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PROVINCIAL ASSEMBLY OF BALOCHISTAN

NOTIFICATION

Dated Quetta, the 27th June, 1974.

No. Legis- x-(10)/74. The Balochistan Service Tribunals Bill, 1974 having been passed by the Provincial Assembly of Balochistan on 5th June, 1974 and assented to by the Governor of Balochistan is hereby published as an Act of the Provincial Assembly.

THE BALOCHISTAN SERVICE TRIBUNALS
ACT, 1974.

BALOCHISTAN ACT NO. V OF 1974

AN
ACT

to provide for the establishment of Service Tribunals to exercise jurisdiction regarding matters relating to the terms and conditions of service in respect of services of the Province of Balochistan

Preamble.

WHEREAS it is expedient to provide for the establishment of Administrative Tribunals to be called Service Tribunals, to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

Short title commencement and application.

1. (1) This Act may be called the Balochistan Service Tribunals Act, 1974.

(2) It shall come into force, at once.

(3) It applies to all civil servants where-ever they may be.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:-

¹[(a) **“civil servants”** means a person who is or has been a civil servant within the meaning of Balochistan Civil Servants Act, 1974 (IX of 1974), but does not include a person who is or has been a member of the subordinate judiciary, for the purposes of this Act.

Explanation:- The member of the subordinate Judiciary includes Qazi, Member Majlis-e-Shoora, Civil Judge, Senior Civil Judge, Additional District and Sessions Judge, District and Sessions Judge (Inspection), Presiding Officer Labour Court and District and Sessions Judge;)

²[(a-i) **“Chairman”** means the Chairman of the Tribunal appointed under section 3;]

(b) **“Government”** means the Government of Balochistan; ³[****]

⁴[(b-i) **“Member”** means the Member of the Tribunal appointed under section 3; and]

(c) **“Tribunal”** means a Service Tribunal established under section 3.

Tribunals.

3. (1) The Government may, by notification in the official Gazette, establish one or more Service Tribunals and, where there are established more than one Tribunals, the Government shall specify in the notification the class or classes of civil servants in respect of whom, or the territorial limits within which, each such Tribunal shall exercise jurisdiction under this Act.

(2) A Tribunal shall have exclusive jurisdiction in respect of matters, relating to the terms and conditions of service of civil servants, including disciplinary matters.

1 Clause (a) subs first by Ord-VI of 1978; and then by Act VII of 1989; effective from 20th June, 1989.
2 Inserted by Act No. II of 2013 dated 4th July, 2013.
3 Omitted ibid.
4 Inserted by Act No. II of 2013 dated 4th July, 2013.

(3) A Tribunal shall consist of:-

⁵[(a) a Chairman, being a person who has been, or is qualified to be, Judge of a High Court; and

(b) two members,-

(i) one from amongst the serving District Judges having not less than three years service as such; and

(ii) one from amongst the serving Civil Servants having service of not less than ten years against an Executive Class I post under the Provincial Government or Federal Government; and preferably having a legal background:

Provided that where the District Judges or the incumbent Civil Servants are not available, the appointment may be made from amongst the persons qualified to be a Judge of High court.]

(4) The Chairman and members of a Tribunal shall be appointed by the Government ⁶[in consultation with the Chief Justice of the Balochistan High Court,] on such terms and conditions as it may determine ⁷;

Provided that all such appointments shall be only for a single term consisting of a non-extendable period of three years or till the date of superannuation, whichever is earlier in case of a person in service.]

(5) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the Government ⁸;

Provided that on resignation by a person in regular service as District Judge or a Civil Servant, if it has been decided to accept his resignation then the incumbent shall be considered as surrender to his own cadre for further posting or for such action as the case may be; and]

5 Substituted by Act No. II of 2013 dated 4th July, 2013.

6 Inserted by Act No. II of 2013 dated 4th July, 2013.

7 Inserted and added by Act No. II of 2013 dated 4th July, 2013.

8 Inserted and added by Act No. II of 2013 dated 4th July, 2013.

⁹[(6) If for any reason, the Chairman becomes unable to perform his duties temporarily, the senior most Member of the Tribunal, shall act as Chairman till such time the Chairman resumes his duties.]

¹⁰[Constitution of Benches.

