

# **COMMITTEE ON SUBORDINATE LEGISLATION**

**(EIGHTH LOK SABHA)**

**NINETEENTH REPORT**

*(Presented on—)*



**LOK SABHA SECRETARIAT  
NEW DELHI**

*March, 1988/Phalguna, 1909 (Saka)*

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C O R R I G E N D A

NINETEENTH REPORT OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION (EIGHTH LOK SABHA) -- (1987-88)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION (1987-88)

- \*1. Shri Zainul Basher—*Chairman*
2. Shri K. J. Abbasi
3. Shri G. S. Basavaraju
4. Shri Parasram Bhardwaj
5. Shri Satyendra Chandra Guria
6. Shri A. Jayamohan
7. Shri R. S. Khirhar
8. P. Kolandaivelu
9. Shri R. S. Mane
10. Shri Prakash V. Patil
11. Shri Mullappally Ramachandran
12. Shri M. Raghuma Reddy
13. Shri Kalicharan Sakargayen
14. Shri Syed Shahabuddin
15. Shri Natavarsinh Solanki

SECRETARIAT

1. Shri K. C. Rastogi—*Joint Secretary*
2. Shri G. S. Bhasin—*Chief Legislative Committee Officer*
3. Shri Swarn Singh—*Officer on Special Duty*

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\*Appointed w.e.f. 3 March, 1988 *vice* Shri Shyam Lal Yadav ceased to be a Member of the Committee on his appointment as Minister of State.

## INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sittings held on 27 January and 23 December, 1986, 24 September and 31 December, 1987.

3. On 2 September, 1986, the Committee heard the representatives of (i) Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training), and (ii) Ministry of Law and Justice (Department of Legal Affairs) regarding the IFS/IAS/IPS (Appointment by Competitive Examination) Amendment Regulations, 1978. The Committee wish to express their thanks to the Officers of the Ministries for placing their views before the Committee and furnishing the information desired by them.

4. The Report was considered and adopted by the Committee at their sitting held on 17 March, 1988. The Minutes of the sittings relevant to the Report are appended to it.

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

NEW DELHI;

17 March, 1988

27 Phalgun, 1909 (Saka)

ZAINUL BASHER

*Chairman,*

*Committee on Subordinate Legislation*

## REPORT

### I

#### THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952 (S.R.O. 1509 OF 1952)

Paragraph 60 of the Employees' Provident Funds Scheme, 1952, as amended from time to time, reads as under :—

“60. *Interest.*—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Central Government in consultation with the Central Board.

- (2) (a) Interest for the period of currency of the card shall be allowed on the balance standing to the credit of the member on the first day of April falling within the period of currency.
- (b) In the case of a claim for the refund under Paragraph 69 or 70, interest shall be payable upto the end of the month preceding the date on which the final payment is authorised irrespective of the date of receipt of the claim from the claimant concerned :

Provided that interest upto and for the current month shall be payable on the claims which are authorised on or after the 25th day of a particular month along with actual payment after the end of the current month;

Provided further that the rate of interest to be allowed on claims for refund for the broken currency period shall be the rate fixed for the financial year in which the refund is authorised.

*Explanation.*—If an establishment is covered for the first time under the Act/Scheme during the course of the currency period the interest for the first currency period, shall be allowed on the balance, if any, at the credit of the member on the first day of the currency period.

- (3) The aggregate amount of interest credited to the accounts of the members shall be debited to 'Interest Suspense Account'.
- (4) In determining the rate of interest, the Central Government shall satisfy itself that there is no overdrawal on the 'Interest Suspense Account' as a result of the debit thereto of the interest credited to the accounts of members.

- (5) Interest shall not be credited to the account of a member if he informs the Commissioner in writing that he does not wish to receive it. If, however, the member subsequently asks for interest, it shall be credited to his account with effect from the first day of the period of currency in which he makes request therefor."

2. In a representation dated 22 May, 1985 to the Committee, one Shri Anil Agarwal of Bombay stated as under :—

"I beg your leave to invite your kind attention to the **Employees' Provident Funds Scheme, 1952** (published with the **Ministry of Labour Notification No. S.R.O. 1509 dated 2-9-1952**). Paragraph 60 of the Scheme deals with payment of interest to subscribers. By **G.S.R. No. 1809 dated 1-7-1968**, certain amendment was made prescribing the manner in which interest is allowed.

As a subscriber, I find that the interest is allowed on the balance standing to my credit as on the 31st March. For instance, if I have a balance of Rs. 10,000/- on 31-3-1984, interest is credited only on this amount on 1-4-1985 and the contribution made from April 1984 to March 1985 does not earn any interest. In other words, the Banks and Post Office give interest on the deposits made every month on the basis of progressive total, but the contribution made to the provident fund during the whole year is utilized by the Government without even giving interest to subscribers. I request that the Hon. Committee, if it considers appropriate, may kindly look into this aspect so that interest is allowed on the contribution made during the particular year."

3. The matter was referred to the Ministry of Labour for their comments. The Ministry were also requested to state if they had any objection to amending the Employees' Provident Funds Scheme so that a uniform practice could be followed in the matter of calculation of interest on deposits made under various public deposit schemes. In a communication dated 10 June, 1987, the Ministry of Labour stated as under :—

"Para 60 of the Employees' Provident Funds Scheme, 1952 provides for crediting of interest to the subscribers account on the opening balance as on 1st day of the accounting year. The subscribers are not, therefore, entitled to any interest on the amount of subscription made during the year. At the same time, they do not suffer any loss of interest on account of withdrawals made during the year.



2. The practice on the Government side is to allow interest on monthly running balance taking into account the previous accumulation, monthly subscription and withdrawals, if any. This system of calculation of interest is considered more scientific.
3. Shri Anil Agarwal's request is for replacing the existing system, for calculation of interest under the Employees' Provident Fund Scheme by the system prevalent on the Government side, which according to Shri Agarwal will be more beneficial to the workers.
4. The issue raised by Shri Agarwal was earlier considered by the EPF Review Committee under the chairmanship of Shri Ramanujam and they had recommended *inter alia* introduction of the system of calculation of interest, on monthly balances. This recommendation was not, however, accepted by the Government, mainly on the ground that the proposed system would increase the accounting work of the Organisation, without giving commensurate benefit.
5. The EPB Organisation is at present, directly maintaining the Provident Fund accounts in respect of about 95 lakhs members. The Organisation has adopted the system of annual posting of subscribers' account. The Organisation is, however, still finding it extremely difficult to keep the accounts upto-date. If the system of calculation of interest on monthly balance is adopted, it will necessitate monthly posting of accounts; which would increase the work almost 12 times. It is felt that any such step might put the entire operation out of gear and result in hardship to the subscribers. In the circumstances, it has not been considered advisable to adopt the system of calculation of interest on monthly balance.
6. The Government is now separately considering a proposal for decentralising the work relating to maintenance of provident fund account establishment-wise, particularly in relation to larger establishments. It is also proposed to gradually computerise the accounting work in the Organisation. It is hoped that once these measures are enforced, the accounting work will become more manageable. The Government may then consider adopting the system of calculation of interest on monthly balance. Meanwhile the existing system may have to be continued."

