

**COMMITTEE ON SUBORDINATE
LEGISLATION
(SEVENTH LOK SABHA)**

EIGHTH REPORT

(Presented on 18 September, 1981)



**LOK SABHA SECRETARIAT
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Corrigenda to the Eighth Report of the
Committee on Subordinate Legislation
(Seventh Lok Sabha) -- presented to
Lok Sabha on 18 September, 1981.

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION**

(1981-82)

1. **Shri Mool Chand Daga—Chairman**
2. **Shri M. Ankineedu**
3. **Shri Xavier Arakal**
4. **Shri Ashfaq Husain**
5. **Shri T. V. Chandrashekharappa**
6. **Shri Eduardo Faleiro**
7. **Shri M. Kandaswamy**
8. **Shri K. Lakkappa**
9. **Shri Balasaheb Vikhe Patil**
10. **Shri M. Ramanna Rai**
11. **Shri Ratansinh Rajda**
12. **Shri Asoke Sen**
13. **Shri Ajit Pratap Singh**
14. **Shri Chandra Shekhar Singh**

SECRETARIAT

1. **Shri S. D. Kaura—Chief Legislative Committee Officer**
2. **Shri S. S. Chawla—Senior Legislative Committee Officer**

REPORT

I

INTRODUCTION

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

2. The matters covered by this Report, were considered by the Committee at their sittings held on 2 July, 1979, 5 and 6 January, 24 July and 4 September, 1981.

3. The Committee considered and adopted this Report at their sitting held on 17 September, 1981. .

4. The Minutes of the sittings, which form part of the Report, are appended to it.

5. A statement showing the summary of recommendations/observations of the Committee is also appended to the Report (Appendix I).

II

INCORPORATION OF PROVISIONS FOR LAYING OF RULES BEFORE PARLIAMENT IN THE ACTS

6. During the course of the scrutiny of the various Statutory Orders, it came to the notice of the Committee that in respect of the following Orders, the corresponding enabling Acts did not contain the usual provisions for laying of the Orders before Parliament:—

- (1) The Poona Cantonment (Division into Wards) Amendment Rules, 1977 (S.R.O. 74 of 1977);
- (2) The Raw Meat (Chilled or Frozen) Grading and Marking Rules, 1977 (S.O. 1251 of 1977);
- (3) The Central Manufactured Drugs (Amendment) Rules, 1977 (S.O. 1541 of 1977);
- (4) The Central Reserve Police Force (Amendment) Rules, 1977 (G.S.R. 480 of 1977);
- (5) The Central Reserve Police Force (Second Amendment) Rules, 1977 (G.S.R. 823 of 1977); and
- (6) The Central Reserve Police Force (Third Amendment) Rules, 1977 (G.S.R. 1673 of 1977).

7. Attention of the concerned Ministries i.e., Defence, Agriculture and Irrigation (Department of Rural Development), Finance and Home Affairs, was invited to the following recommendation of the Committee on Subordinate Legislation (1974-75) contained in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha):—

“The Committee earnestly desire all Ministries/Departments to undertake examination of all Acts with which they are administratively concerned in order to find out which of them do not contain a provision for laying of rules before Parliament and to incorporate this provision in the Acts at their earliest.”

8. The Ministries/Departments, who were asked to state the action taken by them in pursuance of the above recommendation of the Committee, in their replies, indicated in Appendix II, have by and large stated that they are taking steps for incorporation of the

provision regarding laying of rules before Parliament, in the enabling Acts.

9. While noting that the Ministries concerned are taking necessary steps for incorporation of the requisite provisions in the enabling enactments for laying of the Statutory Orders framed thereunder before Parliament, the Committee are constrained to observe that the Ministries concerned have not shown the due urgency and earnestness in implementing the recommendation of the Committee and the infirmities have been allowed to prolong for years. The Committee, therefore, once again impress upon the Ministries concerned to bring forth the necessary amending legislation before Parliament to incorporate in the Acts the requisite provisions for laying of the Statutory Orders framed thereunder as recommended by the Committee in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) presented to the House on 20 December, 1974. In cases where finalisation of other amendments is likely to take some more time, the Ministries should bring forward the amending legislation exclusively for this purpose immediately. * ..

III

THE BOMBAY PORT TRUST EMPLOYEES (CLASSIFICATION, CONTROL AND APPEAL) REGULATIONS,

1976 (G. S. R. 643 OF 1976)

10. Sub-regulation (5) of Regulation 7 of the Bombay Port Trust Employees (Classification Control and Appeal) Regulations, 1976 (G.S.R. 643 of 1976), reads 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 consequence 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 retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.”

11. It was felt that after a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee was set aside or declared void by a court of law, another enquiry on the same allegations should not be held against him unless the order of the court was based not on the merits of the case but only on purely technical grounds or unless any fresh material on the subject had come to light.

12. The matter was referred to the Ministry of Shipping and Transport (Transport Wing) and their attention was drawn to a similar provision in the Coir Board Service (Classification, Control and Appeal) Bye-laws, 1969 where the Department of Industrial Development had amended the bye-laws by adding the following proviso:—

“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."

13. The Ministry, in their reply dated 28 May, 1977, stated as under:—

"Regulation 7(5) corresponds to Rule 10(4) of CCS (CCA) Rules, 1965. Although it is not specifically mentioned in regulation (7)5 of the BPTE (CCA) Regulations, the intention is that the further inquiry should not 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 or unless some fresh material comes to light. We have no objection to bring out the intention by suitably amending regulation 7(5). Having regard, however, to the fact that regulation 7 of our CCA Regulations mainly deals with the subject of suspension, we would prefer to clarify the intention by inserting a suitable note below regulation 7(5), instead of by a proviso to that regulation."

14. It appeared that the regulation contemplated putting an employee under suspension, if the Department proceeded to hold a further inquiry, with effect from the date of original order of dismissal, etc. As the original order of suspension merged in the final order imposing penalty, the provision of suspension of an officer with effect from the original date, after the final order was set aside by the court might amount to suspension of an employee with retrospective effect which might not be permissible in law.

15. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) to whom the matter was referred for opinion, in their reply dated 27 April, 1979, stated as under:—

"The rule is similar to Rule 10(4) of the C.C.S. (C.C.A.) Rules of 1965. The same rule is being adopted by the Bombay Port Trust Employees,

A similar rule is also found under Rules 3(6) of All India Services Discipline and Appeal Rules of 1969.

"The validity of Rule 12(4) of C.C.S. (C.C.A.) Rules of 1967 [Corresponding to Rule 10(4) of the C.C.S. (C.C.A.) Rules of 1965] was considered in *Khemchand vs. Union of*

India reported in AIR 1963 S.C., Page 687. The facts of the case are as follows:—

The plaintiff appellant Shri Khemchand was suspended on July 1, 1949. After an enquiry, he was dismissed from service by an order dated 17th December, 1951. The plaintiff appellant filed a suit for a declaration that the order of dismissal made against him was in violation of Article 311 of the Constitution of India. On appeal to the Supreme Court, the Supreme Court accepted the contention raised by the plaintiff appellant and decreed the suit. The judgement of the Supreme Court was delivered on 13th December, 1957. During the pendency of the appeal before the Supreme Court, the plaintiff appellant filed a suit for the arrears of salary and allowances. After the appeal of the plaintiff appellant, in the earlier proceedings was disposed of by the Supreme Court, the suit filed by Shri Khemchand in the trial court for arrears of salary was taken up for hearing. The Union of India filed an application before the trial court contending *inter-alia* that the disciplinary authority had, on a consideration of the circumstances of the case, decided to hold a further enquiry against the appellant and, therefore, the appellant should be deemed to have been placed under suspension by the appointing authority by virtue of Rule 12(4) of the C.C.S. (C.C.A.) Rules of 1957, and therefore, the suit filed by Shri Khemchand was not maintainable. The plaintiff appellant Shri Khemchand, challenged the validity of Rule 12(4) before the Supreme Court on the ground that it is violative of Article 14, 19(1)(g) and Article 31 of the Constitution of India. Their lordships of the Supreme Court upheld the validity of Rule 12(4) of the C.C.S. (C.C.A.) Rules of 1957 and observed that the rule is not violative of Article 14, 19(1)(f), (g), and Article 31 of the Constitution of India. Their lordships did not, however, specifically consider the validity of the rules from the point of view of retrospective effect. The decision in Khemchand's case was referred to in Pratap Singh vs. State of Punjab (AIR 1964 S.C., P. 72).

However, the question whether Rule 10(4) of the C.C.S. (C.C.A.) Rules amounts to imposing suspension on a

public servant with retrospective effect came up for consideration in *H.L. Mehra vs. Union of India* (1974 S.L.W.R. Page 456). Their lordships held that when an order of dismissal is passed, the *vinculum juris* between the Government and the servant is dissolved; the relationship of master and servant between them is extinguished. Then the order of suspension must *a fortiori* come to an end. What happens 'when an order of dismissal is subsequently set aside'? Does that revive the order of suspension? We do not think so. Once a suspension has come to an end by an order of dismissal, which was effective when made, it cannot be revived by mere subsequent setting aside of the order of dismissal *in the absence of a statutory provision or rule to that effect*. That is precisely the reason why Sub-Rule (3) and (4) had to be introduced in Rule 10 providing for retrospective revival and continuance of the suspension in cases falling within those rules.'

In view of the observations referred to above, Rule 10(4) amounts to retrospective revival and continuance of suspension with effect from the date of original order of dismissal.

Therefore, it is clear from the above rulings that Rule 10(4) of the C.C.S. (C.C.A.) Rules revives the suspension with retrospective effect from the date of original order of dismissal/removal or compulsory retirement from service. Now, the question is whether the rule is valid in view of the fact that it amounts to suspending an employee with retrospective effect.

In the case of suspension with retrospective effect, it would be contradictory in view of the fact that when in law an employee has performed the duties, there can be no question of forbidding him from exercising the functions of his office during that period which is already past. However, the revival of suspension with effect from the date of original order of dismissal or removal or compulsory retirement from service stands on a different footing. In the case of such a suspension, the principle underlying the suspension with retrospective effect may not be applicable.

