

COMMITTEE ON SUBORDINATE LEGISLATION

(EIGHTH LOK SABHA)

FIFTEENTH REPORT

(Presented on 7 May, 1987)



**LOK SABHA SECRETARIAT
NEW DELHI**

1.256

May, 1987/Vaisakha, 1909 (Saka)

Price: Rs. 2.00

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1986-87)**

- *1. Shri Vakkom Purushothaman—*Chairman***
- 2. Shri D.L. Baitha**
- 3. Shri Anil Basu**
- 4. Shri H.A. Dora**
- 5. Dr. (Shrimati) Phulrenu Guha**
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- 12. Shri Bholanath Sen**
- 13. Shri Saleem I. Shervani**
- 14. Shri Yogeshwar Prasad Yogesh**
- 15. Vacant**

SECRETARIAT

- 1. Shri N. N. Mehra—*Joint Secretary***
- 2. Shri R. S. Mani—*Senior Legislative Committee Officer***

***Appointed Chairman w.e.f. 20 March, 1987 vice Shri Mool Chand Daga died.**

REPORT

I

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee (1986-87) at their sittings held on 12 January, 1987 and 5 March, 1987.

3. The Report was considered and adopted by the Committee at their sitting held on 28 April, 1987. The Minutes of the sittings relevant to the Report are appended thereto.

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

II

THE COCHIN PORT EMPLOYEES (TEMPORARY SERVICE) REGULATIONS, 1964 (G.S.R. 311 OF 1964)

(A)

5. Sub-Regulation (1) of Regulation 6 of the Cochin Port Employees (Temporary Service) Regulations, 1964, read as under :—

“(1) Where a notice is given by the appointing authority terminating the service of the temporary employee or where the service of any such employee is terminated either on the expiry of the period of such notice or forthwith by the payment of pay plus allowances, the Board or any other authority specified by the Board in this behalf may, of its own motion or otherwise, reopen the case and after calling for the record of the case and after making such enquiry as it deems fit, may :—

- (a) confirm the action taken by the appointing authority, or
- (b) withdraw the notice; or
- (c) reinstate the employee in service; or
- (d) make such other order in the case as it may consider proper.

Provided that no case shall be re-opened under this Sub-clause after the expiry of three months—

- (i) in a case of where notice is given, from the date of notice;
 - (ii) in a case where no notice is given, from the date of termination of service.
- (2) Where an employee is re-instated in service under sub-clause (1), the order re-instatement shall specify :—
- (a) the amount or proportion of pay and allowances, if any, to be paid to the employee for the period of his absence between the date of termination of service and the date of reinstatement; and
 - (b) whether the said period shall be treated as period spent on duty for any specified purposes "

6. The Ministry of Transport (Department of Surface Transport) were asked to state whether they had any objection to amend Regulation 6(1) above, so as to specify the words "any other authority" indicating the rank of the officer or authority, so that the affected person could know to whom he should go in for appeal, and also to specify the circumstances when the case could be reopened in the Regulation itself.

7. The Ministry in their reply dated 19 November, 1986, stated as under :—

"The Ministry has no objection to specifying the authority. The authority may be Central Government where the appointing authority is the Chairman, Chairman where the appointing authority is the Head of the Department and the Head of the Department where the appointing authority is a Divisional Officer. The competent authority would exercise the power to re-open the cases where the cases come to their notice and when they come to the conclusion that the earlier orders should be revised. Since these are obvious con litions, perhaps, these need not be specified in the Statutory Regulations."

8. The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to specify the term 'any other authority' appearing in the Sub-Regulation (1) of Regulation 6 of the Cochin Port Employees (Temporary Service) Regulations, 1964. The Committee desire the Ministry to amend the Regulations and notify the same in the Official Gazette at an early date.

8A The Committee agree with the explanation of the Ministry for not being able to specify the circumstances when the case could be reopened and accordingly desire not to pursue the matter further.

(B)

9. Regulation 10 of the Cochin Port Employees (Temporary Service) Regulations, 1964, read as under :—

“10. Notwithstanding anything contained in Regulation 5, the service of a temporary employee who is not in quasi-permanent service may be terminated at any time without notice, on his being declared physically unfit for continuance in service by an authority who would have been competent to declare him as permanently incapacitated in service had his appointment been permanent.”

10. The Ministry of Transport (Department of Surface Transport) were asked to state whether they had any objection to specify in the Regulation broadly the norms for declaring an employee as physically unfit.

11. The Ministry in their reply dated 19 November, 1986, stated as under :—

“The norms for declaring an employee as physically unfit are determined by Medical Experts. There being different norms for different jobs, it is practically difficult to specify them in the regulations.”

12. The Committee agree with the position explained by the Ministry of Transport (Department of Surface Transport) for not being able to specify the norms for declaring an employee as physically unfit under Regulation 10 of the Cochin Port Employees (Temporary Service) Regulations, 1964, and accordingly do not wish to pursue the matter further.

III

**THE COCHIN PORT EMPLOYEES (CONDUCT) REGULATIONS
1964 (G.S.R. 313 OF 1964)**

(A)

13. Sub-regulation (6) of Regulation 3 of the Cochin Port Employees (Conduct) Regulations, 1964, read as under : —

“(6) Every employee is expected to maintain a reasonable and decent standard of conduct in his/her private life and not bring discredit to his employer by his misdemeanour. In case where an employee is reported to have conducted himself/herself in a manner unbecoming of a servant of the Board as, for instance by neglect of the spouse and family, action may be taken against him/her on that score.”

14. The Ministry of Transport (Department of Surface Transport) were asked to state whether solely on the basis of the report lodged against him/her, action would be taken without any formal inquiry for verification of facts and without opportunity being given to the employee of the Board to explain his case.

15. The Ministry in their reply dated 19 November, 1986, stated as under :—

“This only specifies the ground on which action can be taken. The action taken will be under the provision of the Cochin Port Employees (CC&A) Regulations which provide for communicating the charges to the official, opportunity to be heard etc.”

16. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that there is a provision for communicating the charges to the official in respect of his conduct and opportunity is given to him to explain his case, under the provision of the Cochin Port Employees (Classification, Control and Appeal) Regulations. As such, the Committee do not desire to pursue the matter further. •

(B)

17. Regulation 6 of the Cochin Port Employees (Conduct) Regulations, 1964, read as under :

“(6) No employee shall in any radio broadcast or in any document published anonymously or in his own name or in the name of any other person or in any communication to the press or in any other public utterance make any statement of fact or opinion :

- (i) which has the effect of as adverse criticism of any current or a recent policy or action of the Central Government, State Government, the Board or any other Major Port Trust.

Provided that in the case of any employee specified in the proviso to sub-regulation (2) of regulation 1, nothing contained in this regulation shall apply to *bona fide* expression of views by him as an office bearer of a trade union of such employees for the purpose of safeguarding the service conditions of such employees or for securing any improvement therein; or

- (ii) which is capable of embarrassing the relations between the Board, the Central Government, the Government of any State or any other major Port Trust; or

- (iii) which is capable of embarrassing the relations between the Central Government and the Government of any foreign State.

Provided that nothing in this regulation shall apply to any statements made or views expressed by an employee in his official capacity or the due performance of the duties assigned to him.”

18. The Ministry of Transport (Department of Surface Transport) were asked to state whether there was any procedure to be followed to establish that an employee had actually contravened these provisions and whether any opportunity was given to the persons concerned to clarify his position.

19. The Ministry in their reply dated 19 November, 1986, stated as under :—

“This only specifies the ground on which action can be taken. The action taken will be under the provision of the Cochin Port

Employees (CC&A) Regulations which provide for communicating the charges to the official, opportunity to be heard etc."

20. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that there exist a provision for communicating the charges to the official in respect of his conduct and opportunity is being given to explain his case under the provision of the Cochin Port Employees Classification, Control and Appeal) Regulation. As such, the Committee desire not to pursue the matter further.

IV

THE COCHIN PORT EMPLOYEES (RECRUITMENT, SENIORITY AND PROMOTION) REGULATIONS, 1964 (G.S.R. 314 OF 1964)

(A)

21. Regulation 5 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, read as under :—

"5. Authorised Permanent and Temporary Strength. The authorised permanent and temporary strength of the various grades shall be as in the Schedule of Staff prepared and sanctioned by the Board from time to time under Section 23 of the Act."

22. The Ministry of Transport (Department of Surface Transport) were asked to state whether the Schedule of authorised permanent and temporary staff strength were prepared and appended to the Regulations or published in the Gazette for information of all concerned.

23. In their reply dated 19 November, 1986, the Ministry stated as under :—

"As required under Section 23 of the Major Port Trust Act, 1963, a Schedule of employees is being prepared every year. In Ports, new posts get created for new facilities and for promotional opportunities and therefore, attaching the Schedule to the Regulations would require frequent amendments and publications in Gazette. This Schedule of employees is open to inspection by any employees."

24. The Committee recommend that with a view to keep the persons concerned informed of the current position in the matter, the schedule of authorised permanent and temporary staff strength may be appended to the Regulations with an asterik "liable to change from time to time."

(B)

25. Regulation 7 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, read as under :—

“7. *Filling up of vacancies* :—The manner of filling up of vacancies by direct recruitment and departmental promotion and the age limit, educational qualifications and experience for direct recruits in respect of the various grades or posts shall be laid down by the Board.

Provided that the upper age limit may be relaxed in the case of a candidate belonging to any Scheduled Caste, Scheduled Tribes or any other special category in accordance with the general orders issued from time to time by the Central Government for appointment to service undersit.”

26. The Ministry of Transport (Department of Surface Transport) were asked to state whether any notification regarding the manner of recruitment to various posts has been published in the Gazette and the details of the latest notification on the subject.

27. In their reply dated 19 November, 1986, the Ministry stated as under :—

“According to Clause 7 of the Cochin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1964, the manner of filling up the vacancies by direct recruitment and departmental promotions, the age limit, educational qualifications and experience for direct recruits in respect of various categories of posts shall be laid down by the Board. In exercise of these powers, the Board of Trustees have laid down from time to time recruitment rules covering various categories of posts specifying among other things, the manner of recruitment to various posts. A copy of these recruitment rules as on 1.12.1983 which represents the latest position, is enclosed herewith for reference. These recruitment rules as laid down by the Board of Trustees have not been published in the Gazette.”

28. The Committee after considering the reply of the Ministry of Transport (Department of Surface Transport) in respect of Regulation 7 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, desire the Ministry to place the latest Recruitment Rules of the Cochin Port Trust on a statutory footing and notify the same in the Gazette at an early date. The Committee also desire the Ministry to incorporate the Recruitment Rules in the said Regulation, so as to make it self-contained,

(C)

29. Sub-Regulation (2) of Regulation 8 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, read as under :

“(2). The period of probation may, if the appointing authority deems fit, be extended or curtailed in any case, but the total period of such extension or curtailment shall not, save where any extension is necessary by reason of any departmental or legal proceedings pending against the officer exceed one year.”

30. The Ministry of Transport (Department of Surface Transport) were asked to state :—

- (a) Why on any ground whatsoever, prescribed period of probation should be curtailed? Every employee or officer should complete the period of probation satisfactorily.
- (b) Whether the probationer should not be provided an opportunity to appeal against an order of extension of probation.

31. The Ministry in their reply dated 19 November, 1986, stated as under :—

“(a) The recommendation of the Committee is acceptable.

(b) There is no objection in providing an opportunity to appeal against an order of extension of probation.”

32. The Committee note with satisfaction that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to amend Sub-Regulation (2) of Regulation 8 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, so as to provide therein (a) that every employee or officer should complete the period of probation satisfactorily without any curtailment of the probation period on any ground and (b) that opportunity is given to appeal against an order for extension of probation period. The Committee desire the Ministry to process the amendment expeditiously and to notify the same in the Gazette at an early date.

(D)

33. Sub-Regulation (1)(b) of Regulation 10 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, read as under :—

“(1) An employee on probation who has no lien on any post under the Board or Government shall be liable to be discharged from service at any time without notice if —

(a)

- (b) if on the receipt of any information relating to his nationality, age, health or antecedents, the appointing authority is satisfied that he is ineligible or otherwise unfit for being continued in service."

34. The Ministry of Transport (Department of Surface Transport) were asked to state whether the probationer was given any opportunity to put forward his case if he is to be discharged during probation on the basis of information regarding nationality, age, health or antecedents.

