

The Assam Administrative and Pension Tribunal Act, 1977

ASSAM

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Act 8 of 1977

- Published on 2 May 1977
- Commenced on 2 May 1977
- [This is the version of this document from 2 May 1977.]
- [Note: The original publication document is not available and this content could not be verified.]

The Assam Administrative and Pension Tribunal Act, 1977 Assam Act No. 8 of 1977 Last Updated 10th February, 2020 Published in the Assam Gazette, Extraordinary, dated May 2, 1977 at pages 316-21. [Received the assent of the President of India on 2nd may, 1977]. Preamble. - An Act to provide for the constitution of a Tribunal to adjudicate disputes in respect of certain conditions of service including pension matters of certain classes of Civil servants of the State; It is hereby enacted in the Twenty-eight year of the Republic of India as follows:

1. Short title, extent and commencement.

(1) This Act may be called the Assam Administrative and Pension Tribunal Act, 1977. (2) It shall extend to the whole of Assam. (3) It shall be deemed to have come into force on the Third day of January, 1977.

2. Definitions.

- In this Act, unless the context otherwise requires- (a) 'Chairman' means the Chairman of the Tribunal; (b) 'Civil servant' means a person who is or has been a member of a civil service or who holds or has held a civil post in connection with the affairs of the State of Assam and includes any such person on foreign service, a person whose services have been temporarily placed at the disposal of a local or other authority, any person in the service of a local or other authority whose services have been temporarily placed at the disposal of the State Government, a person in service under the State Government on a contract and a person who has retired from the Government service elsewhere and has been re-employed under the State Government but does not include employees of the Gauhati High Court, employees of the Assam Legislative Assembly Secretariat, employees of the Assam Public Service Commission, persons in the All India Service and other Civil Services of the Indian Union, or persons of Civil Services of other State Governments serving on deputation in

Assam;(c)'Civil Services' means the Civil Services of the State of Assam and such other Services as may be specified by the State Government from time to time by notification, but shall not include-(i)Services under the Gauhati High Court;(ii)Services under the Assam Legislative Assembly;(iii)Services under the Assam Public Service Commission;(iv)All India Services and other Civil Services of the Indian Union;(d)'competent authority' means any officer or other authority having power to pass any order whether original, appellate or revisional, under any service rule, executive instruction or order, general or special, of the State Government in respect of any conditions of services of civil servant;(e)'conditions of services' includes all matters relating to the-(i)appointment, seniority, confirmation and termination of service and pension matters of a civil servant;(ii)censure, withholding of increments or promotion, recovery from pay of any loss to the Government, reduction to a lower service grade or post, or to a lower time scale, or to a lower stage in a time scale, denial or variation of pension or denial of the maximum pension;(iii)all matters arising out of application of the Fundamental Rules and Subsidiary Rules;(f)'member' means a member of the Tribunal and includes the Chairman;(g)'notification' means a notification published in the Assam Gazette;(h)'prescribed' means prescribed by rules made under this Act;(i)'State Government' means the Government of Assam;(j)'Tribunal' means the Assam Administrative and Pension Tribunal constituted under Section 3 of this Act.

3. Constitution of the Tribunal.

(1)The State Government shall constitute for the State of Assam a Tribunal to be known as the Assam Administrative and Pension Tribunal.(2)The Tribunal shall consist of three members to be appointed by the State Government.(3)The State Government shall appoint one of the members of the Tribunal to act as the Chairman thereof.(4)The Chairman shall be a person who at the time of appointment to the Tribunal is a senior administrator with wide experience and of the other two members, one shall have experience in legal affairs and the other shall have experience in technical matters, none being lower in the rank than Secretary to the State Government.(5)No person shall be retained as a member of the Tribunal after he has attained the age of sixty years.(6)The salary and allowances of the members of the Tribunal shall be such as may be prescribed.(7)The principal seat of the Tribunal shall be at Gauhati but the Tribunal may also sit at such other place or places as the Chairman may, from time to time, specify.

4. Jurisdiction.

(1)Save as otherwise expressly provided in sub-section (2) below the Tribunal shall have jurisdiction to entertain and dispose of appeals preferred by civil servants against any order passed by a competent authority in respect Of any condition of service and pension matters.(2)Notwithstanding anything contained in sub-section (1) above, the Tribunal shall have no jurisdiction with respect to any order passed, when the civil servant has not availed of all the remedies available to him under the relevant service rules, executive instructions or orders:Provided that notwithstanding anything contained in the above para-graph the Tribunal may entertain an appeal from a civil servant, if any appeal, revision petition or representation filed by him under the relevant service rules before the competent authority has been finally disposed of by the competent authority with a period of six months from the date of filing such appeal, revision, petition or representation.Provided further that

in an appropriate case the Tribunal may relax the provisions contained in the foregoing proviso regarding the period of six months specified therein.(3)Notwithstanding anything contained in sub-section (1) above, the Tribunal shall have no jurisdiction to entertain and dispose of appeals against any order passed by a competent authority under Article 31 (2) proviso (a), (b) and (c) as also under Rule 56 (b).

