

THE BALOCHISTAN SERVICE TRIBUNALS ACT, 1974

(Baln Act V of 1974)

CONTENTS

SECTIONS

Preamble.

1. Short title, commencement and application.

2. Definitions.

3. Tribunals.

3-A. Construction of Benches.

4. Appeals to Tribunals.

5. Power of Tribunals.

5-A. Controlling Authority.

6. Abatement of suits and other proceedings.

6-A. Limitation.

7. Rules.

8. Transfer of cases.

9. Repeal of West Pakistan Ordinance XXVIII of 1969.

'THE BALOCHISTAN? SERVICE TRIBUNALS ACT, 1974

(Balochistan Act V of 1974)

[27" 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, 1. (1) This Act may be called the Balochistan Service  
commencemen Tribunals Act, 1974.

t and .

application. (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 Qazi, Member  
Majlis-e-Shoora, Civil Judge, Senior Civil Judge,  
Additional District and Sessions Judge, District  
and Sessions Judge (Inspection), Presiding

This Act, was passed by the Balochistan Assembly on 5" June, 1974; assented to by the Governor of Balochistan; and publish

in the Balochistan Gazette (Extraordinary) No. 30, dated 27" June, 1974.

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

Clause (a) substituted first by Balochistan Ordinance VI of 1978; and, then by Balochistan Act VII of 1989; effective from 20" June, 1989. Published in the Balochistan Gazette (Extraordinary) No. 133, dated 30' July, 1989. Earlier this amendment was made by Balochistan Ordinance VI of 1989, published in the Balochistan Gazette (Extraordinary) No. 51, dated 25 March, 1988 which Ordinance was repealed by Balochistan Act VII of 1989. S. 3.

Ko" ere

instead of "u"; as per

Officer Labour Court and District and Sessions  
Judge.]

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

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

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 years service as such;  
and

Gi) 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:

New clause (a-i) inserted by Balochistan Act No. II of 2013; passed by the Provincial Assembly of Balochistan on 28<sup>th</sup> June, 2013; assented to by the Governor Balochistan on 1<sup>st</sup> 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 31 May, 2013, which Ordinance was repealed by Balochistan Act II of 2013.  
6.

The word "and" omitted, *ibid.*

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

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

oar oONEB

7[Constitution of

Benches.

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 '[in consultation with the Chief Justice of the Balochistan High Court,] on such terms and conditions as it may determine?[:]'

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 "[:]

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.]

(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.]

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;

IL. Where a bench consisting of two  
Members is to be constituted it should be

Inserted by Balochistan Act No. II of 2013, for more details see footnote 1 under section 3 (3) (a).

Substituted for a full-stop, *ibid.*

Proviso added, *ibid.*

Substituted for a full-stop, *ibid.*

Proviso added, *ibid.*

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

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

Appeals to  
Tribunals.

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.

(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.]

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 ninety 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

Power of Tribunals.

'(Controlling Authority.

result of a departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory 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.

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.

5-A. (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

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

www.ezqanoon.com

www.ezqanoon.com

Abatement of suits  
and other  
proceedings.

2[Limitation.

Rules.

Transfer of cases.

Repeal of West  
Pakistan  
Ordinance  
XXVIII of  
1969.

dated 15" September, 1975.

funds/sanctioned budget of the Tribunal.]

6. All suits, appeals or applications regarding any matter within the jurisdiction<sup>1</sup> 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.

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

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

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.

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

1 For the Balochistan Public Service Commission's (Functions) Rules, 1975, see the Balochistan Gazette (Extraordinary) No.

2 Section 6-A inserted by Balochistan Ordinance XII of 1980; deemed to have taken effect from 5 June, 1974. Published in the

Balochistan Gazette (Extraordinary) No. 174, dated 5<sup>th</sup> August, 1980.

effect from 5<sup>th</sup> June, 1974.

3 For Rules see the Balochistan Gazette (Extraordinary) No. 16, dated 22<sup>nd</sup> April, 1976.

4 Substituted for words "West Pakistan"; deemed always to have been substituted so, by Balochistan Ordinance XXII of 1978,