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PUBLIC SERVICES

BILL 2006

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PUBLIC SERVICES BILL, 2006

BILL NO. ... OF 2006.

A BILL

To provide a statutory basis for the regulation of the Public Services in India, to review and lay down the fundamental values of Public Services, the Public Services Code of Ethics, Public Service Management Code, Protection of Whistleblowers and the Recruitment Code governing the Public Services, to establish Public Services Authority for facilitating review and proper development of public services and for matters connected therewith or incidental thereto, with the overarching objective of developing public services as a professional, politically neutral, merit based, and accountable instrument for promoting good governance and better delivery of services to the citizens.

Recognizing and affirming –

- that good governance is an inalienable right of the citizens in a democracy,*
- that good governance should be participatory, transparent, accountable, governed by the rule of law and be informed by equity and inclusiveness in governance, and effectiveness and efficiency in service, and*
- that a politically neutral, professional, accountable and efficient public service is an essential instrument for promotion of good governance,*

It is hereby enacted in the Fifty Seventh Year of the Republic of India as follows:

CHAPTER I
PRELIMINARY

1. Short Title, extent and commencement

- (1) This Act may be called the Public Services Act, 2006.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) If this Act does not commence under sub-section (1) within the period of 6 months beginning on the day on which it receives the assent of the President of India, it commences on the first day after the end of that period.

2. Definitions: In this Act, unless the context otherwise requires:-

- (a) "All India Services" means the Indian Administrative Service and Indian Police Service referred to in clause (2) of Article 212 of the Constitution and All India Services specified under section 2A the All India Services Act, 1951
- (b) "Central Authority" means the Central Public Service Authority established under sub-section (1) of section 5 of the Act;
- (c) "Central Vigilance Commission" means the Central Vigilance Commission constituted under the Central Vigilance Commission Act, 2003
- (d) "Central Services" means all services as listed in Schedule to this Act, as amended from time to time;
- (e) "Chairperson" means the Chairperson of the Central Authority;
- (f) "Member" means the Member of the Central Authority;
- (g) "Prescribed" means prescribed by rules or regulations made under this Act;
- (h) "Public Servant" means a person who is a member of the Public Service;
- (i) "Public Service" means All India Services and the Central Services;

- (j) “Public Service Codes” means codes notified by the Central Government from time to time for the Public Service and Public Servants;
- (k) “State Services” means the services under the State Governments other than the All India Services and Central Services;
- (l) “Superior in Service” means in relation to the Public Servant, the officers superior in rank or grade in the service or any other person including the Minister in charge of the department concerned who is in a position to give direction to the Public Servants to carry out any task or implement any decision taken; and
- (m) “Union Public Service Commission” means the Public Service Commission for the Union constituted in terms of Article 315 of the Constitution.
- (n) “Whistle blowing” means the disclosure or reporting or informing on a superior’s or organization’s ethical or legal misconduct.

CHAPTER II

PUBLIC SERVICE VALUES AND REVIEW

3.1 Values of Public Service: The Public Service and the Public Servants shall be guided and informed by the following values in the discharge of their functions:

- (a) allegiance to the Constitution and the law, democracy, nationalism, sovereignty, integrity of India and the security of the nation;
- (b) function in an apolitical manner regardless of the political party in power; keeping the interests of the nation in mind;
- (c) function with the objective that Public Service and Public Servants are to serve as instruments of good governance and to provide services for the betterment of the public at large and foster socio-economic development;

