CHAPTER - 8

CONCLUSIONS AND SUGGESTIONS
CHAPTER - VIII

CONCLUSION AND SUGGESTIONS

I- CONCLUSION:

The necessity of protecting the civil servants from the arbitrary acts of the political heads and from the executive heads always has been felt throughout the history.

During the time of East India Company, the civil servants held their office at the pleasure of the employer. The employer i.e., East India Company had a power to terminate services of the civil servants at any time without assigning the reasons. The civil servants had no remedy against the arbitrary dismissal or removal from the service.

The East India Company’s rule come to an end and the Government of India Act 1858, however did not bring about the any much changes in the position of the civil servants. After the assumption of the control by the Crown over the Indian possessions, the Secretary of State-in-Council was conferred power in relation to the civil services of the state. The Judicial decisions at this stage clearly indicate that the power of the Crown to dismiss or remove the civil servants was absolute. However the Government of India adopted the resolution in 1879 providing for certain procedural protections before the servants could be dismissed or removed from the service. But the resolution has not been implemented and the officials were not given the benefit of the resolution.
It was thought expedient that some restrictions on the ‘**Doctrine of Pleasure**’ should be introduced with a view of infusing a sense of security in the minds of the European Civil Servants serving under the Crown in India. As a result the Government of India Act 1919 was passed.

The Government of India Act-1919 was the first enactment to apply the ‘doctrine of pleasure’ in India, through Section 96B. Its application was “subject to rules” and the courts while examining challenges to penalties under that Act applied the extant rules to determine whether these were rightly imposed. In other words, when this doctrine was first applied in India, it was deemed sufficient to provide protection against any unjust exercise of ‘pleasure’. The courts enforced these statutory safeguards and it shows the sign of imposing the limitation on the Doctrine of Pleasure were witnessed. Further the Government of India Act 1919 also empowered the Government to make the rules governing the recruitment and conditions of the civil servants. Consequently rules were laid down for removal or dismissal of civil servants.

The Government of India Act, 1935 is an important law provided protections to the civil servants. Section 240 of the Act, retain the ‘doctrine of pleasure’ and at the same time placed restriction upon the doctrine of pleasure. The important safeguards provided under the Government of India Act are;

(i) a civil servant could not be dismissed by an authority subordinate to that by which he was appointed;
(ii) No civil servant could be dismissed or reduced in rank until he had been given a reasonable opportunity to show cause against the action proposed to be taken against him subject to exceptions.

The second safeguard was, however, made subject to two exceptions namely;

(a) to a person who had been convicted of a criminal charge, and

(b) If the authority empowered to dismiss or remove the civil servants was satisfied that for some reason, to be recorded in writing, it was not reasonably practicable to give to that person an opportunity of showing cause.

Therefore the Doctrine of Pleasure was made subject to certain statutory limitations as conferred under the Government of India Act, 1919 and the Government of India Act 1935.

Further the need of providing the protections to the civil servants were considered in the Constituent Assembly and the task of laying down the preliminary principles relating to the constitution was entrusted to Shri B.N.Rau, but preliminary draft do not contain the provisions relating to the protections to the civil servants.

The Drafting Committee framed the new draft and the regulations for the safeguards of civil servants were first time laid down in the draft. The safeguards which were incorporated in the drafts were taken from the Government of India Act 1935. The safeguards provided for the infliction of major penalty only after providing a reasonable opportunity to the civil servant. Sardar Vallabhbhai Patel highlighted the importance of civil service
and incorporation of the basic guarantee to the civil servants in the Constitution itself. Finally the draft was placed before the constituent Assembly for discussion by Dr B.R. Ambedkar.

During the elaborate valuable discussion on providing protection to the civil servants in the Constituent Assembly, the members of the Constituent Assembly suggests many amendments and finally after discussion draft Article 282-B was adopted. At the revision stage the Article on the services were renumbered as Article 308 to 314. Article 310 of the Constitution of India embedded the Doctrine of Pleasure and Article 311(1) and (2) of the Constitution provides for the safeguards against the dismissal, removal and reduction of rank of civil servants serving under the Union and the State.