When the order of dismissal, removal or compulsory retirement from service is set aside by the Court, the resulting

position is a civil servant stands re-instated to service with effect from the date of the order of dismissal. It is competent for the disciplinary authority again to decide to suspend him and continue the departmental enquiry if the relevant conduct rules contain a provision for the same. If there is no gap of time between the Court orders of setting aside the dismissal etc. and the order for conducting *de novo* enquiry and if the employee is not re-instated, the order of suspension will relate back to the date of original order of dismissal etc. by virtue of the relevant rule. The question of the employee performing the functions of duties after the order of dismissal/removal or compulsory retirement is set aside does not arise unless the employee is re-instated into service, in which event Rule 10(4) of C.C.S. (C.C.A.) Rules will not be applicable.

Therefore, under the above circumstances, we are of the opinion that the above rule is not invalid."

16. In a subsequent communication dated 14th January, 1981, the Ministry of Shipping and Transport (Ports Wing) stated as under:—

".....the Bombay Port Trust agreed to the suggestion to add a Proviso to Regulation 7(5) of Bombay Port Trust Employees (Classification, Control and Appeal) Regulation, 1976. Bombay Port Trust is taking further necessary action to carry out the suitable amendment to their CCA Regulations."

17. The Committee note with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have agreed to insert the following proviso to sub-regulation (5) of Regulation 7 of the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976:—

"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."

18. The Committee desire the Ministry to issue the necessary amendment at an early date.

IV

THE INDIAN NAVAL ARMAMENT SERVICE (GROUP 'A') RECRUITMENT RULES, 1977 (S.R.O. 71 OF 1977)

(A)

19. Sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 (S.R.O. 71 of 1977), reads as under:—

"(8) If, on the expiration of the period of probation referred to in sub-rule (1) or any extension thereof, as the case may be, the Government are of the opinion that a candidate is not fit for permanent appointment or if, at any time during such period of probation or extension, they are satisfied that he will not be fit for permanent appointment on the expiration of such period of probation or extension, they may discharge or revert him to his substantive post or *pass such orders as they think fit.*"

20. The Ministry of Defence, who were asked to elucidate the phrase 'pass such orders as they think fit', have stated in their reply dated 3 April, 1979, as follows:—

"Rule 8(3): The phrase 'pass such orders as they think fit' implies that the appointing authority can pass an order for extending or curtailing the probation period."

21. The Committee note from the reply of the Ministry of Defence that the words 'pass such orders as they think fit' appearing in sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 implied that the appointing authority could pass an order for extending or curtailing the probation period. The Committee feel that the Ministry should have, therefore, no difficulty in placing the same on a statutory footing. The Committee, therefore, desire the Ministry to amend Rule 8(3) by substituting the words 'pass an order for extending or curtailing the probation period' for the words 'pass such orders as they think fit' at an early date.

(B)

22. Sub-rule (5) (a) of Rule 24 of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 reads as under:—

"(5) Notwithstanding anything contained in sub-rules (3) and (4) no vacancies reserved for the Scheduled Castes or

the Scheduled Tribes shall be carried forward to any year of the examination—

- (a) to such an extent that the total number of vacancies so carried forward together with the vacancies reserved for candidates who are members of the Scheduled Castes and the Scheduled Tribes for that year; or”

23. Obviously, some words had been omitted in clause (a) above. The Ministry of Defence, with whom the matter was taken up, stated in their reply dated 3 April, 1979, as under:—

“Rule 24(5) (a): It is confirmed that there is an omission of words in this Rule. Necessary corrigendum to this effect is therefore being issued, and a copy thereof will be sent to you in due course.”

24. In their subsequent communication dated 17 April, 1980 the Ministry intimated that Rule 24(5) (a) had since been amended vide Notification No. S.R.O. 71 dated 23 February, 1980 to read as under:—

“(a) to such an extent that the total number of vacancies so carried forward together with the vacancies reserved for candidates who are members of the Scheduled Castes and the Scheduled Tribes for that year exceed 50 per cent of the total number of vacancies filled during that year; or”

25. The Committee note that on being pointed out, the Ministry of Defence have amended sub-rule 5(a) of Rule 24 of the Indian Naval Armament Service (Group ‘A’) Recruitment Rules, 1977. The Committee, however, deplore the inordinate delay of almost three years in rectifying an obvious error by the Ministry. The Committee have time and again stressed that the Ministry|Department concerned are not absolved of their responsibility after sending the rules, etc, for publication in the Gazette to the Press. It is also their duty to see that the rules, etc., are correctly published in the Gazette rather than waiting for the Committee to point out mistakes therein.

THE MILITARY FARMS (GROUP 'A' AND GROUP 'B' CIVILIAN POSTS) RECRUITMENT RULES, 1977 (S.R.O. 136 OF 1977)

26. Under the heading 'Circumstances in which Union Public Service Commission is to be consulted in making recruitment' in Column 13 of the Schedule appended to the Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 (S.R.O. 136 of 1977), the following entry appears against the posts of the Deputy Director of Military Farms; Agricultural Engineer, Assistant Agricultural Engineer, Deputy Assistant Director of Military Farms and Farms Officers :—

“As required under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958”

27. The above entry does not clearly indicate the circumstances in which the Union Public Service Commission shall be consulted while making recruitment. Attention of the Ministry of Defence was, therefore, invited to the following recommendation made by the Committee on Subordinate Legislation (1975-76), in paragraph 13 of their Seventeenth Report (Fifth Lok Sabha) pertaining to similar provisions in the Senior Hindi Officer (Class I Gazetted) Ministry of Home Affairs Recruitment Rules, 1972 :—

“The Committee note that the Ministry of Law have seen the validity of the objection raised by the Committee that the expression ‘as required under the Union Public Service Commission (Exemption from Consultation) Regulations, 1958’ in Column 13 of the Schedule is not an accurate one in that the said Regulation does not require consultation with the Commission. On the contrary it provides for cases where consultation with the Commission is not necessary

Even so, the Ministry of Law have pleaded for the retention of this expression in Column 13 of the Schedule, as there is no other regulation which positively specifies the cases in which the Commission is to be consulted. The Committee can hardly accept this explanation. They feel that it should not be difficult for the Department of Personnel and Administrative Reforms to devise, in consultation with the Ministry of Law and the U.P.S.C., some formula to precisely indicate the cases in which the U.P.S.C. is to be consulted. The Committee will like the Department of Personnel and Administrative Reforms to take early action in the matter as the expression objected to in this case occurs in a large number of Recruitment Rules."

28. In their reply dated 30 April, 1979, the Ministry of Defence have stated as under :—

".....this Ministry has no objection to amend column 13 of the recruitment rules under reference.

However, it has been intimated by the Department of Personnel and the U.P.S.C. that the case regarding formulation of a common entry in respect of Group 'A' and Group 'B' posts is still under their consideration. The UPSC have, therefore, suggested the following entries in respect of the five posts covered by S.R.O. 136 of 1977:—

<i>Name of the post</i>	<i>Entry suggested</i>
Deputy Director of Military Farms	The Commission shall be consulted while making direct recruitment.
Agricultural Engineer	The Commission shall be consulted while making direct recruitment or while appointing an Officer of the State Govt. on deputation.
Assistant Agricultural Engineer	Selection on each occasion shall be made in consultation with the Commission.
Deputy Assistant Director	The Commission shall be consulted if any of the provisions of the recruitment rules are to be relaxed.
Farms Officer:	Consultation with the Commission shall be necessary while making direct recruitment.

The Commission have also pointed out certain discrepancies in the recruitment rules under reference. The Ministry have, therefore, initiated a proposal to amend SRO 136 of 1977 to incorporate, among other things, the revised entries now suggested by the Commission. It is hoped that the draft amendments will be promulgated shortly.... "

29. The Committee find that consolidated instructions regarding framing of Recruitment Rules for Posts/Services or amendments thereto have since been issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) vide their Office Memorandum No. 14017/24/76-Estt (RR) dated 22 May, 1979 to all Ministries/Departments of the Government of India for facilitating the drafting of recruitment rules and preparing the schedules thereto. Paragraph 3.15 of these instructions refers to the circumstances in which Union Public Service Commission is to be consulted in making recruitment, etc. The specimen entries with regard to the circumstances in which Union Public Service Commission is to be consulted in making appointments to Group 'A' and Group 'B' posts have been shown as under:—

Group 'A' posts:

Selection shall be made in consultation with the UPSC on each occasion. Consultation with the Commission also necessary while amending/relaxing any of the provisions of these rules.

Group 'B' posts:

Consultation with the UPSC necessary while making direct recruitment and amending/relaxing any of the provisions of these rules.

30. The Committee feel that in view of the consolidated instructions issued by the Department of Personnel and Administrative Reforms, the Ministry of Defence should have no difficulty in amending Column 13 of the Schedule appended to the Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 on the lines suggested in the above mentioned instructions.

VI

THE DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS (CENTRAL BUREAU OF INVESTIGATION) ALLOTMENT OF RESIDENCES RULES, 1976 (S.O. 214 OF 1977)

31. S.R. 317-AN-20(1) of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977), read as under:—

“S.R. 317-AN-20—Consequences of breach of rules and conditions.—(1) If an officer to whom a residence has been allotted unauthorisedly sublets the residence or charges licence fee from the sharer at a rate which the Allotting Authority concerned considers excessive or erects any unauthorised structure in any part of the residence or uses the residence or any portion thereof for any purpose other than that for which it is meant or tampers with the electric or water connections or commits any other breach of rules or the terms and conditions of the allotment, or uses the residence or premises or permits or suffers the residence or premises to be used for any purpose which the Allotting Authority considers to be improper or conducts himself in a manner which in its opinion is prejudicial to the maintenance of harmonious relations with his neighbours or has knowingly furnished incorrect information in any application or written statement with a view to securing the allotment, the Allotting Authority may, without prejudice to any other disciplinary action that may be taken against him, cancel the allotment of the residence.

EXPLANATION.—In this sub-rule, the expression ‘Officer’ includes, unless the context otherwise requires, a member of his family and any person claiming through the officer.”

32. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) were asked to state whether they had any objection to amending the aforesaid rule so as to provide for giving a reasonable opportunity of being heard to an officer before allot-

ment of residence to him was cancelled. In their reply dated 16 June, 1978, the Ministry stated as under:—

- “.....it is felt that in such cases, allotment is cancelled only when it is established that there is a breach in the allotment rules. Even after cancellation representation received from the aggrieved party is considered on merits and if it is established that there was no breach of rules, the cancellation is withdrawn. In view of this, it is felt that there is nothing wrong in the rules. Only it should be ensured that it is implemented with due regard to the representation of the party concerned.”

