



**SUBJECT: - Public Administration, Society and Media Paper II**

UNIT-I	Forms and areas of administration. Public administration and its character in India. Public undertaking administration.
UNIT-II	Public administration in India: Administrative tribunals, intelligence administration, Law and order administration.
UNIT-III	Administration and society Administration and backward society.
UNIT-IV	Administration of various levels central, state, district, panchayat raj and gram Sarkar Lokpal and lok ayukta
UNIT-V	Press, society and administration



### **UNIT-I**

Public Ad is basically an aspect of the broader term “Administration”. It caters for the implementation & execution of government policies. It is basically related with the management of programs and policies, meant for the public. Moreover it deals with the analysis of the policies & their revaluation. It refers to the study of activities of state which may be related to executive, legislative or judiciary. It deals not only with the processes but also the substantive field. It is also known as governmental administration; hence the focus of Pub Ad is on public beaureaucracy of the government. It is an instrument not only for protecting & restraining but also fostering & promoting. A country's progress is directly determined by the quality of its public administration.

#### **What is Public Administration?**

##### **Public Administration - meaning, concepts and definitions-**

The word public administration is taken from two Latin words, **Publicus**, which means people and **Ad ministrare** which means to manage and to serve. Hence in a general sense public administration means to serve and look after the people. Literally it means management of public affairs.

Various experts defined Public Administration as follows-

**Woodrow Wilson-** The Public Administration is detailed and systematic execution of law. Every particular application of law is an act of administration.

**L. D. White-** Public Administration consists of all those operations having for their purpose of fulfillment or enforcement of public policy.

**Luther Gullick-** Public Administration is that part of science of administration which has to do with government and thus concerns itself primarily with the executive branch where the work of government is done, though there are obviously problems in connection with the legislative and judicial branches.

**P. Mc Queen-** Public Administration is administration related to the operations of government.

**E. N. Gladden-** Public Administration is concerned with the administration of government.

**Waldo** – Pub ad is the art of science of management applied to the affairs of the state.

#### **Present Public Personnel Administration is a Legacy of the Past**

The bureaucracy in India, especially the top bureaucracy is a spillover of British rule. The East India Company promoted a service structure for meeting their commercial and trading interests. In 1858 when the British Government took over the reigns of administration in India, the political consolidation of the country and exploitation of the country's resources to serve its own interests became its aims. This called for minimum economic, social and developmental activities but maximum administrative stranglehold. The superior civil services that is the higher civil services were manned by either British or Indians recruited from higher economic and feudal strata of society. The lower subordinate levels comprised only the Indians. The whole system was an excellent example of high and low, top and bottom, master and servant. The preponderant characteristics of public personnel system were:

- ✚ it was 'elitist', exclusive in outlook and approach



- ✚ it displayed despotism in action and behavior
- ✚ it maintained safe and wide distance from the people
- ✚ it developed structural rigidity and functional frigidity
- ✚ it was too hierarchic and precedent adherent
- ✚ it had no human relations orientation
- ✚ it had feudalistic, and separatist attitude and temper
- ✚ it had no welfare or development motivation.

India became independent in 1947, but could not develop or structure a novel' public personnel system. Our Independence was accompanied by painful partition of the country, communal riots, massive migration of displaced persons and influx of refugees. Moreover, we had to tackle with the complicated problems of integration of states, depletion of administrative personnel due to voluntary retirement of British ICS officers and transfer of Muslim ICS officers to Pakistan. If the health of the economy was bad on account of the after effects of the second world war and partition, the condition of administration, particularly personnel administration was worse. The basic administrative structure remained the same. There were gaps in the cadre, experienced senior level officers were very few in number and competent personnel were just not available.

With the adoption of the Constitution in 1950 and commencement of our first five Year Plan, lot of pressure came to be laid on the personnel system. The elitist hierarchic authoritarian and rigid administration now had to be revamped in order to meet the Constitutional objectives of liberty, equality, fraternity and justice. Our plan objectives viz. economic development, industrialization, modernization, and social justice put the; administration under considerable strain, the administration had to be converted into a development and welfare oriented administration. We can say that after Independence, two basic changes took place which greatly affected the role of civil service. First, with the adoption of the system of parliamentary democracy, the civil service became accountable to the political executive. Secondly, civil service became an instrument of development.

### **Public Personnel System Aims at Fulfilment of the Goals of the Government**

Personnel system, for that matter any system must have a purpose which has to be related to the objectives of the organization. In the case of public personnel administration in India, its basic aim is the facilitation and fulfilment of the goals of government. This is the rationale for creating the government services, this is the justification for their existence. Once the goals have been formulated, the public personnel system must rise to implement the programs and achieve the qualitative and quantitative targets by judiciously harnessing the available resources, keeping two dimensions in view, time and cost. For this purpose, public personnel system is involved with the functions of recruitment, selection, placement, training, health, safety, performance-rating, promotions and general welfare of the employees.

#### **Increase in Development Functions**

The extension of social security benefits and an enlarged public aid to education have become very important functions of the government. The government has assumed the larger responsibility of achieving security and well-being of all citizens. Implementation of these changes is not an easy task. The skills and experience of public service is required for this



purpose. The public service is an essential social instrument, it bridges the gaps between legislative content and its fulfilment. Public service can help to establish and strengthen the minimum conditions required for economic development. It is responsible for laying down conditions for the maintenance of law and order, development of infrastructural facilities and favorable administrative structure. The public services by fixing certain general or specific output objectives, play an important role in modifying the resource structure of the country. The public services have now taken control of government undertakings or semi-government bodies.

### **Growing Number of Public Personnel**

Due to the increase in the social and economic functions of the government, the number of public personnel is increasing at a very fast rate. As the tasks of the government are increasing, the need for personnel to perform these tasks is also growing. A large number of new departments, corporations, commissions and boards are now being set up. The Second Pay Commission had estimated that on April 1, 1948, there were 14,45,050 employees in the Central Government. On June 30, 1957, this figure had increased to 17,73,570. On January 1, 1965, it increased to 22,64,795. On January 1, 1981, it further increased to 32,27,339. This shows that with every new activity of government that aims at providing new services for the welfare of people, the number of government employees is constantly increasing. Growing Number of Specialists in Public Services The concept of Welfare State, increase in the aspirations of people and the growth of science and technology has brought forth the demand for increasing role of specialists in administration. New specialism, new techniques, new methods are now being expected from the civil servants. The role of the specialists in public services has thus become very crucial and their number in the services is constantly increasing.

### **Low Rate of Turnover of Employees in Government Service**

The rate of turnover of government employees is quite low in India. According to O Glenn Stahl, the employees leave their jobs for a variety of reasons like voluntary resignation, optional retirement, instances of death or frequent transfers. In India people accept the government service as a career and do not resign on their own due to permanency and moderately good conditions of service. Reasonable hours of work, good leave entitlements, provident fund and retirement benefits, housing and health facilities attract the people to public services and are even able to retain them. Sound promotion policy is another factor which encourages public personnel and fosters a feeling of belongingness in them. In addition, an adequate retirement and pension system also encourage personnel to continue in service till their retirement. Thus the turnover of public personnel is quite low. Most references of turnover are confined to the vacancies occurring due to death, removal, dismissal and retirement.

### **Prevalence of Rank Classification in the Services**

Classification of governmental position is a must for a career service. based on merit. It enables rational standards or norms to be set up for the selection of personnel, permits uniformity in the method of describing different types of jobs and establishes an alike basis for giving equal status and equal pay for equal work. There are two well-known systems of classification, one is Rank Classification and the other is Duties or position Classification. India follows the system of rank classification. In India, the public personnel are classified into 'classes' as well as 'services'. We have four classes of service, class 1, class 2, class 3, class 4, these are now called Group A, 1 B, C and D services, corresponding to differences in the responsibility of the work [ performed and the qualifications required. Another way of classification is into 'services'. Public personnel in





India are directly recruited to different services e.g. Archaeological Service, Engineering Service, Post and Telegraphs Traffic Service etc. Once the public personnel are recruited to these services, they continue to be the members of the particular service until they retire or resign. At present public services are classified into the following classes:

- 1) All-India Services
- 2) Central Services, Group A, B, C & D 1
- 3) State Services
- 4) Specialist Services
- 5) Central Secretariat Services, Group A, B, C & D

Rank classification system is very easy to understand and administer, it promotes mobility by facilitating transfers within the services, it is flexible in operation, it opens more career opportunities for individuals. But this type of system violates the principle of 'equal pay for equal work', it does not define the contents of any job in detail, it does not explain what is expected of a post. This system is not conducive to the formulation of scientific standards on which selection of personnel, training, posting, transfer, career development, promotion etc. may be organized.

