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REORGANIZATION OF CENTRAL PERSONNEL AGENCIES
IN
PAKISTAN

By

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PREFACE

Public Administration is the core of any system of Government and personnel administration is the heart of the core, for it is the civil servants who share the process of policy formulation and bear the brunt of its execution. They can make, or mar, the successful implementation of governmental programmes. Therefore, it is necessary that public servants should be satisfied with conditions of their employment. They should have a feeling of security, impartiality, belongingness, fairplay and justice. Justice should not only be done but it should be felt that it is being done. A personnel system which does not care for the welfare of its incumbents, their needs and requirements, produces a large force of disgruntled, discontented, inefficient and unwilling workers. This may be a burden to the national exchequer and may also open the way to corruption and maladministration, and hence become a stumbling block to any programme of national development.

A dynamic administration attunes itself to the requirements of the time. A system may work well at one time in one milieu, but after a passage of time and

change in the circumstances, it may become outmoded and unsuitable. In such a case, to adhere to the old "time honoured" and "established" practice is folly. Dynamism requires change to meet the requirements of the times.

Since independence Pakistan has undertaken a number of reorganizational plans of Government departments in order to bring them in line with the socio-political conditions of a free nation, which has embarked upon developmental programme in all spheres. The present study about the reorganization of the central personnel agencies of the Federal Government of Pakistan is an attempt to provide a solution to one of the problems of public service management in the country. I have tried to make an objective study of the Pakistani situation and at places made criticism of the practices prevailing there. However, the underlying purpose of this venture is not criticism for the sake of criticism but to examine a problem and to suggest a solution for it.

For the completion of this study, I am immensely grateful to Prof. Ralph E. Crow, my Advisor and Chairman of my Thesis Committee, for his unreserved cooperation, wise guidance, healthy criticism and useful suggestions

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CHAPTER I

INTRODUCTION

A. Statement of the Problem

Pakistan, as an independent state, found a place on the world map on the 14th August 1947. Before its inception, the area was a part of British India, and was governed under the Government of India Act 1935. The Viceroy and Governor-General, appointed by the British Government, was head of the Indian colony. The Governor-General acted in the name of His Majesty the King. The affairs of India were directed, superintended and controlled by the Secretary of State for India on behalf of the Crown with the help of an Advisory Council.

India remained under the British control for about two hundred years. In administration, the British administrative practices were adopted which were suited to the colonial rule and did not meet the genius and temperament of the people of India. The main object was to look after their own interest and convenience, i.e. how they could best rule India, keeping their supremacy and authority over the Indians. The officers of the Indian Civil Service

were imported to maintain the British interests in the colony. However, when in the early part of the present century, there was greater demand for Indianization of the services the British Government, on the recommendations of the Montagu-Chelmsford Report, made a provision in the Government of India Act, 1919, for the establishment of a Public Service Commission in India. The Commission did not come into being immediately after enacting the Act. It was established in 1926 when the Royal Commission on the Superior Services in India recommended its establishment.

The Government of India Act, 1935, which granted provincial autonomy, specified the composition and functions of the Federal Public Service Commission. The Commission was an attached department¹ of the Home Department of the Government of India in respect of personnel matters.

¹"Attached Department means a department which has direct relations with a Division and has been declared as such by Government." The Rules of Business 1962, (Government of Pakistan, President's Secretariat, Cabinet Division, Karachi: 1962), p. 1.

This term has been clarified by the Government of West Pakistan which says that "It should be the responsibility of the Secretariat to formulate policy, while it should be responsibility of the Attached Departments to implement that policy." Quoted by Keith Callard, Pakistan: A Political Study (London: George Allen & Unwin Ltd., 1958), p. 293.

M.A. Chaudhury, The Civil Service in Pakistan (Dacca: Pakistan, National Institute of Public Administration, 1963)

Pakistan, on independence, inherited the same pattern of Civil Service Commission, and adapted the Government of India, Act, 1935, till the new Constitution was framed in 1956. Even after the first Constitution was promulgated, and abrogated, the status, composition and functions of the Commission remained, more or less, the same. But certain specific constitutional provisions were made in respect of tenure, conditions of employment and removal from office of chairman and a member of the Commission. Sometime after independence, the personnel functions performed by the Home Department of the late Government of India were transferred to the Cabinet Secretariat in Pakistan. (This office has been renamed President's Secretariat since 1958.) When the volume of personnel work increased, a division of the Cabinet Secretariat was created in 1951 under the nomenclature of 'Establishment Division'. Since then this Division has been the counterpart of the Home Department of the former Government of India in respect of personnel matters. Thus, two personnel agencies have been existing in Pakistan as well.

Continued from p. 2.

says that attached departments tender advice to the secretariat as well as supervise the actual execution of policies, p. 76.

The present problem raises three questions:

- (1) What are the formal purposes of the two central personnel agencies — the Establishment Division of the President's Secretariat and the Central Public Service Commission — in Pakistan?
- (2) Have these agencies been successful in achieving their objectives effectively?
- (3) If not, what steps could be taken to improve personnel administration in the Central Government of Pakistan?

These questions are to be dealt with in the following chapters as follows:

Chapter II traces the history of the Central Public Service Commission in the British Government of India, and latter in Pakistan. It enumerates the functions of the Commission, its status, composition, terms and conditions of service of its members, under various Acts and the Constitutions of the Republic, and its relationship with the Establishment Division and other Ministries and Departments of the Government of Pakistan.

Chapter III deals with the inception of the Establishment Division in Pakistan, functions assigned to it under the Rules of Business¹ and its relationship with

¹"Rules of Business" is the official handbook which shows allocation of functions to various ministries/divisions of the Government of Pakistan. It is issued by the Cabinet Division of the President's Secretariat under the authority of the President of the Republic.

other Ministries/Departments of the Government.

Chapter IV analyses the actual operation of the Central Public Service Commission and the Establishment Division. It also deals with the question whether the Commission and the Establishment Division under the present form could prove successful in eliminating irregularities in appointments, promotions, and disciplinary matters and rendering justice. If not, what are the factors responsible for its failure?

After taking into consideration the analysis of the previous chapter, chapter V considers the question whether the two agencies could be merged. If so, for what reasons? Do the present assignments of the Commission and the Establishment Division involve duplication of functions, conflict of interests, delay in decision-making, influence of personalities in office, or effective organization?

B. Purpose and Significance of Study

As mentioned earlier, in Pakistan, there are two central personnel agencies which look after the personnel administration of the Federal Government. One of them is the Establishment Division of the President's Secretariat — an organ of government and a portfolio of the President. The second is the Central Public Service Commission which

is an independent statutory body on the one hand, and an attached department of the Establishment Division on the other.

The Central Public Service Commission¹ has been advocating for an independent personnel agency for a long time. A former chairman of the Commission, who had a distinguished civil service career behind him, in an article observed

A government department cannot fairly be said to cast in this role. Being a direct participant in the business of the government it cannot be free from the risk of political interference. Nor can it avoid the charge of partiality in inter-service matters since its personnel must belong to one service or another.²

Bernard L. Gladieux, who was appointed consultant on Public Administration to the Planning Commission, Pakistan, also observed in his report presented to the Planning Board in 1955, that the Central Public Service Commission "in its present status is not suitable as a

¹The name of the Central Public Service Commission has changed from time to time. From 1947 to 1956 it was known as 'Pakistan Public Service Commission'. Under the Constitution of 1956, and till March 1962, it was called 'Federal Public Service Commission'. In the 1962 Constitution it has been named as 'Central Public Service Commission'. In order to avoid confusion, and maintain consistency, the Commission has been referred to as 'Central Public Service Commission' throughout.

²A.S.B. Shah, "Functions of the Public Service Commission", Morning News, Independence Day Supplement (Karachi: August 14, 1961).

vehicle for a positive, vigorous and non-political program of public personnel management"¹ He recommended that to the Central Public Service Commission "should be transferred the Establishment Division for integration with the administrative operations of the existing Public Service Commission."²

The purpose and significance of undertaking the study of the two personnel agencies in Pakistan is to examine —

1. Whether the present system has been working well or not?
2. Is there a real necessity for the two agencies, or can these functions be discharged more effectively, economically and expeditiously by a single independent and impartial body? Will it be suited to the socio-political conditions in the country?

It is an important issue and has been a source of controversy between the Establishment Division and the Central Public Service Commission for a long time. It also came before the Administrative Reorganization Committee in 1960, which was appointed by the Martial Law regime, for reorganizing the offices of the Government of Pakistan. Both the Central Public Service Commission and the Establishment Division presented their points of view. The

¹Bernard L. Gladieux, "Reorientation of the Pakistan Government for National Development," an unpublished mimeographed report submitted to the Planning Board, Pakistan, (Karachi: 1955), p.109.

²Ibid., p. 11.

D. Methods of Study

For the purpose of conducting this study, the sources available are the official publications, statutes, annual reports of the Central Public Service Commission, official reports of the Committees set up by the Government of Pakistan from time to time, books published on the subject of personnel administration in other countries of the world, laws and statutes of other personnel agencies, newspaper clippings whatever available, and the personal knowledge of the writer on the working of the two agencies, the political and social conditions in the country and the general office environment. Not much is available in private publications on the subject. The official files, generally under the cloak of secrecy, are beyond access. The officials, who have a say in the matter, are behind the high walls of status and too busy to answer questions. This attitude is a great hindrance in undertaking a research project even of a small nature and discourages the researchers from helping solve administrative problems in the country, or undertaking a study.

Commission did not succeed in getting its views accepted.

The present study may provide an incentive for further research and study in personnel administration in Pakistan.

C. Scope of the Study

Under the present Constitution, there are three Public Service Commissions in Pakistan. One each for the provinces of East and West Pakistan, and one for the Federal Government. The provincial Commissions¹ have responsibility, specified in the Constitution and the regulations, for employees of the provincial governments alone. The Central Public Service Commission looks after the personnel in the Central Government of Pakistan. Its responsibility is limited to the employees of the Federal Government. However, Article 187 of the Constitution envisages, that a Governor of a Province, with the approval of the President, may refer to the Central Public Service Commission a matter relating to the services of the Province or posts connected with the affairs of the Province.

The scope of the present study is confined solely to the Central Public Service Commission and the Establishment Division of the Government of Pakistan. The Provincial Service Commissions are outside the purview of the study.

¹The provincial Commissions are also statutory bodies but are under the administrative and financial control of the Services and General Administration of the provincial Governments concerned. They do not have any relationship with the Central Government and the Central Commission. Their functions are the same as that of the Central Commission.

D. Methods of Study

For the purpose of conducting this study, the sources available are the official publications, statutes, annual reports of the Central Public Service Commission, official reports of the Committees set up by the Government of Pakistan from time to time, books published on the subject of personnel administration in other countries of the world, laws and statutes of other personnel agencies, newspaper clippings whatever available, and the personal knowledge of the writer on the working of the two agencies, the political and social conditions in the country and the general office environment. Not much is available in private publications on the subject. The official files, generally under the cloak of secrecy, are beyond access. This attitude is a great hindrance in undertaking a research project even of a small nature and discourages the researchers from helping solve administrative problems in the country, or undertaking a study.

CHAPTER II

CENTRAL PUBLIC SERVICE COMMISSION IN PAKISTAN

EVOLUTION

The Central Public Service Commission in Pakistan was established in 1948, under the Government of India Act, 1935, as adapted in Pakistan. In fact, after its inception, Pakistan created ministries and departments most of which had their counterparts in British India. Some new offices were established to meet the new functions and problems which arose out of the birth of the new State. The establishment of the Central Public Service Commission was a continuation of the administrative practices which had existed in India.

The history of the civil services in India goes back to the days of the East India Company's rule. During that period the principal posts were reserved for the Covenanted Civil Service.¹ The service derived its name from the covenant which its members were required to execute with the Company. The members to this Service were nominated by the directors of the Company. This

¹Indian Institute of Public Administration, Organization of the Government of India (New York: Asia Publishing House, 1958), p. 357.

practice continued till 1853, when, by an Act of English Parliament, the appointments were to be made through competitive examination in England. This was open to British and Indians alike. However, owing to difficulties of distance and means of transport, lack of educational facilities in India, social taboos, and the attitudes of parents towards English education and overseas travel, the number of Indians in the Service remained small.

In 1879, a Statutory Civil Service was constituted under an Act of Parliament (1870) which admitted Indians to the offices which were reserved for the Indian Civil Service. This scheme contemplated nomination to the Service by the local governments, subject to the approval of the Government of India and the Secretary of State for India. This did not satisfy the Indians for they were not represented in the higher branches of the Services. Secondly, the Statutory Civil Service did not enjoy as high a status, and as much prestige, as the Covenanted Civil Service.¹ Therefore, a Commission was set up to consider the problem. This Commission recommended that the Covenanted Civil Service be abolished and that the posts reserved for the members of this Civil Service be reduced, and the posts thus released should be filled in by members of

¹M.A. Chaudhury, op. cit., p. 30.

Provincial Civil Service — a new Service — to be recruited in each province in India; and that the name of the Covenanted Civil Service should be changed to 'Imperial Civil Service.'¹ However, the Service was renamed as Indian Civil Service.

This did not satisfy the aspirations of the Indians, and the demand for greater Indianization of the Superior Services continued. The Islington Commission, set up in 1912, "keeping in view the paramount interests of British rule and the desirability of satisfying the reasonable aspirations of Indians,"² recommended that about seventy five percent of the superior posts in the Indian Civil Service and the Indian Police Service might be recruited in England and the rest in India, and the nomination system was to continue to provide communal representation in the services. However, before these recommendations could be put into practice, the circumstances had materially changed. Edwin Montague, who was the Secretary of State for India, made a most important announcement in the House of Commons on the 20th August, 1917, that

¹Ibid., p. 31.

²Ibid., p. 36.

The policy of His Majesty's Government with which the Government of India is in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of the self governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire.¹

The implication of this announcement was the gradual transfer of authority and self-government to Indians. Constitutional reforms were recommended by Montagu-Chelmsford Commission, which culminated in the enactment of the Government of India Act of 1919.

However, the political conditions in India remained unstable after the promulgation of the Government of India Act. Indians looked at these reforms with a skeptical eye. The appointment of ministers in charge of different departments under the executive control of an appointed Governor-General left an impression that there was no sincere effort on the part of British Government towards self-rule in the country. Secondly, in the provinces, ministerial responsibility "was restricted by a clumsy device known as 'dyarchy'."² Under the system of dyarchy, a provincial government was committed in two ways — (1) in respect

¹ Percival Griffiths, Modern India (London: Ernest Benn Ltd., 1957), p. 75.

² Asok Chanda, Indian Administration (London: George Allen & Unwin Ltd., 1958), p. 35.

of "reserved"¹ subjects, to the Governor-in-Council; and (2) in matters of "transferred"² subjects to the Governor, acting with ministers.³ These ministers were appointed by the Governor,⁴ but were elected members of the legislature, or should become so within six months of their appointment, if they were not already.⁵ At the Centre, unlike the provinces, there was no transfer of responsibility as explained above. But a second legislative chamber — Council of State, with 20 nominated members out of a total of 60 — was created to neutralize any adverse vote against government by a legislative assembly which now had an elected majority.⁶ Therefore, political discontentment continued to prevail on the Indian

¹"Reserved" subjects were those for which authority was vested with the Governor and his Executive Council. These subjects were Police, Justice and Prisons, Land Revenue Administration and Inspection of Factories. In respect of these subjects the Governor was not responsible to the legislature but to the Governor-General of India. R.C. Majumdar, H.C. Raychaudhuri, Kalinkar Datta, An Advanced History of India (London: Macmillan & Co. Ltd. 1950), p. 918.

²"Transferred" subjects included Local Self-Government, Education (excepting European education) Public Health, Sanitation and Medical Administration, Public Works, Agriculture, Excise, Cooperative Societies and Development of Industries.

³Section 46 (1) of the Government of India Act 1919.

⁴Section 52 (1) of the Government of India Act 1919.