35. In their reply dated 19 November, 1986, the Ministry stated as under :—

"As per the Government rules the probationer has no rights to the post held by him and he can be discharged without assigning any reason by the competent authority. The Port Trust broadly follows Government rules under which the probationers are not given any opportunity to put forward his case if he is to be discharged during probation."

36. The Committee have noted the reasons advanced by the Ministry of Transport (Department of Surface Transport), for not providing a probationer any opportunity to put forward his case if he is to be discharged during probation on the basis of information regarding nationality, age, health or antecedents under Sub-regulation (1)(b) of Regulation 10 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964. According to the Ministry, as per Government rules, the probationer has no right to the post held by him and he can be discharged without assigning any reasons by the competent authority. The Ministry have further stated that, as the Port Trust broadly follow the Government rules, the probationer is not given any opportunity to put forward his case if he is to be discharged during probation.

37. The Committee are not inclined to agree with the views of the Ministry and feel that this provision in the Regulation is against fair and natural justice and as such the reasons for discharge of a probationer during the probation period should be recorded in writing and also reasonable opportunity be given to him to put forward his case. The Committee therefore, desire the Ministry to reconsider the matter in the light of their observations in order to amend suitably the Sub-regulation to the desired effect.

(E)

38. Regulation 12 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, read as under :—

“12. Maintenance of a Roster :—A roster shall be maintained for each grade to determine whether a particular vacancy should be filled by direct recruitment or promotion.”

39. The Ministry of Transport (Department of Surface Transport) were asked to state whether any rosters had been prepared so far, by the Board, for filling up vacancies in various grades by direct recruitment or by promotion.

40. In their reply dated 19 November, 1986, the Ministry stated as under :—

“Rosters are being maintained for direct recruitment and promotion in respect of various posts in accordance with the orders issued by the Government on the subject from time to time.”

41. In view of the reply of the Ministry of Transport (Department of Surface Transport) regarding maintenance of a Roster for direct recruitment and promotion in various posts, under Regulation 12 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, in accordance with the orders issued by Government on the subject from time to time, the Committee do not wish to pursue the matter further.

V

THE COCHIN PORT TRUST EMPLOYEES (ALLOTMENT OF RESIDENCE) REGULATIONS, 1965.

(A)

42. Sub-regulation (4) of Regulation 7 of the Cochin Port Trust Employees (Allotment of Residence) Regulations, 1965, read as under :—

“(4) Notwithstanding any other provisions contained in these Regulations, the Chairman may allot quarters to employees of local bodies or other Government Departments who are closely connected with the working of the Port and who in the opinion of the Chairman, should be provided with accommodation for the smooth functioning of the Port. The monthly rent in such cases

shall be a percentage of interest at the borrowing rate as applicable to the following expenditure divided by 12 :

1. Capital cost of residence excluding water supply and sanitary fittings etc.
2. Departmental charges at 20% on item 1.
3. Maintenance charges @ 2% on items 1 and 2.
4. Cost of Water Supply, sanitary fittings etc.
5. Departmental charges @20% of item 4.
6. Maintenance charges @4% of items 4 and 5.
7. Cost of site and its preparation.
8. Municipal and other taxes."

43. The Ministry of Transport (Department of Surface Transport) were asked to state (i) which other Government Department were deemed to be closely connected with the working of the Port for purpose of allotment of quarters and (ii) what categories of persons were usually allotted quarters ?

44. The Ministry of Transport (Department of Surface Transport) in their reply dated 19 November, 1986, have stated as under :—

"At present Port quarters have been allotted to the following outside organisations which are closely connected with the working of the port :—

1. Railways
2. Kerala Police
3. Post and Telegraph
4. CISF
5. Kendriya Vidyalaya, Port Trust
6. Port Health Organisation
7. Inspectorate of Dock Safety
8. Tourist Officer
9. Aerodrome Officer
10. Concurrent Audit Section
11. Dock Labour Board

The allotment of quarters is directly made by the concerned departments in the Railways, Kerala Police, P & T and CISF. As regards other organisations, the allotment of quarters are made by the Port Trust to the persons recommended by the head of concerned organisation."

45. The Committee have considered the reply of the Ministry regarding the basis of allotment of quarters by the Cochin Port Trust to their employees as well as to other Government Departments closely connected with the working of the Port. The Committee, however, feel that with a view to obviate any scope of discrimination in the matter and in the interpretation of the Regulation in question, proper guidelines should be issued making the Regulations self-contained.

(B)

46. Regulation 9 of the Cochin Port Trust Employees (Allotment of Residence) Regulations, 1965, read as under :—

“9. Out of turn allotment : Notwithstanding any other provision or provisions in these regulations, the Chairman may allot a residence out-of-turn to an employee in special cases, considering the nature of duties, interest of Port's work, condition of deputation, etc. or on grounds of serious illness of the employee concerned or of a member of his family.”

47. The Ministry of Transport (Department of Surface Transport) were asked to state whether any guidelines were laid down in the Regulations for allotment of out-of-turn accommodation ?

48. In their reply dated 19 November, 1986, the Ministry have stated as under :

“Apart from the general parameters mentioned in Regulation 9, no guidelines as such for allotment of quarters on out-of-turn basis have been laid down in the Regulation. However, as a convention out-of-turn allotment of quarter is made in the following cases :—

- (1) Physically handicapped persons on the basis of the percentage of disability assessed by a Committee consisting of Deputy Chairman, Chief Medical Officer, Secretary and Estate Manager, or employees suffering from Chronic diseases requiring frequent hospitalisation and treatment at the Port Hospital.
- (2) Operationally important post holders, whose presence in the Port premises are considered essential for departmental interest. Existing provisions for discretionary allotment may be continued.”

49. After perusing the information furnished by the Ministry of Transport (Department of Surface Transport) the Committee desire the Ministry to issue suitable guidelines for out of turn allotment of quarters under Regulation 9 of the Cochin Port Trust Employees (Allotment of Residence) Regulations, 1965, and to incorporate the same in the Regulations itself for the information of all concerned and to make the Regulation self-contained.

(C)

50. Sub-regulation (1) of Regulation 10 of the Cochin Port Trust Employees (Allotment of Residence) Regulations 1965, read as under :—

“10. Non-acceptance of allotment of offer or failure to accept the allotted residence after acceptance :

(1) If an employee fails to accept the allotment of a residence within two days from the date of receipt of letter of allotment or fails to take possession of that residence after acceptance within 8 days from the date of receipt of the letter of allotment, he shall not be eligible for another allotment for a period of five years from the date of the allotment letter.”

