

CHAPTER 11

SERVICE TRIBUNALS

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SERVICE TRIBUNALS

Sl. No.1

Constitutional Provisions

Extract from the Constitution of the Islamic Republic of Pakistan, 1973.

Article 212- (1) Notwithstanding anything hereinbefore contained, the appropriate Legislature may by Act [provide for the establishment of] one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of—

Appointments to service of Pakistan and conditions of service.

- (a) matters relating to the terms and conditions of persons** [who are or have been] in the service of Pakistan, including disciplinary matters;
- (b) matters relating to claims arising from tortious acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or
- (c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.

(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or entertain any proceeding in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends **[and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal ***[other than an appeal pending before the Supreme Court] shall abate on such establishment]:

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless at the request of that Assembly made in the form of a resolution, @[Majlis-e-Shoora (Parliament)]@@ by law extends the provisions to such a Court or Tribunal.

*Subs. and shall be deemed always to have been so substituted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 12, for 'establish'.

** Ins. and shall be deemed to have been so inserted, *ibid*.

*** Ins. and shall be deemed always to have been so inserted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 15.

@ Subs. by P.O. 14 of 1985 Art. 2 and Sch., for 'Parliament'.

@@ For such law, see the Provincial Service Tribunal (Extensions of the Provisions of the Constitution) Act, 1974 (32 of 1974).

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

Sl. No. 2

The Service Tribunals Act, 1973 (Act No. LXX of 1973)

An Act to provide for the establishment of Service Tribunals to exercise jurisdiction in respect of matters relating to the terms and conditions of service of civil servants.

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:—

1. **Short title, commencement and application.**—(1) This Act may be called the Service Tribunals Act, 1973.

(2) It shall come into force at once.

(3) It applies to all civil servants wherever they may be.

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

*(a) "civil servant" means a person who is, or has been, a civil servant within the meaning of the Civil Servants Act, 1973 (LXXI of 1973); **[and shall include a person declared to be a civil servant under section 2(a); and]

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

2-A [*]

3. **Tribunals.**—[@](1) The President may, by notification in the official Gazette, establish one or more Service Tribunals as hereinafter provided and, where there are established more than one Tribunal, the President shall specify in

* Subs. *vide* Service Tribunals (Amendment) Act XXXI of 1974, dated 6-5-1974.

** Added *vide* Service Tribunals (Amendment) Act XVII of 1997, dated 10-6-1997.

*** Section "2A" which was previously added *vide* Service Tribunals (Amendment) Act XVII of 1997, dated 10-6-1997 has been deleted *vide* F.23(4)/2010 Service Tribunals (Amendment) Act No.II of 2010 dated 06-03-2010.

@ Substituted *vide* Service Tribunals (Amendment) Act, 2014 Notification No.F.22(23) /2013-Legis dated 17-06-2014.

the notification the territorial limits within which, or the class or classes or cases in respect of 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—

- (a) a Chairman, being a person who has been, or is qualified to be judge of a High Court;
- (b) such number of members not less than three, each of whom is or has been—
 - (i) a District Judge; or
 - (ii) a person who for a period of not less than two years has held a post in BS-21 or above or equivalent under the Federal Government or a Provincial Government with adequate quasi-judicial or legal experience, preference being given to a person having background of dealing with service matters; or
 - (iii) an Advocate qualified for appointment as Judge of a High Court].

*(4) The Chairman and members of a Tribunal shall be appointed by the President for non-extendable term of three years on such other terms and conditions as the President may determine:

Provided that where a serving District Judge or a civil servant is appointed as a member he shall hold office for a term of three years or till the date of superannuation, whichever is earlier].

(5) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the President.

(6) The Chairman or a member of a Tribunal shall not hold any other office of profit in the service of Pakistan if his remuneration is thereby increased.

**[(7) At any time when—

- (i) the Chairman of a Tribunal is absent or is unable to perform the functions of his office due to any cause; or

* Substituted vide Service Tribunals (Amendment) Act, 2014 Notification No.F.22(23) /2013-Legis dated 17-06-2014.

** Subs. vide *ibid*.

- (ii) office of the Chairman is vacant, the most senior of the other members of a Tribunal shall act as Chairman till the Chairman resumes his office or the regular Chairman is appointed, as the case may be].

*[3-A. **Benches of the Tribunal.**—(1) The powers and functions of a Tribunal may be exercised or performed by Benches consisting of not less than two members of Tribunal, including the Chairman, constituted by the Chairman.

