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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Government.

The following Act of the Gujarat Legislature having been assented to by the President on the 8th May 1983 is hereby published for general information.

J. P. VASAVADA,
Joint Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 12 OF 1983.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 11th May 1983.)

An Act to provide for the constitution of a Tribunal for the purpose of determining disputes relating to conditions of service of the members of the teaching and non-teaching staff of higher secondary schools in the State of Gujarat, for procedure for imposition of penalty on any such member and for matters connected therewith.

It is hereby enacted in the Thirty-fourth Year of the Republic of India as follows:—

PART-I

PRELIMINARY

1. (1) This Act may be called the Gujarat Higher Secondary Schools Services Tribunal Act, 1983.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall be deemed to have come into force on the 20th January, 1983.

Short title,
extent
and commen-
cement.

Definitions.

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

(a) "appointed day" means the date on which this Act comes into force;

(b) "employee" means any member of the teaching and non-teaching staff of a higher secondary school (whether confirmed or temporary or on probation) in the service of such school and for the purpose of any proceeding under this Act in relation to a dispute referred to in section 8, includes any such member who has been dismissed or removed or whose services are otherwise terminated;

(c) "headmaster" means the head of the teaching and non-teaching staff of a higher secondary school by whatever style designated;

(d) "higher secondary education" means the education including post basic higher secondary education from eleventh standard upto twelfth standard;

(e) "higher secondary school" means a school imparting higher secondary education and includes school imparting post basic higher secondary education;

(f) "manager" in relation to any higher secondary school means a person or body of persons in charge or control of the management of the higher secondary school;

(g) "non-teaching staff" means such staff of a higher secondary school as is appointed to perform any duty or function other than that of teaching;

(h) "notified order" means an order published in the *Official Gazette*;

(i) "post basic higher education" means higher secondary education imparted through a productive craft;

(j) "prescribed" means prescribed by rules made under section 17;

(k) "Tribunal" means the Higher Secondary Schools Services Tribunal constituted under section 3.

PART-II

TRIBUNAL

Constitution
of Gujarat
Higher
Secondary
Schools
Services
Tribunal.

3. (1) For the purpose of this Act there shall be constituted by the State Government by a notified order a tribunal to be called the Gujarat Higher Secondary Schools Services Tribunal.

(2) The State Government shall appoint a District Judge or a person who has been or is qualified to be a judge of a High Court or a District Court to be the Tribunal.

Explanation.—In this section, the expression "District Judge" shall have the meaning assigned to that expression in article 236 of the Constitution.

4. The term for which the person constituting the Tribunal shall hold office and his conditions of service shall be such as may be prescribed.

Term of office and conditions of service of person appointed to be Tribunal.

5. The State Government may terminate the appointment of a person to be the Tribunal before the expiry of the term of his office if such person —

Power of State Government to terminate appointment before expiry of term.

(i) is adjudged an insolvent, or

(ii) engages during his term of office in any paid employment outside the duties of his office, or

(iii) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(iv) is convicted of an offence involving moral turpitude.

6. (1) The Headquarters of the Tribunal shall be at such place as the state Government may, by a notified order, determine.

Headquarters of Tribunal.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may sit at such other place or places other than the place of its headquarters as the Tribunal may, with the approval of the State Government, appoint.

7. (1) The Tribunal shall have the jurisdiction to entertain and decide disputes referred to in section 8, all suits and proceedings referred to in sub-section (2) of section 13 and appeals made under sub-section (6) of section 14.

Jurisdiction of Tribunal.

(2) Where any order of dismissal, removal or reduction in rank or otherwise termination of service of an employee is decided by the Tribunal to be wrong, unlawful or otherwise unjustified, the Tribunal may pass an order directing that the employee shall be reinstated in service or, as the case may be, restored to the rank, which he held immediately before his dismissal, removal, reduction in rank or otherwise termination of service, by the manager of the higher secondary school and the manager of the higher secondary school shall forthwith comply with such direction.

(3) Notwithstanding anything contained in any other law for the time being in force, where the Tribunal has jurisdiction to entertain and decide a dispute as aforesaid, no other person, officer or authority shall have jurisdiction to entertain and decide such dispute and any such dispute pending before any person, officer or authority on the appointed day shall, as soon as may be, transferred to the Tribunal for its decision.

8. Where there is any dispute between the manager of a higher secondary school and an employee of such school, which is connected with the conditions of service of such employee, the manager or, as the case may be, such employee may make an application to the Tribunal for the decision of the dispute.

Dispute to be decided by Tribunal.

Power of Tribunal to make regulations.

9. The Tribunal may, with the previous sanction of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure, including the award of costs by the Tribunal and the right of audience before the Tribunal and for the purpose of effective discharge of its functions and disposal of its business.

