

AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.

Dated the April 20, 1976

No. 1504/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 18th of April, 1976, and is hereby published for general information:-

(ACT VI OF 1976)

AN ACT to regulate the appointment to, and the terms and conditions of service in respect of persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government.

Whereas it is expedient to regulate by law, the appointment to, and the terms and conditions of the persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. Short title, Application and commencement.- (1) This Act may be called the Azad Jammu and Kashmir Civil Servant Act, 1976.

(2) It applies to all Civil servants wherever they may be.

(3) It shall come into force at once.

CHAPTER I - PRELIMINARY

2. Definitions.- (1) In this Act, unless there is any thing repugnant in the subject or context,-

(a) 'Adhoc Appointment' means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;

(b) 'Civil Servant' means a person who is member of a Civil Service, or holds a Civil post, in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government, but does not includes--

(i) a person who is on deputation to the service of

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Azad Jammu and Kashmir in connection with the affairs of the Government, from the Council or the Federation or any province of Pakistan or authority;

(ii) a person who is employed on contract, or on work-charged basis, or who is paid from contingencies; or

(iii) a person who is a 'worker' or 'workman' as defined in the Factories Act, 1934 (XXV of 1934) or the Workers' Compensation Act, 1923 (VIII of 1923);

'Constitution' means the Azad Jammu and Kashmir Interim Constitution Act, 1974 ;

'Council' means the Azad Jammu and Kashmir Council constituted under the Constitution ;

'Government' means the Azad Government of the State of Jammu and Kashmir ;

'initial recruitment' means appointment made otherwise than by promotion or transfer ;

'pay' means the amount drawn monthly by a civil servant as pay, and includes technical pay, special pay, personal pay and any other emoluments declared as pay by the prescribed authority ;

'permanent post' means a post sanctioned without limit of time ;

'prescribed' means prescribed by rules ;

'rules' means the rules made or deemed to have been made under this Act ;

'selection authority' means the Azad Jammu and Kashmir public service commission, departmental selection board, departmental selection committee or other authority or body on the recommendation of, or consultation with which any appointment promotion, as may be prescribed, is made ; and

'temporary post' means a post other than a permanent post.

(2) For the purpose of this Act, an appointment whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribe manner.

CHAPTER II —

TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS

3.

Terms and Conditions.- The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.

Appointments.- Appointments to a civil service of Azad Jammu and Kashmir or a civil post in connection with the affairs of the Government, shall be made in the prescribe manner by the Government, or by a person authorised by it in that behalf.

Probation.- (1) An initial appointment to a service or post referred to in section 4, not being an ad hoc appointment, shall be on such probation and for such period of probation as may be prescribed.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on such probation and for such period of probation as may be prescribed.

(3) Where, in respect of any service or post, satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any .training, a person appointed on probation to such service or post who, before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete the course or the training shall, except as may be prescribed otherwise,-

(a) If he was appointed to such service or post by initial recruitment, be discharged; or

(b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged.

Confirmation.- (1) A person appointed on probation shall, on satisfactory completion to his probation, be eligible for confirmation in a service or a post as may be prescribed.

(2) A civil servant promoted to a post or grade on probation

shall on satisfactory completion of his probation, be confirmed in such post or grade, as may be prescribed.

(3) A civil servant promoted to a post or grade on regular basis shall be confirmed after rendering satisfactory service for such period as may be prescribed.

(4) There shall be no confirmation against any temporary post.

(5) A civil servant who, during the period of his service was

eligible for confirmation in any service or against any post, retires from service before confirmation shall not, merely by reason of such retirement, be refused confirmation in such service or against such post or any benefits accruing there from.

(6) Confirmation of a civil servant in a service or against a post shall take effect from the date of the occurrence of a permanent vacancy in such service or against such post or from the date of continuous officiation, in such service or against such post, whichever is later.

Seniority.- (1) Seniority on initial appointment to a service, cadre, grade, or post shall be determined in the prescribed manner.

(2) Seniority in the grade to which a civil servant is promoted shall take effect from the date of regular appointment to a post in that grade:

Provided that Civil servants who are selected for promotion to a higher grade in one batch shall, on their promotion to the higher grade, retain their inter-se seniority in lower grade.

(3) For proper administration of a service, cadre or grade, the appointing authority shall from time to time cause a seniority list of the members of such service, cadre or grade to be prepared.

(4) Subject to the provisions of sub-section (3), the seniority of a civil servant in relation to other civil servants belonging to the same service, cadre or grade, whether serving in the same department or office or not, shall be determined in such manner as may be prescribed.

Promotion.- (1) A civil servant possessing such minimum

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qualification as may be prescribed shall be eligible for promotion to a post for the time being reserved under the rules for departmental promotion in any higher grade of the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotion shall be made as may be prescribed,-

(a) in the case of a selection post, on the basis of selection on merit ; and

(b) in the case of a non-selection post, on the basis of seniority-cum-fitness.

Posting and Transfers.- Every civil servant shall be liable to serve anywhere within or outside Azad Jammu and Kashmir in any post under the Government or the Council or the Federal Government of Pakistan or any Provincial Government of Pakistan, or a local authority or a Corporation or a body set up or established by any such Government:

Provided that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favorable than those to which he would have been entitled if he has been so required to serve.

