ON THE ENROLMENT OF CITIZENS IN THE CIVIL SERVICE IN MODERN CONDITIONS

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ABSTRACT

Objective: The purpose of writing the article is to investigate the peculiarities of entry to work in state bodies, the conditions of admission to the civil service of the Republic of Kazakhstan, and the experiences of foreign countries in this area.

Theoretical framework: The study considers labor legal relations in the public service, which are regulated by a number of laws and regulations. The most important of them include the following: The Law of the Republic of Kazakhstan «On Public Service» establishes the basic principles of organization and implementation of public service and more.

Methodology: The Law of the Republic of Kazakhstan «On Public Service of the Republic of Kazakhstan» was adopted; it discloses additional norms and rules regulating labor relations in the bodies of public service.

Findings: Examples of entry and work in the civil service of citizens of other countries, concepts, and characteristics are given.

Research: Therefore, it is important that those entering the civil service have high competence, moral qualities, and an understanding of their responsibility to society.

Originality/value: The importance of the research topic is that the quality of the civil service directly affects the development of the country and the level of well-being of its citizens.

Keywords: labor law, civil servants, labor relations.
SOBRE A INCORPORAÇÃO DOS CIDADÃOS À FUNÇÃO PÚBLICA NAS CONDIÇÕES ATUAIS

RESUMO

Objetivo: O objetivo da redação do artigo é investigar as peculiaridades da entrada para trabalhar em órgãos estatais, as condições de admissão à função pública da República do Cazaquistão e as experiências de países estrangeiros nesta área.

Enquadramento teórico: O estudo considera as relações jurídicas laborais no serviço público, que são reguladas por uma série de leis e regulamentos. Os mais importantes deles incluem o seguinte: A Lei da República do Cazaquistão “Sobre o Serviço Público” estabelece os princípios básicos de organização e implementação do serviço público e muito mais.

Metodologia: A Lei da República do Cazaquistão “Sobre o Serviço Público da República do Cazaquistão” foi adotada; ela divulga normas e regras adicionais que regulam as relações de trabalho nos órgãos de serviço público.

Constatações: São dados exemplos de entrada e trabalho na função pública de cidadãos de outros países, conceitos e características.

Pesquisa: Portanto, é importante que os que entram no funcionalismo público tenham alta competência, qualidades morais e compreensão de sua responsabilidade para com a sociedade.

Originalidade/valor: A importância do tópico de pesquisa é que a qualidade do serviço público afeta diretamente o desenvolvimento do país e o nível de bem-estar de seus cidadãos.

Palavras-chave: direito do trabalho, funcionários públicos, relações trabalhistas.

1 INTRODUCTION


The PP RK «On the system of remuneration of civil servants, employees of organisations maintained at the expense of the state budget, employees of state–owned enterprises» has been adopted (Rincón Cárdenas, E., & Vergara, C., 2017), which reveals the essence of the organisation and remuneration of civil servants, including the size of salaries, allowances, compensations and other financial incentives (Rastrollo Suárez, J. J., 2020).
2 LITERATURE REVIEW

The study relied on the data on institutes on law, as well as projects of foreign and domestic researchers of public service. Books, textbooks, scientific rating journals, publications on the development of public service, covering various aspects, from public services to modern methods of public service management (López, J. R. F., 2015), (Corrêa, I. M., & Spinelli, M. V. C., 2011). When searching for materials, the relevance of sources, the authority of publishers and authors was taken into account, relying on verified research data.

The study of public service is a multifaceted and interdisciplinary field that has been explored by many authors from different academic and practical backgrounds. For example, the concept, bureaucracy, rationality and authority was written about by German sociologist Max Weber – known for his work on bureaucracy and organisational structure, whose writings have influenced the understanding of public service.


Peter Drucker, the famous Austrian–American manager and management theorist, studied the effectiveness of organisations and management, which is also relevant to the civil service.

The decision–making processes in government structures are indicated in the works of American political scientist Graham Alice, who developed the concept of essential political skills.