Tribunal to have powers of court.

10. (1) For the purpose of exercising its jurisdiction under this Act, the Tribunal shall have the same powers as are vested in civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

V of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents;
- (c) issuing commissions for the examination of witnesses;
- (d) such other matters as may be prescribed .

(2) The Tribunal shall be deemed to be a court for the purpose of section 5 of the Limitation Act, 1963.

36 of 1963.

Proceedings before Tribunal to be judicial proceedings.

11. All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Finality of decision of Tribunal.

12. Every decision of the Tribunal shall be final and shall not be called in question before any civil court or any other authority.

Bar of jurisdiction of civil court.

13. (1) No civil court shall have the jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Tribunal.

(2) All suits and proceedings between the manager and the employee relating to disputes connected with the conditions of service of such employee which are pending in any civil court on the appointed day shall be transferred to and continued before the Tribunal:

Provided that nothing in this sub-section shall apply to execution proceedings and appeals arising out of decrees or orders passed by any such court before the appointed day and such execution proceedings and appeals shall be decided and disposed of as if this Act had not been passed.

PART III

PROCEDURE FOR IMPOSITION OF PENALTY ON EMPLOYEES:

Dismissal, removal or reduction in rank of higher secondary school employee.

14. (1) No employee shall be dismissed or removed or reduced in rank nor shall his service be otherwise terminated by the manager except after,—

- (a) an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges, and

(b) the action proposed against him is approved by the Director of Higher Education :

Provided that nothing in this sub-section shall apply to any employee who is appointed temporarily for a period less than a year.

(2) The Director of Higher Education shall communicate to the manager in writing his approval or disapproval of the action proposed, within a period of forty-five days from the date of the receipt by the Director of Higher Education of such proposal.

(3) Where the Director of Higher Education fails to communicate either approval or disapproval within the period of forty-five days specified in sub-section (2), the proposed action shall be deemed to have been approved by the Director of Higher Education.

(4) No penalty (being the penalty other than that referred to in sub-section (1)) shall be imposed on an employee unless such employee has been given a reasonable opportunity of being heard.

(5) Where an employee is suspended by the manager, pending any inquiry proposed to be held against him, the fact of such suspension together with the grounds therefor, shall be communicated by the manager to the Director of Higher Education within a period of seven days after such suspension and such suspension shall be subject to ratification by the Director of Higher Education within a period of forty-five days from the date of receipt of the communication in this behalf by the Director of Higher Education and if such ratification is not communicated to the manager by the Director of Higher Education within such period, the suspension of the employee shall cease to have effect on the expiry of such period :

Provided that the employee shall, during the period of suspension, be entitled to such subsistence allowance and on such terms and conditions as may be prescribed.

(6) Any person aggrieved by an order of the Director of Higher Education under clause (b) of sub-section (1) may make an appeal to the Tribunal within a period of thirty days from the date of the decision of the Director of Higher Education.

15. If an employee desires to submit his resignation he shall tender the same in person to the District Education Officer of the district in which the higher secondary school of which he is the employee is situate and a resignation by an employee shall not be accepted by the manager unless it is so tendered and forwarded to the manager by the District Education Officer duly endorsed. The acceptance of any resignation tendered in contravention of this section shall be ineffective.

Resignation
of higher
secondary
schools
employee.

PART—IV.

MISCELLANEOUS

16. (a) Every contract between the manager and an employee whether made before or after the appointed day; and

(b) any term or condition of service of the employee whether employed before or after the appointed day,

shall, to the extent that it takes away any right conferred on such employee by or under this Act or to the extent of any inconsistency with the provisions of this Act and the rules made thereunder, be null and void.

17. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules, may be made for all or any of the following matters, namely:—

(a) the term for which a person constituting the Tribunal shall hold office and his conditions of service under section 4;

(b) the matters to be prescribed under clause (d) of sub-section (1) of section 10;

(c) subsistence allowance to which an employee shall be entitled during his suspension and the terms and conditions thereof under proviso to sub-section (5) of section 14;

(d) any other matter which is to be or may be prescribed by the rules.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

18. (1) Nothing contained in clause (b) of sub-section (1) and sub-sections (2), (3), (5) and (6) of section 14 and section 15 shall apply to any educational institution established and administered by a minority whether based on religion or language.

(2) Nothing in this Act shall apply to employees of a higher secondary school owned by Government.

19. (1) The Gujarat Higher Secondary Schools Services Tribunal Ordinance, 1983 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Certain con-
tracts etc. to
be null and
void.

Power of
Government
to make rules.

Savings.

Repeal and
savings.