

**YOUR BUDDY FOR PRELIMS - LAWXPERTSMV INDIA****DAY 12 : LAXMIKANTH : INDIAN POLITY****CONSTITUTIONAL BODIES :**

- 1. Election Commission**
- 2. Union Public Service Commission**
- 3. State Public Service Commission**
- 4. Finance Commission**
- 5. National Commission for SCs**
- 6. National Commission for STs**
- 7. Special Officer for Linguistic Minorities**
- 8. Comptroller and Auditor General of India**
- 9. Attorney General of India + Advocate General of the State**

**Chapter 38 : Election Commission**

- EC is established under Art.324 - for SDC (superintendence, direction and control) of ELECTIONS to Parliament + St. Legislature ; President + VP i.e., an all-India body.
- However for Panchayat + Municipalities – Separate state election commission is there.

**COMPOSITION :**

- CEC + Other ECs – as president fixes and appoints.
- Regional ECs appointed if required. Conditions of service + tenure – determined by President, Not parliament.
- FACTS : 1950 → 1989 : Only 1 guy (CEC) ; 1989->1990 : 1 + 2 (Other ECs) ; 1993 → today : it is a multimember commission 1 CEC + 2 Other ECs.

**TREATMENT :** CEC + 2 other ECs = status of SC Judge in salary,

**INDEPENDENCE :**

- CEC – Treated as judge of sc in case of removal/salary terms.
- Regional ECs – cannot be removed without recommendation of CEC.

**FLAWS :**

- No qualification mentioned.
- Not specified the term of members of EC.
- Not debarred retiring EC from Further employment.

**POWERS AND FUNCTIONS:**

- Determine territorial areas of electoral constituencies based on delimitation act.
- Prepare + revise - electoral rolls and to register all eligible voters+ ensure free and fair elections.
- Notify – date of election + to scrutinise nomination papers + recognition to political parties (and settle disputes in this regard )and allot election symbols + determine the code of conduct
- Prepare a roster for publicity of the policies of the political parties on radio and TV in times of elections.
- To advise the president / Governor on matters relating to the disqualifications of the members of Parliament / state legislature.
- To cancel polls in the event of rigging, booth capturing, violence and other irregularities.
- To request the president or the governor for requisitioning the staff necessary for conducting elections.
- To advise the president whether elections can be held in a state under president's rule in order to extend the period of emergency after one year

**Chapter 39 and 40 : Public Service Commissions**

- Arts. 315-323 – PART 14 : regarding the composition, appointment and removal of members along with the independence, powers and functions of the UPSC + State Public service commission.

**Replace – President with governor for SPSC.**

- COMPOSITION : Chairman + Other members appointed by President.
- QUALIFICATION : ½ of them – should have held office under GOI.
- Tenure : 6 Years / 65 years.
- REMOVAL : adjudged as Insolvent / paid employment / unfit – due to infirmity in mind or body / misbehaviour.

**INDEPENDENCE :**

- ✓ Removal only as per procedure in Constitution.
- ✓ Conditions of service- not to be varied to his disadvantage.
- ✓ Salary + Other remuneration – in CFI.
- ✓ Not eligible for further employment / re-appointment to same office.

**FUNCTIONS :**

- Conducts examination for All-India services.
- Joint recruitment for states (if requested by 2 or more states )
- Personnel management : Consultation before – transfer /deputation of the officers / disciplinary matters.

LIMITATION : (IMPORTANT) WHEN PSC IS NOT CONSULTED.

- For posts of appointment - under reservation.
- Chairperson – for commissions / tribunals/ post of highest diplomatic nature/ bulk of Group C and D services.
- The president can exclude posts, services and matters from the purview of the UPSC.

ROLE : The Constitution visualises the UPSC to be the 'watch-dog of merit system' in India

### **Chapter 41 : Finance Commission**

### **Chapter 42 and 43 : NATIONAL COMMISSION FOR SCs and STs.**

### **Chapter 44 : Special officer for Linguistic Minorities.**

### **Chapter 45 : Comptroller and Auditor General of India**

INTRODUCTION :

CAG is appointed under Art.148.

Designations :

- Head of Indian Audit and Accounts Dept/ Guardian of Public Purse (centre and states ) + uphold constitution + laws = for Financial Administration.
- He is one of the bulwarks of the democratic system of government in India; the others being the SC, EC, UPSC.

APPOINTMENT AND TERM :

- By warrant under his hand and seal of the President.
- TERM : 6 years or upto 65 Years.
- Resignation : Letter to President.
- Removal : On the same procedure and grounds of SC Judge.

INDEPENDENCE :

- Tenure mentioned in constitution, not during the pleasure of the President.

- Not eligible for any government after being a CAG.
- Salary – determined by **Parliament, not President** + not to be varied to his disadvantage + Charged under Consolidated fund of India (**CF**).
- Conditions of office under Indian Audit and Accounts Department – determined by president in consultation with CAG.

