

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

further to amend the Service Tribunals Act, 1973

WHEREAS it is expedient further to amend the Service Tribunals Act, 1973 (LXX of 1973), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**—(1) This Act may be called the Service Tribunals (Amendment) Act, 2014.

(2) It shall come into force at once.

2. **Amendment of section 3, Act LXX of 1973.**—In the Service Tribunals Act, 1973 (LXX of 1973), hereinafter referred to as the said Act, in section 3,-

(1) for sub-section (1), the following shall be substituted, namely:—

“(1) The President may, by notification in the official Gazette, establish one or more Service Tribunals as hereinafter provided and, where there are established more than one Tribunal, the President shall specify in the notification the territorial limits within which, or the class or classes or cases in respect of which, each such Tribunal shall exercise jurisdiction under this Act.”;

(2) for sub-section (3), the following shall be substituted, namely:-

“(3) A Tribunal shall consist of-

“(a) a Chairman, being a person who has been, or is qualified to be, Judge of a High Court;

(b) such number of members not less than three, each of whom is or has been-

(i) a District Judge; or

(ii) a person who for a period of not less than two years has held a post in BS-21 or above or equivalent under the Federal Government with adequate administrative experience, preference being given to a person having background of dealing with service matters:

Provided that where a District Judge or a civil servant as aforesaid is not available for appointment as a member, the President may appoint an Advocate qualified for appointment as Judge of a High Court.”;

(3) for sub-section (4), the following shall be substituted, namely:-

“(4) The Chairman and members of a Tribunal shall be appointed by the President for non-extendable term of three years on such other terms and conditions as the President may determine:

Provided that where a serving District Judge or a civil servant is appointed as a member he shall hold office for a term of three years or till the date of superannuation, whichever is earlier.”;

(4) for sub-section (7), the following shall be substituted, namely:-

“(7) At any time when—

- (i) the Chairman of a Tribunal is absent or is unable to perform the functions of his office due to any cause; or
- (ii) office of the Chairman is vacant,

the most senior of the other members of a Tribunal shall act as Chairman till the Chairman resumes his office or the regular Chairman is appointed, as the case may be.”.

3. Insertion of new section 4A, Act LXX of 1973.—In the said Act, after section 4, the following new section shall be inserted, namely:—

“**4A. Review.**—(1) A Tribunal shall have the power to review its final order on a review petition filed by an aggrieved party within thirty days of the order on the following grounds, namely:-

- (i) discovery of new and important matter or evidence which, after exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him at the time when the order was passed;
- (ii) on account of some mistake or error apparent on the face of record; or
- (iii) for any other sufficient cause.”.

(2) The Tribunal shall decide the review petition within thirty days.

(3) The Tribunal may confirm, set aside, vary or modify the judgment or order under review.”.

4. Amendment of section 5, Act LXX of 1973.—In the said Act, in section 5, after sub-section (2), the following new sub-section shall be added, namely:—

“(3) A Tribunal shall have the power to execute its decisions in accordance with the procedure as may be prescribed.”.

5. Insertion of new section 5A, Act LXX of 1973.—In the said Act, after section 5, the following new section shall be inserted, namely:—

“**5A. Financial powers of a Tribunal.**— (1) The Registrar of the Tribunal shall be the Principal Accounting Officer of a Tribunal.

- (2) The Chairman of Tribunal may authorize re-appropriation of funds from one head of account to another head of account and sanction expenditure on any item from within the allocated budget in accordance with the prescribed procedure without reference to Ministry of Finance.”.

6. **Amendment of section 8, Act LXX of 1973.**—In the said Act, in section 8, in sub-section (2),

- (i) in clause (a), the word “and” occurring at the end shall be omitted; and
(ii) in clause (b), for the full stop at the end a semi colon and the word “;and” shall be substituted; and
(iii) after clause (b) amended as aforesaid, the following new clause shall be added, namely:-

“(c) execution of decisions of a Tribunal.”.

STATEMENT OF OBJECTS & REASONS

1. Some of the provisions of Federal Service Tribunal Act, 1973 are ultra vires to the Constitution of Islamic Republic of Pakistan, 1973 as held by Honourable Supreme Court of Pakistan in its judgment dated 25.03.2013 in Constitution Petition No.53/2007.
2. Judicial procedure is involved in FST cases, therefore, it is imperative that appointments of Chairman and Members, FST should commensurate with qualifications and experience in the relevant field in line with the procedure adopted for appointment in judiciary.
3. Presently FST does not have power to spend its budget independently, therefore, there is need to make it financially autonomous. Presently Secretary, Law & Justice Division is Principal Accounting Officer of FST.
4. FST does not have the power to get its orders/judgments implemented, therefore, appellants approach respective High Courts for implementation of the orders/judgments of FST, thus, creating extra burden for the High Courts. Thus, provision of such power for FST would not only make it an effective judicial forum but also reduce the burden of the respective High Courts.

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