

COMMITTEE ON SUBORDINATE LEGISLATION

**(THIRTEENTH LOK SABHA)
(2001-2002)**

FIFTH REPORT

LOK SABHA SECRETARIAT

NEW DELHI

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2001-2002)

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| 3. | Shri Paban Singh Ghatowar | | |
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| 13. | Shrimati Sushila Saroj | | |
| 14. | Dr. (Col.) Dhani Ram Shandil | | |
| 15. | Dr. N. Venkataswamy | | |

SECRETARIAT

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| 2. | Shri B.R. Kanathia | - | Joint Secretary |
| 3. | Shri A.K. Singh. | - | P.C.P.I |
| 4. | Shri P.D. Malvalia | - | Under Secretary |

INTRODUCTION

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

The matters covered by this Report were considered by the Committee at their sittings held on 06.11.2000, 02.08.2001 and 16.08.2001.

The Committee considered and adopted this Report at their sitting. The Minutes of the sittings relevant to this Report are appended to it.

For facility of reference and convenience, recommendations/observation 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 in the Report.

(P.H. PANDIAN)
CHAIRMAN
COMMITTEE ON SUBORDINATE LEGISLATION

REPORT

I

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 1.19-1.21 OF THE SECOND REPORT (THIRTEENTH LOK SABHA) OF THE COMMITTEE ON SUBORDINATE LEGISLATION RE: REPRESENTATION ON BEHALF OF ALL CONTRACT EMPLOYEES OF M/S ENGINEERS INDIA LIMITED.

The Second Report of the Committee on Subordinate Legislation (Thirteenth Lok Sabha) was presented to the House on 18.12.2000. The Committee in Paras 1.19 to 1.21 of the Report had made certain recommendations regarding the regularisation of the services of the Contract Engineers/Employees in the Engineers India Limited. The Report was forwarded to the Ministry of Petroleum and Natural Gas for implementation of these recommendations on 19.12.2000. The Ministry of Petroleum and Natural Gas furnished their action taken reply on 10.4.2001.

1.2. The Recommendations of the Committee contained in paras 1.19 to 1.21 and the corresponding action taken replies of the Ministry are as under:-

Recommendation No. 1.19

It has come to the notice of the Committee from the Annual Report of the Engineers India Limited that a large number of projects are pending for being executed by the Company. In addition to it, some more work is expected to be received by the Company from the Oil sectors also. It is, therefore, incorrect to say that the volume of work with the Company has gone down.

ACTION TAKEN NOTE

1.3. The execution methodology of various projects has changed and the owners are preferring to go via Lump Sum Turn Key (LSTK) mode of execution. The Project, accordingly, is divided into five to six packages with scope of work covering right from engineering upto commissioning. Since EIL has so far not fully geared to take up these Turn Key Projects on its own, it (EIL) is getting the Project Management Consultancy (PMC) jobs in these projects which reduces involvement of manpower drastically of what was being deployed for conventional mode of execution (where EIL as a consultant was responsible for Front End Engineering, Detailed Engineering, Procurement, Inspection, Construction Supervision/Management and Commissioning assistance).

1.4. The impact of this change is serious on utilisation of EIL manpower. It is because of this reason that the Company introduced Voluntary Retirement Scheme to reduce its regular manpower.

1.5. Thus, though it is true that EIL is continuing to be associated with various projects being executed in oil sector, because of the limited scope of work in Project Management Consultancy type of jobs being awarded to EIL, the volume of work with the company has drastically gone down.

Recommendation No. 1.20

The Committee feel that the termination of the services of Contract Engineers and other non-technical Contract Employees who had served in the Engineers India Limited for many years is not a healthy practice and is against the principles of natural justice. They are now between the ages of 35-40 years and as such they do not have any chance for further employment. In this regard, the Committee note that at their instance, the management of Engineers India Limited have decided to fill up 50% vacancies of the Management Trainees from the Contract Engineers of the Company. The Committee, however note that such vacancies are to be filled up after subjecting the Contract Employees to a written test and subsequent interview before a Selection Committee. While appreciating the decision so taken by the Board regarding regularisation of the services of the Contract Engineers, the Committee recommend that 100% of the vacancies instead of the proposed 50% should be filled up from the Contract Engineers only till all the

Contract Engineers (including the retrenched ones) are absorbed on regular basis. The Committee recommend the same for the non-technical Contract

Employees also. The Committee are, further of the view that the requirement of such written test is not justified and as such the Selection should be made on the basis of seniority, satisfactory performance and annual performance appraisal report of the Contract Engineers during their earlier service already rendered in the company. The Committee are of the view that suitability of the Contract Engineers for the job has already been well determined. As such, Contract Engineers have already proved their merit and suitability in the service. In view of this, the Committee recommend that the requirement of the written test should be dispensed with.

