

CONFIDENTIAL

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PROVINCIAL ASSEMBLY OF THE PUNJAB

REPORT OF THE SPECIAL COMMITTEE NO.1 REGARDING THE PUNJAB SERVICE TRIBUNALS (AMENDMENT) BILL 2013 (BILL NO. 4 OF 2013)

The Punjab Service Tribunals (Amendment) Bill 2013 (Bill No. 4 of 2013) was referred to the Special Committee No.1 on 27 June 2013. The Committee considered the bill in its meetings held on 3 July and 8 July 2013.

2. The following were present:-

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| 1. | Mian Naseer Ahmad, MPA (PP-155) | Convener |
| 2. | Malik Muhammad Nawaz, MPA (PP-71)
(attended on 3 July 2013) | Member |
| 3. | Mian Tariq Mehmood, MPA (PP-113) | Member |
| 4. | Rana Muhammad Arshad, MPA (PP-171) | Member |
| 5. | Sardar Qaisar Abbas Khan Maggasi, MPA (PP-264)
(attended on 3 July 2013) | Member |
| 6. | Mian Muhammad Kazim Ali Pirzada, MPA (PP-273) | Member |
| 7. | Mr Muhammad Khurram Gulfam, MPA (PP-162)
(attended on 3 July 2013) | Member |
| 8. | Mrs Ayesha Javed, MPA (W-317) | Member |
| 9. | Dr Murad Raas, MPA (PP-152) | Member |

3. Mr Ali Tahir, Secretary (I&C), Services and General Administration Department and Mr Mohsin Abbas Syed, Director, Law and Parliamentary Affairs Department represented their Departments. Hafiz Muhammad Shafiq Adil, Additional Secretary (Legislation), Provincial Assembly of the Punjab functioned as Secretary to the Committee.

4. The Secretary (I&C), Services and General Administration Department apprised the Committee about the aims and objects of the bill. He said that the Government of the Punjab had promulgated an Ordinance on 23 April 2013 in compliance with the decision of the Supreme Court of Pakistan through which certain amendments were made in the Punjab Service Tribunals Act 1974. He added that the said Ordinance was going to be expired on 21 July 2013. He also added that the said Ordinance had been laid before the Assembly for legislation under the constitution.

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5. The Director Law and Parliamentary Affairs Department apprised the Committee that the Government of the Punjab had filed an appeal against the said decision of the Supreme Court of Pakistan, however, in the meanwhile, the Committee may recommend to the Assembly to pass the bill. On a query, Director Law and Parliamentary Affairs presented a copy of the decision of the Supreme Court for perusal.

6. After detailed discussion on the aims and objects and clauses of the bill, the Committee unanimously decided to recommend that the bill may be passed by the Assembly subject to the following amendments:-

AMENDMENTS IN THE BILL

(1) PREAMBLE

after the word "expedient", the word "further", be added.

(2) CLAUSE 2

(1) in para (a) of the proposed sub-section (3), the word " five", occurring at the end of line 2, be substituted by the word "three"; and

(2) for the proposed subsection (4), the following be substituted:-

"(4) Subject to this section, the Governor shall, in consultation with the Chief Justice of Lahore High Court, in the manner mentioned hereinafter, appoint the Chairman and the Members on such terms and conditions as may be prescribed and, until so prescribed, as the Government may determine.

(4a) In case of appointment of the Chairman, the Government shall send a panel of three persons to the Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as Chairman.

(4b) In the case of appointment of a Member:

- (i) for a position mentioned in section 3(b)(i), Chief Justice of Lahore High Court, on a requisition from the Government, shall send a panel of two District Judges to the Government and the Government shall select one of the names for appointment as Member;
- (ii) for a position mentioned in section 3(b)(ii), the Government shall send a panel of two persons to Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as Member; and
- (iii) for a position mentioned in section 3(b)(iii), the Government shall send a panel of two persons to the Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as Member."

