INTRODUCTION

I expressed my views to my guide Pro. Dr. A.A. Khan LLM, Ph.D. Law to work for Civil service which is integral part of the Government and suffering from several defects. He heartily consented with my thought and I prepared a topic entitled as "A CRITICAL STUDY OF CIVIL SERVICES UNDER THE INDIAN CONSTITUTION WITH SPECIAL REFERENCE TO CENTRAL CIVIL SERVICES" under his guidance. Pandit Ravishankar Shukla University, Raipur allowed me to work on the topic. Being inspired of the permission from the University I started my research work under the Successful guidance of my guide/supervisor, Dr. Khan.

We are living in India which is known to be a developing country. It has to do much more progress for its people. The aim of our constitution is to make India a welfare state insuring justice, liberty, equality and fraternity to all its people. Among three organs of the state, the executive branch (Civil Service) plays an important role during implementation of Laws and policies of the government. The law and order, peace and safety, development and prosperity of the nation mostly depend upon the efficiencies and honesty of this executive branch which is consisted with the bureaucrats, technicians and subordinate employees, who are responsible for their work to the Government to the superior officers and lastly to the people.

As we are governed by the Rule of law these executive branch are also governed by the rules and the conditions of service applicable to them. Such rules must be fair and reasonable for effective working of this branch.

Whether these rules regulating the recruitment and conditions of service
are just fair and reasonable and adequate to achieve the goals expressed in the preamble of our constitution and whether the existing rules are actually the civil service Rules? What does mean by civil service? Is there any method or principle for the implementation or execution of Law? Whether the delinquent Government servant possesses under the law sufficient protective right of defence in department enquiry cases? Whether the term "Servant" is in conformity with the Preamble of our constitution and whether it may be substituted by any appropriate term? are the main problems of the research work. The adequate and appropriate answers of the problems have been obtained through study, interviews and direct observations.

Provisions as to Civil Services have been made in part XIV and XIV-A of the constitution under which recruitment and conditions of services have been directed to be regulated by the law framed by appropriate legislatures.

It has been provided that until such laws are framed by the appropriate legislatures the rules, regulating the recruitment and conditions of services of the persons serving in the center may be framed by the president of India and for the persons serving in the states, such rules may be framed by the Governors of the States under proviso to Article 309 of the constitution. Article 310 provided as to the tenure of office with the pleasure of the president or Governors of the states, while Article 311 incorporates the provisions for dismissal, removed & reduction in rank of the civil servants. Article 312 deals for I.A.S. and Article 313 is transitional provision. In last fifty years of time several such rules have been framed by the president of India and Governors of the States.

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(i) The Central Civil Services (Classification, control and Appeal) Rules 1965 [CCS CCA Rules]
(ii) Central Civil Services conduct rules 1965
(iii) The Central Civil Servicer (Temporary Service) rules 1965
(iv) The central civil services (pension) Ruler 1972
(v) The Central Civil Services (Leave) Rules 1972
(vi) The Central Civil Services (Joining Time) rules 1979
(vii) The central Civil services (revised pay) rules 1997
(viii) Memoranda explanation the Central Civil services (revised pay) rules 1997
(ix) The Central Civil services and Civil posts (upper age Limit for direct recruitment) rules 1998
The framers of the constitution had already determined the goal for achieving the rule of law along with the interest of the society and the nation as well. So we must keep in mind this vary object of the constitution makers while framing or implementing any of the laws or the rules under the provisions of the constitution.

As per Roscoe pound law is social engineering and the social workers lawyers, jurists and Civil Servants are the social engineers whose duty is to make a fraction free society ensuring its prosperity and well being.

It is the Civil Servants who make the nation functional. Therefore the Civil Service laws, Rules and Regulations must be effective and beneficial to the Government Servants. Such laws and Rules must confirm, the present demand of the society. Such laws and Rules must not be outdated. So also such rules must confirm the basic needs, honour, dignity and safety of the Civil Servants ensuring upon them a sense of belief and faith towards the superiors in the matter of their routine work and departmental actions against them. Lacking any of elements as stated above would effect the efficiency of the Civil Servants resulting of which would be the stop of the prosperity and well being of the people for whom the Civil Servants are devoted.

