

COMMITTEE ON SUBORDINATE LEGISLATION
(2021-2022)

(SEVENTEENTH LOK SABHA)

TWENTY SECOND REPORT

**ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/
RECOMMENDATIONS CONTAINED IN THE FIFTH REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA)
ON “THE MINISTRY OF HEALTH AND FAMILY WELFARE, CENTRAL
GOVERNMENT HEALTH SCHEME ORGANISATION, PARAMEDICAL AND
GENERAL CATEGORIES (GROUP C POSTS) RECRUITMENT RULES, 2015”.**

(PRESENTED TO LOK SABHA ON 04.08.2022)



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2022/ Shravana, 1944 (Saka)

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MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2021-2022)

Shri Balashowry Vallabhaneni Chairperson

Members

2. Shri Jyotirmay Singh Mahato
3. Shri Pinaki Mishra
4. Shri Chandeshwar Prasad
5. Shri N.K.Premachandran
6. Shri Suresh Kumar Pujari
7. Shri A.Raja
8. Shri Nama Nageshwara Rao
9. Shri Sanjay Seth
10. Shri Mahendra Singh Solanky
11. Shri Su Thirunavukkarasar
12. Shri. Manickam Tagore B.
13. Shri Ram Kripal Yadav
14. Dr. Amar Singh
15. Vacant

SECRETARIAT

1. Shri Vinay Kumar Mohan - Joint Secretary
2. Shri Muraleedharan.P - Director
3. Smt. Jagriti Tewatia - Additional Director

INTRODUCTION

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

2. This Report relates to the Action Taken on the Observations/ Recommendations of the Committee contained in the Fifth Report (2019-2020) (Seventeenth Lok Sabha) which was presented to Lok Sabha on 22.09.2020.

3. The Committee considered and adopted this Report at their sitting held on 25.07.2022.

4. The Extracts of the Minutes of the Twenty Eighth Sitting of the Committee relevant to this Report are brought out in Appendix I of the Report.

5. An analysis of the action Taken by Government on the recommendations contained in the Fifth Report of the Committee (Seventeenth Lok Sabha) is given in Appendix II of the Report.

New Delhi;
25 July, 2022
03 Shravana, 1944 (Saka)

BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation

REPORT

This Report of the Committee on Subordinate Legislation (2021-2022) deals with the Action Taken by the Government on the Observations/Recommendations contained in the Fifth Report (Seventeenth Lok Sabha) of the Committee which was presented to Lok Sabha on 22.09.2020. The Fifth Report dealt with the Recruitment Rules pertaining to 'the Ministry of Health and Family Welfare, Central Government Health Scheme Organisation, Paramedical and general categories (Group C Posts) Recruitment Rules, 2015'.

2. The shortcomings observed in the above Recruitment Rules and the Observations/Recommendations made by the Committee in respect of these shortcomings are contained in paras 1.3 and 1.6 of the Fifth Report (17th Lok Sabha). The Report, after presentation was forwarded to the Ministry of Health & Family Welfare (Department of Health & Family Welfare) for implementation of the recommendations contained therein. The Ministry of Health & Family Welfare (Department of Health & Family Welfare) vide their OM no. H.11013/01/2021-EHS dated 18th May, 2022 furnished their action taken replies on the Observations/Recommendations contained in the Report.

3. Replies to the observations/recommendations contained in the Report have broadly been categorized as follows:-

- | | | |
|-------|--|------------------------------|
| (i) | Observations/Recommendations which have been accepted by the Government
Sl. Nos. Nil | Total No. Nil
Chapter II |
| (ii) | Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply.
Sl. Nos. Nil | Total No. Nil
Chapter III |
| (iii) | Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee
Sl. Nos. Nil | Total No. Nil
Chapter IV |
| (iv) | Observation/Recommendation in respect of which final reply of the Government is still awaited
Sl. Nos. 1.3 and 1.6 | Total No. Two
Chapter V |

4. In their Original Report (5th Report – 17th Lok Sabha) pertaining to the Ministry of Health and Family Welfare, Central Government Health Scheme Organisation, Paramedical and General Categories (Group 'C' Posts) Recruitment Rules, 2015, the Committee had observed and recommended on the infirmities pertaining to the anomaly in Qualification Clause (Recommendation no. 1.3) and use of vague expressions (Recommendation no. 1.6) in the Recruitment Rules.