- (d) act objectively, impartially, honestly, equitably, diligently and in a fair and just manner;
- (e) act with integrity and in a courteous and transparent manner;
- (f) establish high standards, and ensure quality service, effective working and prompt decision making;
- (g) be accountable for the decisions and the decision making process in the discharge of functions;
- (h) enable effective management, professional growth and leadership development in Public Services;
- (i) uphold the highest ethical standards;
- (j) establish merit as the fundamental principle in employment, promotion and placements;
- (k) recognize that the Public Service and Public Servants are required to discharge the functions with due regard to the diversity of the Indian nation/community and religion but without discrimination of caste, community, religion, gender or class and duly protecting the interest of poor, underprivileged and weaker sections;
- (l) conduct themselves in a manner such as to promote the principles underlying the Constitution of India while providing honest, impartial and frank advice to political executive in the discharge of their functions;
- (m) recognize that misuse of official position or information amounts to violation of the trust reposed in the public servant;
- (n) ensure that public moneys are used with the utmost economy and care;
- (o) ensure that the Public Service provides a workplace that is free from discrimination and that recognizes and utilizes the diversity of the Indian community it serves;
- (p) ensure that the Public Service establishes workplace relations that value communication, consultation, cooperation and input from employees on matters that affect their workplace; and

- (q) ensure that the Public Service provides a reasonable opportunity to all eligible members of the community to apply for Public Service employment.

3.2 Without in any manner affecting the generality of the principles set out in this Section 3 such other principles as the Central Government may, on the recommendation of or in consultation with the Central Authority, notify from time to time.

4. Review of Public Services Values: The Central Authority may from time to time review the adoption, adherence to and implementation of the Public Services Values by the Public Service and Public Servants and send reports to the Central Government on the status thereof in the departments or organizations under the Central Government and the recommendations of the Central Authority to remove deficiencies, if any.

5. Public Service Code

(1) The Government shall promote the Public Service Values and a high standard of ethics in the Public Service operations, requiring and facilitating every Public Service employee to discharge official duties with competence and loyalty; care and diligence; responsibility, integrity, honesty, objectivity and impartiality; without discrimination and in accordance with the law.

(2) To give effect to sub-section (1), the Government shall, in consultation with the Commission and the Authority, prepare a Public Service Code of Ethics for guiding the Public Service employees and managers of the Public Service in their conduct, to be called the Public Service Code, within one year from the commencement of this Act.

(3) The Public Service Code prepared as above should be laid for not less than fourteen days before each House of the Parliament as soon as possible after they are made and shall be subject to such modifications whether by way of

repeal or amendments as Parliament may make during the session in which they are so laid.

6. Breaches of the Public Service Code

(1) The Head of a Department or Institution may, subject to the provisions of the Constitution and this Act, impose the following sanctions on a Public Service employee in the Department who is found (under procedures established under the Constitution and this Act) to have breached the Public Service Code:

- (a) termination of employment;
- (b) reduction in classification;
- (c) re-assignment of duties;
- (d) reduction in salary;
- (e) deductions from salary, by way of fine;
- (f) a reprimand.

(2) The regulations of the Government may prescribe limitations on the power of a Head of a Department or Institution to impose sanctions under subsection (1).

(3) The Head of a Department or Institution must establish procedures in writing for determining whether a Public Service employee has breached the Public Service Code. The procedures:

- (a) must comply with basic procedural requirements set out in the Constitution, this Act and directions of the Board;
- (b) must have due regard to procedural fairness; and
- (c) may be different for different categories of Public Service employees.

(4) The Head of a Department or Institution must issue directions in writing for the purposes of subsection (3).

(5) The Head of a Department must take reasonable steps to ensure that every Public Service employee in the Department has ready access to the documents that set out the procedures referred to in sub-section (3).

(6) If a conflict in the interpretation of the Public Service Code arises in any case, the Government shall consult the Central Authority and such other authorities including the Commission as it may consider appropriate, and take the final decision subject to the provisions of this Act and the Constitution.

7. Limitation on Directions to Heads of Departments: No direction by any authority, which is in contravention or violation of the National Public Service Values or the Public Service Code in relation to particular individuals shall be valid and if any dispute arises in the matter, the same shall be referred to the Minister in charge of the Public Service, who, in consultation with the Central Authority, shall take the final decision.

