of the Directorate who otherwise are eligible for promotion is against the principles of natural justice. The Committee, therefore, desire that the Ministry of Defence should amend the Ministry of Defence, Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) Recruitment Rules, 1995 so as to do away with the provision which is discriminatory to the interests of the employees of the Directorate

---

| 1   | 2    | 3   |
|-----|------|---|
|     |      | <p>who other-wise fulfil other eligibility conditions for promotion to the post of Junior Research Officer.</p> <p>Finance Commission for the Union Territory of the Andaman and Nicobar Islands (conditions of Service and other Miscellaneous Provisions) (Amendment) Rules, 1997 (GSR 307-E of 1997).</p>  |
| 10. | 8.4. | <p>The Committee note from the clarification furnished by the Ministry of Home Affairs that the extant rules have been notified under Section 186 (2) of the Andaman Nicobar Islands (Panchayats) Regulation, 1994 which is a primary legislation promulgated by the President in exercise of powers conferred by Article 240 (1) of the Constitution. As regards giving of retrospective effect to the notification in order to implement the revised pay structure, the Committee note that the Ministry have regretted their omission for not appending the requisite Explanatory Memorandum thereto certifying that interest of none would be adversely affected by giving such retrospective effect. In this regard, the Committee note with satisfaction that the Ministry have issued an amendment notification <i>vide</i> GSR 684-E dated 2 December, 1997 incorporating the desired Explanatory Memorandum. The Committee desire that the Ministry should devise suitable procedural safeguards so as to ensure that the recommendations of the Committee on Subordinate Legislation are also kept in mind while framing the rules.</p> |

---

---

# MINUTES °

---

**MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (TWELFTH LOK SABHA) (1998-99)**

The Committee met on Thursday, 24 September, 1998 from 15.00 to 16.00 hrs. in Committee Room 'B' Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Krishan Lal Sharma — *Chairman***

**MEMBERS**

2. Shri B.M. Mensinkai
3. Shri Shantilal P. Patel
4. Shri Rameshwar Patidar
5. Shri Varkala Radhakrishnan
6. Shri Devindra Bahadur Roy
7. Shri Raghvendra Singh
8. Shri Surinder Singh

**SECRETARIAT**

1. Shri Ram Autar Ram — *Director*
2. Shri B.D. Swan — *Under Secretary*

2. The Committee then considered Memoranda Nos. 1 to 5 as under:—

**The Rubber Board Employees (Conduct) (Amendment) Rules, 1995 (GSR 411 of 1995) (Memorandum No. 1)**

3. The Committee noted that Rule 16(3) of the Rubber Board Employees (Conduct) (Amendment) Rules, 1995 was giving an impression that the jurisdiction of the law courts were being ousted. The Committee, however, noted that on being pointed out, the Ministry of Commerce had agreed to amend the rule to the desired effect. The Committee desired the Ministry to hasten the process of finalisation of the proposed amendment and notify the same at the earliest.

**The Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D posts) Recruitment (Amendment) Rules, 1995 (GSR 196 of 1995) (Memorandum No. 2)**

4. The Committee noted that in Column 11 of the schedule appended to the Central Fertilizer Quality Control and Training Institute, Faridabad (Group C and D posts) Recruitment (Amendment) Rules, 1995, it was

prescribed that the unfilled vacancies pertaining to a particular year shall not be carried over, which was against the normal practice of carrying over of the unfilled vacancies to the next year. The Committee, however, observed that on being pointed out, the Ministry of Agriculture (Department of Agriculture & Cooperation) had carried out the requisite amendment in the Rules, by deleting the said provision *vide* Gazette of India Notification No. GSR 443 dated 19 October, 1996.

