

**COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2018-2019)**

**(SIXTEENTH LOK SABHA)**

**FORTY FIRST REPORT**

**[ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS/ OBSERVATIONS  
CONTAINED IN THE SIXTEENTH REPORT OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION (SIXTEENTH LOK SABHA) ON RULES/REGULATIONS FRAMED UNDER  
VARIOUS ACTS OF PARLIAMENT PERTAINING TO THE MINISTRY OF AYUSH (AYURVEDA,  
YOGA AND NATUROPATHY, UNANI, SIDDHA AND HOMEOPATHY)]**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**January, 2019 / Pausa, 1940 (Saka)**

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**(PRESENTED TO LOK SABHA ON 3.1.2019)**



**LOK SABHA SECRETARIAT**

**NEW DELHI**

**January, 2019 / Pausa, 1940 (Saka)**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (16<sup>th</sup> LOK SABHA)  
(2018-2019)**

Shri Dilipkumar Mansukhlal Gandhi

**Chairperson**

**Members**

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     | - | Addl. Director       |
| 4. | Shri Brajesh Kumar Singh | - | Committee Officer    |

## **INTRODUCTION**

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

2. This Report relates to the action taken on the recommendations of the Committee contained in the Sixteenth Report (2016-2017) (Sixteenth Lok Sabha) which was presented to Lok Sabha on 1.12.2016.

3. The Committee considered and adopted this Report at their sitting held on 20.12.2018.

4. Extracts from the Minutes of Third Sitting of the Committee (2018-19) held on 20.12.2018 relevant to this Report are included in Appendix-I of the Report.

5. An Analysis of the Action Taken by Government on the recommendations/ observations contained in the Sixteenth Report of the Committee on Subordinate Legislation (Sixteenth Lok Sabha) is given in Appendix II.

**New Delhi;  
December, 2018  
Agrahayana, 1940 (Saka)**

**DILIPKUMAR MANSUKHLAL GANDHI  
Chairperson,  
Committee on Subordinate Legislation**

## REPORT

This Report of the Committee on Subordinate Legislation (2017-18) deals with the action taken by the Government on the recommendations contained in their Sixteenth Report (Sixteenth Lok Sabha) which was presented to Lok Sabha on 1.12.2016.

2. The Sixteenth Report contained recommendations on the following issues: -

- I. Upgradation of the pay scales of Research Assistants (RAs) and Senior Technical Assistants (STAs) in Ayurveda
- II Subsequent Withdrawal of the upgraded pay scales for the posts of RAs/STAs (Ayurveda)
- III Position of upgradation of pay scales in respect of other similar posts under AYUSH.
- IV. Withdrawal of upgraded pay scales despite minimum qualification
- V. Need for review of Recruitment Rules of RA/ STA (Ayurveda)
- VI. Grant of NPA to RAs/STAs in Ayurveda
- VII. Deployment of Medical Officers in the Ministry

3. Action taken reply in respect of all the observations/recommendations contained in the report have been received from the Ministry of AYUSH on 17.11.2017 and 5.1.2018.

4. Replies to the observations/recommendations contained in the Report have broadly been categorized as follows:-

- (i) Observations/Recommendations which have been accepted by the Government

Para No. 15, 19

Total 02  
Chapter II

- (ii) Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply.

Para Nos. Nil

Total Nil  
Chapter III

- (iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee

Para Nos. 4, 9, 11, 13, 18

Total 05  
Chapter IV

- (iv) Observations/Recommendations in respect of which final reply of the Government is still awaited

Para Nos. Nil

Total Nil  
Chapter V

5. The Committee will now deal with action taken by the Government on some of their observations/recommendations made in the 16th Report (16<sup>th</sup> Lok Sabha).

