

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

Dated the April 15, 1976.

No. 1456/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 8th of April, 1976, and is hereby published for general information:-

(ACT III OF 1976)

An Act to regulate the recruitment and conditions of service of persons appointed to the Secretarial Staff of the Azad Jammu and Kashmir Legislative Assembly.

Whereas it is expedient to regulate by laws, the appointment to, and terms and conditions of service of persons in the Secretariat of the Azad Jammu and Kashmir Legislative Assembly and to provide for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

PART I - PRELIMINARY.

1. Short title and commencement.- (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly Secretariat (Recruitment, terms and conditions) Act, 1976.

(2)

It shall come into force at once.

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

(a)

(b)

(d)

'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;

'Appointing authority' means the authority competent to make an appointment under this Act;

'Assembly' means the Legislative Assembly of Azad Jammu and Kashmir;

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

(e) 'Council' means the Azad Jammu and Kashmir Council constituted under Azad Jammu and Kashmir Interim Constitution Act, 1974;

(f) "Deputation" means the temporary transfer or loan of the services of an officer from or to the Secretariat to or from any office outside the Secretariat;

(g) 'Employee' means a person appointed to a post;

(h) 'Finance Committee' means the Finance Committee of the Assembly constituted under section 30-B of the Constitution;

(i) 'Government' means Azad Government of the State of Jammu and Kashmir;

Gg) 'Government Secretariat' mean the Departments of the Government when referred to collectively;

(k) 'Post' means a post in the Secretariat;

qd) 'Prescribed' means prescribed by rules made under this Act;

(m) 'Secretary' means the Secretary of the Assembly and includes any person for the time being performing the duties of the Secretary; and

(n) 'Secretariat' means the Secretariat of the Assembly.

(2) All words and expressions used but not defined in this Act shall, unless the context otherwise, requires, have the meanings assigned to them in the Constitution.

PART II - SECRETARIAT

Secretariat. There shall be a Separate Secretariat of the Assembly headed by the Secretary.

Strength and composition of the Secretariat. (1) The Secretariat shall have

(a) Such number of permanent post as may be prescribed; and

(b) Temporary posts as may be prescribed and such other

temporary posts as may from time to time, be sanctioned.

(2) The powers to create posts in all grades, temporarily or permanently, shall vest in the Speaker:

Provided that no post in grade 17 or above shall be created for a period exceeding six months, except after consultation with Finance Committee.

(3) The Speaker may prescribe that the power under subsection (2) may subject to such conditions, if any, as may be laid down, be exercised by the Secretary.

PART HI - RECRUITMENT.

Methods of Recruitment - (1) Recruitment to a post or class of posts may be made by one or more of the following methods, namely:-

- (a) by promotion of a person employed in the Secretariat;
- (b) by transfer on deputation of a person serving outside the

Secretariat in connection with the affairs of the Government or the Council; and

- (c) by direct recruitment.

(2) The Speaker may prescribe from time to time by general order,-

- (a) the method or methods by which recruitment to a post or class of posts shall be made; and
- (b) the percentage of vacancies to be filled by each method.

(3) Where a percentage has been specified under section (2) for departmental promotion and direct recruitment, promotion against the posts reserved for departmental promotion shall be made first and the posts reserved for direct recruitment shall be filled later.

(4) Notwithstanding any thing contained in this Act.-

- (a) short terms vacancies reserved for direct appointment

may be filled by any other method of recruitment prescribed in accordance with this Act; and

(b) if no suitable person is available for promotion or transfer, the vacancy may be filled by direct appointment.

Recruitment by Promotion.- (1) Promotion to a post may be made-

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

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

(2) Appointment to posts from one grade to another and from one category to another within a grade shall be made on the recommendation of a Departmental Committee, consisting of not less than three member, to be constituted-

(a) in the case of posts in grade 17 and above by the Speaker; and

(b) in the case of all other posts by the Secretary.

Recruitment by transfer.- (1) Appointment of officers in grade 17 and above by transfer shall be made within the concurrence of the Government on a tenure basis for a maximum period of three years which may, from time to time, be extended by the appointing authority.

(2) Appointing authority may, after consultation with the Government, or as the case may, the Council revert an officer to his parent Department to which he belongs or his original post before the expiry of the period of his tenure.

Appointment by direct recruitment.- (1) Appointment by direct recruitment to the posts in grade 17 and above shall be made upon the recommendation of a Selection Committee, consisting of not less than three Members, to be constituted by the Speaker.

(2) Appointment by direct recruitment to posts other than those referred to in sub-section (1) shall be made upon the recommendation of a Recruitment Committee, consisting of not less than three member, to be constituted by the Secretary.

Qualification etc. for appointment.- The qualifications,

experience and age for appointment to the various categories of posts by Departmental promotion or otherwise shall be prescribed.

Appointing authority.- Appointment to all posts in grade 17 and above shall be made by the Speaker and appointment to all other posts shall be made by the Secretary or by any officer of the Secretariat authorised by the Secretary in this behalf.

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

(2) If, in the opinion of the appointing authority, the work or conduct of an employee on probation is unsatisfactory or shows that he is unlikely to become efficient, such authority may order that

(a) his probation be extended for such period not exceeding one year, as he may think fit; or

(b) if he was appointed to such post by direct recruitment be discharged; or

(c) if he was appointed to such post by promotion or transfer, be reverted to the post from which he was promoted or transferred and against which he holds a lien; or

(d) if there be no such post, be discharged-

(3) On the satisfactory conclusion of the period of probation the appointing authority may confirm a probationer in his appointment provided a clear vacancy exists.

(4) If no order extending the probation or otherwise is passed by appointing authority on or before the completion of the period of probation or extended probation, the probationer shall be deemed to have been confirmed in his appointment.

(5) Any person appointed to a post by promotion or transfer may also be placed on probation in accordance with the provisions of sub-section (1).

(6) Where, in respect of any post, the satisfactory completion of the period of probation includes the passing of an

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examination, test or course, a person appointed on probation to such post who, before the expiry of the original or extended period of his probation, fails to pass such examination or test or to successfully complete the course, may

(a) if he was appointed to such post by direct recruitment, be discharged ; or

(b) if he was appointed to such post by promotion or transfer, be reverted to the post from which he was promote or transferred and against which he holds a lien; or

(c) if there be no such post, be discharged.

Conditions of service, etc.- The terms and conditions of service not provided for by this Act, including recruitment policy, rank, status, seniority, promotion, termination of service, conduct, efficiency, discipline, pay, leave, pension, gratuity, provident fund, benevolent fund, group insurance, right of appeal or representation and privileges of an employee, shall be governed by the provisions for the time being in force or any provision made thereafter and applicable to the employee holding corresponding posts in the Government Secretariat, subject or such modifications, variations or exceptions, if any, as the Speaker may, from time to time, by order specify.

PART IV RE-EMPLOYMENT

Re-employment.- (1) A retired employee shall not ordinarily be re-employed in the Secretariat unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the Speaker, such retired employee or civil servant may be ordered with the approval of the Finance Committee:

Provided that, where employment is sought by an employee on leave preparatory to retirement, he shall obtain the prior approval of the appointing authority for the post from which he retired from service.

PART V---RULES

Powers to make rules.- The Speaker may make rules for carrying in to effect the provisions of this Act.

Relaxation of rules.- Where the Speaker is satisfied that the operation of any provision of the rules framed under this Act causes undue hardship in any particular case, he may, with the approval of the Finance Committee by order dispense with, or relax the requirement of that provision to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

Sd/-

(Mohammed Akram Shah)
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Azad Govt. of the State of J&K.