



IAS 100

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CONSTITUTIONAL BODIES IN INDIA



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CONSTITUTIONAL BODIES IN INDIA

Constitutional body is the body that has its name mentioned in Indian Constitution. It derives power directly from the Constitution. Any type of change in mechanism of this body needs constitutional amendment. Example: UPSC, Finance Commission, National Commission for SC/ST, etc.

Immunities given to Constitutional bodies

1. They can be removed: only on proved misbehavior.
2. Their salary, powers and rights are mentioned in the Constitution itself-and parliament can't reduce it once they're appointed. It's charged on the Consolidated Fund of India i.e. Parliament can't vote on it during budget. However, the salary can be reduced if President declares a financial emergency.

Such immunities are not enjoyed by statutory bodies.

The constitutional bodies are discussed below:

ATTORNEY-GENERAL OF INDIA

According to Article 76, the President appoints a person qualified to be a Supreme Court judge as the Attorney General of India. The Attorney General is the first legal officer of India. He functions as the Chief Law Officer of the Government. The Attorney General of India advises the Government of India on any legal matter. He performs any legal duties assigned to him by the President of India. He discharges any functions conferred to him by the Constitution or the President.

In the performance of his duties, the Attorney General of India has right of audience in all courts in the territory of India. The Attorney General represents the Union and the States before the Courts but is also allowed to take up private practice provided; the other party is not the State. He is not a member of the either House of the Parliament. Still he enjoys the right to attend and speak in the parliamentary deliberations and meetings (of both the Lok Sabha and the Rajya Sabha), without a right to vote.

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He is not a full time officer of the House, nor is he a member of a Cabinet, he is not barred from private practice except that he cannot advise or hold briefs against the Government of India. He should not defend accused persons for criminal prosecution without the permissions of the Government of India. He is entitled to all privileges and immunities as a Member of the Parliament. The Attorney General of India is assisted by two Solicitor General and four assistant Solicitor General.

The Attorney General is not paid salary but a retainer that is determined by the President. The retainer of the Attorney General of India is equal to the salary of a judge of the Supreme Court. As a convention, after the change of the Government, the Attorney General resigns and the new Government appoint a new Attorney General of its own choice. The Attorney General holds office during the pleasure of the President and receives remuneration as determined by the President.

COMPTROLLER AND AUDITOR GENERAL

Article 148 of the Indian Constitution provides for an Independent office of the Comptroller and Auditor General of India (CAG). He is the head of the Indian Audit and Account Department. At both Central and State level the Comptroller and Auditor General of India controls the entire financial system of the country.

Appointment of CAG

The Comptroller and Auditor General of India is appointed by the President of India for a full term of 6 years or 65 years of age whichever comes earlier. By writing a resignation letter to the President, the Comptroller and Auditor General can resign at any time. The President can remove him from his post on the same ground and in the same manner as a judge of the Supreme Court of India. He can be removed by the President on the basis of

a resolution passed in the both Houses of the Parliament with special majority, either on the ground of proved misbehavior or incapacity.

Powers and Functions of the CAG

The Parliament enacted the CAG's Act, 1971 (duties, powers and conditions of service). This Act was amended in 1976 to separate accounts from audit in the Central Government. CAG audits the accounts related to all expenditure from the Consolidated Fund of India, consolidated fund of each state and consolidated fund of each union territory having Legislative Assembly.

He audits all expenditure from the Contingency Fund of India and the Public Account of India in both Central and State level. He audits the receipts and expenditure of all bodies and authorities substantially financed from the Central or State revenues, Government companies and other corporations and bodies when so required by related laws.

He advises the President with regard to the prescription of the form in which the accounts of the center and the states shall be kept. He submits his audit reports relating to the accounts of the Center to President and relating to the accounts of a state to the Governor.

He audits all transactions of the Central and State governments related to debt, sinking funds, deposits, advances, suspense accounts and remittance business. He audits the accounts of any other authority also on a request of President or Governor. CAG acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.

