The Union Public Service Commission

Description

Section 96-C of the Government of India Act of 1919 provided for the establishment in India of a public service commission â??consisting of not more than five members, of whom one shall be a chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years and may be reappointed. No member shall be removed from office before the expiry of his term of office, except by order of the Secretary of State in Council.â?•

UPSC â?? Union Public Service Commission

The **UPSC** is the main recruitment agency of IAS. The commission was given, in regard to recruitment and control of the public services, such functions as may be assigned to it by the Secretary of State in Council in accordance with rules made under this section. Following the recommendation of the Lee Commission, a Central Public Service Commission was set up under this section in 1926. Its role was limited to all-India and higher services. Following the recommendations of the Simon Commission, the Government of India Act, 1935 provided in Section 264 for the establishment of a Federal Public Service Commission. The new constitution (Article 315) also provides that â??there shall be a Public Service Commission for the Union and a Public Service Commission for each State.â?•

SHRI RAM IAS

History of UPSC (Union Public Service Commission)

The Union Public Service Commission is popularly known as UPSC. It is a central or main recruiting agency of Government of India.

UPSC is responsible for recruitment of all India services (Indian Administrative Service, Indian Police Service, Indian Forest Service), Group A and Group B of central service.

Section 96C of Government of India act of 1919 provided for establishment of a UPSC at first. In 1923 British Government established royal commission on the superior civil services in India under the chairmanship of Lord Lee.

In 1924 Lord Lee submitted his report to British Government and on recommendation of Lord Lee British government established public service commission on 1st October 1926 under the chairmanship of Ross Barker.

In the government of India Act 1935, it was called Federal Public Service commission.

The **Federal Public Service Commission** became the **Union Public Service Commission** after Independence.

Constitutional Provision

UPSC was given a constitutional status under 315 of the constitution. Article 315 to 323 of the constitution, titled as services under the union and the states, provide for public service commission for the Union and for each state.

â?¢ Article-315. Public Service Commissions for the Union and for the States.
â?¢ Article-316. Appointment and term of office of members.
â?¢ Article-317. Removal and suspension of a member of a Public Service Commission.
â?¢ Article-318. Power to make regulations as to conditions of service of members and staff of the Commission.
â?¢ Article-319. Prohibition as to the holding of offices by members of Commission on ceasing to be such members.
â?¢ Article-320. Functions of Public Service Commissions.
â?¢ Article-321. Power to extend functions of Public Service Commissions.
â?¢ Article-322. Expenses of Public Service Commissions.
â?¢ Article-323. Reports of Public Service Commissions.

Organisation

SHRI RAM IAS

The number of members of the commission and conditions of their service are left to be determined by the president. Presently there is 9 members including the chairman.

The chairman and the members of the commission are appointed by the president on the advice of the prime minister.

The constitution provides that as far as may be, at least half members have to be persons who have held office for at least 10 years under the government of India or state government.

A member holds office for a term of 6 years from the date he joins duty or until he / she attains the age of 65 years whichever is earlier.

A member of the commission is not eligible for the same appointment for the second term nor can be undertake employment under the union or state government.

Article 317 provides that the chairman or a member of the commission can be removed from office by the president on the ground of misbehaviour only after the supreme court, on a reference being made to it by the president, has on enquiry recommended such removal.

The office of Union Public Service Commission is located at Dholpur House, Shahjahan Road, New Delhi â?? 110069. UPSC is a part of central secretariat.

Composition

The number of members of the commission and the condition of their service is left to be determined by the President. It has since been decided that there shall be six to eight members of the commission whose authorized strength, thus, is nine including the chairman. The chairman and the members of the commission are appointed by the President on the advice of the Prime Minister. The constitution provides that as far as may be, at least half the members have to be persons who have held office for

at least ten years under the government of India or a state government. This provision has been inserted obviously to guarantee the presence on the commission of sufficient official experience.

A member holds office for a term of six years from the date he joins duty or until he attains the age of sixty-five years, whichever is earlier. A member of the commission is not eligible for the same appointment for a second term, nor can he undertake employment under the union or state government. â??One way of making them independent of the executive,â?• remarked Dr. Ambedkar, â??is to deprive them of any office with which the executive might tempt them to depart from duty.â?• The ban appears to be even against honorary posts because, he said, â??pay is not the only thing which a person obtains by reason of his post; there is such a thing as pay, pickings and pilferingâ??s.â?• The chairman is ineligible for any future employment under the government, but other members are entitled to accept the chairmanship of the Union Public Service Commission or of a State Public Service Commission.

Secondly, the conditions of service of members cannot be varied to their disadvantage after the appointment and their salaries, allowances, etc. are not votable by the parliament as they are charged to the consolidated fund of India. Thirdly, a special procedure has been laid down in the constitution to remove a member from office. It is noteworthy that the members of the commission do not hold their office by the will of the President but, as in the case of the judges of the Supreme and High Courts, by their merit and official integrity. Article 317 provides that the chairman or a member of the commission can be removed from office by the President on the ground of misbehaviour only after the Supreme Court, on a reference being made to it by the President, has on inquiry recommended such removal.