The Constitution of India reposes great trust and confidence in the civil services and gives the civil servants a security of tenure and conditions of service and in turn expects an honest and sincere service from the members of the civil services for providing to the peoples of India an efficient, honest, polite and incorruptible administration. It is the duty of every person appointed to the any post under the Union or the State to discharge his duties and responsibilities according to the expectations of the Constitution and befitting the trust and confidence reposed in the civil servants of the State by the Constitution.

Security of employment is the basic element of good and efficient administration. With a view of providing security of employment to the civil servants the framers of the Indian Constitution provided adequate
safeguards to the civil servant to discharge their duties and responsibilities towards the satisfaction of the public. The doctrine of pleasure has been incorporated in Article 310 of the Constitution of India. The power of the President or the Governors of the State to remove, dismiss and reduction in rank of the civil servants of the State under Article 310 of the Constitution is not absolute and is subject to Article 311 and the fundamental rights. Unlike the Doctrine of Pleasure in United Kingdom wherein the power of the Crown is absolute in terminating the service of the civil servants, whereas in India the Doctrine of Pleasure though modeled on the British pattern is not absolute and unfettered.

The Constitutional law itself guaranteed the certain protections against the power of dismissal, removal, and reduction of rank under Article 311 of the Constitution. Article 311(1) of the Constitution guarantees that the appointing authority has the power to remove or dismiss the civil servant. Further as per the law laid down by the Supreme Court and various High Courts not only the appointing authority but also an authority equal in rank or superior to the appointing authority may dismiss or remove the civil servant. Therefore Article 311(1) of the Constitution is the fetter upon the authority to exercise arbitrary act of dismissal or removal of civil servants of the State.

Another most important protection provided to the civil servants of the State under Article 311(2) of the Constitution of India is reasonable opportunity to defend before passing an order of removal, dismissal or reduction in rank. The expression “reasonable” is not susceptible of clear and precise definition.
The term reasonable does not mean the best; it means the most suitable in a given set of circumstance. The far reaching decision of the Supreme Court of India in *Khemchand V. Union of India* laid down the scope and the meaning of the expression of ‘reasonable opportunity’ viz., an opportunity to deny his guilt and to establish his innocence, an opportunity to defend himself by cross examining the witnesses produced against the servant and an opportunity to make his representation as to why the proposed punishment should not be inflicted on him.

The 15th Amendment and 42nd Amendment to the Article 311(2) of the Constitution tries to mitigate the protections conferred upon the civil servants of the State, but still the protection under Article 311(2) remained in view of the decision of the Supreme Court of India in various cases because of its importance in protecting the interest of honest, impartial and unbiased civil servants against the arbitrary exercise of power by the higher authority who are having the power to take action against the civil servants.

With the provisions of Judicial review now available in our Constitution, the protection available to Government employees is indeed formidable even outside Article 311. This is borne out by the fact that ample relief is available to employees invoking judicial intervention in cases involving compulsory retirements even though Article 311 does not extend to such cases.

When Sardar Vallabhai Patel argued in the constituent Assembly for protection of civil servants and for the establishment of the All India Service, the intention was clearly to embolden senior civil servants to render
impartial and frank advice to the political executive without any kind of fear of taking action against the Civil Servants. But these protections have created a climate of excessive security to the corrupt civil servants of the State, without fear of penalty for incompetence or wrongdoing; on the other hand these protections are acting as a steal frame to the honest, impartial and unbiased civil servants of the State. The challenge before the nation now is to confront this exaggerated notion of lifetime security irrespective of performance and to create a climate conducive to effective delivery of services and accountability with reasonable security of tenure to the corrupt civil servants.

