

# **The Rajasthan Civil Services (Service Matter Appellate Tribunal) Rules, 1976**

RAJASTHAN

India

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### **Rule**

### **THE-RAJASTHAN-CIVIL-SERVICES-SERVICE-MATTER-APPELLATE-T of 1976**

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The Rajasthan Civil Services (Service Matter Appellate Tribunal) Rules, 1976Published vide Notification No. F. 17 (1) DOP (A-2) 76 dated June 26, 1976, published in Rajasthan Gazette ExtraOrdinary Part 4-C (1) dated 26-6-1976 pages 213-234Last Updated 22nd May, 2019G.S.R. 47. - In exercise of powers conferred by sub-section (1) of Section 12 of the Rajasthan Civil Services (Service Matters Appellate Tribunal) Act, 1976 (Rajasthan Act No. 34 of 1976), the Government of Rajasthan hereby makes the following rules to give effect to the provisions of the aforesaid Act, namely:-

#### **1. Title.**

- These rules may be called the Rajasthan Civil Services (Service Matters Appellate Tribunal) Rules, 1976.

#### **2. Commencement**

- These rules shall come into force on 1st July, 1976.

#### **3. Interpretation.**

(1)In these rules, unless the context otherwise requires,-(i)"Act" means the Rajasthan Civil Services (Service Matters Appellate Tribunal) Act, 1976.(ii)"Appeal" means an appeal preferred under sub-section (1) of section 4 of the Act;(iii)"Appellant" means a Government servant who is entitled

under the Act to file an appeal and in case of death of such Government servant his legal representative;(iv)"Bench" means a Bench of the Tribunal under sub-section (2) of section 5 of the act, as may be constituted under rule 5 of these rules;(v)"Chairman" means the Chairman of the Tribunal;(vi)"Form" means a form appended to these rules;[(vi-a) Full Bench means a Bench consisting of three or more members;] [Inserted by Notification No. G.S.R. 54, dated 11.9.2002 (w.e.f. 26.6.1976).](vii)"Government" means the Government of Rajasthan;(viii)[ "Member" means a member of the Tribunal including Chairman.] [Substituted by Notification No. G.S.R. 54, dated 11.9.2002 (w.e.f. 26.6.1976).](ix)"Party" means and includes appellant and/or respondent;(x)"Registrar" means an officer who is appointed by the Government to discharge functions of the Registrar of the Tribunal under these rules and includes any other person who is for the time being entrusted with the functions of the Registrar by the Chairman of the Tribunal under these rules;(xi)"Respondent" includes in case of death of the respondent his legal representative;(xii)"Section" means the section of the Act;(xiii)"Tribunal" means the Rajasthan Civil Services Appellate Tribunal constituted under sub-section (1) of section 3 of the Act;(xiv)"Super-time Scale of Indian Administrative Service" means any pay scale above the time scale laid down in schedule II of the Indian Administrative Service (Pay) Rules, 1954.(2)Any reference in these to rule is a reference to the rule contained therein.(3)The provisions of the Rajasthan General Clauses Act, 1955 (Act No. 8 of 1955) shall mutatis mutandis apply, as far as may be to these rules in the same manner as they apply to an Act passed by the Rajasthan State Legislature.

#### **4. Constitution of Bench.**

- The Chairman, who shall be a member of Indian Administrative Service in Super-time scale of Indian Administrative Service or in his absence, the member to be nominated by him, may, by special or general order, direct the constitution of bench or benches comprising of two or more members.[\*\*\*] [Deleted 'Provisio' by Notification No. G.S.R. 133, dated 16.12.2015 (w.e.f. 26.6.1976).]

#### **5. Nomination of the members other than the Chairman and the member belonging to the Rajasthan Higher Judicial Service and regulation of his Terms and Conditions of employment.**

- The third member shall be an officer serving under the State Government or a retired Government servant and his terms and conditions of employment shall be as may be decided by the Government.

#### **6. Headquarters of the Tribunal.**

- The headquarters of the Tribunal shall be at Jaipur unless otherwise ordered by the Government.

## **7. Sitting of Bench.**

- A bench shall hold its sitting at its headquarters or at such other place or places as may be considered convenient by its Chairman, or in his absence, the member to be nominated by the Chairman under rule 4.

