CHAPTER XIII

MISCELLANEOUS ACTIVITIES

Miscellaneous Activities of the USCSC:

Besides the major activities of the USCSC described in the foregoing chapters, there are certain areas of personnel management in which the USCSC has an important role to play. Two such important activities are the "Security and Loyalty Investigation" of Federal employees and the "Administration of the Retirement" system.

(a) Security Investigations:

The problem of investigation into the antecedents and past record of an employee arises from various factors such as honesty, integrity, loyalty, and trustworthiness, which are very important in determining the suitability of a person for Government appointment. Such factors cannot be measured through a written test as other qualities like intellectual and professional attainments can be measured. The clause of the Civil Service Act of 1883 which states that "civil service examination should be practical in character and fairly test the relative capacity and fitness of applicants" (1) gave the USCSC the primary

(1) Civil Service Act of 1883, Section 2.
authority to conduct the investigation of the loyalty of employees. Until 1947, the U.S. Civil Service Commission administered this programme in a haphazard manner and without any uniformity. In 1947, President Harry S. Truman directed through Executive Order No. 9835 of 21 March 1947 that the programme for investigation into the loyalty of employees should be put on a sound footing in order to assure that all persons entering the Government service were of good character and that their activities would not in any way be prejudicial to the security and interests of the nation. On 13 March 1948, the President issued another directive by virtue of which all the officials and employees of the Executive Branch were directed to preserve all reports, records, and files relative to the Employee Loyalty Program in strict confidence. (2) In 1953 the Senate Committee on Post Office and Civil Service in a report on Personnel Investigations in the Executive Branch noted:

...the existence of the three separate programs of loyalty, suitability, and security is the primary factor which results in confusion, duplication, delay and waste. Not until these programs are consolidated and standardized will any appreciable improvement or economy result... We recommend that the Civil Service Commission should be designated as the Executive branch agency responsible for co-ordinating agency programs for investigation of civilian employees and candidates. The Commission should be authorized and directed to establish standards and regulations for this investigation program and for the defining of acceptable agency investigations programs within this framework of standards. (3)


Executive Order No. 10450 of 27 April 1953 (as amended by Executive Order No. 10550 dated 5 August 1954) prescribed the uniform investigative requirements for all persons entering Government service. The USCSC was to make an investigative report on an employee for security clearance on receipt of a specific requirement by a Department or an agency. (4) It may be noted here that this is a kind of service rendered by the USCSC to the agencies and other Government establishments. All employee records are kept at one place, and the USCSC after investigation furnishes the result of such investigations to the employing agencies for their consideration.

The USCSC makes investigations both for non-sensitive and for sensitive positions. In the case of non-sensitive positions it conducts only national agency checks and inquiries. This is only a limited type of investigation consisting of checking the files of the major Government investigative agencies in Washington, and sending written inquiries to previous employers, references, schools, local police departments, etc.

In the case of persons assigned to sensitive positions vital for national security, a full field investigation is made.

(4) Executive Order No. 10450 of 27 April 1953, Section 3(a) and Section 8(b). Also see USCSC, Federal Personnel Manual, pp. 71-195-199.
This includes national agency checks, personal interviews with former employers, supervisors, references, neighbours, school authorities, and other relevant associates, and checking of police, credit, and other pertinent records. If in the course of its investigations the OSCC discovers any information on such matters as sabotage, espionage, treason, membership in or affiliation with subversive organizations, unauthorized disclosure of security information, or refusal on grounds of self-incrimination to testify on loyalty matters before a Congressional Committee, the case is referred to the Federal Bureau of Investigations for a full field investigation. In the case of discovery of derogatory information about an employee, the OSCC gives him an opportunity to refute or defend the charge, and any adverse decision of the OSCC's office against an employee is appealable to the Board of Appeals and Review.