8. Public Service Management Code: The government will cause a Public Service Management Code to be drawn up after consultations with all stakeholders and taking into account the views of the Central Public Service Authority and the Union Public Service Commission. The Public Service Management Code will be based on the following principles:

- (a) Public Service is established as a highly professional, merit based institution for promoting government policies and good governance;
- (b) Mechanisms and incentives will be put in place for public service to achieve and maintain high levels of productivity, efficiency and excellence;
- (c) Policies and structures will be put in place which will promote the viability and sustainability of the public service keeping in view the finances of the government; and
- (d) The interface between the political executive and the public service will be clearly established based on the principles of political neutrality, professional excellence and integrity.

9. Violation of the provisions relating to Public Service Management Code:

- (1) The Head of the Department will ensure that within 12 months of the coming into force of this Act, the provisions relating to the above Codes are given effect to and for this purpose the government may prescribe benchmarks, time schedule and authorities responsible for implementation.
- (2) If, during the above period, compliance with the Codes is not ensured, government will issue suitable directions specifying the steps required to be taken, the agencies responsible for implementation and the time by which such action will be completed.
- (3) Every ministry/department of the government will, at the end of the year, submit a report to Parliament indicating their compliance with the Codes mentioned above, in such format as the government may prescribe. This report will also include reasons for non-compliance, if any, the steps which are proposed to be taken to ensure compliance and the time period within which this will be carried out.

CHAPTER III

APPOINTMENT TO PUBLIC SERVICES

10. (1) Subject to the provisions of the Constitution and any Act providing for reservation, the appointment to public services shall be on the principle of merit based on fair and open competition;

(2) The engagement of a public servant may be made subject to conditions notified to the public servant, and may include conditions such as:

- (i) Probation
- (ii) Citizenship
- (iii) Formal qualifications
- (iv) Good conduct

- (v) Health.
- (3) A person who is not a citizen of India shall not be engaged as a public servant unless the government has special reasons to do so to be recorded in writing.

11. Duty to hold an Open Competition

- (1) An appointment in the public service may not be made, subject to exceptions to be made under the rules for reasons to be recorded, unless an open competition is held to select the person to be appointed.
- (2) Where an open competition is held to select a person for appointment in public service,
 - (i) the competition must be fair,
 - (ii) selection should be based on merit on the basis of open competition subject to constitutional principles,
 - (iii) an assessment should be made of the relative suitability of the candidates work related qualities and capacity to achieve the desired outcomes for the duties, using a competitive selection process, and such assessment should be the primary consideration in making the decision.
- (3) It shall be the duty of the government to uphold the requirements of this section and take such measures as may be necessary, subject to provisions of this Act, to promote merit-based open competition for recruitment to public service.

CHAPTER IV

PERFORMANCE MANAGEMENT AND ACCOUNTABILITY

- 12.** (1) The Government shall, within a period of twelve months from the coming into force of this Act, establish a Performance Management System for Public Service employees.

(2) The rules and regulations in relation to Performance Management System for Public Service employees shall take into account:

- a) the priorities, objectives, indicators and targets as part of the Government's strategic plans;
- b) the present and likely availability of resources;
- c) constraints on performance; and
- d) outcomes expected of the Ministry/Department concerned.

(3) Such Performance Management System may be different for different categories of public servants keeping in view the requirements of the service, services to be delivered and skills of the public servants.

13. Performance Indicators

(1) The Government Authority shall

- (a) set appropriate performance indicators, for each department, institution and functionary, as a yardstick for measuring performance, including outcomes and impact, with regard to the Government's development priorities and objectives set out as part of Annual Performance Plan;
- (b) set measurable performance targets with regard to each of those development priorities and objectives;
- (c) with regard to each of those development priorities and objectives and against the performance indicators and targets set in terms of paragraphs (a) and (b) -
 - i) monitor performance
 - ii) measure performance and
 - iii) review performance once each quarter or at such intervals as may be prescribed; and
- (d) take steps to improve performance with regard to those development priorities and objectives where performance targets are not met.

