

ANALYSE THE ESSENTIALS OF ADMINISTRATION AND ADMINISTRATIVE LAW

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ABSTRACT

Administration means coordinating human efforts for attainment of goals. Planning, Organising, Staffing, Directing, Coordinating, Reporting, Budgeting are ingredients for the better administration. Public administration is looking for the public welfare. Private Administration aimed for profit earning. Administration agencies are governed by administrative law. This Administrative law emerged from the so many sources of law. In the case of MC MEHATA VS UNION OF INDIA , DS NAKARA VS UOI , Administration was interrupted by judiciary. Administrative tribunals played important role in dealing the service matters of Administration.

KEY WORDS

Administration, Administrative law, Organizing, Administrative Tribunal, Coordinating.

INTRODUCTION

Administration means achieving common goal by coordinating the human efforts. If the common goal is welfare for people , that is *public Administration*. If the common goal is earning profit , that is called as *private Administration*. Every group activities such as temple , family, company, factory, hospital and government departments. Administration is a process which manage , serve and direct the activities of an organization. Not all the collective activities are called as Administration. Administration involves the collective activity for the attainment of specific goals.

ADMINISTRATION

L.D.WHITE

Administration is the directions , coordination and control of many persons to achieve some purpose or objective.

E.A.NIGRO

Administration is the organisation and use of men and materials to accomplish a purpose.

ESSENTIALS OF ADMINISTRATION

As per the Luther gulick view , the following are essential for Administration:-

- Planning
- Organizing
- Staffing
- Directing
- Coordinating
- Reporting
- Budgeting

This is known as POSDCORB view.

1. Planning

Planning means deciding the objectives & designing what should be done & choosing the way how it should be done & selecting the time when it should be done. Planning will enhance the performance in future.

2. Organizing

Organizing means assigning the tasks & allocating the human resources to accomplish the task. This also includes the responsibility of the humans, allocating the powers to them . Organization initiatives implementation of the planning. This creates the relationship between superior and lower.

Organizing is a process which totally depends upon the human beings conduct.

3. Staffing

Staffing implies that recruiting the people to complete their work which is allocated to them. This recruitment will be based on knowledge, skills, experience, talent and age. This process utilizes the human resources in a right way. It ensures the better administration. Staffing is key element for the effective performance of other functions.

4. Directing

Directing means leading or guiding the people to fulfil the purpose and goals of an administration. Directing enhances the individuals to put their contribution and potential for the achievement of the goals. It established the harmony between administration objectives and individuals objectives.

5. Coordinating

Coordinating means promoting the unity between the various groups and departments. It is an arrangement of the individual's performance in a group. It interlink the several parts into an order for the achievement of the goals. This is a continuous and dynamic process. Coordinating emphasizes the unity of efforts in an administration.

6. Reporting

Reporting means presenting the things which are observed / investigated by the person. Reporting is a tool which communicates the all defects and requirements in an administration. It includes the analysing, providing updates and offering various kind of aspects and informing the information and data.

7. Budgeting

Budgeting means planning the expenses and allocating the fund to carry out the functions of the administration. It manages the financial performances of

the organisation. This is a process for spending money for the achievement of goal.

These are the essentials for administration.

ADMINISTRATIVE LAW

The administrative rules and orders are described as administrative law. It governs the administrative agencies of the government.

- ✓ Legislative
- ✓ Executive
- ✓ Judiciary

Administration is a Branch of public law.

Other Names

- Administrative law making,
- Administrative legislation,
- Delegated legislation.

Definition

Ivor Jennings

"Administrative law is the law relating to the administration. It determines the organisation, powers and duties of administrative authorities and indicates to the individual remedies for the violation of his rights."

Garner

"Administrative law consists of those rules which are recognised by the courts of law and which relates to and regulate the government."

Sources Of Administrative Law

Administrative law is not a codified law. It's based upon the following sources:-

- i. Constitution of the country
 - ❖ Fundamental rights
 - ❖ Directive principles of state policy
 - ❖ Writs
 - ❖ Tribunals
- ii. Statutes & resolutions passed by the Legislature
 - ❖ Administrative tribunal Act
 - ❖ Companies law

- ❖ Contract law
- iii. Charters
- iv. Local body Acts
- v. Rules, ordinances, regulations, orders, decisions
 - ❖ ARTICLE 123
 - (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.
 - (2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—
 - (a) Shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and
 - (b) May be withdrawn at any time by the President.
 - (3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.
 - ❖ ARTICLE 213
 - Under this Article, governor have the power to promulgate the Ordinances during the recession of legislation.
- vi. Customs & conventions
- vii. Judicial decisions

➤ Vishaka vs State of Rajasthan

This case became the cause root for the protection of women from sexual harassment at work place.

