



NATIONAL JUDICIAL ACADEMY

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NATIONAL CONFERENCE ON SERVICE & EMPLOYMENT LAW

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PROGRAMME REPORT

PREPARED

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OVERVIEW OF THE CONFERENCE

The National Judicial Academy organized a two-day National Conference on '***Service and Employment Law***' for High Court Justices on 23rd & 24th August, 2025. This Conference brought together High Court judges from across the country to deliberate on the evolving contours of service jurisprudence in India. The discussions highlighted the constitutional framework, judicial interventions, and contemporary challenges in the areas of service and employment law. The conference focused on service matters and judicial review. Speakers emphasized that Part XIV of the Constitution (Articles 308–323) provides the legal framework for public employment, with Article 311 safeguarding against arbitrary dismissal. Judicial review ensures adherence to natural justice and checks administrative excess, though courts avoid interfering with policy choices. Academic insights stressed the vulnerabilities of temporary, contractual, and ad hoc employees. Recent cases, including ***Jaggo v. Union of India 2024 INSC 1034***, reaffirmed judicial opposition to exploitative employment practices. It also addressed promotions, transfers, and seniority. DoPT guidelines and sealed cover procedures were examined, with courts emphasizing finality in seniority disputes and merit-based promotions. Judicial pronouncements, such as ***Prem Narayan Singh (2021)***, reinforced meritocracy while preventing misuse of ad hoc arrangements. Then the discourse dealt with reservations in public employment that acknowledged the role of reservations in ensuring substantive equality while highlighting practical challenges. Courts have balanced equality under Article 16 with protective discrimination under Articles 15(4) and 16(4). It further examined various nuances of labour and employment law in India. With globalization and codification of labour laws, issues of informalization and contractualization dominate. While labour codes aim to simplify compliance, critics fear erosion of worker protections. The last session explored disciplinary proceedings, emphasizing natural justice and proportionality. Across all sessions, a common thread emerged: judicial review acts as a guardian of fairness, equality, and due process in public service. The judiciary plays a corrective yet restrained role, ensuring constitutional values are upheld while balancing efficiency and justice.

SESSION 1

SERVICE MATTERS AND JUDICIAL REVIEW

Speakers: Justice Dipankar Datta & Justice D.K. Upadhyaya

The session commenced with a discussion on constitutional provisions relating to the protection of civil servants. It was highlighted that the regulation of service matters in India has long been focused on maintaining a delicate balance between constitutional protections, statutory rules, and administrative discretion. This session covered the tension between equality of opportunity under Article 16 of the Constitution and the pragmatic considerations of governance. The scholarly works and judicial pronouncements under this theme collectively highlighted the struggles of civil servants, contractual workers, and ad hoc appointees to secure fair treatment under evolving legal frameworks.

The Constitution regulates public services primarily in Part XIV (Articles 308–323), which deals with recruitment, conditions of service, disciplinary procedures and tribunals for Union and State employees. These provisions set the baseline legal architecture for public employment. Article 309 empowers Parliament and State Legislatures to make laws regulating recruitment and conditions of service, while Article 310 establishes the doctrine of tenure — public servants hold office at the pleasure of the appropriate government subject to constitutional safeguards. Service rules and departmental regulations operationalize constitutional mandates. Remedies include writs (Articles 226/32), appeals to tribunals (e.g., CAT) and statutory review. In practice, service litigation centers on (i) procedural fairness in disciplinary inquiries, (ii) proper application of Article 311, (iii) interplay between criminal acquittal and departmental proceedings, and (iv) statutory limits on executive discretion — all balancing accountability with protection against arbitrary state action.

The judiciary has frequently acted as the final arbiter in service disputes. In ***Jaggo v. Union of India 2024 INSC 1034***, the Supreme Court highlighted the impermissibility of employing workers in long-term temporary roles without regularization, underscoring India’s obligations under international labour standards. This reflects a consistent judicial stance against exploitation of temporary employees.

Judicial review in service matters serves as a safeguard against administrative arbitrariness, yet it also highlights systemic governance issues: the overuse of temporary contracts, delays in

recruitment, and poor clarity in eligibility rules. While courts have protected individual employees, they often refrain from interfering in broader policy choices unless gross illegality is shown. This demonstrates the judiciary's restrained but corrective role.

The first session thus situated service matters within a broader constitutional context. Academic works emphasize historical inequities and administrative vulnerabilities, while case law demonstrates how judicial review has preserved fairness against arbitrariness. The tension between administrative efficiency and constitutional equality remains central, with courts playing a balancing role to ensure just outcomes.