### **Role of Public Service Commission in Public Personnel Administration**

The Public Service Commission is an independent statutory body. In India, the Public Service Commission has been so designed as to function only as an advisory body. All rights regarding the appointments of personnel are vested in the Government. The Constitution does not envisage vital role for the Commission in personnel administration. The Constitution of India provides for a Union Public Service Commission and for State Public Service Commissions along with a Joint Public Service Commission on the request of two or more state governments. The functions of the Union and State Public Service Commissions may be summarized as follows :

- 1) To advise the Government on matters regarding the method of recruitment and principles to be followed in making appointments to the civil services either directly or by promotion.
- 2) To conduct examinations, written as well as personality tests, for appointments to the civil services of the respective governments. '
- 3) To advise the government on matters relating to the suitability of candidates for promotion and transfer. Recommendations for such? promotions tire made by the concerned departments and Commission is requested to ratify them.
- 4) The Commission is consulted on matters relating to temporary appointments for periods between one to three years, grant of extension of services and re-employment of certain retired civil servants.
- 5) The Commission is also consulted on matters relating to regularization of appointments, claims for the award of pension, claims for reimbursement of legal expenses incurred by the Government servants in defending legal . proceedings instituted against them relating to acts done in the execution of their official duties, claims for pension, or compensation in respect of injuries sustained on duty.
- 6) The Commission is also consulted while making of an order in any disciplinary case in the conditions like,
  - (i) censure
  - (ii) withholding of increments or promotions
  - (iii) reduction to a lower service, grade or post
  - (iv) compulsory retirement
  - (v) removal or dismissal from service.



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7) The Commission has to present to the President or the governor, as the case may be, its annual report, with its recommendations.

There is a provision that the Parliament and the State legislatures, as the case may be, may confer additional functions on their respective Public Service Commissions. Thus the Public Service Commission is a recruiting agency with purely advisory role, consulted also in certain disciplinary and other matters. There are some statutory restrictions on the powers of the Public Service Commissions. According to an amendment in Article, 320, which was effected in 1961, it is not necessary for the President to consult the UPSC in a case where he proposes to make an order for the removal, dismissal or reduction in rank of a civil servant after he is satisfied that such action is necessary in the interest of the security of the State.



The head of executive council and admin is the President of India. The President is supported by the P.M. who have a council of ministers. The P.M. and his council of ministers attain, help and support by a central secretariat. This secretariat is based on 2 principles.

(ii) Proper division of labor.

This secretariat works for policy formation and execution to prepare rules and regulations to be followed by the administration.

Units		Officer in-Charge
Departments	←-----→	Secretary etc.
↓		↓
Wing	←-----→	Additional Secretary
↓		↓
Division	←-----→	Director etc.
↓		↓
Branch	←-----→	Under secretary
↓		↓
Section	←-----→	Section Officer

### **Economic Development**

#### **Requirement for economic development**

- (i) Good infrastructure
- (ii) Efficient human resource
- (iii) Availability of natural resources
- (iv) Industrialization
- (v) Mixed Economy
- (vi) Technical advancement
- (vii) Balanced Economy
- (viii) Higher GDP rate
- (ix) Political stability
- (x) High literacy rate
- (xi) Gender Balance
- (xii) Employment opportunities

#### **# Pre-requisite of effective planning**

- (i) Efficient planning commission
- (ii) Coordination among the states and coordination between state and nation
- (iii) Pre-estimation of resources and their most effective utilization
- (iv) Evaluation of capacitance of human resource
- (v) Availability of funds
- (vi) Working population
- (vii) Objectivity and transparency
- (viii) Productive role of NDC
- (ix) Execution of recommendation interstate council
- (x) Higher rate of GDP



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- (xi) Political stability
- (xii) Coordination among political parties.
- (xiii) Advanced society

**Problems of Rural Economy**

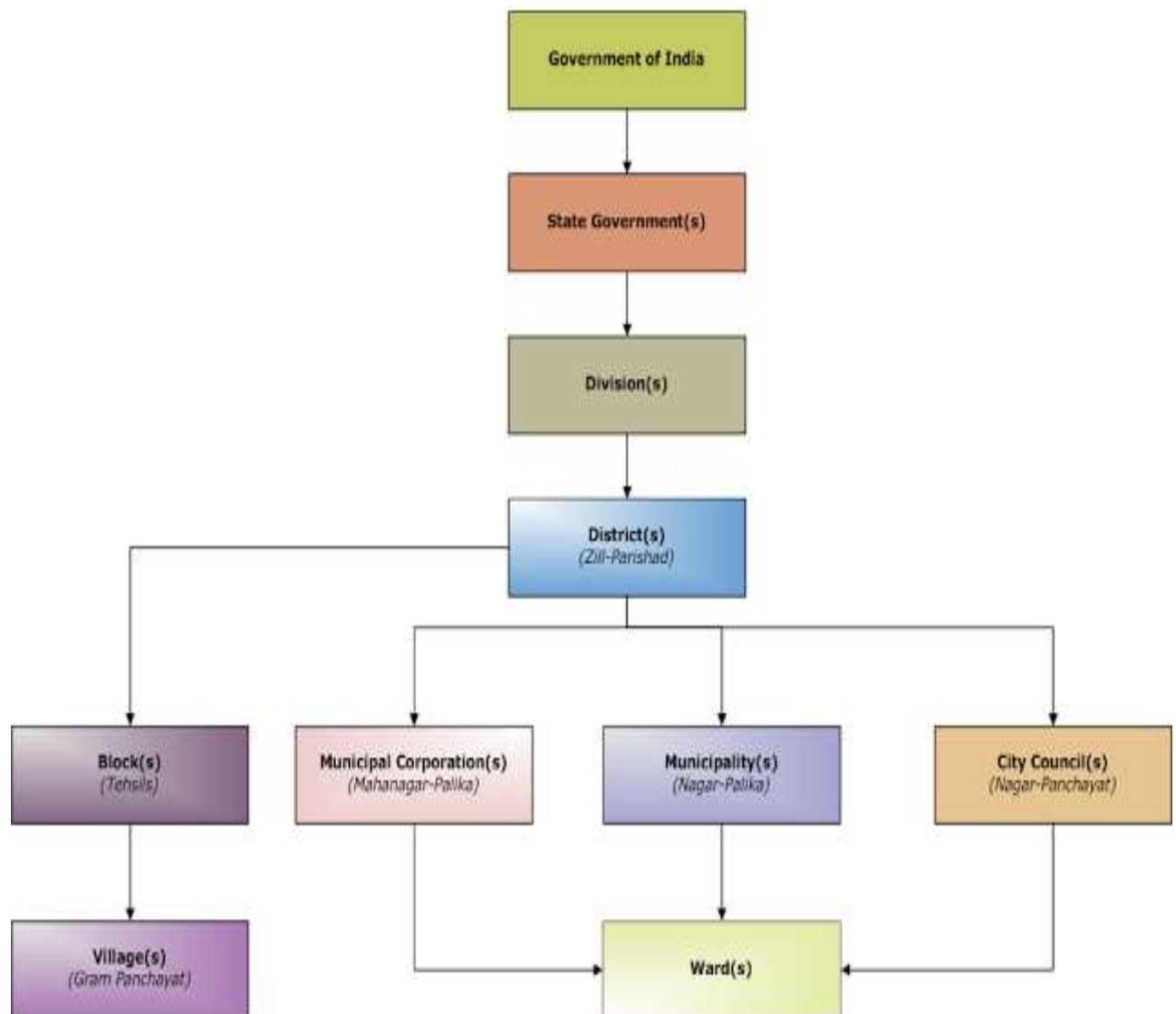
- (i) Agriculture based economy
- (ii) Hides, frictional, disguised unemployment
- (iii) Dependency over monsoon.
- (iv) Resistance towards innovation
- (v) Superstition mentality
- (vi) Traditional society
- (vii) Interest for technology development
- (viii) Political ignorance
- (ix) Migration
- (x) Vicious cycle of poverty
- (xi) Ignorance for banking co-operative bodies
- (xii) Illiteracy (Specially female)
- (xiii) Gender prejudices
- (xiv) High rates of unemployed population
- (xv) Less medical facilities
- (xvi) High fertility and morality rate





## ADMINISTRATIVE SETUP AND HIERARCHY IN INDIA:

### *Administrative structure of India*





## **UNIT II**

### **Introduction**

In Administrative law, the term 'tribunal' is used in a significant sense and refers to only the adjudicatory bodies which lie outside the sphere of the ordinary judicial system. Technically in India, the judicial powers are vested in the Courts which aims to safeguard the rights of the individuals and promotes justice. Therefore, to institute an effective system of the judiciary with fewer complexities, the judicial powers are delegated to the administrative authorities, thus, giving rise to administrative tribunals or administrative adjudicatory bodies which holds quasi-judicial features.

