

COMMITTEE ON SUBORDINATE LEGISLATION

(TENTH LOK SABHA)

TWENTY FIRST REPORT

[Presented on 22 December, 1995]



**LOK SABHA SECRETARIAT
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CORRIGENDA

TO

THE TWENTY-FIRST REPORT OF THE COMMITTEE ON SUBORDINATE
LEGISLATION [TENTH LOK SABHA]

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1995-96)**

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2. Smt. Roli Srivastava — *Joint Secretary*
3. Shri P.D.T. Achary — *Director*
4. Shri Ram Autar Ram — *Deputy Secretary*

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sitting held on 2 August, 1995.

3. The Committee considered and adopted this Report at their sitting held on 5.12.1995. The Minutes of the sittings relevant to this Report are appended to it.

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

NEW DELHI;
December 1995

AMAL DATTA,
Chairman,
Committee on Subordinate Legislation.

REPORT

I

THE MORMUGAO PORT TRUST EMPLOYEES' (ACCEPTANCE OF EMPLOYMENT AFTER RETIREMENT) FIRST (AMENDMENT) REGULATIONS, 1992 (GSR 889-E OF 1992)

The Mormugao Port Trust Employees' (Acceptance of Employment after Retirement) (First Amendment) Regulations, 1992 (GSR 899-E of 1992) were published in the Gazette of India: Extraordinary, Part II, Section 3(i), dated 27 November, 1992. It was observed therefrom that the foot note to the notification did not refer to the principal regulations and subsequent amendments made thereto in terms of GSR numbers and the date of publication in the gazette notification. For facility of reference, normally GSR numbers with dates of publication in the gazette in respect of principal/subsequent amendment regulations are indicated therein. The matter was referred to the Ministry of Surface Transport for ascertaining the reasons, if any, for departure from the normal practice in this regard and whether they had any objection to amending the notification to the desired effect. In their reply dated 16 June, 1994, the Ministry stated as under:—

“.....that the observations made by the Committee *vide* O.M. dated 13.9.1993 have been carried on and notified by this Ministry *vide* GSR 715-E dated 23.11.93. The notification has been laid on the table of Lok Sabha and Rajya Sabha on 18.3.94 and 16.3.94 respectively. A copy of the requisite corrigendum is enclosed herewith for information. It has not been possible to obtain the GSR numbers of principal regulation published on 3.7.1991 and hence the same could not be indicated.”

1.2 The Committee are not convinced with the reply of the Ministry of Surface Transport, that it had not been possible for them to have the GSR number of the principal regulations published on 3.7.1991. In this connection the Committee refers to its an earlier recommendation made in para 45 of their Third Report (First Lok Sabha) namely—

“The Committee felt that it was very difficult to trace back the amendments made in rules in past. On finding out an amendment, one could not know when the last amendment was made and when was it published. In order to remove this difficulty the Committee recommend that whenever any amendment in the rules is made, the S.R.O. numbers of the previous amendments or the original rules should be cited in a

foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment."

1.3 The Committee note with concern that despite their aforesaid recommendation, the Ministry have failed to indicate the particulars of the principal regulations. The Committee, however, note that on being pointed out, the Ministry have notified a corrigendum vide GSR 715-E dated 23 November, 1993 incorporating the foot-note giving reference of the subsequent amendment made thereto.

1.4 The Committee reiterate their aforesaid recommendation and desire that the Ministry should be more careful in future and take necessary remedial measures to ensure that reference to the original 'order' and the subsequent amendments thereto are made in terms of GSR numbers with their dates of publication in the official gazette.

II

THE PATENTS (AMENDMENT) RULES, 1993 (S.O. 889-E of 1993)

(A)

The Patents (Amendment) Rules, 1993 were published in the Gazette of India: Extraordinary, Part II, Section 3(ii) dated 24 November, 1993. It was observed from its Preamble that certain draft rules were published in the Gazette of India dated 24 December, 1992 and made available to the public on 16 February, 1993, i.e. after a gap of 55 days.

2.2 The concerned Ministry of Industry (Department of Industrial Development) were asked to state the special reasons, if any, for such inordinate delay. In their reply dated 12 September, 1994, the Ministry stated as under:—

“The notification No. S.O. 926-E dated 24th December, 1992 containng draft rules was made available for public sale on 16.2.93. The Department of Publications informed that it received the printed version from the Government of India Press on 16.2.1993.

The Government of India Press informed that the delay in execution occurred mainly due to power failure, inadequate supply of water and low voltage.”

2.3 The Committee note with concern that the copies of the draft rules, in the instant case, were made available to the public after a gap of 55 days from the date of publication mentioned on the gazette notification. The Committee noted that the Ministry have attributed the delay to the Department of Publication, who in turn has attributed the delay in printing to power failure, inadequate water supply and low voltage. The Committee feel that such inordinate delays defeat the very purpose of giving the important information in the extraordinary gazette, which are of priority nature. The Committee, therefore, recommend that the Ministry of Urban Affairs and Employment should review the functioning of the Government Press at the highest level and take all necessary steps to streamline its procedure for the handling of important legislative measures having a direct bearing on the public at large without delay.