Also, the study relied on the works of modern scholars with an innovative approach, in particular:

David Albright and Ted Gaebler, so the authors of the book «The Art of Innovation in Public Administration» offered ideas for improving public service based on the principles of entrepreneurship. Barbara Romero is an American scholar specialising in public administration and ethics, her work addresses issues of professional conduct and ethical standards for public service employees.

Christopher Hood is an English scholar who studies bureaucracy, public sector reform and the notion of «new public management».
3 METHODOLOGY

The study of public service is a multifaceted and interdisciplinary field, the applied methodology in the study was based on scientific abstraction in order to model the conditional system of citizens entering the civil service, by applying the method of induction was considered the Kazakhstan experience of functioning of public service, where the basis of the study was the consideration of those wishing to enter the civil service, their competence and professionalism. The method of deduction allowed to study the foreign experience of admission to the civil service, features, current state and their advantage over the domestic system. This method was transformed into a method of comparative analysis, which revealed positive sides in approaches to those entering the civil service in developed countries, i.e. the difference in high competence, possession of moral qualities and understanding of those entering the civil service responsibility to society.

4 RESULTS AND DISCUSSION

Entry into the civil service is of great importance because of a number of factors related to the efficiency of government agencies, safeguarding the interests of society and citizens, and maintaining the stability and development of the country. Some of the aspects of the importance of entering the civil service are summarised in Table 1.

<table>
<thead>
<tr>
<th>Aspect</th>
<th>Description</th>
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<tr>
<td>Expertise and professionalism</td>
<td>Public service employees play an important role in the development and implementation of policies, programmes and decisions that affect the lives of citizens. Their competence, knowledge and skills are essential to work effectively and achieve their goals.</td>
</tr>
<tr>
<td>Maintaining lawfulness and fairness</td>
<td>Public servants enforce laws and regulations and ensure that the rights of citizens are respected. Their activities are aimed at maintaining justice and protecting the rule of law.</td>
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<tr>
<td>Developing and implementing policies</td>
<td>They help shape development strategies and influence the future of the country.</td>
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<td>Effective resource management</td>
<td>Public services manage budgets, infrastructure and other resources. Competent management of resources affects economic development and the quality of life of citizens.</td>
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<tr>
<td>Provision of public services</td>
<td>Public bodies provide various public services such as health care, education, social protection and others. The quality and accessibility of these services depend on the professionalism and efficiency of public servants.</td>
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<tr>
<td>Fighting corruption</td>
<td>Integrity, ethics and transparency are important principles of public service.</td>
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Public servants are also involved in international relations, co-operation and diplomatic activities. Their work contributes to strengthening the country's position on the world stage.

Competent and dedicated ministers contribute to the political, economic and social stability of the country.

Compiled by the authors. Based on materials from https://adilet.zan.kz/rus/docs/Z1500000416

Other sectoral and specialised normative acts: depending on the sphere of public service (e.g. health care, education, science, etc.), there may be additional normative acts regulating specific aspects of labour relations.

On Compensations for persons holding elected office and their family members, the issues of state guarantees and compensations for persons holding elected office are presented. There are also Regulations on public service and awards in public service, where normative acts establish details of the organisation of public service, structure of service, criteria for filling positions, rights and duties of public servants, the order of awards, etc. And other by-laws that supplement and clarify the civil service regulations, including regulations governing performance evaluation, training, official investigations, etc.

Note that in developed countries the system of allowances, compensations and incentives for civil servants are very high because of the high standard of living and economic development. So we have studied the following countries:

Norway is known for its high standard of living and high salaries in general. Civil servants in Norway have access to a variety of compensation and social benefits that reflect the high standard of living and social security in the country. The following are some of them:

- Salary: Salary levels vary according to position, education and experience. Salaries are adjusted according to the region of their country but the average is 4400 EUR.
- Pension: Civil servants in Norway usually have access to well-designed pension schemes that provide a level of stability after retirement.

