

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Dated the 15th March, 1993.

No. 292-96/LD/Leg/93. The following Act of the Assembly received the assent of the President on the 13th day of March, 1993 is hereby published for general information:-

(ACT V OF 1993)

AN

ACT

to amend the Azad Jammu and Kashmir Service Tribunals Act, 1975

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Service Tribunals Act, 1975, (Act XXII of 1975) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title, Commencement and Application.**- (1) This Act may be called the Azad Jammu and Kashmir Service Tribunals (Amendment) Act, 1993.
 - (2) It shall come into force at once.
 - (3) It extends to the whole of Azad Jammu and Kashmir.
2. **Substitution of Section 3, Act XXII of 1975.**-In the Azad Jammu and Kashmir Service Tribunals Act, 1975 (Act XXII of 1975), hereinafter referred to as the said Act, for the existing Section 3, the following shall be substituted and shall be deemed always to have been so substituted, namely:-

"3. **Tribunals:**- (1) The President may, by notification in the Official Gazette, establish one or more Service Tribunals and where there are established more than one Tribunals, the President shall specify in the notification the class' or classes of civil servants in respect of whom of the territorial limits within which, or the class or classes of cases in respect of 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;
 - (3) A Tribunal shall consist of-
 - (a) a Chairman, being a person, who has been, or is qualified to be, Judge of a High Court; and

- (b) one member, who is a person, who possesses such qualifications as may be prescribed by rules;

Provided that any appointment made without prescribing qualification shall be deemed to have been validly made under the Act.

- (4) The Chairman and member of a Tribunal shall be appointed by the president on such term, and conditions as may be determined by rules.
- (5) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the President.
- (6) The Chairman or a member of Tribunal shall not hold any other office of profit in the service of Azad Jammu and Kashmir or Pakistan if his remuneration is thereby increased.
- (7) Notwithstanding anything contained in sub-section (3), (4), (5) or (6), a Tribunal established to exercise jurisdiction in respect of a specified class or classes of cases may consist of one or more persons in the service of Azad Jammu and Kashmir to be appointed by the President."

- 3. **Substitution of Section 4, Act XXII of 1975.**- In the said Act, for Section 4, the following shall be substituted:-

- "4. **Appeal to Tribunals:** - (1) Any civil servant aggrieved by any final order, whether original or appellate made by a departmental authority, in respect of any of their terms and conditions of his service, may within thirty days of the communication of such order to him or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal to the Tribunal:

Provided that-

- (a) Where an appeal, review or representation to a departmental authority is provided under the Azad Jammu and Kashmir Civil Servants Act, 1976 or any rules, against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or an 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;

- (b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining the fitness or otherwise of a person to be appointed or to hold a particular post or to be promoted to a higher grade; and
- (c) no appeal shall lie to a Tribunal against an order or decision of a departmental authority made at any time before 1st July, 1969:

Provided further that question relating to eligibility, Malafide and Coram Non-Judice may be decided by the Tribunal.

(2) Where the appeal is against an order or decision of a departmental authority imposing a departmental punishment or penalty on a civil servant, the appeal shall be preferred:-

- (a) in the case of a penalty of dismissal from service, removal from service, compulsory retirement or reduction to a lower post or time-scale or to a lower stage in a time-scale, to a Tribunal referred to in subsection (3) of Section 3; and
- (b) in any other case, to a Tribunal referred to in subsection (7) of Section 3, and where no such Tribunal is established, to a Tribunal established under subsection (3) of that Section.

Explanation.- "In this Section, "Departmental Authority" means any Authority other than a Tribunal, which makes an order in respect of any of the terms and conditions of Civil Servants."

4. **Insertion of Section 6 and 7, Act XXII of 1975.**- In the said Act, after Section 5, the following Section 6 and 7 shall be re-inserted, namely:-

"6. Benches and Procedure:- (1) The Chairman of the Tribunal may constitute a single or a Division Bench of the Tribunal for hearing appeals under this Act.

(2) The conclusions arrived at after hearing an appeal under subsection (1) by a single Bench, or as the case may be, by a Division Bench alongwith the records of the appeal and written arguments, if any shall be considered by the tribunal as a whole and the decision shall be expressed in the terms of the views of the majority.

(3) The Chairman may at any stage transfer cases from one Bench to another Bench or to the whole Tribunal.

(4) The Tribunal and its Benches shall conduct business in accordance with the provisions contained in the Second Schedule. If a Tribunal consists of a Chairman and one member and there is difference of opinion between them the opinion of the Chairman shall prevail.

(5) The Tribunal shall consist of a Chairman and one member but no proceedings of the Tribunal shall be rendered illegal and ineffective simply for the reason that such proceedings were taken by a single member or Chairman of the Tribunal.

7. **Casual Vacancy:-** If the Chairman or a Member of a Tribunal is, for any reason absent or unable to take part in the proceedings of the Tribunal, the Government shall appoint a duly qualified person to act, as Chairman or, as the case may be, Member of the Tribunal to hear and finally dispose of the appeal, application or other matter requiring decision of the Tribunal."

5. **Validation.-** Notwithstanding anything contained in any other law for the time being enforce, everything done, all action taken, proceedings initiated, jurisdiction powers exercised, or appointments made before or after the enforcement of the Azad Jammu and Kashmir Service Tribunal (Amendment) Ordinance, 1987 (Ordinance XXXIV of 1987) or its succeeding Ordinance issued from time to time shall be deemed to have been validly done, taken initiated or exercised under this Ordinance.

6. **Repeal. -** The Azad Jammu and Kashmir Service Tribunals (Amendment) Ordinances, 1992 (Ordinances XCIV and CV of 1992) are hereby repealed.

Sd/-
(Mohammad Siddique Farooqi)
Secretary Law