



## The recall of chief secretary

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**(Mains GS 2 : Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure)**

### Context:

- On May 28, the Department of Personnel and Training (DoPT) under the Ministry of Personnel directed that West Bengal Chief Secretary Alapan Bandyopadhyay report to its office at North Block in Delhi by 10 a.m. on May 31.
- The order came hours after West Bengal Chief Minister Mamata Banerjee allegedly skipped a review meeting on Cyclone Yaas with Prime Minister Narendra Modi at Kalaikunda.

### The tussle:

- On May 25, the West Bengal government issued an order, citing the Centre's approval dated May 24, "in the interest of public service, to extend" Bandyopadhyay's services for three months.
- But, on May 28, the Department of Personnel and Training (DoPT) wrote to the Chief Secretary that "the Appointment Committee of the Cabinet has approved the placement of the services" of Bandyopadhyay with the Government of India with "immediate effect" and requested the state to relieve the officer with immediate effect and direct him to report by 10 am on May 31.

### What is the rule cited by DoPT ?

- The DoPT order said that the ACC(Appointments committee of the Cabinet) has approved Mr. Bandyopadhyay's transfer to Delhi under Rule 6(I) of the IAS (cadre) Rules, 1954.
- The said rule pertains to "deputation of cadre officers."
- Rule 6(1) of the IAS Cadre Rules says an officer may, "with the concurrence of the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government'.

- It also says that “in case of any disagreement, the matter shall be decided by the Central Government and the State Government or State Governments concerned shall give effect to the decision of the Central Government.”

### **When were the rules framed?**

- After the All India Services Act, 1951 came into existence, the IAS cadre rules were framed in 1954.
- The said rule on deputation giving more discretionary powers to the Centre was added in May 1969.

### **What has been the practice so far?**

- Before any officer of All India Services (AIS) is called for deputation to the Centre, his or her concurrence is required.
- The Establishment Officer in DoPT invites nominations from State governments. Once the nomination is received, their eligibility is scrutinised by a panel and then an offer list is prepared, traditionally done with the State government on board.
- Central Ministries and offices can then choose from the list of officers on offer. AIS officers are recruited by the Centre and they are lent to States.
- The publication of the offer list on DoPT’s website was discontinued by the government in 2018 amid reports that not many State government officers were willing to come to the Centre for deputation.

### **How officers get an extension:**

- Rule 16(1) of DCRB (Death-cum-Retirement Benefit) Rules provided extension to officers.
- It says that “a member of the Service dealing with budget work or working as a full-time member of a Committee which is to be wound up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government”.
- However, for an officer posted as Chief Secretary of a state, this extension can be for six months.

### **What if the officer refuses to comply with the order?**

- The All India Services (Discipline and Appeal) Rules, 1969 are not clear on the punishment in such cases.
- But Rule 7 says the authority to institute proceedings and to impose penalty will be the State government while he or she was “serving in connection with the affairs of a State.”
- The case is peculiar as Mr. Badyopadhyay retires on May 31 and is not on deputation to the Central government.

- The Chief Minister can write to the Centre to reconsider its decision, which she does.
- The Centre may ask the State to conduct an enquiry or citing an exceptional case can order an enquiry on its own.
- The officer can take the plea that he was acting under the instructions of the Chief Minister, Mr. Bandyopadhyay did the same.

**Conclusion:**

- The acrimony between the State and the Centre at Covid time is extremely disheartening for the people of West Bengal
- The Centre and States need to constantly negotiate their relations in good faith so that the larger role of federal principles will serve people the greatest good.