CHAPTER - IV

COMPOSITION

The Public Service Commission are considered to be the necessary adjunct of the democratic set up of Government. Under the old system of political patronage, the civil servants used to depend upon personal favouritism. It is noteworthy that in India, the starting point for the institution of Public Service Commissions is the introduction of responsible governments after 1919. The objective behind the establishment of such an institution is to make civil service free from personal and political influences. It can make the civil service free from partisan influences and protect it from victimization and injustice. In this connection, Simon Commission Report remarked that "They (Ministers) should be freed from the technical work of recruitment, which is no part of a Minister's duties, and even more important, they should not be exposed to the charge, however ill founded, of using their position to promote family or communal interests at the expenses of the efficiency, or the just administration of the services". The Commission also hoped that ".... they will welcome the removal from them
of responsibility for appointments and for the examination of the service appeals, for it will relieve them from embarrassing demands from their supporters and will set them free to devote themselves to more appropriate and more important duties".

The Public Service Commission, which upholds the principle of merit system and protects the civil service from the possible excesses of the democratic institutions, is looked upon as a bulwark of democracy in India. So naturally the authors of the constitution have accorded the Commissions a status close to that of the judiciary. Unlike other countries, India has made provisions for its establishment in the constitution itself so that independence, integrity and impartiality can be assured. It is not subordinate to the executive. At the same time, the Parliament cannot abolish or alter the powers except by the process of constitutional amendments.

The Fathers of the constitution were keen to make all the necessary provisions for the Commissions so that they can be free from the political pressures and at the same time can serve any party in power with zeal and loyalty. Commenting upon the provisions under consideration, Shri H.V. Kamath expressed in the constituent
Assembly that "It is therefore of the utmost importance that the Public Service Commissions, that we contemplate under these articles, should be completely independent of the Government of the day, whether at the centre or in the states. Otherwise, I am afraid the civil services will apprehend that amenability to ministerial pressure and correct attitude towards questions in which a little coterie or the group for the time being in power, is interested will secure them promotions rather than merit or efficiency". On the other hand, there were some members who were critical about the role of the public service commissions in the states. Shri Brajeshwar Prasad was opposed to state commissions. He remarked, "Sir, our experience has been that the members of the Provincial Public Service Commissions have not been able to prevent corruption, inefficiency and nepotism in the Provincial Governments. Therefore, I am strongly opposed to the second part of clause (1) wherein provision has been made for P.S.C. for each State. I am opposed to state Commissions". He wanted a single all India Public Service Commission to cater the needs of the whole country.

However, the Republican Constitution of India made provision for the establishment of Commissions in India.
Article 315 provides for each constituent state of the union to establish a Public Service Commission. Moreover, the constitution permits the union Public Service Commission to extend its services to a state with the approval of the President. There is also a provision for setting up Joint Public Service Commissions each serving more than one states. In Gujarat, the Public Service Commission came into existence on 1st May 1960 after the bifurcation of the Bombay state into that of Maharashtra and Gujarat.

1. Appointment of the Members

Under Article 316 of the Constitution, the appointment of the Chairman and members of the Commission shall be made (a) in the case of the Union or a Joint Commission, by the President; and (b) in the case of a state Commission, by the Governor of the State. However, the Constitution provides that as nearly as may be one half of the members of the Commission "shall be persons who at the dates of their appointments, have held office for at least ten years either under the Government of India or under the Government of a State".

Originally it was proposed in the Draft Constitution that "at least one half of the members of every Public
Service Commission shall be persons who, at the dates of their respective appointments, have held office for at least ten years either under the Government of India or under the Government of a State. But some members took serious objection to this proposal. On this point, Shri Jaspat Roy Kapoor drew the attention of the House to the resolution of the Conference of the Chairman and Members of the Public Service Commissions held in 1948 in which they commented on the above noted clause and suggested 'that in order to provide for the representation of interests involved, this provision should now be amended so as to provide one-third in place of one-half occurring in the first line of the proposal'. Under the circumstances, Dr. Ambedkar had to accept an amendment to the effect that the provision "at least one half" was changed to "as nearly as may be one half".

It is evident from the composition that this system has tried to combine the specialist and generalist approaches and has avoided the extreme viewpoints. The Commission, however, tends to serve two important purposes, viz (1) it acts as an expert authority on the personnel matters and (2) it advises the executive on non-partisan lines.
Regarding the composition, the constitutional provisions are satisfactory. But it should be remembered that law alone can not guarantee the integrity and independence of the Commission. For this, one should consider the prevailing position regarding the selectors who select the Commissioners. It is in fact necessary that men of calibre and experience alone be chosen to constitute the Commission. Mr. Jaspat Roy Kapoor expressed the opinion in the constituent Assembly that "Entrusted with the task of selecting candidates to fill various posts under the Union and State Governments the formation of both the Central and State Public Service Commissions becomes of very great importance. On its proper formation and on the proper selection of the members of such Commissions depend the proper selection of persons who will be called upon to discharge the responsible and onerous duties of the government in the various Departments".