(2) If the members of a bench differ in opinion as to the decision to be given on any point,—

- (a) the point shall be decided according to the opinion of the majority;
- (b) if the members are equally divided and the Chairman of the Tribunal is not himself a member of the bench, the case shall be referred to the Chairman and the decision of the Tribunal shall be expressed in terms of the opinion of the Chairman; and
- (c) if the members are equally divided and the Chairman of the Tribunal is himself a member of the bench, the opinion of the Chairman shall prevail and the decision of the Tribunal shall be expressed in terms of the opinion of the Chairman].

4. **Appeals to Tribunals.**—(1) Any civil servant aggrieved by any ** [] order, whether original or appellate, made by a 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, *** [or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal to the Tribunal]:

Provided that—

- (a) where an appeal, review or representation to a departmental authority is provided under the Civil Servants Ordinance, 1973, or any rule 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 ninety days has elapsed from the date on which such appeal, application or representation was so preferred; @ []

* Added *vide* Ordinance No. IX of 1978, dated 18-3-1978.

** Omitted *vide* Service Tribunals (Amendment) Act XVII of 1997, dated 10-6-1997.

*** Subs. *vide* Service Tribunals (Amendment) Act No. XXXI of 1974, dated 6-5-1974.

@ The word "and" Omitted *vide* Service Tribunals (Amendment) Act XXXI of 1974 dated 6.5.1974.

- (b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher grade; ^{*}[and]

^{**}[(c) no appeal shall lie to a Tribunal against an order or decision of a departmental authority made at any time before the 1st July, 1969].

(2) Where the appeal is against an order or decision of a departmental authority imposing a departmental punishment or penalty on a civil servant, the appeal shall be preferred—

- (a) in the case of a penalty of dismissal from service, removal from service, compulsory retirement or reduction to a lower post or time-scale or to a lower stage in a time-scale, to a Tribunal referred to in sub-section (3) of section 3 ;and
- (b) in any other case, to a Tribunal referred to in sub-section (7) of that section.

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.

^{***}[4A. **Review.**—(1) A Tribunal shall have the power to review its final order on a review petition filed by an aggrieved party within thirty days of the order on the following grounds, namely:—

- (i) discovery of new and important matter or evidence which, after exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him at the time when the order was passed;
- (ii) on account of some mistake or error apparent on the face of record; or
- (iii) for any other sufficient cause.

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

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

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

^{*}Subs. vide Service Tribunals (Amendment) Act No. XXXI of 1974, dated 6-5-1974.

^{**}Added vide Service Tribunals (Amendment) Act XXXI of 1974, dated 6.5.1974.

^{***}Inserted vide Service Tribunals (Amendment) Act, 2014 Notification No.F.22(23) /2013-Legis dated 17-06-2014.

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

* (3) A Tribunal shall have the power to execute its decisions in accordance with the procedure as may be prescribed.

** [5A. **Financial powers of a Tribunal.**—(1) The Registrar of the Tribunal shall be the Principal Accounting Officer of a Tribunal.

(2) The Chairman of Tribunal may authorize re-appropriation of funds from one head of account to another head of account and sanction expenditure on any item from within the allocated budget in accordance with the prescribed procedure without reference to Ministry of Finance].

6. **Abatement of suit and other proceedings.**—All suits, appeals or applications regarding any matter within the jurisdiction of a Tribunal pending in any court immediately before the commencement of this Act shall abate forthwith:

Provided that any party to such a suit, appeal or application may, within ninety days of the *** [establishment of the appropriate Tribunal, prefer an appeal to it] in respect of any such matter which is in issue in such suit, appeal or application.

7. **Limitation.**—The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply to appeals under this Act.

8. **Rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

* Added vide Service Tribunals (Amendment) Act, 2014 Notification No.F.22(23) /2013-Legis dated 17-06-2014.

** Inserted vide ibid.

*** Subs. vide Service Tribunals (Amendment) Act, XXXI of 1974, dated 06-05-1974.

(a) requirements as to the number of members of the Tribunal necessary for hearings before, or order or decision by, a Tribunal *[[]or a Bench thereof] **[[]];

(b) filling for a specified period any vacancy in the office of the Chairman or a member of the Tribunal caused by the absence on leave or other-wise of the Chairman or, as the case may be, a member***[[]; and]

@[[](c) execution of decision of a Tribunal].

9. **Repeal.**— The Service Tribunals Ordinance, 1973 (XV of 1973), is hereby repealed.

[Authority: The Act received assent of the President on 26-9-1973 and was published in the Gazette of Pakistan Extraordinary. Par I, dated 29-9-1973].

