

Status of Probationer Under the Law

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Meaning

- The word 'probation' is derived from the Latin word 'Probatio' and the old French word 'Probacion,' which means:
- "Period of time when a person occupies a position only conditionally and may easily be removed for poor performance."
- It also refers to critical examination and evaluation or subjection to such examination and evaluation.

and

Subjection of an individual to a period of testing and trial to ascertain fitness (as for a job or school).

- The expression probation is used in Service Law, Criminal Law, Education, and in the context of Church Services.

Probation in Criminal Law

- *A sentence whereby a convict is released from confinement but is still under court supervision; a testing or a trial period. Probation can be given in lieu of a prison term or can suspend a prison sentence if the convict has consistently demonstrated good behavior.*
- *The status of a convicted person who is given some freedom on the condition that for a specified period he or she act in a manner approved by a special officer to whom the person must report.*

- The concept of probation in the Criminal Law was inspired in the mid-nineteenth century by John Augustus, a resident of Boston. Augustus encountered a man about to be sentenced in a Boston court and believed him to be capable of reform. Augustus posted bail for the man and succeeded in getting his sentence reduced.
- From 1841 to 1859 Massachusetts judges released approximately 2000 offenders into Augustus's custody instead of ordering incarceration.

Status of AIS Probationers Under the Law

- Persons appointed to the IAS, IPS, IFS, and Central Services are governed by a host of Rules and Regulations. These Rules and Regulations have been framed by the Government of India under Section 3 of the All India Services Act, 1951.
- These Rules and Regulations are in the nature of Subordinate Legislation (Delegated Legislation).

- **The Parliament** has passed just one Act, i.e., the All India Services Act, 1951 and the bunch of the laws governing these services has been framed by **the Government of India** (not by Parliament) in consultation with the States.
- In other words, the Parliament has not deemed it worth its while to frame a comprehensive law to govern the All India Services.

Period of Probation

- A person appointed to the All India Services by Competitive Examination Regulations, 1955 shall be on probation for a period of **2 years**.
- A person appointed to All India Services under Appointment by Promotion Regulations, 1955 or Appointment by Selection Regulations, 1997 shall be on Probation for a period of **1 year**.

Laws governing the AIS Probationers

- The persons appointed to All India Services are governed by The Indian Administrative Service (Probation) Rules, 1954, and the Indian Administrative Service (Probationers Final Examination) Regulations, 1955, besides being governed by other Rules and Regulations like the Cadre Rules, Fixation of Cadre Strength Regulations, the Recruitment Rules, the Regulation of Seniority Rules, etc.

Salient Features of the Indian Administrative Service (Probation) Rules, 1954

- It may be noted here that for each All India Service and for other central services, separate Probation Rules have been framed.
- They are almost identical except for a very few department-specific requirements.

Training Academies/Institutes

- All the three All India Services have to undergo training in LABASNA for the periods specified in their respective Service Rules.
- The members of IPS undergo further training in National Police Academy, Hyderabad.
- The members of IFS undergo further training in the Indira Gandhi National Forest Academy, Dehradun.
- Lastly, training in the respective States is also common to all the three Services.

Confirmation

- A probationer, on satisfactory completion of probation period shall be confirmed in the service provided his probation has not been extended for various reasons of either indiscipline or for not passing the final examination.

Execution of Bond

- Each Probationer under all the three All India Services and other Central Services, on appointment to the respective Service, shall execute an agreement in the forms specified in the Schedule along with a surety, binding the two, in the event of his failing to comply with any of these rules, to refund any money that is paid to him consequent on his appointment.
- Persons appointed under Appointment by Promotion Regulations are exempted.

Final Examination

- Probationers from the IAS, the IPS, and the IFS shall, during the course of training, appear at a final examination to be conducted by the Director, LABASNA; the Director, SVP National Police Academy; and the President, Indira Gandhi National Forest Academy.
- Failure to appear at the exam, for valid reasons: a second chance is given to appear at special examination held by the Director.
- A re examination is conducted if one fails at the final examination.

Record of Academies and Institute

- The Directors of LABASNA and NPA and the President of the Institute (FIR&C) shall maintain record of their attendance at the lectures and the examinations, tests, and exercises as the Directors/Director/State Government may direct.
- They shall assess the record by awarding such number of marks out of a maximum of 900 for IAS; and 50+50+400 for IPS; and 250+75 for IFS.

Seniority of Probationers

- The Government of India shall prepare a list of all IAS probationers (U/R 3(1)) with same year of allotment basing on the aggregate marks obtained
- At the competitive examination.
- In respect of his record in LABASNA and in the State.
- At the final examination or the special examination U/R 8 provided, if two or more probationers have obtained the same marks, the order of merit shall be their date of birth.

Seniority List ...continued

- For the IPS Officers, seniority list of probationers is prepared by taking into account the marks obtained:
 - 1. At the Competitive Examination.
 - 2. In respect of his record at LABASNA and SVPNPA.
 - 3. At the final examination or the special examination as the case maybe.

Seniority List ...continued

For IFS Officers, seniority list shall be arranged by the Government of India:

1. On the basis of the marks obtained by each probationer calculated as follows :
 - a) Full aggregate marks in the competitive examination.
 - b) b) 50% of the marks in the IFS probationer's final examination.
 - c) c) The assessment of record at the Academy and LABASNA.
2. provided, if two or more probationers have obtained the same marks, the order of merit shall be their date of birth.

Discipline and Conduct

- While the probationers are at the Labasna, they shall be under the disciplinary control of the Director.
- While being in the SVPNPA, or the IGN Forest Academy, they shall be under the disciplinary control of the Director, as the case may be.
- Besides, The AIS (Discipline and Appeal) Rules 1969 and The AIS (Conduct Rules) 1968 shall apply to probationers of all the three services.

Discharge of a Probationer

- In the following circumstances, a probationer may be discharged:
- 12(a) – if he fails to pass the re-examination.
- 12(b) – Was ineligible for recruitment or is unsuitable for being a member of the service.
- 12(c) – if willfully neglected probationary studies or duties or
- 12(d) – found lacking in qualities of mind and character needed for the service.
- 12(e) – fails to comply with any of the provisions of these rules.
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- In cases, b, c, d, and e, Government of India shall hold a summary enquiry before passing an order of discharge

Discharge of probationer case law.

- The probationers enjoy the protection of Art 311 of the Constitution as far as dismissal or removal is concerned.
- Imp. Case law :
- Jagdish Mithar v UOI, AIR 1964, SC.449
- V K Singh V UOI and Another, Allahabad High Court judgment dt. April 24th 1984

Salary during the probation period

- 1. An IAS, IPS and IFS recruit shall get salary :
in the lowest stage of the junior time scale during the first year and at the second stage for remaining period of probation.

Ditto for ECS & SSC released officers.

- An IFS probationer draws at the third stage during the remaining period of probation.
- 2. Shall also draw increments

Travelling Allowance

- The probationers of all the three services and the central services are eligible for travelling allowance for their journeys to and from the Academy, to the State concerned and back to Academy and back to the State for training as admissible to the regular members of the service.
- No DA during their stay at the Academies/Institute.

Power of Government of India to Dismiss...

- Power of the Government of India to dismiss or remove a probationer from service remains unaffected by these Rules. Sec 15

- Thank You