

**COMMITTEE ON SUBORDINATE
LEGISLATION**

(TENTH LOK SABHA)

NINETEENTH REPORT

[Presented on 9th May, 1995]



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**LOK SABHA SECRETARIAT
NEW DELHI**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1995-96)**

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2. Smt. Roli Srivastava — *Joint Secretary*
3. Shri P.D.T. Achary — *Director*
4. Shri Ram Autar Ram — *Deputy Secretary*

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sitting held on 6 March, 1995.

3. The Committee considered and adopted this Report at their sitting held on 13th May, 1995. 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;
April, 1995

AMAL DATTA
Chairman,
Committee on Subordinate Legislation.

REPORT

I

THE PORT OF BOMBAY, PILOTAGE, TUG ASSISTANCE, TOWAGE, MOORING AND OTHER SERVICES FEES ORDER, 1992 (GSR 405-E of 1992)

(A)

The Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 (GSR 405-E of 1992) was published in the Gazette of India: Extraordinary, Part-II, Section (i) dated 3 April, 1992. The Preamble to the said order read as under:

"In exercise of the powers conferred by sub-Section (1) of Section 35 of the Indian Ports Act, 1908 (15 of 1908) and Section 52 of the Major Port Trusts Act, 1963 (38 of 1963) and in supersession of all previous notifications on the subject, the Central Government hereby makes the following order, for regulating the levy of fees for pilotage, Tug Assistance, Towage, Mooring and other Services in the port of Bombay namely..."

1.2. The Preamble had the following discrepancies:

- (i) It was observed from the Preamble that the Fees Order was promulgated by the Central Government and hence did not attract the provisions of Section 52 of the Major Port Trusts Act as this Section was applicable only in the cases where the Port Trust Board were to frame the Order with the sanction of the Central Government to publish it in the official gazette. Therefore, the citation of section 52 of the Major Port Trusts Act, in the Preamble seemed redundant and needed to be omitted.
- (ii) It was further observed that the wordings "in supersession of all previous notifications" contained in the Preamble were vague as it did not give sufficient clue as to what notifications had actually been superseded by the extant Fees Order. It was felt that the Government must indicate the full particulars e.g. short title etc. of the previous notification sought to be superseded

1.3. Accordingly, the matter was referred to the concerned Ministry of Surface Transport for eliciting their comments in this regard. In their reply dated 30 August, 1994, the Ministry forwarded a copy of the notification published as GSR 568-E in the Gazette of India: Extraordinary, Part II, Section 3(i) dated 11 July, 1994 containing the requisite amendments in the Preamble. The Amendment notification read as under:

"In the Preamble of the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 (hereinafter referred to as the said Order), the words, figures and brackets "and section 52 of the Major Port Trusts Act, 1963 (38 of 1963)" shall be omitted and for the words "all previous notifications on the subject", the words and figures "the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1991," shall be substituted."

1.4 The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have brought out an amendment notification *vide* GSR 568-E of 1994 carrying out the requisite amendment to the Preamble of the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 by deleting the citation of Section 52 of the Major Port Trusts Act, 1963 from the Preamble as it was redundant. The amendment notification has also substituted the wordings 'the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1991' for the wordings 'all previous notifications on the subject' to do away with the element of vagueness. The Committee, however, desire that the Ministry of Surface Transport should be more watchful in future while notifying statutory orders to prevent recurrence of such lapses.

(B)

1.5 Clause 16 of the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 read as under:—

"16. *Interpretation:*

If any question arises relating to the interpretation of these Rules, the Chairman's decision thereon shall be final."

1.6 The expression 'the decision of the Chairman shall be final' was apt to give an impression in the minds of the general public that the jurisdiction of law courts were being ousted, which could never be the intention of any subordinate legislation. The matter was taken up with the concerned Ministry of Surface Transport and their attention were invited to the following observations of the Committee:

"The Committee desire that if it is considered necessary to retain an interpretation clause in the rules, the clause should be worded on the lines of regulation 24 of the Kandla Port employees' (Allotment of Residence) Regulations, 1964 which reads as under:

24. *Interpretation of regulations:* If any question arises as to the interpretation of these regulations, the same shall be decided by the Board. (Fourth Report of the Committee on Subordinate Legislation, Tenth Lok Sabha)."

1.7 In their reply dated 30 August, 1994, the Ministry forwarded a copy of the notification published as GSR 568-E in the Gazette of India: Extraordinary, Part II, Section 3 (i) dated 11 July, 1994 containing the requisite amendment in the interpretation clause, which read as under:

"16. Interpretation:

If any question arises as to the interpretation of this order the same shall be decided by the Board."