The Simon Commission which considered this question, expressed "that the appointing authority should be not the government but the Governor, and that in making the appointment he should have power to act otherwise than in accordance with the advice of his ministers". The services sub-committee of the Round Table Conference adopted a resolution to the effect that the Public Service Commission
should be appointed by the Governor. On these recommenda-
tions, it was provided in the Government of India Act
1935 that the appointment in respect of the Federal
Public Service Commission shall be in the hands of the
Governor-General acting in his discretion and in the
case of Provincial Public Service Commission in the
hands of Governor acting in his discretion. In other
words, the Governor-General and the Governor were not
required to consult their Council of Ministers in this
respect but they can make the appointment according to
their sweet will.

Under the Republican Constitution of India, the
appointment in respect of UPSC has been vested in Presi-
dent and in respect of State Public Service Commission in
Governor. Since we have adopted a parliamentary system
of government, this means that the appointments are made
by the Ministry in power. In all the other countries
where such Commissions are established, the appointing
authority is the executive. In this connection, Shri
N.C. Roy remarks that "It cannot be said again that simply
because members of a Commission would be appointed by a
Ministry, they would on that score become a cat's paw, in
its hands".

Moreover, the constitution has not laid down any
qualification for the other half of the members of the Commission. In this respect, it is worthwhile to quote Lee Commission which gave a piece of advice that the members should be drawn from 'men of the highest public standing detached so far as practicable from all political associations ... two of their number at least possessing high judicial or other legal qualifications'. But the state Governments have not complied with this expectation. Dr. A. R. Tyagi remarks that 'a large number of the appointments is made on political and personal grounds and in many cases, appointees represent a poor quotient of the moral and intellectual number of the country'.

The location of the powers for the appointment of the members is an important factor in the independence of the Commission. Mr. Shaw remarked 'Mere establishment, however, of an independent civil service commission cannot guarantee the results its proponents desire. There have been too many so called 'independent Commissions' that turn out to be subservient rather than independent. It, therefore, is clear that the method of appointing an independent C.S.C. is the determining factor in whether
it is possible for it to remain independent".¹ So far as state Commissions are concerned, the political influence weights with the Chief Minister to nominate the persons in the Commission. The Ex-Chairman of the Madhya Pradesh Public Service Commission has stated: "The Constitutional independence given to the Commission is largely vitiated by vesting the appointment of members in the hands of the Governor, i.e., the Chief Minister in actual practice. The Chief Minister often appoints persons on political, communal, regional and other grounds, and not solely on merit, and human nature being what it is, such persons usually find it difficult to resist ministerial pressure and influence in carrying out their duties in an independent and impartial manner. Things would certainly improve if the appointments are made by the President in Consultation with the Chief Justice of India, as in the case of High Court Judges".²

It is noteworthy that neither consultation with an independent authority nor concurrence with anybody is made

¹ Saw, William L: "Independent Civil Service Commissions and Executive Power" in Basic Issues in Public Administration, p.222

necessary. Very often, the appointments are made on communal, political and regional grounds as well. In Kerala the practice of regional representation had been publicly admitted by the Government. The Law Minister of the communist Government of 1957-59 admitted that "in order to remove the grievance of the people of Malabar, the cabinet had decided to reconstitute the P.S.C. to give proper representation to Malabar on it".¹ Prof. B.A.V. Sharma cites an example of the Maharashtra Government and writes that of the fourteen persons appointed on the Commission after promulgation of the constitution, seven i.e. half of them were the members of the ruling party or favoured by it. He also cites an example by which the Bombay Government appointed the Deputy Minister as a member in that half of the Commission which is reserved for the Civil Servants. In addition, the Law Commission of India has brought to light the deplorable state of affairs. They remarked by saying that "we are constrained to state that the personnel of these Public Service Commissions in some of the states was not such as could inspire confidence, from the points of view of either efficiency or impartiality. There appears to be little

¹ Civic Affairs vol. 6 36-37 Nov. 1958.
doubt that in some of the states appointments to these Commissions are made not on considerations of merit but on grounds of party and political affiliations. The evidence given by members of the Public Service Commissions in some of the states does create the feeling that they do not deserve to be in the responsible posts they occupy. In some of the Southern States, the impartiality of the Commissions in making selections to the judicial service was seriously questioned. ¹

Under Article 318 of the constitution, the Governor of Gujarat on 12th May 1960 issued a Notification No.PSC. 1060-40/C by which the Regulations called the "Gujarat Public Service Commission (conditions of service) Regulations 1960" were made, Rule 4 of these Regulations requires that 'The Commission shall consist of a chairman and two other members'. Accordingly the Gujarat Public Service Commission consist of a Chairman and two members.