Immunities enjoyed by the CAG

CAG is appointed by the President, but he does not hold office in accordance with Presidents' pleasure. However the President can remove him after a resolution to this effect is passed by both the Houses of the Parliament. Once, CAG ceases to hold his office, he become ineligible for further office.

The Parliament determines his salary and other service conditions.

The administrative expense of the office of CAG is charged upon the Consolidated Fund of India. No minister can be called upon to take any

responsibility for any action done by CAG. The Comptroller and Auditor General of India is not represented by any minister in the Parliament.

ADVOCATE-GENERAL

Each State shall have an Advocate-General for the State, an official corresponding to the Attorney-General of India, and having similar functions for the State. He shall be appointed by the Governor of the State and shall hold office during the pleasure of the Governor. Only a person who is qualified to be a Judge of a High Court can be appointed Advocate-General. [Art. 165 (1)]

It is the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred to him by the Governor, and to discharge the functions conferred on him by this Constitution or any other law for the time being in force.

The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine. He shall have the right to speak and to take part in the proceedings of, but no right to vote in the Houses of the Legislature of the State.

FINANCE COMMISSION

Although the Constitution has made an effort to allocate every possible source of revenue either to the Union or the States, but this allocation is quite broad based. For the purpose of allocation of certain sources of revenue, between the Union and the State Governments, the Constitution provides for the establishment of a Finance Commission under Article 280. According to the Constitution, the President of India is authorized to set up a Finance Commission every five years to make recommendation regarding distribution of financial resources between the Union and the States.

Constitution

Finance Commission is to be constituted by the President every 5 years. The Chairman must be a person having 'experience in public affairs'. Other four members must be appointed from amongst the following:-

1. A High Court Judge or one qualified to be appointed as High Court Judge;

2. A person having knowledge of the finances and accounts of the Government;
3. A person having work experience in financial matters and administration;
4. A person having special knowledge of economics.

Functions

The Finance Commission recommends to the President as to:-

- the distribution between the Union and the States of the net proceeds of taxes to be divided between them and the allocation between the States of respective shares of such proceeds;
- the principles which should govern the grants-in-aid of the revenue of the States out of the Consolidated Fund of India;
- the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats and Municipalities in the State;
- any other matter referred to the Commission by the President in the interest of sound finance.

Assessment of Finance Commission

Ever since the inauguration of the Constitution, thirteen such Commissions have been set up. Year after year the terms of reference have been made wider and wider with each Finance Commission. Even issues like debt burden of the State, financing of relief expenditure and returns of public sector undertakings have been placed under the purview of Finance Commissions. Further, the Union Government has mostly accepted the recommendations of the Finance Commissions.

However, it has been alleged by critics that the role assigned to the Finance Commission has been greatly undermined to the creation of the Planning Commission which has tended to play increasing role in determining the transfer of funds to the states. According to a study, between 1951-74 more funds were transferred to the states through the Planning Commission and the Finance Ministry than the Finance Commission. Generally, the Finance Commission is only required to plug the non-development budgetary gaps in the finances of the States only, while the plan outlays are determined by the Planning Commission. Similarly

the discretionary grants are also regulated by the Finance Ministry and the Planning Commission and the Finance Commission hardly play any role in this respect.

INTER-STATE COUNCILS

Under Article 263 of the Constitution the President is empowered to establish an inter-State Council, at any time, if he satisfies that public interest would be served thereby. Constitution outlines the duties and responsibilities of this Commission. These are:-

- To inquire into and advise upon disputes which may have arisen between States
- To investigate and discuss subjects of common interest between the Union and the States or between two or more States
- To make recommendations for co-ordination of policy and action relating to such subjects

In exercise of this power the President has established a Central Council of Health, a Central Council of Local Self-Government, and a Transport Development Council.

However, the Sarkaria Commission on Centre-State relation has recommended the constitution of a permanent Inter-State Council. Such a council was set up in 1990 consisting of six Union Cabinet Ministers and the Chief Ministers of all States. Prime Minister is the chairman of this council.