**The Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 (GSR 442-E of 1995) (Memorandum No. 3)**

(A)

5. The Committee noted that Rule 5 regarding Attachment of the property of the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 provided that a 'Proper Officer' may proceed to realise the amount by attachment and sale of the defaulter's property by arresting or distraining the defaulter's property. The Committee felt that the term 'proper officer' appearing therein should be spelt out as also the minimum rank of the officer appointed for the purpose. In this context, the Committee noted with satisfaction that the Ministry have clarified that 'Proper Officer' is an officer not below the rank of Assistant Commissioner of Customs or Assistant Commissioner of Customs and Central Excise, who is authorised by the Commissioner for the purpose of attachment and sale of defaulter's property and for realising the dues. The Committee further noted that the Ministry had notified the necessary amendment to this effect in the aforesaid Rules *vide* Gazette of India notification no. GSR 692(E) dated 11 December, 1997.

(B)

6. The Committee noted that the word 'arrested' was used for the attachment of property of the defaulter under rule 8 of the aforesaid rules. The Committee felt that the word 'arrested' was normally used for persons and not for property. The Committee, however, noted that on being pointed out, the Ministry have carried out the requisite amendment to rule 8 by omitting the word 'arrested' appearing therein *vide* GSR 692(E) dated 11 December, 1997.

7 to 9.            \*            \*            \*            \*            \*

**MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (TWELFTH LOK SABHA)  
(1998-99)**

The Committee met on Monday, 14 December, 1998 from 15.00 hours to 16.30 hours in Committee Room 'B', Ground Floor, Parliament House Annex, New Delhi.

**PRESENT**

**Shri Krishan Lal Sharma—Chairman**

**MEMBERS**

2. Shri Shantilal P. Patel
3. Shri Annasaheb M.K. Patil
4. Shri Devindra Bahadur Roy
5. Shri Raghvendra Singh

**SECRETARIAT**

1. Shri Ram Autar Ram — *Director*
2. Shri B.D. Swan — *Under Secretary*

2. The Committee then considered Memoranda Nos. 6—10 as follows:—

**The Ajowan Seeds (Whole and Powdered) Grading and Marking Rules, 1997 (GSR 372 of 1997) (Memorandum 6)**

3. The Committee were not convinced with the reply of the Ministry in which the Ministry had attributed the delay in notification of the final rules mainly to the receipt of a large number of comments/suggestions from the affected traders/organisations, and their compilation and critical examination etc. and the time consumed in vetting by the Law Ministry, getting a fair copy of rules as vetted by the Law Ministry, stenciling etc. and so on. In this regard, the Committee observed that the reasons for delay as pleaded by the Ministry were of routine nature and the Committee on Subordinate Legislation have fixed a maximum time limit of six months for notification of final rules from the date of notification of draft rules only after keeping in mind all such routine processes involved therein.

4. The Committee, therefore, desired that the Ministry should prepare a chart of various stages involved in notification of final rules alongwith a time table to execute them so as to ensure that there was no delay in the final notification of the rules and it will also help the Ministry to carry out their work in a more convenient manner. As the Ministry have assured that utmost care will be taken by them to avoid such delays in future, the



Committee hoped that the Ministry would be able to keep up their assurance.

**The Sugar (Price Determination for 1996-97 Production) Second amendment Order, 1997 (GSR 317/Ess. Com./Sugar of 1997 (Memorandum No. 7)**

5. The Committee noted with satisfaction that on being pointed out, the Ministry of Food have issued the necessary corrigendum *vide* Gazette of India notification dated 24.9.1997 (GSR No. 566-E) to rectify the error by inserting the foot-note indicating the particulars of publication of the Principal Order and subsequent amendments made thereto. The Committee desired the Ministry to evolve necessary procedural safeguards against recurrence of such lapses in future.

