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PUBLIC SERVICE COMMISSIONS

*T*he civil servants occupy an important role in the successful administration of state at different levels. Therefore, their recruitment, training, emoluments, conditions of service, promotion policies, etc. assume importance. For an impartial consideration of these matters relating to civil servants, an independent and expert authority is required which is known as the institution of public service commission.

One of the important features of our Constitution is the inclusion of Public Service Commission at both Union and State levels in the Constitution itself.

While UPSC and SPSC are constitutional bodies, a joint public service commission is created by an Act of Parliament.



Objectives

After completing this lesson, you will be able to

- explain the necessity of an independent agency to recruit civil servants;
- describe the composition of the UPSC;
- explain the functions of the UPSC;
- explain the composition of State Public Service Commission;
- identify functions of State Public Service Commission;
- recall the constitutional provision for the Joint Public Service Commission;
- discuss the constitutional provisions relating to independence of Public Service Commission.

33.1 The Need of an Independent Agency

Recruitment of civil servants has to be neutral, unbiased and free from prejudices of any kind. Then alone any merit system will inspire confidence. To ensure objectivity and impartiality in recruitment, several measures have been taken. The constitution of an



independent agency in the form of a public service commission for recruitment is one. Through this agency :

- (i) the executive branch has been divested of the power of making recruitment to the superior levels of civil services.
- (ii) the agency thus created is an extra-departmental body such as a commission, which functions outside the normal machinery of government.
- (iii) a special constitutional status is conferred on this agency to ensure autonomous functioning.

It must be remembered that the commission is only a recruiting agency, and not an appointing authority. The authority of making appointments rests with the government. The commission is an advisory and recommendatory body. Its decisions are not mandatory. Normally, government accepts its recommendations, but government may not always accept what the commission suggests. However, in such cases the reasons for not accepting the recommendations have to be explained and recorded.



Intext Questions 33.1

1. *Tick (✓) mark the correct answer :*

- (i) The administrative machinery of the government is run by –
 - (a) Elected representatives
 - (b) Ministers
 - (c) Civil servants
 - (d) People of India
- (ii) An independent constitutional agency to recruit civil servants is known as :
 - (a) Staff Selection Board
 - (b) Election Commission
 - (c) Planning Commission
 - (d) Public Service Commission
- (iii) An independent agency for recruitment of civil servants is required because :
 - (a) it maintains the merit system and neutrality in civil services.
 - (b) it protects the rights of the people.
 - (c) it serves the aspiration of the ministers.
 - (d) it is an appointing authority of the civil servants.

33.2 Why A Commission Type of Organisation?

The constitution provided a commission as distinct from the customary departmental type for undertaking the task of recruitment of civil servants. The fathers of the constitution



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were perhaps guided in their decision by the fact that the task requires experts and longer specialized knowledge also and that facilitates collective deliberation by a group of experts who are able to pool their knowledge and experience to arrive at informed and objective decisions. Such a method of making decisions collectively is described as corporate mode of functioning or decision making.

Further a plural body like public service commission consisting of experts in parts professional and technical weightage in the process of decision making. When several heads combine for deliberations, biases are eliminated and objectivity is ensured. A commission functions outside the normal governmental machinery, hence greater flexibility and innovativeness of approach is possible. Bureaucratic rigidities and delays, which characterize government departments can thus be avoided.

33.3 Significance of A Constitutional Status for The Commission

The constitutional status is intended to ensure the Commission to function without fear or favour. This can be facilitated when its composition, role and authority, privileges of its members, method of appointment and removal of members, qualifications for appointment and ground for removal etc. are constitutionally protected. The Commission can function without being influenced by political or other extraneous consideration. Confirmation of constitutional status is, thus, meant to provide safeguards against any possible encroachment on the authority and independence of the commission either by the executive or the legislature.