(3) **CLAUSE 4**

- (i) in the marginal heading, after the figure 6, the word "of" be substituted by the word "in";
- (ii) in the proposed section 6, in sub-section (1), the words "or relieve", occurring in line 2, be omitted and after the word "or", the word "relieve", be added
- (iii) in the proposed section 6, in sub-section (3), the word "thirty", occurring in line 1, be substituted by the word "fifteen"; and
- (iv) in the proposed section 6, for sub-section (4), the following be substituted:-
"(4) the appeal mentioned in subsection (3) shall be heard and decided by a Division Bench of Lahore High Court within thirty days and if the High Court fails to decide the appeal within thirty days of filing the appeal, the appeal shall abate and the decision of the Government shall become final."
- (v) in the proposed section 6, in sub-section (5), after the word "which" appearing in line 3, the words "the Chairman or" be added.

4 **CLAUSE 11**

Clause 11 be omitted.

7. A copy of the bill as introduced in the Assembly is at Annexure-A and a copy of the bill as recommended by the Committee is at Annexure-B.

SPECIAL REPORT UNDER RULE 65 OF THE RULES OF PROCEDURE OF PROVINCIAL ASSEMBLY OF THE PUNJAB, 1997

8. During consideration of the Punjab Service Tribunals (Amendment) Bill 2013 (Bill No. 4 Of 2013), the Committee observed that there was no mention of any specific time limit for decision of the appeals, filed before the Punjab Service Tribunals. The Committee, therefore, decided to recommend that the Administrative Department, in consultation with the Law Department, may initiate legislation for the purpose.

Lahore
8 July, 2013


MIAN NASEER AHMAD
Convener
Special Committee No.1

Lahore
8 July, 2013


(HAFIZ MUHAMMAD SHAFIQ ADIL)
Additional Secretary (Legislation)

**(BILL AS INTRODUCED IN THE ASSEMBLY)
PROVINCIAL ASSEMBLY OF THE PUNJAB**

Bill No. 4 of 2013

THE PUNJAB SERVICE TRIBUNALS (AMENDMENT) BILL 2013

A
Bill

further to amend the Punjab Service Tribunals Act, 1974.

Whereas it is expedient to amend the Punjab Service Tribunals Act, 1974 (IX of 1974) for purposes hereinafter appearing;

It is enacted as follows:-

1. Short title and commencement.— (1) This Act may be cited as the Punjab Service Tribunals (Amendment) Act 2013.

(2) It shall come into force at once.

2. Amendment in section 3 of Act IX of 1974.— In the Punjab Service Tribunals Act, 1974 (IX of 1974), hereinafter referred to as the said Act, in section 3—

(a) for subsections (3) and (4), the following shall be substituted—

“(3) A Tribunal shall consist of—

(a) the Chairman, being a person who has been or is qualified to be a Judge of the High Court and is not more than sixty five years of age on the date of appointment; and

(b) such number of Members as the Government may determine, and a Member shall be a person who is—

(i) a District Judge; or

(ii) in the service of Pakistan of the rank of Secretary to the Government (or equivalent) and who has performed quasi-judicial functions or functions relating to service matters of civil servants; or

(iii) a person qualified for appointment as Judge of a High Court, in case the persons mentioned at (i) and (ii) above are not available.

(4) The Governor, in consultation with Chief Justice of Lahore High Court, shall appoint the Chairman and the Members on such terms and conditions as may be prescribed and, until so prescribed, as the Government may determine.”; and

(b) for subsection (7), the following shall be substituted—

“(7) Subject to this Act—

(a) the Chairman shall hold office for a period of three years and shall not be eligible for reappointment; and

- (b) a Member shall hold office for a period of three years or until he attains the age of sixty years, whichever is earlier, and shall not be eligible for reappointment."

3. Amendment in section 3-A of Act IX of 1974.— In the said Act, in section 3-A, for subsection (1), the following shall be substituted—

"(1) Notwithstanding anything contained in section 3, the Chairman may constitute a Bench consisting of one or more Members including the Chairman but a Bench, other than a Bench consisting of the Chairman, shall include at least one Member with legal or judicial experience and the Bench so constituted shall be deemed to be a Tribunal:

Provided that where a single Member Bench is to be constituted, preference shall be given to the Member having legal or judicial experience."

4. Insertion of section 6 of Act IX of 1974.— In the said Act, after section 5, the following section 6 shall be inserted—

"6. Removal of the Chairman or a Member.— (1) The Government may remove or relieve the Chairman or a Member, during the tenure of his office, on the ground of misconduct or, physical or mental incapacity.

