

COMMITTEE ON SUBORDINATE LEGISLATION

(TENTH LOK SABHA)

TWELFTH REPORT

[Presented on 25 August, 1994]



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TO

THE TWELFTH REPORT OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (TENTH LOK SABHA)

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7.	12	2 from bottom	In reply dated 30 November, 1992	In a reply dated 30 November, 1992
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COMPOSITION OF THE COMMITTEE ON SUBORDINATE
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(1993-94)

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| Shri R. Kothandaraman | — <i>Assistant Director</i> |

REPORT

I

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee at their sittings held on 25 January and 31 March, 1994.

3. The Committee considered and adopted this Report at their sitting held on 11 April, 1994. The Minutes of the sittings relevant to this Report are appended to it.

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

II

THE CENTRAL FOOD LABORATORY, CALCUTTA (SENIOR ANALYST) AMENDMENT RECRUITMENT RULES, 1992 (GSR 25 of 1992)

5. The Central Food Laboratory, Calcutta (Senior Analyst) Amendment Recruitment Rules, 1992 were published in the Gazette of India, dated 10 January, 1992. Column 10 of the Schedule appended to the Amendment Rules laid down the period of probation as one year for direct recruits and two years for promotees with the same qualifications. The concerned Ministry of Health and Family Welfare were asked to state the rationale for prescribing a longer probation period for promotees as compared to the direct recruits and for treating the candidates at different footings in the matter of probation. In a reply dated 2 November, 1992, the Ministry stated as under:—

“....two period of deputation for direct recruits is one year and in case the post is filled up by promotion, it is two years, as per the provisions contained in para 3.11.2 of the revised guidelines for framing Recruitment Rules Amendment issued by the Department of Personnel and Training *vide* their O.M. No. AB 14017-72/87-Estt. (RR) dated 10.3.1988.”

6. In the light of the above reply, the matter was taken up with the Ministry of Personnel, Public Grievances and Pensions (Department of

Personnel and Training) for further clarification. In a reply dated 18 May, 1993, the Department of Personnel and Training stated as under:—

“It is observed that the recruitment rules for the post of Senior Analyst in the Central Food Laboratory provide for one year probation for Direct recruits and two years probation for promotees. Seen separately, the period of probation of prescribed are in accordance with this Department's guidelines vide O.M. No. 21011/2/80-Estt. (C) dated 19.5.1983 (copy enclosed)”

However, our instructions do not cover a situation where recruitment rules for a post provide for direct recruitment as well as promotion and the period of probation for the two categories of appointees turns out to be different with reference to the guidelines prescribed in the instructions. Ordinarily, the period of probation prescribed for appointees to a post should be the same whether they are appointed by the direct recruitment or promotion. In this case, therefore, Department feels that the period of probation should be one year in the case of promotees as well as direct recruits.”

7. The Committee note from the reply of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) that their instructions do not cover a situation where recruitment rules for any post simultaneously provide for direct recruitment as well as promotion in regard to prescribing the period of probation. However, the Ministry are of the view that ordinarily, the period of probation prescribed for appointees to a post should be the same whether they are appointed by direct recruitment or promotion. In the light of the above clarifications, the Committee hope that there should be no difficulty for the Ministry of Health and Family Welfare to amending the Central Food Laboratory, Calcutta (Senior Analyst) Recruitment Rules to prescribe a uniform period of probation both for direct recruits as well as the promotees in all fairness. The Committee desire the Ministry to bring forth the requisite amendment at an early date. The Committee would also like the Ministry of Personnel to suitably revise their instructions to make them unambiguous for facility of the administrative Ministries/Departments.

III

THE UNIVERSITY GRANTS COMMISSION (RECRUITMENT) (AMENDMENT) RULES, 1990 (GSR 300 of 1992)

8. The University Grants Commission (Recruitment) (Amendment) Rules, 1990 were published in the official Gazette dated 4 July, 1992 but were deemed to have come into force on 3 April, 1990 retrospectively. However, the notification containing the amendment rules depicted

10 January, 1990 as its date of issue. This led to the belief that the notification was indeed issued in January, 1990 to come into force from 3 April, 1990 without any element or retrospective application and in its short title, the year was also then rightly indicated as 1990. The concerned Ministry of Human Resource Development (Department of Education) were asked to state the reasons for delayed publication of the notification after a gap of about 30 months in the official gazette in July, 1992 and for not indicating the correct year of publication in its short title. In a reply dated 1 June, 1993, the Ministry stated as under:—

“A copy of English version of Notification was sent to the Government of India Press, New Delhi, on 10.1.90 for publication in Gazettee of India. However, during January, 1990 itself the press pointed out that all the Notification/Orders etc. are required to be published in English and Hindi simultaneously and asked for the Hindi version of the Notification. The same was accordingly made available to them during February, 1990. Subsequently, in May, 1992, in reply to a letter from UGC the Government of India Press, New Delhi informed that both English and Hindi version of Notifications dated 10.1.90 do not appear to have been received in that office. Accordingly, the copies of Hindi and English version of Notification were made available to the Press for publication in the Gazette of India. However, as we had only forwarded the copies of the Notification dated 10.1.90 to press in 1992, the year in the short title remained as 1990.”

9. The Committee find that the Ministry of Human Resource Development (Department of Education) initially forwarded only the English version of the University Grants Commission (Recruitment) (Amendment) Rules, 1990 for publication in the official gazette. When the Government of India Press pointed out that both English and Hindi versions were needed to be simultaneously published, the Ministry then forwarded its Hindi version also. However, in May, 1992, the Ministry came to know from a reply given to a letter from the University Grants Commission in this regard that both the versions had not reached the Government of India Press. The Ministry again forwarded the notification dated 10 January, 1990 for publication in the gazette, the year its short title remaining as 1990.

10. The Committee are constrained to note that the whole matter has been dealt with by the Ministry with an amount of laxity at all stages of the process. Had the Ministry taken up the matter with the seriousness it deserved, the delay could have been averted. They have also not shown any readiness to rectify the error even when pointed out by the Committee. The Committee cannot but deplore the grossly negligent attitude displayed by the Ministry in handling the important legislative measure. The Committee need hardly emphasize that the responsibility of a Ministry does not cease with the sending of a notification to the Press. They must ensure that the notification is correctly printed and if necessary, issue corrigenda etc. to

rectify any errors. The Committee hope that the Ministry would take suitable corrective measures to plug any loopholes in the procedure.

IV

AMENDMENT TO THE GENERAL RESERVE ENGINEER FORCE GROUP 'B' POSTS (NON-GAZETTED) RECRUITMENT RULES, 1982 (GSR 214 OF 1992)

11. An amendment to the General Reserve Engineer Force Group 'B' Posts (Non-Gazetted) Recruitment Rules, 1982 was notified in the Gazette of India dated 9 May, 1992 with the following short title :—

“These rules may be called General Central Services, Group 'B' posts (Amendment) Rules, 1992.”

