



THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
SUBORDINATE LEGISLATION
(2014-2016)**

TWENTY THIRD REPORT

(Presented on 15th July, 2014)

SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2014

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1099/2014.

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COMPOSITION OF THE COMMITTEE ON
SUBORDINATE LEGISLATION
(2014-2016)

Chairman :

Shri M. Ummer

Members :

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,, Hibi Eden
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,, N. A. Nellikkunnu
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Legislature Secretariat :

Shri P. D. Sarangadharan, Secretary
Smt. K. Radhamony, Joint Secretary
,, A. Shaila, Deputy Secretary
,, R. Remadevi Amma, Under Secretary.

INTRODUCTION

I, Chairman of the Committee on Subordinate Legislation having been authorised by the Committee, present this Twenty-third Report of the Committee (2014-2016) of the Thirteenth Kerala Legislative Assembly, on its behalf.

The Committee considered various S.R.Os. under the Kerala Public Services Act, 1968 (Act 19 of 1968) during the period from 2008 to 2013 in its meetings and took evidence from the Secretaries and other officials of the concerned Departments. The observations, comments and recommendations of the Committee are contained in this Report.

This Report was finalised by the Committee at its meeting held on 10-7-2014.

Thiruvananthapuram,
15th July, 2014.

M. UMMER,
Chairman,
Committee on Subordinate Legislation.

**REPORT BASED ON THE S.R.Os. ISSUED UNDER THE
KERALA PUBLIC SERVICES ACT, 1968
(ACT 19 OF 1968)**

S.R.O. No. 531/2008 dated 22-5-2008
[G.O. (P) No. 75/2008/Home dated 16-5-2008]
S.R.O. No. 564/2008 dated 29-5-2008
[G.O. (P) No. 75/2008/Home dated 16-5-2008]

By these S.R.Os., Government have issued Special Rules for the posts of Director and Deputy Director, Finger Print Bureau of the Police Department, in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968.

2. The Committee notices that the Government Order No., date, contents and intention of both S.R.Os. are the same but the Gazette date is different. *The Committee view this seriously and opines that it is irregular to have two S.R.Os. for the same purpose. Hence the Committee wants the Government to cancel S.R.O. No. 564/2008 and recommends that such carelessness should not be repeated in future.*

3. From the explanatory note of the S.R.O., the Committee observes that these Special Rules are issued to give statutory validity to the orders contained in executive orders issued in 1991 and till now no Special Rules have been issued on the subject and the appointments to the posts were done merely on executive orders. *The Committee notices that there is a delay of 17 years for giving statutory effect to an executive order. This undue delay is intolerable. Hence the Committee urges the Government to take effective action to avoid such delay in future.*

S.R.O. No. 126/2011 dated 14-2-2011
[G.O. (P) No. 81/2011/RD dated 16-2-2011]

4. By this S.R.O., Government have amended the special rules in respect of the Kerala Revenue Subordinate Service issued under Notification G.O.(P) No. 852/80/RD dated 16-6-1980 and published as S.R.O. No. 551/80 in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968.

5. The Committee observed that this S.R.O. is seen issued before the date of Government Order and sought explanation from the Revenue Department. The witness replied that the Government Order was sent to the press on the same date in which Government Order was issued and that there was evidence with the Press that the Government Order had been received on the same date. The Committee further enquired whether the date of publication mentioned in the S.R.O. has been verified by the Department after it is published. The Committee notices serious lapse on the part of the Government in publishing an S.R.O. prior to the date of issuance of Government Order.

6. The Committee also notices serious irregularity in issuing an S.R.O. prior to the date of Government Order and recommends the Government to verify the date of Government Order, the date on which the same was sent to the Press for publication. At the same time, the Committee recommends the Printing Department to verify the date on which the said Government Order is received in the Press and report the matter to the Committee urgently.

7. The Committee notes with dissatisfaction that in spite of the repeated recommendations, such mistakes often creep into statutory notifications due to the lackadaisical attitude on the part of the officials. The Committee urges the Government to pay more attention while issuing Statutory Orders.

8. In the Kerala Revenue Subordinate Service Special Rules, 1980 under Rule 4, the appointment of Deputy Tahsildars shall be made by (i) recruitment by transfer from among the members of the Kerala Ministerial Subordinate Service employed in the Land Revenue Department; and (ii) direct recruitment. By this S.R.O., item (i) has been substituted, namely:—"recruitment by transfer from among the qualified Head Clerk/Revenue Inspector/Village Officer of the Kerala Revenue Ministerial Subordinate Service according to their seniority". But in the explanatory note of this S.R.O., it is mentioned that presently the post of Deputy Tahsildar is filled by promotion from among the senior most Head Clerk/Revenue Inspector/Village Officers. The Committee enquired about the propriety of mentioning this statement in the explanatory note and sought clarification from the department as to whether the post of Deputy Tahsildar is being filled as mentioned above even before amending the Special Rules. The Committee also sought clarification from the department about the legal validity of such appointments, if the appointments were done before amending the Special Rules of 1980 and the reason for eliminating the category of Lower Division Clerks for appointment as Deputy Tahsildar. The witness explained that the promotion to the post of Deputy Tahsildar was done from the categories such as Head Clerks, Head Accountants, Revenue Inspectors, Special Revenue Inspectors, Upper Division Clerks and Lower Division Clerks who have rendered 6 years of service.

Since it is mentioned that Lower Division Clerks with 6 years service can also be promoted to the post of Deputy Tahsildar, there arose a situation in which persons who have rendered 6 years of service as Lower Division Clerk in other service or who have been appointed as Lower Division Clerks by transfer from other lower categories and have 6 years of service as Lower Division Clerk demanded the post of Deputy Tahsildar on the basis of service seniority and the matter had been referred to the Courts often and to overcome such a situation, now the categories of Upper Division Clerks and Lower Division Clerks have been eliminated from the feeder category and only the persons who serve as Head Clerk/ Revenue Inspector/Village Officer of the Kerala Revenue Ministerial Service are now considered to the post of Deputy Tahsildar as per new G.O./S.R.O.