51. The Ministry of Transport (Department of Surface Transport) were asked to state whether they had any objection (i) to increase the period of five days in case an employee failed to accept the allotment of a residence within two days from the date of receipt of the letter of allotment and (ii) to reduce the debarring period from five years to one or two years in case an employee failed to take possession of that residence after acceptance within eight days from the date of receipt of the letter of allotment ?

52. In their reply dated 19 November, 1986, the Ministry stated as under :—

“There is no objection in increasing the period of 2 days for accepting allotting of quarters to 5 days. As regards reducing the debarring period from the existing 5 years period to 1 or 2 years, there is no objection. The suggestion of the Committee is accepted.”

53. The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to amend Sub-Regulation (1) of Regulation 9 of the Cochin Port Trust Employees (Allotment

of Residence) Regulations, 1965, for (i) providing 5 days period for accepting the offer of allotment and (ii) reducing the debarring period from the existing 5 years to 1 year. The Committee would like the Ministry to take early action for amendment of the Regulations and its notification in the Gazette for the information of all concerned.

VI

THE COCHIN PORT EMPLOYEES (WELEARE FUND) REGULATIONS, 1964.

54. Regulation 4 of the Cochin Port Employees (Welfare Fund) Regulations, 1964. read as under :—

“4. **Administration of the Fund** : The fund shall be administered by the Chairman who may at his discretion, constitute an Advisory Committee for the purpose.”

55. The Ministry of Transport (Department of Surface Transport) were asked to state whether any Advisory Committee was constituted ? If so, who were the members of the Committee and how it functioned ? Was it not necessary to lay down the composition of the Advisory Committee in the Regulation ? The Ministry were further asked whether the funds of the Board were audited annually ?

56. The Ministry of Transport (Department of Surface Transport) in their reply dated 19 November, 1986. stated as under :—

“An advisory Committee consisting of the Deputy Conservator, Cochin Port Trust as Chairman, Financial Adviser and Chief Accounts Officer, Cochin Port Trust as Members and the Labour Officer, Cochin Port Trust as Convener has been constituted. Since an Advisory Committee is not mandatory it may not be necessary to spell out the composition of the Committee in the Regulations.

Concurrence of the Committee is obtained by circulating a note before payment of assistance from the Fund, to employees who are on E.O.L. on medical grounds due to prolonged illness. The Chairman of the Advisory Committee has been authorised to sanction ex-gratia payments. The Labour Officer has been authorised to sanction funeral expenses. Other expenses from the Welfare Fund are sanctioned by the Chairman. The funds are audited by the Accountant General.”

57. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that an Advisory Committee consisting of Deputy Conservator, Cochin Port Trust as Chairman, Financial Adviser and Chief Accounts Officer, Cochin Port Trust as Members and the Labour Officer, Cochin Port Trust as Convener has been constituted. Since the Advisory Committee has been constituted under Regulation 4 of the Cochin Port Employees (Welfare Fund) Regulations, 1964, the Committee desire the Ministry to spell out precisely the composition, functions and allied details of the said Committee in the Regulation itself for the information of all concerned and to make the Regulation self-contained. Necessary amendment to the Regulation may be issued at an early date.

VII

THE MAJOR PORT TRUST (PROCEDURE AT BOARD MEETINGS) RULES, 1981—(GSR 725 of 1981)

58. Rule 3 of the Major Port Trust (Procedure at Board Meetings) Rules, 1981, read as under :

“3. **Calling of special meetings :** The Chairman or in his absence the Deputy Chairman, if appointed, may, whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting of the Board.”

59. The Ministry of Transport (Department of Surface Transport) were asked to state the significance of a “special meeting of the Board” and the circumstances in which special meetings might be called ?

60. The Ministry of Transport (Department of Surface Transport) in their reply dated 19 November, 1986, stated as under :

“Under Rule 2 of the Major Port Trust (Procedure of Board Meetings) Rules, 1981, Board should meet at least once in a month to consider various matters relating to working of the port. These meetings are generally held once in a month. Such meetings are termed as ordinary meetings of the Board. However, at times, it may become necessary to convene special meetings of the Port Trust Board at short notice to consider any special matter which cannot wait till the next meeting. For Example :

- (i) situation on account of sudden strike by Port employees;
- (ii) For more detailed discussion on tenders for major works etc.

As per Rule 3, the trustees also can requisition a meeting and meetings held as a result of such requisitions also are termed as 'Special Meeting'."

61. In view of the position explained by the Ministry of Transport (Department of Surface Transport) regarding convening of special meetings under Rule 3 of the Major Port Trusts (Procedure at Board Meetings) Rules, 1981, the Committee do not wish to pursue the matter further.

VIII

THE COCHIN PORT EMPLOYEES (CLASSIFICATION, CONTROL AND APPEAL) REGULATION, 1964 (G.S.R. 319 OF 1964)

(A)

62. Regulation 4 of the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964 read as under :—

"4. Special provision by agreement—where it is considered necessary to make special provision in respect of any employee inconsistent with any of these regulations, the authority making the appointment may, with the concurrence of such employee, make special provisions and thereupon these regulations shall not apply to such employee to the extent to which such special provisions are inconsistent with these regulations."

63. The Ministry of Transport (Department of Surface Transport), were asked to state the circumstances in which 'the special provision by agreement is made and in regard to which category of employees. The Ministry were also asked to state whether the Regulation should not provide for reasons to be recorded in writing for so doing.

64. The Ministry, in their reply dated 19 November, 1986, stated as under :—

"This Ministry has no objection to modify the regulations as suggested."

65. The Committee note that on being pointed out by them, the Ministry of Transport (Department of surface Transport) have agreed to suitably amend the Cochin Port Employees (Classification, Control and Appeal)

Regulations, 1964 so as to provide for recording of reasons in writing before making special provisions by agreement in respect of any employee under regulation 4 thereof. The Committee desire the Ministry to notify the proposed amendment in the Gazette expeditiously.

(B)

66. Sub-regulation (2) of Regulation 6 of Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964, read as under :—

“(2) Any order made by the competent authority and in force immediately before the commencement of these regulations relating to classification of posts in the port of Cochin, shall continue in force until altered, rescinded or amended by an order of the Board under sub-regulation (1).”

