

A Study of Indian Public Personnel Administration and Constitutional Provisions

Dr. Abhilasha Ambatipudi

Professor, Thakur Global Business School (TGBS) Mumbai

Dr. A. Ramakumar

Sr. Professor & CTO, Thakur Institute of Management Studies & Research (TIMSR),
Mumbai

Abstract

India inherited the bureaucracy system from British rule and the present Public Personnel Administration is its legacy. It has been changed a lot since independence. Public personnel administration is the outcome of essential public policy, performing under public examination.

The responsibility of the public personnel system is to achieve the goals defined by the government through the implementation of various programs to achieve qualitative and quantitative goals, using available resources judiciously to achieve optimal results for the benefit of citizens.

Constitution of India introduced various articles to protect the civil servants' positions and supported by numerous court decisions.

Keywords: Civil services, Public Personnel Administration, Public Personnel System, Classification of services, Constitutional provisions.

Introduction

Indian public personnel administration encompasses diverse public services of the country. The administration of public personnel has certain specific characteristics which make these services distinct from the private administration.

Public personnel administration is the administration of the employees working for public organisations. It accommodates to the needs of a vast collection of employees who are appointed for pursuing diverse services to cater the needs of people and government as well.

Public personnel administration is the outcome of essential public policy, performing under continuous public examination. Of course, it echoes the social and economic conditions in persistence, and has a constant effect upon the general welfare.

Objectives

- To study various characteristics of Public Personnel Administration.
- To study the constitutional provisions of Public Personnel Administration in India

Methodology

The aim of this research article is to find facts about public personnel administration in India. For this descriptive research methodology is adopted. Information collected from various research journal articles, and policy studies.

Discussion

Government of any country, without the support of well laid public personnel administration system, cannot implement welfare programmes. Proper utilisation of human services helps to make and run policies, programmes, or rules for successful citizen welfare.

India inherited the bureaucracy system from British rule and the current practice of Public Personnel Administration is its legacy. The East India Company to meet its commercial and trading interests followed a profound service structure on the lines of bureaucracy.

The British Government took the control of administration in India in the year 1858 aiming of the political consolidation of the country and ultimate exploitation of the country's resources to serve its own interests. This results into maximum administrative domination by British and minimum or no economic, social, and developmental activities for the country.

In this process, the superior civil services were controlled by either British or by Indians recruited from higher economic and elite sections of society. The lesser subordinate levels in this system were occupied by the Indian locals. This whole administrative work system was an example of top-down, master-servant and high-low positions which reflect the society situation in those days.

The characteristics of public personnel system

The British practice while ruling India was described as autocratic and not at all reachable to common people. It used to display structural stringency and functional indifference. The structure was too hierarchic with apathetic human relations orientation. With their feudalistic attitude, they had not provided any welfare or development to the people.

In 1947, India became independent midst of painful partition, civil unrest, mass migration of displaced persons and refugee flows. The economy was in bad state owing to the consequences of the second world war and the division of the country caused a weakening of management, especially of personnel.

Even after independence the administrative structure followed same as British reign. There were variances in the ranks, with very few expert senior officers, and minimum or no qualified personnel.

In 1950, when the constitution was adopted and the first five-year plan began, the Indian public service system was under great pressure as the hierarchical, authoritarian, and rigid government practices were renewed to fulfil the new constitutional goals of freedom, equality, fraternity, and justice and for the benefit of citizens.

It has been observed that, there were two fundamental changes that significantly changed the function of the civil services after independence.

1. *With the introduction of a system of parliamentary democracy, the civil service made responsible to the political executive.*
2. *Public administration has become a tool of development.*

This is nothing but to achieve the purpose of the public personnel system to accomplish the goals of the nation's personnel system.

Public Personnel System - Implementation of Government Objectives

The main objective of Public Personnel Management in India is to enable and implement the objectives of the Government.

The responsibility of the public personnel system is to achieve the goals defined by the government through the implementation of various programs to attain qualitative and quantitative goals, by using available resources judiciously to accomplish optimal results for the benefit of citizens.