ACTION TAKEN NOTE

1.6. With the award of large number of projects in 1993, EIL required additional manpower. Since the regular manpower strength was already 3535 as on 28.2.1993, the EIL Board decided not to allow regular manpower to be recruited and instead approved engagement of contract engineers. The recruitment was made through advertisement clearly indicating that the appointments were on contract for specific duration.

1.7. The appointment on contract was for the specific period and, therefore, the engineers were released on completion of contract/extended period of contract/on foreclosure of contract (on completion of project) as per terms and conditions of appointment. Around 245 engineers resigned and left EIL on their own volition on getting better opportunities elsewhere.

1.8. There is no age bar for recruitment in private companies. Even for Government undertakings, they are not overage for recruitment at middle levels commensurate with their experience.

1.9. Regularising these contract engineers without written test and interview will be against natural justice. Had the advertisement indicated that the candidates were going to be regularised later, the response would have been different. In any case, it was known that EIL will not sustain the workload of 1993 in future and, therefore, the recruitment of the engineers was on contract basis. This anticipation, in fact, has come out to be true today when around 30% of its regular manpower is idle.

1.10. Against the vacancies created by separation of regular employees in various Divisions/Department, management trainees are recruited through campus interviews. Therefore, the provision of 50% of vacancies to be filled through contract engineers is justified.

1.11. Since the contract engineers were recruited on relaxed standards mostly through walk-in interviews, their suitability for regularisation has to be ascertained through written test/interview. The contract engineers having experience only in construction supervision cannot be straightway placed in other Divisions such as Process Design, Engineering, Procurement and Inspection etc. Therefore, the written test/interview for selection for regularisation of such contract engineers is considered necessary.

1.12. Non-technical employees in non-executive cadres are recruited on contract for the project duration from areas around the project location, and thus are released on completion of the projects. This philosophy takes care of interest of State People where projects are located and should be continued.

Recommendation No. 1.21

The Committee also recommend that the cases of those contract engineers and non-technical Contract Employees whose services have been terminated by the management should be reviewed in line with the recommendation contained in Para 1.20 above and they should be reinstated, without any break in service.

ACTION TAKEN NOTE

1.13. With the emergence of economic reforms the business scenario has totally changed and EIL is faced with new challenges.

1.14. The clients have changed the method of execution of projects from convention mode to lump sum turnkey/EPC mode. Whereas for such projects EIL is able to get PMC services but is yet to qualify for lump sum turnkey jobs on its own. The manhours required for PMC services are around one-third of the total manhours required for execution of jobs on conventional mode. The reduction in manhours are mostly for Detailed Engineering, Procurement, Inspection and Construction management (which is now handled by the lump sum turnkey contractor) resulting in surplus manpower in these areas.

1.15. With the entry of private sector players in the hydrocarbon sector, a lot of multi-national engineering companies have established their subsidiaries in India. Accordingly, clients now prefer not to award the projects on cost reimbursable/nomination basis and thus most of the jobs EIL has to win against competition with these multi-nationals. Therefore, for its survival EIL has no alternative but to be competitive. For this the cost has to be reduced drastically. This leaves EIL with no option but to have bare minimum manpower on its regular strength for core areas and use innovative technical skills/computers/software to provide timely and quality services to the client. Depending on the workload, which is cyclic, the peripheral/support services will have to be managed by out-sourcing/engaging personnel on contract, as is the practice elsewhere.

1.16. Thus to remain competitive and to be in tune with changed business scenario, EIL has to reduce its manpower in Engineering, Procurement, Inspection and Construction Management. Accordingly, EIL has not only been releasing the contract engineers, as also has introduced Voluntary Retirement Scheme for its regular employees in February, 2000. Therefore, regularising all the contract engineers who were recruited specifically to meet short term requirements will not be in the interest of the Company and will entail serious financial burden/heavy loss to the Company.