It appeared that after independence no concrete steps have been taken by the appropriate legislatures to formulate detailed service laws as provided by Article 309 of the constitution for the benefit and effective working of the Civil Servants. Only certain British model rules are available. So also those rules are not up to date and are outdated. The Conditions under which the Government servants are working are not pressure free. They are compelled to follow the arbitrary orders of the supervisors, which are generally guided by politicians.

In several cases it has been decided by the Hon’ble Supreme Court...
that the Civil Service Rules and pension Rules made by the Central Government are irrational, and unconstitutional. They are arbitrary and lack of human dignity. There are arbitrariness in execution and are violative of the Principle of natural justice in the name of discretion and justice. There is oppressiveness and unreasonableness in the rules made by the states. Some are unjust, inequitable and partial. While some are hire and fire provisions Equal pay for equal work have been denied, discriminatingly. It has been held that recruitment without notification is unconstitutional. Termination of a casual labour who had worked for more than 10 years, was held punitive. It was held that termination order can not be passed without holding a regular enquiry.” The order of termination without any stigma against the employee was set aside. The A.P. educational service untrained teachers regulation of service and fixation of pay Act-sections 2 and 3 (a) were struck down being arbitrary and violative of Article 14 & 16 of the constitution

The judicial decisions as stated above reveal that so may civil service Rules are arbitrary, illegal, violative of principle of natural justice and unconstitutional why?

The higher authorities apply the method of arbitrariness in the exudation of law and often misuse their discretionary powers, Why?

(1) Panduranga Rao Vs A.P.P. SC. AIR 1963 Sc 268
(2) D.S. Nakara Vs Union of India AIR 1983 Sc 130
(3) Air India Vs Nargish Meerza AIR 1981 Sc 1829, AIR 1998 Sc 18
(4) State of Maharastra Vs Chandrobhan (1983) Scc 38
(6) A.K. Kraipak Vs Union of India AIR 1970 Sc 150
(7) Central Inland water transport corporation Ltd. Vs Brojonath AIR 1986 Sc 1571
(9) Indravandam Vs State of Gujrat AIR 1986 Sc 103S
(10) State of Maharastra Vs Rajkumar AIR 1982 Sc 1301
(11) Ibid
(12) West Bengal State electricity Board Vs desh bandhu Ghose AIR 1985 SC 722
(13) U.P. Rajya Ssahakari Bhoomi Vikash Bank Ltd Vs H.S workers AIR
(14) Gopika renjan Chaudhari Vs Union of India. AIR 1990 SC 1212
(16) Narsingh pal Vs union of India AIR 2000 SC 140
(17) V.P. Ahuja Vs state of Punjab AIR 2000 Sc 1080
(18) Union of India & others Vs A.P. Bajpai & other AIR 2003 SC 923
(19) P. Tulsidas & others Vs Govt of A.P. & others AIR 2003 Jan part
In departmental cases the penalties are awarded against the delinquent government employee without any established norms of laws, why? No answer or solution is available for the above said problems as yet. I tried my best also to find out any answer or solution of the said problems in the works of some eminent scholars which received from ICSSR¹ but did not succeed. Hence I needed the present study in the public interest.

I have confined my study within the scope of the above said problems. Further I believe truthfully that the conclusions and suggestions of the thesis would be useful, beneficial and practical in favour of the Government, Government servants and public at large.

For coming to the conclusions analytical case, law study, and descriptive methods have been applied in the thesis.

For the convenience of study the thesis has been divided in IX chapters.

Chapter I entitled "Civil Service Rules" This chapter produces general introduction of civil Service and Civil Service Rules. The traditional meaning of civil service and Civil service rules have been stated here. In addition their terminological meaning (as in practice) based on literatures along with their scope and limitations have been explained and established. This is the new approach towards the meaning of civil Service in the present study. This approach has been extended and well explained in conclusion of the thesis.

Chapter II comprises with the title "Historical Perspective of civil Services". In this chapter the origin and evolution of civil service right from the Vedic Age up to the British period in India have been stated and discussed. It has been explained that with the growth of the civilization and society the Civil service

(1) Indian Coun of Social Science Research, New Delhi
also grown up simultaneously and became the foundation of the structure of the present civil Service embodied in the provisions of the constitution of India.

