

**COMPARISON OF DELEGATED LEGISLATION FOR CENTRAL
SERVICES AND STATE SERVICES IN SERVICE LAW.*****Arghya Pattanayak**

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DOI: <https://doi-doi.org/101555/ijrpa.9433>**ABSTRACT**

This essay discusses the processes and connotations of delegated legislation in the area of public service law, with a specific emphasis on the difference between central level and state-level subordinate legislation. Revisiting Indian administrative law, we examine how main acts invest the executive with power to promulgate rules, regulations and orders on service conditions – that is, recruitment, discipline, postings and transfers and how they vary in the central and state contexts. The review considers three dimensions: (i) the extent and character of delegation under central Acts as opposed to state Acts; (ii) the frameworks of control and accountability (including parliamentary control, judicial review and ultra vires litigation); and (iii) service delivery uniformity, federal balance and administrative flexibility. Our research discloses that whereas both levels make use of delegated legislation to complete statutory outlines, central legislation has the tendency to represent wider uniform policy direction, while state subordinate legislation demonstrates more contextual adjustment but also inconsistency in supervision. The research concludes that sound service law requires unequivocal enabling standards, strong supervisions of exercised powers and harmonization between central and state regimes for the sake of ensuring uniformity, transparency and equity in service affairs.

KEYWORDS: Delegated Legislation, Public Service Law, Central and State Frameworks, Administrative Accountability, Federal Balance.

INTRODUCTION

Delegated legislation essentially plays a very important role in modern administrative

governance, especially as far as public services are concerned, where detailed procedural rules are a necessity to ensure efficiency and discipline. In India, Article 309 of the Constitution empowers both the President and Governors of States to frame rules regulating the conditions of service of persons employed under the Union and the States, respectively. This dual structure befits the federal character of India and gives both tiers of government powers to frame service regulations in tune with their administrative needs. The framework of delegated legislation, such as the Central Civil Services (Conduct) Rules and CCS (CCA) Rules, is laid down for the Central Government to provide a standardized system as far as regulation of services is concerned. However, State Governments, using similar powers, adopt different rules and procedures; this leads to variability in recruitment mechanisms, conduct, and disciplinary mechanisms.

ⁱAlthough delegated legislation plays a very important role in service law, scholarship so far has been generally confined to questions of its constitutional validity and the doctrine of excessive delegation, without adequately exploring its comparative application to Central and State services. The absence of any comprehensive study as to how these delegated powers are exercised diversely, the extent of administrative discretion, and the effectiveness of judicial and legislative oversight, represents a serious research gap. Therefore, the present paper endeavors to fill that lacuna by doing a comparative analysis of the delegated legislation governing Central and State services in terms of implications for administrative uniformity, accountability, and efficiency within the federal structure of India.

Evolution of Delegated Legislation in India

The concept of delegated legislation in India originally began during the British colonial administration, where the then-legislative bodies, such as the Governor- General's Council, did not have the time and technical capacity to frame detailed administrative rules. The early regulations, like the Indian Councils Act of 1861, and subsequent enactments granted limited rule-making powers to the executive for implementing legislative intent. After Independence, the newly formed Indian government inherited a huge administrative apparatus that needed continuous regulation and policy adjustments. The Constitution of India, in essence, has recognized this administrative requirement through provisions like Article 309, which empowers the President and Governors to make rules for public services, and Articles 73 and 162, which stipulate the extent of the power of the executive.

The reason for delegation is that governance is becoming increasingly complex and specialized. The legislature cannot practically anticipate or specify every administrative need. This is particularly true in dynamic areas such as service law, taxation, and social welfare. Delegation, therefore, allows flexibility, technical precision, and administrative responsiveness to ensure that policies can respond to changing circumstances without the need for constant legislative intervention. In service law, it facilitates the efficient management of recruitment, promotion, and disciplinary procedures in government employment. However, this type of delegation is tempered by the principle that powers considered to be core legislative powers—for example, policy-making and the creation of fundamental provisions—must remain within the purview of the legislature, who may delegate powers as an adjunct to governance rather than as a replacement for legislative competence.

