

A S MISRA'S
OFFICER'S
COMPANION

**IN ADMINISTRATION
AND LAW**

Second Edition Revised
by
I S Mathur

EASTERN BOOK COMPANY

A. S. Misra's
OFFICER'S COMPANION
in
Administration and Law

SECOND REVISED AND ENLARGED EDITION

by

I. S. MATHUR, H.J.S.

*Dy. Secretary & Dy. Legal
Remembrancer to the
Govt. of U. P.*

With a foreword by

SRI H. N. BAHUGUNA

Ex-Chief Minister, U. P.



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FOREWORD

(to 1st Edition)

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February 24, 1975

SRI ANAND SWARUP MISRA has, in this latest publication, brought under one cover a complete compilation of almost all the subjects which guide an administrative officer in the exercise of his functions. He has not only spelt out the manner in which an officer is expected to carry out his task, but has also devoted considerable space to his rights and obligations.

Sri Anand Swarup Misra has again given full evidence of his thoroughness, as well as of a painstaking study of Government procedures, and fully proved his complete acquaintance with the entire spectrum of legal and administrative decisions on knotty points of administrative conduct.

I have no doubt that this excellent compilation will find its deserved place as a book of reference which would help all administrative officers and thus prove of value in toning up administrative efficiency.

H. N. Bahuguna

The author is deeply grateful to the Hon'ble Chief Minister for his exquisite description of his humble work, and has been greatly encouraged thereby.

DEDICATED

TO THE MEMORY OF
PANDIT GOVIND BALLABH PANT
[1887—1961]

the renowned statesman, parliamentarian and administrator ;
the first Chief Minister of Uttar Pradesh, and later
Home Minister in the Union Government,

in token of

his regard for the administrative officers in general,

and

the consideration and encouragement which
the author, in particular, received from him
during his Chief Ministership of Uttar Pradesh.

The author's earlier book, *Government Servants' Companion*, published by the U. P. Government in 1956, was dedicated to him. That publication, after having gone through several reprints, is now out of print, and the present book is really its replacement in an enlarged and up-to-date form. The dedication here is thus a continuation of the former dedication.

A GOOD book is the precious life-blood
of a master-spirit embalmed and treasured
up on purpose to a life beyond life.

—JOHN MILTON

PREFACE TO THE SECOND EDITION

Since the last edition, there has been considerable increase in the case law, relating to service matters, and a number of Government orders on the subject have also been issued or modified. It is also felt that the government departments and government servants find particular difficulty in regard to some service matters, like suspension, compulsory retirement and Service Rules and it is considered necessary to deal with these matters in more detail than was done in the first edition. These factors, among others, have necessitated a revised edition of the book.

In bringing out this revised edition, the notes have been carefully revised, several portions of the book have been re-written, new chapter on Suspension has been added, an exhaustive detailed note on compulsory retirement has been inserted in the chapter on Retirement, a proforma of Service Rules has been given as annexure to the chapter relating to the Service Rules and the case law has been brought up-to-date. Besides, some parts, which were no longer of practical utility have been omitted.

It is hoped that the government departments and government servants alike will find this revised edition to be more useful.

Dated: February 1, 1979.

I. S. MATHUR, H.J.S.
Dy. Secretary & Dy. Legal
Remembrancer to the
Government of U. P.

PREFACE TO THE FIRST EDITION

“For forms of government let the fools contest,
Whatever is best administered is best.”

Long ago, this couplet was composed by Alexander Pope,* an English poet who flourished in the eighteenth century. Though written by a poet, this verse embodies the wisdom of a statesman. The virtue of an administration is determined by the way in which it is conducted, and not by the form of the government—this is as true today as it was two hundred years ago.

The value of the administrator in any form of government cannot be more effectively emphasised. But it is an irony that on the important subject of the art of administration the literature is comparatively scanty. Whatever books there are, are devoted mostly to the academic side as text-books for students of public administration.

The present work aims at a study of the subject in its diverse forms with special reference to practical situations. A glance at the table of contents will show that it covers the whole field of an administrative officer's duties and responsibilities, rights and privileges.

The part dealing with disciplinary proceedings (Part IV) covers matters not found in the existing publications on the subject, which contain a classified collection of the rulings of the Supreme Court and the High Courts. They are useful in litigation only and contain little matter of practical guidance to the administrator and the enquiry officer. By saying so it is not intended to belittle their importance for they are valuable works in their own field. Contrarily, in the present publication, there are practical guidelines for the enquiry officer, the punishing and the appellate authorities and the charged officer himself. Copious references to circular G. Os. of the Uttar Pradesh Government have also been given.