### **History of Tribunalisation**

The concept of tribunalisation came into existence in India with the establishment of the Income Tax Appellate Tribunal before the independence of the country. After independence, a need was being felt for resolving administrative disputes with flexibility and speed. The core objective of tribunalisation was to provide specialised and speedy justice to the people.

After the drafting of the Indian Constitution, several rights for the welfare of the individuals were guaranteed by the Constitution. People have the right to speedy trials and of specialised quality which cannot be delivered by the prevailing judicial system due to the overburden of cases and appeals, technicalities in procedure etc.

### **Growth of Administrative Tribunals**

The 42nd Amendment to the Constitution introduced Part XIV-A which included Article 323A and 323B providing for constitution of tribunals dealing with administrative matters and other issues. According to these provisions of the Constitution, tribunals are to be organized and established in such a manner that they do not violate the integrity of the judicial system given in the Constitution which forms the basic structure of the Constitution.

The introduction of Article 323A and 323B was done with the primary objective of excluding the jurisdiction of the High Courts under Article 226 and 227, except the jurisdiction of the Supreme Court under Article 136 and for originating an efficacious alternative institutional mechanism or authority for specific judicial cases.

The purpose of establishing tribunals to the exclusion of the jurisdiction of the High Courts was done to reduce the pendency and lower the burden of cases. Therefore, tribunals are organised as a part of civil and criminal court system under the supremacy of the Supreme Court of India. From a functional point of view, an administrative tribunal is neither an exclusively judicial body nor an absolute administrative body but is somewhere between the two. That is why an administrative tribunal is also called 'quasi-judicial' body.

### **Characteristics of Administrative Tribunals**

The following are the few attributes of the administrative tribunals which make them quite disparate from the ordinary courts:

1. Administrative tribunals must have statutory origin i.e. they must be created by any statute.
2. They must have some features of the ordinary courts but not all.
3. An administrative tribunal performs the quasi-judicial and judicial functions and is bound to act judicially in every circumstance.
4. They are not adhered by strict rules of evidence and procedure.



5. Administrative tribunals are independent and not subject to any administrative interference in the discharge of judicial or quasi-judicial functions.
6. In the procedural matters, an administrative tribunal possesses the powers of a court to summon witnesses, to administer oaths and to compel the production of documents, etc.
7. These tribunals are bound to abide by the principle of natural justice.
8. A fair, open and impartial act is the indispensable requisite of the administrative tribunals.
9. The prerogative writs of certiorari and prohibition are available against the decisions of administrative tribunals.

### **Categories of Administrative Tribunals**

#### **Administrative Tribunals for service matter [Article 323A]**

Article 323A provides the establishment of administrative tribunals by law made by Parliament for the adjudication of disputes and complaints related to the recruitment and conditions of service of Government servants under the Central Government and the State Government. It includes the employees of any local or other authority within the territory of India or under the control of the Government of India or of a corporation owned or controlled by the Government. The establishment of such tribunals must be at the center and state level separately for each state or for two or more states. The law must incorporate the provisions for the jurisdiction, power and authority to be exercised by tribunals; the procedure to be followed by tribunals; the exclusion of the jurisdiction of all other courts except the Supreme Court of India.

#### **Tribunals for other matters [Article 323B]**

Article 323B empowers the Parliament and the State Legislature to establish tribunals for the adjudication of any dispute or complaint with respect to the matters specified under clause (2) of Article 323B. Some of the matters given under clause (2) are a levy, assessment, collection and enforcement of any tax; foreign exchange and export; industrial and labour disputes; production, procurement, supply and distribution of foodstuffs; rent and its regulation and control and tenancy issues etc. Such a law must define the jurisdiction, powers of such tribunals and lays down the procedure to be followed.

In the landmark case of *L. Chandra Kumar v. Union of India*, the court reached various conclusions as to jurisdictional powers of the tribunal constituted under Articles 323A and 323B. The Supreme Court struck down clause 2(d) of Article 323A and clause 3(d) of Article 323B on the ground that they excluded the jurisdiction of the High Courts and the Supreme Court under Article 226/227 and 32 respectively.

The SC ruled that the tribunals created under Article 323A and 323B would continue to be the courts of the first instance in their respective areas for which they are constituted. The litigants are not allowed to approach the High Courts directly by overlooking the jurisdiction of the concerned tribunal.

No appeal for the decision of the tribunal would lie directly before the Supreme Court under Article 136 but instead, the aggrieved party would be entitled to move the High Court under Article 226 and 227 and after the decision of the Division Bench of the High Court, the party may approach the Apex Court under Article 136.



### Distinction between Courts and Tribunals

<b>Courts</b>	<b>Administrative Tribunal</b>
A Court of law is a part of the traditional judicial system.	The administrative tribunal is an agency created by a statute endowed with judicial powers.
A Court of law is vested with general jurisdiction over all the matters.	It deals with service matters and is vested with limited jurisdiction to decide a particular issue.
It is strictly bound by all the rules of evidence and by the procedure of the Code of Civil Procedure.	It is not bound by the rules of the Evidence Act and the CPC unless the statute which creates the tribunal imposes such an obligation.
It is presided over by an officer expert in the law.	It is not mandatory in every case that the members need to be trained and experts in law.
The decision of the court is objective in nature primarily based on the evidence and materials produced before the court.	The decision is subjective i.e. at times it may decide the matters taking into account the policy and expediency.
It is bound by precedents, the principle of res judicata and the principle of natural justice.	It is not obligatory to follow precedents and principle of res judicata but the principle of natural justice must be followed.
It can decide the validity of legislation.	It cannot decide the validity of legislation.
The courts do not follow investigatory or inquisition functions rather it decides the case on the basis of evidence.	Many tribunals perform investigatory functions as well along with its quasi-judicial functions.

### The Administrative Tribunals Act, 1985

In pursuance of the provisions in Article 323A, Parliament passed the Administrative Tribunal Act, 1985, providing for all the matters falling within the clause(1) of Article 323-A.

According to this Act, there must be a Central Administrative Tribunal (CAT) at the centre and a State Administrative Tribunal (SAT) at the state level for every state.

The tribunal is competent to declare the constitutionality of the relevant laws and statutes. The Act extends to, in so far as it is related to the Central Administrative Tribunal, to the whole of India and in relation to the Administrative tribunals for states, it is applicable to the whole of India except the State of Jammu and Kashmir (Section 1).

Objective for the establishment of Administrative Tribunals

The main purpose of the introduction of this act was :

1. To relieve congestion in courts or to lower the burden of cases in courts.
2. To provide for speedier disposal of disputes relating to the service matters.

### Qualification and Appointment of Members

Section 6 of the Administrative Tribunals Act, 1985, lays the provisions specifying the qualifications and appointment of the members of tribunals.

**Chairman:** To be appointed as a chairman, a person must have the following qualifications-

- He is or has been a judge of a High Court or



- He has held the office of Vice Chairman for two years or
- He has held the post of secretary to the Government of India or
- He has held any other post carrying the scale pay of secretary.

