

NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON CABINET SECRETARIAT ON THE SERVICE TRIBUNALS (AMENDMENT) BILL, 2013.

I, the Chairman of the Standing Committee on Cabinet Secretariat, have the honour to present this report on the Bill further to amend the Service Tribunals Act, 1973 (LXX of 1973) [The Service Tribunals (Amendment) Bill, 2013], referred to the Standing Committee on the 30th August, 2013.

2. The Committee comprises the following members:-

1. Rana Muhammad Hayat Khan	Chairman
2. Dr. Tariq Fazal Chaudhary	Member
3. Malik Ibrar Ahmad	Member
4. Syed Javed Ali Shah	Member
5. Sardar Muhammad Irfan Dogar	Member
6. Ms. Parveen Masood Bhatti	Member
7. Ms. Nighat Parveen Mir	Member
8. Ms. Shahnaz Saleem	Member
9. Mrs. Seema Mohiuddin Jameeli	Member
10. Ms. Farhana Qamar	Member
11. Ms. Marriyum Aurangzeb	Member
12. Mr. Abdul Rehman Khan Kanju	Member
13. Mir Aijaz Hussain Jakhrani	Member
14. Pir Shafqat Hussain Jilani	Member
15. Mr. Roshan Din Junejo	Member
16. Mr. Sajid Nawaz	Member
17. Ms. Nafeesa Inayatullah Khan Khattak	Member
18. Syed Ali Raza Abidi	Member
19. Mr. Muhammad Rehan Hashmi	Member
20. Minister In-charge of Cabinet Secretariat	Ex-officio Member

3. The Committee in its meeting held on 27th March, 2014 considered the Bill in detail and recommended the following amendments, therein:-

(1)

Clause 1

In clause 1, in the Short title, for the figure "2013" the figure "2014" shall be substituted.

Clause 2

(2)

In clause 2.-

(i) for sub-clause (2), the following shall be substituted, namely:-

“(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.”;

(ii) for sub-clause (3), the following shall be substituted, namely:-

“(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.”;

(iii) for sub-clause (4), the following shall be substituted, namely:-

“(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)

Clause 3

Clause 3, shall be omitted.

(4)

Clause 4

Clause 4, shall be omitted.

(5) Clause 5

In clause 5, for the proposed sub-section (1), of section 4A, the following shall be substituted, namely:-

“(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.”.

(6) Clause 6

In clause 6, for the proposed sub-section (3), of section 5, the following shall be substituted, namely:-

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

(7) Clause 7

In clause 7, for the proposed new section 5A, the following shall be substituted, namely:-

“5A. Financial powers of a Tribunal.— (1) The Registrar 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.”.

4. The Bill as introduced in the National Assembly is at Annex “A” and as reported by the Standing Committee is at Annex “B”. The Standing Committee recommended that the Bill as reported by the Committee may be passed by the National Assembly.

Sd/-

Karamat Hussain Niazi
Secretary

sd/-

Rana Muhammad Hayat Khan
Chairman

Islamabad, the 28th March, 2014

[AS INTRODUCED IN 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, 2013.

(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 is, or has been, or is qualified to be, Judge of a High Court, preference being given to a person who has been Judge of a High Court;

(b) such number of members not less than three, each of whom-

(i) is a District Judge; or

(ii) is a person who for a period of at least two years is holding a post in BS-21 or equivalent under the Federal Government with adequate administrative experience, preference being given to a person having legal 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 Federal Government 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 in consultation with the Chief Justice of Pakistan for a non-extendable term of three years and on such other terms and conditions as the President may determine:

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

(4) Sub-section (7) shall be omitted.

3. **Amendment of section 3A, Act LXX of 1973.**—In the said Act, in section 3A, in sub-section (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that while constituting a Bench, the Chairman shall preferably constitute each Bench comprising of one Judicial or legal member and one member from civil service.”.

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

“3B. **The cases of incumbent Chairman and members.**—(1) If incumbent Chairman or a member, as the case may be, is qualified under sub-section (3) of section 3, he may continue subject to consultation with the Chief Justice of Pakistan and the tenure provided in sub-section (4) of section 3.

(2) The incumbent Chairman and members who do not qualify under sub-section (3) of section 3, shall cease to hold office with immediate effect.”.

5. **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) The Tribunal shall have the power to review any of its judgment or order on a review petition made by an aggrieved party within thirty days of its judgment or order.

(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.”

6. **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 as may be prescribed.”

7. **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) A Tribunal shall enjoy complete financial autonomy.

(2) The Chairman shall be the Chief Executive and Principal Accounting Officer of the Tribunal.

(3) A Tribunal shall have full powers to re-appropriate funds from one head of account to another head of account and to sanction expenditure on any item from within the allocated budget without approval of Ministry of Finance.”

8. **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 the 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.

SHAIKH AFTAB AHMED
Minister of State for
Parliamentary Affairs
Member-in-charge

[AS REPORTED BY THE STANDING COMMITTEE]

A

BILL

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“(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-

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- 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 shall be the Principal Accounting Officer of a Tribunal.