6. The Committee in their original Report took up the matter of withdrawal of the upgraded pay scales of Rs. 8000 - 13500/- given for the posts of RAs/STAs (Ayurveda), Grant of Non - Practice Allowance (NPA) RA/STA, need for review of Recruitment Rules of RA/ STA (Ayurveda) and deployment of medical offices in the Ministry. The Committee, after considering the evidence led before it, recommended at Para 18 of the original Report recommended that the pay scale of Rs. 8000-13500/- along with NPA and other allowances may continue to be given to Research Assistants and Sr. Technical Assistants in Ayurveda w.e.f. 1.1.1996 and their pay may fixed as per the recommendations of the Fifth Central Pay Commission along with the benefit of Dynamic Assured Career Progression Scheme (DACP) as recommended by the Fifth Central Pay Commission as has been done in the case of Research Officer/Medical Officer (Ayurveda) of Ministry of AYUSH. The Committee further recommend that the necessary amendments in this regard may be carried out in the Recruitment Rules without any delay. The Committee at Para 15 of the Report also felt that there was an urgent need for a comprehensive review of all the Recruitment Rules for various posts under the Indian Systems of Medicine in various disciplines in the Ministry of AYUSH in order to bring uniformity, harmony and equity so that there is no scope for discrimination or arbitrariness of any kind, whatsoever, on account of ambiguity in the Rules. As regards deployment of medical officers in the Ministry from Central Councils (CCRAS/CCRUM/CCRAH/CCRYN), the Committee at Para 19 of the original Report



felt that this kind of practice lead to wastage of technical and medical resources and goes against the instructions issued by the Department of Personnel and Training under which misuse of resources by any Ministry is strictly prohibited. The Committee, therefore, liked to be apprised about the reasons of posting of such resources from the Councils to the Ministry and remedial measures taken in this regard.

7. While not agreeing with the recommendations of the Committee, the Ministry of AYUSH, Government of India, in their Action Taken Reply dated 15.11.2017 have stated that decision for withdrawal of upgraded pay scale of Rs. 8000 - 13500/- given to RAs/STAs was taken on the basis of recommendations of Bala Prasad Committee, Ministry of Finance (Government of India) and Sixth Central Pay Commission. They have further stated that the incumbents of these posts have filed a writ petition vide WP.No. (C) 11675/2014 in the High Court of Delhi and the matter is sub-judice. As regards grant of NPA to SAs/STAs, the Ministry vide above reply has stated that NPA was extended to only those posts which required medical practice and degree in ISM&H as the minimum qualification. They have further stated that Recruitment Rules for the posts of RAs/STAs did not have any provision of NPA. As regards recommendation of the Committee regarding review of the recruitment rules for various posts, the Ministry vide above reply have stated that the same is underway. In reply to the recommendation of the Committee regarding deployment of Medical Officers in the Ministry, the Ministry vide reply dated 5.1.2018 have stated that the Ministry has taken up the issue of increase in sanctioned strength of the Ministry in consonance with the enhanced workload with the Ministry of Finance. Meanwhile, the Ministry have made adhoc arrangements such as engagement of staff on contractual basis to dispose the work. They have further stated that recently some Research Officers (ROs) after recruitment through UPSC were posted in the Ministry and four ROs were repatriated back to their Councils. This process will continue till all the ROs of Research Councils go back to their parent organizations in near future.

8. From the replies furnished by the Ministry, the Committee observe that the recommendations of the sixth Central Pay Commission (CPC) and Ministry of Finance and the