SHRI RAM IAS

Pending the inquiry by the court, the President may suspend the member concerned. A member including the chairman would be deemed guilty of misbehaviour if he becomes interested in any government contract or agreement or participates in any way in its profit or in any monetary benefit arising from it otherwise than as a member. The same article also provides that the President may by order remove the chairman or any other member from office if he is adjudged as an insolvent or engages during the term of office in any paid employment outside the duties of his office or is in his opinion, infirm of body or mind.

Functions

Under Article 320 of the Constitution of India, the Commission is, inter-alia, required to be consulted on all matters relating to recruitment to civil services and posts. The functions of the Commission under Article 320 of the Constitution are:

â?¢ Conduct examinations for appointment to the services of the Union.
â?¢ Direct recruitment by selection through interviews.
â?¢ Appointment of officers on promotion / deputation / absorption.
â?¢ Framing and amendment of Recruitment Rules for various services and posts under the Government.
â?¢ Disciplinary cases relating to different Civil Services.
â?¢ Advising the Government on any matter referred to the Commission by the President of India.

The jurisdiction of the commission extends to the public services of the union government and the centrally administered territories. It is also enjoined upon it (Article 320 (2)) that if requested by any two

or more states, it should assist them in framing and operating schemes of joint recruitment for any services, for which candidates possessing special qualifications are required. In addition, Article 315 (4) empowers the commission, at the request of the Governor of a state and with the approval of the President, to â??agree to serve all or any of the needs of the State.â?• For example, the Union Public Service Commission served the needs of the state of Sikkim in this matter till the establishment of a public service commission for that state.

The functions of the commission are embodied in Article 320, but the following Article 321 provides for conferring on it additional functions. â?•An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also in respects of the services of any local authority or other body corporate constituted by law or of any public institution.â?• It should be noted that the commission cannot take up any functions other than those specified in Article 320, even at the request of the union government unless such provision has been made in the manner prescribed by Article 321. In terms of Article 320, the functions of the commission fall under two categories â?? mandatory or administrative and consultative or advisory.

SHRI RAM IAS

Mandatory or administrative functions include the conducting of examinations for appointments to the services of the union government. Such examinations may be written or by interview or by both; nothing is said in the above article about it. The union governmentâ??s consultation with the commission is mandatory on the following issues:

1. Matters relating to methods of recruitment to civil services and civil posts.

2. Principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions and transfers.

3. All disciplinary matters affecting a person serving under the union government in a civil capacity including memorials or petitions relating to such matters.

4. Any claim by or in respect of any person who is serving or has served under the union government in a civil capacity, that the costs incurred by him in defending legal proceedings instituted against him in respect of their official acts should be paid out of the consolidated fund of India.

5. Any claim or award of a pension in respect of injuries sustained by union government servants in the discharge of their official duties.

6. Any other matter which the President may refer to the commission.

It should be borne in mind that in the above matters the commission functions only in an advisory capacity and its advice is not binding on the government. In this respect the position has remained the same as before Independence. Participating in parliamentary debates on this matter, Sir Samuel Hoare, the then secretary of state for India, observed: â??It was the definite view of the Joint Select Committee, and it is the definite view of my advisers both here and in India, that the Public Service Commissions had much better be advisory.

Experience goes to show that they are likely to have more influence if they are advisory than if they have mandatory powers. The danger is that if you give them mandatory powers you then set up two governments.â?•¦ The constituent assembly and its drafting committee considered the matter carefully and came to the conclusion that it will not be advisable to create â??a kingdom within a kingdomâ?•.

The proviso to Article 321, however, dilutes the consultative role of the commission by authorizing the President to make regulations specifying the matters in which either generally, or in any particular class of cases or in any particular circumstances, it will not be necessary to consult the commission. Liberal and frequent use has been made of this proviso both by the union and more so by the state governments. For instance, the commission may not be consulted on matters relating to the reservation of appointments or posts for the backward classes, scheduled castes, and scheduled tribes.

The commission is also not consulted with regard to selections for certain appointments such as: (i) membership or chairmanship of tribunals or commissions; (ii) posts of the highest diplomatic nature; and (iii) a bulk of class III (group C) and IV (group D) employees who constitute about 90 per cent of the total number of government employees at the centre. By way of limiting this discretionary authority of the President, clause (5) of Article 320 has laid down that â??All regulations made under the proviso to clause (3) by the Presidentâ?¦. shall be laid for not less than fourteen days before each House of Parliamentâ?¦. as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament may make during the session in which they are held.â?• The ineffectiveness of this safeguard has been shown in various judicial decisions in the matter. In performing its tasks, the commission takes the assistance of heads of departments and other government officials as well as outside experts at the interview of candidates and it also employs suitable persons as examiners, supervisors and invigilators at the examinations conducted by it.

SHRI RAM IAS

The relations of the commission with different ministries/ departments of the union government are coordinated by the Ministry of Home Affairs, but in its day-to-day work and in the discharge of its statutory responsibilities, it deals directly with the different ministries/departments and the various heads of executive departments. After the commission has tendered its advice to different governmental agencies, it is generally informed of the action taken on its advice.

In terms of Article 323 (1), it is the duty of the commission to present annually to the President a report as to the work done by the commission. The report, along with the memorandum explaining the action taken by the government on the recommendations of the commission, is placed before the parliament. The memorandum explains the reasons for the non-acceptance of its recommendations by the government in cases where such advice has not been accepted. The provision regarding the explanatory memorandum, however, does not cover the additional functions of the commission regarding appointments to municipal/local authorities.