⁵Section 52 (2) of the Government of India Act 1919.

⁶Asok Chanda, op. cit., p. 35.

scene.

With regard to the administrative services, the Chelmsford-Montagu Report pointed out that recruitment in England was not adequate to supply sufficient number of Indians in the service and, therefore, a definite percentage should be fixed for recruitment in India. They recommended a liberal policy in regard to the Indianization of the superior services and suggested a higher percentage of Indians in the Indian Civil Service¹ — the premier superior civil service — and other services.

ESTABLISHMENT OF THE FIRST PUBLIC SERVICE COMMISSION

The Government of India Act 1919, provided for the establishment of a Public Service Commission in the country. However, the Commission was not established on account of further demands for a higher percentage in the superior services, and political agitations in the country. The Indian political opinion was concentrated on two points. Firstly, though the preamble to the Act of 1919 declared that "the increasing association of Indians in every branch

¹In India the civil service was divided into a number of superior services, e.g. Indian Police Service, Indian Forest Service, Indian Service of Engineers, and ministerial services, e.g., Assistants, superintendents, clerks, stenographers, etc. The Indian Civil Service was one of the superior services and enjoyed the highest prestige and privileges.

of Indian Administration" was the policy of the British Parliament, the Indians did not consider the rate of Indianization of the services as adequate. Secondly, it was contended by some that the recruitment and control by the Secretary of State should cease completely.¹ Therefore, another Commission on the superior services in India was appointed in 1923, under the chairmanship of Lord Lee of Fareham. The membership included, besides its chairman, four Indians and four Europeans.² This Commission, inter alia, recommended that the Secretary of State should continue to make recruitment to the Indian Civil Service, the Indian Police Service, the Indian Forest Service and the Indian Service of Engineers (Irrigation Branch). These Services were considered security services and were operating in the reserved fields. The other services — Indian Educational Service, Indian Agricultural Service, Indian Veterinary Service and the Indian Medical Service — should be transferred to the provinces, and there should be no restriction on the source of their recruitment.³

¹G.N. Joshi, Indian Administration, 4th edn., (London: Macmillan & Co., Ltd., 1953), p. 100.

²Report of the Indian Statutory Commission, Two Vols., (London: His Majesty's Stationery Office, 1930), II, p. 290.

³Ibid., pp. 269-70.

The Commission further recommended that the Indians should be given half the appointments in the senior services,¹ and seventy-five percent in the Forest Service where it was a reserved subject for the Centre; and that the Public Service Commission envisaged in the Government of India Act 1919, should be established, as a protection against political and personal influences in selection of civil servants.

The Government of India implemented this recommendation and established a Public Service Commission in 1926. The Commission was assigned the functions of (1) recruitment; (2) advise on disciplinary matters; and (3) protection of services.

Section 84A (1) and (2) of the Government of India 1919 had provided that at the expiration of ten years after passing of the Act, a Statutory Commission had to be appointed "for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions" in India, and other matters connected therewith. The Commission was to report on the question whether, and

¹ V.A. Smith, The Oxford History of India, (3rd ed. Oxford: Oxford University Press, 1958), p. 791.

to what extent, it was desirable to establish responsible government.¹ This Commission was appointed in 1927 by the King.

The Indian Statutory Commission, under the chairmanship of Sir (now Lord) John Simon, appointed to take stock of the situation of the Indian political situation, was boycotted because it did not include any Indians. Later, there was a demand for a full dominion status. As a result of greater agitations in India, and demand for self-government, the Government of India Act 1935 was enacted. The Act granted greater provincial autonomy, and political power.

FEDERAL PUBLIC SERVICE COMMISSION
UNDER GOVERNMENT OF INDIA ACT 1935

Under the Government of India Act, 1935, the civil services were provided with safeguards against malpractices, or abuse of power, or arbitrary dismissal. The provincial ministers did not have complete control over the Indian Civil Service and the Indian Police Service as they were appointed and recruited by the Secretary of State. The Act made elaborate and specific provisions about the organization and functions of the Public Service Commissions

¹ Section 84A (1) and (2) of the Government of India Act 1919.

at the Centre and in the Provinces. The different aspects of the Commission at the Centre, known as the Federal Public Service Commission, are as follows.

Composition

According to the provisions of the Act, the number of members of the Commission, their terms and conditions of service and tenure of office were to be determined by the Governor-General. It was, however, mandatory that at least half of the members should have held office for not less than ten years under the Crown. The Governor-General might also make regulations in respect of the employees of the Commission and their conditions of service.¹ The chairman and members of the Commission were debarred from further employment under the Crown on the expiry of their tenure. Though a statutory body, the Commission enjoyed the status of an attached office of the Home Department of the Government of India.² Regulations were framed by the Home Department for the conduct of the Commission's procedure. These regulations specified the number of members of the Commission, their

¹The Government of India Act, 1935 (Karachi: Ministry of Law, Government of Pakistan, 1955), p. 87.

²Report of the Government of India Secretariat Committee, 1935-36 (Wheeler Report), NIPA Reprint Series No. 3, (Karachi: National Institute of Public Administration, 1963), p. 78.

conditions of employment, the number of employees of the Commission and their conditions of Service. There was no specific provision regarding removal of a member, or chairman, of the Commission from office. They served during the pleasure of the Governor-General and could be removed without any notice.

Functions

It was the statutory duty of the Commission to conduct examinations for appointment to the central civil services. The Commission was to be consulted by government departments on all matters relating to the methods of recruitment to civil services and posts; on the principle to be followed in making promotions and transfers from one service to another, and on the suitability of candidates for such appointments, promotions, and transfers; on all disciplinary matters; on a claim of costs preferred by a civil servant for defending himself in a court of law for the acts done or purported to be done in the discharge of his official duty; and on a claim for the award of a pension on account of injuries sustained by him while serving the Crown in a civil capacity. But, it was not necessary to consult the Commission in any particular class of cases, or in any particular circumstances, as was specified in the

regulations, to be framed by the Governor-General.¹ In other words, the Governor-General had power to place, or not to place, any particular post(s) within the purview of the Commission, or to withdraw it from their purview, any of the matters enumerated above. It was further provided that it was not necessary to consult the Commission on the manner in which the posts and appointments had to be allocated amongst various communities in India.

ESTABLISHMENT OF CENTRAL PUBLIC SERVICE COMMISSION IN PAKISTAN

On its inception on the 14th of August 1947, Pakistan adopted the Government of India Act, 1935, and amended it somewhat to meet Pakistan's requirements. Nevertheless, in substance, it remained as it was before.

The Central Public Service Commission was established in 1948, and was assigned the same status, and functions, which it had in India. In Pakistan, it was an attached department of the Cabinet Secretariat — a portfolio of the Prime Minister. A separate division of the Cabinet Secretariat was created in 1951 under the nomenclature of 'Establishment Division' when the volume of personnel work increased. Since then, the Commission

¹Section 266 (3), The Government of India Act, 1935, op. cit., p. 88.

has been under its administrative and financial control.

The Establishment Division made regulations for consultation by ministries/divisions with the Central Public Service Commission. These regulations were called Pakistan Public Service Commission (Consultation by the Governor-General) Regulations, 1953, and are still in force. They are negative in approach, and emphatically prescribe again and again that "it shall not be necessary to consult the Commission"¹ in respect of

- I (i) the services and posts which had been specified in the schedule to the Regulations;
- (ii) any post, appointment to which was made under the specific orders of the Governor-General (now the President);
- II any selection for appointment
 - (i) to a central service Class I, of any officer of an All-Pakistan Service, or a Central Service Class I, or of the Armed Forces of Pakistan;
 - (ii) to a Central Service Class II by transfer from another service of equivalent rank; or by promotion from Class III;
 - (iii) to a tenure post;
- III Re-employment of superannuated officers;
- IV Disciplinary matters not specified in the Regulations.

The procedure with regard to recruitment —

¹Secretariat Instructions, (Karachi: Government of Pakistan, President's Secretariat, Establishment Division, 1962), p. 25.

examination, selection — promotion, transfer, and disciplinary matters has been laid down in the form of executive instructions issued by the Establishment Division in 1953,¹ as was required under Section 266 (3) of the Government of India Act, 1935.

CENTRAL PUBLIC SERVICE COMMISSION UNDER
FIRST CONSTITUTION OF PAKISTAN - 1956-58

Pakistan continued its system of Government under the Government of India Act, 1935, till March 1956, when the first Constitution of the Islamic Republic of Pakistan was promulgated. The Constitution, in so far as the services were concerned, retained the main features of the previous system but added that Parliament should have exclusive power to make laws in respect of All-Pakistan Services,² and that a member of the All-Pakistan Service could not be transferred to a province except by an order of the President made after consultation with the Governor of the Province concerned.³ A redeeming feature of the

¹Ibid., pp. 29-33.

²"All-Pakistan Services" are those which serve both the Central and the Provincial Governments for administrative purposes.

³The Constitution of the Islamic Republic of Pakistan (Karachi: Constituent Assembly of Pakistan, 1956), p. 52, Article No. 183 (2) and (4).

Constitution was that a new safeguard was provided to the civil services. In case of injustice in any respect — whether be it terms and conditions of service, remuneration, promotion, seniority, or a disciplinary matter — the aggrieved person could seek redress in a court of law through a writ petition.¹

Composition and Functions

In respect of the Central Public Service Commission, some new constitutional provisions were made. The chairman and members of the Commission were to be appointed by the President "in his discretion", as was originally provided in the Government of India Act, 1935.

The term of office of the chairman and the members was also specified as five years. They could not be removed from office except in the manner prescribed for the removal of a judge of a High Court.²

The functions of the Commission remained the same as were provided in the Government of India Act of 1935. However, an additional provision was made for consultation with the Commission by ministries/divisions on any proposal to withhold a special or additional pension, or to reduce an ordinary pension. It was not necessary to attain the

¹Ibid., Articles 49 and 170.

²Ibid., Article 187 (2).

approval of the President for introducing in Parliament a bill extending the functions of the Commission, as was the case in the Act of 1935.

Other Provisions

An important new provision was made which required the Commission to present an annual report to the President on its work. The report, in its memorandum, should enumerate the cases in which the advice tendered by the Commission was not accepted by Government and the reasons therefor; and the matters on which the Government ought to have consulted the Commission but did not, and the reasons therefor. The President was required by the Constitution to place a copy of the report before the National Assembly.

Under the Constitution, the status of the Commission was raised to an independent body, through statutory safeguards of a fixed tenure of office of chairman and members, their arbitrary removal, restrictions on further employment on the expiry of their tenure, and submission of annual reports to the President and the National Assembly. It, however, continued to be attached to the Establishment Division.

THE COMMISSION UNDER THE MARTIAL LAW GOVERNMENT - OCT 1958-MARCH 1962

In October 1958, due to the unstable political and

economic conditions in the country, the Army took over the reins of government and proclaimed Martial Law. The Constitution was abrogated. During this period, the country was administered under ordinances issued by the President, and the Martial Law Regulations. In many respects, the country was run as near to the late Constitution¹ as the circumstances could permit. The position of the Central Public Service Commission remained the same, except that a departure was made from a couple of provisions of the late Constitution. For example, the submission of the Commission's annual reports to the President was discontinued. A former chairman of the Commission was appointed under government as Director, Civil Service Academy, Lahore. This state of affairs continued till the second Constitution was enacted in March 1962.

CENTRAL PUBLIC SERVICE COMMISSION
UNDER THE SECOND CONSTITUTION

The second Constitution which was enacted by the President of Pakistan, Field Marshal Mohammed Ayub Khan, under the mandate given to him by the people of Pakistan, provided some new provisions, and omitted others, of the 1956 Constitution relating to the civil services and the

¹Article 3 of the Laws (Continuance in Force) Order, 1958 (Karachi: Ministry of Law, Government of Pakistan).

Public Service Commissions. Their omission may have a far reaching effect on the morale of the services. Under the first Constitution it was provided that the rules (to be framed by the executive) should be so framed as to ensure that the tenure and conditions of service of an employee were not varied to his disadvantage.¹ Under the present Constitution, this provision has been narrowed to include only "remuneration or age fixed for superannuation" in terms and conditions of service, which cannot be varied to his disadvantage,² and tenure has been omitted. The right of seeking redress in case of any grievance through a writ of a court of law has also been withdrawn, except in the case of terms and conditions relating to remuneration and age of superannuation.³ The 1956 Constitution had provided that the Parliament would have exclusive power to make laws in respect of All-Pakistan Services.⁴

¹Article 182 (3) (a) of The Constitution of the Islamic Republic of Pakistan, 1956, op. cit., p. 52.

²Government of Pakistan, Ministry of Law & Parliamentary Affairs, The Constitution of the Republic of Pakistan (Karachi: The Manager of Publications, 1963), Article 178 (3) (a), p. 61.

³Ibid., p. 37, Article 98 (3) (b).

⁴Section 183 (2) of the Constitution of the Islamic Republic of Pakistan, 1956, op. cit.

The 1962 Constitution states that their terms and conditions "shall be prescribed by rules made by the President or by a person authorized by the President in that behalf."¹

In respect of the Central Public Service Commission some new and important changes were instituted. They are enumerated below:

Terms and Conditions. Under Article 186 (2) of the 1956 Constitution, at least half of the members were to be persons who had held office in the service of Pakistan for not less than fifteen years.² This condition has been waived in the present Constitution. Now, any person who is, or has been, in the service of Pakistan for sometime before his appointment is eligible for appointment as member of the Commission.³

The 1956 Constitution provided that chairman and members of the Commission should be appointed by the President "in his discretion".⁴ These words have been

¹The Constitution of the Republic of Pakistan, 1962, op. cit., Article 178 (2) (a).

²The Constitution of the Islamic Republic of Pakistan, 1956, op. cit., Articles 186 (2), p. 53.

³The Constitution of the Republic of Pakistan, 1962, op. cit., Article 182 (3) and (4)

⁴The Constitution of the Islamic Republic of Pakistan, 1956, Article 186 (1), p. 53.

omitted in the existing Constitution.

The term of office of the chairman and members has been reduced from five years¹ to three years.²

Under the 1956 Constitution, the chairman and members were debarred from further employment under Government after relinquishing their appointment.³ Now, they can return to their jobs, without affecting their rights in the service.⁴

The present Constitution provides that the terms and conditions of service of members are to be determined by an Act of the Central Legislature, or until so determined by the President.⁵ Before this provision, they were the responsibility of the President alone and the Legislature did not come into picture.

¹The Constitution of the Islamic Republic of Pakistan, 1956, op. cit., Articles 186 (3).

²The Constitution of the Republic of Pakistan, 1962, op. cit., Article 184 (1).

³The Constitution of the Islamic Republic of Pakistan, 1956, op. cit., Article 186 (5) (a).

⁴The Constitution of the Republic of Pakistan, 1962, op. cit., Article 182 (4).

⁵The Constitution of the Republic of Pakistan, 1962, op. cit., Article 182 (2).

Another important provision in the 1962 Constitution is that before entering their offices, the chairman and members of the Commission are required to take an oath of allegiance to Pakistan, and that they would discharge their duties in accordance with the Constitution and law, and would not allow personal interest to influence and would act without fear or favour.¹

Functions

In the new Constitution, all the functions assigned under the 1956 Constitution, except two, have been retained.