decision of the Ministry of Ayush to withdraw the upgraded pay scale of Rs. 8000 - 13500/- given to RAs/STAs were based on the ground that the recruitment rules applicable to them did not envisage medical practice by them and also that minimum qualification for these posts were diploma in Ayurveda. The work profile of these posts involved disposal of technical matter i.e. preparation of pharmacopoeia etc. The Committee further note that the medical practice has not been legally defined by the Ministry and NPA is attached to the post and not the work. It is given for non clinical work also such as preparation of pharmacopoeia and other research work. The Committee further note that upgradation of pay scales of AROs in CCRAS, CCRUM and CCRH, RA (Naturopathy) in CCRYN etc. was done in view of the demands of the incumbents of the posts, requirements of the organizations concerned and other factors. The Committee also note that most of the then incumbents of the posts of RAs/STAs were holding degree in Ayurveda and registered with Central/State Boards of Indian Medicine. They also dealt with the technical matters related to the medical subject i.e. preparation of pharmacopoeia, research etc. The Central Government Health Scheme and the Department of Indian Systems of Medicine and Homeopathy Group 'A'; posts Recruitment Rules, 1997 also gave them Age relaxation for recruitment on the posts of Medical Officer. The Committee, therefore, consider that the Ministry could have given reasonable avenues for their career advancement through suitable amendments of recruitment rules applicable to the post of Research Assistants (Ayurveda)/ Medical Officer (Ayurveda) by taking into consideration their educational qualification, registration with State/Central Board of Indian Medicine, experience and service to the Department. The Committee is further of the view that the Recruitment Rules of the posts of RAs/STAs, Medical Officers under the Ministry are poorly drafted and important terms are not defined. The Committee are also of the view that the Ministry took a preconceived notion in case of RAs/STAs and defended their action on the basis of provisions of Recruitment Rules applicable to them considering the same as sacrosanct. However, in case of other posts under the Ministry or autonomous organizations under the Ministry, the benefit of upgradation of pay scales and NPA were given either through amendment of Recruitment Rules or otherwise. The Committee feels that the decision of the Ministry should be based on objective considerations and take note of dynamism of the field they administer.

9. The Committee, therefore, reiterate that the pay scale of Rs. 8000-13500/- along with NPA and other allowances may continue to be given to Research Assistants and Sr. Technical Assistants in Ayurveda w.e.f. 1.1.1996 and their pay may be fixed as per the recommendations of the Fifth Central Pay Commission along with the benefit of Dynamic Assured Career Progression Scheme (DACP) as recommended by the Fifth Central Pay Commission as has been done in the case of Research Officer/Medical Officer (Ayurveda) of Ministry of AYUSH. The Committee further, recommend to the Ministry to sympathetically consider the demand of RAs/STAs of upgradation of their pay scale and grant of NPA and other benefits on the basis of relevant factors mentioned above. The Committee also advise the Ministry to take into consideration the changing needs & situation, the welfare angle and shun too much of legalistic view.

## **CHAPTER II**

### **RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT**

#### **(Recommendation at Para No.15)**

The Committee also note that not much attention is being paid by the Ministry of AYUSH in up keeping and updating the Recruitment Rules for various posts in the Ministry. The representatives of the Ministry of AYUSH conceded before the Committee that they were not even in possession of all the recruitment rules pertaining to different posts belonging to Homoeopathy, Ayurveda, Siddha and Unani streams. Admittedly, many of the Recruitment Rules or administrative orders are either not available or are missing. The Committee, therefore, feel that there is an urgent need for a comprehensive review of all the Recruitment Rules for various posts under the Indian System of Medicine in various disciplines in the Ministry of AYUSH in order to bring uniformity, harmony and equity so that there is no scope for discrimination or arbitrariness of any kind, whosoever, on account of ambiguity in the Rules. In the considered opinion of the Committee, this would not only help the Ministry in achieving their prime objective of growth that traditional and rich Indian System of Medicine in the country but will also ensure efficient functioning of various organs of the Ministry.

#### **Reply of the Ministry**

The status of proposal for amendment of Recruitment Rules for various Group 'A' posts in the Ministry is as under:

- (i) The proposal for amending the RRs of various posts of AYUSH Physicians after getting approval from DOP&T and UPSC have been sent to Ministry of Law for their vetting on 29.06.2017.
- (ii) The draft RRs for the newly created posts of Yoga & Naturopathy Stream have been submitted to the stakeholders seeking comments. The comments have been received are being examined.
- (iii) The draft RRs for the newly created posts in Drug Control Cell are being sent to DOP&T for their approval.
- (iv) The process to amend the RRs for the post of RS/STA & TO has also been initiated.

