

**DRAFT**

**PUBLIC SERVICES**

**BILL, 2007**

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**PUBLIC SERVICES BILL, 2007****BILL NO. ... OF 2007****A BILL**

To provide a statutory basis for the regulation of the Public Services in India, as enshrined in Article 309 of the Constitution of India, to regulate the appointment and conditions of the Public Servants, to lay down and review the fundamental values of Public Services, the Public Services Code of Ethics, Public Service Management Code, to establish Public Services Authority for facilitating review and proper development of Public Services and in order to develop Public Services as a professional, neutral, merit based and accountable instrument for promoting good governance and better delivery of services to the citizens.

It is hereby enacted in the -----Year of the Republic of India as follows:

**CHAPTER I****EXTENT AND DEFINITIONS****1. Short Title, extent and commencement**

- (1) This Act may be called the Public Services Act, 2007.
- (2) It extends to the whole of India.
- (3) This Act comes into effect from the date of publication in the official Gazette.

**2. Definitions:** In this Act, unless the context otherwise requires: -

- (a) "All India Services" means the Indian Administrative Service, the Indian Police Service, the Indian Forest Service and any other Service constituted under Section 2-A of the All India Services Act, 1951.
- (b) "Cadre Controlling Authority" in relation to any cadre means the Ministry or Office specified in respect of that cadre under the relevant rules;
- (c) "Controlling Authority" means the authority specified for the purpose of superintendence and control over a public servant by the concerned Ministries/Departments/ Organisations where he/she is posted;
- (d) "Disciplinary Authority" means the authority competent to impose any of the penalties mentioned in the discipline and appeal rules applicable to a public servant;
- (e) "Central Authority" means the Central Public Service Authority established under sub Section (1) of Section 19 of this Act;
- (f) "Central Vigilance Commission" means the Central Vigilance Commission constituted under the Central Vigilance Commission Act, 2003;
- (g) "Central Services" means all Services as notified by the Central Government from time to time;
- (h) "Chairperson" means the Chairperson of the Central Authority;
- (i) "Member" means the Member of the Central Authority;
- (j) "Prescribed" means prescribed by rules or regulations made under this Act;
- (k) "Public Servant" means a person who is a member of the Public Service;

- (l) "Public Services" means the All India Services, the Central Services and any other Service and posts in connection with the affairs of the Union notified by the Central Government;
- (m) "Public Services Codes" and "Public Service Management Codes" mean codes notified by the Central Government from time to time for the Public Services and Public Servants; and
- (n) "Union Public Service Commission" means the Public Service Commission for the Union constituted in terms of Article 315 of the Constitution.

## CHAPTER II

### APPOINTMENT TO THE PUBLIC SERVICES

3. Subject to the provisions of the Constitution of India and any Act providing for reservation, the appointment to public services shall be on the principle of merit, fair and open competition.
4. The appointment of a public servant may be made subject to conditions notified to the public servant, and may include conditions such as:
  - (i) Probation
  - (ii) Citizenship
  - (iii) Formal qualifications
  - (iv) Good conduct
  - (v) Health.
5. A person who is not a citizen of India shall not be engaged as a public servant unless the government has special reasons to do so to be recorded in writing.

## CHAPTER III

### PUBLIC SERVICE VALUES

6. **Values of Public Services:** The Public Service and the Public Servants shall be guided by the following values in the discharge of their functions:
  - (a) patriotism and upholding national pride;
  - (b) allegiance to the Constitution and the law of the nation;
  - (c) objectivity, impartiality, honesty, diligence, courtesy and transparency;
  - (d) maintain absolute integrity.

7. Without prejudice to the provisions of this Act, the Central Government may, on the recommendation of or in consultation with the Central Authority, notify from time to time other values in this Section

8. **Review of Public Services Values:** The Central Authority may from time to time review the adoption, adherence to and implementation of the Public Services Values in the departments or organizations under the Central Government and send reports to the Central Government.