PUBLIC SERVICE COMMISSIONS

Article 315 provides for service commissions for both the Union and the States. For the Union it is known as Union Public Service Commission (UPSC) and for the States it is known as State Public Service Commission (SPSC). There is a provision for a joint SPSC for two or more states if the state legislatures of the concerned states pass a resolution to this effect and acting on it Parliament enacts a law in this regard.

A Public Service Commission consists of a Chairman and a number of members. The number of members and the conditions of service shall be determined in the case of UPSC or a Joint Commission by the President and in the case of a state PSC by the Governor. The conditions of service of a member of a Commission shall not be varied to his disadvantage during his term of office (Art. 318).

Appointment, term of office, etc:

The Chairman and members of the UPSC or a Joint Commission are appointed by the President while those of a State Commission are appointed by the Governor of the State. No qualifications are prescribed for being a member or chairman. The Constitution does not prescribe the number of members of a Commission. But it is laid down in Art. 316 that at least half of the members of every Commission shall be persons who have held office under the Government of India or of a state for 10 years. Under this clause officers belonging to IAS, IPS, IFS, and other Central Services serving the Union and officers of the armed forces who have retired or are on the verge of superannuation's are appointed members. This is to ensure that persons who have a first hand experience of government service guide the policies to be adopted by the Commission. They are in a better position to understand the needs of the government and the qualities required of a candidate. Generally the seniormost member is appointed as Chairman though it is not a legal requirement.

A member of a Commission holds office for a term of 6 years from the date he enters upon his office or until he attains the age of 65 years in the case of UPSC and 62 years in the case of a State Commission or a Joint Commission.

Resignation:

A member of a Commission may resign his office by a writing addressed to:

- The President in the case of UPSC or a Joint Commission
- The Governor in the case of a State Commission

Removal:

The President may remove him on the ground of misbehavior. The Supreme Court alone may inquire about misbehavior on a reference made by the President. It is to be noted that a member of State Commission may be removed only by the President (and not by the Governor). Once the Supreme Court has reported that the member was guilty of misbehavior, the President has no choice but to remove the member.

In some cases the President may remove a member without making a reference to the Supreme Court. These are:

- The member is adjudged an insolvent,
- The member engages in some other employment while in office,
- The member is unfit to continue in office by reason of infirmity of mind or body.

Whether the infirmity incapacitates the member from discharging his duties is for the President to determine. Blindness may not cause such infirmity in all cases.

Independence of UPSC and PSC members:

The Constitution seeks to maintain the independence of members through the following provisions:

- The Chairman and members do not hold office during pleasure. They hold it for a fixed term.
- A member may be removed only by the President and that too on the grounds and in the manner provided in the Constitution.
- The conditions of service of a member shall not be varied to his disadvantage after his appointment.
- The expenses of the Commission are charged on the Consolidated Fund of India or of the State.
- A member on the expiration of his term is ineligible for reappointment.
- A member is prohibited from taking employment under the government after ceasing to be a member.

Prohibitions in regard to holding of offices after ceasing to be a member:

- The Chairman of UPSC shall be ineligible for further employment under the Government of India or of any states.
- The Chairman of a State Commission shall be eligible for appointment as the Chairman or a member of the UPSC or as the Chairman of any other SPSC. Other than these posts, he is not eligible for any other employment under Union of the State government.
- A member of the UPSC is eligible for appointment as Chairman of the UPSC or Chairman of any State Commission. But he cannot take up any other employment under the government of India or of any state.
- A member of a State Commission shall be eligible for appointment as Chairman or

member of UPSC or Chairman of any State Commission (including the one of which he is a member). But he will not be eligible for any other employment under the Government of India or of a State.

Functions of the Commission:

Article 320 lays down the function of a Public Service Commission. Article 321 provides that the Parliament or the legislature of a state may add to the list of functions. The functions are of two types: (a) duties (b) advisory functions.

