

COMMITTEE ON SUBORDINATE LEGISLATION

(FIFTEENTH LOK SABHA)

(2013-2014)

THIRTY-EIGHTH REPORT

(PRESENTED ON 12.02.2014)

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LOK SABHA SECRETARIAT

NEW DELHI

February, 2014/Magha, 1935 (Saka)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(2013-2014)

1. Shri P. Karunakaran Chairman
2. Shri Anandrao Adsul
3. Shri Praveen Singh Aron
4. Dr. Baliram
5. Shri Kalyan Banerjee
6. Shri Sansuma Khunggur Bwiswmuthiary
7. Shri Ramen Deka
8. Shri K. Jayaprakash Hegde
9. Dr. Mahesh Joshi
10. Shri Virender Kashyap
11. Dr. Thokchom Meinya
12. Shri Gajendra Singh Rajukhedi
13. Dr. Bholu Singh
14. Shri Yashvir Singh
15. Vacant

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri S.C. Chaudhary - Director
3. Shri Mohit Rajan - Committee Officer

(iii)

INTRODUCTION

I, the Chairman, Committee on Subordinate Legislation having been authorized by the Committee to submit the report on their behalf, present this Thirty Eighth Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 27.12.2013.

3. The Committee considered and adopted this Report at their sitting held on 16.01.2014.

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 Appendix-I of the Report.

5. Minutes of the Second and Third Sitting of the Committee (2013-14) held on 27.12.2013 and 16.01.2014 respectively, relevant to this Report are included in Appendix-II.

New Delhi;
16 January, 2014

26 Pausa, 1935 (Saka)

P. KARUNAKARAN
Chairman,
Committee on Subordinate Legislation

REPORT

I

Infirmities in the Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 and the Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012 notified by Ministry of Finance (Department of Revenue).

The Ministry of Finance (Department of Revenue) notified Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 (GSR 406 E of 2012) and Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012 (GSR 406 A E of 2012). These rules were notified to further amend the Central Board of Excise & Customs/(Chairman and Members) Recruitment Rules, 2006 and Central Board of Direct Taxes (Chairman and Members) Recruitment Rules, 2006. The amendment is to substitute the entry relating to scale of pay in column (4) and mode of appointment in Column (12) of the schedule. On the scrutiny of the rules, it was found that these have been framed under article 309 of the Constitution of India and not under the Central Boards of Revenue Act, 1963.

1.2 The Ministry of Finance (Department of Revenue) was accordingly requested to furnish the reasons for notifying these rules under Article 309 of the Constitution and not under the Central Board of Revenue Act, 1963.

1.3 The Ministry of Finance (Department of Revenue) vide their OM No. H-11015/4/2012 /Parl. dated 24 January, 2013 has *inter alia* given the following reply:

“...While framing the Recruitment Rules for the post of member and Chairman of Central Board of Excise and Customs and Central Board of Direct Taxes, notified vide this Department’s notification dated 3.2.2006, this issue was deliberated upon. Initially, this Department had proposed to frame the Rules under the proviso to article 309 of the Constitution. The views of Department of Legal Affairs was sought and the Department of Legal Affairs expressed their views that if the statute specifically provide for framing of Recruitment Rules for its employees and gives a separate autonomous status to the employees of the said authority, then the Recruitment Rules of that authority could not be framed under proviso to article 309 of the Constitution. The Legislative Department

was consulted and they advised that since the Central Board of Revenue Act, 1963 does not have express provision made for recruitment of officers and employees of the Boards i.e. CBDT and CBEC, it was still open for the Government to invoke the proviso to article 309 of the Constitution to frame the recruitment rules. Accordingly, these rules were framed under proviso to article 309 of the Constitution which were notified in the year 2006 vide notification dated 3.2.2006.”