The rights of a civil servant under the Constitution should be subordinate to the overall requirement of public interest and the contractual right of the State. It cannot be an argument that a corrupt civil servant’s rights are more important than the need to ensure an honest, efficient and corruption free Administration. Ultimately, the public servant, an agent of the State, cannot be superior to the State and it is his fundamental duty to serve the State with integrity, devotion, honesty, impartiality, objectivity, transparency and accountability.

It is true that the government as an employer is expected to act in a fair manner and it has to be a model employer worthy of emulation by others. It has also to be ensured that honest and efficient public servants are not subjected to the whims and fancies of their superiors.
Articles 309, 310 and 311 form a continuum. If the whole gamut of “conditions of service” is codified as required by the substantive part of Article 309, this can include matters such as disciplinary proceedings and imposition of penalties. Moreover, the rule of law accepted as an integral part of the basic structure of the constitution, reasonable protection now attributed to Article 311 will continue to be available to satisfy the requirements of ‘rule of law’.

Taking into account these considerations and a fairly common perception that explicit articulation of “protection” in the Constitution itself gives an impression of inordinate ‘protection’, the Administrative Reforms Commission is of the view that on balance Article 311 need not continue to be a part of the Constitution. Instead appropriate and comprehensive legislation under Article 309 could be framed to cover all aspects of recruitment and service, even with regard to dismissal, removal or reduction in rank. Appropriate legislation by the respective legislatures may also be ensured through a revised Constitutional provision.

Further the Constitutional law of India confers the protection of equality of treatment in matters relating to employment to all the citizens and prohibits discrimination on the grounds of religion, race, caste, sex, decent, place of birth, residence or any of them. However to attain the equality, economic and social, the Constitutional law confers reservation to the socially, economically and educationally backward classes in relation to the employment and education. Certain protections are also conferred to the permanent civil servants of the State under the Code of Criminal procedure,
Prevention of Corruption Act and the Code of Civil procedure in relation to the prosecution of civil servants, procedural protection and in relation to the civil suits.

More importantly the constitutional law confers very important protections are provided to the civil servant of the Union as well as the State under Article 311(1) and (2) of the Constitution. In a democratic country where in the civil servants has to work under the political heads are always facing the threat of suspension, transfer or even illegal removal from the service. The honest, impartial and unbiased civil servants becomes the victims of the political decisions of premature transfers from place to place without any fault of civil servants and even becomes the victims of initiating disciplinary enquiry at the instance of the ministers. Therefore the constitutional of India guaranteed the most notable protections to the civil servant in its Article 311(1) and 311(2). The Supreme Court of India and the High Courts in its land mark judgment’s further protected the protections guaranteed to the honest and impartial civil servants.

Therefore the researcher concluded on the basis of the study conducted in the course of research that “No other Constitution in the world appears to contain these kind protections, than the constitutional law of India confers the protections to the permanent Civil servants of the State.” But these protections provided under the Constitutional law are not adequate to meet the requirement of the civil servants and need to enact the laws for the protection of the civil servants who are considered as the back bone of the Indian Administration.
Though the Constitutional law of India confers various safeguards and well defined methods of recruitment procedure to the civil servants, one can see that the standard, efficiency and commitment of the civil servants of Indian civil service is deteriorating due to number of factors as compared to the civil servants of the United Kingdom and the United States of America. Therefore it is necessary to know from comparative study, the factors which are responsible for deteriorating and bringing down the standard of civil service in India and to overcome the situation of deteriorating the standard of Indian civil services.

The researcher in chapter VI compared with the protections guaranteed to the civil servants with India, United Kingdom and United States of America. The Common protection in all these three Countries is “equality of employment.” The Government is prohibited to discriminate the employees on the ground of religion, race, caste, sex, decent, place of birth, residence or any of them in India, The Government is prohibited to discriminate the employees on the ground of age, disability, gender reassignment, marital status, sexual orientation, religion or belief, race, colour, nationality, ethnic or national origin in United Kingdom and The Government is prohibited to discriminate the employees on the ground of race, sex, national origin, colour or religion in United State of America.

