

## REVIEWS

**PUBLIC SERVICE LAW THROUGH CASES.** By Madan Bhatia,  
N.M. Tripathi Private Ltd. 1969. Pp xxiv+496.

**THE BOOK** under review is intended by the learned author as to provide a ready guidance to members of the legal profession as well as public servants particularly those who feel aggrieved and contemplate about going to court of law.

The author has taken much pains for achieving the desired objects. But in view of the great mass of litigations during the last two and a half decades on this branch of law (*viz.* Public Service) and in view of limited dimensions and capacity the present book is not exhaustive on the subject.

The law governing 'Public Services' is enshrined in articles 16, 19, 309, 310 and 311 in particular, of the Constitution of India and a huge body of case law has developed around the above mentioned provisions of the Constitution. The decisions of the courts have not been uniform on this branch of law. The present book is useful to the bench and the bar in finding out an appropriate precedent from the decisions collected in the book under review with this context.

On the examination of the various pages of the book, one finds that the learned author has given some pattern and shape to case law. The book consists of two parts. Part I contains all the cases decided by the Supreme Court from 1956 till the end of 1968. Part II includes selected cases decided by the Division Benches of the various High Courts between 1959 and 1966 involving questions of law, which are not covered by any judgement of the Supreme Court and at the end of the part II the author has added a post-script containing all judgements relating to Public Service delivered by the Supreme Court in 1969 before the summer vacation. Part I is sub-divided into twenty chapters and part II into 13 chapters, each chapter is given a definite title. The post-script is also sub-divided into eight heads namely: Article 19, Enquiry, Temporary Servant, Reduction, Compulsory Retirement, Bias and Service Rules respectively.

The author has made commendable effort for compressing the more important principles of Public Service law through cases in about 491 pages. He has tried to make each case as brief as possible by summarising the facts in his own words wherever it is required and by selecting the relevant extracts from the judgments which contain comments and conclusions of the court. But while doing so he does not mention all the contentions urged by the parties in the respective cases. The author might have been

compelled to adopt such an approach for the sake of brevity. Very often, this kind of approach may not give lucid and clear understanding of a case as the adoption of such an approach necessarily leads, at times, to oversimplification of facts and may exclude the contentions of the parties and the texts of the impugned provisions in *verbatim* from the scope of the book, for example in *T. Devadasan v. Union of India and Another*,<sup>1</sup> the petitioner was an assistant in grade IV of Central Secretariat Service and the next post for the promotion for him was that of section officer. The book under review fails to mention the fact how recruitment is made to the post of section officer, which is mentioned in the above case. Again in *Amalendu Ghosh v. District Traffic Superintendent, North Eastern Railway, Katihar*,<sup>3</sup> the appellant, who was employed as assistant station master, was served with an order reducing him to the rank of signaller on account of a railway accident in the area under his jurisdiction. The book under review fails to mention the fact that :

Soon after the accident the local police officer has made an investigation and his report showed that the appellant was not responsible for accident. It appears that no subsequent enquiry was held nor was any opportunity given to the appellant to show cause in respect of the charge that he was responsible for the accident.

The author fails to include all the contentions of the parties in *verbatim*, but in some cases he summarises some of the contentions in his own words, for example<sup>4</sup> in the case of *Joginder Singh* the author simply states<sup>5</sup> "that their Lordships considered the various contentions on behalf of the Respondent" and nowhere the contentions as such are given. The burden lies on the reader to find out the contentions from the extracts of the judgment reported in the book under review. In another case namely *D.S. Grewal v. State of Punjab*,<sup>5a</sup> the appellant raised six contentions<sup>6</sup> of which contentions 1, 4, and 6 are summarised in the author's words,<sup>7</sup> fifth contention is mentioned in one of the extracts<sup>8</sup> and the third contention is not specifically mentioned.

Most of the material extracts from the text of the impugned provisions are not included in the cases of this book. For example in *Joginder Singh's case*<sup>9</sup>

---

1. A.I.R. 1964 S.C. 179 (See chapter I, p. 6 of Public Service Law by Bhatia; hereinafter referred to as *Bhatia*).

2. A.I.R. 1964 S.C. 179 at 182.

3. A.I.R. 1960 S.C. 992 (*Bhatia*, Chapter 15, p. 187).

4. See *Bhatia*, chapter 4, p. 33.

5. *Id.* at 35.

5a. A.I.R. 1959 S.C. 512.

6. See *Bhatia* at 170.

7. *Id.* at 170-1.

8. *Id.* at 172.