Sl. No. 3

The Service Tribunals (Procedure) Rules, 1974

In exercise of the powers conferred by section 8 of the Service Tribunals Act, 1973 (LXX of 1973), the Federal Government is pleased to make the following rules, namely:-

THE SERVICE TRIBUNALS (PROCEDURE) RULES, 1974

1. These rules may be called the Service Tribunals (Procedure) Rules, 1974.

2. (1) In these rules, unless there is anything repugnant in the subject or context,—

(a) "Act" means the Service Tribunals Act, 1973 (LXX of 1973).

(b) "Chairman" means the Chairman of a Tribunal.

(c) "Member" means a member of a Tribunal and includes the Chairman; and

(d) "Registrar" means the Registrar of a Tribunal and includes any other person authorised by the Tribunal to perform the functions of the Registrar under these rules.

* Subs. *vide* Service Tribunals (Amendment) Act, XXXI of 1974, dated 6.5.1974.

** Omitted *vide* Service Tribunals (Amendment) Act, 2014 Notification No.F.22(23) /2013-Legis dated 17-06-2014.

*** Subs. *vide* *ibid*.

@ Added *vide* Service Tribunals (Amendment) Act,2014 Notification No.F.22(23) /2013-Legis dated 17-06-2014.

(2) Words and expressions used but not defined in these rules shall have the same meaning as are assigned to them in the Act.

3. (1) The permanent seat of a Tribunal shall be at a place which the Federal Government may, by notification in the official Gazette, appoint.

(2) A Tribunal shall ordinarily hold its sittings at its permanent seat but it may hold its sittings at any other place within its jurisdiction if in its opinion the holding of sittings at such other place will be convenient to the parties to the proceedings before it.

4. (1) A Tribunal shall ordinarily observe the same hours as are observed by the offices of the Federal Government.

(2) A Tribunal shall observe the holidays notified by the Federal Government.

5. (1) An appeal to a Tribunal may be sent to the Registrar by registered post acknowledgement due or presented to him during office hours either by the appellant personally or through his advocate.

(2) Appeals presented to or received by any member shall be deemed to be properly presented or received under this rule.

6. Every memorandum of appeal shall —

- *[(1)] (a) be legibly, correctly and concisely written, type-written or printed;
- (b) be divided into paragraphs, numbered consecutively, each paragraph containing, as nearly as may be, a separate assertion or averment;
- (c) contain the full name, official designation and place of posting of each party;
- (d) clearly set out the relief claimed;
- (e) be accompanied by —
 - (i) a copy of the final order, whether original or appellate, and any other order of the competent authority in respect of any of the terms and conditions of service of the appellant against which the appeal is preferred; and
 - (ii) copies of rules, orders and other documents on which the appellant proposes to rely in support of his claim;

* Renumbered *vide* Estt. Division's Notification No. SRO 1100(1)/83, dated 23-11-1983.

- (f) be signed or thumb impressed by the appellant; and
- (g) be accompanied by three spare copies of the memorandum of appeal and as many other copies thereof, duly signed or thumb-impressed by the appellant and accompanied by the documents referred to in clause (e), as there are respondents: Provided that where a Tribunal is satisfied that it is not possible for any appellant to produce any document referred to in clause (e) it may waive the provisions of the clause.

*[(2) If malice, fraudulent intention, knowledge or other condition of mind, including legal or factual malafide, is alleged in an appeal, the memorandum of appeal shall state clearly the facts constituting such malice, fraudulent intention, knowledge or other condition of mind or, as the case may be legal or factual malafide, and be accompanied, besides the documents specified in clause (e) of sub-rule (1), by a summary of the documentary or oral evidence which the appellant proposes to produce in proof of the allegation and an affidavit in support of the contents of the summary].

7. In every memorandum of appeal, the competent authority against whose orders the appeal is preferred and any other party to the dispute shall be shown as respondents.

8. Where an appeal is presented after the period of limitation prescribed in the Act, it shall be accompanied by a petition supported by an affidavit setting forth the cause of delay.

9. No court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document with a Tribunal.

10. (1) The Registrar shall scrutinize every memorandum of appeal received by him, and shall —

- (i) if it is drawn up in accordance with the provisions of rule 6, cause it to be registered in the register of appeals^{**}, to be maintained in form appended to these rules and shall, with the approval of the Chairman, fix a date for its preliminary hearing before the Tribunal; and
- (ii) if it is not drawn up in accordance with the provisions of rule 6, return it to the appellant for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal, which shall in no case be less than fourteen days, pointing out the deficiency.

* Added *vide* Estt. Division's Notification No. SRO 1100(I)/81, dated 23-11-1983.