Termination of Service.- (1) The service of a civil servant may be terminated without notice-

(i) during the initial or extended period of his probation ;

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred and promoted on probation from one grade, cadre or post, to another grade, cadre or post, his service shall not be terminated so long as he holds a lien against his former post, grade, or cadre, and he shall be reverted to his former grade, or as the case may be, cadre or post ;

(ii) if the appointment is made on ad hoc basis liable to termination on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

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(2) In the event of a post being abolished or number of posts in a cadre or grade being reduced the services of the most junior person in such cadre or grade shall be terminated.

(3) Notwithstanding the provisions of sub-section (1) but subject to the provisions of sub-section (2), the service of a civil servant in temporary employment or appointed on adhoc basis shall be liable to termination on thirty days notice or pay in lieu thereof,

Reversion to a lower grade or service.- A civil servant appointed to a higher post or grade on ad hoc or officiating basis, shall be liable to reversion to his lower post or grade without notice.

Retirement from service.- A civil servant shall retire from service.-

(i) in the case of a person holding the post of Secretary to Government or an equivalent or higher post on such date, as the competent authority may, in the public interest, direct;

(ii) in the case of a person holding a post lower than the post of Secretary to Government on such date, as the Government may, in the public interest, in consultation with an Advisory Committee as may be constituted the prescribed manner for the purpose, direct ;

(iii) in any other case, on such date, after he has completed twenty-five years of service qualifying for pension or other retirement benefits, as the competent authority may, in the public interest, direct ; and

(iv) where no direction is given under clause (i) or as the case may be, under clauses (ii) and (iii) on the completion of the fifty fifth year of his age.

Explanation.- In this section 'competent authority' means the appointing authority of a person duly authorised by the appointing authority in that behalf, not being a person lower in rank to the civil servant concerned.

Employment after Retirement.- (1) A retired civil servant shall not be re-employed under the Government unless such re-employment is necessary in the public interest and is made, except where the appointing authority is the Government, with

the prior approval of the Government :

Provided that no retired civil servant shall be re-employed or continue to be so employed after he has completed fifty eighth year of his age.

(2) A civil servant may, during leave preparatory to retirement or after retirement from Government service, seek any private employment :

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement, he shall obtain the prior approval of the prescribed authority.

Conduct.- The conduct of a civil servant shall be regulated by rule made by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

Efficiency and Discipline.- A civil servant shall be liable to such disciplinary action and penalties and in accordance with such procedure as may be prescribed.

Pay.- A civil servant appointed to a post or grade shall be entitled, in accordance with the rules, to the pay sanctioned for such post or grade

Provided that, when the appointment is made on a current charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner :

Provided further that where a civil servant has been dismissed or removed from service or reduced in rank, he shall, in the event of the order of dismissal, removed from service or reduction in rank being set aside, be entitled to such arrears or pay as the authority setting aside the order may determine.

Leave.- A civil servant shall be allowed leave in accordance with the leave rules applicable to him:

Provided that the grant of leave shall depend on the exigencies of service and shall be at the discretion of the competent authority.

Pension and Gratuity- (1) On retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed.

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(2) In the event of death of a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as may be prescribed.

(3) No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline but Government may sanction, compassionate allowance to " such a servant, not exceeding two-thirds of the pension or gratuity which would have been admissible to him if he had been by bodily or mental infirmity incapacitated for further service on the date of such dismissal or removal.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority according to the length of service of the civil servant which qualifies for pension or gratuity, and any overpayment consequent upon such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

Provident Fund.- (1) Before the expiry of the third month of every financial year, the accounts officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to maintain a statement under his hand showing the subscription to, including the interest accruing thereon, if any, and withdrawals or advances his provident fund during the preceding financial year.

(2) Where any subscription made by a civil servant to his provident fund has not been shown or credited in the account by the accounts officer or other officer required to maintain such account; such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

Benevolent Fund and Group Insurance.- All civil servants and their families shall be entitled to the benefits admissible under the Azad Jammu and Kashmir Employees Benevolent Fund and Group Insurance Act, 1971, and the rules made there under.

Right of Appeal or Representation.- (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is allowed to a civil

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servant by any rules applicable to him, such appeal or application shall, except as may otherwise be prescribed, be made within sixty days of the communication to him of such order.

(2) Where no provision for appeal of review exists in the rules in respect of any order, a civil servant aggrieved by any such order may, except where such order is made by the Government, within sixty days, of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade..

CHAPTER III — MISCELLANEOUS.

Saving.- Nothing in this Act or in any rules shall be construed to limit or abridge the power of the Government to deal with the case of any civil servant in such manner as may appear to it to be just and equitable :

Provided that, where this Act or any rule is applicable to the case of a civil servant, the case shall not be dealt with in any manner less favorable to him than that provided by this Act or such rule.

CHAPTER IV — RULES.

(1) The Government, or any person authorised in this behalf may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.

(2) Any rules, regulations, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, regulations, orders or instructions are not inconsistent with the provisions of this Act, and shall be deemed to be made under this Act.

Sd/-

(Sardar Aftab Ahmad Khan)

Secretary Law & Parliamentary Affairs,
Azad Government of the State of J & K.

