

The Gujarat Universities Services Tribunal Act, 1983

GUJARAT

India

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Act 1 of 1988

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The Gujarat Universities Services Tribunal Act, 1983 Gujarat Act No. 1 of 1988 [Dated 6th January, 1988] For Statement of Objects and Reasons, see Gujarat Government Gazette, Extraordinary, Part-V, dated the 22nd March, 1983, pp. 17-7 to 17-8. This Act was assented to by the President on the 23rd December, 1987. An Act to provide for the constitution of a Tribunal for the purpose of determining disputes relating to conditions of service of the members of the teaching, other academic and non-teaching staff of Universities in the State of Gujarat for procedure for imposition of penalty on any such members and for matter connected therewith. It is hereby enacted in the Thirty-fourth Year of the Republic of India as follows:-

Part I – Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Universities Services Tribunal Act 1983. (2) In this Act, unless the context otherwise requires, - (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act unless the context otherwise, requires. - (a) "appointed day" means the date on which this Act comes into force under sub-section (3) of Section 1; (b) "disciplinary authority" in relation to any University means any authority or officer of the University competent to take disciplinary action against a University employee; (c) "notified order" means an order published in the Official Gazette; (d) "prescribed" means prescribed by rules made under Section 17; (e) "relevant University Act" means the Gujarat University Act 1949 (Bombay 50 of 1949) the Maharaja Sayajirao University of Baroda Act, 1949 (Baroda Act 17 of 1949) the Sardar Patel University Act, 1955 (XL of 1955), the South Gujarat University Act, 1965 (Gujarat 38 of 1965) the Saurashtra University Act, 1965 (Gujarat 39 of 1965) [***] [Words 'or as the case may be' deleted by Gujarat 7 of 1994, dated 25th

April 1994] the Bhavnagar University Act, 1978 (26 of 1978) [or, as the case may be, the North Gujarat University Act, 1986] [Added by Gujarat 7 of 1994, dated 25th April 1994];(f)"University" means a University constituted under the relevant University Act and includes any institution of higher education in the State other than a University declared under Section 3 of the University Grants Commission Act, 1956 (III of 1956) to be a deemed University for the purposes of the said Act;(g)"University employee" means any member of the teaching, other academic and non-teaching staff of a University (whether confirmed or temporary or on probation) in the service of such University and for the purpose of any proceeding under this Act in relation to a dispute referred to in Section 8, includes any such member who has been dismissed, or removed or whose services are otherwise terminated;(k)"Tribunal" means the Gujarat Universities Services Tribunal constituted under Section 3.

Part II – Tribunal

3. Constitution of Gujarat Universities Services Tribunal.

(1)There shall be established by the State Government by a notified order a Tribunal to be called the Gujarat Universities Services Tribunal.(2)The State Government shall appoint a District Judge or a person who has been, or is qualified to be a Judge of a High Court or a District Court to be the Tribunal.Explanation. - In this section the expression "District Judge" shall have the meaning assigned to that expression in article 236 of the Constitution of India.

4. Term of office and conditions of service of person appointed to be Tribunal.

- The term for which the person constituting the Tribunal shall hold office and his conditions of service shall be such as may be prescribed.

5. Power of State Government to terminate appointment before expiry of term.

- The State Government may terminate the appointment of a person to be the Tribunal before the expiry of the term of his office if such person-(i)adjudged an insolvent, or(ii)engages during his term of office in any paid employment outside the duties of his office or(iii)is, in the opinion of the State Government unfit to continue in office by reason of infirmity of mind or body, or(iv)is, convicted of an offence involving moral turpitude.

6. Headquarters of Tribunal.

(1)The head-quarters of the Tribunal shall be at such place as the State Government may, by a notified order, determine.(2)Notwithstanding anything contained in sub-section (1) the Tribunal may sit at such other place or places or other than the place of its head-quarters as the Tribunal may, with the approval of the State Government appoint.

7. Jurisdiction of Tribunal.

(1)The Tribunal shall have jurisdiction to entertain and decide disputes referred to in Section 8, all suits and proceedings transferred to it under sub-section (2) of Section 13 and appeals made under sub-section (3) of Section 14.(2)Where any order of dismissal, removal or reduction in rank or otherwise termination of service of a University employee is decided by the Tribunal to be wrong, unlawful or otherwise unjustified, the Tribunal may pass an order directing that the University employee shall be reinstated in service or as the case may be restored to the rank which he held immediately before his dismissal, removal, reduction in rank or otherwise termination of service by the University and the University shall forthwith comply with such direction.(3)Notwithstanding anything contained in any other law for the time being in force, where the Tribunal has jurisdiction to entertain and decide a dispute as aforesaid, no other person, officer or authority shall have jurisdiction to entertain and decide such dispute and any such dispute pending before any person, officer or authority on the appointed day shall as soon as may be, be transferred to the Tribunal for its decision.

8. Dispute to be decided by Tribunal.

- Where there is any dispute between the University and any University employee which is connected with the conditions of service of such University employee, the University or as the case may be the University employee may make an application to the Tribunal for the decision or the dispute.

9. Power of Tribunal to make regulations.

- The Tribunal may, with the previous sanction of the State Government make regulations consistent with the provisions of this Act and the rules made thereunder for regulating its procedure including the award of costs by the Tribunal and the right of audience before the Tribunal and for the purpose of effective discharge of its functions and disposal of its business.