While the need for such investigation has never been challenged, the manner in which it is conducted and some of the decisions taken came under considerable criticism especially during the "McCarthy years". Informed public opinion is clearly important to ensure that adequate security programmes are implemented that will be in consonance with the spirit of democracy and individual liberty.
(b) Retirement:

There is no pension system for the Government servants in the United States as obtains in India or Britain. Yet a retirement plan for Government employees exists in the Federal Government, and this is more or less analogous to the Provident Fund schemes operating in several Government and private enterprises in India. Under this plan, the employees are required to contribute a fixed percentage of their salaries to a fund, and the money so collected is used to pay retirement and death benefits. The agencies make directly to the retirement fund contributions matching the contributions of the employees.

The retirement plan was first put into action under the Civil Service Retirement Act of 1920. The purpose of the law at that time was to require the retirement of employees whose effectiveness had been reduced by advancing age. It continued to be the basis of retirement provisions and benefits for Government employees till 1956, when it was amended by the Civil Service Retirement Act, approved on 31 July 1956. Today the compulsory retirement age after at least 15 years' service is 70, but earlier retirement on a voluntary basis is permitted upon attainment of the age and service requirements specified in the retirement law.(5)

(5) U.S.G.P.O., The Role of the Civil Service Commission in Federal Employment (Pamphlet 52) (Washington, D.C.), July 1957, p. 27. If the employees so choose, they (continued on next page)
Under the Act, the primary responsibility to deduct from the salaries of the employees their contribution to the retirement fund and to deposit matching agency grants rests with the agencies themselves. In addition, the agencies are required to advise and counsel their employees in respect of their retirement rights. They also maintain retirement control accounts according to the procedures prescribed by the Comptroller and Auditor-General of the United States of America. The keeping and up-to-dating of employee retirement records is the responsibility of a Retirement Officer in each agency. In addition, a certifying officer is also designated by the agency to certify individual retirement records. (6)

However, the overall responsibility for administering the Civil Service Retirement system rests with the USCS. The USCS issues regulations and instructions which should govern the programme. It adjudicates and

may retire at the age of 62 with at least 5 years of Federal service or at age 60 after 30 years of service. The law also provides for retirement on a reduced annuity at age 55 after 30 years' service and upon involuntary separation without cause, at age 50 after 20 years' service or at any age after 25 years' service. The employees receive the retirement benefits in accordance with the length of their service and on average pay and are prescribed by law without prohibition to the effect that an individual employee cannot receive retirement benefits under more than one programme. For example, a retired Federal employee, who because of covered employment, is eligible for Federal old age and survivors insurance, could receive his civil service retirement annuity and social security payment concurrently.

determines the employee benefits under the Act. In addition, it provides actuarial and technical services required in administering the retirement system, accounts for all retirement moneys, and recommends to Congress the sum it should appropriate to help the system financially as well as such changes and improvements as may be necessary to protect the interests of both the Government and the employees. (7)

(c) USCGC and Fringe Benefits:

The USCGC also concerns itself with certain other programmes of personnel administration such as Group Life Insurance, Health Benefits, Annual and Sick Leave, Incentive Awards, and other fringe benefits which accrue to Government employees under several laws. Unlike many other countries, where these programmes are administered by individual departments and agencies, in the United States the USCGC has to render many important services towards the effective implementation of these programmes by the individual agencies and departments, and has overall responsibility for the administration of Government policies in these respects.

(7) Ibid.
(d) **Life and Health Insurance:**

According to the Group Life Insurance Plan for Federal Government employees, provided under Federal Employees' Group Life Insurance Act of 1954 (approved 17 August 1954), Congress has provided a fringe benefit in the form of Group Life Insurance to most Government employees. This insurance is obtained by the Government through private insurance companies and is a factor in helping to retain employees in Government service. (8)

The overall responsibility for proper operation of the plan vests with the USCSC. The USCSC deals with the office of Federal Employees' Group Life Insurance representing the private insurance companies in negotiating, purchasing, and renewing the master-policy. It is also responsible for payment and accounting of premiums, and for the insurance of regulations and instructions. The responsibility for making deductions from the salaries of the employees, for

(8) Under this plan, as at present, Government employees can get an insurance coverage up to a maximum of $20,000. The cost of insurance is shared by the employee and the Government in the ratio of 2:1. The Group Life Insurance, because of less record-keeping costs is available to the people at a reduced cost. The amounts collected from the employees are used to pay the premiums of insurance, and the administrative cost of the programme. Thus under this Group Life Insurance programme, the employees and their families have an added measure of security available to them at a comparatively low cost.
depositing the sums withheld in the insurance fund, and for giving information and assistance to the employees rests with the individual departments and agencies.