12. Obviously, the short title assigned to the notification was inconsistent with the recruitment rules sought to be amended. The concerned Ministry of Surface Transport were enquired whether the error had been rectified. In a reply dated 6 August, 1993, the Ministry stated that an amendment notification dated 30 July, 1993 had since been sent for publication in the official gazette. Later, the amendment notification appeared in the Gazette of India dated 4 September, 1993 under GSR No. 443. The notification substituted the original sub-rule to read as under :—

“These rules may be called the General Reserve Engineer Force Group 'B' posts (Non-Gazetted) Recruitment Amendment Rules, 1992.”

13. The Committee note that on being pointed out, the Ministry of Surface Transport have rectified the error in the short title to make it in consonance with the recruitment rules pertaining to the General Reserve Engineer Force *vide* G.S.R. 443 dated 4 September, 1993. However, the fact remains that the Ministry had moved in the matter only after the error was pointed out to them by the Committee. This was illustrative of the scant attention with which the statutory powers like the formulation of the statutory rules were being exercised in the Ministry. The Committee expect the Ministry to be far more vigilant in the processing the matter involving exercise of rule-making power conferred upon them by the statutes and to evolve suitable procedural safeguards including monitoring at a pretty senior level of officers to prevent recurrence of such lapses.

**THE DRUGS AND COSMETICS (THIRD AMENDMENT)
RULES, 1992
(GSR 597-E OF 1992)**

14. The Drugs and Cosmetics (Third Amendment) Rules, 1992 were published in the Gazette of India dated 17 June, 1992, but were deemed to come into force after the expiry of six months from the date of their publication in the official gazette. Ordinarily, all rules and amendments thereto are set to come into force immediately on their publication in the official gazette. The concerned Ministry of Health and Family Welfare were enquired of the rationale for enforcing the amendment rules after six months of their publication in the official gazette and whether it would not have been expedient to fix a firm date instead. In a reply dated April, 1993 the Ministry stated as under:—

“The rationale for enforcing the Rules after six months of the publication in the official gazette was that certain time period was to be given to the Industry to switchover to the new colour coding requirements as the Pharmaceutical Industry had represented that they had huge stocks of the printed packing material including Aluminium foil, printed cartons etc. A firm date could not be given in the notification as the period of six months is counted from the date the printed copies are made available to the public by the Controller of Publications.”

15. The Committee note from the reply of the Ministry of Health and Family Welfare that the Drugs and Cosmetics (Third Amendment) Rules have been given prospective effect so as to come into force after six months of their publication in the official gazette as certain time period was to be given to the pharmaceutical industry to switchover to the new colour coding requirements and to make allowance for the huge stocks of the printed packing material lying with it.

16. The Committee further note from the reply that a firm date of coming into force of the amendment rules could not be given as the period of six months for enforcement thereof was to be counted from the date when the printed copies of the gazette were made available to the public by the Controller of Publications. However, the Committee note with surprise that this contention of the Ministry is not at all borne out by the facts for the gazette notification unambiguously lays down that it shall come into force after six months from the date of publication in the official gazette and not from the date when copies thereof were made available to the public. With a view to ward off any uncertainties in the mind of the concerned public as to the exact date of application of the amendment rules, the Committee are of the opinion that the Ministry should indicate a firm date of enforcement in the gazette notification itself in such cases in future.

VI

**THE PREVENTION OF FOOD ADULTERATION
(THIRD AMENDMENT) RULES, 1991
(GSR 124-E OF 1991)**

17. The Prevention of Food Adulteration (Third Amendment) Rules, 1991 were published in the Gazette of India: Extraordinary dated 5 March, 1991. It was observed from its preamble that certain draft rules were published in the Extraordinary Gazette dated 24 July, 1990 but the copies thereof were made available to the public on 7 September, 1990 *i.e.* after a gap of 45 days. The concerned Ministry of Health and Family Welfare were enquired of the reasons for such inordinate delay. In a reply dated 13 May, 1992, the Ministry stated as under:—

“The undersigned is directed’to enclose a photocopy of letter No. RRP/Ptg/Misc/92(344) dated 20/4/92 which is self-explanatory. It is further stated that the matter has also been taken up with Director of Printing in another case impressing upon Government of India Press to give priority to printing of Notifications in future.”

18. In the aforesaid letter the Government of India Press has summed up the position as under:—

“.....the job in question was received in the press on 20.4.1992 for execution. Due to some over riding priority given to certain jobs, clearance of pending jobs like weekly issue of Gazette of India and Extraordinary Gazette poor attendance in the press due to implementation of Mandal Commission Report by the Govt., and also frequent load shedding, low voltage, short supply of water from NDMC/MC the job in question could not be printed off timely.”

19. The Committee note with concern that the gazette notification dated 24 July, 1990 containing the draft amendments to the Prevention of Food Adulteration Rules was made available to the public on 7 September, 1990 *i.e.* after a time-gap of 45 days. The Committee are constrained to observe that such inordinate delays tend to frustrate the very purpose of publishing urgent legislative matters in the extraordinary gazette which is expected to reach the public immediately. Ordinarily, the matters meant for inclusion in the extraordinary gazette are of priority nature and thus intended to reach the hands of public simultaneously. The official gazette being an authentic instrument of notifying governmental decisions not only demands utmost care and precision in its printing but as well requires an efficient network for its expeditious delivery to the general public. In the opinion of the Committee, the Government of India Press had not been able to measure upto the mark in executing the job with the earnestness it deserved. The

reasons like over-riding priority to certain jobs, poor staff attendance, load-shedding, low voltage, shortage of water etc. as put forth by the Press are merely suggestive of gross neglect and inefficiency in its day to day working. The Committee would like the Ministry of Urban Development to undertake a comprehensive review of the functioning of the Press at the highest level and take all necessary steps to streamline its working and procedure for efficient and expeditious handling of important legislative matters having a direct bearing on the public at large, without delay.

VII

THE CENTRAL INSTITUTE OF COASTAL ENGINEERING FOR FISHERY DAFTRY GROUP 'D' RECRUITMENT RULES, 1992 (GSR 178 OF 1993)

20. Under Column 11 of the Schedule appended to the Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules, the Government were required to prescribe the method of recruitment to the post of Daftry. Instead, the entry made thereunder read as 'Not applicable' which was obviously inappropriate in the scheme of things mentioned in Column 12 of the Schedule which specified the grade post from which promotions were to be made. The matter was taken up with the concerned Ministry of Agriculture (Department of Agriculture and Cooperation). In a reply dated 2 November, 1993, the Ministry stated as under:—

"In column 11, the correct entry 'by promotion' was inadvertently notified as 'not applicable' on account of a typographical error. This has also been corrected vide the enclosed corrigendum. The errors are regretted."

21. The Committee note that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have since notified the requisite corrigendum *vide* G.S.R. 588 dated 27 November, 1993 to incorporate the correct entry 'by promotion' under Column 11 of the Schedule to the Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules. The Committee also note that the Ministry have regretted the error that had crept into the statutory rules inadvertently. The Committee trust the Ministry would take necessary corrective measures to prevent recurrence of such lapses.