In some way the new Constitution has raised the status of the Commission. For instance, under the old Constitution the President made regulations relating to the matters on which the Commission was not to be consulted. A matter could be decided by the President, on a proposal from a ministry, as to which cases would not go to the Commission for advice, or for the purpose of recruitment, etc. Or, if a case was already under the purview of the Commission, it could be withdrawn from its purview arbitrarily. Now, Article 185 (2) of the Constitution provides that a matter on which consultation was necessary before could be withdrawn from the Commission's purview only after

¹The Constitution of the Republic of Pakistan, 1962, op. cit., Article 183 (1).

consulting it.¹ And in cases "where the President ... does not accept the advice of [the] Commission he shall inform the Commission accordingly."²

RELATIONSHIP OF THE COMMISSION WITH
THE ESTABLISHMENT DIVISION AND OTHER
MINISTRIES/DIVISIONS/DEPARTMENTS

The Central Public Service Commission is a statutory body and has been established under Article 180 of the Constitution of the Second Republic. Though there is no specific mention of its independent position in the Constitution, but by implication of various constitutional provisions relating to the appointment of its chairman and members, their tenure of office, the procedure to be adopted in case of their removal from office before the expiration of their tenure, etc., it is an independent and autonomous organization. It has unfettered liberty in the discharge of the functions assigned to it under the Constitution, and such other functions as may be prescribed by law. However, its relationship with the Establishment Division of the President's Secretariat is that of an "Attached Department for administrative and

¹The Constitution of the Republic of Pakistan, 1962, Article 185 (2).

²Ibid., Article 188.

financial purposes only; otherwise it [the Commission] is not an organ of Government but an independent body."¹

In case of any difference of opinion between the Commission and a ministry, or the Establishment Division, the chairman of the Commission, though under the President of the Republic, does not have a direct access to him to present his viewpoint. But when such a situation arises, the Commission and the ministry concerned submit their case to the Establishment Division, who, after incorporating their own comments, submit the case to the President for final orders.² In practice, the President generally agrees with the views expressed by the Establishment Division.

The position of a head of an attached department is analogous to this, since he (like the chairman of the Commission) cannot have a direct access to his minister over the head of a Secretary of the ministry. In fact, the decision of the ministry is final.

The other employees of the Commission have the same pay, status, etc., and are as much government employees as the employees of other attached departments. The employees

¹Rules of Business, 1962, op. cit., p. 42.

²Secretariat Instructions, op. cit., pp. 17 and 43.

in ministries/divisions are placed in the higher category than the employees of the Commission and other attached departments.

The relationship of the Commission vis-a-vis other ministries and departments of government is the same as their inter se relationship. The Division/Departments can make direct references to the Commission, except that no reference which is not obligatory under the rules, shall be made without the previous approval of the Establishment Division.¹

The Central Public Service Commission in Pakistan enjoys greater power, and has a larger jurisdiction than its counterpart in the United Kingdom, where its functions are confined to recruitment, examination, and selection. In Pakistan, it not only performs these functions, but is also consulted in matters of promotion, seniority, transfer from one service to another, and matters affecting terms and conditions of service, proposals which affect pension rights adversely and disciplinary matters. Further the advice tendered by the Commission in a case referred to it should be accepted by the referring authority.²

¹ Ibid., p. 16.

² Ibid., p. 43.

Where there are strong reasons for disagreement with the Commission, the President decides the issue.¹ The British Civil Service Commission does not wield any authority or influence except in the fields enumerated above: it is only an examining and selecting body. The position of the Pakistani Commission is akin to its sister institution in Burma.² The practice and constitutional provision in India are generally closer to the provisions relating to the Central Public Service Commission in the 1956 Constitution in Pakistan. There are, however, two distinct features of the Indian case. Firstly, the entire expenditure of the Commission is charged to the Central Consolidated Fund and is not subject to the annual grant by the legislature.³ Secondly, if a ministry or department departs from the advice given by the Commission on selection for appointment, a decision to that effect has to be taken by the Appointments Sub-Committee of the Cabinet, comprising the Prime Minister, the Home Minister and the Minister administrative concerned with the issue.⁴ If the External

¹Ibid., p. 17.

²F.S.V. Donnison, Public Administration in Burma (London: Royal Institute of International Affairs, 1953), pp.77-78.

³S.R. Sharma, Some Independent Governmental Agencies in the Indian Constitution (Sholapur, India: Institute of Public Administration, 1953).

⁴Indian Institute of Public Administration, op. cit., p. 363.

Ministry or the Home Ministry is the contending party,
to the case, the Finance Minister joins the Sub-Committee.¹

¹ Ibid.

CHAPTER III

PRESIDENT'S SECRETARIAT ESTABLISHMENT DIVISION

Pakistan's practice in respect of personnel management of central government employees is analogous to British pattern which is also prevalent in some other countries which were formerly British colonies, e.g. India and Burma. The reason for this is not far to seek. These countries before their independence were under the British raj, and during that period the rulers transplanted the practices which were in operation in the United Kingdom. Upon acquisition of freedom, some continued with the erstwhile system of personnel administration with modification as they deemed necessary, while others like Canada, Australia and New Zealand, gave it a complete new shape in its hierarchical structure, functions, and relationship with other organs of government.

The Government of Pakistan adopted the former alternative on the promulgation of its Constitution. This practice is similar to that which existed in British India, where there were two central personnel agencies: the Home Department and the Federal Public Service

Commission. The Home Department was in charge of central personnel administration, while the Commission conducted recruitment, examination, and selection and was also an advisory body on various facets of personnel management. In Pakistan, the personnel functions performed by the late Home Department were assigned to the Establishment Branch of the Cabinet Secretariat, and were the responsibility of the Prime Minister. With the passage of time, the volume of personnel work increased. Therefore, in 1951, a 'division'¹ of the Cabinet Secretariat was created and called 'Establishment Division'. After the promulgation of martial law in 1958, the responsibility of the Cabinet Secretariat was assumed by the President and since then, it is called 'President's Secretariat'. It has five independent divisions, directly under the President. The Establishment Division is one of them.

STRUCTURE OF THE ESTABLISHMENT DIVISION

The Establishment Division is headed by a Secretary, known as 'Establishment Secretary to the Government of Pakistan'. He is a permanent career civil servant appointed

¹As defined in the Rules of Business, 1962, op. cit., "Division means a self-contained administrative unit responsible for the conduct of business of the Central Government in a distinct and specified sphere, and declared as such by the Central Government."

to this post for a period of five years¹ and is responsible to the President of the Republic. In exceptional cases a second tenure for a shorter period could be allowed. He is assisted by Joint Secretaries, Deputy Secretaries and Section Officers. A Joint Secretary is next to the Secretary, and has three to four Deputy Secretaries to assist him. Some of the Deputy Secretaries are directly under the Secretary, while others route their files through Joint Secretaries to whom they are attached. A Deputy Secretary is assisted by four to six section officers. A section officer is in charge of a small section, and usually has an assistant and a stenotypist under him. These two functionaries provide him with the clerical assistance of routine nature. The section officer is the first step in 'gazetted'² ranks in the Pakistan Secretariat at whose level the process of decision-making starts.

FUNCTIONS

The Establishment Division wields great authority

¹The Establishment Manual, Two Vols., (Compiled by the Efficiency and O&M Wing, Establishment Division, President's Secretariat, Karachi, 1963), I, p. 298.

²"Gazetted" officers are those whose appointment, promotion, leave, removal, transfer, etc., are notified in the official Gazette of Pakistan.

in the field of personnel administration in the central government — from recruitment process till superannuation and retirement, and even in cases of re-employment after superannuation, it has a say in all matters. The functions of the Division have been laid down in the Rules of Business, 1962.¹

Recruitment Policy and Rules

The Establishment Division frames the recruitment policy of the government, rules and regulations of general applicability to the civil service in all personnel matters in order to provide a common standard of recruitment, discipline and conditions of service (including extension of service after superannuation and re-employment after retirement). The ministries are required to consult the Establishment Division and the Central Public Service Commission while framing recruitment rules for a post, or class of posts, or a service administratively controlled by it.

The Establishment Division lays down rules for promotion against selection and non-selection posts;² seniority

¹ Rules of Business 1962, op. cit., pp. 7 and 29-30.

² "Selection posts" are those posts promotion to which is made strictly on the basis of merit, seniority playing its part when other qualifications are equal.

"Non-selection posts" are those posts promotion to which is made on the principle of seniority-cum-fitness. The Establishment Manual, Vol. II, op. cit., p. 28.

of government employees in various cadres, conduct of government employees, and procedures to be adopted in the Central Secretariat and its attached departments in official working. The Division is the final authority in interpretation of rules and instructions issued by it.

Position Classification

Position classification is a very essential aspect of any programme of personnel administration. It would be difficult to effectively operate a sound system of personnel administration without it, as it provides a basis for recruitment, appointments, salary administration, etc. Without classification, there would be confusion and innumerable titles may be used for pay roll purposes. The Establishment Division has a very wide jurisdiction in this field. Every position in the Government of Pakistan, whether be it a secretariat division, or a subordinate office¹ in a farflung area of the country, is subject to the classification by the Division.

¹"Subordinate Office," as defined by the Rules of Business 1962, op. cit., p. 2, "means a Central Government office other than a Ministry, Division or an Attached Department." They are concerned with the actual execution of policy. However, the distinction between an attached department and a subordinate office is not quite clear-cut and at times causes confusion to an outsider.

Recruitment to, and Administration
of Various Civil Services

The Establishment Division is responsible for recruitment to, and administration, of, the All-Pakistan Services, (the Civil Service of Pakistan¹ and the Police Service of Pakistan), the General Administrative Reserve, the Section Officers' cadre, and the Economic Pool. It is also responsible for recruitment to the ministerial staff² of the Central Secretariat and attached departments.

Examinations for the Central Superior Services³ and

¹The Civil Service of Pakistan (CSP) is the counterpart of the Indian Civil Service (ICS). This is the premier service and enjoys great prestige.

²Ministerial staff comprise those employees who perform functions of clerical nature, e.g. assistants, upper and lower division clerks, stenographers, typists, etc.

³The Central Superior Services in Pakistan comprise the following services:

- (i) The Civil Service of Pakistan
- (ii) The Foreign Service of Pakistan
- (iii) The Police Service of Pakistan
- (iv) The Finance & Revenue Services of Pakistan consisting
 - (a) The Pakistan Audit & Accounts Service
 - (b) The Pakistan Railways Accounts Service
 - (c) The Pakistan Military Accounts Service
 - (d) The Pakistan Customs & Excise Service (Class I)
 - (e) The Pakistan Taxation Service
- (v) The Pakistan Military Lands & Cantonment Service (Class I)
- (vi) The Pakistan Postal Service (Class I)
- (vii) The Pakistan Postal Superintendents' Service (Class II)
- [(viii) Section Officers' Grade] .

the ministerial services are conducted by the Central Public Service Commission (CPSC) on the directives of the Establishment Division. However, the rules for these examinations, qualifications, and principles to be prescribed for recruitment and method of recruitment are determined by the Establishment Division in consultation with the Commission and the ministry concerned. Here, the Division performs a coordinating function. Before the Commission is asked to hold an examination, the Division finds out the requirements of the ministries/departments in different ministerial cadres and the superior services. After the Commission has conducted an examination and selected persons for appointment it provides an eligible list in order of merit to the Establishment Division. The Establishment Division nominates the candidates to the divisions and departments of government for appointment. In the case of superior services, the Division also scrutinizes the claims of domicile¹ of qualified persons, verifies their character and antecedents through the Criminal Investigation Agency and the

¹"Claims of domicile" - A place of permanent residence of a candidate is known as his "place of domicile". In Pakistan recruitment to various posts is made on the basis of regional quotas. Some regions have larger quotas than others and, therefore, in order to secure employment on the quota of a region which has larger reservation of positions, candidates may claim domicile where they had neither lived before nor acquired property or education. So the Establishment Division examines whether their claims are bona fide.

Intelligence Bureau, and determines their physical fitness through medical examination. On satisfactory completion of these requirements the Division nominates the candidates to the various services. In case a candidate is declared unfit by the medical board, he may prefer an appeal against this decision to the Establishment Division, which may, if deemed necessary, constitute a second medical board for examination.¹

Determination of Cadre Strength
and Reservation of Posts at the
Secretariat for officers of CSP

The Establishment Division, in consultation with other ministries, fixes the cadre strength of the All-Pakistan Services, and reservation of posts for the members of the Civil Service of Pakistan² and other services, at the Central Secretariat.

Consultation by the Ministries
on Initial Appointments

It is obligatory on the part of ministries/divisions to consult the Division:

¹Central Public Service Commission, Central Superior Services Examination, 1962, Regulations For the Physical Examination of Candidates, p. 4.

²M.A. Chaudhury, op. cit., p. 123.

(1) before issue of orders in respect of appointments (other than those made through the Central Public Service Commission) in the Central Secretariat and its attached departments;

(2) if a change is contemplated in the terms and conditions of officers of the All-Pakistan Services and Central Services Class I, and of the ministerial employees of the ministries and departments; and

(3) the statutory rights and privileges of any central government employee.

Training Policy and Administration of Training Institutions

The training policy for the administrative services, and secretariat staff is also framed by the Establishment Division. For the purpose of training of administrative services, there are the Pakistan Administrative Staff College, the National Institute of Public Administration, Pakistan Academies for Rural Development and the Civil Service Academy. The Secretariat Training Institute trains the newly recruited section officers, administrative officers employed in various departments, and others who are already in service. The Civil Service Academy caters to the training needs of the C.S.P. probationers who are appointed on the basis of the superior services competitive examination.

The National Institute of Public Administration (NIPA) provides the training programme for those officers who have served seven years in Class I. The Pakistan Administrative Staff College forms the apex of these training institutions and gives training to senior officers of the rank of senior Deputy Secretaries and above who have served at least fourteen years, and senior business executives.¹

The general supervision over the affairs of the Pakistan Administrative Staff College, the National Institute of Public Administration, Karachi, and the Pakistan Academies for Rural Development rests in their respective Board of Governors. However, the Government of Pakistan in the Establishment Division has the authority to appoint the chairmen and official members of the Board.² In the case of NIPA Karachi, the Establishment Secretary himself is the chairman of the Board of Governors.³ In the case of the two Academies for Rural Development at Peshawar and

¹Pakistan Administrative Staff College Handbook 1963-64, (Lahore: Pakistan, 1963), pp. 10 and 12.

²The Establishment Manual, op. cit., Vol. I, pp. 78 and 87.

³Ibid., p. 82.

Comilla, the Joint Secretary (Training), of the Establishment Division is a Board member.

The Police Training School at Sardha (East Pakistan), which trains recruits of the Pakistan Police Service (PSP) is also under the administrative control of this Division.

The Division has a final word in the selection of officers for training abroad in the field of Public Administration under the Technical Assistance Programme, Exchange Programme, and any such programme sponsored by a foreign government or an international agency.

Determination of Status of Central Government Offices

Under the Rules of Business, the responsibility for determining the status of a central government office — whether it should be a secretariat division or an attached department, or a subordinate office — falls within the jurisdiction of the Establishment Division. It is also responsible for the grant of ex officio¹ status to the

¹ This phrase has been explained in the Report of the Administrative Enquiry Committee (Karachi: Cabinet Secretariat, 1953), p. 21, as "The officer concerned can authenticate a decision of Government and does not need to make a reference to the Secretariat in matters requiring Governmental authority." The Secretariat status is granted to an officer of an attached department, e.g. Director-General of Post Offices, Secretary of the Central Public Service Commission, etc., to enable him to deal directly with other ministries/divisions.

non-secretariat officers.¹ Similarly, no Division can issue any orders regarding the reorganization of a Division, or an attached department or change in the status of an attached department, without previous consultation with the Establishment Division.²

Central Selection Board

The cases of promotion of heads of attached departments, and all cases of promotion in the secretariat down to the level of section officer are considered by a Central Selection Board which meets in the Establishment Division. The Board comprises three permanent members, one of whom is the Establishment Secretary and the other two being Secretaries to the Central Government. A fourth member is coopted from the ministry whose case is being considered by the Board. It is presided over by a member who is the seniormost Secretary and a Deputy Secretary in the Establishment Division acts as its Secretary.³ The recommendations of the Board are submitted to the President for his approval by the Establishment Division.

Special Selection Board

A Special Selection Board has been set up in the Establishment Division for the purposes of selection of Pakistani officers/nationals for appointment in the CENTO and the SEATO Secretariats, and other international orga

¹Rules of Business, 1962, op. cit., p. 30.

²Ibid., p. 5.

