

GUJARAT SERVICES TRIBUNAL REGULATIONS, 1977

CONTENTS

CHAPTER 1 :- General

1. Short title.
2. Definitions.

CHAPTER 2 :- Sittings, Office hours and Distribution of work

3. Place of sitting.
4. Notice of date of hearing.
5. 5.
6. Distribution of work.

CHAPTER 3 :- Presentation, Registration and Admission of Appeals and Applications.

7. Presentation of appeals and application.
8. Joining of Respondents.
9. Paper-book.
10. Registration of appeals or applications.
11. Maintenance of registers.
12. Calling for records.
13. Admission.
14. Stay of execution of order.

CHAPTER 4 :- Hearing, Adjournment and Decision or Order.

15. Persons competent to appear or act before the Tribunal.
16. Notice to parties to appear before the Tribunal.
17. Procedure at the hearing.
18. Hearing in the absence of the parties.
19. Restoration of appeals and applications
20. Fresh evidence and witness.
21. Adjournment.
22. Death of the appellant or the respondent.
23. Procedure when members of a bench differ.-
24. Pronouncement of decision.
25. Unanimous or majority decision.
26. Certain matters to be specified in decision.
27. Costs.
28. Supply of certified copies of decision.

CHAPTER 5 :- Miscellaneous

29. Appearance of legal practitioners.
30. Seal of the Tribunal.
31. Functions of Secretary.
32. Notices, decision, etc. to be signed and sealed.
33. Records.
34. Application for inspection.
35. Grant of Application for inspection.
36. Power to administer oath to the deponents.
37. Forms of Notices.
38. Service of notices in general.

GUJARAT SERVICES TRIBUNAL REGULATIONS, 1977

In exercise of the powers conferred on it by sub-section (2) of section 8 of the Gujarat Civil Services Tribunal Act, 1972, the following regulations are made by the Gujarat Civil Services Tribunal constituted under sub-section (1) of section 3 of the said Act. with the previous sanction of the State Government and they are hereby published under sub-section (3) of the said section 8.

CHAPTER 1

General

1. Short title. :-

These Regulations may be called the Gujarat Civil Services Tribunal Regulations, 1977.

2. Definitions. :-

In these regulations, unless there is anything repugnant in the subject or context,

(a) the "Act" means the Gujarat Civil Services Tribunal Act, 1972 {Gujarat Act No. 2 of 1973},

(b) "appeal" means an appeal made to the Tribunal or transferred to the Tribunal as provided under the Act,

(c) "application" means an application made to the Tribunal by the State Government under section 12 of the Act,

(d) "application for restoration" means an application made to the Tribunal under regulation 19 of these regulations,

(e) "form" means form appended to these regulations.

(f) "Seal" means the official seal of the Tribunal.

(g) "Rules" means the rules made under section 20 of the Act,

(i) "Legal Practitioner" means any person entitled to appear and

plead for another in Court and includes an advocate, a vakil and an attorney of a High Court,

(j) Words and expressions used but not defined in these regulations shall have the meanings assigned to them in the Act and the Rules.

CHAPTER 2

Sittings, Office hours and Distribution of work

3. Place of sitting. :-

(1) All appeals and applications shall ordinarily be heard at the Tribunal's headquarters provided that the Tribunal may by reason of the great number of such appeals or application in respect of any area or for any other reason, hear them at any other convenient place in the State of Gujarat.

(2) Sufficient notice about the sitting of the Tribunal outside the Tribunal's headquarters shall be given by publication on the notice board of the Tribunal and in any two newspapers having circulation at the place where the sitting is to be held.

4. Notice of date of hearing. :-

The Secretary shall, with the approval of the President, arrange for the sitting in the Tribunal for hearing the appeals and applications and publish the dates fixed for the hearing thereof on the notice board of the Tribunal sufficiently in advance.

5. 5. :-

(a) Office hours. - The office of the Tribunal shall observe the same office hours as the other offices of the Government and shall remain closed on such days where other offices of the Government remain closed on such holidays as may be declared by the Government for such offices.

(b) Court hours. - The Court hours of the Tribunal will be 11.00 A.M. to 1.30 P.M. and 2.30 P.M. to 5.00 P.M.

6. Distribution of work. :-

(1) For the expeditious disposal of the work before the Tribunal the President may, by a general or special order constitute benches of the Tribunal consisting of not less than two members, one of whom may be the President himself.

