

# THE SINDH SERVICE TRIBUNALS ACT, 1973<sup>1</sup>

SINDH ACT XV OF 1973

5<sup>th</sup> December, 1973

To provide for the establishment of Service Tribunals to exercise jurisdiction in respect of matters relating to the terms and conditions of service of civil servants.

**Preamble.-** WHEREAS it is expedient to provide for the establishment of Administrative Tribunals, to be called Preamble: 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; ----

**1. Short title, commencement and application.-** (1) This Act may be called the Sindh Service Tribunals Act, 1973.

(2) It shall come into force at once.

(3) It applies to all civil servants wherever they may be.

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

<sup>2</sup>[(a) “civil servant” means a person who, is or has been a member of the Civil Service of the Province or, holds or has held a civil post in connection with affairs of the Province, and for the purpose of any proceeding under this Act includes a person who is or has been, dismissed, discharged, removed or retired from such service or post as a consequence of the order of the departmental authority, but does not include:

(i) a person who is on deputation to the Province from the Federation or any other Province or authority; or

(ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or

(iii) a person who is a “worker” or “workmen” as defined in the Factories Act, 1934 (XXV of 1934), or the Workmen’s Compensation Act, 1923 (VIII of 1923);]

<sup>3</sup>[(aa) “Corporation” means a Corporation or Institution set up or established by a Provincial enactment.]

(b) “Government” means the Government of Sindh;

<sup>4</sup>[(bb) “member of the subordinate judiciary” means a District and Sessions Judge, Additional District and Sessions Judge, Senior Civil Judge and Assistant Sessions Judge, Civil Judge and Judicial Magistrate and includes an officer and servant of the High Court or an employee working under the administrative control of the District and Sessions Judge wherever he may be.]

(c) “Tribunal” means a Service Tribunal Established under section 3<sup>5</sup> [or section 3-B].

**3. Tribunals.-** (1) Government may by the notification in the official Gazette, establish one or more Tribunals and, if more than one Tribunal is established, Government shall specify in the notification the class or classes of civil servants in respect of whom, or the territorial limits with which, such Tribunals shall exercise jurisdiction under this Act.

<sup>1</sup> For Statement of Objects and Reasons, see Sindh Government Gazette, Part IV, Extraordinary 1973, page 297

<sup>2</sup> Substituted by Sindh Act No. 9 of 1974, S.2, for Original clause (a)

<sup>3</sup> Inserted by Sindh Service Tribunal (Amdt.) Act, 1994 (XXXI of 1994), the Sindh Govt. Gaz., Extraordinary. Part IV, P. No. 6, dated Jan. 16, 1995

<sup>4</sup> Inserted by the Sindh Service Tribunal (Second Amdt.) Act, 1994 (Sindh Act No. XXXII of 1994), the Gaz. of Sindh, Extraordinary, Part IV, dated Feb. 22, 1995

<sup>5</sup> Added by Sindh Service Tribunal (Amdt.) Act, 1991 (Sindh Act No. VI of 1991), the Sindh Govt. Gaz., Extraordinary, Part IV, P. No. 20, dated June 13, 1991

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

<sup>1</sup>[<sup>2</sup>(3) A tribunal shall consist of a chairman and two Members, who shall be appointed by Government in consultation with the Chief Justice, High Court of Sindh, for a period of not more than two years for one time only.]

(4) (i) A person who has been or is qualified to be a Judge of the High Court, shall be eligible for appointment as Chairman.

<sup>3</sup>(ii) Two members, one of whom shall be appointed from amongst the sitting District and Sessions Judges and another shall be appointed from amongst the sitting civil servants in BS-20, preferably have legal background, for a period of not more than three years for one time only or till the date of their superannuation, whichever is earlier.

Provided that where the District and Sessions Judge or as the case may be, the civil servant is not available for appointment, Government may, in consultation with the Chief Justice, High Court of Sindh, appoint an advocate, qualified for appointment as a judge of the High Court as a Member.]]

<sup>4</sup>[(4A) Notwithstanding anything contained in sub-section (4), Government may, not later than 15<sup>th</sup> February, 1997, curtail, the term of office of the chairman, or any member appointed before the commencement of this Ordinance.]

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

(6) The Chairman or a member of a Tribunal shall not hold any other office <sup>5</sup>[in the service of Pakistan if his remuneration is thereby increased.]

**6[3-A. Removal of Chairman or member.-** (1) If Government is of the opinion that the Chairman or a member of a Tribunal by reason of physical or mental incapacity is unable to perform his duties, or is guilty of misconduct, it shall appoint a committee of three persons headed by a person not below the rank of the Chairman, to enquire into the matter.

(2) If after holding the enquiry, the committee submits a report that the Chairman or a member is incapable of performing his duties or is guilty of misconduct, Government may, notwithstanding the provisions of sub-section (4) of section 3, remove such Chairman or member.

