

Unit- I

Chapter 2: Constitutional Provisions with respect to Civil Services

Dr. Vibha Sharma

Associate Professor & Head (Retired)
Department of Public Administration
MCM DAV College for Women, Chandigarh
<https://vibhasharma.in/>

Objectives: The objectives of the chapter are to discuss:

- The Constitutional Provisions with respect to Civil Services;
- The Significance of Constitutional Provisions for Civil Services in India;
- The Shortcomings; and
- The Recent Developments

Introduction

The Constitution of India, adopted in 1950, established a parliamentary system of government in the country. In this structure, civil services play a critical role in the implementation of laws, policies, and development programmes. The framers of the Constitution foresaw the need for an impartial and merit-based public service system and, consequently, embedded several provisions across multiple parts of the Constitution.

The Civil Services, the impartial and merit-based instrument, form the backbone of the administrative machinery in India. They are instrumental in implementing the policies and programs of the government. As vast responsibilities have been entrusted to the civil services, which range from maintaining law and order, implementing welfare schemes, managing public assets, to disaster management. So, it becomes imperative to have a strong constitutional framework that defines their structure, safeguards their rights, and ensures accountability. The framers of the Constitution of India thus incorporated several provisions to govern their functioning, appointments, and disciplinary mechanisms.

Historical Background

The Indian Civil Services have its roots in the colonial period. Under British rule, the Indian Civil Service (ICS) was a prestigious institution primarily responsible for the traditional functions like maintaining law and order and collecting revenue.

After Independence, the Constituent Assembly deliberated extensively on the imperative to retain a strong and unified administrative structure to support the nascent democracy. Sardar Vallabhbhai Patel, India's first Home Minister, emerged as a staunch advocate for a permanent, professional, and politically neutral civil service. He played a pivotal role in shaping the All-India Services, recognising their necessity for maintaining national unity, ensuring administrative continuity, and upholding the Constitution.

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Patel firmly believed that civil servants must remain immune to political pressures and act with integrity, commitment, and Constitutional loyalty. In one of his most famous articulations, the ‘Iron Man of India’ described the civil services as the “Steel Frame of India”, underscoring their indispensable role in holding the administrative machinery together.

“The civil services are the Steel Frame of India— the enduring pillars that hold together the machinery of governance. They must remain impartial, disciplined, and committed to the Constitution, immune to political pressures.”

— Sardar Vallabhbhai Patel

He saw them not merely as bureaucrats but as the enduring pillars upon which the wheel of governance turns—implementing laws, executing policies, and delivering public services across the diverse and complex landscape of India. Their efficiency, discipline, and impartiality, he believed, would determine the success and stability of the Indian state.

Constitutional Framework

The Civil Services in India form the backbone of the administrative machinery of the country. They are accorded a distinct constitutional status, reflecting their essential role in governance and nation-building. Articles 308 to 322 of the Constitution of India are devoted to the services under the Union and the states. These constitutional safeguards aim to ensure a neutral, efficient, and professional bureaucracy that operates under the democratic framework of accountability.

I. Part XIV Services under the Union and the States, Chapter I – Services: Constitutional provisions for the civil services are as follows:

1. **Article 308:** Article 308 applies the provisions of civil services to Union and State services, except Jammu & Kashmir (now integrated after the abrogation of 370). Civil Services refer to All India Services, Central Services, and State Services.
2. **Article 309 - Recruitment and Conditions of Service of Persons serving the Union or a State:** Article 309 empowers the Parliament or State Legislature to regulate the recruitment and service conditions of persons serving the Union or States, respectively. It also allows framing of service rules, conduct rules, promotion criteria, etc.

In the absence of such legislation, the President or the Governor, as the case may be, may make rules for the same. This article ensures legislative control over civil services, but also permits executive rule-making as an interim measure.

3. **Article 310 - Tenure of office of Persons serving the Union or a State:** Article 310 provides that the civil servants hold office during the pleasure of the President or Governor, subject to Article 311. This concept, inherited from British constitutional law, implies that a civil servant can be dismissed at any time. However, this power is not absolute and is subject to the protections afforded under Article 311. The "doctrine of pleasure" is thus balanced by the rule of law and the principles of natural justice.
4. **Article 311 - Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State:** Article 311 states that a member of the civil service cannot be dismissed by an authority subordinate to the one by which he was appointed. There will be no dismissal, removal, or reduction in rank unless an inquiry is held, the person is informed of the charges, and they are given a fair hearing.