(B)

2.4 It was further observed from the Preamble to the rules that whereas the draft rules were made available to the public on 16 February, 1993 for eliciting their opinion thereon within the expiry of 2 months from the date of availability of such gazette copies to the public. However no objections

and suggestions were received from the public by the Ministry within the stipulated time of 2 months i.e. till 15 April, 1993. It was observed that even though the Ministry have not received any objections or suggestions from the public the Ministry have taken more than 5 months in notifying the final rules in the official gazette. The matter was referred to the Ministry of Industry for explaining the delay. In their reply dated 12 September, 1994, the Ministry have stated as under:—

“The Gazette containing draft rules was made available to public on 16.2.1993 for eliciting objections/suggestions from persons likely to be affected. As no suggestions/objections were received within the stipulated time, i.e. upto 15th April, 1993. papers were submitted for obtaining approval of Ministry of Law to the rules to be promulgated. However, a few errors were noticed in the printed notification issued on 24 December, 1992.

The Legislative Department of Ministry of Law advised for issue of a corrigendum to rectify the errors. The corrigendum was issued after obtaining the approval of Ministry of law and thereafter rules were finally made. The delay occurred mainly in the process of obtaining the advice of Ministry of Law, which was essential.”

2.5 The Committee note with concern that there was a gap of seven months between the last date fixed for receiving objections/suggestions and notification of the final rules in the gazette even though no objections or suggestions were received from the concerned public. The reason according to the Ministry of Industry is that this had to take legal advice from the Law Ministry which detected a few errors in the draft rules.

2.6 The Committee do not find the reasons put forth by the Ministry for the delay in notifying the final rules as justified and recommend that where a large number of objections/suggestions are received the gap should not be more than six months. Where the objections/suggestions received are few, efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. However, where no objections/suggestions are forthcoming on the draft rules, the final rules should be notified within a period of three months. The Committee desire the Ministry of Industry to adhere to above time-limit in notifying the final rules.

III

THE NEW MANGALORE PORT TRUST EMPLOYEES' (WELFARE FUND) SECOND AMENDMENT REGULATIONS, 1992 (GSR 889-E OF 1992)

The New Mangalore Port Trust Employees' (Welfare Fund) Second Amendment Regulations, 1992 were published in the Gazette of India: Extraordinary, Part II, Section 3 (i) dated 23 November, 1992. It was observed therefrom that the notification did not contain the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendments made thereto for facility of reference. A reference was accordingly made to the Ministry of Surface Transport to ascertain whether the requisite corrigendum has since been issued to rectify the errors in regulation. In their reply dated 22 November, 1993, the Ministry stated as under:—

"..... that the recommendations made by the Committee have been incorporated and a corrigendum vetted by the Ministry of Law has been sent to the Government of India Press for publication on 6.10.93. Printed copy of the same will be furnished to Lok Sabha Secretariat as and when it is received."

3.2 In a subsequent reply dated 6 July, 1994, the Ministry have forwarded a printed copy of the corrigendum *vide* GSR 642-E published in the Gazette of India dated 6 October, 1993 by the incorporating the foot-note at the end of the notification.

3.3 The Committee note that on being pointed out, the Ministry of Surface Transport have since notified the requisite corrigendum *vide* GSR 642-E dated 6 October, 1993 by incorporating the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendment made thereto. In this connection, the Committee draw the attention of the Ministry to their recommendation contained in para 87 of the Sixth Report (Seventh Lok Sabha), namely—

"The Committee are unhappy to note that their recommendation regarding giving of foot-note to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit."

3.4 The Committee reiterate their aforesaid recommendation and desire the Ministry of Surface Transport and the Ministry of Law to streamline their procedure in order that such lapses do not recur in future.

IV

THE TUTICORIN PORT TRUST EMPLOYEES (LEAVE TRAVEL CONCESSION) FIRST AMENDMENT REGULATIONS, 1992 (GSR 845-E OF 1992)

(A)

The Tuticorin Port Trust Employees (Leave Travel Concession) First Amendment Regulations, 1992 were published in the Gazette of India: Extraordinary, Part II, Section 3 (i) dated 3 November, 1992. It was noticed from Regulation 20 (as amended) that there were some printing errors. A reference was accordingly made to the Ministry of Surface Transport to ascertain whether the requisite corrigendum has since been notified to rectify the errors in Regulation. In their reply dated 17 June, 1994, the Ministry stated as under:

"..... that the recommendations of the Committee as contained in the Lok Sabha Secretariat's O.M. dated 4 August, 1993 asking to issue corrigendum rectifying the printing errors have been implemented by this Ministry."