(2) The Government shall, before removing or relieving the Chairman or the Member, provide an opportunity of hearing to the Chairman or the Member.

(3) The Chairman or the Member may, within thirty days from the date of the order of removal or relieving, prefer an appeal before the Lahore High Court.

(4) The appeal mentioned in subsection (3) shall be heard and decided by a Division Bench of the High Court.

(5) Without prejudice to any other action under the law, the Government shall communicate to the appointing authority the circumstances in which the Member was relieved before the expiry of the term of three years and the appointing authority may take appropriate necessary action under the law."

5. Insertion of section 7 in Act IX of 1974.— In the said Act, after section 6, the following section shall be inserted:—

"7. Financial Powers.— (1) The Chairman shall be the Principal Accounting Officer of the Tribunal.

(2) The Chairman may re-appropriate funds from one head of account to another head of account or sanction expenditure from within the budget allocated to the Tribunal and approval of the Government for the purpose shall not be required."

6. Omission of section 10 of Act IX of 1974.— In the said Act, section 10 shall be omitted.

7. Amendment of section 11 of Act IX of 1974.— In the said Act, for section 11, the following shall be substituted:—

“11. Rules.— The Government may, by notification in the official Gazette, may make rules for carrying out the purposes of this Act, including the rules for purposes of implementation of the decisions of the Tribunal.”

8. Omission of section 12 of Act IX of 1974.— In the said Act, section 12 shall be omitted.

9. Omission of Schedules of Act IX of 1974.— In the said Act, the First Schedule and the Second Schedule shall be omitted.

10. Transition.— (1) Immediately after the commencement of this Act, the Government shall, by notification, constitute a Committee consisting of at least three persons to review the cases of the incumbent Chairman and the Members.

(2) If the Committee is of opinion that the incumbent Chairman or any Member is not qualified under this Act, it shall refer the matter to the Government for termination of his contract with immediate effect and the Government shall act accordingly.

(3) If the Committee is of opinion that the incumbent Chairman or any Member is qualified under this Act, he may continue to serve for the remaining term of three years subject to consultation with Chief Justice of Lahore High Court.

(4) If the Committee is of opinion that the incumbent Chairman or any Member is qualified under this Act and was appointed in consultation with the Chief Justice of Lahore High Court, he may, subject to the said Act, continue to serve for the remaining term of three years.

(5) Notwithstanding the upper age limit but subject to other provisions of this section and the said Act, the incumbent Chairman may complete his term of three years.”

11. Repeal.— The Punjab Service Tribunals (Amendment) Ordinance 2013 (I of 2013), is hereby repealed.

MINISTER INCHARGE

26 JUNE 2013

**MAQSOOD AHMAD MALIK
SECRETARY**

ANNEXURE – B

**(BILL AS RECOMMENDED BY THE
SPECIAL COMMITTEE NO.1)**

A
Bill

further to amend the Punjab Service Tribunals Act, 1974.

Whereas it is expedient further to amend the Punjab Service Tribunals Act, 1974 (IX of 1974) for purposes hereinafter appearing;
It is enacted as follows:-

1. Short title and commencement.– (1) This Act may be cited as the Punjab Service Tribunals (Amendment) Act 2013.

(2) It shall come into force at once.

2. Amendment in section 3 of Act IX of 1974.– In the Punjab Service Tribunals Act, 1974 (IX of 1974), hereinafter referred to as the said Act, in section 3–

(a) for subsections (3) and (4), the following shall be substituted–

“(3) A Tribunal shall consist of–

(a) the Chairman, being a person who has been or is qualified to be a Judge of the High Court and is not more than sixty three years of age on the date of appointment; and

(b) such number of Members as the Government may determine, and a Member shall be a person who is–

(i) a District Judge; or

(ii) in the service of Pakistan of the rank of Secretary to the Government (or equivalent) and who has performed quasi-judicial functions or functions relating to service matters of civil servants; or

(iii) a person qualified for appointment as Judge of a High Court, in case the persons mentioned at (i) and (ii) above are not available.

