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Constitutional Control of Civil Services under the Union and the States in India: Historical Evolution, Contemporary Framework, and Comparative Insights

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ABSTRACT

This article comprehensively examines the constitutional framework governing civil services under the Union and the States in India, as provided under Part XIV of the Indian Constitution (Articles 308–323), and traces its evolution from ancient administrative practices to colonial legislation and post-independence legal reforms. It analyzes key provisions such as Articles 309, 310, and 311, addressing recruitment, tenure, and safeguards for civil servants, and critically evaluates judicial interpretations and statutory developments impacting service conditions. The study delves into the historical underpinnings of administrative control, the establishment of Public Service Commissions, and challenges like political interference, corruption, and lack of transparency. It further conducts a comparative analysis with the civil service frameworks of the United Kingdom and the United States, highlighting differences in recruitment, tenure doctrines, and due process protections. The article proposes targeted reforms aimed at enhancing efficiency, transparency, and autonomy, including digitization, performance audits, grievance redressal, decentralization, and lateral entry. The objective is to strengthen constitutional safeguards, ensure fair service delivery, and adapt civil services to the demands of a modern administrative state while maintaining their impartiality and integrity.

Keywords: *Civil Services, Doctrine of Pleasure, Public Service Commission, Constitutional Safeguards and State*

I. INTRODUCTION

In India, "Services under the Union and the States" refers to the division of public administration and service delivery between the central government (Union) and State governments. This division is specified in the Indian Constitution, which conferred power to each level of government. The Union addresses national issues, whilst states handle local problems. The Indian Constitution divides subjects into three categories: Union List

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(legislative power of the Parliament), State List (jurisdiction of State legislatures), and Concurrent List (both Union and State have legislative powers).[2] Union services include the defence, foreign affairs, and currency, whereas state services include law enforcement, public health, and municipal/local government administration. The Union and State governments can regulate recruiting and working conditions for their respective workforce. The Constitution establishes public service commissions for the Union and each State to advise on recruiting and service issues.[3] The Union government can establish All-India Services (like the Indian Administrative Service, Indian Police Service, and Indian Forest Service), which are common to both the Union and the States. Civil servants at both the Union and State levels hold office at the pleasure of the President or Governor, respectively. [4] The history of civil services in India demonstrates that the Rules governing civil servants, as well as the changes that have occurred throughout time, are safeguarded by specific branches of law. Thus, in *Nabendu Bose* v. *Union of India*,[5]the Supreme Court observed:

> "Civil servants, that is, persons who are members of a civil service of the Union of India or an all-India Services or a civil services of a State or who hold a civil post under the Union of a State, occupy in law a special position. The ordinary law of master and servant does not apply to them."

Part XIV of the Constitution of India deals with the "Services under the Union and the States". Although Part XIV (Articles 308 to 323) provides a detailed scheme of law relating to the union and the state services, there is no definition of "services" adopted in the Constitution of India. Further, Article 310 uses the phrase "civil service of the Union or a State" while Article 311 uses the phrase "civil service of the Union or an all-India service or a civil service of a State." In fact, under the civil services in India, there are different types of services, for example, permanent, temporary, short-term, *ad hoc*, and contractual and so on so forth. Consequently, the issue as to whether the *ad hoc*, permanent, temporary, short-term, and contractual appointee can claim seniority over a regularly selected person in any "service" is controversial. In *State of U.P.* v. *Rafiquddin*,[6] the Supreme Court held that once an incumbent is appointed to the post as per the rule, his seniority shall be counted from the date of his appointment. If the initial appointment is only ad hoc and not according to the rule

[2] K. K. George and I. S. Gulati, "Central Inroads into State Subjects: An Analysis of Economic Services," 20(14) *Economic and Political Weekly*, 592-603 (1985).
[3] Bodh Raj Sharma, "Public Services under the New Constitution of India," 11(4) *The Indian Journal of Political Science*, 88-95 (1950).
[4] Rameshwar Dial, "Civil Servants under the Constitution," 2(4) *Journal of the Indian Law Institute*, 481-508 (1960).
[5] MANU/ SC/ 0500/ 1985.
[6] AIR 1988 SC 162: 1987 (Supp) SCC 401.

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and made as a stop-gap arrangement, the officiation in such a post cannot be taken into account for considering seniority. But what is the position of temporary services? Whether temporary services are "service"? In *State of Tamil Nadu* v. *E. Paripoornam*,[7] the Supreme Court held that the list of approved candidates drawn by the Public Service Commission in the order of merit and accepted by the Government should be the basis for determining inter se seniority and it is not open to the parties to claim that their temporary service should be counted to determine the seniority in the cadre.

After the Commencement of the Constitution of India, the scope and extent of the fundamental and substantive rights of the members of civil services, such as to form associations and strike have come up before the courts for adjudication. The question of the right to strike is a serious issue. Besides guidelines of the Supreme Court, various Committees, such as the Second Administrative Reforms Commission,[8] have pointed out that, there are certain criticisms concerning the performance of the civil services, towards realizing a results-oriented government. Further, there has been regular political interference in the functioning of civil servants. Fear of transfer and the lure of promotion sometimes impairs the judgment of civil servants, making them politically compliant. The recommendation of the Civil Services Board has not been followed by many states. Several Committees have observed that corrupt practices have become prevalent in the civil services and there is a loss of public perception in terms of their uprightness, neutrality, and honesty. Thus, a serious study on the Constitutional Control of Services under the Union and the States in India is essential.

II. HISTORICAL PERSPECTIVE OF CIVIL SERVICES IN INDIA

It emerges from the discussion that in Indian history, civil services have a lengthy history.[9] The Mauryans, Mughals, and other historical monarchs adopted the main components of the administrative system of the past, which were covered in detail in *Kautilya's Arthasastra*.[10] Although *Kautilya* does not refer directly to the rules about promotion and transfer, however, he does mention that those who increase the king's revenue instead of eating it up, are loyally devoted to him, shall be made permanent in service.[11] In ancient India, the concept of good governance was there and good governance without the appointment of a public servant was

[7] AIR 1992 SC 1823: 1992 Supp (1) SCC 420.
[8] See, Report of the Second Administrative Reforms Commission, 2005, Government of India, New Delhi.
[9] K. Gireesan and Nayakara Veeresha, "Refurbishing of Civil Services in India: An Appraisal of Second ARC'S Report, 72(3) *The Indian Journal of Political Science*, 721-730 (2011).
[10] L. N. Rangarajan, *Kautilya: The Arthashastra*, (Penguin Books, New Delhi, 1992).
[11] Ashwani Kumar, "The Structure and Principles of Public Organization in Kautilya's Arthashastra," 66(3) *The Indian Journal of Political Science*, 463-488 , 479 (2005).

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impossible. *Kautilya* emphasized the importance of the King's duty to maintain law and order, protecting the people's life and liberty. Effective policing and maintaining law are essential components of good governance. The King, as the head of the judiciary, was responsible for enforcing the law and ensuring justice was properly administered. An established legal framework based on the rule of law was crucial for good governance. The state and its authorities also formulated rules to govern the politico-administrative system, ensuring the rule of law and order. However, *Arthashastra* is a textbook on administration in a monarchical state.[12]

Despite having a monarchical state during the time of *Kautilya, Arthashastra* laid down strict norms for the heads of departments and officers of the government, ensuring strict conduct and control. Officers who failed to fulfill their duties were fined twice their pay. The chief officer of each department was responsible for monitoring the performance of their subordinates. Good governance involves implementing preventive and punitive measures to punish corrupt government servants. *Kautilya* believed in close control and supervision over officials, stating that it was difficult to determine an officer's honesty. The King's salary and allowances were fixed, and they could not be raised without council approval. This contrasted with Plato's system, which allowed rulers to live at state expenses, but *Kautilya's* King's salaries could not be raised.[13] During the Mughal Empire in India, there were administrative subdivisions, which centralized civil authority at each level in the hands of a single individual. *Akbar* divided his empire into *subas*, *sarkars*, and *mahalls*, and his largely successful attempts to make the entire administrative structure of one *suba* an exact replica of the other, with a chain of officers at various levels ultimately controlled by ministers at the centre, gave *Mughal* administrative institutions identity regardless of the regions where they functioned.[14] During medieval period in India, Muslims along with the non-Muslim subjects, *Mughals* included all the people in one category. In their struggle for political existence, services and alliances of non-Muslims were precious to the *Mughals*.[15] The *Mughals* believed that the state's duty should be confined to collecting taxes and preserving law and order. The *Mughal* Empire was the ancestor of the British Raj, therefore, the British system modeled Mughal

[12] Romila Thapar, *Cultural Pasts: Essays in Early Indian History*, 411 (Oxford University Press, New Delhi, 2005).
[13] S. S. Ali, "Kautilya and the Concept of Good Governance," 67(2) *The Indian Journal of Political Science*, 375-380, 377 (2006).
[14] M. Athar Ali, "Towards an Interpretation of the Mughal Empire," 1 *The Journal of the Royal Asiatic Society of Great Britain and Ireland,* 38-49, 40 (1970).
[15] M. L. Roy Choudhury, "Hindu-Muslim Relation During the Mughal Period 1526 to 1707 A. D.,"9 *Proceedings of the Indian History Congress*, 282-296, 248 (1946).