5. Regarding the recommendation made in Para 1.3 of the 5th Report (17th Lok Sabha) pertaining to the anomaly in Qualification Clause, the Committee had noted that the Ministry did not prescribe the duration of diploma viz. 2 years in Unani Pharmacy despite expressing their no objection in prescribing the same. The Committee had, thus, while expressing its satisfaction, recommended that the necessary amendment of prescribing the duration of Diploma in the educational qualification for the posts of Pharmacist-cum-Clerk (Unani) and Storekeeper (Unani), as also agreed to by the Ministry may be notified at the earliest and the Committee be apprised of the action taken.

6. As regard the recommendation made in para 1.6 of the 5th Report (17th Lok Sabha) of the Committee regarding use of vague expressions such as 'recognised institute', 'recognised hospital', 'recognised Laboratory' used under Column 7 for fulfilling essential educational qualifications for the posts of ECG Technician (Junior), Laboratory Technician, Dental Technician and Lady Health Visitor, the Committee had expressed its satisfaction that, on being pointed out, the Ministry had stated that they have no objection in specifying the terms and had recommended to bring out necessary amendment to the Rules to specify the terms & expressions which are vague.

7. The Committee, however, note that before presenting the Report on the issues, the Ministry was requested to furnish their comments on the above two infirmities. In response the Ministry vide their OM dated 1.3.2018 had, in principle agreed and submitted that they may have no objections in prescribing two years diploma in Unani Pharmacy from a recognised University or Institute for the posts at sl. no. 1 & 2 pertaining to Pharmacist-cum-Clerk (Unani) and Storekeeper (Unani) respectively under Column 7 in the Schedule of the said Rules and also in specifying respective field under Column 7 for the posts at Sl. No. 3, 4, 6,& 7 pertaining to the posts of ECG Technician (Junior), Laboratory Technician, Dental Technician and Lady Health Visitor respectively. The Committee are, however, appalled to note that even after the lapse of more than 4 years, since the Ministry had submitted

their comments vide OM dated 1.3.2018, the required amendments in the Rules are yet to be notified. Further, as the Ministry had agreed in principle to amend the Rules as proposed, accordingly, the Committee, in its 5th Report (17th Lok Sabha) which was presented to Lok Sabha on 22.9.2020, while expressing its satisfaction, had recommended to notify the said amendments at the earliest and apprise the Committee.

8. The Committee, are however, surprised to note that it took 1 year & 8 months, after the presentation of the Report to the Ministry to furnish their action taken replies, *vide* their OM dated 18.5.2022, that too on the infirmities, which were already agreed to by the Ministry. It is more shocking to note that the action taken by the Ministry have been furnished without taking any conclusive action on the recommendations given by the Committee. The Committee further note with concern that the Ministry of Health & Family Welfare, in their Action Taken Reply have submitted that, 'the process for amendment of Recruitment Rules (RRs) for the above mentioned posts except 'Laboratory Technician' has already been initiated and is under consideration for approval of the Competent Authority before forwarding the matter to Law Ministry for vetting. Further, consequent upon implementation of 7th Central Pay Commission (CPC), the name of the post of 'Laboratory Technician' has been changed to 'Medical Laboratory Technologist'. Accordingly, the said Recruitment Rules is under process for amendment and necessary changes will be made in due course'.