The most important notable protection provided in United Kingdom is providing the equality of treatment to gender reassigned and sexual orientation, marriage and civil partnership. Not only provided the equality of
opportunity and also treated them as protected characteristics and provided them enough protection under Equality Act 2010.

In United Kingdom that there is well defined procedure of implementation of the Provisions of the Equality Act 2010, through the employment Tribunal, which is the most important characteristics of attaining the objectives of the enactment. Mere incorporation of the provision in the law is of no use in case if it has not been implemented in its entirety.

The important characteristic of the Civil Rights Act 1996 in United Kingdom is to protect the civil servants from arbitrary dismissal from the service. Security of employment is most important for the civil servants to discharge their duties for the satisfaction people. With the object of discharging the duties in accordance with the expectations of the people by the civil servants, the Civil Rights Act, 1996 and the Employment Act, 2002 playing an important role in United Kingdom to protect the unfair dismissal of civil servants. As compared to India, the protections conferred upon the civil servants are statutory in nature whereas civil servants protections in India are Constitutional protections. Therefore the implementation of the protections of the civil servants in India through the judge made laws whereas in United Kingdom the well-defined procedure that provided under a statute to implement the protections that are provided to the civil servants.

The Statutory protections are provided in United State of America to protect the civil servants. The Civil Rights Act, 1964 is the comprehensive law of equality of treatment in federal civil service. Equality of treatment is the
fundamental principles of the Civil Rights Act. It guarantees with limited exceptions, is the exclusive protection for all federal employees and all applicant for the employment against the employment related discrimination, based on race, sex (includes sexual harassment), national origin, colour or religion.

Like India, in United States of America to correct the historic discrimination against the women and minorities certain affirmative action programs are provided to overcome the lingering effects of past discrimination by the federal Government.

It is most important to mention here is that in United State of America the statutory protections are provided to overcome the past discrimination, through the enactments, such as the Age Discrimination in Employment Act 1967, amendment Act 1978, Rehabilitation Act 1973 as amended in 1978, and the Equal Pay Act 1963 as amended in 1974 are the some of the statues provided to overcome the past discrimination and with the object of achieving the equality.

The most important feature of the USA is the process of implementation of the affirmative action programs through well-defined agency is known as Equal Employment Opportunity Commission (EEOC). As compared to India, in India there is no such comprehensive Commission or agency to implement the reservation policies and to implement the protections conferred upon the minorities etc., to overcome the discrimination on the ground of caste, sex, race, religion etc.
A. TESTING OF HYPOTHESIS:

In order to carry out the research the researcher had drawn following hypothesis in support of the research and during the course of investigation the following hypotheses were examined.

1. The first hypothesis framed was “The protections provided upon civil servants for discharging their lawful duties without fear or favours are insufficient”.

This hypothesis is examined in chapter II of the thesis

_The protections provided to the civil servants during the East India Company, during the British period and before the commencement of the Indian Constitution of India the civil servants are discharging their duties at the will of the King. There was no protection provided to the civil servants even if provided are limited and are not sufficient._ After the commencement of the Constitution of India, the researcher has examined the protections which are provided are Constitutional protections but no statutory protections provided to the civil servants.

In the result the hypothesis has been proved since, the protections provided to the civil servants are not sufficient to discharge their duties without any fear or favour.

2. The second hypothesis framed was “The recruitment and conditions of service laws in Indian jurisprudence are not sufficient than, when compared to that of recruitment and condition of service laws in United Kingdom and United State of America”.