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practice in a variety of ways.[16]

Although the British administration in India followed Indian indigenous practices, the British rulers established the groundwork for India's current civil service. During the East India Company's existence, workers had no rights. They might be taken from service for no apparent reason, and they had no protection against arbitrary removal. The Charter Act of 1793 permitted the King to dismiss or recall any person holding any position or job, but it made no mention of such people' rights. In 1857, the Queen issued a proclamation making the "doctrine of pleasure" applicable to Company servants. Nonetheless, the history of the civil service reform movement in India is noteworthy. Surprisingly, the demand came initially from Englishmen; in the early nineteenth century, popular opinion in India was hardly structured. However, after this was completed, the first and most important need was met. The East India Company took over the "Dewani" of Bengal, Bihar, and Orissa in 1765, but the indigenous' system of administering civil and criminal justice remained intact until 1768.[17]

Following the dissolution of the East India Company's administration in India and the establishment of the British Parliament's administration in 1858, the development of civil service control laws occurred in five stages. The first stage of development begins under the control of the British Crown with the enactment of the Government of India Act 1858. [18] Thereafter, the Government of India Resolution of 1879, the Government of India Act 1915, the Government of India Act 1919, and the Government of India Act 1935 were enacted as second, third, fourth, and fifth stages respectively. Section 37 of the Government of India Act 1858 transferred the administration of the East India Company's territory to the British government. It delegated the powers in relation to the servants of the Company which had till then vested in the Directors to the Secretary of State by Section 37. The Act granted the British government the power to make regulations regarding appointments, admissions to service, and other related matters, as well as alter or revoke any regulations previously made by the Company's Court of Directors. Section 37 of the G. I. Act of 1858 establishes the procedures for appointments and admissions to British Indian government service, and the duration of all East India Company services is subject to His Majesty's pleasure. These servants were similarly rendered subject to the pleasure of the Court of Directors, with the

[16] Stephen P. Blake, "The Patrimonial-Bureaucratic Empire of the Mughals," 39(1) *The Journal of Asian Studies*, 77-94, 77(1979).

[17] P. N. Mathur , "The Civil Service in India: A Study of the Genesis of the Demand for Reform," 30 *Proceedings of the Indian History Congress*, 351-358, 315 (1968).

[18] Government of India Act 1858 was an Act of the Parliament of the United Kingdom passed on 2 August 1858. Its provisions called for the liquidation of the East India Company and the transferred of its functions to the British Crown.

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exception of those personally chosen by His Majesty.

In *Moti Ram Deka* v. *General Manager*,[19] the Supreme Court ruled that when the Crown assumed control of India through the Government of India Act, 1858, Section 3 granted the Secretary of State all the powers that had previously been held by the Court of Directors, while Section 37 transferred to the Secretary of State the authority over the Company's employees that had previously been held by the Director. In *Dunn* v. *The Queen*, [20] the House of Lords ruled that a concluded contract to serve the Crown must include the Crown's power to dismiss. Excluding this power would violate public policy and cannot be derogated from the Crown's power. The power could only be restricted by a legislative act. In *A.E. Voss* v. *Secretary of State*, [21] the Calcutta High Court ruled that the plaintiff failed to prove exemption from statutory provisions from the general law of "Pleasure of the Crown" and therefore had no right to agitate against it. Regarding vicarious liability under the Government of India Act 1858, the Calcutta High Court classified the East India Company's functions as "sovereign" and "non-sovereign" in order to evaluate the company's vicarious liability in *Nobin Chunder Dey* v. *Secretary of State*. [22] No action will be taken if a public servant commits a tort while doing their sovereign duties. However, an action will be taken if it is carried out while performing non-sovereign duties. However, in some cases,[23] the dividing line between sovereign and non-sovereign functions was instinctively followed, while in others, it was regarded as mere obiter dicta, and the rule that the secretary of state shall not be held liable for anything done in the exercise of sovereign power was not followed, and the courts took a different view.[24]

The second stage of development begins under the control of the British Crown with the Government of India Resolution of 1879. This resolution was adopted after realizing the need for giving some kind of opportunity to the civil servant to explain his case before he was to be dismissed. The 1879 Resolution provided that in all cases of dismissal or removal of civil servants except where the punishment was to be inflicted as the result of a decision of a court, the charges should invariably be reduced in writing and that the witnesses should, as far as possible, be examined in the presence of the delinquent official who should be given a right to examine them (witnesses) as well. In *Ram Das Hazra* v. *The Secretary of State*,[25] the Calcutta

[19] AIR 1964 SC 600: [1964] 5 SCR 683.
[20] [1896] 1 Q.B. 116.
[21] (1906) ILR 33 Cal. 669.
[22] 1876 ILR 1 Cal. 12.
[23] See *Narayan Krishna Land* v. *Gerard Norman*, (1868-69) 5 Bom HCR 1.
[24] See *Secretary of State* v. *Hari Bhanji*, (1882) ILR 5 Mad. 273.
[25] AIR 1914 Cal. 746.

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High Court held that all offices are held either "at pleasure" or "during good behaviour" and, unless it is otherwise stated, their occupants "hold at pleasure." This principle has been repeatedly recognized in the Courts in India. The third stage of development begins under the control of the British Crown with the enactment of the Government of India Act 1915. The Act repealed all the earlier parliamentary legislation but it contained a saving clause in Section 130 which preserved the earlier tenure of servants and continued the rules and regulations applicable to them.[26]

The fourth stage of development begins under the control of the British Crown with the enactment of Section 96-B of the Government of India Act 1919. Section 96-B(1) in substance provided that subject to the provisions of the said Act and rules made there under, every person in the Civil Service of the Crown in India held office during His Majesty's pleasure and that no person in that service may be dismissed by any authority subordinate to that by which he was appointed. Section 96-B(2) conferred power on the Secretary of State in Council to make Rules for regulating inter alia the conditions of service and discipline and conduct of the civil servants. Under the power conferred by section 96-B(2), the Civil Services Classification Rules, 1920-24, were framed and Rule XIV of the said Rules prescribed the procedure for holding a departmental inquiry in all cases where dismissal, removal, or reduction of any officer was to be considered. In *R. Venkatarao* v. *Secretary of State,*[27] the Judicial Committee held that Section 96-B(1) did not confer upon a Government servant a right enforceable by action in a Civil court to hold his office in accordance with the Rules and it rejected the contention that an action would lie for breach of any of the Rules. However, in *Rangachari* v. *Secretary of State*,[28] the Judicial Committee held that the stipulation in Section 96-B(1) to the effect that no person in the civil service of the Crown in India should be dismissed by any authority subordinate to that by which he was appointed had statutory force and stood on a footing quite other than any matters governed by the Rules and that, therefore, a dismissal purporting to be made by an official who was prohibited by the statute from making it rested upon an illegal and improper foundation. The effect of these two decisions was that a breach of the Rules gave no cause of action to a Government servant enforceable in a Court of law, but redress could be sought in such a forum in the case of infringement of the statutory provision itself which rendered the resultant action null and void. The words "at pleasure" in Section 96-B[29], have a limited meaning, for example, no one can

[26] See *Jayantilal L. Patel* v. *Mahinder Singh*, MANU/ GJ/ 0205/ 1975.
[27] AIR 1937 PC 31.
[28] AIR 1937 PC 27.
[29] Section 96-B of the Government of India Act 1919 begins: "subject to the provisions of this Act and of rules

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be dismissed by an authority subordinate to the one by which he was appointed. Some meaning must be given to the words "subject to the provisions of this Act and the rules". This meaning imposed a limitation on the pleasure. In *Secy. of State* v. *N.D Attaides*,[30] the High Court of Rangoon observed:

> "The Government of India Act, Section 96-B, to a certain extent clearly limits the power of the Crown to dismiss at pleasure."