The Committee's view regarding the urgent need for comprehensive review of Recruitment Rules is taken due note of, and the process for the same has been initiated.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 15.11.2017]**

### **(Recommendation at Para No.19)**

The Committee note that many Research Officers from CCRAS/CCRUM/CCRH/CCRYN are posted and working in the Ministry of AYUSH for many years without being formally transferred or taken on deputation from the concerned organisations functioning under the administrative control of the Ministry of AYUSH. Moreover, the entire practice seems to be unregulated in the absence of any kind of regulatory mechanism in this regard. The Committee feel that this kind of practice leads to wastage of technical and medical resources and goes against the instructions issued by the Department of Personnel and Training under which misuse of resources by any Ministry is strictly prohibited. The Committee would like to be apprised about the reasons of posting of such resources from the Councils to the Ministry and remedial measures taken in this regard.

### **Reply of the Ministry**

The National Health Policy of 1983 envisaged the necessity to initiate organized measures to enable each of the system of Indian Medicine, that is Ayurveda, Siddha, Unani, Yoga & Naturopathy as well as Homoeopathy, to develop in accordance with its genius and find an appropriate role and place for these different systems in the overall health care delivery system for the benefit of the population. The Department of Indian System of Medicine & Homoeopathy was thus carved out of Department of Health with the objective of giving focused attention and promotion of Indian System of Medicine and Homoeopathy in the country. The Department of Indian System of Medicine and Homoeopathy (ISM&H) was established in March, 1995 with sanctioned strength of 106 posts in various categories by bifurcating the Department of Health. It was given a new nomenclature of Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha & Homoeopathy (AYUSH) in November, 2003. The erstwhile Department of AYUSH has been upgraded to the full-fledged Ministry at AYUSH in November, 2014. in line with the growing recognition to the immense potential of these systems of medicine to resolve some of the significant public health challenges of the country. The Ministry is responsible for formulation of policy and implementation of steps for development and propagation of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy systems.

The activities of the Ministry have increased manifold. Some of the new initiatives taken /being taken in the Ministry are as under: -

(i) Declaration of 21<sup>st</sup> June as International Day of Yoga; various other related activities initiated to popularize Yoga amongst various sections of society.

(ii) Launching of National AYUSH Mission as a flagship scheme to ensure better access to AYUSH services through increase in number of AYUSH Hospitals and Dispensaries, mainstreaming of AYUSH through co- location of facilities in Primary Health Centres, Community Health Centres and District Hospitals, ensure availability of AYUSH drugs and trained manpower;

(iii) Celebration of Ayurveda Day, Unani day & Siddha Day;

(iv) The Education and Communication activities in the form of conferences /workshops/National / International fairs, stakeholders meets have also been taken up on enhanced scale.

(v) Institution of National & International awards in Yoga.

(vi) Inclusion of Sowa-Rigpa in the Indian System of Medicines.

(vii) Establishing the extension campuses of National Institutes under different systems of health, in various states of the country.

(viii) Various Research activities /projects in collaboration with Allopathic institutes on developing integrative interventions for communicable/non communicable disease.

(ix) the activities of National Medicinal Plants Board have been increased.

(x) Under International Cooperation, the various programmes pertaining to AYUSH have been extended to different countries.

It may be observed that despite expansion of the activities of the Ministry, there has not been corresponding increase of staff. The Ministry continues to function on the sanctioned strength which was existing prior to November, 2014, when it was a Department. To make the things worse, the officials posted in the Ministry at various levels i.e Multi Tasking Staff/Junior Secretariat Assistant/Senior Secretariat Assistant/Assistant Section Officers/Section officers/Deputy Secretaries/Directors are much less than the sanctioned number of posts. Matter has separately been taken up with Department of Personnel and Training (DoPT) for providing manpower, but so far nothing has happened.

In order to increase the sanctioned strength of the Ministry in consonance with the enhanced workload due to scaled mandate, matter has been taken up with the Ministry of Finance for assessment of the new manpower requirement on the basis of SIU study. But it is time taking exercise and to run the day to day affairs, different adhoc arrangements have been made. One such measure taken in the interest of exigency of Govt. Work is to engage staff on Contractual basis and also deploy some officials from Research Councils to cater to the urgent manpower requirement of the Ministry. However, this is an interim arrangement till the manpower is provided by the Department of Personnel and Training.

