

COMMITTEE ON SUBORDINATE LEGISLATION
(2014-2015)

(SIXTEENTH LOK SABHA)

NINTH REPORT

(PRESENTED TO LOK SABHA ON 12.8.2015)

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LOK SABHA SECRETARIAT
NEW DELHI

August, 2015 / Sravana, 1937 (Saka)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (16th LOK SABHA)
(2014-2015)

1. Shri Dilipkumar Mansukhlal Gandhi Chairperson

Members

2. Shri Idris Ali
3. Shri C. R. Chaudhary
4. Shri P. P. Chaudhary
5. Shri Shyama Charan Gupta
6. Shri Jhina Hikaka
7. Shri S. P. Muddahanumegowda
8. Shri V. Panneerselvam
9. Shri Prem Das Rai
10. Shri Chandu Lal Sahu
11. Shri Ram Prasad Sarmah
12. Adv. Narendra Keshav Sawaikar
13. Shri Ram Kumar Sharma
14. Shri Nandi Yellaiah
15. Shri Birendra Kumar Chaudhary

SECRETARIAT

1. Shri Shiv Singh - Joint Secretary
2. Shri Ajay Kumar Garg - Director
3. Smt Jagriti Tewatia - Deputy Secretary
4. Shri Rajesh Mohan - Committee Officer

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sittings held on 1.7.2015.

3. The Committee considered and adopted this Report at their sitting held on 4.8.2015.

4. For facility of reference and convenience, observations/recommendations 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. Extracts from the Minutes of the Tenth sitting of the Committee (2014-15) held on 1.7.2015 and Extracts from the Minutes of Thirteenth Sitting of the Committee (2014-15) held on 4.8.2015 relevant to this Report are included in Appendix-II of the Report.

New Delhi;
4 August, 2015
13 Sravana, 1937 (Saka)

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation

REPORT

I

The National Test House, Headquarters and Regional Offices, Multi-Tasking Staff (Technical) Group 'C' Post Recruitment Rules 2014 (GSR 215 E of 2014).

The National Test House, Headquarters and Regional Offices, Multi-Tasking Staff (Technical) Group 'C' Post Recruitment Rules 2014 (GSR 215 E of 2014) were published in the Gazette of India, Extraordinary in Part II Section 3, Sub Section (i) dated 27.3.2014. On scrutiny of the rules it was observed that under Col.7 of the Schedule appended to the Rules, the qualifications (Essential and Desirable) prescribed were 10th Pass or equivalent, with desirable experience as Lab Attendant. Besides, the Ministry has given a note wherein it was mentioned that qualifications are relaxable at the discretion of SSC. Since 10th Pass was the minimum basic qualification required for applying for any Govt. post, the note giving relaxation in qualification did not appear to be tenable. The Ministry were requested to furnish their comments in this regard.

1.2 The Ministry of Consumer Affairs, Food & Public Distribution (Department of Consumer Affairs) vide their OM dated 27 August, 2014 submitted the following reply:-

"....that the observation of the Committee has been examined and the competent authority has agreed to the observation of the Committee and an amendment to the Recruitment Rules of Multi-Tasking Staff (Technical) Group 'C' is being issued, the modified note under the Qualification (Column 7) in the schedule of Recruitment Rule would be as under:

"Note: "Desirable qualifications are relaxable at the discretion of the Staff Selection Commission in the case of the candidate otherwise well qualified"

A copy of the corrigendum issued in this regard will be sent to the Lok Sabha Secretariat for information of the Hon'ble Committee".

1.3 In Column (7) of the schedule appended to the aforesaid rules, the note stated that qualifications are relaxable at the discretion of the Staff Selection Commission in the case the candidate otherwise is well qualified. The education qualification for the post of Multitasking Staff (Technical) in the headquarters and regional offices of the National Test House included essential

qualification which is 10th class pass or equivalent pass with Science from a recognized Board. Further, desirable qualification to the above post also included the experience as Lab Attendant. However, the note with regard to the qualification was not tenable as the minimum qualification itself was 10th class pass. On being pointed out the Ministry stated that the note in column 7 pertain to the desirable qualification and corrigendum to rectify the same is being issued. The Ministry proposed to make it clear that the only desirable qualification are relaxable at the discretion of the Staff Selection Commission in the case of the candidate otherwise well qualified.