33.4 Composition of Union Public Service Commission

For the purpose of the higher level civil services of the Union Government, the Constitution provides for the setting up of the Union Public Service Commission (UPSC). The number of members of the Commission and the conditions of their service are left to be determined by the President, which means the government. It has since been decided that there shall be a chairman and six to eight members of the Commission. At present the strength of the Commission is nine including the chairman. The chairman and the members of the Commission are appointed by the President. The Constitution provides that at least half the members have to be persons who have served for at least ten years under the Government of India or a State Government.

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. The Chairman is ineligible for any future employment under the government, but other members are entitled to accept the chairmanship of the UPSC or of a State Public Service Commission.

The conditions of service of members cannot be changed to their disadvantage after appointment. Their salaries, allowances, etc. are not submitted to the vote of Parliament as they are charged on the Consolidated Fund of India.

It is also provided that the chairman or a member of the Commission can be removed from office by the President on the ground of misbehaviour. It is only after an inquiry by Supreme Court, on a reference being made to it by the President. 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 monetary benefit in the discharge of duties as a member. It is also provided that the President may remove



the chairman or any other member from office, on the ground of insolvency, infirmity of mind or body, or if he is engaged during the term of office in any paid employment outside the duties of his office.

Intext Questions 33.2

1. Tick (✓) mark the correct answer:

- (i) Public Service Commission is a
 - (a) constitutional body
 - (b) statutory body
 - (c) body setup by an executive decision
 - (d) none of these
- (ii) Public Service Commission works as
 - (a) a recruiting agency
 - (b) an appointing authority
 - (c) an advisory body on all government appointments
 - (d) none of these
- (iii) The chairman and the members of the UPSC can be removed from their post by the
 - (a) Council of Ministers
 - (b) President
 - (c) Prime Minister
 - (d) Supreme Court

33.5 Functions of Union Public Service Commission

The functions of the UPSC as described in the Constitution are :

- (i) To advise the government on all matters relating to the methods of recruitment and norms to be followed in making appointments to civil services either directly or by promotion.
- (ii) To advise on the suitability of candidates for appointment, promotion and transfer.
- (iii) To conduct examinations for appointment to All India services.
- (iv) To advise on disciplinary matters affecting government servants.
- (v) To advise on claims of legal proceedings instituted against a government servant and on the claims in respect of injuries sustained by a government servant while on duty.
- (vi) To advise on any other matter specifically referred by the President.



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There is also a provision for extending the functions of the Commission by Parliament not only in respect of government services but also in respect of services under local authorities, corporations or other public institutions.

The jurisdiction of the Commission can be reduced by taking away some posts from its purview. For example, the Commission is not consulted in regard to selections for the following appointments:

- (i) membership or chairmanship of tribunals or commissions
- (ii) posts of high diplomatic nature
- (iii) Group C and Group D employees who constitute nearly 90% of the total number of the Central Government employees.

The Commission is consulted in matters of censure, compulsory, retirement, removal or dismissal from service, seduction to lower same grade or post or scale, with holding of increments or promotion, recovery of the whole or part of any loss caused to the government by negligence or breach of order. Moreover, the Commission is also consulted in relation to an order of the President on an appeal against any of the above penalties made by a subordinate authority after consideration of any petition or memorandum or otherwise.

The Commission also tenders advice to government on methods of recruitment, and the principle to be followed in making appointments, promotions and transfers from one service to another and the suitability of candidates for such appointments, promotions or transfers.

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. Government, thus, becomes responsible to explain the reasons in case it has not accepted the recommendations of the commission.

 **Intext Questions 33.3**

1. *Tick (✓) mark the correct answer:*

- (i) It is the duty of the President of India to place the annual report of UPSC before :
 - (a) Supreme Court of India
 - (b) Parliament
 - (c) Comptroller and Auditor General of India
 - (d) Council of Ministers
- (ii) Under article 321 of the Indian Constitution additional functions to the Union Public Service Commission can be assigned by the :
 - (a) President
 - (b) Prime Minister
 - (c) Parliament
 - (d) Supreme Court



33.6 Composition of State Public Service Commission

Each state in India has a public service commission. The Constitution stipulates that the Governor determines the number of members of the Commission. At least half of the members of Commission are persons with a minimum of ten years of experience under the central or a state government. Members are appointed by the Governor for a term of six years or until the age of 62 years. Though the Governor is the appointing authority but members can be removed only by the President. Conditions of service of the members are determined by the Governor but the Constitution stipulates that these shall not be revised to their disadvantage. Implicit in the foregoing are certain safeguards to ensure the Commission's independence.