## **8. Procedure for filing memorandum of appeal.**

(1) A memorandum of appeal to the Tribunal may be presented by the appellant or his authorised representative or an advocate in person to the Registrar during office hours at the head quarters of the Tribunal or may be sent by the appellant by registered post to the Registrar at the headquarters of the Tribunal. (2) A memorandum of appeal sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar on the date of its receipt in the office of the Tribunal at its head-quarters.

## **9. Date of representation of Appeal.**

- The Registrar shall endorse on every memorandum of appeal the date on which it has been presented or is deemed to have been presented under rule 8 and shall sign the endorsement.

## **10. Receipt Slip.**

- The appellant may attach to and present with his appeal a receipt slip which shall be signed by a person nominated by the Registrar in acknowledgment of the receipt of the appeal.

## **11. Contents of the memorandum of appeal.**

- Every memorandum of appeal shall be in the form No. 1 and shall-(i) state the name and address of the appellant. (ii) state the name and address (to the extent known) of the necessary respondents, and (iii) set out concisely and under distinct heads the ground of appeal without any argument or narrative.

## **12. Signing of memorandum of appeal.**

- The appellant himself shall sign or put his thumb impression on the memorandum of appeal.

## **13. Copies of memorandum of appeal to be presented to the Tribunal.**

- The appellant shall submit the following number of copies of the memorandum of appeal to the Registrar-(i) 3 copies for the Tribunal, and (ii) as many copies as there are respondents in the case.

#### **14. What to accompany memorandum of appeal.**

- Every memorandum of appeal shall be accompanied by-(i)a certified or a photo-stat copy of the order appealed against;(ii)where the appellant, for reasons beyond his control, is not in a position to furnish a duly certified copy or a photo-stat copy of the order under item (i) above the appeal shall be accompanied by an affidavit stating the reasons therefor.(iii)copy or copies of the documents photo-stat or otherwise on which he wished to rely alongwith a list of documents.

#### **15. Filing of affidavits.**

- Where a fact as alleged in the appeal or reply thereof cannot be borne out by, or is contrary to the record, it shall be stated clearly and concisely and supported by a duly stamped and attested affidavit.

#### **16. Scrutiny.**

- On presentation of memorandum of appeal and before initiating any action on it, the Registrar shall have the scrutiny made on the following points and obtain the orders of the Bench under rule 17,-(i)Whether the memorandum is in the prescribed form;(ii)Whether it bears the signatures or thumb impression of the Appellant;(iii)Whether it is accompanied by a certified or a photo-stat copy of the order against which the appeal has been filed alongwith the requisite number of copies or an affidavit under item (ii) of Rule 14;(iv)Whether affidavits duly sworn, in case a fact can not be borne out by, or is contrary to the record, accompany the appeal;(v)Whether it is within the jurisdiction of the Tribunal;(vi)Whether it contains the grounds of appeal;(vii)Whether the appeal is within the period of limitation or whether the appellant has given sufficient cause for not preferring appeal within the limitation period;(viii)Whether the necessary parties have been impleaded;(ix)Any other relevant point affecting the admissibility of Appeal.

#### **17. Admissibility of the appeal.**

- Either on the basis of the scrutiny referred to in rule 16 or on its scrutiny, the Bench nominated by the Chairman or in his absence by the member authorised by the Chairman for the purpose may-(i)admit the appeal against the necessary parties; or(ii)permit the appellant to amend the memorandum of appeal or produce necessary documents and thereafter admit the appeal against the necessary parties; or(iii)reject the appeal.

#### **18. Hearing in case of rejection.**

- The Bench set up under rule 17 shall hear the appellant or his representative or advocate, in case it is proposed not to admit his appeal.

## **19. Summoning of Respondent and production of record.**

- On the admission of an appeal, the bench shall order the-(i)issue of summons in Form No. 2 to the respondents considered as necessary parties by the Bench.Explanation. - In case any order passed by the Government has been challenged, the summons shall be issued to the Secretary to the Government in the Department concerned. In case the order challenged has been passed by any officer of any Department, the summons shall be issued to such an officer, and also to the Head of the Department concerned;(ii)Production within the period laid down by the Bench, of the record considered necessary by the Bench for the hearing and disposal of the appeal.

## **20. What to accompany the summons to Respondents.**

- Alongwith the copy of the summons to the respondent, the following documents shall be sent to the respondent:-(i)Copy of the memorandum of appeal.(ii)Copy of the order appealed against which shall be supplied by the appellant.