1.4 The Committee note that with regard to the educational qualification for the recruitment of Multitasking staff (Technical) in the National Test House it was mentioned that qualification were relaxable at the discretion of Staff Selection Commission for the otherwise well qualified candidates. The Committee observe that it was not clear as whether the relaxation in qualification was applicable to either essential or desirable qualification or to both. The Committee note with satisfaction that on being pointed out the Ministry have agreed to issue a corrigendum to restrict the relaxation in the qualification only in case of desirable qualification. The Committee seriously view that such lack of specificity in the rules should be avoided especially in the recruitment rules so that at later stage such issues may not make way for unnecessary litigation. The Committee, therefore, recommend that the Ministry may bring out the necessary changes in the rules to rectify the ambiguity and to be more vigilant with regard to such issues in future.

The National Centre of Organic Farming, Stenographer Grade-I, Storekeeper and Cataloguer (Group B Posts) and Laboratory Assistant (Group C Post) Recruitment Rules, 2014 (GSR 34 of 2014).

The National Centre of Organic Farming, Stenographer Grade-I, Storekeeper and Cataloguer (Group B Posts) and Laboratory Assistant (Group C Post) Recruitment Rules, 2014 (GSR 34 of 2014) were published in the Gazette of India, Extraordinary in Part II Section 3, Sub Section (i) dated 1.3.2014. On scrutiny of the Rules, following shortcomings were observed and the same were referred to the Ministry of Agriculture (Department of Agriculture and Cooperation), who were concerned with the rules, for their comments:-

(i) Post at Sl. No. 2 of the Schedule

As per entry in (ii) under Column 7 of the schedule, for the post of Store Keeper, against essential qualifications, two years experience in handling of scientific stores of some Government or *private laboratory* or factory has been prescribed. The usage of words "private laboratory" and "factory" appears to be vague in view of the fact that the applicants may procure experience certificate(s) from small unorganised or unrecognized private laboratory/factory. It would, therefore, be appropriate if some specific terminology is used to define "private laboratory" and "factory" so that only genuine candidates are considered for appointment to the post. For instance, the usage of word "factory" should be expanded to include only those establishments which are covered under the Factories Act, 1948 as amended.

(ii) Post at Sl. No. 4 of the Schedule

As per entry in (ii) under Column 7 of the schedule, for the post of Laboratory Assistant, against essential qualifications, three years experience in laboratory work in any reputed laboratory has been prescribed. The usage of word "reputed" is subjective as there could be different yardsticks for weighing an organisation as "reputed" or "not reputed". While formulating Recruitment Rules, such types of subjective words need to be avoided.

2.2 The Ministry of Agriculture (Department of Agriculture and Cooperation) vide their OM dated 26 November, 2014 have furnished following reply:

"Post at Sl. No. 2 of the Schedule

In this regard, it is submitted that prior to publication of these RRs during 01.03.2014, the rules were notified during 1985 and on the basis of experience mentioned in earlier RRs published during 1985, the same experience was kept in the RRs published during 2014. Further as suggested, the experience clause under essential qualifications can be amended as, "two years", experience in handling of scientific stores of laboratory registered under Fertiliser Control Order (FCO), 1985 or Factories Act, 1948.

Post at Sl. No. 4 of the Schedule

The word 'reputed' will be removed and essential qualifications can be amended as, 'three years experience in laboratory work in any laboratory registered under Fertiliser Control Order (FCO) 1985 or laboratory recognized by any Government Institution.'