9. The Committee is of the view that the explanatory note of the S.R.O. lacks clarity of the intention which necessitates the amendment. By reading the S.R.O., one understands that already the promotion to Deputy Tahsildar is done by the way mentioned in the amendment regarding rule 4, Sub-rule (1). Also the need for avoiding the categories of Upper Division Clerks and Lower Division Clerks have not been mentioned in the explanatory note. Since the date of Government Order mentioned in the S.R.O. is after the date of publication of the S.R.O. in the Gazette, the Committee feels that the issuance of the above S.R.O. is not in order.

10. Considering all these aspects, *the Committee recommends the Government to cancel the S.R.O. and take necessary steps to reissue it within two months. The Committee wants the department to mention the reason clearly for making amendments in the rules and hopes that the Government will look into this aspect and issue strict directions in the matter.*

S.R.O. No. 650/2008 dated 20-6-2008

[G.O. (P) No. 263/2008/Fin. dated 20-6-2008]

11. By this S.R.O., Government have issued special rules in respect of the Kerala Local Fund Audit Service, in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968.

12. For Category 6, i.e., Audit Officer, the method of appointment specified are:

- (i) appointment by transfer from among Selection Grade Auditors or Senior Grade Auditors (in the absence of Selection Grade Auditors) in the Kerala Local Fund Audit Subordinate Service; and

- (ii) appointment by transfer from among Typists/Confidential Assistants (both direct recruit and promotee Typist/Confidential Assistant) in the Kerala Local Fund Audit Subordinate Service.

The Committee understands that the appointment as Audit Officer from among Selection Grade Auditors or Senior Grade Auditors is by promotion since the Kerala Local Fund Audit Service is akin to the Kerala Secretariat Service. *Since Audit Officer is the promotion post of Selection Grade Auditor and the witness present in the Committee meeting also agreed with this, the Committee recommends to correct the method of appointment to Audit Officer from among Selection Grade Auditors as “by promotion” instead of “by transfer”. Subsequently in the Note (i) relating to the above provision, the Committee recommends to correct “Appointment by transfer from categories of Typists, Confidential Assistants and Selection Grade Auditors including Senior Grade Auditor.....of Audit Officers” as “Appointment by transfer from categories of Typists, Confidential Assistants and by promotion from Selection Grade Auditors including Senior Grade Auditors,.....of Audit Officers”.*

13. The Committee observes that appointment to Selection Grade Confidential Assistant (Category No. 7) from Senior Grade Confidential Assistant and appointment to Office Superintendent (Category No. 8) from Selection Grade Typists is “by promotion”. But in the Rules it is mentioned as by transfer appointment in both the cases. *The Committee is of the opinion that the method of appointment ‘by promotion’ and ‘by transfer’ are different and recommends to amend this rule accordingly.*

14. The Committee view these mistakes with surprise since the Local Fund Audit Service is similar to the Kerala Secretariat Service. *The Committee deprecates the careless way in which statutory notifications are handled by the Government and urges the Government to pay more attention while drafting statutory notifications in future.*

15. *The Committee recommends to correct the words ‘Grde’ in Sl. No.3 and ‘Depty’ in Sl. No.4 in column (2) in the Table under Rule 3 as “Grade” and “Deputy” respectively. The Committee also wants to correct the words “appoinment” in the last line of Note (i) of Rule 3 and “Garde” in line 2 of Rule 4 as “appointment” and “Grade” respectively.*

16. The Committee finds that the Kerala Local Fund Audit Act, 1994 came into existence with effect from 15-1-1996 and efforts to issue Special Rules have begun from 1996 onwards. The Committee observes that some posts were

redesignated w.e.f. 18-2-1999 and since then it took nine years to issue statutory notifications. *The Committee deprecates the inordinate delay in issuing Special Rules. The Committee hopes that the Government will issue amendment notification without much delay.*

S.R.O. No. 342/2010 dated 31-3-2010
[G.O. (P) No. 197/2010/Fin. dated 25-3-2010]

17. By this S.R.O., Government have issued special rules in respect of the Kerala Local Fund Audit Subordinate Service.

18. In Rule 1, the name of the Rules is stated as “the Special Rules for the Kerala Local Fund Audit Subordinate Service, 2009”. *Since the date of G.O. as well as the gazette date of this S.R.O. is 2010, the Committee recommends to replace the year 2009 with 2010 in the name of the rules.*

19. In rule 3 mentioning method of appointment, for category 3 i.e., Auditor, the appointment can be done in 2 ways (1) by direct recruitment; and (2) by transfer. The appointment by transfer, can be done from (i) From First Grade Typists and First Grade Confidential Assistants of the Local Fund Audit Department; (ii) From Clerks and Typists under State Subordinate Service including Typists and Copyists in the office of the Vigilance Tribunal, Thiruvananthapuram and the Enquiry Commissioner and Special Judge, Thiruvananthapuram and Thrissur; (iii) From Class IV employees (Attender/Binder/Roneo Operator) from the Subordinate Service under Local Fund Audit Department. The Committee observed that while First Grade Typists and First Grade Confidential Assistants of the Local Fund Audit Department need to possess a Bachelor Degree and 10 years of service in the Local Fund Audit Department as per Note 1 of Category No. 3 of Rule 3, the Class IV employees of the same Department having same educational qualification need only 4 years of aggregate service in their category vide note (3). To this, the witness replied that both the categories require at least same years of service for by transfer to the post of Auditor. *The Committee is of the opinion that since Local Fund Audit Subordinate Service is similar to the Kerala Secretariat Subordinate Service, the manner in which by transfer appointment to the post of Assistant from First Grade Typists/Confidential Assistants and from Class IV employees is done, the same may be applied for the by transfer appointment to the post of Auditors also. Hence the Committee recommends to modify the rule accordingly.*