³Establishment Manual, op. cit., p. 291.

organizations. This Board consists of Establishment Secretary, Defence Secretary, and Foreign Secretary, and the Secretary of any other ministry concerned. Again, a Deputy Secretary in the Establishment Division acts as Secretary to the Board. The recommendations of the Board are submitted to the President by the Establishment Division for final orders.¹

Terms of Deputation

The terms and conditions of service of a government employee transferred on deputation to a public corporation are determined by a Foreign Service Terms Committee of the Establishment Division. The Committee comprises the Establishment Secretary and the Finance Secretary. An officer of the Establishment Division acts as Secretary to the Committee.

Transfer of Officers

The transfer of officers from a province to the Centre, and vice versa, is done through the Establishment Division. Here, again, the Division acts as a liaison or coordinating office between the Provincial Governments and the Central Government. A ministry cannot make a proposal directly to the Provincial Government, nor the

¹Ibid., p. 293.

latter to the former, for the transfer of a particular officer, except through the Establishment Division.

Petitions to the President

The petitions addressed to the President by Government employees about their conditions of service are also considered in the Establishment Division before the approval of the President.

Service Records of Officers

This Division maintains confidential records of all officers of the CSP, the PSP, the Central Secretariat Services and the Central Services Class I. Each record comprises an annual, or special, performance rating of each officer, notes of appreciation or reprimand or censure, etc, and an indication of qualifications that he possesses, and the training received by him.

Consultation on Financial Matters

All matters of the civil service which have financial bearing are dealt with by the Finance Division of the Ministry of Finance in consultation with the Establishment Division.¹ For example for the purpose of determining the

¹Administrative Directory of the Government of Pakistan (Karachi: Cabinet Secretariat, 1950), p. 148.

pay of a post, the Finance Division consults the Establishment Division. Similarly, when any new post is to be created in a Division/Department, the Finance Division obtains agreement of the Establishment Division for the creation of such a post.

Conferment of Honours & Awards

The conferment of Honours and Awards to civil employees and nationals of Pakistan for meritorious services rendered, for achievement of an extraordinary nature in the fields of science, art or sports, social service, and for an act of great heroism and most conspicuous courage in circumstances of extreme danger, is the concern of this Division. When recommendations for the conferment of awards are received from different ministries and the Provincial Governments, they are scrutinized in the Establishment Division, and then submitted to the Cabinet Sub-committee on Honours and Awards for final decision.

Disposal of Gifts

Another important function of the Establishment Division is the disposal of gifts presented to Government employees by members of the public and foreign dignitaries. The gifts which are retained by Government are kept in "Toshakhana" which is administered by the Division. Whenever a government employee receives a gift it is mandatory

that he should report the receipt to the Establishment Division. In case he is interested in retaining the gift, he should seek permission from the Division and pay the price, if agreed by the Division.

Control of Service Associations

The control of employees' associations, their recognition by Government, and discussion on matters relating to their service conditions (excluding pay) fall within the jurisdiction of the Establishment Division. It makes rules for the conduct of these associations, approves their constitutions, and reserves the right to withdraw Government recognition in case of infringement of rules.

Central Public Service Commission

Another important function of the Establishment Division is that it is the administrative authority for the Central Public Service Commission in financial and administrative matters. The budget of the Commission is submitted to the Establishment Division for scrutiny and transmission to the Ministry of Finance. Until 1960, the Division determined the cadre strength of the office of the Commission, and the creation of a new post on the Commission's staff required the Division's approval in

the first instance. However, with the grant of ex officio status of Joint Secretary to the Secretary to the Commission, it became independent of the Division in this respect.

The Commission is independent in respect of all matters of personnel administration of its employees up to the level of Deputy Secretary. The Secretary to the Commission is, however, appointed by the Establishment Division for a tenure of four years and may be transferred to any other post in the Government on the expiration of his tenure. He is a career civil servant.

In case of difference of opinion between a ministry and the Commission on a matter pertaining to selection, appointment or advice tendered by the Commission on any matter on which it was consulted, the case is referred to the Establishment Division, which, after incorporating its own comments, submits it to the President for final orders.

The appointments of the chairman and members of the Commission, under the Constitution, is made by the President at the initiative of the Establishment Division. It is for the Establishment Division to look for suitable persons who would be appointed to these offices.

The terms and conditions of service of the members of the Commission are determined by an Act of the National

Assembly. The Establishment Division drafts the bill and it is piloted through the legislature by the Parliamentary Secretary who represents the Division in the Assembly.

On the expiration of their tenure as chairmen, and members of the Commission, civil servants return to their respective services. It is the responsibility of the Establishment Division to provide them with appropriate appointments.

Efficiency and O&M Wing

The Efficiency and O&M Wing is a part of the Establishment Division under a Joint Secretary. It performs both advisory and executive functions. It is concerned with simplification and improvement of office procedures, functions and organization; compilation of statistics relating to civil services and planning of efficiency programmes; formulation of schemes and follow-up work for improvement of efficiency in order to achieve better and more economic execution of government policies. It undertakes assignments for removing bottlenecks, and unnecessary delays in the conduct of day-to-day work of government.

Some of the functions of the Efficiency and O&M Wing are of inspectorial nature. In order to review position of staff in all offices of Government, it undertakes staff inspection on behalf of the Ministry of Finance.

This is a periodical check up. In addition, the officers of the Wing occasionally make surprise visits to different offices to enforce punctuality, and bring the delinquents to book.

A third inspectorial job of this office is investigation of complaints against Government offices for delays in the disposal of cases of Government employees, businessmen, contractors, etc., and ensure their early disposal.

The "Idea Award Committee" in the Wing welcomes suggestions aimed at streamlining office administration. If a suggestion is considered really worthwhile by the Committee, the person who made the suggestion is awarded in monetary terms.

From time to time, the Wing organizes training courses in O&M for officers of different Government departments and statutory organizations. It also holds seminars on the subject.

Apart from these functions, this agency has been assigned the important task of welfare of Government employees. This not only involves periodical meetings with representatives of service associations to discuss their daily administrative problems but also the establishment of fair price shops, canteens, monetary help in emergencies and prolonged illness, etc. For these activities Government

makes an appropriation every year to the "Staff Welfare Fund". The Wing, in collaboration with the Staff Welfare Fund Committee, is responsible for the administration of this Fund. The Staff Welfare Organization has a Chief Welfare Officer and Welfare Officers, posted at Karachi, Lahore, Dacca, to look after the welfare of Central Government employees posted in those regions. The Joint Secretary (Efficiency and O&M Wing) is responsible for looking after these activities.

COMPARISON WITH CENTRAL PERSONNEL
AGENCIES IN OTHER COUNTRIES

The Establishment Division has its closest counterpart in the Treasury of the United Kingdom in so far as personnel management is concerned. Under the Civil Service Order in Council 1956,

The Treasury may from time to time make regulations or give instructions for controlling the conduct of Her Majesty's Home Civil Service, and providing for the classification, remuneration and other conditions of service of all persons employed therein whether permanently or temporarily.¹

The Treasury has a final word in all service matters, except recruitment and selection. Here, too, the rules, prescribing the qualifications required and the nature of competition, are framed in consultation with it, and they are operative only when it has approved them. The position of the Establishment Division, though not exactly similar, is very

¹Lord Bridges, The Treasury (London: George Allen & Unwin Ltd., 1964), p. 115, quoted.

akin to it. While the Treasury in the United Kingdom is the ultimate authority in all matters of personnel administration, and need not consult the Civil Service Commission on any other matter except recruitment, examination and selection, the Establishment Division and other ministries/divisions of the Government of Pakistan are required to consult the Commission in all matters concerning public service management.

In the United States of American, Australia, New Zealand and Canada these personnel functions are performed by the Civil Service Commission which enjoy an independent status. In these countries, except the United States, the Commissions are responsible to Parliament and wield absolute authority in all personnel matters.¹ The pattern of personnel administration in India is similar to that of Pakistan. There, the Ministry of Home Affairs is a counterpart of the Establishment Division in Pakistan. One distinguishing factor between the two is that in Pakistan the Establishment Division, like many other central personnel agencies of the world is under the head of Government, i.e. the President or the Prime Minister, while the Indian counterpart is headed by a Minister.

¹See Peter Campbell "The New Zealand Public Service Commission", Public Administration (London: Summer 1956), p.158. H.A. Scarrow, The Higher Public Service of the Commonwealth of Australia (London: Cambridge University Press, 1957, pp. 15 and 64. D.C. Corobet and J.E. Hodgetts (eds,) Canadian Public Administration (Toronto: Macmillan & Co., 1960), pp. 272-76.

CHAPTER IV
THE LAW AND PRACTICE
OF
PERSONNEL ADMINISTRATION

It is common knowledge that in most countries and particularly in the developing countries the practice and the letter of the law differ. In other words, laws, rules and regulations acquire secondary position in practice, partially if not completely. Personal, political and official influences have effect in all matters to some degree. Rules and procedures may be interpreted, modified and even violated depending on the position of the influencer. Officials have primary loyalty to their family, relations, and friends. As a United Nations report observes,

In most pre-industrial societies, however, this ideal [the civil servant should be impartial in his dealings with the public, unswayed by the special interests of relatives or friends and uninfluenced by political considerations] conflicts with the tradition of mutual aid within the family and the community that has provided the only form of social security; public opinion places a higher value upon family loyalty than upon impartial efficiency in the service of the state.¹

¹U.N. Report "Administrative Problems of Developing Countries", Reproduced in Bureaucracy and Development in Pakistan, Inayatullah (ed.), (Peshawar, Pakistan: Academy for Rural Development, 1962), p. 36.

The civil service in British India had reputation for efficiency, honesty, impartiality, fair-mindedness and integrity. It was considered one of the most remarkable bureaucracies developed in any country.¹ This was especially true of the higher civil service. The number of officers of the former Indian Civil Service who opted to serve in Pakistan was only 82. Most of these officers did not have extensive service and experience. As analysed by Braibanti, only 25 percent of the total number (i.e. 136) of the ICS-IPS (Indian Civil Service-Indian Political Service) cadre had more than 15 years experience. Nearly half among them were British officers most of whom left during the first two years after independence. Thus not more than twenty officers in service during the first two years had more than 15 years experience. Half the officers had less than a decade of service.² These officers had been carefully selected and trained and possessed a high degree of objectivity and detachment. They, along with others, played a very remarkable role in the early stage of building up the nation. They worked under most

¹Keith Callard, Pakistan: A Political Study (London: George Allen & Unwin, Ltd., 1957), p. 284.

²Ralph Braibanti, "Public Bureaucracy and Judiciary in Pakistan", Joseph La Palombora (ed.), Bureaucracy and Political Development (Princeton: Princeton University Press, 1963), p. 367.

distressing conditions. As Callard puts it,

Most of the normal requirements of government for buildings, office equipment and records were lacking. In New Delhi, while there was considerable initial confusion, it could at least be known that a ministry existed at a definite place and had a telephone number and an officer in charge. In Karachi no such essential minimum could be guaranteed. Government had to be improvised by men sitting on packing-cases, writing notes to each other in pencil.¹

The employees were virtually lying on the road side.² However, people and bureaucracy alike were full of enthusiasm. There was singularity and honesty of purpose — to build up Pakistan as a truly democratic and progressive nation, and to acquire a respectable place for it among the community of nations.

After independence, recruits to the superior services, including the CSP, were of inferior calibre. The reason for this was that the educational system was disrupted. There was upheaval in social and bureaucratic values. Therefore, neither the training at the Civil Service Academy, nor a year's non-degree work in England could provide them with breadth of vision, knowledge and discipline which the older ICS possessed.

¹Keith Callard, op. cit., pp. 288-89.

²Mushtaq Ahmed, Government and Politics in Pakistan (Karachi: Pakistan Publishing House, 1959), p. 82.

The enthusiasm with which the people and the bureaucracy worked in the initial stages of Pakistan's inception did not last long. Shortly after independence, irregularities started in one way or the other. The politicians started taking advantage of the turmoil in the country. The death of Quaid-e-Azam Mohammed Ali Jinnah, the Founder of the country, and later the assassination of Mr Liaquat Ali Khan, the first Prime Minister, opened the flood-gate to political, economic instability and grave irregularities in administration. The various interests and personalities which made up political life indulged in a fierce competition for wealth, power, prestige and influence. The serpent of provincialism raised its ugly head. The number of political parties also increased. A great deal of distrust existed between East and West Pakistan. Members of political parties changed loyalty day-in and day-out. When a party came to power, the members of the opposition crossed the floor and stood in the ranks of the Treasury benches. However, the life of the Government in power was also uncertain because of political instability and lack of unflinching support of its members. Therefore, whoever came to power tried to reap rich harvest by such devices as issuing of import licences, allotment of land and buildings, and appointments

to public services of relations, friends and their friends.

Pakistan is a "prismatic" society, in Riggs terminology,¹ that is traditional and agrarian, moving towards industrialization. In such a society there is greater emphasis on primary and personal relationships. The society is divided into various factions, owing loyalty to sects (e.g. Sunnis, Shiias, Ahmadis), families, villages, cities and provinces. These factors play a dominant role in all walks of life. As such, "the truism that bureaucracy, like any institution, is a reflection of the larger society of which it is a part is certainly not disproved by developments in Pakistan."²

While the politicians were busy in political maneuvering, the bureaucracy, high and low alike, took advantage of the situation. They became supporters of ministers, and other influential political leaders, and in return sought favours. They lost the aloof character of the service which previously was their invaluable possession. As Mushtaq Ahmed describes the situation:

The Ministers not only failed to fulfil their obligation, but also, instead of looking to people, they relied on the Services to consolidate their positions and sought favours for

¹Fred W. Riggs, "Prismatic Society and Financial Administration," Administrative Science Quarterly, June 1960, pp. 4-6.

²Ralph Braibanti, op. cit., p. 383.

their relatives and friends in government service and private business. They even encouraged the entry of some civil servants into politics.... The officials developed a natural desire to protect the interests of their patron politicians, and the politicians for patronizing their favourite officials.¹

The position in regard to appointments, promotions, tenure of office and transfers in the civil service was far from satisfactory. Though rules and regulations existed to govern all facets of personnel administration, they were frequently honoured in breach than in observance. Those who curried favour with politicians, or high officials, were appointed, and promoted without regard to merit and qualifications. It was mandatory for each ministry to consult the Central Public Service Commission in matters of new appointments, and cases of promotion from Class II to Class I Services, and from one post to the other, yet the ministries sought subterfuges from the Commission. On the plea of shortage of trained staff, quite junior employees were promoted to the positions of responsibility which they were unfitted to occupy. Government officials without requisite qualifications, felicity of language and experience, who ordinarily would not have hoped to go beyond the positions of clerks, acquired important positions

³ Mushtaq Ahmed, op. cit., p. 87.

of responsibility and were preparing notes on major policy issues. "Personal recommendations and political influence played an unduly large part in many of the early appointments."¹

Conditions of Working of the
Central Public Service Commission

The Central Public Service Commission worked under considerable difficulties. The actual status and prestige which it enjoyed can be judged from the following factors.

(a) Office Accommodation

The office of the Commission was located in an old and shabby Gymkhana building, with no proper accommodation for office staff and holding examinations. Despite its hue and cry about the inadequacy and unsuitability of the office accommodation in its annual reports, it was not provided with better accommodation and continued to be housed there till 1960. Even estimates for construction of an additional block within the precincts of the Commission, sent to Government for approval and grant of funds, were delayed. In one of its annual reports the Commission brought to the notice of Government that "the accommodation available for the staff and officers

¹L.P. Rushbrook Williams, The State of Pakistan (London: Faber and Faber, 1962), p. 132,

of the Commission is grossly insufficient and falls far short of their actual requirements, and the staff has to work under sub-human conditions."¹ Similarly in 1958, in the concluding paragraph of its Annual Report for 1957, the Commission hoped "that the government would be kind enough to place a spacious and suitable building at the disposal of the Commission as soon as possible to enable them and their staff to discharge their important and arduous duties efficiently and to the best of their ability."²

(b) Commission's Staff

The number of employees in the office of the Commission was not adequate to cope with the volume of work. The Commission was dependent on Government in the Establishment Division for creation of any new posts. The Establishment Division, if considered necessary in its discretion, might take up the matter with the Ministry of Finance; or refuse the creation of a post. The Commission brought the inadequacy of ministerial and supervisory staff in its annual reports regularly, and pointed out that the shortage of staff was adversely affecting the

¹Sixth Report of the Pakistan Public Service Commission (1954) (Karachi: Manager of Publications, Government of Pakistan, 1957), p. 3.

