

GUJARAT CIVIL SERVICES TRIBUNAL ACT, 1972

2 of 1973

[January 12, 1973]

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SCHEDULE 1 :- SCHEDULE

GUJARAT CIVIL SERVICES TRIBUNAL ACT, 1972

2 of 1973

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An Act to provide for the constitution of a Civil Services Tribunal for the purpose of securing in a more effective and satisfactory manner the just claims and interests of the Officers and servants of the State Government and Panchayats] with respect to certain matters affecting their rights and to provide for matter connected therewith. It is hereby enacted in the Twenty-third year of the Republic of India as follows :-

1. Short title, extent and commencement :-

(2) It extends to the Whole of the State of Gujarat.

(3) It shall come into force at once.

2. Definitions :-

In this Act. unless the context otherwise requires-

(a) "law" means any law regulating the recruitment and conditions of service of persons appointed to civil services and posts under the State, or to panchayat Service and matters connected therewith and includes any notification, order, rule, regulation, or instruction or direction Issued or followed for such purpose;

(b) "non-gazetted posts" means posts other than posts declared or known as gazetted posts under any law;

(c) "notified order" means an order published in the Official Gazette;

(e) "prescribed" means-prescribed by rules made under this Act;

(f) "President" means the President of the Tribunal;

(g) "Schedule" means the Schedule appended to this Act;

3. Constitution of Tribunal :-

(1) For the purpose of securing in a more effective and satisfactory manner the Just claims and interests of specified civil servants with respect to certain matters affecting their rights the State Government shall, by a notified order and with effect on and from such date as may be specified therein, constitute a Tribunal to be called the Gujarat Civil Services Tribunal, consisting of the President and as many other members as the State .Government may from time to time determine.

(3) In making appointment of other members of the Tribunal, the State Government shall have due regard to the need for including

in the Tribunal a reasonable number or proportion of persons having sufficient judicial experience or experience of matters relating to administration:

4. Term of Office and conditions of service of members of Tribunal :-

The term for which the President and other members of the Tribunal shall hold office and their other conditions of service shall be such as may be prescribed.

5. Power of State Government to terminate appointment before expiry of term :-

The State Government may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member-

- (i) is adjudged an insolvent, or
- (ii) engages during his term of office in any paid employment outside the duties of his office, or
- (iii) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or
- (iv) is convicted of an offence involving moral turpitude.

6. Filling of vacancies :-

Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable:

Provided that if any member of the Tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the State Government may appoint some other person to discharge his duties for any period not exceeding six months at a time.

7. Discharge of functions by President or member during vacancy or absence :-

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1. Section 7 was substituted by Guj. 22 of 1080, a. 5.

8. Power of Tribunal to make regulations :-

(1) If the members of the Tribunal are divided in opinion, the decision shall be according to the decision of the majority, but if the members are equally divided, the decision shall be according to

the decision of the President.

(2) Subject to the provision contained in sub-section (1) and the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which it shall hold its sittings and the formation of its Benches, if necessary) and the effective discharge of its functions and disposal of its business, make regulations consistent with the provisions of this Act and the rules made thereunder.

(3) The regulations made under sub-section (2) shall be published in the Official Gazette.

9. Head-Quarters of Tribunal :-

the headquarters of the Tribunal shall be at such place as the State Government may, by notified order determine.

10. Jurisdiction of the Tribunal :-

The Tribunal shall have jurisdiction to hear and decide-

11. Appeal by specified civil servants :-

(1) Any specified civil servant aggrieved by an original or appellant order or decision of any officer or authority other than the State Government with respect to any of the matters specified in the Schedule may, within a period of ninety days from the date of such order or decision, appeal to the Tribunal against such order or decision, in a case where an appeal lies under law to the State Government:

12. Power of State Government to apply for modification, or annulment of order or decision :-

(2) No such application shall be decided by the Tribunal without notice being given to the civil servant concerned to appear and be heard in support of such order or decision.

12A. State Government to be heard in certain cases :-

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(1) If at any stage in any proceedings before the Tribunal it appears to the Tribunal that the proceedings raise a question, as to the interpretation of a law, which is of such a nature and of such public importance that it is expedient to issue notice to the State Government, the Tribunal shall issue notice to the Government and the Government may, if it thinks fit, appear and the Tribunal shall then hear the State Government before deciding the question.