**Vice-Chairman:** A person is qualified for the post of Vice-Chairman if he-

- Is or has been a judge of the High Court or
- Has for 2 years held the post of Secretary to the Government or holding any other post carrying the same pay scale under the Central or State Governments or
- Has held for 5 years the post of an Additional Secretary to the Government of India or any other post carrying the scales of pay of Additional Secretary.

**Judicial Member:** A person to be appointed as a judicial member must-

- Be or have been a judge of the High Court or
- Have been a member of Indian Legal Service and has held a post in Grade I of the service for at least 3 years.

**Administrative Member:** A person to be appointed as an Administrative member must-

- Have held the post of an Additional Secretary to the Government of India or another equivalent post for at least 2 years, or
- Have held the post of a Joint Secretary to the Government of India or other equivalent post, or
- Have adequate administrative experience.

The Chairman, Vice-Chairman and other members shall be appointed by the President. The Judicial Members shall be appointed by the President with the consultation of the Chief Justice of India. The Chairman, Vice-Chairman and other members of the State Tribunal shall be appointed by the President after consultation with the Governor of the concerned state.

### **Term of Office**

According to Section 8 of the Act, the Chairman, Vice-Chairman and other members of the tribunal shall hold the office for a term of 5 years or until he attains-

1. Age of 65 years, in the case of the Chairman or Vice-Chairman
2. Age of 62 years in the case of other members

### **Resignation and Removal**

Section 9 of the Act prescribes the procedure of resignation by any member and removal of any member.

The Chairman, Vice-Chairman or other members may resign from his post by writing to the President.

They shall be removed from their office only by an order made by the President on the ground of proved misbehavior or incapacity after an enquiry made by a judge of the Supreme Court. They shall have the right to be informed of the charges against them and shall be given a reasonable opportunity of hearing. The Central Government may make rules to regulate the procedure for the investigation of the charges against them.

### **Jurisdiction of Central Tribunal**

Section 14 states that the Central Tribunal from the day of the appointment shall exercise all the jurisdiction, powers and authority in relation to the following matters which were within the jurisdiction of other courts (except the Supreme Court) before the enactment of this Act:

1. Recruitment of any civil service of Union or All India service or civil post under the Union or civilian employees of defence services;





2. All service matters of the above-mentioned employees, and also of employees of any local or other authority within the territory of India or under the control of the Government of India or any corporation or society owned or controlled by the Government;
3. All service matters of such persons whose services have been placed by the State Government or any local or other authority or any corporation at the disposal of the Central Government.

### **Procedure and Powers of Tribunals**

Section 22 of the Administrative Tribunals Act, 1985 lays down the powers and procedure of tribunals discussed below-

1. A tribunal is not bound to follow the procedure laid down by the Code of Civil Procedure, 1908. It has the power to regulate its own procedure but must abide by the principle of natural justice.
2. A tribunal shall decide the applications and cases made to it as rapidly as possible and every application shall be decided after scrutinizing the documents and written submissions and perceiving the oral arguments.
3. Tribunals have the same powers as vested by the civil courts under the Code of Civil Procedure, 1908, while trying a suit, with regard to the following subject-matter-
4. Summoning and enforcing the attendance of any person and examining him on oath;
5. Production of documents;
6. Receiving evidence on affidavits;
7. Ask for any public record or document from any office under Section 123 and 124 of the Indian Evidence Act, 1872;
8. Issuing commissions for the examination of witnesses and documents;
9. Reviewing its decisions;
10. Deciding the case ex-parte;
11. Setting aside any order passed by it ex-parte;
12. Any other matter prescribed by the Central Government.
13. Leading Case Laws

### **Advantages of Administrative Tribunals**

The concept of administrative tribunals was introduced because it has certain advantages over ordinary courts. Few of them are mentioned below-

- **Flexibility:** The introduction of administrative tribunals engendered flexibility and versatility in the judicial system of India. Unlike the procedures of the ordinary court which are stringent and inflexible, the administrative tribunals have a quite informal and easy-going procedure.
- **Speedy Justice:** The core objective of the administrative tribunal is to deliver quick and quality justice. Since the procedure here is not so complex, so, it is easy to decide the matters quickly and efficiently.
- **Less Expensive:** The Administrative Tribunals take less time to solve the cases as compared to the ordinary courts. As a result, the expenses are reduced. On the other hand, the ordinary courts have cumbrous and slow-going, thus, making the litigation costly. Therefore, the administrative tribunals are cheaper than ordinary courts.



- **Quality Justice:** If we consider the present scenario, the administrative tribunals are the best and the most effective method of providing adequate and quality justice in less time.
- **Relief to Courts:** The system of administrative adjudication has lowered down the burden of the cases on the ordinary courts.

### **Drawbacks of Administrative Tribunals**

Although, administrative tribunals play a very crucial role in the welfare of modern society, yet it has some defects in it. Some of the criticisms of the administrative tribunal are discussed below-

- **Against the Rule of Law:** It can be observed that the establishment of the administrative tribunals has repudiated the concept of rule of law. Rule of law was propounded to promote equality before the law and supremacy of ordinary law over the arbitrary functioning of the government. The administrative tribunals somewhere restrict the ambit of the rule of law by providing separate laws and procedures for certain matters.
- **Lack of specified procedure:** The administrative adjudicatory bodies do not have any rigid set of rules and procedures. Thus, there is a chance of violation of the principle of natural justice.
- **No prediction of future decisions:** Since the administrative tribunals do not follow precedents, it is not possible to predict future decisions.
- **Scope of Arbitrariness:** The civil and criminal courts work on a uniform code of procedure as prescribed under C.P.C and Cr.P.C respectively. But the administrative tribunals have no such stringent procedure. They are allowed to make their own procedure which may lead to arbitrariness in the functioning of these tribunals.
- **Absence of legal expertise:** It is not necessary that the members of the administrative tribunals must belong to a legal background. They may be the experts of different fields but not essentially trained in judicial work. Therefore, they may lack the required legal expertise which is an indispensable part of resolving disputes.

### **LAW AND ORDER ADMINISTRATION:**

Law and order administration is one of the most important function performed by the Government. In fact, the survival of administration depends upon maintenance of law and order in a country. The functioning of law and order administration comes under the state list with the Union/Central government having advisory and coordinating role (discussed in last post on this blog). Rapid growth of population, industrialization, urbanization, growing political consciousness lead to law and order problems. Agrarian and tribal revolts, political caste and communal violence, labor and student unrest and terrorism are indications of law and order problems.

Law and Order comes under the Ministry of Home Affairs' Department of Internal Security in India. As such law and order and internal security are managed under one umbrella at the level of the Union Government. The Ministry of Home Affairs is responsible for matters relating to the internal security of the country and enacts laws for the functioning of the criminal justice system. However, 'Police' and 'Public Order' are matters of State Governance and not Union governance, according to Schedule VII, making the management of law and order in India complex.



### **BRITISH LEGACY OF LAW AND ORDER ADMINISTRATION:**

The First Police Commission, appointed on 17 August 1860, contained detailed guidelines for the desired system of police in India and defined police as a governmental department to maintain order, enforce the law, and prevent and detect crime. The present Indian Police system is based on the Police Act of 1861. Under this act the police was made subordinate to the executive government. Later several changes were brought about in the structure as well as functioning of the police system in the country, but the basic structure and characteristics are enshrined in the Police Act of 1861 and it continues to dominate over the police system in India. Similarly, the Indian Penal Code(1860) and Criminal Procedure Code(1861) and the Indian Evidence Act were compiled and enacted for effective law and order.

Much before the Independence, superior police officers belonging to the Imperial Police (IP) were appointed by the Secretary of State on the basis of competitive examination. The very first open civil service examination for the service was held in England in June, 1893 and the top ten candidates were appointed as probationers of the Indian (Imperial) Police. However, it is not possible to pinpoint a date on which it could positively be claimed that the Indian Police came into being.

In around 1907, the Secretary of State's officers were directed to wear the letters "IP" on their epaulets to distinguish them from the other officers not recruited by the Secretary of State. In this sense, 1907 could be regarded as the starting point for the Indian Police. However, one must note that the

The Indian Police Service is not a force itself but a service providing leaders and commanders to staff the state police and all-India para-military forces. Its members, who are all at least university graduates, are the senior officers of the police.