²Ninth Report of the Federal Public Service Commission (1957) (Karachi: Manager of Publications, 1959), p. 23.

efficiency of work in the Commission's office. But Government hardly moved.

This was the position in so far as the Commission's office accommodation and staff were concerned. In the discharge of its statutory functions, the letter of the law was often disregarded. The Commission's annual reports from 1949 to 1963, are full of instances of irregularities in appointments and promotions as described below.

Failure to Submit Monthly Returns
to the Commission by Ministries

Under the rules it is necessary for the ministries/divisions to submit to the Central Public Service Commission a monthly return showing the appointments and promotions made by them without consulting the Commission.¹ The purpose of these returns is to check irregularities in appointments. The annual reports show that the ministries did not send monthly returns regularly and in some cases did not bother to send them at all. They not only concealed the requisite information for months but in some cases for years! Even the reminders from the Commission to the ministry concerned fell on deaf ears. In some cases the ministries submitted monthly returns regularly but did

¹Sixth Report of the Pakistan Public Service Commission (1956), op. cit., p. 15.

not mention irregular appointments made by them during the period. The Commission came to know the irregular appointments only when the ministries referred these cases to the Commission for approval after a lapse of long time, or through the examination of the Gazette of Pakistan which notifies such appointments.¹ Some ministries submitted monthly returns in a consolidated statement for years, e.g. the Food Division sent the monthly returns for the period August 1947 to August 1952 in a consolidated statement in November 1952.² The Ministry of Kashmir Affairs submitted a consolidated return for the period 1st March 1949 to 31st March, 1952, in June 1952.³ Again, the Ministry sent a consolidated return for the years 1959 on the 12th June 1962.⁴ Similarly other ministries sent these returns after months to provide a protection to irregular appointments.

¹Ninth Report of the Federal Public Service Commission, op. cit., p. 14.

²Second Report of the Pakistan Public Service Commission (1949) (Karachi: Manager of Publications, 1954), p. 9.

³Fourth Report of the Pakistan Public Service Commission (1952) (Karachi: Manager of Publications, 1955), p. 9.

⁴Central Public Service Commission, Annual Report for the Year 1962 (Karachi: Manager of Publications, 1963), p. 27.

Paradoxically, the Establishment Division, who issued the instructions in the matter, did not follow them at times.¹

Appointments without Consultation
with the Commission

Under Regulation 4(b) of the Federal Public Service Commission (Consultation by the Governor-General) Regulations, 1937 (later superseded by the Regulations of 1953), it was not necessary to consult the Commission in cases of appointments to a permanent or temporary post, if the officer was not likely to hold the post for more than a year. In a large number of cases, the ministries made appointments without any advertisements, and the appointments continued beyond one year without consultation with the Commission. The Commission brought these irregularities to the notice of government in their annual reports. The Establishment Division again requested the ministries/divisions to follow the instructions, but the irregularities assumed a regular feature in later years.

The following figures show the number of appointments which were made by various ministries/divisions without consulting the Commission and without making any advertisements during the period 1952 to 1957.

¹Eighth Report of the Federal Public Service Commission, (1956) (Karachi: Manager of Publications, 1958), p. 17.

TABLE I

Number of Appointments made by ministries/divisions without consulting the Central Public Service Commission.¹

Year	Number of officers appointed
1952	117
1953	208
1954	133
1955	109
1956	132
1957	155

Even during the martial law when irregularities in all spheres were at a low ebb, and after the second Constitution was promulgated, ministries/divisions continued to commit irregularities. In case of monthly returns, the reports for the years 1962² and 1963³, show a number of delinquencies on the part of the ministries.

¹These figures have been taken from the annual reports of the Commission for the years 1952 to 1957. The reports for the years 1958 to 1961 were not published as the country was under the martial law, and the question of their submission to the Parliament did not arise.

²Central Public Service Commission, Annual Report for the Year 1962, op. cit., pp. 43-49.

³Central Public Service Commission, Annual Report for the Year 1963, op. cit., pp. 27-35.

One instance of grave irregularity and favouritism is that of an appointment in the Ministry of External Affairs, which involved other subsequent appointments. In May 1958, the Ministry of External Affairs appointed an officer as Deputy Director (Pacts) without consulting the Commission. When the Commission came to know this irregularity, the Ministry promised to send a requisition to the Commission, in due course of time, for advertisement and filling up the post in a regular manner. However, it did not send the promised requisition. A year and a quarter later, the Commission itself asked the Ministry to supply full facts of the case, together with the officer's character roll and personal file. The information received from the Ministry showed that he held the following appointments without consultation with the Commission:

Deputy Director (Pacts), Ministry of Foreign Affairs	May 12, 1958 to July 31, 1958
First Secretary, Pakistan High Commission, London	August 1, 1958 to September 18, 1958
Counsellor, Embassy of Pakistan, Washington	September 23, 1958 to November 22, 1958
Deputy Director (Pacts)	December 23, 1958 to June 1959.
Attaché Embassy of Pakistan, Berne	July 1, 1959 to October 31, 1959

On further enquiries by the Commission, it was revealed that the same officer had held the following appointments before his appointment as Deputy Director (Pacts):

Assistant Information Officer, Ministry of Information and Broadcasting	July 21, 1956 to October 8, 1956
Public Relations Officer in the Ministry of Foreign Affairs	October 9, 1956 to August 6, 1957
Political Secretary, Baghdad Pact	August 7, 1957 to May 11, 1958 .

With regard to the character roll, the Ministry replied that it was not maintained because the officer's service under the Ministry was on a temporary basis. It also revealed from the information supplied by the Ministry that he had held the post of Counsellor at San Francisco, and the papers to place him there were not traceable!

The Commission took a serious view of this state of affairs and reported the case to the Establishment Division and requested to place it before the President. The Division was further requested that investigation be made into the case and action taken against those found guilty of indulging in the irregularities. The Division while agreeing that the appointment of the officer on various posts was irregular, requested the Commission to drop the matter because the officer was no longer in

service.¹

The Ministry of External Affairs was not alone in the matter of committing irregularities. This has been, more or less, a universal practice, with a very few exceptions. In October 1962, when the President ordered that in case of appointments made without consulting the Commission, the Accountant-General, Pakistan Revenues would stop the pay of irregular appointees, the Rehabilitation Division approached the Commission to approve the appointments of as many as 72 Class I and Class II officers. These appointments were never mentioned by the Division its monthly returns. Similarly, the Commission also came to know of the appointments of a large number of Assistant Accounts Officers in the office of the Chief Settlement Commission made without consulting it. The Rehabilitation Division instead of rectifying the irregularities, requested the Commission to approve the appointments as the organization was for a short period. However, the organization has been in existence till the day.

The same Division appointed another officer in 1962, as Additional Rehabilitation Commissioner in the

¹ Central Public Service Commission, Annual Report for the Year 1963, op. cit., pp. 30-32.

manner mentioned above. It was further revealed that the officer had held other appointments from 1949 to 1961 without the knowledge of the Commission.¹

Another glaring irregularity in the Revenue Division was the appointment of three Preventive Officers as Appraisers Class II in 1951. They continued till 1963, despite the fact that the Commission had rejected them for such appointment on previous occasions. The persons who were nominated by the Commission for appointment in their place on the result of an open competition in 1959, were not offered the posts, while these three ad hoc recruits were continued. From 1956 to October 1963, the Division referred the case of these officers to the Commission a number of times for reconsideration.²

The Ministry of Economic Affairs continued with an irregular appointment/promotion, and avoided the Commission for 7 1/2 years. When the Ministry sought the Commission's approval to his permanent appointment, the latter did not consider him suitable. Thereafter, the Ministry neither explained the reasons for the delay

¹Ibid., p. 33.

²Ibid., p. 34.

nor informed the Commission whether their advice was accepted or not.¹

A large number of appointments to Class I and Class II posts were made by the Ministry of Commerce in the Import & Export Organization during the period 1958 to 1961, without consultation with, or knowledge of, the Commission. With regard to Class II posts the Ministry insisted upon the Commission to regularise these irregular appointments made by them by transfer from other posts. When the Commission did not agree, the Ministry proposed to modify the method of recruitment so as to suit their own arrangement.² In other words, the Ministry was contemplating to withdraw recruitment to these posts from the purview of the Commission.

In another case of irregular appointment by the Agriculture Division in 1962, the Establishment Division, instead of rectifying the irregularity, and taking action against the responsible person(s), requested the Commission "to regularize the appointment in question as a special case."³

¹Seventh Report of the Pakistan Public Service Commission (1955) (Karachi: Manager of Publications, 1958), p. 32.

²Central Public Service Commission, Report for the Year 1962, op. cit., p. 50.

³Central Public Service Commission, Report for the Year 1963, op. cit., p. 28.

In 1957, when the Commission did not agree to the appointment of a particular Vice-Chancellor to the post of Educational Advisor to the Government of Pakistan — the highest educational post in the country — on very plausible and cogent grounds, the Government appointed him in utter disregard of the Commission's advice.¹

Promotions

Also, in matters of promotions, the Revenue Division of the Ministry of Finance was guilty of such irregularities. A look at the Commission's annual reports shows that many other ministries/divisions, e.g. Agriculture Division, Geological Survey of Pakistan, Information and Broadcasting Division, and the Ministry of Commerce were accomplice of the Revenue Division in making promotions without consulting the Commission.²

The Commission also quoted cases where junior persons were promoted over their seniors, although they had equally good records. In one of the instances, an officer was promoted to a senior post, and three months later he was reverted retrospectively without any reason!³

¹Ninth Report of the Federal Public Service Commission, op. cit., p. 19.

²Central Public Service Commission, Annual Report for the Year 1962, op. cit., pp. 49-50.

³Eighth Report of the Federal Public Service Commission, op. cit., p. 27.

It came to light later that this officer was promoted by the Minister, without referring the case to the Selection Board in the Establishment Division, and without obtaining the approval of the Prime Minister, who was the appointing authority to the post. Therefore, the Establishment Division held this appointment ab-initio ultra vires of the Rules of Business.

There are other instances in which persons with little seniority were promoted. When the affected persons, who were many places senior to the promotee, represented against this promotion, they were cooled down by a brief reply from the Establishment Division that he was considered the best person available for the post at the time.

Delaying Tactics

The reports of the Commission show a large number of cases in which government offices obstructed the smooth functioning of the Commission through delaying tactics — by not accepting the nominees of the Commission.¹ When the Commission insisted, the ministry did not reply for months despite repeated reminders, and thus allowed the irregular appointee to continue indefinitely. Or they

¹Third Report of the Pakistan Public Service Commission, 1951 (Karachi: Manager of Publications, 1957), p. 6.

insisted that the Commission approve their appointee. Such a situation continued for years¹, or they informed the Commission that its nominee was not accepted by the Minister.²

Another delaying method was to change the qualifications for a post, when the Commission had already advertised the post and applications were received from the candidates.³ The Commission made specific mention of this fact in its reports as also in the report for the year 1962.⁴ Ministries cancelled the recruitment even after the candidate was interviewed by the Commission. At times, the ministries came with a request that a person who had not applied for the post, be interviewed by the Commission. Another method of frustrating the efforts of the Commission was to offer a lower starting pay, though the Commission had recommended a higher salary in view of the qualifications, experience, etc.,

¹Ibid. Also see Sixth Report of the Pakistan Public Service Commission, 1954, op. cit., pp. 23-24.

²Ibid.

³Ibid., p. 6. Also see Central Public Service Commission, Annual Report for the Year 1963, op. cit., pp. 61, 82 and 87.

⁴Central Public Service Commission, Annual Report for the Year 1962, op. cit., p. 21.

of the candidate. Consequently, the candidate would not accept the offer of appointment. Or, the Commission recommended a lower start, but the Ministry gave a higher one to their man.¹ Even if a nominee of the Commission was accepted, the offer of appointment was not sent to him for months — even for years! By that time, the candidate acquired another job and refused the offer.² Such an attitude of government departments resulted in loss of effort, money, and time, apart from low morale in the services and a reputation for nepotism, favouritism and maladministration.

Disregard of Commission's Advice

There were frequent cases of disregarding the advice tendered by the Commission. Every annual report of the Commission carries some cases where its advice was disregarded either in appointments, or promotions, or seniority cases or re-imburement of legal expenses incurred by government employees in defending themselves on mala fide or vexatious charges.

At times the Establishment Division itself dis-

¹Third Report of the Pakistan Public Service Commission, op. cit., pp. 5-6.

²Sixth Report of the Pakistan Public Service Commission, op. cit., p. 22. See also Seventh and Eighth Reports of the Federal Public Service Commission, op. cit. pp. 44.

regarded the advice of the Commission. In 1952, when two CSP probationers were found guilty of using unfair means in the Final Passing-Out Examination, the Commission was of the view that both of them should be discharged from service. Government did not agree and ordered that both the officers should be re-examined.¹

On the results of the central superior services examination the Commission sends an eligible list to the Establishment Division arranged in order of merit, and showing allocation of candidates to the various superior services. The final offer of appointment/allocation is made by the Division. In case of deviation from the allocations made by the Commission, the Division should consult it and obtain its agreement. In 1956, the Division made such a deviation, without consulting the Commission. The Commission asked for the final list of allocation but the Division did not supply it. The Commission came to know of these allocations when the list was published in the press. At this point, the Commission asked the Division to set right the discrepancy as it was against the advice of the Commission. The Division did not send any reply till the year was

¹Fifth Report of the Pakistan Public Service Commission, 1953 (Karachi: Manager of Publications, 1957), p. 11.

out.¹

Superannuation Cases

Despite the instructions issued by the Establishment Division in 1960, that the advice of the Commission should be accepted by ministries/divisions, and in case of disagreement between the two the case should be submitted to the President for final orders through the Establishment Division,² the ministries continued flouting these directions. The Establishment Division excluded the cases of re-employment of superannuated officers from the Commission's purview, against its advice.³

Confirmation

Another instance to which the Establishment Division was a party, was the confirmation of an officer without consultation with the Public Service Commission. When the Commission asked the Division to quote the rule under which it agreed to his confirmation in the post without seeking the Commission's advice, the Division could not cite any rule. However, it replied that the officer was confirmed because he was approved by the Prime Minister

¹Ninth Report of the Federal Public Service Commission, op. cit., p. 11.

²Central Public Service Commission, Annual Report for the Year 1962, op. cit., p. 42.

³Secretariat Instructions, op. cit., p. 43.

for confirmation as Assistant Secretary.¹

Seniority

In the case of determining seniority of officers of the Pakistan Foreign Service, the Commission tendered advice in 1960 to the Ministry of External Affairs. The Ministry had its own formula and did not take any action on the advice given by the Commission. In May 1962, the Cabinet decided to accept the Commission's advice. Instead of implementing the Cabinet's orders, the Ministry requested the Cabinet to amend its decision without informing the Commission. The Cabinet, interestingly enough, amended its former decision on the principle of determining the seniority, but the Commission did not agree.² Ultimately, the principles as outlined by the Commission were accepted by Government with some modifications to which the Commission agreed.³ This case took about four years before the principles for determining the seniority could be agreed between the Commission and the Ministry.

¹Eighth Report of the Pakistan Public Service Commission, op. cit., p. 22.

²Central Public Service Commission, Annual Report for the Year 1962, op. cit., p. 43.

³Central Public Service Commission, Annual Report for the Year 1963, op. cit., p. 20.