(2) If it appears to the State Government that in its opinion the interpretation of a provision of law in any proceedings before the Tribunal is of such a nature and of such public importance that it is expedient that the State Government be heard before decision of the question, it may apply to the Tribunal in such proceedings to be heard, and the Tribunal shall not decide the question without hearing the State Government.

1. Sections 12-A and 12-B were inserted by Gujarat 22 of 1980, Section 7.

12B. Review :-

The Tribunal may of its own motion or on the application made by a specified civil servant aggrieved by any decision or order of the Tribunal within two months from the date of communication of such decision or order to him review such decision or order on any of the following grounds, namely :-

(1) that some new or important matter or evidence which could not be discovered earlier after the exercise of due diligence and which was likely to materially affect the decision or order of the Tribunal was discovered-after such decision or order; or

(2) that there was some mistake or error apparent on the face of the record; or

(3) that the decision or order required to be reviewed for any other sufficient reason:

Provided that no such review shall be made after the expiry of a period of two years from the date of the decision or order concerned.]

13. Tribunal to have powers of Court :-

(2) The Tribunal shall be deemed to be a Court for the purpose of section 5 of the Limitation Act, 1963, (36 of 1963).

14. Proceedings before Tribunal to be judicial proceedings :-

All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Section 203 of the Gujarat Panchayats Act, 1961 , S.219 of the Indian Penal Code, 1960 and 228 of the Indian Penal Code. (XLV of 1860).

15. Members of Tribunal to be public servants :-

All members of the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 , (XLV of 1960).

16. Bar of Jurisdiction of Civil Courts :-

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(1) No Civil Court shall have jurisdiction to deal with or decide any question which by or under this Act is required to be or can be dealt with or decided by the Tribunal under the provisions of this Act:

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Provided that any proceeding in relation to any such question which may be pending in any Civil Court immediately before the date of the commencement of the Amending Act shall be continued in, and disposed of by, such Court as if the said Act had not been passed.

(2) Every decision of the Tribunal passed under this Act shall be final and shall not be called in question before any Civil Court or any other authority.

1. Sections 16 and 16-A were substituted for section 16, by Guj. 22 of 1960, Section 8.

16A. Manner of executive orders passed by Tribunal :-

All orders passed by the Tribunal shall be executed in the same manner in which similar orders, if passed by the State Government, could have been executed.]

17. Bar to appearance of legal practitioners :-

No legal practitioner shall be allowed to appear in any proceedings before the Tribunal except with the permission of the Tribunal.

18. Exemption from payment of Court fees :-

Notwithstanding anything contained in the Bombay Court Fees Act, 1959, no court fee shall be levied on any appeal on application made to the Tribunal under this Act. (Bom. XXXVI of 1959.)

18A. Records to be open to inspection and extracts and copies to be given there from :-

1 Subject to such rules and the payment of such fees as the State Government may from time to time prescribe in this behalf.: the records of the Tribunal shall be open to the inspection of the, public at reasonable hours, and certified extracts from the same or the certified copies thereof shall be given to any person applying for

the same.]

1. Section 185A was Inserted by Gujarat 22 of 1980, Section 9.

19. Amendment of Schedule :-

The State Government may, by notification in the Official Gazette, add to the Schedule any relating to any matter affecting specified civil servants and thereupon the Schedule shall be deemed to have been amended accordingly for the purposes of this Act.

20. Rules :-

(1) The State Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(3) Any recession or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect

21. Bar of jurisdiction of Government and transfer of pending projecting to Tribunal :-

SCHEDULE 1

SCHEDULE

(See Section 11 , Section 12 , Section 19 and Section 21)
(1) Dismissal or removal from service or reduction in rank.
(2) Reduction of pay or to a lower time-scale of pay.
(3) Non-confirmation in service.
(4) Non-promotion to a higher post.
(5) Reversion to a lower post.

(6) Discharge from Service.

(7) Compulsory retirement within the meaning of Rule 6 of the Gujarat Civil Service (Discipline and Appeal) Rules, 1971 or Rule 5 of the Gujarat Panchayat Services (Discipline and Appeal) Rules, 1964 as the case may be.)

(8) Reduction to a lower stage in the time-scale of pay for a specified period.

(9) Censure.

(10) Reduction in or withholding the pension or denial of the maximum pension admissible under the rules.

(11) Withholding of increments.

(12) Stoppage at Efficiency Bar in time-scale of pay.

(13) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of order.]