The historical development of HR applications in public administration goes back to ancient times and ancient empires witnessed huge bureaucracies run by large numbers of civil servants, however there were no specialised departments to manage their affairs, no codified legislation governing their service, but the civil servants formed a privileged
class that could capture and buy through exploitation, bribery, influence and corruption, and even the civil service reform movement.

 civil service and military service in arab countries
If we go beyond these differences in the nature of civil service, we find that service official governmental bodies such as the Civil Service is divided into two parts:

a) Military Service (expresses public service in all military devices and facilities in the state.
b) Civil Service expresses public service in non–military public bodies, the most important branch of public service is that which includes employees of government organisations (interests, state enterprise, localities).

There were the following concept and characteristics of civil service.

I.Personnel Management:
Personnel department is defined as a set of planning, organisation and supervision activities related to the training of employees for the apparatus of public administration, their use, improving their efficiency and defining their rights and duties in accordance with the systems, laws and regulations prepared at its suggestion for this purpose.

And it is often applicable to central human resources departments (civil service boards), as they are responsible for developing policies, systems and regulations governing the relationship of staff with the State as a whole, as for the decentralised human resources department, which operates within ministries, directorates–general, agencies and support structures, its work and attention is often focused on the detailed implementation of these policies and regulations, and their application to subordinates.

The public service has characteristics that distinguish it from the military service and from service in the private business sectors, and these characteristics derive from the nature of the service.

– That the public service needs an administrative body with a great deal of experience and practice for the seriousness of the duties it performs, and therefore it must rely on the staff of the service itself, without losing sight of the importance of feeding the service with some new «blood» from time to time;
– The public service, which includes the implementers of public policy, needs a professional body that is far from being afraid of pressure from both the ruling man and pressure groups and is confident in its right to express opinion and serve all citizens objectively, so its staff must be protected and notified of assurances.
The job is subject to a set of general laws that usually confirm some important rules, such as employee guarantees, method of appointment, promotion, transfer, pension rights, social guarantees, duties of a civil servant, etc.

These rules are usually codified and their provisions apply to all employees in all organisations of the administrative apparatus.

This process is organised under the supervision of a civil service board or body and serves as the central personnel department of the administrative apparatus.

Civil service matters are closely linked to the general budget of the state, the formation of public posts is an important element of the budget, which represents a constraint on the organisation of the civil service.

Functional neutrality: in some systems, the neutrality of the «civil servant» in political aspects is necessary.

In partisan systems, a public official is not allowed to show any inclination or «partisanship» in his official work, and the assumptions in this system are based on the possibility of official neutrality.

Whereas in confrontational political systems, a public official's conviction in and sympathy for the ruling policy and its objectives is a prerequisite for holding public office, especially in leadership positions and centres of contact with the masses.

In countries that do not adopt the party system and are led by «national» groups with specific developmental goals, the process of 'political loyalty' becomes a necessary process for the leadership to ensure that the top management is in line with its «national» goals to bring about radical changes in the existing system, and therefore efficiency alone is not enough, as along with it there must be sufficient conviction for change.

However, we believe that efficiency provides two benefits of administrative work:
1. An expert view of administrative work.
2. an objective and unbiased view of administrative work.

The two advantages provide stability and confidence to the employee and build the spirit of service on objective professional principles.

Note that in most countries the civil service is governed by general instructions – or laws – that apply to all employees of administrative apparatus organisations on the basis that the administrative apparatus as a whole is one large organisation.

Firstly: the first step is usually to define the political posts that are excluded from these regulations (such as ministers and deputy ministers).
Second: to establish special rules that correspond to certain functions of a special nature (such as diplomatic or judicial functions... etc.).

Third: to establish general rules for the rest of the posts.

II. Civil service and alternative terminology.

Work in ministries and government departments, called «public work» in some legal systems and «public service» in others, is one of the political rights to which the citizens of a State are exclusively entitled.

Let us cite the commonly used term «public service department» which means that the designation appeared in official government offices after successive administrative reform movements that called for the need to take care of the affairs of public sector employees. This designation was assigned (service) because of the nature of service that distinguishes the public sector from the private or industrial sector, and a civilian designation was assigned to distinguish between the employees of citizens.

The word «Public Service Administration» has become common in public administration applications related to personnel matters, and it has spread to various countries.