4.2 The Committee note that only on being pointed out by them the Ministry of Surface Transport have issued necessary corrigendum to rectify the printing errors in the notification vide GSR 89-E dated 10 February, 1994. The Committee also note that the amendment Regulations issued on 3 November, 1992 could be rectified on 10.2.1994. The Committee feel that had the Ministry exercised due vigilance and care, the error could have been detected much earlier and the period of 15 months could have been curtailed to a great extent. In this connection, the Committee note that they have time and again stressed that the Ministry/Departments should not rest content with merely sending the notifications to the press. Instead they should ensure that notifications are duly and correctly published in the gazette. The Committee therefore, desire the Ministry to streamline their procedure in order that such lapses do not recur in future.

4.3 Regulation 22 (as inserted) in the Tuticorin Port Employees (Leave Travel Concession) First Amendment Regulations, 1992 read as under:

"22. Enabling provisions:— Modifications in the basic provisions issued in respect of Central Government servants may be implemented by the Board by passing appropriate resolution pending formal amendment to the regulations. Orders and decisions issued by Government from time to time in respect of

Central Government employees could be incorporated under the relevant main regulations by a resolution of the Board, if necessary."

4.4 Normally, the provisions of the statutory regulations can be altered only through the process of formal amendments. Any short cuts in this respect seen to violate the spirit of the enabling enactment. The Ministry of Surface Transport were requested to furnish their comments in the matter. In their reply dated 17 June, 1994, the Ministry stated as under:

"As regard the recommendation in respect of deletion of regulation 22 of the said regulations, a Gazette notification has been sent for publication in Government of India Press on 10.5.94."

4.5 The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have issued a notification deleting the enabling provisions under Regulation 22 in the Tuticorin Port Employees (Leave Travel Concession) First Amendment Regulation, 1992, vide GSR 446-E dated 10 May, 1994.

**THE MINISTRY OF LABOUR, LIBRARY (GROUP 'C' POSTS),
RECRUITMENT RULES, 1992 (GSR 395 OF 1993)**

The Ministry of Labour, Library (Group 'C' Posts) Recruitment Rules, 1992 were published in the Gazette of India, Part II, Section 3 (i), dated 31 July, 1993. It was noticed that the rules were published in the Official Gazette in July, 1993 but the short title indicated the year as 1992. As per recommendation of the Committee on Subordinate Legislation, the year in the short title to the rules should have relevance to the year of their publication in the official gazette. The matter was referred to the concerned Ministry of Labour for ascertaining the reasons, if any, for departure from the normal practice in the matter and whether they had since issued any corrigenda etc. to rectify the error. In their reply dated 21 April, 1994, the Ministry stated as under:

"..... that the year referred to in the short title of the said Recruitment Rules as well as in column 2 of the Schedule annexed to the rules in respect of the posts of Library Information Assistant and Library Clerk should have been "1993" and not "1992". These mistakes have occurred due to clerical error and action has been initiated to publish necessary corrigendum in the official gazette."

5.2 On 2 January, 1995, the Ministry furnished a copy of the Government of India notification dated 6.8.1994 carrying the requisite amendment.

5.3 The Committee note that only on being pointed out, the Ministry of Labour have issued a corrigendum to rectify the error regarding year in the short title vide GSR 398 dated 6 August, 1994. The Committee desire that the Ministry should keep necessary checks to ensure that each notification that goes to the press must scrupulously be scrutinised at a sufficiently senior level to obviate any inaccuracy whatsoever.

VI

AMENDMENT TO THE MINISTRY OF AGRICULTURE, DEPARTMENT OF FOOD, TECHNICAL ASSISTANT AND ACCOUNTANT (JUNIOR) RECRUITMENT RULES, 1973 (GSR 501 OF 1992)

Amendment to the Ministry of Agriculture, Department of Food, Technical Assistant and Accountant (Junior) Recruitment Rules 1973, was published in the Gazette of India, Part II, Section 3 (i), dated 14 November, 1992. The Amendment Notification was found deficient in respect of the following attributes:

- (i) The Amendment notification did not contain the usual short title. For easy and quick referencing, the Committee have recommended that 'Orders' whether original or amending should bear short titles both in the body and at the top of the notification.
- (ii) The date of commencement of the Amendment Rules was also not indicated therein. To obviate any scope of confusion in the minds of persons for whose benefit the rules were framed, the Committee have recommended that a sub-rule regarding the date of coming into force of rules should always be included therein."

6.2 The matter was referred to the Ministry of Food for ascertaining the special reasons if any, for departure from the normal practice in the matter and whether they had any objection to amending the rules to the desired effect. In their reply dated 26 September, 1994, the Ministry stated as under:

"..... that necessary entries/corrections, as noticed by them, have been made in the said Recruitment Rules in consultation with the Ministry of Law, which has been sent to Department of official language for Hindi Translocation....."