(2) The President may by a general or special order allocate the

work of the Tribunal between its various benches.

CHAPTER 3

Presentation, Registration and Admission of Appeals and Applications.

7. Presentation of appeals and application. :-

(1) An appeal or application shall be presented in person by the appellant or the applicant as the case may be, or by his duly appointed agent to the Secretary during office hours or sent to him by registered post. Where appeals or applications are sent by post, they shall not be accepted unless due postage has been prepaid.

(2) Every appeal or application shall be made in accordance with the provisions of the Act, the Rules and these Regulations.

8. Joining of Respondents. :-

If the tribunal considers it necessary that certain Respondents in addition to those originally cited by the appellant/applicant in his appeal/application as Respondents, be also joined as Respondents to the appeal/application, it may either call upon the appellant/applicant to do so or join them as Respondents to the appeal/application.

9. Paper-book. :-

Every appellant or applicant shall furnish alongwith the memorandum of appeal or application a paper-book in triplicate consisting of the copy of the memorandum of appeal or application as the case may be, a copy of the decision or the order complained against, and a copy of each of the documents referred to or relied on by the appellant or the applicant.

10. Registration of appeals or applications. :-

(2) If the Secretary finds that the appeal or the application does not conform to any of the said provisions, he shall make a note on the appeal or the application to that effect and shall call upon the party concerned or his agent, if any, to remedy the defects within a period of ten days of the receipt of notice, to do so. The Secretary may for good cause, extend the period for the purpose of remedying the defects, provided that if the extension of more than ten days in the aggregate is sought, the Secretary shall place the matter before the President and obtain his order in that behalf.

(3) If the defects are remedied within the period allowed under sub-regulation (2), the Secretary shall cause the appeal or the

application, as ,the case may be. to be registered in the appropriate register.

(4) If the party concerned or his agent fails to remedy the defects within the said period, the Secretary shall report to the President and with his approval fix a date for the hearing of which due notice shall be given to the party or his agent.

(5) On the date so fixed the Tribunal shall go through the relevant papers, hear the party or his agent if present, and pass orders either directing that the appeal or application be registered or be rejected. Where the appeal or application is rejected, the Tribunal shall record its reasons for doing so.

(6) When an appeal or application has been ordered to be registered under this regulation, the Secretary shall see that it is registered as soon as practicable and in any case not later than seven days from the date of the order requiring it to be registered.

11. Maintenance of registers. :-

The Secretary shall maintain separate registers for

(i) appeals in Form A.

(ii) applications under section 12 in Form B, and

(iii) applications for restoration in Form C.

12. Calling for records. :-

When an appeal has been registered under regulation 10, the Secretary shall, as soon as may be, write to the officer or authority against whose order or decision the appeal is filed and request him to forward to the Tribunal the record of the case duly paged and indexed along with his views on the memorandum of appeal, a copy of which shall also be sent to him. In the case of an application under section 12 of the Act the record of the case shall be sent for from the Government or the concerned Officer.

13. Admission. :-

(1) On receipt of the record and proceedings of the appeal or application, as the case may be, the President shall after going through the papers, and unless he directs that the appeal or application be fixed before the Tribunal for preliminary hearing, admit it.

(2) The appeal or application shall be admitted or rejected in

accordance with the opinion of the Tribunal provided that no appeal application shall be rejected at the preliminary hearing of which notice shall be given to the appellant or the applicant as the case may be, unless an opportunity has been given to the appellant or the applicant to present his case before the Tribunal. If the appeal or the application be rejected, the Tribunal shall give reasons for doing so.

(3) A notice under sub-regulation (2) shall declare that if the party does not appear before the Tribunal either in person or through an agent on the date mentioned in the notice, the appeal or the application, as the case may be, shall be heard and decided in his absence and shall also be liable to be dismissed for default of his appearance.

(4) The President may, in an appropriate case, admit an appeal or application which has been registered under regulation 10, without prior receipt of the record and proceedings of such an appeal or application, as the case may be.

14. Stay of execution of order. :-

(1) Pending a decision on an appeal or application the Tribunal may after giving concerned parties an opportunity of being heard, direct the execution of any order against which the appeal or application is made to be stayed on such conditions as may be deemed fit, provided that where the Tribunal is satisfied that the object of making an interlocutory order would be defeated by the delay, it may issue interim stay orders pending the hearing of the concerned parties.