20. The Committee sought explanation regarding the by transfer appointment to the post of Auditor from Clerks and Typists having S.S.L.C. qualification with 4 years of aggregate service in the respective category of the

posts under State Subordinate Service. The witness replied that such a method of appointment was done earlier in the Secretariat Service but it is not practised now. Similar method was prevailing in the Kerala Local Fund Audit Department also. But since such a method of appointment is not followed in the Kerala Secretariat Service now and the method of by transfer from State Subordinate Service is not prevailing now according to Law Department officials, *the Committee recommends that the method of appointment of Auditors by transfer from Clerks and Typists of State Subordinate Service be deleted and the rules be modified accordingly.*

21. *Subsequently, the Committee recommends to delete the provisions under (iii) and (iv) in column 3 and 4 for category 3 under Rule 5.*

22. The Committee observes that the usage “Low paid employees of the Local Fund Audit Department” is vague and need clarification. *The Committee is of the opinion that usage of vague terms in statutory notifications should be avoided. Hence the Committee recommends to avoid the usage “Low paid employees” and use Class IV employees (Attender/Roneo Operator/Binder) as in Rule 3.*

23. The Committee notices that in Rule 3 for Category 7 i.e., Second Grade Typist the method of appointment is done by direct recruitment and by transfer from Class IV employees included in any of the Subordinate Service under the State Government. In note 1 for category 7 of Rule 3, it is mentioned that Class IV employees having 4 years aggregate service are eligible for by transfer appointment. But in Rule 5 prescribing qualification, it is mentioned that 5 years of aggregate service in the respective category of the post is needed for Class IV employees. To the query of the Committee, the witness replied that the provision may be changed as in the Kerala Secretariat Subordinate Service. *The Committee recommends to make amendments in the rule accordingly.*

24. *The Committee observes inordinate delay in issuing Rules and offer the same comments as for S.R.O. No. 650/2008.*

S.R.O. No. 434/2008 dated 24-4-2008

[G.O. (P) No. 78/2008/AD dated 3-5-2008]

25. By this S.R.O., Government have issued special rules in respect of Kerala Soil Conservation Service. The Committee observes that the post of Additional Director can be filled either by promotion or by direct recruitment. The qualification for Additional Director by method of promotion is Degree in Agriculture or a Degree in Civil Engineering or a Degree in Agriculture

Engineering where as by direct recruitment, in addition to Degree in Agricultural Engineering, M.Sc./M.Tech. and Ph.D. in any branch of Agricultural Engineering and a minimum of 10 years experience in Planning and Executing Development/ Soil Conservation Programme. The Committee enquired the propriety of fixing additional qualifications for the appointment to the post by direct recruitment. The witness replied that for a post such as Additional Director, a person must have experience in the field of soil conservation and usually a person in service reach the post after about 30 years of service and a person who has higher qualification such as M.Sc./M.Tech. or Ph.D. will have knowledge about the recent developments in the field and will have exposure to the latest technology and hence a higher qualification is specified for direct recruitment. Then the Committee enquired whether an officer in service do not require such an awareness about the recent developments in the field. To this query, the witness replied that additional qualifications can be attained by the officers in service during the time they are eligible for promotion to the post. The Committee is of the opinion that a person reaching a higher level such as Additional Director must have a minimum qualification in the field at least at the postgraduate level. *Therefore, the Committee recommends to include M.Sc./ M.Tech. in any branch of Agriculture Engineering as additional qualification for the post of Additional Director.*

26. The Committee notices that Degree in Civil Engineering which is prescribed as a qualification for the post of Additional Director by the method of promotion is omitted for the post by direct recruitment. *The Committee wants to add this qualification for direct recruitment also.*

27. The Committee understands that the Special Rules for the Kerala Soil Conservation Service was issued in 10-7-1978 and published as S.R.O. No. 892/78 and the posts of Additional Director of Soil Conservation, Joint Director of Soil Conservation and Additional Director of Soil Survey were created in 2002. But the Special Rules are issued only in 2008. *The Committee deprecates the delay of 6 years for giving statutory effect to an executive order. The Committee hopes that the rules would be amended as early as possible. The Committee wants to furnish the details of the promotion to the above posts since 2002.*

28. The Committee understands that a post of Director is newly created in the Department of Soil Survey and Soil Conservation. *Hence the Committee urges the Government to issue the Special rules relating to the above mentioned post as amendment to the existing rules without delay.*

29. *The Committee recommends to correct the word 'scheme' in the 8th line of page 8 as 'Schemes' and 'Scheduled Caste' in Rule 5 as 'Scheduled Castes'. The Committee also recommends to insert a comma between the words "duty" and "be on probation" in Rule 8.*

S.R.O. No. 67/2013 dated 31-1-2013

[G.O. (P) No. 1/2013/CAD dated 29-1-2013]

S.R.O. No. 68/2013 dated 31-1-2013

[G.O. (P) No. 2/2013/CAD dated 29-1-2013]

30. By these S.R.Os., Government have issued Special Rules for the Kerala Legal Metrology State Service and Special Rules for the Kerala Legal Metrology Subordinate Service respectively.

31. The Committee notices that in the preamble of both the S.R.Os., it is stated as "in exercise of the powers conferred by sub-section (1) of Section 2 of the Kerala Public Services Act, 1968 and in supersession of all existing Special Rules and Orders on the subject". The Committee, from the explanatory note understands that 'The Weights and Measures Department' was renamed as Legal Metrology Department from 16-12-1993 onwards and The Legal Metrology Act, 2009 (Central Act 1 of 2010) has replaced the Standards of Weights and Measures Act, 1976 (Central Act 60 of 1976) and the Standards of Weights and Measures (Enforcement) Act, 1985 (Central Act 54 of 1985). The Legal Metrology (General) Rules, 2011 framed in exercise of the powers conferred by the Legal Metrology Act has specified the qualification for the Officers of the Legal Metrology Department. But the Committee notices that there is no mention about the Legal Metrology Act, 2009 in the preamble of the SRO. The witness from the Law Department also agreed with the view of the Committee that along with the Public Services Act, the Legal Metrology Act shall also be mentioned in the Preamble of the S.R.O. *The Committee wants to modify the Preamble accordingly.*