5. Limitation.

- No appeal shall lie to the Tribunal after the expiry of 60 days from the date of the order appealed against:Provided that the Tribunal may entertain an appeal after the expiry of sixty days from the date of passing the order if the Tribunal is satisfied that the civil servant was prevented by the sufficient cause from preferring the appeal within the aforesaid period.

6. Powers of the Tribunal as Civil Court.

- The Tribunal shall, for the purpose of the disposal of an appeal, have all the powers of a civil Court for the trial of a suit under the Code of Civil Procedure, 1908 (5 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)receiving evidence on affidavit;(d)requisitioning any public record or a copy thereof from any Court or office; and(e)issuing commissions for examination of witnesses or documents.

7. Amendment of decisions or orders.

- Clerical or arithmetical mistakes in decision or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.

8. Procedure before Tribunal.

(1)Subject to the provisions of this Act and the Rules framed thereunder the Tribunal shall have power to regulate its own procedure and for the constitution of Benches. If any, for the disposal of all matter arising out of the exercise of its powers under the provisions of this Act.(2)At least two of the members of the Tribunal will hear and pass orders on appeals preferred before the Tribunal.(3)The decision of the majority of the members present and hearing the matter shall be the decision of the Tribunal. Where the members are equally divided in their opinion, the appeal would be heard and decided by all the members and the decision arrived at by the majority opinion of all the members shall be the decision of the Tribunal.(4)The Tribunal shall have power to confirm, modify or reverse the order against which the appeal is preferred or to remand the matter for a fresh decision by the competent authority passing the order in accordance with such directions, if any, as maybe given by the Tribunal.

9. The order of the Tribunal.

(1)(a)The order of the Tribunal passed in any appeal under the provisions of this Act shall be final.(b)Notwithstanding anything contained in sub-section (1) (a) the Tribunal may, on the application of any of the parties, review its own decision of order in any case and may pass such order as it thinks fit:Provided that no such decision or order shall be reviewed unless notice has been given to the opposite parties to appear and to show cause, why such order or decision should not be reviewed;Provided further that an application for review under sub-section (1) (b) shall be made within thirty days from the date of decision or order of the Tribunal.(2)Notwithstanding anything contained in any law, no civil Court or other authority shall entertain any civil suit or other proceedings with respect to any matter relating to any condition of service of any civil servant or question in any form any order passed by the Tribunal in any appeal or review with respect to any matter or with respect to any other matter which arises out of the exercise of powers under the Act.(3)Notwithstanding anything contained in any law, all suits or other proceedings with respect of any matter relating to any condition of service of any civil servant and which are pending before any civil Court or other authority on the date of coming into force of this Act, shall stand transferred to the Tribunal and the civil Court or other authority before whom such a suit or proceeding in pending shall transfer all relevant and connected papers and records to the Tribunal and thereupon the Tribunal shall decide the suit and proceedings in the same manner as if they were appeals referred under the provisions of this Act.(4)The decision of the Tribunal shall be implemented within such reasonable time as may be specified by the Tribunal.

10. Representation before Tribunal.

- The Government, the competent authority as well as the civil servant preferring any appeal shall have the right to be represented before the Tribunal through a duly authorised representative or by an Advocate.

11. Contempt.

(1)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).(2)The proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Section 193 of the Indian Penal Code, 1860

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 section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made shall be subject to such modification as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

13. Power to make regulations by the Tribunal.

(1) Subject to the previous sanction of the government, the Tribunal shall, from time to time, frame regulations consistent with the provisions of this Act and rules made under Section 12 for regulating its procedure and disposal of its business. (2) The regulations made under sub-section (1) shall be published in the Assam Gazette.

14. Repeal of Assam Administrative Tribunal Ordinance.

(1) The Assam Administrative Tribunal Ordinance, 1976 is hereby repealed. (2) Notwithstanding such repeal, any order passed, notifications issued, anything done or any action taken under the Assam Administration Tribunal Ordinance, 1976, shall be deemed to have been passed, issued, done or taken under the corresponding provisions of this Act.