

CRITICAL STUDY OF THE LEGAL PROTECTION AVAILABLE TO CIVIL SERVANTS IN PAKISTAN.

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ABSTRACT

In the modern age efficient and good administration is sine quo non for good governance. The only way to ensure that administrative efficiency will not suffer a serious set back to the too frequent political changes in the government and to enable the public servant to resist political pressure, is to make the public service independent and strong by means of providing constitutional safe guards and other legal protections. Protection available to civil servants in Pakistan can be broadly divided into two periods: first period from 1947 to 1973 when constitutional guarantees were provided and second period is after 1973 where protections have been afforded by ordinary laws. In this paper protections available to civil servants in the various constitutions of Pakistan as well as in statutes have been critically discussed and comparative study has been made therein.

INTRODUCTION.

One of the most outstanding legal developments of the 20th century is the rapid growth of administrative law. It does not mean that there was no administrative law in any country before the 20th century. Administrative law should be deemed to have been in existence in some form or the other in every country having some form of government. In the words of Parker, "since the administrative law is the law that governs and is applied by the executive branch of government, it must be as old as that branch" (quoted by Khan, 2000). So it is as old as the administration itself as it is accompanied with organized administration.

In sub-continent, administrative law can be traced to the well organized and centralized administration under the Maurayas and Guptas, several centuries before the Christ following through the administrative system of the Mughals to the administration under the East India Company a precursor of the modern administration (Khan, 2000).

Administrative law deals with powers and duties of administrative authorities, the manner in which the powers are exercised, legal protection to public servant and the remedies available to the aggrieved persons, when those powers are abused by the authorities. In this

paper only one aspect of administrative law that is, legal protection available to civil servants under different laws in Pakistan, is critically discussed.

The secret of good government lies in the manner, in which it is, able to provide for efficient administration in the country and this can be secured by the impartial, upright and well-disciplined public servants who are employed for the purposes of carrying on the day to day administration of the country. Though political parties have their rise and fall, the politicians come and go - but it is the civil servant that goes on for ever. Under a system of parliamentary democracy, the entrance and exit of politicians on the stage of public affairs is a matter of ordinary occurrence, in a country where political parties are not strong, organized and well-disciplined the changes of the government are as to be more frequent than their one would wish for. The too many changes in the government must necessarily entail the weakening of administrative grip over the management of the affairs of the country. The only way to ensure that administrative efficiency will not suffer a serious setback due to the too frequent political changes in the government is to make the public services independent and strong, by means of providing constitutional safeguards and guarantees as well as protections under ordinary laws (Brohi, 1958).