This goal can be achieved by involving the public personnel system in personnel functions - recruitment, selection, placement, training, performance evaluation, promotion, employee health, safety, and welfare.

Obviously, expanding social insurance and increasing state support for education have become particularly important government tasks from the point of view of national development. The government has assumed greater responsibility for the safety and interests of all its citizens.

Implementing these changes was not a cake walk. This has been requiring the skills and experience of a public servant to a great extent.

Public service is an important social tool in this process. Public services help to create, maintain and strengthen the conditions necessary for economic development and sustainability. The public services are liable for the conditions maintaining good order, infrastructure development and a favourable administrative structure.

Accelerating the number of public sector workers

The number of public entities has surge with the manifold in the social and economic tasks of government and the staff is growing amazingly fast. Many new departments, corporations, boards, and governments are created for this purpose.

The Second Pay Commission estimated that the number of Central Government employees was 14,45,050 on April 1, 1948. This figure was increased to 17,73,570 by July 30, 1957, during that decade. By January 1, 1965, this number had further increased to 22,64,795 workers. On January 1, 1981, there were 32,27,339 employees and by 2020 3.18 million employees working for nation building.

This shows that the total number of government employees is persistently increasing with each new activity, service or task aimed at the welfare of the country.

Low employee turnover in Government Services

Compared to other sectors, employee turnover in the government sector in India is quite low.

In India, people view public service as a lifelong career and does not want to go separate themselves from permanent and good service conditions, facilities - reasonable working hours, good leave rights, housing, health services, pension funds, and superannuation benefits. These monetary and non-monetary benefits really attracting people to public services and may even retaining them till retirement.

Effective promotion policies in employment systems encourage public employees to feel a sense of belonging and work in the workplace and keep them in service longer until retirement. Besides, a sufficient pension and retirement system encourages employees to persist working until retirement.

For all these reasons, the staff turnover of public sector employees is minimum compared with private organizations. Most of the times, this turnover is limited to vacancies due to death, transfer, layoffs, and retirements.

Service Classification

Service Classification is necessary to maintain government merit-based career services. A merit-based system allows setting balanced standards or norms for personnel, allows uniformity in the description of different tasks, and creates a similar foundation for granting equal status and equal pay for the same work.

The civil services have been classified into three categories since independence:

1. *All India Services (both Centre and States),*
2. *Central Services (only for Central units) and*
3. *State Services (for administration of subjects under state jurisdiction).*

All-India Services

New Service Rules and Regulations have been prepared in collaboration with the State Governments and the Union Public Service Commission (UPSC) under the *All-India Services Act, 1951*. Article 312 of the *Constitution of India* enacts "Constitution of Indian Administrative Service (IAS) and Indian Police Service (IPS)". The Indian Forest Service was also included in the All-India Service in 1966.

Central Services

a) Union officers are classified into four categories: Class I to Class IV

- i. Central Services Class I: Services like Indian Foreign Services, Central Health Service, Railway Service, Central Secretariat services comes under this category.
- ii. Central Service Class II: Central Stenographer Service Grade I, Telegraph Engineering Service, Telegraph Traffic Service are few examples covered by this category.

- iii. Central Service Class III: For example, services like Central Secretariat clerical services, Post and Telegraph Account Service, are called as Central Service Class III category.
- iv. Central Services Class IV: This includes peons, sweepers, gardeners, and others.

b) General Central Service.

State Civil Services

‘State civil services’ are the services solely perform beneath the *jurisdiction of the state government*, and their primary objectives are related state subjects.

The *All-India, Central and State administration* processes reflect the constitutional model of synchronized ‘subjects, union subjects and state subjects to the extent.’ This feature is unique to the Indian administration system.

This classification is quite easy to understand and administer as

- it promotes mobility by facilitating transfers within the services,
- it is flexible in operation,
- it opens more career opportunities for individuals.