1.17. In fact, with the completion of projects where these contract engineers are engaged, EIL is under serious pressure for releasing the facilities (office/residential accommodation etc). provided by the clients and having no other project where the services of these contract engineers can be utilised, there is no option but to release them.

1.18. EIL, therefore, has to keep its regular manpower commensurate with the workload and being a consultancy organisation cannot sustain surplus manpower. In fact the current regular manpower of 3640 itself is very high under the changed business scenario. It will, therefore, be not possible for EIL to regularise all the contract engineers.

1.19. EIL is making all out efforts to enter into the lump sum turnkey mode of execution and in case the work situation improves, it may need additional manpower in future. It is against these vacancies that EIL has decided to fill up 50% of such vacancies through these contract engineers. Thus, the regularisation can take place to the extent and only when workload with EIL is increased.

1.20. It is also pertinent to mention here:-

- i) The contract employees formed an Association and the office bearers of the Association filed a writ petition in the High Court of Gujarat at Ahmedabad for, inter-alia, regularisation of their service. The petition is pending disposal and, therefore, the matter is sub-judice.
- ii) Three ex-employees along with an Accountant on contract had filed writ petition challenging their non-continuation of service in the Company on expiry of period of their contractual appointment and these were dismissed by the Courts.
- iii) Thus, the High Court and the Supreme Court did not find merit in the writ petition of contract employees for continued service/regularisation of their service.

1.21 The Committee note with concern that the Ministry in their Action taken note have again proposed to fill up only 50% of the vacant posts from the Contract Engineers instead of 100% as recommended by the Committee in their recommendations contained in paras 1.19-1.21 of the Second Report of the Committee on Subordinate Legislation (13th Lok Sabha). The Committee also note that the Ministry have again insisted upon to fill up these 50% posts by subjecting the candidates to written test/ interview whereas the Committee had recommended that the requirement of written test/ interview should be dispensed with as the Contract Employees had already proved their merit and suitability during their tenure in the company and thus the selection should be made on the basis of their seniority, satisfactory performance and annual performance appraisal report etc. The Ministry have even not agreed to regularise the services of the non-technical contract employees and have taken the view that such persons are recruited from areas located around the projects specifically for that project and it takes care of the welfare of local people.' The Committee do not agree with the Action Taken Reply of the Government and, therefore, strongly reiterate their earlier recommendations contained in paras 1.19-1.21 of the Second Report of the Committee on Subordinate Legislation (13th Lok Sabha).

II

THE DRUGS AND COSMETICS (IVTH AMENDMENT) RULES, 1996 (GSR 231-E OF 1996)

The Drugs and Cosmetics (IVth Amendment) Rules, 1996 (GSR 231-E of 1996) were published in the Gazette of India: Extraordinary, Part II, Section 3 (i), dated 4 June, 1996. It was observed therefrom that whereas draft rules were notified on 30.9.1994 for inviting comments/suggestions, the final rules were notified on 4.6.1996 i.e. after a gap of 20 months against the time limit of six months fixed by the Committee. The Ministry of Health and Family Welfare were, therefore, requested to state the reasons for such inordinate delay in the publication of final rules.

2.2. The Ministry of Health and Family Welfare in their reply dated 10 March, 1997 stated as under:-
“.....though the printed copies of the draft notification published vide GSR No. 730-E, dated 30.9.94 were made available to the public on 8.11.1994 but the Ministry received the printed copies on 17.1.1995. The Directorate General of Health Services after examination of the comments/objections received from the affected parties envisaged the proposal for finalisation of the draft notification on 20.4.1995. This Ministry after examining the proposal and obtaining the approval of the competent authority forwarded the proposal to the Ministry of Law for vetting on 19.5.1995. However, the final approval of the Ministry of law could be obtained only on 18.9.1995.

In the meanwhile, a representation was received from President, Small Drug Manufacturers' Organisation, an affected Party, with the request that third party independent testing undertaken by the Private approval testing Laboratory is the most feasible and economic option for the Pharmaceutical Industry. He also met the then, Dy. Minister of this Ministry who supported the arguments.

Accordingly, the draft amendment was revised to accommodate the suggestions of the Organisation and the draft Notification was again sent to the Ministry of Law and O.L. Wing for obtaining their approval. Final approved draft of the final Notification was received from the O.L. Wing on 29.2.1996 only. In the revised draft of the final notification certain provisions were omitted. After, obtaining the approval of the then HFM the draft of the final notification was published on 4th June, 1996.”