6.3 The Committee noted that the Amendment to the Ministry of Agriculture, Department of Food, Technical Assistant and Accountant (Junior) Recruitment Rules, 1973 was deficient in respect of certain essential attributes of subordinate legislation like short title and date of commencement.

6.4 The Committee note that on being pointed out, by them the Ministry of Food have made necessary entries/corrections, in consultation with the Ministry of Law in the Recruitment Rules. The Committee desire that the

Ministry should keep necessary checks to ensure that each notification must scrupulously be scrutinised at sufficiently senior levels to obviate any inaccuracy in future.

VII

THE JAWAHARLAL INSTITUTE OF POST GRADUATE MEDICAL EDUCATION AND RESEARCH, PONDICHERRY (SENIOR OPERATION THEATRE TECHNICIAN) RECRUITMENT RULES, 1992 (GSR 391 OF 1993)

(A)

The Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules, 1992 were published in the Gazette of India, Part II, Section 3 (i), dated 31 July, 1993. It was noticed that the rules were published in the official Gazette in the year 1993 but the short title indicated the year as 1992. As per recommendation of the Committee on Subordinate Legislation, the year in the short title to the rules should conform to the year of their publication in the official Gazette. The matter was referred to the Ministry of Health and Family Welfare for ascertaining whether they had any objection in amending the rules to the desired effect. In their reply, dated 19 May, 1994, the Ministry stated as under:—

“..... we have no objection in amending the recruitment rules to the desired effect. Necessary action is being taken.”

7.2 It is a well-accepted practice that short title of the rules, regulations, bye-laws, etc. should carry the year in which they are published and not some other year. In this connection, the Committee note that they have time and again impressed upon the Ministries/Departments of the Government the need for indicating the correct year in the short title. Indication of incorrect year in the short title causes difficulty in location of the 'Order'.

7.3 As the Ministry of Health and Family Welfare have agreed to indicate the correct year in the short title to the rules by issuing a corrigendum the Committee desire that the Ministry should issue the necessary corrigendum at the earliest and also take necessary remedial measures so as to avoid recurrence of such a lapse in future.

(B)

7.4 The following qualifications were prescribed for the post of the Senior Operation Theatre Technician in column 8 of the Schedule

appended to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules, 1992:—

Essential:—

1. Matriculation or equivalent qualification.
2. 5 years experience as Operation Theatre Technician in the Operation Theatre of a **large Hospital**.

7.5 It was felt that the term “large hospital” was vague and could be interpreted differently by different persons. The Committee on Subordinate Legislation have time and again emphasised that use of vague expressions should be avoided. The Ministry of Health and Family Welfare were asked if they had any objection to amending the rules to the necessary effect. In their reply dated 19 May, 1994, the Ministry stated as under:—

“..... we have no objection in amending the recruitment rules to the desired effect.”

7.6 In a subsequent communication dated 13 January, 1995, Ministry forwarded a copy of notification No. A.12018/26/92-RR/ME(PG) dated 25.11.1994 substituting the earlier order, as under, in col. 8 of the schedule —

- “1. Matriculation or equivalent qualification.
2. 5 years experience as Operation Theatre Technician in the Operation Theatre of atleast a hundred bedded hospital.”

7.7 The Committee note with satisfaction that on being pointed out to them the Ministry of Health and Family Welfare have since amended the term “large hospital” by substituting the term “at least a hundred bedded hospital” in column 8 of the schedule appended to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules, vide GSR 626 dated 7.12.1994.

VIII

THE NATIONAL TEST HOUSE (GROUP 'A' POSTS) RECRUITMENT RULES, 1993 (GSR 140 OF 1993)

The National Test House (Group 'A' Posts) Recruitment Rules, 1993 were published in the Gazette of India, Part II, Section 3 (i) dated 13 March, 1993. It was observed therefrom that entry under Column 10 of the Schedule annexed to the above rules regarding the period of probation ought to read as "As per rule 9" *instead of* "As per rule 10". The Ministry of Commerce were requested to state whether any corrigendum to rectify the error has since been issued in this regard. In their reply, dated 13 February, 1995, the Ministry stated as under:—

"Col. 10 of the Schedule — This is a typographical error crept in the notified rules. Necessary corrigendum shall be issued in consultation with the Union Public Service Commission."

8.2 The Committee note that on being pointed out, the Ministry have agreed to issue necessary corrigendum in consultation with the Union Public Service Commission to rectify the error that has crept in Column 10 of the Schedule appended to the National Test House (Group 'A' Posts) Recruitment Rules, 1993.

8.3 The Committee desire the Ministry to expedite the process of notifying the corrigendum at an early date, besides evolving suitable procedural safeguards against recurrence of such lapses in future.

