

**COMMITTEE
ON
SUBORDINATE LEGISLATION**

(FOURTH LOK SABHA)

MINUTES

[First to Fourteenth Sittings]
[1967-68]

(Laid on the Table of the House on the 5th March, 1968)



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 1968/Phalguna, 1889 (Saka)

Price : 75 Paise

COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1967-68) *

1. Shri N. C. Chatterjee—*Chairman*.
2. Shri Tulsiram Dashrath Kamble
3. Shri Narendra Singh Mahida
4. Shri M. Meghachandra
5. Dr. G. S. Melkote
6. Shri V. Viswanatha Menon
7. Shri Bakar Ali Mirza
8. Shri Srinibas Mishra
9. Dr. Baburao Patel
10. Dr. Sisir Kumar Saha
11. Shri N. K. Sanghi
- *12. Shri Nuggehalli Shivappa
13. Shri Tulsidas Dasappa
14. Shri Balgovind Verma
15. Shri G. Viswanathan.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

*Nominated by the Speaker on 18th November, 1967 *vice* Shri N. Dandekar resigned.

I
COMMITTEE ON SUBORDINATE LEGISLATION
(1967-68)

First Sitting

The Committee met on Tuesday, the 11th April, 1967 from 11.00 to 12.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*.

MEMBERS

2. Shri Tulsiram Dashraff Kamble
3. Shri Narendra Singh Mahida
4. Dr. G. S. Melkote
5. Shri Bakar Ali Mirza
6. Dr. Sisir Kumar Saha
7. Shri N. K. Sanghi
8. Shri Tulsidas Dasappa.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. At the outset, the Chairman welcomed the members of the Committee and explained to them broadly the scope and functions of the Committee (*Vide Appendix at page 2 infra.*)

3. Dr. Melkote pointed out to the Committee the financial loss that was caused to a Member of Parliament in the event of cancellation of a Railway Ticket purchased by him on account of the extension of the session of the House by a day or so. He also pointed out that the cancellation fee as at present charged by the Railway Administration in respect of the unused tickets which ranged from 10 per cent to 25 per cent of the fare was very much on the high side and caused great hardship to a *bona fide* passenger who had to get his reservation cancelled under some unavoidable circumstances at a short notice. He wanted to know whether this cancellation fee had been imposed by the Railway Board under their own powers or in pursuance of any rules or regulations made under the Indian Railways Act, 1890. The Committee decided that the Railway Board should be addressed on this point and after seeking elucidation from them, the matter placed before the Committee at their next sitting.

4. Dr. Melkote also raised a point relating to the Rules made by the Defence Department regarding the service conditions of certain categories of Defence employees, viz. water-carriers, cooks in Defence Services Canteens and Messes, which, he said, were in contravention of the Industrial Disputes Act, 1947. He urged that the matter might be considered by the Committee. The Chairman, however, asked him to submit, at an early date, to the Secretariat a note setting forth therein precisely the points which he wanted to be pursued.

5. *The Committee then adjourned to meet again at 16.00 hours on Saturday, the 20th May, 1967.*

APPENDIX

(Vide para 2 of the Minutes)

Friends,

It gives me great pleasure to meet you today in our common effort to advance the efficient functioning of parliamentary democracy and to work for necessary parliamentary supervision and control on the exercise of the rule-making powers given to Government by Parliament through various enactments.

2. Our Committee has very important functions to perform. As elected representatives of the people we have to safeguard the interests of the people. We have a written Constitution and certain broad limits have been laid down within which the Parliament is to function as the highest legislative body in the Republic. There is the Judiciary to declare whether any limits have been transgressed. Then as the Supreme Legislature of the land, Parliament enacts laws and directs the Executive to administer those laws. In a Welfare State, the spheres of activity of the State are increasing and the administration pervades every walk of a citizen's life.

3. The pressure on Parliamentary time, the technicality of the subject matter, the need to meet unforeseen contingencies, the requirement of flexibility etc. compel the legislature of a modern welfare State to lay down the policy of a measure and leave details to be worked out by the Administration. The greater the social welfare activities of the State, the greater is the delegation of powers to Administration to make subordinate laws.

4. It is quite common to leave subsidiary matters to be settled by subsidiary legislation. Tables of fees, scale of railway charges,

various forms and other procedural matters are generally provided for by the rules and regulations. They provide flesh and blood, as it were, to the statutes.

The object of the supplementary legislation is to carry out the purposes of the Act and not to lay down any policy.

5. However inevitable subordinate legislation may be, there must be certain safeguards against the risks inherent in it so that it could be reconciled with the Parliamentary processes. Certain safeguards exist and should exist if, what Sir Cecil Carr has called, "the germ of arbitrary Administration" has to be kept under control. Hewitt, in his book "The Control of Delegated Legislation" classifies these safeguards under four heads, namely, (a) legislative, (b) judicial, (c) administrative, (d) supervision over local authorities by a Central Government Department.

6. Parliamentary control over subordinate legislation is exercised in four ways. Firstly, Parliament has an opportunity of examining the power to make such legislation when it appears in a Bill. Secondly, many subordinate laws are required by the parent Acts to be laid before Parliament and in certain cases, made subject to parliamentary procedure and parliamentary sanction. Thirdly, subordinate laws may, in other ways, be questioned or debated by Parliament. Lastly, Parliament may keep a watch over such legislation through a scrutiny committee which may report to the House whether the powers to make subordinate laws are being properly exercised. The most effective control that Parliament exercises over subordinate legislation is through this Committee in which we will have privilege to work.

7. We shall have to see whether the authority delegated by Parliament in the Statutes has been properly exercised to the extent permissible and in the manner envisaged. We shall be making our reports to Lok Sabha advising it for taking any action which may be deemed necessary.

8. But in discharging our duties, I should like to make it clear, we would not be acting in hostility to the Executive. Our objective is implementation of the will of Parliament and our efforts would be complementary. The executive ought to comply with the wishes of the Parliament and frame rules and regulations in exercise of the authority vested in them by law. Sometimes in their eagerness to discharge their duties more expeditiously and effectively the Executive may commit mistakes, and it does make mistakes.

Maybe, sometimes out of thirst for greater power, they might go astray. We have to keep them on the right track. We are the friendly critics of the Executive and not their enemies. We have to help them in the proper discharge of their duties for the benefit of the masses.

9. There is another danger. The Subordinate Legislation, namely the rules, regulations, bye-laws and orders, are mostly framed by the officials confined within the four walls of the Secretariat. These officials have a different approach. They have little contact with the masses, and seldom know what is the effect of a particular legislation on those who are affected by it. We know the intentions of the legislature as well as the interest of the people and hence we are best suited to advise in these respects.

10. The Committee has another peculiar feature. There are no parties and no factions here. Once a law is enacted by the vote of the majority, it becomes the combined will of Parliament. Then it is the concern of all parties to see that it is administered properly. It is the tradition of the Committee, I may emphasise here having a personal and intimate knowledge of the working of this Committee as its Chairman in its formative stages, that all the decisions are arrived at unanimously and party considerations never affect our deliberations. I hope this tradition would be continued by us too and we would be able to pull on, in a combined and co-operative manner and with the same will and determination as is expected of us. I welcome you all and wish you all success in your labours.

II

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68).

Second Sitting

The Committee met on Saturday, the 20th May, 1967 from 15.00 to 16.05 hours.

PRESENT

Shri N. C. Chatterjee—Chairman

MEMBERS

2. Dr. G. S. Melkote
3. Shri V. Viswanatha Menon
4. Shri Bakar Ali Mirza
5. Dr. Sisir Kumar Saha
6. Shri Tulsidas Dasappa.

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. The Committee took up consideration of the note dated 15th May, 1967 submitted by Dr. G. S. Melkote, a Member of the Committee, suggesting the desirability of amending certain Rules framed under the Army Act. It was pointed out in the note that certain categories of civilian workers in the Defence Establishments, who performed the duties of cooks and water-carriers, were placed under the purview of the Army Act, which prohibited the formation of association's trade unions to represent their grievances before the appropriate authorities, whereas other civilian staff who were employed in the Industrial and non-Industrial establishments under the Ministry of Defence could avail themselves of the Joint Consultative machinery for getting redress of their grievances. Even though this category of employees were not 'combatants' and were not given any benefit in the form of pay, allowances and privilege, extended to the 'combatants' in the Army, yet their service conditions were regulated under the Army Act.

3. Dr. Melkote stated that some thousands of cooks and water-carriers were facing retrenchment after having served for over 20 years and without provision of any alternative employment. After considerable discussion, it was decided that a copy of the note submitted by Dr. Melkote should be forwarded to the Ministry of Defence for their comments to be furnished by the 25th May, 1967 and that Ministry asked to send its representatives to appear before the Committee on the 26th May, 1967 to enable them to seek further elucidation on the various issues raised by Dr. Melkote.

4. The Committee were apprised of the interim reply received from the Ministry of Railways in respect of a point raised at the earlier sitting regarding the legal position for charging the cancellation fee ranging from 10 per cent to 25 per cent of the fare by the Railway Administration in respect of the unused tickets, which caused great hardship to the *bona fide* passengers, who had to get their reservations cancelled under some unavoidable circumstances at a short notice.

The Committee desired that the matter should be pursued vigorously.

