


Constitutional/ statutory protection for All India Service Officers

- ❖ General constitutional provisions related to services-Part XIV of Constitution – Article 308-314; Article 311 & Article 320
- ❖ Unitary feature of constitution
- ❖ Article 312
- ❖ Entry no 70 in Union list (list I)
- ❖ All India Service Act, 1951
- ❖ Residuary powers –Rule 3 of The All India Services (Conditions Of Service-residuary Matters) Rules, 1960.



❖ **CAT Chandigarh in State of Himanchal Pradesh v. Union of India & anr 2004(2) SLJ 311 CAT;**
CAT Chandigarh in K.C. Meena, IFS Deputy Conservator of Forests (T), Mohindergarh Vs. Union of India (OA No. 782-HR/1997) ;State of Tamil Nadu Vs. Union of India And Anr (Writ Petition (Civil)- 6117/2016)

❖ **Affidavit of DoP&T and MoEFCC in Civil Writ Petition – 5953/2014 in Punjab and Haryana High Court**



“The Union will go- you will not have a united India. If you have not a good all-India service which has the independence to speak out its mind, which has a sense of security that you will stand by your word and that after all there is the Parliament, of which we can be proud where the rights and privileges are secure..... This Constitution is meant to be worked by a ring of Service which will keep the country intact-”

Sardar Vallabhai Patel In Constituent Assembly




“It is recognized that in every country there are certain posts in its administrative set-up which might be called strategic from the point of view of maintaining the standard of administration....There can be no doubt that the standard of administration depends upon the caliber of the civil servants who are appointed to these posts... The Constitution of India thus provides that there shall be All India Services, the members of which alone could be appointed to such strategic posts throughout the Union”

-Dr. B.R. Ambedkar in Constituent Assembly


(I). Arbitrary Transfers


- ❖ **Supreme Court in** - *T.S.R. Subramanian & Ors Vs. Union of India & Ors. (Writ Petition (Civil) No. 234/2011)*; Allahabad High Court in *Lok Prahari Through Its General Vs. Union of India (Misc Bench No. 2415/2011)*
- ❖ Amended cadre rules of 2014 – Civil Services Board & tenure fixation
- ❖ *Pankaj Kumar vs. State of Uttarakhand and Others (Writ Petition (SB) No. 211 of 2018)*-Uttarakhand High Court; *Dr. T.P. Senkumar IPS Vs. Union of India & Ors. (Civil Appeal No. 5227 /2017)*-Supreme Court
- ❖ Grounds of malice and statutory/procedural violation



(II). Vindictive suspension orders & disciplinary proceedings

- ❖ Impact
- ❖ Rule 3, 7, 8, 9, 10, 16, 24, & 25 of All India Services (Discipline & Appeal) Rules 1969
- ❖ Powers of State Government
- ❖ Natural justice – Role of Chief Minister & powers to impose penalty
- ❖ Orders passed in Jan 2011 & Oct 2013 – role of DOPT & MOEFCC

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- ❖ **Suspension period comes to an end after expiry of statutory period - Supreme Court in *Union of India and Ors. Vs. Dipak Mali* (AIR 2010 SC 336)**
 - ❖ **Against protracted suspension-** *Ajay Kumar Choudhary Vs. Union of India* (2015 7 SCC 291)
 - ❖ **Authority has to give some reason, which may be very brief for initiation of the enquiry-** *Bachhittar Singh v. State of Punjab* (AIR 1963 SC 395)
 - ❖ **No disciplinary proceedings against a Government Servant, for criticism on corruption and mal administration-** Supreme Court in *Vijay Shankar Pandey Vs. Union of India & Anr* (Civil Appeal No. 9043/2014)
 - ❖ **No surrender of Fundamental Rights upon entering public services-** *O.K.Ghosh Vs. E.X.Joseph* (AIR 1963 SC 812)
 - ❖ **Chargesheet also requires approval of disciplinary authority, apart from proposal and also appointment of I.O. and P.O. and finally for imposition of penalty-** *Union of India Vs. B.V.Gopinath* (2014 1 SCC 351)
 - ❖ **Delay in disciplinary proceedings a ground for quashing- Supreme Court in *State of Madhya Pradesh vs. Bani Singh and another* (1991/ 16 ATC 514)**



(III). Spoiling of annual performance appraisal reports


❖ New amended APAR Rules 2007

- Work plan
- Objectivity
- Timeline
- Hindrance
- Redressal
- Rule 10
- Three months leave / Retirement

- ❖ Latest amendments
- ❖ Orders passed on 31.1.14 and case before Uttarakhand High Court/ CAT Nainital
- ❖ **Consistency in grading-** *S. Ramchandra Raju Vs. State of Orissa case-1994 Supp(3) SCC 424*
- ❖ **While evaluating the materials, authority should not all together ignore the reputation in which officer was held recently, citing the maxim "nemo firut repente turpissimus" (no one becomes dishonest all of a sudden)-** *M.S. Bindra Vs. Union of India and Others (1998) 7 SCC 310 ,*
- ❖ **APAR can not be spoiled without giving opportunity for improvement-** Supreme Court in *Sri M.A Rajasekhar Vs. State of Karnataka and ANR JT 1996(7) 708 case*
- ❖ **APAR writing must be objective, not a punishment tool to be used against inconvenient officers-** Supreme Court in *State of UP vs. Yamuna Shanker Mishra and Anr(1997 (4) SCC 7)*