IX

THE BOMBAY PORT TRUST (RECRUITMENT OF HEADS OF DEPARTMENT) REGULATIONS, 1993 (GSR 719-E OF 1993)

The Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 (GSR 719-E of 1993) was published in the Gazette of India: Extraordinary, Part II, Section 3 (i) dated 25 November, 1993. Regulation 8, (1) to (3) therein, read as under:—

"8. Discharge or reversion of head of Department on Probation:—

- (1) A Person appointed on probation to a post of Head of Department who has no lien on any post shall be liable to be discharged from service at any time on the basis of his performance or conduct during the period of probation, if he is considered unfit for further retention in service;**
- (2) A Head of Department on probation who holds a lien on a post may be reverted at any time in the circumstances specified in sub-regulation (1); and**
- (3) A Head of Department of probation who has not completed probation to the satisfaction of the appointing authority at the end of the period of probation prescribed in regulation 6, or who is not considered suitable for confirmation shall be discharged or reverted in accordance with sub-regulation (1) or sub-regulation (2) as the case may be."**

9.2 It was observed that the regulation did not provide for recording of reasons in writing before the appointing authority discharged or reverted an officer to the post held by him prior to his appointment in the service, in case an officer was not found fit for permanent appointment. It was felt that before such discharge or reversion, the officer concerned should be given an opportunity to explain/present his case before the appointing authority. Further the reasons for such reversion or discharge from the service should be recorded in writing. The matter was therefore taken up with the concerned Ministry of Surface Transport for obtaining their comments on the matter. In their reply dated 29 September, 1994, the Ministry stated as under:—

"..... normally when a person is to be discharged or reverted for unsatisfactory performance, decisions are not taken arbitrarily but after giving a chance to the person concerned, on the principles of natural justice, to represent his case, in case of any adverse remarks or unsatisfactory performance by the Port.

However, the Ministry does not have any objection in specifying the reasons to avoid arbitrary use of the given discretion."

9.3 The Committee note from the reply of the Ministry of Surface Transport, that reversion or discharge of an officer from service by the Port is normally done only after giving him a chance to present his case regarding any adverse remarks or unsatisfactory performance. However, as the Ministry have no objection in recording the reasons therefor to avoid arbitrary use of discretionary powers given to the appointing authority, the Committee desire that the Ministry should amend the regulations accordingly so as to provide in regulation 8 of Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 for recording of reasons and communicating the same to the person concerned before his reversion to a substantive post or discharge of an officer from service if he is not found fit for permanent appointment or retention in service as the case may be at the earliest.

NEW DELHI;
December, 1995

AMAL DATTA,
Chairman,
Committee on Subordinate Legislation.

APPENDICES

APPENDIX I

(Vide Para 4 of the Introduction)

Summary of Recommendations made in the Twenty-First Report of the Committee on Subordinate Legislation

(Tenth Lok Sabha)

| Sl. No. | Reference to para No. in the Report | Summary of Recommendations |
|---------|-------------------------------------|----------------------------|
| 1 | 2 | 3 |

| | | |
|---|------------|---|
| 1 | 1.2 to 1.4 | <i>The Mormugao Port Trust Employees' (Acceptance of Employment after Retirement) (First Amendment) Regulations, 1992 (GSR 889-E of 1992)</i> |
|---|------------|---|

The Committee are not convinced with the reply of the Ministry of Surface Transport, that it had not been possible for them to have the GSR number of the principal regulations published on 3.7.1991. In this connection the Committee refers to its an earlier recommendation made in para 45 of their Third Report (First Lok Sabha) namely—

“The Committee felt that it was very difficult to trace back the amendments made in rules in past. On finding out an amendment, one could not know when the last amendment, was made and when was it published. In order to remove this difficulty the Committee recommend that whenever any amendment in the rules is made, the S.R.O. numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment.”

The Committee note with concern that despite their aforesaid recommendation, the

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Ministry have failed to indicate the particulars of the principal regulations. The Committee, however, note that on being pointed out, the Ministry have notified a corrigendum *vide* GSR 715-E dated 23 November, 1993 incorporating the foot-note giving reference of the subsequent amendment made thereto.

The Committee reiterate their aforesaid recommendation and desire that the Ministry should be more careful in future and take necessary remedial measures to ensure that reference to the original 'order' and the subsequent amendments thereto are made in terms of GSR numbers with their dates of publication in the official gazette.

2. 2.3, 2.5&2.6

The Patents (Amendment) Rules, 1993
(S.O. 889-E of 1993)

The Committee note with concern that the copies of the draft rules, in the instant case, were made available to the public after a gap of 55 days from the date of publication mentioned on the gazette notification. The Committee noted that the Ministry have attributed the delay to the Department of Publication, who in turn has attributed the delay in printing to power failure, inadequate water supply and low voltage. The Committee feel that such inordinate delays defeat the very purpose of giving the important information in the extraordinary gazettee, which are of priority nature. The Committee, therefore, recommend that the Ministry of Urban Affairs and Employment should review the functioning of the Government Press at the highest level and take all necessary steps to streamline its procedure for the handling of important

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legislative measures having a direct bearing on the public at large without delay.