9. **Public Services Code:-** (1) The Government shall promote the Public Service Values and a standard of ethics in the Public Service operations, requiring and facilitating every Public Service employee -

- (i) to discharge official duties with competence and accountability; care and diligence; responsibility, honesty, objectivity and impartiality; without discrimination and in accordance with the law;
- (ii) to ensure effective management, professional growth and leadership development;
- (iii) to avoid misuse of official position or information and using the public moneys with utmost care and economy; and
- (iv) function with the objective that Public Services and Public Servants are to serve as instruments of good governance and to provide services for the betterment of the public at large; foster socio-economic development, with due regard to the diversity of the nation but without discrimination on the ground of caste, community, religion, gender or class and duly protecting the interest of poor, underprivileged and weaker sections.

(2) The Government shall, in consultation with the Central Authority, prepare a Public Services Code of Ethics for guiding the Public Service employees within one year from the commencement of this Act.

(3) The Public Services Code shall be laid for not less than fourteen days before each House of the Parliament as soon as possible.

(4) The specialized organizations may frame additional service codes in alignment with Public Service Code, in consultation with the Central Authority.

10. **Breaches of the Public Services Code:** The Controlling Authority and the Disciplinary Authority, as the case may be, may, subject to the provisions of the Constitution and this Act, impose sanctions as prescribed on a Public Service employee for breaching the Public Services Code. The rules shall provide the procedure for determination of the breach of these codes; functions, powers and limitations on the powers of these Authorities; procedure for appeal against sanctions and safeguards available to the public servants.

**CHAPTER IV****PERFORMANCE MANAGEMENT AND ACCOUNTABILITY**

11. The Government shall, within a period of twelve months from the coming into force of this Act, establish a Performance Management System for Public Service employees, including -

- (a) the priorities, objectives, indicators and targets as part of the Government's strategic plans, availability of resources, constraints on performance and outcomes and skills of the public servants.
- (b) preparation of performance indicators and its periodical review, preparation and submission of Performance Appraisal Report of each employee with well-defined principles for achievement of targets set for the year.

12. The Government shall cause adoption of the Annual Performance Report of each Department or Institution and publication of the same or making available its key contents to the public in a manner as prescribed by regulation or guidelines.

13. **Public Services Management Code:** (1) The Government shall, in consultation with all stakeholders, prepare Public Services Management Code on the following principles:

- (a) Public Services is established as a professional, merit based institution for promoting government policies and good governance;
- (b) Mechanisms and incentives to achieve and maintain high levels of productivity, efficiency and excellence;
- (c) Policies and structures to promote the viability and sustainability of the public services keeping in view the finances of the government; and
- (d) The interface between the political executive and the public services based on the principles of neutrality, professional excellence and integrity.
- (e) Public Servants shall be accountable for their decisions or the decision making process in implementation of the management of code;

(2) The Public Services Management Code shall be laid for not less than fourteen days before each House of the Parliament as soon as possible.

14. **Implementation of the Public Services Management Code:** The Cadre Controlling Authorities and the Controlling Authorities, as the case may be, shall ensure that the provisions of the Public Services Code be given effect to within twelve months of the coming into force of this Act and may prescribe benchmarks, time schedules and authorities responsible for implementation.

15. Every Ministry/Department shall, at the end of the year, submit a report to the Central Authority indicating compliance with the Performance Management Code in such

format as the Government may prescribe. The report shall also include reasons for non-compliance, if any, and the steps taken/proposed to be taken for compliance.

## CHAPTER V

### CONDITIONS OF SERVICE

16. The Central Government shall:
- (a) periodically review the pay structure, incentives and other benefits provided to the Public Servants.
  - (b) make guidelines for the promotional prospects and career advancement of public servants;
  - (c) impart in-service training to the Public Servants to develop competence for the due discharge of their duties and responsibilities.
  - (d) periodically review the cadre structure of each public service.
  - (e) fix a minimum tenure for cadre posts, which may be filled on the basis merit, suitability and experience.
17. **Protection of action taken in good faith:** No suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith or intended to be done under this Act or any rule made under this Act.