(2) An order made under sub-regulation (1) may be vacated or modified by the Tribunal provided that prior notice is given to the party in whose favour such order has been made to show cause why it should not be so vacated or modified.

CHAPTER 4

Hearing, Adjournment and Decision or Order.

15. Persons competent to appear or act before the Tribunal. :-

The Tribunal may permit any party to appear or act through a legal practitioner in any appeal or application.

16. Notice to parties to appear before the Tribunal. :-

After an appeal or application is admitted a notice shall be served

on the parties concerned in accordance with the provisions of regulation 38 calling upon them to appear before the Tribunal on the date specified in the notice. The notice shall also state that if the party concerned does not appear before the Tribunal either in person or through his agent on the date specified in the notice or on any subsequent date to which the hearing may be adjourned the Tribunal shall hear and decide the appeal, or as the case may be, the application *exparte*.

17. Procedure at the hearing. :-

On the date fixed or on any other day to which the hearing may be adjourned, the appellant or the applicant or his agent shall ordinarily be heard first in support of his appeal or application. The respondent or the opponent or his agent shall, if necessary, be heard next; and in such a case the appellant or the applicant or his agent shall be entitled to reply.

18. Hearing in the absence of the parties. :-

(1) If, on the date fixed for hearing or on any other day to which the hearing may be adjourned, the appellant or the applicant does not appear either in person or by his agent when the appeal or application is called for hearing the Tribunal may dismiss the appeal or as the case may be the application or may decide it on merits after hearing the respondent or as the case may be opponent or his agent, if present.

(2) If, on the date fixed for the hearing or on any other day to which the hearing may be adjourned; the respondent or as the case may be the opponent does not appear either in person or through his agent when the appeal or the application is called for hearing, the Tribunal may proceed *exparte*.

19. Restoration of appeals and applications :-

(1) If any of the parties was absent at the date of the hearing, either preliminary or final, and the appeal or application was heard and decided *exparte* the party concerned may apply for restoration of the appeal or the application and if the party satisfies the Tribunal that he had no notice of the date of the hearing or that he was prevented by any sufficient cause from appearing when the appeal or the application was called for hearing, the Tribunal may restore the appeal or the application to file; provided that where the other party had appeared in the appeal or the application such party shall be given notice and an opportunity of being heard

before the order for restoration of the appeal or the application is made.

(2) An application for restoration under sub-regulation (1) by any party shall be made within 30 (thirty) days from the date of the order of the Tribunal.

20. Fresh evidence and witness. :-

(1) No party to an appeal or an application shall be entitled to adduce fresh evidence, whether oral or documentary before the Tribunal. The Tribunal may accept document tendered by a party or call for them if it is of opinion that they are necessary for deciding the application provided that the other party shall in that case be entitled to produce rebutting evidence.

(2) A party desiring to produce such documents shall file three copies of such documents and shall serve a fourth copy thereof on the opposite party.

(3) Where fresh evidence has been adduced under sub-regulation (1) or a witnesses has been examined, the parties may, if they so desire, address the Tribunal on point arising out of the fresh evidence or the deposition of witness.

21. Adjournment. :-

22. Death of the appellant or the respondent. :-

The death of an appellant shall not result in the abatement of the appeal but the Tribunal shall proceed to decide the matter on the material available on the record after waiting for 90 days. Similarly, in case of the death of the respondent, in case of applications under section 12 of the Act, the application shall not abate but the Tribunal shall proceed to decide the case on merits after waiting for 90 days. However within 90 days from the date of the death of the Appellant, his legal representatives may apply to be made partly with the leave of the Tribunal and in case of the death of any respondent the appellant/applicant may join his legal representatives within the above period, with leave of the Tribunal, However, even if such legal representative does not come on record, the Tribunal shall proceed to decide the matter on the material available on record.

23. Procedure when members of a bench differ.- :-

(1) Where a bench consists of two members and the members

differ, then if the President is one of the members of such bench, his opinion shall prevail.

(2) Where a bench consists of more than two members and the members differ, the opinion of the majority shall prevail and where the members of such bench are equally divided, the opinion of the President, if he is one of the members, shall prevail.

(3) Where the President is not one of the members of the bench and the members of the bench are equally divided and are not able to come to a decision, the appeal or an application shall be referred to the President, who may constitute a special bench consisting of himself and one or more members for deciding the same.