Similarly, under the Federal Employees Health Benefits Act of 23 September 1959 (9) and the Retired Federal Employees Health Benefits Act of 8 September 1960, (10) which provide health benefits coverage for current and retired Federal employees and their families, the USSEC issues regulations and approves health benefit plans. It also administers the two funds, Health Benefit Fund and the Retired Federal Employees' Health Benefits Fund. In addition, it is responsible for furnishing the information needed for the programs, for making continuing reports and surveys, and for reporting annually to Congress.

(c) Leave Benefits:

The Annual and Sick Leave Act of 30 October 1961, (11) which establishes the annual and sick leave system and prescribes leave-earning rates and accumulation limits, is also executed by the respective agencies.


and departments under the regulations issued by the Act. The USCSC furnishes advisory service to the agencies in respect of any complications that may arise in administering the provisions of the Act. However, in individual cases the agencies are individually responsible for deciding whether leave is to be granted. The fiscal side of the matters connected with accumulation and payment of terminal leave is audited by the General Accounting Office of the US Government.

(f) Incentive Awards:

Another personnel activity which, though primarily administered by the individual agencies and departments, is one in which the USCSC is actively associated is the programme of incentive awards. The programme envisages cash and honour awards to employees for making suggestions and inventions resulting in more efficiency and economy in Government operations, and also for rendering superior work and special acts of service. The Incentive Awards Act of 1 September 1954 (12) authorizes the agencies to grant awards to employees for special contributions benefitting the Government. Under the Act, the USCSC is charged with the responsibility to issue regulations.

(12) Ch. 1208, Title III, 68 Stat. 1112 (5 U.S.C. 2121-2123.)
and instructions for the administration of the awards programme, to approve awards over $5,000, and to report to the President on the operation of the programme. (The agencies have authority to pay and grant awards of sums only within the amount of $5,000 to the employees selected by them.) The Incentive Awards Program serves to improve Government operations by encouraging Federal employees to think along new lines, offer their ideas, and put in superior performance. It is also intended to increase employee satisfaction by recognition of their contributions, and to increase the prestige of the Federal Service by having more people, both in and out of Government, informed about the superior achievements and outstanding ideas of Federal employees. (13)

Miscellaneous Activities of the UPSC:

In addition to the recruitment activities (for which the UPSC holds regular competitive examinations) and interviews in India or abroad, there are certain activities in the field of personnel management--some of which are quite minor--in which the UPSC's advice is sought by the Government of India.

(a) Minor Recruitment Activities of the UPSC

Besides the regular appointments for higher permanent positions in the Government of India, which are invariably made in consultation with the UPSC, the UPSC used to tender advice until 1957 on the regularization of certain temporary appointments made during the Second World War without the consultation of the then Federal Public Service Commission. (14) The UPSC tenders advice in the matter of retention of officers in temporary positions in certain cases. During the years 1957-65, as many as 5,959 such cases were referred to the UPSC, and their number has been on the increase every year. (15)

The UPSC also tenders advice to the Government in such matters as grant of extension to Government servants attaining the age of superannuation, the re-employment of retired officers, and the absorption in civil employment of ex-service personnel. (16) The practice of consulting the UPSC in granting extension

(15) For details every year, see table in Appendix V.T.
(16) Such cases have been referred to the UPSC since 1958-59. See UPSC, 9th Report (1958-59), p. 7.
to superannuated employees was discontinued in 1954-55. This raised a controversy in Parliament, and it was alleged that it was a deliberate attempt to limit the jurisdiction of the UPSC. (17) The Government, however, maintained that it was a matter within the discretion of the Government, and there was no statutory obligation at all to consult the UPSC on it. (18)

