

1973 : Guj . 2]



GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMNETARY AFFAIRS DEPARTMENT

GUJARAT ACT NO. 2 OF 1973

The Gujarat Civil Services Tribunal Act, 1972

[As modified upto 31st May, 2012]

1973 : Guj . 2]

THE GUJARAT CIVIL SERVICES TRIBUNAL ACT, 1972.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Constitution of Tribunal.
4. Terms of office and Conditions of Service of Members of Tribunal.
5. Power of State Government to terminate appointment before expiry of term.
6. Filling of vacancies.
7. Discharge of functions by President or member during vacancy or absence.
8. Power of Tribunal to make regulations.
9. Head Quarters of Tribunal.
10. Jurisdiction of the Tribunal.
11. Appeal by specified civil servants.
12. Power of State Government to apply for modification, or annulment of order or decision.
- 12-A. State Government to be heard in certain cases.
- 12-B. Review.
13. Tribunal to have powers of Court.
14. Proceedings before Tribunal to be judicial proceedings.
15. Members of Tribunal to be public servants.
16. Bar of jurisdiction of Civil Courts.
- 16-A. Manner of executing orders passed by Tribunal.
17. Bar to appearance of legal practitioners.
18. Exemption from payment of Court fees.
- 18-A. Records to be open to inspection and extracts and copies to be given therefrom.
19. Amendment of Schedule.
20. Rules.
21. Bar of jurisdiction of Government and Transfer of pending proceedings to Tribunal.

1973 : Guj . 2]

GUJARAT ACT NO. 2 OF 1973.¹ *

[The GUJARAT CIVIL SERVICES TRIBUNAL ACT, 1972]

[12th January, 1973]

Amended by Guj. 22 of 1980.

An Act to provide for the constitution of a Civil Services Tribunal for the purpose of securing in a more effective and satisfactory manner the just claims and interests of the ²[Officers and servants of the State Government and Panchayats] with respect to certain matters affecting their rights and to provide for matters connected therewith.

It is hereby enacted in the Twenty-third year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Civil Services Tribunal Act, 1972.

Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires-

Definitions.

(a) "law" means any law regulating the recruitment and conditions of service of persons appointed to civil services and posts under the State, or to panchayat Service and matters connected therewith and includes any notification, order, rule, regulation, or instruction or direction issued or followed for such purpose;

(b) "non-gazetted posts" means posts other than posts declared or known as gazetted posts under any law;

(c) "notified order" means an order published in the *Official Gazette*;

(d) "Panchayat Service" means the Panchayat Service as constituted under section 203 of the Gujarat Panchayats Act, 1961.

³[(da) "police officers" means police officers governed by the Bombay Police Act, 1951 or the Bombay State Reserve Police Force Act, 1951.]

(e) "prescribed" means prescribed by rules made under this Act;

(f) "President" means the President of the Tribunal;

(g) "Schedule" means the Schedule appended to this Act;

⁴[(h) "specified civil servants" means persons who are or who have been members of the civil services of the State of Gujarat or of the Panchayat Service but does not include persons who are or who have been police officers;]

(i) "Tribunal" means the Gujarat Civil Services Tribunal constituted under section 3.

3. (1) For the purpose of securing in a more effective and satisfactory manner the just claims and interests of specified civil servants with respect to certain matters affecting their rights the State Government shall, by a notified order and with effect on and from such date as may be specified therein, constitute a Tribunal to be called the Gujarat Civil Services Tribunal, consisting of the President and as many other members as the State Government may from time to time determine.

Constitution of Tribunal.

(2) The President shall be a person who has held a post not lower in rank than that of a Secretary to Government for a period of not less than three years or not lower in rank than that of a District Judge ⁵[for a period of not less than five years].

Guj. VI of 1962.