Chapter III of the Thesis deals with the title “Law and the Rules in the Present context”. It is the undisputed fact that the Civil Service is connected directly with the exection of law. Therefore chapter III defines, explains and interprets the law and the Rule. The civil service operators within the framework of the law and the Rule as provided in the constitution of India and civil service Rules. The civil service Rules derive its authority from Article 309 of the Constitution. Therefore these rules are the law. Whether these civil Service Rules contain the essential element of a law viz-preamble, object scope limitation etc, and whether the complex words like misconduct, discretionary power, etc have been defined and explained? In order to determine these elements in civil service rules, a comprehensive definitions of law of various school of jurisprudence have been produced in this chapter and well tested and found in the study that the Civil Service Rules of the Centre do not contain those essential elements of law: Apart from these findings, the meaning of the rules in the constitution of India, and the Civil Service rules and their in present position has been highlighted: This chapter also contain the central civil service Rules for reference in the study.

In this chapter, it was found in the study that the law consists two parts- (i) enactment and (2) execution this execution is actually the civil service. It has been well established. It is a new approach and explained in conclusion of the thesis.

Chapter IV bears the title “Judicial Attitude in the Civil services under the Indian Constitution”. The present civil Service characterised with the principles

(1) Yadav Vs state of Haryana AIR 1981 Sc 561 (Para 46-47)

Dinesh Vs State or Asham AIR 1978 Sc .17. (21)
XI

of equality, equal opportunity in public employment reservation of scheduled castes, scheduled tribes and other backward classes: There is also constitutional protection against removal, dismissal and reduction in rank in favour of the Civil Servants. Provision as to Civil Service, in Article 309, 310, 312 and 313 have been provided proviso to Article 309 authorises the president of India and Governors of the States to frame rules regulating for the recruitment and conditions of service of persons serving in the Union or in the states. These rules are at present in existence which have been framed by the president and Governors of the states. In the matters of recruitment, conditions service, tenure of their office and actions for removal from service are taken by competent authorities against their subordinates. Whether the actions taken against the government employee confirm the principles and norms as enshrined in Article 14, 16, 21, 310, 311 of the constitution? The Supreme Court has tested so many issues and actions taken by the authorities and set aside most of the orders of the authorities, declined so many rule illegal and unconstitutional Held the exercise of discretionary power arbitrary with the touch stone of Article 14, 16, 21 and 311 of the Constitution. We find impartial and justified views of the Supreme Court in favour of the Government employee and against the Government. Thus there is vast judicial attitude in favour of employees in regard to Civil Service. With the help of case law study conclusion have been drawn up and suggestions made as per judicial directions.

Chapter V throws light on the concept of Rule of law and the principles of natural justice under "Title Basis Principles of Law to be followed by the authorities" Actually the Rule of law and Principles of natural justice are the main elements of Administrative law. The Civil Service is the part of the administration and these two concepts are well applied in civil services, specially
in Departmental enquiry cases: Violation of the rule of law or the principles natural justice vitiates the D.E. proceedings and the delinquent Government employ may very well challenge the D.E. Proceeding or orders passed there under in department appeal or before the tribunals or High Court or In Supreme Court. Both the concepts have been discussed in chapter V of the thesis.

Chapter VI entitled- "Judicial Control against- Administrative Actions" In this chapter judicial Review against administrative actions and discretionary power have been discussed in the light of the judicial decisions. In D.E. cases the delinquent Government employees are often penalised, therefore penal proceedings and their remedies in the form of appeal, representation and writs along with their principles have been discussed in the light of the judicial decisions.

Chapter VII entitled as "Comparative study of Civil Services." In this chapter Civil Services of different countries have been studied comparatively and lastly a concussion drawn up for India.

Chapter VIII Entitled "Civil Service Rules and public opinion" Interviews of eminent executive officers, jurists as to civil services have been taken and appropriate conclusion drawn up.

Chapter IX is devoted for "Conclusions and Suggestions." All the research works have been concluded and suggestions made in this last chapter.