1.8 The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have since amended clause 16 of the Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 *vide* GSR No. 568-E published in the official gazette dated 11 July, 1994 by deleting the wordings 'the decision of the Chairman shall be final' so that the impression is not created in the minds of the general public that jurisdiction of law courts are being ousted.

II

THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) RULES, 1993

(S.O. 599-E of 1993)

2.1 The Narcotics Drugs and Psychotropic Substances (Amendment) Rules, 1993 were published in the Gazette of India: Extraordinary, Part II, Section 3 (ii) dated 10 August, 1993. It was observed therefrom that the notification did not contain the usual foot note indicating the particulars of publication of the Principal Rules and the subsequent amendments made thereto for facility of reference. A reference was accordingly made to the Ministry of Finance to ascertain whether they had issued any corrigendum to rectify the errors in the Amendment Rules. In their reply dated 13 April, 1994, the Ministry of Finance (Department of Revenue) stated as under:—

“.... that the Notification No. 599-E of 10.8.1993 was published in the Gazette of India after it was duly vetted by the Legislative Department of the Ministry of Law. That department did not suggest such a foot note. However, action has been initiated to issue a corrigendum in this regard. Copy of the corrigendum will be sent to the Lok Sabha Secretariat as soon as it is published in the Gazette.”

2.2 In a subsequent reply dated 6 May, 1994, the Ministry have forwarded a printed copy of the corrigendum vide S.O. 342-E published in the Gazette of India dated 29 April, 1994 wherein they have incorporated the foot note at the end of the notification to indicate the particulars of the Principal Rules and the subsequent amendments made thereto.

2.3 The Committee note that the instances of omission of foot note continue to occur despite categorical directives of the Committee in this regard. The Committee also note that on being pointed out, the Ministry of Finance have since notified the requisite corrigendum vide S.O. 342-E dated 29 April, 1994 by incorporating the usual foot note indicating the particulars of the publication of Principal Rules and the subsequent amendment made thereto.

2.4 The Committee desire that the Ministry should evolve suitable safeguards against recurrence of such lapses in future.

III

THE CENTRAL CIVIL SERVICES (PENSION) THIRD AMENDMENT RULES, 1992 (GSR 570 OF 1992)

3.1 The Central Civil Services (Pension) Third Amendment Rules, 1992 were published in the Gazette of India, Part II, Section 3(i) dated 19 December, 1992. It was observed from the foot note appended to the amendment rules that the principal rules and some of the subsequent amendments (S. No. 1 to 11 of the table in foot note) were published under S.O. numbers whereas the extent amendments viz. the third amendment of 1992 has been published under GSR. Normally, for the sake of uniformity and easy reference, the amendment notifications should be published under the same part of the gazette in which the principal rules were published. Besides, with respect to the rest of the amendments, (S. Nos. 12 to 16 of the Table) references have been made in terms of ministerial file number instead of the usual GSR/SO numbers. The matter was referred to the concerned Ministry of Personnel, Public Grievances and Pensions for ascertaining the reasons for deviation from the normal practice. In their reply dated 30 November, 1993, the Ministry stated as under:—

“.....the notification was sent for publication under S.O. number but the same was published under GSR. The matter is being looked into as to how it was done.”

3.2. In yet another communication dated 26 September, 1994, the Ministry further stated as under:—

“....the point raised by the Lok Sabha Secretariat has been carefully examined in this Department. This Department's Notification No. 43/4/92-P&WD (G) dated 27.11.1992 has been published under sub-section (i) of Section 3 of Part II of the Gazette of India by mistake whereas this was required to be published under sub-section (ii) of Section (3) The point made by the Lok Sabha Secretariat has been noted.

As regards S. Nos. 12 to 16 of the Table, it may be stated that presumably this was done as the GSR Nos. may not have been readily available. We are taking action to collect the GSR/SO numbers in respect of these notification to avoid recurrence of such deviation in future.

3.3. The Committee are not satisfied with the reply of the Ministry that the references were made under the Ministerial file number due to non-availability of the GSR/SO numbers and desired the Ministry to publish fresh notifications in supersession of the earlier rules.

3.4 The Committee also desire that all notifications whether principal orders or amending orders should be published under one head viz. GSR or S.O.