The members appointed on the Gujarat Public Service Commission during the years 1960-61 to 1975-75 reveals

that the appointments made by the Government of Gujarat is generally satisfactory. The list of Chairmen and members given in Appendix VI depicts only one case* in which it looks like that the political consideration may have played the part. From the point of view of qualifications, of the eleven members so far appointed, 5 members are from the Arts section, 2 from the Science section, 2 from Engineering, 1 from medicine and 1 I.A.S. It also seems that the Government has taken care to appoint persons from scheduled castes and minorities. So far, two members from scheduled castes, two from the Muslim community and one from the minority caste has been appointed. But no one from scheduled tribes has been appointed. It is noteworthy that the Government of Gujarat has appointed one member from outside the State as well. In fact this member is from Gujarat but was serving as a Chief Engineer in M.P. However, it is surprising that the Government has given more weightage to the official element in the Commission. In this regard Dr. A.R. Tyagi reminds us that the bureaucracy tends to support status quo and hence the welfare state

* In 1967, Shri Y.H. Palejwala was appointed as a Chairman. He was a politician and held the office of speakership in Gujarat Legislative Assembly. He was defeated in the General Election.
cannot be left entirely into the hands of this class. What is required is the combination of philosophy and practice, idealism and pragmatism and also conservatism and progressivism.

In comparison to the other states, the strength of the Gujarat Public Service Commission is small. Kerala which is a small state in area and population, has a strength of seven members. At the same time, it is noteworthy that the strength of three members has remained the same since 1960. In view of the expansion of the activities and the developmental works undertaken by the Government of Gujarat, the strength of the Commission should be increased so that it can shoulder the responsibilities. In fact on 11th September 1968, one MLA made a plea to increase the strength of the Commission.

Regarding the mode of appointment, many writers have voiced their concern. Prof. R.A. Deshpande, in his article writes that it is desirable that there should be

1 Gujarat Legislative Assembly debates 11-11-68 p.1193.
2 Deshpande R.A. 'Organisation and Functions of PSC' in Civic Affairs vol. 8 No. 4 Nov. 60.
sufficient scrutiny and consideration in the selection of the members of the Public Service Commissions and it would be better if a convention is made that the Chief Minister or the Prime Minister should suggest a panel of names (at least three names for every post) for filling up the posts of members of state and Union Public Service Commission to the Governor or the President who should select from the panel, if necessary in consultation with the Chairman of the Union or State Public Service Commission. The A.R.C.'s Report of the Study Team on Recruitment, Selection, U.P.S.C./State P.S.Cs. and Training recommended that "In making appointments of Members of a State Public Service Commission, the State Government should be advised by a panel consisting of: (i) the Chairman of the Union Public Service Commission or his nominee; (ii) the Chairman of the State Public Service Commission (even in the appointment of his successor); and (iii) a nominee of the State Government. It also recommended that "It would add to the image of impartiality of a State Public Service Commission if a Member

from a different state is appointed to it".  

2. **Qualifications of the Members:**

In order to ensure the independence and integrity of the Public Service Commission, some writers want to prescribe the qualifications for the members. Dr. A.R. Tyagi suggests that "As duties of the Commission are partly of judicial and partly of administrative character, selection of the other half of its Members should be made from amongst distinguished members of the Bar, retired judges, eminent educationists and from other social spheres of the public life".  

However a convention should be established by which persons of active political life may be excluded. The States Reorganisation Commission made a suggestion that "It is desirable......to constitute State Public Service Commission in such a manner as to ensure that those bodies are not affected by particularist trends". A model state Civil Service Law prepared by the U.S. National Civil Service League provides

* It is noteworthy that an appointment of non-Gujarati, Mr. Zutshi as a Chairman of the Gujarat Public Service Commission in August 1980, provoked the public opinion.

that "No members of the Commission shall be a member of any local, State, or national Committee of a political party or an officer or member of a Committee in any partisan club or organisation, or shall hold, or be a candidate for any, paid political office" Dr. A.R. Tyagi tries in vain to suggest that the members must possess three qualifications: (1) Integrity and vision (2) Administrative ability (3) knowledge of Personnel Management. Now, it is very clear that these qualifications are difficult to define and may create confusion in actual practice.

Report of the A.R.C. on Personnel Administration has tried to prescribe certain qualifications for the members to be appointed on the Commissions. Accordingly "(1) the minimum academic qualification for membership of commission should be a university graduate, (2) A member selected from among Government officers should have held office under a state government or the central government for at least ten years, and should have occupied the position of a head of department or Secretary to Government in a State, or a post of equivalent rank under the Central Government or a comparable position in an institution of higher education; and (3) Members
selected from non-officials should have practised at least for ten years in any of the recognised professions like Teaching, Law, Medicine, Engineering, Science, Technology, Accountancy or Administration.\textsuperscript{1}

In Gujarat, the members have been drawn from legal, medicine and engineering profession. So far all have been graduates.

