

The Gujarat Civil Services Tribunal Act, 1972

GUJARAT

India

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Act 2 of 1973

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The Gujarat Civil Services Tribunal Act, 1972 Gujarat Act No. 2 of 1973 [Dated 12th January, 1973] For the Statement of Objects and Reasons, see Gujarat Government Gazette, Extraordinary, Part V, dated the 13th December, 1972, p. 338. This Act was assented to by the Governor on the 6th January, 1973. An Act to provide for the constitution of a Civil Services Tribunal for the purpose of securing in a more effective and satisfactory manner the just claims and interests of the [Officers and servants of the State Government and Panchayats] [These words were substituted for the words 'servants of Government and Panchayats holding non-gazetted posts' by Gujarat 22 of 1980, Section 2.] with respect to certain matters affecting their rights and to provide for matters connected therewith. It is hereby enacted in the Twenty-third year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Civil Services Tribunal Act, 1972 (2) It extends to the whole of the State of Gujarat. (3) It shall come into force at once.

2. Definitions.

- In this Act unless the context otherwise requires-(a) "law" means any law regulating the recruitment and conditions of service of persons appointed to Civil services and posts under the State or to panchayat Service and matters connected therewith and includes any notification order rule regulation or instruction or direction issued or followed for such purpose; (b) "non-gazetted posts" means posts other than posts declared or known as gazetted posts under any law; (c) "notified order" means an order published in the Official Gazette; (d) "Panchayat Service" means the Panchayat Service as constituted under Section 203 of the Gujarat Panchayats Act, 1961 (Gujarat VI of 1962). (da) ["police officers" means police officers governed by the Bombay Police Act, 1951 (Bombay XXII of 1951) or the Bombay State Reserve Police Force Act 1951 (Bombay XXXVIII of 1951).] [Clause (da), was inserted, by Gujarat 22 of 1980, Section 2 (i).] (e) "prescribed" means prescribed by rules made under this Act; (f) "President" means the President of the

Tribunal;(g)"Schedule" means the Schedule appended to this Act;(h)["specified Civil servants" means persons who are or who have been members of the Civil services of the State of Gujarat or of the Panchayat Service but does not include persons who are or who have been police officers;] [Clause (h) was substituted, by Gujarat 22 of 1980, Section 3 (ii).](i)"Tribunal" means the Gujarat Civil Services Tribunal Constituted under Section 3.

3. Constitution of Tribunal.

(1)For the purpose of securing in a more effective and satisfactory manner the just claims and interests of specified Civil servants with respect to certain matters affecting their rights the State Government shall by a notified order and with effect on and from such date as may be specified therein constitute a Tribunal to be called the Gujarat Civil Services Tribunal consisting of the President and as many other members as the State Government may from time to time determine.(2)The President shall be a person who has held a post not lower in rank than that of a Secretary to Government for a period of not less than three years or not lower in rank than that of a District Judge [for a period of not less than five years] [These words were substituted for the words 'for a period of not less than ten years', by Gujarat 22 of 1980, Section 4 (i).](3)In making appointment of other members of the Tribunal the State Government shall have due regard to the need for including in the Tribunal a reasonable number or proportion of persons having sufficient judicial experience or experience of matters relating to administration:[Provided that no person shall be appointed as such other member of the Tribunal on the basis of experience of matters relating to administration unless he has worked for at least two years (whether singly or cumulatively) on the post of a Joint Secretary to the State Government or on a post which in the opinion of the State Government is a post equivalent to the post of a Joint Secretary.] [This proviso was added, by Gujarat 22 of 1980, Section 4 (ii).][Explanation. 1-In computing the period of three years or as the case may be five years for the purpose of sub-section (2) the period of service rendered by a person as a member of the Tribunal shall also be taken into account as if it were a period during which such person served as a Secretary, or as the case may be a District Judge.Explanation. 2 - In sub-section (2) "District Judge" shall have the meaning assigned to that expression in clause (15) of Section 3 of the Bombay General Clauses Act 1904 (Bombay I of 1904)] [Explanations 1 and 2 were substituted for the existing Explanation, by Gujarat 22 of 1980, Section 4 (iii).].

4. Term of office and conditions of service of members of Tribunal.

- The term for which the President and other members of the Tribunal shall hold office and their other 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 any member of the Tribunal before the expiry of the term of his office if such member-(i)is 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. Filling of vacancies.

- Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable: Provided that if any member of the Tribunal becomes by reason of illness or other infirmity temporarily incapable of performing the duties of his office the State Government may appoint some other person to discharge his duties for any period not exceeding six months at a time.

7. [Discharge of functions by President or member during vacancy or absence. [Section 7 was substituted by Gujarat 22 of 1980, Section 5.]