2.3 The Committee note that in the Schedule to the National Centre of Organic Farming, Stenographer Grade-I, Storekeeper and Cataloguer (Group B Posts) and Laboratory Assistant (Group C Post) Recruitment Rules, 2014 (GSR 34 of 2014) for the post of Store Keeper, it has been prescribed that candidates should have two years experience in handling of scientific stores of some Government or private laboratory or *factory*. Similarly, for the post of Laboratory Assistant, it has been prescribed that candidates should have three years experience in laboratory work in any *reputed* laboratory. The Committee observe that the words *private laboratory or factory* and *reputed laboratory* are vague and lacks clarity in their nomenclature and are prone to varied interpretations. The Committee may, however, note with satisfaction that on being pointed out, the Ministry have agreed to amend the rules. According to the amendments proposed by the Ministry, for the post of store keeper, the experience has been prescribed from any laboratory registered under Fertiliser Control Order (FCO), 1985 or Factories Act, 1948. Further, on the same analogy, for the post of laboratory assistant, the experience is to be considered from laboratory registered under Fertiliser Control Order (FCO) 1985 or laboratory recognized by any Government Institution. The Committee opine that words or expressions which are likely to have different interpretations have direct bearing on the selection process and it leaves the

scope for different types of vices to vitiate the entire recruitment process in itself. The Committee therefore, recommend that the Ministry may bring out the necessary amendment at the earliest and be more cautious in future so that the such lapses do not recur.

III

Ministry of Defence, Department of Defence Research & Development, Advanced Technology Vessels Programme, Multi Tasking Staff (Group 'C' post) Recruitment Rules, 2013 (SRO 47 of 2013).

The Ministry of Defence, Department of Defence Research & Development, Advanced Technology Vessels Programme, Multi Tasking Staff (Group 'C' post) Recruitment Rules, 2013 (SRO 47 of 2013) were published in the Gazette of India, Extraordinary in Part II Section 4 dated July 13, 2013. On scrutiny of rules, it was observed that the composition of Group 'C' Departmental Promotion Committee (for considering confirmation) mentioned under Column (12) of the Schedule was not in accordance with DOPT guidelines. The Ministry of Defence vide this Secretariat OM No. 38/11(7)/COSL/2013 dated 28 November, 2013 were requested to furnish their comments in the matter.

3.2 The Ministry of Defence (Department of Defence R&D) vide their Letter No. 1/A/002/01/ATVP/Pers dated 26 December, 2013 furnished their reply as under:-

"The 6th CPC recommended that all Group 'D' posts in Government will stand upgraded to Group 'C', PB-1 with Grade Pay of Rs. 1800/- with minimum qualification of either 10th pass or ITI equivalent and common designation of Multi-tasking staff (MTS). Accordingly, DOPT published Model Recruitment Rules for Group 'C' posts in PB-1 with Grade Pay of Rs. 1800/- (pre-revised Group 'D' posts) vide its OM No. AB-14017/6/2009-Estt(RR) dated 30 April, 2010.

In compliance with DOPT OM No. AB-14017/6/2009-Estt(RR) dated 30 April, 2010, a proposal was initiated for suitable amendment of Recruitment Rules to redesignate the pre-revised posts of Daftry, Peon and Safaiwala to Multi-tasking Staff (MTS) in PB-1 with Grade Pay of Rs. 1800/-. After obtaining approval of the Competent Authority, the proposal was sent to Ministry of Law and Justice (Legislative Section) for vetting before publication of the same in the Gazette of India. Approved/vetted Recruitment Rules were published vide SRO 47 of 2013 in Gazette of India, Part-II, Section 4 dated 13 July, 2013.

The Model Recruitment Rules for Group 'C' Posts in PB-1 with Grade Pay of Rs. 1800/- (pre-revised Group 'D' posts) have been complied with. ATV Programme has as its unit establishments like Ship Building Centre (Visakhapatnam), DMD Establishment

(Secunderabad), Overseeing Team (North Yard), Visakhapatnam, Overseeing Team (Hazira), Officers and Staff who work for this Programme are from Army, Navy, AFHQ, DRDO, CGDA and ATVP. It is further stated that as on date the DPCs being conducted in any one of the stated centres, for Group 'C' posts (MTS) in PB-1 are with the following composition.