5. The Committee then considered Memoranda 1 to 5 on the following subjects and Orders:—

- (i) Action taken on the recommendation made by the Committee on Subordinate Legislation in Paras 9—12 of their Fourth Report (Third Lok Sabha).
- (ii) Amendment in the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955 (G.S.R. 59 of 1966).
- (iii) Iron and Steel (Control) Amendment Order, 1965 (S.O. 3147 of 1965).
- (iv) Cases of missing Schedules from the Recruitment Rules.
- (v) Bye-laws for regulating erection or re-erection of buildings in Kasauli Cantonment (S.R.O. 234 dated the 24th June, 1965).

Action taken on the recommendation made by the Committee on Subordinate Legislation in Paras 9—12 of their Fourth Report (Third Lok Sabha).

6. In paras 9—12 of their Fourth Report (Third Lok Sabha), the Committee had noted that new paragraph 8 of Appendix II to the Mechanical Engineering and Transportation (Power) Department of the Superior Revenue Establishment of Indian Railways Recruitment Rules, 1963, as introduced by G.S.R. 1770 of 1963, made under the proviso to article 309 of the Constitution vested the power in the U.P.S.C. to deduct such marks from the marks assigned to a candidate in each subject, as it might consider necessary in order to ensure that no credit was allowed for merely 'superficial knowledge'.

7. After examining this provision and the justification advanced by the U.P.S.C. for its retention the Committee had observed in para 12 of their Fourth Report (Third Lok Sabha) that it would be difficult to exercise the power to deduct marks for superficial knowledge for the purposes it sought to achieve and added that the U.P.S.C. should not have the power to deduct marks arbitrarily after the answer papers of a candidate had been assessed by the Examiner who was expected naturally to take all factors into account, while assessing the answer papers and therefore paragraph 8 of Appendix II of the aforesaid Rule should be omitted.

8. On the matter being pursued further, the Ministry of Home Affairs, informed the Committee that there had been no occasion so far for the U.P.S.C. to review the marks of any candidate in any particular subject on grounds of 'superficial knowledge' after the

answer books had been assessed by the examiners. The Ministry further added that the Commission had agreed to the deletion of the existing provision regarding deduction of marks for superficial knowledge which was incorporated in the rules of the various competitive examinations and had consequently suggested the incorporation of an alternative provision, namely, "marks will not be allotted for mere superficial knowledge".

9. The Committee agreed that the balance of advantage lay in the incorporation of the aforesaid alternative provision in the rules for various Competitive Examinations.

Amendment in the Indian Administrative Services (Fixation of Cadre Strength) Regulations, 1955 (G.S.R. 59 of 1966).

10. The above mentioned regulations as published in the Gazette provided in the amended Cadre strength relating to Punjab at serial No. 2 that the "Senior posts under the Central Government" shall be 32. It was not clear as to which posts were covered by the expression "Senior Posts under the Central Government". It was felt that the details of posts covered by it might have been provided as has been done in the case of "Posts under the State Governments". On their attention being drawn, the Ministry of Home Affairs stated that the needs of the Centre for Senior I.C.S./I.A.S. Officers to man posts at the Centre were met by drawing Officers from the State cadres. For this purpose in the I.A.S. Cadre of each State, a provision of 40 per cent of the senior posts in the States had been made to meet the requirements of the Centre. Against this, officers were drawn from the State Cadres for purposes of the Centre. The Ministry further stated that actually the item in question had provided for deputation of Officers from State Cadres to the Centre and could appropriately be mentioned in the Schedule as "Central Deputation Reserve".

11. After considering the reply of the Ministry which the Committee felt that the expression Senior posts under the Central Government" used in the fixation of Cadre Strength Regulations relating to ICS/IAS could be substituted by the expression "Deputation reserve for the posts under the Central Government"; nevertheless they held the view that Government should do well in laying down the nomenclatures of such "Central Deputation Reserve Posts" in each Order promulgating the Fixation of Cadre Strength Regulations in respect of various All-India Services with a view to regulate properly not only the periods of tenure while on deputation to the Central Government but also to eliminate any element of favouritism

which might creep in while allocating such posts and the incumbents thereof to the various Central Ministries.

Iron and Steel (Control) Amendment Order, 1955 (S.O. 3147 of 1955).

12. The term "Controller" contained in clause 2(a) of the above Order was defined to mean "the person appointed as Iron & Steel Controller by the Central Government and includes any person or body of persons authorised in writing by the Central Government to exercise all or any of the powers of the Iron and Steel Controller with regard to all or any of the categories of iron and steel or scrap". This definition gave very wide discretion to the Government to appoint any person to exercise the powers of the Iron & Steel Controller including those of conducting searches and seizures irrespective of his rank and position in life. The Committee on Subordinate Legislation (Third Lok Sabha), in para 15 of their 5th Report had, in a similar case, made the following observations:

".....It should specifically be stated in the Order that a Government servant, not below a specified rank or equivalent officer, might be authorised to conduct searches and seizures etc. under the aforesaid Order. It should not be left worded in a manner which would give the Executive the power to authorise any and every Government servant to exercise the power of conducting searches and seizures under the aforesaid Order".

13. The Ministry of Iron and Steel (now Ministry of Steel, Mines and Metals), on being asked to clarify, stated that the main difference that had been brought about by the amendment in regard to clause 2(c) of the Iron and Steel (Control) Order, 1956 was that whereas in the 1956 Order, the Central Government was authorised to appoint any person as Iron and Steel Controller exercising all or any of the powers of Iron and Steel Controller, in terms of the amended order, the Central Government could authorise any person or body of persons to exercise all or any of the powers of the Iron and Steel Controller with regard to all or any of the categories of Iron and Steel or scraps. The Ministry further stated that there had been no material change in regard to the provision of powers of Government relating to the appointment of the Controller. The phrase "body of persons" had been interpolated in the said Order with the specific view of transferring a part of the work of Controller to the Joint Plant Committee. Further, although in theory, the Central Government could authorise any person to exercise powers

the Iron and Steel Controller, in practice these powers had not been given to any private individual etc. The Ministry, therefore, were of the opinion that it was, perhaps, not necessary to specify in the definition the categories of persons who could be authorised to exercise the powers of the Iron and Steel Controller.

14. The Committee discussed the matter in considerable detail and also took note of the following observation of Justice Chandrasekhara Aiyar of the Supreme Court made in "The State of West Bengal v. Anwar Ali [A.I.R. (1952) S. C. 75 at p. 100] to which their attention was drawn by the Chairman:

"(75c) Discrimination may not appear in the statute itself but may be evident in the administration of the law. If an uncontrolled or unguided power is conferred without any reasonable and proper standards or limits being laid in the enactment, the statute itself may be challenged and not merely the particular administrative act".

15. The Committee observed that it should not be left to the uncanalised and unregulated power of the Executive to pick and choose the categories of officers who, consistent with their status and authority etc., could alone be authorised to exercise all or any of the powers of the Iron and Steel Controller. They held the view that any Rule/Regulation made should be specific in character.

Cases of missing schedules from the Recruitment Rules (G.S.R. 469 and 1390 of 1966).

16. The Committee noted with satisfaction that the concerned Ministries of Home Affairs and Railways had, on being brought to their notice, issued corrigenda providing schedules to (i) the Central Secretariat Sports Control Board (Assistant Secretary) Recruitment Rules, 1966 (G.S.R. 469 of 1966) and (ii) the Family Welfare Planning Officer (Railway Board) Recruitment Rules, 1966 (G.S.R. 1390 of 1966), which were not published in those Orders.

Bye-laws for regulating the erection or re-erection of Buildings in Kasauli Cantonment (S.R.O. 234 of 1965).

17. The Committee noted that the Ministry of Defence had, on being pointed out to them, issued the necessary corrections in Bye-laws 18 and 21(b) of the Bye-laws for regulating the erection or re-erection of Buildings in Kasauli Cantonment (S.R.O. 234 of 1965), thus making them intelligible and clear.

18. The Committee desired that an examination of the existing Bye-laws of the various Cantonment in the country, some of which were framed about a century or half a century ago, should be undertaken with a view to find the disparities in their pattern and to evolve a uniform set of bye-laws in consonance with the letter and spirit of the present democratic set-up in the country, keeping of course in view the exigencies of the Army needs and local conditions.

The Committee then adjourned to meet again at 15.00 hours on Friday, the 26th May, 1967.

III

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68)

Third Sitting

The Committee met on Friday, the 26th May, 1967 from 15.00 to 16.15 hours.

PRESENT

Shri N. C. Chatterjee—Chairman.

MEMBERS

2. Shri Narendra Singh Mahida
3. Dr. G. S. Melkote
4. Shri Bakar Ali Mirza
5. Shri Srinibas Mishra
6. Dr. Sisir Kumar Shah
7. Shri N. K. Sanghi
8. Shri Tulsidas Dasappa
9. Shri G. Viswanathan.

REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri R. J. Rebello, Additional Secretary.
2. Shri V. Subrahmanyam, Joint Secretary.
3. Brigadier A. K. Mitra, Director of Organisation, Army Headquarters.

REPRESENTATIVE OF THE MINISTRY OF LAW

Shri O. P. Garg, Assistant Legal Adviser.

SECRETARIAT

Shri M. C. Chawla, Deputy Secretary.