** See Form A (attached to the rules).

(2) If the memorandum of appeal is not resubmitted within the period specified under clause (ii) of sub-rule (1), the appeal shall stand dismissed.

11. (1) A Tribunal may, after hearing the appellant or his advocate dismiss the appeal in limine*.

(2) If the appeal is not dismissed in limine, notice of admission of appeal and of the day fixed for its hearing shall, subject to the provisions of sub-rule (3), be served on the appellant, the respondents and on such other persons as the Tribunal may deem proper.

(3) The appellant shall, within one week of the receipt of the notice of admission of his appeal, or within such extended period as may be allowed by the Registrar, deposit with the Registrar:-

- (a) cash security for costs in the sum of Rs. 100; and
- (b) cost of service of notice on the respondents.

(4) If the appellant does not comply with the provisions of sub-rule (3), his appeal may be dismissed by the Tribunal.

12. (1) A notice under sub-rule (2) of rule 11 shall be in such form as may be laid down by a Tribunal and may be served by registered post or in any other manner, including publication in one or more daily newspapers, as the Tribunal may direct:

Provided that a notice shall not be issued for publication in a newspaper until the costs of such publication are deposited by the appellant.

(2) The notice to a respondent shall, except where it is published in a newspaper, be accompanied by a copy of the memorandum of appeal and of the documents appended thereto.

(3) Service of notice in accordance with the provisions of this rule shall be deemed to be due notice, and it shall not be necessary to prove that a party has actually received the notice.

13. (1) A respondent on whom a notice of appeal has been served under rule 12, may send his objections to the appeal by registered post acknowledgement due to the Registrar so as to reach him, or deliver the same to the Registrar either personally or through his advocate not later than seven days before the date specified in the notice for hearing of the appeal or within such extended period as may be allowed by the Registrar.

* 'L' - on the threshold.

(2) The objection shall be legibly, correctly and concisely written, type-written or printed, shall be signed by the respondent or by a person authorised by him in that behalf and shall be accompanied by a copy of every document on which the respondent wishes to rely in support of his objections.

(3) The written objections shall be accompanied by four spare copies thereof, complete in all respects, for use of the members of the Tribunal and the appellant.

(4) In case objections are not received or delivered within the time allowed under sub-rule (1), the respondent may be proceeded against ex-parte.

14. Questions arising for determination by a Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits, but the Tribunal may direct that such questions as it may consider necessary shall be decided on such other evidence and in such manner as it may deem fit.

15. (1) An application for summoning witnesses before a Tribunal shall be made as soon as possible after the issue of notice of admission of appeal under rule 11 and shall state:-

- (a) the names, designations and addresses of the witnesses to be summoned; and
- (b) a brief resume of the evidence which each witness is expected to give.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-rule (1) may be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal, and direct that the daily allowance and travelling charges of such witness should be deposited by the person calling him within seven days of the date of the order.

(3) The Tribunal may, by general or special order, prescribe the rates of daily allowance and travelling charges to be paid to witnesses summoned by it.

(4) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness within the period specified in sub-rule (2), or within such extended period as may be allowed by the Tribunal, the application for summoning of witnesses, so far as it relates to such witness, shall be deemed to have been rejected.

(5) If the Tribunal is of the opinion that the evidence of any witness is necessary for the disposal of an appeal before it, it may direct him to be summoned.

(6) Where the Tribunal summons a witness under the provisions of sub-rule (5):-

- (a) if such witness is a Government servant, his travelling and daily allowances, if any, shall be payable by the Government; and
- (b) if such witness is a private person, his travelling and daily allowance shall be payable by such party and to such extent as may be determined by the Tribunal.

16. (1) A process for service on a witness of high rank shall be sent in the form of a letter.

(2) Except in urgent cases or as may otherwise be ordered by a Tribunal, a summon to a Government servant shall be served through the head of his office.

17. (1) A Daily Cause List shall be prepared under the orders of the Registrar which shall be affixed on the notice board of the Court room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases shall be set down in the Cause List in the order of the date of admission.

18. (1) A Tribunal may, if it considers necessary, appoint an officer of the Tribunal to record evidence of a witness for and on behalf of the Tribunal.

(2) Evidence of a witness examined by or on behalf of a Tribunal shall be taken ordinarily in the form of a narrative, and shall be signed by the recording officer and countersigned by the members and shall form part of the record.

(3) The parties or their advocates may suggest any questions to be put to a witness and a member may, besides such questions, put any other questions to the witness.