(IV). Frivolous police cases

- ❖ CrPC sections – 154/ 156(3) / 190-204 / 197 / 482 and Section 19 of Prevention of Corruption Act, 1988
- ❖ Cases of criminal defamation – Shimla and Hisar
- ❖ Criminal cases at Fatehabad and Jhajjar; Vigilance Bureau case at Kurukshetra.
- ❖ Supreme court orders on CrPC 197
 - **Bar under CrPC 197 is absolute and mandatory-** *Sate of Uttar Pradesh Vs. Paras Nath (2009) 8 SCR 85*
 - **Sanction under section 197 of CrPC is a prerequisite for initiation of trial -** *Rakesh Kumar Mishra vs State Of Bihar And Ors (Appeal (crl.) 12 of 2006)*
 - **Summoning order may be quashed on ground of lack of sanction-Smt. Nagawwa vs Veeranna Shivallngappa Konjalgi (1976, SCC (3) 736)**
 - **Even if alleged act, in excess of duty, sanction under 197 of CrPC is mandatory -D T Virupakshappa vs C Subash, (Criminal Appeal NO. 722 OF 2015)**

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- ❖ **Supreme Court orders on Section 482 of CrPC-**
State of Haryana Vs. Bhajan Lal others, (1992) supp (1) SCC 335; M/S. Pepsi Foods Ltd. & Anr vs Special Judicial Magistrate & Ors (1998 5 SCC 749)
 - ❖ **Against illegal summoning in Criminal Complaints- Section 202/204 of CrPC-** *Sunil Bharti Mittal vs CBI (Criminal Appeal No. 34/2015), Apex Court*

(V). Compulsory Retirement

- ❖ Review of services after completion of 15 and 25 years of qualifying service
- ❖ Rule 16(3) of All India Services (Death-cum-Retirement Benefits) Rules, 1958 ; Rule 56(j) of Central Civil Services (Pension) Rules, 1972
- ❖ Union of India vs. M.E. Reddy and another (AIR 1980 SCC 563); State of Gujarat Vs. Umedbhai M. Patel (Civil Appeal No. 1561 of 2001, 3 SCC; 320)



(VI). Deputation

- ❖ Overriding power of central government
 - Rule 6(1) of cadre rules; Central Deputation Reserve.
- ❖ Relieving order issued in June 2012 by Central Government.

(VII). Administrative issues- Some case laws

- ❖ **Even where there is no provision in Statute, natural justice has to be read into it, in such cases-** State of U.P Vs. Vijay Kumar Tripathi And Another – 1995 SUPP(I) SCC 552; State Bank of India And Others Vs. D.C Aggarwal And Another – AIR 1993 SC 1197
- ❖ **Rule of Bias-** Ranjit Thakur Vs. Union of India And Ors – (1987) 4 SCC 611; A.K Kraipak Vs. Union of India – (1969) 2 SCC 262 ; Kumaon Mandal Vikas Nigam Ltd Vs Girja Shankar Pant and ors, Civil Appeal No. 5747 of 1998
- ❖ **Undue hurry always associated with malice-** Supreme Court in Fuljit Kaur Vs State of Punjab & Ors (Civil Appeal No-5292 of 2004) ;
- ❖ **If foundation of any action is erroneous, all subsequent actions null and void-** Chairman-cum-Managing Director, Coal India Limited & another Vs. Ananta Saha & others (2011 5 SCC 142)
- ❖ **Any error in any administrative order vitiates and makes its liable to be set aside-** Supreme Court in State of U.P. vs Renusagar Power Co. and others-Civil Appeal No. 2966 of 1986
- ❖ **Right to Reputation is part of right to life under Article 21 of Constitution of India-** Kiran Bedi v. Committee of Inquiry and another, (1989)1 SCC 494
- ❖ **Government can't take U turn on an administrative matter-** State of Haryana vs State of Punjab & Another- (2002) 2 SCC507

