THE BALOCHISTAN SERVICE TRIBUNALS ACT, 1974

(Baln Act V of 1974)

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[1]THE BALOCHISTAN[2] SERVICE TRIBUNALS ACT, 1974

(Balochistan Act V of 1974)

[*27th June, 1974*]

An Act to provide for the establishment of Service Tribunals to exercise jurisdiction regarding matters relating to the terms and conditions of service in respect of services of the Province of Balochistan.

Preamble. WHEREAS it is expedient to provide for the establishment of Administrative Tribunals, to be called Service Tribunals, to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows: —

Short title, commencement and application.

1. (1) This Act may be called the Balochistan Service Tribunals Act, 1974.

(2) It shall come into force at once.

(3) It applies to all civil servants where-ever they may be.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context: —

[3][(a) "civil servants" means a person who is or has been a civil servant within the meaning of Balochistan Civil Servants Act, 1974 (IX of 1974), but does not include a person who is or has been a member of the subordinate judiciary, for the purposes of this Act.

Explanation. — The member of the subordinate Judiciary includes

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[1] This Act, was passed by the Balochistan Assembly on 5th June, 1974; assented to by the Governor of Balochistan; and published in the Balochistan Gazette (Extraordinary) No. 30, dated 27th June, 1974.

[2] Spelling of the word "Baluchistan", wherever it appears in this Act, is corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18th June, 1989.

[3] Clause (a) substituted first by Balochistan Ordinance VI of 1978; and, then by Balochistan Act VII of 1989; effective from 20th June, 1989. Published in the Balochistan Gazette (Extraordinary) No. 133, dated 30th July, 1989. Earlier this amendment was made by Balochistan Ordinance VI of 1989, published in the Balochistan Gazette (Extraordinary) No. 51, dated 25th March, 1989, which Ordinance was repealed by Balochistan Act VII of 1989. S. 3.

Qazi, Member Majlis-e-Shoora, Civil Judge, Senior Civil Judge, Additional District and Sessions Judge, District and Sessions Judge (Inspection), Presiding Officer Labour Court and District and Sessions Judge.]

[1][(a-i) "Chairman" means the Chairman of the Tribunal appointed under section 3;]

(b) "Government" means the Government of Balochistan; [2][*]

[3] [(b-i) "Member" means the Member of the Tribunal appointed under section 3. *and*]

(c) "Tribunal" means a Service Tribunal established under section 3.

Tribunals.

3. (1) The Government may, by notification in the official Gazette, establish one or more Service Tribunals and, where there are established more than one Tribunals, the Government shall specify in the notification the class or classes of civil servants in respect of whom, or the territorial limits within which, each such Tribunal shall exercise jurisdiction under this Act.

(2) A Tribunal shall have exclusive jurisdiction in respect of matters, relating to the terms and conditions of service of civil servants, including disciplinary matters.

(3) A Tribunal shall consist of: —

[4][(a) a Chairman, being a person who has been, or is qualified to be, a Judge of High Court; *and*

(b) two members,—

(i) one from amongst the serving District Judges having not less than three

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[1] New clause (a-i) inserted by Balochistan Act No. II of 2013; passed by the Provincial Assembly of Balochistan on 28th June, 2013; assented to by the Governor Balochistan on 1st July, 2013; and published in the Balochistan Gazette (Extraordinary) No. 89, dated 4th July, 2013. Earlier this amendment was made by Balochistan Ordinance III of 2013; published in the Balochistan Gazette (Extraordinary) No. 53, dated 3rd May, 2013, which Ordinance was repealed by Balochistan Act II of 2013. S. 6.

[2] The word "and" omitted, *ibid.*

[3] New clause (b-i) inserted, *ibid.*

[4] Clause (a) and (b) are substituted, *ibid.*

years service as such; *and*

(ii) one from amongst the serving Civil Servants having service of not less than ten years against an executive class I post under the Provincial Government or Federal Government; and preferably having a legal background:

Provided that where the District Judges or the incumbent Civil Servants are not available, the appointment may be made from amongst the persons qualified to be a Judge of High Court.]