This hypothesis is examined in chapter V &VI of the thesis
In the United Kingdom and in United States of America the protections provided to the civil servants are mainly statutory in nature. The Equality Act 2010 in United Kingdom provide protection of equality in in Employment, who are seeking for employment and who have been appointed in civil service. The employment Act 2002 and the subsequent amendments provided procedural protections to the civil servants of United Kingdom in relation to the conditions of the services of the civil servants. Further well defined method of implementation of the statutory provision has been made under the statute; obviously the civil servants in United Kingdom are more protected under the Law as compared to Indian civil servants.

The civil servants of the United States are protected under the Title VII of the Civil Rights Act 1964. The Act provides that the equality of opportunity of public employment subject to affirmative action. Further with intent to attain the equality in public employment and to remove inequality among the servants number of enactments was enacted such as; The Age Discrimination in Employment Act, The Rehabilitation Act and The Equal pay Act. The objects of these enactments are to attain the objectives of equality in public employment and remove inequality. In India the similar method of recruitment procedure and the conditions of the civil servants have adopted, but are not statutory in nature. Therefore as compared to United Kingdom and United States of America laws in Indian jurisprudence are not sufficient.

In the result the hypothesis has been proved since no statutory protections are provided in India.
3. The third hypothesis framed was ‘*Maladministration in India is because of political intervention in discharge of lawful duties of civil servants.*’

This hypothesis is examined in chapter I & VII of the thesis. In welfare state the civil servants playing an important role in the public administration because of their nature of duties and their direct relation with the public. But unfortunately the civil servants are subordinate to the political heads of the State. Obviously the political heads are interfering with the exercise of lawful powers by the head of the executive which leads to maladministration. Therefore to avoid maladministration in India need to remove the political intervention, by separating the civil service from political control.

In the result the hypothesis has been proved since civil servants are subordinate to the political heads of the State.

4. The fourth hypothesis framed was ‘*Supreme Court and Administrative tribunals in India have contributed in protecting the interest of civil servants against malafide intervention of political heads.*’

This hypothesis is examined in chapter VII of the thesis. The Supreme Court acting as the custodian of the rights of the civil servants and the Administrative Tribunals constituted under Administrative Tribunals Act 1985 playing an important role in protecting the rights of the civil servants in relation to the conditions of the services of the civil servants of the State. The role of Supreme Court and the Administrative Tribunals by delivering the judgment’s to in favour of the persons whose rights are infringed by the government.
In the result the hypothesis has been proved since Supreme Court and the Administrative Tribunals by delivering the judgment’s to in favour of the persons whose rights are infringed by the political heads.

5. The fifth hypothesis framed was ‘The object of the 42nd Amendment to the Constitution is partially defeated by vesting jurisdiction to High Court from the orders of the State Administrative Tribunals.’

This hypothesis is examined in chapter VII of the thesis.

The intention of the parliament to amend the Constitution by 42nd Constitutional amendment and incorporated the chapter XIV-A to the Constitution, conferring the power to decide the service matters to the Administrative Tribunals. But in view of the law laid down by the Supreme Court in L. Chandra Kumar case, clause 2(d) of Article 323-A and clause 3(d) of constitution, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Article 226, 227 and 32 of the Constitution were held unconstitutional and for the same reason Section 28 of the Administrative Tribunals Act, 1985 which contains “exclusion of jurisdiction” clause was also held unconstitutional. Further Government of India Constituted the Law Commission for revisit of the decision by Larger Bench of the Supreme Court. The Law Commission submitted the report after examining the true intention of the parliament to amend the Constitution by 42nd Amendment and is of the opinion that, the subject is definitely requires the attention of the Government of India and the State Governments and that the judgment requires reconsideration by a larger Bench of the Supreme Court in the interest of the government servants, but so far the Government
has not taken any steps to seek for review of the decision of the Supreme Court. Therefore the intention of the 42nd Amendment partially defeated.

In the result the hypothesis has been proved.

6. The Sixth hypothesis framed was ‘the creation of All India Judicial Service will help for recruiting expert members to the Administrative tribunals for the purpose of protecting the interest of civil servants in India.’

This hypothesis is examined in chapter V of the thesis.

