

## CHAPTER -6

### *Conclusion*

6.1 The present dissertation attempts to explore the various facets of process of appointments in Central Civil Services. The emphasis has been on contribution towards understanding of the legal jurisprudence in the realm of public appointments, various nuances of process of appointment and its actual operation, in the framework of general trends of civil service reforms. The study is basically exploratory and answers to key issues and questions raised in chapter I have been attempted based on various judgments of the courts, reports of second ARC/ Sixth CPC, instructions of DoP&T and study and analysis of secondary literature, relevant to the study, in the realm of constitutional law and public administration. It is hoped that the specific issues arising from this study would be subjected to further research in future.

6.2 In this concluding chapter a two fold task is attempted: First, based on discussions in previous chapters, a statement of the major conclusions with reference to the research questions which were posed in chapter 1 is made in part I. Secondly, recommendations emanating from the previous chapters are made in part II.

6.3 The provisions of Constitution concerning Fundamental rights of equality as enshrined in Article 14,15 and 16 specifically mandate for equality before law and of equality of opportunity in matter of public employment without any discrimination on the basis of religion, race, caste, sex, descent, place of birth or residence. Article 315 and

320 have provisions for an independent constitutional authority, the Union Public Service Commission, for advising the Central Government on all matters concerned with the recruitment and service condition in regard to civil services. The Courts have upheld the validity of these principles time and again in various judgments on service law. The administrative process of appointment has also evolved and shaped to incorporate these principles in various rules and procedures prescribed. Open advertisement / publicity of vacancies, non discriminatory, codified rules on eligibility, well defined and publicized selection procedure and approval by the competent authority is the hall mark of any method of appointment in civil services. The consultation with the UPSC in the matter of recruitment is codified as part of recruitment rule for a post and consultation with the UPSC for framing and amending the recruitment rules is an integral part of rule making exercise.

6.4 Based on legal jurisprudence, some of the main principles in the process of public appointment are: superiority of statutory rules over administrative instructions, equal opportunity and access for public appointments, prescribed qualifications to have reasonable nexus with the requirement of concerned service, recruitment according to the published qualification, consideration of all eligible persons, fair and reasonable consideration, application of same norms, tests and the relevant rules to all eligible persons and impartial and merit based selections.

6.5 The reform process in Central Civil Services appointment is mostly centered on induction into higher civil service through civil service examination conducted by UPSC.

The present format of examination consisting of preliminary exam, main exam and interview has been established based on Kothari Committee report. There have also been repeated recommendations regarding lowering of age for induction into civil services, which have not yet been implemented by the government. The second ARC has given certain path breaking recommendations regarding setting up of National Institutes of Public Administration which will be the major source for civil service aspirants, setting up of Central Civil Service Authority and opening up of senior level posts in the government to all services based on domain expertise. Sixth CPC has also recommended for broad basing the selection procedure for senior level deputation posts in government, opening up of identified senior posts requiring special expertise to all eligible officers within the government and outsiders, selection for senior level in government through institutional mechanism of UPSC and contractual appointments on higher remuneration for posts requiring high professional expertise. The questions of providing domain expertise; channels for lateral entry into the civil services; broad basing the internal selection process for deputation posts in the government, independent institutional mechanism for senior level selections are the recurring concerns in the reports of various committees but a solution has been elusive and structural issues are yet to be sorted out.

6.6 The process of appointment in Central Civil Services is shaped due to needs and requirements of democratic polity and strong legal basis in the form of written constitutional provisions and codified rules in the matter. The other factors affecting the process of appointment are, long term manpower planning and organizational restructuring, the choice between the career systems or position systems and openness to

reforms. Codified rules and procedures, involvement of independent Union Public Service Commission in the process of appointment, merit based systems in civil service appointment and career based recruitment have proved to be equitable and stable. However there are several change factors like globalization, technology innovations, economic considerations which are acting as drivers for change in scope and process of public delivery systems and the challenge lies in expediting the process of appointment and making it more open and flexible to allow for specialization and responsiveness in the system.