1.4 As per Article 309 of the Constitution of India, recruitment and conditions of service of persons serving the Union or a State, subject to the provisions of this constitution, Acts of the appropriate legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State: Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate legislature under this Article, and any rules so made shall have effect subject to the provisions of any such Act.

1.5 Accordingly, rules regulating recruitment and conditions of service of persons appointed to such services and posts can be made under Article 309 of the Constitution of India until provision on that behalf is made under an Act. Central Boards of Revenue Act, 1963 enacted to provide for the separate Boards of Revenue for Direct Taxes and for Excise and Customs and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Boards inter-alia stipulates that each Board shall consist of such number of persons as the Central government may think fit to appoint. The Act, however, does not contain specific provisions with regard to the appointment of Members of both the Boards.

1.6 Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 and Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012

were framed by the Ministry of Finance (Department of Revenue) under Article 309 of the Constitution of India. Article 309 of the Constitution of India provides that recruitment and conditions of service of persons appointed to public services and posts in connection with the officers of the Union or a State may be regulated by an Act of appropriate legislature or under this article until provision in that behalf is made in the Act. The rules notified by the Ministry of Finance (Department of Revenue) under Article 309 of the Constitution of India should have been, therefore, notified under Central Board of Revenue Act 1963 as the Act provides for the appointment of Members of the respective Boards. However, details of provisions with regard to the appointment of Members of the respective Board have not been provided in the Act. On the request of the Ministry, the Ministry of Law (Department of Legal Affairs) advised that if the statute specifically provides for framing of Recruitment Rules for its employees and gives a separate autonomous status to the employees of the said authority, then the Recruitment Rules of that authority could not be framed under proviso to article 309 of the constitution. Further, the advice of the Ministry of Law (Legislative Department) in this regard, that since the Central Board of Revenue Act, 1963 does not have express provision made for recruitment of officers and employees of the Boards, it was still open for the Government to invoke the proviso to article 309 of the Constitution to frame the recruitment rules implies that proviso to article 309 could be invoked as there is no specific provision in the Act. Since the Central Board of Revenue Act, 1963 doesn't have express provisions for the appointment of Chairman and members of the respective Boards, the Ministry framed the recruitment rules under Article 309 of the Constitution of India which implies that in the absence of specific provision, rules can be framed under this Article. However, the arrangements under provisions of Article 309, are conceived to be of transitory nature to be replaced by appropriate legislation, therefore, the necessary provisions for the appointment of the Chairman and members of the respective Boards are required to be incorporated in the Central Board of Revenue Act, 1963 to provide them statutory backing.

1.7 The Central Board of Customs and Excise and Central Board of Direct Taxes were constituted under the Central Board of Revenue Act, 1963. The Committee note that the Act merely mentions that each Board shall consist of such number of Members of the respective Boards as the Government may think fit. However, there are no specific provisions for framing of recruitment rules for the Members of the Boards. The Ministry of Finance, (Department of Revenue), accordingly, in the absence of detailed Recruitment Rules notified, the Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 and the Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012 under Article 309 of the constitution of India. As arrangements made under Article 309 of the Constitution of India are transitory in nature to be replaced by appropriate legislation, which envisages that recruitment and conditions of service of persons appointed can be regulated under this Article until provision in that behalf is made under an Act, thereby the recruitment and the conditions of service for the officers and employees of the respective Boards should have been regulated through the Revenue Act. The Committee further note that the rules notified under the Act required to have statutory backing and should be laid on the Table of the House. The Committee therefore, observe that there is urgent need to amend the Central Board of Revenue Act, 1963 so as to incorporate the detailed provisions of recruitment/appointment rules for the posts of Chairman and Members of the Central Board of Direct Taxes and Central Board of Customs and Excise under the Act. The Committee further, recommend that the Ministry of Finance, Department of Revenue, should take necessary action for incorporating the recruitment provisions in the Act so that Central Board of Excise and Customs (Chairman and Members) Recruitment Rules, 2006 and the Central Board of Direct Taxes (Chairman and Members) Recruitment Rules, 2006 are notified expeditiously with retrospective effect.