The fifth stage of development begins under the control of the British Crown with the enactment of the Government of India Act 1935. Chapter I deals with the "Defence Services," [31] Chapter II with the "Civil Services," [32] and Chapter III with the "Public Service Commissions"[33] for recruitment of public servants. All these three Chapters fall under Part-X of the Act, heading: "The Services of the Crown in India."[34] Besides this, certain provisions under Part-X apply for the protection of public servants.[35] The rules for suspension and punishment of Government Servants under Section 96-B of the Government of India Act 1935 pose a challenge as there is no definitive definition of who constitutes the Civil Services of the Crown in India under the 1935 Act. However, in *Secy. of State* v. *N.D Attaides*,[36] the High Court of Rangoon held that it would not be permitted that the plaintiff was not entitled to the benefit of rules laid down for the benefit of persons in the Civil Services of the Crown in India. In *S.D. Marathe* v. *Pandurang Narayan Joshi*, [37] the Bombay High Court held that a servant of the Crown includes all officers or servants continued, appointed, or employed in India by or under the authority of the Government of India or any Government. That is in accordance with the theory of the constitution and we may fairly assume that the words " servant of the Crown " in Section 270 of the Government of India Act have the same meaning unless there is something in the provisions of that Act which suggest a different meaning. Section 270 comes in Part X of the Act which deals with the Services of the Crown in India.

The G.I.Act 1935 under Section 240 allows every member of a civil service or holding a civil post to hold office in India during His Majesty's pleasure. Appointments to civil services and posts under the Crown in India are made by the Governor or a person he may direct. The

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made thereunder, every person in the Civil Service of the Crown in India holds office during His Majesty's pleasure."

[30] AIR 1934 Rang. 381: (1934) ILR 12 RANG 556.

[31] Government of India Act 1935, Part-X, Chapter I, Sections 232- 239.

[32] Id., Chapter II, Sections 240- 263.

[33] Id., Sections 264- 268.

[34] Id., Sections 232-268.

[35] Id., Sections 269-277.

[36] AIR 1934 Rang. 381: (1934) ILR 12 RANG 556.

[37] AIR 1938 Bom 419: ILR 1938 Bom 770.

conditions of service for persons serving His Majesty in a civil capacity are prescribed by rules made by the Governor of the Province or authorized by the Governor under Section 241. Section 241(4) of the Act states that Acts of the appropriate Legislature in India may regulate the conditions of service of persons serving His Majesty in a civil capacity in India. Section 243 of the Act relates to the conditions of service of the subordinate ranks of the police forces, including police constables. Section 244 makes special provisions for the superior civil services, such as the Indian Civil Service, the Indian Medical Service, and the Indian Police Service. Members of these services are appointed by the Secretary of State, not by the Governor General or the Governor. Thus, Crown services include both the subordinate and superior civil services. The High Court of Punjab and Haryana ruled in *Union of India* v. *Ram Chand Beli Ram*[38] that under the Government of India Act 1935, members of both Defence Services and Civil Services held office during the Crown's pleasure. This ruling aligns with English Law's long-standing rule that servants of the Crown can terminate their services at any time without assigning cause unless otherwise provided by statute.

Section 247 Government of India Act 1935 dealt with the conditions of service, pensions etc. of the persons recruited by the Secretary of State. In *I.M. Lall* v. *The Union of India*,[39] the Delhi High Court held that the conditions of services for persons appointed to civil service or civil post by the Secretary of State shall be as prescribed by rules, including pay, leave, pensions, and general rights regarding medical attendance under Section 247(1)(a). The Secretary of State may prescribe rules for other matters not covered by this Chapter, and in cases where such provisions are not made, rules may be made by the Governor-General or authorized persons. No rule made under this Section 247(1) shall give any person appointed to a civil service or civil post less favorable terms with respect to remuneration or pension than those given to them by the rules in force on the date of their first appointment. This is because the proviso to Section 247(1)(b) cannot be made under the sub-section to give a person appointed to a civil service less favorable terms as respects pension than those given by the rules in force on the date of their first appointment. The East India Annuity Funds Act 1874, as amended by section 274, continues to have effect, but with certain adaptations. The "Secretary of State in Council" has been replaced with "Secretary of State," and the "Revenues of India" has been made liable instead of "Revenues of the Federation." Section 248 deals with the right in respect of complaints and appeals, while Section 249 deals with compensation. Further, the Act provides the provisions pertaining to individuals appointed by

[38] AIR 1955 P&H 166.
[39] MANU/DE/0359/1970.

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the Secretary of State in Council, those holding reserved posts, and commissioned officers in civil employment. [40] Under the Act, there are special provisions have been made for the staff of the High Commissioner for India and the Auditor of Indian Home Accounts,[41] provisions for judicial officers, [42] the Political Department has been provided with special provisions, [43] and protection of certain existing officers.[44]

The Indian Independence Act 1947 aimed to continuation of the Government of India Act 1935 which relates to appointments to civil services and posts under the Crown in India by the Secretary of State under Section 10. The Act stated that individuals who were appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India and continued to serve under the Government of new Dominions or Provinces, or were appointed by His Majesty to be a judge of the Federal Court or any High Court within the meaning of the Government of India Act, 1935, were entitled to receive the same conditions of service, remuneration, leave, pension, and rights as they were entitled to immediately before the appointed day.[45] Thus the law relating to services under the 1935 Act continued in India until the Constitution of India commenced in 1950. The Constitution under Articles 308-223 provides a detailed scheme of law relating to "Services under the Union and States".[46] These Articles outline the structure and organization of civil services under the Union (central government) and the State (state governments) covering recruitment, service conditions, and powers.[47]

III. CONSTITUTIONAL CONTROL OF CIVIL SERVICES IN INDIA

It emerges from the discussions that the Constitution of India has established a detailed scheme of law relating to control services under the Union and the States in India in Part XIV under Articles 308-323. While Article 308 of the Constitution of India deals with the interpretation of the expression "State," Article 12 defines "the State". Therefore, the issue is whether the definition of "the State" under Article 12 has any application in determining the scope and ambit of control of services under the Union and the States in India. It has been argued that the Reserve Bank of India falls within the definition of "the State," as defined in Article 12 of the Constitution. Therefore, an employee of the Reserve Bank of India is an

[40] Government of India Act 1935, Sections 250.
[41] Id., Sections 251-252.
[42] Id., Sections 253-256.
[43] Id., Section 257.
[44] Id., Sections 258-260.
[45] Indian Independence Act 1947, Section 10.
[46] Constitution of India, Part-XIV.
[47] See Bodh Raj Sharma, "Public Services under the New Constitution of India," 11(4) *The Indian Journal of Political Science,* 88-95 (1950).

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employee of the State and holds a civil post under the State and consequently is governed by Article 311(1) of the Constitution.[48] The Reserve Bank of India indeed having been constituted under Section 3 of the Reserve Bank of India Act, 1934 to take over the management of the currency from the Central Government, is a statutory corporation and is also an instrumentality or agency of the Central Government and, therefore, falls within the aforesaid decision of the word "State". However, employees of all corporate bodies cannot claim to be civil servants of the Union or State and cannot claim to be governed by Article 311 of the Constitution. The Supreme Court in *Sukhdev Singh* v. *Bhagatram*,[49] and *Ramana Dayaram Shetty* v. *International Airport Authority of India*, [50] held that the definition of the word "State" given in Article 12, as is clear from its opening words, is confined to Part III of the Constitution. The definition "State" under Article 12 is not helpful to substantiate the contention urged for application to Part XIV, because Article 311 applies only to civil posts and services under the Union or of any State. In this regard, it is necessary to set out the heading of Part XIV, Article 308, and Article 311(1) of the Constitution.