3. Tenure of Office:

In order to ensure the independence of the Commission, tenure of office of the members of the Commission has been provided in the constitution itself. A member holds the office for the period of six years or until he attains the age of 65 years in the case of Union Commission or of 62 years in the case of State Commission. Formerly the age of retirement was that of 60 years but by the 43rd Constitution Amendment Act 1976, the age limit has been raised to 62 for the members of the State Commission. Shri H.V. Kamath who was the member of the A.R.C. has appended a note of dissent to the Report on

\textsuperscript{1} Administrative Reforms Commission: Report on Personnel Administration, New Delhi, Manager of Publications, 1969 pp.122-123.
Personnel Administration in which he has recommended that the retirement age of the members of the State Public Service Commission should be raised from 60 to 62.

The Report of the study team on recruitment, selection, UPSC/State PSCs and training recommended that "The age upto which the Chairman or other Members of the State Public Service Commission can hold office may be raised to 65 years by amending the relevant provisions of the constitution". Under the Government of India Act 1935, the tenure of office of the members of the Public Service Commissions was left to be determined by regulations to be enacted by the Governor-General in the case of Federal Public Service Commission and the Governor in the case of Provincial Public Service Commission.

Regarding the tenure fixed for six years, it cannot be argued that a limited tenure as such limits the independence. In Britain, the members of the Civil Service Commission hold office during the pleasure of the crown and retire at the age of superannuation. Moreover,

there is no justification for the present discrimination between the members of the Union Commission and State Commissions as provided for in Article 316(2) of the Indian Constitution. There is no logic in saying that a person who ceases to be the member of the State Commission on account of age, is suitable to be the member of the Union Commission. Moreover the fixed tenure does not prompt the members to take deep interest in the personnel problems. On the other hand, there is a counter argument that if the tenure is made permanent, then the members of Commissions will be disinterested in the work of the Commission. But this argument loses its ground if we consider the experience of the functioning of the judges of the Supreme Court and High Courts who are in the same constitutional position with the members of the Commissions.

In addition, it has been further provided in the constitution that on expiration of the term, the member or the Chairman shall be ineligible for re-appointment to that office or for any other employment under Government. The only exception is that a member of Union Public Service Commission may become Chairman of the Union Public Service Commission or any other State Public
Service Commission, the Chairman of a State Public Service Commission may become Chairman or Member of the Union Public Service Commission or Chairman of any other State Public Service Commission and a member of the State Public Service Commission may become a Member or Chairman of the Union Public Service Commission or Chairman of a State Public Service Commission. Thus the Chairman and a member of a State Public Service Commission can have no further employment under the same state except that a member of a State Public Service Commission may become Chairman of that Public Service Commission. But that too, he can hold office only till he attains the age of 62 years.

Dr. Ambedkar, introducing this article in the Constituent Assembly, has observed that, "I think that is a very salutary provision because any hope that might be held out for reappointment, or continuation in the same appointment may act as a sort of temptation which may induce the member not to act with the same impartiality that he is expected to act in discharging his duties. Therefore, that is a fundamental bar which has been provided in the draft article". On this subject, there was a strong feeling that a member or Chairman of Public Service Commission, on
ceasing to hold office, should not be debarred from serving the Government. But the House did not accept even serving the Government in an honorary capacity.

On this aspect, Mr. Ambedkar observed that "...personally I am not now inclined to accept that suggestion. Our whole object is to make the members of the Public Service Commissions independent of the executive. One way of making them independent of the executive is to deprive them of any office with which the executive might tempt them to depart from their duty. It is quite true that an office which is not an office of profit but an honorary office does not involve pay. But as everybody knows pay is not the only thing which a person obtains by reason of this post.... there is a certain amount of influence which an office gives to a person. And I think it is desirable to exclude even the possibility of such a person being placed in a post where although he may not get a salary, he may obtain certain degree of influence".

The Public Service Commission which was constituted in 1926, provided that the Chairman after retirement on the completion of five years' service would not be eligible for any appointment under the crown in India. But this rule did not apply for the members. Under the
Government of India Act 1935, the Chairman of the Federal Public Service Commission would be ineligible for further employment under the crown in India and the Chairman of the Provincial Commission was made eligible either for the Chairmanship of the Federal Commission or for membership of that Commission or for the Chairmanship of the other Provincial Commission but not for any other employment under the crown in India. However, other members of the Federal and Provincial Commissions might be appointed to any other office under the crown in India with the approval of the Government in regard to an appointment in a Province and with that of the Governor-General in regard to other appointment.