The Explosives (Amendment) Rules, 2010 (GSR 65-E of 2011).

The Explosives (Amendment) Rules, 2010 were notified by the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) in Gazette of India, Extraordinary, Part-II, Section 3(i) dated 5 February, 2011. On the scrutiny of rules, following infirmities have been observed:

- (i) 'Year' in the short title does not tally with the 'year' of publication.
- (ii) Delay in publication of rules meant for publication in Extraordinary Gazette;
- (iii) Delay in Gazette notification of final Rules;

A. 'Year' in Short Title

2.2 The 'year' in the short title of "The Explosives (Amendment) Rules, 2010" does not tally with the 'year' of publication as Rules reflect 2010 in the short title whereas the same were published on 5 February, 2011. The Committee have been repeatedly emphasizing in their recommendations as late as para 1.4 of 22nd Report (15th Lok Sabha) that the 'the year' in the short title should invariably match with the 'year' of publication for easy referencing.

2.3 On the query as to the reasons for not complying with the recommendations, the Ministry vide their reply dated 29 February, 2012 have stated that they have initiated process to issue a corrigendum rectifying the 'year' in the short title.

2.4 The Committee note that from time to time, the Committee have been emphasizing that the 'year' in short title of the rules should necessarily tally with the 'year' of publication as it facilitates easy referencing of the rules and their subsequent amendments. The Committee, further, note that despite their repeated

recommendations, the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have not taken care to ensure that the year in short title matches with the year of publication in the rule under reference. This clearly indicates that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have not taken the Committee's recommendations seriously. The Committee therefore, desire that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) should take such steps as necessary to ensure that errors in short title do not recur.

B. Delay in Publication of Rules

2.5 On scrutiny it has been found that the Explosives (Amendment) Rules, 2010 as per notification dated 24 January, 2011 were actually published in the extraordinary gazette on 5 February, 2011 after a delay of 12 days. In order to obviate delay in publishing of the final rules in the Extraordinary Gazette the Committee *inter-alia* recommended in para 2.11 of their 24th Report (10 Lok Sabha) that the Extraordinary Gazette which is the time bound publication and is used to publish urgent material must be printed and made available on the appointed date.

2.6 The Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide their OM No. 31/5/2008-Expl. dated 29 February, 2012 have furnished the following comments for the delay in publishing of the Rules in the Extraordinary Gazette that:

“As per the records available in the file, the Amendment Rules were sent to the Govt. Press, Mayapuri vide letter dated 31.1.2011, which was issued on 2.2.2011 and they published the Rules on 5.2.2011.”

2.7 It is seen from the comments received from the Ministry that the rules were forwarded to the press for publication on 2.2.2011 vide letter dated 31.01.2011. The Ministry have taken as many as nine days to forward the notification to the press.

2.8 The Committee note that only matters of urgent nature are to be included in the extraordinary gazette and such sensitive notifications or statutory orders of utmost urgency should be printed on the same day on which it is sent for publication. In the instant case, the Ministry of Commerce and Industry (Deptt. of Industrial Policy and Promotion) has taken nine days to forward the notification dated 24.1.2011 to the press and the press has taken another three days to publish the same. In the process, the sanctity and the purpose of publishing the notification vide extra ordinary gazette stands lost. The casual manner in which the Department has handled the matter of urgent nature is disquieting. The Committee, therefore, urge that inbuilt checks and monitoring mechanism should be evolved and coordination with Govt. of India Press improved by the Ministry of Commerce & Industry (Deptt. of Industrial Policy and Promotion) so as to ensure that no delay occurs in publishing the notifications of urgent nature, in future.