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This rule does not apply in the following cases:

- a. If the person has been convicted of a criminal offence, and his conduct led to that conviction.
 - b. If the authority believes that it's not possible to conduct an inquiry, and gives written reasons for why the inquiry cannot be held.
 - c. If the President (for central services) or the Governor (for state services) thinks that holding an inquiry would harm the security of the State.
5. **Article 312 - All India Services (AIS):** Article 312 allows the Parliament to create new AIS (e.g. IAS, IPS, IFS) in the national interest if:
- a. If the Rajya Sabha (Council of States) agrees with at least two-thirds of the members present and voting, it can recommend the creation of a new All-India Service in the national interest.
 - b. The Parliament can make a law to create one or more All-India Services (like IAS, IPS, and even an All-India Judicial Service).
 - c. This law can also decide on the recruitment and service conditions.

II. Part XIV Services under the Union and the States, Chapter II – Public Service Commissions: Provisions related to Public Service Commissions are as follows:

6. **Article 315 - Public Service Commissions for the Union and for the States:** This article provides for the establishment of Public Service Commissions (PSCs):
- a. Union Public Service Commission (UPSC) for the Union.
 - b. State Public Service Commission (SPSC) for each state.
 - c. Joint Public Service Commission (JPSC) for two or more states.
7. **Article 316 – Appointment and Term of Office of Members:** The Chairman and other members of a PSC are appointed in the following manner:
- a. UPSC: By the President of India.
 - b. SPSC: By the Governor of the respective State.
 - c. Tenure: 6 years or until the age of 65 years (UPSC) or 62 years (SPSC), whichever is earlier.
 - d. Members can be removed under certain conditions (Article 317).
8. **Article 317 – Removal and Suspension of a Member:** A member can only be removed by the President (or Governor in case of SPSC) on the grounds of:
- a. Misbehaviour, after a reference to the Supreme Court.
 - b. Insolvency, engagement in paid employment outside duties, or mental/physical unfitness.
 - c. The President may suspend the member during the inquiry.
9. **Article 318 – Power to Make Regulations:** According to this article, the President (or Governor) has the authority to:

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- a. Determine the number of members in a commission.
- b. Set service conditions.
- c. Decide staff structure and administrative matters.

10. **Article 319 – Prohibition on Further Employment:** After ceasing to hold office:

- a. The Chairman of UPSC cannot hold any other government position under the Union or State Governments.
- b. The Chairman of SPSC may be appointed to UPSC or JPSC.
- c. Members of any commission can become Chairman of the same or another PSC, but not hold any other office under the government.

11. **Article 320 – Functions of Public Service Commissions:** PSCs are to be consulted on:

- a. Recruitment for civil services.
- b. Principles of appointment, promotions, and transfers.
- c. Suitability of candidates for promotions and appointments.
- d. Disciplinary matters and legal claims.
- e. The President or Governor can however, make regulations to exclude certain matters from PSC consultation.

12. **Article 321 – Power to Extend Functions:** The Parliament or State Legislature may extend the functions of the PSCs to include services under local authorities or other public bodies.

13. **Article 322 – Expenses of Public Service Commissions:** The expenses of the UPSC/SPSC (including salaries and pensions of members and staff) are charged on the Consolidated Fund of India (or State) and are not subject to vote in Parliament/State Legislature.

14. **Article 323 – Reports of Public Service Commissions:** PSCs must submit annual reports of their work to:

- a. **UPSC** → President of India
- b. **SPSC** → Governor of the State
- c. These reports are then laid before the Parliament or State Legislature along with a memorandum explaining any reasons for not accepting the recommendations.

Significance of Constitutional Provisions for Civil Services in India

The constitutional provisions related to civil services (Articles 308 to 323) are vital for maintaining an efficient, impartial, and stable administrative machinery in India. Here is a detailed explanation of their significance:

1. **Safeguards Independence and Neutrality:** Constitutional protection ensures that the appointments, promotions and dismissals are based on merit and not political affiliation. They help in nurturing an unbiased and professional civil service that functions independently of political pressures.

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2. **Encourages Rule of Law:** A civil service that is constitutionally bound, functions within the framework of law and justice, thereby maintaining administrative fairness and protecting the citizens' rights.
3. **Basis of Good Governance:** Civil services are an independent instrument to implement plans and policies. Constitutional protection guarantees continuity and stability of administration, irrespective of political instability or changes.
4. **Merit-based Recruitment through PSCs:** Recruitment of civil services through public service commissions ensures merit-based and transparent recruitment that prevents nepotism and favouritism.
5. **Accountability through Annual Reports:** The public service commissions submit annual reports that ensure transparency and accountability. These reports are tabled and discussed in the Parliament or State Legislatures.
6. **Checks Against Arbitrary Dismissal:** Article 311 ensures that a civil servant cannot be dismissed arbitrarily or reduced in rank without a proper inquiry. This provision allows them to make fair and objective decisions without fear or favour.
7. **Uniformity in Administrative Structure:** Constitutional provisions help in maintaining uniform standards across the country.
8. **Effective Disaster Management and Development:** A constitutionally protected civil service can perform to the best of its ability during natural disasters, epidemics and pandemics. It also ensures the continuous implementation of welfare schemes, essential services and programmes for the development of various sectors.