2. The Committee examined the representatives of the Ministries of Defence and Law in regard to the following points raised by Dr. G. S. Melkote, at the earlier sitting of the Committee:—

- (i) Under the control of the Ministry of Defence, there are certain categories of civilian workers who perform the duties of cooks and water-carriers. These workers are placed under the purview of the Army Act, 1950, which prohibits the formation of associations/trade unions. This conflicts with the labour legislation in India which permits the formation of trade unions/associations of workers.
- (ii) The provisions made under the Army Act which deny the right of forming association to cooks and water carriers have introduced discrimination in the treatment meted out to identical categories of civilians, namely workers. This is inconsistent with the Constitution.
- (iii) Either the cooks and water-carriers should be treated on a par with combatants who are governed *ipso facto* by the Army Act, or they should be on a par with other civilian Government employees and not be deprived of the right of forming associations/trade unions.
- (iv) Because they are not at present permitted to form trade unions, the cooks and water-carriers are unable to participate in the Joint Consultative Machinery set up by Government for Joint consultation between Government and its employees on matters relating to conditions of service and work, welfare of the employees and improvement of efficiency and standards of work.

3. At the out set, the representative of the Ministry of Defence informed the Committee that Government were considering whether they should defer the implementation of the retrenchment scheme, which was to be completed by the end of May, 1967. He also stated that out of 5683 personnel proposed to be retrenched, 2123 were yet to be affected, and others had already been retrenched and alternative employment offered to them. When told that about 2500 persons,

who had been retrenched had not been absorbed, the representative promised to verify the same. He, however, added that it would be possible to absorb a few more persons till the 31st May, 1967.

On the first point the representative of the Ministry of Defence stated that cooks and water-carriers were rendering service of a personal nature in respect of combatants and as such they could not be classified as workers under the Trade Union Act. These workers catered to the essential needs of the combatant personnel. In the opinion of the Government, the non-combatants (unenrolled), employed in unit lines and messes, should be subject to the restrictions which were applicable to combatants under Article 33 of the Constitution. This was essential in the interest of efficiency and discipline in the Armed Forces.

The representative of the Ministry of Defence further stated that in pursuance of power conferred by Article 33 of the Constitution, Parliament enacted Section 21 of the Army Act, 1950 providing that certain fundamental rights could be restricted by the Central Government to such extent and in such manner as might be necessary, by notification published in the Official Gazette. Accordingly, Rule 19 of the Army Rules relating to section 21 of the Army Act was made restricting the right of forming association/Trade Union or labour union by any person who was subject to the Army Act. Section 9 of the Army Act, the representative of the Ministry of Defence explained, empowered the Central Government to declare by notification that any person or class of persons subject to the Army Act shall be deemed to be on active service within the meaning of the Act for the purposes specified therein. Accordingly, a notification (S.R.O. 6-E, dated the 28th November, 1962) was issued declaring that all persons subject to the Army Act, who were not on active service under Section 3 (i) thereof, shall, wherever they might be serving, be deemed to be on active service within the meaning of the Army Act for the purposes of that Act and of any other law for the time being in force.

4. On the second point, the representative of the Ministry of Defence urged that the cooks and water-carriers could not be treated as workers for the purposes of the Trade Unions in the interests of security, efficiency of the Army and maintenance of discipline.

5. Regarding the third point the representative of the Ministry of Defence explained that the prohibition imposed on the cooks and water-carriers attached to Army Units from forming trade unions etc. was in consonance with the provisions of Article 33 of the Constitution and Section 21 of the Army Act. He referred to a decision

of the Supreme Court in *Ajwani v.s. Union of India*, Civil Appeal No. 1185 of 1965 decided on 6th February, 1967, wherein the Court had pointed out that the expression "Post connected with Defence" in Article 310 of the Constitution meant posts which were auxiliary to or were directly related, or incidental, to the tasks performable by the Defence Forces, or required performance of duties on which the effective functioning of the Defence Forces both in times of peace and war depended. Applying this test, the representative of the Ministry of Defence added, the engagement of water-carriers and cooks was essential for the effective functioning of the Defence Forces, both in times of peace and war and, therefore, it resulted in the abridgement of their fundamental rights.

6. As regards the fourth point, the representative of the Ministry of Defence stated that although the cooks and water-carriers were not specifically represented in the Joint Consultative Machinery applicable to Government employees, Government had no objection to the two All-India Federations of Civilian workers employed in the Defence Organisation representing, of their own accord, the cause of any category of such civilians. The decision regarding the retrenchment of the workers in question was taken in August, 1966, but implementation was postponed twice. However, the representatives of the Ministry agreed to the suggestion to postpone retrenchment till the Committee on Subordinate Legislation had concluded their examination of the question and arrived at a conclusion.

As desired by the Committee the representative of the Ministry of Defence undertook to verify as to the number of cooks which had already been retrenched but were not re-employed in any other capacity in the Army. He also promised to ascertain the difference between the salaries which the re-employees were drawing before their retrenchment and after their re-employment. He also assured the Committee to examine the question of giving these workers the status of combatants thus entitling them to all the facilities like the uniforms, salary, rations etc. normally admissible to combatants.

7. It was suggested by some Members that working conditions of cooks and water-carriers being exceedingly difficult without any commensurate remuneration, the Committee might visit some of the Defence establishment round about Delhi and see things for themselves before they arrived at a conclusion.

8. *The Committee then adjourned to meet again after the Ministry of Defence had furnished the requisite information to continue their further examination.*

COMMITTEE ON SUBORDINATE LEGISLATION, (1967-68)**Fourth Sitting**

The Committee met on Saturday, the 29th July, 1967 from 11.00 to 12.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman.*

MEMBERS

2. Shri Narendra Singh Mahida.
3. Shri M. Meghachandra.
4. Dr. G. S. Melkote.
5. Shri Bakar Ali Mirza.
6. Shri Srinibas Mishra.
7. Shri N. K. Sanghi.
8. Shri Tulsidas Dasappa.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 6 to 9 on the following subjects and Orders:—

1. Grievances of Cooks and water carriers in Defence Establishments—Application of the Army Act, 1950 and the rules made thereunder. (Memorandum No. 6).
2. The Central Civil Services (Classification, Control and Appeal) Rules, 1965 (S.O. 3703 of 1965). (Memorandum No. 7).
3. Jayanti Shipping Company (Board of Control) Rules, 1966 (G.S.R. 1159 of 1966). (Memorandum No. 8).
4. Central Secretariat Clerical Services (Upper Division Grade Limited Departmental Competitive Examination) Regulations, 1966 (G.S.R. 671 of 1966). (Memorandum No. 9).

**Grievances of cooks and water carriers in Defence establishment—
Application of the Army Act, 1950 and the Rules made thereunder.**

3. The Committee at their sitting held on the 26th May, 1967, while examining the representatives of the Ministries of Defence and Law had desired that the Ministry of Defence might consider the expediency of deferring the proposed retrenchment of the non-combatants (un-enrolled) Cooks and Water-carriers working in the Defence Establishments for the time being, till the Committee had finally arrived at a decision in the matter, after being furnished the necessary information from the Ministry of Defence. Subsequently, however, in reply to a Call Attention Notice, the Minister of Defence made a statement in the House on the 1st June, 1967 indicating that there would be no further postponement of the retrenchment of the workers, such as Cooks and Water-Carriers working in various Defence Establishments. The Ministry of Defence, referring to this statement of the Minister of Defence, urged in their note submitted to the Committee (**circulated to the Committee as Appendix to Memorandum No. 6) that if economies were to be effected, the retrenchment in question ought not to be opposed.

After considering the matter in all its perspective, the Committee decided that the representatives of the Ministry of Defence should be called again to appear before the Committee on Tuesday, the 8th August, 1967 to explain their position for disregarding the understanding given to the Committee at their last sitting.

4. The Committee also decided to undertake an on-the-spot visit of some Defence Establishments in Meerut Cantonment on Sunday, the 13th August, 1967 to study the working conditions of the Cooks and Water-carriers before they came to a final conclusion. The Committee authorised the Chairman to seek permission of the Speaker in this behalf.

The Central Civil Service (Classification, Control and Appeal) Rules, 1965 (S.O. 3703 of 1965).

5. The Central Civil Services (Classification, Control and Appeal) Rules, 1965 were made under proviso to Article 309 and clause (5) of Article 148 of the Constitution.

6. Rule 2(k) thereof defined the word 'schedule' as "the Schedule to these rules" and several matters, instead of being specifically provided for in the rules, had been referred to as "specified in the Schedule"; but there was no schedule appended to the rules. However, after wading through all the rules, one could locate the schedule in rule 33 under the heading "Transitory Provisions". This

rule provided that until the publication of the schedules under those rules, the schedules to the Central civil Services (Classification, Control and Appeal) Rules, 1967 and the Civilians in Defences Services (Classification, Control and Appeal) Rules, 1952, as amended from time to time, shall be deemed to be the Schedules relating to the respective categories of Government Servants and that such schedules shall be deemed to be the Schedules referred to in the corresponding rules of the new Rules.

7. The Committee felt that, in order to make the location and referencing of the Schedules easy and convenient, the contents of rules 33 of the Rules *ibid* should have been reproduced in the form of a Schedule at the end of the Rules and this would have been in consonance with the definition of the Schedule as given in the aforementioned rule 2(k).

8. The attention of the Committee was drawn to the reply furnished by the Ministry of Home Affairs to a reference made to them on the subject that as the attention of all authorities concerned with the administration of the Rules in question had been drawn to the transitory provision regarding the Schedules, it was not necessary to make any amendment in the Rules.