9. A.I.R. 1963 S.C. 913 (*Bhatia* at 33).

the "Punjab Educational Provincialised (Cadre) Class III Rules, 1961" were challenged by the respondent. Rules 2, 3, 4, 5 and 8 were material for deciding the said case and some of these rules were struck down by the Punjab High Court [Ex. R. 2(d) e, and a part of R. 3 was struck down on the ground that those clauses were violative of the rights guaranteed by article 14 and 16 (1) of the Constitution]. Against this judgement, the State of Punjab went in appeal by special leave to the Supreme Court. But none of these rules along with their texts find place in the book. In the case of *S. Grewal v. State of Punjab and Another*,<sup>11</sup> All India Services Act, 1951 was challenged on the ground that the delegation was excessive. The Act is a short one consisting four sections. The first section deals with the short title, the second section defines the expression "All India Service" and the third section gives power to the central government to frame rules for regulation of recruitment and the conditions of service after consultation with the state governments, and it lays down further that all rules so framed shall be laid before Parliament and shall be subject to such modifications as Parliament may make. Section 4 which is important and lays down:

All rules in force immediately before the commencement of this Act and applicable to an All India Service shall continue to be rules made under this Act.

The book under review has completely omitted to mention the above-mentioned section. In some cases probably without seeing the scheme of the Act it is not easy to appreciate the judgement in its proper perspective. For example in *Rama Rao v. State of Andhra Pradesh*, section 6 of the Madras Hereditary Village Offices Act, 1895 (Madras Act III 1895) was challenged. Amidst others one of the questions came for decision was whether the Office of Village Munsif under the Act was an office under the state within the meaning of clauses (1) and (2) of article 16 of the Constitution. Once it is held, as it in fact happened in this case, that it is an office under the state then any provision of law, which provides, that in choosing persons to fill new offices selection shall be made from amongst the families of the last holders of the offices which have been abolished, is discriminatory on the ground of descent and contravenes article 16(2) of the Constitution. While deciding the above question the learned judges examined the scheme of the Act and its provisions. In this context sections 3 to 7 and 10 to 23 are of much importance, of these excepting section 6(1) none else are mentioned in the book under review. Perhaps in such

---

10. See *Bhatia* at 33-37.

11. *Supra* note 5a.

12. A.I.R. 1961 S.C. 564 (See *Bhatia* at 14).

cases, unless one goes through the original report, the reader cannot appreciate the full scope of the judgement.

Further, the author has given only majority judgements and completely omitted to mention the minority judgements at the appropriate places, for example, see *Rangachari's case*<sup>13</sup> and *Joginder Singh's*<sup>14</sup> case. In the former case the names and judgements of the Judges who delivered minority judgements are not mentioned (*viz.* Wanchoo and Ayyangar, JJ). In the latter case though the names of the Hon'ble Judges (Subba Rao and Shah, JJ) who gave dissenting judgement are mentioned, the extracts of their judgements are not given in the book under review. A careful reader cannot ignore the force contained in the dissenting judgements of eminent judges like Fazal Ali, Vivian Bose, Gajendragadkar, Subba Rao, Shah, *etc.* Lastly, like many other books, the book under review could not escape from the printer's devil. In *Amalendu Ghosh's case*<sup>15</sup> while stating facts for 1702(5) it is printed as item 170(5). Again in the case of *All India Station Masters and Assistant Station Masters Association, Delhi and Others*, instead of printing the citations A.I.R. 1960 S.C. 384 it is printed as A.I.R. (1965) S.C. 384.

Despite the above short comings the book under review has its own merits. The learned author made a new approach and has given the gist of law laid down in each case in the form of head note. Many of the leading judgements were incorporated within the framework of this book. For example in *Rangachari's case*<sup>16</sup> the Supreme Court pronounced that "equality of treatment guaranteed by Article 16 was available to all stages of employment, with the result that matters like promotion and fixation of seniority were also covered." In *Rama Rao's case*<sup>17</sup> the Supreme Court put an end to the practice of hereditary office of the village officers. Finally, in *Nripendra Nath Bagchi's case*<sup>18</sup> court held that the High Court alone can hold an enquiry against the District Judge although the power of his appointment or removal lies with the Governor and thus denied the privilege of having this power for the state government. The book is well written, well printed, and the style is good and easy to read. The learned author presented the work in a systematic manner and the present work is a significant contribution on the subject of public service.

In conclusion it may be added that the book under review is one more addition to the existing books on this subject. Unlike some other case books, the learned author does not express his critical comments on the decision of each case. Perhaps, a slightly different approach, by giving

---

13. A.I.R. 1962 S.C. 36 (*Bhatia* at 3).

14. *Bhatia* at 33.

15. A.I.R. 1960 S.C. 992.

16. *Bhatia* at 3.

17. *Id.* at 14.

18. *Id.* at 101.

facts, contention of parties, main question for decision, relevant passages containing both majority and minority judgements, plus the author's critical appreciation of each case would have given a more clear understanding to members of the legal profession, particularly to students and service people. Despite these short comings in the humble opinion of the reviewer the present book is a fit book for recommending as a case book for law students also.

*Sunil Kanti Ghosh\**

---

\*LL.M., J.S.D. (Illinois); Principal and Professor of Law; Madhusudan Law College, Utkal University.