4. The Committee considered the matter at their sitting held on 24 September, 1987.

5. The Committee find that in terms of sub-paragraph (2) of paragraph 60 of the Employees' Provident Funds Scheme, 1952, interest is credited to the subscriber's account on the opening balance standing to the credit of an employee in his Provident Fund Account only once on the first day of the relevant accounting year. Thus, no interest is allowed on the amount of subsequent subscriptions credited to the account nor is there any loss of interest on account of withdrawals made during the year. This peculiar practice is followed only under the Employees' Provident Funds Scheme, as the practice on the Government side is to allow interest on the monthly running balance taking into account the previous accumulation, monthly subscription and withdrawals, if any. The system of calculation of interest on Government side is considered more scientific.

6. The Committee also note that the method of calculation of interest in the Provident Funds Organisation was considered by a Review Committee headed by Shri Ramanujam and they had recommended, *inter alia*, introduction of the system of calculation of interest on monthly balances in the Employees' Provident Funds Account. This recommendation was, however, not accepted by the Government on the ground that the proposed system would increase the accounting work in the Organisation without giving commensurate benefit. According to the Government, if the system of calculation of interest on monthly balances was adopted, it would increase the workload of the Organisation almost 12 times thus rendering the entire operation out of gear.

7. The Committee do not see any justification whatsoever in following a practice which deprives a large section of industrial employees of their legitimate earnings in the form of interest on their monthly contributions to the Provident Fund Account. It is unfortunate that even though the Government are convinced that the system of calculation of interest on provident fund balances as followed on Government side was more scientific and just, it has not been possible to introduce the same system in the Employees' Provident Funds Organisation for administrative reasons. The Committee desire that urgent steps may be taken for a switchover to the new system of calculating interest on the running monthly balances. For this purpose, necessary amendment in the Employees' Provident Funds Scheme, 1952 may be made immediately.

8. The Committee also desire that the Ministry of Labour should take expeditious steps to implement the proposal for decentralising the work relating to maintenance of provident fund account establishment-wise and computerisation of the accounting work in the Employees Provident Funds Organisation. The precise action taken in this behalf may be intimated to the Committee within six months.

## II

### THE CALCIUM CARBIDE RULES, 1987 (G.S.R. 105-E OF 1987)— RULE 3 THEREOF

9. Rule 3 of the Calcium Carbide Rules, 1987 (G.S.R. 105-E of 1987) reads as under :—

“3. *Carbide to be packed in prescribed receptacles.*—Carbide shall not be imported, transported or stored unless it is packed in prescribed receptacles :

. Provided that the Chief Controller may permit any receptacle other than the prescribed one if he is satisfied that such a receptacle may be used without any undue hazard.”

10. At their sitting held on 24 September, 1987, the Committee considered rule 12 *ibid.* and observed that some guidelines should be prescribed for the guidance of the Chief Controller for exercising discretionary powers under the Rules in order to avoid any scope of discriminatory treatment in similar situations.

11. The matter was referred to the Ministry of Industry (Department of Industrial Development) for their comments. In a communication dated 17 December, 1987, the Ministry have stated that proviso to rule 3 will be deleted.

12. The Committee are happy to note that on being pointed out to them, the Ministry of Industry (Department of Industrial Development) have agreed to delete the proviso to rule 3 of the Calcium Carbide Rules, 1987 which confers discretionary powers on the Chief Controller of Explosives. The Committee desire that the Ministry should amend the Rule at an early date.

### III

## THE CALCIUM CARBIDE RULES, 1987 (G.S.R. 105-E OF 1987)— RULE 12 THEREOF

13. Rule 12 of the Calcium Carbide Rules, 1987 (G.S.R. 105-E of 1987) reads as under :—

“12. *Defective Receptacles*.—The Collector of Customs may require that any receptacle containing carbide which does not satisfy the requirements of rule 3 or which is defective shall be submerged in deep water under the direction of the Conservator of the port, without compensation to the consignees.”

14. At their sitting held on 24 September, 1987, the Committee considered rule 12 *ibid.* and observed that some guidelines should be prescribed for the guidance of the Conservator of the port for exercising discretionary powers conferred upon him under the Rules in order to avoid any scope of discriminatory treatment in similar situations.

15. The matter was referred to the Ministry of Industry (Department of Industrial Development) for their comments. In their reply dated 17 December, 1987, the Ministry have stated as under :—

“No further guidelines appear necessary as the rule is very clear. As the ‘Prescribed receptacles’ is already defined at rule 2(j)\* and the manner of destruction is also clearly given, further guidelines do not appear necessary.”

16. In view of the position explained by the Ministry of Industry (Department of Industrial Development), the Committee do not wish to pursue the matter further.

#### \*Rule 2(j)

“2. *Definitions*.—In these rules, unless the context otherwise requires—

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(j) ‘prescribed receptacle’ means a receptacle which —

- (i) is made of steel or any other material approved by the Chief Controller but has no copper in its composition;
- (ii) is hermetically closed at all times except when its contents are being placed within it or withdrawn from it; and
- (iii) bears a stamped embossed, painted or printed warning exhibiting in conspicuous characters the words ‘Calcium Carbide’ —  
‘Dangerous if not kept dry’ and the following caution :—

‘The contents of this package are liable, if brought into contact with moisture, to give off a highly inflammable gas’:

Provided that for the containers of carbide imported, the warning shall be according to relevant International Code.”

#### IV

### THE CALCIUM CARBIDE RULES, 1987 (G.S.R. 105-E OF 1987)— RULES 17 AND 18 THEREOF

17. Rules 17 and 18 of the Calcium Carbide Rules, 1987 (G.S.R. 105-E of 1987) read as under :—

“17. *Importation by land.*—No person shall import carbide by land save with the previous sanction in each case of the Central Government and under such conditions and restrictions as it may impose in consultation with the Chief Controller.

18. *Importation by Air.*—No person shall import carbide by air save with the previous sanction in each case of the Central Government and under such conditions and restrictions and on payment of such fees as it may impose and in such quantities and manners as may be allowed by the Director General, Civil Aviation.”

18. At their sitting held on 24 September, 1987 the Committee considered rules 17 and 18 *ibid.* and observed that the phrase ‘under such conditions and restrictions’ used in the aforesaid Rules was vague. The Committee directed that the conditions and restrictions, if any, might be mentioned in the Rules for the information of all concerned.

19. The matter was referred to the Ministry of Industry (Department of Industrial Development) for ascertaining their comments. In their reply dated 17 December, 1987, the Ministry have stated as under :—

“Calcium Carbide is generally imported by sea. If and when it is imported by land or air, it will have to be in consultation with the port authorities, district authorities etc. It is difficult to foresee all possible situations and as such the term under ‘such condition and restriction’ has to be retained.”

20. The Committee are not convinced with the reply of the Ministry of Industry (Department of Industrial Development) that it is difficult for them to foresee all possible situations under which carbide may have to be imported by land or air. The Committee are of the view that on the basis of their past experience, Government should be in a position to spell out the conditions under which importation of carbide by land or air may be allowed. Similarly the restrictions, if any, imposed on imports by land or air need to be incorporated in the Rules so as to make them more informative. The Committee, therefore, desire that the phrase “under such conditions and restrictions” appearing in Rules 17 and 18 may be suitably amended.

