

# **The Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976**

RAJASTHAN

India

## **The Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976**

### **Act 34 of 1976**

- Published on 6 March 2005
- Commenced on 6 March 2005
- [This is the version of this document from 6 March 2005.]
- [Note: The original publication document is not available and this content could not be verified.]

The Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976 Act No. 34 of 1976 Last Updated 24th May, 2019 Statement of Objects and Reasons. - The proposal to constitute Administrative Tribunals to decide service matters was under consideration of the State Government for a long time. Service matters are broadly of two types: One type relating to disciplinary proceedings and the other relating to the rules of recruitment and other conditions of service. So far as the disciplinary matters are concerned, the Classification, Control and Appeal Rules make provisions for Departmental appeal or review. As regards the other service matters, the present practice is only of making representation to the Government. In both the cases an aggrieved Government servant can approach the Civil Courts, by way of suits and the High Court or Supreme Court by means of writ petitions. The ordinary Civil Courts take a considerable time in deciding the service matters which is expensive and burdensome to both the Government servant and the Government. The suggestion of establishing Administrative Tribunals has been from time to time considered by the Law Commission as well as by other eminent authorities. In view of the need for satisfactory and early final decision and to stop a flood of litigation in the Civil Courts, the State Government has decided to constitute Administrative Tribunals to decide appeals from the order of Competent Authority and to bar the jurisdiction of the Civil Courts in service matters. These Tribunals would provide an independent forum for decision in service matter and would be more economical both to the Government servant and the Government. It will also lessen the burden of judicial courts and enable them to concentrate on other judicial matters. Hence the Bill. Published in Rajasthan Gazette Extraordinary Part III-A dated 11-10-1973 page 145. Statement of Objects and Reasons (Act No. 2 of 2005). - Presently, there is no provision in the Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976 for review of its own decisions or orders by the Tribunal. It is highly desirable that the Tribunal should be empowered to review its own decisions or orders and to rectify patent error, so that an aggrieved party may not be left to take recourse to Writ Petitions only to get such errors rectified. The proposed measure will also reduce considerably the

number of Writ Petitions in Service matters. Therefore a new sub-Section (5) to Section 6 is proposed to be added so as to empower the Tribunal to review its own decisions. The Bill seeks to achieve the aforesaid objective. Published in Rajasthan Gazette Extra-Ordinary Part III-A dated 29.8.2002 page 25(4). [Received the assent of the President on the 7th day of May, 1976]. An Act to provide for the constitution of Appellate Tribunals for service matters and matters incidental thereto. Be it enacted by the Rajasthan State Legislature in the Twenty-Seventh Year of the Republic of India as follows: -

## **1. Short title and commencement.**

(1) This Act may be called the Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976. (2) It shall come into force on such [date] [Came into force w.e.f. 1st July, 1976 vide Notification No. F. 17 (7) DOP/A-II/76, dated 24-6-1976, published in the Rajasthan Gazette, Part IV-C, Extraordinary, dated 24-6-1976.] as the State Government may, by notification in the Official Gazette, appoint.

## **2. Definitions.**

- In this Act, unless the subject or context otherwise requires, - (a) "Civil Services" means the Civil Services of the State of Rajasthan and such other services as the State Government may notify in the Official Gazette from time to time, but shall not include - (i) The members of the Rajasthan Higher Judicial Service and Rajasthan Judicial Service; (ii) Employees of the High Court of Judicature for Rajasthan; (iii) Employees of the Rajasthan Legislative Assembly Secretariat Staff; and (iv) Employees of the Rajasthan Public Service Commission; (b) "Government" means the State Government; (c) "Government servant" means a person who is or has been a member of a Civil Service or who holds or has held a Civil post under the Government of Rajasthan and includes any such person on foreign service or whose services are temporarily placed at the disposal of a local or other authority and also any person in the service of a local or other authority whose services have been temporarily placed at the disposal of the State Government or a person in service on a contract or a person who has retired from the Government service elsewhere and is re-employed under the Government of Rajasthan, but does not include a person in the Civil Service of the Indian Union or a State Government serving on deputation in Rajasthan who will continue to be governed by the rules applicable to such person; (d) "prescribed" means prescribed by this Act or Rules made under this Act; (e) "Tribunal" means a Tribunal constituted under section 3 of this Act; (f) "Service matter" means any one or more than one of the following matters relating to a Government servant: - (i) Seniority; (ii) Promotion; (iii) Confirmation; (iv) Fixation of pay; (v) An order denying or varying pay, allowances, pension and other service conditions, to the disadvantage of a Government servant, otherwise than as a penalty; (vi) Cases of reversion while officiating in a higher service, grade or post to lower service, grade or post otherwise than as a penalty; (vii) Withholding the pension or denying the maximum pension otherwise than as the penalty; (viii) Any other matter notified by the Government.