9. After considering the reply of the Ministry, the Committee observed that it had been emphasised time and again that the rules should as far as possible, be self-contained and drafted in a manner that no difficulty was caused to the public in locating and referencing the rules. In the case of rules under consideration, it was not only the Administrative authorities who were concerned with the rules but also the Services as well as the advocates and courts, as the cases arose under the rules in the form of writ petitions. The Committee reiterated that the rules, should be self-contained and 'legislation by reference' should be avoided as far as possible. The Committee decided to recommend that the rules should be reprinted alongwith the necessary Schedules.

Jayanti Shipping Company (Board of Control) Rules, 1966 (G.S.R. 1150 of 1966).

10. The Jayanti Shipping Company (Board of Control) Rules, 1966, were made under Sec. 19 of the Jayanti Shipping Company (Taking over Management) Ordinance, 1966, and continued to be operative under section 21 of the Jayanti Shipping Company (Taking over Management) Act, 1966.

11. Item 3(ii) of the Schedule appended to the Rules laid down that if the number of members of the Board of Control present at any meeting thereof was less than the required quorum, the meeting shall be adjourned and the adjourned meeting shall be held at such time, place and date as might be fixed by the Chairman of the Board and it shall thereupon be lawful to dispose of the business at such adjourned meeting whether the quorum was present or not; but there was no specific provision for giving notice to the absentee members of the Board about the time, place and date which might be fixed for holding the adjourned meeting. In the absence of such a notice, it was not possible for the absentee members to know whether the meeting was adjourned and, if so, to what date and time.

12. The Committee noted that, on being pointed out to the Ministry of Transport and Aviation, now Transport and Shipping (Transport Wing), a specific provision for giving notice to all the members of the Board had been made in the rules.

Central Secretariat Clerical Service (Upper Division Grade Limited Departmental Competitive Examination) Regulations, 1966 (G.S.R. 671 of 1966).

13. The Central Secretariat Clerical Service (Upper Division Grade Limited Departmental Competitive Examination) Regulations, 1966 had been framed under Regulation 2(3) of the Third Schedule to the Central Secretariat Service Rules, 1962.

14. Regulation 7(1) of these Regulations provided that the names of the candidates who were considered by the Union Public Service Commission *in their discretion* to be suitable for Selection on the results of the Competitive examination should be arranged in the order of merit and subject to the provisions of sub-regulation (3) of Regulation 8, they should be recommended for selection in that order. Sub-regulation (3) of Regulation 8 provided that the candidates belonging to any of the Scheduled Castes or Scheduled Tribes who were considered by the Commission *in their discretion* to be suitable for selection on the results of the competitive examination with due regard to the maintenance of efficiency of administration shall be recommended for selection against the vacancies reserved for them irrespective of their ranks in the order of merit in the examination.

15. Again, in sub-regulation (1) of Regulation 8, it was stated that success in the examination shall confer no right to selection

unless the Government of India in the Ministry of Home Affairs were satisfied after such enquiry as might be considered necessary that the candidate was suitable in all respects.

16. While the assumption of power by the Ministry of Home Affairs not to select a candidate, even though he had secured a position of merit in the examination for appointment, was understandable, the conferring of the discretionary power on the Union Public Service Commission could not be appreciated.

17. The Committee noted that the Ministry of Home Affairs, on being pointed out to them, had amended Regulations 7(1) and 8(3) by omitting the words 'in their discretion' therefrom (*vide* G.S.R. 690 of 1967).

Statutory Rules regulating the Service conditions of Central Government officers framed under Article 309 of the Constitution.

18. A letter dated the 29th July, 1967 received from Dr. G. S. Melkote, a member of the Committee relating to the alleged denial to the Government servants of their right to be governed by the Statutory Rules regulating their service conditions was placed before the Committee. The Chairman directed that comments of the Ministries concerned should be called for on the various issues raised in the letter and on receipt thereof the whole matter be examined. In the meantime, a copy of the letter should be circulated to the members of the Committee for information.

The Committee then adjourned to meet again on Tuesday, the 8th August, 1967, at 16.00 hours.

V

COMMITTEE ON SUBORDINATE LEGISLATION, (1967-68)

Fifth Sitting

The Committee met on Tuesday, the 8th August, 1967 at 16.00 hours.

PRESENT

MEMBERS

1. Shri Narendra Singh Mahida—*In the Chair.*
2. Dr. G. S. Melkote.

3. Shri V. Viswanatha Menon.
4. Shri Bakar Ali Mirza.
5. Shri Balgovind Verma.

REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri G. L. Sheth, *Additional Secretary*.
2. Shri R. J. Rebello, *Additional Secretary*.
3. Shri V. Subrahmanyam, *Joint Secretary*.

SECRETARIAT

Shri M. C. Chawla, *Deputy Secretary*.

2. In the absence of the Chairman, Shri Narendra Singh Mahida was chosen to act as Chairman for the Sitting in terms of Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. After having some preliminary discussion, the Committee adjourned to meet again on Saturday, the 12th August, 1967 at 10.00 hours and asked the representatives of the Ministry, present at the sitting, to appear before the Committee on that day.

VI

COMMITTEE ON SUBORDINATE LEGISLATION, (1967-68)

Sixth Sitting

The Committee met on Saturday, the 12th August, 1967 from 10.00 to 11.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*.

MEMBERS

2. Shri Tulsiram Dashrath Karmble.
3. Shri Narendra Singh Mahida.
4. Dr. G. S. Melkote.
5. Shri Bakar Ali Mirza.
6. Shri Srinibas Mishra.

7. Dr. Sisir Kumar Saha.
8. Shri Tulsidas Dasappa.
9. Shri Balgovind Verma.

SECRETARIAT

Shri M. C. Chawla, *Deputy Secretary.*

WITNESSES

REPRESENTATIVES OF THE MINISTRY OF DEFENCE

1. Shri G. L. Sheth, *Additional Secretary.*
2. Shri R. J. Rebello, *Additional Secretary.*
3. Shri V. Subrahmanyam, *Joint Secretary.*

2. The Committee heard further evidence of the representatives of the Ministry of Defence regarding the grievances of Cooks and Water Carriers in the Defence Establishments.

The witnesses explained the circumstances under which the retrenchment of Cooks and Water Carriers could not be further postponed till the end of June, 1967, as had been promised by the representatives of the Ministry of Defence who had appeared before the Committee on the 26th May, 1967. The witnesses stated that the Defence Ministry had put up the proposal for the postponement of retrenchment but the Ministry of Finance did not agree to that in view of the financial implications involved and also because the retrenchment had been postponed twice previously. The Ministry of Defence had thus to implement the decision, already taken by them, to retrench Cooks and Water-Carriers.

3. As regards the right to form associations by the civilian employees in the various Defence Units, the witnesses informed the Committee that unions and associations of such employees were recognised only in August, 1966.

4. The witnesses then promised to furnish information on the following points by the middle of October, 1967:—

- (i) What Units of the Armed Forces could be thrown open for the formation of trade unions or associations to non-combatant employees for ventilating their grievances where forming of such associations has not been allowed so far;

- (ii) What machinery could be evolved, even in those units where forming of such associations was not allowed, for bringing their grievances to higher authorities;
- (iii) How were non-combatants treated in other armies of the democratic countries of the world in regard to the forming of associations for ventilating their grievances; and
- (iv) A copy of the orders stated to have been issued by the Ministry of Defence in August, 1966 granting recognition to the unions and associations formed by the non-combatants.

5. In view of the explanations given by the witnesses, the Committee decided not to pursue further the question of the retrenchment of Cooks and Water-Carriers in the various Defence Establishments.

6. The Chairman informed the Committee that the Speaker had not agreed to the proposal for an on-the-spot-study visit by a Study group of the Committee to study the working conditions of the Cooks and Water-Carriers at Defence Establishments in Meerut Cantonment, as suggested at their earlier sitting.

7. *The Committee then adjourned to meet on Tuesday (the 3rd October, 1967 at 16.00 hours.*

VII

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68) Seventh Sitting

The Committee met on Tuesday, the 3rd October, 1967 from 16.00 to 17.15 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

- 2. Shri Tulsiram Dashrath Kamble
- 3. Shri Narendra Singh Mahida
- 4. Shri M. Meghachandra
- 5. Dr. G. S. Melkote
- 6. Shri V. Viswanatha Menon

7. Shri Bakar Ali Mirza
8. Shri Srinibas Mishra
9. Shri Tulsidas Dasappa
10. Shri Balgovind Verma

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee considered Memoranda Nos. 10 to 12 on the following subjects and Orders:—

- (i) Paradip Port Harbour Craft Rules, 1967 (G.S.R. 980 of 1967).
- (ii) Imposition of fee on cancellation of Railway Tickets.
- (iii) Delay in Laying of 'Orders' on the Table of the House.

Paradip Port Harbour Craft Rules, 1967 (G.S.R. 980 of 1967).

3. The Paradip Port Harbour Craft Rules, 1967 were made under section 6(1) of the Indian Ports Act, 1908 after having been previously published as required under sub-section (2) of the said section 6.

4. Rule 26 thereof empowered the Deputy Conservator of the Paradip Port to cancel all or any of the licences held by the owner of a licensed harbour craft, if in his opinion, the owner had violated any of the provisions of those rules, but there was no provision in the rules for giving an opportunity to the owner of being heard before his licence was cancelled. Besides, there was no provision requiring the Deputy Conservator to record in writing the nature of violation of the rules which gave rise to the occasion for cancelling the licence.