(4) The Chairman and members of a Tribunal shall be appointed by the Government [1][in consultation with the Chief Justice of the Balochistan High Court,] on such terms and conditions as it may determine[2][:]

[3] [Provided that all such appointments shall only be for a single term consisting of a non-extendable period of three years or till the date of superannuation, whichever is earlier in case of a person in service.]

(5) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the Government [4][:]

[5] [Provided that on resignation by a person in regular service as District Judge or a Civil Servant, if it has been decided to accept his resignation then the incumbent shall be considered as surrender to his own cadre for further posting or for such action as the case may be.]

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[1] Inserted by Balochistan Act No. II of 2013, for more details see footnote 1 under section 3 (3) (a).
[2] Substituted for a full-stop, *ibid.*
[3] Proviso added, *ibid.*
[4] Substituted for a full-stop, *ibid.*
[5] Proviso added, *ibid.*

[1][(6) If for any reason, the Chairman becomes unable to perform his duties temporarily, the senior most Member of the Tribunal, shall act as Chairman till such time the Chairman resumes his duties.]

[2][Constitution of Benches.

3-A. (1) Notwithstanding anything contained in section 3, the Chairman may constitute a Bench consisting of himself or one Member only or two Members without the Chairman or the Chairman and a Member and when so constituted a Bench shall be deemed to be a Tribunal:

Provided that —

I. Where a bench consisting of one Member is to be constituted preference should be given to the Judicial Member;

II. Where a bench consisting of two Members is to be constituted it should be comprising of a Judicial Member and the Member from Civil Service or the member other than the Civil Servant; *and*

III. every bench consisting of two Members should be headed by the Judicial Member;

(2) If a Bench is unable to arrive at a unanimous decision in an appeal, the matter shall be placed before the Full Tribunal and the decision of the Tribunal shall be expressed in terms of the opinion of the majority:

Provided that the Chairman or the Member who was not already on the Bench cannot be associated or is unable for any reason to take part in the hearing of the appeal, the decision of the Tribunal shall be expressed in terms of the opinion of the Senior Member of the Bench.

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[1] Sub-section (6) omitted first by Balochistan Ordinance II of 1975; published in the Balochistan Gazette (Extraordinary) No. 37, dated 24th July 1975 and thereafter by Balochistan Act IX of 1975; published in the Balochistan Gazette (Extraordinary) No. 61, dated 6th November, 1975, with effect from 27th June, 1974; and, then for the omitted sub-section (6) substituted, *ibid.*

[2] New section 3-A inserted by Balochistan Act No. II of 2013, for more details see footnote 1 under section 3 (3) (a).

(3) The Chairman may, at any stage of the hearing of an appeal, withdraw it from the Tribunal and entrust it to a Bench or withdraw any appeal pending before a Bench and make it over to another Bench or to the Tribunal.]

Appeals to Tribunals.

4. Any civil servant aggrieved by any final order, whether original or appellate, made by departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him, prefer an appeal to the Tribunal having jurisdiction in the matter:

Provided that: —

(a) Where an appeal, review or representation to a departmental authority is provided under any law or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of [1][thirty] days has elapsed from the date on which such appeal, application or representation was so preferred; *and*

(b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining: —

(i) the fitness or otherwise of a person to be appointed to or hold a particular or to be promoted post to a higher post or grade; *or*

(ii) the quantum of departmental punishment or penalty imposed on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory

[1] The words "Ninety" substituted by Act VI of 2021, passed by the Provincial Assembly on 24th March, 2021 and assented to by the Governor Balochistan on 26th March, 2021; published in the Balochistan Gazette (Extraordinary) No. 73, dated 29th March, 2021.

retirement.

Explanation: — In this section, "departmental authority" means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of civil servants.

Power of Tribunals.

5. (1) A Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against.

(2) A Tribunal shall, for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (Act V of 1908), including the powers of: —

(a) enforcing the attendance of any person and examining him on oath:

(b) compelling the production of documents;

(c) issuing commission for the examination of witnesses and documents.

(3) No Court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document in, or obtaining any document from, a Tribunal.