3-A. (1) Notwithstanding anything contained in section 3, the Chairman may constitute a Bench consisting of himself or one Member only or two Members without the Chairman or the Chairman and a Member and when so constituted a Bench shall be deemed to be a Tribunal:

Provided that —

- I. where a bench consisting of one Member is to be constituted preference should be given to the Judicial Member;
- II. where a bench consisting of two Members is to be constituted it should be comprising of a Judicial Member and the Member from Civil Service or the member other than the Civil Servant; *and*
- III. every bench consisting of two Members should be headed by the Judicial Member;

(2) If a Bench is unable to arrive at a unanimous decision in an appeal, the matter shall be placed before the Full Tribunal and the decision of the Tribunal shall be expressed in terms of the opinion of the majority:

Provided that the Chairman or the Member who was not already on the Bench cannot be associated or is unable for any reason to take part in the hearing of the appeal, the decision of the Tribunal shall be expressed in terms of the opinion of the senior Member of the Bench.

(3) The Chairman may, at any stage of the hearing of an appeal, withdraw it from the Tribunal and entrust it to a Bench or may withdraw any appeal pending before a Bench and make it over to another Bench or to the Tribunal.]

4. Any civil servant aggrieved by any final order, whether original or appellate, made by Tribunals departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him, prefer an appeal to the Tribunal having jurisdiction in the matter:

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Substituted by Act No. II of 2013 dated 4th July, 2013.

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Inserted by Act No. II of 2013 dated 4th July, 2013.

Provided that:-

- (a) Where an appeal, review or representation to a departmental authority is provided under any law or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was so preferred; and
- (b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining:-
 - (i) the fitness or otherwise of a person to be appointed to or hold a particular or to be promoted post to a higher post or grade; or
 - (ii) the quantum of departmental punishment or penalty imposed on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory retirement.

Explanation:- In this section, “**Departmental Authority**” means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of civil servants.

Power of Tribunals 5. (1) A Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against.

(2) A Tribunal shall, for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (Act V of 1908), including the powers of:-

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) issuing commission for the examination of witnesses and documents.

(3) No Court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document in, or obtaining any document from, a Tribunal.

¹¹[Controlling Authority.]

5-A. (1) The Chairman of the Tribunal shall be the Authority for all the administrative, disciplinary and financial matters of the Balochistan Service Tribunal; and in this respect there shall be a Registrar, who shall be responsible for the smooth working of the Tribunal, the administration as well as the appointments, promotions, disciplinary actions, transfers and postings of officers and staff, the budget and accounts of the Tribunal, in accordance to the rules.

(2) On establishment of a Tribunal under section 3, the Government shall allocate funds for the Tribunal in its annual budget, as passed in its budget session by the Balochistan Provincial Assembly. For which the Chairman of the Tribunal shall have all the financial powers to disburse and make re-appropriation of the amount so allocated by the Government and approved by the Provincial Assembly in the Annual Budget, from one head to another head without seeking any approval of the Provincial Finance Department:

Provided that the expenditure that is incurred by him shall falls within the prescribed limit of the allocated funds/sanctioned Budget of the Tribunal.]

Abatement of suits and other proceedings.

6. All suits, appeals or applications regarding any matter within the jurisdiction of a Tribunal pending in any court immediately, before the commencement of the law as may be enacted by the Parliament extending clause (2) of Article 212 of the Constitution of the Islamic Republic of Pakistan to a Tribunal, shall abate on the commencement of such law:

Provided that any civil servant who is a party to such a suit, appeal or application may, within ninety days of the commencement of such law, prefer an appeal to the appropriate Tribunal in respect of such any matter which is in issue in such suit, appeal or application.

Limitation.

¹²**[6-A.** The provisions of section 5 and 12 of the Limitation Act, 1908 (IX of 1908) shall apply to appeals under this Act.]

Rules.

7. The Provincial Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

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Inserted by Act No. II of 2013 dated 4th July, 2013.

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Sec. 6-A ins. by Ord. XII of 1980 w.e.f. 05-06-1974.

Transfer of cases.

8. All cases pending before this Tribunal constituted under section 5 of the ¹³[Balochistan] Civil Service (Appellate Tribunals) Ordinance, 1969 immediately before the commencement of this Act shall, on such commencement, stand transferred to the Tribunal having jurisdiction.

**Repeal of West
P a k i s t a n
Ordinance XXVIII
of 1969**

9. The ¹⁴[Balochistan] Civil Service (Appellate Tribunals) Ordinance, 1969, is hereby repealed.

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Subs. for words "West Pakistan" by Ord. XXII of 1978, w.e.f. 05-06-1974.

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