- ❖ **Duty to give reasons in support of decision, namely, passing of a 'reasoned order'** - *Dharampal Satyapal Limited Vs. Deputy Commissioner of central Excise, Gauhati and Others* (2015 8 SCC 519); Constitution Bench of Supreme court Court in *S N Mukherjee v Union of India* (1990 4 SCC 594)
- ❖ **Public officer should be given posting and work commensurate to his status- Failure to do so calls for court's interference-** *P.K. Chinnasamy Vs. Government of Tamil nadu and Others* (1987 4 SCC 601)
- ❖ **Burden of establishment mala fides lies very heavily on the person who alleges it and that there must be sufficient material to establish *malus animus*-** *E.P. Royappa v. State of T.N.* (1974)4 SCC 3
- ❖ **Arbitrariness in State action/ orders is violative of Article 14 of Constitution of India -** *E.P. Royappa v. State of T.N.* (1974)4 SCC 3
- ❖ **Practice of summoning officers to court is not proper and does not serve the administration of justice-** Supreme Court In- *Para 22 of Shri N. K. Janu, Deputy Director Social Forestry Division, Agra and Others Vs. Lakshmi Chandra* (2019 (6) SCALE 236; *State of Uttar Pradesh and Others vs. Sudarshana Chatterjee* (Civil Appeal No. 9301 /2019)
- ❖ **For protection of honest officers-** Supreme Court in *Dr. Ram Lakhan Singh Vs. State Government of Uttar Pradesh* (Writ Petition (Civil) No. 933/2014)

Administrative Law- I.P. Massey (Publisher- Eastern Book Company)

There is need to minimise the scope of the arbitrary use of power in all walks of life. It is inadvisable to depend on the good sense of the individuals however high –placed they may be . It is trite to say that individuals are not and do not become wise because they occupy high seats of power, and good sense, circumspection and fairness do not go with the posts, however high they may be. There is only a complacent presumption that those who occupy high posts have a high sense of responsibility. The presumption is neither legal nor rational. History does not support it and reality does not warrant it. In particular, in a society pledged to uphold the rule of law, it would be both unwise and impolitic to leave any aspect of its life to be governed by discretion when it can conveniently and easily be covered by the rule of law.

**Delhi Transport Corporation vs D.T.C. Mazdoor Congress on 4
September, 1990,
Supreme Court of India**

Otto von Bismarck



With bad laws and good civil servants it's still possible to govern. But with bad civil servants even the best laws can't help.



After a time, civil servants tend to
become no longer servants and no
longer civil.

— *Winston Churchill* —



There's no greater challenge and
there is no greater honor than to be
in public service.

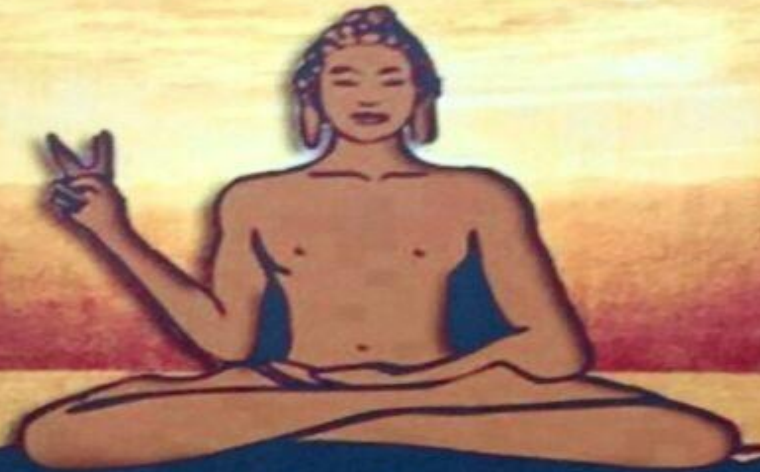
— *Condoleezza Rice* —

Ayn Rand wrote this almost 60 years ago. It's frightening how accurate the statement is today.

WHEN YOU SEE THAT TRADING IS DONE, NOT BY CONSENT, BUT BY COMPULSION—WHEN YOU SEE THAT IN ORDER TO PRODUCE, YOU NEED TO OBTAIN PERMISSION FROM MEN WHO PRODUCE NOTHING—WHEN YOU SEE THAT MONEY IS FLOWING TO THOSE WHO DEAL, NOT IN GOODS, BUT IN FAVORS—WHEN YOU SEE THAT MEN GET RICHER BY GRAFT AND BY PULL THAN BY WORK, AND YOUR LAWS DON'T PROTECT YOU AGAINST THEM, BUT PROTECT THEM AGAINST YOU—WHEN YOU SEE CORRUPTION BEING REWARDED AND HONESTY BECOMING A SELF-SACRIFICE—YOU MAY KNOW THAT YOUR SOCIETY IS DOOMED.

In India, the corrupt accuse the corrupt of being corrupt and the corrupt investigate the corrupt and absolve the corrupt of being corrupt.

Lesson of Time- KARMA



**When a bird is alive.. It eats ants.
When the bird is dead.. Ants eats the bird.
Time & Circumstances can change at any time.
Don't devalue or hurt anyone in life.
You may be powerful today. but remember.
Time is more powerful than you!
One tree makes a million match sticks...
Only one match stick needed to burn a million trees...
So be good and do good.**

A circular yin-yang symbol is centered on a textured, aged paper background. The symbol consists of two interlocking teardrop shapes, one light and one dark, each containing a small circle of the opposite color. The text is overlaid on the light-colored side of the symbol.

**Karma never loses
an address**

Sorry Sir. No baggage allowed!



The reality of life.