With the passage of time Indian Police Service's objectives were updated and redefined, the roles and functions of an Indian Police Service Officer are as follows: To fulfill duties based on broader responsibilities, in the areas of maintenance of public peace and order, crime prevention, investigation, and detection, collection of intelligence, VIP security, counter- terrorism, border policing, railway policing, tackling smuggling, drug trafficking, economic offences, corruption in public life, disaster management, enforcement of socio-economic legislation, bio-diversity and protection of environmental laws etc.

- Leading and commanding the Indian intelligence agencies like Research and Analysis Wing (R& Intelligence Bureau (IB), Central Bureau of Investigations (CBI), Crime Investigation Department (CID) etc., Indian federal law enforcement agencies, civil and armed police forces in all the and union territories.
- Leading and commanding the Para-Military Forces of India (PMF) which include the Central P Organisations (CPO) and Central Paramilitary Forces (CPF) such as Border Security Force ( Central Reserve Police Force (CRPF), Indo-Tibetan Border Police (ITBP),



National Security G (NSG), Rashtriya Rifles, Central Industrial Security Force (CISF), Vigilance Organisations, I Federal Law Enforcement Agencies, Assam Rifles, etc.

- Serve at head of the departments in policy making in the Ministries and Departments of C and State Governments and public sector undertakings both at center and states, Government India.
- To interact and coordinate closely with the members of other All-India Services and Central Services and also with the Indian Armed Forces
- Last but not the least, to lead and command the force with courage, uprightness, dedication a strong sense of service to the people.
- Endeavour to inculcate in the police forces under their command such values and norms as help them serve the people better.
- Inculcate integrity of the highest order, sensitivity to aspirations of people in a fast-changing and economic milieu, respect for human rights, broad liberal perspective of law and justice and standard of professionalism.

#### **NATIONAL POLICE COMMISSION:**

The National Police Commission (NPC) was appointed by the Government of India in 1977 with wide terms of reference covering the police organisation, its role, functions, accountability, relations with the public, political interference in its work, misuse of powers, evaluation of its performance etc. This was the first Commission appointed at the national level after Independence. The Commission produced eight reports between 1979 and 1981, suggesting wide ranging reforms in the existing police set-up.

#### **INVESTIGATIVE AGENCIES:**

**1) Central Bureau Of Investigation** - The Central Bureau of Investigation (CBI) is India's premier investigative agency, responsible for a wide variety of criminal and national security matters. It was established on 1 April 1963 and evolved from the *Special Police Establishment* founded in 1941. The Central Bureau of Investigation is controlled by the Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pension of the Union Government usually headed by a Union Minister who reports directly to the Prime Minister. It is India's official Interpol unit. The CBI draws its officers from the best IPS and IRS officers around the country. It is responsible for investigation into various crimes and national security. The agency specializes in investigating crimes involving high ranking government officials and politicians.



**2) The Indian Income-tax Department:** Is India's premier financial agency, responsible for a wide variety of financial and fiscal matters. The Tax department is controlled by the Department of Revenue in the Ministry of Finance of the Union Government headed by a Union Minister who reports directly to the Prime Minister. Its officers are drawn from the Indian Revenue Services across the country. The Directorate General of Income Tax Investigation is responsible for investigation into various economic crimes and tax evasion. The special agents and agents are able to carry firearms when they are posted in the Directorate of Criminal Investigation (DCI) in the I-T department. The Finance Ministry has recently notified bringing under one umbrella the intelligence and criminal investigation units of the Income Tax department to effectively deal with terror financing cases and transactions that pose threat to national security. The department will now recruit special agents and agents (criminal investigation) under the new wing, half of whom would be recruited or brought on deputation from premier investigative agencies and police organisations of the country. The special agents who will form part of the premier DCI would be able to carry firearms under the rules prescribed by their parent organisation and would be able to tackle any intimidation in course of their new duty of checking and gathering intelligence on tax evasion. The DCI will be headed by the Director General of Intelligence (Income Tax) and was notified in May this year to tackle the menace of black money with cross-border ramifications. The revamp is aimed at launching 'un-intrusive' investigations against "persons and transactions suspected to be involved in criminal activities having cross-border, inter-state or international ramifications, that pose a threat to national security and are punishable under the direct tax laws."

The commissioners of the intelligence directorate of I-T who are posted in cities like Delhi, Chandigarh, Jaipur, Ahmedabad, Mumbai, Chennai, Kolkata and Lucknow will also take up criminal investigation work under the DCI. "Criminal investigation relies heavily on accurate and specific actionable intelligence and information of such activities and hence such an arrangement has been made. Separate manpower for the criminal investigation unit will be raised in the next few years when the department gets additional sanction. The intelligence wing of the I-T department has the Central Information Branch (CIB) under it, which is a repository of classified and exhaustive data on taxpayers' financial transactions.

**3) Directorate of Revenue Intelligence:** The Directorate of Revenue Intelligence (DRI) is an intelligence-based organisation responsible for the co-ordination of India's anti-smuggling efforts. Officers in this organisation are drawn from Indian Revenue Service (I.R.S.)

**4) National Investigation Agency:** National Investigation Agency (NIA) is the central agency to combat terror in India. The agency is empowered to deal with terror related crimes across states without special permission from the states. The National Investigation Agency Bill 2008 to create the agency was moved in Parliament by Union Home Minister on 16 December 2008. The NIA was created in response to the Nov 2008 Mumbai terror attacks as need for a central agency to combat terrorism was found. It also deals with drug trafficking and currency counterfeiting. It draws its officers from IRS and IPS.

**5) Narcotics Control Bureau -** The NCB is responsible for anti-narcotic operations all over the country. It checks the spread of contraband as well as the cultivation of drugs. The officers in this organisation are drawn from both the IRS and the IPS.





**6) Central Forensic Science Laboratory:** The Central Forensic Science Laboratory (CFSL) is a wing of the Indian Ministry of Home Affairs, which fulfils the forensic requirements in the country. It houses the only DNA repository in South and Southeast Asia. There are four central forensic laboratories in India, at Hyderabad, Kolkata, Mumbai, Rajkot, Chandigarh, Pune and New Delhi. CFSL Hyderabad is center of excellence in chemical sciences, CFSL Kolkata in biological sciences and CFSL Chandigarh in physical sciences. These laboratories are under the control of the Directorate of Forensic Science (DFS) of the Ministry of Home Affairs. The laboratory in New Delhi is under the control of the Central Bureau of Investigation (CBI) and investigates cases on its behalf.

### **ROLE OF CENTRAL AND STATE AGENCIES IN MAINTENANCE OF LAW AND ORDER AND COUNTERING INSURGENCY & TERRORISM:**

**CENTRAL AGENCIES** - Government of India is divided into the Legislative, the Executive and the Judiciary wings, with each performing its respective roles in management of internal security (maintaining cross border peace) and law and order of India. National Security Council comprising of the Strategic Policy Group, the National Security Advisory Board and a Secretariat represented by the Joint Intelligence Committee (India) is the apex agency looking into the overall security (both internal and external security of India) Law and Order itself comes under the Ministry of Home affairs' Department of Internal Security in India.

For the Executive, the Ministry of Home Affairs is responsible for internal security of India and enactment of laws for the functioning of the criminal justice system in the country. Several laws have been enacted to ensure general peace in India, maintain law and order and maintain its national integrity. Several law enforcement agencies have been created to tackle the problem of maintaining law and order in the country. Crimes are managed separately by the Criminal courts of the country.

**STATE AGENCIES:** To perform the task of law and order administration, a state government maintains a separate department called the Home Department. The administrative head of this department is the Secretary, drawn as a rule from the generalist Indian Administrative Service (IAS). The Home Department administers the police. Under the administrative control of the Home Department comes the executive organisation namely the Police department headed by the Deputy - General Of Police, who as a rule is drawn from the Indian Police Service. He may have an Additional Director General of Police to assist him. The Police Hierarchy comprises Inspectors - General of Police, Deputy Inspectors General of Police, Superintendents of Police and other lower level functionaries. The basic unit of law and order administration in a state is the police thana headed by the Station House Officer (SHO) who is assisted by a complement of Inspectors, sub-inspectors, head constables and constables. The Superintendent of Police in charge of the district police is an important functionary and is subject to control and supervision by a Deputy Inspector - General of Police, who is generally placed in charge of a group of districts. The overall command and control are exercised by the Director - General of Police at the state level. Officers in charge of sub units within a district like sub divisions, circles and police stations are subordinate to the Superintendent of Police. The District Police is thus an integral part of the state wide police setup, which is hierarchically structured and held together by bonds of strong



discipline

and

control.