The remote possibility that members retiring from State Commissions can be re-employed in the Union Commission or in statutory bodies like universities etc. are factors which may discourage independence in members since some of them would like to have the favours of the executive. Statutory bodies like the university and public corporations are not government departments in law.

Mr. S.B. Bapat Ex-Secretary to the Ministry of Home Affairs¹ has testified to the fact that some state have

appointed retired members of the Commissions in statutory bodies and in the case of one kind of statutory body viz. universities, an interchange between Vice-Chancellorship and membership of a Commission has now become a regular feature.

These limitations have, on the whole, contributed in having a fresh blood in the Commission. Dr. Muttalib remarks "The fixity of tenure has enabled the President to maintain a proper proportion of official, non-official, technical and administrative background of members by filling the vacancies created at reasonable intervals". On the other hand this provision has created certain side-effects. Because of this provision, a person who accepts the appointment as a member or Chairman of the Commission must either be nearing the end of his public career or be in such occupation in which further Government employment is not of interest. Persons in mid-career are not attracted to the membership because of this provision. In fact Ex-Chairman of the Gujarat Public Service Commission repented for this state of affairs. While one of the members of the Gujarat Public Service Commission argued that a person joins the Commission after the full knowledge of this consequence,
and so in that case he should not accept the invitation to join the Commission.

Since the older persons work on the Commission, the problem of generation gap also operates in the recruitment. So far the implication of the qualities that get emphasized in the evaluation process, especially in relation to attitudes, beliefs and values, there is likely to be the differences. Generally the older generation likes to go ahead with a status-quo position, while the younger generation are more emotionally attached with the changes. Some writers, for these reasons, favour the appointment in the age group of 35 years to 40 years. In this regard the Report of the study team on recruitment, selection, UPSC/State P.S.Cs. and Training recommended that "In order to dispel the atmosphere of suspicion and to attract comparatively young and able men, the existing restrictions on employment of the Chairman or other Members of a Public Service Commission under Government on ceasing to hold office may be removed".  

1 Administrative Reforms Commission: Report of the Study Team on Recruitment, Selection UPSC/State P.S.Cs. and Training, New Delhi, Manager of Publications, 1967 p.34 (para 2, 6, 7).
4. Removal and Suspension of Members:

The Chairman or member of the Public Service Commission can resign from office if he so wishes by giving resignation to the President in case of the Union Commission or to the Governor in case of the State Commission. So far in Gujarat Public Service Commission no one has resigned on his own.

Under Article 317 of the Constitution, the Chairman or the member of the Public Service Commission can be removed from his office by an order of the President on the ground of misbehaviour. This provision is intended to give as much security and protection to the members of the Commission. Under Article 317(3), a member shall be deemed to be guilty of misbehaviour (i) if he is in any way concerned or interested in any contract made on behalf of the Government of India or of a State; or (ii) if he participates in any way in the profit of such contract or agreement or in any benefit therefrom in common with other members of an incorporated company. But the President can remove on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the
procedure provided in that behalf under Article 145 of the constitution, reported that the Chairman or such other member as the case may be, ought on any of such ground to be removed. On pending enquiry into such a case by the Supreme Court, the President or the Governor may suspend from office the Chairman or member of the Commission until he has passed orders on receipt of the report of the Supreme Court on such reference. It is to be noted that even in the case of a State Commission, it is only the President who can make a reference to the Supreme Court and make an order of removal in pursuance of the report of the Supreme Court.

The Supreme Court has laid down certain rules of procedure for hearing a reference under Article 317(1). They are:

(1) "On receipt by the Registrar of the order of the President referring to the court a case for inquiry under Article 317(1) of the Constitution, the registrar shall give notice to the Chairman or members of the Public Service Commission concerned and to the Attorney-General for India or the Advocate-General of the particular state to appear before the court on a day specified in the
notice to take the direction of the Court in the matter of the inquiry. A copy of the charges preferred against him shall be furnished to the respondent along with the notice.

(2) The court may summon such witnesses as it considers necessary.

(3) After the hearing of the Reference, the Registrar shall transmit to the President the report of the court.

(4) No court fees or process fees shall be payable in connection with any reference dealt with by the court under this order".

In addition, the Chairman or Member of the Commission becomes automatically disqualified if (i) a member or Chairman is adjudged as insolvent or (ii) he engages, during his term of office, in paid employment outside the duties of his office or (iii) he is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

So far no Chairman or Member of the Gujarat Public Service Commission have been removed on the grounds specified in the Constitution.
5. Conditions of Service:

To maintain independence of the Commissions from the executive, the constitution has provided for two more safeguards over and above the provisions relating to tenure and removal and suspension of the members. They are: (1) Under the Proviso to Article 318 it is provided that "The Conditions of service of a member of the Public Service Commission shall not be varied to his disadvantage after his appointment" (2) Under Article 322 of the constitution, it is provided that "The expenses of the Commission are charged on the Consolidated Fund of India or of the State.

