

PANJAB UNIVERSITY, CHANDIGARH
OMR ANSWER BOOK (36 Pages)

PART - B

(TO BE FILLED BY THE EXAMINER)
DETAILS OF MARKS

Q. NO.	MARKS	Q. NO.	MARKS	Q. NO.	MARKS
1	10	13	25		
2	7	14	26		
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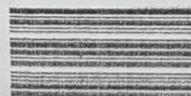
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8	17	26	35				
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→ UNIT - I

1) Difference between Constitutional Law & Administrative Law

Administrative law is the subject of social law that talks about the powers, organisation, structure, limitations of the administration.



it is a process or procedure by which an organization whether Government or Private is governed.

DICEY - Administrative law is the organization, power, limitations.

Jennings - There is no difference between the constitutional law and administrative law.

Administrative law is made up from the statutes, acts, judicial precedents and research of jurists. Administrative law is one of the most important part of social law and it is

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since historical times. With the advancement in technology, Administrative Law is progressing and new outcomes are being dueled in to it.

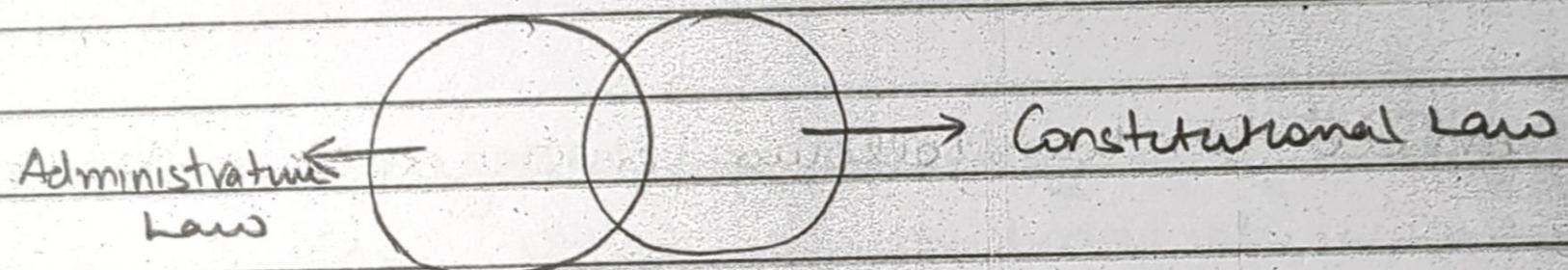
→ Constitutional Law - it is the law that takes its source from the Constitution. Constitution is the GRUND NORM and it contains all the articles, laws, exceptions, legislative, Executive and Judiciary - all takes their functioning from the Constitution.

Constitution of India was enacted in 1950 and DR BR Ambedkar was the Chairman of the drafting committee. The Constitution of India is the Supreme Law of India and all the organizations / bodies takes their source from it. The Constitution of India has been amended several times but there are some parts of the Constitution which cannot be amended that is called the BASIC STRUCTURE of the Constitution.

DIAGRAM



3



Case law - KESAVANANDA BHARTI vs. St. of KERALA

BASIC STRUCTURE of the Constitution was formed by the Supreme Court which cannot be amended eg Rule of Law, Natural justice, Judicial Review etc

b) Retrospective Delegated Legislation:

Administrative law is the branch of Social Law that talks about the power, organization; duties and rights/benefits of individuals.

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Legislation - To make rules. legislature makes rules for the country, Parliament of India (Lok Sabha, Rajya Sabha), Legislative Assemblies for state. The legislature can make, amend or stop any law in the country. The judiciary and the executive keeps a check and



balance on it. India follows a check and balance system.

Delegated Legislation : → To make rules

↓
To make somebody of lower rank to do a Task

In delegated legislation, the legislature delegates its legislation power to the Executive. It can only delegate those powers which are of non-essential nature.

These powers must be [constitutional] and must be in consonance with the general law.

There are many advantages of using delegated legislation.

1) Emergency situation : When parliament cannot sit quickly

2) Technical Experts : Administrative officers are specialized in their skills.



Administration

Retrospective Delegated Legislation, — In this, Delegated Legis passes a law that is retrospective in nature. The retrospective means — that also includes the old dates.