Constitutional provisions for civil services

It is a fact that, for the public, civil servants are the most visible face of government. In the British regime, the public officers were treated like the spine of the government. Their positions were very much secured with reference to various British laws.

And after Independence, their role in the implementation of government policies and public welfare has increased manifold. The civil servants’ positions have been protected by the constitution of India and supported by various court decisions.

Articles dealing with Constitutional provisions for public personnel.

1. Article 309 - Recruitment and conditions of service of persons serving the Union or a State.

“Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act”. - Article 309, Constitution of India

Here, recruitment pertaining to –methods of recruiting a person into public service such as appointment, selection, appointment, promotion, and appointment by transfer.

Conditions of service include – pay, allowance, periodic increments, leave, promotion, transfer, etc.

The main aim of this *article 309* is to ensure a fair, transparent, and merit-based approach to recruitment process. Its objective is to set uniform standards and service conditions for civil servants regardless their position or rank.

2. Article 310 - Tenure of office of persons serving the Union or a State.

“Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor of the State”. - Article 310, Constitution of India

This means. the officer/civil servant can be sequestered by the ‘*authority on whose pleasure he holds office, without assigning any reason. The authority is not obliged to assign any reason or disclose any cause for the removal.*’

As per Article 310, ‘*the power of removal at pleasure is subjected to the other express provisions of the Constitution.*’

Pleasure under Article 310 ‘*is not the personal pleasure of the President, but the President or the Governor act on the advice of the Council of Ministers*’.

Here it is clear that article 310 is not required to be implemented by the President of the country or the Governor of any state personally. It may be applied by them on the advice of the Council of the Ministers.

Exceptions to the doctrine of pleasure

Article 310 (1) is not valid if the constitution expressly provides for a permanent employment relationship deviating from Article 310.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post. – article 310, Constitution of India

3. *Article 311 - Dismissal, removal, or reduction in rank of persons employed in civil capacities under the Union or a State.*

(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed."

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:"

"Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:" ("Article 311: Dismissal, removal or reduction in rank of persons ... ")

Provided further that this clause shall not apply—

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

"(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or"

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

(Article 311, Constitution of India)

4. *Article 312 - All-India services.*

(1) Notwithstanding anything in Chapter VI of Part VI or Part XI, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all India services (including an all-India judicial service) common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

(2) The services known at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

(3) *The all-India judicial service referred to in clause (1) shall not include any post inferior to that of a district judge as defined in article 236.*

(4) *The law providing for the creation of the all-India judicial service aforesaid may contain such provisions for the amendment of Chapter VI of Part VI as may be necessary for giving effect to the provisions of that law and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.*

Supreme Court's Ruling: —'The Supreme Court has held in an appeal filed before them that article 312 does not exclude the delegation of power to frame rules for regulation of recruitment and the conditions of service of All India Services'.

Article 312 A. (1) Parliament may by law—

(a) vary or revoke, whether prospectively or retrospectively, the conditions of services as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who were appointed before the commencement of this Constitution and continue on and after the commencement of the Constitution to serve under the Government of India or of a State in any service or post.

(Article 312, & 312 A, Constitution of India)

5. *Article 313 - Transitional Provisions. —*

Until other provision is made in this behalf under this Constitution all laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an all-India Service or as service or post under the Union or a State, shall continue in force so far as consistent with the provisions of this Constitution. ("PART XIV - Ministry of External Affairs")

(Article 313, Constitution of India)

Conclusion

Any management system can perform accurately when its employees are honest, hardworking, and efficient. This is possible only when they are properly recruited, trained, promoted and they receive certain benefits in the organization. Different characteristics of the public personnel system distinguishes it from the personnel system practicing in private organizations. Growing development and welfare functions extant new challenges to the public personnel system. The current system, which has been a British legacy, is trying to change its features and functions for the benefit of the common man. The positions of public servants are central to administration and are guaranteed by the Constitution of India and many articles and judgments.

There is no doubt that public services play a crucial role in changing the resource structure of the country by setting certain production targets. It can be said that public services have now played a central role in state enterprises and/or state institutions.

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