

## **6. Article 311 of Constitution**

6.1 Article 311 of the Constitution is reproduced below: Article 311 of Constitution “Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.—

- (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.
- (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges: Provided that where, it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed: Provided further that this clause shall not apply —
  - (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
  - (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or
  - (c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.
- (3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.”

6.2 The procedure laid down in Article 311 is intended to assure, first, a measure of security of tenure to Government servants, who are covered by the Article and secondly to provide certain safeguards against arbitrary dismissal or removal of a Government servant or reduction to a lower rank. These provisions are enforceable in a court of law. Where there is an infringement of Article 311, the orders passed by the disciplinary authority are void ab initio and in the eye of law “no more than a piece of waste paper” and the Government servant will be deemed to have continued in service or in the case of reduction in rank, in his previous post throughout.

6.3 The implications of the provisions of Article 311 have been the subject of a close examination by several High Courts and by the Supreme Court. In particular in the cases of (i) Purushotham Lal Dhingra vs Union of India, AIR 1958 SC 36; (ii) Khem Chand vs. Union of India, AIR 1958 SC 300 and (iii) Union of India and another vs. Thusiram Patel, 1985(2) SLR SC 576, the Supreme Court gave an exhaustive interpretation of the various aspects involved and they provide the administrative authorities authoritative guidelines in dealing with disciplinary cases.

6.4 Articles 310 and 311 apply to Government servants, whether permanent, temporary, officiating or on probation. (Purushotham Lal Dhingra vs. Union of India, AIR 1958 SC 36)