The question of seniority of officers of the Police Service of Pakistan remained in a state of flux for 15 years when it was finally referred to the Commission in September, 1962. The result was that when officers reached the rank of Deputy Inspector General, they did not know their position on the seniority list. Their seniority was altered many a time. The issue was aggravated by no less than five defective and contradictory decisions taken from time to time. The orders issued by the Ministry concerned, as observed by the Commission:

... were not only arbitrary, but contravened the constitutional provisions which make it necessary for the Ministry to consult the Public Service Commission and be guided by their advice. Thus the PSP which was created as a new service almost immediately after independence, remained without proper statutory service Rules of its own.¹

This state of affairs caused considerable inefficiency in the Service and had adversely affected their morale. In fact, some of the affected officers contemplated seeking a decision through a writ petition to the Supreme Court.²

Defrayal of Legal Expenses

Consultation with the Commission in matters of

¹Central Public Service Commission, Annual Report for the Year, 1962, op. cit., p. 31.

²Ibid.

defraying the expenses incurred by Government employees in defending themselves in legal proceedings on mala fide and vexatious grounds, or for the actions done, or purported to be done, by them in the execution of their duty was a statutory requirement under Article 188 (2) of the 1956 Constitution, and Section 266 (3) (d) of the Government of India Act 1935, as adapted in Pakistan. In September 1949, a Collector of Customs on his acquittal by the court made representations to Government for reimbursement of the expenses incurred by him in defending himself in a court of law on charges brought against him by Government. The representation was rejected without consulting the Commission. When he again represented in 1950 and May 1952, the opinion of the Commission was asked. It was of the opinion, after thoroughly going into the claim, that the representation should be rejected. Government abided by the advice of the Commission. The officer again appealed in November 1953 and the Commission's opinion remained unchanged. The Government did not inform the Commission whether or not it would accept its advice. When the Commission pursued the case, a reply was sent on January 28, 1957, after repeated reminders

that it had not been possible for the government to accept the advice of the Commission in that case [and] as required under the established

convention the case was submitted to the Prime Minister who desired that the officer should be paid a sum of Rs.12,000 towards reimbursement of legal expenses.¹

Another flagrant disregard of the Commission's advice by the Establishment Division was when the Division issued instructions to ministries/division etc. that it was not necessary to consult the Commission in cases of re-imbusement of the legal expenses incurred by Government employees in defending themselves. The Commission's view was that it should be consulted in regard to all matters affecting 'terms and conditions' of service of a Government employee and the claim for re-imbusement in appropriate cases formed part of 'terms and conditions'. The Establishment Division disagreed. It consulted the Ministry of Law on this point but did not supply the Commission with a copy of the Ministry's opinion, despite the Commission's request. It was only informed that a decision had been taken making it unnecessary for the Government to consult the Commission in this matter and requested that the matter be closed.²

¹Ninth Report of the Federal Public Service Commission, op. cit., pp. 17-18.

²Central Public Service Commission, Annual Report for the Year 1963, op. cit., p. 26.

Withdrawal of Recruitment Cases
From the Commission's Purview

The withdrawal of a post from the Commission's recruitment purview did not require its consultation under the 1956 Constitution. However, such consultation is necessary under the present Constitution.¹ Therefore, whenever a ministry thought that the Commission was an obstacle in the matter of appointment or promotion of a particular person to a post, the post was withdrawn from the Commission's purview. Such instances are not numerous but sufficient in number to justify an argument that withdrawal from Commission's purview depended on the influence of the person who wanted to favour some one. Since the Commission's approval was not necessary to withdraw a post from its purview before 1962, the instances of arbitrary withdrawal have not been reported in the reports.

Recruitment Rules

Another factor which delays the recruitment process is the absence of Recruitment Rules for various posts. Though Government in the Establishment Division had issued instructions to ministries/divisions for framing the recruitment rules for the various posts/

¹The Constitution of the Republic of Pakistan, 1962, op. cit., Article 185 (2).

services under them as far back as 1949, the progress was not satisfactory. After a 15-year period, "there are thousands of posts which have been filled on ad hoc basis and for which complete Service Rules have not so far been framed."¹ In the absence of rules, the employees remain in a state of uncertainty about the conditions of their service, and about their future. The Foreign Service was created more than 15 years ago. It was till recently administered without any service rules.

Hundred of posts under the Ministries of Information, Food and Agriculture, Rehabilitation, Industries, Commerce and other ministries and departments have been filled on ad hoc basis without framing regular rules governing their recruitment, training, promotions and other terms and conditions of service.²

One can easily visualize the effect on the morale, efficiency and stability of services under such a state of affairs.

Another reason for delay in framing the recruitment rules is that in their absence ministries can tailor-make the qualifications to fit in their own men.

¹Central Public Service Commission, Annual Report for the Year 1962, op. cit., p. 21.

²Ibid., p. 25.

Disciplinary Cases

It often took a long time before final decisions were arrived at in disciplinary cases. During this period, either the officer remained suspended, drawing only one-fourth or one-third of his emoluments, or was forced to go on leave. In many instances, the officers were honourably acquitted or absolved of all the charges levelled against them. It has been charged that some of these cases were initiated purely on personal grounds. Ministries/divisions/departments entered into protracted noting and counter-noting on disciplinary cases under consideration even after the Commission had given its clear-cut advice. After that the Commission was not informed as to what action was taken on its advice.¹ In many cases, after a person was found guilty, some one came to his rescue and influences played important part. In a case against an officer of the Ministry of Food, he was found guilty of certain charges by the Secretary of the Ministry after a departmental enquiry in which the accused officer was given full opportunity to defend himself. The Commission considered him unfit for confirmation in the grade of Assistant Secretary. The

¹Eighth Report of the Federal Public Service Commission, 1956, op. cit., pp. 19-20.

Establishment Division disregarded the advice of the Commission and it was informed that the findings of the Secretary were submitted to the Minister and the Prime Minister "when they absolved him from all the charges brought against him. They added that in view of this, any remarks made by the Secretary in his report 'do not now hold the field'." Later, the officer was confirmed in the grade of Assistant Secretary by the Prime Minister.¹

The instances quoted in the preceding pages show that whenever and wherever the Government departments could possibly disregard the Commission's advice, or completely ignore it, they did so and tried to perpetuate the irregularities by insisting that the Commission agree with their contention, either in appointment, promotion, disciplinary action, or any other field which fell within the jurisdiction of the Commission. When the Commission was excluded they were at liberty to do what they liked. When there was somebody to influence and protect them, officials of ministries violated the rules, and disregarded the advice of the Commission.

Violation of the Instructions Issued
By the Establishment Division

The ministries/departments violated the instructions

¹Ibid., p. 22.

issued by the Establishment Division in matters like transfer from the provinces to the Centre, promotion, etc. In 1951, an outsider was appointed by a ministry as Under Secretary, without the knowledge of the Division, and the approval of the selection board. Surprisingly enough, instead of rectifying the mistake by immediate removal of the officer concerned, the case was referred to the selection board, which agreed to his appointment as an officer on special duty, on a temporary basis as a special case.¹

The rules lay down that if ministries wish to secure the services of provincial service officers for appointment in the Central secretariat, the ministry concerned should place a requisition with the Establishment Division. It is the function of the Division to secure the services of provincial officers for the Centre, or place the services of the Central Government officers at the disposal of the provincial governments. The ministries are forbidden to negotiate directly with the provincial governments. In contravention of these instructions, ministries/divisions frequently contacted provincial governments directly and asked for the services of

¹The Establishment Manual, Vol. II, op. cit., p.293.

particular officers from them, completely ignoring the Division.¹ This shows that the ministries were interested in "specific persons" rather than any persons with the required qualifications.

The recommendations of the selection board, when they did not meet the wishes of influential persons, were also disregarded. The Administrative Enquiry Committee set up in 1953, therefore, recommended to establish a convention to accept the recommendations of the selection board quickly and automatically except in wholly exceptional cases.²

When ministries were prohibited from making appointments of more than a month's duration without the approval of the selection board, they took evasive action. A ministry would create a post for one month to exclude it from the purview of the selection board and then keep on extending it without obtaining the approval of the selection board, for technically the post was outside the Board's purview.³

¹ Ibid., p. 302.

² Ibid., p. 303.

³ Ibid., p. 296.

The Establishment Division, therefore, could not provide a panacea for the practices prevailing in the country. Rather, at times, it succumbed to them. The persons on whom injustice was inflicted had to seek redress in courts of law, through writ petitions, which will be dealt with below. As Braibanti observed:

The federal and two public service commissions struggled to maintain what power they possessed and could not reorient their dispositions or mobilize their forces to deal effectively and positively with personnel matters even when such were within their jurisdictions.¹

Political and Personal Influences in the Administration

The political and social conditions, particularly during the period 1951 to 1958, were such that it became difficult to serve the country with devotion and honesty. Possession of political and personal influences had become a part of qualifications in every field, even law enforcement.

"When offenders were caught, they were freed by 'influence', and the police were so discouraged that they became apathetic. In West Pakistan, the illicit import of gold took place on a colossal scale. The Preventive Services knew all about, but were helpless — the smugglers were too well protected by politicians who shared their profits. Tax evasion was practiced as a matter of course: wealthy men knew that judicious

¹ Ralph Braibanti, op. cit., p. 408.

bribery could postpone prosecution indefinitely.¹

A year before martial law was imposed the Administration sought the help of the Army to stop smuggling from East Pakistan. The Army took effective measures. Smuggling was completely eliminated in a short period of time. The offenders were brought to book. But all the efforts of the Army were nullified by political pressure which secured the release of all the offenders.²

Government officials were dragged in partisanship by persons of influence for political ends. Pressure was exerted to compel civil servants to intervene in party politics. If the officer showed lack of cooperation, he was transferred to a 'penal' station. Another cause of transfer was adherence to rules and regulations. This would bring accusations of communal or caste favouritism by employees affected. If they had an access to a politician, they might get the officer transferred.³

When an official refused to indulge in irregular acts, or there was some conflict between the minister and

¹L.F. Rushbrook Williams, op. cit., p. 143.

²Ibid.

³Ralph Braibanti, op. cit., pp. 385-86.

secretary, he was got transferred elsewhere, or was sent on compulsory leave, or was falsely charged with irregularities. This caused civil servants a great deal of mental torture, anguish, and damaged their reputation through press reports in the eyes of their colleagues and the public. The writer has personal knowledge of a case in which a very senior member of the C.S.P. holding the post of the head of a ministry was transferred to a position which he himself held thirteen years before and was not meant for officers of his status and seniority. The reason for this was a conflict with his minister. This happened after 1958. Such arbitrary transfers were against the rules and the provisions of the former Constitution.

The late Justice M.R. Kayani, who was Chief Justice of West Pakistan High Court, and President of the C.S.P. Association, while delivering an address of welcome to the President of Pakistan at the annual dinner of the Association in March 1957, brought to his notice that "... a Divisional Commissioner was suspended in his capacity as Secretary, for writing a note of dissent."¹ He further pointed out that Government could find no work for a very senior officer who had returned from leave, and "he remains

¹M.R. Kayani, "As President to President", Not The Whole Truth (Lahore, Pakistan: Pakistan Writers' Cooperative Society, 1963), p. 15.

earned dividends for it. "Subordinates with 'right influence' found themselves heads of departments, regardless of qualifications, experience and even character ... Honesty in public life was at a discount: all that mattered was 'influence'."¹ Officials, particularly those with British tradition were reduced to impotence. Some of them could not tolerate this and left the service. In the lower and middle echelons, efficient and conscientious people left Government jobs and turned towards employment in business.

Side by side with this, people with personal and official influence secured positions, high and low alike. A number of instances have been quoted in the preceding pages where no heed was taken of the advice of the Commission. When the Establishment Division, which has been considered a custodian of the rights of Government employees, did not come to their rescue, or became a party to irregularities, the aggrieved persons resorted to the courts to undo the injustice done to them by officials and politicians. Though the situation since 1958 has been comparatively better, it would be an act of delusion and self-complacency, to think that the state of affairs

¹L.F. Rushbrock Williams, op. cit., p. 180.

Percentage of writs sought by civil servants seeking redress of service grievances is 36% for the Supreme Court. Records are not available for the statistical determination of this percentage for the high courts. An official estimate for the High Court of West Pakistan is 30% and for the High Court of East Pakistan 8%.

Source: Chief Justice of the Supreme Court of Pakistan and of the High Court of West Pakistan and East Pakistan.¹

It will be seen from above that the total number of writs filed in the High Courts and the Supreme Court number approximately 14,000. Of these 3,000 writs (or about 500 a year from 1956 onward)² were sought by Government employees relating to their service matters. All these cases do not relate to Central Government employees. At any rate, the figures are an enough indication of the feeling of injustice which existed among Government employees. Incidentally, it may be mentioned that before filing a writ in a court of law, it was necessary that the person concerned should have sought redress from all other avenues. Only when he failed there, he might seek the help of the court. The corollary from this assertion is that the Central Government employees, who come within the recruitment purview of the Central Public Service Commission and the

¹ Ralph Braibanti, op. cit., p. 421.

² Ibid.

has completely changed and no influences play any part in the life of the country, much less administration. The annual reports of the Commission for the years 1962 and 1963, still show a number of cases of gross irregularities and disregard of rules. The percentage of writ petitions filed against Government in order to seek redress against wrong determination of seniority for promotion, payment of back salary, removal from service, or alleged failure to adhere to rules, was larger during the period 1958-1962, than before, as shown in the following table.

TABLE II

"INCIDENCE OF WRIT PETITIONS FILED IN
HIGH COURTS AND SUPREME COURTS OF
PAKISTAN"
(Through July 31, 1962)

Year	Supreme Court		High Court of West Pakistan	High Court of East Pakistan	Total
	Origi- nal	Appe- llate			
1955	0	5	54	19	78
1956	6	83	734	374	1,197
1957	15	58	1,576	190	1,839
1958	13	74	1,863	203	2,153
1959	12	85	1,285	108	1,490
1960	12	132	1,666	111	1,921
1961	16	88	2,275	260	2,639
1962	5	50	2,276	210	2,541
Total	79	575	11,729	1,475	13,858

Establishment Division, tried to seek redress from these sources as well. Only when they failed there, did they turn to the courts.

Such a high percentage of writ cases, and the facts mentioned earlier, demonstrate the degree to which practice differed from the letter of law, or rules. The Establishment Division in the circumstances could not completely achieve its formal purposes. The Central Public Service Commission, on the other hand, took a firm stand wherever it was involved. But its efforts were frustrated on account of lack of power and authority, lack of independence, and want of cooperation from Government departments.

CHAPTER V

UNIFICATION OF ESTABLISHMENT DIVISION AND CENTRAL PUBLIC SERVICE COMMISSION

A central personnel agency is necessary in any country primarily to act as a watch dog against favouritism, nepotism, personal influence and political patronage in recruitment to the public services, and to attract the most suitable, well qualified and capable persons into government. Many countries have found it expedient to use central personnel agencies as effective means for placing the right person in the right job; for redressing grievances and doing justice in promotion and selection. As Gulick has stated

Personnel Administration becomes of extraordinary significance, not merely from the standpoint of finding qualified appointees for the various positions, but even more from the standpoint of assisting in the selection of individuals and maintenance of conditions which will serve to create a foundation of loyalty and enthusiasm.¹

¹ Luther Gulick, "Notes on the Theory of Organization," in D.C. Corobetts and J.E. Hodgetts (eds.), Canadian Public Administration (Toronto, Canada: Macmillan Company, 1960), p. 64.

ESTABLISHMENT OF CIVIL SERVICE
COMMISSIONS IN THE USA AND UK

Before the establishment of the civil service commission in England and the United States of America, which were the first among the modern states to provide for such agencies, the acquisition of a position in government was associated with patronage or the victory of a political party in general elections. When a party came to power its supporters were rewarded by conferment of office irrespective of whether or not the incumbent so appointed deserved such appointments by virtue of merit or qualifications. The major guiding criterion in appointments to public posts was political affiliation. "To the victors belong the spoils" was the slogan of the time. In the United States, though this practice was in existence before Jackson assumed the office of the President, he is charged with formulating the practice of 'spoils' into a widely accepted and systematic political doctrine. In his first annual message in 1829, Jackson stated:

The duties of all public offices are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I cannot but believe that most is lost by the long continuance of men in office than is generally to be gained by their experience.