Article 36 which is a directive principle under Part IV of the Constitution clarified that "the State" has the same meaning as in Part III. However, the difference between Part III and Part IV is that while Part III prohibits the State from doing certain things (namely, from infringing any of the fundamental rights), Part IV encourages the State to do certain things. Part XIV of the Constitution deals with services under the Union and the States, while Article 308 interprets the expression "State". In *Central Inland Water Transport* v. *Brojo Nath Ganguly*,[51] the Supreme Court clarified that the definition of "State" read with the other provisions of Part XIV shows that the word "State" applies to the federating units which together constitute the Union of India because in the other Articles of Part XIV wherever the Union of India is referred to, it is described as "the Union". However, it may be submitted that services under the Union and the States in India under Part XIV, Articles 308-323 are also subject matter of Articles 14 and 16 of the Constitution. In this sense definition of State under Article 12 is relevant.[52] Thus, in *Managing Director* v. *Vijay Narayan Vajpayee*,[53] the Supreme Court held that "authorities" within the meaning of Article 12 of the Constitution and though their employees were not servants of the Union or of a State, yet they had a statutory status. On the question of whether the breach of statutory regulations or failures to observe the principles of

[48] See *T.S. Varghese* v. *Reserve Bank*, MANU/ KA/ 0054/ 1979.
[49] AIR 1975 SC 1331: (1975) 1 SCC 421.
[50] AIR 1979 SC 1628: (1979) 3 SCC 489.
[51] AIR 1986 SC1571: (1986) 3 SCC 156.
[52] See Durga Das Basu, *Commentary on the Constitution of India*, 14006 (LexisNexis, India, 2022).
[53] AIR 1980 SC 840: (1980) 3 SCC 459.

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natural justice by a statutory Corporation will entitle an employee of such Corporation to claim a declaration of continuance in service and the question whether the employee is entitled to the protection of Articles 14 and 16 against the Corporation, the Court held that it very hard indeed to discover any distinction, on principle, between a person directly under the employment of the Government and a person under the employment of an agency or instrumentality of the Government or a Corporation, set up under a statute or incorporated but wholly owned by the Government.[54] This controversy has to be removed by a suitable amendment to the Constitution of India.

The Constitution of India outlines provisions regarding recruitment and conditions of service, tenure of office of persons serving, as well as protection in case of dismissal, removal, or reduction in rank of persons employed in civil capacities under the Union or a State. Thus, Article 309 of the Constitution provides for recruitment and conditions of service of persons serving the Union or a State, Article 310 refers to the tenure of office of persons serving the Union or a State, and Article 311 deals with dismissal, removal, or reduction in rank of persons employed in civil capacities under the Union or a State are inter-linked and "form an integrated whole, there being an organic and thematic unity running through them."[55] The importance of the integrated scheme of Articles 309, 310, and 311 of the Constitution of India has been explained by the Supreme Court in *Union of India* v. *Tulsi Ram Patel,* [56] as under:

> "These three Articles are interlinked and form an integrated whole. There is an organic and thematic unity running through them and it is now necessary to see the interplay of these three Articles."

In terms of Article 309, subject to the provisions of the Constitution, an appropriate legislature may enact legislation to regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with affairs of the Union or any State. In the context of Article 309, in *Government of NCT of Delhi* v. *Union of India*,[57] the Supreme Court clarified that the legislative field indicated in this provision is the same as indicated in Entry 71 of the Union List or Entry 41 of the State List of the Seventh Schedule. In terms of the proviso to Article 309, the President of the Union of India or the Governor of the State, respectively, or such person as they may direct, have the power to make similar Rules as a stopgap arrangement until provisions in that behalf are made by the appropriate legislature. In

[54] Id., paras. 21 and 22.
[55] See *Aureliano Fernandes* v. *State of Goa*, AIR 1985 SC 1416: (1985) 3 SCC 398.
[56] (1985) 3 SCC 398: AIR 1985 SC 1416, para. 45.
[57] AIR 2023 SC 2881: (2023) 9 SCC 1.

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the context of tenure of office under Article 310 in *B. P. Singhal* v. *Union of India*,[58] the Supreme Court observed that Article 310 read with Article 311 provides an example of the application of the "at pleasure" doctrine subject to restrictions. Article 310(1) relates to the tenure of office of persons serving the Union or a State, being subject to the doctrine of pleasure. Article 311 provides various protections to employees in civil capacities under the Union or a State. The protection afforded by Article 311 is, however, limited to the imposition of three major penalties. These are dismissal, removal, or reduction in rank. The words "dismissed", "removed," and "reduced in rank" are technical words.

In *Chairman-cum-Managing Director* v. *Rabindranath Choubey*,[59] the Supreme Court held that Article 311 applies to all government servants holding permanent, temporary, or officiating posts. In *State of West Bengal* v. *Union of India*,[60] the Supreme Court held that Article 311 is an express provision of the Constitution. Therefore, Rules made under the proviso to Article 309 or under Acts referable to Article 309 would be subject both to Article 310(1) and Article 311. Nevertheless, in *Gujarat Steels Tubes* v. *Gujarat Steel Tubes*,[61] the Supreme Court held that if the termination is innocuous and does not stigmatize the probation or temporary service, the constitutional shield of Article 311 is unavailable. Further, if the termination of service is founded on the right flowing from the contract or the service rules, then prima facie, the termination is not a punishment and carries with it no evil consequences, and so Article 311 is not attracted, held in *Parshotam Lal Dhingra* v. *Union of India*[62] by the Supreme Court. Thus, recruitment and conditions of services, tenure of office of persons serving in different capacities, as well as dismissal, removal, or reduction in rank of persons employed in civil capacities under the Union or a State, are contentious over time. In this context, the Supreme Court in *Union of India* v. *S.P. Sharma*,[63] observed:

> "The availability of the safeguards provided for under Article 311 is contingent upon and limited to cases where the power of termination of services of an employee/officer is exercised by the disciplinary authority by way of punishment. The applicability of Article 311 of the Constitution being dependent on the factum of the order of termination being in the nature of a punishment, judicial review undertaken in case of civilian employees entails the necessity for and the power of determining as to whether the order

[58] (2010) 6 SCC 331: [2010] 6 SCR 589.
[59] AIR 2020 SC 2978: (2020) 18 SCC 71.
[60] AIR 2024 SC 3499: (2024) 8 SCC 767.
[61] AIR 1980 SC 1896: (1980) 2 SCC 593.
[62] AIR 1958 SC 36: [1958] 1 SCR 828.
[63] (2014) 6 SCC 351: [2014] 4 SCR 327.

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> impugned is in the nature of a punishment or not. The doctrine of 'foundation', 'camouflage' and the principles of judicial review, encompassing the necessity and the power of determining, whether the order impugned is by way of a punishment is thus a direct emanation and a logical corollary of the nature of enquiry warranted when Article 311 applies to a case."[64]

The safeguard available to civil servants under Article 311 is not available to defence personnel, as judicial review is very limited.[65] Further, Article 311 does not apply to employees of the Corporation.[66] If the very appointment to a civil post is vitiated by fraud, forgery crime, or illegality, the protection under Article 311 is not attracted.[67] Even if Article 311 is not applicable, the services of the petitioner could not have been terminated or dispensed without giving a reasonable opportunity, as is required by the fundamental principles of natural justice. [68] Article 311 is based on public policy, is conceived in the public interest, and is to be employed for the public good.[69] Thus, even the probationer or temporary employee, if removed from service or dismissed from service as a penal measure having civil consequences, has to conform to the procedure prescribed by Article 311.[70] Article 311 is an exception to Article 310.[71] Article 311 is subject to Article 14.[72] The first safeguard, which is given by Article 311(1), is that such a person cannot be dismissed or removed by an authority subordinate to that by which he was appointed. The second safeguard, which is given by Article 311(2), is that he cannot be dismissed, 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.[73] No element of punishment is involved in premature retirement, and it is not possible to say that Article 311 is attracted.[74]Thus Supreme Court has interpreted the integrated scheme of Articles 309, 310, and 311 of the Constitution. Hence, the Constitutional framework has taken different shapes from the original Constitutional scheme.