Bom. XXII of 1951.
Bom. XXX. VII of 1951

1973 : Guj . 2]

(3) In making appointment of other members of the Tribunal, the State Government shall have due regard to the need for including in the Tribunal a reasonable number or proportion of persons having sufficient judicial experience or experience of matters relating to administration:

⁶[Provided that no person shall be appointed as such other member of the Tribunal on the basis of experience of matters relating to administration unless he has worked for at least two years (whether singly or cumulatively) on the post of a Joint Secretary to the State Government or on a post which, in the opinion of the State Government, is a post equivalent to the post of a Joint Secretary.]

⁷[*Explanation 1.*- In computing the period of three years, or, as the case may be, five years for the purpose of sub-section (2), the period of service rendered by a person as a member of the Tribunal shall also be taken into account as if it were a period during which such person served as a Secretary, or, as the case may be, a District Judge.

Explanation 2.— In sub-section (2), "District Judge" shall have the meaning assigned to that expression in clause (15) of section 3 of the Bombay General Clauses Act, 1904.]

Bom. I of 1904.

Term of Office and conditions of service of members of Tribunal.

4. The term for which the President and other members of the Tribunal shall hold office and their other conditions of service shall be such as may be prescribed.

Power of State Government to terminate appointment before expiry of term.

5. The State Government may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member-

(i) is adjudged an insolvent, or

(ii) engages during his term of office in any paid employment outside the duties of his office, or

(iii) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(iv) is convicted of an offence involving moral turpitude.

Filling of vacancies.

6. Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable :

Provided that if any member of the Tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the State Government may appoint some other person to discharge his duties for any period not exceeding six months at a time.

Discharge of functions by President or member during vacancy or absence.

⁸[7. (1) During any vacancy or absence on leave or otherwise of the President,-

(a) in a case where the Tribunal consists of two members, the other member, and

(b) in a case where the Tribunal consists of more than two members such other member as may be authorised by the State Government by a general or special order,

shall perform the functions of the President.

(2) During any vacancy or absence on leave or otherwise of a member other than the President,-

(a) in a case where the Tribunal consists of two members, the President and

(b) in a case where the Tribunal consists of more than two members,

1973 : Guj . 2]

the President and the other remaining members,

may act as Tribunal as if the Tribunal consisted of only the President or, as the case may be, the President and such other members.]

- 8.** (1) If the members of the Tribunal are divided in opinion, the decision shall be according to the decision of the majority, but if the members are equally divided, the decision shall be according to the decision of the President. Power of Tribunal to make regulations.

(2) Subject to the provision contained in sub-section (1) and the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which it shall hold its sittings and the formation of its Benches, if necessary) and the effective discharge of its functions and disposal of its business, make regulations consistent with the provisions of this Act and the rules made thereunder.

(3) The regulations made under sub-section (2) shall be published in the *Official Gazette*.

- 9.** The headquarters of the Tribunal shall be at such place as the State Government may, by notified order, determine. Head-Quarters of Tribunal.

- 10.** The Tribunal shall have jurisdiction to hear and decide- Jurisdiction of the Tribunal.

(a) appeals filed by specified civil servants under section 11;

(b) any application filed by the State Government under section 12 ;

(c) appeals and applications transferred to it under section 21.

- 11.** (1) Any specified civil servant aggrieved by an original or appellate order or decision of any officer or authority other than the State Government with respect to any of the matters specified in the Schedule may, within a period of ninety days from the date of such order or decision, appeal to the Tribunal against such order or decision, in a case where an appeal lies under law to the State Government: Appeal by specified civil servants.

Provided that an appeal against any such order or decision passed before the date on which the Tribunal is constituted under section 3 may be filed within the period of ninety days as aforesaid or within a period of one month from such date, whichever period expires later:

⁹[Provided further that a specified civil servant to whom right to appeal under sub-section (1) accrues as a result of the amendments made in this Act by the Gujarat Civil Services Tribunal (Amendment) Act, 1980 (hereinafter in this Act referred to as "the Amending Act") shall be entitled to file an appeal against any such order or decision passed before the date of the commencement of the Amending Act within the period of ninety days as aforesaid or within a period of one month from the aforesaid date, whichever period expires later.]

(2) No such appeal or an appeal transferred to it under section 21 shall be decided by the Tribunal without giving to the officer or authority against whose order or decision it is filed, an opportunity of placing his or, as the case may be, its views before the Tribunal.