For officers and staff.—The book is intended for the use of officers (administrative and other) as well as for members of the staff. It is meant to serve not only as a convenient reference book, but is to be studied with a view to a better understanding of the principles underlying the duties and responsibilities of civil servants in general and of officers in particular. Without a deeper appreciation of the ideas underlying the important aspects of government service young officers are apt to fall into pitfalls injurious to their career. In other words, the book is not to be taken merely as a digest of rules and orders.

There are, of course, matters in this book with which senior officers are well familiar. The justification for including them here is to make the work useful to their less experienced colleagues also, as well as to the members of the office establishment. This has made the book a complete work for reference and study.

The book is of particular value to the young officer who is not, in the first place, able to lay hands on the mass of manuals, rules, enactments and administrative directives. In the second place, an officer, in the early stage

* It occurs in his poem, *Essay on Man*.

of his career, finds it difficult to separate the grain from the chaff contained therein. So, he is apt to fall into errors which he has no intention to commit, or to pursue a course of conduct which is forbidden on the ground of impropriety. This brings difficulties in his path—difficulties which a senior officer is able to overcome by virtue of his experience—, and which he himself would learn to avoid in the later span of his service. Even so, such irregularities, though unintentional or trivial, do sometimes adversely affect his career inasmuch as even a mild censure is apt to dampen his spirit and mar his initiative, which would hinder his progress toward a rising career. The present book will shield the young officer from these pitfalls. At the same time it will serve as a ready reference book to those who are mature in years and experience.

The number of writ petitions being filed by aggrieved civil servants is increasing, and this has necessitated the close study by administrative authorities of the various aspects of administrative law and procedure. This book is meant to help them in this matter too.

For Bench and Bar.—Officers on the judicial side as well as legal practitioners will also find the book useful. With the exception of judges of superior courts, judges and magistrates are equally subject to the rules and instructions applicable to service matters. Secondly, judges have also to perform administrative functions, particularly respecting the staff under them, as will be apparent from the position of the Administrative Judge in the Supreme Court (Chief Justice of India) and Judges in the High Courts (Chief Justice and the Administrative Judge or the Committee of Judges).

As for the legal aspect of the book, it is to be noted that matters arising from administrative decisions frequently come within the purview of the courts and there are many pronouncements of the Supreme Court as well as of the High Courts which regulate the conduct of administrative business. Notable cases arise from the violation of the rules of natural justice, the horizon of which, according to the Supreme Court, is constantly increasing. The process of administrative decisions is accordingly being supervised by the courts more and more. In this connection the following observations of the Supreme Court in *A. K. Kraipak v. Union of India** speak for themselves :

“With the increase of power of administrative bodies it has become necessary to provide guidelines for the just exercise of their power. To prevent the abuse of that power and to see that it does not become a new despotism, courts are gradually evolving principles to be observed for exercising such power. In matters like these, public good is not advanced by a rigid adherence to precedents.”

Members of the Bench and the Bar will thus find the book useful to them too. The book is of special value to those members of the legal profession who undertake the drafting of appeals and representations for aggrieved civil servants.

Further justification.—The utility of the present work is no less than that of the author's earlier book entitled *Government Servants' Companion* which was published by the Uttar Pradesh Government in 1956, and copies of which were distributed to all offices of the State Government and were also sold to the public. It went through several reprints, but is presently out of stock.

* [1969] 2 SCC 263 ; AIR 1970 SC 150.

The present book goes much further than that, and contains many new chapters dealing with the obligations and responsibilities of administrative officers as propounded by the Supreme Court and the High Courts. In addition, comprehensive treatment has been given to the subject of disciplinary proceedings in all its bearings in Part IV comprising eight chapters (nos. 23 to 30).

The Government Servants' Companion is but a miniature edition compared with the present book. However, some idea of the utility of this work can be gained from the extracts from the *foreword* written by the late Pandit Suraj Din Bajpai (a distinguished officer of U. P. Government) to the former book, which extracts are being reproduced at the end of this preface.

The book is copiously documented by reference to the authorities upon which the various propositions stated in the text are based. Where necessary the text itself has been quoted to give a clearer idea of the subject. On points upon which there are rulings of the Supreme Court and the High Courts, a reference thereto has also been given. In order to make the book fully intelligible to officers with no training in legal forms and procedure, the propositions have, where necessary, been illustrated by examples.

The discerning reader will find that at certain places in the text there are suggestions of an advisory character. The author should not thereby be taken as making an attempt to sermonise. He has recorded them merely as matters on which caution is needed on the part of the young officer. They are based on the experience of the author through his long public service, and afterward as an Advocate, and a professional adviser to aggrieved civil servants. These suggestions will, of course, be of little value to experienced officers, but since the book is meant also for young officers, the author felt that the latter's attention could usefully be invited to those observations.