(b) Confirmation of Increments in Positions:

The UPSC also tenders advice on a large number of miscellaneous cases which concern primarily the appointments or confirmations of certain offices. For example, the UPSC has advised on a significant number of cases concerning confirmation of officers appointed to the Indian Administrative Service/Indian Police Service probationers under IAS/IPS/Emergency Recruitment Scheme, placed in Lists I, II, and III. (19) On various occasions, the UPSC has also advised the Government in respect of officiating appointments made to the Indian


(19) See Table in Appendix VI.
Administrative Service and the Indian Police Service for a period of over a year; (20) appointments made under the Central Secretariat Service (Re-organization and Re-inforcement) Scheme; (21) ministerial appointments; (22) appointments by way of transfer from one service to another; (23) appointments of non-Indians in Government service; selection of candidates for the award of scholarships; (24) appointments to positions by way of transfer; and deputation of Government employees already holding a position in the Government of India. (25) In 1961-62, the UPSC was confronted with an unusual request for advice in the matter of absorption of the surplus staff (Classes I and II) of the Ministry of Defence dealt with by the UPSC, there having been from the extension of the UPSC by various Acts of Parliament under Article 321 of the Constitution.

(21) Ibid., For details of the scheme, see Ministry of Home Affairs, Report (1951-52), pp. 7-8.
(25) Ibid., p. 11.
Constitution. (27) The Delhi Municipal Corporation Act, 1957, extended the jurisdiction of the UPSC to cover recruitment to all the posts in the Corporation carrying a minimum monthly salary of Rs 350/-. Similarly, the Territorial Councils Act, 1957, extended the jurisdiction of the UPSC to cover recruitment to all posts carrying a monthly salary of Rs. 300/- and above to the Territorial Councils. (28) The jurisdiction was further extended to cover posts under the Employees' State Insurance Corporation (29) and the Employees' Provident Fund Organization. (30) There has been a considerable demand that the jurisdiction should be extended to cover all posts in the various business enterprises and corporations of the Government of India, but so far this demand has not been accepted. (31)

(27) Article 321 states: "An act made by Parliament or as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution."


From the above description of the activities of the UPSC, it can be seen that the UPSC bears a heavy load of recruitment work every year. It is also interesting to note that in all these recruitments, at least one member of the Commission is invariably associated at one stage or the other of the procedure. The above activities of the UPSC have a direct bearing on the efficient working of the UPSC, since the present staff position, which has been discussed in an earlier chapter, is not adequate to cope with the volume of work.

(c) Some Other Adjudicative Activities of the UPSC:

Apart from the disciplinary cases of Government servants which are referred to the UPSC under Article 320(3)(c) there are some matters of an adjudicative nature in which the advice of the UPSC is sought, either because the seeking of its advice is a duty laid down by the Constitution itself or because there is a convention or practice.

(i) Claims for Re-imbursement of Legal Expenses and Award of Indury Pensions:

Article 320(3)(d) and (e) of the Constitution of India prescribes that the UPSC shall be consulted:

(d) On any claim by or in respect of a person who is serving or has served under the Government of India or under the Government
of a State in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of Consolidated Fund of India, or as the case may be, out of Consolidated Fund of the States.

(e) On any claim or award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount or any such award,

and it shall be the duty of the Public Service Commission to advise on any matter so referred to them and on any other matter which the President or as the case may be, the Government of the State may refer to them.