## **21. Service of Summons.**

- Every summons shall be served-(i)by tendering or delivering a copy of it to-(a)the person summoned; or(b)his duly authorised representative or advocate; or(c)in case he is absent any adult male member of his family usually residing with him; or(ii)In case the person summoned can not be found or refuses to sign the acknowledgment, by affixing a copy thereof to some conspicuous part of his usual or last known place of his residence or publication of the summons in the newspapers, at the cost of the appellants :Provided that in any appeal the Tribunal may in its discretion send the summons to the respondent by registered post in addition to or in alternative to the mode of service laid down in this rule. An acknowledgment purporting to be signed by the respondent or an endorsement by Postal servant that the respondent refused to take the delivery may be deemed by the Tribunal to be prima facie proof of service.

## **22. Reply of respondent.**

(1)In the summons issued to the respondent, the time allowed for reply shall be stated and the reply shall have to be filed within the prescribed time, unless reasons for not doing so are accepted by the Bench, or when the respondent expresses his intention in writing to submit the reply orally at the time of arguments.(2)The respondent shall submit 3 copies of the written reply for the Tribunal and one copy for the appellant.

## **23. Inspection of documents and records.**

- On application of a party, the Registrar may permit the inspection records and the documents relevant to the case and in the possession of the Tribunal.

## **24. Discovery and production of documents.**

- On the request of the party the Bench may require the discovery or production of any document provided it is relevant to the hearing and disposal of the Appeal.

## **25. Dismissal on non-appearance of appellant.**

- On the non-appearance of the appellant or his duly authorised representative or advocate, the Bench may dismiss the appeal or may pass any other order as it thinks fit.

## **26. Restoration of appeal.**

- On sufficient grounds, the Bench may restore an appeal dismissed under rule 25 even without hearing the respondent, provided application for restoration is made within 30 days of the order passed under rule 25.

## **27. Ex-parte proceeding against Respondent.**

- If the respondent does not submit the reply within time mentioned in the summons or extended by the Bench or does not express his intention in writing to argue his case orally at the time of arguments or the respondent or his authorised representative or Advocate does not appear on the day of hearing, the Bench may proceed ex-parte against him.

## **28. Review of ex-parte order.**

- On sufficient grounds the Bench even without hearing the appellant may rescind its ex-parte order.

## **29. Summoning of witness and payment of their expenses.**

(1) At any stage, on the request of a party, or on its own motion, the Bench may order summoning of witnesses. (2) Where the witness is a person in the service of the Government of Rajasthan, Central Government or other State Governments, he shall be given a certificate of attendance enabling him to draw Travelling Allowance as on tour in accordance with the rules applicable to such Government servants. (3) (i) In case of an M.P. or M.L.A. he shall be entitled to draw Travelling and Daily Allowance as per rules admissible to him for attending meeting of the Committees constituted by the Government. (ii) In case of other non-official witnesses not covered by sub-rule (2) and item (i) above including retired officials, they shall be entitled to Travelling Allowance and Daily Allowance as provided in rule 31 (2) of Rajasthan Travelling Allowance Rules; (iii) Where a local witness is summoned by the Tribunal, he shall be paid @ Rs. 4/- per day. (4) Where the Bench order the payment of expenses under sub-rule (3) it shall also pass an order as to whether the expenses are to be borne by the State Government or by any party to the proceedings. (5) Before a person is ordered to be summoned as a witness, it shall be competent for the Bench to require the party at whose instance the summons have been issued to deposit the likely expenses of the witness, before the

issue of summons.(6)The summon to a witness shall be issued in form No. 3.

### **30. Adjournment.**

- Except for the reasons to be recorded in writing, the Bench shall hear an appeal from day to day. On sufficient cause being shown it may grant adjournment subject to such costs or other conditions as are considered appropriate by the Bench.

### **31. Appearance before a Bench.**

- A party may appear before a Bench either personally or through his representative or advocate duly authorised in form No. 4.

### **32. Arguments.**

- The parties may, either personally or through their authorised representatives or advocates submit orally or in writing or in both their arguments before the Bench. The appellant shall not, except by leave of the Bench, urge or be heard in support of any ground not set forth in the memorandum of appeal.

### **33. Order.**

- The order of the Bench shall be in writing and shall state the points of determination, its findings thereon and the reasons for these findings in a concise manner.