32. The Committee observes that both the Special Rules have been given retrospective effect from 8th June, 1999. In the explanatory note of the S.R.Os., the reason cited is to protect the appointment of persons appointed through Kerala Public Service Commission since 8-6-1999. But the Committee is of the view that since the Legal Metrology Act, 2009 has been enforced in the State only on 2011, the act of giving retrospective effect to the Special Rules which are issued on the basis of the above Act does not have legal validity. The witness from the Law Department also have the same opinion. Also, the Committee observes that there were Special Rules in the Department based on the Standards of Weights and Measures Act, 1976 till the date of enforcement of

the new Act. The Committee is of the opinion that the powers to issue rules retrospectively should be used only on valid and lawful grounds. *Hence the Committee recommends to change the date of effect of the Special Rules to a date on or after the commencement of the Legal Metrology Act, 2009 in our State.*

33. The Committee notices that there is difference in the qualifications mentioned for the posts of Legal Metrology Officers in the Special Rules and The Legal Metrology (General) Rules, 2011 issued by the Central Government. *The Committee is of the view that while there are Central and State rules pertaining to a subject, only the Central Rules will prevail. Hence the Committee recommends to rectify the anomalies pertaining to qualifications prescribed in the above S.R.Os.*

34. In the light of above discrepancies, the Committee wanted the Government to issue new Rules within 3 months from 30-4-2014, the date of the meeting of the Committee when the above matter was discussed and the witness agreed with the Committee's decision. The Committee also notices that now the Legal Metrology Department comes under the Revenue Department vide S.R.O. No. 953/2013 as amended in the Rules of Business of the Government of Kerala and the files have been transferred to the Revenue Department. *Hence the Committee recommends to cancel the above rules and issue new rules on subject with due diligence and the matter be considered expeditiously.*

S.R.O. No. 370/2008 dated 8-4-2008
[G.O. (P) No. 16/2008/Tran. dated 7-4-2008]

35. By this S.R.O., Government had issued special Rules for Kerala Transport Subordinate Service. As per rule 1(2) of the S.R.O. "The rules relating to physical qualifications specified in the Table under Rule 5 shall come into force at once and the remaining rules shall be deemed to have come into force on the 26th day of June, 1995." The Committee noticed that the S.R.O. is published only on 8th April, 2008. But validation is given with effect from 26th June, 1995. The Committee enquired how the promotions and appointments were done since 1991 when the Central Government issued rules prescribing minimum qualifications for the class of officers consisting of the category of Inspector of Motor Vehicles and Assistant Inspector of Motor Vehicles and the Special Rules were issued earlier in 1964. To this, the witness replied that appointments and promotions were done on the basis of the qualifications prescribed by the P.S.C. since 1995 and hence these were given effect from 26-6-1995. *The Committee understands that there is a gigantic delay of*

17 years in giving statutory validity to an executive order. The Committee cannot understand the reason for such a delay and recommends that strict instructions should be given to put an end to this practice.

36. *In its first report of 6th Kerala Legislative Assembly, the Committee had discussed in detail the question of avoiding delay in cases where executive orders had to be given statutory validity and given suitable suggestions in that regard. The Committee opines that if the executive publishes an executive order as S.R.O. after long delay or does not publish such an executive order as S.R.O., there would be much delay for it to come to the notice of the legislature or sometimes it wouldn't come to the notice of the legislature at all. Then it would become a misuse of delegated powers and ultimately an encroachment of legislative powers. This would deny an opportunity for the legislature to rectify the mistakes, if any, in the rules.*

37. The Committee also notices that the Special Rules relating to the category of Inspector of Motor Vehicles has not been issued so far. The Committee feels ashamed that the Government didn't pay any heed to its earlier recommendation and once again call the attention to Circular No. 150285/SDI/81/GAD dated 2-2-1984 relating to the issuance of the S.R.O. in case where an Executive Order is issued to meet any exigencies. *The Committee deprecates the manner in which the Department handles the matter and recommends to issue Special Rules relating to the category of Inspector of Motor Vehicle within three months. The Committee hopes that the Department will abide by the instructions of the above circular without fail.*

38. The Committee notices that in the qualifications for appointment as Assistant Motor Vehicle Inspector by the method of direct recruitment for criteria (2) is stated as follows:

- (i) A Diploma in Automobile Engineering or Mechanical Engineering awarded by the State Board of Technical Education (3 year course);
- (ii) Any qualification in either of the above disciplines declared as equivalent to the above diplomas by the Central Government or the State Government.

The Committee recommends to insert the word 'or' in between the items (i) and (ii), since the qualification mentioned under item (i) and (ii) are similar.

39. The Committee noticed that in the Table under Rule 5 prescribing qualifications for the post by direct recruitment, in column (2), in the Note under item 3, the word 'requisite' is written 'requisite' and in the note under item (4) the

word 'driving' is written as 'diriving'. *The Committee recommends to avoid such mistakes in statutory rules and use the correct wordings 'requisite' and 'driving' instead of 'requisite' and 'diriving'. The Committee also urges the Government to issue necessary directions to go through the S.R.Os. at the proof stage before publishing them.*

40. Here the age relaxation for S.Cs., S.Ts. and Other Backward Classes is not seen mentioned in the rules. The Committee observes that under rule 6 it is stated that no person shall be eligible for appointment as Assistant Motor Vehicle Inspector by direct recruitment, if he has not completed the age of 21 years or he has completed the age of 43 as on the first day of January of the year in which applications for appointment are invited and for appointment by transfer, if he has not completed the age of 21 years on the date of such appointment. The Committee observes that in all similar rules there will be a provision for the usual relaxation of age limit in the case of Scheduled Castes/ Scheduled Tribes and Other Backward Classes. But provision for the relaxation of age has not been included in this rule. *The Committee suggests that the normal relaxation of age may be allowed to the Scheduled Castes and Scheduled Tribes and Other Backward Classes and provision in this regard may be incorporated in the rule.*