## CHAPTER VI

### THE CENTRAL PUBLIC SERVICES AUTHORITY

18. **Constitution of the Central Authority:** (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Authority to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Central Authority shall consist of the Chairperson and such number of members, not less than three and not exceeding five, as may be deemed necessary by the Central Government. The Chairperson and members of the Central Authority shall be persons of eminence in public life having adequate knowledge or experience of not less than twenty five years and capable of dealing with problems relating to public policy, administration, management and governance.

(3) The Chairperson and members of the Central Authority shall not be a Member of Parliament or a Member of the Legislature of any state or Union Territory, as the case may be, and shall not hold any office connected with any political party or any other office.

(4) The Chairperson shall be the chief executive of the Central Authority.



(5) (a) The Chairperson and members of the Central Authority, shall be appointed by the President on the recommendations of a Committee consisting of –

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Union Home Minister; and
- (iii) the Leader of the Opposition in the Lok Sabha.

Explanation:- Where the Leader of Opposition in the House of People has not been recognized as such, the Leader of the single largest group in opposition in the House of People shall be deemed to be the Leader of Opposition.

(b) The Cabinet Secretary in the Central Government shall act as the convenor of the committee.

**19. Term of office and conditions of service:** (1) The Chairperson and member shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that the Chairperson or member shall not hold office as such after he has attained the age of sixty-five years.

(2) The Chairperson and member shall, before he enters upon his office, make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form as may be prescribed for the purpose.

(3) The Chairperson or member may, at any time, by writing under his hand addressed to the President, resign from his office:

(4) The Chairperson or member may be removed from his office in the manner specified under section 20.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the Chairperson shall be the same as that of the Chief Election Commissioner;

(b) the members shall be the same as that of the Election Commissioner.

Provided that the salaries, allowances and other conditions of service of the Chairperson or member shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Central Authority with such officers and employees as may be necessary to assist the Chairperson and members in

the performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

20. **Removal of Chairperson or Member:** (1) Subject to the provisions of sub-section (3), the Chairperson or Member shall be removed from his office only by order of the President on the ground of proved misconduct or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chairperson or member, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deemed necessary, prohibit also from attending the office during inquiry, the Chairperson or Member in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chairperson or any Member if the Chairperson or the Member, as the case may be, —

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or Member .

(4) If the Chairperson or Member is in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a Member and in common with the other Members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

21. **Functions of the Central Authority:** 1. The Central Authority shall discharge the following functions:

- a) aid and advise the Central Government in all matters concerning the organization, control, operation and management of Public Services and Public Servants;
- b) recommend to the Central Government the Public Services Code of Ethics and Public Services Management Code;
- c) recommend to the Central Government the policies on the protections given to the public servants under chapter-V.
- d) recommend to the Central Government the policies for good governance in the public service, transparency to be maintained by the public servants in the discharge of their duties and the activities.
- e) recommend to the Central Government changes to be made in the system and procedures in different departments and areas of governance by public services.
- f) recommend to the Central Government to ensure that the Public Servants discharge functions in a fair and just manner without fear or favour and consistent with the principles specified in Section 6;
- g) make recommendation to the Central Government on the grievance redressal mechanism for the public servants; and
- h) discharge such other functions as the Central Government may specify.

2. It shall be mandatory for the Government to consult the Authority in matters related to the formulation, revision and interpretation of the Public Services Code of Ethics, and Public Service Management Code.

3. The Central Authority shall maintain transparency in the discharge of its functions and, except as otherwise provided in the Right to Information Act., 2005, make available all information including its recommendations to the Central Government and to all Citizens.

4. The Central Authority shall, before making any recommendation to the Central Government, invite suggestions from the public and consider them. Provided that the Central Authority may make recommendations to the Central Government without inviting suggestions from the public if it considers it appropriate for reasons to be recorded.