(2) The performance indicators established in compliance with this Chapter, may be reviewed and adjusted by the Government, if required, based on quarterly, half-yearly or annual review or at intervals as may be prescribed. Performance in

this regard may also be a factor for determination of budget allocation and other entitlements.

- (3) The Government shall direct all Departments to -
- i) direct and manage the development of the performance measurement and management system including performance indicators for departments, institutions and functionaries;
 - ii) obtain and analyse performance-related data of departments, institutions and functionaries;
 - iii) monitor and evaluate the performance management system periodically and send report to the Government for necessary action including performance awards; and
 - iv) introduce from time to time changes, required if any, in the performance measurement and management system.

14. Annual Performance Report

(1) No later than June 30 each year, every Government Department or Institution shall prepare and submit to the Government

(a) an Annual Performance Report reflecting

- (i) the performance indicators established for programmes, functions or activities and targets set in the Department's or Institution's Annual Performance Plan for the financial year being reported; quantifying them into measurable benchmarks to the extent possible;
- (ii) the performance of the Department or Institution and service providers covering programmes, territorial jurisdictions and functionaries actually achieved in terms of performance indicators during the financial year and a comparison with the targets and performance in the previous 3 financial years;
- (iii) if performance goals are specified in an alternative form under this Chapter, the results achieved with respect to those alternative

specifications, including whether the performance failed to meet the criteria of effectiveness or success;

(iv) explanations and description of (a) why particular goals, if any, are not met (b) if the performance goals were impractical or infeasible, and what action is recommended and (c) if internal corrective actions are needed to meet performance goals what initiatives have been taken or proposed to be taken in this regard;

(v) description of significant achievements in performance or success stories;

(vi) measures that were taken or are to be taken to improve performance;

(b) the financial statements for the financial year being reported prepared in accordance with the standards of generally recognized accounting practices;

(c) an audit report on the financial statements and the report on the performance audit, and

(d) any other reporting requirements in terms of other legislations.

(2) The preparation of the Annual Performance Report shall be in such form as may be prescribed by the Government.

(3) The Government shall cause adoption of the Annual Performance Report of each Department or Institution and cause publication of the same or make available its key contents to the public in a manner as prescribed by regulation or guidelines.

CHAPTER V

CENTRAL PUBLIC SERVICES AUTHORITY FOR GOOD GOVERNANCE

15. Constitution of the Central Authority: (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Public Service Authority to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Central Authority shall consist of the Chairperson and such number of members not less than three and not exceeding five as may be deemed necessary by the Central Government;

(3) (a) The Chairperson and members of the Central Authority, shall be appointed by the President on the recommendation of a committee consisting of—

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) a judge of the Supreme court of India as may be designated by the Chief Justice of India; and

(iii) the Leader of Opposition in the Lok Sabha;

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognized as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(b) The Cabinet Secretary in the Central Government shall act as the convener of the committee under sub-clause (a) above;

(4) The Chairperson and members of the Central Authority shall be persons of eminence in public life having adequate knowledge of, or experience of not less than twenty five years and shown capacity in, dealing with, problems relating to public policy, law, administration, education, management and governance.

(5) The Chairperson and members of the Central Authority shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, and shall not hold any other office connected with any political party and shall also not hold any other office.

(6) The convener shall procure and place before the Committee all relevant information relating to the persons being considered for appointment as the chairperson or member of the Central Authority.

(7) The Chairperson shall be the chief executive of the Central Authority

(8) (a) In case of vacancy in the office of the Chairperson for any reason or if the Chairperson is on leave or otherwise unavailable to discharge the functions for a period of more than seven days, the senior most member shall act as the Chairperson during the period of such vacancy or non availability of the Chairperson,

(b) for the purposes of sub-clause (a) above the seniority of the members shall be determined by the date of their appointment and in case of two members being appointed on the same date the inter-se seniority between them shall be as decided by the Central Government at the time of their appointment

(9) The headquarters of the Central Authority shall be at Delhi and the Central Authority may, with the previous approval of the Central Government, establish offices at other places in India.