### **34. Copies.**

- On the application of parties, certified copies of the documents or orders shall be supplied to the parties by the Registrar on payment of fees as prescribed in Schedule A. No such fee shall be charged from the Government.

### **35. Continuation of proceedings after the death of a party.**

- An appeal shall abate, unless on the death of appellant his legal representative applies for its continuance to the Tribunal within a period of thirty days from the date of the death of the appellant. In the event of the death of any respondent, his legal representative, if he so desires, may apply for being impleaded as a party within a period of thirty days from the date of the death of the respondent.

### **36. Procedure regarding matters not covered by rules.**

- The Tribunal shall follow such procedure as it may think fit on the matters not provided by and not inconsistent with the Act or rules. Form No. 1(See rule 11)Memorandum of appealAppeal

No.....of.....Before the Rajasthan Civil Services Appellate Tribunal, Rajasthan, Jaipur. Appeal under the Rajasthan Civil Services (Service matters Appellate Tribunal) Act, 1976.

**1. (i) Name and father's name of the appellant.**

(ii) Present post and name of office. (iii) Residential address.

**2. Name and address of the respondent/s**

**3. Number and date of the order appealed against and name and designation of the officer who passed the order.**

**4. Whether any appeal under the service Rules was/has been filed before any competent authority? If so, with what result?**

**5. If the Appellant proposes to be represented by a representative/or advocate, their names and postal addresses.**

**6. Number and nature of affidavits furnished alongwith this appeal.**

**7. Grounds of appeal:-**

**8. Prayer.**

Place ..... Date ..... Appellant's Signature. Form No. 2 [See rule 19 (i)] In the Rajasthan Civil Services Appellate Tribunal, Rajasthan, Jaipur. Appeal No..... of..... 19... . Summons to Respondent To..... (Name, description and..... Place of residence). Whereas (name of appellant) ..... has filed an appeal against the order dated ..... passed by (copy of memorandum of appeal and order enclosed); you are hereby summoned to appear in this Tribunal, in person or by a representative or Advocate duly instructed and authorised and able to answer all material questions relating to the appeal on the..... day of..... 19. You may file your reply and produce all the documents upon which you intend to rely in support of your case within 15 days from the service of the summons. In default of filing of reply and your appearance on the day before mentioned, the appeal shall be heard and determined in your absence. Given under my hand and the seal of the Tribunal, this..... day of the month of..... of..... Seal Registrar. Form No. 3 [See rule 29 (6)] In the Rajasthan Civil Services Appellate Tribunal, Rajasthan, Jaipur. Summons to witness Appeal No..... of 19..... To..... (Name, description..... and place) Title..... Whereas your attention is required on behalf of the..... in the above case, you are hereby Required (personally) to appear before this Tribunal on the ..... day of..... 19..... at..... AM /PM and to bring with you all the documents relevant to the case. Given under my hand and seal of the Tribunal of this..... day of the month of..... 19. Seal Registrar. Form



No. 4(See rule 31)Letter of AuthorisationRajasthan Civil Services Appellate Tribunal, Rajasthan, Jaipur.

Appeal No..... Date of.....

Title.....

Appellant.....Respondent/s.....I have appointed Shri.....as my representative/advocate in the above appeal. I hereby authorise the said Shri..... to appear on my behalf and represent me in the proceedings before the Tribunal. He shall have all power to the appeal, reply, application, inspect record, obtain copies and to do all other acts necessary in connection with the proceedings.Appellant/Respondent.Signature of the Advocate/Representative.

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(See rule 34)Fees for supplying copies of documentsFees shall be charged for copies according to the following scales:- (1)(a)For a foolscap sheet in double space or any portion thereof Rs. 1/- per sheet.(b)For urgent copies double fee shall be charged.(c)For map or other tabular work the fee shall be fixed by the officer granting copy with reference to the quantity, difficulty and in-tricacy of the work to be done.(d)In case in which the applicant desires to take more than one copy of a document and typed copies are given each copy after the first shall be supplied at half the rate prescribed above.(2)In case the applicant is unable to give exact particulars of the file and the same is to be traced additional charges shall be made as below:- (a)Index for a year-fifty paisa; and (b)Specified document at fifty paisa each.(3)Application for urgent copies shall receive preference over other ordinary applications and shall ordinarily be supplied within 24 hours provided the record becomes available.