5. Accordingly the views of the concerned Ministry of Transport and Shipping were sought whether the Ministry would provide in the rules for the following matters:—

- (i) that the owner of licensed harbour craft should be given an opportunity of being heard before his licence was cancelled; and
- (ii) that the reasons for cancellation were recorded in writing and communicated to such owner.

6. The concerned Ministry of Transport and Shipping in their reply stated that Rule 27 of the Paradip Port Harbour Craft Rules,

1967 provided for appeals to the Conservator against the orders of the Deputy Conservator being preferred within seven days from the date on which the decision of the Deputy Conservator was communicated to the party or parties. The Deputy Conservator, whose decision was thus open to appeal, the Ministry added, was bound to exercise his powers under Rule 26 with restraint and care and the revocation of licences was envisaged only if, in the opinion of the Deputy Conservator, the owner of any licensed harbour craft had contravened any of the provisions of the rules. The Deputy Conservator had, therefore, to exercise his powers only under well defined circumstances. The Ministry also informed that these rules were framed on the lines of similar Rules applicable to other major ports. The Ministry further stated that before these Rules were notified finally they were published previously in the Gazette as required under Section 6(2) of the Indian Ports Act, 1908 for inviting objections or suggestions from the persons likely to be affected thereby and that no such objections or suggestions were received. The Ministry, therefore, did not consider it necessary to carry out the amendments suggested above.

7. The Committee considered the matter at length and observed that conferring the right of being heard to the party adversely affected by a decision of the Executive and recording in writing the reasons for such decision and communicating the same to the party concerned were the basic requirements of natural justice. Exercise of power with restraint, care, and under well-defined circumstances, at the discretion of the Executive was no substitute to those basic requirements. The Committee decided to recommend that instead of leaving into the good sense of the individual officers the basic requirements of natural justice viz., giving an opportunity of being heard, recording in writing the reasons for adverse decisions and communicating the same to the party, whose business trade was affected as a result of cancellation of licences etc., should be incorporated in the rules themselves.

8. The Committee also noted the prevailing practice with the Ministries of stating in the preamble to the final rules, as had been done in the present case, merely the fact of the rules having been previously published wherever it was so required by the parent Act, but they did not indicate the date of the Gazette in which the draft rules had been published and the last date by which the comments/suggestions from the public had been invited. Sometimes very little time was given to the public to make their suggestions to the Ministry concerned before the rules were finalised. In the present case, the draft rules were published by the Ministry of Transport in

the Gazette of India dated the 15th October, 1966 and the comments of the public were invited by the 10th October, 1966, the date which had already expired (*vide* G.S.R. 1574 of 1966). Subsequently, however, the last date for receipt of comments from the public was changed to 10th November, 1966 by a corrigendum published in the Gazette dated the 29th October, 1966 (*vide* G.S.R. 1651 of 1966). In the past also there were several cases, reported by the Committee, where the draft rules were made available to the public only after the expiry of the last date fixed for submission of suggestions by the public (*vide* para 30 at page 6, 6th Report, Committee on Subordinate Legislation, 1st Lok Sabha).

9. The Committee observed, that some Ministries appeared to be labouring under an apprehension that the pre-condition for the promulgation of Draft Rules for inviting public comments/suggestions was merely a formality which was not the case. The Committee felt that it would defeat the very object underlying the framing of such Rules, if adequate opportunities were not given to the public to go through them and offer their comments. It was imperative, the Committee further observed, that the Statutory requirements for previous publication of rules were strictly followed both in letter and spirit. The Committee, therefore decided to recommend that Government might perhaps, do well if they issued some standing instructions that the date of the Gazette in which the draft rules were published and the last date fixed for receipt of public comments thereon and also the date on which the Gazette copies containing the draft were made available to the public for the first time were specifically mentioned in the preamble to the final rules.

Imposition of fee on cancellation of Railway Tickets

10. At the First Sitting of the Committee on Subordinate Legislation held on the 11th April, 1967, Dr. G. S. Melkote, M.P. had pointed out to the Committee that financial loss was being caused to the Members of Parliament in the event of cancellation of a Railway Ticket purchased by them on account of the extension of the session of the House by a day or so, as the cancellation fee, as at present charged by the Railway Administration in respect of unused ticket, ranged from 10 per cent to 25 per cent of the fare. The cancellation charges were very much on the high side and caused great hardship to *bona fide* passengers who had to get their reservations cancelled under some unavoidable circumstances at a short notice. The Committee desired to know whether this cancellation fee had been imposed by the Railway Board under their own powers or in pursuance of any rules or regulations made under the Indian Railways Act, 1890.

11. The matter was, therefore, referred to the Railway Board and clarification sought on the various implications involved in the matter. The Committee noted that the Railway Board, after protracted correspondence, had explained that Part II of the "General Rules for Indian Railways", framed by the Railway Board in exercise of the powers conferred on it by section 47 of the Indian Railways Act read with Notification No. 801 dated the 24th March, 1905, had a rule (Rule 1A) which provided that "A Railway Administration may reserve a seat, berth, compartment or carriage, as the case may be, in a passenger train, in accordance with conditions published in the Time Tables in force from time to time..." and that the rule concerning the "cancellation fee" was published in the Time Tables of the Railways concerned.

12. After some discussion on the subject, the Committee deferred further consideration thereof and decided to examine the representatives of the Ministry of Railways on the various implications involved in this matter at their sitting to be held on the 4th October, 1967 at 16.00 hours and directed that the Ministry of Railways, who had earlier been cautioned in this behalf, might be asked forthwith to depute their representatives to appear before the Committee on that day.

Delay in laying of 'Orders' on the Table of the House

13. The Committee on Subordinate Legislation, Third Lok Sabha, in their Sixth Report, Paras 38-39 had reiterated that all the Ministries should ensure that all 'Orders' required to be laid before the House were so laid within a period of 15 days after their publication in the Gazette if the House was in session, and if the House was not in session, the 'Orders' should be laid on the Table of the House as soon as possible (but within 15 days) after the commencement of the following session. The Committee had, noted with regret that a large number of 'Orders' (shown in the Appendix to the Sixth Report) were laid on the Table of the House after considerable delay and desired the Ministries concerned to furnish the Committee with the reasons explaining the delay caused in laying such 'Orders' on the Table of the House.

14. The Committee noted that the Ministries had given one of the following reasons mentioned below:—

- (1) Adjournment of Lok Sabha before the scheduled date;
- (2) Oversight/administrative difficulties;
- (3) Late receipt of printed copies of 'Orders' from the Press;

- (4) Heavy rush of Parliamentary work;
- (5) Late receipt of Hindi translation of the rules in the Ministry;
- (6) Delay in getting the 'Orders' authenticated by the Minister;
- (7) Preference by the Minister concerned to lay the rules on a particular day;
- (8) The procedure obtaining in the Ministry was such that it normally took about 30 days to lay the rules before the House. However a new procedure was being evolved to avoid such delays in future.

15. Thus the reasons for the delay in laying were, in the main, inadvertance on the part of the Ministries or some administrative delays in getting copies of the 'Orders' from the Press etc. The Committee, however observed that the reasons given by the Ministry of Home Affairs and the Ministry of Food, Agriculture, Community Development and Cooperation that the delay took place because of heavy Parliamentary work with them was not convincing, because laying of the 'Orders' before the House was also a part of the Parliamentary work and it did not require much time on the part of the Ministry except that they had to procure the requisite number of copies of the 'Orders' for being forwarded to the Lok Sabha along with an authenticated copy thereof.

16. The Committee reiterated that delay in laying of the 'Orders' before the House should be avoided.

17. The Committee then adjourned to meet again on Wednesday, the 4th October, 1967 at 16.00 hours.

VIII

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68)

Eighth Sitting

The Committee met on Wednesday, the 4th October, 1967 from 16.00 to 17.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

2. Shri Tulsiram Dashrath Kamble

3. Shri Narendra Singh Mahida

..

4. Shri M. Meghachandra
5. Shri V. Viswanatha Menon
6. Shri Bakar Ali Mirza
7. Shri Tulsidas Dasappa
8. Shri Balgovind Verma.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*

WITNESSES

Representative of the Ministry of Railways

1. Shri V. B. Ahuja, *Joint Director, Traffic (Rates), Railway Board.*
2. Shri K. Srinivasacharyulu, *Joint Director, Traffic (General), Railway Board.*

2. At the outset, the Committee enquired from the witnesses about their official status in the Railway Board's set-up. The witnesses stated that their rank was equivalent to that of a Deputy Secretary in the Government of India. On being further enquired whether any other senior officer of the rank of Joint Secretary or above dealing with the subject was not available, they stated that though the Additional Member, Railway Board was also in Delhi, the Railway Board had nominated them to appear before the Committee. The witnesses added that they would be able to answer all the questions put to them to the satisfaction of the Committee.

3. The Committee then proceeded with the examination of the witnesses. In the course of their examination, the Committee desired to know whether the provisions of Section 47 of the Indian Railways Act, 1890 and Rule 1A of the Indian Government Railways (General Rules, Part II) were wide enough to include the levy of charges on cancellation of a Railway Ticket. In reply it was stated that Section 47 of the Indian Railways Act read with Notification of 1905 permitted the Railway Board to frame general rules and under that power the Board had framed rules in regard to the reservation of a berth or a seat which were published in the Railway Time Tables from time to time.