¹Quoted in Paul F. Van Riper, History of the United States Civil Service (New York: Row, Peterson & Co., 1958), p. 36.

Thus Jackson was of the view that any person of "intelligence" was capable of performing public duties with equal ease. They did not require any special knowledge or experience. Moreover, the egalitarian philosophy in the United States of America considered one man as good as another at least legally, if not by natural endowment. Also, it was thought that the business of government was so simple that "any citizen was qualified to perform it."¹ This made competitive examination unnecessary and any one could be appointed without any competition or consideration of merit. This was, in a nutshell, the "spoils system" as it prevailed in the largest democracy of the world. This state of affairs, continued until the assassination of President Garfield at the hands of a disappointed office seeker which dramatized the need for civil service reforms. This tragedy, which may be attributed to the "spoils system", resulted in the passing of the Pendleton Act of 1883, and gave birth to the Civil Service Commission in the United States.

The English history of crown employment before 1854, is replete with instances of patronage. "There was

¹J.M. Pfiffner & R.V. Presthus, Public Administration Fourth edn., (New York: The Ronald Press Co., 1960), p. 268.

a brisk business in buying and selling offices and in collecting money from new entrants."¹ Appointments were technically made by the King on the recommendations of ministers. But the candidate so appointed was a person who was recommended to ministers by their followers whom they wished to reward. There were no procedures, no rules and regulations requiring the examination or competition. This was the position till the mid-nineteenth century when a committee was appointed to look into this state of affairs. The committee with Sir Stafford Northcote and Sir Edward Trevelyan, Permanent Under Secretary to the Treasury, as members, submitted a report in 1854 which was received with mixed feelings. The government servants did not like it on account of its critical nature; others thought that it was not possible "to contrive an adequate system of examination."² Those who accepted its principle thought that it was not the opportune time for the introduction of the reforms. In order to eradicate the evils of patronage from public service, the Report emphasised the establishment of a proper system of examinations to be conducted by a central board of examiners

¹ Wyn Griffith, The British Civil Service 1854-1954 (London: Her Majesty's Stationery Office, 1955), p. 9.

² Ibid., p. 15.

and that promotions should be made on the basis of merit.

Some of the recommendations of the Northcote-Trevelyan Committee were put into effect in May 1855 when the first civil service commission was established in the United Kingdom. The Commissioners were given power to examine candidates to the public service, to satisfy themselves in respect of age, physical fitness, character and antecedents, and to ensure that the candidates possessed requisite knowledge and ability to perform their duties.

APPOINTMENTS IN INDIA BEFORE 1926

In contrast to the situation in Great Britain before 1854, the situation in India was different. Until 1926, when the first public service commission was established, appointments to the superior services were made on the basis of examinations held in England, and arbitrary nomination to posts by government to secure communal representation in the service. The question of ministerial or political interference in appointments and promotions did not arise then as Indian political parties had no say in government. However, this situation changed with the constitutional reforms of 1919 which contemplated gradual transfer of power and political authority to the Indians.

Though democratic institutions did not exist in

India, in 1924 the Royal Commission on the Superior Services in India (known as the Lee Commission) made the following observations on the establishment of the public service commission, perhaps on the basis of experience of England and the United States of America:

Wherever democratic institutions exist, experience has shown that to secure an efficient Civil Service it is essential to protect it, so far as possible from political or personal influences and to give it that position of stability and security which is vital to its successful working as the impartial and efficient instrument by which Governments, of whatever political complexion, may give effect to their policies. In countries, where this principle has been neglected, and where the "spoils system" has taken its place, an inefficient and disorganized civil service has been the inevitable result and corruption has been rampant.¹

CONDITIONS IN PAKISTAN

The observations of the Lee Commission are more applicable today in the circumstances of Pakistan than when they were made in India. Political conditions in Pakistan between 1951 and 1958 not only crippled political and economic stability but also brought discontentment, low morale and corruption in the civil services. The personnel agencies which were established to protect the services from influences could not discharge their

¹Sukumar Basu, "The Public Service Commission in India," Public Administration (London: 1953), p. 81, quoted.

responsibility effectively and impartially. The Constitution did not provide authority to the Central Public Service Commission to act independently and authoritatively. One of the weaknesses in the legal position was that the Commission had only advisory power. Though it was hoped that the Commission's advice would be accepted as an established convention, frequently no heed was taken of its opinion. "The Government of the day excluded a particular matter from the purview of the Commission"¹ when the advice was not in agreement with the view of a ministry. At times, consultation with the Commission was a mere formality to meet legal requirements. Col. A.S.B. Shah, who was a chairman of the Commission till 1963, (and who had a past distinguished career) in an article published in 1961, made the following observations:

.... Because of these limitations, it [the Commission] could not protect the civil servants from political and personal influences nor could it make any contribution towards making the services an impartial and efficient instrument of Government policy.²

PROPOSALS OF THE CENTRAL PUBLIC SERVICE COMMISSION

The Commission had been impressing upon the Government

¹ Government of Pakistan, Report of the Constitution Commission, 1961 (Karachi: Manager of Publications, 1962), p.112.

² A.S.B. Shah, op. cit.

the necessity of an independent and impartial agency to carry out the personnel functions for more than a decade. In 1959, the Chairman of the Commission submitted a note to the President in which he proposed that:¹

- (1) the Commission should be vested with the executive and mandatory powers as in Canada, Australia and South Africa;
- (2) it should not be treated as an attached department;
- (3) in case of difference of opinion with a ministry the Commission should have the right to incorporate independently its views in the summary for the President, and, if necessary, represent its point of view personally to him through the Chairman.

These suggestions were considered by the Administrative Reorganization Committee which was appointed by the Government in 1959 to review the organizational set up of the Government of Pakistan. The Establishment Secretary opposed the Commission on the following grounds:²

- (1) The existing needs did not warrant any change in the status quo.
- (2) The fusion of executive, administrative and quasi-judicial functions in one agency would be a "retrogressive step" as it was not in line with the modern trends, and these functions were not relevant in the context of self-determination and independence.

¹ Government of Pakistan, Report of the Administrative Reorganization Committee (Karachi: President's Secretariat, Establishment Division, Efficiency and O&M Wing, 1963), pp. 242-45

² Ibid.

- (3) The views of the Commission were incorporated in the summaries prepared by the Establishment Division for the President. The right of access to him by the Chairman would be inconvenient to the President.

The Administrative Reorganization Committee endorsed the views of the Establishment Secretary and remarked that "the Commission is operating on a well-established and a well-tried system which has been inherited from the pre-independence days."¹

It is assumed that the Establishment Secretary's opposition may have stemmed from the fact that enhancement of the authority of the Commission would result in reduction of his own powers and influence. The question involved division, or relinquishment, of authority to which he did not agree. His assertion, and the Committee's agreement with him, that the existing needs did not call for any increase in powers and functions of the Commission does not appear to be well-founded.

Abundant material is available to show that such a need was never greater than it is now. One of the leading dailies of Pakistan in an editorial comment, under the caption "Recruitment to the Public Services" observed:

It is sad to find that the spirit and real purpose of the relevant constitutional provisions is not being adhered to as strictly as it should be....

¹
Ibid.

That the practice [of ad hoc appointments] often engenders suspicions of a departure from fairness and impartiality, which fact does not enhance the prestige of the Government.¹

Similarly the contention of the Establishment Secretary that the fusion of executive, administrative, and quasi-judicial function in one agency is not in keeping with the modern trends, does not hold water when we see such agencies in Canada, Australia, New Zealand and the United States, functioning smoothly, and enjoying great power, authority and prestige.

Again, the Chairman of the Central Public Service Commission strongly advocated before the Constitution Commission² in 1960, and later before the Sub-Committee of the Cabinet on the Constitution, that the independence of the Commission should be ensured by placing it on the same footing as the Supreme Court;³ the President should consult the Commission on all matters of personnel management; and it should be the statutory duty of the Commission to advise on any matter, when it considered it necessary

¹Dawn, "Recruitment to the Public Service" (Karachi: February 27, 1964).

²The Constitution Commission was set up by the Martial Law Government in 1959, to draft a new Constitution for Pakistan.

³Central Public Service Commission, Report for the Year 1962, op. cit., p. 61.

in the interest of government and the civil service. Referring to the arbitrary withdrawal of cases from the Commission's purview, and disregard of its advice, the Commission thought that:

.... it was wrong in principle to set up on the one hand an expensive advising body for the Government to consult on matters relevant to the public service management and, on the other not to consult that body when it came to deciding important matters, or to curtail the field of its advice by executive action thereby empowering the ministries and departments to exercise parallel jurisdiction and assume the functions of Public Service Commission whenever it suited their convenience.¹

The Commission was not alone in demanding an independent status and reorganization of functions of public service management. The two foreign Public Administration Consultants, the Planning Commission of Pakistan, and some of the senior civil servants also held the same view.

VIEWS AND SUGGESTIONS OF ROWLAND EGGER

Dr Rowland Egger, one of the Public Administration Consultants (whose services were provided to the Government by the Ford Foundation) submitted a report to the Government of Pakistan, after interviewing a large number of senior civil servants, the Central and provincial ministers,

¹Ibid., p. 3.

Judges of the High Courts, and the Prime Minister, and after going through all the reports on the reorganization of the Governments of Pakistan and India. In his report he discussed at length the structure, organization, functions, authority relationships of the various ministries/divisions/departments of the Government and suggested a number of improvements. While enumerating the weaknesses of the Central Public Service Commission, he was of the considered opinion that

The services need a strong commission to protect the principles and procedures on which their security depends, and to speak against the subversion of the merit principle whether by politicians in search of spoils or by civil servants engaged in playing power politics inside the administration To date the Commission has responded adequately to none of these needs. Its failure has been in part due to the role in which it has cast itself, and in part to the manner in which it has attempted to carry out its work Like the Ministry of Finance, it fights entirely too many trivial battles. Unlike the Ministry of Finance, it wins very few. Far from being able to offer any assurances of protection to the services, it is no longer able to protect even itself, because its powers have been quixotically exercised, its prestige both within and outside the government has greatly declined.... The Commission be rebuilt as a strong and effective factor in the personnel management of the Government of Pakistan.¹

Dr Egger recommended that the Commission's

¹Rowland Egger, The Improvement of Public Administration in Pakistan (Karachi: n.p., 1953), pp. 52-53.

administrative operations should be integrated with those of the Establishment Division and the Commission should become a quasi-legislative and quasi-judicial body attached to the Division.

It must at once be said that in the circumstances of Pakistan this arrangement would not provide a remedy. What is needed is a body absolutely independent from, and outside the realm of, government. If the Commission is attached to the Division, even after reorganization, it may not be able to attain its objectives, for the situation will be no better than it is at present. The ministries/departments will continue to flout its advice, and its status, and prestige would not enhance.

Secondly, if Dr Egger's recommendations are accepted they would result in "bureaucratic control". In Pakistan personnel administration is "self-regulating and self-perpetuating". The members of the Civil Service of Pakistan, who mainly control the other services by virtue of their hold in the Establishment Division and the Selection Board jealously preserve the supremacy of their service in appointments, promotions and other conditions of service. The basic interest of the CSP is the benefit of a few and "there is insufficient concern with the welfare and potentialities of the public service as a

whole.¹ This would deny, as it does at present, equal opportunities to the people of proven ability belonging to the other services. In such circumstances, no substantial improvement in the existing conditions will be achieved by substituting political patronage with bureaucratic control: influences and prejudices will be present in the guise of "professionalism".

RECOMMENDATIONS OF BERNARD L. GLADIEUX

Bernard L. Gladieux, another Public Administration consultant to the Planning Board of Pakistan, therefore, recommended that personnel administration "should be removed from the control of the civil service itself through the Establishment Division" and a new unified agency should be set up with responsibility "for public service policy and administration in all its aspects and which is concerned with the adequacy and welfare of all employees".² He suggested the transfer of the Establishment Division to the Commission and that the new agency should perform the job of recruitment, promotion, transfers, postings, job classification, discipline and other

¹Bernard L. Gladieux, "Reorientation of the Pakistan Government for National Development," a mimeographed report submitted to the Planning Board, Pakistan (Karachi: 1955), p. 11.

²Ibid., p. 109.

functions relating to personnel management.¹

VIEWPOINT OF THE PLANNING COMMISSION

Likewise, the authors of the First Five Year Plan in Pakistan in unequivocal terms pointed to the imperative need of an "impartial and highly placed body free from political interference and bureaucratic control, and capable of making fair dispensation between the Government and public servants as also among public servants themselves."² The planners were of the view that a government department cannot fairly fit into this role, because, firstly, the employees of a department cannot be free from the risk of political interference; and secondly, as they belong to one service or another, they may not avoid the charge of partiality in service matters.

Therefore, the planners considered that "an outside body like the Public Service Commission can provide the leadership required in the field" though at present it does "not occupy a position of effective command over the field of public service management."³ Accordingly, they suggested that all personnel functions should be entrusted

¹Ibid., p. 111.

²Government of Pakistan, The First Five Year Plan (Karachi: National Planning Board, 1957), p. 115.

³Ibid., p. 116.

to the reorganized public service commission.¹

VIEWS OF THE CSP ASSOCIATION

A delegation of the CSP Association also suggested to the Constitution Commission that : the Central Public Service Commission should be reorganized on the pattern of its counterparts in Canada and Australia; the members of the Commission should be independent like the judges; and their appointments be made by the President in the same manner as that of the High Court Judges.²

OTHER REASONS FOR UNIFICATION

(a) Duplication of Functions and Delay in Decision Making

The advisory function of the Commission is in fact a duplication of functions. When ministries/divisions frame recruitment rules for various posts/services, they consult the Establishment Division and the Commission, if such posts fall within its recruitment purview. For the same set of rules, a ministry has to consult two different agencies, for the same purpose. The gain from this duplication hardly justifies itself.

¹ Ibid.

² Government of Pakistan, Report of the Constitution Commission, Pakistan, op. cit., p. 109.

Similarly, consultation other personnel matters, like cases of promotion, seniority, discipline, disbursement of legal expenses, etc., causes inordinate delays in taking a decision. In fact, months pass before a decision may be made on an issue. Secondly, consultation does not invariably prove useful because the ministries deviate from the advice given by the Commission.

(b) Conflict of Authority

Consultation also involved conflict of authority. While, on the one hand, the Establishment Division and other ministries try to have an upper hand in decision-making, the Commission, on the other, persists on the acceptance of its verdict. This adversely affects the organization and management of the public services by causing indecision and confusion as to the location of final authority.

(c) Eligibility of Members for
Employment Under Government

Another important factor which requires reorganization and may affect the independent thinking of the members of the Commission is that members are drawn from regular government service and appointed for specific periods of time, after which they may return to their former positions. The Government of India Act 1935 and

the 1956 Constitution debarred the chairman and the members of the Commission from subsequent employment under Government, after their term on the Commission expired. This provision was in consonance with the spirit of independence of the Commission. Similar provision exists in the Indian Constitution as well as in the Civil Service Acts of other countries. The Indian Statutory Commission of 1930, while recommending establishment of Public Service Commissions in the Indian provinces, had suggested that in order to maintain the impartiality and independence of the members of the Commission "no further employment under government should be open to them except the higher offices in the Commission itself, or an appointment on the Central Commission."¹

The present Constitution of Pakistan does not put any restriction on the re-employment of members in the Government. In fact, some of the present members of the Commission are regular civil servants. They depend on the Establishment Division for their postings after their tenure with the Commission. In order to elicit favour from the Division, they may succumb to the wishes of its senior officers in selecting their men for appointment or seeking a favourable advice in a case in which they are

¹ Report of the Indian Statutory Commission, *op. cit.*, II, p. 297.

interested. Further, on their later postings to ministries they would have to work under ministers and secretaries. Therefore, in anticipation of future good relationship and favour, they may please them now, and may, thus lose the independent and impartial character which is the soul of the organization. It is possible that the members may not be able to work without fear or favour when their own future depends on others.