IV

THE CENTRAL ADMINISTRATIVE TRIBUNAL (GROUP 'B' AND 'C' MISCELLANEOUS POSTS) AMENDMENT RULES, 1994 (GSR 773-E OF 1994)

4.1 The Central Administrative Tribunal (Group 'B' and 'C' Miscellaneous Posts) Amendment Rules, 1994 were published in the Gazette of India, Part-II, Section 3(i), dated 25 October, 1994.. It was observed therefrom that the notification did not contain the usual footnote indicating the particulars of the principal rules and the subsequent amendments made thereto for facility of reference. In this connection, attention of the Ministry of Personnel, Public Grievances and Pensions was invited to the observation of the Committee on Subordinate Legislation made in para 45 of their Third Report (First Lok Sabha), namely—

“The Committee felt that it was very difficult to trace back the amendments made in the rules in past. On finding out an amendment, one could not know when the last amendment was made and when was it published. In order to remove this difficulty the Committee recommend that whenever any amendment in the rules is made, the S.R.O. numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment.”

4.2 The Ministry were requested to furnish their comments in the matter and to state whether they had any objection to issuing a corrigendum to the notification to the necessary effect. In their reply dated 3 February, 1995, the Ministry stated as under:—

“.....that this Department had sent the above notification for publication in the gazette complete in all respect, including the foot-note. However, inadvertently the press had printed the foot-note only in Hindi version and it was not printed in the English version.

Necessary steps are being taken to issue a corrigendum in this regard.”

4.3 The Committee are not satisfied with the reply of the Ministry with regard to incorporation of the foot-note to the amendment rules and desire that the Ministry should take immediate steps to examine and see if the notifications sent by them to the Press for Publication have been printed correctly. If so considered necessary the Ministry should issue necessary corrigenda and send printed copies of the rules together with the corrigenda to the Lok Sabha Secretariat.

ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE

Under Direction 108 (1) by the Speaker, the Ministries are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations made by the Committee in their reports. With a view to ensuring speedy implementation of their recommendations, the Committee, in paragraph 93 of their Sixteenth Report (Fifth Lok Sabha), had fixed a time-limit of six months within which the Ministries/Departments should implement their recommendations. If in any particular case it had not been possible to adhere to this time-limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendation. Still the cases of delay continue to occur. The Committee cannot but stress again that the Ministries concerned should evolved suitable measures to streamline their procedure in order that the recommendations emanating from the Committee are implemented within the maximum time-limit of six months laid down by them.

NEW DELHI;
April, 1995
 Chaira 1917 (Saka)

AMAL DATTA,
 Chairman,
 Committee on Subordinate Legislation.

COMMITTEE BRANCH II

[Vide paragraph 5.1 of the Report]

Statement showing the Action Taken by Government on the recommendations of the Committee on Subordinate Legislation.

S. No.	Reference to para Nos. of Report	Summary of Recommendations/ Assurances	Gist of Government's reply
1	2	3	4
1.	SECOND REPORT (TENTH LOK SABHA) (Presented on 11.5.1992) 7 & 8	(1) The Department of Atomic Energy (Under Secretary) Recruitment (Amendment) Rules, 1991 (GSR 208 of 1991); (2) The Department of Atomic Energy (Administrative Officer-II) Recruitment Rules, 1991 (GSR 209 of 1991); (3) The Department of Atomic Energy (Accounts officer) Recruitment Rules, 1991 (GSR 210 of 1991); (4) The Department of Atomic Energy (Labour-cum-Welfare Officer/Welfare Officer) Recruitment Rules, 1991 (GSR 211 of 1991); and (5) The Department of Atomic Energy (Public Relations/Publicity Assistant) Recruitment Rules, 1991 (GSR 212 of 1991) 7. The Committee note that six notifications containing statutory rules/amendment rules governing recruitment to the posts of Under Secretary, Administrative Officer II, Accounts Officer, Labour-cum-Welfare Officer/Welfare Officer, Public Relations/Publicity Assistant and Senior Clerk in the Department of Atomic Energy were sent to the Government of India Press for publication in the official Gazette. Each such notification	The Ministry have since issued the necessary instructions to the Government of India Press to the effect that each notification should be printed with name and designation of the signatory/issuing authority (Ministry of Urban Development O.M. No. H-11013/1/92-Ptg. dt. 14.9.1992)

separately bore the name and official designation of the officer under whose signature it was being notified with distinct file reference. However, while printing the notifications in the Gazette of India dated 30 March, 1991, the Government of India Press omitted the name and designation from first five notifications excepting the last one. The Committee observe that it has become a practice with the Government of India Press that if a number of notifications are signed by the same signatory, the name and designation to be notified are printed at the end by the Press and not below each notification. As result of this practice, a number of statutory notifications were being printed in the gazette without mentioning the name designation of the signatory officer in each case.