Recently some Research officers have been recruited by UPSC who have been posted in the Ministry and four ROs having put more than 2 years in Ministry have been repatriated back to their Councils. This process will continue till all the ROs of Research Councils go back to their parent organizations in near future.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 5.1.2018]**

### **CHAPTER III**

#### **RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES**

**-Nil-**

## **CHAPTER IV**

### **RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED**

#### **(Recommendation at Para No.4)**

The Committee find the withdrawal of upgraded pay scales already given to Research Assistants and Senior Research (Technical) Assistants (Ayurveda) highly unfair and unjustified and cannot help getting an impression that for whatsoever be the reasons, the RAs/STAs (Ayurveda) were selectively discriminated by the Department of ISM&H. The Committee find no valid grounds for withdrawal of legitimately upgraded pay scale of Rs.8000-13500/- given to them only after being duly considered and approved by the Ministry of Finance (Department of Expenditure) in 1999 on the basis of the recommendations of the Fifth Central Pay Commission. In this context, the Committee observe that even though the Ministry of Finance (Department of Expenditure) had not accorded approval to the proposal for the Department of ISM&H for up gradation of the post of RO(H) in HPL Ghaziabad, the incumbent of this post for which the prescribed qualification in Recruitment Rules was also Degree/Diploma, was allowed to continue in the upgraded pay-scale. The Committee find it preposterous that instead of considering the request of RA/STAs (Ayurveda) for grant of A.C.P., in 2002 after completion of the requisite qualifying service, the Department of ISM&H chose to constitute a Committee (Bala Prasad Committee) to examine the genuineness of the upgraded pay scale of Rs/8000-13500/- given to them on the recommendations of the 5<sup>th</sup> CPC and duly approved by the Ministry of Finance in 1999. The said inquiry Committee overriding the recommendations of the CPC as well as the approval of the Ministry of Finance (Department of Expenditure), recommended for withdrawal of upgraded pay scales recovery of the amount already given to them by virtue of upgraded pay scales. The AYUSH Department in its unbecoming zeal to implement the recommendations of the Bala Prasad Committee straight away chose to withdraw the Upgraded pay scales given to Research Assistants/Senior Research Technical Assistants (Ay) without affording them any opportunity to show cause their case. This, in the opinion of the Committee, is against the canons of natural justice. Further, the then Department of ISM&H did not bother to refer the matter to the Ministry of Finance (Department of Expenditure) who were the competent authority to take decision in the matter. In the considered opinion of the Committee, such a substantive decision should have been taken only with the approval of the Secretary of Expenditure, Ministry of Finance (Department of Expenditure,) on whose approval upgradation of the post was done. Subsequently, even when in the first instance, it was not agreed to by the Department of Expenditure for the withdrawal of the upgraded pay scales when the case was ultimately referred to them, the proposal for withdrawal was continued to be pursued by the Department of AYUSH and till the Department of Expenditure agreed subject to the condition that the Ministry of Law may also be consulted. Surprisingly, the Department of AYUSH did not submit their replies to the queries raised by the Ministry of Law as to whether there were any instances in the Government where a pay scale recommended by the Central Pay Commission and accepted by the Government have been withdrawn administratively. Moreover, the Ministry of AYUSH failed to implement the recommendations of the Committee constituted subsequently under the Chairmanship of Adviser (Ayurveda) which categorically held that the upgradation of pay scales of



RA/STAs was correctly done and they may also be allowed the benefits of other allowances including NPA.

### **Reply of the Ministry**

The recommendation of the 5th CPC was of a general nature for upgradation of scales of all posts subject to the following conditions:

- (i) The posts requiring Medical Practice in ISM&H; and
- (ii) Degree in ISM&H as the minimum qualification.

The Ministry of AYUSH following the above recommendations referred the proposal for upgradation of scale for the post of RA, STA, RO& TO to Ministry of Finance, which referred back the proposal seeking clarification to confirm whether “all these posts actually require/involve Medical Practice (in the sense of patients’ examination/ diagnosis of disease, etc)”. As per the Bala Prasad Committee’s report, the Ministry clarified as under:

“As per Pharmacy Act, 1948 and IMCC Act any work related to Medical subjects performed by a medical practitioner where essential qualification is degree in medical science and Registered in any State or Central Council shall be called medical practice.”

