

**THE RAJASTHAN CIVIL SERVICES (SERVICE
MATTERS APPELLATE TRIBUNALS) ACT, 1976.**

(Act No. 34 of 1976)

(Received the assent of the President on the 7th day of May, 1976)

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ACT

to provide for the constitution of Appellate Tribunals for the service matters and matters incidental thereto,

Be it enacted by the Rajasthan State Legislature in the twenty-Seventh Year of the Republic of India as follows:-

- 1. Short title and commencement :-** (1) This Act may be called the Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
- 2. Definitions :-** - In this Act, unless the subject or context otherwise requires :-
 - (a) "Civil Services" means the Civil Services of the State of Rajasthan and such other services as the State Government may notify in the official Gazette from time to time, but shall not include-
 - (i) The members of the Rajasthan Higher Judicial Service and Rajasthan Judicial Service;
 - (ii) Employees of the High Court of Judicature for Rajasthan;
 - (iii) Employees of the Rajasthan Legislative Assembly Secretariat Staff; and
 - (iv) Employees of the Rajasthan Public Service Commission;
 - (b) "Government" means the State Government;
 - (c) "Government Servant" means a person who is or has been a member of a Civil Service or who holds or has held a Civil post under the Government of Rajasthan and includes any

such person on foreign Service or whose services are temporarily placed at the disposal of a local or other authority and also any person in the service of a local or other authority whose services have been temporarily placed at the disposal of the State Government or a person in service on a contract or a person who has retired from the Government service elsewhere and is re-employed under the Government of Rajasthan, but does not include a person in the Civil Service of the Indian Union or a State Government serving on deputation in Rajasthan who will continue to be governed by the rules applicable to such person;

- (d) "Prescribed" means prescribed by this Act or Rules made under this Act;
- (e) "Tribunal" means a Tribunal constituted under a Section 3 of this Act;
- (f) "Service matter" means any one or more than one of the following matters relating to a Government Servant :-
 - (i) Seniority;
 - (ii) Promotion;
 - (iii) Confirmation;
 - (iv) Fixation of pay;
 - (v) An order denying or varying pay, allowances, pension and other service conditions to the disadvantage of a Government Servant, other-wise than as a penalty;
 - (vi) Cases of reversion while officiating in a higher service, grade or post to lower service, grade or post other-wise than as a penalty;
 - (vii) Withholding the pension or denying the maximum pension other-wise than as the penalty;
 - (viii) Any other matter notified by the Government.

3. Constitution and Composition of Tribunals - (1) The Government may, by notification in the Official Gazette, constitute from time to time, one or more tribunals as it may consider necessary, Each of such tribunals shall be called the Rajasthan Civil Services Appellate Tribunal.

(2) Each of the Tribunals shall consist of a Chairman who shall be an officer of super time scale of Indian Administrative Service and at least two other members, one of whom shall be a member of the Rajasthan Higher Judicial Service.

(3) The term of the Chairmen and members of the Tribunal shall ordinarily be three years. The Governor may, however for special reason, recall the Chairman or any members of the Tribunal before the expiry of the period of three years.

4 Duties of Tribunal - (1) The Rajasthan Civil services Appellate Tribunal shall hear an appeal against the order passed by any officer or authority on any service matter or matters affecting a Government servant in his personal capacity.

(2) The Tribunal shall have power to confirm, vary or reverse the order against which the appeal is preferred or to remand the matter for fresh decision in accordance with the directions given by it.

5. Procedure of Tribunal - (1) Subject to any rules that may be made in this behalf, the Tribunal shall follow such procedure as it may think fit.

(2) At least two of the members of the Tribunal will hear and decide the matters before the Tribunal.

(3) The decision of the Tribunal shall be the decision of the majority of the members present and hearing the matter. Where such members are equally divided in their opinion, the matter would be referred to the another member and decided by the opinion of the majority of the members including such other members who heard it.

6. Powers of Tribunal - (1) The Tribunal shall for the purposes of the disposal of the appeal under this Act, have the powers of a Civil Court while trying a suit under the code of Civil Procedure, 1903(Central Act 5 of 1908) in respect of the following matters, namely :-

- (a) Summoning and enforcing the attendance of any person;
 - (b) requiring the discovery and production of any documents;
and
 - (c) issuing commissions for the examination of witnesses or documents,
- (2) The Tribunal may examine on oath any person supposed to be acquainted with the matter under probe or any fact relevant thereto and may record his evidence.
 - (3) The proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Section 193 of Indian Penal Code, 1860 (Central Act, 45 of 1860).
 - (4) The Tribunal shall be deemed to be a Civil Court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974) and the Contempt of Courts Act, 1971 (Central Act 70 of 1971).
- 7. Representation before Tribunal** - The Government as well affected parties shall have the right to be represented before the Tribunal through a representative or by an Advocate.
- 8. Decision of the Tribunal to be final** - The decision of the Tribunal shall be final and implemented within the reasonable time to be specified by the Tribunal.
- 9. Limitation for appeals** - No appeal shall lie to the Tribunal after the expiry of sixty days from the date of the order of the Authority:

Provided that an appeal may be admitted after the prescribed period if the appellan satisfies the Tribunal that he had sufficient cause for not preferring the appeal within such period.

10. Jurisdiction of the Civil Court excluded :- No suit or other proceedings shall lie or be instituted in any Civil Court with respect to any matter arising under or provided for by this Act.

11. Special provision in respect of pending cases :- Notwithstanding anything contained in this Act, all cases in respect of a service matter pending in any Civil Court on the date on which this Act comes into force, shall be continued to be heard and decided by that Court as if this Act had not been passed.

12. Power to make rules :- (1) The state Government may, by notification in Official Gazette, make rules for the purposes of giving effect to the provisions of this Act.

(2) All rules made under this Act, shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any Such modification or annulment shall be without prejudice to the validity of anything previously done there under.

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Principal Secretary to the Government