C. Delay in Gazette Notification of final Rules

2.9 As per sub-section (1) of section 188 of the Explosives Act, 1884, draft rules to amend the Explosives Rules, 2008 were published, vide notification of the Govt. of India, Ministry of Commerce & Industry (Department of Industrial Policy) dated 3 December, 2009 in the Gazette of India (Extraordinary) inviting objections/suggestions from all persons likely to be affected thereby before the expiry of the period of forty-five days.

2.10 The Committee on Subordinate Legislation with regard to the gazette notification of the draft rules seeking objections/suggestions have inter-alia recommended in para 68 of their 24th Report (7 Lok Sabha) that the final rules should be published within a period of 3 months in case of non-receipt of objections/suggestions and in cases where a large number of objections/suggestions are received, the gap should not be more than 6 months. The Committee have also stressed that these recommendations and guidelines should be observed

by the Ministry scrupulously in all such cases with a view to minimize the gap between the publication of draft rules and their final notification.

2.11 It is observed that draft rules of Explosives (Amendment) Rules, 2010 seeking objections/suggestions from all persons were notified by the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) on 03 December, 2009 and final rules were published in the Gazette of India (Extraordinary) on 5 February, 2011. There was, thus, a delay of ten months excluding the maximum time limit of three months recommended by the Committee on Subordinate Legislation for the publication of rules in final form in case of non-receipt of objections/suggestions from the public on the draft rules.

2.12 On being inquired about the reasons for delay, the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have intimated vide OM No. 31/5/2008-Expl. dated 29 February, 2012 as under:

'After obtaining the approval of MOS (C&I), the draft rules inviting suggestions/objections from the persons within 45 days were notified in the Gazette of India vide notification no. GSR 858-E dated 3 December, 2009. The same were also forwarded to PESO to give wide publicity by displaying in the PESO's website and circulating the copies to various associations and stakeholders likely to be affected thereby. PESO vide letter dated 20 September, 2010 stated that the copies of the subject Explosives (Amendment) Rules, 2010 were widely circulated to the various associations and stakeholders and same were also posted on PESO's website for objections and suggestions. No objection/suggestion was received from any person within the stipulated time of 45 days. Thereafter, the file was again referred to Legislative Department for final vetting of notification on 1.11.2010, which was returned by them on 10.11.2010. The notification was sent to Official Language Wing of Legislative Department for Hindi version on 23.11.2010. As per the record available, the final notification was sent to PESO for their concurrence on 13.12.2010. Hon'ble MOS (C&I) approved the final notification on 13.1.2011. Thereafter, it was sent to Govt. Press for publication vide letter dated 31.1.2011.'

2.13 The Committee note that the draft rules notified on 03 December, 2009 seeking objections/suggestions could have been published as final rules in the Gazette notification on

the expiry of 45 days but were notified on 05 February, 2011 after a delay of more than 10 months over and above the time limit of three months recommended by the Committee. It is seen from the reply of the Ministry that the intra-ministerial delay has been the main reason for delay in final notification in Gazette of India as draft rules were forwarded to Petroleum and Explosives Safety Organizations (PESO) for giving wide publicity to the draft rules for obtaining objections/suggestions. PESO, however, informed the Ministry on 20 September, 2010, nine months after the time limit of 45 days set by the Ministry for inviting objections/suggestions that no objections/suggestions has been received.

2.14 The Committee note from the sequence of events furnished by the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) that there was lack of coordination among various agencies in the Ministry to ensure timely notification of final rules. Had the Ministry vigorously followed up with the concerned agencies, the delay of 10 months in notification of the final rules could have been avoided. The Committee regret to note that the nodal department in the Ministry, namely Petroleum and Explosive Safety Organizations (PESO), entrusted with the task of giving wide publicity to the draft rules, contributed to the delay in publication of final rules by taking almost 10 months to intimate the Ministry that no objections/suggestions were received from public. The Ministry also cannot be absolved of their responsibility of timely publication of the final rules just because PESO delayed in intimating them on the status of objections/suggestions received. The Committee strongly recommend that the Ministry should devise suitable mechanism to check such unavoidable delays and ensure that final rules are published in time, in future.