9. The Committee, thus, take serious cognizance of the slow progress made in the matter by the Ministry and are of the opinion that the duration of diploma viz. two years in Unani Pharmacy under Column 7 for posts at Sl. No. 1 & 2, in the Schedule of the Rules if not explicitly mentioned (Recommendation no. 1.3 of the 5th Report – 17th Lok Sabha) and use of vague expressions. viz 'recognised institute', 'recognised hospital', 'recognised laboratory' without clearly mentioning as to whose recognition i.e. State/Central Government or any other Competent Authority will be acceptable in Column 7 for the posts at Sl. No. 3, 4, 6 & 7 in the Schedule of the Rules (Recommendation no. 1.6 of the 5th Report – 17th Lok Sabha), if not clearly & precisely spelt out, the same may open windows for different interpretation by different people. Thus, to avoid such misinterpretation, the Committee would like to reiterate its recommendation made in Original Report and expect the Ministry to expedite the process, as already initiated by them and notify suitable amendment in the rules without any further loss of time.

10. The Committee further note with concern that the Ministry have segregated the post of 'Laboratory Technician' merely on the ground that consequent upon implementation of 7th Central Pay Commission, the name of this post has been changed to 'Medical Laboratory Technologist'. The Committee, are of the view that, if the terms & conditions viz. the educational qualifications, pay scale etc. in the recruitment rules of Medical Laboratory Technologist are the same, as that of 'Laboratory Technician' then amendment regarding change in name of the post may also be done along with the amendments as had been proposed by the Committee, in the same notification so as to avoid any further delay in notifying the Rules. The Committee are of the opinion that, correct Recruitment Rules should always be notified and that too well in time, so that recruitments made under the Rules should not go for litigation, just because there was scope of varied interpretation of the Recruitment conditions notified in the Recruitment Rules. The Committee, therefore, strongly recommend to expedite the procedure and intimate the Committee of the conclusive action taken in the matter.

11. The Observations/Recommendations made by the Committee and the Action Taken Replies received from the Ministry concerned have been reproduced and suitably categorized in the succeeding Chapters of the Report.

CHAPTER II

**OBSERVATIONS/ RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY
THE GOVERNMENT**

-NIL-

CHAPTER III

**OBSERVATIONS/ RECOMMENDATIONS WHICH THE COMMITTEE DO NOT
DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY**

-NIL-

CHAPTER IV

OBSERVATIONS/ RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

-NIL-

CHAPTER V

OBSERVATIONS/ RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED

Anomaly in Qualification Clause

The Committee note that in the aforesaid Rules, one of the essential educational qualifications prescribed for the posts of Pharmacist-cum-Clerk (Unani) and Storekeeper (Unani) is Degree or Diploma in Unani Pharmacy by recognised University or Institute. Since the Degree as well as Diploma in Unani Pharmacy has been treated at par, the same may be perceived as anomalous because the Degree undoubtedly, is a superior qualification over Diploma and the same should not have been equated. The Committee note that educational qualification is one of the most important constituent to any Recruitment Rules and an error in the same can have further ramifications on the selection of candidates. But to the surprise of the Committee the same was overlooked by the Ministry. The Committee express their disagreement with the stand taken by the Ministry that, after prescribing 'Diploma' as minimum qualification, the Degree holders will not be eligible for the post. The Committee emphasize that Diploma may be prescribed as minimum qualification, it implies that, even the degree holders are eligible, as they meet eligibility criteria. It was not the intention to exclude the degree holders. The Committee desire that the Ministry should be extra cautious in drafting/framing of the Recruitment Rules as the anomalies in the same may have varying ramification on the candidates, recruitment process, etc and it may lead to unnecessary litigations. The Committee, however, note that once the said infirmity was brought to the notice of the Ministry, the Ministry has amended the same vide GSR 466 dated 19.12.2017 and has supplemented the qualification of diploma in Unani pharmacy, with two years' experience as Unani Pharmacist in a recognised Unani Hospital or Pharmacy and the Degree in Unani Pharmacy has been prescribed as a standalone qualification. However, in the amended qualification the Committee note that the Ministry did not prescribe the duration of diploma viz. 2 years in Unani Pharmacy despite expressing their no objection in prescribing the same. The Committee, therefore, while expressing its satisfaction that on behest of the Committee the required correction in the educational qualifications for posts of Pharmacist-cum-clerk (Unani) and Storekeeper have been agreed to be made by the Ministry, recommend that the necessary amendments including prescribing the duration of Diploma may be notified at the earliest and the Committee may be apprised of conclusive action taken in this regard.