SESSION 2

JUDICIAL REVIEW IN PROMOTION AND TRANSFER MATTERS

Speakers: Justice Dipankar Datta, Justice D.K. Upadhyaya & Justice Ajay Bhanot

The discourse in this session covered the entire canvas of judicial review in transfer and promotion matters. It was said that promotions and transfers are critical aspects of service jurisprudence where administrative discretion often collides with judicial oversight. This session focused on the principles governing seniority, sealed cover procedures, and reservation rosters.

The DoPT guidelines on seniority and sealed cover procedures reflect an effort to standardize administrative practice. These provisions aim to prevent arbitrariness while ensuring fairness in promotions. Chapter 9 of DoPT's manual on promotions and concessions reinforces constitutional safeguards, but disputes often arise when implementation deviates from these guidelines.

The sealed cover procedure, though intended as a safeguard, frequently delays promotions and raises questions about natural justice. In *S.B. Dogra v. State of Himachal Pradesh (1992) 4 SCC 455*, the Supreme Court held that seniority disputes cannot be unsettled after long delays, affirming the principle of finality. *Imlikokla Longchar v. State of Nagaland (2022) 17 SCC 236*, clarified that service in ad hoc or stopgap positions cannot count towards seniority unless explicitly permitted by rules. This protects regular appointees while discouraging manipulation of ad hoc arrangements. In *Prem Narayan Singh v. High Court of Madhya Pradesh (2021) 7 SCC 649*, the Court emphasized merit-based promotions under limited competitive examinations (LCEs), ruling

that seniority in higher cadres must reflect merit, not just length of service. This ruling promotes incentivization of efficiency and talent within the judiciary.

These rulings underscore the judiciary's effort to create stability in service hierarchies. Finality in seniority disputes, restrictions on ad hoc encadrement, and emphasis on merit reflect judicial efforts to streamline administrative processes. However, sealed cover procedures remain problematic, as they often delay promotions due to pending inquiries, disproportionately affecting honest officers caught in prolonged litigation. This session revealed the judiciary's consistent balancing act: protecting the rights of individuals while maintaining institutional efficiency. The overarching message is that administrative discretion in promotions and transfers must conform to fairness, transparency, and constitutional values.

SESSION 3

RESERVATION IN EMPLOYMENT

Speakers: Justice Ajay Bhanot & Mr. Sunil Kumar Barnwal

This session commenced on the note that reservation in public employment is among the most contested issues in Indian constitutional law. This session engaged with the theoretical, economic, and jurisprudential dimensions of reservation, including its impact on administrative efficiency and its reconciliation with meritocracy.

It was highlighted that the inconsistent implementation of the “creamy layer” doctrine dilutes the intended benefits of reservations. Courts have had to navigate the fine line between constitutional mandates for equality of opportunity (Article 16) and protective discrimination under Articles 15(4) and 16(4). In *Prem Lal Korde v. Jakir Khan (2022) 15 SCC 614*, the Court restored employment to an OBC ex-serviceman wrongly denied a post, stressing that horizontal reservations cannot be overlooked. In *Kumari Madhuri Patil v. Addl. Commissioner (1994) 6 SCC 241*, fraudulent caste claims were condemned, and the Court clarified that Mahadeo Kolis constituted a Scheduled Tribe while coastal Kolis remained OBCs. The decision reinforced the need for vigilance against abuse of reservation benefits.

Recent jurisprudence, such as the series of cases on reservation in promotions, reflects judicial unease. While recognizing reservations as essential for substantive equality, the courts have often

imposed conditions of quantifiable data, efficiency tests, and creamy layer exclusions. This has led to a patchwork of outcomes, with ambiguity persisting around promotions for SC/ST employees.

The jurisprudence on reservation embodies the paradox of India's equality framework: reservations are simultaneously constitutional guarantees and sites of contestation. While courts safeguard genuine beneficiaries, they also remain cautious about overreach and administrative inefficiency. The creamy layer principle reflects an attempt to prevent elite capture, but its uneven application generates anomalies. Moreover, economic analyses highlight how reservation interacts with labour market realities, often complicating the state's ability to balance social justice with efficiency.

This session underscored that reservation remains a constitutional necessity, but one fraught with practical and jurisprudential challenges. The judiciary's nuanced role reflects the difficulty of reconciling substantive equality with efficiency and fairness. The scholarship suggests a need for systemic clarity, stronger verification mechanisms, and a rethinking of the balance between vertical and horizontal reservations.

SESSION 4

LABOUR & EMPLOYMENT LAW

Speakers: Justice Aniruddha Bose & Justice Ananda Bose & Prof. (Dr) S. Surya Prakash

The discourse started on the premise that labour law in India has historically evolved at the intersection of welfare ideals and economic pragmatism. With globalization, informalization, and recent codification of labour laws, the challenges have multiplied. It was mentioned that Justice K. Chandru's writings highlight the judiciary's complex role in reinstatement and back wages, stressing the need for proportional remedies. Some scholars critique India's judiciary for prioritizing developmental imperatives over labour rights, while Rajendra Prasad Pandey assesses globalization's erosion of worker protections. This session also covered discussions on the Contract Labour Act and its vulnerabilities, showing how contract labour undermines core rights. The issues such as the evolution of welfare economics, reminding us of the human costs of unregulated industrialization were also covered.