(4) A Tribunal may, in the interest of justice, close the evidence of any party if, in its opinion, the production or continuation of such evidence would involve inordinate delay or unnecessary expenses.

19. (1) If, on the date fixed for the hearing of an appeal, or on any other subsequent date to which the hearing may have been adjourned, the appellant or his advocate is not present before a Tribunal, the Tribunal may dismiss the appeal or, if it thinks fit, may proceed to hear the other party and decide the appeal.

(2) If, on the date fixed for the hearing of an appeal, or on any subsequent date to which the hearing may have been adjourned, the respondent or any one or more of the respondents, in case there are more than one respondents, or his or their advocates are not present before the Tribunal, the Tribunal may hear the appeal ex-parte against all or any of the respondents who, and whose advocates are so absent.

(3) When an appeal has been dismissed under sub-rule (1) or ex-parte proceedings have been taken under sub-rule (2), the Tribunal may, on such order as to costs as it may deem fit, restore the appeal or, as the case may be, set aside the ex-parte order or allow the defaulting party to rejoin the proceedings.

20. (1) A Tribunal may make such order as to costs of proceedings before it as it may deem fit and such costs shall be paid out of the cash security deposited under clause (a) of sub-rule (3) or rule 11.

(2) If, after deduction of the costs of proceedings under sub-rule (1), any amount deposited under clause (a) of sub-rule (3) of rule 11 remains unutilized, it shall be returned to the appellant.

*21. (1) The Tribunal shall, after the order is signed cause certified copies thereof to be sent under registered cover to the parties concerned and shall deliver a copy to the Secretary, Establishment Division, **[and the Solicitor, Law Division].

(2) Any party to the appeal may obtain additional copies of the order on payment of such legal fees, as the Tribunal may from time to time fix.

22. Clerical or arithmetical mistakes arising in an order of final adjudication from any accidental slip or omission may at any time, be corrected by a Tribunal either on its own motion or on an application made by any of the parties:

Provided that every such application shall be duly supported by an affidavit.

23. If a Tribunal is unable to arrive at a unanimous decision, its decision shall be expressed in terms of the view of the majority.

24. If any member of a Tribunal is, for any reason, unable to take part in the proceedings of the Tribunal, the other members may hear or continue to hear the appeal but the decision of the Tribunal shall be shown to the absentee

* Subs. *vide* Estt. Division's Notification No. SRO 1111(1)/75, dated 6-11-1975.

** Subs. *vide* Estt. Division's Notification No. S.R.O. 427(1)79, dated 20-5-1979.

member and, if such member has any view to express, the same may be recorded and the decision of the Tribunal shall be expressed in terms of the view of the majority.

25. A casual vacancy in the office of the Chairman or a member of a Tribunal caused by the absence on leave or otherwise of the Chairman or, as the case may be, a member may be filled by the President for a specified period by appointment of a person who is qualified to be the Chairman or, as the case may be, a member of a Tribunal.

26. The language of a Tribunal shall be English, but use may be made of the National or any one of the regional languages subject to the prior permission of the Tribunal.

27. A Tribunal may issue instructions in regard to supply of copies to, and inspection of record by parties to proceedings before it.

[Authority.- Estt. Division's Notification No. S.R.O. 1199(1)/74, dated 14-9-1974].

3.1 Delegation of Powers to Deputy Registrar, Service Tribunal, Lahore

In partial modification of Service Tribunal's notification of even number dated the 6th December, 1975, and in exercise of the powers conferred by clause (1) (d) of Rule (2) of the Service Tribunals (Procedure) Rules, 1974, the Deputy Registrar, Service Tribunals, Camp Office, Lahore is hereby authorised to perform the functions of the Registrar under the Service Tribunals (Procedure) Rule, 1974 except:-

1. the fixing of cases out of turn;
2. transfer of cases from one station to another; and
3. grant of extension for filing objections beyond 5 months.

[*Authority.*- Federal Service Tribunal Notification No.F.12(2)/74,FST, dated 15-9-1980].

3.2 The Service Tribunals (Qualifications of Members) Rules, 1974

In exercise of the powers conferred by section 8 of the Service Tribunals Act, 1973 (LXX of 1973), the Federal Government is pleased to make the following rules:-

1. These rules may be called the Service Tribunals (Qualifications of Members) Rules, 1974.
2. A member of the Tribunal shall be a person who has for a period of not less than 20 years held an appointment or post in the Service of Pakistan, or in a Corporation or other body set up by Government or who, for the said period, has been an advocate or legal practitioner.

[*Authority.*- Estt. Division's Notification No. S.R.O. 242 (I)/74, dated 22-2-1974].