- (a) Two members from the Station/Unit where the DPC is conducted.
- (b) One Member is from any of the other Work Centres/HQ ATVP and not from the service for which the DPC is being conducted.

In view of the above, it is understood that the SRO 47 of 2013 is in compliance with the model RRs as provided vide DOPT OM No. AB-14017/6/2009-Estt(RR) dated 30 April, 2010”

3.3 In view of the above reply, the Ministry were again requested to state whether they have any difficulty in issuing a corrigendum clarifying the composition of Group 'C' DPC (for considering confirmation) as mentioned under column 12 of the schedule.

3.4 The Ministry vide their communication dated 27 June, 2014 stated as follows:-

“ATV Programme is a National project of strategic importance comprising of a Headquarter and Work Centres as stated under:-

- (i) HQ ATVP, New Delhi
- (ii) Ship Building Centre, Visakhapatnam
- (iii) DMD Establishment, Securanadabad
- (iv) Overseeing Team, Hazira

(b) The OFFICERS posted at ATV Programme are not from any specific Cadre but drawn from different Cadres under different Defence establishments as under:-

	Cadre	Cadre Controlling Authority
(i)	Service personnel	Indian Navy/Indian Army
(ii)	Jr. Director /Dy. Director/SO (AFHO Civil Service)	O/o JS (Trg) & CAO, Ministry of Defence
(iii)	Nava Store Officer/Editor (R/E)/ Junior Design Officer	Integrated Headquarters Ministry of Defence (Navy)

(iv)	Scientists	Defence Research and Development Organisation (DRDO)
(v)	Accounts Officer	Controller General Defence Accounts

(c) There are 49 authorized posts of Multi Tasking Staff (MTS) of ATVP Cadre at HQ ATVP, New Delhi and DMD Establishment, Secundrabad. MTS in PB-1 with Grade Pay of Rs. 1800/- is the lowest grade post and is filled up by direct recruitment only. No promotion is involved in the grade of MTS. Hence, composition of Departmental Promotion Committee under Col. 12 of RRs of Multi Tasking Staff (MTS) is for considering confirmation in service for the direct recruits in the same grade only and not for considering any promotion in the grade of MTS.

(d) Induction of 49 authorized posts of MTS for HQ ATVP and DMDE was undertaken. This was a lowest grade recruitment in PB – 1 /GP Rs. 1800/- and there is no avenue for promotion from this grade. So a review DPC is not a requirement.

(e) The process undertaken was induction & confirmation of MTS and the outside members for this DPC meant outside of the location where DPC was held.

(f) However, if is considered essential, RRs can be amended and it will be categorically mentioned that the outside member has to be from a work centre / HQ other than where the recruitment / confirmation is taking place for the MTS."

3.5 On scrutiny of the Ministry of Defence, Department of Defence Research & Development, Advanced Technology Vessels Programme, Multi Tasking Staff (Group 'C' post) Recruitment Rules, 2013 (SRO 47 of 2013), it was observed that the composition of Group 'C' Departmental Promotion Committee (for considering confirmation) mentioned under Column (12) of the Schedule lacked clarity which was also in contravention of the DoPT guidelines. The clarification was sought from the Ministry in which they have stated that the outside member in the departmental promotion committee existed in the rules but the same has not been explicitly mentioned. The Ministry have stated that RRs can be amended and it will be categorically mentioned in the RR that the outside member has to be from a Work Centre / HQ other than where the recruitment / confirmation is taking place for the MTS.

