

COMMITTEE ON SUBORDINATE LEGISLATION
(2016-2017)

(SIXTEENTH LOK SABHA)

**ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS
/OBSERVATIONS CONTAINED IN THIRTEENTH REPORT (2015-2016) (SIXTEENTH LOK
SABHA)**



LOK SABHA SECRETARIAT

NEW DELHI

COMMITTEE ON SUBORDINATE LEGISLATION
(2016-2017)

(SIXTEENTH LOK SABHA)

NINETEENTH REPORT

**[ACTION TAKEN REPORT OF THE COMMITTEE ON THE RECOMMENDATIONS
/OBSERVATIONS CONTAINED IN THIRTEENTH REPORT (2015-2016) (SIXTEENTH LOK
SABHA)]**

(PRESENTED TO LOK SABHA ON 7.4.2017)



LOK SABHA SECRETARIAT

NEW DELHI

April, 2017/Chaitra, 1939

COSL No.

PRICE: Rs.

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fourteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(16th LOK SABHA)
(2016-2017)

- | | | |
|-----|-----------------------------------|--------------------|
| 1. | Shri Dilipkumar Mansukhlal Gandhi | <u>Chairperson</u> |
| 2. | Shri Idris Ali | |
| 3. | Shri Birendra Kumar Chaudhary | |
| 4. | Shri S. P. Muddahanume Gowda | |
| 5. | Shri Shyama Charan Gupta | |
| 6. | Shri Jhina Hikaka | |
| 7. | Shri Janardan Mishra | |
| 8. | Shri Prem Das Rai | |
| 9. | Shri Chandu Lal Sahu | |
| 10. | Shri Alok Sanjar | |
| 11. | Shri Ram Prasad Sarmah | |
| 12. | Adv. Narendra Keshav Sawaikar | |
| 13. | Shri V. Panneer Selvam | |
| 14. | Shri Ram Kumar Sharma | |
| 15. | Shri Nandi Yellaiah | |

SECRETARIAT

- | | | | |
|----|----------------------|---|----------------------|
| 1. | Smt. Sudesh Luthra | - | Additional Secretary |
| 2. | Shri Ajay Kumar Garg | - | Director |
| 3. | Shri Nabin Kumar Jha | - | Additional Director |
| 4. | Smt. Jagriti Tewatia | - | Deputy Secretary |

INTRODUCTION

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

2. This Report relates to the action taken on the recommendations of the Committee contained in the Thirteenth Report (2016-2017) (Sixteenth Lok Sabha) which was presented to Lok Sabha on 10.8.2016.

3. The Committee considered and adopted this Report at their sitting held on 29.3.2017.

4. The summary of recommendations contained in the Thirteenth Report and action taken reply of the Government thereon have been reproduced in Appendix I of the Report.

5. The Extracts of the Minutes of the sitting of the Committee relevant to this report are brought out in Appendix II.

6. An analysis of the action taken by Government on the recommendations contained in the Thirteenth Report of the Committee (16th Lok Sabha) is given in Appendix III.

**New Delhi;
29 March, 2017/08 Chaitra, 1939**

**DILIPKUMAR MANSUKHLAL GANDHI,
CHAIRPERSON,
COMMITTEE ON SUBORDINATE LEGISLATION**

REPORT

This Report of the Committee on Subordinate Legislation deals with the action taken by the Government on the recommendations contained in their Thirteenth Report (Sixteenth Lok Sabha) which was presented to Lok Sabha on 10.8.2016. The Thirteenth Report dealt with the following Chapters: -

- I. The Directorate of Field Publicity, Ministry of Information and Broadcasting, Multi-tasking Staff Recruitment Rules 2014 (GSR 55 of 2014).
- II. The Central Waqf Council (Group A, B & C Non-Gazetted, Non-Ministerial Posts) Recruitment Rules, 2014 (GSR 363-E of 2014).
- III. Infirmities in the Ministry of Defence, Department of Defence Production, Directorate General of Quality Assurance, Group 'C' posts of Multi Tasking Staff Amendment Recruitment Rules, 2013 (SRO 2)
- IV. The North Eastern Police Academy, Barapani, Group A and B Posts Recruitment Rules, 2014 (GSR 499-E of 2014).