The District collector/Deputy Commissioner who is head of the District administration and apart from his other duties is responsible for the law and order administration in the district police assisted by the police head, the Superintendent of the Police (District).

In Metropolitan cities, there is the Police Commissionerate system like Mumbai, Kolkata, etc who reports to the state home ministry and is assisted by Joint commissioners of police who is in charge of the city range (north range, south range, etc), Deputy Commissioner of Police (in charge of the district) and ACP (who is the head of sub division), and Station House Officer (in charge of a police station) and other junior staff.

Delhi which is a Metropolitan has the Commissionerate system who also enjoys magisterial powers but the reports directly to the Lieutenant Governor who reports to the President (indirectly to the Central govt.)

The reputation of a state depends on how effectively it is able to maintain law and order within its jurisdiction as freedom and independence will not have meaning unless such basic issues are properly attended to.

Unfortunately, in view of the prevailing atmosphere of violence in the country, attention to law and order is called for, but the sad part is that this is being neglected in favor of development administration.

Therefore, it is imperative that law and order is given adequate attention and it is built up both on the infrastructural as well as intelligence and implementation level and its grievances and issues sorted out if we want a sound welfare state where development and law and order go hand in hand otherwise development will be stalled.

### **ROLE OF PARAMILITARY FORCES IN MAINTENANCE OF LAW AND ORDER AND COUNTERING INSURGENCY & TERRORISM:**

A paramilitary is a military force whose function and organization are similar to those of a professional military, but which is not considered part of a state's formal armed forces.

Paramilitary forces (Except the State Armed Police Forces) in India are under the Central govt. and under their orders. The paramilitary forces are:

- Assam Rifles - Performs many roles including the provision of internal security under the control of the army through the conduct of counter insurgency and border security operations, provision of aid to the civil power in times of emergency, and the provision of communications, medical assistance and education in remote areas. In times of war they can also be used as a combat force to secure rear areas if needed.
- Border Security Force - For manning the land borders of the country except in the mountains.
- Central Industrial Security Force - It was created for the better protection and security of industrial undertakings. It is the largest Industrial security force in the world.



- Central Reserve Police Force - Its primary role lies in assisting the State/Union Territories in police operations to maintain law and order and contain insurgency. It has been of extreme significance in J&K especially during elections.
- Defence Security Corps- The role of Defence Security Corps is to ensure the protection and security of designated Defence Installations against sabotage and pilferage. The Central Industrial Security Force (CISF) and the Defence Security Corps (DSC) provide security at India's nuclear laboratories and Defence Research and Development Organisation (DRDO) establishments, respectively. The CISF is purely a civilian Central government security force and though the DSC is a force under the Ministry of Defence and it comprises mainly superannuated soldiers who are re-employed for a few years.
- Indo-Tibetan Border Police - For manning the border with Tibet/China in the Himalaya
- National Security Guards - Is a special force in India that has primarily been utilized for counter-terrorism activities. It's use in the Taj hotel terrorist attack in Mumbai 2008 has been the most recent and major highlighted one.
- Railway Protection Force - The duties of the Railway Protection Force include: i) To do all conducive means for the free movement of the railways. ii) Protection and safeguarding of railway property. iii) Protection and safeguarding of passenger, their belonging and passenger area.
- Rashtriya Rifles -A counter-insurgency/anti-terrorist force made up of soldiers deputed from other parts of the Indian Army, who receive special incentives while serving in the Rashtriya Rifles. It is deployed in J&K to tackle insurgency and terrorism.
- Special Frontier Force - Conceived in the post Sino-Indian war period as a guerrilla force composed mainly of Tibetan refugees whose main goal was to conduct covert operations behind Chinese lines in case of another war between the People's Republic of China and India. It functions under the Research And Analysis Wing of the GOI.
- Rapid Action Force - It was created to deal with riots & related unrest.
- Sashastra Seema Bal - For guarding the Indo-Nepal and Indo-Bhutan Borders.
- Indian Coast Guard - Its mission is the protection of India's maritime interests and enforcement of maritime law with jurisdiction over both territorial (including contiguous zone & exclusive economic zone) and international waters.

The State Armed Police Forces of India are the police units for dealing with serious law and order situations requiring a higher level of armed expertise than normal in states. The State Armed Police Forces exist in addition to the ordinary police services of the various states.



### **UNIT III**

#### **ADMINISTRATION OF VARIOUS LEVELS**

Administrative system in India is perfectly planned into different administrative divisions at central and state level. These administrative units are comprised of a systematic hierarchy of country sub divisions. The administrative set up can broadly be divided into union and state level. The local administration involves district, panchayat and gram panchayat level administration.

#### **CENTRAL LEVEL ADMINISTRATION**

**Central;-** The union executive involves the President, Vice President and the council of ministers with the prime minister as the head to head and advice the president.

#### **PRESIDENT-**

The executive powers of the union are vested in the President and is exercised by him either directly or through officers, sub-ordinates to him in accordance to the constitution. The president is elected by members of electoral college consisting of elected members of both houses of Parliament and legislative assemblies of states in accordance with the system of proportional representation, by means of single transferable votes. Any body who is a citizen of India, not less than 35 years of age and qualified for election as member of Lok Sabha can contest in the election for the post of president. He works for a term of five years and is also eligible for re-election.

The president is the supreme commander of the army staff. The post is very powerful and the president enjoys several privileges as the first citizen of the country.

#### **VICE-PRESIDENT-**

The vice president is Ex-officio chairman of Rajya Sabha and acts as president when the latter is unable to do his functions due to absence, illness or any other reason.

#### **COUNCIL OF MINISTERS-**

The council of Ministers is headed by the Prime Minister to aid and advice the president in exercise of his function. The prime minister and other ministers are appointed by the president. The council of minister is comprised of members of cabinet and the ministers of state (independent charge).

#### **CABINET SECRETARIAT-**

The cabinet secretariat is under the direct charge of the Prime Minister. The administrative head of the secretariat is the cabinet secretary who is also ex-officio chairman of the civil service board. The cabinet secretariat is responsible for the administration of the government of India. The secretariat assists in decision making in government by ensuring inter-ministerial coordination. It also works for removing differences among ministries and departments and evolving consensus. Secretariat also keeps the president, vice president and prime minister informed about the activities of different ministries and departments.

#### **STATE LEVEL ADMINISTRATION**

The state administration is a very important connecting link between central and local administration. It is consisted of Governor, chief minister, ministerial council and secretariat.

**Governor-** The governor is appointed by the president of India and is constitutional head of the state administration. He works as per the wish of the president.

**Chief Minister and ministerial council-** To assist and counsel the governor there is a ministerial council in every state which is headed by the chief minister. The position of the chief minister is similar as of the prime minister at the central level. He is the actual head of the government. He forms his ministerial council and heads all the meetings of the cabinet.





**Council of ministers-** with the recommendation of the chief minister, the governor appoints the ministerial council. The chief minister distributes the departments to the various ministers and keeps an eye on their functioning.

**Secretariat-** The secretariat is constituted to give necessary suggestions and administrative assistance to the chief minister and his ministerial council. It also implements and evaluates the plans and policies made by the ministerial council and also supervises them. It is headed by the chief secretary. The chief secretary holds a direct command on every department of the state administration. He is also the chief advisor and secretary of cabinet and chief minister. He directs the administrative activities of the state and maintains coordination among various departments of the state government.

**Directorate-** The directorate is the executive and performing body of state government which executes and implements the policies of state government. It works in the direction to achieve the targeted goals. In other words we can say that if the secretariat is the brain of the administration and the directorate is like the whole body of it.

### **DISTRICT LEVEL ADMINISTRATION**

The district level administration is like the spine of the administration. It is the basic unit which is headed by the district collector. The district administration is the complex association of management of public works. For proper administration and direct contact and communication, the district could be divided into smaller units like blocks and tehsils. The main functions of district administration are as follows-

- To maintain law and order.
- Administration of revenue and developmental works.
- To ensure civil administration and security.
- To manage the treasury.
- To conduct welfare and developmental activities.
- To assist in the election process.