The New Labour Codes present a modernizing face, aiming for simplification and business-friendliness, but critics argue that it dilutes protective provisions. In *A. Satyanarayana Reddy v. Presiding Officer, Labour Court (2016) 9 SCC 482*, the Court clarified principles of reinstatement and compensation. *Ajaypal Singh v. Haryana Warehousing Corporation (2015) 6 SCC 321* reinforced workers' rights in unfair termination cases. *Bhavnagar Municipal Corporation v. Salimbhai Umarbhai Mansuri (2013) 14 SCC 456* addressed issues of municipal employment and workers' protection under labour statutes.

The scholarship and case law collectively reveal the precarious position of Indian workers, especially in the informal and contractual sectors. The judiciary oscillates between protective interventions and deference to economic policy. The new labour codes, while simplifying compliance, risk undermining hard-won labour protections. The challenge remains to reconcile economic efficiency with the constitutional mandate of social justice.

This session demonstrated that labour jurisprudence is a barometer of India's broader developmental trajectory. Judicial review, legislative reforms, and scholarly critiques all point to the need for a more balanced approach that protects workers without stifling economic growth.

SESSION 5

DISCIPLINARY PROCEEDINGS, PRINCIPLE OF PROPORTIONALITY, & JUDICIAL REVIEW

Speakers: Justice Aniruddha Bose & Justice Ananda Bose

The session started by emphasizing that disciplinary proceedings represent a core area where administrative authority intersects with constitutional protections. The doctrines of natural justice and proportionality dominate judicial review in this domain. The emphasis was placed on natural justice in disciplinary matters, stressing procedural fairness for public servants. The session also explored the growth of proportionality as a doctrine in Indian administrative jurisprudence. The issues, such as ethics of resignation, which introduce a moral dimension, while A.K. Sahu discusses compulsory retirement rules, and doctrinal clarity on disciplinary proceedings were discussed at length.

Article 311 is the keystone protection: it bars dismissal, removal or reduction in rank by an authority subordinate to the appointing authority and generally requires a fair inquiry and opportunity to be heard before imposing major penalties. An exception permits immediate action without inquiry only where the President/Governor is satisfied that inquiry is not feasible. Public Service Commissions (Article 320) must be consulted on recruitment, promotions and disciplinary matters in many cases; their role supplements statutory rules and executive procedures.

Recent jurisprudence, including *State of West Bengal v. Baishakhi Bhattacharyya* 2025 SCC OnLine SC 719, highlights the courts' intolerance for fraud in recruitment, affirming that appointments obtained illegally must be cancelled even at the cost of hardship to individuals. In *Govt. of NCT Delhi v. Kamlesh Rani Bhatla* 2023 SCC OnLine SC 324, the Court clarified principles governing resignation and its withdrawal. *Sunny Abraham v. Union of India* (2021) 20 SCC 12 addressed validity of charge memos lacking prior approval, while *Rajnish Kumar Rai v. Union of India* (2023) 14 SCC 782 rejected transfer pleas made at advanced stages of litigation.

Classical cases like *Ram Ekbal Sharma v. State of Bihar* (1990) 3 SCC 504 and *Baikuntha Nath Das v. CDMO* (1992) 2 SCC 299 distinguished between punitive compulsory retirement and bona fide retirement in public interest. Similarly, rulings on adverse entries (e.g., *Indu Bhushan Dwivedi v. State of Jharkhand*, (2010) 11 SCC 278 ; *Arun Kumar Gupta v. State of Jharkhand*, AIR 2020 SC 1175 underline the importance of integrity and fairness in evaluating service records.

Judicial review in disciplinary proceedings reflects a dual objective: protecting employees from arbitrary or mala fide actions, while empowering administrations to maintain efficiency. The doctrine of proportionality ensures that punishment corresponds to misconduct, while natural justice secures fair hearing. However, courts also caution against excessive interference, deferring to departmental discretion where procedures are followed in good faith. This session demonstrated the judiciary's careful calibration of employee rights and administrative prerogatives. By embedding natural justice and proportionality into service jurisprudence, courts have transformed disciplinary law into a crucial site of constitutionalism in public employment.

Across all five sessions, a common theme emerges: judicial review serves as the guardian of fairness, equality, and due process in public employment and labour law. While scholars highlight systemic inefficiencies, economic tensions, and normative dilemmas, case law demonstrates the

judiciary's pragmatic role in balancing rights with administrative efficiency. Together, these sessions showed how service jurisprudence in India reflects larger constitutional values of justice, equality, and the rule of law.