Duties:

The duties of a Public Service Commission enumerated in Art. 320 are:

- To conduct examinations for appointment to the services of the union and the services of the State (in case of a State PSC).
- It is the duty of the UPSC if requested by two or more States to assist those States in framing and operating schemes of joint recruitment for any Services requiring special qualifications.

Advisory functions:

A Commission has many advisory functions. It must be consulted

- On all matters relating to method of recruitment to civil services and civil posts.
- On the principles to be followed in making appointments to civil services and posts, in making promotions and transfers from one service to another and on the suitability of such candidates.
- On all disciplinary matter affecting a person under the government (Central or State) in a civil capacity. This includes memorandums and petitions relating to such matters.
- On any claim by or in respect of a person in service under the government (Central or State) that any costs incurred by him in defending any proceeding instituted against him for acts done in the execution of his duty should be paid by the government.
- On any claims of the award of a pension in respect of injuries sustained by a person while in government service in a civil service in a civil capacity.

The UPSC submits its annual report to the President which is laid before Parliament. Similarly,

every PSC submits its annual report to the Governor which is laid before the State Legislature.

ELECTION COMMISSION

India is a representative democracy which has opted for a Parliamentary Form of Government. Under this system people elect their representatives both for the state legislatures as well as for Parliament through exercising their right to vote during periodic elections. Thus the success of democracy depends on successful election mechanism. For a healthy and functioning democracy it is essential that there is an independent institution to conduct and supervise the election procedure. Realizing this importance, the Constitution has provided for an independent Election Commission.

Composition of the Election Commission:

Art 324 provides for a Chief Election Commissioner to be appointed by the President. He can also appoint any number of Election Commissioners. Since 1993, the Election Commission consists of a Chief Election Commissioner and two Election Commissioners. If the Election Commission is a multi-member body then the Chief Election Commissioner acts as the Chairman of the Election Commission. The decisions are arrived at by either consensus or majority in a multi-member Election Commission. There is a provision to appoint Regional Commissioners before each general election to Lok Sabha and State Assembly and before the general election and thereafter before each biennial election to the Legislative Council. The President appoints them in consultation with the Election Commission.

Removal of the CEC and Election Commissioners:

The CEC can be removed only on the same grounds and in the same manner as a judge of the Supreme Court. An Election Commissioner or a Regional Commissioner can be removed by the President only on the recommendation of the Chief Election Commissioner.

Functions of the Election Commission:

The Election Commission superintends, directs and controls the elections to Parliament, State

Legislatures and Union Territories, Presidential and Vice-Presidential elections. In this regard, it performs the following functions:

- (a) Preparation of electoral rolls.
- (b) Conduct of elections.
- (c) Counting of votes and declaration of results.
- (d) To advise the President in regard to the question whether a Member of Parliament (Art. 103) or a State Legislature has become subject to any disqualification (Art. 192).
- (e) To advise the President in the appointment of Regional Commissioner.

The Constitution contains a bare outline of the law of election and the powers and functions of the Election Commission. The detailed provisions are contained in the following Acts:

- The Presidential and Vice-Presidential Election Act, 1950.
- The Representation of People Act, 1950.
- The Representation of People Act, 1951.
- The Delimitation Act, 1972.

Secular basis for electoral rolls (Art. 326):

The provisions discussed below are of general applications and apply to elections to the Parliament and the state legislatures.

For every territorial constituency there will be one general electoral roll. No person shall be ineligible for inclusion in the electoral roll on grounds of religion, race, caste, sex or any of them.

Adult suffrage (Art. 326):

Any person who is a citizen of India and who is 18 years of age (61st Amendment Act, 1988) is eligible to vote in Lok Sabha and State Assembly elections unless he is disqualified by a law. The common disqualification are based on unsoundness

of mind, conviction for crime, corrupt practice, at an election etc. They are contained in the Representation of People Act.