33. The Committee on Subordinate Legislation (1979-80) considered the matter at their sitting held on 2 July, 1979 and desired to know from the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) whether they had any objection for making a provision for appeal in the rules against the decisions of Allotting Authority before taking a final decision in the matter. In their reply dated the 19 February, 1980, the Ministry stated as under:—

- “.....necessary amendments, as desired by the Committee on Subordinate Legislation of the Lok Sabha, have already been made in the Department of Personnel and Administrative Reforms (CBI) Allotment of Residences Rules, 1976 vide this Department's Notification of even number dated the 24th January, 1980.....”

34. The Committee note with satisfaction that on being pointed out, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have amended S.R. 317-AN-20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 vide G.S.R. 157 dated 9 February, 1980 providing therein the right of appeal to the officer against the orders of the Allotting Authority regarding cancellation of allotment of residence to him

VII

THE INDIAN AGRICULTURAL RESEARCH INSTITUTE (ALLOTMENT OF RESIDENCES) RULES, 1977 (S.O. 2125 OF 1977)

35. Rule S.R. 317-J-20(1) of the Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 (S.O. 2125 of 1977) reads as under:—

"S.R. 317-J-20.—Consequences of breach of rules and conditions.—(1) If an officer to whom a residence has been allotted unauthorisedly sublets the residence or charges rent from the sharer at a rate which the Director considers excessive or erects any unauthorised structure in any part of the residence or uses the residence or any portion thereof for any purposes other than that for which it is meant or tampers with the electric or water connections or commits any other breach of these rules or of the terms and conditions of allotment or uses the residence or premises or permits or suffers the residence or premises to be used for any other purpose which the Director considers to be improper or conducts himself in a manner which in his opinion is prejudicial to the maintenance of harmonious relation with his neighbours or has knowingly furnished incorrect information in any application or written statement with a view to securing the allotment, the Director may without prejudice to any other disciplinary action that may be taken against him, cancel the allotment of the residence.

Explanation.—In this sub-rule, the expression 'Officer' includes unless the context otherwise required a member of his family and person claiming through the 'Officer.'

36. The then Ministry of Agriculture and Irrigation (Department of Agricultural Research and Education) were asked to state whether they had any objection to provide for giving an opportunity of being heard to the employee before action was taken against him under

the rules. In their reply dated 13 February, 1978, the Ministry stated as under:—

"S.R. 317-J-20 Sub-rule(1) regarding consequences of breach of rules and conditions.—The above sub-rule corresponds to sub-rule (i) of Rules S.R. 317-B-21 of the Allotment of Government Residences (General Pool in Delhi) Rules 1963. In actual practice, however, before the extreme step of cancellation of allotment of residences is taken, due opportunity is given to the employee to present his case."

37. At their sitting held on 2 July, 1979, the Committee on Subordinate Legislation (1979-80) examined similar provisions contained in S.R. 317-AN-20(1) of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 and desired to know from the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) whether they had any objection for making a provision for appeal in the rules against the decision of Allotting Authority cancelling the allotment of residence. In their reply dated 19 February, 1980, the Ministry stated as under:—

".....necessary amendments, as desired by the Committee on Subordinate Legislation of the Lok Sabha, have already been made in the Department of Personnel and Administrative Reforms (CBI) Allotment of Residences Rules, 1976 vide this Department's Notification of even number dated the 24th January, 1980....."

38. The Committee note from the reply of the Ministry of Agriculture (Department of Agriculture) that S.R. 317-J-20 corresponds to S.R. 317-B-21 of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, which has also not been amended by the Ministry of Works and Housing on the lines of the amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977) through GSR 157 dated 9 February, 1980, by inserting the following sub-rule (1A) in S.R. 317-AN-20:—

"(1A) An officer against whom action is taken by the Allotting Authority under sub-rule (1) shall have a right of appeal against the orders of the Allotting Authority cancelling the allotment of residence, to the Head of the Department, within a period of two months from the date of issue of

orders by the Allotting Authority and the Head of the Department may, after hearing the appellant and calling such further information from the Allotting Authority as he may consider necessary, pass such order on the appeal as he may think proper."

The Committee desire the Ministries of Works and Housing and Agriculture to amend the corresponding Rules on the lines of the amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976.

VIII

THE ALLOTMENT OF RESIDENCES (DEFENCE POOL ACCOMMODATION FOR CIVILIANS IN DEFENCE (SERVICES) RULES, 1978

(S.R.O. 308 OF 1978)

39. Rule 17(1) of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 (S.R.O. 308 of 1978), reads as under:—

“17. *Consequences of breach of rules and conditions.*—(1) If an officer to whom a residence has been allotted unauthorisedly sublets the residence or charges rent from the sharer at a rate which the Allotting Authority considers excessive or erects any unauthorised structure in any part of the residence or uses the residence or any portion thereof for any purposes other than that for which it is meant or tampers with the electric or water connections or commits any other breach of these rules or of the terms and conditions of the allotment or uses the residence or premises or permits or suffers the residence or premises to be used for any purpose which the Allotting Authority considers to be improper or conducts himself in a manner which in his opinion is prejudicial to the maintenance of harmonious relations with the neighbours or has knowingly furnished incorrect information in any application or written statement with a view to securing the allotment, the Allotting Authority may, without prejudice to any other disciplinary action that may be taken against him, cancel the allotment of the residence.

Explanation.—In this sub-rule the expression ‘officer’ includes, unless the context otherwise requires, a member of his family and any person claiming through the officer.”

40. The Ministry of Defence were asked to state whether they had any objection to provide for giving an opportunity of being heard to the employee before action was taken against him under Rule 17 of the above Rules. In their reply dated 21 February, 1980, the Ministry stated as under :—

“....the mater has been examined in consultation with the

Ministry of Works and Housing (Dte. of Estates) who have observed as under :—

- '(i) The rules were framed on the lines of the General Pool in Delhi, the allotment rules in question were framed| notified by them and it is for the Ministry of Defence to examine the comments and suggestions of the Lok Sabha Secretariat.....'**

The position in relation to Rule 17 will also be as indicated by the Dte. of Estates. It is not considered necessary to make any amendments especially as no such amendments to the rules on which the SRO is based, have been found necessary."

41. At their sitting held on 2 July, 1979, the Committee on Subordinate Legislation (1979-80) examined similar provisions contained in S.R. 317-A.N. 20(1) of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 and desired to know from the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) whether they had any objection for making a provision for appeal in the rules against the decisions of Allotting Authority cancelling the allotment of residence. In their reply dated 19 February, 1980, the Ministry stated as under :—

".....necessary amendments, as desired by the Committee on Subordinate Legislation of the Lok Sabha, have already been made in the Department of Personnel and Administrative Reforms (CBI) Allotment of Residences Rules, 1976 vide this Department's Notification of even number dated the 24th January, 1980....."

42. The Committee desire the Ministry of Defence to amend Rule 17 (1) of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 on the lines of the amendment made in S.R. 317-A.N. 20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 vide G.S.R. 157 dated 9 February, 1980 giving therein the right of appeal to the officer against the orders of the Allotting Authority cancelling allotment of residence to him. (c.f. paragraph No. 38 of this Report).

IX

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 102 TO 104 OF THE SEVENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE AIRCRAFT (AMENDMENT) RULES, 1976 (G.S.R. 69 OF 1976)

43. The following new Rule 78C was inserted in the Aircraft Rules, 1937, through the Aircraft (Amendment) Rules, 1976 (G.S.R. 69 of 1976) :—

"78C. Parking of vehicles at an aerodrome—

- (1) No person shall park any vehicle at any Government aerodrome, other than an aerodrome to which the International Airports Authority Act, 1971 (43 of 1971) applies or is made applicable, except in a place provided for the parking thereof and except on a payment of such fees as may be specified by the Director General from time to time for such parking, to the officer-in-charge of the aerodrome or to any other person as may be specified in this behalf by the Director General by general or special order.
- (2) Notwithstanding anything contained in sub-rule (1),—
 - (a) the Director General may, by general or special order, for good and sufficient reason, exempt any vehicle or class of vehicles from the payment of fees referred to in sub-rule (1);
 - (b) the Director General or the Officer-in-charge of aerodrome or any other person specified in this behalf by the Director General, by general or special order may if he is satisfied that it is necessary or expedient so to do for the maintenance of proper order or discipline, refuse admission of any vehicle into such aerodrome or require the same to be taken out of it.
- (3) The fees collected under sub-rule (1) shall be paid to the Central Government in such manner as may be specified

in this behalf by the Director General by general or special order."

44. The Aircraft (Amendment) Rules, 1976, were published in draft form on 26 October, 1974 inviting objections and suggestions from all persons likely to be affected thereby. These rules were published in the final form in the Gazette of India, Part II, Section 3 (i) dated 10 January, 1976.

45. The Committee on Subordinate Legislation (1976-77) examined the above rules at their sitting held on the 17 May, 1976 and desired that Ministry of Tourism and Civil Aviation be asked to furnish comments on the following points :—

(i) *Preamble to the Rules :*

The reasons for taking almost a year to publish the final rules.

(ii) *Rules 78C(1) as inserted :*

The rule empowers the Director General to specify the parking fee. Instead of authorising the Director General to specify the Parking fee, it should be laid down in the rules in order to make them self-contained.

(iii) *Rule 78C(2) :*

The rule empowers the Director General to exempt any vehicle from the Parking fee. The Director General should be required to record his reasons in writing before exempting any vehicle from the Parking fee.

(iv) *Rule 78C(3) :*

The rule empowers the Director General to specify the manner in which the Parking fees collected shall be paid to the Central Government. The manner of payment should be laid down in the rules to make them self-contained.

46. As regards the delay in the publication of the final rules, the Ministry of Tourism and Civil Aviation, in their reply dated 29 November, 1976, stated as follows:—

".....the draft rules dated 4-10-74 were published in the Official Gazette dated 26-10-74, wherein public opinion was invited within 3 months from the date of publication of the notification in the Gazette. Thus, the period of 3 months

was to count upto 25-1-75. Thereafter, steps to finalise the rules were taken immediately, in consultation with the Director General of Civil Aviation and Ministry of Law, Justice and Company Affairs, and it was possible to send the notification finalising the rules to the Government of India Press on 1-1-76 only. Most of the time was taken in exchanging of views between the Ministry of Law, Justice and Company Affairs, and Director General of Civil Aviation, e.g., the former raised points and the latter replied to them, and for obtaining Hindi translation of the notification from the O.L. (L) C. The delay in this case is regretted. This position does not happen in all the cases but it was an exception in the case under consideration. Necessary instructions are, however, being issued to ensure that these cases are expeditiously dealt with at all stages."