41. The Committee also enquired the officials about the propriety of fixing the maximum age limit as 43 years for appointment instead of 35 as usually followed for P.S.C. appointments. The witness replied that while perusing the file it is seen that the maximum age limit is 35 at the initial stage, but even at the draft stage the maximum age limit is seen to be 40 years. The reason for changing age limit to 40 cannot be retrieved from the concerned files. The Committee is of the view that fixation of age limit as such is not at all proper and had done according to the whims and fancies of the authority. *Hence the Committee wants the Government to examine this point and to re-fix the maximum age limit. The Committee also wants to furnish the details of appointment after the issuance of the rules.*

S.R.O. No. 1175/2008 dated 20-11-2008
[G.O. (P) No. 575/2008/H&FWD dated 19-11-2008]

42. By this S.R.O., Government have notified Special Rules for the Indian Systems of Medicine (Kerala) Subordinate Service in exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968) in supersession of all existing rules and orders on the subject.

43. The Committee notices that under Rule (3), the appointment of Nurse Grade II by promotion is from qualified Nursing Assistants/Pharmacy Attenders in the Department based on the length of service in respective category. But it is not clearly mentioned whether Nursing Assistant Grade I/Pharmacy Attender Grade I or Nursing Assistant Grade II/Pharmacy Attender Grade II shall be promoted to the post of Nurse Grade II. The Committee is of the opinion that the promotion to a category from other categories may be specified clearly and here it is not clear from which category/categories the promotions can be made i.e., from Nursing Assistant Grade I/Pharmacy Attender Grade I or from Nursing Assistant Grade II or Pharmacy Attender Grade II. *The Committee recommends that in statutory notifications, the posts from which promotions are made should be clearly mentioned and must be specific and vague terms should be avoided and suggests to amend this rule accordingly.*

44. Similar is the case of category 7, Pharmacist Grade II and category 8, Pharmacist Grade II (Siddha). Here too it is not mentioned clearly whether the promotion is from Attender Grade I/Nursing Assistant Grade I/Pharmacy Attender Grade I or from Attender Grade II/Nursing Assistant Grade II/Pharmacy Attender Grade II. Here also *the Committee offers the same remarks as above and recommends to modify the rule.*

45. The Committee finds that under Rule 3, regarding method of appointment for category 13, i.e., Attender Grade I/Nursing Assistant Grade I/ Pharmacy Attender Grade I, there is only one method of appointment i.e., by promotion. Since there is no other mode of appointment there is no need of numbering as (i) for 'by promotion'. *Hence the Committee recommends to delete the number '(i)' in column (2) for category 13 in the table under Rule 3.*

46. The Committee notices that the method of appointment for category 14, Attender Grade II/Nursing Assistant Grade II/Pharmacy Attender Grade II is mentioned only as by transfer from the members of Last Grade Service in the Department and in the absence of qualified persons in the Department, from members of Last Grade Service in other Departments. But the Committee notices that the post of Attender (Siddha) Grade II which is similar to the above mentioned post has a provision for direct recruitment. The Committee enquired why the Department omitted the method of 'direct recruitment' as in the case of other categories. The Secretary, Health and Family Welfare Department informed that the Department will take steps to include this provision in the Rules. *Hence the Committee recommends to include the provision of 'direct recruitment' along with 'by transfer' for category 14, i.e., Attender Grade II/Nursing Assistant Grade II/Pharmacy Attender Grade II under Rule 3.*

47. The Committee noticed that promotion to next level from category 6 to 15 is based on the length of service in the respective category as per rules. But the minimum length of service required for promotion is not mentioned in the Rules. The Committee enquired the Department about the minimum service required for promotion. The Secretary, Health and Family Welfare Department informed that 3 years minimum service in respective category can be made mandatory for persons in respective categories for promotion from category 6 to 15. *Hence the Committee wants the Government to take note of this aspect and to insist 3 years service in the respective category to get promotion to next level and hence recommends to incorporate the provision in the Rules.*

48. The Committee notices that the additional qualification required for category 4, Pharmacist Grade I (Siddha) and category 8, Pharmacist Grade II (Siddha) is 'B' Class registration in Siddha with the Council of Indigenous Medicine in Tamilnadu or Diploma in Pharmacy in Indian Systems of Medicine in Siddha awarded by the Government of Tamilnadu or equivalent qualification. The Committee enquired whether our State is not conducting Diploma Course in Pharmacy in Indian Systems of Medicine in Siddha. The witness informed that recently this course has been started in our State at Santhigiri in Pothencode. *The Committee recommends the Department to give preference to the candidates qualifying from our state and to avoid the candidates coming from other states, in future. The Committee recommends to modify this rule to enable the candidates qualifying from our state to get preference while applying for the above posts.*

49. The Committee notices that the qualification for category 5, i.e., Nurse Grade I is mentioned as "(i) S.S.L.C. or equivalent qualification, (ii) Certificate of Ayurveda Nurses Training Course approved by Government of Kerala". But for Category 6, Nurse Grade II, the second qualification is mentioned as "Certificate in Ayurveda Nurses course recognised by Government of Kerala". The Committee finds that the second qualification is mentioned in two different ways and enquired about the correct usage and the witness informed that the "Certificate in Ayurveda Nurses course recognized by Government of Kerala" is the correct usage and there is no such course as Ayurveda Nurses Training Course. *The Committee opined that in statutory notifications, such differences shall be avoided and recommends to correct the usage in (ii) of column (2) for category 5 and 6 under the Table under Rule 5 accordingly.*