CL Sukhwinder Singh v. St. of Punjab 1971

The administration passed a law on pension in respect of seniority list from a certain ~~post~~ date retrospectively. This changed the seniority of many members. The Supreme Court struck down it because of ULTRA VIRE.

↓
Going beyond his Reach
, Excessive jurisdiction

③ Ombudsman:

is an agent or person who is responsible for addressing the complaints of the citizens or the public servants including the Prime minister, MLA, MP etc.

ORIGIN: This role of OMBUDSMAN originated in SWEDEN. It is the part of their Constitution and it keeps a ~~check~~ ~~watch~~ ~~over~~ ~~on~~ ~~the~~ ~~governments~~ ~~and~~ ~~other~~ ~~authorities~~.



check on the public servants and thus rule is beneficial in SWEDEN.

India Context

Lokpal & Lokayukta Act of 1966 was first presented in 1968 but did not pass. In these years, it was ignored and kept in sidelined. In 2013, the protest of INDIA AGAINST CORRUPTION forced the government to pass the bill and it was enacted in 2014.

LOKPAL & LOKAYUKTA BILL, 2013

LOKPAL — Chairman at the Central level who supervises the complaints of Prime Minister, MPS, A1B1C1D rank government officers.

LOKAYUKTA — Chairman at the State level who



supervises the complaints at the State level of chief minister, MLA, A, B, C, D rank officers.

Selection : Section-4

The LOKPAL is selected by the

- 1) Prime Minister
- 2) Cabinet Ministers
- 3) Speaker of both houses
- 4) LOP - Leader of Opposition
- 5) Twint Members

Structure : Section-6

The LOKPAL consists of 8 members

4 Judicial members

4 Non Judicial Members

50% of the total must be from SC / ST / OBC

The Non judicial members must be experts people of more than 25 years of experience.

LOKPAL

Secretary

Director of Inquiry

Director
of
Prosecution

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→ Working: When a complaint is made to the LOKPAL, he first checks whether the Inquiry be conducted or not. If yes, the director of Inquiry (1) starts a preliminary inquiry. He can take the help of CBI. He prepares an Inquiry report and submits it to the LOKPAL. The Right to Heard opportunity is given to the alleged public servant.

→ Doctrine of Public Accountability:

When a king rule a kingdom , he requires good, weapon and trust of people. The trust of people is very important . If he is losing , then he must lost first , the weapons then good and at last the trust of people.



9

In 21st Century, the trust of people is brought by bringing Transparency in the system, by publishing all the government data and information to the people.

Indian Context

The Indian Constitution follows the principle of Maximum Governance, Minimum Government.

RTI Act was passed and enacted in 2005 by the then Government to bring transparency in the system.

CL Bhagwat Ram v. UOI (2000)

Supreme Court held that there should be no Secrecy in the government and every information must be conveyed to the public.

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CL KETAN DESAI v. UOI 2007

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also known as the Medical Council Case, the SC held that



he was found to indulge in corrupt practices and was put in custody and fine was charged

- 3) Ch Common wealth Game SCAM 2010
SURESH KALMADI v. UOF 2012

The concerned official was found to give Tender to most expensive bid.

With RTI or Right to information, a citizen of India can get information from the public department. It can be applied to state bodies formed under article 12 of the Indian Constitution.

To make Government accountable citizens can

- 1) Voting : participate in election, choose the best candidate
- 2) Forums : join forums of discussions, to talk about govt.
- 3) Social Media : To raise Awareness
- 4) NGO : To work with NGO that monitor Govt. Schem

Conducted

UNIT - II

- 2) Examine the principle of DICEY's Rule of Law in the light of various Judicial decisions and provisions of the Constitution.

Introduction

Administrative law is the branch of social law and it talks about the power, organisation, duties, rights and interests of the individuals. There is a relationship between the citizens and the state. Administrative law takes its source from the Statutes, acts, judicial precedents etc.

Rule of law is the most important component of the administrative law.

'DICEY' — Rule of law is the supreme law and no one is above the rule of law.



Aristotle — Rule of law makes a nation sovereign which means one country has its control (complete) over the Territory.

The rule of law has been being used from the historical times. During the Gupta or Mauryan empire, the kingdom was rule or administered according to rule of law which was interpreted by the Pandits — the knowledge mens.