Powers of legislatures with respect to elections (Arts. 327 & 328):

The Parliament has the power to make laws regarding all aspects of elections (Art. 327). The state legislature has a subordinate role. It can enact a law in respect of election to state legislature only to the extent that Parliament has not made any provisions. In other words it can supplement parliamentary legislation (Art. 328).

Parliament has enacted the Representation of People Act of 1950 and 1951 and the Delimitation Commission Acts of 1962 and 1972 under this provision.

Independence of the Election Commission:

The role of the Election Commission is pivotal. Impartiality of elections is vitally linked to the independence of the Commission. Other provisions dealing with CEC and Election Commissioners are dealt within the Chief Election Commissioner and other Election Commissioners (conditions of service), Act.

Election disputes (Art. 329):

Article 329 bars the interference of Courts in electoral matters. If a Delimitation Commission draws the boundaries of a territorial constituency it cannot be challenged in any Court of law.

Article 329 also provides that no election to either House of Parliament or to a House of a State Legislature shall be called in question except by an election appropriate law. Since 1966, a High Court alone has the jurisdiction to hear an election petition. Appeal lies with the Supreme Court.

ELECTORAL REFORMS SUGGESTED BY ELECTION COMMISSION IN 2004

- *A candidate contesting elections must provide all the information in the affidavit furnished by him. Any willful concealing of information or providing wrong information should be punishable by two years Align of e.g. imprisonment.*
- *The security deposit for Lok Sabha should be raised to Rs. 20,000/- and Rs. 10,000/- for Legislative Assembly. For SC/ST candidates it should be reduced by 50 per cent.*
- *Any person who is accused of an offence punishable by imprisonment for five years or more should be disqualified from contesting election even when trial is pending, provided charges have been framed against him by the competent court.*

- **Restriction on the number of seats from which one may contest:** At present a person can contest a general election or a group of bye-elections or biennial elections from a maximum of two constituencies. There have been several cases where a person contests election from two constituencies, and wins from both. In such a situation he vacates the seat in one of the two constituencies. The consequence is that a by-election would be required from one constituency involving avoidable labour and expenditure on the conduct of that by-election. The law should be amended to provide that a person cannot contest from more than one constituency at a time.
- **Exit Polls and Opinion Polls:** Various agencies conduct opinion polls prior to the poll on the likely voting pattern and publish the result of such surveys through different media. Similarly, on the date of poll, actual result of the election is sought to be predicted on the basis of Exit Polls. Such polls may influence the voting pattern in the subsequent phases. The Opinion Polls and publishing results thereof, should not be allowed from the day of issue of statutory notification calling the election and till the completion of the poll. The result of Exit Polls should not be allowed to be published until the completion of the poll in the last phase.
- During the election period, the name and address of the publisher should be given along with the matter/advertisement in the print media. No surrogate advertisements should be allowed.
- **Negative voting:** In the ballot paper, there shall be a column "None of the above," to enable a voter to reject all the candidates, if he chooses so.
- **Compulsory maintenance of accounts by political parties and audit thereof by agencies specified by the Election Commission.** The political parties must be required to publish their account annually for information and scrutiny of the general public.
- **Government sponsored advertisements where any general election is due on the expiration of the term of the House, advertisements of achievements of the governments, either Central or State, in any manner, should be prohibited for a period of six months prior to the date of expiry of the term of the House and in case of premature dissolution, the date of dissolution of the House. However, advertisements/dissemination of information of poverty alleviation and health related schemes could be exempted from the purview of such a ban.**
- **Ban on transfer of election officers on the eve of elections:** No transfer shall be made, without the concurrence of the Commission, of any Election Officer as soon as a general election/by-election becomes due in any parliamentary or Assembly Constituencies.

OFFICIAL LANGUAGE COMMISSION

Article 344 states that at the expiration of 5 years from the commencement of this Constitution and later after 10 years from such commencement the President shall appoint a commission. The Commission will consist of a chairman and members representing different languages specified in the 8th Schedule.