8. The Committee would like to emphasize that each notification that goes for publication in the gazette is a statutory instrument brought out under the powers of delegated legislation. Therefore, such a notification even though published alongwith other similar notifications in a series and signed by the same signatory ought to be self-contained and should inevitably bear the name and designation of the signatory officer below it with the necessary file reference etc. In cases where the name and designation of the signatory officer are not printed, it is likely to raise doubt in the mind of the public as to whether or not the officer named elsewhere below some other notification in a series has actually authorised the issue of all the earlier ones. The Committee, therefore, recommend that be it a single notification or several such

notifications put together, each notification must be identified as a compact unit and duly authorised by the signatory officer, for the sake of uniformity of procedure and to obviate any doubt in the mind of general public as to its validity or otherwise. The Committee hope that the Ministry of Urban Development would issue necessary instructions in the matter to the Government of India Press for compliance in future.

*The Exports (Control)
Seventh
Amendment Order, 1991
(S.O. 381-E of 1991)*

2. 13 On being pointed out, the Ministry of Commerce issued an amending notification to rectify the error that had crept in the short title to the Exports (Control) Seventh Amendment Order, 1991. The Committee, however, regret to note that even the notification which was intended to rectify an already existing error, contained several informities of various description in its formulation. The Committee cannot help observing that this is simply illustrative of the scant attention being paid by the Ministry to the formulation and notification of statutory orders. It need hardly be stressed that Exports (Control) Orders are important pieces of Subordinate Legislation having a vital bearing on the public. The Committee desire the Ministry to evolve necessary checks and measures to ensure that each notification that goes to the Press must be scrupulously scrutinised at a sufficient senior level to obviate any inaccuracies whatsoever. Further, they should not rest content with merely sending the notifications to the Press.
- Mistakes/discrepancies have been noted, and proper care will be taken in future while issuing an amendment notification in the Gazette of India.
[Ministry of Commerce O.M. No. 6(36)/90/E-1/600 dated 4-8-1992]

Instead they should ensure that the notifications are duly and correctly published in the gazette. The Committee expect the Ministry to be even watchful and streamline their procedure to obviate recurrence of such lapses.

The All India Radio (Group 'C' Posts) Recruitment (Amendment) Rules, 1991 (GSR 342 of 1991)

3. 22

The Committee find that the incumbents working against the post of Technician in the All India Radio have been possessing the revised pay-scale of Rs. 1200-1800 with effect from 1 January, 1986 whereas the amendment notification incorporating the revised pay-scale has come into effect on 1 June, 1991 i.e. the date of its publication in the official gazette. As a result, the statutory rules depicted a grossly deceptive version of things with regard to the pay-scale of the Technician prior to 1 June, 1991. In this connection, the Committee are constrained to observe that the Ministry of Information and Broadcasting had shown no inclination to rectify the error that had crept in the recruitment rules while issuing an amendment notification in June, 1991. The Committee recommend that the Ministry should amend the All India Radio. (Group 'C' Posts) Recruitment Rules so as to make them in conformity with the actual facts. The amendment notification should as well be accompanied by the requisite explanatory note indicating the reasons for such lapse. The Committee further desire the Ministry to take stock of the recruitment rules governing other posts under their administrative control and bring forth similar amendments wherever such lacunae exist

The Ministry of Information and Broadcasting have accordingly issued an amendment notification vide Gazette of India notification No. GSR 482 dated 2-10-1993.

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	<p>FOURTH REPORT (TENTH LOK SABHA) (Presented on 14.7.1992)</p>	<p>clarifying that the revised pay-scales had come into effect from 1 January, 1986.</p> <p><i>The India Security Press and Currency Note Press (Draftsman and Tracer) Recruitment Rules, 1991 (GSR 204 of 1991)</i></p>	
<p>4. 2.2-2.3</p>		<p>2.2 The Committee note that the Ministry of Finance (Department of Economic Affairs) have agreed to amend the Schedule appended to the India Security Press and Currency Note Press (Draftsman and Tracer) Recruitment rules to describe the entry in Column 5 against the post of Tracer to read as 'Not Applicable' instead of 'Selection' so as to put the provisions in order. The Committee desire the Ministry to do the needful at the earliest.</p> <p>2.3 In this connection, the Committee are constrained to observe that had the Ministry taken due care of the instructions issued by the then Department of Personnel and Administrative Reforms as early as in 1979, such infirmities in the recruitment rules could have been averted in time. This is simply illustrative of the casual approach with which the statutory rules are dealt with in the Ministry. The Committee need hardly point out that the statutory rules ought to be finalised with utmost care and caution at all levels in the Ministry.</p> <p><i>The Mormugao Port Employees' (Leave Travel Concession) (Second Amendment) Regulations, 1990</i></p>	<p>The Ministry of Finance have since amended the India Security Press and Currency Note Press (Draftsman and Tracer) Recruitment Rules, 1991 to the desired effect vide Gazette of India Notification No. GSR. 136 dated 13.3.93.</p>
<p>6.2-6.6 and 6.5-6.6</p>		<p>6.2 The Committee observe it is a well-accepted practice that short title to rules, regulations, bye-laws etc. should bear the year in which they are published and not</p>	<p>The Ministry of Surface Transport have since issued a corrigenda to the desired effect vide Gazette of India notification No. GSR 837E dated 16.11.1992.</p>