Shortcomings

The shortcomings of the constitutional provisions are as follows:

1. **All India Services vs. State Autonomy:** State governments feel that their autonomy is undermined due to the All-India Services.
2. **Political Interference:** Despite the constitutional safeguards, the civil servants face interference by the political wing, which leads to undermining independence and impartiality.
3. **Public Service Commissions (PSCs):** The advice given by the Public Service Commission under Article 320 is not binding, leading to ineffectiveness.
4. **Job Security Leading to Complacency:** Job security due to Article 311 may foster inefficiency and lack of accountability.
5. **Delay in Disciplinary Actions:** Due to long procedures in case of disciplinary cases, there are delays in fixing responsibilities, leading to erosion of public trust.
6. **Inadequate Provisions for Reforms:** The constitutional provisions do not provide a framework for administrative reforms.

Recent Developments

Recent developments in civil services are as follows:

1. **Lateral Entry:** Lateral entry was introduced by the Government of India in 2018 to enhance efficiency and effectiveness by inducting professionals from outside for a fixed period.

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Lateral Entry: <https://upsc.gov.in/recruitment/lateral-recruitments>

2. **Digital Governance Tools:** Introduction of platforms like SPARROW (Smart Performance Appraisal Report Recording Online Window) for civil services.

SPARROW: <https://services.eoffice.gov.in/sparrow-page.php>

3. **Capacity-Building through Mission Karmayogi:** Under Mission Karmayogi, large-scale training initiatives have been rolled out.

iGOT Karmayogi: <https://www.igotkarmayogi.gov.in/#/>

4. **Administrative Infrastructure Reform:** Kartavya Bhavan, the first building of the Common Central Secretariat (CCS) under the Central Vista project, endeavours to consolidate ministries into a modern, efficient complex to improve coordination and workplace efficiency.

5. **Infrastructure - CENTRAL VISTA PROJECT:**

<https://www.pib.gov.in/PressNoteDetails.aspx?id=154974&NoteId=154974&ModuleId=3>

6. **8th Central Pay Commission:** The 8th Central Pay Commission was approved in January 2025 to review and recommend reforms in salary, allowances, and pension structures for central civil and defence employees.

Information about 8th Central Pay Commission: <https://www.gconnect.in/8th-pay-commission/8th-central-pay-commission-confirmed-2025.html>

Conclusion

The constitutional provisions for civil services are the foundation of India's democratic governance. The provisions reflect the vision of a permanent, neutral, and professional bureaucracy working under a democratic system of governance. They ensure that the machinery of the state works efficiently, fairly, and independently, thus upholding the vision of the Constitution and contributing to the nation's development and stability. While these provisions offer strong structural support, continuous reforms and vigilance are necessary to address evolving administrative needs and challenges.

Important Terms/Concepts/Information

1. **Sardar Vallabhbhai Patel:** "The civil services are the Steel Frame of India— the enduring pillars that hold together the machinery of governance. They must remain impartial, disciplined, and committed to the Constitution, immune to political pressures."
2. **Article 309:** Article 309 deals with the Recruitment and Conditions of Service of Persons serving the Union or a State.
3. **Article 310:** Article 310 deals with the Tenure of office of Persons serving the Union or a State – Article 310 provides that the civil servants hold office during the pleasure of the President or Governor, subject to Article 311.
4. **Article 311:** Article 311 deals with the dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.
5. **Article 312:** Article 312 allows the Parliament to create new AIS (e.g. IAS, IPS, IFS) in the national interest. New All-India Service can be created only through a resolution of the Rajya Sabha supported by not less than two-thirds of the members present and voting.

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Short and Long Questions

Short Answer Type Questions

1. Which article of the Indian Constitution provides for setting up the Public Services Commissions?
2. Which article of the Indian Constitution provides for creating new All India Services?
3. Give three shortcomings of the Constitutional provisions with respect to Civil Services in India.
4. Expenses of the Union Public Service Commission are charged from which account?
5. Give the views of Sardar Patel on civil services.

Long Question

1. Discuss Constitutional Provisions with respect to Civil Services in India.
2. Examine the Constitutional Provisions with respect to Civil Services. Give their short comings.

Suggested Readings

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<https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdflb99b5d8f/uploads/2024/07/20240716890312078.pdf>
7. Relevant reading material from Egyankosh - <http://egyankosh.ac.in/>
8. Relevant reading material from e PG Pathshala - <https://epgp.inflibnet.ac.in/>