Article 312 of the Constitution deals with all India Services, while Article 312A[75] deals with the power of Parliament to vary or revoke conditions of service of officers of certain services.

[64] Id., para. 22.
[65] Id., para. 64.
[66] See *Ajit Kumar* v. *General Manager*, AIR 2005 SC 4217: (2005) 7 SCC 764.
[67] See *R. Vishwanatha Pillai* v. *State of Kerala*, AIR 2004 SC 1469: (2004) 2 SCC 105.
[68] See *Rajasthan Adult Education* v. *Ashoka Bhatacharya*, AIR 1998 SC 336: (1998) 9 SCC 61.
[69] See *Chandigarh Administration* v. *Ajay Manchanda*, AIR 1996 SC 3152: (1996) 3 SCC 753.
[70] See *Delhi Transport Corporation* v. *D.T.C*, AIR 1991 SC 101: [1990] Supp 1 SCR 142.
[71] See *Parshottam Lal Dhingra* v. *Union of India*, AIR 1958 SC 36: [1958] 1 SCR 828.
[72] See *Union of India* v. *Tulsiram Patel*, AIR 1985 SC 1416: (1985) 3 SCC 398.
[73] See *Nabendu Bose* v. *Union of India*, MANU/ SC/ 0500/ 1985.
[74] See *Gian Singh Mann* v. *High Court of Punjab*, AIR 1980 SC 1894: (1980) 4 SCC 266.
[75] Inserted by the Constitution (Twenty-eighth Amendment) Act, 1972, Section 2 (w. e. f. 29-8-1972).

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Citing Article 312A, the Supreme Court in *Union of India* v. *V.B. Raju*,[76] held that the pension that a High Court Judge who was a member of the Indian Civil Service was entitled to receive was the pension payable under the ordinary rules of the Indian Civil Service if he had not been appointed a judge. If he had not been appointed a judge, he would have been entitled to a pension. That is, therefore, what he is entitled to get, of course, in addition to the additional pension. Thus, when a Judge of a High Court who was a member of the Indian Civil Services had joined as a judge in 1959, he was entitled to the pension. Article 313 is a transitional provision.[77] Articles 315-323 provide for the establishment of the Public Service Commission for the Union and a Public Service Commission for each State.[78] The Constitution also laid down the provisions for the term of office of a member,[79] provisions for the removal and suspension of a member, [80] regulations making power, [81] function of the Commission,[82]expenses,[83] and reports of the Commission.[84]The object of the Public Service Commission is to devise a scheme for more extensive employment in the public service. Thus, Dr. B.R. Ambedkar, Mr. Jaspat Roy Kapoor, Pandit Hirday Nath Kunzru, and Mr. H.V. Kamath in the Constitutional Assembly argued that to perform this difficult job of finding the best talent for the State Public Services without any political influence and other extraneous considerations the Public Service Commission must have a Chairman of great ability, independence, and integrity.[85] In this context, T. K. Thope in his book[86] observed:

> "Recruitment to public services in a country which enjoys a parliamentary system of Government is always a matter of vital importance. Such recruitment must not be made from the point of view of party interest because such a system will affect efficiency and continuity in public services. Hence, it is necessary to have an independent body charged with the task of recruitment. This is done by the creation of the Public Service Commission."

The Parliamentary democratic system could be maintained only if the civil servants were appointed solely on the basis of merit, by open competition. The function of the Public Service Commission is to select the best candidates for public services. Thus, in *Lila Dhar* v.

[76] AIR 1982 SC 1174: (1982) 2 SCC 326.
[77] Article 314 dealt with provision for protection of existing officers of certain services. This Article was omitted by the Constitution (Twenty-eighth Amendment) Act, 1972, Section 3 (w.e.f. 29-8-1972).
[78] Constitution of India, Article 315(1).
[79] Id., Articles 316 and 319.
[80] Id., Article 317.
[81] Id., Article 318.
[82] Id., Articles 320-321.
[83] Id., Article 322.
[84] Id., Articles 323.
[85] See *State of Punjab* v. *Salil Sabhlok*, (2013) 5 SCC 1: [2013] 5 SCR 18.
[86] T. K. Thope, *Constitutional Law of India*, 1070 (Eastern Book Company, 1992).

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State of Rajasthan,[87] the Supreme Court observed that the object of any process of selection for entry into public service is to secure the most suitable person for the job, avoiding patronage and favouritism. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. Therefore, open competitive examination has come to be accepted almost universally as the gateway to public services. But the question is, how should the competitive examination be devised? The competitive examination may be based exclusively on the written examination, or it may be based exclusively on oral interview, or it may be a mixture of both. It is entirely for the Government to decide what kind of competitive examination would be appropriate in a given case. Similarly, in *A. P. Public Service Commission* v. *Baloji Badhavath*,[88] the Supreme Court held that the Public Service Commission is under a duty to conduct the examination for appointment to the services of the State in terms of the Rules framed by the State. It is, however, free to evolve the procedure for the conduct of the examination. While conducting the examination, the Commission should conduct it fairly and transparently as also following known principles of fair play, it cannot completely shut its eyes to the constitutional requirements of Article 335 of the Constitution. The Commission is under a duty to function consistently with the maintenance of efficiency of administration under Article 335.[89]

The Supreme Court further in *Ram Kumar Kashyap* v. *Union of India*,[90] has pointed out that for the efficient functioning of democracy, the Public Service Commissions must be manned by people of the highest skill and irreproachable integrity so that the selections to various public posts can be immunised from all sorts of extraneous factors like political pressure or personal favouritism and are made solely on considerations of merit. So far as the role played by the Public Service Commission in India is concerned, it can be said that the Public Service Commission is a constitutional body but its actions and decisions are not immune from judicial review and if a competent judicial forum finds that the impugned action is *ultra vires* the Constitution or any legislation or is otherwise arbitrary or discriminatory, there will be ample justification to nullify the same.[91] On the role of the Public Service Commission, *In Re: Ram Ashray Yadav*[92] the Supreme Court Observed:

> "Founding Fathers of the Indian Constitution relying upon the experience in other countries wherever democratic institutions exist, intended to secure an

[87] AIR 1981 SC 1777 : (1981) 4 SCC 159.
[88] (2009) 5 SCC 1: [2009] 5 SCR 688.
[89] See *State of Kerala* v. *N.M. Thomas*, AIR 1976 SC 490: (1976) 2 SCC 310, para. 83.
[90] AIR 2010 SC 1151: (2009) 9 SCC 378.
[91] *Union Public Service Commission* v. *Gyan Prakash Srivastava*, (2012) 1 SCC 537: (2012) 1 SCC (LS) 184.
[92] AIR 2000 SC 1448: (2000) 4 SCC 309.