67. As the term “competent authority” was not defined in the regulations, the Ministry of Transport (Department of Surface Transport) were asked to define the term in the Regulation to make the regulation self-contained.

68. In their reply dated 19 November, 1986, the Ministry stated as under :

“The recommendation of the Committee is acceptable.”

69. The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to define the term ‘competent authority’ appearing in Regulation 6 (2) of the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964. The Committee desire the Ministry to amend the Regulations and notify it in the Gazette at an early date.

(C)

70. Sub-regulation (5) of Regulation 9 of the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964, read as under :—

“(5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee is set aside or declared or rendered void in consequences of, or by a decision of a Court of Law, and the disciplinary authority on a consideration of the circumstances of the case, decides to hold a further enquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirements was originally imposed, the employee shall be deemed to have been placed under suspension by the

authority competent to do so from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders."

71. The Ministry of Transport (Department of Surface Transport) were asked to clarify the points that—(1) when a penalty of dismissal is set aside by the Court of Law and further inquiry is ordered on the same matter, why suspension order should take effect from the original date, (2) would this retrospective effect of suspension from the original date not mean nullifying the order of the Court, (3) would Government consider to repeal this Sub-Regulation (5) ?

72. The Ministry in their reply dated 19 November, 1986, stated as under :—

"The Committee may kindly see Rule 10(4) of Central Civil Services (Classification, Control and Appeal) Rules which read as follows :—

'Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority on a consideration of the circumstances of the cases, decides to hold a further enquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further order :—

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

The said Regulation of Cochin Port Trust is based on Government Rules. However, suspension is not a penalty and the deemed suspension as provided under Regulation 9(5) does not nullify order of the Court. In view of the above, it is submitted that no modification on the Regulation seems called for."

73. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that the provision contained in Regulation 9(5) of the Cochin Port Employees (Classification, Control and appeal) Regulations, 1964, was made on the lines of similar provision contained in Rule 10(4) of the Central Civil Service (Classification, Control and Appeal) Rules but at the same time they observe that the following proviso should also form an integral Part of the above Regulations :

‘ Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.’

74. The Committee are of the view that if the Ministry want to retain the provision contained in Sub-Regulation (5) of Regulation 9 of the said regulations, then the Ministry should amend it on the lines of C.C.S. (C.C. & A.) Rules by incorporating the above proviso therein.

IX

THE COCHIN PORT (AUTHORISATION OF PILOTS) REGULATIONS, 1964 (G.S.R. 316 of 1964)

(A)

75. Regulation 17 of the Cochin Port (Authorisation of Pilots) Regulations, 1964, read as under :—

“17. Pilots may leave vessels at anchor in the Harbour if not provided with proper food and sleeping accommodation.

A pilot shall be provided with reasonable accommodation if necessary, and shall be supplied with breakfast between 7 A.M. and 9 A.M. with lunch between Noon and 2 P.M., and dinner between 6 P.M. and 8 P.M. (I.S.T.) failing which the Master shall pay compensation for food, namely Rs. 3 for any of the meals missed by the Pilot,”

76. The Ministry of Transport (Department of Surface Transport) were asked to state whether Rs. 3/- would be adequate at present, in view of the present high cost of food to compensate a Pilot, when he happen to miss any of the meals. Whether the amount had since been enhanced and necessary amendment made in these Regulations and also whether any compensation given for missing a breakfast.

77. The Ministry of Transport (Department of Surface Transport) in their reply dated 19 November, 1986, stated as under :—

“The Pilots in Cochin Port are in the scale of Rs. 1760-3170 and apart from basic pay, they are in receipt of fixed D.A. of Rs. 477, variable D.A., House rent allowance and conveyance allowance if eligible. This provision for compensation for non supply of breakfast etc. forms a very unimportant part of the service conditions of Pilots and may not be seen in isolation. It is, therefore, submitted that this item of monetary compensation may be left undisturbed.”

78. The Committee are not convinced with the reasons advanced by the Ministry of Transport (Department of Surface Transport) for providing inadequate compensation of Rs. 3.00 in lieu of non supply of any meals missed by the Pilot under Regulation 17 of the Cochin Port (Authorisation of Pilots) Regulations, 1964. The Committee feel that if the Ministry want to retain the said provision, the compensation should be meaningful and adequate in consonance with the status of the employee. The Committee, therefore, desire that Ministry to amend the Regulation suitably and notify it in the Gazette at an early date.

(B)

79. Regulation 28 of the Cochin Port (Authorisation of Pilots) Regulations, 1964, read as under :—

“28. **Moving of Vessels :** No Pilot shall move or direct the moving of the vessel within the port from one position to another unless the following conditions are fulfilled :—

- (a) if the vessel is under-way, the Master shall be on board;
- (b) if the Master leaves the vessel before the movement is completed, the Pilot shall direct the vessel to be anchored in such safe position as may be most easily reached by the vessel and shall not give directions to proceed with the moving until the return of the Master to the vessel;
- (c) throughout the moving the number of officers and crew on board and available for duty shall be sufficient to perform any duty which may be required and if the Pilot on boarding considers that the number is not sufficient, he shall call the

Master's attention to the Port Rules and refuse to proceed with the moving unless the Master first signs a declaration under his own hand expressly assuming entire responsibility.

Explanation : In this regulation, the expression 'Master' shall include the first or other officer duly authorised to act for the Master, in the event of the latter being incapacitated from performing the duties of his office."

80. The Ministry of Transport (Department of Surface Transport) were asked to state that according to explanation under this regulation, the expression 'Master' includes first or other officer duly authorised to act for the Master. What would be the minimum rank of the officer to be so authorised and by whom ? Could not this be laid down in the Regulation itself ?

81. The Ministry in their reply dated 19 November, 1986 stated as under :—

"The Chief Officer or any Deck Officer holding a certificate of competency may be authorised by the owner of the vessel to act for the Master. There is no objection in specifying this in the Regulations."

82. The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to amend the Regulation 28 of the Cochin Port (Authorisation of Pilots) Regulations, 1964, by further amplifying the term 'other officer duly authorised to act for the Master.' The Committee desire the Ministry to notify the requisite amendment at an early date.