UK PRACTICE NOT SUITABLE FOR PAKISTAN

The critics who oppose the grant of more powers to the Central Public Service Commission in Pakistan frequently buttress their arguments with the example of the Civil Service Commission in the United Kingdom. In answer, it may be pointed out to them that in the United Kingdom it has become a tradition not to interfere in the working of the Commission. This tradition is invariably honoured. "There is a tacit and unwritten agreement between the political parties reinforced by strong parliamentary and public opinion, that the Commissioners should be left to exercise their function in an independent and impartial manner."¹ Secondly, the U.K. Civil Service Commission enjoys unfettered freedom and final

¹P.A. Sinker, "What are Public Service Commissions For?", Public Administration (London: 1953), p. 202.

authority in its limited jurisdiction of selection, examination and certification of candidates for various posts. The various acts passed since the inception of the Commission have strengthened its position and helped in achieving the objectives for which it was established more than a century ago. For instance, the Superannuation Acts of 1859 and 1949 provided that, with certain exceptions, no person will be considered to have served in the civil service and shall not be entitled to a pension, unless he has been admitted with a certificate from the Civil Service Commissioners. A department is not at liberty to refuse a person for appointment who has passed an appropriate examination administered by the Commission and who has been certified by it as fit for appointment in that class.¹ The statutory provisions have restricted the liberty which the politicians enjoyed in this respect before these enactments. Thirdly, the influence of the staff associations and the Whitley Councils acts as a deterrent against any irregularity in promotions. In Pakistan, the position is different as shown in the preceding chapter. The Pakistani system lacks all these factors. Simple copying of the English system will not help in achieving the objectives for which the Central

¹W.J.M. Mackenzie and J.W. Grove, Central Administration in Britain (London: Longmans, Green & Co., 1957), p. 39.

Public Service Commission was established. Pakistan's culture and social environment is different and needs a different organization to meet its requirements.

CONCLUSION

The remedy for all the maladies, enumerated in the preceding pages, is somewhere else. The arguments and opinions of the administrators, foreign consultants, economic planners, journalists, and anyone who studies the Pakistani situation objectively, without any prejudice and with an open mind, strongly suggest the conclusion that the salvation from the ills, which have deeply penetrated the personnel administration, can be found in an independent and impartial central personnel agency, outside the domain of Government. Such an agency may be responsible to the President personally. Its members may be appointed by the President on the advice of outgoing members who should not be eligible for re-appointment under Government. It may be assigned all functions of public personnel management, now performed by the Establishment Division and the Central Public Service Commission.

This may involve a complete reorganization of the present Commission and amendment of the relevant provisions in the Constitution. These are far-reaching and radical

suggestions. But if we need a truly honest and efficient civil service, which may help in building up the nation and enjoy the confidence of the people, the present study suggests that an independent and a unified central personnel agency is the answer. Amendment of the Constitution, difficult as it may be, is essential. After all, the Constitution is a regulatory document. It is not an end in itself; it is only a means — means to achieve the solidarity and the glory of the nation.

APPENDIX I

EXTRACTS FROM THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN RELATING TO THE PUBLIC SERVICE COMMISSIONS

Composition of Public Service Commissions

185. In the case of the Federal Public Service Commission the President, and in the case of a Provincial Service Commission the Governor, may by regulations determine —

- (a) the number of members of the Commission and their conditions of service; and
- (b) the number of members of staff of the Commission and their conditions of service.

Appointment, etc., of Members of Public Service Commissions.

186.—(1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Federal Public Service Commission by the President in his discretion,

(2) Not less than one half of the members of a Public Service Commission shall be persons who have held office in the service of Pakistan for not less than fifteen years.

.....

(3) The term of office of the Chairman and other members of the Federal Public Service Commission shall

be five years.

(4) Any member of a Public Service Commission may resign his office by writing under his hand addressed, in the case of the Federal Public Service Commission to the President,

(5) On ceasing to hold office —

(a) the Chairman of the Federal Public Service Commission shall not be eligible for further employment in the service of Pakistan;

.....

(c) a member of a Public Service Commission, other than the Chairman thereof, shall be eligible for appointment as Chairman or other member of any Public Service Commission other than that on which he has already served, but shall not be eligible for any other employment in the service of Pakistan:

Provided that a person who is a member of a Public Service Commission may be appointed as Chairman of that Commission for the unexpired term of his office.

Removal of the members of Public Service Commissions.

187.—(1) A member of a Public Service Commission shall not be removed from office except on the grounds of misbehaviour or infirmity of mind or body.

(2) A member of the Federal Public Service Commission shall not be removed from office except in the manner

applicable to a Judge of a High Court.

.....

Functions of Public Service Commissions

188.—(1) It shall be the duty of the Federal Public Service Commission..... to conduct examinations for appointment to the services and posts connected with the affairs of the Federation, or the Province, as the case may be.

(2) The President, in respect of services and posts in connection with the affairs of the Federation, may make regulations specifying the matters in which generally or in any particular class of case, or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted; but, subject to such regulations, the appropriate Public Service Commission shall be consulted —

- (a) on all matters relating to methods of recruitment to civil services and posts, and qualifications of candidates for such services and posts;
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another, and on the suitability of candidates for such appointments, promotions or transfers;
- (c) on all disciplinary matters affecting a person in the service of the Federal or a Provincial Government in a civil capacity, including compulsory retirement whether for disciplinary reasons or otherwise, and memorials or petitions

relating to such matters;

- (d) on any claim by or in respect of a person who is serving or has served under the Federal or a Provincial Government in a civil capacity that any costs incurred by him in defending any legal proceedings instituted against him in respect of acts done or purported to be done in the execution of his duty should be paid out of the Federal Consolidated Fund...;
- (e) on any proposal to withhold a special or additional pension or to reduce an ordinary pension; and
- (f) on any claim for the award of a pension or allowance in respect of injuries sustained while serving under the Federal or a Provincial Government in a civil capacity, and any question as to the amount of any such award;

and it shall be the duty of the Public Service Commission to advise on any matter so referred to them, and on any other matter which the President or the Governor, as the case may be, may refer to the Commission.

(3) Where under the Constitution or any law, rules are made for regulating the appointment or conditions of service of persons in the service of Pakistan, but not under the control of the Federal Government or a Provincial Government, such rules may provide for consultation with the appropriate Public Service Commission; and, subject to any express provision of the Constitution, or of the said law, clause (2) shall apply mutatis mutandis.

189. An Act of Parliament may provide for the exercise of additional functions by the Federal Public Service Commission.....

Reports of Public Service Commissions

190.—(1) It shall be the duty of the Federal Public Service Commission to present to the President annually a report on the work done by the Commission, and the President shall cause a copy of the report to be laid before the National Assembly;

(2) The report shall be accompanied by a memorandum setting out —

- (a) the cases, if any, in which the advice of the Commission was not accepted and the reasons therefor;
- (b) the matters, if any, on which the Commission ought to have been consulted, but was not consulted, and the reasons therefor.

APPENDIX II

EXTRACTS FROM THE CONSTITUTION
OF THE REPUBLIC OF PAKISTAN
(1962) RELATING TO THE PUBLIC
SERVICE COMMISSIONS

.....

Composition of Public Service Commissions.

¹181. In the case of the Central Public Service Commission, the President, may by order determine —

- (a) the number of members of the Commission; and
- (b) the number of members of the staff of the Commission and their terms and conditions of service.

Appointment, etc., of Members
of Public Service Commissions.

¹182.—(1) The members of the Central Public Service Commission shall be appointed by the President.....

(2) The terms and conditions of service of a member of the Central Public Service Commission shall be determined by Act of the Central Legislature, or, until so determined, by the President,.....

(3) Not less than one-half of the members of a Commission shall be persons who are at the time of

¹Articles 181 and 182 shall, during a period of five years with effect from the 8th day of June, 1962, have effect subject to certain modifications made by President's Order No. 37 of 1962, article 2.

appointment, or who have been at some time before appointment, in the service of Pakistan.

(4) Where a person appointed as member of a Commission was, immediately before his appointment, in the service of Pakistan, his rights as a person in the service of Pakistan shall not, subject to his appointment and service as such a member, be affected.

Oath of Office

183.—(1) Before entering upon his office, a member of a Commission shall make an oath in such form set out in the First Schedule as is applicable to his office.

(2) The oath shall be made —

(a) in the case of a member of the Central Public Service Commission — before the Chief Justice of the Supreme Court;

.....

Term of Office

184.—(1) A member of a Commission shall, subject to this Article, hold office for a term of three years from the date on which he enters upon his office.

(2) A member of a Commission shall not be removed from office except in the manner prescribed in clauses (5) and (6) of Article 128 for the removal from office

of a Judge, and in the application of those clauses for the purposes of this clause, any reference in those clauses to a Judge shall be read as a reference to a member of the Commission.

(3) A member of a Commission may resign his office by writing under his hand addressed —

- (a) in the case of the Central Public Service Commission — to the President;

Functions of Central Public Service Commission

185.—(1) The functions of the Central Public Service Commission shall be —

- (a) to conduct tests and examinations for the selection of suitable persons for appointment to the All-Pakistan Services, the civil services of the Centre and civil posts connected with the affairs of the Centre;
- (b) to advise the President on any matter on which the Commission is consulted under clause (2) of this Article or which is referred to the Commission by the President; and
- (c) such other functions as may be prescribed by law.

(2) Except to the extent that the President, after consulting the Commission, may provide otherwise by Order, the President shall, in relation to the All-Pakistan

Services, the civil services of the Centre and civil posts connected with the affairs of the Centre, consult the Central Public Service Commission with respect to —

- (a) matters relating to qualifications for, and methods of recruitment to, services and posts;
- (b) the principles on which appointments and promotions should be made;
- (c) the principles on which persons belonging to one service should be transferred to another;
- (d) matters affecting terms and conditions of service and proposals adversely affecting pension rights; and
- (e) disciplinary matters.

.....

Reference by Province to the
Central Public Service Commissions

187. The Governor of a Province may, with the approval of the President, refer to the Central Public Service Commission a matter relating to the services of the Province or posts connected with the affairs of the Province.

Commission to be advised when
advice not acceptable.

188. Where the President or a Governor does not accept the advice of a Commission, he shall inform the

Commission accordingly.

Annual Report

189.—(1) Each Commission shall, not later than the fifteenth day of January in each year, prepare a report on its activities during the year ending on the previous thirty-first day of December and submit the report —

(a) in the case of the Central Public Service Commission — to the President;

(2) The report shall be accompanied by a memorandum setting out, so far as is known to the Commission —

(a) the cases, if any, in which its advice was not accepted, and the reasons why the advice was not accepted; and

(b) the cases where the Commission^hought to have been consulted but was not consulted, and the reasons why it was not consulted.

(3) The President or the Governor, as the case may be, shall cause the report and memorandum to be laid before the National Assembly at the first meeting of the Assembly held after the thirty-first day of January in the year in which the report was submitted.

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APPENDIX III

COPY OF THE GOVERNMENT OF PAKISTAN,
PRESIDENT'S SECRETARIAT, ESTABLISH-
MENT DIVISION, OFFICE MEMORANDUM
NO. 3/3/59-EVII, DATED THE 4TH
JUNE 1960.

Subject: Acceptance of the Advice of the Federal
Public Service Commission.

In supersession of the Cabinet Secretariat (Establishment Division) Office Memorandum No. 10/3/50-SEII, dated the 13th June, 1950, on the subject of the Convention regarding acceptance of the advice of the Federal Public Service Commission, the undersigned is directed to say that Government have been pleased to decide that the advice of the Federal Public Service Commission in a case referred to it shall be accepted by the Ministry/Division/Department concerned, subject to the provisions of the paragraph 2 below.

Where a referring Ministry, Division or Department disagrees with the advice given, it shall communicate the reasons for disagreement to the Commission, and after the Commission has expressed its further views in the matter, the case will be submitted for decision to the President through the Establishment Division.

J.D. HARDY
Establishment Secretary

APPENDIX IV

CABINET SECRETARIAT

(Establishment Division)

NOTIFICATION

Karachi, the 27th March, 1953.

No.10/14/50-S.E.II.— In exercise of the powers conferred by sub-section (3) of section 266 of the Government of India, Act, 1935, and in supersession of the Federal Public Service Commission (Consultation by the Governor-General) Regulations, 1937, the Governor-General is pleased to make the following regulations:-

- 1 These regulations may be called the Pakistan Public Service Commission (Consultation by the Governor-General) Regulations, 1953.
- 2 It shall not be necessary to consult the Commission in regard to any matter mentioned in clauses (a) and (b) of sub-section (3) of section 266 of the Government of India Act, 1935, in the case of
 - (i) the services and posts specified in the schedule to these regulations;
 - (ii) any post appointment to which requires the specific orders of the Governor-General under the rules of business.

3 It shall not be necessary to consult the Commission in regard to the selection for appointment

- (a) to a Central Service, Class I, of any officer of the Armed Forces of Pakistan or any officer who is already a member of an All-Pakistan Service or a Central Service, Class I;
- (b) to a Central Service, Class II, of any officer from another Central Service, Class II, or by promotion from a Central Service, Class III;
- (c) to a tenure post in a Central Service, Class I, or a Central Service, Class II, of an officer of a Provincial Service;
- (d) otherwise than in accordance with one of the methods mentioned in (a), (b) or (c) above, to the services or posts specified in the schedule.

NOTE:- In this regulation, the term "officer" does not include a person employed in a short-term leave vacancy or in a purely temporary vacancy pending the appointment of its regular incumbent in accordance with the prescribed recruitment methods.

4 Notwithstanding anything contained in regulation 3, it shall not be necessary to consult the Commission in the following cases:-

- (a) Selection for appointment to any post where the Commission have agreed to recruitment

being made from the outside Pakistan and the approval of the Governor-General has been obtained to such recruitment being made without consulting the Commission;

- (b) selection for appointment to a permanent or temporary post, if the officer to be appointed is not likely to hold the post for more than six months and the Commission have failed to recommend a candidate within ten days of being first asked to do so;

Provided that unless the Commission has been consulted such officer shall not hold the post or any other post in continuation of it for more than six months;

- (c) selection for appointment to civilian posts under the Ministry of Defence except educational posts in training institutions and appointments under the Civil Aviation/Meteorological Department;
- (d) re-employment of superannuated officers.

Note.- In this regulation the term appointment includes employment in a temporary or officiating capacity.

5 It shall not be necessary to consult the Commission before an order is passed in any disciplinary case other than

- (a) a an original order by the Governor-General imposing any of the following penalties:-

- (i) censure; or
- (ii) withholding of increments or promotions, including stoppage at an efficiency bar;
- (iii) reduction to a lower post or time scale, or to a lower stage in a time scale;
- (iv) recovery from pay of the whole or part or any pecuniary loss caused to Government by negligence or breach of orders;
- (v) removal from service; or
- (vi) dismissal.

Note to regulation 5(a).— An original order by the Governor-General in this clause means an order of a Ministry or Division in respect of an officer for whom the punishing authority is the Governor-General and in respect of whom the Governor-General has not delegated his authority to punish to any subordinate authority.

- (b) an order by the Governor-General on an appeal not being an appeal against an order of suspension pending enquiry into misconduct;
- (c) an order by the Governor-General proposed to be made in response to any petition or memorial, overruling or modifying the order of a subordinate authority; or
- (d) a case relating to an officer holding a Commission in the Armed Forces of Pakistan in which
 - (i) the Governor-General proposes to impose the penalty of removal or dismissal of the officer;
 - (ii) an appeal has been made in accordance with the provisions governing appeals for the time being in force.

6 It shall not be necessary for the Governor-General to consult the Commission in disciplinary matters relating to civilians appointed to posts connected with Defence.

T.B. CREAGH COEN,
Establishment Secretary
to the Government of Pakistan.

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