

LAW DEPARTMENT
NOTIFICATION
Jaipur, May 12, 1976.

No.F.2(41) vidhi/73:- In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of the Rajasthan Civil Seva (Seva Mamlon Ke Liye Appeal Adhikaran) Adhiniyam, 1976 (Adhiniyam Sankhya 34, San 1976).

ENGLISH TRANSLATION

**THE RAJASTHAN CIVIL SERVICES (SERVICE MATTERS APPELLATE TRIBUNALS) ACT,
1976.**

(Act No. 34 of 1976)

(Received the assent of the President on the 7th day of May, 1976)

AN
ACT

to provide for the constitution of Appellate Tribunals for the 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 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;
 - (v) Employees of the Office of the Rajasthan Lokayukta and up-Lokayukta.
 - (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 a 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, other-wise than as a penalty;
 - (vi) Cases of reversion while officiating in a higher service, grade or post to lower service, grade or post other-wise than as a penalty;
 - (vii) Withholding the pension or denying the maximum pension other-wise than as the penalty;
 - (viii) Transfer from one place/post to another place/post.

@ Amendment made Vide Notification No F.4(3)/Vidhi/77 Dated February 8, 1977.

Added Vide Notification No F.17(7)/DOP/A-2/77 Dated 25/2/1995.

(ix) 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 Chairmen and members of the Tribunal shall ordinarily be three years. The Governor may, however for special reason, recall the Chairman or any members of the Tribunal before the expiry of the period of three years.
- 4 Duties of 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.
- \$4. (A) Appeal not to be admitted unless other remedies exhausted** - (1) The Tribunal shall not ordinarily admit an appeal unless it is satisfied that the appellant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.
- (2) For the purposes of sub-section (1) a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances -
- (a) if a final order has been made by the Government or other authority or committee or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance or
- (b) Where no final order has been made by the government or other authority or committee or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.
- Explanation:- In this section the expression "service rules as to redressal of grievance" means the rules, regulation, order or other instruments or arrangements as in force for the time being with respect to redressal, otherwise than under this Act of any grievances in relation to services.
- 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 purposes 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, 1903(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, 45 of 1860).
- (4) The Tribunal shall be deemed to be a Civil Court for the purposes 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 there to 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

\$ Added Vide Rajasthan Rajpatra, Oct 24, 2005.

£ Substituted vide Rajasthan Rajpatra, Oct 24, 2005

not be produced by such partly 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 filling the application within such time.

@(6)Notwithstanding anything contained in any judgement, 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.

- 7. Representation before Tribunal** - The Government as well 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** - (1) The Tribunal shall not admit an appeal -
- (a) in a case, where a final order such as is mentioned in clause (a) of sub-section(2) of section 4A has been made in connection with the grievance, unless the appeal is preferred within six months from the date on which such order has been made.
- (b) in a case, where an appeal or representation such as is mentioned in clause (a) of sub-section (2) of section 4a has been preferred or made and a period of six months has expired thereafter without such final order having been made, unless the appeal is preferred within six months from the date of expiry of the said period of six months or.
- (c) in other cases, unless the appeal is preferred within six months from the date of the order against which appeal is preferred.
- (2) Notwithstanding anything contained in sub-section(1) an appeal may be admitted after the period of limitation specified in sub-section (1) if the appellant satisfies the Tribunal that he has sufficient cause for preferring the appeal within such period.
- 10. Jurisdiction of tie 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** :- Not withstanding 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 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 there under.

(Gopal Krishan Sharma)

Secretary to Government

@ Substituted vide Rajasthan Rajpatra, Oct 24, 2005

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