47. As regards points at (ii) to (iv) of paragraph 45 above, the Ministry of Tourism and Civil Aviation stated as follows :—

"The recommendations made by the Committee on Subordinate Legislation of the Lok Sabha have been examined in consultation with the Director General of Civil Aviation and the Ministry of Law, Justice and Company Affairs. To meet the various observations made by the Committee on Subordinate Legislation of the Lok Sabha, the following amendments to rule 78-C of the Aircraft Rules, 1937 are proposed to be made:—

- (i) to amend sub-rule (1) to provide that a fee not exceeding Rs. 3.00 per vehicle per hour shall be payable according to the importance of classification, if any, of the aerodrome;
- (ii) to amend sub-rule (2) to provide that the following vehicles shall be exempted from the payment of the parking fee by issue of a general or special order in writing from the DGCA:—
 - (a) Government vehicles; and
 - (b) vehicles belonging to any person who is engaged on a regular duty at an aerodrome; and

- (iii) to amend sub-rule (3) to provide that the fee shall be paid in cash to the Aerodrome Officer or to any other person authorised by him in this behalf, for which a receipt shall be issued forthwith.

This Ministry would be grateful to know if the above proposed amendments would meet the requirements of the Committee on Subordinate Legislation of the Lok Sabha. Necessary action to amend the rules in this regard will be taken on receipt of confirmation from the Lok Sabha Secretariat."

46. The Committee on Subordinate Legislation (Sixth Lok Sabha), after considering the reply, observed in paragraphs 102 to 104 of their Seventh Report as under:—

"102. The Committee note with satisfaction that, on being pointed out, the Ministry of Tourism and Civil Aviation have suggested the following amendments to Rule 78-C of the Aircraft Rules, 1937:

- (i) to amend sub-rule (1) to provide that a fee not exceeding Rs. 3.00 per vehicle per hour shall be payable according to the importance or classification, if any, of the aerodrome;

- (ii) to amend sub-rule (2) to provide that the following vehicles shall be exempted from the payment of the parking fee by issue of a general or special order in writing from the Director General Civil Aviation:—

- (a) Government vehicles; and

- (b) vehicles belonging to any person who is engaged on a regular duty at an aerodrome; and

- (iii) to amend sub-rule (3) to provide that the fee shall be paid in cash to the Aerodrome Officer or to any other person authorised by him in this behalf, for which a receipt shall be issued forthwith.

103. The Committee agree to the above amendments and desire the Ministry to give effect to them at an early date.

104. The Committee note that, according to Ministry's reply, the delay of almost a year in the final publication of the Aircraft (Amendment) Rules, 1976 was an exception. The Ministry have regretted the same. They are also

issuing necessary instructions that such cases are expeditiously dealt with at all stages in future. The Committee trust that due care will be taken by the Ministry to ensure that such delays do not recur."

49. In their action-taken note dated the 7 December, 1979 on the Committee's recommendations, the Ministry of Tourism and Civil Aviation stated as under:—

"....while action to implement the recommendations of the Committee on Subordinate Legislation of Lok Sabha, as contained in paras 102—104 of their Seventh Report was being taken, Director General of Civil Aviation has once again examined the question of grant of exemption to various categories of vehicles from payment of parking charges at aerodromes, in greater detail, and he is of the view and this Ministry also agree with him, that apart from the two categories of vehicles (i) Government vehicles and (ii) vehicles belonging to any person who is engaged on a regular duty at an aerodrome, Director General of Civil Aviation should be authorised to exempt any other vehicle from payment of parking charges as it will enable Director General of Civil Aviation to overcome administrative difficulties/problems that may arise from time to time.

It is not always possible to visualise all contingencies. There may be cars bringing VIPs or associated with their visits. A definition for VIP is not contained in the aircraft rules. Also there may be relief operations or Red Cross consignments which may in some cases require exemption. In other words, the categories of vehicles requiring exemption may have to be added to list from time to time based on experience gained and it is not always possible to take recourse to amending notifications. There is also the question of giving exemption to:

- (i) Cars/taxis and other vehicles bringing passengers/visitors and leaving the aerodrome area immediately after the passengers have got down;
- (ii) Vehicles owned and operated by regular aircraft operators;
- (iii) Vehicles used by various licensees at the aerodromes such as catering contractors, TR stall contractors, shop

owners etc. for bringing stores etc. provided the vehicles are not parked for more than half an hour for loading|unloading purposes; and

- (iv) All types of Government vehicles either belonging to the State Government or to the Central Government.

According to the recommendations made by the Committee on Subordinate Legislation of the Lok Sabha as contained in paras 102—104 of their Seventh Report, only two categories of vehicles (i) Government vehicles, and (ii) vehicles belonging to any person who is engaged on a regular duty at an aerodrome, are proposed to be exempted from payment of parking charges.

In case, the recommendations of the Committee on Subordinate Legislation are made effective, then cars|taxi and other vehicles bringing passengers|visitors and leaving the aerodrome area immediately after the passengers|visitors have got down will have to pay parking fee since these cases will not be covered by the exemption. This will create discontentment in the public and there might be criticism from the concerned persons. Also since airlines operators are mainly dealing with the civil aviation activities, it is felt that their vehicles should continue to get the exemption from payment of car parking charges. Similarly, vehicles used by various licensees at the aerodrome should continue to get the exemption from payment of car parking charges as they are also connected with passengers' amenities."

50. The Committee observe that in paragraph 103 of their Seventh Report (Sixth Lok Sabha), the Committee had conveyed their acceptance to certain amendments, proposed by the Ministry of Tourism and Civil Aviation themselves, to Rule 78-C of the Aircraft Rules. However, the Ministry have now on reconsideration pleaded for retaining the original provisions in sub-rule (2) of Rule 78-C *ibid*. Obviously, the Ministry had not considered the matter, when it was referred to them by the Committee, with the seriousness it deserved. Had the Ministry examined the various aspects of the matter initially with due care, there could not probably have arisen an opportunity of altering what they had stated earlier. The Committee need hardly emphasize that the matters referred to by a Parliamentary Committee should be scrutinised thoroughly at the highest level in the Ministry in consultation with any other agency,

if so necessary, before submitting the same to the Committee. Hurdledly disposed of matters like the one, not only deprive the Committee of examining the matter in proper perspective but also result in prolonging infirmities in the rules.

51. The Committee had raised the limited point that the Director General should record reasons in writing before granting exemption to any vehicle from the parking fee as a safeguard against any arbitrary use of the powers conferred by sub-rule (2) of Rule 78-C without in any way questioning the propriety of vesting such powers in the Director General. In view of the position now stated by the Ministry, the Committee see no objection to amending sub-rule (2) of Rule 78-C so as to include all those categories of vehicles as require exemption, and/or retaining the residual powers for further exemption of vehicles if considered expedient to do so by the Director General from time to time with the stipulated safeguard of recording reasons in writing for such exemptions.

52. The Committee further observed that their recommendations were forwarded to the Ministry for purposes of implementing them, immediately on presentation of their Report in this regard to the House in April, 1978. However, it was only in December, 1979 that the Ministry came out with a reply in respect of amendments to sub-rule (2) whereas nothing has been stated about the action taken by them in respect of the amendments stipulated in sub-rules (1) and (3) of Rule 78-C of the Aircraft Rules. The Committee have time and again emphasized that their recommendations should be implemented as early as possible and in any case within a period of six months failing which the Ministry should seek specific extension of time from the Committee stating the reasons therefor. The Committee desire the Department of Parliamentary Affairs to issue instructions to all Ministries to follow this procedure scrupulously to avoid inordinate delays in implementing their recommendations in future. The Committee trust that the Ministry of Tourism and Civil Aviation will take immediately steps to amend the Aircraft Rules to the necessary effect.

IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN PARAGRAPHS 35 TO 37 OF THE FOURTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE NATIONALISED BANKS (MANAGEMENT AND MISCELLANEOUS PROVISIONS) (SECOND AMENDMENT) SCHEME, 1976 (S.O. 421-E OF 1976)

53. Sub-clause (1A) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, as inserted by the Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme, 1976 (S.O. 421-E of 1976), reads as under:—

“(1A) Notwithstanding anything contained in sub-clause (1), the Central Government shall have the right to terminate the term of office of a whole-time Director, including the Managing Director, at any time before the expiry of the term specified under that sub-clause by giving to him notice of not less than three months in writing or three months' salary and allowances in lieu of notice, and the whole-time Director, shall also have the right to relinquish his office at any time before the expiry of the term specified under that sub-clause by giving to the Central Government notice of not less than three months in writing.”

54. It was felt that opportunity of being heard should be given to a person against whom action was being taken. The Ministry of Finance (Department of Revenue and Banking) were, therefore, asked to state the reasons for not making the above provision in the Scheme and whether they had any objection to providing for giving a reasonable opportunity of being heard to a whole-time Director, including a Managing Director, before his term was terminated under sub-clause (1A) *ibid.*

55. In their reply, the Ministry of Finance (Department of Revenue and Banking) stated as under:—

“.....that apart from the amendment in June, 1976 to the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970 certain other Acts relating to

Banking and Public Financial Institutions were also amended for the same purpose through the Banking and Financial Laws (Amendment) Act, 1976 which was passed by both the Houses of Parliament in May, 1976.

In the relevant statutes, provisions has been made by the recent amendment, for the termination of the term of the top executives of the institutions concerned viz., Chairman, Vice-Chairman, and Managing Director of the State Bank of India, Chairman or Managing Director of Industrial Development Bank of India, Chairman of Industrial Finance Corporation and Chairmen of the Regional Rural Banks, by giving notice of not less than three months in writing or three months' salary and allowances in lieu of such notice. No provision by the Government has, however, been made in these cases for giving the functionary concerned an opportunity of showing cause against the proposed action. At the same time, the concerned functionary would be allowed an option to be relieved of his office by giving to the Government a notice of not less than three months. Analogous provisions have been incorporated in the 'Nationalisation Scheme'.