THE CALCIUM CARBIDE RULES, 1987 (G.S.R. 105-E OF 1987)—  
RULE 20 THEREOF

21. Rule 20 of the Calcium Carbide Rules, 1987 (G.S.R. 105-E of 1987) read as under :—

“20 *Transport in quantity exceeding 5 Kilogrammes.*—Carbide in quantity exceeding 5 Kilogrammes shall not be transported except under the following conditions, namely :—

- (a) Carbide shall be carried in prescribed receptacles, no receptacle shall be capable of containing more than 100 kilogrammes of carbide; and
- (b) the carbide shall not be deposited at any time during transit in any building other than a building licensed for the storage of carbide under these rules :

Provided that the Chief Controller may permit transport of carbide in receptacles capable of containing more than 100 Kilogrammes specifically approved by him for the purpose and under such conditions that he may prescribe in this behalf :

Provided further that carbide so transported is meant for directly charging into an acetylene generator and not for repacking into any other receptacle.”

22. At their sitting held on 24 September, 1987, the Committee considered Rule 20 *ibid.* and observed that the conditions for transportation of carbide in receptacles capable of containing more than 100 Kilogrammes might be specified in the rule itself for the information of all concerned.

23. The matter was referred to the Ministry of Industry (Department of Industrial Development) for ascertaining their comments. In their reply dated 17 December, 1987, the Ministry stated as under :—

“The proviso to this rule already directs that any quantity of carbide above 100 kilogrammes must be meant for directly charging into an acetylene generator. Therefore no further conditions need be interpolated.”

24. The Committee note from the reply of the Ministry of Industry (Department of Industrial Development) that the condition under which transportation of carbide in receptacles capable of containing more than 100 kilogrammes can be permitted is contained in the proviso to rule 20 of the Calcium Carbide Rules, 1987. The Committee are of the view that since the two provisos under rule 20 envisage transportation of carbide in receptacles of more than 100 kg. capacity only for charging into an acetylene generator, the wordings of the two provisos should be made very specific and unambiguous. The stipulation regarding transportation of carbide in larger receptacles can straightway be included in the rule itself. The Committee desire that necessary amendment to the rules may be carried out expeditiously.

## VI

### THE CALCIUM CARBIDE RULES, 1987 (G.S.R. 105-E OF 1987)— RULE 30 THEREOF

25. Rule 30 of the Calcium Carbide Rules, 1987 (G.S.R. 105-E of 1987) read as under :—

“30. *Grant of licence.*—Licences under that rules may be granted by the licensing authorities setforth in the First Schedule in the Forms specified for the purpose and on payment of a fee specified therein.”

26. At their sitting held on 24 September, 1987, the Committee considered Rule 30 *ibid.*, at some length and observed that in order to obviate any scope of malpractices in the issue of licences. Some time-limit within which application for granting licences/appeals against the order of cancellation/refusing or suspension of licences might be disposed of should be specified in the Rule itself.

27. The matter was referred to the Ministry of Industry (Department of Industrial Development) for comments. In their communication dated 17 December, 1987, the Ministry replied as under :—

“.....It will be difficult to prescribe time limit under the Rules for grant of licence since this will depend upon the parties completing the technical requirements for grant of licence. Physical inspection of premises and facilities is also involved and the office of the Chief Controller of Explosives is under-staffed at present. The proposal for strengthening the organisation is under examination in the Government.”

28. The Committee are not at all convinced with the reply of the Ministry of Industry (Department of Industrial Development) in the matter. They feel that under-staffing in the office of the Chief Controller of Explosives can hardly be a valid ground for not laying down the time-limit for granting licences to the applicants after completion of the requisite formalities. The Committee would like the Ministry of Industry (Department of Industrial Development) to take necessary remedial steps to amend the Calcium Carbide Rules to the desired effect at an early date.



## VII

### THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (RECOGNITION OF CONSUMERS' ASSOCIATION) RULES, 1987 (G.S.R. 534-E OF 1987)

29. Sub-rule (4) of rule of the Monopolies and Restrictive Trade Practices (Recognition of Consumers' Association) Rules, 1987 (G.S.R. 534-E of 1987) reads as under :—

“3. Application for recognition of consumers' association.—

\* \* \* \*

(4) The Department of Company Affairs may, before issuing a certificate of recognition, require the applicant to furnish, *within such period as may be specified by it*, such additional information as it may consider necessary.”

30. At their sitting held on 24 September, 1987, the Committee examined the Monopolies and Restrictive Trade Practices (Recognition of Consumers' Association) Rules, 1987. In regard to sub-rule (4) of rule 3 of the above rules, the Committee observed as under :—

“.....the term 'within such period as may be specified' used in rule 3(4) of the above Rules was vague. The Committee directed that the exact period within which the requisite additional information might be furnished, should be specified in the Rule itself.

.....some time limit within which the application for recognition of Consumers' Association might be disposed of, should also be specified in the Rule in order to obviate any scope of delay.”

31. In a note dated 6 November, 1987, the Department of Company Affairs stated as under :—

“.....the views expressed by the Committee are acceptable to this Department. In respect of rule 3(4), it is proposed to lay down that the applicant should furnish the information within a period of 30 days from the date of issue of the letter. In respect of the time-limit within which the application has to be disposed of, we can prescribe a period of 90 days from the date of receipt of the application or from the date of receipt of such additional information as may have been called for whichever is later.

This issues with the approval of Minister of Industry.”

32. The Committee note with Satisfaction that at their instance the Ministry of Industry (Department of Company Affairs) have agreed to amend the Monopolies and Restrictive Trade Practices (Recognition of Consumers' Association) Rules, 1987 so as to allow a period of 30 days to the applicant for furnishing the additional information asked for under rule 3(4) of rules *ibid.*

33. The Committee further note that the Ministry of Industry have also agreed to prescribe a time-limit of 90 days from the date of receipt of the application or from the date of receipt of such additional information as may have been called for, whichever is later, for the final disposal of an application for recognition of consumers' association with a view to obviating delays on this score.

The Committee desire that necessary amendments to the rules may be issued at an early date.

## VIII

### THE IFS/IAS/IPS (APPOINTMENT BY COMPETITIVE EXAMINATION) AMENDMENT REGULATIONS, 1978 (G.S.R. 452/453/454 OF 1978)—IMPLEMENTATION OF RECOMMENDATIONS MADE IN PARAGRAPHS 55—57 OF SIXTEENTH REPORT (SEVENTH LOK SABHA) OF THE COMMITTEE ON SUBORDINATE LEGISLATION

34. Sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the Indian Forest Service (Appointment by Competitive Examination) Regulations, 1967, as substituted by G.S.R. 452 of 1978, read as under :—

"11. *Disciplinary action.*—A candidate who is or has been declared by the Commission to be guilty of—

- (i) obtaining support for his candidature by any means, or  
\* \* \*
- (vi) resorting to any other irregular or improper means in connection with his candidature for the examination, or  
\* \* \*
- (viii) writing irrelevant matter, including obscene language or pornographic matter, in the script(s), or
- (ix) misbehaving in any other manner in the examination hall, or  
\* \* \*

may, in addition to rendering himself liable to criminal prosecution, be liable :—

- (a) to be disqualified by the Commission from the examination for which he is a candidate; or
- (b) to be debarred either permanently or for a specified period—
  - (i) by the Commission, from any examination or selection held by them;
  - (ii) by the Central Government, from any employment under them; and
- (c) If he is already in service under Government, to disciplinary action under the appropriate rules."

