

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,  
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,  
MUZAFFARABAD.**

Dated the 14th September, 1974.

No. 2291/SL/74. The following Act of the Legislative Assembly received the assent of the President on 4th September, 1974, and is hereby published for general information:-

(ACT XX OF 1974)

An Act to provide for the constitution and jurisdiction of Judicial Board.

Whereas it is necessary to provide for the constitution and jurisdiction of the Judicial Board to hear and determine appeals from judgments decrees, orders or sentences of the Azad Jammu and Kashmir High Court;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act, 1974.  
  - (2) It shall extend to the whole of Azad Jammu and Kashmir.
  - (3) It shall come into force at once.
2. **Definitions.** In this Act, unless there is any thing repugnant in the subject or context,
  - (1) 'President' means the President of Azad Government of the State of Jammu and Kashmir; and
  - (2) 'High Court' means the Azad Jammu and Kashmir High Court.
3. **Appointment of members of the Judicial Board.**- (1) The Judicial Board shall consist of two or more

<sup>1</sup>\*\*\*[Judges] who shall be appointed by the President for such period and on such terms as to salary and other conditions of service as the President may determine.

(2) One of such \*\*\*[Judges] shall be designated as the \*\*\*[Chief Justice of the State of Azad Jammu & Kashmir] or \*\*\*[Judge] of the Judicial Board.

(3) If, at any time, a member of the Judicial Board is absent or is unable to perform the functions of his office due to illness or some other cause and it is not possible to hold or continue any sittings of the Court, or for any other reason it is necessary to increase temporarily the number of members of the Judicial Board, the \*\*\*[Chief Justice of the State of Azad Jammu & Kashmir] of the Judicial Board may, in writing (with the approval of the President) require a Judge or Chief Justice of the High Court to attend the sitting of the Judicial Board as an ad'hoc [Judge] for any case or period as may be necessary and while so sitting, such ad'hoc member shall have the same powers and jurisdiction as a member of the Judicial Board.

4. **Oath of Office.** Every \*\*\*[Judge] of the Judicial Board shall, before he enters upon his office, make before the President an oath in the form set out in the Schedule to this Act.
5. **Duration of session of the Board.** The President may direct that the Judicial Board shall hold its session at such place or places and for such period in a year as he may deem necessary in this behalf.
6. **Registrar of the Board.** (1) <sup>2</sup>[                      The Government, on

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<sup>1</sup> \*\*\*Senior Member/Member was substituted vide Sec 2 (a) & (b) Act VIII of 1975.

<sup>2</sup> Substituted vide Sec 3 of Act VIII of 1975. Original as : Any Officer nominated in this behalf by the President shall act as ex officio Registrar of

recommendation of the Chief-Justice of the State of Azad Jammu and Kashmir, Shall appoint a District and session Judge as Registrar of the Judicial Board.]

(2) The Registrar shall receive all appeals and applications addressed to the Judicial Board and shall issue notices to all concerned and call for any record from the High Court whether the Judicial Board is in session or not.

7. **Jurisdiction of the Judicial Board.** (1) Subject to the provisions of this section, the Judicial Board shall have jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the High Court.

(2) An appeal to the Judicial Board from any judgment, decree, order or sentence of the High Court shall lie as matter of right where:-

- (a) the amount or value of the subject-matter of the suit or other proceedings in the Court of first instance was five thousand rupees or more or where the judgment, decree or order involves directly or indirectly some claim or question respecting property of the like amount or value; or
- (b) the case is certified by the High Court to be a fit one for appeal to the Judicial Board:

Provided that in cases mentioned in clause (a) where the decree or final order of the High Court affirms the decision of the Court immediately below, no appeal shall lie to the Judicial Board unless it involves substantial question of law;

- (c) a person has been sentenced to death or imprisonment for a period of ten years or above; or

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the Judicial Board.

(d) the High Court has imposed punishment on a person for contempt of Court.

(3) An appeal to the Judicial Board from a judgment, decree, order or sentence of the High Court in cases to which sub-section (2) does not apply shall lie only if the Judicial Board grants leave to appeal.