Finally, the author would like to state with humility that he has been encouraged in writing this book by the spontaneous reception of his *Government Servants' Companion* and afterward of his *Law and Practice of Character and Integrity Rolls*.^{*} Both of them received wide acclaim even in other States, and particularly amongst the civil servants throughout India. He hopes that the present work will prove even more useful than its predecessors, covering, as it does, the whole field of activities of government servants, and their obligations, rights and immunities.

In conclusion, the author gratefully acknowledges the valuable suggestions and help given by Sri R. Nath, Advocate, Lucknow, Sri Narain Prasad, Librarian, Legal Remembrancer's Library, Sri Indra Narain Tripathi, Librarian, Secretariat Library, Sri Jagdeo Gupta, Organization and Methods Officer, U. P. Secretariat, Sri Chandra Kishore of the Language Department and Sri Vinod Kumar Pande of the Finance Department of the Secretariat.

My deep thanks are also due to Malik brothers—Sri Chunni Lal Malik and Sri Prakash Lal Malik (legal author and editor)—who head the Eastern Book Company, the publisher of this book. They, together with Sri Surendra Malik (also legal author and editor) and Sri Kewal Krishna Malik (manager and editor), have taken special interest in producing the book in elegant style, unmindful of the heavy expense involved. At every stage of production they have brought their sound experience to bear upon the style of printing and

* Published in 1972 by the present publisher, the Eastern Book Company, Lucknow.

display. Additionally, they made several useful suggestions concerning the text and the arrangement of the matter.

ANAND SWARUP MISRA

THE AUTHOR

**Extracts from the Foreword written by the late Pandit Suraj Din Bajpai*
to the author's former book, the *Government Servants' Companion*,
published by the U. P. Government**

"It goes without saying that most government servants feel the necessity for a handy reference book to serve as a guide in their day-to-day administrative work. Departmental officers know the subject in which they have specialised, but are mostly unfamiliar with such administrative matters as methods of recruitment to services, conditions of service, e.g. pay, leave, pension, disciplinary proceedings like punishments and appeals, financial control and accounts of their own activities (for which they themselves are responsible), and benefits and concessions like medical attendance, protection in respect of legal proceedings, etc., which are available to them. Very few have any idea of the law of contempt of court and legislature, or even of the rules governing their own conduct as government servants. Matters like the grant of certificates; attestation of documents; purchase of supplies, books and periodicals; fire in public buildings; reports regarding deaths, serious illness and accidents; relations with non-officials, etc., are dealt with haphazardly without reference to standing orders and instructions. The reason for this state of affairs is not so much the apathy and carelessness of officers as the complexity and the voluminous and scattered nature of the laws, rules and orders; the difficulty in finding the relevant instructions and the want of a handy reference book containing a summary of the rules and instructions with which every government servant is concerned in the performance of his day-to-day work.

"The present book supplies this want in a splendid and satisfactory manner. It is comprehensive, covering, as it does, all matters with which, apart from his special work, every government servant, high or low, senior or junior, must be acquainted to understand and discharge his responsibilities, to regulate his conduct and to know his own rights and privileges as a civil servant. Besides giving an easily intelligible summary of the various laws, rules and orders dealing with the administrative functions of a government servant, the book indicates where the text is to be found and in important matters quotes the text itself. It is well arranged. The table of contents shows at a glance where the required matter can be found in the book.

"All government servants of All-India, State (Pradeshik) and subordinate services should possess a copy of this book and have it handy for reference not only in the interest of their official work but also for their own personal benefit. The book will be helpful to them in avoiding unintentional mistakes and irregularities caused by ignorance of the law and rules, pressure of time, dependence on subordinates and failure to appreciate their true position as public servants in the changed set-up.

"Senior officers are often obsessed with the idea that they already know enough; juniors suffer from the delusion that there is not much to learn and that it is all plain sailing, while a number of officers of all classes depend too much on their subordinates who, in turn, pass on the responsibility to apply the law and the rules of practice to raw, inexperienced and generally unenthusiastic routine-assistants. It is suggested that the Government should remedy this state of affairs by making this book available to government servants, except those of the fourth class and subordinate field-workers, it being made clear that the book does not carry the authority of the government and cannot be quoted in defence of an irregularity or mistake. Easy availability of this book for ready reference will be of immense advantage to government servants and will result in efficiency and quick and orderly disposal of work. A good deal of time and labour, which are at present

* He retired after distinguished service to the Uttar Pradesh Government, particularly in its Finance Department, and to the Madhya Pradesh Government where, after retirement from U. P., he held the post of Finance Secretary for some years.

lost in searching for the relevant rules and orders, will be saved and mistakes and irregularities which are committed at public expense through ignorance of the orders or inability to find them in the massive literature of Government codes, manuals, standing and circular orders will be avoided. The Government themselves will thus benefit largely from the improvement in the efficiency and calibre of their servants and from the saving in their time and the resultant economy in public expenditure.

