

Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 2000

5 of 2000

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Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 2000

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An Act further to amend the Uttar Pradesh Public Services (Tribunal) Act, 1976 It is hereby enacted in the Fiftieth Year of the Republic of India as follows :-- 1. Received the assent of the Governor on January 11, 2000, and published in the U.P. Gazette, Extra., Part 1, Section (Ka), dated 12th January, 2000, pp. 6-9

1. Short Title And Commencement :-

(1) This Act may be called the Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 2000.

(2) It shall be deemed to have come into force on September 9, 1999.

2. Amendment Of Section 1 Of U.P. Act No. 17 Of 1976 :-

In Section 1 of the Uttar Pradesh Public Services (Tribunal) Act, 1976, hereinafter referred to as the principal Act, in sub-section (4)

after clause (f) the following clause shall be inserted, namely :--

"(g) the Chairman, Vice-Chairman, Members, Officers or other employees of the Tribunal".

3. Amendment Of Section 2 :-

In Section 2 of the principal Act,--

(a) after clause (a-2), the following clause shall be inserted, namely :--

"(a-2A) Chief Justice means the Chief Justice of the High Court,"

(b) after clause (b) the following clause shall be inserted, namely :-
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"(bb) service matter means a matter relating to the conditions of service of a public servant,"

(c) for the clause (d) the following clause shall be substituted, namely :--

"(d) Vice-Chairman means the Vice-Chairman (Judicial) or Vice-Chairman (Administrative) of the Tribunal.".

4. Amendment Of Section 3 :-

In Section 3 of the principal Act,--

(a) in sub-section (2) for the words "a Vice-Chairman" the words "a Vice-Chairman (Judicial), a Vice-Chairman (Administrative)" shall be substituted;

(b) for sub-section (4) the following sub-section shall be substituted, namely :--

"(4) A person shall not be qualified for appointment as Vice-Chairman (Judicial) unless he,--

(a) has held the post of District Judge or any other post equivalent thereto for at least five years; or

(b) has, for at least two years, held the post of a Judicial Member.

(4-A) A person shall not be qualified for appointment as Vice-Chairman (Administrative) unless he,--

(a) has, for at least two years, held the post of an Administrative Member; or

(b) has, for at least two years, held the post of Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India and has, in the opinion of the State Government, adequate experience in dispensation of Justice.";

(c) in sub-section (6) for the words "has adequate experience", the

words "has, in the opinion of the State Government, adequate experience" shall be substituted;

(d) in sub-section (7) for the words "State Government" the words "State Government after consultation with the Chief Justice for which proposal will be initiated by the State Government" shall be substituted;

(e) in sub-section (10) for the words "such inquiry made", the words "an inquiry made by the Chief Justice or such Judge of the High Court as may be nominated by the Chief Justice" shall be substituted.

5. Amendment Of Section 4 :-

For Section 4 of the principal Act the following section shall be substituted, namely :--

"4. Reference of claim to Tribunal.--

(1) Subject to the other provisions of this Act, a person who is or has been a public servant and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal, may make a reference of claim to the Tribunal for the redressal of his grievance.

Explanation.--For the purpose of this sub-section "order" means an order made by the State Government or a local authority or any other Corporation or company referred to in clause (b) of Section 2 or by an officer, committee or other body or agency of the State Government or such local authority or Corporation or company:

Provided that no reference shall, subject to the terms of any contract, be made in respect of a claim arising out of the transfer of a public servant.

(2) Every reference under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee in respect of the filing of such reference and by such other fees for the service or execution of processes, as may be prescribed.

(3) On receipt of a reference under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary that the reference is fit for adjudication or trial by it, admit such reference and where the Tribunal is not so satisfied, it shall summarily reject the reference after recording its reasons.

(4) Where a reference has been admitted by the Tribunal under sub-section (3), every proceeding under the relevant service rules or regulation or any contract as to redressal of grievances in relation to the subject matter of such reference pending

immediately before such admission shall abate, and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules, regulations or contract.

(5) The Tribunal shall not ordinarily admit a reference unless it is satisfied that the public servant has availed of all the remedies available to him under the relevant service rules, regulations or contract as to redressal of grievances.