VIII

**THE DEPARTMENT OF TELECOMMUNICATIONS, ASSISTANT
ACCOUNTS OFFICER RECRUITMENT RULES, 1991
(GSR 217 OF 1992)**

22. The Department of Telecommunications, Assistant Accounts Officer Recruitment Rules, 1991 were published in the Gazette of India dated 9 May, 1992. Though these rules were published in the official gazette in the year 1992, the short-title bore the year as 1991. Ordinarily, the year in the short-title to the rules should conform to the year of their publication in the official gazette. Attention of the concerned Ministry of Communications was invited to this well accepted practice. In a reply dated 13 July, 1993, the Ministry stated as under:—

“It is clarified that the RRs were finalised and English version of the same was vetted by the Ministry of Law in 1991 itself. The Hindi version was however done in 1992 and the RRs were sent for notification in the month of April, 1992. The short-title as vetted by the Ministry of Law was not altered hence in the publication it remained 1992.”

23. The Committee are not satisfied with the reply of the Ministry of Communications. In this connection, the Committee cannot but reiterate their earlier observations made in paras 27-28 of Fifth Report (Fifth Lok Sabha), namely:—

“The Committee regret to note that the error in indication of correct year in short-title of Rules/Regulations etc. has been found to be recurring year after year. It is a well accepted practice that short-title of Rules, Regulations, Bye-laws, etc. should bear the year in which they are published and not some other year.....The Committee re-impress upon Ministries/ Departments of the Government the need for indication of correct year in the short-title.

The Committee also note that in a large number of cases the error occurs due to the fact that while the Rules are sent by the Ministries/ Departments for publication towards the end of a year, these are published by the press in the next year. The Committee desire, the Ministry of Law and Justice (Legislative Department) to devise, in consultation with the Government of India Press, some procedure for making a consequential change in the short-title in such cases.”

24. The Committee hope the Ministry would streamline the procedure including monitoring by superior officers with a view to eliminate the errors and omissions of the like nature in future, in consultation with the Ministry of Law and Justice.

IX

**THE CENTRAL INSTITUTE OF COASTAL ENGINEERING FOR
FISHERY DAFTRY GROUP 'D' RECRUITMENT RULES, 1992
(GSR 178 OF 1993)**

25. The Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules, 1992 were published in the Gazette of India dated 3 April, 1993. It was noticed that the short title to the recruitment rules bore the year as 1992 whereas the rules were published in the year 1993. Normally, the year in the short title to the rules should correspond to the year of their publication in the official gazette. The matter was taken up with the concerned Ministry of Agriculture (Department of Agriculture and Cooperation). In a reply dated 2 November, 1993, the Ministry stated as under:—

"Short title: The draft Recruitment Rules were formulated and the English version approved by the Ministry of Law in 1992 but actually notified in 1993. At the time of notification, it was inadvertently omitted to change the year as 1993. This has now been corrected by a corrigendum..... The errors are regretted."

26. The Committee note that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have since notified the requisite corrigendum *vide* G.S.R. 588 dated 27 November, 1993 incorporating the correct year 1993 in the short title to the Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules. The Committee also note that the Ministry have regretted the error that had crept into the statutory rules inadvertently. The Committee trust the Ministry would take necessary corrective measures to check recurrence of such lapses.

X

**THE INDIA GOVERNMENT MINTS, CALCUTTA
(GROUP 'D' POSTS) RECRUITMENT RULES, 1990
(GSR 314 OF 1992)**

27. The India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules, 1990 were published in the Gazette of India dated 11 July, 1992. Though these rules were notified in the official gazette in the year 1992, but the year in the short title was wrongly indicated as 1990. ordinarily, the year in the short title to the rules should conform to the year of their publication in the official gazette. The matter was taken up with the concerned Ministry of Finance (Department of Economic Affairs). In a reply dated 7 April, 1993, the Ministry conveyed that they had no objection to amending the rules to the necessary effect. Accordingly, an amendment notification was published in the official gazette *vide* GSR 532

dated 30 October, 1993 incorporating the correct year in the short title to the recruitment rules.

28. The Committee note that on being pointed out, the Ministry of Finance (Department of Economic Affairs) have issued an amendment notification *vide* GSR 532 dated 30 October, 1993 to denote the correct year in the short title to the India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules. The Committee trust that with a view to obviate such errors in future, the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system.

XI

THE INSURANCE (AMENDMENT) RULES, 1992 (S.O. 961 OF 1992)

29. The Insurance (Amendment) Rules, 1992 were published in the Gazettee of India dated 4 April, 1992. It was noticed therefrom that the notification did not contain the usual foot-note indicating the particulars of publication of the principal rules and the subsequent amendments made thereto for facility of reference. Attention of the concerned Ministry of Finance (Insurance Division) was drawn to the earlier observations of the Committee made in para 45 of 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.”

30. In a reply dated 15 February, 1993 the Ministry stated as under:—

“...in future the previous reference of the amendments in the rules or the SRO numbers of the previous amendments or the original rules will be cited in a foot-note below the notifications.

Inconvenience caused in the matter is regretted.”

31. The Committee are constrained to note that despite their categorical undertaking, the Ministry of Finance (Department of Economic Affairs) have once again failed to indicate the particulars of publication of the principal rules and the subsequent amendments by way of foot-note to the Insurance (Amendment) Rules, 1992 for facility of reference. The Committee trust that with a view to obviate such errors in future, the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system.

XII

(I) THE BAGGAGE (AMENDMENT) RULES, 1992
(GSR 249-E OF 1992);

(II) THE TRANSFER OF RESIDENCE (AMENDMENT) RULES, 1992

(GSR 250-E OF 1992); AND

(III) THE TOURIST BAGGAGE (AMENDMENT) RULES, 1992
(GSR 604-E OF 1992).

32. The Baggage (Amendment) Rules, 1992 were published in the Gazette of India: Extraordinary dated 1 March, 1992. It was noticed that the notification did not contain the usual foot-note indicating the particulars of publication of the principal rules and the subsequent amendments made thereto, for facility of reference. The concerned Ministry of Finance were asked to state if any corrigenda to rectify the error had been issued.

33. Similar references were made in respect of the Transfer of Residence (Amendment) Rules, 1992 and the Tourist Baggage (Amendment) Rules, 1992.

34. In reply dated 13 December, 1993, the Ministry stated as under:—

“...it is regretted that Foot-note showing the principal rule and subsequent amendments issued prior to the notification in question have not been shown as a foot-note in the notification. This lapse has been noted, and, in future, all notifications will include Foot-note showing the principal rules and subsequent amendments made, if any.”

35. The Committee note that the Ministry of Finance (Department of Revenue) have accepted the lapse on their part in not appending the particulars of publication of the principal rules and subsequent amendments by way of a foot-note to the gazette notifications in question and further assured that in future, the requisite foot-note would be incorporated in all the notifications for facility of reference. The Committee trust the Ministry would keep their assurance in the matter and exercise due care and proper monitoring at a Senior level of officers to evolve a fool-proof system.

XIII

THE DRUGS AND COSMETICS (THIRD AMENDMENT) RULES, 1992

(GSR 597-E OF 1992)

36. The Drugs and Cosmetics (Third Amendment) Rules, 1992 were published in the official gazette dated 17 June, 1992. It was gathered from the short title assigned to the notification that this was the third amendment made to the principal rules during the year 1992. However, in

the foot-note appended to the notification, the particulars of first and second amendments made during the year 1992 had not been included. The matter was taken up with the concerned Ministry of Health and Family Welfare for clarification. In reply, the Ministry stated as under:—

“The particulars of last two amendments made during the year 1992 could not be given in the foot-note as the GSR numbers were not received from the Govt. of India Press at the time of sending the notification to the Press. This will, however, be ensured in future.”