2.3. The reply of the Ministry of Health and Family Welfare in justifying a gap of 18 months between publication of the draft rules and the final rules is not satisfactory because reasons attributed by the Ministry for delay in publication of the final rules mainly include time taken in vetting by the Ministry of Law and the translation by the Official Language Wing etc. are the routine procedures and are generally followed during the finalisation of any statutory 'Order'.

2.4 **The Committee note that the Ministry of Health and Family Welfare took 20 months in publication of their final rules. The Committee are not satisfied with the reply of the Ministry of Health and Family Welfare in justifying a gap of 20 months between publication of the draft rules and final rules as the reasons attributed by the Ministry for delay in publication of the final rules are of the routine procedures generally followed during the finalisation of any statutory 'Order'. The Committee viewed with displeasure the lack of seriousness shown by the Ministry. The Committee decided to invite the attention of the Ministry to their earlier recommendation contained in para 68 of their twenty-fourth Report (7th Lok Sabha) wherein the Committee had recommended that the gap between publication of the draft and final rules should not be more than six months. The Committee desire that the Ministry should ensure that such instances of inordinate delays do not recur and the time-limit of six months fixed by the Committee is adhered to. The Committee also desire that henceforth Ministry should maintain a progress chart in respect of finalisation of rules framed by them.**

III

THE INDIAN NAVY SENIOR TRANSLATION OFFICER (RUSSIAN/ENGLISH) GROUP 'A' POSTS RECRUITMENT RULES, 1995 (SRO 230 OF 1995).

The Indian Navy Senior Translation Officer (Russian/English) Group 'A' Posts Recruitment Rules, 1995 were published in the Gazette of India, Part II, Section 4, dated 2 December, 1995. It was observed therefrom that as per scheme of column 10 of the Schedule appended to the Recruitment Rules, for the post of Senior Translation Officer (Russian / English), the probation period for direct recruits was only one year whereas it was two years for promotees. The Ministry of Defence were, therefore, requested to state the rationale behind prescribing a longer probation period for promotees as compared with that of the direct recruits and for treating them at two different footings in the matter of probation, for consideration of the Committee on Subordinate Legislation of Lok Sabha. In this connection, attention of the Ministry was also invited to the Department of Personnel and Training O.M. No. 21011/94 Estt.(C) dated 20 April, 1995 regarding prescribing a uniform period of probation for both promotees as well as direct recruits. The Ministry of Defence were further requested to state whether they had any objection in amending the aforesaid rules to the desired effect.

3.2 The Ministry of Defence in their reply dated 23 July, 1996 stated as under:-

“..... Recruitment rules for the post of Senior Translation Officer (Russian / English) was notified in the gazette vide SRO 230 dated 31.10.95 as per the version of the recruitment rules approved by the UPSC prior to the coming up of DOP&T O.M. No. 21011/1/94-Estt.(C) dated 20.4.95 regarding probation in various Central Services. Hence the period of probation was prescribed as one year for direct recruits and as two years for promotees.

As per aforesaid DOP&T OM dated 20.4.95, a uniform period of one year shall be prescribed as probation period for both promotees and direct recruits taken into account the following factors:-

- (a) that the recruitment is made both by promotion and direct recruitment;
- (b) that the concerned post carries a pay-scale the minimum of which is Rs.5000/- or more;
- (c) that the maximum age limit prescribed for the post is 35 years or above; and
- (d) that no training is involved or required.

In the subject case, the requirement at para 2(a), (c) & (d) are met. However, the requirement at para 2 (b) is not fulfilled since the post of Senior Translation Officer (Russian/English) carries the pay scale of Rs. 2200-4000/-. The maximum of pay-scale is less than Rs. 5000/-. Thus, DOP&T's OM dated 20.4.95 is not applicable in the subject case.

In view of the position explained above, this Ministry is of the view that there is no need to amend the Recruitment Rules published vide SRO 230 dated 30.10.95 which was issued after consulting DOP&T and UPSC.”

3.3. The guidelines issued by the DOP&T vide their O.M. dated 20.4.95 and the aforesaid reply of the Ministry were examined and found that the reply of the Ministry is not satisfactory. The matter thereafter was referred to the Department of Personnel and Training, and a copy of the aforesaid reply of the Ministry of Defence was forwarded to them with the request that they may clarify the position regarding prescribing a uniform period of probation for promotees as well as direct recruits in accordance with their guidelines.