(6) For the purposes of sub-section (5) a public servant shall be deemed to have availed of all the remedies available to him if a final order has been made by the State Government, an authority or officer thereof or other person competent to pass such order under such rules or regulations or contract rejecting any appeal preferred or representation made by such public servant in connection with the grievance:

Provided that where no final order is made by the State Government, authority, officer or other person competent to pass such order with regard to the appeal preferred or representation made by such public servant within six months from the date on which such appeal was preferred or representation was made, the public servant may, by a written notice by registered post, require such competent authority to pass the order and if the order is not passed within one month of the service of such notice, the public servant shall be deemed to have availed of all the remedies available to him.

(7) For the purposes of sub-sections (5) and (6) any remedy available to the public servant by way of submission of a memorial to the Governor or to any other functionary shall not be deemed to be one of the remedies, which are available unless the public servant had elected to submit such memorial."

6. Amendment Of Section 4-A :-

In. Section 4-A of the principal Act, in subsection (5),--

(a) for clause (a) the following clause shall be substituted, namely :--

"(a) A reference of claim against an order pertaining to a matter specified in the Schedule shall be heard and finally decided by a Bench consisting of two members:

Provided that evidence may be received and proceeding therefor may be conducted by a single member.";

(b) in clause (c) for the words "may, if he thinks fit to do so" the

words "may on his own initiative or on the application of a party to a reference of claim" shall be substituted.

7. Amendment Of Section 5 :-

In Section 5 of the principal Act,--

(a) after sub-section (5-B) the following sub-section shall be inserted, namely :--

"(5-C) Notwithstanding anything in the forgoing sub-sections, the Tribunal shall have no power to make an interim order (whether by way of injunction or stay or in any other manner) in respect of an adverse entry made by an employer against a public servant, and every interim order (whether by way of injunction or stay or in any other manner) in respect of an adverse entry, which was made by a Tribunal before the commencement of the Uttar Pradesh Public Services (Tribunal) (Amendment) Act, 2000 and which is in force on the date of such commencement shall stand vacated."

(b) in sub-section (9) for the word and figure "Section 193" the word and figures "Sections 193, 219" shall be substituted.

8. Amendment Of Section 5-A :-

In Section 5-A of the principal Act, in clause (b) for the words "such law officer" the words "the public prosecutor appointed by the State Government under sub-section (1) of Section 24 of the Code of Criminal Procedure, 1973 or such other law officer" shall be substituted.

9. Amendment Of Section 6 :-

In Section 6 of the principal Act, in sub-section (1) for the words "clauses (a) to (f)" the words "clauses (a) to (g)" shall be substituted.

10. Insertion Of New Sections 6-A, 6-B And 6-C :-

After Section 6 of the principal Act, the following section shall be inserted, namely :--

"6-A. Members and Staff of the Tribunal to be public servants.---
The Chairman, Vice-Chairman, Members, Officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

6-B. Protection of action taken in good faith.--No suit, prosecution or other legal proceedings shall lie against the Chairman, Vice-

Chairman, members or any other person for anything which is in good faith done or intended to be done, in pursuance of the provisions of this Act or the rules made thereunder.

6-C. Members to be Judges.--The Chairman, Vice-Chairman and members shall be deemed to be the Judges for the purposes of the Judges (Protection) Act, 1985 and the Judicial Officers Protection Act, 1850".

11. Amendment Of Section 7 :-

In Section 7 of the principal Act, in sub-section (2) for clause (c) the following clause shall be substituted, namely :--

"(c) the form in which a reference of claim may be made the document and other evidence by which such reference shall be accompanied and the fees payable in respect of the filing of such reference or for the execution or service of processes."

12. Insertion Of New Schedule :-

After Section 8 of the principal Act, the following Schedule shall be inserted, namely :--

SCHEDULE

[See Section 4-A(5)(a)]

Matters to be heard and finally decided by a Bench consisting of two members.

1. All references of claims against an order pertaining to.--

(a) promotion, seniority, date of birth or date of superannuation of a public servant;

(b) regularisation in a service referred to in clause (b) of Section 2;

(c) dismissal, removal, reversion or reduction in rank, permanent stoppage of increment, break in service, compulsory retirement, suspension, termination or resignation of a public servant;

(d) withholding or withdrawing pension, wholly or partly recovery from pension and counting of period for pension, of a retired public servant.

2. All contempt matters.

3. Admission of references of claims against orders pertaining to the aforesaid matters.

13. Repeal And Savings :-

(1) The Uttar Pradesh Public Services (Tribunals) (Amendment) Ordinance, 1999 (U.P. Ordinance No. 17 of 1999) is hereby

repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act as if the provisions of this Act were in force at all material times.