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> efficient civil service. This is the genesis for setting up an autonomous and independent bodies like the Public Service Commission at the center and in the States. The values of independence, impartiality and integrity are the basic determinants of the constitutional conception of Public Service Commissions and their role and functions."[93]

The Constitution has made provisions to protect the civil service, as far as possible, from political or personal influence and give it that position of stability and security, which is vital to its successful working as an impartial and efficient instrument of the State. [94] To enable the Public Service Commissions to discharge their constitutional duties and obligations in full measure, the framers of the Constitution not only armed them with enhanced powers and increased functions but also provided security of tenure for the Chairman and Members by providing for a strict judicial procedure for their suspension or removal.[95]

The credibility of a Public Service Commission is based on the trust of the public in its functioning. If the Chairman or Members act subjectively or suspiciously, society's confidence in the Commission would be eroded. Society expects honesty, integrity, and objectivity from the Chairman and Members of the Commission. Fair, unbiased, and impartial actions without pressure or influence are essential to maintain public confidence in the Commission. The framers of the Constitution of India created some Constitutional Institutions to uphold the Constitutional values; the Public Service Commission being one of them. In this context, the Supreme Court in *Inderpreet Singh Kahlon* v. *State of Punjab*,[96] observed: "With a view to upholding the dignity and independence of the Public Service Commission, the salaries, allowances, and pensions payable to the members or staff of the Commission, are directed to be charged on the Consolidated Fund of India and/or the Consolidated Fund of the State. A Chairman of the Public Service Commission is removable only by following the procedure laid down under the Constitution of India."[97] The Court also observed: "The founding fathers of the Constitution perhaps, in their wildest dreams, could not have visualized that the people who are expected to strictly adhere to the constitutional values and guide the destiny of the Nation, in times to come would malign and denigrate the system to such an extent that for his grave misdeeds, the constitutional authority itself, in the larger public interest would be required to be put behind the bars."[98]Thus, autonomy, independence, and fearlessness have

[93] Id., para. 1.
[94] Id., para. 2.
[95] Id., para. 3.
[96] AIR 2006 SC 2571: (2006) 11 SCC 356.
[97] Id. para. 1. See also *In re: 317 (I) of the Constitution of India,* AIR 2009 SC 3028, para. 3.
[98] Id. para. 61.

been secured under Article 317 of the Constitution of India[99] to keep them away from political influence or influence to make the appointment in violation of Article 16 of the Constitution.[100] Citing several rulings of the Supreme Court, the Allahabad High Court in *U.P. Public Service Commission* v. *Union of India*,[101] observed that the values of independence, impartiality, and integrity are the basic determinants of the constitutional conception of Public Service Commissions and their role and functions. Such Commissions in India are functioning by people of the highest skill and irreproachable integrity and who are free from any political or extraneous pressure. It has to work impartially and, being a Constitutional authority, it cannot be passed by any circular or otherwise.[102]

IV. COMPARATIVE STUDY AMONG THE UK, THE USA, AND INDIA

It emerges from the discussions that the three States have both similarities and differences in a number of issues. Comparing civil service jobs in the United Kingdom, the United States of America, and India shows notable variations in terms of functions, recruiting, organization, and the impact of political power. The civil service in the United States is decentralized at the federal, state, and local levels, whereas the Indian system combines central and state services. In contrast, the civil service in the United Kingdom is often more centralised and career-oriented. Civil servants in the UK, USA, and India have different legal roles and duties. They must adhere to the Civil Service Code in the UK, which places a strong emphasis on honesty, impartiality, and integrity. Federal public workers in the United States have a variety of roles, from technical to legal, and are subject to several systems, including the General Schedule. Articles 308–323 of the Constitution of India regulate government personnel in India, guaranteeing their impartiality and effective management.

In terms of public service tenure in the United Kingdom, the United States, and India, each State has its own set of rules. Article 310 of the Constitution of India deals with the tenure of office of persons serving the Union or a State. Under Article 310, members of the Union's defence service, civil service of the Union, or all-India service, or holding any post related to defence or civil post under the Union, hold office during the pleasure of the President, while members of the State's civil service or holding any civil post under a State hold office during the pleasure of the State Governor. However, the “doctrine of pleasure” in its absolute unrestricted application does not exist in India. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State is subject to Article 311 of the

[99] Article 317 deals with removal and suspension of a member of a Public Service Commission.
[100] See *Ram Sewak* v. *State of U.P.* , MANU/UP/2267/2010.
[101] MANU/UP/1206/2018.
[102] *State of Uttaranchal* v. *Alok Sharma*, (2009) 7 SCC 647: [2009] 8 SCR 1.

Constitution, while recruitment and conditions of service of persons serving the Union or a State in India is recognized under Article 309 of the Constitution. In *D.C.Saxena* v. *The State of Haryana*[103] the Supreme Court has examined the issue whether the State Government can remove petitioners without adhering to natural justice principles and following the removal procedure under the doctrine of pleasure. In this case appellant was removed from the Board Chairman position by the State Government before completing his two-year tenure. The Supreme Court ruled that the government's non-punitive action and general policy decision did not attracted the provisions of the Act, allowing the State Government to remove petitioners under the doctrine of pleasure, as the action was not punitive.

The doctrine of pleasure is applied under the English law. In England, unless specifically stated by legislation,[104] all Crown employees—military,[105] naval,[106] and civil[107]—hold their positions at the Crown's pleasure and are therefore subject to termination at any moment without justification. The prerogative governs service agreements with personnel of the armed forces. There is no legal recourse for wrongful termination for military personnel. As a matter of public policy, this norm is implied in all contracts of service under the Crown and is not founded on any prerogative of the Crown, as may be assumed. [108] Under common law, the Crown cannot limit its future executive action by signing a contract[109]in areas pertaining to the welfare of the State,[110] and any agreement restricting the Crown's ability to fire a public servant at will would not be enforceable against the Crown if it were signed by a higher ranking official acting on the Crown's behalf. Therefore, even if the dismissal goes against the requirements of an express contract of employment, such as requiring notice before dismissal, there is no action against the Crown for damages related to the dismissal. [111] Regarding civil servants, including colonial and consular officers, the trend in court rulings and dicta is that other terms of the contract regarding conditions of service are not meant to be legally enforceable against the Crown, and that they are dismissible at will on the basis of public policy (not the Crown's incapacity) even if they are appointed for a set period of time. [112]

Under the English law, a person on a contract for a fixed period subject to dismissal for

[103] AIR 1987 SC 1463: (1987) 3 SCC 251.
[104] *Chelliah* v. *A. G*., (1970) AC 1111.
[105] *Leaman* v. *Rex*, (1920) 3 KB 663.
[106] *Mulvenna* v. *The Admiralty*, (1926) SC 842.
[107] *Reilly* v. King,(1934) AC 176.
[108] *Gould* v. *Stuart,* (1896) AC 575.
[109] *Mitchell* v. *The Queen*, (1896) I QB 121.
[110] *Antonio* v. *Stephen*, AIR 1947 PC 20.
[111] *Riordan* v. *War Office,* (1959) 3 All ER 522.
[112] *Rodwell* v. *Thomas*, (1944) KB 596.

misconduct can be dismissed at will. [113] In *Rodwell* v. *Thomas,* [114] the court ruled that an established civil servant can be dismissed at pleasure, disregarding any terms of their contract that provide for employment for a specified time or termination in specified ways. The Court of Appeal in *IRC* v. *Hambrook*[115] held that the Crown cannot lay an action against an established civil servant for the loss of services, as such action will only apply to a "menial servant" who can be considered a member of the master's domestic household. The lower court held that there was no contractual relationship between the Crown and the civil servant, and no remedy was provided for breach. As per the English practice, the Crown's right to dismiss a public servant at pleasure is limited by contract terms, statutes prescribing terms of service, and non-statutory regulations made by the Crown itself.[116]Contracts with a definite term and power to determine "for cause" exclude the implication that the appointment is at pleasure. Statutes control the Crown's pleasure and govern civil servant rights, while non-statutory regulations are void as they contradict public policy.[117]The Crown's absolute power of dismissal can only be restricted by statute, and anything short of statute is void as contrary to public policy. The right to dismiss at pleasure is not inconsistent with the public servant's right to recover their salary. [118]

In the USA, public employment generally does not grant property[119] or contractual rights,[120] except for specific purpose-based offices where contractual tenure may be implied. However, all public employment is governed by public convenience and necessity. [121] In the absence of constitutional or statutory tenure limits, the President of the USA can remove a federal employee at his discretion, subject to the procedural requirement of "due process".[122] In *Myers* v. *United States,*[123] the court struck down a law that required Senate consent for certain postmasters to be removed by the President. The court concluded that the removal power is "incidental to the power of appointment" and that the President has the exclusive power to remove executive officers appointed and confirmed by the State. The President has a duty to execute laws and must be free to select those who act for him under his directions. The

[113] *Denning* v. *Secretary of State for India in Council*, (1920) 37 TLR 138.
[114] *Rodwell* v. *Thomas*, (1944) KB 596.
[115] *IRC* v. *Hambrook,* (1956) 2 QB 641.
[116] *Reilly* v. *R.,* (1933) All ER 179.
[117] *Riordan* v. *War Office*, (1959) 3 All ER 522.
[118] *Chelliah* v. *A.G*., (1970) AC 1111.
[119] *Ex-parte Hennen,* (1839) 13 Pet 230.
[120] *Butler* v. *Pennsylvania,* (1851) 10 How 402.
[121] *Higginbotham* v. *Baton,* (1939) 306 US 535.
[122] *Wieman* v. *Updegraff,* (1952) 344 US 183.
[123] *Higginbotham* v, *Baton,* (1939) 306 US 535.