III

Shortcoming in the Ministry of Water Resources, the Central Ground Water Board, Store Superintendent, Group 'B' Posts Recruitment Rules, 2010 (GSR 64 of 2010)

The Ministry of Water Resources, the Central Ground Water Board, Store Superintendent, Group 'B' Posts Recruitment Rules, 2010 (GSR 64 of 2010) were published in the Gazette of India, Part-II, Section 3(i) dated 10.4.2010. On scrutiny of the Rules, it was found that prescription of experience in Col. 8(1) & (2) of the Schedule to the Rules, under the Educational Qualification requirements stipulates experience in certain fields which appeared to be vague as it was not specific about the nature and type of organisations from where such experience was to be obtained.

3.2 On being pointed out, the Ministry of Water Resources vide their reply dated 3 February, 2011 stated that they have considered the matter in consultation with the Central Ground Water Board and have decided to incorporate amendments to the aforesaid provisions of the rules to make the nature and type of organisations from where the experience is to be specifically obtained. The Ministry have furnished a copy of the corrigendum containing the aforesaid specifications which have been sent for publication in the Gazette of India.

3.3 **The Committee note that the Ministry of Water Resources published Recruitment Rules (GSR 64 of 2010) for the post of Store Superintendent Group 'B' in the Central Ground Water Board on 10.04.2010. On an analysis of these Rules, it was observed that the prescription relating to experience for the above post in column '8(1) & (2)' of the Schedule to the Rules did not specify the nature and type of organisations from where such experience is required which appeared to be vague. The Committee observe that in the absence of any mention in regard to the type of organisation, the entry appeared to be susceptible to the risk of being interpreted variedly by different persons. The Committee further observe that such unspecified and vague entry, that too pertaining to**

the nature and type of organisation especially for direct recruits leaves open scope for misuse of the delegated legislation.

3.4 On being pointed out by the Committee, the Ministry furnished a copy of the proposed corrigendum to the Rules seeking to specify the nature and type of organisations from where such experience has to be obtained. The Committee, therefore, desire the Ministry should incorporate an in-built provision in such type of Recruitment Rules mentioning clearly about the nature and type of organisations from where the candidates are required to get experience for the respective post. While appreciating the prompt action taken by the Ministry to rectify the lacuna in the rules, the Committee emphasise that the Ministry should be cautious in future while framing Rules under delegated legislation and to obviate scope for such ambiguity.

New Delhi;
16 January, 2014

26 Pausa, 1935 (Saka)

P. KARUNAKARAN
Chairman,
Committee on Subordinate Legislation

APPENDIX –I

(Vide Para 4 of the Introduction of the Report)

**SUMMARY OF RECOMMENDATIONS MADE IN THE THIRTY EIGHTH REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION**

(FIFTEENTH LOK SABHA)

Sl. No.	Reference to Para No. in the Report	<u>Summary of Recommendations</u>
1	2	3
1	1.7	<p><u>Infirmities in the Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 and the Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012 notified by Ministry of Finance (Department of Revenue)</u></p> <p>The Central Board of Customs and Excise and Central Board of Direct Taxes were constituted under the Central Board of Revenue Act, 1963. The Committee note that the Act merely mentions that each Board shall consist of such number of Members of the respective Boards as the Government may think fit. However, there are no specific provisions for framing of recruitment rules for the Members of the Boards. The Ministry of Finance, (Department of Revenue), accordingly, in the absence of detailed Recruitment Rules notified, the Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 and the Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012 under Article 309 of the constitution of India. As arrangements made under Article 309 of the Constitution of India are transitory in nature to be replaced by appropriate legislation, which envisages that recruitment and conditions of service of persons appointed can be regulated under this Article until provision in that behalf is made under an Act, thereby the recruitment and the conditions of service for the officers and employees of the respective Boards should have been regulated through the Revenue Act. The Committee further note that the rules notified under the Act</p>