8. **Decision of Judicial Board binding on other Court.** Any decision of the Judicial Board shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts of Azad Jammu and Kashmir.
9. **Review of Judgments and Order.** The Judicial Board shall have the power to review any judgment pronounced or order made by it.
10. **Decision in case of difference of opinion.** In case of difference of opinion between the \*\*\*[Judges] of a bench of the Judicial Board on any point, the view of the \*\*\*[Chief Justice of the State of Azad Jammu & Kashmir] of the Board shall prevail where the Board consists of two members. Where the Board consists of more than two \*\*\*[Judges] the view of the majority shall prevail.
11. **Decision of a single [Judge] of the Board to be binding.** Any Judicial or other functions under this Act which is required to be performed by the Judicial Board may be performed by a Single Member of the said Board and his decision shall be binding on all the other Courts of Azad Jammu and Kashmir.
12. **Power to make rules.** The Judicial Board may, with the approval of the President make rules for regulating the practice and procedure of the Board.
13. **No appeal to lie in certain cases:-** Except as provided in sub-section (4) of Section 14, no appeal shall lie to the Judicial Board against any judgment, decree, order or

sentence passed by the High Court before the coming into force, of this Act.

14. **Period of limitation.** (1) The period of limitation for an appeal under this Act to the Judicial Board shall be:-

- (a) ninety days from the date of the judgment, decree or order in cases falling under clause (a) of sub-section (2) of section 7;
- (b) ninety days from the date of the grant of certificate by the High Court for filing such appeal under clause (b) of sub-section (2) of Section 7. Where the High Court refuses to grant such certificate, the period of limitation for filing an application to the Judicial Board for grant of leave to appeal shall be thirty days from the date of such order;
- (c) ninety days from the date of the grant of leave by the Judicial Board for filing appeal under sub-section (3) of section 7;
- (d) thirty days from the date of the judgment, order or sentence passed by the High Court in cases falling under clauses (c) and (d) of sub-section (2) of section 7;

(2) The period of limitation for an application to the High Court for the grant of certificate for filing in appeal before the Judicial Board shall be thirty days from the date of the judgment, decree, order or sentence in cases where such a certificate is necessary.

(3) In cases where the leave of the Judicial Board is necessary for filing an appeal under sub-section (3) of section 7 of this Act, the period of limitation for making an application to the Judicial Board shall be sixty days from the date of the judgment, decree, order or sentence to be appealed against.

(4) In case of judgment, decrees, orders and sentences

passed by the High Court after the eighteenth of August, 1971 and before the coming into force of this Act, the appeals referred to in Section 7 and the applications referred to in sub-section (1) (b), (2) and (3) of this section may be filed within a period of three months from the date of coming into force of this Act.

(5) The provisions of the limitation Act, 1908 (IX of 1908) in its application to Azad Jammu and Kashmir, shall, for the purpose of computing the period of limitation, apply to appeals preferred or applications made under this Act in the like manner in which the said Act applies to appeals preferred to the High Court.

15 **Stay of execution of orders.** When the Judicial Board is not in session the High Court may, on such terms and conditions, if any, as it may think fit, stay the execution of any judgment, decree, order or sentence appealed from.

16. **Amendment of the Azad Jammu and Kashmir Courts and laws Code, 1949.** (1) Sections 13-A, 13-B, and 13C of the Azad Jammu and Kashmir Court and Laws Code, 1949 are hereby repealed.

(2) Notwithstanding such appeal, all appeals preferred under Section 13-A or 13-B of the Azad Jammu and Kashmir Courts and Laws Code, 1949, and pending in the High Court immediately before the coming into force of this Act, shall stand transferred to the Judicial Board and shall be heard and disposed of by it as if they were appeals preferred under the provisions of this Act.

#### **THE SCHEDULE (See Section 4)**

#### **OATH OF OFFICE**

I, \_\_\_\_\_ having been appointed as  
\*\*\*[Judge/Chief Justice of the State of Azad Jammu & Kashmir]  
of the Azad Jammu and Kashmir Judicial Board, do solemnly  
swear that I owe allegiance to Allah and that I will faithfully

perform the duties of my office to the best of my ability, knowledge and judgment and will administer justice according to the laws inforce in the Azad Jammu and Kashmir without fear or favour, affection or ill will.

Sd/- (Sardar Mohammad Sharif Khan)

Secretary Law,

Azad Government of the State of J&K.