some other year. Indication of incorrect year in the short title might cause difficulty in location of the 'order'. The Committee have time and again impressed the need for indicating the correct year in the short title. Some observations of the Committee made in paras 27-28 of their Fifth Report (Fifth Lok Sabha) to this end were circulated to all Ministries/Departments as early as in January, 1974 by the Ministry of Law and Justice. Hence, the plea advanced by the Ministry of Surface Transport for not changing the year in the short title because the proposal was approved by the Board later in January, 1991, is not at all tenable.

6.3 The Committee note that the Ministry have now agreed to issue a corrigendum to rectify the error in the short title to the regulations. Still the fact remains that if they would have exercised due vigilance in this regard, the error could have been avoided. The Committee desire the Ministry to notify the requisite corrigendum at the earliest and also take other remedial steps so as to avoid recurrence of such lapses.

6.5 The Committee observe that the purpose of indicating amendment number in the short title to the amending rules, regulations, etc. notified during a calendar year is mainly to facilitate easy referencing of such amendments made from time to time. Otherwise, it may often turn out to be a cumbersome exercise for anyone to trace out as to how many other amendments have already taken place. On the other hand, if an amendment 'Order' contains a wrong or

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incorrect serial number as to the amendments made, the very purpose of assigning serial numbers may be defeated in as much as it may lead to confusion in the mind of the concerned public in tracing back the previous amendments.

6.6 The Committee note that in the instant case, the first amendment was inadvertently mentioned as the second amendment. This might lead the public to believe that some earlier amendment had also taken effect whereas the same did never exist. Thus, instead of helping easy referencing, the erroneous serial number would mislead the people. The Committee note that the Ministry of Surface Transport have attributed the error to inadvertence and agreed to issue a corrigendum. The Committee desire the Ministry to streamline their procedure with a view to exercise more vigilance in the matter of framing statutory 'Orders' in future so that the errors of the like nature are detected and remedied in time before such instruments are publicised in the gazette.

Amendment to Visakhapatnam Fishing Harbour Regulations, 1986

6.	7.3, 7.6-7.7, 7.9-7.10	7.3 The Committee note that the Amendment to Visakhapatnam Fishing Harbour Regulations, 1986 was deficient in respect of certain essential attributes of Subordinate Legislation like short title, date of commencement and the usual foot-note at the end. On being pointed out, the Ministry of Surface Transport have indicated that they have no objection to carry out the amendments	The necessary amendments in the Visakhapatnam Fishing Harbour Regulations, 1986 have been made vide Gazette of India Notification No. GSR 671 E dated 26 September, 1994.
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suggested by the Committee. The Committee desire the Ministry to process the matter expeditiously in consultation with the Ministry of Law and Justice with a view to remove the infirmities that have crept into the regulations. The Committee also direct the Ministry to take suitable remedial steps so that such lapses do not recur in future.

7.6 The Committee note that the Visakhapatnam Fishing Harbour Regulations, 1986 were formulated in exercise of the powers conferred under section 123 of the Major Port Trusts Act, 1963. In their reply, the Ministry of Surface Transport have conceded that there are no explicit powers conferred on the Port Trust Board to raise security deposits under the Major Port Trusts Act. The Ministry have also not indicated the source of any implied power either enabling the Port Trust to raise such deposits.