- 12.** (1) Where it appears to the State Government that any order or decision of any officer or authority in relation to any specified civil servant with respect to any of the matters specified in the Schedule against which an appeal lies to the Tribunal under section 11 requires to be modified, annulled or reversed- Power of State Government to apply for modification, or annulment of order or decision.

(i) on the ground that it is contrary to law, or

(ii) on the ground that it is inconsistent with the material on record, or

1973 : Guj . 2]

(iii) for any other sufficient reason in the interest of justice,

the State Government may, within a period of ninety days from the date of such order or decision, make an application to the Tribunal to modify, annul or reverse such order or decision.

(2) No such application shall be decided by the Tribunal without notice being given to the civil servant concerned to appear and be heard in support of such order or decision.

State Government to be heard in certain cases.

¹⁰[12A. (1) If at any stage in any proceedings before the Tribunal it appears to the Tribunal that the proceedings raise a question, as to the interpretation of a law, which is of such a nature and of such public importance that it is expedient to issue notice to the State Government, the Tribunal shall issue notice to the Government and the Government may, if it thinks fit, appear and the Tribunal shall then hear the State Government before deciding the question.

(2) If it appears to the State Government that in its opinion the interpretation of a provision of law in any proceedings before the Tribunal is of such a nature and of such public importance that it is expedient that the State Government be heard before decision of the question, it may apply to the Tribunal in such proceedings to be heard, and the Tribunal shall not decide the question without hearing the State Government.

Review.

12B. The Tribunal may of its own motion or on the application made by a specified civil servant aggrieved by any decision or order of the Tribunal within two months from the date of communication of such decision or order to him, review such decision or order on any of the following grounds, namely:-

(1) that some new or important matter or evidence which could not be discovered earlier after the exercise of due diligence and which was likely to materially affect the decision or order of the Tribunal was discovered after such decision or order; or

(2) that there was some mistake or error apparent on the face of the record; or

(3) that the decision or order required to be reviewed for any other sufficient reason :

Provided that no such review shall be made after the expiry of a period of two years from the date of the decision or order concerned.]

Tribunal to have powers of Court.

13. (1) For the purpose of exercising its jurisdiction under this Act, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely :-

V of 1908.

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

(b) requiring the discovery and production of documents ;

(c) issuing commissions for the examination of witnesses ;

(d) any other matter which may be prescribed.

(2) The Tribunal shall be deemed to be a court for the purpose of section 5 of the Limitation Act, 1963.

36 of 1963.

Proceedings before Tribunal to be judicial proceedings.

14. All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Members of Tribunal to be public servants.

15. All members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

1973 : Guj . 2]

¹¹[16. (1) No Civil Court shall have jurisdiction to deal with or decide any question which by or under this Act is required to be or can be dealt with or decided by the Tribunal under the provisions of this Act:

Bar of Jurisdiction of Civil Courts.

Provided that any proceeding in relation to any such question which may be pending in any Civil Court immediately before the date of the commencement of the Amending Act shall be continued in, and disposed of by, such Court as if the said Act had not been passed.

(2) Every decision of the Tribunal passed under this Act shall be final and shall not be called in question before any Civil Court or any other authority.

16A. All orders passed by the Tribunal shall be executed in the same manner in which similar orders, if passed by the State Government, could have been executed.]

Manner of executive orders passed by Tribunal.

17. No legal practitioner shall be allowed to appear in any proceedings before the Tribunal except with the permission of the Tribunal.

Bar to appearance of legal practitioners.

Bom. XXX- VI of 1959.

18. Notwithstanding anything contained in the Bombay Court Fees Act, 1959, no court fee shall be levied on any appeal or application made to the Tribunal under this Act.

Exemption from payment of Court fees.

¹²[18A. Subject to such rules and the payment of such fees as the State Government may from time to time prescribe in this behalf, the records of the Tribunal shall be open to the inspection of the public at reasonable hours, and certified extracts from the same or the certified copies thereof shall be given to any person applying for the same.]