The 'Nationalisation Scheme' as well as the Acts governing State Bank of India, Industrial Development Bank of India, Industrial Finance Corporation and Regional Rural Banks have, besides the provision for termination of the tenure of the Chief Executives before its specified expiry, a provision for removal from service of the chief executives, 'Nationalisation Scheme' as well as the relevant statutes provide for showing cause by the affected functionary against removal from service, as removal from service is treated as punishment and is resorted to on the basis of specific charges of misconduct. Termination of the term, on the other hand, is contemplated in a different set of circumstances e.g., Government may like to dispense with the services of a functionary on grounds of inefficiency or lack of dynamism or where an incumbent fails to deliver the goods or is acting at variance with the policy directives of Government or not in the best interests of the public or the institution. The course of termination of services adopted under such circumstances will, strictly speaking, not amount to punishment, and it has, therefore, been considered not neces-

sary to provide for a regular enquiry and consequently the opportunity of showing cause."

56. Not satisfied with the reply of the Ministry of Finance (Department of Revenue and Banking), the Committee in paragraphs 35 to 37 of their Fourteenth Report (Sixth Lok Sabha) observed as under:—

"35. The Committee are not convinced by the reply of the Ministry of Finance (Department of Revenue and Banking) for not giving an opportunity of being heard to the whole-time Director including the Managing Director of a Nationalised Bank before terminating the term of his office. The Committee note that in the case of State Bank of India, Industrial Development Bank of India, Industrial Finance Corporation and Regional Rural Banks, provision for termination of the tenure of executives of these institutions before its specified expiry has been made by amendments in the relevant Acts but in the case of Nationalised Banks such a provision has been made by the Central Government in exercise of power delegated to it under sub-section (4) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. The Committee observe that there is no provision in the Act empowering the Government to provide for premature termination of the term of a whole-time Director or the Managing Director in the 'Scheme'. As it is a substantive matter, the Committee feel that such a provision in respect of the executives of the Nationalised Banks should also more appropriately be made in the Act itself as has been done in regard to the other aforesaid institutions.

36. The Committee further note that in respect of a similar provision in the Bhakra Management Board Rules, 1974, the Committee in para 30 of their Second Report (Sixth Lok Sabha) had desired the Ministry of Energy to amend these rules so as to provide for recording of reasons in writing before a notice for termination of the term of office of the Chairman was issued.

37. The Committee, therefore, recommend that either sub-clause (1A) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, be deleted from the Scheme or in case the Ministry feel that such a provision is necessary, it should be incorporated

in the parent Act or in the alternative the Ministry provide in the Scheme the safeguard of recording of reasons in writing before issue of notice terminating the term of office prematurely to the person concerned."

57. In their action taken note dated 22 May, 1979, the Ministry of Finance (Department of Economic Affairs—Banking Department) stated as under:—

"...the recommendations of the Committee on Subordinate Legislation (Sixth Lok Sabha) contained in their Fourteenth Report have been examined by this Department in consultation with the Reserve Bank and it is stated as follows:—

- (i) The recommendation contained in paragraphs 35 and 37 of the above report is neither feasible nor essential. This is because the provision relating to initial appointment, fixation of the tenure of office and determination of the terms and conditions of the appointment of a Managing Director of a nationalised bank are contained in the 'Nationalisation Scheme' and not in the 'Nationalisation Act'. It would not, therefore, be appropriate to delete from the 'Nationalisation Scheme' the above provisions.
- (ii) As regards the Committee's alternate suggestion that the safeguard of recording reasons in writing before issue of the notice terminating the term of office prematurely to the persons concerned may be incorporated in the 'Nationalisation Scheme' itself, Government is of the view that the same purpose can be achieved by recording the reasons for simplicitor discharge as a matter of internal proceedings without amending either the 'Nationalisation Scheme' or the 'Nationalisation Act'. The above course of action has been approved by the Deputy Prime Minister (Finance)."

58. In view of the position stated by the Ministry of Finance (Department of Economic Affairs) in their reply, the Committee agree with their proposal for recording of reasons in writing in the internal proceedings before issue of the notice terminating the term of office prematurely to the officer concerned. The Committee desire the Ministry to issue the necessary instructions in this regard at an early date.

**IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN
PARAGRAPHS 26 AND 27 OF THE EIGHTEENTH REPORT
OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(SIXTH LOK SABHA) REGARDING THE INDIAN MUSEUM
RECRUITMENT RULES, 1977 (G.S.R. 194 OF 1977).**

59. In the Schedule to the Indian Museum Recruitment Rules, 1977 (G.S.R. 194 of 1977), there is one post each of Assistant Keeper (Anthropology), Photographer, Dark Room Assistant, Curator (Art) and Curator (Anthropology) but in Column 11 against these posts, it has been stated that 50 per cent [75 per cent in the case of Curator (Art)] of the posts will be filled up by promotion, failing which by direct recruitment.

60. The Ministry of Education and Social Welfare (Department of Culture) were asked to state as to how 50 per cent or 75 per cent of these posts could be filled up by promotion or direct recruitment when the total number of posts is only one in each category. In order to remove this anomaly, the Ministry were also asked to state whether they have any objection to amend the Rules suitably.

61. In their reply dated 11 May, 1978, the Department of Culture stated as follows:—

- | | | |
|---------------------------------------|-----------|--|
| 1. Assistant Keeper
(Anthropology) | | This post, according to the recruitment rules, has to be filled up 100 per cent by promotion. As such, no anomaly exists in this case. |
| 2. Curator
(Anthropology) | | It is true that there is only one post of Curator (Anthropology) and according to the existing rules 50% of the post is to be filled up by promotion. It has been intended that first vacancy will be filled up by promotion and the next vacancy will be filled up by direct recruitment. As such though in the face of it, it may appear incongruous, there is no real anomaly in the recruitment rules. |
| 3. Photographer and Dark-room Asstt. | | The explanation for these posts is also the same as stated in respect of Sl. No. 2 above. |
| 4. Curator (Art) | | According to the existing Recruitment Rules only 25% of this post is to be filled up by promotion. This means that the first 3 vacancies, when these occur, will be filled up by direct recruitment and the fourth will be filled by promotion. However, the matter was reconsidered by the Board of Trustees at its meeting held on 16-8-78. The Resolution passed by the Board is quoted below:— |

"Resolved that the post of Curator (Art) the Recruitment Rules be amended in order to read '50% by direct recruitment and 50% by promotion',"

In pursuance of the above Resolution necessary action to amend col. 11 of the Recruitment Rules for the post of Curator (Art) is being taken, and the position will be intimated to the Lok Sabha Secretariat, in due course.

62. In their reply dated 29 August, 1978, the Department stated as under:—

"This Department has no objection to amend the existing entry in column 11 in respect of the posts of Curator (Anthropology), Photographer and Dark Room Assistant of the Schedule to the Indian Museum Recruitment Rules, 1977, as follows:—

Existing entry	Proposed entry
"50% by promotion failing which by direct recruitment."	"50% by promotion 50% by direct recruitment."
	(The first vacancy in the post will be filled up by promotion and the next vacancy will be filled up by direct recruitment and so on.)"

63. While agreeing with the proposed amendment by the Ministry, the Committee in paragraphs 26 and 27 of their Eighteenth Report (Sixth Lok Sabha) observed as under:—

"26. The Committee note with satisfaction that, on being pointed out, the Ministry of Education and Social Welfare (Department of Culture) have agreed to amend the Indian Museum Recruitment Rules, 1977 as desired. The Committee approve the following entry proposed by them in substitution of the existing entry in column 11 in respect of the posts of (i) Curator (Anthropology), (ii) Photographer, and (iii) Dark Room Assistant in the Schedule appended to the aforesaid Rules and desire the Ministry to issue the proposed amendment at an early date:—

Existing entry	Proposed entry
"50% by promotion failing which by direct recruitment."	"50% by promotion 50% by recruitment."
	(The first vacancy in the post will be filled up by promotion and the next vacancy will be filled by direct recruitment and so on.)"

27. The Committee further note that in respect of the post of Curator (Art) also, the Ministry have since decided to amend the existing entry in Column 11 of the Schedule to the Recruitment Rules in order to read '50 per cent by direct recruitment and 50 per cent by promotion'. The Committee desire the Ministry to issue the amendment with the clarificatory note as proposed to be indicated against the posts of (i) Curator (Anthropology), (ii) Photographer, and (iii) Dark Room Assistant, at an early date, if not already done."

64. In their action taken note dated 21 July, 1979, the Department of Culture have stated as under:—

".....in accordance with the observations made by the Committee on Subordinate Legislation (Lok Sabha), this Department is required to issue amendment with regard to entries in Col. 11, of the Schedule to the Indian Museum Recruitment Rules in respect of the posts of (i) Curator (Anthropology), (ii) Photographer, (iii) Dark Room Assistant and (iv) Curator (Art), as per detail given below:—

Name of the post	Existing entry	Proposed entry
Curator (Anthropology)	"50% by promotion failing which by Direct recruitment"	"50% by promotion. 50% by direct recruitment (the first vacancy in the post will be filled up by promotion and the next vacancy will be filled up by direct recruitment and so on)."
Photographer	-Do-	-Do-
Dark Room Assistant	-Do-	-Do-
Curator (Art)	"75% by direct recruitment 25% by promotion."	"50% by direct recruitment and 50% by promotion."

(The first vacancy in the post will be filled up by direct recruitment and the next vacancy will be filled up by promotion and so on)."

It may be pointed out that the Indian Museum Recruitment Rules were considered separately by the Rajya Sabha Committee on Subordinate Legislation also and a notification had been issued on 4th July, 1979, incorporating

the amendments suggested by them. The said Committee had in their observations, touched, *inter alia*, the Recruitment Rules for the posts of Curator (Anthropology), Photographer and Dark Room Assistant also. The amended entries in Col. 11 of the Schedule to the Recruitment Rules to these posts now read as under:—

“50 per cent by promotion failing which by direct recruitment.

50 per cent by direct recruitment.”

The foregoing entry is comprehensive and the note about filling the first vacancy by promotion does not appear to be necessary as the entry relating to filling up the post by promotion appears first.”

