

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

Dated the 8th July, 1992.

NO. 725-29/LD/92. The following Ordinance made by the President on the 8th day of July, 1992 is hereby published for general information:-

(ORDINANCE LXVII OF 1992)

AN

ORDINANCE

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;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title, Commencement and application.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Service Tribunals (Amendment) Ordinance, 1992.
 - (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:-

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

- (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 qualified to be, Judge of a High Court; and
 - (b) one member who is a person who possesses such qualification as may be prescribed by rules.
- (4) The Chairman and member of a Tribunal shall be appointed by the president on such terms and conditions as he may determine.
- (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 a 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 the 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 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 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 to or 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 the 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 sub-section (3) of Section 3; and
- (b) in any other case to a Tribunal referred to in sub-section (7) of Section 3, and where no such Tribunal is established to a Tribunal established under sub-section (3) of that Section.

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"

4. **Insertion of Section 6 and 7, Act XXII of 1975.-** In the said Act, after Section 5, the following Sections 6 and 7 shall be reinserted, 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 sub-section (1) by a Single Bench or as the case may be by a Division Bench along with 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 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 taking 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 set 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."

Sd/-
(Syed Shakir Shah)
Deputy Secretary Law