50. The Committee notices that the qualification for Attender (Siddha) Grade II is pass in Standard VII with Siddha Vaidya background. The Committee is of the opinion that the qualification prescribed for a particular post must be specific and the usage "Siddha Vaidya background" is ambiguous and allows to

interpret the qualification at the whims and fancies of the authority. The Committee thinks it is not justice and fair and wants to use the terms which precisely indicate what is meant by it. *Hence the Committee recommends to exclude the usage "Siddha Vaidya Background" in the Rules.*

51. *The Committee recommends to correct the word 'unles' in Rule 5 as 'unless'.*

52. The Committee notices that throughout the S.R.O., the abbreviations 'Gr. I' and 'Gr. II' are used instead of the words 'Grade I' and 'Grade II'. *The Committee opines that usage of abbreviations in Statutory rules is not a good practice and recommends to avoid abbreviations in Statutory rules. The Committee wants to use the words Grade I and Grade II instead of Gr. I and Gr. II mentioned in the Rules and recommends to alter them.*

S.R.O. No. 139/2012 dated 17-2-2012

[G.O. (P) No. 63/2012/H&FWD dated 17-2-2012]

53. By this S.R.O., Government have amended the Indian Systems of Medicine (Kerala) Subordinate Service Rules, 2008 published as S.R.O. No. 1175/2008.

54. The Committee notices that the qualification for Laboratory Technician Grade II (category 10) mentioned under the table in Rule 5 of S.R.O. No.1175/2008 is (i) pass in S.S.L.C. in Science Group or equivalent qualification; and (ii) Pass in Diploma in Medical Laboratory Technology (DMLT) course conducted in Medical Colleges of Kerala or its equivalent examination. But in S.R.O. No.139/2012, it is seen that 'in Science Group' is omitted. The Committee is of the opinion that instead of S.S.L.C., Plus Two has to be inserted since a pass in Plus Two Science Group is required for admission to Diploma in Medical Laboratory Technology course conducted by Medical Colleges of Kerala. *Hence the Committee suggests to further amend the rule 2(i) of this S.R.O. and instead of the words "S.S.L.C.", "Plus Two" may be inserted in the original Rules.* By rule 2(iii) of this S.R.O., the entire qualification specified for category 14 in Rule 5 is deleted. From the witness reply, the Committee understands that this has been done with an intention to remove the qualification "pass in STD. VII or equivalent" and to retain the qualification "pass in Attenders Test conducted by the Public Service Commission." But the amendment has the meaning that no qualification is required. *The Committee wants the Government to rectify the mistake and issue amendment in the matter with the proper consultation of the Law Department. The Committee desires to issue amendment notification without delay.*

S.R.O. No. 200/2009 dated 3-3-2009
[G.O. (P) No. 9/2009/Plg. dated 20-2-2009]

55. By this S.R.O., Government have issued Special Rules in respect of the Kerala Statistics and Economics Subordinate Service.

56. The Committee notices that in Note 4 of category 3 in Rule 3 it is stated as “The existing persons under the category of Typist and Confidential Assistant” and finds that the categories mentioned here are Lower Division Typist and Confidential Assistant Grade II and opines that the terms used in statutory notifications must be specific to avoid ambiguity. *The Committee wants to modify the Note 4 of category 3 in Rule 3 accordingly.*

57. The Committee observes that appointments to Category 4 (Statistical Assistant Grade II/Statistical Investigator Grade II/Computer Operator Grade II) are made by direct recruitment and by transfer from Last Grade Servants in the Department and that it is stated in Note (2) that the existing persons in the Last Grade Service (acquired with S.S.L.C. qualification) are exempted from acquiring Degree Qualification for promotion to Category 4. *The Committee recommends to substitute the words “for promotion to category 4” with the words “for appointment by transfer to Category 4”, since by promotion and by transfer are different methods of appointment.*

58. The Committee also feels that the usage “the existing persons” in Note 4 of Category 3 and in Note 2 of Category 4 lacks clarity. The witness from the Law Department also agreed with the Committee’s view. The Law Department Officials informed the Committee that the existing persons in service on a particular date be mentioned to avoid uncertainty about the date. *Hence the Committee wants the Government to fix the date as the date of this Government Order and recommends to modify the Note 2 of category 4 in Rule 3 accordingly.*

59. The Witness from the Administrative Department informed the Committee that even after the issuance of these Rules, persons were appointed to category 4 who have S.S.L.C. qualification and were in the P.S.C. list at that time but after the issuance of the Rules, the vacancies were reported to P.S.C. with degree qualification. *The Committee opines that it should also be mentioned in the rules as a Note and recommends to append a note to category 4 in Rule 3.*

60. The Committee observes that the appointments to Category 3 are done by promotion from Category 4 and by transfer from Lower Division Typist and Confidential Assistant Grade II of the Department. But the ratio regarding

the appointment by both the methods are not specified. To the query of the Committee about the reason for not mentioning the ratio, the witness from the Department answered that there were about 700 officials in Category 4 and 21 persons in the category of Typists/Confidential Assistants and since the number of Typists/Confidential Assistants is very low compared to the number of persons in category (4), the ratio is not fixed. *The Committee opines that for appointment to Category 3, there are more than one method specified and the proportion to be allocated for each method of appointment need be mentioned in the Rules. Therefore the Committee recommends that the Government should look into this aspect and make necessary amendments. Also, the Committee recommends to add a provision "in the absence of persons in the category of Lower Grade Typists and Confidential Assistant Grade II", since the number of persons in the feeder category for by transfer appointment is less compared to those in Category 4.*

61. The Committee observes that in Rule 4 regarding Qualifications it is mentioned as 'A Bachelors Degree either in Economics or Statistics or Mathematics or Commerce with Statistics from a recognised University or Institution' and sought clarification for the usage 'Degree from a recognised University or Institution'. The witness from the Law Department also raised the apprehension that it is doubtful about the recognition of degree from other States and opined that it is to be mentioned as "Degree from any of the Universities in Kerala or recognised as equivalent thereto by any of the Universities in Kerala". *Hence the Committee recommends to amend the rule accordingly.*

S.R.O. No. 201/2009 dated 3-3-2009

[G.O. (P) No. 10/2009/Plg. dated 20-2-2009]