The Committee note with concern that there was a gap of seven months between the last date fixed for receiving objections/suggestions and notification of the final rules in the gazette even though no objections or suggestions were received from the concerned public. The reason according to the Ministry of Industry is that this had to take legal advice from the Law Ministry which detected a few errors in the draft rules.

The Committee do not find the reasons put forth by the Ministry for the delay in notifying the final rules as justified and recommend that where a large number of objections/suggestions are received the gap should not be more than six months. Where the objections/suggestions received are few, efforts should be made to reduce this period to the barest minimum without impairing the fruitfulness of such legislation. However, where no objections/suggestions are forthcoming on the draft rules, the final rules should be notified within a period of three months. The Committee desire the Ministry of Industry to adhere to above time-limit in notifying the final rules.

3. 3.3 to 3.4

The New Mangalore Port Trust Employees' (Welfare Fund) Second Amendment Regulations, 1992 (GSR 889-E of 1992)

The Committee note that on being pointed out, the Ministry of Surface Transport have since notified the requisite corrigendum vide GSR 642-E dated 6 October, 1993 by incorporating the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendment made thereto. In this connection, the Committee draw the attention of the Ministry to their recommendation contained in para 87 of

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the Sixth Report (Seventh Lok Sabha), namely:—

“The Committee are unhappy to note that their recommendation regarding giving of foot-note to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit.”

The Committee reiterate their aforesaid recommendation and desire the Ministry of Surface Transport and the Ministry of Law to streamline their procedure in order that such lapses do not recur in future.

4. 4.2 and 4.5

The Tuticorin Port Trust Employees (Leave Travel Concession) First Amendment Regulations, 1992 (GSR 845-E of 1992)

The Committee note that only on being pointed out by them the Ministry of Surface Transport have issued necessary corrigendum to rectify the printing errors in the notification vide GSR 89-E dated 10 February, 1994. The Committee also note that the amendment Regulations issued on 3 November, 1992 could be rectified on 10.2.1994. The Committee feel that had the Ministry exercised the due vigilance and care, the error could have been detected much earlier and the period of 15 months could have been curtailed to a great extent. In this connection, the Committee note that they have time and again stressed that the Ministry/Departments should not rest content with merely sending the notifications to the press. Instead they should ensure that notifications are duly and correctly published in the gazette. The Committee therefore, desire the Ministry to streamline their procedure in

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order that such lapses do not recur in future.

The Committee note with satisfaction that on being pointed out, the Ministry of Surface Transport have issued a notification deleting the enabling provisions under Regulation 22 in the Tuticorin Port Employees (Leave Travel Concession) First Amendment Regulation, 1992 *vide* GSR 446-E dated 10 May, 1994.

5. 5.3

The Ministry of Labour, Library (Group 'C' Posts), Recruitment Rules, 1992 (GSR 395 of 1993)

The Committee note that only on being pointed out, the Ministry of Labour have issued a corrigendum to rectify the error regarding year in the short title *vide* GSR 398 dated 6 August, 1994. The Committee desire that the Ministry should keep necessary checks to ensure that each notification that goes to the press must scrupulously be scrutinised at a sufficiently senior level to obviate any inaccuracy whatsoever.

6. 6.3 to 6.4

Amendment to the Ministry of Agriculture, Department of Food, Technical Assistant and Accountant (Junior) Recruitment Rules, 1973 (GSR 501 of 1992)

The Committee noted that the Amendment to the Ministry of Agriculture, Department of Food, Technical Assistant and Accountant (Junior) Recruitment Rules, 1973 was deficient in respect of certain essential attributes of subordinate legislation like short title and date of commencement.

The Committee note that on being pointed out, by them the Ministry of Food have made necessary entries/corrections, in consultation with the Ministry of Law in the Recruitment Rules. The Committee desire that the Ministry should keep necessary checks to ensure that each notification must scrupulously be

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scrutinised at sufficiently senior levels to obviate any inaccuracy in future.

7. 7.2 to 7.3 and 7.7 *The Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) recruitment Rules, 1992 (GSR 391 of 1993)*

It is a well-accepted practice that short title of the rules, regulations, bye-laws, etc. should carry the year in which they are published and not some other year. In this connection, the Committee note that they have time and again impressed upon the Ministries/Departments of the Government the need for indicating the correct year in the short title. Indication of incorrect year in the short title cause difficulty in location of the 'Order'.

As the Ministry of Health and Family Welfare have agreed to indicate the correct year in the short title to the rules by issuing a corrigendum the Committee desire that the Ministry should issue the necessary corrigendum at the earliest and also take necessary remedial measures so as to avoid recurrence of such a lapse in future.

The Committee note with satisfaction that on being pointed out to them the Ministry of Health and Family Welfare have since amended the term "large hospital" by substituting the term "at least a hundred bedded hospital" in column 8 of the schedule appended to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) recruitment Rules, vide GSR 636 dated 7.12.1994.