→ Principle of Rule of Law:

- 1) Law is Supreme — no one is above the law
- 2) Impartiality
- 3) EQUAL Protection before the Law



4) NO BIASESS

5) REASONABLE and FAIR , JUST

The rule of law incorporates equal protection of all the sections of community before the law, poor, rich - all are governed by the same law

Law means the rules which governs the community or society. The rules must be reasonable, rational, logical & fair and just, any unreasonable law is considered to be void.

In a democratic country where the legislature is elected by the citizens of country and they work for the aspiration of the people, to fulfil their promises.

The rule of law plays an important part in the ~~by~~ ^{Office of the Superintendent (Conc)} ~~Tajpal~~ ^{Panjab University} democratic country as there is no dictatorship. ^{Chandigarh}



Indian Context :

India is a democratic country and it has the world's largest Constitution which is written. Constitution of India is the GRUNT NORM and all the laws regarding to the

- 1) Legislature Parliament
- 2) Executive President
- 3) Judiciary Supreme Court

are contained in the Constitution. All these bodies follow the rule of law in their functioning and co-working.

With the advancement of time and rapidly changing society, the Constitution of India is also being amended by the Parliament.

→ LOK SABHA
→ Rajya Sabha

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More than 100 amendments have been brought up in the Constitution.

India follows a doctrine of Separation of Powers which is not rigid and follows a doctrine of checks and balances to control the 3 elements of
1) Legislature
2) Executive 3) Judiciary.

→ Cope Laws

1) KESAVANANDA BHARATI V. ST. OF KERALA (1973)

The Supreme Court held that one cannot be amended completely and there are some elements which can never be amended. These elements became the Basic structure of the Constitution

- 1) Natural Justice
- 2) Rule of law



2) INDRA NEHRU GRANDHI V. Ray Narayan (1975)

The Supreme Court cancelled the election of the Prime Minister candidate Indira Gandhi as the rule of law was not followed.

3) Minerva Mahila Mills v. UNION OF INDIA

The Supreme Court of India struck down the some changes brought in the 42nd Amendment as they were against the Basic Structure of the Constitution.

4) Bachan Singh v. State of Punjab

Supreme Court held that the death ^{penalty} can be given in the Rarest of the Rare cases.

5) Article 14 of the Indian Constitution states that equal

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protection before the law. which means every one irrespective of Caste, color or religion will be governed by the same law.

→ UNIT - III

(4) a Classification and Control mechanism of Administration
Rule making

Introduction

Administrative Law is the branch of SOCIAL LAW which incorporates the power, structure, functions, working limitation of an organization.

Administrative Law takes its source from the Statutes, Acts, judicial precedents etc

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Administrative Law plays an important role in the administration. with time, administrative law is

rapidly changing word it is different from the Constitutional law.

→ Classification of Administrative actions :

Administrative actions - The actions (the tasks) that are taken by the administration following the administrative law

These actions must be

- 1) Reasonable
- 2) FAIR and Just
- 3) must be constitutional
- 4) must follow the parent act
- 5) follow the doctrine of Rule of Law
- 6) Must be consonant to the general law
- 7) Must be dealt with the non essential elements of legislature



The legislature can delegate their work to the executive which is delegated legislature.

↓
The person who is assigned to do work of lower rank rulemaking

Hence the administration can make rules

1) Administrative Rule Making → Making the rules

2) Administrative Rule Hearing → Quasi-Judicial

3) Administrative Rule applicability

↓
applying the rules

→ Administrative Rule making -

Here the administration makes the rules as the duty of delegation is given by the legislature

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Why there is a need?

- 1) In Emergency situation: When there is situation which requires PROMPT Action.
for eg.

Court of India declared Lockdown in 2020 Demonisation of currency as it required prompt action.

- 2) Technical Experts: The executive body of the government consists of the technical experts, people who are experts in their field. They are very beneficial in the rule making process. and the parliament people are not of technical experts

- 3) Experimentation : When law is made by the Parliament it is enforced by the Executive. There is a difference in the practical world so, the administration



can modify the law to meet the outcome.

- 4) Burden on Parliament : The parliament of India is in burden and to increase the efficiency of its working this works very well.

→ administrative rule making — Taxation

Case laws

- 1) CL Deepak Kumar v. ~~SCUOT~~

Supreme Court held that the item can be removed from levying of Excise tax and it is VALID.