37. The Committee note that the particulars of the last two amendments made to the Drugs and Cosmetics Rules during the year 1992 did not find mention in the foot-note for want of their gazette numbers. In the opinion of the Committee, the place of non-availability of gazette numbers is not tenable. The Committee feel that the Ministry should have ascertained the gazette numbers from the Government of India Press which they, in fact, failed to do. The Committee need hardly emphasise that the very purpose of providing a foot-note to the amending rules, has been to facilitate easy referencing of such amendments from time to time. The Committee hope that the Ministry would exercise due vigilance leaving no room for laxity in the matter of drafting the statutory amendments in future.

XIV

THE MINISTRY OF HOME AFFAIRS (GROUP ‘C’ POSTS) RECRUITMENT (AMENDMENT) RULES, 1992 (GSR 157 OF 1992)

38. The Ministry of Home Affairs (Group ‘C’ Posts Recruitment (Amendment) Rules, 1992 were published in the Gazette of India dated 4 April, 1992 and sought to re-designate the posts of Senior and Junior Library Attendants as Library Clerk and Senior Library Attendant respectively. However, the notification did not contain the usual foot-note indicating the particulars of the principal rules and the subsequent amendments made thereto, for facility of reference. In this connection, attention of the concerned Ministry of Home Affairs was drawn to the earlier observations of the Committee on Subordinate Legislation made in para 87 of Sixth Report (Seventh Lok Sabha), namely—

“The Committee are unhappy to note that their recommendation regarding giving of foot-notes 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.”

39. In reply dated 30 November, 1992, the Ministry stated as under:—

“.....that the matter has been considered carefully. It is proposed to

review the recruitment rules for the post of 'Library Clerk' & 'Senior Library Attendant' and notify these rules in supersession of the existing rules, after incorporating the necessary changes. In view of the position it may not be necessary to amend the recruitment rules for the above posts incorporating 'foot-note'..... A copy each of the amended rules when notified will also be made available to Lok Sabha Secretariat."

40. The Committee note from the reply of the Ministry of Home Affairs that a review of the recruitment rules for the posts of Library Clerk and Senior Library Attendant was underway and the fresh recruitment rules would be notified in supersession of the existing ones after incorporating the necessary changes. In view of this position, they did not consider it necessary to incorporate a foot-note giving particulars of publication of the principal rules and the subsequent amendments at this stage.

41. The Committee would like to record their displeasure that the Ministry have not come out with a straight reply for non-compliance of their recommendation while notifying the extant amendment rules. With a view to obviate such errors in future, the Committee recommend that the Ministry would exercise due care and evolve suitable procedural safeguards and monitoring by superior officers lest such omissions are repeated time and again.

XV

THE SECURITIES CONTRACTS (REGULATION) AMENDMENT RULES, 1992 (GSR 870-E OF 1992)

42. The Securities Contracts (Regulation) Amendment Rules, 1992 were published in the Gazette of India; Extraordinary dated 13 November, 1992. It was noticed that the notification did not contain the usual foot-note indicating the particulars of the publication of the principal rules and the subsequent amendments made thereto, for facility of reference. The concerned Ministry of Finance were enquired whether any corrigendum had since been issued to rectify the error. In a reply dated 13 September, 1993, the Ministry stated as under:—

"This Ministry has issued Notification on 26th August, 1993 for publication of corrigendum in the Gazette of India, Extraordinary, Part II, Section 3(i) dated 26th August, 1993."

43. The Committee note that on being pointed out, the Ministry of Finance (Department of Economic Affairs) have since issued a Corrigendum to the Securities Contracts (Regulation) Amendment Rules, 1992 indicating the particulars of publication of the principal rules *vide* G.S.R. 579-E dated 26 August, 1993, for facility of reference. However, the fact remains that the Ministry had moved in only after the error was pointed

out to them. The Committee trust that the Ministry would exercise due care and evolve suitable procedural safeguards to obviate such errors in future.

XVI

THE PREVENTION OF FOOD ADULTERATION (THIRD AMENDMENT) RULES, 1991 (GSR 124-E OF 1991)

44. The Prevention of Food Adulteration (Third Amendment) Rules, 1991 were published in the official gazette dated 5 March, 1991. It was observed from the foot-note appended thereto that it contained particulars of publication of the principal rules and subsequent amendments thereto upto 7 September, 1990 only. It did not include any information about the amendments made during the year 1991 prior to the issue of the instant amendment. The matter was taken up with the Ministry of Health and Family Welfare for clarification. In reply, the Ministry stated as under:—

“As regards Foot-note, the GSR No./dates of amendment prior to 1991 could not be added due to typographical mistake.”

45. The Committee note that the Ministry of Health and Family Welfare have attributed the lapse in not indicating the particulars of publication of the amendments made during the year 1991 in the foot-note appended to the Prevention of Food Adulteration (Third Amendment) Rules to some typographical mistakes. The Committee do not consider it a healthy state of affairs. The Committee hope that the Ministry would exercise due vigilance in processing the important legislative matters in future and take necessary corrective measures including monitoring by senior officers to prevent recurrence of lapses of like nature.

XVII

THE RAILWAYS RED TARIFF (AMENDMENT) RULES, 1992 (GSR 275 of 1992)

46. The Railways Red Tariff (Amendment) Rules, 1992 were published in the Gazette of India, dated 6 June, 1992. It was noticed that the notification did not contain the usual foot-note indicating the particulars of publication of the principal rules and the subsequent amendments made thereto, for facility of reference. The concerned Ministry of Railways were asked to state whether they had any objection to amending the notification to the desired effect. In a reply dated 4 January, 1993, the Ministry stated as under:—

“....Since it was the 1st and the only amendment made in the Railways Red Tariff Rules, 1960 during the course of the year 1992, hence requirement of a foot-note in this case does not appear to be necessary.”

47. The Committee do not consider the reply of the Ministry of Railways as satisfactory. The Railways Red Tariff Rules, Originally framed in the year 1960, have been subjected to a number of amendments from time to time. The amendment under reference is yet another link in the chain of amendments. The plea advanced by the Ministry that it was the only amendment made during the year 1992 is not at all tenable. The Committee cannot but reiterate their earlier observations made in Para 87 of Sixth Report (Seventh Lok Sabha), namely:—

“The Committee are unhappy to note that their recommendation regarding giving of foot-notes 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.”

48. The Committee trust that the Ministry of Railways would follow the recommendation of the Committee in letter and spirit hence forth. With a view to obviate such errors in future, the Ministry should device suitable procedural safeguards including monitoring by superior officers.

NEW DELHI;
April, 1994

Chaitra, 1916 (Saka)

AMAL DATTA,
Chairman,
Committee on Subordinate Legislation.