[1][**Review.**

5-A. (1) The Tribunal shall have the power to review its final order/judgment on a review petition filed by an aggrieved party within thirty days of the order/judgment on the following grounds, namely:—

(a) Discovery of new and important mater or evidence which, after exercise of due diligence, was not within the knowledge of the petitioner or could not be produced by him at the time when the order/judgment was

[1] New Sections 5-A and 5-B added by Act VI of 2021, passed by the Provincial Assembly on 24th March, 2021 and assented to by the Governor Balochistan on 26th March, 2021; published in the Balochistan Gazette (Extraordinary) No. 73, dated 29th March, 2021.

passed.

(b) On account of some mistake or error apparent on the face of record; *or*

(c) For any other sufficient cause.

(2) The Tribunal shall decide the review petition within thirty days.

(3) The Tribunal may confirm, set aside, vary, modify the judgement or order under review.

Execution. **5-B.** A Tribunal shall have the **Power to Execute** its judgment/orders in accordance with procedure as may be prescribed in the rules made under this Act.]

[1][Controlling Authority. **[2][5-C.]** (1) The Chairman of the Tribunal shall be the Authority for all the administrative, disciplinary and financial matters of the Balochistan Service Tribunal; and in this respect there shall be a Registrar, who shall be responsible for the smooth working of the Tribunal, the administration as well as the appointments, promotions, disciplinary actions, transfers and postings of the officers and staff, the budget and accounts of the Tribunal, in accordance to the rules.

(2) On establishment of the Tribunal under section 3, the Government shall allocate funds for the Tribunal in its annual Budget, as passed in its budget session by the Balochistan Provincial Assembly. For which the Chairman of the Tribunal shall have all the financial powers to disburse and make re-appropriation of the amount so allocated by the Government and approved by the Provincial Assembly in the Annual Budget, from one head to another head without seeking any approval of the Provincial Finance Department:

Provided that the expenditure that is incurred by him shall falls within the prescribed limit of the allocated funds/sanctioned budget of

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[1] New section 5-A inserted by Balochistan Act No. II of 2013, for more details *see* footnote 1 under section 3 (3) (a).

[2] S. No. "5-A", substituted by Act VI of 2021, passed by the Provincial Assembly on 24th March, 2021 and assented to by the Governor Balochistan on 26th March, 2021; published in the Balochistan Gazette (Extraordinary) No. 73, dated 29th March, 2021.

the Tribunal.]

Abatement of suits and other proceedings.

6. All suits, appeals or applications regarding any matter within the jurisdiction[1] of a Tribunal pending in any court immediately, before the commencement of the law as may be enacted by the Parliament extending clause (2) of Article 212 of the Constitution of the Islamic Republic of Pakistan to a Tribunal, shall abate on the commencement of such law:

Provided that any civil servant who is a party to such a suit, appeal or application may, within ninety days of the commencement of such law, prefer an appeal to the appropriate Tribunal in respect of such any matter which is in issue in such suit, appeal or application.

[2][**Limitation.**

6-A. The Provisions of section 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply to appeals under this Act.]

Rules.

7. The Provincial Government may, by notification in the official Gazette, make rules[3] for carrying out the purposes of this Act.

Transfer of cases.

8. All cases pending before the Tribunal constituted under section 5 of the [Balochistan] Civil Service (Appellate Tribunals) Ordinance, 1969 immediately before the commencement of this Act shall, on such commencement, stand transferred to the Tribunal having jurisdiction.

Repeal of West Pakistan Ordinance XXVIII of 1969.

9. The [4] [Balochistan] Civil Service (Appellate Tribunals] Ordinance, 1969, is hereby repealed.

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[1] For the Balochistan Public Service Commission's (Functions) Rules, 1975, *see* the Balochistan Gazette (Extraordinary) No. 47, dated 15th September, 1975.

[2] Section 6-A inserted by Balochistan Ordinance XII of 1980; deemed to have taken effect from 5th June, 1974. Published in the Balochistan Gazette (Extraordinary) No. 174, dated 5th August, 1980.

[3] For Rules *see* the Balochistan Gazette (Extraordinary) No. 16, dated 22nd April, 1976.

[4] Substituted for words "West Pakistan"; deemed always to have been substituted so, by Balochistan Ordinance XXII of 1978; taken effect from 5th June, 1974.