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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 16th March, 1982:—

BILL No. 11 OF 1982

A Bill further to amend the Navy Act, 1957.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. This Act may be called the Navy (Amendment) Act, 1982.

Short
title.

62 of 1957.

2. In section 55A of the Navy Act, 1957 (hereinafter referred to as the principal Act), in clause (a), after the words "fourteen years", the words "or such other punishment as is hereinafter mentioned" shall be inserted.

Amend-
ment of
section
81.

3. In section 81 of the principal Act, in sub-section (1),—

(a) in clause (f), after the word "officers", the words "and master chief petty officers" shall be inserted;

(b) in clause (g), for the words "subordinate officers", the words "officers below the rank of commander and master chief petty officers" shall be substituted;

(c) in clause (i), for the words "disrating" and "subordinate and petty officers", the words "reduction in rank" and "petty officers" shall respectively be substituted.

Amend-
ment of
section
82.

4. In section 82 of the principal Act,—

(a) in sub-section (9), for the words “disrating” and “rate”, the words “reduction in rank” and “rank” shall respectively be substituted;

(b) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) No master chief petty officer shall be subject to the punishment of forfeiture of seniority of more than twelve months.”;

(c) after sub-section (13), the following sub-section shall be inserted, namely:—

“(13A) No master chief petty officer shall be subject to the punishment of forfeiture of time for promotion of more than twelve months.”;

(d) in sub-section (14), for the words “disrated” and “rating”, the words “reduced in rank” and “rank” shall respectively be substituted.

Amend-
ment of
section
94.

5. In section 94 of the principal Act,—

(a) in sub-sections (1) and (2), for the words “any subordinate officer”, the words “any officer below the rank of commander” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Flag Officer Commanding-in-Chief of a naval command may, subject to regulations made under this Act, impose on any officer below the rank of commander one or more of the following punishments, namely:—

(a) forfeiture of seniority in rank of not more than three months;

(b) forfeiture of time for promotion of not more than three months;

(c) severe reprimand or reprimand.”;

(c) in sub-section (4), for the word, brackets and figure “and (2)”, the brackets, figures, word and letter “, (2) and (2A)” shall be substituted;

(d) in sub-section (5), for the words “training ship”, the word “ship” shall be substituted.

Amend-
ment of
section
97.

6. In section 97 of the principal Act, in clause (b) of the proviso to sub-section (10), after the figures “55”, the figures and letters “, 55A. 55C” shall be inserted.

Amend-
ment of
section
135.

7. In section 135 of the principal Act,—

(a) in sub-section (1), for the words “any district magistrate or magistrate of the first class”, the words “any metropolitan magistrate or judicial magistrate of the first class” shall be substituted;

(b) in sub-section (3), for the words and figures "district magistrate or magistrate of the first class or an authority exercising in that place powers equivalent to those of a magistrate of the first class under the Code of Criminal Procedure, 1898", the words and figures "metropolitan magistrate or judicial magistrate of the first class or an authority exercising the powers equivalent to those of a judicial magistrate of the first class under the Code of Criminal Procedure, 1973" shall be substituted;

5 of 1898.

2 of 1974

(c) in sub-section (4),—

(i) for the words "if he is a district magistrate he or such magistrate of the first class as is appointed by him in this behalf", the words "if he is a Chief Metropolitan Magistrate or Chief Judicial Magistrate, he or such metropolitan magistrate or judicial magistrate of the first class as is appointed by him in this behalf" shall be substituted;

5 of 1898.

2 of 1974.

(ii) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.

2 of 1974.

8. In section 141 of the principal Act, for the words and figures "under section 476 of the Code of Criminal Procedure, 1898", the words and figures "under section 340 of the Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 141.

5 of 1898.

2 of 1974.

9. In section 142 of the principal Act, for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 142.

5 of 1898.

2 of 1974.

10. In section 158 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 158.

11. After section 184 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 184A.

"184A. The power to make regulations conferred by this Act shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the regulations or any of them, but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable."

Power to make regulations with retrospective effect.

STATEMENT OF OBJECTS AND REASONS

The Navy Act, 1957 which was brought into force with effect from the 1st January, 1958 was last amended in 1974. In the light of the experience gained from the administration of the Act, it is proposed to make certain further amendments in that Act to avoid scope for some difficulties which have been experienced and to remove certain deficiencies therein.

2. The more important amendments proposed to be made are as follows:—

(1) A new cadre, namely, master chief petty officers, was introduced in the Navy in 1968. It has been noticed in some cases of offences by master chief petty officers that while the offences were not of a sufficiently serious nature to justify trial by court-martial, the alternative method of dealing with such offences by awarding summary punishments was not adequate. It is, therefore, proposed to include in the category of summary punishments which may be awarded to these officers more serious punishments by way of forfeiture of seniority for a period of not more than twelve months and forfeiture of time for purposes of promotion for a period of not more than twelve months [*vide* clause 3(a), (b) and clause 4(b), (c)].

(2) Section 84 of the Army Act, 1950 and section 86 of the Air Force Act, 1950 contain provision for summary trial of officers below the rank of Lt. Colonel and Squadron Leader respectively, whilst section 94 of the Navy Act, 1957 contains provision for summary trial of only subordinate officers. With the expansion of the Navy, and keeping in view the institution of full-fledged commands and the upgradation of the officers holding command, it is felt that it is appropriate now to bring the provisions of the said section 94 of the Navy Act into conformity with the corresponding provisions of the Army and Air Force Acts. Section 94 is accordingly being amended to provide for summary trial of officers below the rank of commander [*vide* clause 5].

(3) A new section 184A is proposed to be inserted to enable the making of beneficial regulations with retrospective effect. This power is basically intended to be availed of for regularising benefits conferred by executive orders. The relevant provision is on the lines of similar provisions contained in other enactments, such as the All-India Services Act, 1951, and is also in accordance with the recommendations of the Committees of Parliament on Subordinate Legislation [*vide* clause 11].

3. The other changes proposed in the Bill are for substituting the references to the Code of Criminal Procedure, 1898 by references to the new Code of 1973 and for making certain other changes of a minor or consequential nature.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 17th February, 1982.

R. VENKATARAMAN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5(b) of the Bill seeks to amend section 94 of the Navy Act, 1957 so as to insert sub-section (2A) therein. The new sub-section is for providing that the Flag Officer Commanding-in-Chief of a naval command may impose certain punishments on any officer below the rank of commander subject to regulations which may be made in that behalf.

Clause 11 of the Bill seeks to insert new section 184A in the aforesaid Act so as to empower the Central Government to make regulations with retrospective effect from a date not earlier than the date of commencement of the Act. This power is basically intended to be availed of for regularising the benefits conferred by executive orders. Further it has been made clear that this power cannot be exercised so as to prejudicially affect the interests of any person who may be governed by the regulations. In the circumstances, the delegation of legislative power is of a normal character.

SUDARSHAN AGARWAL,
Secretary-General