3.3 Permanent Seat of the Service Tribunal

In exercise of the powers conferred by sub-rule (1) of rule 3 of the Service Tribunals (Procedure) Rules, 1974, the Federal Government is pleased to appoint Islamabad to be the place at which the Service Tribunal established under the Establishment Division Notification No. S.R.O. 242(1)/74, dated the 22nd February, 1974, shall have its permanent seat.

[*Authority.*- Estt. Division's Notification No. 15/I/73-CV., dated 29-10-1974].

Sl. No. 4**Method, Qualifications and other Conditions for Appointment of the Assistant Registrar (*Grade 16) and Administrative Officer (*Grade 17) in the Service Tribunal**

In pursuance of sub-rule (2) of rule 3 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, the following method, qualifications and other conditions are laid down for appointment to the post of Assistant Registrar (Grade* 16) in the Service Tribunal:-

2. *Method of appointment.*— The post of Assistant Registrar shall be filled by transfer and, failing that, by promotion.

3. *Qualifications/Conditions for transfer.*— Appointment by transfer shall be made from amongst the persons who hold posts in Grade* 16 on a regular basis either in the Service Tribunal or in any other Department of Federal Government. A law graduate will be preferred.

4. *Conditions for promotion.*— Promotion shall be made by selection from amongst the officials in Grades* 11 to 15 employed in the Service Tribunal who have rendered at least 5 years service in these grades. A law graduate will be preferred.

5. *Probation.*— A person appointed to the post by promotion shall be on probation for a period of one year. This period may be curtailed for good and sufficient reasons to be recorded, or if considered necessary, it may be extended for a period not exceeding one year, as may be prescribed at the time of appointment. Appointment on probation shall be subject to provision of Section 6 of Civil Servants Act, 1973.

[Authority.- Estt. Division's Notification No. S.R.O. 12 (I)/76, dated 3-1-1976].

4.1 Method, Qualifications and other Conditions for Appointment of Administrative Officer in Service Tribunal

In pursuance of sub-rule (2) of Rule 3 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, the following method, qualifications and other conditions are laid down for appointment to the post of Administrative Officer (Grade* 17), in the Service Tribunal.

2. *Method of appointment.*— The post of Administrative Officer shall be filled by promotion and failing that it will be filled by transfer.

* BPS.

3. *Conditions for promotion.*— Promotion shall be made by selection from amongst the persons who hold the post of Superintendent or Private Secretary or Assistant Registrar in the Service Tribunal on a regular basis and have rendered at least 3 years service in *Grade 16 or at least 8 years service in *Grade 11 and above. A person who has sufficient knowledge of rules/regulations relating to administrative and establishment matters will be given preference.

4. *Qualifications/Conditions for Transfer.*— Appointment by transfer shall be made from amongst the persons who hold posts in *Grade 17 on a regular basis under the Federal Government and have sufficient experience of rules/regulations relating to administrative and establishment matters.

5. *Probation.*— A person appointed to the post by promotion shall be on probation for a period of one year. This period may be curtailed for good and sufficient reasons to be recorded, or if considered necessary, it may be extended for a period not exceeding one year, as may be prescribed at the time of appointment. Appointment on probation shall be subject to provision of Section 6 of Civil Servants Act, 1973.

[*Authority.*- Estt. Division's Notification No. S.R.O. 138 (I)/76, dated 12-2-1976].

4.2 Method, Qualifications and Other Conditions for Appointment of the Deputy Registrar (Judicial) *Grade 17 in the Service Tribunal

In pursuance of sub-rule (2) of Rule 3 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, the following method, qualifications and other conditions are laid down for appointment to the post of Deputy Registrar (Judicial) Grade* 17 in the Service Tribunal.

2. *Method of Appointment.*— The post will be filled by promotion, and failing that by transfer or by direct recruitment.

3. *Conditions of Promotion.*— Promotion shall be made by selection from amongst the persons who hold the post of Superintendent, or Private Secretary or Assistant Registrar in the Service Tribunal on regular basis and have rendered at least 3 years service in *Grade 16 or at least 8 years service in *Grade 11 and above. Only persons having degree in law with sufficient knowledge of rules/regulations relating to service matters will be considered for promotion.

4. *Qualifications/Conditions for Transfer.*— Appointments by transfer shall be made from amongst the persons holding appointment on a regular basis in the same grade* in which the post to be filled exists, provided the person concerned possesses the qualifications/experience prescribed for direct recruitment or promotion to the post concerned.