2. The shortcomings observed during scrutiny of the Rules/Order mentioned in Chapters (I) to (IV) above were brought to the notice of the Ministries concerned for their comments/necessary corrective action. The Ministries concerned have accepted those shortcomings and rectified the same. A statement showing the action taken by the Government on the recommendations contained in the Thirteenth Report is given in Appendix.

**New Delhi;
29 March, 2017/08 Chaitra, 1939**

**DILIPKUMAR MANSUKHLAL GANDHI,
CHAIRPERSON,
COMMITTEE ON SUBORDINATE LEGISLATION**

APPENDIX - I

(vide Para 2 of the Report)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS/OBSERVATIONS CONTAINED IN THE THIRTEENTH REPORT OF THE COMMITTEE (16th LOK SABHA)

I. The Directorate of Field Publicity, Ministry of Information and Broadcasting, Multi-tasking Staff Recruitment Rules 2014 (GSR 55 of 2014).

Recommendation of the Committee

1.6 As regards the rationale behind prescribing two sets of criteria in determining the crucial date for determining the age-limit, the Committee note from the clarification furnished by the Ministry that the same was done as per the guidelines dated 30 April, 2010 issued by the nodal Department, that is, DoPT. On scrutiny, the Committee find that according to the guidelines another note was also required to be appended to the entry under Col. 6 stating that 'the crucial date for determining the age limit shall be the closing date for receipt of application in India and not the closing date prescribed for those residing in remote areas viz. Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu & Kashmir State, Lahaul & Spiti District and Pangi Sub-Division of Chamba Division of Himachal Pradesh, Andaman & Nicobar Islands and Lakshadweep...".

(Para 1.6 of the Report)

Reply of the Ministry

During consultation with Ministry of Law & Justice, it was suggested that in case the recruitment is not through Staff Selection Commission, the said Note is required. Since all posts of MTS in DFP are to be recruited only through Staff Selection Commission, the said Note was removed. However, after observations of Committee, the matter was again discussed with Ministry of Law & Justice who, at that state, opined that in case of Model Recruitment Rules for the post of LDC as well as UDC, issued by DoPT, the said Note has not been included under Col.6. Nevertheless for the post of MTS, DoPT has advised the insertion of the same as per their guidelines dated 30th April, 2010.

**[The Ministry of Information & Broadcasting OM No. 20/44/2011-IP&MC dated
28.9.2016]**

Recommendation of the Committee

1.7 The Committee are of the considered view that each and every provision of the Recruitment Rules framed and published by various Ministries / Departments of the Govt. of India needs to be drafted very carefully and meticulously. The absence of a crucial clause safeguarding the interest of applicants residing in remote areas of the country is a serious lapse on the part of the Ministry and reflects cavalier approach on critical issues. The Committee find this as unacceptable. The Committee nevertheless note that on being pointed out, the Ministry has agreed to insert the said note under Col. 6 of the schedule. The Committee, therefore, recommend that the Ministry may bring out the necessary amendment to the Rules at the earliest. The Committee would also like to count on the Ministry be more cautious in future to avoid recurrence of such lapses.

(Para 1.7 of the Report)

Reply of the Ministry

In this regard, the recommendations made by the Committee have been complied with and the necessary amendments in Recruitment Rules of MTS (DFP) have been carried out vide GSR 16 of 2015 dated 25.1.2015. Further, the concerns of the Committee as pointed out above have been noted for strict compliance in future and the Ministry will be more cautious in future to avoid recurrence of such lapses.

[The Ministry of Information & Broadcasting OM No. 20/44/2011-IP&MC dated 28.9.2016]

Recommendation of the Committee

1.8 The Committee are of the considered view that prescribing different criteria for determining the crucial date for determining the age limit in the recruitment rules tends to result in ambiguity and confusion and therefore recommend that the Government consider the feasibility of prescribing a 'specific date' so that no confusion is caused on account of this by maintaining an uniformity in this regard.