65. The Committee note that the entries against the posts of Curator (Anthropology), Photographer and Dark Room Assistant in Column 11 of the Schedule to the Indian Museum Recruitment Rules, 1977 have since been amended by the Ministry of Education and Culture (Department of Culture) at the instance of the Committee on Subordinate Legislation of Rajya Sabha. The Committee are in agreement with the revised entries which were notified by the Ministry on 4 July, 1979 (vide G.S.R. 978 of 1979). The amended entries to these posts now read as under:—

“50 per cent by promotion failing which by direct recruitment.
50 per cent by direct recruitment.”

66. The Committee further note that the Ministry have since amended the entry against the post of Curator (Art) in Column 11 of the Schedule to the Indian Museum Recruitment Rules, 1977 to the desired effect vide G.S.R. 1061 of 1980.

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARAGRAPH 68 OF THE NINETEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) REGARDING THE CARDAMOM (AMENDMENT) RULES, 1977 (G.S.R. 1458 OF 1977).

67. Rule 47 of the Cardamom Rules, 1966, as inserted by the Cardamom (Amendment) Rules, 1977 (G.S.R. 1458 of 1977), reads as under:—

“Remuneration etc. of the persons appointed to exercise the powers of the Board on its dissolution.—In the event of dissolution of the Board under section 10 of the Act and the appointment of any person or persons for the exercise of all powers and duties of the Board, the remuneration and other allowances payable to such person or persons shall be such as may be fixed by the Central Government.”

68. It was felt that the remuneration and other allowances payable to a person or persons who exercise powers and duties of the Board in the event of its dissolution should be specified in the Rules as envisaged by clause (q) of sub-section (2) of Section 33 of the Cardamom Act, 1965, instead of leaving it to be determined by the Government.

69. The Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce) with whom the matter was taken up, in their reply dated 5 August, 1978 stated as under:—

“Section 33 of the Cardamom Act, 1965, provides that Central Government may make rules relating to the matters such as those mentioned in clause (a) to (w) of sub-section (2) of same section. One of such matter is as given in clause (a) of the same section pertaining to ‘the remuneration and other allowances payable to the person or persons referred to in clause (b) of sub-section (2) of Section 10 of the Act.’ Accordingly Rule 47 provides how the remuneration payable to such persons will be fixed.

Rule 47 empowers the Central Government to fix remuneration and other allowances payable to person or persons appointed to exercise all powers and duties of the Cardamom Board in the event of its dissolution. The fixation

of the rate of remuneration itself in the rules may not be a practicable proposition as the rate will vary from time to time keeping in view the requirements and cost of living prevalent at the time of dissolution of the Board. If any rate of remuneration is fixed in the rules now, that may not meet the requirements after a few years and hence no useful purpose will be served by providing the remuneration in the rules."

70. The Committee were not satisfied with the reply of the Ministry. In paragraph 68 of their Nineteenth Report (Sixth Lok Sabha), the Committee observed as under:—

"The Committee are not convinced by the contention of the Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce), that fixation of the rate of remuneration etc. for persons appointed to exercise the powers of the Board on its dissolution in the rules is not practicable proposition as the rates may vary from time to time in view of the requirements and cost of living. The Committee feel that it should not be difficult for the Ministry to issue an amendment to the rules if the rates are going to vary after 'a few years' as mentioned by them. These variations are likely to occur only at long intervals. The Committee desire the Department of Commerce to indicate in the Cardamom Rules, the amount of remuneration etc. payable to the persons appointed to exercise powers of the Board on its dissolution with an asterisk by indicating in the foot-note corresponding thereto that these are subject to change."

71. In their action-taken note dated 14 March, 1980, the Ministry of Commerce and Civil Supplies (Department of Commerce) proposed to amend Rule 47 of the Cardamom Rules as under:—

"In the Cardamom Rules, 1966, in Rule 47, for the words 'such as may be fixed by the Central Government', the following shall be substituted, namely:—

'regulated as hereunder:—

- (i) if an officer of the Central Government or a State Government is appointed, he shall be paid such salary and allowances as he would have been entitled to had his services been placed on deputation with the Board;

- (ii) if a person who was an officer of the Board immediately before its dissolution is appointed, he shall be paid the salary and allowances as he would have drawn from time to time in his capacity as such officer of the Board with the addition of an allowance of ten per cent of his basic pay subject to a maximum of one hundred rupees per mensem;
- (iii) if any other person is appointed, he shall be paid a consolidated salary of rupees two thousand five hundred per mensem.'"

72. The Committee note with satisfaction that the Ministry of Commerce and Civil Supplies (Department of Commerce) have proposed amendment to Rule 47 of the Cardamom Rules, 1966. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.

NEW DELHI;

September 17, 1981

Bhadra 26, 1903 (Saka)

MOOL CHAND DAGA

Chairman,

Committee on Subordinate Legislation.

APPENDIX I

(Vide para 5 of the Report)

Summary of main Recommendations/Observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1	9	While noting that the Ministries concerned viz., Defence, Rural Development, Finance and Home Affairs, are taking necessary steps for incorporation of the requisite provisions in the enabling enactments for laying of the Statutory Orders framed thereunder before Parliament, the Committee are constrained to observe that the Ministries concerned have not shown the due urgency and earnestness in implementing the recommendation of the Committee and infirmities have been allowed to prolong for years. The Committee, therefore, once again impress upon the Ministries concerned to bring forth the necessary amending legislation before Parliament to incorporate in the Acts the requisite provisions for laying of the Statutory Orders framed thereunder as recommended by the Committee in paragraph 11 of their Fourteenth Report (Fifth Lok Sabha) presented to the House on 20 December, 1974. In cases where finalisation of other amendments is likely to take some more time, the Ministers should bring forward the amending legislation exclusively for this purpose immediately.
2(i)	17	The Committee note with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Ports Wing) have agreed to insert the following proviso to sub-regulation (5) of Regulation 7 of the Bombay Port Trust Employees

(1)	(2)	(3)
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(Classification, Control and Appeal) Regulations, 1976:—

“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.”

2 (ii)	18	The Committee desire the Ministry to issue the necessary amendment at an early date.
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3	21	The Committee note from the reply of the Ministry of Defence that the words ‘pass such orders as they think fit’ appearing in sub-rule (3) of Rule 8 of the Indian Naval Armament Service (Group ‘A’) Recruitment Rules, 1977 implied that the appointing authority could pass an order for extending or curtailing the probation period. The Committee feel that the Ministry should have, therefore, no difficulty in placing the same on a statutory footing. The Committee, therefore, desire the Ministry to amend Rule 8(3) by substituting the word ‘pass an order for extending or curtailing the probation period’ for the words ‘pass such orders as they think fit’ at an early date.
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4	25	The Committee note that on being pointed out, the Ministry of Defence have amended sub-rule 5(a) of Rule 24 of the Indian Naval Armament Service (Group ‘A’) Recruitment Rules, 1977. The Committee, however, deplore the inordinate delay of almost three years in rectifying an obvious error by the Ministry. The Committee have time and again stressed that the Ministry/Department concerned are not absolved of their responsibility after sending the rules, etc. for publication in the Gazette to the Press. It is also their duty to see that the rules, etc., are
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(1)	(2)	(3)
		correctly published in the Gazette rather than waiting for the Committee to point out mistakes therein.
5 (i)	29	<p>The Committee find that consolidated instructions regarding framing of Recruitment Rules for Posts/Services or amendments thereto have since been issued by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) vide their Office Memorandum No. 14017/24-76-Estt. (RR) dated 22 May, 1979 to all Ministries/Departments of the Government of India for facilitating the drafting of recruitment rules and preparing the schedules thereto. Paragraph 3.15 of these instructions refers to the circumstances in which Union Public Service Commission is to be consulted in making recruitment, etc. The specimen entires with regard to the circumstances in which Union Public Service Commission is to be consulted in making appointments to Group 'A' and Group 'B' posts have been shown as under:—</p> <p><i>Group 'A' posts</i></p> <p>Selection shall be made in consultation with the UPSC on each occasion. Consultation with the Commission also necessary while amending/relaxing any of the provisions of these rules.</p> <p><i>Group 'B' posts</i></p> <p>Consultation with the UPSC necessary while making direct recruitment and amending/relaxing any of the provisions of these rules.</p>
5 (i)	30	The Committee feel that in view of the consolidated instructions issued by the Department of Personnel and Administrative Reforms, the Ministry of Defence should have no difficulty in

(1)

(2)

(3)

amending Column 13 of the Schedule appended to the Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 on the lines suggested in the above mentioned instructions.

34

The Committee note with satisfaction that on being pointed out, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have amended S.R. 317—A.N. 20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) allotment of Residences Rules, 1976 *vide* G.S.R. 157 dated 9 February, 1980 providing therein the right of appeal to the officer against the orders of the Allotting Authority regarding cancellation of allotment of residence to him.

38

The Committee note from the reply of the Ministry of Agriculture (Department of Agriculture) that S.R. 317-J-20 corresponds to S.R. 317-B-21 of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, which has also not been amended by the Ministry of Works and Housing on the lines of the amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977) through G.S.R. 157 dated 9 February, 1980, by inserting the following sub-rule (1A) in S.R. 317-A.N.-20:—

“(1A) An officer against whom action is taken by the Allotting Authority under sub-rule (1) shall have a right of appeal against the orders of the Allotting Authority cancelling the allotment of residence, to the Head of the Department, within a period of two

(1)

(2)

(3)

months from the date of issue of orders by the Allotting Authority and the Head of the Department may, after hearing the appellant and calling such further information from the Allotting Authority as he may consider necessary, pass such order on the appeal as he may think proper."

The Committee desire the Ministries of Works and Housing and Agriculture to amend the corresponding Rules on the lines of the amendment made by the Department of Personnel and Administrative Reforms in the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976.

8

42

The Committee desire the Ministry of Defence to amend Rule 17(1) of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 on the lines of the amendment made in S.R. 317-A.N. 20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 *vide* G.S.R. 157 dated 9 February, 1980 giving therein the right of appeal to the officer against the orders of the Allotting Authority cancelling allotment of residence to him (c.f. paragraph No. 38 of this Report).