➤ MC Mehta vs UOI

In this case, the advocate practiced in Hanzari court died after inhaling oleum gas. This case was filed to stop the usage of harmful chemicals and gas. Before taking it to hearing the supreme court appoint the committee to inspect and to make report. The governor of Delhi formed the committee to find out the reasons for the leakage of gas. After taking into many things into consideration, the supreme court directs the government to set up the environmental courts to deal with the environmental issues.

CASE LAWS

DS Nakara vs UOI

In this case, central civil service (pension) Rules, 1972 was challenged. It governs the pension for armed forces. It categorized the pension amount based on the date i.e before 31.03.1979 and after 31.03.1979. The petitioners said that it violates their right to equality which is guaranteed in Article 14. Because there was a discrimination based upon the Date. The supreme court held that pension amount should be same to the all person who did the same work, retirement date is discriminatory under article 14.

ADMINISTRATIVE TRIBUNAL

Administrative tribunal is a statutory body which performs outside of the ordinary court systems. Its function will be based on the principle of natural justice and by criminal procedure code.

Article 323 A and **Article 323 B** of Indian constitution deals with the establishment of Administrative tribunal in India.

Administrative tribunal Act

This Act was introduced in 1985.

Section 1

As per this section this Act extends to the whole of India. The central and state government shall establish the central and state administrative tribunals by notification.

Section 3

Definitions

- i. "Administrative Member" means a Member of a Tribunal who is not a Judicial Member .
- ii. "Administrative Tribunal", in relation to a State, means the Administrative Tribunal for the State or, as the case may be, the Joint Administrative Tribunal for that State and any other State or States.
- iii. "appropriate Government" means,
 - in relation to the Central Administrative Tribunal or a Joint Administrative Tribunal, the Central Government;
 - in relation to a State Administrative Tribunal, the State Government;
- iv. "Bench" means a Bench of a Tribunal;
- v. "Central Administrative Tribunal" means the Administrative Tribunal established under sub-section (1) of section 4;
- vi. "Chairman" means the Chairman of a Tribunal;
- vii. "Joint Administrative Tribunal" means an Administrative Tribunal for two or more States established under sub-section (3) of section 4.
- viii. "Judicial Member" means a Member of a Tribunal appointed as such under this Act.
- ix. "Tribunal" means the Central Administrative Tribunal or a State Administrative Tribunal or a Joint Administrative Tribunal;

Section 4

Establishment of Administrative Tribunals

(1) The Central Government shall, by notification, establish an Administrative Tribunal, to be known as the Central Administrative Tribunal, to exercise the jurisdiction, powers and authority conferred on the Central Administrative Tribunal by or under this Act.

(2) The Central Government may, on receipt of a request in this behalf from any State Government, establish, by notification, an Administrative Tribunal for the State to be known as the.....(name of the State) Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the Administrative Tribunal for the State by or under this Act.

Section 5

Composition of Tribunals and Benches:

Each Tribunal shall consist of a Chairman and such number of Judicial and Administrative Members]as the appropriate Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches .

Section 14

Jurisdiction, powers and authority of the Central Administrative Tribunal

1.the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable in relation to

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause

(c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or society or other body, at the disposal of the Central Government for such appointment.

2. in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation or society all the jurisdiction, powers and authority exercisable in relation to—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation or society

(b) all service matters concerning a person appointed to any service or post in connection with the affairs of such local or other authority or corporation or society and pertaining to the service of such person in connection with such affairs .

section 15

Jurisdiction, powers and authority of State Administrative Tribunals :

(1) the Administrative Tribunal for a State shall exercise, in relation to—

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all civil post or services under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation or society owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose service have been placed by any such local or other authority or corporation or society or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.

(2) the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation or society, all the jurisdiction, powers and authority exercisable in relation to—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation or society

(b) all service matters concerning a person appointed to any service or post in connection with the affairs of such local or other authority or corporation or society and pertaining to the service of such person in connection with such affairs.

CONCLUSION

Administration controlled their subordinates to work perfectly. It enables the workers to make better use of their efficiency , to attain the common goal. Administrative tribunal was



established to reduce the burden of the court. It deals with service matters , pertaining to the central government employees or any Union territory or local or other government. No organisation will be function effectively without the better performance of Administration.