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Morison v. *Olson*[124] it was held that Congress has the authority to limit the presidential power of removal. The United States does not provide civil servants with a remedy in contract alone, as statutes often prescribe procedures for administrative proposals. The dilemma lies in whether the removing officer has broad discretion to prevent arbitrary conduct or if judicial review is so extensive that the officer and the net civil servant are virtually on trial. This is primarily a problem for lawmakers and courts, as they can only give effect to legislative will. A statute allowing officers to be removed for "cause" was deemed invalid without notice and opportunity to be heard.[125] The US Supreme Court has also ruled that a civil servant cannot claim due process in a loyalty order proceeding due to the absence of a legally protectable interest that could apply to due process. [126] A court will revoke a decision reached without notice and fair hearing if a statute mandates a hearing. [127] The employee must have the opportunity to explain and access all evidence relied upon by the State, as well as the time and opportunity to refute it.[128] The employee in USA is entitled to recover the compensation that has accrued for the service performed up until the date of termination of his appointment, but there is no foundation, as in England, for a claim to compensation in lieu of future income or for a pension in the event of an early termination of employment.[129]

In India, dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State is regulated by the principles enumerated under Article 311 of the Constitution of India. Article 311 prohibits dismissal, removal, or reduction in rank of persons employed in civil capacities under the Union or a State in certain grounds. It states that no person can be dismissed or reduced in rank without an inquiry, where they have been informed of the charges against them and given a reasonable opportunity to be heard. If a penalty is proposed, it can be imposed based on the evidence presented during the inquiry. However, this Article does not apply to dismissals due to criminal charges, when the authority is unable to hold an inquiry, or when the President or Governor deems it in the interest of the State's security. Citing Article 311 of the Constitution in *Samsher Singh* v. *State of Punjab*,[130] the Supreme Court has categorically ruled that the order of termination of a probationer whether punitive or not would depend upon whether the allegations which are the cause of termination are the motive or amounts to its foundation. If the order of termination of

[124] (1988) 487 US 654.
[125] *Ham* v. *Board of Boston Police,* (1886) 142 Mass. 190.
[126] Bailey v. Richardson, (1951) 71 S Ct. 669: (1951) 341 US 918.
[127] *Sharkey* v. *Thurston,* (1935) 268 NY 123.
[128] *Mc. Carthy* v. *Emerston*, (1909) 202 Mass. 352.
[129] *Mississippi* v. *Miller,* (1928) 276 US 174.
[130] AIR 1974 SC 2192: (1974) 2 SCC 831.

employment is a cloak for an order of punishment, the Court will not only look into the form of the order but the Court is not debarred from lifting the veil and looking into the cause, which has resulted in the order of termination held in *Anoop Jaiswal* v. *Government of India*[131] Thus where the act of misconduct, which formed the foundation for the action taken, termination was struck down.

In reference to Article 311 of the Constitution of India, the Supreme Court of India in *Dipti Prakash* v. *Satyendra Nath Bose*, [132] held that where the findings are arrived at by the employer behind the back of the employee and without departmental enquiry being conducted into the accusation, such an order of termination though prima facie appearing to be innocuous would be treated as founded on allegations and hence bad in law. Further, in *V. P Ahuja* v. *State of Punjab*[133] the Supreme Court held that temporary servant is also entitled to certain protection and his services cannot be terminated arbitrarily nor can services be terminated in punitive matter without complying with principles of natural justice. In *Chandra Prakash* v. *State of UP* [134] the Supreme Court found the Order terminating services of appellant were passed in clear violation of principles of natural justice hence the Court set aside the Order. Thus, in *Vijayakumaran* v. *Central University of Kerala*[135] the Supreme Court held that the impugned termination was illegal being ex-facie stigmatic as it had been issued without subjecting the Appellant to a regular inquiry as per the service rules.

Regarding service termination in England, *Gould* v. *Stuart*[136] established that when an appointment is made in accordance with a statute, the Crown's authority to fire employees at will is governed by that statute, meaning that the service can only be ended in accordance with the procedure specified in that statute. Once more, in *Reilly* v. *King,* [137] it was decided that the Crown's pleasure is, to the degree that it is restricted by the contract, provided it specifies a specific period of office and gives the authority to dismiss for a "cause." This would make sense given the contemporary view that the authority to fire a Crown worker at will is based on an implicit clause in the employment contract that is based on public policy rather than the Royal prerogative. In *Rodwell* v. *Thomas,* [138] it was further decided that a violation of departmental regulations establishing a procedure might result in an official or departmental appeal but not a legal cause of action. However, this does not imply that government workers

[131] AIR 1984 SC 636: (1984) 2 SCC 369.
[132] AIR 1999 SC 983: (1999) 3 SCC 60.
[133] AIR 2000 SC 1080: (2000) 5 SCC 152.
[134] AIR 2000 SC 1706: (2000) 5 SCC 152. .
[135] [2020] 3 SCR 374: (2020) 12 SCC 426.
[136] (1896) AC 575.
[137] (1896) AC 575.
[138] (1944) All ER 700 (730).

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are really fired in England without providing them with a chance to provide justification. In reality, the principles of natural justice are upheld, and the government servant is given a chance to argue his case before being fired. England passed the Contracts of Employment Act 1972, the Employment Protection Act 1975, and the Employment Protection (Consolidation) Act 1978, among other laws, to govern conditions of service in employment. Citing these legislations, in *Westwood* v. *Secretary of State for Employment*[139] the House of Lords held that an employee, including a Government servant, is entitled to a statutory notice before dismissal, in default of which he is entitled to sue in damages. This principle was applied in *Council of Civil Service Unions* v. *Minister for the Civil Service*,[140] where it was held that the royal prerogative was subject to judicial review. The English Court of Appeal in *Calderbank* v. *Calderbank*,[141] has established the concept of a "Calderbank Offer". A "Calderbank Offer" can often be identified by the disclaimer "without prejudice, save as to costs."

The Constitution of the United States has no provision pertaining to service termination in the United States. However, Individuals or groups working in the US civil service have the right to petition Congress or any member of it or to provide information to either the House of Congress or any committee or member of it. This freedom cannot be restricted or interfered with. A federal servant may be dismissed in accordance with the process outlined in the Civil Service Act of 1946. This legislation merely mandates that the employee be provided with notice, a copy of the charges, a written chance to respond to the charges, and a copy of the judgement. The Act does not call for a trial, hearing, or witness examination. In *Bailey* v. *Richardson*,[142] it was determined that the necessity of procedural "due process" and judicial review is therefore denied to public workers on the grounds that "the criterion for retention or removal of subordinate employees is the confidence of superior executive officials." Therefore, it is up to the senior officer or authority to decide if there is a good basis to remove someone and to make that decision without providing the concerned official with the "due process of law." Accordingly, an employee may be fired by the appropriate authority without a hearing based on "information" or "suspicion" of disloyalty held in *Croghan* v. *U.S.*[143] However, in *Peters* v. *Hobby,* [144]it was held that the courts have the authority to step in if the procedural rules established by the act itself are broken. The US

[139] (1984) I All ER 874: [1984] UKHL J0315-1.
[140] [1984] 3 All ER 935: [1985] IRLR 28.
[141] [1975] 3 All ER 333: [1975] 3 WLR 586.
[142] (1951) 341 US 918.
[143] (1950) 89 F supp 1002.
[144] (1955) 349 US 331.

