

# Uttarakhand Police (Amendment) Act, 2018

UTTARAKHAND

India

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### Act 27 of 2018

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Uttarakhand Police (Amendment) Act, 2018(Uttarakhand Act No. 27 of 2018)Ac Act further to amend the Uttarakhand Police Act, 2007 (Act No. 1 of 2008)Enacted by the Uttarakhand State Legislative Assembly in the Sixty-ninth Year of the Republic of India as follows-

### 1. Short Title and Commencement.

(1)This Act may be called the Uttarakhand Police (Amendment) Act, 2018.(2)It shall come into force at once.

### 2. Amendment of Section 2.

- In the Uttarakhand Police Act, 2007 (Act No. 1 of 2008), hereinafter referred to as Principle Act, the Clause (q) of Section 2 shall be substituted as follows, namely-"(2)(q) `Police Personnel' means such police officers and all other persons, for whom the Appointing Authority is the State Government or Director General of Police or any officer subordinate of the Director General of Police;"

### 3. Amendment of Section 64.

- The Section 64 of the Principle Act, with title shall be substituted as follows, namely-"State and District Police Complaint Authority.-(1) The State Government shall constitute a State Police Coniplaint Authority, (hereinafter referred to as the `Authority') for discharge me functions given in Section 71, consisting of a Chairperson and maximum four other Members.(2)(a)In view to the prevalent revenue police provision and regular police provision in the State for the District of the Kumaun region a District Complaint Authority shall be constituted. The jurisdiction of this Authority shall be all the districts of the Kumaun region means Nainital, Udham Singh Nagar, Almora, Bagchswar, Champawat and Pithoragarh.(b)In the said continuation for the districts of the Garhwal region a District Complaint Authority in Dehradun for the district Dehradun shall be

constituted. The jurisdiction of this Authority shall be all the districts of the Garhwal region means Dehradun, Haridwar, Pauri, Chamoli, Rudrapur, Tehri and Uttarkashi."

#### **4. Amendment of Section 65.**

- In Section 65 of the Principle Act-(i)Section 65 with title shall be substituted as follows, namely-"Composition of the State Police Complaint Authority'. The State Police Complaint Authority shall have one Chairperson and maximum four other Members."(ii)A new Section 65-A with title After Section 65 shall be inserted as follows, namely-"65-A. Composition of the District Police Complaint Authority: The District Police Complaint Authority shall have one Chairperson and two other Members."

#### **5. Amendment of Section 66.**

- The Section 66 with title of the Principle Act shall be substituted as follows, namely-"(1) Ineligibility for membership of the State/District Police Complaint Authority.-A person shall not be eligible to be a member of the State/District Police Complaint Authority, if he/she-(a)is not a citizen of India;(b)is above 70 years of age;(c)is serving in any police, military or allied organisation;(d)is employed as a public servant;(e)holds any elected office, which include Member of Parliament or Member of State Legislature or of any Local Body;(f)is a member of, or is associated, in any manner, with an organisation, declared as unlawful under an existing law;(g)is an office bearer or a member of any political party;(h)has been convicted for any offence or against whom charges have been framed by any court of law; or(i)is a person of unsound mind and has been so declared by a Competent court.(2)Appointment: (a) The chairperson of the State Police Complaint Authority shall be retired judge of the Hon'ble Supreme Court/Hon'ble High Court. The appointment of the Chairperson of the State Police Complaint Authority may be made by the State Government only amongst from the panel of retired judges suggested by the Hon'ble Chief Justice of the High Court.(b)The appointment of the members of the State Police Complaint Authority shall be made by the State Government from the panel of the names prepared by the State Human Right Commission/Lokayukta/State Public Service Commission and the panel of names for the selection of members of State Human Right Commission/Lokayukta/State Public Service Commission shall be prepared from amongst the retired civil servants/police officers/retired officers of other department and civil society.(3)(a)The retired District Judge shall be appointed as the Chairperson of the District Police Complaint Authority and the appointment of Chairperson of District Police Complaint Authority may be made by the State Government, amongst from the panel of names suggested by the Chief Justice of Hon'ble High Court or Justice of Hon'ble High Court nominated by him;(b)The appointment of the members of the District Police Complaint Authority shall be made by the State Government, amongst from the panel of the names prepared by the State Human Rights Commission/Lokayukta/State Public Service Commission and the panel of names for the selection of members of State Human Rights Commission/ Lokayukta/State Public Service Commission may be prepared from amongst the retired civil servants/police officers/retired officers of other departments and civil society."

## **6. Amendment of Section 67.**

- In Section 67 of title of the Principle Act, the title "Term of office and conditions of service of Chairperson and Members" shall be substituted by the title "Term of office and conditions of service of Chairperson and Members of the State and District Police Complaint Authority" respectively.

## **7. Amendment of Section 68.**

- In Section 68 with title of the Principle Act shall be substituted as follows, namely-"Removal of Chairperson and Members of the State and District Police Complaint Authority:The Chairperson or any member of the State and District Police Complaint Authority may be removed from his office by an order of the Governor on the following grounds- (<7) Proven misconduct or misbehavior;(b)Persistent negligence to perform duties of the Authority;(c)Occurrence of any such situation, that would make a member ineligible for appointment to the Authority under sub-section (1) of Section 66; or(d)Any member engaging himself, during his term of office, in any paid employment outside the duties of his office.".