9(1)

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The Committee observe that in paragraph 103 of their Seventh Report (Sixth Lok Sabha), the Committee had conveyed their acceptance to certain amendments, proposed by the Ministry of Tourism and Civil Aviation themselves, to Rule 78-C of the Aircraft Rules. However, the Ministry have now on reconsideration pleaded

(1)	(2)	(3)
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retaining the original provisions in sub-rule (2) of Rule 78-C *ibid.*. Obviously, the Ministry had not considered the matter, when it was referred to them by the Committee, with the seriousness it deserved. Had the Ministry examined the various aspects of the matter initially with due care, there could not probably have arisen an opportunity of altering what they had stated earlier.

The Committee need hardly emphasize that the matters referred to by a Parliamentary Committee should be scrutinised thoroughly at the highest level in the Ministry in consultation with any other agency, if so necessary, before submitting the same to the Committee. Hurrily disposed of matters like the one, not only deprive the Committee of examining the matter in proper perspective but also result in prolonging infirmities in the rules.

9(ii) 51

The Committee had raised the limited point that the Director General should record reasons in writing before granting exemption to any vehicle from the parking fee as a safeguard against any arbitrary use of the powers conferred by sub-rule (2) of Rule 78-C without in any way questioning the propriety of vesting such powers in the Director General. In view of the position now stated by the Ministry, the Committee see no objection to amending sub-rule (2) of Rule 78-C so as to include all those categories of vehicles as require exemption, and or retaining the residual powers for further exemption of vehicles if considered expedient to do so by the Director General from time to time with the stipulate safeguard of recording reason in writing for such exemptions.

(1)	(2)	(3)
9(iii)	52	<p>The Committee further observe that their recommendations were forwarded to the Ministry for purposes of implementing them, immediately on presentation of their Report in this regard to the House in April, 1978. However, it was only in December, 1979 that the Ministry came out with a reply in respect of amendments sub-rule (2) whereas nothing has been stated about the action taken by them in respect of the amendment stipulated in sub-rule (1) and (3) of Rule 78-C of the Aircraft Rules. The Committee have time and again emphasized that their recommendations should be implemented as early as possible and in any case within a period of six months failing which the Ministry should seek specific extension of time from the Committee stating the reasons therefor. The Committee desire the Department of Parliamentary Affairs to issue instructions to all Ministries to follow this procedures scrupulously to avoid inordinate delays in implementing their recommendations in future. The Committee trust that the Ministry of Tourism and Civil Aviation will take immediate steps to amend the Aircraft Rules to the necessary effect.</p>
10.	58	<p>In view of the position stated by the Ministry of Finance (Department of Economic Affairs) in their reply, the Committee agree with their proposal for recording of reasons in writing in the internal proceedings before issue of the notice terminating the term of office prematurely to the officer concerned. The Committee desire the Ministry to issue the necessary instruction in this regard at an early date.</p>
11(i)	65	<p>The Committee note that the entries against the posts of Curator (Anthropology), photographer</p>

(1)	(2)	(3)
		<p>and Dark Room Assistant in Column 11 of the Schedule to the Indian Museum Recruitment Rules, 1977 have since been amended by the Ministry of Education and Culture (Department of Culture) at the instance of the Committee on Subordinate Legislation of Rajya Sabha. The Committee are in agreement with the revised entries which were notified by the Ministry on 4 July 1979 (vide G.S.R. 978 of 1979). The amended entries to these posts now read as under:—</p> <p>“50 per cent by promotion failing which by direct recruitment. 50 per cent by direct recruitment.”</p>
11(ii)	66	<p>The Committee note that the Ministry have since amended the entry against the post of Curator (Art) in Column 11 of the Schedule to the Indian Museum Recruitment Rules, 1977 to the desired effect vide G.S.R. 1061 of 1980.</p>
12.	72	<p>The Committee note with satisfaction that the Ministry of Commerce and Civil Supplies (Department of Commerce) have proposed amendment to Rule 47 of the Cardamom Rules, 1966. The Committee approve the proposed amendment and desire the Ministry to notify it in the Gazette at an early date.</p>

APPENDIX II

(Vide Paragraph 8 of the Report)

Statement showing the Replies Received from various Ministries/Departments regarding inclusion of laying Provision in the Relevant Acts

S. No.	Short Title of the Order	Reply of the Ministry
(1)	(2)	(3)
1.	The Poona Cantonment Division into Wards (Amendment) Rules, 1977 (S.R.O. 74 of 1977).	Necessary provision in this regard is proposed to be made in the Cantonment (Amendment) Bill likely to be introduced in the Parliament during the ensuing Monsoon Session. [Ministry of Defence O.M. No. F. 10(38)(38)/77/1444-C/D (Cantt.) dated 11 May, 1978].
2.	The Raw Meat (Chilled or Frozen) Grading and Marking Rules, 1977 (S.O. 1251 of 1977).	A proposal for certain amendment to Agriculture Produce Grading and Marking Act, 1937 is already under active consideration. The Recommendation of Comraittee on Subordinate Legislation regarding making of a provision for laying of rules before Parliament would be kept in view while finalising the amendments. [Ministry of Agriculture and Irrigation (Department of Rural Development) O.M. No. F. 13-7/76-AM (Pt.) dated 22 February, 1978].
3.	The Central Manufactured Drugs (Amendment) Rules, 1977 (S.O. 1541 of 1977).	The Question of amending the Narcotics Laws in India, viz., the Dangerous Drugs Act, 1930, and the Opium Acts of 1857 and 1878 has been under consideration in this Ministry for some time past. A bill on Narcotics Drugs and Psychotropic Substances is being drafted and a provision would be made in the draft bill to the effect that Rules made thereunder by the Central Government should be laid before the Parliament. [Ministry of Finance (Department of Revenue) O.M. No. F. 664/44/77/OPIUM dated 30 December, 1977].

(1)	(2)	(3)
4. The Central Reserve Police Force (Amendment) Rules, 1977 (G.S.R. 480 of 1977).		There is no provision in the CRP Act, 1949, requiring that the rules framed under section 18 of the Act shall be laid before Parliament.
5. The Central Reserve Police Force (Second Amendment) Rules, 1977 (G.S.R. 823 of 1977).		However, the action on the recommendations made by the Committee on Subordinate Legislation to incorporate a provision requiring the Rules to be framed under the CRPF Act is being taken separately. [Ministry of Home Affairs O.M. No. M.V-11/76-CRPF (Pers. II) dated 22 April, 1978].
6. The Central Reserve Police Force (Third Amendment) Rules, 1977 (G.S.R. 1673 of 1977).		The Central Reserve Police Force Act, 1949 is under revision in the Ministry. In the proposed Central Reserve Police Force (Amendment) Bill a provision for laying of Rules before each House of Parliament has been incorporated. [Ministry of Home Affairs O.M. No. V-14012/1/78-GPA. I dated 7 July, 1978].

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MINUTES

APPENDIX III

(Vide Paragraph 4 of the Report)

XL

MINUTES OF THE FORTIETH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1979-80)

The Committee met on Monday, the 2nd July, 1979 from 11.00 to 13.00 hours.

PRESENT

1. Shri K. Mallanna—*Chairman*

MEMBERS

2. Shri Yashwant Borole
3. Shri Sarat Kar
4. Shri Lalu Prasad
5. Shri Govind Ram Miri
6. Shri K. S. Narayana
7. Shri Charan Narzary
8. Shri Ram Murti
9. Dr. Bhagwan Dass Rathor
10. Shri Madhav Prasad Tripathi
11. Shri Chandradeo Prasad Verma
12. Shri Ramji Lal Yadav

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer*

Shri S. N. Khanna—*Senior Legislative Committee Officer.*

* * * * *

3. The Committee then considered Memoranda Nos. 236 to 244 on the following subjects.

S. N.	Memó. No.	Subject
2.	237	The Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977).

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

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- (ii) The Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977)— (Memorandum No. 237)

5. The Committee considered the above Memorandum and desired to know from the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) whether they had any objection for making a provision of appeal in the rules against the decisions of allotting authority before taking a final decision in the matter.

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The Committee then adjourned.

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XIII

MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Monday, the 5th January, 1981 from 11.30 to 13.35 hours.

PRESENT

- Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Eduardo Faleiro .
4. Shri Harish Kumar Gangwar
5. Shri K. Lakkappa
6. Shri T. Nagaratnam
7. Shri M. Ramanna Rai
8. Shri Ratansinh Rajda
9. Shri Ajit Pratap Singh

SECRETARIAT

1. Shri S. D. Kaura—*Senior Legislative Committee Officer*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*

* * * * *

3. The Committee then considered Memoranda Nos. 38 to 50 on the following subjects:—

* * * * *

(xiii) Implementation of recommendation contained in Para 68 of the Nineteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) re. the Cardamom (Amendment) Rules, 1977 (G.S.R. 1458 of 1977)—(Memorandum No. 50).

21. The Committee considered the above Memorandum and approved the proposed amendment to Rule 47 of the Cardamom Rules, 1966, and desired the Ministry of Commerce to notify it at an early date.

The Committee then adjourned.

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

XIV

MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA)
(1980-81)

The Committee met on Tuesday, the 6th January, 1981 from 11.30 to 13.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Eduardo Faleiro
3. Shri Harish Kumar Gangwar
4. Shri Jaipal Singh Kashyap
5. Shri M. Ramanna Rai
6. Shri Ratansinh Rajda
7. Shri Ajit Pratap Singh
8. Shri Chandra Shekhar Singh
9. Shri Xavier Arakal

SECRETARIAT

1. Shri S. D. Kaura—*Senior Legislative Committee Officer*
2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*

2. The Committee considered the following Memoranda (Memoranda Nos. 51 to 63):—

* * * * *

(iii) Implementation of recommendations contained in paras 26 and 27 of Eighteenth Report (Sixth Lok Sabha) regarding Indian Museum Recruitment Rules, 1977 (G.S.R. 194 of 1977)—(Memorandum No. 53).

3. The Committee considered the above Memorandum. In this connection, the Committee noted that the entries in Column 11 of the Schedule to the Indian Museum Recruitment Rules, 1977 had since been amended by the Ministry of Education and Culture (Department of Culture) in the light of the amendments suggested by the Rajya Sabha Committee on Subordinate Legislation. The amended entries read as under:—

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

"50 per cent by promotion failing which by direct recruitment 50 per cent by direct recruitment."

The Committee agreed with the revised entries as already notified by the Ministry on 4th July, 1979.

