

- * One which involves a sum exceeding Rs 10 crores; or
- * is likely to give rise to widespread public concern; or
- * its investigation and prosecution are likely to require highly specialized knowledge of the financial market or of the behaviour of banks or other financial institutions; or
- * it involves significant international dimensions, etc.

4.4.3 Article 311

Arguments in favour of retaining Article 311

- ◇ Those in favour of retaining Article 311 argue that the Article subjects the doctrine of pleasure contained in the preceding Article 310 to certain safeguards.
- ◇ It is further argued that the safeguards under Article 311 are focused and that the framers of the Constitution were mindful of the rare eventualities in which even such minimal safeguards would not be necessary.
- ◇ Even if Article 311 were to be repealed, it is argued, the need for giving an opportunity to be heard cannot be dispensed with.
- ◇ judicial review is an integral part of our Constitution and a substantial portion of the appellate work of the Supreme Court concerns Article 311.
- ◇ It is argued that it is the rules governing disciplinary enquiries, and not Article 311 itself, that are responsible for the delays.

Arguments in favour of repealing Article 311

- ◇ Indeed, it is not as if in all cases involving Article 311 the Supreme Court has taken a ‘pro Government’ stance.
- ◇ There are cases where the apex court has struck down the actions of the disciplinary authority or the Government.
- ◇ The Indian Constitution, and Part XIV thereof, was drafted at a time when, in the aftermath of partition, and post-colonial administrative upheavals, it was felt necessary to prescribe certain guarantees to the bureaucracy. In the present scenario, that protection does not appear quite necessary.
- ◇ reasonable opportunity is provided to a government official against what might be arbitrary or vindictive action. But this should be only reasonable, not excessive, and
- ◇ **The Hota Committee**
 - * Recommended that Article 311 of the Constitution be amended
 - * Facilitate summary removal from service of a corrupt officer;
 - * Inspire confidence in the minds of the common people that corrupt practice by members of the civil service / persons holding civil posts will not be tolerated;
 - * Ensure justice to the official so removed in a post-decisional hearing.
- ◇ The **ARC** believes that the rights of a civil servant under the Constitution should be subordinate to the overall requirement of public interest and the contractual right of the State.
- ◇ The public servant, an agent of the State, cannot be superior to the State and it is his fundamental duty to serve the State with integrity, devotion, honesty, impartiality, objectivity, transparency and accountability.