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Supreme Court ruled in *Cleveland Board of Education* v. *Loudermill*[145] that the due process clause guarantees that some fundamental rights, such as life, liberty, and property, can only be taken away via legally acceptable methods. Substances and techniques fall into several groups. It was decided that, just as life or liberty cannot be defined by the processes for taking it away, so can property. Due process is guaranteed by the constitution rather than by legislative grace. Furthermore, it was decided that although the Legislature may decide not to provide a property interest in public employment, it cannot legally permit the denial of such an interest without the necessary procedural protections.

Articles 315 to 325 of the Constitution of India establish Public Service Commission at Union as well as State levels. The debate on Article 320 regarding functions of the Public Service Commission that the public posts emphasized people's capacities cannot be measured by passing examinations or obtaining high marks. Communities who have had the advantage of English education view it as a preserve of theirs, while those opposing this move are interested in preserving communalism and claiming merit can only be tested by examinations. The millions of people without primary school education have no place in public services as long as the current system remains in place.[146] Nevertheless, Article 320 of the Indian Constitution addresses the duties of the Public Service Commission. The main duty of the Public Service Commission, whether it is the State Public Service Commission or the Union Public Service Commission, is to administer exams for appointments to the State's and Union's respective services. The State Public Service Commission or the Union Public Service Commission will be consulted on all issues pertaining to civil service recruiting practices and civil post openings. The same holds true for any disciplinary issues that impact an individual working in a civil capacity for the Indian or state governments.[147]

In England, the Civil Service Commission, an independent body presently constituted of five Crown-appointed members, is in charge of recruiting all permanent public officials. The Commission not only picks new Civil Service entrants, but also assigns them to Departments for which they are qualified.[148] Though the Civil Service Commission's norms must be approved by the Treasury, its selection of applicants for appointment does not require permission and cannot be challenged by any other authority. It does not suggest candidates for appointment by the Departments, but rather nominates individuals for appointment; in other words, no one may be appointed to a public post unless his qualifications have been accepted

[145] (1984) 470 US 532.
[146] See *Neil Aurelio Nunes* v. *Union of India*, (2022) 4 SCC 1: [2022] 11 SCR 585.
[147] See *A. Vinayak Reddy* v. *State of Telangana*, MANU/TL/1802/2023.
[148] Edgar Norman Gladden, *Approach to Public Administration*, 167 (Staples, 1996).

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by the Commission. In summary, while the Treasury sets the prerequisites for various positions, the Civil Service Commissioners have the final say on whether any candidate meets those standards.[149]However, the British Civil Service Commission is a recruitment organization rather than a general personnel agency, and the Treasury, not the Commission, has the authority to manage and discipline employees after they are hired.[150]

The Civil Service Act of 1883 established the Federal Service Commission in the United States. It has decentralized headquarters in 13 districts that split the United States' territory. Originally established for the primary purpose of recruiting "classified" federal personnel, the Commission's powers have now extended to encompass almost all aspects of federal service administration. In *U.S.* v. *Lapp,*[151] it was determined that the Federal Civil Service Commission is not an autonomous organization but rather an advisory body that functions as the President's agent in carrying out the requirements of the Civil Service Act. In the United States, courts do not interfere with the Commission's activities unless it violates a legislative requirement. In *Keim* v. *U.S.,*[152] the Supreme Court observed that there is nothing in these statutory provisions to indicate that the duty of passing, in the first instance, on the qualifications of the applicants, or later, on the competency or efficiency of those who have been tested in the service, was taken away from the administrative officers and transferred to the courts, and, if courts should not be called upon to supervise the results of a civil service examination. These are concerns distinctively within the province of those in charge of and supervising the departments, and we are clear that they must be handled by those administrative officers unless Congress provides otherwise by special and direct legislation.

V. CONCLUSION AND SUGGESTIONS

The study advocates for constitutional reform of services under the Union and States in India. Article 309, which governs the recruitment and working conditions of public employees, is being changed as part of the constitutional reform in India. This might involve improving recruiting processes, clarifying service terms, and assuring equal treatment of employees. The goal is to improve efficiency and effectiveness while protecting constitutional safeguards for federal officials. Article 309 provides the basis for service rules and regulations. Three areas are covered by Article 309: (i) it gives the relevant legislature (the State Legislatures for State services, the Parliament for Union services) the authority to regulate the recruitment and

[149] Id.
[150] Robert MacGregor Dawson, *Democratic Government in Canada*, 242 (University of Toronto Press, Toronto, 1949).
[151] 244 F 377 (CA 6).
[152] (1900) 177 US 290.

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terms of service of public employees; (ii) it permits the adoption of laws governing all facets of service, such as recruiting, promoting, transfer, and disciplinary action; and (iii) it permits the President or Governor (as appropriate) to make rules and regulations on these issues until legislation is passed. The following areas for reform are suggested for modifications based on the present study: First, simplifying the recruitment process. The goal of reforms may be to employ technology and standardized evaluation techniques to make hiring procedures more effective and merit-based. Second, making the terms of service clear. Ambiguity and disagreements can be decreased by changing service conditions to guarantee uniformity and clarity. Third, making sure everyone is treated fairly. Reforms could concentrate on creating more transparent grievance redressal procedures and bolstering protections for government personnel, such as those pertaining to termination or demotion. Fourth, the updating of regulations. The efficiency and efficacy of public services can be increased by revising present regulations to take into account modern realities and technological advancements.

Constitutional Safeguards for Civil Servants are important aspects of services under the Union and the States in India covered importantly under Articles 310, 311, and 312 of the Constitution of India. **The doctrine of pleasure is recognized under Article 310.** Civil servants hold office at the pleasure of the President or Governor, but this does not mean they are subject to arbitrary dismissal. **Safeguards for civil servants are incorporated in Article 311.** This Article provides protections against arbitrary dismissal or demotion, including the right to a fair hearing and an opportunity to be heard. Article 312 provides for **All India Services.** Parliament can create All India Services (like IAS, IPS) with the consent of the Council of States, which can be common to both the Union and the States. It is appropriate to propose three significant improvements under Articles 310, 311, and 312. First, increasing productivity. By reducing procedures, encouraging a more motivated staff, and optimizing recruiting, reforms can increase the efficacy and efficiency of public services. Second, retain independence. Strengthening constitutional safeguards for civil officials maintains their independence from political control and fosters fair government. Third, modernizing service system with change of time. Reforms can assist to adapt the service system to the changing requirements of a modern, dynamic society.

A comparative study of civil servants in the United Kingdom, the United States of America, and India proposes reforms aimed at enhancing efficiency, accountability, and responsiveness. These reforms include streamlining administrative structures, enhancing performance evaluation, and promoting transparency and service delivery. Specific areas of reform include recruitment, training, promotion, and policy implementation. To begin, keeping the number of

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ministries in mind, suitable changes to public workers may be implemented within each ministry to ensure efficiency. Second, change must be built on performance management. Reforms should prioritize enhancing performance monitoring and assessment through internal audits, management information systems, or external organizations that conduct exit surveys and create scorecards for service quality. Third, changes in openness and e-governance. Reforms aimed at adopting measures such as the Right to Information Act, clear beneficiary selection procedures, and expanded use of e-governance to make information available online can all help to promote openness and responsiveness. Fourth, there are adjustments to accountability and service delivery. Reforms should prioritize improving the resolution of public grievances, developing citizens' charters, and increasing responsiveness through a variety of activities. Fifth, autonomy and tenure reform. Civil workers frequently advocate for increased autonomy, minimum tenures, and a stronger focus on merit-based recruiting and promotion processes. Sixth, recruiting and training changes. Reforms should prioritize fair and open recruiting processes, as well as extensive training and development opportunities for government personnel. Seventh, decentralization reform. Consider the importance of decentralization in enhancing service delivery and responsiveness, as well as the possibility of experimenting with various administrative, political, and budgetary models. Eighth, lateral entry reform. There should be lateral entry civil services; it has the potential to bring in specialized talent, while some are concerned about its influence on the career structure of existing public officials.

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