The members of a Provincial Public Service Commission, according to white paper, were to be appointed by the Governor, who were to determine at his discretion the number of members, their tenure of office and conditions of service, including pay, allowances and pensions, if any. The emoluments of the members of all the Commissions were to be voted by the legislatures.

It is noteworthy that the terms of office of the members of the Commissions has been fixed by the Constitution but their conditions of service have been left to
be determined by regulations framed by the President in the case of the Union Commission and by the Governor in the case of the State Commission. The terms and conditions of service include the salary of the members of the Commissions. So naturally the conditions of service differ from State to State. This provision is a definite improvement on the Act of 1935 in so far as it has been now provided that the conditions of service of a member 'shall not be varied to his disadvantage after his appointment'. Moreover it is worthwhile that the determination of the conditions of service is left to the President or the Governor as the case be and not included in the Constitution itself. The salary and conditions of service is such a matter which requires review from time to time and so if it is left in the hands of the executive, only then it can be reviewed in time.

The Constitution has made a salutary provision by providing that the expenses of the Commissions shall be charged on the Consolidated Fund of India or the State as the case may be. This makes it incumbent on the Government to incorporate in the budget "the sums required to meet expenditure charged upon the Consolidated Fund of
the Union or the State" (Article 202). Neither the Government nor the Legislature can make the Commission impotent by starving it of finances. The item of expenditure charged upon the Consolidated Fund are open to discussion in the Legislature but the letter is denied the right to move cut motions.

Under Article 318 of the constitution, the Governor of Gujarat notified the 'The Gujarat Public Service Commission (conditions of service) Regulations, 1960 on 12th May 1960. These regulations have been amended from time to time in order meet the demands of the Commission. In 1960, the Chairman and members were paid the salary of Rs.2250/- and Rs.1750/- per mensem respectively. At present under Rule 5(1) it has been provided that "subject to the provision of this regulation there shall be paid to the Chairman a salary of Rs.3000/- per mensem and to each of the other members a salary of Rs.2500/- per mensem". Moreover it is provided that if in case the Chairman is absent and the member is required to perform the duty, he is entitled to get the special pay at the rate of Rs.300/- per mensem subject to the condition that his total emoluments do not exceed Rs.3000/- per mensem. The Regulations also provide for the leave, pension and provident fund etc. for the Chairman and Members.
It is noteworthy that no member has complained of the service conditions and they are satisfied by the present pay. In comparison to the other states also, the position is satisfactory.

Regarding the conditions of service, the Conference of Chairmen of Public Service Commissions held on 18th to 20th Nov. 1974 at New Delhi has noted that "there is considerable variation in salaries of Chairman and Members of one State Public Service Commission from another and further even in a particular State Public Service Commission, salaries of Members vary. The Conference felt that salaries of Members and Chairman of State Public Service Commissions should be commensurate with their functions, constitutional positions and responsibilities. The conference, therefore, was of the view that a Chairman of the State Public Service Commission should receive the same salary as the Chief Secretary to the State Government and the Members should receive the salary admissible to the Commissioner of Divisions."1 It also recommended that "the Chairman and

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Members have a fixed tenure of only six years unlike the Judges of the High Courts, has also to be taken into consideration while fixing the pensionary benefits of the Chairman and Members of the Public Service Commissions.  

6. Staff of the Commission

The Constitution of India in its Article 318 provides for the staff of the Commission. It reads - "In the case of the Union Commission or a Joint Commission, the President and in the case of a State Commission, the Governor---of the state may by regulations---

(a) determine the number of members of the Commission and their conditions of service; and

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.¹

Under the powers conferred by the Constitution of India, the Governor of Gujarat has made regulations called

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"The Gujarat Public Service Commission (conditions of service) Regulations, 1960 which have been subsequently amended. In part II which refers to the composition, the Rule 18 of the Regulations provide that "The staff of the Commission shall, in addition to the Secretary include such numbers of the other gazetted officers, superintendents, assistants, stenographers, clerks and typists and also such number of class IV servants as the Governor may, from time to time, determine:

Provided that the Commission may, for special reasons employ temporary staff at a cost not exceeding Rs.3000/- in any one year."