Constitutional Framework of Delegated Legislation

- ***Separation of Powers and Administrative Necessity:*** While the Indian Constitution is based on the doctrine of separation of powers, there is a limited overlap between the legislative and executive functions to ensure efficiency in administration. Delegated legislation emerges as a constitutional mechanism enabling the executive to fill in the details necessary effectively to implement legislative policies.
- ***Article 245 and 246 – Legislative Competence:*** These Articles define the legislative powers of Parliament and State Legislatures over subjects in the Union, State, and Concurrent Lists. Delegation should be exercised only within the legislative competence as described in the Seventh Schedule.
- ***Article 309 – Rule-Making for Services:*** Empowers the President, in respect of Central Services, and the Governors, in respect of State Services, to frame rules regulating the recruitment and conditions of service of persons serving under the Union or a State. Such rules are delegated legislation made under the authority of the Constitution itself.
- ***Articles 73 and 162 – Extent of Executive Power:*** Define the extent of the executive power of the Union and of each State and enable each to exercise the same within its assigned sphere. These Articles form the constitutional foundation for the executive to issue rules, orders, and notifications in pursuance of legislative acts.
- ***Article 13 – Judicial Safeguard against Excessive Delegation:*** Ensures delegated legislation remains subordinate to constitutional and statutory limits. The judiciary can declare ultra vires any rule or regulation which infringes upon the fundamental rights or is beyond the legislative intent.

- **Article 312 – All India Services:** Empowers the establishment of All India Services, where rule-making powers are very often delegated in respect of specific matters to the Central Government by or under Parliamentary Acts.

Delegated Legislation for Central Services

The President has been empowered under Article 309 of the Constitution of India to frame rules regulating the method of recruitment and conditions of service of persons serving the Union or Central services. This power has been exercised by issuing a comprehensive set of service rules that control practically every aspect of public employment under the Central Government. Prominent among these rules are the Central Civil Services (Conduct) Rules, 1964, the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the Central Civil Services (Leave) Rules, and the Central Civil Services (Pension) Rules. These rules derive their validity from parliamentary enactments such as the All India Services Act, 1951 and various service-specific Acts, each of which empowers the executive to elaborate administrative details. The Department of Personnel and Training serves as the nodal agency for issuing notifications, amendments, and clarifications under the powers so delegated with a view to ensuring uniformity and coherence throughout the central services.

The justification for such delegation lies in the immense administrative complexity and the dynamic nature of personnel management in the central bureaucracy. Frequent changes in service structures, recruitment procedures, and disciplinary mechanisms require flexibility that cannot be achieved by primary legislation alone. The executive is thus able to respond quickly to emergent administrative needs through delegated legislation while keeping within the parent statute. Nevertheless, these rules remain subject to legislative oversight and judicial scrutiny as a check against misuse or excessive delegation. Parliamentary Committees on Subordinate Legislation have the regular review of such rules, while the judiciary also ensures that they conform to constitutional provisions and principles of natural justice. Thus, this delegated legislation on central services is a balanced framework through which administrative efficiency is combined with constitutional accountability.

Delegated Legislation for State Services

In the case of State Services, the power to make rules regulating the recruitment and conditions of service of persons employed under a State is vested in the Governor, as per Article 309 of the Constitution of India. Acting under this constitutional authority, each State government has framed its own set of Civil Services Rules, such as the Odisha Civil

Services (Classification, Control and Appeal) Rules, Tamil Nadu Government Servants' Conduct Rules, or Maharashtra Civil Services Rules. The rules thus framed, being a kind of delegated legislation, draw their authority either directly from Article 309 or from specific enactments passed by the respective State Legislatures. State Public Service Commissions and various administrative departments have an important role in framing, amending, and interpreting these rules, keeping in view the specific administrative and socio-economic requirements of each State.