**Explanation.—** For the purpose of this sub-section, “misconduct” means a conduct prejudicial to the good order of service discipline or contrary to the <sup>7</sup>West Pakistan Government Servants (Conduct) Rules, 1966 or unbecoming of an officer and a gentleman and includes any act on the part of the Chairman or a member, to bring or attempt to bring, political or other outside influence, directly or indirectly, to bear on the Government or any Government Officer, in respect of any matter relating to his retention as such Chairman or member, punishment, retirement or other conditions of his service, and includes –

- (i) conviction for an offence involving moral turpitude;
- (ii) active participation in sectarian, communal or political controversies;
- (iii) persistent disregarded of the Rules of Business, relating to the conduct of affairs of the Tribunal;
- (iv) assuming a style of living beyond his legitimate means.

<sup>1</sup> Sub-sections (3) & (4) substituted by the Sindh Service Tribunals (Amdt.) Act, 2014 (Sind Act No. X of 2014), the Sindh Govt. Gaz., Extraordinary, Part. IV, P. No. 88, dated 20th March, 2014 (*Effective on and from 7th August, 2013*).

<sup>2</sup> Substituted by Sindh Act No. XXVIII of 2015, dated 20-5-2015

<sup>3</sup> Substituted by Sindh Act No. XXXI of 2015, dated 4-6-2015

<sup>4</sup> Sub-section (4A) substituted by the Sindh Service Tribunal (Arndt.) Ordinance, 1997 (Sindh Ordinance. No. II of 1997), Sindh Govt. Gaz. Extraordinary, Part. I, P. No. 33, dated 29th January, 1997.

<sup>5</sup> In sub-section (6), substituted for the words “of profit in the Service of Pakistan” by the Sind Service Tribunals (Arndt.) Act, 1974 (Sind Act. No. IX of 1974), the Sind Govt. Gaz. Extraordinary, dated 24th June, 1974.

<sup>6</sup> Section 3-A inserted by the Sind Service Tribunals (Second Amdt.) Act, 1974, the Sind Govt. Gaz., Extraordinary, Pt. IV, dated November 23, 1974.

<sup>7</sup> See the Sindh Civil Servants (Conduct) Rules, 2008

(3) For the purpose of an inquiry under this section, the committee shall have the powers vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely : –

- (a) enforcing the attendance of any person and examining him or oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (e) issuing commissions for the examination of witnesses or documents.]

**<sup>1</sup>3-B. Tribunals for members of the subordinate judiciary.-** Notwithstanding anything contained in section 3, the Chief Justice of the High Court may establish a Tribunal consisting of three Judges of the High Court, the most senior of whom shall be the Chairman and the other two Judges shall act as members of the Tribunal and the Tribunal so established shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of members of the subordinate judiciary, including the disciplinary matters.

**3-C. Section 3-A not to apply to the Tribunal under section 3-B.-** Nothing contained in section 3-A shall apply to the Tribunal established under section 3-B.

**3-D. Transfer of Pending cases.-** All matters relating to the terms and conditions of service of members of the subordinate judiciary pending before the Tribunal referred to in section 3 immediately before the commencement of the Sindh Service Tribunals (Amendment) Ordinance, 1991, shall stand transferred to the Tribunal established under section 3-B.]

**<sup>2</sup>3-E. Employee of a Corporation to be deemed Civil Servant.-** Notwithstanding anything contained in any Law, service of Corporation is hereby declared to be the service of the Province and every person holding a post in the Corporation shall, for the purposes of this Act, be deemed to be a civil servant.

**3-F. Abatement of pending cases of an employee of the Corporation.-** All suits, appeals or applications relating to the terms and conditions of service of a person holding a post in a corporation pending in any court immediately before the commencement of the Sindh Service Tribunals (Amendment) Act, 1994, shall abate :

Provided that a party to such suit, appeal or application may within ninety days of the commencement of the Amending Act prefer an appeal to the Tribunal established under section 3.]

**4. Appeals to Tribunals.-** 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 such order to him <sup>3</sup>[or within twelve months of the establishment of a tribunal whichever is later] prefer an appeal to the Tribunal having jurisdiction in the matter.

Provided that –

(a) where an appeal, review or representation to departmental authority is provided under the Sindh Civil Servants Act, 1973, 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

<sup>4</sup>[(b) no appeal shall lie to a Tribunal against or order or a 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 post or grade; and

<sup>1</sup> Section 3-B, 3-C & 3-D inserted by the Sindh Service Tribunal (Amdt.) Act, 1991 (Sindh Act No. VI of 1991), the Sindh Govt. Gaz., Extraordinary, Part IV, P. No. 20, dated June 13, 1991

<sup>2</sup> Sections 3-E & 3-F inserted by the Sindh Service Tribunal (Amdt.) Act, 1994 (Sindh Act No. XXXI of 1994), the Sindh Govt. Gaz., Extraordinary, Part. IV, P. No. 6, dated January 16, 1995.