(Para 1.8 of the Report)

Reply of the Ministry

The Ministry while drafting the Recruitment Rules for all posts, has been following the guidelines of the nodal Department i.e. DOPT. However, the concern of the Committee has been noted for strict compliance in future.

[The Ministry of Information & Broadcasting OM No. 20/44/2011-IP&MC dated 28.9.2016]

II. The Central Waqf Council (Group A, B & C Non-Gazetted, Non-Ministerial Posts) Recruitment Rules, 2014 (GSR 363-E of 2014).

Recommendations of the Committee

2.3 The Committee note that in Column. 6 for posts listed at Sl.No. 6 to 17 of the Central Waqf Council (Group A, B & C Non-Gazetted, Non-Ministerial Posts) Recruitment Rules, 2014 (GSR 363-E of 2014) under the heading 'Age limit for direct recruits', the 'Note' in regard to crucial date for calculation of the age limit is not in accordance with DOPT guidelines. On being pointed out, the Ministry of Minority Affairs have accepted the infirmity and have proposed to amend the Recruitment Rules to bring it in accordance with DOPT guidelines. The Committee are however of the view that the entire matter reflects callous approach of the Ministry in not adhering to the guidelines prescribed by DOPT in this regard. The Committee, therefore, desire that the Ministry of Minority Affairs keep themselves abreast of the guidelines of the DOPT so that such lapses do not reoccur.

(Para 2.3 of the Report)

2.4. The Committee also observe that the use of the word 'adequate knowledge of computer' at point (iii) under Col. 7 for posts listed at Sl. Nos. 9 & 14 is vague and is contrary to the oft-repeated recommendation of the Committee that use of vague expressions which are likely to be interpreted variedly should be avoided in the rules. In this regard, the Committee note that on this anomaly being pointed out, the Ministry have agreed to amend the entry at point (ii) of Sl. Nos. 9 & 14 to read as 'adequate knowledge of MS Office (MS Word, Excel, Power Point etc.) internet, surfing, e-filing. With a view to ensure that this specific stipulation actually materializes, the Committee recommend that the proposed amendment may be brought out expeditiously and a copy of the same may be furnished to the Committee.

(Para 2.4 of the Report)

Reply of the Ministry

The recommendations made have been accepted and the required amendments in the Central Waqf Council (Group A, B & C) Non-Gazetted, Non-Ministerial Posts) Recruitment Rules, 2014 have been notified in the Gazette of India on 9.1.2017.

**[The Ministry of Minority Affairs (Waqf Division)
OM No. 8/4/2010-Wakf dated 23.1.2017]**

III. Infirmities in the Ministry of Defence, Department of Defence Production, Directorate General of Quality Assurance, Group 'C' posts of Multi Tasking Staff Amendment Recruitment Rules, 2013 (SRO 2)

Recommendations of the Committee

3.4 The Committee note that in the Ministry of Defence, Department of Defence Production, Directorate General of Quality Assurance, Group 'C' posts of Multi Tasking Staff Amendment Recruitment Rules, 2013 (SRO 2) for the post of Multi Tasking Staff (Nursing) under Col. 7, the required educational & other qualifications has been mentioned as 10th Pass from a recognized Board. The Committee, however, find it very strange that even being a 'nursing post', there was no qualification or training involving nursing, was prescribed. In this regard, the Committee however note that on being pointed out, the Ministry admitted that it was an 'over sight' on their part and they agreed to amend the recruitment rules by prescribing 'First Aid and Dressing certificate from St. John's ambulance or equivalent with one year experience in the field work' coupled with Desirable Qualification as 'Training in 'Basic' and 'Refresher' Course in Home Guards/Civil Defence'. The Committee accordingly, recommend that as assured by the Ministry the requisite amendment to the rules are carried out at the earliest, and they be apprised of the action taken in this regard.