All-India Judicial Service in necessary because, in a welfare State the Tribunals are functioning on par with the judiciary in deciding the disputes, the well trained members need to be appointed as the members of the Tribunals to decide the disputes; this can be achieved by establishment of All-India Judicial Service in India.

In the result the hypothesis has been proved since so far all India judicial service has not been constituted because of lack of political will.

**B- FINDINGS OF THE STUDY:**

The foregoing discussion in the preceding chapters and the extensive study the researcher has made on the critical study of legal protections provided to the civil servants with special reference to India, United Kingdom and United State of America has given rise to the following findings.

1. No protections were provided to the civil servants during the Hindu and Moghal period, though the civil servants were in need of
protections against the arbitrary actions of terminating the services of the civil servants. The civil servants during the colonial era were discharging their duties at the will of the employer.

2. During the British period the first time protections are provided to the civil servants by way of providing protections in respect of removal and dismissal of the civil servant under the Government of India Act 1919. Further the scope of the protections is enhanced under the Government of India Act 1935. The protections provided under the Government of India Acts 1919 and 1935 created the history of providing the protections to the civil servants during British era in India.

3. Though the civil servants were in need of protections prior to the Government of India 1919 and 1935, the East India Company was not willing to provide the protections to the civil servants, because, if the protections are provided to the civil servants it was difficult for them to exercise the absolute control over the administration. The Directors of the East India Company knows that it will be difficult for them to exercise control if the rights are conferred upon the civil servants.

4. The study has proved that even after the coming in to force of Indian Constitution there is no much development on statutory protections to the civil servants, though Article 309 of the Constitution of India confers powers upon the parliament of India to make law on the service matters like recruitment and conditions of services of civil
servants. At present the recruitment and conditions of services of civil servants in India are governed by the Rules but not by the Statute.

5. Equality of treatment of civil servants is the basic concept of the welfare state. In that direction the Constitution of India provided certain protections to protect the civil servants against the arbitrary acts of the Government in not providing the equal treatment of all the civil servants. The mere incorporation of the provision under the Constitution is not sufficient to attain the equality of treatment of all the civil servants. The parliament of India should enact law for the purpose of providing equal treatment to all the civil servants who are discharging their valuable duties and responsibilities towards the satisfactions of the public. As in United Kingdom statutory protections are provided to the civil servants in relation to the equality of employment in public service under the Equality Act 2010 and in United States of America title VII of the Civil Rights Act 1964 provided the Equality of employment in public service.

6. For the purpose of achieving equality in public employment the Constitutional law also provided provisions regarding reservation in public employment to the backward class of the citizen. Unfortunately no law has been enacted to define who are the persons comes under the category of the backward class, the extent of reservation is to be provided, and who are not eligible to enjoy the benefit of reservation. Fortunately the Supreme Court of India as a protector and the guardian of the Indian Constitution interpreted the provisions of the
reservation by laying down the ratio in number of judgment's with the object of the achieving the philosophy of the founding father of the Constitution.

7. The study has proved that as compared to the statutory protections provided to the civil servants of the United Kingdom and United States America, protections provided under the constitutional law are inadequate and devoid of enforceability of constitutional protections provided to the civil servants in India.

8. The most notable finding of the research is that, the role of judiciary and the Administrative Tribunals in India playing an immense role in protecting the rights of the civil servants to discharge their duties and responsibilities without any fear or favour towards the satisfaction of the public. The civil servants are vested with innumerable functions to be discharged without any fear or favour and while doing their duties strictly according to the law may be subject to ill treatment, humiliation and even some circumstances are subject to suspension, transfer, compulsory termination, removal or even dismissal without following the rules. Therefore the Apex Court and Administrative Tribunals Constituted under the Administrative Tribunals Act 1985 playing commendable job to protect the interest of the honest civil servants.