62. By this S.R.O., Government have issued Special Rules for the Kerala Statistics and Economics Service.

63. The Committee observes that Rule 3 stipulates condition for appointment and for Category No. 6 and Category No. 8 i.e. District Officer and Additional District Officer, the method of appointment is by promotion only. In these cases, the Committee notices that there is no provision to fill the posts in the absence of suitable candidates from feeder categories i.e. Category 8 and Category 9 respectively. When the Committee enquired about the omission of such condition for the above posts, the witness replied that so far such a contingency has not been faced by the Department. But the Committee is of the

opinion that the Rule must not be silent on this aspect and opines that such a situation must be foreseen by Department. *Hence the Committee recommends to include the provision relating to the absence of suitable candidates for promotion in the rules and amend accordingly.*

64. The Committee observes that the minimum age limit prescribed for a person to the post of Director of Economics and Statistics by direct recruitment is 35 years and the qualification is Doctorate in Economics or Statistics or Mathematics or Commerce (with Statistics as a subject of study at the Bachelor Degree level) and eight years experience in Economics or Statistical Work in Government Departments or in recognised Universities or A First Class Post graduate Degree in Economics or Statistics or Mathematics and ten years of experience. The Committee is of the view that a person after acquiring post graduate degree and 10 years experience will be eligible for the post at a minimum of 33 years of age and opines that the minimum age limit is to be lowered. *Hence the Committee recommends that this age limit should be lowered suitably.*

S.R.O. No. 142/2012 dated 2-3-2012

[G.O. (P) No. 6/2012/Plg. dated 17-2-2012]

65. By this S.R.O., Government have made certain amendments in the Kerala Statistics and Economics Subordinate Service Special Rules, 2009.

66. In the amendment of the Rules, in Rule 2(iii) two provisos are added. The Committee notices that the usage “reverted back” is wrong since “revert” itself means ‘return to a former state or condition’. *Hence the Committee recommends to avoid the word “back” in the second proviso for Rule 9 of the original Rules [in the second proviso to rule 2(iii) in amendment notification].*

S.R.O. No. 992/2008 dated 25-9-2008

[G.O. (P) No. 36/2008/Trans. dated 24-9-2008]

67. By this S.R.O, Government have issued Special Rules for Kerala State Water Transport State Service.

68. The Committee notices that in the preamble of rules “Kerala State Water Transport State Services” is wrongly written as “Kerala Water Transport State Service”. *Hence the Committee wants to correct this and use ‘Kerala State Water Transport State Services’ instead of ‘Kerala State Water Transport State Services’.*

69. The Committee notices that under Rule 2 of the S.R.O., 2nd wing is termed as 'Repair and Maintenance Wing'. But it is termed as 'Repairs and Maintenance Wing' in the table under Rules 3 and 4. The Committee is surprised to note that same term is mentioned in two different ways in the same S.R.O., and the Committee enquired whether it is "Repairs and Maintenance Wing" or "Repair and Maintenance Wing". *The Secretary, Transport Department informed that "Repairs and Maintenance Wing" is the correct usage and the Committee recommends to modify the rule accordingly. The Committee urges the officials to pay more attention while issuing statutory notifications and recommends to avoid such mistakes in future.*

70. *The Committee wants to change the word as 'table' instead of "tables" in the 2nd line of Rule 4 since only one table is mentioned under Rule 4.*

71. The Committee observes that appointment of Director can be done in two ways i.e. (i) By promotion from qualified Mechanical Engineer from the Service or by Appointment from State Government Services/Government owned Companies/Autonomous Bodies under Government; (ii) In the absence of qualified hands under item (i) above, by direct recruitment. The Committee finds that in Rule 4 which prescribes qualifications for methods of appointment, 3 methods are mentioned separately, such as By Promotion, By appointment and By Direct Recruitment. The Committee, after hearing the witness, is of the view that the methods of By promotion and By Appointment can be numbered as (a) and (b) in the Table under rule 4, since both these method of appointments are treated singly in Rule 3. *The Committee recommends to modify it accordingly.*

72. Under Rule 3, the method of appointment in the category of Traffic Superintendent is 'by transfer' from qualified persons in the category of Assistant Traffic Superintendent in State Water Transport Subordinate Service. The Committee notices that the method of appointment for this post is mentioned is 'by promotion' under rule 4. Since procedure is different in the appointments under 'by transfer' and 'by promotion' and from the witness reply, *the Committee recommends to change the method of appointment as 'by transfer' instead of 'by promotion' for Traffic Superintendent in Table 4 under Rule 4 and modify the rule accordingly.*

73. Under Rule 4, for category 1, for the post of Director, it is stated that ten years regular service in the Kerala State Water Transport Service is necessary for promotion to the post. The Committee enquired whether it is ten years regular service as Mechanical Engineer or it is ten years total service in the Kerala State Water Transport State Service. The Transport Secretary

informed that “10 years total service in the Kerala State Water Transport State Service” is the correct usage and *the Committee wants the Department to clearly state it as “ten years total service in the Kerala State Water Transport State Service”*.