8. 8.2 to 8.3 *The National Test House (Group 'A' Posts) Recruitment Rules, 1993 (GSR 140 of 1993)*

The Committee note that on being pointed out, the Ministry have agreed to issue necessary corrigendum in consultation with the Union Public Service Commission to rectify the error that has crept in Column 10 of the Schedule

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| | | <p>appended to the National Test House (Group 'A' Posts) Recruitment Rules, 1993.</p> <p>The Committee desire the Ministry to expedite the process of notifying the corrigendum at an early date, besides evolving suitable procedural safeguards against recurrence of such lapses in future.</p> |
| 9. | 9.3 | <p><i>The Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 (GSR 719-E of 1993)</i></p> <p>The Committee note from the reply of the Ministry of Surface Transport, that reversion or discharge of an officer from service by the Port is normally done only after giving him a chance to present his case regarding any adverse remarks or unsatisfactory performance. However, as the Ministry have no objection in recording the reasons therefor to avoid arbitrary use of discretionary powers given to the appointing authority, the Committee desire that the Ministry should amend the regulations accordingly so as to provide in regulation 8 of Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 for recording of reasons and communicating the same to the person concerned before his reversion to a substantive post or discharge or an officer from service if he is not found fit for permanent appointment or retention in service as the case may be at the earliest.</p> |

MINUTES

APPENDIX II

(vide para 3 of the Introduction)

MINUTES OF THE FIFTY-NINTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1995-96)

The Committee met on Wednesday, 2 August, 1995 from 15.00 to 16.00 hours.

PRESENT

Shri Amal Datta — *Chairman*

MEMBERS

2. Shri Prithviraj D. Chavan
3. Shrimati Bhavna Chikhalia
4. Shri V. Dhananjaya Kumar
5. Shri D. Pandian
6. Shri Rajendra Kumar Sharma

SECRETARIAT

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| 1. Shrimati Roli Srivastava | — | <i>Joint Secretary</i> |
| 2. Shri P.D.T. Achary | — | <i>Director</i> |
| 3. Shri Ram Autar Ram | — | <i>Deputy Secretary</i> |

2. The Committee considered Memoranda Nos. 109 to 118 as follows:—

- (i) *The Mormugao Port Trust Employees' (Acceptance of Employment after Retirement) (First Amendment) Regulations, 1992 (GSR 899-E of 1992) — (Memorandum No. 109)*

3. The Committee were not convinced with the reply furnished by the Ministry of Surface Transport that it had not been possible for them to have GSR number of the principal regulations published on 3.7.1991. The Committee noted that despite their earlier recommendation, the Ministry had failed to indicate the particulars of the principal regulations. However, the Ministry had issued a corrigendum by incorporating a foot note giving the reference of the notification number and the subsequent amendment made thereto vide GSR 715-E dated 23 November, 1993 on this lacuna being pointed out by the Committee. The Committee desired the Ministry to be more careful in future and take necessary measures to ensure that reference to the original 'order' and the subsequent amendments made thereto should invariably bear GSR numbers and the dates of publication

rather than the ministerial file numbers and their dates which had little relevance for the purpose of keeping track of the amendments made to the principal rules from time to time.

**(ii) *The Patents (Amendment) Rules, 1993 (S.O. 889-E of 1993)*
(Memorandum No. 110)**

4. The Committee noted from the reply of the Ministry of Industry that the Department of Publication could receive printed version of the Rules only after 55 days from the Government of India Press which in turn attributed the delay in printing to power failure, inadequate water supply and low voltage. The Committee observed that such delays defeated the very purpose of giving important information in the extraordinary gazette, which was of priority nature. The reasons put forth by the Press were indicative of gross negligence in executing such jobs of priority nature. The Committee, therefore, desired that the Ministry of Urban Affairs and Employment should undertake the review of the functioning of the Government press at the highest level and take all necessary steps to streamline its working and procedure for handling of important legislative measures having a direct bearing for public use without delay.

5. The Committee further noted that the Ministry of Industry had regretted the delay in notifying the final rules in the Gazette and had assured that all out efforts would be made to ensure that such delays would not occur in future.

**(iii) *The New Mangalore Port Trust Employees' (Welfare Fund)*
(Second Amendment) Regulations, 1992 (GSR 889-E of 1992)
(Memorandum No. 111)**

6. The Committee noted that the Ministry of Surface Transport had since notified the requisite corrigendum vide GSR 642-E dated 6 October, 1993 by incorporating the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendment made thereto. The Committee hoped that the Ministry would streamline their procedure in order to ensure that such lapses do not recur in future.

- (iv) *The Tuticorin Port Trust Employees (Leave Travel Concession) First Amendment Regulations, 1992 (GSR 845-E of 1992) (Memorandum No. 112)*

(A)

7. The Committee noted that the Ministry of Surface Transport had issued a corrigendum rectifying the printing errors in the notification vide GSR 89-E dated 10 February, 1994 on the same being pointed out by the Committee. The Committee desired the Ministry to streamline their procedure to ensure that such lapses do not recur in future.