		<p>required to have statutory backing and should be laid on the Table of the House. The Committee therefore, observe that there is urgent need to amend the Central Board of Revenue Act, 1963 so as to incorporate the detailed provisions of recruitment/appointment rules for the posts of Chairman and Members of the Central Board of Direct Taxes and Central Board of Customs and Excise under the Act. The Committee further, recommend that the Ministry of Finance, Department of Revenue, should take necessary action for incorporating the recruitment provisions in the Act so that Central Board of Excise and Customs (Chairman and Members) Recruitment Rules, 2006 and the Central Board of Direct Taxes (Chairman and Members) Recruitment Rules, 2006 are notified expeditiously with retrospective effect.</p>
2	<p>2.4</p> <p>2.8</p>	<p><u>The Explosives (Amendment) Rules, 2010 (GSR 65-E of 2011)</u></p> <p>The Committee note that from time to time, the Committee have been emphasizing that the 'year' in short title of the rules should necessarily tally with the 'year' of publication as it facilitates easy referencing of the rules and their subsequent amendments. The Committee, further, note that despite their repeated recommendations, the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have not taken care to ensure that the year in short title matches with the year of publication in the rule under reference. This clearly indicates that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) have not taken the Committee's recommendations seriously. The Committee therefore, desire that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) should take such steps as necessary to ensure that errors in short title do not recur.</p> <p>The Committee note that only matters of urgent nature are to be included in the extraordinary gazette and such sensitive notifications or statutory orders of utmost urgency should be printed on the same day on which it is sent for publication. In the instant case, the Ministry of Commerce and Industry (Deptt. of Industrial Policy and Promotion) has taken nine days to forward the notification dated 24.1.2011 to the press and the press has taken another three days to publish the same. In the</p>

	<p style="text-align: center;">2.14</p>	<p>process, the sanctity and the purpose of publishing the notification <u>vide</u> extra ordinary gazette stands lost. The casual manner in which the Department has handled the matter of urgent nature is disquieting. The Committee, therefore, urge that inbuilt checks and monitoring mechanism should be evolved and coordination with Govt. of India Press improved by the Ministry of Commerce & Industry (Deptt. of Industrial Policy and Promotion) so as to ensure that no delay occurs in publishing the notifications of urgent nature, in future.</p> <p>The Committee note from the sequence of events furnished by the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) that there was lack of coordination among various agencies in the Ministry to ensure timely notification of final rules. Had the Ministry vigorously followed up with the concerned agencies, the delay of 10 months in notification of the final rules could have been avoided. The Committee regret to note that the nodal department in the Ministry, namely Petroleum and Explosive Safety Organizations (PESO), entrusted with the task of giving wide publicity to the draft rules, contributed to the delay in publication of final rules by taking almost 10 months to intimate the Ministry that no objections/suggestions were received from public. The Ministry also cannot be absolved of their responsibility of timely publication of the final rules just because PESO delayed in intimating them on the status of objections/suggestions received. The Committee strongly recommend that the Ministry should devise suitable mechanism to check such unavoidable delays and ensure that final rules are published in time, in future.</p>
<p style="text-align: center;">3</p>	<p style="text-align: center;">3.3</p>	<p><u>Shortcoming in the Ministry of Water Resources, the Central Ground Water Board, Store Superintendent, Group 'B' Posts Recruitment Rules, 2010 (GSR 64 of 2010)</u></p> <p>The Committee note that the Ministry of Water Resources published Recruitment Rules (GSR 64 of 2010) for the post of Store Superintendent Group 'B' in the Central Ground Water Board on 10.04.2010. On an analysis of these Rules, it was observed that the prescription relating to experience for the above post in column '8(1) & (2)' of the Schedule to the Rules did not specify the nature and type of organisations from where</p>

