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### **Department of Employment and Training**

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**Commissioner,**

**Department of Employment and Training.**



# CIVIL AND STATE SERVICE

## **Civil Services:**

### **Meaning and Features**

Advantages of having an independent, permanent and impartial civil service are as follows:

- i. The spoils system has the propensity to degenerate into a system of patronage, nepotism and corruption. Having a credible recruitment process through an impartial agency provides a defense against such abuse.
- ii. Public policy today has become a complex exercise requiring in-depth knowledge and expertise in public affairs. A permanent civil service provides continuity and develops expertise as well as institutional memory for effective policy making.
- iii. A permanent and impartial civil service is more likely to assess the long-term social payoffs of any policy whereas the political executive may have a tendency to look for short term political gain.
- iv. A permanent civil service helps to ensure uniformity in public administration and also acts as a unifying force particularly in vast and culturally diverse nations.
- v. A permanent civil service like any other reputable profession is likely to evolve over time an ethical basis for its functioning.

### **Core Principles for making civil services Citizen Centric are:**

1. Rule of Law
2. Making Institutions Responsive and Accountable
3. Active Citizens' Participation - Decentralization and Delegation
4. Transparency
5. Civil Service Reforms
6. Ethics in Governance
7. Periodical Reforms

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## **All India services, Central Services and State Services:**

A unique feature of the Indian Administration system, is the creation of certain services common to both - the Centre and the States, namely, the All India Services. These are composed of officers who are in the exclusive employment of neither Centre nor the States, and may at any time be at the disposal of either.

The officers of these Services are recruited on an all-India basis with common qualifications and uniform scales of pay, and notwithstanding their division among the States, each of them forms a single service with a common status and a common standard of rights and remuneration.

Like other federal polities the Centre and the constituent states, under the Indian Constitution, have their separate public services to administer their respective affairs. Thus, there are Central or Union Services to administer Union subjects, like defence, income tax, customs, posts and telegraphs, railways, etc.

The officers of these Services are exclusively in the employment of the Union Government. Similarly, the states have their own separate and independent services.

## **Union Public Service Commission**

### **Historical Perspective**

The origin of the Public Service Commission in India is found in the First Dispatch of the Government of India on the Indian Constitutional Reforms on the 5th March, 1919 which referred to the need for setting up some permanent office charged with the regulation of service matters.

This concept of a body intended to be charged primarily with the regulation of service matters, found a somewhat more practical shape in the Government of India Act, 1919. Section 96(C) of the Act provided for the establishment in India of a Public Service Commission which should “discharge, in regard to recruitment and control of the Public Services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council”.

After passing of the Government of India Act, 1919, in spite of a prolonged correspondence among various levels on the functions and machinery of the body to be

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set up, no decision was taken on setting up of the body. The subject was then referred to the Royal Commission on the Superior Civil Services in India (also known as Lee Commission).

The Lee Commission, in their report in the year 1924, recommended that the statutory Public Service Commission contemplated by the Government of India Act, 1919 should be established without delay.

Subsequent to the provisions of Section 96(C) of the Government of India Act, 1919 and the strong recommendations made by the Lee Commission in 1924 for the early establishment of a Public Service Commission, it was on October 1, 1926 that the Public Service Commission was set up in India for the first time.

It consisted of four Members in addition to the Chairman. Sir Ross Barker, a member of the Home Civil Service of the United Kingdom was the first Chairman of the Commission.

The functions of the Public Service Commission were not laid down in the Government of India Act, 1919, but were regulated by the Public Service Commission (Functions) Rules, 1926 framed under sub-section (2) of Section 96(C) of the Government of India Act, 1919. Further, the Government of India Act, 1935 envisaged a Public Service Commission for the Federation and a Provincial Public Service Commission for each Province or group of Provinces.

Therefore, in terms of the provisions of the Government of India Act, 1935 and with its coming into effect on 1st April, 1937, the Public Service Commission became the Federal Public Service Commission.