The district collector basically has four major responsibilities- as a revenue officer, as a revenue officer, as a district magistrate and as a representative of the state government. His other functions are as follows-

- He works as the district development officer.
- He supervises the developmental activities and projects of his district.
- He has the rights to probe about income and expenditure of the money used by the panchayats. He also works as a public relation officer for the state government.
- The collector is the centralized authority in the whole district.
- He has to look after the proper execution of the democratic decentralization.
- The collector's office issues various types of certificates and identity cards.

### **LOCAL GOVERNMENT**

The basic meaning of local self government is the administration governed by the local people, who are elected through a proper election process. The local government is the exact example of democratic decentralization of powers as was dreamed by Mahatma Gandhi. It is basically meant by the panchayat and gram sabha.

The Panchayat Raj system is necessary for political awareness in rural areas. It is also necessary for a broader political participation in the developmental process and to make the rural population an active participant of the governing system. The term panchayat means a group of the Panchs who are directly elected by the rural people and who help to sort out the differences and disputes of the villagers. The concept of panchayat system is prevailing in India since ancient times.

The present panchayat system is designed according to the 73<sup>rd</sup> constitutional amendment and is given a constitutional format to this institution. This act was enacted on 24 April, 1993. According to this act-

- The format of the panchayat would be of village, block and district level.
- The population of that particular panchayat constituency would decide its structure.
- The tenure of the panchayat would be of 5 years.





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- Appropriate reservation would be given in panchayat elections.
- The state election commissioner would look after the panchayat elections. There are 29 subjects in the 11<sup>th</sup> schedule of constitution which come under the jurisdiction of panchayat.

Line functions refer to those activities related to the primary activity of the organisation and the staff functions are those which facilitate and assist the performance of line work. Line functions perform the functions of processing and supplying required number of personnel and training and development of personnel whereas those personnel perform the field and executory works of the organisations goals and objectives.

It is not a simple area of management in today's times as Personnel management/administration has to keep the motivation and morale of the personnel high every time for them to whole heartedly perform the humongous tasks they have at hand efficiently and competently as well as sympathetically.

Thus we can see that without an efficient personnel management/administration or more popularly as it is called Human Resources management contributing to Human Resources/Personnel Development, it is impossible to achieve organisational goals and become a successful organisation.

#### **Administration and backward society**

The term 'backward society' was first used in the first five year plan. Initially the term was used for the scheduled class people only, who were socially, economically and education wise backward. The scheduled tribes and other backward classes were included in this category in the fourth five year plan. In the fifth plan a Tribal Sub-plan (TSP) was also introduced for the betterment of the tribal societies. Special steps were taken up for the backward classes, minorities and other disadvantaged groups by allotting a certain portion of the plan outlay in these sectoral groups.

In the constitution, the important responsibility of backward class welfare is mentioned to be in the state list. It is the responsibility of the state government to provide them health, rehabilitation, education and shelter facilities. It also has to generate employment for them to eradicate poverty. The union government and planning commission carve out a broad policy frame to allocate appropriate funds under various heads and provide guidelines and consultancy support to the states. In Accordance the state government makes efforts to achieve the same. In each state of Indian territory there are three levels- Minister for social welfare (SC & ST), the secretariat and the directorate of administrative structure engaged in the activities related to the welfare and development of backward classes.

At Ministerial level the plans and policies are formed and designed for the welfare of the backward classes whereas the secretariat holds the responsibilities to formulate those policies and the are implemented and operated at the level of directorate.

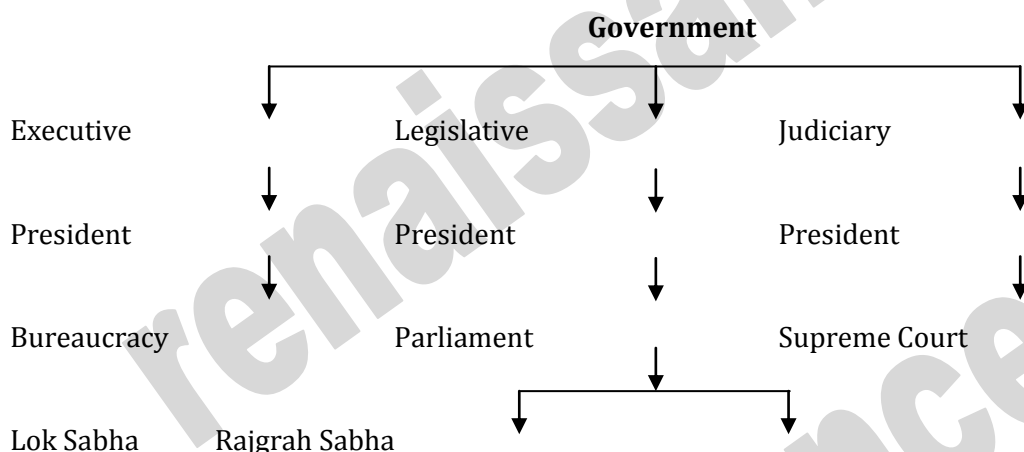


#### UNIT IV

#### GOVERNMENT FORMATION

##### (A) Central Government -

India is union of states and all the states & UTs are collectively called as republic of India. The republic of India is head by Union Government which is formed by the constitution of India. The government is made up of three branches – executive body, legislative body & judiciary.



**President** – The executive powers of Central Govt. are vested mainly on the president of India. He is the head of government & first person of India. The President is de jure commander in chief of Indian armed forces. He appoints governors of states, Chief & others justice of supreme & high courts, the attorney general, chief & other election commissioners, the CAG, chairman & other members of UPSC & ambassadors & others high commissioner.

**Vice President** – He is the second highest ranking officer in executive branch. He is the ex-officio chairman of Rajyasabha. His tenure is of 5 years.

**Prime Minister** – He is the actual executive head of the government and usually is the leader of that political party having majority in the parliament. He could be a member of either Lok Sabha or Rajyasabha.

**Ministries** – There are several ministries to help the PMO. The ministers could be cabinet ministers or state ministers.

##### (B) State Government –



The State Govt. is ruled by the chief minister & his cabinet. The head of the state is governor. The powers are divided between central & state government.

The state government's legislature is bicameral in six states including UP, Maharashtra, Bihar, Karnataka, J&K & Andhra Pradesh. It is unicameral in the rest of the states. The bicameral states have an upper house known as Legislative council or Vidhan Parishad & the lower house Legislative Assembly or the Vidhan Sabha. The unicameral states have only the Vidhan Sabha. The legislative council has limited



legislative powers and its primary function is only consultation. The members of this house are not elected directly by the people.

On the other hand the legislative assembly (Vidhan Sabha) enjoys maximum legislative powers. Its members are elected directly by the people through Vidhan Sabha Election. The tenure of the Vidhan Sabha is normally 05 years.

**Governor** – The governor is appointed by the president and is the official head of the state. He is the first person of the state. He enjoys almost similar powers & functions at the state level that of a president at central level.

- Executive powers – Appointments & removals of various officials.
- Legislative powers – Law making and formation of state legislative.
- Discrete powers – It includes other important powers.

## **LOKPAL & LOKAYUKTA**

**‘OMBUDSMAN’** – an institution which has long been established in Sweden and adopted more recently in other Scandinavian countries has now become of interest to various other countries. By now many countries have imported and established this institution as a part of the machinery for prevention of corruption and remedy of maladministration and many have come to the conclusion that the creation of an Ombudsman is the only way out. The present plight of the common man in India is largely due to the increasing weaknesses and limitations of the traditional structures of government like Parliament, Cabinet, Courts and other Administrative Tribunals. They are not in a position to do much for the ‘little common man’.

