

The All India Services Act, 1951

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Act 61 of 1951

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259.

Article 312 of the Constitution provides that Parliament may by law regulate the recruitment, and the conditions of service of persons appointed to the All India Services common to the Union and the States. At present there are two such All India Services, namely, the Indian Administrative Service and the Indian Police Service. In the absence of any proviso to Article 312 similar to that included in Article 309, the Government of India is now compelled to deal with many of these matters by means of non-statutory executive orders. This is neither satisfactory nor quite justifiable.² Before the commencement of the Constitution, the Government of India issued the Indian Civil Administrative Cadre Rules and the Indian Police Service Cadre Rules. Although these Rules, in so far as they are not inconsistent with the Constitution, are continued in force by Article 313 of the Constitution, they authorise the regulation of only such items relating to the conditions of service as had already been settled. Emergency recruitment to these services to fill the gaps left by the departure of the British element in the I.C.S. and the Indian Police was still in progress at that time. Many matters relating to the conditions of service of such officers were only decided after the Constitution had come into force. Other very important matters such as the fixation of retirement benefits have yet to be settled. Arrangements have also been completed recently to extend the Indian Administrative Service and the Indian Police Service schemes to the Part B States.³ It is necessary that Parliament should provide the requisite statutory authority to enable the Government of India to carry on the day-to-day management of the two All India Services and also to take and promulgate derivation, on matters relating to the recruitment and the condition of service from time to time.(1) the Indian Service of Engineers (Irrigation, Power, Buildings and Roads),(2) the Indian Forest Service, and(3) the Indian Medical and Health Service.The present Bill seeks to create the aforesaid services by amending the All India Services Act, 1951, Under section 3 of the Act, the Central Government would be empowered to make rules for the regulation of recruitment, and conditions of service of persons appointed, to these services. - Gazette of India, 19-11-1962, Pt.

II, Section 2, Ext., p. 1012.4. The present Bill seeks to fill a constitutional lacuna without proceeding to incorporate any detailed provisions. This course is necessitated, among other things, by the shortness of time available to Parliament this year. After the necessary transitional period is passed through, it will be possible to incorporate the major provisions in an Act of Parliament. The present Bill provides that recruitment and conditions of service of officers of the two All India services shall be regulated by rules to be made by the Central Government in consultation with the Governments of the participating States. The Bill, however, provides that all the rules so made shall be laid before Parliament and shall be subject to such modifications as Parliament may make". - Gazette of India, 1951, Part II - Section 2, page 748. Act 25 of 1958.- The Government of Jammu and Kashmir have agreed to participate in the scheme of All India Services and this has necessitated the constitution of the Indian Administrative Service and Indian Police Service Cadres in that State. Section 3 of the All India Services Act, 1951, empowers the Central Government, in consultation with the States concerned, to make rules for the regulation of recruitment, etc., to an All India Service. The object of this Bill is to make it clear that the expression "State concerned" in that Act includes the State of Jammu and Kashmir. - Gazette of India, 9-5-1958, Pt. II - Section 2, Ext., p. 710. Act 27 of 1963.- Under Article 312(1) of the Constitution, the Rajya Sabha passed a resolution on 6th December, 1961, by the prescribed majority, declaring that it is necessary to provide, in the national interest, for the creation of the following All India Services, namely : Act 23 of 1975.- In service matters occasions arise when it becomes an inescapable necessity to amend or make rules with retrospective effect. An instance in point is the implementation of the decisions of the Government on the recommendations of the Third Central Pay Commission. 2. Section 3 of the All India Services Act, 1951 which empowers the Central Government to make rules for the regulation of recruitment and the conditions of service of persons appointed to an All India Service does not in terms permit the making of the rules with retrospective effect. In view of the opinion tendered by the Attorney-General in 1969 in connection with a point raised by the Public Accounts Committee regarding an exemption notification issued with retrospective effect under the Central Excises and Salt Act, 1944 and the subsequent decisions of the Supreme Court, particularly the decision in *Hukum Chand v. Union of India* [(1973) II S.C.W.R. 129], unless the section is suitably amended, it would not be permissible to make any rules thereunder with retrospective effect. It is, therefore, proposed to amend the section so as to empower the Central Government to make rules with retrospective effect subject to the safe-guard that no rules shall be made retrospectively so as to prejudicially affect the interests of any person who may be governed by such rules. This safeguard is in accordance with the directions of the Committee on Subordinate Legislation. It is also proposed to validate the rules which have been made in the past with retrospective effect. 3. The Bill seeks to achieve the above objects. - Gazette of India, 21-12-1974, Pt. II, Section 2, Ext., p. 1232. [29th October, 1951] An Act to regulate the recruitment, and the conditions of service of persons appointed, to the All-India Services common to the Union and the States. Be it enacted by Parliament as follows :-

1. Short title .-This Act may be called the All-India Services Act, 1951.

2. Definition .-In this Act, the expression " an all-India Service " means the service known as the Indian Administrative Service or the service known as the Indian Police Service [or any other service specified in section 2-A.]

[2-A. Other All-India Services.-With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted the following All-India Services and different dates may be appointed for different services, namely:-

1. The Indian Service of Engineers (Irrigation, Power, Buildings and Roads);

2. The Indian Forest Service;

3. The Indian Medical and Health Service.]

3. [Regulation of recruitment and conditions of service

.- (1) The Central Government may, after consultation with the Governments of the States concerned including the State of Jammu and Kashmir [and by notification in the Official Gazette] make rules. [(1-A) The power to make rules conferred by this section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.] [Inserted by Act 23 of 1975, Section 2.] (2) [Every rule made by the Central Government under this section and every regulation made under or in pursuance of any such rule, shall be laid, as soon as may be after such rule or regulation is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in such rule or regulation or both Houses agree that such rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.] [Substituted by Act 19 of 1975, Section 3, for sub-Section (2).]

4. Continuance of existing rules .-All rules in force immediately before the commencement of this Act and applicable to an all-India Service shall continue to be in force and shall be deemed to be rules made under this Act.