3.4. The Department of personnel and Training in their reply dated 7 August, 1996, stated as under:-

“.....as per this Department's O.M. No. 21011/1/94-Estt.(C) dated 20th April, 1995, an uniform period of probation of one year has to be prescribed for both promotees and direct recruits in respect of posts where recruitment is made both by promotion and direct recruitment and the post carries a pay-scale the minimum of which is Rs. 5000/- or more or for which the maximum age limit is 35 years or above and where no training is involved.

In view of the above, it is not necessary that all the four conditions as indicated in para 2 of the Ministry of Defence letter No. 1(4)/96-D (Appts.) dated 23.7.96 have to be satisfied for taking

action as per provisions of this Department's O.M. dated 20.4.95. In other words, provisions of O.M. dated 20.4.95 could be applicable if any of the conditions stipulated in para 2 (b) and 2 (c) of the Ministry of Defence letter dated 23.7.96 is satisfied in addition to conditions of para 2 (a) and 2 (d).

Ministry of Defence may accordingly be requested to amend the recruitment rules for the post of Indian Navy Senior Translation Officer (Russian/English) Group "A", as per provisions of this Department's OM dated 20.4.95."

3.5. The aforesaid clarification as furnished by the Department of Personnel and Training was brought to the Notice of the Ministry of Defence. The Ministry of Defence were accordingly requested to amend the extant Recruitment Rules so as to prescribe a uniform period of probation for both promotees and the direct recruits.

3.6. The Ministry of Defence in their subsequent reply dated 9 October, 1996, stated as under:-
".....that this Ministry is in agreement with the suggestion that a uniform period of probation needs to be prescribed for the promotees as well as direct recruits. Accordingly, necessary action is being taken in consultation with the UPSC for amending the recruitment rules. Lok Sabha Secretariat may kindly see for information."

3.7. As the Ministry of Defence had agreed to amend the recruitment rules to the desired effect, the Ministry were requested to furnish a printed copy of the Notification carrying the requisite amendment. The Ministry of Defence in their reply dated 7 April, 1997 stated as under:-
".....the matter was taken up with the UPSC for obtaining their approval on the proposed amendment in Col. 10 of the Recruitment Rules in December, 1996 and their approval is still awaited. UPSC have been reminded."

3.8 The Committee note that the aforesaid rules prescribed a longer period of probation for promotees as compared to that of the Direct Recruits. The Committee are not satisfied with the justification given by the Ministry of Defence that the period of probation for promotees and direct recruits for Indian Navy Senior Translation Officer (Russian/English) were prescribed in accordance with the guidelines issued by the Department of Personnel and Training in that regard. The Committee feel that the Ministry had given a wrong interpretation to the existing guidelines issued by the Department of Personnel and Training. In this regard, the Committee note from the clarification furnished by DOPT that the post of Senior Translation Officer (Russian/English) should carry a uniform period of probation for both promotees as well as Direct Recruits. The Committee also note that on the basis of the clarification, the Ministry of Defence had agreed to amend Recruitment Rules, so as to provide a uniform period of probation in respect of promotees and the direct recruits and took up the matter with the Union Public Service Commission to obtain their approval. The Ministry, however, notified the aforesaid recruitment rules vide SRO No. 114 dated 21 July, 2001

IV

THE CENTRAL EXCISE (FOURTH AMENDMENT) RULES, 1996 (GSR 340-E OF 1996).

The Central Excise (Fourth Amendment) Rules, 1996, were published in the Gazette of India, Extraordinary, Part II, Section 3 (i) dated 31 July, 1996. It was observed therefrom that there was no foot-note appended to the rules to indicate the particulars of the Principal Rules and the Subsequent amendments made thereto for facility of reference. The matter was taken up with the Ministry of Finance to know whether any corrigenda was issued to this effect and if not, whether they had any objection in amending the rules to the desired effect. As per the oft-repeated recommendation of the Committee to facilitate easy referencing, all amending rules should contain a foot-note to indicate the particulars of publication the principal rules and the subsequent amendments made thereto. In their reply dated 3 July, 1997 the Ministry of Finance have since enclosed a copy of the corrigendum vide GSR 355 E dated 1 July, 1997 incorporating the necessary foot-note as desired by the Committee.