APPENDICES

APPENDIX-I

(Vide para 4 of the Report)

Summary of Recommendations made in the Twelfth 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.	7	<p>The Committee note from the reply of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) that their instructions do not cover a situation where recruitment rules for any post simultaneously provide for direct recruitment as well as promotion in regard to prescribing the period of probation. However, the Ministry are of the view that ordinarily, the period of probation prescribed for appointees to a post should be the same whether they are appointed by direct recruitment or promotion.</p> <p>In the light of the above clarifications, the Committee hope that there should be no difficulty for the Ministry of Health and Family Welfare to amending the Central Food Laboratory, Calcutta (Senior Analyst) Recruitment rules to prescribe a uniform period of probation both for direct recruits as well as the promotees in all fairness. The Committee desire the Ministry to bring forth the requisite amendment at an early date. The Committee would also like the Ministry of Personnel to suitably revise their instructions to make them unambiguous for facility of the administrative Ministries/Departments.</p>
2.	9 and 10	<p>The Committee find that the Ministry of Human Resource Development (Department of Education) initially forwarded only the English version of the University Grants Commission (Recruitment)</p>

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(Amendment) Rules, 1990 for publication in the official gazette. When the Government of India Press pointed out that both English and Hindi versions were needed to be simultaneously published, the Ministry then forwarded its Hindi version also. However, in May, 1992, the Ministry came to know from a reply given to a letter from the University Grants Commission in this regard that both the versions had not reached the Government of India Press. The Ministry again forwarded the notification dated 10 January, 1990 for publication in the gazette, the year in its short title remaining as 1990.

The Committee are constrained to note that the whole matter has been dealt with by the Ministry with an amount of laxity at all stages of the process. Had the Ministry taken up the matter with the seriousness it deserved, the delay could have been averted. They have also not shown any readiness to rectify the error even when pointed out by the Committee. The Committee cannot but deplore the grossly negligent attitude displayed by the Ministry in handling the important legislative measure. The Committee need hardly emphasize that the responsibility of a Ministry does not cease with the sending of a notification to the Press. They must ensure that the notification is correctly printed and if necessary, issue corrigenda etc. to rectify any errors. The Committee hope that the Ministry would take suitable corrective measures to plug any loopholes in the procedure.

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The Committee note that on being pointed out, the Ministry of Surface Transport have rectified the error in the short title to make it in consonance with the recruitment rules pertaining to the General Reserve Engineer Force *vide* G.S.R. 443 dated 4 September, 1993. However, the fact remains that the Ministry had moved in the matter only after the error was pointed out to them by the Committee. This was illustrative of the scant attention with which the statutory powers like the formulation of the statutory rules were being exercised in the Ministry. The Committee expect the Ministry to be far more

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vigilant in the processing the matter involving exercise of rule-making power conferred upon them by the statutes and to evolve suitable procedural safeguards including monitoring at a pretty senior level of officers to prevent recurrence of such lapses.

4. 15 and 16

The Committee note from the reply of the Ministry of Health and Family Welfare that the Drugs and Cosmetics (Third Amendment) Rules have been given prospective effect so as to come into force after six months of their publication in the official gazette as certain time period was to be given to the pharmaceutical industry to switchover to the new colour coding requirements and to make allowance for the huge stocks of the printed packing material lying with it.

The Committee further note from the reply that a firm date of coming into force of the amendment rules could not be given as the period of six months for enforcement thereof was to be counted from the date when the printed copies of the gazette were made available to the public by the Controller of Publications. However, the Committee note with surprise that this contention of the Ministry is not at all borne out by the facts for the gazette notification unambiguously lays down that it shall come into force after six months from the date of publication in the official gazette and not from the date when copies thereof were made available to the public. With a view to ward off any uncertainties in the mind of the concerned public as to the exact date of application of the amendment rules, the Committee are of the opinion that the Ministry should indicate a firm date of enforcement in the gazette notification itself in such cases in future.

5. 19

The Committee note with concern that the gazette notification dated 24 July, 1990 containing the draft amendments to the Prevention of Food Adulteration Rules was made available to the public on 7 September, 1990 i.e. after a time-gap of 45 days. The Committee are constrained to observe that such inordinate delays tend to frustrate the very purpose

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of publishing urgent legislative matters in the extraordinary gazette which is expected to reach the public immediately. Ordinary, the matter meant for inclusion in the extraordinary gazette are of priority nature and thus intended to reach the hands of public simultaneously.

The official gazette being an authentic instrument of notifying governmental decisions not only demands utmost care and precision in its printing but as well requires an efficient network for its expeditious delivery to the general public. In the opinion of the Committee, the Government of India Press had not been able to measure upto the mark in executing the job with the earnestness it deserved.

The reasons like over-riding priority to certain jobs, poor staff attendance, load-shedding, low voltage, shortage of water etc. as put forth by the Press are merely suggestive of gross neglect and inefficiency in its day to day working. The Committee would like the Ministry of Urban Development to undertake a comprehensive review of the functioning of the Press at the highest level and take all necessary steps to streamline its working and procedure for efficient and expeditious handling of important legislative matters having a direct bearing on the public at large, without delay.

6. 21

The Committee note that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have ~~since~~ notified the requisite corrigendum vide G.S.R. 588 dated 27 November, 1993 to incorporate the correct entry by promotion' under Column 11 of the Schedule to the Central Institute of Coastal Engineering for Fishery Daftry Group 'D' Recruitment Rules. The Committee also note that the Ministry have regretted the error that had crept into the statutory rules inadvertently. The Committee trust the Ministry would take necessary corrective measures to prevent recurrence of such lapses.

7. 23 & 24

The Committee are not satisfied with the reply of the Ministry of Communications. In this connec-

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tion, the Committee cannot but reiterate their earlier observations made in paras 27-28 of Fifth Report (Fifth Lok Sabha), namely—

“The Committee regret to note that the error in indication of correct year in short title of Rules/Regulations etc. has been found to be recurring year after year. It is a well accepted practice that short title of Rules, Regulations, Bylaws, etc. should bear the year in which they are published and not some other year... The Committee re-impress upon Ministries/Departments of the Government the need for indication of correct year in the short title.

The Committee also note that in a large number of cases of the error occurs due to the fact that while the Rules are sent by the Ministries/Departments for publication towards the end of a year, these are published by the press in the next year. The Committee desire, the Ministry of Law and Justice (Legislative Department) to devise, the consultation with the Government of India Press, some procedure for making a consequential change in the short title in such cases.”

The Committee hope the Ministry would streamline the procedure including monitoring by superior officers with a view to eliminate the errors and omissions of the like nature in future, in consultation with the Ministry of Law and Justice.

8.

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The Committee note that on being pointed out, the Ministry of Agriculture (Department of Agriculture and Cooperation) have since notified the requisite corrigendum *vide* G.S.R. 588 dated 27 November, 1993 incorporating the correct year 1993 in the short title to the Central Institute of Coastal Engineering for Fishery Daffry Group ‘D’ Recruitment Rules. The Committee also note that the Ministry have regretted the error that had crept into the statutory rules inadvertently. The Committee trust the Ministry would take necessary corrective measures to check recurrence of such lapses.

