



OFFENCES RELATING TO PUBLIC SERVANT Smriti Kashyap, smiritikashyap1182095@gmail.com

Abstract : Section 21 of Chapter – II (General Explanations) of Indian Penal Code, 1860 defines “Public Servant”. Chapter IX of the Code explains the provisions about the offences by or relating to public servants. Chapter IX contains Sec. 161 to 171 whereby Sec. 161 to Sec. 165-A were repealed by Prevention of Corruption Act, 1988 (Act 49 of 1988).

As pointed out by the Supreme Court in **Ramesh v. State of Maharashtra**, a public servant is an authority who must be appointed by Government or a Semi-Government body & should be in the pay or salary of the same.

Secondly, a public servant is to discharge his duties in accordance with the rules & regulations made by the Government. A bill collector employed by a Municipality, & a railway servant are public servants. A member of the Auxiliary Air Force is as much a public servant as an acting member of Indian Air Force.

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Prevention of Corruption Act, 1988

The following genres of persons fall within the ambit of 'public servant':

- a) Any person who is paid by the government or local authority or remunerated by way of fees or commission for the performance of or is in the service of a corporation established by or under a Central, Provincial or State Act, or an authority or body owned or controlled or aided by the Government company as defined in the Companies Act, 1956.
- b) Any Judge or any person authorized by a court of justice to perform any duty, in connection with the administration of justice or any arbitrator to whom any cause or matter has been referred for decision or report by a court of justice or report by a court of justice or by a competent public authority.
- c) Any person who holds an office result to which he is empowered to prepare, publish maintain or revise an electoral roll or to conduct an election or part of an election, or is authorized or required to perform any public duty.
- d) Any person who is the president, secretary or other office bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central or State Government or any authority or body owned, controlled or aided by Government or Government company as defined in Sec. 617 of the Companies Act, 1956.
- e) Any person who is a chairman, member or employee of any service commission or Board or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on their behalf.
- f) Any person who is the Vice-Chancellor or member of any governing body, professor, reader or lecturer of any University and any person whose services have been availed of by a University.
- g) An office-bearer or an employee of an educational, scientific, social, cultural or other institution receiving or having received any financial assistance from the Central or State government or local or other public authority.

Offences And Penalties:

The following are the offences under the PCA along with their punishments:-

- Taking gratification other than legal remuneration in respect of an official act, and if the public servant is found guilty shall be punishable with imprisonment which shall be not less than 6 months but which may extend to 5 years and shall also be liable to fine.
- Taking gratification in order to influence public servant, by corrupt or illegal means, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.
- Taking gratification, for exercise of personal influence with public servant shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.
- Abetment by public servant of offences defined in Section 8 or 9, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.
- Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.
- Punishment for abetment of offences defined in Section 7 or 11 shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.