35. Identical amendments were effected in regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955 and the Indian Police Service (Appointment by Competitive

Examination) Regulations, 1955 *vide* G.S.R. 453 and 454 respectively of 1978.

36. The Committee elicited the views of the concerned Department of Personnel and Training on the following points arising out of the examination of the said regulation 11 :—

- (i) *Regulation 11 (i)* : The words 'any means' were vague inasmuch as these could be interpreted differently by different persons. The sub-regulation was, therefore, needed to be more precisely worded.
- (ii) *Regulation 11 (vi)* : The phrase 'any other irregular or improper means' was vague and could be construed differently by different persons.
- (iii) *Regulation 11 (viii)* : It was felt that if a candidate wrote any irrelevant matter, he was likely to get discredit in marks in that paper. The reasons for further subjecting him to the disciplinary action on this score were considered on the high side. Apart from it, it appeared to be quite difficult in some cases to decide 'relevancy' of an answer.
- (iv) *Regulation (ix)*. The phrase 'any other manner' seemed to be vaguely worded and needed elaboration.

37. After taking into consideration the various aspects of the matter, the Committee in paragraphs 55—57 of their Sixteenth Report (Seventh Lok Sabha), presented to the House on 3 March, 1983, observed as under :—

“55. In the opinion of the Committee, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) in consultation with the Ministry of Law (Department of Legal Affairs) have taken too legalistic a view of the things and have tried to assign meaning to the various phrases and words by resorting to the principles of *ejusdem generis*. The regulations are meant for the general public who may not be well conversant with the legal and technical interpretation assigned to the various expressions by the Ministry. In this connection, the Committee re-stress their earlier observations made in paragraph 50 of the Seventh Report (Sixth Lok Sabha), presented to the House on 4 April, 1978, that it is of utmost significance that the provisions of legislation (including subordinate legislation) are spelt out with precision and, as far as possible, use of vague expressions, which may be interpreted differently by different persons, is avoided.

56. The Committee feel that the expressions like 'any means', 'any other irregular or improper means', 'irrelevant manner' and 'any other manner' used in sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the IFS/IAS/IPS (Appointment by Competitive Examination) Regulations are vaguely worded, too wide and general and are apt to be interpreted differently by different persons. With a view to obviate any possibility of discrimination in their application, the Committee consider it necessary that the provisions are suitably re-worded to make them intelligible for the common man.
57. The Committee desire the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to suitably amend the regulation 11 of the IFS/IAS/IPS (Appointment by Competitive Examination) Regulations at an early date."
38. In their action-taken reply dated 29 February, 1984, the Department of Personnel and Administrative Reforms stated as under :—
- "...the matter was considered in depth afresh in consultation with both the UPSC and the Department of Legal Affairs. It will be appreciated that cases of act of misconduct committed by the candidates at various examinations vary from situation to situation and it is difficult to foresee and specify in the rules exhaustively the various acts of misconduct which may be committed by the candidates; further, human ingenuity, being what it is, can always evolve novel methods of malpractices. What amounts to an offence or guilt has already been carefully and clearly defined and break-up has been given and it is difficult to further articulate it. It is felt that any attempt at further improvement of the existing provisions to make it more specific would only add the disqualification of making it rigid. This department thus feels once again that the Committee on Subordinate Legislation should be apprised of the difficulties in modifying the Regulations as desired by them."
39. The Committee considered the above reply at their sitting held on 27 January, 1986. As the Committee were not satisfied with the reply, they decided to call the official representatives for further evidence in the matter. Accordingly, on 2 September, 1986, the representatives of the Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) and the Ministry of Law and Justice (Department of Legal Affairs) appeared before the Committee and tendered evidence in the matter. During evidence, it was agreed that the Ministry would review the regulation in its entirety and modify it wherever necessary in the light of the discussion with the Committee. In compliance with the directions

of the Committee, the Department of Personnel and Training subsequently forwarded the following draft of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations for Committee's approval :—

“In the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955 for regulation 11, the following regulations shall be substituted, namely :—

11. Disciplinary action—A candidate who is or has been declared by the Commission to be guilty of—

- (i) obtaining support for his candidature by any undesirable means including—
  - (a) offering illegal gratification to or
  - (b) applying pressure on or
  - (c) blackmailing or threatening to blackmail—any person connected with the conduct of the examination, or
- (ii) impersonating, or
- (iii) procuring impersonation by any person, or
- (iv) submitting fabricated documents or documents which have been tampered with, or
- (v) making statements which are incorrect or false, or suppressing material information, or
- (vi) resorting to any irregular or improper means in connection with his candidature for the examination including making attempts—
  - (a) to obtain copy of question paper through improper means;
  - (b) to find out the particulars of the persons connected with the secret work relating to the examination;
  - (c) to influence the examiners, or
- (vii) using unfair means during the examination, or
- (viii) writing obscene matters or drawing obscene sketches in the scripts, or
- (ix) misbehaving in the examination hall including tearing of the scripts, provoking fellow examinees to boycott examination, creating a disorderly scene and the like, or
- (x) harassing or doing bodily harm to the staff employed by the Commission for the conduct of the examinations; or
- (xi) violating any of the instructions issued to candidates along with their admission certificate permitting them to take the examination; or

- (xii) attempting to commit or as the case may be abetting the commission of all or any of the act specified in the foregoing clauses;

may, in addition to rendering himself liable to criminal prosecution, be liable—

- (a) to be disqualified by the Commission from the examination for which he is a candidate; or
- (b) to be debarred either permanently or for a specified period—
  - (i) by the Commission, from any examination or selection held by them,
  - (ii) by the Central Government from any employment under them; and
- (c) if he is already in service under Government to disciplinary action under the appropriate rules.

Provided that no penalty under this rules shall be imposed except after :

- (i) giving the candidate an opportunity of making such representation in writing as he may wish to make in that behalf; and
- (ii) taking the representation if any submitted by the candidate within the period allowed to him into consideration.”

40. The Committee considered the above draft amendment at their sitting held on 23 December, 1986.

**41. The Committee note the amendments now proposed to be made by the Department of Personnel and Training to sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the IAS (Appointment by Competitive Examination) Regulations. The Committee approve of these amendments subject to the following modifications :—**

- (1) In sub-regulation (i) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'obtaining support for his candidature by any undesirable means including' be substituted to read as 'obtaining support for his candidature by the following methods'; and**
- (2) In sub-regulation (vi) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'resorting to any irregular or improper means' be substituted to read as 'resorting to the following means'.**

**42. The Committee desire that the corresponding regulation in the IFS/IPS (Appointment by Competitive Examination) Regulations may also be amended accordingly.**

## IX

### THE MERCHANT SHIPPING (CONTINUOUS DISCHARGE CERTIFICATES) AMENDMENT RULES, 1978 (G.S.R. 528 OF 1978)— IMPLEMENTATION OF RECOMMENDATIONS MADE IN PARAGRAPH 43 OF TWENTY-SECOND REPORT (SEVENTH LOK SABHA) OF THE COMMITTEE ON SUBORDINATE LEGISLATION

43. Rule 12(2) of the Merchant Shipping (Continuous Discharge Certificate) Rules, 1960 was amended in 1978. By this amendment, the fee for obtaining a duplicate copy of the Continuous Discharge Certificate was enhanced from Rs. 2.00 to Rs. 4.00.