7.7 The Committee find that regulation VI of the Visakhapatnam Fishing Harbour Regulations not only makes provision for raising substantial amounts ranging from Rs. 500/- to Rs. 20,000/- from the owners of the fishing Trawlers/Vessels/Boats as security deposits but it also lays down for forfeiture of such security deposits without any notice to the owner if the licence is cancelled. The Committee are of the view that such provisions are of substantive nature and they seek to levy charges without any express authorisation therefor in the parent enactment. In the absence of such authorisation the subordinate authority ought not resort to such extreme remedies

of substantive nature. The Committee, therefore, direct the Ministry to omit the provisions from the regulations forthwith. However, if the Government so consider necessary, they may bring forth the requisite amending legislation before Parliament for the purpose.

7.9 To the Committee, the Amendments to Visakhapatnam Fishing Harbour Regulations appears to be the outcome of a hasty exercise made by the Visakhapatnam Port Trust. Consequently, several infirmities have crept into the formulation of this tiny piece of subordinate legislation. To mention a few, there is no short title, no amendment number, no year of publication, and no date of its coming into force, which normally form part of any such amendment.

7.10 Subordinate law is in no way less important than the principal law as it always carries with it the full force of the principal law. The Committee need hardly stress that such law should as well receive utmost care and expertise in its formulation and in fact, there can be no short-cuts to be applied to its formulation. The Committee, therefore, desire the Ministry of Surface Transport to reconsider the whole matter with a view to evaluate the existing procedures obtaining in the Port Trusts in this regard and they would do well if all subordinate legislation is routed through one single agency like the Legislative Department of the Ministry of Law and Justice with the aim of imparting a certain amount of uniformity in its form and construction and to get rid of any

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		<p>avoidable discrepancies in its formulation.</p> <p><i>The New Mangalore Port Trust Employees (Contributory Outdoor/Indoor Medical Benefits After Retirement) Regulations, 1991</i></p>	
7.	8.3 & 8.6	<p>8.3 The Committee note that the Ministry of Surface Transport have agreed to issue</p>	<p>The Ministry of Surface Transport have since issued necessary corrigendum.</p>
		<p>necessary corrigendum to rectify the errors that have crept into the regulations at the printing stage. However, the fact remains that the Ministry had not acted in the matter till it was pointed out by the Committee. The Committee hope that the Ministry would now streamline the procedure in order that such lapses do not recur.</p>	
		<p>8.6 The Committee note from the reply of the Ministry that the cost of the identity card forms part of the one time lumpsum contribution payable under regulation 3(a) of these regulations. It flows from this that once the lumpsum contribution is paid, no further charge is payable by the beneficiary towards the cost of the identity card. Hence, the provisions "the cost of identity card, if any, should be borne by the retired employee/spouse" appearing in regulation 3(e) have become redundant. To obviate any confusion in the minds of the beneficiaries in this respect, the Committee desire the Ministry to omit the redundant provisions from the statutory regulations at the earliest. In this connection, the Committee would further like to observe that while formulating subordinate law,</p>	<p>The Ministry have since deleted the following words from sub-regulation (e) of Regulation :—</p> <p>"The cost of the identity card, if any, should be borne by the retired employee/spouse."</p> <p>The Ministry have also noted the observations of the Committee for future compliance. (vide GSR 879-E dated 17 November, 1992)</p>

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		<p>care should always be taken to ensure that the charges of either description are not levied without proper and express authorisation therefor in the parent statute.</p>	
8.	9.4	<p>9.4 The Committee note that on being pointed out, the Ministry of Surface Transport have agreed to carry out the requisite amendments in sub-regulation (c) of regulation 3 of the Cochin Port Trust Employees (Contributory Outdoor and Indoor Medical Benefit After Retirement) Regulations, 1991 by issue of necessary corrigendum. The Committee desire the Ministry to hasten the process of finalisation of the proposed amendments and notify the same at the earliest so as not to prolong the infirmities that have crept into the regulations.</p>	<p>Necessary amendments to sub-regulation (c) of Regulation 3 of the Cochin Port Trust Employees (Contributory Outdoor And Indoor Medical Benefit- After Retirement) Amendment Regulation, 1992 have since been issued vide GSR 940 (E) dated 22 December, 1992.</p>
		<p><i>Interpretation Clause</i></p>	
9.	9.9 & 9.11	<p>9.9 The Committee have time and again held the view that interpretation clause should not be so worded as to give an impression that power of interpretation of rules which should vest in the courts had been taken away or the jurisdiction of the courts is being ousted in any way.</p>	<p>The Ministry of Surface Transport have since amended the (i) New Mangalore Port Trust Employees' (Contributory Outdoor and Indoor Medical Benefit After Retirement) Regulation, 1991; (ii) Cochin Port Trust Employees (Contributory Outdoor and Indoor Medical Benefit After Retirement) Regulations, 1991; and (iii) Paradip Port Employees (General Provident Fund) Regulations, 1989 to the desired effect vide GSR 50-E date 1.2.94, GSR 394-E date 21.4.94 and GSR 601-E date 1.8.1994 respectively.</p>
		<p>9.10 Further, in para 18 of their Fourth Report (Third Lok Sabha), the Committee have observed as under: "18. The Committee are of the view that although it is true that the interpretation of the rules given by the Executive is not binding on the Courts, yet the rules should not be so worded in a manner which may</p>	