(1) During any vacancy or absence on leave or otherwise of the President in a case where the Tribunal consists of two members the other member and (b) in a case where the Tribunal consists of more than two members such other members may be authorised by the State Government a general or special order, shall perform the functions of the President. (2) During any vacancy or absence on leave or otherwise of a member other than the President - (a) in a case where the Tribunal consists of two members the President and (b) in a case where the Tribunal consists of more than two members the President and the other remaining members, may act as Tribunal as if the Tribunal consisted of only the President or as the case may be the President and such other members].

8. Power of Tribunal to make regulations.

(1) If the members of the Tribunal are divided in opinion, the decision shall be according to the decision of the majority, but if the members are equally divided, the decision shall be according to the decision of the President. (2) Subject to the provision contained in sub-section (1) and the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which it shall hold its settings and the formation of its Benches, if necessary) and the effective discharge of its functions and disposal of its business, make regulations consistent with the provisions of this Act and the rules made thereunder. (3) The regulations made under sub-section (2) shall be published in the Official Gazette.

9. Headquarters of Tribunal.

- The headquarters of the Tribunal shall be at such place as the State Government may, by notified order, determine.

10. Jurisdiction of the Tribunal.

- The Tribunal shall have jurisdiction to hear and decide - (a) appeals filed by 'specified Civil servants under Section 11; (b) any application filed by the State Government under Section 12; (c) appeals and

applications transferred to it under Section 21.

11. Appeal by specified civil servants.

(1) Any specified Civil servant aggrieved by an original or appellate order or decision of any officer or authority other than the State Government with respect to any of the matters specified in the Schedule may, within a period of ninety days from the date of such order or decision, appeal to the Tribunal against such order or decision, in a case where an appeal lies under law to the State Government: Provided that an appeal against any such order or decision passed before the date on which the Tribunal is constituted under Section 3 may be filed within the period of ninety days as aforesaid or within a period of one month from such date, whichever period expires later: [Provided further that a specified Civil servant to whom right to appeal under subsection (1) accrues as a result of the amendments made in this Act by the Gujarat Civil Services Tribunal (Amendment) Act, 1980 (Gujarat 22 of 1980) (hereinafter in this Act referred to as "the Amending Act") shall be entitled to file an appeal against any such order or decision passed before the date of commencement of the Amending Act within the period of ninety days as aforesaid or within a period of one month from the aforesaid date, whichever period expires later.] [This proviso was inserted, by Gujarat 22 of 1980, Section 6.] (2) No such appeal or an appeal transferred to it under Section 21 shall be decided by the Tribunal without giving to the officer or authority against whose order or decision it is filed, an opportunity of placing his or, as the case may be, its views before the Tribunal.

12. Power of State Government to apply for modification, or annulment of order or decision.

(1) Where it appears to the State Government that any order or decision of any officer or authority in relation to any specified Civil servant with respect to any of the matters specified in the Schedule against which an appeal lies to the Tribunal under section 11 requires to be modified, annulled or reversed—(i) on the ground that it is contrary to law, or (ii) on the ground that it is inconsistent with the material on record, or (iii) for any other sufficient reason in the interest of justice, the State Government may, within a period of ninety days from the date of such order or decision, make an application to the Tribunal to modify, annul or reverse such order or decision. (2) No such application shall be decided by the Tribunal without notice being given to the Civil servant concerned to appear and be heard in support of such order or decision.

12A. [State Government to be heard in certain cases. [Sections 12-A and 12-B were inserted by Gujarat 22 of 1980, Section 7.]

(1) If at any stage in any proceedings before the Tribunal it appears to the Tribunal that the proceedings raise a question, as to the interpretation of a law, which is of such a nature and of such public importance that it is expedient to issue notice to the State Government, the Tribunal shall issue notice to the Government and the Government may, if it thinks fit, appear and the Tribunal shall then hear the State Government before deciding the question. (2) If it appears to the State Government that in its opinion the interpretation of a provision of law in any proceedings before the

Tribunal is of such a nature and of such public importance that it is expedient that the State Government be heard before the decision of the question, it may apply to the Tribunal in such proceedings to be heard, and the Tribunal shall not decide the question without hearing the State Government.

12B. Review.

- The Tribunal may of its own motion or on the application made by a specified Civil servant aggrieved by any decision or order of the Tribunal within two months from the date of communication of such decision or order to him, review such decision or order on any of the following grounds namely:-(1)that some new or important matter or evidence which could not be discovered earlier after the exercise of due diligence and which was likely to materially affect the decision or order of the Tribunal was discovered after such decision or order; or(2)that there was some mistake or error apparent on the face of the record; or(3)that the decision or order required to be reviewed for any other sufficient reason:Provided that no such review shall be made after the expiry of a period of two years from the date of the decision or order concerned.]