NEW DELHI;
May 7, 1987,
Valsakha 17, 1909 (Saka)

VAKKOM PURUSHOTHAMAN
Chairman,
Committee on Subordinate Legislation.

APPENDIX

APPENDIX I

(Vide Paragraph 4, of the Report)

Summary of main Recommendations/Observations made by the Committee

S.No.	Paragraph No.	Summary
1	2	3
1	8	The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to specify the term 'any other authority' appearing in the Sub-Regulation (1) of Regulation 6 of the Cochin Port Employees (Temporary Service) Regulations, 1964. The Committee desire the Ministry to amend the Regulations and notify the same in the Official Gazette at an early date.
	8A	The Committee agree with the explanation of the Ministry for not being able to specify the circumstances when the case could be reopened and accordingly desire not to pursue the matter further.
	12	The Committee agree with the position explained by the Ministry of Transport (Department of Surface Transport) for not being able to specify the norms for declaring an employee as physically unfit under Regulation 10 of the Cochin Port Employees (Temporary Service) Regulations, 1964, and accordingly do not wish to pursue the matter further.
2	16	The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that there is a provision for commu-

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nicating the charges to the official in respect of his conduct and opportunity is given to him to explain his case, under the provision of the Cochin Port Employees (Classification, Control and Appeal) Regulations. As such, the Committee do not desire to pursue the matter further.

20 The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that there exist a provision for communicating the charges to the official in respect of his conduct and opportunity is being given to explain his case under the provision of the Cochin Port Employee (Classification, Control and Appeal) Regulations. As such, the Committee desire not to pursue the matter further.

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24 The Committee recommend that with a view to keep the persons concerned informed of the current position in the matter, the schedule of authorised permanent and temporary staff strength may be appended to the Regulations with an astrik "liable to change from time to time."

28 The Committee after considering the reply of the Ministry of Transport (Department of Surface Transport) in respect of Regulation 7 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, desire the Ministry to place the latest Recruitment Rules of the Cochin Port Trust on a statutory footing and notify the same in the Gazette at an early date. The Committee also desire the Ministry to incorporate the Recruitment Rules in the said Regulation, so as to make it self-contained.

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32. The Committee note with satisfaction that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to amend Sub-Regulation (2) of Regulation 8 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, so as to provide therein (a) that every employee or officer should complete the period of probation satisfactorily without any curtailment of the probation period on any ground and (b) that an opportunity is given to appeal against an order for extension of probation period. The Committee desire the Ministry to process the amendment expeditiously and to notify the same in the Gazette at an early date.

36. The Committee have noted the reasons advanced by the Ministry of Transport (Department of Surface Transport), for not providing a probationer any opportunity to put forward his case if he is to be discharged during probation on the basis of information regarding nationality, age, health or antecedents under Sub-Regulation (1)(b) of Regulation 10 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964. According to the Ministry, as per Government rules, the probationer has no right to the post held by him and he can be discharged without assigning any reasons by the competent authority. The Ministry have further stated that, as the Port Trust broadly follow the Government rules, the probationer is not given opportunity to put forward his case if he is to be discharged during probation.

37. The Committee are not inclined to agree with the views of the Ministry and feel that this

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provision in the Regulation is against fair and natural justice and as such the reasons for discharge of a probationer during the probation period should be recorded in writing and also reasonable opportunity be given to him to put forward his case. The Committee therefore, desire the Ministry to reconsider the matter in the light of their observations in order to amend suitably the Sub-regulation to the desired effect.

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41 In view of the reply of the Ministry of Transport (Department of Surface Transport) regarding maintenance of a Roster for direct recruitment and promotion in various posts, under Regulation 12 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations 1964, in accordance with the orders issued by Government on the subject from time to time, the Committee do not wish to pursue the matter further.

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45 The Committee have considered the reply of the Ministry regarding the basis of allotment of quarters by the Cochin Port Trust to their employees as well as to other Government Departments closely connected with the working of the Port. The Committee, however, feel that with a view to obviate any scope of discrimination in the matter and in the interpretation of the Regulation in question, proper guidelines should be issued making the Regulations self-contained.

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After perusing the information furnished by the Ministry of Transport (Department of Surface Transport) the Committee desire the Ministry to issue suitable guidelines for out of turn allotment of quarters under Regulation 9 of the Cochin Port Trust Employees (Allotment of

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Residence) Regulations, 1965, and to incorporate the same in the Regulations itself for the information of all concerned and to make the Regulation self-contained.

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The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to amend Sub-Regulation (1) of Regulation 9 of the Cochin Port Trust Employees (Allotment of Residence) Regulations, 1965, for (i) providing 5 days period for accepting the offer of allotment and (ii) reducing the debarring period from the existing 5 years to 1 year. The Committee would like the Ministry to take early action for amendment of the Regulations and its notification in the Gazette for the information of all concerned.

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The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that an Advisory Committee consisting of Deputy Conservator, Cochin Port Trust as Chairman, Financial Adviser and Chief Account Officer, Cochin Port Trust as Members and the Labour Officer, Cochin Port Trust as Convener has been constituted. Since the Advisory Committee has been constituted under Regulation 4 of the Cochin Port Employees (Welfare Fund) Regulations, 1964, the Committee desire the Ministry to spell out precisely the composition, functions and allied details of the said Committee in the Regulation itself for the information of all concerned and make the Regulation self-contained. Necessary amendment to the Regulation may be issued at an early date.

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61 In view of the position explained by the Ministry of Transport (Department of surface Transport) regarding convening of special meetings under Rule 3 of the Major Port Trust (Procedure at Board Meetings) Rules, 1981, the Committee do not wish to pursue the matter further.

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65 The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to suitably amend the Cochin Port Employees (Classification, Control and Appeal) Regulations 1964 so as to provide for recording of reasons in writing before making special provisions by agreement in respect of any employee under regulation 4 thereof. The Committee desire the Ministry to notify the proposed amendment in the Gazette expeditiously.

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The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to define the term 'competent authority' appearing in Regulation 6(2) of the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964, The Committee desire the Ministry to amend the Regulations and notify it in the Gazette at an early date.

73

The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that the provision contained in Regulation 9(5) of the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964, was made on the lines of similar provision contained in Rule 10(4) of the Central Civil Service (Classification, Control and Appeal)

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Rules but at the same time they observe that the following proviso should also form an integral Part of the above Regulations :

“Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.”