give an impression on the mind of the persons concerned that the jurisdiction of courts of law is being ousted. The Committee desire that if it is considered necessary to retain an interpretation clause in the rules, the clause should be worded on the lines of regulation 24 of the Kandla Port Employees' (Allotment of Residence) Regulation, 1964 which reads as under :

"24. Interpretation of regulations: If any question arises as to the interpretation of these regulations, the same shall be decided by the Board."

9.11 The Committee reiterate their earlier recommendations as aforesaid and desire the Ministry of Surface Transport to bring forth the requisite amendments to the regulations at the earliest.

APPENDICES

APPENDIX I

(vide para 4 of the Introduction of the Report)

Summary of Recommendations made in the Report of the Committee on Subordinate Legislation (TENTH LOK SABHA)

Sl. No.	Reference to part no. in the Report	Summary of Recommendations
1.	1.4	<p>The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have brought out an amendment notification <i>vide</i> GSR 568-E of 1994 carrying out the requisite amendment to the Preamble of the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 by deleting the citation of Section 52 of the Major Port Trusts Acts, 1963 from the Preamble as it was redundant. The amendment notification has also substituted the wordings the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1991' for the wordings 'all previous notifications on the subject' to do away with the element of vagueness. The Committee, however, desire that the Ministry of Surface Transport should be more watchful in future while notifying statutory orders to prevent recurrence of such lapses.</p> <p>The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have since amended clause 16 of the Bombay Pilotage, Tug Assistance Towage, Mooring and Other Services Fees Order, 1992 <i>vide</i> GSR No. 568-E published in the official gazette dated 11 July, 1994 by deleting the wordings 'the decision of the Chairman shall be final' so that the impression is not created in the minds of the general public that jurisdiction of law courts are Being ousted.</p>
2.	2.3 to 2.4	<p>2.3 The Committee note that the instances of omission of Foot note continue to occur despite categorical directives of the Committee in this regard.</p>

Sl. No. Reference to part no. in the Report	Summary of Recommendations
	<p>The Committee also note that on being pointed out, the Ministry of Finance have since notified the requisite corrigendum <i>vide</i> S.O. 342-E dated 29 April, 1994 by incorporating the usual foot note indicating the particulars of the publication of Principal Rules and the subsequent amendment made thereto.</p>
3.	<p>3.3 to 3.4</p> <p>2.4 The Committee desire that the Ministry should evolve suitable safeguards against recurrence of such lapses in future.</p>
3.	<p>3.3 to 3.4</p> <p>The Committee are not satisfied with the reply of the Ministry that the references were made under the Ministerial file numbers due to non-availability of the G.S.R./50 numbers and desired the Ministry to publish fresh notifications in supersession of the earlier rules.</p>
4.	<p>4.3</p> <p>The Committee also desire that all notifications whether principal orders or amending orders should be published under one head viz G.S.R. or S.O.</p>
4.	<p>4.3</p> <p>The Committee are not satisfied with the reply of the Ministry with regard to incorporation of the footnote to the amendment rules and desire that the Ministry should take immediate steps to examine and see if the notifications sent by them to the Press for Publication have been printed correctly. If so considered necessary the Ministry should issue necessary corrigenda and send printed copies of the rules together with the corrigenda to the Lok Sabha Secretariat.</p>

APPENDIX II

(Vide Para 3 of the Introduction)

III

MINUTES OF THE FIFTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1995-96)

The Committee met on Monday, 6 March, 1995 from 15.00 to 16.15 hours.