Use of Vague Expressions

In the aforesaid Recruitment Rules, for the posts of ECG Technician (Junior), Laboratory Technician, Dental Technician and Lady Health Visitor, in column 7 pertaining to educational qualification, the words - 'recognised institute', 'recognised hospital', 'recognised laboratory' have been used which appears to be vague as the Competent Authority or the State/Central Government whose recognition of the institute/ hospital/laboratory will be acceptable has not been specified. The Committee are of the view that vague expressions used in Rules open the windows for different kind of interpretation and may be construed to harm/benefit some for whom the Rules are intended. Therefore, to avoid such situations it is necessary that the Rules are devoid of expressions and phrases which are vague in nature and lack clarity. The Committee, however, express its satisfaction that on being pointed out, the Ministry have stated that they have no objection in specifying the terms. The Committee, therefore, desire that the Ministry may bring out the necessary amendment to the Rules to specify the terms and expressions which are vague and intimate the Committee of the final action taken in the matter.

[Para nos. 1.3 & 1.6 of the 5th Report, 17th Lok Sabha]

Reply of the Government

The process for amendment of Recruitment Rules (RRs) for the above mentioned posts except 'Laboratory Technician' has already been initiated and is under consideration for approval of the Competent Authority before forwarding the matter to Law Ministry for vetting. Further, consequent upon implementation of 7th Central Pay Commission (CPC), the name of the post of 'Laboratory Technician' has been changed to 'Medical Laboratory Technologist'. Accordingly, the said Recruitment Rules is under process for amendment and necessary changes will be made in due course.

[Ministry of Health & Family Welfare, Department of Health & Family Welfare OM No. H.11013/01/2021-EHS dated 18th May, 2022]

**New Delhi;
25 July, 2022
03 Shravana, 1944 (Saka)**

**BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation**

APPENDIX I

(Vide Para 4 of the Introduction of the Report)

EXTRACTS FROM MINUTES OF THE TWENTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2021-2022)

—
The Twenty-eighth sitting of the Committee (2021-22) was held on Monday, the 25th July, 2022 from 1500 to 1700 hours in Committee Room No. 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Balashowry Vallabhaneni Chairperson

MEMBERS

2. Shri Chandeshwar Prasad
3. Shri N.K. Premachandran
4. Shri Suresh Kumar Pujari
5. Shri A. Raja
6. Shri Nama Nageswara Rao
7. Shri Sanjay Seth

SECRETARIAT

1. Shri V.K.Mohan - Joint Secretary
2. Shri Muraleedharan P. - Director
3. Smt. Jagriti Tewatia - Additional Director

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

- (i) xx xx xx xx
- (ii) xx xx xx xx

(iii) xx xx xx xx

(iv) Twenty-second Report on action Taken by the Government on the Observations/ Recommendations contained in the 5th Report of the Committee on Subordinate Legislation (17th Lok Sabha) on ‘the Ministry of Health and Family Welfare, Central Government Health Scheme Organisation, Paramedical and general categories (Group C Posts) Recruitment Rules, 2015”;

(v) xx xx xx xx

3. After deliberations, the Committee adopted the above draft Reports without any modification. The Committee also authorized the Chairperson to present the same to the House.

4. xx xx xx xx

5. xx xx xx xx

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11. xx xx xx xx

The Committee then adjourned.

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

APPENDIX II

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/ RECOMMENDATIONS CONTAINED IN THE FIFTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA)

I	Total No. of Observations/Recommendations made	2
II	Recommendations that have been accepted by the Government	Nil
	Percentage of total	0%
III	Recommendations which the Committee do not want to pursue in view of Government replies	NIL
	Percentage of total	0%
IV	Recommendations in respect of which replies of Government have not been accepted by the Committee	NIL
	Percentage of total	0%
V	Recommendations in respect of which final replies of Government are still awaited [vide recommendations at Sl. Nos.1.3 and 1.6]	2
	Percentage of total	100%