Services under State

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Services & their Role in Modern times

- Indispensable to governance and progress of country
- Implementation of Government policies & laws
- Welfare of people
- Vital for Democracy

Service Matters

- All matters relating to conditions of service in connection with Union or any State or any local authority or other authority etc.
- Including recruitment, remuneration, pension & retirement benefits
- Tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation
- Leave , disciplinary matters etc

Law Governing Service Matters

- Constitution of India- Art.309-311
- Service Rules framed by appropriate Government
- The Service Contracts (Standard Form)
- Judicial Precedents

Services under Constitution

- Art.309 Power of Parliament & State Legislatures to regulate recruitment and conditions of service in connection with affairs of Union and States
- Subject to provisions of Constitution E.g.
 F.Rts, Art. 311 etc

Services under Constitution

- In case of conditions of service rel.to
 Subordinate judiciary subject to
 consultation with H.C.s (Art.233-239)
- Rel.Case: State of Bihar v.Bal Mukund Sah ,
 AIR 2000 SC 1296 relating to application of reservations in judicial recruitment

Services under Constitution

- Art.310 Doctrine of Pleasure
- Every member of Defence/ All India Service/Civil service or person holding civil post under Unionholds such post during pleasure of President
- Every member of Civil service of State or person holding civil post under State holds such post during pleasure of governor
- Exception contractual appointments Art.310(2)

Services Under Constitution

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- Art.311 Safeguards to Civil servants
 - 1) No dismissal/removal from service by authority subordinate to appointing authority
 - 2) No dismissal/removal/reduction in rank except after inquiry & giving reasonable opportunity of being heard in respect of charges (not in respect of proposed penalty)
 - Exceptions -1) dismissal/removal/reduction in rank on ground of conduct leading to conviction on criminal charge; or
 - 2) satisfaction of authority for reasons to be recorded that it is not reasonably practicable to hold such enquiry; or
 - 3) satisfaction of President/Governor that it is not expedient to hold such inquiry in interest of security of State





- Government Servants have no right to strike T.R.Rangarajan v. Govt. of Tamil Nadu , AIR 2003 SC 3032
- When enquiry officer is not disciplinary authority, delinquent employee has right to receive E.O.'s report, to defend him self before disciplinary authority.

M.D., ECIL v. B. Karunakar, (1993) 4 SCC 727

Termination of service amounts punishment when Govt.servant had a right to post/rank under any rule of service /contract & will be entitled to protection U/A 311 — [Purushotham Lal Thingra v. Union of India, AIR 1958 SC 36 - given higher post on officiating post reverted back subsequently on ground of unsatisfactory work-upheld by court]

- Suspension not punishment [Sukbans Singh v.State of Punjab, AIR 1962 SC 1711]
- Suspended employee entitled to normal subsistence allowance State of Maharashtra v. Chandrabhan , AIR 1983 SC 803 (Rs.1/-p.m.-held to be unconstitutional)

- Compulsory Retirement simpliciter is not punishment — State of Gujarath v.Umedbhai M.Patel AIR 2001 SC 1109 & Baikunta nath v.Chief Medical Officer, (1992) 2 SCC 299
- Safeguards not applicable to temporary servants / probationers State of Punjab v. Sukh Raj Bahadur AIR1968 SC 1089

- Reasonable Opportunity need not be given in cases of conviction u/s 332,IPC,Creating a riotous situation by CISF personnel becoming a security risk, etc Union of India v.Tulshiram Patel (1985) 3 SCC 398
- Termination on ground of procuring job by producing false caste certificate justified Addl.G.M.(HR),BHEL Ltd,hyd. V. S.R.Burde, AIR 2007 SC 2048

Criminal Prosecution and Acquittal of Employee-Effect on Service

- Once an employee accused of an offence is finally acquitted (honourably and completely exonerated of the charges) by a court of competent jurisdiction-
- i) keeping the employee in suspension or not revoking the order of suspension contemplating or pending departmental enquiry on the same set of facts is wholly unjustified
- ii) The employee would be entitled to be considered for promotion from the date on which his junior has been promoted

Gurpal Singh v.High Court of Rajasthan [WP(Civil) no.200/2006 u/A 32) See also Corporation of City of Nagpur v.Ramcandra (1981)2 SCC 714

• All Entries in C.R.s (Whether poor, fair, good or very good) must be communicated to public servants (whether in civil, judicial, police or any other State service except Military) must be communicated to him within a reasonable period so that he can make a representation for its upgradation

Dev Dutt v. UoI,(2008) 8 SCC 725

Fixed minimum tenure for Civil Servants

T.S.R. Subramanian V. Union of India [WP (CIVIL).234 OF 2011 — judgment dated October 2013 per Radhakrishnan and Ghosh,jj]

- professional targets, but also help them to function as effective instruments of public policy. Repeated shuffling/transfer of the officers is deleterious to good governance. Minimum assured service tenure ensures efficient service delivery and also increased efficiency. They can also prioritize various social and economic measures intended to implement for the poor and marginalized sections of the society.
- The practice of giving oral directions/instructions by the administrative superiors, political executive etc. would defeat the object and purpose of RTI Act and would give room for favoritism and corruption.
- "the CSB, consisting of high ranking service officers, who are experts in their respective fields, with the Cabinet Secretary at the Centre and Chief Secretary at the State level, could be a better alternative (till the Parliament enacts a law), to guide and advise the State government on all service matters, especially on transfers, postings and disciplinary action, etc., though their views also could be overruled, by the political executive, but by recording reasons, which would ensure good governance, transparency and accountability in governmental functions."

Thank You