2. The Bala Prasad Committee examined the above clarifications and after going through the IMCC Act, no such definition could be found. The clarifications were also sought from Central Council of Indian Medicine(CCIM), which clarified that the definition of Medical Practice has neither been mentioned in the IMCC Act, 1970, nor any instruction issued by the Central Council in this regard.

3. Had the correct position been provided to the Ministry of Finance in 1999 at the initial stage it would not have led to the anomaly. The Bala Prasad Committee noted that the incumbents of the post of RA, STA, RO& TO in no way involved Medical Practice. Further, no such Pharmacy Act existed for any ISM&H Medicine.

4. It is submitted that the Ministry of Finance approved the proposal for upgradation of scale including the post of RO(H), HPL and the orders were, accordingly, issued. A copy of the order is given at Annexure-I

5. It is correct that the upgraded scales were withdrawn without affording an opportunity to the concerned officers to show-cause their case. It is, however, submitted that the Hon’ble Tribunal had directed to restore the upgraded scale and issue a show-cause notice. Following the direction of the Hon’ble CAT, the scales were restored and a show cause notice issued.

6. In pursuance to the recommendation of the Committee of Adviser(Ayurevda), the matter was again referred to Ministry of Finance, Department of Expenditure, who directed as under:

*“.....the 6th CPC had considered the issue of restoration of the pre-revised pay scale of Rs. 8000-13500 recommended by the 5th CPC in respect of posts requiring medical practice as well as degree in ISM&H as the minimum qualification and came to the conclusion that the post of Research Assistant and Senior Technical Assistant (Ayurveda) do not fulfill these conditions. It had accordingly, recommended that such posts cannot be up-graded and only the replacement pay band and grade pay shall apply in their case.... The Administrative Department, in the circumstances is advised to contest the case further in the Courts”.*

7. In view of the above developments, administratively the matter was set to rest in the most unambiguous terms by not only the highest Apex administrative body of the Government but also by the Ministry of Finance which ultimately is the repository of powers relating to creation of post and granting of pay scales.

8. Apart from that the incumbent had filed an O.A 4293/2010 in the CAT on the matter. On the direction of the CAT a Speaking Order was issued on 4.4.2012 detailing the reasons why they were not entitled for the higher pay scale. This Speaking Order was contested by the incumbents in the CAT and was finally disposed of on 6.3.2013 as under:

*“...we hold that there is no infirmity in the impugned orders of the respondents dated 04.04.2012. However, considering the facts and circumstances of the case we direct the respondents not to make any recovery on account of excess amount paid to the applicants as a result of wrongly granting them higher scale. The O.A is accordingly disposed of No costs”*

9. As directed by the Courts and as a humanitarian gesture, the Department in consultation with Ministry of Finance waived the recovery of the excess amount paid to Dr. Chhote Lal, STA and Dr. Bhadoria.

10. Still aggrieved, they filed a Review Application in the CAT in RA 91/2013 which was also dismissed by the Hon'ble Tribunal as they found no merit in the review application. They have now filed a writ petition in the Hon'ble High Court of Delhi and hence the matter is *sub judice*.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 15.11.2017]**

**(Recommendation at Para No.9)**

The Committee, note that the condition of requiring medical practice is fulfilled when a person is registered with the Central/State Boards of Indian Medicines. In the light of this, the Committee find it intriguing that the RAs/STA (Ay.) who are also registered with the State/Central Boards have been denied upgraded scales by the Department on the ground that they do not fulfil the condition of medical practice.