With the inauguration of the Constitution of India in January 26, 1950, the Federal Public Service Commission came to be known as the Union Public Service Commission, and the Chairman and Members of the Federal Public Service Commission became Chairman and Members of the Union Public Service Commission by virtue of Clause (1) of Article 378 of the Constitution.

The Union Public Service Commission is a Constitutional Body established under Article 315 of the Constitution of India. The Commission consists of a Chairman and ten Members.

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Union Public Service Commission is a Constitutional Body, which has been mandated the responsibilities of making recruitment

- By conduct of competitive examinations as well as selection through interviews,
- Advising on the suitability of officers for appointment on promotion and transfer-on-deputation,
- Advising the Government on all matters relating to methods of recruitment to various services,
- Framing & amendment of Recruitment Rules, disciplinary cases relating to various Civil Services,
- Miscellaneous matters relating to grant of extra-ordinary pensions, reimbursement of legal expenses etc,
- Advising the Government on any matter referred to the Commission by the President of India and on the request of the Governor of a State, to serve all or any of the needs of a State relating to recruitment, with the approval of the President.

In order to fulfill its constitutional obligations, the Commission is supported by Officers/Staff broadly known as Secretariat of the Commission, headed by the Secretary. The Administration Branch of the Commission is entrusted with the functions of administering the Secretariat of the Commission as well as looking after the personal matters of Hon'ble Chairman/ Hon'ble Members and other Officers/ Staff of the Commission.

### **The Mandate of Union Public Service Commission**

The Mandate of Union Public Service Commission Under Article 320 and 321 of the Constitution of India, includes:

1. Recruitment by conduct of competitive examinations;
2. Recruitment by Selection through Interviews;
3. Advising on the suitability of officers for appointment on promotion as well as transfer-on-deputation;
4. Advising the Government on all matters relating to methods of Recruitment to various services and posts; framing and amendment of Recruitment Rules;

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5. Disciplinary cases relating to different civil services;
  6. Miscellaneous matters relating to grant of extraordinary pensions, reimbursement of legal expenses, etc.
  7. Advising the Government on any matter referred to the Commission by the President of India.
  8. On the request of the Governor of a State, to serve all or any of the needs of a State relating to recruitment, with the approval of the President.

Methods of Recruitment is made by one of the following four methods:

1. Direct Recruitment
2. Promotion
3. Deputation/absorption; and
4. Composite Method (Deputation + Promotion)

### **Direct Recruitment**

Direct Recruitment is conducted broadly under the following two methods:

1. Recruitment by Competitive Examination; and
2. Recruitment by Selection. Recruitment Through Examination the Commission conducts following examinations on a regular basis at various Centers located throughout the country for appointment to various Civil/Defense services/posts:
  - 1) Civil Services (Preliminary) Examination;
  - 2) Civil Services (Main) Examination;
  - 3) Engineering Services Examination;
  - 4) Combined Medical Services Examination;
  - 5) Indian Forest Service Examination;
  - 6) Geologists' Examination;
  - 7) Indian Economic Service/ Indian Statistical Service Examination;
  - 8) Special Class Railway Apprentices' Examination [Held every alternate year];
  - 9) Combined Defense Services Examination [Held twice a year];
  - 10) National Defense Academy and Naval Academy Examination [Held twice a year];
  - 11) Central Police Forces (Assistant Commandants) Examination;



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12)Section Officers/ Stenographers (Grade-B/Grade-I) Ltd. Departmental  
Competitive Examination;

**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:

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

**STATE PUBLIC SERVICE COMMISSION**

Parallel to the Union Public Service Commission (UPSC) at the Centre, there is a State Public Service Commission (State Public Service Commission) in a state. The same set of Articles (i.e., 315 to 323 in Part XIV) of the Constitution also deal with the composition, appointment and removal of members, power and functions and independence of a State Public Service Commission.