The above cases are of a purely adjudicatory nature. From the time of adoption of the Republican Constitution in 1950, till 1965 (31 March), the UPSC tendered advice on 608 and 1,553 cases in the above two categories respectively. The clauses quoted above were inserted in the Constitution in order to protect the interests of the employees so that they might serve the Government without any fear and inhibitions, and if they were prosecuted in respect of acts done or purporting to be done in the execution of their official duty, their claims for the re-imbursement of the legal expenses incurred by them in defending themselves might be met by Government. And the final decision as to the validity of such claims of the civil servants is not to
be taken by the Government, but by an independent authority. The UPSC examines the reasonableness of a claim with reference to the peculiar circumstances of the case and advises the Government as to the amount that should be re-imburse. These provisions, therefore, are a valuable safeguard of employee rights, and in view of the fact so far the Government has, in almost every case, accepted the advice tendered by the UPSC, it can be concluded that the UPSC has been very judicious in its adjudicative role. It, therefore, strengthens the view that more and more such functions should be entrusted to the UPSC.

It has, however, been suggested that the scope of these clauses is very limited. For instance, Clause 320(3)(d) covers only the costs of legal proceedings, whereas it should cover all costs which the civil servant has had to incur to defend himself against an onslaught on himself for his acts in the service, either before a court of law (covered by this clause) or before an inquiry commission, which may not be a legal body. Since the expenses incurred by a civil servant in defending himself before an inquiry commission are not covered by the expression "costs incurred...in defending legal proceedings instituted against him", the employee is handicapped and cannot ask for a re-imbursement of the money spent by him. The above plea is worth consideration particularly in a country where "democracy" only
means the right of a citizen to place his grievances at the highest level and to indulge in loose criticism of every institution which may not serve his selfish interests. (32)

(ii) **Quasi-Permanency:**

Another minor form of adjudicative work that has hitherto been performed by the UPSC is grant of "quasi-permanency" certificates.

The grant of a quasi-permanency certificate was made subject to the concurrence of the UPSC presumably because it required a quasi-judicial decision on "approved service" based on an employee's character roll, and perhaps also because the employee would be satisfied if the decision came from the UPSC. (33) The Ministries concerned make proposals to the UPSC in respect of their employees after they have satisfied themselves as to their eligibility, and the UPSC then determines the suitability of the candidates recommended for the grant of such certificates.

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(32) This was the plea made at a syndicate study conducted by certain IAS probetiners at the National Academy of Administration, Mussoorie, in 1962. See "Role of F.P.C.C.", in *Journal of the National Academy of Administration* (Mussoorie), Supplement, vol. 7 (1962), pp. 54-5.

Up to 21 March 1963, the UPSC has tendered advice on about 23,131 cases of quasi-permanency. In the past there used to be considerable delay in the finalization of such cases primarily because of the time lag between the receipt of a proposal for quasi-permanency from the Ministry of Home Affairs and the receipt of character rolls from the Ministry concerned. (34) However, in December 1963, the Ministry of Home Affairs, in consultation with the UPSC, decided that such cases need not be referred to it in respect of officers governed by the Central Services (Temporary Service) Rules, (35) and a year later the relaxation in procedure was made applicable to the officers governed by the civilians in the Defence Services (Temporary Service) Rules. (36)

(iii) Domicile Questions:

The UPSC also tenders advice on the question whether an employee of the Government is of Indian domicile or not. Since the decision affects the privileges of an employee, it is of a quasi-judicial nature. After the Partition of the country in 1947, quite a number of "domicile" cases came up before the UPSC. Under a

(34) It may be interesting to note that in May 1957, the UPSC used to receive proposals to declare officers quasi-permanent with retrospective effect from as far back as 1 July 1949.

convention established by the Government of India in respect of the Federal Public Service Commission in 1937, it was necessary to consult the UPSC where there was a doubt as regards the domicile of a person who was, or had been, in service under the Government of India or was a candidate for such service. From 1950 to March 1954 (when it was decided that such cases need not be referred to the UPSC) (37), seventy-six domicile cases were referred to the UPSC. As many as thirty cases were referred in 1950-51 alone on account of the partition of the sub-continent.