The Secretary of the Commission is appointed by the Governor after the consultation with the Chairman. He holds office for the period of three years. The Tenure of the Secretary can be extended upto three years by the Governor. He receives the pay according to the time-scale to which he is entitled in the state service to which he belongs and entitled to get the compensatory allowance as admissible to the members of a Gujarat State Service under the Bombay Civil Services Rules. If the Secretary is not a member of any state service, he
receives the pay and allowances as the Governor may determine but not less than Rs.950/- per month. The conditions of service of the Secretary are such as are applicable to a member of a class I State service. If in case the Secretary is not a member of a state service, the authority who may impose any of the penalties prescribed in Rule 49 of the Civil Services (classification, control and appeal) Rules shall be the Chairman and the appellate authority shall be the Governor. The names of the secretaries who have held the office from 1960-61 to 1975-76 is given in the Appendix VII.

The Secretary appoints the Superintendents, assistants, Stenographers, Clerks and Typists with the previous approval of the Chairman in the case of a post carrying the salary of more than Rs.100/- per month. Generally this staff is drawn from the State services and so receives the pay to which they are entitled. The Ministerial Establishment is under the same conditions of service as the personnel of corresponding grades in the Secretariat. The Secretary appoints the Class IV servants and their pay, allowances and conditions of service are same as that of the corresponding grades in the Secretariat.
In the beginning, the Commission started with the Secretary and other superintendents and senior/junior assistants, clerks, typists and steno-typists. But looking to the work load the post of Assistant Secretary was created from 30th December 1960. With a view to assist the Secretary, the post of Deputy Secretary was created in January 1967. In 1976, the post of Assistant Secretary was also upgraded by the Government to that of Deputy Secretary. At present, there is a Secretary and two Deputy Secretaries.

The office of the Commission started functioning with two sections in May 1960. Then two more sections were created. After that, the office was divided into six sections. At present there are six sections and the work assigned to them are as follows:

1. Section A: To receive the orders of the Commission and to handle the personnel aspects of the Departments of Agriculture, cooperation, General Administration Department, Home, Forest, Public Works including Roads and Buildings and Irrigation. Moreover it also handles the aspects of the Establishment of Gujarat Public Service Commission, Commission's Consultation Regulations and Commission's conditions of Service Regulations etc.
(2) **Section B:** It handles the matter relating to recruitment, promotion, inquiry etc. of the Departments of Health, Panchayat, Law, Finance, Town Planning, Archeology, Industry, Geology and Mining etc.

(3) **Section C:** It looks after the preparation of the rules of the Departmental Examinations of the Gazetted and Non-Gazetted Officers and makes the necessary planning for the Competitive Examinations.

(4) **Section D:** It looks after the Competitive Examinations of the Non-Gazetted posts, clerks of the Secretariat, Deputy Mamlatdars, Rangers Course, Junior Translators, Reporters, Typists and Stenographers.

(5) **Accounts Branch:** It looks after the Pay Bills, Advertisement Bills, Honorarium to be paid to the experts and remuneration to be paid to the Examiners.

(6) **X Branch:** This is a Confidential Branch. It gives dummy numbers to the answer books of the Competitive examinations, sends the answer books to the examiners, checks the mark-lists, derives the original numbers from that of the dummy numbers and prepares the result. It also looks after the printing of the question-papers.
The accounts section is directly under the supervision of the Secretary. Of the two Deputy Secretaries, one looks after the Establishment and the other after the Examinations. Sections A and B are under the supervision of the Deputy Secretary Establishment and Sections C, D and X are, under the supervision of the Deputy Secretary Examination. The Secretary changes over the duties assigned to the two Deputy Secretaries. Such a change is necessary in view of the confidential nature of the functions that the Commission performs.

At present there are 3 class I officers, 6 class II officers who look after the six sections, 21 Assistants and 21 clerk-typists and class IV employees. The organizational chart of the Commission gives the hierarchical set up of the Commission. During the sixteen years of its existence, the workload of the Commission has increased manifold. The Appendix VIII gives number of meetings and the volume of correspondence that the Commission does every year.

Since the workload of the Commission is increasing in quantity and complexity, the staff of the Commission should be adequate and efficient. In this respect, the study team on Recruitment, Selection, UPSC/State PSCs.
and Training has remarked that "it is important that the Secretariat of the Commissions are staffed with competent personnel in adequate numbers. There is a great demand on the time of the Members of a Commission and if they are to discharge their responsibility in an official manner, they should have the assistance of competent staff". The Chairman, Union Public Service Commission, at the conference of Public Service Commissions in India, on November 1976 assured all States Service Commissions that "the UPSC would provide all possible facilities to officers and staff of State Public Service Commissions who may be deputed to study the techniques, methods and procedures adopted by the UPSC for recruitment, examinations, etc."