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9. 28

The Committee note that on being pointed out, the Ministry of Finance (Department of Economic Affairs) have issued an amendment notification *vide* GSR 532 dated 30 October, 1993 to denote the correct year in the short title to the India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules. The Committee trust that with a view to obviate such errors in future, the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system.

10. 31

The Committee are constrained to note that despite their categorical undertaking, the Ministry of Finance (Department of Economic Affairs) have once again failed to indicate the particulars of publication of the principal rules and the subsequent amendments by way of a foot-note to the Insurance (Amendment) Rules, 1992 for facility of reference. The Committee trust that with a view to obviate such errors in future, the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system.

11. 35

The Committee note that the Ministry of Finance (Department of Revenue) have accepted the lapse on their part in not appending the particulars of publication of the principal rules and subsequent amendments by way of a foot-note to the gazette notifications in question and further assured that in future, the requisite foot-note would be incorporated in all the notifications for facility of reference. The Committee trust the Ministry would keep their assurance in the matter and exercise due care and proper monitoring at a Senior level of officers to evolve a fool-proof system.

12. 37.

The Committee note that the particulars of the last two amendments made to the Drugs and Cosmetics Rules during the year 1992 did not find mention in the foot-note for want of their gazette numbers. In the opinion of the Committee, the plea of non-availability of gazette numbers is not tenable. The Committee feel that the Ministry should have

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		ascertained the gazette number from the Government of India Press which they, in fact, failed to do. The Committee need hardly emphasise that the very purpose of providing a foot-note to the amending rules, has been to facilitate easy referencing of such amendments from time to time. The Committee hope that the Ministry would exercise due vigilance leaving no room for laxity in the matter of drafting the statutory amendments in future.
13.	40&41	<p>The Committee note from the reply of the Ministry of Home Affairs that a review of the recruitment rules for the posts of Library Clerk and Senior Library Attendant was underway and the fresh recruitment rules would be notified in supersession of the existing ones after incorporating the necessary changes. In view of this position, they did not consider it necessary to incorporate a foot-note giving particulars of publication of the principal rules and the subsequent amendments at this stage.</p> <p>The Committee would like to record their displeasure that the Ministry have not come out with a straight reply for non-compliance of their recommendation while notifying the extant amendment rules. With a view to obviate such errors in future, the Committee recommend that the Ministry would exercise due care and evolve suitable procedural safeguards and monitoring by superior officers lest such omissions are repeated time and again.</p>
14.	43	<p>The Committee note that on being pointed out, the Ministry of Finance (Department of Economic Affairs) have since issued a Corrigendum to the Securities Contracts (Regulation) Amendment Rules, 1992 indicating the particulars of publication of the principal rules <i>vide</i> G.S.R. 579-E dated 26 August, 1993, for facility of reference. However, the fact remains that the Ministry had moved in only after the error was pointed out to them. The Committee trust that the Ministry would exercise due care and evolve suitable procedural safeguards to obviate such errors in future.</p>

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15. 45

The Committee note that the Ministry of Health and Family Welfare have attributed the lapse in not indicating the particulars of publication of the amendments made during the year 1991 in the foot-note appended to the Prevention of Food Adulteration (Third Amendment) Rules to some typographical mistakes. The Committee do not consider it a healthy state of affairs. The Committee hope that the Ministry would exercise due vigilance in processing the important legislative matters in future and take necessary corrective measures including monitoring by senior officers to prevent recurrence of lapses of like nature.

16. 47&48

The Committee do not consider the reply of the Ministry of Railways as satisfactory. The Railways Red Tariff Rules, originally framed in the year 1960, have been subjected to a number of amendments from time to time. The amendment under reference is yet another link in the chain of amendments. The plea advanced by the Ministry that it was the only amendment made during the year 1992 is not at all tenable. The Committee cannot but reiterate their earlier observations made in Para 87 of Sixth Report (Seventh Lok Sabha), namely—

“The Committee are unhappy to note that their recommendation regarding giving of foot-notes 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 trust that the Ministry of Railways would follow the recommendation of the Committee in letter and spirit hence forth. With a view to obviate such errors in future, the Ministry should device suitable procedural safeguards including monitoring by superior officers.

APPENDIX II

(Vide para 6 of the Report)

No. 21011/2/80-Estt. (D)

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

DEPARTMENT OF PERSONNEL & A.R.

New Delhi, the 19-5-93

OFFICE MEMORANDUM

Sub:—Probation in various Central Services

The undersigned is directed to refer to Ministry of Home Affairs O.M. No. 44/1/59-Estt. (A) dated the 15th April, 1959 on the subject cited above. The matter has been under consideration for quite sometime past in consultation with the Ministry of Law, U.P.S.C., and the Comptroller and Auditor General of India with particular reference to the question whether any period of probation should be prescribed in respect of the persons recruited to the posts in pay-scales the minimum of which is Rs. 2,000/- and above, as also in respect of the promotees from one grade to another. According to para 6 of the existing instructions contained in the aforesaid OM dated the 15th April, 1959, it is laid down that the period of probation should normally be two years so as to have uniformity with regard to the period of probation in different services. It is further provided that where there are any special reasons for prescribing a longer or shorter period, a suitable period may be fixed in consultation with the Ministry of Home Affairs.

2. Para 7 of the aforesaid OM stipulates that the fresh entrants as well as those promoted should be kept on probation for a period of two years to judge the potentialities of an officer for a higher service.

3. On review, it has now been decided that:—

- (i) Save as provided in clause (ii) below, direct recruits to a post/service shall be on probation for a period of 2 years.
- (ii) Direct recruits to posts carrying a pay scale the minimum of which is Rs. 2000/- or above, or to posts for which the age of entry is 35 years or above and where no training is involved, shall be on probation for a period of 1 year only.
- (iii) Persons who are inducted into a new service through promotion

shall also be placed on probation for two years but there will be no probation for a person promoted from one grade to another within the same service, except where the promotion involves a change in the Group of posts in the same service, e.g. promotion from Group to Group 'A' in which case the probation shall be for 2 years.

- (iv) wherever probation includes 'on the job' or 'institutional' training combined with actual performance on the job, probation for a period of two years should be prescribed in the recruitment rules.
- (v) In the case of those who are re-employed before the age of superannuation e.g., ex-Military personnel there will be a probation of two years on their appointment/re-employment to civil posts except in respect of cases covered by clause (ii) above.
- (vi) There will be no probation in the case of officers appointed to various posts on:

(a) contract basis;	(d) re-employment after
(b) deputation;	superannuation; and
(c) tenure basis;	(e) permanent transfer

4. On the expiry of the period of probation, steps should be taken to obtain the assessment reports on the probationer to:—

- (i) Confirm the probationer/issue orders regarding satisfactory termination of probation, as the case may be, if the probation has been completed to the satisfaction of the competent authority; or
- (ii) Extend the period of probation [in terms of para 1(8) of the OM dated 15.4.59] or discharge the probationer or terminate the services of the probationer as the case may be, in accordance with the relevant rules and orders, if the probationer has not completed the period of probation satisfactorily.