74. *The Committee recommends to insert a slash (/) in between University and Institution and also delete ‘a’ in column 4, for qualification by Direct Recruitment to the post of Director of the table under Rule 4.*

75. The Committee notices that in the Table under Rule 4 prescribing qualifications for the posts for category 2, Works Manager, in Column 3, it is stated that “Degree/Three years Diploma in Mechanical or Marine or Automobile or Naval Architecture from a recognised University/recognized by Government. *The Committee recommends to insert the words “an institution” after the slash (/) symbol and amend the rule accordingly.*

76. The Committee notices under rule 4, for the post of Assistant Works Manager under Repairs and Maintenance Wing, for the method of “By transfer” it is mentioned as “Qualifications prescribed for Direct Recruitment of Foremen”. *The Committee is of the opinion that the qualifications and experience for a post must be specified in the rules clearly. Hence the Committee wants to modify the rule by incorporating the qualifications for the post.*

77. *The Committee recommends to delete the words “shall be allowed” in Rule 7.*

78. *The Committee recommends to correct the words “to which direct recruitment is one of the methods of appointment” under rule 8(a) as “to which direct recruitment is one of the method of appointment”.*

79. *The Committee observes that if proper scrutiny had been made by the Transport Department, the mistakes could have been avoided. The Committee suggests that statutory notifications shall be drafted with due diligence and utmost care and recommends to issue amendment notification without delay.*

S.R.O. No. 79/2011 dated 27-1-2011

[G.O. (P) No. 20/2011/Home dated 24-1-2011]

80. By this S.R.O., Government have in exercise of powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 read with sub-section (1) of section 69 of Kerala Police Act, 1960 (5 of 1961) issued Special Rules for the various categories of posts in Motor Transport Wing of Kerala Police Subordinate Service superseding all existing rules and orders on the subject.

81. The Committee notices that in the Preamble of the S.R.O. it is stated that this S.R.O. has been issued superseding all existing rules and orders on the subject. But the details of the S.R.Os. which have been superseded has not been mentioned either in the S.R.O. or in the explanatory note of the S.R.O. The Committee also finds that in the explanatory part of the S.R.O. it is mentioned that the Special Rules for the post of Motor Transport Sub-Inspector, Havildar Motor Mechanic, Mechanic Police Constable and Electrician Police Constable coming under Kerala Police Subordinate Service (Motor Transport Wing) has not been issued till that date. The Committee enquired about the date on which these posts were created and also asked the Department to furnish the details of Government Order based on which the above appointments were made. The witness from the Home Department informed that the appointments in Police Department were made on the basis of executive orders issued in 1978 vide G.O. (Ms.) No. 34/78/Home dated 13-4-1978. *The Committee is distressed to note that an executive order has been given statutory validity after 33 years and considers this delay as an act of mockery towards Legislature. The Committee thinks this is a way to evade the mechanism of Parliamentary control of Legislature over Delegated Legislation. The Committee considers this as an act of misuse of delegated powers.*

82. *The Committee has never come across such a gigantic delay in transforming an executive order into a statutory notification. The Committee considers that this has happened as result of criminal negligence on the part of authorities concerned. Even if judged by elastic standards this delay cannot under any circumstances be pardoned. The Committee desires that the reason for this delay should be investigated and intimated to the Committee. Strict instructions should be given to put an end to such delays.*

83. In its first report of VI Kerala Legislative Assembly, the Committee discussed in detail the question of avoiding delay in cases where executive orders have to be given statutory validity and given suitable suggestions with that end in view. The Committee calls attention of the Government to the comments of the Committee about the delay in issuing S.R.O. for an executive order in its first report of the VI Kerala Legislative Assembly. "In the interest of expediency it is a settled matter that the Government should have powers to issue executive orders even while such orders could be issued only by invoking statutory provisions. The Committee do not want to stand in the way of the effective functioning of the Government. At the same time the interest of the Legislature also have to be protected. The Committee thinks that this can be done if the time lag between the date of issuance of the executive order requiring the issuance of the S.R.O. and the actual date of publication of the S.R.O. is

minimized to the maximum possible extent. This the Committee thinks is the only remedy for this. Hence the Committee recommends that if an executive order requiring the issuance of the S.R.O. is issued, the S.R.O. in respect of the same should be published in gazette within 90 days of issuance of the executive order”.

84. The Government have accepted the recommendation of the Committee in this regard and given directions to all Departments vide Circular No. 150285/SDI/81/GAD dated 2-2-1984 that in all cases not involving action under the Kerala Public Service Commission, the S.R.O. should be issued within 90 days of the executive order and that in service matters where S.R.O. is to be issued, it should be done as far as possible, but not later than one year from the date of the executive orders. The Committee opines that the same condition prevails even today and the Committee adhere to its earlier recommendations on the above matter.

85. The Committee noticed that the appointments to various posts in Home Department were made on the basis of executive orders and asked the Department to furnish the details of the posts for which appointments are still done on the basis of executive orders only and S.R.Os. have not been issued so far. The witness from the Home Department assured that the details shall be furnished to the Committee within ten days from the date of meeting. *The Committee expresses its concern over not furnishing the details sought by the Committee. The Committee directs the department to issue special rules for appointment to all categories in the department within one month.*

86. The Committee observes that details of executive orders issued for the posts has not been mentioned in the S.R.O. The Committee would like to impress upon the Department that explanatory note should be one which explains the circumstances which lead to the publication of the notification and it should not be one appended as a formality. *The Committee wants the Government to mention the details of orders and S.R.Os. issued earlier in the matter or which statutory notification is published and recommends to give instructions relating to the matter.*

87. *The Committee recommends to use the word ‘Havildar Motor Mechanic’ category II instead of ‘Havildar Motor Mechanics’ under Rule 2.*

88. *The Committee recommends to delete a comma between the words ‘visual’ and ‘standards’ in page 5 under 3(c) eyesight under “physical qualification” under column (3) qualification for category 1 in the Appendix. The Committee also wants to use the word ‘possess’ instead of ‘posses’ in the same paragraph.*

89. The Committee notices that the educational qualifications for the post of Motor Transport Sub-Inspector by direct recruitment is a Degree or Diploma in Automobile or Mechanical Engineering and two years experience in a Government approved Automobile Workshop in case of Diploma holders and one year experience in the case of Degree holders. *Since there is no chance of Degree holders to approach a workshop for experience, the Committee wants the Department to exclude the provision of experience in case of Degree holders and recommends to change the qualification as "A Degree in Automobile Engineering or a Diploma in Automobile Engineering with one year experience from a Government approved workshop".*

90. *The Committee urges the Department to issue amendments at the earliest and avoid delay in the matter.*

Thiruvananthapuram,
15th July, 2014.

M. UMMER,
Chairman,
Committee on Subordinate Legislation.