

General Clauses Act 1897 s 16 - Power to appoint to include power to suspend or dismiss

Where, by any Central Act or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power.

SYNOPSIS

Power to suspend or dismiss

- Receiver
- High Court
- Necessary adjunct
- Appointing authority

Power to suspend or dismiss

Receiver: Order 40, Rule 1(a) of the CPC, which authorises a court “to appoint a receiver”, construed to embrace a power of removing a receiver.¹

High Court: Article 229(1) of the Constitution which empowers the CJ to make “appointment of officers and servants of High Court” has been interpreted to include a power to suspend or dismiss.²

Necessary adjunct: The power to terminate is a necessary adjunct of the power of appointment.³

Appointing authority and recommending authority: Even if authority A has power to appoint on the advice or

¹ Rayarappan v Madhavi Amma, AIR 1950 FC 140 cited in Singh 2021 p 828

² Pradyat Kumar v Chief Justice of Calcutta High Court, AIR 1956 SC 285 cited in Singh 2021 p 828

³ Lekhraj v Dy. Custodian, AIR 1966 SC 334 cited in Singh 2021 p 828

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recommendation of authority B, the appointing authority in law  
is authority A who under section 16 will have power to  
dismiss.^4

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<sup>4</sup> State of Assam v Kripanath Sarma, AIR 1967 SC 459 cited in Singh 2021 p 828