(Para 3.4 of the Report)

3.8 The Committee note that in the Ministry of Defence, Department of Defence Production, Directorate General of Quality Assurance, Group 'C' posts of Multi Tasking Staff Amendment Recruitment Rules, 2013 (SRO 2), the year in the short title does not tally with the year of their publication in the Gazette. Accordingly, the matter was taken up with the Ministry of Defence (Department of Defence Production) to ascertain the reasons for deviation from the oft-repeated recommendation of the Committee. The Committee are, however, not inclined to accept the contention of the Ministry that the Notification was dated 11.12.2013 but the same got published in the year 2014 and hence no change is envisaged. Under the circumstances the Committee reiterating their earlier recommendations further recommend the Ministry of Defence to scrupulously follow the recommendations of Committee on Subordinate Legislation while framing rules in future. The Committee also recommend that the Ministry may issue a corrigendum rectifying the error in the short title in order to make it consistent with the 'year' of publication. Further the Ministry should ensure that the 'year' in the short title tally with the year of publication especially when the recruitment rules are sent for printing during the end of a year so that no difficulties are caused in referring the Rules.

(Para 3.8 of the Report)

Reply of the Ministry

With respect to para 3.4 regard Recruitment Rules for the post of MTS (Nursing) have since been amended with concurrence/approval of the Competent Authority incorporating therein the following educational qualification as per the direction.

Essential

- (i) 10th class pass
- (ii) First Aid and Dressing certificate from St. John's ambulance or equivalent with one year experience in the field work.

Desirable

“Training in Basic and Refresher Course in Home Guards/ Civil Defence.”

**[The Ministry of Defence (Department of Defence Production D(QA)
OM No. 12(11)/2016/D(QA) dated 19.10.2016]**

In the para 3.8 of the Report, Committee note that MTS Amendment RRs 2013 (SRO 2), the year in the short title does tally with the year of their publication in the Gazette i.e. 2014. In this connection, it is intimated that a corrigendum to rectify the error is being issued.

**[The Ministry of Defence (Department of Defence Production D(QA)
OM No. 12(11)/2016/D(QA) dated 14.10.2016]**

IV. The North Eastern Police Academy, Barapani, Group A and B Posts Recruitment Rules, 2014 (GSR 499-E of 2014).

Recommendations of the Committee

4.3 The Committee note that in the North Eastern Police Academy Barapani, Group A and B Recruitment Rules, 2014, the probation period prescribed for the post of Assistant Director (Lecturer) was not uniform for direct recruits and promotees. The probation period for the direct recruits has been mentioned as one year while that for the promotees as two years. The Committee are distressed to note that discrimination of probation period was unjust as person with experience i.e. promotee was prescribed a two year probation period and a new recruit was prescribed a probation period of one year. Hence, by unduly prescribing a higher probation period for an experienced person as compared to new recruit *per se* reflects not only a discrimination in terms of the period of probation but is also a camouflaged discrimination between an experienced person and a novice. It is precisely the reason due to which the Committee have time and again recommended that uniform probation period should be prescribed for both promotees and direct recruits. The Committee note that on being pointed out, the Ministry of Home Affairs took up the matter with UPSC for clarification as the different probation period was based on the advise of UPSC. In this regard, the Committee note that UPSC had subsequently revised their advise by prescribing a uniform period of probation of 1 year for both direct recruits and promotees. The Committee however, note that the Ministry of Home Affairs *vide* their OM dated 5 June, 2015 have further submitted that for amendment, as advised by UPSC *vide* their letter dated 26 May, 2015 in the notified RRs, consultation of the Ministry of Law (Department of Legal and official language) is required. The Committee, therefore, recommend that the Ministry may expedite the matter and bring out the amendment notification urgently and forward a copy of the same to the Committee.