## **8. Amendment of Section 69.**

- In Section 69 of the Principle Act-(i)Title "Staff of the Authority" shall be substituted by the title "Staff of the State and District Police Complaint Authority".(ii)A new sub-section (5) after sub-section (4) of the Principle Act, shall be inserted as follows, namely-"(5) For field inquiries in the State/District Police Complaint Authority, the retired officers may be attached as per necessity from the CID/Intelligence/ vigilance and other inquiry Agencies.".

## **9. Amendment of Section 70.**

- The Section 70 of the Principle Act shall be substituted as follows, namely-"The State Police Complaint Authority shall frame rules for the conduct of business on its own for itself and for District Police Complaint Authority with the approval of the Government.".

## **10. Amendment of Section 71.**

- The Section 71 with title of the Principle Act shall be substituted as follows, namely-"Functions of the State/District Police Complaint Authority: (1 )(a) The State Police Complaint Authority shall inquire into the complaints against the police officers of the Additional Police Superintendent and higher status to them.(b)The Authority shall forward the complaint of misconduct received directly by it to the Home Department of the State Government for further proceeding:Provided that no cognizance shall be taken in anonymous complaints.(c)The Authority may inquire into allegations of "serious misconduct" against police personnel, on a complaint received by it.Explanation: "Serious misconduct" for the puipose of this Chapter, means any act of a police officer, due to which charges may be framed for the following-(i)death in police custody;(ii)grievous hurt, as defined under Section 320 of the Indian Penal Code, 1860;(iii)rape or attempt to commit rape;(iv)arrest or

detention without due process of law;(v)violation of human rights; or(vi)Corruption.(d)The Authority may also inquire into any other case, referred to it by the State Government or the Director General of Police if. in the opinion of the Authority, the nature of the case is fit for independent inquiry.(e)The Authority may monitor the status of departmental inquiries or departmental action on the complaints of "misconduct" against gazetted officers, through quarterly reports, obtained periodically from the Director General of Police, and may give appropriate advice to the State Government for completion of action in such cases.(f)The Authority may also call for a report from the Director General of Police and may issue appropriate advice for further action or a direction for a fresh inquiry by another officer, when a complainant, on being dissatisfied by the outcome of, or inordinate delay in the process of departmental inquiry into his complaint of "misconduct" as defined above, by any police officer, brings- such matter to the notice of the Authority.(g)The Authority may suggest general guidelines for the State Police to prevent misconduct on the part of police personnel's.(2)Functions of the District Police Complaint Authority:(a)The District Police Complaint Authority shall proceed on the complaint against the police officers of the Deputy Superintendent of Police and lower status police officers/personnel's.(b)The District Police Complaint Authority shall enquire and shall recommend departmental/criminal proceeding in the matter of serious misconduct which is death in police custody, grievous hurt or cases of rape and in addition to it forcefully recovery by the police personnel's, the illegal possession on the lands and buildings etc. and other serious incidents which shows misuse of the post."

## **11. Amendment of Section 72.**

- The Section 72 with title of the Principle Act shall be substituted as follows, namely-"Powers of the State and District Police Complaint Authority: (1) The State and District Police Complaint Authority shall have the power to require any person, subject to legal privilege, to furnish information on such points or matters as, in the opinion of the Authority, may be useful for. or relevant to, the subject matter of the inquiry and any person so required, shall be deemed to be legally bound to furnish such information within the meaning of Sections 176 and 177 of the Indian Penal Code, 1860.(2)The State and District Police Complaint Authority, for discharging its duties under this Chapter, shall have the power of a Civil Court.(3)In the cases enquired directly by it. the State and District Police Complaint Authority may, upon the completion of the enquiry, communicate its finding to the State Government and recommend suitable action. The recommendation regarding the disciplinary proceeding against any misconduct police personnel by the aforesaid constituted State/ District Police Complaint Authority, it shall be binding on the State Government by means in continuation of recommendation made by the said authorities to initiate proceeding against the misconduct police personnel according to the principle of natural justice by giving sufficient opportunity of being heard by giving notice according law, the proceeding shall be execute by the State Government. If the recommendation made for disciplinary action against of any misconduct police personnel by the State Police Complaint Authority then in such condition it may be challenged by the concerning misconduct personnel in the appropriate court according to the constitutional rights conferred him by the Constitution of India."

## **12. Amendment of Section 73.**

- In Section 73 of the Principle Act-(i)In place of title "Reports of the Authority" shall be substituted by the title "Reports of the State /District Police Complaint Authority" respectively.(ii)The sub-section (1) of the Principle Act, shall be substituted as follows, namely-"(1) The State Police Complaint Authority shall prepare an annual report at the end of each calendar year, inter alia, containing the following, with such other things-(a)the number and type of cases of "serious misconduct", which have been inquired into by it;(b)the number and type of cases of "serious misconduct", which have been referred to it by the complainants upon being dissatisfied by the departmental inquiry into his complaint;(c)the number and type of cases, including those referred to in (b) above, in which advice or direction was issued by it to the police for further action;(d)the patterns of `misconduct' committed by the police personnel in the State, which has been identified; and(e)recommendations relating to measures to enhance police accountability.".

## **13. Amendment of Section 74.**

- In sub-section (1) and sub-section (2) of Section 74 of the Principle Act, the words "Authority shall be substituted by the words "related Authority".