16. Term of office and conditions of service: (1) The Chairperson and members shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that the Chairperson or member shall not hold office as such after he has attained the age of sixty-five years.

(2) The Chairperson and members shall, before he enters upon his office, make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form as may be prescribed for the purpose.

(3) The Chairperson or member may, at any time, by writing under his hand addressed to the President, resign from his office:

(4) The Chairperson or member may be removed from his office in the manner specified under section 7.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the Chairperson shall be the same as that of the Chief Election Commissioner;

(b) the members shall be the same as that of the Election Commissioner.

Provided that if the Chairperson or Member, at the time of his appointment is, in receipt of a pension, other than a disability pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chairperson or member shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chairperson or member, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chairperson or Member shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chairperson or member shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Central Authority with such officers and employees as may be necessary to assist the Chairperson and members in the performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

17. Removal of Chairperson or Member: (1) Subject to the provisions of sub-section (3), the Chairperson or Member shall be removed from his office only by order of the President on the ground of proved misconduct or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chairperson or member, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deemed necessary, prohibit also from attending the office during inquiry, the Chairperson or Member in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chairperson or any member if the Chairperson or the member, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or member .

(4) If the Chairperson or member is in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER VI

FUNCTIONS AND POWERS OF THE CENTRAL AUTHORITY

18. Functions of the Central Authority: (1) The Central Authority shall, amongst others, discharge the following functions:

- (a) aid and advise the Central Government in all matters concerning the organization, control, operation and management of Public Service and Public Servants;
- (b) recommend to the Central Government the Public Service Code of Ethics, guidelines for whistleblowers and Public Service Management Code for the efficient working and conduct of public servants and public service;
- (c) review service rules and conditions of service of public servants and recommend to the Central Government changes to be made;
- (d) recommend to the Central Government the nature and composition of the public service in different departments and areas of

governance, and also the nature of the personnel, their qualification and experience, the training and other relevant aspects required in such departments and areas of governance;

- (e) recommend to the Central Government the policies on classification of public service, the recruitment to public service, tenure of public servants and nature of employment at different stages and for different posts, transfers, deputation, training, promotional prospects and career advancement, outsourcing services, retirement, termination, discharge, evaluation of performance, rewarding good performance and taking measures against inadequate performance, remuneration structure, allowances and perquisites including performance linked payment to the public servants, and all other matters concerning the services of the public servants and their conditions of service;
- (f) recommend to the Central Government the policies for good governance in the public service, the transparency to be maintained by the public servants in the discharge of their duties and the activities consistent with the principles specified in section 3 and in accordance with the Public Service code of Ethics;
- (g) review the existing service rules and conditions of service of Public Servants, Public Services Codes and existing rules, regulations, orders, directions, notifications and guidelines concerning the Public Services and recommend to the Central Government changes to be made and matters to be implemented to enable the public service to perform consistent with the principles specified in section 3 and to function in accordance with the Public Service Code of Ethics and other applicable codes and regulations;
- (h) inquire into the adequacy of the system and procedures in different departments and areas of governance by public service and recommend to the Central Government changes to be made and matters to be implemented to ensure that the public service is

responsive and in a position to effectively deal with the problems of the public at large;

- (i) inquire into the working of the Public Service in relation to other organs of the governance and make recommendation to the Central Government on matters conducive to maintain the public service apolitical and also to ensure that the Public Servants discharge functions in a fair and just manner without fear or favour and consistent with the principles specified in section 3;
- (j) inquire into grievance redressal mechanism for the public servants and make recommendation to the Central Government on the appropriate redressal mechanism of all legitimate grievances;
- (k) discharge such other functions as the Central Government may specify; and
- (l) Receive and enquire into grievances and complaints submitted by officers of the level of Additional Secretaries and above in the Government of India and make suitable recommendations to Government in this regard.