**Composition:**

A State Public Service Commission consists of a chairman and other members appointed by the governor of the state. The Constitution does not specify the strength of the Commission but has left the matter to the discretion of the Governor.

Further, no qualifications are prescribed for the commission's membership except that one-half of the members of the commission should be such persons who have held office for at least ten years either under the government of India or under the Government of a state. The Constitution also authorizes the governor to determine the conditions of service of the chairman and members of the Commission.



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The chairman and members of the Commission hold office for a term of six years or until they attain the age of 62 years, whichever is earlier (in the case of UPSC, the age limit is 65 years). However, they can relinquish their offices at any time by addressing their resignation to the governor.

The governor can appoint one of the members of the State Public Service Commission as an acting chairman in the following two circumstances:

- a) When the office of the chairman falls vacant; or
- b) When the chairman is unable to perform his functions due to absence or some other reason.

The acting chairman functions till the person appointed as chairman enters on the duties of the office or till the chairman is able to resume his duties.

### **Removal**

Although the chairman and members of a State Public Service Commission are appointed by the governor, they can be removed only by the president (and not by the governor). The president can remove them on the same grounds and in the same manner as he can remove a chairman or a member of the UPSC.

Thus, he can remove him under the following circumstances:

- a) If he is adjudged an insolvent (i.e., has gone bankrupt); or
- b) If he engages, during his term of office, in any paid employment outside the duties of his office; or
- c) If he is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body.

In addition to these, the president can also remove the chairman or any other member of State Public Service Commission for misbehavior. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court, after the enquiry, upholds the cause of removal and advises so, the president can remove the chairman or a member.

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Under the provisions of the Constitution, the advise tendered by the Supreme Court in this regard is binding on the president. However, during the course of enquiry by the Supreme Court, the governor can suspend the concerned chairman or member, pending the final removal order of the president on receipt of the report of the Supreme Court.

Further, the Constitution has also defined the term 'misbehaviour' in this context. The Constitution states that the chairman or any other member of a State Public Service Commission is deemed to be guilty of misbehavior. If he

(a) is concerned or interested in any contract or agreement made by the Government of India or the government of a state, or

(b) participates in any way in the profit of such contract or agreement or in any benefit there from otherwise than as a member and in common with other members of an incorporated company.

### **Independence**

As in the case of UPSC, the Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of a State Public Service Commission:

- a. The chairman or a member of a State Public Service Commission can be removed from office by the president only in the manner and on the grounds mentioned in the Constitution. Therefore, they enjoy the security of tenure.
- b. The conditions of service of the chairman or a member, though determined by the governor, cannot be varied to his disadvantage after his appointment.
- c. The entire expense including the salaries, allowances and pensions of the chairman and members of a State Public Service Commission are charged on the consolidated fund of the state. Thus, they are not subject to vote of the state legislature.
- d. The chairman of a State Public Service Commission (on ceasing to hold office) is eligible for appointment as the chairman or a member of UPSC or as the chairman of any other State Public Service Commission, but not for any other employment under the Government of India or a state.

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- e. A member of a State Public Service Commission (on ceasing to hold office) is eligible for appointment as the chairman or a member of the UPSC, or as the chairman of that State Public Service Commission or any other State Public Service Commission, but not for any other employment under the Government of India or a state.
  - f. The chairman or a member of a State Public Service Commission is (after having completed his first term) not eligible for reappointment to that office (that is, not eligible for second term)

### **Functions**

A State Public Service Commission performs all those functions in respect of the state services as the UPSC does in relation to the Central services:

- a) It conducts examinations for appointments in the services of the state.
- b) It is consulted on the following matters related to personnel management:
  - i. All matters relating to methods of recruitment to civil services and for civil posts.
  - ii. The principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another.
  - iii. The suitability of candidates for appointments to civil services and posts; for to another; and transfers from one service to another; and appointments by transfer or deputation. The concerned departments make recommendations for promotions and request the State Public Service Commission to ratify them.
  - iv. All disciplinary matters affecting a person serving under the government of the state in a civil capacity including memorials or petitions relating to such matters. These include:
    - 1) Censure (severe disapproval)
    - 2) Withholding of increments
    - 3) Withholding of promotions
    - 4) Recovery of pecuniary loss
    - 5) Reduction to lower service or rank (demotion)
    - 6) Compulsory retirement
    - 7) Removal from service
    - 8) Dismissal from service

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- v. Any Claim for reimbursement of legal expenses incurred by a civil servant in defending legal proceedings instituted against him in respect of acts done in the execution of his official duties.
  - vi. Any claim for the award of a pension in respect of injuries sustained by a person while serving under the government of the state and any question as to the amount of any such award.
  - vii. Any other matter related to the personnel management.

The Supreme Court has held that if the government fails to consult the State Public Service Commission in these matters, the aggrieved public servant has no remedy in a court.

In other words, the court held that any irregularity in consultation with the State Public Service Commission or acting without consultation does not invalidate the decision of the government. Thus, the provision is directory and not mandatory.

Similarly, the court held that a selection by the State Public Service Commission does not confer any right to the post upon the candidate. However, the government is to act fairly and without arbitrariness or malafides.

The additional functions relating to the services of the state can be conferred on State Public Service Commission by the state legislature. It can also place the personnel system of any local authority, corporate body or public institution within the jurisdiction of the State Public Service Commission. Hence, the jurisdiction of State Public Service Commission can be extended by an Act made by the state legislature.

The State Public Service Commission presents; annually, to the governor a report on its performance. The governor places this report before both the Houses of the state legislature, along with a memorandum explaining the cases where the advice of the Commission was not accepted and the reasons for such non-acceptance.

### **Limitations**

The following matters are kept outside the functional jurisdiction of the State Public Service Commission.

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In other words, the State Public Service Commission is not consulted on the following matters:

- a) While making reservations of appointments or posts in favour of any backward class of citizens.
- b) While taking into consideration the claims of scheduled castes and scheduled tribes in making appointments to services and posts.

The governor can exclude posts, services and matters from the purview of the State Public Service Commission. The Constitution states that the governor, in respect to the state services and posts may make regulations specifying the matters in which, it shall not be necessary for State Public Service Commission to be consulted. But all such regulations made by the governor shall be laid before each House of the state legislature for at least 14 days. The state legislature can amend or repeal them.

### **Role**

The Constitution visualizes the State Public Service Commission to be the 'watchdog of merit system' in the state. It is concerned with the recruitment to the state services and advises the government, when consulted, on promotion and disciplinary matters. It is not concerned with the classification of services, pay and service conditions, cadre management, training and so on.

These matters are handled by the Department of Personnel or the General Administration Department. Therefore, the State Public Service Commission is only a central recruiting agency in the state while the Department of Personnel or the General Administration Department is the central personnel agency in the state.

The role of State Public Service Commission is not only limited, but also recommendations made by it are only of advisory nature and hence, not binding on the government. It is up to the state government to accept or reject that advice.

The only safeguard is the answerability of the government to the state legislature for departing from the recommendation of the Commission. Further, the government can also make rules which regulated the scope of the advisory functions of State Public Service Commission.

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Also, the emergence of State Vigilance Commission (SVC) in 1964 affected the role of State Public Service Commission in disciplinary matters. This is because both are consulted by the government while taking disciplinary action against a civil servant.

The problem arises when the two bodies tender conflicting advice. However, the State Public Service Commission, being an independent constitutional body, has an edge over the SVC.

Finally, the State Public Service Commission is consulted by the governor while framing rules for appointment to judiciary service of the state other than the posts of district judges. In this regard, the concerned state high court is also consulted.

**Questions:**

1. Describe the structure and functions of Union Public Service Commission.
2. Describe the structure and functions of State Public Service Commission.
3. Write about the two modes of recruitment to the All India Services.