Records to be open to inspection and extracts and copies to be given therefrom.

19. The State Government may, by notification in the *Official Gazette*, add to the Schedule any entry relating to any matter affecting specified civil servants and thereupon the Schedule shall be deemed to have been amended accordingly for the purposes of this Act.

Amendment of Schedule.

20. (1) The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Rules.

(2) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Guj. VI of 1962.

21. ¹³[(1)] Notwithstanding anything contained in the Gujarat Panchayats Act, 1961, or any other law for the time being in force, neither the State Government nor any Officer or authority empowered to exercise the powers of the State Government shall, with effect on and from the date on which the Tribunal is constituted under section 3, be competent to entertain or hear appeals or applications against, or to revise, orders or decisions of any officer or authority in relation to specified civil servants with respect to any of the matters specified in the Schedule, in casts where an appeal lies to the Tribunal against such orders or decision under section 11; and all such appeals or applications and other proceedings in such cases pending on the said date before the State Government or any Officer or authority as aforesaid shall stand transferred to the Tribunal for disposal in accordance with the provisions of this Act.

Bar of jurisdiction Government and transfer of pending proceedings to Tribunal,

¹⁴[(2) All such appeals, applications or other proceedings in such cases filed by or relating to specified civil servants to whom right to appeal under subsection (1) of section 11 may have accrued as a result of the amendments made in this Act by the Amending Act, which may be pending on the date of the commencement of the Amending Act before the State Government or any

1973 : Guj . 2]

officer authority as aforesaid shall stand transferred to the Tribunal for disposal in accordance with the provisions of this Act.]

THE SCHEDULE
(See sections 11,12,19 and 21.)

- (1) Dismissal or removal from service or reduction in rank.
- (2) Reduction of pay or to a lower time-scale of pay.
- (3) Non-confirmation in service.
- (4) Non-promotion to a higher post.
- (5) Reversion to a lower post.
- (6) Discharge from Service.
- ¹⁵[(7) Compulsory retirement.]
- ¹⁶[(8) Reduction to a lower stage in the time-scale of pay for a specified period.
- (9) Censure.
- (10) Reduction in or withholding the pension or denial of the maximum pension admissible under the rules.
- (11) Withholding of increments.
- (12) Stoppage at Efficiency Bar in time-scale of pay.
- (13) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders.]

¹ For Statement of Objects and Reasons, see Gujarat Government Gazette, Extraordinary Part V, dated the 13th December, 1972, p. 338.

* This Act was assented to by the Governor on the 6th January 1973.

² These words were substituted for the words "servants of Government and Panchayats holding non-gazetted posts" by Guj. 22 of 1980, s.2.

³ Clause (da.) was inserted, *ibid.*, s. 3(i)

⁴ Clause (h) was substituted, *ibid.*, 3 (ii).

⁵ These words were substituted for the words "for a period of not less than ten years" *ibid.*, itat (i).

⁶ This proviso was added, *ibid.*, itat, s. 4 (ii).

⁷ Explanations 1 and 2 were substituted for the existing Explanation, *ibid.*, itat, s. 4 (iii).

⁸ Section 7 was substituted *ibid.*, itat, s.6.

⁹ This proviso was inserted, *ibid.*, itat, s. 6.

¹⁰ Sections 12-A and 12- B were inserted *ibid.*, itat, s.7.

¹¹ Sections 16 and 16-A were substituted for section 16, *ibid.*, itat, s. 8.

¹² Section 18.A was inserted by Guj. 22 of 1980, s. 9.

¹³ Section 21 was renumbered as sub-section (1) of that section, *ibid.*, itat, s. 10.

¹⁴ Sub-section (2) was inserted, itat *ibid.*

¹⁵ Entry (7) was added vide G.N., G.A.D. No. GS/77/60/CST-1177-II-G, dated the 22nd April, 1977.

¹⁶ Entry (8) to (13) were added vide G.N., G.A.D. No. GS/78/2/CST-1177- II-G, dated the 3rd January, 1978.