* BPS

5. *Qualifications, experience and age limits for direct recruitment.*— A candidate must possess the educational qualifications and experience and must be within the age limits as mentioned against the post in the Schedule to this notification:

Provided that the maximum age limit will be relaxed by 3 years in the case of candidates belonging to Scheduled Castes, Buddhist Community, recognised tribes of the Tribal Areas, Azad Kashmir and Northern Areas (Districts of Gilgit, Skardu, Ghizer, Ghanche and Diamir) in accordance with the instructions issued by the Establishment Division.

6. *Probation.*— Persons appointed by promotion or direct recruitment shall be on probation for a period of one year. This period may be curtailed for good and sufficient reasons to be recorded, or if considered necessary, it may be extended for a period not exceeding one year as may be prescribed at the time of appointment. Appointment on probation shall be subject to the provisions of Section 6 of Civil Servants Act, 1973.

[Authority.- Estt. Division's Notification No.S.R.O.136(I)/78, dated 23-1-1978].

SCHEDULE

Sl. No.	Designation and *Grade of the Post	Qualifications and Experience	Age Limit	
			Maximum	Minimum
1.	Deputy Registrar (Judicial) *Grade 17	Law graduate, having 3 years experience of working as Assistant Registrar in a High Court or a Tribunal, or as Legal Adviser in a Government Office or large private establishment, or 3 years practice as an advocate.	35 years	25 years

Sl. No. 5

Defence of Cases in the Tribunal and Law Courts

The following guidelines and instructions are to be observed by the Ministries/Divisions/Attached Departments in regard to Appeals/Writ Petitions/Suits preferred by the aggrieved civil servants before Service Tribunals, High Courts and Civil Law Courts against final orders affecting the terms and conditions of service, including cases where penalty have been awarded under the Government Servants (Efficiency & Discipline) Rules:-

- (i) After the promulgation of the Tribunal Act, 1973, the jurisdiction in all matters pertaining to the terms and conditions of the civil servants, including orders passed under Government Servants (Efficiency & Discipline) Rules 1973 rest with the Tribunal and to that extent the jurisdiction of the High Courts and the Civil Courts

* BPS.

has been ousted. In cases where writ petitions/civil suits are filed they should be contested on the point of jurisdiction.

- (ii) In Appeals/Writ Petitions/Civil Suits against the orders passed by the Ministries/Divisions, the responsibility of defending such cases is of the Ministry/Division/Attached Department concerned. However, in view of the fact that Establishment Division is made proforma party in most of the cases, the cases are referred routinely to this Division which results in loss of time. It is clarified that where the final orders have been passed by the Ministry/Division other than the Establishment Division no reference should be made to the Establishment Division, unless there is a specific point of reference, in which case the issue should be clearly specified and necessary papers supplied as *annex* in a self contained reference. It would not be possible for the Establishment Division to respond to general queries or a general request for advice in such cases.
- (iii) In cases where the Ministries/Divisions are the principal respondent, arrangement for submission of parawise comments well in time, and appointment of counsels to defend the case should be made in consultation with the Law Division. The Federal Service Tribunal is presently not happy about the delays in filing parawise comments and the proper defence of the cases before them by the Ministries/Divisions.
- (iv) In defending the appeals, before the Service Tribunals the question of limitation should be carefully examined, and the appeals contested on this ground where appeals are time barred.
- (v) The Ministries/Divisions are also required to examine those cases which are decided against the government by the Service Tribunal in their capacity as the main respondent, with a view to filing an appeal before the Supreme Court in consultation with the Law Division directly. Such cases need not to be referred to this Division for examination.

[Authority.- Estt. Division's O.M.No.14/5/80-Lit/Misc., dated 7-3-1982].

5.1 Implementation of Judgments/Orders Passed by the Federal Service Tribunal

On acceptance of an appeal by the Federal Service Tribunal, a written order is communicated to the parties and respondent Ministries/ Divisions/ Departments concerned. On receipt, the judgment is to be examined on top priority basis with a view to filing a Civil Petition for Special Leave to Appeal (CPSLA) before the Supreme Court of Pakistan for which 60 days time is available to the aggrieved parties. In case it is decided, in consultation with the Law and Justice Division, that an order passed by the Tribunal does not involve

any substantial question of law of public importance for moving a CPSLA before the Supreme Court of Pakistan, the order should be implemented forthwith under intimation to the Registrar, Federal Service Tribunal, Islamabad.

2. The Ministries/Divisions are also requested kindly to inform the departments under their administrative control to follow the above instructions.

[Authority:- Estt. Division's O.M.No.F.10/14/92-Lit.I, dated 4-5-1993].