PRESENT

Shri Amal Datta — *Chairman*

2. Shri Prithviraj D. Chavan
3. Smt. Bhavna Chikhalia
4. Shri V. Dhananjaya Kumar
5. Shri M.V.V.S Murthy
6. Shri Rajendra Kumar Sharma
7. Prof. K.V. Thomas
8. Shri Umrao Singh

SECRETARIAT

1. Smt. Roli Srivastava — *Joint Secretary*
2. Shri P.D.T. Achary — *Director*
3. Shri Ram Autar Ram — *Deputy Secretary*

2. The Committee considered Memoranda Nos. 105 to 108 as under:—
 - (i) *The Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and other Services Fees Order, 1992 (GSR 405-E of 1992) (Memorandum No. 105)*

The Committee noted that the Ministry of Surface Transport has brought out an amendment notification *vide* GSR 568-E of 1994 carrying out the requisite amendment to the preamble of the Port of Bombay Pilotage, Tug Assistance, Towage, Mooring and other Services Fees Order 1992 by deleting the citation of Section 52 of the Major Port Trust Act, 1963 from the Preamble as it was redundant. The amendment notification has also substituted the wordings, 'the port of Bombay Pilotage, Tug Assistance, Towage, Mooring and other Services Fees Order 1991' for the wordings 'all previous notifications on the subject' to do away with the element of vagueness. The Committee desired that the Ministry should be

asked to be more watchful in future while notifying statutory orders to prevent recurrence of such lapses.

3. The Committee also noted that the Ministry of Surface Transport has since amended clause 16 of the Bombay Pilotage, Tug Assistance, Towage, Mooring and Other Services Fees Order, 1992 *vide* GSR No. 568-E published in the official gazette dated 11 July, 1994 by substituting the wordings 'the decision of the Chairman shall be final' with the words "If any question arises as to the interpretation of the Order the same shall be decided by the Board" so that an impression is not created in the minds of the general public that the jurisdiction of law courts was being ousted.

4. The Committee further desired that Ministry should set up a suitable machinery to ensure that the recommendations of the Committee are followed uniformly by the Ministry while framing the rules.

5. The Committee also desired the Law Ministry to prepare a compendium of recommendations of the Committee on Subordinate Legislation made in its earlier report from time to time and circulate the same to all the Ministries/Departments for strict compliance so that such lapses do not occur in future. The Committee further desired that the Law Ministry should keep a check while vetting the rules/orders.

(ii) *The Narcotic Drugs and Psychotropic Substances (Amendment) Rules, 1993 (S.O. 599-E of 1993) (Memorandum No. 106)*

6. The Committee noted that the Ministry of Finance had issued the necessary corrigendum by incorporating the usual foot-note indicating the particulars of the publications of principal rules and the subsequent amendment made thereto *vide* S.O. No. 342-E dated 29 April, 1994. It therefore desired that the Ministry should evolve suitable safeguards against recurrence of such lapses in future.

(iii) *The Central Services (Pension) Third Amendment Rules, 1992 (GSR 570 of 1992) (Memorandum No. 107)*

7. The Committee was not satisfied with the reply of the Ministry that the references were made under the Ministerial file numbers due to non-availability of the GSR/SO numbers and desired the Ministry to publish fresh notifications in supersession of the earlier rules.

8. The Committee also desired that all notifications whether principal orders or amending orders should be published under one head *viz.* GSR or S.O.

(iv) *The Central Administrative Tribunal (Group 'B' and 'C' Miscellaneous Posts) Amendment Rules, 1994 (GSR 773-E of 1994) (Memorandum No. 108)*

9. The Committee was not satisfied with the reply of the Ministry with regard to incorporation of the foot-note to the amendment rules and desired that the Ministry should take immediate steps to examine and see if the notifications sent by them to the Press for Publication have been printed correctly. If so considered necessary the Ministry should issue necessary corrigenda and send printed copies of the rules together with the corrigenda to the Lok Sabha Secretariat.

10. The Committee also decided to again take up with the Ministry of Urban Development the question of delay which usually occurs in the publication of notifications by the Government of India Press. The Committee desired that all notifications which deal with important public matters should be made available to the public in time.

11. The Committee then discussed in detail the subjects to be selected for their study during the year 1995-96 and decided to further discuss the matter in the next meeting.

The Committee then adjourned.

MINUTES

**MINUTES OF THE FIFTY FIFTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (1995-96)**

The Committee met on Thursday, 3 May, 1995 from 15.00 to 16.30 hours.

PRESENT

Shri Amal Datta — *Chairman*

MEMBERS

2. **Shri V. Dhananjaya Kumar**
3. **Shri Rajendra Kumar Sharma**
4. **Shri Pratap Singh**
5. **Shri Umrao Singh**

SECRETARIAT

1. **Shri S.N. Mishra — *Additional Secretary***
2. **Shri P.D.T. Achary — *Director***
3. **Shri Ram Autar Ram — *Deputy Secretary***

2. ** ** **

The Committee then considered and adopted the draft Nineteenth Report.

** Omitted Portions of the minutes are not covered in this Report.