44. The Ministry of Shipping and Transport (Shipping Wing) were requested to state the reasons for raising the fee and to indicate the specific provision in the parent Act, viz., the Merchant Shipping Act, 1958 which authorised such an amendment. In their reply dated 14 October, 1982, the Ministry stated as under :—

“The fee for obtaining a duplicate copy of the CDC (Continuous Discharge Certificate) was increased from Rs. 2/- to Rs. 4/- on account of the following reasons :—

- (a) The cost of printing and stationery had gone up considerably by 1978 when the fee was revised after a period of 18 years.
- (b) The form of the CDC which was prescribed in 1960 was bound with simple card board only with a view to cut down the cost of the CDC book. Subsequently, it was felt that since the CDC book is a permanent document of the record of seamen's service on board ships, the card board bound book should be replaced by a cloth bound book, as the latter is much more durable. While making of a cloth bound book costs Rs. 2.50, the cost in respect of card bound book is only Re. 1/-.
- (c) Since the duplicate copy of the CDC is issued after checking a large number of entries from the records of the Shipping Master, which involves lot of labour, the fee for issuing of a duplicate copy was prescribed a little higher so as to make the seamen more conscious about the safe keeping of the CDC books.

As regards the rules in the Parent Act, which permits such enhancement, Section 457 of the Merchant Shipping



Act may be referred to which authorises the Central Government to make rules to carry out the purposes of this Act. The M. S. (CDC) Rules, 1960 and amended Rules, 1978 were framed under the above-mentioned Section of the Act.”

45. The Committee on Subordinate Legislation in paragraph 43 of their Twenty-second Report (Seventh Lok Sabha), presented to the House on 13 December, 1983, had observed as under :—

“43. The Committee do not agree with the views expressed by the Ministry of Shipping and Transport (Shipping Wing). The Committee note that Section 457 of the Merchant Shipping Act, 1958 does not expressly authorise the Government to levy any fee for the issue of a duplicate copy of the Continuous Discharge Certificate. The Committee, therefore, desire the Ministry to either omit rule 12(2) of the Merchant Shipping (Continuous Discharge Certificate) Rules, 1960 which seeks to levy fee, or alternatively, they should approach Parliament for the amendment of the parent Act so as to empower them to levy such fee for issuing a duplicate copy of the Continuous Discharge Certificate.”

46. The Ministry of Transport (Department of Surface Transport) sought the opinion of the Ministry of Law in regard to the implementation of the Committee's recommendations. The Ministry of Law, in a note dated 23 July, 1986 furnished to the Department of Surface Transport, *inter alia*, stated :—

“The Department now desires to re-consider the matter whether the Rule 12(2) and 3(2) of the Merchant Shipping (Continuous Discharge Certificates) Amendment Rules, 1978 can be covered under Sec. 457 of the Merchant Shipping Act, 1958. The said section reads as follows :—

“457. General Power to make Rules.—

Without prejudice to any power to make rules contained elsewhere to this Act, the Central Government may make rules generally to carry out the purpose of this Act.’

It may be stated that this is a general provision to make rules for the purpose of the Act. No specific provision for levying fees as contemplated in Rules 12(2) and 3(2) of the Rules has been made. It may be stated that in the Merchant Shipping Act, 1958 specific provisions for levying fees for particular purpose have been made, for

example Sec. 74(2)(j), Sec. 87(d), Section 282(w), Sec. 296(2)(c), Sec. 344(2)(c), Sec. 386(c), Sec. 414(2)(a) and Sec. 435(2)(n).

It is clear from the above that wherever the Legislature thought that there is necessity of levying fee, a specific provision giving power to levy fee for a particular purpose has been made in the Act, As there is no specific provision for levying fees as contemplated under Rules 12(2) and 3(2) of the C.D.C. Rules, we agree with the Committee that either the Act may be amended or the rules may be deleted."

47. In their action-taken reply dated 15 April, 1987, the Ministry stated as under :—

".....the Committee on Subordinate Legislation's recommendations that 'Ministry should either omit Rule 12(2) of the Merchant Shipping (Continuous Discharge Certificate) Rules, 1960 which seek to levy fees or alternatively they should approach Parliament for the amendment of the parent Act so as to empower them to levy such fee for issuing a duplicate copy of CDC', has been examined and it has been decided to amend the Merchant Shipping Act, 1958 (44 of 1958) and action has been initiated in this regard.

2. However, as the concerned Shipping Masters are already collecting fee at the rate of Rs. 4/- per duplicate copy of CDC as per existing Rule 12(2) of the Merchant Shipping (Continuous Discharge Certificate) Rules, 1960, it is not possible to stop this collection without any authoritative order. The only course open in the circumstances is to maintain the *status quo* i.e. levy of Rs. 4/- for issue of duplicate CDC till the Merchant Shipping Act, 1958 is suitably amended. In case the concurrence of the Committee on Subordinate Legislation is required for maintaining the *status quo*, the same may please be obtained and communicated to this Ministry."

48. The Committee considered the matter at their sitting held on 24 September, 1987.

49. The Committee are happy to note that the Ministry of Transport (Department of Surface Transport) are now convinced that the Merchant Shipping Act, 1958 did not contain any provision enabling the Ministry to levy fees, as contemplated under Rules 12(2) and 3(2), of the Merchant Shipping (Continuous Discharge Certificates) Rules. Thus the powers

assumed under Rules of 1960 for levying a fee of Rs. 2/- for issue of a CDC and those under Rules of 1978 for charging a fee of Rs. 4/- for issue of a duplicate certificate are without any legal authority and are, therefore, unauthorised. Such infirmities in the rules cannot be allowed to continue any further. The Committee recommend that no fee for the issue of original certificate or a duplicate certificate should be levied until and unless necessary authorisation is obtained by means of an amendment to the Merchant Shipping Act, 1958. The Committee further recommend that the provisions in the relevant rules, under which a fee of Rs. 4/- is being levied for the issue of a duplicate Continuous Discharge Certificate should be deleted forthwith.

50. The Committee would like to be apprised of the action taken in this behalf within three months.

NEW DELHI:

17 March, 1988

ZAINUL BASHER

Chairman,

27 Phalgun 1, 1909 (Saka)

■ Committee on Subordinate Legislation.