- (iv) Implementation of recommendations/observations made in Paras 102—104 of Seventh Report of the Committee on Sub-ordinate Legislation (Sixth Lok Sabha) re: the Aircraft (Amendment) Rules, 1976 (G.S.R. 69 of 1976)—(Memorandum No. 54).

9. The Committee considered the above Memorandum and reiterated their earlier recommendation that the Director General should record the reasons in writing before exempting any vehicle from the Parking fee as a safeguard against any arbitrary use of the powers. The Committee, in fact, did not question the propriety of vesting powers in the Director General for grant of exemptions from the parking fees.

10. In regard to Sub-rules (1) and (3) of Rule 78-C of the Aircraft Rules, 1937, the Committee observed that their Report in this regard was or presented to the House in April, 1978 and a copy thereof was immediately made available to the Ministry for implementing the recommendations. However, it was only in December, 1979 that the Ministry came out with a reply before the Committee. As the Ministry did not have any objection in complying with the recommendations of the Committee in this regard, they should have taken immediate action to amend these rules. The Committee, therefore, desired that these Rules should be amended to the necessary effect without any further delay and that the Ministry should ensure, in future, implementation of recommendations of the Committee within a period of six months failing which they should seek specific extension of time stating the reasons therefor. The Committee would like the Ministry to follow the aforesaid procedure scrupulously to avoid inordinate delay in implementing their recommendations.

- (v) Implementation of recommendations contained in paras 35, 36, and 37 of the Fourteenth Report (Sixth Lok Sabha) re: the Nationalised Banks (Management and Miscellaneous Provisions) (Second Amendment) Scheme, 1976 (S.O. 421-F of 1976)—(Memorandum No. 55)

11. The Committee considered the above Memorandum and agreed with the position stated by the Ministry of Finance (Department of Economic Affairs—Banking Department) that a suitable provision would be made for recording of reasons in writing in the internal proceedings before issue of the notice terminating the term of office prematurely to the persons concerned.

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The Committee then adjourned.

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

XXIII

MINUTES OF THE TWENTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1981-82)

The Committee met on Friday, 24 July, 1981 from 11.00 to 12.00 hours.

PRESENT

- Shri Mool Chand Daga—*Chairman*

MEMBERS

- 2. Shri M. Ankineedu
- 3. Shri Xavier Arakal
- 4. Shri Ashfaq Husain
- 5. Shri Eduardo Faleiro
- 6. Shri K. Lakkappa
- 7. Shri Ratansinh Rajda
- 8. Shri Ajit Pratap Singh
- 9. Shri Chandra Shekhar Singh.

SECRETARIAT

- 1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
- 2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*

2. The Committee considered Memoranda Nos. 68 and 75 on the following subjects:—

* * *

(ii) The Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 (G.S.R. 643 of 1976) (Memorandum No. 75)

4. The Committee considered the above Memorandum and desired the Ministry of Shipping and Transport (Shipping Wing) to amend Regulation 7(5) of the Bombay Port Trust Employees (C.C.&A.) Regulations, 1976 by adding a proviso thereto, as suggested by the Committee.

The Committee then adjourned.

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

XXVI

MINUTES OF THE TWENTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1981-82)

The Committee met on Friday, 4 September, 1981 from 16.00 to 16.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Xavier Arakal
3. Shri Ashfaq Husain
4. Shri T. V. Chandrashekharappa
5. Shri Eduardo Faleiro
6. Shri Balasaheb Vikhe Patil
7. Shri M. Ramanna Rai
8. Shri Ratansinh Rajda
9. Shri Chandra Shekhar Singh

SECRETARIAT

1. Shri S. D. Kaura—*Chief Legislative Committee Officer.*
 2. Shri S. S. Chawla—*Senior Legislative Committee Officer.*
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4. The Committee then considered Memoranda Nos. 77 to 82 on the following subjects:—

Sl. No.	Memo. No.	Subject
1	2	3

- (1) 77 . The Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 214 of 1977).

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

1	2	3
(2)	78 .	. The Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 (S.O. 2125 of 1977)
(3)	79 .	. The Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 (S.R.O. 308 of 1978).
(4)	80 .	. Incorporation of laying provision in Acts.
(5)	81 .	. The Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977 (S.R.O. 71 of 1977).
(6)	82 .	. The Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 (S.R.O. 136 of 1977).

- (1) The Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 (S.O. 21 of 1977)—(Memorandum No. 77)

5. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) had amended S.R. 317-A.N. 20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976 *vide* G S.R. 157 dated 9-2-1980 by providing therein the right of appeal to the officer concerned against the orders of the Allotting Authority regarding cancellation of allotment of residence.

- (2) The Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 (S.O. 2125 of 1977)—(Memorandum No. 73).

6. The Committee considered the above Memorandum and desired the Ministry of Agriculture (Department of Agriculture and Cooperation) to amend S.R. 317-J-20(1) of the Indian Agricultural Research Institute (Allotment of Residences) Rules, 1977 on the lines of S.R. 317-A.N-20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976.

- (3) The Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 (S.R.O. 308 of 1977)—(Memorandum No. 79).

7. The Committee considered the above Memorandum and desired the Ministry of Defence to amend Rule 17 of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978 on the lines of S.R. 317-A.N. 20 of the Department of Personnel and Administrative Reforms (Central Bureau of Investigation) Allotment of Residences Rules, 1976.

- (4) Incorporation of laying provision in Acts.—(Memorandum No. 80).

8. The Committee considered the above Memorandum and noted the assurances given by the Ministries/Departments concerned regarding the incorporation of the laying provision in the relevant Acts concerning the Rules as indicated in Annexure. The Committee desired the Ministries/Departments to amend the relevant Acts at an early date. In case, the finalisation of some other amendments were likely to take more time, they should bring forward the necessary legislation exclusively for this purpose.

- (5) The Indian Naval Armament Service Group 'A' Recruitment Rules, 1977 (S.R.O. 71 of 1977)—(Memorandum No. 81).

(A)

9. The Committee considered the above Memorandum and desired the Ministry of Defence to amend Rule 8(9) of the above Rules by substituting the words 'pass an order for extending of curtailing the probation period' for the words 'pass such orders as they think fit'.

(B)

10. The Committee noted that on being pointed out, the Ministry of Defence have issued corrigendum to correct the omission of certain words in Rule 24(5) (a) of the Indian Naval Armament Service (Group 'A') Recruitment Rules, 1977. The Committee, however, deplored the inordinate delay of about two and a half years in issuing corrigendum by the Ministry. The Committee felt that Ministry/Department concerned were not absolved of their responsibility after sending the Rules, etc. for publication in the Gazette it was their duty to see that the Rules were correctly published in the Gazette of India.

- (6) The Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 (S.R.O. 136 of 1977) — (Memorandum No. 82).

11. The Committee considered the above Memorandum and approved the proposed amendment to Column 13 of the schedule appended to the Military Farms (Group 'A' and Group 'B' Civilian Posts) Recruitment Rules, 1977 and desired the Ministry of Defence to notify the said amendment in the Gazette of India, at an early date.

The Committee then adjourned.

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ANNEXURE

(Vide Paragraph 8 of the Minutes)

Statement showing the replies received from various Ministries/Departments regarding inclusion of laying provision in the relevant Acts.

Sl.No.	Short Title of the Order	Reply of the Ministry
1	2	3
1.	The Poona (Cantonment Division into Wards) Amendment Rules, 1977 (S.R.O. 74 of 1977).	Necessary provision in this regard is proposed to be made in the Cantonment (Amendment) Bill likely to be introduced in the Parliament during the ensuing Monsoon Session. [Ministry of Defence O.M. No. F.10(38)/77/1444-C/D (Cantt.) dated 11 May, 1978].
2.	The Raw Meat (Chilled or Frozen) Grading and Marking Rules, 1977 (S.O. 1251 of 1977).	A proposal for certain amendment to Agriculture Produce Grading and Marking Act, 1937 is already under active consideration. The Recommendation of Committee on Subordinate Legislation regarding marking of a provision for laying of rules before Parliament would be kept in view while finalising the amendments. [Ministry of Agriculture and Irrigation (Department of Rural Development) O.M. No. F. 13-7/76-AM (Pt.) dated 22 February, 1978].
3.	The Central Manufactured Drugs (Amendment) Rules, 1977 (S.O. 1541 of 1977)	The question of amending the Narcotics Laws in India, viz., the Dangerous Drugs Act, 1930, and the Opium Acts of 1857 and 1878 has been under consideration in this Ministry for some time past. A bill on Narcotics Drugs and Psychotropic Substances is being drafted and a provision would be made in the draft bill to the effect that Rules made thereunder by the Central Government should be laid before the Parliament. [Ministry of Finance (Department of Revenue) O.M. No. F. 664/44/77/OPIUM dated 30 December, 1977].

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4. The Central Reserve Police Force
(Amendment) Rules, 1977
(G.S.R. 480 of 1977)

There is no provision in the CRPF Act, 1949 requiring that the rules framed under section 18 of the Act shall be laid before Parliament.

5. The Central Reserve Police Force
(Second Amendment) Rules, 1977
(G.S.R. 823 of 1977).

However, the action on the recommendations made by the Committee on Subordinate Legislation to incorporate a provision requiring the Rules to be framed under the CRPF Act is being taken separately. [Ministry of Home Affairs O.M. No. M. V-11/76-CRPF (Pers II) dated 22 April, 1978].

6. The Central Reserve Police Force
(Third Amendment) Rules, 1977
(G.S.R. 1673 of 1977).

The Central Reserve Police Force Act, 1949 is under revision in the Ministry. In the proposed Central Reserve Police Force (Amendment) Bill a provision for laying of Rules before each House of Parliament has been incorporated. [Ministry of Home Affairs O.M. No. V-14012/1 78-GPA. I dated 7 July, 1978].

XXVII

MINUTES OF THE TWENTY-SEVENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1981-82)

The Committee met on Thursday, 17 September, 1981 from 15.30 to 15.45 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Xavier Arakal
3. Shri K. Lakkappa
4. Shri M. Ramanna Rai
5. Shri Ratansinh Rajda
6. Shri Chandra Shekhar Singh

SECRETARIAT

Shri S. S. Chawla—*Senior Legislative Committee Officer*

2. The Committee considered their draft Eighth Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri Chandra Shekhar Singh to present the Eighth Report to the House on their behalf on 18 September, 1981.

The Committee then adjourned.