“At present, laws and rules, studied for departmental examinations, are forgotten as soon as the examination is passed, and circular instructions are laid aside, while all of them do not reach all the officials for whose guidance they are issued. The existence of such orders, being generally unknown, they cannot, of course, be traced and referred to when required for use. Ignorance of the rules is often regretfully pleaded in defence of mistakes and irregularities, and, in view of the prevailing conditions, the plea has often to be accepted in spite of the adverse effect on discipline. After the circulation of this book, it will not be easily possible for delinquents to plead ignorance of rules because this book will be much more effective as a guide than the voluminous codes and manuals and circular instructions. This in itself will be conducive to discipline and efficiency—SURAJ DIN BAJPAI Shiva Dham, Mall Avenue, Lucknow—May 1, 1956.”

In writing about the author, Pandit Bajpai has stated that no one was better-fitted or more competent to write this book than the author who had long experience of the most important departments of the U. P. Government, including the Finance Department which is the key department of Government. For many years, Pandit Bajpai adds, Sri Misra worked as Chief Secretary's principal assistant and confidant in all matters with which the Chief Secretary's Branch deals. Thus, had ample scope for dealing with every important aspect of administration. Also, that his extensive knowledge of rules, orders and precedents is well-known. He was thus in the best position, Pandit Bajpai states, to write a book to serve as a *vade mecum* to government servants.

NOTE

In writing this book use has been made of the author's earlier book, the *Government Servants' Companion*, published by the Government of Uttar Pradesh. This has been done with the Government's approval for which the author is deeply grateful. The approval has been given on the condition that it be made clear that the book should in no way be regarded as having been published on behalf of the State Government. This note has accordingly been made part of the preface so as to bring the point to the notice of the users of this book. The office memorandum of the State Government, No. 13-2-73-Niyukti-3, dated 2-4-1973 (Appointment Department), in which the said approval has been accorded is reproduced below :

अधोहस्ताक्षरी को श्री आनन्द स्वरूप मिश्र के पत्र दिनांक 22 जनवरी, 1973, को सन्दर्भित करने का निदेश हुआ है जिसमें उन्होंने “आफिसर्स कम्पैनियन इन ला ऐण्ड ऐडमिनिस्ट्रेशन” (Officer's Companion in Law and Administration) नामक पुस्तक को तैयार एवं प्रकाशित करने के सम्बन्ध में “गवर्नमेंट सर्वेन्ट्स कम्पैनियन” (Government Servants' Companion) नामक पुस्तक में दिए गए सामान्य विषय के कुछ अध्यायों का प्रयोग करने के लिए शासन की अनुमति माँगी है।

शासन ने श्री मिश्र की उक्त प्रार्थना को इस शर्त के साथ स्वीकार किया है कि प्रकाशित की जाने वाली पुस्तक की प्रस्तावना (preface) में यह स्पष्ट कर दें कि यह प्रकाशन किसी भाँति शासन की ओर से किया गया नसमझा जावे।—ह० अयोध्या प्रसाद दीक्षित, आयुक्त एवं सचिव।

सेवा में—श्री आनन्द स्वरूप मिश्र, 15, दुर्गापुरी, लखनऊ—4

ANAND SWARUP MISRA,
THE AUTHOR

READING—A NECESSITY

READING is a necessity for anyone who intends to give a touch of quality to his life. The real wealth is not what we keep in our banks but what we develop in our heads.

Books instruct us without anger or threat. They do not sneer at our ignorance or grumble at our mistakes. They ask only that we spend some time in the company of greatness so that we may absorb some of its attributes.

There are various reasons why one reads—he may read because of his high-pressure life and the need for periods of relief; he may read because books give something which he missed during his education. He may read also because books may help him in finding solutions to his problems, or because he is tired of the shallowness of contemporary life and bored by common-place conversation and gossip.

Any way, whatever be the dominant personal reason, the fact remains that reading gives knowledge, creative power, satisfaction and relaxation. It cultivates the mind by calling its faculties into exercise.

Adapted from the article
Reading enriches your life
issued by
ROYAL BANK OF CANADA

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