<sup>3</sup> In section 4, added by the Sindh Service Tribunals (Amdt.) Act, 1974 (Sindh Act No. IX of 1974), the Gaz. of Sindh, Extraordinary, dated 24<sup>th</sup> June, 1974.

<sup>4</sup> In the proviso, clauses (b) & (c) substituted by by the Sindh Service Tribunals (Amdt.) Act, 1974 (Sindh Act No. IX of 1974), the Gaz. of Sindh, Extraordinary, dated 24<sup>th</sup> June, 1974

(c) subject to the provisions of section 6, 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.]

**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.

**5. Powers of Tribunals.-** (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 shall have the same powers 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 <sup>1</sup>[; and]
- <sup>2</sup>[(d) execution of its decisions.]

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

<sup>3</sup>[<sup>4</sup>**5-A].-** (1) The Chairman shall be the <sup>5</sup>[Principal] Accounting Officer of the Tribunal.

(2) The Chairman may re-appropriate funds from one head of account to another head of accounts or sanction expenditure and disburse the same on any item within the budget allocation to the Tribunal and approval of the Government for the purpose shall not be required:

<sup>6</sup>**5-B].-** The Chairman, Sindh Service Tribunal shall have full powers to create new posts and abolish old posts, provided that expenditure is met from with the allocated budget of Sindh Service Tribunal and the approval of the Government shall not be required.]

**6. Abatement of suits and other proceedings.-** 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 any such matter which is in issue in such suit, appeal or application.

<sup>7</sup>**6-A. Limitation.-** The provisions of sections 5 and 12 of the Limitation Act, 1908 (Act IX of 1908), shall apply to appeals under this Act.]

**7. Transfer of cases.-** All cases pending before the Tribunal constituted under section 5 of the West Pakistan Civil Services (Appellate Tribunals) Ordinance, 1969 immediately before the commencement of the Sind Service Tribunal Ordinance, 1973 shall stand transferred to the Tribunal having jurisdiction.

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<sup>1</sup> In clause (c), at the end full stop substituted by the Sindh Service Tribunal (Amdt.) Act, 2011, (Sindh Act No. V of 2012), dated 16<sup>th</sup> February, 2012

<sup>2</sup> New clause (d) added by the Sindh Service Tribunal (Amdt.) Act, 2011, (Sindh Act No. V of 2012), dated 16<sup>th</sup> February, 2012

<sup>3</sup> Inserted by Sindh Act No. XXX of 2015, dated 4-6-2015

<sup>4</sup> 5-(A) substituted with 5-A by the Sindh Act No. XVII of 2016, dated 11-5-2016

<sup>5</sup> The word “Provincial” substituted by the Sindh Act No. XVII of 2016, dated 11-5-2016

<sup>6</sup> 5-(B) substituted with 5-B by the Sindh Act No. XVII of 2016, dated 11-5-2016

<sup>7</sup> Section 6-A inserted by Sindh Service Tribunals (Amdt.) Act, 1974 (Sindh Act No. IX of 1974), the Gaz. of Sindh, Sindh, Extraordinary, dated 24<sup>th</sup> June, 1974

**8. Rules.-**<sup>1</sup>[(1)] Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act<sup>2</sup>[:]

<sup>3</sup>[Provided that the rules in respect of the Tribunal established under section 3-B shall be made in consultation with the High Court.]

<sup>4</sup>[(2) In particular and without prejudice to the generality of the foregoing power, such rules may provided for the following matters namely :-

(a) requirements as to the numbers of members of the Tribunal necessary for hearings before or, order or decision by, a Tribunal; and

(b) filling of a casual vacancy in the office of the Chairman or a Member of the Tribunal.]

<sup>5</sup>[**9.** \* \* \* Omitted

**10.** \* \* \* Omitted]

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<sup>1</sup> Section 8 re-numbered as sub-section “(1)” & sub-section (2) added by the Sindh Service Tribunals (Amdt.) Act, 1974 (Sindh Act No. IX of 1974), the Gaz. of Sindh, Extraordinary, dated 24<sup>th</sup> June, 1974

<sup>2</sup> In sub-section (1), the full stop at the end replaced by colon by the Sindh Service Tribunal (Amdt.) Act, 1991, the Sindh Government Gazette, Extraordinary, Part IV, P. No. dated 13<sup>th</sup> June, 1991

<sup>3</sup> In sub-section (1), proviso added by the Sindh Service Tribunal (Amdt.) Act, 1991, the Sindh Government Gazette, Extraordinary, Part IV, P. No. dated 13<sup>th</sup> June, 1991

<sup>4</sup> Sub-section (2) added by the Sindh Service Tribunals (Amdt.) Act, 1974 (Sindh Act No. IX of 1974), the Gaz. of Sindh, Extraordinary, dated 24<sup>th</sup> June, 1974

<sup>5</sup> Section 9 and 10 omitted by the Sindh Repealing and Amending Act, 1975 (Sindh Act No. XVII of 1975), the Sindh Govt. Gazette, Extraordinary, Part IV, P. No. 164, dated 25<sup>th</sup> August, 1975