4. In reply to a question, it was stated that the purpose of levy of cancellation fee was to reduce the last minute cancellations of seats without adequate reason and to guard against that happening.

it only acted as a deterrent and the intention was not to earn any revenue on this account. All these changes were made, the witnesses added, from 1962 onwards, when there was a lot of criticism that there was blackmarketing of tickets and that certain anti-social elements were trying to corner accommodation for reselling the tickets. The witnesses added that in the case of Railway Pass Holders, the following charges were levied when they cancelled their reservation within 24 hours before the scheduled departure of the train:—

I class privilege pass—Rs. 5.00 per pass.

II. class privilege pass—Rs. 3.00 per pass.

III. class privilege pass—Rs. 1.00 per pass.

By way of elucidation, the Committee were told that these cancellation charges were levied per pass and not according to the number of persons travelling on that pass. Further Government officials on duty were not charged the cancellation fee, if they had to cancel the accommodation booked for them due to exigencies of service. In this connection, it was pointed out to the witnesses that a Government servant was also a passenger like an ordinary third class passenger and that the rules were favouring somebody and dis-favouring somebody else. Thereupon the witnesses stated that if there was still some discrimination, they would do something about it. They made a note of it and promised to examine that issue.

5. The witnesses then sought to justify the levy of cancellation charges on the ground that the charges were not in the nature of a tax and were only in the nature of fee. The Chairman then drew the attention of the witnesses to the Supreme Court Judgement delivered by Mr. Justice Mukherjee in the case of Ratilal Panachand Gandhi and others vs. State of Bombay and others (A.I.R. 1954, S. C. 388, Vol. 41 CN. 93) wherein it was observed that:—

‘Fees are payments primarily in the public interest but for some special service rendered or some special work done for the benefit of those from whom the payments are demanded. Thus in fees there is always an element of ‘quid pro quo’ which is absent in a tax. In order that the collections made by the Government can rank as fees, there must be correlation between the levy imposed and the expenses incurred by the State for the purpose of rendering such services. Thus two elements are essential in order that a payment may be regarded as a fee. In the first place, it must be levied in consideration of certain services

which the individuals accepted either willingly or unwillingly and in the second place, the amount collected must be ear-marked to meet the expenses of rendering these services and must not go to the general revenue of the State to be spent for general public purposes'.

6. The witnesses then endeavoured to explain that the charges in question had the element of *quid pro quo*. The Committee were, however, not satisfied with the replies given by the witnesses in relation to the two tests envisaged in the aforesaid ruling of the Supreme Court viz., the fee must be levied in consideration of certain services which the individuals accepted either willingly or unwillingly and secondly, the amount collected must be ear-marked to meet the expenses of rendering these services and must not go to the general revenue of the State to be spent for general public purposes.

7. The witnesses expressed their regrets when the Committee enquired from them why it took the Railway Board as long as two months to supply to the Committee an up-to-date copy of the rules made under the Indian Railways Act when the Railway Administrations were statutorily required under Section 47(6) of the Act to keep **an up-to-date copy of such Rules at every Railway Station** and to make them available to any person for inspection free of charge at all reasonable time. The Committee also pointed out the delay caused in the Railway Board's office in furnishing the requisite information to the Committee.

9. The Committee then discussed the general trend of the replies given by the witnesses and expressed their dissatisfaction over the manner in which one of the witnesses [Joint Director, Traffic (Rates)] conducted himself before the Committee. The Committee decided that the wisdom of the Railway Board in not deputing some senior Officers to represent them, as envisaged in Direction 59 of the Directions issued by the Speaker under the Rules of Procedure and Conduct of Business as also the delay caused in furnishing the complete information to the Committee should be suitably commented upon, at an appropriate place, in their Report to the House.

10. The Committee then adjourned to meet again on Saturday, the 11th November, 1967 at 10.30 hours to consider further the material called for from the Ministry of Defence in connection with grievances of Cooks and Water Carriers employed in various Defence Establishments.

IX

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68)

Ninth Sitting

The Committee met on Saturday, the 11th November, 1967 from 10.30 to 11.30 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

2. Shri Tulsiram Dashrath Kamble
3. Shri M. Meghachandra
4. Shri Bakar Ali Mirza
5. Shri Tulsidas Dasappa
6. Shri Balgovind Verma

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. At the outset, the Chairman moved the following resolution condoling the death of Dr. Ram Manohar Lohia, M.P. and Shri H. P. Chatterjee, M.P. :—

"This Committee place on record their profound sense of sorrow on the sad passing away of Dr. Ram Manohar Lohia, a great freedom fighter and patriot, who had dedicated his life to the cause of the nation."

"The Committee also place on record their profound grief over the sad and sudden passing away of Shri H. P. Chatterjee, another esteemed colleague at New Delhi today."

The members then stood in silence for a shortwhile.

3. The Committee then took up consideration of memoranda Nos. 13 to 16 on the following subjects and 'Orders':—

- (i) Grievances of Cooks and Water-Carriers in Defence Establishments. (Memo. No. 13).
- (ii) Rules regulating the recruitment to various posts under Coffee Board, Rubber Board, Coir Board and Tea Board. (Memo. No. 14).

(iii) Amendments to Rules regulating direct recruitment to the Central Engineering Service Class I and Class II and Central Electrical Engineering Service Class I and Class II (G.S. Rs. 250—53 of 1967). (Memo. No. 15).

(iv) Central Excise (Fourth Amendment) Rules, 1966 (G.S.R. 1042 of 1966). (Memo. No. 16).

Grievances of Cooks and Water-Carriers in Defence Establishments

4. After some discussion, the Committee postponed to another sitting the consideration of the information supplied by the Ministry of Defence on the points relating to the grievances of Cooks and Water Carriers in the Defence Establishments, raised at their earlier sitting held on the 12th August, 1967.

Rules regulating the Recruitment to various Posts under Coffee Board, Rubber Board, Coir Board and Tea Board.

5. The Committee noted that when the Ministry of Commerce were requested to supply an up-to-date copy each of the rules/bye-laws regulating the recruitment to the various posts under the respective Commodity Boards set up under the Coffee Act, 1942, Rubber Act, 1947, Tea Act, 1953 and Coir Industry Act, 1953 for purposes of scrutiny, the Ministry of Commerce had stated that the rules/bye-laws regulating the recruitment to the posts under the Coir Board were being finalised. As regards the Tea Board, the Committee further noted that the Ministry, while forwarding a set of Rules/Bye-laws made under the Tea Act, had stated that "no separate recruitment rules have so far been framed".

In regard to the other two Boards, the information was still awaited from the Ministry.

6. In the circumstances, the Committee observed, it was not clear as to how, in the absence of definite recruitment rules/bye-laws, the appointments to the various posts under these Commodity Boards were being regulated. For instance, Sec. 49(2) (d) and Sec. 50(1) (d) of the Tea Act, 1953 clearly envisaged making of rules/bye-laws for regulating appointment to the various posts under the Tea Board and making of appointments, in the absence of such rules/bye-laws, constituted a clear violation of the provisions of the Act itself.

7. The Committee decided that the Ministry of Commerce be asked to explain as to how, in the absence of such rules/bye-laws, appointments to the various posts under the Commodity Boards had been regulated so far, though these Boards were set up years ago.

and that when such rules/bys-laws were expected to be finalised by them.

Amendments to Rules regulating direct Recruitment to the Central Engineering Service Class I and Class II and Central Electrical Engineering Service Class I and Class II (G.S. Rs. 250—53 of 1967).

8. Amendments to Rules regulating direct recruitment to the Central Engineering Service Class I and Class II and Central Electrical Engineering Service Class I and Class II were issued under Proviso to Article 309 of the Constitution.

9. It was noted that these amendments did not bear short titles nor were they given any number. This was not in consonance with the recommendation of the Committee on Subordinate Legislation made in Para 44 of their Third Report (First Lok Sabha). The absence of short titles and serial number of amendments was likely to cause inconvenience to the persons concerned in tracing the amendments made in the rules.

10. On being pointed out, the concerned Ministry of Works Housing and Supply communicated the following note recorded by the Ministry of Law:—

“.....These amendments have been given no short titles as is usually given to other amending rules. In the absence of a short title to the principal rules, a short title is not given to any amendments effected to the principal rules. It is for this reason that no short title was given to the amendments effected under the aforesaid G.S.Rs.”

11. When the Ministry's attention was again invited to the aforesaid recommendation of the Committee on Subordinate Legislation, the Ministry communicated the following opinion of the Ministry of Law:—

“.....The reference given in the preamble is by way of description which is resorted to only in cases where the principal rules do not have a short title. A description in the preamble is no substitute for a short title and as such it is not possible in such cases to give a short title to the amending rules as we had stated in our previous note referred to above.”

The Ministry of Works, Housing & Supply further observed:—

“Incidentally, rules framed under article 309 of the Constitution are not required to be placed on the Table of the

House. In fact, this was not done in the case of amending rules pertaining to Central Engineering Service referred to above. Under Rule 320 of the 'Rules of Procedure and Conduct of Business in Lok Sabha', after the Regulations, Rules, Sub-Rules etc. framed either under the Constitution or Legislative function delegated by the Parliament have been laid before the House, the Committee on Subordinate Legislation shall consider with reference to certain aspects as laid down in the said Rules of Procedure. It is presumed that since the amending rules of the Central Engineering Services Class I referred to above have not been laid on the Table of the House, the said Rules will not be placed before the Committee on Subordinate Legislation for examination by that Committee."