	<p data-bbox="418 604 464 638">3.4</p>	<p data-bbox="581 195 1481 520">such experience is required which appeared to be vague. The Committee observe that in the absence of any mention in regard to the type of organisation, the entry appeared to be susceptible to the risk of being interpreted variedly by different persons. The Committee further observe that such unspecified and vague entry, that too pertaining to the nature and type of organisation especially for direct recruits leaves open scope for misuse of the delegated legislation.</p> <p data-bbox="581 604 1481 1094">On being pointed out by the Committee, the Ministry furnished a copy of the proposed corrigendum to the Rules seeking to specify the nature and type of organisations from where such experience has to be obtained. The Committee, therefore, desire the Ministry should incorporate an in-built provision in such type of Recruitment Rules mentioning clearly about the nature and type of organisations from where the candidates are required to get experience for the respective post. While appreciating the prompt action taken by the Ministry to rectify the lacuna in the rules, the Committee emphasise that the Ministry should be cautious in future while framing Rules under delegated legislation and to obviate scope for such ambiguity.</p>
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APPENDIX-II

(Vide Para 5 of the Introduction of the Report)

MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2013-2014)

The Second sitting of the Committee (2013-14) was held on Friday, the 27th December, 2013 from 1200 to 1230 hours in Committee Room No. 62, Parliament House, New Delhi.

PRESENT

1. Shri P. Karunakaran Chairman

MEMBERS

2. Dr. Baliram
3. Shri Ramen Deka
4. Shri K. Jayaprakash Hegde
5. Dr. Mahesh Joshi
6. Shri Virender Kashyap
7. Dr. Thokchom Meinya
8. Dr. Bholu Singh

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri S.C. Chaudhary - Director

2. At the outset, the Chairman welcomed the members to the sitting of the Committee (2013-14).
3. The Committee, thereafter, considered the following memoranda:
 - (i) **Memorandum No. 57** – Infirmities in the Central Board of Excise and Customs (Chairman and Members) Amendment Rules, 2012 and the Central Board of Direct Taxes (Chairman and Members) Amendment Rules, 2012 notified by Ministry of Finance (Department of Revenue).
 - (ii) **Memorandum No. 58** – The Explosives (Amendment) Rules, 2010 (GSR 65-E of 2011).
 - (iii) **Memorandum No. 59** – Shortcoming in the Ministry of Water Resources, the Central Ground Water Board, Store Superintendent, Group 'B' Posts Recruitment Rules, 2010 (GSR 64 of 2010).
4. After deliberations, the Committee decided to incorporate the points raised in the Memoranda Nos. 57 to 59 in their Report slated to be prepared in this regard.

The Committee then adjourned.

MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2013-2014)

The Third sitting of the Committee (2013-14) was held on Thursday, the 16th January, 2014 from 1200 to 1245 hours in Committee Room No. 53, Parliament House, New Delhi.

PRESENT

1. Dr. Thokchom Meinya - In the Chair
2. Dr. Baliram
3. Shri Sansuma Khunggur Bwiswmuthiary
4. Shri K. Jayaprakash Hegde
5. Dr. Mahesh Joshi
6. Shri Virender Kashyap
7. Shri Gajendra Singh Rajukhedi
8. Dr. Bholu Singh

SECRETARIAT

1. Shri R.S. Kambo - Joint Secretary
2. Shri S.C. Chaudhary - Director

2. In the absence of Chairman, members of the Committee chose Dr. Thokchom Meinya, MP, to act as Chairman for the sitting of the Committee in terms of Rule 258(3) of Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee, then, considered the draft 'Thirty Eighth Report' and adopted the same without any modification. The Committee also authorized the Chairman to present the report to the House in the ensuing Session of Parliament.

4. XX XX XX

5. XX XX XX

The Committee then adjourned.

**Omitted portion of the Minutes are not relevant to this Report