(B)

8. The Committee also noted that the Ministry of Surface Transport had also issued a notification deleting the enabling provisions under regulation 22 in the Tuticorin Port Employees (Leave Travel Concession) First Amendment Regulation, 1992 vide GSR 446-E dated 10 May, 1994.

- (v) *The Ministry of Labour, Library (Group 'C' Posts) Recruitment Rules, 1992 (GSR 395 of 1993) (Memorandum No. 113)*

9. The Committee noted that the Ministry of Labour had since notified the requisite corrigendum vide GSR 398 dated 6 August, 1994 incorporating the correct year 1993 in the short title to the Ministry of Labour, Library (Group 'C' Posts) Recruitment Rules. The Committee hoped that the Ministry would keep necessary checks to ensure that each notification which goes to the press, must be scrutinised meticulously at a sufficiently senior level to obviate any inaccuracy whatsoever.

- (vi) *Amendment to the Ministry of Agriculture (Department of Food, Technical Assistant and Accountant (Junior) Recruitment Rules, 1973 (GSR 501 of 1992) (Memorandum No. 114)*

10. The Committee noted that the Ministry of Food had made necessary entries/corrections, in consultation with the Ministry of Law in the Recruitment Rules only after the error was so pointed out by the Committee. The Committee expected the Ministry to keep necessary checks to ensure that each notification must scrupulously be scrutinised at a sufficiently senior level to obviate inaccuracies in future.

- (vii) *The Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician Recruitment Rules, 1992 (GSR 391 of 1993) (Memorandum No. 115)*

(A)

11. The Committee noted that on being pointed out by them the Ministry of Health and Family Welfare had agreed to indicate the correct year in the short title to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules, 1992. The Committee hoped that the

Ministry would expedite the process of notifying a corrigendum to this effect and would take necessary remedial measures so as to avoid recurrence of such lapses in future.

(B)

12. The Committee further noted that the Ministry of Health and Family Welfare had agreed to amend the term 'Large Hospital' by substituting the term 'atleast a hundred beds hopsital' in column 8 of the Schedule appended to the Jawaharlal Institute of Post Graduate Medical Education and Research, Pondicherry (Senior Operation Theatre Technician) Recruitment Rules. The Committee desired that the Ministry should expedite the process of amending column 8 of the Schedule to this effect at an early date.

(viii) *The National Test House (Group 'A' Posts) Recruitment Rules, 1993 (GSR 140 of 1993) (Memorandum No. 116)*

13. The Committee noted that on being pointed out by them, the Ministry had agreed to issue necessary corrigendum in consultation with the Union Public Service Commission in Col. 10 of the Schedule which had crept due to typographical error in the National Test House (Group 'A' Posts) Recruitment Rules, 1993. The Committee hoped that the Ministry would expedite the process of notifying the corrigendum at an early date and would also evolve suitable procedural safeguards against recurrence of such lapses in future.

(ix) *The Bombay Port Trust (Recruitment of Heads of Department) Regulations, 1993 (Memorandum No. 117)*

14. The Committee considered the above Memorandum and desired the Ministry of Surface Transport to amend Regulation 8 so as to provide for recording and communicating of reasons for reversion to a substantive post or discharge of an officer from service if he was not found fit for permanent appointment or retention in service as the case might be.

(x) *The Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (SRO 142 of 1991) (Memorandum No. 118)*

15. The Committee considered the above memorandum at length and decided not to pursue the matter further. In this regard the Committee observed that Defence. Aeronautical Quality Assurance is a very sensitive area and no sacrifice in the Quality of the work could be tolerated and, therefore, it might not be advisable to communicate the reasons to the concerned to his earlier post. The Committee on reconsideration felt recording of reasons in writing would prove to be an adequate safeguard against arbitrary use of any discretionary power.

16. The Committee then decided to hold their next sitting on Tuesday, 8 August, 1995.

The Committee then adjourned.

The Committee met on Tuesday, 5 December, 1995 from 15.00 to 17.00 hours.

Shri Amal Datta — Chairman

2. Shri Prithviraj D. Chavan
3. Shrimati Bhavna Chikhalia
4. Shri Rajendra Kumar Sharma
5. Shri Pratap Singh
6. Shri Ram Sharan Yadav

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|-----------------------------|---|---------------------------|
| 1. Shrimati Róli Srivastava | — | <i>Joint Secretary</i> |
| 2. Shri P.D.T. Achary | — | <i>Director</i> |
| 3. Shri Ram Autar Ram | — | <i>Deputy Secretary</i> |
| 4. Shri B.D. Swan | — | <i>Assistant Director</i> |

2 to 12. * * * * * *

13. The Committee thereafter considered and adopted their draft Twenty-first and draft Twenty-second Reports for being presented to the House during the ensuing session of the Parliament.

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