### **Reply of the Ministry**

The registration with Central/State Board of Indian Medicine of a medical degree holder cannot be considered as Medical Practice for extending the benefit attached with the post requiring Medical Practice unless the duties of the post require Medical Practice. If a medical degree holder having registration with Central/State applies to the non medical post he cannot be given the benefit of NPA, etc. AS per Order of Ministry of Finance vide their OM No.7(34)/E.III(A)/71 dated 24.07.1971, the condition for grant of NPA is only for those posts which are clinical ones, is a whole time posts, there is ample scope of private practice. Mere registration with the Central/State Board of Indian Medicine donot automatically confer such eligibility for availing NPA.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 15.11.2017]**

### **(Recommendation at Para No.11)**

The Committee find it extremely discriminatory that while the upgraded pay scales have been given to similarly placed posts in other streams like Research Officer in Homoeopathy, HPL, Ghaziabad, Vaidyas in the Labour Welfare Organization which require similar kind of minimum qualification or even the lesser qualification like for the posts of Research Assistant in Nature Cure which require only one year certificate in the respective field, the Ministry of AYUSH singled out the RAs/STAs (Ayurveda) and withdrew the upgraded pay scales given to them for no valid justification.

### **Reply of the Ministry**

It is submitted that different posts in different organizations i.e subordinate/autonomous organization of this Ministry and other Ministries are governed by different set of Rules/Regulations and bye-laws and their employees have different set of Recruitment Rules and nature of work. The post of Research Officer, Homoeopathy does not belong to this Ministry and is located in HPL (Ghaziabad) which is autonomous body of this Ministry. The designation is also different from the post of RA/STA and these are governed by their distinct Recruitment Rules.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 15.11.2017]**

### **(Recommendation at Para No.13)**

The Committee deplore that the Ministry of AYUSH, instead of bringing suitable amendments to the recruitment rules for the post of Research Assistant Ayurveda in tune with the developments in the field of medical education, resorted to punishing the helpless Research Assistants and Senior Technical Assistants on the specious ground of 'obsolete provisions contained in their Recruitment Rules framed way back in 1980'.

## **Reply of the Ministry**

The revision of the RRs is initiated where there is a felt need or an administrative necessity to bring about amendments as per the requirements of changing needs of the Department. The incumbents of the post of RA/STA had engaged the Department in continuous litigation since 2002, which came in the way of taking up amendments to the RRs. It is, however, submitted that the amendments in the RRs are applied prospectively and not retrospectively.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 15.11.2017]**

### **(Recommendation at Para No.18)**

The Committee, while observing that there exist cases in the Ministry where NPA is being given to the holders of certain posts without there being any provision for the same in the Recruitment Rules, seek valid reasons as to why RA/STA (AYURVEDA) have been deprived of NPA selectively. The Committee fully agree with the observations contained in the Report of the Committee headed by the Adviser (Ayurveda) that the Research Assistants/Senior Technical Assistants (Ayurveda) being degree holder and entitled to do medical practice by virtue of being Registered Medical Practitioners in their respective states are entitled to pay scale of Grade 'A' as well as the for NPA though it may not have been mentioned in the Recruitment Rules, the Committee, therefore, recommend that the pay scale of Rs.8000-13500/- along with NPA and other allowances may continue to be given to Research Assistants and Sr. Technical Assistants in Ayurveda w.e.f. 1.1.1996 and their pay may be fixed as per the recommendations of the Fifth Central Pay Commission along with the benefit of Dynamic Assured Career Progression Scheme (DACP) as recommended by the Fifth Central Pa Commission as has been done in the case of Research Officer/Medical Officer (Ayurveda) of Ministry of AYUSH. The Committee further recommend that the necessary amendments in this regard may be carried out in the Recruitment Rules without any delay.

## **Reply of the Ministry**

It is clarified that posts of RA/STA are group 'C' posts when they were initially notified. The RRs for these posts did not have any provisions for NPA.

2. It is pertinent that the suggestions made by the Committee headed by Advisor (Ayurveda), it is stated that its recommendations have no statutory backing. The Department was not in a position to accept the same as the matter was subsequently examined in depth by many bodies like Ministry of Finance, Sixth Pay Commission and Courts of Law who have given their verdict and have not agreed to grant of upgraded scales to RAs/STAs.

