

THE '[KHYBER PAKHTUNKHWA] SUBORDINATE
JUDICIARY SERVICE TRIBUNAL ACT, 1991.

> IKHYBER PAKHTUNKHWA| ACT NO. VIII OF 1991.

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'Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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Preamble.

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THE '[KHYBER PAKHTUNKHWA] SUBORDINATE
JUDICIARY SERVICE TRIBUNAL ACT, 1991.

> IKHYBER PAKHTUNKHWA| ACT NO. VIII OF 1991.

[First published after having received the assent of the Governor of the
3[Khyber Pakhtunkhwa] in the Gazette of '[Khyber Pakhtunkhwa]
(Extraordinary), dated the 10th June, 1991].

AN
ACT

to provide for the establishment of Service Tribunal to exercise jurisdiction in
respect of matters relating to the terms and conditions of service of
members of subordinate judiciary of the Province
of °[Khyber Pakhtunkhwa].

WHEREAS it is expedient to provide for the establishment of Service
Tribunal to exercise exclusive jurisdiction regarding the matters relating to the terms
and conditions of service of members of Subordinate Judiciary of the ° [Khyber
Pakhtunkhwa] and for matters connected therewith or ancillary thereto:

It is hereby enacted as follows:—

1. (1) This Act may be called the [Khyber Pakhtunkhwa] Subordinate
Judiciary Service Tribunal Act, 1991.

(2) It shall apply to all members of Subordinate Judiciary wherever
they may be.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires. —

(a) “Chairman” means the Chairman of the Tribunal;

(b) “Government” means the Government of the * [Khyber
Pakhtunkhwa];

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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(c) "Governor" means the Governor of the | [Khyber Pakhtunkhwa];

(d) "Member" means a Member of the Tribunal and includes

the Chairman;

(e) "Members of Subordinate Judiciary" means and include all the Judicial Officers under the administrative control of the Peshawar High Court;

(f) "Tribunal" means the Service Tribunal established by this

Act and includes a Bench thereof.

3. (1) The Governor may, by Notification in the Official Gazette, establish a Service Tribunal for the *[Khyber Pakhtunkhwa].

(2) The Tribunal shall have exclusive jurisdiction in respect of matters relating to terms and conditions of the service of members of Subordinate Judiciary, including disciplinary matters.

(3) The Tribunal shall consist of four sitting Judges of the Peshawar High Court, to be nominated by the Chief Justice of whom the senior most shall be the Chairman;

Provided that a Judge against whose orders an appeal is preferred shall not be member of the Tribunal.

4. (1) Notwithstanding anything contained in Section 3, Chairman may constitute a Bench consisting of two Members with or without the Chairman and when so constituted, a Bench shall be deemed to be a Tribunal.

(2) If a Bench is unable to arrive at an unanimous decision in an appeal, the matter shall be referred to any one of the remaining two Members of the Tribunal as the Chairman may determine and the decision of the Tribunal shall be expressed in terms of the opinion of the majority.

(3) The Chairman may, at any stage of hearing of an appeal withdraw it from the Tribunal and entrust it to a Bench or may withdraw any appeal pending before a Bench and make it over to another bench or to the Tribunal.

5. Any member of Subordinate Judiciary aggrieved by any final 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 day of the

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communication of such order to him or within six months of the establishment of the 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 ' [Khyber Pakhtunkhwa] Civil Servants Act, 1973 (?[Khyber Pakhtunkhwa] Act XVIII of 1973), or any rules against any such orders, no appeal shall lie to the Tribunal unless the aggrieved person 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;

31(b) no appeal shall lie to the Tribunal against an order or decision of a departmental authority determining, the quantum of departmental punishment or penalty imposed on a member or Subordinate Judiciary as a result of departmental inquiry except where the penalty imposed is dismissal from service, removal from service or compulsory retirement or any minor penalty as defined in the rules.]

Explanation:— In this section 'Departmental Authority' means the authority, other than a Tribunal which is competent to make an order in respect of any of the terms and conditions of service of members of Subordinate Judiciary.

6. (1) The Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against.

(2) The Tribunal, shall, for the purpose of deciding any appeals, 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.

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

°Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

*Substituted vide Khyber Pakhtunkhwa Act No. X of 2015.

(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.

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

8. All appeals pending before the Tribunal established under the '[Khyber Pakhtunkhwa] Service Tribunal Act, 1974 ([Khyber Pakhtunkhwa] Act I of 1974), relating to members of Subordinate Judiciary shall stand transferred to the Tribunal established under this Act.

9. The Government may, by Notification in the Official Gazette, make rules for carrying out the purposes of this Act.

10. The * [Khyber Pakhtunkhwa] Subordinate Judiciary Service Tribunal Ordinance, 1991 (*[Khyber Pakhtunkhwa] Ord. No. III of 1991) is hereby repealed.

BY ORDER OF MR. SPEAKER,
PROVINCIAL ASSEMBLY OF °[KHYBER
PAKHTUNKHWA]

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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