**The Employees' State Insurance (Central) Second Amendment Rules, 1997 (GSR 226 of 1997) (Memorandum No. 8)**

6. The Committee noted that the Ministry of Labour has attributed the delay of almost 6 years in the final publication of the rules mainly in arriving at a formula by the employees' State Insurance Corporation in fixing the percentage of total income of the Corporation which may be spent every year on account of administrative expenses. In this regard, the Committee observed that the matter has been kept shuttling between the Government and the Employees' State Corporation on several occasions without any serious efforts on the part of the Ministry resulting in the inordinate delay in finalisation of the rules. The Committee took a serious note of such enormous delay and desired the Ministry of Labour to streamline their procedure so as to avoid recurrence of such enormous delays in the publication of final rules, in the future. In this regard, the Committee recommended that wherever there was any delay in the finalisation of the rules, the responsibility of such delay should be fixed on the Secretary of the concerned Ministry.

**The Ministry of Defence, Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) recruitment Rules, 1995 (SRO 106 of 1995) (Memorandum No. 9)**

7. The Committee were not satisfied with the reply of the Ministry of Defence regarding pre-requirement of knowledge of foreign Language as compulsory one for employees of the Directorate eligible for promotion to the post of Junior Research Officer merely on the ground that the Directorate affords facilities to the concerned employees for attaining diploma/interpretership qualification in prescribed foreign language and that earlier very few such employees used to volunteer for language courses. This was so because no such pre-requirement of knowledge in foreign language had been made compulsory in the case of direct-recruits or the deputationists. In this context, the Committee noted that the

disability which has been so imposed on the employees of the Directorate who otherwise are eligible for promotion is against the principles of natural justice. The Committee, therefore, desired the Ministry of Defence to amend the Ministry of Defence. Army Headquarters, General Staff Branch, Signal Intelligence Directorate (Group 'A' and Group 'B' posts) Recruitment Rules, 1995 so as to do away with the provision which is discriminatory to the interests of the employees of the Directorate who fulfil other eligibility conditions for promotion to the post of Junior Research officer.

**Finance Commission for the Union Territory of the Andaman and Nicobar Islands (Conditions of Service and other Miscellaneous Provisions) (Amendment) Rules, 1997 (GSR 307-E of 1997) (Memorandum No. 10)**

8. The Committee noted from the clarification furnished by the Ministry of Home Affairs that the extant rules have been notified under Section 186(2) of the Andaman Nicobar Islands (Panchayats) Regulation, 1994 which is a primary legislation promulgated by the President in exercise of powers conferred by Article 240(1), of the Constitution. As regards giving of retrospective effect to the notification in order to implement the revised pay structure, the Committee noted that the Ministry have regretted their omission for not appending the requisite Explanatory memorandum thereto certifying that interest of none would be adversely affected by giving such retrospective effect. In this regard, the Committee noted with satisfaction that the Ministry have issued an amendment notification *vide* GSR 684-E dated 2 December, 1997 incorporating the desired Explanatory memorandum. The Committee desired the Ministry, to devise suitable procedural safeguards so as to ensure that while framing rules, the recommendations of the Committee on Subordinate Legislating were also kept in mind.

9 to 11. \*

*The Committee then adjourned.*

**MINUTES OF THE SIXTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (TWELFTH LOK SABHA)  
(1998-99)**

The Committee met on Wednesday, 10 March, 1999 from 15:00 to 16:00 hours in Committee Room 'D', Parliament House Annex, New Delhi.

**PRESENT**

**Shri Krishan Lal Sharma—Chairman**

**MEMBERS**

2. **Shri Bhupinder Singh Hooda**
3. **Shri B.M. Mensinkai**
4. **Shri Shantilal P. Patel**
5. **Shri Rameshwar Patidar**
6. **Shri Annasaheb M.K. Patil**

**SECRETARIAT**

1. **Shri Ram Autar Ram—Director**
2. **Shri B.D. Swan—Under Secretary**
- 2 to 8. \* \* \* \* \*

9. The Committee then considered their draft Third Report and adopted it without any modifications.

*The Committee then adjourned*

---

\* Omitted portions of the Minutes are not included in this Report.