

## PROSECUTION OF CIVIL SERVANTS IN INDIA: JUDICIAL APPROACH

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### ABSTRACT

Constitution of India provides certain safeguards to protect civil servants from unnecessary exploitation. There were number of civil & criminal cases against civil servants which draw our attention towards rising corruption inside civil servant fraternity. The power to suspend a civil servant pending departmental inquiry proceedings vests in the government as in the case of other employments. This power is purely administrative in nature and there is no legal requirement to hear a civil servant before his suspension since such administrative action has not been considered a punishment attracting the principles of natural justice. Such a power was always implied. It is well settled that a writ court has power to direct an administrative authority to exercise its discretionary power if it had failed to do so. Compulsory retirement of a civil servant to accomplish public interest is a controversial area wherein administrative discretion is prominently present. At times, the Supreme Court has been described it as an 'absolute discretion' (Union of India v. J. N. Sinha, A.I.R. 1971 S.C.), wherein the court observed that the rule provides that the appropriate authority has the absolute right to retire a Government servant if it is of the opinion that it is in the public interest to do so. Judicial system is the only authority which can curb the corruption via its judgments.

**KEYWORDS:** Prosecution of Civil Servants in India, Rising Corruption Inside Civil Servant Fraternity 'Absolute Discretion'