74 The Committee are of the view that if the Ministry want to retain the provision contained in Sub-Regulation (5) of Regulation 9 of the said Regulations, then the Ministry should amend it on the lines of C.C.S. (C.C. & A.) Rules by incorporating the above proviso therein.

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78 The Committee are not convinced with the reasons advanced by the Ministry of Transport (Department of Surface Transport) for providing inadequate compensation of Rs. 3.00 in lieu of non-supply of any meals missed by the Pilot under Regulation 17 of the Cochin Port (Authorisation of Pilots) Regulations, 1954. The Committee feel that if the Ministry want to retain the said provision, the compensation should be meaningful and adequate in consonance with the status of the employee. The Committee, therefore, desire that Ministry to amend the Regulation suitably and notify it in the Gazette at an early date.

82 The Committee note that on being pointed out by them, the Ministry of Transport (Department of Surface Transport) have agreed to amend the Regulation 28 of the Cochin Port (Authorisation of Pilots) Regulations, 1964, by further amplifying the term 'other officer duly authorised to act for the Master'. The Committee desire the Ministry to notify the requisite amendment at an early date.

MINUTES

XXXXIII

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

The Committee sat on Monday, 12 January, 1987 from 15.00 to 15.45 hours.

PRESENT

Shri Vakkom Purushothaman—in the Chair

MEMBERS

2. Shri D. L. Baitha
3. Dr. (Shrimati) Phulrenu Guha
4. Shri Abdul Rashid Kabuli
5. Shri Dharam Pal Singh Malik
6. Shri Mohanbhai Patel
7. Shri Mullappally Ramachandran
8. Shri K. S. Rao
9. Shri Yogeshwar Prasad Yogesh

SECRETARIAT

Shri R.S. Mani—Senior Legislative Committee Officer

2. In the absence of the Chairman, Shri Vakkom Purushothaman, M.P. was chosen by the Committee to act as Chairman for the sitting in terms of the provisions of Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered Memoranda Nos. 57 to 59 as under :—

- (i) *The Cochin Port Employees (Temporary Service) Regulations, 1964 (GSR 311 of 1964) - (Memorandum No. 57)*

(A)

4. The Committee considered the above Memorandum and noted that on the matter being pointed out by them, the Ministry of

Transport (Department of Surface Transport) had agreed to specify the authority in lieu of the term "any other authority" appearing in the Sub-Regulation (1) of Regulation 6 of the Cochin Port Employees (Temporary Service) Regulations, 1964. As regards specifying the circumstances when the case could be reopened, the Committee agreed with the explanation given by the Ministry and did not like to pursue the matter further. The Committee, however, desired the Ministry to amend the Regulation to specify the authority at an early date.

(B)

5. The Committee noted the difficulty expressed by the Ministry of Transport (Department of Surface Transport) to specify in Regulation 10 of the above Regulations, the norms for declaring an employee as physically unfit, as the norms were determined by Medical Experts and there being different norms for different jobs.

6. In view of the position explained by the Ministry, the Committee did not wish to pursue the matter further.

(ii) *The Cochin Port Employees (Conduct) Regulations, 1964- (Memorandum No. 58)*

(A & B)

7. The Committee considered the above Memorandum and decided not to pursue the matter further as there already existed a provision for communicating the charges to the official and opportunity was being given to explain his case under the Cochin Port Employees (CC&A) Regulations.

(iii) *The Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964 (GSR 314 of 1964) - (Memorandum No. 59)*

(A)

8. The Committee considered the above Memorandum and were not convinced by the argument advanced by the Ministry of Transport (Department of Surface Transport) for not appending the Schedule of authorised permanent and Temporary staff strength of various grades to the Regulation 5 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964. The Committee desired the Ministry to include the staff strength in the Schedule with an astrisk "liable to change from time to time" and append to the Regulation for information of all concerned.

(B)

8. The Committee after considering the reply of the Ministry of Transport (Department of Surface Transport) in respect of Regulation 7 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, desired the Ministry to notify the latest Recruitment Rules of the Cochin Port Trust in the Gazette for information of all concerned at an early date and put them on statutory footing. The Committee also recommended that the Recruitment rules should find a place in the said Regulation to make it self-contained.

(C)

9. The Committee noted that on the matter being pointed out by them, the Ministry of Transport (Department of Surface Transport) had agreed to amend Sub-Regulation (2) of Regulation 8 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1964, to provide that every employee or officer should complete the period of probation satisfactorily without any curtailment of the probation period on any ground and (b) to provide an opportunity to him to appeal against an order for extension of probation. The Committee desired the Ministry to process the amendment expeditiously and to notify the same in the Gazette at an early date.

(D)

10. The Committee considered the reasons advanced by the Ministry of Transport (Department of Surface Transport) for not providing a probationer any opportunity to put forward his case if he was to be discharged during probation on the basis of information regarding nationality, age, health or antecedents under Sub-regulation (1) (b) of Regulation 10 of the Cochin Port Employee (Recruitment, Seniority and Promotion) Regulations, 1964. According to the Ministry, as per Government rules, the probationer had no right to the post held by him and he could be discharged without assigning any reason by the competent authority. The port Trust broadly followed the Government rules, under which the probationer was not given any opportunity to put forward his case if he was to be discharged during probation.

11. The Committee were not in agreement with the views of the Ministry and felt that this provision in the Regulations, was against fair and natural justice and that the reasons for discharge of a probationer during the probation period should be recorded in writing and also reason-

able opportunity given to him to put forward his case. The Committee therefore, desired the Ministry to reconsider the matter in the light of their observations in order to amend suitably the sub-regulation to the desired effect.

(E)

12. The Committee noted the reply of the Ministry of Transport (Department of Surface Transport) regarding maintenance of a Roster for direct recruitment and promotion in various posts under Regulation 12 of the Cochin Port Employees (Recruitment, Seniority and Promotion) Regulation, 1964. As the Ministry was following the orders issued by the Government on the subject from time to time, the Committee did not wish to pursue the matter further.

The Committee then adjourned to meet again on 13 January, 1987.

XLVI

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

The Committee met on Thursday 5 March, 1987 from 15.00 to 15.45 hours.