22. **Functions of the Cadre Controlling Authorities:** - Each Cadre Controlling Authority or agency responsible for managing organized services in Government, as the case may be, shall, within a period of twenty four months from the promulgation of this Act, ensure performance of the following functions:

- i. Formulate service rules and conditions of service of public servants, maintain up-to-date records in respect of seniority, promotion, empanelment and deployment of public servants; establish a mechanism for periodical review of the requirements of professional cadre management including skills required, training inputs to be provided; effective delivery of services, adequate promotion prospects and professional growth.
- ii. Review the existing methods of performance management and make changes with the objective of ensuring objectivity, fairness, transparency and professional excellence including maintenance of up-to-date personal records. The performance appraisal should be based on clear benchmarks for performance for each public servant determined at the beginning of the year with a provision for periodical review.
- iii. Establish a fair **and time bound** system of redressal of grievances relating to service matters.
- iv. Notify within a period of six months from the coming into force of this Act, norms and guidelines for transfers and postings to maintain continuity and predictability in career advancement and acquisition of the required skills and experiences as well as promotion of good governance. Transfer before the specified tenure should be for valid reasons to be recorded in writing:  
Provided that the normal tenure of all public servants shall not be less than two years.
- v. Establish a mechanism for ascertaining the skill and training requirements of public servants; imparting them training and encouraging to acquire competence in their domain, keeping in view the objectives of service delivery and good governance.

## **CHAPTER VII**

### **MISCELLANEOUS**

23. **All India Services:** The provisions of the this Act shall also apply to the All India Services in addition to the Constitutional provisions and the All India Services Act, 1951.

24. **Report of the Central Authority:** - (1) The Central Authority shall, after the end of each financial year, compile and submit a report to the Government indicating the compliance with the provisions of this Act by every Ministry/Department of the Government, in such format as the Government may prescribe. The report will also

include reasons for non-compliance, if any, and the steps to be taken to ensure compliance and the time schedule.

(2) The Report may also contain recommendations for improving the conditions of Public Services in general, new career development issues, pay structure and related issues.

25. **Power to make rules:** - The Central Government may, by notification in the Official Gazette, make rules to implement the provisions of this Act.

26. **Laying down of Rules:** Every rule made by the Central Government under this Act shall be laid, as soon as possible, before each House of the 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 to make any modification in the rule or not to make any rule, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. Any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

27. **Powers of the Union Public Service Commission, Central Vigilance Commission and the Comptroller and Auditor General of India:-** Nothing contained in this Act or any rule or regulation made under this Act shall in any manner affect the exercise of the powers and functions of the Union Public Service Commission, the Central Vigilance Commissioner and other authorities constituted under the Central Vigilance Commission Act, 2003 and the Comptroller and Auditor General of India.

28. **Savings:-** (1) All rules made under proviso to Article 309 or any other Article of the Constitution as on the date of the coming into force of this Act shall be deemed to have been made under this Act and shall continue to be in force until such rules are rescinded or modified, as the case may be.

(2) Anything done or any action taken or purported to have been done or taken including any modification, order or direction given by the Central Government in regard to matters which form the subject matter of this Act, prior to the coming into force of the Act, shall be, unless repugnant to the provisions of the Act, deemed to have been done or taken under the corresponding provisions of this Act.

29. **Power to remove difficulties:** - (1) The Central Government may, by notification, make such provisions, as may be necessary for removing the difficulties in implementation of this Act:

Provided that no notification shall be made under this Section after the expiry of two years from the date of commencement of the Act.

(2) Every notification made under this Act shall be laid, as soon as possible, before each House of Parliament.

30. **Public Services under the State Government:** The State Government may, by notification in the Official Gazette, make the provisions of this Act applicable to public services under the State Government from dates to be specified and make rules for carrying out the provisions of this Act.