3. The incumbents of the post of RAs/STAs have now filed a Writ Petition in the Hon'ble High Court of Delhi vide W.P. NO. (C) 11675/2014. The matter is *sub judice* as such. We may, therefore await the verdict of Hon'ble High Court.

4. As already stated w.r.t. para-15, the process of amendment of RRs for various posts is underway.

**[Ministry of AYUSH OM No. F.No.H-11013/04/2015-PP&C dated 15.11.2017]**

## **CHAPTER V**

### **RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED**

**-NIL-**

**New Delhi;  
December, 2018  
Agrahayana, 1940 (Saka)**

**DILIPKUMAR MANSUKHLAL GANDHI  
Chairperson,  
Committee on Subordinate Legislation**

**Appendix – I**  
(Vide Para 4 of the Introduction)

**EXTRACTS FROM MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (2018-2019)**

The Third sitting of the Committee (2018-2019) was held on Thursday, the 20<sup>th</sup> December, 2018 from 1500 hours to 1630 hours in Committee Room No. 'D', Parliament House Annexe, New Delhi.

**PRESENT**

1. Shri Dilip Kumar Mansukhlal Gandhi Chairperson

**MEMBERS**

2. Shri Birendra Kumar Chaudhary
3. Shri Shyama Charan Gupta
4. Shri S.P. Muddahanume Gowda
5. Shri Chandulal Sahu
6. Shri Alok Sanjar
7. Shri Ram Prasad Sarmah
8. Adv. Narendra Keshav Sawaikar

**SECRETARIAT**

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

**WITNESSES**

XX      XX      XX

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft reports:

(i) Draft Report on the Acts/Rules/Regulations/Bye-Laws governing the Admission Process of Bachelor of Ayurveda/Homeopathy and other Courses for Higher Studies in Ayurveda/Homeopathy

(ii) Draft Report on Rules/Regulations governing the service condition of Delhi, Andaman & Nicobar Islands Civil Service (DANICS) and Central Secretariat Service (CSS).

(iii) Draft Action Taken Report on the recommendations/observations contained in the 8<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) of the Committee.

(iv) Draft Action Taken Report on the observations/recommendations contained in the 12<sup>th</sup> Report of the Committee (16<sup>th</sup> Lok Sabha) on the Amendment to Employees Pension Scheme, 1995.

(v) Draft Action Taken Report on the action taken by the Government on the Recommendations / Observations contained in the Sixteenth Report of the Committee on Subordinate Legislation (Sixteenth Lok Sabha) on Rules/Regulations framed under various Acts of Parliament pertaining to the Ministry of Ayush (Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy).

(vi) Draft Action Taken Report on the observations/recommendations contained in the 20<sup>th</sup> Report of the Committee (16<sup>th</sup> Lok Sabha) on the RBI Pension Regulations, 1990.

3. After deliberations, the Committee adopted the above draft Reports without any modifications. The Committee also authorized the Chairperson to present the same to the House.

4.	XX	XX	XX
5.	XX	XX	XX
6.	XX	XX	XX
7.	XX	XX	XX
8.	XX	XX	XX
9.	XX	XX	XX
10.	XX	XX	XX

The Committee then adjourned.

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**APPENDIX II**  
*(Vide para 5 of the Introduction)*

**Analysis of the Action Taken by Government on the recommendations/ observations contained in the Sixteenth Report of the Committee on Subordinate Legislation (Sixteenth Lok Sabha) on Rules/Regulations framed under various Acts of Parliament pertaining to the Ministry of Ayush (Ayurveda, Yoga And Naturopathy, Unani, Siddha And Homeopathy)]”.**

I	Total number of recommendations	7
II	Recommendations that have been accepted by the Government [vide recommendations Nos. 15 & 19]	2
	Percentage of total	29%
III	Recommendation which the Committee do not desire to pursue in view of Government's replies	-
	Percentage of total	-
IV	Recommendations in respect of which replies of the Government have not been accepted by the Committee.  [vide recommendations Nos. 4,9,11,13 &18]	5
	Percentage of total	71%
V	Recommendations in respect of which final replies of Government are still awaited	Nil