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AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR

Law, Justice, Parliamentary Affairs and Human Rights Department

“Muzaffarabad”

Dated: 09.02.2016

No. LD/Legis-Act/101-111/2016. The following Act of Assembly received the assent of the President on the 08th day of February 2016, is hereby published for general information.

[Act IX of 2016]

An

ACT

to provide for the established of the Azad Jammu and Kashmir Subordinate Judiciary Service Tribunal

Whereas, it is expedient to provide for the establishment of the Azad Jammu and Kashmir Subordinate Judiciary Service Tribunal and for matter connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title and Commencement.** - (1) This Act may be called the Azad Jammu and Kashmir Subordinate Judiciary Service Tribunal Act, 2016.

(2) It shall come into force at once and shall be deemed to have taken effect from 12-01-2014.

2. **Definitions.**- In this Act, unless the context otherwise requires following expressions shall have the meaning as hereby respectively assigned to them:-

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

- (ii) "Government" means Azad Government of the State of Jammu and Kashmir;
 - (iii) "Member" means a member of the Tribunal and includes the Chairman;
 - (iv) "Member of the Subordinate Judiciary" means an employee of Subordinate Judiciary and includes judicial officer under the Administrative control of Azad Jammu and Kashmir High Court and Shariat Court (Qaza Branch);
 - (v) "President" means the President of Azad Jammu and Kashmir; and
 - (vi) "Tribunal" means the tribunal established under this Act and includes a bench thereof.
3. **Tribunal.**- (1) The President may, subject to sub-section (3), by notification in the official gazette, establish a service Tribunal for the Members of Subordinate Judiciary of the Azad Jammu and Kashmir.
- (2) The Tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of the Members of Subordinate Judiciary, including disciplinary matters.
- (3) The Tribunal shall consist of two judges of the High Court or Shariat Court as the case may be, nominated by the Chief Justice of the High Court, the senior most of whom shall be the Chairman.
4. **Constitution of Benches.**- (1) Notwithstanding anything contained in Section 3, the Chairman may constitute a Bench consisting of one Member with or without the Chairman and when constituted the bench shall be deemed to be a Tribunal.
- (2) If a two Members bench is unable to arrive at a unanimous decision in an appeal, the matter shall be placed before third Judge of the High Court or Shariat Court as the case may be, to be nominated by the Chief Justice and the decision of the Tribunal shall be expressed in terms of 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 make it over to another bench or to the Tribunal.
5. **Appeal to Tribunal.**- A Member of the Subordinate Judiciary aggrieved by a final order whether original or appellate made by a departmental authority in respect of the terms and conditions of his service may, within ninety days of the 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.

Explanation: In this decision “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 Member of the Subordinate Judiciary.

- 6. Powers of Tribunal.-** (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 appeal, 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,-
 (i) enforcing the attendance of any person and examining him on oath;
 (ii) compelling the production of documents; and
 (iii) issuing commission for the examination of witnesses and documents.
 (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. Limitation.-** The provisions of Section 5 and 12 of the Limitation Act, 1908 (Act IX of 1908), shall apply to appeals under this Act.
- 8. Transfer of Appeal.-** All appeals pending before the Tribunal established under the Azad Jammu and Kashmir Service Tribunal Act, 1975 relating to Members of Subordinate Judiciary shall stand transferred to the Tribunal established under this Act.
- 9. Savings.-** All actions taken, decisions made, orders passed, proceedings initiated, power exercised, power conferred etc., before the commencement of this Act, shall be deemed to have been validly taken, made, passed, issued, initiated, exercised, conferred, imposed etc., under this Act.
- 10. Powers to make Rules.-** The Government may by notification in the official gazette, make rules for carrying out the purposes of this Act.

Sd/-(Ch. Muhammad Nawaz)
Section Officer (Legislation)

No. 1301-1400/P&S/2016

Dated 10-2-2016

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