3.6 The Committee note that composition of Group 'C' Departmental Promotion Committee (DPC) for considering confirmation as prescribed under Column 12 of the Schedule was vague. This vagueness and uncertainty in Rules is bound to prejudicially affect the administration of justice by the rule-making authority. The Committee envisage that there could be ignorable errors in the rule-making process. However, these errors may prove detrimental to the career advancement of persons with no quick remedy except approaching the already over-burdened Courts/Administrative Tribunals. It is, therefore, required that rule-making process should be dealt with by persons of proven experience and expertise in view of the fact that it may not be feasible for a person of ordinary experience to deal with such subjects with legal accuracy. Nevertheless, the Committee note with satisfaction that on being pointed out, the Ministry have agreed to amend the relevant provision of the Recruitment Rules by inserting that outside member has to be drawn from a Work Centre/HQ other than where the recruitment/confirmation is taking place for Multi-Tasking Staff (MTS). The Committee, therefore, recommend that the Ministry should devise an efficient mechanism and exercise utmost care while drafting rules in future. The Committee also urge the Ministry to bring out the amendment at the earliest.

New Delhi:
4 August, 2015
13 Sravana, 1937 (Saka)

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation

APPENDIX I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE NINTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTEENTH LOK SABHA)

Sl.No.	Reference to Para No. in the Report	Summary of Recommendations
1	1.4	<p>The National Test House, Headquarters and Regional Offices, Multi-Tasking Staff (Technical) Group 'C' Post Recruitment Rules 2014 (GSR 215 E of 2014).</p> <p>The Committee note that with regard to the educational qualification for the recruitment of Multitasking staff (Technical) in the National Test House it was mentioned that qualification were relaxable at the discretion of Staff Selection Commission for the otherwise well qualified candidates. The Committee observe that it was not clear as whether the relaxation in qualification was applicable to either essential or desirable qualification or to both. The Committee note with satisfaction that on being pointed out the Ministry have agreed to issue a corrigendum to restrict the relaxation in the qualification only in case of desirable qualification. The Committee seriously view that such lack of specificity in the rules should be avoided especially in the recruitment rules so that at later stage such issues may not make way for unnecessary litigation. The Committee, therefore, recommend that the Ministry may bring out the necessary changes in the rules to rectify the ambiguity and to be more vigilant with regard to such issues in future.</p>
2	2.3	<p>The National Centre of Organic Farming, Stenographer Grade-I, Storekeeper and Cataloguer (Group B Posts) and Laboratory Assistant (Group C Post) Recruitment Rules, 2014 (GSR 34 of 2014).</p> <p>The Committee note that in the Schedule to the National Centre of Organic Farming, Stenographer Grade-I, Storekeeper and Cataloguer (Group B Posts) and Laboratory Assistant (Group C Post) Recruitment Rules, 2014 (GSR 34 of 2014) for</p>

		<p>the post of Store Keeper, it has been prescribed that candidates should have two years experience in handling of scientific stores of some Government or private laboratory or factory. Similarly, for the post of Laboratory Assistant, it has been prescribed that candidates should have three years experience in laboratory work in any <i>reputed</i> laboratory. The Committee observe that the words <i>private laboratory or factory</i> and <i>reputed laboratory</i> are vague and lacks clarity in their nomenclature and are prone to varied interpretations. The Committee may, however, note with satisfaction that on being pointed out, the Ministry have agreed to amend the rules. According to the amendments proposed by the Ministry, for the post of store keeper, the experience has been prescribed from any laboratory registered under Fertiliser Control Order (FCO), 1985 or Factories Act, 1948. Further, on the same analogy, for the post of laboratory assistant, the experience is to be considered from laboratory registered under Fertiliser Control Order (FCO) 1985 or laboratory recognized by any Government Institution. The Committee opine that words or expressions which are likely to have different interpretations have direct bearing on the selection process and it leaves the scope for different types of vices to vitiate the entire recruitment process in itself. The Committee therefore, recommend that the Ministry may bring out the necessary amendment at the earliest and be more cautious in future so that the such lapses do not recur.</p>
3	3.6	<p>Ministry of Defence, Department of Defence Research & Development, Advanced Technology Vessels Programme, Multi Tasking Staff (Group 'C' post) Recruitment Rules, 2013 (SRO 47 of 2013)</p> <p>The Committee note that composition of Group 'C' Departmental Promotion Committee (DPC) for considering confirmation as prescribed under Column 12 of the Schedule was vague. This vagueness and uncertainty in Rules is bound to prejudicially affect the administration of justice by the rule-making authority. The Committee envisage that there could be ignorable errors in the rule-making process. However, these errors may prove detrimental to the career advancement of persons with no quick remedy except approaching the already over-burdened Courts/Administrative Tribunals. It is, therefore, required that rule-making process should be dealt</p>