5. The date from which confirmation should be given effect to is the date following the date of satisfactory completion of the prescribed period of probation or the extended period of probation, as the case may be. The decision to confirm the probationer or to extend the period of probation as the case may be, should be communicated to the probationer normally within 6 to 8 weeks. Confirmation of the probationer after completion of the period of probation is not automatic but is to be followed by formal orders. As long as a no specific orders of confirmation or satisfactory completion of probation are issued to a probationer such a probationer shall be deemed to have continued on probation.

6. The instructions contained in the OM of 15th April, 1959 referred to in para 1 above may be treated as amended to the extent stated in the preceding paragraphs.

7. Wherever considered necessary, a corresponding change in the relevant service rules may be made in consultation with this Department in the light of the instructions contained in the foregoing paragraphs.

8. In so far as persons serving the in Indian Audit and Accounts Department are concerned, this issue with the concurrence of the Comptroller and Auditor General of India.

Sd/-

(Miss S. Trikha)

Deputy Secretary to the Government of India

To

- (i) All Ministries/Departments of Government of India as per standard list.
- (ii) Union Public Service Commission (with 9 spare copies).

APPENDIX III

(Vide para 17 of the Report)

GOVERNMENT OF INDIA, MINISTRY OF URBAN DEVELOPMENT, DIRECTORATE OF PRINTING

No. RRP/Ptg./Misc./92(344)

Date 20-4-1992

To

Shri R.S. Mathur,
Under Secretary to the Govt. of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, NEW DELHI.

SUBJECT: *The prevention of Food Adulteration (III Amendment) Rules, 1991, (GSR 124-E of 1991)—Examination by Committee on Subordinate Legislation.*

Sir,

Please refer to your letter No. P-15014/3/90 PH(F&N) dated 31.3.1992 on the subject cited above.

In this connection, it is stated that the job in question was received in the press on 24.7.1990 for execution. Due to some over riding priority given to certain jobs, clearance of pending jobs like weekly issues of Gazette of India and Extraordinary Gazettes, poor attendance in the Press due to implementation of Mandal Commission Report by the Govt. and also frequent load shedding, low voltage, short supply of water from NDMC/MCD the job in question could not be printed off timely.

Thanking you.

Yours faithfully,

Sd/-
(P.K. Talukdar)
Asstt. Manager (Tech.)

MINUTES

(Vide para 3 of the Report)

MINUTES OF THE THIRTY-THIRD SITTING OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK
SABHA), (1993-94)

PRESENT

MEMBERS

- SECRETARIAT**

•2. •• •• ••

(i) ** **

5. In the light of the clarifications as given by the Department of Personnel and Training, the Committee hoped that there should be no difficulty for the Ministry of Health and Family Welfare to amending the Central Food Laboratory, Calcutta (Senior Analyst) Recruitment Rules to prescribe a uniform period of probation both for direct recruits as well as

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the promotees in all fairness. The Committee desired the Ministry to bring forth the requisite amendment at an early date. The Committee had also liked the Ministry of Personnel to suitably revise their instructions to make them unambiguous for facility of the administrative Ministries/Departments.

(iii) **

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(iv) *The Securities Contracts (Regulation) Amendment Rules, 1992 (GSR 870-E of 1992)—(Memorandum No. 86)*

7. The Committee noted that the Ministry of Finance (Department of Economic Affairs) had since issued a corrigendum to the Securities Contracts (Regulation) Amendment Rules, 1992 indicating the particulars of publications of the principal rules *vide* GSR 579-E dated 26 August, 1993. However, the Committee observed that the Ministry had moved in only after the error was pointed out to them and hoped that they would exercise due care and evolve suitable procedural safeguards to obviate such lapses in future.

The Committee then adjourned.

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

XXXVI

MINUTES OF THE THIRTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1993-94)

The Committee met on Thursday, 31 March, 1994 from 11.00 to 12.00 hours.

PRESENT

Shri Amal Datta—*Chairman*

MEMBERS

2. Shri Guman Mal Lodha
3. Dr. A.K. Patel
4. Shri Rajendra Kumar Sharma
5. Shri K.G. Shivappa
6. Shri Umrao Singh

SECRETARIAT

Shri Ram Kumar—*Under Secretary*

2. The Committee considered Memoranda Nos. 87 to 97 as follows:—

(i) *The India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules, 1990 (GSR 314 of 1992)—(Memorandum No. 87)*

3. The Committee noted that the Ministry of Finance (Department of Economic Affairs) had since issued an amendment notification *vide* GSR 532 dated 30 October, 1993 to denote the correct year in the short title to the India Government Mints, Calcutta (Group 'D' Posts) Recruitment Rules and hoped that the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system to obviate such errors in future.

(ii) *Amendment to the General Reserve Engineer Force Group 'B' Posts (Non-Gazetted) Recruitment Rules, 1982 (GSR 214 of 1992)—(Memorandum No. 88)*

4. The Committee noted that the Ministry of Surface Transport had moved in the matter only after the error was pointed out to them by the Committee. This was illustrative of the scant attention with which the statutory powers like the formulation of the statutory rules were being exercised in the Ministry. The Committee expected the Ministry to be far more vigilant in processing the matters involving exercise of rule-making power conferred upon them by the statutes and to evolve suitable

procedural safeguards including monitoring at a pretty senior level of officers to prevent recurrence of such lapses.

(iii) *The Central Institute of Coastal Engineering for Fishery Daftly Group 'D' Recruitment Rules, 1992 (GSR 176 of 1993)—(Memorandum No. 89)*

(A)

5. The Committee noted that the Ministry of Agriculture (Department of Agriculture and Cooperation) had since notified the requisite corrigendum *vide* GSR 588 dated 27 November, 1993 incorporating the correct year 1993 in the short title to the Central Institute of Coastal Engineering for Fishery Daftly Group 'D' Recruitment Rules and hoped that the Ministry would take necessary corrective measures to check recurrence of such lapses.

(B)

6. The Committee noted that the Ministry of Agriculture (Department of Agriculture and Cooperation) had since notified the requisite corrigendum *vide* GSR 588 dated 27 November, 1993 incorporate the correct entry 'by promotion' under column 11 of the Schedule to the Central Central Institute of Coastal Engineering for Fishery Daftly Group 'D' Recruitment Rules. The Committee hoped Ministry would take necessary corrective measures to prevent recurrence of such lapses.

(iv) *The University Grants Commission (Recruitment) (Amendment) Rules, 1990 (GSR 300 of 1992)—(Memorandum No. 90)*

6. The Committee were constrained to note that the whole matter had been dealt with by the Ministry of Human Resource Development (Department of Education) with an amount of laxity at all stages of the process. Had the Ministry taken up the matter with the seriousness it deserved, the delay could have been averted. They had also not shown any readiness to rectify the error even when pointed out by the Committee. The Committee deplored the grossly negligent attitude displayed by the Ministry in handling the important legislative measure. The Committee emphasized that the responsibility of a Ministry did not cease with the sending of a notification to the press. They could have ensured that the notification was correctly printed and if necessary, issued corrigenda etc. to rectify any errors. The Committee hoped that the Ministry would take suitable corrective measures to plug any loopholes in the procedure.