(iv) Seniority and Service Questions:

The determination of the seniority of a civil servant in Government employment also involves a quasi-judicial decision, since it affects the future prospects and promotion of the employee concerned. Questions of seniority are also referred to the UPSC for advice, and between 1953-56, the UPSC tendered advice on 357 cases involving doubt as to the relative seniority of officers. (38) When the Indian States were re-organized as a result of the enactment of the States

(38) For details, see Table in Appendix VI.
Re-organization Act of 1956, a difficulty arose in the integration of services and fixation of the seniority of various personnel effected by that re-organization. The Government, in the first instance, issued a provisional seniority list inviting objections and representations from the officers concerned. Section 115(5) of the State Re-organization Act, 1956, provided for the formation of Advisory Committees at the Centre and the States to consider such objections representations. Accordingly, at the Centre a committee was formed in November 1958 under the Presidentship of the Chairman of the UPSC to consider such objections and representations. (39) Similar committees were formed at the level of the States. Between 1958 and 31 March 1965, the UPSC has tendered advice on 4,487 cases.

Besides the cases of seniority, there are miscellaneous service matters on which UPSC is consulted from time to time. About 741 such cases were referred to the UPSC between 1953 and 1965.

(v) Malpractices in Examinations and Reference Checks:

The UPSC has yet another minor adjudicatory work which is incidental to the whole process of recruiting

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but which nevertheless falls within its jurisdiction. This work relates to disciplinary actions against those candidates who have deliberately or knowingly given false information about their antecedents and other qualifications. Sometimes, the UPSC has to dispose of cases where candidates are alleged to have produced forged documents in support of their age, qualifications, and other particulars. It has been seen earlier in the chapter on recruitment, that the UPSC does not have an elaborate system to refer candidates to their previous employers or their teachers as the USCSC does in the United States. The UPSC depends entirely on the original certificates/degrees or diplomas produced by candidates in support of their candidature. There have been cases involving falsification of relevant records such as university or college certificates. Wrong information has sometimes been supplied. Use of unfair means by candidates in the written examinations held by the UPSC is also quite common. From 1951 to 1965, the Commission took action against 577 offending candidates. (40) Considering the large number of candidates who appear for the UPSC examinations, the number of cases of fraud is not large, but the need for

(40) This does not take into account the number of candidates against whom action was taken during 1960-61. Figures are not available for 1960-61.
more effective steps to detect fraud and punish the guilty is a crying need. Guilty candidates are black-listed, and the candidature of each applicant today is verified against the black list maintained in the office of the UPSC. (41)

In order to verify the information supplied by candidates, it has been suggested that the UPSC itself should take up verification of the antecedents of candidates and that its recommendations should be final. It has also been urged on the UPSC that it should invariably make references about candidates to their teachers and past employers. (42) Unlike the UPSC, which has elaborate machinery for the purposes of security investigations and reference checks, the UPSC either depends on its own scrutiny done in its office or on the police reports obtained through the Ministry of Home Affairs. It may not be possible to entrust the activities relating to security investigations and reference checks to the UPSC in India. The Ministry of Home Affairs, which is responsible for all security matters, is more competent to deal with such security


(42) See the statement of Vasudevan Nair (a Member of the Lok Sabha) in India, Lok Sabha Debates, vol. 13, 13 March 1958, col. 4821.
matters and loyalty investigations. It does not seem desirable to disturb the status quo in this regard. However, there is still considerable scope for better co-operation between the Ministry of Home Affairs and the UPSC and for the development of a systematized process of check-up and verification.

Summing up, it could be said that the US CSC has an overall responsibility to see that the personnel programme of the Federal Government stands on a sound footing. There is no area or aspect of personnel management in which the US CSC is not concerned either as an authority prescribing guidelines and standards for the effective and uniform implementation of the various personnel laws or as an instrument to control and review the agency actions towards rectifying faults. Even in areas of personnel management like the administering of retirement, insurance, and fringe benefits due to Government employees, the US CSC has to discharge the very significant function of leadership, guidance, and vigilance over the proper execution of Government policies. This is in contrast to the functioning of the UPSC in India. Such activities fell beyond the scope of the UPSC. In other words, the concept of a central personnel agency as a body responsible for all activities concerning personnel management is conspicuously absent in the present set-up in India.