10. Tribunal to have powers of Court.

(1)For the purpose of exercising its jurisdiction under this Act, the Tribunal shall have same powers as are vested in a Civil Court under the Code of Civil Procedure 1908 (V of 1908) in respect of the following matters namely:-(a)summoning and enforcing the attendance of any person and examining on oath;(b)requiring the discovery and production of documents;(c)issuing commissions for the examination of witnesses;(d)such other matters as may be prescribed.(2)The Tribunal shall be deemed to be a Court for the purpose of Section 5 of the Limitation Act, 1963 (36 of 1963).

11. Proceedings before Tribunal to be judicial proceedings.

- All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

12. Finality of decision of Tribunal.

- Every decision of the Tribunal shall be final and shall not be called in question before any Civil Court or any other authority.

13. Bar of jurisdiction of Civil Court.

(1) No Civil Court shall have jurisdiction to settle decide or deal with any question which is by or under this Act required to be settled, decided or dealt with the Tribunal. (2) All suits and proceedings between the University and any University employee relating to disputes connected with the conditions of service of such University employee which are pending in any Civil Court on the appointed day shall be transferred to and continued before the Tribunal: Provided that nothing in this sub-section shall apply to execution proceedings and appeals arising out of decrees or orders passed by any such Court before the appointed day and such execution proceedings and appeals shall be decided and disposed of as if this Act has not been enacted.

Part III – Procedure for Imposition of Penalty on University Employees

14. Appeal to Tribunal against certain penalties imposed on University employees.

(1) No University employee shall be dismissed or removed from the University service or reduced in rank nor shall his service be otherwise terminated by the University except after an inquiry in which the employee has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges: Provided that nothing in this sub-section shall apply to a University employee who is appointed temporarily for a period less than a year or an employee appointed temporarily on a leave vacancy for the period of such vacancy. (2) No penalty other than a penalty referred to in sub-section (1) shall be imposed on a University employee unless such employee is given a reasonable opportunity of being heard. (3) A University employee aggrieved by an order of any penalty imposed on him under sub-section (1) may make an appeal to the Tribunal within a period of thirty days from the date of the order passed by the disciplinary authority.

15. Suspension of University employee pending inquiry.

- Where a University employee is suspended pending any inquiry proposed to be held against him the employee shall during the period of suspension be entitled to such subsistence allowance and on such conditions as may be prescribed: Provided that where an order of suspension is made by an officer or authority, not being the disciplinary authority, the facts of such suspension together with the grounds therefor shall be communicated by the officer or as the case may be authority, within seven days after such suspension to the disciplinary authority and such suspension shall be subject to the ratification by the disciplinary authority within a period of forty-five days from the date of the

receipt of the communication by the disciplinary authority and where such ratification is not communicated to the officer or authority making the order of

Part IV – Miscellaneous

16. Certain contracts, etc. to be null and void.

(a)Every contract between the University and a University employee whether made before or after the appointed day; and(b)any term of condition of service of the University employee whether employed before or after the appointed day, shall to the extent that it takes away any sight conferred on such University employee by or under this Act or to the extent of any inconsistency with the provisions of this Act and the rules made thereunder, be null and void.

17. Power of Government to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)Without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following directions, namely:-(a)the term for which a person constituting the Tribunal shall hold office and his conditions of service under section.(b)the matter to be prescribed under clause (d) of sub-section (1) of Section 10.(c)subsistence allowance to which the University employee shall be entitled under Section 15 during his suspension pending inquiry against him and the terms and conditions thereof;(d)any other matter which is to be or may be prescribed.(3)The power to make rules conferred by this section shall be subject to the conditions of the rules being made after previous publication.(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(5)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

18. Amendment of certain provisions of Acts relating to Universities in the State.

- Each of the relevant University Acts specified in column (1) of the Schedule appended to this Act shall be amended in the manner and to the extent specified against it in column (2) thereof with effect on and from the date on which the Tribunal is constituted under Section 3.

Schedule

(See Section 18)

Title of the Act

Extent and manner of Amendment

1

1. The Gujarat University Act, 1949 (Bombay 50 of 1949).

2

(1) Section 52 shall be deleted.

(2) In Section 52-A for sub-section (2) the following sub-section shall be substituted namely:-

"(2) the decision of the Tribunal shall be final and no suit shall lie in any Civil Court in respect of the matter decided by the Tribunal .

Every request made under sub-section (1) shall be deemed to be submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1940 and the provisions of that Act shall apply accordingly."

2. The Maharaja Sayajirao University of Baroda Act, 1949 (Baroda Act 17 of 1949).

Section 55 shall be deleted.

3. The South Gujarat University Act, 1965 (Gujarat 38 of 1965).

Section 53 shall be deleted.

4. The Saurashtra University Act, 1965 (Gujarat 39 of 1965).

Section 53 shall be deleted.

5. The Bhavnagar University Act, 1978 (Gujarat 26 of 1978).

Section 58 shall be deleted.

6. [the North Gujarat University Act, 1986 (Gujarat 22 of 1986)] [Added by Gujarat 7 of 1994, dated 25th April 1994]

(1) Section 68 shall be deleted

(2) In section 69, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) the decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matter decided by the Tribunal. Every request made under subsection (1) shall be deemed to be submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940 (X of 1940) and the provisions of that Act, shall apply accordingly.