PRESENT

*Shri Mool Chand Daga — *Chairman*

MEMBERS

2. Shri D.L. Baitha
3. Shri Dharam Pal Singh Malik
4. Shri Shantaram Naik
5. Shri Saleem I. Shervani

SECRETARIAT

1. Shri N. N. Mehra — *Joint Secretary*
2. Shri R. S. Mani — *Senior Legislative Committee Officer*
2. The Committee considered Memoranda Nos. 69 to 73 as under:—
 - (i) *The Cochin Port Trust Employees (Allotment of Residence) Regulations, 1965 (Memorandum No. 69)*

(A)

3. The Committee considered the reply furnished by the Ministry of Transport (Department of Surface Transport) and decided to recommend the Ministry to issue suitable guidelines regarding allotment of quarters under Regulation 7 (4) for making these Regulations selfcontained and to obviate any scope of discrimination.

*Expired on 10-3-1987.

(B)

4. After perusing the information furnished by the Ministry, the Committee desired the Ministry to issue suitable guidelines for out of turn allotment of quarters and to incorporate the same in the Regulations itself for the information of all concerned and to make them self-contained.

(C)

5. The Committee noted that the Ministry had no objection to amend the above regulations for (i) providing 5 days period for accepting the offer of allotment and, (ii) reducing the debarring period from the existing 5 years to 1 year. The Committee recommended for early amendment of the Regulations and its notification in the Gazette of India for the information of all concerned.

(ii) *The Cochin port Employees (Welfare Fund) Regulations, 1964*
(Memorandum No. 70)

6. The Committee noted from the reply furnished by the Ministry that an advisory Committee consisting of Deputy Conservator, Cochin port Trust as Chairman, Financial Adviser and Chief Accounts Officer, Cochin port Trust as Members and the Labour Officer, Cochin port Trust as Convener has been constituted. The Committee recommended that since the advisory Committee had been constituted it was expedient that its composition, functions and allied details should precisely be spelt out in the regulations itself for the information of all concerned and to make them self-contained the Regulations may be amended accordingly.

(iii) *The Major port Trusts (Procedure at Board Meetings) Rules, 1981* (Memorandum No. 71)

7. In view of the position explained by the Ministry regarding convening of special meetings, the Committee decided not to pursue the matter any further.

(iv) *The Cochin port Employees (Classification, Control and Appeal) Regulations, 1964* (Memorandum No. 72)

(A)

8. The Committee noted that the Ministry had no objection to amending regulation, 4 of the above Regulations for making therein a suitable

provision of recording of the reasons in writing for application of 'special provision by agreement' in respect of any employee.

(B)

9. On being pointed out the Ministry had agreed to define the term 'Competent Authority, mentioned in Regulation 6 (2). The Committee, however, desired the Ministry to amend the Regulations, accordingly, at an early date.

(C)

10. The Committee considered the reply furnished by the Ministry and noted that the provision contained in Regulation 9 (5) had been made on the lines of similar provision contained in Rule 10 (4) of the Central Civil Services (Classification, Control and Appeal) Rules but at the same time they observed the following proviso should also form integral part of the above Regulations;

"Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case."

11. The Committee were of the view that if the Ministry wanted to retain the provision contained in sub-regulation (5) of Regulations 9 then they should amend it on the lines of C.C.S. (C.C. & A) Rules by incorporating the above proviso therein.

(v) *The Cochin port (Authorisation of pilots) Regulations, 1964*
(Memorandum No. 73)

(A)

12. The Committee noted that the Ministry had failed to tender cogent reasons for providing inadequate compensation of Rs. 3 in lieu of non supply of any meals missed by the pilot. If the Ministry wanted to retain the above provision, the compensation should be meaningful and adequate in consonance with the status of the employee. The Committee desired the Ministry to amend the Regulations suitably.

(B)

13. The Ministry had agreed to amend the Regulation 28 by further amplifying the term 'other officer duly authorised to act for the Master'. The Committee desired them to notify the requisite amendment at an early date.

The Committee then adjourned.

XLVII

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

The Committee sat on Wednesday 1 April, 1987 from 15.00 to 15.30 hours.

PRESENT

Shri Vakkom Purushothaman — *Chairman*

MEMBERS

2. Shri D. L. Baitha
3. Dr. (Shrimati) Phulrenu Guha
4. Shri Shantaram Naik
5. Shri K. S. Rao
6. Shri Saleem I. Shervani

SECRETARIAT

1. Shri N. N. Mehra — *Joint Secretary*
2. Shri R. S. Mani — *Senior Legislative Committee Officer*

2. At the outset, the Committee adopted the following condolence resolution moved by the Chairman :

"The members of the Committee on Subordinate Legislation express their profound shock and deep sense of sorrow at the sad demise of the former Chairman of the Committee, Shri Mool Chand Daga on 10 March, 1987. An advocate by profession, Shri Daga was an eminent and devoted public man. He served as Chairman, Municipal Board, Pali (Marwar,) during 1959, 1961-66 and 1970-72. He was also Chairman of the National Animal Welfare Board. A veteran Parliamentarian, Shri Daga took kee

interest in the proceedings of the House and lent lustre to the office he held. As Chairman of the Committee on Subordinate Legislation, he played a very effective role in ensuring the proper implementation of its recommendations. A widely travelled person, he attended the Commonwealth Conferences of the Committees on Delegated Legislation held at Canberra in 1980 and Ottawa in 1983. His devotion to the tasks assigned to him was exemplary and in fact he laid his life at his office desk working till the last moment.

The members of the Committee deeply mourn his loss and extend their heart-felt sympathies and condolences to the bereaved family and pray to the Almighty to grant solace and peace to the departed soul."

Thereafter, as a mark of respect to the memory of the departed soul, the members stood in silence for two minutes.

The Committee then adjourned.

XLIX

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

The Committee sat on Tuesday 28 April, 1987 from 15.00 to 15.20 hours.

PRESENT

Shri Vakkom Purushothaman — *Chairman*

MEMBERS

2. Shri D.L. Baitha
3. Dr. (Shrimati) Phulrenu Guha
4. Shri Dharam Pal Singh Malik
5. Shri Shantaram Naik
6. Shri Mullappally Ramachandran
7. Shri K. S. Rao

SECRETARIAT

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

2. The Committee considered the draft Fifteenth Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri Shantaram Naik, M.P. to present the Report to the House on 7 May, 1987.

The Committee then adjourned.