### **INDIAN OMBUDSMAN / LOKPAL AND LOKAYUKTA – Evolution of the idea.**

Discussion about the idea of an Indian Ombudsman began in the early sixties. The matter was raised in the parliament on the 3<sup>rd</sup> of April 1963, when the demands for grant of the Ministry of Law were being discussed. Participating in the debates, Dr. L.M. Singhvi said, “I should like to mention another matter which is of great importance for our country in particular. It is the matter of having a sort of Parliamentary Commission on the pattern of Ombudsman in Scandinavian countries. This institution would be securing to the common citizen a forum wherein his grievances can be effectively ventilated. However this urgency and importance became meaningful only with the appointment of the Administrative Reforms Commission of India in 1966. This Commission was convinced and recommended the appointment of two new special authorities designated as Lokpal and Lokayukta – for the redress of citizen’s grievances.

To give effect to this recommendation of the Administrative Reforms Commission, a Bill namely the ‘Lokpal and the Lokayuktas Bill, 1968’ was introduced in the fourth Lok Sabha in 1968. The bill was passed in Lok Sabha in 1969 but was pending in Rajya Sabha. The Fourth Lok Sabha was dissolved and consequently the bill lapsed. After that it was tried passing many a times in 1971, 1977, 1985, 1989, 1996, 1998, 2001 etc but every time it was lapsed.

Law minister Salman Khurshid on July 28, 2011 said that the government had accepted several points of the Jan Lokpal Bill drafted by the civil society members of the joint drafting committee. He observed that,



“ We accepted 34 out of the 40 basic principles suggested by them.” The Lokpal bill could not be passed in the Budget session of Parliament which ended on May 22, 2012.

### **Salient Features of Lokpal –**

1. The Lokpal consisting of a Chairperson and 8 members , half of them will be judicial.
2. The chairperson would be a sitting or retired Chief Justice of India, the members would include former or sitting judges of Supreme court or any high court in India.
3. A nine member selection panel headed by the Prime Minister , would be created. It would include among others, the Speaker, the Leaders of Opposition of Rajya Sabha and Lok Sabha, one Minister and eminent jurists.
4. Lokpal which would have five-year tenure, would not have the power to prosecute. It would recommend prosecution to the Supreme court.
5. According to the provision of the bill a Lokpal would be removed by the President on a reference of the Supreme Court.

### **LOK AYUKTA**

The Lok Ayukta is the state level authority who checks corruption amongst the politicians and officers in the government service to public attention. The **Lok Ayukta** is an anti corruption organization in the Indian states like the Lokpal at the central level.

The Administrative Reform Commission (ARC) headed by former prime minister Morarji Bhai Desai recommended the setting up of two special authorities designated as ‘Lokpal’ and ‘Lokayukta’ for the redressal of citizens’ grievances. The suggestion of Lokpal was for the central level while Lok Ayukta was for the states. An amendment to the constitution has been proposed to implement the Lokayukta uniformly across Indian states. The proposed changes made the institution of Lokayukta uniform across the country as a three-member body, headed by a retired Supreme Court judge or high court chief justice and comprising the state vigilance commissioner and a jurist or an eminent administrator as other members.

Maharashtra was the first state to introduce the institution of Lokayukta through ‘The Maharashtra Lokayukta and Upa-Lokayuktas Act in 1971. This was followed by similar acts being enacted by other states. Though the first Lok Ayukta bill was made and passed by Orissa government in 1970, the Maharashtra succeed to appoint its first Lok Ayukta. Madhya Pradesh Lok Ayukta was appointed in 1981. The Lok Ayukta institution is working in 17 states of India. The rights, powers, jurisdiction and authorities of the Lok Ayukta is different in different states. Karnataka Lok Ayukta is considered as the most powerful Lok Ayuktya in India.

### **Appointments of Lokayukta-**

Lokayukta shall be appointed by the Governor of the state in consultation with the Chief Justice of the High Court, the Leader of the Opposition in the Legislative Assembly.

### **Qualifications of Lokayukta-**

Chief Justice (retired) of any high court in India, or a judge of a high court for seven years. Lokayukta shall not be a member of Parliament or a member of the Legislative of any state or Union Territory and shall not hold any other office of profit and shall not be connected with any political party or be carrying on any business or practice any profession. The office has a term of five years.

### **Powers:**



The LokAyukta helps people bring corruption to the fore mainly amongst the politicians and officers in the government service. It is to be noted that the Lokayukta conducts raids. But surprisingly, it does not have binding powers to punish anyone but only recommend punishment. Reduction in rank, compulsory retirement, removal from office, stoppage of annual increments and censure are some of the frequently seen recommendations given by the Lokayukta to the government. The state can either accept the recommendations or modify them. The public servant concerned can challenge the decision in the state high courts or specialised tribunals.

Major loop holes of Lokayukta system:-

- It is a one man army with limited resources and powers, and the success of the entire mechanism depends solely on the personal qualities of the individual Lokayukta
- Non uniformity of Acts in states
- Many areas of administration are outside the jurisdiction of Lokayukta
- Some states have prescribed fee for lodging complaints, for example Madhya Pradesh is one of them.
- Non-cooperative attitude of authorities and lack of independent investigating authority
- Orissa was the first state to pass the Ombudsman legislation in 1970 and also the first to abolish it in 1993.





## **Unit V**

### **Media understanding of administration Coverage and relation**

The media is considered as the fourth pillar of the democracy along with the legislative, judiciary and the administration. The media must understand its responsibility to maintain the higher standards of ethics and rules for reporting administration. The media people must follow following points before reporting issues related with the administration-

There must not be any ambiguity in the understanding of hierarchical structure of the administration. The media people must know the proper hierarchy of the union, state and local level administration. He must understand the difference between administrative and legislative representatives and must not misunderstand.

The media person must know the responsibilities and functions of the administration. It must keep a check on the functioning of the administration as a watch dog and report if it is not performing its duties properly.

The media must understand the limits of the administration and if it is violating the jurisdiction, the media must intervene and warn the administration for not doing that.

The official secrets act and other media laws and ethics must be followed strictly. There is often a tug of war between the media and the administration over it. The administration often claims that the media is trying to violate the official secrets act, according to which special privileges are given to the administration to maintain secrecy. But media often tries to violate this on the name of freedom of press and right to information.

A proper coordination between the media and administration is required for the welfare of the society. It is the duty of both to maintain coordination.

The knowledge of rules related with relationship with the foreign countries, excitement to an offence and defamation is must before covering issues related with the administration.



### **Administration and freedom of press**

**Freedom of the press** or freedom of the media is the freedom of communication and expression through mediums including various electronic media and published material. While such freedom mostly implies the absence of interference from an overreaching state its preservation may be sought through constitutional or other legal protections.

With respect to governmental information, any government may distinguish which materials are public or protected from disclosure to the public based on classification of information as sensitive, classified or secret and being otherwise protected from disclosure due to relevance of the information to protecting the national interest. Many governments are also subject to sunshine laws or freedom of information legislation that are used to define the ambit of national interest.

The Universal declaration of human rights states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference, and impart information and ideas through any media regardless of frontiers"

This philosophy is usually accompanied by legislation ensuring various degrees of freedom of scientific research, publishing, press and printing the depth to which these laws are entrenched in a country's legal system can go as far down as its constitution. The concept of freedom of speech is often covered by the same laws as freedom of the press, thereby giving equal treatment to spoken and published expression.

The Indian constitution, while not mentioning the word "press", provides for *"the right to freedom of speech and expression"* (Article 19(1) a). However this right is subject to restrictions under sub clause (2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt, court, defamation, or incitement to an offense". Laws such as the Official Secrets Act and Prevention of Terrorist Prevention Act (PoTA) have been used to limit press freedom. Under PoTA, person could be detained for up to six months for being in contact with a terrorist or terrorist group. PoTA was repealed in 2006, but the Official Secrets Act 1923 continues.

But the appropriate restriction of the freedom of press sometimes become stumbling blocks to the media and it tries to get more information. For the same the media gives reference of the Right to Information act. The **Right to Information Act 2005 (RTI)** is an Act of the Parliament of India *"to provide for setting out the practical regime of right to information for citizens."* The Act applies to all States and Union Territories of India except the state Jammu and Kashmir which has its own act made in 2009.. Under the provisions of the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to pro-actively publish certain categories of information so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. Information disclosure in India was hitherto restricted by the Official Secrets Act and various other special laws, which the new RTI Act now relaxes. This relaxation provides the media an advantage of getting information, which the administration does not want to reveal. The RTI has several clauses on the basis of whom the administration has to provide the legal information in the given time limit.