### ***Recommendations***

6.7 The processes for framing of recruitment rules and recruitment need to be simplified. The delegation in the process of framing/ amending RRs needs to be reviewed. Many a times there are no deviations from existing rules and instructions in recruitment rules framed or amendments are insignificant. It could be more practical to exercise control in such cases through checks and audits. Delegation to Ministries for framing and amending of RRs could be further strengthened by exploring the possibility of identifying the non-negotiable features of RRs like classification of post, commensurate pay band and grade pay, minimum qualification for direct recruitment at different levels, adherence to the qualifications prescribed by expert bodies like AICTE, Medical Council of India etc for relevant posts, requirement of direct recruitment at prescribed levels based on the cadre structures etc. The use of Information Technology in expediting the approvals for RRs also needs to be explored. A system for online submission and approvals of RRs is being

framed in DoP&T<sup>89</sup> and logic of it could be further extended to the approvals of Commission also. Framing of templates for standard recruitment rules / service rules for different kinds of post could also go a long way in expediting recruitment rule framing exercise.

6.8 Advance preparedness for recruitment needs to be institutionalized. The instructions for the same exist, in-fact guidelines on DPC procedure for appointment through promotion even prescribes a model calendar for DPC<sup>90</sup>. However in practice the guidelines are rarely adhered to. The second ARC has given recommendations for compressing the civil service examination which need to be deliberated for a suitable decision.

6.9 The direct recruitment in civil services through the UPSC has over the years acquired the reputation of being fair and transparent. However as far as appointment by promotion is concerned, the role of UPSC needs a critical review. In practice there is lot of variation in the government, in different cadres, regarding involvement of UPSC. The basic responsibility for assessment and progression is better placed with the concerned cadre controlling authority in case of promotion. The Second ARC<sup>91</sup> has recommended that promotion of officers through DPC, up-to the level of selection grade may be delegated to the respective department and UPSC should supervise the functioning of these DPCs through periodic review, audit etc. The suggestion merits consideration and role of UPSC

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<sup>89</sup> Website of Department of Personnel

<sup>90</sup> DoP&T OM 22011/9/98-Estt(D), dated 8/9/98

<sup>91</sup> Tenth Report, Ch. 5

in the case of promotions could be further deliberated for its effectiveness. However, where the induction in any organized Gr. A service from subordinate cadres is concerned, the Commission's involvement would be desirable.

6.10 The issue of lateral entry has been under consideration and deliberation for long but a consensus and a practical solution seems to be elusive. Perhaps a starting point would have to be critical study of organizational work and structures with a view to restructure the systems from point of view of efficient delivery of services, a clear analysis of competencies required and allocation of competencies to posts in the organization along with structuring for career posts and posts for open selection. Only a clear job analysis for posts could result in identification of posts where lateral entry on tenure basis could be considered. Long term manpower planning systems need to be activated in different Ministries and Departments.

6.11 The problem of recruitment of technical persons requires a comprehensive deliberation as no ready and easy solution seems to be available. The starting point could be an assessment of need for keeping medical and other technical services in the government, the development of private sector in providing these services and extent of such services which are absolutely required to be in public sector. The options for structuring the technical services, whether it should be on government department pattern or autonomous structures or with private partnership or a mix of all with strong regulatory mechanism can be explored. Lateral entries, contractual agreements, performance contracts with a flexible remuneration policy seem inevitable in future.

Suitable systems would need to be deliberated and put in place. The response for structured examinations for induction into civil service seems better than the response for stand alone posts in various Departments (Annexure-VIII). It could be examined for scientific posts covered under Flexible Complementing Scheme, an assured career progression scheme for scientists, if entry through a common examination with papers in different discipline can be considered. Certain innovative practices like providing technical internships in the government for reaching out to a young population or sponsoring merit scholarships for institutions of excellence in science with inherent liability of tenure service in the government could also be explored.