

# **The Jammu and Kashmir Special Tribunal Act, 1988**

JAMMU & KASHMIR

India

## **The Jammu and Kashmir Special Tribunal Act, 1988**

### **Act 19 of 1988**

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The Jammu and Kashmir Special Tribunal Act, 1988 Act No. 19 of 1988 [Received the assent of the Governor on 31st August, 1988 and is hereby published for general information]. An Act to provide for the presentation of appeals, revision and review petitions arising under any law made by the State Legislature, to Special Tribunal. Be it enacted by the Jammu and Kashmir State Legislature in the Thirty-ninth Year of the Republic of India as follows :-

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

(1) This Act may be called the Jammu and Kashmir Special Tribunal Act, 1988. (2) It shall be deemed to have come into force from 9th day of May, 1986.

### **2. Definitions.**

- In this Act unless the context otherwise requires, - (a) "Chairman" means the Chairman of the Tribunal appointed under section 4 of this Act. (b) "Tribunal" means the Special Tribunal constituted under section 4 of this Act ;

### **3. Appeals, revisions etc. to the Tribunal.**

(1) Notwithstanding anything contained in any law made by the State Legislature, but save as otherwise provided in sub-section (2) an appeal, revision or review petition which under any such law lies to the Government or a Minister shall, from such date as may be appointed by the Government by notification in the Government Gazette, lie or be so preferred, brought, made or presented to the Tribunal and accordingly any reference in any provisions of such law, which relate to the matters aforesaid, to the Government or the Minister shall be construed as a reference to the Tribunal. (2) Nothing in sub-section (1) shall apply to any appeal, revisions or review petitions arising by or under the provisions of Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Act, 1963, or the rules framed thereunder. (3) The Tribunal shall also excise all the

jurisdiction, powers and authority in relation to such appeals, revisions and review petitions as the Legislature may by law provide.

#### **4. Establishment and composition of the Tribunal.**

(1)The Government may, by notification in the Government Gazette, establish a Tribunal to perform the functions and to exercise the powers under this Act.(2)The Tribunal shall consist of a Chairman and two or more members as may be appointed by the Government.(3)Any vacancy in the membership of the Tribunal shall be filled up by the Government as soon as may be practicable.(4)The tribunal shall have power to act notwithstanding the temporary absence of a member or the existence of a vacancy in the Tribunal and no act or proceeding of the Tribunal shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy.

#### **5. Eligibility for appointment.**

- A person shall be qualified for appointment under section 4 if he-(a)is an officer of the Government and has held, for at least five-years, the post of Secretary to Government or any other post under the State or the Central Government carrying a scale of pay which is not less than that of a secretary to Government;(b)is a District and Sessions Judge and is eligible for appointment as a Judge of the High Court.

#### **6. Discharge of functions by the Tribunal.**

(1)The powers and functions of the Tribunal may be exercised,-(a)by a bench consisting of the Chairman and all the members of the Tribunal; or(b)by a bench consisting of two members constituted by the Chairman; or(c)by the Chairman or any other member of the Tribunal authorised by the Chairman in this behalf.(2)If at any stage of the hearing of any case it appears to the Chairman or the member as referred to in clause (c) or to the bench as referred to in clause (b) of such section (1) that the case involves a substantial question of law of general importance and the said question needs to be decided by the full bench of the Tribunal, the case may be transferred by the Chairman or as the case may be, referred to him by the member or the bench as referred to above for transfer to the full bench of the Tribunal.(3)Where the powers and functions of the Tribunal are exercised by a bench consisting of two members and members are divided in opinion on any point or points, such point or points shall be referred to a bench consisting of the Chairman and all the members of the Tribunal.

#### **7. Procedure for pending appeals, etc.**

- All appeals, revisions or review petitions, which are pending before the Government or a Minister on the date appointed under section 3, shall stand transferred to the Tribunal and the Tribunal shall take such action as it considers necessary.

## **8. Chairman and the members to be public servants.**

- The Chairman and members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Ranbir Penal Code, Samvat 1989.

## **9. Power to make rules.**

- The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of this Act.

## **10. Repeal.**

- The Jammu and Kashmir Special Tribunal Act, 1986 (Governor's Act No. IX of 1986) is hereby repealed.