24. Pronouncement of decision. :-

(1) When the hearing of an appeal or application is complete, the Tribunal may pronounce its decision forthwith or may fix a date for the same. The Tribunal may also after pronouncing its decision fix a date for giving reasons thereof. Such dates shall be notified on the notice board in the office of the Tribunal. On the date so fixed, the decision signed by the members of the bench which heard the appeal or application may be pronounced by any member of the said bench.

(2) Every decision of the Tribunal shall be in writing and pronounced in open Court.

25. Unanimous or majority decision. :-

(1) Where the decision is unanimous, it shall be signed by all the members and where the President is one of its members, pronounced by the President in open court. Where the President is not one of the members and it is a decision of the majority, it shall be similarly signed by the members forming the majority and pronounced in open court by the senior members among them. The dissenting member may also write his decision and record his opinion on the point or points he dissents. If the dissenting member does not write his decision separately, he shall state below the decision of the majority that he dissents and sign an endorsement to that effect. Whether the dissenting member complies with the foregoing provision or not, the decision, of the majority shall operate as the decision of the Tribunal.

(2) Where the Tribunal consists of two members and the President

is one of its members, in case of dissent, the decision of the President shall operate as the decision of the Tribunal.

(3) Where the Tribunal consists of two members and the President is not one of its member, in case of dissent, the decision taken in accordance with the provisions of sub-regulation (3) of Regulation 23 shall operate as the decision of the Tribunal.

26. Certain matters to be specified in decision. :-

The Tribunal state at the end of its decision whether the appeal or application is dismissed or allowed wholly or in part and mention the relief, if any, granted to the applicant or appellant and also award the costs, if any.

27. Costs. :-

(1) The costs of the appeal or the application shall be in the discretion of the Tribunal.

(2) In its final order the Tribunal shall state who shall bear the costs and in what proportion if. any,

.

(3) A bill of costs shall be drawn up by the Secretary in Form D and attach to the decision.

28. Supply of certified copies of decision. :-

A certified copy of every decision of the Tribunal shall be supplied to the appellant or applicant as the case may be and also to the respondent free of cost.

CHAPTER 5

Miscellaneous

29. Appearance of legal practitioners. :-

When a party has been permitted by the Tribunal to appear through a legal practitioner, he shall accept services of all notices on behalf of his client until he is discharged. When a legal practitioner is prevented by sickness from appearing in any case in which he has been permitted to appear by the Tribunal, he may appoint another legal practitioner to appear on his behalf by an instrument in writing.

30. Seal of the Tribunal. :-

The Tribunal shall have an official Seal of its own which shall be kept in the custody of the Secretary.

31. Functions of Secretary. :-

The Secretary shall perform such functions as are assigned to him by these regulations or by the President under these regulations.

32. Notices, decision, etc. to be signed and sealed. :-

Every notice and certified copy of any document including the decision or order shall be signed by the Secretary with the date, month and year of signing and shall be sealed with the Seal of the Tribunal.

33. Records. :-

The records of the Tribunal shall be kept in the custody of the Secretary.

34. Application for inspection. :-

Any person who has a right to inspect a record under the provisions of the Indian Evidence Act, 1872 or under any other law for the time being in force, or to obtain copies of any records or the Tribunal or extracts therefrom, shall make an application in writing to the Secretary stating therein the purpose for which the said request is made.

35. Grant of Application for inspection. :-

(1) If the Secretary is satisfied that the application, made under the last preceding regulation in his order he shall grant the application.

(2) No inspection of any records of the Tribunal shall be allowed by the Secretary except in the presence of an officer of the Tribunal.

36. Power to administer oath to the deponents. :-

The Secretary have power to administer oath to a deponent who may have to file affidavit before the Tribunal.

37. Forms of Notices. :-

Forms E to I with suitable modifications shall be used for the purpose of notices to be issued by the Secretary.

38. Service of notices in general. :-

(2) Where the Tribunal is satisfied that there is reason to believe that the respondent or the opponent to keeping out of the way for the purpose of avoiding service, or that for any other reason notice cannot be served in the ordinary way, the Tribunal shall order the notice to be served by affixing a copy thereof upon the person or the place where the person is likely to be found.

piece in the Tribunal's office and also upon a conspicuous part of the house, if any, in which the respondent or the opponent is known to have last resided or in such other manner as the Tribunal thinks fit.