## APPENDIX I

(Vide Paragraph 5 of Introduction)

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### CONSOLIDATED STATEMENT OF RECOMMENDATIONS/OBSERVATIONS MADE BY THE COMMITTEE

S. No.	Para No.	Recommendations/Observations
(1)	(2)	(3)
1	5	The Committee find that in terms of sub-paragraph (2) of paragraph 60 of the Employees' Provident Funds Scheme, 1952, interest is credited to the subscriber's account on the opening balance standing to the credit of an employee in his Provident Fund Account only once on the first day of the relevant accounting year. Thus, no interest is allowed on the amount of subsequent subscriptions credited to the account nor is there any loss of interest on account of withdrawals made during the year. This peculiar practice is followed only under the Employees' Provident Funds Scheme, as the practice on the Government side is to allow interest on the monthly running balance taking into account the previous accumulation, monthly subscription and withdrawals, if any. The system of calculation of interest on Government side is considered more scientific.
2	6	The Committee also note that the method of calculation of interest in the Provident Funds Organisation was considered by a Review Committee headed by Shri Ramanujam and they had recommended, <i>inter alia</i> , introduction of the system of calculation of interest on monthly balances in the Employees' Provident Funds Account. This recommendation was, however, not accepted by the Government on the ground that the proposed system would increase the accounting work in the Organisation without giving commensurate benefit. According to the Government, if the system of calculation of interest on monthly balances was adopted, it would increase the workload of the Organisation almost 12 times thus rendering the entire operation out of gear.
3	7	The Committee do not see any justification whatsoever in following a practice which deprives a large section of industrial employees of their legitimate earnings in the form

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of interest on their monthly contributions to the Provident Fund Account. It is unfortunate that even though the Government are convinced that the system of calculation of interest on provident fund balances as followed on Government side was more scientific and just, it has not been possible to introduce the same system in the Employees' Provident Funds Organisation for administrative reasons. The Committee desire that urgent steps may be taken for a switchover to the new system of calculating interest on the running monthly balances. For this purpose, necessary amendment in the Employees' Provident Funds Scheme, 1952 may be made immediately.

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The Committee also desire that the Ministry of Labour should take expeditious steps to implement the proposal for decentralising the work relating to maintenance of provident fund account establishment-wise and computerisation of the accounting work in the Employees' Provident Funds Organisation. The precise action taken in this behalf may be intimated to the Committee within six months.

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The Committee are happy to note that on being pointed out to them, the Ministry of Industry (Department of Industrial Development) have agreed to delete the proviso to rule 3 of the Calcium Carbide Rules, 1987 which confers discretionary powers on the Chief Controller of Explosives. The Committee desire that the Ministry should amend the Rule at an early date.

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In view of the position explained by the Ministry of Industry (Department of Industrial Development), the Committee do not wish to pursue the matter further.

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The Committee are not convinced with the reply of the Ministry of Industry (Department of Industrial Development) that it is difficult for them to foresee all possible situations under which carbide may have to be imported by land or air. The Committee are of the view that on the basis of their past experience, Government should be in a position to spell out the conditions under which importation of carbide by land or air may be allowed. Similarly the restrictions, if any, imposed on imports by land or air need to be incorporated in the Rules so as to make them

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more informative. The Committee, therefore, desire that the phrase "under such conditions and restrictions" appearing in Rules 17 and 18 may be suitably amended.

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The Committee note from the reply of the Ministry of Industry (Department of Industrial Development) that the condition under which transportation of carbide in receptacles capable of containing more than 100 kilogrammes can be permitted is contained in the proviso to rule 20 of the Calcium Carbide Rules, 1987. The Committee are of the view that since the two provisos under rule 20 envisage transportation of carbide in receptacles of more than 100 kg. capacity only for charging into an acetylene generator, the wordings of the two provisos should be made very specific and unambiguous. The stipulation regarding transportation of carbide in larger receptacles can.

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The Committee are not at all convinced with the reply of the Ministry of Industry (Department of Industrial Development) in the matter. They feel that under-staffing in the office of the Chief Controller of Explosives can hardly be a valid ground for not laying down the time-limit for granting licences to the applicants after completion of the requisite formalities. The Committee would like the Ministry of Industry (Department of Industrial Development) to take necessary remedial steps to amend the Calcium Carbide Rules to the desired effect at an early date.

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The Committee note with satisfaction that at their instance the Ministry of Industry (Department of Company Affairs) have agreed to amend the Monopolies and Restrictive Trade Practices (Recognition of Consumers' Association) Rules, 1987 so as to allow a period of 30 days to the applicant for furnishing the additional information asked for under rule 3(4) of rules *ibid.*

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The Committee further note that the Ministry of Industry have also agreed to prescribe a time-limit of 90 days from the date of receipt of the application or from the date of receipt of such additional information as may have been called for, whichever is later, for the final disposal of an application for recognition of consumers' association with a view to obviating delays on this score.

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The Committee desire that necessary amendments to the rules may be issued at an early date.

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The Committee note the amendments now proposed to be made by the Department of Personnel and Training to sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the IAS (Appointment by Competitive Examination) Regulations. The Committee approve of these amendments subject to the following modifications :—

(1) In sub-regulation (i) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'obtaining support for his candidature by any undesirable means including' be substituted to read as 'obtaining support for his candidature by the following methods'; and

(2) In sub-regulation (vi) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'resorting to any irregular or improper means' be substituted to read as 'resorting to the following means'.

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The Committee desire that the corresponding regulation in the IFS/IPS (Appointment by Competitive Examination) Regulations may also be amended accordingly.

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The Committee are happy to note that the Ministry of Transport (Department of Surface Transport) are now convinced that the Merchant Shipping Act, 1958 did not contain any provision enabling the Ministry to levy fees, as contemplated under Rules 12(2) and 3(2) of the Merchant Shipping (Continuous Discharge Certificates) Rules. Thus the powers assumed under Rules of 1960 for levying a fee of Rs. 2/- for issue of a CDC and those under Rules of 1978 for charging a fee of Rs. 4/- for issue of a duplicate certificate are without any legal authority and are, therefore, unauthorised. Such infirmities in the rules cannot be allowed to continue any further. The Committee recommend that no fee for the issue of original certificate or a duplicate certificate should be levied until and unless necessary authorisation

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15	50	<p>is obtained by means of an amendment to the <b>Merchant Shipping Act, 1958</b>. The Committee further recommend that the provisions in the relevant rules, under which a fee of Rs. 4/- is being levied for the issue of a duplicate Continuous Discharge Certificate should be deleted forthwith.</p> <p>The Committee would like to be apprised of the action taken in this behalf within three months.</p>

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**MINUTES**

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**3-936 LSS/87**

## APPENDIX II

(Vide Paragraph 4 of Introduction)

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

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

#### PRESENT

Shri Mool Chand Daga—*Chairman*

#### MEMBERS

2. Shri D. L. Baitha.
3. Shri G. M. Banatwalla.
4. Shri Dharam Pal Singh Malik.
5. Shri Vakkom Purushothaman.
6. Shri I. Rama Rai.
7. Shri Ram Swarup Ram.
8. Shri K. S. Rao.
9. Shri Dharamjag Singh.
10. Shri Yogeshwar Prasad Yogesh.

#### SECRETARIAT

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

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

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

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

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*The Committee then adjourned.*

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\*The omitted portions of the Minutes are not covered by this Report.

MINUTES OF THIRTY-SIXTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1986-87)

The Committee sat on Tuesday, 2 September, 1986 from 15.00 to 17.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri D. L. Baitha.
3. Shri Anil Basu.
4. Dr. (Shrimati) Phulrenu Guha.
5. Shri Abdul Rashid Kabuli.
6. Shri Dharam Pal Singh Malik.
7. Shri Shantaram Naik.
8. Shri Vakkom Purushothaman.
9. Shri Mullapally Ramachandran.
10. Shri K. S. Rao.
11. Shri Yogeshwar Prasad Yogesh.

