

**CLASS- B.A.LL.B VIIIth SEMESTER**  
**SUBJECT- ADMINISTRATIVE LAW**  
**PAPER CODE- 801**

**PROTECTION OF CIVIL SERVANTS UNDER INDIAN CONSTITUTION**

When we talk about the Protection of civil servants under the Indian Constitution , there are three important articles. Which :

**Article 309-** Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

**Article 310-**

(1)Except as expressly provided by this Constitution, Every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union, holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor of the State.

Article 310(1) also known as doctrine of pleasure it means a servant holds office during the pleasure of the President/ Governor and he can be dismissed from the service of at the President/ Governor pleasure.

This is the general rule which operates “except as expressly provided by the Constitution.” This means that the Doctrine is subject to constitutional limitations. Therefore, when there is a

specific provision in the Constitution giving to servant tenure different from that provided in Article 310, then that servant would be excluded from the operation of the pleasure doctrine.

The following are expressly excluded by the Constitution from the rule of Pleasure. They are:

1. Supreme Court Judges Article 124,
2. Auditor General (Article 148)
3. High Court Judges (Article 217, 218)
4. A member of Public Service Commission (Article 317)
5. The Chief Election Commissioner

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period, that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

**Article 311** puts certain restriction on the absolute power of the President or Governor for dismissal, removal or reduction in rank of an officer. Article 311 reads as follows:

- (1) No dismissal by subordinate authority
- (2) The reasonable opportunity of being heard

As per this Clause, to remove a civil servant from his post the following steps should be followed:

- Holding an enquiry in the allegations made against the civil servant. This enquiry is known as departmental enquiry;

- Providing the accused civil servant with the information about what charges have been levelled against him;
- Providing such a civil servant with a reasonable chance of being heard in the case.

In *West Bengal Electricity Board v. Desh Bandhu Ghosh*<sup>1</sup> it was held that the service rules providing for termination of services n three months notice on either side was arbitrary and thus violative of Article 14.

In *Moti Ram v. N.E. Frontier Railways*<sup>2</sup> it was held that termination of services of permanent employees by giving them notice for the mentioned period under Rules 148(3) and 149(3) violated Article 311.

*In state of Bihar v. Abdul Majid*<sup>3</sup> it was held that the power of the President or Governor to dismiss civil servants is not a personal right. It should only be exercised with the aid and advice of his Council of the Minister. Any law cannot abrogate the Doctrine of Pleasure but in England, it can be omitted by any act of parliament as there, the Constitution is unwritten There also exists a certain provision under Article 310 that allows abolishment of a post.

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<sup>1</sup> [(1985) 3 SCC 116],

<sup>2</sup> [AIR 1964 SC 600]

<sup>3</sup> [AIR 1954 SC 425]