A member of a state public service commission on retirement or otherwise can be appointed as chairman or member of UPSC, or as chairman of that or any other state service commission.

As in the case of UPSC, the state public service commission submits its annual report to the Governor. The Governor goes through the report to be placed before the state legislature along with the cases in which the government has not accepted the advice of the Commission. In such cases the government has to record the reasons for non-acceptance or rejection of the recommendations.

The state public service commission performs the same functions in regard to its respective states public services as are performed by the Union Public Service Commission in regard to the Union Government.

33.7 A Joint Public Service Commission

Two or more states may agree that there should be one public service commission for them. If a resolution to that effect is passed by the House or by each house of legislature (where there are two houses) of the respective states. Parliament may by law provide for the appointment of a Joint State Public Service Commission to serve the needs of those states.

The chairman and other members of this joint commission are also appointed by the President.

33.8 Independence of Public Service Commission

The following constitutional provisions are intended to make the commission, both UPSC and SPSC, independent of any external influence :

1. Members are appointed for a fixed tenure of six years or until the attainment of sixty-five years of age in the case of UPSC, and sixty-two years in the case of SPSC.
2. The conditions of service of a member cannot be changed to his/her disadvantage during his tenure of office.
3. The removal of a member can take place by an order of the President on certain specific grounds in consultation of the Supreme Court.
4. The expenses of the commission are charged on the Consolidated Fund of India.



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5. All regulations to be issued by the government excluding any matter from the purview of the commission will have to be laid before the Parliament or the state legislature for such modification as it may deem fit to make.
6. Further employment of any member is severely restricted.



Intext Questions 33.4

1. Tick (✓) mark the correct answer:

- (i) The age limit up to which a member of state PSC may hold his post is :
 - (a) 60 years
 - (b) 62 years
 - (c) 63 years
 - (d) 64 years
- (ii) The tenure of a member of SPSC is :
 - (a) 4 years
 - (b) 5 years
 - (c) 6 years
 - (d) 7 years
- (iii) The chairman of the Joint Public Service Commission is appointed by the :
 - (a) President
 - (b) Governor
 - (c) Prime Minister
 - (d) Supreme Court



What You Have Learnt

1. In this lesson you have studied that there are independent and expert bodies called Public Service Commission which recruit the civil servants and advise the government about their appointment, promotion and transfer.
2. Union Public Service Commission, State Public Service Commission and a Joint Public Service Commission are the three categories of Public Service Commission.
3. The chairman and the members of the UPSC are appointed by the President.
4. State Public Service Commission members are appointed by the Governor of the state concerned.
5. In the Constitution adequate provisions have been made to ensure independence of public service commission.



6. These commissions in general have proved to be quite useful in maintaining impartiality and objectivity in the recruitment of civil servants, particularly at the higher level.



Terminal Exercises

1. Describe the need for an independent agency to recruit civil servants.
2. Explain the composition and functions of The Union Public Service Commission.
3. How are the chairman and the other members of the UPSC and the State Public Service Commission appointed and what are their qualifications?
4. How does the Constitution of India ensure independence of the Public Service Commissions?



Answers to Intext Questions

33.1

1. c
2. d
3. a

33.2

1. a
2. a
3. b

33.3

1. b
2. c

33.4

1. b
2. c
3. a

Hints for Terminal Exercises

1. Refer to Section 33.1
2. Refer to Sections 33.4 and 33.5
3. Refer to Section 33.6
4. Refer to Section 33.8