However, unlike the relatively uniform framework of Central Services, State Services present a picture of considerable diversity regarding the relevant aspects of delegated legislation. The extent of delegation, requirements of procedure, and discipline vary from State to State, which result in differences in administrative standards and conditions of service. While this diversity reflects the federal autonomy contemplated by the Constitution, it also leads to problems of uniformity, openness, and judicial consistency. Parliament and State Legislatures exercise control through committees on subordinate legislation, and the courts ensure that the delegated rules do not exceed the authority conferred by the parent statute or infringe constitutional mandates. Delegated legislation for State Services thus embodies the principle of administrative decentralization, reconciling the need for local adaptability with the overarching requirement of constitutional conformity.

Comparative Analysis: Central vs. State Frameworks

Similarities

- **Constitutional Basis under Article 309:** Rule-making power for both Central and State Governments is thus derived from Article 309 of the Constitution whereby the President and Governors are respectively permitted to frame service rules.
- **Objective of Administrative Efficiency:** Both frameworks use delegated legislation to ensure that there is effective administration, discipline, and regulation of the service conditions in each jurisdiction.
- **Nature of Delegation:** Both involve the delegation of the power to the executive for framing detailed procedural and disciplinary rules, while the essential policy matters are kept within the control of the legislature.

- **Judicial and Legislative Oversight:** Rules framed by both the Central and State authorities are subject to judicial review and legislative scrutiny in order to prevent excessive delegation and violation of constitutional requirements.
- **Use of Standard Rule-Making Instruments:** Both use similar legal instruments: rules, regulations, and notifications published in official gazettes, which are legally enforceable and transparent.

Differences

- **Authority and Scope of Administration:** Central rules are framed by the President and apply to Union and All India Services, while State rules are made by the Governor and apply only to employees under that particular State's jurisdiction.
- **Uniformity versus Diversity:** Central Services broadly follow a standardized framework, for instance, CCS Rules, while State Services have heterogeneous rule structures to cater to regional administrative requirements.
- **Extent of Legislative Control:** While the scrutiny of Central delegated legislation is more regular by the Parliamentary Committees, scrutiny at the State level is uneven, with varying strengths and frequencies in different Legislatures.
- **Administrative Machinery:** The DoPT centrally coordinates rule-making for the Union, while at the State level, the role of coordination is performed by individual administrative departments or General Administration Departments.
- **Judicial Trends and Precedents:** While central rules have been subject to more extensive judicial interpretation by higher courts, State-level cases often deal with localized administrative or procedural disputes.

Judicial Control and Case Law Analysis

Judicial control is one of the most effective safeguards against excessive or arbitrary use of delegated legislative power in service law. The courts ensure, by the power of judicial review, that the delegated legislation does not go beyond constitutional and statutory authority. In the case of Central Services, the courts have constantly held that essential legislative functions cannot be delegated to the executive. In *A.K. Roy v. Union of India*, the Supreme Court held that while delegation to the executive of legislative power is necessary to effect administrative flexibility, it should not create an uncontrollable discretion subversive of the rule of law. In *Union of India v.*

Tulsiram Patel, the Court upheld the validity of Rule 14 of the Central Civil Services (CCA) Rules, 1965, holding that delegated rules framed under Article 309 of the Constitution have the force of law, provided they are in conformity with constitutional safeguards and principles of natural justice.

The judiciary, in the context of State Services, has also played an essential role in defining the limits of delegated legislative power exercised by the Governors and State Governments. In *D.S. Gerewal v. State of Punjab*, the Supreme Court held that rules made under Article 309 by the Governor have statutory force and remain operative until replaced by an Act of the Legislature, reinforcing the constitutional validity of such delegation. Similarly, in *B.N. Nagarajan v. State of Mysore*, the Court held that while the Governor has the authority to make service rules under Article 309, such rules cannot contravene either the fundamental rights guaranteed under Part III of the Constitution or the provisions of any existing law. In this way, the judiciary has gone about ensuring that both Central and State authorities exercise delegated powers within the four corners of constitutional limitation, balancing administrative convenience with legal accountability.