The duties of the commission will be to make recommendations to the president as to-

- The progressive use of the Hindi language
- Restrictions on the use of English language
- The language to be used for the purposes mentioned in Art. 348
- The form of numerals

- Any other matter that may be referred to the Commission by the President.

The Official Language Commission constituted in 1955 felt that the Central Government should take concrete steps for its employees to learn and become proficient in Hindi. Under opposition from various groups, it was decided to replace English by Hindi progressively and not suddenly.

NATIONAL COMMISSION FOR SCHEDULED CASTES

The National Commission for Scheduled Castes, a Constitutional body monitors the safeguards provided for Scheduled Castes and also reviews issues concerning their welfare.

The SCs constitute 16.23% of India's population

NATIONAL COMMISSION ON SCHEDULED TRIBES

spread all over the country, with 80% of them living in the rural areas. They constitute more than a fifth of the population of UP, Punjab, Himachal Pradesh and West Bengal. Punjab has the highest proportion of SCs to the State population. More than half of the SC population is concentrated in the five States of Uttar Pradesh (35.1 million), west Bengal (18.4 million), Tamil Nadu (11.8 million), Andhra Pradesh (12.3 million) and Bihar (13.0 million).

Due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable share in elected offices, Government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservations in their favour to ensure their equitable participation in governance.

Functions and duties of the commission are:

- a) To investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguard;
- b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;
- c) To participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
- d) To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- e) To make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
- f) To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

The National Commission for Scheduled Tribes was first formed by the Government of India in 1978 as a Non-statutory Multi-Member Commission. Initially, the Commission was set up through a resolution for both the Scheduled Castes and Scheduled Tribes. In the year 1987, the Government of India re-structured the duties of the Commission by authorizing it to advice on the Broad Policy Issues and Levels of Development of SCs and STs. The National Commission for Scheduled Tribes (NCST) was established by amending Article 338 and inserting a new Article 338A in the Constitution through the Constitution (89th Amendment) Act, 2003. By this amendment, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was replaced by two separate Commissions namely- (i) the National Commission for Scheduled Castes (NCSC), and (ii) the National Commission for Scheduled Tribes (NCST) in 2004.

Scheduled Tribes live in contiguous areas unlike other communities. It is, therefore, much simpler to have an area-approach for development activities and also regulatory provisions to protect their interests. In order to protect the interests of Scheduled Tribes with regard to land alienation and other social factors, provisions of "Fifth Schedule" and "Sixth Schedule" have been enshrined in the Constitution.

Functions of the Commission are:

- a. To investigate and monitor all the matters relating to the safeguards provided for the SCs and STs under the Constitution of India or under any other law and to evaluate the working of such scapegoats.
- b. To enquire into specific complaints with respect to the deprivation of the rights and the safeguards of the SCs and the STs.
- c. To participate and advise on the planning process of socio-economic development of the Scheduled Castes and the Scheduled Tribes and to evaluate the progress of their development under the Union and any State.
- d. To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards.

e. To make in such reports or recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those the protection, welfare and socio-economic development of the Scheduled Castes and the Scheduled Tribes as the President may by law specify.

The term Scheduled Tribes is defined in the Constitution of India under Article 366(25) as such tribes or tribal communities or parts of groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution.

According to the Article 342(1), the President may, with respect to any State or Union Territory, and where it is State, after consultation with the Governor thereof, notifies tribes or tribal communities or parts thereof as Scheduled Tribes. This confers on the tribe or part of it a Constitutional status invoking the safeguards provided for in the Constitution, to these communities in their respective States/UTs.

Thus only those communities who have been declared as such by the President through an initial public notification will be considered as Scheduled Tribes. Parliament may, by law, include in or exclude from the list of Scheduled Tribes, any tribe or tribal community or parts of thereof. The list of Scheduled Tribes is State-specific. In other words, a community declared as Scheduled Tribe in one State need not be so in another State.