4.2 The Committee found that there was no foot note appended to the aforesaid amendment rules to indicate the particulars of the Principal Rules and the subsequent amendments made thereto to facilitate easy referencing.

4.3 The Committee are happy that on being pointed out, the Ministry of Finance, have amended the aforesaid Rules, which were deficient in foot-note, vide Gazette Notification No. GSR 355-E dated 1 July, 1997. The Committee desire that the Ministry should evolve suitable safeguards against possible recurrence of such lapse in future.

V

THE CENTRAL LEPROSY TEACHING AND RESEARCH INSTITUTE, CHENGALPATTU (DATA ENTRY OPERATOR GRADE 'A') RECRUITMENT RULES, 1995. (GSR 217 OF 1996)

The Central Leprosy Teaching and Research Institute, Chengalpattu (Data Entry Operator Grade 'A') Recruitment Rules, 1995 were published in the Gazette of India, Part II, Section 3 (i) dated 18 May, 1996. It was observed therefrom that the rules were published in the year 1996, but in the short-title the year had been indicated as 1995. In this connection, the Committee on Subordinate Legislation had time and again emphasised that the year in the short-title to rules and the year of their publication in the Gazette should be the same. Indication of incorrect year in the short-title causes difficulty in location of 'order'. The Ministry of Health and Family Welfare (Department of Health) were requested to state whether any corrigendum had already been issued to rectify the error in the short-title or whether they had any objection to amending the rules to the desired effect.

5.2 The Ministry, vide their O.M. dated 27 December, 1996, forwarded a copy of the Gazette Notification published in the Gazette of India, Part II, Section 3 (i) dated 5 October, 1996 after making relevant correction in the year of the short-title.

5.3 The Committee observe from the aforesaid rules that these were published in the year 1996 but in the short title the year has been indicated as 1995.

5.4 The Committee note that on being pointed out, the Ministry of Health and Family Welfare, have issued the necessary corrigendum to the aforesaid Recruitment Rules, by indicating the correct year in the short title vide Gazette Notification No. GSR 415 dated 5 October, 1996. The Committee, desire that the Ministry should evolve suitable procedural safeguards against recurrence of such lapses and be more vigilant in future in such procedural and routine matters.

VI

THE MINISTRY OF URBAN AFFAIRS AND EMPLOYMENT, DIRECTORATE OF PRINTING, THE GOVERNMENT OF INDIA PRESSES STENOGRAPHERS GRADE II, GROUP 'C' POSTS RECRUITMENT RULES, 1996 (GSR 333 OF 1996)

The Ministry of Urban Affairs and Employment, Directorate of Printing, the Government of India Presses Stenographers Grade II, Group 'C' posts Recruitment Rules, 1996 were published in the Gazette of India, Part II, Section 3 (i) dated 3 August, 1996. It was observed therefrom that as per Column 10 of the Schedule appended to the Rules, the probation period prescribed for promotees was two years whereas it was 'nil' for direct recruits. The matter was, therefore, referred to the concerned Ministry of Urban Affairs for ascertaining the rationale behind prescribing 'NIL' probation period for direct recruits and two years for promotees although the promotees beside experience possess the same qualifications and speed, as the direct recruits and thereby treating the promotees and direct recruits at two different footings in the matter of probation.

6.2 In their reply dated 7 November, 1996, the Ministry stated as under:-

“..... the entry under column 10 of the Schedule to the Government of India Presses Stenographers’ Grade II Recruitment Rules, 1996 was made in consultation with the Ministry of Law and Justice in the light of the Model Recruitment Rules issued vide Department of Personnel and Training’s O.M. No. AB-14017/39/86-Estt. (RR) dated 25.3.1987. The Department of Personnel and Training’s O.M. No. 21011/1/94-Estt. (c) dated 20.4.1995 is applicable in respect of posts which carry a pay scale the minimum of which is Rs. 5000/- or more or for which the maximum age limit is 35 years or above and where no training is involved and is not applicable in respect of posts under consideration.”

6.3. With a view to clarify the matter further, the Department of Personnel and Training were requested to furnish their comments in the light of the reply given by the Ministry of Urban Affairs and Employment. In their reply, the Department of Personnel and Training stated as under:-

“.....as per column 10 of the Schedule appended to the Recruitment Rules for the post of Stenographers Grade II in the Ministry of Urban Affairs and Employment, Directorate of Printing, the probation period of promotees has been prescribed as two years whereas it is nil for direct recruits. The matter has been examined and it is observed that the entry against column 10 of the Model Recruitment Rules for the post of Stenographer Grade II circulated vide this Department’s O.M. No. AB-14017/39/86 Estt. (RR) dated 25.3.87 is jumbled. In accordance with the instructions issued by the Government from time to time, the relevant column may be read as follows:-

“ Two years for direct recruits, nil for promotees.”