WITNESSES

- I. *Representatives of the Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training)*
1. Shri V. P. Sawhney—*Additional Secretary.*
  2. Smt. Aarti Khosla—*Joint Secretary (E).*
  3. Shri D. C. Gupta—*Joint Secretary (S).*
- II. *Representatives of Ministry of Law and Justice (Department of Legal Affairs)*
- Shri N. C. Gupta—*Additional Secretary.*

SECRETARIAT

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

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3. The Committee then heard the oral evidence of the representatives of the Ministries of Personnel, Public Grievances and Pension (Department of Personnel and Training) and Ministry of Law and Justice (Department of Legal Affairs) regarding implementation of recommendations made in paragraphs 55—57 of Sixteenth Report (Seventh Lok Sabha) regarding the

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

**IFS/IAS/IPS (Appointment by Competitive Examination) Amendment Regulations, 1978 (G.S.R. 452/453/454 of 1978).**

4. The Committee asked about the reasons for making amendments in the Rules. The representative of the Ministry replied that during the period from 1955 onwards, there were some requests from the Union Public Service Commission for effecting certain changes therein.

5. On a further enquiry about the difficulties experienced by the Department, the representative of the Ministry stated that the Union Public Service Commission was keen that the instances of omission and commission by the candidate might be covered by the regulation in order to take disciplinary action on the misconduct being detected. It might not be possible for them to take action in such matters in the absence of regulations aforesaid. He further stated that as a result of one of the candidates assaulting the examiner outside the examination Hall, one more clause was added.

6. Asked to define the term "by any means" appearing in the Regulation, the representative stated that seeking support for one's candidature in an examination was wrong. Similarly, applying pressure on a person before the examination, offering illegal gratification for some advantage, blackmailing, or threatening, were all illegal. The representative added that another amendment was made on 18 November, 1982 to the effect that no one would be proceeded against without giving him a reasonable opportunity to represent.

7. The Committee then invited attention of the officials to the recommendation of the Committee made earlier that expressions like "any means", "any other irregular or improper means", "irrelevant means" and "any other manner" (which were also used in sub-regulation (i), (vi), (viii) and (ix) of regulation of IFS/IAS/IPS) were vaguely worded, too wide and general and might be interpreted differently by different persons and as such should be suitably reworded to make them intelligible for the common man, the representative of the Ministry agreed to do so.

8. Asked to state whether the kinds of mal-practices could not be laid down at one place in the Regulation, the representative of the Ministry stated that according to the advice given by the Ministry of Law, they had provided legal principles giving broadly the areas and any act similar to those, would be taken into account accordingly. He, however, agreed to redraft some of these provisions, though it would still suffer from certain infirmities. It was difficult for them to anticipate the sort of ingenuity an individual candidate could employ.

9. Asked to explain what could be irrelevant matter, the representative stated that the intention was to avoid divulging one's identity in the paper

which was a serious offence. Such things could also happen with the connivance of the examiner with the candidate. Regarding the guidelines about the relevant and irrelevant matter in the answer books, the representative stated that instructions on the answer books read as under :

“Do not write anything other than the actual answer to that question.”

10. On attention being drawn to the observations of the Committee that the regulation must be in a simple language and that must carry only one meaning, the representative of the Department of Legal Affairs stated that there could be no two opinions that the expression should be definite, unambiguous and as far as possible not capable of conveying different meanings. However, some latitude had to be given to the understanding of the examiner who had to give effect to the particular regulation. There was, however, no case where any action had to be taken on account of irrelevancy.

11. The Committee observed that regulation 11 of the Indian Forest Service (Appointment by Competitive Examination) Regulations, 1967, as at present worded made a candidate liable to double punishment for writing irrelevant matter in the answer sheet, viz. firstly, criminal prosecution could be launched against him and secondly disciplinary action could be taken against him by the Department concerned. How could Government justify such severe action against a candidate for writing irrelevant matter in the test book. The Committee, therefore, asked the representative of the Ministry to justify the two provisions in the regulation for penalty i.e. criminal prosecution and disciplinary action. The representative, therefore, stated that these were the enabling provisions. As the Committee did not feel satisfy, the representative promised to consider the whole matter in consultation with the Ministry of Law and modify the regulations wherever necessary.

12. The Committee then invited the attention of the Ministry to Clause 13 of the Indian Forest Service (Appointment by Competitive Examination) Regulations, 1967 and enquired about the circumstances which had warranted the Ministry to include the words “having regards to his character and antecedents” which were not there in the original Act and were included through an amendment in 1975. The Committee felt that that would give a chance for vested interest to debar a competent man. The representative of the Ministry promised to submit a note in this regard separately.

The Committee then thanked the representatives of the Ministries concerned and asked them to send their amended suggestions within a period of three months.

*The Committee then adjourned.*

MINUTES OF THE FORTY-FIRST SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH) LOK SABHA  
(1986-87)

The Committee sat on Tuesday, 23 December, 1986 from 15.00 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Anil Basu.
3. Shri Dharam Pal Singh Malik.
4. Shri Vakkom Purushothaman.
5. Shri Mullappally Ramachandran.
6. Shri Bholanath Sen.

SECRETARIAT

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

2. The Committee took consideration of Memoranda Nos. 55 and 56 as follows :

- \*                    \*                    \*                    \*
- (ii) *Implementation of recommendations contained in Paras 55-57 of the Sixteenth Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) regarding (i) IFS (Appointment by Competitive Examination) Amendment Regulations, 1978 (GSR 452 of 1978); (ii) IAS (Appointment by Competitive Examination) Amendment Regulations, 1978 (GSR 453 of 1978); and (iii) IPS (Appointment by Competitive Examination) Amendment Regulations, 1978 (GSR 454 of 1978)—(Memorandum No. 56).*

The Committee considered the above Memorandum and took note of the amendments proposed to be made to sub-regulations (i), (vi), (viii) and (ix) of regulation 11 of the IPS/IAS/IPS (Appointment by Competitive Examination) Regulations and endorsed the same with the following modifications :—

- (1) In sub-regulation (i) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'obtaining support for his candidature by any undesirable means including' be substituted to read as 'obtaining support for his candidature by the following methods'; and
- (2) In sub-regulation (vi) of regulation 11 of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955, the words 'resorting to any irregular or improper means', be substituted to read as 'resorting to the following means'.

*The Committee then adjourned.*

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

**MINUTES OF THE FIFTY-SIXTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1987-88)**

The Committee sat on 24 September, 1987 from 15.30 to 17.00 hours.

**PRESENT**

Shri Shyam Lal Yadav—*Chairman*

**MEMBERS**

2. Shri K. J. Abbasi.
3. Shri G. S. Basavaraju.
4. Shri Parasram Bhardwaj.
5. Shri Satyendra Chandra Guria.
6. Shri A. Jayamohan.
7. Shri R. S. Khirhar.
8. Shri M. Raghuma Reddy.
9. Shri Kalicharan Sakargayen.
10. Shri Syed Shahabuddin.
11. Shri Natavarsinh Solanki.