### **3. Constitution and Composition of Tribunals.**

(1)The Government may, by notification in the Official Gazette, constitute from time to time, one or more Tribunals as it may consider necessary. Each of such Tribunals shall be called the Rajasthan Civil Services Appellate Tribunal.(2)Each of the Tribunals shall consist of a Chairman who shall be an officer of super time scale of Indian Administrative Service and at least two other members, one of whom shall be a member of the Rajasthan Higher Judicial Service.(3)The term of the Chairman and members of the Tribunal shall ordinarily be three years. The Governor may, however for special reason, recall the Chairman or any member of the Tribunal before the expiry of the period of three years.

### **4. Duties of the Tribunal.**

(1)The Rajasthan Civil Services Appellate Tribunal shall hear an appeal against the order passed by any officer or authority on any service matter or matters affecting a Government servant in his personal capacity.(2)The Tribunal shall have power to confirm, vary or reverse the order against which the appeal is preferred or to remand the matter for fresh decision in accordance with the directions given by it.

### **5. Procedure of Tribunal.**

(1)Subject to any rules that may be made in this behalf, the Tribunal shall follow such procedure as it may think fit.(2)At least two of the members of the Tribunal will hear and decide the matters before the Tribunal.(3)The decision of the Tribunal shall be the decision of the majority of the members present and hearing the matter. Where such members are equally divided in their opinion, the matter would be referred to the another member and decided by the Opinion of the majority of the members including such other members who heard it.

### **6. Powers of Tribunal.**

(1)The Tribunal shall, for the purpose of the disposal of the appeal under this Act, have the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-(a)summoning and enforcing the attendance of any person;(b)requiring the discovery and production of any documents; and(c)issuing commissions for the examination of witnesses or documents.(2)The Tribunal may examine on oath any person supposed to be acquainted with the matter under probe or any fact relevant thereto and may record his evidence.(3)The proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Section 193 of Indian Penal Code, 1860 (Central Act No. 45 of 1860).(4)The Tribunal shall be deemed to be a Civil Court for the purpose of sections 345 and 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and the Contempt of Courts Act, 1971 (Central Act 70 of 1971).(5)[ The Tribunal may, on its own motion or on the application of any party interested, review its own decision or order and pass in reference thereto such order as it thinks just and proper:Provided that the Tribunal shall not review its own decision or order unless it is satisfied that

there has been discovery of new and important fact or evidence which, after the exercise of due diligence was not within the knowledge of such party or could not be produced by such party at the time when such decision or order was made, or that there has been some mistake or error apparent on the face of the record: Provided further that no application under this sub-section shall lie to the Tribunal after the expiry of thirty days from the date of the decision or order of which review is being sought: Provided also that an application may be entertained after the said period of thirty days if the applicant satisfies the Tribunal that he had sufficient cause for not filing the application within such time. (6) Notwithstanding anything contained in any judgment, decree, order or direction of any Court, the orders of the Tribunal passed before the commencement of the Rajasthan Civil Services (Service Matters Appellate Tribunals) (Amendment) Act, 2005 (Act No. 2 of 2005) in pursuance of its purported powers to review its own decisions shall be deemed to have been passed validly under the provisions of sub-Section (5) and shall have effect accordingly.] [Added by Rajasthan Act No. 2 of 2005, dated 6.3.2005.]

## **7. Representation before Tribunal.**

- The Government as well as the affected parties shall have the right to be represented before the Tribunal through a representative or by an Advocate.

## **8. Decision of the Tribunal to be final.**

- The decision of the Tribunal shall be final and implemented within the reasonable time to be specified by the Tribunal.

## **9. Limitation for Appeals.**

- No appeal shall lie to the Tribunal after the expiry of sixty days from the date of the order of the Authority: Provided that an appeal may be admitted after the prescribed period if the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within such period.

## **10. Jurisdiction of the Civil Court excluded.**

- No suit or other proceedings shall lie or be instituted in any Civil Court with respect to any matter arising under or provided for by this Act.

## **11. Special provision in respect of pending cases.**

- Notwithstanding anything contained in this Act, all cases in respect of a service matter pending in any Civil Court on the date on which this Act comes into force shall be continued to be heard and decided by that Court as if this Act had not been passed.

## **12. Power to make rules.**

(1)The State Government may, by notification in the Official Gazette, make rules for the purposes of giving effect to the provisions of this Act.(2)All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.