12. The Committee considered the matter and observed that it should present no difficulty if the amendments were given short titles and numbered serially even though the principal rules did not bear short titles.

13. As regards the Ministry's observation that the rules in question were not required to be laid on the Table of the House and, therefore, they should not be placed before the Committee on Subordinate Legislation for examination, the Committee observed that Rule 317 of the Rules of Procedure and Conduct of Business in Lok Sabha read with Direction 103(1), was quite clear about the scope of the functions of the Committee on Subordinate Legislation and, therefore, whether a particular 'Order', made in pursuance of the legislative powers delegated by an Act of Parliament or the Constitution was required to be laid before the House or not, the Committee on Subordinate Legislation was quite competent to examine that 'Order' and this should leave no scope for doubt in any quarter.

Central Excise (Fourth Amendment) Rules, 1966 (G.S.R. 1042 of 1966).

14. The Central Excise (Fourth Amendment) Rules, 1966 were issued by the Central Government in exercise of the powers conferred by sections 6, 12 and 37 of the Central Excises and Salt Act, 1944 inserting a new section, "E-VIII-Plywood-Special Procedure" in the principal rules.

15. The new rule 96ZA (1) provided for making an application by the manufacturer to the Collector to avail of special procedure regarding the calculation of excise duty on coarse grain plywood. Sub-rule (2) of rule 96ZA provided that such application shall be made so as to cover a period of not less than six consecutive calendar months, but may be granted for shorter period in the discretion of the Collector.

Rule 96ZG gave power to condone failure to apply for special procedure which reads as under:—

"96ZG. Power to condone failure to apply for special procedure.—Notwithstanding anything contained in this section, the Collector may, at his discretion and subject to such conditions as he may lay down, apply the provisions contained in this section to a manufacturer who has failed to avail himself of the special procedure or to comply with any condition laid down in this section within the prescribed time limit."

16. It was noted that under the above rules the Collector had been empowered to exercise his discretion even without recording the reasons in writing.

17. The Committee noted that, on being pointed out, the concerned Ministry of Finance had amended the rules by substituting the words, "for reasons to be recorded in writing by the Collector" and "for reasons to be recorded in writing" for the words "in the discretion of the Collector" and "at his discretion" occurring in rules 96ZA (2) and 96ZG respectively (vide GSR 887 of 1967).

18. The Committee were then apprised of the letter received from the Kerala Legislature Secretariat stating that with a view to study the working of the Committee on Subordinate Legislation of Lok Sabha, the Chairman and members of the Committee on Subordinate Legislation of the Kerala Legislative Assembly were reaching Delhi on the 22nd November, 1967 at 06.35 hours.

After some discussion the Committee decided to meet again on Wednesday, the 22nd November, 1967 at 17.00 hours to meet the Chairman and Members of the Committee on Subordinate Legislation of Kerala Legislative Assembly.

The Committee then adjourned.

X

COMMITTEE ON SUBORDINATE LEGISLATION, (1967-68)

Tenth Sitting

The Committee met on Wednesday, the 22nd November, 1967 from 17.00 to 18.10 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

2. Shri Narendra Singh Mahida
3. Shri V. Viswanatha Menon
4. Shri Bakar Ali Mirza
5. Shri Srinibas Mishra
6. Dr. Sisir Kumar Saha
7. Shri N. K. Sanghi
8. Shri Nuggeshalli Shivappa
9. Shri Tulsidas Dasappa
10. Shri G. Vishwanathan.

Members of the Committee on Subordinate Legislation of the Kerala Legislative Assembly and its Officers.

1. Shri K. G. Neelakantan Namboodiripad—*Chairman*

MEMBERS

2. Shri J. A. Chacko
3. Shri M. Moideenkutty Haji
4. Shri K. P. Raghava Poduval
5. Shri K. K. Aboo
6. Shri K. K. Kumara Pillai

OFFICERS

1. Shri N. Rama Krishna Pillai—*Asstt. Secretary, Law Deptt.*
2. Shri P. Mahadevan—*Supdt. Leg. Sectt.*

3. **Shri K. R. Krishna Pillai—Asstt. Leg. Sectt.**

4. **Shri S. K. Madhavan Nair—Reporter Leg. Sectt.**

SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. At the outset, the Chairman addressed the visiting Chairman and Members of the Committee on Subordinate Legislation of the Kerala Legislative Assembly. In his address the Chairman described in detail the inevitability of Subordinate Legislation and its inherent dangers which required Parliamentary control and supervision in a modern welfare State. Describing the role of the Committee on Subordinate Legislation of Lok Sabha he stated that the Committee were functioning as a friendly critic of the Executive and not as their enemy. The Committee helped the Executive in the proper discharge of their duties for the benefit of the masses. He also praised the responsiveness of the Executive at the Centre to the suggestions and recommendations made by the Lok Sabha Committee on Subordinate Legislation. He laid emphasis on the fact that there were no parties and no factions in the Committee. Once a law was enacted by the vote of the Majority, he stated, it became the combined will of the Parliament and then it was the concern of all parties to see that the law was administered properly. It was the tradition, he added, of the Lok Sabha Committee on Subordinate Legislation that all their decisions were arrived at unanimously and party considerations never affected the deliberations of the Committee. He concluded his address with the remark that the Committee on Subordinate Legislation of Lok Sabha was doing everything possible to hold the 'New Despotism' in leash.

3. The visiting Members of the Kerala Legislative Assembly Committee then discussed various problems relating to Subordinate Legislation which they were faced with in their State, namely, examination of service rules made under proviso to Article 309 of the Constitution, rules made by autonomous bodies and the rules made by the President in respect of a State which was under the President Rule. The visiting members informed the Committee that they had also discussed these matters with their counterparts in Punjab and Haryana State Legislatures while they were on a visit to Chandigarh.

4. A proposal for holding a conference of the Chairmen of Committees on Subordinate Legislation of all the Legislatures in India to thrash out the problems common to all Committees was mooted. The matter was left to the Chairman to pursue it further.

5. After a brief introduction of the Members of the two Committees, Shri Nuggehalli Shivappa, a new Member of the Committee nominated by the Speaker on the 18th November, 1967 *vice* Shri N. Dandekar resigned, was welcomed to the Committee.

The Committee then adjourned.

XI

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68)

Eleventh Sitting

The Committee met on Saturday, the 2nd December, 1967 from 10.00 to 11.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

2. Shri Narendra Singh Mahida
3. Shri M. Meghachandra
4. Shri V. Viswanatha Menon
5. Dr. Sisir Kumar Saha.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee took up consideration of Memorandum No. 13 relating to the **grievances** of Cooks and Water-Carriers in Defence Establishments, which was postponed at their sitting held on the 11th November, 1967.

3. The Committee considered the comments furnished by the Ministry of Defence on the following points raised by the Committee at their sitting held on the 12th August, 1967, relating to the retrenchment of non-combatant Cooks and Water-Carriers from the various Defence Establishments and their rights of getting their grievances redressed:—

- (1) What Units of the Armed Forces could be thrown open for the formation of trade unions or associations to non-combatant employees for ventilating their grievances where forming of such associations has not been allowed so far;
- (2) What machinery could be evolved, even in those units where forming of such association was not allowed, for bringing their grievances to higher authorities;

- (3) How were non-combatants treated in other armies of the democratic countries of the world in regard to the forming of associations for ventilating their grievances; and
- (4) A copy of the orders stated to have been issued by the Ministry of Defence in August, 1966 granting recognition to the unions and associations formed by the non-combatants.

4. After considering the matter in all its aspects at some length, the Committee agreed with the contention of the Ministry of Defence that having regard to the present conditions, it was not possible to extend the existing rights of Defence civilians to form Unions/Associations to the non-combatants working in the various Defence Establishments and to grant recognition to such bodies when formed. The Committee also noted that the Ministry of Defence had issued instructions that since Trade Unions/Associations of Defence civilians were not permitted to function in Training Establishment and certain other Installations for security or other reasons, Welfare Committees in such Installations should be constituted and that at the meetings of those Welfare Committees, the civilian employees who were members of such Committees could raise both individual and collective grievances and that individual grievances should be settled at Installation level and if the collective grievances could not be settled at that level, such grievances should be forwarded by the Head of the Installation through the appropriate higher Service authority to the Ministry of Defence for final decision. The Committee expressed the hope that the Ministry of Defence would ensure that the service rules applicable to the various categories of Defence personnel were so administered as to afford adequate redress to the grievances of the Defence personnel, which should be considered sympathetically.

The Committee then adjourned.

XII

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68)

Twelfth Sitting

The Committee met on Tuesday, the 30th January, 1968 from 16.00 to 17.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

2. Shri Tulsiram Dashrath Kamble
3. Shri V. Viswanatha Menon

4. Shri Bakar Ali Mirza
5. Shri Srinibas Mishra
6. Dr. Sisir Kumar Saha
7. Shri Tulsidas Dasappa
8. Shri Balgovind Verma.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES

Representatives of the Ministry of Commerce

1. Shri B. N. Banerjee, *Special Secretary.*
2. Shri S. Banerjee, *Deputy Secretary.*
3. Shri B. Krishnamurthy, *Under Secretary.*

2. The Committee heard the evidence of the representatives of the Ministry of Commerce regarding the framing of rules for recruitment to the various posts under the Tea Board, Coffee Board, Coir Board, Cardamom Board, Rubber Board and the Central Silk Board which functioned under the administrative control of that Ministry.