		<p>with by persons of proven experience and expertise in view of the fact that it may not be feasible for a person of ordinary experience to deal with such subjects with legal accuracy. Nevertheless, the Committee note with satisfaction that on being pointed out, the Ministry have agreed to amend the relevant provision of the Recruitment Rules by inserting that outside member has to be drawn from a Work Centre/HQ other than where the recruitment/confirmation is taking place for Multi-Tasking Staff (MTS). The Committee, therefore, recommend that the Ministry should devise an efficient mechanism and exercise utmost care while drafting rules in future. The Committee also urge the Ministry to bring out the amendment at the earliest.</p>
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APPENDIX II

(Vide Para 5 of the Introduction of the Report)

MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2014-2015)

The tenth sitting of the Committee (2014-15) was held on Wednesday, the 1st July, 2015 from 1500 to 1545 hours in Committee Room No. 62, Parliament House, New Delhi.

PRESENT

1. Shri Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

2. Shri Idris Ali
3. Shri P.P. Chaudhary
4. Shri Shyama Charan Gupta
5. Shri S.P. Muddahanume Gowda
6. Shri Chandulal Sahu
7. Shri Ram Prasad Sarmah
8. Adv. Narendra Keshav Sawaikar
9. Shri Nandi Yellaiah
10. Shri Birendra Kumar Chaudhary

SECRETARIAT

Smt. Jagriti Tewatia - Deputy Secretary

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee (2014-15). The Committee, thereafter, considered the following Memoranda:-

- (i) **Memorandum No. 17** – The National Test House, Headquarters and Regional Offices Multi-tasking Staff (Technical) Group 'C' Post Recruitment Rules, 2014 (GSR 215-E of 2014).
- (ii) **Memorandum No. 18** – The National Centre for Organic Farming, Stenographer Grade-I, Storekeeper and Cataloguer (Group B Posts) and Laboratory Assistants (Group B Posts) and Laboratory Assistant (Group C Posts) Recruitment Rules, 2014 (GSR 34 of 2014).

(iii) **Memorandum No. 19** – The Ministry of Defence, Department of Defence Research and Development, Advanced Technology Vessel Programme Multi Tasking Staff (Group 'C' Post) Recruitment Rules, 2013 (SRO 47 of 2013).

3. After deliberations, the Committee decided to incorporate the points raised in the Memoranda Nos. 17 to 19 in their Report to be formulated in this regard.

The Committee then adjourned.

EXTRACTS FROM MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2014-2015)

The Thirteenth sitting of the Committee (2014-15) was held on Tuesday, the 4th August, 2015 from 1500 to 1630 hours in Committee Room No. 62, Parliament House, New Delhi.

PRESENT

1. Shri Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

2. Shri C.R. Chaudhary
3. Shri P.P. Chaudhary
4. Shri Jhina Hikaka
5. Shri Chandulal Sahu
6. Shri Ram Prasad Sarmah
7. Adv. Narendra Keshav Sawaikar
8. Shri Birendra Kumar Chaudhary

SECRETARIAT

1. Shri Ajay Kumar Garg - Director
2. Smt. Jagriti Tewatia - Deputy Secretary

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7. The Committee, thereafter, considered and adopted the draft 'Sixth, Seventh, Eighth and Ninth Reports' of the Committee without any modification. The Committee also authorised the Chairperson to present these reports to the House.

8. XX XX XX XX

The Committee then adjourned.

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