(2) It shall be mandatory for the Government to consult the Authority in matters related to the formulation, revision and interpretation of the Public Service Code of Ethics, Public Service Management Code, and Guidelines for Whistleblowers.

(3) The Central Authority shall maintain transparency in the discharge of its functions and except as otherwise provided in the Right to Information Act, 2005 the Central Authority shall make available all information including its recommendations to the Central Government to all Citizens.

(4) The Central Authority shall, before making any recommendation to the Central Government make known its views to the Public, invite suggestions and finalize its recommendation after considering the suggestions received from the Public.

Provided that the Central Authority may make recommendation to the Central Government without inviting suggestions from the public if the Central Authority considers it appropriate for reasons to be recorded by the Central Authority.

19. Guiding factors for exercise of Powers and functions by the Central Authority: (1) In the discharge of its functions under section 8 the Central Authority shall be guided by the following, namely:-

- (a) principles specified in section 3;
- (b) the public servant needs to be protected from victimization or other adverse consequences by reason of his acting consistent with the principles specified in section 3 and refusing to follow directions of the superiors in service which are not issued in accordance with the applicable laws, rules and regulations;
- (c) the public servant should be accountable for his action as well as inaction including for not making decisions required in time and at the same time the public servant is not persecuted for decision making except where he is guilty of deliberate or wilful failure, gross negligence or unexplainable conduct;
- (d) subject to the declared policies of the Central Government including but not limited to on reservations in the public service, the recruitment to and career advancement in Public Service is increasingly based on merit and on open competition;
- (e) the transfers and postings of public servants are undertaken in a fair and objective manner and that the tenure of the Public Servant in a post is appropriately determined and is maintained consistent with the need to maintain continuity; and the requirements of good governance;
- (f) in the event a public servant is directed by the superiors in service to implement any decision which the public servant considers to be

inconsistent with the principles specified in section 3 or against the Public Service Code of Ethics or any other applicable code, the Public Servant has an appropriate avenue to bring the matter to the notice and attention of the authorities concerned without the fear of being unfairly proceeded against or victimized for such action, and

- (3) If so directed by the Central Government, the Central Authority shall consult the Union Public Service Commission and the Central Vigilance Commissioner before making its recommendation to the Central Government.

CHAPTER VII

PROTECTION TO WHISTLEBLOWERS

- 20.** (1) It shall be the duty of the government to put in place, within a period of 6 months from the commencement of this Act, mechanisms to protect public servants who report suspected improper governance actions in their workplace.
- (2) No person shall be victimized or discriminated against for reporting improper practices or acts or breaches of the provisions of this Act.
- (3) Any person bringing to light wrongdoings in the workplace, which are in contravention of the provisions of this Act, shall be given protection under this Act.

CHAPTER VIII

ALL INDIA SERVICES

- 21.** (1) The provisions of this Act shall also apply to the All India Services in addition to the Constitutional provisions and the AIS Act.
- (2) AIS employees shall also be subject to the Public Service Code, Public Service Recruitment Code, Public Service Management Code and the provisions relating to whistleblowers drawn up under this Act.

CHAPTER IX
POWERS AND DUTIES OF THE CENTRAL GOVERNMENT

22. Powers of the Central Government:- (1) The Central Government shall have the powers to regulate, organize, control, supervise, operate, manage Public Service and Public Servants including the powers to regulate the recruitment and conditions of service of Public Servants in all respects:

(2) Without prejudice to the generality of the powers under sub-section (1) and under Article 309 of the Constitution of India, the Central Government may from time to time provide for all or any of the following matters, namely:

(a) to frame and implement the Public Service Code of Ethics, Public Service Recruitment Code and Public Service Management Code for the efficient working and conduct of public servants and public service;

(b) to frame and implement the service rules and conditions of public servants providing for all matters concerning the services of the public servants and their conditions of service including but not limited to the classification of public service, the recruitment to public service, tenure of public servants and nature of employment at different stages and for different posts, transfers, deputation, probation, training, promotional prospects and career advancement, outsourcing services, retirement, termination, discharge, evaluation of performance, rewarding good performance and taking measures against inadequate performance, remuneration structure, allowances and perquisites including performance linked payment to the public servants, leave, travel, terminal benefits, pensions and all matters incidental to or ancillary to the above;