The more relevant question in this regard is whether the staff of the Commission should be drawn from the Government Secretariat or not? The study Team on Recruitment, Selection, U.P.S.C./State P.S.C.s. and Training suggests that "The Secretariats of some of the


State Commission are small with the result that promotional opportunities for the staff are few, with little incentive for good work. Wherever the Secretariats have been constituted into separate units, it would be desirable to give up the practice and allow free exchange of personnel between the Public Service Commission and the Government departments, so that there are better avenues of promotion. Transfers of personnel of the Commission to the Government Secretariat and vice-versa should be made invariably with the concurrence of the Chairman of the Public Service Commission. In this respect, referring this problem in connection with the Union Government, Hejmadi and Pai Panandikar remark that "Almost all the personnel of the Commission's Secretariat are drawn from the staff already in service with the Government of India. This arrangements has brought about some useful administrative understanding between the various Ministries and the Commission. Also, since the General procedure followed in both the Government and the Commission has been the same, the problems of staff adjustments have been minimal and the acceptance of the "insider" new comer by the existing staff has been fairly easy."2

1 ibid. para 2.7.3, p.35

On the other hand, there are others who dislike this practice of drawing the staff from the Government Secretariat and they advocate for a completely independent staff. Shri Hejmadi and Pai Panandikar remarks that "this practice has virtually prevented adequate professionalisation of the Commission's functions. While most of these require greater and greater professional understanding of the personnel function, the Central Service Staff has been able to give only clerical and routine support. Problem areas in the operations of the Commission or improvements in its working have not been clearly pinpointed or examined. Initiation of such innovation too has been left to the Commission itself, and the Commission being in practice an executive and not a staff body, the functions of policy and organizational planning, and research have gone unattached. Lack of professionalization of the Commission's staff in terms of a commitment to personnel administration will perpetuate the existing problems" ¹ Dr. A.R. Tyagi remarks that "In order to equip the Public Service Commission for adequately playing the impending role, the first necessity is that the Commission should be manned by its own

¹ Ibid.
independent staff. The present system of deputing administrative officers from the Departments does not only keep the Commission understaffed but also exposes it to extraneous influences."¹

In Gujarat, the Secretariat of the Commission is often under-staffed and the Commission has to request the Government for additional staff. The Commission is authorised to employ temporary staff at a cost not exceeding Rs. 3,000 in any one year. But this is a very small amount looking to the needs of the Commission. This problem was also raised in the Legislative Assembly by the Ex-M.L.A. Shri Gosaibhai Patel on 3rd September 1963. He said "But looking to the scope of the Commission and the work that it faces, I feel that its staff should be increased so that the work can be disposed of in time"². Moreover the staff is drawn from the Government service and so it merely helps the Commission in clerical and routine work. It lacks the professionalisation which the Commission requires. Very often, this arrangement gives

¹ Tyagi, A.R., Civil Service in a Developing Society.
² Legislative Assembly Debates, 3rd September 1963.
an impression that the Commission is also just like a Government department and a part of the bureaucracy.

This problem leads us to think that there should be the separate staff of the Commission. If the problems like promotions and transfers are puzzling, then arrangement should be made in such a way that the staff of the Commission may be promoted or transferred to the Government service but not that of Government to the Commission. Dr. Tyagi has proposed to have a separate service on the lines of I.A.S. and other allied services. He proposes that "This service should man all the higher administrative and technical posts in the Union and State Public Service Commissions. They should be specialized in personnel matters and should be transferable from one Commission to the other." This is a worthy suggestion but the language problem will come in.

7. Financial Matters of the Commission

Under article 322 of the Constitution of India, "The expenses of the Union or a State Public Service Commission,

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1 Dr. Tyagi, A.R.: Civil Service in a Developing Society.
including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission shall be charged on the Consolidated Fund of India, or as the case may be, the Consolidated Fund of the State”.

Thus the Constitution of India has made the Commissions independent so far the financial matters are concerned. The Appendix IX shows the receipts and expenditures made by the Commission. The receipts includes the examination fees and the proceeds of application forms. The expenditure includes the salary, wages, office expenses, rent and taxes, advertisement charges, remuneration and honorarium etc. Under the Regulations as referred above, the Commission is authorised to spend upto Rs.3000/- for the appointment of temporary staff in the Commission Secretariat.

The Conference of Public Service Commissions in India held on 15th November, 1976 discussed this aspect. Chairman of the different State Public Service Commissions mentioned that "the financial powers enjoyed by the Commissions were not adequate and that the restrictions on these powers adversely affected the efficient discharge of their functions". The consensus of opinion was that
"the financial powers of the State Commissions should be commensurate with the status assigned to them under the Constitution; the Commissions should be provided with adequate funds and equipped with requisite financial and administrative powers so that they can discharge their functions smoothly. It was also suggested that within the budgetary allocations placed at their disposal, the Service Commissions should be free to make reappropriation". In Gujarat the present limit of Rs.3000/- authorised to spend for the appointment of temporary staff in the Commission should be increased. The Commission is under heavy burden of recruitment and receives number of applications every year. Looking to the needs of the Commission, the financial allocation should be made adequate enough so that it can discharge its functions efficiently.