

DROP THE IAS CADRE RULES AMENDMENTS

Relevant for: Indian Polity | Topic: Provisions related to UPSC, State PSCs and Civil Services in India, and their Role in Democracy

It was Sardar Patel who had championed the creation of the Indian Administrative Service (IAS) and the Indian Police Service (IPS) as “All India Services” (AIS) whose members would be recruited and appointed by the Centre and allotted to various States, and who could serve both under the State and the Centre. He considered the AIS essential to knit the administrative framework of a vast and diverse country into an integrated whole and to provide a connecting link between implementation at the field level and policymaking at the top. Speaking to the Constituent Assembly on October 10, 1949, Patel said, “The Union will go, you will not have a united India if you have not a good All India Service which has the independence to speak out its mind, which has a sense of security....”

AIS officers are made available for central deputation through a consultative process involving the Centre, the States and the officers concerned. In the past, certain healthy conventions were generally followed. No officer was sent on central deputation against his/her own will. Every year, the States would prepare an “offer list” of officers who had opted for central deputation without arbitrarily withholding any names. The Centre would choose officers only from among those “on offer” from the States. The States would relieve the officers picked up by the Centre at the earliest.

Fall in deputations to Centre in 2021

Unfortunately, both the Centre and the States have at times flouted these healthy conventions for political considerations. In July 2001, the Centre unilaterally “placed at its disposal” the services of three IPS officers of Tamil Nadu cadre. In December 2020, the Centre did the same in respect of three IPS officers of West Bengal cadre. In May 2021, the Centre unilaterally issued orders for the central deputation of the Chief Secretary of West Bengal just before his last day in service. In all these cases, the States concerned refused to relieve the officers.

Some States used to vindictively withhold the names of some of the officers who had opted for central deputation or delay their relief after they were picked up by the Centre. An egregious example was that of a senior IPS officer who was not allowed to join the Central Bureau of Investigation despite earlier clearance and was suspended by the Government of Tamil Nadu in May 2014 when she relieved herself from the State pursuant to the Centre’s direction.

The Central Government has proposed four amendments to Rule 6(1) of the IAS (Cadre) Rules, 1954 dealing with deputation, and has sought the views of State governments before January 25, 2022. The existing Rule 6(1) states that a cadre officer may be deputed to the Central Government (or to another State or a PSU) only with the concurrence of the State Government concerned. However, it has a proviso which states that in case of any disagreement, the matter shall be decided by the Central Government.

States weigh options on IAS cadre rule changes

Two of the four proposed amendments are disconcerting.

One is a new proviso making it mandatory for the State government to provide a certain fixed number of IAS officers for central deputation every year. The proposed amendment more or less compels a State government to offer IAS officers for central deputation even when these officers

themselves may not wish to go on central deputation. Poor working conditions in junior-level posts, an opaque and arbitrary system of empanelment for senior-level posts, and lack of security of tenure at all levels are the real reasons for the shortage of IAS officers, which the Centre should address. With the Government of India itself enthusiastically promoting lateral entry to posts in the Centre and providing an increased share of central deputation posts to the central services, there is no need to push unwilling IAS officers on central deputation.

The other is a proviso that requires the State government to release such officers whose services may be sought by the Central Government *in specific situations*. Based on experiences of the recent past, State governments have a justified apprehension that this proviso may be misused for political considerations. What if the Centre unilaterally places at its disposal the services of the Chief Secretary, Principal Secretary to the Chief Minister and other key officers of a State ruled by a rival party or deposes them to other States?

States are right in perceiving the proposed amendments as a serious infringement of their rights to deploy IAS officers as they deem best, especially when the cutting edge of policy implementation is mostly at the State level. The contemplated changes have grave implications for the independence, security and morale of IAS officers. If States begin to doubt the loyalty of IAS officers, they are likely to reduce the number of IAS cadre posts and also their annual intake of IAS officers. They may prefer officers of the State Civil Services to handle as many posts as possible. In course of time, the IAS will lose its sheen, and the best and the brightest candidates will no longer opt for the IAS as a career. Short-sighted decisions can do long-term damage to the polity.

In the words of jurist Nani Palkhivala, "A national consensus should clearly remind the Centre that it has not inherited the Viceroy's mantle of paramountcy... The Centre would have no moral authority to govern unless it displays a sense of constitutional morality, particularly a sense of justice and fairness towards the States". In *S.R. Bommai vs Union of India* (1994), the Supreme Court held that "States have an independent constitutional existence and they have as important a role to play in the political, social, educational and cultural life of the people as the Union. They are neither satellites nor agents of the Centre".

We hope that the Centre will heed Sardar Patel's sage advice and drop the proposed amendments. In a federal setup, it is inevitable that differences and disputes would arise between the Centre and the States. But all such quarrels should be resolved in the spirit of cooperative federalism and keeping the larger national interest in mind.

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