13. Tribunal to have powers of Court.

(1)For the purpose of exercising its jurisdiction under this Act, the Tribunal shall have the 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 him on oath;(b)requiring the discovery and production of documents;(c)issuing commissions for the examination of witnesses;(d)any other matter which 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).

14. 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 (XLV of 1860).

15. Members of Tribunal to be public servants.

- All members of the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

16. [Bar of Jurisdiction of Civil Courts. [Sections 16 and 16-A were substituted for Section 16, by Gujarat 22 of 1980, Section 8.]

(1)No Civil Court shall have jurisdiction to deal with or decide any question which by or under this Act is required to be or can be dealt with or decided by the Tribunal under the provisions of this Act:Provided that any proceeding in relation to any such question which may be pending in any Civil

Court immediately before the date of the commencement of the Amending Act shall be continued in, and disposed off by, such Court as if the said Act had not been passed.(2)Every decision of the Tribunal passed under this Act shall be final and shall not be called in question before any Civil Court or any other authority.

16A. Manner of executive orders passed by Tribunal.

- All orders passed by the tribunal shall be executed in the same manner in which similar order, if passed by the State Government, could have been executed.]

17. Bar to appearance of legal practitioners.

- No legal practitioner shall be allowed to appear in any proceedings before the Tribunal except with the permission of the Tribunal.

18. Exemption from payment of Court fees.

- Notwithstanding anything contained in the Bombay Court Fees Act, 1959 (Bombay XXXVI of 1959), no Court fee shall be levied on any appeal or application made to the Tribunal under this Act.

18A. [Records to be open to inspection and extracts and copies to be given therefrom. [Section 18-A was inserted by Gujarat 22 of 1980, Section 9.]

- Subject to such rules and the payment for such fees as the State Government may from time to time prescribe in this behalf, the records of the Tribunal shall be open to the inspection of the public at reasonable hours, and certified extracts from the same or the certified copies thereof shall be given to any person applying for the same.]

19. Amendment of Schedule.

- The State Government may, by notification in the Official Gazette, add to the Schedule any entry relating to any matter affecting specified Civil servants and thereupon the Schedule shall be deemed to have been amended accordingly for the purposes of this Act.

20. Rules.

(1)The State Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.(3)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

21. Bar of jurisdiction Government and transfer of pending proceedings to Tribunal.

- [(1)] [Section 21 was renumbered as sub-section (1) of that section, by Gujarat 22 of 1980, Section 10.] Notwithstanding anything contained in the Gujarat Panchayats Act, 1961 (Gujarat VI of 1962), or any other law for the time being in force, neither the State Government nor any officer or authority empowered to exercise the powers of the State Government shall, with effect on and from the date on which the Tribunal is constituted under section 3, be competent to entertain or hear appeals or applications against, or to revise, orders or decisions of any officer or authority in relation to specified civil servants with respect to any of the matters specified in the Schedule, in cases where an appeal lies to the Tribunal against such orders or decision under section 11; and all such appeals or applications and other proceedings in such cases pending on the said date before the State Government or any Officer or authority as aforesaid shall stand transferred to the Tribunal for disposal in accordance with the provisions of this Act.(2)[All such appeals, applications or other proceedings in such cases filed by or relating to specified Civil servants to whom right to appeal under sub-section (1) of Section 11 may have accrued as a result of the amendments made in this Act by the Amending Act, which may be pending on the date of the commencement of the Amending Act before the State Government or any officer authority as aforesaid shall stand transferred to the Tribunal for disposal in accordance with the provisions of this Act.] [Sub-section (2) was inserted, by Gujarat 22 of 1980, Section 10.]The Schedule(See Sections 11, 12, 19 and 21)(1)Dismissal or removal from service or reduction in rank.(2)Reduction of pay or to a lower time-scale of pay.(3)Non-confirmation in service.(4)Non-promotion to a higher post.(5)Reversion to a lower post.(6)Discharge from Service.(7)[Compulsory retirement.] [Entry (7) was added vide G.N., G.A.D. No. GS/77/60/CST-1177-II-G, dated the 22nd April, 1977.](8)[Reduction to a lower stage in the time scale of pay for a specified period. [Entries (8) to (13) were added vide G.N., G.A.D. No. GS/78/2/CST-1177-II-G, dated the 3rd January, 1978.](9)Censure.(10)Reduction in or withholding the pension or denial of the maximum pension admissible under the rules.(11)Withholding of increments.(12)Stoppage at Efficiency Bar in time-scale of pay.(13)Recovery from pay of the whole or part of any pecuniary Government by negligence or breach of orders.]