9. Another important notable findings of the researcher is that the intension of 42nd Amendment to the Constitution has partially defeated in view of the decision of the Supreme Court of India in L
Chandrakumar's case, a seven judges Bench of the Supreme Court, while declaring the power of judicial review as an essential and basic feature of the Constitution, extended the power even to the Administrative Tribunals established under the Administrative Tribunals Act 1985. The Supreme Court held that the Administrative Tribunals are competent to hear the service matters where the vires of statutory provisions are questioned with a rider, however, that Administrative Tribunals cannot act as substitute for the High Courts and Supreme Court which have been specifically entrusted with such an obligation under the Constitution. In view of the law lay down by the Supreme Court that all such decisions of the Administrative Tribunals will be subject to scrutiny before a division bench of the respective High Courts.

10. The researcher in the course of research found that equality of treatment in public employment is the common protection to civil servants in India, United Kingdom and United States of America. Further the reservation policy has been introduced in India to protect the interest of backward class by providing special treatment to attain the objectives of equality under the Constitution, protected characteristics has been added to protect the protected characteristics in United Kingdom and affirmative action programs are introduced in United State of America. The protections provided to the civil servants India are Constitutional protections whereas the protections provided
to the civil servants of United Kingdom and United States of America is Statutory in nature.

11. The service conditions of the civil servants of the states are concerned; the civil servants in India are governed by the Rules whereas the Servants of the United Kingdom and United States of America are governed by the Statute. Therefore the Statutory protections are provided to the servants of UK and USA, no such statutory protections are provided in India.

These conclusions were drawn on the basis of the research and the hypothesis was put on the test to derive at the appropriate conclusions.

II- SUGGESTIONS:

1. The first suggestion which the researcher is to make is the definition of the term Civil Servant or the Civil Post has to made it clear by defining the terms in the service laws. In the absence of the clear definition of the terms leads to confusion in the minds of the servants as to whether they are the civil servants or not and the protections provided under the Constitutional law of India are applicable or not.

2. Separate Law for reducing the inequality by enacting law governing the equality in employment in civil service. As we are well aware that unless, the provisions of the Constitution has been implemented through the enactment, it is not possible to achieve the objectives of the Constitution. The Constitutional law guarantees the right to equality in public employment under Article 16 with certain exceptions to attain the equality, but so far no law has been enacted to implement the guarantees
as provide under the Constitutional Law. Therefore the researcher suggested enacting separate law to implement the law relating to equality in public employment as enacted in United Kingdom.

3. It necessary to establish Statutory Commission and Tribunal to implement equal employment law and to overcome the violation of equal employment opportunity. Like in the United States of America the Equal Employment Opportunity Commission (EEOC) guarantee the equal employment opportunity and provides the well-defined investigating mechanism in case of violation of equal employment opportunity.

4. To remove socio-economic inequality need to enact comprehensive legislation on providing the protection to those who have not sufficiently represented in the public employment.

5. India should make appropriate laws to the protections of age, sexual orientation, belief, civil partnerships, gender reassignment and disability as under Equality Act, 2010 of United Kingdom.

6. There shall not be discrimination on the basis of class or status as the Supreme Court of India in series of cases has rightly pointed out that caste or a class alone cannot be considered for the purpose of determining the backward class and economic criteria shall also be consider to determine the backwardness of the class. Therefore need to enact law to make it more clearly on the line of the Supreme Court directions issued from time to time.

7. The limitation imposed under Article 311 of the Indian Constitution upon the Disciplinary authority while taking disciplinary action against a civil
servants are procedural in nature rather than substantive in nature. It is necessary to strengthen the hands of the Government servants to overcome the difficulties of facing long term disciplinary enquiries need to legislate law on protections to civil servants in a clear language.

8. Civil servants who are possessed of some jobs must not be robbed of that arbitrary exposing him to unnecessary struggle for life. A reasonable, just and fair procedure must be adopted to conclude the enquiry.