5.2 Implementation of Orders of the Federal Service Tribunal and High Courts Appealed Against in Supreme Court of Pakistan

Copy of letter No. 1(5)2006-AGP, dated 2-3-2006, received from the Attorney General of Pakistan is enclosed herewith with the request that the instructions contained in the enclosed letter may be complied with in letter and spirit.

2. The above instructions may also be circulated to the attached departments/ organizations under the administrative control of each Ministry/Division.

[Authority: Estt. Div.'s OM No. 9/4/2006-Lit-4, dated 16th March, 2006]

5.3 Letter of Attorney General of Pakistan Regarding Implementation of Orders of the Federal Service Tribunal and High Courts Appealed Against in Supreme Court of Pakistan

It has been observed that orders passed in service matters by the Federal Service Tribunal decided against the government are not implemented as per directions given in the respective orders. The government departments postpone the implementation of the orders of the Federal Service Tribunal on the grounds that CPLA is preferred against the order and wait for the disposal of the matter by the Honorable Supreme Court of Pakistan. The government departments are hereby informed that unless the order of FST is suspended specifically by an order of the Supreme Court, the same must be implemented forthwith. However, a clause may be added in the implementation orders that it shall be subject to the final decision of the matter by the Honorable Supreme Court of Pakistan. This eventuality of informing the government departments has arisen because recently the Honorable Supreme Court of Pakistan has started taking a very serious note of this fact and in some of the cases, heavy costs up to Rs. 50,000/- has been imposed by the Honorable Supreme Court of Pakistan simply for the reason that the government department has not implemented the orders during the pendency of the CPLA, without there being any order of suspension of the orders appealed against. The matter must be attended to

urgently in order to avoid any further financial loss to the national exchequer. Thus all the matters which are decided by the FST or which are pending in the Honorable Supreme Court of Pakistan or which may be instituted before the Honorable Supreme Court of Pakistan against any order passed by the FST, directing the reinstatement or granting some other relief to a civil servant, be complied with forthwith, unless the order appealed against is specifically suspended by the Honorable Supreme Court of Pakistan.

2. The Secretary Establishment is further requested to convey this message to all the departments concerned of the government in respect of which the service matters crop up before the FST or before the Honorable Supreme Court of Pakistan for necessary action.

[Authority:- Office of the Attorney General for Pakistan's DO No. 1(5)2006-AGP, dated 2-3-2006]

5.4 Implementation of Federal Service Tribunals Order Wherever Appeals Not Filed

1.Omitted.....

2. It is brought to the notice of the Ministries/ Divisions/ Departments that the Federal Service Tribunal was constituted in 1973 and enjoys the powers of a civil court under the Civil Procedure Code and can, if it so desires, initiate proceedings against the defaulting Ministries/Divisions/ Departments for non-implementation of its orders if they have not been appealed against in the higher courts. It is, therefore, mandatory for the Ministries/Divisions/Departments to implement the Federal Service Tribunal's orders wherever appeals have not been filed and strict compliance with this legal provision is requested forthwith.

3. The Tribunal has also complained about the lack of assistance being rendered by the Ministries/Divisions/Departments by having their viewpoints represented by officials of the contesting Ministry/Division/Department at very low level and for not contacting government counsel/advocate who is supposed to defend the government position. Many instances relating to some Ministries and Departments have been cited by the Chairman, Federal Service Tribunal which are being separately addressed on the subject.

4. In view of the above, the attention of the Ministries/Divisions/ Departments is invited to the Establishment Division's policy O.Ms. No.10/14/92-Lit.1, dated 4.5.1993, 2/19/93-Lit.3, dated 28.5.1994 and 1/23/94-Lit.2, dated 3.11.1994 which stress that:

- (a) the government departments should assure that no case goes unrepresented before any court/tribunal. A responsible officer well conversant with the case, alongwith government counsel should always be deputed to represent the government and assist the

court/tribunal on the basis of departmental record and the policy stand taken in the case;

- (b) where a judgment is passed against the government the possibility of filing an appeal against it should be examined well within time in consultation with the Law & Justice Division; and
- (c) where a judgment is not desired to be challenged the same should be implemented forthwith.

5. The Ministries/Divisions/Departments are requested to strictly comply with the government instructions referred to above. The government functionaries, found negligent or responsible for mishandling the cases, should invariably be proceeded against under the E&D Rules, 1973.

[*Authority*.- Paras 2 to 5 of Estt. Division's O.M.No.1/1/95-Lit.2/Misc. dated 30-8-1995].