The Commission presents an annual report to the President. The President places all the reports before the Parliament along with memorandum explaining the action taken on the recommendations made by the Commission. The memorandum also contains the reasons for the non-acceptance of any recommendation.

CENTRAL ADMINISTRATIVE TRIBUNAL (CAT)

CAT was set up in pursuance of the amendment of Constitution of India by Articles 323A (1976) which empowers the Parliament to set up Tribunals for dealing with disputes and complaints with respect to recruitment and conditions of service of persons appointed to service and posts connected with the Union of India. It is one of the important steps taken in the direction of development of Administrative Law in India.

Even before Article 323-A was enacted tribunals existed in various areas and their existence was recognised by the Constitution, but they were not intended to be an exclusive forum, and therefore, they were subject to judicial review by the High Courts under Articles 226 and 227. Distinct from this existing tribunal system, a new experiment has been introduced by Article 323-A which provides for exclusion of the jurisdiction of the High Courts under Articles 226 and 227, notwithstanding any other provisions in the Constitution. The object of this experiment is to lessen the backlog of cases pending before the High Courts and to provide an expert and expeditious forum for disposal of disputes of Government servants relating to service matters.

Administrative Tribunals were established at Delhi, Mumbai, Calcutta and Allahabad. Today, there are 17 Benches of the Tribunal located throughout the country wherever the seat of a High Court is located, with 33 Division Benches. In addition, circuit sittings are held at Nagpur, Goa, Aurangabad, Jammu, Shimla, Indore, Gwalior, Bilaspur, Ranchi, Pondicherry, Gangtok, Port Blair, Shillong, Agartala, Kohima, Imphal, Itanagar, Aizwal and Nainital.

Constitution of CAT

- A Chairman who has been a sitting or retired Judge of a High Court heads the Central Administrative Tribunal. Besides the Chairman, the authorized strength consists of 16 Vice-Chairmen and 49 Members.

Jurisdiction

- In addition to Central Government employees, the Government of India has notified other organizations to bring them within the jurisdiction of the Central Administrative Tribunal.
- The provisions of the Administrative Tribunals Act, 1985 do not, however, apply to members of paramilitary forces, armed forces of the Union, officers or employees of the Supreme Court, or to persons appointed to the Secretariat Staff of either House of Parliament or the Secretariat staff of State/Union Territory Legislatures.

Application

- A person aggrieved by any administrative order pertaining to any matter can make an application to CAT for redressal of his grievances. The jurisdiction of the Tribunal extends not only to the actual employment but also to the process of recruitment also.
- An application is not to be admitted unless the applicant has exhausted all remedies available to him under the service rules. However this rule is not absolute and CAT may entertain an application in extraordinary circumstances.
- A person is deemed to have availed of all the remedies available to him if a final order has been made by the Government or other authority or the officer concerned rejecting the appeal or representation of the employee. OR Where no final orders passed by such authority even after 6 months from the date of the appeal or representation.

Procedure of justice

- The Tribunal is not bound to follow the procedures laid down in the Code of Civil Procedure 1908 or Evidence Act, but shall be

guided by the principles of natural justice in deciding cases and the procedure.

- The Central Administrative Tribunal is empowered to prescribe its own rules of practice for discharging its functions subject to the Administrative Tribunals Act, 1985 and Rules made there under. For this purpose, the Central Administrative Tribunal Rules of Practice, 1993 have been made.
- Parties to the dispute may appear in person or be represented by a lawyer before the Tribunal. The Supreme Court has held in a case that the CAT must confine itself to the limits of judicial review.
- No interim orders, whether by way of injunction or stay shall be made on an application unless copy of the application along with other documents are furnished to the party against whom such application is made and opportunity is given to such party to be heard in the matter.
- However ex-parte interim orders can be issued in exceptional cases valid for 14 days. In this case the administration should approach CAT within 14 days to put across their point of view and try for vacation of such interim stay orders.