Management of public functions of public service – this title translates from French because public functions in France have received attention since the French Revolution, and this title reflects the legal dimension confirmed by French jurists and administrative judges, and most Arab scholars who specialised in law in French universities were influenced by this title.

The classification is valid for the public and private sectors, it reflects the civilisational dimension in all its economic, legal, administrative and humanitarian aspects and is consistent with the prevailing behavioural terminology (Akshalova et.al., 2020).

Many countries have public personnel departments, a term proposed by a number of authors who are offended that a distinction should be made between employees, subordinates and female employees at the academic level, similar to the distinction imposed by some legislation and civil service systems in distinguishing the rights and privileges of this category who work in public administration and institutions. Egypt has adopted this designation and developed its legislation and regulations based on the harmonisation of all categories.
Thus, the difference in the nomenclature of the human resource department is due to different points of view from one researcher to another and from one country to another, divergence of cultures and legal orientations, and temporal changes.

Consider the systems and types of civil service:

The modern world is attracted by two different trends in the organisation of public functions, namely open system and the first closed system, it is mainly adopted by USA, Canada, Switzerland, Finland and others and is called «open structure public function system».

Most of the countries like France, England, Belgium, Germany, Japan and all Arab countries are called – «public functions system with closed structure».

The difference between these two doctrines or concepts stems from the way the legislator views and treats the public function and its employee. If the public function is treated as a private function and it and its employee are treated on that basis, the concept is closer to the American view. If it is characterised by a certain nature and characteristics that are different from private business, its concept is closer to the European view.

The reason for the outlook lies in the fear of abuse of power by officials and the possibility of their tyranny over citizens.

This flexibility of the civil service in an open system turns the employee’s relationship with the state into a mutually beneficial relationship that is closer to a contractual relationship than to the legal status relationship common in closed systems. Some authors are accustomed to calling this relationship objective because it concerns mainly the work and not the individual.

The characteristics of the general function in both open system and closed system are summarised below as follows:

A) The general function in an open system where a public job is a specialised job in which a person holds a position that includes a set of specialised duties and has certain qualities associated with the education system as well as the political system, jobs are not filled automatically on promotion but when an application is made from within or outside for appointment.

The control of a public function within an open system has several characteristics that can be summarised as follows:

1. The enterprise undertakes the task of defining the existing functions of the organisational structure.
2. For each of them, it draws up specifications, job descriptions and determines the qualifications of candidates for its job.
3. Candidates.
4. The survival of an employee depends firstly on survival on the job and secondly on the time he is available for work.
5. An employee has the right to resign from his employment at any time once he is notified by the organisation for the relevant period.
6. The employee is responsible for his own development and skill development.
7. A government employee should seek an institution that provides the best privileges, benefits and highest salary.
8. A company or the state is not obliged to pay pension to its employees due to lack of permanent and unbroken wire.
9. The organisation is not obliged to promote or upgrade an employee on the basis of seniority but allows him to apply for a higher post if he is suitable for it and then he is appointed to it as and when a new employee is appointed.
10. Each position is considered independent of the others horizontally and vertically in the administrative ladder and each has its own salary and an employee cannot be transferred from one job to another only with his consent and willingness and proof of his ability.

Advantages of an open system in some countries:
1. A simplified system that relieves management from establishing systems and procedures for transfers, promotions, leave, assignments, secondments or retirement.
2. A flexible system that allows management to appoint when it wants and dismiss whoever it wants at any time when circumstances warrant.
3. An economic system that generates savings and high income and reduces financial costs and burdens because of the efficiency and high productivity it provides and because of its commitment to the merit principle in the implementation, selection and payment of salaries.
4. A decentralised system based on multiple work and service systems in both the public and private sectors, which reduces the risks of exploitative centralisation and provides a better opportunity to find suitable jobs.

The disadvantages of an open system are most important:
1. Western system, which is suitable for developed industrial environment with high scientific and human potential.

2. Capitalist system, which assumes the existence of an active private sector with developed institutions that compete with the public sector and provide opportunities to move between two sectors or between institutions of the same sector.

