

Scheduled Castes and Scheduled Tribes in the all India services are covered by these provisions and at present are 15 per cent and 7.5 per cent respectively. The Central government services include the all India service i.e., the Indian Administrative Service, the Indian Police Service, the Forest Service, etc."

10. It will be useful here to take note of certain provisions of the Constitution and other enactments which have a bearing on the controversy in hand and also some of the order issued in this regard by the Government of India and also by Government of Pondicherry Part VIII of the Constitution (Articles 239 to 241) deals with the Union territories. Article 239 and Article 239A which was inserted by the Constitution (Fourteenth Amendment) Act, 1962 read as under:

"239. *Administration of Union territories.* (1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

239-A. *Creation of local Legislatures or Council of Ministers or both for certain Union territories.*—(1) Parliament may by law create for the Union territory of Pondicherry—
(a) a body, whether elected or part-

to function as a Legislature for the Union territory, or
(b) a Council of Ministers, or both with such Constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution."

11. Article 239B confers power upon the administrator of U.T. of Pondicherry to promulgate Ordinances during recess of Legislature in certain circumstances. But in view of the first proviso appended to clause (1) of Article 239B, no such Ordinance shall be promulgated by the administrator except after obtaining instructions from the President in that behalf. Article 240 confers power on the President to make regulations for certain Union territories, including Pondicherry, subject to satisfaction of certain conditions laid down in the two provisos appended to clause (1) of this Article. Clause (2) of Article 240 lays down that any regulation so made by the President may repeal or amend any Act made by Parliament or any other law which is for the time being applicable to the Union territory and when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory. Articles 239 and 240 of the Constitution clearly show that U.T. of Pondicherry is administered by the President through an administrator (i.e. Governor) appointed by him and when the Legislature thereof is dissolved or is not functioning, the President is empowered to make regulations for

SC-324

peace, progress and governance of the said Union territory. The power to make regulations by the President is fairly large as he can repeal or amend any Act made by Parliament or any other law which is applicable to the said territory and shall have the same force and effect as an Act of Parliament.

12. Certain other provisions of the Constitution also deserve to be noticed here. Under clause (1) of Article 230, Parliament may by law extend or exclude the jurisdiction of a High Court from any Union territory. Clause (2)(b) of the said Article provides that where the High Court of a State exercises jurisdiction in relation to a Union territory, the reference in Article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate Courts in that territory, be construed as a reference to the President. Similar provision is contained in Article 231(2)(b). These provisions again show that the position of a Union territory is different from that of a State and the head of administration of a Union territory is the President of India.

13. Some other statutory provisions which have a bearing on the controversy are being reproduced below:

Section 3(8) of the General Clauses Act, 1897:

(8) "Central Government" shall—

- (a) ...
- (b) in relation to anything done or to be done after the commencement of the Constitution, mean the President; and shall include,
 - (i) ...
 - (ii) ...
 - (iii) in relation to the administration of a Union territory, the Administrator

thereof acting within the scope of the authority given to him under Article 239 of the Constitution.

Section 3 of the Pondicherry (Administration) Act, 1962:

3. *Officers and functionaries in relation to Pondicherry.*—Without prejudice to the powers of the Central Government to appoint from time to time such officers and authorities as may be necessary for the administration of Pondicherry, all courts, tribunals, authorities and officers, whether in India or in the former French Establishments, who immediately before the appointed day, were exercising lawful function in connection with the administration of those Establishments or any part thereof, including the Council of Government and Representatives Assembly, shall, unless otherwise directed at any time by the Central Government or the Administrator in relation to any such Court, tribunal, authority or officer, or until other provision is made by law, continue to exercise in connection with the administration of Pondicherry, their respective duties and functions in the same manner and to the same extent as before the appointed day with such altered designation, if any, as that Government may determine.

Section 50 of the Government of Union Territories Act, 1963:

50. *Relation of Administrator and his Ministers to President.*—Notwithstanding anything in this Act, the Administrator and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by the President."

14. The effect of these provisions is also that the Administrator (i.e.