(4) Subject to this section, the Governor shall, in consultation with the Chief Justice of Lahore High Court, in the manner mentioned hereinafter, appoint the Chairman and the Members on such terms and conditions as may be prescribed and, until so prescribed, as the Government may determine.

(4a) In case of appointment of the Chairman, the Government shall send a panel of three persons to the Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as Chairman.

(4b) In the case of appointment of a Member:

- (i) for a position mentioned in section 3(b)(i), Chief Justice of Lahore High Court, on a requisition from the Government, shall send a panel of two District Judges to the Government and the Government shall select one of the names for appointment as Member;
- (ii) for a position mentioned in section 3(b)(ii), the Government shall send a panel of two persons to Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as Member; and
- (iii) for a position mentioned in section 3(b)(iii), the Government shall send a panel of two persons to the Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as Member."

3. Amendment in section 3-A of Act IX of 1974.— In the said Act, in section 3-A, for subsection (1), the following shall be substituted—

"(1) Notwithstanding anything contained in section 3, the Chairman may constitute a Bench consisting of one or more Members including the Chairman but a Bench, other than a Bench consisting of the Chairman, shall include at least one Member with legal or judicial experience and the Bench so constituted shall be deemed to be a Tribunal:

Provided that where a single Member Bench is to be constituted, preference shall be given to the Member having legal or judicial experience."

4. Insertion of section 6 in Act IX of 1974.— In the said Act, after section 5, the following section 6 shall be inserted—

"6. Removal of the Chairman or a Member.— (1) The Government may remove the Chairman or relieve a Member, during the tenure of his office, on the ground of misconduct or, physical or mental incapacity.

(2) The Government shall, before removing or relieving the Chairman or the Member, provide an opportunity of hearing to the Chairman or the Member.

(3) The Chairman or the Member may, within fifteen days from the date of the order of removal or relieving, prefer an appeal before the Lahore High Court.

(4) The appeal mentioned in subsection (3) shall be heard and decided by a Division Bench of Lahore High Court within thirty

days and if the High Court fails to decide the appeal within thirty days of filing the appeal, the appeal shall abate and the decision of the Government shall become final.

(5) Without prejudice to any other action under the law, the Government shall communicate to the appointing authority the circumstances in which the Chairman or the Member was relieved before the expiry of the term of three years and the appointing authority may take appropriate necessary action under the law."

5. Insertion of section 7 in Act IX of 1974.— In the said Act, after section 6, the following section 7 shall be inserted:-

"7. Financial Powers.— (1) The Chairman shall be the Principal Accounting Officer of the Tribunal.

(2) The Chairman may re-appropriate funds from one head of account to another head of account or sanction expenditure from within the budget allocated to the Tribunal and approval of the Government for the purpose shall not be required."

6. Omission of section 10 of Act IX of 1974.— In the said Act, section 10 shall be omitted.

7. Amendment of section 11 of Act IX of 1974.— In the said Act, for section 11, the following section 11 shall be substituted:-

"11. Rules.— The Government may, by notification in the official Gazette, may make rules for carrying out the purposes of this Act, including the rules for purposes of implementation of the decisions of the Tribunal."

8. Omission of section 12 of Act IX of 1974.— In the said Act, section 12 shall be omitted.

9. Omission of Schedules of Act IX of 1974.— In the said Act, the First Schedule and the Second Schedule shall be omitted.

10. Transition.— (1) Immediately after the commencement of this Act, the Government shall, by notification, constitute a Committee consisting of at least three persons to review the cases of the incumbent Chairman and the Members.

(2) If the Committee is of opinion that the incumbent Chairman or any Member is not qualified under this Act, it shall refer the matter to the Government for termination of his contract with immediate effect and the Government shall act accordingly.

(3) If the Committee is of opinion that the incumbent Chairman or any Member is qualified under this Act, he may continue to serve for the remaining term of three years subject to consultation with Chief Justice of Lahore High Court.

(4) If the Committee is of opinion that the incumbent Chairman or any Member is qualified under this Act and was appointed in consultation with the Chief Justice of Lahore High Court, he may, subject to the said Act, continue to serve for the remaining term of three years.

(5) Notwithstanding the upper age limit but subject to other provisions of this section and the said Act, the incumbent Chairman may complete his term of three years."