(c) to specify conduct and disciplinary proceedings and consequences for breach of the codes, service rules and conditions on the part of the Public Servants including for violation or action or inaction on the part of Public Servants in the discharge of their duties and violation of such aspects of the principles under section 3;

- (d) to decide and implement on the nature and composition of the public service in different departments and areas of governance, and the nature of the personnel to be recruited or appointed for the purpose, their qualification and experience and the training and other relevant aspects required in such departments and areas of governance;
- (e) to make policies for good governance in the public service, the transparency to be maintained by the public servants in the discharge of their duties and the activities consistent with the principles specified in section 3 and in accordance with the Public Service Code of Ethics;
- (f) to lay down and modify systems and procedures in different departments and areas of governance by public service to effectively deal with the problems of the public at large;
- (g) to provide for a grievance redressal mechanism for the public servants; and
- (h) to constitute such bodies as the Central Government may consider appropriate for different Public Services to effectively implement the Public Services Code of Ethics, Public Service Recruitment Code, Public Services Management Code and other codes, service rules and conditions and to regulate, organize, control, supervise, operate, manage such Public Service and Public Servants forming part of such Public Service.

23. Duties of the Central Government (1) The Central Government shall duly consider the implementation of the recommendations which the Central Authority may make under Chapter IV and in the event the Central Government decides:

- (a) not to implement the recommendation of the Central Authority within a period of 120 days from the receipt of the final recommendation from the Central Authority; or

(b) to implement the recommendation of the Central Authority within a period of 120 days from the receipt of the final recommendation from the Central Authority but with modifications

the Central Government shall make a report giving reasons for its decision within 180 days of the receipt of the final recommendation from the Central Authority and such report shall be duly published in the Official Gazette and also shall be laid, as soon as may be after it is made, before each House of the Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid

(2) The Central Government shall duly consult the Central Authority before making the Public Service Code of Ethics, Public Service Management Code, other codes, service rules and conditions governing the Public Service and Public Servants except when such codes, rules and conditions are made in the implementation of the recommendation made by the Central Authority. The Central Government shall also duly consult the Central Authority on the modification made by the Central Government on the recommendations of the Central Authority.

(3) The Central Government shall ensure that directions contravening the provisions of this Act are not issued to public servants and all its actions are informed and guided by the principles elucidated in Chapter 2 of this Act.

(4) The codes prepared as above should be laid for not less than fourteen days before each House of Parliament as soon as possible after they are made and shall be subject to such modifications by way of repeal or amendments as Parliament may make during the session in which they are so laid.

24. Functions and duties of the Heads of Departments/Institutions: Each cadre controlling authority or agency responsible for managing organized services in government shall, within a period of twelve months from the promulgation of the

Act, ensure performance of the following functions with respect to the services under their control.

- (i) Formulate service rules and conditions of service of public servants, maintain up-to-date records in respect of seniority, promotion, empanelment and deployment of public servants, establish a mechanism for periodical review of the requirements of professional cadre management including skills required, training inputs to be provided, effective delivery of services, adequate promotion prospects and professional growth.
- (ii) Review the current methods of performance evaluation and make changes with the objective of ensuring objectivity, fairness, transparency and promotion of domain competence and professional excellence including maintenance of up-to-date personal records. Also that the performance appraisal is based on clear benchmarks for performance for each public servant determined at the beginning of the year with a provision for periodical review.
- (iii) Establish a fair system of redressal of grievances relating to service matters and undertake a review of the pending grievances with a view to bring them within reasonable limits.
- (iv) Notify within a period of 6 months from the coming into force of this Act, norms and guidelines for transfers and postings such that there is continuity and predictability in career advancement and acquisition of the required skills and experiences as well as promotion of good governance.
Also that any transfer before the specified tenure is for valid reasons to be recorded in writing and the public servant is suitably compensated for the inconvenience and harassment caused due to such transfer before term.
Provided that the normal tenure of all public servants shall not be less than three years.
- (v) Establish a mechanism for ascertaining the skill and training requirements of public servants, keeping in view the objectives of service delivery and good governance, and ensure that such skills

training are imparted and the public servant encouraged to acquire competence in his domain.