The Ministry of Urban Affairs and Employment, Directorate of Printing may accordingly amend column 10 of the Recruitment Rules for the post of Stenographers Grade II under intimation to this Department.”

6.4. The aforesaid clarification so furnished by the DOP&T was brought to the notice of the Ministry of Urban Affairs & Employment and they were requested to amend the Recruitment Rules accordingly.

6.5. The Ministry vide their reply dated 10.10.1997 enclosed a copy of the Gazette Notification carrying out the desired amendment in the Recruitment Rules issued vide GSR 307 dated 1.8.1997.

6.6 The Committee note that the aforesaid Recruitment Rules provided a longer probation period for promotees as compared to that of direct recruits. The Committee also note that on being drawn the attention of the Ministry to the guidelines instruction issued by the Department of Personnel and Training regarding prescribing probation period for direct recruit/promotees the Ministry of Urban Affairs have amended the Recruitment Rules vide Gazette of India notification No. GSR 307 dated 9 August, 1997 prescribing two years probation period for direct recruits and ‘Nil’ for promotees. The Committee desire that the Ministry should be more careful in future in following the guidelines issued by DOP&T correctly while framing the Recruitment Rules.

VII

THE CONTRACT LABOUR (REGULATION AND ABOLITION) (CENTRAL AMENDMENT) RULES, 1999 (GSR 41-E OF 1999)

The Contract Labour (Regulation and Abolition) Central (Amendment) Rules, 1999 were published in the Gazette of India, Extraordinary, Part-II, Section 3(i) dated 21 January, 1999. Rule 2(a) (b) and (c) as amended read as under:-

- (a) “in proviso to sub-clause (a) of clause (v) of sub-rule (2) of rule 25, for words “the Chief Labour Commissioner (Central)” the words “the Deputy Chief Labour Commissioner (Central)” shall be substituted;
- (b) in sub-clause (b) of clause (v) of sub-rule (2) of rule 25, for the words “the Chief Labour Commissioner (Central)” the words “the Deputy Chief Labour Commissioner (Central)” shall

be substituted;

- (c) in the Explanation to sub-clause (b) of clause (v) of sub-rule “the Deputy Chief Labour Commissioner (Central) (2) of rule 25 for the words, “the Chief Labour Commissioner (Central)”, shall be substituted.”

7.2 From the aforesaid amendment rules, it was observed that some powers were delegated to the Deputy Chief Labour Commissioners. In this regard, the corresponding changes which were also required to be made in Forms annexed to these rules were, however, not made. The concerned Ministry of Labour were, therefore, requested to state the rationale behind not doing so.

7.3 The Ministry in their reply dated 21.9.1999 stated as under:-
“..... the comments in the matter have been received from the Chief Labour Commissioner (Central), New Delhi who have stated that the amendment of Forms No. VI and XI was not proposed earlier through oversight as it did not come to their notice.

It has been decided with the approval of Labour Minister to suitably amend these forms. The notification to amend these forms is being finalised in consultation with the Ministry of Law and Justice.”

7.4 The Ministry vide another communication dated 24.12.1999, endorsed a copy of the draft rules issued by them vide GSR 774-E dated 16.11.99, to effect necessary corrections in the Forms annexed to the rules and stated that the final notification to this effect would be issued in due course of time after following the required procedure.

7.5 The Committee observe that in the above rules certain powers were conferred on the Dy. Chief Labour Commissioner which were earlier exercised by Chief Labour Commissioner, but the corresponding amendments were not made in the Forms annexed to the Rules. The Committee note with satisfaction that on being pointed out, the Ministry have now notified the necessary amendment in the rules by affecting the desired changes in the annexed Forms. The Committee, however, impress upon the Ministry that they should ensure that whenever any amendments are made in the rules, they must check whether any consequential changes are also required to be made in some other parts of the rules so as to avoid this type of lapse in future.

**(P.H. PANDIAN)
CHAIRMAN
COMMITTEE ON SUBORDINATE LEGISLATION**