

CONSTITUTIONAL LAW | UNIT – IV

Subordinate Judiciary, Tribunals, PSC, Election Commission & State Liability

Expanded Edition • High-Yield Focus

Repeated Themes in Papers

Highest Frequency

L. Chandra Kumar – Tribunals and judicial review. Art. 311 protection to civil servants. Election Commission powers and independence.

Very High Frequency

Control of High Court over subordinate judiciary (Art. 235). Doctrine of Pleasure vs Art. 311. State liability in torts.

High Frequency

UPSC / SPSC functions and independence. Appointment of District Judges. Contractual liability of State (Art. 299).

Scoring Tip

For Tribunals always start with L. Chandra Kumar. For Art. 311 write the two protections + exceptions clearly.

Articles 233–237

District Judges (233)

Appointed by the Governor in consultation with the High Court. Consultation is mandatory and must be effective.

Other Judicial Officers (234)

Appointments to judicial service (other than district judges) by Governor after consultation with State PSC and High Court.

Control of High Court (235)

High Court exercises control over district courts and courts subordinate thereto – posting, promotion, leave, discipline.

Why Important

District judiciary handles the bulk of litigation. Independence at this level is crucial for access to justice.

Key Principle

Control under Art. 235 is a constitutional safeguard to protect subordinate judiciary from executive interference.

Case Reference

State of West Bengal v. Nripendra Nath Bagchi – discussed the wide scope of High Court's control.

Articles 323A & 323B + L. Chandra Kumar

Art. 323A empowers Parliament to create Administrative Tribunals for service matters. Art. 323B allows creation of tribunals for other subjects (tax, land reforms, elections, etc.). The landmark case L. Chandra Kumar (1997) transformed the tribunal system.

L. Chandra Kumar Holding

Judicial review under Arts. 226/227 by High Courts and under Art. 32 by Supreme Court is part of the basic structure. Tribunals cannot completely oust this jurisdiction.

Consequence

Decisions of tribunals are subject to scrutiny by a Division Bench of the High Court. Further appeal to Supreme Court is possible.

CAT & SATs

Central and State Administrative Tribunals handle service disputes of government employees. They are meant to provide speedy and specialised justice.

Exam Point

Always mention: Tribunals are supplementary, not substitutes, for High Courts. L. Chandra Kumar is compulsory.

Articles 315–323

Constitutional Status

UPSC and State PSCs are constitutional bodies. Their existence and core functions are constitutionally protected.

Functions

Conduct examinations for recruitment; advise on methods of recruitment, promotions, disciplinary matters, claims for reimbursement of legal expenses, etc.

Independence

Members have security of tenure. UPSC members removable only like Supreme Court judges. Advice is not binding but carries high weight.

Reports

UPSC reports to President; SPSCs to Governor. Reports are laid before the respective legislatures.

Joint SPSC

Two or more States may have a Joint State Public Service Commission (Art. 315).

Exam Point

PSC is a recruiting and advisory body. Final appointment decision remains with the government, but reasons for departure from advice are usually recorded.

Article 311 – High Yield

No civil servant shall be dismissed or removed by an authority subordinate to the one that appointed him. No civil servant shall be dismissed, removed or reduced in rank except after an inquiry in which he has been informed of the charges and given a reasonable opportunity of being heard.

Two Protections

1. Authority of dismissal must not be subordinate.
2. Inquiry + reasonable opportunity of hearing.

Exceptions

Conviction on criminal charge; inquiry not reasonably practicable; security of the State requires that inquiry be dispensed with.

Doctrine of Pleasure

Art. 310 – holds office during pleasure of President/Governor, but this is subject to Art. 311 safeguards.

Key Case

Union of India v. Tulsiram Patel – discussed exceptions and the scope of natural justice in service matters.

Article 324 – Powers & Independence

Composition

Chief Election Commissioner + other Election Commissioners. Multi-member body. CEC has a special position in removal.

Wide Powers

Superintendence, direction and control of preparation of electoral rolls and conduct of elections to Parliament, State legislatures, President & Vice-President.

Independence

CEC removable only like a Supreme Court judge. Other ECs removable on recommendation of CEC.

Model Code of Conduct

Though not a statute, MCC is enforced by EC during elections and has become a powerful instrument of electoral discipline.

Key Case

T.N. Seshan v. Union of India – strengthened the independence and multi-member character of the Commission.

Recent Issues

Appointment process of Election Commissioners has been the subject of judicial scrutiny and subsequent legislation.

Torts and Contracts

Contractual Liability (Art. 299)

Contracts in exercise of executive power must be expressed to be made by the President/Governor and executed on their behalf. Non-compliance makes the contract unenforceable against the Government.

Tortious Liability

No express constitutional provision. Governed by common law principles as adapted in India. Earlier distinction between sovereign and non-sovereign functions has been diluted.

Kasturilal Case

Earlier view gave wide protection to State in pure sovereign functions. Later decisions have moved towards greater accountability and compensation.

Modern Trend

Courts lean in favour of compensating citizens for wrongs committed by State employees in the course of employment, especially in non-sovereign activities.

Exam Point

Distinguish Art. 299 (contracts) from tort liability. Mention the shift from sovereign immunity towards accountability.

Practical Importance

State liability questions often appear as problem-based questions involving police action, negligence of officials, or defective contracts.

Must-Remember Points

01

Subordinate Judiciary

High Court control under Art. 235 is vital for independence of district courts.

02

Tribunals

L. Chandra Kumar – judicial review by HC/SC cannot be ousted. Tribunals are supplementary.

03

PSC

Constitutional bodies for merit-based recruitment and advice on service matters.

04

Art. 311

Two protections + exceptions. Doctrine of pleasure is limited by these safeguards.

05

Election Commission

Independent constitutional body under Art. 324 with wide electoral powers.

06

State Liability

Art. 299 for contracts; tort liability evolving towards greater accountability.

End of UNIT – IV

Subordinate Judiciary • Tribunals • PSC • EC • State Liability