9. The most important suggestion the researcher would like to suggest is to extend the Constitutional protections provided under Article 311 of the Constitution to the servants serving under the public undertakings, statutory bodies like Universities, public corporations and other authorities. All these Statutory authorities are considered as State under Article 12 of the Indian Constitution, but unfortunately the employees of these statutory authorities have not been recognized even by the Courts as employees of the State for the purpose of Article 311 of the Constitution.

10. The civil service must be isolated from the politics. The civil service should be free from all political interventions. In taking important decisions like promotion, transfer and suspension of civil servant and imposition of punishments, an independent authority need to establish like Union Public Service Commission and the State Public Service Commissions. The majority of the honest civil servants have becomes the victim of unnecessary harassment of premature transfers, suspension from service at the instances of the political leaders, which
leads to lack of interest among the civil servant to work independently and impartially. Therefore need to establish independent authority to look after the conditions of services of the civil servants in India.

11. That there as urgent need of formulating the well systematized policy of transfer can do away with all the mal practices of political intervention which are common in transfers of civil servants. The policy of transfer once formulated must not be allowed to change except in public interest.

12. The power of dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or the State should be in the hands of the Public Service Commission. Therefore Article 311(1) of the Constitution proposed to be amended for the last word “by an authority subordinate to that by which he was appointed” the word “except by an order of the Union Public Service Commission or the State Public Service Commission” is substituted.

13. A uniform rule of allowing the delinquent civil servant to be represented by the legal experts is proposed to be incorporated in all matters relating to disciplinary proceedings against civil servants.

14. The researcher proposed to frame the rules relating to time limit for the completion of disciplinary proceedings. In case if the disciplinary proceeding is not completed within the particular time limit the deemed provision of exonerating the allegations has to be incorporated in the rules. It helps the majority of the civil servants facing long
period of pendency of the disciplinary proceedings and get rid of unnecessary harassment from the superior authority.

15. It is that there are no rules made under Article 309 of the Constitution of India prescribes requirement of stating the reasons in administrative decisions. Therefore the disciplinary authorities being the quasi-judicial authorities are bound to state the reasons. The Supreme Court of India has repeatedly held that quasi-judicial authorities are bound to state the reasons for its decision. Therefore the rules need to be suitably amended and stating the reasons for their decision must be mandatory on the part of the quasi-judicial authorities.

16. The second opportunity of making representation before awarding the punishment has been taken away after the 42nd Amendment Act 1976 against interest of the civil servants. The only reason given was that providing the second opportunity consumes more time and corrupt and inefficient civil servants are taking advantage of this protection. But it is the duty of the State to protect the interest of large number of honest, efficient and permanent civil servants as compared to the corrupt civil servants. Prior to the Amendment the civil servant was shown the report of the enquiry officer and was given an opportunity of making representation against the action proposed to be taken against the civil servant, but after the Amendment Act 1976 takes away the right to make representation to the proposed punishment. Therefore there is an urgent need to revive the opportunity of making
representation before awarding the punishment against the civil servants.

17. The researcher suggest that in case of convictions not involving moral turpitude, the reasonable opportunity of being heard should be given before dismissal of the civil servant from the service. Once the civil servant is dismissed from service he is totally incapable of future employment and therefore it is unjust if the civil servant is dismissed without granting him any reasonable opportunity of being heard, if the convictions not involving moral turpitude.

18. The Civil Services (Classification, Control and Appeal) Rules framed in exercise of power under Article 309 of the Constitution do not prescribe the quantum of punishment for particular offence, misconduct or misbehavior of civil servants. Therefore it is necessary to specify for the particular offences or for misconducts for which major penalty may be awarded.

19. The protections provided to the civil servants India are Constitutional protections whereas the protections provided to the civil servants of United Kingdom and United States of America is Statutory in nature. Therefore the researcher suggests enacting the laws to protect the interest of the civil servants and for implementation of the Constitutional protections as that of enactments enacted in United Kingdom and United States of America.

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