- 2) CL Bhagwant Ram v. St. of Punjab

For more being charged on foreign liquor by the district administration which the petitioner found excessive of power.

Supreme Court held that it to be VALID



3) C) A Das v. VOI (1991)

The Supreme Court held that the administration can levy minimum and maximum charge

b) Conditional legislation:

Administrative law is the branch of law that incorporates power, organization, functions etc it takes its sources from the statutes, acts etc

legislation — means the process of rule making
The parliament makes the rules for the country
conditional legislation ↴

When ~~the~~ certain conditions are met, then the conditional legislation comes into action



Principles

Must be reasonable
constitutional

consentary with the general law

The Conditional Legislation comes into play when a certain event happens. At that time the administration can make law for the executive.



UNIT - IV

7) → Features, liability and control over Statutory Public Corporation

A) — Administrative law governs the administration of the organization. It incorporates the structure, power, duties, limitation and rights / benefits of the individual.

Administrative laws are different from the Constitution laws

Statutory Public Corporation

— These are government bodies which are made by the Parliament process that the reason they are known as statutory.

— An act is passed in the LOK Sabha and Rajya Sabha by which they come into



existence. They are public bodies are formed under article 12 of the Indian Constitution.



It talks about the concept / definition of state in the Indian Constitution.

Funding -

These bodies gets the grant from the government

OR

From Public Shares investment.

Features :

D) They are legal person

They do not possess any fundamental Right but they can come into contract agreements.

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- 2) They can come into contract agreements
- 3) buy properties in their name.
- 4) They can sue other people etc

→ Liability

~~that~~ They can enter into contract agreements with the parties in their own name. Therefore they can be sued by the other party and brought up in the court for hearing.

→ Classification

- 1) Commercial Purpose — They are for commercial purpose and Industrial purpose
eg — Hindustan Machine tools — it manufactures



machines for the government land watches etc
Hindustan Aerotronics - many crowded planes.

2) Development Purpose : They work for the development of the country. To improve the economy and bring up employment for the people.

eg DAMODAR VALLEY Project

Border Road Organization - builds roads, bridges in the border areas of India,

3) Social Work :

These public corporation work for the social welfare of the people

4) Financial Purpose

These work for financial purpose, grants, loans, savings accounts etc

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Eg : State bank of India
Reserve bank of India



regulator authority of the financial sector of the country, keeps a check on all the private and public banks.

These public corporations are managed by the Board of Directors.

Their main purpose is to provide services to the public and not profit.

They create their own budget and revenue is spent on themselves without taking the help of the Government.

→ RBI gave 1 lakh crore to government of India as interest.



UNIT-V

- 9) Judicial Review - Principles
Ground
Modes

Judicial Review is the important part of the Administrative law. Administrative law takes its sources from the Statutes / Acts, judicial precedents etc.

Judicial Review was first proposed in USA by Chief Justice John Marshall in the famous case of Maryland v. Marullo (1803).

He talked about the importance judicial review in the judgment of the case which became the history and till now it is being used.

Justice Mohammad Qadri proposed the idea of Judicial

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Review in India. we talked about the 3 elements.

- 1) Judicial Review of the legislative Powers
 - 2) Judicial Review of the executive Powers
 - 3) Judicial Review of the Judicial Matters.
- Principles of Judicial Review

- 1) Must be Impartial
- 2) Fair & Just
- 3) Must be constitutional
- 4) Must not infringe the rights of the citizens



3) Must be Reasonable

Ch Wednesbury Test (As Moton Picture v. wednesbury)

In this, There were 3 conditions that were made to test

- 1) Before whether the defendant took consideration of the factors that ought not be taken
whether the failure to
- 2) Defendants, took consideration of the factors which ought to be taken
- 3) Whether he was Reasonable

Judicial Review on Legislature —

The Supreme Court can review the law made by the Parliament and can struck it down if it is unconstitutional

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Moga 2014
Banda



Recently Supreme Court struck down the law of appointing the Chief election Commissioner.

Ch Kesavananda Bharati & v. St. of Kerala

Some elements of the Constitution can never be amended and these are called the basic structure of the Constitution
Natural Justice,
Rule of Law / Judicial Review

Modes

- Writs are filed by the citizen when their fundamental rights are being infringed

Habeas Corpus

Certiorari

Prohibition,

Quo Warranto

Mandamus