(Para 4.3 of the Report)

4.4 The Committee further note with concern that though the Ministry *vide* its letter dated 19.5.2014 had on its own sought clarification from UPSC for making the Probation period provision as 1 year for Direct Recruits and 2 years for promotees, it still didn't wait for response from the UPSC and got the notification published in haste on 14 July 2014 by mentioning the same probation period on which clarification from UPSC was awaited. This reflected the lackadaisical approach of the Ministry with regard to getting the Gazette Notification printed. The Committee, therefore, recommend the Ministry to be more cautious in future in this regard.

(Para 4.4 of the Report)

4.5 The Committee also express their grave displeasure that the UPSC, the premier recruiting agency had initially prescribed a discriminatory probation period for the post of Assistant Director (Lecturer) for direct recruits and promotees, thereby, undermining the experienced candidates by prescribing a higher probation period for them. Further, it took more than a year to respond to the clarification sought by the Ministry *vide* their OM dated 19.5.2014 in this regard. The Committee, therefore, desire that the UPSC be more prompt and considerate while vetting the rules so as to avoid recurrence of such types of discrimination in the recruitment rules in future.

(Para 4.5 of the Report)

Reply of the Ministry

In compliance of the directions of Committee, the matter was examined in consultation with the Union Public Service Commission & Ministry of Law and the probation period under column (9) of the Recruitment Rules (RR) in respect of the post of Assistant Director (Lecturer), North Eastern Police Academy (NEPA) has been uniformity prescribed as 01 year both for 'promotee and direct recruits. The revised RR (Amendment) containing the uniform probation period was notified on 17.9.2015. A copy thereof was forwarded to Lok Sabha Secretariat on 23.11.2015. It is submitted that the observation of the Committee in para 4.4 & 4.5 has been duly noted and will be taken care of in future. In view of the above, Lok Sabha Secretariat (Committee on Subordinate Legislation) is requested to treat the para No 4.3, 4.4 & 4.5 of the Thirteenth Report (Sixteenth Lok Sabha) of the Committee on Subordinate Legislation as complied with.

[The Ministry of Home Affairs, OM No. F.No. 23012/01/2016-PC (Part-I)]

APPENDIX-II
(vide Para 5 of Introduction of the Report)

**EXTRACTS FROM THE TENTH SITTING OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (2016-2017)**

The Tenth sitting of the Committee (2016-17) was held on Wednesday, the 29th March, 2017 from 1500 to 1615 hours in Committee Room 'D', Parliament House Annexe, New Delhi .

PRESENT

1. Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

2. Shri Birendra Kumar Chaudhary
3. Shri Shyama Charan Gupta
4. Shri Janardan Misra
5. Shri Chandu Lal Sahu
6. Shri Alok Sanjar
7. Adv. Narendra Keshav Sawaikar
8. Shri Ram Kumar Sharma

SECRETARIAT

- | | | | |
|----|----------------------|---|----------------------|
| 1. | Smt Sudesh Luthra | - | Additional Secretary |
| 2. | Shri Ajay Kumar Garg | - | Director |
| 3. | Shri Nabin Kumar Jha | - | Addl. Director |
| 4. | Smt Jagriti Tewatia | - | Deputy Secretary |

XX XX XX

2. At the outset, the Chairperson welcomed the Members of the Committee. The Committee then considered the draft Nineteenth Action Taken Report and adopted the same without any modifications. The Committee also authorised the Chairperson to finalise the Report on their behalf and present the same to the House.

3. XX XX XX

4. XX XX XX

5. XX XX XX

6. XX XX XX

7. XX XX XX

8. XX XX XX

The Committee then adjourned.

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

APPENDIX-III

(vide para 6 of Introduction of the Report)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE THIRTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTEENTH LOK SABHA)

I.	Total No. of recommendations/observations made	10
II.	Recommendations that have been accepted by the Government [<u>vide</u> recommendations at Sl. Nos. 1.6, 1.7,1.8, 2.3, 2.4, 3.4, 3.8, 4.3. 4.4 & 4.5]	10
III.	No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV.	Percentage of recommendations accepted	100%