3. In reply to a question, the Special Secretary expressed his regret for not complying with the provisions of Section 49(2) (d) of the Tea Act, 1953 which envisaged making of Rules to provide *inter alia* for the pay of the Secretary and other Officers of the Tea Board. He explained that although the Act was passed in 1953, no rules were framed, because the draft rules which were prepared round about 1956-57 remained under discussion between the Tea Board and the Central Government at a leisurely pace for quite some time. The change in the incumbent of the Chairmanship of Tea Board in 1962 also came in the way. The draft rules finalised by the Tea Board in 1967 have again been returned to them with certain queries seeking clarifications.

4. In a reply to a question, the witnesses stated that in the absence of recruitment rules, pay scales of various posts under the Tea Board

were fixed in consultation with the Finance Ministry and there were regular executive instructions in this behalf. The witnesses, however, admitted that these orders had not been notified in the Official Gazette.

5. As to the method of recruitment, the Deputy Secretary explained that the appointment to a post which carried a salary of more than Rs. 1,000 p.m. was made by the Central Government on the recommendation of the Chairman, Tea Board. Before the person recommended by the Chairman was appointed, a panel of officers suggested by the Establishment Officer of the Government of India was formed to consider his suitability to the job.

6. The Deputy Secretary admitted that there was a lacuna in the implementation of the Tea Act in so far as the terms and conditions for appointment to various posts under the Tea Board were not incorporated in any rules. He also admitted that there was an inordinate delay in framing the rules and had the Ministry been aware that the absence of rules was against the Act, they would have certainly given top-priority to this matter.

7. As regards the mode of appointment of a Special Officer by the Tea Board at Delhi, the Deputy Secretary explained that no qualification for the post as such had been prescribed, but the post was almost equated to the grade of an Under Secretary in the Government of India. He further stated that so far as the work of Special Officer posted at Delhi was concerned, the knowledge of agriculture with particular reference to tea and other plantations was considered a sufficient qualification in view of the fact that his job was to help the people in forming co-operatives or to give them proper guidance in collecting clones etc. for the tea gardens.

8. In reply to a question, the Deputy Secretary further stated that the post of the Special Officer at Delhi was not advertised but other posts of the Tea Board were advertised. The Special Officer in question, the witness stated, belonged to the U.P. Civil Service and was appointed on his selection by the Interview Board consisting of the former Chairman of the Tea Board, a Member of the Tea Board and an Officer of the Ministry. On being asked by the Committee, the witnesses promised to furnish a note indicating the various vacancies under the Tea Board that had been filled up by means of advertisement.

9. The Deputy Secretary gave an undertaking that the draft Recruitment Rules under the Tea Act would be finalised by the end of February, 1968. The witnesses assured the Committee that the

matters relating to fixation of pay of various officers, methods of recruitment, ratio of posts to be filled by different methods, qualifications etc. would also be incorporated in the Recruitment Rules.

10. As regards the other Commodity Boards, the witnesses stated that the rules regarding the Coffee Board and Rubber Board had been framed and published in the Gazette of India and laid on the Table of the House. The rules regarding the Central Silk Board had been framed and published and copies thereof were supplied to the Lok Sabha and Rajya Sabha Secretariats in 1961. The Rules regarding the Cardamom Board had also been framed and published in the Gazette, but they would be laid on the Table of the House during the next session. As regards the rules relating to the Coir Board, it was stated that they were covered by the Bye-laws which were still with the Ministry of Home Affairs and were awaiting their approval.

The Committee then adjourned to meet again on Wednesday, the 31st January, 1968 at 16.00 hours.

XIII

COMMITTEE ON SUBORDINATE LEGISLATION (1967-68.)

Thirteenth Sitting

The Committee met on Wednesday, the 31st January, 1968 from 16.00 to 17.00 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*

MEMBERS

2. Shri Tulsiram Dashrath Kamble
3. Dr. G. S. Malkote
4. Shri V. Viswanatha Menon
5. Shri Bakar Ali Mirza
6. Shri Srinibas Mishra
7. Dr. Sisir Kumar Saha
8. Shri Balgovind Verma
9. Shri Tulsidas Dasappa.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee took up consideration of Memorandum No. 18 dealing with the Railway Service Commissions (Chairmen and Members) Recruitments Rules, 1965 and the question relating to the imposition of fee on cancellation of Railway Tickets in the context of evidence tendered before them by the representatives of the Ministry of Railways (Railway Board) in October last.

Railway Service Commissions (Chairmen and Members) Recruitment Rules, 1965 (G.S.R. 128 of 1966).

3. Railway Service Commissions (Chairman and Members) Recruitment Rules, 1965 were framed under Proviso to Article 309 of the Constitution. It was noted that the scales of pay of Chairman and Members had been given in the schedule appended to the Rules as Rs. 1800/- (fixed) and Rs. 1300/- (fixed) respectively. As the retired Railway/Government Officers were also included in the field of choice for appointment to the above posts, it was not clear whether pay of these retired officers would be inclusive of pension or not in case of their appointment as Chairman or Members of the Railway Service Commissions.

4. It was suggested to the Ministry of Railways (Railway Board) that a clear provision might be made in the rules to obviate any ambiguity in the interpretation thereof. The Ministry of Railways amended the rules and substituted the existing footnote by three new footnotes through G.S.R. 1811 of 1967. The new footnote 2 thereof provided that the retired Railway/Government Officers appointed as Members/Chairman of Railway Service Commission would be permitted to draw separately pensions sanctioned to them subject to the condition that pay plus gross amount of pension and/or pensionary equivalent or other retirement benefits did not exceed the pay last drawn on retirement.

5. The Committee noted the change in the footnote but felt that the amendment made by the Ministry of Railways did not meet the needs of the case, as it did not restrict the maximum including pension which a retired Railway/Government Officer appointed as Member/Chairman, Railway Service Commission could be permitted to draw within the ceiling of the fixed pay of Rs. 1300 and 1800 respectively. The Committee, therefore, desired that the Ministry of Railways should be asked to re-examine the matter and amend the rules in question so as to restrict the maximum pay that could be

drawn to the pay limit as fixed in the Schedule appended to the rules (G.S.R. 128 of 1966).

Imposition of fee on cancellation of Railway Tickets

6. The Committee took up further consideration of the question relating to the imposition of fee on the cancellation of Railway tickets in the context of the evidence tendered before them by the representatives of the Ministry of Railways (Railway Board) on the 4th October, 1967 and the material furnished by them earlier as to the authority under which the cancellation charges on unused railway tickets were being levied by the Railways.

7. The Committee after discussing the various implications involved in the matter at some length decided that the matter be reported to the House on the following lines:

- “(1) Considering the matter in all its aspects, the Committee are of the opinion that charges like the one levied for cancellation of tickets should not be levied or collected without any specific authorisation by an Act of Parliament or rules framed thereunder. So far as Section 47 of the Indian Railways Act is concerned, there is nothing which authorises the Railway Administration to levy cancellation charges on railway tickets.
- (2) The Committee deplore the delay on the part of the Ministry of Railways (Railway Board) in supplying a copy of the Rules made under the Indian Railways Act, 1890. They observe in this regard that under Section 47(6) of the Indian Railways Act, a copy of the said Rules is required to be kept at every Railway Station and made available to any person for inspection free of charge at all reasonable time. If the Ministry of Railways, who are the rule-making authority, do not themselves possess up-to-date copies of the Rules, the Committee fail to understand how they are able to ensure compliance of the statutory requirement of Section 47(6) by the Railway Administrations.”

The Committee then adjourned to meet again at 16.00 hours on Tuesday, the 13th February, 1968 to consider their draft First Report.

XIV**COMMITTEE ON SUBORDINATE LEGISLATION, (1967-68)****Fourteenth Sitting**

The Committee met on Tuesday, the 13th February, 1968 from 16.00 to 16.30 hours.

PRESENT

Shri N. C. Chatterjee—*Chairman*.

MEMBERS

2. Shri Tulsiram Dashrath Kamble
3. Shri Narendra Singh Mahida
4. Dr. G. S. Melkote
5. Shri V. Viswanatha Menon
6. Shri Bakar Ali Mirza

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. At the outset, the Committee were apprised of the clarification received from the Ministry of Railways (Railway Board) regarding the Railway Service Commissions (Chairmen and Members) Recruitment (Amendment) Rules, 1967 (G.S.R. 1811 of 1967). The Ministry of Railways had stated that the amendment in question was made with the concurrence of the Union Public Service Commission. The decision that the pay plus gross amount of pension and/or pensionary equivalent of other retirement benefits of a retired Government Servant when appointed as Chairman/Member of a Railway Service Commission should not exceed the last pay drawn at the time of retirement was based on the orders of the Ministry of Finance and therefore they did not consider it necessary to amend the rules any further. The Committee noted the reply of the Ministry of Railways.

3. The Committee then considered their draft First Report and adopted it.

4. The provisions of Direction 107 of the Directions by the Speaker under the Rules of Procedure and Conduct of Business in Lok Sabha were brought to the notice of the Committee. The Committee

decided that the entire Minutes of their First to Fourteenth Sittings held during 1967-68 be printed separately and laid before the House.

5. The Committee authorised the Chairman and, in his absence Shri Bakar Ali Mirza to present the Report to the House on their behalf on the 5th March, 1968 and also to lay on the Table the Minutes of their First to Fourteenth Sittings.

6. *The Committee then adjourned.*

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