Parliamentary and Legislative Oversight

Central Level: Parliamentary Oversight

In addition, at the Central level, parliamentary oversight serves as a constitutional check against any excess on the part of delegated legislation. All rules, regulations, and notifications framed by the executive under enabling Acts should be laid before both Houses of Parliament under Articles 107–111 and 309 of the Constitution of India. The Committee on Subordinate Legislation in the Lok Sabha and Rajya Sabha reviews whether such rules are consistent with the parent statute, avoiding excessive delegation of power and conformity with the rule of legality. This mechanism ensures that the executive's rule-making powers under service laws—such as the Central Civil Services Rules—do not undermine parliamentary supremacy. Parliament has exercised continuous control over the executive through debates, committee reports, and the power to modify or annul subordinate legislation, striking a balance between administrative flexibility and democratic accountability.

Legislative Oversight (State Level)

The framework of legislative oversight at the State level is similar, with State Legislatures authorized to scrutinize rules and regulations framed by the Governor

under Article 309 and other service laws. Most States have set up Committees on Subordinate Legislation that examine whether the delegated legislation conforms to the scope and policy of the enabling Act. The depth of scrutiny, however, varies across States due to differences in institutional efficiency and political will. Notwithstanding these differences, debates in the Legislature, question hours, and committee reports perform an essential task of checking the executive's powers to ensure that rule-making is transparent and conforming to the Constitution. This also furthers the federal balance by ensuring that even at the State level, the delegated power of the executive is accountable to the elected Legislature.

Challenges and Criticisms

Delegated legislation, while administratively useful in service law, suffers from a number of challenges and criticisms with respect to accountability, uniformity, and constitutional balance. One of the major issues is over-delegation, or an excessive delegation of powers to the executive to make laws without providing adequate guidance by the legislature, which may result in misuse or arbitrariness. Non-uniformity between Central and State service rules leads to a lack of cohesion in administrative arrangements on recruitment, promotion, and disciplinary matters. Similarly, in practice, limited legislative and judicial scrutiny leads to weakened oversight since many such rules are neither effectively reviewed by committees nor debated in legislative forums. The frequent amendment of service rules without parliamentary or public consultations reduces transparency. The technical nature of much delegated legislation makes it inaccessible to the general public, let alone to large sections of employees whom it regulates, thus leading to a democratic deficit. These challenges undergird the case for more clearly defined legislative policy, additional review mechanisms, and greater transparency in order to ensure that delegation remains a tool of efficient governance rather than a conduit for unbridled executive discretion.

CONCLUSION

In service law, several steps can be taken to ensure that delegated legislation remains constitutionally sound and administratively effective. First, the parent statutes need to lay down clear-cut guidelines to avoid excessive delegation of authority and to define the sphere of the executive's authority. The Parliamentary and State Legislative Committees on Subordinate Legislation must be strengthened with more expertise, regular sittings, and binding recommendations to ensure meaningful scrutiny. There must be a system of mandatory pre-publication and consultation before framing or amending service rules to

enable stakeholders, including employees and administrative bodies, to provide feedback. Greater transparency and accessibility through periodic publication of consolidated rulebooks and digital databases will further facilitate accountability. Judicial review mechanisms must also be made more responsive to ensure that unconstitutional or ultra vires rules are promptly identified and struck down.

Reforms in the structure and process of delegated legislation must strive for a balance between administrative flexibility and constitutional discipline. A comprehensive codification of the powers of delegation both at the Central and State levels would usher in uniformity and clarity in the governance of service law. In addition, the establishment of a national regulatory regime to oversee delegation practices across jurisdictions would ensure harmony between Central and State services. Reforms in legislation should include time-bound review clauses in enabling Acts to necessitate periodical review of the powers so that delegation of powers in no case becomes perpetual. At the administrative level, capacity-building in rule-making authorities and their committees contributes to the better quality of delegated legislation. Lastly, adopting technological reforms, such as an integrated online platform for drafting, reviewing, and publishing subordinate legislation, will modernize oversight, ensure transparency, and conform to the principles of good governance.

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