3. A material system based on conflict, competition, instability and the establishment of interest–based relationships.

4. A provocative and exploitative system that keeps employees in a state of constant anxiety and at the mercy of the entrepreneur, individual, group or state.

5. The system keeps human resource management busy with frequent selection processes due to constant turnover and also weakens public confidence in the organisation when individuals change from time to time.

General function in a closed–loop system. A public job is a full–time occupation for which the employee is characterised by stability. A public servant is appointed to a job under certain conditions and remains there until he or she resigns, is retired, or is dismissed for disciplinary or other reasons.

In a closed system, it is defined by several characteristics (figure 1).
Various applications of this concept have shown a number of shortcomings and have faced a number of criticisms:

1. The inability of a closed public service system to fulfil its broad and increasing responsibilities, resulting in a rapid growth in the number of devices and workers.
2. The dependency that this system creates among employees who convince themselves that they are working on a permanent basis, which weakens their spirit of initiative and self-improvement and stops most of them from moving and developing.
3. The lack of objective applications centred on efficiency and merit in the selection of employees and the accumulation of many unqualified elements in public positions due to the interference of personal, political or other considerations in the public service systems, which makes the efficiency and productivity of this course substandard, the opposite of what we find in service applications in the private sector.
4. The many restrictions imposed on entering the public service and the many conditions that those who enter it must fulfil, and then it was impossible to get out of this corpus, and the difficulty to change and move only on terms and conditions
and according to complex rules and procedures, which makes many stay despite their reluctance to do so.

The duties of a public servant relate to the performance of work, observance of functional duties, obedience and respect for superiors, protection and shaping of public funds against abuse and waste;

– is any person who is entrusted with work in the property of the Ministry or an organisation not related to the Ministry, and the relationship that binds the employee to the State is an organisational relationship regulated by the laws and regulations for the civil service;

– A person who is entrusted with permanent work in the maintenance of facilities under the direct administration of the Central, local or communal administrative bodies and who holds a position in the administrative system of the facility where he or she works;

– A public servant is one of the employees of the government or administrative body and he works mainly to achieve the public interest, to ensure the functioning of the administrative apparatus in the State, to serve the objectives of the State and to achieve the welfare of individuals.

Distinguish the work of an employee:

Community careers:

1. A public assignment can be busy or empty.
2. It is characterised by the duties that go into it.
3. Public office is not affected by incumbents, which arise and determine the rights and duties of the incumbent before anyone is appointed to it.
4. The organisation of the public service depends on the legislator's view of it and varies from country to country

Civil servant:

1. A civil servant is not covered by a contract of employment but is regulated by a law issued by the legislature.
2. All changes made by the competent authority in the laws and regulations relating to work shall apply to the employee without the employee having the right to protest against its non-acceptance or the existence of rights acquired for him, and the employee may not agree with the Government to change the terms and conditions of employment for him.
3. The reference of an employee to a post should not be severed immediately after his resignation, but the reference should remain in place until the resignation is accepted by the competent authority.

Offences falling under the concept of exploitation of public office:

The concept of use of public office includes several offences, the most important of which are:

– the offence of bribery: it is the acceptance by an employee or appointee of a public office for himself or others of a gift, benefit, advantage or promise of anything, for the performance of his official duty, abstention or breach of duty;

– Embezzlement: is the concealment by an employee or person in charge of public service of money, property.

5 CONCLUSION

Thus, the conditions for excluding an employee are as follows: for a citizen to be suspended or an employee to be removed from his job, three conditions must be fulfilled.

He must have been convicted, that is, a final verdict has been rendered which has acquired the finality of his conviction. On this basis, it is legally impermissible for a mere accusation or news item to be a reason to prevent him from holding or continuing to hold public office because the accused is innocent.

The offence for which he has been convicted must be a misdemeanour or a felony. Offences, whether administrative or criminal, are thus excluded from the scope of the prohibition to hold or continue to hold public office.

The offence is a dishonourable offence. These are those crimes that the law classifies exclusively as honour crimes. The law is the law and it is only permissible to amend its provisions or add conditions to it through the competent authority, which is the legislature.
REFERENCES