**SECRETARIAT**

1. Shri K. C. Rastogi—*Joint Secretary*.
  2. Shri G. S. Bhasin—*Chief Legislative Committee Officer*.
  3. Shri S. P. Gaind—*Senior Legislative Committee Officer*.
2. The Committee considered Memoranda Nos. 97 to 100 as under :—

- (i) *The Monopolies and Restrictive Trade Practices (Recognition of Consumers' Association) Rules, 1987—(Memorandum No. 97).*

The Committee considered the above memorandum and observed that the term 'within such period as may be specified' used in rule 3(4) of the above Rules was vague. The Committee directed that the exact period within which the requisite additional information might be furnished, should be specified in the Rule itself.

The Committee further observed that some time limit within which the application for recognition of Consumers Association might be disposed of, should also be specified in the Rule in order to obviate any scope of delay.

The Committee desired that the matter might be referred to the Ministry of Industry (Department of Company Affairs) for their comments in the matter.

- (ii) *The Calcium Carbide Rules, 1987—(Memorandum No. 98)*

**(A)**

The Committee considered rules 3 and 12 of the above mentioned Rules and observed that some guidelines might be prescribed for the Chief Controller/Conservator for exercising discretionary powers under those Rules in order to avoid any scope of discriminatory treatment in similar situations.

**(B)**

After considering rules 17 and 18, the Committee observed that the phrase 'under such conditions and restrictions' used in above Rules was

vague. The Committee directed that the conditions and restrictions, if any, might be mentioned in the Rules itself for the information of all concerned.

## (C)

The Committee then considered proviso to rule 20 of above Rules and observed that conditions for transportation of carbide in receptacles capable of containing more than 100 kg. might be specified in the Rule itself for the information of all concerned.

## (D)

The Committee considered rule 30 of above Rules at some length and observed as under in order to obviate any scope of malpractices in the issue of licences :—

- (a) Some guidelines might be prescribed for the licensing authorities; and
- (b) Some time-limit within which applications for granting licences/appeals against the order of cancellation/refusing or suspension of licences might be disposed of should be specified in the Rule itself.

The Committee desired that above points might be referred to the Ministry of Industry (Department of Company Affairs) for furnishing their comments in the matter.

- (iii) *The Employees' Provident Funds Scheme, 1952 (S.R.O. 1509 of 1952)—(Memorandum No. 99).*

The Committee considered the reply furnished by the Ministry of Labour regarding calculation of interest on the contribution under the Employees' Provident Funds Scheme, 1952 and directed the Ministry to take expeditious steps to finalise the proposal for decentralising the work relating to maintenance of Provident Fund Account Establishments. They further directed the Ministry to gradually computerise the accounting work in the organisation for the sake of uniformity in calculation of interest on public funds scheme for mitigating the grievances of lacks of industrial employees who were deprived of interest on their monthly contributions.

- (iv) *Implementation of recommendations contained in paragraphs 41-43 of 22nd Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) re : the Merchant Shipping (Continuous Discharge Certificates) Amendment Rules, 1978 (GSR 528 of 1978)—(Memorandum No. 100).*

The Committee considered in detail the reply furnished by the Ministry of Surface Transport regarding charging of fee for obtaining duplicate copy of continuous discharge certificate. The Committee was of the opinion that the relevant rule should be deleted henceforth.

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*The Committee then adjourned.*



MINUTES OF THE SIXTY-SECOND SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1987-88)

The Committee sat on Thursday, 31 December, 1987 from 11.00 to 11.45 hours.

PRESENT

Shri Shyam Lal Yadav—*Chairman*.

MEMBERS

2. Shri K. J. Abbasi.
3. Shri G. S. Basavaraju.
4. Shri Satyendra Chandra Guria.
5. Shri M. Raghuma Reddy.
6. Shri Syed Shahabuddin.

SECRETARIAT

1. Shri G. S. Bhasin—*Chief Legislative Committee Officer*.
2. Shri O. P. Chopra—*Senior Legislative Committee Officer*.

2. The Committee considered Memoranda Nos. 118 to 122 :—

- (i) *The Calcium Carbide Rules, 1987 (GSR No. 105-E of 1987)—Rule 3 thereof—(Memorandum No. 118).*

The Committee noted that the Ministry of Industry (Department of Industrial Development) proposed to delete the proviso to rule 3 of the Calcium Carbide Rules, 1987 which conferred discretionary powers on the Chief Controller. The Committee desired the Ministry to do the needful at an early date.

- (ii) *The Calcium Carbide Rules, 1987 (GSR No. 105-E of 1987)—Rule 12 thereof—(Memorandum No. 119).*

The Committee considered the reply of the Ministry of Industry (Department of Industrial Development) as satisfactory and decided not to pursue the matter further.

- (iii) *The Calcium Carbide Rules, 1987 (GSR No. 105-E of 1987)—Rules 17 and 18 thereof—(Memorandum No. 120).*

The Committee were not convinced with the reply of the Ministry of Industry (Department of Industrial Development) that it was difficult to foresee all possible situations under which carbide might be imported by land or air. The Committee were of the view that on the basis of past experience, Government should be in a position to specify the conditions and restrictions involved in the importation of carbide by land or air.

(iv) *The Calcium Carbide Rules, 1987 (GSR No. 105-E of 1987)—Rule 20 thereof—(Memorandum No. 121).*

The Committee noted from the reply of the Ministry of Industry (Department of Industrial Development) that the condition for transportation of carbide in receptacles capable of containing more than 100 kilogrammes had already been provided in the proviso to rule 20 of the Calcium Carbide Rules, 1987. The Committee felt that the condition could straightaway be prescribed in the rule itself. The Committee, therefore, desired the Ministry to change the wording of the rule and its provisos to make them specific and unambiguous.

(v) *The Calcium Carbide Rules, 1987 (GSR No. 105-E of 1987)—Rule 30 thereof—(Memorandum No. 122).*

The Committee did not consider the reply of the Ministry of Industry (Department of Industrial Development) as satisfactory. The Committee observed that under-staffing in the Office of the Chief Controller of Explosives could hardly be a valid ground for not laying down the time-limit for granting licence to the applicants after they had completed necessary technical requirements. The Committee decided to impress upon the Ministry to take immediate steps to amend the Calcium Carbide Rules to the desired effect.

3. The Committee also decided to hold their next sittings on Friday, 22 and Monday, 25 January, 1988 in the Parliament House.

*The Committee then adjourned.*

MINUTES OF THE SIXTY-FOURTH SITTING OF THE COMMITTEE  
ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA)  
(1987-88)

The Committee met on Thursday, 17 March, 1988 from 15.00 to 15.30 hours.

PRESENT

Shri Zainul Basher—*Chairman*

MEMBERS

2. Shri K. J. Abbasi.
3. Shri Satyendra Chandra Guria.
4. Shri R. S. Khirhar.
5. Shri P. Kolandaivelu.
6. Shri Kalicharan Sakargayen.
7. Shri Syed Shahabuddin.

SECRETARIAT

1. Shri G. S. Bhasin—*Chief Legislative Committee Officer.*
2. Shri Swarn Singh—*Officer on Special Duty.*

2. The Committee considered and adopted the Draft Nineteenth Report.

3. The Committee authorised the Chairman to present the Nineteenth Report to the House during the current session.

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*The Committee then adjourned.*

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