DUTIES AND POWERS (DP) : Parliament can prescribe DP by law – under Art. 149 ; law: CAG's (Duties, Powers and Conditions of Service) act, 1971. This Act was amended in 1976.

- Audits CF of India + States
- Audits Contingency fund + Public A/c of India
- Audits Govt. depts. Of Centre + states.
- Audits local bodies- if requested by President/ Governor.
- How the form should be maintained (president will prescribe) – Art.150
- Submits reports (audit report on *appropriation accounts, finance accounts & on public undertakings*) to President → Parliament.
- Acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.

#### ROLE :

- Accountability of the executive –(COM) in financial Administration is secured by CAG.
- Conduct the propriety audit, that is, he can look into the 'wisdom, faithfulness and economy' of government expenditure and comment on the wastefulness and extravagance of such expenditure. (Discretionary power of CAG)

#### PREVIOUS YEAR QUESTION ANALYSIS :

In India, other than ensuring that public funds are used efficiently and for intended purpose, what is the importance of the office of the Comptroller and Auditor General (CAG)? [2012 - UPSC]

1. CAG exercises exchequer control on behalf of the Parliament when the President of India declares national emergency/financial emergency.
2. CAG reports on the execution of projects or programmes by the ministries are discussed by the Public Accounts Committee.
3. Information from CAG reports can be used by investigating agencies to frame charges against those who have violated the law while managing public finances.

4. While dealing with the audit and accounting of government companies, CAG has certain judicial powers for prosecuting those who violate the law.

Which of the statements given above is/are correct?

(a) 1, 3 and 4 only (b) 2 only

**(c) 2 and 3 only** (d) 1, 2, 3 and 4

1<sup>st</sup> statement : is wrong - CAG just audits the accounts.

4<sup>th</sup> statement ; No power of Such prosecution.

2<sup>nd</sup> and 3<sup>rd</sup> statement : Correct :

### Chapter 46 + 47 : Attorney General of India + Advocate General of the State

ATGI (Art.76) + ADGS (Art.165)

#### APPOINTMENT AND TERM:

Attorney General of India	Advocate General of the State
Appointed by the president	Appointed by Governor
Qualification- Judge of SC	Qualification- Judge of HC
Term of Office – Not Fixed	Same
Removal – Procedure + Grounds – not given	Same
Holds office during pleasure of President	Of the Governor
Resigns – when COM resigned /replaced.	Same
Remuneration - Not Fixed	Same

#### DUTIES AND FUNCTIONS :

ATGI	ADGS
1) Advise to GOI on legal matters, as referred to him by President.	Advise to GOI on legal matters, as referred to him by Governor.
2) Perform legal duties – as assigned by President. <ul style="list-style-type: none"> <li>• Appear in all cases before SC for GOI</li> <li>• Represent GOI Under Art.143 (Advisory jurisdiction)</li> <li>• To appear in HCs whenever case is by/against GOI</li> </ul>	Perform legal duties – as assigned by Governor .
3) Discharge function as conferred on him	Discharge function as conferred on him by

by constitution + law	constitution + law
4) Right of Audience in all courts in Territory of India	Right to Appear in all courts within the states.
5) Right to speak + take part in Parliament proceedings + committee(without right to vote) + Privileges of Parliament – available	6) Same (change parliament with Legislature of the State.)

#### RIGHTS AND LIMITATION FOR ATGI :

- Not to argue / advise against GOI
- Not to defend in criminal prosecution without consent of GOI
- Not to be a director of company – without permission of GOI

#### SOLICITOR GENERAL OF INDIA ;

SGI + Additional SGI - are also law officers of GOI. But they are creature of Constitution.

#### PREVIOUS YEAR QUESTION ANALYSIS

Consider the following statements about the Attorney General of India: [2000 UPSC]

1. He is appointed by the President of India
  2. He must have the same qualifications as are required for a judge of the Supreme Court
  3. He must be a member of either House of Parliament
  4. He can be removed by impeachment by Parliament
- Which of these statements are correct?

- (a) 1 and 2 (b) 1 and 3  
(c) 2, 3 and 4 (d) 3 and 4

#### EXPLANATION :

1<sup>ST</sup> : Correct.

2<sup>ND</sup> : Correct

3<sup>RD</sup> : May confuse you for a moment. Leave it and proceed next option.

4<sup>TH</sup> : Removal procedure – not mentioned + by President. Therefore it is clearly wrong.

Using elimination technique : You know it should 1 2 or 12 3 but definitely the ones having option 4.

Only option is A.

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3. INDIAN POLITY – LAXMIKANTH.
4. ECONOMICS – SANKAR GANESH OR SANJIV VERMA & RAMESH SINGH FOR FEW TOPICS.
5. ENVIRONMENT – NIOS + NCERT
6. GEOGRAPHY – NCERT + GC LEONG.
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