(v) *The Prevention of Food Adulteration (Third Amendment) Rules, 1991 (GSR 124-E of 1991)*—(Memorandum No. 91)

(A)

7. The Committee were constrained to observe that such inordinate delays frustrated the very purpose of publishing urgent legislative matters in the extraordinary gazette which was expected to reach the public immediately. Ordinarily, the matters meant for inclusion in the extraordinary gazette were of priority nature and thus intended to reach the hands of public simultaneously. The official gazette being an authentic instrument of notifying governmental decisions not only demanded utmost care and precision in its printing but as well required an efficient network for its expeditious delivery to the general public. The Committee opined that the Government of India Press had not been able to measure upto the mark in executing the job with the earnestness it deserved. The reasons like over-riding priority to certain jobs, poor staff attendance, load-shedding, low voltage, shortage of water etc. as put forth by the Press were merely suggestive of gross neglect and inefficiency in its day to day working. The Committee decided to ask the Ministry of Urban Development to undertake a comprehensive review of the functioning of the Press at the highest level and take all necessary steps to streamline its working and procedure for efficient and expeditious handling of important legislative matters having direct bearing on the public at large, without delay.

(B)

The Committee noted that the Ministry of Health and Family Welfare had attributed the lapse to some typographical mistakes. The Committee did not consider it a healthy state of affairs. The Committee hoped that the Ministry would exercise due vigilance in processing the important legislative matters in future and take necessary corrective measures including monitoring by senior officers to prevent recurrence of lapses of like nature.

(vi) *The Railway Red Tariff (Amendment) Rules, 1992 (GSR 275 of 1992)*—(Memorandum No. 92)

8. The Committee were not satisfied with the reply of the Ministry of Railways. Since the Railways Red Tariff Rules, originally framed in the year 1960, had been subjected to a number of amendments from time to time and the amendment under reference was yet another link in the chain of amendments made, the Committee did not accept the plea advanced by the Ministry that it was the only amendment made during the year 1992. The Committee decided to reiterate their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha) and hoped that the Ministry would follow their recommendation in letter and spirit and would device suitable procedural safeguards including monitoring by superior officers to obviate such errors in future.

(vii) *The Insurance (Amendment) Rules, 1992 (S.O. 961 of 1992)*—(Memorandum No. 93)

8. The Committee were constrained to note that despite their categorical

undertaking, the Ministry of Finance (Department of Economic Affairs) had once again failed to indicate the particulars of publication of the principal rules and the subsequent amendments by way of a foot-note to the Insurance (Amendment) Rules, 1992^e for facility of reference and hoped that the Ministry would take due care and ensure proper monitoring at a higher level of officers to evolve a fool-proof system to obviate such errors in future.

(viii) *The Ministry of Home Affairs (Group 'C' Posts) Recruitment (Amendment) Rules, 1992 (GSR 157 of 1992)*—(Memorandum No. 94.)

10. The Committee decided to record their displeasure that the Ministry of Home Affairs had not come out with a straight reply for non-compliance of their recommendations. The Committee, however, hoped that the Ministry would exercise due care and evolve suitable procedural safeguards and monitoring by superior officers lest such omissions were repeated time and again.

(ix) *The Drugs and Cosmetics (Third Amendment) Rules, 1992 (GSR 597-E of 1992)*—(Memorandum No. 95)

(A)

11. The Committee noted from the reply of the Ministry of Health and Family Welfare that a firm date of coming into force of the amendment rules could not be given as the period of six months for enforcement thereof was to be counted from the date when the printed copies of the gazette were made available to the public by the Controller of Publications. However, the Committee noted with surprise that that contention of the Ministry was not at all borne out by the facts for the gazette notification unambiguously laid down that it shall come into force after six months from the date of publication in the official gazette and not from the date when copies thereof were made available to the public. With a view to ward off any uncertainties in the mind of the concerned public as to the exact date of application of the amendment rules, the Committee were of the opinion that the Ministry should indicate the firm date of enforcement in the gazette notification itself in such cases in future.

(B)

The Committee noted that the particulars of the last two amendments made to the Drugs and Cosmetics Rules during the year 1992 could not find mention in the foot-note for want of their gazette numbers. The Committee did not accept the plea of non-availability of gazette numbers. The Committee felt that the Ministry could have ascertained the gazette numbers from the Government of India Press which they, in fact, failed to do. The Committee decided to emphasize that the very purpose of providing a foot-note to the amending rules, had been to facilitate easy referencing of such amendments from time to time. The Committee hoped

that the Ministry would exercise due vigilance leaving no room for laxity in the matter of drafting the statutory amendments in future.

(x) The Department of Telecommunications, Assistant Accounts Officer Recruitment Rules, 1991 (GSR 217 of 1992)—(Memorandum No. 96)

(A)

12. The Committee decided to reiterate their earlier observations made in paras 27-28 of Fifth Report (Fifth Lok Sabha) and hoped that the Ministry of Communications would streamline the procedure including monitoring by superior officers with a view to eliminate the errors and omissions of the like nature in future, in consultation with the Ministry of Law and Justice.

(B)

The Committee observed that the Department of Telecommunications, Assistant Accounts Officer Recruitment Rules, 1991 were published in the official gazette on 9 May, 1992 but were deemed to have come into force on 1 April, 1987 retrospectively. However, the notification was not accompanied by the usual explanatory note giving reasons for such retrospective effect and certifying that interests of nobody would be adversely affected thereby. The matter was referred to the Ministry. The reply of the Ministry was far from being satisfactory as they were of the view that since appointments had already been made there could be no detrimental effect on any of the existing Junior Accounts Officers of the said rules. As interests of nobody would be adversely affected by the enforcement of the rules retrospectively, no explanatory memorandum need be added to the notification. The Committee noted that, despite categorical findings, ministry had displayed an utter disregard to the recommendations of the Committee in the instant case. The Committee, therefore, decided to call the representatives of the Ministry for further elucidation of the facts and for ensuring proper compliance of their recommendations in that regard.

(xi) (a) The Baggage (Amendment) Rules, 1992 (GSR 249-E of 1992);

(b) Transfer of Residence (Amendment) Rules, 1992 (GSR 250-E of 1992); and

(c) The Tourist Baggage (Amendment) Rules, 1992 (GSR 604-E of 1992)—(Memorandum No. 97)

13. The Committee hoped the Ministry of Finance (Department of Revenue) would keep up their assurance that the requisite foot-note would be incorporated in all notifications in future and that they would exercise due care and proper monitoring at a senior level of officers to evolve a fool-proof system.

The Committee then adjourned.

XXXVII

MINUTES OF THE THIRTY-SEVENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1993-94)

The Committee met on Monday, 11 April, 1994 from 11.00 hours to 12.00 hours.

PRESENT

Shri Amal Datta — *Chairman*

MEMBERS

2. Shri Guman Mal Lodha
3. Shri Dharampal Singh Malik
4. Dr. A. K. Patel
5. Shri Rajendra Kumar Sharma
6. Shri Umrao Singh
7. Shri Swarup Upadhyay

SECRETARIAT

- (1) Shri Ram Kumar — *Under Secretary*
- (2) Shri R. Kothandaraman — *Assistant Director*

2. The Committee considered the draft Twelfth Report and adopted it with certain verbal modifications.

The Committee then adjourned.