- (vi) In respect of Chief Secretary and DGP, selection should be out of a panel of suitable candidates of the required seniority and merit to be drawn up by a Committee comprising the Chief Minister, Leader of the Opposition and the Home Minister;
Selection of Cabinet Secretary to Government of India should be out of a panel of suitable candidates of the required seniority and merit to be drawn up by a Committee comprising the Prime Minister, Leader of the Opposition and the Home Minister.
- (vii) Each cadre controlling authority shall at the end of the year under consideration prepare and submit to Parliament in a format to be specified, the extent of compliance with the norms and mandates mentioned above, including cases of deviation and the reasons therefore.

CHAPTER X

PUBLIC SERVICES UNDER THE STATE GOVERNMENT

25. The State Government may, if it deems fit, by notification in the Official Gazette make the provisions of this Act applicable to public services under the State Government from dates to be specified.

CHAPTER XI

MISCELLANEOUS

26. Reports of the Central Authority

(1) After the end of each financial year, the Central Authority shall give a State of Public Services Report to the Central Government with specific reference to the principles outlined in Section 19 for presentation to the Parliament.

(2) The Report may, apart from above, also contain any recommendations of the Central Authority with regard to improving the conditions of Public Service in general, new career development issues, pay structure and related issues.

(3) The report shall be prepared in accordance with guidelines approved by the Central Government.

27. Protection of action taken in good faith: No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made herein.

28. Power to make rules by the Central Government

(1) The Central Government may, by notification in the Official Gazette make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely:-

(a) principles as the Central Government may consider appropriate to be followed in matters relating to Public Service as provided in clause (j) of Section 3;

(b) salary and allowances payable to and other conditions of service of the Chairperson, Members and officers of the Central Authority;

(c) form and manner in which and the authority before whom the oath of office and secrecy shall be subscribed by the Chairperson and Members under Section 5 of the Act;

(d) On matters provided for in section 11 dealing with the functions of the Central Government; and

(e) form in which and time at which the Central Authority shall prepare and forward its annual report of the Central Government as provided in Section 15 of the Act;

29. Laying down of Rules: Every rule made by the Central Government, shall be laid, as soon as may be after it is made, before each House of the Parliament,

while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

30. Power of the State Government to make rules: The State Government may by notification in the Official Gazette make rules for carrying out the provisions of Chapter VI read with the applicable provisions of Chapters III and IV of the Act.

31. Continuation of the existing Rules

(1) All rules made under proviso to Article 309 of the Constitution as on the date of the coming into force of this Act to the extent they are not inconsistent with the provisions of the Act shall be deemed to have been made under this Act and shall continue to be in force until such rules are rescinded or modified, as the case may be.

(2) Anything done or any action taken or purported to have been done or taken including any modification, order or direction given by the Central Government in regard to matters which form the subject matter of this Act, prior to the coming into force of the Act, shall be, unless repugnant to the provisions of the Act, be deemed to have been done or taken under the corresponding provisions of the Act.

32. Power to Amend Schedule: The Central Government may by notification published in the Official Gazette amend Schedule to the Act from time to time.

33. Saving of the powers of the Union Public Service Commission and Central Vigilance Commission: Nothing contained in the Act or any rule or regulation made under the Act shall in any manner affect the exercise of the powers and functions of the Union Public Service Commission and the Central Vigilance Commissioner and other authorities of the Central Vigilance Commission constituted under the Central Vigilance Commission Act, 2003

34. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of the Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of the Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House' of Parliament.
